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**REPORT TO: MORAY COUNCIL ON 12 MAY 2021**

**SUBJECT: LOSSIEMOUTH EAST BEACH FOOTBRIDGE REPLACEMENT**

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND FINANCE)**

**1. REASON FOR REPORT**

1.1 To inform the Council of the outcome of the Option Appraisal to replace the footbridge from Lossiemouth to East Beach and Scottish Government's decision with regard to funding the design and construction of the new bridge.

1.2 This report is submitted to the Council in terms of Section II (20) of the Council's Scheme of Administration relating to matters which currently do not fall within the terms of reference of any Committee.

**2. RECOMMENDATION**

**2.1 It is recommended that the Council:**

- (i) note that Scottish Government has agreed to fund the preferred option to construct a new footbridge from the esplanade in Lossiemouth to East Beach;**
- (ii) agree to providing staff resources to progress delivery of the design and construction of the replacement footbridge from Lossiemouth to East Beach. Costs included in Scottish Government funding package, see paragraph 3.7;**
- (iii) give delegated authority to the Legal Services Manager to prepare and sign all Compulsory Purchase Order documentation and to take all necessary steps, including publication of all statutory notices, to secure conformation of the Order by Scottish Ministers and the vesting of the land in the Council, if required;**
- (iv) agree that the Council take ownership of the new bridge on completion of construction; and**
- (v) agree to use section 20 of the Local Government in Scotland Act 2003 to demolish the old bridge at the same time as building the new one at a cost of £69k with the cost to be met from reserves.**

Or

- (vi) agree to the ongoing inspection and maintenance of the bridge to remove defective parts, and ultimately at some point in the future the demolition of the bridge under the Building Standards (Scotland) Act 2003 at a point when it is considered “dangerous” to protect public safety.

### 3. **BACKGROUND**

- 3.1 On 17 December 2019, the Council agreed in principle to take ownership of the new bridge on completion of construction; commit staff resources to progress the Option Appraisal for a replacement bridge; and submit a report to Council on the outcome of the Option Appraisal (paragraph 4 of the minute refers).
- 3.2 A two stage contract for this work was tendered in April 2020. Stage 1 is the development of an Option Appraisal to inform the business case required to secure funding for the design and construction of the bridge. Stage 2 is the design and construction of the bridge. The Contract includes a clause that if funding is not secured at the end of Stage 1, the works will not be progressed. This Contract was awarded to Beaver Bridges in September 2020. The tender process was longer than originally anticipated due to COVID related working restrictions.
- 3.3 The five options assessed as part of the Option Appraisal are listed below and the location of options 3, 4 and 5 are provided in the Appendix.
1. Do Nothing
  2. Do Minimum
  3. New Footbridge Local to the Existing
  4. New Footbridge at the Esplanade
  5. New Footbridge at Seatown Road
- 3.4 Each option was assessed on cost, environmental impact, flood risk and ground conditions. The environmental impact, flood risk and ground conditions were very similar for all of the options, however, the costs for each option were significantly different. The cost of each option is provided in the table below.

<b>Options</b>	<b>Capital Cost</b>	<b>Maintenance</b>	<b>Whole Life Cost</b>
Do Nothing	£0	£0	£0
Do Minimum	£900,000	£1,800,000	£2,700,000
Option 3 – New bridge local to existing	£2,225,000.	£550,000	£2,775,000
Option 4 – New bridge at the Esplanade	£1,375,000.	£165,000	£1,540,000
Option 5 – New bridge at Seatown Road	£1,750,000.	£400,000	£2,150,000

The Option Appraisal identified Option 4, a New Footbridge at the Esplanade as the preferred option as this has the lowest cost and as such provides best

value. Full details of the Option Appraisal have been uploaded to CMIS as additional meeting documents along with the agenda.

3.5 In November 2020 the Lossiemouth Community Development Trust appointed an economist to undertake an Economic Impact Assessment (EIA). This assessment looked at the impact on the local economy with and without direct access to East Beach. The EIA found that since the East Beach bridge closure, 72% of local businesses have experienced a negative impact on trade. 76% of local businesses advised that a high quality bridge replacement would influence their plans for future investment or expansion. Based on bridge count data from early summer in 2019, it is estimated that 200,000 users would cross the bridge in a typical year. Anecdotal evidence indicates that of the 200,000 users 50,000 are local and the remaining 150,000 are visitors. Based on this data the EIA found that with direct access to East Beach the town would benefit from an additional £1,500,000 in visitor spend and 30 FTE jobs. In addition to the economic benefits direct access to East Beach would provide health and wellbeing benefits, including: walking or running along the beach, dog walking, water sports, and wildlife and birdwatching from the beach and the dunes behind the beach. The benefits achieved are the same for all of the options to replace the bridge. Full details of the EIA have been uploaded to CMIS as additional meeting documents along with the agenda.

3.6 Information from each of these documents was used to draft the business case required to secure funding to design and construct the bridge. The business case was drafted in line with government guidance, which requires any bid for funding to demonstrate best social value for money. This is achieved by assessing the costs and benefits that apply to each option. The Option Appraisal identified that the preferred option was Option 4, a new bridge at the esplanade, as this has the lowest cost. The benefits for each option are generally the same, as each option for reinstating the bridge is within 250m of the original bridge starting point and all have the same landing point. The table below sets out the costs and benefits for each option.

Options	Costs					Benefits	
	Capital	Maint	Risk	Construction Supervision	Net Present Value	Economic	Social
Option 1 – Do Nothing	£0	£0	£0	£0	£0	There are no economic benefits associated with this option.	There are no social benefits associated with this option.
Option 2 – Do Minimum	£0.9m	£1.8m	£1.115m	£60,000	£3.875m	-£1.5m increase in visitor spend each year. -30 FTE jobs.	-Access to activities that improve health and wellbeing including:  Walking and running Dog walking Watersports

							Wildlife and bird watching. -Safe and reliable access to the beach.
Option 3 – New bridge local to existing	£2.225 m	£0.55m	£0.365m	£60,000	<b>£3.2m</b>	-£1.5m increase in visitor spend each year. -30 FTE jobs.	-Access to activities that improve health and wellbeing including:  Walking and running Dog walking Watersports Wildlife and bird watching. -Safe and reliable access to the beach. -Fully compliant bridge will access for all including wheelchair users.
Option 4 – New bridge at the Esplanade	£1.375	£0.165m	£0.365m	£60,000	<b>£1.965m</b>	-£1.5m increase in visitor spend each year. -30 FTE jobs.	-Access to activities that improve health and wellbeing including:  Walking and running Dog walking Watersports Wildlife and bird watching. -Safe and reliable access to the beach. -Fully compliant bridge will access for all including wheelchair users.
Option 5 – New bridge at Seatown Road	£1.75m	£0.4m	£0.365m	£60,000	<b>£2,575m</b>	-£1.5m increase in visitor spend each year. -30 FTE jobs.	-Access to activities that improve health and wellbeing including:

							Walking and running Dog walking Watersports Wildlife and bird watching. -Safe and reliable access to the beach. -Fully compliant bridge will access for all including wheelchair users.
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The option that provides best social value for money is to construct a new footbridge at the esplanade and this was identified as the preferred option in the business case. It is noted that some members of the local community expressed a preference for a replacement bridge at the same location as the existing bridge. However, as the benefits identified in the Economic Impact Assessment are the same for each option, the only differing factor between each option is cost and this was used in selecting the preferred option that was presented, for agreement with Scottish Government, in the business case. The business case was submitted to Scottish Government on 11 March 2021. Full details of the business case have been uploaded to CMIS as additional meeting documents along with the agenda.

- 3.7 The funding required to design and construct the bridge is £1,800,000, which includes £1,375,000 capital cost, £365,000 risk allowance and £60,000 site supervision costs.
- 3.8 Scottish Government agreed the preferred option to construct a new bridge at the esplanade and on 24 March 2021 announced that it would fund the replacement bridge.
- 3.9 Subject to agreement at this meeting, the Council will award Stage 2 of the contract to design and build a new footbridge at the esplanade. A full programme will be submitted by the contractor when Stage 2 of the contract is awarded. An indicative timeline is provided below but this may be subject to change.
- May - submit applications for statutory consents.
  - May – start detailed design.
  - September – bridge fabrication (subject to obtaining statutory consents).
  - January – start construction.
  - March / April – open bridge.
- 3.10 The Council’s Legal Services Section is investigating land acquisition required to construct the new bridge. This involves negotiation on land purchase and/ or progress of Compulsory Purchase Orders as appropriate. If Compulsory Purchase Orders are required members are asked to provide delegated

authority to the Legal Services Manager to prepare and sign all Compulsory Purchase Order documentation and to take all necessary steps, including publication of all statutory notices, to secure conformation of the Order by Scottish Ministers and the vesting of the land in the Council.

#### Existing Bridge

- 3.11 Funding for the replacement bridge does not include an allowance for demolition of the existing bridge. Although the existing bridge has no owner the Council has a duty to ensure public safety and so will ultimately have to remove the structure at its own cost. The bridge will continue to deteriorate and will become an increasing risk to public safety that will require the Council to take action. If in the future the Council decides to demolish this bridge in the interest of public safety it would cost in the region of £77,000.
- 3.12 At this point in time the Bridge is considered safe because we have prevented public access to it, however, there will come a point when the risk of items falling from the bridge will become a risk to river users.
- 3.13 Until the point when the structure can no longer be classed as safe the Council could not use its powers under the Building (Scotland) Act 2003 to progress with demolition. In complying with our duties we will have to carry out annual inspections of the old bridge and will have to maintain or remove dangerous parts of the bridge as they become unsafe or present a risk to river users. The process would be one of direct action under the legislation as there is no owner and the cost of inspection and any maintenance or demolition would fall to the Council. The annual costs associated with inspection and essential maintenance of the bridge are approximately £1,500.
- 3.14 In the absence of any other legislative powers, and in the knowledge that demolition or partial demolition is inevitable and the associated ongoing costs to inspect and maintain the bridge, the Council could use section 20 of the Local Government in Scotland Act 2003, which enables a local authority to do anything it considers likely to promote or improve the well-being of its area.
- 3.15 Although the community has a fond connection to the old bridge, the building of a new bridge, means it has served its function and will continue to deteriorate to the point where it becomes an eyesore and a danger to public safety. The option of using the power of wellbeing to remove the bridge as part of the contract to build the new one provides better value for money and removes risk to the public.
- 3.16 As part of enacting the power of well-being it would be appropriate to consult with neighbouring land owners.

#### **4. SUMMARY OF IMPLICATIONS**

##### **(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

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**(b) Policy and Legal**

The land required to construct the bridge will be acquired by the Council and we may have to use Compulsory Purchase powers, however, the land will be acquired through negotiation where possible, subject to agreement of the recommendations in this report.

The Council has a duty to protect public safety from dangerous buildings and structures under the Building (Scotland) Act 2003. At present the old bridge is viewed as safe because of restricted access.

The Council can use section 20 of the Local Government in Scotland Act 2003 for the purpose of removing the old bridge.

**(c) Financial implications**

Funding for the design and build of the new bridge will be provided by Scottish Government. The future maintenance of the bridge will be the responsibility of Moray Council at an estimated cost of £165,000 for the whole life of the bridge. The bridge has a design life of 100 years. Routine maintenance such as sweeping and vegetation clearance can be accommodated within the existing bridge maintenance budget, however, major maintenance works will require capital funding. As the bridge is new and will have a Fluoropolymer paint system, which has a design life of 60 years, major maintenance works should not be required within 40 to 60 years. This estimate does not allow for repairs to damage caused by vandalism.

Members should note that responsibility for the cost of demolition or making the old bridge safe will remain with the Council. At present the bridge is not at a point where demolition is justified under the Building (Scotland) act 2003, however, it will require annual surveys which will be carried out by the Council's consultancy team in discussion with Building Standards and ongoing costs associated with removing or making good parts of the bridge until it is ultimately demolished.

The Council can use the power of wellbeing to take action now to remove the old bridge by included it in the contract for the new build at of cost estimate of £69k saving £8k and would need to be funded from reserves.

**(d) Risk Implications**

A risk register has been developed and the risks quantified and included in the funding secured from Scottish Government.

Planning permission is required for the new bridge. Some members of the community have expressed disappointment that the new bridge will not be located at Seatown and may object to the planning application. Consultation with statutory consultees is underway to identify any material considerations and potential mitigation required to address this.

Removal of the old bridge may not be popular due to the iconic status of the bridge, however demolition will be the only option that will ensure public safety in the long term.

The Compulsory Purchase process will be progressed in parallel with landowner negotiations, to ensure the Council can acquire the land required to start construction of the new bridge by January 2022. There is a risk that this process could take longer than seven months but starting the process early will reduce this risk.

**(e) Staffing Implications**

The cost of supervising the works on site has been included in the funding secured from Scottish Government. There will be a requirement for additional staff time for Project Management but this can be accommodated within available staff resources.

**(f) Property**

Land required to construct the bridge will be acquired subject to agreement of the recommendations in this report. An allowance has been made in the risk register for the cost of any land acquisition required.

**(g) Equalities/Socio Economic Impact**

An equality impact assessment will be carried out as part of the design phase in order to ensure that the impact on groups protected under the Equality Act 2012 are minimal and where feasible can be mitigated..

**(h) Consultations**

Depute Chief Executive (Economy Environment and Finance), Head of Environmental and Commercial Services; Head of Economic Growth and Development, Chief Financial Officer, Legal Services Manager, Equalities Officer and Lissa Rowan, Committee Services Officer have been consulted and their comments incorporated into the report.

**5. CONCLUSION**

- 5.1 An Option Appraisal and Economic Impact Assessment have been undertaken and the findings used to inform the business case required to support the request for funding to design and build a replacement footbridge from Lossiemouth to East Beach.**
- 5.2 The preferred option identified in the Option Appraisal is to construct a new footbridge located at the esplanade.**
- 5.3 Scottish Government has agreed the preferred option to construct a new bridge at the esplanade and will fund the design and construction of the bridge.**
- 5.4 Moray Council will need to acquire the land on which the bridge will be constructed, either by negotiation or through Compulsory Purchase.**
- 5.5 Following on the previous, agreement in principle, Moray Council is asked to take ownership of the bridge on completion of construction to avoid any repetition of the previous issues.**



**5.6 The old bridge will continue to deteriorate and it is a duty of the Council to ensure public safety. While this does not yet require its demolition, this will ultimately be necessary and the Council can use the Power of Wellbeing to remove it at the same time the new bridge is built.**

Author of Report: Debbie Halliday – Consultancy Manager

Background Papers:

1. Report to Special Meeting of Moray Council on 17 December 2019 – Replacement of the bridge from Lossiemouth to East Beach
2. Lossiemouth East Beach Bridge Replacement Options Report
3. Lossiemouth East Beach Bridge Replacement Economic Impact Assessment
4. Lossiemouth East Beach Bridge Replacement Business Case

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