

STRATEGIC OVERVIEW AND SCRUTINY PANEL 9 DECEMBER 2009

Present :- Councillor Christopher Arnold (Chairman)
Councillors Nick Barlow, Mark Cory, Mike Hogg,
Jackie Maclean, Kim Naish, Laura Sykes,
Nick Taylor and Dennis Willetts

Substitute Members :- Councillor Nigel Chapman
for Councillor Gaye Pyman
Councillor Michael Lilley for Councillor Julie Young

35. Minutes

RESOLVED that the minute of the meeting held on 3 November 2009 was confirmed as a correct record.

36. Work Programme

Due to the additional supplementary item added to the agenda, the referred item under the call in procedure (Request for transfer of land at Norman Way) the Chairman explained that he had decided that two substantive agenda items would be deferred to a later meeting. Item 12. Half yearly performance report would be reviewed at the meeting on the 5 January 2010 and item 10. Growth and future development options in Colchester would be deferred to a future date to be agreed.

The Chairman said that in light of the already full work programme for the remainder of 2009-10, and due to their been a further three requests for substantive items to be reviewed, he would shortly meet with the Panel's Group Spokespersons to agree the work programme for the remainder of 2009-10.

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

Councillor Naish addressed the panel to express his concern in recent months for the ever increasing traffic congestion in the town centre causing regular gridlock. Councillor Naish said he believed the town centre economy was suffering as a result, given that members of the public have told him they will not travel to the town centre until the traffic congestion is fixed.

The panel was in general agreement with the principle of inviting the Essex County Council Portfolio Holder to a meeting to discuss this issue, but the Chairman, with the panel's approval, suggested this was a further item for the

Panel's Group Spokespersons to discuss when determining the remaining year's work programme in private.

38. Referred items under the Call in Procedure

Councillor Turrell (in respect of being a Member of Essex County Council) declared a personal interest in the following item.

Request for transfer of land at Norman Way

Have Your Say

Mr. Richard Pettit of the Painters Corner Residents Association addressed the Panel in opposition to the loss of open space, and especially that known as 'the Green', though the association was not against future investment and building at the Philip Morant School. Mr. Pettit said it was essential the Partnership for Schools (PfS) programme does not stipulate the road is essential for funding. Mr. Pettit suggested that any formal motion referred back to the Cabinet should stipulate that if for any reason the PfS funding is not forthcoming, the decision to release the open space land should be rescinded, thereby not allowing for a loss of open space at the expense of a building that did not receive further investment.

Mr. Barrow, a resident local to Norman Way addressed the Panel saying the County Election Special journal stated that the open space around the Philip Morant School would not alter as a result of new building work. Mr. Barrow explained that the proposals for the reorganisation of secondary education in Colchester had not taken into account East of England's Regional Assembly proposals for substantial extra housing in Colchester to be delivered by 2031. Mr. Barrow believed there are no conditions attached to the investment funding, that Essex County Council are calling the Council's bluff, and that to threaten in this manner was a direct attack on local children. Mr. Barrow concluded by asking members not to be blinded by money and consider that other local schools could be the next to be blighted.

Mrs. Paula Whitney addressed the panel saying she believed the stance taken by the Cabinet was environmentally, ethically, morally and educationally the best response. Mrs. Whitney believed the gazette had provided an unbalanced report on proceedings at the last Cabinet meeting and indicated her support for the retention of the open space. Mrs Whitney said she was against the whole situation of large schools at the expense of the closure of two small schools. Mrs. Whitney said her daughter had herself been subject to bad experiences during her time at the Philip Morant School and was against these large schools in principle. Mrs. Whitney concluded by saying

she would encourage the green open space as an access to the school, and also supported smaller and more sustainable schools.

Mr. Kean, a resident local to Norman way addressed the Panel saying he was appalled that the Philip Morant School was allowed to continue with the present access, and the health and safety issues associated with this access. Mr. Kean said the school was merely trying to accede to the desires of Essex County Council, because the access was not fit for purpose at present. Mr. Kean concluded by saying the current main school block was also unfit for its current purpose and emergency and service vehicles should be served with proper access.

Request for transfer of land at Norman Way

Mr. Ian Vipond, Executive Director was invited to speak to the panel in response to the planning issues that have been raised concerning this decision.

Mr. Vipond said in planning terms the original planning application for road access was appealed and in December 1999 the Planning Inspector formally approved the application for an access road, a decision that remains unchanged.

Mr. Vipond clarified that an open space policy did not mean every blade of grass on an open space remains open, citing examples such as play equipment, large pathways and roadways that run through or on open spaces in Colchester.

Mr. Vipond said it was worth noting the quotes from the Planning Inspector in 1999 when during the appeal proceedings he looked at the existing access road and found it highly unsatisfactory, therefore if the school proposed further development on the site, the current access would prevent any planning consent being granted. Mr. Vipond said he did not consider the proposed new road would give a serious loss of open space.

Mr. Vipond concluded by saying the 2004 application renewal took the Planning Inspectors considerations in 1999 into account and nothing had materially changed since then. The Local Plan, in terms of open space allocation, made a judgment that the amount of open space allocated to a new access road would not undermine the Council's policy on open space, the advice given to members of the Planning Committee.

Call in discussions

It was explained that at the Cabinet meeting on the 2 December 2009, and in respect of the decision 'Request for transfer of land at Norman Way', the

Cabinet had to determine to release part of the public open space situated at Norman Way for a new vehicular access to the Philip Morant School on terms to be agreed by the Head of Resource Management in consultation with the Portfolio Holder for Resources and Business. The Cabinet determined by a named vote, not to release part of the public open space situated at Norman Way for a new vehicular access to the Philip Morant School.

This Cabinet decision was called in by Councillor Ford supported by four Councillors, and Councillor Ford addressed the panel to explain the reasoning for the call in.

Councillor Ford said the call in request was to try to convince the Cabinet to agree to release part of the public open space situated at Norman Way for a new vehicular access to the Philip Morant School, thereby allowing £130 million pounds of investment to be released by the appropriate authorities to be spent in part on build, rebuild and refurbishment on secondary schools in Colchester. Councillor Ford said transferring part of the public open space has proved to be a contentious issue with many individuals and organisations holding strong and, on occasions, opposing views.

Councillor Ford said it was not easy to see through the morass of arguments but would attempt to put forward relatively simple arguments for the panel to understand. Firstly, and in reference to the reasons for the call as stated in the agenda papers, Councillor Ford said at the Full Council meeting on 14 October 2009, Councillor Bentley proposed the following, quote;

“Council welcomes and supports the £130 million Government investment into education in Colchester, which will benefit all school children throughout the Borough. The “Building Schools for the Future” funding will enable an extensive refurbishment and rebuild programme in order to provide a modern learning environment for our young people.

Council believes that nothing should be done, or left undone, which would impede or hinder this investment and that Colchester Borough Council should fully cooperate with Essex County Council to help secure this multi million pound investment.

Council supports the need of Philip Morant School to improve the road access to its premises as part of the investment into that school, for which planning permission has already been granted by this Council. These improvements should be expedited by means of the Cabinet cooperating fully with the appropriate authorities to enable the land to be made available for the building of the access road.

This to be agreed by Cabinet at its next meeting on 21 October 2009 and be carried out as expeditiously as possible.”

Councillor Ford said this motion was approved and adopted, with thirty two voting in favour of the motion and twenty two abstaining. At the Cabinet meeting on 21 October 2009, the motion was discussed by Cabinet which resolved that the motion proposed by Councillor Bentley should be approved and adopted subject to (i) the Council seeking and obtaining written confirmation from Essex County Council and the Department for Children, Schools and Families about the status of the Building Schools for the Future funding if the new access road to Philip Morant school did not go ahead, and (ii) the outcome of the Statutory Public Consultation on the public open space which is being commenced immediately.

Councillor Ford said letters were sent from the Leader to Essex County Council and The Department for Children, Schools and Families and replies received from Lord Hanningfield, Leader of Essex County Council, Mr. Vernon Coaker, Minister of State for Schools and Learners, Ms. Joanna Killian, Chief Executive at Essex County Council and Ms. Christine Kane from the Office of Schools Commissioner. As you would expect, the replies were carefully crafted, and the inference was that the land at Norman Way needs to be transferred to enable the release of the £130 million funding. Councillor Ford said he sought legal advice on these replies from the Council's Monitoring Officer who advised that in his opinion the letters confirmed that the land for the road is required to enable the investment to progress to the next stage in the process, and that the land was the last thing to be put in place to complete the jigsaw puzzle that symbolises the incredible complex process of putting together the re-organisation of secondary schools in Colchester and the £130 million pound investment. Councillor Ford believed this confirmed that the land had to be released in order for the investment funding to be released.

Councillor Ford said the Constitution states that as a locally elected representative, the main duty of a Councillor is as a Community Leader, speaking and acting for all local people, assisting them as individuals and seeing that their area gets fair and proper treatment, that Councillors represent the interests of the Borough of Colchester as a whole. The transfer or possible transfer of public open space is a local issue which is tremendously important to people living there but unfortunately it has implications affecting the whole of the Colchester, and as a member of the Council, I am representing the interests of the Borough Council. Councillor Ford said there has been 1,176 responses expressing they are against the proposal and 310 responses expressing they are for the proposal, almost a four to one against the public open space being used as an access road to the school.

Councillor Ford said the Head Teacher at St Helena School told him that approximately 1,600 pupils in Colchester start each year at secondary

schools in year 7. Councillor Ford said if the investment funding is forthcoming and allows our schools to be cared for over the next twenty years, 32,000 pupils will have benefited from this investment, and given he was concerned about the interests of the people of the Borough of Colchester as a whole, 32,000 pupils was far greater than 1,176 responses against the proposal. Councillor Ford argued that whilst buildings themselves do not pass exams they are an important part in that mixture of variables necessary to the learning process. Councillor Ford read out a message from the Head Teacher at St Helena School expressing his concerns should the investment funding not go ahead.

Councillor Ford said the investment would enable children to get better qualifications, better jobs, more money, and pay more taxes that could be used for more future investment and so on. But there were negatives, one of which was the residents in the Norman Way area who will be disadvantaged by the access road, though he believed everything would be done to alleviate and lessen the impact on the quality of their lives. Closing schools and moving children around the Borough will increase traffic movements and add to carbon emissions, though this could be offset by buildings that are built with modern eco-friendly technology.

In conclusion, Councillor Ford said the access road is not, I believe, just an access road that will be built to the real inconvenience of local residents but is a catalyst that will impact on the lives of thousands of children and their families and the wellbeing of Colchester.

Mr. Adrian Pritchard, Chief Executive Officer attended the meeting and briefed the Panel on the outcomes of a meeting held the previous evening. At the Cabinet meeting on 2 December 2009, the Cabinet resolved that the Council should invite representatives of Essex County Council, Philip Morant School and Painters Corner and Irvine Road residents associations to a meeting to consider alternative methods to improve access to Philip Morant School without building the access road, that Colchester Borough Council and Essex County Council would be represented at the meeting by officers only, and the meeting would be held before the meeting of the Strategic Overview and Scrutiny Panel on 9 December 2009.

Mr. Pritchard confirmed attendees to the meeting were three officers from Essex County Council, two Governors and the Head Teacher of Philip Morant School, two representatives from both the aforementioned residents associations, himself and Ms. Ann Wain, Executive Director. Mr. Pritchard said each representative was asked to give an expression of their current position concerning this issue, and were then asked to put this position to one side so further discussions could continue without prejudice to enable the discussion to consider alternative options. Mr. Pritchard said he believed the

meeting had been useful.

Mr. Pritchard said the meeting had established that an outline business case has been drafted by the Partnership for Schools (PfS), based on schools being part of the discussions and consultation process. Essex County Council officers said if the land was not transferred and the access road not built, this would not categorically mean that the funding would not be forthcoming. However, at some point, they will look at the land assembly and delivery of a new access road, and any delay could trigger a series of other things that might happen, for example, at any point the Prime Minister could call a general election and PfS may well come to an end because of the state of public finances, but that could not be stated categorically.

Mr. Pritchard said Philip Morant school are clear that remodeling the school was reliant on achieving a new access road that has planning permission, though the need for this new road had been necessary and increasing since 1999. Mr. Pritchard confirmed that no questions were asked in reference to Compulsory Purchase.

The residents associations are clear that if an access road is built they will lose open space, and the road will cut across pedestrian and cycle routes running east to west of the open space. Whilst it was felt a new road would mitigate to some extent against traffic congestion around the school, as the road was to be only used by teachers, emergency vehicles and supply vehicles, this would be of limited benefit, outweighed by the loss of open space.

It was confirmed that if the PfS is successful, planning considerations of future applications would still be needed. Mr. Pritchard confirmed that he had received very late today a letter of thanks by Essex County Council for arranging the meeting, stating that Essex County Council had offered a range of mitigating proposals should the road be built. Mr. Pritchard concluded by saying no representatives to the meeting changed their position or view as a result of the meeting.

Councillor Turrell, Leader of the Council attended the meeting to discuss the issues with the Panel. In discussion Councillor Turrell said consultation had been undertaken prior to the decision that was taken by Cabinet. Councillor Turrell reiterated points already made at previous meetings that the re-organisation of schools in Colchester was in the control of Essex County Council, and Cabinet have never said that they do not want to get the £130 million investment funding for Essex.

Councillor Turrell contested the view that by not allowing the new access road was against four of the Strategic Plan Priorities, saying the current

arrangements allowed for a safe route for all the public walking and cycling in close vicinity to the Philip Morant School. Councillor Turrell said the Cabinet's main reason for voting against the proposal was the loss of public open space and in doing so had listened and responded to local residents. Councillor Turrell said for what ever reason, if the funding was not forthcoming, the Council would not be responsible for this, that cabinet had gone out their way to find a solution without a new access road on open space, but had not done anything to impede the investment. Councillor Turrell said that Philip Morant School now wanted the new access road regardless of the possible investment funding, and that had confused the issue.

Councillor Turrell responded to questions from panel members. In response to Councillor Naish, Councillor Turrell did not know what percentage of land would be lost to a new access road, but she did not want to loose any open space, no matter how small. Councillor Turrell said she and colleagues had worked hard to try to find a solution to the issue, including land swop, but all considerations had proved unsuccessful.

In response to Councillor Hogg, Councillor Turrell said though she had asked the question, in regards to the financial submission, she did not know where or how the funding would go, and in response to Councillor Sykes, said she believed in the value of public consultation, and with the Strategic Plan stating the Council will listen and respond, the Cabinet decision had reflected the greater weight of public response to opposing any new road on open space.

In response to Councillor Arnold, Councillor Turrell said the overall consultation response may have been small in relative terms to the Borough as a whole, but opposition to the proposal came from a variable mix of different areas and people of different ages within the Borough. Councillor Turrell reiterated her desire to continue to work to try to find an alternative practical solution. Mr. Pritchard said that land swap had not been categorically ruled out and could provide a possible solution. Councillor Turrell said whilst she understood there could be a land swop deal with Essex County Council the land in question was already used as open space so in reality there was no gain. Councillor Turrell also reiterated that Essex County Council had had many years to produce a sound business case but the Borough was been used as a scapegoat.

In response to Councillor Lilley, Councillor Turrell said she was not against the investment funding, was positively in favour of it, but did not wish to be pushed into a corner over the decision. Councillor Turrell reiterated that she was trying to find an alternative solution and was being provided with information from Council officers though some of this was conflicting, She reiterated to Councillor Maclean that land swop was not the only solution being considered and efforts involving many meetings with Essex County Council had taken

place and would continue in an effort for an alternative solution.

In response to Councillor Willetts, Councillor Turrell said the intention of a new access road only came to the fore very recently, and whilst she accepted the actual number of consultation responses only represented 1-2% of the local population, she could not make an assumption on the views of the 98-99% of the local population who did not respond.

In regards to issuing a Compulsory Purchase Order (CPO) for the open space to provide a new access road, Mr. Pritchard responded to members by saying Essex County Council could issue a CPO but they have said it would take between 6 to 12 months to resolve. Therefore it was possible that the PfS discussions may not be completed because Essex County Council could not determine the outcome of the CPO judgment.

Councillor Ford and Councillor Turrell gave brief summaries on their respective positions following the debate.

Following the discussions the Chairman invited panel members to confirm the decision made by Cabinet as set out in minute 44 of the Cabinet meeting on 2 December 2009 (THREE voted FOR and SEVEN voted against, with ONE abstention).

RESOLVED that the panel (SEVEN voted FOR and FOUR ABSTAINED) referred the decision back to the Cabinet for further consideration setting out in writing the nature of its concerns;

i) The Cabinet should give much more weight to the strategic impact of a failure to release the land.

ii) Cabinet should not bring factors already dealt with in the planning process into the executive decision.

iii) The Cabinet should recognise the practical reality that Essex County Council cannot complete a business case without the principle agreement of the Borough Council to release the land.

iv) The Cabinet should take the opportunities to increase the net amount of real public open space in the vicinity of Philip Morant School that have emerged since Full Council considered the issue on 14 October 2009.

39. Councillor Call for Action

Councillor Goss, ward councillor for Mile End, addressed the panel to request that the panel undertake a review under Councillor Call for Action, to

investigate the issue of parking restrictions on roads off Turner Road and in close vicinity to Colchester General Hospital. Councillor Goss gave a resume on the events and actions that had taken place leading up to this request. In response to Councillor Arnold, Councillor Goss said the Highway Authority still take the view that they believe there is not a traffic problem.

Councillor Taylor, also a Mile End Councillor confirmed the issue raised by Councillor Goss, saying previous consultations giving one hundred percent support for action to be taken, had never materialised into any form of progress. Councillor Turrell, Mile End Councillor concurred with the views given by Councillor Goss and Taylor.

Councillor Naish said the parking issue extended to Thornwood Road, and was not mentioned in the paragraph 3.1 of the report.

RESOLVED that the panel agreed that a letter should be sent from the panel to Councillor Hume, Essex County Council Portfolio Holder for Highways and Transportation asking him to respond to the issues raised by Councillor Goss, and that any further action would be put on hold until the panel could consider the response from Councillor Hume.

40. 2010-11 Budget - update

Mr. Charles Warboys, Head of Resource Management, Mr. Sean Plummer, Finance Manager and Ms. Ann Wain, Executive Director attended the meeting for this item. Mr. Plummer presented the report 2010-11 Budget – Update.

Councillor Taylor said the budget papers did not indicate where there had been a shift in resources against the current Strategic Plan. Ms. Wain said the Council's priorities had not changed, and whilst there was not an opportunity to shift large amounts of finance, there had been an opportunity to address the requirements by changing officer's responsibilities. The brief, which had been addressed, was to ensure the proposals met the strategic priorities, supported in part and as an example, the sale of the Angel Court building and increased income from Leisure World, a bonus out of the economic downturn, with increasing numbers of customers making use of competitively priced Council facilities.

It was confirmed to the panel that the Medium Term Forecast would be updated once the Budget is agreed, and would be reported to the Finance and Audit Scrutiny Panel, Cabinet and Council. Ms. Wain confirmed that this was the last year the Budget would benefit from a LABGI Grant and the Housing and Planning Delivery Grant (HPDG), which would put added pressures on future budgets. Ms. Wain also confirmed that future growth items for 2010-11,

such as funding towards improved recycling rates or a 'Clean All Graffiti Strategy' will be considered by Cabinet before the final Budget is agreed. Ms. Wain said it was unlikely all growth items would be funded, with a need to make difficult decisions through prioritizing. Councillor Arnold commented that without new items drafted for consideration, it was difficult for the panel to take an overview on the Budget update report.

Members agreed with Councillor Willetts that the report needed updating to reflect items such as the HPDG.

Officers were thanked for attending the meeting and responding to questions.

RESOLVED that the panel considered and noted the 2010-11 Budget Update, and asked the Cabinet to consider the panel's comments.

41. Review of the work of the Leader, Portfolio Holder for Strategy

Councillor Turrell, Leader of the Council and Portfolio Holder for Strategy, and Mr. Adrian Pritchard, Chief Executive Officer, attended the meeting for this item.

The Constitution stated one of the Leader's responsibilities as a need to sell to the Borough of Colchester and beyond, the Council's vision, actions and objectives. In response to this question from Councillor Arnold, Councillor Turrell agreed, saying it was imperative Colchester remained a place where people want to live and work, and was evident within the Council's nine priorities within the Strategic Plan. Councillor Turrell said her contribution to this was to work at a strategic level that included many meetings and dialogue with Essex County Council on various projects such as the new A12 Junction / Park and Ride Scheme that would help towards one of the priorities of 'congestion busting' in the town.

In response to Councillor Naish, Councillor Turrell said Essex County Council was just one of many partners with whom she had regular meetings and contact, others including neighbouring local authorities, Haven Gateway Partnership, Regional Cities East and Colchester2020, all of whom are working together to find improved partnership working and that will benefit residents and visitors to Colchester. Responding to Councillor Taylor later on in the debate, Mr. Pritchard said Concessionary Fares was an excellent example of local authorities working in partnership and finding a solution that was a sensible way forward.

Councillor Turrell responded to Councillor Naish by saying that because the transfer of land at Norman Way had not until now been resolved, that this

issue could not be construed as the partnership not working. The Council and Essex County Council work together on many projects at many different levels, and positive high level work will continue with County regardless of the outcomes of the transfer of land.

Responding to Councillor Chapman, Councillor Turrell said the Haven Gateway Partnership (HGP) was still providing regeneration funding, be it a smaller amount. That said, with Essex County Council providing financial impetus to the new A12 junction, the regeneration of the cultural quarter would continue. Councillor Turrell and Mr. Pritchard said that Regional Cities East (RCE) provided a flow of funding. RCE was an important influence and lobbying group to put six regional towns and cities on the national agenda, and a significant partner to the 'Homes and Communities Agency' (HCA), the lead agency for national housing and regeneration.

Councillor Turrell confirmed to Councillor Taylor that should the Government give the go ahead to apply for unitary status, this would be a decision taken by Full Council.

Councillor Turrell, in response to Councillor Arnold, said the Council had a communications strategy that will support and deliver the Council's vision, which had been revised to make simple and easy to read and was available on the website. Mr. Pritchard said the Council's aforementioned partners play a significant role in getting the message out for Colchester, with Colchester featuring in RCE campaigns, the HGP promoting Colchester and Ipswich as major partners and Colchester2020 pushing the role of the Council in what it achieves through the delivery of the Strategic Plan. Councillor Turrell responded to Councillor Willetts, saying the Council's Strategy had the mechanisms built in, to ensure actions are accomplished, but she would continue to meet with partners on a regular basis to be provided updates, discuss new ideas put forward and discuss and resolve issues.

RESOLVED that the panel thanked Councillor Turrell and Mr. Pritchard for attending the meeting and responding to member's questions.