

PORTFOLIO HOLDER DECISION RECORD

Portfolio Holder: Councillor Mrs D Laws Portfolio Holder for Planning and Flooding	Service: Planning Policy
CMT Officers: Gareth Martin, Senior Development Officer (Policy), Kirsty Paul, Planning Policy Manager	Delegated Power Being Exercised: Article 7, paragraph 1.1 states as follows: The Cabinet will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution. Table 5, paragraph 5 specifies that portfolio holders have the following delegation: "To respond to consultation documents within portfolio responsibility".
Subject of Decision: Responding to the Fens Reservoir Consultation - May to August 2024 To approve the Council's detailed response for the phase two consultation for the Fens Reservoir as set out in Appendix 2.	

Decision to be Taken: To note and agree the Council's detailed response to the Fens Reservoir phase two (non-statutory) consultation (Appendix 2) in order that it can be submitted to Anglian Water and Cambridge Water (the applicants) by the deadline of 9 th August 2024. Decision: It is recommended that the Portfolio Holder for Planning and Flooding exercises her constitutional authority to approve the proposed response to the phase 2 non-statutory consultation on the Fens Reservoir at Appendix 2.
Reason for the Decision: See Appendix 1 for the Overarching Response to the Fens Reservoir consultation.
Alternative Options Considered (if appropriate): The alternative would have been not to respond to the consultation as it is non-statutory, and the Council are not obliged to respond. However, the Fens Reservoir is a significant proposal with wide interest and far-reaching implications for the district and this option was not considered realistic or feasible.
Background/Reports/Information considered and attached: Report to Cabinet Agenda for Cabinet on Monday, 12th December, 2022, 2.00 pm - Fenland District Council Report to Council

Link to current phase two non-statutory consultation:

[A proposed new reservoir in the Fens - Anglian Water - Fens Reservoir](#)

Legal and Procurement Implications

The Development Consent process is a planning process which falls outside the decision-making powers of the local planning authority.

The process relates to projects of national significance and is run by the Planning Inspectorate. If granted, the consent is contained within a statutory instrument known as a Development Consent Order (DCO).

The Council is a consultee to the process, and the way the Council engages with the process will influence the nature of the legal implications. Host and neighbouring local authorities have an important role in the DCO process. The Council is a host authority because part of the proposal will be sited within the district. Participation is not obligatory but is strongly advised. Relevant authorities are strongly encouraged to discuss and work through the issues raised by NSIP (Nationally Significant Infrastructure Project) proposals. A local authority will provide an important local perspective, in addition to the views expressed directly to the developer by local residents, groups and businesses.

FDC would likely become responsible for discharging many of the 'requirements' (akin to planning conditions) associated with the DCO if development consent is granted and would also be likely to have a role in monitoring and enforcing many of the DCO provisions and requirements.

Financial Implications

Going forward it is important that the Council continues to actively engage throughout all stages – from pre-submission to commencement - with the applicants and other key stakeholders to discuss/work through any issues raised by the proposal and where possible seek to maximise any economic, social and environmental benefits. Engaging with NSIPs can be a very resource intensive process for a local authority.

To avoid under-resourcing, or needing to cut services elsewhere in the Council, we are seeking to negotiate a fair Planning Performance Agreement (PPA) with the applicants – with a view to achieving full cost recovery of any costs related to engagement in relation to the development proposals. However, even a reasonably fair PPA may not cover full costs – e.g. legal costs of examination can be considerable, and some independent consultant's advice may in some circumstances not be appropriate to be directly funded by PPA monies. It is advisable to have a strategy to build up contingency by not always recharging services where extra work can be absorbed – i.e. principally only recharge if new staff/backfill is needed - and retaining corporate on-costs in the budget, with the expectation that corporate services absorb additional costs.

Equality Implications

The DCO application will include the submission of a Health Impact Assessment (HIA) and Equality Impact Assessment (EqIA) to ensure the proposal accords with the statutory guidelines. This will require review by FDC officers in checking and challenging information presented by the applicants.

Any Other Implications

None

Portfolio Holder's Signature: Councillor Mrs D Laws	Date: 1 August 2024
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Please forward to Democratic Services upon completion

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Date copy passed to Democratic Services	Implementation Date: 8 August 2024 (if not called-in) (Allow 5 clear working days after publication of decision)

Circulation: Democratic Services, Portfolio Holder, Officer and Accountancy.