

Record of 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	David Rouane
Key decision?	<p>Yes - Paragraph 121 of the Council's Contract procedure rules states the following;</p> <p>"where the contract value calculated over the lifetime or term of the contract (including any provision for extension of the term specified in the contract documents) exceeds £75,000 but does not exceed the EU Threshold the tender shall be referred to the Cabinet member or a Committee for acceptance with full details of the evaluation procedure, unless acceptance in an alternative manner is authorised in advance."</p>
Date of decision (same as date form signed)	15 July 2021
Name and job title of officer requesting the decision	William Piotrowski Senior Flood Risk Engineer
Officer contact details	Tel: 01235 422679 Email: William.piotrowski@southandvale.gov.uk
Decision	To award a contract to Greenford Ltd for the construction of a flood alleviation channel and associated works at Langley Field Farm, Mill Lane, Chalgrove.
Reasons for decision	<p><u>Decision Background and Contract Procedure Rules</u></p> <p>Following the Independent Cabinet Member Decision (ICMD) of 8 November 2019, a procurement process has been undertaken to identify a suitable supplier for flood alleviation works at Langley Field Farm, Mill Lane, Chalgrove.</p> <p>Council Engineers in consultation with Procurement and other Council officers prepared procurement documentation to appoint a suitable Principal Contractor to undertake the works.</p> <p>The ICMD of 8 November 2019 authorised the following:</p> <p>(a) To transfer £40,000 from the provisional capital programme (Flood Defence No. 281) to the approved budget No. A143 Flood Alleviation.</p> <p>(b) To begin an open tender procurement process to identify a suitable contractor to install a flood alleviation channel at</p>

Langley Field Farm, Chalgrove (providing all legal agreements are secured to carry out the work on third party land)

(c) To agree that the decision to accept the tender will be taken by the Cabinet member for housing and environment through an Individual Cabinet Member Decision.

Having undertaken the procurement process, this document has therefore been prepared to enable a decision to be made in relation to part (c) of the ICMD.

Principal Contractor Returns and Evaluation

The contract procurement was by way of an open tender on the South East Business Portal and a total of 11 compliant tenders were received.

These were evaluated by three of the Council Engineers and scores assessed with a 60:40 Price : Quality ratio.

A summary of the scores is available as a background paper.

The quality of the returns from two of the top three tenderers was generally good. However, contractor D, which provided the lowest price were not able to demonstrate the quality aspects of the tender as effectively as other contractors.

As a result, the overall weighted scores out of 100 for the top three contractors are as follows:

Greenford Ltd – 93.55
Contractor C – 91.19
Contractor A – 89.07

The evaluation panel consisting of three Engineers, two of which were Senior Engineers therefore concluded that Greenford Ltd provided the most economically advantageous tender return taking into account quality and price.

Tenders are valid for 90 days, from 21 May 2021. The works contract needs to be signed before 19 August 2021.

To reduce weather related risks to the programme, which could impact on final costs, it would be advantageous to commence site works as soon as feasible to attempt to make good use of the likely better weather conditions over the summer.

As all tenders came in over budget, a request for CIL funds to make up the shortfall was submitted. The application has been recommended for approval by Council Officers at S106/CIL Application Meeting on 18 June 2021. A decision to provide the £60,000 shortfall in budget to enable the project to

	<p>proceed has been taken under the CIL spending award process in the constitution and the money has been award via an ICMD on 1 July 2021.</p>
<p>Alternative options rejected</p>	<p>Reducing the specification of the works to bring the cost down has been considered. However, this has been rejected. Changes in the specification would require the tender process to start again given we have a short window to carry out these works during the summer months, this has been rejected. License agreement has been agreed with the landowner, subject to final sign off.</p> <p>Do nothing – this will provide no benefit to the residents of Chalgrove, therefore has been rejected.</p>
<p>Climate and ecological implications</p>	<p>The proposed works area is of low ecological value. A biodiversity report was issued at Planning application stage, which raised no objections to the works.</p> <p>Measures such as silt matting will be put in place by the contractor, to protect the environment and downstream ecosystems.</p> <p>The scheme will help protect against flooding due to future climate change.</p>
<p>Legal implications</p>	<p>The proposed contract value is not above the EU threshold relating to contract procurement rules however does exceed £75,000. For the main work it is proposed to enter into a contract using the JCT Standard Building Contract with Quantities as amended by legal services in a draft version, which was provided with the tender documents.</p> <p>Officers do not consider the value of contract or the construction work would benefit from having a performance bond in place and the risk of non-completion can be managed by only paying the contractor in arrears on successful sign off from the contract administrator. The contract will allow for some retention monies to be kept back for a year to be used in the case of failure of any part of the construction. This approach was agreed with the Interim Head of Finance on 14 April 2021.</p> <p>A credit check will be completed prior to signing of the contract.</p> <p>The license agreement with the landowner will be completed prior to the works contract with the winning tender being signed.</p>
<p>Financial implications</p>	<p>Current Budget</p> <p>Officers estimated the total cost of the project at £90,000. This project is to be delivered through partnership funding.</p>

	<p>£35,000 has been secured from Oxfordshire County Council (OCC) and a further £40,000 has been committed from the Environment Agency (EA) via Flood and Coastal Risk Management Grant in Aid. South Oxfordshire District Council will need to contribute approximately £15,000 from the approved capital programme, Flood Alleviation No. 143, Cost Centre A143.</p> <p>There is £40,000 in the provisional programme, Flood Defence No. 281, which was transferred to the approved budget by ICMD dated 8 November 2019.</p> <p>An application for an additional £60,000 from CiL funds has been made and authorised by way of a separate ICMD dated 1 July 2021.</p> <p>As part of the License agreement, South Oxfordshire District Council agreed to pay for the landowners Land Agent and Solicitors fees. These are £2,500 and £1,500 respectively.</p> <p>This will bring the budget for the scheme to £150,000. The submission from Greenford Ltd of £148,834.04 is within budget.</p> <p>Any additional overspends will be covered from underspends within existing Engineering Services Capital Budgets.</p>			
Other implications	<p>Delegated Authority required from Head of Development and Regeneration is required under Paragraph 1.4 of the Scheme of Delegation, page 149, of the Constitution dated 1 November 2020 - Head of Development and Regeneration to enter into easements, wayleaves and other licences on non-council owned land.</p>			
Background papers considered	<p>Previous ICMD. Gateway 1 and 2 forms. Evaluation of scores (anonymised)</p>			
Declarations/conflict of interest? Declaration of other councillor/officer consulted by the Cabinet member?	<p>None</p>			
List consultees		Name	Outcome	Date
	Ward councillors	David Turner	No Response	
	Legal	Rameesh Chowdhury Pat Connell	Comments added	24/06/2021
	Finance	Emma Creed	Agreed in Finance	28/06/2021

	Health and Safety		No Response	
	Diversity and equality	Lynne Mitchell	No equality implications arising from this work. Scheme helps to improve the quality of life for residents affected.	21/06/2021
	Climate and biodiversity	Elizabeth Kingdom	No Comments	28/06/2021
	Communications		No Response	
	Property	Catrin Mathias	Comments added	20/06/2021
	Senior Management Team		AD - Pleased to see this coming forward. Please ensure licence agreement with landowner is completed before signing the contract for the works. SM - need to mention that works will not proceed without the signed agreement with landowner or if not what action we would take under powers? AP - Nothing further to add from me. Comments added.	08/06/2021
	Business Risk	Allison Holliday	Comments made	18/06/2021
	Procurement	Angela Cox	Agreed	21/06/2021
Confidential decision? If so, under which exempt category?	No			
Call-in waived by Scrutiny Committee chairman?	No			
Has this been discussed by Cabinet members?	No			
Cabinet portfolio holder's signature To confirm the decision as set out in this notice.	Signature _____ David Rouane _____ Date _____ 15 July 2021			

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

For Democratic Services office use only		
Form received	Date: 15 July 2021	Time: 17:13
Date published to all councillors	Date: 16 July 2021	
Call-in deadline	Date: 23 July 2021	Time: 17:00

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 hand-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 2520.
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.