

Place Services and Economic Growth Scrutiny Committee

10:30	Thursday, 21 April 2016	Committee Room 1, County Hall, Chelmsford, Essex
--------------	------------------------------------	---

Quorum: 5

Councillor S Walsh
Councillor S Barker
Councillor K Bobbin
Councillor T Cutmore
Councillor A Erskine
Councillor C Guglielmi
Councillor T Hedley
Councillor I Henderson
Councillor D Kendall
Councillor D Louis
Councillor C Pond
Councillor S Robinson
Councillor K Twitchen
Councillor A Wood

Chairman

For information about the meeting please ask for:

Christine Sharland, Scrutiny Officer

Lisa Siggins Committee Officer

Telephone: 033301 34594

Email: lisa.siggins@essex.gov.uk

www.essex.gov.uk/scrutiny



Essex County Council

Essex County Council and Committees Information

All Council and Committee Meetings are held in public unless the business is exempt in accordance with the requirements of the Local Government Act 1972.

Most meetings are held at County Hall, Chelmsford, CM1 1LX. A map and directions to County Hall can be found at the following address on the Council's website:
<http://www.essex.gov.uk/Your-Council/Local-Government-Essex/Pages/Visit-County-Hall.aspx>

There is ramped access to the building for wheelchair users and people with mobility disabilities.

The Council Chamber and Committee Rooms are accessible by lift and are located on the first and second floors of County Hall.

If you have a need for documents in the following formats, large print, Braille, on disk or in alternative languages and easy read please contact the Committee Officer before the meeting takes place. If you have specific access requirements such as access to induction loops, a signer, level access or information in Braille please inform the Committee Officer before the meeting takes place. For any further information contact the Committee Officer.

Induction loop facilities are available in most Meeting Rooms. Specialist head sets are available from Duke Street and E Block Receptions.

The agenda is also available on the Essex County Council website, www.essex.gov.uk. From the Home Page, click on 'Your Council', then on 'Meetings and Agendas'. Finally, select the relevant committee from the calendar of meetings.

Please note that an audio recording may be made of the meeting – at the start of the meeting the Chairman will confirm if all or part of the meeting is being recorded.

Part 1

(During consideration of these items the meeting is likely to be open to the press and public)

	Pages
1 Apologies for Absence	
2 Minutes To approve as a correct record the Minutes of the meeting held on 24 March 2016.	5 - 10
3 Declarations of Interest To note any declarations of interest to be made by Members in accordance with the Members' Code of Conduct	
4 Questions from the Public A period of up to 15 minutes will be allowed for members of the public to ask questions or make representations on any item on the agenda for this meeting. On arrival, and before the start of the meeting, please register with the Committee Officer.	
5 Call In Of Decision: FP/317/11/15 – Basildon Town Centre College Enabling Works – Grant Agreement To consider the call in of the above decision as set out in report PSEG/11/16 and accompanying appendices	11 - 26
6 Date of Next Meeting To note that the next committee activity day is scheduled for Thursday 26 May 2016	
7 Urgent Business To consider any matter which in the opinion of the Chairman should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.	

Exempt Items

(During consideration of these items the meeting is not likely to be open to the press and public)

To consider whether the press and public should be excluded from the meeting during consideration of an agenda item on the grounds that it involves the likely disclosure of exempt information as specified in Part I of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act.

In each case, Members are asked to decide whether, in all the circumstances, the public interest in maintaining the exemption (and discussing the matter in private) outweighs the public interest in disclosing the information.

8 Urgent Exempt Business

To consider in private any other matter which in the opinion of the Chairman should be considered by reason of special circumstances (to be specified) as a matter of urgency.

**MINUTES OF A MEETING OF THE PLACE SERVICES & ECONOMIC
GROWTH SCRUTINY COMMITTEE HELD AT COUNTY HALL,
CHELMSFORD ON 24 MARCH 2016**

Present:

Councillor S Walsh (Chairman)	Councillor D Kendall
Councillor S Barker	Councillor M McGeorge
Councillor S Canning	Councillor C Pond
Councillor T Cutmore	Councillor S Robinson
Councillor A Erskine	Councillor K Twitchen
Councillor C Guglielmi	Councillor A Wood
Councillor I Henderson	

Also in attendance:

Councillor Ray Howard.

The following Officers were present in support throughout the meeting:

Christine Sharland	-	Scrutiny Officer
Lisa Siggins	-	Committee Officer

1. Membership

At the full Council meeting in February 2016 Councillors Butland and Metcalfe were replaced as members of the Committee by Councillors Barker and Louis. The full Committee membership is set out below:

Councillor S Walsh (Chairman)	Councillor I Henderson
Councillor S Barker	Councillor D Kendall
Councillor K Bobbin	Councillor D Louis
Councillor T Cutmore	Councillor C Pond
Councillor A Erskine	Councillor S Robinson
Councillor C Guglielmi	Councillor K Twitchen
Councillor T Hedley	Councillor A Wood

2. Apologies and substitution notices

Apologies were received from Councillor Louis, who was substituted at the meeting by Councillor S Canning; Councillor Bobbin, who was substituted at the meeting by Councillor M McGeorge; and Councillor Hedley.

3. Minutes

The Minutes of the Committee meeting held on 21 January 2016 were approved as a correct record and signed by the Chairman.

4. Declarations of Interest

With reference to Minute 6, Councillor Barker declared a personal interest in that she is Uttlesford District Council's representative on the North East Parking Partnership Joint Committee. Councillor Cutmore declared a personal interest in that he acts as a substitute on occasion for his District Council representative on the South East Parking Partnership Joint Committee.

With reference to Minute 10 Councillor Kendall declared a personal interest in that he is Secretary of the Brentwood Bus and Rail Users Association, and a Trustee of Brentwood Community Transport in his capacity as a Brentwood Borough Councillor

5. Questions from the Public

There were no questions raised by members of the public.

6. Essex Parking Partnerships (Minute 5/January 2016)

The Committee considered report PSEG/06/16 that incorporated an interim report setting out the information obtained so far through the scrutiny review on the Essex Parking Partnerships.

At the meeting the Committee received a briefing, including a PowerPoint presentation, from the Partnerships highlighting some of the key features arising from the Executive Review on proposals to continue their operation. An executive summary had also been circulated to the Committee prior to the meeting.

The Parking Partnerships were represented by the following individuals:

Essex County Council

- Councillor Johnson, Cabinet Member for Highways Delivery
- Liz Burr, Head of Network and Safety/Traffic Manager (Highways)

North Essex Parking Partnership (NEPP)

- Councillor Mitchell, Chairman

South Essex Parking Partnership (SEPP)

- Councillor Pratt, Chairman Joint Committee
- Nick Binder, Manager

With the benefit of the information obtained at its meeting in January about the management and operation of the Partnerships, the Committee now focussed its attention upon the findings of the Executive Review and sought clarification from

those contributors present on various matters including business planning, communication, and increased collaboration between the two Partnerships.

The Chairman thanked the Partnerships' representatives for their positive contribution to the Committee's consideration of the Executive Review. He confirmed that following the meeting the Scrutiny Officer would draw up a scrutiny report setting out the Committee's own conclusions and recommendations on the emerging proposals from the Executive Review, which would be forwarded to the Partnerships for their consideration before any final decisions are made.

7. Highways Update

The Committee noted report PSEG/07/16 providing an overview of its briefing held on 25 February that focussed upon the highways performance framework, and was an opportunity for Members to ask questions of the highways Cabinet Members on related issues.

At the meeting it was confirmed that information requested by Members at the briefing on key performance measures would be circulated to them in due course.

8. Third Party Responsibilities and Flood Enforcement (Minute 8/November 2015)

The Committee noted report PSEG/08/16 and in particular the Deputy Cabinet Member's acknowledgement of the Scrutiny Report.

9. Work Programme 2015/2017 (Minute 9/January 2016)

The Committee received report PSEG/09/16 concerning the Committee's forthcoming activities.

Members noted it was proposed to vary the date originally scheduled for committee activity on 23 June as that date now co-incides with the EU referendum polling day. Instead it was agreed that the site visit to find out about surface road dressing in practice would go ahead on Thursday 9 June.

Other changes to the work programme included the cancellation of the planned formal meeting on 21 April and instead the holding of a formal meeting on 26 May.

10. Passenger Transport: Update

The Committee received report PSEG/10/16 and an oral update from Helen Morris, Head of Commissioning for Essex Connected Infrastructure, on passenger transport matters.

In June 2015 the Cabinet approved 'Getting Around in Essex – a bus and passenger transport strategy', and a key commitment in that Strategy was a review

of the local bus network, which forms 15% of the overall bus network and is supported by taxpayers. Following a review of that network a Local Bus Consultation was launched on 17 September comprising an overview of routes and proposed changes to the Essex County Council (ECC) Contracted Bus Network on a district by district basis, and a questionnaire. Following the consultation, the proposals for revising contracted local bus services in Essex (those funded by the County Council) was approved by Cabinet on 19 November 2015.

Ms Morris included the following in her update:

➤ **Outcome of the Local Bus Review**

- The aim was to at least maintain overall service levels whilst making savings of 18% with a key part of the review to identify low use costly services.
- Services were tendered and awarded in February 2016
- Quality assessments were included in the tender process
- A consultation is now under way in respect of the intention to withdraw the identified low use routes.
- Changes, which are significant in certain areas, will be introduced on 11 April. This will include changes to Bus numbers and the updating of timetables with communication to local residents of the changes. Digital timetables will be updated in advance.

➤ **Fare Increases**

- Fares set by ECC have not increased since 2009
- Most recent fare increases have been due to commercialism of routes, where services are taken over by a commercial operator
- For the 15% of the network supported by ECC, using taxpayers' money, for around half of those routes the fares are set by the contractor and so we will see fare increases for those. In respect of the remaining 50% fares will be set by ECC. There will a consultation launched within the next two months regarding fare increases. Fares have not increased since 2009 and are now necessary in order to preserve the largest possible bus network. If we do not increase fares we would have to cut routes. Fare increases are likely to be implemented in September.
- It was stressed that there will be no impact on passengers who have concessionary passes and will only impact on fare paying passengers. ECC offers significant discounts on season tickets for school services.

➤ **A Transport for Essex Quality Standard**

- A Transport for Essex Quality Standard is being introduced which will have gold, silver and bronze level awards
- Key considerations will include driving training, vehicle conditions, and customer service including handling of complaints
- It will be neutral in terms of size to allow applications from small operators as well as larger ones.

➤ **Future Pressures**

- There are ongoing budgetary pressures and it is anticipated that this will continue to have an impact on the Bus budgets. Members were reminded that the local bus service is a discretionary not statutory one.

➤ **General Issues**

- ECC continue to work with Bus operators to improve the service provided to disabled passengers
- ECC continue to work with Bus operators to provide a clear complaints process to passengers
- 'Getting Around in Essex' is a 7 year strategy which includes improvement of usage to help mitigate service reductions
- The bus route network tends to be historical but ECC are working with operators with the introduction of new routes being a long term goal.

The Chairman thanked Ms Morris for her detailed update to the Committee on passenger transport matters, and for addressing Members' questions.

11. Date of Next Meeting

The Committee noted the next committee activity day was scheduled for Thursday, 21 April 2016, when task and finish group activity would take place rather than a formal meeting of the full Committee.

There being no urgent business the meeting closed at 12.55 pm

Chairman

		AGENDA ITEM 5
		PSEG/11/16
Committee:	Place Services and Economic Growth Scrutiny Committee	
Date:	21 April 2016	
CALL IN OF DECISION: FP/317/11/15 – BASILDON TOWN CENTRE COLLEGE ENABLING WORKS – GRANT AGREEMENT		
Enquiries to:	Christine Sharland, Scrutiny Officer 0245 430450 Christine.sharland@essex.gov.uk	

On 29 March 2016 Councillor Andy Erskine called in decision FP/317/11/15 – Basildon Town Centre College Enabling Works – Grant Agreement on behalf of Councillors Ellis and Smith. A copy of his Notification of Call-In form is attached at Appendix A.

An informal meeting was held on 5 April 2016 and a note of that meeting is attached at Appendix B. The outcome of that meeting was that Councillors Erskine, Ellis and Smith decided that they wanted this call in to be considered by the full Committee based upon two out of the three reasons set out in the original notification of call in. The following reasons now form the basis for the call in being brought to the Committee:

1. The present site of the College is within the 725 home Westley Green development. The Westley Green development is taking place in three sections. The College will have to make way for Phase 2.

This grant of £750,000 is to cover design and surveys, new market procurement fees and legal costs.

Therefore this grant is to financially help the developers (Redrow Homes) build the Westley Green development. No other private developers will be handed taxpayers' money to pay off present/former land owners aforementioned relocation costs.

2. There are a number of colleges in the south Essex area which can easily be reached by local public transport (rail and bus). This new College will have no car park for the students. With the college being a short walk away from rail and bus connections, this new campus will be able to draw students from outside the Borough of Basildon, which will act as an unfair advantage.

Therefore we believe that if Essex County Council agrees to this £750,000 enabling grant will fall foul of EU rules on state aid.

A copy of the Cabinet Member's decision is attached at Appendix C setting out background in this matter. Please note that full details of the decision may be viewed via the following link to the County Council's website.

http://cmis.essexcc.gov.uk/essexcmis5/Decisions/tabid/78/ctl/ViewCMIS_DecisionDetails/mid/422/Id/6580/Default.aspx

In line with the published Call In Procedure, the format for consideration of this call in will be as follows:

- The councillor responsible for the call in will be given the opportunity to make the case for calling in the decision including an allocation of time to any other contributors whom they wish to call – up to 15 minutes.
- Any local member associated with the call in will then be invited to speak, if they have indicated their wish to do so – up to 10 minutes.
- Other interested parties will then provide evidence to the Committee – up to 10 minutes
- The Cabinet Member will then be given the opportunity to answer the case and seek to justify the decision taken, including giving time to any other contributors whom they wish to call – up to 15 minutes.
- There will then be an opportunity for other members of the Committee to ask questions in open debate.
- The Scrutiny Committee shall then consider whether:
 - (i) to refer the decision back to the person who made it; or
 - (ii) to refer the matter to the full Council to decide whether to refer the decision back to the person who made it; or
 - (iii) to accept the decision be implemented.

- A member of the Committee must move a motion to do one of the above actions, and another member must second that motion. The Committee will the vote upon that motion.

Action required by the Committee:

**To consider the reasons given for the call in of decision FP/317/11/15 –
Basildon Town Centre College Enabling Works – Grant Agreement**

Appendix A

Notification of Call-in

Decision title and reference number FP/317/11/15 – Basildon Town Centre College Enabling Works – Grant Agreement	
Cabinet Member responsible Cllr Bentley, Cabinet Member for Economic Growth Waste And Recycling	Date decision published 23 March 2016
Last day of call in period 29 March 2016	Last day of 10-day period to resolve the call-in

Reasons for Making the Call in

We wish to call in this decision as it breaches three separate and distinct points in regards to EU rules on state aid (see www.gov.uk/guidance/state-aid). Below is a breakdown and explanation of these three points. This proposed grant is to enable the college to move from its present site on the Nether Mayne into Basildon Town Centre. This is where we believe Essex County Council will be breaching EU rules on state aid if this enabling grant is awarded:

1. The present site of the College is within the 725 home Westley Green development. The Westley Green development is taking place in three sections. The College will have to make way for Phase 2.

This grant of £750,000 is to cover design and surveys, new market procurement fees and legal costs.

Therefore this grant is to financially help the developers (Redrow Homes) build the Westley Green development. No other private developers will be handed taxpayers' money to pay off present/former land owners aforementioned relocation costs.

2. Unfair competition to the other college in Basildon Town Centre. There is a smaller further education campus within Basildon Town Centre. This enabling grant will allow the relocated College to entice students and make the existing college campus in Basildon's town centre financially unviable.

3. There are a number of colleges in the south Essex area which can easily be reached by local public transport (rail and bus). This new College will have no car park for the students. With the college being a short walk away from rail and bus connections, this new campus will be able to draw students from outside the Borough of Basildon, which will act as an unfair advantage.

Therefore we believe that if Essex County Council agrees to this £750,000 enabling grant will fall foul of EU rules on state aid.

Signed:	Dated:
Called in by Cllr Erskine on behalf of Cllr. Kerry Smith (Westley Heights Division) and Cllr Mark Ellis (Laindon Park & Fryerns Division)	29 March 2016

Appendix B

CALL IN – BASILDON TOWN CENTRE ENABLING WORKS – GRANT AGREEMENT

Informal meeting held on Tuesday, 05 April 2016 at 14:00 in Committee Room 2

Present

Cllr Kevin Bentley, Deputy Leader of the Council and Cabinet Member for Economic Growth, Waste and Recycling; Cllr Andy Erskine, Tendring Rural East; Cllr Kerry Smith, Basildon Westley Heights; Cllr Mark Ellis, Laindon Park and Fryerns; Cllr Simon Walsh, Chairman of Place Services and Economic Growth Scrutiny Committee (PSEGSC), Cllr Andy Wood, Vice-Chairman of PSEGSC.

Officers:

Andrew Cook, Director for Operations: Environment and Economy; Daniel Taylor, Senior Policy and Strategy Advisor; Alex Polak, Scrutiny and Corporate Governance Manager; Paul Turner, Deputy Monitoring Officer.

Introduction and comments from Cllr Kerry Smith and Cllr Mark Ellis

At Cllr Walsh's invitation, Cllr Erskine introduced Cllr Smith and Cllr Ellis, on whose behalf he had called in decision FP/317/11/15 on 29 March 2016. Cllr Erskine added only that he supported the call in.

Cllr Smith and Cllr Ellis each outlined their reasons for the call in. With regard to the three points of the call-in notice, Cllr Smith made the following points:

1. In normal commercial settings the housing developer would make a financial arrangement with the existing land owner to cover their costs, leaving them with a monetary gain. However, the College was paying for some of the costs of the market's relocation. The County Council allocating money to help the market relocate was providing an unfair advantage to Redrow Homes. The College should have made sure their costs were covered in full by Redrow Homes when they purchased the College's site. The County Council could set a precedent for other developments across Essex to expect the County Council to step in with financial aid.
2. Cllr Smith disputed the claim in the Council's documents that it will generate another £1m for the Basildon economy, on the basis that the nearest shops and entertainment area is Basildon's town centre. (This part of the call in was however later withdrawn by Cllr Smith and Cllr Ellis).

3. A new College building on the site of the old market would have an unfair advantage over other colleges in the area, in part due to excellent public transport links provided by the nearby bus station. Commercial development at Eastgate and by Basildon Council (creating housing above worn-out shopping units) will entice students to travel to Basildon with the assistance of their parents.

Cllr Ellis spoke in support of the development itself and of Cllr Smith's points. He added that since money was being provided to enable one part of the development to take place, and there was developer involvement in other parts of the scheme, he felt it was right to ensure the developer wasn't benefitting financially.

In discussion, the following further points were raised by Cllr Smith and Cllr Ellis:

- The documents submitted to Basildon with the planning application said that this project would be self-financing.
- Unless the College moves, there would be no phase 2 of the development scheme. The concern was that this sets a precedent for other developers in future.
- The Treaty of Maastricht limited the funding that member states could give for education.
- The EU website said that when a project was about to start it should be submitted to be checked with regard to state aid concerns. Had this been done?
- There was a lot of local interest. Residents wanted to know why the County Council is 'digging into its pockets'.

Cllr Smith concluded by saying that he felt it was possible that this grant would interfere with the open market in the building industry, distort competition within the further education sector and be in breach the 1957 Treaty of Rome.

Response by Cllr Kevin Bentley and County Council officers

Cllr Bentley had consulted Paul Turner, Deputy Monitoring Officer, who was also present to give a legal opinion. The following points were made by Cllr Bentley:

- This was a grant to Basildon Borough Council. Cllr Bentley was of the view that no developer was benefitting. The wider taxpayer was benefitting from services brought in by the development. The agreement between ECC and Basildon was on terms which require Basildon to ensure that there was no state aid. Therefore there was categorically no state aid issue at all.
- The County Council was supporting the College's move by facilitating the move of the market from the College's proposed new site. This was in line with the County Council's desired 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 young people not in education or training (NEET).

- All further education colleges by their nature compete with each other for students and this was appropriate. Cllr Bentley was not aware of any opposition from other colleges; no representation had been received from them.
- Any point in the planning application about the project being self-funding was for Basildon Council to comment on as the planning application and approval were not County Council matters. It remained that there was a funding gap; Basildon Council were also putting money in.

In discussion, the following further points were added by Cllr Bentley:

- The Council invested in a number of projects across the County on a case-by-case basis, such as the Harlow Investment Zone, in line with the Council's priorities. The County Council wasn't setting a new precedent.
- Cllr Bentley offered to come and speak to any local residents about this issue if the local members wanted to set up a meeting for this purpose.

Cllr Bentley said in conclusion that he hadn't treated the subject or the call in lightly. The state aid matter could be knocked on the head easily based on corroborating legal advice from the County Council's Deputy Monitoring Officer and from Essex Legal Services on separate occasions. He had addressed the competition issue. He felt the project would add greater prosperity to Basildon.

Paul Turner, Deputy Monitoring Officer

Paul Turner, Deputy Monitoring Officer, was invited to give his legal advice on the position and made the following points:

- It was very clear that there was no possible unlawful state aid proposed.
- Unlawful state aid occurs when:
 - a) The resources of the state – which would include public money – are used
 - b) to give an economic operator an advantage on a selective basis (ie the benefit is not open to everyone); and
 - c) the advantage distorts or may distort competition; and
 - d) the aid is likely to affect trade between Member States of the EU; and
 - e) the aid is not authorised by the EU commission.

In his view, these points were not met with respect to the College or the Developer.

- There had been a competitive process which complied with procurement law to select the developer. This ensured that Redrow Homes were paying the best market price achievable by the vendors for the College's site.

They were simply buying land on the open market in competition with other developers. It was impossible to say that there was any state aid issue here.

- According to the EU Commission, the public education system was considered as a non-economic activity and the college were not therefore an economic operator and therefore condition (b) was not met and there could be no state aid (otherwise whenever the Council expanded any school or college with Council money it could constitute state aid). Colleges compete for pupils but this was not the same thing as economic competition because most of the College's funding comes from the Government [the Higher Education Funding Council for England]. There was no state aid issue here and the Maastricht Treaty was not a relevant concern.
- Furthermore clause 27 of the draft agreement included in the decision papers ensured that liability for any illegal state aid would be the responsibility of the recipient (ie Basildon Borough Council) and therefore this was not a County Council matter even if it were an issue. That said, if the County Council thought that the recipient of the money were going to do anything that constituted illegal state aid it would have affected the viability of the project, so the County Council had still done the work in advance to ensure this was not going to be a relevant concern.
- The EU website explains that matters can be submitted to the EU Commission for checking if there is felt to be a risk of a state aid issue. There was no risk here so it was not necessary for the County Council to submit anything on this matter. It would not be usual to submit a project for state aid clearance unless there was any doubt.

Andrew Cook, Director for Operations: Environment and Economy

Andrew Cook, Director for Operations: Environment and Economy made the following points:

- The developer had paid market value for the land. The College intend to use that money to relocate and build new premises. The existing use of the College's new site needs to be moved. That was what this grant was for. The developer was several steps removed from the funds granted to Basildon Borough Council.
- The County Council provided grants all over the County where there were gaps in funding which would otherwise prevent outcomes which were aligned to the Council's priorities. The Council did its homework in each case and consulted with its lawyers, carrying out the necessary due diligence. This decision had by this point been checked twice; in both instances the Council had come to the conclusion that there was no state aid issue. The Council had got two separate sources of advice: the Deputy Monitoring Officer and Essex Legal Services. Both sources corroborated. As a third safety net, the grant agreement provided in black and white that

the County Council had passed all state aid issues to Basildon Borough Council. The Council could not be expected to do any more than this.

Conclusion

Cllr Walsh summarised the position as had been presented in the meeting:

- The purpose of the grant was not to benefit the College or developer but to relocate the market in Basildon to St Martin's Square. This was not apparent in the call in document but was apparent in the decision documents.
- There was no state aid issue; and in any event, the risk sat with Basildon Borough Council rather than the County Council.
- Due diligence had been taken in this process and those present had been offered reassurance.
- If the call-in were withdrawn on the basis of this evidence, a document of the meeting would still be taken to the next public meeting of the Place Services and Economic Growth Scrutiny Committee so that the public could see the due consideration given by all parties to the matter.

Outcome

After a brief adjournment to confer with Cllr Smith and Cllr Ellis, Cllr Erskine indicated that he would not withdraw the call in and would like to proceed to a public meeting of the Place Services and Economic Growth Scrutiny Committee. However the second of the three points on the call in documents would no longer be pursued.

All present agreed to aim to hold this meeting at 10:30am on 21 April 2016.

ENDS

Report to Councillor Kevin Bentley – Deputy Leader and Cabinet Member for Economic Growth, Waste and Recycling	Forward Plan reference number: FP/317/11/15
Date of report: 17 March 2016	County Divisions affected by the decision: All Basildon Divisions
Title of report: Basildon Town Centre College Enabling Works – Grant Agreement	
Report by: Andrew Cook, Director for Operations: Environment & Economy	
Enquiries to Ian Lewis, 0333 013 6708, ian.lewis@essex.gov.uk	

1. Purpose of report

- 1.1 To seek agreement to sign the proposed Grant Agreement in the form at Annex A to provide £750k of Grant Funding to Basildon BC. The grant will support the development of a new further education facility in Basildon town centre. At a later date, a further request to the Cabinet Member will be made to request a grant of a further £1m.
- 1.2 The £750,000 Funding for the project will be provided by ECC from the Economic Growth Fund within the 2015/6 financial year.

2. Recommendations

- 2.1 Agree the signing of a Grant Agreement with Basildon Borough Council in the form at annexe A to enable Essex County Council to provide Grant Funding to support the enabling works for the relocation of a Further Education facility to Basildon Town Centre.

3. Background and proposal

- 3.1 The Basildon Town Centre Masterplan was adopted in 2012, and sets out the vision and the projects needed to reinvigorate the town centre for the next 20 years. A key part of this vision is the creation of a new further education campus in a prominent position in the town centre. South Essex College (SEC) has secured planning approval to introduce a new college into the town centre to provide a modern learning environment for 2,000 students, relocating from its current Nethermayne campus. Planning consent was secured in March 2013 and development must be commenced by March 2016.

- 3.2 The College has made a commitment to have the new town centre facility operational for the academic year starting in September 2018. There is a risk that should this not be realised then the College may need to look at alternative sites in order to achieve their September 2018 deadline, which may mean the opportunity to locate the college in the town centre is lost with the wider regenerative benefits it will bring.
- 3.3 ECC's overall support for this project brings certainty to an overall investment of £44m by Basildon Borough Council and South Essex College. The release of £0.75m from the 2015/6 Economic Growth Fund will kick-start the works that will facilitate the relocation of South Essex College.
- 3.4 The new college will use the site within the town centre that is currently occupied by the market. The college project has two distinct parts – the relocation of the market to St Martin's Square and the construction of the new college building itself.
- 3.5 The first stage of the project will move the market, which releases the site for the new college building. The enabling works, which includes public realm works, have a cost estimate of £9,162,082 as prepared by construction consultants Leslie Clark. The relocation of the College releases the current Nethermayne site for the development of 725 new homes. As the project has developed, the costs to relocate the market are now greater than originally anticipated. This is due to original estimates being made in 2012 and confirmation of the scope of work. The sale of Nethermayne has released £6m to fund the market relocation. In addition, Basildon Borough Council is contributing £1.4m, which results in a funding gap of £1.75m.
- 3.6 ECC has been asked to make an overall contribution of £1.75m to the project. This will plug the funding gap and will directly support the relocation of the market which in turn provides the site for the new college building. ECC is being asked to provide this sum without bearing any of the risks associated with overruns. The ECC contribution would be capped at a total figure of £1.75m. It is proposed that the grant would be paid in two instalments, each covered by a separate agreement.
- 3.7 This report asks for authorisation to progress the first agreement for £750k to cover costs incurred to date. This will be paid in the 2015/16 financial year, and will be drawn from the Economic Growth Fund 2015/16 allocation. The £750k grant will be used to cover expenditure incurred to date that, and also to enable the pre-ordering of materials which have a long lead in period. The costs to be covered are:
- Design and Surveys
 - New Market Procurement Fees
 - Legal
- 3.8 It is proposed that the second agreement would cover the remaining £1m. This will be the subject of a further report to the Cabinet Member which is anticipated to be brought forward towards the end of 2016.

- 3.9 The proposed first grant agreement is at annexe A. The proposed Grant Agreement with Basildon Borough Council is attached, and contains the following conditions:
- A detailed breakdown of how the £750,000 will be spent is provided to ECC.
 - Basildon Council will refund ECC with the full £750,000 capital outlay should this part of the project not be delivered.
 - ECC branding will be included in all relevant publicity materials relating to the project and that ECC be recognised as the principal contributor.
 - ECC will have senior management representation on the project board which will oversee the delivery of the project.

4. Policy context and Outcomes Framework

- 4.1. A Vision for Essex 2013 -17 sets out the Cabinet's vision and priorities for the next four years and this will inform the development of a revised corporate strategy designed to:
- Increase educational achievement and enhance skills
 - Develop and maintain the infrastructure that enables our residents to travel and our businesses to grow
 - Support employment and entrepreneurship across our economy
 - Improve public health and well-being across Essex
 - Keep our communities safe and build community resilience
 - Respect Essex's environment
- 4.2 In particular, the project has a direct contribution to the following priorities:
- Increase educational achievement and enhance skills
 - Develop and maintain the infrastructure that enables our residents to travel and businesses to grow
- 4.2. The Vision for Essex is based on the following principles
- We will spend taxpayers' money wisely
 - Our focus will be on what works best, not on who does it
 - We will put residents at the heart of the decisions we make
 - We will empower communities to help themselves
 - We will reduce dependency
 - We will work in partnership
 - We will continue to be open and transparent
- 4.3. The project delivers the SELEP Vision to strengthen the competitive advantage of strategic growth locations, ensuring investment takes place to enable growth to be realised.

5. Financial Implications

- 5.1. ECC's total contribution to the Basildon Town Centre project will be £1.75m, made in two instalments. This decision is for the release of £750,000 in the 2015/16 financial year. A further Grant Agreement (with associated business

case and CMA) seeking the remaining £1,0m will be developed by mid 2016, following conclusion of BDC's procurement for the main contractor.

- 5.2. The £750,000 grant from ECC to Basildon Borough Council will be made under a Grant Agreement which outlines the conditions for making the grant and its use, ensuring the funding is capped at £750,000, the funding is used for its intended purpose and that it will be used to fund only capital expenditure.
- 5.3. In the event of a project over spend these costs will be met by Basildon Borough Council. The overall ECC grant of £1.75m is already contained within the approved capital programme and no further funding is being sought.

6. Legal Implications

- 6.1 The proposed Grant Agreement at annexe A outlines the conditions upon which the grant is made and the requirements placed on the recipient, Basildon Borough Council.
- 6.2 State Aid – the funding will be paid to a local authority. It is the responsibility of Basildon Borough Council to ensure that there is no unlawful state aid associated with delivery of the project.
- 6.3 Procurement – the procurement of the works is being undertaken by Basildon Borough Council and its partners and ECC are not involved in this process and will not be a party to any contract. Basildon BC will be responsible for complying with the Public Contracts Regulations 2015

7. Staffing and other resource implications

- 7.1 The project will be reviewed through a delivery and operational board to be set up specifically for this project. This will include senior officer representation from both Essex County Council and Basildon District Council. This will provide the main governance mechanism for the Project. The creation of this Board will be a key condition of the Grant Agreement between Essex County Council and Basildon Borough Council

8. Equality and Diversity implications

- 8.1 Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when ECC makes decisions it must have regard to the need to:
 - (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act.
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.


- (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 8.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation.
- 8.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.
- 8.4 The project design for the proposed buildings incorporates the most recent Disability Discrimination Act legislation requirements.

9. List of Appendices

- 9.1 Annexe A - Grant Agreement
- 9.2 Annexe B - Equality Impact Assessment

10. List of Background Papers

- 10.1 project plan.

Role	Date
Executive Director for Corporate and Customer Services (S151 Officer) Approved by Nicole Wood Margaret Lee	18 th March 2016
Director for Corporate Law and Assurance (Monitoring Officer) Approved by Paul Turner (Deputy Monitoring Officer) Terry Osborne	17 th March 2016
Director for Operations: Environment & Economy Andrew Cook	18 th March 2016
I agree the recommendations in this report for the reasons set out in the report.  Cllr Kevin Bentley – Deputy Leader and Cabinet Member for Economic Growth, Waste and Recycling	22 nd March 2016

