

Cabinet

**Grand Jury Room, Town Hall
14 December 2009 at 6.00pm**

The Cabinet deals with
the implementation of all council services, putting into effect the policies agreed by the council and making recommendations to the council on policy issues and the budget.

Information for Members of the Public

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COLCHESTER BOROUGH COUNCIL CABINET

14 December 2009 at 6:00pm

Leader (& Chairman): Councillor Anne Turrell (Liberal Democrats)
Deputy Chairman: Councillor Martin Hunt (Liberal Democrats)
Councillor Lyn Barton (Liberal Democrats)
Councillor Tina Dopson (Labour)
Councillor Nigel Offen (Liberal Democrats)
Councillor Beverley Oxford (The Highwoods Group)
Councillor Paul Smith (Liberal Democrats)
Councillor Tim Young (Labour)

AGENDA - Part A

(open to the public including the media)

Pages

1. Welcome and Announcements

(a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.

(b) At the Chairman's discretion, to announce information on:

- action in the event of an emergency;
- mobile phones switched off or to silent;
- location of toilets;
- introduction of members of the meeting.

2. Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent and to give reasons for the urgency.

3. Declarations of Interest

The Chairman to invite Councillors to declare individually any personal interests they may have in the items on the agenda.

If the personal interest arises because of a Councillor's membership of or position of control or management on:

- any body to which the Councillor has been appointed or nominated by the Council; or
- another public body

then the interest need only be declared if the Councillor intends to speak on that item.

If a Councillor declares a personal interest they must also consider whether they have a prejudicial interest. If they have a prejudicial interest they must leave the room for that item.

If a Councillor wishes to make representations on an item on which they have a prejudicial interest they may do so if members of the public are allowed to make representations. In such circumstances a Councillor must leave the room immediately once they have finished speaking.

An interest is considered to be prejudicial if a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice the Councillor's judgement of the public interest.

Councillors should consult paragraph 7 of the Meetings General Procedure Rules for further guidance.

4. Have Your Say!

(a) The Chairman to invite members of the public to indicate if they wish to speak or present a petition at this meeting – either on an item on the agenda or on a general matter not on this agenda. You should indicate your wish to speak at this point if your name has not been noted by Council staff.

(b) The Chairman to invite contributions from members of the public who wish to Have Your Say! on a general matter not on this agenda.

5. Minutes

1 - 17

To confirm as a correct record the minutes of the meeting held on 2 December 2009

6. Call-in Procedure

To consider any items referred by the Strategic Overview and Scrutiny Panel under the Call-In Procedure.

i. Request for Transfer of Land at Norman Way

18 - 53

See minute from the Strategic Overview and Scrutiny Panel meeting of 9 December 2009 following the call in of the Cabinet decision on 2 December 2009 in respect of the transfer of land at Norman Way.

7. Exclusion of the Public

In accordance with Section 100A(4) of the Local Government Act 1972 and in accordance with The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended) to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

CABINET
2 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 Elizabeth Blundell
Councillor John Bouckley
Councillor Nigel Chapman
Councillor Peter Chillingworth
Councillor Barrie Cook
Councillor Nick Cope
Councillor Mark Cory
Councillor Wyn Foster
Councillor Christopher Garnett
Councillor Chris Hall
Councillor Mike Hardy
Councillor Dave Harris
Councillor Pauline Hazell
Councillor Michael Lilley
Councillor Sonia Lewis
Councillor Sue Lissimore
Councillor Jackie Maclean
Councillor Kim Naish
Councillor Gerard Oxford
Councillor Ann Quarrie
Councillor Laura Sykes
Councillor Dennis Willetts
Councillor Julie Young

Date draft minutes published: 3 December 2009

Date when decisions may be implemented if not called in: 10 December 2009

All decisions except urgent decisions and those recommended to Council may be subject to call in. Requests for scrutiny of decisions by the Strategic Overview and Scrutiny Panel must be signed by at least one Councillor and counter-signed by four other Councillors (or alternatively support may be indicated). All such requests must be delivered to the Proper Officer by no later than 5pm on: 10 December 2009

42. Minutes

The minutes of the meeting held on 21 October 2009 were confirmed as a correct record.

43. Have Your Say!

Mr Hamilton addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) about the provision of storage for mobility scooters at the bus park. He suggested that a secure container near the coffee shop could be a way of providing such storage. He was receiving support from disabled residents who would welcome such a scheme. He was still awaiting a response to a letter he had written to the Chief Executive of the Council on 17 November 2009 and Shopmobility had also not responded to his enquires.

Councillor Turrell, Leader of the Council and Portfolio for Strategy, advised that a response would be sent in due course once a decision had been made on his proposal.

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

Councillor 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 Nick Cope and Councillor Martin Hunt (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.

44. Request for Transfer of Land at Norman Way

The Monitoring Officer 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 a letter from the Department of Children, Schools and Families dated 23 November 2009 and a letter dated 2 December 2009 from the Minister of State for Schools and Learners.

Essex County Councillor Stephen Castle addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). In the course of his comments and in response to questions from Cabinet members, he made the following points:-

- There had been a long and difficult process to reach this decision. In order to persuade the government to invest heavily in secondary education in Colchester it had been necessary to reorganise secondary school provision. There was now an opportunity to gain from this process. If this opportunity was lost, Colchester would suffer the worst of both worlds in that it would have undergone the reorganisation without receiving the investment to improve its secondary schools.
- Delaying a decision on the transfer of the land was potentially jeopardising the investment. In order to secure funding from Wave 6 of BSF a business case for Essex needed to be finalised quickly. Given the state of public finances it was unlikely that an incoming government would be able to proceed with Wave 7. Whilst the business case would not explicitly make reference to public opposition to the scheme, the Department for Children, Schools and Families would be aware of residents concerns.
- The concerns of local residents were understood but thousands of school children and their families would benefit in the long run, both at Philip Morant and also throughout the borough.
- It would be unreasonable to ask Philip Morant to take additional children without delivering an improved access.
- He was willing to support ways of ensuring the remaining open space could be protected in perpetuity.
- The issue had become overly politicised.
- The access road to Philip Morant had already been given planning permission.

Mr Barrow addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) and explained that the proposals for the reorganisation of secondary education in Colchester had not taken into account EERA's proposals for substantial extra housing in Colchester to be delivered by 2031. There would no funding left for new schools to meet the demand resulting from the new housing. The access road should be refused. There should be an independent inquiry into the logistical problems that would

arise from the future provision of secondary education.

John Loxley addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). The campaign to keep this area of open land was not political. He sought confirmation that Philip Morant had confirmed that it wanted this access road and that it was essential to its future plans. He believed that the first condition the Cabinet had set at its previous meeting had not been met. In respect of the second condition, 79% of respondents to the consultation had opposed the transfer and the outcome of the consultation should be respected.

David Kennedy of the Irvine Road Residents Association addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). The access road was not needed and other solutions to reduce congestion in the area should be explored. The Association was not political and supported the best possible education provision for local children. Essex County Council sought to minimise the importance of the land and portrayed any opposition as NIMBYism. The Cabinet should respect the views of local residents and refuse to transfer the land.

Richard Pettit of the Painters Corner Residents Association addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) in opposition to the loss of open space. The consultation had revealed overwhelming opposition to the loss of the open space. It was inconceivable that Essex County Council would jeopardise the investment by requiring the access road to be built, but if the investment were lost, the fault would lie with Essex County Council. Colchester Borough Council should adhere to borough policies to protect open space.

Paula Whitney addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) to indicate her support for the retention of the open space. Not only were there sound environmental reasons for retaining the open space, she also supported smaller and more sustainable schools. If the land was transferred, this would be contrary to the results of the consultation.

Nigel Hildreth, the Chair of the Governors at the Gilbert School, addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). Philip Morant had made it clear since the start of the reorganisation process that that if it were to expand, it would need better access arrangements. The current access was dangerous. Whilst he would prefer smaller more sustainable schools, this would not happen and the Council had to deal with the realities of the situation. It would be illogical to block the investment in Colchester's schools.

Tim Oxtan addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). The closure of the secondary schools in south Colchester was not irreversible. If the proposals for reorganisation went through, Philip Morant would be so large as to be unmanageable. The investment promised was for buildings and good schools were made by teachers, rather than buildings. The Cabinet should hold firm to its principles and respect public opinion as revealed by the public consultation.

Martin Hunt addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). He expressed concern that Philip Morant had never explained why it wanted the access road. It would not address the problem of congestion or make access to the school safer, because parents would not be able to use it. The proposed access would be for teachers, delivery, construction and emergency vehicles only. Once the school had expanded congestion would be even worse. The correspondence from Essex County Council showed that a deal about the road had been agreed between Essex County Council and Philip Morant without consulting the Borough Council, who owned the land. A summit meeting should be held between officials of Colchester Borough Council, Essex County Council, Philip Morant School and representatives of the two residents association to see if another solution to the issues of access could be found.

Nick Cope addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). If the land was transferred for the construction of the access road this would be contrary to the Council's own policies on the protection of open space. As a ward councillor, no constituent had ever approached him in support of the access road. There was no point consulting residents if their views were then ignored. The bullying approach of the County Council should be resisted.

Councillor Cook attended and addressed the Cabinet. The access road would not relieve congestion on local roads. Essex County Council was putting the investment in jeopardy by tying the investment to the access road. The Cabinet should not ignore the results of the public consultation. If the investment was not forthcoming at his point, further investment would be made later.

Councillor Gerard Oxford attended and addressed the Cabinet. A motion in support of the investment and access road had been passed by full Council. The conditions set by Cabinet previously had been met. Refusing the request to transfer the land would harm the life opportunities of school children in the borough.

In discussion members of the Cabinet made the following points:-

- Those members who opposed the road wanted to secure the investment in secondary investment in Colchester: the issue was whether the access road was necessary to secure the investment.
- The whole approach to the schools reorganisation was flawed. It was not too late to reverse the school closures and to seek a solution based on a federation model.
- It was inconceivable that the options were all or none of the investment. If the land was not transferred and the access road not built, then some elements of the reorganisation would still be funded.
- The funding for the rebuild of Charles Lucas was secure no matter what the outcome of the issue about the transfer of the land.
- The access road would not address the congestion issue.
- If the consultation was to be meaningful then the outcome must not be ignored.
- Other solutions to the access problems for Philip Morant existed and should be investigated further by a summit meeting of the interested parties.
- This was an opportunity to improve the life chances of a generation of school children. The concerns of residents were acknowledged but had to be balanced against the benefits for thousands of schoolchildren.
- There had been no objection or appeal against the decisions to close schools by their governing bodies.
- This was the last chance to secure this investment.
- Other secondary schools in the borough badly needed the investment and the opportunity to expand.
- It was appreciated that the investment would be in buildings and facilities rather than teachers. However the provision of new buildings in schools would help provide a better education for school children and would provide an environment in which good teachers would thrive.
- No councillors had voted against the motion at Council and thirty two councillors, representing thousands of residents, had supported the motion

It was *PROPOSED* that part of the public open space situated at Norman Way be released for a new vehicular access to the Philip Morant School subject to the following conditions:-

- (i) No work to commence on the access road until the Wave 6 funding was received by Essex County Council;
- (ii) A land swap should be pursued as the first option, and the sale or lease of the land should only be proceed if a satisfactory land swap could not be achieved;
- (iii) All the remaining open space to be protected in perpetuity from any construction or building work;
- (iv) The boundary of the road be protected by means of bunding, fence or

other such measure;

(v) A 20mph speed limit on the access road should be sought.

On being put to the vote, the proposal was *LOST* (three voted for, four voted against).

A named vote having been requested pursuant to the provisions of Meetings General Procedure Rule 15(3) the voting was as follows:

Those who voted *FOR* were:

Councillors Dopson, B Oxford and T. Young

Those who voted *AGAINST* were:-

Councillors Barton, Offen, Smith and Turrell

RESOLVED that:-

(i) The Council should invite representatives of Essex County Council, Philip Morant School and Painters Corner and Irvine Road residents associations to a meeting to consider alternative methods to improve access to Philip Morant School without building the access road.

(ii) Colchester Borough Council and Essex County Council to be represented at the meeting by officers only.

(iii) The meeting to be held before the meeting of the Strategic Overview and Scrutiny Panel on 9 December 2009;

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.

In the light of the responses received from Essex County Council and the Department for Children, Schools and Families and the outcome of the statutory public consultation it was not necessary to release part of the public open space for a new vehicular access to Philip Morant School.

ALTERNATIVE OPTIONS

An alternative option would be to approve the transfer of the land, not to make a decision and to put in place further series of actions to obtain additional information to inform a decision to be made at a later date.

45. 2010 - 2011 Revenue Budget, Financial Reserves and Capital Programme

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.

Elizabeth Hall, Chair of the Mercury Theatre Board, addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). She thanked Colchester Borough Council for the significant investment made in the arts in Colchester, in partnership with the Arts Council and Essex County Council. A consequence of the proposed cut in the Borough Council funding would be that other partners may then consider cutting their funding also. If this were to happen, it would have serious consequences for the ongoing viability of the Mercury Theatre. She requested that the cut in funding be reviewed after the forthcoming partnership meeting.

Nigel Hildreth, Chair of the Arts Centre Board, addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). The Arts Centre worked in partnership with other arts providers to provide valuable outreach work. These services would be at risk if there was a cut in funding. A cut in funding from Colchester Borough Council could put other funding at risk. No final decision on funding should be made until after the forthcoming partnership meeting. He was happy to meet with the Council to discuss funding at any time.

Anthony Roberts addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). Arts organisations were fragile and precarious and the support of the Borough Council was the bedrock of the Arts Centre. The funding from the Council enabled the Arts Centre to secure £291,000 of other public funding. Much work was done to measure the benefits this produced but it was very difficult to effectively quantify the value the arts provided.

In response, Councillor Smith, Portfolio Holder for Culture and Diversity, stressed that the Council would take account of the work of the Arts Centre and Mercury Theatre towards the objectives in the Strategic Plan. Whilst cuts in funding were regretted, the Council was receiving no support from the Arts Council or Essex County Council in respect of the legal costs for the Visual Arts Facility. Councillor T. Young responded that given the economic circumstances, the Council needed to concentrate on its resources on key frontline services. He was concerned that outreach work might be the first

victim of cuts by arts organisations as this was among the most valuable work they did. The Council may need to look at the Service Level Agreements with the arts organisations to address this issue.

Councillor Willetts attended in his capacity as Deputy Leader of the Conservative Group and addressed the Cabinet to express his concern about the budget gap identified in the Head of Resource Management's report. He hoped the generous Housing and Planning Delivery Grant would mean that the cuts in arts funding would not be necessary. He expressed concern about the way investments, interest earnings and corporate targets had been managed. Conservative Party policy was to seek a 0% rise in Council tax. No reference was made to the Haven Gateway funding in the capital programme parts of the report.

Councillor Arnold attended and addressed the Cabinet in his capacity as the Chairman of Strategic Overview and Scrutiny Panel. He drew attention to the decision of the Strategic Overview and Scrutiny Panel on 3 November 2009 to support the inclusion of a growth item in the 2010/11 budget for a "clean all" policy in relation to graffiti, which was not referred to in the report.

Councillor Smith, Portfolio Holder for Culture and Diversity, explained that the Council was taking positive action to address the difficult budget position. The announcement of a more generous than expected Housing and Planning Delivery Grant was welcomed.

RESOLVED that:-

(a) The current 2010/11 revenue budget forecast which at this stage showed a budget gap of £1,793,000 and the forecast variables and risks be noted.

(b) The action being taken to close the budget gap including the ongoing development of savings delivery plans and proposed consideration of use of reserves and balances be noted.

(c) The recommended level of revenue balances be set at £1.5m for 2010/11 as set out in the Risk Analysis subject to consideration of outstanding issues as part of the final budget report in January 2010.

(d) The current budget forecast for 2009/10 be noted as set out at paragraph 11.7 of the Head of Resource Management's report.

(e) The release of funds for capital schemes set out at section 13 of the Head of Resource management's report be agreed and in addition the release of £95,000 provided to the Council in the form of Housing Capital Grant to fund Private Sector Housing renewal commitments be agreed.

(f) In respect of second homes the Council Tax discount applied be retained at 10% as set out at paragraph 14.5 of the Head of Resource Management's report.

(g) In respect of long term empty properties the discount be retained at nil as set out at paragraph 14.5 of the Head of Resource Management's report.

RECOMMENDED to Council that: £250,000 be released from balances to fund additional legal costs in respect of the Visual Arts Facility (VAF) as set out paragraph 7.9 of the Head of Resource Management's report.

REASONS

The reasons for the decisions were set out in detail in the Head of Resource Management's report

ALTERNATIVE OPTIONS

No alternative options were presented to the Cabinet.

46. Introduction of 20 mph areas in Colchester

Minute 17 of the Policy Review and Development Panel meeting of 9 November 2009 was submitted, 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.

Councillor Willetts attended and addressed the Cabinet. He considered that the approach proposed by the Policy Review and Development Panel was timid and over-cautious. He believed most communities had a clear idea of their views on 20 mph zones and believed that the proposed consultation should not be too involved or protracted. The requirement that 20 mph zones be based on Parish Plans and Village Design Statements should be relaxed to include any area that was supported by a valid parish council or residents association resolution.

The Cabinet noted that this was an interim report and that a final report would follow in due course. Some concern was expressed that some residential areas had been identified in the recommendations as this had raised expectations among those communities.

RESOLVED that the recommendation contained in minute 17 of Policy Review and Development Panel's meeting of 9 November 2009 be agreed.

REASONS

The recommendation from Policy Review and Development Panel was based on the work of the 20mph Task and Finish Group who had examined the issues relating to the introduction of 20m mph areas in detail.

ALTERNATIVE OPTIONS

Not to agree to the recommendation of the Policy Review and Development Panel or to partially agree the recommendations of the Policy Review and Development Panel.

47. Transforming Colchester's Housing Services

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 F to these minutes in the Minute Book.

RESOLVED that:-

- (a) In principle, Colchester Borough Council pursue affordable housing development as a local authority, including developing in its own right, subject to the financial resources being available to do so.
- (b) A range of development models be considered on land owned by Colchester Borough Council on a site by site basis, including facilitating development by Colchester Borough Homes (CBH) through the use of prudential borrowing.
- (c) Colchester Borough Council pursue, as a local authority, obtaining investment partner status with the Homes and Communities Agency and Registered Provider status with the Tenant Services Authority (TSA) .
- (d) Colchester Borough Homes be supported to secure Registered Provider Status with the TSA.
- (e) The services of a developer agent be procured to undertake development services on behalf of the Council, using the appropriate selection process.
- (f) Authority be delegated to the relevant Portfolio Holders to agree a policy and selection criteria to enable Portfolio Holders to make decisions about the selection of the best affordable housing provider for each site that becomes available for development.

REASONS

(a) The restrictions and barriers to Council's building new homes were being removed. Council's have been positively encouraged to develop new affordable housing for rent through the opportunity to bid for grant funding from the Homes and Communities Agency. Colchester Borough Council has the chance to take advantage of this opportunity.

(b) One of the Council's strategic priorities is to increase the supply of affordable housing and Members have expressed their desire, through the Council's Strategic Plan to, make use of Council owned land to build new affordable housing and contribute to achieving their targets.

(c) Colchester Borough Council's ALMO, Colchester Borough Homes, were keen to develop new homes. To do so they would require financial support, strategic direction and the agreement of the Council.

ALTERNATIVE OPTIONS

(a) Not to pursue affordable housing development. If the Council decided not to pursue development the opportunity to secure additional funding for affordable housing would be lost.

(b) Not to facilitate development by the Council's ALMO, through the use of prudential borrowing. This would prevent Colchester Borough Council's ALMO, Colchester Borough Homes, pursuing affordable housing development as they were reliant on the Council to provide the finance required to develop new homes.

(c) Not to consider the use of Council owned land for affordable housing development. This would restrict the Council's ability to meet its Strategic Plan targets. In addition, some of the funding opportunities would not be open to the Council (such as Local Authority Social Housing Grant which requires Councils to use their own land to provide affordable housing).

48. Review of Temporary Accommodation

The Head of Life Opportunities 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.

RESOLVED that:-

Agreement be granted in principle to the following decisions, enabling officers to proceed with detailed work and further negotiation:-

- (a) the existing temporary accommodation site at Ascott House and Gardens be redeveloped to create a purpose built 30 unit temporary accommodation scheme;
- (b) the appointment of Family Mosaic Housing Association as the Registered Social Landlord (RSL) to redevelop the site at Ascott House;
- (c) the leasing of the buildings at John Bird Court, Friars Court and Gothic House to Family Mosaic Housing Association for them to manage.
- (d) the disposal of the buildings at 93/95 Military Road, 95 Winnock Road, 60 Creffield Road and Bardfield House on the open market and the potential for the redevelopment of the site at Military Court be explored;
- (e) the capital receipts from the sale of these buildings be used to support the development of the site at Ascott House and contribute to upgrading the buildings at John Bird Court, Friars Court and Gothic House if required.

Following work to specify the detail of the financial package and implementation plans for this project, further decisions to be taken jointly by the Portfolio Holders for Neighbourhoods, Culture and Diversity and Resources and Business under delegated powers.

REASONS

- (a) A Portfolio Holder report of the review of temporary accommodation was taken to Finance and Scrutiny Panel in January 2008. The decision made required officers to implement the finding of the review of temporary accommodation and bring back a further report to Portfolio Holders.
- (b) The implementation of the proposals set out in the Head of Life Opportunities report, would deliver the following outcomes:-
 - Improvement in the stock of temporary accommodation for those in need of short-term housing
 - Improvement in the support provided for the tenants of temporary accommodation
 - Better outcomes for these tenants
 - Recurring revenue savings for the Council
 - The potential for surplus capital receipts

ALTERNATIVE OPTIONS

- (a) The Council could retain all of its current temporary accommodation and carry out the necessary works needed to convert it into self contained accommodation where tenants have access to their own kitchen and

bathroom. This option was not considered viable due to the capital cost that would be incurred by the Council compared to the value of the asset.

(b) The Council could dispose of the non self-contained units (where kitchens or bathrooms are shared between tenants on a communal basis), get an RSL to build and manage its replacement and the Council retain and manage the self contained units. This option was not considered viable as it would not provide the level and quality of support the Council desired.

(c) A developing RSL could provide the new build and the housing management function for it and a separate RSL could provide the support. This option was dismissed as the Council wanted to achieve a holistic and consistent approach to the management and support of tenants which gave the best possible opportunity for sustaining their tenancies.

(d) The Council could decide not to dispose of the sites identified in paragraph 1.4 of the Head of Life Opportunities report and use them to develop new affordable housing. This option was not considered viable following planning advice on the sites for 60 Creffield Road, 95 Winnock Road and 93/95 Military Road. Each of these sites fell within a conservation area and the advice given was that these buildings be retained. The receipts from the sale of these sites would also need to be used to support the redevelopment of Ascott House and improvements needed at the retained sites specified in paragraph 1.3 of the Head of Life Opportunities report

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

49. Moving into New Affordable Housing Development

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 F to these minutes in the Minute Book.

RESOLVED that:-

(a) In principle, Colchester Borough Council pursue affordable housing development as a local authority, including developing in its own right, subject to the financial resources being available to do so.

(b) A range of development models be considered on land owned by Colchester Borough Council on a site by site basis, including facilitating development by Colchester Borough Homes (CBH) through the use of prudential borrowing.

(c) Colchester Borough Council pursue, as a local authority, obtaining investment partner status with the Homes and Communities Agency and Registered Provider status with the Tenant Services Authority (TSA) .

(d) Colchester Borough Homes be supported to secure Registered Provider Status with the TSA.

(e) The services of a developer agent be procured to undertake development services on behalf of the Council, using the appropriate selection process.

(f) Authority be delegated to the relevant Portfolio Holders to agree a policy and selection criteria to enable Portfolio Holders to make decisions about the selection of the best affordable housing provider for each site that becomes available for development.

REASONS

(a) The restrictions and barriers to Council's building new homes were being removed. Council's have been positively encouraged to develop new affordable housing for rent through the opportunity to bid for grant funding from the Homes and Communities Agency. Colchester Borough Council has the chance to take advantage of this opportunity.

(b) One of the Council's strategic priorities is to increase the supply of affordable housing and Members have expressed their desire, through the Council's Strategic Plan to, make use of Council owned land to build new affordable housing and contribute to achieving their targets.

(c) Colchester Borough Council's ALMO, Colchester Borough Homes, were keen to develop new homes. To do so they would require financial support, strategic direction and the agreement of the Council.

ALTERNATIVE OPTIONS

(a) Not to pursue affordable housing development. If the Council decided not to pursue development the opportunity to secure additional funding for affordable housing would be lost.

(b) Not to facilitate development by the Council's ALMO, through the use of prudential borrowing. This would prevent Colchester Borough Council's ALMO, Colchester Borough Homes, pursuing affordable housing development as they

were reliant on the Council to provide the finance required to develop new homes.

(c) Not to consider the use of Council owned land for affordable housing development. This would restrict the Council's ability to meet its Strategic Plan targets. In addition, some of the funding opportunities would not be open to the Council (such as Local Authority Social Housing Grant which requires Councils to use their own land to provide affordable housing).

50. Calendar of Meetings 2010-2011

The Head of Corporate Management submitted a report 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 Calendar of Meetings for 2010/11 be agreed.

REASONS

(a) The Calendar of Meetings needed to be determined so that decisions for the year could be timetabled into the respective work programmes and the Forward Plan.

(b) Advance notice of the Calendar of Meetings needed to be made available to external organisations, parish councils and other bodies with which the Council works in partnership and to those members of the public who may wish to attend meetings of the council and make representations.

(c) The meeting rooms also need to be reserved as soon as possible so that room bookings could be made for private functions by private individuals, external organisations and internal Council groups.

ALTERNATIVE OPTIONS

The proposed calendar of meetings had been devised based on the current meeting structure and frequency. It would be possible to devise alternative proposals using different criteria.

51. Appointment of Deputy Mayor 2010-2011

Consideration was given to the appointment of the Deputy Mayor for the Municipal Year 2010-11.

Councillor Hunt nominated Councillor Chuah as Deputy Mayor for the 2010-11 Municipal Year. Councillor T. Young endorsed the nomination of Councillor Chuah.

RECOMMENDED to Council that Councillor Chuah be nominated for appointment as Deputy Mayor for the Borough of Colchester 2010-11 Municipal Year.

52. 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 H 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.

53. Exclusion of the Public

Extract from the minutes of the Strategic Overview and Scrutiny Panel meeting of 9 December 2009

Councillor Turrell (in respect of being a Member of Essex County Council) declared a personal interest in the following item.

38. Referred items under the Call in Procedure

Request for transfer of land at Norman Way

Have Your Say

Mr. Richard Pettit of the Painters Corner Residents Association addressed the Panel in opposition to the loss of open space, and especially that known as 'the Green', though the association was not against future investment and building at the Philip Morant School. Mr. Pettit said it was essential the Partnership for Schools (PfS) programme does not stipulate the road is essential for funding. Mr. Pettit suggested that any formal motion referred back to the Cabinet should stipulate that if for any reason the PfS funding is not forthcoming, the decision to release the open space land should be rescinded, thereby not allowing for a loss of open space at the expense of a building that did not receive further investment.

Mr. Barrow, a resident local to Norman Way addressed the Panel saying the County Election Special journal stated that the open space around the Philip Morant School would not alter as a result of new building work. Mr. Barrow explained that the proposals for the reorganisation of secondary education in Colchester had not taken into account East of England's Regional Assembly proposals for substantial extra housing in Colchester to be delivered by 2031. Mr. Barrow believed there are no conditions attached to the investment funding, that Essex County Council are calling the Council's bluff, and that to threaten in this manner was a direct attack on local children. Mr. Barrow concluded by asking members not to be blinded by money and consider that other local schools could be the next to be blighted.

Mrs. Paula Whitney addressed the panel saying she believed the stance taken by the Cabinet was environmentally, ethically, morally and educationally the best response. Mrs. Whitney believed the gazette had provided an unbalanced report on proceedings at the last Cabinet meeting and indicated her support for the retention of the open space. Mrs Whitney said she was against the whole situation of large schools at the expense of the closure of two small schools. Mrs. Whitney said her daughter had herself been subject to bad experiences during her time at the Philip Morant School and was against these large schools in principle. Mrs. Whitney concluded by saying she would encourage the green open space as an access to the school, and also supported smaller and more sustainable schools.

Mr. Kean, a resident local to Norman way addressed the Panel saying he was appalled that the Philip Morant School was allowed to continue with the present access, and the health and safety issues associated with this access. Mr. Kean said the school was merely trying to exceed to the desires of Essex County Council, because the access was not fit for purpose at present. Mr. Kean concluded by saying the current main school block was also unfit for its current purpose and emergency and service vehicles should be served with proper access.

Request for transfer of land at Norman Way

Mr. Ian Vipond, Executive Director was invited to speak to the panel in response to the planning issues that have been raised concerning this decision.

Mr. Vipond said in planning terms the original planning application for road access was appealed and in December 1999 the Planning Inspector formally approved the application for an access road, a decision that remains unchanged.

Mr. Vipond clarified that an open space policy did not mean every blade of grass on an open space remains open, citing examples such as play equipment, large pathways and roadways that run through or on open spaces in Colchester.

Mr. Vipond said it was worth noting the quotes from the Planning Inspector in 1999 when during the appeal proceedings he looked at the existing access road and found it highly unsatisfactory, therefore if the school proposed further development on the site, the current access would prevent any planning consent being granted. Mr. Vipond said he did not consider the proposed new road would give a serious loss of open space.

Mr. Vipond concluded by saying the 2004 application renewal took the Planning Inspectors considerations in 1999 into account and nothing had materially changed since then. The Local Plan, in terms of open space allocation, made a judgment that the amount of open space allocated to a new access road would not undermine the Council's policy on open space, the advice given to members of the Planning Committee.

Call in discussions

It was explained that at the Cabinet meeting on the 2 December 2009, and in respect of the decision 'Request for transfer of land at Norman Way', the Cabinet had to determine to release part of the public open space situated at Norman Way for a new vehicular access to the Philip Morant School on terms to be agreed by the Head of Resource Management in consultation with the Portfolio Holder for Resources and Business. The Cabinet determined by a named vote, not to release part of the public open space situated at Norman Way for a new vehicular access to the Philip Morant School.

This Cabinet decision was called in by Councillor Ford supported by four Councillors, and Councillor Ford addressed the panel to explain the reasoning for the call in.

Councillor Ford said the call in request was to try to convince the Cabinet to agree to release part of the public open space situated at Norman Way for a new vehicular access to the Philip Morant School, thereby allowing £130 million pounds of investment to be released by the appropriate authorities to be spent in part on build, rebuild and refurbishment on secondary schools in Colchester. Councillor Ford said transferring part of the public open space has proved to be a contentious issue with many individuals and organisations holding strong and, on occasions, opposing views.

Councillor Ford said it was not easy to see through the morass of arguments but would attempt to put forward relatively simple arguments for the panel to understand. Firstly, and in reference to the reasons for the call as stated in the agenda papers, Councillor Ford said at the Full Council meeting on 14 October 2009, Councillor Bentley proposed the following, quote;

“Council welcomes and supports the £130 million Government investment into education in Colchester, which will benefit all school children throughout the Borough. The “Building Schools for the Future” funding will enable an extensive refurbishment and rebuild programme in order to provide a modern learning environment for our young people.

Council believes that nothing should be done, or left undone, which would impede or hinder this investment and that Colchester Borough Council should fully cooperate with Essex County Council to help secure this multi million pound investment.

Council supports the need of Philip Morant School to improve the road access to its premises as part of the investment into that school, for which planning permission has already been granted by this Council. These improvements should be expedited by means of the Cabinet cooperating fully with the appropriate authorities to enable the land to be made available for the building of the access road.

This to be agreed by Cabinet at its next meeting on 21 October 2009 and be carried out as expeditiously as possible.”

Councillor Ford said this motion was approved and adopted, with thirty two voting in favour of the motion and twenty two abstaining. At the Cabinet meeting on 21 October 2009, the motion was discussed by Cabinet which resolved that the motion proposed by Councillor Bentley should be approved and adopted subject to (i) the Council seeking and obtaining written confirmation from Essex County Council and the Department for Children, Schools and Families about the status of the Building Schools for the Future funding if the new access road to Philip Morant school did not go ahead, and (ii) the outcome of the Statutory Public Consultation on the public open space which is being commenced immediately.

Councillor Ford said letters were sent from the Leader to Essex County Council and The Department for Children, Schools and Families and replies received from Lord Hanningfield, Leader of Essex County Council, Mr. Vernon Coaker, Minister of State for Schools and Learners, Ms. Joanna Killian, Chief Executive at Essex County Council and Ms. Christine Kane from the Office of Schools Commissioner. As you would expect, the replies were carefully crafted, and the inference was that the land at Norman Way needs to be transferred to enable the release of the £130 million funding. Councillor Ford said he sought legal advice on these replies from the Council's Monitoring Officer who advised that in his opinion the letters confirmed that the land for the road is required to enable the investment to progress to the next stage in the process, and that the land was the last thing to be put in place to complete the jigsaw puzzle that symbolises the incredible complex process of putting together the re-organisation of secondary schools in Colchester and the £130 million pound investment. Councillor Ford believed this confirmed that the land had to be released in order for the investment funding to be released.

Councillor Ford said the Constitution states that as a locally elected representative, the main duty of a Councillor is as a Community Leader, speaking and acting for all local people, assisting them as individuals and seeing that their area gets fair and proper treatment, that Councillors represent the interests of the Borough of Colchester as a whole. The transfer or possible transfer of public open space is a local issue which is tremendously important to people living there but unfortunately it has implications affecting the whole of the Colchester, and as a member of the Council, I am representing the interests of the Borough Council. Councillor Ford said there has been 1,176 responses expressing they are against the proposal and 310 responses expressing they are for the proposal, almost a four to one against the public open space being used as an access road to the school.

Councillor Ford said the Head Teacher at St Helena School told him that approximately 1,600 pupils in Colchester start each year at secondary schools in year 7. Councillor Ford said if the investment funding is forthcoming and allows our schools to be cared for over the next twenty years, 32,000 pupils will have benefited from this investment, and given he was concerned about the interests of the people of the Borough of Colchester as a whole, 32,000 pupils was far greater than 1,176 responses against the proposal. Councillor Ford argued that whilst buildings themselves do not pass exams they are an important part in that mixture of variables necessary to the learning process. Councillor Ford read out a message from the Head Teacher at St Helena School expressing his concerns should the investment funding not go ahead.

Councillor Ford said the investment would enable children to get better qualifications, better jobs, more money, and pay more taxes that could be used for more future investment and so on. But there were negatives, one of which was the residents in the Norman Way area who will be disadvantaged by the access road, though he believed everything would be done to alleviate and lessen the impact on the quality of their lives. Closing schools and

moving children around the Borough will increase traffic movements and add to carbon emissions, though this could be offset by buildings that are built with modern eco-friendly technology.

In conclusion, Councillor Ford said the access road is not, I believe, just an access road that will be built to the real inconvenience of local residents but is a catalyst that will impact on the lives of thousands of children and their families and the wellbeing of Colchester.

Mr. Adrian Pritchard, Chief Executive Officer attended the meeting and briefed the Panel on the outcomes of a meeting held the previous evening. At the Cabinet meeting on 2 December 2009, the Cabinet resolved that the Council should invite representatives of Essex County Council, Philip Morant School and Painters Corner and Irvine Road residents associations to a meeting to consider alternative methods to improve access to Philip Morant School without building the access road, that Colchester Borough Council and Essex County Council would be represented at the meeting by officers only, and the meeting would be held before the meeting of the Strategic Overview and Scrutiny Panel on 9 December 2009.

Mr. Pritchard confirmed attendees to the meeting were three officers from Essex County Council, two Governors and the Head Teacher of Philip Morant School, two representatives from both the aforementioned residents associations, himself and Ms. Ann Wain, Executive Director. Mr. Pritchard said each representative was asked to give an expression of their current position concerning this issue, and were then asked to put this position to one side so further discussions could continue without prejudice to enable the discussion to consider alternative options. Mr. Pritchard said he believed the meeting had been useful.

Mr. Pritchard said the meeting had established that an outline business case has been drafted by the Partnership for Schools (PfS), based on schools being part of the discussions and consultation process. Essex County Council officers said if the land was not transferred and the access road not built, this would not categorically mean that the funding would not be forthcoming. However, at some point, they will look at the land assembly and delivery of a new access road, and any delay could trigger a series of other things that might happen, for example, at any point the Prime Minister could call a general election. It was confirmed that whatever transpires PfS would still continue.

Mr. Pritchard said Philip Morant school are clear that remodeling the school was reliant on achieving a new access road that has planning permission, though the need for this new road had been necessary and increasing since 1999. Mr. Pritchard confirmed that no questions were asked in reference to Compulsory Purchase.

The residents associations are clear that if an access road is built they will lose open space, and the road will cut across pedestrian and cycle routes running east to west of the open space. Whilst it was felt a new road would

mitigate to some extent against traffic congestion around the school, as the road was to be only used by teachers, emergency vehicles and supply vehicles, this would be of limited benefit, outweighed by the loss of open space.

It was confirmed that if the PfS is successful, planning considerations of future applications would still be needed. Mr. Pritchard confirmed that he had received very late today a letter of thanks by Essex County Council for arranging the meeting. Mr. Pritchard concluded by saying no representatives to the meeting changed their position or view as a result of the meeting.

Councillor Turrell, Leader of the Council attended the meeting to discuss the issues with the Panel. In discussion Councillor Turrell said consultation had been undertaken prior to the decision that was taken by Cabinet. Councillor Turrell reiterated points already made at previous meetings that the re-organisation of schools in Colchester was in the control of Essex County Council, and Cabinet have never said that they do not want to get the £130 million investment funding for Essex.

Councillor Turrell contested the view that by not allowing the new access road was against four of the Strategic Plan Priorities, saying the current arrangements allowed for a safe route for all the public walking and cycling in close vicinity to the Philip Morant School. Councillor Turrell said the Cabinet's main reason for voting against the proposal was the loss of public open space and in doing so had listened and responded to local residents. Councillor Turrell said for what ever reason, if the funding was not forthcoming, the Council would not be responsible for this, that cabinet had gone out their way to find a solution without a new access road on open space, but had not done anything to impede the investment. Councillor Turrell said that Philip Morant School now wanted the new access road regardless of the possible investment funding, and that had confused the issue.

Councillor Turrell responded to questions from panel members. In response to Councillor Naish, Councillor Turrell did not know what percentage of land would be lost to a new access road, but she did not want to loose any open space, no matter how small. Councillor Turrell said she and colleagues had worked hard to try to find a solution to the issue, including land swop, but all considerations had proved unsuccessful.

In response to Councillor Hogg, Councillor Turrell said though she had asked the question, in regards to the financial submission, she did not know where or how the funding would go, and in response to Councillor Sykes, said she believed in the value of public consultation, and with the Strategic Plan stating the Council will listen and respond, the Cabinet decision had reflected the greater weight of public response to opposing any new road on open space.

In response to Councillor Arnold, Councillor Turrell said the overall consultation response may have been small in relative terms to the Borough as a whole, but opposition to the proposal came from a variable mix of different areas and people of different ages within the Borough. Councillor

Turrell reiterated her desire to continue to work to try to find an alternative practical solution. Mr. Pritchard said that land swap had not been categorically ruled out and could provide a possible solution. Councillor Turrell said whilst she understood there could be a land swap deal with Essex County Council the land in question was already used as open space so in reality there was no gain. Councillor Turrell also reiterated that Essex County Council had had many years to produce a sound business case but the Borough was been used as a scapegoat.

In response to Councillor Lilley, Councillor Turrell said she was not against the investment funding, was positively in favour of it, but did not wish to be pushed into a corner over the decision. Councillor Turrell reiterated that she was trying to find an alternative solution and was being provided with information from Council officers though some of this was conflicting, She reiterated to Councillor Maclean that land swap was not the only solution being considered and efforts involving many meetings with Essex County Council had taken place and would continue in an effort for an alternative solution.

In response to Councillor Willetts, Councillor Turrell said the intention of a new access road only came to the fore very recently, and whilst she accepted the actual number of consultation responses only represented 1-2% of the local population, she could not make an assumption on the views of the 98-99% of the local population who did not respond.

In regards to issuing a Compulsory Purchase Order (CPO) for the open space to provide a new access road, Mr. Pritchard responded to members by saying Essex County Council could issue a CPO but they have said it would take between 6 to 12 months to resolve. Therefore it was possible that the PfS discussions may not be completed because Essex County Council could not determine the outcome of the CPO judgment.

Councillor Ford and Councillor Turrell gave brief summaries on their respective positions following the debate.

Following the discussions the Chairman invited panel members to confirm the decision made by Cabinet as set out in minute 44 of the Cabinet meeting on 2 December 2009 (THREE voted FOR and SEVEN voted against, with ONE abstention).

RESOLVED that the panel (SEVEN voted FOR and FOUR ABSTAINED) referred the decision back to the Cabinet for further consideration setting out in writing the nature of its concerns;

- i) The Cabinet should give much more weight to the strategic impact of a failure to release the land.*
- ii) Cabinet should not bring factors already dealt with in the planning process into the executive decision.*

- iii) *The Cabinet should recognise the practical reality that Essex County Council cannot complete a business case without the principle agreement of the Borough Council to release the land.*
- iv) *The Cabinet should take the opportunities to increase the net amount of public open space in the vicinity of Philip Morant School that have emerged since Full Council considered the issue on 14 October 2009.*

Report of	Monitoring Officer	Author	Andrew Weavers
Title	Request for Transfer of Land at Norman Way		
Wards affected	Prettygate and Christ Church		

This report concerns the request to release of a piece of public open space to allow a new vehicular access to Philip Morant School

1. Decision(s) Required

1.1 To determine whether

(a) in light of the responses received from Essex County Council and the Department for Children, Schools and Families; and

(b) following the outcome of the statutory public consultation,

to release part of the public open space situated at Norman Way for a new vehicular access to the Philip Morant School on terms to be agreed by the Head of Resource Management in consultation with the Portfolio Holder for Resources and Business.

2. Reasons for Decision(s)

2.1 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 Motion also stated that "Council believes nothing should be done, or left undone, which would impede or hinder this investment".

3. Alternative Options

3.1 An alternative option would be not to make a decision and to put in place further series of actions to obtain additional information to inform a decision to be made at a later date.

4. Supporting Information

4.1 Building Schools for the Future is a government funded programme to support secondary school improvement across an area. In relation to Colchester, it is Essex County Council's responsibility to set out in the form of a business case how government investment will improve provision for pupils across the Borough. The Department for Children, Schools and Families (DCSF) has devolved responsibility for managing the programme to Partnership for Schools (PfS). This is an independent agency that works with County Councils so that viable proposals can be taken to the Minister to consider. Once PfS is content with the business case, a final decision to release funds is taken by DCSF Ministers.

4.2 On 14 October 2009 a Motion was put to Council about the schools investment programme in Colchester.

4.3 Following the debate by Council, the Motion was voted upon and carried with 32 votes for and 22 abstentions. The Motion was then referred to Cabinet (Extract of minute 29 of the 14 October 2009 Council meeting is attached at Appendix 1).

4.4 The Motion said:

“Council welcomes and supports the £130 million Government investment into education in Colchester, which will benefit all school children throughout the Borough. The “Building Schools for the Future” funding will enable an extensive refurbishment and rebuild programme in order to provide a modern learning environment for our young people.

Council believes that nothing should be done, or left undone, which would impede or hinder this investment and that Colchester Borough Council should fully cooperate with Essex County Council to help secure this multi million pound investment.

Council supports the need of Philip Morant School to improve the road access to its premises as part of the investment into that school, for which planning permission has already been granted by this Council. These improvements should be expedited by means of the Cabinet cooperating fully with the appropriate authorities to enable the land to be made available for the building of the access road.

This to be agreed by Cabinet at its next meeting on 21 October 2009 and be carried out as expeditiously as possible.”

4.5 As requested by Council, the Motion was discussed by Cabinet at its meeting on 21 October 2009 which resolved that the Motion should be approved and adopted subject to:-

- (i) the Council seeking and obtaining written confirmation from Essex County Council and the Department for Children, Schools and Families about the status of the Building Schools for the Future funding if the new access road to Philip Morant school did not go ahead;
- (ii) the outcome of the Statutory Public Consultation on the public open space which is being commenced immediately.

4.6 The reasons for the decision were stated as:

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

An extract of minute 38 of the Cabinet meeting of 21 October 2009 is attached at Appendix 2

4.7 As a result of the Cabinet decision, two actions were subsequently taken:

4.7.1 Letters were written to Essex County Council and the Department for Children Schools and Families. Copies of these letters are attached at Appendices 3 and 4 respectively.

4.7.2 A statutory public consultation was undertaken. The results of this are outlined at section 7 below.

- 4.8 The replies received from Essex County Council dated 28 October 2009 and Department for Children, Schools and Families dated 9 November 2009 are attached at Appendices 5 and 6 respectively.
- 4.9 A further letter from Essex County Council dated 18 November 2009 has been received in response to the letter from Department for Children, Schools and Families and this is attached at Appendix 10.

5. Strategic Plan References

- 5.1 The transfer of land in itself is not a significant strategic issue. However, the link to the possibility of the schools reorganisation could be considered as addressing younger people's needs.

6. Consultation

- 6.1 A statutory public consultation was required by the Local Government Act 1972 as the matter concerned the possibility of the disposal by the Council of land used as public open space. Accordingly, a Public Notice was placed in a local newspaper circulating in the Borough for two consecutive weeks. A copy of the Notice is attached at Appendix 7. It is confirmed that the Council has complied with its statutory duty in this regard.
- 6.2 The Local Government Act 1972 requires the Council to consider any objections that are received.
- 6.3 The Council received a total of 1,490 responses to the consultation. These comprise of responses from individuals and two petitions.
- 6.4 There were 314 individual responses. Of these 258 responses were against the proposed disposal and 52 were in favour. There were 4 responses that saw both sides.
- 6.5 In addition, 2 petitions were received. Within the petitions, 918 signatures were against the proposed disposal (there were some duplicates with the individual responses) and 258 were in favour.
- 6.6 In addition to the consideration of the numbers of people responding to the consultation, the information contained in the responses has been analysed to consider the range of issues raised by respondents. A breakdown of this information is contained in Appendix 9.

7. Publicity Considerations

- 7.1 This is an issue that has generated a significant amount of public interest and there is a continuing requirement for as much information to be made available as possible.

8. Financial implications

- 8.1 There are no direct financial implications for the Council in relation to this issue. However, one of the issues that Cabinet resolved to clarify was whether the £130m Building Schools for the Future funding was dependent on the access road.

9. Equality, Diversity and Human Rights implications

9.1 At this stage there are no direct equality and diversity and human rights implications. Further consideration will need to be taken dependent on the decisions made.

10. Community Safety Implications

10.1 Some of the issues raised by respondents to the public consultation have been around community safety issues. To some extent these were considered in the conditions contained in the Planning Decision obtained by The Philip Morant School for the construction of a new access road dated 30 June 2005. A copy of which is attached at Appendix 8.

11. Health and Safety Implications

11.1 N/A.

12. Risk Management Implications

12.1 N/A

Appendices

Appendix 1 - Extract from minutes of Council Meeting 14 October

Appendix 2 – Extract from minutes of Cabinet Meeting 21 October

Appendix 3 - Letter to Essex County Council

Appendix 4 - Letter to and Department of Children Schools and Families

Appendix 5 - Response from Essex County Council

Appendix 6 - Response from Department of Children Schools and Families

Appendix 7 - Advertisement for Statutory Consultation

Appendix 8 - Planning Decision 30 June 2005

Appendix 9 – Consultation analysis

Appendix 10 – Letter from Essex County Council in response to letter from DCSF

Background Papers

Petitions – available to view

COUNCIL MEETING 14 OCTOBER 2009

29. Notice of Motion // Resolution informing Cabinet of the view of Council on the Schools Investment Programme

Essex County Councillor Jeremy Lucas addressed the Council pursuant to the provisions of Council Procedure Rule 6(2). He argued that for the sake of current infant and junior school pupils in Colchester, nothing should be done to compromise the promised funding. He was working behind the scenes to try and secure secondary education provision in South Colchester and it was likely that a vocational college would be established in South Colchester. He did not understand why such a major project should be so dependent on a local issue. The proposed road would not solve the problems of traffic and parking during the school day and the open land in question did add to the quality of life in the area. However, after considerable thought he had concluded that the road should be allowed as the remaining green space would be donated to Fields in Trust; the road verges would be planted with semi-mature trees which would give it an "avenue feel" and because recently an ambulance had had difficulty accessing the Philip Morant site which highlighted the need for a better road access.

Mr Loxley addressed the Council pursuant to the provisions of Council Procedure Rule 6(2). He presented the results of a survey undertaken by the Liberal Democrats in Prettygate which had shown that those who were in favour of the new road access, only supported it because of the proposed expansion of the school, which the majority opposed in any case. 96% of the responses to Essex County Council's consultation had opposed the expansion and the County Council should be invited to reconsider its decision. The Council should not tie itself to any decision which would result in the loss of valuable green space. There was no justification for a new access road on the basis of access for emergency vehicles. This was an issue about obstruction of existing roads which could be resolved in other ways.

Mr Quince addressed the Council pursuant to the provisions of Council Procedure Rule 6(2) and stated that the £130 million investment in schools in Colchester must be welcomed. It would play a huge part in rebuilding schools and ensure the best opportunities for the children of Colchester. He was shocked that anything might be done to hinder this investment. The decision to close Thomas Lord Audley and Alderman Blaxill schools had been taken and it was misleading to suggest that they would not close if the road did not go ahead.

Mr Kennedy, Chair of the Irvine Road Area Residents Association addressed the Council pursuant to the provisions of Council Procedure Rule 6(2). This was a non-political organisation who were working to improve the environmental amenity of the area. The road would be built on part of a designated open space which was part of a safe access route to three schools. It was a valuable amenity area for local residents and was particularly heavily used by dog walkers. It also provided safe routes for local wildlife. The provision of the road was not pivotal to the success of the schools reorganisation. It was being used to deflect other arguments against the reorganisation. Philip Morant had been able to expand and develop in the past without such a road and the solution was to reduce traffic to the school.

Councillor Cope addressed the Council in accordance with Paragraph 12(2) of the Code of Conduct for Members. He expressed his frustration that campaigning for local residents had compromised his ability to represent those views in Council. He explained that the new road

access to Philip Morant was opposed by residents in Irvine Road. It was also opposed by the Poets Corner Residents Association and he had also received a petition from residents in Audley Road against the road. If proceeded with, the new access would lead to a loss of open space, increased pollution and traffic congestion on local roads and the loss of safe routes to local schools.

Councillor Hunt addressed the Council in accordance with Paragraph 12(2) of the Code of Conduct for Members. He was pleased to note that Philip Morant had now applied to the Council to have the land transferred to them as this meant this was no longer an abstract debate. He questioned whether the road was needed and whilst he noted that it was now claimed that the school reorganisation was dependent on the road, it was not mentioned in the consultation paper and this was contrary to comments made by Lord Hanningfield in public meetings. The motion that Council was being invited to approve was being introduced at the bidding of Lord Hanningfield.

It was PROPOSED by Councillor Bentley that:-

“Council welcomes and supports the £130 million Government investment into education in Colchester, which will benefit all school children throughout the Borough. The “Building Schools for the Future” funding will enable an extensive refurbishment and rebuild programme in order to provide a modern learning environment for our young people.

Council believes that nothing should be done, or left undone, which would impede or hinder this investment and that Colchester Borough Council should fully cooperate with Essex County Council to help secure this multi million pound investment.

Council supports the need of Philip Morant School to improve the road access to its premises as part of the investment into that school, for which planning permission has already been granted by this Council. These improvements should be expedited by means of the Cabinet cooperating fully with the appropriate authorities to enable the land to be made available for the building of the access road.

This to be agreed by Cabinet at its next meeting on 21 October 2009 and be carried out as expeditiously as possible.”

A MAIN AMENDMENT was moved by Councillor Barton, subject to an alteration, as follows:-

“The Motion concerning the view of Council on the schools investment programme be approved and adopted subject to the following amendments:-

(i) In paragraph 1:-

- In the first sentence the deletion of the words “£130 million” and their replacement with the words “possible substantial”; the deletion of the word “will” and its replacement with the word “should”; the deletion of the word “all” and its replacement with the word “most” and the following additional words to be inserted at the end of sentence:

“and in order for this benefit to be felt fully urges Essex County Council’s Cabinet, even at this late stage, to change its decision to close Thomas Lord Audley and Alderman Blaxill schools, both of which are on an improving curve.”

- In the second sentence the insertion of the words “ This Council recognises that” at the start of the sentence; the insertion of the words “to take place at schools who choose to be included” between the words “refurbishment programme” and the words “in order to provide” and the following additional words to be inserted at the end of the sentence:-

“such as the facilities which will be offered at the newly built school on the Charles Lucas site which council fully supports.”

(ii) In paragraph 2:-

- The insertion of the words “subject to legal, administrative and financial requirements” between the words “believes that” and the words “nothing should be done” and the insertion of the words “on matters over which Essex County Council has control” between the words “Essex County Council” and “to help secure”.

(iii) The deletion of the wording at paragraph 3 and its replacement with the following wording:-

“Having received a formal request for a lease or purchase of Colchester Borough Council open space, the council will in the normal way of conducting council business, assess whether there is a need for Philip Morant School to improve the road access to its premises by enacting the planning permission which has rested with the governing board of that school for the last 10 years; will discuss and reach financial terms with the school governors for a possible lease to be offered; and will carry out the public consultation required by law when disposing of public open space should such disposal be contemplated. “

(iv) The deletion of the word “agreed” and its replacement with the word “discussed” and the deletion of the words after the word “Cabinet” and the insertion of the following words “next Wednesday” “

The MAIN AMENDMENT was LOST (TWENTY ONE voted FOR, TWENTY EIGHT voted AGAINST and SIX ABSTAINED from voting).

A named vote having been requested pursuant to the provisions of Council Procedure Rule 15(2), the voting was as follows:-

Those who voted FOR were:-

Councillors Barlow, Barton, Blandon, Chuah, Cook, Cory, Gamble, Goss, Hall, Harris, P. Higgins, T. Higgins, Hogg, Knight, Manning, Naish, Offen, Scott-Boutell, Smith, Sykes and Turrell.

Those who voted AGAINST were

Councillors Arnold, Bentley, Blundell, Bouckley, Chapman, Chillingworth, Davidson, Davies, Ellis, Fairley-Crowe, Foster, Garnett, Hardy, Hazell, Jowers, Kimberley, Lissimore, Maclean, Martin, B. Oxford, G. Oxford, P. Oxford, Quarrie, Sutton, Taylor. Tod, Willetts and the Deputy Mayor (Councillor Lewis).

Those who ABSTAINED from voting were:-

The Mayor (Councillor Spyvee), Councillors Dopson, Ford, Lilley, J. Young and T. Young.

Councillor Scott-Boutell left the meeting at this point.

The MOTION was thereupon put and CARRIED (THIRTY TWO voted FOR and TWENTY-TWO ABSTAINED from voting).

A named vote having been requested pursuant to the provisions of Council Procedure Rule 15(2), the voting was as follows:-

Those who voted FOR were:-

Councillors Arnold, Bentley, Blundell, Bouckley, Chapman, Chillingworth, Davidson, Davies, Dopson, Ellis, Fairley-Crowe, Ford, Foster, Garnett, Hardy, Hazell, Jowers, Kimberley, Lilley, Lissimore, Maclean, Martin, B. Oxford, G. Oxford, P. Oxford, Quarrie, Sutton, Taylor, Tod, Willetts, J. Young and T. Young.

Those who ABSTAINED from voting were:-

The Mayor (Councillor Spyvee), The Deputy Mayor (Councillor Lewis), Councillors Barlow, Barton, Blandon, Chuah, Cook, Cory, Gamble, Goss, Hall, Harris, P. Higgins, T. Higgins, Hogg, Knight, Manning, Naish, Offen, Smith, Sykes and Turrell.

**CABINET
21 October 2009**

Present:- Councillor Turrell (Chairman)
Councillors Dopson, Hunt, Offen, B. Oxford, Smith and
T. Young

37. Petitions, Public Statements and Questions etc

Councillors Turrell, Bentley (in respect of their membership of Essex County Council), T. Young (in respect of his spouse's membership of Essex County Council) and Dopson (in respect of her employment by Essex County Council) declared their personal interests in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3).

Councillor 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 his personal interest that was also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10). Councillor Hunt made representations in accordance with Paragraph 12(2) of the Code of Conduct for Members and then left the meeting during the Cabinet's consideration and determination of the item.

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

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

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

"Council welcomes and supports the £130 million Government investment into education in Colchester, which will benefit all school children throughout the Borough. The "Building Schools for the Future" funding will enable an extensive refurbishment and rebuild programme in order to provide a modern learning environment for our young people.

Council believes that nothing should be done, or left undone, which would impede or hinder this investment and that Colchester Borough Council should fully cooperate with Essex County Council to help secure this multi million pound investment.

Council supports the need of Philip Morant School to improve the road access to its premises as part of the investment into that school, for which planning permission has already been granted by this Council. These improvements should be expedited by means of the Cabinet cooperating fully with the appropriate authorities to enable the land to be made available for the building of the access road.

This to be agreed by Cabinet at its next meeting on 21 October 2009 and be carried out as expeditiously as possible.”

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

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

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

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

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

Richard Pettit, Chair of the Painters Corner Residents Association addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). He endorsed the comments made by previous speakers. It was Council policy to protect public open spaces. He stressed that, contrary to claims made at the Council meeting, Philip Morant did not own most of the land that was needed to construct the new access and that the access road could not be built without losing much open space. There needed to be full public consultation on any proposed loss of public open space. Even if the access road were built it would not alleviate the traffic problems as parents would not be allowed to use it. They would continue to use the

roads surrounding the existing access. A traffic impact assessment should be undertaken before any final decision to build the road was taken.

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

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

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

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

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

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

RESOLVED that the motion referred by Council to Cabinet at its meeting on 14 October 2009 be approved and adopted subject to:-

(i) the Council seeking and obtaining written confirmation from Essex County Council and the Department for Children, Schools and Families about the status of the Building Schools for the Future funding if the new access road to Philip Morant school did not go ahead;

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

REASONS FOR DECISION

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

ALTERNATIVE OPTIONS

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

APPENDIX 3

Colchester Borough Council

PO Box 884, Town Hall, Colchester, CO1 1FR
Telephone (01206) 282222 DX 729040 Colchester 15
*Textphone users dial 18001 followed by the full number that
you wish to call*

**Councillor Anne Turrell
Leader of the Council**

Joanna Killian and Lord Hanningfield
Chief Executive and Leader
Essex County Council
County Hall
CHELMSFORD
CM1 1LX

Contact Councillor Anne Turrell
Phone (01206) 282244
E-mail cllr.anne.turrell@colchester.gov.uk
Your ref
Our ref AT
Date 22 October 2009

Dear Joanna and Lord Hanningfield

Re: Philip Morant Access Road

Colchester Borough Council voted on a motion at its full Council meeting last week stating that "nothing should be done, or left undone, which would impede or hinder this investment and that Colchester Borough Council should fully cooperate with Essex County Council to help secure the investment". The motion was passed by a majority of Council and referred back to Cabinet for a decision.

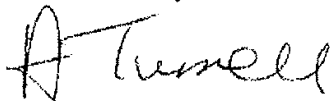
The Cabinet have now considered what they need to do to progress this matter in order to fulfil the wishes of members at its meeting on 21 October.

The Cabinet has resolved that if confirmation is received that the funding will not be made available if the land is not provided, and subject to the results of any statutory public consultation, they are minded to support the application from Philip Morant School.

We are trying to establish if the access road is fundamental to the agreement to the funding. Cabinet have indicated that they need to be clear that without this road the funding will not be provided. This has been indicated verbally on a number of occasions and Cabinet would like to have this confirmed in writing.

We look forward to your prompt response.

Yours sincerely



Councillor Anne Turrell
Leader of the Council

APPENDIX 4

Colchester Borough Council

PO Box 884, Town Hall, Colchester, CO1 1FR
Telephone (01206) 282222 DX 729040 Colchester 15
*Textphone users dial 18001 followed by the full number that
you wish to call*

Councillor Anne Turrell Leader of the Council

Department Children Schools and
Families
Sanctuary Buildings
Great Smith Street
London
SW1P 3BT

Contact Councillor Anne Turrell
Phone (01206) 282244
E-mail cllr.anne.turrell@colchester.gov.uk
Our ref AT
Date 22 October 2009

Dear Mr Coaker

Re: Building Schools for the Future Funding in Essex

As you may be aware Essex County Council are bidding for money through the Building Schools for the Future programme. Colchester Borough Council welcomes the potential investment into education in Colchester and the positive impact this would have.

Colchester Borough Council voted on a motion at its full Council meeting last week stating that "nothing should be done, or left undone, which would impede or hinder this investment and that Colchester Borough Council should fully cooperate with Essex County Council to help secure the investment". The motion was passed by a majority of Council and referred back to Cabinet for a decision.

The Cabinet have now considered what they need to do to progress this matter in order to fulfil the wishes of members at its meeting on 21 October.


There is an outstanding issue that needs to be resolved and this revolves around a piece of open space that Colchester Borough Council is being told is essential for the success of the programme. It is a strip of land owned by the Council that is required for a new access road to Philip Morant School.

The Cabinet has resolved that if confirmation is received that the funding will not be made available if the land is not provided, and subject to the results of any statutory public consultation, they are minded to support the application from Philip Morant School.

We are trying to establish if the access road is fundamental to the agreement to the funding. Cabinet have indicated that they need to be clear that without this road the funding will not be provided. This has been indicated verbally on a number of occasions and Cabinet would like to have this confirmed in writing.

We look forward to your prompt response.

Yours sincerely



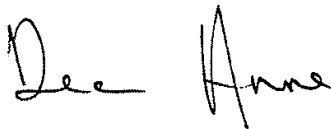
Councillor Anne Turrell
Leader of the Council

Essex County Council
Cabinet, Leader and Chief Executive's Office
PO BOX 11, County Hall
Chelmsford
Essex CM1 1LX

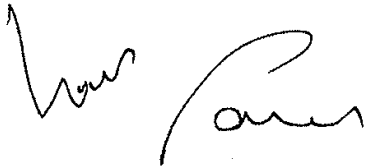


Councillor Anne Turrell, Leader
Colchester Borough Council
PO Box 884
Town Hall
Colchester
Essex
CO1 1FR

Our Ref: LH/kw/tu2810
Date: 28th October 2009



In response to your letter dated 22nd October, I write to confirm that the approximately £130 million of BSF funding for the transformation of secondary schooling in Colchester's programme would not be made available without the new access road for Philip Morant because of commitments entered into with Philip Morant by Essex County Council during the planning and consultation phase of the proposals.



Lord Hanningfield
Leader of the Council

Telephone: 01245 430670



EssexWorks.
For a better quality of life




2009/0089865POVC

Vernon Coaker MP
Minister of State for Schools and Learners

Sanctuary Buildings Great Smith Street Westminster London SW1P 3BT
tel: 0870 0012345 dcsf.ministers@dcsf.gsi.gov.uk

Councillor Anne Turrell
Colchester Borough Council
Legal Services
PO Box 884
COLCHESTER
CO1 1FR

Your ref: AT

 November 2009

Dear Councillor Turrell,

Thank you for your letter of 22 October about Building Schools for the Future (BSF) in Essex.

Partnerships for Schools (Pfs) has not yet had any formal discussions with Essex County Council about its plans for the Colchester schools in Wave 6 of BSF, nor received any proposals from the County. At this stage Pfs does not have any detailed information on the schools to be included and has not therefore set any conditions of funding related to access to the Philip Morant School.

The first meeting between Pfs and Essex County Council on its Wave 6 project, the pre remit meeting, is set to be held on 19 November. At this meeting discussions will cover the areas on which Pfs would like Essex to focus as part of its remit for the project. Pfs will also be asking questions about the deliverability of schemes and wanting assurance that the County has a suitable strategy for land assembly, where needed.

Yours sincerely,
Vernon Coaker

VERNON COAKER



department for
children, schools and families

COLCHESTER BOROUGH COUNCIL

**Notice under Section 123 (2A) of the
Local Government Act 1972**

Notice is hereby given of the intention of Colchester Borough Council to dispose of a parcel of land containing 0.7 acres or thereabouts within the area known as "The Green", Irvine Road open space, at Norman Way, Colchester in the Prettygate Ward, to the Governing Body of the Philip Morant School on the basis of a long lease.

This land is to be used to provide a new vehicular access to the Philip Morant School, provided that confirmation is received that the Building Schools for the Future funding will not be made available if the land is not provided. A copy of the plan indicating the land is available for inspection at the Council's Customer Service Centre and on the Council's website at www.colchester.gov.uk

Any objections or representations relating to this proposal must be made in writing and must specify the grounds on which they are made.

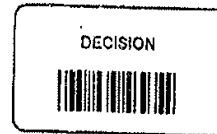


All correspondence must be addressed to:
Colchester Borough Council,
PO BOX 5215, Town Hall, High Street,
Colchester, Essex CO1 1GG

marked for the attention of Miss M Rutherford
or by email to marie.rutherford@colchester.gov.uk
by 13 November 2009.



Colchester Borough Council
 Planning & Protection



Lexden Grange
 127 Lexden Road
 Colchester
 Essex CO3 3RJ

Notice of Planning Decision

TOWN AND COUNTRY PLANNING ACT 1990
 THE TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER
 1995

In pursuance of the powers exercised by it as District Planning Authority this Council, having considered your application to carry out the development detailed below in accordance with the plan(s) accompanying the said application, DOES HEREBY GIVE NOTICE of its decision to GRANT PERMISSION for the said development subject to any additional condition(s) set out below.

APPLICATION NO: F/COL/04/2217 **APPLICATION DATE:** 26th November 2004

PROPOSAL: New access road to Philip Morant School and Sixth Form College. Internal road for dropping off/collection and additional car parking - Renewal of application F/COL/97/0155

LOCATION: Grassed area of land north of Norman Way and grassed area within the school boundary

APPLICANT: Philip Morant School And Sixth Form College Rembrandt Way Colchester Essex CO3 4QS

subject to compliance with the following condition(s) :-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
 Reason: In order to comply with Section 91 (1) and (2) of the Town and Country Planning Act 1990.
2. Before any works commence on site, details of all existing trees with a stem diameter of 100mm or greater, shall be submitted to and agreed in writing by the Local Planning Authority and shall include the following information:
 - a) Individual tree location, species, reference number, girth or stem diameter and accurately planned crown spread.
 - b) A numbered tree condition schedule with proposals for removal, surgery or other works, where applicable.
 - c) Existing ground levels at the base of trees shall be given where nearby changes in level or excavations are proposed.
 Reason: To enable proper attention to be given to the impact of the proposed development on existing trees.



IMPORTANT – ATTENTION IS DRAWN TO THE NOTES ATTACHED

DC100MW 02/02
 PD 437



Colchester Borough Council

Planning & Protection

Lexden Grange
127 Lexden Road
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Essex CO3 3RJ

Notice of Planning Decision

3. No burning or storage of materials shall take place where damage could be caused to any tree, shrub or other natural feature to be retained on the site or on adjoining land (see guidance notes).
Reason: To protect the health of trees, shrubs and other natural features to be retained in the interest of amenity.
4. All existing trees and hedgerows shall be retained, unless shown to be removed on the approved drawing. All trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site, to the satisfaction of the Local Planning Authority in accordance with its guidance notes and the relevant British Standard. All existing trees shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that any trees and/or hedgerows die, are removed, destroyed, fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.
Reason: To safeguard the continuity of amenity afforded by existing trees and hedgerows.
5. No works or development shall take place until full details of both hard and soft landscape proposals have been submitted to and approved in writing by the Local Planning Authority (see BS 1192: part 4). These details shall include, as appropriate:
- Existing and proposed finished contours and levels
 - Means of enclosure
 - Car parking layout
 - Other vehicle and pedestrian access and circulation areas
 - Hard surfacing materials
 - Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signage, lighting)
 - Proposed and existing functional services above and below ground (e.g. drainage, power, communication cables, pipelines, etc. indicating lines, manholes supports etc.)
 - Retained historic landscape features and proposals for restoration
- Soft landscaping details shall include:
- Planting plans
 - Written specifications (including cultivation and other operations associated with plant and grass establishment)
 - Schedules of plants, noting species, plant size and proposed numbers/densities
 - Implementation timetables
- Reason: To safeguard the provision of amenity afforded by appropriate landscape design.



IMPORTANT – ATTENTION IS DRAWN TO THE NOTES ATTACHED

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Notice of Planning Decision

6. All approved hard and soft landscape works shall be carried out in accordance with the programme agreed with the Local Planning Authority and in accordance with the relevant recommendations of the appropriate British Standards. All trees and plants shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.
Reason: To ensure the provision and implementation of a reasonable standard of landscape in accordance with the approved design.
7. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than privately owned domestic gardens, shall be submitted to and approved by the Local Planning Authority prior to any occupation of the development (or any relevant phase of the development) for its permitted use.
Reason: To ensure that due regard is paid to the continuing enhancement and maintenance of amenity afforded by the landscape.
8. No development shall take place until full details of the surfacing materials and other treatment, including barriers or gateways, of the connection between the proposed access road and Norman Way, and of the crossings of the defined footpath No. 206 and of the informal footpath leading to St. Benedict's Catholic Secondary School and the Colchester County High School, have been submitted to and approved by the Local Planning Authority, and those works shall be carried out as approved.
Reason: In the interests of highway safety.
9. The Local Planning Authority shall be notified not less than 48 hours before the commencement of any work on site and the developer shall afford access at all reasonable times to any archaeologist nominated by the Local Planning Authority, and shall allow him to observe the excavations and record items of interest and finds.
Reason: To ensure that any remains of archaeological importance are properly recorded.
10. The access road and internal road hereby permitted shall not be brought into use until replacement cycle sheds have been provided within the grounds of the school, in accordance with a scheme that has been approved by the Local Planning Authority.
Reason: In the interests of highway safety.
11. The access road hereby permitted shall not be brought into use until traffic calming measures have been provided in accordance with a scheme that has been approved by the Local Planning Authority.
Reason: In the interests of highway safety.
12. Following the bringing into use of the access road and internal road hereby permitted, the existing access from Rembrandt Way shall not be used for vehicular access other than by emergency vehicles.
Reason: In the interests of highway safety.



IMPORTANT – ATTENTION IS DRAWN TO THE NOTES ATTACHED

DC100MW 02/02

PD 437



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Notice of Planning Decision

13. The access road hereby permitted shall not be used other than to provide access to and from the Philip Morant School and Sixth Form College.
Reason: In the interests of highway safety.
14. The access road hereby permitted shall be gated and closed outside the hours of use of the school premises.
Reason: In the interests of highway safety.
15. The details of the connection with Norman Way shall be the subject of further plans to be agreed in writing with the Local Planning Authority. The Local Highway Authority intend that there should be a return footway over the end of the existing highway and that a boundary fence and wall be erected where, locally, pedestrians were separated from cycles and motor vehicles. The latter would enter the gateway via a dropped crossing retaining pedestrian priority.
Reason: In the interests of highway safety.
16. The details of the surfacing materials and other treatment at the crossroads between the new track and the Capel Road - Lexden Dyke path shall be the subject of further plans to be agreed with the Local Planning Authority.
Reason: In the interests of highway safety.
17. The Public's right of way and ease of passage across all public footpaths affected by the development hereby permitted shall remain uninterrupted at all times.
Reason: In order to ensure that the development does not adversely impact on public footpaths.
18. No development shall take place until full details of any impact of the access road (including any ancillary works) hereby permitted on footpath No. 204 have been submitted to and agreed in writing by the Local Planning Authority.
Reason: The application as submitted contains insufficient information regarding this point and proper consideration of the proposals will be necessary in order to protect the integrity of this footpath.

NOTE: In relation to Condition 09 the watching brief shall be commissioned by the applicant from an approved, professional archaeological contractor. The line of the Lexden Dyke (south) is presumed to traverse the site. The presumption needs to be confirmed or otherwise in the field.

Date: 30th June 2005

Signed:

Nicola George, Head of Planning and Protection



IMPORTANT – ATTENTION IS DRAWN TO THE NOTES ATTACHED

DC100MW 02/02
PD 437



Colchester Borough Council

Planning & Protection

Lexden Grange
127 Lexden Road
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Essex CO3 3RJ

Notice of Planning Decision

In determining this application the Council has taken into account the following policies:

Adopted Review Colchester Borough Local Plan – March 2004

DC1 - General Development Control criteria

UEA14 - Greenlinks

L3 - Protection of existing public open space

L14 - Protecting public rights of way

Reasons for granting permission

- (1) The Planning Committee having considered the recommendation contained in the officer's report was of the opinion that the proposal does comply with the relevant policies in the Statutory Development Plan.
- (2) Having had regard to all material planning considerations the Council is of the opinion that the proposal will not cause any harm to interests of acknowledged importance.



IMPORTANT – ATTENTION IS DRAWN TO THE NOTES ATTACHED

DC100MW 02/02

PD 437

CUL / 04 / 2217

PLANNING PERMISSIONS COMMISSION
APPROVED
1000 hours
10.01.2015

LOGGED
-18C-201

THE SCHOOL WILL CONTINUE TO WORK WITH THE LOCAL AUTHORITY TO IMPROVE THE PROVISION OF FACILITIES FOR CHILDREN

PROPOSED ROAD WIDTH GO TO BE AGREED WITH LOCAL AUTHORITY

TRAFFIC CALMING MEASURES TO BE PROVIDED IN ACCORDANCE WITH THE REQUIREMENTS OF THE HIGHWAY AUTHORITY

EXISTING FOOTWAYS PROVIDING FUTURE ACCESS TO THE SCHOOL

FUTURE ACCESS TO BE AGREED WITH LOCAL AUTHORITY

BUS TURNING AREA

PEDESTAL CROSSING

EXISTING PAVED AREA

EXISTING PAVED AREA

THE PHILIP MURANT SCHOOL &
SIXTH FORM COLLEGE
COLCHESTER

PROPOSED ACCESS ROAD
ROAD LAYOUT

MLM
MADDOCKS
MADDOCKS
MADDOCKS

Scale: 1:500
Date: 10.01.2015
Drawing No: 1000

Appendix 9

Philip Morant – consultation analysis

Introduction

An initial analysis has been undertaken presenting the information in two ways:

1. Overall numbers
2. An analysis of the issues raised in the letters and emails received to show which issues are of greatest concern.

1. Overall numbers

314 written responses received:

- 258 against the proposals
- 52 for the proposals
- 4 seeing both sides

2 petitions:

- 918 signatures against the proposals
- 258 signatures in favour of the proposals

Summary of numbers

1,176 against the proposals

310 for the proposals

4 seeing both sides

Total responses 1,490

2. Analysis of issues raised

The analysis below shows the issues highlighted in these responses and the approximate number of people mentioning each of the broad issues. Many responses contained more than one issue.

In addition a spreadsheet is attached showing the geographical distribution of the responses, where this information is available. As many responses were by email, addresses were not always included.

Issues raised by those against the release of the land

	Issue	Number commenting
	Loss of open space and the amenity that provides	166
	The Green provides a safe route to Philip Morant and other schools that would be undermined by the road	84
	Traffic problems in the area will not be improved; congestion will increase	66
	That there is no evidence that the BSF money of £130m is dependent on the access road and there is a risk that the money will not be made available, that the funding is a separate issue	42

Against the closure of two other schools and the schools reorganisation	40
Negative impact on the environment; pollution, increase traffic, loss of natural habitat	35
There is a risk of further development, houses and of joining up Norman Way	33
There is no justification for the road; the school operates effectively at the moment and there are no proven safety issues	33
Designation of the space in the local plan and emerging LDF	29
The school will become too big and the access road allows it to grow even more	26
That the changes will discourage healthy living	19
Access for construction traffic has been achieved before	18
Essex County Council are applying political pressure	13
General objection	11
The new road would create a safety risk, encouraging more traffic	11
A number of trees will be lost	7
House is close to the new road and will impact on quality of life	4
That the plan undermines sustainable transport, encourages greater car use, less cycle routes	3

Issues raised by those for the release of the land

There are increasing traffic volumes through the existing route that is making it increasingly difficult to access houses along the route and present a safety risk. It is difficult now and should the school expand, will become even more so. An alternative route is needed for increasing numbers	41
The release of the £130m is needed	16
Emergency access to the school needs to be improved	10
General support	10
Additional green space has been provided (Westlands Country Park). Land lost is small compared to the gain	3
Opposition is politically motivated	3
Would help to address anti social behaviour on the Green	2

Notes

- If a joint reply was received this was counted as 2-responses but one reply
- People who wrote in separately from the same address were each counted as 1-response
- Group replies were counted as 1-response

- An initial analysis suggests that there are some duplications between the individual responses and the signatures on the petition. A full assessment is being carried out.

Petition statements:

In favour of the proposals

A petition in favour with 258 signatures supporting the statement:

“We support the new access road to Philip Morant School as it will release £130 million of investment into Colchester’s secondary schools including a new Academy to be built on the site of Sir Charles Lucas Arts College.”

Against the proposals

A petition against with 918 signatures supporting the statement:

“We appeal to you to reconsider your plan to build a road across The Green at Painters’ Corner and The Irvine Road Field. These areas should remain as Public Open Space, as designated in the Borough’s Local Plan for the following reasons:

- This land provided a safe, traffic free route for the hundreds of children who attend the three local secondary schools and is used extensively by local residents of all ages for informal recreation
- The road would disrupt safe pedestrian and cycle access from Maldon Road, Lexden, Prettygate and Shrub End, destroy green link land and deprive local residents and children of this important amenity.”

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Adrian Pritchard
Chief Executive
Colchester Borough Council
Town Hall
COLCHESTER
Essex CO1 1LZ

Date: 18 November 2009
Our Ref: JK/rn

Dear Adrian

Building Schools for the Future

It may help if I clarify the position from our point of view. I hope you will then be able to advise your Cabinet accordingly – I am concerned about any erroneous interpretation of the situation that may have gained currency.

Building Schools for the Future (BSF) is a government funded programme to support secondary school improvement across an area. It is Essex County Council's responsibility to set out in the form of a business case how government investment will improve provision for pupils across an area. The DCSF has devolved the responsibility for managing the programme to *Partnerships for Schools* (Pfs). This is an independent agency that works with ECC so that viable proposals can be taken to Ministers to consider. Once Pfs is content with the business case, the final decision to release the funds is taken by DCSF Ministers.

The DCSF is aware of the proposed BSF plans which include the need to expand four schools including Philip Morant School. It is for ECC to confirm that all the necessary agreements are in place for their business case to be submitted for approval. At present we are not yet ready to submit our proposals, principally because the land issues you have referred to are not resolved.

When the land issues are agreed with your Council, and with any other relevant parties, we will submit our scheme for approval immediately.

Should the land issues not be agreed, for whatever reason, we will need to bring forward alternative BSF proposals that will meet the business case criteria set out by Pfs. We do not believe that it is possible for the County to bring forward new proposals for Colchester which are supported and fully viable in all respects in a timeframe that can have these accepted before the General Election.

A further critical issue for ECC, Pfs and the DCSF is that delay may undermine the business case to proceed. In this case, Wave 6 funding is likely to be reallocated elsewhere.



Cont'd/....
EssexWorks.
For a better quality of life

We know from *informal* discussions the DCSF and PFS are most anxious to receive a viable business case for the Colchester area at the earliest possible opportunity and we had hoped to do this at the *formal* pre-remit meeting on 19 November.

If the BSF scheme is to progress for Colchester, with its estimated £130 million investment in schools, the Philip Morant access road needs to be agreed. This will enable ECC to give PFS the assurance it needs about deliverability and necessary land assembly – as the letter from Vernon Coaker to Councillor Turrell makes clear. Frustrating the access puts the investment in very substantial jeopardy – so Lord Hanningfield was quite correct in writing to Councillor Turrell that “...*the approximately £130 million of BSF funding for the transformation of secondary schooling in Colchester's programme would not be made available without the new access road for Philip Morant...*”.

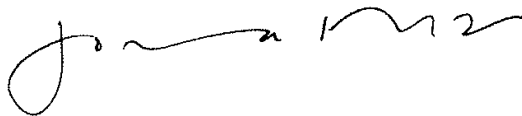
It has been suggested to me that there may be some misguided belief that failure to secure the BSF funding could in some way save schools from closure. That is not the case. If the land deal is frustrated, the County Council would have to find another way to implement the decision that has already been taken (and the process for which is now exhausted). Without the BSF funding in place, the alternative will quite simply be drastically inferior (or “the worst of both worlds”, as one Colchester councillor has described it).

The significance of obtaining BSF funding for Colchester lies not just in the securing of investment in the fabric of school buildings and thereby providing state of the art buildings, technology and facilities (including sports facilities) but also in the opportunity to secure usage synergies and cost savings across various property portfolios, including potentially the Borough Council's. But, of course, the most important gain will be the catalyst for school improvement: the opportunity to invigorate the vision, ethos and operation of schools, including the pursuance of personalised learning for all young learners in Colchester, and the drive to raise aspiration and achievement through strong leadership, excellent teaching and the ability to offer a diverse curriculum and an extensive range of learning opportunities in the expanded schools.

All of the above is at risk for this small piece of land.

I understand from Councillor Turrell's letter to myself and Lord Hanningfield dated 22 October 2009 that Colchester Borough Council voted in favour of a motion that “nothing should be done, or left undone, which would impede or hinder this investment and that Colchester Borough Council should fully cooperate with Essex County Council to help secure the investment”. I remain hopeful that the will of the Council prevails.

Yours sincerely



Joanna Killian
Chief Executive

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