

## REPORT TO CABINET

Title: **TEMPORARY DIRECTION TO RESTRICT DEVELOPMENT DURING THE 2012 OLYMPICS**

Date: 25 November 2010

Member Reporting: Councillor Alison Knight

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Wards affected: Bray, Clewer East, Clewer North, Clewer South, Clewer West, Datchet, Eton & Castle, Park and Old Windsor

### 1. SUMMARY

- 1.1 National legislation grants an automatic planning permission for a whole range of developments. This includes the temporary use of land not within the curtilage of building for up to 28 days in any calendar year, although this is reduced to 14 days for a small number of uses. Temporary land uses likely to occur in the area during the Olympics include car parks and camp sites.
- 1.2 Temporary uses such as these could create significant transport problems for residents, local businesses and visitors to the area, and compromise plans being developed by the Olympic Delivery Authority and its partners (including the Council) for most spectators to travel to the venue by non-car modes of transport. They may also leave a poor impression of the area by not having the facilities many would expect. To avoid this the Council can withdraw the rights for temporary uses during the course of the Olympic Games and such a direction is recommended covering the land identified in Appendix A. The uses can still occur during the period if planning permission is granted.
- 1.3 Such action opens the Council to claims for compensation for lost income unless the Direction is confirmed twelve months prior to coming into force. A more detailed timetable is provided at paragraph 3.3.2; to avoid compensation claims the Direction must be made in January 2011.

### 2. RECOMMENDATION

- a) **The Council withdraws “permitted development” rights for the temporary use of land for the parking of vehicles, camping and markets (including car boot sales) by making a Direction under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) to become effective on 1<sup>st</sup> June 2012 in respect of the land shown on the plan in Appendix A;**
- b) **Delegates authority to the Head of Planning & Development to confirm the Direction if objections are not received during the consultation period; and**

**c) Delegates authority to the Head of Planning & Development to withdraw the Direction after the Olympic Games.**

What will be different for residents as a result of this decision?
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Residents will be protected from the potential additional inconvenience caused by these uses during the London 2012 Olympic and Paralympic Games.
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**3. SUPPORTING INFORMATION**

**3.1 The Olympic Games and temporary uses**

3.1.1 The Olympic and Paralympic Games will be held at Dorney Lake, Buckinghamshire during between 28 July and 2 September 2012. During the Olympic Games Windsor Racecourse will be used as a transport hub and main entrance to the venue with spectators crossing the River Thames (via a temporary bridge) into Buckinghamshire for the event. It is expected that around 30,000 will attend each day during the Games. The Paralympic Games will have a lower daily attendance and will not utilise Windsor Racecourse, with the site entered from Dorney Lake itself.

3.1.2 National legislation grants an automatic planning permission for a whole range of developments for which specific planning permission is not therefore needed from the Council. This includes the temporary use of land not within the curtilage of building for up to 28 days in any calendar year, although this is reduced to 14 days for uses such as markets, including car boot sales. Licensed 'responsible providers' such as the Caravan Club have separate rights which it is not proposed to restrict as these organisations work closely with the Council about proposed sites.

3.1.3 Using these rights landowners can operate a range of temporary uses at any time, and do so for a variety of reasons. During the Olympic Games there will be thousands of additional visitors in the area and landowners may choose to use their land for temporary purposes to take advantage of these additional visitors. On the one hand the entrepreneurial spirit should be embraced, but we also need to ensure that residents are not unduly inconvenienced by the landowner's activities.

**3.2 The need for control – traffic congestion and reputation**

3.2.1 Windsor Racecourse will be a transport hub for the Dorney Lake site, with visitors encouraged to travel to the area by public transport, cycling and walking. However a high number of car borne visitors will inevitably arrive each day, some of whom will use the official car parks and be bussed in, whilst others will no doubt try to park nearer the site or not use the official car parks. The official car parks will be served by park and ride, with trained staff/volunteers and toilet facilities. A Traffic Management and Parking Plan will set out arrangements for the areas of Windsor surrounding the site. This will be progressed by the event organisers in conjunction with the Council and Thames Valley Police to prevent spectator parking, but allow residents to park as usual.

3.2.2 Landowners could use the opportunity to set up unofficial car parks which may not

only leave visitors with an unfavourable impression of the area due to the lack of proper facilities, but could also create significant transport problems for residents, businesses and visitors to the area. One unexpected temporary car park, campsite or car boot sale could cause significant traffic problems, especially given the number of Olympic Games coaches on the roads and other major traffic generators in the area like Legoland.

- 3.2.3 The lake itself is within South Bucks District. Similar measures are not being progressed there as the threat is not considered to be as high. The only access to the site for spectators is from Windsor Racecourse.

### **3.3 The power to make a Direction controlling development**

- 3.3.1 The Council has powers to make an 'Article 4(1) Direction'. The effect of such a Direction is to remove normal rights to undertake works without planning permission. In this case the Direction could remove rights for the temporary uses of vehicle parking, campsites and markets, including car boot sales. Although markets are unlikely to occur as a direct result of the Olympic Games, should they occur during the Games period they would attract significant additional traffic.

- 3.3.2 An Article 4(1) Direction can only be made in exceptional circumstances where the Council is satisfied the development likely to take place would be "prejudicial to the proper planning of their area or constitute a threat to the amenities of their area". The exceptional circumstances test, alongside the test that it will rarely be justified is crucial. As with all planning matters, there is the accompanying public interest test which should take into account all considerations, implications and risks.

- 3.3.3 There is a specific exceptional threat in this instance as identified above and it is considered to be in the public interest for the Council to use its powers to restrict development. The Direction can be withdrawn under delegated authority after the Olympic Games once the threat and the public interest test have passed.

- 3.3.4 Enforcement of the measure would be through the use of Temporary Stop Notices, for which Officers already have delegated authority to serve. Breach of such a notice attracts a fine of up to £20,000 and could also lead to action under the Proceeds of Crime Act. Alternatively were such a notice ignored an injunction could be sought immediately from the Courts.

### **3.4 Timetable for the Direction**

- 3.4.1 Article 4 Directions are normally made in urgent circumstances or in Conservation Areas and these can often become effective immediately without great risk to the Council. This situation is rather different as we would be removing the opportunity for a landowner to make money and compensation provisions therefore apply unless the Direction is in place twelve months before it is effective.

- 3.4.2 Once a Direction is made a statutory six week consultation must take place by advertising it in a local newspaper, after which the Council considers representations and decides whether to confirm the Direction. If confirmed, to ensure the Direction is in place twelve months prior to the Games, it will need to be considered for confirmation by Cabinet in March 2011. This takes account of the likely absence of

Cabinet meetings either side of the local election in May 2011. The recommendation includes the authorisation of the Head of Planning & Development to confirm the Direction if no objections are received. If objections are received, they will be considered by Cabinet before deciding whether to confirm the Direction.

#### 4. OPTIONS AVAILABLE AND RISK ASSESSMENT

##### 4.1 Options

	Option	Comments	Financial Implications
1.	Make a Direction under Article 4(1) to remove rights for temporary vehicle parking, campsites and markets without planning permission	<b>Recommended</b>	Revenue: Officer time and newspaper advertisements of around £1500 in total to make Direction, which could be covered from the approved budget.  No risk of compensation claims if made twelve months in advance.  Resulting planning applications would not need a fee for consideration.  Capital: none
2.	Do not make an Article 4(1) Direction	Not recommended	Revenue: None  Capital: None

##### 4.2 Risk assessment

4.2.1 **Option 1** is recommended. Uncontrolled temporary uses of this nature could have a significant impact on local residents and the normal operation of Windsor and surrounding areas from traffic congestion. Significant reputational risk to both the area and the Council, could also result. These risks can be mitigated through the temporary measures recommended.

4.2.2 There is no risk to existing businesses, which can continue to operate: it is only temporary uses that would be affected by the measures during the period of the Olympic Games. There is no risk of compensation if the Direction is confirmed twelve months before it comes effective.

4.2.3 Should landowners ignore the Direction a Temporary Stop Notice can be served

which prohibits the use with immediate effect. Preparatory steps will need to be in place before the Games and staff will need to be on call during the Games period, including weekends to ensure this can occur.

4.2.4 **Option 2** is not recommended. Although there would be no financial risk from this, there is a high risk of significant disruption to residents and the reputation of the area. As a result the local community would be disappointed the Council did not use the powers available.

## 5. CONSULTATIONS CARRIED OUT

5.1.1 None

## 6. COMMENTS FROM OVERVIEW AND SCRUTINY PANEL

6.1.1 The Panel will meet on 8<sup>th</sup> November 2010.

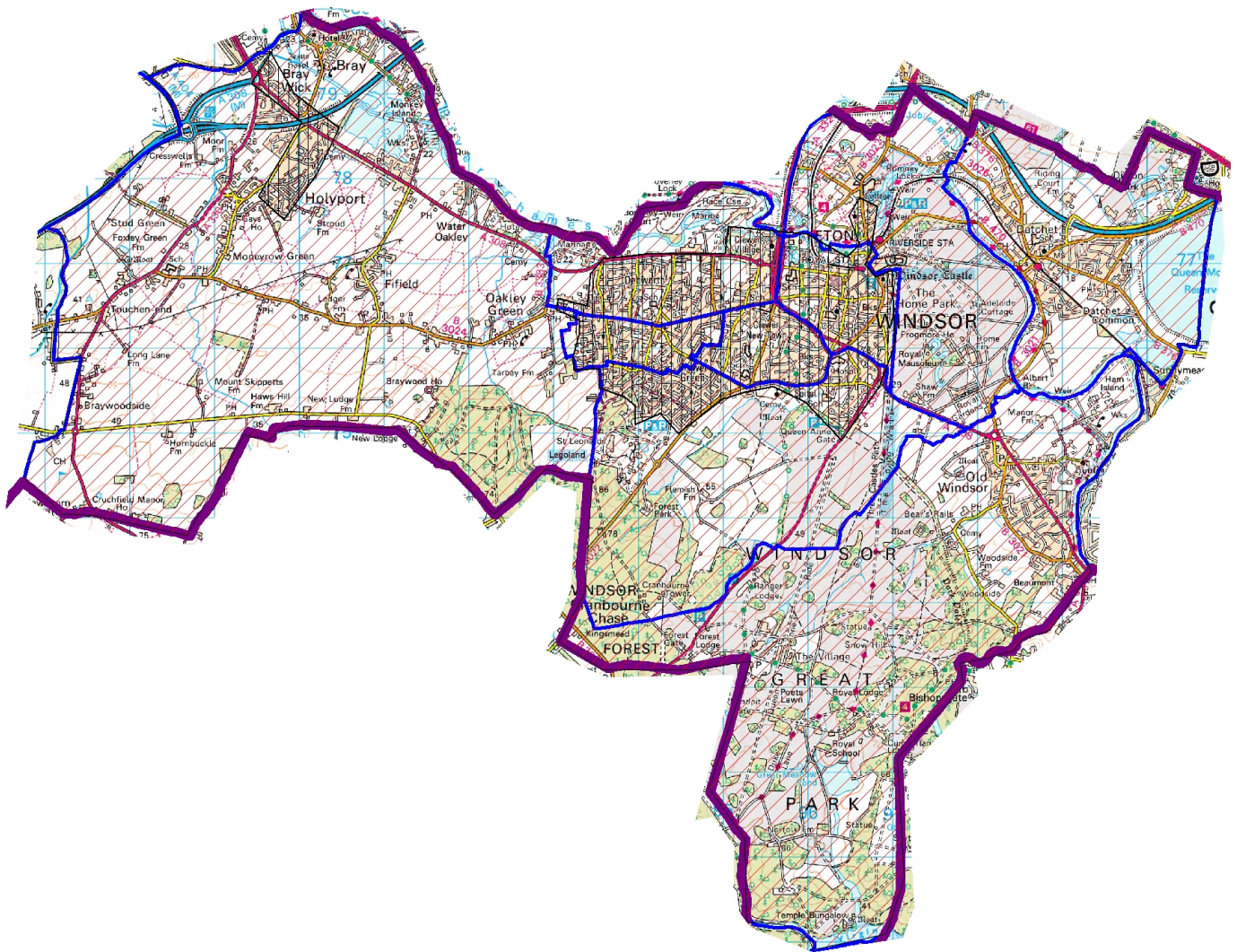
## 7. IMPLICATIONS

7.1.1 The following implications have been addressed where indicated below.

Financial	Legal	Human Rights Act	Planning	Sustainable Development	Diversity & Equality
✓	✓	✓	✓	✓	N/A

### Background Papers:

Department of the Environment Circular 9/95 *General Development Order Consolidation*  
RBWM Local Plan



## Planning

Scale: 1:80,000

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## PROPOSED ARTICLE 4 SHOWN HATCHED OUTSIDE BOUNDARY

The Royal Borough



Windsor &  
Maidenhead