

Finance and Audit Scrutiny Panel

**Moot Hall, Town Hall
30 September 2010 at 6.00pm**

The Finance and Audit Scrutiny Panel deals with the review of service areas and associated budgets, and monitors the financial performance of the Council. The panel scrutinises the Council's audit arrangements and risk management arrangements, including the annual audit letter and audit plans, and Portfolio Holder 'Service' decisions reviewed under the Call in procedure.

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at www.colchester.gov.uk or from Democratic Services.

Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to meetings, with the exception of Standards Committee meetings. If you wish to speak at a meeting or wish to find out more, please pick up the leaflet called "Have Your Say" at Council offices and at www.colchester.gov.uk

Private Sessions

Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

Mobile phones, pagers, cameras, audio recorders

Please ensure that all mobile phones and pagers are turned off before the meeting begins and note that photography or audio recording is not permitted.

Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to Angel Court Council offices, High Street, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call and we will try to provide a reading service, translation or other formats you may need.

Facilities

Toilets with lift access, if required, are located on each floor of the Town Hall. A vending machine selling hot and cold drinks is located on the first floor and ground floor.

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Evacuate the building using the nearest available exit. Make your way to the assembly area in the car park in St Runwald Street behind the Town Hall. Do not re-enter the building until the Town Hall staff advise you that it is safe to do so.

Colchester Borough Council, Angel Court, High Street, Colchester
telephone (01206) 282222 or textphone 18001 followed by the full number you wish
to call

e-mail: democratic.services@colchester.gov.uk

www.colchester.gov.uk

Terms of Reference

Finance and Audit Scrutiny Panel

- To review all existing service plans and associated budget provisions against options for alternative levels of service provision and the corporate policies of the Council, and make recommendations to the Cabinet
- To have an overview of the Council's internal and external audit arrangements and risk management arrangements, in particular with regard to the annual audit plan, the audit work programme and progress reports, and to make recommendations to the Cabinet
- To monitor the financial performance of the Council, and to make recommendations to the Cabinet in relation to financial outturns, revenue and capital expenditure monitors
- To scrutinise the Audit Commission's annual audit letter
- To scrutinise executive 'service' decisions made by Portfolio Holders and officers taking key decisions which have been made but not implemented referred to the Panel through the call-in procedure

The panel may a) confirm the decision, which may then be implemented immediately, b) refer the decision back to the decision taker for further consideration setting out in writing the nature of its concerns, or c) refer the matter to full Council in the event that the Panel considers the decision to be contrary to the Policy Framework of the Council or contrary to, or not wholly in accordance with the Budget.

**COLCHESTER BOROUGH COUNCIL
FINANCE AND AUDIT SCRUTINY PANEL
30 September 2010 at 6:00pm**

Members

Chairman : Councillor Dennis Willetts.
Deputy Chairman : Councillor Christopher Arnold.
Councillors Jon Manning, Kim Naish, Gerard Oxford,
Nick Cope, Scott Greenhill, Sue Lissimore, Colin Mudie and
Colin Sykes.

Substitute Members : All members of the Council who are not Cabinet members or
members of this Panel.

Agenda - Part A

(open to the public including the media)

Please note that this meeting has been CANCELLED. The main item of business was consideration of a call-in of Portfolio Decision ECO-002-10/RES-005-10 Tymperleys Clock Museum and Building. This decision has now been withdrawn for further consideration and the meeting has therefore been cancelled.

Pages

1. Welcome and Announcements

(a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.

(b) At the Chairman's discretion, to announce information on:

- action in the event of an emergency;
- mobile phones switched off or to silent;
- location of toilets;
- introduction of members of the meeting.

2. Substitutions

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

3. Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent and to give reasons for the urgency.

4. Declarations of Interest

The Chairman to invite Councillors to declare individually any personal interests they may have in the items on the agenda.

If the personal interest arises because of a Councillor's membership of or position of control or management on:

- any body to which the Councillor has been appointed or nominated by the Council; or
- another public body

then the interest need only be declared if the Councillor intends to speak on that item.

If a Councillor declares a personal interest they must also consider whether they have a prejudicial interest. If they have a prejudicial interest they must leave the room for that item.

If a Councillor wishes to make representations on an item on which they have a prejudicial interest they may do so if members of the public are allowed to make representations. In such circumstances a Councillor must leave the room immediately once they have finished speaking.

An interest is considered to be prejudicial if a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice the Councillor's judgement of the public interest.

Councillors should consult paragraph 7 of the Meetings General Procedure Rules for further guidance.

5. Have Your Say!

(a) The Chairman to invite members of the public to indicate if they wish to speak or present a petition at this meeting – either on an item on the agenda or on a general matter not on this agenda. You should indicate your wish to speak at this point if your name has not been noted by Council staff.

(b) The Chairman to invite contributions from members of the public who wish to Have Your Say! on a general matter not on this agenda.

6. Items requested by members of the Panel and other Members

(a) To evaluate requests by members of the Panel for an item relevant

to the Panel's functions to be considered.

(b) To evaluate requests by other members of the Council for an item relevant to the Panel's functions to be considered.

Members of the panel may use agenda item 'a' (all other members will use agenda item 'b') as the appropriate route for referring a 'local government matter' in the context of the Councillor Call for Action to the panel. Please refer to the panel's terms of reference for further procedural arrangements.

7. Referred items under the Call in Procedure

1 - 10

To consider the joint decision ECO-002-10 / RES-005-10 Tymperleys Clock Museum and Building, authorised on the 3 September 2010 by Councillor Barlow, Portfolio Holder for Economic Development, Culture and Tourism and Councillor Smith, Portfolio Holder for Resources and Diversity.

The report, including signatories to the call in and the reasons for the call in, is attached for information.

The panel may a) confirm the decision, which may then be implemented immediately, b) refer the decision back to the decision taker for further consideration setting out in writing the nature of its concerns, or c) refer the matter to full Council in the event that the panel considers the decision to be contrary to the Policy Framework of the Council or contrary to, or not wholly in accordance with the Budget.

8. Decisions taken under special urgency provisions

To consider any Portfolio Holder decisions taken under the special urgency provisions.

9. Exclusion of the public

In accordance with Section 100A(4) of the Local Government Act 1972 and in accordance with The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended) to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

COLCHESTER BOROUGH COUNCIL

RECORD OF DECISIONS TAKEN UNDER DELEGATED POWERS

Explanatory Note

The Council has established Delegation Schemes by which certain decisions may be made by the relevant cabinet member or specific officers.

Such decisions are subject to review under the Call-in Procedure. From the date the notice of the decision made is published there are five working days during which any five Councillors may sign a request for the decision to be reviewed and deliver it to the Proper Officer. If, at the end of the period, no request has been made, the decision may be implemented. If a valid request has been made, the matter will be referred to either the Finance and Audit Scrutiny Panel if the Type of Decision is Service, or the Strategic Overview and Scrutiny Panel if the Type of Decision is Strategic/Corporate.

For decisions which are deemed to be Key Decisions:

- details of the matter must be included in the Forward Plan and 14 days must elapse between publication of the Forward Plan and the decision being made;
- any related report (excluding confidential ones) must have been made available to the public two weeks before implementation.

Part A – To be completed by the appropriate Cabinet Member/Officer

Title of Report

Tymperleys Clock Museum & Building

Delegated Power

To procure the specified service in the provision, implementation, maintenance and management of:- The Council's art collection and artefacts.

In respect of all land and buildings owned by the Council (except in its capacity as Housing Authority), to procure the specified service in the provision, implementation, maintenance and management of :-

1. Acquisitions and disposals including terms for acquisitions or disposals.

Decision Taken

To approve the relocation of the Tymperleys Clock collection to locations within other civic buildings, with the remaining collection to be stored subject to additional future opportunities to display.

To agree the closure of the Tymperleys Clock Museum Building from Saturday 30th October 2010 with the associated savings.

To agree the disposal of the Tymperleys building by way of a long lease (125 year) with annual peppercorn rent.

Key Decision

No

Forward Plan

N/A

Reasons for the Decision

Efficiency review

Alternative Options

The Council could retain the clock collection in the Tymperleys building and continue to incur both the seasonal staffing costs and the ongoing support and maintenance costs.

Landmark Trust Option

The Landmark Trust is a charitable organisation which has a portfolio of historic buildings available for short-stay and holiday lets. It is usual that the Landmark Trust will take over historic properties that are in need of some significant investment on a long-lease basis with a view to repairing and maintaining the property in return for holiday rental income.

The most viable option for the Landmark Trust would be a long lease (c125 year) at a peppercorn rent of £11 but it is highly unlikely that they will be willing to make any capital payment for this leasehold. For this reason it is not considered a viable option for the Council.

Conflict of Interest

N/A

Type of Decision

Service

Dispensation

N/A

Authorisation by Portfolio Holders

Signature_____Councillor Nick Barlow_____

Designation: Portfolio Holder for Economic Development, Culture & Tourism

Date _____3/9/10_____

Signature_____Councillor Paul Smith_____

Designation: Portfolio Holder for Resources and Diversity

Date _____3/9/10_____

(NB For Key Decisions the report must be made available to the public for five clear days prior to the period for call-in commencing.

Part B – To be completed by the Proper Officer (Democratic Services)

Call-in Procedure

Date Decision Notice published on The Hub, Website and placed in Members' Room and Customer Service Centre

_____ 16 September 2010 _____

Date by which request for reference must be made to the Finance and Audit Scrutiny Panel if the Type of Decision is Service or the Strategic Overview and Scrutiny Panel if the Type of Decision is Strategic/Corporate

5pm _____ 23 September 2010 _____

Signed _____ Diane Harrison _____

Proper Officer

Reference Number

_ECO-002-10/RES-005-10_____

Implementation Date

Date decision can be implemented if no request (Call-in) for the decision to be reviewed has been made

After 5pm _____ 23 September 2010 _____



**Portfolio Holder for Economic Development,
Culture & Tourism and Portfolio Holder for
Resources and Diversity**

6 August 2010

Item

Report of	Head of Environmental & Protective Services	Author	Beverley Jones ☎ 282593
Title	Tymperleys Clock Museum & Building		
Wards affected	Not applicable		

This report concerns the relocation of the Tymperleys Clock Collection, closure of the Tymperleys Museum building and subsequent disposal of the building

1. Decision(s) Required

- 1.1 To approve the relocation of the Tymperleys Clock collection to locations within other civic buildings, with the remaining collection to be stored subject to additional future opportunities to display.
- 1.2 To agree the closure of the Tymperleys Clock Museum Building from Saturday 30th October 2010 with the associated savings.
- 1.3 To agree the disposal of the Tymperleys building by way of a long lease (125 year) with annual peppercorn rent.

2. Reasons for Decision(s)

- 2.1 The current financial climate and the well publicised proposed cuts to public funding has resulted in a review of the current Museum locations to ensure that we are using our assets as efficiently as possible.
- 2.2 Tymperleys Clock Museum is the smallest of the four Museums based in Colchester with visitor numbers of almost 7,500 for the year 09/10 compared to 30,000 for the Natural History Museum, 36,000 for Hollytrees and 81,000 for Colchester Castle. There has been a decline in numbers since a peak of 8,300 visitors in 07/08.
- 2.3 There are currently pieces from the clock collection which are located within the Town Hall, Castle Museum and Hollytrees Museum and it was felt that the redistribution of the clock collection would be a more efficient way of displaying this collection. The remainder of the collection which cannot be re-displayed in existing buildings will be stored with a view to providing digital online access at a point in the future which will make the whole collection accessible for interest and research purposes.
- 2.4 The building is not DDA compliant and due to the Grade 2* listed status of the building it is not possible to undertake the alterations required to make the building compliant. The age of the building and the current heating system installed mean that it is costly and inefficient to provide a comfortable temperature in the winter.

2.5 As a result of relocating the clock collection, the building will remain closed but will continue to incur the security, insurance and maintenance costs associated with keeping an historic building. We have no other use for the building, with a shrinking need for buildings and the lack of compliance with DDA.

2.6 The sale of the building will provide both revenue savings and a capital receipt. It will also ensure that a new use is found for an important building and that it will be properly maintained.

3. Alternative Options

3.1 The Council could retain the clock collection in the Tymperleys building and continue to incur both the seasonal staffing costs and the ongoing support and maintenance costs.

3.2 Landmark Trust Option

3.3 The Landmark Trust is a charitable organisation which has a portfolio of historic buildings available for short-stay and holiday lets. It is usual that the Landmark Trust will take over historic properties that are in need of some significant investment on a long-lease basis with a view to repairing and maintaining the property in return for holiday rental income.

3.5 The most viable option for the Landmark Trust would be a long lease (c125 year) at a peppercorn rent of £11 but it is highly unlikely that they will be willing to make any capital payment for this leasehold. For this reason it is not considered a viable option for the Council.

4. Supporting Information

4.1 Current Use of the Building

The upper floors of the Tymperleys building were used, up until very recently, as meeting spaces. This use has now discontinued due to the constraints associated with the building. It is not DDA compliant and due to the Grade 2* listed status of the building it is not possible to undertake the alterations required to make the building compliant. The age of the building and the current heating system installed mean that it is costly and inefficient to provide a comfortable temperature in the winter.

4.1.1 This has resulted in a building which is currently only open on a seasonal basis, housing a limited Museum collection in the ground floor of the building. The upper floors are not used and the whole building is closed during the winter months (November – March).

4.2 Legal Position

In summary, the advice from our Legal Services Team states that the covenants entered into by the Council with Bernard Mason were enforceable only during his life. The covenants were not expressed to be for the benefit of his successors and accordingly following Bernard Mason's death many years ago the restrictions described in the covenants ceased to exist. It is accepted that any purchaser of the premises may require reassurances about this which may lead to a request for a defective title indemnity policy but the cost of this policy is in the region of £300 and would not undermine the viability of the sale. Our Legal Services Manager has advised that in addition to the policy we could write to HM Treasury and seek their confirmation that they have no interest in the premises.

4.3 **Leasing**

Under the terms of any lease it would be the lessee's responsibility to carry out all repairs and maintenance. A schedule of condition could be attached to the lease so this could be monitored and clauses be included requiring the lessee to obtain the landlord's approval to any alterations or additions to the building. Furthermore, the landlord may retain rights to inspect to check the condition of the building and the lessee's compliance with lease obligations more generally. There would be no other revenue implications as the tenant would be responsible for all insurance, tax and services.

4.4 **Repair and Maintenance Works**

Planned works over the next 5 years at the building include further roofing works; external redecorations and rendering; internal joinery and boundary wall repairs at a total cost of some £25,000. Approximately £8,000 of repair and maintenance expenditure is planned over the same period for the Turret Clock building which is also rated in condition category A.

4.4.1 The cost of grounds maintenance is just under £1600 per year for routine, programmed works with a few additional costs such as replacement urns and plants costing ~£500 per year. All costs including the programme works are funded from the Parks and Recreation budget. The sale of the building would remove the requirement to spend any of these maintenance sums over the next 5 years.

4.5 **Planning Guidance for Disposal of Heritage Assets**

Appendix 1 outlines the guidance for disposal of Heritage Assets which supports the disposal option.

4.6 **Timetable**

To enable prospective purchasers to bid for a property with some certainty, vendors usually provide a comprehensive information pack including legal title, planning consents or a planning brief, any available structural and environmental surveys, plans, Energy Performance Certificates, offer form and procedure together with any other supporting information. Some of this information is already available, with the Planning Brief being finalised for the end of August.

4.6.1 Good practice guidance on the disposal of surplus public sector property assets recommends that adequate time be allocated for a proper marketing exercise. For audit purposes, authorities need to demonstrate that properties have been advertised in the appropriate property and/or local press and prospective purchasers have been given adequate time to inspect and to consider the viability of their proposed use or development (possibly involving further specialist advice or surveys) before submitting an offer for consideration. The recommended period for a closing date for offers is 6 to 8 weeks after publication of the first sale advert to satisfy this requirement.

4.6.2 August is traditionally a quiet month for property marketing. To avoid abortive advertising costs, it is recommended that this period be used to complete the necessary information pack and that instructions be placed to advertise the property from early September when developers, investors, occupiers and their advisers will be more generally available to consider new properties on the market.

5. **Strategic Plan References**

5.1 These proposals contribute to the strategic aim to move resources to deliver strategic priorities.

6. Publicity Considerations

- 6.1 The timing of this decision will provide members of the public the opportunity to access both the clock collection in its current location and the Tymperleys building prior to closure and relocation at the end of the season this year (31 October 2010).
- 6.2 It is intended to undertake consultation to seek public views and ideas for any future uses for the building. Whilst this consultation is taking place it is proposed that the market is tested to establish the level of interest and viability for sale of the building.

7. Financial Implications

- 7.1. The estimated cost of running Tymperleys as a museum is £26,800. This includes the cost of providing seasonal staffing and also costs associated with the building such as business rates and other property related costs. Currently, income is received to offset the cost of running the Museum from the Albert Museum Charity, however, this income could be transferred to a different museum under the remit of this charity.
- 7.2. Any value from the sale of Tymperleys will be treated as a capital receipt and as such would provide additional resources to support the Capital Programme.

8. Equality, Diversity and Human Rights implications

- 8.1 This project does not present a change to existing policy nor the introduction of any new policies. The Equality Impact Assessment for “Disposals and Marketing” may be viewed here:-[www.colchester.gov.uk, Council and Democracy, Policies, strategies and performance, Diversity and Equality, Equality Impact Assessments, Resource Management, Disposals and Marketing](http://www.colchester.gov.uk/Info_page_two_pic_2_det.asp?art_id=8000&sec_id=1988)
http://www.colchester.gov.uk/Info_page_two_pic_2_det.asp?art_id=8000&sec_id=1988
- 8.2 This project does not have any direct implications for the Council regarding the Human Rights Act.

9. Community Safety Implications

- 9.1 Not applicable

10. Health and Safety Implications

- 10.1 Not applicable

11. Risk Management Implications

- 11.1 The risks associated with this report relate to the inability to secure the highest market value for the property. This risk is being mitigated by ensuring that the property is marketed with all relevant supporting documentation and information to enable prospective purchasers to fully realise the potential of the building.

Background Papers

Appendix 1

Government Guidance on the Management of Local Authority heritage Assets sets out the below objectives

Managing heritage assets

It is essential to local authorities' credibility as stewards of the historic environment that they set a good example in the management of their own heritage assets. This means demonstrably achieving the standards they expect of others.

Understanding as the basis for management

Understanding the nature, significance, condition and potential of a heritage asset must be the basis for rational decisions about its management, use, alteration or disposal.

A sound, but succinct, understanding of a heritage asset is essential in order to determine why and how it is significant. This in turn highlights the opportunities for and constraints on change, and informs decisions about management, alterations, or disposal. Clear understanding must also provide the basis for the detailed planning brief that normally should be prepared when disposal is considered.

Disposal of heritage assets

Take a positive attitude to disposal - the disposal of heritage assets, especially those that are potentially straightforward to adapt to alternative uses, may provide the best solution for such property.

Government guidance urges local authorities only to continue to hold property assets if they fit the authority's current requirements in terms of achieving its objectives, including financial. In the current climate, there needs to be good reason to retain council property. A distinction should be made, however, between those assets whose historic importance rests largely on their character as public buildings and those that are only in public ownership by chance. For the former, every effort should be made to continue their core civic/public uses. If that is not reasonably achievable, disposal should take account of the community interest in the public spaces, perhaps through a partnership arrangement (say with a private sector partner, or a building preservation or community trust).

Obtain optimum value

The aim on disposal of heritage assets should be to obtain optimum value, rather than the highest price.

The aim should be to obtain the best return for the taxpayer that is consistent with government policies for the protection of heritage assets: this may well limit the realisation of potential development values. The government's more relaxed approach to disposal at less than highest price has helpfully been confirmed in the *Draft General Consent for the Disposal of Local Authority Land* and accompanying circular. If adopted, this will enable local authorities "to dispose of any interest in land held under the terms of the Local Government Act 1972, which they consider will contribute to the promotion or improvement of the economic, social or environmental well-being of the area for less than best consideration reasonably obtainable", provided the undervalue does not exceed £2million.

COLCHESTER BOROUGH COUNCIL

REQUEST FOR CALL IN OF DECISIONS TAKEN BY THE CABINET OR UNDER DELEGATED POWERS

Explanatory Note

This form may be used to request a call in of any decision (except urgent decisions) taken by the Cabinet or by a Cabinet Member acting under delegated powers or a Key Decision taken by an Officer under delegated powers.

This form must be signed by at least five Councillors (or by one Councillor and supported by four other Councillors via e-mail) and must be delivered to the Proper Officer within five working days of publication of the decision.

We, the undersigned, request that the following decision be scrutinised by the Strategic Overview and Scrutiny Panel or Finance and Audit Scrutiny Panel as appropriate for the reasons set out below:-

The decision of the Cabinet on ■ _____, 20 _____, item ● ____; or
The decision contained in the Record of Decisions Taken Under Delegated Powers, Reference No. × _____
_____ ECO-002-10/RES-005-10

■ Insert date ● Insert minute no. × Insert reference no.

Reason(s) for call in:
.....
SEE SEPARATE SHEET
.....
.....

Signatures	Names in Capital Letters	
1. <i>Kevin Bentley</i>	KEVIN BENTLEY	<input checked="" type="checkbox"/>
2. <i>Mike Harley</i>	MIKE HARLEY	<input type="checkbox"/>
3. <i>Tom Sutton</i>	TOM SUTTON	<input type="checkbox"/>
4. <i>Nigel Chapman</i>	NIGEL CHAPMAN	<input type="checkbox"/>
5. <i>Beverly Davies</i>	BEVERLY DAVIES	<input type="checkbox"/>

NB Please tick representative to attend and present case at the Panel meeting.

For Office Use:
Date and time of Receipt: _____ Action: _____

Tymperleys: reasons for call-in

- Proposals for the future display of the Museum's clocks are not properly developed and are flawed; this will result in significantly reduced displays for the foreseeable future. The proposal for a "virtual museum" should be published and scrutinised to ensure that it is practicable and affordable.
- The alternative of leasing Tymperleys to the Landmark Trust has been ruled out only due to lack of a capital receipt but the need for the decision is cited at 2.1 as being to counter "cuts in public spending" i.e. revenue expenditure.
- Public access to the building will be removed but the public have not been consulted.
- The decision is premature because the report makes clear that the legal right of the Council to dispose of Tymperleys has not been established even beyond reasonable doubt.
- The proposed consultation (6.2) over future uses will be meaningless because the decision to sell into the private sector will already have been taken.
- The report was written on 6th August and recognises (6.1) the importance of allowing the public a period of access – then thirteen weeks – prior to closure on 30th October; four of those weeks would have occurred during the school summer holiday. By delaying publication of the report until 16 September, the Administration has ensured that many Colchester families will have been deprived of that important "last chance" to visit the Museum.

