MINUTES OF A MEETING OF THE PLACE SERVICES & ECONOMIC GROWTH SCRUTINY COMMITTEE HELD AT COUNTY HALL, CHELMSFORD ON 21 APRIL 2016

Present:

Councillor S Walsh (Chairman)	Councillor I Henderson
Councillor K Bobbin	Councillor D Kendall
Councillor S Canning	Councillor M McEwen
Councillor T Cutmore	Councillor S Robinson
Councillor A Erskine	Councillor C Sargeant
Councillor C Guglielmi	Councillor A Wood
Councillor T Hedley	

Also in attendance:

Councillors K Bentley, M Ellis, and K Smith.

The following Officers were present in support throughout the meeting:

Christine Sharland - Scrutiny Officer
Lisa Siggins - Committee Officer

1. Apologies and substitution notices

Apologies were received from Councillor Barker, who was substituted at the meeting by Councillor S Canning; Councillor Twitchen, who was substituted at the meeting by Councillor M McEwen; Councillor Pond who was substituted at the meeting by Councillor C Sargeant; and Councillor Louis.

2. Minutes

The Minutes of the Committee meeting held on 24 March 2016 were approved as a correct record and signed by the Chairman.

3. Declarations of Interest

With reference to Minute 5, Councillor Hedley declared a personal interest in that he is a Cabinet Member on Basildon District Council; and Councillor Bobbin declared a personal interest in that the proposed grant affected development within his electoral division.

4. Questions from the Public

There were no questions raised by members of the public.

5. Call In Of Decision: FP/317/11/15 – Basildon Town Centre College Enabling Works – Grant Agreement

The Committee considered report PSEG/11/16 setting out the background to the call in of the above decision by Councillor Erskine, including the Notification of Call In, the report setting out the Cabinet Member's decision, and note of an informal meeting.

The Chairman welcomed everyone present to the meeting for the item, and invited Councillor Erskine to introduce the reasons for his call in.

Councillor Erskine confirmed that he had called in the decision on behalf of Councillors Ellis and Smith who were Local Basildon Members, and asked them to present their reasons for their opposition to the decision. In addition he had invited two other witnesses to address the Committee.

Councillor Smith stressed his concern that the award of the Grant will distort the commercial market for development in Basildon the local area. He referred to the cost implications in connection with the relocation of the existing Basildon town centre market site, which he felt should be met by the developer and college not by the tax payer. He claimed the proposed grant would set a precedent for Essex County Council (ECC) to assist in similar future development, and furthermore would be in breach of EU state aid rules.

Councillor Ellis described the grant as an "enabling grant" and questioned why it was now required when initially no monies were required. Although he welcomed regeneration in Basildon, he also pointed out that house prices had risen and would result in an increased profit for the developer. He wanted to ensure that tax payers' money was being spent correctly and that the proposed grant was not just a mechanism to assist the development going forward.

Those councillors who had called in the decision then proceeded to invite two local witnesses to speak in support of the call in to address the Committee

- Miriam Heppell a local resident stated that the College itself should increase its funding rather than the grant being awarded by ECC, and should not be relying upon state aid. She expressed her view that this was a commercial project and that the grant was not in fact being used for educational purposes. As a result she believed that this would allow the developer to make a huge profit, and the grant was in breach of state aid rules.

- Danny Lovey a local resident expressed his surprise as to why ECC had been persuaded to offer the grant funding. He believed that there was a lack of transparency regarding the development and the relocation of the College, and a huge amount of money was being spent to relocate the Basildon market. Mr Lovey felt that this was a relocation and not regeneration project.

He believed the proposal was essentially a commercial development, and that questioned as to whether this was a commercial or educational grant and if the latter then a grant would be in breach of EU state aid rules. He felt that the original terms of the agreement should be adhered to with any additional costs being met by the College.

Following the presentation of the case made for calling in the decision, the Chairman invited Councillor Bentley, as the Cabinet Member for Economic Growth, Waste and Recycling responsible for the decision, to respond to the reasons given for the call in.

Councillor Bentley was supported by Dominic Collins, Director for Commissioning: Economic Growth & Communities; Paul Turner, Deputy Monitoring Officer; and Helen Code, Economic Growth & Regeneration Manager. He welcomed the opportunity to clarify the background on his decision. Drawing attention to the broader strategic issues around economic development across Essex and the reasons behind the proposed grant funding of £750,000 to Basildon Borough Council, Councillor Bentley emphasised the following points:

- The grant will be to Basildon Borough Council and not to a developer. He confirmed that in putting forward the proposal, he had consulted the Deputy Monitoring Officer, who had also sought Counsel's opinion on the issue. The wider taxpayer would benefit from college facility. The agreement between ECC and Basildon Borough Council are on the basis of terms that require that local authority to ensure that there is no unlawful state aid associated with delivery of the project.

- The County Council was supporting the relocation of the College by facilitating the move of the Basildon town centre market, which is the College's proposed new site. This was in line with the County Council's priorities for employment skills development and economic outcomes for the area. In this case the investment was about attracting the right skills to the area and reducing the incidence of local young people not in education or training (NEET).

- He stressed that the proposed grant was critical investment for the future providing a local facility for young people wanting to develop their skills. It was not a subsidy.

Paul Turner, Deputy Monitoring Officer, was invited to explain his legal advice on the proposed grant, and which he had also sought Counsel's opinion upon. In summary:

- There was no possible unlawful state aid associated with the proposed grant.
- There had been a competitive process that complied with procurement law to select the developer in the open market, which had that the best market price was achieved by the vendors for the College's site. There was not a state aid issue in this matter.
- According to the EU Commission, the public education system was considered as a non-economic activity and the College was not

therefore an economic operator and there could be no state aid as a result of economic activity.

There followed a debate when Members' considered the issues raised by the proposed grant that underpinned the decision, and some of the local concerns drawn to the Committee's attention. Attention was drawn to the fact that as stated in report PSEG/11/16 and Cabinet Member decision papers, the County Council had carried out all the necessary due diligence.

Nevertheless Members also took the opportunity to seek clarification on planning issues relating to new development in Basildon, and the relocation of the College to the town centre. However, the planning issues were matters for the consideration of Basildon Borough Council rather than the County Council.

Upon a vote being taken, it was agreed that no further action would be taken by the Committee in respect of this call in. Therefore the decision of the Cabinet Member would be confirmed.

With specific reference to the concerns expressed about local planning issues relating to the new development, the Committee had drawn attention to the fact that they were in fact matters for Basildon Borough Council's consideration. Consequently the local Members who had been responsible for the call in of the decision on the proposed grant, indicated that they would approach that Council on about their planning related concerns.

6. Date of Next Meeting

The Committee noted the next committee activity day was scheduled for Thursday, 26 May 2016.

There being no urgent business the meeting closed at 11.28 am

Chairman