

## Minutes of the meeting of the Cabinet, held in Committee Room 1 County Hall, Chelmsford, Essex on Tuesday, 13 December 2016

### Present:

Councillor David Finch	Leader of the Council (Chairman)
Councillor Kevin Bentley	Deputy Leader and Economic Growth, Infrastructure & Partnerships (Vice-Chairman)
Councillor Anne Brown	Corporate and Communities
Councillor Graham Butland	Health
Councillor Stephen Canning	Digital Innovation, IT and Customer Services
Councillor Ray Gooding	Education and Lifelong Learning
Councillor John Spence	Finance, Housing and Planning
Councillor Simon Walsh	Environment and Waste

Councillors J Abbott, J Aldridge, P Channer, M Danvers, A Erskine, A Hedley, I Henderson, R Howard, M Hoy, M Mackrory, A Naylor, M Page, C Pond, A Turrell and J Whitehouse also attended.

### 1 Apologies for Absence

Apologies for absence were received from Councillor D Madden, Cabinet Member for Adults and Children and Councillor E Johnson, Cabinet Member for Highways and Transport.

### 2 Minutes

The minutes of the meeting held on 18 October 2016 were agreed as a correct record and signed by the Chairman.

### 3 Declarations of Interest

Members declared Code interests in Agenda Item 7: Participation in the North Essex Garden Communities Project - Give governance and decision on the principle of funding, as follows (minute 9 below refers):

Name	Nature of Interest
Councillor K Bentley	Member of Colchester Borough Council
Councillor A Brown	County Council Electoral Division (Constable) covers one of the proposed sites Leader of Braintree District Council
Councillor G Butland	(Councillor Butland indicated that he would withdraw from the meeting during consideration of the report)

---

Councillor I Henderson	Member of Tendring District Council
Councillor S Walsh	County Council Electoral Division (Thaxted) adjoins one of the proposed sites Home address is near one of the proposed sites.

#### **4 Variation in the Order of Business**

Upon the motion of the Chairman, duly seconded, it was AGREED to vary the order of business to allow consideration of Agenda item 8 (M11 J7A Harlow - Public Consultation Outcome and Designation of Preferred Route Status) as the first item of business following Questions from the Public.

#### **5 Questions from the Public**

The Chairman welcomed five members of the public who had registered to speak on agenda items 7 (Participation in the North Essex Garden Communities Project - Give Governance and decision on the principle of funding) and 8 (M11 J7A Harlow - Public Consultation Outcome and Designation of Preferred Route Status).

##### **Agenda Item 7: Participation in the North Essex Garden Communities Project - Give Governance and decision on the principle of funding**

##### **a) Rosie Pearson, Secretary, Campaign Against Urban Sprawl in Essex (CAUSE)**

Mrs Pearson stated that she represented the 8500 people who had signed the petition organised by CAUSE. CAUSE was not opposed to the provision of additional housing, but wanted to see it done properly and in the right place.

Mrs Pearson sought assurances on the following issues:

- that promises made in terms of the provision of homes and jobs for local people, with the provision of infrastructure in advance, would be kept;
- that the proposed financial model would be made public;
- that the representation on the companies' boards would include individuals such as Lord Kerslake (to shift the balance away from local authorities and land owners); and
- that the CAUSE submission to the garden communities consultation would be shared with Lord Kerslake.

##### **Response by the Leader of the Council and the Cabinet Member for Finance, Housing and Planning**

The Leader of the Council advised that it had yet to be determined whether the CAUSE submission would be shared with Lord Kerslake.

The Cabinet Member for Finance, Housing and Planning stated that he understood the concerns of local residents, given the proposed scale of

development. He commented that much of the increase in housing was needed to meet demand from the children of existing Essex residents. Any attempt to meet the demand by expanding existing local settlements would indeed result in urban sprawl, with none of the benefits of the schemes as currently proposed, or the creation of high-quality employment. The intention was to ensure that the new settlements would be viable communities in their own right rather than dormitory towns for London, and the current proposals would help local authorities to do this in a way and with a timescale that was not so dependent upon the needs of developers.

Councillor Spence emphasised that the purpose of the report to be considered at this meeting was to put in place a structure for establishing whether there were viable business cases to support the creation of any or all of the proposed garden communities. He gave a firm undertaking that that none of the proposed schemes would proceed in the absence of a viable business case, including appropriate infrastructure to allow the creation of high quality communities with jobs as well as homes.

The Cabinet Member confirmed that he would meet with representatives of CAUSE to consider issues related to the financial model.

Councillor Spence confirmed that the governance structures of the proposed companies included provision for independent directors, although the appointment of Lord Kerslake would be a matter for the individual boards, as well as for Lord Kerslake himself. He acknowledged Lord Kerslake's expertise in this area, and commented that he looked forward to receiving a copy of his report, which had been presented verbally to Leaders and representatives of all the relevant local authorities last week.

#### **Agenda Item 8: M11 J7A Harlow - Public Consultation Outcome and Designation of Preferred Route Status**

##### **b) Paul McLintic, Secretary, Harlow Civic Society**

Mr McLintic stated that he was in favour of new motorway junction, albeit using a different route to that proposed (a northern access route). He commented on the nature of Harlow as a designed new town and on the challenges posed by the M11 having been built to the east of the town rather than the west, as originally expected. Mr McLintic advised that Harlow was now at capacity in terms of traffic volume, expressing the view that a new junction to the east would add to the congestion problems. In the light of this, Mr McLintic asked how the new junction as proposed would make Harlow a better place.

##### **c) Robert Groves, Chair, Old Harlow Residents Association**

Mr Groves stated that, although at present Gilden Way was used mainly by local traffic, it was already heavily congested. It was the access route to eight schools, and permission had been granted for 1000 homes and another school along the road, together with additional pedestrian crossings. In his view, the new junction would attract heavy goods vehicles away from the M11, to the detriment of residential roads. In the light of these facts, and the previous

description by Councillor Rodney Bass of the route now proposed as 'sub optimal', Mr Groves asked how the Cabinet had questioned and evaluated the expert advice received, and whether Cabinet Members would agree that the proposals would not lead to the enhancement of current traffic flows.

**d) Councillor Mike Garnett, Harlow District Councillor for Old Harlow Ward and local resident**

- Councillor Garnett commented that he had been involved with the proposals over many years. In his view, the current proposals would drive a wedge through Old Harlow, increasing traffic to unprecedented levels and contributing further to the decline of Old Harlow Shopping Centre. Councillor Garnett asked the Deputy Leader and Cabinet Member for Economic Growth, Infrastructure and Partnerships how this fitted with his portfolio responsibility for regeneration, and what the long term benefits were likely to be for the local area.

**e) Jackie Nash, Chair, Mulberry Green Residents Association**

Mrs Nash referred to two recent reports concerning the impact of traffic pollution on children and the elderly. In view of the proximity of schools and homes to the proposed route, she asked what were the advantages of it which outweighed the likely harm to the next generation.

**Response by the Deputy Leader and Cabinet Member for Economic Growth, Regeneration and Partnerships**

Councillor Bentley stated that although he understood the concerns of local residents, it was necessary to balance these with the need to plan for the long term future. Harlow was currently accessible only via a single, heavily-congested route, and a new junction was badly needed to allow for the growth of Harlow Enterprise Zone and the creation of future employment opportunities. The proposed route had been selected based on expert opinion and consultation, and the approval of many different bodies, including Harlow District Council, Hertfordshire County Council, local Members of Parliament, the LEP and local businesses, had been sought and obtained.

Councillor Bentley concurred with the environmental health concerns mentioned, but was of the view that to take no action would be worse than to attempt to plan for the inevitable growth to come.

Councillor Bentley closed by noting the concerns expressed and acknowledging that the decision to be taken today would not address them. However, he was satisfied that, as all the necessary processes, including all the appropriate checks and balances, had been followed, the recommended course of action was the correct one, in the interests of the greater good.

**6 M11 J7A Harlow - Public Consultation Outcome and Designation of Preferred Route Status**

The Cabinet considered report FP/456/04/16 by the Director for Commissioning: Transport and Infrastructure, presented by the Deputy Leader and Cabinet Member for Economic Growth, Infrastructure and Partnerships, which detailed the results of the consultation on the proposals for a new motorway junction on the M11, to be known as Junction 7A, and associated improvements to Gilden Way, Harlow. The report also sought agreement for a preferred route and authorization for the next phase of work.

The Deputy Leader and Cabinet Member provided the following response to questions and comments from Councillors Danvers and Whitehouse:

- Although he understood the concerns of those who lived in the Gilden Way area and agreed that they should be listened to, it was necessary to balance these with the needs and views of the wider community, and to plan ahead for the needs of the next 50 - 100 years. Even a plan to promote a northern bypass would have involved development of Gilden Way. The proposals currently before the Cabinet were based on expert advice and opinion, and support of the wider community, including local businesses and Harlow District Council.
- Implementation of Junction 7A should not be at the expense of the planned improvement work to Junction 7, and this view had been conveyed to Highways England.
- The appointment of a contractor to undertake the construction phase of the project would be subject to tender, and there would be no conflict of interest for the contractor which had been involved in the design work (Ringway Jacobs).
- Councillor Rodney Bass would continue to be involved in the ongoing discussions with Hertfordshire County Council regarding the long term plans for a northern bypass.

**Resolved:**

1. That the outcome of the consultation on M11 J7A be noted.
2. That the route shown in Appendix A to report FP/456/04/16 be designated as the approved route.
3. That the Director for Commissioning: Transport and Infrastructure be authorized to submit an application for planning permission for the preferred route.

**7 Southend, Essex and Thurrock strategy for Mental Health and Wellbeing 2017-2021**

The Cabinet considered report FP/581/08/16 by the Director for Commissioning: Mental Health, presented by the Cabinet Member for Health, introducing the key concepts in the new pan-Essex, multi-partner strategy for Mental Health and Wellbeing, which outlined the strategic direction of travel for the mental health system over the next five years. Following its approval by Cabinet, the Strategy would be sent to the Southend, Essex and Thurrock Health and Wellbeing Boards for endorsement in January 2017.

In presenting the report, the Cabinet Member for Health addressed questions and comments made by Councillors Henderson, Mackrory and Abbott. He acknowledged that the Strategy was ambitious, and would be delivered by a combination of increased funding and changes to the type of service provided. The proposed model would both make effective use of current resources and move the Council to a position where it would be able to argue for more. There was a commitment across health and social care to prioritise mental health, and for it to have parity of esteem with physical health, and all appropriate agencies, including the criminal justice system, would work together to deliver the Strategy. The proposed Strategy had received the support of the Health Overview and Scrutiny Committee, which would receive quarterly monitoring reports to ensure that progress was being made.

Responding directly to Councillor Henderson, the Cabinet Member for Health confirmed that, although telephone assessment would be used, it would not represent the entire interaction with service users. He also acknowledged that effective liaison was needed with other agencies, including the Department of Work and Pensions and the criminal justice system, to ensure that those affected by mental health issues were treated appropriately.

**Resolved:**

1. That the Southend, Essex and Thurrock Mental Health and Wellbeing Strategy, as set out in the appendices to report FP/581/08/16, be adopted.
2. That the Cabinet Member for Health be authorized to make any minor changes to the Strategy arising from its consideration by the other partners (Southend on Sea Borough Council, Thurrock Council and the seven Clinical Commissioning Groups in the Ceremonial County of Essex).

**8 Changes in Charges Adult Social Care**

The Cabinet considered report FP/574/08/16 by the Director for Commissioning and Vulnerable Adults (presented by the Cabinet Member for Adults and Children) which sought agreement to the introduction of new charging practices for adult social care with effect from April 2017. Approval was also sought for funding of £721,000 from the Transformation Reserve to implement the changes and to provide short-term additional support to ensure that people receive the services and benefits they need.

Responding to points raised by Councillors Mackrory, Pond and Henderson, the

Leader of the Council confirmed that the Council did recognise the existence of disability related expenditure, which would be disregarded when assessing a service user's income. This would continue to include telephone line rental in certain (though not all) circumstances. Where ECC was required to exercise its statutory duty to arrange safeguarding of a service user's property and belongings, the person concerned would only be called upon to reimburse the Council in terms of time and expenditure incurred. The Council would not cite failure to conduct a financial assessment as a reason to delay the discharge of anyone from hospital. The Leader of the Council gave an assurance that people would continue to be treated with compassion and sensitivity.

**Resolved:**

1. That the following changes be implemented with effect from 10 April 2017:
  - 1.1 Charge service users for domiciliary care from the date they start to receive care;
  - 1.2 Align the Council's practices to the statutory means test by including the capital value of property in the financial assessment of people receiving domiciliary care, but continue to disregard the value of their home;
  - 1.3 Align the Council's practice to the statutory means test for people receiving domiciliary care by disregarding income used to pay for disability-related expenditure only where it is required to be disregarded under the statutory means test; and
  - 1.4 Align to the statutory means test for people receiving domiciliary care by reducing the amount of capital disregarded from £27,000 to £23,250.
2. That service users be charged for the cost of safeguarding their property and belongings.
3. That the draw down of £721,000 from the Transformation Reserve to fund new project delivery costs in 2016/17 and 2017/18 be agreed.

**9 Participation in the North Essex Garden Communities Project - Give governance and decision on the principle of funding**

Councillors Bentley, Brown, Butland, Henderson and Walsh declared Code interests in this item (minute 3 above refers). Councillor Butland **withdrew** from the meeting during its consideration and for the remainder of the meeting. Councillors Bentley and Brown **abstained** from voting on the recommendations contained in the report.

The Cabinet considered report FP/642/11/16 by the Executive Director for Place Commissioning, presented by the Cabinet Member for Finance, Housing and Planning, which gave a progress report on the North Essex Garden Communities project since the last report was presented in February 2016. Agreement was

sought for the Council to enter into joint arrangements with the district and borough councils of Braintree, Colchester and Tendring to create an overarching body to be known as North Essex Garden Communities Limited (NEGC), which will co-ordinate the development of the proposed new garden communities in North Essex. NEGC will establish a local delivery vehicle (LDV) for each settlement.

The report explained how the development was expected to operate and that there would be a requirement for the LDVs to have funding in order to ensure that the infrastructure was provided at the right time as part of the development. This funding would be repayable out of land receipts as the development progressed. All four Councils were being asked to give governance and decision on the principle of funding, that they would provide proportionate funding to the LDVs in its area.

Each of the local planning authorities would be making decisions about their local plan which would include a decision on whether or not to allocate garden communities in their district.

The Cabinet was therefore asked to give agreement in principle, on the clear understanding that it would be subject to receipt, scrutiny and approval of specific business cases.

The following points arose from consideration of the report and from comments and questions raised by Councillors Abbott, Brown, Henderson, Pond and Turrell:

- Councillors Bentley, Henderson and Pond expressed their support for the principle of garden communities, and Councillor Abbott stated that he was in favour of the creation of additional jobs and housing in the County.
- The Cabinet Member for Finance, Housing and Planning stated that the creation of new, well-planned garden communities would protect the heritage and integrity of existing settlements, the continued expansion of which could not be sufficient of itself to meet forecast levels of housing demand. Garden communities would also allow councils to ensure the provision of quality green space, and to synchronise the provision of infrastructure. It would not be accurate to refer to the proposed communities as new towns, as the number of homes across all three totalled less than those in a single existing new town.
- The proposals currently before the Cabinet were intended to provide a mechanism to assess the viability of business cases relating to creation of the proposed communities; no business case existed at present. Detailed consideration would be given to funding issues if and when detailed business cases came forward, and these were expected to favour non-public sources of finance. Although the risks were acknowledged, there would be no decision to proceed without a firm contract with all the parties involved and a clear funding strategy. Schemes would only go ahead if it was clear that the benefits justified the financial commitment.



- 
- Concerns relating to the economic case for the creation of the proposed community at West Tey, including those which had been expressed by certain members of Colchester Borough Council, were noted. Councillors Bentley and Brown stated that in their view, Colchester Borough Council needed to make a more effective case in favour of the development and to increase the involvement of local people and their elected representatives. It would also be sensible to consider the issue in tandem with the proposed route for the A120, on which consultation was due to commence in January 2017. The Cabinet Member for Finance, Housing and Planning reiterated that creation of the companies as proposed would allow a detailed consideration of the business cases around each of the potential garden settlements. He commented that there was a proven need for space to permit the development of high quality employment and to support the growing population.
  - Although decisions on matters of this kind fell within the terms of reference of the Cabinet rather than full Council, the issue would be included in the Cabinet's report to the next Council meeting in February and could therefore be debated at that stage. It was also open to Councillors of any political group to submit a Motion on the matter if they so wished.
  - There would be an opportunity for scrutiny involvement. It was important for Members to understand the principle of the Council's involvement in garden communities as the issue may arise elsewhere in the County in future. A member development session was to take place after the Cabinet meeting and others would be offered in future.
  - With regard to the governance of the proposed companies, remuneration would only be paid to independent directors of North Essex Garden Communities Ltd, Tendring Colchester Borders Ltd and Colchester Borders Ltd; no payments would be made to directors who were also councillors. All directors would be appointed in accordance with the Nolan Principles and relevant legislation to ensure maximum accountability and transparency.
  - The Council was currently aware of only one other garden community proposal (in East Hertfordshire/Harlow/Epping Forest), although informal discussions may be occurring elsewhere. Essex would be willing to support district councils wishing to embark on similar ventures, using similar delivery vehicles, subject to the existence of sound financial arrangements.
  - It was expected that the proposed developments would contribute funds towards the upgrade of the A120, although government funding would still be required.
  - The Cabinet Member for Finance, Housing and Planning paid tribute to Colchester Borough Council and Braintree and Tendring District Councils for the collaborative work which had taken place to develop the current

proposals.

Upon being put to the vote, and with the abstention of Councillors Bentley and Brown, it was:

**Resolved:**

1. To note the proposal that, if appropriate terms can be agreed, the Local Delivery Vehicles will enter into legal agreements with landowners to enable the delivery of the proposed agreements.

**North Essex Garden Communities Limited**

2. That North Essex Garden Communities Limited be set up and subscribed to in accordance with the terms set out in report FP/642/11/16 and Appendix 2 to that report.

3. That the North Essex Garden Communities Limited shareholder agreement between the Local Authorities be approved, in accordance with the terms set out in report FP/642/11/16 and Appendix 3 to that report.

4. That Councillor John Spence be appointed to represent the Council as a Director on the Board of North Essex Garden Communities Limited, with any future appointments to be made by the Leader of the Council.

**Tendring Colchester Borders Limited**

5. That the formation of Tendring Colchester Borders Limited by North Essex Garden Communities Limited, in accordance with the terms set out in report FP/642/11/16 and Appendix 4 to that report, be endorsed.

6. That the Tendring Colchester Borders shareholder agreement between the Local Authorities be approved, in accordance with the terms set out in report FP/642/11/16 and Appendix 5 to that report.

7. That the Chief Executive may, from time to time, decide the identity of the Council's appointee as a Director on the Board of Tendring Colchester Borders Limited.

8. That, in principle, it be agreed to provide an appropriate proportion of necessary funding to the 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. The latter 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.

**Colchester Braintree Borders Limited**

9. That the formation of Colchester Braintree Borders Limited by North Essex Garden Communities Limited be endorsed, in accordance with the terms set out

in report FP/642/11/16 and Appendix 6 to that report.

10. That the Colchester Braintree Borders Limited shareholder agreement between the Local Authorities be approved, in accordance with the terms set in report FP/642/11/16 and Appendix 7 to that report.

11. That the Chief Executive may from time to time decide the identity of the Council's appointee as a Director on the Board of Colchester Braintree Borders Limited.

12. That, in principle, it be agreed to provide an appropriate proportion of necessary funding to the 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. The latter 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.

### **West of Braintree Limited**

13. That the formation of West of Braintree Limited by North Essex Garden Communities Limited be endorsed, in accordance with the terms set out in report FP/642/11/16 and Appendix 8 to that report.

14. That the West of Braintree Limited shareholder agreement between the Local Authorities be approved, in accordance with the terms set in report FP/642/11/16 and Appendix 9 to that report.

15. That the Chief Executive may from time to time decide the identity of the Council's appointee as a Director on the Board of West of Braintree Limited.

16. That, in principle, it be agreed to provide an appropriate proportion of necessary funding to the West of Braintree Limited (by an appropriate combination of loan or equity), subject to a satisfactory business case setting out the full terms of the arrangement. The latter 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.

## **10 Approval of main modifications to the Essex and Southend on Sea Replacement Waste Local Plan**

The Cabinet considered report FP/641/11/16 by the Director for Communities, Transport and Infrastructure, presented by the Deputy Leader and Cabinet Member for Economic Growth, Infrastructure and Partnerships, which sought approval for the 'main modifications' to the Essex Replacement Waste Plan (RWLP, referred to as 'the Plan' throughout the report) which have been recommended by the Inspector appointed by the Secretary of state to examine the Plan. The Inspector had stated that the modifications were necessary in order to make the Plan sound and legally compliant. The report also sought authority to consult on the modifications.

Provided that no additional matters arose from the Inspector's report, Cabinet was asked to approve the Plan's submission to Council for adoption in 2017.

The Cabinet Member for Finance, Housing and Planning thanked all officers and Members from all political groups who had worked on the plan over the past three years.

Councillor Abbott noted with approval that the Inspector had accepted the need for a definition of the term 'other waste', which he had advocated.

**Resolved:**

1. That the proposed main modifications and minor modifications to the Essex Waste Replacement Local Plan (the Plan), as set out in Appendix 1 to report FP/641/11/17, be approved.
2. That a period of public consultation of no less than six weeks' duration be authorized.
3. That, provided that the Inspector's report concludes that the Plan can be adopted with the main modifications, the Plan (with the main modifications) be submitted to full Council for adoption.

**11 Extension of the Integrated Community Equipment Service Contract**

The Cabinet considered report FP/11/656/16 by the Executive Director for People Commissioning, presented by the Cabinet Member for Adults and Children, which sought agreement to extend the Integrated Community Equipment Service (ICES) contract by three years from 1 April 2017. The current contract and partnership agreement comes to an end on 31 March 2017.

The extension being sought incorporated two years of further extensions provided for within the current contract plus an extraordinary additional year. It was being sought in order to:

- make it viable to bring the Pressure Area Care (PAC) service sub-contract into the core contract so that it can be delivered directly by Essex Cares Ltd (ECL); and
- give a sufficient length of contract for NHS partners to repay the loan arranged to fund the procurement of PAC equipment on hire in the community as part of the current service provision arrangements.

In response to a question by Councillor Mackrory, the Leader of the Council confirmed that the judgement to recommend an extension of the current contract would have included an assessment of other suppliers.

**Resolved:**

1. That the contract with ECL for the provision of the Integrated Community Equipment Service (ICES) be extended for three years, to cover the period from 1 April 2017 to 31 March 2020, and that the contract require provision of the Pressure Area Care (PAC), rising recliner and minor adaptations services by ECL.

2. That variation of the section 75 agreements relating to these services to reflect the changes set out in Resolution 1 above be agreed.

3. That the variations referred to in Resolutions 1 and 2 above shall not take effect until the funding agreements between Essex County Council (ECC) and ECL and NHS partners relating to these services have been completed.

**12 Cabinet Decisions Report**

The Cabinet received report FP/605/10/16 by the Secretary to the Cabinet setting out the decisions taken by or in consultation with Cabinet Members since the last meeting.

**13 Date of Next Meeting**

Members noted that the next meeting of the Cabinet would take place on Tuesday 24 January 2017 at 10.00am in Committee Room 1 at County Hall.

**14 Waste Disposal – Contract Issues**

(Public and press excluded - Members of the Council can see a more detailed account of the consideration given to this issue, and the decision taken, in the confidential appendix to these minutes.)

The Cabinet considered report FP/655/11/16 by the Cabinet Member for Environment and Waste.

**Resolved**

That action be taken as recommended in report FP/655/11/16

**Chairman**  
**24 January 2017**