

Joint Audit and Governance Committee
21 March 2024

ADUR & WORTHING
COUNCILS

Key Decision [/No]

Ward(s) Affected:

New Flood Defence for Shoreham Town Centre at Sussex Yacht Club

Report by the Director for the Economy

1. Purpose

- 1.1. The Council, subject to planning amendment, intends to proceed with delivering vital flood defences in Shoreham. There have been various delays to the project including a need for wintering monitoring of ground water and attempts to divert or stop up three restricted byways that are affected by the proposed flood defence.
- 1.2. Attempts to divert or stop up RB3157 Stowes Hard have received objections and these can only be considered at a public inquiry. This could take over 2 years to conclude without any guarantee of a successful outcome.
- 1.3. In order to deliver the flood protection, the Council now intends to proceed, subject to planning amendment, with accommodating the legally defined right of way into the flood protection scheme to ensure homes and businesses are protected as soon as possible.
- 1.4. A report has been requested by the Joint Audit and Governance Committee to set out the current risks associated with the delivery of the Flood Defence adjacent to Sussex Yacht Club (SYC) in Shoreham.

- 1.5. The report will highlight the current risks associated with the delivery of the flood defence programme and address how the risks are being mitigated with an associated timeline for delivery of the construction programme.

2. Recommendations

- 2.1. The Committee is asked to note the report and the steps taken to mitigate the risk of any further delay with this important project to protect homes and businesses from flooding.

3. Background

- 3.1. On 31 January 2019 the Joint Strategic Committee agreed to the purchase of a 3.5m strip of land (adjacent to the A259 on Brighton Road) from Sussex Yacht Club (SYC) by Adur District Council (ADC) to construct a new flood defence wall. The SYC site has been recognised as a key weakness in the flood defences in Shoreham, experiencing a number of flooding events in recent years, impacting investment, growth and regeneration in this area. In 2012/13 the A27 was flooded along with a number of homes and businesses.
- 3.2. In addition to the construction of a flood wall, the land purchased from the SYC would enable the provision of a 3 metre footpath on the southern side of the A259 connecting the town centre and Ferry Bridge with the new developments being built along the Western Harbour Arm. WSCC's longer term strategy will be to develop the footway into a cyclepath linked to the planned cyclepath on the south side of the A259.
- 3.3. Planning permission for the flood defence wall was granted by the Planning Committee in March 2019 and varied in February 2022. A condition of the planning permission requires the existing public rights of way to Stowes Gap Hard RB3157 to remain undisturbed unless legally stopped up or diverted.
- 3.4. There are 3 Restricted Byways in the vicinity of the proposed Flood Defence and these are shown on **Appendix 1**. The legal definitive line for each Restrictive Byway being situated through SYC, ADC and WSCC land:
 - RB3156 - Dolphin Hard
 - RB3157 - Stows Hard
 - RB3158 - Tarmount Hard

- 3.5. The Joint Strategic Committee agreed at its meeting on 7 July 2020 to give delegated authority to the Head of Major Projects & Investment to make formal applications to divert the Public Right of Way at Stows Hard and to seek the Stopping Up of a section of highway at the entrance to SYC.
- 3.6. The section of public maintainable highway at the existing entrance to SYC grounds was formally authorised to be Stopped Up by the Secretary of State and this came into force on 15 October 2020.
- 3.7. The order to divert RB3157 was made on 8th March 2021 from the new entrance to a point opposite the existing site entrance. During the formal consultation process two objections were made, primarily on the grounds that the new route would not be convenient to those seeking to access the River. On advice, it was decided not to progress the Diversion Order as this would cause further delays to the project with no guarantee of successful outcome.
- 3.8. The capital receipt from the sale of land from Coast to Capital funding has been used by SYC to construct their new Yacht Club on the southern side of the existing Clubhouse land which is now complete and operational.
- 3.9. The redundant yacht club was demolished by ADC to make way for the new flood wall and ancillary infrastructure requirements in November 2021. The removal of the redundant Yacht Club premises and decommissioned UKPN substation partly reopened access to RB3156 and RB3157.
- 3.10. Floodgates have been included as part of the flood defence wall, one of which being a 12m sliding flood defence gate. ADC will be responsible for the on-going management and maintenance costs of the flood and access gates. Although, as this is the main access into the Yacht Club, discussions are ongoing with the Club to see whether they could operate the flood gates.
- 3.11. A design team had been appointed by the council to progress the scheme to RIBA 4 Work stages (detailed design) in readiness to tender and to appoint the flood defence construction contractors. Further important surveys and ground investigations had been required to inform the final designs. The testing was successfully concluded in June 2023.
- 3.12. On 15 June 2023 a further report was considered at the Joint Strategic Sub Committee which agreed to delegate authority to the Assistant Director for Regenerative Development to make a formal application to the Stopping Up of RB3157 (see appendix 2) and subject to a successful conclusion of negotiations in relation to Byeway RB3156 in consultation with the Cabinet Member for Regeneration. The committee further resolved not to proceed with

the Diversion Order that was made on the 8th March 2021 in respect of RB3157.

- 3.13. On 16 November 2023, public consultation was undertaken under the Town and Country Planning Act, Section 257 to Stopping Up Restricted Byway 3157. The byway had been blocked from access for many years until the recent demolition of the redundant yacht club.
- 3.14. The Council received 4 objections to the consultation process, Officers reviewed the matter and determined that the objections raised a number of important and relevant points. Officers reviewed the matter and it was decided a recommendation should be taken to the Joint Strategic Committee not to progress the Stopping Up Order
- 3.15. Officers also noted any likely progression of the Stopping Up Order would have to be considered by way of a public inquiry, which could take up to 2 years to conclude without any guarantees that the process would be concluded successfully at that stage.
- 3.16. On legal advice, officers concluded, in consultation with the Cabinet Member for Regeneration, that any challenges relating to the legally definitive line of RB3156 at Dolphin Hard by SYC should be resolved between SYC and WSCC and not prevent delivery of the wall.
- 3.17. Planning Committee resolved to grant planning permission, subject to a s106 planning agreement, for the infilling of Tarmount Hard and the creation of a stepped quay with a new pedestrian access in 2016 (AWDM/0784/14). The legal agreement has not been signed as there is an unresolved issue regarding compensatory habitat. Nevertheless, the stopping up of RB3158 at Tarmount Hard has been agreed in principle with the restricted byway to be replaced by a public footpath (once a s25 Agreement has been signed with WSCC). This would allow a 1.22m floodgate to be installed in this location rather than as approved a 4 metre wide flood gate.

4.0 Current Position and next steps

- 4.1. A report is being prepared for the next JSC to seek agreement to proceed with the construction by installing an additional flood gate on the definitive line of RB 3157 Stow's Hard.
- 4.2. The final elements to conclude from the design package are the flood gates at RB3157 Stow's Hard, and RB3158 at Tarmount. All other drawings and ground/surface water investigations have now concluded.

4.3. The already approved flood defence scheme incorporated 2 flood gates and 1 pedestrian gate:

- 1 x 12m flood gate (across the new vehicular access serving the SYC)
- 1 x 3m flood gate (at Tarmout Hard to be amended to a 1.22 metre pedestrian flood gate when the new public footpath is confirmed).
- 1 x 3m pedestrian gate at Dolphin Hard (at RB3156 adjacent to Ferry Bridge)

4.4. Given that it has not been possible to divert or stop up RB3157 Stows Hard, an additional 3m flood gate will be installed aligned to the legal position of the restricted byway. Whilst the SYC does not accept that the Definitive Map is correct, this is a matter between SYC and WSCC. ADC can only proceed on the basis of the current legal line of the restricted byway. ADC

4.5. Planning amendments will be submitted this Spring to incorporate an additional 3m flood gate at RB3157 Stows Hard, and to adjust the design of the flood gate at RB3158 Tarmout Hard. The process of applying for planning amendments for an additional 3m flood gate at RB3157 Stoves Hard and to adjust the design of the flood gate at RB3158 Tarmout Hard can be undertaken simultaneously with the progression of the Construction tender process.

5. Conclusion

5.1. Delays were incurred due to disputes on the location of, and access to, public right of way RB3157. Attempts to divert and Stopping Up RB3157 through SYC land have been publicly challenged and would therefore be subject to public inquiry to extinguish, which could take over 2 years to resolve without any guarantee of a successful conclusion.

5.2. This is an unacceptable delay, in order to deliver the flood protection, the Council now must proceed, subject to planning amendments and accommodate the legally defined right of way into the flood protection scheme to ensure homes and businesses are protected as soon as possible

6. Estimated Delivery Programme

ITEM	FROM
Submission of Planning Amendments	Spring 2024
Tender Pack issued & returned	Spring 2024

JSSC final approval	Summer 2024
Award Contract	Summer 2024
Contract Mobilisation	Summer 2024
Contract Period	Summer 2024 - Winter 2024
Completion of Flood Wall	Winter 2024

7. Financial Implications

- The Scheme is part funded by the Council and part funded by Grant funding, as the final programme is not decided the financial implications are not readily discernible at this stage.
- This report serves to provide an overview of the risks associated with the scheme to members, a detailed report inclusive of financial analysis will be provided to the Joint Strategic Sub-committee in due course.

Finance Officer: Joel Goacher

Date: 13th March 2024

4. Legal Implications

- Section 257 Town and Country Planning Act and the Town and Country Planning (Public Path Orders) Regulations 1993 detail the process a local authority may undertake to stop up or divert any footpath, bridleway or restricted byway if they are satisfied that it is necessary to do so in order to enable development to be carried out in accordance with Planning Permission granted under Part III TCPA.
- Section 1 of the Localism Act 2011 empowers the Council to do anything an individual can do apart from that which is specifically prohibited by pre-existing legislation.

Legal Officer: Caroline Perry

Date: 12th March 2024

Officer Contact Details:-

Phil Graham
Project Manager

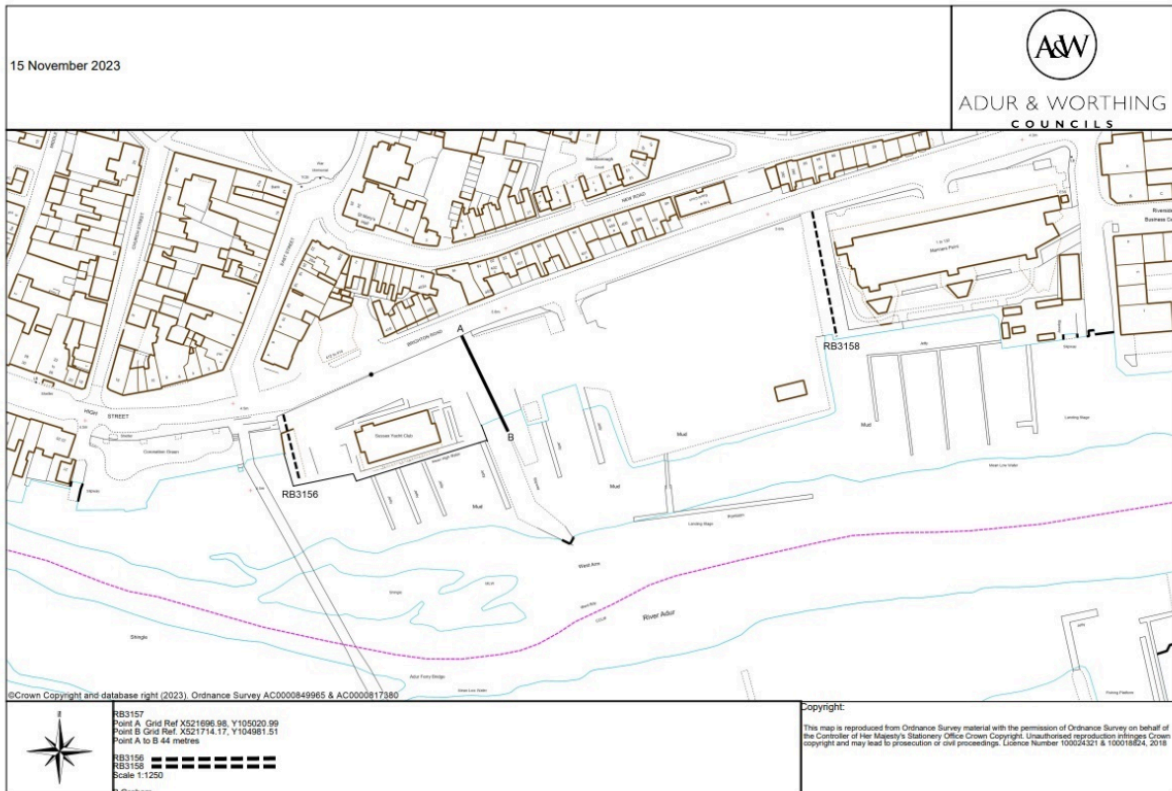
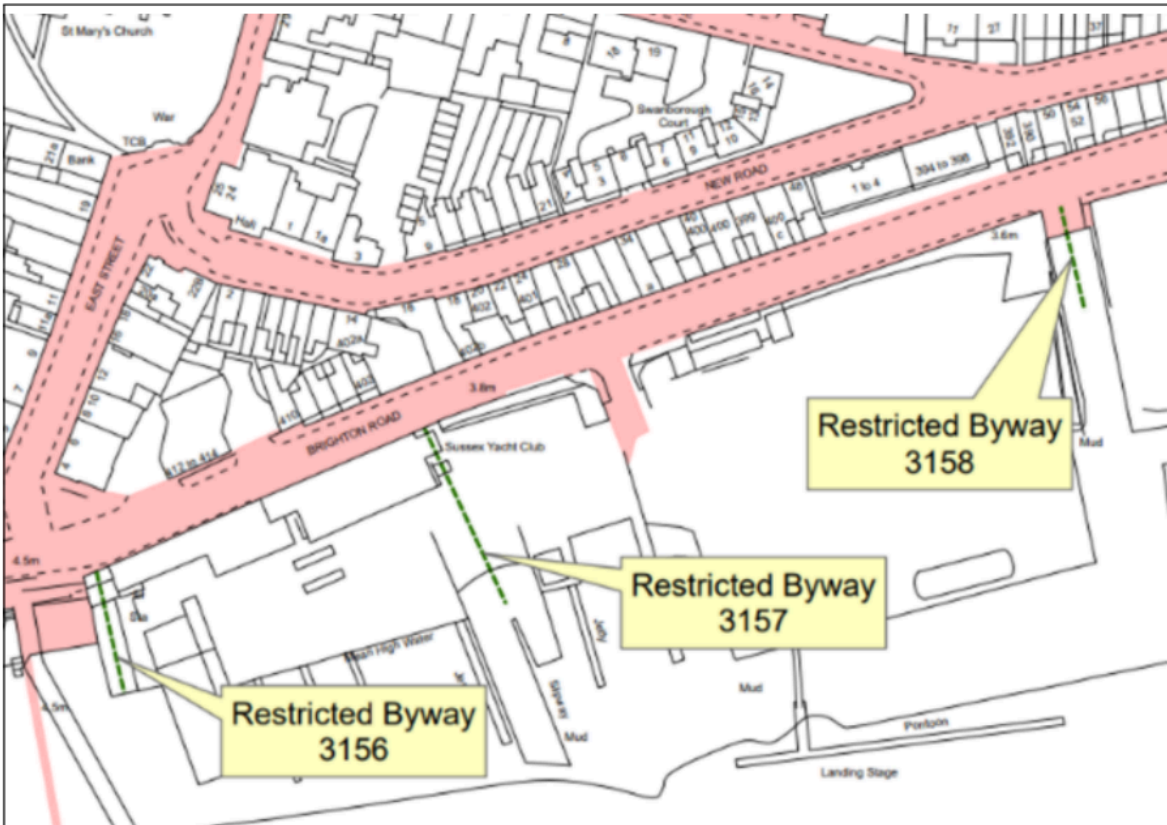
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Background Papers

- Joint Strategic Committee, 15 June 2023 - Western Harbour Arm Flood Defence Project
- JSC Report, 7 July 2020
- JSC Report, 31 January 2019
- Joint Strategic Committee 5th June 2018 Agenda Item 7- Sussex Yacht Club.
- Joint Strategic Committee 10th January 2017 Agenda Item 11 - Flood Defences at Sussex Yacht Club.
- Joint Strategic Committee 7th July 2015 Agenda Item 12 - Shoreham Harbour Flood Defence Project for Sussex Yacht Club and Kingston Beach, Western Harbour Arm.

Appendix 1.



Sustainability & Risk Assessment

1. Economic

- The project will deliver significant economic benefits through the protection of Shoreham Town Centre and the A259 from flooding incidents and will create a number of direct and indirect economic benefits through the construction process.

2. Social

2.1 Social Value

- The project outlined in the above report will have a positive impact on our local communities by improving local flood, cycle and pedestrian Infrastructure.

2.2 Equality Issues

- Matter considered and no issues identified.

2.3 Community Safety Issues (Section 17)

- Building an appropriate flood defence wall and flood operational procedures will protect the safety of the community

2.4 Human Rights Issues

- The development would protect homes and businesses and therefore would not impinge on anyone's human rights. The proposals, in any event, would require planning permission and due consideration will be given to all the consultation responses received.

3. Environmental

- It is not anticipated that any aspect of the scheme will have a Harmful impact on Adur District's environment or habitats. The environmental and ecological effects of the scheme have been fully considered through the planning application.

4. Governance

- The developments outlined within this report are aligned to the Council's contract of standing orders