

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	Councillor Maggie Filipova-Rivers – Deputy Leader of the Council and Cabinet Member for Housing and Community Hub
Key decision?	Yes
Date of decision (same as date form signed)	16 July 2024
Name and job title of officer requesting the decision	Janette Hinton-Smith – Infrastructure and Implementation Officer Infrastructure Implementation & Funding Team
Officer contact details	Tel: 01235 422135 / 07917 088369 Email: janette.hinton-smith@southandvale.gov.uk
Decision	<p>To create a budget for £94,993.41 from the S106 contributions listed below and release funds, subject to a third party funding agreement to Didcot Town Council towards the new ‘splash park’ water play project at Edmonds Park, Park Road, Didcot.</p> <p>Funds to be released, in total as one payment, subject to receipt of the signed legal funding agreement with Didcot Town Council.</p>
Reasons for decision	<p>We have received a request for funds from Didcot Town Council for a total of £94,993.41 from S106 contribution 08S35 arising from the development at Great Western Park (GWP), Didcot - of land to the West of Didcot between A4130 and Park Road to both north and south of Wantage Road, and from S106 contribution 14S16 – land at Park Road, Didcot.</p> <p>The 08S35 S106 agreement is ‘unclear and ambiguous’ about where the contribution can be used if not at Didcot Civic Centre. The funds are to be used for community services either on or within the proximity of GWP. ‘Proximity’ is not defined in the S106 agreement. It would take between 15 to 30 minutes’ walk or 5 to 10 minutes drive to Edmonds Park from the GWP site dependant on where on the site someone lives.</p> <p>The 14S16 S106 agreement is ‘unclear’ about where the funds are to be used except that they are to be used for community facilities in Didcot.</p> <p>The planning decision was made by area committee. In accordance with the Constitution of South Oxfordshire District Council and Vale of</p>

White Horse District Council – 23 May 2024, Financial Procedure Rules provide at paragraph **75(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” to release the funds requested and agree to enter into a Third Party Funding Agreement.

The proposed project is the creation of a new 250m² splash park water play area, with 25 different water sprinklers, and a plant room (to serve it) in Edmonds Park, Didcot near to the new community and sports pavilion.

This is a long-awaited project (having stalled due to the Covid pandemic) for the residents of Didcot that is supported by all parties of Didcot Town Council. Currently residents have to travel outside of Didcot, increasing traffic pollution, to use this type of facility. Didcot is growing rapidly, and past consultation (in 2020) has informed Didcot Town Council that residents feel this facility is needed in the town.

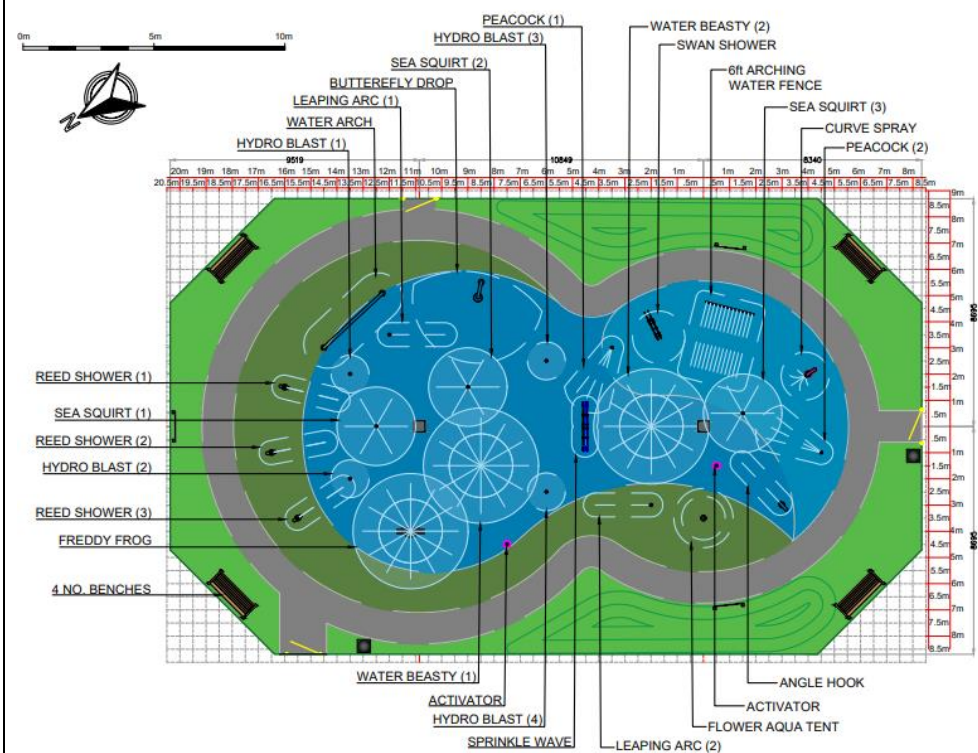
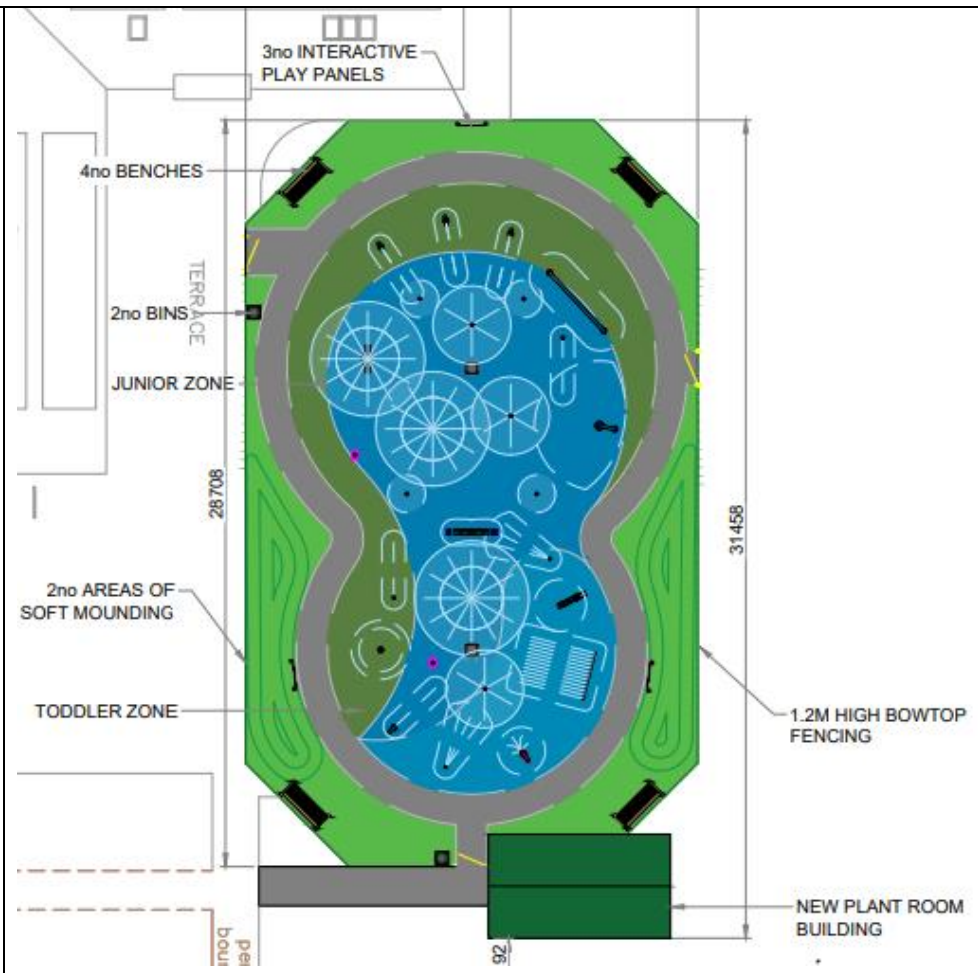
A new location near to the newly constructed community and sports pavilion has been chosen to share utilities between the two projects, reducing costs. Previously it was due to be created between the existing play areas and trenches for the new services would need to be dug alongside the tennis court, football pitches and over a long length. Having the new pavilion and splash park near to each other enables residents to use both facilities simultaneously.

Didcot Town Council outdoor staff have completed pool plant operators’ course so that they will be able to operate and service the splash park.

Didcot Town Council have noted in their meeting minutes that the rubber safety surface will need to be replaced in 5-6 years’ time and that budget provision is to be made for this maintenance requirement.

Planning permission P22/S3190/FUL for the project has been granted.

Didcot Town Council advised that they looked online at the Government’s website and do not believe the work warrants a Building Regulation application. Planning approval did not state it was needed. They have checked with the chosen contractor who has said they have not needed building regulations in the past for projects like this.



Internal teams have been consulted and their comments are within the consultation section of the report.

Development: Great Western Park, Didcot - land to the West of Didcot between A4130 and Park Road to both North and South of B4493 Wantage Road

Planning Ref: P02/W0848/O

S106 Ref: 08S35

Date of agreement: 18 July 2008

Decision: Planning Committee

Obligation: "Civic Centre Contribution" is defined in clause one of the agreement as 'the sum of £149,000 (one hundred and forty nine thousand pounds) PUBSEC (General) Index Linked towards the costs of improving Didcot Civic Centre or other community centres/services either on or within the proximity of the Site'.

Agm't ref.	Contribution towards: (extracts from S106 agreement)	Amount in agreement	Contribution received (incl indexation) and date of expiry	Amount requested	Previously allocated	Projected balance
08S35	"Civic Centre Contribution" towards the costs of improving Didcot Civic Centre or other community centres/services either on or within the proximity of the Site'.	£149,000	£196,781.51 received on 16/09/2015 spend by 21/10/2027	£57,403.35	£139,378.16	£0.00

No definition of 'proximity' in the agreement. Edmonds Park is within Didcot and within proximity to the site, being 15-30 minutes' walk away.

Development: Land at Park Road Didcot

Planning Ref: P10/W1959

S106 Ref: 14S16

Date of agreement: 19 May 2014

Decision: Planning Committee

Obligation: "Community Contribution" is defined in the second schedule of the agreement as 'the sum of £120,138.00 (one hundred and twenty thousand one hundred and thirty eight pounds) Index Linked towards the cost of community facilities in Didcot payable in two instalment the "First Community Contribution" and the "Second Community Contribution" each of £60,069 (sixty thousand and sixty nine pounds) Index-Linked'.

Agm't ref.	Contribution towards: (extracts from S106 agreement)	Amount in agreement	Contribution received (incl indexation) and date of expiry	Amount requested	Previously allocated	Projected balance
14S16	"First Community Contribution" towards facilities in Didcot.	£60,069	£72,434.48 received on 10/12/2014 spend by 10/12/2034	£37,590.06	£34,844.42	£0.00

Alternative options rejected

08S35 - the intended use of the contribution was to fund community buildings hence it was called the Civic Centre contribution, but it does allow for alternative community facilities.

	<p>It is understood that by the time this contribution was due, the Civic Centre extension was already funded and constructed. As the contribution allows for spending on community facilities the proposed spending can be construed as such however, if there was a community building that needed funding, it might be expected for that to have priority over the splash pad.</p> <p>Officer response: Didcot Town Council have spent £92K out of the received £196K from contribution 08S35 on Didcot Civic Centre. £47K has been spent on other community centres. Didcot Town Council have recently constructed a community & sports pavilion £2.4m via a loan and opted to use the balance of this contribution £57K on community facilities/services (as the description allows).</p>
<p>Climate implications</p>	<p>We are supportive of the splash park using a recirculating water system and recognise the benefit of a local facility in helping to reduce travel emissions from visiting parks in other towns. There is also the additional benefit of the project supporting climate adaptation - by providing a way for people to cool off in extreme heat.</p> <p>Do you know if the materials being used for the splash pad are recycled and recyclable? We would also recommend that opportunities to include biodiversity improvements as part of the project are reviewed and included in the plans for the site where feasible. Trees could also provide some shade for the site.</p> <p><i>Response: Trees close to the splash pad have the potential for leaf drop to get into water jets, this was one of the reasons why it has been moved to a new site rather than keeping it at the original choice between the two existing play areas because of the overhanging trees.</i></p> <p><i>Response from Didcot Town Council: “From the contractor (Splash): “XD-Eco highly durable, graffiti resistant and rigorously tested High Density Polyethylene (HDPE), with 100% recycled black core. Made from high grade waste PE chippings which saves countless tons of scrap material being sent to landfill. The material is virtually unbreakable to withstand tough conditions and is UV stable for use even in the sunniest of countries. N XD-Eco is recyclable. Production waste, offcuts and old panels from play areas can be reused again and again. Eco-Posts 100% recycled plastic posts made from high grade raw materials sourced from Western Europe. Eco-Posts offer a distinct advantage over traditional alternatives, including resistance to rotting, oxidising, cracking, splitting, and splinters. By choosing recycled plastic, customers benefit from increased durability and reduced maintenance requirements. Eco-Posts provide a convenient solution to complete projects with more environmentally friendly materials. The Gomy Floor Tile Surfacing is recyclable. Similarly, the “stainless-steel features are also 100% full recyclable. We use recycled aggregates as much as possible and when they are available, such as pea gravel, sand and hardcore stone”.</i></p> <p><i>“With regards to improving biodiversity at the site, we have recently replanted a large area with flowers and shrubs as per the permission</i></p>

	<p><i>granted for the new pavilion. The Splash Pad sits right next to the new building. The outdoor team have plans to plant new shrubs next to the plant room, which will soften the look of the unit, and increase biodiversity in the area.”</i></p>																																									
<p>Legal implications</p>	<p>Edmonds Park, Park Road, Didcot is freehold land owned by Didcot Town Council. Land Registry title ON309532</p> <p>It is recommended that Didcot Town Council enter into a legal third party funding agreement which sets out what the funds can be used for and includes a spending deadline to ensure delivery of the project.</p> <p>The funding is not considered to be a Subsidy. For financial assistance to be a subsidy it must meet four limbs of the statutory test. One of these limbs is for the financial assistance to confer an economic advantage on one or more enterprises. The recipient of the assistance must be an enterprise, which is any entity that is engaged in an economic activity, which means offering goods and services on a market. The Government Guidance states, as a rule public funding that delivers a general public benefit, and which is not intended to be used primarily to carry out an economic activity is non-economic and will not fall within the scope of the subsidies control regime. Didcot Town Council are not considered an organisation who are selling goods or services on the market as an economic enterprise. Therefore, as not all of the four limb tests as set out in the Subsidy Control Act 2022 are satisfied, the funding is not considered to be a Subsidy.</p>																																									
<p>Financial implications</p>	<p>The total project cost is £450,485.93 of which the S106 contributions are just part of the funding:</p> <table border="1" data-bbox="459 1245 1458 1503"> <thead> <tr> <th colspan="2" data-bbox="459 1245 1034 1279">Quotations obtained from:-</th> <th data-bbox="1034 1245 1273 1279"><i>EXPENDITURE</i></th> <th data-bbox="1273 1245 1458 1279"></th> </tr> </thead> <tbody> <tr> <td data-bbox="459 1279 1034 1323">Ustigate Water Play</td> <td data-bbox="1034 1279 1273 1323">£449,915.96</td> <td data-bbox="1273 1279 1458 1323"></td> <td data-bbox="1273 1279 1458 1323"></td> </tr> <tr> <td data-bbox="459 1323 1034 1368">The Splash</td> <td data-bbox="1034 1323 1273 1368">£442,345.93</td> <td data-bbox="1273 1323 1458 1368"></td> <td data-bbox="1273 1323 1458 1368">* chosen quote</td> </tr> <tr> <td data-bbox="459 1368 1034 1435">Addition of ‘GomyFloor’ safety surface plus</td> <td data-bbox="1034 1368 1273 1435">£8,140.00</td> <td data-bbox="1273 1368 1458 1435"></td> <td data-bbox="1273 1368 1458 1435">* chosen quote</td> </tr> <tr> <td data-bbox="459 1435 1034 1503"></td> <td data-bbox="1034 1435 1273 1503"><u>£450,485.93</u></td> <td data-bbox="1273 1435 1458 1503"></td> <td data-bbox="1273 1435 1458 1503">= total of chosen quotes</td> </tr> </tbody> </table> <table border="1" data-bbox="459 1547 1273 1917"> <thead> <tr> <th colspan="2" data-bbox="459 1547 1034 1581"><i>FUNDING</i></th> <th data-bbox="1034 1547 1273 1581"></th> </tr> </thead> <tbody> <tr> <td data-bbox="459 1581 1034 1626">S106 contribution from 08S35</td> <td data-bbox="1034 1581 1273 1626">£57,403.35</td> <td data-bbox="1273 1581 1458 1626"></td> </tr> <tr> <td data-bbox="459 1626 1034 1671">S106 contribution from 14S16</td> <td data-bbox="1034 1626 1273 1671">£37,590.06</td> <td data-bbox="1273 1626 1458 1671"></td> </tr> <tr> <td data-bbox="459 1671 1034 1715">Didcot Town Council reserves</td> <td data-bbox="1034 1671 1273 1715">£200,000.00</td> <td data-bbox="1273 1671 1458 1715"></td> </tr> <tr> <td data-bbox="459 1715 1034 1760">CIL – allocated to this project</td> <td data-bbox="1034 1715 1273 1760">£121,000.00</td> <td data-bbox="1273 1715 1458 1760"></td> </tr> <tr> <td data-bbox="459 1760 1034 1872">CIL – unallocated £110,000.00 – draw from for the difference needed for this project</td> <td data-bbox="1034 1760 1273 1872">£34,492.52</td> <td data-bbox="1273 1760 1458 1872"></td> </tr> <tr> <td data-bbox="459 1872 1034 1917"></td> <td data-bbox="1034 1872 1273 1917"><u>£450,485.93</u></td> <td data-bbox="1273 1872 1458 1917"></td> </tr> </tbody> </table> <p>Accountancy has confirmed that the funding is available.</p>	Quotations obtained from:-		<i>EXPENDITURE</i>		Ustigate Water Play	£449,915.96			The Splash	£442,345.93		* chosen quote	Addition of ‘GomyFloor’ safety surface plus	£8,140.00		* chosen quote		<u>£450,485.93</u>		= total of chosen quotes	<i>FUNDING</i>			S106 contribution from 08S35	£57,403.35		S106 contribution from 14S16	£37,590.06		Didcot Town Council reserves	£200,000.00		CIL – allocated to this project	£121,000.00		CIL – unallocated £110,000.00 – draw from for the difference needed for this project	£34,492.52			<u>£450,485.93</u>	
Quotations obtained from:-		<i>EXPENDITURE</i>																																								
Ustigate Water Play	£449,915.96																																									
The Splash	£442,345.93		* chosen quote																																							
Addition of ‘GomyFloor’ safety surface plus	£8,140.00		* chosen quote																																							
	<u>£450,485.93</u>		= total of chosen quotes																																							
<i>FUNDING</i>																																										
S106 contribution from 08S35	£57,403.35																																									
S106 contribution from 14S16	£37,590.06																																									
Didcot Town Council reserves	£200,000.00																																									
CIL – allocated to this project	£121,000.00																																									
CIL – unallocated £110,000.00 – draw from for the difference needed for this project	£34,492.52																																									
	<u>£450,485.93</u>																																									
<p>Equalities implications</p>	<p>I can confirm that there are no specific equality implications to comment on at this time. The proposed project seems well-aligned</p>																																									

	with community needs and considerations. We would recommend that the equipment, surfaces and access considerations are made to ensure access for all impairments.			
Other implications	None			
Background papers considered	None			
Declarations/conflict of interest? Declaration of other councillor/officer consulted by the Cabinet member?	Other Registerable Interest: The Leader of the Council is unable to take this decision due to also being a member of Didcot Town Council (the applicant). The decision is therefore taken by the Deputy Leader of the Council.			
List consultees		Name	Outcome	Date
Ward councillors for Didcot South ward (funding from & to be spent in): mocky.khan@southoxon.gov.uk Axel.macdonald@southoxon.gov.uk Denise.macdonald@southoxon.gov.uk	Mocky Khan Axel Macdonald Denise Macdonald	All Informed	30/05/2024	
Ward councillors for Didcot West ward (funding from): ian.snowdon@southoxon.gov.uk tworgan@didcot.gov.uk	Ian Snowdon Tony Worgan	Both Informed	30/05/2024	
Cabinet member for South pieter-paul.barker@southoxon.gov.uk	Pieter-Paul Barker	Informed	30/05/2024	
Legal - Planning Solicitor (Locum) Louise.Greene@southandvale.gov.uk	Louise Greene	Comments incorporated into report.	12/06/2024	
Finance - Emma.creed@southandvale.gov.uk	Emma Creed	I can confirm both contributions are available.	29/05/2024	
Didcot Garden Town team - didcotgardentown@southandvale.gov.uk		Emailed	29/05/2024	
Nicky Wyer – Nicola.wyer@southandvale.gov.uk	Nicky Wyer	Very supportive of	29/05/2024	

vale.gov.uk		this.	
Climate and biodiversity climateaction@southandvale.gov.uk	Chloe Bunting	Support project, see comment in main report	05/06/2024
Diversity and equality - equalities@southandvale.gov.uk	Equalities Team	Support application – see comment in main report	29/05/2024
Property - property@southandvale.gov.uk	Chris Mobbs	Strategic Property have no comments to make.	29/05/2024
Planning – Cathie.Scotting@southandvale.gov.uk	Cathie Scotting	The intended use of the contribution was to fund community buildings hence it was called the Civic Centre contribution, but it does allow for alternative community facilities. Full comments included in alternative options rejected section.	29/05/2024
Health and safety - healthandsafety@southandvale.gov.uk	Andrew Huckstep	No specific comments relating to the funding application from H&S.	30/05/2024
Risk and insurance - risk@southandvale.gov.uk	Yvonne Cutler Greaves	Emailed	29/05/2024
Community Enablement - communityenablement@southandvale.gov.uk	Hazrat Hussain	No application for funding relating to splash pad. In 2008 an application £54K for play and fitness park.	31/05/2024
Communications communications@southandvale.gov.uk	Victoria Nickless	A positive project. Will we be acknowledged for providing funding? <i>Remind DTC about para 7 Publicity, part of FPTA and about inviting the cabinet</i>	12/06/2024

			<i>member / chairman.</i>	
	Community Safety - communitysafety@southandvale.gov.uk	Jennie Hope	Nil responses from Community Safety.	05/06/2024
	Head of Planning	Adrian Duffield	Checked with Building Regulations and confirmed not required.	20/06/2024
	Head of Finance	Simon Hewings	Approved for progression at S106/CIL Applications Meeting	20/06/2024
	Strategic Management Team (SMT) ExecutiveSupportSAV@southandvale.gov.uk		Supportive	12/06/2024
Confidential decision? If so, under which exempt category?	No			
Call-in waived by Scrutiny Committee chairman?				
Has this been discussed by Cabinet members?				
Deputy Leader of the Council and Cabinet Member for Housing and Community Hub signature To confirm the decision as set out in this notice.	Signature: Councillor Maggie Filipova-Rivers Date: 16 July 2024			

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

For Democratic Services office use only		
Form received	Date: 19 July 2024	Time: 11.54am
Date published to all councillors	Date: 19 July	
Call-in deadline	Date: 26 July	Time: 5pm

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.