

	REPORT TO CABINET TO BE HELD ON 15 NOVEMBER 2016
Appendix B to this report contains exempt or confidential information which is excluded from this publication	Key Decision Yes Forward Plan Ref No
Corporate Priority: Developing safer and stronger communities	Cabinet Portfolio Holder Cllr M. Cockerill

REPORT OF THE CHIEF EXECUTIVE – 16/250

WARDS AFFECTED: MULGRAVE WARD

SUBJECT: RUNSWICK BAY COASTAL PROTECTION SCHEME, CONTRACTOR AWARD

RECOMMENDATION (S):

Cabinet is recommended to:

- i. Approve the appointment of ESH as the stage 1 scheme designer and stage 2 build contractor for the Runswick Bay coastal protection works, who have been selected through a competitive tendering exercise via the YorCivils Framework.
- ii. Delegate authority to the Project Leadership, Harbours Coast & Flood Protection Portfolio Holder to instruct the commencement of the stage 2 construction, and the final programme for the works, following satisfactory completion of stage 1 by ESH.

REASON FOR RECOMMENDATION (S):

ESH have been assessed and recommended as the contractor based on a combined assessment of price and quality which resulted in them scoring 90.4% out of 100%.

To authorise officers to appoint ESH to undertake the required works in a timely fashion to co-ordinate with programmed Yorkshire Water preliminary works on the foreshore.

HIGHLIGHTED RISKS:

As shown in Appendix A.

1. INTRODUCTION

- 1.1 Approval was given by Cabinet on 19 January to appoint a design and build contractor (within the amount of grant offered) via the YorCivils framework to undertake the Runswick Bay coastal protection scheme. It is pleasing to note that a contractor 'ESH' has been recommended for appointment following a competitive tendering exercise.

2. CORPORATE OBJECTIVES AND THE COMMUNITY PLAN

- 2.1 The project will support a number of the Council's Corporate Plan aims:

Aim 1: Developing a Safer Community
Aim 2: Building a Prosperous Community
Aim 3: Creating a Quality Environment

3. BACKGROUND AND ISSUES

- 3.1 The extent of the works required for Runswick Bay was initially defined in accordance with the overarching River Tyne to Flamborough Head Shoreline Management Plan 2 (SMP2). Runswick Bay is located within Management Area 21 (MA21) of the SMP2. The only Policy Unit within MA21 for which the Policy of 'Hold The Line' (HTL) was proposed was for Runswick Bay Village (Policy Unit 21.1).
- 3.2 The policy of HTL for Runswick Bay Village was further confirmed with the work undertaken for the Runswick Bay Coastal Strategy (RBCS) 2015, which looked at a number of potential Strategic Coastal Defence Options, mainly focussed on protecting Runswick Bay Village. A business case (PAR) has now been approved by the Environment Agency and Scarborough Borough Council for the design and construction of works (rock armour fillet) at Runswick Bay Village. This will form the basis of the project and tenders have been sought to provide Early Contractor Involvement to design the works, to develop Works Information and Site Information and to obtain a competitive price for the construction works.

4. CONSULTATION

- 4.1 Extensive consultation has been sought with both statutory and non-statutory consultees through correspondence, a public information event and with the project steering group's representatives throughout earlier stages of this project.
- 4.2 Ongoing engagement, particularly with the key stakeholders, will be extremely important to ensure the smooth implementation of the proposed scheme

works. The proposed scheme has the broad support of the residents and backing of the the Homeowner's Association, which is evident by the large £100k donation that they have contributed towards the scheme costs.

- 4.3 As a key funding partner, the Homeowners' Association has requested that the physical works at Runswick Bay are not carried out during the busy summer tourist season, noting concerns of health and safety of visitors, negative impacts on local businesses and possible impacts on the water quality of the area, which may affect the blue flag status of the resort. Endeavours have been made during the tender stage to seek programmes to fit, with the stage 2 works beginning in September 2017 at the end of the bathing season. All tender bids received complied with this requirement. However it is recommended that a final decision on the programme of works and whether works can be delayed to allow for winter working only be taken by the Portfolioholder at the time of instruction to proceed with Stage 2 of the contract.
- 4.4 Yorkshire Water have confirmed that their soon to be newly installed infrastructure will be designed in a manner to allow exposure for at least 1 to 2 years following completion of construction, which is due circa February 2018.

5. ASSESSMENT

- 5.1 Please see Appendix B (Runswick Bay Coastal Tender Assessment Report) for a detailed (**Private and Confidential**) overview of the tender process, analysis method and outcome recommendations. This report contains sensitive company financial information.
- 5.2 Expressions of interest were sought from the YORCivil's frameworks lots 1, 2 and 3 to undertake the design and build of the Runswick Bay coastal defence scheme. The contract is to be let on the basis of a two stage process. Stage 1 of the project is the detailed design stage, which will involve not only the design but the seeking of planning permission, consents from Natural England, site surveys and an Environmental Impact Assessment. Stage 2 of the project is the construction. Stage 2 will only commence should the contractor's detailed design price be within the project's budget and that the Council is satisfied with the performance of the contractor. At the end of break stage 1 the Portfolio holder for Project Leadership, Harbours, Coast and Flood Protection(with an approval of this report) will be given a delegated responsibility to approve instruction to commence to stage 2 construction or halt the project at this stage.
- In total four companies were able to demonstrate experience of:
- Delivering schemes of a similar size and nature;
 - Working in a marine environment;
 - Placing rock armour;
 - Working in environmentally sensitive maritime sites;

- Delivering environmental enhancement measures as part of a coastal defence scheme;
 - Carrying out design and build projects.
- 5.3 As a result these companies were invited to tender on the 24 June and replies were received from all companies on the 26 July within the tender period.
- 5.3 Tenderers were required to submit the following detailed information from which a tender assessment was made:
- a) Form of Tender;
 - b) Priced activity schedule for ECI services;
 - c) Contract Data Part Two for ECI services;
 - d) Declaration of non-collusive tendering;
 - e) Freedom of Information schedule;
 - f) Tender Methodology;
 - g) Outline Method statements;
 - h) Preliminary construction phase Health & Safety Plan;
 - i) CV's for site staff;
 - j) Employment and skills plan;
 - k) Draft priced activity schedule of construction stage preliminaries;
 - l) Tender monitoring sheet.
- 5.4 Tender assessment was carried out by the Council's Structural Engineer and 2 members of the Councils appointed consultant/site supervisor (Royal Haskoning DHV) consisting of a suitably qualified senior engineer and a senior quantity surveyor.
- 5.5 The tender was assessed on a 50% price; 50% quality scoring matrix. Regarding the quality element, scores were awarded between 1 and 10 on: The Tender Programme, Outline Method Statement, Preliminary Construction phase H&S Plan, CV's for site staff, Contractors Design Team, Employment and Skills Plan.
- 5.6 The scores from the three assessments were then summated and averaged to produce an agreed score. The highest quality score was adjusted to 100 and all other totals had one mark deducted for each percentage point by which the total was lower than that of the highest. Percentage calculations were made to one decimal point. (E.g. a total 13.5% below the highest thus received 86.5 marks). Regarding the price element, arithmetical checks were undertaken and then lowest total was adjusted to 100 marks. All other totals had one mark deducted for each percentage point by which the total exceeded that of the lowest. Percentage calculations were made to one decimal point.

The below table provides an overall tender score summary of tenders received:

Name		ESH		
Quality Score	9.1	7.35	8.85	6.45
Quality Ratio	100	80.8	97.3	70.9
Quality Rank	1	3	2	4
Tender Totals (including adjustment)	£801,796	£671,593	£911,245	£838,363
Price Ratio	80.6	100	64.3	75.2
Price Ranking	2	1	4	3
Overall Score	90.3	90.4	80.8	73.1
Order of tenderers	2	1	3	4

- 5.7 Based on the combined quality and price scores there is little between the tenders received from ESH and the second placed tenderer. However the most economically favourable tender was received from ESH, based on:
- The ESH cost for the ECI stage (stage 1) being substantially lower, by £105,203 (before adjustments), than that of the 2nd placed tenderer;
 - The effect of cost changes resulting from compensation events is likely to be lower with ESH due to rates provided, please see appendix B for further clarity;
 - The ESH price for the construction phase preliminaries is lower by some £52,413.

It is, therefore, recommended that ESH be appointed as the ECI Stage contractor for this project based on the findings of the tender evaluation.

6. IMPLICATIONS

(a) Policy

- 6.1 The proposals accord with the Council's SMP2, which was adopted in May 2007 and the adopted 2015 Runswick Bay Strategy.

(b) Financial

- 6.2 It is pleasing to note that the winning design and build contractor 'ESH' have submitted a price within the £1,040,000 of Environment Agency 'Flood and Coastal Grant in Aid' and additional Homeowners Association contribution of £100k on offer to undertake the project thus revising the original budget to £1,140k. The price submitted for the contractor stage 1 design and stage 2 construction totals £671,593. The stage 1 fixed price cost is £93,479 and stage 2 price has used the costing developed at project appraisal stage as a indicative sum to reach a combined stage 1 & 2 cost of £671,593. The contractors price for stage 2 could go up or down depending on the final

design and restrictions placed upon the project. The original PAR estimated construction cost is based on costings provided by early contractor involvement along with adjustments relating to inflation and increases in the cost of rock. For a detailed breakdown of the allocated sums for this project and its comparison to the original Project Appraising costing please see Appendix C.

- 6.3 It is not proposed that any Borough Council funding will be expended on this scheme. The scheme is fully funded through Environment Agency grant aid and contributions. SBC officer time, consultant and contractor fees along with construction and survey costs are all covered. A contingency sum of £298k is also built into scheme costings, which allows for an overall 44% risk allowance based on the contractor's tender price.
- 6.4 The grant is awarded in accordance with the Environment Agency's Memorandum relating to Scheme Approval and Grant under the Flood Water Management Act 2010. Under the terms of the grant, the Council is required to complete the scheme in line with the agreed Project Appraisal Report.
- 6.5 Should additional contingency be required, officers will approach the Environment Agency to seek additional funds as this project has a partnership score of 206% without contributions and 235% score with contributions. Nominally, a score of 100% means that a project can be fully fundable under Grant in Aid. As a result there is potentially scope to increase grant by reducing the project's partnership score should additional funding be needed to complete the works.
- 6.6 It is intended as stated in the Council agreed and approved PAR for the Runswick Bay Scheme that some car parking spaces will be made available in the village for a site compound. It is intended, although this is to be fully planned during stage 1, that some space will be required in the lower carpark however a larger compound will be required at the bank top carpark. It should be noted that car parking is currently free in Runswick Bay during the winter months so a loss of revenue is not foreseen under the current winter programme.

(c) Risk

- 6.7 The risks, which may arise from undertaking the appointment of the contractor are as set out in Appendix A.
- 6.8 Key Risks identified:

The delivery of rock armour and the restriction placed on the scheme by the North York National Park Authority (the Local Planning Authority) not to allow the delivery of rock by road. This requirement therefore restricts the numbers of possible suppliers. Delays in delivery of rock armour by barge are not uncommon in coastal protection schemes and at Project Appraisal stage this was taken into consideration by providing a 30% contingency sum.

Early negotiation and provisional booking of rock armour delivery will be looked at in detail during stage 1. However it must be noted that delivery of rock by sea is dependant on weather windows allowing for suitable safe delivery. At this stage we are unable to predict the weather, but realise the possibility of unfavourable weather conditions, although poor conditions are more prevalent in the winter months they can and do also occur in the summer months. Therefore this risk cannot be removed completely.

Due to light issues winter working can also be problematic and will restrict working windows, however it must be noted that the previous scheme at Runswick Bay also consisted of winter and summer working. During design stage 1, an emphasis will be put on the contractor to start works as soon as physically conceivable in September 2017 to get as much work completed as possible before the nights draw in and the weather worsens. Advantages of winter working include a reduced risk to public by not operating heavy equipment during the peak tourist season. Also availability of car parking areas for the site compounds is easier as the car parks are inherently less busy in winter than the summer.

- 6.9 Risk is managed on a fixed price contract to limit risk as much as reasonably possible. A break stage between stage 1 (the design) and stage 2 (the construction) is also possible should the contractor's price for the build exceed the current budget. At the end of stage 1 approval from the Portfolio holder for Project Leadership, Harbours, Coast and Flood Protection will be required to instruct the commencement of stage 2. Following completion of break stage 1 of the contract, should the contractor price following detailed design be more than the approved budget or the contractor not performing to the standard required, the appointed contractor could be removed from the job. This would then trigger a retender or bid to the Environment Agency to seek additional funding.

(d) Legal

- 6.10 The proposed Runswick Bay scheme will be carried out using the Council's permissive powers under the Flood Water Management Act 2010.
- 6.11 There is a requirement to follow the Council's financial and contract procedure rules. This report is part of that process.

(e) Environmental and Sustainable Development

- 6.12 There are no Ramsar Sites, Special Protection Areas (SPAs) or Special Areas of Conservation (SACs), within the Runswick Bay Strategy Study Area. Natural England has confirmed (in their letter of comfort of 17 February 2015 and during subsequent consultation in August 2015) that consequently there is no requirement for Appropriate Assessment under the Habitats Regulations. Natural England have also confirmed that they consider that the preferred option is likely to lead to an environmentally acceptable solution.

6.13 The preferred option would reduce the risk of seawall failure in the short, medium and long term, and reduce wave overtopping for residents in Runswick Bay Village. Consequently the risks to residential and commercial properties and other infrastructure would be significantly reduced. Further, this would alleviate much of the stress and anxiety felt by residents and property owners, particularly as the rock apron would provide visual reassurance.

(f) Others

6.14 I have considered whether the following implications arise from this report and am satisfied that there is no identified adverse implications that will arise from this decision to proceed with the Runswick Bay Coastal Protection Scheme.

Equalities and Diversity
Staffing
Planning
Crime and Disorder
Health and Safety

7. ACTION PLAN

7.1 The current programme is given below:

Cabinet receives report	November 2016
Appoint Preferred contractor	November 2016
Award stage 2 (construction)	June 2017
Construction Start	September 2017
Construction Completion	May 2018



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Background Papers:

Runswick Bay Strategy, (2015)
River Tyne to Flamborough Head Shoreline Management Plan 2 (SMP2), 2007
Cell 1 Coastal Monitoring Programme 2008-2011

Appendix A

Risk Matrix

Risk Ref	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
1	18.10.16	Budgeted scheme cost exceeded.	Due to pressure on Environment Agency funding, it should not be assumed that any changes to the approved spending profile or an increase in scheme costs will secure additional grant aid. Additional costs may therefore need to be met by others.	Seek fixed prices from consultants and contractors. Project Board to monitor project progress. Seek financial contributions from third party stakeholders, including the Environment Agency.	B4	B2	Chris Bourne/ Robin Siddle	Do not proceed to appoint contractor to undertake stage 2 if they are over budget. Report to cabinet should funding become at risk.
2	18.10.16	Failure to obtain planning permission	Unable to implement the scheme	Early and continued consultation with the National Park. Meeting National Park Planners as necessary.	B4	A2	Chris Bourne/ Robin Siddle	Submit a quality planning application in line with current proposals
3	18.10.16	Lack of Agreement from Natural England	Unable to implement the scheme	Ongoing dialogue with Natural England to ensure that environmental reporting meets their requirements, and that the works include any necessary mitigation measures.	B4	A2	Chris Bourne/ Robin Siddle	Continue communication with NE
4	18.10.16	Winter working	Reduced working window (daylight hours), bad weather. Possible increase in costs.	The scheme was designed at PAR stage for winter working and has been costed according to this and a contingency element has been provided to cover reasonable delays due to bad weather	D4	C3	Chris Bourne/ Robin Siddle	Plan early delivery of rock, start works in September.

Risk Ref	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
5	18.10.16	Contributions from 3 rd parties failing to materialise	EA grant should be able to cover the costs however scope of work may be reduced.	Obtain legal agreement between contributors and SBC for the works.	B3	A3	Lisa Dixon	Obtain legal agreements
6	18.10.16	Working in a hostile marine environment.	Possible delay and cost.	Rate to be passed to contractor	E2	A2	Chris Bourne/ Robin Siddle	Place requirement in tender and contact documents.
7	18.10.16	Unknown environmental issues encountered.	Delay caused by the requirement of further investigations/studies.	This is a low risk as the Council has worked in this area before and is familiar with its surroundings. Natural England will also be involved in the project to provide guidance if necessary along with the development of an Environmental Impact Assessment.	A2	A2	Chris Bourne/ Robin Siddle	Consult with Natural England
8	18.10.16	Negative media coverage.	Causing a poor image of the Council to the public	Provide the media with press releases explaining the project as and when required	B2	A2	Chris Bourne/ Robin Siddle	Provide press releases
9	18.10.16	Delays with Rock amour delivery	Could have a major effect on the programme resulting in increased costs and lost time	Book in rock armour delivery as soon as possible. Explore options for sourcing rock from multiple quarries	D4	C2	Chris Bourne/ Robin Siddle	Development of a project Programme with a key focus on rock delivery
10	18.10.16	Poor performance of contractor during stage one (the design)	Could have an effect on the quality of design and price for stage 2.	Re-tender for stage 2 if stage 1 performance is poor.	B3	A1	Chris Bourne/ Stewart Rowe	Monitor performance.

Glossary of Terms

Risk	An event which may prevent the Council achieving its objectives
Consequences	The outcome if the risk materialised
Mitigation	The processes and procedures that are in place to reduce the risk
Current Risk Score	The likelihood and impact score with the current mitigation measures in place
Corporate Objectives	An assessment of the Corporate Objectives that are affected by the risk identified.
Target Risk Score	The likelihood and impact score that the Council is aiming to achieve
Service Unit Manager	The Service Unit or Officer responsible for managing the risk
Action Plan	The proposed actions to be implemented in order to reduce the risk to the target score

Risk Scoring

Impact	5					
	4					
	3					
	2					
	1					
			A	B	C	D
		Likelihood				

Likelihood:

- A = Very Low
- B = Not Likely
- C = Likely
- D = Very Likely
- E = Almost Certain

Impact

- 1 = Low
- 2 = Minor
- 3 = Medium
- 4 = Major
- 5 = Disaster