

Minutes of a meeting of the Scrutiny Committee on Monday 18 November 2024

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Committee members present:

Councillor Miles (Chair)	Councillor Corais (Vice-Chair)
Councillor Altaf-Khan	Councillor Jarvis
Councillor Ottino	Councillor Qayyum
Councillor Regisford	Councillor Stares

Officers present for all or part of the meeting:

Emma Jackman, Head of Law and Governance
Jane Winfield, Head of Corporate Property
Ted Bowler, Corporate Asset Manager
Jonathan Malton, Committee and Member Services Manager
Celeste Reyeslao, Scrutiny and Governance Advisor

Other members present:

Cllr Ed Turner, Deputy Leader (Statutory) and Cabinet Member for Finance and Asset Management

Apologies:

Councillor(s) Malik sent apologies.

Substitutes are shown above.

47. Declarations of interest

Cllr Altaf-Khan and Cllr Regisford stated that they currently held membership to the Oxford City Planning Committee. The Councillors made this declaration for reasons of transparency.

Cllr Miles stated that she had supported the call-in of the Cabinet decision relating to the disposal of land at Foxwell Drive, and indicated she made the declaration for reasons of transparency.

48. Chair's Announcements

None.

49. Consideration for call-in request relating to Cabinet Decision - Disposal of Land at Foxwell Drive, Headington

The Scrutiny Committee considered the call-in of the Cabinet decision in relation to the agreement to enter into an option agreement on land at Foxwell Drive made at the Cabinet meeting on 16 October 2024.

The Committee received a public address from James Malcomson, Chair of Friends of Old Headington, who spoke on concerns including the need for public consultation on the loss of green space, clarity on the Risk Register, potential conflicts of interest, implications for the Oxford Local Plan, and suggestions for transparency and timing. A copy of his address has been included to the minutes pack.

Cllr Roz Smith was then invited to address the Committee, noting that she was a Trustee for Oxford Preservation Trust and a member supporting the call-in of the cabinet decision. Cllr Smith spoke on concerns relating to the disposal of land including the loss of open space and nature corridor, the length of time of the option agreement, and the need for greater scrutiny of potential conflicts of interest. She highlighted the Council's priority to maintain and improve parks, noting the importance of preserving the 'tiny forest' that benefit local residents, and the reputational risk and broader impact on the Council.

The Chair thanked Mr Malcomson and Cllr R Smith for their contributions.

The Chair welcomed Jane Winfield, Head of Corporate Property, Ted Bowler, Corporate Asset Manager, and Emma Jackman, Head of Law and Governance, who were in attendance to answer questions from the Committee.

The Committee discussed concerns regarding the separation of planning and land disposal processes, particularly the implications of attaching a planning consent condition to an option agreement for the sale of land. It was clarified that attaching such conditions was standard practice to protect the interests of both buyer and seller, ensuring the land's value reflected potential planning outcomes.

Questions were raised about transparency in the drafting of the option agreement, with assurances given that exempt papers outlining key terms had been provided to Cabinet and Scrutiny. The discussion also addressed the robustness of the Council's governance processes, ensuring professional and independent handling of planning applications, including those involving Council-owned land.

The Committee was reminded that the current matter concerned the principle of the option agreement, with the planning process to follow standard procedures, including public consultation and decision-making. It was clarified that, whilst not relevant to the option agreement, the Local Plan remained under review and would be a matter for determination by the Full Council. The status of the land (and not the option land per se) at the time of any future planning application would depend on its designation at that point.

It was confirmed that the land was not formally classified as open space, and it was only changing the basis on which the land was held by the Council.

The Committee further discussed the visibility of draft terms of the agreement and explored alternatives to the proposed arrangement. It was clarified that the draft heads of terms from the cabinet report had been in the confidential appendix provided to the Committee would serve as the basis for the legal agreement. The Council's duty to achieve the best value for land disposal and its commitment to efficient land use was highlighted. Members were informed that the Constitution restricted access to draft agreements during negotiations due to their commercially sensitive nature, a provision that applied to both councillors and Freedom of Information requests. Once the option agreement was finalised and signed, these restrictions would be lifted, and the terms could be made available with appropriate redactions for commercial sensitivity.

The Committee asked for clarification about clauses in the option agreement pertaining to the relocation of trees if they were to be removed to provide access to the site. It was noted this matter could be discussed with Ruskin College, as it had informally considered how the forest would be managed if the option agreement were triggered. In addition, it was stated there was alternative Council land that could be used for the reprovision of trees if necessary.

Cllr Ottino expressed confidence in the professionalism and thoroughness of the Officers involved in preparing the report and advising Cabinet on the option agreement, stating that he was reassured by their approach and the quality of their work. He further highlighted his trust in the planning officers and the Planning Committee to handle any future planning applications fairly and professionally. The Committee shared this confidence, affirming that Cabinet was provided sound advice, and that proper decision-making procedures would be followed for any future planning application.

The Committee was advised of the possible resolutions it could adopt, as set out in Part 17.7 of the Constitution. Those being: to support the original decision; to refer the decision back to Cabinet with or without comments; or to refer comments on the decision to Council that recommends changing the budget or policy framework.

Cllr Ottino proposed supporting the original decision, and was seconded by Cllr Qayyum. On being put to the vote, the Committee agreed to uphold the original decision.

The meeting started at 6:05 pm and ended at 7:20 pm

Chair

Date: Tuesday 14 January 2025

*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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Address by Mr James Malcomson on Consideration for call-in request relating to Cabinet Decision - Disposal of Land at Foxwell Drive, Headington

Outline of nature of contribution from Friends of Old Headington

The Heads of Terms of the proposed Option Agreement for land at Foxwell Drive, Headington have not been made public in Council papers and the discussion of this matter at Cabinet was minimal (less than 2½ minutes in total of which 1 minute 48 seconds was a presentation by the recommending officer) with no questions asked by councillors. In view of that, important issues about what the City would commit itself to by an agreement have not been subject to consultation with, or scrutiny by, either members of public or (I understand) councillors who are not members of Cabinet.

The Friends of Old Headington consider that the following issues have not been given adequate consideration and scrutiny:

1. The green space in the relevant part of Foxwell Drive and the “tiny forest” the Council has planted there are effectively “public open space”. The Council should consult with the public before making an option agreement to sell it.
2. The Risk Register concerning the Option Agreement is unclear:
 - a. Risk 1 (Non-completion) is described as “Option agreement is not signed” with possible cause “College decides not to proceed with sale of the development land”. It does not specify whether any agreement would be signed *only if* the College sells the land.
 - b. Risk 3 (Planning delays) lists as a Control/Mitigation: “The agreement allows the Council to object to the *details* of any planning application before it is submitted” (emphasis added). But there is no specification of what constitutes a detail or of the implications of such an objection. (Does it amount to veto power over details?) So we do not know precisely what the Council would, and would not, be in a position to object to or the significance of any such objection.
3. Potential conflict of interest: The existence of an option agreement gives rise to genuine concerns about conflict of interest or, at the very least, about how any appearance of conflict of interest will be handled, in any future planning application for that site. Under an agreement, the City Council will presumably benefit financially from any grant of planning permission for this development. Judging by comments on social media and elsewhere, many citizens are already sceptical of the Council’s impartiality in handling conflicts of interest between planning and financial considerations.
4. Oxford Local Plan. Although the (now withdrawn?) Oxford Local Plan 2040 did not allocate Ruskin Fields as a site suitable for development, an Option Agreement for access at this stage would surely be used by the developers to make a case for this allocation to be changed for the next version of the Oxford Local Plan. (They already have, in an email dated 4 January 2024 to the Planning Policy Team saying that they “*are finalising an Option Agreement to secure access rights over City Council owned land linking Foxwell Drive to the Ruskin College estate*”, used this as an argument for having the non-allocation changed.) The Friends of Old Headington are concerned that, even if such a case is unsuccessful, the Inspector for the next version of the Oxford Local Plan will interpret an Option Agreement as ambivalence by the City Council on the

issue and thus an encouragement to over-rule rejection of this site for development. Concern about this would only add further “planning blight” to the Foxwell Drive area.

We draw the following conclusions:

- Before proceeding to negotiate any Option Agreement, the City Council should make public the Heads of Terms for an agreement, with any sensitive monetary figures redacted, before entering negotiations on a full agreement.
 - A senior planning expert we consulted has advised that “there could not really any commercial confidentiality about the agreement” if monetary figures are redacted.
- Any proposed full agreement should be made public, again with any sensitive monetary figures redacted, before it is finalised.
- It would be more appropriate to wait to negotiate an Option Agreement until after the next Local Plan has been finalised and approved by the Planning Inspectorate, at which point it will be known whether Ruskin Fields is considered suitable for housing development. Only if it is, should access possibilities be explored.

James Malcomson
Chair of Trustees
Friends of Old Headington