

# Cabinet

Wednesday, 18 March 2015

**Attendees:** Councillor Tim Young (Portfolio Holder for Community Safety, Licensing and Culture), Councillor Martin Hunt (Chairman and Portfolio Holder for Strategy), Councillor Anne Turrell (Portfolio Holder for Economic Development and Regeneration), Councillor Tina Bourne (Portfolio Holder for Housing and Public Protection), Councillor Nick Barlow (Portfolio Holder for Street and Waste Services), Councillor Paul Smith (Portfolio Holder for Business and Resources), Councillor Annie Feltham (Portfolio Holder for Communities and Leisure Services), Councillor Beverley Oxford (Portfolio Holder for Customers)

Also in attendance: Councillors Blundell, Cope, Cory, Davies, Goss, Harris, Hazell, Jarvis, G. Oxford, Quince, Scott and Willetts

## No. Publication/Call in Details

Date of publication: 19 March 2015

Date when decisions may be implemented (unless 'called in') 5pm 26 March 2015

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 26 March 2015.

## 58 Minutes

*RESOLVED* that the minutes of the meeting held on 28 January 2015 be confirmed as a correct record.

## 59 Have Your Say!

The following members of the public attended and addressed Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(1) in respect of issues relating to the proposed relocation of street traders to the Charter Market on Fridays and Saturdays:-

Peter Rudland believed that the market should be allowed to remain where it was. A High Street location would be noisy and polluted. He suspected that the primary reason behind the decision to relocate the street traders was financial.

Gavin Tyler asked why the street traders had not been consulted over the proposals.

Billy Wright queried why other traders operating from mobile units on Culver Street, and the stall holders in the indoor market in the church had not been served with similar notices as the street traders.

Shahid Zaman presented a petition containing over 7,000 signatures to Councillor Hunt, Leader of the Council, in support of the street traders remaining in their current positions for seven days a week. This had been collected in a short space of time and was an indication of how strongly local residents felt. He also presented a report by the Street Traders Association to the Leader of the Council, the Chief Executive and the Monitoring Officer setting out errors in the decision making process which he believed needed to be dealt with. He called for an enquiry into the matter to prevent such errors happening again and to safeguard the street traders' position in the future. He also highlighted the level of investment the street traders had made into their stall and pitches.

Norman Bailey noted that the Council claimed that the public wished to see the return of the market to the High Street, but believed that would be only be true if the High Street was car free. The move would expose traders to traffic fumes and the street traders should be allowed to continue in their current locations. The report to Planning Committee in respect of the Charter Market claimed that the street traders would not be affected. He also expressed his concern about the impact of the proposals on the provision of disabled parking spaces in the town centre.

Steve Bernhardt explained that he traded from a purpose built trailer, which he would not be able to use on the High Street. He would be forced to use a market stall, which would cost more, or otherwise lose two days trade.

Philip Saunders asked the following questions about the consultation process undertaken by Quarterbridge:-

- Whether a competitive tendering process was undertaken when they were appointed?
- How many market traders, members of the public and shopkeepers were consulted?
- How much did it cost?

He noted that whilst they were a registered company they had not submitted any reports or accounts.

Trevor Lankford explained that he was facing a 300% increase in rent and in addition he would not be able to sell two-thirds of his products on the High Street. The changes would effectively destroy his livelihood.

Jetandal Singh expressed his concern about the lack of consultation over the

proposals and explained that the pitch he had been offered on the High Street would not be large enough for his business.

Andrea Looker explained that as a long term resident of Colchester she was saddened by the state of the town centre. It was losing potential businesses to other regional centres and towns such as Bury St Edmunds. The presence of the street traders gave Culver Street atmosphere and character. The Council should be encouraging individual traders and businesses.

Paul Arthur stated that he had been employed by the Council in 1993 to manage the market. The street traders had always been considered as separate to the market traders. They were allowed to trade for six days a week and the rent they paid for their pitches was adjusted accordingly. The pitches had dwindled due to poor management by the Council. He had undertaken a feasibility study of potential locations for the market which had concluded that a move to the High Street was not feasible.

The following Councillors attended and with the consent of the Chairman addressed Cabinet on this issue:-

Councillor Quince explained that he believed that the street traders had been treated badly. The information provided to Cabinet in June 2014 when it considered the review of the market did not make any reference to street traders. It claimed that stakeholders had been consulted, but street traders had not been consulted. The report therefore lacked essential information. The report considered by Planning Committee made a distinction between market traders and street traders and claimed that the Charter Market would not affect the street traders. In view of the fact that information was lacking, he invited Cabinet to reconsider and reverse the decision pending a review by the Scrutiny Panel.

Councillor Blundell, representing Fair Access to Colchester, expressed her concern that the proposed changes to the disabled parking provision were not equivalent to the existing provision, as was required by the terms of Planning Committee approval for the Charter Market. Fair Access to Colchester had met with Council officers on two occasions but had not been provided with a formal response and it did not agree with or support the proposed disabled parking provision.

Councillor Goss welcomed the investment in the market, which he believed would enable it to become an important and established element of the town centre, as the markets in Ipswich and Chelmsford were. However, the street traders were also important and added to the vibrancy of the town centre. The Council needed to establish what was best for them and reach a compromise solution that suited all parties.

Councillor Hazell expressed her sympathy for the street traders, who she believed should be shown more respect. The changes to disabled parking provision were being made in an ad hoc fashion and did not meet the commitment given to providing an equivalent provision.

Councillor Hunt, Leader of the Council and Portfolio Holder for Strategy, received the

petition and explained that, subject to it meeting the requirements of Petition Procedure Rules, it would be considered at the Extraordinary Council meeting to consider the motion on street traders submitted by Councillor Quince. This was scheduled for 1 April 2015. The existing arrangements would continue for six months and he would be willing to meet with the street traders to see if a solution could be found.

Councillor Turrell, Portfolio for Economic Development and Regeneration, explained that the decision on the relocation of the market had been taken at a meeting of the Cabinet in June 2014. This decision could have been called in by the opposition and in addition, the arrangements for the move of the market had been overseen in conjunction with an opposition member, who had expressed no concern. Street traders and market traders were on different contracts and paid different rents. Street trading should not have been carried out on market days, but this had been ignored by previous administrations. It was unfair to allow street traders to continue to trade on market days, as their lower rents gave them a competitive advantage. Street traders had been offered new pitches on the market, which is why their rents were increasing. Some street traders had accepted this offer. Transitional arrangements were being put in place which meant that the existing arrangements would continue for a period of six months which gave time to find a compromise.

Councillor Smith, Portfolio Holder for Business and Resources, explained that he would look into the issues raised about Quarterbridge.

Angel Kalyan addressed Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(1) about how the Council had dealt with complaints and issues she had raised previously. She had brought matters to the attention of the Cabinet on a number of occasions since 2011 but was still waiting for them to be addressed.

At the invitation of the Leader of the Council, Adrian Pritchard, Chief Executive, explained that he was satisfied with the Council's processes and the way Mrs Kalyan's complaints had been dealt with over this period. The matter was now closed. The Council would only respond further if a proper legal claim was made through the courts, which the Council would defend.

Councillor Lissimore attended and with the consent of the chairman, addressed the Cabinet. She sought reassurance about the quality and supply of recycling bags as residents could not be expected to increase recycling rates if the bags were of poor quality or were not available throughout the year. She also expressed her disappointment about the response she had received from Councillor Feltham to her request at Council that cared for children receive free leisure passes. The Council had a responsibility to provide these and should follow the example of those authorities that did so.

Councillor Barlow, Portfolio Holder for Street and Waste Services, explained that the recycling bags would be thicker and he would endeavour to ensure they were available throughout the year.

Councillor Feltham, Portfolio Holder for Communities and Leisure Services, explained that free leisure passes for cared for children was a difficult issue. Whilst she

recognised the argument that Councillor Lissimore made, there were a number of groups of disadvantaged children across the borough, particularly those living in poverty. Therefore she did not feel able to give special treatment to this group in this way. She highlighted the number of free children's activities that were provided across the borough.

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### **A New Housing Strategy for Colchester 2015-2020**

**Councillor T. Young (as Chairman of Colne Housing) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

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

Councillor Bourne, Portfolio Holder for Housing and Public Protection, introduced the report and stressed the importance of the Housing Strategy. It was a key strategic document that set out how the Council would meet housing need in the borough. The Council needed to provide a range of types and tenures of housing to meet the diverse housing needs of residents. The Strategy set out how these needs would be met by the Council and its partners. It had been developed through working in partnership and the Housing Strategy Partnership had identified a number of priorities to underpin the Strategy. Particular attention was drawn to the following priorities:-

- Improve the life chances of Colchester's residents including their health and well-being;
- Work to ensure that existing and new homes are healthy, safe and energy efficient.

*RESOLVED* that:-

- (a) The new Housing Strategy for Colchester for 2015 to 2020 be adopted.
- (b) The Housing Strategy Delivery Plan 2015 to 2020 be adopted.

*RECOMMENDED TO COUNCIL* that the Housing Strategy be adopted as part of the Council's Policy Framework.

#### *REASONS*

The Council has a statutory responsibility to produce and publish a Housing Strategy based on a review of housing in the borough.

#### *ALTERNATIVE OPTIONS*

To not adopt the Housing Strategy. There are however clear risks to not having a robust evidence based strategy in place such as not achieving local priorities, not being able to evidence and articulate Colchester Borough Council's wider vision for housing and not providing a strong focus to our partners about their contribution to meeting our priorities.

## Future Phases of New Build Council Housing

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

Councillor Bourne, Portfolio Holder for Housing and Public Protection, explained that the Council had reviewed its existing stock and assets to look at the best sites for future Council housing. The report sought authority to undertake feasibility work to bring forward further sites, which it was anticipated would lead to the construction of approximately 25 new Council homes. Following this, further sites would be identified and developed under Phase Three of the project.

Councillor Smith, Portfolio Holder for Business and Resources, Councillor Turrell, Portfolio Holder for Economic Development and Regeneration and Councillor T. Young, Portfolio Holder for Community Safety, Licensing and Culture, expressed their support for the proposals in the report and in particular expressed their pride that the Council had started to build Council housing again.

*RESOLVED* that:-

- (a) The work carried out to date to create a pipeline of sites for future housing development be noted.
- (b) The recommended next phase of Council house new build sites and associated pre development work to include design, planning, feasibility testing and exploring procurement and delivery routes be approved.
- (c) It be noted that further phases of new build will be established following the completion of a development strategy which will seek to create a fast tracked pipeline of future development sites and recommend appropriate financing and delivery methods. The completed strategy will be brought to a future Cabinet meeting for approval.
- (d) Authority be delegated to the Portfolio Holder for Housing and Public Protection to approve procurement relating to “phase 2” new build including the appointment of the principal contractor for the development.

### *REASONS*

As the first phase of new build sites comes to a successful completion, there is a need to continue with the Councils house building programme to provide more affordable homes in the borough for residents. The second phase provides for circa 25 new homes (to be confirmed following further site and planning investigations) over a 2 year development period.

The development strategy is required to comprehensively review all potential sites within the HRA and the general fund, if appropriate, to ensure a consistent pipeline of Council build sites is available over the medium to long term. It is therefore

inextricably linked to the Asset Management Strategy which Colchester Borough Homes have developed and will include information on delivery models, funding sources including cross subsidy, type of housing versus housing need

By delegating authority to the Portfolio Holder for the procurement of services required, delivery of the next stage in implementation can be moved forward in a timely manner.

### *ALTERNATIVE OPTIONS*

One alternative option would be to rely on registered providers to deliver all affordable homes in the borough either on their own sites, S106 sites or land given the by the Council and support this by providing them with grant funding. This would mean that the Council would not directly develop or own any new assets and would lose the asset of the land in the latter scenario. However, this could preserve HRA borrowing headroom for alternative priorities and would be a means of utilising retained Right To Buy receipts, which may otherwise be repayable to the Government in the future.

Phase 2 could be delayed until the wider development strategy has completed. However given the success of Phase 1 it is important to keep the pipeline of new build sites moving and Phase 2 will ensure units are delivered over the next two years whilst the findings of the strategy are reviewed and implemented.

It could be possible to continue to bring forward sites on an ad hoc basis however this approach may not necessarily make the best use of assets or capital funding available.

## **62 Mercury Theatre Improvements**

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

Councillor Willetts attended and with the consent of the Chairman addressed the Cabinet. He stressed the importance of the Mercury Theatre to the cultural life of the borough. Its programme reached all sectors of the community. The works to be funded were overdue. However, the works should be funded from the Council's revenue budget rather than from the New Theatre Trust and the Mercury Reserve.

Councillor T. Young, Portfolio Holder for Community Safety, Licensing and Culture, highlighted that the Mercury Theatre had obtained funding from other sources towards the work and the funding that would be provided was in addition to the annual grant it received from the revenue budget.

*RESOLVED* that £80k be provided as match funding towards the improvements to the Mercury Theatre and that this be included in the budget and funded from a combination of the funds held by the New Theatre Trust and in the Mercury Reserve as set out in the Head of Community Services report.

### *REASONS*

The Mercury Theatre has been successful in its Arts Council Funding bid and has been awarded £400,000 towards its £580,000 improvement project which will be completed in 2015/16. The bid was made with support from the Council and an indication was made that match funding would be provided. Without this it may not have been possible to bring in this external investment.

The Council, as corporate trustee, of the New Theatre Trust has responsibilities to repair and keep the Mercury Theatre premises in good condition (i.e. the fabric of the building).

#### *ALTERNATIVE OPTIONS*

If the Council does not provide funding there will be a shortfall in the budget for the proposed works and the Mercury Theatre might not be able to take advantage of this external funding.

The Council could consider alternative sources of funding, however, no other specific budget allocations exist and as such new funding would be required.

### **63 Budgetary Provision for Street Lights**

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

Julia Diggins attended and addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(1) to express her support for the restoration of street lighting. She worked as a nurse and was aware of the vulnerability people felt without lighting, particularly those who had to work or travel when the streets were unlit. The lack of lighting also encouraged opportunistic crime.

Nick Chilvers attended and addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(1). He urged the Cabinet to consider other projects that could be funded from the money to be allocated for the restoration of street lighting, such as the Walls project. In addition, it might be prudent to wait the outcome of other authorities' negotiations with Essex County Council. He noted the arguments made about the fatality on St Andrews Avenue, but the coroner's report was yet to be published.

The following Councillors attended and, with the consent of the Chairman addressed the Cabinet:-

Councillor G. Oxford believed that, whilst this was a difficult decision, if the Council funded the restoration of street lighting, this would store problems for the future. The Council would be held responsible if it could not maintain funding in future years. Information about the causes of the accident on St Andrews Avenue should be forwarded to Essex County Council to consider.

Councillor Willetts believed that a full business case for the decision should be drawn up and scrutinised before the decision was taken. This should weigh the proposal

against other strategic priorities. A clear policy needed to be drawn up setting out the criteria for deciding where street lighting would be restored. This would allow individual communities to decide whether they wanted lighting restored in line with the principles of localism.

Councillor Harris explained that many residents felt vulnerable and had a self-imposed curfew as a consequence of the street lights being turned off after midnight. Fear of crime had increased and there had been a number of accidents as a consequence of the lack of lighting. Residents would not be paying twice for the service if the Council funded it.

Councillor Davies, as Chairman of the Crime and Disorder Committee and Chairman of Scrutiny Panel, explained that she would welcome the opportunity to scrutinise the decision and urged Cabinet to be careful how it spent the funds that were allocated to it.

Councillor Goss agreed that this was a major issue for residents. He noted the differing amounts that Essex County Council had provided for the restoration of the lighting, and firm agreement needed to be reached on this. Despite concerns about the financial implications and the precedent it might set, he supported the proposal to fund the restoration of street lighting.

Councillor Cory explained that the view of residents of Wivenhoe was predominantly in support of the restoration of street lighting. To do so for a period of a year gave the opportunity for further lobbying of Essex County Council and for further progress on introduction of LED lighting.

Cabinet discussed the issues raised in the report. It was acknowledged that this was a balanced decision. Councillor Hunt, Leader of the Council and Portfolio Holder for Strategy, Councillor T. Young, Portfolio Holder for Community Safety, Licensing and Culture, Councillor Bourne, Portfolio Holder for Housing and Public Protection, Councillor B. Oxford, Portfolio Holder for Customers and Councillor Feltham, Portfolio Holder for Communities and Leisure Services, expressed their support for the proposals in the report and made the following points:-

- Police believed that the lack of street lighting had been a contributory factor to the fatal accident on St Andrews Avenue and Councillors had also received anecdotal evidence of other “near misses” arising from the lack of lighting. Action needed to be taken to prevent a repetition.
- The majority of residents, particularly in urban areas, supported the restoration of street lighting. The opposition to the decision to end street lighting after midnight had remained strong. In urban areas street lighting was seen as part of the normal facilities provided by local authorities.
- It would enhance community safety and would be welcomed by the NHS and emergency services.
- There were precedents for the Council funding services which were the responsibility of other authorities, where it considered this was appropriate
- The discrepancy in the figures provided by Essex County Council for the costs of restoring lighting was noted. This needed to be resolved and the decision should be amended to allocate up to £185,000. .

- The terms of any agreement reached with Essex County Council should be considered by the Scrutiny Panel.
- Essex County Council needed to be sent a strong message about the strength of views across the districts in Essex about this issue. Funding the service for one year would give an opportunity for further lobbying of Essex County Council.

Councillor Turrell, Portfolio Holder for Economic Development and Regeneration, Councillor Smith, Portfolio Holder for Business and Resources and Councillor Barlow, Portfolio Holder for Street and Waste Services indicated that they would abstain for the following reasons:-

- Street lighting as an Essex County Council responsibility and efforts should be concentrated on persuading them to fund it, rather than the Council funding it.
- There were other vital services which were being cut, such as the loss of £200,000 from the Discretionary Housing Payment Fund. The Council could not afford to fund all of these, and should therefore concentrate on funding its own services.

*RESOLVED* that:

- (a) Agreement with Essex County Council be sought that street lighting is restored in the Borough of Colchester between the hours of midnight and 5am.
- (b) That, based on the outcome of these discussions and confirmation of funding requirements, the following be agreed:-
  - (i) Up to £185,000 be allocated from the 2014/15 General Fund budget on the basis of the position set out in the Assistant Chief Executive's report;
  - (ii) this funding be provided for 2015/16 only;
  - (iii) Essex County Council's pilot for LED lighting be noted and supported.
  - (iv) When agreement with Essex County Council is reached, that agreement be voluntarily submitted to the Scrutiny Panel for scrutiny.

#### *REASONS*

Essex County Council is responsible for street lighting and introduced a part night lighting policy which was implemented in the Borough of Colchester in 2013.

It was agreed by the Leader of the Council at Full Council on 18 February 2015 that a paper be presented to Cabinet on the option of providing funding to restore lighting provision to that before the changes made by Essex County Council.

#### *ALTERNATIVE OPTIONS*

The provision of street lighting is a responsibility of Essex County Council and accordingly Cabinet could decide to not allocate funding to restore this or to consider

the matter as part of 2016/17 budget strategy.

#### **64 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.

#### **65 Living Wage**

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

Councillor Smith, Portfolio Holder for Business and Resources, and Councillor T. Young, Portfolio Holder for Community Safety, Licensing and Culture, welcomed the proposals. Ensuring the living wage was paid to contractors should help reduce the amount the Council paid in benefits.

*RESOLVED* that a requirement to pay the UK Living Wage as a minimum be included in new tenders for services provided by external contractors working on Council premises directly on behalf of the Council.

#### *REASONS*

Colchester Borough Council pays the national Living Wage as a minimum standard for all employees. This is an hourly rate which is set independently and calculated according to the basic cost of living in the UK, and it is higher than the national Minimum Wage. The Council introduced this in 2013 as part of its commitment to being a good employer, and is amongst the first councils to pay the Living Wage.

At present, the Council makes no such minimum provision for contractors providing services on behalf of the Council. This results in different levels of low pay protection for different people who provide Council services depending on their employment status. This decision would end that anomaly and extend the same protection to everyone providing Colchester Borough Council services, whether an employee or a contractor.

#### *ALTERNATIVE OPTIONS*

The principal alternative to this decision would be not to extend the Living Wage to

contractors. However, this would leave a significant number of people working on behalf of the Council with less protection than Council employees.

## **66 Magdalen Street (former bus depot) Disposal**

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

*RESOLVED* that:-

- (a) The Magdalen Street former bus depot site is surplus to Council requirements and the disposal of the property be approved.
- (b) The property be disposed of as recommended in the Head of Commercial Services report on Part B of the agenda.
- (c) Authority be delegated to the Strategic Director for Commercial and Place, in consultation with the Portfolio Holder for Business and Resources, the authority to agree the final disposal price and agree purchase, once negotiations have taken place with the shortlisted parties.

### *REASONS*

The Magdalen Street site has been used as a bus depot for a number of years by a succession of bus operators. Prior to being a bus depot the site was used as tram depot going back to the mid 19th Century. The site has become surplus to requirements as a new bus depot is being built at the Hythe.

The Magdalen Street area is examined by a planning brief which sets ambitions for the area to be regenerated with both residential and commercial development while improving the environment in terms of air quality and permeability. The disposal of the site will enable these planning ambitions to be brought forward.

The land transaction will bring an important capital receipt to the Council which has already been allocated for reinvestment under the Councils Revolving Investment Fund (RIF).

### *ALTERNATIVE OPTIONS*

The Council could seek to accept a bid which is not conditional on planning or other factors. Whilst this may be suitable in order to dispose of the property quickly, it may not achieve the highest value and/or the best use of the site although it does remove some of the risks which surround a conditional disposal.

The Council could seek to use the property for other Council functions but as part of an ongoing review of operational property needs, the property has been considered and is not required as a service asset. It will therefore be declared surplus.

The Council could de-risk the site and invest in enabling the site by generating redevelopment proposals, carrying out site surveys i.e. contamination, asbestos

etc. Securing a planning permission for a redevelopment and then marketing and disposing of the site. Given that a planning brief has been prepared outlining the parameters for redeveloping the site any enabling works the Council were to undertake would not add any value and would delay the disposal.

## **67 Magdalen Street (former bus depot) disposal**

**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 Head of Commercial Services submitted a report a copy of which had been circulated to each Member together with

*RESOLVED* that:-

- (a) It be noted that the Magdalen Street former bus depot site is surplus to Council requirements and the approval to dispose of the property granted in the Head of Commercial Services report on Part A of the agenda.
- (b) The property be disposed of to the recommended bidder(s) as detailed in the financial section of the Head of Commercial Services report.
- (c) The delegation granted in the report on Part A of the agenda to the Strategic Director for Commercial and Place, in consultation with the Portfolio Holder for Business and Resources, to agree the final disposal price and agreed purchaser, once negotiations have taken place with the shortlisted parties, be noted.

*REASONS*

As set out in minute 66.

*ALTERNATIVE OPTIONS*

As set out in minute 66.