

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 Andrew Crawford Cabinet Member for Finance and Corporate Assets
Key decision?	Yes – the proposal would <i>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.</i> The wards being Botley and Sunningwell and Kennington and Radley.
Date of decision (same as date form signed)	01/11/2022
Name and job title of officer requesting the decision	Melissa Jones Property Surveyor Development and Corporate Landlord
Officer contact details	Tel: 01235 422 660 Email: melissa.jones@southandvale.gov.uk
Decision	To delegate authority to the Head of Development and Corporate Landlord, in consultation with the Head of Legal and Democratic, Head of Finance and Cabinet Member for Finance and Corporate Assets to complete negotiations to grant an option to the Environment Agency (EA), and to enter into and conclude negotiations, complete contracts to effect the grant of an option to the Environment Agency and to finalise the transfer of the two parcels of land in Kennington (KEN0010000 and KEN0070000, shown edged red in Appendix 1) to the Environment Agency for £1 (one pound).
Reasons for decision	Two parcels of land owned by the Vale of White Horse District Council have been included in the proposed route of the Oxford Flood Alleviation Scheme (OFAS). Both parcels were included in the proposed compulsory purchase and whilst the Compulsory Purchase Order (CPO) has yet to be confirmed, the EA have commenced negotiations on a private treaty basis. A formal CPO is expected to be made shortly, with the acquisition date for land included in the Scheme anticipated to be 6 June 2024. The parcels are KEN0010000– Kennington Ponds and KEN0070000 – land to the north of the A423 Kennington Road. These are identified on the location plan at Appendix 1. Both parcels of land fall within the extent of the Oxford Greenbelt.

KEN0070000 comprises mostly scrub and rises up to the embankment of the Southern Bypass. A large National Grid electricity tower is located within the site. The site is overgrown and has an infestation of Japanese Knotweed that is being treated by the EA as part of this project.

KEN0010000 has several large ponds, with an area of scrub to the north and an area of more open grass to the south. The site contains a large SSE electricity tower.

The Council has undertaken limited maintenance in the last few years at both sites and this has led to them falling into disrepair with large parts of the site becoming inaccessible because of fallen timber or tree growth.

There is evidence of trespass and fly tipping across both parcels of land. There also appears to be at least one instance of encroachment on the boundary of the southern parcel. Whilst the land is currently poorly maintained there is potential for substantial ongoing maintenance costs which are likely to increase as the land falls further into disrepair or if incidences of fly tipping or encroachment intensify.

The proposal was discussed at the Asset Management Group (AMG) in December 2021, and it was agreed that a disposal to the EA would benefit the residents in the North and South Hinksey area

SMT discussed the matter on 25 May 2022, and it was agreed to grant an option to transfer the land to the EA at nominal value as the Vale's contribution to the OFAS in recognition of the long-term benefit to protect residents in the Vale from flooding.

The Deputy Chief Executive - Partnerships has commented as follows:

The council is a partner in the EA project to deliver the OFAS. Notwithstanding the name of the scheme, communities in the Vale will benefit from its delivery, at the western end of Botley Road, Oxford, parts of North Hinksey and most notably in South Hinksey where the village has been subject to frequent flooding of residential and commercial properties.

The two parcels of land under discussion are required for delivery of the scheme. The transfer for a nominal sum would positively demonstrate the council's commitment to supporting its communities via the OFAS project. Both the county and city councils have also made very significant contributions of millions of pounds in cash or in kind to the OFAS.

The proposal will improve the economic, social and environmental wellbeing in the district by reducing flood risk to all houses in Oxford (and in the Vale of White Horse District: North Hinksey, South Hinksey and Botley) that are currently at risk of flooding from the River Thames. Not only does this lower the amount of financial damage caused by flooding it also lessens the stress and mental impact of flooding, which can be devastating to communities. Even if some properties are not directly at risk, residents will benefit from fewer flood related interruptions to

	<p>essential utilities, including water, electricity, telephone and internet. Schools and essential community services in flood risk areas won't need to close during floods. There will be less disruption to road and rail travel around the city which will help to keep Oxford open for business and support the tourist economy. Having the scheme in place will save £1.4 billion by reducing flood damage and impact on the city over 100 years.</p> <p>Once constructed, the scheme will reduce flood risk to many existing recreational sites, including footpaths, parks and recreation grounds. Our aim is that the new wetland, meadows and wildlife this will attract will further enhance the enjoyment of recreation such as walking in the area.</p>
<p>Alternative options rejected</p>	<p>Grant an option to transfer the land to the EA at best consideration in accordance with s.123 of the Local Government Act 1972 and consider providing separate funding towards the OFAS.</p> <p>Allow the CPO to run its course, recognising that this may not be a process that the council wishes to follow as it will be protracted.</p> <p>These options were also considered when the matter was discussed at the SMT meeting held on 25 May 2022 and were rejected.</p>
<p>Climate and ecological implications</p>	<p>The scheme will create new wetland habitat. Wetland habitats support plants and animals adapted to living in a wet environment and are in decline across the country. Creating over 20 hectares of new wetland and around 16 hectares of floodplain meadow throughout the area will be a valuable benefit of the scheme.</p> <p>The scheme will work with the natural floodplain and blend with the existing environment. The lowered ground alongside the new stream will consist of wetland, grazing meadow and be seeded with wildflowers. It will be landscaped to include around 4 hectares of backwaters, scrapes and ponds. These will be a variety of depths and sizes to encourage biodiversity of wetland and aquatic wildlife. The new stream and its associated habitat will link up existing wetland sites. This will create a wildlife corridor to the west of Oxford, further increasing biodiversity.</p>
<p>Legal implications</p>	<p>The council holds the land under two different titles. The northern parcel was acquired in 1940 and it is unclear as to how the southern parcel came to be owned by the council. However, both parcels are subject to a number of restrictive covenants relating to the adjoining land used for railway purposes. The northern parcel also contains a pre-emption right, to the effect that if the land becomes superfluous to railway purposes it must be offered back to the former owners – this is probably academic now given the passage of time.</p> <p>The EA's agent, Dalcour Maclaren, have proposed draft Heads of Terms for an option to acquire the two parcels of land. Option for the acquisition date for the land included in the Scheme anticipated to be 6 June 2024 with an option fee of £1 and transfer price of £1. Consequently, the</p>

	<p>council will be responsible for future maintenance until the EA serves the option notice. The agent has proposed that the EA pays the council's reasonable surveyor's and legal costs properly incurred in relation to the option agreement and transfer.</p> <p>The council will seek to restrict the use of the land and / or require an overage provision, so if it is put to a more valuable use in the future or is sold for more than the transfer value there is potential for the Vale to receive an additional payment.</p> <p>However, it is important to note that the valuation was based on the assumption that there were no encumbrances, limitations or restrictions which would have an adverse effect on the value of the property.</p>
<p>Financial implications</p>	<p>The proposed transfer at £1 (one pound) will not provide best value purely on financial terms so will require the specific agreement of the Chief Finance Officer in consultation with the relevant Cabinet member.</p> <p>The council is, with certain exceptions, obliged by law under the s.123 of the Local Government Act 1972, to sell land for the best value.</p> <p>Prior to commencing negotiations with the EA, the Council commissioned Adkin, a local firm of chartered surveyors to prepare a formal Red Book valuation in November 2019. Adkin's opinion of the value for the freehold interest for both parcels of land was £75,000 assuming no encumbrances, limitations or restrictions on use.</p> <p>Any council decision that has financial implications must be made with the knowledge of the council's overarching financial position. For Vale, the position reflected in the council's medium-term financial plan (MTFP) as reported to Full Council in February 2022 showed that the council was able to set a balanced budget for 2022/23, but that there is expected to be a budget gap in future years.</p> <p>This future funding gap is predicted to increase to over £3.7 million by 2026/27. As there remains no certainty on future local government funding, following the announcement of a one-year spending review by government, and as the long-term financial consequences of the Coronavirus pandemic remain unknown, this gap could increase further. Every financial decision made needs to be cognisant of the need to address this funding gap in future years.</p> <p>The exception to obtaining best value is where the council can demonstrate that a disposal at below market value would contribute to the promotion or improvement of the economic, social and environmental wellbeing in the district, provided that any undervalue does not exceed £2million.</p> <p>It should be noted that the EA's usual process is to seek agreement of satisfactory terms via private treaty whilst pursuing a CPO in the</p>

	background. If terms are not agreed ahead of a CPO then the council would be able to submit a formal claim for compensation in accordance with the requirements of the Land Compensation Act 1961 and this would result in payment greater than the nominal sum currently being offered. The council would use the Red Book valuation to justify the value of the land in a no scheme world. However, it is important to note that the valuation was based on the assumption that there were no encumbrances, limitations or restrictions on use which would have an adverse effect on the value of the property.
Other implications	Both parcels of land are deemed to be surplus to the council's requirements.
Background papers considered	SMT Briefing paper dated 25/05/2022 Vale of White Horse District Council Disposals Policy September 2021 v1

Declarations/ conflict of interest? Declaration of other councillor/ officer consulted by the Cabinet member?	
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List consultees	Name	Outcome	Date
Ward councillors	Cllr Debby Hallett Botley and Sunningwell	I support this.	20/10/2022
	Cllr Emily Smith Botley and Sunningwell	I am in full support of this. The land is required for the Flood Alleviation Scheme that will protect residents and businesses in the Vale and the council will no longer be responsible for maintaining these plots, so there is a small resource saving for the council as well.	20/10/2022
	Cllr Bob Johnston Kennington and Radley	No response received	31/10/2022
	Cllr Diana Lugova Kennington and Radley	No response received	31/10/2022
Property	Karen Lister Strategic Property Manager	Approved	17/10/2022
Parks	John Backley Technical Services Manager	Agreed	14/09/2022
Legal	Gillian Mason Contracts & Property Team Leader	Approved subject to my comments. Re: restrictions on use and or overage provision on transfer: <i>This would need to be looked into and negotiated at the outset rather than left to negotiation on terms after the event/as matters proceed drafting-wise.</i> Re: the council will be responsible for future maintenance until the EA serves the option notice: <i>Is this correct or will the responsibility pass on the transfer of the land?</i>	14/10/2022

Finance	Richard Spraggett Strategic Finance Officer	Approved	14/10/2022
Human resources	Trina Mayling Strategic HR Business Partner	No comment	05/09/2022
Climate and biodiversity	Jessie Fieth Senior Climate Action Officer	No comment	06/09/2022
Diversity and equality	Lynne Mitchell Equality & Inclusivity Officer	No comment	02/09/2022
Health and safety	Debbie Porter Health & Safety Advisor	Interim measures to manage and maintain the safety of the area is required until legal duties are transferred to the new owners.	14/09/22
Risk and insurance	Yvonne Cutler Greaves Assurance team leader	Though the land disposal value is not best value it does reduce council obligation to maintain the land as well as improve the outcome for residents with regards to flood alleviation.	02/09/2022
Communications	Lucy Billen Communications Team	The comms team will be preparing a reactive statement if asked about the disposal of the land.	05/09/2022
Senior Management Team	Andrew Down Oxfordshire Growth Board Director	This is in line with our discussion at SMT a few months back, and reflects current status of discussions with the EA. All good as far as I am concerned.	20/10/2022
	Suzanne Malcolm Deputy Chief Executive Place	Happy to support, agree this direction of travel was previously supported by SMT	20/10/2022
	Adrianna Partridge Deputy Chief Executive Transformation and Operations	No comments from me, happy to support.	20/10/2022

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: Andrew Crawford Date: 01/11/2022

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

For Democratic Services office use only		
Form received	Date: 1 November 2022	Time: 13:00
Date published to all councillors	Date: 1 November 2022	
Call-in deadline	8 November 2022	Time: 17:00

Appendix 1 – Location Plan

