

**CLIFF SLIPPAGE, REAR OF BRANSTY ROAD, WHITEHAVEN – PROPOSED
REMEDIAL WORKS**

EXECUTIVE MEMBER: Councillor Gill Troughton, Portfolio Holder for asset management responsibilities.

LEAD OFFICER: Darienne Law, Head of Corporate Resources.

REPORT AUTHOR: Clinton Boyce, Legal Services Manager.

RECOMMENDATIONS:

- (a) That the urgent action taken by the Chief Executive in approving expenditure of up to £23,000 from the Council's usable capital receipts reserve for erecting temporary fencing, obtaining a temporary footpath closure and undertaking the design works be noted; and
- (b) That the proposed works to remediate the dangers caused by the land slippage at a cost of up to £110,000 be approved such cost being borne by the Council's usable capital receipts reserve, the project being an addition to the Council's approved capital programme 2011/12.

1. INTRODUCTION

- 1.1 Members will recall authorising works to be carried out to an embankment located between the rear of 1-14 Bransty Road, Whitehaven and the adopted highway U4440 Wagon Road which leads onto the Parton-Whitehaven cycle-way. The location of that slippage is shown edged red on the plan attached as Appendix 1. That slippage, on Christmas Eve 2009, was believed to have been caused by natural springs and seepage of water in the area compounded by an overflow pipe which an adjacent property owner had installed to alleviate flooding to his property. Heavier rainfall in the area was also a contributory factor.
- 1.2 In March 2010 and December 2010 the Executive approved expenditure for designing the works and then commissioning the works. The works have recently started and comprise of inserting soil nails into the bed rock to support the embankment and have a life span of approximately 100 years. Since the slippage the risk of further slippage has been monitored through regular inspections and ground monitoring.
- 1.3 On the 20th September 2011 the Council's surveyor inspected the site shown shaded green on the plan as a result of a call from a resident.

There had been further slippage at the rear of the corner property. Originally this area was considered to be low risk. The consultants have advised that as a result of this further slippage the cliff edge is now extremely closely to the property. The foundation to the garden wall has crumbled and the boundary between the rear wall and the house itself is approximately 5 metres. The consultants have advised that this area has deteriorated significantly since the last inspection with further opening of a tension crack which, if left untreated during the winter months, would cause water infiltration and increase the rate of deterioration and its effects on the adjacent property. The consultants recommend soil nailing to prevent further slippage, although this nailing will not be to the same extent as is currently being undertaken on the adjacent site.

- 1.4 The Chief Executive on the 23rd September 2011 approved the commissioning of design works, the erection of fencing and the temporary closure of a public footpath which runs along the rear boundary of the property. The design works have started and it is intended that the construction works are carried out immediately after the current works have been completed whilst the specialised equipment and workforce are on site.
- 1.5 The cost of the works is difficult to estimate but are unlikely to exceed £110,000 bringing the total cost to around £133,000.

2. LEGAL POSITION

- 2.1 The position is the same as before when Counsel advised that the Council has legal liability to users of the U4440 Wagon Road and the owners of properties whose gardens may be lost by further slippage.

3 OPTIONS

There is only one option which is to undertake further soil nailing works. The only other option of buying part of the gardens or properties would not help as it would be more expensive than the works and not prevent further slippage affecting adjacent properties or remove the risk to the adopted highway below.

4. CONCLUSIONS AND RECOMMENDATIONS

- 4.1 The emerging draft cliff and coastline safety management plan (to be reported to the Executive in October) would have highlighted this as an area to be budgeted for in future years. This further slippage shows how unpredictable coastal erosion can be. In terms of liability this arises once a landowner becomes aware of the problem or should reasonably have been aware of it. The Council's duty therefore arose late September. The

plan will require inspections of all affected areas to continue. The plan will, in so far as patent defects are concerned, conclude that with the ongoing works along the coast that the land in the Council's ownership is safe. Latent defects will remain unknown and could arise at any time and the plan will consider whether budget should be provided to cover this risk.

- 4.2 In this case it is recommended that members note the urgent action taken by the Chief Executive and to authorise the capital works being undertaken at a cost of up to £110,000, such works to be undertaken as soon as possible, which is likely to be in 8-10 weeks time. Council is also asked to approve the works being an addition to the approved capital programme 2011/12.

5. WHAT ARE THE LEGAL, FINANCIAL AND HUMAN RESOURCES IMPLICATIONS?

- 5.1 Monitoring Officer/Legal comments – as referred to in paragraph 2 above;
- 5.2 Section 151/Financial comments – if the preferred option is chosen the expenditure of up to £110,000 in addition to the urgent action expenditure will be met from the Council's usable capital receipts reserve.
- 5.3 Human resources – none; project management will be carried out by Atkins.

6. HOW WILL THE PROPOSALS BE PROJECT MANAGED AND HOW ARE THE RISKS GOING TO BE MANAGED?

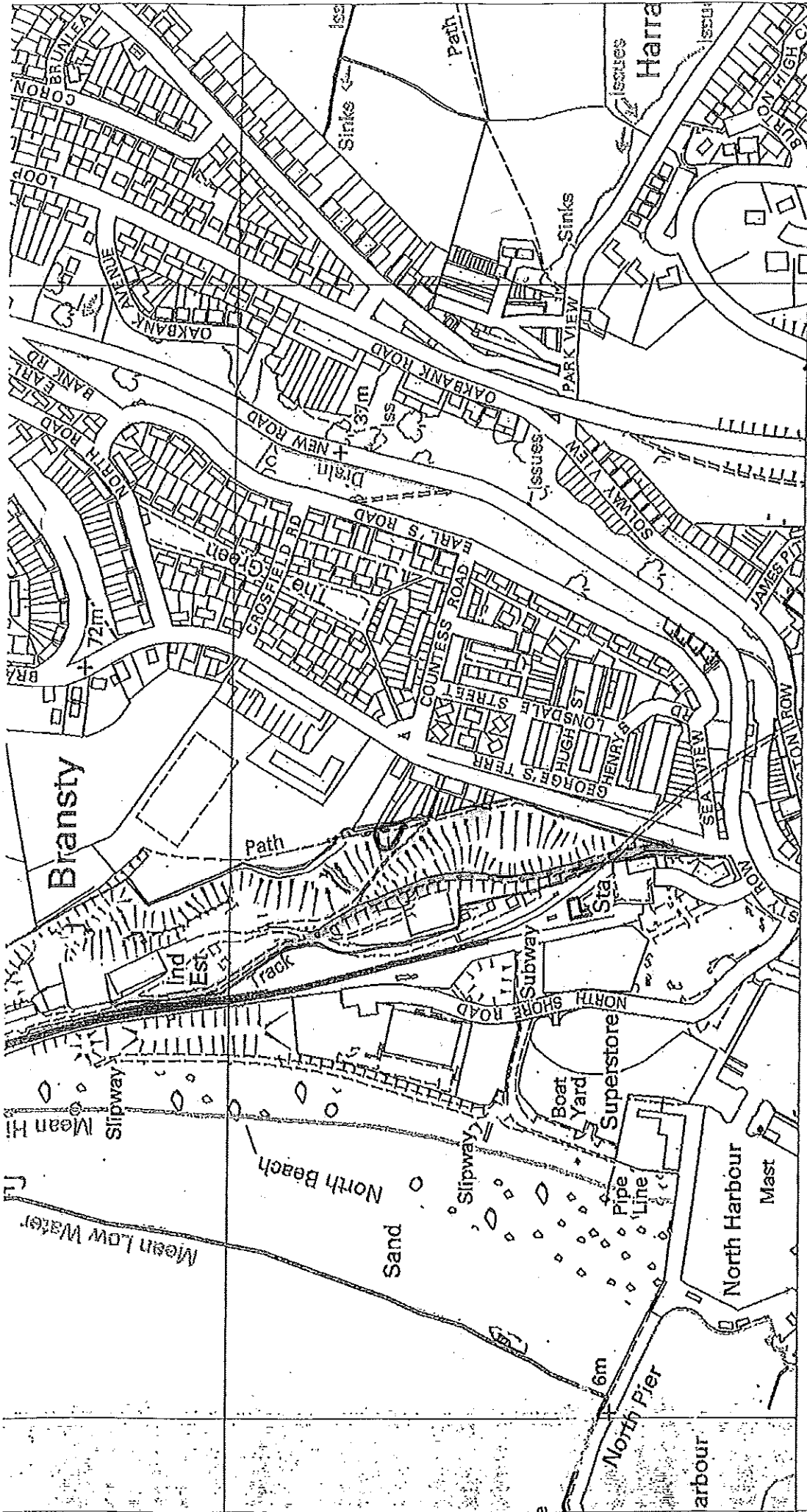
- 6.1 The project will be managed by the Council's Contracts and Property Team who, in addition to supervising the design consultant, will amend existing contractual documentation, appoint the works contractor, act as client for the contracts and liaise between the contractor and affected residents.

List of Appendices

Appendix A – Plan; and
Appendix B – Urgent Action dated 22nd September 2011.

List of Background Documents:

Note of discussion with Atkins dated 21.09.11; and
Counsel's advice dated 6th December 2010 (legally privileged).



**NORTH SHORE - PARTON
CLIFF EROSION**

Wagon Road
Public footpaths

Legal & Democratic Services
Copeland Borough Council
The Copeland Centre
Catherine Street
Whitehaven
Cumbria CA28 7SU

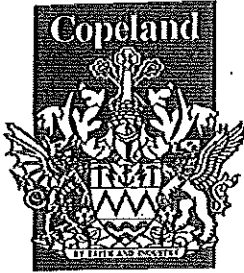
Copeland

Date: 27/01/11

Scale: 1: 5,000

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Appendix A



Ref Number	Date Issued	Officer/Dept	Rec'd by Secretariat	Reported to Council
01/11	21-09-11	C Lloyd		
Prior to processing this form it must be referenced by the Secretariat				

REQUEST FOR AGREEMENT TO SPECIAL URGENT URGENCY DECISIONS UNDER STANDING ORDER 16

STAGE A

Committee / Panel: Executive	Originating Officer: Martyn Morton Portfolio Holder: Cllr Gillian Troughton
Date of next meeting: 27 September 2011	
<p>Action proposed:</p> <p>To extend the scope of the existing project dealing with land slippage at Bransty due to an additional unexpected slippage which has destabilised the rear yard wall of the adjacent property No 1 Bransty Rd.</p> <p>Following a site visit on Tuesday 20th Sept visit an assessment has being made by the C+P department identifying the additional risk imposed by a further slippage, which requires addressing as a matter of extreme urgency to prevent further slippage which could destabilise the property itself.</p> <p>Methodology</p> <p>Erect temporary fencing around area Obtain temporary foot path closure Obtain investigation and design of solution as matter of urgency C&P to manage process</p>	
<p>Financial/Resource Implications:</p> <p>Over and above acting as authorising officer and managing the overall project the C & P section does not have the resources or expertise to design and act as contract administrator for this additional work in the short period of time required to deal with it. The designer of the current contract has been asked to provides a fee proposal with fee cap and the current services would need to be extended for this additional work</p> <p>There is a contractor on site undertaking the first phase of the slip remedial works and this contract</p>	

should be extended to accommodate the additional slippage works once designed. The risk of delaying commencement and the contractor presence make it impractical to seek competitive tenders in this instance.

Costs are estimated as follows:

Design	£20,000
Temporary works	£1,000
Footpath Closure	£2,000
TOTAL	£23,000

Implications of not taking action before next meeting:

The Council has a legal liability to address the problem. There is high risk of further slippage or instability exacerbating the situation which will incur additional cost, loss of property and potential loss of life.

Comments of Head of Corporate Services on grounds of urgency::

Following on from the site visit on 20th Sept by the Contracts and Property Department, and the risk of further slippage identified. There is an urgent need to undertake design works to facilitate the remedial works alongside existing bank stabilisation works.

Certified and Agreed as Urgent:

Signed: 

Dated: 22/9/2011

STAGE B

Ref No

Chairman PORTFOLIO HOLDER FOR FINANCE & RESOURCES

Comments on action proposed:

Essential, urgent work to meet legal liabilities.

Action: ~~AGREED/NOT AGREED~~

Signature: *[Signature]* Dated: 23/9/11

~~Head of Finance and Management Information Systems~~ → Director of Resources & Transformation
Comments on action proposed:

Action: ~~AGREED/NOT AGREED~~

Signature: *[Signature]* Dated: 22/9/11

~~Head of Legal and Democratic Services (Monitoring Officer)~~ Deputy

Comments on action proposed: Manager

Essential works to address legal liability

Action: ~~AGREED/NOT AGREED~~

Signature: *[Signature]* Dated: 22/09/11

~~Other Consultees (State Name)~~ Paul Walker Chief Executive
Comments on action proposed:

Action: ~~AGREED/NOT AGREED~~

Signature: *[Signature]* Dated: 22/9/11

Councillor Yvonne Clarke, Chairman, Liberal Scotland Agreed.
[Signature]

STAGE C

To be completed by Originating Officer

I certify that Stages A and B of this procedure have been completed and the Urgent Action proposed will be implemented on or after the date of this certification

Signature: *[Signature]* Dated: 22/09/11