

# CABINET

## 30 NOVEMBER 2011

*Present :-* Councillor Anne Turrell (the Leader of the Council)  
(Chairman)  
Councillors Nick Barlow, Lyn Barton, Tina Dopson,  
Martin Hunt (Deputy Leader ) , Paul Smith and  
Tim Young

*Also in Attendance :-* Councillor Mary Blandon  
Councillor Barrie Cook  
Councillor Bill Frame  
Councillor Mike Hardy  
Councillor Pauline Hazell  
Councillor Sonia Lewis  
Councillor Sue Lissimore  
Councillor Jon Manning  
Councillor Kim Naish  
Councillor Nigel Offen  
Councillor Will Quince  
Councillor Colin Sykes  
Councillor Laura Sykes  
Councillor Dennis Willetts

### **41. Minutes**

The minutes of the meetings on 7 September 2011 and 12 October 2011 were confirmed as a correct record.

### **42. Have Your Say!**

Joy Eustace addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) about Joyce Brooks House. She alleged that the decision to close Joyce Brooks House had been taken before the consultation had begun. The residents were very attached to Joyce Brooks House and would continue to fight against the decision. It was unfair that there was no way of appealing against the decision. The process was causing great stress to the residents. She queried why Councillor Hunt, one of the ward Councilors, had never visited Joyce Brooks House.

Bobby Hunt addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) to express his concern about the way the decision to close Joyce Brooks House had been taken and the impact this decision had had on residents. Councillors had been briefed on the basis of false information and he queried why there were no minutes of the briefing.

Roy Gleary addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) to stress the quality of life enjoyed by residents of Joyce Brooks

House. For many residents it was like being part of a family. His life had blossomed there over the past six years. Some residents had found partners there. Residents were able to pursue their interests and there was the opportunity to enjoy art displays and photography competitions. Its proximity to the town centre meant that residents could enjoy facilities such as the Mercury Theatre and the Castle Park.

Norman Bailey addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) to express his concern about the way that the decision to close Joyce Brooks had been taken. A number of meetings and briefings were not minuted and in particular he did not believe that the Council had complied with its legal requirements when making the decision in that residents had not been consulted properly. This had not been made clear to other Councillors and the Shadow Portfolio Holder when they were briefed. The review was therefore flawed and the Council should abandon it and start the process again.

Councillor T. Young, Portfolio Holder for Housing and Community Safety, responded to the public speakers to stress that whilst the decision taken by Cabinet on 12 October 2011 had been a difficult decision, it was the correct decision and would not be changed. The decision could have subject to review under the call in procedure, but the opportunity to call the decision in had not been taken. The decision was legally sound and no decision had been reached before the Cabinet meeting on 12 October 2011. Residents had been consulted and their responses carefully considered. He reassured residents that no action would be taken over the Christmas period. Councillor Young explained that it would be very expensive to refurbish Joyce Brooks House as it would require extensive works in order to comply with the Disability Discrimination Act. Also work would be required to improve the electrical circuits, the heating system and sound and thermal insulation. The decision accorded with the principles of the Council's Asset Management Strategy. The aim of the decision was to improve services and the Council would seek to ensure the quality of life of the residents at Joyce Brooks House would be maintained in their new accommodation.

Councillor Hunt, Portfolio Holder for Street and Waste Services, indicated that he had visited Joyce Brooks House on many occasions. He explained that he had deliberately not been involved with the decision making on the review because of the competing demands of his role as a member of the Cabinet and his role as ward Councillor. He had also been concerned by the way the Council had communicated the decision on Joyce Brooks House.

Councillor Lewis made a point of clarification on the extent of the briefing she had received in her role as Shadow Portfolio Holder for Housing and Community Safety.

Angel Kalyan addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). She had raised issues at the Cabinet meeting of 12 October 2011 about maladministration and possible fraud by Council officers. She asked Cabinet to clarify the written response she had received and confirm how she should seek to resolve these issues.

Councillor Turrell, Leader of the Council and Portfolio Holder for Strategy and Performance, responded that the Council had reached a legal settlement with her on

the issues she had raised and that if she wished to pursue matters further she needed to take independent legal advice.

Andy Hamilton addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) about the lease for the Visual Arts Facility. He noted that the Council had promised to publish the lease in spring 2011 but that it was not signed until July 2011. He expressed concern that the lease made the Council responsible for the building structure and the maintenance of a number of elements of the fabric of the building. He enquired when the Council would have made public these details of the lease.

Councillor Smith, Portfolio Holder for Resources and Heritage, indicated that the lease was similar to that granted to other arts organisations such as the Mercury Theatre and the Arts Centre and was entirely normal for this type of building.

Councillor Manning attended and, with the consent of the Chairman, addressed the Cabinet to express his concern about Essex County Council's decision to close the recycling centre at Martins Farm, St Osyth. He asked if the Cabinet had considered the impact this would have on the borough. It was heavily used by residents of Wivenhoe. The closure would lead to increased trips to the recycling centre at Stanway which would increase congestion and carbon dioxide emissions as well as raising road safety issues. It may also lead to an increase in fly tipping.

Councillor Hunt, Portfolio Holder for Street and Waste Services, confirmed that this was an Essex County Council decision, which had recently been confirmed following a call-in. He accepted the decision would have an impact on Colchester.

Councillor T. Young, Portfolio Holder for Housing and Community Safety, and Councillor Smith, Portfolio Holder for Resources and Heritage, expressed their concern about the decision and the impact it would have.

#### **43. 2012/13 Revenue Budget and Financial Reserves**

The Head of Resource Management submitted a report a copy of which had been circulated to each Member.

Councillor Smith, Portfolio Holder for Resources and Heritage, highlighted that the budget the Council was working towards would enable a freeze on Council tax for a second successive year whilst protecting frontline services. The minimum possible council tax discount was proposed on second homes and long term empty properties

*RESOLVED* that:-

(a) The current 2012/13 revenue budget forecast which at this stage shows a broadly balanced budget position and the forecast variables and risks be noted.

(b) The action being taken to finalise the budget be noted.

(c) The recommended level of revenue balances be set at £1.5m for 2012/13 as set out in the Risk Analysis subject to consideration of outstanding issues as part of the final budget report in January 2012 (See Appendix B of the Head of Resource Management's report).

(d) The current budget forecast for 2011/12 as set out at paragraph 12.9 of the Head of Resource Management's report be noted.

(e) In respect of second homes the Council Tax discount applied shall be retained at 10% as set out at paragraph 14.5 of the Head of Resource Management's report.

(f) In respect of long term empty properties the discount be retained at nil as set out at paragraph 14.5 of the Head of Resource Management's report.

### *REASONS*

The Council is required to approve a budget strategy and timetable in respect of the year 2012/13.

### *ALTERNATIVE OPTIONS*

There are different options that could be considered and as the budget progresses changes and further proposals will be made and considered by Cabinet and in turn Full Council.

## **44. Firstsite**

Councillor Naish attended and proposed the following Motion:-

“This Council calls upon Firstsite to formally notify the Council that it will neither request nor accept any further grant or other funding from the Council from April 2013; by this time the facility will have been running for over a year.

This Council believes that given the claimed success of Firstsite, its access to other major grants and to donors and its ability to generate income; it should not require funding from Colchester Borough Council.

The Council accepts that such a decision by Firstsite would enable modest additional support from our funds to the two excellent Colchester (as opposed to regional) centres at the Arts Centre and the Mercury Theatre, which are not eligible for such long-term large funding schemes as Firstsite benefits from.”

Councillor Naish addressed the Cabinet to state that following the completion of the building, firstsite should not accept any further funding, especially given that it was claimed that it had been so successful. This funding could be used to help the Mercury Theatre or the Arts Centre instead, or for other means of benefitting Colchester. His constituents were concerned at the level of funding given to firstsite and would not wish it to continue now the building was complete. This motion would enjoy the support of

the Member of Parliament for Colchester.

Councillor Smith, Portfolio Holder for Resources and Heritage, Councillor Barlow, Portfolio Holder for Commerce and Sustainability and Councillor Hunt, Portfolio Holder for Street and Waste Services, indicated that they would not support the motion. Firstsite was one of three nationally funded arts organisations in Colchester which helped stimulate Colchester's creative arts industries, which were a strong element of the town's economy. The loss of Council funding would also impact on the funding firstsite could obtain nationally. Firstsite was one of a number of recreational and cultural facilities supported by the Council and it was unfair to single it out in this way. Furthermore it had only been open a few weeks and it would be wrong to draw firm conclusions on the basis of this timescale.

Councillor Dopson, Portfolio Holder for Communities, indicated that she would support the Motion. The motion did not compel the Council to cease funding. It asked firstsite to consider their funding and to request that it not receive further funding from April 2013

*RESOLVED* that the motion not be approved and adopted (two voted in favour of the motion and five voted against the motion).

#### *REASONS*

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#### ALTERNATIVE OPTIONS

It was open to the Cabinet to adopt the motion or to adopt it subject to amendments.

### **45. Magistrates' Court Task and Finish Group: Final Report**

Cabinet considered the recommendations in minute 12 of the Policy Review and Development Panel meeting of 7 November 2012.

Councillor Frame attended and, with the consent of the Chairman, addressed the Cabinet to outline the recommendations of the Task and Finish Group. The Group had looked not just at the Magistrates' Court but also at ancillary facilities in the Town Hall that may be underused. He understood that the Honorary Alderman had indicated that they were broadly in support of the recommendations, but that the Town Hall should not be sold off. He explained that the Task and Finish Group had quickly ruled this out and it was not part of its recommendations. It was intended that the Town Hall remain the centre of civic life. However, the Group was recommending that advice be sought on

utilising underused space in the Town Hall and taking the opportunity to increase revenue.

Councillor Willetts attended and with the consent of the Chairman, addressed the Cabinet. He was pleased to note that the option of selling off the Town Hall had been discounted as he felt this would be disastrous for Colchester. He sought a reassurance that this option would not be reintroduced. The Town Hall was the pivotal point of the town. He suggested that some of the space could be used to house parts of the museum collections that were currently not on display, which could help boost tourism. Whilst he supported finding a new use for the Court the new use must be in harmony with the Town Hall's principal use as the civic hub of Colchester.

Councillor Turrell, Leader of the Council and Portfolio Holder for Strategy and Performance, stressed that selling the Town Hall was not an option. It was proposed to refer the recommendations for debate at full Council to in order to establish Council's views on the recommendation A. Recommendations B and C were to an extent dependant on the view taken by Council on recommendation A and could be considered by Cabinet once Council's view was known. It was stressed that all parties would be involved in the decision making on this issue.

Councillor T. Young, Portfolio Holder for Housing and Community Safety, and Councillor Hunt, Portfolio Holder for Street and Waste Services, indicated their support for this proposal.

*RESOLVED* that the recommendations set out in minute 12 of the Policy Review and Development Panel meeting on 7 November 2011 be referred for debate at the Council meeting on 8 December 2011 for Council to indicate its support or otherwise of the recommendation A of the Policy Review and Development Panel, with the outcome of the Council debate to be determined by Cabinet at its meeting on 25 January 2012

#### *REASONS*

Cabinet wished to seek the views of Council on recommendation A of the Policy Review and Development Panel in minute 12 of its meeting on 7 November 2011 before it came to a final decision on the future use of the Magistrates' Court.

#### *ALTERNATIVE OPTIONS*

Cabinet could have determined the recommendations from Policy Review and Development Panel without referring the issue to Council.

## **46. Revision of the Local Development Scheme**

The Head of Strategic Policy and Regeneration submitted a report a copy of which had been circulated to each Member.

*RESOLVED* that:-

(a) The amendments to the current Local Development Scheme (LDS) set out in the Head of Strategic Policy and Regeneration's report be agreed..

(b) The revised LDS be adopted.

#### *REASONS*

(a) The plan making process is regulated by The Town and Country Planning (Local Development) (England) Regulations 2004 (and amendment 2008) which govern production of development plan documents. The Regulations are supported by Planning Policy Statement 12 (PPS12) which sets out government policy on local development frameworks.

(b) The Government has stressed the importance of keeping Local Development Schemes up to date. The LDS was last updated in January 2011, but since that time changes in agreed plans as well as programming and scheduling alterations have been agreed and emerging Government Policy has been published which need to be incorporated into the published LDS.

(c) The Localism Bill sets out the removal of submission requirements on timetabling and monitoring but also states that local authorities will have to publish up to date information on what planning documents they are preparing.

#### *ALTERNATIVE OPTIONS*

The Council must maintain an up-to-date Local Development Scheme (LDS). Consideration can be given to the timetable for the production of the various documents.

### **47. Appointment of Deputy Mayor 2012-13**

Consideration was given to the appointment of the Deputy Mayor for the Municipal Year 2012-13.

Councillor Hunt proposed Councillor C. Sykes be appointed Deputy Mayor for the Municipal Year 2012-13. He indicated that Councillor G. Oxford supported the nomination. Councillor T. Young and Councillor Willetts also indicated their support.

Councillor C. Sykes expressed his thanks to Cabinet and to those who had expressed support for his nomination.

*RECOMMENDED* to Council that Councillor C. Sykes be nominated for appointment as Deputy Mayor for the Borough of Colchester for the 2012-13 Municipal Year.

#### **48. Progress of Responses to the Public**

The Head of Corporate Management submitted a progress sheet a copy of which had been circulated to each Member. Councillor Turrell, Leader of the Council and Portfolio Holder for Strategy and Performance, indicated that progress was being made on the response to the petition in relation to the taxi rank and a formal response would be sent shortly.

*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.

#### **49. Completion of Decent Homes Programme and Future Investment in the Council's Housing**

The Head of Strategic Policy and Regeneration submitted a report a copy of which had been circulated to each Member.

Councillor T. Young, Portfolio Holder for Housing and Community Safety, paid tribute to Mark Wright and colleagues at Colchester Borough Homes for their work in ensuring the completion of the decent homes programme a year early and £3 million pounds within budget.

*RESOLVED* that:-

- (a) It be confirmed with the Tenant Services Authority that the Decent Homes programme of work on the Council's housing stock has been achieved in December 2011.
- (b) A proposed 5 year Housing Investment Programme (HIP) be agreed in principle as the framework for procuring housing related planned works, improvements, responsive and void works and cyclical maintenance, subject to overall budget decisions in January 2012.
- (c) The proposed 5 year investment programme be linked to the Asset Management Strategy and reviewed annually in the light of available resources and for each annual allocation to continue to be brought to Cabinet for approval as part of the overall HIP report.

#### *REASONS*



(a) The housing stock represents Colchester Borough Council's highest value asset and its repair and maintenance its largest liability. The property owned is worth many millions of pounds, either as capital assets or as revenue generating assets and therefore planning for its sustainable future is important.

(b) Officers have reviewed the stock data and established that the Decent Homes backlog of failures identified up until March 2012 can be met from the approved capital and revenue budgets for 2011/2012.

(c) The Contractors employed have confirmed that the works contributing to this achievement can and will be completed in December 2011. It is at this point that the stock will have reached the Decent Homes standard as defined by the Government.

(d) Officers have sought independent verification of this anticipated outcome from Ridge Consulting who were employed by the Council to establish the original Decent Homes programme and later by CBH to assist with the development of the Asset Management Strategy adopted by the Council and CBH.

(e) A copy of the Ridge Consulting Statement following their data review is shown as Appendix A to Head of Strategic Policy and Regeneration's report, however this may be summarised as follows.

"In conclusion, we are comfortable that the Codeman system being used by Colchester Borough Homes is reporting a realistic compliance result for The Decent Homes Standard."

(f) Cabinet agreed at its meeting on 1st December 2010 to accept the Housing Asset Management Strategy as the basis for long term planning, provision and sustainability of Colchester Borough Council's housing assets.

#### *ALTERNATIVE OPTIONS*

No alternative options were presented to the Cabinet.

**The Cabinet/Panel resolved under Section 100A(4) of the Local Government Act 1972 and the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended) 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.**

**50. Report of urgent action taken under Cabinet Procedure Rule 22(1) // Proposed changes to the Photovoltaic (PV) Project in Responses to the Proposed Amendments to the Feed-in Tariff Incentive Scheme**

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 any particular person (including the authority holding that information)).