

**Report to:** Cabinet

**Date:** 3 February 2022

**Title:** A Coastal Concordat for England

**Report of:** Ian Fitzpatrick, Deputy Chief Executive and Director of Regeneration and Planning and Tim Whelan, Director of Service Delivery

**Cabinet member:** Councillor Stephen Gauntlett, Cabinet member for planning and infrastructure

**Ward(s):** East Saltdean & Telscombe Cliffs, Newhaven South, Peacehaven East, Peacehaven West, Seaford Central, Seaford East, Seaford South, Seaford West

**Purpose of report:** To seek approval for Lewes District Council to adopt and be a signatory to the Coastal Concordat

**Decision type:** Key

**Officer recommendation(s):** (1) Cabinet agrees to adopt the Coastal Concordat (as December 2019)

(2) Authority be given to the Cabinet member for planning and infrastructure to sign a letter to the Department for Environment, Food and Rural Affairs confirming Lewes District Council's adoption of the Coastal Concordat

**Reasons for recommendations:** To enable benefit to be gained from a streamlined planning system in relation to coastal applications

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## 1 Introduction

- 1.1 The Coastal Concordat is a voluntary agreement between the main regulatory bodies (including the Marine Management Organisation, the Environment Agency and Natural England) and coastal local planning authorities that provides a framework within which the separate processes for the consenting of coastal developments (e.g. planning permission, marine licences) can be better co-ordinated.
- 1.2 Local authorities in England with a coastal interest are encouraged to adopt the coastal concordat in accordance with the HM Government 25 Year Environment Plan.

## 2 Background

- 2.1 Coastal development requires various consents, permissions and licences in order for a development to become operational. The regulatory functions governing these consents are provided by a number of different bodies and authorities, each with their own requirements. This means that an applicant for coastal development would need to approach each body or authority individually, which makes the process difficult to understand and can result in overlaps between regulators.
- 2.2 To address this, the Department for Environment, Food and Rural Affairs (DEFRA) made a commitment to lead on the agreement and conclusion of a marine/coastal development concordat. The original Coastal Concordat for England dated 11 November 2013 was an agreement between DEFRA, the Department for Communities and Local Government (now the Department for Levelling Up, Housing & Communities), the Department for Transport, the Marine Management Organisation, the Environment Agency, Natural England and the Local Government Association Coastal Special Interest Group. Whilst it was signed by these government departments and advisory bodies, there was limited sign up from Local Planning Authorities.
- 2.3 Following reviews of the effectiveness of the Concordat in 2018 and 2019, the Concordat was updated and local authorities were encouraged to sign up. The principles of the Concordat were clarified to enable consistency with the Government's 25 Year Environment Plan (A Green Future: Our 25 Year Plan to Improve the Environment), which aims to *implement a marine licensing regulatory regime that supports sustainable development while protecting the natural capital and wellbeing of the marine environment.*

### **3 Proposal**

- 3.1 The Concordat applies to the consenting of coastal developments in England where several bodies have a regulatory function. It is designed to form the basis of agreements between the main regulatory bodies and coastal local planning authorities, and provide a framework within which the separate processes for the consenting of coastal developments in England can be better coordinated.
- 3.2 The concordat approach can be applied to any applications for individual coastal development projects where they span the intertidal area in estuaries and on the coast, or require multiple consents including both a marine licence and a planning permission from the local planning authority. It does not apply to projects that are solely terrestrial (e.g. entirely above Mean High Water Springs).
- 3.3 The Concordat is based on five high level principles, as set out below:
- Applicants seeking regulatory approval should be provided with a first point of entry into the regulatory system for consenting coastal development, guiding them to the organisations responsible for the range of consents, permissions and licences which may be required for their development.
  - Regulators should agree a single lead authority for coordinating the requirements of Environmental Impact Assessments or Habitats Regulations Assessments.
  - Where opportunities for dispensing or deferring regulatory responsibilities are legally possible and appropriate, they should be taken.
  - Where possible, at the pre-application stage, competent authorities and statutory advisors should agree the likely environmental and habitats assessment evidence requirements of all authorities at all stages of the consenting process.
  - Where possible, regulators and statutory advisors should each provide coordinated advice to applicants from across their respective organisations.
- 3.4 It is considered that there will only be a small number of planning applications which will trigger use of the Coastal Concordat and these are most likely to relate to coastal works e.g. sea defences for which the council or the Environment Agency will be the applicant. There is no apparent dis-benefit to the council and there may be some time and cost saving benefits. The principles of the Concordat are considered sensible and would assist with a better passage through the regulatory system for applicants.

## **4 Outcome expected and performance management**

- 4.1 The Concordat provides a framework within which public bodies relevant to this process can deliver a more effective and efficient service. It will provide benefits to applicants, regulators and advisors alike by reducing unnecessary regulatory duplication, providing better sign-posting, streamlining assessments and increasing transparency and consistency of advice.
- 4.2 The benefits of working under the principles of the Concordat for applicants and regulators include:
- Upfront signposting for the applicant
  - Reduced duplication of evidence requirements
  - Streamlined regulatory processes (one body may take a lead on Environmental Impact Assessment, Habitats Regulations Assessment, and/or Marine Conservation Zone Assessments).
  - Transparency and consistency of advice
  - Time and cost savings for regulators, authorities and applicants
  - Meets the commitment in the 25 Year Environment Plan
- 4.3 In practice, if a planning application was screened in as a Concordat project, the Council would have an advisory role as the 'first point of entry,' with an officer signposting the applicant to other Concordat bodies and highlighting at this early stage that they may need to secure a consent, licence or permission from them.
- 4.4 The applicant would then contact the other regulatory bodies to find out about the regulatory regime for which they are responsible and it would remain the responsibility of the applicant to obtain all necessary consents
- 4.5 The most appropriate body would initiate a discussion between relevant Concordat adopters covering (where required):
- a) Timescales, roles, contact details
  - b) Potential lead authorities for Environmental Impact Assessment / Habitats Regulations Assessment / Marine Conservation Zone if applicable
  - c) Opportunities to dispense with / defer regulatory responsibilities
  - d) Common evidence requirements
  - e) Arrangements for communication of the outcome of the discussion with the application
- 4.6 The adoption of the Concordat would assist Lewes District Council as there are a number of projects that may come forward in coming years where a Concordat would help to save resources, increase confidence in effective delivery and safeguard reputation. These projects could include:
- A possible sea defences at Telscombe

- A possible sea defences at Portobello
- Possible improved management of sea defences at East Saltdean and Peacehaven taking into account climate change
- Changes to Newhaven Port if the permission for a Deep Sea Berth is implemented
- Possible changes at Seaford Bay
- Possible change to Hope Gap steps
- Future applications at Coastguard Cottages

## **5 Corporate plan and council policies**

- 5.1 The Lewes Corporate Plan 2020-2024 identifies that the impacts of climate change through flooding and coastal erosion are already being experienced, and that a key area of focus is to prioritise efforts to address flooding and coastal erosion as well as water availability due to the impact of climate change. The Coastal Concordat will assist with meeting this priority.

## **6 Business case and alternative option(s) considered**

- 6.1 Signing the Concordat does not remove any of the statutory responsibilities or duties of the Council or relinquish any powers, but it does set up a mechanism by which the production of evidence supporting decision making can be streamlined, and in some cases it will be appropriate to appoint a lead authority to coordinate relevant assessment processes and parallel tracking of assessments is recommended. This will lead to some limited efficiencies for the Council.
- 6.2 Not adopting the Coastal Concordat would mean that Lewes District Council and other planning applicants would not receive the benefit of a streamlined regulatory system in relation to coastal applications.

## **7 Financial appraisal**

- 7.1 There are no direct financial implications arising from adopting and being a signatory to the Coastal Concordat, and any indirect cost can be undertaken within the services existing resources.
- 7.2 Signing up to the Coastal Concordat by the Lewes District Council could lead to savings on the overall project cost. The benefits of the Coastal Concordat would potentially streamline regulatory responsibilities and improved coordination under different regulatory regimes, with potential efficiency benefits for the Council.

## **8 Legal implications**

- 8.1 The concordat does not amend or remove the regulatory or enforcement responsibilities of the council, but it is an informal agreement to adhere to a framework within which the separate processes for the consenting of coastal developments in England can be better coordinated. It is not a contract and as such, the council may review its position at any time.

Legal Implications Provided 13/12/21 Iken Ref 10666 – JOINT -JCS

## **9 Risk management implications**

- 9.1 The main apparent implication of not signing up to the Concordat is that planning applicants/developers would not benefit from the efficiencies and streamlining when dealing with the Council (and other regulatory bodies).

## **10 Equality analysis**

- 10.1 An Equality Screen has been completed in conjunction with this report. The adoption of the Coastal Concordat is not considered to impact on protected groups.

## **11 Environmental sustainability implications**

- 11.1 There are no direct environmental sustainability implications, however the adoption of the Coastal concordat will simplify the process of consenting new and improved coastal defences, which will assist in mitigating the impacts of climate change.

## **12 Background papers**

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

- [HM Government – A Green Future: Our 25 Year Plan to Improve the Environment \(2018\)](#)
- [A coastal concordat for England \(revised: December 2019\)](#)
- [A coastal concordat for England: implementation document \(updated: December 2019\)](#)