

CABINET 3 June 2020

Present: - Councillor Cory (Chairman)
Councillors Fox, Goss, Higgins, King, Lilley, Luxford
Vaughan and J. Young.

Also in attendance: - Councillors Barber, Dundas, G.
Oxford and T. Young

453. Moment of Reflection

The Chairman opened the meeting with a moment of reflection for those who had lost their lives in the Coronavirus pandemic together with those impacted by the current disturbances in the United States and expressed support for the “Black Lives Matter” campaign.

454. Minutes

RESOLVED that the minutes of the meeting held on 11 March 2020 be confirmed as a correct record.

455. Have Your Say!

Andy Hamilton had submitted the following written submission to the Cabinet pursuant to the provisions of paragraph 5(1) of the Remote Meetings Procedure Rules:-

For decades Spring Lane Nursery has been abandoned by its owners Colchester Council. Yes, the concrete forecourt is used by the council gardening contractor but the 2.5 acres beyond is unused. Over the years I have wanted to see the land used to supply bedding plants for public areas. After support from a councillor I visited Spring Lane Nursery on November 27th 2019 and met Parks and Recreation officer Steve Collis. Unfortunately since then he has not responded to emails to steve.collis@colchester.gov.uk.

Using my own garden I grow about 2000 bedding plants twice a year for six public areas and since lockdown, elderly neighbours isolating and four care homes. I offer spare plants to anyone planting up public areas. In this hot weather I use 200ltrs/week of stored rainwater. I have run out of space and need more land to propagate bedding plants. I have the funds to replace the greenhouses at the Spring Lane Nursery and the occasional winter floods would not be a problem.

Unfortunately Colchester in Bloom has become inactive and declined to register as a charity. I setup my charitable company Lexden Sanctuary and am applying for registration at the Charity Commission. I would be willing to lease or buy Spring Lane Nursery land using the shared concrete forecourt for access. My page is <https://www.facebook.com/Blooming-Colchester-564285567085224/>

The advantage of volunteer grown bedding plants is that it saves public funds used for expensive commercially grown plants. Also a reserve could be kept to replace those lost to theft or vandalism.

Councillor Lilley, Portfolio Holder for Communities, Public Safety and Licensing, responded and explained that whilst the Council had hoped to help Mr Hamilton, the site had not proved suitable for Mr Hamilton's needs. The site suffered from floods and waterlogging, and the Woodland Project used the site for storing trees. In addition the front of the site was used as a turning circle.

Councillor G. Oxford attended and with the consent of the Chairman, addressed the Cabinet. He considered that one of the significant contributory factors towards illness and injury of refuse crews, was that the "black sack" routes, which were the majority, serviced 1600 properties, whilst wheeled bin routes serviced 1200. This led to black sack routes often not being completed. All routes should be reduced to 1200 properties, which would reduce sickness levels and ensure all routes were completed. Highwoods members had been inundated with reports of missed collections. Refuse crews would also then have the capacity to collect recycling unrestricted.

Councillor Goss, Portfolio Holder for Waste, Environment and Transportation, explained that staff welfare was the Council's primary concern. All staff were given appropriate training. Performance in respect of the completion of rounds was good and was improving. Routes were recalibrated when new housing were added. There was evidence that sickness absence and muscle injuries were more common on black sack routes. Wheeled bin routes had slightly less properties in view of the longer time it took to service each property. Recycling was usually unrestricted apart from garden waste: limits had only been introduced as part of the response to Covid 19. Collection options would be looked at as part of a review of the service. He was happy to discuss further with Cllr G. Oxford.

Councillor T. Young attended and with the consent of the Chairman, addressed the Cabinet to express his concern that Colchester Institute would not be renewing its lease on the Minories. The Minories was one of Colchester's finest historic buildings, built in the Tudor period and with many other historical connections. He called on the Council to do all it could to work with partners and the Victor Batte-Lay Foundation to ensure that the Minories remained open. Arts organisation generally had an important role to play in the Council's recovery from Covid 19.

Councillor J. Young, Portfolio Holder for Culture and Performance, explained that she had been in touch with the Victor Batte-Lay Foundation today and had asked for a meeting with officers to discuss the situation and see how the Council could assist. It was an important building in a strategic location in Colchester and should be valued and protected

for future generations. The arts organisations had played a vital role in the response to coronavirus, particularly in respect of supporting mental health.

Councillor Mark Goacher had submitted the following written submission to Cabinet:-

I have three questions to raise tonight. Firstly could you provide the viewing public with a full explanation as to why an application has not been made for the government's scheme to move to all electric buses in one town. Given that Colchester Borough Council and Essex County Council have been working together on this.

Secondly, what are you proposing to do about the high levels of air pollution in Brook Street, East Street, East Hill, Mersea Road and other areas post Covid 19? What plans are in place for the 'new normal' to encourage cycling, walking and less car use and to ensure there is not a return to toxic air in congested streets?

Thirdly, regarding item 9ii, could you please refrain from negotiating to lift the covenant on the former bus station land. Given that CBC opposed the Alumno development at the inquiry, to then negotiate to get the covenant lifted would be an absurd paradox and frankly bizarre. It would create the impression of two-faced manoeuvring.

Councillor Goss, Portfolio Holder for Waste, Environment and Transportation, explained that the Council had considered making an application under the government scheme on electric buses. However, it was not suitable for Colchester as it would require the whole fleet to be made electric. It would also require considerable infrastructure such as charging points. If a more appropriate scheme became available, an application would be made. In terms of air quality, the Council continued to work with Essex County Council. Monitoring showed that levels were below dangerous levels. The issues in respect of the covenant on the bus station were responded to in minute 461.

456. Election of Deputy Chairman

Councillor J. Young was elected Deputy Chairman of Cabinet for the 2020-21 municipal year.

Councillor Fox (in respect of his employment by Community 360) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5) and Councillor Luxford Vaughan (in respect of her membership of Wivenhoe Town Council and a family member of Wivenhoe Cricket Club) declared a pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

457. Council response to Coronavirus

The Assistant Director, Corporate and Improvement Services, submitted a report a copy of which had been circulated to each Member together with a copy of the resolution from the Scrutiny Panel meeting of 1 June 2020.

Councillor Cory, Leader of the Council and Portfolio Holder for Strategy, briefly outlined

how well the Council had responded to the coronavirus crisis and invited the Chief Executive to introduce the report.

Adrian Pritchard, Chief Executive, stressed the profound effect that the coronavirus crisis had on communities, businesses, families and individuals. The initial response had been to use the Council's resources to implement government policies and directives, such as introducing closures and restrictions, whilst still maintaining key services. The Council had also been required to adapt and introduce new services and ensure government support schemes reached those in need. The work of the Council had been organised into four cells: Organisation, Communities, Businesses and Housing and the report set out the work undertaken by each cell. Of particular note were the way the organisation adapted quickly to deal with the situation, with new working patterns and the maintenance of key services to residents, whilst taking on new challenges. Partnership working had been key and the development of the OneColchester with partners over recent years had paid dividends. The Council had paid over £30m in government grants and support to over 2000 businesses. It had worked with the BID and Colbea to ensure businesses were supported. The Council had protected rough sleepers and prevented a widespread outbreak of coronavirus amongst this vulnerable group. Through Colchester Borough Homes it had provided support to vulnerable residents whilst tackling anti-social behaviour where it had occurred. Where necessary decisions had been taken using emergency and urgency provisions.

Tribute was paid to the way officers throughout the Council had responded to this unprecedented situation.

Councillor J. Young, Portfolio Holder for Culture and Performance, highlighted the important role volunteers had played in helping the community and the work of the arts organisations in providing resources to help residents and maintain mental health. Councillor King, Portfolio Holder for Business and Resources, explained that in terms of the support to businesses, the focus on intelligence and engagement had proved invaluable. The widening of partnerships and networks had also been vital. Financial support had been directed to businesses quickly and it had adopted a sensible and permissive approach to complex rules.

Councillor Fox, Portfolio Holder for Housing, explained that the work of Council and Colchester Borough Homes officers to support vulnerable residents was as important as those key workers who were applauded each week. A herculean effort had been made to protect the homeless and they had been provided with accommodation in hotels and in Elfreda House. The response had shown how well prepared the Council had been. Councillor Lilley, Portfolio Holder for Communities, Public Safety and Licensing, stressed how well the Council had responded when compared to other authorities, and praised the work of the police and the sensible way they had enforced legislation and guidance on social distancing.

Councillor Cory endorsed the report. It provided detailed information and showed a commitment to openness and transparency. The recommendations from the Scrutiny Panel on 1 June 2020 were also welcomed.

RESOLVED that

- (a) The contents of the Assistant Director's report be noted.
- (b) The recommendations made by the Scrutiny Panel on 1 June 2020 be agreed.

REASONS

To update Cabinet of the Council's initial response to the Coronavirus pandemic including decisions taken under Urgency Provisions.

ALTERNATIVE OPTIONS

No alternative options were proposed.

Councillor King (in respect of being the Council's representative on the board of North Essex Garden Communities Ltd) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

458. Covid 19 Budget Changes 2020-21 and Budget Strategy 2021-22

The Assistant Director, Corporate and Improvement Services, submitted a report a copy of which had been circulated to each Member together with the resolution from the Scrutiny Panel meeting on 1 June 2020.

Councillor Dundas attended and with the consent of the Chairman, addressed the Cabinet. He expressed his thanks to officers for their work in addressing the financial impact of coronavirus. It was hoped that the reality would be better than the forecast. In terms of the recommendations from the Scrutiny Panel. In respect of paragraph 2.5, it was felt that as drafted this could be misinterpreted and the proposed rewording made the position clearer. Further consideration should be given as whether it was appropriate to refer this issue to Full Council at its meeting on 15 July 2020.

Councillor King, Portfolio Holder for Business and Resources, responded and explained that he was comfortable with the changes proposed by the Scrutiny Panel. The Council had an obligation to its partners and needed to meet its commitments. There was now some clarity on the situation as the Inspector had reported, and that there did not seem to be a valid reason to delay Council's consideration of the matter further. He would continue to discuss and work with all groups on the issue. Councillor Luxford Vaughan indicated that there were issues about the quality of the work undertaken by NEGC Ltd and it was important that more details of the Shareholder Agreement should be made available so that the Council could understand its obligations. Councillor King explained that he understood the need for value for money. The sums involved were comparatively small compared to the Council's budget and the overall sums involved in the Garden Communities project. The issue needed to be considered with partners. The Shareholder Agreement would be circulated, together with a commentary.

Councillor King introduced the report and stressed the gravity of the unprecedented financial crisis arising from coronavirus. This was a financial as well as health emergency and the country was facing a severe recession or depression. There remained considerable uncertainty and the report set out the best estimate of the position for this

financial year and the strategy for 2021-22. All income sources, costs and reserves had been looked at and a number of approaches modelled. A prudent approach was being taken. Income was likely to halve this year and recover slowly. Debt levels would rise and calls for support would rise. Whilst the government had provided considerable support so far, going forward the Council could not rely on this. Therefore the Council would need to call on its reserves in order to maintain a balanced budget this financial year. This was only possible due to the prudence exercised in previous years. Whilst the challenge faced was huge, it was not insurmountable. Cabinet was looking at a programme of transformation to enable a balanced budget to be brought forward for

Councillor Cory, Leader of the Council and Portfolio Holder for Strategy, thanked Councillor King and the Council's finance officers for the way they had responded to this crisis. He hoped central government would appreciate the scale of the difficulties and deliver the necessary support. Councillor Fox, Portfolio Holder for Housing, highlighted that the contribution from central government towards the rehousing of the homeless during the crisis was less than 10% of the costs. Central government needed to change its priorities and support local communities.

RESOLVED that:-

- (a) The recommendations made by the Scrutiny Panel at its meeting of 1 June 2020 be approved.
- (b) The likely impact on the 2020/21 budget be noted.
- (c) The use of £6.692m of reserves in 2020/21 to cover Covid-19 costs be agreed.
- (d) The use of £0.500m New Homes Bonus in 2020/21 to cover Covid-19 costs be agreed.
- (e) The Budget Strategy for 2021/22 as set out in Section 11 of the Assistant Director's report be agreed.

RECOMMENDED to COUNCIL meeting of 15 July 2020 the release of the 2019/20 NEGC contribution of £350k as set out in Section 12 of the Assistant Director's report.

REASONS

The Assistant Director's report enables the Council to address the forecast budget pressure in 2020/21 and begin the 2021/22 budget process.

ALTERNATIVE OPTIONS

The Council is obliged to balance its budget on an annual basis. There are no alternatives to the use of reserves in 2020/21 to balance the budget.

459. Council Recovery Programme (Covid 19)

The Assistant Director Place and Client Services submitted a report a copy of which had been circulated to each Member.

Councillor King, Portfolio Holder for Business and Resources, introduced the report and explained that it set out the next steps for the recovery of the borough. It set out thematic cross cutting work on service delivery and support to business. The Council needed to ensure that its decisions were focused on the impact they would have on recovery, with particular emphasis on the economy and employment.

Councillor J. Young, Portfolio Holder for Performance and Culture, highlighted the importance of “building back better”, and of continuing to build on partnerships that had been strengthened by the response to coronavirus. Councillor Fox, Portfolio Holder for Housing, stressed the importance of housing and jobs in the recovery phase, and the role garden communities could play in providing these.

RESOLVED that:-

- (a) The contents of the Assistant Director’s report be noted
- (b) The approach outlined in the Assistant |Director’s report be adopted by Cabinet.

REASONS

To facilitate the progress on developing a plan and undertaking the prioritisation and resource allocation necessary to enable to recovery from Covid-19.

ALTERNATIVE OPTIONS

A number of options were considered in relation to development of the ‘cell’ areas (or areas of work), with the option described in the Assistant Director’s report being favoured as it was felt to reflect the broad areas of work needed to sustain recovery and aligned to existing Council priorities.

460. Appointment of UKPN for Utility Works Relating to “The Energy Centre” and Associated Developments at the Northern Gateway South Site.

The Assistant Director, Place and Client Services, submitted a report a copy of which had been circulated to each Member.

RESOLVED that:-

- (a) UKPN be appointed to proceed with the design and installation of the mains power infrastructure to the Colchester Northern Gateway South Site, noting the financial information in the related confidential report.
- (b) The contract award be approved as an exception under the Contract Procedure Rules.

REASONS

The works are part of a planned programme of projects that connect to deliver a key growth area, and a strategic priority, in the Colchester Northern Gateway. The works are comprised of two elements; “Contestable” and “Non-Contestable” works; the latter can only be undertaken by UKPN, as typically these would be connections to their sub-stations. Whilst the “contestable” works could be procured via the open market, the Council’s agent, Colchester Amphora Trading Limited (CATL) recognise a benefit in using the same contractor to undertake both elements of the works.

The appointment of UKPN for all the works would have benefit of consistency, including for insurance purposes and to allow for the mains installation, testing and commissioning under one contractor. Using one contractor would allow any potential connection issues or problems (if any) to sit within one contract; providing clarity over the responsibility of that one contractor to resolve any issue, should they arise.

ALTERNATIVE OPTIONS

Not to use one contractor, and to tender the works. This would delay the works and could introduce avoidable risks; with no guarantee of a tender return, or any financial gain.

461. Update on Commercial Opportunities in the Town Centre - Matters Related to Alumno Development at Queen Street, Colchester

The Strategic Director, Policy and Place, Director submitted a report a copy of which had been circulated to each Member.

Councillor Barber attended and with the consent of the Chairman, addressed the Cabinet. He noted that the Council’s contract with Alumno required it to use its best endeavours to support its development. This could lead to a situation where after using its appropriation powers, the Council could be obliged by Alumno to use powers under section 203 of the Housing and Planning Act to override third party rights, in particular Essex County Council’s covenant on the site. He sought clarification on the Council’s position on this matter and whether discussions had been held with Alumno on the use of section 203 powers.

Councillor King, Portfolio Holder for Business and Resources responded. In the course of the debate it was clarified that the contract required the Council to use reasonable endeavours, rather than best endeavours. This would be confirmed in writing to all councillors. This was a much less stringent requirement. The intention was to secure third party access for construction purposes. The Council would act reasonably in its discussions with Essex County Council and was not under any pressure from Alumno.

Councillor Crow had also submitted the following written submission to the Cabinet:-

I’m extremely concerned that under cover of the global coronavirus crisis, that has seen so many of Colchester’s residents following the government’s restrictions and locking down for months in their homes, the Council has been pressing ahead with plans to build hundreds of student rooms in the former bus park.

The Council is well aware by now of just how unpopular this scheme is, yet we now learn

that they plan to use tax payers' money on legal action to remove the restrictive covenant that was put in place to prevent just such a development.

There has been no prior mention of this in public, instead it has been learned about from tonight's agenda.

I find it extraordinary that our local authority could be considering this kind of legal action against another local authority, and at tax payers expense, at any time, let alone when it is set to suffer millions of pounds in losses due to the global pandemic.

It has been alarmingly clear over the past several months that the council has got itself into an unholy mess over this extremely unpopular student rooms development on such an important town centre site, and in its desperation not to fall foul of its agreement with the developer will stop at nothing to push it through, all for a paltry income of £4000 a year. And Colchester's taxpayers will pick up the bill and pay a further price once these unwanted buildings are shoehorned into the site and the opportunity to create something of value in the promised Cultural Quarter is lost for generations.

Councillor King explained that there was no intention to use legal powers to sue Essex County Council. They were the Council's partners and the Council hoped they would deliver what was agreed, but it was their decision. The development would develop a long derelict site which would unlock the area. It would be a statement of confidence and would bring footfall and jobs. In terms of Councillor Goacher's comments made under Have Your Say, the Council had supported the decision of the Planning Committee to refuse the application at appeal. However, once the Inspector had allowed the appeal, it was right for the Council to proceed and fulfil the obligations to which it was contracted to.

RESOLVED that:-

- (a) The commencement of informal negotiations with various rights of way holders surrounding the Alumno development be noted.
- (b) Authority to agree that final terms and completion of the variation of rights of way holders be delegated to the Strategic Director, Policy and Place and the Portfolio Holder for Business and Resources.
- (c) It be noted that a subsequent report will be submitted to Cabinet, if required, seeking approval to appropriate the land for planning purposes under the provisions of section 122(1) of the Local Government Act 1972.

REASONS

The Council is contractually obliged by the Agreement for Lease between the Council and Alumno Student Developments Ltd to use reasonable endeavours to negotiate and complete agreements with all rights of ways holders and if required, seek approval to appropriate the land under s122 of the Local Government Act 1972.

ALTERNATIVE OPTIONS

No other options were presented as the Council is under a legally binding contract to negotiate with rights of way holders and submit a Cabinet report for appropriation if required.

462. Colchester Positive Parking Review: Parking Strategy Pre-Consultation Draft

Minute 250 of the Scrutiny Panel meeting of 28 January 2020 was submitted to Cabinet a copy of which had been circulated to each Member.

Councillor Lilley, Portfolio Holder for Communities, Public Safety and Licensing, indicated support for the recommendations of the Scrutiny Panel. He also indicated that the Council was working with the BID on parking and there were plans to increase the amount of time given for parking without increasing the fee, and to increase the free parking time for blue badge holders by two hours.

RESOLVED that:-

- (a) Consideration be given to ways to influence shop opening times to ease congestion at current peak times.
- (b) CCTV coverage be extended across all car parks.
- (c) A wider study and report on modal shift be commissioned
- (d) Consideration be given to pursuing devolution of the Park and Ride scheme.
- (e) Consideration be given to ways to manage expectations and provide education on the trade-offs involved between car park pricing, congestion and air quality.
- (f) Paragraph three of the foreword to the 'Easy-read Summary' be deleted.

REASONS

As set out in the Scrutiny Panel minute.

ALTERNATIVE OPTIONS

It was open to Cabinet not to agree the recommendations from the Scrutiny Panel.

463. Public Initiatives

Minute 50 of the Policy and Public Initiatives Panel meeting of 4 March 2020 was submitted to the Cabinet, a copy of which had been circulated to each Member.

RESOLVED that the Policy and Public Initiatives Panel be given approval to investigate ways for the Council to reduce anti-social uses of fireworks and that this be added to its work programme for 2020/21.

REASONS

Concern was expressed about the environmental and social impact of fireworks, particularly on animals.

ALTERNATIVE OPTIONS

It was open to the Cabinet not to agree the recommendations from the Policy and Public Initiatives Panel.

464. Gosbecks Archaeological Park

Draft minute 48 of the Heritage and Tourism Task and Finish Group meeting of 2 March 2020 was submitted to the Cabinet, a copy of which had been circulated to each Member.

Councillor J. Young, Portfolio Holder for Culture and Performance, thanked the Heritage and Tourism Task and Finish Group for their work. Greater use of the Gosbecks site was supported. The resources required to fulfil the recommendations would need to be considered alongside the other calls for resources that the Council faced.

RESOLVED that:-

- (a) Consideration be given to further investigation of the archaeological site and its significance, in partnership with a suitable Higher Education partner
- (b) The need for further development of the archaeological site at Gosbecks Park be recognised and consideration be given to improving the heritage value of the park by the addition of facilities including a small visitor centre.

REASONS

As set out in the minute from the Task and Finish Group.

ALTERNATIVE OPTIONS

It was open to the Cabinet not to agree the recommendations from the Heritage and Tourism Task and Finish Group.

465. Appointments to Revolving Investment Fund Committee, Outside Bodies and Council Groups

The Assistant Director, Policy and Corporate, submitted a report a copy of which had been circulated to each Member.

RESOLVED that:-

- (a) The membership of the Revolving Investment Find Committee for the 2020-21 municipal year be as follows:-

Councillor Cory, Leader of the Council and Portfolio Holder for Strategy
Councillor Higgins, Portfolio Holder for Commercial Services

Councillor King, Portfolio Holder for Business and Resources
Councillor J. Young, Portfolio Holder for Culture and Performance

(b) The representatives to the various external organisations and Council groups listed in Appendix A of the Assistant Director's report be appointed for the 2020-21 municipal year, with such appointments to cease if representatives cease to be members of the Council during the municipal year.

(c) To authorise the Leader of the Council to make a determination, where a nomination is deemed to be in dispute, if a vacancy occurs or if an appointment needs to be made to a new organisation during the course of the municipal year.

(d) The reports about the work undertaken by appointees to external organisations in 2019-20, as set out in Appendix B of the Assistant Director's report be noted.

REASONS

The Revolving Investment Fund Committee is a sub-Committee of Cabinet and therefore appointments to the Committee must be made by Cabinet.

It is important for the Council to continue to make formal appointments to certain organisations and council groups such as those with statutory functions, our key strategic and community partners and groups with joint working arrangements. These groups have been identified in Appendix A of the Assistant Director's report.

ALTERNATIVE OPTIONS

No alternative options are proposed other than to authorise the Leader of the Council to make a determination where a nomination is deemed to be in dispute.

466. Progress of Responses to the Public

The Assistant Director, Policy and Corporate 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 resolved under Section 100A(4) of the Local Government Act 1972 and the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012 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.

467. Minutes – Not for Publication Extract

The not for publication extract from the minutes of the meeting of 11 March 2020 were confirmed as a correct record.

The Cabinet resolved under Section 100A(4) of the Local Government Act 1972 and the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012 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.

468. Appointment of UKPN for Utility Works Relating to the Energy Centre and Associated Developments at the Northern Gateway South

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 a particular person, including the authority holding the information).