

Report of the Strategic Director of Resources

Our City Our River Update Report

SUMMARY

- 1.1 A report to Council Cabinet for the meeting on 22 October 2014 has been prepared by the Cabinet Member for Planning, Environment and Regeneration to update members on progress made on the Our City Our River project. The report to Council cabinet can be found at Appendix 2 of this report.

RECOMMENDATION

- 2.1 To note the contents of the report to Council Cabinet and make any comments and appropriate recommendations in relation to the progression of the project.

REASONS FOR RECOMMENDATION

- 3.1 To enable the Regeneration and Culture Overview and Scrutiny Board to be kept informed of the progress of this project and make any comments and recommendations to Council Cabinet.

SUPPORTING INFORMATION

- 4.2 This report has been provided to the Regeneration and Culture Overview and Scrutiny Board to ensure that members of the Board are kept updated and have an opportunity to comment on proposals and approvals put forward to Council Cabinet.

OTHER OPTIONS CONSIDERED

- 5.1 None.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	Phil O'Brien
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Background papers:
List of appendices:

None
Appendix 1 – Implications
Appendix 2 – Report to Council Cabinet on Our City Our River Project
Update

IMPLICATIONS

Financial and Value for Money

- 1.1 None arising directly from this report.

Legal

- 2.1 Part 4 of the Council's Constitution sets out the Overview and Scrutiny Procedure Rules to which this Board is governed. These rules also set out how Council Cabinet should respond to any recommendations made to them as a result of items considered by the Board.

Personnel

- 3.1 None arising directly from this report.

IT

- 4.1 None arising directly from this report.

Equalities Impact

- 5.1 Effective scrutiny benefits all Derby people.

Health and Safety

- 6.1 None arising directly from this report.

Environmental Sustainability

- 7.1 None arising directly from this report.

Property and Asset Management

- 8.1 None arising directly from this report.

Risk Management

- 9.1 None arising directly from this report.

Corporate objectives and priorities for change

- 10.1 Our aim is to work together so that Derby and its people will enjoy a thriving sustainable economy, good health and well-being and an active cultural life. The work of this board contributes to the Council's ambitions to give people in Derby an inspiring working life by improving skills and creating jobs, and to make the city an inspiring place to live by improving the inner city. The work of the board also

contributes to the Council's priority outcome of promoting good health and well-being and preventing ill health.

Appendix 2



COUNCIL CABINET
22 October 2014

Report of the Cabinet Member for Planning and
Regeneration

ITEM X

Our City Our River – Project Update

SUMMARY

- 1.1 The Our City Our River (OCOR) Masterplan was approved by Cabinet in July 2012 to guide the provision of flood defences and associated regeneration along a new alignment set back from the river to allow more space for flood water.
- 1.2 The OCOR Business Case, which was developed jointly by the Environment Agency Projects team and the Council, was approved by Cabinet on 6 November 2013, and submitted to the EA's Large Projects Review Group, LPRG.
- 1.3 Unfortunately there have been a number of delays to the final approval of this business case, related to the provision of additional information, seeking clarity on funding allocations and conditions and responsibilities that the Council will need to take on in relation to being the lead agency for the delivery of the project.
- 1.4 In taking on the lead organisation role, the Council is also being asked to take on responsibility for the long term maintenance and operation of the flood defence assets that are delivered with the grant funding. The details of the maintenance responsibility are set out in more detail in the report. This report seeks approval for the Council to accept this long term maintenance and operation responsibility and the associated costs and liabilities.
- 1.5 At an annual operational level it is estimated with the Business Case (v5) that the cost of operation and maintenance for Package 1, will be £30,000 per year, much of which we already deliver through the maintenance of the open space along the riverside. On completion of the full scheme, in around 8 to 10 years' time, the estimated annual operation and maintenance costs are indicated to be £90,000.
- 1.6 There will be more significant capital maintenance costs during the lifetime of the scheme, but it will be possible for the Council to bid in to EA flood defence funding programmes to assist with any works.
- 1.7 Currently there is no additional revenue funding to cover delivery of the entire scheme and any extra maintenance or operational costs involved so the Council must be prepared to prioritise the maintenance of the assets and establish funds to cover any financial pressure generated from this and taking the lead role for the

- scheme.
- 1.8 The project is now at a stage where the details of the funding arrangements have been developed and a legal agreement has been drafted setting out the two organisations responsibilities. Once approved by the Council, this will enable the scheme delivery phase to commence.
- 1.9 The current total scheme cost estimate is £90.2m. Funding that has been identified to date includes;
- Government Growth funding - £19.06m (£6.06m confirmed, £13m to be confirmed)
 - Government Flood defence grant in aid funding (FDGIA) - £17.1m subject to sign-off at EA & DEFRA
 - Council and Local Levy funding - £0.77m (confirmed)
- 1.10 There is also an indicative £10m allocation of the D2N2 Local Enterprise Partnership infrastructure funding for OCOR. If we include this, the funding identified to date totals £46.9m, leaving a funding gap of £43.3m, which the Council will be endeavouring to secure through all available funding mechanisms, including third party contributions over the coming years.
- 1.11 As was confirmed in the 6 November 2013 the Council has not committed to underwrite any of the funding gap from its own resources, but will remain committed to actively identifying and securing third party funding opportunities as, and when, they arise.
- 1.12 This report seeks Cabinet approval to approve an updated business case (version 6). The changes are incorporated within an updated executive summary of the business case and includes an addendum statement, which sets out a slightly different approach to the funding allocation, but retains the original intent for the Council to confidently be able to submit a planning application for the whole scheme and to commence the main standalone contract works included within package 1 of the project. A copy of the updated business case executive summary is attached at Appendix 2.
- 1.13 Once the EA have formally signed off the business case with the addendum statement, which approves the principal of the scheme and approves the allocation of the flood defence grant in aid (FDGIA) funding, the Council will become the lead organisation responsible for the progression of the scheme and will be responsible for all project management responsibilities.
- 1.14 In addition the EA is to authorise the Council so that it can use the EA's powers as Lead Local Flood Authority for Main Rivers to enable it as necessary to implement the flood defence scheme. The Council will then maintain and operate the flood defences once complete.
- 1.15 A legal agreement has been developed, which, subject to Cabinet approval, will be signed by the Council and the Environment Agency, authorising the Council to use the EA's powers and to confirm the roles, responsibilities and liabilities of both

organisations in taking the scheme forward.

- 1.16 OCOR has been, and will continue to be a very challenging project to deliver, however it brings with it significant benefits to the City in terms of regenerating the river corridor and providing significant improvements to flood defences to protect homes and businesses in the long term. Whilst there will be financial, legal and organisational risks to the Council in terms of project management and delivery, ensuring that we comply with financial regulations associated with the grant conditions and the additional responsibilities and obligations, as understood at this time, regarding maintenance and operational duties and costs, it is still recommended to Members that the significant benefits of the project appear to outweigh the risks, which will be actively managed and minimised throughout the scheme delivery.

RECOMMENDATIONS

- 2.1 To confirm the Council's commitment to the progression of the Our City Our River flood defence and regeneration project.
- 2.2 To approve the Council taking the lead partnership role in delivery of the project, and subject to the funding identified in paragraph 1.9 being confirmed and released without further conditions or requirements other than those identified in the existing grant terms, and subject to there being a clear understanding on the parts of DEFRA and the EA that the Council is not committing to underwrite the identified funding shortfall, to authorise officers to continue to work together with the EA towards the delivery of the project until the project is complete.
- 2.3 To note and accept, in principle, that the Council will take on responsibility for the future operation and the maintenance of the flood defences constructed or improved as part of the project; and to accept and fund the on-going annual revenue requirements and the associated liabilities, which will need to be included within the Council's revenue budget and the Council's public liabilities insurance arrangements.
- 2.4 To note that the EA has acknowledged that there is no requirement for the Council to financially underwrite the delivery of the project, and that there are no 'claw-back' requirements in the grant conditions that would require us to complete the project.
- 2.5 To approve the updated Our City Our River Business Case; (version 6) Executive Summary which clarifies the level of DEFRA and EA funding allocations to the project and the terms under which funding can be used. (Appendix 2- business case (v6) executive summary)
- 2.6 To note the grant conditions and time restrictions for expenditure of the grant and approve the capital programme to facilitate switching of capital funding in order to maximise the grant within the time frame allowed and the creation of a revenue project fund.

- 2.7 To approve the entering into a legal agreement with the EA for the purpose of:
- section 165(1) Water Resources Act 1991 to enable the Council to exercise the functions of the EA in relation to the flood drainage works necessary for the purpose of delivering the Our City Our River project;
 - confirming that the Council will take lead responsibility for the project delivery based upon the details in the revised business case;
 - clarifying the responsibilities and management arrangements of the parties in the partnership for delivery of the project and the on-going obligations of the parties to ensure the long term objectives of the project.
- 2.8 To delegate authority to the Strategic Director of Resources and the Strategic Director of Neighbourhoods, in consultation with the Cabinet Member for Planning and Regeneration, to finalise the wording and enter into the legal agreement in 2.7 above with the Environment Agency to enable the project to progress, and to amend, as appropriate, the Council's public liabilities insurance to cover the additional responsibilities in relation to maintenance and operation of the flood defence assets.
- 2.9 To delegate authority to the Chief Executive, Strategic Director of Resources and the Strategic Director of Neighbourhoods, in consultation with the Cabinet Member for Planning and Regeneration to purchase land, negotiate compensation arrangements and progress the making of Compulsory Purchase Orders, as appropriate and deemed essential to ensure delivery of the scheme in line with the Council's financial procedures.
- 2.10 To delegate authority to the Strategic Director of Resources and the Strategic Director of Neighbourhoods, to complete the necessary preparatory work required and to submit the formal planning application, with associated costs.

REASONS FOR RECOMMENDATION

- 3.1 Since the adoption of the OCOR Masterplan in July 2012, much work has been undertaken jointly by the Council and the EA. This has centred on the securing the indicative allocations of Growth and FDGIA funding from EA, DEFRA and more recently significant funding from the LEP. The details of the project have been firmed up and refined to support the preparation of the formal planning application.
- 3.2 The Council needs to be aware of the additional responsibilities, obligations and liabilities in accepting the funding identified and the delivery of the entire OCOR scheme.
- 3.3 The funding identified presents the Council with a real opportunity to significantly progress the scheme at this time. This financial support will achieve multiple benefits for the City including enhanced flood protection and sustainable economic regeneration.



Derby City Council

COUNCIL CABINET 22 October 2014

Report of the Strategic Director for Neighbourhoods

SUPPORTING INFORMATION

- 4.1 Our City Our River is a flood risk management and regeneration scheme through the City of Derby in the East Midlands. The core objectives of the scheme as set out in the Masterplan that was approved by Cabinet in July 2012 include:
- Reduce flood risk to protect people, property (1,450 homes and 800 businesses) and jobs.
 - Maximise regeneration and sustainable development opportunities along the river frontage.
 - Release economic potential of brownfield sites currently at significant risk of flooding.
 - Enhance the significant heritage assets of the city, which include the Derwent Valley Mills World Heritage Site, to promote tourism to the city.
 - Enhance ecology, wildlife and biodiversity along the river and deliver the objectives of the Water Framework Directive.
- 4.2 In relation to the first point the City's existing flood defences only provide a low level of protection which would be 'overtopped' even in a moderate flood event. The existing defences, some of which are in a poor condition and are coming to the end of their life, are only designed for a 1 in 25/50 event as opposed to a 1 in 100 event that would be attained under the OCOR scheme. Derby is therefore currently at risk from flooding which would have a major impact on local residents, businesses and the City's infrastructure
- 4.3 Since Members approved the business case in November 2013 a number of details around funding and project delivery have been progressed, which require additional approvals to ensure that the Council is fully aware of its responsibilities and obligations in the implementation of the project.

Funding

- 4.4 Since the draft business case was submitted there has been a significant amount of work undertaken to secure the funding to enable the start of the package 1 works. Due to the innovative nature of this project, with the significant element of regeneration that is incorporated within the project, it has proved difficult to fit the scheme requirements within the Government and Environment Agency's current funding arrangements. However agreement has now been reached to enable funding to be identified in a flexible way to maximise the Councils ability to maximise third party contributions and make a significant start to the project to demonstrate the intent to deliver the project in full.

- 4.5 The current estimated total scheme cost is £90.2m, which is a reduction of £4.7m from the position in November 2013. The reduction is due to the tender price that has been submitted during the competitive tender process, recently undertaken for the stand alone works contained in Package 1 of the scheme.
- 4.6 Funding that has been identified to date includes;
- Government Growth funding - £19.06m (£6.06m received £13m still to be confirmed)
 - Government Flood defence grant in aid funding (FDGiA) - £17.1m,
 - Council and EA local funding - £0.77m
 - D2N2 Local Enterprise Partnership infrastructure funding - £10m
- 4.7 The total funding identified to date is £46.9m, which leaves a current shortfall of £43.3m. The Council and EA will work closely together to both identify opportunities for third party funding and also to drive down costs on the project.

Maintenance and operation responsibilities and obligations

- 4.8 It will be necessary for the Council to ensure the maintenance and operation of the assets during their lifetime. This is for a period of 100 years, which is linked to the benefits period of the flood defence assets to be created.
- 4.9 The FDGiA grant conditions for funding envisages the Council as responsible for the future life time maintenance of the assets imposing potential restrictions on future funding if assets are not properly maintained.
- 4.10 The final details of all of the maintenance and operational requirements are being finalised for the legal agreement and delegated authority is sought for the Strategic Directors of Resources and Neighbourhoods, in consultation with the Cabinet Member for Planning and Regeneration, to finalise the wording of the legal agreement, in line with the principles set out in this report.
- 4.11 There will be risks to the Council if the maintenance and operation of the assets is not carried out in a reasonable manner; however these works will be carefully planned and resourced as part of a risk management approach to carrying out the work. The risks are considered to be minimal as the Council already manages a number of local watercourses across the City, as the Lead Local Flood Authority, and the inclusion of this scheme will be managed as an extension to that work.
- 4.12 Many of the flood defence assets will be owned by the Council, so responsibility and the costs of maintenance of such would in any event be with the Council.

- 4.13 Maintenance of third party assets is more problematic to secure. Where possible the Council will seek to secure obligations on the owner of the land to maintain the flood defence asset, either when the Council disposes of land, or by ensuring that developers who have flood defence infrastructure incorporated within their land or buildings, enter into a Section 40 agreement with the EA, whereby they are obligated to maintain the flood defence assets on their property.
- 4.14 Where it is not possible to secure an obligation from a third party to maintain the asset, the EA has power to enter and carry out works, but are not able to recover their costs. The intention is for the EA and the Council to work together to secure maintenance of such and this will be reflected in the legal agreement, however it is likely that the Council will need to cover the costs of any such works.

Failure to maintain and operate

- 4.15 The consequences to the City of the flood defences not being adequately maintained or operated could be significant. Whilst the EA's states that there is currently no statutory duty on them to maintain flood defence assets and similarly there would be no such duty on the Council in acting under their powers. However there is inevitably a real risk if damage arises as a consequence of the Council's negligence, particularly of its own assets, of claims being made against the Council. The Council will undertake a risk assessment management approach to properly manage risks according to their potential impact.
- 4.16 The risk of Council incurring legal liabilities as a result of negligence would be covered through the Council's public liability insurance. This insurance will be reviewed and amended to cover the additional responsibilities, as it is for any new responsibilities that come within the Councils remit.

Maintenance and operation costs

- 4.17 As to maintenance and operation costs, in relation to package 1, within the latest iteration of the Business Case (v6), the estimated annual cost of maintenance is £30,000. The estimated cost of the total annual commitment, when Packages 2 and 3 are completed is £90,000. Whilst it is accepted that the Council faces unprecedented budget pressures, the significant benefits and level of protection that will be delivered through this project, has lead officers to recommend to Members that funding for this revenue pressure should be prioritised from within existing resources.
- 4.18 The maintenance costs will begin to be incurred as the infrastructure is completed, which may start to be required as early as 2016/17 Also it should be noted that some elements of maintenance are already being carried out by the council as part of the grounds maintenance work that is undertaken on parks and open spaces along the banks of the river.

- 4.19 Certain parts of the flood defences will be active systems, such as gates, barriers and penstocks or pump stations which may need manual intervention to erect or operate in times of flooding. The EA will provide flood forecasting information to enable these systems to be operated when required, but the actual erection and operation will be implemented by the Council, undertaken in line with the EAs recommendations and advice regarding operation protocol, management of emergencies which will be integral to the creation of a revised flood plan for the City. An indicative allowance for these anticipated operational costs is included within the sums identified in 4.17 above.
- 4.20 Active flood defences attract a greater risk to the Council in terms of potential claims in the event that they are not operated in time, or fail and flooding occurs as a result of a failure of the Council to act. The exact extent of these types of assets is still to be determined during the detailed design process and all opportunities will be made to reduce the number of active flood defences to reduce the risk to the Council and also on-going operational costs

Progressing work using Environment Agency powers

- 4.21 Both the City Council and the EA are Lead Local Flood Authorities for the purpose of The Flood and Water Management Act 2010, the EA however has the direct responsibility for Main Rivers.
- 4.22 Whilst the City Council would be agreeing to take the lead role in the delivery of the Project, to enable it to carry out functions and powers of the EA on a Main River it is necessary for the Council and EA to enter into an agreement pursuant to section 165(1) of the Water Resources Act 1991, this being the main purpose of the Legal agreement. The agreement will enable, subject to control by the EA, the Council to amongst other things, access third party land and construct the defences and to enter into land compensation agreements in the capacity of the EA. In return the Council will indemnify the EA, so that the EA are not responsible for any of the costs arising out of the Project.

KEY RISKS

- 4.23 The delivery of the project will bring with it a range of risks, the key risks which are outlined in the business case alongside the adopted mitigation measures include:
1. Insufficient partnership funding to deliver the entire scheme;
 2. Failure of developers to deliver development sites to the required programme or where development is sought which conflicts with the project plans.
 3. Delays and/or additional costs driven by approvals by third parties, including Network Rail and English Heritage;
 4. Costly delays to work with archaeology of Little Chester;
 5. Delays to the project is likely to lead to additional costs, which will increase the funding gap
 6. Reputational issues for Environment Agency and Derby City Council of failure to deliver scheme and/or not take advantage of Growth funding.
 7. There may be a requirement to fund some project costs from revenue funding, not capital, and this could be challenging for the Council in the current financial climate
 8. On-going risk associated with holding the operational and maintenance liability for the flood defences
 9. Unforeseen additional requests or requirements yet to be clarified by the EA and DEFRA associated with the release of the funding currently identified.
- 4.24 With regards to the potential financial risks to the project, the risk allowance allocated to the cost estimates included in the business case are based on a detailed risk register containing some 227 potential risks.
- 4.25 Having acknowledged that delivery of the OCOR project will present the Council and Environment Agency with a number of considerable risks it also provides some significant opportunities, in addition to the flood protection benefits. These include:
1. the opportunity to secure up to £36.2m of Government funding towards the project at a time when such funding opportunities are hard, if not impossible, to come by;
 2. the potential to role forward any efficiency savings driven out of Package 1 to support works in Packages 2 and 3.
 3. the potential to drive down costs and increase efficiencies through a design and build tender process using established frameworks;
 4. the economic benefits to the City during and after construction including opportunity for providing job opportunities for local people;
 5. the opportunity to transform the river corridor as a place where people want to live, work and enjoy.

OTHER OPTIONS CONSIDERED

5.1 Not delivering the OCOR scheme.

If the Council decides not to take on the responsibility as lead agency for OCOR then the scheme will fall down the priority list for the EA, and is unlikely to be delivered within the foreseeable future. The City will then be more exposed to a severe flooding incident where the current defences are only designed for a 1 in 25 event as opposed to a 1 in 100 event. Over the coming decades climate change is likely to exacerbate the situation leading to more frequent and severe flood events potentially affecting 1,450 homes and 800 businesses. This option would however remove the requirement for additional revenue funding that will result from the project.

5.2 Delivering the scheme over a longer timeframe.

This option has been rejected because of the risks of not getting a sizeable amount of upfront funding to start the project. The £36.2m on offer provides an excellent opportunity to complete the first package of works and at the same time look to attract further funding to complete the rest of the scheme.

This report has been approved by the following officers:

Legal officer	Stephen Teasdale
Financial officer	Amanda Fletcher
Human Resources officer	
Estates/Property officer	Alex Ward
Service Director(s)	Christine Durrant
Other(s)	Sarah Banks

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Background papers:	Appendix 1 – Implications
List of appendices:	Appendix 2 – Executive Summary of the revised V6 of the Business Case and addendum statement.
	Background documents – November 2013 Business Case

IMPLICATIONS

Financial and Value for Money

- 1.1 The main body of this report sets out the current funding that has been identified towards the delivery of this project. The grant conditions for the growth funding require the allocation to be confirmed as being spent on capital expenditure with £6m of the fund requiring sign-off by the end of March 2015. The grant conditions for the Flood Defence Grant in Aid, specify that the grant must be used to bring forward the capital elements of the Our City Our River project. The FDGiA conditions also set out the on-going maintenance responsibilities and obligations, which are explained in more detail in the body of the report.
- 1.2 The grant conditions explicitly state the funding is for capital expenditure and therefore does not provide for revenue related costs. There will inevitably be revenue costs associated with the Project and therefore a budget will need to be established. These details are currently being clarified. However, since the growth funding can be spent on any capital expenditure, this will give officers the opportunity to swap some funding between capital and revenue (as the Council does currently fund some capital expenditure with one-off revenue funding), with the aim of creating a revenue project fund that would be used to fund any costs that were considered to be revenue. This fund would be reviewed on a regular basis to ensure sufficient revenue funding is retained within the project fund.
- 1.3 There will be on-going maintenance and operational responsibilities associated with the safe operation of the flood defence assets, which the grant conditions require the Council to take on. It is estimated that this cost will be around £30,000 per year for package 1, and a total of £90,000 per year for the full scheme. Whilst this will be an additional burden on the Councils budgets, it is considered that the benefits of receiving the significant capital funding, and the protection of significant numbers of homes and businesses, mean that priority should be given to identifying this funding as recommended in this report. Failure to adequately maintain or operate assets could give rise to potentially significant liabilities.
- 1.4 The requirement for the operational and maintenance funding is expected to begin during 2016/17, as elements of the flood defences are completed.

Legal

- 2.1 Both the City Council and the EA are Lead Local Flood Authorities for the purpose of the Flood and Water Management Act 2010, the EA however has the direct responsibility for Main Rivers. The project will involve operating in partnership with the Environment Agency the terms of reference which are to be formalised in a legal agreement, as outlined in the report. In particular it is envisaged that the Council will exercise some powers and functions of the EA in relation to the construction of flood defences and therefore enable the Council to do that the Council and the EA will need to enter into an agreement pursuant to section 165(1) of the Water Resources Act 1991, in return the EA will expect to be indemnified for costs arising from exercising these functions, this being the main purpose of the legal agreement
- 2.2 Delivery of the project will be achieved by both authorities exercising a variety of powers including compulsory purchase powers as appropriate for each specific stage of the project scheme under the overarching objective of improving flood defences and providing regeneration within the city. The Council as lead partner for delivering the scheme will be taking primary responsibility for appointment of contractors and ultimately for the design and quality of the works as well as for elements to ensure the proper future maintenance and effective operation of the flood defences.

Personnel

- 3.1 Work has been progressing to establish a project team with a combination of Environment Agency and Council employees, to ensure that the correct mix and balance of skills are in place to being delivery of this project immediately.
- 3.2 A number of EA employees are planned to be seconded to the Council for at least 12 months, to provide continuity of project understanding, delivery and technical expertise.
- 3.3 A project coordinator and senior regeneration officer are in the process of being recruited, subject to the approval of this project by Members.
- 3.4 Resources will be required from across the council to support the project including from finance, procurement, legal, estates, planning and the parks service and discussions are on-going with these services to identify resources that can support this project delivery. Project costs include for the cost reimbursement of these resources.

IT

- 4.1 None directly arising

Equalities Impact

- 5.1 None directly arising.

Health and Safety

- 6.1 None directly arising.

Environmental Sustainability

7.1 The project has multiple benefits for the environmental sustainability of Derby.

Property and Asset Management

- 8.1 Implementation of the scheme will require the use of Council owned assets. The assets used can be categorised into four categories:
- operational land, principally public open space;
 - land currently leased out to third parties;
 - surplus land either currently reserved for or likely to be reserved for sale;
 - land being considered Council/Derby Homes development.
- 8.2 It will be necessary to construct or enhance existing flood defences on Council operational assets. This will principally be undertaken on public open space or existing parks. The impact of the new or enhanced defences will need to be carefully considered and where possible the design of the defences should aim to enhance the use or appearance of these assets. Where the siting of new defences enables the facilitation of an adjoining development then the Council should seek to obtain a share of the value of the development site.
- 8.3 There will be some assets where in the incidence of a severe flooding event the asset, or parts of it, will be rendered unusable for a period of time following the flood. Assessments will need to be undertaken to minimise risk on the use of these assets and ensure that only low value items and uses are located at any buildings or land affected. Measures should be put in place to ensure that the time taken to bring these assets back into beneficial use is minimised.
- 8.4 Where land is being leased to a third party then the Council will need to have regard to the terms of the lease agreement and serve any appropriate notices. The Council will also need to consider any benefits or detriments to the operation of the lease once the works are completed. This may have implications for the rent we will receive.
- 8.5 There may be instances where land is used for defences which has been ear-marked for sale or is being considered to be sold in the future. The Council will need to have regard to the likely impact upon capital receipts from sites being used, wholly, or in part for the scheme. The value of the land lost in this way can be considered part of the Council's financial contribution to the scheme. Again, as in 8.2 above, where the siting of new defences enables the facilitation of an adjoining development then the Council should seek to obtain a share of the value of the development site.
- 8.6 In a similar way to 8.5 there may be instances where land is used for defences has been ear-marked for or is being considered to be developed in the future. This will principally affect housing schemes being brought forward by Housing Strategy or Derby Homes. Where the siting of new defences enables the facilitation of an adjoining housing scheme then the Council may be able to secure a share of the properties to develop and enhance the City's housing stock.
- 8.7 Long term maintenance of the flood defences forming part of our own assets will be

the responsibility of the Council.

- 8.8 Assets acquired for the project should be included in the councils asset register for inclusion on the councils balance sheet

Risk Management

- 9.1 The main financial/reputational risks are outlined in the body of this report

Corporate objectives and priorities for change

- 10.1 OCOR will support the key priorities of economic growth and promoting the city centre.

Our City Our River

Executive Summary

Revised Business Case version 6

Derby City Council

Cabinet Report 22 October 2014

Appendix 2

1 Executive summary

1.1 Introduction & background

- 1.1.1 The River Derwent has flooded Derby on a number of occasions in the 20th and 21st centuries. The largest recorded events were in 1931 and 1932. In 1965 another large flood event occurred which led to the construction of the existing flood defences in the following years. Most recent floods occurred in 2000 and 2007 where the existing defences defended the city against a 1 in 30 year flood event.
- 1.1.2 The Our City Our River scheme is a partnership project lead by Derby City Council which aims to respond to the risk of flooding in Derby. This appraisal has been produced by an EA Team utilising WEM Framework suppliers with the co-operation of the Council, who will adopt the business case and become lead authority for its implementation once approved.
- 1.1.3 The project is a ‘change standard of service project’ supported by an approved strategy (Lower Derwent Flood Risk Management Strategy), which will implement some of the Strategy objectives and in addition contribute significantly to the regeneration and growth objectives of Derby City Council. This scheme is one of nine schemes constituting the Growth Programme endorsed by Defra and has been allocated additional funding on this basis.
- 1.1.4 The Lower Derwent Flood Risk Management Strategy was approved and adopted in January 2011. The identified preferred approach to managing flood risk is: to maintain existing defences and flood warning; promote upstream land management practices; provide new defences and improve conveyance around structures which obstruct flow. Specifically for Derby City Centre the defences are to be set back from the river’s edge to make space for water and improve conveyance through the city.
- 1.1.5 Since the adoption of the Strategy, the Environment Agency and Derby City Council have been working in partnership to identify how the provision of new defences within the city can be implemented. As part of this the Our City Our River Masterplan was developed which identified a preferred alignment of defences based upon a balance of appropriate flood risk management; integrating defences into the urban landscape; improvements to the riverside landscape and affordability. The aim was to promote the Council’s regeneration and economic growth objectives together with the Environment Agency’s flood risk objectives, along with both organisations’ commitment to environmental and social enhancements. This Masterplan has been formally adopted by the City Council and forms a material consideration in the planning process
- 1.1.6 This Business Case seeks Financial Scheme of Delegation (FSoD) approval (Gateway 1) via the Environment Agency’s Large Projects Review Group (LPRG) for the delivery of the scheme at a project cost of £92.1m which includes a contribution of up to £15.8m of Flood Defence Grant in Aid (FDGiA).

1.2 Problem and objectives

- 1.2.1 There are around 2250 properties in Derby City currently at risk from flooding in a severe flood event (1:100 (1%) chance of flooding each year). This includes over

1450 homes, almost 800 businesses, key infrastructure and many historic buildings. A severe flood event would sever transport networks and hamper the work of the emergency services.

- 1.2.2 The existing defences only offer a low standard of protection (between a 1 in 25 (4%) and 1 in 50 (2%) chance of flooding each year), which is low for a regionally important city. In addition, the existing defences are nearing the end of their design life, and certain sections have failed in recent years requiring urgent repairs.
- 1.2.3 Without investment the existing flood defences will degrade and fail reducing the current low standard of protection further which will also worsen with the effects of climate change.
- 1.2.4 The riverside through Derby City is characterised by derelict and vacant property. There are regeneration aspirations of many sites by both the Council and developers. However, redevelopment is hampered as viable uses are not categorised as appropriate within zones of high flood risk. Doing nothing would effectively mean abandoning large areas of the city to flood risk. Over time properties and businesses in high risk areas may reduce in value with the increased risk of flooding to an extent that they could be abandoned. Degraded and abandoned property produces a poor and unsafe environment which would affect the image of the city as an inspiring place to live, work and visit. Any new development would be limited to less vulnerable or water compatible uses only, which would limit the opportunities for growth and regeneration.
- 1.2.5 Our City Our River is about much more than safeguarding people and property from flooding. It is also fundamentally about re-establishing a positive relationship between Derby and its river and helping the city be a more vibrant and attractive place for people to live, work and visit. The core objectives of the scheme, defined during the production of the Masterplan, are:
 - Reduce flood risk to protect people, property and jobs.
 - Maximise regeneration and sustainable development opportunities along the river frontage.
 - Release economic potential of brownfield sites currently at significant risk of flooding.
 - Enhance the significant heritage assets of the city to help promote tourism to the city.
 - Enhance ecology, wildlife and biodiversity along the river and deliver Water Framework Directive objectives.

1.3 Approach to Delivery of Outcomes

- 1.3.1 The Our City Our River scheme is essentially a complex series of sites which need to be delivered as a single co-ordinated project. A proportion of the defences required will be integral to and reliant upon new development which will be delivered over a period of time, to a degree as the market dictates.
- 1.3.2 Due to the extended nature of the programme it is essential to consider the optimum sequence of delivering the sites to ensure that flood risk should not increase at other locations.

- 1.3.3 A general approach has been identified using hydraulic modelling where works commence at the upstream end working downstream, although certain sections cannot be progressed until downstream locations are improved. There is however flexibility afforded within the overall plan to enable development sites to come forward without restriction. This is as long as there is a suitable hazard led design approach and due consideration is considered and appropriate management of the flood risk impact to other sites.
- 1.3.4 The sequencing of sites has been split up in to three packages of works such that there are break points where completion of each will not affect the flood risk of subsequent packages. Benefits are also realised for each package of works when they are completed which reduces the risks of funding shortfalls affecting delivery of Packages 2 and 3 and failure to provide a return on the investment.

1.4 Flood Risk, Environmental and Economic Benefits

- 1.4.1 The preferred scheme has been driven by the Masterplan and the link to economic growth within the city and was decided as providing a 1:100 standard of protection (SoP).
- 1.4.2 In order to determine the correct level of investment from an FDGiA perspective in line with current partnership funding arrangements, economic assessment has been carried out for differing return periods. This identified that the preferred option from an economic appraisal was for providing a 1:150 SoP. However, it is considered that 1:150 is not acceptable from a regeneration and growth perspective as:
- costs to deliver will be greater requiring additional funding,
 - defences would be in the order of 0.5m higher than for a 1:100 and have a greater visual impact and increase risk of planning delays or even refusal,
 - third party developments are only obliged to provide 1:100 SoP with an appropriate allowance for climate change

Providing 1:150 SoP would therefore inevitably delay the project and also mean that the overarching scheme objectives could not be realised.

- 1.4.3 The flood risk economic appraisal has therefore been completed on the basis of a 1:100 SoP and details of the economic benefits for each package and the whole scheme are included in Table 1.1 below. This also includes for additional eco systems services benefits associated with the scheme which in part relate to proposed environmental enhancements.

Table 0.1: Summary of benefits delivered in each package and scheme total

Package	1	2	3	Total
Do Nothing PV damages (£k)	102,066	72,769	130,432	305,267
With Scheme PV damages (£k)	28,490	22,592	60,723	111,805
With scheme PV property benefits inc risk to life (£k)	73,576	50,178	69,709	193,462
With Scheme PV intangible benefits (£k)	1,844	1,270	1,845	4,959
With scheme eco-system services PV benefits ¹ (£k)	3,801	2,593	3,606	10,000
Total with Scheme PV benefits (£k)	79,221	54,041	75,160	208,421

¹The eco-system services benefits have been split pro-rata across the three benefit packages.

1.4.4 In addition to the flood risk economic assessment a detailed economic growth assessment has been completed. This study assessed the current economic output of the Our City Our River area and how this might change as a result of a Do Nothing and a with scheme scenario.

1.4.5 The assessment of the economic growth benefits is measured using the following indicators:

- Full Time Equivalent (FTE) employment: represents employees as a proportion of one worker based on the hours they work
- Gross value added (GVA): represents the amount of net wealth that individual businesses, industries or sectors contribute to the economy.

1.4.6 A summary of the net economic impact for the UK for the individual packages and the whole scheme is shown in Table 1.2.

Table 0.2: Total net economic impact for the UK

Package		1	2	3	Total
Annual impact					
With scheme benefits	Employment (FTE)	1,700	1,400	3,200	6,300
	GVA (£m)	58	49	194	301
Temporary construction impact					
Stand-alone defences	Employment (FTE)	177	129	63	369
	GVA (£m)	7	5	3	15
Development sites	Employment (FTE)	92	383	297	772
	GVA (£m)	5	23	18	46
Present Value benefits (GVA)					
	PVb (£m)	1,720	1,446	4,954	8,120

- 1.4.7 Approximately 80 Hectares of developable land will be created as a result of the provision of the proposed flood defences.
- 1.4.8 A summary of the outcome measures delivered by the scheme is detailed in Table 1.3.

Table 0.3: Outcome measure contributions and prioritisation score

OM1 – Economic Benefit ¹							
Duration of benefits (yrs)							100
PV Benefits (£k)							208,421
PV Costs (£k) ¹							73,546
Benefit/Cost ratio							2.83
OM2 – Households better protected against flood risk							
	Before			After			
Number of households in:	Moderate risk	Significant risk	Very significant risk	Moderate risk	Significant risk	Very significant risk	
20% most deprived areas	378	606	9	358	-	-	
21-40% most deprived areas	95	369	23	463	-	-	
60% least deprived areas	38	19	2	57	-	-	
OM4 – Statutory environmental obligations met							
OM4a – Habitat created to support WFD objectives (Ha)							19.1
Summary							
Raw partnership funding Score							24%
External contribution or saving required to achieve an adjusted score of 100% (£k) ²							53,444
PV FCRM GiA towards the up-front costs of this scheme (Cost for Approval)							17,068
Adjusted partnership funding score ³							100%

- 1 The present value cost includes sunk appraisal costs since Apr-12 of £1,815k which are not included in the economic appraisal PVc shown in Table 1.4.
- 2 This value is a present value cost and therefore does not include inflation, and only includes the 50%ile risk.
- 3 100% score achieved with Derby City Council responsible for actively seeking to secure funding for the whole scheme with a Funding Strategy in place.

1.5 Scheme Costs

- 1.5.1 Table 1.4 shows the present value costs used in the economic appraisal, whole life cash cost, and the FSoD approval costs. It separates sunk costs pre and post FSoD approval.

Table 0.4: Project costs for Our City Our River Scheme (£k)

	Economic appraisal	Whole life cash cost	EA FSoD approval
Costs pre Partnership Funding Calculator		886	

Costs post Partnership Funding Calculator to FSoD approval		1,832	
Capital delivery exc inflation	59,263	68,213	68,213
Inflation			9,275
Risk (50%ile)	9,414	11,056	
Risk (95%ile)			14,607
Future costs (construction & maintenance):	3,037	13,392	
TOTAL COSTS	71,714	95,379	92,095

1.6 Funding Approach

- 1.6.1 The partnership funding calculator has been completed which identifies that up to £17.07m of FDGiA funding is attributable to the scheme based upon total benefits realised. £1.234m of this maximum contribution is a sunk cost used in developing the scheme to date. It is requested as part of this business case that the remaining £15.8m of the applicable FDGiA funding is provided as an upfront contribution.
- 1.6.2 The project team submitted a successful bid for Defra Growth funding in December 2012 and the project was allocated £6m in SR10, and an indicative Growth fund contribution of £13.1m for the following period, a total of £19.1m. Confirmation of contributions from the Growth fund was subject to commitment to construction by March 2015.
- 1.6.3 In the original business case submission (Ver 5), there was a request for the release of the full FDGiA allowance applicable for the whole scheme as an upfront contribution to the scheme. This in combination with the Growth funding and other contributions secured to date would allow the scheme to commence to meet the Growth funding commitments and was aimed to act as a stimulant to ‘pump-prime’ the delivery of the whole scheme by promoting contributions from other parties.
- 1.6.4 Subsequent to this submission, Defra have confirmed that the release of all of the FDGiA as an upfront contribution will not be possible; however, a staged release is possible depending on funding needs to deliver Package 1. Clarification of the funding arrangements as agreed by Defra and the EA are detailed in the Funding Addendum document which is at the end of the Executive Summary. Note: part of the acceptance of this was based on reduced costs for the delivery of Package 1 (and hence the whole scheme), as a result of a tender process for the main construction works. Adjustments to the main report to take in to account of this change have not been accommodated in this revision as the flood risk benefits remain unchanged and so the viability of the scheme is enhanced as a result.
- 1.6.5 Derby City Council has confirmed that they accept the principles of the Funding Addendum, and do so by its inclusion in this Business Case which they will adopt upon approval, and become Lead Authority for the Implementation of the scheme.
- 1.6.6 Derby City Council accepts as Lead Authority they will maintain the assets created, in accordance with the grant conditions for FDGiA.
- 1.6.7 Derby City Council are fully aware that they are responsible for fulfilling the funding gap (difference between final scheme costs and FDGiA contribution) to enable the completion of the whole of the scheme. They have confirmed their commitment in a letter of support from the Leader of the Council to the East

Midlands Regional Manager (Lee Rawlinson). Derby City has also produced a funding and investment strategy which has identified a number of potential funding streams and possible levels of contributions to fund these packages, and is currently progressing with funding bids.

- 1.6.8 As part of the original bid for the Growth funding, it was highlighted that there was still a significant shortfall in funding which required an external contribution. It was identified at this time that there were significant risks associated with the realisation of these contributions to the extent or timing required to meet the preferred project delivery timescales.
- 1.6.9 As a result of this the EA highlighted to Defra that additional growth funding could be required post SR10 which was not currently provided for under Partnership Funding. This potential need has been taken in to account through the SR13 long term capital settlement.
- 1.6.10 Local Levy funding towards the future costs of the scheme has been secured totalling £250k, and Derby City Council have confirmed a direct contribution of £300k to date.

1.7 Technical Details of Scheme

- 1.7.1 The scheme will consist of fairly standard stand alone flood defences (flood walls, earth embankments, pumping station, small number of flood gates.), plus defences that are integral with development sites promoted by third parties at ten different locations.
- 1.7.2 Climate change is taken in to account in the design level of the defences such that a 1:75 SoP will still be afforded at the end of the benefits period (100 years).
- 1.7.3 A preliminary WFD assessment has confirmed that the project will be compliant subject to adequate control and consideration during the design development.
- 1.7.4 Environmental issues include the presence of protected species and more significantly those related to the city's rich heritage which includes Scheduled Ancient Monuments and a World Heritage Site. A detailed Environmental Action Plan has been developed to ensure appropriate mitigation measures are in place and costs allowed.
- 1.7.5 Opportunities for environmental enhancements have been identified which have been concentrated on those that contribute to WFD objectives so qualify for FDGiA funding.

1.8 Implementation and Risks

- 1.8.1 There is currently a clear Governance Structure and Project Board in place which takes in to account that Derby City Council will take on the lead responsibility for the delivery of the scheme once the Business Case is approved. The Board includes an elected member of the Council, and it is confirmed that there is cross party support for the scheme.

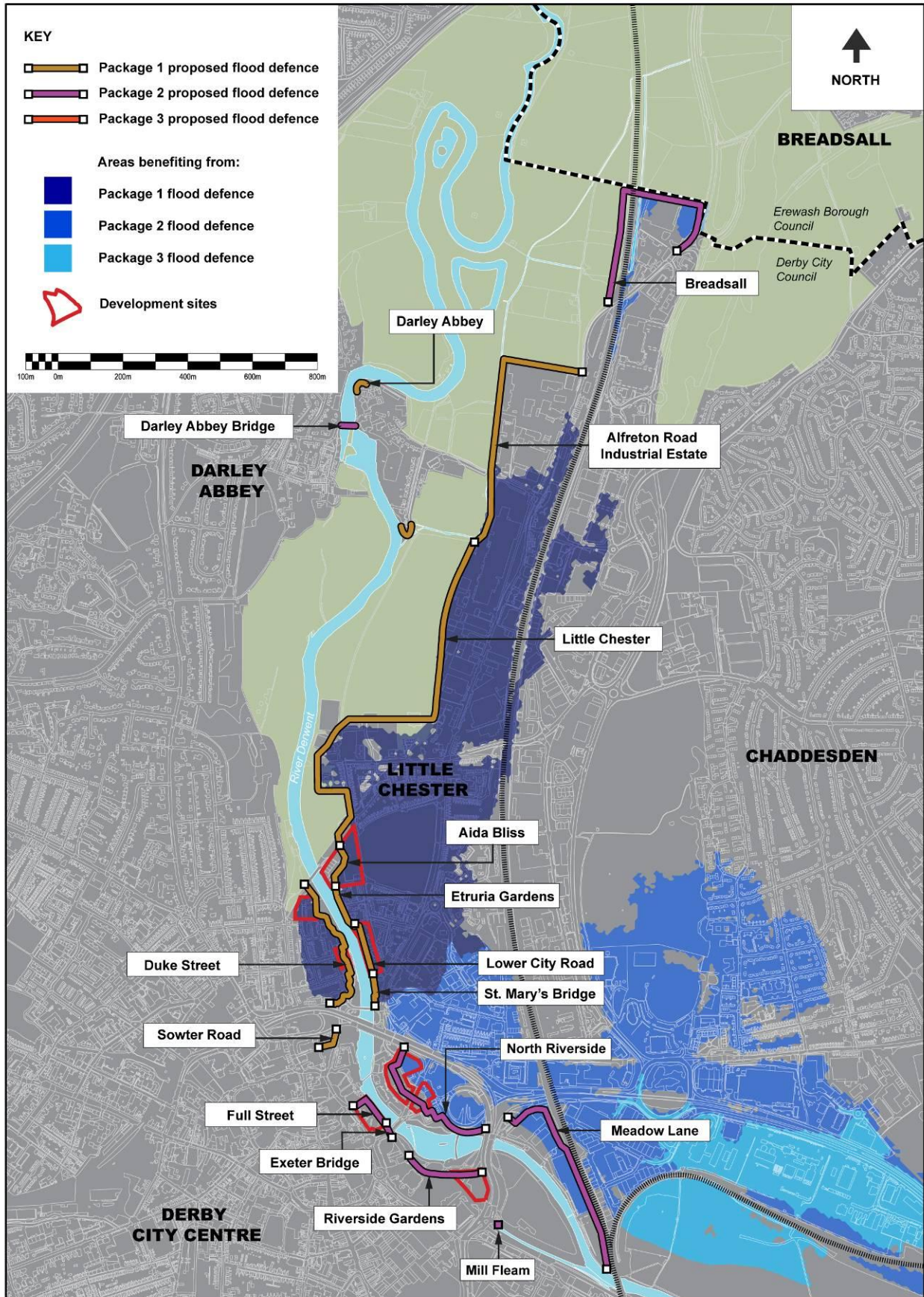
- 1.8.2 As Lead Authority for the delivery of the scheme Derby City Council have confirmed that they will take on responsibility for the operation and maintenance of the scheme's assets.
- 1.8.3 To ensure continued momentum in the project post business case approval it is intended that EA services, including ncpms, NEAS, Estates, Legal Services, Procurement, and Area staff will continue to work on behalf of the Council, at least in the short term (up to March 2015).
- 1.8.4 The Council plan to utilise the Environment Agency WEM Framework contracts for the provision of the stand alone defences via a Design and Build contract with the support of ncpms and EA Procurement.
- 1.8.5 The Council will lead on the regeneration aspects and working with developers to progress integral defences along with the implementation of the funding strategy and gaining further contributions to complete the whole scheme.
- 1.8.6 General risks associated are fairly standard for a flood risk management scheme. A risk potential assessment has been completed which identifies the scheme as having a low risk. The most significant risk is that contributions are not secured to enable the completion of Packages 2 and 3. However, plans are in place to mitigate these risks, including the funding strategy and also the phasing and packaging of works such that benefits are realised with staged completion which still offer a positive return on the investment.

1.9 Director's briefing paper

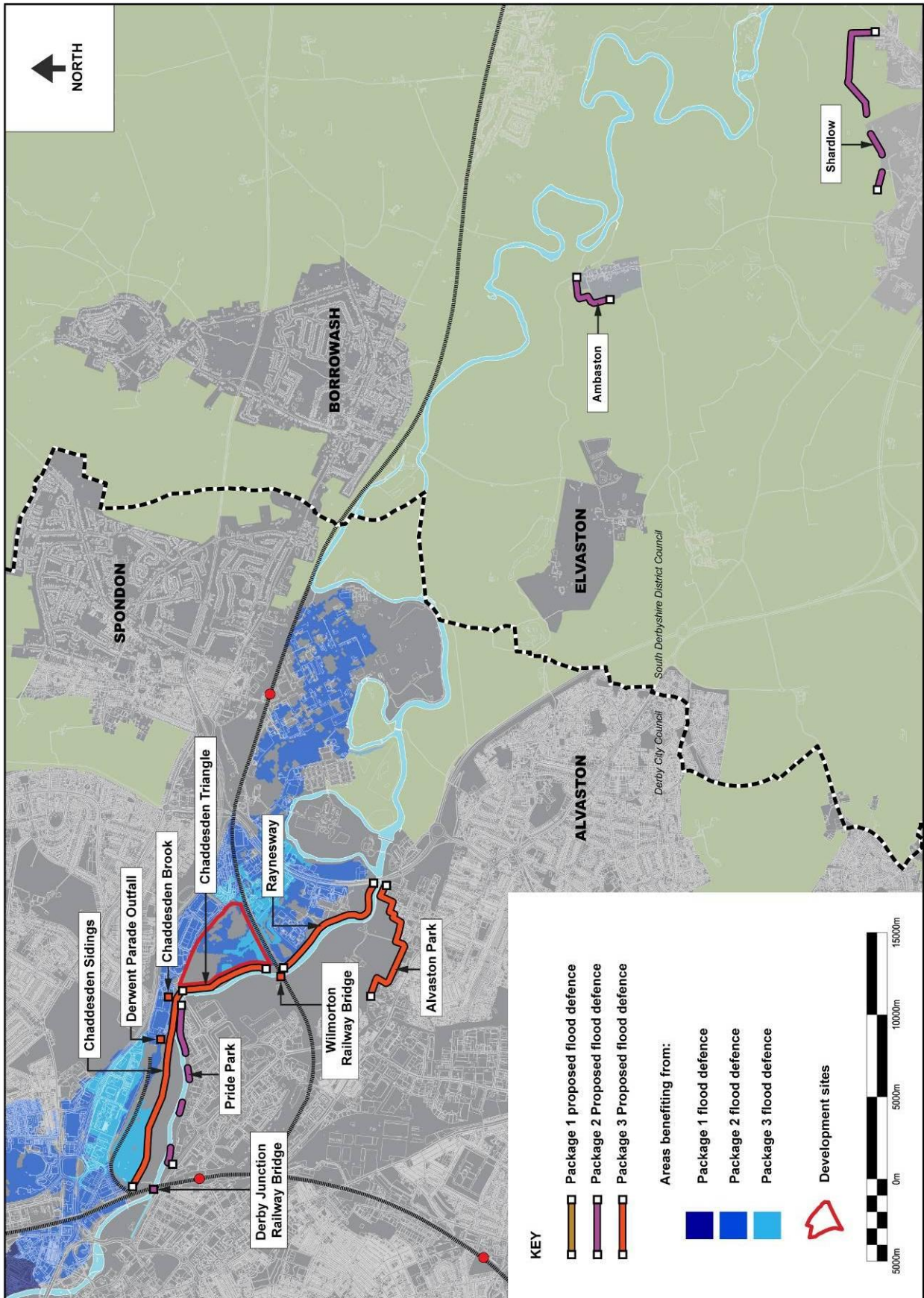
Region:	Midlands		Project Executive:	Vaughan Felton	
Function:	FCRM		Project Manager:	Kevin Thomas	
Project Title:	Our City Our River, Derby FRMS		Code:	IMMI000937	
NEECA Consultant:	Black & Veatch	NCF Contractor	Jackson Civil Engineering	Cost Consultant	Turner & Townsend
The Problem:	Existing defences offer low standard of protection and are coming to end of design life.				
Assets at risk from flooding:	2,250 properties currently at risk from flooding in a severe flood event (1 in 100 (1%) chance of flooding each year).				
Existing standard of flood protection:	Between 1 in 25 & 1 in 50	Proposed standard of flood protection:	1 in 100		
Description of proposed scheme:	Realign defences away from the river through Derby to create space for flood conveyance and reinstate functional floodplain. Some defences to be delivered as part of new development to promote regeneration along the river front.				
Costs (PVC): (100 year life inc. maintenance)	£71.7m	Benefits: (PVb)	£ 208m	Ave. B: C ratio: (PVb/PVc)	2.91
NPV:	£ 137m	Incremental B: C ratio:	-	Whole life cost (cash value):	£95.4m
Choice of Preferred Option:	Provide new defences on an appropriate alignment.				
Total FSoD approval project cost:	£ 92,095k				
Total FDGiA approval sought:	£ 15,835k				
Delivery programme:	<p>1.9.1 Planning Approval: March 2015</p> <p>Award Design and Construction Contract: November 2014</p> <p>Construction Start: March 2015</p> <p>Readiness for Service: May 2021</p> <p>Contract Completion: March 2022</p> <p>Project Closure: March 2025</p>				
Are funds available for the delivery of this project?	With approval of the FDGiA and other funding secured, there is sufficient to deliver Package 1. Derby City Council seeking the remaining funding need.				
External					

approvals:	
Outcome measures	Raw partnership funding score: 24% Adjusted partnership funding score: 100%

1.10 Key plan for upstream sites



1.11 Key plan for downstream sites



Funding Addendum to Business Case - 30th September 2014

Clarification of Funding Mechanism to Deliver the Project.

Included within the main business case is the request for FDGiA funding that the whole scheme attracts being brought forward as a contribution to enable the identified Package 1 works to be delivered in order to pump prime the project. This provision of FDGiA being in advance of confirmation that all contributions to complete the whole scheme are secured.

After review and discussions between the Environment Agency and Defra, it has been confirmed that the principle of this is acceptable, subject to certain conditions as described below. What has also been taken in to account is the fact that post tender returns; the forecast cost for the delivery of Package 1 has decreased to £28.2M.

Funding Summary

- Growth Fund 13/14 to 14/15 - £6.06M confirmed
- Supplementary Growth Fund 15/16 to 17/18 - £13.0M to be confirmed
- Package 1 FDGiA PF Contribution - £7.48M to be confirmed
- DCC Contribution - £0.3M confirmed
- Local Levy Contribution - £0.47M confirmed

Total Funding = £27.31M

Less sunk costs in the development of the Business Case = £2.7M

Funding Balance = £24.6M

Funding Shortfall for Package 1 = £3.6M

Defra confirmed that if there remains a funding gap they are content for the Environment Agency to bring forward funding that it would have made available under the normal Partnership Funding formula in Packages 2 and 3 of the programme in to Package 1. This is subject to the total Defra grant that is allocated to all 3 Packages of the project not being increased.

This funding would not be subject to normal partnership funding requirements, but allocated to ensure that Package 1 could go ahead on time. Any funding brought forward to enable the completion of Package 1 will reduce the amount of grant in aid that is available for Packages 2 and 3 to balance any increase in allocation for Package 1.

It is anticipated that there may be an opportunity to secure some financial third party contributions towards Package 1 from sites not within the river corridor but benefitting from Package 1 works (as well as Package 2 and 3 in the future). The draw down on funding from the Package 2 and 3 eligible FDGiA funding to complete Package 1 works will be a last resort of funding should the combination of Package 1 funding and third party contributions not meet the full cost of delivering the Package 1 works.

Funding for Packages 2 and 3

The net amount of FDGiA funding for the delivery of Package 2 and 3 works available after the completion of Package 1 will be released under normal partnership rules, ie once contributions to deliver these packages of work are fully secured by Derby City Council