

Stonehaven Flood Protection Scheme



Flood Risk Management (Scotland) Act 2009

The Statutory Process

This leaflet explains the procedures Aberdeenshire Council has to follow in taking the Stonehaven Flood Protection Scheme forward. The flood protection scheme for the River Carron has been proposed following a number of significant flood events in recent years.

There is a statutory process, passed by Parliament, which Aberdeenshire Council has to follow when promoting a flood scheme. The process is intended to make sure that those affected know what is proposed, how it will affect them and how they can make their views known.

Keeping the public informed

This leaflet provides information in advance of the formal statutory process. There has been, and will continue to be, consultation with the wider general public, as well as the Statutory stakeholders, community council, landowners, planning department, SEPA, Historic Scotland, the local Fisheries Board and Stonehaven Flood Action Group.

In June 2015, it is anticipated the legal Flood Order for the Stonehaven Flood Scheme will be published. A Flood Order is legislation that allows the Council to construct a flood protection scheme on privately owned land.

When advertised, the scheme documents will also be available to view at Stonehaven Library and Carlton House (Aberdeenshire Council office). The design of the scheme and further information is available on the Aberdeenshire Council website by searching 'Stonehaven Flood Scheme'. <http://bit.ly/StonehavenFPS>

Publication of Flood Order

The first stage of the process is the publication of certain documents setting out the proposals. Notification of the start of the process will be given to certain parties specified by law, including owners, tenants and/or occupiers of land and property needed for the scheme. This information notice will also appear in newspapers and as public notices.

The documents to be published are:

- A description of the operations to be carried out
- Maps, plans, studies and specifications for these operations
- Explanation of how these operations will contribute to the implementation of any flood risk management plan

How do I object?

Anyone has the right to object or make representations to the proposals contained within the documents, within set time limits Full details of how and where to make an objection will be given when the Flood Order is published. Objections should be made within 28 days. They should be made in writing including the objectors' 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. *Note: A petition counts as one objection regardless of how many signatures it contains.*

The Objections Process

If any valid objections are received and not withdrawn or resolved, Aberdeenshire Council will make a preliminary decision on whether the scheme will be confirmed, confirmed with modifications, or rejected, before referring to Scottish Ministers to consider. If a valid objection is raised by any person with an interest in land affected by the proposed operations or by SEPA, Scottish National Heritage, or any authority responsible for flood risk related functions or any statutory undertaker, Scottish Ministers must be called on to consider the proposed flood protection scheme.

Public Local Inquiry

Within 56 days of Scottish Ministers being asked for their consideration, they 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 both Aberdeenshire Council and any objectors will be given time to prepare their statements. After the PLI, the reporter produces a report for the consideration of Scottish Ministers.

Hearing

If Scottish Ministers decide not to consider the Flood Protection Scheme, then the scheme will be returned to Aberdeenshire 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 the appropriate council Committee.

Final Decision

Those with land interest will receive 28 days notice of Aberdeenshire Councils final decision. If at this point the Scheme is confirmed, then a final, or 'Made' Order will be published, and Aberdeenshire Council will write to Scottish Ministers to request deemed planning consent.

Final notification will be made in local newspapers, and there will be at least six weeks for any appeals to be lodged or before any work can begin.

Land entry and acquisition

Aberdeenshire Council may acquire land by agreement, but it is not required to own the land it wants to build on. Any person authorised by Aberdeenshire Council is entitled to enter land required for flood protection works, for a number of reasons, including:-

- Preparing maps and reports pertaining to the scheme
- Assessing a body of water or area of land as part of the scheme
- Carrying out both temporary and permanent flood protection works.
- Maintaining schemes

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.

Implication of any Objections on Scheme Delivery

The legal process is a lengthy one. Objections not withdrawn or resolved are likely to result in at least 12 months delay to the delivery of the flood scheme, longer if a PLI is required.

What if no Objections are received?

If no objections are received within the 28 day period, then Aberdeenshire Council can either

- Confirm the proposed scheme
- Reject the proposed scheme

However if an objection is received outwith this period and before the Council makes a decision it must be considered as an objection.

Compensation

Under section 82 of the Act there is the provision for compensation. A claim, outlining the requirements, must be made in writing within two years of any damage* becoming apparent or within ten years of the completion of the Scheme, whichever is earlier. Any claims that are disputed will be dealt with by the Lands Tribunal for Scotland.

**The definition of damage is listed within the Section 82 of the Act*

Further Information

<http://bit.ly/StonehavenFPS>

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