

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 Debby Hallett
Key decision?	No
Date of decision (same as date form signed)	20 September 2021
Name and job title of officer requesting the decision	Ben Duffy Planning Policy Officer (Neighbourhood)
Officer contact details	Tel: 01235 422600 Email: ben.duffy@southandvale.gov.uk
Decision	<p>To recommend to Council:</p> <ol style="list-style-type: none"> 1. To make the Appleton with Eaton Development Plan so that it continues to be part of the council's development plan. 2. To delegate to the Head of Planning, in consultation with the appropriate Cabinet Member and in agreement with the Qualifying Body, the correction of any spelling, grammatical, typographical or factual errors together with any improvements from a presentational perspective.
Reasons for decision	<ol style="list-style-type: none"> 1. The making of the Appleton with Eaton Neighbourhood Development Plan (the Plan) would not breach, or otherwise be incompatible with, any EU or human rights obligations, including the following Directives: the Strategic Environmental Assessment Directive (2001/42/EC); the Environmental Impact Assessment Directive (2011/92/EU); the Habitats Directive (92/43/EEC); the Wild Birds Directive (2009/147/EC); the Waste Framework Directive (2008/98/EC); the Air Quality Directive (2008/50/EC); and the Water Framework Directive (2000/60/EC). In addition, no issues arise in respect of equality under general principles of EU law or any EU equality directive. In order to comply with the basic condition on the European Union legislation, the Vale of White Horse District Council prepared a Strategic Environmental Assessment (SEA) screening (March 2018), which concluded that the Plan is unlikely to have a significant effect on the environment and therefore a full

	<p>SEA is not required.</p> <ol style="list-style-type: none"> 2. The Plan will not give rise to significant environmental effects on European sites. The Vale of White Horse District Council produced a Habitat Regulations Assessment (HRA) screening report on the impact of development proposed in the Plan on European sites which was published in March 2018. The HRA screening report concluded that the Plan would not have any likely significant effects on the integrity of European sites, either alone or in combination with other plans or programmes. 3. The council is satisfied that the Plan is in all respects fully compatible with Convention rights contained in the Human Rights Act 1988. There has been full and adequate opportunity for all interested parties to take part in the preparation of the Plan and to make their comments known. <p>Referendum</p> <ol style="list-style-type: none"> 4. A referendum relating to the adoption of the Appleton with Eaton Neighbourhood Development Plan was held on Thursday 9 September 2021. 5. The question which was asked in the Referendum was: <i>‘Do you want Vale of White Horse District Council to use the Neighbourhood Plan for Appleton with Eaton to help it decide planning applications in the neighbourhood area?’</i> 6. The result was as follows: <ol style="list-style-type: none"> a. Yes = 176 votes (95%) b. No = 9 votes (5%) c. Turnout = 24.6% 7. The majority of local electors who voted, voted in favour of the Plan; therefore, the Appleton with Eaton Neighbourhood Plan has become part of the council’s development plan. 8. As the Plan was approved at the local referendum and the council is satisfied that the making of the Plan would not breach, or otherwise be incompatible with, any EU or human rights obligations, the council is required make the Appleton with Eaton Neighbourhood Development Plan so that it continues to be part of the council’s development plan.
Alternative options rejected	The council’s options are limited by statute. Paragraph 38A (4)(a) of the Planning and Compulsory Purchase Act

	<p>2004 sets out that the council must make a neighbourhood plan if more than half of those voting at the referendum have voted in favour of the plan being used to help decide planning applications in the plan area.</p> <p>The only circumstance where the district council should not make this decision is where the making of the plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998).</p> <p>Section 3 of the Neighbourhood Planning Act 2017, which came into force on 19 July 2017, amends section 38 of the Planning and Compulsory Purchase Act 2004 to ensure that neighbourhood plans have full legal effect once they have passed their local referenda. In the very limited circumstances that the council might decide not to make the neighbourhood development plan, it will cease to be part of the development plan for the area.</p> <p>In this case, the referendum result was in favour of the plan, and so the Appleton with Eaton Neighbourhood Plan has become part of the council's development plan. For the reasons set out in paragraphs 1 to 3, the council is satisfied that the Appleton with Eaton Neighbourhood Development Plan would not breach or be incompatible with EU obligations or human rights legislation.</p>
<p>Climate and ecological implications</p>	<p>The Plan contributes to the achievement of sustainable development. Sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs. Achieving sustainable development through the planning system involves delivering on three overarching objectives – economic, social and environmental. It is clear to that the Appleton with Eaton Neighbourhood Plan has set out to achieve sustainable development in the neighbourhood area. In the economic dimension the Plan includes a policy on the business of new development (Policy 6). In the social role, it includes a policy on village facilities, the Appleton community shop and post office and on public houses (Policies 3,5 and 5). In the environmental dimension the Plan positively seeks to protect its natural, built and historic environment. It has specific policies on village character and design (Policy 1), and on Local Green Spaces (Policy 2).</p> <p>Taken as a whole, the council is satisfied that through its policies the Appleton with Eaton Neighbourhood Plan pursues net gain across each of the different objectives of</p>

	<p>sustainable development in a mutually supportive way.</p> <p>In terms of the ecological implications, the Plan contains Policy 1 (Design, Character and Context) and Policy 2 (Local Green Spaces). These policies seek to preserve the overall character of the parish and to protect important green spaces.</p>
Legal implications	<p>The legal implications are set out elsewhere in the report on the basis of which it is considered that the council should now proceed to make the Appleton with Eaton Neighbourhood Plan.</p>
Financial implications	<p>Government grants are available to local authorities to help meet the cost of our responsibilities to progress neighbourhood plans through the formal stages, including the referendum. A total of £20,000 can be claimed for each neighbourhood planning area. The council becomes eligible to apply for this additional grant once the council issues a decision statement detailing the intention to send the plan to referendum.</p> <p>Any costs incurred in the formal stages in excess of Government grants is borne by the council. Staffing costs associated with supporting community groups and progressing neighbourhood plans through the formal stages are funded by the council. It is expected that costs associated with progressing this neighbourhood plan can be met from the existing neighbourhood planning budget.</p>
Other implications	<p>The council is required to comply with the statutory requirements (to consider whether the Appleton with Eaton Neighbourhood Development Plan should be made following successful local referendum), which this recommendation seeks to achieve. In view of the considerations referred to elsewhere in this report, as the majority of those voting have voted in favour of the plan at its local referendum, a decision not to make the plan would place the council at risk of a legal challenge.</p>
Background papers considered	<ol style="list-style-type: none"> 1. Appleton with Eaton Neighbourhood Plan and supporting documents 2. National Planning Practice Guidance (July 2014 and subsequent updates) 3. Vale of White Horse District Council SEA/HRA Screening Statement
Declarations/conflict of interest? Declaration of other councillor/officer consulted by the Cabinet	

member?				
List consultees		Name	Outcome	Date
	Ward councillors	Jerry Avery	No comment	26/08/2021
	Legal	Vivien Williams	No comment	26/08/2021
	Finance	Roger McLeod	No comment	26/08/2021
	Human resources		No comment	26/08/2021
	Diversity and equality	Lynne Mitchell	Comments regarding consideration to accessibility in plan policies.	24/08/21
	Climate and biodiversity	Heather Saunders	No comment	26/08/2021
	Communications	Emma East	No comment	23/08/21
	Senior Management Team		No comment	Content to proceed
Confidential decision? If so, under which exempt category?	No			
Call-in waived by Scrutiny Committee chairman?	N/A			
Has this been discussed by Cabinet members?	N/A			
Cabinet portfolio holder's signature To confirm the decision as set out in this notice.	<p style="text-align: center;">Signature </p> <p>Date 20 September 2021 _____</p>			

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.