

CABINET

21 OCTOBER 2009

Present :- Councillor Anne Turrell (Chairman)
Councillors Tina Dopson, Martin Hunt, Nigel Offen,
Beverley Oxford, Paul Smith and Tim Young

Also in Attendance :- Councillor Kevin Bentley
Councillor Peter Chillingworth
Councillor Barrie Cook
Councillor Beverly Davies
Councillor Andrew Ellis
Councillor Stephen Ford
Councillor Martin Goss
Councillor Mike Hardy
Councillor Dave Harris
Councillor Pauline Hazell
Councillor Sonia Lewis
Councillor Sue Lissimore
Councillor Jackie Maclean
Councillor Jon Manning
Councillor Gerard Oxford
Councillor Ann Quarrie
Councillor Terry Sutton
Councillor Jill Tod

Date draft minutes published: 22 October 2009

Date when decisions may be implemented if not called in: 29 October 2009

All decisions except urgent decisions and those recommended to Council may be subject to call in. The decision at minute 38 has been certified as an urgent decision by the Proper Officer and the Chairman of the Strategic Overview and Scrutiny Panel and is not subject to call in. Requests for scrutiny of decisions by the Strategic Overview and Scrutiny Panel must be signed by at least one Councillor and countersigned by four other Councillors (or alternatively support may be indicated). All such requests must be delivered to the Proper Officer by no later than 5pm on:29 October 2009

36. Minutes

The minutes of the meeting held on 9 September 2009 were confirmed as a correct record.

37. Have Your Say!

Mr Nicholson addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) about problems arising from the use of Boxted Road as one of the main routes to the Community Stadium. Boxted Road needed to be widened and to have proper lighting and safety barriers installed. Without such improvements, it was not a safe route to the stadium. Objections on this basis had been raised at the planning stage, but had been over-ridden. The Council had also made Boxted Road the main route for shuttle buses which had exacerbated the problems. Concerns had proved well founded, as the police had on occasions closed Boxted Road without notice on safety grounds. This meant residents could not access their homes. Whilst an agreement had been reached so that closures would be planned in future, closures were not the long term solution. The Council should enter into talks with Essex County Council to upgrade Boxted Road to create a safe environment on matchdays and prevent residents being denied access to their homes. Mr Nicolson presented a petition to the Leader of the Council with over 1000 signatures in support of his proposal.

Mr Ost addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) to express his support for the campaign for improvements to Boxted Road. The present footpath and lighting were inadequate. It was not clear who would be liable if there was a serious accident but the issue should be addressed before this happened. The problems would only be exacerbated if the stadium were to be used at full capacity.

Councillor Goss attended and addressed the Cabinet to support the comments made by Mr Nicholson and Mr Ost. Mile End residents supported the stadium, but the improvements outlined were necessary. Whilst funding from the Community Initiatives Fund may be sought for the improvements, pressure needed to be put on Essex County Council to deal with these issues.

Councillor Turrell indicated that she was aware of the problems and sympathised with the views of residents. The Council would start negotiations with Essex County Council on this issue.

Paula Whitney addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) to express her concern about the cutting back of trees on Crouch Street, which had destroyed the visual aspect of the street. Thousands of trees had been lost in the borough as a result of road and house building. She was concerned that the redevelopment of St Botolphs would result in the loss of more mature trees, which contributed to the beauty of the area. She urged the Cabinet to seek to retain these trees and stressed the environmental benefits of mature trees.

Councillor Turrell, Leader of the Council and Portfolio Holder for Strategy and Councillor Hunt, Portfolio Holder for Communication and Customers, responded and stressed that the trees on Crouch Street had been cut by Essex County Council. It was the Borough Council's policy to only cut back trees when absolutely necessary and it was committed to a policy of tree planting.

Andy Hamilton addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). He responded to comments made about the audit of the Visual Arts Facility (VAF) at Council on 14 October. He reiterated his belief that the auditor and Audit Commission had failed to address deficiencies in the accounts for the VAF. The secret sale of 15 Queen Street was illegal and against the public interest. The Council had until 25 October to apologise and to allow others to try and purchase the building.

Councillor Turrell, Leader of the Council and Portfolio Holder for Strategy indicated that a written reply would be sent. The Monitoring Officer confirmed that the sale of 15 Queen Street was legal and the Council had been entitled to deal with the sale in the way that it had.

Councillor Tina Dopson (in respect of her employment by Essex County Council) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Anne Turrell (in respect of her membership of Essex County Council) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Kevin Bentley (in respect of his membership of Essex County Council) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Tim Young (in respect of his spouse being a member of Essex County Council) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Martin Hunt (in respect of his long standing campaigning against the extension of Norman Way and the loss of open space that would result from such an extension) declared a personal interest in the following item which is also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10) Councillor Hunt made representations in accordance with Paragraph 12(2) of the Code of Conduct for Members and

then left the meeting during the Cabinet's consideration and determination of the item.

38. Motion informing Cabinet of the view of Council on the School's Investment Programme

The Chairman had agreed pursuant to the provisions of Section 100B(4)(b) of the Local Government Act 1972 to consider the following item at this meeting as a matter of urgency following its referral to Cabinet at the Council meeting held on 14 October 2009

The following motion was referred to the Cabinet by Council at its meeting on 14 October 2009:-

“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.”

Mr Darcy-Jones addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). He confirmed that he was speaking in a private capacity, rather than in his professional capacity as a journalist. As a local resident he wanted to see the area remain as an open space. He did not understand why the issue of the development of this public open space had become linked to the wider issue of the schools reorganisation. There was no need for the proposed new access road. Philip Morant had been able to build a new sixth form block using the existing access. The existing access had worked satisfactorily for twenty-five years. Colchester was losing too many open spaces and was becoming too built up.

Mr Kennedy, Chairman of the Irvine Road Residents Association addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5 (2). He expressed dismay that the issue of the access road was being used by politicians to attack each other and that as a result it was difficult for residents to find out exactly what the position was. Philip Morant was attempting to coerce the Council into leasing them the land in order to over-ride local opposition. He queried why Philip Morant had taken so long to seek to build the road. He expressed concern that in the current economic and political climate, the funding for schools reorganisation may be withdrawn, leaving no benefit despite the construction of the road. The road would also be a waste of funding which could be used for a better purpose.

Mr Richards addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). He did not believe the new access road would solve the existing problems of access and congestion. The new road would only be available for the use of staff, deliveries, construction traffic and emergency vehicles. Parents bringing pupils to school would still use the roads that suffered congestion now. The open land was used daily by residents for recreation and dog walking. There was no need for the new access as Philip Morant had coped with the existing situation for a long time.

Mr Barrow addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). The proposed new access road would dissect a valuable open space. It would need to be fenced and guarded and would promote the further development of the remaining open space in the area. Little effort had been put into finding alternative solutions to the traffic problems in the area. The approved plans for the new access road did not deal with detailed issues such as maintenance of footpaths. The borough council should resist this bullying from Essex County Council and seek a covenant to exclude any development on this land to protect it in perpetuity.

Paula Whitney addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). Representing Friends of the Earth she stressed the importance of preserving open spaces. In a private capacity she expressed her dislike of massive schools and stressed that smaller, local schools were preferable. The issues that had arisen showed the need for a unitary authority which would prevent conflict between different tiers of local government.

Richard Pettit, Chair of the Painters Corner Residents Association addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5 (2). He endorsed the comments made by previous speakers. It was Council policy to protect public open spaces. He stressed that, contrary to claims made at the Council meeting, Philip Morant did not own most of the land that was needed to construct the new access and that the access road could not

be built without losing much open space. There needed to be full public consultation on any proposed loss of public open space. Even if the access road were built it would not alleviate the traffic problems as parents would not be allowed to use it. They would continue to use the roads surrounding the existing access. A traffic impact assessment should be undertaken before any final decision to build the road was taken.

Tim Oxtan addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) and explained that this had been open land with public access for at least eighty years. After the next elections there would be massive cuts in public spending so there could be no guarantee that the funding for the schools would be received.

Councillor Hunt addressed the Cabinet in accordance with Paragraph 12(2) of the Code of Conduct for Members. He explained that he had campaigned against the development of this open space for at least fifteen years. In all that period he had never received any evidence that led him to believe that the road was necessary. This was demonstrated by the fact that Philip Morant had never previously sought to implement their planning permission and that Lord Hanningfield had twice said in public debates that the new access road was not needed as part of the reorganisation.

Councillor Lissimore attended and addressed the Cabinet. She drew the Cabinet's attention to the results of a survey of local opinions in Prettygate on the construction of the new access road. This had revealed a small majority of those expressing a view favouring the access road. Those nearer Philip Morant were more likely to oppose it. If the road were to go ahead she would seek to lessen its impact and would ensure that the planning permission conditions were closely monitored. If were not to proceed she would seek to improve the roads and footpaths and would work with Philip Morant and feeder schools to lessen car journeys to the School. If the road were to be built it must not become a catalyst for further development of the remaining open space.

Councillor Bentley attended and addressed the Cabinet. He stressed that the decision on the school closures had already been taken and could not be reversed even if the construction of the new access road were not to go ahead. He hoped that a vocational college would be built in South Colchester and he was seeking to secure provision for years seven and eight as part of this. In reaching its decision to sign up to the reorganisation, Philip Morant had decided it needed to implement the planning permission for the new access road in order for it to expand. If this was not allowed to proceed this could put in jeopardy the investment that schools in Colchester so badly needed. This funding needed to be accepted whilst it remained on offer. The remaining open space would be protected.

Councillor Turrell, Leader of the Council and Portfolio Holder for Strategy, stressed that Full Council had supported the motion to release the land to Philip Morant and Cabinet could not ignore the majority wishes of the Council. However, it was important that the Cabinet had the full facts. If the Council was minded to dispose of any public open space it had a statutory duty to carry out a public consultation consisting of two weeks of advert in a newspaper and three weeks response time. It was proposed that the motion from Council be endorsed subject to this statutory public consultation and to confirmation being sought from Essex County Council and the Department for Children, Schools and Families about the status of the funding should the road not proceed.

Councillor Young, Portfolio Holder for Street and Waste Services, Councillor Offen, Portfolio Holder for Resources and Business, Councillor Smith, Portfolio Holder for Culture and Diversity and Councillor Dopson, Portfolio Holder for Performances and Partnerships, expressed their support for this proposal.

RESOLVED that the motion referred by Council to Cabinet at its meeting on 14 October 2009 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;

(ii) the outcome of the Statutory Public Consultation on the public open space which is being commenced immediately.

REASONS FOR DECISION

The Cabinet did not wish to ignore the wishes of the majority of full Council. However, Cabinet needed to ascertain the full facts and the Council had a statutory duty to undertake a public consultation when considering the disposal of public open space.

ALTERNATIVE OPTIONS

To decline to adopt the motion or to adopt the motion without conditions or restrictions.

Councillor Tim Young (in respect of his spouse's membership of the board of Colchester Borough Homes) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

39. Capital Improvement Programme (Decent Homes)

The Head of Strategic Policy and Regeneration submitted a report a copy of which had been circulated to each Member and a copy of which appears as Appendix A to these minutes in the Minute Book.

Councillor Lissimore attended and addressed the Cabinet to enquire why the work had been packaged in the way that it had as it had made it impossible for local firms to bid for the work. This was contrary to the principles of Colchester Borough Homes Local Business Accord and to the Liberal Democrats Keeping Business Local campaign. She hoped that local suppliers and subcontractors would be used.

Councillor B. Oxford, Portfolio Holder for Neighbourhoods presented the report and explained that recommencing the decent homes programme was good news and would be a major benefit for Colchester. There had been considerable tenant involvement in the tender process and decision making. In respect of the issues surrounding Apollo, it was noted that Apollo were appealing against the findings of the Office of Fair Trading. Legal advice had been sought, the conclusions of which were set out in the Head of Strategic Policy and Regeneration's report. The contract would be subject to rigorous monitoring by both the Portfolio Holder and the Finance and Audit Scrutiny Panel.

Councillor Smith, Portfolio Holder for Culture and Diversity, responded to Councillor Lissimore's comment and explained that it would be illegal to discriminate in any way during the tender process on the basis of the geographical locations of the companies involved. Given the size of the project, Colchester would not have firms of the size needed to bid for the contract. However, Colchester Borough Homes did support local businesses.

Councillor T. Young, Portfolio Holder for Street and Waste Services, indicated that Councillor Lissimore's concerns would be best directed towards the board of Colchester Borough Homes. Colchester Borough Homes had a good record of supporting local business and a lot of work under the contracts would be subcontracted to local firms.

RESOLVED that:-

(i) The Capital Improvements Programme be recommenced in the autumn of 2009 with the aim to complete the decent homes programme by December 2012 and within the resources available to the Council.

(ii) Two contracts for the Internal Works elements be awarded, one to Apollo

Property Services Group and the second to Mears Limited

(iii) The Windows and Doors Contract be awarded to Apollo Property Services Group

REASONS

(i) The Council remained committed to reaching the 'decent homes standard' for its housing stock and had received Government funding of £35m towards this programme.

(ii) The Council needed to achieve the Decent Homes standard to its housing stock by December 2012 and within the available resources as agreed by Cabinet on 28 January 2009. This approach was also accepted by the Department of Communities and Local Government and the Housing and Communities Agency in February 2009.

(iii) The procurement approach agreed by Cabinet on 28 January 2009 was one of a full European (EU) compliant process (OJEU) with the Council acting as the awarding body for any contracts placed and Colchester Borough Homes (CBH) acting as the employer's agent (Contract Administrator).

ALTERNATIVE OPTIONS

As part of the overall Capital Improvement Programme, the Decent Homes Programme was a national programme with agreed targets for completion and therefore the Council had no alternative but to recommence the Capital Improvement Programme.

40. Review of Crematorium and Cemetery Regulations

The Head of Environmental and Protective Services submitted a report a copy of which had been circulated to each Member and a copy of which appears as Appendix B to these minutes in the Minute Book.

Councillor T. Young, Portfolio Holder for Street and Waste Services, explained that the vast majority of visitors to the cemetery behaved and dressed appropriately, but there were problems with a small minority. In bringing forward the new regulations the administration had listened to the concerns of residents and responded accordingly, as it had promised it would.

RESOLVED that :-

(i) The proposed changes to the Crematorium and Cemetery Regulations as

set out in the Head of Environmental and Protective Services report be agreed;

(ii) The new Crematorium and Cemetery Regulations to come into force on 1 November 2009 and to be enforced from 1 May 2010.

REASONS

Actions of the public who used the cemetery in recent months have often run contra to the existing regulations and have highlighted the need for tighter and more prescriptive regulations, and for diligent enforcement of the regulations.

ALTERNATIVE OPTIONS

Consideration was given to rigorously enforcing the current regulations, but it was thought some of them might be capable of being misunderstood.

41. 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 and a copy of which appears as Appendix C to these minutes in the Minute Book.

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.