

Record of decision taken under delegated powers by a council officer



Title:	River Thames Scheme Separation Of Responsibilities Document between Surrey County Council Applicant And Host Authority Teams
Divisions Affected:	SCC River Thames Scheme project staff representing the Applicant and SCC Host Authority staff, representing the regulator
Key Decision:	NO
Reason Key:	
Decision taken under delegation by virtue of:	<p>On the 20th of July 2021 Cabinet resolved:</p> <ol style="list-style-type: none"> 1. That Cabinet approves the principles proposed for the development of the Collaboration Agreement. 2. That Cabinet agrees the delegation of authority to the Executive Director for Environment, Transport, and Infrastructure, in consultation with the Cabinet Member for Environment and the Executive Director of Resources, to enter into the collaboration agreement and to take such actions and decisions necessary to facilitate the delivery of the Scheme within the approved budget. 3. That Cabinet recommends to Council that all decisions and actions relating to the Council's regulatory and planning functions that pertain to the River Thames Scheme be delegated to the Director of Law and Governance in consultation with the Planning Group Manager. <p>The acknowledgement in this document concerns resolutions 2 and 3 (take such actions and decisions necessary to facilitate the delivery of the Scheme within the approved budget and decisions and actions that pertain to the River Thames Scheme)</p>

Summary

<ul style="list-style-type: none"> • The Cabinet report of 20 July 2021 (River Thames Scheme Collaboration Agreement Principles), made the three resolutions as set out above. • In January 2021, Cabinet approved a recommendation that SCC should be a joint applicant with the Environment Agency and, in July 2021, agreed the principles of collaboration, and recognised that appropriate demarcation would need to be put in place between SCC promoter/applicant roles and host authority/regulator roles. • Procedures are being put in place to ensure that the statutory roles of the council as host authority remain independent, impartial, and free of conflict and that the council's statutory functions and duties are carried out in an independent and unfettered manner. • To avoid actual or perceived conflicts of interests arising it is essential that SCC can demonstrate the measures which have been put in place to ensure that its roles in
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the DCO process are kept separate.

- A Separation of Responsibilities (SoR) document has been drafted to prevent conflicts of interest arising. This document is to be maintained for the duration of the project, including the stages of the DCO process where authority staff will be involved in Statements of Common Ground, Local Impact Reports, Adequacy of Consultation Response (where PINS asks the local authorities to consider the adequacy of pre-application consultation undertaken), Responses to Examining Authority Written Questions and attendance at Hearings.
- A Service Level Agreement (SLA) was signed on 1st April 2022 which sets out the requirements and expected levels of service between the scheme applicants and the host authorities, including SCC.
- It is recognised that the Council's specialist staff (as host authority/regulator) will need to be consulted through the pre-application phase of the DCO in relation to the development of the design.
- Working practices to ensure this distinction between SCC's dual roles have been adopted from the pre-application period. Where technical input from officers, not forming part of the SCC applicant/promoter project team is provided to inform Scheme development, this is taking place on a formal basis with meeting minutes being produced, circulated, and agreed.
- To support the legal recognition, understanding and importance of role separation both the Promotor and Host Authority team will carry out joint briefings to SCC personnel to ensure understanding of the SoR contents and proposed ways of working (five briefings have been conducted to date – and more will be arranged through out the project, including to new starters).

This document is a record of the acknowledgment and approval taken under delegated powers relating to resolution 2 and 3 of the above (take such actions and decisions necessary to facilitate the delivery of the Scheme within the approved budget and decisions and actions that pertain to the River Thames Scheme).

Decision made

Decision made:

It was AGREED that:

1. The Separation of Responsibilities document be acknowledged

Reasons for Decision:

To make clear the separation of responsibilities between the roles of promoter and regulator in dealing with the River Thames Scheme.

Decision taken by:

Katie Stewart, Executive Director, Environment,
Transport & Infrastructure
Caroline Smith, Planning Group Manager
In consultation with Leigh Whitehouse, Executive
Director of Resources
Paul Evans, Director of Law & Governance
Cllr Marisa Heath

	Cllr Kevin Deanus
Decision taken on:	21 June 2022
To be implemented on:	21 June 2022

Alternative options considered

Option 1: Don't Acknowledge the agreement

PROS

No Pros – this option puts SCC under risk of challenge regarding Conflict of Interest

CONS

Difficulty for the County Council to be able to demonstrate to the Examining Authority that the authority has kept the Promotor and Host Authority roles separate, and the risk of challenge because of actual or perceived conflict of interest due to inadequate role separation.

River Thames Scheme undermined.

Summary of any financial implications

The River Thames Scheme has been approved by Cabinet and a funding contribution of £237M (Oct 2020 Cabinet) has been agreed; £25M having been allocated from Outline Business Case to Full Business Case. This decision has no direct financial implication as it related to appropriate ways of working

Declarations of conflicts of interest

None

Consultation/Process Followed

The Cabinet Member for Environment, Cabinet Member for Community Protection, Executive Director of Resources and Director of Law and Governance were consulted.

Background Documents

Exempt:

Cabinet Report, October 2019, 179/19: Funding Flood Risk Management in Surrey
 Cabinet Report, 20 July 2021, 146/21: River Thames Scheme Collaboration Agreement Principles

No