

Somerset West and Taunton Council

Full Council – 7 July 2020

Coastal Protection Works Associated with the B3191

This matter is the responsibility of Executive Councillor for Environment Cllr Sarah Wakefield

Report Author: (Chris Hall - Assistant Director Climate Change and Assets)

1. Executive Summary / Purpose of the Report

This report seeks Council approval to allow officers, with the support of other agencies, to work on a coastal protection scheme for Blue Anchor. This decision is necessary as Council previously directed on a legacy Environment Agency bid proposal.

The risk profile has changed with Somerset County Council's options appraisal for B3191 route integrity. This council is the Coastal Protection Authority, so it should lead on coastal matters; for highway matters the County Council is the lead authority.

Taking the lead authority role should not be conflated with resourcing any works listed.

This report is not a detailed review of any scheme that Somerset County Council have considered, or recommend, but is seeking approval of Somerset West and Taunton Council to participate in work to secure Environment Agency funding to deliver a scheme to protect Blue Anchor and Cleeve Hill.

Since the initial drafting of this report new risks to the existing sea defence structures have been identified. A course of action has been identified with the support of the Environment Agency and will be brought to Members in a separate report.

2. Recommendations

2.1 It is recommended that Executive support the following to Full Council:

2.1.1 That Somerset West and Taunton Council officers support the work necessary to submit a bid to the Environment Agency to fund any Somerset County Council schemes intended to protect the B3191, Watchet to Blue Anchor.

2.1.2 That Somerset West and Taunton Council take the leading role on matters of coastal protection in the delivery of any scheme brought forward.

- 2.1.3 Give authority for the Director for External Operations and Climate Change and/or Assistant Director, Climate Change and Assets, in consultation with the Lead Member for Environment, the authority to negotiate and approve any Memorandum of Understanding across relevant professional partners associated with any scheme brought forward.

3. Risk Assessment

- 3.1 Progression of this project seeks to mitigate a range of risks associated with coastal erosion and surface water runoff in the two areas specifically identified.
- 3.2 Along with the road there are a number of properties that are also at risk of being lost over the coming years.
- 3.3 This report seeks to put in place the approvals needed for this council to work with other professional partners in the delivery of schemes that will protect those properties at risk and the route integrity.
- 3.4 Failing to take any action will result in losses beyond just the physical assets, it will impact on the communities of Blue Anchor and Watchet, along with the tourist industry upon which they rely.

4. Background and Full details of the Report

- 4.1 West Somerset Council put in a bid to the Environment Agency back in January 2014 for a coastal protection scheme to protect the Blue Anchor Hotel and a range of other assets including the B3191 at this location. This bid was written by consultants and was the culmination of significant investment by the Council and other agencies. This bid failed for a range of technical and valuation reasons and no funding was ever received as a result.
- 4.2 The Council spent further time looking at the areas of failure identified by the Environment Agency and how these could be resolved. In December of 2014 a report was approved by West Somerset's Full Council to cease any further works due to the complexities of the scheme.
- 4.3 Since this time no further works on a bid have taken place but officers have been engaged with the agencies involved and have regular contact with the Hoteliers.
- 4.4 The situation at Blue Anchor has deteriorated in line with erosion predictions, and the hotel is now within 2 meters of the visible terminal crack on the cliff. This erosion rate not only places the hotel at risk but also the highway infrastructure, and in turn the route integrity from Blue Anchor to Watchet.
- 4.5 The road is the nearest publically owned asset to the cliff failure at Blue Anchor. Somerset County Council are aware of the importance of this location and another location on the B3191 referred to as Cleeve Hill. County commissioned a survey to establish what risks exist to the route over the next 100 years. The outcome of their report has identified no additional foreseeable failures of the route and presents recommendations to County on how they may address the existing two existing areas of concern.

- 4.6 The preferred option for the Blue Anchor section of road is to protect the existing highway through a coastal defence engineering scheme.
- 4.7 The situation at Cleeve Hill continues to worsen with a temporary closure of the road during December 2019. Whilst the trigger for this closure was a failed sensor the precarious nature of this section of road cannot be underestimated. The preferred option at Cleeve Hill is to realign the road to the south of its current location.
- 4.8 This report is not intended to be a detailed review of the process followed by County, their options, or recommendations however further information can be provided on this for Members if they wish. In Somerset County Council reaching their conclusions the consultants spoke with officers from this council, the hotel owners and held meetings with representatives of the town and parish council. The recommendations were universally supported.
- 4.9 Somerset West and Taunton Council are the Coastal Protection Authority, the County Council are not, with this status comes the direct ability to submit a bid to the Environment Agency for support funding. To secure funding to enable the County to undertake works to protect the road, the Coastal Protection Authority needs to submit the funding requests and take the lead. As lead authority Somerset West and Taunton Council would lead client obligations for the design and delivery of any coastal works approved. Highways works, such as the road realignment, would be led by Somerset County Council as the Highway Authority.
- 4.10 The Council's status as Coastal Protection Authority makes Somerset West and Taunton Council the authority with the powers to lead on such a scheme, tie this to the likely desire to protect the communities of Blue Anchor and Watchet and it is considered that this council would want to assist in achieving a solution that maintains the road network, as well as to protect the communities from any negative impact on tourism that would occur if the route were to fail permanently.
- 4.11 The option to protect the road can only be delivered if there is sufficient land on which to build a protection scheme, this will likely include grading the cliff to a suitable angle. With the erosion continuing the land left to deliver a scheme is diminishing. The Environment Agency view is that there is no temporary scheme that can be put in place and the only way forward is to move straight to the delivery of a permanent solution.
- 4.12 What has changed since 2014? Fundamentally what has changed is County's decision to protect and realign these sections of highway.
- 4.13 There remain some key unanswered questions, this report does not seek to answer these at this stage as more work is needed to understand the implications. These questions include:
Who will pay for the schemes to be delivered?
Who will be liable for the schemes on completion?
Who will fund the any future maintenance?

5. Next Steps

- 5.1 If the recommendations of this report are approved officers will work with the professional partners to finalise the Memorandum of Understanding.
- 5.2 A bid for an Environment Agency contribution to design costs will be submitted and determined.
- 5.3 Early conversations will be held with designers on the Environment Agency Frameworks and an evaluation of costs for design and delivery will be established.
- 5.4 SWT officers will prepared a refreshed bid to the EA's flood defence grant in aid scheme with the support of Somerset County Council and Environment Agency local officers.
- 5.5 The outstanding questions of ownership, liability, and maintenance, will be progressed, but works will not proceed until these have been resolved.

6. Links to Corporate Strategy

- 6.1 Theme Three of the Corporate Strategy 2020-2024, Objective 6 – Support the delivery of strong and sustainable transport infrastructure links including a greater provision of public transport across the district, as well as solutions which remove barriers to people using public transport to access work, training and leisure opportunities.

7. Finance / Resource Implications

- 7.1 There is no financial request attached to this report and Members are not being asked to make a decision that places the council as the funders of this project.
- 7.2 It is reasonable to assume that if SWT are to become the bidding authority that it is SWT who would hold any funds allocated by the Environment Agency.
- 7.3 In the event that this becomes a funded scheme and the works are to be cliented by SWT officers, as per the recommendation of this report, there are resource implications in the allocation of a Project Manager and procurement support. These functions would appear to be appropriate in the delivery of the council's role as Coastal Protection Authority.

8. Legal Implications

- 8.1 The statutory scheme in relation to coastal erosion is governed by the Coast Protection Act 1949 ("the 1949 Act"), as amended by the Flood and Water Management Act 2010 ("the 2010 Act").
- 8.2 This Council is the successor to the former West Somerset Council ("WSC"). WSC was a Coastal Protection Authority ("CPA"). Under the Local Government (Boundary Changes) Regulations 2018 (SI 2018 No. 1128) all property, rights and liabilities of the predecessor councils shall on the reorganisation date (1 April 2019) vest in, and transfer to, the successor council. Accordingly on the 1 April 2019, Somerset West and Taunton Council became a CPA.

- 8.3 A Coastal Protection Authority is under a duty, pursuant to section 11 of the 2010 Act, to act in a manner which is consistent with national and local strategy and guidance when exercising their functions, (which include those under the 1949 Act).
- 8.4 Advice previously received from Counsel in relation to this site is extracted in paragraphs 7.5 to 7.7 below.
- 8.5 Under section 5 of the 1949 Act a CPA can carry out coast protection work on an emergency basis. In so doing, the authority shall, before or as soon as possible after the commencement of the work, give notice of the nature of the work -
- (a) to the appropriate agency, in the case of work carried out by a CPA; and
 - (b) to any internal drainage board in whose district the work is to be or has been done.
- 8.6 In the event that the works are not urgent in nature, prior notice of the proposal to carry out the works must be served on the owner, and on the occupier if different, specifying both the work to be done and a period after which the authority will carry out the work if it has not already been completed.
- 8.7 The Shoreline Management Plan creates a recommendation to “hold the line”, this means that the Coastal Protection Authority has the power to intervene but places no statutory responsibility upon them to do so.
- 8.8 If Members were to accept ownership and maintenance responsibilities for a new coastal protection asset, and if was ultimately unsuccessful, it could be argued that the Council had accepted a duty and then failed to discharge that duty properly and reasonably. Once that position had been established, it would be easier to make the claim that the Council should be paying for the costs of any clear up associated with that failure.
- 8.9 The report does not seek permission for this council to accept ownership or maintenance responsibilities for any built asset. Should this later become a consideration then further investigation into insurances would be needed and a further review of the advice undertaken.
- 8.10 Further legal assistance has been provided in preparation of the draft Memorandum of Understanding.

9. Climate and Sustainability Implications

- 9.1 Climate change will impact on the sea levels in the coming years. This report does not evaluate the effects of rising sea levels, but we would expect future designs of the engineering schemes to take account of these impacts.
- 9.2 It is anticipated that an Environmental Impact Assessment will be required for the engineering solution, there may be some relaxation of this in the event that emergency works are necessary, with a retrospective consent being incorporated as part of the wider scheme.

10. Safeguarding and/or Community Safety Implications

- 10.1 It is anticipated that the recommendations of this report improve the position for those immediately impacted and for the wider community through the support to Somerset County Council's scheme.

11. Equality and Diversity Implications

- 11.1 There are no detrimental impacts on any of the protected groups as a result of this report and its recommendations.

12. Social Value Implications

- 12.1 There is no immediate procurement activity associated with this report. Any future procurement that will come from this will consider social value within the process.

13. Partnership Implications

- 13.1 There are no formal partnerships impacted or created by the content of this report, but a formalised way of working will be agreed through the creating of the Memorandum of Understanding.

14. Health and Wellbeing Implications

- 14.1 Protection of the impacted communities is at the heart of any scheme that may be delivered. Ensuring the safety of home, and connectivity of those homes to the nearby communities is the purpose of this report.
- 14.2 There will be implications for people's health and wellbeing should a scheme not be designed and delivered within a reasonable timeframe.

15. Asset Management Implications

- 15.1 The decision on ownership of the asset is yet to be considered and at this stage the recommendations are limited to consent to lead on the bid, and consent to lead on delivery. The outstanding questions need to be answered before any delivery commences and new assets are created.

16. Data Protection Implications

- 16.1 There are no identified data protection implications

17. Consultation Implications

- 17.1 Somerset County Council and their consultants WSP have undertaken consultation as part of their options appraisal.

18. Scrutiny/Executive Comments

- 18.1 This report was added to the agenda some time ago and has to be moved on a number of occasions whilst awaiting the outcome of the County Council proposals and an understanding of their likely progression. As a result, and not

wishing to delay the potential approval of the recommendations, this report has come directly to Full Council.

- 18.2 Should a further discussion on this report, or the coastal erosion issues impacting this area of the coastline more generally, be requested by Scrutiny this can of course be provided.

Democratic Path:

- **Scrutiny – No**
- **Cabinet/Executive – No**
- **Full Council – Yes**

Reporting Frequency: Once only

List of Appendices

Appendix A	Somerset County Council slides: Erosion regression line over the next 100 years Initial designs for engineering solution at Blue Anchor Realignment of B3191 at Cleeve Hill
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Background:

December 2014 Full Council decision to cease further works

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