
HAWICK FLOOD PROTECTION SCHEME

Report by Service Director Assets & Infrastructure

SCOTTISH BORDERS COUNCIL

21 December 2017

1 PURPOSE AND SUMMARY

- 1.1 This report requests that the Council makes a Final Decision to confirm the proposed Hawick Flood Protection Scheme 2017 (the Scheme) with no modifications, under the Flood Risk Management (Scotland) Act 2009 (the FRM) and the Flood Risk Management (Flood Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2010. It also proposes the delegation of further authority to continue the Scheme's Detailed Design, the Advanced Works and procurement of a Main Works Contractor.**
- 1.2 On 2 November 2017 the Council made a preliminary decision to confirm the Scheme without modifications, while confirming full consideration of the Environmental information in making that decision. This was in accordance with paragraph 5 (1) of Schedule 2 of the FRM.
- 1.3 In 2013 the project team obtained Council approval to develop the Preferred Scheme through the Outline Design stage and the publication of the Scheme through the statutory process.
- 1.4 The key principles of the Scheme have been maintained through the development of the Outline Design Process.
- 1.5 On 23 February 2017 Scottish Borders Council approved the Outline Design and authorised the commencement of the Statutory Approvals Process.
- 1.6 Forty eight objections were received to the Scheme. All objections were deemed to be a 'valid objection' as defined within the FRM. The project team and the objectors engaged constructively to enable the eight objections from individuals and businesses within the flood zone and area affected by the works to remove their objections.
- 1.7 Scottish Borders Council made a preliminary decision to Confirm the proposed Scheme without modification on 2 November 2017, which triggered the notification to the 34 remaining objectors of the decision. Letters were issued to objectors on 8th and 9th November 2017.
- 1.8 Following these notifications another 1 of the remaining objections was removed and therefore 33 now remain.
- 1.9 As there are no objections from those with an interest in the land affected by flooding, or land affected by the works, there is no need to refer the matter to Scottish Ministers following the preliminary decision. While there

are a number of extant objections it is not considered appropriate or necessary for the Council to hold a hearing to consider the proposed scheme. Rather it is proposed that the Council now proceed to make a final decision in accordance with paragraph 9 (1) of schedule 2 of the FRM.

- 1.10 The parallel processes of Deemed Planning Permission and the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (i.e. CAR licence) have progressed well with the CAR licence being issued on 18th September 2017.
- 1.11 The Scheme also received its Habitats Regulation Appraisal on 19 September 2017, which concluded that Scottish Borders Council (in their capacity as competent authority under the Habitat Regulations) considers that the proposal will not adversely affect the integrity of the site (River Tweed SAC (i.e. Special Area of Conservation)).
- 1.12 Before making a final decision on a flood protection scheme with an Environmental Statement the Council must consider the environmental information to comply with Regulation 10 (3) of the FRM's 2010 Regulations. They must also state in their decision that they have done so.

2 RECOMMENDATIONS

2.1 It is recommended that the Council:

- (a) Makes a final decision to confirm the proposed Hawick Flood Protection Scheme 2017 without modification, under Paragraph 9 (1) (a) of the Flood Risk Management (Scotland) Act 2009 and the Flood Risk Management (Flood Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2010; and**
- (b) Confirms that it has taken into account the environmental information as detailed in section 8 of this report; and**
- (c) Provides the Scheme's Project Executive with the authority to: continue the Scheme's Detailed Design; commence the Advanced Works; and undertake the procurement of a Main Works Contractor; and**
- (d) Authorises the Scheme's Project Executive, in consultation with the Chief Legal Officer to manage any appeal against the Scheme in the event that such an appeal is made to the Sheriff Court; and**
- (e) Provides the Scheme's Project Executive with the authority to request that the Scottish Ministers direct that planning permission is deemed to be granted in accordance with Regulation 14 of the FRM's 2010 Regulations after the commencement of the Scheme.**

3 CURRENT APPROVAL BY COUNCIL

- 3.1 Hawick town has a history of damaging floods from both the River Teviot (which runs through the length of the town) and the Slitrig Water (which enters the Teviot by the town centre via Drumlanrig Bridge). The following events are noted:
- In October 2005 flooding of the River Teviot caused extensive inundation of the urban areas adjacent the River Teviot. This was an approximate 1 in 50 year flood event: it affected hundreds of properties and caused millions of pounds of damage;
- Major flood events on the Slitrig Water were recorded in 1767 and 1846 amongst other events.
- More recently, Storm Desmond (in December 2015) caused flooding of the River Teviot, resulting in extensive inundation of the urban areas adjacent to the river corridor and the erosion of infrastructure, particularly in the Duke Street area. This was an approximate 1 in 35 year return period event.
- 3.2 The March 2013 approval of the Preferred Scheme allowed the project team to progress the Outline Design stage over the course of 2015 and 2016 based on the Preferred Scheme of 2013, adhering to the original objectives, where possible. Developed list below:
- 1. The Scheme will protect against flooding from the River Teviot through the length of the town of Hawick;*
 - 2. The Scheme will protect against flooding from the Slitrig Water between Drumlanrig bridge and when it joins the Teviot;*
 - 3. The Scheme will not protect against the Slitrig Water above Drumlanrig Bridge;*
 - 4. A uniform level of protection will be provided to all areas of the town that are being protected. This will be against the 1 in 75 year flood event. This does not include an allowance for climate change, thereby protecting 930 residential and commercial properties at risk. The foundations of the flood defences will be designed such that the defence heights can be increased to protect against the 1 in 100 year flood event;*
 - 5. The total length of flood defences will be approx. 5.5km;*
 - 6. The total length of flood defences will be approximately 5.93km, with 5.6km of walls and 0.33km of embankments. Where the height of the new flood defences is greater than 1.4m it is intended to raise the existing ground level behind the new defences to restrict the height to no greater than 1.4m;*
 - 7. The average height of the flood defences will be approximately 1.63m above existing ground level, with a maximum of 2.55m at the High School. New flood walls and embankments will be provided, however wherever it is possible the Scheme will incorporate the walls that currently exist at the edge of the river;*
 - 8. Where the height of the new flood defences is greater than 1.4m it is intended to raise the existing ground level behind the new defences where possible, or use strategically placed glass panels to retain the visual connection with the River Teviot;*
 - 9. It will be required to provide a maximum of seven new flood gates;*

10. *The walls will be designed for a lifespan of 100 years minimum;*
 11. *Maximise the cultural, heritage, educational, environmental, energy and health opportunities that a major civil engineering project can deliver in partnership with the community and external organisations; and*
 12. *Structural analysis of the existing riverside walls has shown that in virtually all cases, the existing walls must be replaced with new structures in order to achieve the 100 year design life.*
- 3.3 On 23 February 2017, at the end of the Outline Design stage, Scottish Borders Council agreed to:
1. Approve the Proposed Final Outline Design for the Scheme that had been developed over the previous two years.
 2. Authorise the project team to commence the Statutory Approvals Processes identified in the Flood Risk Management (Scotland) Act 2009 (the FRM), and the Flood Risk Management (Flood Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2010.
 3. Instruct the project team to present the Scheme to Council for a decision, as detailed in the FRM and the 2010 Regulations, as soon as possible after the end of the statutory 28-Days objection period.
- 3.4 The Statutory Approvals Process was commenced on 28 April 2017 with the publication of the Scheme under Paragraphs 1 & 2 of Schedule 2 the FRM and the requirements of Regulation 7 of the 2010 Regulations. There was a 28-Day objection period where any person was entitled to object to the Scheme in accordance with Paragraph 3 of Schedule 2 of the FRM.
- 3.5 The 28-Day objection period closed on 29 May 2017. Forty-eight objections to the Scheme were received during the objection period and the status of those objections was as follows:
- 5 were non-valid, however the team categorised them as valid so that the themes of the objections could be considered further by the project;
 - 43 were valid, as they stated their names and contact details and were submitted within the 28-Day period; and
 - There were no objections from statutory stakeholders or other project consultees that have been involved in the development of the Environmental Statement. This means in terms of the FRM that there is no automatic referral to Scottish Ministers to determine if a Public Local inquiry is required.
- 3.6 Of the forty eight objections, eight came from individuals directly affected by the 1 in 75 year flood event or the proposed works. Should any of the objections from this group not have been withdrawn before the preliminary decision was made by the Council, the project would have to have been referred to the Scottish Ministers to decide if a Public Local Inquiry was required.
- 3.7 Of the forty eight objections, 40 did not come from individuals directly affected by the 1 in 75 year event or the proposed works. At the point of the preliminary decision: 2 had been voluntarily withdrawn; 1 was confirmed as a duplicate; and 3 which were originally deemed as non-valid but were fully considered were returned to non-valid due to it not being possible to establish

any contact with the objectors and them failing to meet the valid criteria as set out in Paragraph 3 of Schedule 2 of the FRM. This then leaves the 34 objections that have been recorded as remaining.

- 3.8 The Project Team demonstrated to the Council on 2 November 2017 that:
- there was no need to modify the Scheme in response to the objections; and
 - that the Project Team had robustly considered the themes within the objections and provided proactive engagement and further information to the objectors to alleviate the concerns; and
 - Committed to the formation of Design and Traffic Management stakeholder groups to aid the development of the detailed design and traffic management proposals for the construction phase.
- 3.9 The Project Team (including Legal Services) notified the remaining objectors by letter of the preliminary decision as required by Paragraph 5 (3) of Schedule 2 of the FRM.

4 MAKING A FINAL DECISION FOLLOWING A PRELIMINARY DECISION

- 4.1 The following is a direct copy of Paragraph 5 (1) of Schedule 2 of the FRM:
Where, in relation to a proposed flood protection scheme, the local authority receives a valid objection, it must make a preliminary decision to –
- (a) Confirm the proposed scheme without modifications,**
 - (b) Confirm the proposed scheme with modifications, or*
 - (c) Reject the proposed scheme.*
- 4.2 The following is a direct copy of Paragraph 5 (2) of Schedule 2 of the FRM:
Before making the decision under sub-paragraph (1), the local authority-
- a) must consider -*
 - i. any valid objections (**unless withdrawn**), and*
 - ii. any late objections if the authority is satisfied that it was reasonable for the objector to make the objection after the deadline for doing so, and*
 - b) May also consider any other matters it considers appropriate.*
- 4.3 The Council made the preliminary decision on 2 November 2017 without modifications. Following Paragraph 5 (3) of Schedule 2 of the FRM, a notice of the decision was sent to every person who remained an objector. A person who made such an objection is referred to in the FRM as a "relevant objector".
- 4.4 Paragraph 5 (5) of Schedule 2 of the FRM - Where any relevant objector is a person to whom paragraph 5 (6) of Schedule 2 of the FRM applies the Local Authority must also give the Scottish Ministers notice of its decision.
Paragraph 5 (6) of Schedule 2 of the FRM – This sub-paragraph applies to any person –
- a) Having any interest in any land on which the proposed operations are to be carried out,
 - b) Whose interest in any other land may be affected by any of the operations or by any alteration in the flow of water caused by any of the operations, or
 - c) Referred to in paragraph 1(1) (e) or (f) – (land affected by an

improvement order and the statutory list of consultees).

- 4.5 At the point of the preliminary decision there were no objections in place from any person that meets the criteria of Paragraph 5 (6) of Schedule 2 of the FRM. Therefore, there was no requirement to notify the Scottish Ministers to determine whether or not they need to consider the Scheme.
- 4.6 Paragraph 9 of Schedule 2 of the FRM – final decision following a preliminary decision.
Paragraph 9 (1) of Schedule 2 of the FRM – Unless paragraph 7 applies (i.e. Ministerial consideration of the proposed scheme), the local authority must make a final decision in relation to the proposed scheme by –
- a) **Confirming the proposed scheme without modifications**, or
 - b) Confirming the proposed scheme with modifications, or
 - c) Rejecting the proposed scheme.
- 4.7 Paragraph 9 (2) of Schedule 2 of the FRM – Before making a final decision, a local authority must consider –
- a) Any valid objections (unless withdrawn),
 - b) Any late objection if the authority is satisfied that it was reasonable for the objector to make the objection after the deadline for doing so, and
 - c) Any representations made at a hearing held under paragraph 8 (local authority hearing to consider proposed scheme)
- 4.8 As the preliminary decision was taken without modification and without the requirement to give Scottish Ministers notice, as there were no objections that remained that met the requirements of Paragraph 5 (6) of Schedule 2 of the FRM, there is no requirement to hold a Local Hearing, nor is it considered necessary to do so in this matter. Therefore the Council can make a final decision to confirm the proposed scheme without modifications as per paragraph 9 (1) (a) of Schedule 2 of the FRM.
- 4.9 Further to the requirements of paragraph 5 (3), as detailed in section 4.3 of this report, Regulation 13 (1) of the 2010 Regulations requires a local authority to offer any person who made an objection the opportunity to withdraw that objection if the proposed scheme includes modifications. The Project Team made the decision to offer the remaining 34 objectors the opportunity to withdraw their objection after the preliminary decision. The 10 individuals that withdrew their objection prior to the preliminary decision were also notified of the decision.
- 4.10 The remaining 34 objectors were notified on 8 and 9 November 2017 by letter and it requested that if they had any further comments that they make them clear by responding to that letter by 1 December 2017.
- 4.11 Further to sections 3.7 and 4.9 of this report, it is noted that notwithstanding the rights of Council to take a final decision, there now remain 33 objections from the original group of 40 other objectors that do not trigger Scottish Ministerial consideration. The Council must therefore reflect on whether or not these objections and/or the themes identified within them have been appropriately considered by the Scheme before making a final decision.
- 4.12 All of the 48 objections received were considered in a robust and thorough manner by the Project Team, which included the Chief Legal Officer. There was no objection discarded at this point. The Project Team undertook a comprehensive programme of communications with the objectors and the wider public over the period of June to the end of October 2017. This was

detailed in the report to Scottish Borders Council on 2 November 2017 as part of the preliminary decision making process. A schedule of all communications with the objectors is provided in **Appendix A**.

- 4.13 To allow Scottish Borders Council to determine that the remaining objections have been robustly considered and any issues raised dealt with through the consultation process since June 2017, a copy of each remaining objection and the Project Team's detailed replies are provided in **Appendix B**. This correspondence demonstrates that the project team were able to address the issues raised without the requirement to modify the Scheme; and that the Project Team offered the objectors further information if required.
- 4.14 The Project Team believe that they have considered all of the objections robustly and provided appropriate responses and evidence to the objectors to answer their concerns, and have demonstrated that the proposed Scheme is the best solution for the town taking account of all of the constraints and objectives of the project. The Project Team have also produced a Detailed Design Statement that commits to the formulation of groups within the community to help development of the hard and soft landscaping elements of the Detailed Design process. This position was agreed at Project Board on 23 November 2017. The Design Statement is included in **Appendix C**.
- 4.15 As a result of the consultation process the Project Team have committed to creating a community Traffic Management Working Group for the development of the plans for the Advanced Works and the Main Construction Period to enable public and business input into agreeing the best balance for the works and to keep the town functioning during these periods.
- 4.16 Regulation 10 of the 2010 Regulations identifies that a local authority may not make a final decision in relation to a flood protection scheme with an environmental statement unless they have taken into account the environmental information referred to in Regulation 10 (3) of the 2010 Regulations. They must also state in their decision that they have done so.

5 COMPLIANCE WITH THE LEGISLATION & REGULATIONS

- 5.1 As provided on 2 November 2017, an updated version of the summary document to demonstrate how the Project Team have met the requirements of the FRM and the 2010 Regulations is provided in **Appendix D**.

6 PROGRESS UPDATE - DEEMED PLANNING CONSENT

- 6.1 Where a Scheme is confirmed under the FRM, the Council must request that the Scottish Ministers direct that planning permission for any development described in the Scheme is deemed to be granted. This is detailed in Section 65 of the FRM and Regulation 14 of the 2010 Regulations.
- 6.2 Regulation 14 (2) & (3) of the 2010 Regulations states that:
- (2) A request under paragraph (1) must be made to the Scottish Ministers in writing and must be accompanied by –
- a) A brief description of the nature and purpose of the confirmed scheme;
 - b) A copy of the confirmed scheme;
 - c) A summary of the scheme documents; and
 - d) A summary of the environmental statement (if any).
- (3) A request under paragraph (1) may be accompanied by any other material which the local authority considers relevant to the grant of deemed planning permission.

- 6.3 In order that the requirements of Regulation 14 of the 2010 Regulations are adequately addressed, the Project Team are currently assembling the information required by the Scottish Ministers. Scottish Borders Council Regulatory Services are also currently undertaking a full review of the Scheme from a planning perspective and will produce a report for submission to the Scottish Ministers to assist them in their consideration.
- 6.3 The Project Team will request that the Scottish Ministers direct that planning permission is deemed to be granted in accordance with Regulation 14, and supported by the suite of documentation produced by the Project Team under Regulation 14 (2) and (3) after the commencement of the Scheme (i.e. when the Scheme becomes operative 6 weeks after notice of its confirmation is published).

7 PROGRESS UPDATE - THE CONTROLLED ACTIVITIES REGULATIONS LICENCES

- 7.1 As reported on 2 November 2017 the licence was received from SEPA on 18 September 2017.
- 7.2 There is no further action required of the Council in relation to this CAR Licence part of the Statutory Approvals Process therefore it is not proposed to discuss it further within this report.

8 THE ENVIRONMENTAL STATEMENT

- 8.1 This is a comprehensive document and it is considered to be too detailed and too complex to summarise it in this report. A decision has therefore been taken to make the Environmental Statement available to members such that they can consider the environmental impact of the proposed Scheme before taking a final decision. It will be available in the members support office for members to review and at the following website link <http://www.hawickfloodscheme.com/finalscheme/>

9 REPRESENTATIONS

- 9.1 As reported on 2 November 2017 three representations were made on the Scheme during the 28-Day Objections Period from persons/consultative bodies stipulated in the FRM and the 2010 Regulations and their representation must therefore be considered by members as environmental information as detailed in section 8.3 of this report. These representations are provided in **Appendix E** to this report and were from:
1. The River Tweed Commissioners;
 2. Scottish Natural Heritage; and
 3. SEPA.
- 9.2 In their email of representation the River Tweed Commissioners state:
'The River Tweed Commission (RTC) has engaged in detailed pre application discussions with Scottish Borders Council (SBC), SEPA and SNH, which has included attending SBC's Environmental Consent Working Group. This consultation process on the River Teviot at Hawick has proved to be constructive and extremely positive, and I take this opportunity to thank you for your consultation on the above proposal. The RTC is fully committed to this flexible approach working closely with other Agencies involved in this project.'
- 9.3 In their letter of representation Scottish Natural Heritage state:
'There are natural heritage interests of national and international importance

on the site, but in our view, these will not be adversely affected by the proposal.'

- 9.4 In their email of representation SEPA state:
'We have no objection to the scheme'

10 APPROPRIATE ASSESSMENT

- 10.1 The Appropriate Assessment is a requirement of a Habitats Regulations Appraisal (HRA) under Regulation 48 of the Habitats Regulations (Conservation (Natural Habitats) & c) Regulations 199 as amended). It is required because the proposed scheme could have an adverse impact on the integrity of a Natura site, which in this case is the River Tweed Special Area of Conservation. If the assessment concludes that the works will have an adverse impact, there is a risk of significant delay and potential for the project to be significantly amended.
- 10.2 Following discussion between Scottish Borders Council Ecology officers, SNH and SEPA, it was determined that SBC would be best placed to lead the HRA as the designated competent authority, with input and review as appropriate from SEPA and SNH.
- 10.3 The Scheme received its Habitats Regulation Appraisal on 19 September 2017, which concluded that, "*Scottish Borders Council (in their capacity as competent authority under the Habitat Regulations) considers that the proposal will not adversely affect the integrity of the site (River Tweed SAC)*".
- 10.4 The HRA is independent of the final decision taken under FRM

11 THE NEXT STEPS

- 11.1 As there has been no Ministerial consideration of the Scheme, the local authority must make a final decision in relation to the proposed Scheme (following a preliminary decision) as per Paragraph 10 (1) of Schedule 2 of the FRM – Where:
- a) A local authority makes a decision under Paragraph 4(1) or **9(1)**, or
 - b) The Scottish Ministers make a decision under Paragraph 7 (4),
- The local authority must give notices of the decision in accordance with sub-paragraph (2).
- 11.2 Paragraph 10 (2) of Schedule 2 of the FRM- Notice must be given –
- a) To every person given notice in relation to the proposed scheme under Paragraph 1(1)(d) to (f),**
 - b) To every relevant objector,**
 - c) To anyone else who was notified under Paragraph 7(5)(a) or 9(3)(a), and
 - d) Where the decision is to confirm the proposed scheme (with or without modifications), in the manner set out in Paragraph 1(1) (a) to (c).**
- 11.3 The notification references highlighted in section 11.2 of this report means that the notification process will have to be undertaken as per the original publication of the Scheme on 28 April 2017, with circa 4000 letters to owners/occupiers/tenants of land affected; street notices and publications in the local press including the Edinburgh Gazette.
- 11.4 Paragraph 11 of Schedule 2 of the FRM- A scheme becomes operative 6 weeks after notice of its confirmation is published in a newspaper circulating

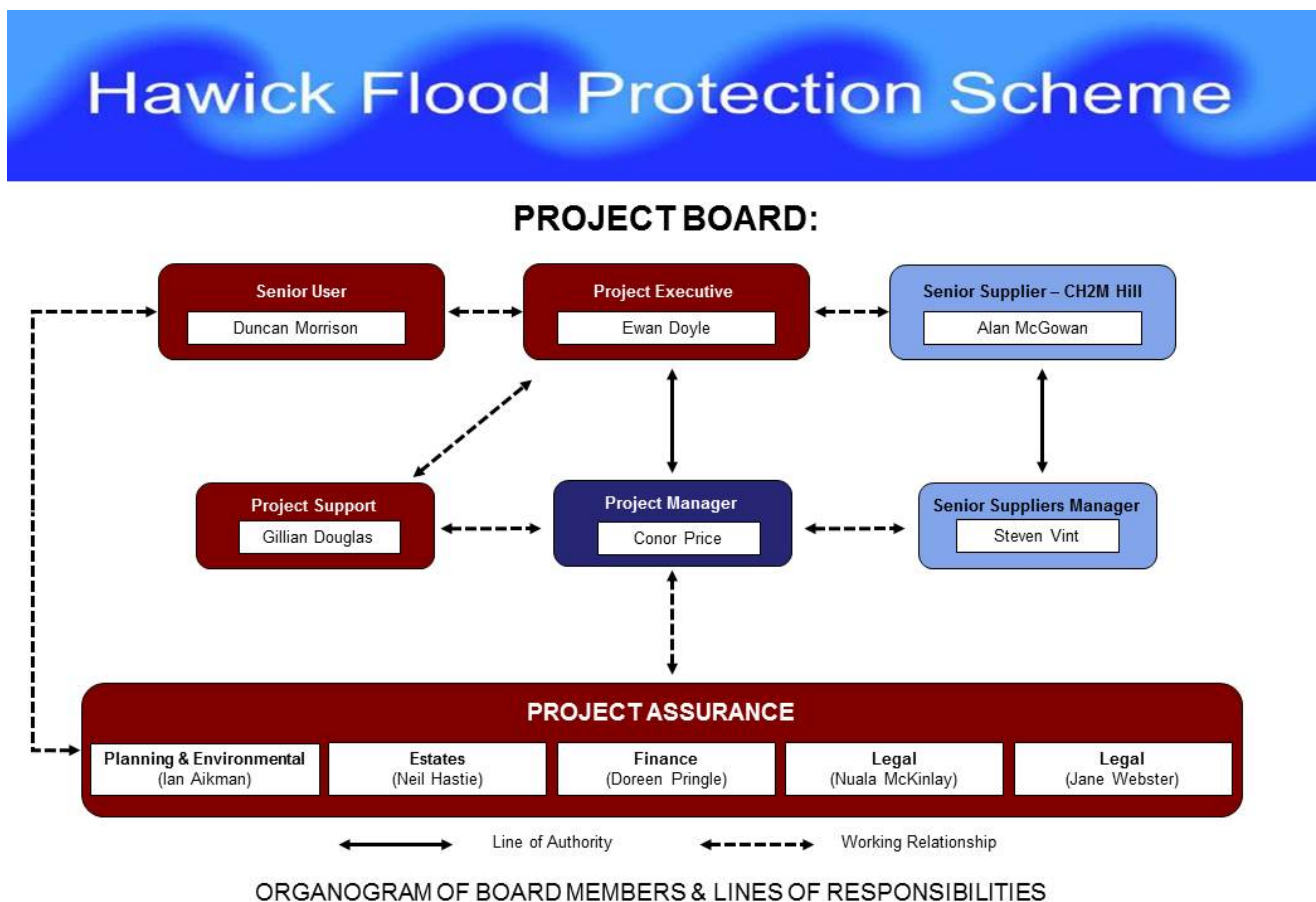
in the local authority's area under Paragraph 10(2) (d).

- 11.5 If the decision is taken to make a final decision on the basis of this report the notification process will not commence until 8 January 2018 due to it being inappropriate to undertake such a process over the Christmas/New Year period. This means that the 6-week appeals period will commence when the notice first appears in the press on 19 January 2018 (at the earliest). The Scheme would then become 'Operative' on 2 March 2018.
- 11.6 Further to section 6 of this report the Project Team will request that Scottish Ministers direct that planning permission is deemed to be granted after the Scheme becomes operative. Assuming this occurs on 2 March 2018 it is expected that such permission should be granted within 8 weeks of the request and thereby by the end of April 2018.

12 COMMENCING THE NEXT STAGES

- 12.1 The project is being run through the PRINCE2 System for managing projects and in accordance with this system a Project Board is in place to manage the project.
- 12.2 The Project Board was established in early 2012 and has been there to manage the project since that point. The Board formally meets approximately every two months but members of the Board meet on an AD-HOC basis, as required, to allow the Project Executive and/or Project Manager to advance the project. A schematic of the Project Board's structure is provided in figure 12.2 below.

Figure 12.2 – The Project Board Organogram



- 12.3 The project is being advanced in discrete stages, which is in accordance with

the PRINCE2 System, and these stages have been designed to align with the major stages in advancing a flood protection scheme. A schematic programme is provided in figure 12.3 that both illustrate the six discrete stages, but also the timescales associated with each of these stages.

Figure 12.3 – Schematic Programme (based on scenario with final decision to confirm Scheme in December 2017)

| | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 |
|----------------------|------|------|------|------|------|------|
| Objection Resolution | ■ | | | | | |
| Scheme Confirmed | ◆ | | | | | |
| Detailed Design | ■ | ■ | | | | |
| Advance Works | | ■ | ■ | | | |
| Procurement | | ■ | ■ | | | |
| Construction | | | ■ | ■ | ■ | |

12.4 It is proposed that Scottish Borders Council provide the Project Executive with the authority to: continue the Detailed Design; commence the Advanced Works; and undertake the procurement of a Main Works Contractor; following the authorisation on 2 November 2017 to commence the Detailed Design and the preparation for the Advanced Works.

13 IMPLICATIONS

13.1 Financial

(a) The current approved budget estimate for the project was determined in September 2016 during the Outline Design development stage and the drafting of the Environmental Statement, and at that time this estimate informed the preparation of the emerging Capital Financial Plan. The proposed budget and profile was approved by Council on 9 February 2017 and subsequently adjusted with Executive approval to meet the timing of the Scheme progression and is as follows:

Table 13.1(a) – Approved Budget as per Executive Committee on 5 September 2017.

| | Historic costs | 2017/ 18 £000s | 2018/ 19 £000s | 2019/ 20 £000s | 2020/ 21 £000s | 2021/ 22 £000s | TOTAL |
|------------------|----------------|----------------------|----------------------|----------------------|----------------------|----------------------|---------------|
| Total Estimate 1 | 2,127 | 884 | 1,945 | 11,948 | 15,703 | 8,103 | 40,710 |

(b) Following the finalisation of the Outline Design and Environmental Statement however, and a subsequent update to the quantified risk assessment in August 2017 (as part of the risk management strategy for the project), a revised budget estimate has been established as follows:

Table 13.1(b) – Current Scheme Estimate following Finalised Outline Design

| | Historical costs | 2017/18 £000s | 2018/19 £000s | 2019/20 £000s | 2020/21 £000s | 2021/22 £000s | 2022/23 £000s | TOTAL |
|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|---------------|
| Current Estimate | 2,127 | 884 | 4,390 | 12,607 | 16,036 | 7,909 | 308 | 44,261 |
| Movement | 0 | 0 | 2,445 | 659 | 333 | (194) | 308 | 3,551 |

- (c) The capital scheme estimate which will be submitted into the capital financial planning process for approval in February 2018, now has more certainty with the completion of the Outline Design and the identification of additional works and additional funding. The project has increased in value (£3,551M), but the Project Team have also brought in additional funding from partnering agencies. The total additional cost to Scottish Borders Council is £710k. Table 13.1 (c) provides a summary of the funding contributions towards the project.

Table 13.1(c) –Funding Summary (Based on £44,261M budget estimate)

| Funder | Estimated Contribution (£000s) |
|---|--------------------------------|
| Scottish Government | 34,763 |
| Scottish Borders Council (Capital) | 8,918 |
| Transport Scotland | 500 |
| Scottish Water (in principle agreement) | 80 |
| TOTAL | 44,261 |

- (d) It should also be noted that all these costs are pre-tender estimates which will be competitively tendered in the marketplace.
- (e) The Scheme is currently 16th on the national priority list and the Scottish Government has funded 80% of cost incurred to date and confirmed funding at the same intervention rate for 2017/18 and part of 2018/19. This equates to a commitment to date of £3,647M.
- (f) The 2013 Preferred Scheme provided an average Benefit Cost Ratio of 3.02 across all six cells and this information was used as supporting evidence to obtain a placing on the SEPA priority funding list for 2016 to 2022. Based on the current estimated cost of £44,261M and with no inflation added to the original benefits derived of £84,393M the updated Benefit Cost Ratio is 1.906 maintaining a positive benefit for the public money that will be invested.
- (g) If we were to apply inflation to the calculated benefits, following the BCIS index for construction inflation, the benefits at today's prices would be increased by 30.05% (£109,754M), equating to a Benefit Cost Ratio of 2.48.

13.2 Risk and Mitigations

There is a Hawick Flood Protection Scheme project risk register that is

regularly reviewed and updated. The key risks relating to this stage in the project process are as follows:

- (a) If there is an appeal against the process, during the 6-week appeals period following notice of the Scheme's final decision being confirmed, then the appeal has to be made by way of a summary application to the sheriff of an appropriate sheriffdom in accordance with Paragraph 12 of Schedule 2 of the FRM. In this event the sheriff may suspend the scheme, or part thereof, until the appeal is heard and a determination made. This risk has been mitigated, by ensuring that the process that has been followed has robustly followed the appropriate route through the legislation and by seeking to ensure that the proposed Scheme constitutes the best approach to reducing the flood risk to Hawick and is the best possible flood protection scheme for the town. The consequence of this risk materialising is that it could cause a 6-12 month delay to the project and put at risk the delivery within the current Scottish Government funding window.
- (b) The District Valuer continues to evaluate the estimate for potential compensation. The risk of exposure to compensation claims has increased in Commercial Road with the current development of a new Aldi store and a distillery. The Project Team are working very closely with both developers to understand the interfaces with the proposed project and how to mitigate any issues.
- (c) The Final Outline Design contains a number of risks that will need to be investigated and mitigated at the Detailed Design stage. The Project Team have identified the risks and quantified their impact for inclusion in the project's budget estimate.
- (d) The Project Team are currently developing a strategy to deal with flood risk during construction. This involves the detailed modelling of several scenarios to find the best sequence of the work and identify the remaining risk for the Main Works Contractor to control.
- (e) The Scheme is currently 16th on the national priority list and Scottish Government has funded 80% of cost incurred to date and confirmed funding at the same intervention rate for 2017/18 and part of 2018/19. This equates to a commitment to date of £3,647M. On the current programme for delivery the project is in a good position to receive the funding for the construction period, however delay will put at risk the protect delivery by March 2022 and the potential funding for the scheme.
- (f) With the commencement of the Advanced Works (public utility diversions) in 2018 it will start to impact on the day to day traffic and pedestrian movements within the town. This disruption may cause complaints being lodged with Councillors or formally through the Council Complaints Procedure. To mitigate the impact and to engage proactively with the community, the Project Team will establish a Traffic Management Working Group within Hawick, formed of residents and business representatives, to help shape the development and delivery of the road and footway diversions/closures during the construction periods (advanced works and main works).

13.3 Equalities

A full Equalities Impact Assessment for the scheme has been undertaken.

Equalities issues have been taken into account as the scheme has developed and will continue to be monitored and analysed through the detailed design phase. The project aligns with Priority 1, 4, 5 & 7 of the Council eight equalities priorities of the 'Mainstreaming Report and Equalities Outcomes 2017 - 2021.

13.4 **Acting Sustainably**

There are no effects at this stage of the project.

13.5 **Carbon Management**

- (a) The construction of a flood protection scheme will generate a carbon footprint through the construction of the reinforced concrete walls and sheet piling. This is unavoidable in Hawick to deliver the project objective of a 1 in 75 level of protection with a 100 year design life.
- (b) The impact has been mitigated by delivering a lower level of protection for direct defences and focusing on up-stream Natural Flood Management provisions to increase the level of protection in future years.
- (c) Carbon will be reduced by the Scheme with the removal of flood risk below 1 in 75 and the associated works to repair infrastructure and property after every event.

13.6 **Rural Proofing**

Not applicable.

13.7 **Changes to Scheme of Administration or Scheme of Delegation**

Not applicable.

14 CONSULTATION

- 14.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer HR, the Clerk to the Council and Corporate Communications have been consulted and comments received have been incorporated into the final report.

Approved by

Martin Joyce

Service Director Assets & Infrastructure – Signature

Author(s)

| Name | Designation and Contact Number |
|--------------------|--|
| Ewan Doyle | Project Executive – 01835 825124 |
| Conor Price | Senior Project Manager – 01835 826765 |
| Steven Vint | CH2M Design Manager |

Background Papers: 28 March 2013, 29 September 2016, 23 February 2017, 2 November 2017

Previous Minute Reference:

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Jacqueline Whitelaw can also give information on other language translations as well as providing additional copies.

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