

# Agenda Item

**Executive Board**

**6 January 2010**

**CP**



## **River Otter cyclepath and footbridge scheme**

### **Exempt Information**

Para 3 Schedule 12A – Information relating to the financial and business affairs of any particular person (including the authority holding that information)

### **Summary**

The purpose of this report is to provide Members with an update on the progress of this scheme and to seek guidance on the next steps for the overall scheme. To recap Executive Board gave approval in its January 2009 meeting to proceed with this project as host authority working in partnership with Sustrans, Devon County Council, Environment Agency and Ottery St Mary Town Council. Executive Board also approved the additional contribution of £101,500 from the capital programme, matched by Devon County Council, to enable a working budget of £700,000 to appoint Project Engineering Consultants to oversee the design and build of a cyclepath and footbridge across the River Otter. The working budget of £700,000 was derived at by undertaking an independent feasibility study for the construction of a 3 metre wide 120 metre long steel structure bridge. However the recent Tender process has now created uncertainty as none of the Engineering Consultancies that submitted a tender for the scheme could guarantee that the scheme could be delivered for the budget that has been made available. Funding partners have identified from this Tender process that the scheme is in fact likely to cost in the region of £900,000 to deliver and that a further £200,000 of capital funds is now required. Therefore the funding partners recognising the risks to East Devon DC as host body now require certain decisions to be made before progressing any further with the scheme.

### **Recommendation**

**Executive Board to recommend their preferred course of action :**

**That a capital bid is made for a further £100,000 as EDDC's share of the additional scheme costs; tenders shall not be sought until the planning permission for the Town Mill site has been clarified.**

#### **a) Reasons for Recommendation**

The shortfall in budget for construction costs has been identified by all Engineering Consultancies in the recent tender process and so guidance is sought from Members on the position of the Council in progressing the scheme.

#### **b) Alternative Options**

These are set out in the main report

**c) Risk Considerations**

This scheme is currently the responsibility of the District Council as host body and as such a MoA has been signed with Sustrans for both their Connect2 Lottery funding (£150K) and also their Links to School fund (£200K). This means that if the scheme is formally started but then is not delivered then Sustrans have the right to “claw back” the funding that has been committed if the District Council was unable to deliver the scheme.

The Links to School fund is time limited to 2010/11 and therefore would need committing by May 2011, however we have secured approval to extend the claim date for this fund to May 2012 as long as construction is started by March 2011 at the latest. The Connect2 funding is time limited to March 2013 which is of a lesser risk to the overall budget certainty for the scheme. The anticipated design and build timeframe for this scheme is 2 years from start to finish therefore there is urgency for a decision to be made about additional funding.

**d) Policy and Budgetary Considerations**

Budgets are described in the report. The Links to School Fund has confirmed as of 10<sup>th</sup> December 2009 that a further £70,000 is available for the scheme as part of the existing agreement. The additional £100,000 being requested will ensure that there is cost certainty for the delivery of the scheme.

**e) Date for Review of Decision**

N/A

**1.0 Background**

1.1 East Devon District Council along with partners is seeking to deliver a cycle path and footbridge scheme across the River Otter at Ottery St Mary between the flood bund south of Thorne Park Estate, across the field recently purchased by Ottery St Mary Town Council to join on the western bank of the otter mill site. Following an independent feasibility study from a Structural Engineer to compare costs against those initially advised by Devon County Council of approximately £1.2million for such a scheme a budget was set at £700,000 based on the independent report. The current contributions are :

- £200,000 – Links to School fund
- £150,000 – Connect2 Lottery fund
- £101,500 – EDDC capital funds
- £101,500 – DCC capital funds
- £112,000 – S106
- £55,000 – Environment Agency

1.2 To progress the scheme Executive Board agreed in January 2009 that it would be necessary to appoint a Project Engineering Consultant to oversee the design and construction of the scheme within the two year timescale. East Devon DC would be the accountable body for the procurement and appointment of that arrangement on behalf of the funding partners.

1.3 The scheme from the outset would have to work with a number of unknowns and constraints such as the Transco pipeline on the Mill side of the river, the potential cost variables that may arise from results of ground excavations for the bridge supports and determining the suitable landing area for the bridge on the Mill side that meets both EA approval and the landowner Churchill's.

## 2.0 Brief to Tender process

2.1 The Countryside Manager acting as project manager has recently undertaken a tendering process to appoint a Project Engineering Consultant with 18 Consultancies approached for an Expression of Interest exercise from which 15 companies requested full tender document details (Appendix 2). The closing date for submissions was 3<sup>rd</sup> November 2009 and a total of 9 Consultancies submitted tender documents for consideration by the funding partners.

2.2 A small selection panel consisting of Devon CC, Sustrans and East Devon DC (including local Ward member, Cllr David Cox) met on 3<sup>rd</sup> November to assess each of the submissions for short listing for interviews. However from that process all those involved with the short listing process concluded that there were serious issues on project deliverability that required further clarification from Members before proceeding to a position of appointing Consultants:

- Each tender submission was unable to provide a guarantee to deliver the scheme for the budget allocation of £700,000 due to concerns over costs for delivering a 120m long bridge, the Tender Brief was specific about the appointed Project Engineer being able to deliver on time and on budget.
- In the majority of submissions costs suggested by Consultancies for this type of bridge construction scheme (based on their own experiences) is around £850-900,000 for full design and build costs.
- There was concern that it would be irresponsible and negligent to as funding partners to appoint a Consultant knowing that this initial indication of budget shortfall for overall project delivery had not been properly considered and resolved prior to appointment. There would be too much risk and uncertainty for East Devon DC as the accountable body to have confidence in appointing.

2.3 The recommendation was therefore to seek advice from Executive Board on the preferred option for next steps having considered the risks and issues raised through the tender process.

2.4 The Consultants who submitted a full tender have been notified that further consideration of the scheme has been required with a report going to this Executive Board meeting and that they will be notified in early 2010 as to the status of the project. This is the rationale for the report being considered under Part B matters

## 3.0 Project Variables

3.1 In considering the next steps advice there are a number of unknowns and therefore risks within the Scheme that Members need to be aware of when considering their decision:

- Devon CC will seek approval to draw from its capital programme of an additional £100,000 to provide the match funding of EDDCs £100K if Executive Board approves this additional contribution.
- Legal Services have advised that a formal legal agreement will be necessary between DCC and EDDC to secure the additional funds from DCC for the delivery of the scheme, so providing certainty on construction.
- The secured Links to School fund allocation will be able to be extended by another 12 months (to May 2012) to accommodate the delay in the project commencing;
- There will always be a risk of cost uncertainties until the ground excavations have been carried out to assess the type of construction and bridge supports required and in timescales the Town Mills planning application outcome will have a bearing on the progression of the scheme.

3.2 The scheme however does have the support of local people with a desire to see a safe route to school put in place for the students of Kings School as well as making an important safe access route for local residents of Thorne Park Estate and staff/visitors to the local hospital. It is these significant community benefits which need to be balanced against the risks associated to the delivery of the overall scheme.

3.3 Legal Services have advised that if this approach is adopted then a full re-tender process is not required as there would be only a modification in the structure of the Project Brief and the notification of the decoupling of the two phases, which were rolled into one overall phase in the original Brief.

### **Legal Implications**

The original Tender was in respect of Project Management Services and the Project fees were to be paid from the anticipated budget of £700,000. We have the option of abandoning the project at this stage in which case all of the proposed funding will be lost or continuing with the appointment of the Project Manager with a brief to prepare the scheme with a view to understanding the full nature and cost of it. The scheme can be abandoned at that date but the fees payable to the Consultant will be lost.

### **Financial Implications**

By approving the additional £100,000 EDDC's total commitment would be £201,500 to a project budget of £920,000 (£720,000 plus £100K EDDC plus £100K DCC). In view of current uncertainties as to partnership commitments, there would be a risk to EDDC of contractual commitments to expenditure with a shortfall in funds. However Legal Services are seeking to obtain a binding agreement for funding from DCC. To alleviate this further, a consultant's report will determine accurate costings so an assessment can be made whether there is sufficient funding to proceed with the project within the £920,000 budget. If a shortfall is identified and no extra funding available, the scheme would not proceed. Therefore the risk to EDDC is 50% of the cost of the consultants report estimated at £80,000 to £90,000, DCC funding the other 50%.

### **Consultation on Reports to the Executive**

N/A

### **Background Papers**

- Project Brief to Tender – Executive Summary
- Consultants list

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Charlie Plowden  
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Executive Board  
6 January 2010