

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	Robin Bennett
Key decision?	<p>Yes:</p> <ul style="list-style-type: none"> • will incur expenditure and receive income of more than £75,000 • is an action that be significant in terms of its effect on communities living in more than one ward
Date of decision (same as date form signed)	19 July 2021
Name and job title of officer requesting the decision	Charlotte Cottingham Development Projects Team Leader
Officer contact details	<p>Tel: 01235 442474 / 07717 271932</p> <p>Email: Charlotte.Cottingham@southandvale.gov.uk</p>
Decision	<p>To accept the transfer of open space in accordance with the s106 agreement dated 2008 and as set out in the Great Western Park Open Space Strategy, approved as a condition of the planning application in June 2016.</p> <p>Subject to:</p> <ul style="list-style-type: none"> • satisfactory completion in compliance with the relevant planning permission • evidence that Taylor Wimpey UK Ltd and Leep Utilities Ltd have entered into a legally binding agreement concerning the ongoing maintenance of surface water drainage pipes.
Reasons for decision	<p>Councillors received a briefing paper on the future management of open space at Great Western Park, Didcot. This set out options such as:</p> <ul style="list-style-type: none"> • the relevant district council adopting the open space as per the section 106 agreement with the developer Taylor Wimpey • the Land Trust managing the open space via a deed of variation to the section 106 agreement • Didcot Town Council managing the open space via a deed of variation to the section 106 agreement. <p>Taylor Wimpey had also previously expected some surface water drainages pipes to be adopted by the council as part of the open space that they run under. However, the council</p>

	<p>does not have the expertise or resources to do so and cannot accept the risk of managing these pipes. Therefore, Taylor Wimpey is seeking legal agreement with Leep Utilities Ltd to adopt these pipes. Once this decision is formalised it will make acceptance of the Great Western Park open space possible.</p> <p>Suggestions were also made to consider that if the open space was to be adopted by a third party some of the land could, in the long term, be vulnerable to alternative uses such as housing or commercial development. Members agreed this would be a negative impact and that continued public ownership would be beneficial to the district.</p> <p>Councillors supported the leader signing an individual Cabinet member decision for the council to accept transfer of open space at Great Western Park in accordance with the council's obligations in the section 106 agreement.</p> <p>This decision is:</p> <ul style="list-style-type: none"> • in accordance with the signed s106 agreement and provides the council with commuted sums for approximately 20 years of maintenance • provides the council with the greatest level of control of open space in a significant large development in the Didcot Garden Town • provides opportunities for local stewardship of open space that includes amenity grassland, woodland, allotments, sports pitches, play areas, community building gardens and SuDS wetland habitats • provides opportunities for future partnership working with the Earth Trust, Didcot Town Council, Harwell and East Hagbourne Parish Councils for example in relation to allotments, woodland, water habitats and green corridors through the development.
Alternative options rejected	Through s106 agreement Deed of Variation to allow open space to be transferred to other organisations such as, The Land Trust, Didcot Town Council or the Earth Trust.
Climate and ecological implications	Managing the open space at Great Western Park will give the district council greater control over biodiversity in the long-term through opportunities to enrich planting and water habitats. Consideration will be given to the opportunities to use the natural environment to increase carbon sequestration and thus contribute towards the council's carbon neutral target.
Legal implications	<p>This decision is in accordance with the signed section 106 agreement dated 18 July 2008.</p> <p>The Interim Head of Development and Regeneration has a delegated authority under the Constitution (page 147 reference 1.2 (j) 'To determine requests from developers for the council to adopt land on housing developments, subject</p>

	<p>to the payment of a commuted sum and the land being transferred at a nominal sum in consultation with Head of housing and environment and the head of planning. Discretion will be given to the actual date of adoptions, considering the length of time that some of the public open space has been completed and maintained by Taylor Wimpey.</p> <p>Maintenance of surface water drainage pipes would be beyond the council's resources to manage and therefore acceptance of any transfer remains subject to the council receiving evidence that Taylor Wimpey UK and Leep Utilities Ltd have entered into a legally binding agreement concerning the adoption of surface water drainage pipes located under areas of open space.</p> <p>The section 106 agreement implies that transfers of open space will take place after a twelve-month maintenance period for that open space, following the issue of Practical Completion certificates by the relevant council.</p> <p>Due mainly to lack of resolution of surface water drainage issues there has been considerable delay in the processing of open space Transfers and many areas have been complete for several years but have not been issued with Practical Completion Certificates. Therefore, it is considered reasonable for the Interim Head of Development and Regeneration to use their discretion, in consultation with the Head of Environment and the Head of Planning to determine the actual date of adoptions.</p> <p>The adoption of additional surface water pipes by Leep Utilities does not lead to a change in the current section 106 agreement because it does not affect the council's adoption of Sustainable Drainage Systems (SuDS), which are defined in paragraph 2.21 of the section 106 agreement as 'new balancing ponds, attenuation basins, swales and ditches'.</p> <p>The section 106 agreement sets out the terms for the transfer of land to the relevant council and the transfers shall contain grant to the transferee of easements and rights in relation to access to drainage and services for the purposes of inspection, maintenance, repair and renewal of sewers and service systems. The term 'service systems' is understood to include several areas of underground plastic crates that act to store surface water run-off.</p>
Financial implications	<p>Under the terms of the 2008 s106 agreement, Taylor Wimpey is due to pay approximately £2.3 million open space commuted sums adjusted for RPI. This equates to £3.35 million at 31 March 2021.</p> <p>On behalf of both councils, Rural Development Service Ltd made an independent assessment of the ongoing revenue costs likely to be associated with the maintenance of the land which was £163k in 2015. Allowing for inflation this increases to £180k by 31 March 2021. These costs however are yet to</p>

	<p>be checked and confirmed by council estates staff.</p> <p>Commuted sums and revenue expenditure will be split 51: 49% across Vale and South respectively. The commuted sums agreed via the s106 were calculated to be sufficient for 20 years and the 2016 RDS report states that “the commuted sum is more than sufficient to cover the indicative costs of all of the options over 15 years.” That statement does not take into account the potential for finance to ringfence and invest the commuted sums over a period.</p> <p>Under the Financial Procedure Rules (page 226 paragraph 74-75) the interim head of development and regeneration can request, and the head of finance can approve the creation of appropriate capital and revenue budgets for the expenditure of the commuted sums provided by Taylor Wimpey as required.</p>			
Other implications	<p>The councils’ ground maintenance team have only recently come back in-house and given that the management of open space at Great Western Park represents approximately a 25 per cent increase in workload across both districts, the team will require a minimum of 12 months to become fully resourced for maintaining the additional open space.</p> <p>A new inter-service project group is being set up in accordance with the councils’ corporate delivery framework to oversee the process and ensure efficient transition.</p>			
Background papers considered	n/a			
Declarations/conflict of interest? Declaration of other councillor/officer consulted by the Cabinet member?				
List consultees		Name	Outcome	Date
	Ward councillors	Alan Thompson	Consulted by email 28/07/2021	16/08/2021
		Axel Macdonald	Consulted by email 28/07/2021	16/08/2021
		Celia Wilson	Consulted by email 28/07/2021	16/08/2021
		Ian Snowdon	Consulted by email 28/07/2021	16/08/2021
		Mocky Khan	Consulted by email 28/07/2021	16/08/2021

	Legal	Pat Connell	Comments taken into account in final version	29/06/2021
	Finance	Richard Spraggett	Comments reflected in amendments to ICMD	14/07/2021
	Human resources	David Fairall	No comment	29/06/2021
	Diversity and equality	Lynne Mitchell	Need to ensure that the council has taken into account public sector equality duties throughout this process and that this is continued by the companies responsible for the future of open spaces.	30/06/2021
	Climate and biodiversity	Heather Saunders	ICMD amended to reflect comments	14/07/2021
	Communications	Emma East	No comment	07/07/2021
	Housing and Environment	John Backley	12 month notice required for in-house team. New project group required.	03/07/2021
	Planning Officer	Cathie Scotting	ICMD amended to reflect comment relating to maintenance period and drainage issues.	29/06/2021
	Senior Management Team	Executive Support	ICMD approved for Member consultation.	27/07/2021

Confidential decision? If so, under which exempt category?	No			
Call-in waived by Scrutiny Committee chairman?	No			
Has this been discussed by Cabinet members?	Cabinet members received a briefing on 22 June 2021.			
Cabinet portfolio holder's signature To confirm the decision as set out in this notice.	Signature ____ Cllr Robin Bennett _____ Date ____ 19 August 2021 _____			

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

For Democratic Services office use only		
Form received	Date: 19 August 2021	Time: 15:08
Date published to all councillors	Date: 23 August 2021	
Call-in deadline	Date: 31 August 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.