

Buckinghamshire Council Cabinet meeting 11th October 2022

Agenda item

Little Marlow Lakes Country Park

Response to letter from Cllr Stuart Wilson

This response is ordered to mirror the matters raised in Cllr Wilson's correspondence.

1. Overall conclusions

- a) The report is not unsound. It is clear from the reports that WDC relied on powers contained in S7(1) of the Countryside and Rights of Way (CROW) Act 1968 – but those powers were limited by S7(3) below. The WDC resolution was for an area of land that included both Council owned and other land. If this Council cannot implement the decision in its entirety then it needs to be considered afresh.

S7 Power to provide country parks.

(1) Subject to section 6 above, a local authority shall have power, on any site in the countryside appearing to them suitable or adaptable for the purpose set out in section 6(1) above, to provide a country park, that is to say a park or pleasure ground to be used for that purpose.

(3) The powers conferred by the foregoing provisions of this section and by the next following section may be exercised by the local authority—

- (a) on land belonging to them, or**
- (b) on such terms as may be agreed with the owners and any other persons whose authority is required for the purpose, on other land, and an agreement under paragraph (b) above may provide for the making by the local authority of payments in consideration of the making of the agreement and payments by way of contribution towards expenditure incurred by the persons making the agreement in consequence thereof.**

- b) As to the compensation issue. Cllr Wilson takes issue with the suggestion that the landowners would *need* to be compensated. The position is if other landowner's property becomes part of the Country Park their consent is required; and they are able to negotiate such terms as can be agreed (which can include compensation). So far there has not been any negotiation with owners or an estimate of what the demands might be so the cost is unknown. We do know, however, that we would need consent from every owner for the Country Park to be effective.

- c) Cllr Wilson also contends that the report fails to provide a meaningful framework for all current and future planning applications to be determined. With respect, it is neither the intended purpose of the report nor the role of Cabinet to set out such a timeline and framework. The Cabinet report seeks agreement in principle to proceed to the next step which would include preparation of a business plan. However, Cabinet agreement to the recommendation would provide a clearer public position on the intent for this area of land and would not be an impediment to the Council determining any current or future planning applications.
- d) Cllr Wilson claims that *fundamentally, Buckinghamshire Council is seeking to operate in an extra-judicial role by ignoring the October 2017 resolution of the Wycombe District Council and the adopted Wycombe Local Plan. Buckinghamshire Council has received recent legal advice that fails to acknowledge the full powers of the Countryside Act 1968 that were available to Wycombe District Council and remain available to Buckinghamshire Council.* However, and to be clear, Buckinghamshire Council is not ignoring the resolution of WDC but moreover is bringing this report to enable Cabinet to understand the barriers to implementation and to provide a steer on how to progress.

2. Detailed comments

- a) The wards affected and listed on the report are those directly affected as the future Country Park is located within those wards. It is accepted however that the decision has a wider implication, arguably to the whole of Buckinghamshire given the potential implications on the Local Plan.
- b) The relevant section of the legislation is contained in the answer above. The Council has taken external legal advice and the Director of Legal Services confirms his advice that the basis of the report is sound. Further advice will be available to Cabinet at its meeting should that be required.
- c) Cllr Wilson also disagrees with the statement in paragraph 2.3 of the report that the Country Park does not exist in the absence of an agreement. His argument is that as the site is allocated in an adopted Local Plan and as it has been subject to examination, any withholding of agreement by landowners would be futile. Unfortunately, this argument conflates the planning process with other legislative processes. The fact that the site is contained in an adopted Local Plan is a material consideration in the determination of planning matters in the area but, importantly, it has no impact or relevance and places no duty on landowners to reach an agreement under the terms of the 1968 CROW Act.

- d) Cllr Wilson questions in paragraph 1.2 how the number of landowners and potential costs is as yet unknown. So far there has not been any negotiation with owners or an estimate of what the demands might be so the cost is unknown. The report explains that to date, no resource has been allocated to this scheme and in part, the purpose of this report to Cabinet is to prioritise and allocate resources to the scheme.
- e) The fact that land could be compulsorily purchased is not in question and indeed such an option is not ruled out by the report in the future should the necessary funding be available. However the option recommended in the report is both practical and deliverable in a relatively short timescale which supports the delivery of the co-dependent sites contained in the Local Plan.
- f) The fact that there is a public perception that the Country Park already exists is not in question and the report states this as a matter of fact for context so that Cabinet are able to make a decision with this knowledge
- g) The material contained in the report is properly attributed to Dido properties and is in the public domain, there is no restriction on its use and in no way does this infer support for any party in this matter.
- h) Paragraphs 2.7 to 2.9 set out the limitations to progressing with the full RUR4 area as a Country Park at this stage. The answer is set out above as to why there are likely to be costs and time delays in pursuing the wider area. However, the recommendation in the report does not rule out revisiting this at a later stage as and when resources may be available
- i) The fact that Country Parks are a well visited attraction is not in question. The purpose of the report however is to set out the options for the Council and concludes that it is indeed desirable to provide for a Country Park but that in the short term, the most deliverable option is to contain the Country Park on land owned/controlled by the Council. The report does not rule out delivering a wider area of Country Park at a later stage as and when resources may be available.
- j) Paragraph 2.10 of the report acknowledges the funds that are available towards the delivery of the Country Park and it is intended to utilise the funds for the purpose that they were secured. Those funds however are not ongoing funds, they are one-off sources of funding to be spent on the delivery of the Country Park. It will still be necessary for the Council to develop a sustainable business plan for the Country Park. This is a recommendation of the report and will be reported to Cabinet in due course.

- k) The report does specify a requirement for a cost-neutral solution. It is also explicit that a business plan will need to be considered by Cabinet before implementation. Any implications of this in relation to future planning proposals is a matter to be considered by the appropriate planning committee/officer

- l) The policy RUR4 is contained in an adopted Local Plan. The assumption of that plan was that a Country Park would be provided to act as a SANG and to mitigate the impact of new developments on the Burnham Beeches SAC. As the Cabinet report indicates, the decision now before Cabinet is how to most appropriately deliver the Country Park and SANG so as to ensure the development contained in the WDC Local Plan can be delivered. The recommendation therefore supports this position and also does not rule out a wider delivery of Country Park in the future should resources permit.

- m) The Local Plan does allocate land for the Little Marlow Lakes Country Park. There is nothing within the Cabinet report that changes, or seeks to change that allocation. The allocation of all land as a Country Park will remain a material consideration in making planning decisions. The amount of weight to be attached to different parts of the allocation area in making those planning decisions will depend on the future decisions of Cabinet and the outcome of their consideration of this current report.

- n) Officers have been in regular contact with Natural England about the position regarding the allocated Little Marlow Lakes Country Park and the recommendations contained within this report. Natural England will confirm their position in relation to individual planning applications but the recommendation of officers is the solution outlined in the Cabinet report can be agreed with some confidence that it will deliver SANG for sites in the Wycombe Local Plan.

- o) In relation to paragraph 2.21, the report refers that an enforcement notice 'may' be required. It is almost certain that a notice will be required but this is a matter that is a planning matter and delegated to the Service Director of Planning and Environment. It would not be directed by Cabinet. Similarly, as with all other enforcement notices, it will be a matter for the planning officers to determine an appropriate compliance period taking into account the circumstances of the site. This can be confirmed at the time of service of any notice.

- p) The Cabinet report seeks agreement in principle for the future delivery of the Country Park at Little Marlow. It is clear that a further report setting out the business plan for the site will need to be considered by Cabinet before any implementation on the site. However, should the recommendation be agreed it is considered an important step forward in providing certainty about the

Council's intentions and delivery of the Country Park and will be material in allowing other decisions, affected by the future Country Park to be progressed.