

# CABINET

THURSDAY, 23RD JUNE, 2022

At 7.00 pm

in the

GREY ROOM - YORK HOUSE, WINDSOR

## SUPPLEMENTARY AGENDA

### PART I

<u>ITEM</u>	<u>SUBJECT</u>	<u>PAGE NO</u>
6	ii. St Cloud Way - Updated	3 - 42

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Report Title:	St Cloud Way
Contains Confidential or Exempt Information	No - Part I
Cabinet Member:	Councillor David Hilton Cabinet Member for Property
Meeting and Date:	Cabinet – 23 <sup>rd</sup> June 2022
Responsible Officer(s):	Ian Brazier-Dubber – MD of RBWM Property Company
Wards affected:	St Mary's



## REPORT SUMMARY

- 1.1 *The Council has entered into a development agreement with Countryside Properties (UK) Ltd ("Countryside") for St Clouds Way, Maidenhead (the "Site"), being land within the freehold ownership of the Council. The Council will grant Countryside a lease of the Site on a phased basis for the purposes of constructing the proposed development. The grant of the lease(s) will be subject to satisfaction of certain conditions, including, inter alia, vacant possession and ensuring the title to the Site is clear of any third-party encumbrances.*
  
- 1.2 *Countryside has since made a full planning application and received Consent to develop a 434-unit residential scheme, including 87 affordable homes (reference 21/00502/FULL) (the "Scheme"). On 15 December 2021, the Council's Planning Committee resolved to grant planning permission for the Scheme subject to the completion of a section 106 agreement, which has now been completed and a formal Decision Notice issued by the Local Planning Authority.*
  
- 1.3 *During the Scheme's evolution, interests have been identified which have the potential to prevent or delay the proposed development. To deliver the Scheme in accordance with the development proposals, it is necessary to interfere with several existing third-party rights across the Site including those with the rights to Light. Affected property owner(s) are being engaged with but it is unlikely that agreement will be reached with those affected.*
  
- 1.4 *The Council can mitigate any action for infringement of rights using appropriation powers. Given that the development proposals for the Site are now known, the Council is asked to consider whether to appropriate the Site for the planning purposes of facilitating the Scheme contemplated by the planning application. The use of appropriation powers will increase certainty and deliverability of the Scheme whilst affected parties will still be entitled to compensation based on the reduction in value of their property.*
  
- 1.5 *In November 2018 Cabinet approved the appropriation of a selection of key Council-owned sites (the "November 2018 Resolution") for planning purposes but since that time the Site has continued to be used in part for parking (including public parking). Following the November 2018 Resolution, the Magnet Leisure Centre was closed in autumn 2020 and a replacement facility, the Braywick Centre, has since been opened.*

- 1.6 *Accordingly, this report requests that Cabinet notes the November 2018 Resolution and confirms the resolution as necessary.*

## **DETAILS OF RECOMMENDATION(S)**

### **2. RECOMMENDATION(S)**

2.1. That the Cabinet notes the report and is recommended to:

- i) On the assumption that the November 2018 Resolution did have the effect of appropriating the Site for planning purposes under section 122 of the LGA, that the following reasons are approved:
  - a. the Site was not required for the purposes for which it was held prior to the appropriation for the reasons in paragraphs 5.3 to 5.8;.
  - b. the Site is required for planning purposes as set out in paragraphs 4.2, 5.9, 9.3 and 9.4 ; and
  - c. The conclusions reached on the matters set out in paragraphs 5.1, 5.10, 5.11 and 10.10 in respect to the use of section 203 – 205 of the Housing and Planning Act 2016
  
- ii) On the assumption that the November 2018 Resolution did not have the effect of appropriating the Site for planning purposes under section 122 of the LGA, then the recommendation is that the Site is appropriated for planning purposes under section 122 of the Local Government Act 1972 (the "LGA") to facilitating the Scheme, or similar development, for the following reasons:
  - a. the Site is no longer required for the purposes for which it was held prior to the appropriation for the reasons in paragraphs 5.3 to 5.8;.
  - b. the Site is required for planning purposes as set out in paragraphs 4.2, 5.9, 9.3 and 9.4; and
  - c. The conclusions reached on the matters set out in paragraphs 5.1, 5.10, 5.11 and 10.10 in respect to the use of section 203 – 205 of the Housing and Planning Act 2016
  
- iii) delegates to the Executive Director for Resources in consultation with the Managing Director for the RBWM Property Company Limited to continue negotiation with affected property owners in relation to property rights and in consultation with the Lead Member for Property, conclude negotiations or arrangements for release and/or replacement of property rights (whether the same or similar) either by private treaty or using section 203 – 205 of the Housing and Planning Act 2016.

**3. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED**

**Options**

**Table 1: Options arising from this report**

<b>Option A</b>	<b>Comments</b>
<p>Do nothing: if the Council decides not to reaffirm the appropriate the Site (as set out in this Report and to engage sections 203 – 205 of the HPA) there is a very real risk that the Scheme (and its associated benefits) would not be delivered. If the Council and Countryside were to proceed in such circumstances, there is the potential (in the absence of appropriation) that proceedings brought by affected adjoining owners could stop or delay the Scheme’s delivery.</p> <p><b>This is not the recommended option</b></p>	<p>If the appropriation were not confirmed it will prejudice the successful delivery of new affordable and market homes at St Cloud Way.</p>
<p><b>Option B</b></p> <p>Appropriate: by exercising appropriation powers to engage section 203 of the HPA, it would serve to mitigate the risks of bringing forward the Scheme by providing a defence to any action for infringement of rights. Affected parties will be entitled to compensation but they will not be able to delay or stop the Scheme.</p> <p><b>This is the Recommended Option</b></p>	<p>This will enable the commencement of development and mitigate any third-party risks and help secure the successful delivery of new homes including affordable on St Cloud Way.</p>

**4. BACKGROUND**

- 4.1. The November 2018 Resolution approved the appropriation of a selection of key Council-owned sites, which included the Site. The Council has since entered a residential-led joint development scheme with Countryside whereby the Council will grant Countryside a lease of the Site on a phased basis for the purposes of constructing residential-led development. The grant of the lease(s) will be subject to satisfaction of certain conditions, including, if required, the appropriation of the Site.
- 4.2. Countryside has since made a full planning application for the Scheme (comprising 434 residential units (of which 87 will be affordable homes and 347 apartments for private sale)), amenity space, parking, and public realm improvements (reference 21/00502/FULL). On 15 December 2021, the Council's Planning Committee resolved to grant planning permission for the Scheme subject to the completion of a section 106 agreement. The Section 106 Agreement was signed on the 10<sup>th</sup> of June 2022, granting Planning Consent.

## 5. STATUTORY POWER TO APPROPRIATE

- 5.1. The Council is authorised by section 122(1) of the LGA, as well as engaging s203 – 205 of the Housing and Planning Act 2016 (“HPA”) to appropriate land within its ownership for any purpose for which it is statutorily authorised to acquire land by agreement. Appropriation means changing the basis on which land held by the Council from one purpose (for which it is no longer required immediately prior to appropriation) to another purpose. However, in deciding to appropriate, the Council must consider the public need within the area for existing use.
- 5.2. The Site currently comprises the former Magnet Leisure Centre (the "Leisure Centre"), the former Ten Pin Bowling Arena and temporary car parking. The use of part of the Site as a temporary car park was granted planning permission (reference 18/01796/FULL) in June 2018 for a 5-year period. There are 382 existing car park spaces on the Site and 30 cycle parking spaces. The Leisure Centre was closed in autumn 2020 and a replacement facility, the Braywick Centre, has since been opened. In May 2019 the Local Planning Authority confirmed that prior approval was not required for the demolition of the Leisure Centre.
- 5.3. The use of the Site was mixed use being part leisure (Magnet Leisure Centre and Ten Pin Bowling) and parking which consisted of principally parking related for users of the leisure facilities but less frequently as a general car parking for the public.
- 5.4. In addition, users of the medical facilities known as the Wilderness Medical Centre located to the southwest but outside of the Site had rights to use 20 car park spaces between the hours of 8am and 7pm Monday to Friday and after 7pm each weekday and each weekend. That car parking is outside of the Site but included a right of access over the Site to reach the dedicated 20 car parking spaces. In addition, the same documentation included a right for users of the medical facilities to have 1 hour’s free parking in the adjoining public car park that services the leisure facilities.
- 5.5. The Council considered that the Site was no longer required for parking or leisure and passed the November 2018 Resolution to appropriate the Site for planning purposes. This was passed to facilitate the long-term regeneration of the Site.
- 5.6. The reason why the leisure facilities were (prior to the November 2018 Resolution) and continue to be no longer required for leisure purposes is due to the intention of the Council to provide a new and improved leisure offer at Braywick Park. It was considered that the constraints of the site, the building and the costs of repairs meant that an alternative custom leisure centre at Braywick Park was the preferred.
- 5.7. Since November 2018, the Braywick Centre has been completed and is now the principal Council leisure centre facility for Maidenhead. The leisure facilities at the Site have remained empty and out of use and as in November 2018, remains surplus to the leisure requirements for the Council.
- 5.8. In relation to the parking at Site, this use is principally ancillary to the use of the leisure facilities and enables the passive security of the site. The elements of

public car parking where considered be adequately addressed by provision elsewhere within Maidenhead prior to the November 2018.

- 5.9. The Borough Local Plan was adopted by the Borough on 8 February 2022. This includes the Site as an allocated site under reference AL9 for housing with a delivery of 550 units. It is considered that the need for housing within the Borough outweighs the public parking needs and as such it is in the public interest to consider the Site is no longer required for the purposes of parking.
- 5.10. The Site (both at the time of the November 2018 Resolution and now) is therefore no longer required for the purpose of leisure and parking. The Site is (and was at the time of the November 2018 Resolution) now required for planning purposes namely the construction of the Scheme (or development like it). Officers therefore consider that the requirements of section 122(1) of the LGA have been satisfied and there are clear economic, social, and environmental wellbeing improvements.
- 5.11 Cabinet is requested to note the November 2018 Resolution and reaffirm that the reasons for the 2018 Resolution remain.

## **6. RIGHTS AND INTERESTS**

- 6.1. The Council wishes to bring forward the Scheme as quickly as possible. It is considered to bring significant benefits in terms of housing, jobs, and economic investment to the borough. During the Scheme's development, third party interests have been identified which have the potential to prevent or delay the Scheme. These include the following third-party rights identified as benefitting neighbouring land:
  - a) the rights to use parking spaces to visiting members of the public to 1 hour of free parking.
  - b) rights of way to access and leave the adjoining car park area.
  - c) any rights to light of some properties on Holmanleaze, Cookham Road, Lea House, Queensgate House, Windrush Way, and the Ivy Leaf Club.
- 6.2. A right of light, or a right of way is an interest in land (an easement) which entitles a neighbouring landowner ("Dominant Owner") to enjoy such rights across the affected adjoining site. Any such development which interferes with that right, may well constitute a breach of that easement which may entitle the Dominant Owner to claim an injunction preventing development or damages for the effect on value of the right lost because of the interference.
- 6.3. The potential impact from the proposed development upon the rights of light enjoyed by the neighbouring properties has been assessed with confirmation of actionable injuries, which are considered diminution of the value of the affected properties known as the book value.
- 6.4. In relation to the medical facilities and the rights in 6.1 a) and 6.1 b), there has been significant correspondence between the Officers and the occupiers of the medical facilities. The Council's offer was to modify the existing car parking lease so the rights in 6.1 a) are extinguished once the Scheme has completed but during the construction phase temporary public parking would occur on the

Ten Pin site. On completion of Phase 1 of the development, all temporary public parking which hitherto will have occupied the area of land for Phase 2 of the proposed development up until December 2024 will cease. Since initial meetings occurred between officers and the occupiers of the Surgeries, draft heads of terms were issued on 01 December 2021.

- 6.5. Since this date, emails have been exchanged explaining the proposal further and meetings have occurred in April and early May. The occupiers have been advised that should a negotiated settlement not be possible then the Council would rely on its statutory powers including the rights to remove third party rights. To date, RBWM has not been able to secure agreement with the Surgeries and Pharmacy at the Wilderness Medical Centre for parking on a permanent basis beyond December 2024.
- 6.6. Accordingly, it is not considered that negotiations with the occupiers will achieve the release of the rights in paragraph 6.1 at all or within the time frame required for the Scheme. The Council will need to utilise its powers under s203 – 205 of the Housing and Planning Act 2016 in respect of the Site to override any easements and other rights of the affected neighbouring properties that are infringed upon. As negotiations have stalled, officers of the Council shall notify the occupiers of the Surgeries (and any other known occupiers of any property with property rights so affected) of the Council's intention to use its statutory powers under s203 – 205 of the Housing and Planning Act 2016 in relation to the easements over the Site.
- 6.7. The Council will then consider any representations made from any third party and decide whether to use their s203-s205 powers in relation to the property interest affected. The removal of easements or other property rights may lead to a compensation event.
- 6.8. Cabinet is requested to delegate the decision making in paragraph 6.8 to the Executive Director of Resources in consultation with the Managing Director for the RBWM Property Company Limited in consultation with the Lead Member for Property. The delegation requests that the Director may incur expenditure, settle claims or compensation in relation to any single claim or in respect to all claims.
- 6.9. It is highly unlikely that it would be possible to identify and extinguish all third-party rights which burden the Site by private agreement before the Scheme is due to commence in **Quarter two of the financial year 2022**. The Council is currently engaging with affected property owners. However, it is unlikely that agreement will be reached. It is considered that if the Scheme is implemented, there will be interference with rights that cannot reasonably be avoided if its benefits (i.e. the comprehensive redevelopment of the Site as a strategically important gateway to the centre of Maidenhead) are to be realised in full.
- 6.10. Releasing the rights that burden the Site is a pre-condition for the grant of the lease to Countryside to allow the active start on Site and facilitate the delivery of the Scheme and its associated benefits. The proposed appropriation of the Site will achieve this end. To progress the Scheme and avoid delays to the programme, the officers are seeking Cabinet authority to be able to appropriate the Site and engage sections 203 – 205 of the HPA if required.

## 7. KEY IMPLICATIONS



**Table 2: Key Implications**

<b>Outcome</b>	<b>Date of delivery</b>	<b>Met</b>	<b>Exceeded</b>	<b>Significantly Exceeded</b>	<b>Unmet</b>
Delivery of vacant possession & Lease Draw Down (Phase 1)	31 <sup>st</sup> July 2022	31 <sup>st</sup> July 2022	31 <sup>st</sup> August 2022	30 <sup>th</sup> September 2022	31 October 2022
Delivery of vacant possession & Lease Draw Down (Phase 2)	31 <sup>st</sup> May 2025	31 <sup>st</sup> of May 2025	30 <sup>th</sup> June 2025	31 <sup>st</sup> August 2025	30 September 2025

The Dates included in Table 2 .are derived from the Development Agreement with Countryside Properties Limited and represent the date, following Vacant Possession that the Build Lease for the First Phase of development is granted. This means that Countryside Properties Limited will take ownership the site and commence construction.

## **8. FINANCIAL DETAILS / VALUE FOR MONEY**

- 8.1 In the context of the report, there are no major financial implications on the Council. However, there could be potential compensatory claims because of the impact of the use of the appropriation powers on third party rights including the rights of light, which cumulatively cannot be ascertained at this stage. These will be dealt with by Countryside, the Council's JV development partner under the Development Agreement.
- 8.2 No financial details are therefore provided in relation to the financial impact of the appropriation powers, or the compensatory values, whether individually or collectively, as these will be determined by the Countryside.

## **9. LEGAL IMPLICATIONS**

- 9.1. The Council is appropriating the Site for planning purposes. Section 246 of the TCPA, defines such purposes as, inter alia, those for which land can be acquired under section 226 of the TCPA. The purposes for which a local authority can acquire land pursuant to section 226 of the TCPA include purposes "which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated."
- 9.2. The use of appropriation powers needs to be justified by a clear 'public interest' case that overrides the individual rights of potential affected third party owners and occupiers of nearby properties. By virtue of the provisions in section 226(1A) of the TCPA a local authority must not exercise the power granted under section 226(1)(a) unless it thinks the development, redevelopment, or improvement on or in relation to the land is likely to contribute to the achievement, the promotion or improvement of any one or more of the following objectives – the economic, social and/or the environmental well-being of the area.

- 9.3. The key objectives of the Scheme are to provide significant additional housing within Maidenhead town centre to attract working residents and bring social, economic, and environmental benefits to the borough's community. The following have been identified as key benefits of the Scheme:
- (a) the provision of 434 high quality residential units (87 affordable dwellings, of which 62% will be offered for shared ownership and 38% for affordable rent) and 347 apartments for private sale.
  - (b) a new 'green link' through the Site, east-west, providing access for pedestrians and cyclists between Kidwell Park, the Strand, and the Moor, via Kennet Road, as well as north-south connections through the Site to the town centre. Such links will help to facilitate effective place making in the town centre and help connect ring and fringe areas with the town centre core. There is also the delivery of an at-grade new crossing facility and subway improvements.
  - (c) public realm improvements and generous amounts of enhanced green infrastructure to enhance the appearance and permeability of the Site. It is anticipated that the Scheme will produce employment for an average of 213 (FTE) workers per month over the 66-month construction period. In addition to jobs created as a direct effect of the construction and management of the Scheme, further indirect employment and economic benefit will be experienced because of the spin-off and multiplier effects. It is estimated that new household spend will be as much as £13.4 p.a. Accordingly, there will be a positive impact on the local economy and job creation.
  - (d) The provision of community space. This includes new trees which will be planted with some existing trees being retained. The properties in part will also provide private amenity space including balconies and gardens, as well communal space which will cover podium and courtyard spaces and a public realm.
  - (e) Promoting economic growth. This will be by way of S106 contributions more than £2.5m, 369 construction jobs and 502 supply chain jobs,
  - (f) Sustainable transportation for the development with the overall objective of reducing the need for travel by private car by visitors to the development which will encourage the use of sustainable non-car modes of travel.
- 9.4. There is a pressing need for new homes within Maidenhead, particularly those of an affordable tenure. The Scheme will deliver much needed affordable and market housing, which will greatly contribute to improving the economic, social, and environmental well-being of the local area as described in paragraph [9.3] above. Accordingly, appropriating the Site for the purpose of implementing the Scheme (or similar development) will facilitate the development and improvement of the Site.
- 9.5. It is the view of officers that the Site could be acquired compulsorily under section 226(1)(a) to facilitate the carrying out of redevelopment and that such redevelopment would advance all three objectives identified at section 226(1A) (namely, the promotion or improvement of the economic, social, and environmental well-being of the area). Accordingly, it is considered that the

requirements of section 226 of the TCPA are satisfied to engage section 203 of the HPA.

- 9.6. A local authority cannot properly exercise these powers unless it considers that it has good reason to interfere with third party rights etc or breach restrictions that would be overridden by section 203 of the HPA. In balancing the benefits of the Scheme and the concerns of those whose rights it is proposed to override, there is clear evidence that the public benefit in the form of the provision of new homes to meet local needs and the regeneration of a key town centre site outweigh private loss. The Council will continue with negotiations after the Site has been appropriated, and compensation will be payable to those who suffer a relevant loss. Overall, it is considered that there is a compelling case in the public interest to facilitate the building out of the Scheme (or similar development) and that appropriation of the Site is necessary.

## **10. POWER TO INTERFERE WITH RIGHTS**

- 10.1. Appropriating land for planning purposes can engage section 203 of the HPA, meaning that the erection, construction or carrying out of any building or other works on such land is authorised notwithstanding that it may involve the interference with third party rights, subject to payment of compensation under section 204 of the HPA, provided certain conditions are met. The application of section 203 of the HPA is subject to the following conditions:
- (a) there is planning consent for the building or maintenance work and/or use of the land that causes the infringement of third-party rights. This will be satisfied on the grant of planning permission for the Scheme, which is currently subject to a resolution to grant.
  - (b) the land has been acquired by the Council or appropriated by it to planning purposes. If not satisfied by the November 2018 Resolution, this condition will be met should the appropriation be approved pursuant to this Report.
  - (c) the land could (at least in principle) acquire the land compulsorily for the relevant building work and/or use. The Council has such power under section 226 of the TCPA; and
  - (d) the building or maintenance work and/or use is for purposes related to the purposes for which the land was vested, acquired, or appropriated as under (b). The development of the Site pursuant to the Scheme (or similar) is related to the purposes of the appropriation recommended in this Report.
- 10.2. Subject to satisfying the conditions of section 203, the council (or any person deriving title under them) would be permitted to construct the Scheme notwithstanding that it will interfere with the rights of other land or breach a restriction as to the use of land.
- 10.3. As the interference is permitted by legislation, there is no ability for the Dominant Owner of an easement (such as a right to use car parking spaces and right of light) to injunct against either the development or use of the land, providing such development or use is in accordance with a planning permission. Section 203 does not remove the legitimate rights of Dominant Owners to compensation arising from interference with such rights but it does remove the potential for such persons to frustrate the development by obtaining an injunction to prevent

interference with their rights. It also converts the basis of their compensation to the statutory basis under section 205 (reduction in value of property rather than any wider ransom value).

- 10.4. The types of rights that can be overridden under section 203 comprise:
  - (a) a “relevant right or interest” i.e. “any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land (including any natural right to support)”, and
  - (b) a restriction as to the user of land arising by virtue of a contract.
- 10.5. The first category above would include easements and other rights which burden the development site and benefit other land. The second category would include restrictive covenants.
- 10.6. Certain third-party rights cannot be overridden under section 203, in particular “protected rights” of statutory undertakers and electronic communication code network operators and certain rights, interests and restrictions which benefit the National Trust. In addition, rights and interests which benefit the Crown and its land, or rights enjoyed by the public, could not be overridden under section 203.
- 10.7. As can be seen from the above, reliance in due course on section 203 of the HPA to override the rights etc of adjoining owners in respect of the Site is possible where the requirements of section 226 of the TCPA are met. Therefore, the requirement to be satisfied, that is, that there is a compelling case in the public interest to interfere with third party rights to engage powers under section 203 of the HPA and that the interference is no more than is necessary having regard to the European Convention on Human Rights (the "ECHR"), must apply before construction of the Scheme commences.
- 10.8. If the Council does not exercise its powers under section 203 of the HPA and the works are commenced, the Scheme would potentially be infringing those affected owners’ rights etc over the Scheme. Various remedies up to and including injunction would be available to the injured parties depending on the rights infringed on. The consequences of an injunction for the Council would be a delay in the delivery of the Scheme or the Scheme (and the benefits that it would bring to the local community) not coming forward at all.
- 10.9. In resolving to grant planning permission for the Scheme, the Council has confirmed that the Scheme would be in the interests of the proper planning of the area. Further, it is considered that the benefits of the overall comprehensive development of the Site (and its associated benefits) could not be achieved without interfering with the rights affected by the appropriation of the Site.
- 10.10. **Given the significant benefits of the Scheme, it is considered that there is a clear and compelling case in the public interest to pursue redevelopment protected from possible restraint by injunction. Appropriating the land for planning purposes will achieve that whilst still enabling any interference with third party rights to be addressed via compensation.**

## 11. HUMAN RIGHTS

- 11.1. Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way which is incompatible with the European Convention on Human Rights (the "ECHR").
- 11.2. The Government guidance "Compulsory purchase process and the Criche Down Rules" advises authorising authorities that compulsory acquisition (and therefore, by analogy, appropriation for planning purposes under section 122(1) of the GLA), which has the effect, by virtue of section 203 of the HPA, of infringing ECHR rights should consider:
- '...When making and confirming an order, acquiring authorities and authorising authorities should be sure that the purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected. The officers' report seeking authorisation for the compulsory purchase order should address human rights issues.'*
- 11.3. In this case a decision to override easements and other rights represents an interference with rights protected under Article 1 of the Protocol to the ECHR (the right to peaceful enjoyment of possessions) and Article 8 of the ECHR (right to respect for private and family life, home, and correspondence). Such rights are qualified, rather than absolute. Any decision to interfere with such rights must therefore strike a fair balance between the public interest associated with the Scheme and the interference with private rights, which must be necessary and proportionate. "Proportionate" means that the interference must be no more than is necessary to achieve the identified legitimate aim.
- 11.4. Considering the clear public benefit associated with the Scheme and a compelling case in the public interest for the use of the powers to override rights and given that any person who can show that they held an interest in any of the Site will be entitled to compensation in accordance with the relevant statutory provisions, it is considered that the interference with the private rights of those affected would be lawful, justified, and proportionate.
- 11.5. The Council is of the view, therefore, that the exercise of its powers in accordance with this Report is compatible with the ECHR.

## 12. RISK MANAGEMENT

Identify any potential risks associated with the options and the proposed course of action. Include any relevant risks from the corporate risk register. If none, say so. Remember to put in HIGH/MEDIUM/LOW against level of uncontrolled / controlled risk. Please consider if this action changes or amends any existing risks identified in risk registers.

**Table 3: Impact of risk and mitigation**

<b>Risk</b>	<b>Level of uncontrolled risk</b>	<b>Controls</b>	<b>Level of controlled risk</b>
<b>Delivery market and affordable homes to serve Maidenhead and</b>	<b>High</b>	<b>Deployment of Appropriation Powers</b>	<b>Low</b>

meet the requirements of the BLP			
Market uncertainty on sale of new homes	High	Development Agreement between Countryside and RBWM	Low
Financial	Medium	Development Agreement	Low
Planning	Medium	Deployment of Appropriation Powers	Low

### 13. POTENTIAL IMPACTS

- 13.1 Equalities. Equality Impact Assessments are published on the Council's website. The EQIA stage 1 assessment report has been completed and attached to this report.

#### Equalities impact assessment

In deciding to proceed with the exercise of appropriation and acquisition so as to engage section 203 of the HPA 2016, the Council must pay due regard to its Public-Sector Equality Duty ("PSED"), as set out in Section 149 of the Equalities Act 2010 (the "2010 Act"). The PSED provides that a public authority must, in the exercise of its functions, have due regard to the need to:

- a) eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under the 2010 Act.
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Consideration must also be given to whether, if the decision is made to go ahead, it will be possible to mitigate any adverse impact on a protected group, or to take steps to promote equality of opportunity by, for example, treating an affected group more favourably.

Officers are mindful of this duty in making the recommendations in this Report. Generally, it is considered that the impacts of the Scheme are positive.

- 13.2 Climate change/sustainability. There are no climate change or sustainability impact associated with this decision.
- 13.3 Data Protection/GDPR. There are no Data Protection or GDPR impacts on this decision.

## 14. CONSULTATION

- 14.1. The planning application for the Development has been the subject of extensive public consultation.
- 14.2. The Council has engaged and consulted with leaseholders and property owners on their proposal and entered negotiations to acquire the necessary interests to proceed with the Scheme. The Council will continue to negotiate with the remaining landowners and tenants.

## 15. TIMETABLE FOR IMPLEMENTATION

- 15.1. Implementation date if not called in: Insert specific date or 'Immediately'; remove sentence entirely if not a Cabinet report. The full implementation stages are set out in table 4.

**Table 4: Implementation timetable**

<b>Date</b>	<b>Details</b>
23 June 2022	Cabinet Meeting
30 June 2022	Confirm Appropriation Approval
1 July 2022	Notify third parties
31 July 2022	Draw down of licence to demolish or draw down of the lease

## 16.1 APPENDICES

- 16.1. This report is supported by two appendices:

- 22 November 2018 Cabinet Report on Appropriation Powers
- Minutes of the 22 November 2018 Cabinet Meeting

## 17.1 BACKGROUND DOCUMENTS

- 17.1. This report is supported by 1 background documents:

- Equalities Impact Assessment Form (Screening Stage)

## 18. CONSULTATION

<b>Name of consultee</b>	<b>Post held</b>	<b>Date sent</b>	<b>Date returned</b>
<i>Mandatory: Statutory Officers (or deputies)</i>			
Adele Taylor	Executive Director of Resources/S151 Officer	09/06/22	(14/06/22)
Emma Duncan	Deputy Director of Law and Strategy / Monitoring Officer	09/06/22	10/06/22
<i>Deputies:</i>			
Andrew Vallance	Head of Finance (Deputy S151 Officer)	09/06/22	
Elaine Browne	Head of Law (Deputy Monitoring Officer)	09/06/22	

Karen Shepherd	Head of Governance (Deputy Monitoring Officer)	09/06/22	
<i>Other consultees:</i>			
<i>Directors (where relevant)</i>			
Duncan Sharkey	Chief Executive	09/06/22	10/06/22
Andrew Durrant	Executive Director of Place	09/06/22	

Confirmation relevant Cabinet Member(s) consulted	Cabinet Member for Cllr David Hilton Cllr Phil Haseler	Yes/No
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## REPORT HISTORY

Decision type:	Urgency item?	To follow item?
If a Cabinet report: Key decision and state the date it was First entered into the Cabinet Forward Plan: <b>25/05/22</b> OR Non-key decision OR For information  If a Council report: Council decision OR For information  If for other meeting state e.g. Licensing Panel decision OR For information	Yes/No  <b>Awaiting final advice from Legal Advisers.</b>  <b>A decision is required to enable the grant of the Build Licence for and the commencement of the development of the St Cloud Way scheme.</b>	Yes/No  <b>Awaiting final advice from Legal Advisers.</b>

Report Author: Ian Brazier Dubber, Managing Director, 07866 124168

***Before submitting your report to Democratic Services, use the Accessibility Checker (in Word and Excel as appropriate) to ensure all web accessibility requirements are met for both the covering report and any appendices. When submitting to Democratic Services, you must confirm all documents are accessible – if not, your report will be rejected.***



**ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD  
EQUALITY IMPACT ASSESSMENT**

**EqlA : Title of EQIA**

**Essential information**

Items to be assessed: (please mark 'x')

<b>Strategy</b>	X	<b>Policy</b>		<b>Plan</b>	X	<b>Project</b>	X	<b>Service/Procedure</b>	
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<b>Responsible officer</b>	Managing Director of RBWM Company Ltd	<b>Service area</b>	X	<b>Directorate</b>	RBWM Property Company Limited
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<b>Stage 1: EqIA Screening (mandatory)</b>	Date created: 09/06/2022	<b>Stage 2 : Full assessment (if applicable)</b>	Date created : xx/xx/xxxx
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**Approved by Head of Service / Overseeing group/body / Project Sponsor:**

*"I am satisfied that an equality impact has been undertaken adequately."*

**Signed by (print):** xxxxxxxxxxxxxx

**Dated:** xx/xx/xxxx

17

# ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

## EQUALITY IMPACT ASSESSMENT

### EqlA : Title of EQIA

#### Guidance notes

##### What is an EqlA and why do we need to do it?

The Equality Act 2010 places a 'General Duty' on all public bodies to have 'due regard' to:

- Eliminating discrimination, harassment and victimisation and any other conduct prohibited under the Act.
- Advancing equality of opportunity between those with 'protected characteristics' and those without them.
- Fostering good relations between those with 'protected characteristics' and those without them.

EqlAs are a systematic way of taking equal opportunities into consideration when making a decision, and should be conducted when there is a new or reviewed strategy, policy, plan, project, service or procedure in order to determine whether there will likely be a detrimental and/or disproportionate impact on particular groups, including those within the workforce and customer/public groups. All completed EqlA Screenings are required to be publicly available on the council's website once they have been signed off by the relevant Head of Service or Strategic/Policy/Operational Group or Project Sponsor.

##### What are the "protected characteristics" under the law?

The following are protected characteristics under the Equality Act 2010: age; disability (including physical, learning and mental health conditions); gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

##### What's the process for conducting an EqlA?

The process for conducting an EqlA is set out at the end of this document. In brief, a Screening Assessment should be conducted for every new or reviewed strategy, policy, plan, project, service or procedure and the outcome of the Screening Assessment will indicate whether a Full Assessment should be undertaken.

##### Openness and transparency

RBWM has a 'Specific Duty' to publish information about people affected by our policies and practices. Your completed assessment should be sent to the Strategy & Performance Team for publication to the RBWM website once it has been signed off by the relevant manager, and/or Strategic, Policy, or Operational Group. If your proposals are being made to Cabinet or any other Committee, please append a copy of your completed Screening or Full Assessment to your report.

##### Enforcement

Judicial review of an authority can be taken by any person, including the Equality and Human Rights Commission (EHRC) or a group of people, with an interest, in respect of alleged failure to comply with the general equality duty. Only the EHRC can enforce the specific duties. A failure to comply with the specific duties may however be used as evidence of a failure to comply with the general duty.

# ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

## EQUALITY IMPACT ASSESSMENT

EqlA : Title of EQIA

### Stage 1 : Screening (Mandatory)

#### 1.1 What is the overall aim of your proposed strategy/policy/project etc and what are its key objectives?

To facilitate and deliver the development of St Cloud Way by Countryside on behalf of the Council.

**1.2 What evidence is available to suggest that your proposal could have an impact on people (including staff and customers) with protected characteristics? Consider each of the protected characteristics in turn and identify whether your proposal is Relevant or Not Relevant to that characteristic. If Relevant, please assess the level of impact as either High / Medium / Low and whether the impact is Positive (i.e. contributes to promoting equality or improving relations within an equality group) or Negative (i.e. could disadvantage them). Please document your evidence for each assessment you make, including a justification of why you may have identified the proposal as “Not Relevant”.**

# ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

## EQUALITY IMPACT ASSESSMENT

### EqlA : Title of EQIA

Protected characteristics	Relevance	Level	Positive/negative	Evidence
<b>Age</b>	N/A	0	N/A	<i>Key data: The estimated median age of the local population is 42.6yrs [Source: <a href="#">ONS mid-year estimates 2020</a>]. An estimated 20.2% of the local population are aged 0-15, and estimated 61% of the local population are aged 16-64yrs and an estimated 18.9% of the local population are aged 65+yrs. [Source: ONS mid-year estimates 2020, taken from <a href="#">Berkshire Observatory</a>]</i>
<b>nDisability</b>	N/A	0	N/A	
<b>Gender re-assignment</b>	N/A	0	N/A	
<b>Marriage/civil partnership</b>	N/A	0	N/A	
<b>Pregnancy and maternity</b>	N/A	0	N/A	
<b>Race</b>	N/A	0	N/A	<i>Key data: The 2011 Census indicates that 86.1% of the local population is White and 13.9% of the local population is BAME. The borough has a higher Asian/Asian British population (9.6%) than the South East (5.2%) and England (7.8%). The forthcoming 2021 Census data is expected to show a rise in the BAME population. [Source: 2011 Census, taken from <a href="#">Berkshire Observatory</a>]</i>
<b>Religion and belief</b>	N/A	0	N/A	<i>Key data: The 2011 Census indicates that 62.3% of the local population is Christian, 21.7% no religion, 3.9% Muslim, 2% Sikh, 1.8% Hindu, 0.5% Buddhist, 0.4% other religion, and 0.3% Jewish. [Source: 2011 Census, taken from <a href="#">Berkshire Observatory</a>]</i>
<b>Sex</b>	N/A	0	N/A	<i>Key data: In 2020 an estimated 49.6% of the local population is male and 50.4% female. [Source: ONS mid-year estimates 2020, taken from <a href="#">Berkshire Observatory</a>]</i>
<b>Sexual orientation</b>	N/A	0	N/A	

**ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD**  
**EQUALITY IMPACT ASSESSMENT**

**EqIA : Title of EQIA**

**Outcome, action and public reporting**

Screening Assessment Outcome	Yes / No / Not at this stage	Further Action Required / Action to be taken	Responsible Officer and / or Lead Strategic Group	Timescale for Resolution of negative impact / Delivery of positive impact
<b>Was a significant level of negative impact identified?</b>	No	No further action required	N/A	N/A
<b>Does the strategy, policy, plan etc require amendment to have a positive impact?</b>	No	No further required	N/A	N/A

If you answered **yes** to either / both of the questions above a Full Assessment is advisable and so please proceed to Stage 2. If you answered “No” or “Not at this Stage” to either / both of the questions above please consider any next steps that may be taken (e.g. monitor future impacts as part of implementation, re-screen the project at its next delivery milestone etc).

21

**ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD  
EQUALITY IMPACT ASSESSMENT**

**EqIA : Title of EQIA**

**Stage 2 : Full assessment**

**2.1 : Scope and define**

**2.1.1 Who are the main beneficiaries of the proposed strategy / policy / plan / project / service / procedure? List the groups who the work is targeting/aimed at.**

--

**2.1.2 Who has been involved in the creation of the proposed strategy / policy / plan / project / service / procedure? List those groups who the work is targeting/aimed at.**

--

**ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD  
EQUALITY IMPACT ASSESSMENT**

**EqIA : Title of EQIA**

**2.2 : Information gathering/evidence**

**2.2.1 What secondary data have you used in this assessment?** *Common sources of secondary data include: censuses, organisational records.*

**2.2.2 What primary data have you used to inform this assessment?** *Common sources of primary data include: consultation through interviews, focus groups, questionnaires.*

**Eliminate discrimination, harassment, victimisation**

# ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

## EQUALITY IMPACT ASSESSMENT

EqlA : Title of EQIA

Protected Characteristic	Advancing the Equality Duty : Does the proposal advance the Equality Duty Statement in relation to the protected characteristic (Yes/No)	If yes, to what level? (High / Medium / Low)	Negative impact : Does the proposal disadvantage them (Yes / No)	If yes, to what level? (High / Medium / Low)	Please provide explanatory detail relating to your assessment and outline any key actions to (a) advance the Equality Duty and (b) reduce negative impact on each protected characteristic.
Age					
Disability					
Gender reassignment					
Marriage and civil partnership					
Pregnancy and maternity					
Race					
Religion and belief					
Sex					
Sexual orientation					

24

**Advance equality of opportunity**



# ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

## EQUALITY IMPACT ASSESSMENT

EqlA : Title of EQIA

Protected Characteristic	Advancing the Equality Duty : Does the proposal advance the Equality Duty Statement in relation to the protected characteristic (Yes/No)	If yes, to what level? (High / Medium / Low)	Negative impact : Does the proposal disadvantage them (Yes / No)	If yes, to what level? (High / Medium / Low)	Please provide explanatory detail relating to your assessment and outline any key actions to (a) advance the Equality Duty and (b) reduce negative impact on each protected characteristic.
Age					
Disability					
Gender reassignment					
Marriage and civil partnership					
Pregnancy and maternity					
Race					
Religion and belief					
Sex					
Sexual orientation					

25

**ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD**  
**EQUALITY IMPACT ASSESSMENT**

**EqlA : Title of EQIA**

**Foster good relations**

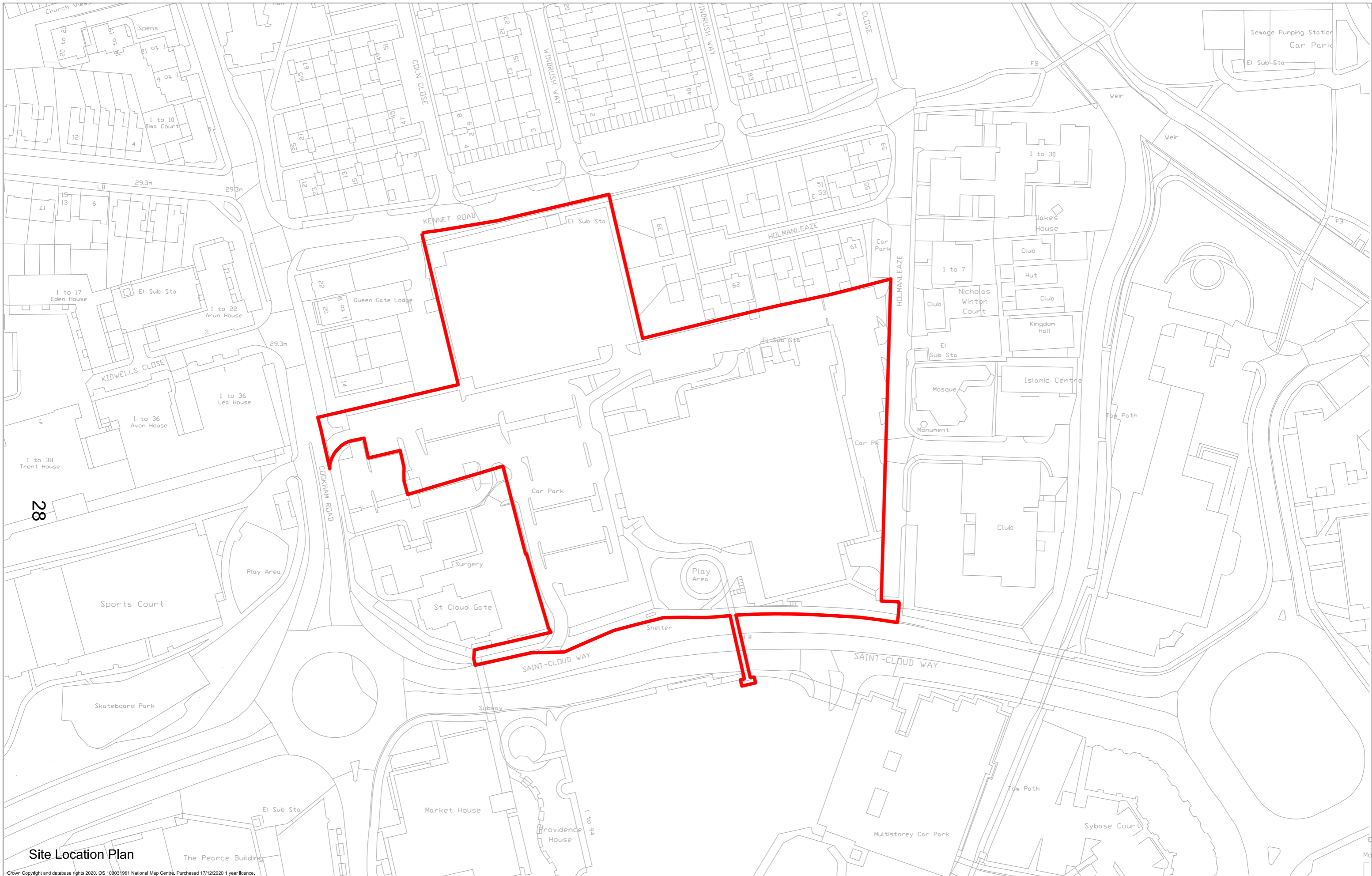
Protected Characteristic	Advancing the Equality Duty : Does the proposal advance the Equality Duty Statement in relation to the protected characteristic (Yes/No)	If yes, to what level? (High / Medium / Low)	Negative impact : Does the proposal disadvantage them (Yes / No)	If yes, to what level? (High / Medium / Low)	Please provide explanatory detail relating to your assessment and outline any key actions to (a) advance the Equality Duty and (b) reduce negative impact on each protected characteristic.
Age					
Disability					
Gender reassignment					
Marriage and civil partnership					
Pregnancy and maternity					
Race					
Religion and belief					
Sex					
Sexual orientation					

26

**2.4 Has your delivery plan been updated to incorporate the activities identified in this assessment to mitigate any identified negative impacts? If so please summarise any updates.**  
*These could be service, equality, project or other delivery plans. If you did not have sufficient data to complete a thorough impact assessment, then an action should be incorporated to collect this information in the future.*

**ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD  
EQUALITY IMPACT ASSESSMENT**

**EqIA : Title of EQIA**



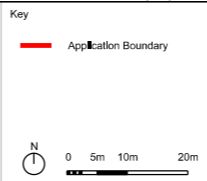
**Site Location Plan**

Crown Copyright and database rights 2020, OS 100031961 National Map Centre, Purchased 17/12/2020 1 year license.

Revision	Date	Description	By	Check	Client logo
P0	10.02.21	Issued for Planning	SJ	LD	



**Notes**  
 Do not scale drawings. All dimensions should be checked on site. Errors to be reported to architect. To be read in conjunction with all relevant architects services and engineers drawings.  
 Contractors, sub-contractors and suppliers must verify any critical dimensions on site prior to fabrication of any building element. Any discrepancies are to be reported to the architect.  
 This drawing should be read in conjunction with all relevant specifications, engineers and specialists consultants information. Any discrepancies must be reported prior to installation.



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<b>Project:</b>	Saint-Cloud Way
<b>Client:</b>	Countryside Properties
<b>Location:</b>	Maldenhead, Berkshire
<b>Title:</b>	Site Location Plan
<b>Date:</b>	September 2018
<b>Scale:</b>	1:1250 @ A3
<b>Drawing Number:</b>	Job No. Status Package Reference Revision
	1810 P 101 000 P0

Report Title:	<b>Appropriation of Land</b>
Contains Confidential or Exempt Information?	No- Part I
Member reporting:	Councillor Simon Dudley, Leader of the Council and Maidenhead Regeneration & Maidenhead.
Meeting and Date:	22 <sup>nd</sup> November 2018
Responsible Officer(s):	Russell O’Keefe – Acting Managing Director
Wards affected:	All

## REPORT SUMMARY

- 1 The report seeks approval for the appropriation of a selection of key council owned sites which have already been approved for redevelopment and/or disposal.
- 2 The sites will deliver over 3,000 new homes (at least 30% affordable) and a range of new community facilities for residents.

## 1 DETAILS OF RECOMMENDATION

**RECOMMENDATION:** That Cabinet notes the report and:

- i) Approves the appropriation of the following sites (see appendix A red line plans);
  - a. St Clouds Way, Maidenhead
  - b. West Street, Maidenhead
  - c. York Road, Maidenhead
  - d. Reform Road, Maidenhead
  - e. Maidenhead Golf Course
  - f. Ray Mill Road East, Maidenhead
  - g. Riverside, Maidenhead
  - h. Mokattam, Maidenhead
  - i. Brocket, Maidenhead
  - j. St Edmunds, Maidenhead
  - k. Vicus Way (Car Park), Maidenhead
  - l. Broadway (Car Park), Maidenhead.

## 2 REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

2.1 The following sites have all been previously considered and approved by Cabinet for redevelopment and/or disposal as part of the wider regeneration programme for Maidenhead:

- St Clouds Way, Maidenhead
- West Street, Maidenhead
- York Road, Maidenhead
- Reform Road, Maidenhead
- Maidenhead Golf Course
- Ray Mill Road East, Maidenhead

- Riverside, Maidenhead
- Mokattam, Maidenhead
- Brocket, Maidenhead
- St Edmunds, Maidenhead
- Vicus Way (Car Park), Maidenhead
- Broadway (Car Park), Maidenhead.

- 2.2 The total number of homes to be provided across these sites is over 3,000 new homes, with a minimum 1,000 (30%) for affordable housing for people living and/or working in the borough. The sites will also provide a range of new supporting infrastructure including education facilities on the golf club site.
- 2.3 Public parking provision has been highlighted as essential as part of the wider regeneration of the town, the above named sites will deliver over 1,857 permanent public car parking spaces.
- 2.4 The Council is authorised by legislation to appropriate land within its ownership for any purpose for which it is authorised. Appropriation of land held by a council to a specific planning purpose, engaging the powers in s237 of the Town & Country Planning Act 1990 overrides easements and other rights that might otherwise impede the ability to develop the relevant land.

**Table 1: Options**

<b>Option</b>	<b>Comments</b>
Appropriate the land <b>Recommended option</b>	This will allow appropriate insurance to be put in place for any potential compensation claims.
Do nothing This is not recommended	This could delay starts on site.

### 3 KEY IMPLICATIONS

- 3.1 Appropriation of land is required on all projects before an active start on site is commenced. If appropriation is not achieved, this could delay a start on site.

**Table 2: Key implications**

<b>Outcome</b>	<b>Unmet</b>	<b>Met</b>	<b>Exceeded</b>	<b>Significantly Exceeded</b>	<b>Date of delivery</b>
Appropriation of land	Not achieved	28 <sup>th</sup> Feb 2019	31 <sup>st</sup> Jan 2019	31 <sup>st</sup> Dec 2019	28 <sup>th</sup> Feb 2019

### 4 FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 All costs associated with the appropriation of the land in this report will be met from existing budgets and the project costs for the redevelopment of each site.

**5 LEGAL IMPLICATIONS**

5.1 The Council is authorised by virtue of Section 122 of the Local Government Act 1972, and Section 227 and Section 237 of the Town & Country Planning Act 1990 and Section 203 of The Housing & Planning Act 2016, to appropriate land within its ownership for any purpose for which it is authorised.

**6 RISK MANAGEMENT**

- 6.1 The key risk for all sites appended to this report, takes into account potential compensation claims, for elements predominately relating to right of light, day light and sunlight.
- 6.2 The appropriation process is one available to local authorities, which enables this risk to be mitigated and/or substantially reduced. It offers the ability to insure against such risk, therefore making available funds and contingency should any claims arise.
- 6.3 It is prudent and best practice for local authorities when identifying land for redevelopment to appropriate that land as part of the development/disposal process.

**Table 4: Impact of risk and mitigation**

<b>Risks</b>	<b>Uncontrolled Risk</b>	<b>Controls</b>	<b>Controlled Risk</b>
Excessive compensation claims	High	Appropriation of the land.	Low

**7 POTENTIAL IMPACTS**

- 7.1 Projects will take into consideration all vehicular, pedestrian and cycle access, making sure that appropriate infrastructure is put in place as part of the wider regeneration.
- 7.2 Due regard has been given to the Council’s Equalities Duties, in particular with respect to general duties arising under the Equalities Act 2010, Section 49. Having regard to the need to advance equality in particular involves the need to remove or minimise disadvantages suffered by persons who share relevant characteristics which are connected with the characteristic. The culture community space being provided as part of the wider regeneration will provide educational, entertainment and community activities to a wide selection of the community, with good access close to all public amenities.

**8 CONSULTATION**

8.1 The report will be considered by the Council’s Corporate Overview and Scrutiny Committee.

**9 TIMETABLE FOR IMPLEMENTATION**

9.1 Implementation date if not called in: immediately.

## 10 APPENDICES

### 10.1 Appendix A – Individual site plans

## 11 CONSULTATION (MANDATORY)

<b>Name of consultee</b>	<b>Post held</b>	<b>Date sent</b>	<b>Commented &amp; returned</b>
Cllr Simon Dudley	Leader of the Council and Maidenhead Regeneration & Maidenhead	1 November 2018	
Andy Jeffs	Executive Director	21 October 2018	23 October 2018
Rob Stubbs	Section 151 Officer	21 October 2018	23 October 2018
Nikki Craig	Head of HR and Corporate Projects	21 October 2018	23 October 2018
Elaine Browne	Law and Governance	21 October 2018	21 October 2018
Louisa Dean	Communications and Marketing Manager	21 October 2018	22 October 2018



## CABINET

THURSDAY, 22 NOVEMBER 2018

PRESENT: Councillors Simon Dudley (Chairman), David Coppinger (Vice-Chairman), Phillip Bicknell, MJ Saunders and Stuart Carroll.

Also in attendance: Councillor Malcolm Beer, Councillor Edward Wilson, Councillor Ross McWilliams, Cllr D Wilson and Councillor Lynne Jones.

Officers: Louisa Dean, Russell O'Keefe, Andy Jeffs, Kevin McDaniel, Hillary Hall, Nikki Craig, Maggie Nelson, Anna Robinson and David Cook.

### APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors N Airey, S Rayner, Targowska, M Airey, Bateson and Hilton.

### DECLARATIONS OF INTEREST

There were no declarations of interest received.

### MINUTES

**RESOLVED UNANIMOUSLY: That the Part I minutes of the meeting held on 25 October 2018 were approved.**

### APPOINTMENTS

The Chairman announced that Cllr Bicknell had been appointed to the Achieving For Children Joint Committee.

### FORWARD PLAN

Cabinet considered the contents of the Forward Plan for the next four months and noted the changes made since the last meeting including the addition of the following report going to December 2018 Cabinet; Sale of Freehold – Lock n Store.

### CABINET MEMBERS' REPORTS

#### A) THAMES HOSPICE - RELEASE OF COVENANT

The Chairman introduced the report regarding the release of restrictive title covenants, at nil consideration, to assist the sale of the Thames Hospice site at Pine Lodge, Hatch Lane, Windsor.

The Chairman informed Cabinet that the land, approximately 1.53 acres, was sold to Thames Hospice in two land sales in 2001 and 2012.

Thames Hospice did an important role in supporting end of life care and that the proposals were an important part of the Trust's relocation strategy to enable the completion of the Trust's proposed new hospice site at Bray Lake to take place.

Restrictive covenants would be attached to the land on which the new facility will sit, to ensure that if the facility is sold at any time in the future, or redeveloped for use other than hospice care, that there is a similar covenant in place in favour of the Council.

The Chairman informed that the report proposed that the covenants would be fixed at the current land value of £2,250,000, however it was proposed to now have this indexed linked following recommendations from the Corporate Services O&S Panel. The hospice had a lot of benefactors and did wonderful work. The new site would be overlooking Bray lake.

The Lead Member for Finance and Economic Development informed that the Royal Borough had made an important investment to support the hospice. He agreed that if the land was sold that the investment should return to our residents. It, therefore, was sensible to roll over the covenants onto the new site whilst supporting the hospice in the excellent work they do.

The Lead Member for Highways, Transport and Windsor informed that the late Cllr Grey and himself had worked with the hospice over the last few years to help facilitate the move to the new site. The Chairman also mentioned his thanks to Peter Prior and Summerleaze for their support of the hospice and for making available the land for the relocation at a very good rate.

**Resolved unanimously: that Cabinet:**

- I. Approves the release of the Thames Valley Hospice Trust from the overage and restrictive covenants that are currently attached to the title of the land.**
- II. Delegates authority to the Executive Director to sign off the release of the existing restrictive covenants.**

**B) Q 2 2018 /19 PERFORMANCE REPORT**

The Chairman introduced the report that report summarised the performance in the first two quarters' of the council's 25 strategic measures in the performance management framework.

The Chairman informed that the 25 key measures aligned to the refreshed Council Plan with the six strategic priorities detailed in section 2.1 of the report. The new performance management framework would also feed into the Residents Survey report that is due to come to Cabinet in January 2019.

Out of the 25 strategic measures 18 (72%) reported in Q2 had met or exceeded the target (Green), 4 measures (16%) (Amber) were just short of the target and three measures (12%) (Red) were below target. The Chairman asked for additional information on the three measures reporting 'Red'.

The Director of Children's Services reported on the measure percentage of children with a review at 2 to 2.5 years of age. Cabinet were informed that to get a better connection with social care the authority were one of a few who had decided to undertake these review by using our health visitors. A number of authorities counted any contact with families as a review, however it had been decided locally only to include face to face contact with families. Although below target performance had been stable over the last two quarters and the service offered after work evening sessions and sessions on Saturday. Parents were reporting that they were satisfied with the high quality feedback they got from childcare providers and thus did not wish to take up reviews offered.

With regards to the number of homelessness preventions through council advice and activity the Chairman asked the interim Head of Housing Services Manager to provide an update.

Cabinet were informed that in the past it had been difficult to help prevent homelessness but new legislation provided a legal framework and thus a wider range of initiatives were required.

The Chairman asked for clarification on the main reasons for homelessness within the Royal Borough and was informed that the three main reasons locally were also national reasons; the end of private tenancies, family breakdown resulting in a family member being asked to leave the home and domestic abuse. Within the Royal Borough the high cost of tenancies was problematic.

The Chairman asked how many families required help and that informed that there are usually about 500 approaches. Not all the families require accommodation sometimes they require advice and support, it was better to help prevent homelessness than having to find accommodation. The Chairman said that as we were talking about 500 families this could mean over 1000 residents and demonstrated the need for more housing, especially affordable housing, which planning panels needed to be mindful of.

Cllr Beer addressed Cabinet and said that agenda page 35 showed the number of affordable homes delivered was 32 at quarter two but the emerging Borough Local Plan required well over 400 affordable homes each year.

The Chairman responded that it took time to produce affordable homes and therefore realistic targets had been set. In central Maidenhead we are using our land to generate 30% affordable housing including significant social rent. The RBWM Property Company had also been established and targeted to provide 1000 affordable units. The Royal Borough had an affordability crisis that was being addressed in part by having the emerging Borough Local Plan. We were moving in the right direction but there was still a lot of work to be done, in Maidenhead alone 800 new homes had been approved.

The Lead Member for Finance and Economic Development informed that at planning meetings he mentions that for every site the council owns or has influence over we should strive to going beyond the affordable housing allocation in the emerging Borough Local Plan with a range of tenure. With regards to the target it should include private development and developers should be encouraged to build more affordable homes above other planning considerations.

The Chairman agreed that planning members were going to have to give consideration to our affordable housing policies and commitments.

The Leader of the Opposition mentioned that private rent was not affordable and asked how the council could influence affordability in the private sector. The Chairman replied that if we increased the availability of private rent on the market than the indexation of rent would soften. Although additional private rentals was important it was not the only answer additional tenures of affordable housing was also important. The Royal Borough will be seeing a number of proposed developments that will ask challenging questions to those on planning because there will be an increase emphasis on affordable housing with mixed tenures.

The Chairman asked for further information about the final 'Red' indicator the performance of the Tivoli contract. The Deputy Director Strategy and Commissioning informed Cabinet that during the first quarter ISS Landscapes was taken over and a new company Tivoli was formed a new management structure was implemented but during this period accurate performance data was not available. Officers worked with Tivoli on improving the performance of contractual obligations, the new management structure was implemented, a new operations manager was in place and front line staff recruited. Improvement trajectory was approved and as of today these were on track with continued improvement expected.

The Chairman mentioned that the recent Residents Survey showed that residents were pleased with our open spaces and parkland and this satisfaction rating would improve as the Tivoli improvements. The performance management framework provided monitoring of performance and remedial actions to be taken.

Cllr Beer asked why the dashboards on page 35 showed targets not being met but the indicators were shown as 'Green'. The Strategy and Performance Manager informed that the diagrams were a visual representation that went beyond the actual target and that performance was as reported on target.

**Resolved unanimously: that Cabinet notes the report and:**

- I. Endorses the quarter 2 performance summarised in table 1 and appendix A.**
- II. Requests relevant Members and Heads of Service to focus effort to improve performance in the areas that are below target and maintain performance in the measures meeting target.**

C) 'BIG BELLY' BINS - BOROUGH WIDE 'PILOT'

The Lead Member for Highways, Transport and Windsor introduced the report that recommended the next step on the introduction of Big Bellied Bins, following the pilot scheme, within the Royal Borough.

Cabinet were informed that the recommendations were built on the success of the original 'pilot' scheme and was recommending that a Borough Wide 'pilot' scheme be introduced based on leasing of 5 'Big Belly Bins' bins.

These bins were connected, solar powered waste bins with sensors that communicate real-time status enabling emptying schedules to be timed to occur when the bin is nearing capacity. In addition the bins include solar-powered compacting technology which effectively increases the capacity of the bin.

Cabinet were informed that section 2.7 of the report showed the proposed locations for the extended trial period, the locations had been chosen due to the impact the technology would have on performance. Although there would be additional costs this would be offset by efficiency savings allowing better use of resources. If the recommendations were accepted implementation would commence March 2019.

Cllr E Wilson attended the meeting and informed Cabinet that he was a bid advocate of the technology and had seen its success across the country. The trial in Windsor had been a success and not only did it save money but there was also a positive impact on anti-social behaviour and the positive impact on local businesses. He commented that this was an excellent report and that members should focus on the 112,000 bin collections that were made each year. There were instances of bins being collected when not full and in Windsor there were two bins five feet apart, the recommendations would be a way forward to improving the situation. He welcomed further expansion of the scheme.

The Leader of the Opposition asked what the criteria was for selecting the locations and when were savings expected to be realised. The reporting Lead Member explained that the locations were chosen on the frequency they were required to be emptied and the positive impact the new bins would have. The new bins impact would be a reduction in the frequency of emptying bins, the reduction in anti-social behaviour associated with overflowing bins and a relocation of resource to further improve the local environment.

**Resolved unanimously: that Cabinet:**

- i) Approves the leasing of 5 'Big Belly' bins which will be installed at locations across the Royal Borough.**
- ii) Approves the allocation of £5,000 in the 2019-20 capital programme and for four subsequent years to implement this initiative.**

D) UPDATED HOMELESSNESS STRATEGY AND HOUSING ALLOCATIONS POLICY

The Lead Member for Planning and Health introduced the report that requested approval for an updated homelessness strategy, approval to formally consult on an updated housing allocations policy and the activation of the Severe Weather Emergency Protocol (SWEP).

The Lead Member informed Cabinet that he was delighted to be presenting this paper as it contained so much good news. There was the homelessness strategy which would guide the Council's approach to the provision of homelessness and rough sleeping services in the Borough over the next five years working with partners.

There had been work and engagement with partners including voluntary organisations such as the Brett Foundation and the Windsor Homeless Project, housing providers such as Radian and Housing Solutions, health service providers and Thames Valley Police. There would be a multi-agency approach to helping the homeless with policies to help prevent homelessness, decrease the need for temporary accommodation, improve the quality of housing provision, support for families, reduced number of rough sleepers and improved services.

The Lead Member reported that if Cabinet approved the recommendations then SWEP would be immediately implemented. The Interim Housing Services Manager informed that by introducing SWEP tonight the Royal Borough would be ahead of other authorities in its implementation as the regulations only required it to be introduced when the temperature dropped to zero or below for three consecutive nights. Not only was the authority introducing it early but also it would remain in place throughout the winter which was far beyond the legislation.

The Chairman asked if any other authority had introduced SWEP and if SWEP was withdrawn when the temperature went above zero. Cabinet were informed that the Royal Borough were the only authority that had implemented SWEP and that they would keep it in place beyond the zero temperature cut of point. The Chairman said that this was a level of care that no other authorities were doing across the country.

The Lead Member also informed that the report also request approval to formally consult on an updated housing allocations policy which sets out how the council assesses applications for housing, prioritises each application and decides which applicant will be offered (allocated) housing. The council would be working with a number of suppliers who they had excellent relationships with. There would be more emphasis on support for those suffering from domestic abuse, better help for those leaving care and a policy that bed and breakfast temporary accommodation would no longer be used.

The Interim Housing Services Manager informed that with regards to care leavers the new policy would allow those placed outside the authority to access housing services if they wish to return to the Royal Borough. During the last 6 month the use of temporary accommodation and use of bed and breakfasts had been reduced as it was felt these were not suitable for families with children.

The Chairman reiterated that this change in policy demonstrated the need to build more houses within the Royal Borough.

Cllr McWilliams addressed Cabinet and said he wished to thank the Interim Managing Director and Interim Head of Housing Services for the support they had provided him and that a lot of work had been undertaken to get to this position. A range of policies had been introduced and work was underway in mitigating the impact of high rent in the area.

Cllr McWilliams said that it was important that the policy framework did not just sit on a shelf gathering dust and that it was important to act upon the commitments and work undertaken. Cllr McWilliams mentioned that there had been consultation with our stakeholders and asked why there had not been wider public consultation. He also asked why a cash lease policy was

not included. The Chairman said that the Lead Member responsible for housing would reply in writing.\*

Cllr McWilliams asked what would happen to those helped by SWEP but were from other authorities when SWEP ended and it was good to see an updated allocation policy but shared ownership policy was not clear. The Interim Housing Services Manager replied that help and support was provide to those individuals picked up by SWEP during the period and it was not left until the protocol came to an end, this included contacting home authorities. We worked with housing providers regarding shared ownership.

The Lead Member for Adult Social Care and Public Health said that this was an excellent paper covering a number of important issues. This showed that we cared for every resident and that vulnerable people deserved our help. He thanked the Interim Housing Services Manager for the help and support given to him regarding his ward. He had worked towards informing the Prime Minister and Secretary of State the need to have joined up policies to help our vulnerable residents. The Chairman mentioned that there would be significant housing developments with the Lead Members ward that would provide affordable housing.

The Opposition Leader said it was excellent approach to SWEP but asked if there was sufficient local accommodation available and di we proactively help to seek out the hidden homeless. In response Cabinet were informed that accommodation, based on historical need, had already been booked. This was as local as possible but it was difficult if people did not wish to relocate with regards to the hidden homeless support and advice was provided, including a GP service available to all homelessness individuals.

Cllr Beer questioned the consultation process and if there would be sufficient funding in place to support the policies. The Chairman suggested he contact the head of service directly regarding the consultation and that there would always be sufficient funding to support the vulnerable in our society.

**Cabinet notes the report and:**

- i) Approves the updated homelessness strategy.**
- ii) Delegates authority to the Executive Director with the Cabinet Member for Environmental Services (including Parking, Flooding, Housing and Performance Management) to engage with registered providers and other key stakeholders on the updated housing allocations policy and approve the final version taking into account comments received.**
- iii) Approves that the Severe Weather Emergency Protocol commences from the date of the meeting or as soon as the temperature drops below the necessary level (whichever comes first).**

**E) APPROPRIATION OF LAND**

The Chairman introduced the report that sought approval for the appropriation of a selection of key council owned sites which have already been approved for redevelopment.

Following the planning approval for the Landings site the Chairman also requested that an additional recommendation be added giving delegated authority for the Acting Managing Director and Leader of Council to include the appropriate red line site for the Landings. The recommendations were an appropriate approach for the development of sites that would also provide additional affordable housing.

The Lead Member for Finance and Economic Development informed that the proposals did not override people's rights of representation regarding future developments. What the proposals did was introduce appropriate filters on potential negativity when authorities bring forward important projects.

The Leader of the Opposition asked for an explanation of easement of rights and was informed that the developer (in this case the council) could take out insurance against compensation claims for issues such as the loss of light. The proposals did not prevent such objections.

The Chairman mentioned that this was a procedural paper but important as part of the development process.

**Resolved unanimously: that notes the report and:**

- i) Approves the appropriation of the following sites (see appendix A red line plans);**
  - a. St Clouds Way, Maidenhead**
  - b. West Street, Maidenhead**
  - c. York Road, Maidenhead**
  - d. Reform Road, Maidenhead**
  - e. Maidenhead Golf Course**
  - f. Ray Mill Road East, Maidenhead**
  - g. Riverside Caretakers House, Maidenhead**
  - h. Mokattam, Maidenhead**
  - i. Brocket, Maidenhead**
  - j. St Edmunds, Maidenhead**
  - k. Vicus Way (Car Park), Maidenhead**
  - l. Broadway (Car Park), Maidenhead.**
  
- ii) Delegates authority for the Acting Managing Director and Leader of Council to include the appropriate red line site for the Landings site.**

**F) FINANCIAL UPDATE**

The Lead Member for Finance and Economic Development introduced the latest Financial Update report.

The Lead Member informed that he had presented the latest financial update and the associated background to the report to Members from all parties and to the appropriate scrutiny panels.

Cabinet were informed that the financial update reports had shown that since July 2018 there had been early pressures on the budget mainly due to the increased demand and cost of children in care, pressure on parking income and recovery of . debt from revenues and benefits. It was reported that there would be a NET pressure of around £1.5 million.

The budget position was being driven by national pressures. The current pressures were being partially mitigated resulting in a net service pressure of £3,044,000 along with an additional £1,500,000 from the Business Rates Pilot, leaving a financial pressure across the Council of £1,544,000 as detailed in appendix A.

The Lead Member informed that at the Corporate Services O&S Panel Cllr Brimacombe had used the analogy of a graceful swan swimming across the lake whilst paddling frantically below the water. The report provided additional appendices detailed what had occurred 'bellow the water' and actions taken to get to the current financial outturn position.

With regards to children in Care the Lead Member for Finance and Economic Development informed that an additional child entering the system could cost between £50,000 t over £150,000 per year. In forecasting the year end position it had been assumed that the national and local increase in demand and cost would continue.

The Lead Member also informed that the other major area of pressure was the projected income from parking. When setting the budget the Lead Member had informed that there had been a policy decision not to increase parking provision for local residents but ,after benchmarking, to increase parking charges proportionally for visitor parking. What had not been expected was that there would be a shift in an increase of resident parking and thus a corresponding drop in projected income due to increased use of the vantage card.

Officers were asked to provide a range of realistic mitigating actions which had also been appended with a matrix of delivery risk. There were also additional funding opportunities such as higher than expected revenue from Business Rates Pooling.

The Council's aggregated usable reserves remained in a healthy position at £8,545,000 (10% of budget) which was in excess of the £5,860,000 (6.87% of budget) recommended minimum level set at Council in February 2018. The Lead Member reiterated the report's recommendations and informed that the projected trends would be taken into account when setting next year's budget.

The Chairman informed that there would be an additional £1.29 million Adult Social Care funding allocated to next year's budget.

The Leader of the Opposition reported that back in 2015 she had raised concern about the rising costs of adult social care, children social care and the increased demand. Yet the budget remained stagnant and council tax was reduced going against the national trend. There was a national trend that budget planners should have been aware of and taken into account when setting the budget. The Leader of the Opposition raised concern about next year's budget, especially as a number of the mitigating actions were one off savings.

The Chairman replied that it was for Members to set policy and for officers to manage the budget, accountability and budget management will be an important consideration when selecting the new Managing Director.

The Lead Member for Finance and Economic Development informed that there had been two large budget variances during the year that had to be dealt with. With regards to the pressure from children in care the report contained an additional appendix that showed that officers felt that there was a decline in demand as forecasted by using three years of data. When setting the budget they were looking at a downward trend and did not budget for the increased demand.

The Chairman mentioned that when setting the 2018/19 budget there was an increase in council tax of 1.9% and the adult social care levee of 3%. If the data that there was going to be an increase in demand had been made available at the time of setting the budget then council tax could have been set at a higher rate with a 2.9% increase. If the right information had been put before Members than a different budget would have been approved.

The Lead Member for Adult Social Care and Public Health informed that with regards to demands in adult social care all avenues at his disposal had been used to help meet demand. He had contacted central government about the need for additional funding and mentioned that by increasing council tax puts more pressure on our residents with low incomes.

The Chairman mentioned that over 70% of revenue was spent supporting venerable members of our society. The Royal Borough had a vibrant economy and a high tax base and this provided use some resilience. There were both local and national issues impacting the budget and we could solve the local issues.

The Leader of the Opposition requested and it was agreed to take mitigating action in children's services to the Children's Services O&S Panel. She also mentioned that she had comparative data with other authorities that showed that although we above other in regards to maintained reserves we were also low down with regards to spend.



The Chairman said that the administration did not wish to increase council tax when there was no evidence that it was required, he would rather leave money with the tax payer rather than sitting in the council's bank account.

The Lead Member for Finance and Economic Development mentioned that the local press had asked him why the administration did not continue to increase council tax over the last ten years, when was it reduced when it could have been increased and added to reserves. This was a view mirrored by the opposition. Cabinet were informed that the council was a revenue based organisation that had a reliable income base so there was no need to steal from our residents to protect ourselves. We tax residents when it is required and maintain a healthy level of reserves.

The Leader of the Opposition said that they had had never said that council tax should be increased but that it should be maintained at was then the current level rather than having it reduced.

The Chairman said that the Residents Satisfaction Survey showed that we had a 65% value for money satisfaction rating compared to a 45% rating nationally. The Royal Borough had the lowest council tax rates outside of London, the administration ran a tight ship as it was our residents money.

The Lead Member for Highways, Transport and Windsor mentioned that the Royal Borough was in an excellent financial position when compared to many other authorities across the country, yet we still provided what our residents expected such as weekly waste collection. Other authorities were looking at £20 million to £30 million pressures whilst we had a £1.5 million pressure. We were transparent with our residents and doing a good job. The Chairman said that 88% of our residents were happy with waste collection.

The Lead Member for Finance and Economic Development replied to the Leader of the Opposition that if Council Tax had been maintained over the past few years and not reduced than our tax payer would have paid 5-10% more. At least £25 million of addition tax would have been collected from our residents that was not required.

The Leader of the Opposition said that there was a £7.4million overspend that had been mitigated. We were looking at the same pressures next year. She felt that the administration could have done better. The Chairman replied that in certain areas thing could have been done better, however this administration delivered value for money and did not squander council tax payers money.

**Resolve unanimously: that Cabinet:**

- i) Notes the Council's projected outturn position for 2018-19 and notes work undertaken to identify mitigations to deal with pressures.**
- ii) Approves a capital budget of £50,000 to fund the Eton Brook and Barnes Pool restoration project. See paragraph 3.2.**
- iii) Approves an additional grant funded budget of £476,500 for Adult Social Care Winter Funding 2018-19. This grant has been awarded from the Department of Health and Social Care to the Council to alleviate winter pressures on the NHS, getting patients home quicker and freeing up hospital beds. See paragraph 5.18.**

G) LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF THE PUBLIC

**RESOLVED UNANIMOUSLY: That under Section 100(A)(4) of the Local**

**Government Act 1972, the public be excluded from the remainder of the meeting whilst discussion takes place on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 1-7 of part I of Schedule 12A of the Act.**

**Financial Update - Resolved unanimously: that Cabinet noted the Part II appendix.**

The meeting, which began at 7.30 pm, finished at 9.40 pm

CHAIRMAN.....

DATE.....

\*Addendum to minutes of Cabinet 22/11/18:

Councillor M. Airey responded to the question from Councillor McWilliams about consultation on the housing policy at Full Council on 11 December 2018. Please see the link below for details:

<https://rbwm.moderngov.co.uk/mgAi.aspx?ID=11122>

Councillor M. Airey responded to the question from Councillor McWilliams about a cash lease policy with a verbal response directly to Councillor McWilliams; a summary is provided below:

*The cash lease policy was not included in the homelessness strategy due to the fact that this piece of work will form part of a different strategy which involves the MEAM coordinator. The cash lease policy is absolutely still part of our strategy to support the homeless.*