

TEIGNBRIDGE DISTRICT COUNCIL

FULL COUNCIL

24 FEBRUARY 2020

PART I

Report Title	Network Rail Transport and Works Act Order Consultation
Purpose of Report	To update Members regarding progress by Network Rail in developing Rail Resilience proposals for the section between Parson's Tunnel, Holcombe and Teignmouth, and associated Transport and Work Act Order (TWAO) consenting processes and timeframes.
Recommendation(s)	RECOMMENDED that Council: (a) Receive a presentation and note progress to date, and (b) Requests that the relevant Portfolio Holders and Coastal Officer submit a consultation response on behalf of the Council.
Financial Implications	Not applicable
Legal Implications	Not applicable
Risk Assessment	Not applicable
Environmental/ Climate Change Implications	There are no direct carbon/environmental implications arising from the submission of a consultation response at this stage in the TWAO process.
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Portfolio Holder	Cllr N.Jeffries and Cllr J.Hook
Appendices / Background Papers	none

1. INTRODUCTION / BACKGROUND

- 1.1 Proposals to reclaim foreshore, create new sea wall, install rock revetment, regrade cliffs, create bund in front of remaining cliffs, realign track, create pedestrian routes, install bridges, drainage works, temporary landing facilities and associated infrastructure over a 1.8km length of coastline between Smugglers Lane, Holcombe and Eastcliff, Teignmouth are being developed by Network Rail to be submitted for determination through an Order under the Transport and Works Act 1992 (TWA or TWAO).

Network Rail's proposals are principally aimed to counter a perceived geo-technical risk of significant collapse or slumping of the cliffs landward of the existing rail alignment, rather than marine driven risks (wave damage and overtopping) which are the principal risks at the resilience project works at Marine Parade, Dawlish.

- 1.2 The TWAO process is administered by the Department for Transport (Transport Infrastructure Planning Unit) and the Order is made by the Secretary of State (The Rt Hon Grant Shapps).

A TWAO has wide ranging powers including – powers to construct, effects on navigation, compulsory purchase of land, rights to use land, closure of roads/footpaths, provide temporary alternative routes, amendments or exclusions of other legislation, creation of Byelaws, and safeguards for public service providers and others.

- 1.3 A TWAO does not in itself grant planning permission, but the organisation applying for the order usually asks the Secretary of State to grant planning permission for any development described in the order. There are no listed structures within the site and Network Rail has secured an immunity from future listing
- 1.4 If the Secretary of State decides to grant planning permission for the proposed development, he issues a planning direction when the TWAO is made. The planning direction is likely to include conditions. If Planning Conditions are imposed by the Sec of State then the Council will have a role in monitoring and compliance of the conditions, but not the drafting of those conditions.
- 1.5 The notices of the TWAO application gives a date by which any objections, or other comments, should be sent to the Secretary of State from statutory and non-statutory consultees. The time period for objections is at least 6 weeks from the date in which the application is made. Being the Local Authority for the area in which the works are to be carried out, the Council would become a 'statutory objector' and may make objections to the application in line with the TWAO provisions. As a statutory objector, the following rights apply:
- If required, have an objection heard before a person appointed by the Secretary of State. This cannot be heard privately and likely be heard through either a public inquiry or a less formal (but still public) hearing

- If a public inquiry is held, entitlement to speak at it
 - Require the inspector to carry out a site visit during or after an inquiry, accompanied by a relevant representative/s of the authority and at least one representative of the applicant
- 1.6 All objections and other comments are carefully considered before a decision is taken on a TWAO application by the Secretary of State. If an application has opposition, the Secretary of State must decide, within 28 days of the end of the objection period, whether to hold a public inquiry or a hearing, or 'exchanges of written representations'. Network Rail envisages that a Public Inquiry is required to determine the TWAO application

2. TWAO Timeframe

December 2019 - Outline Design Freeze

Main elements of the design are set to enable assessment of environmental impacts

20 January – 1 March 2020 - Second round Public Consultation (6wks)

Range of public events including Dawlish, Holcombe, Teignmouth, Newton Abbot, Exeter and Torbay.

April 2020 - Final design iterations

Designs updated to include potential environmental mitigation requirements

June 2020 - Draft Environmental Statement

Surveys and assessment of impacts completed, draft mitigation proposed

September 2020 - Information Events

Final proposed scheme presented to public and statutory consultees

October 2020 - TWAO submission

Formal Objection Period, where interested parties can object or make representations to Sec of State

December 2020 - Objection Period ends

July 2021 - Public Inquiry

The SoS will appoint a Planning Inspector to oversee the Public Inquiry. Individuals and organisations who have objected to the proposed development invited to present at Inquiry

November 2021 - Inspector's Report issued

February 2022 - Secretary of State decision

Construction period estimated 5-7 years

3. Independent evidence

- 3.1 The Council run and host the South West Regional Coastal Monitoring Programme and through this vehicle it has commissioned a multi-beam bathymetric survey for the area between The Ness headland at Shaldon, through to Orcombe Rocks east of Exmouth (and including a short distance inside both the Teign and Exe estuaries) The survey area covers the Teignmouth, Holcombe and Dawlish frontages, so will be an invaluable baseline to inform appraisals of Network Rail's proposals. The survey has been completed and is currently being Quality Assured through the Maritime and Coastguard Agency and the UK Hydrographic Office, and will form the first step of a Beach Management Plan (BMP) for the Teignmouth frontage.
- 3.2 The Beach Management Plan (BMP) is a comprehensive look at the baselines, sediment dynamics and defence needs of the beach undertaken to a national standard (Beach Management Manual CIRIA C685). A BMP's first focus is towards Flood and Coastal Erosion Risk Management at the local site, as this is the national emphasis and funding criteria, whilst taking into account and where possible, promoting or enhancing the other uses and functions of a beach – amenity, socio-economics, habitats and species etc.
- 3.3 The BMP provides the evidence required to access national Defra funds to remove, refurbish, replace defence options/structures (walls, groyne fields, recharge etc) as needed to alleviate identified risk. The function of Teignmouth Beach is effected by the sediment budget of the wider system, inc between Eastcliff and Holcombe, and a better understanding of this dynamic aspect is part of the justification for the BMP investment. The BMP will enable the Council to have a properly evidenced independent assessment of the wider system to inform any input to TWAO processes or Inquiry.
- 3.4 The resources to undertake the BMP and bathymetric survey have been successfully secured from national funding streams (including an aspect of match funding through Council Officer time), which further recognises the complexity and importance of managing a dynamic coast and the need for best evidence to be able to appraise likely impacts of developments, such as those being proposed by the railway resilience scheme.
- 3.5 In addition to the BMP, and associated bathymetric survey, the Council is working with the Environment Agency to commission an independent peer review of Network Rail's modelling prescriptions which will inform the final design of the resilience programme.

4. Consultation

- 4.1 The current consultation has attracted considerable public interest, primarily around the proposed seaward realignment of the railway which would include

building over a proportion of the existing beach which is used by the public at low water.

- 4.2 The current consultation whilst a formal stage of the TWAO process comes before the publication of the majority of the technical information (including Environmental Impact Assessment, coastal process modelling, construction methodologies, temporary structures and impacts, influences on adjacent beach sediment sources, bathing waters and local economics, final design and project resourcing), which will be required to be made available before the expected Public Inquiry in summer 2021. In the absence of technical information consultation comments can only therefore be made on the outline proposals. The Council will further engage at a later stage in its role as a 'statutory objector', when detailed information is published and its own commissioned evidence (bathymetric survey, BMP, modelling review) is completed.

5. IMPLICATIONS, RISK MANAGEMENT & CLIMATE CHANGE IMPACT

5.1 Financial

None at this stage

5.2 Legal

None at this stage

5.3 Risks

None at this stage

5.4 Environmental/Climate Change Impact

There are no direct carbon/environmental implications arising from the submission of a consultation response at this stage in the TWAO process.

6 CONCLUSION

- 6.1 A proposal to enhance the resilience of the South West mainline railway is being developed by Network Rail to be determined through a TWAO process. The Council will become a 'statutory objector' within the process and will have the benefit of a suite of technical reports from the applicant to appraise alongside a few key pieces of information being compiled independently.

In the interim the Council is able to respond to a current round of public consultation regarding an outline proposal.