

Cabinet

Wednesday, 30 November 2016

Attendees: Councillor Tina Bourne, Councillor Mark Cory, Councillor Annie Feltham, Councillor Dominic Graham, Councillor Michael Lilley, Councillor Beverley Oxford, Councillor Paul Smith, Councillor Tim Young

Substitutes:

Also in attendance: Councillors Chillingworth, Coleman, Cope, Davies, Hazell, G. Oxford and Willetts

Publication and Call-in Arrangements

Date Published 1 December 2016

Date when decisions may be implemented (unless 'called in') 5pm 8 December 2016

NB All decisions except urgent decisions and those recommended to Council may be subject to the Call-in Procedure.

Requests for the scrutiny of relevant decisions by the Scrutiny Panel must be signed by at least ONE Councillor AND FOUR other Councillors to countersign the call-in form OR to indicate support by e-mail. All such requests must be delivered to the Proper Officer by no later than 5pm on Thursday 8 December 2016.

115 Minutes

RESOLVED that the minutes of the meeting held on 12 October 2016 be confirmed as a correct record.

116 Have Your Say!

Lee Parker addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(1) to explain his concern about the way that the eviction of his family from their emergency accommodation had been handled. This had caused great distress to his family. Despite assurances, he had still not been granted access to the property to recover possessions and this was also having an impact on his family. He

was disappointed by the response of Councillors he had contacted about his concerns.

Councillor Bourne, Portfolio Holder for Housing and Public Protection, explained that Mr Parker had appealed against the decision of Colchester Borough Homes that he had made himself intentionally homeless, but that the decision had been upheld by the County Court. His concerns about the conduct of the eviction needed to be made to the County Court, who would consider it under their complaints procedure.

Councilor Smith, Leader of the Council and Portfolio Holder for Strategy, explained that he corresponded with Mr Parker about his concerns.

Honey and Bluebelle Parker addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(1) to explain the impact of the eviction on their family. Councilor Smith, Leader of the Council and Portfolio Holder for Strategy, thanked Honey and Bluebelle for addressing Cabinet.

Mark Goacher addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(1) to ask whether the Council used glyphosates and if so whether it had explored alternatives. There was some concern that they were a carcinogen and Holland and Sweden had restricted their use in view of these concerns.

Councillor Feltham, Portfolio Holder for Business, Leisure and Opportunities, explained that the Council did use a limited amount of glyphosates in the Castle Park and on pavements. It was seeking to reduce this to the absolute minimum. It had looked at alternatives but had to balance its commitment to a sustainable and green agenda with its financial resources.

117 Establishment of the North Essex Garden Communities Local Delivery Vehicles and Funding Requirements

The Strategic Director, Commercial and Place, Section 151 Officer and Monitoring Officer submitted a report a copy of which had been circulated to each Member.

Councillor Peter Chillingworth attended and with the consent of the Chairman addressed the Cabinet. He noted the scale of the Garden Communities project. The concept was untested in this era and he was concerned that the Government was effectively trialing the concept in North Essex. Seeking to deliver two Garden Communities within the borough was likely to stretch the Council to the limit. In terms of the proposed West Tey development the development would be premature as the essential infrastructure would not be in place by 2033. For instance, the funding for the dualing of the A120 had not yet been allocated and a major upgrade of the railway network was required and it was not clear when this would be delivered. He believed that the Colchester/Braintree border

settlement should not proceed and other options be explored.

Rosie Pearson of CAUSE addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(1) to express her concerns about the creation of two new Garden Communities. These were enormous and complex projects and a small change in the assumptions on which they were based could have huge consequences. Taxpayers would bear most of the risks involved but with little reward, which would mostly go to landowners and developers. Concern was also expressed about the lack of public involvement or representation on the Local Delivery Vehicles. The Council needed to consider very carefully and look at the proposals and modelling in detail, before proceeding.

John Akker of Stop 350, addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(1) to express his concern about development in the borough. The proposed development of 350 homes in West Mersea had led to many objections to draft Local Plan, and the Council need to reflect on its mandate. The Garden Communities were a high risk project, especially given the economic uncertainties and the consequences of the vote to leave the European Union. To consider the delivery of two Garden Communities was particularly risky. The Council should consider and take further advice.

Councillor Alan Walker, Chairman of Marks Tey Parish Council, addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(1). He believed that the issue needed a wider debate and should be considered by Full Council. The process needed to be apolitical in order to succeed and therefore backing from Full Council was critical. There were critical weaknesses in the report before Cabinet which would hamper delivery and expose the Council to risk. The report failed to look at alternative options for delivery of development. For example Ebbsfleet had set up a development corporation in order to deliver a similar community.

Ian Vipond, Strategic Director, made a presentation to the Cabinet setting out the challenges faced by the Council and how Garden Communities could help the Council meet them. He highlighted the Garden Community principles and set out the governance and funding arrangements for the Local Delivery Vehicles. He stressed that the decisions the Cabinet were being invited to make were about the mechanisms to bring forward Garden Communities and were not related to site specific considerations.

Councillor Smith, Leader of the Council and Portfolio for Strategy, explained that there was a clear need for more housing in the borough. In the past development had failed Colchester in that the necessary infrastructure to support housing and population growth had not been delivered. Therefore a different approach was necessary. One of the key aspects of Garden Communities was that the infrastructure was developed first. Whilst it was acknowledged that there were risks involved, there were also considerable benefits. There would be greater risks in not proceeding and allowing developers to lead

on the provision of housing development. This involved a collaborative approach with landowners and developers. The option of proceeding through a development corporation had been looked at, but the membership of development corporations were appointed by central government and so there was less local accountability.

It was important to progress in a non- partisan way and the proposals would be referred to Full Council to debate. The proposals had received unanimous support at Braintree and Tendring.

As part of the project, an Independent Peer Review had been commissioned and had commenced. The review was being led by Lord Kerslake and the results were due in December and would be made public. The findings would be carefully considered as the project progressed.

Other Cabinet members also indicated their support for the proposals and highlighted that the Garden Communities had been in both the Liberal Democrat and Labour manifestos so the administration had a clear mandate to proceed. This was an excellent example of partnership working and the four authorities would work together to get the best possible deal for their residents.

RESOLVED that:-

(a) The external legal advice received that these decisions cannot and do not prejudice the outcome of any future decisions that the Council may make about the Local Plan to be made by Council in relation to the allocation of any Garden Community be noted.

(b) The proposal that, if appropriate terms can be agreed, the Local Delivery Vehicles will need to enter into legal agreements with landowners to enable the delivery of the proposed schemes be noted

North Essex Garden Communities Limited

(c) In line with the resolution contained at minute 60 of the Cabinet Meeting of 27 January 2016, Cabinet agrees to set up and subscribe to North Essex Garden Communities Limited in accordance with the terms set out in the report and Appendix 2.

(d) The North Essex Garden Communities Limited shareholder agreement between the Local Authorities in accordance with the terms set out in the report and Appendix 3 be approved.

(e) Councillor Paul Smith be appointed in his capacity as Leader of the Council to represent the Council as a Director on the Board of North Essex Garden Communities Limited.

Tendring Colchester Borders Limited

(f) In line with the resolution contained at minute 60 of the Cabinet Meeting of 27 January 2016, Cabinet endorses the formation of Tendring Colchester Borders Limited by North Essex Garden Communities Limited in accordance with the terms set out in the report and Appendix 4.

(g) The Tendring Colchester Borders Limited shareholder agreement between the Local Authorities in accordance with the terms set out in the report and Appendix 5 be approved.

(h) Ian Vipond be appointed to represent the Council as a Director on the Board of Tendring Colchester Borders Limited, and gives Delegated Authority to the Chief Executive to undertake any future appointments.

(i) In principle Cabinet agrees to provide an appropriate proportion of necessary funding to Tendring Colchester Borders Limited (by a combination of loan or equity) subject to a satisfactory business case setting out the full terms of the arrangement, which will need to accord with the approved Business Plans and masterplans for the project and the funding options available at the time any funding is required by the LDV. Such commitment to be subject to Council approval.

Colchester Braintree Borders Limited

(j) In line with the resolution contained at minute 60 of the Cabinet Meeting of 27 January 2016, Cabinet endorses the formation of Colchester Braintree Borders Limited by North Essex Garden Communities Limited in accordance with the terms set out in the report and Appendix 6.

(k) The Colchester Braintree Borders Limited shareholder agreement between the Local Authorities in accordance with the terms set out in the report and Appendix 7 be approved.

(l) Ian Vipond be appointed to represent the Council as a Director on the Board of Colchester Braintree Borders Limited, and gives Delegated Authority to the Chief Executive to undertake any future appointments.

(m) In principle Cabinet agrees to provide an appropriate proportion of necessary funding to Colchester Braintree Borders Limited (by an appropriate combination of loan or equity) subject to a satisfactory business case setting out the full terms of the arrangement, which will need to accord with the approved Business Plans and masterplans for the project and the funding options available at the time any funding is required by the LDV. Such commitment to be subject to Council approval.

RECOMMENDED to COUNCIL that it:

- (n) Notes the decision of the Cabinet to set up and subscribe to the North Essex Garden Communities Limited.
- (o) Notes the Cabinet's endorsement of the formation of Tendring Colchester Borders Limited and Colchester Braintree Borders Limited.
- (p) Endorses the in principle decision of Cabinet to provide an appropriate proportion of necessary funding to Tendring Colchester Borders Limited (by an appropriate combination of loan or equity) subject to a satisfactory business case setting out the full terms of the arrangement, which will need to accord with the approved Business Plans and masterplans for the project and the funding options available at the time any funding is required by the LDV.
- (q) Endorses the in principle decision of Cabinet to provide an appropriate proportion of necessary funding to Colchester Braintree Borders Limited (by an appropriate combination of loan or equity) subject to a satisfactory business case setting out the full terms of the arrangement, which will need to accord with the approved Business Plans and masterplans for the project and the funding options available at the time any funding is required by the LDV.
- (r) Notes the external legal advice received that these decisions cannot and do not prejudge the outcome of any future decisions that the Council may make about the Local Plan to be made by Council in relation to the allocation of any Garden settlement.

REASONS

To seek Cabinet's on-going support, working together with Braintree District Council, Essex County Council and Tendring District Council, to progress the concept of 'garden communities' and to approve governance arrangements for the project

ALTERNATIVE OPTIONS

No alternative options are presented.

118 2017/18 Revenue Budget, Fees and Charges, Capital Programme and Financial Reserves

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

Councillor Davies attended and with the consent of the Chairman, addressed the Cabinet to seek clarification on the following points:-

- The allocation of £500K rent adjustment for the Community Stadium;
- Whether a Pay and Display system would be introduced in the Priory Street car park when it reopened;
- The reason for the increase in the fees for car parking over two hours at West Mersea car parks;
- The reason for the different approach between the microchipping of cats and dogs;
- The changes in the periods of time for which Castle Park could be booked for

Councillor Cory, Portfolio Holder for Resources, introduced the report and stressed that work was ongoing to close the budget gap in advance of the final budget proposals being brought forward in January 2017. The budget position need to be seen in the context of the cuts in funding from central government. The on-going support to voluntary sector organisations was also highlighted.

In respect of the rent adjustment for the Community Stadium, in 2006 the administration had negotiated a two year advance of rent and that this would be paid back in 2018 via a rent adjustment.

In respect of the other queries the relevant Portfolio Holders confirmed the following:-

- Priory Street car park would have the same ticket machine as St Marys car park;
- West Mersea Town Council had requested the rise in the car parking charges;
- No charge was made for the micro-chipping of dogs as the Council wanted to do all it could to encourage responsible dog ownership and to minimise the costs involved in housing stray dogs;
- Following the launch of the new Events Policy, the Council's venues were being run in line with new modern management processes. This had involve streamlining the booking slots available for some venues.

RESOLVED that:-

Re: Overall Budget position and changes

- (a) The current 2017/18 revenue budget forecast which at this stage shows a budget gap of £325k and the forecast variables and risks be noted.
- (b) The action being taken to finalise the budget be noted.
- (c) The 2017/18 taxbase be agreed by the Section 151 Officer in consultation with

the Portfolio Holder for Resources.

Re: Specific budget decisions

- (d) The distribution of revenue grants to Parish, Town and Community Councils for 2017/18 as set out at Appendix B of the Assistant Chief Executive's report be approved.
- (e) The funding for voluntary welfare organisations and arts grants as set out in Appendix C and D of the Assistant Chief Executive's report be approved.
- (f) All fees and charges as set out in Appendix G of the Assistant Chief Executive's report be approved and to continue to delegate to Heads of Service the authority to vary fees and charges in-year as set in section 12 of this report.

REASONS

The Council is required to approve a budget strategy and timetable in respect of the year 2017/18.

The Assistant Chief Executive's report relates to the budget update and a review of balances and also includes decisions in respect of fees and charges and certain specific budget changes to ensure that these can be reflected in the final budget.

ALTERNATIVE OPTIONS

There are different options that could be considered and as the budget progresses changes and further proposals will be made and considered by Cabinet and in turn Full Council. The separate appendices showing specific decisions include alternative options where relevant.

119 Local Council Tax Support 2017-18

The Head of Customer Services submitted a report a copy of which had been circulated to each Member together with minute 93 of the Scrutiny Panel meeting of 8 November 2016.

Councillor Cory, Portfolio Holder for Resources, highlighted that the new scheme introduced changes to amend backdating to one calendar month and to reduce the period a person could be absent from the country and still receive Local Council Tax Support to four weeks. It remained one of the most generous schemes in Essex and provided valuable support to vulnerable residents.

RESOLVED that the proposals set out in the Head of Customer Services' report in respect of the Local Council Tax Support Scheme for 2017-18 be agreed.

RECOMMENDED TO COUNCIL that the Local Council Tax Support Scheme 2017-18 be approved and adopted.

REASONS

Colchester Borough Council implemented a Local Council Tax Support scheme from 1 April 2013.

Legislation requires that following public consultation, amendments to the scheme for 2017/18 need to be agreed by Full Council before 31 January 2017.

It is recommended to bring the scheme in line with national legislative amendments and to propose the following changes:

- Amend backdating to one calendar month
- Reducing the period for which a person can be absent from Great Britain and still receive Local Council Tax Support from 1 April 2017.

All other fundamental features of the scheme, other than those described under paragraph 2.3 of the Head of Customer Services report are proposed to remain unaltered.

ALTERNATIVE OPTIONS

Removal of the family premium for new working age Local Council Tax Support awards from 1 April 2017.

Consultation proposals included an option to remove the family premium for new working age Local Council Tax Support awards from 1 April 2017.

Applicants to Local Council Tax Support have a maximum amount of weekly income they can receive before their income starts to affect their level of entitlement. This figure is called the applicable amount.

Where one member of a family is a child or young person a Family Premium can be awarded adding £17.45 to the applicant's weekly applicable amount. The Government has removed the family premium for new claims for Housing Benefit from May 2016. This change would not affect those on Universal Credit, Income Support, Income Related Employment and Support Allowance or Income Based Jobseeker's Allowance.

Modelling indicates this would reduce total scheme provision by £137,380.

The removal of the family premium would reduce the applicable amount for new applicants with dependent children yet will provide consistency with the Housing Benefit scheme.

The option of removing the family premium for new working age Local Council Tax Support awards from 1 April 2017 received support in consultation. However this would not be recommended, taking into account the following considerations:

- Maintaining the current assessment basis for families would provide further stability for this resident basis in terms of wider welfare adjustments
- The removal of the family premium would have a disproportionate effect on families on a low income.

Respondents were also asked to provide wider comment on alternative options for scheme funding including increasing the level of Council Tax, accrue savings from reducing other Council Services or using Council's reserves.

The alternative options did not receive support through consultation.

If Colchester Borough Council keeps the current scheme, it will be administratively more complex as it will not align with Housing Benefit which is also administered by the Colchester Borough Council and this will have a cost implication.

120 Officer Pay Policy Statement 2017/18

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

RECOMMENDED TO COUNCIL that the Officer Pay Policy for 2017/18 be approved and adopted.

REASONS

The Localism Act requires “authorities to prepare, approve and publish pay policy statements articulating their policies towards a range of issues relating to the pay of its workforce, which must be approved by full Council annually. An authority’s pay policy statement must be approved by a resolution of that authority before it comes into force”.

ALTERNATIVE OPTIONS

The only alternative would be to not recommend the approval of the Pay Policy

Statement but that would be contrary to the requirements of the Localism Act.

121 Colchester Northern Gateway (North) Sports Development Proposal

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

Councillor G. Oxford attended and with the consent of the Chairman, addressed the Cabinet to welcome the support provided by local sports clubs for the development proposal.

Councillor Feltham, Portfolio Holder for Business, Leisure and Opportunities, stressed that was a very exciting development. The Council was seeking to bring in a wide number of sports in order to widen participation. As well as providing wider leisure opportunities, the proposal would create jobs and allow the development of the current rugby club site.

RESOLVED that:-

- (a) It be agreed that the selection process of an external operator will be subject to a soft market testing exercise which will be undertaken alongside work reviewing the viability of a Borough Council operating model to be reported back to Cabinet in due course.
- (b) The recommendation in Part B of this agenda that the capital funding package including the financial implications for the Council, and that external grant applications will be progressed as appropriate, be noted
- (c) The recommendation in Part B of this agenda that the procurement approach as set out in the Head of Commercial Services report and that the selection of the building contractor and terms agreed for individual site disposals will be brought back to Cabinet/RIF for approval, be noted.
- (d) The current progress of the scheme as set out in section 5 of the Head of Commercial Services report be noted.

REASONS

To ensure that a suitable management operator can be appointed at the earliest opportunity in order to engage them in the development of the scheme.

To continue to review the market demand from among external operators whilst progress on the scheme development continues and to enable further work on a Borough Council option to be twin tracked.

To ensure that the financial costs to the council of delivering the scheme over the programme period are clear and accounted for and that risk is spread across a range of funding sources.

Subject to approval of the above recommendations, to ensure that the maximum value and highest possible design are derived from the procurement method with the Council maintaining control over the process in order to meet the scheme delivery target of 2019.

To receive an update on progress on amendments to the design, to financial modelling and to stakeholder engagement.

This decision is brought to Cabinet for approval because of the level of financial commitment and its strategic significance for the economic growth for the Borough. Because of the sensitive and commercial nature of some of the information, the financial and commercial details are contained within the report at Part B of the agenda.

ALTERNATIVE OPTIONS

Cabinet approved the scheme in principle in March 2016 but requested a further report on the financial implications for the Council of delivering the scheme, and to explore different management models. The aim is to achieve an affordable proposal, with least overall cost to the Council, and securing a sound and viable operation from early years. This is detailed in the report at Part B of the agenda.

122 Gas Servicing and Associated Repairs Contract

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

RESOLVED that:-

- (a) Mears Ltd be appointed to deliver the Gas Servicing and Associated Repairs contract.
- (b) The Council enter with the successful contractor into a 4 + 2 year JCT Standard Form of Measured Term Contract 2011.
- (c) Should the preferred supplier withdraw (whether by choice or due to unforeseen circumstances) the contractor in second place be appointed.

REASONS

The original 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). This contract was awarded in 2010 on a 4 + 2year JCT Standard Form of Measured Term Contract 2006 Edition Revision 2 (2009). The full extension term has been used and this contract will expire in March 2017.

A further procurement process was started by the Project Team placing an OJEU notice and expressions of interest were sought through a Pre-Qualification Questionnaire (PQQ) process from which prospective contractors were selected.

Out of this exercise six contractors were selected to be invited to tender for the works. Tenders were returned and opened by officers on 3 October 2016. An evaluation exercise took place based on the criteria set out in the tender documents which included assessment of price and quality (method statement and references); out of this a final recommendation was concluded.

The procurement approach agreed by Cabinet on 1st December 2010 as part of the Asset Management Strategy is to let a JCT Form of Contract for this and similar types of work.

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. The procurement process followed complies with the Public Procurement Regulations 2015.

123 Nomination of Deputy Mayor 2017/18

Consideration was given to the appointment of the Deputy Mayor for the 2017-18 Municipal Year.

Councillor Willetts attended and with the consent of the Chairman addressed the Cabinet to propose that Councillor Peter Chillingworth be nominated as Deputy Mayor for the 2017-18 municipal year. Councillor Chillingworth had been elected in 2002 and had a long history of service including holding positions as Portfolio Holder and Chairman of Planning Committee.

Councillor G. Oxford addressed Cabinet to support the nomination and to state that he looked forward to working with Councillor Chillingworth during his Mayoral Year.

Councillor Lilley and Councillor Smith indicated their support for the nomination of

Councillor Chillingworth.

RECOMMENDED TO COUNCIL that Councillor Peter Chillingworth be nominated for appointment as Deputy Mayor for the Borough of Colchester for the 2017-18 Municipal Year.

124 Progress of Responses to the Public

The Assistant Chief Executive 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.

125 Colchester Northern Gateway (North): Sports Development Proposal (Part B)

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.

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

RESOLVED that:-

- (a) It be agreed that the selection process of an external operator be subject to a soft market testing exercise which will be undertaken alongside work reviewing the viability of a Borough Council operating model to be reported back to Cabinet in due course.
- (b) The capital funding package including the financial implications for the Council be

agreed, and it be noted that external grant applications will be progressed as appropriate.

(c) The procurement approach as set out in the Strategic Director's report be agreed and it be noted that the selection of the building contractor and terms agreed for individual site disposals will be brought back to Cabinet/Revolving Investment Fund Committee for approval.

REASONS

To ensure that a suitable management operator can be appointed at the earliest opportunity in order to engage them in the development of the scheme.

To continue to review the market demand from among external operators whilst progress on the scheme development continues and to enable further work on a Borough Council option to be twin tracked.

To ensure that the financial costs to the council of delivering the scheme over the programme period are clear and accounted for and that risk is spread across a range of funding sources.

Subject to approval of the above recommendations, to ensure that the maximum value and highest possible design are derived from the procurement method with the Council maintaining control over the process in order to meet the scheme delivery target of 2019.

ALTERNATIVE OPTIONS

As set out in the Strategic Director's report.

126 Gas Servicing and Associated Repairs Contract

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.

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

RESOLVED that:-

- (a) Mears Ltd be appointed to deliver the Gas Servicing and Associated Repairs contract.
- (b) The Council enter with the successful contractor into a 4 + 2 year JCT Standard Form of Measured Term Contract 2011.
- (c) Should the preferred supplier withdraw (whether by choice or due to unforeseen circumstances) the contractor in second place be appointed.

REASONS

As set out in minute 122.

ALTERNATIVE OPTIONS

As set out in minute 122