

## CABINET

WEDNESDAY 13 DECEMBER 2023

PRESENT: Councillors Simon Werner (Chair), Lynne Jones (Vice-Chair), Geoff Hill, Joshua Reynolds, Catherine Del Campo, Adam Bermange, Karen Davies and Amy Tisi

Also in attendance: Councillors Neil Knowles and Helen Taylor

Also in attendance virtually: Councillors Maureen Hunt, Helen Price, Mandy Brar, Clive Baskerville, Suzanne Cross and Mark Wilson

Officers: Oran Norris-Browne, Stephen Evans, Lin Ferguson, Elizabeth Griffiths, Andrew Durrant, Elaine Browne, Kevin McDaniel, David Wiles and Julian McGowan

Officers in attendance virtually: Andrew Vallance and Becky Hatch

### Apologies for Absence

Apologies for absence were received from Councillor Coe.

### Declarations of Interest

Councillors Bermange and Hill both declared an interest in the item titled 'Review of the Cabinet Decision to not dispose of the Open Space Land at Braywick Park, Maidenhead' as both had spoken on the matter in the past and were therefore pre-determined. They left the room during the course of the debate and did not take part in any way.

Councillor Jones declared a non-pecuniary interest in the item titled 'School Condition Allocation 2024/25' that she was the lead member for finance at Kings Courts governing body.

### Minutes

Councillor Price asked for two inclusions to be made to the minutes. The first was in reference to the 'In-Year Monthly budget Monitoring Update' item, where she had reference external auditors, the Section 151 officer and the interim Chief Executive.

The second omission was in relation to the 'Early adoption of fees and charges' item where she had referenced the charges of fines for persons who broke the law. This also included the officer response to her question.

**RESOLVED UNANIMOUSLY: That the minutes of the meeting held on Wednesday 29 November 2023 were approved, subject to the above inclusions.**

### Appointments

None

### Forward Plan

Cabinet noted the Forward Plan for the next four months including the following new added items:

- Quarterly Assurance Report – January 2024 Cabinet

- Draft Affordable Housing Delivery Supplementary Planning Document – February 2024 Cabinet
- SEND and Alternative Provision Capital Strategy update – February 2024 Cabinet
- Determination of school admissions arrangements for September 2025 – February 2024 Cabinet

### Review of the Cabinet Decision to not dispose of the Open Space Land at Braywick Park, Maidenhead

Councillor Werner, the Chair and Leader of the Council and Cabinet Member for Community Partnerships, Public Protection and Maidenhead, provided some background history as to why the Cabinet had chosen to review the decision that they had previously heard at a Cabinet meeting in July 2023. The decision that the Cabinet made was to not dispose of the land at Braywick Park, Maidenhead. He said that 2 different petitions had been launched since then by residents. One by Shay Bottomley, which sought for Cabinet to reconsider the July decision and one by Doug Watts, which sought to uphold the original decision respectively. Both lead petitioners had been invited to attend the meeting to address the Cabinet for five minutes each. Four additional speakers were also attending, with one of these being an extra public speaker slot above the usual three speakers, which was made at the Chair's discretion. This was due to the significant public interest in the agenda item.

The Chair then invited Shay Bottomley (Lead Petitioner for 'Move us or Lose us') to address the Cabinet. He was followed by Doug Watts (Lead Petitioner for 'Protect Open Space and Maidenhead United'), Jon Adams (Maidenhead United), John Scaife (Maidenhead Athletics Club), Steve Bough (Maidenhead Rugby Club) and Andrew Hill (Open Spaces campaigner), in that order. The Lead Petitioners were each given 5 minutes to address Cabinet, with the remaining speakers being given 3 minutes each.

The Chair thanked the registered speakers for each of their contributions and said that it was very valuable to gather the thoughts from a variety of persons from both sides, which were reflected in each petition. He then invited Elaine Browne, the Council's Monitoring Officer and Deputy Director of Law and Governance to provide some historic information in terms of previous Cabinet and Corporate Overview & Scrutiny Panel discussions, stretching back as far as 2019.

Elaine Browne stated that on 19 December 2019, Cabinet approved in principle, the request for relocation of MUFC, subject to a valuation report required pursuant to s.123 of the Local Government Act 1972 ("the 2019 Decision"). The 2019 Decision was called in and was considered by the Corporate Overview and Scrutiny Panel on 15 January 2020. The Panel agreed to take no further action but requested that the next Cabinet Report in relation to MUFC's request for relocation be brought to the Corporate Overview and Scrutiny Panel for further scrutiny. On 24 November 2020 the proposed further Cabinet Report relating to the request for relocation of MUFC was considered by the Corporate Overview and Scrutiny Panel. The Panel noted that the comments from the meeting would be passed to Cabinet for consideration. Then on 26 November 2020, Cabinet further considered the request for relocation of MUFC following the commission of the s.123 Report confirming the valuation of the land at Braywick Park. The decision of Cabinet ("the 2020 Decision") was to approve the release of the land at Braywick Park, subject to planning for £460,000 and delegated authority to the Executive Director of Place to undertake the Statutory procedure required under Section 123(2A) of the Local Government Act 1972 as required and negotiated a draft agreement for lease for 999 years at a peppercorn rent.

Elaine Browne then continued and said that on 28 April and 5 May 2022 an Open Space Notice was published in the Maidenhead Advertiser. Following the publication of the Open Space Notices, the Council received 22 objections to the disposal of the open space. On 4 April 2023 the Executive Director of Place, Andrew Durrant, made the delegated decision in

relation to the Disposal of the Land following the Open Space Notice Procedure (“the Delegated Decision”). The Officer Decision Notice dated 4 April 2023 stated as follows:

“That the Executive Director of Place Services having due regard to the objections received in relation to the Public Open Space Disposal Notice and, subject to the granting of planning permission for a new stadium, agrees to proceed with the lease of the site.” On 20 April 2023 following the receipt of a call-in, the Place Overview and Scrutiny Panel considered the Delegated Decision and in accordance with their powers set out in the Council’s Constitution, the Panel referred the Delegated Decision back to the decision maker, Andrew Durrant, Executive Director of Place to re-make the decision, taking into account the concerns of the Panel. Part 5A of the Council’s Constitution (Scheme of Delegation to Officers) states at Paragraph 2.8: “Where any function is delegated to an officer, that officer may choose not to exercise that function and may, instead, refer a matter to the Council, the Cabinet, Committee, the relevant Director or relevant Portfolio Holder for decision as appropriate with the agreement of the appropriate Director.”

On 25 May 2023 the Executive Director of Place, Andrew Durrant made a decision not to exercise the delegation originally made by Cabinet on 26 November 2020, and referred back to him by Place Overview and Scrutiny Panel on 20 April 2023 (pursuant to Paragraph 2.8 of Part 5A of the Council’s Constitution). The Officer Decision Notice published on 25 May 2023 stated as follows: “The Executive Director of Place has decided that this decision shall be brought back to Cabinet to review the approach and process conducted regarding the Open Spaces Notice and Disposal of Land following previous Cabinet approval.” This then led to this being brought to Cabinet on 27 July 2023, following the Open Space Notice Procedure, and decided as follows: “That Cabinet considered 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, confirmed that they did not agree to the disposal of the Open Space”

The Chair thanked Elaine Browne for providing a full history of the decision that the Cabinet had in front of them. The Chair then invited the Cabinet Member whose portfolio this fell under to comment.

Councillor Reynolds, Cabinet Member for Communities & Leisure, said that if the Cabinet were to change their decision it was important that all parties realised that there was a still a long way to go, with things such as planning permission still needing to be obtained later down the line. Over the past week, Cabinet Members had received more than around 70 emails from both sides. Some asking for the decision to be reversed and some asking for it to be upheld. This even included residents who at first glance you would have thought they would have been for the move such as football fans wanting the decision upheld or even passionate open space campaigners, who were actually in favour of the move. He also appreciated that the athletics club, certainly needed additional investment following numerous meetings with them. It was a fine balance between weighing up the amount of open space there was available and the impact on the environment compared to the sporting benefits that it would have.

The Chair then outlined some of the positives that would come if the Cabinet were to reverse their decision. These were:

- A new stadium would be built.
- The athletics club shall be provided with an upgrade.
- New AstroTurf’s provided.
- A new sports hall, along with various new facilities for the football club.

In terms of the negatives of the Cabinet reversing their decision, these included the following:

- Walkers and runners would no longer have access to a large portion of the park.
- Harm to the physical and mental wellbeing of some residents who use the open space.

- The potential loss of a free-to-use running track.
- No more access to a children's playground.
- The Borough Local Plan (BLP) identified the area as an important area of open space.
- Restricted views due to the proposed height of the football club's grounds.

Councillor Jones, Deputy Leader of the Council and Cabinet Member for Finance, said that when making her decision in July 2023, she took into account a range of factors. This included many positives, but also various negative implications too including the impact on biodiversity. She said that she could not see any new information before her at the meeting that would allow her to change her mind from the decision she came to in July 2023. Councillor Jones then proposed a motion to reaffirm the original Cabinet decision, which was recommendation ii).

Councillor K Davies, Cabinet Member for Climate Change, Biodiversity and Windsor Town Council said that she tended to agree with the comments that had been made by Councillor Jones. This included the harm to biodiversity that could come from the decision to overturn the original Cabinet decision that was made in July 2023. She then seconded the motion that had been put forward by Councillor Jones to reaffirm the original Cabinet decision.

**AGREED: That Cabinet noted the report and reaffirmed their original decision to not dispose of the Open Space Land at Braywick Park, Maidenhead.**

### Draft 2024/25 Budget

*Councillors Hill & Bermange re-entered the room and rejoined the meeting.*

Councillor Jones introduced the report to Cabinet and stated that it contained the details of the draft budget for 2024/25 and asked for approval of the document to go to public consultation ahead of the final budget setting in February 2024. According to the local Government association almost one in five Council Leaders and Chief Executives in England, that completed a recent survey, believed that it was very or fairly likely that their Chief Finance Officer would need to issue a Section 114 notice in the current year or next due to a lack of funding to keep key services running. This had proved to be even more challenging due to not having a realistic baseline as the inherited budget set for 23/24 had proven to be non-realistic and undeliverable almost immediately. The draft budget before Cabinet, not only had to balance for the financial year 24/25, but also close a budget gap of £6 million, which was caused by the deficiencies of the budget approved in February 2023, that had left the Council with an unbudgeted overspend of over £7 million.

Councillor Jones said that due to historic financial decisions, the Council had a much lower level of funding than comparable Councils. Currently, the amount RBWM received in Council tax for a Band D property was on average between £413 and £698 lower than other neighbouring Councils. The report and accompanying appendices set out the Councils proposed Revenue budget, Capital budget, medium term Financial Plan & Growth and Efficiencies tables. It was clear from the revenue budget, that forecast costs relating to adult services had increased by £5 million, Children's services by £2.6 million and the borrowing and MRP costs of servicing the circa £200 million debt had increased by £4 million to £13 million. A vitally important way to address the shortfall was to propose an increase in fees and charges, which was a tough decision to make and one that officers, and the Cabinet did not take lightly.

Councillor Jones then provided Cabinet with a breakdown of each inclusion within the appendices and outlined above. She then outlined the Council's aims to achieve financial stability and was required to do this. These were:

- Using technology across services including road repairs.
- Bringing statutory services back in-house to the Council.
- Investing more in early Intervention and prevention.

- Investment in procurement and contract management to ensure best value for money and better outcomes.
- Exploring new commercial opportunities for income from events, advertising, and sponsorship.
- Investigating opportunities to develop Council owned accommodation and facilities to reduce reliance on high-cost providers.
- Make better use of Council assets.
- Securing investment and growth in our economy.

She concluded by putting on record her thanks to Elizabeth Griffiths, Executive Director of Resources and Section 151 Officer, and her team for their hard work over the last three months. The budget would go through public consultation, the 3 Overview & Scrutiny Panels and come back to Cabinet, before going to Council in February 2024 for approval.

Councillor Del Campo, Cabinet Member for Adults, Health and Housing Services, said in terms of her portfolio, homelessness and rough sleeping was unfortunately on the rise currently and that private landlords were being seen to exit the market. This was having additional pressures on the budget. She acknowledged the tough rental market and said that she and officers were looking at new ways to support residents when it came to private accommodation.

Councillor Del Campo said that the Council was indebted to voluntary organisations and individuals whose support was fantastic. They provided vital support to residents, and she wished to work closely with them moving forward. She then placed on record her thanks to officers of the Council for their hard work with this.

Stephen Evans, Chief Executive, said that the report before Cabinet represented a huge step forward. He said that remarks made by Michael Gove, Secretary of State, last week about some Council's being seen as a 'crying wolf' when it came to finances did not apply to RBWM and that the threat of issuing a Section 114 notice was very real. Despite the good work from officers, the borough were not yet out of the woods and the Council's financial resilience remained extremely low. Increased pressures on the adult social care market and also external macroeconomic factors, continued to put pressures on the borough financially.

Stephen Evans said in terms of due diligence, responses to the public consultation would be considered along with various process being put in place. This included new boards and greater dives to scrutinise the budget at various boards and panels.

Councillor Reynolds said that it was important to realise that although Council tax may be a lot lower in RBWM, this did not mean that services were a lot cheaper to deliver than other local authorities. He then wished to pull out one certain line out of the budget to note, which was increased money for an improved health suite at Windsor Leisure Centre. This was funded by developers through CIL, which would attract more persons and assist the borough in generating more revenue. This showed an example of the new administration identifying key areas to invest in to see increased revenues, which would assist in fixing the mess that has been inherited. He said that it was the Council's priority to best use resources to bridge that gap and fix the mess that had been inherited.

Councillor Hill thanked Councillor Jones and Werner especially, for their hard work in producing the draft budget along with the officers who were also involved. He said that the issues in the past with having a draft budget that was not open and transparent was that money was having to be taken from one area such as 'Place' and fed into another. In the past, this had seen a halt on several highways' projects for example, which was not good. This included several bridges. Policy would come second, and infrastructure repairs would come first, to avoid an awful mess.

Councillor Hill then said that the inspection team would now be brought back in-house. This was important as the inspectors would now be working for the Council directly and that they

would be ensuring that contracts were delivered expertly for residents. The borough would now be 'marking their homework' rather than them 'marking their own homework'. He added that there was also a new thermal device that would allow for highways repairs, which was a lot more efficient.

Councillor Tisi, Cabinet Member for Children's Services, Education and Windsor, said that for around every £100 that is spent in the budget, £28 was spent on Children's Services, with many of these services being statutory services. She added that early support and prevention of issues before they were to escalate, was a crucial priority for the new administration. She commended officers for their work on transformation when it came to the budget.

Councillor Davies said that having inherited such a difficult financial situation, the tackling of climate change was challenging. However, she wished to thank the Place directorate for the work they had done in terms of identifying areas of service transformation. If persons came together, thought smartly and were innovative, then ways to both save money and cut carbon by doing something different, were possible. Mixed recycling had been an area looked at, along with energy management. Both would cut costs and carbon emissions.

Councillor Bermange thanked Councillor Jones and officers for their hard work in producing a balanced draft budget for 2024/25, considering the looming threat of issuing a Section 114 notice. He commended the work to tackle the issue head on and not to bury things for another day. He said that in terms of a governance viewpoint, everything had been gone through in extreme detail to ensure that the savings were actually deliverable. He finished by encouraging residents to engage in the public consultation process and the Overview & Scrutiny process over the coming weeks.

The Chair thanked all for their words and then outlined what changes had now been made by the Cabinet, compared to what had been inherited from the previous administration.

- No unachievable savings targets included within the draft budget.
- Transformations were true ones and not cuts in disguise.
- Making better use of insourcing in street care and adult services.
- Ensuring the risks are kept in the public domain, to ensure they are known by the residents.
- Making better use of commercialisation.

The Chair then made it clear that the mess was not fixed, and that work was still ongoing, however the draft budget was a huge step forward. He was also keen to hear from residents on their concerns and ideas on the budget too.

Councillor Price then praised officers and the Cabinet for being able to produce a balanced draft budget, as she did not think it would be possible. The situation took a huge amount of maturity to deal with, which she said the Cabinet proved that they had. She then thanked Councillor Del Campo for putting on record her thanks to the voluntary sector who had worked very hard in recent times. She then noted as she had in previous Cabinet meetings, that communication with residents was essential, with the utilisation of language that they could relate too.

**AGREED: That Cabinet noted the report, reviewed the council's approach to balancing the budget and:**

- i) noted the draft revenue budget for 2024/25 included in the report, which showed a preliminary balanced position.**
- ii) noted the proposed capital budget for 2024/25 and revised Medium Term Financial Plan to 2028/29 set out respectively in Appendices A and B.**
- iii) considered the proposed budget pressures and savings / transformation / income proposals set out in Appendices C and D;**
- iv) noted the Equality Impacts Assessments shared at Appendix E; and**
- v) agreed to commence public consultation on the draft 2024-25 budget, including proposals to increase Council Tax by the maximum allowed by**

**Government. The consultation was expected to run from 14th December 2023 to 22nd January 2024.**

### Mill Lane Conservation Area Appraisal

**AGREED: That the order of the agenda be altered so that agenda item 11 be heard next.**

Councillor Bermange introduced the report to Cabinet. He wished to thank officers and residents alike for their work and contribution towards this, including that of Susie Shearer who was in the public gallery. The area covered the ward of Clewer East, where both Ward Councillors were present at the meeting, as members of the Cabinet. The document when adopted would assist in the approval of developments in the future, when it came to looking at applications in the conservation area. He was recommending that it went out to public consultation, with an in-person event being held.

Councillor Davies said that Clewer village was a special place in Windsor, which also housed the oldest building in Windsor. She thanked numerous persons for their work and also their undertaking of reading the draft report that had been presented. This was in addition also to Councillor Bermange and the planning team for facilitating it. She wished to second the proposal.

Councillor Jones said that conservation areas had been put aside for many years and upon asking for them, it had been cast aside. She then wished to mention the conservation area in Old Windsor, which had been waiting 12 years for a report like this too.

**AGREED: That Cabinet noted the report and:**

- i) Agreed the draft appraisal document.**
- ii) Delegated authority to the Assistant Director of Planning in Consultation with the Cabinet Member for Planning, Legal and Asset Management to a) approve and publish any minor changes to the Mill Lane Conservation Area Appraisal document, prior to its publication for consultation, and b) commence a period of public consultation on the document, including a drop-in session at a local venue.**
- iii) Agreed that the appraisal document would come back to Cabinet after consultation, following a review of the responses received, for a decision on whether it can be adopted as a material planning consideration.**

### Procurement of Stop Smoking Services

Councillor Del Campo said that the report before Cabinet was close to her heart, as a former smoker, she acknowledged how difficult it was and therefore knows how important it was for assistance with it. The borough already provided smoking cessation services to residents who were aged 12 years and over, with this money being ring-fenced. The current contract was due to expire on 31 March 2024. Cabinet approval was being sought for a 2-year contract with option for a further three 1-year extensions, totalling 5 years altogether. This would take it past the £500,000 threshold; therefore, it required Cabinet approval.

Councillor Price asked if the report classed vaping in the category of smoking and also was the service to purely stop persons who did smoke, or would it also act as a preventative too for those who did not currently smoke.

Councillor Del Campo said that it did not class vaping as smoking but said that vaping was a better alternative for persons wishing to stop smoking, however vaping was not to be encouraged. There was growing concern about young person's taking up vaping too. In relation to the second question, the service was aimed at persons who were addicted to smoking.

**AGREED:** That Cabinet noted the report and delegated authority to Kevin McDaniel (Executive Director of Adult Services and Health (DASS)) in consultation with Councillor Del Campo (Cabinet Member for Adult Services, Health and Housing Services) to approve the outcome of the current Stop Smoking Procurement exercise.

### School Condition Allocation 2024/25

Councillor Tisi outlined the report that was before Cabinet. A grant was received from central government to fund capital schemes in maintained schools for projects such as replacing boilers or roofs for example. There was an expected receipt of £1.17 million, however this would be made final in March 2024. Proposed works included the replacing/repairing of roofs and also changes in boilers too from oil based to a new air sourced one. She then said that routine survey work was very important to identify issues and fix them, prior to them becoming very expensive to address. This had not been carried by the previous administration, due to no revenue funding having been allocated.

Councillor Hill wished to reinforce Councillor Tisi's request for revenue funding on regularly surveying schools. Routine repairs and maintenance would ensure that a large bill was not incurred later down the line.

Cabinet considered the part II appendix in part I and therefore did not move into part II.

**AGREED: To note the report and:**

- i) **Approved the school condition capital schemes for 2023/24 set out in Appendix C, and their budgets as set out in Appendix D (Part II).**
- ii) **Recommended the school condition capital schemes for 2024/25 as set out in Appendix C, and their budgets as set out in Appendix D (Part II), for inclusion 2024/25 capital programme, to Council.**
- iii) **Delegated approval of further projects for inclusion in the 2023/24 and 2024/25 SCA capital programme to the Director of Children's Services and Education in consultation with the Cabinet Member for Children's Services, Education and Windsor.**
- iv) **Noted the indicative programme of capital schemes for 2025/26 and 2026/27.**
- v) **Delegated authority to the Director of Children's Services and the Procurement Manager to undertake procurement and enter into contracts for the delivery of the schemes set out at Appendix C, including where varied under recommendation (ii).**
- vi) **Requested that consideration be given to establishing a corporate revenue fund for survey and feasibility works relating to the maintenance and development of the council's assets.**

### Building Heights and Tall Buildings Supplementary Planning Document - Adoption

Councillor Bermange introduced the report to the Cabinet and made it clear that the BLP had been inherited from the previous administration and that the Cabinet did not agree with many aspects of it, however they acknowledged that they needed to work with what they had before them. He praised the Planning Policy team for their work in making some significant changes and improvements from the first draft of the proposed Supplementary Planning Document (SPD). This included a reduction in the heights of tall buildings that had originally been drafted. This also ensured that the plans for Cookham station were altered.

The Chair asked three questions to Councillor Bermange that had been asked to him by many residents during the election.

1. Would the three tower blocks in Maidenhead be allowed now under the new guidance of the SPD? Councillor Bermange replied by saying that it would be a lot more difficult for that now and unlikely.



2. What would now happen with the 25 storey Nicholsons building that was approved under the previous administration? Councillor Bermange replied with saying that a more appropriate 16-storey would be recommended, subject to planning consent.
3. Was the proposal made by the previous administration to build roughly a 15-storey tower by Maidenhead station now off the agenda? Councillor Bermange replied by saying that the site showed that it was not appropriate to have more than 8 or 10-stories here.

**AGREED: That Cabinet noted the report and:**

- i) **Approved the adoption of the Building Height and Tall Buildings Supplementary Planning Document, as set out in Appendix B.**
- ii) **Delegated authority to the Assistant Director of Planning in consultation with the Cabinet Member for Planning, Legal and Asset Management for minor changes to the Supplementary Planning Document to be made prior to publication.**

Article 4 Direction—removal of permitted development rights to change of use from Class E (commercial class) to C3 (residential)

Councillor Bermange briefly outlined the report that was before Cabinet. The BLP did not only discuss housing requirements but also that places of work for example were also mentioned and how to safeguard them. A permitted development right did exist which allowed for an office site to be converted into a block of flats, which had happened. The main aspect of the report would be to disapply this, with developers having to obtain regular planning permission moving forward.

Councillor Hill supported the recommendations and said that when a commercial building went to residential, the income to the borough in terms of business rates would be lost, which in turn could put a dent in the Council’s business rate income stream quite significantly.

**AGREED: That Cabinet noted the report and:**

- i) **Agreed a non-immediate Article 4 direction be made to remove the permitted development rights (within Schedule 2 of the General Permitted Development Order 2015 (as amended)) to change use from Class E (commercial, business or service) to C3 (residential) on protected employment sites as shown in Appendix B and to prepare and undertake a public consultation.**
- ii) **Delegated authority to the Assistant Director of Planning in consultation with the Cabinet Member for Planning, Legal and Asset Management, to approve and publish any minor changes to the Article 4 direction and supporting documents, prior to its publication.**
- iii) **Agreed that the Article 4 direction would be taken back to Cabinet after consultation following a review of the responses received, for a decision on whether it can be confirmed.**

The meeting, which began at 7.00 pm, finished at 9.08 pm

CHAIR.....

DATE.....