

# Public Document Pack

## JOHN WARD

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A meeting of **Council** will be held in the **Committee Rooms, East Pallant House** on **Tuesday 31 January 2023** at **2.00 pm**.

MEMBERS: Mrs E Hamilton (Chairman), Mr H Potter (Vice-Chairman), Mrs C Apel, Mrs T Bangert, Mr G Barrett, Miss H Barrie, Mr M Bell, Rev J H Bowden, Mr B Brisbane, Mr R Briscoe, Mr J Brown, Mr A Dignum, Mrs J Duncton, Mr J Elliott, Mr G Evans, Mrs J Fowler, Mrs N Graves, Mr F Hobbs, Mrs D Johnson, Mr T Johnson, Mrs E Lintill, Mrs S Lishman, Mr G McAra, Mr A Moss, Mr S Oakley, Dr K O'Kelly, Mr C Page, Mr D Palmer, Mrs P Plant, Mr R Plowman, Mrs C Purnell, Mr D Rodgers, Mrs S Sharp, Mr A Sutton, Mrs S Taylor and Mr P Wilding

## SUPPLEMENT TO AGENDA

### 15 **Late Items** (Pages 1 - 5)

The Council is asked to note the following:

- Urgent Decision Notice – Selsey Sea Wall
- Exception to Tender – Selsey Sea Wall

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### Notice of the Making of an Urgent Decision

Para 1 of the second sub-section of section 3 in Part 3 of Chichester District Council's *Constitution* provides for any senior officer to make urgent decisions following consultation with the Leader or Deputy Leader of the Council and the Chairman of the Overview and Scrutiny Committee on any matters where it is not practicable to refer these to a meeting of the Council, the Cabinet or other committee provided that a full report on any decisions taken shall subsequently be made.

A decision of this nature has been made as set out below:

|                     |  |
|---------------------|--|
| Decision title      | Westcroft Sea Wall Failure – Emergency Works   |
| Decision taker      | Council  |
| Decision consultees | Councillor Eileen Lintill (Leader) and Councillor Clare Apel (Chairman of OSC)   |
| Decision date       | 25 January 2023  |
| Decision details    | <p>The Coast Protection Act 1949 gives Chichester District Council (CDC) as the Coast Protection Authority, responsibility &amp; powers to manage coastal erosion on our coastline. This includes the provision to undertake emergency works.</p> <p>The Council has responsibility if it considers that works are necessary for the protection of our area, and the Council should comply with the adopted SMP / Coastal Defence Strategy for the location. The strategy adopted by the Council for the Selsey frontage is identified in the Pagham to East Head Coastal Defence Strategy (May 2008) and is “hold the line”.</p> <p>On 31<sup>st</sup> January 2022, the council was notified via the Environment Agency (EA) that a void had appeared behind a section of sea wall in Selsey. Engineers visited the site and identified damage to a concrete apron fronting the wall. Since the initial report, a second local failure of the aging sea wall apron has become apparent. The wall and apron, in particular, is in poor condition, with extensive cracking over a 75 metre length.</p> <p>In consultation with our framework contractor (JT Mackley) and other specialists at Coastal Partners an emergency works solution has been developed with the intention to avoid failure of the vertical wall and loss of several properties in the short term, some of which could be at imminent risk if action is not taken swiftly.</p> <p>The proposed 75m of emergency works involve:</p> <ul style="list-style-type: none"> <li>• Filling voids beneath the apron cracks.</li> <li>• Attaching plates to the existing sheet piles, which will seal any holes and provide shuttering above existing level.</li> </ul> |

|   |   |
|---|---|
|   | <ul style="list-style-type: none"> <li>• Encasement of failed apron with 500mm thick concrete slab.</li> </ul> <p>These works have been costed and when including 20% risk and 20% design and project management costs, the works are estimated at £440k. However, given the deteriorating condition and difficulty estimating the size of the voids, this budget cost may increase and will be closely monitored.</p> <p>There is provision to claim grant for emergency works from the Environment Agency, but this must be done retrospectively, with any spend done initially by CDC at their risk.</p> <p>The local Environment Agency officers support the proposal, but the decision will be taken nationally due to the value (&gt;£100k) and there is a risk, we may not be able to recover the full amount. This risk is dependent on differentiating between emergency works and planned works.</p> <p>The Council is unable to tender for the works in the emergency nature of the works (see attached Exception to Tender). It has been concluded the most appropriate procurement route is via our existing coastal engineering maintenance term contract which includes a provision for emergency works.</p> <p>Approval is required for the following:</p> <ol style="list-style-type: none"> <li><b>1) To approve funding of up to £440,000 and undertake emergency coastal engineering works at Selsey, then seek to recover these through Grant Aid.</b></li> <li><b>2) To delegate the sign-off of the contract order to the Director of Planning and Environment.</b></li> </ol> |
| Reason for urgency                                    | <p>There is no existing budget for this work, and the decision to proceed with the emergency work and to spend the estimated sum of £440k with the application for funding retrospective, requires a Full Council resolution.</p> <p>Due to the urgency of the emergency works, an urgent decision was required before 31 January 2023, the date of the next Full Council.</p>  |
| Name and date of the meeting to receive a full report | <p>The decision will be reported to the next Full Council meeting on 31 January 2023.</p>   |

Alison Stevens  
25 January 2023

## Exception to the Need to Tender Form

The Constitution of the Chichester District Council requires that most contracts should be subject to a tender process in the interests of best value and fairness and proper public process.

However, the constitution page 171 provides for this to be superseded on certain grounds – see attached.

(1) The Council requires that the following works be completed –

Concrete sea wall / apron repairs at Seacroft, Selsey

In the opinion of the officer who is the contract administrator, one or more of the grounds for an exception applies in this instance.

(2) The ground / s on which an exception is sought is –

The works are required so urgently as not to permit the invitation of tenders (Sea Wall Failure, requiring emergency works). The company awarded the contract have been procured by the Council under a fixed term Coastal Maintenance and Emergency Response contract secured via an approved and valid framework, the Coastal Partners Coastal Engineering Minor Works Framework.

(3) The estimated value of the work is approximately : £ 321,000

(4) The organisation which it is recommended that the works be performed is –

JT Mackley & Co Ltd  
Bankside House, Henfield Rd, Small Dole, Henfield BN5 9XQ

Submitted by Dominic Henly (The contract administrator)

(Job Title) Principal Engineer

Date 24/01/2023

The decision must always be considered by the appropriate Head of Service, and by the Chief Finance Officer.

Considered by  .....Alison Stevens (Head of Service)

(Job Title) Divisional Manager, Environment and Health Protection

Decision of Head of Service Approved

Date 24 Jan 2023

Considered by ..... (Chief Finance Officer)

(Job Title) ...Director of Corporate Services.....

Decision of Chief Finance Officer Approved / ~~Refused~~

Date ...25/01/2023.....

Note that the above decision, if approved, must be referred to Cabinet where the contract is estimated to exceed £50,000.

The contract administrator should note that at all times he or she will need to demonstrate that the contract represents value for money and that the Council will receive Best Value for the work undertaken. Further advice may be obtained by the contract administrator or the Head of Service from Legal Section on the Constitution as it applies to this application.

## 6. Exceptions to the necessity for obtaining tenders

There is no need for tenders to be sought in the following circumstances;

6.1 The work to be executed or the goods or materials or services to be supplied:

- are procured via an approved and valid framework agreement. The use of such agreement to be approved in consultation with the Legal Services Practice Manager and the Chief Finance Officer (or his appointed Representative).

6.2 The work to be executed or the goods or materials or services to be supplied:

- are exclusively manufactured by the supplier, or the goods, materials, or services are sold only at a fixed price and no satisfactory alternative is available;
  - must be entrusted to the appropriate utility undertaking;
  - constitute an authorised extension of an existing contract;
  - is required so urgently as not to permit the invitation of tenders. This must be approved by the appropriate Chief Officer or Head of Service and reported to the next meeting of the Cabinet;
  - consist of repairs to or the supply of parts for existing machinery or plant that can only be carried out by the supplier or manufacturer of that machinery, or under licence for a fixed price;
  - are to be undertaken by a contractor or supplier with particular expertise. This must be approved by the appropriate Chief Officer or Head of Service and reported to the next meeting of the Cabinet;
  - are to be part of a tender invited on behalf of any consortium, Central Purchasing Body or a similar body of which the Council is a member;
  - For other reasons where there would be no genuine competition.
- 6.2.1 In the case of all contracts estimated to exceed £50,000 in value or amount, the justification to waive the need to obtain tenders must be subject to an internal review and approval by the Section 151 Officer and the Monitoring Officer before authority not to obtain tenders is sought from Cabinet prior to the award of the contract.
- 6.2.2 For contracts estimated not to exceed £50,000 in value or amount, exemption must be obtained in writing from both the appropriate Chief Officer or Head of Service and the Chief Finance Officer.
- 6.2.3 For contracts estimated not to exceed £10,000 in value or amount, the appropriate Chief Officer or Head of Service may waive the requirement to seek quotations where this would be inexpedient or uneconomic.
- 6.3 At all times the contract administrator needs to demonstrate that the contract represents value for money and that the Council will receive Best Value for the work undertaken.

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