

# CABINET

## 8 SEPTEMBER 2010

*Present :-* Councillor Anne Turrell (the Leader of the Council)  
(Chairman)  
Councillors Nick Barlow, Lyn Barton, Tina Dopson,  
Beverley Oxford and Tim Young

*Also in Attendance :-* Councillor Kevin Bentley  
Councillor Barrie Cook  
Councillor Mark Cory  
Councillor Andrew Ellis  
Councillor Wyn Foster  
Councillor Martin Goss  
Councillor Pauline Hazell  
Councillor Jon Manning  
Councillor Colin Mudie  
Councillor Ann Quarrie

### 23. Minutes

The minutes of the meeting held on 30 June 2010 were confirmed as a correct record.

**Councillor Kevin Bentley (in respect of his membership of Essex County Council and the Haven Gateway Partnership) 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's 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 Lyn Barton and Councillor Anne Turrell (in respect of their membership of Essex County Council and the Haven Gateway Partnership) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

### 24. Impact of Emerging Government Policy of "Localism" and the Revocation of Regional Housing Targets

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 together with draft minute 16 of the Local Development Framework Committee meeting of 16 August 2010.

Ian Vipond, Executive Director, and David Couttie, Managing Director of DCA, attended to assist the Cabinet in its deliberations and the Cabinet also received a presentation from David Couttie.

Dan Caffin addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). He argued that the main point at issue was not the need for housing but where housing should be located. Quality of life was also an important factor that needed to be taken into consideration. Local residents in Braiswick and local councillors were well aware of the problems that would occur if 2200 new homes were built in the Mile End /Braiswick area. For example, the transport system, which was already deteriorating, would be unable to cope with the additional traffic that this level of new housing would generate.

Pete Hewitt addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). In considering whether to amend or revoke the Core Strategy, the Cabinet needed to consider whether it could be delivered and whether a Strategy based on pre- recession data could still be considered as valid. The Cabinet needed to review the later stages of the Core Strategy and remove the allocated green field sites in Mile End for the health and well being of local residents.

Councillor Jean Dickinson, of Myland Parish Council Local Development Framework Group, addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) to express concern about the resolution of the Local Development Framework Committee on 16 August 2010. Whilst much of the Core Strategy was excellent, there was still too much information outstanding about some of the sites, particularly in Mile End. The Haven Gateway Partnership, of which she was a member, was undertaking research that was relevant to these sites. The Core Strategy should not be retained indefinitely and should be reviewed once this research was completed and further information relevant to the sites was available.

Councillor John Gili-Ross addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) on behalf of the Colchester Association of Local Councils (CALC). He reiterated CALC's request that a Task and Finish Group be established composed of members and officers to conduct an impact assessment of the proposed developments in north Colchester between the A12 and the mainline railway line. The purpose of this was not to question whether the developments should go ahead but to look at the impact on issues such as transport, footpaths and cycleways and to look at how these could be improved.

David Clouston addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) to stress that the short term need for housing should be balanced against the infinite cost of developing greenfield sites. New housing could now last for 1000 years so the decision to develop greenfield sites because of a short term need should be very carefully considered. He also expressed concern about the use of Housing and Planning Delivery Grant funding to fund salaries of officers.

Catherine Clouston addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). She thanked Councillors and officers for the courtesy she had been shown whilst campaigning against the housing allocations for Myland and Braiswick. She argued that as houses were now built to such a high specification that if they were built on greenfield sites then the consequences would be felt for generations.

Councillor Bentley attended and addressed the Cabinet. He believed there was a general consensus amongst Councillors that Colchester was “full”. Colchester had been transformed but the infrastructure that had been promised to support the housing growth had not been delivered. The need for some growth was accepted, and the Core Strategy was a mechanism by which this growth could be controlled. It would be dangerous to abandon the Core Strategy and if it was reviewed there was a risk that larger housing allocations would result. The Core Strategy should be retained but should be kept under constant review. The Council needed to ensure that it had an ongoing debate about the nature of the borough.

Councillor Goss attended and addressed the Cabinet to express his concern about the lack of flexibility in the LDF process due to the costs involved in conducting a review. There were many brownfield sites around the borough that were not being developed. There should be an emphasis on regeneration so that all brownfield sites were developed before consideration was given to any greenfield sites. He believed that the Core Strategy was sound: it was only the site allocations that were causing concerns. Other issues such as immigration, block buying of housing and new information provided by the census in 2011 needed to be taken into account in assessing housing need. He also questioned whether there was sufficient capacity in the building industry locally to build more than 1000 homes per year.

Ian Vipond and David Couttie were invited to address the points raised by the speakers and made the following points:-

- The Core Strategy had been found sound by an independent inspector and had been adopted by Council. Concerns about the impact on local communities were acknowledged. However much of the detail about developments was yet to be decided and would be addressed through work on masterplans.
- To formally review the Core Strategy would be expensive and time consuming as the evidence base would need to be reviewed. Not all of this work could be done in partnership and so the costs would be met by the Borough. It was vitally important that the Core Strategy was regularly monitored and kept under review and this work was done through the Local Development Framework Committee.
- Changing demographics would have a dramatic impact over a short period of time on the numbers and types of housing needed;
- There was a direct correlation between land values and the supply of affordable housing;
- Colchester had a good record of developing brownfield sites. However, some sites were very expensive to deliver.
- The long term impact of developing a greenfield site was acknowledged. However, once developed it did provide housing for generations.
- The census would not begin to report until 2013 and the information gathered was released gradually over time;
- Capital funding for employees was allowed if they were employed on capital projects.

Councillor Barton, Portfolio Holder for Planning and Sustainability, explained that legal advice had been obtained that the Core Strategy could not be revoked without a new document being in place. It would be time consuming and expensive to do so. Also to

revoke the Core Strategy would leave the Council vulnerable to planning by appeal. If the Core Strategy were to be reviewed, it would need to rely on the same evidence base and there would also be a risk that a Core Strategy with different policies and targets may not be found to be sound. More clarity was needed from central government about its planning and housing policies. Also feedback was awaited from the Inspector on the site allocations. It would not be appropriate to review the Core Strategy until there was clarity on these issues. In the meantime the Council would continue to try and encourage the development of brownfield sites.

Councillor Turrell, in her capacity as Leader of the Council and Portfolio Holder for Strategy and Performance, stressed the importance of constantly reviewing and monitoring the Core Strategy. The request from CALC for a Task and Finish Group to conduct an impact assessment on developments in north Colchester would be referred to the Chairman of the Local Development Framework Committee. The importance of developing brownfield sites first was emphasised. The sites in Mile End and Braiswick were being examined to see if the allocations could be reduced. In any case work would not start before 2016. In view of the lack of information about relevant government policies it would not be appropriate to review the Core Strategy at this stage but it was recommended that the Local Development Framework Committee review the Core Strategy in 2012 when there should be more clarity on these policies

*RESOLVED* that:-

(a) The coalition government's emerging policy of localism, the revocation of regional housing targets and the implications for Colchester's Local Development Framework be noted (UNANIMOUS).

(b) The resolution of the Local Development Framework Committee on 16 August 2010 to retain the Core Strategy be noted (UNANIMOUS).

*RECOMMENDED* to the Local Development Framework Committee that a review of the Core Strategy be undertaken in 2012 (UNANIMOUS).

#### *REASONS*

Cabinet agreed at its meeting on 30 June 2010 to ask officers to prepare a report for this meeting in September. The minute required the report to set out the following;

'the position regarding the Core Strategy, whether it was possible for it to be abandoned or revoked and if so exploring the potential benefits and risks in doing so. In particular the impact on social housing was to be addressed in the report.'

#### *ALTERNATIVE OPTIONS*

(a) Legal advice has been sought which confirms that the Core Strategy cannot be revoked or abandoned. It forms part of the statutory development plan which the Council has a duty to provide. It would only be possible to replace the Core Strategy after going through all the statutory processes with a new document and there would need to be a good reason for doing so.

(b) The Local Development Framework Committee considered a number of options at their meeting on 16 August;

- The Core Strategy is retained unchanged.
- The Core Strategy, or parts of it, is reviewed leading to the eventual replacement of the existing adopted document. This would require;
- Parts or the entire evidence base on which the Core Strategy is based to be reviewed.

(c) Development Plan Documents (DPDs) are subject to an examination process which assesses both whether they have been produced in accordance with the legislative process and for 'soundness'. Soundness is explained in PPS12 at paragraph 5.2. One of the tests of soundness is whether the content is 'justified' by reliable, up to date and convincing evidence. This is reinforced by PPS12 which requires DPDs to be 'founded on a robust and credible evidence base.' It therefore follows that the Council cannot in accordance with the regulations, act to review, revoke or abandon the Core Strategy without new evidence.

## **25. 2009/10 Year End Review of Risk Management**

The Head of Resource Management 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.

*RESOLVED* that:-

- (a) The risk management work undertaken during 2009/10 be noted.
- (b) The current strategic risk register be noted.
- (c) The risk management strategy for 2010/11 be approved.

*RECOMMENDED* to *COUNCIL* that the risk management strategy for 2010/11 be included within the Policy Framework.

*REASONS*

(a) 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.

(b) During the year quarterly progress reports are presented to the Finance and Audit Scrutiny Panel (FASP) detailing work undertaken and current issues. A report was presented to FASP on 27 July 2010 where they approved its referral to Cabinet

(c) The Risk Management Strategy is one of the Corporate Governance documents that supports the Constitution of the Council. Therefore any amendments have to be

approved by full Council.

#### *ALTERNATIVE OPTIONS*

It was open to Cabinet not to approve the risk management strategy for 2010/11 or not to recommend to Council that it be included within the Policy Framework.

### **26. Payment Options for the Provision of New Cremators for Colchester Crematorium**

The Head of Resource Management submitted a report 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 value of the “Replacement of Cremators” scheme within the Council’s capital programme be increased from £350,000 to £699,000 to reflect the outright purchase of both cremators, with £500,000 being funded through external borrowing and the remaining £199,000 coming from the fund that was built up for this purpose in the Repairs and Renewals reserve.

#### *REASONS*

On 9 September 2009 Cabinet recommended to Council that the provision of two new cremators be included in the capital programme, with the payment method being a combination of leasing and borrowing due to the Council’s forecast VAT partial exemption position.

#### *ALTERNATIVE OPTIONS*

The proposals contained in the Head of Resource Management’s report represent the best value for money both on an annual basis, as well as over the whole life of the asset.

### **27. Local Government Ombudsman - Annual Review 2009/2010**

The Monitoring Officer submitted a report a copy of which had been circulated to each Member and a copy of which appears as Appendix D to these minutes in the Minute Book.

Councillor B. Oxford, Portfolio Holder for Customers, explained that whilst the contents of the report were very encouraging, the Council was not complacent and the advice provided by the Ombudsman was noted and would be implemented.

*RESOLVED* that the contents of the Local Government Ombudsman’s Annual Review 2009/10 be noted.

#### *REASONS*

To inform the Cabinet of the number and type of decisions made by the Local Government Ombudsman in relation to Colchester during 2009/10.

### *ALTERNATIVE OPTIONS*

No alternative options were presented to the Cabinet.

## **28. Revised Executive Arrangements**

The Monitoring Officer submitted a report a copy of which had been circulated to each Member and a copy of which appears as Appendix E to these minutes in the Minute Book.

Councillor Turrell, Portfolio Holder for Strategy and Performance, explained that in view of the advice from the Minister of Housing and Local Government, the Cabinet had no option but to institute the necessary arrangements to comply with the requirement to adopt revised executive arrangements under the Local Government and Public Involvement in Health Act 2007, even though further changes may be required within a year. If it did not do so the Council may not be legally constituted.

(a) *RECOMMENDED TO COUNCIL* that it note the procedure and timetable for the review of executive arrangements under Part 3 of the Local Government and Public Involvement in Health Act 2007 and that it authorise the required public consultation be carried out as the initial stage of the procedure.

(b) *RESOLVED* that the outcome of the public consultation and the decision required of Council be delegated to the Leader of the Council in consultation with Group Leaders.

(c) *RECOMMENDED TO COUNCIL* that it delegate to the Leader of the Council in consultation with Group Leaders the decision on which of the options to adopt.

### *REASONS*

The Council is obliged to comply with the requirements set out in part 3 of the Local Government and Public Involvement in Health Act 2007. If it fails to adopt either, the Secretary of State has power to impose on it the Leader and Executive form.

The delegation at (b) above is intended to enable the Leader of the Council in consultation with the Group Leaders to consider the results of the consultation and to recommend to Council which option it should adopt at the Special Council meeting on 9 December 2010. The recommendation will be debated and determined by Council.

The delegation at (c) above is intended to enable the Leader of the Council in consultation with Group Leaders to publish the required public notice of intention to adopt revised arrangements prior to the Special Council meeting on 9 December

2010. The final decision will be taken by Council on 9 December 2010.

#### *ALTERNATIVE OPTIONS*

Although options will be available to the Council at a later stage of this process, the decisions set out in the Monitoring Officer's report deal with a statutory procedure which the Council must follow.

### **29. Revised Scheme of Delegation to Officers**

The Monitoring Officer submitted a report a copy of which had been circulated to each Member and a copy of which appears as Appendix F to these minutes in the Minute Book.

*RESOLVED* that the revised Scheme of Delegation to Officers from the Cabinet attached to the Monitoring Officer's report be approved with immediate effect.

#### *REASONS*

The existing Scheme of Delegation to Officers from the Cabinet requires updating primarily to reflect changes in functions and responsibilities following the Fundamental Service Review of Housing Services.

#### *ALTERNATIVE OPTIONS*

No alternative options were presented to Cabinet.

### **30. 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 G 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.

**Councillor Lyn Barton and Councillor Anne Turrell (in respect of their member ship**



**of the Haven Gateway Partnership) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**31. Proposed Purchase of the Old Police Station, Queen Street, Colchester**

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 H to these minutes in the Minute Book together with an appendix containing exempt information a copy of which appears as Appendix I to these minutes.

*RESOLVED* that:

(a) Authority be delegated to the Head of Strategic Policy and Regeneration to negotiate the purchase of the Old Police Station building, Queen Street, subject to confirmation of external funding being awarded, a full structural survey and completion of the provisionally arranged lease for the licensed premises.

(b) The capital receipt from the sale of Roman and St James House be used as part of the payment for the Old Police Station.

(c) Revised Heads of Terms to be presented to the Cabinet at its next meeting in October 2010.

*REASONS*

(a) The original Heads of Terms, agreed by Cabinet in September 2009 included the delivery of a new Hotel a refurbished St. James House with 7,500 sq ft of space leased back to the Council, on a peppercorn rent, to locate a creative business centre. Given the current revised proposals to deliver the hotel it is necessary to consider an alternative approach to provide the creative business centre.

(b) This proposal will offer the Council a revenue saving. Both Roman and St. James Houses are liable for rates, management and maintenance costs which can be saved. Also, the purchase of the Old Police Station offers potential lease value.

(c) It is estimated that around 172 jobs will be created from the Hotel, retail and creative business centre. There will also be a multiplier effect in terms of secondary jobs in Colchester.

(d) The proposal will secure this strategically important site for delivery of the Cultural Quarter element of the St. Botolph's Masterplan agreed by full Council in June 2005.

(e) This proposal offers an opportunity to secure £500,000 of external funding which otherwise would not be available.

*ALTERNATIVE OPTIONS*

The Council could do nothing and look to purchase this building at a later date, possibly through the CPO process. However, whatever happens to the market value of this

building there will be legal costs associated with any CPO. These are sometimes costs to the developer, but this is not always the case when putting together a development site. If the Council does nothing it would lose the funding from Haven Gateway EEDA (subject to approval) for this project. Potential funding from Europe would be put at risk. In addition the hotel development could be put at risk.