



## Call-in Request Form

<b>Decision title:</b>	Little Marlow Lakes Country Park
<b>Decision reference no:</b>	Cabinet 11/10/22 – Agenda Item no.11
<b>Decision taker:</b>	Cabinet
<b>Date decision made:</b>	Notice published on 13/10/22

### **Reasons for the call-in:**

*Please provide supporting information on the reasons for your call-in request. Please limit your summary to no more than 1,000 words for this entire section. Grounds for a call-in request should relate to one of the following categories:*

- a. The decision has not been made in accordance with this Constitution, Council policies or Council procedures and processes;
- b. The decision is outside of the Council’s policy framework, or the budget approved by the Council;
- c. The decision is outside of the powers of the Council;
- d. The decision is unlawful

### **1. Lack of consultation leading to predetermined Decision based on assumptions**

- 1.1. The Decision to not “regularise” the whole Little Marlow Lakes Country Park (LMLCP) area provided by the Cabinet Resolution of Wycombe District Council (WDC) in 2017 and explicitly referenced as a Country Park in Policy RUR4 of the Wycombe Local Plan (WLP) has failed to conform with the Buckinghamshire Council Corporate Plan to be *Customer-centred* and other Buckinghamshire Council (BC) policies on localism, such as the Town and Parish Council Charter.
  - 1.1. As such, the decisions are wholly Council-centred and only considering the cost-benefit analysis for BC rather than all stakeholders, particularly residents.
  - 1.2. The predetermination of the area without formal public consultation with key stakeholders is a major failing of this Decision.
  - 1.3. There has been no dialogue with landowners, but Decision presumes there would be a demand for substantial compensation. Yet, such compensation would be wholly unjustified merely to affirm existing public rights of way across private land.
  - 1.4. Officers have had only an informal dialogue with Natural England which has led to a presumption that the reduced Country Park area would be acceptable to Natural

England as mitigation for recreational impact at Burnham Beeches Special Area of Conservation.

- 1.5. Discussion has been limited to Officers and Cabinet Members, with very limited briefings for local Members.
- 1.6. Formal consultation must be held to scope and inform options prior to recommendations, as would happen in any significant statutory or planning decision. Stakeholders would include, but are not necessarily limited to:
  - 1.6.1. Residents
  - 1.6.2. Local Members
  - 1.6.3. Town and Parish Councils
  - 1.6.4. Landowners and Developers
  - 1.6.5. Natural England
  - 1.6.6. Business and Recreation Interests
  - 1.6.7. Conservation Groups
- 1.7. In the absence of any informal or formal public consultation, there is sufficient cause for adequate scrutiny by a Select Committee to ensure that the Recommendation and Decision to focus on only a fraction of the LMLCP area has been made soundly on behalf of all stakeholders.

## **2. Insufficient scrutiny of prior, existing, and alternative legal advice for a material matter**

- 2.1. BC has wholly relied on a single point of legal advice taken in response to a solicitor enquiry to resolve that there was a lack of formal designation for LMLCP.
- 2.2. This legal advice has not been shared with Cabinet, which could have been done within a confidential session if required.
- 2.3. However, the legal advice was considered so pivotal to the Cabinet discussion that the Director of Legal Services was requested to speak prior to the Head of Planning. However, the Director of Legal Services was not asked to comment on any legal advice that may have been provided to WDC to inform the Resolution taken in 2017.
- 2.4. This is a significant and complex set of Decisions with substantial implications for many facets of local planning, infrastructure and economic development in the South-west Chilterns area which must be supported by more thorough legal consideration.
- 2.5. The BC Cabinet Report, discussion and Decision focused only the Minutes of the WDC Cabinet Resolution (Minutes) in 2017. It paid no heed to any legal advice provided to or due consideration of legal matters by WDC.
  - 2.5.1. It is widely noted by those WDC Cabinet Members involved at the time in the WDC Resolution, that LMLCP had been provided correctly under the terms of the Countryside and Rights of Way Act 1968 (CROW).
  - 2.5.2. The Minutes correctly reflect that the implementation of the Resolution be delegated to the Head of Community, reporting to the Cabinet Member for Community.
  - 2.5.3. In line with CROW, the Minutes correctly note that an agreement will need to be made with landowners, such matters as costs towards the making of an agreement and the implementation of that agreement.
  - 2.5.4. The WDC Minutes noted private ownership, limited financial exposure, and a working arrangement to be agreed as part of the delivery, not the decision.
  - 2.5.5. All such costs are covered by nearly £1.8m of s106 funding (calculated in perpetuity to 80 years) and substantial other payments for improvements to

existing public rights of way over private and public land, as well as improved car parking facilities.

- 2.5.6. There was never (nor now) any suggestion of unlimited public access or roaming rights over private land.
- 2.5.7. At the time of the Resolution, WDC did not own any part of the land in LMLCP, so the decision taken at the time would have taken this into account.
- 2.5.8. The Wycombe Local Plan and Policy RUR4 for LMLCP was constructed in parallel to this Resolution and eventually adopted in August 2019 after extensive public consultation, an Examination in Public by a Public Inspector, and the successful defence of a Judicial Review in front of a senior High Court Planning Judge.
- 2.5.9. In September 2019, WDC purchased the land at Spade Oak Quarry. The WDC press release noted that *"in 2017, Wycombe District Council formally designated the area for the provision of a country park under the Countryside Act 1968. The Council's recently adopted new Local Plan includes strengthened policies (Policy RUR4) to promote the continued development and long-term management of the Country Park."*
- 2.6. It is inconceivable that BC would base such a significant decision without due regard to all or any legal advice taken by WDC prior to its dissolution.
- 2.7. The Cabinet Report notes that local Members were surprised to learn that the legal advice procured by BC advised that the Country Park had not been formally provided. It would be incorrect to assume that this implies acceptance of this single legal interpretation by local Members. On the contrary, local Members advocated for additional legal advice to be sought and considered prior to any Decision which has been dismissed.
- 2.8. The single point of legal advice and circumstances surrounding its procurement should be fully scrutinised by a Select Committee. A Select Committee should also consider the any legal advice provided to WDC and consider statements from those involved in the WDC Cabinet Resolution and Local Plan development in conjunction with the BC Director of Legal Services.

### **3. Beyond BC power to deliver SANG within Decision constraints**

- 3.1. One of the key deliverables for the LMLCP Cabinet Report is a fully compliant Suitable Alternative Natural Greenspace to ensure the delivery of major housing projects across the area, notably those in Bourne End and Wooburn (Policy BE1: Slate Meadow and Policy BE2: Hollands Farm) given a requirement from Natural England to offset recreational impacts at the Burnham Beeches Special Area of Conservation (BBSAC).
- 3.2. The basis of the Cabinet Decision is to provide this within the Council-owned land, but this is plainly not deliverable.
  - 3.2.1. Appendix 2 in the Cabinet Report provides the criteria for a SANG and a Country Park.
  - 3.2.2. The Cabinet report noted the dominance of the Little Marlow Treatment Works in its introduction.
  - 3.2.3. SANG requirements in Appendix 2 state that it must be "free from unpleasant intrusions", such as odour from sewage works. Anyone walking the footpaths adjoining or in the vicinity of the sewage works around the Council-owned land will note there is considerable sewage odour.

- 3.2.4. SANG requirements in Appendix 2 also state that it should provide a 2.3 – 2.5km circular walk – it would be impossible to achieve anything like this without walking around the lakes and passing alongside the sewage works.
- 3.2.5. The Cabinet Discussion provided a misleading figure for the land area as 80ha. It is 55ha and mostly water, so there is very little scope on the Council-owned land for free roaming beyond the existing footpaths.
- 3.2.6. No details or costs have been provided for an “alternative restoration plan” to deliver a limited Country Park and a SANG compliant facility.
- 3.2.7. It cannot be assumed that all or part of the rest of the Policy RUR4 area will be delivered to ensure SANG compliance.

**Desired outcome/alternative course of action sought:**

1. Set up a Project Board comprising local Members, Parish Councillors, Officers in consultation with landowners and business interests to develop options and implications for consideration.
2. Revisit the WDC legal advice and Resolution; seek additional legal advice on interpretation of the CROW Act 1968 and the powers and options available to BC to deliver considered options.
3. Conduct a thorough public consultation on draft options and implications.
4. Develop a vision based on outcomes for LMLCP (per South-West Chilterns Community Board discussions in Q1 2022).
5. Make formal recommendations to Cabinet Members for Cabinet (and Council) for resolution.

**Lead Member:**

*(who will attend the meeting and be the main contact and spokesperson for this call-in request)*

Cllr Stuart Wilson

**Supporting Member:**

*(who will attend the meeting)*

Cllr David Watson

**Names of other Members supporting the call-in request:**

*(a minimum of 21 is required)  
(written evidence of the support of additional members is required by providing a copy of an email from a Member confirming their support for this call-in. Alternatively, a Member can email confirming their support direct to the Democracy mailbox)*

1. Cllr Mary Baldwin
2. Cllr Karen Bates
3. Cllr Andrea Baughan
4. Cllr Anders Christensen
5. Cllr Alex Collingwood
6. Cllr Peter Cooper
7. Cllr Tim Dixon
8. Cllr Penny Drayton
9. Cllr Mohammad Fayyaz
10. Cllr Ed Gemmell
11. Cllr Paul Griffin
12. Cllr Steve Guy
13. Cllr Darren Hayday
14. Cllr Orsolya Hayday
15. Cllr Tom Hunter-Watts
16. Cllr Imran Hussain

	<ol style="list-style-type: none"><li>17. Cllr Majid Hussain</li><li>18. Cllr Sarah James</li><li>19. Cllr David Johncock</li><li>20. Cllr Sophie Kayani</li><li>21. Cllr Matt Knight</li><li>22. Cllr Steven Lambert</li><li>23. Cllr Susan Morgan</li><li>24. Cllr Adam Poland-Goodyear</li><li>25. Cllr Waheed Raja</li><li>26. Cllr Nabeela Rana</li><li>27. Cllr Melanie Smith</li><li>28. Cllr Robin Stuchbury</li><li>29. Cllr Gurinder Wadha</li><li>30. Cllr Julia Wassell</li><li>31. Cllr Alison Wheelhouse</li></ol>
<b>Date:</b>	<b>October 19<sup>th</sup> 2022</b>

*Please refer to the call-in procedure detailed in Part G Para 2.60 onwards in the [constitution](#).*

*This form will be submitted to the democracy mailbox at [democracy@buckinghamshire.gov.uk](mailto:democracy@buckinghamshire.gov.uk)*