

**RECORD OF DECISION TAKEN BY AN OFFICER**

<b>Summary of Matter or Issue Requiring Decision</b>	Award of Contract for Urgent Works to conserve Listed Buildings at: i) The Angel Inn, North Street, Midhurst and; ii) The Tuck Shop and Cranstones, North Street, Midhurst.
<b>Date Decision Taken</b>	11.05.2023
<b>Decision Taken by</b>	Trevor Beattie, Chief Executive Officer
<b>Decision Taken</b> (i.e.: approved/not approved/details of any conditions or limitations)	The Chief Executive Officer, in consultation with the Chair of the Authority and after considering required specialist and legal advice, authorised the following Urgent Actions in line with the Urgent Action provision as set out in Standing Order 18 of the Authority's Standing Orders:  I. Further to the serving of Urgent Works Notices under section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 on 5 May 2023 and following a competitive procurement process having been carried out, to award the contract for the Urgent Works specified in the Notices at:  i) The Angel Inn, North Street, Midhurst; and ii) The Tuck Shop and Cranstones, North Street, Midhurst, the value of which exceeds the maximum contract value that may be awarded under Officer delegated authority, as detailed in the exempt Appendix I.
<b>Summary of Reason(s) for Decision Taken</b>	Full details are set out in the attached report.
<b>Summary of Alternatives or Options considered and rejected</b>	Full details are set out in the attached report.
<b>Details of any personal interest or conflict of interest</b>	None
<b>Link to background papers and/or supporting information</b>	Full details are set out in the attached report.
<b>Contact for enquiries/further information</b>	<a href="mailto:info@southdowns.gov.uk">info@southdowns.gov.uk</a>
A summary of this decision will be reported to the Authority or relevant Committee, made available on the Authority's website at <a href="http://www.Southdowns.gov.uk">http://www.Southdowns.gov.uk</a> and made available for public inspection (when permissible) at the South Downs Centre together with any background papers relevant to the matter.	

**Signed: Richard Sandiford, Head of Governance**

**Date: 12.05.2023**

Report to **Trevor Beattie, Chief Executive Officer**  
Date **9 May 2023**  
By **Hayley Madgwick, Senior Procurement Officer**  
Title of Report **Urgent Action**  
**Award of Contract for Urgent Works to conserve Listed Buildings**  
at:  
i) **The Angel Inn, North Street, Midhurst and;**  
ii) **The Tuck Shop and Cranstones, North Street, Midhurst.**

## **Decision**

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### **Recommendation:**

**The Chief Executive Officer, in consultation with the Chair of the Authority and after considering required specialist and legal advice, is recommended to authorise the following Urgent Action in line with the Urgent Action provision as set out in Standing Order 18 of the Authority’s Standing Orders:**

- I. Further to the serving of Urgent Works Notices under section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 on 5 May 2023 and following a competitive procurement process having been carried out, to award the contract for the Urgent Works specified in the Notices at:**
  - i) The Angel Inn, North Street, Midhurst; and**
  - ii) The Tuck Shop and Cranstones, North Street, Midhurst, the value of which exceeds the maximum contract value that may be awarded under Officer delegated authority, as detailed in the exempt Appendix 1.**

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### **I. Introduction and background**

- I.1 This report seeks the award of the contract for Urgent Works, following the serving of Urgent Works Notices on the buildings listed below as detailed at paragraph 2.1, the value of which exceeds the maximum contract value that may be awarded under Officer delegated authority, as set out in the exempt Appendix 1, at:**
  - i) The Angel Inn, North Street, Midhurst and;**
  - ii) The Tuck Shop and Cranstones, North Street, Midhurst.**
- I.2 This paper follows the Urgent Action report titled “Service of Urgent Works Notices under the Planning (Listed Buildings and Conservation Areas) Act 1990, at:**
  - i) The Angel Inn, North Street, Midhurst and;**
  - ii) The Tuck Shop and Cranstones, North Street, Midhurst.”**

**This Urgent Action was approved by the Chief Executive, in consultation with the Chair of the Authority, on 5 May 2023.**

- I.3 The need for the awarding of this contract has arisen due to a very serious fire on the night of 15<sup>th</sup>/16<sup>th</sup> March 2023 which affected the Angel Inn and the adjoining property, known as The Tuck Shop, in Midhurst. Following the fire, substantial sections of both buildings were destroyed but the front facades, which stand immediately at the back of the pavement, were left standing in an unstable condition. The same was the case for the southern side elevation (flank wall) to The Angel Inn.
- I.4 As a result, a fenced enclosure was created to ensure public safety and prevent access to the “fall zone”. North Street has been closed to vehicular through traffic since the fire and pedestrian access is possible only on the western side of the street. The fencing is also preventing vehicular access to residential properties in Angel Yard.
- I.5 A Structural Engineers report commissioned by the owners of The Angel Inn in the aftermath of the fire indicated that it may be possible to save the building facades. This was also the view of a Conservation accredited Structural Engineer appointed by the SDNPA as well as Historic England who have been closely involved from soon after the fire.
- I.6 The SDNPA took the decision on 5 May 2023 to serve Urgent Works Notices under section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in order to conserve the buildings. Through this Urgent Works Notice the SDNPA intends to carry out works urgently necessary for the preservation of the listed buildings. Two Urgent Works notices have been served. One for The Angel Inn, Midhurst, requiring:
- The shoring up of the building’s façade
  - The shoring up of the flank wall (southern elevation adjacent to Angel Yard)
  - The demolition (or removal down to a safe height) of free standing chimneys (approximately four storeys in height) that are at risk of uncontrolled collapse.

The second for the Tuck Shop, Midhurst requiring

- The shoring up of the building’s façade
- I.7 In order to be able to award a contract as soon as possible after the serving of the Urgent Works notices, so as not to lose any time in conserving the buildings, a competitive procurement process has been undertaken. The contract value was initially expected to be below £200k and the competitive procurement process was undertaken on this basis. It has become apparent during the procurement process that the final contract would exceed £200k and would not therefore be able to be awarded under Officer delegated authority.
- I.8 Following evaluation of the returned bids a preferred bidder has been identified. Further details of the preferred bidder and the costs of the works are contained in the exempt **Appendix I**.
- I.9 It is proposed that Urgent Action be taken to award this contract. It is considered that the earliest necessary works can commence is Monday 15 May 2023 with the 7 day notice period and award of contracts and contractor mobilisation taking place in the intervening period. Given that the purpose of the urgent works to be carried out using powers under section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 are to conserve a listed building at risk of collapse, and that it is considered that convening a meeting of the Policy & Resources Committee (within whose remit the proposed contract award falls) would delay implementation of the urgent works, it is recommended that the Chief Executive, in consultation with the Chair of the Authority and after considering required specialist and legal advice, authorise the award of the contract as set out in this report under the Urgent Action power as set out at Standing Order 18 of the Authority’s Standing Orders which is considered to be in accordance with policy and in the best interests of the Authority.

## **2. Policy Context**

- 2.1 This contract is a result of the need to issue two Urgent Works Notices and to undertake the works under the SDNPA’s powers provided for in section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This work is in accordance with statutory

purpose 1 of National Parks, namely to conserve and enhance the cultural heritage of the National Park. As listed buildings these buildings are, by definition, assets of national importance and it is illegal to demolish listed buildings without listed building consent.

- 2.2 The South Downs Local Plan 2019 also sets out at Policy SD13: Listed Buildings that “Where appropriate the Authority may resort to the use of its statutory powers, Urgent Works or Repair Notices, to arrest decay of the asset. In accordance with this policy, the Urgent Works specified in the proposed contract were approved by the Chief Executive, in consultation with the Chair of the Authority, on 5 May 2023 .
- 2.3 These works would also contribute toward delivery of PMP Outcome 4 (Arts and Heritage).

### **3. Issues for consideration**

- 3.1 The immediate and necessarily urgent purposes in supporting (with scaffolding) the surviving façades are to conserve them and then to allow closer and safer inspection by a conservation accredited engineer to better understand their condition and whether their long term retention (with a substantially new building behind the facades) is possible. The shoring up of both buildings would be contained within the existing pavement area and parking bay ‘lane’ adjacent to both buildings. To undertake this work will require a licence from the Highways Authority, however, this is expected to be issued quickly and will not delay the works.
- 3.2 It is important to be clear that the more detailed inspection allowed by the support scaffolding might conclude that permanent retention of one or more of the façades is not possible, though the length of time it has survived unsupported makes that less likely. The Conservation accredited Structural Engineer appointed by the Authority together with Historic England also consider, at this time, that there is a good chance that both facades could be saved. In any case the temporary scaffolding would not be abortive work as it would have allowed the clarification of an important issue in determining future actions – given the listing it would be difficult to permit demolition until the possibility of retention has been clearly discounted.
- 3.3 The works to shore up the buildings would also enable the investigation into the probable cause of the fire to be completed by the Fire Brigade.
- 3.4 The proposed works are considered the minimum necessary but are urgently required to conserve the buildings. Although not a part of the reasoning for exercising the power under section 54, it is also noted that the shoring up works will enable North Street (the A286), the only road through Midhurst, to reopen helping address the economic and social problems the closure of the road has caused.

### **4. Options & cost implications**

- 4.1 As detailed in paragraph 1.9 of this report, given the urgent need to undertake these works to conserve the buildings using powers under section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990, noting that the Urgent Works Notices have already been served, it is considered that convening a meeting of the Policy & Resources Committee will delay implementation of the urgent works. It is therefore recommended that the Chief Executive, in consultation with the Chair of the Authority and after considering required specialist and legal advice, authorise the award of the contract as set out in this report under the Urgent Action power as set out at Standing Order 18 of the Authority’s Standing Orders.
- 4.2 The Contract Award Recommendation Report at **Appendix I** sets out details of the procurement process and evaluation. The evaluation process ensures that the Most Economically Advantageous Tender is selected, ensuring value for money is obtained.
- 4.3 Following completion of the works the Authority will look to recover the expenses associated with the works using powers under section 55 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Recovery of on-going expenses relating to the works undertaken would also be sought.

## 5. Next steps

- 5.1 If the recommendation is approved, the next step is for the Chief Executive Officer to sign the Contract Award Recommendation Award (**Appendix I**). The Procurement Team will then issue a contract award letter and arrange for an NEC4 Engineering and Construction Short Contract document to be signed and sealed.

## 6. Other implications

Implication	Yes*/No
Will further decisions be required by another committee/full authority?	No, but any decision made in respect of this report will be given as an update to the next Authority meeting.
Does the proposal raise any Resource implications?	Yes, these are significant (both in terms of cost and staffing) and are addressed in the body of the Urgent Notice report.
How does the proposal represent Value for Money?	The competitive tender process is aimed at delivering value for money.
Which PMP Outcomes/ Corporate plan objectives does this deliver against	PMP Outcome 4: Arts and Heritage. Corporate Plan: National Parks for All.
Links to other projects or partner organisations	This Urgent Action is supported by Chichester District Council, Historic England and West Sussex County Council.
Are there any Social Value implications arising from the proposal?	The contract will be below the Government Procurement Agreement (GPA) threshold for Works contracts (£5,336,937) and therefore the Social Value Act will not apply. However we will endeavour to follow the principles where proportionate to the contract.
Have you taken regard of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010?	Yes. A Number of residents of Midhurst are likely to be impacted by the proposed works.  The support scaffolding, whilst in place, would likely preclude the provision of a pavement on the eastern side of North Street outside the properties. Therefore, consideration will need to be given to access for disabled persons and possible mitigation measures are being discussed with County Highways.  Additional equalities impacts were taken into account when the decision to undertake these works was made by the Chief Executive, in consultation with the Chair of the Authority, on 5 May 2023.
Are there any Human Rights implications arising from the proposal?	The action proposed has significant and acknowledged impacts on the property owners concerned. Article 8 and Article 1 of the First Protocol of the Human Rights Act 1998 have been considered in the assessment of impacts on the rights of the owners and neighbours.  Whilst it is acknowledged that some of the buildings were lived in, due to the impacts of the fire they are not now, nor will they be able to be lived in until the buildings have been repaired or rebuilt. Given the listed nature of the buildings (by definition national assets) and the need to conserve the buildings through the urgent works set out in this report, it is

Implication	Yes*/No
	<p>considered necessary to undertake the urgent works under section 54 of The Planning (Listed Buildings and Conservation Areas) Act 1990. The action proposed to be taken has been raised in advance with the property owners concerned (including in meetings on 19 and 26 April) and by letter on 28 April. It is open to the owners to undertake the works required themselves.</p> <p>However, in the absence of such action from the owners the proposed SDNPA action would conserve these listed buildings. The proposed action would be the minimum works consistent with achieving the objective of conserving the façade and flank wall of The Angel Inn and the façade of the neighbouring Tuck Shop and Cranstones.</p> <p>In respect of the neighbouring residents of Angel Yard, whilst it is noted that the proposed works would provide an improvement over the current situation where there is no vehicular access to Angel Yard, it is acknowledged that the residents of Angel Yard's right to respect for private and family life and the peaceful enjoyment of their property is an important consideration. This is balanced against issues such as public safety, prevention of crime and disorder, and the necessity of these urgent works to preserve the nation's cultural heritage and, having considered these matters, it is considered necessary to undertake the urgent works described in this report under section 54 of The Planning (Listed Buildings and Conservation Areas) Act 1990. Given the temporary nature of the shoring (whilst it is acknowledged that it may be there for a considerable period of time, it is not permanent) this is considered, on balance, acceptable.</p> <p>Having considered all these matters the action is considered to be legitimate, justified, necessary and proportionate.</p>
<p>Are there any Crime &amp; Disorder implications arising from the proposal?</p>	<p>Due to the high level of public interest in this matter and given a significant protest on the situation relating to The Angel Inn and neighbouring buildings has already taken place, the longer the situation continues without resolution, the more likely it is that further action could be taken by the public. The action proposed to be taken by the SDNPA will provide a clear way forward on the matter and hopefully reduce the likelihood of public disorder.</p>
<p>Are there any Health &amp; Safety implications arising from the proposal?</p>	<p>The health and safety risks during construction for the construction workers, given the unsafe buildings, are significant. As with the procurement of any works contract, bidders are subject to selection criteria checks which include an examination of Health and Safety policies and records. Insurance policies including public liability insurance are required to be held by the successful bidder, and certificates checked before the contract is awarded.</p> <p>The contractor will be required to produce an up to date health and safety risk assessment and plan before work commences and to keep it up to date for the duration of the</p>

Implication	Yes*/No
	contract. Additional health and safety implications were taken into account when the decision to undertake these works was made by the Chief Executive, in consultation with the Chair of the Authority, on 5 May 2023
Are there any Data Protection implications?	No. The carrying out of the urgent works under the contract will not involve the collection or sharing of any personal data by or with the contractor.
Are there any Sustainability implications based on the 5 principles set out in the SDNPA Sustainability Strategy?  1. Living within environmental limits 2. Ensuring a strong healthy and just society 3. Achieving a sustainable economy 4. Promoting good governance 5. Using sound science responsibly	The re-use of existing buildings is inherently sustainable.  Although not a part of the reasoning for exercising the power under section 54 , it is noted that the action the SDNPA is proposing to take also supports a sustainable economy in the local area.

## 7. Risks Associated with the Proposed Decision

Risk	Likelihood	Impact	Mitigation
<b>Commercial Risk:</b> that either the price objectives are not achieved up front, or there are other costs that arise during the contract that diminish the overall benefits.	Possible	4	A thorough tendering process with a detailed specification keeps the risk of hidden costs to a minimum, however with a complex site such as this there is the potential for further costs to arise, as the contract is carried out.
<b>Performance Risk:</b> This concerns the ability of supplier to perform consistently over the life of the contract to deliver the planned benefits.	Unlikely	4	The contract will be undertaken using the NEC4 Engineering and Construction Short Contract document which makes provision for delay and incentive payments. The contract will be closely managed by and SDNPA construction project manager who will liaise with the contractor following tender award regarding information, progress and project issues.

<b>Risk</b>	<b>Likelihood</b>	<b>Impact</b>	<b>Mitigation</b>
<b>Contractual Risk:</b> This covers things like being able to remedy the shortcomings in the contractors' performance without severely damaging the contract, and about avoiding reliance on the contracted supplier as the contract develops.	Unlikely	3	There is obviously a reliance on the contractor in any construction process and it is important to ensure intelligent and active contract management. This project will have a dedicated construction project manager. The NEC4 contract is designed to protect both the client and contractor and makes provision for delay damages, inspection, maintenance etc which mitigates this risk.
<b>Legal Risk:</b> In Public Procurement there is a legal risk, where a procurement is found unsound in law, either through the remedies directive or the public procurement rules.	Rare	2	The value of this contract is below the threshold for Public Contract Regulations, although they are followed as best practice. The use of professional procurement staff has helped to ensure that the contract process complies with the SDNPA procurement rules and with best practice.

## **HAYLEY MADGWICK**

**Senior Procurement Officer**

**South Downs National Park Authority**

Contact Officer: Hayley Madgwick, Senior Procurement Officer

Tel: 01730 819390

Email: [Hayley.madgwick@southdowns.gov.uk](mailto:Hayley.madgwick@southdowns.gov.uk)

Appendices

I. Contract Award Recommendation Report

Appendix I is not for publication as it contains exempt information within paragraph 3 of Part I of Schedule 12A to the Local Government Act 1972, being information relating to the financial or business affairs of any particular person including the Authority and that in all the circumstances of the case, the public interest in maintaining the exempt information outweighs the public interest in disclosing the information.

SDNPA Consultees

Chief Executive; Director of Countryside Policy and Management; Director of Planning; Monitoring Officer; Legal Services.

External Consultees

If none, state none



Background Documents

**Urgent Action Report: The Service of Urgent Works Notices under the Planning (Listed Buildings and Conservation Areas) Act 1990, at;**

- a. **The Angel Inn, North Street, Midhurst and;**
- b. **The Tuck Shop and Cranstones, North Street, Midhurst.**