

Statement by Chair of Growth and Regeneration Scrutiny on Temple Island proposal and disposal

I believe that the administration has failed follow its own guidelines on good practice for effective scrutiny.

Today's meeting was scheduled for this date so that members could scrutinise the Temple Island proposal and disposal paper, which is due to come to cabinet on 21st, and due to be published on 14th.

We have been refused access of all aspects of the disposal and associated spending commitments, despite asking for a draft copy of the report or a précis of what is due to go to cabinet.

The head of Legal Services has previously stated that Scrutiny is entitled to see those documents which are available to the Executive, and we had received commitments from the Executive that this would be the case on a number of different occasions. At the xx cabinet meeting the cabinet member told us that scrutiny would have access to any relevant items relating to Temple Island provided it was on the forward plan and there would be an opportunity for a proper scrutiny process to take place. Additionally, at the formal planning meeting on 9th December to set the agenda for today, the former executive director agreed to share details of the disposal agreement, with further details of how much needed to be exempt to be decided later. No papers were published on the agreed date of 20th December, with no notice or explanation

And here we are today, with no details of the disposal and associated spending commitments to scrutinise, and that is just 5 days before the full paper is due to be published. One can only deduce that the administration has deliberately decided to keep this information from members of the scrutiny commission.

Having reviewed the cabinet report from July, I am more adamant that scrutiny needs to have sight of the disposal, and associated spending agreements, prior to the report going to cabinet, as there are serious questions unanswered.

When the initial report came to cabinet in July and myself and Cllr Thomas had questions on the disposal. Our questions related to concern over the contract, as in, is it really a simple property transaction which does not demand a public procurement process, or is it in fact, a public works contract, which would require a tendering process. We believe the spending commitments associated with the disposal make it a public works contract.

My questions were based on the Court of Appeal case, Faraday v West Berkshire Council, where the judge decided that a transaction, which starts out as a simple property deal, but includes conditions which would trigger a public works contract must not be considered a property transaction and warned other councils from doing the same. We are doing a land transaction with L&G but also require an office block to be built, so it is more than a land deal. In my questions I asked for evidence that we would not be entering into a contract that would be 'ineffective' or 'unlawful'.

At that cabinet meeting, Cllr Cheney gave me vague assurances that the legal advice he received was that there were enough differences between the Temple Island proposal and Faraday but said, open quotes "before it came to the next stage of the process we would have an lot more analysis on that" - and the 'that' referred to the disposal agreement. The administration has failed to do that.

I also questioned him about why this had not come to scrutiny as it is 'the sort of thing that scrutiny should be all over'. He replied 'If it is on your forward plan, then it is welcome to come to scrutiny'.

Well, it was on the forward plan and yet, we have been told that we cannot now scrutinise the very important legal and financial arrangements of the disposal of this important site.

As a member of the council and as chair of this scrutiny, I am not at all confident that I have enough knowledge and understanding of the terms of agreement to support the proposal. I have not been allowed access to the detailed legal and financial advice to say if this deal is either lawful or good value for money.

As I've raised before, if mishandled this has the potential to leave Bristol Council on the hook for tens of millions of pounds, as well as serious legal challenges. This is valuable public land in the heart of the city which has already had millions invested in it - any decision to hand it over to a private company must be carefully scrutinised. This is too important to be done behind closed doors.

Therefore, I am asking that the paper is pulled from the January cabinet and this commission or OSMB is given an opportunity to properly scrutinise the full cabinet paper and any supporting documents deemed necessary to get an overview of the proposals.