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NOTICE OF MEETING



COMMUNITIES OVERVIEW & SCRUTINY PANEL

will meet on

THURSDAY, 18TH NOVEMBER, 2021

At 7.00 pm

by

GREY ROOM - YORK HOUSE, ON [RBWM YOUTUBE](#)

TO: MEMBERS OF THE COMMUNITIES OVERVIEW & SCRUTINY PANEL

COUNCILLORS JOHN BOWDEN (CHAIRMAN), GREG JONES (VICE-CHAIRMAN), GURPREET BHANGRA, HELEN PRICE, DEL CAMPO, LENTON (WRAYSBURY PARISH COUNCIL) AND PARISH COUNCILLOR PAT MCDONALD (WHITE WALTHAM PARISH COUNCIL)

SUBSTITUTE MEMBERS

COUNCILLORS CLIVE BASKERVILLE, MAUREEN HUNT, LEO WALTERS, JON DAVEY AND CHRIS TARGOWSKI

IF YOU WOULD LIKE TO SPEAK AT THE MEETING, PLEASE REGISTER WITH shilpa.manek@rbwm.gov.uk BY 5PM on WEDNESDAY 17 NOVEMBER

Karen Shepherd – Head of Governance – Issued: 10 November 2021

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 **Shilpa Manek** 01628 796310 / shilpa.manek@rbwm.gov.uk

Recording of Meetings – In line with the council's commitment to transparency the Part I (public) section of the virtual meeting will be streamed live and recorded via Zoom. By participating in the meeting by audio and/or video, you are giving consent to being recorded and acknowledge that the recording will be in the public domain.

If you have any questions regarding the council's policy, please speak to Democratic Services or Legal representative at the meeting.

AGENDA

PART I

<u>ITEM</u>	<u>SUBJECT</u>	<u>PAGE NO</u>
1.	<u>WELCOME FROM THE CHAIRMAN</u>	
2.	<u>APOLOGIES FOR ABSENCE</u> To receive any apologies for absence.	
3.	<u>DECLARATIONS OF INTEREST</u> To receive any declarations of interest.	3 - 4
4.	<u>MINUTES OF THE LAST MEETING</u> To agree the minutes of the meetings held on 7 October and 25 October.	5 - 12
5.	<u>REVIEW OF THE PERFORMANCE OF TIVOLI CONTRACT FOR GROUNDS MAINTENANCE</u> To consider the report.	13 - 24
6.	<u>WORK PROGRAMME</u> To consider the Panel's work programme for the remainder of the Municipal year. To include consideration of items scheduled on the Cabinet Forward Plan .	25 - 26

MEMBERS' GUIDE TO DECLARING INTERESTS AT MEETINGS

Disclosure at Meetings

If a Member has not disclosed an interest in their Register of Interests, they **must make** the declaration of interest at the beginning of the meeting, or as soon as they are aware that they have a Disclosable Pecuniary Interest (DPI) or Other Registerable Interest. If a Member has already disclosed the interest in their Register of Interests they are still required to disclose this in the meeting if it relates to the matter being discussed.

Any Member with concerns about the nature of their interest should consult the Monitoring Officer in advance of the meeting.

Non-participation in case of Disclosable Pecuniary Interest (DPI)

Where a matter arises at a meeting which directly relates to one of your DPIs (summary below, further details set out in Table 1 of the Members' Code of Conduct) you must disclose the interest, **not participate in any discussion or vote on the matter and must not remain in the room** unless you have been granted a dispensation. If it is a 'sensitive interest' (as agreed in advance by the Monitoring Officer), you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted by the Monitoring Officer in limited circumstances, to enable you to participate and vote on a matter in which you have a DPI.

Where you have a DPI on a matter to be considered or is being considered by you as a Cabinet Member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

DPIs (relating to the Member or their partner) include:

- *Any employment, office, trade, profession or vocation carried on for profit or gain.*
- *Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her 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 council.*
- *Any licence to occupy land in the area of the council for a month or longer.*
- *Any tenancy where the landlord is the council, and the tenant is a body in which the relevant person has a beneficial interest in the securities of.*
- *Any beneficial interest in securities of a body where:*
 - a) *that body has a place of business or land in the area of the council, 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.*

Any Member who is unsure if their interest falls within any of the above legal definitions should seek advice from the Monitoring Officer in advance of the meeting.

Disclosure of Other Registerable Interests

Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (summary below and as set out in Table 2 of the Members Code of Conduct), you must disclose the interest. **You may speak on the matter only if members of the public are also allowed to speak at the meeting** but otherwise **must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation**. If it is a 'sensitive interest' (as agreed in advance by the Monitoring Officer), you do not have to disclose the nature of the interest.

Other Registerable Interests (relating to the Member or their partner):

You have an interest in any business of your authority where it relates to or is likely to affect:

- a) any body of which you are in general control or management and to which you are nominated or appointed by your authority*
- b) any body*
 - (i) exercising functions of a public nature*
 - (ii) directed to charitable purposes or*

one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

Disclosure of Non- Registerable Interests

Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a DPI) or a financial interest or well-being of a relative or close associate, you must disclose the interest. **You may speak on the matter only if members of the public are also allowed to speak at the meeting** but otherwise **must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation**. If it is a 'sensitive interest' (agreed in advance by the Monitoring Officer) you do not have to disclose the nature of the interest.

Where a matter arises at a meeting which **affects** –

- a. your own financial interest or well-being;
- b. a financial interest or well-being of a friend, relative, close associate; or
- c. a body included in those you need to disclose under DPIs as set out in Table 1 of the Members' code of Conduct

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

Where a matter **affects** your financial interest or well-being:

- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise **must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation**. If it is a 'sensitive interest' (agreed in advance by the Monitoring Officer, you do not have to disclose the nature of the interest.

Other declarations

Members may wish to declare at the beginning of the meeting any other information they feel should be in the public domain in relation to an item on the agenda; such Member statements will be included in the minutes for transparency.

Agenda Item 4

COMMUNITIES OVERVIEW & SCRUTINY PANEL

MONDAY, 25 OCTOBER 2021

PRESENT: Councillors John Bowden (Chairman), Greg Jones (Vice-Chairman), Gurpreet Bhangra, Helen Price and Del Campo

Also in attendance: Councillor Donna Stimson, Councillor Simon Werner, Councillor David Hilton, Councillor David Cannon, Councillor John Baldwin, Councillor Christine Bateson, Councillor Mandy Brar, Councillor Gerry Clark, Councillor Karen Davies, Councillor Phil Haseler, Councillor Ewan Larcombe, Councillor Sayonara Luxton, Councillor Gurch Singh, Councillor Geoffrey Hill, Councillor Clive Baskerville and Councillor Maureen Hunt

Officers: Oran Norris-Browne, Mark Beeley, Chris Joyce, Emma Duncan and Andrew Durrant

WELCOME FROM THE CHAIRMAN

The Chairman welcomed all panel members, officers and members to the call-in.

APOLOGIES FOR ABSENCE

No apologies for absence were received.

DECLARATIONS OF INTEREST

There were no declarations of interest received.

CALL IN - BATTLEMEAD COMMON

The Panel considered the report regarding the Call-In of the Cabinet decision of Battlemead Common of 30 September 2021.

The Chairman began by reading out the procedures of the call-in, which the panel noted. The Chairman then invited the first of five members who initiated the call-in to speak.

Call-in Member 1

Councillor Baldwin started by drawing the panel's attention to the Natural Environment and Rural Communities Act 2006. He said that in the Cabinet paper there was no mention of this act even though it directly impacted the decision that was taken.

Councillor Baldwin then quoted paragraph 5 on page 13 of the document bundle from the 30th September 2021, with regards to legal implications and it not mentioning the act. He then declared that Cabinet members could not have possibly been correctly briefed due to this.

Councillor Baldwin said that the approved pathway bisects a section 41 listed habitat of principal importance for the purpose of preserving biodiversity. He then went on to state the large number of species that would exist in this habitat and that these would range from reptiles and mammals to vertebrates and invertebrates.

Councillor Baldwin continued by stating that many species under section 41 were threatened and that protecting England's section 41 was key, with independent ecologists having confirmed this. Councillor Baldwin then concluded that none of what he had discussed, could have been discussed by Cabinet due to the failings in mentioning it within the report.

Call-in Member 2

Councillor Brar began by stating that she would be speaking as a member of the Battlemead Steering Group. On behalf of the Steering Group, she stated her disappointment in the Council after working closely with Battlemead for over 2 years and now the sudden reversal of key commitments had occurred.

Councillor Brar said that Cabinet had not made any real commitments and no funds had been set aside for any works. She said that only the works creating the new Causeway path had been authorised by Cabinet's decision. Councillor Brar then went on to disclose what was included in the briefing note sent to the Steering group in August 2021.

Councillor Brar said that it would cost a lot less than £14,000 to replace the gate that currently failed to keep people out of the area, with a permanent natural barrier.

Councillor Brar asked why this could not be the thing that was first started with, with a prioritization of funding being key before new paths were created.

Call-in Member 3

Councillor Davies said that as a Council, they approved the borough's Environment and Climate Strategy 2020 to 2025, with a main aim being to create a biodiversity action plan for the borough. She says that any decisions taken that would impact this, so they should wait until the Council decides what will be in the action plan as anything agreed to before this, would limit the action plan's contents.

Councillor Davies said that in the absence of the action plan, the Council should have followed the commissioned ecological management plans for the various habitats within the Battlemead site, but this had not happened.

Councillor Davies said that the path had been agreed formally to be opened and for funding to be provided to create it, however no formal commitment had been made to create the additional extra habitat element of the plan, which Councillor Davies said meant that the aim to enhance biodiversity was not being met.

Councillor Davies said that the Local Transport Plan 2012-2026, required the Council to actively seek the impact of movement on the natural environment by routing traffic and people away from sensitive sites. She said that the original path met this, however the new agreed path does not.

Call-in Member 4

Councillor Hill said that the current local plan recognised the need for a link from Wildbrook Common to the River Thames creating an additional path between the Thames path and the Greenway enabling circular walks around Cookham. Councillor Hill then quoted the leader of the Council's remarks involving the recreational benefits that a new path would have.

Councillor Hill referred to planning application 19/00972/FULL that was made in April 2019 to change the use of the site from agricultural to assembly and leisure, but it was withdrawn. He then referred to the then leader of the Council's remarks on recreation again and said that a new planning application should need to be submitted for the new path to be built.

Call-in Member 5

Councillor Werner said that the new agreed path went against national legislation, it departed from the briefing note supplied to the Battlemead Steering Group, it was non-compliant with the climate strategy and the Local Transport Plan and the need for a planning application.

Councillor Werner said that a boundary walk currently existed, giving residents great joy and views. He then questioned why another path close to it needed to be created. Councillor Werner then said there were amazing educational benefits to the site and suggested that educational boards were erected on the current pathway to utilise this educational benefit.

Councillor Werner expressed his concerns with regards to the proposed fencing and especially with regards to dogs by stating that a dog proof fence if erected would need to be deep, tall, and solid to properly protect the habitats either side of the pathway. He said that the Council was in danger of ignoring the law, planning, Council policy and undermining the credibility of the consultations that were carried out. He asked for the panel to refer the decision back to full Council.

The Chairman then invited the Lead Member of the Cabinet to speak.

The Lead Member for Climate Change, Sustainability, Parks and Countryside said that a lot of dramatic language had been used in the call-in member's statements. She said that the proposals had been reviewed and developed with biodiversity in mind.

The Lead Member said that lots of work had gone into these proposals, which members and the friends of Battlemead were aware of and that extensive surveys had been commissioned and all parties had been engaged with.

The Lead Member said that the director of Rewilding Britain believed that in time, many paths could be created, which would encompass dogs on a large area of Battlemead. She then stated that dogs would be on leads, which would therefore eliminate the issues raised by Councillor Werner of dogs jumping over fences and roaming free.

The Lead Member then referred to the biodiversity action plan that was mentioned by Councillor Davies and said that although not produced, it did not mean that it was not written and that members were aware of what was included in it. She then also confirmed that the fencing and screening that was proposed had been approved by independent ecologists, who were fully behind it.

Councillor Hill expressed concern at The Lead Member's remarks by stating that the path could not be built without planning permission as this would of course be illegal.

The Head of Infrastructure, Sustainability and Economic Growth (Chris Joyce) said that the site in question was bought by the Council in December 2018 and they set up a friends of Battlemead Common Group to provide guidance in June 2019. He then said that there had been extensive surveys and that biodiversity had been at the heart of any proposal and that everybody in the Place team were aware of the need to promote this to support the wider objectives and to resist backlash from the local community.

The Head of Infrastructure, Sustainability and Economic Growth reiterated that independent advice had been obtained to ensure any impacts would be mitigated, which included the seasonal access to the path and the fencing and screening against dogs. He also acknowledged that the habitats currently residing there were not at the level that were desired.

The Head of Infrastructure, Sustainability and Economic Growth said that an ecological management plan had been developed for the site to support ecology and nature conservation.

The Executive Director of Place Services (Andrew Durrant) said that regarding questions on planning permission for the sight, he believed that screening and fencing to this nature would be considered as permitted development and therefore the proposal would not require any form of planning permission.

Councillor Del Campo asked the Monitoring Officer if there were any justifications for omitting discussions on biodiversity from the Cabinet report and if all the legal implications were considered when making the decision.

The RBWM Monitoring Officer (Emma Duncan) said that it was not always possible for officers to identify every piece of legislation that would apply to every Council decision made within a meeting. She said that in this case, biodiversity and the protection of the environment was a common theme throughout the report and therefore if a court was to look at the decision process, evidence would suggest that Cabinet did consider all legal implications.

Councillor Del Campo asked if the decision was safe in terms of a legal challenge. The Monitoring Officer confirmed that the provision of a footpath would mean that it would be safe.

Councillor Del Campo expressed concern that Battlemead Common was named this when it was deemed not to be a common. The Monitoring Officer suggested this be addressed offline.

Councillor Del Campo asked if there were any legal obligations on the Council to open access through the east field from the original purchase of the land. The Monitoring Officer said that she was not familiar with any specific details such as this, but that the Council would apply anything that had been set out when purchased.

Councillor Del Campo asked if there was a need for new planning permission due to the land being given a change of use, being now recreation. The Monitoring Officer confirmed that no indication had been made so far that a change of use was being implemented, meaning that no new planning permission was required.

The Executive Director of Place Services said in response to Councillor Del Campo's question that he was unsure of this, however he reiterated that the proposed path in discussion would indeed be classed as permitted development and this had been confirmed by the RBWM planning team.

The Head of Infrastructure, Sustainability and Economic Growth said that his understanding was that the previous planning application was for a large car park and that there were numerous objections to the size of this, hence it had been withdrawn.

Councillor Del Campo asked if the management prescriptions from August 2020 had been followed in full. The Head of Infrastructure, Sustainability and Economic Growth said that his understanding was that the ecological management plan was being followed.

Councillor Del Campo said that the habitats that were present at the site had been identified in field studies in 2019 and 2020, but not in the latest 2021 report.

Councillor Del Campo asked if it had deteriorated in recent years, hence it not being included.

The Head of Infrastructure, Sustainability and Economic Growth said that the previous uses of the site had deteriorated the quality of the habitats at the site over time. He added that the approach they had taken here was the best way forward for biodiversity and that a much larger investment was needed to restore the site as a floodplain grazing marsh than the £14,000 being quoted currently and was not the one that was recommended.

Councillor Del Campo asked if the Cabinet decision authorised the creation of the wetland or if it was restricted to simply the creation of the pathway.

The Head of Infrastructure, Sustainability and Economic Growth said as the report stated, that it was just at this stage to merely create the pathway. Future plans were to be discussed with consultations and a focus on the benefits it would produce and the financial cost of it, but these were not close at this stage.

Councillor Del Campo expressed concern at this due to the lack of knowledge as to what the financial costs would be in the future.

Councillor Del Campo asked the Lead Member on what the formal advice was and how it was handled. The Lead Member said that the formal advice was 50/50.

Councillor Del Campo asked why the Lead Member believed it was so important to have a biodiversity plan. The Lead Member said that England was one of the most deprived countries of biodiversity and that she wanted to get as many people as possible on board with the idea of biodiversity.

Councillor Del Campo asked if it was possible to incorporate limiting access to the site into the biodiversity action plan or did the Cabinet decision restrict this possibility.

The Lead Member replied first by referring to a previous comment that the site had depleted as grazing land due to grazing no longer taking place there, but there had been an increase now in biodiversity. She added that it had been agreed that the plan would be reviewed annually, and if any decrease in biodiversity was noticed then this would be addressed.

Councillor Price asked The Head of Infrastructure, Sustainability and Economic Growth for some clarity on the proposal. The Head of Infrastructure, Sustainability and Economic Growth then supplied this by stating that there would be dog proof fencing and some screen planting, which formed the basis of the decision made by Cabinet.

Councillor Price said that the education part of the proposal was very important and asked how this would be encompassed and carried out.

The Head of Infrastructure, Sustainability and Economic Growth said in response, that this was a project that was occurring currently at both Battlemead and Braywick, to improve the educational information boards in both locations. Councillor Price asked for consideration of accessible features on these such as large text for persons with visual impairments and colourful pictures and sound to engage children.

Councillor Price asked what was being done to stop people from entering the site, even more so if an attractive path was built. The Head of Infrastructure, Sustainability and Economic Growth said that there was nothing that could be done to prevent people from accessing the site but said that it was important to raise awareness of why it would not be a good idea to access the site during the winter months.

Councillor Price asked about the movement of wildlife between the north and south areas of the site. The Head of Infrastructure, Sustainability and Economic Growth said that he had been advised that this pathway should not prevent this movement. He also stated that the screening was being put in place to limit the scaring of birds and intruding too much on the wildlife.

The Chairman said that questions needed to be more streamlined specifically to the Cabinet's decision regarding the pathway, rather than to each individual component.

Councillor Price asked for some information on the dates of closure. The Head of Infrastructure, Sustainability and Economic Growth said that discussions were ongoing as to what these dates of closure would be and that it would be evidence led.

Councillor Jones asked about planning permission for paths and that he believed Battlemead Common to be more commonly known as just merely Battlemead.

Councillor Werner said that currently people were able to walk around the edge of the field and not have to compromise any of the habitats or species and that implementing the Cabinet proposal would harm this biodiversity. He also expressed concern again of dogs causing destruction on the biodiversity of the area.

Councillor Del Campo asked the Lead Member if they shared her disappointment that Cabinet did not include wetlands in the decision that was made.

The Lead Member replied by saying that she did not, as the decision made at Cabinet, was specifically about the pathway.

Councillor Price asked for reassurance that biodiversity would be upheld. The Lead Member said that the screening that would be erected would protect the animals from danger and that the path would be the width of the gate with screening either side.

The Chairman invited the Lead Member to make a summarising statement to the panel.

The Lead Member said that lots of work had been put into the plans over the last 2 and a half years and she acknowledged that it was very difficult to please everybody. She added that biodiversity would be enhanced and that there would be increased educational benefits for the site.

Councillor Del Campo proposed a motion to enact upon option 3.1 iii, which would see the decision be moved to full Council. This was seconded by Councillor Price.

However, the Monitoring Officer advised the panel that the decision did not fall outside of the Council's framework and therefore could not be brought to full Council, leaving only 2 options available to the panel.

Councillor Del Campo said that she was disappointed with this, however accepted the Monitoring Officer's advice and then proposed that the decision be referred back to Cabinet for reconsideration, having heard the views discussed within the call-in. This was seconded by Councillor Price.

To refer the matter back to Cabinet (Motion)	
Councillor John Bowden	Against
Councillor Greg Jones	Against
Councillor Gurpreet Bhangra	Against
Councillor Helen Price	For
Councillor Catherine del Campo	For
Rejected	

The motion to refer the decision back to cabinet for reconsideration, having heard the views discussed within the call-in was rejected.

Councillor Jones proposed that no further action would be taken, and this was seconded by Councillor Bhangra.

To take no further action (Motion)	
Councillor John Bowden	For
Councillor Greg Jones	For
Councillor Gurpreet Bhangra	For
Councillor Helen Price	Against
Councillor Catherine del Campo	Against
Carried	

The motion to take no further action was passed.

The meeting, which began at 7.00 pm, finished at 8.40 pm

CHAIRMAN.....

DATE.....

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Report Title:	Review of the performance of Tivoli Contract for Grounds Maintenance
Contains Confidential or Exempt Information	No - Part I
Cabinet Member:	Councillor Coppinger, Lead Member for Planning, Environmental Services, and Maidenhead
Meeting and Date:	Communities Overview & Scrutiny Panel 18 November 2021
Responsible Officer(s):	Andrew Durrant, Executive Director of Place Services Alysse Strachan, Head of Neighbourhood Services
Wards affected:	All

REPORT SUMMARY

This report provides panel members with detail of the council's current grounds maintenance contract held by Tivoli Group Ltd, its specification and an update on the current performance and service delivery plans for the Tivoli Contract across the Royal Borough of Windsor and Maidenhead. Tivoli will be in attendance at committee on 18 November to give a presentation, which will cover more operational detail to support the published report.

It is recognised that this contract has an important impact on the way residents view RBWM in relation to the way green spaces in the borough are maintained and that there have been significant issues with the performance of the Tivoli Contract this year, leading to increased enquiries and complaints from residents and Councillors. Negotiations between RBWM and Tivoli have been ongoing over the last year and during the pandemic but have not been fully resolved to date.

RBWM and Tivoli have more recently entered into formal contractual dispute, with the aim to work in good faith to resolve the issues raised. Officers are now in weekly negotiations with Tivoli to resolve the dispute and are reviewing the findings from the previous task and finish groups, which will set out the direction of travel for the future.

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATIONS:

- i. That Communities Overview & Scrutiny Panel notes the report and associated presentation information, providing panel members with the opportunity to ask questions thereon.**
- ii. That Communities Overview & Scrutiny Panel help shape the anticipated outcomes and contract review process with associated timescales following committee.**

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

Options

Option	Comments
Note the report and comment This is the recommended option	None

This report recommends noting the content and seeks members views and questions arising from it. The presentation by Tivoli will also provide members with the opportunity to speak directly to the service provider about service delivery and future service delivery plans that will ultimately contribute to improved service levels for RBWM residents.

3. Grounds Maintenance Contract – Background & Context

The Royal Borough's Grounds Maintenance Contract service is one of the most visible services provided within the council. Its reliability is key to success; specifically, that grass is cut regularly, hedges and shrubs are maintained, Cemeteries are maintained, and burials undertaken, litter bins and dog waste bins are emptied regularly, play parks, open spaces and sports pitches are maintained to the required standards, aviaries are maintained and where required standards are not met, this is rectified quickly.

Any shortfalls in these aspects have an impact on how residents and visitors perceive the service and often the Royal Borough will encounter reputational damage which is hard to recover from and does not give residents the confidence that we are delivering quality services.

Since June this year when initial concerns were raised about the contract performance, service delivery has improved considerably. At the time it was agreed that a report would be taken to the Communities Overview & Scrutiny Panel to review performance.

Contract procurement took place in September 2015. At the time it was a joint procurement with Wokingham Borough Council, advertised as three separate lots:

- Lot 1 - RBWM
- Lot 2 - Wokingham BC
- Lot 3 - RBWM and Wokingham BC.

As a result of the procurement process a decision was made to award Lot 3 to ISS, who were the incumbent contractor in RBWM. A summary of key dates and events is provided below:

- Initial Term 1st April 2016 to 30th September 2026 (10.5 years)
- Extension option: 1st October 2026 – 30th September 2031 (5 years)
- Contract Price £1.2m per annum
- ISS were acquired and Tivoli group was set up and started trading on 1st June 2018.

- Novation of contract to Tivoli was signed in March 2019. Separate contract with Tivoli for grounds maintenance for schools in RBWM was signed in May 2019.

The Contract was awarded based on a partnership approach with a set amount for the contract (£1.2 million p/a), within which all work should be completed. There is flexibility within the contract to agree changes e.g. reduce frequency of cutting in some areas to increase it in others or changes to how things were managed e.g. more litter bins to reduce need to litter pick etc.

Contract Specification

The Contract defines the standard to be achieved, rather than define the precise method by which the Service Provider will be required to perform the Service. The Standard to be achieved will differ on each site, dependent on the location and the activities that are carried out on the elements that make up the site, i.e. the grass, shrub beds, hedges, etc. as well as the frequencies of those activities.

Scope of the Services

The work mainly comprises the maintenance of land and facilities in the Council's parks, cemeteries, highways and open spaces including:

- Litter collection and path/road sweeping/spraying
- Grass cutting
- Shrub and rose bed maintenance
- Spring and summer bedding – provision, planting and maintenance
- Hedges - hand and tractor cut
- Litter picking prior to maintenance operations, plus clearance of leaves and minor tree debris
- Play area inspection and maintenance
- Hard Surface weed spraying
- Spraying and general maintenance of paths and other hard surfaces, walls, features, street furniture and fence lines etc. to remove and keep down weeds and moss
- Maintenance of Sports areas including lawn tennis, cricket, football and rugby pitches
- Daily care and maintenance of birds and small animals
- Litter control including bin and dog bin emptying (the Council still retains separate bins for both)
 - i). Cemetery maintenance including grave digging and Conducting Interments
 - ii). Other miscellaneous work, e.g. edging of grassed areas, cleaning of toilets and pavilions

There are a number of outcomes that are the drivers for the contract specification:

Key Outcomes for the Service Provider to deliver

1. High quality horticultural standards on high profile sites
2. Improved resident and user satisfaction levels
3. Minimal customer complaints over the course of the contract with resolution at first point of contact (direct to Service Provider)
4. Service performed to at least minimum specified standard on every site

Key Outcomes to be shared responsibility with Client & Service Provider

- i). Partnership working and problem-solving approach to provide added value
- ii). Sustainable and minimal costs for operational activity
- iii). Improved service for specific areas, to be identified during the course of the contract, by adjusting existing resources.
- iv). Achieve savings and generate new income streams over the course of the contract term
- v). Increase community involvement and volunteering

The table below sets out the main operational tasks:

Operational Task	Area	Details
1	Grass Areas	<ul style="list-style-type: none"> • Mowing and maintaining up to standard all grassed areas within the contract. • Litter, including faeces, must be picked up prior to mowing. • Creating new wildflower and grassland regimes.
2	Hedges	<ul style="list-style-type: none"> • Pruning and maintaining, up to standard, all hedges within the contract
3	Mixed Border Maintenance	<ul style="list-style-type: none"> • To maintain shrubs, roses and other border plants in a shape appropriate to their cultivar, to keep them vigorous and to keep their beds tidy and weed free on beds within or adjacent to grass areas, and to leave them in that way after a maintenance visit on all other areas.
4	Copses	<ul style="list-style-type: none"> • Maintaining a range of woodlands, copses and thickets according to good woodland management practice, to develop and enhance biodiversity and not be a source of Justified Complaint.
5	Minor Tree Works	<ul style="list-style-type: none"> • The maintenance of the Council's tree stock, which can be reached from ground level (without use of ladders, elevated work platform or climbing equipment), will be expected to control problematic epicormic

		growth or crown raise vegetation to prevent growth which obscures signage, interferes with access and sightlines etc.
6	Spring and Summer Bedding	<ul style="list-style-type: none"> The Service Provider is required to prepare the specified flower beds and planters ready to accept bedding plants, supply and plant out displays in May and October/Nov and maintain the beds throughout the year
7	Grass Sports Pitches and Courts	<ul style="list-style-type: none"> Inspecting grass sports playing surfaces, facilities (not including buildings) and equipment and maintaining to the required standard on all such areas within the contract. This includes preparing them for play, marking out, and erecting appropriate equipment relevant to the sport (e.g. goal posts on football pitches, nets to tennis courts etc.). These activities are sport specific and may be seasonal or all-year round.
8	Mobile Cleaning	<ul style="list-style-type: none"> This term has been used to define a group of related operations within the Management Area. These include, but are not limited to, the general collection of any litter, leaves and minor tree debris from the site being visited, the removal of dog faeces and the cleaning and maintenance of toilets, pavilions, bridges, pavilions and paths and all other hard or gravelled surfaces (including tennis courts, tracks and play area safer surfacing), and the removal of graffiti.
9	Cemetery Maintenance and Attendants	<ul style="list-style-type: none"> The provision of a full and complete cemetery maintenance service
10	Play Areas and Young People's Provision	<ul style="list-style-type: none"> To visually inspect and maintain RBWM play and young people's equipment and facilities across the Borough to ensure safety and usability.
11	Aviaries	<ul style="list-style-type: none"> To maintain all aviaries and animal enclosures having due regard to the health and security of all birds, animal species and the health and safety of the public, and to ensure compliance with the Secretary of State's standards of modern zoo practice, where applicable, which will normally require 5 to 6 hours of work every day in maintaining the health & cleanliness of the birds, animals and enclosures.

4. Contract Performance Management

Contract Management is currently undertaken within Neighbourhood Services in the Environmental Services Team, which also manages waste and recycling and street cleansing. The Parks and Countryside team have also recently moved into Environmental Services, which consolidates management of this service area within one section and allows for more robust contract management. There is a Contract Manager responsible for the Tivoli, Serco, Urbaser and waste disposal contracts. Within the Parks and Countryside team there are two staff who have day to day contact with Tivoli, looking at issues with parks, cemeteries and other contractual issues. These staff carry out the monthly joint inspections with Tivoli staff, which feed into the KPIs for the contract. These are discussed along with other contract and performance issues at monthly contract meetings.

Staff within the parks and countryside team are also responsible for bookings for the sports pitches and for liaising with families and undertakers to arrange for burials in the cemeteries maintained by Tivoli.

Contract and performance management has, until recently, been irregular and has been affected by the changes to Tivoli and RBWM personnel over the past two years. Discussions have been taking place with Tivoli and task and finish groups were set up to look at the Tivoli contract with three workstreams:

- Bills of quantities
- Mapping and finance
- Performance indicators (which will start once other workstreams are resolved).

This exercise brought to light several variances between the contract specification and the assets within the Royal Borough. These variances are being discussed and resolved through the dispute resolution process set out in the contract but are creating a very difficult contract for Tivoli to deliver within the existing resources.

Regular Contract meetings have been taking place where RBWM have provided evidence of the poor service delivery experienced this year. The below details a timeline of more recent activity:

September 2021

Tivoli produced an updated recovery programme, which detailed a timeline of when the standards would be returned to contractual requirements. In addition to this, they produced works programmes for various areas to show when standards will be met although until recently, officers had little confidence in the timescales proposed. However, it is understood that standards have now returned in most areas and the normal maintenance schedules are now being followed.

Tivoli wrote to RBWM to with a Notice of Dispute highlighting two areas of dispute; inaccurate Bill of Quantities and failure to follow the variation process.

RBWM established a working group to manage the dispute process consisting of the members below:

Andrew Durrant	Executive Director of Place
Alysse Strachan	Head of Neighbourhoods
Naomi Markham	Environmental Services Manager
Elaine Brown	Head of Law & Deputy Monitoring Officer
Lyn Hitchinson	Procurement Manager
Mark Pattison	Project Management Officer

Service failures raised have been addressed in liaison with Tivoli through the normal contract management process.

October 2021

RBWM formally responded to the dispute correspondence.

There are now weekly meetings in place with Tivoli to resolve the areas of dispute in good faith. Officers are working to resolve historic payment issues that have not been formalised and reviewing the Bill of Quantities workstream. Once this position has been agreed then a decision can be made on the best course of action with the contract moving forward.

If the Officers are unable to resolve the dispute within 30 days of service, then it will be referred to a Senior Officer to resolve within a further 30 days. It has been jointly agreed to extend this initial 30 day period to enable outstanding issues to be resolved. If the dispute is not resolved then, it will move to mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure and serve an Alternate Dispute Resolution (ADR) notice. If the dispute is still not resolved within 90 days of the notice, then it will be resolved by arbitration.

The Parks & Countryside team moved under the management of the Environmental Services Manager, this has enabled closer working between the Manager and the team who monitor the performance on the ground.

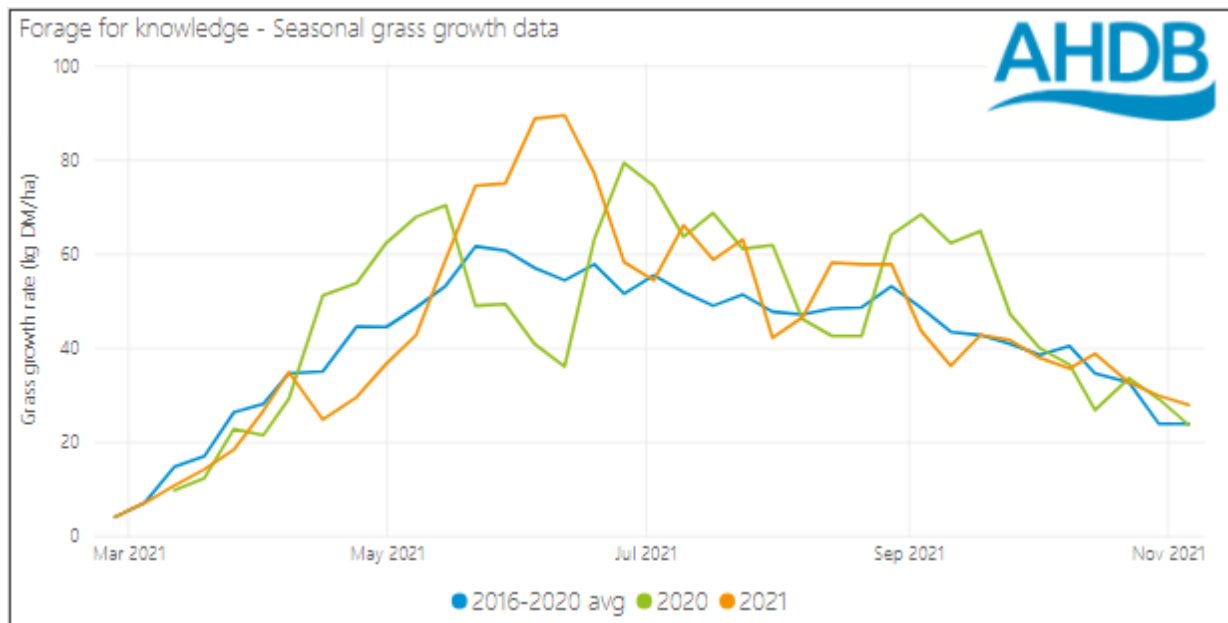
5. Local & national issues

The grounds maintenance contract has been exposed to several local issues, many of which have equally been felt across the country and within a number of similar public service contracts. This section summaries the main issues that have presented the Tivoli contract with a number of challenges to maintain expected standard.

Growing season - The continued growing season this year is the worst in over a decade. This year has presented several challenges for grounds maintenance contractors across the country. The rate at which the grass plant grows depends on the climatic conditions; this season has been particularly hot and wet which results in grass growing quickly and therefore needs to be cut more regularly to meet the contract specifications.

Indicatively the below graph (orange 2021) shows the conditions experienced on the ground and from June onwards the hot and wet conditions continued. Normally grass would 'burn off' during the summer months when Tivoli would tackle weeds and

hedging. This year this it has not been possible, with the teams focusing on keeping on top of the grass cutting which has been a struggle due to the aggressive nature of the growth. In “normal” times, Tivoli would get additional seasonal staff but this has been difficult due to labour shortages.



Labour shortages – Tivoli have been facing the challenges that most blue-collar industries have had recently, in recruiting and retaining a workforce at close to the minimum wage caused by Brexit/Furlough and the competition from Distributors/Hospitality etc for staff. In answer to these issues, Tivoli have undertaken 3 targeted actions:

- Rolled out Skills Based Pay (SBP) at a cost to of £500k this year to reflect people’s skills and increase retention. It also includes a North and South pay differential to recognise cost of living.
- Onboarded a significant number of sub-contractors
- Looked at short term labour solutions for the summer to get seasonal staff in, which are normally in abundance. Again, this at a significant cost i.e. base labour under Skill Based Pay is around £9.50 per hour in the South versus in certain hot spot areas where they are having to pay agency costs of around £16.00 per hour to tackle these shortages.

The pandemic – less so this year than last but Tivoli have experienced on several contracts whole teams go down following the isolation rules; thankfully no major cases of Covid have occurred but operationally it is difficult to manage especially when dealing with the first two points. Tivoli have experienced staff shortages from Covid with staff having to recover, self-isolate or care for family members.

Machinery – Tivoli have experienced several breakdowns with vehicles and have employed an additional mechanic to mitigate the delays caused by machinery failures. There have been problems with the supply of parts caused by ongoing supply chain issues with European factories not producing the required parts or the parts being delayed by transport issues.

Performance against Contract

Recognising the current issues detailed above, the priority this year has been to maintain parks to a high standard to allow for outdoor socialising while Covid restrictions remained in place and as people chose to spend time meeting friends and family outdoors. There are also certain parts of the contract such as burials which are time critical and must be carried out on schedule. There have sadly been a higher number of burials than usual this year, taking more time to complete the associated tasks as a result. Other parts of the contract such as management of the aviaries at Ray Mill Island, opening and closing of gates, opening and closing and cleaning of public toilets with parks and inspections of play equipment and emptying of litter and dog waste bins are regular tasks requiring daily action which cannot be left for longer periods.

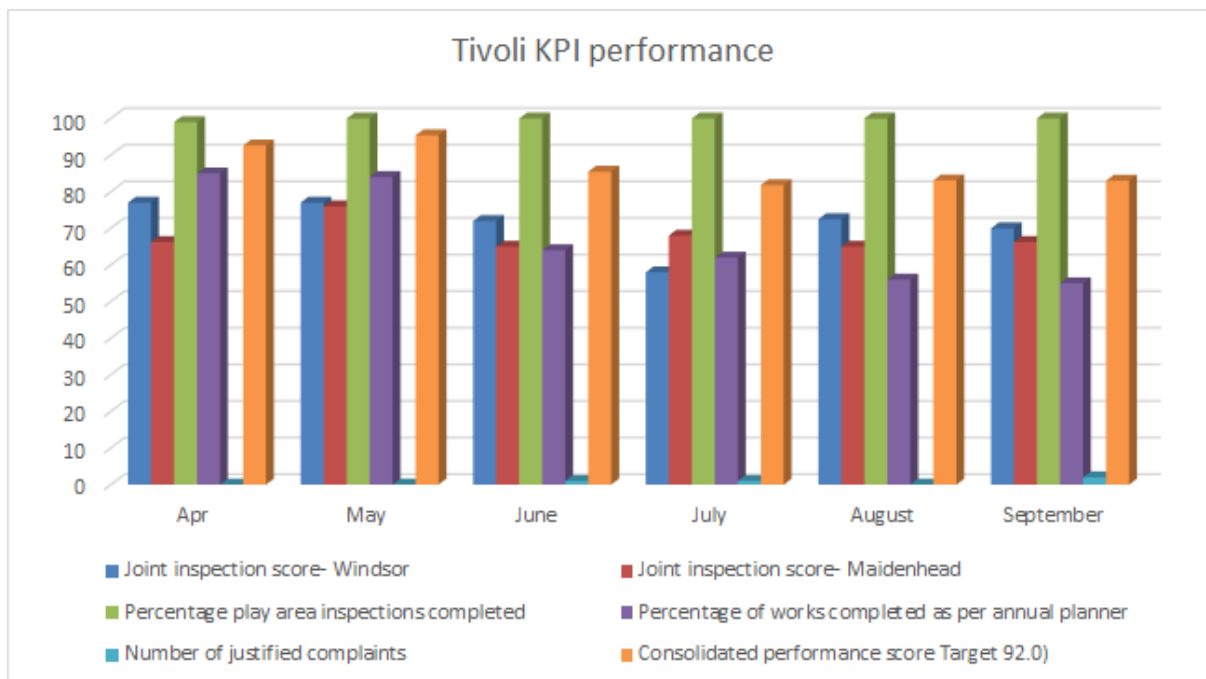
This means that the main areas of concern have been around cutting of highways verges, shrub bed maintenance and management of vegetation, which have been, by necessity, a lower priority this year. Combined with the difficult growing season, this has led to some areas which have fallen below the required standard. It should, however, be noted, that some areas of complaint regarding overhanging vegetation are not covered by the Tivoli contract. There is an overhanging vegetation process in place where the vegetation is coming from land adjacent to the highway. However, this is not a quick process as it involves contacting the owner or occupier of the land and requesting they cut back vegetation and then following this up with more formal action within set timescales where this does not happen.

KPIs

There are six KPIs by which to measure the service provider’s performance and to measure the way in which the outcomes are being delivered.

The below graph shows the KPI performance for April to September 2021. KPIs focus on the scores from joint inspections of parks and cemeteries, which are carried out on a selection of representative sites on a monthly basis by RBWM officers and Tivoli staff. The KPI measures are the percentage of play area inspections completed, the percentage of the work programme completed in year to date and the number of justified complaints about the contract performance, which result in a consolidated performance score. The target for the consolidated performance score is 92. The scores this year have been as follows:

Apr	May	June	July	August	September
92.64	95.40	85.49	81.81	83.08	83.01

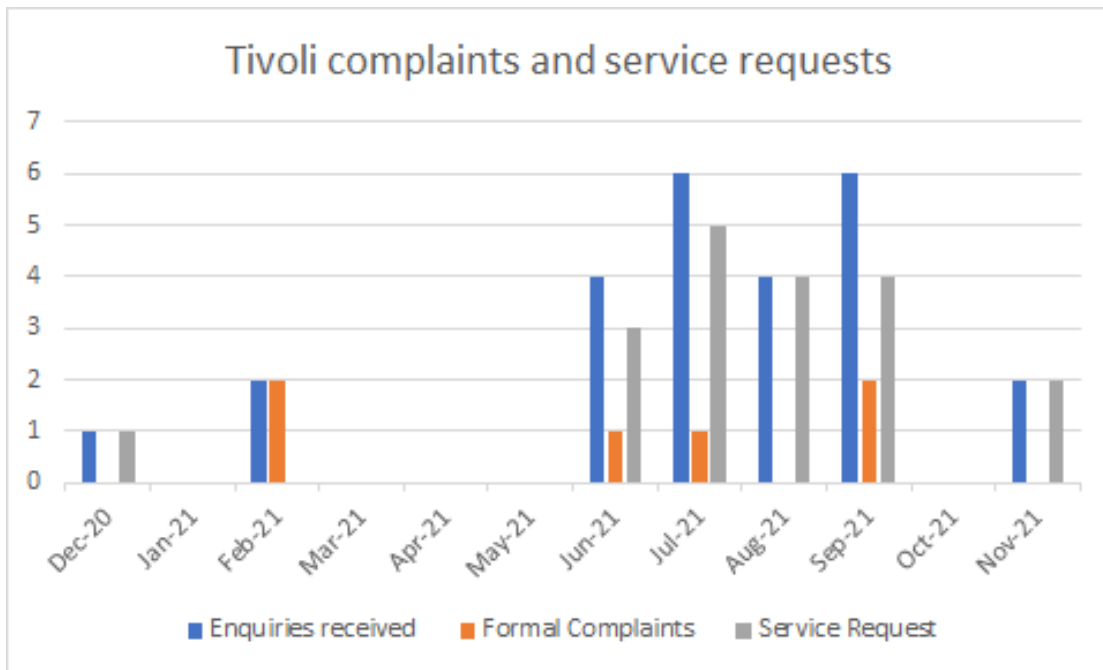


The joint inspections have broadly shown the areas surveyed to be in a generally good state with some minor issues, such as weeds in shrub beds, or small areas of grass not cut to the required standard. None of the inspections have resulted in a poor score of an individual site, and generally, the actions noted by the inspections as requiring improvement, have been actioned within a reasonable timescale.

The number of formal complaints about the contract has been low and play area inspections have been completed on schedule on almost all occasions, with the monthly percentage completion being 99% or 100% in each month.

The area resulting in a reduction of the scores has been the percentage of the work programme completed. This relates to delays in grass cutting, vegetation management and shrub bed maintenance, which have been affected by the difficulties in the growing season, staff shortages and machinery breakdowns more than other areas of the contract. These areas were deemed a lower priority than other areas due to considerations around more outdoor socialising this year.

When assessing the performance of the council's contracts it is also important to look at the number of complaints and service requests received through the formal complaints route about the services being provided and the overall number of contacts received about the services. For the services provided by Tivoli the number of formal complaints and service requests through the complaints team is very low, although there has been an increase between June and September 2021; this is shown in the graph below:



The number of contacts received to the council resulting in a request to Tivoli is shown in the table below. This includes Report it forms received as well as emails and phone calls into the council:



As can be seen in the graph, the level of contacts is generally fairly low but has peaked during the summer period which reflect the decline in performance and is in line with the difficult growing season and heavy use of parks and open spaces. The number of contacts is now dropping back to more normal levels as the growing season slows and work is caught up.

Members, including Panel Members, Parish Councils and Residents were encouraged to provide relevant examples of issues with the performance to the Clerk ahead of the meeting on 18 November. This has demonstrated that a minority of enquires are still to be resolved despite having been raised some time ago. However, whilst investigating the other issues, it brought to light that some had not

been reported via the Report it function and had therefore not been captured on the complaints management system. There were also examples of enquiries, although valid, being reported that were not the responsibility of Tivoli but other contractors.

6. NEXT STEPS

Officers will continue to follow the dispute resolution process as detailed in the Contract; both RBWM and Tivoli are committed to resolving the dispute/s in good faith. As part of this process, RBWM and Tivoli will work together to resolve any variances highlighted by the task and finish groups. Officers can report back to the panel with the findings in April 2022 as suggested in the scoping document with a further review after the next growing season. In parallel to this, RBWM will continue to closely monitor the agreed level of performance specified in the contract.

Members and residents are encouraged to report any further issues via the Report it function on the website, this will ensure that the enquiries are captured and can be monitored through to resolution.

It is recommended that the Communities Overview & Scrutiny Panel note the contents of this report and the presentation by Tivoli and consider whether any further scrutiny of the performance of the Contract is required.

7. CONSULTATION

Name of consultee	Post held	Date sent	Date returned
Andrew Durrant	Executive Director of Place	05/11/21	10/11/21
Elaine Browne	Head of Law (Deputy Monitoring Officer)	08/11/21	10/11/21
Naomi Markham	Environmental Services Manager	08/11/21	10/11/21
Lyn Hitchinson	Procurement Manager	08/11/21	10/11/21
Mark Pattison	Project Management Officer	10/11/21	10/11/21

Report Author: Alysse Strachan, Head of Neighbourhoods alysse.strachan@rbwm.gov.uk
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Agenda Item 6

WORK PROGRAMME - COMMUNITIES OVERVIEW AND SCRUTINY PANEL

EXECUTIVE DIRECTORS	<ul style="list-style-type: none"> • Duncan Sharkey – Chief Executive • Andrew Durrant – Executive Director of Place • Hilary Hall – Executive Director of Adults, Health and Housing
LINK OFFICERS & HEADS OF SERVICE	<ul style="list-style-type: none"> • David Scott – Head of Communities • Louise Freeth – Head of Revenues, Benefits, Library and Resident Services • Chris Joyce – Head of Infrastructure, Sustainability and Economic Growth • Alysse Strachan – Head of Neighbourhoods

MEETING: 6th DECEMBER 2021 – VIRTUAL MEETING

ITEM	RESPONSIBLE OFFICER
Maidenhead Golf Course Update-Panel to give more direction of what more info is needed.	Andrew Durrant , <i>Executive Director of Place</i>
Norden Farm Update	Steph James , <i>Service Lead for Economic Growth</i>
The Old Court Update	Steph James , <i>Service Lead for Economic Growth</i>
Climate Strategy – Update	Chris Joyce , <i>Head of Infrastructure, Sustainability and Economic Growth</i> SCOPING DOCUMENT TO BE DRAFTED

MEETING: 17th JANUARY 2022

ITEM	RESPONSIBLE OFFICER
Budget	Adele Taylor , <i>Executive Director of Resources</i>
Q2 Performance Report	David Scott , <i>Head of Communities</i>
Work Programme	Panel clerk
TASK AND FINISH	
TBC	

MEETING: 12th APRIL 2022

ITEM	RESPONSIBLE OFFICER
Q3 Performance Report	David Scott , <i>Head of Communities</i>
SERCO Update	Alysse Strachan , <i>Head of Neighbourhoods</i> SCOPING DOCUMENT TO BE DRAFTED
Work Programme	Panel clerk
TASK AND FINISH	
TBC	

ITEMS SUGGESTED BUT NOT YET PROGRAMMED

ITEM	RESPONSIBLE OFFICER
Waste Management Strategy	Alysse Strachan , <i>Head of Neighbourhoods</i>

Boulter's Lock car park, Maidenhead	Andrew Durrant – <i>Executive Director of Place</i>
Leisure Focus Update opportunities going forward/Sports Strategy	Andrew Durrant , <i>Executive Director of Place</i>