

CABINET 5 June 2024

Present: - Councillor King (Chair)
Councillors Cory, Jay, Luxford Vaughan, Smith*

*Not present for items at minutes 858-868

Also in attendance: Councillors Alake-Akinyemi,
Çufoğlu, Dundas, Goacher, Law, Naylor, Sunnucks, T.
Young

853. Attendance

Councillor King, Leader of the Council and Portfolio Holder for Strategy, explained that Councillor Goss, Portfolio for Waste, Neighbourhood Services and Leisure, and Councillor Sommers, Portfolio Holder for Communities, Heritage and Public Protection, were not in attendance on the advice of the Monitoring Officer as the Council was in pre-election period and both were candidates in the Parliamentary election. He invited Cabinet members and speakers to respect the pre-election guidance and to approach the meeting in an apolitical way.

854. Minutes

RESOLVED that the minutes of the meetings held on 13 March 2024 and 22 May 2024 be confirmed as a correct record.

855. Have Your Say!

Professor Jane Black attended remotely and addressed Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(1) about the proposed Ferry Marsh Nature Reserve Improvements. Ferry Marsh was gifted to provide public open space and the Council signed a covenant to that effect. It was the only open pace for housing built south of the railway line in the first two decades of the century. It had been open to the pubic for 18 years before being shut after the flooding incident. Whilst the legal advice on whether the proposal to restrict access where consistent with the covenant was not public, it was understood that the earlier advice was that the paths around the site and the small loop proposed were adequate to meet the covenant. The boundary paths were already accessible before the gift of the land so if the proposals were approved there would be little additional benefit stemming from the gift of the land. Whist the Council had a duty to support biodiversity it should also provide green space for residents. Unfortunately,

biodiversity and access could conflict and the proposal did not seem to strike the right balance between protecting wildlife and providing public access. A compromise was needed such as restrict access to the path across the Marsh and either banning dogs or requiring them to be kept on a lead. A proposal to provide some internal water control measures to prevent the Marsh from drying out was also desirable, but water levels should not be so high as to result in flooding. This could be provided via scrapes rather than raising the water level above the ditches. Greater clarity was needed on the proposed water levels. In terms of consultation, the plan shown in Appendix B of the report was not shown on the consultation boards. Whilst she had supported restricting access, this did not mean she supported the closure of the path over the Marsh.

Councillor Luxford Vaughan, Portfolio Holder for Planning, Environment and Sustainability, responded. Officers had been asked to respond on several points. The seawall path should be accessible to pedestrians only. The legal advice was not conclusive. On water levels, the sluice would prevent flooding and the council was working closely with Essex Wildlife Trust and Natural England who approved of the measures. The levels would be monitored over the long term and expert advice would be taken on how it would impact on biodiversity. It would be difficult to control all dog owners and prevent dogs getting access to the breeding areas. The council had done the right amount of research and the proposals would prevent flooding and secure access to the Wivenhoe Trail. As a compromise it was the best that could be achieved.

Pauline Hazell attended and addressed Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(1) about the provision of Interpretation Boards for Gosbecks Archaeological Park. This had been raised by Mike Hardy on 22nd November 2023, providing the background to repeated requests for such boards covering the late Iron Age, and the details of the extant proposal made during the Conservatives' period in control. The Portfolio Holder (former Councillor Burrows) had undertaken to investigate the matter and discuss with officers and had responded that she had been advised that the funding had been used for the upkeep of the space, such as grass-cutting. Mr Hardy explained that this was not credible but former Councillor Burrows made no further comment. A subsequent Freedom of Information request established that the balance of the Gosbecks Reserve on 31st March 2024 was £70,321.32. Therefore the response provided was inaccurate, thoroughly unprofessional and unacceptable. Widening the scope of the City's heritage was in its best interest. The project was drafted, the supporting artwork identified and available. The outline costing was established and the non-taxpayer funding was available. Would the Leader now provide assurance that the proposal would be taken seriously, and would he ensure it was implemented with diligence and alacrity? She was willing to co-operate in any way that is helpful.

Councillor King, Leader of the Council and Portfolio Holder for Strategy, explained that there had been some misunderstanding and miscommunication on this issue. He would take the proposal seriously and would raise it with Councillor Sommers and the lead officers. His personal view was that there was scope to look at instructional signage and information. A long term strategy on the use of the dowry should also be developed.

Councillor Law attended and addressed Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(1) to request the council look at exempting military compensation from means testing benefits including housing benefit, council tax support, discretionary housing payments and disabled facilities grants, in view of its commitment to

armed forces personnel. She also expressed her support for the proposals in respect of St Johns and Highwoods Community Centre.

Councillor Cory, Portfolio Holder for Resources, explained that this was already Council policy. The Council had achieved the Gold Standard for the support it provided to armed forces personnel and their families. Councillor King, Leader of the Council and Portfolio Holder for Strategy, indicated that a note would be sent to all members confirming the position.

The Democratic Services Manager read a statement from Councillor Lee Scordis to Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(1) about anti-social behaviour in the city centre caused by street drinkers on the High Street. This was damaging Colchester's reputation. The police were not taking any action and claimed not have any records which suggested that there were still operational issues with the police. This issue had been previously resolved by the "Team Ten" established by Councillor Lilley when he was Portfolio Holder, which enforced the Public Space Protection Order. However, matters appear to have regressed and the city centre was becoming more unwelcoming, which was bad for business and the council.

Councillor King, Leader of the Council and Portfolio Holder for Strategy, indicated he would write to Councillor Scordis. Where anti-social behaviour the council would intervene, as it had done successfully at St Marys car park. As Portfolio Holder, Councillor Sommers had picked up this issue and reported it to the police and was seeking to establish the scale of the issue.

Councillor Naylor attended and addressed Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(1) to express concern that in view of the pre-election period, two members of the Cabinet were absent from the meeting. Were they just absent from the meeting or were they absent from their roles during the pre-election period? If so, how were their roles being conducted and were they still receiving their special responsibility allowance? There was also concern in the Conservative group about some of the items on the agenda, given the meeting was in the pre-election period, including the housing report. This report dealt with national matters and should not have been brought forward. The Leader should reconsider its inclusion on the agenda.

Councillor King, Leader of the Council and Portfolio for Strategy, explained that it was important for the city that the administration did what it can to maintain the business of the authority and to give direction to officers. The agenda was "business as usual" items. The housing report was an important contextual report for the forthcoming work on the Housing Revenue Account review and if he had considered it had been politicised it would not be on the agenda. It was apolitical in its presentation and that was how the meeting would be conducted. He was content that the meeting should proceed and the housing report be considered. He had taken advice from the Monitoring Officer in reaching this decision. The absence of the two Portfolio Holders reflected acceptance of the need to ensure there was no conflict of interest and no possibility of a perception that they were taking advantage of their position for a political purpose. They were performing their roles and would continue to receive their allowance.

Councillor Sunnucks attended and with the consent of the Chair addressed Cabinet. He considered that whenever issues about the housing strategy were raised, it was always

blamed on central government and no responsibility was taken by the administration. The way the report was presented was to shift blame and not to accept responsibility to deal with the housing situation. It was clear from the recent Scrutiny Panel meeting that the Council's housing strategy did not work. The administration had rejected the Conservative budget amendment which would have moderated spend. The Conservative group, which was the biggest group on Council, did have ideas on how to deal with housing, but had no opportunity to communicate them. Have Your Say! slots at meetings did not provide sufficient time to put over complex proposals. A meeting or convention should be called, possibly after the election, where all parties could put forward ideas to try and find a solution to this problem. As the lead shadow Portfolio Holder for Resources, he was entitled to raise these issues and his views were aligned with those of Councillor Ellis as shadow Portfolio Holder for Housing. If the administration would not arrange such a meeting, he would do so himself.

Pam Donnelly, Chief Executive, stressed that the report was an officer report written by the Chief Executive of Colchester Borough Homes and Head of Strategic Housing and was not a political report. Any statements made about national policy were a matter of fact and not conjecture.

Councillor Smith, Portfolio Holder for Housing, highlighted that the Scrutiny Panel had not accepted the arguments that Councillor Sunnucks had made. As Portfolio Holder he held regular meetings with the Labour and Conservative shadow Portfolio Holders and they were free to put forward any proposals at these meetings. He was willing to consider ideas from any quarter to help deal with the housing crisis.

Councillor King, Leader of the Council and Portfolio Holder for Strategy, undertook to meet with Councillor Sunnucks and highlighted that the processes by which the administration worked allowed for engagement with the Portfolio Holder and with officers. However, it was expected that the shadow Portfolio Holder on Housing would lead on such issues. The review of the Council's assets which was underway would touch on these issues and would be conducted in a cross party way.

Melina Spanditaki addressed Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(1) to query whether democratic procedures had been followed in respect of her proposals for the use of Holy Trinity Church. This had been presented to the Full Council meeting and she had been encouraged by the Portfolio Holder to keep communicating. However, she had received an e-mail from the Leader of the Council via the Head of Economic Growth, dismissing her bid. She had not had the opportunity to visit the church to provide an exact costing, rather than an estimate. The bid from Community 360 did not address the issues faced by those in temporary accommodation. There was also an issue of transparency in that it was claimed that relations with Community 360 were frozen yet their bid was progressing. Her bid should be reconsidered in line with democratic processes and in view of the representation of Castle ward by Green party councillors.

Councillor King, Leader of the Council and Portfolio Holder for Strategy, explained that decisions on issues such as planning permissions were taken by Committees acting in the interests of the whole city, rather than just based on ward interest, although local views would always be considered in such decision making. Democratic processes had been followed. In terms of Community 360, there were discussions ongoing between them and

their partners. He was not involved in those discussions. It would be several years before Holy Trinity Church was renovated and decisions on final use had not been taken.

856. Housing “State of the Nation” Update

The Chief Executive, Colchester Borough Homes, submitted a report a copy of which had been circulated to each Member.

Councillor T. Young attended and with consent of the Chair addressed Cabinet. The report was political and dealt with a political issue, but it was not party political and was impartial. It was disappointing that the Renters Reform Bill had run out of Parliamentary time. Legislation to address no fault evictions needed to be brought back as soon as Parliament reconvened and the Council should lobby the local Members of Parliament on this issue after the election. Concern was also expressed about the lack of regulation of the private rented sector and the condition of some temporary accommodation, some of which was unsuitable and at the margins of what was legally acceptable. It was appreciated that this was only used as a last resort but it would be useful to hear how the administration planned to address these issues. The Labour group would support any proposal to influence any improvements in these areas.

Councillor King, Leader of the Council and Portfolio Holder for Strategy, thanked Councillor Young for his comments. The administration had lobbied government on these issues previously and a new government would give an opportunity to raise such issues again.

Councillor Smith, Portfolio Holder for Housing, introduced the report, and stressed that the report set out the issues in a non-party political way and focused on the impact of national issues and policies on Colchester. The situation in respect of temporary accommodation had worsened since the report was written and there were now 335 families in temporary accommodation. This was likely to increase once the Council had to return some Ministry of Defence properties. One hundred families were in bed and breakfast accommodation or lodgings, of which 31 were outside the city. The situation needed to be addressed. A summit had been held at Essex University with representatives from nine other local authorities to examine the issues in detail. The suggestion that a further summit was necessary was not accepted. The financial position of many housing associations meant they were no longer accepting new developments and therefore there was insufficient accommodation coming forward to house those in temporary accommodation. The Council was seeking to get to a position where it could provide decent accommodation within Colchester and was open to advice and suggestions from any other parties.

RESOLVED that the contents of the report be noted.

REASONS

It was proposed at Leadership on 29 February 2024 and Governance and Audit Committee on 5 March that quarterly social housing updates that include topical and emerging housing related issues be reported to Cabinet via a housing “state of the nation” report with the aim being that the reports inform the Council’s current and future housing strategy and housing policies. The reports would supplement the new quarterly assurance reporting to Governance and Audit Committee on the Council’s adherence to the new

Regulator of Social Housing regulatory framework.

ALTERNATIVE OPTIONS

No alternative options were presented to Cabinet.

857. Council Productivity Plan

The Chief Operating Officer Director submitted a report a copy of which had been circulated to each Member.

Councillor Dundas attended and with the consent of the Chair, addressed the Cabinet. It was noted that the Fit for the Future programme on which the Productivity Plan was based included incorrect references to the timing of the development and approval of the Waste Strategy. In addition, there were references to the asset programme and the need for capital projects to have a business plan. This discipline needed to be applied to existing capital projects, particularly the scheme for highway works and the installation of traffic lights in north Colchester. If the plan were to be approved, Cabinet needed to ensure that it followed the policies it set out.

Councillor King, Leader of the Council and Portfolio Holder for Strategy, responded that he would respond separately on the specific points raised, but that the Plan was a snapshot in time. Pam Donnelly, Chief Executive, indicated that she would ensure any inaccuracies were addressed and highlighted that the Senior Leadership Team would be looking at waste and greening issues later in June. Although the Portfolio Holder was not present tonight, they were in constant contact over issues relating to the Waste Strategy.

Councillor Cory, Portfolio Holder for Resources, also highlighted that work on the Waste Strategy had been impacted by external factors such as the government consultation on waste and recycling collection methods and the development of the Essex Waste Strategy.

Councillor Çufoğlu attended and with the consent of the Chair addressed the Cabinet to highlight the income he believed was being generated by the garden waste collection scheme. This was leading the Council to abandon its commitment to climate change and biodiversity. For example, the Council commitment to “No Mow May” had lessened with evidence of grass being cut in several areas. Council promotions on social media about the control of weeds also encouraged grass cutting and the accompanying loss of biodiversity. Information about the cost of these adverts should be published. These initiatives also encouraged residents to sign up for the garden waste scheme. The financial rewards of the scheme were causing the Council to lose sight of its commitment to biodiversity and climate emergency commitments. The Fit for the Future programme should promote and protect wildlife, possibly through a pollinator strategy, rather than portray them as pests. The Environment and Sustainability Panel should be asked to look at how public attitudes to wildlife could be changed and scrutinise the work of Litter Warriors and weed pickers.

Councillor King responded that a response would be sent to the detailed points raised. The Council did remain committed to initiatives such as “No Mow May” and the promotion of biodiversity. However, it also had to be prudent and reduce spending across all its

services and the imposition of charging for garden waste needed to be seen in that context.

Councillor Smith, Portfolio Holder for Housing, highlighted that the garden waste charging scheme did not make money. What the report demonstrated was the reduction in the cost of the service.

Councillor Cory stressed that the administration had made substantial progress on climate change and biodiversity issues. This was demonstrated by the decisions on Ferry Marsh Nature Reserve. The savings made through the garden waste charges allowed the administration to invest in other greener schemes. "No Mow May" was followed in most areas but there had been concerns raised in some locations particularly around interference with sightlines. The concept of a pollinator strategy was a good one which could be considered by the Environment and Sustainability Panel.

Councillor King explained that the Productivity Plan reflected the need for a fundamental change programme to put the Council on a sustainable footing, whilst retaining support both across the Council and externally. It was a three year programme. It would be difficult to deliver and occasionally some timings may slip.

RESOLVED that the Productivity Plan at Appendix A to the Chief Operating Officer's report, underpinned by the items listed at 2.4 in the report, be approved.

REASONS

To deliver on the Government's requirement and demonstrate the Council's commitment to deliver efficiency and improved outcomes for communities.

ALTERNATIVE OPTIONS

To not adopt a Productivity Plan, but this was not an option due to the Government's requirement to publish a Productivity Plan.

858. Appointments to External Organisations and Council Groups

The Democratic Services Manager submitted a report a copy of which had been circulated to each Member.

Councillor Naylor attended and with the consent of the Chair addressed the Cabinet to query the basis on which the appointments to external organisations were made. Whilst the Leader of the Council emphasised the importance of working collaboratively, the largest group of the Council had not been allocated any appointments. This did not reflect the wishes of the electorate. The process by which the appointments were made should be clarified and the Leader should explain what he would do to redress the balance. Councillor Naylor indicated that she was willing to serve as a substitute member on the North East Essex Economic Board. It was noted that several appointments were made to members of the Labour Group, who were not part of the administration.

Councillor King, Leader of the Council and Portfolio Holder for Strategy, explained that the process and appointments followed convention, whereby the administration appointed its

members to most of the bodies. This had been the case when the Conservative group had formed the administration. There was a logic to having a member of the administration, who were responsible for the policies of the Council, representing the Council on external organisations. There were occasional exceptions where individuals may have particular expertise, and he would consider her request about the North East Essex Economic Board separately. Whilst a number of appointments were made to members of the Labour group, the administration was supported by the Labour and Green groups, even though it was not in a formal coalition.

The Democratic Services Manager provided an update to Cabinet on the outstanding appointments and clarified that:

- The Green representative on the Member Development Group would be Councillor Goacher;
- The Green representative on the Local Highway Panel would be Councillor Çufoğlu;
- The substitute member on the Police and Crime Panel would be Councillor Lilley.

RESOLVED that:-

(a) The representatives to the various external organisations and Council groups listed in Appendix A to the Democratic Services Manager's report be appointed for the 2024-25 municipal year, with such appointments to cease if representatives cease to be members of the Council during the municipal year, subject to the following amendments/additions:-

- The Green representative on the Member Development Group to be Councillor Goacher;
- The Green representative on the Local Highway Panel to be Councillor Çufoğlu;
- The substitute member on the Police and Crime Panel to be Councillor Lilley.

(b) The Leader of the Council be authorised to make a determination, where a nomination is deemed to be in dispute, if a vacancy occurs or if an appointment needs to be made to a new organisation during the municipal year.

(c) Councillor King be appointed as the Council's Armed Forces Champion.

(d) Councillor Sommers be appointed as the Council's Equality, Diversity and Inclusion Champion.

(e) The reports about the work undertaken by appointees to external organisations in 2023-24, as set out in Appendix B to the Democratic Services Manager's report, be noted.

REASONS

It is important for the Council to continue to make formal appointments to certain organisations and council groups such as those with statutory functions, key strategic and community partners and groups with joint working arrangements. These groups have been identified in Appendix A to the Democratic Services Manager's report.

ALTERNATIVE OPTIONS

No alternative options are proposed. The Leader of the Council is authorised to make a determination where a nomination is deemed to be in dispute or if an appointment needs to be made if a vacancy occurs or an appointment needs to be made to a new organisation in the course of the municipal year.

859. Adoption of Fleet Strategy

The Head of Neighbourhood Services submitted a report a copy of which had been circulated to each Member together with draft minute 122 from the Environment and Sustainability Panel meeting of 21 March 2024.

Councillor Dundas attended and with the consent of the Chair, addressed Cabinet and suggested that given the absence of the Portfolio Holder it would be more appropriate to defer the item. He had been a member of the Environment and Sustainability Panel when it considered the matter and endorsed the recommendation it had made. The rationale behind the recommendation was to ensure the Council looked carefully at any procurement and researched who it was buying from. It was important to take a holistic view of the environmental impact of any procurement decisions.

Councillor Cory, Portfolio Holder for Resources, indicated his support for the recommendation from the Environment and Sustainability Panel.

Councillor King, Leader of the Council and Portfolio Holder for Strategy, explained that the Portfolio Holder for Waste, Neighbourhood Services and Leisure was supportive of the proposals in the report.

RESOLVED that:-

- (a) The recommendations made by the Environment and Sustainability Panel at its meeting on 21 March 2024 be agreed.
- (b) The Fleet Strategy be approved in line with the recommendations made by the Environment and Sustainability Panel.

REASONS

With current technology continuing to develop in the world of batteries and alternative fuels, Council officers continue to work with vehicle manufacturers, other local authorities and third-party critical friends including the Energy Savings Trust to test the market by way of trialing alternative fleet options.

ALTERNATIVE OPTIONS

An alternative option would be to remain with the current Fleet Transition Plan however, with technology advancing year on year regarding alternative fuels and batteries, having a more robust and up to date Strategy would put the Council in a better position when making informed decisions regarding the procurement and management of their fleet.

860. Ferry Marsh Nature Reserve Improvements

Cabinet considered the recommendation contained in draft minute 123 from the Environment and Sustainability Panel meeting of 21 March 2024.

Councillor Luxford Vaughan, Portfolio Holder for Planning, Environment and Sustainability, indicated that the key issue had been raised was about the impact of the covenant but the legal and officer advice was that it did not prevent the scheme from proceeding and recommended that that the proposal was accepted.

Councillor Cory, Portfolio for Resources, expressed his thanks to the Portfolio Holder and Fiona Shipp for their work on the proposal. He also thanked Professor Black for her contribution. He had worked on this proposal for several years and was aware of the impact of flooding on the site, particularly on the Wivenhoe Trail. Cabinet had already approved works to extend the sluice to ensure control of the water levels. These proposals were about the overall management of the site. There had been online and in person consultation and there had been overwhelming support to protect the biodiversity of the site through restricting access. The concerns about this were understood. However, the balance needed to be in favour of protecting biodiversity.

RESOLVED that the changes to Ferry Marsh Nature Reserve as set out in the report to the Environment and Sustainability Panel meeting of 21 March 2024 be approved

REASONS

Public consultation had indicated support for the proposals. Whilst concerns about limiting access to the site were understood the balance was in favour of protecting biodiversity.

ALTERNATIVE OPTIONS

It was open to the Cabinet not to approve the recommendations from the Environment and Sustainability Panel.

Councillor Jay (in respect of her employment by the St John's and Highwoods Community Centre) declared a Disclosable Pecuniary Interest in the following item pursuant to Meetings General Procedure Rule 7(5) and left the meeting during its consideration and determination.

Councillor Smith (in respect of his position as a Trustee of the St John's and Highwoods Community Centre) declared an Other Registerable Interest in the following item pursuant to Meetings General Procedure Rule 7(5)

861. St John's and Highwoods Community Centre Investment

The Head of Health Partnerships and Wellbeing submitted a report a copy of which had been circulated to each Member.

Councillor King, Leader of the Council and Portfolio Holder for Strategy, and Councillor

Cory, Portfolio Holder for Resources, expressed their support for the proposals in the report which would result in increased investment in community facilities in north Colchester, whilst further development was awaited.

It was noted that the figure in paragraph 1.3 of the report for “Available Section 106 Receipts” should be £14,000, not £18,000 as stated.

RESOLVED that £200,000 be committed to the St Johns and Highwoods Community Centre to be invested in improving available facilities and that the scheme be added to the Council’s Capital Programme for 2024-25.

REASONS

The reason for this recommended decision is to continue to provide investment and opportunity for improvement and development into Community Facilities within North Colchester. This is to ameliorate the impact of the pausing of the potential St Marks/Old Rugby Club site development. This development has now been paused and will be considered again as part of the wider Northern Gateway Master Plan.

ALTERNATIVE OPTIONS

There are no alternative options if this is not agreed. The £14,000.00 can still be provided for the Community Centre but the Council is unable to offer any other alternatives for the remaining financial requirements. St Johns and Highwoods Community Centre will need to continue to provide provision and facilities for residents and community groups however they will need to seek alternative investment for any of the proposed upcoming developments / repairs.

There is a current existing draft section 106 agreement for Colchester Northern Gateway (CNG) south that has a clause to provide £200k towards a community centre on site. There would be an option to explore this being redirected to St Johns and Highwoods Community Centre via the section 106 agreement that follows as part of the reserved matters submissions in due course. This assumes that the existing hybrid planning permission will be implemented. A new scheme with a significant housing element could also seek to provide an enhanced community facility at Highwoods as opposed to onsite as planned. These options are subject to longer term plans and timescales with an estimated release of contributions in 4-5 years. Consequently, this is not considered to meet the needs of this project at the current time.

862 Procurement - Direct Award Contract for Main Contractor of Fieldgate Quay Repair and Development work

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

Councillor Cory, Portfolio Holder for Resources, introduced the report and explained the background to the proposals. A section of sheet piling had collapsed into the river Colne. The Council was carefully monitoring the situation and the position had stabilized over time. Whilst immediate action had been taken to protect health and safety, the report before Cabinet looked at more long term action to repair the piling and address the long

term management of the site. A two phase project was planned. The first phase was to repair the failed 15 metre section of piling. The second was to redevelop the remaining 235 metre section and to renaturalise the site. This included the reinstatement of the footpath. The report sought delegated approval for the Portfolio Holder to manage both phases of the project. It also sought the approval to appoint Henderson and Taylor Ltd to undertake both phases of the work.

Councillor Luxford Vaughan, Portfolio for Planning, Environment and Sustainability, indicated her support for the proposals

RESOLVED that:-

- (a) Due to the value of the project/appointment being over £500k that the Portfolio Holder for Resources be assigned delegated authority in relation to Phase 1 and Phase 2.
- (b) Approval is given to combine both phases into one Design and Build JCT 2016 Contract and make a direct appointment to Henderson & Taylor Ltd.

REASONS

The recommendation is being made due to the overall cost of the works required, along with the on-going health and safety issues the failing sheet piling is presenting and the need to repair as soon as possible.

Movement sensors have been placed along the Quayside which have demonstrated the remaining sheet piles are pulling away from the quay and starting to collapse. Essentially the longer the site is left to deteriorate, the more work will be required to complete the development. This will inevitably lead to increased health and safety issues, complaints from local residents and a higher cost to the project due to the increased complexity of the work required.

Henderson & Taylor Ltd are an approved supplier to Colchester City Council and have carried out many projects on their behalf. They have very good experience of this type of project and the local area having completed sheet piling repair works along the river Colne in the past. The costs they have submitted to date in relation to Phase 1 have been scrutinised and deemed competitive.

ALTERNATIVE OPTIONS

Engage in full Procurement process projected to last 3-4 months. This would risk further collapse and more expense due to the added complications a collapse would create. It is also unlikely that any extended procurement process would provide more choice in contractor or reduced costs due to the specialist nature of the works required.

863. Local Highways Panel

Cabinet considered the recommendation from the Scrutiny Panel in draft minute 459 of the Scrutiny Panel meeting of 12 March 2024.

Councillor King, Leader of the Council and Portfolio Holder for Strategy, explained that the

County Council's challenges on funding of highways works were well understood. This did have an impact locally. However, responsibility for Highways works remained with the County Council and it would not be appropriate for this to be funded on a regular structural basis. The Council now enjoyed a good relationship with Essex County Highways and was working with them on a number of projects including master planning and the regeneration of the city centre. Funding for the Local Highway Panel had not been requested by the County Council. However, it would be willing to provide funding for highways schemes on a case by case basis where this could secure improvements for the city.

RESOLVED not to approve the recommendation from the Scrutiny Panel that the Council funding be provided to the Local Highways Panel, as had previously been done up to 2018-19.

REASONS

Responsibility for Highways works remained with the County Council and it would not be appropriate for this to be funded on a formal basis. Essex County Council had not requested that funding be provided.

The Council would be open to provide funding for highways schemes on a case by case basis where this could secure improvements for the city.

ALTERNATIVE OPTIONS

It was open to Cabinet to approve the recommendation from the Scrutiny Panel.

864. Draft Statement of Accounts 2022/2023

Cabinet considered the recommendation from the Governance and Audit Committee in draft minute 424 of the Governance and Audit Committee meeting of 9 April 2024.

Councillor Naylor attended and with the consent of the Chair addressed Cabinet. She was a member of the Governance and Audit Committee when it made the recommendation. The Conservative members of the Committee had voted against noting the draft statement of accounts for 2022/23 which was a reflection of the deep concern they felt about the draft statement of accounts. Cabinet should act on the recommendation made that the consequences of disclaimed accounts be investigated and planned for. This would be in the best interests of council taxpayers who would bear the burden if this was not adequately addressed. It was understood that the target of the accounts being audited by 30 April had not been met. Concern was also raised about the continued appointment of Cabinet members to the Governance and Audit Committee.

Councillor King, Leader of the Council and Portfolio Holder for Strategy, emphasised that the position on the accounts did not reflect a lack of professionalism on behalf of the section 151 officer and his team. This was a consequence of a national problem with capacity in the audit sector.

Councillor Jay, Portfolio Holder for Economic Growth and Transformation, thanked members of the Governance and Audit for their attention to this matter and for the robust

debate. There were statutory provisions around the auditing of accounts and a limited number of firms authorised to do so. There was a lack of capacity in the sector, not within the Council. The current auditors intention was that the audit would be completed by September 2024 and could be subject to a disclaimer. This would not be ideal but in view of time constraints and the fact the Council was now looking at the 23-24 accounts may be necessary. The Council would ensure compliance with guidance and accounting codes from the LGA and CIPFA. The section 151 officer had provided reassurance that if a disclaimed audit opinion was recommended as necessary there would be professional and national guidelines to follow and they would only be signed off with an assurance those guidelines had been followed. It was a decision over which the Council had little control, but it would allow matters to move forward. The administration was confident in the draft accounts. Historically there had been little movement in the accounts once drafted. The recommendation from Governance and Audit Committee would be accepted.

Councillor Dundas attended and with the consent of the Chair addressed Cabinet to highlight the meaning of disclaimed accounts. It meant a third party had not been able to obtain sufficient evidence to provide an opinion or assurance that the financial statements were correct. There would also be an opinion explaining why they were disclaimed. It was possible that the auditors may put an entirely different explanation for the disclaimer than was expected. Nothing should be taken for granted until that disclaimed opinion had been received.

Councillor King thanked Councillor Dundas for his comments. The Council had a history of being prepared for the accounting process and of audit not raising very significant issues or material differences. This should give some confidence. The administration would follow best practice and CIPFA and LGA guidance.

RESOLVED that the consequences of disclaimed accounts be investigated and planned for.

REASONS

In view of the importance of the auditing of accounts and the challenges faced by capacity in the audit sector, Cabinet understood the need for consequences of disclosed accounts to be investigated and planned for.

ALTERNATIVE OPTIONS

It was open to the Cabinet not to approve the recommendation from the Governance and Audit Committee.

865. Member Development Annual Report 2023-24

The Democratic Services Manager submitted a report a copy of which had been circulated to each Member.

Councillor Jay, Portfolio Holder for Economic Growth and Transformation, introduced the report and highlighted the work of the Member Development Group and thanked the members of the Group and officers across the Council who had provided briefings and training during the municipal year.

RESOLVED that Cabinet receive and note the report of the Member Development Group on the work of the Group in the 2023-24 municipal year.

REASONS

The Member Development Group was required to report to Cabinet on an annual basis. This provides Cabinet with an opportunity to review the work of the Group and the provision of member development.

ALTERNATIVE OPTIONS

No alternative options were proposed.

866. Progress of Responses to the Public

The Democratic Services Manager 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 resolved under Section 100A(4) of the Local Government Act 1972 and the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012 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.

867. Colchester Community Stadium - Services Agreement

This minute is not for publication by virtue of paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (information relating to the financial or business affairs of a particular person, including the authority holding the information).

The Cabinet resolved under Section 100A(4) of the Local Government Act 1972 and the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012 to exclude the public from the meeting for the following item as it involved the likely disclosure of exempt information as defined in paragraph 5 of Part 1 of Schedule 12A to the Local Government Act 1972.

868. Ferry Marsh Nature Reserve Improvements

This minute is not for publication by virtue of paragraph 5 of Part 1 of Schedule 12A to the Local Government Act 1972 (claim to legal professional privilege).