

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 Sally Povolotsky – Cabinet Member for Climate emergency, the environment and technical services
Key decision?	Yes (as it is a grant from Thames Water of over £75,000)
Date of decision (same as date form signed)	8 September 2022
Name and job title of officer requesting the decision	John Backley, Technical Services Manager
Officer contact details	Tel: 07717 088317 Email: john.backley@southandvale.gov.uk
Decision	<p>That Cabinet authorises the Head of Development and Corporate Landlord in consultation with the Head of Legal and Democratic to:</p> <ol style="list-style-type: none"> 1. negotiate and finalise the funding agreement with Thames Water (TW) and enter into agreement to accept funding and carry out capital works for a surface water management programme in a range of locations in the Vale of White Horse district area. 2. negotiate and finalise the long-term maintenance agreement with Thames Water (TW) and reciprocal maintenance agreements with third parties 3. authorise officers to go out to tender on the South East portal to seek competitive prices for the delivery of the schemes from a suitable Contractor as part of a competitive procurement exercise.
Reasons for decision	<p>Background</p> <p>Thames Water (TW) have developed a new Surface Water Management (SWM) Strategy which began April 2020. The SWM Strategy has been shaped from the feedback they received from Lead Local Flood Authorities, the Greater London Authority, the Environment Agency and the Thames Flood Advisors.</p> <p>TW's sewage system drains foul water to water treatment works, and grey (uncontaminated) surface water e.g., from roofs back into the river network. The entry of uncontrolled/unconnected surface water into the</p>

sewage system can cause a range of problems including flooding of properties and roads when sewer water 'backs-up', and damage to infrastructure such as TW pipes and manhole covers.

A large part of the TW SWM Strategy includes TW developing strategic partnerships with local authorities in areas assessed to have some of the lowest sewer network capacity. TW recognise that surface water flooding has a major impact on their network and wish to work in partnership with local authorities to deliver surface water flood schemes and implement Sustainable Drainage System (SuDS) schemes. This could include the retrospective fitting of SuDS where possible. From historic data and blockages in particular areas/sewers, TW identified five local authorities in their area which would benefit from SuDS schemes including Vale of White Horse district.

Officers have been working with TW, as part of its Surface Water Management (SWM) Programme no. 7 (which runs 1 April 2020 to 31 March 2025) in partnership with Oxfordshire County Council (OCC) and a specialist contractor to survey and identify areas in the Vale which could meet the TW criteria for funding.

Draft Outline Design Stage

Officers working with OCC and a specialist consultant are in the process of submitting draft outline designs and preliminary cost estimates for TW approval to go onto next stage of detailed design. This work has been funded by TW.

To date the Vale has not been able to claim any officer costs spent on the project.

Three project areas in the Vale have been selected which are potentially suitable for capital funding. As part of the draft outline designs, the specialist consultant has identified and provided a preliminary cost estimate for three potential projects for TW to consider.

The outline project proposals are located on a variety of Vale land, County highways, parish owned land and private land as follows.

<u>Location</u>	<u>Preliminary Estimates</u>
Cattlemarket car park Abingdon (Vale ownership)	£95,000
Portway car park Wantage (Vale ownership)	£110,000
St Nicholas Place, East Challow (mixed ownership)	£90,000

As specific Thames Water criteria needs to be met, it may be that the areas initially proposed change as the scheme design is developed. It is also possible that the final proposal will be at one, two or all of the above locations initially identified.

Once the proposals have been signed off by TW they will form a pilot scheme where the model could be applied to other locations both within

the Vale and other local authorities where TW have similar surface water management issues. TW have indicated there may be further funding available for these other locations if the pilot projects are successful.

Funding Agreement

Officers are in the process of finalising the finer detail of the funding agreement which includes the following stages:

1. detailed design stage
2. procurement stage
3. construction phase
4. initial 12-month maintenance phase

The funding agreement consists of two payments:

Payment One - £25,000 for stage 1

Vale will fund stage 2 from existing resources

Payment Two - £295,000 for stage 3 and 4

(Payment two is currently an estimate following draft designs and could be increased or decreased depending on final tender costs.)

Long term maintenance is the subject of a separate agreement between the Vale and Thames Water. Officers will negotiate and draft reciprocal maintenance agreements with third parties to ensure the long-term maintenance of the SuDS features where necessary.

The principles of these stage are as follows:

Detailed Design Stage

The funding agreement includes taking the projects to a detailed design phase and procurement of a contractor with 'design funding' of £25,000.

Our land drainage engineers are able to carry out the detailed design, construction specification and the procurement within the 'design funding' budget.

This needs to include any survey work and whilst some of this can be undertaken in house, there may be some specialist testing or surveys required. Based on the scheme information to date, these costs are considered to fall well within the £25,000 design allowance provided by Thames Water.

Following this detailed design phase, if in discussion with TW the projects do not meet the required criteria or are over TW budgets, there will be a break clause enabling Vale to terminate the funding agreement and Vale would not be required to return any of the £25,000 funding. There will also be the option to refine and review the designs to potentially bring them

within budget.

The projects will likely include sustainable drainage in the form of rain gardens (see appendix one), tree pits (see appendix two and three), swales and porous paving and therefore have the potential to provide wider benefits to the community in terms of improved biodiversity and landscape enhancement.

The detailed design will identify any implications for all land owners during construction and for long term maintenance.

The funding agreement requires TW approval before progressing to the procurement stage.

Procurement of Contractor

The Vale will carry out a procurement to award a contract for the construction of the SuDS using the specification and detailed design drawings approved by TW.

The engineers will carry out an evaluation of the submitted tenders.

Before the award of the contract, there is a potential break clause in the funding agreement for the scenario that Contractors tender returns are greater than the allocated budget. The funding agreement allows for changes to the design/and/or the specification to bring within budget.

Officers in conjunction with TW will decide if contracts can be awarded.

If this is not possible the agreement states that if the works exceed the funding, parties shall meet to discuss how best to address the risks.

Subject to TW's approval, there is also the potential to reallocate funding to one of the other identified schemes to expand this instead during the detailed design period should it not be possible to reach an agreement.

The draft agreement will need to be negotiated so that if the winning bid is too high or insufficient contingency and Thames Water have no additional funding, and it cannot be value engineered to meet the budget the Vale would need to consider either funding the balance or withdraw and terminate without penalty

The award of the contract will require TW approval before moving onto the construction phase.

Construction Phase

The Council's engineers will oversee the delivery of the construction phase through to completion.

If during the construction phase additional unforeseen costs are identified these will be the responsibility of the Vale. As part of the design phase officers will carry out further investigative surveys and build a suitable contingency into the project tender costs to reduce this risk to the Vale.

	<p>Maintenance Phase</p> <p><u>Initial 12 months</u> - The Vale would be responsible for the SuDs at our own expense (this will form part of the construction contract during the defect period and therefore be passed on to the Contractor), If needed this can be met from our in-house resources, in particular the grounds maintenance team and or by local community engagement.</p> <p><u>Long term maintenance</u> – Future maintenance after the initial period will be the subject of a separate agreement with Thames Water. It will be expected that the Vale maintain features located on Vale land, which should be able to be undertaken by the ground’s maintenance team and or via local community engagement.</p> <p>Features on public highway will be the responsibility of OCC given they will be designed and built to adoptable standards.</p> <p>Other maintenance on private land will require some negotiation in order to agree terms with the landowner with the Council potentially taking responsibility if terms cannot be agreed. Officers consider this is medium - low risk given the benefits the landowner should get from reduced risk of flooding on their property.</p> <p>Conclusion</p> <p>In order to release the funds for the detailed design and the capital works, and take the designs to the next stage, officers require authority to enter into the funding agreement with TW. This will allow officers to agree final designs and specifications (in-house) before procuring a contractor to carry out the works. Once there is a confirmed ‘fully costed construction programme’ TW will release funds for the Vale to be able to enter into the contract for construction.</p>
<p>Alternative options rejected</p>	<p><u>To not accept the funding, not sign the agreement and not carry out the works.</u></p> <p>This option has been rejected as there are no other identified funds for these SuDs features, of which there are two potential projects on Vale land. The third project which is partly on private land and partly on highway are considered to be a benefit to the wider community in the locations proposed.</p> <p><u>TW doing the entire project themselves:</u></p> <p>TW want to develop partnerships and work with authorities identified as having the lowest sewer capacity and who have some experience in delivering SuDS. However, they cannot go on sewer capacity alone, they have selected Vale as it was identified as having the experience and capability of delivering SuDS as well as the resource and appetite to do it. This is a pilot project and TW are looking for partnership opportunities that may be developed in the future if this pilot is successful.</p> <p>This funding represents a good opportunity to work with TW and reduce the surface water entering into their system, thereby reducing the risk of flooding and benefiting Vale residents. At the same time the Vale can</p>

	<p>benefit from the ecological enhancement of SUDs features on its land.</p> <p>The funding provides the opportunity for the Vale to lead by example. It will also benefit vale residents by reducing risk of foul sewer flooding.</p> <p>We actively encourage and request various SuDS on developments and schemes, so should be seen to be doing the same where opportunity arises. Given the nature of the TW programme, it is also unlikely in any case that TW would undertake the projects themselves as they instead would likely direct funding to projects proposed by other organisations.</p>
<p>Climate and ecological implications</p>	<p>The projects will benefit the Vale as it will provide SUDS features on Vale land and car parks (such as rain gardens – Example in appendix One and tree pits – Example in appendix Two and Three) which will provide areas to store water, increase biodiversity and improve environmental quality by planting that can withstand water logging, absorb water and attract insects and birds.</p>
<p>Legal implications</p>	<p>We will be required to enter into a:</p> <ul style="list-style-type: none"> • funding agreement with TW which includes initial 12 months maintenance. • long term maintenance agreement with TW • long term maintenance agreement with private landowners (subject to final scheme selection and design). • standard construction contract (NEC or JCT), this will be used and included in the procurement documents, so tenderers are aware of contractual responsibilities and in the event of a dispute recognised processes are in place. <p>OCC will adopt features on the public highway as long as it meets their criteria.</p> <p>Officers will need to negotiate with the private landowners who will benefit from reduced risk of flooding on their land, for both the installation of the Suds features and the responsibility of long-term maintenance. Once these negotiations are complete a legal agreement will need to be made with each private landowner.</p>
<p>Financial implications</p>	<p>Officers time to date has been at the council's expense. A funding agreement of £25,000 (released in full on completion of the funding agreement) will allow for some officer time to be recharged to the project for the detailed design and the contract procurement and management of the contract. Officers consider this sum is sufficient for all of the work required. Any additional hours once funding is exhausted will be considered to be the Councils contribution to the agreement.</p> <p>The main construction budget of £295,000 (staged payments replicated in the works contract) is anticipated to be sufficient to deliver the projects. If</p>

	<p>there are overspends associated with unforeseen construction related issues, Officers will seek to fund from any qualifying CIL funding.</p> <p>If this is not possible potentially utilisation of the existing Vale capital car park improvement budgets (YA49 £100,000) which would mean less funds available for car park resurfacing although the car parks would benefit from the ecological implications as above plus reduced flood risk.</p>			
<p>Other implications</p>	<p>The agreement requires a review 12 months after completion to assess the effectiveness of the schemes. The council will be responsible for carrying out any necessary works to bring performance to expected levels during the initial maintenance period of 12 months. This risk can be mitigated by clauses to be included in the works contract.</p> <p>There is a risk that work carried out on private land is not agreed by the land owner.</p> <p>This risk will be mitigated by officers (involving surveyors from strategic Property) having early discussions with land owners to reach a mutually suitable agreement. As the land identified is subject to flooding officers will demonstrate to the landowner the benefits of the project.</p> <p>Officers will ensure the funding agreement includes that if in the event of future development of the car park – this will require a totally new surface water management plan to deal with drainage from whatever the development is and be required to incorporate suds as part of any planning app.</p>			
<p>Background papers considered</p>	<p>SMT briefing paper 2 December 2020.</p> <p>Gateway 1 – Thames Water Surface Water Management programme agreed at SMT 25 August 2021.</p>			
<p>Declarations/ conflict of interest? Declaration of other councillor/ officer consulted by the Cabinet member?</p>				
<p>List consultees</p>		<p>Name</p>	<p>Outcome</p>	<p>Date</p>
	<p>Portfolio holder until 11 August 2022</p>	<p>Cllr A Crawford</p>	<p>Agreed by email</p>	<p>6 September 2022</p>
	<p>Portfolio holder from 11 August 2022</p>	<p>Cllr S Povolotsky</p>	<p>Agreed by email</p>	<p>8 September 2022</p>
	<p>Grounds</p>	<p>Richard Ballard</p>	<p>Agree subject to receiving a</p>	<p>2 August 2022</p>

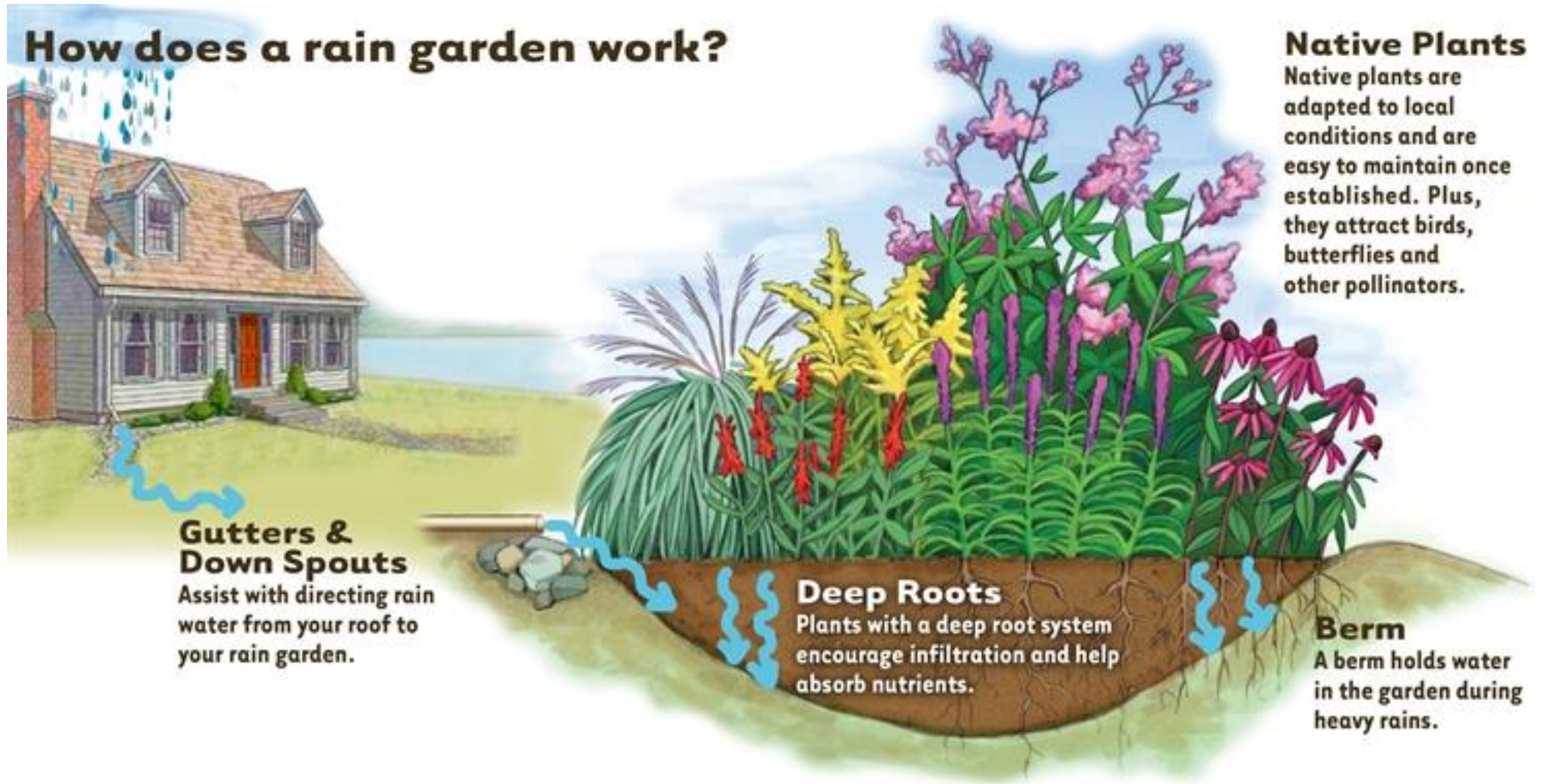
	maintenance service		budget for the maintenance of the SuDS	
	Engineers	David Bell	Comments included	4 August 2022
	Car parks	Adrian Lear	To coordinate with the car park refurbishment project which is currently in the planning stage.	4 August 2022
	CIL Officer	Mark Hewer	Flood defence is specifically mentioned in government guidance as an acceptable use of CIL funding. Please consult with me at the earliest opportunity if it is expected that CIL funds will be required for these purposes.	1 August 2022
	Property Assets	Karen Lister	Maintenance agreements to not be detrimental to any long-term development	2 August 2022
	Legal legal@southandvale.gov.uk	Christine Cox	Include risk assessment Comments included Appendix Four – Risk Assessment	3 August 2022
	Finance Finance@southandvale.gov.uk	Donna Ross	When funds received need to identify what is revenue and what is capital? Estimated annual cost of maintaining the SuDs to be defined at detailed design stage.	4 August 2022
	Climate and biodiversity climateaction@southandvale.gov.uk	Kim Hall	Climate & Biodiversity support the development of Sustainable Drainage Systems in Vale and welcome the opportunity to increase biodiversity at these sites.	1 August 2022
	Diversity and equality equalities@southandvale.gov.uk	Lynne Mitchell	We will need to ensure there is still access to Cattle Market and Portway car parks for disabled users during works or alternative parking.	29 July 2022
	Health and safety healthandsafety@southandvale.gov.uk	Debbie Porter	No comments at this stage	3 August 2022
	Risk and insurance risk@southandvale.gov.uk	Allison Holliday	Agreed as project will reduce the risk of flooding on vale owned land	1 August 2022
	Communications communications@southandvale.gov.uk	Gail Buckle	Please keep comms team informed on progress.	1 August 2022
	SMT		Agreed – with minor amends to review officer comments and councillor title	31 August 2022
	Head of Service	James Carpenter	Agreed at meeting with lead members	6 September 2022
Confidential decision? If so, under which exempt category?				
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: Councillor Sally Povolotsky_____ Date: 8 September 2022_____

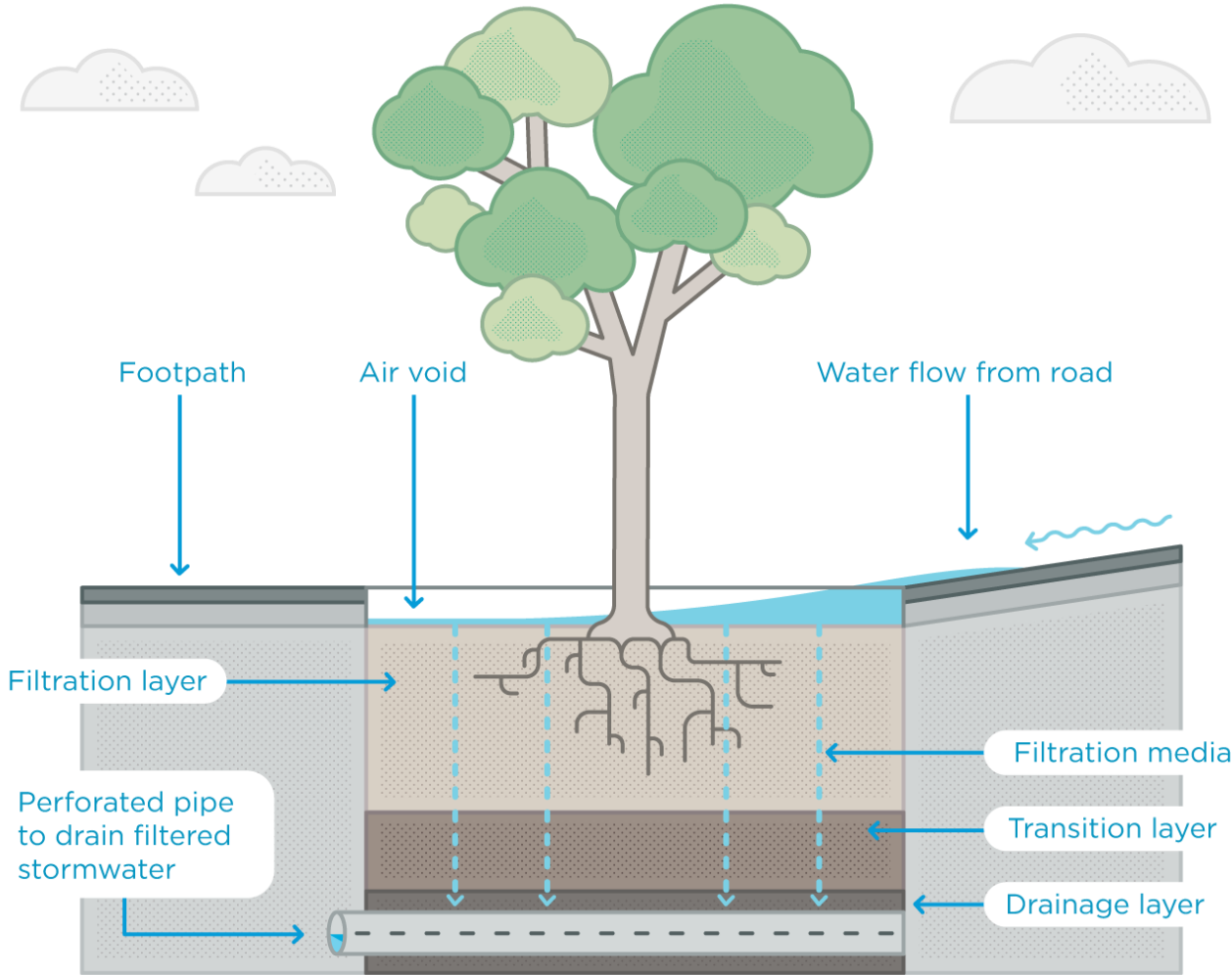
ONCE SIGNED, THIS FORM MUST BE HANDED TO DEMOCRATIC SERVICES IMMEDIATELY.

For Democratic Services office use only		
Form received	Date: 9 September 2022	Time: 13:28
Date published to all councillors	Date: 9 September 2022	
Call-in deadline	Date: 16 September 2022	Time: 17:00

Appendix One – Rain Gardens



Appendix Two – Tree Pits



Appendix Three – Examples of Suds in Bicester



Appendix Four – Risk Assessment

[U:\Housing and Environment\Projects\Thames Water OCC surface water tri-partite\ICMD for funding agreement\Risk Assessment TW Suds Aug22.xlsx](#)