

Appendix 3

To: City Executive Board
Date: 13 February 2018
Report of: Executive Director – Sustainable City
Title of Report: Oxford Flood Alleviation Scheme

Summary and recommendations	
Purpose of report:	To present for approval the proposed land disposals and discounts in relation to the Council's commitment of up to £1,000,000 in-kind contributions from land disposal and compensation foregone to facilitate the Oxford Flood Alleviation Scheme.
Key decision:	Yes
Executive Board Member:	Cllr Bob Price, Board Member for Corporate Strategy and Economic Development
Corporate Priority:	Clean and Green Oxford
Policy Framework:	Corporate Plan and Budget
Recommendation(s): That the City Executive Board resolves to:	
<ol style="list-style-type: none"> 1. Approve the disposal of land (as identified in Appendix 1) to the Environment Agency for the purposes of the Oxford Flood Alleviation Scheme. Such disposal to be below market value but subject to receipt of appropriate consents and the inclusion of appropriate restrictive covenants; with the Council also foregoing any land compensation in relation to the severance to the retained land. The values of the land identified in Appendix 1 being set out in Appendix 2. 2. Approve the total net in-kind contribution to be made by the Council to the Environment Agency of £450,500. 3. Approve the use of the Council's powers under the Local Government Act 1972 and General Disposal Consent 2003 to dispose of the land identified in Appendix 1 below market value. 4. Grant delegated authority to Executive Director - Sustainable City, in consultation with the Heads of Finance and Law and Governance, to enter into appropriate legal agreements with Environment Agency to give effect to the above matters. 	

Appendices	
Appendix 1	CONFIDENTIAL Plan of impacted land owned by Oxford City Council
Appendix 2	CONFIDENTIAL Land values
Appendix 3	Risk Register

Introduction and background

1. At its meeting on 6 April 2017, the City Executive Board authorised the increase of Oxford City Council's project contribution towards Oxford Flood Alleviation Scheme (OFAS) by up to £1m funded from in-kind contributions from land disposal and compensation foregone.
2. The Environment Agency (EA) and partners are working towards a funding target of £121.11m as set out in the Outline Business Case. This includes £116.36m for design and construction and £4.75m for future maintenance. Oxford City Council has already committed to a contribution of £1.5 million capital to help fund the scheme. The scheme is funded from a variety of sources including Government grant, Oxfordshire County Council, Local Enterprise Partnership as well as Oxford City Council. At present the funding gap is approximately £4.35M but active work continues to close this gap. This in-kind contribution is part of the already committed funding and does not assist in closing the existing funding gap.
3. OFAS will reduce the flood risk of over 1,200 properties in Oxford. The in-kind contribution of up to £1m represents the Councils' continued commitment to the scheme and assistance in proving the schemes affordability.
4. The Environment Agency is intending to use Compulsory Purchase powers to secure access to land that is required for the scheme. The Council through agreeing the transfer of rights and ownership as detailed in this report will obviate the need to compulsory purchase Council land which will reduce costs to both the scheme and the Council.
5. This takes forward the decision in principle of April 2017 and details the proposed land disposals and discounts in relation to the Council's in-kind contribution from land disposal and compensation foregone up the value of £1m to facilitate the Oxford Flood Alleviation Scheme for CEB approval.

Lands Strategy

6. There are 68 parcels of land owned by Oxford City Council which are impacted either permanently or temporarily, positively or negatively, by the OFAS. These parcels are outlined in red on the plan found in Appendix 1.
7. Where EA want the ability to increase area of land take, due to detailed design changes, it is proposed that the city council will allow up to a 5% increase on total areas subject to reasonable need and such areas adjoining land already agreed to be in the scheme. This will be outlined in Heads of Terms document between Oxford City Council and Environment Agency.
8. 21 parcels of land are proposed to be disposed at no cost to the Environment Agency, with Oxford City Council transferring its freehold. These parcels are shown on the plan found in Appendix 1. The trigger for transfer of land disposals will be

the completion of legal agreements between the two parties and approval of Full Business Case by HM Treasury for the Oxford Flood Alleviation Scheme.

9. 42 parcels of land are proposed to be retained by Oxford City Council with the Council granting rights to the Environment Agency to carry out works and access to maintain. These parcels are dotted on the plan found in Appendix 1.
10. 2 parcels of land are expected to be bettered by the OFAS. These parcels are shaded on the plan found in Appendix 1.

Financial implications

11. The additional contribution of up to £1m as authorised by CEB on 6th April 2017 is to be funded from in-kind contributions by which we mean waiving land disposal and compensation costs which would be incurred to the Environment Agency by Oxford City Council in the delivery of the Oxford Flood Alleviation Scheme.
12. The total value of the 21 parcels of land that will be disposed at no cost to the Environment Agency is £262,000. Values for individual parcels are provided in detailed in Appendix 2 (Confidential appendix). Land values have been confirmed by independent valuers.
13. The total value of compensation foregone in relation to the severance to the 42 parcels of retained land is £229,000. Values for individual parcels are provided in detailed in Appendix 2 (Confidential appendix).
14. The total value of the land which sees betterment from the OFAS is £40,500. Values for individual parcels are provided in detailed in Appendix 2 (Confidential appendix).
15. Thus the total in-kind contribution proposed to be made by the Council is £450,500 (value of land lost *plus* value of compensation *minus* betterment).
16. This in-kind contribution does not include the appropriate reimbursement of costs incurred by the Council during the Negotiated Settlement (e.g. professional fees). Compensation for these costs will be sought from the Environment Agency.
17. This in-kind contribution does not include the waiving of compensation payable to the relevant tenants impacted by the OFAS. The principle will be for these tenants to seek compensation directly from the Environment Agency.
18. This in-kind contribution does not include temporary losses of the scheme on Council property. For example it does not include the temporary loss of car park income at Redbridge Park and Ride due to the siting of a temporary construction compound within the car park footprint. Compensation for these costs will be sought from the Environment Agency during the construction of the scheme.
19. In Common Law, if you own land adjoining, above or with a watercourse running through it, you have certain rights and responsibilities as the 'riparian owner' to maintain and manage that watercourse for the prevention of flooding and appropriate water management.

Legal issues

20. It is the intention for land matters in relation to the OFAS to be handled via negotiated settlement between the City Council and the Environment Agency rather than through Compulsory Purchase Order.

21. Land disposal will be for the sole purpose of the OFAS development and suitable covenant put on the disposal order agreement.
22. For the cases where the City Council is disposing of land designated as Open Space (Seacourt Nature Reserve and Kendal Copse), this would be subject to discharging our duties under Section 123 (2a) of Local Government Act 1972- Disposal of Open Space Land. Namely the appropriate advertising of our intention in the local press for 2 consecutive weeks prior to disposal.
23. For the cases where the City Council is disposing of land designated as a statutory allotment (Botley Road Allotments, Osney Allotments), this would be subject to discharging our duties under Section 8 of the Allotments Act 1925. Namely that the local authority shall not sell, appropriate, use or dispose of the land for any purpose other than use for allotments without the consent of the Secretary of State. There are 3 mandatory criteria in Section 8 for Secretary of State to deem consent:
 - i) the Secretary of State is satisfied that adequate provision will be made for allotment holders displaced by the action of the Council; or
 - ii) the Secretary of State is satisfied that such provision is unnecessary; or
 - iii) the Secretary of State is satisfied that such provision is not reasonably practicable.
24. Where there is a loss of allotment land this will be re-provided on adjoining land. The allotments societies have been consulted on the details of these plans.
25. For cases where the City Council is disposing of the freehold of land to the Environment Agency at no cost, the City Council will be enacting its powers under the Local Government Act 1972: General Disposal Consent 2003 disposal of land for less than the best consideration that can reasonably be obtained. The City Council deems this appropriate use of powers as the Council considers that the disposal for the purposes of delivering the Oxford Flood Alleviation Scheme is likely to contribute to the achievement of:
 - i) the promotion or improvement of economic well-being;
 - ii) the promotion or improvement of social well-being;
 - iii) the promotion or improvement of environmental well-being; and
 - iv) the best price reasonably obtainable for each of the parcels of land does not exceed £2,000,000.

In these cases the Council will transfer the deed and title of the land to the Environment Agency by agreement, reserving rights for the Council where appropriate.

26. For cases where the City Council wishes to retain the freehold of land but is foregoing the compensation in relation to the severance and/or disturbance to the retained land, the City Council will enter into a rights based agreement with the Environment Agency.
27. These specific and separate legal agreements will be entered into by Executive Director- Sustainable City in consultation with the Heads of Finance and Law and Governance.

28. It is important to remember that the Environment Agency will continue with a Compulsory Purchase Order across the whole of the scheme unless settled agreements are reached.

Level of risk

29. Please see Risk Register in Appendix 3.

Equalities impact

30. No Equalities Impact Assessment is considered necessary after undertaking the screening process.

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Background Papers: None

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