

# EAST AYRSHIRE COUNCIL

## DEVELOPMENT SERVICES COMMITTEE - 9 MARCH 2005

### PROGRESS REPORT ON THE GALSTON FLOOD PREVENTION SCHEME

#### Joint Report by the Executive Director of Development and Property Services and Executive Director of Educational 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 Services Committee of 14 December 2004, the Committee:
- a) noted the progress on the Council's proposed flood prevention works for Galston;
  - b) authorised the submission of the Galston Flood Prevention Scheme to the Scottish Executive for confirmation;
  - c) approved funding of an estimated cost of £1.5M for the Galston Flood Prevention Scheme;

#### **3. PROGRESS**

- 3.1 The Galston Flood Prevention Scheme has been prepared by the Council's Consultant, Scott Wilson Scotland Limited, and a draft copy was reviewed by the Scottish Executive with respect to procedural matters, design approach of the scheme and the initial checking of the benefit-cost analysis. This review was completed by the Scottish Executive in January 2005 and suggestions for slight amendments were offered without prejudice to the Scottish Ministers' consideration of any objections which might be lodged against the scheme as finally made. The suggested amendments have been considered and incorporated in the scheme by the Consultant.
- 3.2 The Council's Legal Department has finalised the Order for submission to the Scottish Executive and the Notice. The Notice was published in the Kilmarnock Standard and Edinburgh Gazette for two consecutive weeks commencing week beginning 7 February 2005.
- 3.3 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.

- 3.4** All affected parties who have any interest in any land on which it is proposed that any of the operations shall be carried out and statutory bodies were served a copy of the scheme, by 3 February 2005.
- 3.5** Scott Wilson Scotland Limited submitted the application for the Notice of Intention to Develop (NID) to the Council's Planning Department on 10 February 2005.
- 3.6** The Galston Flood Prevention Scheme Order is programmed to be formally submitted to the Scottish Executive around 18 February 2005. There is a statutory requirement that this submission cannot take place until after the two week publication of the Notice.
- 3.7** If the Scheme is confirmed by the Scottish Ministers, this is also published. 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.
- 3.8** Providing there are no unresolved objections at any stage of the process the Contract for the Galston Flood Prevention Scheme can be put out to tender circa July/August 2005. The tender timing could be brought forward to June/July 2005 if the Council presumes that there would be no likelihood of objections under paragraph 3.7 above.

#### **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** In view of the number of properties which will be affected by flooding at Galston, the estimated capital cost of the 1 in 100 year plus climate change is £7.2M. This estimated cost includes direct construction costs, accommodation works for utilities, a 25% Preliminaries allowance, a 30% contingency allowance (in accordance with Treasury and Scottish Executive guidance), cost of land acquisition and supervision costs. This provides a benefit-cost ration of 2.9. On this basis it is expected that the Scottish Executive will look favourably on a grant funding request.
- 4.3** The Scottish Executive announced on the 30 September 2004 that grants which were available under the Flood Prevention (Scotland) Act 1961 for confirmed flood prevention schemes to mitigate flooding of non-agricultural land has been increased from 50% to 80%. The new 80% grant will apply to grant offers made from 1 April 2004 providing the Scheme meets the Scottish Executive's technical, environmental and economic criteria.
- 4.4** Although the Council's contribution to the Galston Flood Prevention Scheme will amount to an estimated cost of £1.5M, the Council will have to commit initially the £7.2M.

#### **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** Any flood prevention measures that are promoted through a formal flood prevention scheme under the Flood Prevention (Scotland) Act 1961 requires a period of three months for any objections. This gives an opportunity for members of the public or public bodies who believe they may be adversely affected by the proposals to have their concerns considered before the scheme is approved. An approved scheme gives the Council powers of entry into land as required to implement the schemes, subject to any appropriate compensation payments to land owners.

## **6 RECOMMENDATIONS**

**6.1** 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**

**John Mulgrew**  
**Executive Director of Educational and Social Services**  
**15 February 2005**

### **BACKGROUND PAPERS**

Nil

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

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