

Report Title:	Disposal of Open Space Land at Braywick Park, Maidenhead
Contains Confidential or Exempt Information	No - Part I
Cabinet Member:	Councillor Reynolds, Cabinet Member for Communities and Leisure
Meeting and Date:	27 July 2023
Responsible Officer(s):	Andrew Durrant, Executive Director of Place
Wards affected:	Oldfield

REPORT SUMMARY

The purpose of this report is to formally consider the objections received to the proposed disposal of land (by grant of a lease) at Braywick Park, Maidenhead following the publication of an Open Space Notice placed in the Maidenhead Advertiser on 28 April and 5 May 2022. A plan of the land in question is at Appendix B.

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATION:

- i) **That Cabinet consider the objections received in relation to the proposed disposal (by the grant of a lease) of land at Braywick Park, Maidenhead (“the Open Space”) following the statutory notification of the Council’s intention to dispose of the Open Space and having regard to the objections, confirm whether it agrees to the disposal of the Open Space.**

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

Options

Table 1: Options arising from this report

Option	Comments
A) To agree to the disposal of (by grant of a lease) land at Braywick Park, Maidenhead to provide for the relocation of Maidenhead Football Club (MUFC)	Following the publication of the Open Space Notice, the disposal of land is conditional on the grant of planning permission to relocate MUFC facilities to Braywick Park, the next stage would be for the club to submit a full planning application to be determined. If planning permission is not granted, the proposal for relocation will not go forward.
B) To not agree to the disposal of (by grant of a lease) of land at Braywick Park, Maidenhead	This option presents a number of social-economic impacts that Cabinet would need to consider. The key issue for the Council is to balance any adverse consequences of the

Option	Comments
	<p>loss of open space, having regard to the objections received, against the advantages of leasing the to MUFC.</p> <p>The Council received a total of 22 objections to the Open Space Notice and these concerns need to be carefully considered.</p> <p>The officer decision was also called in by Place O&S and several representations and concerns were raised.</p> <p>The land transfer has been valued at £460,000 financial benefit to RBWM and the Council would receive a capital receipt for this amount (subject to planning permission being granted) and Maidenhead United FC would have the opportunity to develop within a new facility and deliver the key objectives of their business plan.</p>

- 2.1 An Officer Decision Notice concluding the Open Space Notice process was published by Democratic Services in March 2023 (a copy of the Decision Notice is at Appendix C) and subsequently reviewed (following call in) by Place Overview and Scrutiny on 20 April 2023.
- 2.2 The Overview and Scrutiny Review went beyond the scope of the Open Space Notice Process that was the basis of the Officer Decision Notice, to question the valuation of the lease premium, the lease tenure period and status of the legal agreement. These matters are not pertinent to the Open Space Notice process.
- 2.3 The Place Overview & Scrutiny Panel referred the decision back to the Executive Director of Place to reconsider the decision (on the basis that the original Cabinet decision of December 2019 delegated authority to take forward the proposal regarding the lease and Open Space Notice to the Executive Director). The Council's constitution allows a decision which has been delegated to an officer to be passed back to the delegating body for decision. The Executive Director for Place has subsequently made the decision to pass the decision back to Cabinet following the referral of the decision (a copy of the Decision Notice is at Appendix D). Cabinet is therefore now being asked to consider the objections to the Open Space Notice and to consider whether it agrees to the disposal (by the grant of a lease) of the Open Space.

Background

- 2.4 Maidenhead United Football Club ("MUFC") approached the Council in October 2019 about the potential to relocate to the Northern part of Braywick Park.
- 2.5 The request was considered at Cabinet on 19th December 2019. Cabinet agreed the release of the land at Braywick Park and delegated authority to the Director of Place to draft the necessary legal agreements, Section 123 Report

on valuation, so that a further decision could take place at Cabinet. This decision was then subject to an Overview & Scrutiny working party in early 2020; they concluded their work in October 2020.

- 2.6 Following the above negotiation and review process, Cabinet reconsidered the request to relocate the Football Club to Braywick Park at the meeting held on 26 November 2020. Cabinet agreed to the relocation of the club, subject to the grant of planning consent. A premium of £460,000.00 as recommended in the Section 123 report was agreed (this being the capital receipt the Council would receive for the land) and authority was delegated to the Director of Place to complete the lease negotiation and to undertake the statutory procedure required under s.123(2A) of the Local Government Act 1972 in relation to the disposal of above of any land consisting or forming part of an open space.

3. KEY IMPLICATIONS

- 3.1 As detailed the disposal of the Open Space at Braywick Park, Maidenhead has been subject to a long and detailed decision-making process. For ease the history (in chronological format) is below in table 2:

Table 2 – key dates, actions and outcomes

Key Date	Action / Outcome	Appendix / Comments
October 2019	<u>MUFC Approaches RBWM</u> The Club initially approached RBWM about the potential to relocate to the Northern part of Braywick Park. This is part of the clubs longer term ambitions to grow the club and expand the range of services it provides throughout the borough.	
19 th December 2019	<u>CABINET MEETING</u> The request was considered at Cabinet on 19 th of December 2019. Cabinet agreed the release of the land at Braywick Park and delegated authority to the Director of Place to draft the necessary legal agreements, Section 123 Report on valuation, so that a further decision could take place at Cabinet.	
October 2020	<u>O&S</u> The decision was the subject to an Overview & Scrutiny working party and they concluded their work in October 2020.	
26 th November 2020	<u>CABINET MEETING</u> Cabinet reconsidered the request to relocate the Football Club to Braywick Park who agreed to the relocation of the Club, subject to the grant of Planning consent, a premium of £460,000.00 as recommend in the Section 123 report and delegated authority to the Director of Place to complete the lease negotiation and to undertake the statutory procedure required under Section 123(2A) of the Local Government Act 1972 (open space procedure)	

3 rd March 2022	<p><u>The Agreement for Lease</u></p> <p>The Agreement for Lease was completed on the 3rd of March 2022, delayed by the impact of the Pandemic.</p> <p>The lease of the site at Braywick Park <u>will</u> only occur should a planning consent be granted by the Local Planning Authority for the development of the Football Clubs new facilities and the approval to dispose of open space granted.</p>	
28 April 2022 & 5 May 2022	<p><u>Open Space Notice</u></p> <p>Public Open Space notice published for two consecutive weeks in a local media outlet, the Maidenhead Advertiser and displayed in Maidenhead Library.</p>	Appendix E
5 th May 2022	<p><u>Open Space Notice</u></p> <p>22 objections received in relation to the disposal of the Public Open Space</p>	Appendix F
4 th April 2023	<p><u>Officer Decision Notice</u></p> <p>Publication of Officer Decision Notice concluding the Open Space Notice process</p>	Appendix C
20 th April 2023	<p><u>Overview & Scrutiny</u></p> <p>decision was reviewed by Place Overview Sight and Scrutiny Panel and passed back to the Executive Director of Place for reconsideration of the decision</p>	
25 th May 2023	<p><u>Officer Decision Notice</u></p> <p>Publication of Officer Decision Notice passing the decision in relation to disposal of the Open Space back to Cabinet</p>	Appendix D

4. FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 The council will receive in return for the sale of the land, subject to planning, a capital receipt of £460,000. This is currently not been identified in the 2023/24 Budget and 2024/25 MTFP. This will only be paid if planning permission is achieved.

5. LEGAL IMPLICATIONS

- 5.1 Under section 123(2A) of the Local Government Act 1972, where a Local Authority intends to dispose of land held as public open space, they must first advertise their intention to do so in a newspaper circulating in the area where the land is situated.
- 5.2 The Council must give full consideration to any objections received in

response to its notice of disposal.

- 5.3 The key issue for the Council is to balance any adverse consequences of the loss of open space, having regard to the objections received, against the advantages of leasing the land.

6. RISK MANAGEMENT

- 6.1 Throughout the wider process, officers have regularly taken key advice from the Legal Department to ensure any risk is mitigated. This includes valuation advice from external experts and legal advisors.
- 6.2 More specifically officers received advice in terms of the Open Spaces Notice to ensure compliance and due process was followed correctly, for which RBWM Legal Department have confirmed was executed correctly and in line with Legislation.

7. POTENTIAL IMPACTS

- 7.1 Equalities. An Equality Impact Assessment is available as Appendix A.
- 7.2 Climate change/sustainability. Any impact to climate and sustainability have been considered at the stage of reviewing the feedback following the Open Spaces Notice. Whilst some objectives do raise concern about the loss of open green space, there are existing sport facilities in situ and the full design and recommendations will be explored at length as part of a full planning application for which environmental impacts will be assessed.

8. CONSULTATION

- 8.1 As required by the statutory process the intention to dispose of the Open Space was advertised for two consecutive weeks in the Maidenhead Advertiser on 28 April 2022 and 5 May 2022. A copy of the Open Space Notice is at Appendix E.
- 8.2 22 objections in relation to the disposal of the Open Space were received. A copy of the objections together with responses to the objections are at Appendix F.
- 8.3 Following the closure of the Open Space Notice period, officers of the council come together to review objections received that related to specific areas such as Property, Sport & Leisure, Parks & Countryside and Infrastructure. This was used to provide initial comments on the objections so that the Director of Place could take an overarching view and consider the outcome of the notice.
- 8.4 Appendix F also includes a summary table of what themes the objections related to, the list of which alongside the number of responses are detailed below:

- Damaging to the physical and economic health of our community and to wildlife (x2)
- Environmental impact - football pitches are not considered to enhance biodiversity (x3)
- Goes against council's continued assurance that it will protect green space (x1)
- Football ground development can only be tolerated if Maidenhead Golf Club is not developed (x1)
- New developments in Maidenhead are apartments and flats with little/no private outdoor spaces (x5)
- Impact on air quality, animal diversity (x3)
- Net detrimental environmental impact through existing football ground being developed for housing (x3)
- Adverse impact on infrastructure building additional flats at current football stadium (x1)
- Land upheld as community use for all - new stadium will not be available for all (x3)
- Destruction of MUFC heritage (x4)
- There are no outline plans for new football stadium, so it is not possible to make any informed judgement (x3)
- More information is needed on public access to proposed football land (X1)
- More information is needed on flooding impact (X2)
- There is no evidence presented to explain need for a new ground (X1)
- Wait for outcome of public inquiry at Ray Mill Road East before deciding on the loss of further open space (X1)
- Plan contravenes inspector's evaluation of the BLP, which stated the site was to remain in the Green Belt (X1)
- The disposal is in contravention of the NPPF (X1)
- Disposal of this land could only be acceptable if a like-for-like site is provided within a similar distance ($\pm 10\%$) of the town centre (X1)
- What control will RBWM have on the design, use and accessibility of the site? (X1)
- No public discussion of this proposal (X1)
- Is there a need for the housing capacity justifying the release of the current football club land? Are we not entitled to a more transparent public debate on this? (X1)
- Conflict with Corporate Plan (X1)
- Conflict with BLP - Quality of Place policies (X1)
- Conflict with BLP - Infrastructure policies (X1)

8.5 Subsequently, an Officer Decision Notice (ODN) was published which can be found in appendix C. The decision at the time was to approve the disposal of land. However, this was 'called-in' and members of the Place Overview and Scrutiny panel made clear concerns of the impact caused by disposing of land and that the decision should be reviewed.

8.6 Given that the decision has been referred back to Cabinet, it is now for Cabinet to determine whether the land transfer should go ahead and balance the objections from the consultation against the potential benefits of the transfer.

9. TIMETABLE FOR IMPLEMENTATION

9.1 Implementation date if not called in: Immediate

10. APPENDICES

10.1 This report is supported by 6 appendices:

- Appendix A – Equality Impact Assessment
- Appendix B – Plan showing the land at Braywick Park, Maidenhead edged red
- Appendix C – Officer Decision Notice (published 4th April 2023) attached
- Appendix D – Officer Decision Notice (published 25th May 2023) attached
- Appendix E – Open Space Notice
- Appendix F – Objections received in relation to the proposed disposal of the Open Space together with responses to the objections

11. BACKGROUND DOCUMENTS

11.1 This report is supported by 3 background documents:

- Cabinet Agenda and Minutes – 19 December 2019
- Cabinet Agenda and Minutes – 26 November 2020
- Place Overview & Scrutiny Panel Agenda and Minutes – 20 April 2023

12. CONSULTATION

Name of consultee	Post held	Date sent	Date returned
<i>Mandatory:</i> Statutory Officer (or deputy)			
Andrew Vallance	Deputy Director of Finance/ interim S151 Officer	11/07/23	18/07/2023
Elaine Browne	Deputy Director of Law & Governance and Monitoring Officer	11/07/23	17/7/23
<i>Deputies:</i>			
<i>Mandatory:</i> Procurement Manager (or deputy) - if report requests approval to go to tender or award a contract			
Lyn Hitchinson	Procurement Manager		
<i>Mandatory:</i> Data Protection Officer (or deputy) - if decision will result in processing of personal data; to advise on DPIA			

Samantha Wootton	Data Protection Officer		
Mandatory:		<i>Equalities Officer – to advise on EQiA, or agree an EQiA is not required</i>	
Ellen McManus-Fry	Equalities & Engagement Officer		
Other consultees:			
Directors (where relevant)			
Stephen Evans	Chief Executive	11/07/23	
Andrew Durrant	Executive Director of Place	11/07/23	12/07/23
Kevin McDaniel	Executive Director of Adult Social Care & Health		
Lin Ferguson	Executive Director of Children's Services & Education		

Confirmation relevant Cabinet Member(s) consulted	Cabinet Member for Communities & Leisure	Yes
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REPORT HISTORY

Decision type:	Urgency item?	To follow item?
Key decision	No	No

Report Author: Andrew Durrant, Executive Director of Place

Equality Impact Assessment

For support in completing this EQIA, please consult the EQIA Guidance Document or contact equality@rbwm.gov.uk

1. Background Information

Title of policy/strategy/plan:	Disposal of Open Space Land at Braywick Park, Maidenhead
Service area:	<u>Place</u>
Directorate:	<u>Place</u>

Provide a brief explanation of the proposal:

- What are its intended outcomes?
- Who will deliver it?
- Is it a new proposal or a change to an existing one?

To formally consider the objections received to the proposed disposal of land at Braywick Park, Maidenhead following the publication of an Open Space Notice placed in the Maidenhead Advertiser on 28 April and 5 May 2022.

The full proposals of the relocation of Maidenhead United FC are subject to formal planning approval and therefore this level of detail is not considered as part of this report.

2. Relevance Check

Is this proposal likely to directly impact people, communities or RBWM employees?

- If No, please explain why not, including how you've considered equality issues.
- Will this proposal need a EQIA at a later stage? (for example, for a forthcoming action plan)

No, this report seeks a decision by Cabinet on the disposal of land notice and associated representations submitted at that point in time. A further, more detailed EQIA would be required if the proposed football club relocation progresses to full planning application.

If 'No', proceed to 'Sign off'. If unsure, please contact equality@rbwm.gov.uk

3. Evidence Gathering and Stakeholder Engagement

Who will be affected by this proposal?

For example, users of a particular service, residents of a geographical area, staff

Among those affected by the proposal, are protected characteristics (age, sex, disability, race, religion, sexual orientation, gender reassignment, pregnancy/maternity, marriage/civil partnership) disproportionately represented?

For example, compared to the general population do a higher proportion have disabilities?

What engagement/consultation has been undertaken or planned?

- How has/will equality considerations be taken into account?
- Where known, what were the outcomes of this engagement?

What sources of data and evidence have been used in this assessment?

Please consult the Equalities Evidence Grid for relevant data. Examples of other possible sources of information are in the Guidance document.

4. Equality Analysis

Please detail, **using supporting evidence**:

- How the protected characteristics below might influence the needs and experiences of individuals, in relation to this proposal.
- How these characteristics might affect the impact of this proposal.

Tick positive/negative impact as appropriate. If there is no impact, or a neutral impact, state 'Not Applicable'

More information on each protected characteristic is provided in the Guidance document.

	Details and supporting evidence	Potential positive impact	Potential negative impact
Age			
Disability			
Sex			
Race, ethnicity and religion			
Sexual orientation and gender reassignment			
Pregnancy and maternity			
Marriage and civil partnership			
Armed forces community			
Socio-economic considerations e.g. low income, poverty			
Children in care/Care leavers			

5. Impact Assessment and Monitoring

If you have not identified any disproportionate impacts and the questions below are not applicable, leave them blank and proceed to Sign Off.

What measures have been taken to ensure that groups with protected characteristics are able to benefit from this change, or are not disadvantaged by it?

For example, adjustments needed to accommodate the needs of a particular group

Where a potential negative impact cannot be avoided, what measures have been put in place to mitigate or minimise this?

- For planned future actions, provide the name of the responsible individual and the target date for implementation.

How will the equality impacts identified here be monitored and reviewed in the future?

See guidance document for examples of appropriate stages to review an EQIA.

6. Sign Off

Completed by: Ian Brazier Dubber	Date: 11/07/2023
Approved by: Andrew Durrant	Date: 17/07/2023

If this version of the EQIA has been reviewed and/or updated:

Reviewed by:	Date:
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