

Braid Burn Flood Prevention Scheme – Progress Report

The City of Edinburgh Council

18 March 2004

1 Purpose of report

- 1.1 To report on progress of the Braid Burn Flood Prevention Scheme. In particular to note the likelihood of referral to public inquiry, to note the estimated final fees associated with the design and construction of the scheme and to seek approval to retain the existing consultants.

2 Summary

- 2.1 Progress on the Braid Burn Flood Prevention scheme was previously reported to Council on 16 October 2003.
- 2.2 The Flood Prevention Order and remaining objections have been referred to the Scottish Executive.
- 2.3 It is intended that the Planning Application will be submitted to the City of Edinburgh Development Quality Sub Committee in March/April 2004.
- 2.4 It is anticipated that a public inquiry will be necessary.
- 2.5 An additional £1m of funding has been received from the Scottish Executive for flood prevention. Of this sum £463,000 has been allocated to the Braid Burn scheme, the balance being applied to the Water of Leith scheme.
- 2.6 Consultancy fees are anticipated to reach a level 80% in excess of the original tender. This report notes the proposal to retain the current consultants.
- 2.7 Details of the increasing costs and programme delay since inception are appended to this report.
- 2.8 There remains concern over the funding arrangements for flood prevention schemes under the forthcoming prudential framework arrangements.

3 Main report

Flood Prevention Order

- 3.1 Progress of the Braid Burn Flood Prevention Scheme was reported to Council on 16 October 2003. At the meeting the Council agreed to bring to a close any further discussions with objectors to the flood prevention order. Objections were formally closed in February 2004 and the remaining 5 objections referred to the Scottish Executive for a decision

Planning Application

- 3.2 51 responses were received following submission of the Planning Application on 10 November 2003. The application will be submitted to the Development Quality Sub-Committee in March/April 2004. If approved a Notice of Intention to Develop (NID) will be submitted to the Scottish Executive.

Public Inquiry

- 3.3 It is considered that referral to a public inquiry will be necessary for the Flood Prevention Order. The estimated cost for the Public Inquiry will be £135,000. Provision for this has been made in 2004/05 of the 2004-2007 Capital Investment Programme.

Programme

- 3.4 The detailed design of the flood prevention scheme is progressing and is due for completion in September 2004. Assuming that public inquiry is favourable, consent for the scheme is anticipated in the autumn of 2005. A contractor would thereafter be appointed in early 2006 allowing a construction start in the spring of 2006.
- 3.5 Since initial appointment of the consultant, slippage in the original programme has occurred. The project diary is appended in appendix A. By far the biggest factor affecting programme slippage has been the resource required to satisfy objections and avoid referral to inquiry. This has been unsuccessful.

Form of Contract

- 3.6 It is proposed to utilise the New Engineering Contract for the appointment of construction contractor. Expressions of Interest had earlier been sought in November 2002. The report to Council in 26 June 2003 recognised the delay likely as a result of objections received and agreed to defer inviting tenders from contractors until the scheme had received consent. This has resulted in considerable time delay since receipt of expressions of interest and it is therefore considered prudent to re-advertise expressions of interest.

Retention of Existing Consultants

- 3.7 The cost of the survey work, outline design and promotion of the flood prevention order and planning application has risen as the scheme has been developed. This indicates an anticipated rise in final design and site supervision fees of some 80%. As the river modelling has developed, the extent of required flood defences has increased thus prolonging the outline design programme. In addition, so successful were the public consultations, additional external resources were required to deal with the resulting correspondence. Dealing with objections to the scheme also required a considerable resource in order to address concerns sufficient to avoid public inquiry. This has unfortunately not been possible. It should be noted that increased costs do not derive from the addition of further separate packages of work but from additional input to existing packages.
- 3.8 Detailed design and site supervision were part of the original tender document priced by the consultant.
- 3.9 Project management costs consequently increased as the programme lengthened.
- 3.10 Due to the increasing fees consideration has been given to either re-negotiating design cost fees or re-tendering this element of the work along with site supervision.
- 3.11 A summary of the advantages and disadvantages are shown below.

Re-negotiated Fees

Advantages	Disadvantages
Continuity of People Involved	
Good working relationships exist between Council, Consultants and other Stakeholders.	
Current Consultants are familiar with project	
More Cost Certainty	Not tested on market
Clear Liabilities	
No loss of Profits Claim	
No need to prepare new tender documentation	

- 3.12 Although the fees will not be subject to market testing any increase proposed will require to be fully justified by comparison with original tendered price on an area by area basis.

Re-tender

Advantages	Disadvantages
	Loss of profit payments to Bullen
	No Continuity of Staff
	Liability Obscured
	Working Relationships would need to be developed.
A review of previous work would be undertaken	No familiarity with project.
Tested on Market	Less Cost Certainty
	Handover Period would be necessary
	New Tender Documentation would need to be prepared.

- 3.13 It should be noted that many of the disadvantages would not be applicable if Bullen Consultants Ltd are successful in re-tendering. The cost associated with re-tendering would still be applicable, as would any accompanying delay.
- 3.14 A handover period would be necessary to ensure that the newly appointed Consultants are made aware of the various issues and introduced to the various stakeholders as part of the familiarisation process.
- 3.15 The new consultant could not be held liable for work carried out by the original consultant as this would prove uneconomic and result in lengthy delay.

Programme

Braid Burn allowing for a Public Inquiry

- 3.16 It should be noted that it would be necessary to retain the services of Bullen Consultants Ltd to provide expert advice and participate as witnesses at the forthcoming public inquiry. The table below summarises anticipated timescales.

Activity	Re-Negotiate	Re-Tender
Place Tender Advert for New Consultant in OJEC	Not applicable	April 2004
Appoint New Consultant	Not applicable	July 2004
Familiarisation	Not applicable	December 2004
Scottish Executive Consent after Public Inquiry	September 2005	September 2005
Tender Issue for Contractor	October 2005	October 2005
Start on Site	April 2006	April 2006

- 3.17 The projected date for consent being granted by the Scottish Executive is based on the Public Inquiry being referred to the Ministers in 38 weeks, the maximum timescale set by the Reporters Unit. It should be noted that this might be less than 38 weeks.

Discussion of Cost Certainty

- 3.18 It is necessary to either re-negotiate cost or re-tender the design fee, as the cost of the Construction Works has significantly increased from the time of tender. This has resulted in increased design fees being sought by the Consultant.
- 3.19 It is considered that as the current Consultant is familiar with the project they will be better placed to provide an accurate projection of detailed design fees, taking due consideration of risks involved. The disadvantage of this way forward is that the costs presented are not market tested.

Additional Costs

- 3.20 If re-tendered the new consultant would be required to cost the work of reviewing all of the information available including all existing documentation, surveys (topographic and ecological), consultations with stakeholders and outline designs. There is also the cost of collating this information, which must be considered. The cost associated with preparing tender documents and processing the tender would also be additional. It is likely that the original consultant would seek to recover for loss of profits. An estimate of these costs is given below:

Activity	Braid Burn
Familiarisation	60000
Tender Document Preparation	15000
Collation of Information	5000
Loss of Profit	16000
Total	96000

Conclusions on Retention of Existing Consultants

- 3.21 It is concluded that if costs are re-negotiated then it is likely that there will be more certainty of costs as the existing consultants are familiar with the projects and the risks involved.
- 3.22 It is acknowledged that the another Consultant may offer an economically advantageous tender and this could result in savings for the Council. However it is also recognised that additional costs will be incurred with respect to Familiarisation, Loss of Profit and the Preparation of Tender Documentation, as outlined above.
- 3.23 It is therefore proposed to retain the existing consultants and re-negotiate the costs associated with detailed design. Rates submitted at the time of tender will remain the same for design and site supervision.

Other Costs

- 3.24 As the length of flood defences increased, the extent of land survey also increased. The original cost of land survey was under-estimated.
- 3.25 Project management costs consequently increased as the programme lengthened.
- 3.26 The largest increase is in construction costs. Previous progress reports have detailed the factors, which have resulted in a current estimated construction cost of £14.3m.

4 Financial Implications

- 4.1 The anticipated project spend from 2000/01 to 2009/10 is detailed in Appendix B.
- 4.2 An additional £1m of capital consent has been received from the Scottish Executive for Flood Prevention. Of this sum £463,000 has been allocated to the Braid Burn scheme, the balance being applied to the Water of Leith scheme.

- 4.3 From April 2004 until commencement of construction the current estimated cost of preliminary design work plus inquiry costs for the Braid Burn Flood Prevention Scheme is £590,000. Provision has been made in the Capital Investment Programme 2004-7 of £328,000 for such initial outlays. Consequently a virement of £262,000 from within the City Development 2004-7 Capital Investment Programme in years 2004-6 is required to address this shortfall. This will be the subject of a future report.
- 4.4 Following the public inquiry, should the design of the flood prevention scheme satisfy the economic benefit criteria specified by the Scottish Executive and thereby grant assistance for construction costs be awarded, one important point to note is that retrospective grant, currently at the rate of 50%, would be receivable by the Council for all preliminary design work and investigations. Subject to detailed considerations by the Scottish Executive, this sum is estimated to be of the order of £904,000, receipt of which would obviously serve to augment Council capital resources (the level of grant support for Council staff costs is 25%).
- 4.5 As detailed in previous progress reports to Council, Scottish Executive funding arrangements will be charged from April 2004. The Council is still awaiting confirmation of the levels of grant assistance which will be made available under the Prudential Framework in respect of Flood Prevention Schemes. Given the fixed allocation of loan charge support per the financial settlement for local authorities, any level of grant less than 100% would place the Council in a detrimental position as compared to the previous arrangement of Section 94 consent (50%) and grant (50%). This could significantly hinder the Council's ability to fund its proportion of the flood prevention scheme.
- 4.6 The Council continues to make representations to the Scottish Executive on this funding issue and has also been in discussion with Glasgow City Council with a view to making a joint approach to the Scottish Executive. Glasgow City Council is currently promoting the White Cart Flood Prevention scheme with an estimated construction cost of £40m.
- 4.7 One cautionary note, however, is that should the flood prevention scheme fail to receive approval from the Scottish Executive, then all expenditure incurred to date would be deemed to be abortive and therefore require to be met from revenue rather than capital funds.

5 Recommendations

- 5.1 Note the report.
- 5.2 Note the position in relation to public inquiry.
- 5.3 Note the proposed form of contract for engagement of a construction contractor.
- 5.4 Note the increased costs associated with progression of the design of the flood prevention scheme and to seek the Council's approval to retain the consultants.
- 5.5 Note the position on future funding arrangements from April 2004.

5.6 Note that there will be a further report on virements to the Capital Investment Programme.



Andrew Holmes
Director of City Development

11.3.04,

Appendices	Appendix A – Braid Burn Flood Prevention Scheme – Project Diary Appendix B – Braid Burn Flood prevention Scheme – Expenditure 2000-2010
Contact/tel	Mr R McCafferty - 0131 469 3751
Wards affected	36, 39, 43, 44, 46, 49, 50, 51, 53, 55, 57, 58
Background Papers	Report to Council of 16 October 2003 – Braid Burn Flood Prevention Scheme Progress Report

Appendix A

Braid Burn Flood Prevention Scheme

Project Diary

April 2000	Flood Event SEPA record 1 in 98 return event 250 properties affected
June 2000	Council approves commissioning of flood study
November 2000	Babtie appointed to carry out flood study
July 2001	Flood Study completed
August 2001	Council approves recommendations of flood study Estimated cost £6.0m Environmental Scoping Report completed Land survey commissioned
September 2001	1 st Public exhibitions and consultation of proposals
February 2002	Bullen appointed to design and promoted flood prevention scheme
April 2002	Ground Investigation commissioned
May 2002	Report to Council <u>Delay due to need for additional modelling and design</u>
August 2002	Initial Land survey and ground investigation complete for 2 nd public exhibition and consultation of developed scheme
November 2002	Report to Council <u>Delay due to extended consultation.</u>
February 2003	Report to Council <u>Delay due to re-calibration following Oct 2002 flood event</u> Council approve proposed flood prevention scheme for submission to SE Revised construction estimated cost £11.4m
March 2003	Revised SE guidelines issued on benefit/cost analysis
June 2003	FPO advertised - start of objection period Report to Council <u>Delay due to level of objections to be dealt with.</u> <u>Delay due to later appointment of contractor pending scheme confirmation.</u> <u>Delay due to re-advertising of FPO</u> Revised construction estimated cost £13.6m
July 2003	FPO re-advertised due to error
September 2003	End of objection period

October 2003	Report to Council Council approve cessation of discussions with objectors FPO submitted to SE for consent
November 2003	Planning application submitted to CEC
March 2004	Scheme and remaining objections referred to SE

Appendix B
Flood Prevention Schemes - Expenditure 2000-2010

Braid Burn

	2000/01	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	Totals
	£,000										
Fees/ Surveys - Note 1	13	59	458	450	340	60	80	80			1,620
Ground Investigation			28	56							84
Topographic Survey		42	33	5							80
CEC Staff Costs		43	85	72	40	15					255
Construction Costs - Note 2							4,700	4,700	4,690	215	14,305
Public Inquiry					135						135
Legal & Admin - Note 3							120	120	118		358
Totals	13	144	604	583	535	1,034	4,878	5206	3625	215	16,837

Note 1 Includes all consultant and secondment fees + environmental and dilapidation surveys

Note 2 Assumes October 2004 Inquiry date resulting in April 2006 construction start

Note 3 Costs associated with construction phase only