

Environment & Climate Change Committee	
Meeting Date	18th March 2025
Report Title	Update on Motion to Change Shoreline Management Plan Policy – Eastchurch Cliffs
EMT Lead	Emma Wiggins, Director of Regeneration & Neighbourhoods
Head of Service	Martyn Cassell, Head of Environment & Leisure
Lead Officer	Mike Knowles, Seafront & Engineering Manager
Classification	Open
Recommendations	1. Members are asked to note the contents of the report following the previous motion to change the Shoreline Management Plan Policy for Eastchurch and acknowledge the work that has been done and that we will now focus on engaging and supporting affected residents .

1 Purpose of Report and Executive Summary

- 1.1 This report provides an update following the motion passed by Members in November 2020 to seek to change the current policy of the Shoreline Management Plan along the unprotected North Sheppey coastline.

2 Background

- 2.1 Following the motion previously passed by Members, officers have been actively pursuing a change to the current SMP policy through discussions with partners.
- 2.2 The Isle of Sheppey is covered by Shoreline Management Plan SMP10 (Isle of Grain to South Foreland) which was adopted in 2008 following a review of the original SMP for the North Kent Coast (Isle of Grain to Dover Harbour) 1996.
- 2.3 The section of undefended coastline between the eastern end of the defences at Minster Leas and Warden Bay, policy unit number 4a04 in the SMP, has a policy of “No Active Intervention”.
- 2.4 At Full Council in November 2020, Members passed the motion *“that in view of the climate change accelerating the rate of the erosion of the Sheppey cliffs, this Council wishes to change Government policy to prevent further unsustainable erosion, thereby protect the existing, expanding, and future population of Sheppey. Swale Borough Council undertakes to seek the removal of the government coastal policy of non-intervention, with its serious social and*

commercial implications, and replace that policy with a policy of protection of the coastline.”

- 2.5 Following this motion, a letter was drafted on behalf of the Cabinet Member for the Environment, and sent to the Secretary of State for Environment, Food and Rural Affairs, explaining the motion and requesting further discussion on the issue. A copy of this letter can be found in Appendix I.
- 2.6 A response was subsequently received in February 2022, via the Department for Environment, Food and Rural Affairs (DEFRA). The response stated that the policy options in the Shoreline Management Plan were all adopted by the relevant operating authorities in the first half of 2008, and these included Swale Borough Council, which was involved in developing and adopting the SMP policy of No Active Intervention. A full copy of the response can be found in Appendix II.
- 2.7 The response went on to detail the process for pursuing a change to an SMP policy. To summarise, the process is a complex and technically challenging one, with no guarantee of a positive outcome. As well as receiving the response from DEFRA, officers have also undertaken significant research through the South East Coastal Group (made up of key organisations focussed on coastal management), the Environment Agency and Coastal Consultants, to gather information around the change process.
- 2.8 The conclusion is that, despite the best efforts to date, we are unable to deliver the previous motion. The policy was agreed as the most sustainable policy for a number of reasons, including
- the fact that the area is covered by a Site of Special Scientific Interest (SSSI),
 - the geological processes of land slips and erosion is a challenging combination to alleviate,
 - that the sediment released from this cliff erosion is an important source of sediment for other areas along the coastline.
 - funding for any defences is governed by HM Treasury. It has been made clear by the Environment Agency that even with a change to the current policy, there would be no guarantee that funding would be available for coast protection schemes, resulting in a policy which cannot be delivered.
- 2.9 Officers are currently working on future engagement plans to provide information and support to those residents who could be affected by future coastal erosion, and an update report will be provided to this Committee at a later date.

3 Proposals

- 3.1 Based on the information obtained around changing the SMP Policy, any challenge to the Policy would require clear and substantial scientific

evidence meeting specific criteria detailed by DEFRA, and despite the best efforts of officers to date this evidence has not been forthcoming, and the previous motion is therefore deemed undeliverable.

- 3.2 Members are asked to note the contents of the report following the previous motion to change the Shoreline Management Policy for Eastchurch and acknowledge the work that has been done and that we will now focus on engaging and supporting affected residents.

4 Alternative Options Considered and Rejected

- 4.1 An alternative option for pursuing a change to the SMP Policy is to consider employing the professional services of a suitably qualified Coastal Engineer to investigate and prepare scientific evidence supporting a change to the Policy in accordance with the specified criteria. Initial costs would be in the region of £60,000 to £100,000, and with very little likelihood that the required evidence would be forthcoming, and acknowledging that work to date has not been successful in bringing about a change to the policy as requested, this option is not recommended.
- 4.2 Another option would be for the Council to do nothing, ignoring the motion and not looking to engage with affected residents. This is not recommended as it ignores a democratic process and would ultimately lead to future events like that seen in May 2020 with a need for huge SBC resources in the emergency response process.

5 Consultation Undertaken or Proposed

- 5.1 Since the motion was passed by Members of Swale Borough Council to seek to change the current Shoreline Management Plan of “No Active Intervention”, officers have been consulting with both the previous and current Chair of the South East Coastal Group, and the Environment Agency’s Coastal Engineer for clarification of the process to be followed to change the policy.
- 5.2 In addition to this, a letter was sent to the Secretary of State for Environment, Food and Rural Affairs, informing of the motion from Members and requesting further discussions as to how to progress the policy change.
- 5.3 Whilst we have had engagement with a number of the residents in the immediate location of the previous cliff fall and the local Parish Council, there has not been widespread public consultation to date. With the sensitive and complex nature of this issue, it is imperative that a clear communication and engagement plan is in place, with suitable resource, prior to any future engagement. The Community Engagement Plan would come back to this committee for approval.

6 Implications

Issue	Implications
Corporate Plan	Environment - To provide a cleaner, healthier, more sustainable and enjoyable environment, and to prepare our borough for the challenges ahead
Financial, Resource and Property	<p>To pursue the change to the current SMP policy, funding will need to be sourced to commission the services of a Coastal Engineer to undertake suitable studies and research for evidence submission to support the policy change. An initial estimate for this work is between £60k and £100k and this funding is not accounted for in our financial budget. In addition to this, internal resource will need to be committed to manage the change process and work with the various organisations and authorities involved in the process. Should the Borough Council be successful in bringing a change to the current SMP policy, funding would need to be secured to undertake any coastal defence works, from feasibility studies, through the design process, obtaining the consent of relevant organisations and delivering a scheme. SBC does not have capital funding to deliver the construction of a coastal defence scheme.</p>
Legal, Statutory and Procurement	<p>Swale Borough Council, as a Coastal Authority, has a number of roles and responsibilities. Under the Coast Protection Act 1949, we are the lead on coastal erosion risk management activities and should undertake works on sea flooding and coastal erosion where we are best placed to do so, under the Environment Agency's overview and approval. A previous report from specialist consultants, commissioned following the cliff collapse in May 2020, states that Coastal authorities will also lead and support Coastal Groups, produce Shoreline Management Plans where agreed by the Coastal Group, and work closely with the Environment Agency for best outcomes in managing flooding and coastal erosion risks. For us this is via officer presence at the South East Coastal Group.</p> <p>The Coast Protection Act 1949 also gives Local Authorities powers to protect land against coastal erosion and powers to control third party activities on the coast, such as the construction of private defences or preventing the removal of beach material. It gives Local Authorities permissive powers to undertake coastal protection works on their frontage, and general powers of maintenance and repair works, including serving notice on owners and occupiers of land on which defences are in place to undertake these maintenance works.</p>

Under the Acquisition of Land Act 1981, the Local Authority has powers to compulsorily acquire land for the purposes of construction, alteration, improvement, repair, maintenance, demolition or removal, but these works must be for the purpose of protecting land from erosion and encroachment, and cannot be used for any other purpose. Provisions for compensation are included in the Act, but these only relate to disturbance of enjoyment of land as a result of these works, and compensation cannot be made under the powers of the Act for loss of land or property that occurs as a result of coastal erosion.

The Flood and Water Management Act 2010 does not have much significance in relation to coastal erosion, but under this Act there is a duty for all relevant authorities to share information and cooperate with each other. The Local Authority also has powers under this Act to designate any privately-owned assets which have a coastal erosion risk function, meaning that the owner could not alter, replace or remove the structure or feature without the consent of the Authority. This Act also makes the Environment Agency a relevant authority for the Coast Protection Act along with coast protection authorities, such as the Borough Council. This means the Environment Agency has discretionary powers when exercising its coastal functions which include carrying out emergency coast protection works in any area it thinks necessary. It can also direct a private landowner or occupier to undertake coast protection works where they have a historical obligation to maintain a defence and can compulsorily purchase land if ordered by the Minister for England.

In summary, there is no legal right to coast protection, and coastal defences are only maintained and rebuilt using permissive powers under the Coast Protection Act. There is no centralised, legally binding mechanism which sets out the responsibilities of the Council in relation to emergencies such as the management or mitigation of landslides. Issues relating to landslide problems, including the consequence of dangerous buildings and structures, are dealt with under common law and the case law tells us that generally speaking the primary responsibility is with the landowner.

The Housing Act 2004 Part 1 requires the Council to take enforcement action where homes are not safe. This can take the form of hazard awareness notices or prohibition notices or demolition order.

Part 7 of the Housing Act 1996, Homelessness Act 2002 and Homelessness Reduction Act 2017 provides the statutory

	<p>responsibility to prevent homelessness and provide assistance to people, threatened with or actually homeless.</p> <p>The Civil Contingences Act places duties on the Council as a Part 1 responsible authority. This places a duty on us to assess risks and make ensure appropriate plans are in place as well as responding during an emergency.</p>
Crime and Disorder	None identified.
Environment and Climate/Ecological Emergency	<p>The area of Eastchurch Cliffs is included in a Site of Special Scientific Interest (SSSI), as designated by Natural England, and this will impact on the feasibility of any defence scheme being built.</p> <p>Extensive illegal dumping of material has also taken place at Eastchurch Gap and other locations around the Island, resulting in a multi-agency investigation, led by the Environment Agency, to resolve the situation. Due to the effects of erosion, material invariably washes up on our bathing beaches, in particular Minster Leas, which has resulted in an increase in complaints and an increased demand on limited resources.</p>
Health and Wellbeing	The ongoing natural coastal erosion process will continue to impact on communities close to the unprotected coastline, and engagement with these communities to promote adaptation is essential. Clear and consistent messaging around predicted future erosion and the impacted properties will be paramount in achieving this engagement and promoting coastal adaptation.
Safeguarding of Children, Young People and Vulnerable Adults	Some of the residents currently planning to remain in their properties until the natural erosion forces them to leave are classed as vulnerable, and it is imperative that clear and consistent regular conversations are maintained with these residents to ensure they are fully aware of the risks and their needs met.
Risk Management and Health and Safety	<p>Should the decision be made to continue to pursue the current motion to change the SMP policy, funding will need to be sourced to commission a Coastal Engineer, and whilst an initial estimated cost of between £60k and £100k has been included in this report, there is a financial risk that the investigations and work required to submit a suitable evidence-based report could extend beyond these costs.</p> <p>Should the Borough Council be successful in securing a change to the current policy, there would be an expectation from residents that a coastal protection scheme would be forthcoming, and with no guarantee of full or part funding from DEFRA and the Environment Agency this could result in a negative impact on the</p>

	<p>reputation of the Authority, who do not have the capital funding for such a project.</p> <p>If funding is secured for a scheme following the successful change to the current SMP policy, there is still the risk that consent may not be granted by relevant authorities to undertake the works, including Natural England who would need to grant consent for works to take place within the designated SSSI.</p>
Equality and Diversity	None identified at this stage.
Privacy and Data Protection	None identified at this stage.

7 Appendices

- 7.1 The following documents are to be published with this report and form part of the report:
- Appendix I: Letter to Secretary of State for Environment, Food and Rural Affairs
 - Appendix II: Response from Secretary of State for Environment, Food and Rural Affairs

8 Background Papers

None