

POLICY REVIEW AND DEVELOPMENT PANEL

5 NOVEMBER 2012

Present :- Councillor Julie Young (Chairman)
Councillors Mark Cable, Nigel Chapman, Barrie Cook,
Mark Cory, Margaret Fairley-Crowe and Jo Hayes

11. Minutes

The minutes of the meeting of the Panel held on 10 September 2012 were confirmed as a correct record.

12. Invited Guests

The Chairman welcomed four guests who had been invited to the meeting in order to broaden the Panel's discussion on Localism:

- Richard Aldridge, Citizens Advice Bureau Manager
- Tracey Rudling, Colchester Community Voluntary Service
- Katharine Evans, Messing cum Inworth Parish Council
- Sareena Cobdon, Hythe Community Centre

13. Localism // Colchester Localism

Councillors Cook and J Young (in respect of their Board Membership of the St Anne's Community Centre and the Greenstead Community Association respectively) each declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

Councillor Cory (in respect of his involvement in the part funding of a project for the Hythe Community Centre in his capacity as a Board Member of Cory Environmental Trust) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

Councillor Feltham, Portfolio Holder for Communities and Leisure Services attended the meeting and, with the consent of the Chairman addressed the Panel. Councillor Feltham explained that Localism encompassed a huge agenda, part of which included responsibilities in her portfolio. It was one of the reasons she had entered local politics as it asked questions of Governments and individuals and provided opportunities to do things differently and challenged the relationship between Whitehall, Local Councils and Communities. However it also raised questions as to what currently constituted a community. She was interested to hear how the discussions would progress, especially in terms of whether residents were interested in taking on new powers and the tension between doing new things at a time of spending cuts.

Executive Director, Ian Vipond presented a report suggesting what localism initiatives

the Council could develop as part of a wider localism approach following the implementation of the Localism Act.

Mr Vipond explained that the report focused on the appropriate response to the philosophy of localism in Colchester. Much was already being done locally, and the report recommended the development of five initiatives to enhance the development of a comprehensive approach in Colchester.

The Government had described the philosophy behind the Act as:

“We will push power downwards and outwards to the lowest possible level, including individuals, neighbourhoods, professionals and communities as well as local councils and other local institutions.”

However, the report concentrated more on the role that the Council could take in enabling and encouraging communities to take an even more active role in taking decisions and engaging in activities which affect their area. It was acknowledged that an element of capacity building would be required to enable existing and potential communities to engage to a greater extent than they currently do and the role of voluntary and community sector organisations would be crucial.

A number of projects were provided as examples in terms of:

- High Woods Country Park, Colchester’s Countryside Volunteer Rangers;
- Mile End ward/ Myland Community Council attracting external funding for localised tree planting on Colchester Borough Council land;
- West Mersea Town Council taking on (playing fields) The Glebe extension and play area, with developer’s maintenance contributions;
- Ward Projects funded in 2010/11 include allotments at Mile End; in total £76,976 was spent on 12 schemes;
- Big Lottery Children’s Play programme used to support voluntary sector projects such as the Toy Library and Ormiston Trust Touring Top Tots’ programme;
- Council grants investing £330,000 in third sector organisations to provide service through the voluntary welfare and preventing homelessness grant programmes;
- Use of planning gain as well as direct Council funding to lease or transfer assets to community groups for them to operate independently for community benefit;
- Community projects officers to develop community groups, building their capacity to serve their communities and achieve sustainability (Harbour Task group, Domestic Violence Forum);
- Service to 15 Neighbourhood Action Panels to give people an opportunity to influence service provision by the Police and Council in their communities;
- Engagement approach to building the capacity of community organisations to deliver the principles of community development;
- The Council has adopted eight Village Design Statements and Parish Plans to date and in partnership with the Rural Community Council of Essex, has a system for supporting Parish Councils interested in producing neighbourhood plans;
- Colchester in Bloom - business and resident engagement to encourage more planting around the town now run by Destination Colchester and Pam Schomberg.

The whole philosophy of Localism is that it must come from individuals and communities who must decide what they wish to engage with and they bring the main resource to the table in their own commitment and the hours they are prepared to volunteer. It is for this reason that what is now being explored is how the Council can help build capacity in communities by means of a spectrum of opportunities:

1. We continue to do what we are doing using a localism or Big Society label. We are always looking for opportunities to support communities and it could be argued that we are doing enough;
2. We look for an increasing range of opportunities and divert some resource;
3. We continue to do what we are doing and add to it, using ward Councillors as a key conduit, perhaps continuing to give them access to budgets that can be used for local projects;
4. We connect more directly with the communities, through a range of partners, particularly the Voluntary Sector and community groups to directly enable them to take more decisions.

Furthermore a series of specific options had also been worked up as follows:

- **Councillors' role in Localism:**

Councillors constitute a significant and diverse resource, and as such there is potential to consider how they can be supported in their leadership role.

- **Enabling Community Capacity:**

The issue in this case is the local partner. The obvious local partner within the Borough which could undertake this work is CCVS. If they would be willing to put their name forward then we would need to be confident that they could undertake this assignment given their existing commitments.

- **Enable improved digital infrastructure to facilitate the delivery of virtual communities:**

Considerable work is already underway to substantially improve the digital infrastructure in the Town and Borough, and the question is whether this opportunity can be used to create a community resource.

- **Participatory Budgeting:**

In principle the merits of the project are being considered through the establishment of the Jubilee Fund/Locality Budget which has given each councillor £2,000 to spend in their wards in 2012/13.

- **Increasing Community influence through Zone-Based working:**

This concept identifies one of the main pillars to Localism: local commitment - that the

residents support the principle, see clear opportunities in their locality and are prepared to get involved to identify and deliver “social goods” valued by all.

Councillor Hogg attended and, with the consent of the Chairman, addressed the Panel. He referred to the problem of sustainability in terms of people’s willingness to volunteer for specific issues meaning that was very little cross over and it was very rare to find individuals who were willing to take on a wider community role. He was of the view that ward councilors continued to be the focal point for projects in local areas.

Councillor G Oxford attended and, with the consent of the Chairman, addressed the Panel. He spoke against any proposal to move Locality Budgets to Zones rather than Borough ward areas. He explained how he and his fellow ward councilors had worked together to identify community groups with whom they could develop projects for funding.

Katharine Evans explained that Localism was in its early stages for Parish Councils especially given the context of the recent discontinuance of the Revenue Support Grant in Colchester. She agreed with the concern about individuals willing to get involved, given the recent trend in co-opting Parish Councillors rather than the need for elections to select from a number of candidates. She spoke in glowing terms of the benefits brought by the Zone wardens who were given authority to work with communities and had the ability to initiate projects to the benefit of the Parishes.

Tracey Rudling explained that one of the roles of CCVS was to help local groups to access funding opportunities. The availability of funding sources was becoming more restricted but the mechanisms to access available funds was becoming easier.

Sareena Cobdon regretted that she had been unaware of the Councillor Locality Budget opportunities but explained that she intended contacting the ward councilors in her area to seek their assistance.

Particular discussion from the Panel members was in relation to:

- The problem of identifying funding for projects and the need for advice and assistance in making funding applications;
- The need for Councillors to commit to utilizing their Locality Budget despite difficulties in identifying appropriate recipients;
- The importance to the rural communities of the forthcoming broadband improvements associated with the digital infrastructure project;
- The potential risk to Localism initiatives given the commencement of the latest Council Fundamental Service Review of Customer Contact

RECOMMENDED to Cabinet that:-

- (i) The approach to Localism in Colchester identified in the report by Executive Director Ian Vipond be approved;
- (ii) The list of initiatives contained in the Project Initiation Documents attached to the report by Executive Director Ian Vipond be progressed with a view to implementation by their relevant Portfolio Holders;

(iii) The benefits of the Councillor Locality Budgets be acknowledged and the allocation of these funds to individual councillors be continued;

(iv) The building of capacity in communities be explored further by means of the fourth option identified in the report by Executive Director Ian Vipond, namely to connect more directly with the communities, through a range of partners, particularly the Voluntary Sector and community groups to directly enable them to take more decisions.

14. Localism // Implementation

Chris Reed, Policy and Projects Officer presented a report about the progress being made by the Council in implementing the measures within the Localism Act.

The Localism Act received Royal Assent on 15 November 2011. Certain provisions came into effect immediately or through the first Commencement Order on 3 December 2011. As at October 2012, there had been nine Commencement Orders and there were still aspects of the Act which were not fully in force or where the detailed guidance was awaited. A 'working summary' document has been produced to provide an overview of the many different items and timescales within the Act which enabled the required actions to be assessed and allocated to lead officers for implementation.

The Government described the 'five key measures which put new rights and powers in the hands of local people to take charge of their future' as:

- Community rights - including right to challenge, right to bid and right to build
- Neighbourhood planning
- Housing
- Community empowerment
- Competence

A website had been launched by the Department for Communities and Local Government as part of a £30 million programme which included support and funding for communities wanting to bid to run local services or buy their local shop or building to find out more about these new rights and powers.

A Localism section on the Council's website had also been set up as a resource for the public which could be updated as needed and where links to related information could be made 'all in one place'.

RESOLVED that the progress being made by the Council in implementing the measures within the Localism Act be noted.

15. Localism // Assets of Community Value - Right to Bid

James Firth, Planning Policy Officer and Karen Syrett, Spatial Policy Manager presented a report setting out the legislative requirements concerning assets of community value, considering the implications and make a recommendation to Cabinet on the arrangements to be adopted by the Council, including any necessary changes to the constitution.

The report explained that the Localism Act 2011 had introduced a right for Parish Councils, and other local groups such as community and voluntary bodies to nominate a building or other land as an 'asset of community value'. Local authorities are required to consider such applications, and maintain and publish a 'list of assets of community value'. The owner of any land or buildings on the list is required to give notice and comply with a moratorium period before they sell or dispose of the land/building in order to give community groups an opportunity to bid for the land/building should they wish to do so (the Community Right to Bid).

The legislation also set out the processes and procedures which the Council was required to follow which came into force on the 21 September 2012. The assessment of community nominations must be carried out on the basis of whether the land meets the definition of an asset of community value as defined in the legislation. Applications to dispose of land, listing reviews and compensation reviews must also be carried out as set out in the legislation. These technical processes are functions that it is appropriate to carry out at officer level. The regulations also specify that listing and compensation reviews must be carried out by an officer of appropriate seniority rather than at member level.

This report provided further information on the legislative requirements and proposed arrangements to be adopted by the Council regarding assets of community value (Community Right to Bid).

The report proposed that authority be given to the Spatial Policy Manager to decide whether nominated land should be considered to be an asset of community value on the basis that this work tied in with the responsibilities already being carried out within that team as a whole and authority be given to the Head of Strategic Policy and Regeneration to carry out and make decisions on listing reviews.

The provisions would not restrict who the owner of a listed asset could sell the property to, or at what price, so even if a community organisation puts forward a bid the owner would not have to sell to them. However, the owner of listed land would be entitled to compensation from the Council where they had incurred loss or expense which would not have been incurred if the land were not listed and payments of over £20,000 would be met by the Government.

The report further proposed that authority be given to the Head of Strategic Policy and Regeneration to carry out and make decisions on compensation reviews.

Mr John Wallett, a resident representing the Community Cinema Project in Wivenhoe addressed the Panel, pursuant to the provisions of Meetings General Procedure Rule 5 (1). He explained that the Community Cinema Project in Wivenhoe may consider nominating a building in the future and he sought further advice regarding:

- Whether the Council would assist in guiding community organizations through the process;
- The provision of advice to community groups as to which nominations would be potentially viable;
- Whether the Council could assist in advising how different groups could work together towards a common objective;
- Whether advice could be obtained prior to the submission of nominations regarding planning policies and associated potential obstacles.

It was confirmed that the council had the ability and expertise to offer certain types of technical advice to community groups but work would need to be undertaken to ensure that a clear differentiation existed between those parts of the organisation offering advice and those involved in determination of nominations. In terms of the 'first port of call' for these types of enquiries, it was likely that this would rest with the Council's Community Development Team managed by Bridget Tighe.

Councillor Hazell attended and, with the consent of the Chairman, addressed the Panel seeking clarification regarding a community group's rights in respect of the purchase of an asset.

Tracey Rudling explained that CCVS was able to assist in partnership working in order to help in the submission of applications. Other types of training related to this type of work were also available and it was likely that there may be issues in terms of capacity building.

Particular discussion from the Panel members was in relation to:

- The implications for the Council of the compensation issues;
- Potential Equality and Diversity implications in the light of competing local groups bidding for assets;
- The appropriateness of the Spatial Policy Team being given authority to administer the new arrangements

RESOLVED that the legislative requirements concerning assets of community value (also known as 'community right to bid'), as set out in the report by the Head of Strategic Policy and Regeneration, be noted.

RECOMMENDED to Cabinet that:-

(i) The Council's functions relating to assets of community value (community right to bid) be carried out by the Spatial Policy team in Strategic Policy and Regeneration, to include:

- maintenance and publication of the list of assets of community value;
- maintenance and publication of the list of land nominated by unsuccessful community nominations;
- consideration of community nominations;
- processing of notices of disposal and correspondence relating to the moratorium period;

- applications for compensation.
- (ii) Officers from other departments be involved in the decision making process including the Community Development Team and Sport and Leisure Services.
- (iii) Authority be given to the Spatial Planning Manager to make decisions on community nominations and compensation awards, following consultation with the appropriate Portfolio Holder, as necessary, and dependent on the circumstances of the case.
- (iv) Authority be given to the Head of Strategic Policy and Regeneration or Executive Director to make decisions on listing and compensation reviews, following consultation with the appropriate Portfolio Holder, as necessary, and dependent on the circumstances of the case.
- (v) The Monitoring Officer be requested to make any necessary changes to the Constitution.

16. Localism // Community Right to Challenge

Andrew Weavers, Monitoring Officer, presented a report informing the Panel of the Community Right to Challenge.

The Localism Act 2011 introduced with effect from 27 June 2012 a right for Parish Councils, community and voluntary bodies, charitable trusts and two or more local authority employees to submit an expression of interest in taking over the provision of a service on behalf of the local authority. Where a valid expression of interest is received, the Council is required to undertake a procurement exercise for that service, which may lead to a contract for the provision of the service being awarded.

The Monitoring Officer's report provided information on the legislation and recommended the arrangements which the Borough Council should adopt in order to operate the new Community Right to Challenge which was an Executive Function.

There was no requirement for a Voluntary or Community Body to have any local connection, and any of these bodies could submit an expression of interest in partnership with any other organisation, including a commercial organisation, or propose to sub-contract the work to a commercial organisation. Providing that this is done, there is no requirement for the relevant body to undertake the majority of, or any particular share of the work.

The expression of interest must relate to the provision of, or assisting in the provision of, a "relevant service", which means any service which was currently provided by or on behalf of the Council. "Excluded services" cannot be the subject of an expression of interest and are those which include the exercise of a statutory power which cannot be delegated, such as the determination of a planning application.

The expression of interest had to meet certain requirements including the provision

of :-

- Information about the financial resources of the “relevant body”;
- Evidence demonstrating that by the time of any procurement exercise, the relevant body will be capable of providing or assisting in providing the relevant service;
- Information about the outcomes to be achieved by the relevant body, in particular how the provision would promote or improve the social, economic or environmental well-being and how it will meet the needs of the users;

The report also gave details of:

- What happened when an expression of interest was received;
- The grounds on which the Council could reject a valid Expression of Interest;
- The ability to specify periods during which expressions of interest may be submitted for services;
- Arrangements for expressions of interest for services which are provided on a joint arrangement with other authorities;
- Publication requirements for the timescales between receipt of an expression of interest and notification of acceptance or rejection;
- The conduct of the procurement exercise;
- Arrangements regarding in-house bids.

The report explained that, once the statutory process had been activated, there was no guarantee that the community or voluntary organisation which initiated the process would be successful in the procurement exercise. Indeed, such an organisation could be at a considerable disadvantage by reason of its smaller size, limited track record of service provision and lack of funds for bid preparation. The formal procurement process could also lead to a formal service contract rather than a genuine partnership for local service delivery.

In order to encourage community involvement in service provision, it would be preferable to encourage direct negotiation with community and voluntary bodies instead of a formal procurement exercise. This policy of being approachable demonstrates that the Council and other sectors should not require the use of the legislative provisions but to work together in the first instance. So, for example, the Council has the ability to enter an agency arrangement with a Parish Council, or to grant a lease of local community facilities to such a community or voluntary body, and to enter a grant agreement, without having to undertake a competitive procurement. This will only be possible where the grant agreement does no more than cover costs (rather than control of services) and where there is no developed commercial market for the services.

Particular discussion from the Panel members was in relation to:

- The three month for expressions of interest each year and the need to provide for adequate budgetary planning procedures;
- The implications of potential commercial bids being submitted as a consequence of the requirement to undertake a full procurement exercise.

RESOLVED that Cabinet be informed of this Panel’s concerns in respect of the

Community Right to Challenge in terms of the implications of potential commercial bids being submitted as a consequence of the requirement for the Council to undertake a full procurement exercise upon receipt of an expression of interest.

RECOMMENDED to Cabinet that:-

(i) The period specified for the receipt of expression of the interest and timescales, as set out in Appendix 1 to the Monitoring Officer's report be agreed.

(ii) Any expressions of interest received be reported to Cabinet once the validation process has been undertaken by Legal Services and any decision to undertake a procurement process be managed by the relevant Service area in consultation with the Council's procurement team.

17. Work Programme 2012 - 2013

The Panel considered a report by the Head of Corporate Management giving details of the Panel's current work programme. The programme has been updated since the previous meeting of the Panel to reflect the decisions that were made and current circumstances.

The review by the Finance and Audit Scrutiny Panel of the consultation response on Setting Local Speed Limits had prompted further discussion of the work undertaken by the 20mph speed limit Task and Finish Group and the Essex County Council Colchester Local Highways Panel had recently indicated its support for the demand for the implementation of 20mph speed limits within local communities to be discussed by the Borough's Task and Finish Group and, with the assistance of a Highways Officer.

The vacancy on the Technology and Improvements in Community Engagement Task and Finish Group has now been filled and the first meeting is due to take place on 7 November 2012.

RESOLVED that –

(i) The contents of the report and the current situation regarding the work programme be noted.

(ii) That, in view of recent developments and in order to again move forward with this issue, arrangements be made for the 20mph Speed Limit Task and Finish Group to be reconvened with a newly appointed membership.