

Cabinet

Wednesday, 04 September 2019

Attendees: Councillor Mark Cory, Councillor Adam Fox, Councillor Martin Goss, Councillor Theresa Higgins, Councillor David King, Councillor Michael Lilley, Councillor Gerard Oxford, Councillor Julie Young

Also in attendance: Councillors Bourne, Crow, Davies, Goacher, Harris, Hazell, J. Maclean, Pearson, Willetts, T. Young

No. Publication and Call in Arrangements

Date Published 5 September 2019

Date when decisions may be implemented (unless 'called in') 5pm 12 September 2019

NB All decisions except urgent decisions, those subject to pre-scrutiny and those recommended to Council may be subject to the Call-in Procedure.

Requests for the scrutiny of relevant decisions by the Scrutiny Panel must be signed by at least ONE Councillor AND FOUR other Councillors to countersign the call-in form OR to indicate support by e-mail. All such requests must be delivered to the Proper Officer by no later than 5pm on Thursday 12 September 2019.

375 Minutes of Previous Meeting

RESOLVED that the minutes of the meeting held on 10 July 2019 be confirmed as a correct record.

376 Have Your Say!

Joanna Kirchner addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(1) to express her concern about tree roots and their impact on pavements. She drew particular attention to the condition of Cambridge Walk. She had raised her concerns with Essex County Council, who stated they would not act as it was a footpath rather than a pavement, and it appeared that action would only be taken following an injury. Funding that had been used for other non essential projects would have been better spent on pavement repairs. Whilst it was appreciated that responsibility lay primarily with Essex County Council (ECC), it affected residents of Colchester and therefore Colchester Borough Council had a responsibility to address the issue.

Councillor Cory, Leader of the Council and Portfolio Holder for Strategy, Councillor

Goss, Portfolio Holder for Waste, Environment and Transportation and Councillor J. Young, Portfolio Holder for Culture and Performance, responded and undertook to raise the issue in discussions with Essex County Council. The Council was seeking to take services and funding back from ECC in order to deliver services in accordance with local issues. It was also highlighted that Essex County Councillors had been offered the opportunity to nominate five pavements in their division for repair and therefore the issue should be taken up with local County Councillor.

Dorian Kelly addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(1). He expressed concern that the consultants defending the appeal against the refusal of planning permission for student accommodation at St Botolphs had been advised not to talk to local residents. He also believed that the Cultural Quarter was too closely defined and that the Local Plan should be amended so the Cultural Quarter was defined as the whole town centre including Priory Street. In addition language that allowed unsuitable development should be removed. He had several suggestions for the improvement of the town centre which he would welcome an opportunity to put to the Cabinet.

Councillor J. Young, Portfolio Holder for Culture and Performance, welcomed the suggestions. The administration was looking to develop a new town centre Masterplan in which some of the ideas could be incorporated. The issues raised about the consultants defending the appeal against the Alumno development would be looked into.

Oliver Ward and Tristan Clarke addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(1) to explain that they were exploring the possibility of purchasing the site of the old Odeon Cinema in Crouch Street and renovating it as a music venue. This would be an appropriate use for the building and would build on its heritage. It would be the largest staged venue in Essex and would contribute to the vibrancy and economy of the town centre. The owner of the site had set a cash price for the site and they wished to alert the Council to their plans.

Councillor Cory, Leader of the Council and Portfolio Holder for Strategy, Councillor Goss, Portfolio Holder for Waste, Environment and Transportation, Councillor Lilley, Portfolio Holder for Communities, Wellbeing and Community Safety and Councillor King, Portfolio Holder for Business and Resources, responded to indicate that they would welcome the redevelopment of the site and would be happy to meet to discuss their proposals further. Enforcement action had been taken against the current owner to improve the site.

Sir Bob Russell addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(1) to urge the Cabinet to ensure that the appeal against the unanimous decisions of the Planning Committee to refuse the application for student accommodation at St Botolphs was rigorously defended. The consultants appointed to defend the appeal had recommended the withdrawal of one of one of the grounds of refusal. Concern was also expressed that Alumno's legal team had indicated that those who had supported the Planning Committee decision could have costs awarded against them.

Councillor Cory, Leader of the Council and Portfolio Holder for Strategy, Councillor J.

Young, Portfolio Holder for Culture and Performance and Councillor King, Portfolio Holder for Business and Resources, indicated that the decision of the Planning Committee would be supported and rigorously defended. The experts engaged by the Council were professional and reputable. Expert advice had been received in respect of the reason for refusal around whether the applicants had undertaken proper public consultation, and it was right that the Council should take this advice seriously. The other reasons for refusal would be defended.

Councillor Willetts attended and with the consent of the Chairman addressed the Cabinet to express his concern that a Colchester Borough Council recycling sack had been photographed at an open air incinerator facility in Indonesia. This was a contravention of the principles of the Climate Emergency recently declared by the Council. An independent inquiry needed to be established to investigate the matter, and this should include representatives of Extinction Rebellion.

Councillor Goss, Portfolio Holder for Waste, Environment and Transportation, explained that the Council had undertaken an investigation and the results were all in the public domain. Colchester Borough Council was the waste collection authority. Essex County Council was the waste disposal authority, and they were investigating the matter. If further information came to light as a consequence this would be published. It was appropriate that such investigation were undertaken by officers rather than by elected members.

Councillor J. Maclean attended and with the consent of the Chairman, addressed the Cabinet and raised a number of queries about the waste service, in particular whether the new vehicles had a reduced capacity, the number of vacancies the service was carrying and the cost of the use of agency staff.

Councillor Goss, Portfolio Holder for Waste, Environment and Transportation, explained that all vacancies had now been filled. Heavy goods vehicle drivers were in great demand and the Council was training operatives to become drivers. Agency staff were used when required to cover sickness absence or annual leave, but there was provision for this in the budget, which was not under pressure. The new vehicles held the same tonnage of waste. Some were slimmer than the previous vehicles in order for them to be able to manage the roads on new estate developments.

Councillor Harris attended and with the consent of the Chairman addressed the Cabinet to seek clarification on the administration's position on Airspace developments. Residents of Berefield Way and Christopher Jolly Court were confused about apparently contradictory statements on the issue. While Cabinet minutes indicated support for the concept of Airspace developments, local Liberal Democrat leaflets opposed a third floor on these buildings.

Councillor Cory, Leader of the Council and Portfolio Holder for Strategy, explained that the administration wanted to build more Council housing, including affordable housing. The Cabinet was fully behind the Airspace policy, but investigations were needed to ensure that each building was suitable. Further information about the suitability of the buildings would be discussed shortly. Councillor Goss, Portfolio Holder for Waste, Environment and Transportation, stressed the need for Airspace developments to be delivered on the right sites. Councillor Fox, Portfolio Holder for

Housing, explained that he was committed to take the Airspace policy forward as part of the package of developments to increase the provision of affordable housing.

Councillor Crow attended and with the consent of the Chairman, addressed the Cabinet to express his concern about the condition of the River Colne, and in particular the growth of algae. Whilst it was appreciated that the Council was not responsible for the causes of the algae, where the river ran through Council property it had a responsibility to take action. It was unattractive and could be harmful to wildlife.

Councillor Cory, Leader of the Council and Portfolio Holder for Strategy, indicated that cuts to the Environment Agency had lessened its ability to take effective action to deal with the issue. Councillor Goss, Portfolio Holder for Waste, Environment and Transportation, explained that similar issues arose at Chelmsford and it was a consequence of increases in temperature. The Environment Agency had cleared some of the algae. A wider view needed to be taken to the management of the river. A potential solution would be to increase the flow of the river, but this could have other implications.

Councillor Bourne attended and with the consent of the Chairman, addressed the Cabinet. She commended the Cabinet for stepping up the narrative on the provision of housing, including affordable housing, supported by the necessary infrastructure. Whilst plans for further housing growth were not universally popular, they were supported by those in housing need. Innovative solutions such as Airspace, were part of the solution and the Cabinet had agreed potential Airspace units in the bid to central government for funding before the borrowing headroom restrictions were lifted. The openness of Councillor King and Councillor J. Young on Garden Communities was also welcomed. The importance of the Garden Communities project in delivering the Council's strategic objectives was stressed. In view of recent criticism of the leaflet issued by the Council to every household about the Local Plan, confirmation was sought that Councillor Cory remained committed to the Local Plan and Garden Communities project.

Councillor Cory, Leader of the Council and Portfolio Holder for Strategy, explained that he had agreed with the publication of the leaflet as it was clear that residents needed to know more about the Local Plan process and Garden Communities. It encouraged people to find out more about the evidence coming forward on viability and he endorsed the open approach taken by Councillor King and Councillor J. Young. Further information would be provided to the public as plans developed.

Councillor King, Portfolio Holder for Business and Resources, Councillor J. Young, Portfolio Holder for Culture and Performance, and Councillor Fox, Portfolio Holder for Housing also responded to stress the importance of providing clear information to residents. The technical nature of some of the information and processes and the fact that the Council was working in partnership made the provision of clear information challenging. A number of communication channels would be used, including leaflets and social media, using plain language. The importance of Garden Communities in ensuring managed housing growth and ensuring housing need was met was also stressed.

North Essex Garden Communities Ltd - Approval of 2019/20 Interim Business Plan and Budget

Councillor King (in respect of his position as a Director of North Essex Garden Communities Ltd) and Councillor J. Young (in respect of her position as an alternate director of North Essex Garden Communities Ltd and a member of Essex County Council) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Strategic Director of Policy and Place submitted a report a copy of which had been circulated to each Member together with draft minute 228 of the Scrutiny Panel meeting of 29 August 2019.

Councillor Davies, Chairman of the Scrutiny Panel, attended and with the consent of the Chairman addressed the Cabinet. The Scrutiny Panel had scrutinised the interim North Essex Garden Communities Ltd (NEGC) business plan and budget at its meeting on 29 August. The meeting had been very positive and there had been cross party agreement on the recommendations to Cabinet. Further context was provided about the recommendations, in particular recommendation (a) which was essentially looking for further evidence of deliverability before Full Council was asked to commit the £350,000 to NEGC Ltd.

Councillor King, Portfolio Holder Business and Communities, was invited to respond to the Scrutiny Panel's recommendations. In respect of recommendation (a) the Cabinet would do all it could to provide further evidence and was committed to working in a spirit of transparency. In respect of recommendation (b), the focus was very much on evidence gathering and communications in response to the Inspector's request, in order to ensure a successful outcome. However, the Cabinet would look to undertake some contingency planning in case the Planning Inspector concluded that Section 1 of the Emerging Local plan was not sound. On recommendation (c), the selection of the delivery model was a matter for the four authorities rather than for NEGC Ltd. Discussions on this were in the early stages and would take some time to resolve. Detailed information could not be provided until these discussions were complete, but Cabinet would look to see if there was information that could be usefully shared now. Full details would be provided when this was available. An assurance was given that the Cabinet was committed to openness and members would be kept abreast of issues on Garden Communities generally, and that quarterly briefings were being considered.

Councillor Dundas attended and with the consent of the Chairman, addressed the Cabinet. He thanked Councillor King and Councillor J. Young for improving the flow of information. However concerns about the Business Plan remained. The 2019/20 Business Plan had effectively already been implemented and Cabinet should be looking at a forward looking business plan for 2020/2021. There was insufficient information in the Business Plan: for example there were no management accounts. There not enough evidence on which investment decisions could be based. There remained a significant risk that the Council could lose any funding invested and it was noted there was no contingency plan. In view of its low overheads, NEGC Ltd would not collapse if no further funding was invested.

Councillor J, Maclean attended and with the consent of the Chairman, addressed the Cabinet. There was nothing to show for the funding invested so far in NEGC Ltd, and the funding could have been used more effectively on other priorities. There needed to be a better understanding of where the Garden Communities project was going and how public money would be used before further funding was made available.

Councillor Harris attended and with the consent of the Chairman addressed the Cabinet to stress the importance of Garden Communities in providing housing for future generations in well built, well defined communities supported by the necessary infrastructure.

Councillor King responded to members comments and introduced the report. The Business Plan made it clear that the funding was used to maintain a key team of officers to develop and deliver the Garden Communities project. Continuity and momentum were key and there would be little point in stalling or stopping the project now. The potential benefits were very large, for a relatively small investment. Garden Communities would provide housing (including affordable housing), employment, infrastructure, open space and good transport links. The Councils would be able to control the nature of the development and provide ongoing stewardship. The proposals in the report had been subject to rigorous analysis and had been approved by the Section 151 Officer and Monitoring Officer from each authority. Councillor J. Young, Portfolio Holder for Culture and Performance, and Councillor Cory, Leader of the Council and Portfolio Holder for Strategy also expressed their support for the proposals.

RESOLVED that:-

- (a) The 2019/20 Interim Business Plan and Budget (subject to confirmation of government funding) for NEGC Ltd as attached at Appendix A be approved.
- (b) The Section 151 Officers be authorised to agree any future allocation of the project funds held by Colchester Borough Council between NEGC Ltd and the North Essex Authorities;
- (c) It be noted that a report will be considered at a future Cabinet meeting in respect of funding requirements and financing options for 2020/21 and 2021/22.
- (d) Recommendations (a) and (b) contained in minute 228 of the Scrutiny Panel meeting of 29 August 2019 be accepted, and recommendation (c) be accepted subject to it being amended so that clear details about the preferred delivery model be provided by the four local authorities as soon as practicable.

RECOMMENDED TO FULL COUNCIL that it approves committing £350,000 already reserved in the 2019/20 Budget and the associated delegations to enable phased drawdowns upon a formal request by way of a NEGC Board resolution in accordance with the agreed milestones.

REASONS

To seek Cabinet's ongoing support, working together with Braintree and Tendring District Councils, Colchester Borough Council and Essex County Council, to progress the concept of 'garden communities' and to approve the Interim Business Plan for 2019/20 for NEGC Ltd and specific governance arrangements for the project.

ALTERNATIVE OPTIONS

No further options are being presented within the context of the report, as the alternative decision would be not to approve the 2019/20 Interim Business Plan and Budget.

378 2018/19 Year End Review of Risk Management

The Assistant Director Policy and Corporate submitted a report a copy of which had been circulated to each Member.

Councillor Willetts attended and with the consent of the Chairman, addressed the Cabinet to express his concern about the presentation of risks in the Risk Matrix. It was noted that of the risks identified a large majority were above the risk tolerance limit. Risks outside the risk tolerance limit should be exceptional and this suggested that the process was flawed. The Council needed to better understand which of its processes or policies were really at significant risk.

Councillor King, Portfolio Holder for Business and Resources, indicated that the Council had a well managed risk management policy in order to safeguard the Council's position. Whilst the point made by Councillor Willetts was understood, it indicated that a cautious and prudent approach was taken to risk management.

RESOLVED that:-

(a) The Council's progress and performance in managing risk during the period April 2018 to March 2019 be noted.

(b) The proposed risk management strategy for 2019/20 be approved.

RECOMMENDED to FULL COUNCIL that the Risk Management Strategy be included in the Council's Policy Framework.

REASONS

Cabinet has overall ownership of the risk management process and is responsible for endorsing its strategic direction. Therefore, the risk management strategy states that Cabinet should receive an annual report on progress and should formally agree any amendments to the strategy itself.

During the year progress reports are presented to the Governance and Audit Committee, detailing work undertaken and current issues. This report was presented to the Governance and Audit Committee on 30 July 2019, where referral to this meeting was approved.

The Risk Management Strategy is one of the key corporate governance documents that supports the Constitution of the Council, and forms part of the Policy Framework. Accordingly, any amendments must be approved by Full Council.

ALTERNATIVE OPTIONS

No alternative options were proposed.

379 Environmental Project Support Officer - recommendation from Conservation and Environmental Sustainability Task and Finish Group

The Assistant Director Policy and Corporate submitted a report a copy of which had been circulated to each Member.

Councillor Willetts attended and with the consent of the Chairman, addressed the Cabinet. Whilst he was pleased to note the proposal funding for a Project Support Officer, more significant action needed to be taken in response to the Climate Emergency, such as reviewing the Local Plan, or widescale tree planting. It appeared that the administration was only playing lip service instead of taking the necessary remedial action.

Councillor Wood attended and with the consent of the Chairman, addressed the Cabinet to support the proposal that funding be made available for a project support officer. Further information was sought as to how this would be funded in the current year and whether budgetary provision would be made available for future years.

Councillor King, Portfolio Holder for Business and Resources, indicated that the proposals in the report indicated the administration's commitment to address issues arising from the Climate Emergency. Funding had been allocated to support the Task and Finish Group and it would be for officers to decide how this could best be used to support the work of the Group. The administration had also identified environmental schemes as part of its emerging strategic priorities, which was another sign of its genuine commitment to addressing the Climate Emergency.

RESOLVED that the necessary resources be made available to support the work of the Conservation and Environmental Sustainability Task and Finish Group.

REASONS

Additional resource would help the Conservation and Environmental Sustainability Group deliver on its ambitious and important objectives.

ALTERNATIVE OPTIONS

The alternative option would be not to agree to the recommendation from the Task and Finish Group.

380 Bus Review: Further Actions

Cabinet considered minute 221 of the Scrutiny Panel meeting of 16 July 2019, a copy

of which had been circulated to each Member.

Councillor Willetts attended and with the consent of the Chairman addressed the Cabinet. Whilst the Council had a Public Transport Strategy it was difficult to find and did not provide great detail. It was Council policy to support modal shift away from car use towards public transport. In order to deliver this, improvements to public transport were necessary. It was accepted this was expensive. A Public Transport Strategy would explain how the Council would seek to deliver this modal change, how it would support improvements to public transport and the standards expected of public transport providers.

Councillor Goss, Portfolio Holder for Waste, Environment and Transportation, explained that the Council had no legal responsibility to provide public transport services. Essex County Council was the responsible authority. The Council would work with ECC on public transport issues, and on the development of their Public Transport strategy, but it did not have the resources or the legal responsibility to prepare a public transport strategy itself.

Councillor Theresa Higgins, Portfolio Holder for Commercial Services, Councillor Fox, Portfolio for Housing and Councillor G. Oxford, Portfolio Holder for Customers, highlighted issues with the current provision of bus services and stressed how the Council had supported a number of other public services. However, there was not sufficient resource to support all public services.

RESOLVED that:-

- (a) The recommendation from the Scrutiny Panel that the Council proceed with the drafting of a Public Transport Strategy not be accepted.
- (b) The Cabinet reiterated its commitment to continue to work with Essex County Council on public transport issues and on any Public Transport Strategy that they may bring forward.

REASONS

The Council had no legal responsibility for public transport services and therefore there was no justification for the Council to devote resources to the preparation of a Public Transport Strategy.

ALTERNATIVE OPTIONS

It was open to Cabinet to agree with the recommendation from the Scrutiny Panel and proceed with a Public Transport Strategy.

Use of the River Colne

Cabinet considered draft minute 29 of the Policy and Public Initiatives Panel meeting of the 31 July 2019, a copy of which had been circulated to each Member.

Darius Laws addressed the Cabinet pursuant to the provisions of Meetings General

Procedure Rule 5(1). The River Colne, particularly the middle zone, needed a management plan to help manage the competing interests of the various users of the river. If the stretch through the Lower Castle Park could be improved, it had the potential to attract a considerable numbers of visitors. There was an opportunity also to work cross border with Tendring and Braintree on the issue. Consideration should also be given a Colne Valley Area of Outstanding Natural Beauty.

Councillor Cory, Leader of the Council and Portfolio Holder for Strategy, emphasised that Cabinet was committed to improving the river and better managing the various uses whilst protecting the natural habitats of wildlife.

RESOLVED that:-

(a) A vision document for a River Colne partnership involving all local authorities along the Colne, stakeholders and interested others be drafted, to seek out funding and implement a vision that accounts for the upper, middle and lower River Colne and estuary, to be developed in a phased way starting with access and control and with the Hythe and funding options as focal points.

(b) The vision document be brought back to the Policy and Public Initiatives Panel for further discussion and public comment before being sent to the Cabinet for approval.

REASONS

The detailed reasons were set out in minute 29 from the Policy and Pubic Initiatives Panel.

ALTERNATIVE OPTIONS

It was open to Cabinet not to agree with the recommendation from the Policy and Public Initiatives Panel and not proceed with a vision document for a River Colne Partnership.

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Public Initiatives

Cabinet considered minute 28 of the Policy and Public Initiative Panel meeting of 31 July 2019 a copy of which had been circulated to each Member.

RESOLVED that a letter be sent to Essex County Council, supporting the work of Councillor Bentley in examining unsegregated cycle/footways, noting protocols and statutory consultation rights regarding cycleway installations, and stating Colchester Borough Council's support for segregated cycleways, wherever feasible.

REASONS

The detailed reasons were set out in minute 28 from the Policy and Pubic Initiatives Panel.

ALTERNATIVE OPTIONS

It was open to Cabinet not to agree with the recommendation from the Policy and Public Initiatives Panel and not send a letter to Essex County Council in respect of this issue.

383 Local Government and Social Care Ombudsman - Annual Review Letter 2018/19

The Monitoring Officer submitted a report a copy of which had been circulated to each Member.

Councillor Oxford, Portfolio Holder for Customers highlighted the small number of complaints received, which needed to be seen in the context of the huge number of public interactions the Council undertook. The number of complaints had declined from the previous year. He paid tribute to the work of the Customer Service Centre.

RESOLVED that the contents of the Local Government and Social Care Ombudsman's Annual Review Letter for 2018/2019 be noted.

REASONS

To inform the Cabinet of the contents of the Local Government and Social Care Ombudsman's Annual Review Letter relating to Colchester Borough Council for 2018/2019.

ALTERNATIVE OPTIONS

No alternatives options were presented.

384 Progress of Responses to the Public

The Assistant Director, Policy and Corporate submitted a progress sheet a copy of which had been circulated to each Member.

RESOLVED that the contents of the Progress Sheet be noted.

REASONS

The progress sheet was a mechanism by which the Cabinet could ensure that public statements and questions were responded to appropriately and promptly.

ALTERNATIVE OPTIONS

No alternative options were presented to the Cabinet.