

## 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

<b>Decision made by</b>	Councillor Andy Crawford, Cabinet Member for Finance and Property
<b>Key decision?</b>	No
<b>Date of decision</b> (same as date form signed)	19 June 2024
<b>Name and job title of officer requesting the decision</b>	Janette Hinton-Smith – Infrastructure and Implementation Officer Infrastructure Implementation & Funding Team
<b>Officer contact details</b>	Tel: 01235 422135 / 07917 088369 Email: janette.hinton-smith@southandvale.gov.uk
<b>Decision</b>	<p>To create a budget for <b>£42,924.96</b> from S106 contributions listed below and release funds, subject to a third party funding agreement to <b>Boundary Park Sports Association</b> for the sand/gravel banding project for the main <b>rugby</b> pitch at Boundary Park.</p> <p>Funds to be released, in total as one payment, subject to receipt of the signed legal agreement.</p> <p>Freehold land and building owned by South Oxfordshire District Council, Freehold Title: ON329601 and Vale of White Horse District Council, Freehold Title: ON329600.</p> <p>Leasehold to Boundary Park Sports Association, Leasehold Title: ON329702. Lease valid for 50 years with 43 years remaining.</p>
<b>Reasons for decision</b>	<p>We have received a request for funds from Boundary Park Sports Association (BPSA) for a total of £42,924.96 from S106 contributions 16V40, 16V78, 22V02 and 17V60 as detailed below:</p> <p>The S106 agreement for 16V40 is ‘clear and unambiguous’ about how the contribution is to be used and the planning decision was made by a delegated officer i.e. it was not presented to a planning committee.</p> <p>The S106 agreement for 16V78 is ‘clear and unambiguous’ about how the two contributions are to be used and the planning decision was made by area committee.</p> <p>The S106 agreement for 22V02 is ‘clear and unambiguous’ about how the contribution is to be used and the planning decision was made by</p>

a delegated officer i.e. it was not presented to a planning committee.

The S106 agreement for 17V60 is 'unclear and ambiguous' about where the contribution is to be used in either Milton or Harwell parish and the planning decision was made by area committee.

When the above S106 agreements were agreed the rugby pitches at Boundary Park were in Harwell parish. Following a boundary change they are now in Western Valley parish however Legal have agreed that due to the legacy situation Boundary Park Sports Association may apply for the S106 funding.

The Financial Procedure Rules within the South Oxfordshire District Council and Vale of White Horse District Council Constitution – 23 May 2024, provide at paragraph 75 (b) that: "For all other section 106 and CIL agreements where agreements were created via a delegated decision when the contributions are received by the council a budget for the spending of the receipt must be created as follows:

(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

The proposed project is to install sand-gravel bands 350mm deep to ensure positive gravel connection on the main (No. 1) rugby pitch (Vale side). The gravel-sand bands will be backfilled with 200mm clean 2-6mm stone and 0-2mm sand capping layer to surface. Utilising sand and gravel specifically designed for draining and the same materials that were used to build the pitch to ensure continuity of profile and drainage performance is achieved. If incorrect sand / gravel is used bridging will occur and reduce the longevity of the drainage.

Topsoil arising from trenching operations to be removed from site, screened, tested and re-used by the contractor on other landscape projects.

Due to the flooding of the pitch at the beginning of the year Boundary Park Sports Association had to cancel a lot of games and revenue has dropped. They require the sand-gravel banding work to be completed so that the pitch is draining better and to bring the main pitch (No.1) up to standard to allow the clubs to play matches and train.

Boundary Park is the home of Didcot Rugby Club, and all the home games and training is at Boundary Park. The rugby club have approximately 400 children and adults training and playing matches on a weekly basis. They have also expanded with the minis, touch, ladies and girls' teams as well as having a colts team for the younger men.

Boundary Park hosts Thames Valley Police, the Royal Army Logistics and 11 EOD games.

Rugby Union Assessment Report April 2023 for the two pitches noted that pitch 1 (on the Vale side of Boundary Park) was slow draining

due to compaction whereas pitch 2 (on the South side of Boundary Park) was free draining.  
Soil tests of September 2021 highlighted potential drainage problems exists.

Planning permission for the project is not required. The total project cost is £42,924.96, which can be funded from the S106 secured contributions.

Leisure have been consulted and support the proposal contribution. The Draft South Oxfordshire Playing Pitch Strategy states to: “Enhance capacity on pitches at Didcot RFC (Boundary Park) if possible by improving quality through improved drainage and by improving surface maintenance to ensure that the better quality is sustained in the long-term. Pitch improvements should be made to enhance capacity to at least 3.25 match equivalents (D2/M2 rating) and improvements should follow the recommendations made in the most up-to-date GMA pitch assessment report.”

**Development:** District Neighbourhood Centre, Great Western Park, Harwell

**Planning Ref:** P15/V2962/FUL

**S106 Ref:** 16V40

**Date of agreement:** 5 May 2016

**Decision:** Delegated

**Obligation:** “Pitch and Pavilion Maintenance Contribution” – means the sum of eighteen thousand two hundred and fifty five pounds (£18,255) Index-Linked towards pitch and pavilion maintenance on the Great Western Park development.

**Development:** land north of Grove Road, Harwell

**Planning Ref:** P15/V1504/FUL

**S106 Ref:** 16V78

**Date of agreement:** 7 October 2016

**Decision:** Area Committee

**Obligation:** “Rugby Pitch Contribution” – means the sum of Eight Thousand One Hundred and Twenty Two Pounds (£8,122) Index Linked towards the provision of off site rugby pitches in Harwell parish or at east of Harwell campus.

**Development:** Land East of Meadow View, Didcot Road, Harwell

**Planning Ref:** P20/V1334/FUL

**S106 Ref:** 22V02

**Date of agreement:** 7 January 2022

**Decision:** Delegated

**Obligation:** “Rugby Pitch Contribution” – means the sum of three thousand nine hundred and twelve pounds (£3,912) Index-Linked to be used towards Rugby pitches in Didcot or Harwell Parish.

**Development:** Land to east of Milton Hill

**Planning Ref:** P16/V2900/FUL

**S106 Ref:** 17V60

**Date of agreement:** 26 October 2017

**Obligation:** “Rugby Pitches/Pavilion Contribution” – means the sum of Thirty Six Thousand Four Hundred and Seventy Pounds (£36,470) Index Linked towards the provision of rugby pitches and pavilion within Milton or Harwell Parish.

**Decision: Area Committee**

Agree'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
16V40	Towards pitch and pavilion maintenance on the Great Western Park development	£18,225.00	£20,063.35 received Date of expiry: 20/08/2028	£12,163.35	£7,900	£0.00
16V78	Rugby Pitch in Harwell parish or at east of Harwell campus - Instalment 1	£4,061.00	£4,499.38 received Date of expiry: 07/03/2029	£4,499.38	£0.00	£0.00
16V78	Rugby Pitch in Harwell parish or at east of Harwell campus - Instalment 2	£4,061.00	£4,583.94 received Date of expiry: 10/07/2030	£4,583.94	£0.00	£0.00
22V02	Rugby pitches in Didcot or Harwell parish	£3,912.00	£4,619.18 received Date of expiry: 18/11/2032	£4,619.18	£0.00	£0.00
17V60	Rugby pitches and pavilion within Milton or Harwell parish	£36,470.00	£51,867.83 received Date of expiry: 07/11/2033	£17,059.11	£0.00	£34,808.72

£42,924.96

<b>Alternative options rejected</b>	None
<b>Climate and ecological implications</b>	Approved from a climate and ecological perspective.
<b>Legal implications</b>	<p>It is recommended that Boundary Park Sports Association enter into a 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 as the funding does not meet all 4 parts of the four limb test set out in the Subsidy Control Act 2022. The funding is only to be used in accordance with the S106 and the use will be for grassroots sports clubs with nominal charges and so the use is non-economic. Therefore, the recipient is not considered to be an enterprise. As not all four tests are satisfied, the funding is not subject to the Subsidy Control regime.</p> <p>Full comment from Legal: I have reviewed the original S106s and</p>

	<p>BPSA's application. I note that the pitches are considered to be within the Harwell parish. I am content the proposed project is within the terms of the four Section 106 Agreements referred to in the application.</p> <p>I confirm that the works would not require planning permission.</p>																															
<b>Financial implications</b>	<p>Accountancy has confirmed that the contributions are available.</p> <p>The total project cost is £42,924.96, which can be funded from the S106 secured contributions.</p> <p>The remaining balance of £34,808.72 against contribution 17V60 can help fund other rugby pitches and pavilion facilities in Milton and Harwell in accordance with the terms of the S106 agreement.</p> <table border="1" data-bbox="480 674 1417 1048"> <thead> <tr> <th><i>Project costs:</i></th> <th><i>Cost</i></th> <th><i>VAT</i></th> <th><i>Total</i></th> </tr> </thead> <tbody> <tr> <td>Ams Contracting Ltd</td> <td>£41,274.00</td> <td>£8,254.80</td> <td>£49,528.80</td> </tr> <tr> <td>Agripower Option 1</td> <td>£49,474.13</td> <td>£9,894.83</td> <td>£59,368.96</td> </tr> <tr> <td>Agripower Option 2</td> <td>£47,583.86</td> <td>£9,516.77</td> <td>£57,100.63</td> </tr> <tr> <td></td> <td colspan="3">BPSA able to reclaim 80% of the VAT amount, therefore, only have to pay 20% of the 20% rate</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td><b>Ams Contracting Ltd</b></td> <td><b>£41,274.00</b></td> <td><b>£1,650.96</b></td> <td><b>£42,924.96</b></td> </tr> </tbody> </table>				<i>Project costs:</i>	<i>Cost</i>	<i>VAT</i>	<i>Total</i>	Ams Contracting Ltd	£41,274.00	£8,254.80	£49,528.80	Agripower Option 1	£49,474.13	£9,894.83	£59,368.96	Agripower Option 2	£47,583.86	£9,516.77	£57,100.63		BPSA able to reclaim 80% of the VAT amount, therefore, only have to pay 20% of the 20% rate							<b>Ams Contracting Ltd</b>	<b>£41,274.00</b>	<b>£1,650.96</b>	<b>£42,924.96</b>
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<b>Equalities implications</b>	No equalities implications.																															
<b>Other implications</b>	Cllr Sarah James commented about the use of contribution 17V60, that Harwell Rugby Club is based in Harwell Parish and play at Harwell Campus. Harwell Rugby Club not able to apply for these funds as do not have a current lease in place with Harwell Campus nor letter guaranteeing tenure.																															
<b>Background papers considered</b>	None																															
<b>Declarations/conflict of interest? Declaration of other councillor/officer consulted by the Cabinet member?</b>	None																															
<b>List consultees</b>		<b>Name</b>	<b>Outcome</b>	<b>Date</b>																												
	VWHDC Ward councillors for Harwell	Hayleigh Gascoigne  Debra Dewhurst	Informed	03/06/2024																												
	VWHDC Ward councillor for Milton	Sarah James	Queried use at Harwell Campus -see other implications section above.	29/04/2024																												

	Heights			
	Legal <a href="mailto:legal@southandvale.gov.uk">legal@southandvale.gov.uk</a>	Nigel Bell – locum planning lawyer	Confirmed the proposed project is within the terms of the Section 106 Agreements.	29/04/2024
	Finance <a href="mailto:Finance@southandvale.gov.uk">Finance@southandvale.gov.uk</a>	Emma Creed	Confirmed that contributions are available.	02/05/2024
	Climate and biodiversity <a href="mailto:climateaction@southandvale.gov.uk">climateaction@southandvale.gov.uk</a>	Heather Saunders	Approves the application	22/05/2024
	Diversity and equality <a href="mailto:equalities@southandvale.gov.uk">equalities@southandvale.gov.uk</a>	Team reply:	No equalities implications	30/04/2024
	Council as Landowner <a href="mailto:property@southandvale.gov.uk">property@southandvale.gov.uk</a>	Andrew Higson	I can confirm that the works for drainage required to secure the long term use of the pitches will be allowable under the terms of the BPA lease, consent not to be unreasonably withheld.	03/05/2024
	Health and safety <a href="mailto:healthandsafety@southandvale.gov.uk">healthandsafety@southandvale.gov.uk</a>	Andy Huckstep	Emailed	25/04/2024
	Risk and insurance <a href="mailto:risk@southandvale.gov.uk">risk@southandvale.gov.uk</a>	Yvonne Cutler Greaves	Emailed	25/04/2024
	Communications <a href="mailto:communications@southandvale.gov.uk">communications@southandvale.gov.uk</a>	Vic Nickless	Project noted from a communications perspective	03/06/2024
	Community Enablement <a href="mailto:communityenablement@southandvale.gov.uk">communityenablement@southandvale.gov.uk</a>	Sam Wheeler	I have checked our grants system and there are no past or present applications from Boundary Park Sports Association related to this project.	29/04/2024
	Leisure – Carmella Anderson <a href="mailto:Carmella.anderson@southandvale.gov.uk">Carmella.anderson@southandvale.gov.uk</a>	Carmella Anderson	Leisure have no objections to this application – see their full response above.	13/05/2024
	Didcot Garden Town Team – <a href="mailto:Nicola.wyer@southandvale.gov.uk">Nicola.wyer@southandvale.gov.uk</a>	Nicky Wyer	Emailed	25/04/2024
	Planning – Adrian Butler <a href="mailto:Adrian.Butler@southandvale.gov.uk">Adrian.Butler@southandvale.gov.uk</a>	Adrian Butler	No objection to BPSA using the financial contributions secured by the S106 agreements towards providing the rugby pitch improvements	07/05/2024

			<p>proposed.</p> <p>In my opinion the proposal does not constitute development and would not need planning permission. However, BPSA may wish to seek a Certificate of Lawfulness of Proposed Use or Development should it require a formal opinion from the council on the need for planning permission.</p> <p><i>Advise from planning officers Paula Fox &amp; Stuart Walker no certificate is needed falls into the De minimis category.</i></p>	
	Harwell Parish Council		Informed	03/06/2024
	Milton Parish Council		Informed	25/04/2024
	Head of Planning	Adrian Duffield	Approved for progression by delegation to Stuart Walker and Paula Fox at S106/CIL Applications Meeting.	04/06/2024
	Head of Finance	Simon Hewings	Approved for progression to SMT at S106/CIL Applications Meeting.	04/06/2024
	Strategic Management Team (SMT) <a href="mailto:ExecutiveSupportSAV@southandvale.gov.uk">ExecutiveSupportSAV@southandvale.gov.uk</a>	Suzanne Malcolm, Andrew Down, Mark Minion, Andrew Busby	Support	13/06/2024
<b>Confidential decision?</b> If so, under which exempt category?	No			
<b>Call-in waived by Scrutiny Committee chairman?</b>				
<b>Has this been discussed by Cabinet members?</b>				
<b>Cabinet member for Finance and Property signature</b> To confirm the decision as set out in this notice.	<p>Signature: Councillor Andy Crawford</p> <p>Date: 19 June 2024</p>			

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

For Democratic Services office use only		
Form received	Date: 19 June 2024	Time: 12:03pm
Date published to all councillors	Date: 19 June 2024	
Call-in deadline	Date: N/A	Time: N/A



## 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](mailto: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.**