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|  | REPORT TO CABINET TO BE HELD ON 18 JUNE 2019 |
| | Key Decision: Yes Forward Plan Ref N/A No |
| Corporate Priority People and Place | Cabinet Portfolio Cllr Janet Jefferson Holder |

REPORT OF: DIRECTOR (NE) – 19/132

WARDS AFFECTED: Derwent Valley and Moor

SUBJECT: Raincliffe Woods (Forge Valley) - Boardwalk Project

RECOMMENDATION (S):

It is recommended that:

- a) The Council enter into an agreement with Raincliffe Woods Community Enterprise (RWCE) to provide a “cashflow facility” to support the delivery of the Forge Valley Boardwalk replacement project and associated works.
- b) That the Council enters into an agreement with North York Moors National Park (NYMNP) to share financial losses incurred as a result of:
 - ineligible expenditure or overspends on a 50/50 basis
 - overspends on a 50/50 basis, with a maximum liability for NYMNP of £10,000.

REASON FOR RECOMMENDATION (S):

The Council are responsible for the maintenance of the Forge Valley Boardwalk. RWCE are currently applying for a large grant which will facilitate the replacement of the Forge Valley Boardwalk. However, as a small organisation with limited financial resources they are unable to fund in advance the scale of the works required. They, therefore, need some short term cash flow assistance to cover the period between expenditure and receipt of the grant from the RDPE Growth Programme.

HIGHLIGHTED RISKS:

- a) That work is funded which is not eligible for grant payments. RWCE would have insufficient resources to reimburse the Council and, therefore, the Council suffers financial losses. This has been mitigated by Council involvement and oversight of the application and the feasibility work, and ongoing oversight throughout the project to ensure only eligible work is undertaken.
- b) That funds provided are misappropriated. RWCE would have insufficient resources to replace these funds which in turn would lead to the Council having to make good any losses. This is being mitigated by asking RWCE to open a new bank account for the sole purpose of funding this project. Council officers will be signatures on the account meaning that funds cannot be withdrawn without appropriate authorisation. Due to the terms of the grant, it is not possible for the Council to make payment directly to the contractor.
- c) If the Council does not support RWCE as set out in this report, they will be unable to accept the grant and therefore this potential funding to replace the Boardwalk will be lost. The Council remains responsible for the Boardwalk and therefore will retain a financial liability for its ongoing maintenance, replacement or ultimately its removal.
- d) The funding received does not cover all expenditure and the project overspends. This would, wherever possible, be mitigated by reducing expenditure elsewhere, in consultation with the funder. NYMNP have also agreed to share the risk on a 50/50 basis with the Council, subject to a cap of £10,000.

1. INTRODUCTION

- 1.1 This report sets out proposals to enter into agreements with RWCE and North York Moors National Park to facilitate the delivery of the Forge Valley Boardwalk Improvement project and associated works.

2. CORPORATE AIMS

- 2.1 The Plan supports the People and Place themes of the Corporate Plan.

3. BACKGROUND AND ISSUES

- 3.1 Forge Valley Boardwalk is situated at the East Ayton end of Raincliffe Woods, within the North York Moors National Park (NYMNP). The Boardwalk is a wooden structure, approximately 2.3km long providing a popular walkway through a natural environment alongside the River Derwent.
- 3.2 The current structure was installed approximately 19 years ago and is at the end of its life, with uneven surfaces and can be slippery when wet. It requires significant works to maintain and keep safe but despite ongoing works undertaken in partnership between RWCE, the Council, NYMNP and the Scarborough Conservation volunteers, significant resources are required to

replace the current structure. If this funding is not forthcoming it is increasingly likely that all or part of the Boardwalk will need to be removed.

- 3.3 The Council agreed a community asset transfer of Raincliffe Woods to RWCE in 2016. However, under the terms of the lease responsibility for the maintenance (or removal) of the Forge Valley Boardwalk will revert back to the Council if this application for funding is not successful.
- 3.4 RWCE have worked in partnership with the Council and NYMNP to progress an ambitious bid to the RDPE growth programme for the replacement of the Boardwalk and the improvement of the infrastructure at either end, including the provision a second footbridge, a new level car park and footway at the southern end and improvements to the existing car park at the northern end.
- 3.5 The scheme will replace the existing wood with 100% recycled plastic decking. This product has a guarantee of 25 years and an expected life expectancy of 40-50 years due to the limited exposure to direct sunlight in this location. The surface will be non slip. The inclusion of the associated work to improve the access will create a circular walkway, accessible to a broader range of users, including those with mobility issues, wheelchair and buggy users.
- 3.6 RWCE have submitted a successful expression of interest and work is now underway to work up the detail required for a full bid submission, with a value likely to be around £800,000, funded at 100%, with no match funding requirements.
- 3.7 The Council and NYMNP have supported the application, including the provision of £20,000 each of funding to undertake the detailed feasibility work required to get this application to full application stage. The Council has procured this work and Fairhursts successfully tendered for the provision of project management, design and supervision services for the scheme. This work commenced in March 2019 and this first stage is due for completion in September 2019 when it is anticipated the final bid will be submitted. The initial work being undertaken is more detailed than usual at this stage and this is to ensure that accurate pricing can be included in the bid to the RDPE Growth Programme. Whilst it is not possible to include any contingency in the bid this has been highlighted within the procurement documents to enable any sums for identified risks e.g. ground conditions, inclement weather etc. to be included by the contractor. However, overspends will not be funded by the grant funding and any overspends that cannot be mitigated will therefore need to be funded by the Council and NYMNPA (up to a cap of £10,000).
- 3.8 If the bid is successful the project management and supervision contract with Fairhursts will be novated to RWCE and the contractor identified in the first stage appointed by RWCE.
- 3.9 Works are expected to commence early in 2020, subject to the successful funding application.

4. CONSULTATION

- 4.1 This is a project that has been developed in partnership between RWCE, the Council and the North York Moors National Park. There has been extensive dialogue between the partners and this will continue as the project progresses.
- 4.2 RWCE have consulted with a range of local groups in developing the project and have received positive feedback. Groups consulted to date include Yorkshire Coast Sight Support, North Yorkshire Police (Eastfield Station), Hawk & Owl Trust, Derwent Anglers, Woodland Trust, Natural England, Environment Agency, Scarborough Conservation Volunteers, Scarborough & Ryedale Archeology and History Group, local farmers and NFU representative, East Ayton School.
- 4.3 Informal briefings have been provided to West Ayton Parish Council and the two ward members have been kept up to date.
- 4.4 Public consultation on the scheme is being undertaken by RWCE and Fairhurst's. A Public Consultation event was held on May 20th 1pm to 7pm at Derwent Valley BRIDGE Community Library. Meetings have commenced with local tourism businesses, caravan parks, public houses, hotels and local shops. The majority of feedback has been positive, the improved access for wheelchair users has been welcomed, along with the use of recycled plastic for the boardwalk and the proposals were well received by teachers and year 6 children from East Ayton Primary School who are keen to be involved with the scheme. Responses to the car park improvements were positive. Some respondents raised concerns about the bridge potentially encouraging anti-social behaviour, motorbikes and increased litter and flytipping.

5. ASSESSMENT

- 5.1 This is a much needed scheme which will significantly improve access to this area of the woods, encourage tourism, improve accessibility and enhance the enjoyment for local people and visitors of this much loved area. The current wooden boardwalk is at the end of its life and requires significant resources to maintain and keep safe.
- 5.2 The value of the scheme is estimated at £800,000 and the final figure will be confirmed prior to the bid submission, once all stage 1, pre application works have been completed and a contractor selected. The RDPE grant provides an opportunity to secure significant levels of funding, however, this is a large and ambitious scheme for a relatively small organisation such as RWCE.
- 5.3 RWCE have a relatively small turnover and cashflow and require some support to successfully manage a grant application of this size. The cashflow issues are also compounded because the terms of the RDPE grant only allow for a maximum of three claims, with payments made in arrears upon proof of eligible expenditure.

- 5.4 It is, therefore, proposed that the Council enter into an agreement with RWCE to provide a cashflow facility, with an agreement with NYMNP that any losses due to ineligible expenditure are split on a 50/50 basis, with any overspends also split 50/50, subject to a cap of £10,000 for NYMNP. The scheme proposed also has a number of checks to mitigate the potential risks.
- 5.5 It is proposed that RWCE open a new bank account specifically for this project and that council officers are signatures on the bank account. This will ensure that money can only be withdrawn from the account in line with current council bank mandates and this in turn will minimise the risk of misappropriation of funds earmarked for this project. It will not be possible for RWCE members to withdraw funds from the account without Council officer approval.
- 5.6 In conjunction with RWCE and the council's projects team, council finance officers will agree the timings for any payments to the contractors from the new RWCE bank account. Before payment is due it will be necessary to transfer council funds to the RWCE bank account to cash flow the payments.
- 5.7 Periodically RWCE will submit a grant claim to the RDPE Growth Programme and at this point Council officers will arrange to transfer funds back to the council to repay the loan. It is only possible to submit three claims during the life of the project and money can only be reclaimed once expenditure has been incurred. Taking into account the time it might take RDPE to process claims, it is possible the council will have up to £400k invested in this project.
- 5.8 Under the terms of the grant, it is not possible for the Council to make payment directly to the contractor.
- 5.9 Whilst it is recognised this does represent some risk to the Council, this needs to be balanced against the opportunity to secure significant investment into an asset of which the Council owns the freehold and which is highly valued by local people and visitors to the Borough.

6. IMPLICATIONS

6.1 Policy

No direct policy implications.

6.2 Legal

First stage (pre application) works have been procured by the Council in accordance with the Council's procurement framework. If the grant application is successful, the contract for the project management and supervision of the second stage of works will be novated to RWCE, who will also appoint the contractor.

A legal agreement will be entered into between the Council and RWCE setting out the terms and operation of the financial agreement for the “cashflow” facility to support the delivery of the project.

A legal agreement will be entered into between the Council and NYMNP to reflect the sharing of risk, specifically that financial losses incurred as a result of ineligible expenditure will be split of a 50/50 basis between the Council and NYMNP. Furthermore the legal agreement will also reflect that NYMNP agree to a further 50/50 sharing of the risks associated with overspend, up to the cap level. Whilst the Council are potentially underwriting a larger proportion of any potential overspend officers have significant mitigation measures in place to minimise the risks of this occurring and ultimately the Council are responsible for the maintenance of this structure.

6.3 Financial

The council has provided upfront funding of £20k for this scheme and has no budget provision in place for any further contributions. As outlined within the report, there is a risk that overspends to the project will occur and the council will be required to fund 50% of this. Council officers will work closely with RWCE and the contractors to ensure that, as far as possible, the works can be undertaken within the level of grant funding awarded. Any projected overspends would be handled in the same way as any other capital project and be subject to the same levels of controls. Should overspends on the project occur then these would need to be funded from the council’s Capital Contingency Reserve (CCR).

The uncommitted balance of the CCR is currently £605k following the base contribution in to the reserve in 2019/20. The minimum balance of the CCR set by Council is £500k. Separate contingency budgets are in place however for the coast protection schemes that are currently in the capital program.

Whilst overspends would be unwelcome, it needs to be noted that it is currently the council’s responsibility to ensure that the current boardwalk is safe and fit for purpose. If this project does not progress then works to repair or remove the current boardwalk would require council funding and this would need to be built into the council’s budget.

6.4 Equalities and Diversity

The works will improve the accessibility of the area and the Boardwalk for people with limited mobility and wheelchair users.

6.5 Staffing Implications

Officers from across the Council have been involved in supporting this project and will continue to offer appropriate advice, support and oversight to ensure its successful conclusion. Specifically this includes the following key officers:

Chris Bourne: Projects Manager
Neil Hughes: Accountancy Manager

Martin Pedley: Asset & Risk Manager
Jo Ireland: Customers and Communities Manager

6.6 Planning Implications

Planning permission for parts of the scheme is required and all necessary permissions will be in place prior to works commencing.

6.7 Crime and Disorder Implications

No specific implications

6.8 Health and Safety Implications

Works will be undertaken in accordance with all relevant health and safety legislation.

6.9 Environmental Implications

The site is located within the Forge Valley National Nature Reserve and is a site of Special Scientific Interest. A biodiversity report and ecological appraisal forms part of the pre applications surveys to ensure full consideration of those impacts. Works will take account of wildlife habitats. Advice has been provided by the RSPB in respect of nesting birds.

7. ACTION PLAN

7.1 Key timescales for the project are set out below:

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| Feasibility works, surveys and public consultation | March – August 2019 |
| Planning permission | Submitted (May 2019) Decision expected (Sept 2019) |
| Procurement of Contractor (RWCE) – subject to successful grant application. | September 2019 |
| Submission of final RDPE growth Programme Application | September 2019 |
| Grant decision | December 2019 |
| Works commence | January 2020 |
| Works completed | September 2020 |

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Background Papers:

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT Jo Ireland ON 01723 384315, e-mail jo.ireland@scarborough.gov.uk

Risk Matrix

| Risk Ref | Date | Risk | Consequences | Mitigation | Current Risk Score | Target Score | Service Unit Manager/Responsible Officer | Action Plan |
|-----------------|-------------|---|---|---|---------------------------|---------------------|---|--|
| 1 | April 2019 | The funding application is not successful | The Boardwalk would not be replaced and would remain with the Council for ongoing maintenance, replacement or removal | Detailed work is being undertaken to prepare the bid and obtain accurate costings. EOI has been successful | B4 | A4 | Project Team | Council Officers continue to support RWCE with the application |
| 2 | April 2019 | The funding received does not cover the total expenditure of the project | The project is reduced or does not proceed. The Council and NYMNP (up to the agreed cap) cover the cost of additional expenditure | Stage 1 of the project is extensive to obtain accurate costs for the project to frame the funding application | B4 | B4 | Project Team | |
| 3 | April 2019 | The Council does not approve the provision of a financial cash flow arrangement | RWCE would not be able to fund the boardwalk replacement therefore the project would not proceed SBC would remain liable for ongoing maintenance of the Boardwalk and for its possible removal | | B4 | A4 | NH | The Council enters into a funding arrangement with RWCE |
| 4. | April 2019 | Ineligible expenditure claims submitted | RDPE reduce grant payment by the amount of the ineligible expenditure The council suffers financial loss | Detailed pre application work reduces this risk considerably as expenditure is clearly identified and agreed as eligible. | B3 | A2 | NH | The Council enters into an agreement with NYMNP to cover any losses equally Council officers will have oversight of the project expenditure |

| Risk Ref | Date | Risk | Consequences | Mitigation | Current Risk Score | Target Score | Service Unit Manager/ Responsible Officer | Action Plan |
|-----------------|-------------|--|--|---|---------------------------|---------------------|--|--|
| 5 | April 2019 | Financial mismanagement/fraud by a third party | SBC incurs financial losses | | B4 | A4 | NH | Council Officer(s) will be signatories on the project bank account |
| 6 | April 2019 | RWCE ceases to exist during the funding period | The Council has to take over the project delivery (subject to further approvals) | RWCE are a constituted organisation with a track record. They have capacity within their organisation and two Council representatives on their Board. | B3 | B3 | Project team | |