

Finance & Audit Scrutiny Panel

Town Hall, Colchester

20 January 2009 at 6:00pm

The Finance and Audit Scrutiny Panel deals with the review of service areas and associated budgets, and monitors the financial performance of the Council, and the operational performance of the Council. The panel scrutinises the Council's audit arrangements, including the annual audit letter and audit plans, and Portfolio Holder 'Service' decisions reviewed under the Call in procedure.

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at www.colchester.gov.uk or from Democratic Services.

Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to meetings, with the exception of Standards Committee meetings. If you wish to speak at a meeting or wish to find out more, please pick up the leaflet called "Have Your Say" at Council offices and at www.colchester.gov.uk.

Private Sessions

Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

Mobile phones, pagers, cameras, audio recorders

Please ensure that all mobile phones and pagers are turned off before the meeting begins and note that photography or audio recording is not permitted.

Access

There is wheelchair access to the Town Hall from West Stockwell Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to Angel Court Council offices, High Street, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call, and we will try to provide a reading service, translation or other formats you may need.

Facilities

Toilets are located on the second floor of the Town Hall, access via the lift. A vending machine selling hot and cold drinks is located on the ground floor.

Evacuation Procedures

Evacuate the building using the nearest available exit. Make your way to the assembly area in the car park in St Runwald Street behind the Town Hall. Do not re-enter the building until the Town Hall staff advise you that it is safe to do so.

Colchester Borough Council, Angel Court, High Street, Colchester
telephone (01206) 282222 or
textphone 18001 followed by the full number that you wish to call
e-mail: democratic.services@colchester.gov.uk
www.colchester.gov.uk

Terms of Reference

Finance and Audit Scrutiny Panel

- To review all existing service plans and associated budget provisions against options for alternative levels of service provision and the corporate policies of the Council, and make recommendations to the Cabinet
- To have an overview of the Council's internal and external audit arrangements and in particular with regard to the annual audit plan, the audit work programme and progress reports, and to make recommendations to the Cabinet
- To monitor the operational and financial performance of the Council, and to make recommendations to the Cabinet in relation to operational performance, financial outturns, revenue and capital expenditure monitors
- To scrutinise the Audit Commission's annual audit letter
- To scrutinise progress made on best value action plans
- To scrutinise executive 'service' decisions made by Portfolio Holders and officers taking key decisions which have been made but not implemented referred to the Panel through the call-in procedure

The panel may a) confirm the decision, which may then be implemented immediately, b) refer the decision back to the decision taker for further consideration setting out in writing the nature of its concerns, or c) refer the matter to full Council in the event that the Panel considers the decision to be contrary to the Policy Framework of the Council or contrary to, or not wholly in accordance with the Budget.

**COLCHESTER BOROUGH COUNCIL
FINANCE & AUDIT SCRUTINY PANEL
20 January 2009 at 6:00pm**

Members

Chairman : Councillor Lissimore.
Deputy Chairman : Councillor Willetts.
Councillors Bentley, Bouckley, Goss, Harris, Maclean,
Manning, Offen, Oxford and Sykes.

Substitute Members : All members of the Council who are not Cabinet members or members of this Panel.

Agenda - Part A

(open to the public including the media)

Members of the public may wish to note that Agenda items 1 to 5 are normally brief and items 6 to 9 are standard items for which there may be no business to consider.

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 to off or to silent;
- location of toilets;
- introduction of members of the meeting.

2. Substitutions

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

3. 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.

4. 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.

5. Minutes

1 - 12

To confirm as a correct record the minutes of the meeting held on 18 November 2008 and the 25 November 2008.

6. 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.

7. Items requested by members of the Panel and other Members

(a) To evaluate requests by members of the Panel for an item relevant to the Panel's functions to be considered.

(b) To evaluate requests by other members of the Council for an item relevant to the Panel's functions to be considered.

8. Referred items under the Call in Procedure

To consider any Portfolio Holder decisions, taken under the Call in Procedure.

The panel may a) confirm the decision, which may then be implemented immediately, b) confirm the decision back to the decision taker for further consideration setting out in writing the nature of its concerns, or c) refer the matter to full Council in the event that the panel considers the decision to be contrary to the Policy Framework of the Council or contrary to, or not wholly in accordance with the Budget.

9. Decisions taken under special urgency provisions

To consider any Portfolio Holder decisions taken under the special urgency provisions.

10. Work Programme

See report from the Scrutiny Officer.

11. Risk Management - Top Five Risk Report

13 - 16

See report by the Head of Resource Management.

12. 2009-10 Budget Strategy

See report by the Head of Resource Management.

13. Treasury Management Investment Strategy

See report by the Head of Resource Management.

14. Exclusion of the public

Occasionally the Panel will need to discuss issues in private. When the Panel does so, members of the public will be asked to leave the meeting.

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).

FINANCE & AUDIT SCRUTINY PANEL

18 NOVEMBER 2008

Present :- Councillor Sue Lissimore (Chairman)
Councillors Martin Goss, Dave Harris, Jackie Maclean,
Jon Manning, Nigel Offen, Gerard Oxford, Laura Sykes
and Dennis Willetts

Substitute Members :- Councillor Kevin Lewis for Councillor Kevin Bentley
Councillor John Foster for Councillor John Bouckley

37. Minutes

The minute for the meeting held on the 21 October 2008 was confirmed as a correct record, subject to the following amendments.

Councillor Foster added to the list of Personal Interests for minute number 33, Work Programme, in respect of being a former Member of Colchester Borough Homes.

A second resolution was added to minute number 36, Financial Arrangements for Firstsite Newsite, to read;

The panel agreed that in future, when a report is drafted for scrutiny, officers should make every effort to provide a non-confidential report, to sit alongside a confidential report if needed, thereby allowing members of the public to see some written detail, hear an open debate, and have an opportunity to speak on the item under 'Have Your Say'.

38. Have Your Say!

Mr. Andy Hamilton addressed the panel saying that he disagreed with a letter received by the Leader of the Council dated 3 November 2008, saying that the Council did not operate a culture of secrecy. Mr. Hamilton said a letter to him by the Monitoring Officer in response to his complaint and explaining to him that the matter would be dealt with in confidence, again illustrated the Council's culture of secrecy. Mr. Hamilton said further proof of the culture of secrecy was confirmed by the Council's auditor's reluctance to answer questions on the accounts and the refusal of the Council to allow access to documents referring to the continuing construction of the Visual Arts Centre.

Councillor Dave Harris (in respect of being a current Member of Colchester Borough Homes) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Wyn Foster, Councillor Sonia Lewis and Councillor Sue Lissimore (in respect of being former Members of Colchester Borough Homes) declared a personal interest in the following item pursuant to the provisions of Meetings

General Procedure Rule 7(3)

39. Work Programme

In response to Councillor Offen's suggestion that in an effort to ease the panel's workload congestion, an overview of the regularly reported top five Risk Management items should be reviewed at briefings, and reported on to the panel if there was an area of concern, Councillor Willetts said the panel should be mindful that this could expose the panel to criticism by members of the public of being secretive, and whilst he concurred with the thoughts of Councillor Offen, proposed that the panel runs with the original proposal to have the Risk Management Update reported to each meeting.

RESOLVED that;

- i) The panel agreed that the Risk Management Update on the top five risk management items would be reported regularly to the panel commencing from the 20 January 2009.
- ii) The panel agreed to review the work programme in the New Year, currently considered to be at a manageable level, pending any future additional work items.
- iii) The panel commented and noted the rolling 2008-09 work programme.

40. 2nd Quarter Internal Audit Assurance Report

Ms. Hayley McGrath, Audit and Risk Manager, attended the meeting for this item, and presented the 2nd Quarter Internal Audit Assurance Report.

Ms. McGrath confirmed that it had been agreed that all future Colchester Borough Homes audit reports will be reported to the panel following their review by the Colchester Borough Homes Finance Committee. Ms. McGrath also confirmed that following previous comments by the Panel regarding the use of a joint auditor, Deloitte's internal auditors, had sent a letter to both Colchester Borough Council and Colchester Borough Homes setting out the requirement for formal authorisation for the reports to be shared and clarifying the relationship between themselves and their clients.

Councillor Oxford expressed his support for the action taken in respect of future audit reporting of Colchester Borough Homes to the panel.

In response to Councillor Manning, Ms. McGrath confirmed that she would inform panel members of the progress being taken in respect of the Museums Merged Service Vending, and the reconciliation of stock with takings due to the dual pricing system, and staff discounts paid by card.

In response to Councillor Offen, Mr. Daniel Hellary, Deloitte's, confirmed that the panel would receive an update at the next meeting in respect of the outstanding

recommendations on the audit for Right to Buy.

In response to Councillor Offen, that no progress had been made from the previous report in respect of Health and Safety (Annual Governance Statement Action), Ms. Ann Wain, Executive Director, said this had been a very large piece of work, and whilst accepting the delay in implementation was regrettable, confirmed that all service areas had been asked to undertake additional work to make more robust. Ms. McGrath said that following discussions with the Health and Safety Advisor, it was envisaged that the majority of the audit recommendations would be implemented by quarter three.

RESOLVED that;

- i) The Audit and Risk Manager would inform the panel of the progress made in respect of the Museums Merged Service Vending.
- ii) Mr. Daniel Hellary, Deloitte, would provide an update at the next meeting on the outstanding recommendations on the audit for Right to Buy.
- iii) The panel commented and noted the 2nd Quarter Internal Audit Assurance Report.

41. Financial Monitoring Report, period April to September 2008

Mr. Sean Plummer, Finance Manager, attended the meeting for this item and presented the report on Financial Monitoring, period April to September 2008.

In response to Councillor Oxford, Mr. Plummer said he understood the concerns raised in respect of the services affected by the present financial down turn, for example, Planning Services, Parking Services and Bed and Breakfast. With this in mind, Mr. Plummer said this year's forecast outturn was monitored and revised monthly, with all items currently under close review in respect of the 2009-10 Budget.

Councillor Offen felt, given the current economic climate, that further attempts should be made by the Council to enable Ministry of Defence (MoD) properties that are currently vacant, to be used for bed and Breakfast households.

In response to Councillor Sykes, Mr. Plummer gave a brief explanation on Minimum Revenue Provision (MRP).

Mr. Plummer confirmed to Councillor Harris and Councillor Lissimore that the lowering of annual fuel costs would be reflected in future monitoring reports. Fuel costs, currently at a level of approximately 94p per litre, close to the original budget forecast, had previously been as high as £1.07 per litre.

Councillor Offen said in light of the review of the Planning Development Control Service, due to the current economic downturn, staff should be congratulated on the staff review within Development Control, a difficult exercise, but one that would benefit the Council and save costs. Very well done.

In response to Councillor Goss, Councillor Smith, Portfolio Holder for Resources and Business said the £100,000 funding, built into the budget for recycling, income from Essex County Council, will almost certainly not be forthcoming. Councillor Smith said with Colchester not fully committed to the current Waste Programme, County are not prepared to pay this sum. Councillor Tim Young, Portfolio Holder for Street and Waste Services endorsed Councillor Smith's comments, saying that Colchester had been pressing County on this funding up to last week, but to no avail.

RESOLVED that;

- i) The panel agreed (SEVEN voted FOR and FOUR abstained) that the Scrutiny Officer would write to Councillor Chapman, Portfolio Holder for Environment and Waste at Essex County Council to attend a future meeting to discuss the reasoning for withdrawing £100,000 of funding for recycling, and if she was unable to attend a meeting, to respond in writing at the earliest convenient time.
- ii) The panel requested, that in light of current economic downturn, the Portfolio Holder for Neighbourhoods and the Head of Life Opportunities should again communicate with the Ministry of Defence (MoD) in an attempt to bring empty MoD properties into temporary use for households in bed and breakfast, and update the panel at the earliest convenient meeting.
- iii) The panel noted the financial performance of General Fund Services and the Housing Revenue Account (HRA) in the first half of 2008/09.

42. Capital Expenditure Monitor 2008/09

Mr. Steve Heath, Finance Manager, attended the meeting for this item and presented the report on Capital Expenditure 2008-09.

Mr. Heath confirmed to Councillor Harris that the Cemetery Extension Scheme was currently unfunded, but the work would be programmed once funds become available.

Councillor Harris congratulated the Cabinet and officers on the implementation of the SOS Bus Scheme.

RESOLVED that;

- i) The panel agreed, that in light of the comments made about the Aids and Adaptations Scheme, to request the Head of Strategic Policy and Regeneration to provide some Member Development on the Scheme, specifically, the budget for this scheme, what the budget provides, and what is the demand and expectation.
- ii) The panel requested that officers review the format (larger print size) of the appendices, for all future reporting.
- iii) The Panel noted the level of capital spending during 2008/09 and forecasts for future years.

43. Treasury Management - Investment Policy

Have Your Say

Mr. Andy Hamilton addressed the Panel, saying he objected in principle, to the Colchester Borough Council investing local tax payer's money in foreign countries, supporting foreign banks.

Whilst Mr. Hamilton said he found the report on Treasury Management – Investment Policy interesting, he remained concerned about the Council's nett debt, including the pension deficit, and the Council's liabilities on unfinished projects such as the new Visual Arts Centre.

Treasury Management – Investment Policy Report

Mr. Sean Plummer, Finance Manager, presented the report on Treasury Management Investment Policy.

Councillor Offen thanked officers for drafting what he considered to be a very helpful and informative report, a comment endorsed by Councillor Willetts.

In response to Councillor Offen, Mr. Plummer said there would be minimal impact from the proposal to have any new investments made for a maximum of one month using only rated organisations within countries with Sovereign debt rating AAA pending consideration of a revised policy.

Councillor Goss commented that this was a good report with the policy options clearly summarised. Councillor Goss said the approach to be taken should be to treat Treasury money as your own, and how you would invest your own money.

Mr. Plummer confirmed that whilst Treasury Management Advisors had been spoken to for guidance, ultimately, the policy adopted will be that decided by Council.

Councillor Oxford, supported by Councillors Harris and Offen, said a balanced, well spread investment programme was needed, and option B, as detailed in paragraph 3.18 of the report, was the closest to achieving this, and was his preferred option.

Councillor Smith, Portfolio Holder for Resources and Business said he was appreciative of the good debate by the Panel.

Mr. Plummer said the Council will need to agree the Treasury Management Strategy as part of the February Budget Strategy.

RESOLVED that;

- i) The panel requested as a regular future item, a six monthly Treasury Management report.

ii) The panel noted and commented on proposals to change the Council's investment policy as set out at paragraph 3.18 and Appendix B and C of the report.

FINANCE & AUDIT SCRUTINY PANEL 25 NOVEMBER 2008

Present :- Councillor Sue Lissimore (Chairman)
Councillors Kevin Bentley, John Bouckley, Martin Goss,
Dave Harris, Jackie Maclean, Jon Manning, Nigel Offen,
Gerard Oxford, Laura Sykes and Dennis Willetts

Councillor Kevin Bentley and Councillor Gerard Oxford (in respect of being season ticket holders to Colchester United Football Club) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7 (3)

44. Firstsite:newsite

Have Your Say

Mr. Brian Jarvis, the former Portfolio Holder for Renaissance (2006) and Planning and Regeneration (2007) addressed the panel, saying he would like to correct some recent misleading comments concerning the new visual arts centre. As part of the Cabinet, he said the Administration was very much committed to the delivery of Firstsite:Newsite, and whilst understanding that some people were against the project, believed it would generate revenue and be the catalyst for the regeneration of the St Botolphs area. Mr. Jarvis said it was in October of 2007 that the first problems with the construction became apparent and from this, his knowledge of Colchester operating under a contract signed only by the Council, and not the building contractor, in effect, a de facto contract. Mr. Jarvis said up to this point, payment to the contractor was made in conjunction with the Purchase Order, and that up until February 2008 the project was on budget.

In response to Councillor Bentley, Mr. Jarvis said when he was first advised of an unsigned contract, he was concerned, and whilst accepting the advice from officers, remained concerned and requested the Monitoring Officer to review the contract and seek independent legal opinion, and provide an opportunity to produce a strategy for moving forward, and to unblock the impasse.

Mr. Richard Bourne addressed the panel saying he commiserated with Councillor Hunt, given the task to sort out the mess of the previous administration. Mr. Bourne said he always had doubts, and had previously expressed concern over the Council's ability to organise the risks associated with this project. Mr. Bourne said the Council takes all the risks on over-runs and has no levers to pull, to manage the risk. Mr. Bourne, whilst saying this evening's report was vaguely interesting, asked for a thorough independent external review of the project, to enable the Council to understand what has gone wrong, learn from this and move on.

In response to Councillor Willetts, Councillor Bourne said following two Gateway reviews, each review had never got to the bottom of the problem, and suggested any review should be undertaken by independent organisation or auditor that could provide the expertise needed to ensure a thorough review.

Mr. Nicolas Chilvers addressed the panel saying the partnership of funders was a partnership of amateurs and professionals who make things happen. Mr. Chilvers questioned the robustness of determining the original project cost and how it was tested, and asked whether sufficient slack had been built into the price for snares and faults, believing from the outset that £16,500,000 was never going to be sufficient funding. Mr. Chilvers asked whether the Council benchmarked the original costings and questioned whether the officers managing this project from the outset were out of their depth.

Mr. Chilvers concluded by saying one day this project would be completed, but don't expect universal applause. Once opened, Mr Chilvers said Firstsite better come up trumps, because anything negative would reflect on the Council.

Mr. Hamilton addressed the panel saying Firstsite was unfit to manage the new arts centre. The presentation given by Firstsite at a recent Strategic Overview and Scrutiny meeting was the worst he had ever heard, a presentation that spoke of a disastrous Jaywick project in Tendring. Mr. Hamilton said the current reports on Firstsite are flimsy, inaccurate and lack sufficient information, and questioned why anyone would want to use this facility, with no nearby parking arrangements or sufficient public transport or bus park terminal facilities. The Town Centre was already overflowing with cafes and bars and questioned the future viability of further catering outlets around the arts centre. Mr. Hamilton concluded by saying local tax payers would be lumbered with the future running costs of the building, and given the already large outlay on this project, suggested the project was mothballed, put on hold temporarily, to avoid being penalised by the repayment of grants.

Firstsite:Newsite

Mr. Ian Vipond presented the report Firstsite:newsite, a review of the Council's capital arrangements for the Visual Art Facility project.

Mr. Vipond said the purpose of two reports was to get as much information onto the public report as was possible, with the confidential report largely focusing on negotiation tactics, which was not in the public interest to be disclosed before negotiations took place.

Mr. Vipond explained that he and Councillor Hunt, Portfolio Holder for Communications and ICT became involved in the project from June 2008, following the May 2008 elections.

Councillor Harris said he concurred with Mr. Bourne, that an independent external review of the project should be undertaken as soon as possible.

In response to questions from Councillor Harris, Mr. Vipond said all the funders to the Firstsite:newsite projects wish to see an independent review of the project, and whilst the Audit Commission is to undertake a review, the funders are keen for the review, but want it at the completion of the project. The Council are currently in consultation with a firm who will explore details of evidence including the funding agreement as soon as possible. Mr. Vipond said any decisions taken by this Council in regards to different

stages of the project, whether by the Portfolio Holder, Cabinet or Council, are public documents, open to scrutiny.

Mr. Vipond said in February of this year the advice given to the Council was that the risks identified in the project it was felt rested with the construction firm. That said, it was critical that operations were re-started to avoid contract costs rising as a result of construction delays, but knowing legal action might still need to be taken. It was clear at this stage that there would be a need for a full independent review.

Mr. Vipond confirmed the extra costs incurred as a result of the prolongation of the contract, was a greater proportion of the overall additional costs that included changes to the glazing and roof construction.

In response to Councillor Willetts, Mr. Vipond said the 'GC/Works/1 terms' contract was a standard off the shelf construction contract type used by local authorities, though the difficulty with it, it didn't have some key elements written into it that was relevant to the building, including an end date for completion, and didn't state the capped sum was the total sum for the completion of the work. Mr. Vipond said that during the construction phase there has been two legal issues, one, relating to the additional funding in 2007 for the 'deflection of the canopy', and two, the contractual issues from February 2008, about on what basis the Council could move the contract forward. Mr. Vipond confirmed he had not been party to the conversations or legal advice given during this period, though this information was available on file and could be included in any future independent review.

The Chairman requested that any documentation relating to the conversations of officers and Cabinet Members, and the legal advice given to the Council, should form part of any future independent reviews.

Mr. Vipond said the Council received legal advice on the 28 April 2008, but did not know whether this advice was specifically as a result of the request by the Portfolio Holder, when the request went to Counsel, and who saw the specific advice given. The detail within the report to the panel gives the consequences of the legal advice given.

Mr. Vipond said he could not give a total assurance that there is a record of all the conversations with the Portfolio Holder, though there was a record of the meetings of the 'Funders Board', and these together with all relevant emails and other documents would be available for any future independent review.

Given the remarks from panel members, the Chairman asked that any future independent reviews would include briefings with Mr. Jarvis, the former portfolio holder, who had not, under the constitutional restraints of this meeting been given the opportunity to fully explain his recollection of events.

In response to Councillor Offen, Mr. Vipond said he was not aware of conversations by Cabinet, outside of the usual public meeting discussions, that are minuted and on record. In regards to the role of Firstsite in this project, Mr. Vipond said the appointment of Firstsite was a major factor in receiving Arts Council funding, with Firstsite the appointed organisation to deliver the contemporary arts facility.

Councillor Offen said the panel would not be able to get to the whole truth on its own, and supported the view of Mr. Bourne, that an independent external review should be undertaken.

Mr. Vipond confirmed to Councillor Goss that there had never been a total cessation of building work, that whilst by January 2008 construction had stopped, there was always someone on site completing work to a limited degree. Mr. Vipond confirmed it would be possible to retrieve electronic documents of senior officers, to be available for an independent inquiry.

Councillor Bentley said the people needed to conduct any further scrutiny or future independent review were not present at this meeting. Councillor Bentley said this review could have moved forward had the Chief Executive and other former senior officers been present at the meeting, sadly this was not the case, and a request was made that at any future reviews these officers would be invited to attend.

Councillor Bentley said that he was fully supportive of an independent inquiry, but said the panel should also carry out a vigorous review to run in parallel with an inquiry, to ensure this issue is reviewed within the public domain, with invitations going to senior officers, the contractor and the cost management company.

Mr. Vipond confirmed that the role of Turner and Townsend was to administer the contract process, part of which was to help the Council to select the firms involved in the project.

Councillor Oxford expressed dismay that the Portfolio Holder for Planning and Regeneration did not receive the legal advice given and received by the Council in April 2008. Councillor Oxford said he understood some builders are still sceptical about whether the current building can be made watertight, and if this transpires to be the case, who would be liable?

Mr. Vipond said the current contractor would under the current agreement complete the build to make the whole building watertight and airtight, with the contract secured by warranties.

RESOLVED that;

- i) The panel noted the Council's capital arrangements for the Firstsite:newsite project.
- ii) The panel requested the Cabinet to instigate an independent external review of the Firstsite:newsite project.
- iii) The panel agreed that the Finance and Audit Scrutiny Panel would also undertake a review of the Firstsite:newsite project at a future meeting, the date to be decided, to enable a review to be heard in public. This review would scrutinise the information from the independent external review, and include within a report, a chronological time line of key decisions, briefings and minute records of pertinent meetings. It was further agreed that an invitation to attend the public review should go

to the funding partners and contractors.

45. Exclusion of the public

The following report and subsequent debate on Firstsite:newsite, and the detail in connection with some of the financial arrangements, contained exempt information (financial/business affairs of a particular person, including the authority holding information) as defined in paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972.

All members of the public and press left the meeting room at this point.

46. Firstsite:newsite - Confidential Paper

Mr. Ian Vipond presented the report Firstsite:newsite – confidential paper, a paper providing more detail in connection with some of the financial arrangements of Firstsite:newsite.

Mr. Vipond and Councillor Hunt, Portfolio Holder for Communications and Customers responded to questions from the panel.

Councillor Hunt said his brief was to get the project completed as soon as possible, and though he was not a fan of the project, in some way, this was probably the best kind of person to oversee the project. Councillor Hunt explained the Council's legal position in respect of the contract with the construction company, whose work he had been reliably informed of, was of a very high standard.

Councillor Hunt gave his reasons as to why the contract had failed, and the choices the Council had to move forward and get the works completed. For now, Councillor Hunt said the important thing was to get the building watertight and airtight, and explained details of the negotiations with Banner Holdings Ltd to enable the contract to be restarted.

Councillor Hunt concurred with panel members for an inquiry into the whole process, not to be able to point blame, but to teach us how not to do things in the future, and was happy for a parallel review to be undertaken by the Finance and Audit Scrutiny Panel in a public meeting.

Councillor Smith, Portfolio Holder for Resources and Business addressed the panel to explain that the Cabinet are to propose to the Council an increase in the authorised borrowing limit of £2,000,000 to fund the completion of the Firstsite:newsite project.

Councillor Smith gave a brief resume to the panel of some of the previous pieces of scrutiny undertaken by the scrutiny panels in the last five years, and explained that the legal advice given to the Council had been during the time leading up to the May 2008 elections.

It was confirmed that any investigational work on the process to date, would be undertaken by Anthony Collins Solicitors.

Councillor Hunt and Mr. Vipond confirmed that penalty clauses were in place for the current contract which would kick in three weeks beyond the agreed completion date, with a clause enabling the Council to reclaim costs from the 22 May onwards.

**Finance & Audit Scrutiny Panel
Top 5 Strategic Risks**

Meeting Date: 20 January 2009

Date completed: 06 January 2009

Risk	Score (see note)	Consequences	Risk Mediation	Progress	Responsible Officer
Failure to adequately redirect the strategic vision and move the resources required to support it.	9	Desired strategic outcomes are not achieved and improvements are not delivered.	Ensure that there is a structured regular review process for the strategic plan, and corresponding action plan, so that it continues to deliver the strategic vision.	The new Strategic Plan and budget for 2009/10 will be considered at full Council in February. The strategic plan action plan will then be produced and monitored as in previous years.	E.D. People & Performance
Failure or inappropriate performance management of one or more strategic partnerships or key contracts. E.g. Haven Gateway, RCE, Serco, CBH	9	Failure to deliver expected outcomes through partnerships. Cost of service delivery increases however quality decreases.	Define a relationship / performance management process for partnerships.	Partnership Strategy being written to include confirmation of performance management arrangements and a partnership register of key partnerships.	E.D. People & Performance
Failure to protect public funds and resources – ineffective probity / monitoring systems	6	Service delivery failure Financial and reputational loss by the Authority	Ensure that there is a robust system of internal control that encompasses all assurance systems. This must be reported to senior officers and members on a regular basis to ensure that it is fully embedded.	Programme of Internal Audits agreed for the year and currently being drafted for next year. Regular reporting to FASP on in-year budget control, treasury management, progress of audits and management of risk.	E.M.T. / Head of Resource Management
Failure to set aside sufficient capital funds for major projects – insufficient allowance for contingency issues.	6	Required to use reserves and resources to fund services and support renaissance programme without ability to 'top-up'.	Review the medium term financial outlook and capital programme processes to ensure they are kept up to date and realistic.	Regular reporting of capital programme to FASP. Major projects subject to individual business case approvals. Prudential borrowing parameters updated and agreed by full Council.	Head of Resource Management

<p>The Council is unable to effectively respond to changes in the Borough economy both internally and externally.</p>	<p>6</p>	<p>Decrease in income streams leads to service reductions.</p> <p>The Council fails to provide effective guidance to the local economy.</p> <p>Inability to attract key partners / investment.</p> <p>Desired strategic outcomes are not achieved and improvements are not delivered.</p>	<p>Ensure that the Strategic Plan is central to the decision making processes and is reflected in the resource allocations supporting Service Plus areas.</p> <p>The desired place shape needs to be formalised and clearly communicated to all staff.</p> <p>Retain flexibility to respond to changes in circumstances.</p>	<p>Working group set up to address credit crunch issues and promote council support e.g. debt clinic and use of the SOS bus to extend coverage.</p> <p>Redeployment of council staff between services</p>	<p>E.D. Customer Excellence / E.D. Place Shaping</p>
---	----------	---	--	---	--

Note – Strategic Risk are scored from 1 – 9, with 9 being the highest risk

**Finance & Audit Scrutiny Panel
Top 5 Renaissance Risks**

Meeting Date: 20 January 2009

Date completed: 06 January 2009

Risk	Consequences	Risk Mediation	Progress	Responsible Officer
<p>St Botolphs – First Site: Lack of funding to meet additional project costs</p>	<p>Projected out turn costs are likely to exceed available project funding by several millions. Discussions are taking place between the funding partners to meet the additional costs. However, time delay to assemble the necessary additional funding will have a cost and time impact.</p>	<p>Strong partnership in place meeting monthly to discuss this risk item. Partners quantity surveyor representatives are reviewing out turn cost report prepared by the contractors. CBC, ECC and ACEE have indicated (in principle) that additional funds will be secured. EEDA remains in discussion. There is no indication yet as to how much additional funding can be achieved in total.</p>	<p>Risk Review held 17/12/08. This risk has been reduced to a medium as provisions from ECC, ACE and CBC have now been made. However, these contributor/partners will only commit if EEDA will confirm the outstanding funding. The decision on this will not be known until Feb 2009. Therefore the full exposure value remains. New Project Manager has been appointed (funded by ECC and ACE).</p>	<p>Cultural Services Manager</p>
<p>North Colchester: Delay of delivery of A12 junction.</p>	<p>Difficulty in settling Section 278 Agreement with Highways Agency or delaying delivery of A12 junction. This could result in delays to the release of the site and the provision of the infrastructure.</p>	<p>Consider using growth point bid to take forward preliminaries to accelerate completion of Sec 278 Agreement.</p>	<p>There is a CIF2 bid application to assist with paying for the junction. There is also a possibility of further funding from English Partnerships. If both of these funding opportunities are granted this risk will significantly reduce or possibly close.</p>	<p>North Colchester Project Manager</p>

<p>General Programme: Market Slump/Reduction in Land Values</p>	<p>Too much land brought forward onto the market at the same time, or slump in residential property market. This would lead to a failure to secure contribution and make proper provision for new development.</p>	<p>Open dialogue with developers to understand market trends. Increase promotional effort and economic growth measures to stimulate demand and inward migration. Review planning policies to establish the need for phasing in the future. A prudent view of the land values has been taken by CBC.</p>	<p>An issue - Markets move up and down all the time</p>	<p>Property Review & Regeneration Delivery Manager / E.D. Place Shaping</p>
<p>North Colchester: Deliverability of Permanent Park & Ride Facility</p>	<p>The final location of the permanent Park & Ride facility has yet to be determined. If it is to be North Colchester (where land is owned by CBC and the A12 junction is planned to be) then a timescale of 3 years would be feasible but at present there is no funding secured to pay for this.</p>	<p>Until a decision is made on where the final location will be active pursuit of funding cannot commence. ECC have said they will look at work on the permanent facility which has been archived to see how much further design work would be required.</p>	<p>New risk</p>	<p>North Colchester Project Manager</p>
<p>East Colchester: Lack of Funding for University Business Innovation Centre.</p>	<p>There is a risk of that there will be insufficient funding for this project. Confirmation of EEDA funding (original application from University was 50%) is not yet known and a confirmed date has yet to be advised. If there is not sufficient funding for the project from EEDA there may be a further shortfall for funding which cannot be met by CBC and/or ECC. This may put the CLG bid in jeopardy.</p>	<p>Meetings continue with the University and their Business Case proposal is being analysed. Both ECC and CBC are investigating whether any further funding could be obtained to meet any shortfall from EEDA. Preparation of a contingency project will need to be produced in case the project cannot be supported so that CBC does not risk losing funding. This needs to consider the correct resourcing.</p>	<p>Raised following the Risk Register being sent out 16/10/07.</p>	<p>Interim Regeneration Project Manager (N Col)</p>

