

Report to: Cabinet

Date: 10 December 2020

Title: Memorandum of Understanding between Environment Agency and Lewes District Council relating to coastal risk management at Telscombe Cliffs.

Report of: Tim Whelan, Director of Service Delivery

Cabinet members: Cllr Matthew Bird, Cabinet member for Sustainability
Cllr Emily O'Brien Cabinet Member for Planning and Infrastructure.

Ward(s): East Saltdean and Telscombe Cliffs

Purpose of report: Request for the Chief Executive to enter into a Memorandum of Understanding with the Environment Agency.

Decision type: Key

Officer recommendation(s): (1) To agree to enter into Memorandum of Understanding, and

(2) Work in partnership with the Environment Agency to explore the options viable to manage the risks posed by the undefended cliffs at The Esplanade, Telscombe Cliffs.

Reasons for recommendations: By entering into the Memorandum of Understanding with the Environment Agency, their larger technical capability and resources can be utilised to seek an appropriate solution to managing the risks posed by an eroding coast at this location.

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1 Introduction

- 1.1 The stretch of coast from Ambleside Avenue South to the Southern Water's Portobello Works is presently undefended from erosion by the sea at the foot of the cliffs. The Shoreline Management Plan policy for this stretch of coast is Hold the Line at the cliff toe, a policy to attempt to protect the cliff from future erosion.

- 1.2 The Brighton to Newhaven Coastal Implementation Plan (2016) identified that it would be difficult to obtain central government Flood Defence Grant in Aid. However, building upon the BNCMIP, further detailed work has established that there may be an opportunity to fund a coastal risk management scheme partly utilising Flood Defence Grant in Aid and potentially contributions from other yet to be identified sources.
- 1.3 Recognising this opportunity, a submission has been made through the Environment Agency's Project Application and Funding Service (PAFS). The purpose of this submission is to ensure that this project is on the EA's national Medium-Term Plan, operating from 2021- 2027.

2 Proposal

- 2.1 Delivery of the cliff erosion defence at Telscombe Cliffs will be both highly technical, require a great deal of consultation with many stakeholders and the procurement of a range of permissions, consents, and licenses.
- 2.2 The EA has a strategic overview of coastal risk management and officers meet regularly to discuss the challenges along the coast. The EA is aware of complexities and technical difficulties posed at Telscombe Cliffs and recognises that, in the coming years, our focus will be to ensure an effective recovery for our communities from the pandemic. Given these challenges, the EA is offering, if we agree, to take the lead role in managing the risks posed by coastal erosion at Telscombe Cliffs.
- 2.3 The Flood and Water Management Act 2010 enables the EA to operate where there is a risk of coastal erosion. In order to initiate this process, the EA's Area Director of Solent and South Downs wishes Lewes District Council to enter into a Memorandum of Understanding.
- 2.4 The EA can offer greater capacity, in house specialist knowledge, existing governance and management processes and a proven track record in seeking funding contributions, all of which should assist in effective and timely delivery. To replicate such capability the council would need to develop its own in-house Coastal Management Team.
- 2.5 The MoU seeks to provide a framework for how the EA, as Lead Partner, will work with Lewes District Council to deliver the most viable coastal erosion risk management measures at The Esplanade, Telscombe, between the Eastern side of Portobello Pumping Station, and Lincoln Avenue South
- 2.6 The MoU clarifies the roles and responsibilities of the EA and LDC and the general principles for their cooperation, including details of the governance structure, how and by whom the different elements of the Project will be delivered, and the management arrangements to be put in place

2.7 The MoU requires that Lewes District Council agrees to:

- Support the Environment Agency to identify and bid for funding, and where appropriate and in agreement with both Parties, write and submit funding applications on behalf of the Project where appropriate,
- Remain responsible for compliance with any terms and conditions that are within its remit, subject to which grants, or funding have been obtained for the Project,
- To share with the EA the risks posed by such a project,
- Provide support and assistance as may be required, by the Project Board or the Agency's project manager in assisting the Agency, depending upon resource availability, particularly regarding Planning permissions etc.,
- To work with the EA to ensure project-specific branding, which can be used for the external promotion of the Project via the internet, social media and in hard copy formats.
- Following completion of the new Sea Defence Assets, or such other date as mutually agreed between the parties, the new assets will be transferred to Lewes District Council and/or relevant landowner, who will then be responsible for their ongoing inspection, monitoring, maintenance and repair.

3 Outcome expected and performance management

3.1 By signing the MoU and entering into partnership with the EA, Lewes District Council can ensure the considerable resources and large-scale project management ability of the EA is available to deliver a critical project.

3.2 In particular, if a cliff toe erosion control scheme were to be implemented at Telscombe Cliffs, it would protect residential properties and non-residential properties. There are other high-level benefits such as the A259 and a range of utilities. There are many beneficiaries and stakeholders that will need to be engaged and involved with the project, the MoU will assist in that process.

4 Consultation

4.1 To date no consultation has been undertaken on the MoU, previous consultations have taken place for The Shoreline Management Plan policy and The Brighton to Newhaven Coastal Implementation Plan (2016). Any future projects will require significant consultation with a wide range of stakeholders.

5 Corporate plan and council policies

5.1 Entering into the MoU and actively engaging in this project will assist in delivering the Corporate Plans Goal of a climate resilient district by 2030 and having well managed and protected coastal areas.

6 Business case and alternative option(s) considered

- 6.1 Given the scale of any potential projects and the wide number of stakeholders, the MoU provides the best opportunity to jointly deliver future projects and should we not adequately seek to manage the risks posed by coastal erosion appropriately, we may have an adverse impact on the long term confidence of the coastal communities and in addition reputation of the Council

7 Financial appraisal

- 7.1 Entering into the MoU initially has limited financial implications. As the project develops there may be a requirement for the Council to make contributions or to finance specific elements of the project. Such requirements would be reported to Corporate Management Team, Cabinet, and the Council as and when appropriate.
- 7.2 In the long term should the project be successful in delivering a coastal defence then the asset would become the responsibility of Lewes District Council as the responsible relevant Coastal Protection Authority.

8 Legal implications

- 8.1 Legal Services has reviewed the draft MOU and suggested some amendments to protect the council from over-committing its resources on this project.
- 8.2 The MOU is not intended to be legally binding and states as such; however it does set out obligations for each party, including responsibility for compliance with agreements arising from the project and providing staff and other resources where applicable.
- 8.3 It is advised that relevant staff and solutions to the MOU requirements are identified in advance of signature, to ensure the council's obligations will be met.
- 8.4 It is noted that LDC legal services is referred to in the MOU as supporting the project and is therefore expected to be properly instructed and advise on relevant documents and activities as and when they arise.

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9 Risk management implications

- 9.1 Currently there is a section of coast where the Shoreline Management Plan is Hold the Line, by entering into this MoU LDC is in a better position to help protect properties and assets belonging to and serving our residents.
- 9.2 By entering into the MoU we would be also enabling us to meet our Corporate Plan objectives around managed coastal areas and ensures that the reputation of the Council as a competent Coastal Protection Authority is maintained, by working with critical partners.

10 Equality analysis

10.1 At this stage there are no direct implications regarding equalities, however if LDC enters into the MoU and as the project goes forward Equalities and Fairness will be a key element of the project particularly regarding:

- How communities and stakeholders are consulted (ensuring this is accessible)
- Their views and considerations obtained, and
- Incorporated into the project and any outcomes that are identified and pursued.

In the long term the project should provide greater confidence for all those living and working along the coast, contributing to health and wellbeing.

11 Environmental sustainability implications

11.1 Potentially one solution that might arise from the MoU would be the construction of a sea defence. This would have a considerable carbon footprint. During the development of the project the carbon reduction issue and sustainable options will be addressed at every stage as the EA like LDC are committed to being carbon zero by 2030.

Entering into the MoU and actively engaging in this project will assist in delivering the Corporate Plans Goal of a climate resilient district by 2030

12 Appendices

Appendix 1 - MEMORANDUM of UNDERSTANDING
Coastal Unit SU06 Portobello to Peacehaven Cliff Erosion Risk Management

13 Background papers

The background papers used in compiling this report were as follows:

<https://www.lewes-eastbourne.gov.uk/about-the-councils/coast-management-and-protection/?assetdet39e14ce8-bfa6-4bb1-a5b3-2c92d6811d83=258572>