

# DRAFT

Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

## COUNCIL

### MINUTES OF THE MEETING HELD ON THURSDAY, 17 MARCH 2022

**Councillors present in the Second Floor Meeting Area:** Rick Jones (Vice-Chairman in the Chair), Steve Ardagh-Walter, Phil Barnett, Jeff Beck, Dennis Benneyworth, Dominic Boeck, Graham Bridgman, Jeff Brooks, Jeff Cant, James Cole, Jeremy Cottam, Carlyne Culver, Lynne Doherty, Billy Drummond, Gareth Hurley, Owen Jeffery, Alan Law, Tony Linden, Royce Longton, Ross Mackinnon, Alan Macro, Thomas Marino, David Marsh, Steve Masters, Geoff Mayes, Andy Moore, Biyi Oloko, Graham Pask, Erik Pattenden, Claire Rowles, Richard Somner, Joanne Stewart, Martha Vickers, Tony Vickers, Andrew Williamson and Howard Woollaston.

**Councillors present remotely:** Hilary Cole and Clive Hooker.

**Also Present:** Honorary Aldermen Paul Bryant, Andrew Rowles and Quentin Webb, Nigel Lynn (Chief Executive), Sue Halliwell (Executive Director (Place)), Joseph Holmes (Executive Director (Resources)), Paul Coe (Service Director for Adult Social Care), Sarah Clarke (Service Director for Strategy and Governance and Monitoring Officer) and Vicki Yull (Principal Democratic Services Officer).

**Apologies for inability to attend the meeting were received from:** Councillors Adrian Abbs, Lee Dillon, Nassar Hunt, Garth Simpson and Keith Woodhams, Honorary Aldermen Adrian Edwards and Graham Jones, Honorary Alderwoman Mollie Lock and Andy Sharp (Executive Director (People)).

#### PART I

##### 86. Chairman's Remarks

The Vice-Chairman held a Minutes Silence in respect for former Councillor and Chairman James Mole. Tributes were paid to Mr Mole by Councillors Jeff Brooks, Lynne Doherty and Martha Vickers.

The Vice-Chairman referred to the appalling, tragic and unnecessary suffering being experienced currently by the people of Ukraine. Members would be aware of activity happening at a national level, and the Vice-Chairman noted the Motion on the agenda which he hoped would highlight the Council's response locally.

The Vice-Chairman reported that twelve civic events had been attended since the last ordinary meeting of Council. This had included several tree planting ceremonies both in remembrance of colleagues lost or affected by Covid and to celebrate The Queen's Platinum Jubilee. He thanked Councillor Graham Pask for having stepped in at short notice to attend some events whilst both he and the Chairman of Council were self-isolating due to Covid. The Chairman had asked the Vice-Chairman in his absence to specifically mention his attendance at the Queen's Award for Voluntary Service, where Home-Start West Berkshire had been recognised for its achievements.

The Vice-Chairman also highlighted that today was a dedicated day of remembrance and reflection upon the important work of the social care sector. This was a national initiative, and West Berkshire Council staff had marked it with a Minute's Silence to remember those lost in the last two years and to thank all those involved in this vital area of work.

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### 87. Minutes

The Minutes of the meetings held on 2 December 2021 and 18 January 2022 were approved as a true and correct record and signed by the Chairman.

### 88. Declarations of Interest

Councillor Tom Marino declared an interest in Agenda Items 5 and 19 (Motions B and D) due to his partner and brother working for Thames Water and reported that, as his interest was a personal or an other registrable interest, he would be leaving the meeting during the course of consideration of those matters.

Councillor Richard Somner declared an interest in Agenda Item 19 (Motion G) due to his employment at the Royal Berkshire NHS Foundation Trust and reported that, as his interest was a personal or an other registrable interest, he would be leaving the meeting during the course of consideration of the matter.

Councillor Graham Bridgman declared an interest in Agenda Items 5 and 19 (Motions B and D) due to being in receipt of a pension from Thames Water, in Agenda Item 19 (Motion G) due to being the Council nominated Governor at the Royal Berkshire NHS Foundation Trust, and in Agenda Item 19 (Motion C) due to his spouse being in receipt of a pension, and reported that, as his interest was a personal or an other registrable interest, he would be leaving the meeting during the course of consideration of those matters.

Councillor Lynne Doherty declared an interest in Agenda Item 19 (Motion C) due to her spouse being in receipt of a pension from a related company and reported that, as her interest was a personal or an other registrable interest, she would be leaving the meeting during the course of consideration of the matter.

Councillor James Cole declared an interest in Agenda Item 19 (Motions C and D) and reported and reported that, as his interest was a personal or an other registrable interest, he would be leaving the meeting during the course of consideration of those matters.

### 89. Public Questions

With the agreement of Council, the Vice-Chairman brought this item forward on the agenda.

A full transcription of the public and Member question and answer sessions are available from the following link: [Transcription of Q&As](#).

1. It was agreed that a question standing in the name of John Bibbings on the subject of the rush hour traffic from the A339 via Cheap Street and Market Street to the Sainsbury's round-a-bout would receive a written response given that he was unable to attend the meeting.
2. It was agreed that a question standing in the name of Dave Allen on the subject of what the Council was doing to enlist residents support for the crisis in Ukraine would receive a written response given that he was unable to attend the meeting.
3. A question standing in the name of Joan Stacey on the subject of older people accessing information on bus services was answered by the Portfolio Holder for Planning and Transport.

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### 90. Petitions

*Councillors Graham Bridgman and Tom Marino left the meeting during consideration of this item due to their declarations of interests on this matter.*

The Council considered a Petition for Debate which had initially been presented by Councillor Steve Masters to its meeting on 2 December 2021. It related to sewage discharge by water companies, contained 1,769 signatures, and had been agreed by the Group Leaders as a subject of real significance locally to the people of West Berkshire and its immediate surrounding area therefore triggering this debate.

Prior to debate on this item the Vice-Chairman explained that in accordance with paragraph 1.4(f) of Appendix C (Procedure Rules for Dealing with Representations) to Part 13 (Codes and Protocols) of the Constitution, the petition organiser would have five minutes to introduce the petition and the petition would be debated by Council for a maximum of fifteen minutes. This time limit was specified in the Constitution and could not be extended during the meeting.

The Vice-Chairman continued by explaining that Council had three options for dealing with Petitions for Debate:

1. To take the action the petition suggested;
2. Not to take the action for the reason(s) put forward in the debate; and
3. To commission a further investigation into the matter.

Members could propose one of the options which, if seconded, would be put to a vote. The vote on any proposal which had been seconded would take place at the end of the debate to ensure that Members could consider all comments prior to voting.

Based on proportionality, the Conservative Group would be allocated eight of the fifteen minutes, the Liberal Democrat Group six minutes and the Green Party one minute.

The Vice-Chairman concluded by drawing Members attention to the wording of the Petition for Debate which was set out on the agenda:

“We, the undersigned, petition the Council to request a formal explanation from our local MP’s as to why they voted down Lords Amendment 45 to the Environment Bill which would have placed a legal duty on water companies in England and Wales to make improvements to their sewage systems and demonstrate progressive reductions in the harm caused by discharges of untreated sewage. MPs Laura Farris and John Redwood voted to defeat the Lords amendment (Alok Sharma did not vote). We also petition the Council’s OSMC to robustly question Thames Water at their scheduled appearance in March 2022. OSMC should focus on the amount of discharge in local waterways and the proposed investment in improvements to infrastructure. West Berkshire residents urge the Council to condemn the discharging of raw sewage into our waterways and call upon all stakeholders to work together to end this environmentally destructive practice which also damages public health.”

The Vice-Chairman invited Councillor Masters to introduce the Petition for Debate.

Councillor Masters explained that sewage in rivers could happen for a number of reasons, but the main reason was a Combined Sewer Outflow (CSO). This was only meant to occur under exceptional circumstances but some CSO's had been recorded discharging raw sewage into rivers when it had not rained for days. Councillor Masters stated that current arrangements were not working with underinvestment, overdevelopment, and regulators having little power to sanction offenders. This had

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resulted in local rivers and coastal waters having become contaminated to levels not seen for more than 30-40 years. He advised that since 2016 the monitoring budget of the Environment Agency had fallen by 55% and it was therefore relying to a great extent on the water companies self-reporting. Court actions against polluters had also fallen by 98% between 2002 and 2020.

Councillor Masters confirmed that there were approximately twelve sewage treatment works in West Berkshire and the majority of these had a number of large spills recorded in the most recent data published in 2020. He referred to the request in the petition for a formal explanation as to why the local MPs had voted down the Lords amendment which would have placed greater legal duties on the water companies in England and Wales to make improvements to sewage systems and demonstrate progressive reductions in the harm caused by discharges of untreated sewage. He also noted that Laura Farris MP had recently voted in Parliament against a requirement to record the number of sentient animals killed or injured as a result of polluted rivers. The government had also just announced that the national target for all rivers to be in good health had been scrapped as there were no plans for new goals for the overall quality of rivers after the current targets expire in 2027. Mr Richard Benwell, the Chief Executive of the Wildlife and Countryside Link, had stated that the current targets miss the major sources of pollution from water and sewage companies that depend on unreliable methods of measurement, and they also set no ambition for the overall quality of rivers.

Councillor Masters closed by referring to the request in the petition to examine and scrutinise the plans of Thames Water to help ensure that the waterways in the district are clean and healthy, both for enjoyment and leisure and for the natural environment. He invited Council to support the people of West Berkshire and vote in favour of the actions the petition suggested.

Councillor Lynne Doherty believed that no Member would argue that the level of sewage discharge by water companies was acceptable, but her Group felt unable to accept what they viewed as a political petition and an attack on the Conservatives under the pretence of acting in the best interests of all residents in West Berkshire. She stated that local MP's were entitled to keep residents informed in a manner they chose, and had seen accounts from them which demonstrated they had listened to the widespread and shared concerns on this issue. Councillor Doherty referred to what she believed was an unacceptable personal attack within Councillor Master's letter of the 11 November to the Newbury Weekly News and bullying tactics through his social media. She felt that if Councillor Masters had wanted a cross party position on the topic and was serious about co-operation then the petition would not have been made political. Councillor Doherty highlighted the Motion submitted by Councillor Steve Ardagh-Walter which would help the Council continue to work constructively with its partners on this issue.

Councillor Jeff Brooks noted the public disquiet about this topic given that the number of leaks and major incidents appeared to be rising. He felt it was reasonable for the Council to ask local MP's to explain themselves as doing so was not an attack on them. He also felt it reasonable to expect the Overview and Scrutiny Management Commission to robustly question Thames Water but did not think it should have been included in the wording of the petition. In closing, he indicated his Groups support of the petition.

Councillor Carlyne Culver did not believe that the petition was radical as it simply asked for Thames Water to be scrutinised by the Overview and Scrutiny Management Commission, and for an explanation from two of the local MPs as to why they rejected the Duke of Wellington's amendment to place a new duty on water companies to make improvements to their sewerage systems. She asked Council to remember that this was

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not a Green Party Motion but a public petition, and voting against it meant rejecting the wishes of more than 1700 members of the public who had signed it.

**MOTION** proposed by Councillor Carolyne Culver and seconded by Councillor Steve Masters:

“To take the action the petition suggested.”

The Motion was put to the vote and declared **LOST**.

**MOTION** proposed by Councillor Lynne Doherty and seconded by Councillor Ross Mackinnon:

“Not to take the action the petition suggested for the reasons put forward in the debate.”

The Motion was put to the vote and declared **CARRIED**.

There were no other Petitions presented to Council at the meeting.

### 91. Notices of Motion

With the agreement of Council, the Vice-Chairman brought this item forward on the agenda. The Vice-Chairman then indicated the revised order under which the Motions would be taken.

The Council considered the under-mentioned Motion (Agenda Item 19(b) refers) submitted in the name of Councillor Steve Ardagh-Walter regarding the levels of sewage discharge by water companies.

*Councillors Graham Bridgman and Tom Marino left the meeting during consideration of this Motion due to their declarations of interests on this matter.*

The Chairman informed Council that the Motion, if seconded, would be debated at the meeting.

**MOTION:** Proposed by Councillor Steve Ardagh-Walter and seconded by Councillor Richard Somner:

“This Council considers that the level of sewage discharge by water companies into our rivers is unacceptable - sewage contamination can have a devastating impact on fish and other aquatic wildlife. Further, if people swim, bathe or participate in activities in or around sewage contaminated water, there are significant risks to public health such as gastroenteritis, ear, nose and throat infections, skin infections, and worse.

This Council believes that water companies must significantly reduce sewage discharges from storm overflows as a priority.

This Council welcomes the Environment Act 2021, which has created a new duty on HM Government to produce (by September 2022) a statutory plan to reduce discharges from storm overflows, and to produce a report setting out the actions that would be needed to eliminate discharges from storm overflows in England, together with the costs and benefits of those actions.

This Council also welcomes the new statutory duty requiring water companies to produce comprehensive Drainage and Sewerage Management Plans, which means that they must set out how they will manage and develop their drainage and sewerage systems over a minimum 25-year planning horizon, including how storm overflow issues will be addressed.

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Of specific local relevance, this Council welcomes Thames Water's initiation of a significant restoration project, including an end to sewage discharges, for the River Pang. We look forward to seeing results of this work as it unfolds."

Councillor Ardagh-Walter in introducing the Motion highlighted that it sought to establish a concrete, useful and constructive way forward to achieve the goal of having cleaner, better rivers free of sewer discharges. He noted that many amendments had been made to the Environment Act which was still ongoing in terms of its implementation and, whilst viewed as a major step forward, it was acknowledged that it was not perfect.

Councillor Ardagh-Walter referred to the de-nationalisation of the water industry in the 1980s which he felt had delivered improvements and had been driven by the dual imperatives of keeping price rises as moderate as possible for consumers whilst increasing quality. Though still unacceptable, he felt that rivers today were in much better condition than when under the control of the former Water Boards.

The challenges as Councillor Ardagh-Walter viewed them were several-fold. The growth in houses and the level of investment in the water industry had not kept up with population growth and intensive farming also caused fertiliser run-off into rivers, thereby harming wildlife. He was pleased to see a much firmer directive set on Ofwat to demand improvements, that the government had mandated the delivery of detailed plans on improvements by September 2022, and that the Overview and Scrutiny Management Commission had already invited Thames Water to explain its plans further. Councillor Ardagh-Walter was also comforted from the shared level of determination across this Council, and from residents and groups across the district and the country, as together with firmer legislation mandating the improvement of the environment on the water companies he believed this would result in change. He looked forward to significant improvements over the coming years.

**AMENDED MOTION:** Proposed by Councillor Owen Jeffery and seconded by Councillor Alan Macro:

"This Council considers that the level of sewage discharge by water companies into our rivers is unacceptable - sewage contamination can have a devastating impact on fish and other aquatic wildlife. Further, if people swim, bathe or participate in activities in or around sewage contaminated water, there are significant risks to public health such as gastroenteritis, ear, nose and throat infections, skin infections, and worse.

This Council believes that water companies must significantly reduce sewage discharges from storm overflows as a priority.

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This Council also welcomes the new statutory duty requiring water companies to produce comprehensive Drainage and Sewerage Management Plans, which means that they must set out how they will manage and develop their drainage and sewerage systems over a minimum 25-year planning horizon, including how storm overflow issues will be addressed.

Of specific local relevance, this Council welcomes Thames Water's initiation of a significant restoration project, including an end to sewage discharges, for the River Pang. We look forward to seeing results of this work as it unfolds.

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However, this Council calls on Government to go further and resolves that Council should respond to the Government's consultation on environmental targets to suggest where appropriate:

- Meaningful targets and deadlines to meet them are set to require water companies to end these discharges;
- A tax on water companies be levied to enable the funding of the Environment Agency to adequately monitor water companies' discharges and other clean-up measures;
- Reduce the number of licences granted for discharge into rivers;
- Strengthen OFWAT's powers to hold companies accountable; and
- Require local environmental groups to be given places on company boards"

Councillor Jeffery read out the wording of his proposed amendment to the Motion by way of introduction.

Councillor Alan Macro referred to the framework formed in 2018 by the Environment Agency and the water companies which had identified 700 problem overflows, none of which had been fixed to date. He also noted the reduction in the budget for the Environment Agency from £120m in 2010 to £43m in 2021 leading to it being unable to investigate these problems. He felt that the water companies relied on the Environment Agency and so could be a potential alternative source of funding for it. Councillor Macro then highlighted the recent fining of a water company for discharging sewage into the sea which had been cheaper than treating it, and referred to the strong suspicion that other water companies were doing the same. He felt that the Environment Agency should be given what it needed to deal with this quickly.

Councillor David Marsh spoke about a report called 'Troubled Waters' produced in September 2021 by a partnership of environmentalist charities which included The National Trust, The Royal Society for the Protection of Birds and The Wildlife Trust. The report had found that fragile freshwater habitats were being devastated by agricultural waste pollution and raw sewage, only 14% of rivers in England met the standard of 'good' ecological status, and species such as otters, salmon and the swallow tail butterfly were among those threatened by the environmental catastrophe. The report called for more funding to monitor and enforce environmental regulations, urgent measures to reduce pesticide and excess fertiliser use in farming, and a complete and immediate ban on allowing raw sewage to enter rivers. He noted that the government allowed water companies to discharge sewage into rivers at any time if there is a lack of chemicals to treat it or in emergencies (normally at times of heavy rain). There were 400,000 such occasions during 2020 according to water company figures and these overflows containing human waste and household chemicals were diluted only by rainwater. The government wanted taxpayers rather than water companies to pay for improvements to the sewage system despite enormous profits since denationalisation. Councillor Marsh highlighted that those who had signed the petition were horrified by these matters and wanted the Council to be more ambitious than the government in this area and wanted the water companies to be held to account.

Councillor Tony Vickers stated that he was not against privatisation altogether, but when dealing with water, which is a natural resource, it resulted in a monopoly. He felt that in cases of natural monopoly the state needed a much firmer hand on those resources in the interests of the public. The original Motion in his opinion did nothing, but the

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amendment responded to matters in a strong way and contained specific actions which would help hold the water companies to account. He referred to historic problems with combined sewage going through Newbury which had led to instances of sewage coming up into the street, but he felt that improvements in the sewage industry needed to be done more quickly to stop the negative impact on wildlife. Councillor Vickers then highlighted Hong Kong as an example of the market economy working well where the government owns all its land and companies and runs them itself. He wanted the government to set targets and provide more funding to the Environment Agency which had been unable to attend the Lambourn Valley Flood Forum due to a lack of resources.

Councillor Brooks had been informed that water companies had discharged raw sewage into waterways 400,000 times during 2020, amounting to more than three million hours of discharges with the longest lasting more than 8000 hours. He reiterated that only 14% of waterways were in a good ecological condition with more than half of rivers in England failing to pass cleanliness tests. However, water companies had made £2.2 billion profits in 2020. Councillor Brooks also believed that the original Motion did nothing whereas the amendment pressed for meaningful targets and a tax on water companies to be levied to mitigate the damage they caused. The amendment was radical and went further than what the government was doing which was necessary given the situation. Councillor Brooks argued that the Council should lobby government and that the amendment enhanced the Motion.

Councillor Mackinnon indicated he would not support the amendment. He did not dispute that the infrastructure required investment but felt that taxing water companies to obtain investment was economic illiteracy. He also agreed that there was a natural monopoly which required a regulator but felt that Ofwats powers had been strengthened from its new statutory policy statement which had been supported by The Angling Trust. Councillor Mackinnon was also not supportive of the tax on water companies which he felt would be counterproductive, and noted what he thought were meaningful targets and deadlines in the Environment Act as it stands. He referred to the statutory duty on water companies to come up with a plan on how the problems of storm discharges would be fixed which would also include meaningful targets and deadlines. He also disagreed with local environmental groups being put on company Boards given it was such a fundamental change to UK corporate governance.

Councillor Steve Masters believed that very little action had been taken to achieve the targets mentioned by Councillor Mackinnon and that they were not stringent enough. He thought it no coincidence that lobby groups for the water companies made donations to political parties and found it astonishing that The Rt Hon Lord Benyon had sat on the Chair of the Association of Water Companies and written in November 2017 that water privatisation had been a triumph. He argued that there were no statutory levels or real targets set because it was not in the interests of Conservative Party supporters and their donors.

Councillor Howard Woollaston, as Chairman of the Lambourn Valley Flood Forum, confirmed that the Environment Agency and Thames Water had attended every meeting in the three years he had chaired it.

Councillor Phil Barnett wished to provide extra information for Members relating specifically to active waste transfer in relationship to sewage transfer. He advised that greater pressure over the last few years had been put on all the old sewerage system, especially some of the Victorian systems. In the Greenham Ward there were two or three sub-stations and problems had been exacerbated due to further developments not being accommodated in the existing sewerage system. This had resulted in waste being



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tankered from the sub-stations causing disruption to residents and affecting their quality of life. He believed there were a series of issues that needed to be addressed and that councillors had an important role to play when looking at future urban planning applications given that sewerage systems could not take more development.

Councillor Jeff Cant outlined what he felt were the difficulties with this amendment of trying to design government policy on something beyond the Council's remit. In his opinion the original motion recognised the local impact and that the Council intended to work with Thames Water to ameliorate it. He wanted Council to concentrate on issues it could influence rather than trying to frame government policy.

Councillor Erik Pattenden disagreed that the amendment was trying to influence government policy. It was trying to encourage Council to hold the government to account which the original Motion did not.

Councillor Owen Jeffery wondered whether any one of the Members on Council desired to see sewage dumped into the chalk streams, bigger water courses or ultimately in to the River Thames. He noted that the government target of 75% of rivers and streams to be in good condition by 2027 was not expected to be achieved and that currently no English surface waterway was deemed to be in good overall condition. He also felt that a privatised water company would not be bankrupted by having an environmentalist on its Board, nor by being obliged to stop discharging sewage into public water courses. Councillor Jeffery wanted West Berkshire to send a message to government that it did not want its lovely chalk streams destroyed to allow water companies to make billions in profits. The amendment was constructive, non-party political, intelligent, moderate and potentially so valuable, and he urged Council to support it.

Councillor Steve Ardagh-Walter agreed with many of the points raised by Councillor Jeffery as they were already in his original Motion and were subjects of action by the government. He indicated that he would be content to accept the first, third and fourth bullet points of the amendment as additions to his original Motion as a reasonable compromise.

Councillor Owen Jeffery proposed a minor alteration to the Amended Motion to remove the second and fifth bullet point. Councillor Alan Macro, seconding, agreed to this minor alteration. The alteration was additionally approved by Members present.

**MINOR ALTERATION TO AMENDED MOTION:** Proposed by Councillor Owen Jeffery and seconded by Councillor Alan Macro:

"This Council considers that the level of sewage discharge by water companies into our rivers is unacceptable - sewage contamination can have a devastating impact on fish and other aquatic wildlife. Further, if people swim, bathe or participate in activities in or around sewage contaminated water, there are significant risks to public health such as gastroenteritis, ear, nose and throat infections, skin infections, and worse.

This Council believes that water companies must significantly reduce sewage discharges from storm overflows as a priority.

This Council welcomes the Environment Act 2021, which has created a new duty on HM Government to produce (by September 2022) a statutory plan to reduce discharges from storm overflows, and to produce a report setting out the actions that would be needed to eliminate discharges from storm overflows in England, together with the costs and benefits of those actions.

This Council also welcomes the new statutory duty requiring water companies to produce comprehensive Drainage and Sewerage Management Plans, which means that they

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must set out how they will manage and develop their drainage and sewerage systems over a minimum 25-year planning horizon, including how storm overflow issues will be addressed.

Of specific local relevance, this Council welcomes Thames Water's initiation of a significant restoration project, including an end to sewage discharges, for the River Pang. We look forward to seeing results of this work as it unfolds.

However, this Council calls on Government to go further and resolves that Council should respond to the Government's consultation on environmental targets to suggest where appropriate:

- Meaningful targets and deadlines to meet them are set to require water companies to end these discharges;
- Reduce the number of licences granted for discharge into rivers; and
- Strengthen OFWAT's powers to hold companies accountable.

The proposed Amendment to the Motion with minor alterations was put to the vote and declared **CARRIED** becoming the new Amended Substantive Motion.

Councillor Brooks believed the amendment strengthened the Motion considerably into a call for action but noted that his Group would continue to press for a tax on water companies given the damage they were doing. He noted that an environmental representative on a Board might not make a lot of difference but it was at least a voice against a commercial body interested in profits only. He agreed that the former Water Boards had been inefficient but introducing privatisation brought with it the danger of profit being the only major motive, losing quality of service and delivery.

Councillor James Cole looked forward to the opportunity to question Thames Water at the Overview and Scrutiny Management Commission which he thought would be at its September meeting. He referred to articles in the press regarding the Lambourn River and a comparison of Thames Water achievements against its stated ambitions. He noted that all residents should also take more care over what is put into sewers.

**CLOSURE MOTION:** Proposed by Councillor Lynne Doherty, and seconded by Councillor Alan Law: that the question be put.

In the opinion of the Vice-Chairman the question before the meeting had been sufficiently discussed. The Closure Motion was therefore put to the vote and declared **CARRIED**.

Councillor Richard Somner stated he was content to support the Amended Substantive Motion.

Councillor Steve Ardagh-Walter, as the proposer, had no further comments to add.

The Amended Substantive Motion was put to the vote and declared **CARRIED**.

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The Council considered the under-mentioned Motion (Agenda Item 19(d) refers) submitted in the name of Councillor Steve Masters regarding the discharge into rivers and coastal outflows. The Motion contained the same wording as the Petition for Debate which Council had voted to not take the action on as suggested under Minute 90.

The Vice-Chairman advised that Council would not debate the Motion under Procedure Rule 4.16.1 whereby a Motion may not be moved to rescind a decision of Council within the preceding six months.

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The Council considered the under-mentioned Motion (Agenda Item 19(a) refers) submitted in the name of Councillor Lynne Doherty regarding the crisis in Ukraine.

The Vice-Chairman informed Council that the Motion, if seconded, would be debated at the meeting.

**MOTION:** Proposed by Councillor Lynne Doherty and seconded by Councillor Jeff Brooks:

“West Berkshire Council is united in its condemnation of the armed attack on Ukraine by the Russian Federation and urges Vladimir Putin to immediately and unconditionally cease this unjust and evil war.

West Berkshire Council would encourage residents that wish to offer financial assistance to do so by donating to the Disasters Emergency Committee or the British Red Cross.

West Berkshire Council will welcome Ukraine Refugees and partake in resettling Ukraine Refugees in West Berkshire when we have details of the scheme through the South East Migration Partnership.

West Berkshire Council stands with the people of Ukraine and expresses its unwavering commitment to democracy, multilevel governance and human rights.”

Councillor Lynne Doherty in introducing the Motion noted that Russia's appalling assault on the Ukraine was an unprovoked, premeditated attack against a sovereign democratic state and said the Council should be united in its condemnation and relentless in its commitment to support Ukraine. She had been watching the horrors unfolding in Ukraine, and the Motion was designed to enable the provision of assistance as much as possible. A Ukraine support hub had been set up in West Berkshire and she had met with the Greenham Trust and the Volunteers Centre West Berkshire to discuss how the three could collectively support the response in the district. People were being encouraged to give financial assistance if able to do so through the Disasters Emergency Committee or the Red Cross. The Council and the Greenham Trust had also both provided £25k to co-ordinate and support any local response to potential needs, and an appeal would be going live on the Greenham Trust platform. A Council webpage had also been set up to provide updates on information and guidance as it became available.

Councillor Doherty advised that Ukrainian refugees would be welcomed and the Council was actively taking part in the schemes open to it such as the Ukraine Family scheme and the Homes for Ukraine scheme. There had been an exceptional response across the country of people offering their homes to the people of Ukraine and the Council would be central in helping families settle into communities and access public services. Councillor Doherty welcomed this role for the Council and invited Members to support the Motion.

Councillor Jeff Brooks welcomed the Motion and encouraged residents that wished to offer financial assistance to do so by donating. He recalled previously living with the fear of nuclear obliteration and mentioned some hardships that would be experienced now as a result of this war. His Group endorsed this Motion and offered any assistance they could provide.

**AMENDED MOTION:** Proposed by Councillor Steve Masters and seconded by Councillor Carolyne Culver:

“West Berkshire Council is united in its condemnation of the armed attack on Ukraine by the Russian Federation and urges Vladimir Putin to immediately and unconditionally cease this unjust and evil war.

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West Berkshire Council would encourage residents that wish to offer financial assistance to do so by donating to the Disasters Emergency Committee or the British Red Cross.

West Berkshire Council will welcome Ukraine Refugees and partake in resettling Ukraine Refugees in West Berkshire when we have details of the scheme through the South East Migration Partnership.

West Berkshire Council urges the government to waive visa requirements for Ukrainians seeking refuge from the war.

West Berkshire Council stands with the people of Ukraine and expresses its unwavering commitment to democracy, multilevel governance and human rights.”

Councillor Steve Masters in introducing the amendment noted its simplicity and asked the Council to urge government to ease the visa requirements to ensure that refugees could be expedited quickly. He felt that the process had been hampered by bureaucracy which needed to be removed.

Councillor Lynne Doherty referred to the countries bordering Ukraine having opened their borders to refugees in imminent danger, the majority of whom had biometric passports and no need for a visa. Those without could also now apply online. She thought that the UK's response had initially been slow but there had been increased action and activity over the last few days. She had heard that 6,100 visas had already been granted and so did not believe there was a requirement to waive visas. She would therefore not be supporting the amendment.

Councillor Jeff Brooks felt the amendment introduced a political edge to an important Motion and urged his fellow Group Members to abstain. It was clear the government needed to do better in terms of processing visas but he did not think the amendment added anything to the Motion.

Councillor Graham Bridgman advised there had already been false applications for visas by people seeking to come into the country as Ukrainians when they were not. He agreed that the process needed speeding up but waiving visa requirements could cause wider issues.

Councillor Tony Vickers indicated his agreement with the amendment but said he would not be supporting it. He believed there had been a knee jerk attitude amongst members of the government towards people requiring visas when those in question were women, children and older people coming from a dreadful war and who were not a danger. He felt that the Council's role was to welcome those that managed to get here.

Councillor Hilary Cole indicated that she would not be supporting the amendment.

Councillor Carlyne Culver welcomed the original Motion, particularly the aspect encouraging residents to provide financial assistance where they could via the Disasters Emergency Committee. Regarding visa applications, Councillor Culver referred to media reports suggesting there was a great deal of confusion and difficulty, more so than compared to what other European countries were doing. She also raised concerns that people who had offered their homes were not going to be paired up with refugees because they did not have a name, and that this system had been made overly complex.

Councillor Lynne Doherty noted the common agreement that speeding up the process was critical, however increased capacity and deployment of extra staff to visa application centres had been seen as well as pop-up visa application centres opening near the borders. She did believe that visas should be in place and would not be supporting the amendment.

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The Amended Motion was put to the vote and declared **LOST**.

Councillor Tony Linden expressed his support for the Motion and echoed sentiments expressed over the barbaric and disgraceful attacks against Ukrainian citizens. He welcomed the actions being taken by the Council and felt that nationally the example of Germany and other countries needed to be followed by increasing spend on defence.

Councillor Dominic Boeck acknowledged the track record of supporting refugees and asylum seekers in West Berkshire. In recent years people from Syria and Afghanistan who needed help had been welcomed in to local communities. Many unaccompanied asylum seeking children had made their way here after leaving family and friends in their home countries. He knew there was capacity to treat refugees from Ukraine with the same kindness, and highlighted the two Ukrainian children already here and being taught in a local primary school. He fully supported the Motion.

Councillor Steve Masters welcomed the Motion and explained why he felt it had needed a minor amendment. It was an absolutely terrible situation in Ukraine and he agreed that the Council needed to be as welcoming as it could. He urged the Council to reach out to all the refugee groups and other charities involved.

Councillor Lynne Doherty thanked Members for their support and explained how it was a fast moving situation. She and the Executive Director for Place had been working to ensure the Council was responding to guidance and data being received daily. Councillor Doherty confirmed that communication on this issue would be regularly sent out from the Council, and that a Ukraine support hub would be established given how well the Covid support hub had worked.

The Substantive Motion was put to the vote and declared **CARRIED**.

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The Council considered the under-mentioned Motion (Agenda Item 19(c) refers) submitted in the name of Councillor Steve Masters regarding reducing the impact of the fuel crisis on the residents of West Berkshire.

*Councillors Graham Bridgman, James Cole and Lynne Doherty left the meeting during consideration of this Motion due to their declarations of interests on this matter.*

The Vice-Chairman informed Council that the Motion, if seconded, would be debated at the meeting.

**MOTION:** Proposed by Councillor Steve Masters and seconded by Councillor Carolyne Culver:

“Council notes:

Residents across West Berkshire are facing a cost-of-living crisis, driven by the dramatic rise in fossil fuel prices. The poorest people are being hit hardest, with many now facing the stark choice between heating and eating.

Council resolves to:

Call on our local MPs to lobby the Government to fund a nationwide retrofit insulation scheme from a windfall tax on the inflated profits of fossil fuel companies.

Furthermore the Council calls on our MPs to lobby the government to suspend VAT on domestic energy bills to reduce the impact on consumers here in West Berkshire.”

Councillor Steve Masters in introducing the Motion noted that the Chartered Institute of Environmental Health Practitioners and the End Fuel Poverty Coalition were calling for

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action, arguing that the UK's resilience on fossil gas for heating was a root cause of fuel poverty exacerbated by poor quality housing. Energy bills were set to triple in April and the Institute had warned that fuel poverty was a health and social crisis requiring urgent action from the government now. He explained that work by the independent think tank The Resolution Foundation had found that the number of households in fuel crisis spending at least 10% of their family income on energy bills was set to triple to 6.3 million households from the start of April. This was the day the new energy price cap would come into effect and was expected to rise by 51%, translating to a rise in a minimum yearly energy cost from £1277 to £1925.

Councillor Masters referred to a Financial Times article which had argued for a windfall tax on fossil fuel companies. It had stated the windfall tax was efficient precisely for the reasons tax professionals did not like it as it taxed past investment that could not be withdrawn. Industry bodies were opposed and argued that investment would suffer but evidence suggested this was not accurate. He noted that individual companies could not be expected to give up gains through worry that competitors would not follow suit, so collectively via the government imposing a windfall tax was the most suitable option. He set out how the Chancellor could reintroduce the 2011 regime for the 2021/2022 tax year and ensure that regime continued as long as oil and gas prices remained above a predetermined threshold. Those rates were not arbitrary and corrected something wrong with the tax system.

At a local level, Councillor Masters advised that charities were already witnessing people struggling due to the impending cap removal. Some global charities were offering top ups for pre-paid smart meters so clients could cook food they had been given from the food bank and other agencies. Community workers were also reporting that many people were asking for food that did not need to be cooked because of the rising cost of domestic fuel. He argued that large groups of the population should not be being placed into this financial crisis, particularly as it was likely that rates would be increasing again towards the end of the year. Local businesses were also being negatively impacted as a result of higher utility bills. He urged the administration to support the Motion and ensure that the most vulnerable have some provision and flexibility. He felt it was a win overall given that providing insulation would help towards achieving the net zero ambitions set locally and nationally and would help create jobs moving forward.

Councillor Ross Mackinnon disagreed that increased taxes would not decrease investment as he felt that a one-off, arbitrary and unexpected tax would do nothing except discourage investment in a key UK industry. The UK's oil and gas sectors were world leading and the industry and its supply chain supported almost 200,000 jobs. He noted that investment during 2020/2021 had been at an all-time low but there was £11b of opportunities awaiting investment which a windfall tax would threaten. He argued that tax rates were already extremely high for the sector with the current tax rate charged on oil and gas profits being 40% (more than double the standard rate of corporation tax). Councillor Mackinnon said that the Conservatives recognised the severe pressures families had on their budgets but their approach was to offer a direct lifeline to less well-off households through the £200 smoothing rebates on energy bills and the non-repayable £150 cash rebate for Council Tax bands A to D. Additionally £144m of discretionary funding had been made available for local authorities to support households that were not eligible for the Council Tax rebate. He felt that reducing the VAT on oil and gas would not be targeted and would disproportionately benefit wealthy households with no guarantee that businesses would pass on the saving.

Councillor Jeff Brooks highlighted how George Osborne, the former Chancellor of the Exchequer, had raised the supplementary charge in the 2011 budget from 20% to 32%

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showing that windfall taxes had been levied on gas and oil companies in recent years and they had gone on to make billions of pounds in profits. He did not believe that the true nature of the crisis was being considered given that energy prices had never had such forecasts before (30-40%). He noted that his Group would have been pushing this agenda for some time and would therefore be supporting the Motion.

Councillor Alan Macro referred to Investopedia which showed that the profit margins for oil and gas production in Quarter 4 of 2021 was 31.3% up from 4.7%. He argued that any windfall tax would not affect investment given these levels of profit.

Councillor Steve Ardagh-Walter indicated that he would not be supporting the Motion. His belief was that a VAT suspension would be an inefficient broad brush intervention whereby everybody from the wealthiest down to those most vulnerable would equally benefit, and this would be hugely inefficient. He also pointed out there was not enough capacity within the building industry to implement a wide scale installation of insulation, though he did support the idea in principle.

Councillor Jeremy Cottam felt that a lot of people would be shortly be forced into fuel poverty which was an exceptional circumstance. Investments were planned years ahead, especially in a huge industry like oil or gas, and therefore profits over the short term would not in his opinion affect investment at all. He was in support of the Motion as he believed action should be taken on this immediately.

Councillor Jeff Cant expressed his disappointment over the extensive and lengthy discussion regarding central government policy rather than instead focusing on matters within the Councils remit and what it could do to ameliorate the impact of some of these issues on local communities.

Councillor Owen Jeffery put forward his opinion that a single one-off tax due to exceptional circumstances would not destroy or deter the oil and gas industries.

Councillor Carlyne Culver referred to planning policy CS15 which stated that West Berkshire District was one of the highest electricity users in the southeast and was in the upper quartile of local authorities for CO<sub>2</sub> emissions within the region. Fuel poverty levels in West Berkshire were also high compared to other authorities making it an extremely relevant topic for the Council to debate. She highlighted that the planning policies demonstrated a need for more insulation and heat pumps in the district, and that the Green Deal scheme for home insulation had been abandoned and the Green Homes grant scrapped after six months. Thousands of jobs had been lost and cutting insulation programmes in the last ten years had added around £1b to domestic energy bills. She invited Members to remember the amount of public subsidies that the fossil fuel industry received and closed by highlighting the urgency of the matter.

Councillor Steve Masters urged Council to support the Motion.

The Motion was put to the vote and declared **LOST**.

*(The meeting was adjourned at 9.15pm and reconvened at 9.23pm)*

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The Council considered the under-mentioned Motion (Agenda Item 19(e) refers) submitted in the name of Councillor Tony Vickers regarding garage blocks.

The Chairman advised that Council would not debate the Motion and, in accordance with Procedure Rule 4.9.8, this would be referred to the Planning Advisory Group and Transport Advisory Group for consideration as the detail of the Motion falls within the remit of the Executive. A report would be considered at the Planning Advisory Group, the

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Transport Advisory Group and the Executive, and the outcome of that would be reported to Council.

**MOTION:** Proposed by Councillor Tony Vickers and seconded by Councillor Jeremy Cottam:

“This Council

Notes that -

1. Standard size garages are too small for modern cars and therefore no longer count as parking spaces in new housing developments or in calculations on the need for Residents Parking Zones;
2. The District has many older post-WWII housing developments which include significant areas of garage blocks that are no longer fit for their original purpose of providing secure parking for local residents' cars and are used – if at all – for general storage, while many homes have no street frontage and no parking spaces because these garage blocks were built for them;
3. There is no ‘use class’ in planning law for residential parking;
4. Car ownership is much greater now than when these estates were built and that many of them, in all parts of the District, have problems with on-street parking and access for emergency and other larger vehicles;
5. Some garage blocks have been attracting anti-social behaviour, have no overall management structure and their appearance has a negative impact on the amenity of residents;
6. Others have been bought up by local housing developers resulting in permanent loss of a potential parking area for residents and visitors.

This Council therefore calls for:-

1. planning and transport policies to be discussed at the appropriate forums, aimed at achieving:-
  - A. First call on future redevelopment of garage blocks to be for parking for local residents, as was their original purpose;
  - B. Dedicated Car Club spaces (and EV charging points) within any redeveloped garage blocks;
  - C. Spaces reserved on-street, where this proves impossible, for properties with no road frontage.
2. Investigation into the ownership of these areas, including approach roads that are not public highways, with a view to pursuing compulsory purchase to bring some of them back into use primarily for parking;

Furthermore if current legislation does not allow such policies to be adopted locally through our emerging Local Plan and Transport Plans, Council will lobby our MPs and the LGA to change the law so that it can happen.”

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The Council considered the under-mentioned Motion (Agenda Item 19(f) refers) submitted in the name of Councillor Tony Vickers regarding land reform.

The Chairman informed the Council that the Motion, if seconded, would be debated at the meeting.

**MOTION:** Proposed by Councillor Tony Vickers and seconded by Councillor Erik Pattenden:

“This Council



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Endorses the 2019 report “Grounds for Change” by SHELTER, supported by CPRE, which recognises that:-

1. A home is a fundamental human need;
2. In the last 20 years the value of land has risen by 550% and all the increase in total national wealth in the last 10 years is accounted for by land value;
3. Almost all increase in land value comes not from anything the landowner does but from investment in infrastructure, growth in prosperity, enterprise of businesses, earnings of working people, and crucially the granting of planning consent;
4. The crisis in affordable housing supply cannot be solved without land reform that ensures much more of the land value is recovered for public benefit, to pay for essential infrastructure, including measures to tackle the consequences of climate change.

Council therefore resolves to write formally to the Secretary of State for Levelling Up, Housing & Communities to express its support for further measures to reform the 1961 Land Compensation Act more in line with the policies of other developed countries, which enable public bodies such as Local Authorities to acquire land – especially green field land needed for housing - at prices much closer to existing use value than this Act permits.”

Councillor Tony Vickers in introducing the Motion referred it being the third Motion relating to planning and land reform that he had submitted in three years. The previous two were more focused on planning reform and the wider reform of land policy. Nine months had passed however since the Leader of the Council advised she would work through her party channels to secure progress with planning reforms, and it was still unclear when the new planning bill would be introduced.

Councillor Vickers advised that the piece of legislation primarily to blame for issues was the Land Compensation Act 1961. Ever since the pre-war public sector landholdings had largely been used up, Britain had been building some of the highest priced, worst insulated and smallest homes in Europe. Most experts agreed that land prices were the biggest problem, with land now being 70% of the price of a house. He felt that obscene wealth was being allowed to fall unearned into the lap of those happening to hold title to land. Only Parliament could remove the right for vendors to receive the ‘hope value’ and he argued that public bodies must be allowed to recover the value that the public and the wider private economic activity created. He noted that existing deals between land owners and developers would have to be honoured but wanted to take advantage of existing lines of communication to the Local Government Association and the government to initiate change.

Councillor Ross Mackinnon did not dispute that more houses were needed but referred to the blockages preventing those houses coming online. He felt that local authorities being allowed to compulsorily purchasing land at its existing use value would be expropriating private property very cheaply. His party believed in private property rights and he stated that for any economic and political system to work it was crucial that all had confidence in those rights being upheld. Land reform along these lines had already been partially attempted by the SNP administration in Scotland with the result being land owners far less likely to let land to farming tenants, and a reluctance of tenant farmers to take on leases due to long term uncertainty. He highlighted that the Grounds for Change report cited in the Motion was actually a collection of essays from various interested parties which he believed should not be used as a basis for setting policy.

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Councillor David Marsh indicated that he and his fellow Green Party councillors strongly supported the Motion.

Councillor Richard Somner referred to the year of publication of the report cited in the Motion and felt that a more updated position would be beneficial. His understanding was that the Levelling Up White Paper contained some revisions however and planning reforms were expected this spring. He considered that this would provide that refreshed position needed. Under those circumstances, his preference was to wait for that to be delivered and, if appropriate and acceptable, for the Planning Advisory Group to then have a full, rounded conversation with officers. He noted that the Council had a good position on affordable housing, with a rate for developers at 40% which was higher than many other planning authorities. He restated his offer to meet with Councillor Vickers to discuss this matter outside of this meeting.

Councillor Alan Law had sympathy for the subject matter but felt that some of the supporting facts and figures referred to were open to challenge. He was particularly concerned about the point regarding the acquisition of land at prices much closer to existing use value as he believed more thought was needed on this. He was supportive of the matter being debated with officer involvement at the Planning Advisory Group.

Councillor Erik Pattenden was sure that Members all knew someone who had wanted to purchase their own home and had not been able to do so because the cost of buying a house in the UK is far too high. Countries like the Netherlands and Germany had much lower land pricing than in England where people were forced to spend a vast proportion of their incomes on mortgages or rent leaving them too little for the rest of their needs. Reforming the 1961 Land Compensation Act offered an effective way to address these issues. He noted that the target across the country of building in excess of 300,000 homes would not be met without doing something radical, and he urged Council to support the motion.

Councillor Hilary Cole expressed sympathy with what Councillor Vickers was aiming to achieve but did not think the Motion was necessarily the right vehicle for it.

Councillor Tony Vickers advised that the figures in his Motion had been drawn from the National Statistics Office and that everything in the bullet points was fact. He agreed with Councillor Pattenden that targets would not be achieved unless the land question was tackled in a radical way. He felt there were differing views amongst the government on whether to take radical measures on land auction, but did not believe, like others appeared to do so, that the market would solve the land issue. He had wanted this matter raised in a public forum but was happy for the debate to be taken further at the Planning Advisory Group.

The Motion was put to the vote and declared **LOST**.

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The Council considered the under-mentioned Motion (Agenda Item 19(g) refers) submitted in the name of Councillor Alan Macro regarding the building of a new hospital.

The Chairman advised that Council would not debate the Motion and, in accordance with Procedure Rule 4.9.8, this would be referred to the Health Scrutiny Committee for consideration as the detail of the Motion falls within its remit. A report would be considered at the Health Scrutiny Committee and the outcome of that would be reported to Council.

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Councillor Alan Macro proposed a minor alteration to the Motion. Councillor Andy Moore, seconding, agreed to this minor alteration. The amendment was additionally approved by Members present.

**AMENDED SUBSTANTIVE MOTION:** Proposed by Councillor Alan Macro and seconded by Councillor Andy Moore:

“Council notes that:

- The Royal Berkshire Hospital Foundation Trust has been consulting on various options to re-develop the hospital. Several options involve various levels of redevelopment of the existing site and one option the building of a new hospital on a new site.
- The existing site is very cramped and contains a mixture of new, old and very old buildings, some of which are pre-fabricated. Many have very poor insulation leading to uncomfortable conditions for patients in hot or cold weather and also to poor energy efficiency.
- Re-development of the existing site is difficult because of its cramped and dense layout.
- It is very difficult for residents of some parts of West Berkshire to reach the hospital using public transport.
- Car parking in and around the hospital is restricted and expensive.
- It can be time consuming to travel to the hospital by any means, including ambulance, at peak times.

Council therefore resolves that its preferred option is the building of a new hospital on a new site that is readily accessed by West Berkshire residents by both private and public transport, and that this preference be conveyed to the Royal Berkshire Hospital Foundation Trust.”

The Vice-Chairman proposed that the meeting be extended until 10.30pm. This was seconded by Councillor Lynne Doherty and duly approved by the members present in the Chamber.

### 92. Membership of Committees

Council considered a number of changes to committee membership that had been put forward by the Leader of the Council and the Leader of the Liberal Democrat Group. These proposals were seconded by Councillor Graham Bridgman.

It was put to the vote and duly **RESOLVED** that the following changes would be made to Committee appointments for the remainder of the 2021/2022 Municipal Year:

1. Councillor Biyi Oloko to replace Councillor Claire Rowles as a member of the Governance and Ethics Committee.
2. Councillor Claire Rowles to replace Councillor Garth Simpson as a substitute member of the Governance and Ethics Committee.
3. Councillor Lynne Doherty to replace Councillor Garth Simpson as a member of the Personnel Committee.
4. Councillor Biyi Oloko to replace Councillor Richard Somner as a substitute member of the Personnel Committee.
5. Councillor Biyi Oloko to replace Councillor Garth Simpson as a substitute member of the Overview and Scrutiny Management Commission.

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6. Councillor Steve Ardagh-Walter to replace Councillor Hilary Cole on the Council of Partners North Wessex Downs AONB.
7. Councillor Jeremy Cottam to replace Councillor Royce Longton as a member of the Eastern Area Planning Committee.

### **93. Motions from Previous Meetings**

Members were asked to note the response to a Motion from Councillor Lee Dillon on the Executive acting outside of policies on Green Infrastructure which had been tabled at a previous Council meeting. As the Motion had been discussed and responded to by the Overview and Scrutiny Management Commission at its meeting on 31 August 2021 it was not proposed to revisit the discussion on this item at this meeting.

### **94. Licensing Committee**

The Council noted that, since its last ordinary meeting, the Licensing Committee had met on 31 January 2022.

### **95. Personnel Committee**

The Council noted that, since its last ordinary meeting, the Personnel Committee had met on 14 December 2021 and 21 February 2022.

### **96. Governance and Ethics Committee**

The Council noted that, since its last ordinary meeting, the Governance and Ethics Committee had met on 17 January 2022.

### **97. District Planning Committee**

The Council noted that, since its last ordinary meeting, the District Planning Committee had met on 2 March 2022.

### **98. Overview and Scrutiny Management Commission**

The Council noted that, since its last ordinary meeting, the Overview and Scrutiny Management Commission had met on 25 January 2022.

### **99. Health Scrutiny Committee**

The Council noted that, since its last ordinary meeting, the Health Scrutiny Committee had not met.

### **100. Health and Wellbeing Board**

The Council noted that, since its last ordinary meeting, the Health and Wellbeing Board had met on 9 December 2021 and 17 February 2022.

### **101. Joint Public Protection Committee**

The Council noted that, since its last ordinary meeting, the Joint Public Protection Committee had met on 13 December 2021 and 14 March 2022.

### **102. Statutory Pay Policy 2022 (C4021)**

Council considered a report (Agenda Item 17) which set out how it is required, in accordance with section 38 of the Localism Act 2011, to publish an annual pay policy

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statement. Approval of the Statutory Pay Policy Statement for publication from 1 April 2022 would ensure compliance with that duty.

**MOTION:** Proposed by Councillor Howard Woollaston and seconded by Councillor James Cole:

“That Council:

1. Adopts and approves the Statutory Pay Policy Statement at Appendix C of the report for publication from 1 April 2022.
2. Delegates authority to the Service Director, Strategy and Governance, in consultation with the Portfolio Holder for Internal Governance, Leisure and Culture, to update the Pay Policy Statement following any pay awards to be effective from 1 April 2021 and the 1 April 2022.”

Councillor Howard Woollaston in recommending approval of the Motion was sure that Members recalled from previous years the Council being under the statutory duty under the Localism Act 2011 to publish an annual pay policy statement. He noted this would take effect from 1 April 2022 with the report seeking formal approval from Council to issue the statement. He advised that since the Summons and Agenda had been issued the settlement had been agreed at 1.75% which would be incorporated into the published statement. Councillor Woollaston highlighted that this was a housekeeping issue and uncontroversial.

Councillor James Cole had nothing further he wished to add to the debate.

The Motion was put to the vote and duly **RESOLVED**.

### 103. Members' Questions

With the agreement of Council, the Vice-Chairman brought this item forward on the agenda.

A full transcription of the public and Member question and answer sessions are available from the following link: [Transcription of Q&As](#).

- (a) A question standing in the name of Councillor Martha Vickers on the subject of the changes planned with regards to the proportion of highways budgets utilised for the maintenance and improvements to footways was answered by the Portfolio Holder for Planning and Transport.
- (b) A question standing in the name of Councillor Owen Jeffery to the Leader of the Council was withdrawn.
- (c) A question standing in the name of Councillor Martha Vickers on the subject of what the Council was doing to manage the problems created by the increase in dog ownership was answered by the Portfolio Holder for Environment and Waste.

### 104. Member request for information (C4183)

Council considered a report (Agenda Item 18) which set out a request by a Member of Council for access to information under a procedure detailed in the Council's Constitution at paragraph 13.3.7. The request was seeking disclosure of an operational document setting out enforcement options in relation to a CIL liability.

**MOTION:** Proposed by Councillor Ross Mackinnon and seconded by Councillor Graham Bridgman:

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“That Council:

1. Notes the legal position with regard to Members rights to access information, and the limitations of that right.
2. Confirms that, in the circumstances, the request for information should be refused.”

Councillor Ross Mackinnon noted that this was a request by a Member to access exempt and legally privileged information. The particulars of the case had already been the subject of a Motion to Council in December 2020 which had been responded to by Executive in March 2021. This matter related to the principle of when a Member had the right to access sensitive information and when that right should be limited. He set out how the statutory guidance was clear that Members of a principal Council did not have unrestricted rights to access documents pertaining to a decision made by the Council, the executive, its committees or officers who may be acting under delegated authority. The Local Government Acts of 1972 and 2000 and The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 all placed limitations on Members rights of access, specifically on the grounds of information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

In this particular instance, Councillor Mackinnon explained that the Monitoring Officer, who was also the senior solicitor of the Council, had provided advice that the document contained exempt information and should not be disclosed. In addition to the statutory framework, case law (principally the Birmingham case in 1983) had established that elected Members have a right of common law to access information that they needed to know to discharge their duties as a councillor. The document in question reviewed different options open to the Council to resolve a particular matter and contained legal advice and the potential implications of the various options available. The document would remain exempt from disclosure even in the event of legal proceedings against the Council in the absence of a court order requiring it.

Councillor Mackinnon spoke about the decision of the Governance and Ethics Committee to refer this matter to Council. External advice had been sought from a leading public and administrative law barrister who supported the Council's position on the non-disclosure of the document since a 'need to know' had not been demonstrated. The Council's Constitution also reflected the legal position he had outlined regarding the question of access to information. Of particular relevance were sections 2.3.5 (which stated that documents dealing with individuals or other confidential matters may not be available) and section 13.3.7 which dealt with the inspection of and access to documents.

Councillor Mackinnon also wanted to consider the implications for the business and governance of the Council if this request were to be granted. It was of fundamental importance that decision-makers within the Council had access to freely given and comprehensive advice. He argued that it was entirely proper for a full analysis to be made of the possible scenarios arising from a sensitive decision, including the financial, reputational, legal and other impacts in the event of the Council being successfully challenged. He felt it would be a serious failure of risk assessment and corporate governance not to do so. It did not follow, however, that the performing of this analysis indicated anything about the Council's position was flawed or that relevant information was being kept secret.

Councillor Mackinnon felt it was absolutely crucial that those advising decision-makers within the Council were confident of that advice being kept confidential and that it would not be subject to wider disclosure. If this confidence were to be damaged it could result in advice no longer being freely given and could be influenced (at least to a degree) by the

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prospect of it being disclosed in a manner that may adversely impact the Council's position. Executive Members and Officers of the Council would end up no longer benefitting from the best professional advice available which Councillor Mackinnon believed was an unacceptable erosion of the good governance of the Council. He noted that a recurring theme of the various Section 114 reports issued recently by auditors of failing councils was a criticism of governance and failures to conduct proper risk assessments.

Councillor Jeff Brooks said this suggested to him that Councillor Mackinnon had no confidence in Councillor Rowles keeping this information confidential if she were to have sight of it which he found disgraceful. He advised Members that the resident in question had begged him and Councillor Rowles for help with this scandalous CIL situation the administration continued to stand behind. He believed there would clearly be information in this internal report to help understand what was being done with this resident, and he felt it perfectly reasonable for the steps being taken to bring this to a conclusion to be shared. He understood there was sensitive information such as a risk for people in care or under threat of violence but did not believe this passed that test. He said he would be responsible and vote for the information to be seen by all Members and would not let the matter rest if it was not voted down.

Councillor Rowles began by explaining this was about democracy and councillors doing the role they were elected to do, namely be the voice of residents. It was about transparency, fairness and integrity. She acknowledged that Members did not have an unqualified right of access to information and that legally privileged information was exempt. However, she argued that clause 10 of the Local Government Act 1972 set out how exempt information was only such if in all the circumstances the public interest in maintaining the exemption outweighed the public interest in disclosing the information. She believed the public had a right to know why residents were being treated differently on CIL enforcement and that it was a reasonable request. She also referred to section 13.3.6 of the Constitution which unequivocally stated where officers considered that information was of a confidential nature which should not be openly available to the public or press, this information would be supplied to Members on a private and confidential basis. Any information provided to Members on this basis would be treated as such and would not be circulated outside the Council. To deny her access when she was bound by confidentiality she felt questioned her integrity. With reference to the opinion obtained from a QC, she argued that it only seemed to focus on the 'need to know' point and not on section 13.3.6 or the public interest point. She pointed out all she wished to do was her job as a councillor to challenge and hold the Council to account on behalf of residents, and that closing down the request was closing down the cornerstones of democracy. She felt it set a very dangerous precedent and wondered what the Council had to hide and why there was a nervousness about the report. She highlighted that she would be making an FOI request for this information should this Motion not be supported.

Councillor James Coles thought there was a series of holes in the legal argument set out in the report and highlighted some examples. The whole point he felt was that Councillor Rowles was trying to establish why different criteria had been applied between two residents and officers were stopping her from doing so without acceptable reason being given. He suggested that she did have a need to know and officers should not have withheld documentation that could have been shown to her confidentially. He believed the whole matter was about telling Members not to challenge officers when the public wanted Members to do so where they deemed it necessary, and to cover up a wrongdoing by the Council. If this was the case he said it was immoral, unethical and must cease. He felt this matter should never have reached this stage and could have

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been resolved via a face-to-face discussion with Councillor Rowles who was just trying to determine the truth. He indicated that he would not be supporting the Motion.

Councillor Steve Masters noted this was a subject matter that a lot of members were very passionate about given their similar experiences with CIL. He questioned whether any councillors had been privy to the information in the document and was it therefore the case that Councillor Rowles had been particularly excluded. He also wanted to know how much more money would be spent on defending something that could be rectified by trusting Councillor Rowles. He went on to highlight the qualities of Councillor Rowles which he believed indicated her trustworthiness and integrity. He noted that when opposition Members questioned an officer the administration responded with the response that officers should not be denigrated or disrespected. He argued that this was about maximising transparency and making sure that decisions were scrutinised. He commended Councillor Rowles for bringing this matter so far as he knew it was not being done easily but felt there were times when a stand needed to be made.

Councillor Graham Bridgman agreed that officers should be challenged but felt that in certain circumstances officers also had to be trusted. In this case the Monitoring Officer, the Council's senior legal adviser, determined that information was exempt from production and this should be believed. As a lawyer he noted that legally privileged information needed to stay legally privileged and there was a reason for that. He said he would be horrified if, as a litigation lawyer, he discovered that advice he had given in confidence to a client had been disclosed anywhere beyond the client. He agreed that a Members right to information must necessarily be fettered and that 13.3.6 of the Constitution set out how confidential information could be disclosed in confidence to a Member. However the section explicitly referred to the Council's Access to Information rules and the position there was that exempt information was not the same as confidential information. He suggested that an FOI request on that subject would be met with the same position. Councillor Bridgman highlighted that the position of the Monitoring Officer was not that this information was purely confidential, and he felt it had nothing to do with trust or otherwise in a Member. It had everything to do with officers giving unfettered advice in the expectation it would go no further and exempt information remaining exempt. He accepted the Monitoring Officer's determination as to it being exempt and he did not look behind that.

In closing, Councillor Mackinnon reiterated this was about the principle of when exempt and legally sensitive information should be disclosed. A person would not expect legal advice given to their lawyer to be disclosed anywhere else and he argued it was absurd to think otherwise. He had nothing further to add to what Councillor Bridgman had said and urged Council to support the Motion.

The Vice-Chairman acknowledged that Councillor Martha Vickers had left and then returned to the meeting during debate. The Monitoring Officer confirmed that Members should really be present during the whole debate in order to hear all relevant information. She had advised previously that if Members missed an introduction that was not considered an issue assuming they had read the report. She was aware that the debate had begun when Councillor Vickers had returned and her advice was that Councillor Vickers should not vote. It was ultimately a matter for Councillor Vickers to determine and the Vice-Chairman invited Councillor Vickers to take note of the advice provided by the Monitoring Officer.

The Motion was put to the vote and ended up tied at 16 for, 16 against, with 3 abstentions. The Vice-Chairman in his role as Chairman of the meeting used his casting vote and the Motion was duly **RESOLVED**.



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*(The meeting commenced at 7.00 pm and closed at 10.25 pm)*

**CHAIRMAN** .....

**Date of Signature** .....