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Referral to Scrutiny

Date: 15 June 2022

Report of: Head of Democratic Services

Report to: Scrutiny Board (Infrastructure, Investment and Inclusive Growth)

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

What is this report about?

Including how it contributes to the city's and council's ambitions

- This report presents details of a referral to scrutiny that falls within the remit of the Scrutiny Board (Infrastructure, Investment and Inclusive Growth).
- Following the Board's discussions about city-wide flood risk management at its meeting on 17 February 2022, Cllr Illingworth requested that the Board consider the specific impact of FAS2 on Kirkstall residents. A copy of the concerns raised by Cllr Illingworth is attached at Appendix 1.
- The Board agreed that the subject should be considered in more detail at the first formally constituted meeting of the new municipal year.
- All referrals are subject to a member-led process of examination and review, in line with the principles set out in the Vision for Scrutiny within Article 6 of the Council's Constitution and the procedures outlined in sections G&H of the Scrutiny Board Procedure Rules.

Recommendations

- a) The Scrutiny Board (Infrastructure, Investment and Inclusive Growth) is asked to determine what - if any - further scrutiny activity is required in relation to the matter referred.
- b) If further scrutiny is requested by the Board the work programme will be amended accordingly.

Why is the proposal being put forward?

- 1 In accordance with the Council's Scrutiny Board Procedure Rules, any member of a Scrutiny Board may request that the Scrutiny Board of which they are a member considers a matter relevant to that Board's functions. Such requests are generally considered as part of a Scrutiny Board's standard agenda item to review its work programme
- 2 Any referrals that arise from outside of the relevant Scrutiny Board membership are to be dealt with in accordance with sections G and H of the [Scrutiny Board Procedure Rules](#). This is the case for the referral that has been made by Cllr Illingworth ([Appendix 1](#)).
- 3 An invitation to today's meeting has been extended to Cllr Illingworth to make representations as to why it would be appropriate for the Board to exercise its functions in relation to the matter. The Scrutiny Board Chair will decide how much time will be given to the referrer to address the Scrutiny Board.
- 4 The Scrutiny Board shall consider whether to exercise its power to review or scrutinise the matter referred and may have regard to:-
 - Any relevant information provided by or representations made by the Referrer as to why it would be appropriate for the Scrutiny Board to exercise any of its powers in relation to the matter;
 - The principles set out within the 'Vision for Leeds at Scrutiny' document as part of [Article 6 of the Council's Constitution](#).
- 5 A background report has been provided by officers to inform the discussions of the Board and is included in the agenda pack at [Appendix 2](#).
- 6 The Scrutiny Board may wish to consider:
 - If further information is required before considering whether further scrutiny should be undertaken.
 - If the matter links in with the scope of any current / planned scrutiny inquiries.
 - If a similar or related issue is already being examined by Scrutiny or has been considered by Scrutiny recently.
 - If the matter raised is of sufficient significance and has the potential for scrutiny to produce realistic recommendations that could be implemented and lead to tangible improvements.
 - The impact on the Board's current workload.
 - The time available to undertake further scrutiny.
 - The level of resources required to carry out further scrutiny.

What impact will this proposal have?

Wards affected:

Have ward members been consulted? Yes No

- 7 The member-led examination of the referral will determine whether further scrutiny is required in relation to the matters outlined.

What consultation and engagement has taken place?

- 8 The Vision for Scrutiny states that the relevant scrutiny board should seek the advice of the Scrutiny Officer, relevant Director(s) and Executive Board member(s) about available resources before agreeing to items of work.
- 9 An invitation has therefore been extended to the relevant officers and Executive Board Member to contribute to the Board's initial discussion about the referral.

What are the resource implications?

- 10 Should there be a request for further scrutiny the Board is advised to consider any potential impact on its current work programme, including the level of resources required to support additional work items.

What are the legal implications?

- 11 This report has no specific legal implications.

What are the key risks and how are they being managed?

- 12 This report has no specific risk management implications.
- 13 However, in reaching its conclusions the Board is asked to take into account any specific risks identified during the review of the referral.

Does this proposal support the council's three Key Pillars?

Inclusive Growth Health and Wellbeing Climate Emergency

- 14 Issues associated with all three pillars will be discussed as is appropriate within the context of the Board's deliberations.

Options, timescales and measuring success

a) What other options were considered?

- 15 In line with the requirements of the Scrutiny Board Procedure Rules, members of the Board are asked only to determine whether further scrutiny is required in relation to the issues outlined in the referral.

b) How will success be measured?

- 16 Officers will support the member-led examination of the referral in line with procedural guidance to help ensure a successful conclusion of the process.

c) What is the timetable for implementation?

- 17 Should there be requests for further scrutiny the Board's work programme will be amended accordingly.

Appendices

- 18 Appendix 1: Referral in the name of Cllr John Illingworth
- 19 Appendix 2: Officer Briefing

Background papers

- 20 None

17 February 2022

Subject: Local Flood Risk Management Strategy

Hello Paul

I have been reading Jonathan Moxon's report to your Scrutiny Board on Flood Risk Management. I only recently realised that this was on your agenda today. Initially, I supported FAS2 when it was first published in 2016 or thereabouts, because it was very similar to a flood storage scheme that I had previously discussed with staff at the University of Leeds in 2007 – 2010. Like many councillors, I strongly opposed the deeply unsatisfactory scheme published by the Environment Agency in 2007.

Unfortunately, FAS2 has been extensively modified in the light of public consultation. The focus on riparian owners worked against the interests of Kirkstall residents. Two thirds of the original flood storage has been deleted, and the modified defences in Kirkstall are much larger and more objectionable. FAS2 no longer bears much relationship to the 2016 version, and it has become a very poor deal for Kirkstall ward. It has already caused significant ecological damage, with more to come. It increases the risk of flooding on Kirkstall Valley Farm. It is over-specified and very expensive. Instead of the imposing the revised version, it would have been much better and less expensive to have followed a policy of managed retreat, widening the river channel and relocating businesses to higher and safer ground. This would have created some valuable inner-city habitat and open spaces. I am strongly opposed to a new flow control structure within the Kirkstall Abbey grounds. It is possible to retain the historic flow controls near this ancient monument. If the original flood storage had been retained there would be less need for high-capacity pumps at St Ann's Mills and Burley Mills.

I believe that FAS2 will mainly benefit off-shore investors who pay little UK taxes, and will deliver negligible benefits to UK industry and UK workers.

The extensive changes to FAS2 were scarcely advertised in Kirkstall ward, so we missed an opportunity to object to them through the planning system. The system of continuous piecemeal amendment adopted for the hybrid planning application works against the public interest. In the interests of accuracy and balance I would like an opportunity to speak to your scrutiny board, with slides and maps, and outline the serious defects in the present scheme. I cannot deliver this today, because I have several conflicting appointments, but I will be ready for your next meeting.

We need an independent dispute resolution mechanism to handle cases of this type.

Best wishes

John

Report Author: Richard Dennis (Civil Engineering Manager – Flood Programme)

Report to: Scrutiny Board (Infrastructure, Investment & Inclusive Growth)

Report Date: 20th May 2022

A. Background - Leeds FAS Phase 2 - £112m

Phase 2 of the Leeds Flood Alleviation Scheme is a two-step scheme, reducing flood risk along the River Aire, between Leeds station and Apperley Bridge, Bradford. This involves a combination of Natural Flood Management (NFM) and traditional engineering methods, providing protection to 1048 homes and 474 businesses.

Step 1 is an 8km stretch of the River Aire, upstream of Leeds station, along the A65 Kirkstall corridor, where we are constructing raised flood walls and embankments in the area. These provisions will provide a one-in-100-year level of protection.

Step 2 comprises of a flood storage area near Calverley, and flood walls in Apperley Bridge. The flood storage area is particularly central to work on Phase 2, as the construction of a flow control structure on the existing flood plain will mean that during high river levels, this can be activated to alleviate flooding being experienced further downstream.

When this is complete, it will raise the level of protection for the entire FAS2 area to a one-in-200-year level. Once delivered in full, Phase 2 will also raise the standard of protection of Phase 1 (Leeds city centre), to a one-in-200-year level. This section was completed in October 2017.

B. Response To Concerns

The report below provides a response to the comments set out in the email to of 17 February 2022 from Cllr John Illingworth to Cllr Truswell (Appendix 1).

Unfortunately, FAS2 has been extensively modified in the light of public consultation. The focus on riparian owners worked against the interests of Kirkstall residents. Two thirds of the original flood storage has been deleted, and the modified defences in Kirkstall are much larger and more objectionable. FAS2 no longer bears much relationship to the 2016 version, and it has become a very poor deal for Kirkstall ward.

1. The impacts caused by the 2015 Boxing Day flood were wide reaching, damaging almost 3,000 residential buildings and all scales and sectors of commercial properties in our region; had the flooding occurred on a normal working day, the consequences would have been even more severe. Some examples in Kirkstall include Thyssen Krupp, a company which has since relocated and taken jobs away from Leeds as well as a number of others within the Industrial Park who either closed down or are really struggling to obtain flood insurance.
2. To ensure this doesn't happen again, the Council continues to take a comprehensive approach to defending the wider city against flooding from the river Aire. In parallel with work on a package of advanced interventions, in the aftermath of the Boxing Day floods, the Council worked collaboratively with partners to bring forward at pace a scheme which makes use of a range of flood defence measures including Natural Flood Management, conveyance improvements, flood attenuation and linear defences to deliver a standard of protection to mitigate a recurrence. In line with the Best Council Plan, this 1 in 200-year level of protection including allowance for climate change to 2069 will make communities more resilient, support the further growth and regeneration of the Leeds economy, and protect key transportation infrastructure and the high-quality public services it supports.
3. The FAS2 scheme has been designed making the best use of external national professionals in their field and provides an integrated solution where flood storage capacity is one component of a holistic flood protection response. A large number of potential flood storage areas across the catchment were considered as part of the FAS2 feasibility work. The ones which provided the greatest flood risk benefits to Leeds were located at Rodley and

Calverley. During public engagement and consultations and after listening carefully to the representations made by Rodley Nature Reserve and other interested community groups, Calverley was chosen as the preferred option. In addition to this large flood storage area which is approximately 1 million cubic metres in size (covering an area similar to over 120 football pitches), where possible the raised flood walls and embankments are being set back away from the river to provide additional capacity.

4. Whilst the Rodley storage area would have offered a relatively small reduction in defence heights (approximately 75mm), by progressing with the Calverley option the wall heights are fully compatible with maximum desirable wall heights under environmental, planning and landscaping constraints, with the isolated sections of higher defences being in non-sensitive locations. The change early in the design development to progress with Calverley as opposed to Rodley was a consequence of public consultation. This was the purpose of consulting. The defences which have been under construction since December 2019 and scheduled to be completed next year remain fully aligned with the report approved by the Executive Board in February 2019 and the planning approval granted in May 2019, with design refinement actually resulting in reduced impacts on surroundings in some locations. Across the 8km of the scheme, to date there has only been one non-material amendment to the planning consent for the permanent works which further underlines that work is progressing in line with the planning consent.

It has already caused significant ecological damage, with more to come.

5. The scheme has been developed in close consultation with the Yorkshire Wildlife Trust with their Chair being an active participant on the board of the scheme during its formative stage of design and development. Building on this approach, an Environmental Impact Assessment was submitted as part of the planning application which acknowledged that the scheme passes through several important environmental areas, including Armley Mills, Kirkstall Abbey & Kirkstall Meadows and Apperley Bridge.
6. Mitigation measures are being introduced for each of these locations as a means to prevent, reduce or control adverse environmental effects of the project, and include restitution for any damage to the environment caused by those effects through replacement, restoration, compensation or any other suitable means.
7. One example of this is at Kirkstall Meadows whereby 2.4 ha of land is being transformed into wetland habitat including kingfisher banks, otter holts and wetland scrapes for fish. The total area of trees to be removed is 1.9 ha. The design has been developed to minimise this, protecting mature trees in particular wherever possible. The area of replacement is a minimum of 5.7ha; a ratio of 3:1 whilst a further 2 million trees are being planted as part of the natural flood management component of the scheme which is one of the largest catchment management schemes in Europe and will restore or emulate the natural regulating function of the river catchment to reduce flood risk.

It increases the risk of flooding on Kirkstall Valley Farm.

8. There is a small increase in flood depth at the Kirkstall Valley Farm site, but it is important to note that it is only at a time when the site would have been flooded anyway and as such no additional impacts will be experienced. For context, there is no change in depth between pre- and post-scheme for a 1 in 10 year or more regular occurring event. At a 1 in 200-year event, there is a maximum increase in depth of 150mm although average depths across the site would have already ranged between 0.75m and 1.5m.

It is over-specified and very expensive.

9. The Council has significant recent experience in the delivery of flood alleviation schemes based on designs which have been extensively modelled. The Phase One scheme (FAS1) which is now operational is an example of this. Building on this experience, FAS2 has been modelled using industry expertise in line with the requirements of DEFRA and the Environment Agency (EA). The FAS2 model has been fully approved by the EA and has been subject to previous extensive examination by Councillor Illingworth including reports and several meetings with the expert modelling teams.
10. Whereas the original EA proposal of high linear defence walls only scheme which was abandoned in 2013 was estimated to cost £180million at the time, the entirety of the FAS1 and FAS2 schemes which are nearing completion have an overall price of £162million today and a benefit to cost ratio of 9.4. The innovative, catchment wide and

international award winning approach to introducing these measures is delivering significant economic benefits to the region.

11. In just a decade since the conception of the FAS1 measures in 2013, when the remaining construction work for FAS2 is completed next year, Leeds will have overcome historic flood events, major gaps in funding, a global pandemic and significant inflation pressures, to move from a position of having no flood defences along the river Aire to benefitting from a 1 in 200 year standard of protection. FAS1 defences including the innovative moveable weirs have been proven to work since implementation and even partially constructed FAS2 defences helped to mitigate the impacts of recent storm events, providing a level of confidence prior to their completion. The scheme was subject to significant review and assessment by the EA, Defra and Treasury and, ultimately, they agreed to support the specification as a value for money proposal to deliver the level of flood protection needed and provided the majority of the funding to deliver the scheme.

Instead of the imposing the revised version, it would have been much better and less expensive to have followed a policy of managed retreat, widening the river channel and relocating businesses to higher and safer ground.

12. The proposals were developed in line with the brief specifically signed off by the Secretary of State for the Environment which was set in the aftermath of the 2015 Boxing Day flood to protect Leeds from flooding. The majority of the funding is provided by central government and the design is in response to the brief set by the Secretary of State. Against this background, the design has been developed to meet the appraisal and cost benefit analysis of the Flood and Coastal Erosion Risk Management Appraisal (FCERM) guidance and the HMT Green Book, with the scheme fully approved against those tests.

13. To have progressed in the manner suggested would have potentially set back the scheme a number of years, costing millions of pounds, in re-design and require new approvals which are unlikely to have been obtained. This would have put the delivery of the scheme at jeopardy and place the Kirkstall Road corridor at continued risk of a repeat flood event which could lead again to the catastrophic impact to residents and business which occurred in 2015.

I am strongly opposed to a new flow control structure within the Kirkstall Abbey grounds. It is possible to retain the historic flow controls near this ancient monument. If the original flood storage had been retained there would be less need for high capacity pumps at St Ann's Mills and Burley Mills.

14. It is not feasible to use the historic flow controls as a FAS2 asset. Firstly, the existing control is not high enough to prevent flood flows down the goit and secondly it would be incredibly difficult to make such a historic structure work as a modern-day flood asset in terms of condition and control. However, the historic nature is fully appreciated, and the structure is being retained for historical context.

15. Due to a combination of the new FAS2 assets adjacent to the rugby pitches preventing flow across the pitches and into the goit, and sufficient surface water volume storage at St Ann's Mills in the goit when it is closed off to flood water (by the control structures), the previously proposed pumping station can be omitted. However, this is not the case at Burley Mills and so a pumping station remains in the scope of works to reduce flood risk by managing water levels in the goit.

I believe that FAS2 will mainly benefit off-shore investors who pay little UK taxes and will deliver negligible benefits to UK industry and UK workers.

16. FAS2 will better protect 1,048 residential properties within the flood zone as well as unlocking housing land for 1,613 new homes and help create an additional 1,669 jobs. The scheme will also provide improved flood protection to 370 existing businesses ranging in scale and is estimated to generate Gross Value Added (GVA) benefits of £774m.

17. The fully approved economic case for the scheme was produced in accordance with the FCERM Guidance used by the EA to assess this type of scheme. The HM Treasury Green Book Appraisal Guidance has also been used to demonstrate additional benefits which in turn produce a benefit to cost ratio of 9.4 for the region when GVA is included. Critically, on the basis that the majority of this scheme is government funded, this is the benchmark against which the scheme has been successfully appraised. The assertion that the major beneficiaries will be large landlords with offshore tax havens is unclear.

The extensive changes to FAS2 were scarcely advertised in Kirkstall ward, so we missed an opportunity to object to them through the planning system.

- 18.The formal planning process was strictly adhered to and all comments received up until the determination point were factored into the decision of the Planning Authority. Aside from the statutory period of advertisement, an extensive range of consultation and engagement has been ongoing since winter 2016/17 and activities have remained live throughout the course of the project.
- 19.These have included the staffing of a flood information shop, attendance at community consultation events, participation at various local festivals, receipt of returned consultation questionnaires, door knocking, and letter drops to residents and landowners, circulation of bimonthly newsletters updates to over 500 people on a mailing list, weekly tweets on the schemes social media account which has over 600 followers, and the establishment of a Upper Aire Catchment Network for consultation.