

Cabinet

Wednesday, 15 March 2017

Attendees: Councillor Tina Bourne, Councillor Mark Cory, Councillor Annie Feltham, Councillor Dominic Graham, Councillor Michael Lilley, Councillor Beverley Oxford, Councillor Paul Smith, Councillor Tim Young

Substitutes:

Also in attendance: Councillors Davies, Elliott, Goss, G. Oxford, Scott and Willetts

143 Minutes

RESOLVED that the minutes of the meeting held on 1 February 2017 be confirmed as a correct record.

144 Colchester and Ipswich Museums Award

Councillor Smith, Leader of the Council and Portfolio Holder for Strategy, announced that Colchester and Ipswich Museums had won Best Guidebook for a Museum category in the Association of Cultural Enterprises award.

145 Have Your Say!

Councillor Scott addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(1) to express her concern about air pollution in urban areas, particularly near schools. Dealing with air pollution in partnership with Essex County Council and other district councils should be a priority. It was damaging the health of young people and it was imperative to act now. The problem was exacerbated by the fact too many people drove pupils to school. The Council needed to look at radical measures such as road closures to improve safety and lessen pollution. She asked Cabinet to update on the action it had taken on this issue.

Councillor Bourne, Portfolio Holder for Housing and Public Protection, explained that the number of air quality sensors had been increased. The topography of Colchester meant that it was difficult to change driving habits and the joint initiative to part pedestrianise the High Street had been abandoned. However, the Council had been very successful in bringing in funding to fit improvements to buses which was significantly reducing pollution on bus routes.

Councillor Lilley, Portfolio Holder for Safer Communities and Licensing, explained that

he had discussed air quality issues with the Deputy Leader of Essex County Council. They were looking to secure funding and had undertaken to prioritise Colchester, should funding become available. He was also looking at reducing the age of vehicles which could be used as taxis.

Councillor Goss addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(1) about his concern about congestion in North Colchester, especially around North Station. North Colchester had a number of facilities which generated traffic, such as the Park and Ride, the hospital and the Community Stadium. It was important to secure the co-operation of Essex County Council. The Leader of the Council should write to the Leader of Essex County Council to see how the authorities could collaborate to deal with the issue. It was also important to work with the bus companies to reduce the cost of public transport. It could be useful to debate congestion at Full Council, possibly at an Extraordinary Council Meeting, or to set up a Task and Finish Group.

Councillor Smith, indicated that he would write to the Leader of Essex County Council on the issue and consider what further action could be taken once a response had been received.

Councillor Graham, Portfolio Holder for Waste and Sustainability, and Councillor Lilley, Portfolio Holder for Safer Communities and Licensing, also responded and stressed the importance of partnership working with Essex County Council. Colchester Borough Council had also brought into a number of initiatives to improve sustainable travel options, such as a car club and the Fixing the Link scheme. It was the view of Essex County Council that it was for Colchester businesses to lead on pedestrianising the High Street.

146 Colchester Northern Gateway Heat Network

The Strategic Director, Commercial and Place, submitted a report a copy of which had been circulated to each Member.

Fiona Duhamel, Economic Growth Manager, and Teresa Hogsbjerg, Interim Economic Development Manager, made a presentation to Cabinet explaining how a heat network worked and how it would make an effective contribution to the United Kingdom's carbon reduction targets. It highlighted why the Northern Gateway was a suitable site for a Heat network, the preferred option for the heat network and the economic, environmental and social benefits that would result.

Councillor Davies attended and with the consent of the Chairman, addressed the Cabinet to express her surprise that no borehole testing had been undertaken as part of

the feasibility study. This should be undertaken before the project was progressed further.

Councillor Smith, Leader of the Council and Portfolio Holder for Strategy, indicated that initial investigations had shown that there was no reason why the area should not be suitable, and that no contracts would be signed until all the testing was complete. The scheme was dependent on grant funding from government. Parallels were drawn with the project to install photovoltaic panels on Council houses, where considerable technical difficulties were overcome to deliver an innovative scheme that benefitted residents and delivered environmental benefits.

Councillor Cory, Portfolio Holder for Resources, thanked officers for their work in bringing forward this innovative scheme, which demonstrated the Council's commitment to deal with carbon emissions.

RESOLVED that:-

(a) The recommended proposal to create a Heat Network and supporting infrastructure on sites at Northern Gateway, south of Axial Way be approved subject to the approval of a full business case which was set out in the report on Part B of the agenda.

(b) To note the recommendations in the report on Part B of the Agenda, as follows:-

- To approve the detailed business case set out in the for the proposed development project including the capital and revenue assumptions and implications for the Council's budget and Medium Term Financial Forecast.
- To include the scheme in the capital programme on the assumption of the figures and funding shown within this report, noting that further commercialisation work would be required prior to appointment of a contractor.
- To approve the proposed set up of a company for the development and management of the network noting that a further report to Revolving Investment Fund Committee with details on the governance arrangements of the company will be brought back prior to the creation of any structure.
- To approve the use of New Homes Bonus monies for initial start-up of the company.

REASONS

To enable the installation of an "infrastructure first" heat network scheme within the new

Colchester Northern Gateway destination to provide a sustainable, affordable district heating system to businesses and homes.

To create a new commercial income stream for the Council and to ensure that the financial costs to the council of delivering the scheme over the programme period are clear and accounted for.

To provide the first phase of delivery in a strategy at the Northern Gateway to deliver the heat network infrastructure alongside proposals to create ultrafast broadband and other areas of environmental sustainability enabling delivery of a “best practice” case-study which can be applied to other new business locations and can be considered as an option for the new Garden Communities.

To create developments with a lower Carbon footprint in line with Council Strategic objectives.

ALTERNATIVE OPTIONS

Do nothing. The population of the borough is set to grow from 180,420 to 193,806 residents by 2020. If the Council were to carry on with business as usual, without taking any mitigating action such as implementing low carbon projects such as this, Colchester could see a potential increase in carbon emissions of 11% by 2020 compared to current levels.

Deliver this at a later date. However this would mean that the opportunity would have gone to deliver an infrastructure first scheme, as the wider development would have commenced and there would be no lever and incentive to get businesses and developers to sign up to this form of heat network. The ability to secure external match funding may also be less likely as this project is being viewed as a pilot scheme.

147 Senior Management Restructure

The Chief Executive submitted a report a copy of which had been circulated to each Member.

Adrian Pritchard, Chief Executive, presented the report to Cabinet. The proposals sought to ensure that the Council continued its journey to be ready for the changing face of public services. Public sector austerity measures would continue for the next 5 to 10 years and the Council needed to be ready for the challenges that would result. As well as providing a significant saving, the proposals would put a renewed emphasis on provision of commercial services, with a public service ethos. The Council had already moved towards company structures for some services, but it was now proposed to

establish a wholly owned local authority company, Colchester Commercial, which would contain a number of the existing commercial services. Further advice would be sought to ensure that the commercial ventures were set up in the most tax efficient way and a further report on their shape would be submitted to Cabinet in June 2017. However, any companies would be single shareholder companies and the dividends would come back to the Council. If the proposals were agreed, a 30 day consultation with affected officers would begin. The proposals would also be referred to the Scrutiny Panel as part of the consultation.

Councillor Willetts attended and with the consent of the Chairman, addressed the Cabinet. The report addressed two different issues: the restructure of the Council's senior management team and the introduction of a company structure to deliver commercial services. In terms of the restructure of the senior management, this was welcomed as it would ensure that it was prepared for its future role. However in comparison with other similar sized organisations, it was still top heavy and it was hoped that the structure would continue to be fine-tuned as time progressed. The establishment of a commercial company was also welcomed. This would give a clearer focus and would enable the Council to take advantage of business opportunities and provide more flexible recruitment to ensure the Council had the skills it needed. A wider range of services could be incorporated into the company than was envisaged in the report: services such as Planning and Bereavement Services could also be included. The proposals were in line with the commissioning model that the Conservative group had previously advocated for the Council.

Councillor Smith, Leader of the Council and Portfolio Holder for Strategy, explained that the proposals were different to a commissioning model, where the profits went to shareholders of private companies. What was proposed was single shareholder companies with dividends returned to the Council. It would be inappropriate for some Council services, such as Planning and Bereavement Services, to be delivered for profit in a commercial environment. In comparison with Essex County Council, Colchester Borough Council's management structure was lean and responsive. All staff transferred to the commercial ventures would be transferred under TUPE arrangements on existing terms and conditions. Whilst the savings that would accrue were welcome, the key rationale behind the restructure was to ensure that the Council was run in a modern, efficient way to ensure the delivery of good quality services. The views of the Scrutiny Panel would be welcomed, particularly on the governance arrangements around the new company and its relationship with the Council.

Councillor T. Young, Portfolio Holder for Culture and Regeneration, Councillor B. Oxford, Portfolio Holder for Customers and Councillor Bourne, Portfolio Holder for Housing and Public Protection, thanked the Chief Executive and expressed their support for the proposals.

RESOLVED that:-

- (a) The senior management restructuring proposals contained in the Chief Executive's report and its appendices be approved to begin the 30 day consultation period.
- (b) The report be referred to the Scrutiny Panel for their comments as part of the consultation process.
- (c) Authority be delegated to the Chief Executive, in consultation with the Leader of the Council, to approve any minor structural changes following the formal consultation. Should changes be sought from the proposal to the position of Chief Executive then a formal decision will be taken by the Leader of the Council.
- (d) A further report to Cabinet be presented on the most effective Company structure for the commercial ventures together with a relevant business case.
- (e) The Chief Executive to implement the new structure applying the normal human resources policies of the Council.
- (f) The Chief Executive be allowed to determine the most appropriate arrangement (TUPE or secondment) for existing staff in CBC to work in the new commercial ventures.
- (g) The £208k savings in 2018/2019 be included as part of the medium term financial forecast and to utilise some of the existing 'redundancy reserve' for the one off cost of implementation.

REASONS

The Council is progressing a number of commercial type approaches which impinge on the operation of the Senior Management Team. In addition, the Council faces further budget reductions and a more efficient senior management structure can contribute to its savings target.

ALTERNATIVE OPTIONS

To make no changes to the senior management whilst agreeing, on an ad-hoc basis company structures for specific opportunities.

148 Disposal of Maytree Court, Tiptree

The Head of Commercial Services submitted a report a copy of which had been

circulated to each Member.

Councillor Elliott attended and, with the consent of the Chairman, addressed the Cabinet. Maytree Court was no longer fit for purpose and he supported the decision to dispose of the property. However, Tiptree's population was continuing to grow and with the closure of Maytree Court needed further facilities. Some of the proceeds from the sale should be used to develop further facilities in Tiptree.

Councillor Bourne, Portfolio Holder for Housing and Public Protection, thanked Tiptree ward Councillors for their support which had meant that residents of Maytree Court had been helped through the process. The Sheltered Housing review had concluded that the future of Maytree Court be reviewed and it would be very difficult and expensive to redevelop it to meet the Colchester Standard. It would not be possible to reinvest the receipt in Tiptree as it would go to the Housing Revenue Account, but there would be some investment in Tiptree from other sources in the near future.

RESOLVED that:-

- (a) The Housing Revenue Account budget project team recommendation that Maytree Court, Tiptree be disposed of on the open market be approved.
- (b) Authority be delegated to the Assistant Chief Executive, in conjunction with the Portfolio Holder for Housing and Public Protection, to agree offers made on the property and settle final terms and consequential matters to complete any sale.
- (c) Cabinet be authorised to use the ring fenced HRA capital receipt as set out in the Housing Revenue Account (HRA) Estimates report.

REASONS

As previously reported and most recently in the HRA Estimates report that went to Cabinet on 1st February 2017, the current Government introduced a number of changes during 2015 and 2016, including the Housing & Planning Act and the 1% rent reduction announcement, which has changed the viability of the HRA Business Plan. The rent reduction resulted in removing £143million of assumed rental income over the life of the 30 year business plan, significantly impacting our capacity to deliver on the plan's objectives. At the end of 2015 a joint CBC/CBH project team looked at ways of addressing the loss of income of £9.7 million over the first four years, and it identified and planned a number of ways of increasing income and reducing expenditure, which were included as part of the 2016/17 HRA budget setting cycle and which are currently part way through being delivered.

As part of this joint project team mentioned above a number of projects were reviewed including the Sheltered Housing Programme alongside the Sheltered Housing project

team.

In 2011 a review of Council owned sheltered housing was carried out. This review made a number of recommendations about the Council's sheltered housing. The aim of the review was to improve accommodation for older people in the borough and ensure that our sheltered housing meets the needs of older people now and in the future.

The recommendations from the review were to sell two properties on the open market (to fund improvements to other schemes), fully refurbish four schemes to provide self-contained accommodation and to review the future use of four schemes, one of which is Maytree Court.

ALTERNATIVE OPTIONS

Not to dispose of Maytree Court. This would result in a need to continue to invest in the property in the knowledge that it does not represent value for money in the long term. Significant investment would be needed to ensure that the property remains accessible for residents (the lift needs replacement as does the heating system). There has been an emergency only repair policy at Maytree since 2011 (due to the scheme being part of the future options group) and therefore there is currently a back log of circa £155k of capital works at the scheme. Little could be done to improve the layout of the property

To retain the property and lease it to a registered provider. The investment required to the property would still need to be met in order to comply with the legislation around energy ratings and to maintain the asset. The Council would need to undertake this work, as owner of the asset. If a registered provider were to undertake the work, this would need to be repaid through the rental income. It is highly unlikely that this would produce a rent that would be affordable to prospective tenants, making the work unviable.

149 External Painting and High Level Works Contract

The Assistant Chief Executive submitted a report a copy of which had been circulated to each Member.

RESOLVED that:-

(a) The contractor named in minute 152 be appointed to deliver the External Painting and High Level Works contract subject to references and following the successful completion of the section 20 process with Leaseholders. This is a requirement in accordance with the Commonhold and Leasehold Reform Act 2002, section 151.

(b) The Council to enter with the successful contractor into a 4 + 2 year Joint Contracts Tribunal (JCT) Standard Form of Measured Term Contract 2011.

(c) Should the preferred supplier withdraw the contractor in second place be appointed to deliver the contract

REASONS

The original procurement approach agreed by Cabinet on 28 January 2009 was one of a full Official Journal of the European Union (OJEU) process with the Council acting as the awarding body for any contracts placed and Colchester Borough Homes (CBH) acting as the employer's agent (Contract Administrator). This contract was awarded in 2010 on a 4 + 2 year JCT Standard Form of Measured Term Contract 2006 Edition Revision 2 (2009). The full extension term has been used and this contract expired in July 2016.

A further procurement process was started by the Project Team placing an advert on Contracts Finder and conducting an open procedure utilising a suitability assessment questionnaire. Contracts Finder is the electronic procurement portal for contracts worth over £10,000 with the government of its agencies.

A full section 20 process was followed as the contract would involve working on Leasehold properties. This contract value was below the OJEU threshold so was not required to be compliant to the full OJEU process.

As a result of this exercise seventeen contractors were invited to tender for the works. Tenders were returned and opened by officers on 16 January 2017. An evaluation exercise took place based on the criteria set out in the tender documents which included assessment of price and quality (method statements). As a result of this a final recommendation was concluded.

The procurement approach agreed by Cabinet on 1 December 2010 as part of the Asset Management Strategy is to let a JCT Form of Contract for this and similar types of work.

ALTERNATIVE OPTIONS

There are few alternative options as this programme forms part of the Council Statutory obligations as a Landlord and protects both our customers and the housing asset. The procurement process followed complies with the Public Procurement Regulations 2015.

The principal alternative would be not to complete this work which could result initially in a decline in appearance of the housing stock and estates; longer term the council's assets falling into disrepair and losing value.

150 Progress of Responses to the Public

The Assistant Chief Executive 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.

151 Colchester Northern Gateway Heat Network - Approval of Full Business Case

The Cabinet resolved under Section 100A(4) of the Local Government Act 1972 and the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012 to exclude the public from the meeting for the following item as it involved the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972.

This minute is not for publication by virtue of paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (information relating to the financial or business affairs of a particular person, including the authority holding the information).

152 External Painting and High Level Works Contract - Part B

The Cabinet resolved under Section 100A(4) of the Local Government Act 1972 and the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012 to exclude the public from the meeting for the following item as it involved the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972.

This minute is not for publication by virtue of paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (information relating to the financial or business affairs of a particular person, including the authority holding the information).