

CABINET

25 JANUARY 2012

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

Also in Attendance :- Councillor Kevin Bentley
Councillor Mary Blandon
Councillor John Bouckley
Councillor Nigel Chapman
Councillor Nick Cope
Councillor Bill Frame
Councillor Mike Hardy
Councillor Pauline Hazell
Councillor Sonia Lewis
Councillor Sue Lissimore
Councillor Gerard Oxford
Councillor Ann Quarrie
Councillor Will Quince
Councillor Dennis Willetts

Date draft minutes published: 26 January 2012

Date when decisions may be implemented if not called in: 5pm, 2 February 2012

All decisions except urgent decisions, those recommended to Council and those subject to pre-scrutiny 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 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: 2 February 2012

52. Minutes

The minutes of the meeting held on 30 November 2011 were confirmed as a correct record.

53. Have Your Say!

Roger Buston addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) in support of residents of Joyce Brooks House. Whilst he supported the renewal of sheltered accommodation, he did not believe that Colchester Borough Homes Strategic Plan was well informed and questioned some of the financial elements of the review. He queried why Colchester Borough Homes had not brought Joyce Brooks House up to date over the last ten years. He also questioned whether

due process had been followed in reaching the decision to close Joyce Brooks House. There was also a human dimension to the issue in that it was more difficult for elderly residents to form new relationships so the closure had a severe impact on the residents.

Andy Abbott addressed the Cabinet pursuant to the provisions of Meeting General Procedure Rule 5(2) to highlight what he saw as inconsistencies in the statements made by Councillor Turrell and Councillor T. Young on the reasons for the closure of Joyce Brooks House.

Joy Eustace addressed the Cabinet pursuant to the provisions of Meeting General Procedure Rule 5(2). Residents of Joyce Brooks House were stressed and distressed by the closure and the need to find alternative accommodation. She alleged that the officers who were dealing with arranging alternative accommodation were pressing residents to agree transfers and were ageist, patronising and one acted in a bullying fashion. Residents were being offered alternative accommodation based on the length of tenancy, rather than being kept together, as had been promised.

Bobby Hunt addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) to emphasise the stress and anxiety suffered by residents of Joyce Brooks House since the closure was announced. The Council should accept it had a mistake. The decision was undemocratic as it was contrary to the wishes of thousands of residents who had signed the petition against the closure. He was confident that the judicial review would overturn the Council's decision.

Roy Cleary addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) to stress the impact of the decision to close Joyce Brooks House had had on the residents' quality of life. It was not too late for the Council to admit it had made a mistake.

Councillor Lissimore attended and with the consent of the Chairman addressed the Cabinet. A number of flaws in the financial assumptions in the review were now becoming apparent. The Council would lose income through home loss and disturbance payments. The funding for these could have been used to pay for improvements to the homes instead. There would be opportunities in future years to obtain finance for improvements to sheltered housing. The decision made no moral or financial sense.

Councillor Cope attended and, with the consent of the Chairman addressed the Cabinet. He highlighted a number of statements in a minute from Colchester Borough Homes explaining the reasons for the closure and explained why he considered they were flawed. In particular, he queried why the issue of compliance with the Disability Discrimination Act (DDA) had suddenly become pressing, given the Act was passed in 1995. He asked when had the policy changed so that it was necessary for all rooms to be DDA complaint rather than just communal areas. The Council did not appear to have considered an option of partial or gradual compliance with the requirements of the Act. He called on the Council to commission an independent surveyor to undertake a structural reassessment of the works needed to improve Joyce Brooks House.

Councillor T. Young, Portfolio Holder for Housing and Community Safety, responded to the comments made about the decision to close Joyce Brooks House. He explained that the Cabinet did not believe that it was acceptable to provide accommodation with shared bathroom facilities in 2012. The review of sheltered housing was aimed at improving the overall standard of the sheltered accommodation in the borough. The comments about Colchester Borough Homes Strategic Plan should be addressed to the Board of Colchester Borough Homes. The Monitoring Officer had confirmed that the Council had followed due process. The decision was not opposed by the opposition and the decision had not been called in for review. He would ask the Head of Strategic Policy and Regeneration to investigate the allegations made against the officers who were helping residents find alternative accommodation. Councillor Turrell, Leader of the Council and Portfolio Holder for Strategy and Performance, and Councillor Smith, Portfolio Holder for Resources and Heritage, also responded to points made by the speakers.

Councillor Lewis attended and, with the consent of the Chairman, addressed the Cabinet to highlight some claims made in a newsletter for Old Heath Church about the process to select the group to run Abbots Road Activity Centre in future. She felt the Cabinet should be aware of the claims being made.

Councillor Dopson, Portfolio Holder for Communities and Diversity, thanked Councillor Lewis for bringing the matter to the Cabinet's attention and undertook to look into the matter.

Angel Kalyan attended and addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) to explain that, further to the comments at the last Cabinet meeting, she had taken legal advice but would continue to represent herself. She asked if the Cabinet stood by its decision that it would not consider issues she raised further unless she had legal representation. She also asked the Cabinet to confirm who represented it legally and alleged that she had received no recourse or resolution to a data protection issue dating back to 2008.

Councillor Turrell, Leader of the Council and Portfolio Holder for Strategy and Performance, indicated if an allegation of fraud was to be made against the Council, this should be made to the police and invited the Chief Executive to respond to Mrs Kalyan's comments. The Chief Executive explained that the legal case originally brought by Mrs Kalyan had been settled and two complaints she had subsequently made to the Local Government Ombudsman had been investigated with no finding of maladministration. Further allegations continued to be made against Council officers, although no evidence was provided to support the allegations. He stressed that these complaints needed to be made to the appropriate authorities as he could not justify the further use of valuable officer resources to investigate such allegations from Mrs Kalyan.

Tim Oxtan addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) to express his concern about the relocation of the bus station. He believed that the agreement requiring the relocation of the bus station could be renegotiated. The new station at Osborne Street and Stanwell Street would not be fit for purpose and he understood that the tests conducted at the football stadium had

demonstrated this. Contrary to assertions made at a recent Strategic Overview and Scrutiny Panel meeting, there was large public support for the bus station remaining in its current location.

Councillor Barton, Portfolio Holder for Renaissance, explained that the legal agreement could not be overturned and that considerable investment had been attracted to Colchester on the basis of the St Botolph's Masterplan, of which the relocation of the bus station was an element. The Borough Council was working with Essex County Council who were the lead authority on the relocation of the bus station. The maneuverability trials had been successful. The comments at Strategic Overview and Scrutiny had been taken out of context.

Councillor Frame attended and, with the consent of the Chairman, addressed the Cabinet to express his concern about the consultation on the North Colchester Travel Strategy. Concern had been caused to local residents and businesses due to erroneous comments that North Station Road would become a two way bus lane. He sought confirmation that there would be proper consultation with ward councillors and local residents and businesses.

Councillor Turrell, Leader of the Council and Portfolio Holder for Strategy and Performance, explained that the consultation on the North Colchester Travel Strategy would be undertaken by Essex County Council but had not yet begun. There had been some confusion with the consultation on the SPD for Mile End which had recently gone out for consultation. Councillor Barton, Portfolio Holder for Renaissance, confirmed that she had asked officers to ensure that Castle ward councillors were consulted.

Councillor Bentley attended and with the consent of the Chairman addressed the Cabinet to express his concern about the portrayal of Colchester on the recent Channel 4 programme "24 Hour Party Paramedics". This had damaged the reputation of Colchester and compromised the work of the economic development and tourism teams at the Council. He sought clarification as to who had given the production company permission to film. He also suggested that the process of relocating residents from Joyce Brooks House should be halted whilst the complaints made against officers were investigated. He considered that sufficient concerns about the process followed in the review of sheltered accommodation had been raised that the process should be reviewed, possibly the Strategic Overview and Scrutiny Panel. He felt that the marketing of Joyce Brooks House whilst discussions with tenants were ongoing was insensitive.

Councillor Turrell, Leader of the Council and Portfolio Holder for Strategy and Performance, explained that the Council had not given permission for the filming but would seek to establish who had. Concern was also expressed by the Cabinet about the portrayal of Colchester and Councillor Barlow, Portfolio Holder for Economic Development and Sustainability, indicated that he had written to Channel 4 asking them to substantiate one of the claims made and if they could not, to issue a retraction. In respect of Joyce Brooks House, Councillor T. Young, Portfolio Holder for Housing and Community Safety, explained that it was being marketed in a professional manner and residents were being kept informed. He considered that there was no reason to delay the process of seeking alternative accommodation for residents at this stage.

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

54. 2012-13 General Fund Revenue Budget, Capital Programme and Medium Term Financial Forecast

The Head of Resource Management submitted a report a copy of which had been circulated to each Member together with minute 39 of the Finance and Audit Scrutiny Panel meeting of 24 January 2012.

Councillor Willetts attended and, with the consent of the Chairman, addressed the Cabinet. He believed that the budget did not address the key issues facing the Borough such as the fall in recycling and the challenges facing business and tourism. The budget was propped up by the New Homes Bonus which encouraged the Council to increase development, contrary to the wishes of residents. Further efficiency savings of £1 million could be achieved quite easily. Concern was expressed about the shortfall in car parking income. This was a recurring feature of budgets and a long term coherent strategy for car parking needed to be developed.

Councillor Quince attended and, with the consent of the Chairman, addressed the Cabinet to suggest that a significant saving could be made by moving to four yearly elections. A four yearly election cycle would also give an administration the opportunity to implement a long term strategy. He also reminded Cabinet that he had been promised that figures for fines issued for dog fouling would be on the website by the end of January 2012.

Councillor Turrell, Leader of the Council and Portfolio Holder for Strategy and Performance, indicated that the issue of the election cycle was a matter for Council.

Councillor Smith, Portfolio Holder for Resources and Heritage, introduced the budget. He stressed that there was no rise in council tax for the second year in a row. The accountability provided by elections by thirds helped limit council tax rises. Frontline services were being protected and some, such as recycling, were receiving additional funding. The programme of Fundamental Service Reviews was ongoing to enable continued efficiency savings.

RESOLVED that:-

(a) The forecast outturn for the current financial year of an overspend of less than £200,000 be noted (see paragraph 3.4 of the Head of Resource Management's report).

(b) The cost pressures, growth items, savings and increased income options identified during the budget forecast process as set out at Appendices B, C and D of the Head of Resource Management's report be approved.

(c) It be agreed and *RECOMMENDED* to Council that the 2012/13 Revenue Budget requirement be set at £20,042,000 (see paragraph 6.13 of the Head of Resource Management's report) and the underlying detailed budgets be as set out in summary at Appendix E and Background Papers of the Head of Resource Management's report.

(d) Revenue Balances for the financial year 2012/13 be set at a minimum of £1,500,000.

(e) The following releases be agreed (see paragraph 10.7 of the Head of Resource Management's report):-

- £200,000 from the Capital Expenditure Reserve in 2012/13 to meet costs including the community stadium.
- £70,000 from the S106 monitoring reserve
- £97,000 from the Pensions Reserve

(f) It be agreed and *RECOMMENDED* to Council that £100,000 of Revenue Balances be earmarked for potential unplanned expenditure within the guidelines set out at paragraph 11.3. of the Head of Resource Management's report.

(g) It be agreed and *RECOMMENDED* to Council that Colchester's element of the Council Tax for 2012/13 be set at £175.23 for Band D properties which is a nil increase (see paragraph 12.2 of the Head of Resource Management's report).

(h) It be noted that the formal resolution from Cabinet to Council will include the Parish, Police, Fire and County Council elements and any change arising from the formal Finance Settlement announcement in early February. This will be prepared in consultation with the Leader of the Council.

(i) The Medium Term Financial Forecast for the financial years 2012/13 to 2015/16 be noted.

(j) The position on the Capital Programme shown at section 14 of the Head of Resource Management's report be noted and the following be agreed:-

- The release of £200,000 as set out at paragraph 14.5 of the Head of Resource Management's report.
- To *RECOMMEND* to Council that a provision of £2 million be included in the capital programme in respect of support for fundamental service reviews

(k) The comments made on the robustness of budget estimates at section 15 of the Head of Resource Management's report be noted.

REASONS

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

ALTERNATIVE OPTIONS

Various options were investigated at every stage of the budget setting process, due consideration of which was taken in order to meet the objectives of the Council's Strategic Plan.

55. Treasury Management Strategy Statement

The Head of Resource Management submitted a report a copy of which had been circulated to each Member together with minute 42 of the Finance and Audit Scrutiny Panel meeting of 24 January 2012.

RESOLVED that:-

(a) The 2012/13 Treasury Management Strategy Statement, Minimum Revenue Provision Policy Statement and Annual Investment Strategy be approved and *RECOMMENDED* to Council.

(b) The revised Prudential Indicators for 2011/12 that take into account the additional borrowing requirement in the year as a result of Housing Revenue Account reform be approved and *RECOMMENDED* to Council.

(c) The proposals for new borrowing in respect of the Housing Revenue Account reform settlement be approved and authority be delegated to the Head of Resource Management to raise the debt on 26 March 2012 in consultation with the Leader of the Council.

REASONS

(a) The Council agreed to adopt the revised CIPFA Treasury Management in the Public Services Code of Practice on 17 February 2010. The Code requires the Council to approve an annual Treasury Management Strategy Statement, which should be submitted for scrutiny prior to the start of the year to which it relates, and to keep treasury management activities under review.

(b) The Local Government Act 2003 introduced new freedoms for local authorities though the prudential borrowing framework. It also requires the Council to set Prudential and Treasury Indicators to ensure that capital investment plans are affordable, prudent and sustainable.

(c) The Council is required to make a payment of £74.338m to Department of Communities and Local Government on 28 March 2012 in order to leave the housing subsidy system.

ALTERNATIVE OPTIONS

No alternative options were presented to Cabinet.

56. Strategic Plan 2012-2015

The Executive Director submitted a report a copy of which had been circulated to each Member.

RESOLVED that: the draft Strategic Plan 2012-2014 be approved.

RECOMMENDED to Council that the Strategic Plan be adopted as part of the Council's Policy Framework.

REASONS

(a) The last Strategic Plan was published in February 2009 and runs to 2012. It now needs to be refreshed in the light of changing circumstances and expectations.

(b) The Strategic Plan is one of the core statutory elements of the Council's Policy Framework, as set out in Article 4 of the Council's Constitution. It must therefore be adopted by the full Council.

(c) The Strategic Plan sets the framework for the Council's three-year Medium Term Financial Forecast and its Capital Programme. Both the Plan and the Budget will be debated at the same full Council meeting on 22 February 2012.

ALTERNATIVE OPTIONS

The current Strategic Plan expires at the end of this financial year. A new plan is therefore required, and needs to be adopted by full Council.

The absence of a Strategic Plan would create a significant risk of the Council failing to identify and deliver on its core priorities.

57. Half Yearly Performance Report including Progress on Strategic Plan Action Plan

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

Councillor Turrell, Leader of the Council and Portfolio Holder for Strategy and Performance, explained that the report indicated very good performance in difficult circumstances. In the majority of cases where targets had not been met this was due to factors outside the Council's control.

RESOLVED that:-

(a) The Performance Summary for the period up to the end of September 2011 at Appendix 1 of the Head of Corporate Management's report be noted.

(b) The progress on the Strategic Plan Action Plan at Appendix 2 of the Head of Corporate Management's report be noted.

(c) The comments made by Strategic Overview and Scrutiny Panel at their meeting on 13 December 2011 following their review of the Head of Corporate Management's report be noted.

REASONS

Part of the Council's performance management framework includes the commitment to report the Council's half yearly performance progress to Cabinet.

ALTERNATIVE OPTIONS

No alternative options were presented to Cabinet in the light of the nature of the report.

58. Future Use of Magistrates' Court and Town Hall

The Executive Director submitted a report a copy of which had been circulated to each Member together with the motion on the future use of the Magistrates' Court and Town Hall approved and adopted by Council at its meeting on 8 December 2011.

RESOLVED that:-

(a) The contents of the motion relating to the future use of the Magistrates' Court and the Town Hall approved and adopted by Council on 8 December 2011 be noted.

(b) The Task and Finish Group on the Future Use of the Magistrates' Court be reconvened to oversee the implementation of the proposals and to take the final recommendation to Council.

REASONS

(a) The Magistrates Court will relocate in 2012 and this will leave a budget pressure for the Council as service charges and maintenance costs are currently paid by the Courts.

(b) In addition to the budget pressure, the space vacated will be available for other uses.

ALTERNATIVE OPTIONS

There are a range of alternative options that were considered by the Task and Finish Group and reported to the Policy Review and Development Panel.

59. Review of Ethical and Corporate Governance Arrangements

The Monitoring Officer submitted a report a copy of which had been circulated to each Member together with an extract from the minutes of the Standards Committee meeting on 25 November 2011.

RESOLVED that the revised Ethical and Corporate Governance arrangements as detailed at paragraph 7 of the Monitoring Officer's report be approved.

RECOMMENDED to Council that the revised Ethical and Corporate Governance arrangements be adopted as part of the Council's 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) The Council's Ethical Governance arrangements are a key part of good Corporate Governance and two important component parts of this are the Council's Anti-Fraud and Corruption Policy and the Whistleblowing Policy. Both of these policies have been subject to regular review to ensure that they remain fit for purpose.

(c) Following the commencement of the Bribery Act 2010 earlier this year the Council is required to ensure that its Anti-Fraud and Corruption Policy reflects the requirements of the Act. In addition, the opportunity has been taken to raise fraud awareness generally within the organisation by means of a series of training sessions for staff both face to face and via e-learning.

ALTERNATIVE OPTIONS

No alternative options were presented to the Cabinet. However it was open to the Cabinet not to approve the arrangements detailed in the Monitoring Officer's report, or to approve them subject to amendments.

60. Development Agreement - Phase 2, Plot C2K, Axial Way, Colchester

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

RESOLVED that the following decisions that Cabinet will be invited to make when it considers the report on this matter in Part B of the agenda be noted:-

1.1 To agree that the development agreement be amended on the terms reported by the Head of Resource Management.

1.2 To authorise the Head of Resource Management in consultation with the

Portfolio Holder for Resources and Heritage to settle final terms and consequential matters to complete the sale of the Second Phase land to Easter Developments (Colchester) Ltd (The Easter Group).

REASONS

(a) Easter Group has purported to terminate the development agreement for an alleged fundamental breach of the agreement by the Council. This Easter Group claim arises from the installation of a drain crossing part of the Second Phase land by Essex County Council in connection with the new A12 junction.

(b) The Council's position is that Easter Group were not entitled to rescind the contract for the reasons stated in the report on this item in part B of the agenda.

(c) The First Phase Land has already been transferred to Easter Group under the terms of the development agreement and the Infrastructure Costs determine the balance due in respect of the Second Phase Land.

(d) The report in part B of the agenda summarises the history relating to this dispute, legal advice received and details of the proposal presented by Easter Group to amend the development agreement to enable their proposed development to proceed.

ALTERNATIVE OPTIONS

In relation to the Second Phase Land, the Council has 4 options as follows:

(i) To agree the proposal presented by Easter Group to amend the development agreement.

(ii) To decline Easter Group's request to proceed as (i) above and to market the site possibly with other land owned by the Council.

(iii) The Council and Easter Group agree to a joint development of both the Second Phase land and adjoining plot on terms to be negotiated.

(iv) Mediation on a without prejudice basis which could change Easter Group's proposal to settle this dispute.

61. Housing Revenue Account Estimates 2012-13

The Head of Strategic Policy and Regeneration submitted a report a copy of which had been circulated to each Member together with minute 40 of the Finance and Audit Scrutiny Panel meeting of 24 January 2012.

RESOLVED that:-

(a) The 2012/13 Housing Revenue Account revenue estimates as set out in Appendix A of the Head of Strategic Policy and Regeneration's report be approved.

(b) The dwelling rents as calculated in accordance with the rent restructuring formula (set out in paragraph 4.8 of the Head of Strategic Policy and Regeneration's report) be approved.

(c) The rents for garages (as set out in paragraph 4.11 of the Head of Strategic Policy and Regeneration's report) be approved.

(d) The 2012/13 management fee of £3,313,300 for Colchester Borough Homes (CBH), (as set out in paragraph 4.18 of the Head of Strategic Policy and Regeneration's report) be approved.

(e) The revenue contribution of £250,000 to the Housing Investment Programme included in the budget be noted (see paragraph 4.30 of the Head of Strategic Policy and Regeneration's report).

(f) The Housing Revenue Account balances position in Appendix B of the Head of Strategic Policy and Regeneration's report be noted.

(g) The Medium Term Financial Forecast (MTFF) set out at Appendix C of the Head of Strategic Policy and Regeneration's report and the 30 Year Housing Revenue Account financial position set out at Appendix E of the Head of Strategic Policy and Regeneration's report be noted.

REASONS

Financial Procedures require the Head of Strategic Policy and Regeneration to prepare detailed HRA estimates for approval by the Cabinet, setting the new rent levels for the new financial year.

ALTERNATIVE OPTIONS

No alternative options were presented to the Cabinet.

62. Housing Investment Programme 2012-13

The Head of Strategic Policy and Regeneration submitted a report a copy of which had been circulated to each Member together with minute 41 of the Finance and Audit Scrutiny Panel meeting of 24 January 2012.

RESOLVED that:-

(a) The Housing Investment Programme for 2012/13 be approved, subject to the final Housing Revenue Account Reform debt settlement and associated treasury management financing implications.

(b) The Capital Medium Term Financial Forecast (CMTFF) set out at Appendix A of the Head of Strategic Policy and Regeneration's report be noted.

REASONS

- (a) Each year as part of the process to agree the Council's revenue and capital estimates the Cabinet is required to agree the allocations to the Housing Stock Investment Programme. These allow for work to be undertaken to maintain, improve, and refurbish the housing stock and its environment.
- (b) Following the Cabinet meeting on the 30 November 2011 it was agreed in principle to accept a proposed 5 year Housing Investment Programme (HIP) as the framework for procuring housing related planned works, improvements, responsive and void works and cyclical maintenance, subject to overall budget decisions in January 2012.
- (c) It was also agreed that the proposed 5 year investment programme would be linked to the Asset Management Strategy and reviewed annually in the light of available resources and for each annual allocation to continue to be brought to Cabinet for approval as part of the overall HIP report.
- (d) The CBH Board has been appraised of the content of the Cabinet report submitted on the 30 November 2011 and the 2012/13 Capital investment and is seeking approval of the funding.
- (e) This report seeks the release of funds under grouped headings as described in the Asset Management Strategy and supported by the Deed of Variation which governs the contractual delivery relationship between Colchester Borough Council and Colchester Borough Homes.

ALTERNATIVE OPTIONS

No alternative options were presented to the Cabinet.

63. Vineyard Gate - 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.

Councillor Lissimore attended and, with the consent of the Chairman, addressed the Cabinet to express her disappointment at delay in bringing this development forward. The scheme had not been treated as a priority and the administration had only begun to realise how important it was to generate income and attract visitors. The Council should consult with the retailers seeking to move to Colchester to ensure the correct size units were included in the scheme. It was also important to ensure that the bus station was built in the area. Concern was expressed that some local businesses had not been kept informed of developments.

Councillor Quince attended and, with the consent of the Chairman, addressed the Cabinet to express his support for the scheme.

Councillor Barton, Portfolio Holder for Renaissance, explained that the Council had

worked hard to bring forward a viable scheme during the recession. It would contribute towards the regeneration of St Botolphs and would create 750 jobs. It would protect and enhance the heritage of the area. Councillor Smith, Portfolio Holder for Resources and Business, and Councillor Barlow, Portfolio Holder for Economic Development and Sustainability, expressed their support for the scheme.

RESOLVED that:-

(a) The draft Heads of Terms which will form the basis of the Development Agreement be agreed.

(b) The commercial advice from the Council's valuers, CBRE, that the draft Heads of Terms currently represent the best consideration to the Council, subject to an assessment of the latest development appraisal and taking into account current market conditions, be accepted.

(c) Authority be delegated to the Executive Director Ian Vipond, in consultation with the Portfolio Holder for Renaissance, to conclude the Heads of Terms substantially in accordance with the approved draft and complete negotiations on Development Agreement and associated documents.

REASONS

(a) Significant progress made in recent months in negotiations with Caddick Developments concerning the Vineyard Gate Development proposals which, following the changed economic climate since July 2007, have resulted in a more compact scheme with a lower overall floor area. Caddicks have tabled a revised shopping centre scheme with a revised set of Heads of Terms including alternative financial terms, which now require approval from Cabinet before work can commence on a Development Agreement.

(b) Significant progress has been made to bring forward a shopping centre scheme, in a difficult economic climate, which will seek to deliver much needed regeneration to a run down area in the town centre and create over 750 jobs.

(c) The development of this scheme will help to deliver wider social and economic benefits as part of the Better Town Centre Improvements Programme and as identified in the King Sturge Retail Study 2011.

(d) The proposed Heads of Terms, whilst largely similar to those agreed for the previous scheme, do include revised financial terms which reflect the difficult circumstances existing in the development market at this time.

(e) The draft Heads of Terms, once finalised, will form the basis of the Development Agreement which will be the legal contract between the Council and Caddick Developments Ltd. to build the scheme.

(f) Approval of the Heads of Terms will enable each party to instruct legal representatives to commence the negotiations in respect of the Development Agreement and upon completion of the development agreement, work will commence

on the planning application and other key tasks required to move forward the scheme such as the CPO.

ALTERNATIVE OPTIONS

(a) The Council could refuse to accept that the revised Heads of Terms offer the Council the best possible consideration for its landholding or agree that they fail to realise the Council's aspirations in respect of this site in order to meet the gaps identified in the recent Retail Study.

(b) The Council could seek to renegotiate terms with the developer and or carry out a further review of the proposed scheme or accept that a shopping centre scheme will not be delivered on this site in the near future. It is recognised that a new shopping centre in the town will contribute significantly to future retail growth, higher expenditure and stronger economic growth

(c) The Council's agent, CBRE has confirmed in a report attached to the report in part B of this agenda, that in their professional opinion, the financial terms proposed by Caddick Developments do represent the best consideration for the Council's landholding in the current economic conditions and although the scheme is smaller the developer will still be compelled to deliver a high quality shopping centre, which will seek to attract the type of retailers Colchester needs to ensure future retail growth and vitality.

64. 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.

Nick Chilvers addressed the Cabinet about the need to ensure effective communication with residents. On a number occasion, communication about the reasons for controversial decisions had been poor. Information was often provided late and appeared to lack candour. Critical letters in the press should be responded to quickly.

Councillor Turrell, Leader of the Council and Portfolio Holder for Strategy and Performance, thanked Mr Chilvers for his comments.

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.

65. Supply of Fleet Procurement and Maintenance Services

The Head of Street Services submitted a report a copy of which had been circulated to each Member.

RESOLVED that the following decisions that the Cabinet will be invited to make when it considers the report on this matter in part B of this agenda be noted:-

(a) Authority be delegated to the Head of Street Services in consultation with the Portfolio Holder for Street and Waste Services to:

(i) enter into detailed negotiations with the Preferred Bidder Riverside Truck Rental Limited (“Preferred Bidder”) in order to seek to agree the relevant contract documentation;

(ii) award the contract for Maintenance Services to the Preferred Bidder for the reasons set out in this report subject to the satisfactory conclusion of the contract negotiations.

(b) In the event that negotiations cannot be successfully concluded with the Preferred Bidder to delegate authority to the Head of Street Services in consultation with the Portfolio Holder for Street and Waste Services to:

(i) enter into detailed negotiations with the next bidder in order to seek to agree the relevant contract documentation;

(ii) award the contract for Maintenance Services to the next Preferred Bidder.

REASONS

(a) The Council does not have a recognised programme in place to replace vehicles which come to the end of their expected life. Nor does the Council have a similar programme to procure any additional vehicles required through service developments. Vehicles have been purchased and leased for many years on an ad hoc basis.

(b) The Council recognised the need to agree the way forward for procuring and financing a long term planned replacement programme for Council vehicles and plant as well as considering the best option for maintenance and servicing.

(c) It was agreed to pursue an OJEU procurement process with Braintree and Uttlesford Council’s for both Fleet Procurement and Vehicle Workshop functions and which included the following options (“Bid Options”):

Option 1

Supply and Maintenance only (Contractor to provide workshop, other than for Colchester)

Option 2

Supply and Maintenance including Operator Damage (Contractor to provide workshop, other than for Colchester);

Option 3a

Maintenance only and Council to provide funding (Braintree and Uttlesford only);

Option 3b

Supply and Maintenance only contractor to provide workshop (Colchester only);

Option 4a

Maintenance only including Operator Damage and Council to provide funding (Braintree and Uttlesford only);

Option 4b

Supply and Maintenance only including Operator Damage contractor to provide workshop (Colchester only);

Option 5

Supply and maintenance for Braintree, Colchester and Uttlesford Councils;

Option 6

Supply and maintenance for Braintree, Colchester and Uttlesford Councils including Operator Damage.

(d) However, options 3b and 4b were not pursued as all bidders are committed to using the existing workshop facility at Westside.

(e) Due to the commercial confidentiality the detailed financial assessment of the Bid Options and the resulting bids are included in a detailed report which is in Part B of the agenda ("Confidential Report").

ALTERNATIVE OPTIONS

The Council could chose to retain either or both services in-house and a comparison is made with this option in the Confidential Report.

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.

66. Development Agreement - Phase 2, Plot C2K, Axial Way, Colchester

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

RESOLVED that:-

(a) The development agreement be amended on the terms reported by the Head of Resource Management.

(b) The Head of Resource Management be authorised in consultation with the Portfolio Holder for Resources and Heritage to settle final terms and consequential matters to complete the sale of the Second Phase land to Easter Developments (Colchester) Ltd (The Easter Group).

REASONS

As set out in the Head of Resource Management's report.

ALTERNATIVE OPTIONS

As set out in the Head of Resource Management's report.

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.

67. Supply of Fleet Procurement and Maintenance Services

The Head of Street Services submitted a report a copy of which had been circulated to each Member.

RESOLVED that:-

(a) Authority be delegated to the Head of Street Services in consultation with the Portfolio Holder for Street and Waste Services to:

(i) enter into detailed negotiations with the Preferred Bidder Riverside Truck Rental Limited ("Preferred Bidder") in order to seek to agree the relevant contract documentation

(ii) award the contract for Maintenance Services to the Preferred Bidder for the reasons set out in this report subject to the satisfactory conclusion of the contract negotiations.

(b) In the event that negotiations cannot be successfully concluded with the Preferred Bidder to delegate authority to the Head of Street Services in consultation with the

Portfolio Holder for Street and Waste Services to:

(i) enter into detailed negotiations with the next bidder in order to seek to agree the relevant contract documentation.

(ii) award the contract for Maintenance Services to the next Preferred Bidder.

REASONS

As set out in minute 65.

ALTERNATIVE OPTIONS

As set out in minute 65.

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.

68. Vineyard Gate - Approval of Heads of Terms

This minute is not for publication by virtue of paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (Information relating to the financial or business affairs of any particular person (including the authority holding that information)).