

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	Cllr Judy Roberts, cabinet member for development and infrastructure
Key decision?	No
Date of decision (same as date form signed)	15 December 2022
Name and job title of officer requesting the decision	David Cookson Infrastructure Implementation Officer Ref P22/V2273/106
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 £30,769.23 taken from three S106 contributions, and release those funds in one payment subject to completion of a third party funding agreement, to East Hanney Parish Council towards installation of a bespoke piece of play art as a centrepiece to the new playscape at Hanney Memorial Ground.
Reasons for decision	<p>East Hanney Parish Council has highlighted a need for new play facilities in their parish, owing to the increasing population, especially of young families. This project provides interactive art which will provide a central feature to East Hanney Recreation Ground and provide additional play and inspiration to young people.</p> <p>The work in the playground will provide an attractive feature which will be striking and memorable, whilst providing an additional play structure. It is hoped the piece will inject character and become a recognisable focal point to the site, delivering genius loci (spirit of a place), and provide a feel good factor.</p> <p>The artist chosen, Andy Frost (MA Fine Art), is a specialist designer who in partnership with play equipment manufacturer KOMPAN, has designed an interactive work of art in the shape of a fox.</p> <p>An art competition was held on the recreation ground to get a sense of the most popular animal in amongst the villagers and the fox was the</p>

favourite. Hanney is a rural community and foxes are amongst the wildlife which frequent the village.

The parish council have also recently installed six pieces of accessible play equipment on this site: play hut, hammock, eco rain wheel, musical flat chimes, musical shake rattle and roll and kaleidoscope play panel.

The project will be funded from the following arts contributions:

Development: Land West of Nursery, Steventon Road, East Hanney

Address: East Hanney, Oxfordshire, OX12 0HS

Planning Ref: P15/V2175/FUL

S106 Ref: 16V38

Date of agreement: 26 April 2016

Spend by Date: 26 October 2027

Obligation: The "Public Art Contribution" is defined as 'the sum of eleven thousand seven hundred pounds (£11,700) Index-Linked towards public art projects and their maintenance in East Hanney'.

Amount Secured: £12,309.42

Development: Steventon Road Nurseries

Address: Steventon Road, East Hanney, OX12 0HS

Planning Ref: P15/V0898/O

S106 Ref: 15V67

Date of agreement: 23 October 2015

Spend by Date: 05 December 2028

Obligation: The "Contribution" is defined as 'the sum of twelve thousand pounds (£12,000)... towards the provision of a Work of Art on the Site as agreed between the Developer and the District Council'.

Amount Secured: £13,201.86

Development: Hanney Nurseries, Steventon Road

Address: East Hanney, OX12 0HS

Planning Ref: P19/V0910/FUL

S106 Ref: 20V36

Date of agreement: 25 November 2020

Spend by Date: 05 March 2032

Obligation: The "Contribution" is defined as 'the sum of thirteen thousand eight hundred pounds (£13,800) towards the provision of Public Art'.

Amount Secured: £15,810.31 (£5,257.95 requested, £10,552.36 will remain)

There is no further information in the agreements on how the contributions should be allocated.

Using the district council's Criteria for Public Works of Art (taken from Local Plan policy DC4), the parish council believes the project falls under the scope of public art for the following reasons:

"Works of art commissioned should:
be to the highest quality" - evidence provided of artists other commissions and credentials.

	<p>“Art should generally have local relevance/significance (if not to the site then to the local area)” - East Hanney is known for its nature, presence of foxes and other animals, frequently seen by children. The fox was selected by the children. The hand holds/grips will be designed to reflect the history and character of East Hanney.</p> <p>“Applicants should seek to include public participation and involvement where appropriate” - residents will be given the opportunity to produce designs to go on the fox. The details of the project have not been published widely pending an initial indication of whether the project was feasible, as it is entirely dependent on the S106 funds allocated to art. Going forwards there will be public engagement.</p> <p>“...where possible be of economic and/or social benefit.” - the piece will provoke a reaction as art is intended to do, bringing people together in a public space.</p> <p>The policy continues: “Public art has an important role to play in furthering key elements of the Council’s strategic objectives and the provision of public art works results in the following benefits:”</p> <p>“Civic or corporate pride and identity” - the centre of the village will become well known for the fox and will provide an identity to the village. The hand holds will reflect different aspects of the village, present and past.</p> <p>“Public enjoyment” - a notable piece that will provide a talking point and social interaction.</p> <p>“Encouraging public involvement in design and creation;” – the parish council plans to launch a public publicity project online.</p> <p>“Environmental improvement, conservation or regeneration;” – the piece will be made of wood.</p> <p>“The sign posting of a particular location; and Improving the quality of life.” – the piece will add instant character and a recognisable focal point to the site. It would deliver genius loci (spirit of a place). It will provide a feel good factor and provide excitement.</p>
Alternative options rejected	None.
Climate and ecological implications	<p>KOMPAN uses recycled materials in more than 70% of their products and 95% can be recycled at the end of their life.</p> <p>All their factories comply with ISO14001 Environmental Management certification.</p>
Legal implications	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. Title number is ON149122.

	<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. Additional conditions to include obligations to ensure that all necessary consents are in place and are obtained e.g. planning consents, RoSPA consents.</p> <p>The applicant will be required to enter into a third party funding agreement, which will ensure the award is spent correctly and legally, and enable the district council to recover any money not spent within the terms of the agreement.</p>			
Financial implications	<p>Paragraph 75(b) of the Constitution of South Oxfordshire District Council and Vale of White Horse District Council – 24 May 2022 (Financial procedure rules section), states that for section 106 and CIL 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.</p> <p>The project will be fully funded by the contributions, £10,552.36 will remain as part of contribution 20V36, for other applications.</p> <p>The Parish Council has limited the budget for this project to ensure that other art funds are available for a different audience. Previous art funds have been used on a cast iron memorial bench.</p>			
Other implications	<p>Martin Grant Homes, the developer responsible for Steventon Road Nurseries, (P15/V0898/O 15V67) will be required to agree that the amount of £13,201.86 secured may be spent away from that site.</p> <p>The District Council is obliged to use the contributions for the purpose stated in the Deed, or any alternative which achieves similar benefits where agreed by the Developer or the Owner.</p>			
Background papers considered	None			
Declarations/c onflict of interest? Declaration of other councillor/officer consulted by the Cabinet member?				
List consultees		Name	Outcome	Date
	Ward councillor	Cllr Sally Povolotsky	Consulted	30-09-22
	Arts Officer	Abi Brown	"Public arts projects always have to be bespoke, created by a professional	07-10-22

			<p>artist and relate to the site or local area in some way. I understand this proposal is bespoke, but I would like to hear more about how a fox is particularly pertinent to East Hanney and how it would relate to the narrative and identity of the village.</p> <p>I'm also keen to help them bed in any project like this with community engagement and school liaison.</p> <p>I would welcome any others' opinions regarding this particular project as it is on the edge of our definition of public art and is a very large scale project - I wouldn't want to set an incorrect precedent."</p>	
	<p>Legal legal@southandvale.gov.uk</p>	Rameesh Chowdary	<p>Responded that Legal implications have been considered. Conditions will need to be included in funding agreement (proof of land ownership, RoSPA inspection and insurance, developer agreement to spend 15V67 offsite).</p> <p>"Funds to be released following completion of a legal agreement conditional on variation to the section 106 agreement 15V67."</p>	07-10-22
	<p>Finance Finance@southandvale.gov.uk</p>	Emma Creed	All contribution available to spend	03-10-22
	<p>Climate and biodiversity climateaction@southandvale.gov.uk</p>	Kimberly Hall	Supportive	05-10-22
	<p>Diversity and equality equalities@southandvale.gov.uk</p>	Lynne Mitchell	Queried if interactive fox will be accessible to all children including those with disabilities	29-09-22
	<p>Planning planning@southandvale.gov.uk</p>	Katie Cook	<p>Assistant Planning Officer Katie Cook is case officer for permitted development enquiry P22/V1864/PD.</p> <p>It has been noted that planning permission is not</p>	31-08-22

			required, as the installation would fall within the provisions of Schedule 2, Part 12, Class A, which allows permitted development by local authorities (under a certain size and height).	
	Risk and insurance risk@southandvale.gov.uk	Yvonne Cutler Greaves	Commented to check that project fulfils H&S requirements and passes ROSPA safety inspection, to mitigate against potential injury whilst using the play equipment	10-10-22
	Communications communications@southandvale.gov.uk	Emma East	No further comments	12-10-22
	Head of Finance	Simon Hewings	Agreed at S106/CIL applications meeting	08-11-22
	Head of Planning	Adrian Duffield	Agreed at S106/CIL applications meeting	08-11-22
	SMT		Approved	07-12-22
	Cabinet Member for Finance and Corporate Assets	Councillor Andy Crawford	Agreed	09-12-22
Confidential decision? If so, under which exempt category?	No			
Call-in waived by Scrutiny Committee chairman?	Not applicable			
Has this been discussed by Cabinet members?				
Cabinet portfolio holder's signature To confirm the decision as set out in this notice.	Signature ____ Councillor Judy Roberts_____			
	Date _____ 15 December 2022_____			

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

For Democratic Services office use only	
Form received	Date: 15 December 2022
Date published to all councillors	Date: 19 December 2022
Call-in deadline	Not applicable as this is not a key decision.

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.