

**CABINET**  
**14 DECEMBER 2009**

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

*Also in Attendance :-* Councillor Christopher Arnold  
Councillor Nick Barlow  
Councillor Kevin Bentley  
Councillor Mary Blandon  
Councillor John Bouckley  
Councillor Nigel Chapman  
Councillor Peter Chillingworth  
Councillor Barrie Cook  
Councillor Beverly Davies  
Councillor Andrew Ellis  
Councillor Stephen Ford  
Councillor Wyn Foster  
Councillor Ray Gamble  
Councillor Chris Hall  
Councillor Mike Hardy  
Councillor Pauline Hazell  
Councillor Michael Lilley  
Councillor Sue Lissimore  
Councillor Jackie Maclean  
Councillor Richard Martin  
Councillor Gerard Oxford  
Councillor Terry Sutton  
Councillor Jill Tod  
Councillor Dennis Willetts  
Councillor Nick Cope

**53. Minutes**

The minutes of the meeting held on 2 December 2009 were confirmed as a correct record.

**54. Have Your Say!**

Andy Hamilton addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). The Council had rejected his proposal for the provision of mobility scooters at the bus station on a charitable basis. The

Council had effectively denied access to mobility scooters to bus users for two years. He considered that the obsession of the Council with the Visual Arts Facility blinded it to the needs of residents and that the Council deliberately obstructed efforts to meet the needs of disabled residents. If the decision was not reconsidered by the weekend, he would refer the matter to the Equality and Human Rights Commission.

Councillor Dopson, Portfolio Holder for Performance and Partnerships, responded to state that the Council had devoted considerable resources to help find alternative premises for Shopmobility. The allegation that the Council was deliberately obstructive towards disabled groups was strongly refuted.

**Councillor Lyn Barton (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 Anne Turrell (in respect of her membership of Essex County Council and Myland Parish 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) and 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.**

**Councillor Nick Cope (in respect of 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) and 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.**

## **55. Request for Transfer of Land at Norman Way**

The Cabinet considered draft minute 38 of the Strategic Overview and Scrutiny Panel meeting of 9 December 2009, 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 Turrell, Leader of the Council and Portfolio Holder for Strategy, indicated that the Cabinet would consider the following recommendation:-

*To enable an access road to be constructed to Philip Morant School by*

*(i) Agreeing a road access over part of the public, and if necessary private open space in the local area around the Philip Morant school and working up with the permission of all landowners a planning application for submission and determination. Colchester Borough Council would at that point agree to release appropriate parts of its land required for that purpose. This road access should, as far as is possible leave the area known as 'the green' untouched.*

*Or if this proves not to be deliverable,*

*(ii) To agree to the current land requirement with the existing planning permission to either be transferred or any other more satisfactory way of the land being used for this purpose.*

*Either option is conditional upon,*

*(a) That the grant of £130 million (or substantial part thereof) Government investment into education in Colchester through the "Building Schools for the Future" funding is confirmed by DCSF.*

*(b) If for any reason the grant funding is not forthcoming or is reduced significantly or withdrawn completely then this Cabinet decision as landowner to release the land will be rescinded.*

*(c) All remaining public open space in the area in question (including that owned by Essex County Council) to be protected in perpetuity from any construction or building work.*

*(d) Land should be made available and transferred into the ownership of Colchester Borough Council from Philip Morant School which is equivalent or larger than the land being used for the road access for use as part of the public open space.*

*(e) Essex County Council would need to agree to fund the improvement of*

*both the quality of the natural environment; to provide appropriate screening; the improvement of cycle paths and footpaths in the open space area.*

*(f) The access road and improvement of the revised open space area to be developed in consultation with the residents associations known as Painters Corner Residents Association and Irvine Road Area Residents Associations.*

Nick Chilvers addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). He considered that Essex County Council had acted in a cavalier fashion and placed the Borough Council in a difficult position. The Council should concentrate its efforts on trying to secure the future of Thomas Lord Audley in order to keep a secondary school open in south-east Colchester. The arms length management of Alderman Blaxill by the Stanway School was not sustainable in the long run. The Council would not be forgiven if delays caused the funding in education to be lost. Whilst losing the open space would be a blow, a borough wide view needed to be taken.

Mr Barrow addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) to express his concern about the planned growth of Philip Morant. He considered that the growth of the school should be capped and that schools should be placed where pupils lived. Pupils travelled to school inappropriately dressed and Philip Morant refused to allow a shelter on the premises, which showed that its actions were not driven by the interests of its pupils.

Ron Levy addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). He explained that when he was a ward councillor for Prettygate he had promised to do all in his power to protect this open space. He urged the Cabinet to maintain the stance taken at the previous Cabinet meeting and not to transfer the open space.

Richard Pettit, Chairman of the Painters Corner Residents Association, addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). He stressed that the Cabinet needed to take account of all the relevant facts. Philip Morant had not made a convincing case for the road. No evidence had been submitted for the claims made that the road was needed on health and safety grounds or because the existing access was inadequate. He strongly opposed the loss of any open space in the area, and the green in particular. If the Cabinet did decide to transfer the land it must be conditional on the investment being received.

Mr Kennedy, Chairman of the Irvine Road Residents Association, addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5 (2). He believed that Essex County Council was putting political pressure on

Colchester Borough Council, which was simply representing the views of local residents. Opposition to the road was portrayed as not being in the interests of local people, but in fact it was the road itself that was harming the interests of residents. Whilst the school maintained the road was vital it had done little to secure it and the school had functioned well for 40 years without the road. The land should not be transferred.

Mr Richards addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). He was not convinced that the plans for reorganisation of secondary education would improve education in Colchester. Other opportunities and plans needed to be looked at, such as building a new school or splitting Philip Morant into upper and lower schools. Also some of land owned by Philip Morant could be given back to the community. Concrete conditions needed to be imposed on any land transfer to ensure that the land was not released before any funding was secured.

Tim Oxtan addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). He believed that Essex County Council was doing all it could to damage the interests of Colchester. The proposed loss of open space was the latest in a string of decisions by the County Council, which had harmed Colchester including-

- The refusal to hand over land on which the temporary bus station was located in order to allow it to continue to operate indefinitely;
- The decision to close two schools, which were now improving, based on outdated information;
- The expansion of schools which were already too large;
- The felling of trees in Crouch Street.

Mr Davison addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). He was a governor at Philip Morant School but was speaking in a private capacity. Philip Morant had been seeking a safe access for a long time and the desire for the access road predated the BSF funding issue. The school prided itself on being a successful, local non-selective school. However, the school was now full. The access road would allow it to expand and provide opportunities to children in south east Colchester whose schools were now closing. The school was willing to meet councillors and other interested groups to find a way forward.

Nick Cope addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) to stress that the land in question had been allocated as open space so the Council would be going against its own policies if it allowed it to be developed. The Council should consider the outcome of the public consultation which had been overwhelmingly against the transfer of the land. The link between provision of the road and securing the investment had not been made.

Martin Hunt addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). He thanked officers for their work in taking forward the summit meeting requested at the last Cabinet meeting. This had been vital in finding areas of compromise. Whilst the new proposal met many of his concerns he could not support it as if it could not be delivered the fall back position was that the public open space would be transferred. He could not support this in any circumstances.

Paula Whitney addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). Consideration of the issue had been characterised by party political posturing and bullying. The original Cabinet decision had been a very wise decision and she was saddened that the Cabinet had been bullied out of it.

Councillor Arnold attended and addressed the Cabinet in his capacity as Chairman of the Strategic Overview and Scrutiny Panel to present the Panel's recommendations. He explained that in the fourth recommendation the wording in the second line should refer to "real public open space". He stressed that no member of the Panel had voted against the recommendations. The proposal being considered by Cabinet met the spirit of the Panel's recommendations and he commended it to the Cabinet.

Councillor Cook attended and addressed the Cabinet and stressed that a decision now needed to be made. He considered that the proposal was the best solution that could be achieved and should be supported.

Councillor Turrell stressed that the Cabinet had never sought to jeopardise the investment in education but had sought a solution that was acceptable to all parties and addressed the concerns of residents. This had now been achieved. The proposal before Cabinet addressed the loss of open space which had been the major concern raised in the public consultation. Indeed the proposal would actually increase the open space in the area as land would be gained from Philip Morant. The public open space would be protected in perpetuity and there was an opportunity for community benefits such as playgrounds and improvements to paths. None of this would have been secured if Cabinet had agreed to the initial proposal for the transfer. No land would be transferred before funding was received.

Councillor T. Young thanked all parties, and particularly officers of the Council, for their efforts in securing this solution. Whilst it was not a perfect solution it was the best that could be achieved and should be supported. He drew attention in particular to the protection offered by condition (a).

Councillors Smith, Offen and Barton also indicated their support for the proposal and stressed in particular their confidence in the viability of the

proposal before Cabinet.

*RESOLVED* that:-

To enable an access road to be constructed to Philip Morant School by

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Or if this proves not to be deliverable,

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(a) That the grant of £130 million (or substantial part thereof) Government investment into education in Colchester through the “Building Schools for the Future” funding is confirmed by DCSF.

(b) If for any reason the grant funding is not forthcoming or is reduced significantly or withdrawn completely then this Cabinet decision as landowner to release the land will be rescinded.

(c) All remaining public open space in the area in question (including that owned by Essex County Council) to be protected in perpetuity from any construction or building work.

(d) Land should be made available and transferred into the ownership of Colchester Borough Council from Philip Morant School which is equivalent or larger than the land being used for the road access for use as part of the public open space.

(e) Essex County Council would need to agree to fund the improvement of both the quality of the natural environment; to provide appropriate screening; the improvement of cycle paths and footpaths in the open space area.

(f) The access road and improvement of the revised open space area to be developed in consultation with the residents associations known as Painters Corner Residents Association and Irvine Road Area Residents Associations.

## *REASONS*

A Motion was passed by Council at its meeting on 14 October 2009 that requested that the decision (to consider disposing of the land to the School) be made as “expeditiously as possible.

The Cabinet decision allowed Essex County Council to prepare its business case for Wave 6 of Buildings Schools for the Future funding, whilst safeguarding open space in area around Norman Way, in particular the area known as “the green”.

## *ALTERNATIVE OPTIONS*

It was open to Cabinet to confirm its earlier decision on 2 December 2009 not to release public open space at Norman Way for a new vehicular access to Philip Morant School or to agree to release the public open space for a new vehicular access in line with the extant planning permission granted to Philip Morant School.