

Response to Little Marlow Lakes Country Park Cabinet Report

Date: October 1st, 2022

To: Steve Bambrick

Cc: Cllrs Strachan and Harriss

From: Cllr Wilson

Dear Steve,

Thank you again for the briefings and for sharing this draft report in confidence prior to being issued as part of the Cabinet agenda following my question to Cabinet in February. I appreciate the opportunity to ask questions and provide comments.

Overall Conclusions

In summary, I am concerned that this report is unsound and that any decisions based on it may be considered unsafe and subject to call-in. I would recommend that it is withdrawn from this Cabinet Meeting, substantially re-drafted to propose that Buckinghamshire Council provides Little Marlow Lakes Country Park as defined in Policy RUR4 of the adopted Wycombe Local Plan. Should you decide to proceed with the report to Cabinet as presently draft, I would request that my response is shared with Cabinet Members as an Appendix. I reserve my right to ask questions at Cabinet, Council and relevant Select Committees on this matter.

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.

The report summarily dismisses the option of providing a Country Park as defined in the Wycombe Local Plan. It makes substantial assumptions about potential discussions and a possible agreement with landowners without providing any evidence of prior engagement. It presumes there will be compensation requirements and significant costs without also presuming for revenue benefits. All these negative assumptions are made against a favourable backdrop of the powers provided by the Countryside act 1968, Green Belt designation and the significant restraints imposed by local planning policies on development in this area.

Even if one were to accept the contents and recommendations of this report (which I am not advocating), it fails to provide a meaningful framework and timeline for all current and future planning applications presently dependent on one, but often many, of the various recommendations and next steps. The interdependencies and requirements for third party engagement and agreement, such as Natural England, are complex and the consequences of

failing to gain agreement need to be laid out more explicitly for Cabinet Members. There are also some implicit trade-offs being assumed within this report, such as potential s106 contributions from new commercial developments that would seemingly be in contravention of Green Belt designation and prevailing local planning policy.

Following on from this, section 4 Legal and Financial Implications does not acknowledge the risk to Council from ongoing uncertainty for planning applicants and potential appeals for non-determination. The Council has taken at least 8 months to reach this position and the clock is ticking on several substantial planning applications relating to the Little Marlow Lakes Country Park area. Although neither this report nor Cabinet can determine individual planning applications, this report fails to provide any degree of framework or timeline for applicants and residents alike.

Detailed Comments

I have provided more detailed comments to each of the sections below:

As a minimum, Ward(s) Affected should also include The Wooburns, Bourne End and Hedsor given the requirement to provide SANG/mitigation for recreational impacts at Burnham Beeches SAC for developments at Hollands Farm and Slate Meadow. Arguably, as a strategic planning policy (RUR4) in the Wycombe Local Plan, any decisions have a wider consequence for all wards in the former Wycombe area.

Cllr Watson has already expressed concerns about the interpretation of the Countryside Act 1968 (sections 6-7). I also have grave concerns about the selective interpretation of the legislation and would recommend that Buckinghamshire Council take further legal advice as we discussed at our recent meeting. If Planning decide not to take further legal advice, the Cabinet should be furnished with these paragraphs of legislation as an Appendix to make an informed decision. My comments on the legislation are as follows:

- Legislation provides extensive powers for local authorities to provide country parks
- That power pertains to any site considered suitable by the local authority
- It covers both land owned by the authority and not owned on terms as may be agreed with landowners – existing rights of way would not require an agreement
- Payments may be required for the cost of *making* an agreement and *expenditure* associated with the agreement – there is no requirement for other payments
- The local authority can compulsorily purchase any land for the purpose of their functions relating to the provision of a Country Park under the legislation

In short, the resolution from Wycombe District Council in October 2017 to provide a Country Park and Policy RUR4 in the adopted Wycombe Local Plan, which allocated the area only for outdoor recreation are wholly in line with the legislation. I dispute the comment in paragraphs 2.2 and 2.12 of the report that this was not sufficient, paragraph 2.23 that the Council cannot properly rely on powers in the 1968 Act, and paragraph 2.7 that Buckinghamshire Council has a choice over the matter. The WDC resolution and the Wycombe Local Plan are already made.

I disagree with the statement in paragraph 2.3 that the Country Park does not exist in the absence of an agreement. An agreement may be required with landowners if terms require an agreement, such as if public access were sought for their land, which it is not. Paragraph 2.8 suggests compensation is required; this does not reflect the legislation in section 7 (3). Furthermore, Policy RUR4 had ample opportunity to be consulted upon and challenged by landowners. It underwent Examination in Public by a Planning Inspector. The period for a legal challenge to the Wycombe Local Plan has passed as noted in paragraph 2.13. Any withholding of agreement by landowners, should the Council require anything beyond existing public access, would be futile.

Paragraph 1.2 of this report explicitly states that “owners can provide this agreement freely or on terms which can include the payment of monies”. It goes on to state that the number of landowners or their position on an agreement is unknown. This is extremely surprising given the extensive knowledge of the area by Property and Planning Officers, particularly those engaged with existing and potential planning applications. This matter has also been on the Council radar for a considerable amount of time, not least since questions from local Members much earlier this year.

Further, section 7 (4) of the 1968 Act provides for compulsory purchase of land. As this is Green Belt adjoining AONB, there are substantial limitations on development underpinned by extensive planning policy restrictions in the 2002 SPG and Policy RUR4; landowners claim it is poor agricultural land given its gravel pits heritage. As such, it would have low land value and represents an opportunity for Buckinghamshire Council to acquire the land, enhance its recreational provision and revenue opportunities.

Public perceptions of the area being a Country Park are primarily governed by the 2002 SPG, the resolution approved by Wycombe District Council in 2017 and Policy RUR4 in the adopted Wycombe Local Plan examined under considerable scrutiny by a Planning Inspector. It is incorrect to infer that public perception has been led solely by third parties as stated in paragraph 2.4. It is the local planning authority that has created this perception because it agreed to provide a Country Park. Buckinghamshire Council must respect what is already enshrined in planning policy.

Paragraphs 2.4 and 2.5 are also misleading about knowledge of local parties. There is extensive knowledge in the Council’s Property and Planning teams as well as local Members about third parties involved in Little Marlow Lakes Country Park. Property Officers have had conversations with Mike Overall at the Little Marlow Lakes Community Partnership, as well as Little Marlow Parish Council and residents’ groups. Little Marlow Lakes Community Partnership have contributed to the Appropriate Assessment and SANG provision for Hollands Farm.

It is deeply concerning that the Buckinghamshire Council Planning Team are using materials from a potential property developer in this area with vested interests (Dido) in paragraph 2.6 and Appendix rather than form their own evidence base. It might create the impression that Buckinghamshire Council is supporting developer interests ahead of residents.

Paragraphs 2.7 to 2.9 summarily dismiss the most obvious option which is wholly ignored in Section 3 Other Options Considered. Buckinghamshire Council could choose to pursue the provision of the Country Park by engaging with all other landowners to complete whatever agreements may be necessary, presuming that is the case. Paragraph 2.8 is entirely presumptive in stating that this “will involve negotiations with existing landowners, most of whom will expect some form of compensation in return for their agreement.” Paragraph 2.9 presumes that there will be a need for landowner compensation. Notwithstanding earlier comments above regarding the existing depth of knowledge and connections within the Council about landowners, it is misleading to predetermine the outcome of any discussions, given the powers available to the Council under the Countryside Act 1968, Green Belt status and the prevailing planning policies in the 2002 SPG and the Wycombe Local Plan.

Paragraph 2.9 is also incomplete. Country Parks are the most visited attractions in Buckinghamshire as noted in the recent Visitor Economy report to a Council Joint Select Committee with 1.4m visits in the past year. This report should also note all the recreational benefits for residents and visitors as well as the revenue opportunities for Buckinghamshire Council and other businesses. It is insufficient to purely note the costs, whether it is the Council-owned land or the whole area. The final sentence in paragraph 2.9 is potentially misleading because public access is presently provided for by public right of way and improvement costs are being covered in s106 agreements.

Paragraph 2.10 acknowledges the requirement for income generating facilities as required by Policy RUR4 and the Hollands Farm Appropriate Assessment. This is the burden and price for development elsewhere which brings s106 payments (£1.5m for Hollands Farm and £0.3m for Slate Meadow) and CIL to fund such facilities (as referenced in paragraph 1.4 of this report which notes such an assumption in the Appropriate Assessment of the Wycombe Local Plan), as well as the £0.5m referenced in paragraph 1.9 and the £0.45m referenced in paragraph 1.11. Surely this is the fundamental purpose of such agreements with developers and windfall payments rather than to burden the public purse. Equally, such agreements should be deployed locally and not used to fund financial shortfalls elsewhere in Council budgets. If the financial agreements do not cover the costs, then perhaps the development policies, such as BE2 Hollands Farm are not deliverable and should be removed through the new Buckinghamshire Local Plan?

Paragraph 2.11 covers a key conditionality that needs to be explicitly communicated. If a cost neutral solution cannot be defined on the wider area or Council-owned land, then Council policy dictates that a Country Park cannot be delivered. On this basis, then it is not possible to deliver a SANG area and all relevant development policies, such as BE2 Hollands Farm, must be shelved. Fundamentally, the Council must find at least a cost neutral solution to conform with its own policy.

Paragraph 2.13 contains a fundamental pivotal point of this report. It states that the Wycombe Local Plan and policy RUR4 were conceived on the understanding that the site was a Country Park. The Wycombe Local Plan went under considerable public consultation and scrutiny through an Examination in Public by a Planning Inspector appointed by the Secretary of State. It was subsequently challenged in the High Court in a Judicial Review and all claims were dismissed. At no point throughout the development of the Plan or its

adoption was this understanding questioned by the highest planning and judicial authorities in the land. At no point was consideration only given to Council-owned land. For Buckinghamshire Council to place itself beyond the consideration of a Planning Inspector or a High Court judge would seem to be operating in an extra-judiciary and, therefore, unsafe capacity.

Paragraph 2.15 endeavours to confuse through selective use of capitalisation for the term Country Park. The fundamental point here is that Policy RUR4, Policy BE2 and the Appropriate Assessment in conjunction refer to the Little Marlow Lakes Country Park on the understanding that it exists. If it does not exist, then there is a fundamental question regarding the deliverability of these Policies. The quoted paragraph of the Local Plan expressly states Country Park, not country park. This is further underpinned by paragraph 2.17 of this report which refers to making “the Country Park SANG compliant”.

Another fundamental point for residents in our Ward is paragraphs 2.18 and 3.1. These note the conditionality between the Council providing land for recreational purposes via SANG compliant space and the deliverability of BE2 Hollands Farm, noting its impact on the Council’s [Wycombe?] 5-Year Housing Land Supply, should it fail to do so. We can debate separately whether this is in fact an issue at all in the Wycombe area as reported by the Council where the 5-Year Housing Land Supply is healthy.

Paragraphs 2.19 and 2.20 must be confirmed in consultation with Natural England who are understandably operating under assumption that Little Marlow Lakes Country Park is as defined in the Wycombe Local Plan and not as noted in paragraph 2.24 as only 10ha. This is confirmed in paragraph 1.3 which refers to the Little Marlow Lakes area. It would be extremely unsound to proceed without extensive input and agreement from Natural England. In my conversations with them, they have been very clear about their expectations and priorities. It is vital that Natural England understand that the proposed SANG site in this report is not compliant and is presently in breach of a restoration planning condition. It is highly likely that Natural England would object to any planning application for BE2 Hollands Farm without a clear and approved roadmap. Obviously, this does not exist today and must be noted by decision makers.

Paragraph 2.21 refers to “the approved restoration scheme” – has this already been defined and who has approved it? It is highly unlikely that this can be implemented before the planning condition expires (end December 2022), so an enforcement notice MUST (not “may be”) served on the site. Please specify what a suitably extended compliance period would be to deliver a SANG? This has a material bearing on BE2 Hollands Farm for all parties; the Council is at risk on an appeal for non-determination and residents continue to be uncertain about the local area.

Paragraph 2.22 is welcome in defining the limitations for development across the entire Country Park area and the limited benefit for landowners. This further enhances the point made above about compulsory purchase. The acknowledgement of the lakes already being used for recreation and inhabited by wildlife is also important to limit any development beyond recreational amenities.

Paragraph 2.24 is noted and welcome regarding the planning applications for Spade Oak Quarry. In fact, the whole allocated area of Policy RUR4 Little Marlow Lakes Country Park is similarly designated as Green Belt and therefore is subject to that same conditions regarding inappropriate development for current large scale planning applications, including Marlow Film Studios and Marlow Sports Hub. This is further acknowledged in paragraphs 1.6 – 1.8 which note the considerable constraints on these and other developments.

To repeat comments in the Overall Conclusions, section 4 Legal and Financial Implications does not acknowledge the risk to Council from ongoing uncertainty for planning applicants and potential appeals for non-determination. The Council has taken at least 8 months to reach this position and the clock is ticking on several substantial planning applications relating to the Little Marlow Lakes Country Park area. Although neither this report nor Cabinet can determine individual planning applications, this report fails to provide any degree of framework or timeline for applicants and residents alike.

Final Thoughts

In summary, I am concerned that this report is unsound and that any decisions based on it may be considered unsafe and subject to call-in. I would recommend that it is withdrawn from this Cabinet Meeting, substantially re-drafted to propose that Buckinghamshire Council provides Little Marlow Lakes Country Park as defined in Policy RUR4 of the adopted Wycombe Local Plan. Should you decide to proceed with the report to Cabinet as presently draft, I would request that my response is shared with Cabinet Members as an Appendix. I reserve my right to ask questions at Cabinet, Council and relevant Select Committees on this matter.

You will no doubt be aware from our prior discussions and my comments here that I do wish to see Little Marlow Lakes Country Park provided to residents as envisaged over many decades. This is the “contract” outlined in the Wycombe Local Plan between the LPA and the local communities for the price of growth and development in the Wycombe area. There is substantial funding available through the various sources outlined in your report. Buckinghamshire Council’s existing Country Parks attract 1.4m visitors a year and bring substantial recreational and commercial benefits. Buckinghamshire Council must have the vision and commitment to deliver a successful Country Park in the south-west of the county and protect the natural environment and biodiversity from unwanted speculative development along this highly attractive part of the River Thames. As ever, I would be happy to meet in-person or virtually to discuss my comments and suggestions.

Kind regards,
Stuart Wilson
Member for The Wooburns, Bourne End and Hedsor
Leader of the IMPACT Alliance Group