

CAMPBELTOWN FLOOD PROTECTION SCHEME

1.0 EXECUTIVE SUMMARY

1.1 The Campbeltown Flood Protection Scheme has progressed to planning confirmation under the Flood Risk Management Act. Planning confirmation for flood schemes is by Council committee where no objections are present. Both a preliminary and final scheme confirmation will be required under the Act. This paper recommends preliminary confirmation pending completion of a 28-day notice period on a minor modification to the scheme. Scheme confirmation does not commit the Council to fund the project further to present allocations. However this paper outlines the future funding requirements by Council should the project proceed beyond Outline and Full Business Cases to construction.

1.2 Accordingly the Committee is recommended:-

- To approve the preliminary confirmation of the notified Campbeltown Flood Protection Scheme with modifications.
- To request that the Council, as part of the budget process, consider the £270k of capital funding required in the 20/21 financial year and additional funding in subsequent years, which will be subject to OBC/FBC approvals.
- To delegate final confirmation of the notified Campbeltown Flood Protection Scheme with modifications to the Executive Director with responsibility for Roads and Infrastructure should there be no further objections.
- Note that if further objections are received that a further paper will be brought to the committee in spring of 2020.
- To note construction of the final scheme will be subject to approval of Outline Business and Full Business cases prior to tender and tender award respectively. If approved additional funding may be needed as indicated in **Table 1**.

CAMPBELTOWN FLOOD PROTECTION SCHEME

2.0 INTRODUCTION

- 2.1 The purpose of this report is to update the Committee on the progress of the Campbeltown Flood Protection Scheme (CFPS) progress to formal (planning) notification, and recommend preliminary planning confirmation of the scheme with modifications under the Flood Risk Management (Scotland) Act 2009 ('the Act'). **Appendix 1** of this report outlines the legal process for confirming flood protection schemes. Confirmation (preliminary and final) of a flood scheme by a local authority as defined by the Act follows a separate statutory process to that of traditional planning applications, though the local planning authority remain a key consultee. Confirmation of the CFPS is part of the process to obtaining deemed planning permission from the Scottish Ministers to construct the flood protection scheme.
- 2.2 Confirmation of the CFPS will allow the project to proceed with less risk to detailed design pre-procurement. Confirmation of the scheme does not commit the Council as yet to any financial funding further to that approved in the 2019/2020 Council Budget. Therefore there are no financial obligations to the Council associated with confirming the CFPS.
- 2.3 Council funding to complete the project in future years will be fully addressed in subsequent Outline and Full Business Cases. **Table 1** of this report outlines the future capital commitments that are forecast.

3.0 RECOMMENDATIONS

- 3.1 The Committee is recommended:-
- To approve the preliminary confirmation of the notified Campbeltown Flood Protection Scheme with modifications.
 - To request that the Council, as part of the budget process, consider the £270k of capital funding required in the 20/21 financial year and additional funding in subsequent years, which will be subject to OBC/FBC approvals.
 - To delegate final confirmation of the notified Campbeltown Flood Protection Scheme with modifications to the Executive Director with

responsibility for Roads and Infrastructure should there be no further objections.

- Note that if further objections are received that a further paper will be brought to the committee in spring of 2020.
- To note construction of the final scheme will be subject to approval of Outline Business and Full Business cases prior to tender and tender award respectively. If approved additional funding may be needed as indicated in **Table 1**.

4.0 DETAIL

- 4.1 In December 2018 the Environment Development and Infrastructure (EDI) Committee were informed of the outcome of the appraisal of flood risk management options as part of a Campbeltown Flood Prevention Scheme (CFPS). Details of the preferred scheme solutions to reduce flood risk were outlined, and the Committee advised on the future programmed project milestones including Outline and Full business cases. Further to the December 2018 EDI report, the four options noted have been further refined and tested to define the recommended scheme. These options were (1) Upstream flood storage, (2) culvert upsizing, (3) combination of flood storage and culvert upsizing, and (4) surface water management upgrades. The options were assessed by a multi-criteria assessment including aspects such as technical, legal, environmental, and financial impacts. A benefit-cost (BCR) assessment was undertaken to determine which options resulted in the greatest reduction in flood risk to Campbeltown. A site based surface water options assessment was also conducted throughout the urban areas of Campbeltown to determine which areas yielded cost beneficial solutions. Following this assessment option (3) combination of flood storage and culvert upsizing, and (4) surface water management upgrades were assessed to offer the best solution under the assessment conditions. The preferred flood prevention scheme was subsequently formally notified under the Flood Risk Management (Scotland) Act 2009 ('the Act').
- 4.2 Under the Act, the Council is responsible for identifying flood risk areas and developing sustainable flood management options to form flood alleviation schemes. This is the basis of the Council's Flood Risk Management Policy. The Council has helped prepare the first Local Flood Risk Management Plan (LFRMP), published June 2016, which details the actions to be taken between 2016 – 2022. Currently the Scottish Government (SG) is expected to contribute 80% to the overall funding of projects, which through a prioritisation process receive funding through to construction.
- 4.3 CFPS is the first scheme being promoted in Argyll and Bute under the Act and has received £4.787m of Scottish Government funding to date of a possible £9.33m total scheme value (80% SG funded, 20% ABC funded).
- 4.4 Full details of the proposed scheme are available at <https://www.argyll-bute.gov.uk/consultations/campbeltown-flood-prevention-scheme>. In outline the preferred CFPS scheme comprises formation of a flood detention basin in existing

farmland south of the Snipefield Industrial Estate which would temporarily store water in extreme flood events. The detention area would be formed by construction of a combination of flood walls and bunds. In combination with this flood detention area, the existing culvert from the proposed basin up to the Balgreggan intake would be upsized to improve flow capacity. Coupled with these major flood alleviation elements the scheme includes for localised urban drainage improvements in the Burnside and Meadows areas, and some local property flood protection.

- 4.5 The Campbeltown Flood Protection Scheme (CFPS) has progressed to completion of formal notification of the proposed scheme under the Act. **Appendix 1** of this report outlines the legal processes for confirming flood protection schemes. The scheme Notification process requires publishing details of the scheme in newspapers, notifying statutory stakeholders and affected parties including landowners. A statutory 28-day notice period for any objections or enquiries is to be observed. Full details of the scheme notification documentation are available for viewing at <https://www.argyll-bute.gov.uk/consultations/campbeltown-flood-prevention-scheme>.
- 4.6 Objections may be submitted to any flood protection scheme notified. At the close of the notice period ending 1st June 2019 two valid objections to the scheme were received. Individual objectors have been engaged to resolve specific concerns, with the aim of having submitted objections addressed in order that they may be formally withdrawn. Both of the valid objections have now been withdrawn. One non-valid objection was also received, which was treated in the same manner as the valid objections, and has subsequently been withdrawn by the respondent.
- 4.7 Until the scheme is formally confirmed by the local authority, there is a risk further objections may be submitted even after the notice period has ended. The local authority must treat late objections as valid if they are received before a preliminary confirmation decision is made. If any objection is not withdrawn, a scheme would be subject to a public local inquiry or local authority hearing.
- 4.8 One of the two valid objections received concerned the sustainable urban drainage (SuDs) basin proposed in the Meadows area. A technical note was issued to this objector in response to the concerns raised, noting the potential to make a minor change to the SuDs basin location. Agreement of this minor change resulted in the formal withdrawal of this objection. This technical memorandum is included in **Appendix 2**.
- 4.9 The second valid objection concerns the proposed flood wall adjacent the Snipefield Industrial Estate, and was made by an affected landowner. The objection proved to be quite complex including both technical concerns e.g. regarding drainage within the industrial estate, personal preferences e.g. loss of trees, and land concerns e.g. loss of land. Three onsite meetings have been held with the landowner and four technical memoranda issued to provide clarity on the function of the flood defences with respect to his property. The objection has now been withdrawn on the basis of some minor changes to the wall alignment and

clarification of surface water drainage arrangements. These technical memoranda are included in **Appendix 2**.

- 4.10 Clarifications to the scheme to resolve the second objection are deemed to require a minor modification to the scheme extents to ensure the scheme works are within the boundary designated. This is a modification to the scheme. Affected parties have been given 28-days' notice of the modification to confirm the change. Therefore at this stage it is recommended only a preliminary confirmation of the scheme is approved pending completion of this notice period. The report proposes delegation of the final confirmation to the Executive Director with responsibility for Roads and Infrastructure should there be no further objections. If further objections are received a further report will be brought to the next available ED&I committee meeting in spring 2020.
- 4.11 Three comments were also received through the notice period from Scottish Gas Network (SGN), SEPA, and Highland Fuels. SGN's comments related to obtaining details of the plans relative to the existing gas network. SEPA provided a letter of support in principle for the scheme and comments applicable as the scheme progresses. Highland Fuels comments related to an unrelated surface water concern. The comments do not affect the proposed scheme as notified.
- 4.12 Now that the objections to the CFPS have been withdrawn the local authority must make a decision to either:
- Confirm the proposed scheme with modifications;
 - Confirm the proposed scheme without modifications, or;
 - Reject the proposed scheme
- 4.13 Confirmation of the scheme in this context:
- carries with it deemed planning permission, however a subsequent request for this to be granted is sought from the Scottish Ministers;
 - means the authority will have the necessary powers to enter any land for the purposes of carrying out the scheme;

The confirming authority varies but in this case is the local authority. **Appendix 1** of this report outlines the legal processes for confirming flood protection schemes.

- 4.14 In the case all objections are withdrawn the local authority can make a preliminary and final decision to confirm the scheme simultaneously. The scheme notice confirmation may then be published in newspapers, which has a 6 week period for any objections prior to becoming fully operative (having legal status under the Act).
- 4.15 Flood protection schemes have deemed planning permission under the Act. In due course, once the final scheme confirmation is completed and advertised, the Scottish Ministers may attach suitable conditions to the scheme consent including any draft conditions recommended by the Council as planning authority.

- 4.16 Separate to the scheme notification and confirmation process, individual engagement with landowners affected by the works has commenced, and may result in acquisition and servitudes over the land by agreement, or in due course exercising of powers under the Act to construct the scheme. Approval to purchase land, if required prior to FBC, will be sought through the appropriate committee.
- 4.17 In parallel to the scheme notification a ground investigation and underground services assessment to support detailed design and urban drainage improvements is proceeding. A preferred tenderer has been selected through a procurement process, and ground investigation works are expected to be completed by the end of 2019.
- 4.18 Once the scheme is confirmed detailed design may proceed with less risk of abortive works. Scheme details will continue to be refined throughout the detailed design process.
- 4.19 **Proposed Programme.** The current programmed milestones for the project are subject to approval of preliminary and final scheme confirmation, business cases, land entry and available funding:
- Ground investigation works – completed by spring 2020;
 - Deemed planning approval – estimated obtained by spring 2020 from SG;
 - Detailed design – completed by late 2020;
 - Outline Business Case submitted for the proposed scheme expected by mid-late 2020 to allow tenders to be invited
 - Procurement – early 2021
 - A Full Business Case will be presented for approval prior to tender award expected in early 2021
 - Construction – early-mid 2021, assuming FBC approval
- 4.20 **Funding.** Outline and Full business cases will be presented to Committee for approval later in the scheme design as detailed in this report, which will fully address funding requirements. The Scottish Government is expected to fund 80% of scheme costs up to a maximum of £9.33m, and has provided £4.787m of funding for the scheme to date. 20% of the scheme costs would be required to be funded by the Council which could be up to £1.86m (£190k has been committed to date).

Table 1: Forecast project funding requirements based on current programme

Financial Year	To 19-20	19-20	20-21	21-22	22-23	Total
Funding source	(£k)	(£k)	(£k)	(£k)	(£k)	(£k)
Capital - Campbeltown Flood Protection Scheme	181	320	1,800	6,879	150	9,330

20% funding Council Contribution for CFPS* (Part pending OBC/FBC)	-	100	360 [#]	1376	30	1,866
80% SG contribution received	603	4,184 ⁺				

*This figure represents a 20% Council contribution based on projected spend as shown.

[#]£190k was allocated by ABC to CFPS for the 19/20 FY. Therefore a figure of £270k is actually required in the 20/21 FY from ABC.

⁺This funding from SG is currently held within the Council's reserves

5.0 CONCLUSION

5.1 The Campbeltown Flood Protection Scheme has progressed to scheme confirmation. Preliminary confirmation of the scheme is an initial stage in the scheme obtaining deemed planning permission, and allows the project to proceed toward detailed design with less risk. Through this report, it is requested that Preliminary Confirmation is approved and that final confirmation of the notified Campbeltown Flood Protection Scheme with modifications is delegated to the Executive Director with responsibility for Roads and Infrastructure should there be no further objections.

6.0 IMPLICATIONS

6.1 Policy: Works are in accordance with the Local Flood Risk Management Plan 2016-2022 as endorsed by Council. Local Authorities have powers under Flood Risk Management (Scotland) Act 2009 "to manage flood risk and to take forward a flood protection scheme." The Campbeltown Flood Protection Scheme would enable Argyll and Bute Council to enact this power under the Flood Risk Management Policy.

6.2 Financial: The current capital budget allocation to support ongoing project activities will fund the scheme to be taken to tender readiness. The project will require outline and full business cases to be approved prior to awarding any works contract. Further funding of £270k would be required in 2020/21 to allow award of the construction contract if current programme is met, which would be subject to OBC/FBC approvals.

6.3 Legal: Land acquisition or other compensation arrangements with land owners will have to be considered as part of the proposed scheme. Confirmation of the scheme gives the Council deemed planning permission to construct the scheme.

6.4 HR: None known

6.5 Equalities / Fairer Scotland Duty: None known

6.6 Risk: If the scheme is not progressed as per the LFRMP, the Council will forfeit potential for 80% funding from SG and may require to reimburse SG those funds already provided expressly for this purpose. As with any project of this nature there is potential for public objection to the scheme. Management of this risk has been initiated through public engagement through a series of

workshops, public events and one to one meetings with landowners.

6.7 Customer Service: None known

Executive Director with responsibility for Roads and Infrastructure Pippa Milne

Policy Lead Cllr Robin Currie

5th December 2019

For further information contact: Arthur McCulloch or Graham Nash

APPENDICES

Appendix 1 – Flood Risk Management (Scotland) Act 2009 Local Authority Functions Under Part 4 Guidance Appendix A Flow chart of legal process of Flood Protection Scheme

Appendix 2 – Technical Memoranda related to objections raised to the scheme