

Agenda Item	15
Report No	EDI 50/19

HIGHLAND COUNCIL

Committee: Environment, Development and Infrastructure

Date: 15 August 2019

Report Title: Drumnadrochit Flood Protection Scheme 2019

Report By: Director of Development and Infrastructure

1. Purpose/Executive Summary

- 1.1 This report asks Members to confirm the Drumnadrochit FPS. The Scheme will reduce the flood risk for 31 properties in Drumnadrochit to a standard of protection for a 1 in 200 year return period plus an allowance for climate change.
- 1.2 On 31 January 2019, the Environment, Development and Infrastructure (EDI) Committee approved the formal publication of the Scheme. The date for responses to the publication of the notice closed on 8 April 2019.
- 1.3 Following the publication period, SEPA requested additional information relating to the flood modelling. This information was supplied and SEPA have now approved the information supplied.

2. Recommendations

- 2.1 Members are asked to:
 - i. confirm the Drumnadrochit Flood Protection Scheme 2019. (note :following the confirmation the Council will then notify the Scottish Ministers to obtain deemed planning consent.); and
 - ii. approve the draft planning conditions in **Appendix 1** (note: these will be issued in draft to the Scottish Ministers for consideration for conditions of the scheme).

3. Implications

- 3.1 Resource
The special meeting, held on 7 March 2018, agreed the Capital Programme for 2018 to 2023. The project named Drumnadrochit Flood Protection Scheme was allocated a project budget of £3.111m. The scheme is 80% grant funded by the Scottish Government with the expected income of £2.416m. The grant calculation is based on

tender cost and will be confirmed with the Scottish Government following the contract tender procedure.

3.2 Legal

3.2.1 Confirmation of the Flood Protection Scheme for Drumnadrochit establishes powers to construct the proposed operations on third party land with the compensation mechanism in accordance with the procedures in the Act.

3.2.2 A Licence application will also be required from SEPA regarding Controlled Activities in the River Enrick. Discussions are ongoing with SEPA, the CAR licence application has been submitted to allow construction to proceed following agreement of the licence conditions.

3.3 Community (Equality, Poverty and Rural)
No adverse impacts

3.4 Climate Change / Carbon Clever
Detailed design will incorporate measures to minimise the importation of materials and make best use of natural materials encountered on-site. In addition measures will be put in place to minimise waste during the construction works. The procurement procedures for the construction of the project will be managed to maximise the use of locally sourced goods, services and materials. The design also takes account of climate change in flood risk alleviation measures.

3.5 Risk
A complete ground investigation has been carried out to inform the design and reduce risk of unexpected ground conditions during the works. In addition surveys of the ecology and environment have been carried out to inform the design and reduce impact. Construction works must commence in 2020/21 to ensure Scottish Government funding. Budget risk remains but the grant allocation will be based on tender return figure with contingency, thus reducing this risk.

3.6 Gaelic
The scheme has no significant implications for the use of Gaelic

4. Legislative and Legal Framework

4.1 The Flood Risk Management (Scotland) Act (2009) establishes powers within Part 4 of the Act for Local Authorities to confirm formal Flood Protection Schemes, thereby removing the need for Scottish Ministerial approval. In addition, if a Flood Protection Scheme was confirmed by the Local Authority, the Act allows Scottish Ministers to deem it to have Planning Permission.

4.2 The Council's Scheme of Delegation (dated 25 October 2018) allows the EDI Committee to carry out the functions of Flood Risk Management on behalf of the Highland Council.

4.3 Schedule 2 of the Flood Risk Management (Scotland) Act (2009) sets out a procedure for the making of a Flood Protection Scheme, and this requires a statutory consultation of a proposed scheme.

4.4 The proposed scheme was advertised for a period of 28 days, and objections to the scheme were invited to be submitted for consideration. In order for an objection to be 'relevant' the objector must state their full name, address and nature of their objection.

4.4 The period for response to the publication of the notice ended on 8 April 2019.

5. **Drumnadrochit Flood Protection Scheme – Next Steps**

5.1 No objections to the scheme have been received. Schedule 2 of the Flood Risk Management (Scotland) Act (2009) states that the Committee can therefore confirm or reject the proposed scheme. This report recommends that the Committee confirm the scheme.

5.2 Full details of the Scheme can be reviewed on the Council's web site : https://www.highland.gov.uk/downloads/download/1693/drumnadrochit_scheme_publication

5.3 Following confirmation, the Scottish Ministers will be asked to provide deemed planning consent for the Scheme. A draft set of planning conditions are proposed in **Appendix 1** of this report.

Designation: Director of Development and Infrastructure

Date: 19 July 2019

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Background Papers: EDI 07/19, PDI 33/16, PDI 52/16, PDI 31/15

RECOMMENDED CONDITIONS

DRUMNADROCHIT FLOOD PREVENTION SCHEME

1. At least three months prior to the proposed commencement of development a full site-specific Construction Environmental Management Plan shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA. All agreed measures thereafter shall be implemented in full. The Plan shall incorporate detailed pollution avoidance and mitigation measures for all construction elements potentially capable of giving rise to pollution/environmental damage.

Reason: To protect the local environment and safeguard residential amenity.

2. No development shall commence until a Construction Method Statement has been submitted to and approved in writing by the Planning Authority. The Construction Method Statement shall provide details of how the site will be developed/phased and provide details of the location of work compounds and storage areas. Thereafter the development shall be undertaken in accordance with the approved Construction Method Statement.

Reason: In the interests of road and pedestrian safety and visual and residential amenity.

3. No development shall commence until a construction phase Traffic Management Plan has been submitted to and approved in writing by the Planning Authority in consultation with the Council's Transport Planning Team and Transport Scotland. Such details shall include a routing plan for construction vehicles, predicted construction vehicle trip generation and distribution, and provision for parking for construction workers. Thereafter the development shall be undertaken in accordance with the approved Traffic Management Plan.

Reason: In the interests of road and pedestrian safety.

4. No development, including site clearance, shall commence until a Tree Protection Plan, in accordance with BS5837:2012 (Trees in relation to design, demolition and construction) has been submitted to and approved in writing by the Planning Authority.

Reason: To ensure the protection of retained trees during construction.

5. No development shall commence until a detailed Tree Planting Plan, including a planting schedule and maintenance programme has been submitted to and approved in writing by the Planning Authority. Thereafter the approved Tree Planting Plan shall be implemented in full in accordance with the planting schedule.

Reason: In the interests of landscape and community amenity

6. No development shall commence until a scheme for hard and soft landscaping works has been submitted to and approved in writing by the Planning Authority. Such details shall include:

(a) Path works, including material and construction;

- (b) Fencing and walling, including sample panels of stone or concrete finishes where appropriate;
- (c) Identification of all existing vegetation to be removed/disturbed;
- (d) Reinstatement, planting and seeding works, including a schedule of plant species, sizes and planting density;
- (e) Reinstatement and landscaping schedule for implementation;
- (f) Proposals for future maintenance of the scheme.

Thereafter the agreed landscaping scheme shall be fully implemented in accordance with the approved reinstatement/landscaping schedule.

Reason: In the interests of landscape and community interest.

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (paragraph 259), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Scottish Water

You are advised that connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to connection to Scottish Water's infrastructure should be directed to Scottish Water on 0845 601 8855.

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Mud & Debris on Road

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Construction Hours and Noise-Generating Activities

You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

Protected Species – Halting of Work

You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of

discovery. Further information regarding protected species and developer responsibilities is available from SNH: www.snh.gov.uk/protecting-scotlands-nature/protected-species