

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	Councillor Pieter-Paul Barker, Cabinet member for finance and property assets
Key decision?	Yes
Date of decision (same as date form signed)	
Name and job title of officer requesting the decision	David Cookson Infrastructure Implementation Officer Ref P22/S4288/106
Officer contact details	Tel: 07917 088372 Email: david.cookson@southandvale.gov.uk
Decision	In accordance with the Constitution's Finance Procedure Rules, to create a budget for £155,240.70 taken from one S106 contribution, and release those funds in one payment subject to completion of a third party funding agreement, to St Edward Homes Ltd towards the installation of public art sited on Land to the West of Wallingford (Site B), in South Oxfordshire District.
Reasons for decision	<p>The 'Land West of Wallingford' development, sometimes referred to as 'Site B', consists of 555 dwellings, a one form entry primary school, extra care home and associated landscaping and open space.</p> <p>The legal agreement states that a form of public art is to be sited within the development, proposed by the owner (St Edward, who are also the developer) with the approval of South Oxfordshire District Council, at a location agreed between the District Council and the Owner.</p> <p>In May 2022 the developer created a public art brief, seeking expressions of interest from artists to deliver this art. The point of reference for the design of the artwork is the Design Code Document for Land to the West of Wallingford, which refers to the art as a central village monument in an obelisk style. Further on in the document shows it as a sundial feature, with a requirement to sit on a 2.0 x 2.0 metre fair faced concrete raised plinth. Ideas have been drawn up based on these themes.</p>

	St Edward are seeking release of the contributions to complete the art project.
Alternative options rejected	No alternatives reviewed. Responses of the residents in the consultation phase may affect the final design.
Climate and ecological implications	Climate Action Team response, "The climate implications of producing this piece of art will be partly mitigated due to the long term nature of the commission."
Legal implications	<p>The project will be funded from the following arts contribution: Development: Land to the West of Wallingford (Site B) Planning Ref: P14/S2860/O Decision Type: Area Committee S106 Ref: 17S29 Date of agreement: 04 October 2017 Obligations: "On-Site Public Art" means a form of public art proposed by the Owner and approved by the District Council, such approval not to be reasonably withheld, to be sited within the Development at a location agreed between the District Council and the Owner</p> <p>"On-Site Public Art Contribution" means the sum of one hundred thousand pounds (£100,000) Index-Linked (BCIS) towards the provision of On-Site Public Art</p> <p>There is no further information in the agreement on how the contributions should be allocated.</p> <p>Paragraph 74 (pages 222-223) of the Constitution of South Oxfordshire District Council and Vale of White Horse District Council – 13 December 2022 "financial procedure rules", states: 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 finance can approve the creation of the relevant revenue or capital budget.</p> <p>This decision refers to the award of the on-site public art contribution, therefore this project can be shown as clear and unambiguous as it is for public art on the site.</p> <p>The proprietor of the freehold of the proposed site of the project is the applicant. Evidence of legal title of the land has been provided.</p> <p>The applicant will be required to enter into a third party funding agreement. This will set out a number of matters including a restriction on how the funds are spent; provisions and triggers for clawback; spending deadline; and monitoring requirements of the Council.</p>

Financial implications	Finance have confirmed that the requested funding is available. This project will be fully funded by the requested contributions.			
Other implications	<p>Planning consent will be required, which will be subject to the usual consultation process and ensure that matters such as those raised by diversity and equality will be considered.</p> <p>The developer is the landowner, therefore failure to release funds for this project would create a risk for the district council of the contributions remaining unspent and the art not being delivered.</p>			
Background papers considered	There is a background report to accompany this			
Declarations/conflict of interest? Declaration of other councillor/officer consulted by the Cabinet member?				
List consultees		Name	Outcome	Date
	Ward Councillors (Wallingford)	Sue Roberts	Concerned at the suggestion of LED lights being added to the sculpture. It would be important to respect 'dark skies' resolution.	19-01-23
	Arts Officer	Abigail Brown	<p>"The S106 for this development specified that the public art has to be provided on site, yet with no publicly adaptable land it is down to the developer to commission and install the artwork.</p> <p>I have worked closely with a developer to devise the brief, select the artists and ensure community involvement project. They have selected nationally acclaimed artists that produce good quality and enduring work, who have a genuine desire to work with local residents to create bespoke and site-specific pieces of work. I have every faith in the project."</p>	20-01-23

	Legal (Contracts and Procurement) legal@southandvale.gov.uk	Gillian Mason	No issues, most likely to not be considered a subsidy	13-03-23
	Legal (Litigation and Planning)	Vivien Williams	Expressed concern regarding the efficacy of consultation on the public art proposals considering the site is only partially occupied (current status is at 70th occupancy of 555 dwellings)	13-03-23
	Finance Finance@southandvale.gov.uk	Emma Creed	Funds available to spend	18-01-23
	Climate and biodiversity climateaction@southandvale.gov.uk	Kimberly Hall	Comments added to climate and ecological implications box above	24-01-23
	Diversity and equality equalities@southandvale.gov.uk	Lynne Mitchell	Highlighted there may not be enough space around the art work for wheelchair uses to navigate and also people with wide double buggies and those using walking aids. Also need to consider those with visual impairment particular if it's in the middle of a walkway.	19-01-23
	Planning planning@southandvale.gov.uk	Cathie Scotting	<p>"...proposals for the public art must be scrutinised and the release of monies controlled so that the public art represents good value for money and, with reference to policies in the National Planning Policy Framework (NPPF), contributes to the overall quality of design and layout, is visually attractive, establishes a sense of place and creates an attractive, welcoming and a distinctive place to live and visit.</p> <p>The NPPF encourages the participation of the</p>	31-01-23

			<p>community in the design of development.</p> <p>Concerns relate to the overall suggested proposal, the timescales and the costs associated with this.</p> <p>The location of a feature piece on the public square is supported. However given the amount of the overall sum there is scope to provide further elements of public art elsewhere on the site, and it would be useful for this to be guided by a brief that has been subject to public consultation. For instance some more functional pieces such as bespoke benches could be provided in the green corridors or some pieces could reflect the archaeology on the site..."</p> <p>"...projected costs need to be closely examined."</p> <p>"In order to engage effectively with the community, I consider there needs to be more residents living on the site and ideally pupils at the school. The overall development is for 555 dwellings and currently there is around 100 occupations on site. The school is due to open September 2024 and there is detailed consent for 323 dwellings. I suggest that the consultation is undertaken at a time when there is more input from the residents on site and ideally from the Site B school pupils."</p>	
	<p>Risk and insurance risk@southandvale.gov.uk</p>	<p>Yvonne Cutler Greaves</p>	<p>No comments on risk, just a query as to who will own and maintain the completed art work (developer has</p>	<p>20-01-23</p>

			subsequently confirmed – a management company)	
	Communications communications@southandvale.gov.uk	Andrea Busiko	No comments to add.	21-04-23
	S106 Authorisation Panel		Authorisation panel agreed that an ICMD would be required for the decision and to enter into a contract to award the funds. Officer to transfer DA to ICMD report format and submit for progression to SMT (no need to return to Authorisation panel).	30-01-23
	SMT		SMT agreed art installation to proceed to ICMD.	17-05-23
Confidential decision? If so, under which exempt category?	No			
Call-in waived by Scrutiny Committee chairman?				
Has this been discussed by Cabinet members?				
Cabinet portfolio holder's signature To confirm the decision as set out in this notice.	Signature <u>Pieter-Paul Barker</u> Date <u>25th May 2023</u>			

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

For Democratic Services office use only		
Form received	Date:	Time:
Date published to all councillors	Date:	
Call-in deadline	Date:	Time:

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.