

CABINET

5 SEPTEMBER 2012

Present :- Councillor Anne Turrell (the Leader of the Council)
(Chairman)
Councillors Tina Bourne, Annie Feltham, Martin Hunt
(Deputy Leader) , Beverley Oxford, Paul Smith and
Tim Young

Also in Attendance :- Councillor Nick Barlow
Councillor Mary Blandon
Councillor Nick Cope
Councillor Beverly Davies
Councillor Bill Frame
Councillor Sue Lissimore
Councillor Will Quince
Councillor Colin Sykes

18. Minutes

The minutes of the meeting held on 4 July 2012 were approved as a correct record.

19. Have Your Say!

Mrs Kalyan addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). She explained that the matter she had brought to Cabinet in October 2011 was still unresolved and that the level of damages she had incurred had now increased to £58,000. She had made a Freedom of Information request to Colchester Borough Homes for information relating to a review of issues relating to her case and detailed the correspondence she had had with Colchester Borough Homes and Colchester Borough Council on this issue. She asked for an investigation to be held into these matters which she believed was an issue of corporate governance rather than a legal matter.

Councillor Turrell, Leader of the Council and Portfolio Holder for Strategy, responded that the Council had agreed a full and final settlement of Mrs Kalyan's claim several years ago. She was unaware of a further review of her case but if Colchester Borough Homes had undertaken such a review she needed to pursue this issue with them direct. The Local Government Ombudsman had investigated complaints made by Mrs Kalyan but found there was no case to answer. However, it was open to Mrs Kalyan to raise the issue with the Ombudsman again if she was not satisfied.

Mr Hamilton addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). He expressed his dissatisfaction with a number of decisions taken by the Council over recent years. On 4 July he had brought Cabinet's attention to the condition of the walled green at the corner of Sussex Road and Lexden Road. The Council had failed to take any action or communicate with residents. The condition of

the wall had deteriorated further and he believed the Council was now responsible for the issue. He accused the Council of demonstrating arrogance and incompetence.

Councillor Turrell, Leader of the Council and Portfolio Holder for Strategy, responded that issue relating to the walled green at Sussex Road was being dealt with by the Ward Councillors, but in any case, responsibility for the issue lay with Essex County Council.

Nicola Smith and Emma Braddock addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) about the closure of gymnastic classes at Leisure World. Both had daughters who attended these classes. Since the success of British gymnasts at the Olympics there was a greater demand for the sport and the other providers in Colchester had long waiting lists. They questioned the argument that the classes were not profitable as they were popular and well attended. Gymnastics helped develop children physically and mentally and they noted that two gymnasts from Colchester School of Gymnastics were members of the Junior England Squad. The Council should explore other potential venues or solutions such as the use of Charter Hall for gymnastic classes or help schools to provide classes. They expressed support for the proposals made by Bob Russell MP to help resolve the issue.

Councillor Frame attended and with the consent of the Chairman, addressed the Cabinet. He noted the Business Case for the Fundamental Service Review of Sport and Leisure Services stressed the need to secure a legacy from the Olympic Games. The decision to cease gymnastic classes at Leisure World seemed at odds with this. Colchester School of Gymnastics had a waiting list of approximately 800 so there was a clear demand for such classes. He urged the Council to look at alternatives such as providing classes at the Gilbert School and stressed that he and Councillor Goss were willing to help look into the feasibility of any alternative schemes.

Councillor Feltham, Portfolio Holder for Communities and Leisure Services, responded and stressed that the Business Case for the Fundamental Service Review of Sport and Leisure Services demonstrated the Council's commitment to sport. However, decisions needed to be taken to put Leisure World on a sound financial footing. They had looked carefully to see if gymnastics classes could continue to be run but unfortunately it was not possible. The Council would support Colchester School of Gymnastics in its efforts to expand and she understood that some additional pre-school classes have already been agreed. She commented that she would be happy to work with ward councillors to look for alternative providers. A full written response would be sent to Ms Smith and Ms Braddock.

20. Gateway To Homechoice // Revision of Allocations Policy

Councillor T. Young (in respect of being a member of the Board of Colne Housing) declared a Disclosable Pecuniary Interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5) and left the meeting during its consideration and determination.

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

Councillor Bourne introduced the report and explained the main changes to the policy that would be introduced. In particular she highlighted that the Council would be able to discharge an accepted homelessness duty into the private sector where appropriate and that in these circumstances applicants would no longer be able to decline suitable private sector housing. A briefing note on the changes to the policy would be provided to all members.

Councillor Smith, Portfolio Holder for Business and Resources, expressed his support for the proposals, especially the support given to members of the Armed Forces and bereaved spouses set out in paragraph 3.6.14 of the policy. These provisions would apply to all the authorities who were members of the Homechoice scheme.

RESOLVED that:-

(a) The revised Allocations Policy at Appendix A of the Head of Life Opportunities report be approved.

(b) The principle of discharging an accepted homelessness duty into the private sector where appropriate and where resources are available to do so be approved.

REASONS

(a) To ensure the policy remains up-to-date, relevant, and contributes to the Council's ambitions for social housing and tackling homelessness.

(b) The review of the policy was necessary to consider the effect of legislative changes arising from the Localism Act 2011, welfare reform changes due to take place in April 2013 and Code of Guidance – Allocation of Accommodation published in 2012.

ALTERNATIVE OPTIONS

(a) The current allocations policy could be kept unchanged. However, this would leave some issues causing difficulties to local authorities unresolved, some of which incur expenditure.

(b) The Council could consider not using the ability to discharge homeless duty into the private sector and continue to only offer social housing to those people who the Council accepts a homeless duty. However because of the severe shortage of social housing and the demand on temporary accommodation this option is not recommended.

21. Revenue Voids Contract 2012-16

The Head of Strategic Policy and Regeneration submitted a report a copy of which had been circulated to each Member together with an addendum to the Head of Strategic Policy and Regeneration's report introducing an additional paragraph to the report.

RESOLVED that:-

(a) Morrison Facilities Services plc be appointed to deliver the Revenue Voids contract.

(b) The Council enter with the successful contractor into a 4 + 2 year JCT Standard Form of Measured Term Contract 2006 Edition Revision 2 (2009), further amended as set out in the Tender Document and based on the percentage adjustment to the tendered Schedule of Rates.

REASONS

(a) The existing contract period for the provision of the Revenue Voids is coming to an end. As a result the work has been exposed to competitive tender in order to establish continuous improvement and best value. The work is managed through the Deed of Variation agreed between Colchester Borough Homes and Colchester Borough Council as Schedule 12 to the Management Agreement.

(b) The procurement approach agreed by Cabinet on 1st December 2010 as part of the Asset Management Strategy is to let a JCT Measured Term Contract for this and similar types of work. As approved the Council will act as the awarding body (Employer) and Colchester Borough Homes (CBH) as the Employer's agent (Contract Administrator).

Expressions of interest were sought through a Pre Qualification Questionnaire (PQQ) process conducted on behalf of the Council by CBH, from which prospective contractors were selected. Of 35 contractors who were sent a PQQ, 24 were returned and following analysis by CBH 4 contractors were invited to tender for the works.

Tenders were received on the 10th August 2012 and were analysed and scored by CBH on 13th August 2012.

The evaluation of Quality conforms with the detail contained in the invitation to tender and also the Contract Preliminaries through an assessment based on relevant sections of the PQQ covering past performance on similar contracts, performance indicators, and references.

ALTERNATIVE OPTIONS

(a) Not to accept the tender of the proposed contractor and continue with the present arrangements. This would not deliver best value and show continuous improvement which the Council has a duty to seek.

(b) Not to appoint the contractor selected through the procurement process. However, the Council could be open to legal challenge if it deviated from its procurement process.

22. Northern Gateway Vision

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

Councillor Quince attended and, with the consent of the Chairman, addressed the Cabinet to express the Conservative Group's support for the proposals. He hoped that there would be an element of flexibility to allow valuable or popular developments to proceed.

Councillor Turrell, Leader of the Council and Portfolio Holder for Strategy, Councillor Smith, Portfolio Holder for Business and Resources and Councillor Feltham, Portfolio Holder for Communities and Leisure Services expressed their support for the proposals. The Northern Gateway would create jobs and generate an income stream for the Council. However it was important that the businesses there did not detract from the town centre.

RESOLVED that:-

(a) The vision and recommendations arising from the process recently completed for the Northern Gateway site next to the Community Stadium at junction 28 of the A12 be endorsed.

(b) The Northern Gateway form an integral part of any future marketing process for the land, be an inward investment tool for the Council and be used to ensure delivery of the development at the Colchester Northern Gateway is in accordance with the vision and inspirations contained within it.

REASONS

(a) In July 2011 Cabinet requested that a Vision be developed for the Council owned land adjacent to the Community Stadium.

(b) For a site of this size and prominence it is vital that development is taken forward in a co-ordinated and measured way and the Vision will set down the standards of quality, sustainability and deliverability.

(c) Cabinet approval of the vision and phased approach recommended will trigger the creation of a project plan for delivery and the bringing forward of the first sites for development.

ALTERNATIVE OPTIONS

(a) The Council could reject the recommendations of the Vision and re-run the process with freshly procured consultants.

(b) The Council owned land could be left undeveloped while surrounding privately owned sites are brought forward, and the final elements of road infrastructure are completed.

(c) The Council could bring forward development without a co-ordinated approach however this could lead to a mix of unrelated uses and a lack of cohesive design

development.

23. Northern Gateway // Approval of Heads of Terms

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

RESOLVED that:-

- (a) The draft Heads of Terms which will form the basis of the Lease, including a proposed capital receipt and annual revenue contribution, be approved.
- (b) The commercial advice from the Council's valuers, NPS, that the draft Heads of Terms currently represent the best consideration to the Council, taking into account current market conditions, be accepted.
- (c) To delegate authority to the Executive Director Ian Vipond, in consultation with the Portfolio Holder for Renaissance and the Portfolio Holder for Business and Resources, to conclude the Heads of Terms substantially in accordance with the approved draft and complete negotiations on a Lease and associated documents.

REASONS

- (a) Further to the recent development of a Vision for the Northern Gateway, the Council should now commence the phased delivery of the project.
- (b) The Lancasters are an established Colchester family company. It is for this reason that the headquarters of the operation has historically been based in the Borough. This letting will preserve existing jobs and lead to the creation of additional employment.
- (c) The land transaction will bring an important revenue stream to the Council together with an immediate capital payment.

ALTERNATIVE OPTIONS

- (a) The Council could refuse to accept that the proposed Heads of Terms offer the Council the best possible consideration for this site, or agree that they fail to realise the Council's aspirations in respect of the Vision for the Northern Gateway, which would lead to Lancaster relocating from the Borough with a loss of 43 jobs. This will end the long association between the Lancaster family and Colchester.
- (b) The Council could seek to renegotiate terms with the prospective Leaseholder, or decide that the contributions to the Council's capital and revenue are not sufficiently desirable. The Council's agent, NPS has confirmed in a report attached to the confidential part of this item, that in their professional opinion, the financial terms proposed by Lancaster plc do represent the best consideration for the Council's asset, in current economic conditions

(c) The Council could seek to sell the freehold rather than consider a leasehold deal. However, a leasehold sale will allow the Council to retain the freehold value plus it will receive an annual income from the site.

(d) The Council could seek to retain this land until the broader development proposals at Northern Gateway have been progressed; however the opportunity to retain the Lancaster jobs will be lost and this scheme is in keeping with the Vision aspirations for the area.

24. Procurement Strategy and Supporting the Local Economy

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

Councillor Quince attended and, with the consent of the Chairman, addressed the Cabinet to express his support for the proposals. He welcomed the help this would provide to local businesses, in particular making it easier for small companies to tender for Council business.

Councillor Smith, Portfolio Holder for Business and Resources, and Councillor Bourne, Portfolio Holder for Housing, expressed their support for the proposals which would help the local economy and provide an opportunity for community groups to bid for Council work.

RESOLVED that the amendments to the Council's procurement processes to introduce a requirement to consider appropriate and relevant measure to address local economic, social and environmental well-being when preparing future procurement activity be agreed, in advance of the likely requirements of the Public Services (Social Value) Act 2012 regulations.

REASONS

To promote the economic, social and environmental wellbeing of the local community.

ALTERNATIVE OPTIONS

The alternative option would be to wait and respond to the Public Services (Social Value) Act 2012 regulations when they are introduced.

25. 2011/12 Year End Review of Risk Management

The Head of Resource Management submitted a report a copy of which had been circulated to each Member together with minute 11 of the meeting of the Finance and Audit Scrutiny Panel meeting on 24 July 2012.

RESOLVED that:-

(a) The risk management work undertaken during 2011/12 be noted.

(b) The current strategic risk register be noted.

(c) The proposed risk management strategy for 2012/13 be approved.

RECOMMENDED TO COUNCIL that the risk management strategy for 2012-13 be included in the Council's Policy Framework.

REASONS

(a) Cabinet has overall ownership of the risk management process and is responsible for endorsing its strategic direction. Therefore the risk management strategy states that Cabinet should receive an annual report on progress and should formally agree any amendments to the strategy itself.

(b) During the year quarterly progress reports are presented to the Finance and Audit Scrutiny Panel detailing work undertaken and current issues. This report was presented to FASP on 24 July 2012 where they approved it's referral to this meeting

(c) The Risk Management Strategy is one of the key Corporate Governance documents that supports the Constitution of the Council and forms part of the Policy Framework. Accordingly any amendments have to be approved by full Council.

ALTERNATIVE OPTIONS

Not to approve the risk management strategy for 2012/13 nor refer it to Council for inclusion in the Council's Policy Framework.

26. Local Government Ombudsman Annual Review 2011-2012

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

Councillor Turrell, Leader of the Council and Portfolio Holder for Strategy, noted that no findings had been made against the Council and that the time taken to respond to Ombudsman enquires had reduced. Councillor Smith, Portfolio Holder for Business and Resources, stressed that in contrast to claims made by some Have Your Say! speakers, the review demonstrated that the Council's processes and procedures were sound.

RESOLVED that: the contents of the Local Government Ombudsman's Annual Review for 2011-12 be noted.

REASONS

To inform the Cabinet of the number and type of decisions made by the Local Government Ombudsman in relation to Colchester during 2011-12.

ALTERNATIVE OPTIONS

No alternative options were presented to the Cabinet.

27. 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.

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. Revenue Voids Contract 2012-16

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

RESOLVED that: the contents of Appendix A to the Head of Strategic Policy and Regeneration's report containing commercially sensitive information in support of the report in part A of the Agenda, be noted.

REASONS

As set out in minute 21.

ALTERNATIVE OPTIONS

As set out in minute 21.

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.

29. Northern Gateway // Approval of Draft Heads of Terms

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

RESOLVED that:-

- (a) The draft Heads of Terms agreed in the Head of Strategic Policy and Regeneration's report in Part A of the agenda for this meeting (see minute 23), which will form the basis of the Lease, including the proposed capital receipt and annual revenue contribution as set out in the report, be noted.
- (b) The commercial advice from the Council's valuers, NPS, that the draft Heads of Terms currently represent the best consideration to the Council, taking into account current market conditions, be accepted.

REASONS

- (a) Reasons for approval are as set out in minute 23.
- (b) The report by NPS attached to the report by the Head of Strategic Policy and Regeneration confirmed that the draft Heads of Terms with Lancaster represent, in their professional opinion, the best consideration for the Council's landholding in the current economic conditions
- (c) A valuable capital receipt will be payable together with an annual revenue stream.

ALTERNATIVE OPTIONS

- (a) The Council could refuse to accept that the proposed Heads of Terms offer the Council the best possible consideration for this site, or agree that they fail to realise the Council's aspirations in respect of the Vision.
- (b) The Council could seek to renegotiate terms with the prospective Leaseholder, or decide that the contributions to the Council's capital and revenue are not sufficiently desirable. However in order to retain Lancaster in Colchester it is important that any deal is brought to a swift conclusion as their current lease comes to an end in the near future.