

CABINET

30 JUNE 2010

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

Also in Attendance :- Councillor Kevin Bentley
Councillor Mary Blandon
Councillor Barrie Cook
Councillor Andrew Ellis
Councillor Martin Goss
Councillor Mike Hardy
Councillor Pauline Hazell
Councillor Sue Lissimore
Councillor Laura Sykes
Councillor Dennis Willetts

11. Minutes

The minutes of the meeting held on 19 and 26 May 2010 were confirmed as a correct record.

12. Have Your Say!

Paula Whitney addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) to encourage Colchester Borough Council to support Friends of the Earth's Get Serious campaign. A number of other Council's had already pledged their support. Given the threat to the borough's coastline from climate change this was a campaign Colchester Borough Council should support. Cuts in carbon emissions could be made by addressing traffic, transport and waste issues. She asked the Deputy Leader of the Council to confirm whether the Liberal Democrat group supported the campaign and whether it supported a car free High Street.

Councillor Hunt, Deputy Leader of the Council and Portfolio Holder for Street and Waste Services, and Councillor Barton, Portfolio Holder for Planning and Sustainability, responded to Ms Whitney's comments.

Nick Chilvers addressed the Cabinet pursuant to Meetings General Procedure Rule 5 (2) to encourage the Council to control planning and development in Colchester more effectively. The Council needed to be more sensitive to local feelings about the extent of development and the quality of design, which was changing the character of Colchester. The Council had been too keen to agree to central government targets on development. However, new council housing for local residents would be welcomed.

Councillor Turrell, Leader of the Council and Portfolio Holder for Strategy, and

Councillor Smith, Portfolio Holder for Resources and Diversity, responded to Mr Chilvers' comments.

Parish Councillor Gili-Ross addressed the Cabinet pursuant to Meetings General Procedure Rule 5(2) on behalf of Colchester Association of Local Councils to ask what progress was being made on the Association's request for a task and finish group to examine issues about the development of north Colchester.

Ron Levy addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) to express his support for the Visual Arts Facility. Whilst he had previously been sceptical about the project, after visiting the site he now believed it would be an amenity that would benefit the whole of the Colchester and that residents and businesses could be proud of.

David Clouston addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) about development in north Colchester. He argued that as the Regional Spatial Strategy was no longer in place and as Housing and Planning Delivery Grant was no longer being received the main pressures driving development in Colchester had been removed. Therefore it was now a question of whether the Council wanted development to continue. He offered to pay a third of the postage costs of a questionnaire to be sent to all residents of Braiswick and Mile End asking the following questions:-

- Were you aware that Braiswick and Mile End were being considered as high development sites;
- Did you want Braiswick and Mile End to be high development sites;
- When was the first time you became aware that Braiswick and Mile End were high development sites?

Councillor Goss addressed the Cabinet to ask Cabinet to commission a report to be referred to Council to reverse high growth in Colchester. This would be an opportunity to share the issues surrounding high housing growth with the population of the borough and to set out the benefits and risks of ending high growth. Infrastructure in Colchester was only just catching up with previous development and was not future proofed. There had been considerable problems with the adoption of roads in new developments. Approximately half of new development was bought for the buy to let market which led to social problems and a lack of community spirit. He did not accept that restricting development would increase house prices significantly.

Councillor Ellis addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). The targets for housing growth contained in the Core Strategy only continued the actual level of growth that had taken place in Colchester over the last thirty-five years.

In response, Cabinet agreed to a proposal from Councillor Hunt, Deputy Leader of the Council and Portfolio Holder for Street and Waste Services, that the Cabinet should receive a report to its next meeting setting out the position regarding the Core Strategy, whether it was possible for it to be abandoned or revoked and if so exploring the potential benefits and risks in doing so. In particular the impact on social housing was to

be addressed in the report. A copy of the report was to be sent to all those who had raised issues about development in north Colchester at this meeting.

13. 2011/2012 Budget Strategy, Medium Term Financial Forecast and Budget Timetable

The Head of Resource Management submitted a report a copy of which had been circulated to each Member and a copy of which appears as Appendix A to these minutes in the Minute Book.

Nick Chilvers addressed the Cabinet pursuant to Meetings General Procedure Rule 5 (2). He urged the Council to maintain its budget for parks and planting given the positive impact this had on the borough, but suggested that the free swimming subsidy could be removed.

Councillor Dopson, Portfolio Holder for Communities, explained that in the light of cuts to the Council's funding, it could no longer continue to subsidise free swimming for under sixteens and over sixties and this would end after the summer holidays.

Councillor Willetts addressed the Cabinet in his capacity as the Deputy Leader of the Conservative Group. He believed that the financial position was not as dire as the report suggested. Given the surplus at the end of the financial year, there had been no need to increase council tax. He urged the administration to adopt the budget proposed by the Conservative group in February 2010.

RESOLVED that:-

- (a) The pre-audit outturn position for the financial year 2009/10 be noted.
- (b) £30,000 be released to support the Tour of Britain cycling event.
- (c) £205,000 be transferred from the insurance reserve into General Fund balances.
- (d) The budget forecast, approach and timetable for the preparation of the 2011/12 budget and updated position in respect of balances be noted.
- (e) The updated Medium Term Financial Forecast for the period to 31 March 2013 as set out in Appendix A of the Head of Resource Management's report be noted.
- (f) The latest position in respect of the Capital Programme be noted.

RECOMMENDED to Council the release from balances in 2010/11 of:-

- £500,000 for VAF legal fees as set out in a separate report to Cabinet on 30 June 2010;
- £405,000 in respect of Icelandic investment impairment

REASONS

The Council is required to approve a financial strategy and timetable in respect of the financial year 2011/12 and a Medium Term Financial Forecast for the two subsequent financial years.

The use of balances requires the approval of Full Council.

ALTERNATIVE OPTIONS

No alternative options were presented to the Cabinet.

14. Year End Performance Report including Strategic Plan Action Plan and Proposed Targets/Actions for 2010/11

The Head of Corporate Management submitted a report a copy of which had been circulated to each Member and a copy of which appears as Appendix B to these minutes in the Minute Book together with minute 4 of the Strategic Overview and Scrutiny Panel meeting of 8 June 2010.

Councillor Bentley addressed the Cabinet to congratulate the Council for much of the performance set out in the report. However, he expressed concern about the following areas:

- Local and Life Chances Indicator ex 8: Invoices paid on time;
- Working with Partners to Deliver the 212 Partnership Plan (Appendix 3), which he considered required more political direction;
- Enabling Job Creation (Appendix 4), which he considered needed more challenging and ambitious targets.

Councillor Dopson, Portfolio Holder for Communities, Councillor T. Young, Portfolio for Housing and Community Safety and Councillor Hunt, Portfolio for Street and Waste Services, responded to his concerns.

Councillor Dopson, Portfolio Holder for Communities, thanked officers for the work involved in meeting so many of the targets. In terms of the recommendations from the Strategic Overview and Scrutiny Panel, the Cabinet agreed to accept recommendations (a), (c) and (g). In relation to recommendation (b), a report was already available about the air quality hotspots and the remedial work fell within the remit of Essex County Council so it would not be appropriate to set an indicator around this work. The information requested at recommendation (d) had been provided to the Chairman of the Panel. The information requested at recommendation (e) would be too detailed to include in the report but could be provided separately. There were already several indicators around tourism, so recommendation (f) was not accepted. In respect of recommendation (h) this was not considered to be a helpful indicator. However, regular visits to food establishments would continue.

RESOLVED that:-

(a) The following documents be noted:-

- The year end performance summary for 2009/10, at Appendix 1 of the Head of Corporate Management's report.
- The Table of Indicators and proposed targets for 2010/11, at Appendix 2 of the Head of Corporate Management's report.
- The year end Strategic Plan Action Plan, at Appendix 3 of the Head of Corporate Management's report.
- The proposed Strategic Plan actions, at Appendix 4 of the Head of Corporate Management's report.

(b) Recommendations (a), (c) and (g) of the Strategic Overview and Scrutiny Panel at its meeting on 8 June 2010 be accepted.

REASONS

The Council has a number of key performance areas which it uses as part of its Performance Management Framework to help monitor progress and improvement. The Head of Corporate Management's report provides the year end position of the Council's Organisational indicators and Strategic Plan Action Plan (SPAP) and also provides information on the proposed targets and actions for 2010/11.

ALTERNATIVE OPTIONS

No alternative options were presented to the Cabinet.

15. VAF issues relating to legal proceedings

The Executive Director submitted a report a copy of which had been circulated to each Member and a copy of which appears as Appendix C to these minutes in the Minute Book.

Councillor Smith, Portfolio Holder for Resources and Diversity, and Councillor T. Young, Portfolio Holder for Resources and Diversity, stressed that the further investment was necessary as it was the only way of pursuing legal actions which could result in financial awards to the Council.

RECOMMENDED to Council that £500,000 of additional revenue funding be released towards the legal costs of resolving VAF legal claims or disputes for the reasons set out in the Executive Director's report, if necessary in advance of legal costs already incurred being refunded by resolution of outstanding disputes.

RESOLVED that the Council can use any agreed revenue budgets (for specific disputes relating to the VAF) as a global budget for all the revenue funded disputes relating to the VAF for the reasons set out in paragraphs 2.1 to 2.4 of the Executive Director's report

REASONS

In July 2009 the Cabinet agreed that proceedings could be issued against Banner Holdings Ltd (BHL) and Turner and Townsend (T&T) subject to the revenue budget not to exceed £365,000 without further approval and there were other revenue budget allocations relating to other identified claims in relation to the VAF. This approach has proven problematic due to certain areas of legal work being more intense than other areas and because the claims are so interrelated. It is now suggested that it would be better to agree that identified revenue budgets can be used as a global budget in relation to all the revenue funded VAF disputes.

In December 2009 the revenue budget was increased by £500,000, with £250,000 being released in the last financial year and the remaining £250,000 being released in this financial year. This budget has largely been expended in relation to successfully defending the claim by BHL. Under normal circumstances the Council could expect to recover its legal costs and this might yet prove possible to a varying degree, but at present more revenue funding is required this financial year up to an additional £500,000 if the Council is not to lose its ability to claim against T&T.

ALTERNATIVE OPTIONS

No alternative options were presented to the Cabinet.

16. Consultation on a Self-Financing Housing Revenue Account

The Head of Strategic Policy and Regeneration submitted a report a copy of which had been circulated to each Member and a copy of which appears as Appendix D to these minutes in the Minute Book together with minute 7 of the Strategic Overview and Scrutiny Panel meeting of 24 June 2010.

Councillor T. Young, Portfolio Holder for Housing and Community Safety, indicated that the recommendation from the Strategic Overview and Scrutiny Panel was accepted.

RESOLVED that the Council's response to the Government's proposal to leave the present HRA subsidy system and adopt a self-financing housing revenue account, as set out at Appendix A of the Head of Strategic Policy and Regeneration's report, be approved subject to the amendment proposed in the minute of the Strategic Overview and Scrutiny Panel meeting of 24 June 2010.

REASONS

The Government is consulting on proposals to reform the current housing finance system.

ALTERNATIVE OPTIONS

To not approve the Council's response to the consultation paper, however this is not being recommended for the reasons set out in the Head of Strategic Policy and Regeneration's report. Alternatively, the Council could choose not to respond to the

consultation.

17. Gas Servicing and Associated Repairs Contract

The Head of Strategic Policy and Regeneration submitted a report a copy of which had been circulated to each Member and a copy of which appears as Appendix E to these minutes in the Minute Book.

RESOLVED that:-

(a) Morrison Plc be appointed to deliver the Gas Servicing and Associated Repairs contract.

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

REASONS

Housing property related services are currently being provided through a signed Deed of Variation with Colchester Borough Homes (CBH). The signing took place on Thursday 9 October 2008 and varies the Management Agreement between Colchester Borough Council and Colchester Borough Homes. The first period of the agreement came to an end on 31 March 2009 and the second 9 month period commenced on 1st April 2009.

During the Interim period and to comply with Cabinet decisions on 21 May 2008 and 28 January 2009 it was intended to prepare for and let a fully compliant OJEU contract or set of contracts for the remaining Capital and Revenue work packages. The work packages were designed to cover

- Responsive repairs, voids and adaptations
- Gas Servicing
- External overview – planned programmes, painting etc

The original decision taken by Cabinet above was reviewed and this formed part of a separate report which was taken to Cabinet on Wednesday 9th September 2009. As a result of the Cabinet decision, the first package “Responsive repairs, voids and adaptations” will continue to be delivered by CBH and a robust benchmarking exercise was to be conducted to ensure the Council complies with its best value obligations. A new Deed of Variation has been prepared to recognise the new arrangements and the parties have agreed to the necessary amendments. The new Deed was signed and dated 10th December 2009. The new Deed is essentially designed to align with the completion date for the Management Agreement and recognise the period January 2010 to March 2010 as an extension to the current Deed which ended in December 2009, periods thereafter will be annual from 1st April.

As Cabinet originally instructed, work proceeded to expose Gas Servicing and the External overview contracts to competitive tender. The procurement approach agreed

by Cabinet on 28 January 2009 was one of a full European (EU) compliant process (OJEU) with the Council acting as the awarding body for any contracts placed and Colchester Borough Homes (CBH) acting as the employer's agent (Contract Administrator).

Expressions of interest were sought through a Pre Qualification Questionnaire (PQQ) process from which prospective contractors were selected. The results of this exercise conducted by Ridge and Partners were shared with Tenants, Leaseholders, Members and Staff from both CBH and CBC.

Out of this exercise nine contractors were selected to be invited to tender for the works. Tenders were returned and opened by officers on 18 May 2010 and following a further analysis exercise three contractors were interviewed and out of this a final recommendation was concluded.

ALTERNATIVE OPTIONS

There are few alternative options as this programme forms part of the Council Statutory obligations as a Landlord and protects both our customers and the housing asset.

18. World Heritage Site Status

The Head of Environmental and Protective Services submitted a report a copy of which had been circulated to each Member and a copy of which appears as Appendix F to these minutes in the Minute Book.

Bill Hayton of Destination Colchester addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) to thank the Council for its support. Urgent action had been required as the next opportunity to apply for World Heritage Status would not be until 2015. The bid had been made with no cost to the borough so far and if the bid did progress to the second stage, it was not anticipated that it would cost a significant sum. The fact the bid was being led by a community group would be a significant advantage in the bidding process. The bid would help change perceptions of Colchester and would contribute towards regeneration and securing inward investment.

Councillor Lissimore addressed the Cabinet to express her disappointment at the Council's stance towards the bid. She considered that the Council should have kept its options open and should have "speculated to accumulate". This was an excellent opportunity to exploit Colchester's heritage. It was unreasonable to expect residents and business to fund the bid if the Council did not.

Councillor Smith, Portfolio Holder for Resources and Diversity, Councillor Hunt, Portfolio Holder for Street and Waste Services, and Councillor Young, Portfolio Holder for Housing and Community responded to Councillor Lissimore's comments to reiterate that it would be wrong to invest in this project in the current economic climate. If circumstances had changed, if and when the bid progressed to the next stage, this decision would not rule out a financial contribution being made to the public subscription at that stage.

RESOLVED to confirm the approach outlined by Deputy Leader of Colchester Borough Council in the recent correspondence with Wendy Bailey, Chair of Destination Colchester that Colchester Borough Council supports the application for World Heritage status, but that funding would have to be found through public subscription

REASONS

Colchester Borough Council has been approached by Destination Colchester to support the recent submission of an application for Colchester to be considered for World Heritage Site status and it is necessary to clarify the funding implications of this application.

ALTERNATIVE OPTIONS

Financial support towards the application process could have been committed. The cost associated with progressing an application for World Heritage Site status through to final decision by the World Heritage Committee is estimated to be between £200,000-£400,000 and given the financial circumstance of Local Government this would mean finding savings in other services

19. Revised Executive Arrangements

The Monitoring Officer submitted a report a copy of which had been circulated to each Member and a copy of which appears as Appendix G to these minutes in the Minute Book.

Councillor Bentley addressed the Cabinet to suggest that more clarification was required from central government on whether the new Coalition Government would be proceeding to implement this legislation before the Council began a formal consultation with residents on the issue.

Councillor Hunt, Portfolio Holder for Street and Waste Services, and Councillor Smith, Portfolio Holder for Resources and Diversity, suggested that advice be sought direct from a senior government minister before proceeding with the consultation, as there were indications that the legislation governing the review of executive arrangements may be changed or not implemented.

Councillor T, Young, Portfolio Holder for Housing and Community Safety, argued that whilst the legislation remained in place the Council was obliged to fulfill its requirements and the consultation process should be undertaken.

RESOLVED (FIVE voted FOR and THREE voted AGAINST) that:-

- (a) Consideration of the report be deferred until the next Cabinet meeting;
- (b) Advice be sought from direct from a senior government minister as to the new Coalition Government's intentions as regards any review of executive arrangements.

REASONS

There was an element of doubt as to the new Government's intentions to implement the review of executive arrangements as set out in the Monitoring Officer's report. Further clarification should be sought from a senior political source before a final decision was made.

ALTERNATIVE OPTIONS

To accept the recommendations in the Monitoring Officer's report

20. Policy Review and Development Panel Work Programme 2010/11

Cabinet considered minute 4 of the Policy Review and Development Panel meeting of 14 June, a copy of which had been circulated to each Member and a copy of which appears as Appendix H to these minutes in the Minute Book.

The proposals of Policy Review and Development Panel were accepted except in regard to the Olympics Partnership. It was considered that this might be more appropriate for consideration by the Strategic Overview and Scrutiny Panel. The Chairman of the respective Panels should discuss and agree which Panel should undertake the work.

RESOLVED that:-

(a) the Policy Review and Development Panel be authorised to undertake detailed investigations and to formulate recommendations, on behalf of the Cabinet, in relation to the following subject areas, with possible dates for consideration as indicated:

(i) Integrated County Economic Development Strategy / The State of Essex report – September 2010;

(ii) Review of Accommodation for Older People;

(iii) Energy Savings Trust;

(iv) Allotments Strategy;

(vi) Cycle Paths and the Cycle Town Initiative.

(b) The Chairman of the Policy Review and Development Panel and the Chairman of the Strategic Overview and Scrutiny Panel to decide the appropriate Panel for a review of work related to Olympics 2012.

REASONS

It was the role of Cabinet to consider recommendations from the Policy Review and Development Panel about strategies and policies the Panel should review

ALTERNATIVE OPTIONS

Cabinet could approve some or none of the suggestions made by the Policy Review and Development Panel or make alternative suggestions.

21. Progress of Responses to the Public

The Head of Corporate Management submitted a progress sheet a copy of which had been circulated to each Member and a copy of which appears as Appendix I to these minutes in the Minute Book.

RESOLVED that the contents of the Progress Sheet be noted.

REASONS

The progress sheet was a mechanism by which the Cabinet could ensure that public statements and questions were responded to appropriately and promptly.

ALTERNATIVE OPTIONS

No alternative options were presented to the Cabinet.

22. Award of 4 Year Corporate Cleaning Contract

The Cabinet 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.

The Head of Corporate Management submitted a report a copy of which had been circulated to each Member and a copy of which appears as Appendix J to these minutes in the Minute Book.

RESOLVED that:-

(a) A 4 year contract with a break clause at 2 years be awarded to Ocean Contract Cleaning for the provision of cleaning services to Colchester Borough Council and Colchester Borough Homes as specified in the 'Invitation to Tender' document.

(b) The commencement date for the cleaning contract be 2 August 2010.

REASONS

The reasons for the decision were as set out in the Head of Corporate Management's report.

ALTERNATIVE OPTIONS

The alternative options were as set out in the Head of Corporate Management's report.