

Newton Stewart

FLOOD PROTECTION SCHEME

Scheme Publication - Summary of Process and Stages

Dumfries and Galloway Council are intending to give notice of the proposed Flood Protection Scheme (Scheme) for Newton Stewart in early 2023.

This will necessitate the publication of a number of Scheme documents which will be made available for inspection at a Council building in Newton Stewart and will also be available to view online.

The online version, together with full background information, will be uploaded onto the project webpage at <https://www.dumgal.gov.uk/newtonstewartfloodprotection>

Notification of the start of the process will be given by way of a notice to certain parties specified by law, including those with an interest in any land and property needed for the Scheme operations, and or those whose interest in land may be affected by any of the Scheme operations or by any alteration in the flow of water caused by any of the Scheme operations. This information notice will also appear in newspapers and as public notices.

The documents to be published must include;

- A description of the operations to be carried out.
- Maps, plans, studies, and specifications for these operations.
- A statement as to how these operations will or will not contribute to the implementation of the Solway Local Flood Risk Management Plan.
- A statement as to what benefits will be derived from the Scheme.

Typically, these will consist of named Statutory and Supporting Documents as follows;

- Notice.
- Scheme Statement.
- Scheme Drawings.
- Environmental Impact Assessment or Screening Report.
- Optioneering Report.
- Preferred Option and Economic Appraisal Report.
- Surface Water Flooding Options Report.

Objections to the Scheme

Anyone has the right to object or make representations to the proposals contained within the documents. Full details of how and where to make an objection will be given when the Scheme is published. To be valid, objections must be made within a 28-day publication period and must be made in writing (email is acceptable) and include the objector's name and address, as well as the statement of the reasons for objection. Objectors should also disclose the nature of their interest (if any) in land affected by operations to be carried out under the Scheme.

Post Publication Process

If no valid objections are received the Council must decide to either confirm or reject the Scheme. The Council may decide to hold a hearing before making its decision. If the Council decide to make modifications to the Scheme the publication process will be followed again in relation to the modified Scheme.

If valid objections are received, the officers will contact all persons who have submitted a valid objection to see if further information, discussion, or compromise can be reached leading to the withdrawal of all or part of their objection. If any objections remain (not withdrawn or resolved) the Council will consider the objections and make a preliminary decision on whether the scheme will be confirmed, confirmed with modifications, or rejected, before referring to Scottish Ministers to consider. The Council will give notice of their decision to any objector. If the valid objection was raised by someone with an interest in any land and property needed

for the Scheme operations or someone whose interest in land may be affected by any of the Scheme operations or by any alteration in the flow of water caused by any of the Scheme operations or by SEPA, Scottish National Heritage, or any authority responsible for Flood Risk related functions or any statutory undertaker, the Council will also give notice of their decision to Scottish Ministers.

Scottish Ministers' Options

Public Local Inquiry

Scottish Ministers will advise whether or not they will consider the Flood Protection Scheme. If Ministers decide to consider the Scheme, there will be a Public Local Inquiry (PLI,) which can be a lengthy procedure, with no specific completion date. An independent reporter will be appointed, and the Council and any objectors will be given time to prepare their statements ahead of any submission and/or attendance at the PLI. After the PLI, the Reporter produces a report for the Scottish Ministers to aid in their decision-making e.g. to confirm the Scheme, confirm the Scheme with modifications, or reject the Scheme.

Public Hearing

If Scottish Ministers decide not to consider the Flood Protection Scheme, then the Scheme will be returned to the Council, who will hold a Hearing. An independent Reporter will be appointed to hear the arguments and make a recommendation, which will subsequently be reported to a Council Committee to aid in their decision-making e.g. to confirm the Scheme, confirm the Scheme with modifications, or reject the Scheme.

Final Decision

Where the Scheme has been called-in by Scottish Ministers they can decide to confirm the Scheme, confirm the scheme with modifications, or reject the Scheme.

If the Scheme is confirmed, either by the Council or Scottish Ministers, then a final notification will be made in local newspapers, and notice given to those who were notified at publication stage, and any persons who subsequently made representation and there will be six weeks for any appeals to be lodged.

If the Scheme is confirmed but with modifications, either by Scottish Ministers or the Council, the publication process detailed above will be followed again in relation to the modified Scheme.

Appeals and Commencement of Scheme

The decision to confirm the Scheme may be appealed on limited statutory grounds by any person affected by the confirmed Scheme. In absence of a valid appeal, the Scheme will become operative 6 weeks after giving notice of the Final decision.

Land Entry and Acquisition

The Council may require to enter third party land to carry out Scheme operations. The Council would look to do so by means of agreement with persons with an interest in the land but failing this the Council may acquire land by agreement or compulsorily using its statutory powers if necessary. The Council will not require to acquire land in all situations. Any person authorised by the Council is entitled to enter land required for Flood Protection works, for a number of reasons, including;

- Preparing maps and reports.
- Assessing a body of water or area of land.
- Carrying out both temporary and permanent Scheme operations and flood protection works.
- Maintaining flood protection works and Scheme operations.

(Under the terms of the Act, it is an offence to prevent or obstruct any authorised person from carrying out work in relation to the Scheme).

Legislation and All Potential Variations

The above summary is not intended for use as a legal guide to the process and clarification on any aspect should be sought by reference to the Flood Risk Management (Scotland) Act 2009 and associated regulations.

(A more detailed flowchart of the process can also be found on the Project Webpage).