

NOTICE
OF
MEETING



**CABINET PRIORITISATION SUB
COMMITTEE**

will meet on

WEDNESDAY, 18TH JANUARY, 2017

At 1.30 pm

in the

COUNCIL CHAMBER - GUILDHALL, WINDSOR

TO: MEMBERS OF THE CABINET PRIORITISATION SUB COMMITTEE

COUNCILLORS SIMON DUDLEY (CHAIRMAN), PHILLIP BICKNELL (VICE-CHAIRMAN),
DAVID COPPINGER AND CARWYN COX

Also in attendance: COUNCILLOR LISA TARGOWSKA

Karen Shepherd - Democratic Services Manager - Issued: Tuesday, 10 January 2017

Members of the Press and Public are welcome to attend Part I of this meeting. The agenda is available on the Council's web site at www.rbwm.gov.uk or contact the Panel Administrator **Karen Shepherd** 01628 796529

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AGENDA

PART I

<u>ITEM</u>	<u>SUBJECT</u>	<u>PAGE NO</u>
1.	<u>APOLOGIES FOR ABSENCE</u> To receive any apologies for absence	
2.	<u>DECLARATIONS OF INTEREST</u> To receive any declarations of interest	5 - 6
3.	<u>MINUTES</u> To consider the minutes of the meeting held on 13 October 2016	7 - 12
4.	<u>UNAUTHORISED TRAVELLER DEVELOPMENT AT SHURLOCK ROAD, WALTHAM ST LAWRENCE</u> To consider the above report	13 - 20
5.	<u>LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF THE PUBLIC</u> To consider passing the following resolution:- "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 item 5 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 1-7 of part I of Schedule 12A of the Act"	

PRIVATE MEETING

6. **UNAUTHORISED TRAVELLER DEVELOPMENT AT SHURLOCK ROAD, WALTHAM ST LAWRENCE**

21 - 54

To receive the Part II appendices to the earlier Part I report

(Not for publication by virtue of Paragraph 1, 2 of Part 1 of Schedule 12A of the Local Government Act 1972)

MEMBERS' GUIDANCE NOTE

DECLARING INTERESTS IN MEETINGS

DISCLOSABLE PECUNIARY INTERESTS (DPIs)

DPIs include:

- Any employment, office, trade, profession or vocation carried on for profit or gain.
- Any payment or provision of any other financial benefit made in respect of any expenses occurred in carrying out member duties or election expenses.
- Any contract under which goods and services are to be provided/works to be executed which has not been fully discharged.
- Any beneficial interest in land within the area of the relevant authority.
- Any license to occupy land in the area of the relevant authority for a month or longer.
- Any tenancy where the landlord is the relevant authority, and the tenant is a body in which the relevant person has a beneficial interest.
- Any beneficial interest in securities of a body where
 - a) that body has a piece of business or land in the area of the relevant authority, and
 - b) either (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body **or** (ii) the total nominal value of the shares of any one class belonging to the relevant person exceeds one hundredth of the total issued share capital of that class.

PREJUDICIAL INTERESTS

This is an interest which a reasonable fair minded and informed member of the public would reasonably believe is so significant that it harms or impairs your ability to judge the public interest. That is, your decision making is influenced by your interest that you are not able to impartially consider only relevant issues.

DECLARING INTERESTS

If you have not disclosed your interest in the register, you **must make** the declaration of interest at the beginning of the meeting, or as soon as you are aware that you have a DPI or Prejudicial Interest. If you have already disclosed the interest in your Register of Interests you are still required to disclose this in the meeting if it relates to the matter being discussed. A member with a DPI or Prejudicial Interest **may make representations at the start of the item but must not take part in discussion or vote at a meeting.** The term 'discussion' has been taken to mean a discussion by the members of the committee or other body determining the issue. You should notify Democratic Services before the meeting of your intention to speak. In order to avoid any accusations of taking part in the discussion or vote, you must move to the public area, having made your representations.

If you have any queries then you should obtain advice from the Legal or Democratic Services Officer before participating in the meeting.

If the interest declared has not been entered on to your Register of Interests, you must notify the Monitoring Officer in writing within the next 28 days following the meeting.

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Agenda Item 3

CABINET PRIORITISATION SUB COMMITTEE

THURSDAY, 13 OCTOBER 2016

PRESENT: Councillors Simon Dudley (Chairman), Phillip Bicknell (Vice-Chairman), Lisa Targowska and Derek Wilson

Also in attendance: Councillors Christine Bateson, Malcolm Beer, John Bowden, David Hilton, Lynne Jones and Samantha Rayner.

Officers: Alison Alexander, Wendy Binmore, Louisa Dean, Simon Fletcher, Craig Miller, Chris Nash and Mary Severin.

APOLOGIES FOR ABSENCE

None.

DECLARATIONS OF INTEREST

None.

MINUTES

RESOLVED UNANIMOUSLY: That the Part I minutes of the meeting of the Sub Committee held on 16 April 2015 be approved.

HEATHROW AIRPORT EXPANSION - LEGAL CHALLENGE

Councillor Dudley explained it was a very important decision for the Royal Borough of Windsor and Maidenhead but it is not one that has been arrived at suddenly. The Council had been campaigning tirelessly for years to protect residents against the effects of any expansion at Heathrow Airport. The Council was extremely supportive of what was a world class airport and the Borough wanted a better, not bigger airport.

Cllr Dudley stated that since 2008 there had been seven motions to Council relating to Heathrow. In January 2015, the Council commissioned Ipsos Mori to conduct research in respect of the views of the residents of the Royal Borough of Windsor and Maidenhead and at that time, the research came back broadly negative on the expansion at Heathrow Airport and significantly positive on the expansion of Gatwick Airport. The decision on the expansion of Heathrow Airport was imminent and due any day, in July 2016 the Council wanted to refresh the research from Ipsos Mori which was included in Appendix A. The questions asked of residents within the survey were very straight forward. Cllr Dudley was surprised that despite the amount of public relations work that had been done, that over the course of an 18 month period from January 2015 to July 2016, there was very little movement in the views of residents. The research took place across the Borough and came out with the position that was negative against the expansion at Heathrow and positive on the expansion of Gatwick Airport.

The Royal Borough of Windsor and Maidenhead had joined together with the London Borough's of Hillingdon, Richmond and Wandsworth; and the four local authorities together represented almost one million residents in the west of London. All four Local Authorities were united to protect those residents. There had been extensive dialogue with the government over the course of the last few months, and a letter had been sent to the previous Prime Minister in February 2016 which was also included in the report along with other

correspondence. The Royal Borough and the three other local authorities were now awaiting the decision.

The London Borough's of Hillingdon, Richmond and Wandsworth, along with the Royal Borough of Windsor and Maidenhead had not arrived at the decision to request a judicial review suddenly, they had been building up to it reluctantly over the course of the last few years but, it may never happen and Cllr Dudley stated he sincerely hoped the judicial review would not need to go ahead because the expansion at Heathrow Airport would not go ahead due to legal challenges, inability to satisfy environment and health and other significant factors that it wasn't a choice to choose something that would never happen. So there was only one viable choice in front of the government at present which was the expansion of Gatwick Airport, which itself would still affect residents in that area and no one wanted to see people adversely affected anywhere but, it would only affect one tenth of the people it would affect should the expansion go ahead at Heathrow Airport.

In 2006, Cllr Dudley was part of the team that took BAA private and then refinanced it in 2008, he remembered the view of government at that time which was very strongly that they wanted the BAA monopoly dismantled and other assets to dismantle a dominant market position. Cllr Dudley dealt with that as a banker for years so, from his perspective, it made no sense at all to return to a position where government themselves had wanted to move away from which was a dominant market position. And on competition grounds as well, there should be two world class airports and that competitive choice for airlines and passengers, that is what the government wanted to do when they took BAA private and he could not understand why the government would reverse that direction as it did not make sense.

Cllr Dudley explained that the recommendations which included the potential spending of tax payers money, a total of £50k for the judicial review. To put that in context, there were in the region of 65,000 to 70,000 households within the Royal Borough of Windsor and Maidenhead; therefore, the proposed action would cost each household less than £1 to protect countless thousands residents who already were adversely effected by Heathrow Airport and with the expansion, the airport would be a mile closer to the Royal Borough of Windsor and Maidenhead and would adversely effect even more residents than at present to an even greater degree.

Cllr Jones who was not a voting Member of the Panel explained that in her opinion Heathrow expansion was not deliverable. The expansion would have a serious impact on residents. Noise levels in Old Windsor were already above World Health Organisation guidelines and further expansion and extra flight paths would be to the serious detriment to the residents she represents and the area that would effect would expand further into the Borough. Another reason the expansion is undeliverable was traffic congestion; the arterial routes were already congested and with the M4 and M25 with extra traffic which had not been considered, she felt the whole area would grind to a halt and people trying to get around and get to their places of work, the expansion would effect them immensely. Cllr Jones added she had lived in the Borough for 40 years and she was a supporter of Heathrow Airport as it was but, she did not support the expansion.

Cllr D Wilson stated that as a Maidenhead Councillor and Lead Member for Planning, he took the view along with Cllr Beer who was heavily involved with the Heathrow Airport Consultative Committee (HACC), and the Local Authorities Airport Noise Council, to prepare a letter to the then minister for Housing and Planning, Brandon Lewis and also sending a copy of the letter to the MP for Maidenhead, who was now the Prime Minister, Teresa May; the letter was to explain issue the Royal Borough would face with the potential expansion at Heathrow and a third additional runway. Part of the proposal was to increase the amount of housing required to fill the jobs they are proposing to make. Part of that would mean an additional 5,000 houses would need to be built within the 14 neighbouring authorities that surrounded Heathrow Airport, on top of demands already placed through the Strategic Housing Market Assessment. That sort of volume of housing when the Borough is already trying to meet its objectively assessed need figure which was 712 dwellings per annum, the commission in 2014

recommended 5,000 of those dwellings should be placed in each of the Boroughs surrounding Heathrow. Cllr D Wilson added there were a number of constraints within the Royal Borough such as Green Belt land, Crown Estate land, Special Sites of Scientific Interest, the Thames Basin and Special Protection Area and also the functional Flood Plane; all of those areas constrained where development could take place and he wanted to alert the Secretary of State as to the reasons of what the implications were likely to be if they were to grant the third runway. Cllr D Wilson was very pleased he was able to send a copy of the letter to the then home secretary who was no the Prime Minister as it highlighted the issues faced in the Royal Borough and from that perspective, it was important to alert them to the particular issues.

Cllr Dudley wanted it on record that the Member of Parliament for Windsor, Adam Afriyie had fought a long campaign and had undertaken to continue with that campaign to protect his constituents. Councillor Dudley thanked him for his hard work and contribution.

Cllr Bicknell commented that some years previously, he was the Chairman of the Aviation Forum and Adam Afriyie attended several meetings of the Forum. He felt people needed to understand that it was about real lives that were affected. He understood the commercialism, and he understood that Heathrow was running at 98.5% capacity and from a business point of view, Heathrow felt that they needed to increase that; which meant increasing the number of flights and the number of passengers travelling through and that would automatically multiply the use of the infrastructure to support that level of activity. With regards to the night flights, there are children in the Borough that go to school and turn up to class tired because they had been woken up at 4am by aircraft noise, there are lots of technical reasons that he was aware of where the airport were limiting the number of night landings and take offs they were allowed to do but, for technical reasons, aircraft were getting around that which meant take offs and landings were happening at all different times of the night which woke children up and had an adverse impact on residents. Cllr Bicknell stated there was a danger of wrecking those children's chances in life and it was not just about money and land grabbing from an overall view. Cllr Bicknell understood it that Heathrow had no intention of reducing or stopping any of those night flights. When looking at both sides of the proposals, it was about real people and real residents and the Ipsos Mori Poll showed the opinions. Gatwick made sense; he was currently Lead Member for Transport and a fast link between Heathrow and Gatwick, would take less than 30 minutes would not be a noticeable inconvenience to someone travelling. Cllr Bicknell confirmed he was very much in favour of the recommendations in the report and supported the proposals; although he hoped the situation would not come to that.

Cllr Dudley stated one of the Borough's local papers was running a poll on the expansion at Heathrow and currently, residents were voting 73% in support of legal action; which was a significant democratic mandate.

The Legal officer explained to the Panel what the legal process was of a judicial review. The judicial review was a type of court proceeding which will challenge a decision made by a public authority, which in this case is a public government. It was important to understand the court will review whether the decision was made properly, taking into account the very important legal criteria and if a court finds it had not taken into account important criteria, in this case evidence such as noise and the extra pollution and deal with it properly, the court could quash the decision and send it back to the decision maker. They can not exchange the decision for what the court thinks best.

Alison Alexander, Managing Director & Strategic Director of Adults, Children and Health Services stated that the potential judicial review was across four local authorities so it was important that the authorities worked collectively and there was consistency. So what was being agreed was that there was a group across the four authorities that had officer representatives on and the Leaders of the four Council's had conversations and there would be a memorandum of understanding to confirm how the four authorities would operate and then there would also be an internal working group Chaired by the Leader of the Council with the Lead Member for Environment Services, the Principal Member for Legal Services and HR and the Chairman of the Aviation Forum so that there was that forum so if approved today, the

delegation was given to make decisions moving forward against any action that the Council took.

Cllr Beer stated he had represented the Borough on HACC for 17 years, he Chaired the Local Authorities Aircraft Noise Council for 9 years and been a member of it for 17 years, and that committee dealt with all environmental problems and it had been represented by the Lead Environmental Officers for approximately 16 Councils; it was a very active and well informed forum. It worked very closely with 2M which was very active in taking on the challenge of Terminal 5 which produced a number of safeguards for residents such as noise insulation for people worse effected by aircraft noise. Cllr Beer stated he attended quite a few of the open meetings of the Airport Commission and he pointed out there was no community representation there at all and was told their views would be taken on board at a later date. The problem with Heathrow is that it has outgrown its space and everything related to it. The figures state that there are 260,000 flights per year which was 54% growth than what was there currently. New aircraft took twice as many passengers than at the time of Terminal 5 being built so there were enormous numbers of people using the airport and travelling to and from it. Heathrow said it wanted 40% of its passengers to travel to and from the airport using public transport; they were now saying they wanted that to increase to 60% using public transport but, Heathrow never achieved the 40% so Cllr beer was not sure how Heathrow were going to increase public transport users to 60%.

Cllr Beer explained that he had teamed up with Cllr D Wilson to address the housing issues; the initial reports of the commission said it would be enormous numbers possibly up to 70,000 dwellings but the commission did not know, but on page 141 of the commission's report, on each of the runway proposals at Heathrow and Gatwick, they only had one page on housing and they said it would be a considerable challenge to local authorities and they did not address it. One of the latest reports from the Commission states there are 100,000 people unemployed in West London already living there so there wont be the need to build extra housing. It was ludicrous.

Cllr Dudley thanked Cllr Beer on behalf of residents for the tireless work he had undertaken over the years.

Cllr Alexander a third runway would mean total disruption to the residents of his ward. He explained he moved to Windsor two years ago from where in Hertfordshire he spent 23 pleasant years where in his garden aircraft would fly over at 23,000ft off towards Stansted. The only difference now was that the planes flew over his garden at 2,300ft in a straight line when they came in from the west. Cllr Alexander stated he had great affection for the London Borough of Hillingdon as he was born there; he had relations in Ickenham and Ruislip and there were concerns regarding construction disruption a third runway would cause; bearing in mind, they could also get HS2. The delivery of HS2 around Ickenham along with the delivery of a third runway at Heathrow, it could end up with a construction perfect storm. And that was a real concern and not something that should be ignored. Gatwick is the right proposal. Cllr Alexander saw a plan approximately ten years ago looking down on Heathrow in the middle with hub airports around the edge in the form of Luton, Gatwick and Stansted with a road system that linked it with roadways and carriageways that would have cost a fraction of what it would cost for the expansion at Heathrow.

Cllr David Hilton stated residents would chose he came to speak in support of the recommendation in the report and he spoke for them. He wondered if Members were aware that the only noise limits measured at Heathrow were 6.5km from the point Aircraft started to roll on the runway. No other constraints and the regulator had no powers to constrain or moderate aircraft noise. So, shamefully, residents in Windsor, Old Windsor, Ascot and the Sunnings had absolutely no protection. Residents understood the impact of aircraft noise and for them, a third runway at Heathrow was a frightening prospect. He applauded the determination and responsibility of Cllr Cox and Cllr Dudley in presenting the paper and for the Council overall for speaking out on behalf of the residents who knew that the council would do all it could to afford them some protection.

Cllr Hilton explained that he attended Heathrow's Community Noise Forum and spoke to people from Runnymede, Spelthorne, Surrey Heath and Bracknell and they wished their local Council's took this issue as seriously as the royal Borough did. Cllr Hilton wholeheartedly support the Council's recommendations.

Cllr Bateson said she echoed what Cllr Hilton said and added that when she bought her house, she bought it in Ascot because it was not directly under the flight path but now, it was very noisy as it was directly under the flight path. Therefore, she could understand what the residents of Wraysbury, Horton and Windsor had been going through for many years. Children waking early in the morning due to morning flights. And in the evening, there were the very late flights going over at 11 or 12pm as well as the early morning flights at 5 or 6am. The other issue was the congestion and it was not just the congestion on the M25 or the M4 but, where the South of the Borough reached round to the M3, that was used by residents in the South of the Borough and that was badly congested without the expansion. Cllr Bateson added there were already three runways at Heathrow as one of them used to be used when there were high winds, although not in use anymore so, theoretically there are three runways at Heathrow but Gatwick only had one runway. Sensibly, Gatwick was the right choice for expansion.

Cllr Dudley read out a statement from Councillor Colin Rayner which stated he gave the Council his full support to fund legal action against expansion at Heathrow and he was there to protect his residents.

Cllr Bowden stated there were mentions of a land grab, and he wanted to provide some technical detail on that. Runway three would be one mile closer to the Royal Borough of Windsor and Maidenhead, so West Windsor and the Whole of Windsor, aircraft would be 300ft lower, noisier and more often. The three runway operation for Heathrow meant there would be parallel operations there on either the centre and the offset runway or on either side and it would also increase the mixed mode and alter the alteration which took place on westerlies which took place at three o'clock each day over the Hounslow area. To achieve the runway, they would need to build a tunnel under the M25 that would be eight lanes wide and would need to go over an additional hill to exit to cut clear the M4; which would create congestion and pollution problems. Cllr Bowden added to the residents, not to use the A4 as that would need to be diverted and also the Stanmore Road which would be used permanently by freight vehicles, passenger vehicles as well as other road users and would act as a diversion route for the M4 and M25. Terminal 5 would be extended and double in size. To facilitate the new runway, the waste and energy plant at Colnbrook would need to be removed and relocated. The BT Data Centre would need to be moved, the detention centre in Harmondsworth would need to be moved along with a number of hotels as well as a substantial number of residential properties. That was trying to offset by increased rail access by Heathrow for passengers which was feasible from the western side but, did not seem to know anything about the four level crossings at Clapham Junction or, the level crossings in Sunningdale. Cllr Bowden added he had been a resident since 1973 in Staines and then 20 years in Windsor, he knew about the airport, he accepted that and the aircraft but, Heathrow was big enough as it was and it could not get any bigger.

Robert Barnstone, Stop Heathrow Expansion, stated his group was based in Harmondsworth which was the village facing demolition. A lot of the residents were completely reassured that their local authority along with the Royal Borough of Windsor and Maidenhead and the other two local authorities were standing up for their homes, their livelihoods, their places of worship and their schools and he echoed the comments made by Cllr Hilton that people that happen to live in local authorities such as Slough and Spelthorne that very strongly support the expansion at Heathrow feel unrepresented and a lot of residents had been in touch to say they were pleased with what the local authority was doing.

Cllr Dudley stated he felt there had been a full discussion around the report. The mandate to propose the judicial review was that there were 57 Councillors within the Royal Borough, and all 57 Councillors irrespective of their politics stood in May 2015 on a mandate of no expansion at Heathrow Airport so there was unanimity across the Borough. The Conservative

group had two manifesto commitments which were to maintain the lobby against Heathrow expansion and to continue the campaign against Heathrow expansion and to protect Windsor from night flights and more aeroplanes. Therefore, every conservative Councillor stood on a mandate to prevent the expansion at Heathrow Airport. Cllr Dudley added the Council had locked together with three other local authorities who represent one million people. The Council was initially approving from the Royal Borough of Windsor and Maidenhead £50,000 of funding for potential legal action against expansion. The Borough was ready to take such legal action if a decision was taken to expand Heathrow Airport. The Council did not need to do that because a decision was yet to be made and the Borough sincerely believed that the only deliverable option was expansion at Gatwick Airport. The Council would not spend the money if the government chose to expand Gatwick.

Cllr Dudley asked all Members present who were not Members of the Panel if they supported the recommendations, they unanimously agreed.

UNANIMOUSLY RESOLVED: That Cabinet:

- 1. Delegates authority to the Leader of the Council and Managing Director in consultation with an internal ‘Heathrow/JR working group’, chaired by the Leader and including the Lead Member for Environmental Services & Parking, Principal Member for Human Resources and Legal, Chairman of the Aviation Forum, Managing Director, Strategic Director of Operations & Customer Services, to build a robust Judicial Review case against any decision made by Government to expand Heathrow Airport and to give instructions for the issue of legal proceedings if appropriate.**
- 2. Approves (if required) sharing of the Royal Borough’s position to the Aviation Forum, scheduled for 3 November 2016.**

LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF THE PUBLIC

The meeting, which began at 9.00 am, finished at 9.47 am

CHAIRMAN.....

DATE.....

Agenda Item 4

Report Title:	Unauthorised Traveller Development at Shurlock Road, Waltham St Lawrence
Contains Confidential or Exempt Information?	Report Part I. Appendices Yes – Part II Not for publication by virtue of paragraphs 1 and 2 of Part 1 of Schedule 12A of the Local Government Act 1972.
Member reporting:	Cllr Wilson - Lead Member for Planning.
Meeting and Date:	Cabinet Prioritisation Sub-Committee. 18 January 2017.
Responsible Officer(s):	Russell O’Keefe – Strategic Director Jenifer Jackson, Head of Planning Victoria Goldberg, Team Manager (Enforcement) Arron Hitchen, Senior Enforcement Officer
Wards affected:	Hurley and Walthams

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REPORT SUMMARY

Following the Supreme Court decision the Council should now consider how to dispose of the matter to resolve the breach of planning control. This report appends an enforcement report that sets out a detailed history of this matter and also options now available to the Council.

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATION:

That Cabinet Prioritisation Sub-Committee notes the report and:

- i) The Council takes action under Section 178 of the Town and Country Planning Act 1990 to carry out all steps required by the Enforcement Notice to clear the site and resolve the breach of planning control
- ii) The Council continues to engage the services of Shergroup Enforcement.
- ii) All key operational decision making be delegated to the Head of Planning, in consultation with the Lead Member for Planning and the Council’s Monitoring Officer in association with any legal advice from Select Business Services: Legal Solutions during the site clearance, to take such action to ensure the termination of the unauthorised development at Shurlock Road including, but not limited to, specific tasks as so described in the report.

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

- 1.1 Officers have considered the Service Impact Assessment (Final) and looked at the Planning Policy that the development is in breach of and are of the firm opinion that the now illegal use of the land is clearly contrary to the Royal Borough's Planning Policy, Local Plan 1999 (Including Alterations Adopted in June 2003) including green belt and the flood plain.
- 1.2 The planning merits of the use of the land as a traveller site have been tested by the Local Planning Authority, Planning Inspectorate and assessed by the Secretary of State. It can be seen from the Inspector's recommendation and the comments of the Secretary of State that it 'strongly supports' the Council's planning case. It is evident that no very special circumstances exist and the now illegal use is not only contrary to Policy but does have a continuing adverse impact on local residents.
- 1.3 Enforcement action was instigated under the Town and Country Planning Act 1990 (as amended). It is an offence under the Legislation for failing to comply with the requirements of an Enforcement Notice. This legislation is compliant.
- 1.4 The impact on the traveller community by taking direct action has to be balanced against the impact on other residents within the Borough, for whom the protection of the Green Belt plays an important part in their social, environmental and economic well-being

Unauthorised Traveller Development at Shurlock Road, Waltham St Lawrence

Option	Comments
Do nothing;	Not recommended
Take proceedings in the criminal courts for breach of the enforcement notice pursuant to s.179 TCPA 1990;	Not recommended
Continue to resolve to take direct action pursuant to section 178 of the TCPA 1990;	Recommended
Apply to the High Court for an injunction pursuant to s.187 (B) of the TCPA 1990;	Not recommended

3. KEY IMPLICATIONS

3.1 Unauthorised Traveller Development at Shurlock Road, Waltham St Lawrence

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
Termination of unauthorised development at Shurlock Road, Waltham St Lawrence,	Continued unauthorised use, and continued concern of residents in Waltham St Lawrence	Incursion terminated as soon as practically possible. Eviction action commences 48 hours following letter to quit and all works completed within 15 working days.	All works completed within 10 working days of the commencement of action.	All works completed within 7 working days of the commencement of action	TBC

4. FINANCIAL DETAILS / VALUE FOR MONEY

4.1 Whilst the Travellers at Shurlock Road remain in unauthorised occupation the Royal Borough will continue to face legal and other costs in taking appropriate action. The contract sum with Shergroup is £116,000 and approved by this committee.

5. LEGAL IMPLICATIONS

5.1 Town and Country Planning Act 1990 (as amended) applies.

6. RISK MANAGEMENT

6.1 Unauthorised Traveller Development at Shurlock Road, Waltham St Lawrence

Risks	Uncontrolled Risk	Controls	Controlled Risk
The Shurlock Road occupants instigate legal	HIGH	Robust legal defence of its actions by the	MEDIUM

Risks	Uncontrolled Risk	Controls	Controlled Risk
action against the council by way of challenge to the Sub-Committee's decisions (Leave to apply for JR, or injunction)		council	
Inadequate communications with the Traveller community at Shurlock Road, showing the Royal Borough's intent and readiness, and willingness to work with them in mitigating the effects of the eviction process	HIGH	Communications will continue to be an important part of the Council's work, working through the contractor and the council's own Press team	MEDIUM
Failure to keep the local settled community fully in the picture and involved as appropriate as actions develop during the eviction process, including information to road users about possible road closures and other local disruption	MEDIUM	Communications locally, especially with Waltham St Lawrence residents, by the council and through Thames Valley Police	LOW
On taking possession of the site the contractor/council find ground contamination which will take time to assess and which may require remediation action that will delay the programme of	MEDIUM	This risk is unknown but from site visits made by council staff it is not believed to be significant. Proper ground assessment will be undertaken as thought necessary	LOW

Risks	Uncontrolled Risk	Controls	Controlled Risk
scheduled works			
Livestock including horses and goats, as well as domestic animals and chickens, cannot be accommodated	MEDIUM	The action plan allows for animal welfare. The field on the other side of Shurlock Road, which belongs to the council, could be used to accommodate horses.	LOW
Caravans and other plant and paraphernalia removed by the contractor cannot be stored	MEDIUM	The council will be obliged to store these assets for only three days before they can be sold.	LOW

7. POTENTIAL IMPACTS

7.1 Material considerations; This covers inter alia:

- Breach of planning policy especially in relation to the Green Belt and to flood risk
- Responsibilities of the council under Section 11(2) of the Childrens Act 2004
- Responsibilities of the council under s.149 of the Equality Act 2010
- National planning policy for traveller accommodation needs
- Planning history
- Health, social services and other needs
- Human rights considerations
- Proportionality and weight should direct action be agreed

Summary of material considerations:

- 7.2 The continued use of the land for residential purposes with associated infrastructure, structures and hardstanding is in clear breach of an extant enforcement notice and is a criminal offence.
- 7.3 Section 11(2) Children Act 2004 notes that the Local Planning Authority must make arrangements for ensuring that its functions are discharged having regard to the need to safeguard and promote the welfare of children and persons discharging those functions must have regard to this need.
- 7.4 Section 149 of the Equality Act 2010 provides that a public authority must, in the exercise of its functions, have due regard to the need to eliminate discrimination harassment victimisation against gypsies or travellers, advance equality of opportunity and foster good relations.

- 7.5 The Council must consider the accommodation needs of the gypsy and traveller community in the context of the current national policy in the Planning Policy for Travellers sites, and that the Council has not succeeded in finding the necessary sites to meet that need and therefore it is currently not fulfilling the requirements of the PPTS.
- 7.6 All health, social service and any other needs require consideration on an individual basis, the individual needs of the families must be weighed in the balance. Human rights considerations in particular Article 8, give a right to respect for a person's home. Where a dwelling has been established without planning permission there is a conflict between this right and the right of others in the community to environmental protection.
- 7.7 It is for members to judge the weight that should be attached to each consideration, whilst remembering that the best interests of the children are a primary consideration. If they conclude that the circumstances of the occupiers, and the hardship suffered if enforced against, are insufficient to outweigh the upholding of the Council's legitimate aim of enforcement of the criminal law in the public interest, then Members must consider what option to pursue to secure compliance with the Enforcement Notice. The appended Enforcement report details these material considerations in more depth and also fully sets out the planning history for the site.

8. CONSULTATION

- 8.1 At Waltham St Lawrence there has been regular informal consultation and discussion with a residents group about the particular traveller issues there, facilitated by Councillor Cox.
- 8.2 The Member Working Group under the chair of the Lead Member for Planning has continued to meet to review progress towards ensuring the successful clearance of this site.
- 8.3 An Officer Core Group, under the chairmanship of the Head of Commissioning for Adult Social Care and Housing, has met frequently since February 2013, to review all actions and to plan for the possible eviction. The group includes representation from Children's Services, Adult Social Care, Finance, Legal Services, Press and Public Relations Team, Planning and Enforcement, Shared Legal Solutions, and Procurement. There has been regular liaison with Thames Valley Police.
- 8.4 The Press and Public Relations Team will produce a communications action plan (Shauna Hichens) to operate alongside Shergroup's plan. All interested parties including Ward Members will be consulted on this. It includes provision for the press on the day of eviction, as required.
- 8.5 Consultation with Counsel has continued.
- 8.6 The adjacent boroughs have been kept fully informed and have been asked for advice about possible sites. There has also been liaison with Buckinghamshire and Oxfordshire County Councils.

9. TIMETABLE FOR IMPLEMENTATION

- 9.1 Should the decision to take Direct Action be confirmed by the CPSC and assuming no legal challenge, and unless a different date is agreed, the eviction process will commence following the Landowner and occupants being served with a 48 hours notice of the Local Planning Authority's intention to exercise its powers to enter the land and carry out the steps required by the enforcement notice

10. APPENDICES

- 10.1 Enforcement report and Service Impact Assessment - Part II

11. BACKGROUND DOCUMENTS

- 11.1 Enforcement Notice was issued on 24 December 2009;
Royal Borough of Windsor and Maidenhead Local Plan 1999 (Incorporating Alterations, Adopted June 2003);
Town and Country Planning Act 1990;
Planning Policy Guidance.

12. CONSULTATION (MANDATORY)

Name of consultee	Post held	Date sent	Commented & returned
Cllr Dudley	Leader of the Council	10 January 2017	
Cllr D Wilson	Lead Member for Planning		approved
Cllr Coppinger	Lead Member for Adult Services and Health		
Nick Davies	Head of Commissioning for Adult Social Care and Housing		
Matthew Tucker, Solicitor	Select Business Services: Legal Solutions SBS	10 January 2017	approved

REPORT HISTORY

<p>Decision type: Key decision;</p> <p>Officers and the council's legal advisors believe that all relevant information to enable the Sub-Committee to make a decision has been collected and presented to Members</p>	<p>Urgency item? Yes/</p> <p>The report recommends, in part, that the Council takes action under Section 178 of the Town and Country Planning Act 1990 to carry out all steps required by the Enforcement Notice to clear the site and resolve the breach of planning control. This will re-affirm the Council's resolutions from February and April</p>
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2013 and should members continue to resolve to take direct action officer will need to be in a position to carry out the Council's resolve in a swift and timely fashion to minimise the risk that the Council's resolution will be challenged in the Courts before it can be acted upon. Therefore, any delay in carrying out the resolution may seriously prejudice the Council's interests.

It is further officer recommendation that all key operational decision making be delegated to the Head of Planning, in consultation with the Lead Member for Planning and the Council's Monitoring Officer in association with any legal advice from Select Business Services: Legal Solutions during the site clearance, to take such action to ensure the termination of the unauthorised development at Shurlock Road including, but not limited to, specific tasks as so described in the report and therefore officers recommend to the Mayor that he/she agrees that the proposed action is reasonable and any action will be taken by authorised officers whilst having due regard to Council key objectives and risk management.

Under the regulations, if a report for Cabinet or one of its Sub Committees has not been listed on the Forward Plan at least 28 calendar days prior to the meeting, the approval of the relevant O&S Chairman is required to include the item on the agenda.

The Chairman of the Planning & Housing Overview & Scrutiny Panel has agreed to a report being added to the agenda for a Cabinet Prioritisation Sub Committee on 18 January 2017 that had not previously been listed on the Forward Plan.

The Part I and Part II item relates to potential enforcement action at the Shurlock Road traveller's site. In addition, please note that the Mayor has agreed to a waiver of the call-in process as any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests.

Report Author: Jenifer Jackson Head of Planning 01628 796042

Agenda Item 6

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A of the Local Government Act 1972.

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