

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	Maggie Filipova-Rivers
Key decision?	Yes. The anticipated project cost is more than £100,000
Date of decision (same as date form signed)	20 July 2022
Name and job title of officer requesting the decision	Jan Smith – Leisure Facilities Projects Officer
Officer contact details	Tel: 07717 271 895 Email: jan.smith@southandvale.gov.uk
Decision	<p>To approve the refurbishment of the outdoor Artificial Turf Pitch (ATP) which forms part of the Abbey Sports Centre, Berinsfield ‘the ATP refurbishment’ by SODC ‘the Council’</p> <p>To authorise the procurement of an external Project Manager/ Contract Administrator /CDM Supervisor</p> <p>To authorise the procurement of a suitable specialist main contractor to deliver the ATP refurbishment</p> <p>The costs of this project with associated fees are to be met within the allocated CIL funding as set out below</p>
Reasons for decision	<p>The ATP refurbishment forms part of the Council’s plans to improve the facilities available at Abbey Sports Centre.</p> <p>This work will significantly modernise and improve the facilities available to members of the public.</p> <p>The ATP was last resurfaced in 2008/9 and the surface has reached the end of its serviceable life such that the surface is no longer properly playable thereby limiting its appeal and usage by local residents, clubs and schools, with the resultant lost revenues.</p> <p>A full refurbishment of the ATP is now required to bring it up to current standards. The ATP was installed 38 years ago, when the Sports Centre was first established with Oxford County Council ‘OCC’ in 1984 As such,</p>

the associated lighting, drainage, and fencing installations are also in need of repair, renewal, and replacement. In particular:

- Rainwater is ponding across the length of the pitch due to compacted infill sand clogging the porous membrane of the carpet playing surface.
- The carpet has lost most of its pile and this clogging is evident across the surface, with patches of moss and algae building up in places.
- This is causing delayed drainage into the existing acro-drains which are installed at the low end of the existing pitch.
- The sub-base is also not suitable for this type of installation and consists of a rubber crumb base that has deteriorated and dipped over time, further delaying natural drainage and an even playing surface of the pitch.
- The lighting is also original and defective and energy inefficient.
- The perimeter fencing is damaged, which is leading to unauthorised access out of hours,

All the above represent risks to users of the facility, including third parties that use the ATP out of hours and as such avenues for potential claims against the Council, the Sports Centre operator (Greenwich Leisure Ltd 'GLL') as the parties in control of the premises and OCC as landowner.

It is therefore in all parties' interest to address the situation and provide a modern playable facility that is fit for purpose as soon as possible.

In accordance with the Joint Use Agreement dated 26 March 1984, OCC will be approving and part funding the works as set out below. The Council originally installed the ATP with part funding from OCC initially and is leading on its renewal.

Given the extent and complexity of the works involved, the Council is advised to engage with a specialist contractor under the supervision of a professional Project Manager which would undertake the following duties:

- Project Management including agreeing the specification of works,
- Contract Administration,
- Principal Designer and CDM compliance generally.

If approved both the main contractor and project manager will be procured in conjunction with Legal Services following the Council's Contract Procedure Rules.

Officers anticipate the procurement process to be completed within 6 to 8 weeks from the point of going out to the market for a main contractor. Subject to this we envisage that it will be a 12-week project from issuing

	the order to Practical Completion and hand over
Alternative options rejected	<p>The alternatives available to the Council includes:</p> <ul style="list-style-type: none"> • Do nothing – leave matters as they are and accept the inherent risks and loss of income. This is considered inappropriate as it will leave the parties open to potential risks and claims, including from GLL in relation to lost income potential whilst the ATP is not fit for purpose • Mothball/Defer – this will ensure that the play area remains out of official use but will expose the parties to lost income and claims arising out of unofficial use or trespass. It is also likely that costs will increase over time when OCC's funding contributions are already under scrutiny • Removal – The ATP could be removed entirely, and the area given over to an alternative use. This is considered inappropriate as it would result in the removal of a valued sporting and recreational facility at the Sports Centre • Scaling back – This could include omitting the lighting element for example to reduce cost. This is considered inappropriate as many clubs will wish to use the ATP in the evening and this will reduce the revenue potential of the ATP. Usage in low light conditions could create a health and safety concern. • Enlargement – This is also an option to allow a bigger playing area. This has been discounted on the basis that this would create a more complex project with additional costs and funding considerations and permissions. Further as OCC is seeking to divest itself of ongoing financial commitments it is unlikely that this will be agreed. • The Council could determine not to appoint an external Project Manager, Contract Administrator and Principal Designer for the purposes of the CDM Regulations. The Council does not currently have these resources, skills, and expertise in-house and to do so would place an unacceptable level of risk to the council in terms of legal compliance, which in turn could impact delivery of the project. This option is therefore not recommended given the size and complexity of this project.
Climate and ecological implications	<p>Where possible, officers will be mindful to ensure the short-listed contractors provide a sustainability statement outlining their policies and commitment to specify and procure sustainably sourced, carbon footprint reduced products and provide their services in a way which will also meet our value for money and quality objectives.</p> <p>Lighting header units will consist of LED lights to further reduce the carbon footprint and running costs of the new installation.</p>

	<p>Drainage improvements will be incorporated into the already installed soakaway system.</p> <p>Renewing the ATP will lessen the need for travel by local clubs, teams, schools, and residents to other facilities in other towns</p>
<p>Legal implications</p>	<p>There is a Joint Use Agreement (JUA) dated 26 March 1984 in place between OCC as land and building owner and the Council as operator of the Sports Centre (currently undertaken by GLL as service provider).</p> <p>This is referred to in subsequent Supplemental Agreements as the Principal Agreement. The JUA is for a term of 60 years and there are approximately 28 years unexpired.</p> <p>Under Clause 15 of the Principal Agreement, it is OCC that must carry out Works of repair and the Council will contribute to the overall planned expenditure, as agreed, on a year-to-year basis. In addition to undertaking works, OCC are liable for 33.33% of the costs and the Council 66.66%.</p> <p>Under the Principal Agreement, the Council had permission to build the original ATP with a proportionate cost contribution from OCC as set out above. The cost of the original floodlights was borne entirely by the Council as the OCC contribution was predicated on use of the ATP by the former local school which would not have used the facility after school hours and at weekends.</p> <p>It is accepted that, as the school would not require after hours use of the pitch OCC should not be expected to contribute to the costs of replacement lighting.</p> <p>The ATP refurbishment works will include elements of alteration, and improvement, particularly to the drainage. Under Clause 7 of the Principal Agreement alterations require a separate Supplement Agreement to record the basis by which the works are undertaken.</p> <p>Whilst OCC have approved the project in principle, it is likely that the final specification and scope of work will therefore need to be documented in a Supplemental Agreement, as with other works undertaken by the Council over the years.</p> <p>Notwithstanding Clause 15, a letter of intent dated 20 July 2012 issued by OCC recorded that the Council would take on responsibility for undertaking future maintenance in return for contributions from OCC which had been prior approved. That is, the obligations set out in the Principal Agreement were to be reversed.</p> <p>The rationale for this was that the land and buildings were to be transferred by OCC to the Council (on an unspecified basis), but no such transfer has yet taken place, and the terms of the Principal Agreement were never varied.</p> <p>Whilst this is a matter to be resolved with OCC in the longer term, the</p>

	<p>recommendation is to proceed with the ATP as set out, as the Council will retain control of the project's delivery.</p> <p>If approved, the Council will therefore take on the role of client. Under the Construction Design and Management Regulations 2015 it will have responsibilities as Principal Designer to produce and oversee a health and safety plan considering the safety aspects of the design and delivery of the project by the appointed contractor. This is a legal obligation and as the council does not have sufficient expertise in house, it is recommended that this is outsourced to be part of the proposed Project Manager's role albeit via a separate appointment.</p> <p>The main contractor will be obligated to obtain any planning or other statutory approvals that may be required in relation to final design.</p>
<p>Financial implications</p>	<p>Renewing the ATP will increase usage and revenues from local clubs, teams, schools, and residents who currently travel to other facilities in other towns.</p> <p>There is potentially a multiplier effect on revenues whereby they will be encouraged to spend more sporting and recreational time at Abbey Sports Centre rather than elsewhere</p> <p>There is an approved CIL budget available to the Council of £250,000 that has been allocated for the ATP refurbishment project.</p> <p>The estimated cost of the work after market testing is £153,400 exclusive of Project Management, Contract Administration and CDM Principal Designer fees and VAT but including contingency.</p> <p>The estimated cost of PM and other supervision fees is £14,000 exclusive of VAT</p> <p>The Total Project Cost is estimated at £167,000 exclusive of VAT and before the Council's own administration and project management costs and OCC contributions as provided for under the Principal Agreement.</p> <p>The Principal Agreement excludes OCC from any liability toward the original flood light installations. The cost of the replacement lights is estimated £19,000 ex VAT or 12.39% of the cost of work excluding Fees and VAT</p> <p>This reduces OCC's liability to an estimated £51,128 excluding VAT of the main contractors' costs, and to £4,666 excluding VAT, of the Project Management and other fees to deliver the project. OCC total contributions are estimated at £55,794 excluding VAT.</p> <p>The estimated net cost to the Council after OCC contributions is therefore £111,606 excluding VAT in relation to the CIL allocation of £250,000.</p> <p>VAT will be fully recoverable by the parties.</p> <p>The ATP refurbishment project has been approved and agreed by OCC</p>

	<p>during budget setting stage in October 2021 on the basis of delivery in 2022.</p> <p>OCC understand that they are liable for 33.3% of the Total Project Cost as finally agreed.</p> <p>Any surplus CIL funding will be returned to the CIL funding budgets at the end of the project.</p>			
Other implications	<p>If the refurbishment works are not carried out, the Council could face further scrutiny from the residents of Berinsfield and the users who visit the centre. This is a reputational risk and contrary to the Council's stated policy which states that the councils' equipment, buildings, structures, and other areas will be inspected and maintained in line with statutory requirements.</p> <p>Making this investment, alongside other projects planned for the Sports Centre, will show the Council's commitment to improving and maintaining facilities in the local community irrespective and ahead of the Garden Village or any proposal, the delivery of which is uncertain.</p>			
Background papers considered	None			
Declarations/c onflict of interest? Declaration of other councillor/officer consulted by the Cabinet member?	None			
List consultees		Name	Outcome	Date
	Ward councillors	Cllr Robin Bennett	Agreed and welcomed the project via email	17 May 2022
	Legal legal@southandvale.gov.uk	Patrick Arran	Approved with some slight amends to legal implications	16 May 2022
	Finance Finance@southandvale.gov.uk	Emma Creed	Agreed in Finance	17/05/2022
	Procurement procurement@southandvale.gov.uk	Angela Cox	Agreed with slight amends.	16 May 2022
	Property Team Property@southandvale.gov.uk	Andrew Pegg	Agreed	16 May 2022
	Risk and insurance risk@southandvale.gov.uk	Allison Holliday	Agreed	17 May 2022
	Communications	Charlotte Westgate	Agreed – please keep in touch with comms regarding timings	16 May 2022

	communications@southandvale.gov.uk		etc	
	Senior Management Team ExecutiveSupportS@AV@southandvale.gov.uk	SMT	<p>Comments received via email and have been incorporated. - SM - Happy with this but note that the decision maker should be 1 cab member not 2. Other can be consultee.</p> <p>AD - Happy with the decision but it needs to be written as a record of a decision made, not as a request for approval, so words such as "if approved as proposed" have no place in an ICMD.</p> <p>SH - this scheme appears to be in the provisional capital programme. If so, it should therefore be an ICMD to agree the transfer of a scheme from the provisional programme to the approved capital programme. This includes additional paragraphs that need to be completed and as such needs to be transferred to the correct template. The paper should also include confirmation from Mark Hewer's team that this remains a valid use of CIL. For clarity para 3 in the financial implications should read that there is a scheme in the provisional capital programme, funded by CIL</p>	07 June 2022
Confidential decision? If so, under which	No			

exempt category?	
Call-in waived by Scrutiny Committee chairman?	No
Has this been discussed by Cabinet members?	
Cabinet portfolio holder's signature To confirm the decision as set out in this notice.	Confirmed via Email - Maggie Filipova-Rivers Date: 20 July 2022

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

For Democratic Services office use only		
Form received	Date: 20 July 2022	Time: 08:20
Date published to all councillors	Date: 20 July 2022	
Call-in deadline	Date: 27 July 2022	Time: 17L00

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.