

Finance and Audit Scrutiny Panel

Grand Jury Room, Town Hall
31 August 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.

Evacuation Procedures

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
31 August 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)

Members of the public may wish to note that Agenda items 1 to 5 are normally brief and items 6 to 9 are standard items for which there may be no business to consider.

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. Decisions taken under special urgency provisions

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

7. Referred items under the Call in Procedure

To consider the decision "RES-003-10 Proposed Travellers Site - Severalls Lane East" taken by Councillor Smith, Portfolio Holder for

resources and Diversity on 6 August 2010.

The report and reasons for the call in are attached for information.

The panel may a) confirm the decision, which may then be implemented immediately, b) confirm the decision back to the Portfolio Holder 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. 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

Proposed Travellers Site, Severalls Lane East, Colchester

Delegated Power

Delegation to the Portfolio Holder for Resources and Diversity – Land Resources.
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- | |
|--|
| <ol style="list-style-type: none">1. Acquisitions and disposals (including terms for same).2. Industrial estates and commercial lettings. |
|--|

Decision Taken

- | |
|---|
| <ol style="list-style-type: none">1. To approve the draft heads of terms agreed with Essex County Council for the letting of the Proposed Travellers Site in Severalls Lane East, Colchester.2. To authorise the Estates Manager to serve notice upon the agricultural tenant to terminate the existing periodic tenancy agreement; and3. To give the Estates Manager authority to conclude negotiations with Essex County Council. |
|---|

Key Decision

The decision is not a Key Decision.

Forward Plan

Does not apply.

Reasons for the Decision

To facilitate provision of a permanent travellers site as agreed by the Cabinet at its meeting on 8th September 2004.

Alternative Options

The freehold of the site could be transferred to Essex County Council but this would result in CBC having less control over it than if a lease is granted.

Conflict of Interest

None known.

Type of Decision

This decision is Service related.

Dispensation

None required.

Authorisation by Portfolio Holder

Signature__ Councillor Paul Smith_____

Designation __Portfolio Holder for Resources and Diversity _____

Date _____6 August 2010_____

(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

_____ 12 August 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 _____ 19 August 2010 _____

Signed _____ D. Harrison _____

Proper Officer

Reference Number

_____ RES-003-10 _____

Implementation Date

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

After 5pm _____ 19 August 2010 _____



Report to Portfolio Holder for Resources and Diversity

21 July 2010

Item

Report of	Head of Resource Management	Author	Mike Shorten ☎ 282236
Title	Proposed Travellers Site, Severalls Lane East, Colchester.		
Wards affected	Highwoods		

This report concerns the draft heads of terms for a letting to Essex County Council of the proposed Travellers Site in Severalls Lane East, Colchester for which planning application F/COL/05/2085 was approved on 27 July 2007.

1. Decision(s) Required

- 1.1 To approve the draft heads of terms agreed with Essex County Council for the letting of the proposed Travellers Site in Severalls Lane East, Colchester.
- 1.2 To authorise the Estates Manager to serve notice upon the agricultural tenant to terminate the existing monthly periodic tenancy agreement; and
- 1.3 To give the Estates Manager authority to conclude negotiations with Essex County Council.

2. Reasons for Decision(s)

- 2.1 To enable Colchester Borough Council (CBC) to grant Essex County Council (ECC) a lease of the site and licence to permit ECC to enter onto the site and commence development in accordance with the existing planning consent.

3. Alternative Options

- 3.1 The Cabinet at its meeting on 8th September 2004 agreed to lease the site at Severalls Lane East for this purpose.
- 3.2 The freehold of the site could be transferred to ECC but this would result in CBC having less control over it than if a lease is granted.

4. Supporting Information

- 4.1 Following a study by consultants CDN Planning of suitable sites within the borough for a permanent gypsy and travellers site, the Cabinet at its meeting on 8th September 2004 agreed to make the site East of Severalls Lane available to ECC for that purpose. This was conditional upon ECC securing planning permission and then on the basis of leasehold terms to be agreed and including those conditions itemised in the schedule attached as Appendix A. (Minute 22 (ii) refers).

- 4.2 Planning permission was granted to ECC on 23rd August 2007 in respect of the land shown cross hatched black on the attached plan with the land to be retained by CBC shown edged in black. Conditions relating to management of the site were to be incorporated within the lease.
- 4.3 Principal terms and conditions of a lease were negotiated but there is no record of either CBC or ECC having formally agreed those terms. Subsequently, ECC reviewed its funding and put the project on hold until recently when they advised that they wished to proceed urgently and to complete the lease on the previously negotiated terms.
- 4.4 The entire site has been let on the terms of a monthly periodic tenancy since 1st February 2007 for agricultural use only at a rental of £1 per period. Under the terms of the tenancy the landlord may recover possession of any part of the holding for any non agricultural purpose upon giving one month's notice. Compensation would be payable to the tenant for any crops the landlord requires the tenant to leave on the holding.
- 4.5 The heads of terms set out below have been negotiated by the Estates Service and cover the most important elements of the proposed lease. The lease will incorporate other more detailed terms and conditions as the Estates Manager in consultation with Council's Legal Services Manager may require.

5. Proposals

- 5.1 The principal lease terms provisionally agreed may be summarised as follows:
- 5.1.1 The lease will run for a 10 year term.
- 5.1.2 The lease shall commence upon completion of the development works in accordance with the planning permission. ECC to be granted prior licence to enter onto the site and construct the development.
- 5.1.3 The lease shall exclude renewal rights at the end of the term,
- 5.1.4 The commencing rent will be £600 per annum with annual RPI linked increase. At the end of the 5th year the rent shall be reviewed to the higher of open market value or index linked increase.
- 5.1.5 The site shall be used for a permanent travellers site in accordance with the planning consent and ECC's adopted Management Policy. Use as a "transit site" is not permitted.
- 5.1.6 The lease is personal to ECC and not transferable to any other party. Occupation of the site must be by way of licence only and in accordance with the adopted Management Policy.
- 5.1.7 ECC are to be responsible for all repair, insurance and outgoings arising in connection with the site including all hedges, fences, ditches, buildings and other structures. ECC are to maintain all trees, shrubs and other landscaping that are damaged, removed or neglected.

- 5.1.8 ECC are not to make any alterations at the site once the development works have been completed.
- 5.1.9 The site or any adjoining site shall not be used in any way that would cause annoyance or nuisance to local residents or businesses.
- 5.1.10 CBC reserves the right to forfeit the lease in the event that there is a breach of the adopted Management Policy or where any terms of the lease are breached. ECC will maintain an on-site management presence to the satisfaction of CBC and the site will be run in accordance with ECC's adopted Management Policy.
- 5.1.11 ECC shall reinstate the site to agricultural use and return it to the landlord at the end of the lease or in the event the site is no longer needed or if the terms of the lease are breached.
- 5.1.12 ECC are to be responsible for CBC's reasonable surveyors and legal fees.
- 5.2 ECC have approval to proceed with the scheme and request consent to enter the site to commence construction work as soon as possible. Accordingly, it is provisionally agreed that the legal documentation proceeds as follows:
- 5.2.1 ECC are granted a licence to enter the land and construct the development in accordance with the plans and specifications that form part of the planning permission. The licence would oblige the work to be constructed to the satisfaction of CBC and with a specified period, say 12 months.
- 5.2.2 The lease of the site will be conditional upon the works being completed in accordance with the licence and the lease would commence upon completion of the development.

6. Strategic Plan References

- 6.1 There are no direct links to the Strategic Plan.

7. Consultation

- 7.1 The proposed Travellers Site has been the subject of consultation as to its siting and the proposed lease terms.

8. Publicity Considerations

- 8.1 The proposed Travellers Site has been the subject of public consultation and publicity. The outline terms for the proposed letting have been discussed at a number of public forums.

9. Financial implications

- 9.1 The rent will initially be £600 per annum, with annual increases linked to the Retail Prices Index. After 5 years the rent will be reviewed to the greater of the Open Market Rent or the initial RPI index linked rent. Colchester Borough Council will not

have any maintenance costs under the terms of the full repairing and insuring lease all of which will be the responsibility of ECC. CBC's management costs should be minimal.

10. Equality, Diversity and Human Rights implications

10.1 The proposed Travellers Site and its location has been the subject of extensive consultation and reporting in which the equality, diversity and human rights implications have been considered and commented upon. The proposed heads of terms do not impose any additional considerations.

10.2 The Equality Impact assessment related to this report can be found on the Council's website at:

Council and Democracy > Policies, Strategies and Performance > Diversity and Equality > Equality Impact Assessments > Resource Management > Commercial Property

10.3 This transaction does not result in any new policy nor in any major change to existing policies.

10.4 It is not considered that this transaction gives rise to a breach of human rights.

11. Community Safety Implications

11.1 ECC will have to take into account any Community Safety Implications in their management of the site. They will be required by the lease to maintain an on site presence to the satisfaction of CBC and will run the site in accordance with their adopted Management Policy.

12. Health and Safety Implications

ECC will be responsible for any health and safety issues which arise as a result of the lease being granted. They will need to have regard to any issues in their management plan which CBC will approve in due course.

13. Risk Management Implications

13.1 The Travellers Sub Group has reported upon the need for limited site provision as an integral part of the Council's policy on the management of unauthorised encampments. The site would replace the former site in Haven Road.

13.2 ECC will assume responsibility for all risk management implications under the terms of the proposed lease.

Background Papers

Property file: Severalls Lane East, Travellers Site.

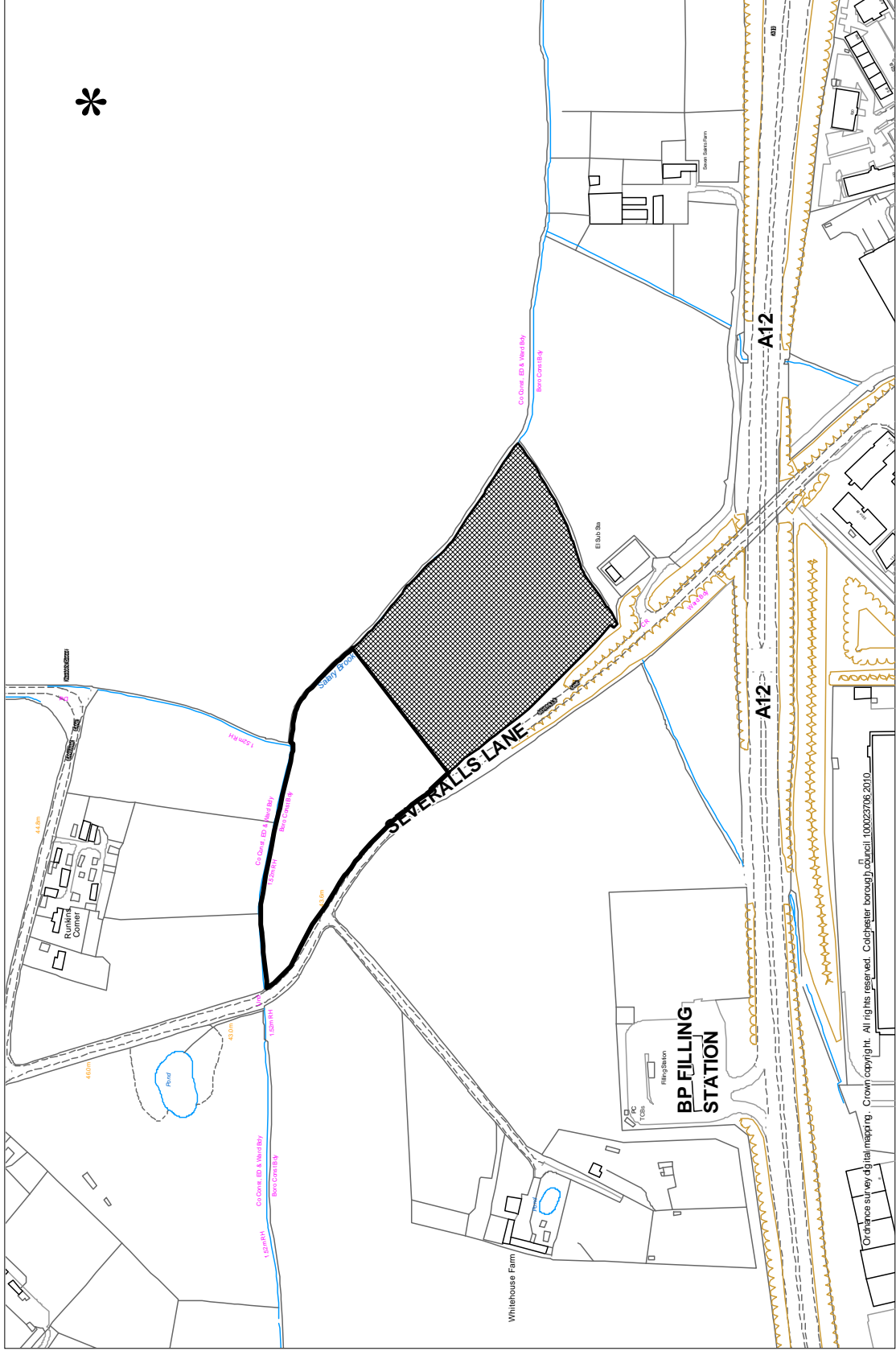
Proposed Travellers Site, Severalls Lane, Colchester

Cabinet 8th September 2004, minute 22 (ii).

Cabinet resolved that:

Site B (East of Severalls Lane) be offered to Essex County Council as the site for a permanent gypsy/travellers site, on the basis that Essex County Council first secures the grant of planning permission and then on the basis of the leasehold terms set out below:

- Planning permission must first be secured by Essex County Council.
- The minimum area necessary to achieve planning permission will be made available.
- This land will be made available on the basis of a fixed term lease.
- The lease will oblige Essex County Council to provide an on-site management presence to the Borough Council's satisfaction.
- The lease will oblige Essex County Council to ensure that the site is kept clean and tidy to Colchester Borough Council's reasonable satisfaction.
- It will require Essex County Council to let pitches only in accordance with its management policy and to enforce its standard licensed terms.
- It will require Essex County Council to meet all running costs.
- It will require Essex County Council to make reasonable reparation in respect of any successful third party claims arising from the mismanagement of the site and Essex County Council will be required to indemnify Colchester Borough Council against any such claims.
- It will require Essex County Council to reinstate the site to agricultural use and return it to the Borough Council in the event that it is no longer needed or if the terms of the lease are breached.
- It will be subject to an open market rent.



Reasons for Call – in RES-003-10

Constitution Part 2 Page 38

Principles of Decision Making

Bullet Points 2 & 9

Bullet Point 2: Having regard to due consultation

Bullet point 9 Due weight to all material considerations

Paragraph	Reason
4.3	Principal terms and conditions – See appendix A Minute 22 (ii) 8/9/2004 Cabinet
4.4	The Council call-in procedures for RES-003-10 cannot be completed before the 23 rd August when the existing planning permission expires.
5.1.2	Planning is due to expire on the 23 rd August 2010. If this happens then the lease should not be granted.
5.1.4	What Investigations have been done to ensure that the rent is an open market rate?

- 5.1.6 There are contradictions in ECC's licence document which we will expand upon.
- 5.1.7 There is a presumption that there will be damage done to trees, shrubs and other landscaping that are damaged removed or neglected.

- 5.1.9 Where is the adjoining site?
- 5.1.10 What assurances do we have that any on site management will continue for the duration of the lease as there have been suggestions that ECC will no longer have managers on site 24/7 on any of their traveller sites.
- 5.2 If the planning permission expires on 23/8/10 CBC should deny ECC access to the site and the lease should not be granted.
- 5.2.1 If the Planning permission expires on the 23/8/10 CBC should not grant a licence.
- 5.2.2 If the Planning permission expires on 23rd August 2010 then works will not be able to be completed in accordance with ECC's licence.

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.

I, 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 19/8/10, 2010, item RES-003-10; or
The decision contained in the Record of Decisions Taken Under Delegated Powers, Reference No. RES-003-10

19/8/10 ■ Insert date

● Insert minute no.

✕ Insert reference no. RES-003-10

Reason(s) for call in:

SEE ATTACHED SHEET.

Signatures

1. [Signature]
2. B OXFORD
3. [Signature]
4. C. GARNETT
5. M. GOSS

Names in Capital Letters

1. G. P. OXFORD
2. B OXFORD
3. V. A. NAISH.
4. see email
5. see email



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

For Office Use:

Date and time of Receipt: 19/8/10

To FASP
Action: 31/8/10

Gerard Oxford

From: Christopher Garnett
Sent: 17 August 2010 18:02
To: Diane Harrison
Cc: Gerard Oxford
Subject: Proposed Travellers Site Severals Lane

Due to the complexity of this decision I wish my name to be added to the "Call – In" requested by Cllr G. Oxford.

Cllr J.C.Garnett
Dedham & Langham Ward

17/08/2010

Gerard Oxford

From: Gerard Oxford
Sent: 17 August 2010 07:54
To: Diane Harrison
Subject: FW: Reasons for call in
Attachments: Reasons for Call.doc

Dear Diane,
I have forwarded this as Martin should have sent it to you.

Regards

Gerard

From: MARTIN GOSS [mailto:gossmartin@hotmail.com]
Sent: 17 August 2010 06:53
To: Andrew Weavers; Gerard Oxford; Val Partridge
Subject: FW: Reasons for call in

Hello Andrew and Val,

I support this call in so please add my name to this in order for the process to kick off.

Many thanks
Martin

Subject: Reasons for call in
Date: Mon, 16 Aug 2010 19:47:19 +0100
From: Cllr.Gerard.Oxford@colchester.gov.uk
To: gossmartin@hotmail.com; Cllr.Christopher.Garnett@Colchester.gov.uk; cllr.Kim.Naish@colchester.gov.uk
CC: Cllr.Tim.Young@colchester.gov.uk

Dear All,

See attachment for our reasons for calling in the lease for the travellers site RES-003-10

I look forward to being copied into your supporting e-mail. I plan to take the papers in on Thursday but would like the e-mail confirmations of support by Wednesday.

Many Thanks

Regards

Gerard

17/08/2010

