

# **CABINET**

## **4 SEPTEMBER 2013**

*Present :-* Councillor Anne Turrell (the Leader of the Council)  
(Chairman)  
Councillors Nick Barlow, Tina Bourne, Annie Feltham,  
Martin Hunt (Deputy Leader ) , Beverley Oxford,  
Paul Smith and Tim Young

*Also in Attendance :-* Councillor Mary Blandon  
Councillor Barrie Cook  
Councillor Beverly Davies  
Councillor Marcus Harrington  
Councillor Dave Harris  
Councillor Jo Hayes  
Councillor Pauline Hazell  
Councillor Mike Hogg  
Councillor Brian Jarvis  
Councillor Sonia Lewis  
Councillor Sue Lissimore  
Councillor Gerard Oxford  
Councillor Will Quince  
Councillor Colin Sykes  
Councillor Laura Sykes  
Councillor Dennis Willetts

### **26. Have Your Say!**

Councillor Lewis addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) to ask if the Council had information about the impact of the requirement on residents to pay Council Tax on an empty property.

Councillor Smith, Portfolio Holder for Business and Resources, indicated that of those properties that were vacant at the start of the financial year, 20% had now been let. He appreciated that the requirement was causing some financial hardship to some residents and if this was the case they should contact the Council Tax team at the Council.

### **27. Minutes**

The minutes of the meeting held on 10 July 2013 were confirmed as a correct record.

### **28. Closure of Abbots Activity Centre**

**Tim Young (in respect of his position as Chairman of Colne Housing) and Councillor Davies (in respect of her position as Vice Chair of CCVS) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Head of Community Services submitted a report a copy of which had been circulated to each Member together with minute 15 of the Scrutiny Panel meeting of 23 July 2013.

The following members of the public addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2):-

Nick Chilvers expressed his belief that consultation on the future of Abbots had been a formality and the Council had never been seriously interested in a business plan to take the Centre forward. He believed the building would be transferred to Colchester Borough Homes. The Council was acting in a hard headed and cynical fashion. It prioritised other groups above the elderly and disabled. Colchester residents would remember which politicians had supported the residents of Abbots and those who had not.

Nicky Bailey argued that the papers before the Cabinet were selective and partial. The arguments made against Abbots applied equally to Lion Walk. The levels of usage were higher than the Council claimed and no account had been taken in the report of the support from Abbots staff to Lion Walk. The offer by Abbots members and the Stroke Group to pay more had been dismissed. Information provided about alternatives was not up to date. Information about Abbots had not published or promoted properly and the responsibility for this lay with the Council.

Elaine Rogers explained that Foxborough Grange Care Home had been offered as an alternative venue for the Stroke Group. This would be an inappropriate venue for members of the Stroke Group. Abbots was an ideal venue: it was Disability Discrimination Act compliant and had excellent facilities. She contested the assertion that the Council had sought to find a financially viable solution and criticised the “divide and rule” approach that had been taken with Lions Walk and Abbots. She urged the Cabinet to go back to the drawing board and let both Lions Walk and Abbots work together to find a solution.

Ben Locker spoke on behalf of Richard Francis. His father had suffered a stroke in December 2012 and Abbots had played a vital part in his recuperation. He had been very moved when he accompanied his father on a visit to Abbots. Whilst he appreciated the financial pressures facing local government, humanity should be the overriding factor in decision making. He called on the Council to grant a 12 month stay of execution to investigate alternative solutions, such as the sale and leasing back of the building or higher charges.

Cathleen Seaton spoke on behalf of the residents living above the Centre, who were all also members of Abbots. They had been provided with no information about the closure or the impact on the tenants and requested a dedicated liaison officer. If they were to be offered a relocation they would want to be able to choose a property. She

expressed their concerns about security and safety issues once the building was unoccupied and asked whether there would be a caretaker on site.

Andy Raison argued that there had been no concerted effort to save money at Abbots. An opportunity should be given to keep the Centre open. Proper dialogue with the members and staff at Abbots was necessary. Abbots was in this position because the Council had not managed it correctly.

John Aberly asked where would the members and businesses that used Abbots go in future? He queried why further funding was needed despite membership fees increasing and why requests for more time had been turned down. The Council should talk to the manager to improve the facilities and services and make it more viable.

Alan Thomas stressed that there was no other community run facility providing such a range of facilities and events that was open five days a week. Abbots should be treated as a flagship facility. If it was to be closed, residents would never see such a good facility again.

Derek Mead argued that Lion Walk only had 36 more users than Abbots. He had received correspondence from the Council indicating that managers at Lion Walk had been asked to attract more visitors. He queried some of the financial figures in the report and stressed that if Abbots were to close the Council would have to spend more to provide other services. In addition Lion Walk was not suitable for wheelchair users.

Ann Holmes, a member of the Alzheimers Society, explained that she took alzheimers patients to Abbots for "Singing for the Brain" sessions and the Lunch Club. They felt very well cared for at Abbots and enjoyed the sessions greatly. Lion Walk would not be an appropriate alternative as it had no parking and its busy town centre location would distress those with alzheimers. She asked the Cabinet to reconsider its decision.

Nicola Hopkins stressed that Abbots was a key resource for the elderly. Thirty three percent of the population was 50 plus,. However Abbots was particularly valuable to those in their sixties and onwards. It helped people deal with issues of isolation, loneliness and distress. The Stroke Group in particular was a real life line to some members. Abbots was so important to so many people and she hoped the Cabinet would listen to the views of members, staff and visitors.

Frederick Bryant suggested that a vote should be taken to decide whether Abbots should remain open.

Brian Lockyer explained that he had visited both Lion Walk and Abbots. He believed that Abbots was a more suitable venue for an Activity Centre. He understood their running costs were broadly similar. He stressed the valuable work done at Abbots to support stroke victims and also those with multiple sclerosis. Funding for other projects, such as arts organisations would be better used supporting Abbots.

The following Councillors attended and, with the consent of the Chairman, addressed the Cabinet:-

Councillor Beverly Davies, Chairman of the Scrutiny Panel, addressed the Cabinet on the responses to the points made by the Scrutiny Panel. The report did not address the point made about changing Abbots from an activity centre to a community centre. As recognised by the Equality Impact Assessment (EQIA) accompanying the report, the closure of Abbots would have a particular impact on the elderly, females and the disabled, which were all defined as groups with protected characteristics. The closure would therefore discriminate and affect the quality of life of these groups. If the Cabinet did decide to close Abbots, a group needed to be commissioned to look at the needs of individual users.

Councillor Harrington noted that the EQIA accompanying the report identified the characteristics of the users as elderly, female and disabled. The fact that no other impacts had been identified by the EQIA was not grounds to close Abbots. He believed funding could be found to keep Abbots open and that the Council should support it for a further three years, as it had promised when Colne Housing had agreed to take over the running of the centre. He believed that in time it could become a self funding community centre.

Councillor Quince appreciated the current financial climate meant that non-statutory functions would be reviewed. However, the closure was a cut to a frontline service, which the administration had pledged not to make. He believed the decision to close had been taken over two years ago. The administration had been looking for evidence to justify it and not tried hard enough to make it viable. Essex County Council did not support the closure. He noted that £10,000 had been made available to each Portfolio Holder to spend within their portfolio, so there was funding available, but the administration had chosen not to prioritise Abbots. The closure of a purpose built, DDA compliant building was short sighted, given the ageing population. It was rumoured that the administration wished to use the building for affordable housing.

Councillor Willetts stated that he believed that the funding could be found to keep Abbots open, if the administration considered it as a priority. For example there had been a significant underspend on the 2102-13 revenue budget, plus there were other sources of expenditure such as business rates on the Keddies building, the Tour Series event and Councillors allowances, which could be used. The census demonstrated that the elderly population was growing and the need for centres such as Abbots would only increase. The closure was perverse and contrary to the Council's Strategic Plan objectives.

Councillor Blandon stated that she did not want to see Abbots closed. She asked if the Council had asked the manager to draw up a business plan to make it viable or if consideration had been given to charitable status to enable Abbots to gain access to lottery funding.

Councillor Harris highlighted that the Council had funded the shortfall in Abbots funding for 10 years. However, the changed financial position made this increasingly difficult. He had written to the Secretary of State for Communities and Local Government on the impact of cuts in funding for local government but received no response. He had held a meeting with local users of Abbots to discuss how to deal with the impact of the closure and would be looking to set up an over 50s club. He would hold a further

meeting to discuss how to catch all those affected.

Councillor Jarvis argued that the funding for Councillor locality budgets could be used to fund Abbots and asked whether there was another reason for the closure. Anyone approaching the issue with an open mind would agree Abbots should remain open. The value of the service was what counted, not the numbers using the service.

Councillor Hazell indicated that she was astonished to see the claim that zone team members could provide the services currently offered by Abbots. If the administration was genuine in its wish to keep Abbots open, it would find the funding. She believed that there were sources of funding available. The proposal that Abbots could be used to help train Colchester Institute students had not been acted on. With a small investment, it could become a self funding facility.

Councillor Lissimore stated that she could not see the reason for closing a purpose built facility such as this. The proposal to close Abbots was a waste of taxpayers money. She knew from personal experience the benefit Alzheimer patients gained from sessions at Abbots. Abbots had not received the attention it deserved and its membership suffered from inadequate promotion.

Councillor Lewis explained that at the Special Council meeting in October 2011 she had called for the establishment of an all party Task and Finish Group to look at Abbots but the proposal was rejected. She reiterated her belief that a cross party Task and Finish Group, including the centre manager and experienced business representatives, may find a way forward. She expressed her dismay that the Council had played with the emotions of members over the past two years. She stressed that Abbots was a valuable purpose built facility with supportive members and staff.

Councillor Feltham, Portfolio Holder for Communities and Leisure Services, introduced and explained the proposals contained in the report before Cabinet. The report was a thorough and thoughtful piece of work. She stressed that she appreciated the importance of Abbots to its members. In response to concerns by the tenants of the flat above the centre, she confirmed that a proper process would be followed and the situation would be handled carefully. The suggestions and alternative sources of funding had all been looked into but were not sustainable. She stressed that Abbots was not in competition with Lion Walk and the criticisms made of Lion Walk were unfair. No solution had been found to the fundamental problem that it was used by less 1% of the 50 plus population and that each member was subsidised at approximately £290 per year. It was recognised that this was a cut to a frontline service, but other community initiatives would provide a series of benefits for older people within the borough.

In the course of the debate by Cabinet, the following points were made:-

- This was a difficult decision and it was appreciated that this was a cut to a frontline service.
- The large scale reductions in funding from central government, totalling over £8 million over the last eight years, meant that difficult decisions needed to be taken about the services that could be supported. In this financial climate it was difficult

to justify running a service that required such a large subsidy. Whilst Lion Walk would remain open, no long term guarantees could be made about its future.

- The opposition had not tabled an amendment to the budget to secure funding for Abbots.
- Over a period of years the Council had looked at alternative methods of supporting Abbots and making it a viable proposition, but none had proved to be sustainable.
- Many of the services provided at Abbots that were most valued were social care and health services, which were the responsibility of the NHS and Essex Country Council.
- The Council did not run community centres.
- No decisions had been made about the future use of the building and there was no hidden motive behind the closure. Councillor Hunt, Portfolio Holder for Street and Waste Services, indicated that he would support a community use for the building.
- Considerable amounts of the £10,000 each Portfolio Holder received to spend within their portfolio would be used to support services for the elderly.
- It was noted that opposition councillors had not used their locality budgets to support social care within their wards.

*RESOLVED* that the proposals for managing the closure of Abbots Activity Centre set out at paragraph 6 of the Head of Community Services report be approved.

#### *REASONS*

There are approximately 58,000 residents aged 50 or over living in the borough. At present, Abbots Activity Centre for people aged 50+, with a membership of 255, attracts less than 1% of this population.

With vastly reduced resources the Council has a duty to ensure facilities and services are providing more equitable benefits to residents across the whole Borough and are sustainable. The Centre currently requires a subsidy to operate of £74,000. This works out at around £290 per member.

The Centre has struggled to increase membership or participation since 2006 when its future was first questioned. This relentless scrutiny will inevitably carry on as government funding continues to be withdrawn from District and Borough Authorities and the only sustainable way forward is to encourage more volunteer / community-led alternatives.

#### *ALTERNATIVE OPTIONS*

The alternative option would be to keep the centre open, however, this would mean continuing to find the subsidy required to run the centre at a time of considerable budget constraints and an uncertain future as expenditure tightens year on year.

To seek an alternative provider. This option was actively pursued by the Council. Two recent Expressions of Interest (EOI) have been undertaken, seeking alternative provision for Abbots Activity Centre. The initial exercise, in 2011 resulted in a successful provider in Colne Housing. Upon completion of a more detailed feasibility study grant funding was requested as the only viable way forward. This was

considered and agreed, but to ensure a legal and equitable procurement process the EOI had to be repeated including this new 3 year grant funding package in 2012. Sadly this new EOI, with funding, did not elicit any viable responses. The only interested party sited that the Staff Transfer legal requirements made this unaffordable, even with the grant offered.

Essex County Council have also been approached by the Leader of the Council and have confirmed that they have no interest in running or subsidising Abbots Activity Centre.

## **29. Investment opportunity St Botolphs Quarter**

The Head of Commercial Services submitted a report a copy of which had been circulated to each Member.

Councillor Barlow, Portfolio Holder for Regeneration, thanked officers for their work on this deal which would result in the Council owning a much more marketable site in St Botolphs. Councillor Smith, Portfolio Holder for Business and Resources, indicated that it would also reduce the level of voids on Council properties to 4%.

*RESOLVED* that:-

- (a) The draft Heads of Terms (set out in Part B of the agenda for this meeting) be approved in principle, which will form a basis of a land transaction which provides for
- The Council to grant a long leasehold interest to Firstgroup at Haven Road to facilitate a fully serviced bus depot ,
  - a letting of 26 St Botolphs Street to create new drivers facilities and ticket office in connection with the new Bus Station at Osborne Street,
  - the Council to secure the current depot site in Queen Street with vacant possession to enable the wider St Botolphs site to be offered to the market for redevelopment
- (b) Authority be delegated to the Head of Commercial Services in consultation with the Portfolio Holder for Business and Resources to conclude the transactions substantially in accordance with the draft Heads of Terms.

### *REASONS*

The bus operator has been seeking for some time to bring their various operations in the town together on one site. Given that their current site in Queen Street is too small for such a development they have now found alternative premises in East Colchester which is owned freehold by the Council.

It has been the intention since the relocation of the bus station to Osborne Street that new drivers' facilities and a ticket office would be developed.

In order to offer up the site around firstsite for redevelopment, control of the bus depot

land is necessary to ensure delivery of an effective mixed use scheme which is complementary to the gallery and other high quality uses such as the Greyfriars hotel but also contributes to the wider regeneration of the area and creates new jobs in the Borough.

An opportunity has arisen to structure a land transaction which delivers the three objectives above.

#### *ALTERNATIVE OPTIONS*

The Council could refuse to accept that the proposed Heads of Terms offer the best opportunity to bring forward the various transactions or it could decide that now is not the right time to pursue such an opportunity. However a delay in entering into these deals could lead to the Council letting 26 St Botolphs to another user which would delay or make the creation of the ticket office and drivers facilities uncertain. It would also lead to reduced marketing opportunities for the St Botolphs site which in turn could impact on the regeneration of the wider area.

### **30. 2014-15 Revenue Budget Update and Business Rates Pooling**

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

Councillor Gerard Oxford attended, and with the consent of the Chairman, addressed the Cabinet to ask if there was any further information available about the pooling of business rates.

Councillor Smith, Portfolio Holder for Business and Resources, indicated that the Essex Strategic Leaders Finance Group had agreed look into the potential benefits of pooling, given the positive benefits that resulted from pooling in Suffolk.

*RESOLVED* that:-

- (a) The updated 2014/15 budget forecast as set out at paragraph 6.1 of the Assistant Chief Executive's report showing a current gap of £1.26million be noted.
- (b) The impact on the budget of the consultation on New Homes Bonus and the Local Growth Fund be noted.
- (c) It be agreed in principle to join a pool for non-domestic rates on the basis that no authority can be worse off in the pool than they would have been outside it and that the work on developing a county wide pool be supervised through the Essex Strategic Leaders Finance Group.

#### *REASONS*

The Council is required to approve a budget strategy and timetable in respect of the year 2013/14. The Assistant Chief Executive's report provides an interim review of

progress and specifically provides information on Government proposals to change the proportion of New Homes Bonus income retained by local authorities.

Under the business rates retention scheme local authorities are able to come together, on a voluntary basis to pool their business rates, giving them scope to generate additional growth through collaborative effort, and to smooth the impact of volatility in rates income across a wider economic area.

#### *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. In respect of business rates pooling this is a voluntary decision and as such the Council could decide not to be part of a pool.

### **31. Trading Board Terms of Reference**

Minute 8 of the Trading Board's meeting of 14 August 2013 was referred to Cabinet.

*RESOLVED* that the revised Terms of Reference for the Trading Board be agreed.

*RECOMMENDED to COUNCIL* that the Revised Terms of Reference be approved and that the Monitoring Officer be given authority to make the necessary amendments to the Constitution.

#### *REASONS*

The Trading Board had proposed revised Terms of Reference to address concerns that the original Terms of Reference were too detailed and could unduly hinder the working of the Board.

As the Board's Terms of Reference were agreed by both Cabinet and Council, the appropriate mechanism for amending them is a recommendation from the Board to Cabinet, which Cabinet can refer to Council if it is in agreement.

#### *ALTERNATIVE OPTIONS*

Cabinet could choose not to agree the revised Terms of Reference or to recommend alternative Terms of Reference to Council.

### **32. 2012/13 Year End Review of Risk Management**

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

*RESOLVED* that:-

- (a) The risk management work undertaken during 2012/13 be noted.
- (b) The current strategic risk register be noted.
- (c) The proposed risk management strategy for 2013/14 be approved.

*RECOMMENDED TO COUNCIL* that the Risk Management Strategy for 2013/14 be included in the Council's Policy Framework.

#### *REASONS*

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

During the year quarterly progress reports are presented to the Governance Committee detailing work undertaken and current issues. This report was presented to the Governance Committee on 25 June 2013 where they approved its referral to this meeting.

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

#### *ALTERNATIVE OPTIONS*

Cabinet could choose not to approve the Risk Management Strategy or to make amendments to the Strategy.

### **33. Procurement Health Check Report**

Minute 10 of the Trading Board's meeting of 14 August 2013 was referred to Cabinet.

Councillor Quince attended and with the consent of the Chairman addressed the Cabinet to highlight that at the meeting of the Trading Board he had suggested that the possibility of a job share for the Commercial Procurement Manager be looked at.

The Cabinet noted that the Trading Board had not made a recommendation in respect of this point.

*RESOLVED* that:-

- (a) In view of the significant potential savings to be secured, arrangements be made for a Commercial Procurement Manager to be appointed on a two year fixed term contract.
- (b) The appropriate future location of the Council's corporate procurement functions be within the new Commercial Services arm of the Council.

(c) The remit of the Commercial Procurement Manager be drawn up to include a requirement for the post holder to report to the Council's Trading Board on a Quarterly basis.

#### *REASONS*

The recommendations from the Trading Board were part of ongoing commercial development work, designed to bring more commercial rigour to procurement.

#### *ALTERNATIVE OPTIONS*

Cabinet could choose not to agree with the proposals relating to the appointment of a Commercial Procurement Manager as set out in the recommendation from the Trading Board.

### **34. Environmental Sustainability Strategy**

Minute 5 of the Policy Review and Development Panel meeting of 17 June 2013 was referred to the Cabinet.

*RESOLVED* that the following issues be borne in mind when the Council's new Environmental Strategy is determined:-

- The need for relevant strategies to be well aligned across various areas of the Council's operation;
- Concentration be directed at particular projects with a wider scale of impact;
- The need for environmental sustainability to be embedded in all that the Council delivers;
- The importance of projects at the grass roots level, such as Transition Town, to be supported, particularly in respect of assistance infrastructure levels;
- The importance of accurate data to be gathered in order to provide measurable evidence of the impact of strategies;
- The ability to work with other organisations to secure consistent funding support;
- The benefit of continuing with the broad collaboration with Essex County Council and other groups;
- The problem of oil dependency in rural areas and the need for sustainable alternatives to be explored more fully;
- The potential to communicate and develop more opportunities, such as the photo voltaic initiative at local schools, as well as other successful case studies;
- The requirement for the Council to take the lead in terms of sustainability in order to demonstrate to others how to take the issues forward.

#### *REASONS*

The Council's Nottingham Declaration Strategy and Carbon Management Programme have come to an end, leaving an opportunity for the Council to review its achievements and plan for the future. When considering this issue, the Policy Review and

Development Panel had made a recommendation to Cabinet about the issues it considered needed to be borne in mind when the Council's new Environmental Strategy was determined.

#### *ALTERNATIVE OPTIONS*

It was open to Cabinet not to agree the recommendation of the Policy Review and Development Panel or to identify alternative issues to be borne in mind when the Council's new Environmental strategy was to be determined.

### **35. Local Government Ombudsman Annual Review 2012-13**

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

*RESOLVED* that the contents of the Local Government Ombudsman's Annual Review for 2012/13 be noted.

#### *REASONS*

To inform the Cabinet of the number of complaints received by the Local Government Ombudsman in relation to Colchester during 2012/13.

#### *ALTERNATIVE OPTIONS*

No alternative options were presented to the Cabinet.

### **36. 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.

**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.**

**37. Investment opportunity St Botolphs Quarter**

The Head of Commercial Services submitted a report a copy of which had been circulated to each Member.

Councillor G. Oxford attended and with the consent of the Chairman, addressed the Cabinet to suggest that if there was any delay in developing the site in St Botolphs, it could be used to generate income for the Council, possibly as a market.

Councilor Barlow, Portfolio Holder for Regeneration, thanked Councillor Oxford. Such a proposal was dependent on the timescale for the development.

*RESOLVED* that:-

- (a) To approve in principle the draft Heads of Terms attached to the Head of Commercial Services report which will form a basis of a suite of land transaction which provide for
- a long leasehold interest to Firstgroup at Haven Road to facilitate a fully serviced bus depot ,
  - a letting of 26 St Botolphs Street to create new drivers facilities and ticket office in connection with the new Bus Station at Osborne Street,
  - to provide vacant possession at the current depot site in Queen Street to enable the wider St Botolphs site to be offered to the market for redevelopment.
- (b) To approve the increase in the capital programme and borrowing arrangements as set out in paragraph 9.2 of the Head of Commercial Services report..
- (c) To give delegated authority to the Head of Commercial Services in consultation with the Portfolio Holder for Business and Resources conclude the transactions substantially in accordance with the draft Heads of Terms.

*REASONS*

As set out at minute 27.

*ALTERNATIVE OPTIONS*

As set out at minute 27.