

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE – 22 AUGUST 2006

PROGRESS REPORT ON THE GALSTON FLOOD PREVENTION SCHEME

Joint Report by the Executive Director of Development and Property Services and Executive Director of Education and Social Services

1. PURPOSE OF REPORT

- 1.1 To inform the Committee of the progress on the Council's proposed flood prevention works for Galston.

2. BACKGROUND

- 2.1 At the Development and Property Services Committee of 28 June 2005, the Committee:
- a) Noted the progress on the Council's proposed flood prevention works for Galston.

3. PROGRESS

- 3.1 The Galston Flood Prevention Scheme has been prepared by the Council's Consultant, Scott Wilson Scotland Limited, and following publication of the Notice for the Scheme for two consecutive weeks in the Kilmarnock Standard and Edinburgh Gazette, 11th and 18th February 2005, the Scheme was formally submitted to the Scottish Executive by East Ayrshire Council's Legal Department on the 28th February 2005.

- 3.2 For a period of three months from the first publication of the Notice, any person may by notice to the Scottish Ministers object to the confirmation of the Scheme. If any such objections are received and cannot be resolved, the Scheme would be subject to a Public Inquiry. Any Public Inquiry would delay any programme of works for construction of the Scheme. There is also no guarantee that the Reporter to the Public Inquiry would find in favour of the Council. Three such objections were received by the Scottish Ministers:

Mr and Mrs Thompson, 23 Polwarth Street, Galston;
Q8 Filling Station, A71, Galston;
Allseasons (via their Consultant, 'W.A.Fairhurst & Partners').

- 3.3 As previously reported, the objections from Mr and Mrs Thompson and Q8 Filling Station were resolved. The objection from Allseasons was not resolved and this resulted in the Scottish Executive passing the matter in November 2005 to their Inquiry Unit to arrange a public local inquiry (PLI). This was scheduled by the Inquiry Unit for 28 and 29 March 2006. The Council began their preparation for the PLI in November 2005 involving EAC Legal, Roads Division, Planning Department, Scott Wilson and SEPA.

- 3.4** However, further discussions were held with Allseasons, and on the 28 February 2006, it was confirmed by the Inquiry Unit that Allseasons had withdrawn their objection. The resulted in additional Scott Wilson costs for abortive work during the preparation for the PLI amounting to £9,641.02. It is intended that this cost and associated abortive costs borne by the Council will be submitted to the Scottish Executive for reimbursement under the scheme grant allocation.
- 3.5** A Contract Notice providing details of the Galston FPS was placed in the Official Journal of the European Communities on 31 March 2006. This Notice invited contractors to request a Pre Qualification Questionnaire (PQQ). A total of 19 PQQ's were received from which a list of 6 preferred tenderers were selected.
- 3.6** Following final design by Scott Wilson, utilising the results of site investigation reports, minor modifications were made to the Galston FPS. The Scottish Executive issued the modifications on 28 April 2006 to all affected parties with a response date no later than 30 May 2006.
- 3.7** The Scottish Executive received one response from WSP Consultants acting on behalf of "Messrs Wiseman Dairies Limited", on 30 may 2006 which was passed to the Executive's lawyers for consideration. This had no effect on the consideration for the scheme's confirmation.
- 3.8** The Galston Flood Prevention Scheme was formally confirmed on the 11 July 2006 by the Scottish Ministers. This confirmation is required to be published and it is intended that it will be published in the Kilmarnock Standard and Edinburgh Gazette by 04 August 2006. Any person aggrieved by the Scheme may, in accordance with the provisions of Paragraph 9 of the Second Schedule to the Flood Prevention (Scotland) Act 1961, by application to the Court of Session within six weeks from that published date of confirmation, question the validity of the Scheme on the grounds (i) that it is not within the powers of the 1961 Act or (ii) that any requirement of the 1961 Act has not been complied with in relation to the making or confirmation of the Scheme.
- 3.9** Tenders for the Galston FPS were issued to 6 contractors on 14 July 2006 for a return date of 25 August 2006.
- 3.10** Providing there is no person aggrieved by the scheme and no application has been received by the Court of Session, it is anticipated that construction for the Galston Flood Prevention Scheme will begin around late October 2006 with construction duration of 34 weeks.

4. FINANCIAL IMPLICATIONS

- 4.1** The flood prevention measures at Galston will exceed costs which could readily be met from within the Council's own resources.
- 4.2** Although the Council's contribution to the Galston Flood Prevention Scheme was previously reported to amount to an estimated cost of £1.5M, and that the Council will have to commit initially £7.2M, these costs have now been revised to £1.86M and £9.3M respectively. This is as a result of the delay to the contract preparation due to the earlier objection, resulting in inflationary costs, and due to the assumptions made initially on ground conditions for the submitted scheme to the Scottish Executive being different from that obtained from detailed site investigations. Although the Council's contribution to the scheme estimated at £1.86M, the balance of £7.44M is funded by the Scottish Ministers through interim grant aid payments when construction starts. It should be noted that these figures are estimates, and that the actual construction costs etc will be known once the tenders are returned.

5. LEGAL IMPLICATIONS

- 5.1** The Council has powers to carry out flood prevention works. Major schemes undertaken directly by the Council on privately owned land require submission of a Flood Prevention Scheme to the Scottish Ministers under the Flood Prevention (Scotland) Act 1961.
- 5.2** A confirmed Scheme gives the Council powers of entry into land as required to implement the Scheme, subject to any appropriate compensation payments to land owners.

6. COMMUNITY PLAN / POLICY IMPLICATIONS

- 6.1** The Galston Flood Prevention Scheme is designed; to reduce the risk of flooding in the developed (non-agricultural) areas of Galston, to protect both the business and residential communities from the effects of flooding, to develop a scheme that represents value for money and to minimise or obviate potential environmental and socio-economic impacts that may attend such a scheme.

7. RECOMMENDATIONS

- 7.1** It is recommended that the Committee;
- (i) Note the progress of the proposed flood prevention works for Galston.

James Lavery
Executive Director of Development and Property Services
JL/JMcR-
28 July 2006

BACKGROUND PAPERS

Nil

If further information required please contact: John McRobert on 01563 – 576356.

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