

# CABINET

## 28 NOVEMBER 2012

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

*Also in Attendance :-* Councillor Nick Barlow  
Councillor Kevin Bentley  
Councillor Bill Frame  
Councillor Nigel Offen  
Councillor Will Quince  
Councillor Colin Sykes  
Councillor Laura Sykes

### **38. Minutes**

The minutes of the meeting held on 3 October 2012 were confirmed as a correct record.

### **39. Fundamental Service Review of Customer Contact**

The Executive Director submitted a report a copy of which had been circulated to each Member together with draft minute 16 of the Strategic Overview and Scrutiny Panel meeting of 30 October 2012.

Jane Dabbs, representing Unison, addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). She stressed Unison's support for accountable and democratic public services but was concerned about introducing a commercial aspect to these services. It was accepted that the current financial climate meant change was necessary. She stressed the profound nature of change that was proposed by this Fundamental Service Review (FSR). There was concern about the impact on customers and staff if the change was not delivered successfully first time round and Unison members were concerned about the Council's ability to deliver change successfully. If agreed the changes would need to be implemented in an appropriate and timely manner. Previous FSRs had led to changes in work practices which had led to an increase in workload leaving staff struggling to meet the new demands made of them. Some concern was also expressed about the viability of the commercial approach set out in the Business Case.

Adrian Pritchard, Chief Executive, thanked Jane for her comments and indicated that he had met Unison and would continue to do so to discuss their concerns. He also wanted to ensure the proposals were implemented correctly. He acknowledged the concerns about the commercial ethos in the Business Case, but stressed that the financial strategy made no assumptions about the level of income that might result from such commercial activities.

Richard Aldridge of Colchester Citizens Advice Bureau, addressed the Cabinet pursuant to the provisions of Cabinet Procedure Rule 5(2). He noted the proposals in the Business Case and indicated that the CAB would be interested in working with the Council to help deliver services in future.

Councillor Bentley, Chairman of Strategic Overview and Scrutiny Panel, addressed the Cabinet. He considered that the scrutiny of the proposals had been an example of scrutiny at its best. He commended the proposals in general but stressed the following points which had been made during the Panel's debate:-

- the need for greater detail in the Business Case;
- the need to use of non-technical language and proper English in public reports;
- the definition of a customer;
- the need for effective communication of the changes to ensure the public and the media understood the changes and he reiterated the Panel's request to scrutinise the communications strategy;
- the request for the Panel to be provided with regular updates, particularly on risk and he indicated the Panel would welcome the opportunity to scrutinise the risk register;
- the need to be upfront about the impact on staff posts.

Councillor Turrell, Portfolio Holder for Strategy, indicated the proposals would be referred to the Strategic Overview and Scrutiny Panel at various stages and that a Councillor implementation group would be formed which would include a representative from the Conservative group.

Councillor B. Oxford, Portfolio Holder for Customers, Councillor Smith, Portfolio Holder for Business and Resources and Councillor T. Young, Portfolio Holder for Planning, Community Safety and Culture, expressed their support for the proposals. They stressed that the Business Case demonstrated the Cabinet's desire to protect jobs and services. The review proposed new ways of delivering services to improve the customer experience. The ethos behind the review was to improve the way services were delivered and to allow customers to access services in the way that they wanted to. Face to face contact with Council staff would still be available for those who wanted or needed it. Tribute was paid to Council staff and whilst any loss of jobs would be regretted, staff would be dealt with in a fair, open, sympathetic and supportive way.

The Cabinet expressed its thanks to Pam Donnelly, Executive Director, and all other officers who had worked on the review.

*RESOLVED* that the business case resulting from the Fundamental Service Review of Customer Contact attached to the Executive Director's report be approved and the implementation planning stage of the review be authorised.

*RECOMMENDED to COUNCIL* the inclusion and subsequent release of £2.366 million from the Council's capital programme to fund the estimated capital costs set out in the Financial Summary (Appendix I, page 2 of the Executive Director's report).

*REASONS*

To allow the implementation of the main recommendations to begin and the subsequent delivery of a transformed organisation to enable an improved customer experience.

#### *ALTERNATIVE OPTIONS*

The alternative option would be not to approve the business case or to ask for changes to be made to the proposals set out in the business case. In either scenario, the delivery of an improved customer experience and greater efficiency and effectiveness could be delayed or not delivered. The business case is the result of considerable research, analysis and consultation on the part of a core project team, led by the Executive Management Team.

#### **40. 2013/14 Revenue Budget, Capital Programme 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 Business and Resources, highlighted the inclusion of growth items within the budget which would help create jobs and homes for the residents of the Borough. He also drew attention to the proposal to add the Olympic Legacy Project to the capital programme which would bring health benefits to the younger generation. However, the financial situation was still challenging and it was proposed to increase the level of reserves to reflect the transfer of risks from central to local government.

*RESOLVED* that:-

- (a) The current 2013/14 revenue budget forecast which at this stage shows a budget gap of £248k 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 £1.8m for 2013/14 as set out in the Risk Analysis subject to consideration of outstanding issues as part of the final budget report in January 2013 (Appendix B of the Head of Resource Management's report).
- (d) The current budget forecast for 2012/13 as set out at paragraph 12.11 of the Head of Resource Management's report be noted.
- (e) The position on the capital programme set out at Section 14 of the Head of Resource Management's report be noted and to *RECOMMEND to COUNCIL* that the Olympic Legacy Project be included in the capital programme and that subject to this decision resources be released.
- (f) In respect of Council Tax discounts the options and proposed approach as set

out in Section 15 of the Head of Resource Management's report be noted and the decision be delegated to the Portfolio Holder for Business and Resources.

### *REASONS*

- (a) The Council is required to approve a budget strategy and timetable in respect of the year 2013/14.
- (b) The Head of Resource Management's report relates to the budget update, a review of balances, the capital programme and consideration of possible changes to Council Tax discounts.

### *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.

## **41. Localised Council Tax Support 2013-14**

The Head of Resource Management submitted a report a copy of which had been circulated to each Member together with draft minute 17 of the meeting of the Strategic Overview and Scrutiny Panel on 30 October 2012.

Councillor Smith, Portfolio Holder for Business and Resources, indicated that the Council Tax Support Scheme had to reflect the 10% cut in funding in council tax support resulting from government policy. A number of difficult choices had been made and the scheme sought to spread the burden as fairly as possible. There were distinctive features in the scheme, such as the help provided to those returning to work. The Council took seriously the impact on vulnerable groups and an announcement would be made shortly about help to those affected.

He also indicated there were a number of technical areas where government guidance was still awaited and that therefore it would be sensible to delegate authority for the final agreement of the policy document.

*RESOLVED* that:-

- (a) the Localised Council Tax Support Scheme as set out within the Head of Resource Management's report and detailed in the Policy document be agreed and that it be delegated to the Portfolio Holder for Business and Resources on behalf of the Council to agree the final Policy Document reflecting any final changes to regulations.
- (b) The change to the Scheme of Delegation to Officers from Cabinet as set out at paragraph 6.1 of the Head of Resource Management's report be agreed with the addition of a delegation in respect of exceptional hardship arrangements.

*RECOMMENDED to COUNCIL* that the Localised Council Tax Support Scheme as set out within the Head of Resource Management's report and detailed in the Policy document be approved and adopted, subject to any changes that may be agreed by the Portfolio Holder for Business and Resources to reflect final changes in Regulations.

#### *REASONS*

The Welfare Reform Act abolishes Council Tax Benefit (CTB), and replaces it with a Local Council Tax Support scheme (LCTS). A new Local Government Finance Act and regulations set out how the Council must create a LCTS scheme, removing most of the existing complex legislation. This will mean the majority of LCTS awards will be based on criteria set and administered by each local billing authority (such as Colchester), having consulted with the major precepting authorities (i.e. Essex County Council, Fire and Police authorities) and the public. The Act and regulations will direct how authorities will support pensioners, with little change to the way their entitlement is presently decided. New draft regulations set out that the Council must finalise its local scheme by 31 January 2013.

#### *ALTERNATIVE OPTIONS*

The Council must agree a LCTS scheme. If the Council does not set a scheme based on agreed local criteria then the "default scheme" will need to be used, the cost of which would almost certainly be higher than the level of grant funding, resulting in a budget pressure.

There are a number of different criteria which could be used to deliver a cost neutral scheme. Other Essex billing authorities are expected to agree some different arrangements reflecting their own local circumstances.

It would be possible for the Council to meet the shortfall in funding from the Council's budget. However, this would also create a pressure on the major precepting authorities' budgets and the approach agreed across Essex has been to produce a scheme which is expected to be cost neutral.

The Government announced details of a transitional grant that would be available to authorities that approved a LCTS scheme that met certain criteria. Information on this is set out at Appendix A of the Head of Resource Management's report. This shows that there is an anticipated funding gap if the Council was to set a 'grant compliant' scheme.

## **42. Depot and Offices, 123 Gosbecks Road, Colchester - Supermarket Proposal**

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

Councillor Smith, Portfolio Holder for Resources and Business, explained that the proposal would bring benefits to the Borough, to the Council and to Colchester

Borough Homes. It would provide new employment opportunities and it was hoped that a scheme would be put in place to help ensure that the jobs created went primarily to local residents.

*RESOLVED* that, subject to the decisions set out in minute 50 -

- (a) The draft Heads of Terms for an Agreement for Lease and ground lease for the proposed supermarket be agreed.
- (b) To agree a variation of the existing lease granted to Colchester Borough Homes (CBH) or the grant of a new lease on the terms reported to release part of the depot premises required for the proposed supermarket.
- (c) The commercial advice from the Council's valuers, NPS, that the draft Heads of Terms currently represent the best consideration to the Council, taking into account current market conditions be accepted.
- (d) The Head of Strategic Policy and Regeneration in consultation with the Portfolio Holder for Business and Resources be authorised to conclude the transaction substantially in accordance with the approved draft terms and conditions; complete negotiations for the Agreement for Lease, the ground lease and a new occupational lease for CBH.

#### *REASONS*

(a) By way of a Portfolio Holder Decision report dated 27<sup>th</sup> June 2012 (reference BUS – 001-12) it was agreed:

*(1) To authorise the Head of Resource Management in consultation with the Portfolio Holder for Business and Resources to negotiate the Heads of Terms (which would then be reported to Cabinet) with Scott Properties Ltd to develop a neighbourhood size supermarket, subject to the grant of planning consent, on part of the depot and offices at 123, Gosbecks Road and adjoining land in private ownership; and*

*(2) To approve the negotiations in 2.1(1) above on a private treaty basis with Scott Properties due to the requirement to combine both the Council's depot and adjoining privately owned land to facilitate the proposed supermarket development.*

- (b) CBH have been consulted and have confirmed a willingness to reduce their operational premises requirements to release land from their lease to enable the proposed development to proceed.
- (c) A valuable new rental stream secured on a long ground lease together with a rental premium will be generated.
- (d) CBH will consolidate their operations and reduce overheads within a reduced leased area.

## ALTERNATIVE OPTIONS

As an alternative to entering into an Agreement for Lease with Scott Properties and testing the market for a neighbourhood supermarket development, the Council could:

- (i) Investigate alternative development opportunities for the site. Residential development is an alternative high land value proposal but as the majority of the site is located within an Employment Zone, planning policy does not support this option.
- (ii) Pursue a small supermarket development on the Council's land at 123 Gosbecks Road only. However, without the benefit of the existing open Class A1 retail planning consent attaching to the adjoining site, a separate retail development on the Council's site would be contrary to planning policy.
- (iii) Review the future retention or disposal of the site when the current CBH lease expires on 31 July 2013. The Council is not obliged to renew the lease as the existing agreement excludes the tenant's lease renewal rights.
- (iv) Renew the lease in favour of CBH for a further term for the same or a reduced site area dependant upon operational requirements; or
- (v) The Council could refuse to accept that the provisionally agreed Heads of Terms for an Agreement for Lease and principal terms and conditions of a ground lease for the supermarket development represent the best possible consideration, or agree that they fail to realise the Council's aspirations for the future use and development of the site.

### **43. Future Use of the Magistrates' Court Task and Finish Group // Final Report**

The Future Use of the Magistrates' Court Task and Finish Group submitted a report a copy of which had been circulated to each Member.

Councillor Frame, Chairman of the Future Use of the Magistrates' Court Task and Finish Group, attended and addressed the Cabinet. The Group had looked at a wide range of options for the future use of the Magistrates' Court. This had led to four expressions of interest and two firm offers, details of which were set out in the Group's report. As well as reducing the Council's costs, the recommendations also provided an opportunity to support local businesses and to widen access to the Town Hall. The figures in the report were tentative and further negotiations would be required. Councillor Frame paid tribute to the members of the Group and to Ann Hedges, Executive Director, and Amanda Chidgey, Democratic Services Manager, who had provided support to the Group.

Councillor Turrell, Leader of the Council and Portfolio Holder for Strategy, expressed the Cabinet's thanks to the members of the Task and Finish Group. Councillor Hunt, Portfolio Holder for Street and Waste Services, expressed his support for the Group's recommendations as the Council could not afford for the Magistrates' Court and associated rooms to remain unused.

*RESOLVED* that:-

(a) The work of the Future Use of the Magistrates' Courts Task and Finish Group, the details of the two offers submitted set out in the separate report in Part B of the agenda and the Group's recommendations as set out in Paragraph 5 of the Task and Finish Group's report be noted.

(b) Should the recommendations of the Group be approved by Council, authority be delegated to the Portfolio Holder for Business and Resources, following consultation with Executive Director Ann Hedges, to conclude negotiations on terms no less advantageous than as proposed.

*RECOMMENDED to COUNCIL* that, in accordance with the resolution of Cabinet on 25 January 2012, it determine the final recommendations of the Future Use of the Magistrates' Courts Task and Finish Group.

#### *REASONS*

At the Cabinet meeting on 25 January 2012, following consideration of a Motion agreed by Council, it was agreed that the Task and Finish Group on the Future Use of the Magistrates' Courts be reconvened to oversee the implementation of the proposals and to take the final recommendation to Council.

#### *ALTERNATIVE OPTIONS*

A range of alternative options have been considered by the Task and Finish Group which essentially can be summarised as:

- To withdraw from the marketing exercise and do nothing further;
- To retain the buildings for the short term and go out to market again in due course.

#### **44. Colchester Borough Council's Strategic Tenancy Strategy**

**Councillor T. Young (in respect of his position as Chairman of Colne Housing) declared a Disclosable Pecuniary Interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5) and left the meeting during its consideration and determination.**

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

Councillor Bourne, Portfolio for Housing, introduced the Strategic Tenancy Strategy and commended it as a good example of partnership working.

*RESOLVED* that the Strategic Tenancy Strategy as attached at Appendix A of the Head of Strategic Policy and Regeneration's report be agreed.



*RECOMMENDED to COUNCIL* that the Strategic Tenancy Strategy be adopted as part of the Council's Policy Framework.

#### *REASONS*

The Localism Act 2011 requires that by January 2013, Local Housing Authorities in England to prepare and publish a strategic tenancy strategy. In adopting the strategy, Colchester Borough Council will meet the statutory requirements placed on it under the Localism Act 2011.

#### *ALTERNATIVE OPTIONS*

Not to adopt a Strategic Tenancy Strategy. Colchester Borough Council would then not meet its statutory duty under the Localism Act 2011. Failure to comply with this requirement would expose the Council to possible legal challenge. Additionally, without an agreed approach in place, housing providers, other partners and residents would be unclear as to the Council's position on key issues and what was expected of Registered Providers of social housing (RPs) operating in the Borough.

### **45. Police and Crime Panel Arrangements**

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

*RESOLVED* that:-

(a) The Terms of Reference, the Panel Arrangements and the Rules of Procedure for the Essex Police and Crime Panel be accepted.

(b) Councillor Hunt be appointed as Colchester Borough Council's substitute member on the Essex Police and Crime Panel.

#### *REASONS*

The Police Reform and Social Responsibility Act 2011 requires local authorities in each Police Force area in England (excluding London) to establish a Police and Crime Panel. The role of the Police and Crime Panel is to scrutinise the Police and Crime Commissioner, who in turn is responsible for holding the Chief Constable to account. A Police and Crime Panel is a joint committee of the relevant local authorities. All those authorities constituting the Essex Police and Crime Panel have been asked to give approval to its arrangements. All relevant authorities have also been invited to nominate a substitute member of the Panel.

#### *ALTERNATIVE OPTIONS*

No alternative options were proposed but it was open to Cabinet not to accept the Terms of Reference, the Panel Arrangements and the Rules of Procedure for the Essex Police and Crime Panel or to appoint a different member as the substitute

member of the Panel.

#### **46. Appointment of Deputy Mayor**

Consideration was given to the appointment of the Deputy Mayor for the Municipal Year 2013-14.

Councillor Hunt proposed Councillor John Elliott be appointed Deputy Mayor for the Municipal Year 2013-14.

Councillor Quince attended and addressed the Cabinet to support Councillor Elliott's nomination. He had a long history of service on the Council and he believed he would make an excellent Deputy Mayor.

Councillor C. Sykes attended and addressed the Cabinet to express his support for the proposal and that Councillor Laura Sykes and he would be delighted to have Councillor Elliott as Deputy Mayor.

*RECOMMENDED TO COUNCIL* that Councillor John Elliott be nominated for appointment as Deputy Mayor for the Borough of Colchester for the 2013-14 Municipal Year.

#### **47. Amendment to Scheme of Delegation to Officers**

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

*RESOLVED* that the amendment to the Scheme of Delegation to Officers from Cabinet contained at paragraph 4.3 of the Monitoring Officer's report be approved and take immediate effect.

##### *REASONS*

The Scheme of Delegation to Officers from Cabinet requires amendment to reflect the amalgamation of the Estates and Regeneration teams within Strategic Policy and Regeneration.

##### *ALTERNATIVE OPTIONS*

No alternative options were presented.

#### **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.

*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.**

#### **49. Universal Customer Contact Fundamental Service Review: Approval of Full Business Case**

The Cabinet noted the contents of Appendix E to the Executive Director's report.

**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. Depot and Offices, 123 Gosbecks Road, Colchester - Supermarket Proposal**

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

*RESOLVED* that:-

- (a) The Draft Heads of Terms for an Agreement for Lease between the Council and Scott Properties Ltd, as itemised in Appendix 1 of the Head of Strategic Policy and Regeneration's report, be approved.
- (b) The Draft Principal Terms and Conditions for a Ground Lease to be granted by the Council to Scott Properties Ltd or their nominated end user (identified following a marketing process carried out in agreement with the Council), as itemised in Appendix 2 of the Head of Strategic Policy and Regeneration's report be approved.

(c) A variation of the existing lease granted to Colchester Borough Homes (CBH) or the grant of a new lease on the terms reported to release part of the depot premises required for the proposed supermarket be agreed.

(d) The commercial advice from the Council's valuers, NPS, that the draft Heads of Terms currently represent the best consideration to the Council, taking into account current market conditions be accepted.

(e) Authority be delegated to the Head of Strategic Policy and Regeneration in consultation with the Portfolio Holder for Business and Resources to conclude the transaction substantially in accordance with the approved draft terms and conditions; complete negotiations for the Agreement for Lease, the ground lease and a new occupational lease for CBH.

## REASONS

(a) By way of a Portfolio Holder Decision report dated 27<sup>th</sup> June 2012 (reference BUS – 001 -12) it was agreed:

*(1) To authorise the Head of Resource Management in consultation with the Portfolio Holder for Business and Resources to negotiate the Heads of Terms (which would then be reported to Cabinet) with Scott Properties Ltd to develop a neighbourhood size supermarket, subject to the grant of planning consent, on part of the depot and offices at 123, Gosbecks Road and adjoining land in private ownership; and*

*(2) To approve the negotiations in 2.1(1) above on a private treaty basis with Scott Properties due to the requirement to combine both the Council's depot and adjoining privately owned land to facilitate the proposed supermarket development.*

(b) CBH have been consulted and have confirmed a willingness to reduce their operational premises requirements to release land from their lease to enable the proposed development to proceed. The main terms of a lease variation or a new occupational lease are as reported in paragraphs 5.12 to 5.16 of the Head of Strategic Policy and Regeneration's report.

(c) A valuable new rental stream secured on a long ground lease together with a capital receipt will be generated.

(d) CBH will consolidate their operations and reduce overheads within a reduced leased area.

## ALTERNATIVE OPTIONS

As an alternative to entering into an Agreement for Lease with Scott Properties and testing the market for a neighbourhood supermarket development, the Council could:

(i) Investigate alternative development opportunities for the site. Residential development is an alternative high land value proposal but as the majority of the site is

located within an Employment Zone, planning policy does not support this option.

(ii) Pursue a small supermarket development on the Council's land at 123 Gosbecks Road only. However, without the benefit of the existing open Class A1 retail planning consent attaching to the adjoining site, a separate retail development on the Council's site would be contrary to planning policy.

(iii) Review the future retention or disposal of the site when the current CBH lease expires on 31 July 2013. The Council is not obliged to renew the lease as the existing agreement excludes the tenant's lease renewal rights.

(iv) Renew the lease in favour of CBH for a further term for the same or a reduced site area dependant upon operational requirements; or

(v) The Council could refuse to accept that the provisionally agreed Heads of Terms for an Agreement for Lease and principal terms and conditions of a ground lease for the supermarket development represent the best possible consideration, or agree that they fail to realise the Council's aspirations for the future use and development of the site.

**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.**

#### **51. Future Use of the Magistrates' Court Task and Finish Group // Final Report**

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

*RESOLVED* that:-

(a) the commercially sensitive information and the financial implications set out in paragraph 2 of the Head of Corporate Management's report be noted.

(b) in respect of the proposal detailed at paragraph 2.5 of the Head of Corporate Management's report, any offer of contract resulting from this proposal would need to be made to the proposed limited company referred to therein

(c) in the event that the proposal referred to at (b) above not proceeding, authority be given to pursue the alternative offer mentioned at paragraph 2.7 of the Head of Corporate Management's report.

*REASONS*

As set out in minute 43.

*ALTERNATIVE OPTIONS*

As set out in minute 43.