

# CABINET

## 7 SEPTEMBER 2011

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

*Also in Attendance :-* Councillor Kevin Bentley  
Councillor Barrie Cook  
Councillor Mike Hardy  
Councillor Pauline Hazell  
Councillor Sonia Lewis  
Councillor Sue Lissimore  
Councillor Jackie Maclean  
Councillor Gerard Oxford  
Councillor Will Quince  
Councillor Dennis Willetts

Date draft minutes published: 8 September 2011

Date when decisions may be implemented if not called in: 5pm 15 September 2011

All decisions except urgent decisions and those recommended to Council may be subject to call in. The decision at minute 21 is also not subject to further call in. Requests for scrutiny of decisions by the Strategic Overview and Scrutiny Panel must be signed by at least one Councillor and countersigned 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: 5pm 15 September 2011.

### **19. Minutes**

The minutes of the meeting held on 15 September 2011 were confirmed as a correct record.

### **20. Have Your Say!**

Jade Hamnett, Acting Chair of Fair Access to Colchester, addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) to express concern about the impact of proposed changes to access to Colchester High Street. The changes would lead to the removal of 23 blue badge bays and the relocation of the taxi rank to Head Street. The replacement blue badge spaces would be further away and this would impact on the ability of people with disabilities to access vital services independently. Whilst the environmental arguments for the changes to the access of the High Street were noted, no attempt had been made to address the problems at Brook Street, which suffered worse air pollution issues. Many other councils had

pedestrianised town centres but still managed to maintain access for disabled users. For instance, the use of number plate recognition technology would enable access to those in need. Concern was also expressed about the lack of consultation and poor communication by Council officers on these issues.

Councillor Turrell, Leader of the Council and Portfolio Holder for Strategy and Performance, apologised for the failure of the Council to respond and promised to arrange for Ms Hamnett to meet the relevant officers.

Jane Clarke addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) on behalf of residents of Brook Street. Brook Street was primarily a residential street, but due to traffic levels and the proximity of the houses to the road, residents lived in an atmosphere that was detrimental to their health. Some residents suffered from respiratory problems. Although Brook Street had been recognised as an Air Quality Management Area, the levels of pollution were still above EU levels. Noise pollution was also a problem. As Colchester continued to develop and expand, there was concern about the impact of that development on Brook Street. The Council had a duty of care to ensure that Brook Street was a fit place to live and should take appropriate action urgently.

Councillor Hunt, Portfolio Holder for Street and Waste Services, responded that the new government had introduced a new regime for managing air quality and in accordance with this the Council was currently mapping air quality throughout the borough. A public consultation would take place later in the year. He acknowledged the concerns expressed by Ms Clarke and the need for them to be addressed and would arrange for the relevant officer to contact her.

Rowena MacAulay addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). The proposed changes to the town centre access would lead to a loss of five blue badge spaces. Some of the new spaces being put forward were further away or were in unsuitable locations. Consultation and communication with interested groups had been woeful. There had been no consultation before the initial proposals were brought forward and no expert advice sought. Key principles of engagement with groups representing people with disabilities had not been complied with. Many constructive comments had been ignored and the proposals needed a thorough reappraisal.

Councillor Turrell, Leader of the Council and Portfolio Holder for Performance and Strategy, invited Ms MacAulay to provide details of her contacts with the Council so these could be looked into. She stressed that the Council was working in partnership with Essex County Council on these issues.

Councillor Barton, Portfolio Holder for Renaissance, indicated that the proposals had been the subject of public consultation and the proposals had been amended as a result of the views submitted. Overall there would be a net gain in disabled parking spaces.

Councillor Lewis attended and addressed the Cabinet to stress the need for the Cabinet to be aware of the feelings of the users of the Abbots Road Activity Centre.

There was concern and disappointment about the low number of Councillors who attended the AGM and that were visiting the centre to evaluate the services it provided. Communication with the users of the centre was vital. It was hoped that a forum could be put together to consider the results of the consultation.

Councillor Dopson, Portfolio Holder for Communities and Diversity, responded that she was aware that a significant number of councillors had visited. There was a fine balance between showing an interest and overwhelming the centre with visitors. The Cabinet had made arrangements for their apologies to be given for the AGM and was sorry that these did not appear to have been passed on. The Cabinet were interested in the views of the members of the centre and these would be given full consideration as part of the consultation process.

Councillor Quince attended and addressed the Cabinet to express his concern about the investments made by the Council in Landsbanki in 2008. He explained that he would be writing to the Portfolio Holder to seek answers to the following questions:-

- Was the Portfolio Holder made aware of the changes to Landsbanki's credit rating in 2008 and if not, why not?
- Why was the warning from a senior Liberal Democrat about the risks of investing in Icelandic banks ignored?
- What changes to investment policy were made a result of what happened?
- Could an update be given on the position on the recovery of the invested funds?
- Who did the Portfolio Holder consider was primarily responsible and would they apologise?

Councillor Smith, Portfolio Holder for Resources and ICT, responded that in March 2008 when the matters referred to by Councillor Quince were raised, the Council was run by a Conservative administration. The then opposition had requested that investment policy be reviewed. No councillors raised any concerns about the investment policy of the new administration in 2008. Details about repayments had recently been submitted to the Finance and Audit Scrutiny Panel and would be recirculated. Unlike a number of other authorities who had invested in Icelandic banks, the Audit Commission had praised the actions of Colchester Borough Council.

## **21. Highwoods Country Park - Car Park Charging Proposals**

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

Councillor Lissimore attended and addressed the Cabinet. She did not believe there was substantial evidence of use of the car park by staff and visitors from the hospital. Neither was she satisfied by the business case. The charges were too high and the impact on sales at the visitor centre had been underestimated. Concern was also expressed that the introduction of the charges would reduce visitor numbers with a consequent impact on the health of residents of the borough.

Councillor G. Oxford attended and addressed the Cabinet. There had been a very high

response rate to the consultation and the response had been overwhelmingly against the introduction of charges. Concern was expressed that users of the park, particularly families, would be deterred from attending. Also residents were worried about the impact of increased parking on surrounding roads and at the Chanterelle car park. In the business case, the impact of the charges on income from the visitor centre had been underestimated. However, he welcomed the Portfolio Holder's assurance that the impact of the charges would be closely monitored.

Councillor Dopson, Portfolio Holder for Communities and Diversity, explained that the proposals had been amended following the public consultation. The impact of the charges on surrounding streets, on the visitor centre and on the numbers of people using the park would be closely monitored.

Councillor Hunt, Portfolio Holder for Street and Waste Services, supported the proposals and indicated that the possibility of charges being introduced had first been raised in the High Woods Country Park Management Plan 2010 but that this had not been challenged at the time. Given the challenging financial climate it was fair to ask those using the car park to pay a small amount towards its cost. The only alternative to increasing income streams was to cut services.

Councillor B. Oxford, Portfolio Holder for Customers, indicated that she was not in favour of the proposals.

Councillor Smith, Portfolio Holder for Resources and ICT, indicated that it was important that the Council looked for ways to increase revenue in order to protect frontline services. The introduction of car parking charges may also encourage the use of more sustainable forms of transport for journeys to the park.

*RESOLVED* (SIX voted FOR and TWO ABSTAINED from voting) that:-

- (a) Car park charging be introduced at Turner Road car park at High Woods Country Park
- (b) Colchester Borough Council (Off Street Parking Places) Order 2008 – A be changed in order to add the Turner Road car park to the Schedule.
- (c) To agree the parking charges and concession arrangements set out in the Head of Life Opportunities report
- (d) Parking charges be reviewed on an annual basis.

#### *REASONS*

(a) High Woods Country Park - the Council's largest open space and multiple Green Flag Award winner – is a site of Borough-wide importance. Its facilities include a car park at the Turner Road entrance adjacent to the Country Park Visitor Centre. There is a smaller less visited car park at Chanterelle on the east side of the Country Park. At present the car parks are provided for users of the Country Park only. However, there

has been a trend for staff and visitors from local workplaces and health facilities to use the Turner Road car park, especially Monday to Friday. Staff at the Country Park do not have sufficient time to monitor and restrict use to Country Park visitors only.

The Country Park has a large surrounding catchment area and is accessible by public transport – a regular bus service runs along Turner Road – on foot and by bike.

The High Woods Country Park Management Plan 2010 – 2015 approved by the Portfolio Holder earlier this year required Officers to investigate and consult on the possible introduction of car parking charges, and its impact on income and visitor numbers.

This investigation has been completed and it is considered - that in line with other country parks operated by Essex - it is not unreasonable to charge drivers for use of the Turner Road car park. The Council is seeking to generate additional income and income received will assist the overall budget position of the Council.

(b) Recently there has been significant investment in High Woods Country Park to improve access and the range of facilities provided. There has been a major improvement to cycle access achieved by the surfacing of existing routes and creation of new cycle routes offering enhanced east-west connectivity. The car park has been extended and resurfaced and is line marked to make more efficient use of the space. The introduction of a new adventurous play trail within the woodland in 2011 has been very well received and has seen a significant increase in the number of visits to the country park and many more repeat visits.

#### *ALTERNATIVE OPTIONS*

There is an option to continue to offer free parking at High Woods Country Park. This will not contribute to the budget pressures being faced by the Council. In addition, there is restricted parking for staff and visitors at the Primary Care Trust, and charging for parking at Colchester Hospital. Staff and visitors from the PCT and hospital have used the car park on occasions and when staff resources permit, they have been approached by Country Park staff to explain that the car park is provided for park visitors and not for PCT workers or visitors. In the majority of cases such opportunist car parkers have heeded the advice and have not returned to use the car park for their personal benefit. Potentially the demand for this facility will exceed its capacity if free parking continues and income generating opportunity will not be achieved.

## **22. Review of the Council's Funding and Partnership Delivery Arrangements with Colchester Arts Centre, firstsite and the Mercury Theatre**

Minute 11 of the Strategic Overview and Scrutiny Panel meeting of 19 July 2011 was submitted.

Councillor Willetts, Deputy Chairman of the Strategic Overview and Scrutiny Panel attended and addressed the Cabinet. He stressed the importance of the outreach work

done by the Arts Centre, firstsite and the Mercury Theatre and the contribution they made to meeting the Council's strategic objectives. Whilst these arts organisations understood the financial position of the Council, the loss in grants they were facing also impacted on the grants they received from other funders. What they really needed was stability in their funding to enable them to plan and they would find it very beneficial to receive a broad indication of the likely funding they would receive over the next 2-3 years. If the Council was unable or unwilling to give such an indication, this would undermine the future of the arts in Colchester.

Councillor Barlow, Portfolio Holder for Commerce and Sustainability, indicated that in the current financial climate the Council was not in a position to give a reliable indication of future funding to Colchester Arts Centre, firstsite and the Mercury Theatre. As the financial position stabilized, it may be able to do so

*RESOLVED* that the recommendation in minute 11(iii) of the Strategic Overview and Scrutiny Panel's meeting of 19 July 2011 that the Council consider providing an indication of two future years funding to the major arts partners when current grants were set, be declined.

#### *REASONS*

In the current financial climate the Council was not in a position to give a reliable indication of future funding to Colchester Arts Centre, firstsite and the Mercury Theatre.

#### *ALTERNATIVE OPTIONS*

It was open to Cabinet to agree the recommendation in the minute from the Strategic Overview and Scrutiny Panel.

### **23. Local Government Ombudsman - Annual Review 2010/2011**

The Monitoring Officer submitted a report a copy of which had been circulated to each Member.

*RESOLVED* that the contents of the Local Government Ombudsman's Annual Review 2010/11 be noted.

#### *REASONS*

To inform the Cabinet of the number and type of decisions made by the Local Government Ombudsman in relation to Colchester Borough Council during 2010/2011.

#### *ALTERNATIVE OPTIONS*

No alternative options were presented to Cabinet.

### **24. 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.

*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.

## **25. Disposal of Plot 700, The Crescent, Colchester Business Park**

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

*RESOLVED* that:-

(a) The grant of a 150 year ground lease in respect of Plot 700, The Crescent, Colchester Business Park for a premium of £800,000 and peppercorn rent throughout the term be approved.

(b) The Head of Resource Management, in conjunction with the Portfolio Holder for Resources and ICT be authorised to settle final terms and consequential matters to complete the ground lease.

#### *REASONS*

(a) To achieve a valuable capital receipt in the 2011/12 financial year in support of the Capital Programme, as programmed in the Strategic Asset Management Plan 2010-13

(b) To bring the land forward for development and job creation on Colchester Business Park.

#### *ALTERNATIVE OPTIONS*

(a) To postpone the disposal until the property market recovers and a greater capital receipt may be achievable. In the current economic climate it is not possible to speculate as to when the market might recover to this extent.

(b) To consider a sale on terms other than a long leasehold. Whilst freehold is the most attractive title to purchasers, in monetary terms the difference in value between a 150 year leasehold at a peppercorn and a freehold is minimal and not possible to quantify in the present market. A freehold offer might generate additional bids from developers

but those with access to funds are cautious and selective in the current climate in which office development is not viable.

**The Cabinet/Panel resolved under Section 100A(4) of the Local Government Act 1972 and the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended) to exclude the public from the meeting for the following item as it involved the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972.**

## **26. Disposal of Plot 700, The Crescent, Colchester Business Park**

The Head of Resource Management submitted an Appendix to the report on the Disposal of Plot 700, The Crescent, Colchester Business Park.

*RESOLVED* that the Appendix to the Head of Strategic Policy and Regeneration's report be noted.

### *REASONS*

As set out in minute 25.

### *ALTERNATIVE OPTIONS*

As set out in minute 25.

## **27. Disposal of Land North of A12 Adjoining New BP Petrol Filling Station**

The Head of Strategic Policy and Regeneration submitted a report a copy of which had been circulated to each Member.

*RESOLVED* that:-

- (a) The freehold sale of the land north of the A12 adjoining the new BP petrol filling station in accordance with the information contained within the confidential part of the Head of Strategic Policy and Regeneration's Report be agreed
- (b) In the event that this bidder does not proceed, then the site may be offered to the second highest bidder on the terms contained within the confidential part of the Head of Strategic Policy and Regeneration's Report.
- (c) A sum not to exceed £100,000 be expended out of the proceeds of sale to contribute to a foul sewer connection for both the restaurant site and that of BP on the adjacent plot in addition to the sum already reserved by the preferred bidder.
- (d) The Head of Strategic Policy and Regeneration, in consultation with the Portfolio



Holder for Resources and ICT, be authorised to settle final terms and consequential matters to complete the sale, including the resolution of drainage requirements in accordance with paragraph 4.3 of the Head of Strategic Policy and Regeneration's report.

(e) A sum of £200,000 be allocated to the Cuckoo Farm Scheme in the Capital Programme to allow pre-development activity and feasibility work to facilitate the development of Council land at Cuckoo Farm.

#### *REASONS*

(a) To take advantage of the existing Outline Planning Permission (O/COL/01/1625) which will expire in March 2012.

(b) To generate a significant capital receipt for the benefit of the Capital Programme.

(c) To enable pre-development activity and feasibility work to be undertaken to facilitate the development of Council owned land south of the A12 at Cuckoo Farm.

#### *ALTERNATIVE OPTIONS*

Leave the site undeveloped until closer to the expiry of the current outline permission in March 2012. If any significant delay occurs it will be necessary to seek a new outline permission under revised rules relating to the separation of planning Use Classes. This may result in the loss of permission for either take away or restaurant use.

**The Cabinet/Panel resolved under Section 100A(4) of the Local Government Act 1972 and the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended) to exclude the public from the meeting for the following item as it involved the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972.**

#### **28. Disposal of Land North of A12 Adjoining BP Filling Station**

The Head of Strategic Policy and Regeneration submitted a report a copy of which had been circulated to each Member.

#### *RESOLVED*

As set out in minute 27.

#### *REASONS*

As set out in minute 27

#### *ALTERNATIVE OPTIONS*

As set out in minute 27

## **29. Review of Local Code of Corporate Governance**

The Monitoring Officer submitted a report a copy of which had been circulated to each Member together with minute 6 of the Standards Committee meeting of 24 June 2011.

*RESOLVED* that the Local Code of Governance be approved, including the amendments suggested by the Standards Committee at its meeting on 24 June 2011.

*RECOMMENDED* to Council that the Local Code of Corporate Governance be included in the Policy Framework.

### *REASONS*

(a) The Council strives to meet the highest standards of corporate governance to help ensure it meets its objectives. Members and Officers are responsible for putting in place proper arrangements for the governance of the Council's affairs and the stewardship of the resources at its disposal.

(b) Cabinet at its meeting on 17 March 2010 approved the Code and subsequently the Full Council at its meeting on 24 March 2010 included it within the Council's Policy Framework. The revised Code is subject to an annual review. An updated Local Code of Corporate Governance has been prepared and was considered by the Standards Committee at its meeting on 24 June 2011.

### *ALTERNATIVE OPTIONS*

It was open to the Cabinet not to approve the Local Code of Corporate Governance or to approve it subject to amendments.