

DECISION TO BE TAKEN BY: DIRECTOR OF NEIGHBOURHOOD SERVICES

KEY DECISION YES

DIRECTORATE: NEIGHBOURHOOD SERVICES

WARDS AFFECTED: HOYLAKE & MEOLS WEST KIRBY & THURSTASTON

SUBJECT: WEST KIRBY FLOOD ALLEVIATION AWARD OF MAIN ENGINEERING CONSTRUCTION CONTRACT

1.0 DECISION:

1.1 The Director of Neighbourhoods has agreed to award a contract to Volkerstevin Ltd with a value of £9,640,000 for the delivery of the West Kirby Flood Alleviation Scheme including reconstruction of the promenade on a piled foundation, installation of pre-cast wave wall units on a pile foundation and public realm improvements to the Old Baths Site, highway and landward footway.

2.0 REASONS FOR THE DECISION

- 2.1 The West Kirby Flood Alleviation Scheme received planning consent on 2nd November 2021. Planning conditions constrain main construction activities to the period between April and October. The award of the main Engineering Construction Contract (ECC) allows the scheme, which reduces the current risk of tidal flooding to 70 properties, to be delivered in a manner that complies with planning conditions.
- 2.2 Authority was delegated to the Director of Neighbourhood Services to award the main ECC for the West Kirby Flood Alleviation scheme by the Environment, Climate Emergency and Transport Committee on 15th November 2021.

3.0 STATEMENT OF COMPLIANCE

3.1 The recommendations are made further to legal advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been completed. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

4.0 DECLARATION OF INTEREST

4.1 None

Signed:

Officer: Nicola Butterworth

Title: Director of Neighbourhood Services

Date: 11th April 2022

A list of background papers on this issue is held with:

Contact Officer: Neil Thomas

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Report Title:	WEST KIRBY FLOOD ALLEVIATION – AWARD OF MAIN ENGINEERING CONSTRUCTION CONTRACT
Report of:	ASSISTANT DIRECTOR OF PARKS AND ENVIRONMENT

REPORT SUMMARY

Authority was delegated to the Director of Neighbourhood Services by the Environment Climate Emergency and Transport Committee on 15 November 2021 for the award of contracts for the West Kirby Flood Alleviation scheme procured using the Environment Agency's Collaborative Delivery Framework.

This report requests the Director of Neighbourhoods to award a New Engineering Contract version 4 Engineering Construction Contract (ECC) for the construction and delivery of the scheme at South Parade, West Kirby to reduce the risk of tidal flooding through the construction of a curvilinear flood wall, reconstruction of the promenade and public realm improvements to the Old Baths Site and highway. The scheme also provides a reduction in flood risk, through improvements in protection, to the Wirral Sailing Centre and West Kirby Sailing Club.

Flood Risk Management aligns with both the Sustainable Environment and Safe and Pleasant Communities themes of the Wirral Plan 2021-26.

The recommendations in this report constitute a key decision.

RECOMMENDATIONS (DECISION)

The Director of Neighbourhood Services is recommended to award a contract to Volkerstevin Ltd with a value of £9,640,000 for delivery of the West Kirby Flood Alleviation Scheme.

OFFICER DECISION NOTICE SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION

- 1.1 The Shoreline Management Plan for the Wirral coast was approved by the Cabinet in September 2010. The Shoreline Management Plan identifies a *Hold the Line Policy* for West Kirby until 2110. The Wirral Coastal Strategy, approved at Cabinet in October 2013, identified that a *Hold the Line Policy* could be delivered by the management of flood risk through the construction of a secondary linear defence. The Wirral Coastal Strategy also identified that West Kirby was Wirral's highest priority for intervention for the management of flood and coastal erosion risk
- 1.2 A Project Appraisal Report set out the business case for a flood alleviation scheme at West Kirby and determined the preferred option was through the construction of a flood wall. The Project Appraisal Report was approved by the Environment Agency's National Project Assurance Board in January 2018 thereby providing technical and financial approval for the scheme. Following two periods of public consultation the final proposals for the scheme were submitted to the Local Planning Authority in November 2020 and consent for the scheme was given on 2nd November 2021 following a decision by the Strategic Planning Sub-Committee.
- 1.3 The associated planning conditions for the West Kirby Flood Alleviation scheme required the main construction activities to be undertaken during the period April to October in order to minimise noise and disturbance to the adjacent Dee Estuary which provides habitat for over-wintering and migratory bird populations.
- 1.4 The funding secured through approval of the Project Appraisal report in January 2018 has increased, via approved grant variations and additional capital funding, as the scheme has developed as a result of consultation and also as a result of design changes following significant ground investigation works. Recent increases in material costs because of worldwide market volatility have also increased the scheme's cost. However, there is sufficient budget and a sufficient risk allowance to allow for award of the contract to Volkerstevin at Target Cost of £9.64m.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 The Wirral Coastal Strategy and West Kirby Flood Alleviation Project Appraisal Report considered many options to manage flood risk at West Kirby;

- Nearshore coastal defences (e.g. breakwater seaward of the Marine Lake);
- Enhancement of the defence around the seaward edge of the Marine Lake;
- Beach Recharge and Management;
- Improving the primary defence along the promenade/marine lake boundary;
- Creation of natural soft defences along the frontage e.g. dune belt or green beach;
- Urban planning, including progressive removal of more vulnerable property from the floodplain (e.g. housing);
- Provision of Individual property protection and flood warnings;
- Provision of temporary/demountable defences;

All these options were rejected because they were considered to be environmentally and/or socially unacceptable or because they didn't meet the economic criteria for investment.

- 2.2 Options regarding the location of a linear secondary flood defence were considered during a public consultation exercise in October 2015. The preferred option from that consultation was for a wall set back from the edge of the marine lake and adjacent to the highway.
- 2.3 With regard to the procurement route consideration was given to a full procurement exercise however given the scheme value substantial additional time would have been needed to have been factored into the procurement planning to allow for compliance with OJEU regulations. The Environment Agency's Collaborative Delivery Framework (CDF) has been subject to OJEU advertising during its procurement. Use of the CDF therefore provides a time saving with regard to project delivery. Furthermore a full procurement exercise would take substantially more time from the point at which detailed design of the scheme was completed (November 2021).

3.0 BACKGROUND INFORMATION

- 3.1 The Wirral Coastal Strategy, approved by Cabinet in October 2013, identified the need to manage flood risk at West Kirby in the short term and also identified a management action of how this risk could be managed. The management action was the construction of a secondary linear defence.
- 3.2 Following the storm of 5th December 2013, during which 12 properties at West Kirby were flooded, a consultation took place in October 2015 at which consultees were asked whether they were supportive of the council's proposals to reduce flood risk. Over 400 consultation responses were received and of those
 - 47% were fully supportive of the proposals
 - 44% were supportive but had some concerns about the impact on West Kirby
 - 9% did not support the proposals to reduce flood riskThe proposals put forward were for a linear wall situated either at the edge of the promenade adjacent to the railings or for the wall to be located at the landward edge of the promenade adjacent to the highway. A clear majority of 81% were in favour of the wall to be located at the landward side of the promenade.
- 3.3 The results of the consultation informed the development of a Project Appraisal Report (business case) and also a Planning Screening Opinion. The favourable Planning Screening Opinion was used to help demonstrate the likelihood that a flood alleviation scheme would also receive planning consent.
- 3.4 Outputs from the October 2015 consultation also included a desire from the local community to be included in influencing the final design of the scheme and also for the scheme to retain as many of the existing heritage features that currently exist on South Parade, such as the Victorian shelters and handrailing.
- 3.5 The Project Appraisal Report was given financial and technical approval by the Environment Agency's National Project Assurance Board in January 2018
- 3.6 Consultation on outline design proposals took place in March 2019. In response to the request for continued involvement the consultation included choices on the shape of the wall, which now included integrated seating, the colour of the wall and also the colour of the promenade surfacing. The preferred options from this consultation have been taken forward into the design approved at planning and developed into the detailed design.

- 3.7 Many additional comments were received from the March 2019 consultation which in summary, expressed a desire for the council to enhance the flood alleviation scheme and use the once in a generation opportunity to improve the public realm features at South Parade. Additional funding was sought and gained which allowed for the following features to be included;
- Demolition and refurbishment of Old Baths Site into 1500m² public open space
 - Re-alignment of linear wall into a curvilinear feature with integrated seating throughout
 - Timber slats to integrated seating
 - Replacement of street lighting
 - Highway resurfacing
 - Landward footway reconstruction
 - Refurbishment and relocation of Victorian shelters
 - Single direction cycle lane
 - Feature access points and gateways onto new promenade marked local iconography
 - Waymarkers for circular trail around South Parade and marine lake
- 3.8 In November 2021 the Council's Strategic Applications Sub Committee, under application reference DPP4/20/01627, granted planning consent for proposed development consisting of the construction of a new linear secondary defence wall, set back along the edge of the South Parade promenade in West Kirby.
- 3.9 The Environment Agency has procured a Collaborative Delivery Framework for the delivery of its own and of Risk Management Authorities' flood and coastal risk management schemes. Wirral Council was named as a Risk Management Authority during the Office of the Journal of the European Union advertising and procurement of the Collaborative Delivery Framework.
- 3.10 The Collaborative Delivery Framework comprises two elements; Early Supplier Engagement (ESE) and the Engineering and Construction Contract (ECC).
- 3.11 In order to achieve the programme constrained by the planning condition of construction works only between April and October it was essential that the pre-cast unit moulds were ordered in advance of the Main Contract, due to their lead-in time, so that they would be available at the start of the construction period. The fabrication of the pre-cast unit moulds has been procured through the use of an Advanced ECC through the Environment Agency's Collaborative Delivery Framework.
- 3.12 The remaining elements of the construction phase have been scoped within the main Engineering and Construction Contract. The Council has used the Environment Agency's Carbon Cost Estimating Unit to produce a Client Set Target Cost for the delivery of the Works based on the detailed design produced by the Council's design consultants for the scheme, AECOM. There has been input from the Framework Contractor, Volkerstevin Ltd to ensure best value during this process based on their continual contract management of market testing of suppliers. The main contract is based on this Client Set Target Cost, which has been agreed with the framework contractor Volkerstevin prior to contract execution, so that the Council as client retains control and budget assurance.
- 3.13 The CDF requires a New Engineering Contract (NEC) version 4 Option C to be utilised for delivery of flood and coastal risk management construction schemes. An Option C contract is based on an agreed target cost. The contractor is incentivised to achieve a final cost less than the target cost as they receive a proportion of the total

savings, the remaining savings being retained by the Client. Furthermore, the contractor is disincentivised to achieve a final cost greater than the target cost as they are required to share the burden of the additional costs.

- 3.14 The CDF also identifies limits of gain share and pain share. The maximum pain share to the Council is set at 55% of 120% of the Target Cost. At an agreed Target Cost of £9.64m the maximum additional risk exposure is £1.06m.
- 3.15 The Environment Climate Emergency and Transport Committee, at the meeting on 15 November 2021 agreed to use of the Environment Agency Collaborative Delivery Framework and also to delegate authority to the Director of Neighbourhood Services to award both the advanced ECC and main ECC.

4.0 FINANCIAL IMPLICATIONS

4.1 Funding for the West Kirby Flood Alleviation scheme comes from four sources:

○ Environment Agency's Flood Defence Grant Aid	£3,014,000
○ Environment Agency's Other Government Department Grant	£3,300,000
○ Regional Flood Coastal Committee Local Levy	£1,468,000
○ Wirral Council Capital	£3,800,000
TOTAL	£11,582,000

4.2 The updated total scheme budget of £11,582,000 will be reported in the Council's capital programme and spend will be monitored against this.

The costs against the budget can be identified as follows:

Committed and Existing Expenditure	
• Advanced ECC Mould Production	£405,000
• Ground Investigation Fees	£135,000
• Professional Fees	£460,000
Committed and Existing Expenditure Total	£1,000,000
Main ECC Value	£9,640,000
Contingency	£ 942,000
TOTAL	£11,582,000

4.3 The Client Set Price of £9,640,000 was offered to Volkerstevin Ltd under the EA Collaborative Delivery Framework. Volkerstevin Ltd accepted the Client Set Price following a procurement exercise undertaken on The Chest procurement portal.

4.4 The Client Set Price of £9,640,000 is within the budgeted allowance for the scheme.

5.0 LEGAL IMPLICATIONS

5.1 A User Agreement with the Environment Agency for use of the Collaborative Delivery Framework has already been signed and is in place. The Council's corporate Procurement team in Resources directorate has advised on the proposed procurement route and use of the Collaborative Delivery Framework for procurement

of the advanced and main construction contracts is in accordance with the contract procedure rules and public procurement regulations.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 6.1 The construction of a secondary flood defence will provide a new flood risk asset for Wirral Council. Management of flood risk through operation of flood gates can be met through existing revenue budgets for flood and coastal risk management as can any maintenance issues arising.
- 6.2 Construction of the new promenade, old baths site area and public realm areas such as street lighting, highway and footway should reduce the current financial maintenance burden for existing and life expired highway assets, notwithstanding that there will be an ongoing maintenance liability for the Council for new and improved highway infrastructure.

7.0 RELEVANT RISKS

- 7.1 Failure to award the main ECC would impact on the delivery of the construction programme for West Kirby Flood Alleviation. If the programme is delayed then the scheme would be put at serious risk of not being able to proceed at all because:
 - The Project would not be able to be constructed within a single phase and accordingly:
 - Scheme costs will rise and existing budgets will be insufficient to deliver the scheme; and
 - Failure to deliver the scheme would mean that flood risk at West Kirby would not be reduced.
- 7.2 Risks to project programme, scheme delivery and commercial management are monitored using the Council's robust governance procedures via a Project Board chaired by an Assistant Director within Neighbourhoods directorate as Senior Responsible Owner.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 There has been extensive consultation with the community since the inception the flood alleviation proposals in 2013. Consultation, as detailed above was undertaken over two week periods in both October 2015 and March 2019. Consultation was also recently undertaken as part of the planning process.
- 8.2 Wirral Council has engaged with the Environment Agency over the use of the Collaborative Delivery Framework.
- 8.3 A communications plan has been developed to continue engagement with the local residents, community, wider Wirral residents and beyond. Following contract award drop-in sessions are planned with local residents to advise on the impacts of construction. The sessions will focus on the phasing of the works, traffic management, parking and continuation of emergency and non-emergency services. Engagement with the wider West Kirby community about the construction works and their impact on South Parade will also take place at the West Kirby Concourse.
- 8.4 The contractor, Volkerstevin Ltd will also continue to engage and work residents throughout construction to minimise any impacts.

9.0 EQUALITY IMPLICATIONS

- 9.1 The new flood wall has been designed to take into account the needs of people with disabilities. Specifically, the curvilinear design of the floodwall and integrated seating provides a minimum space of 1.2m on the pavement behind the floodwall directly adjacent to the road and a maximum space of approximately 1.7m. The space provided behind the wall will allow vulnerable users to pass behind the wall and allow other users/vulnerable users to pass each other. In addition accesses through the flood wall will maintain routes to and from the promenade for able bodied and disabled users. Access points are provided at a maximum of 100m apart.
- 9.2 The distance between accesses and the widths and the intermittent nature of the widths as defined by the curve have been assessed against the Inclusive Mobility Guidance and found to be in alignment with the guidance. The Inclusive Mobility Guidance sets out good practice in the creation and maintenance of an accessible and inclusive built environment and public realm. It is considered an essential document for the production of an inclusive environment and meeting the requirements of the Equalities Act 2010, including the public sector Equality Duty, and other legislation.
- 9.3 The contractor is expected to comply with equality legislation at all times throughout the contract.
- 9.4 An Equalities Impact Assessment has been prepared and has been published at <https://www.wirral.gov.uk/communities-and-neighbourhoods/equality-impact-assessments>

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

- 10.1 Use of the Environment Agency's CDF requires the advanced ECC to be delivered in accordance with the EA's Minimum Technical Requirements (MTR). The MTR are imposed to minimise the carbon budget of flood and coastal risk management schemes.
- 10.2 The West Kirby Flood Alleviation Scheme supports the council's Environment and Climate Emergency policy in developing resilience to more extreme weather patterns and rising sea levels that impact Wirral.

11.0 COMMUNITY WEALTH IMPLICATIONS

- 11.1 Research undertaken by Wyre Council during delivery of coastal defence schemes has identified an economic multiplier of £2.08 for every £1 of scheme cost. The economic multiplier is the spend on the local supply chain and by contractors in the local area.
- 11.2 Wirral Council will work with Volkerstevin Ltd in order to deliver social value within the community. Consequently Volkerstevin Ltd will be monitored against various social

value themes, outcomes and measures (TOMS) and will be expected to deliver significant social value benefits into the local community.

11.3 The main ECC is for the construction of new flood defences at West Kirby which will reduce flood risk to 70 homes now rising to 540 homes in 100 years as sea levels rise.

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APPENDICES

None

BACKGROUND PAPERS

CDF Risk Management Authority User Agreement and associated guidance
Planning consent and conditions
West Kirby Flood Alleviation Main Engineering Construction Contract documentation
Inclusive Mobility Guidelines

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Strategic Applications Sub Committee	02 November 2021
Environment Climate Emergency and Transport Committee	15 November 2021
Decision - West Kirby Flood Alleviation - Advanced Engineering Construction Contract	21 February 2022