

## **Responses to Public Questions for Council on 25 July 2023**

**a) Thomas Wigley of Clewer East ward will ask the following question of Councillor K Davies, Lead member for Climate Change, Biodiversity and Windsor Town Council**

At the Council meeting on 22nd November last year RBWM promised to install three new air pollution monitors. Please can you provide a status update regarding their implementation and RBWM's current views regarding their intended physical location.

Thank you very much for asking for an update on this important issue, which is a priority for the new administration. The Borough proposes to implement the additional particulates monitoring stations in two stages. For the first stage, it will install an additional five relatively low-cost units to sample air quality at locations across RBWM for a one-year period. The Borough has engaged a specialist service company, which is undertaking some basic modelling to determine the best site locations for the stage one monitoring process and will also provide the low-definition monitoring and data management. This means that data can begin to be collected relatively quickly. The data gathered will then inform the second stage, which is the targeted installation of more expensive and sensitive sensors to gather more precise data. I will be very happy to provide more updates as the work progresses.

**b) Following legal advice this has been removed from the agenda**

**c) Tina Quadrino of Pinkneys Green will ask the following question of Councillor Werner, Leader of the Council and Lead member for Community Partnerships, Public Protection and Maidenhead**

When you took office in May, you committed to a review of the Borough Local Plan. Please can you tell us what form this review will take and when we will hear the outcome of it?

As many of the residents know, we opposed the current local plan in every part of the process, but were outvoted by the Conservative majority each time. We are now left with a Borough Local Plan designed for developers profits not for residents. A Borough Local Plan which has sacrificed precious green belt land adjoining Maidenhead, Windsor, Cookham and Cox Green.

The Borough Local Plan is now a straight jacket – a cage in which we have to operate – preventing us from achieving many of the things we would like to do.

Opportunities were missed by the previous administration to reduce housing numbers which they failed to take advantage of.

The problem is that we are where we are and that opportunity is no longer on the table.

Were we to submit a new Local Plan under the current rules, changes in the national methods for calculating the housing targets would actually leave us having to find even more land to deliver more homes in the plan period.

However, we are expecting central government to publish a new National Planning Policy Framework in the autumn, which we hope will give us more flexibility when it comes to

housing numbers, so when this is published and we have the details we will of course review what would be best to do with the Borough Local Plan.

**d) Andrew Hill of Boyn Hill ward will ask the following question of Councillor Bermange, Lead member for Planning, Legal and Asset Management**

Given that the Planning Inspectorate found clearly that RBWM breached the Human Rights Act in the Nicholson CPO process, failing to treat legitimate concerns with even basic "respect", why did Council officers try to excuse this outrageous behaviour until the last minute, and how much do you expect the settlement of both avoidable judicial reviews to cost taxpayers?

The decision to authorise the use of Compulsory Purchase Order powers in order to facilitate the Nicholson's regeneration scheme was taken by the previous administration.

Subsequently, the decision by the Planning Inspectorate to decline to confirm the CPO was challenged judicially by the Council and the separate but related matter of the decision to grant planning permission to the Nicholson's Quarter scheme was challenged judicially by the Page family as owners of Smokeys nightclub; both these legal proceedings were initiated prior to May 2023.

It is quite proper that the power to prosecute and defend legal proceedings, in accordance with Section 222 of the Local Government Act 1972, is delegated to officers, specifically the Monitoring Officer. I have therefore been briefed on the status of these legal matters and I summarise this below.

Before Sir John Dove, sitting as a Judge of the High Court, both the Settlement Agreement and Consent Order were given both the seal of the High Court and judicial approval. The terms of the Settlement Agreement largely covered the claim brought by this Council in relation to the proposed CPO required for the redevelopment. The Consent Order was drafted largely in relation to the Judicial Review of the planning decision brought against the Council. Within the Settlement Agreement and Order there are tightly drawn and binding confidentiality clauses. They restrict all parties. That includes the issues around costs. The Council is bound by the confidentiality clauses.

Without prejudice, in his concluding remarks of his decision letter regarding the CPO, the Inspector said;

*"...despite the proposed development's acknowledged public benefits, it has not been demonstrated that those benefits could not equally be gained without the likely need for Smokeys to close, and without the consequential adverse impacts for both the objectors and the town. In these circumstances, the interference with [the owners'] human rights would be disproportionate."*

However, as a matter of fact and for the avoidance of doubt, the Planning Inspectorate did not allege any breaches of the Human Rights Act, nor have any such matters been adjudicated on by the superior courts.

**e) Andrew Hill of Boyn Hill ward will ask the following question of Councillor Bermange, Lead member for Planning, Legal and Asset Management**

Does RBWM accept that members of the public should never be criticised by Councillors or officers, expressly or implicitly, for exerting their annual rights to submit questions and objections under the Local Audit & Accountability Act 2014?

*Response from Councillor L Jones, Deputy Leader of the Council and lead member for Finance*

*This administration is keen to encourage public engagement in all aspects of the Council's work. We believe in accountability and transparency. Residents have the statutory right to submit questions and objections in relation to items in the annual accounts, and this right should not be impugned. With regards to objections submitted, Section 27(4) of the Local Audit & Accountability Act 2014 contains provisions to ensure that the auditor only considers those objections that, among other things, are not frivolous, vexatious nor disproportionately costly to investigate.*

*Having applied this filter to a series of objections submitted to items in the 2019/20 accounts, the Council's auditor, Deloitte, charged £90,228 for their costs incurred in performing the investigation of those remaining objections. None of the investigated objections led the auditor to conclude that any items of account should be declared unlawful or that a statutory public interest report was required. They did, however, make several 'control observations' regarding the relevant areas, with some resultant recommendations.*

*I would hope that, moving forward, the Council and residents could resolve issues satisfactorily and transparently, wherever possible, before reaching the stage where auditors are called upon to conduct costly and lengthy investigations. To that end, I am keen to work with the Audit and Governance Committee, our internal auditors, our finance officers, and other stakeholders to find a mechanism for achieving this.*