

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:	3476
Author:	Richard Campbell
Department:	Development and Growth
Contact:	Richard Campbell (Job Title: Flood Mitigation Manager, Email: richard.campbell@nottinghamcity.gov.uk, Phone: 0115 8765188)
Subject:	European Regional Development Fund Priority Axis 6 - Preserving and Protecting the Environment; Derby and Nottingham Metro
Key Decision (decision valued at more than £1million):	Yes
Key Decision (decision affects 2 or more wards):	Yes
Total Value:	£3.061 million (Type: Capital and Revenue)
Decision Being Taken:	<ol style="list-style-type: none">1) To approve the receipt of external grants and any potential landowner contributions to fund the delivery of the project and delegate approval to the Corporate Director for Development and Growth to enter into the associated grant agreements.2) To delegate authority to the Corporate Director for Development and Growth to procure, enter into contracts relating to the programme of works and approve any changes in scope, this includes any changes in costs outlined in the financial comments.3) To delegate authority to the Director of Strategic Assets and Property to negotiate and enter into any land agreements necessary to support delivery of the project.4) To note the use of the Scape framework as the preferred procurement route to design and deliver the work.5) To approve the use of the flood risk management reserve funding (£432,000) to support the Blue Green Infrastructure project delivery. 6) To note that the Environment Agency may delegate to the City Council authority to access third party land to carry out works to deliver the project in accordance with Section 172 Water Resources Act 1991.

Reasons for the Decision(s)

The project for which this decision relates aims to improve biodiversity along the Day Brook corridor, including re-naturalising the watercourse and improving community access to this area. This will have a positive impact on the locality by joining up existing green areas/routes. The scheme is anticipated to deliver the following benefits: Improve health and wellbeing of residents, reduce flood risk to properties in the locality, assist with regeneration and in turn provide employment space and help address local housing need. The project is funded by: the European Regional Development Fund, which is a strand of the European Structural Investment Fund, Flood Defence Grant in Aid, Local Levy, Homes England, City Council & private contributions.

The project has two existing approvals, namely: 2612 and 2968 which were developed at the project conception stage, but the project has evolved significantly and may fall outside the scope of these two previous approvals. This approval is intended to supersede the existing approvals and reflect any changes in scope. The feasibility study on the Day Brook concluded that an affordable and deliverable scheme is achievable within the funding envelope available. This decision is intended to seek approval to implement the Day Brook scheme.

The total project cost is expected to be in the region of £3.061m which will be made up of Flood Defence Grant in Aid (£1,168,447), European Regional Development Fund (1,256,188), Local Levy (£255,000), Homes England Grant (£50,000), local City Council contribution from the Flood Risk Management Reserves (£332,000 to the Day Brook project and £100,000 to the Tottle Brook project) and any potential landowner contributions, as the project develops.

Subject to the Outline Business Case approval - due for approval in March 2019, funding for the full scheme is available from Central Government (Grant in Aid), the Environment Agency (Local Levy), European Regional Development Fund, Homes England and a local contribution through the Flood Risk Management Reserves to deliver the project. The programme of works is particularly challenging and in order to meet the project deadline we will need to engage the Detailed Design activity in advance of formal Outline Business Case approval. It is the project team opinion that the risk attached with accelerating this activity in advance of Outline Business Case approval is low. The ERDF funding element is claimed in arrears in calendar years, so it is a possibility that until a claim is fully processed there may be a temporary shortfall in funding.

The Scape framework is a single supplier framework which provides a free scoping service for complex projects. After an audit from the Department for Communities and Local Government the framework was considered to be compliant for the use of ERDF funding purposes. Therefore to reduce the risk of non-compliant procurement activities, the Scape framework is the preferred procurement route.

The Day Brook is classified as a 'Main River', which means the Environment Agency coordinates the management of this river and not the City Council. Therefore, in order to legally enter third party land and implement the project, Nottingham City Council require the delegation of section 172 of the Water Resources Act 1991 from the Environment Agency for the lifetime of the project. This will allow the City Council to enter private land and construct the project, through negotiations with the relevant landowner.

The requirement to seek approval from the Corporate Director to continue with the project is to ensure the financial risks are fully evaluated and managed. To enable the financial position to be transparent there is a requirement for the Corporate Director to provide an independent overview. It should be noted that if the Outline Business Case is not supported by the funding organisation then any costs incurred from accelerating activities will have to be met through the existing secured funding envelope. If the costs incurred exceed this amount then it will need to be met by the City Council. It should be noted that Detailed Design is due to commence in January 2019 and construction is programmed to commence in Autumn 2019.

Key outputs:

- **£3.061 million project - based on the current outline design,**
 - **Better protect 160 homes in Nottingham,**
 - **5ha of environmental enhancements,**
 - **Increases the connectivity of the green open spaces along the river corridor,**
 - **Facilitates the rationalisation of key drainage assets, and**
 - **Supports the aim of the NCC Local Flood Risk Management Strategy.**
- Implementation of this scheme supports the Nottingham City Council's Local Flood Risk Management Strategy.**

Briefing notes documents: NOT TO BE PUBLISHED.docx

Other Options Considered:

1, Do Nothing: There is no statutory duty to deliver this project associated with this decision, but the Council does have a duty to coordinate the management of flood risk from local sources (surface water, groundwater and ordinary watercourses). Without the support for this decision, the City Council would not be able to deliver the project in its entirety and the various funding organisations could review their funding commitment.

2, Do Minimum: Proceed to implement the project under the existing approvals. This option was discounted as the project has significantly evolved since the inception approvals and the project development needs to be reflected accordingly. This would require a significant scope change to align with the existing approvals.

Background Papers: None.

Published Works: Nottingham City Council Local Flood Risk Management Strategy.

Affected Wards: Basford, Bulwell, Leen Valley, Sherwood

Colleague / Councillor Interests: None

Consultations:

Date: 18/10/2018
Ward Councillors: Jane Urquhart, Cat Arnold, Glyn Jenkins, Toby Neal, Mohammed Saghir, Linda Woodings, Adele Williams, Nick Raine
All relevant Ward Councillors have been consulted on the proposals. Individual meetings were held with Councillors upon request.

Date: 12/12/2018
Area Committees: Area 2: Bestwood and Basford, Area 3: Aspley, Bilborough and Leen Valley, Area 5: Berridge and Sherwood (from May 2012)
Area Committees consulted in December 2018. All Area Committees are supportive of the scheme and would welcome a further briefing as the project develops.

Those not consulted are not directly affected by the decision.

Crime and Disorder Implications: There are no perceived crime and disorder implications for the proposals.

Equality: EIA not required. Reasons: This request is driven exclusively from an update to existing approvals, and will not relate to a new or changing policy or service.

Decision Type:	Leader's Key Decision
Subject to Call In:	Yes
Call In Expiry date:	03/04/2019
Advice Sought:	Legal, Finance, Procurement
Legal Advice:	<p>The City Council will enter into grant agreements for the purposes of receiving grant funding from the various sources identified in this report. The City Council must ensure it complies with the terms of those grant agreements.</p> <p>As at the date of this advice the City Council is negotiating with the Environment Agency an agreement which includes the delegation of powers to enter third party land in accordance with s.172 of the Water Resources Act 1991, however dependent on the final scope of the project that power may not be required. The agreement contains authority from the Environment Agency to carry out the flood defence works in and to the river in accordance with s.165 of the Water Resources Act 1991. The agreement is likely also to require the City Council to give an indemnity to the Environment Agency in consequence of carrying out the works. Advice provided by Andrew James (Team Leader Contracts and Commercial) on 22/01/2019.</p>
Finance Advice:	<p>Please see attached appendix on Financial implications Advice provided by Susan Tytherleigh (Senior Finance Manager) on 22/01/2019. Advice provided by Susan Tytherleigh (Senior Finance Manager) on 14/02/2019.</p> <p>Advice documents: Finance comments DDM on DaybrookFeb2019 amend.docx</p>
Property Advice:	The appropriate land agreements will be required with third party owners in order to complete the works and these should be negotiated by Property and legal section. Advice provided by Peter Taylor (Senior Surveyor) on 04/01/2019.
Procurement Advice:	There are no significant procurement issues with this decision. The Scape frameworks, when used appropriately, are compliant mechanisms to engage a contractor, and should any subsequent procurement activity become necessary, the Procurement Team will be available to advise and support. Advice provided by Jonathan Whitmarsh (Lead Procurement Officer) on 13/11/2018.
Signatures:	<p>Jon Collins (Leader of the Council)</p> <p>SIGNED and Dated: 27/03/2019</p> <p>Chris Henning (Corporate Director for Development and Growth)</p> <p>SIGNED and Dated: 21/03/2019</p>