

## **NORTH SOMERSET COUNCIL DECISION**

**DECISION OF:** THE DIRECTOR OF PLACE

**WITH ADVICE FROM:** THE DIRECTOR OF CORPORATE SERVICES  
(S151 OFFICER) & HEAD OF STRATEGIC PROCUREMENT



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**DECISION NO:** 21/22 DP 146

**SUBJECT:**

Award of contract for Tutshill agricultural crossing (to enable Weston-super-Mare – Clevedon Cycle Route) to Beaver Bridges to value of £1,384,911.09.

To authorise officers to negotiate the terms and conditions of the licence to transfer the agricultural crossing to the local landowner and thereafter enter the contracts outlined below, subject to approval by the s151 officer.

**KEY DECISION:** YES

**REASON:** Expenditure exceeding £500,000 and significant in an area comprising of two or more wards.

**BACKGROUND:**

**Please note that this Decision is for the award of contract to build the agricultural crossing alone, its funding and legal matters directly relating to it.**

A separate Decision will cover the construction of the connecting paths at Tutshill and other sites that form part of the complete Weston – Clevedon route. The reason for not combining these Decisions is we need to avoid even a small delay for the reasons outlined below.

The go ahead for the above process, with the agricultural crossing and connecting paths contracts be signed off by subsequent Decisions, was agreed in principle by Decision 20/21 DP272: Revised commissioning plan for the Weston-super-Mare to Clevedon (Tutshill) Cycleway.

**Award of contract for Tutshill agricultural crossing**

As outlined under Decision 20/21 DP272, NSC planned to continue the design process for the crossing, and then tender the works. At that point (Jan 2021) the costs could only be estimated and were dependent upon the outcome of the final design and tender.

Following the publication of an expression of interest on the Council's nominated procurement portal "<https://www.supplyingthesouthwest.org.uk/>" and the government's "Contract Finder", ten initial expressions of interest were received. These were assessed against the selection criteria with five of the companies being invited to tender.

Two companies subsequently declined to tender.

The three tenders received were assessed against the published evaluation criteria of 80% price and 20% quality, as summarised below:

		<b>Bidder 1</b>	<b>Beaver Bridges Ltd</b>	<b>Bidder 2</b>
<b>QUALITY</b>				
<b>Quality question</b>	<b>Max</b>	<b>Score achieved</b>		
1. Organisation, Key People, and Delivery	30	24.00	18.00	18.00
2. Social value and Sustainability Action Plan	10	10.00	6.00	8.00
3. Construction Methodology	30	24.00	18.00	24.00
4. Minimising Disruption and Managing Stakeholders	15	12.00	9.00	12.00
5. Project Risks	15	15.00	9.00	12.00
Total Evaluation Score	100	85.00	60.00	74.00
<b>Weighted Quality Score</b>	<b>20</b>	<b>17.00</b>	<b>12.00</b>	<b>14.80</b>
<b>Price</b>				
Tender Price		£2,617,230	£1,384,911	£2,458,407
<b>Weighted Price Score</b>	<b>80</b>	<b>42.33</b>	<b>80.00</b>	<b>45.07</b>
<b>TOTAL SCORE</b>				
<b>Weighted Price and Quality scores</b>		<b>59.33</b>	<b>92.00</b>	<b>59.87</b>
<b>Most Economically Advantageous Tender</b>			<b>Beaver Bridges Ltd</b>	

The contract will be awarded against the NEC4 Engineering and Construction Contract, Option B – Priced contract with Bill of Quantities. Final contract payments will be subject to re-measurement of the indicative quantities used at tender.

Once awarded opportunity will be taken to work with the contractor to review requirements of the scheme with the intention of identifying potential cost savings.

The contract will be managed by the Principal Engineer with assistance from WSP as lead designers and Corduroy acting as quantity surveyor.

A risk / contingency budget of up to £639,093 is requested to cover risk and unforeseen circumstances and is included within the funding below under Financial Implications.

Depending on timings, most of this budget will be utilised for the bridge construction only and not the wider scheme.

## **Legal aspects**

The agricultural crossing is required to enable the existing Environment Agency (EA) and Internal Drainage Board (IDB) owned sluice crossings over the Blind Yeo and Oldbridge rivers to be opened-up to public use. These are currently used to take livestock and agricultural machinery, belonging to the local landowner (who owns adjacent land on both sides of the River Yeo).

To achieve this, discussions have taken place with the local landowner, the EA and IDB, and agreement in principle has been reached for the building of the crossing. The cost of the construction of the crossing is part of the costings for the project, and will be paid for out of the project's budget

It should also be emphasised that on completion of the crossing, it will be handed over to the local landowner and that council will have no further liability for it. This is in return for his relinquishing rights to use the sluice crossings. This is alongside a bridleway creation agreement with the other landowners to provide a public route in perpetuity.

The legal agreements are summarised below:

1. The local landowner and the Environment Agency to grant a licence to NSC and/or the contractor for the construction works, contractor's compound/s and access routes.
2. An agreement to transfer the bridge to the local landowner upon its completion, with the appropriate warranties.
3. An agreement, still to be determined what type, is required, enabling the local landowner to cross the EA land and over the river. Whilst the council will not be a party to the agreement, the council will act as a conduit between the parties.
4. The legal transfer of the bridge to the landowner.

We therefore also seek the authorisation of officers to negotiate the terms and conditions of the licence and to transfer the agricultural crossing to the local landowner and thereafter enter these contracts, subject to approval by the S151 officer.

Further works are proposed, and discussions are taking place with the local landowner and other adjacent landowners, including the EA and IDB, to create a pathway between Wick Road and Mud Lane which will be the subject of a separate decision. The intention on completion of the pathway is for it to be declared a bridleway.

**Further background to the project is included in Appendix B.**

## **DECISION:**

1. To authorise officers to award the contract for the Tutshill agricultural crossing (to enable the Weston-super-Mare – Clevedon Cycle Route) to Beaver Bridges Ltd (Company Reg No. 09733378) to the value of £1,384,911.09.
2. To switch the financing of the scheme – with no net impact on overall budget.
3. To authorise officers to negotiate and conclude a licence agreement/s to build the bridge, subject to approval by the S151 officer.
4. To authorise officers to transfer the asset of the agricultural crossing to the local landowner at the appropriate time following its completion.

## **REASONS:**

Construction of the agricultural crossing will finally enable the Weston-Clevedon cycle route to be realised (pending the separate Decision that will cover the construction of the connecting paths at Tutshill and other sites that form part of the complete Weston – Clevedon route). This is the only viable way to enable this route, and the external funding obtained unlikely to be secured again if we miss this opportunity.

Should we not deliver this scheme a total of up to £414,383 spent on design and other preliminary fees is at risk of reversion to revenue.

## **OPTIONS CONSIDERED:**

Other options have been previously ruled out (alternative river crossing points etc), as per Decision 20/21 DP 272). Not proceeding with the construction of the agricultural crossing as outlined above (or any delay to this decision) means we risk this window to deliver it (due to ecological and funding constraints). The expectation from the landowners, public and funders is that the crossing will be delivered by March 2022 (ideally by Dec 2021), and the route as whole by Spring 2022. Not proceeding would likely mean this scheme cannot be delivered for some considerable time, if at all. Indeed, the current favourable situation with landowners could change. The planning permission will also expire Dec 2021 (works to commence before this date).

Non-acceptance of the Sustrans funding, and non-approval of the other additional funding means we would not be able to commission the works. Not doing so would jeopardise the Highways England funding – and we would be very unlikely to find this funding elsewhere.

## **FINANCIAL IMPLICATIONS:**

Previously it had been difficult to ascertain how much funding would be required first due to the complexities of the site / design process, and then awaiting the procurement process. These costs are now updated below:

<b>PROJECT COST</b>	Costs to 31 March 2021	2021/22 Estimated Costs	Total Project Costs
Fees	£256,283	£158,100	£414,383
Bridge		£1,385,000	£1,385,000
Other Works *		£594,203	£594,203
Internal - PM & Legal	£72,761	£50,000	£122,761
Contingency - 25% of all costs		£639,093	£639,093
	<b>£329,044</b>	<b>£2,826,396</b>	<b>£3,155,440</b>
Current Funding			<b>£3,155,440</b>
Increase in Funding Required			<b>£0</b>

*\* These works are to complete the Weston to Clevedon route and are not part of the agricultural crossing and are subject to a further decision notice when procurement for that element is complete (Aug 2021).*

The designers and project managers feel that there are no additional risks in letting this contract even though it is £1.073m cheaper than the second bid, they do however feel it would be prudent to maintain the existing budget envelope at this stage, and keep a healthy contingency, as the works will be carried out during the autumn/winter period, and this allows for any unforeseen costs. Any drawdown of the contingency will be authorised using the Financial Regulations governance process.

## Funding

Since Decision 20/21 DP272 was approved, NSC has been successful in obtaining £817,000, enabling us to switch financing on the scheme.

<b>FUNDING SOURCES</b>	Current Budget Funding	Revised Budget Funding	Change to Funding Source
Highways England	£1,200,000	£1,200,000	£0
Rural Payments Agency*	£639,559	£561,203	-£78,356
Sustrans **	£0	£817,000	£817,000
LTP	£330,091	£330,091	£0
Unsupported Borrowing	£857,000	£125,479	-£731,521
Contributions	£128,790	£121,667	-£7,123
	<b>£3,155,440</b>	<b>£3,155,440</b>	<b>£0</b>

*\* This funding is to complete the Weston to Clevedon route and not for the agricultural crossing and is subject to a further decision notice when procurement for that element is complete (Aug 2021). The change is due to one element of the scheme being withdrawn.*

*\*\* This is DfT funding, administered by Sustrans. Once complete the route will become part of National Cycle Network Route 33 (NCN33).*

## **LEGAL POWERS AND IMPLICATIONS**

- Planning permission was granted, subject to conditions - 18/P/4758/FUL.
- Local Government Act 1972, to construct the crossing and transfer ownership and enter into the outlined legal agreements.
- Although the Council may not own the land on which the works will be carried out, it can still be the recipient of the supply for VAT recovery purposes by contracting (and so taking responsibility) for the works. The Council's VAT recovery is secured under s33 of the VAT Act 1994.
- Bridleway Creation Agreements, to create the connecting paths that would provide the public route.

## **CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS**

The provision of the strategic cycleway will support the North Somerset Climate Emergency Strategy and Action Plan.

There are local environmental concerns regarding construction of the project, e.g. vegetation clearance and management of existing habitats. All such issues have been addressed at the planning permission stage of the project and are covered by conditions where necessary. A Construction Environmental Management Plan (CEMP) has been approved by the relevant council officers prior to construction and this will be followed during the construction phase.

Throughout the tender process consideration has been given to local social and environmental conditions with an emphasis on the contractor's engagement with local supply chains.

Sustrans are also able to provide additional funding of up to £17,000 (in addition to the £817,000 quoted above) for enhanced ecological enhancements / mitigation, and relevant measures are currently being discussed by our ecologist with them.

## **CONSULTATION**

This scheme has been a corporate priority since 2007 when the scheme was included in the Replacement Local Plan. It was approved by the Infrastructure & Investment Board (IIB), 17/12/20.

The landowners at Tutshill have been extensively consulted over several years and the Council has reached agreement in principle; subject to final details and terms.

The public were consulted through the planning application, with overwhelming support offered to this scheme.

The scheme falls within two Parish Council Wards; Wick St Lawrence and Kingston Seymour. Both Parish Councils and the relevant Local Members have been extensively consulted on the project.

The Council's Executive Member has been consulted on the project and previously Instructed officers to implement the project 'by whatever means necessary'.

## RISK MANAGEMENT

Risk	Control measures
Delay to completion of legal agreements.	The scheme is dependent on the completion of the legal agreements outlined above. No works orders will be signed until these are completed or trusted interim agreements are signed where necessary.
Delay to decision or other unforeseen delays risks funding.	<p>The Sustrans funding can be used for the preliminary works and piling (spend deadline March 2022), the HE is funding for the remainder of the crossing (spend deadline March 2023). Thus, the crossing could be built over a longer period if necessary.</p> <p>However, the connecting pathways (subject to a separate Director's Decision) are funded by the EU Rural Growth Fund, with a deadline of March 2022 – this is the element most at risk, totalling £561,203. We will carry out as much of this as possible as early as possible but need to avoid contractors getting in each other's way / providing finished paths before heavy work completed etc.</p>
Delay to decision risks disturbing protected birds (only likely to be a risk if extreme cold). Work may need to be postponed for such periods.	Natural England have agreed to work closely with us to minimise disruption to programme. Piling (most disruptive element) to be carried out late autumn / early winter.
Cancelling scheme / not agreeing to in time and losing funding. Also, reputational risk with public / residents and funders if we don't deliver.	None. NSC liable to repay capital funding spent developing scheme, which would revert to revenue, totalling a maximum of £414,383.
Contractual risk, including unforeseen site conditions, potential delays, non-performance, non-compliance	<p>Extensive site surveys were carried out at design stage and detailed information has been provided through the site data information.</p> <p>The contract will be let under the NEC4 Engineering and Construction Contract and any contractual matters will be dealt with through the contract provisions.</p>

## EQUALITY IMPLICATIONS

Have you undertaken an Equality Impact Assessment? No

Acceptance of the funding is not considered relevant to an EIA process. The scheme has been designed with equality of access for all users. Quote from Design and Access Statement:

*'The path will be smooth, free draining, and designed to accommodate walkers and cyclists of all abilities, including those who use wheelchairs and mobility aids. The path is generally flat except where it climbs onto the flood embankments. In accordance with Policy DM 33 of the Sites and Policies Plan (Part 1) the path surface, gradients, and all access points have been designed to facilitate access by disabled people which is of the same standard as that provided for able-bodied people; this includes those who use wheelchairs and mobility aids.'*

The path will also heed comments made on the planning application by the Access Officer for Disabled People within the Equality & Diversity Team

## **CORPORATE IMPLICATIONS**

There are no cross-service implications.

## **APPENDICES**

### **BACKGROUND PAPERS**

[1] Kent, R. (2018) *Notice of Decision: 18/P/4758/FUL*. North Somerset Council. Available at: [https://planning.n-somerset.gov.uk/online-applications/files/E23633B33994BF7055C32E49D9D80ACB/pdf/18\\_P\\_4758\\_FUL-DECISION\\_FUL\\_APPROVE-2759524.pdf](https://planning.n-somerset.gov.uk/online-applications/files/E23633B33994BF7055C32E49D9D80ACB/pdf/18_P_4758_FUL-DECISION_FUL_APPROVE-2759524.pdf)

[2] Searle, B (2020) Decision 20/21 DP272: Revised commissioning plan for the Weston-super-Mare to Clevedon (Tutshill) Cycleway <https://www.n-somerset.gov.uk/sites/default/files/2021-01/DP272%20REVISED%20COMM%20PLAN%20TUTSHILL%20all%20signatures%20%28002%29.pdf>

[3] Mann. F. (2019) *Decision 19/20 DE02: Accept offer of £639,559.34 grant funding for Weston – Clevedon section of NS Coastal Towns Cycle Route from the Rural Payments Agency AND to add existing £100,000 in Joint Local Transport Plan budget to the 2019/20 Capital Programme.*

[4] Mann. F. (2019) *Decision 19/20 DE66: Approval to bid to Highways England for up to £1,000,000 funding for a farm bridge at Tutshill, enabling the Weston – Clevedon section of NS Coastal Towns Cycle Route.* North Somerset Council.

SIGNATORIES:


DECISION MAKER(S):

Signed:  Director of Place

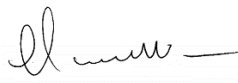
Date: 2 August 2021.



WITH ADVICE FROM

Signed:  Director of Corporate Services (s151 Officer)

Date: 29 July 2021.

Signed:  Head of Strategic Procurement

Date: 29 July 2021.

## **APPENDIX A – Further background to the project**

Over the last few years, the concept and delivery of a North Somerset Coastal Towns Cycle Route (CTCR) has gained a lot of ground to develop the tourism market more fully in North Somerset beyond the traditional tourist areas, attractions, and demographic. The route will also be important to commuters and local leisure cyclists, connecting our towns where existing links are very poor. Walkers and horse riders will also benefit greatly from the link at Tutshill.

The first section of the CTCR, the Brean Down Way opened from Brean to Uphill two years ago and has already proved how popular this route is (generating 100,000 trips per annum) and was extended to Weston-super-Mare in 2020.

The next section that has been prioritised is Weston to Clevedon and the subject of this Decision Notice. It is perhaps the most ambitious but essential section with no other alternatives to the A370. The main obstacle to its development has been the crossing of the Yeo and Oldbridge rivers, and private land at Tutshill. This has been sought for over forty years, including by Sustrans, since the late 1970's, and has been protected by planning policy since inclusion in the Avon County Council Structure Plan in 1980. More recently, campaigning by residents locally, including with a Facebook group with 1348 followers, has seen a groundswell of interest from people living in North Somerset and the region.

At Tutshill there are existing sluice crossings, but the local landowners are dependent on these for dairy farming purposes. The sluice crossings are considered too narrow to safely share cattle movements with the expected levels of public use this route will generate. There are also no rights of way leading to them. After years of negotiation with the landowners, a plan has been reached to enable public access to the sluice crossings. An essential part of this is providing an agricultural bridge further upstream so that cattle and farm machinery would no longer use the sluices. The details were subject to a planning application, granted permission Dec 2018 (Planning Application number 18/P/4758/FUL). This received 600 comments, with 550 supporting it. Only 35 objections were received with 10 of these requesting the route (the Tutshill link in particular) be open to horse riders (which has now been agreed with the landowners). The remainder of the route utilises quiet roads with some additional off-road options near Clevedon and Weston-super-Mare.

This project will assist in realising NSC's long term infrastructure goals and help meet its Corporate Plan priorities, including enhancing the visitor economy:

- A great place for people to live, work and visit.
- To be a carbon neutral council and area by 2030.
- A transport network which promotes active, accessible, and low carbon travel.
- An attractive and vibrant place for business investment and sustainable growth.

This project is also supported by the following Council policies:

- The Active Travel Strategy (due for adoption July 2021).

- It is identified in the Council's Local Plan under policy DM25: Public rights of way, pedestrian, and cycle access; Schedule to policy DM25: Proposed Strategic Cycle Routes.

- The route is included in the Local Plan Site and Policies Plan Part 1; and is highlighted as a 'Strategic Cycleway' on the Local Plan Policies Map.
- The North Somerset Replacement Local Plan 2007 specifically sets out the council's commitment to delivering the project; the route alignment was tested and approved at Public Enquiry as part of the Replacement Local Plan process.
- The project is included in the Joint Local Transport Plan 4, which is West of England's current adopted transport policy.
- The project forms the central section of the Council's proposed 'Coastal Towns Cycle Route' which aims to link Bristol, Portishead, Clevedon, Weston-super-Mare, and Brean to create a high-quality cycle and pedestrian route across the authority; providing local linkages whilst also serving as an attraction and catalyst for cycle tourism. The Coastal Towns Cycle Route would complete the North Somerset section of NCN Route 33 which will link Bristol to Seaton in Devon.
- The Coastal Towns Cycle Route is included as a policy commitment and priority in the Joint Local Transport Plan 4 and in the Draft Active Travel Strategy.