

Minutes of an extraordinary informal remote meeting of the Scrutiny Committee on Monday 16 October 2023

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Committee members present:

Councillor Pegg (Chair)	Councillor Rowley (Vice-Chair)
Councillor Altaf-Khan	Councillor Arshad
Councillor Corais	Councillor Douglas
Councillor Jarvis	Councillor Smowton

Officers present for all or part of the meeting:

David Butler, Head of Planning and Regulatory Services
Rachel Williams, Planning Policy and Place Manager
Sarah Harrison, Team Leader (Planning Policy)
Lorraine Freeman, CIL, Data Analysis and Reporting Team Leader
Lan Nguyen, Senior Data Analyst
Alice Courtney, Scrutiny Officer

Also present:

Councillor Louise Upton, Cabinet Member for Planning and Healthier Communities

Apologies:

Councillor(s) Diggins, Fry, Lygo and Mundy sent apologies.

42. Declarations of interest

None.

43. Chair's Announcements

None.

The Committee agreed to consider item 5 next on the agenda, followed by items 4 and 6.

44. Community Infrastructure Levy (CIL) Charging Schedule Partial Review for Consultation

Cllr Louise Upton, Cabinet Member for Planning and Healthier Communities introduced the report, which sought Cabinet approval for the draft Community Infrastructure Levy (CIL) Charging Schedule to be published for public consultation following a partial

review. CIL was a fixed levy payable on new developments which funded the provision of infrastructure in the City; the amount charged was dependent on the area of the new development.

David Butler, Head of Planning and Regulatory Services added that it made sense to consult on the CIL Charging Schedule in tandem with the draft Local Plan 2040, as it would be more efficient for them to go through examination by the inspector at the same time.

In response to questions, the Committee was advised that:

- CIL rates varied across the country and were dependent on what their viability evidence found and when it had been gathered.
- The viability evidence used for Oxford utilised the latest data for the Oxford region.
- The use class for hotels was tested during the viability study, but it was deemed that the values of these developments could not absorb any additional CIL charge above annual indexation.
- There was no requirement for the CIL Charging Schedule and Local Plan 2040 to be adopted at the exact same time, but it was more efficient to do so as both documents used the same evidence base; there were no dependencies, therefore if one document was delayed the other could still be brought forward for adoption.

The Panel noted the contents of the report; no recommendations were agreed.

Lorraine Freeman, CIL, Data Analysis and Reporting Team Leader and Lan Nguyen, Senior Data Analyst left the meeting and did not return.

45. Oxford Local Plan 2040 Regulation 19 Consultation Document

The Chair advised that she had approved a request to speak on this item and, in addition, all members of the Committee had received a representation via email from the Oxfordshire branch of the Campaign to Protect Rural England (CPRE) prior to the meeting.

Kaddy Beck addressed the Committee on the subject of Bertie Park; a copy of the address is attached to the minutes pack. The Chair thanked Kaddy Beck for her contribution and suggested that the Committee bear the address in mind during consideration of the item.

The Chair read out the email representation received from the Oxfordshire branch of CPRE, a copy of which is attached to the minutes pack. The Chair suggested that the Committee bear the representation in mind during consideration of the item.

Cllr Louise Upton, Cabinet Member for Planning and Healthier Communities introduced the report, which sought Cabinet approval for the Oxford Local Plan 2040 Proposed Submission Document to go out to public consultation, approval of the statutory supporting information and delegated authority for the Head of Planning and Regulatory Services to make minor changes as detailed in the Cabinet report. She highlighted that the Local Plan was an important document which set the context within which Oxford would develop over the next 15 years; it would form the basis for determining planning applications, including consideration of where homes were built; where jobs were located; the protection of blue and green spaces; and the protection of district centres to ensure they remained vibrant and thriving.

Responding to the public address, Cllr Upton stated that it was a technical issue which did not, in her view, preclude the Council from progressing the Local Plan 2040. In relation to the representation from CPRE, Cllr Upton added that there appeared to be some misunderstandings about some of the consultations and the level of responses received; Rachel Williams, Planning Policy and Place Manager set out the background to the plan-making process and the consultations that had taken place, particularly highlighting that the consultation which CPRE referred to was a supplementary single-issue consultation which, as was to be expected, had received a smaller number of responses.

The Committee asked a range of questions, including questions relating to site allocation; local and district centres; provision of healthcare infrastructure; pressures on services from other developments outside of the City boundary; collaboration and partnership working during the Plan making process (both in Oxford and neighbouring Districts); viability policies; affordable workspace; First Homes; parking standards; development density; and information contained in the Sustainability Appraisal (Appendix 2 to the report).

Cllr Corais joined the meeting.

In response to questions, the Committee was advised that:

- The Council worked with landowners in order to gain as clear an understanding as possible whether a particular site was to be put forward for site allocation; sites could only be included in the Local Plan when a landowner had committed to putting their site forward as the housing numbers set out in the Local Plan were required to be deliverable, so realistic assumptions were required.
- There was a fine line between a location being defined as a Local Centre or not; it was a difficult judgement call.
- The Council worked with the Buckinghamshire, Oxfordshire and Berkshire West Integrated Care Board (BOB ICB) around the Local Plan and anticipated levels of growth; it was up to the ICB to put in place a strategy for the provision of infrastructure to address healthcare need. The surrounding Districts also worked with the ICB, though collaboration between all the Districts and the ICB together was an area for improvement which was being considered by the Future Oxfordshire Partnership Planning Advisory Sub-Group; this issue could not be fixed in the Local Plan 2040 due to the complexity of the issue.
- The Council worked with a viability consultant on the viability policies; the viability cascade was a tool to help ensure viability policies were maximised; the policies around viability were extremely stringent and developers had to prove unviability – it was rare that unviability could be proven and this had only occurred once within the last 5 years.
- The affordable workspace policy was a new, ground-breaking policy which the Council was testing; it was hoped that the policy could be strengthened in future Local Plans once the evidence base was built up.
- Having sought advice from a barrister, the Council would argue through the Local Plan examination process that First Homes should not be a requirement in Oxford, as this approach was deemed relatively low risk; if the inspector disagreed, the Council would set the First Homes requirement at the minimum amount possible and adjust the affordable housing policy accordingly; beyond that policy there would be no knock-on effect for the rest of the Local Plan.

- No changes were proposed in terms of large destination parking (e.g. hospitals) as there had been no changes to the evidence base to justify changes since the inspector dismissed proposals previously.
- The minimum number of dwellings to be delivered on sites where there were existing dwellings was in addition to the number of dwellings already on that site.

Cllr Jarvis left the meeting and did not return.

The Committee resolved to make the following recommendations on the report for Cabinet:

1. That the Council seeks to facilitate increased engagement with the Integrated Care Board in relation to the provision of healthcare infrastructure to meet both new and existing unmet demand as a result of development within and outside the City boundary, to ensure that adequate plans are drawn up to meet existing and future demand, in collaboration with the neighbouring Districts to encourage good joined-up, cross-boundary working.
2. That the Council adds a requirement into Policy E3: Affordable Workspace Strategy and Affordable Workspace Provision on Commercial Sites that, in the event that a developer of any of the 8 sites listed does not propose the provision of affordable workspace within their affordable workspace strategy, that developer must include a justification within their strategy as to why not.
3. That the Council reassesses the list of Local Centres and locations not included in the list against the definition to see whether more locations can be included in this and future Local Plans.
4. That the Council clarifies the definition of a Local Centre within the draft Local Plan to aid understanding as to why some areas are not defined as such, in the event that recommendation 3 is not accepted for the current draft Local Plan.
5. That the Council clarifies the way in which housing numbers on sites are presented within the draft Local Plan, to make clear that the minimum number of dwellings to be delivered which are stated within policies are in addition to the number of existing dwellings on those sites.
6. That the Council amends the narrative around Templars Square and related Policy SPS12 to highlight the current significance and significant future potential of the site, more broadly than just the provision of housing, to a large number of people and communities across a large area of the City beyond Cowley alone – stressing the importance of redevelopment and reinvigoration of the site.
7. That the Council reviews the ward names used within the draft Local Plan to ensure that they correctly reflect the current wards of the City.
8. That the Council produces a list of changes between the Local Plan 2036 and Local Plan 2040 to publish alongside the Local Plan 2040 for public consumption.

Cllr Louise Upton, Cabinet Member for Planning and Healthier Communities, David Butler, Head of Planning and Regulatory Services, Rachel Williams, Planning Policy and Place Manager and Sarah Harrison, Team Leader (Planning Policy) left the meeting and did not return.

46. Dates of future meetings

The dates of future meetings were noted.

The meeting started at 6.00 pm and ended at 7.52 pm

Chair

Date: Monday 6 November 2023

When decisions take effect:

Cabinet: after the call-in and review period has expired

*Planning Committees: after the call-in and review period has expired and the formal
decision notice is issued*

All other committees: immediately.

Details are in the Council's Constitution.

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Minute Item 45

We understand that when you send the local plan to the Secretary of State, they will assess whether it is effective i.e. deliverable over the plan period, and consistent with national policy i.e. in accordance with policies in the National Framework.

The 2036 plan policy SP32 for the development of Bertie Park states that planning permission for housing will only be granted if our recreation ground, including its Multi Use Games Area, is re-provided on the land behind Wytham Street. You have never suggested complying with this requirement. Your proposals were advertised as a departure from the local plan. It is clear that you do not consider plan policy SP32 to be deliverable over any plan period. So the 2040 local plan states that Bertie Park should be allocated for residential development (or a primary school), but you have scrapped the requirement to reprovide the recreation ground.

Although this makes the policy, in principle, deliverable, it is no longer in accordance with policies 8, 98, 99 and 130 of the National Policy Planning Framework.

The only way that the new Bertie Park policy could pass inspection would be if your proposal to appropriate the land on Bertie Park for planning purposes is successful. (You also state that appropriation is for the regeneration of the park. But this is just silly.) Although you have *started* the process of appropriation, it is difficult to see how you can comply with the conditions set out in section 122 of the 1972 Local Government Act. As a local authority you have a duty to act within the law. Any decision to proceed with appropriation will trigger judicial review, which is unlikely to be completed before the 2040 local plan is submitted to the Secretary of State.

The continued inclusion of the Bertie Park on the local plan is particularly ironic given that you have said that the new Local Plan 2040 aims to "protect existing leisure, community and cultural facilities", whether or not they are in district centres.

We are therefore highlighting the need to remove Bertie Park from the list of development sites for the 2040 local plan.

Relevant National Policies/Laws

NPPF 8: "social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations (and) by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being."

NPPF 98: "Access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities"

NPPF 99: "Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or

- b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use”

NPPF 130: Planning policies and decisions should ensure that developments:

- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

1972 Local Government Act

122 Appropriation of land by principal councils.

- (1) Subject to the following provisions of this section, a principal council may appropriate for any purpose for which the council are authorised by this or any other enactment to acquire land by agreement any land which belongs to the council and is no longer required for the purpose for which it is held immediately before the appropriation; but the appropriation of land by a council by virtue of this subsection shall be subject to the rights of other persons in, over or in respect of the land concerned.
- (2) A principal council may not appropriate under subsection (1) above any land which they may be authorised to appropriate under **[F1 section 229 of the Town and Country Planning Act 1990]** (land forming part of a common, etc.) unless—
 - (a) the total of the land appropriated in any particular common, . . . **F2** or fuel or field garden allotment (giving those expressions the same meanings as in **[F3 the said section 229]**) does not in the aggregate exceed 250 square yards, and
 - (b) before appropriating the land they cause notice of their intention to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed appropriation which may be made to them,

F4

- [F5(2A)]** A principal council may not appropriate under subsection (1) above any land consisting or forming part of an open space unless before appropriating the land they cause notice of their intention to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed appropriation which may be made to them.

(2B) Where land appropriated by virtue of subsection (2A) above is held—

- (a) for the purposes of section 164 of the Public Health Act 1875 (pleasure grounds); or
- (b) in accordance with section 10 of the Open Spaces Act 1906 (duty of local authority to maintain open spaces and burial grounds),

the land shall by virtue of the appropriation be freed from any trust arising solely by virtue of its being land held in trust for enjoyment by the public in accordance with the said section 164 or, as the case may be, the said section 10. **]**

F6(3)

- (4) Where land has been acquired under this Act or any other enactment or any statutory order incorporating the Lands Clauses Acts and is subsequently appropriated under this section, any work executed on the land after the appropriation has been effected shall be treated for the purposes of section 68 of the **M1**Lands Clauses Consolidation Act 1845 and section 10 of the **M2**Compulsory Purchase Act 1965 as having been authorised by the enactment or statutory order under which the land was acquired.

Representation from the Oxfordshire branch of the Campaign to Protect Rural England (CPRE)

Dear Scrutiny Committee Members,

Oxford is host to a wide range of community, environmental and civic organisations all of whom are committed to working for a sustainable future for our amazing City.

Imagine how strong a Local Plan could be if it harnessed the passion and expertise of these groups in a co-ordinated way and genuinely involved them in the development of the Local Plan?

Instead, it seems that we are once again here in a position of tick box consultation with groups that have concerns forced into confrontation and opposition, rather than feeling that their views have been listened to, let alone taken into account. We are also surprised to see that the draft Local Plan has effectively been published, ahead of its consideration by Scrutiny.

In that context, we ask members of the Scrutiny Committee to make the following recommendations to Cabinet:

- 1. The [Regulation 18 \(2\) Consultation Response Report](#) is not considered fit for purpose and should be re-written prior to the Local Plan consultation.**
 - Should a total of approx. 100 responses be considered sufficient to establish that the consultation has been adequately conducted?
 - Why is there no indication of where the responses have come from? Are these from individuals or groups representing 100s or 1000s of Oxford residents?
 - Why is there no weighting indicated as to the level of agreement on comments? We are simply given an edited list of comments, but no indication of how many people agree to each of these.
 - Most importantly, why is there no indication of how the City Council will respond to these comments? We wonder if the Council can point to one single change to the Local Plan that it has made in response?

As an alternative approach, the Committee might like to consider this [consultation report](#) produced recently by South & Vale District Councils, alongside an [interactive issues consultation website](#). Admittedly this is at an earlier Local Plan stage, but it does set out clearly how the Councils intend to respond to comments.

- 2. A further paper on the Housing & Economic Needs Assessment (HENA) should be published alongside the Local Plan consultation giving specific responses to the detailed criticisms that have been made of this document by a wide range of statutory and non-statutory stakeholders.**

We agree that Oxford needs considerable investment in genuinely affordable housing. Nonetheless, decisions must be made on good evidence, to avoid the

unnecessary loss of green space and countryside including Green Belt, and the HENA is clearly flawed. Critical questions remain unanswered, for example:

1. Why the trajectory proposed for Oxfordshire as a whole envisages the population growing by nearly 27% by 2040, compared to Office for National Statistics estimates of a UK population increase of less than 5%?
1. Why the level of growth proposed is over 50% more than the growth experienced in the previous period?
2. Why household growth is assumed to continue at the same rate from 2019-2029 to 2029-39 when the Office for National Statistics predicts a 41% fall in the second decade?
3. Why net migration is based on a 5 year rather than 10 year average, adding 20% to the figures?

Unfortunately we are not able to attend tonight's meeting in person to read this statement. However, we ask Scrutiny Committee to give careful consideration to these matters, which are crucial to delivering a thriving Oxford, in the context of both the City and the County as a whole.

Yours faithfully

On behalf of CPRE Oxford