

Record of an individual Cabinet member decision

Local Government Act 2000 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Decision made by	Robin Bennett, Cabinet Member for economic development and regeneration
Key decision?	No
Date of decision (same as date form signed)	
Name and job title of officer requesting the decision	Suzanne Malcolm Head of Development & Regeneration Ref P19/S3232/106
Officer contact details	Tel: 01235 422217 Email: Suzanne.malcolm@southandvale.gov.uk
Decision	To create a budget for £25,370.86 from S106 contributions and release funds to the Oxfordshire County Council for the delivery of bus service at Henley-on-Thames.
Reasons for decision	<p>We have received a request for funds from Oxfordshire County Council (S106 Application Ref. P19/S3232/106) for a total of £25,370.86 from S106 contribution:</p> <p>S106 Ref: 17S15 Planning Ref: P16/S1227/FUL Development: Wilkins Yard, 9-11 Deanfield Avenue, Henley-on-Thames, RG9 1UE Obligation: The "Bus Service" contribution is defined in schedule three of the agreement as 'the sum of £23,000 (Index-Linked) towards the improvement and/or continuation of bus services benefiting the Site'.</p> <p>The S106 agreement is 'clear and unambiguous' about how the contributions are to be used and the planning decision for S106 agreement 17S15 was made by a delegated officer and not presented to a planning committee. The sum requested is more than £20,000, but below £100,000 threshold. Thus, in accordance with our constitution, the Cabinet Member for economic development and regeneration, in consultation with the Cabinet Member for finance can agree to set up a budget and release the funds requested for the project described above.</p> <p>The proposed project Oxfordshire County Council is seeking to draw upon the S106 contributions secured towards delivery of bus service at</p>

	<p>Henley-on-Thames. Planning permission for the project is not necessary.</p> <p>S106 agreement 17S15, a bipartite agreement was secured by South Oxfordshire District Council to help support public transport services, requests for these contributions were made by Oxfordshire County Council at planning application stage.</p> <p>The financial support for the bus service is necessary for it to operate and build up the use of the service by the local people including residents of and visitors to the residential developments permitted by the planning permissions.</p>																					
Alternative options rejected	None																					
Legal implications	<p>It is recommended that the Oxfordshire County Council be advised of the allocation of the funds in a letter, which sets out what the funds can be used for and includes a spending deadline to ensure delivery of the project.</p> <p>Once funds have been received by Oxfordshire County Council these will be passed onto Henley-on-Thames Town Council under a funding agreement stipulating that the contributions are not to be used for purposes other than the delivery of the local bus services serving the developments.</p> <p>The funding agreement between Oxfordshire County Council and Henley-on-Thames Town Council was signed in early July 2019.</p> <p>Henley-on-Thames Town Council have also entered into a contract for five years with Reading Transport Ltd for delivery of the bus service at Henley-on-Thames.</p>																					
Financial implications	<p>The total project cost is estimated to be £163,069 for the initial five years of delivery and is detailed in the table as set out below. The cost will match if not exceed the contributions secured towards public transport. Any shortfall of funds will be covered by Henley-on-Thames Town Council.</p> <table border="1" data-bbox="480 1630 1461 1917"> <thead> <tr> <th colspan="3">Project cost breakdown</th> </tr> </thead> <tbody> <tr> <td>Year 1</td> <td>£42,606</td> <td>Fixed</td> </tr> <tr> <td>Year 2</td> <td>£38,658</td> <td>Fixed</td> </tr> <tr> <td>Year 3</td> <td>£33,991</td> <td>As minimum – following programmed review could be higher - June 2020</td> </tr> <tr> <td>Year 4</td> <td>£26,959</td> <td>As minimum – following programmed review could be higher – June 2020</td> </tr> <tr> <td>Year 5</td> <td>£20,855</td> <td>As minimum – following programmed review could be higher – June 2020</td> </tr> <tr> <td>Total Cost</td> <td>£163,069</td> <td></td> </tr> </tbody> </table> <p>Oxfordshire County Council intends to draw in from three developments towards delivery of bus services as and when the monies have been released by the developer.</p>	Project cost breakdown			Year 1	£42,606	Fixed	Year 2	£38,658	Fixed	Year 3	£33,991	As minimum – following programmed review could be higher - June 2020	Year 4	£26,959	As minimum – following programmed review could be higher – June 2020	Year 5	£20,855	As minimum – following programmed review could be higher – June 2020	Total Cost	£163,069	
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Developer contributions to be drawn from for the whole project					
Planning Ref.	S.106 Ref.	Development	Amount in Agreement	Contributions Received from Developer (incl. indexation)	Contributions drawn down by county Council
P16/S2459/FUL	16V44	116-118 Greys Road	£17,000	£17,559.30	£17,559.30 received on 28.8.2019 (S106 application ref. P19/S0928/106, ICMD approved on 13.08.2019)
P16/S0077/O	16S45	Highlands Farm Highlands Lane	£108,000	£39,694.81 received on 23.11.2018 £72,000.00 (Index-Linked) outstanding from developer (for second and third instalment)	£39,694.81 received on 28.8.2019 (S106 application ref. P19/S0928/106, ICMD approved on 13.08.2019)
P16/S1227/FUL	17S15	Wilkins Yard 9-11 Deanfield Avenue	£23,000.00	£25,370.86 received on 8.10.2019	£25,370.86 To be transferred upon approval of application
Other implications					
Background papers considered					
Declarations/conflict of interest? Declaration of other councillor/officer consulted by the Cabinet member?					
List consultees		Name	Outcome	Date	
Ward Councillors		Cllr Ken Arlett	No comments were received	Emailed 30.10.19	
		Cllr Kellie Hinton	No comments were received	Emailed 30.10.19	
Ward Councillor		Cllr Stefan Gawrysiak	Comments received: <i>'Dear Robin and all. Please approve this request. As you are</i>		

			<p><i>aware Henley has been at the forefront of the provision of public transport and namely saving and securing our local town bus service. This service has been very successful in serving all levels of our community. mon - Friday we have a service from 7 am to 7 pm. Sat 9 am to 2 pm.</i></p> <p><i>I am the chair of our Henley Bus working group which has councillors, officers and residents from Henley. We meet regularly to ensure that the service is well publicised and it our aims to increase patronage.</i></p> <p><i>This is also part of our contribution to improve Air Quality as part of the Transport Strategy. We took a strategic decision to give the contract to Reading Buses whose buses run on biogas which is sourced exclusively from renewable sources.</i></p> <p><i>With this contribution and contributions from Henley's own resources it means that our bus will be Sita 1 able for a number of years going forward. It also reduces car journeys and importantly provides a social service for the elderly in our community as they meet and chat on the bus.</i></p>	
		Approved	31.10.19	
Legal	Pat Connell	Agreed	31.10.19	
Finance	Emma Creed	Agreed	31.10.19	
Human Resources	N/A			
Sustainability	Heather Saunders	Comments received: 'Nothing to add.'	05.11.19	
Assurance	Yvonne Cutler Reeves	No comments were received	Emailed 30.10.19	

	Communications	Andy Roberts	Agreed	31.10.19
	Head of Development & Regeneration	Suzanne Malcolm	Agreed	05.11.19
	Head of Planning	Adrian Duffield	Agreed	05.11.19
	Head of Finance	William Jacobs	Agreed	05.11.19
	Strategic Management Team (SMT)	Andrew Down	Agreed	13.11.19
Confidential decision? If so, under which exempt category?	No			
Call-in waived by Scrutiny Committee chairman?				
Cabinet member for economic development & regeneration signature To confirm the decision as set out in this notice.	Signature <u><i>RSL Bennett</i></u> Date <u>26th November 2019</u>			
Cabinet member for finance signature (as consultee) To confirm the decision as set out in this notice.	Signature <u><i>J Turner</i></u> Date <u>28th November 2019</u>			

ONCE SIGNED, THIS FORM MUST BE HANDED TO DEMOCRATIC SERVICES IMMEDIATELY

For Democratic Services office use only		
Form received	Date: <u>28-11-19</u>	Time: <u>13:50</u>
Date published to all councillors	Date: <u>28 28-11-19</u>	
Call-in deadline	Date: <u>NOT APPLICABLE</u>	Time: <u>—</u>

Guidance notes

1. This form must be completed by the lead officer who becomes the contact officer. The lead officer is responsible for ensuring that the necessary internal consultees have signed it off, including the chief executive. The lead officer must then seek the Cabinet portfolio holder's agreement and signature.
2. Once satisfied with the decision, the Cabinet portfolio holder must sign and date the form and return it to the lead officer who should send it to Democratic Services immediately to allow the call-in period to commence.
Tel. 01235 422520 or extension 22520.
Email: democratic.services@southandvale.gov.uk
3. Democratic Services will then publish the decision to the website (unless it is confidential) and send it to all councillors to commence the call-in period (five clear working days) if it is a 'key' decision (see the definition of a 'key' decision below). A key decision cannot be implemented until the call-in period expires. The call-in procedure can be found in the council's constitution, part 4, under the Scrutiny Committee procedure rules.
4. Before implementing a key decision, the lead officer is responsible for checking with Democratic Services that the decision has not been called in.
5. If a key decision has been called in, Democratic Services will notify the lead officer and decision-maker. This call-in puts the decision on hold.
6. Democratic Services will liaise with the Scrutiny Committee chairman over the date of the call-in debate. The Cabinet portfolio holder will be requested to attend the Scrutiny Committee meeting to answer the committee's questions.
7. The Scrutiny Committee may:
 - refer the decision back to the Cabinet portfolio holder for reconsideration or
 - refer the matter to Council with an alternative set of proposals (where the final decision rests with full Council) or
 - accept the Cabinet portfolio holder's decision, in which case it can be implemented immediately.

Key decisions: assessing whether a decision should be classified as 'key'

The South Oxfordshire and Vale of White Horse District Councils' Constitutions now have the same definition of a key decision:

A key decision is a decision of the Cabinet, an individual Cabinet member, or an officer acting under delegated powers, which is likely:

- (a) to incur expenditure, make savings or to receive income of more than £75,000;

- (b) to award a revenue or capital grant of over £25,000; or**
(c) to agree an action that, in the view of the chief executive or relevant head of service, would be significant in terms of its effects on communities living or working in an area comprising more than one ward in the area of the council.

Key decisions are subject to the scrutiny call-in procedure; non-key decisions are not and can be implemented immediately.

In assessing whether a decision should be classified as 'key', you should consider:

- (a) Will the expenditure, savings or income total more than £75,000 across all financial years?
- (b) Will the grant award to one person or organisation be more than £25,000 across all financial years?
- (c) Does the decision impact on more than one district council ward? And if so, is the impact significant? If residents or property affected by the decision is in one ward but is close to the border of an adjacent ward, it may have a significant impact on that second ward, e.g. through additional traffic, noise, light pollution, odour. Examples of significant impacts on two or more wards are:
- Decisions to spend Didcot Garden Town funds (significant impact on more than one ward)
 - Changes to the household waste collection policy (affects all households in the district)
 - Reviewing a housing strategy (could have a significant impact on residents in many wards)
 - Adopting a supplementary planning document for a redevelopment site (could significantly affect more than one ward) or a new design guide (affects all wards)
 - Decisions to build new or improve existing leisure facilities (used by residents of more than one ward)

The overriding principle is that before 'key' decisions are made, they must be published in the Cabinet Work Programme for 28 calendar days. Classifying a decision as non-key when it should be a key decision could expose the decision to challenge and delay its implementation.

ICMD Background Paper

Author: Silke More O'Ferrall

Telephone number: 01235 422409

Email: silke.oferrall@southandvale.gov.uk

Head of Service – Development & Regeneration: Suzanne Malcolm

Head of Service - Finance: William Jacobs

Cabinet members (South): Cllr Robin Bennett and Cllr David Turner

Date: 30 October 2019

S106 Application ref.: P19/S3232/106

S106 Request – Oxfordshire County Council – Delivery of bus service at Henley-on-Thames

Purpose of paper

1. We have received an application for funds from Oxfordshire County Council for a total of £25,370.86 from a S106 contribution arising from the following development:
2. The S106 contribution:

1) Development: Wilkins Yard Deanfield Avenue

Address: Wilkins Yard, 9-11 Deanfield Avenue, Henley-on-Thames, RG9 1UE

Planning Ref: P16/S1227/FUL

S106 Ref: 17S15

Date of agreement: 30 May 2017

Decision: Delegated

Obligation: The “Bus Service” contribution is defined in schedule three of the agreement as ‘the sum of £23,000 (Index-Linked) towards the improvement and/or continuation of bus services benefiting the Site’.

Financial Procedure Rules: The S106 agreement is ‘clear and unambiguous’ about how the contributions are to be used.

Spend by date: 8 October 2029

3. In accordance with the Constitution's Finance Procedure Rules (para 75 (b) (Appendix 1)) this paper seeks the approval by Cabinet member for economic development and regeneration in consultation with the Cabinet member for finance to create a budget and release the funds requested for the purposes described below.
4. During the consideration of the planning application in order to make the development acceptable in planning terms, it was requested by Oxfordshire County Council that the contributions be used towards the cost of improving or continuing public transport that benefits the development site.
5. The figure for the Public Transport sums requested by Oxfordshire County Council is set out in the summary table below. The contribution received has been confirmed available for spend in our AGRESSO system. A copy can be found in the S106 "Finance Records" folder under reference number P19/S3232/106.
6. ***S106 17S15 - Development of Wilkins Yard, Deanfield Avenue, Henley-on-Thames, RG9 1UE – Oxfordshire County Council application for funds***

Infrastructure category	Contribution towards (extracts from S106 agreement)	Amount in Agreement	Contributions Received (incl. indexation)	Amount requested	Balance (Index-Linked)
Public Transport	the sum of £23,000 (Index-Linked) towards the improvement and/or continuation of bus services benefiting the Site'	£23,000.00	£ 25,370.86 received on 8.10.2019	£25,370.86	£0

The project

Project description

7. Oxfordshire County Council is seeking to draw upon S106 contributions secured towards delivery of bus service at Henley-on-Thames.
8. S106 agreement (Bipartite) 17S15 was secured by South Oxfordshire District Council to help support public transport services, requests for these contributions were made by Oxfordshire County Council at planning application stage.
9. Once funds have been received by Oxfordshire County Council these will be passed onto Henley-on-Thames Town Council under a funding agreement stipulating that the contributions are not to be used for purposes other than the delivery of the local bus services serving the developments.

10. The funding agreement between Oxfordshire County Council and Henley-on-Thames Town Council was signed early July 2019. A copy can be found in the S106 "Supporting Documents" folder under reference number P19/S3232/106.
11. Henley-on-Thames Town Council have entered into a contract for five years with Reading Transport Ltd. There is a potential to extend this for a further three years. A copy can be found in the S106 "Supporting Documents" folder under reference number P19/S3232/106.
12. Oxfordshire County Council intends to draw in from the following developments towards delivery of bus service as and when the monies have been released by the developer as set out in the table below:

Developer contributions to be drawn from for the whole project					
Planning Ref.	S.106 Ref.	Development	Amount in Agreement	Contributions Received from Developer (incl. indexation)	Contributions drawn down by county Council
P16/S2459/FUL	16V44	116-118 Greys Road	£17,000	£17,559.30	£17,559.30 received on 28.8.2019 (S106 application ref. P19/S0928/106, ICMD approved on 13.08.2019)
P16/S0077/O	16S45	Highlands Farm Highlands Lane	£108,000	£39,694.81 received on 23.11.2018 £72,000.00 (Index-Linked) outstanding from developer (for second and third instalment)	£39,694.81 received on 28.8.2019 (S106 application ref. P19/S0928/106, ICMD approved on 13.08.2019)
P16/S1227/FUL	17S15	Wilkins Yard 9-11 Deanfield Avenue	£23,000.00	£25,370.86 received on 8.10.2019	£25,370.86 To be transferred upon approval of application

Planning permission

13. Planning permission for the project is not necessary.

Total project cost and funding

14. The total project cost is estimated to be £163,069 for the initial five years of delivery and is detailed in the table as set out below. The supporting evidence can be found in the S106 "Supporting Documents" folder under reference number P19/S3232/106.

Projected Project cost breakdown		
Year 1	£42,606	Fixed
Year 2	£38,658	Fixed
Year 3	£33,991	As minimum – following programmed review could be higher - June 2020
Year 4	£26,959	As minimum – following programmed review could be higher – June 2020
Year 5	£20,855	As minimum – following programmed review could be higher – June 2020
Total Cost	£163,069	

Consultations

The correspondence can be found in the S106 “Consultation” folder under reference number P19/S3232/106. The Council’s Planning Officer has been informed on the application for funding.

Evaluation

Does the project fall within the spending parameters of the S106?

15. The applicant has shown that the proposed project will further support and provide sustainable transport services and access between the developments and the town centre Henley-on-Thames.
16. The release of these contributions is in part governed in the S106 agreements:
 - 1) 17S15 - The release of this contribution is in part governed in the S106 agreement by Paragraph 1.4 of Schedule 4 – ‘SODC will pass the Bus Service Contribution to the County Council as soon as is reasonably practicable and in any event no later than 25 working days following receipt provided that SODC is reasonably satisfied that the Bus Service Contribution (part of the “County Council Contributions”) will be used for the specific purposes stated in this deed (17S15)’.
17. The proposed project falls within the spending parameters identified in the S106 agreement

Is it a suitable use of the fund?

18. The financial support for the bus service is necessary for it to operate and build up the use of the service by the local people including residents of and visitors to the residential developments permitted by the planning permissions.
19. The proposed project conforms to the spending parameters of the S106 agreement and is a suitable use of the funds.

Can the project be delivered?

20. With the S106 contributions sought in this application Henley-on-Thames Town Council will have the necessary funds available to deliver the project.

Recommendation

What alternative uses have been considered?

21. The Oxfordshire County Contributions (Public Transport) are intended explicitly for and to be paid to Oxfordshire County Council as defined under County Contributions in the S106 agreements. No other organisations are legible to apply for the available funds. There have been no other proposals for the use of the public transport contribution.
22. In view of the above factors it is recommended that a budget is created which allocates the requested £25,370.86 to the delivery of bus service at Henley-on-Thames project and the funds be released to Oxfordshire County Council.
23. It is recommended that the Oxfordshire County Council be advised of the allocation of the funds in a letter, which sets out what the funds can be used for and includes a spending deadline to ensure delivery of the project.

Constitution October 2019

Section 106 and community infrastructure levy (CIL) income and related expenditure

73. The head of planning shall be responsible for negotiating and gaining the relevant approval for section 106 agreements. Receipt of a section 106 or CIL income does not confer the power to spend. Appropriate budgets must be created in accordance with the financial procedure rules to give heads of service authority to incur expenditure on schemes funded from section 106 or CIL income. Part 2 of this constitution sets out delegations to the head of planning and the head of development and regeneration relating to the community infrastructure levy.

Page 209 Constitution of South Oxfordshire District Council and Vale of White Horse District Council – 11 October 2019 Financial procedure rules

74. For section 106 or CIL agreements that provide clear and unambiguous details on how the receipts raised must be used, where that agreement has been approved by the Planning Committee and over which further discretion cannot be applied then the head of planning can request, and the head of finance can approve the creation of the relevant revenue or capital budget.

75. For all other section 106 and CIL agreements where contributions are received by the council a budget for the spending of the receipt must be created as follows:

- (a) For agreements of up to £20,000 budgets can be requested by the head of planning and approved by the head of finance.
- (b) For agreements greater than £20,000 up to £100,000 budgets can be approved by the relevant Cabinet member in consultation with the Cabinet member for finance.
- (c) For agreements of greater than £100,000 budgets must be approved by Council.