
**Minutes of the meeting of the Cabinet, held in Committee Room 1
County Hall, Chelmsford, CM1 1QH on Thursday, 23 November 2017**

Present:

| Councillor | Cabinet Member Responsibility |
|-------------------|---|
| Kevin Bentley | Deputy Leader and Cabinet Member for Economic Growth, Skill Infrastructure and the Digital Economy (Chairman) |
| Susan Barker | Culture, Communities and Customer |
| Ray Gooding | Education |
| Ian Grundy | Highways |
| Dick Madden | Children and Families |
| John Spence | Health and Adult Social Care |
| Simon Walsh | Environment and Waste |

Councillors T Ball, M Durham, R Gadsby, M Mackrory, C Pond and J Young were also present.

- 1 Apologies for Absence**
Apologies for absence were received from Councillors David Finch, Leader of the Council, Louise McKinlay, Cabinet Member for Resources and Sue Lissimore, Cabinet Member for Housing, Property and Planning.
- 2 Minutes: 17 October 2017**
The minutes of the meeting held on 17 October 2017 were agreed as a correct record and signed by the Chairman.
- 3 Declarations of Interest**
None.
- 4 Questions from the Public**
The Cabinet welcomed Mr Barry Nee, Ms Katharine Bright and Ms Sharon Brayley who had registered to speak on agenda item 5 (A120 Braintree to A12: report on option selection and consultation (FP/830/05/17)).

Question 1**(Mr Barry Nee, No to Routes B and C Action Group)**

Speaking on behalf of the No to Routes B and C Action Group, Mr Nee highlighted significant public concern at the proposal before the Cabinet to

proceed with four routes prior to notifying a preferred route to Highways England. He stated that the Action Group had, during the last 4-5 days, obtained over 600 signatures to a petition calling for routes B and C to be dropped.

Mr Nee was of the view that, were a decision taken to proceed with the four routes, the Highways England Project Control Framework would require further public consultation. As a supporter of the A120 upgrade, he was concerned that any delay may lead to the possibility of missing the deadline for inclusion within the RIS2 2020 - 2015 funding round for infrastructure investment.

Mr Nee sought reassurance that, if it was agreed to proceed with the four routes, a further full, open and transparent public consultation would be undertaken, mirroring the good work that had been done to engage with the public as part of the previous consultation.

At the invitation of the Chairman, Mr Nee presented him with the petition referred to above. The Chairman advised that this would be dealt with in accordance with the Council's petitions procedure.

Question 2
(Ms Katharine Bright, Local Resident)

Ms Bright expressed concern at the transparency of the process with regard to the A120, in particular the involvement of councillors within Essex and bodies such as Colchester Borough Council and Haven Gateway Partnership. During the consultation, residents had been advised both in writing and verbally that the decision on the preferred route was separate to that relating to garden communities and other housing development in the local area. However, organisations such as Colchester Borough Council and Haven Gateway Partnership, together with businesses, were lobbying strongly and appeared to suggest that routes B and C should be selected based on their potential for opening up land for development. This was causing public confusion, and concern that others may be reaching decisions on the basis of information which had not been widely shared.

Ms Bright sought to understand how the choice of route would be made, and questioned why a decision would be taken to select routes B or C when the County Council's own analysis of the consultation outcome suggested that routes D and E were the most favourable.

Question 3
(Ms Sharon Brayley, Local Resident)

Ms Brayley stated that people had been reassured many times that there would be no relationship between the decisions on garden communities and that on the A120 preferred route. However, further evidence, including at the A120 launch presentation and within the report before the Cabinet today, suggested that this was not the case. In addition, people had been reassured that there would be no developer contributions towards the cost

of the A120, but an FOI request had shown that such contributions would not be decided prior to the approval of the local plan.

Residents understood the difficulties arising from the management of multiple workstreams with crossovers. However, concerns had arisen in relation to positions taken by Colchester Borough Council and certain of its members (including a councillor with involvement in the garden communities), and from circulation of a map for public consultation which showed Great Tey garden community with the A120 following only routes B and C. FOI requests had shown that a great deal of technical and other work was needed before the County Council would be in a position to take an informed decision on the preferred route.

Ms Brayley called on the County Council to continue considering the A120 scheme in isolation from the garden communities project. She asked for clarification as to whether a decision on the preferred route for the A120 was being influenced in any way by considerations relating to Great Tey .

Response by the Deputy Leader and Cabinet Member for Economic Growth, Skills, Infrastructure and the Digital Economy and the Cabinet Member for Health and Adult Social Care

Councillor Bentley emphasised that, although consultees were entitled to express their view, responsibility for selecting a preferred route for submission to government lay with Essex County Council (ECC). No decision on the route had yet been made and neither Councillor Bentley nor his predecessor in the role had made any public comment regarding the possible outcome. The map to which Ms Brayley referred related to the Colchester Local Plan process and had included routes B and C for illustrative purposes only. Councillor Bentley was aware of the Local Plan process, but it was entirely separate from the decision to be taken by ECC regarding the preferred route and would have no bearing upon it. Although the outcome of the public consultation on the routes was important, it was only one of a number of factors (including technical studies) to be taken into account by the Council in reaching that decision.

Councillor Bentley advised that the A120 work had been planned well in advance of the garden communities project, and it was a coincidence that they were now progressing at the same time.

Unless further work led to any significant changes to the four routes which it was proposed to take forward, there were no plans to hold a further public consultation. Councillor Bentley was confident that the process to date had been open and transparent, and that everyone who so wished had had the opportunity to make their views known. As the four options were currently very close based on the outcome of the public consultation and the technical work undertaken so far, it was important to take time to complete the additional technical work required, to ensure that the ultimate decision was accurate and not open to challenge. This decision would be taken in an open and transparent way. Councillor Bentley advised that the final decision for selecting the preferred route would be taken by Highways

England.

In closing, Councillor Bentley commented that this was a project requiring significant investment which would transform the local area.

At Councillor Bentley's invitation, Councillor Spence, Cabinet Member for Health and Adult Social Care and representing ECC on North Essex Garden Communities Ltd (of which he was Board Chair), addressed the meeting. He commented that although the exact shape of any housing development would be affected by the roads close to it, this would not be a factor on which the Company would seek to influence any decision. North Essex Garden Communities Ltd (NEGC) had had no discussions regarding the preferred route, and Councillor Spence had made no representations on the subject to Councillor Bentley, either on behalf of the Company or in a personal capacity. He and Councillor Bentley were taking care to keep themselves apart on this issue, and Councillor Bentley's decision would be made based on the evidence, including the outcome of the public consultation.

Councillor Spence emphasised that the content of Local Plan documents was a matter for the councils concerned, over which NEGC had no influence. Although the relevant councils had made clear that the maps issued were for illustrative purposes only (as they could only be at this stage), he understood why residents would have preferred to see all potential routes shown.

5 A120 Braintree to A12: report on option selection and consultation (FP/830/05/17)

Three members of the public (Mr Nee, Ms Bright and Ms Brayley) asked questions on this item - minute 4 above refers.

The Cabinet received an update on the A120 route options following public consultation for a new dual carriageway road between Braintree and the A12, to outline and assess the choices open to Essex County Council (ECC) for their post-public consultation announcement and to recommend the way forward.

The Deputy Leader and Cabinet Member for Economic Growth, Skills, Infrastructure and the Digital Economy responded as follows to questions by Councillors Mackrory, Pond and Young:

- The proposals to upgrade the A120 considered in 2005 had not proceeded due to decisions taken at central government level.
- Acknowledging that responsibility for taking the final decision on Essex County Council's preferred route option was to be delegated to him, the Deputy Leader and Cabinet Member for Economic Growth, Skills, Infrastructure and the Digital Economy affirmed his commitment to ensuring that the decision was taken in an open and transparent way. Although the exact details were yet to be finalised,

the decision would be publicised in advance, with the possibility of organising a public launch event. Responsibility for the ultimate decision on the preferred route lay, however, with Highways England.

- A written reply would be provided to Councillor Mackrory enlarging upon the assessment contained in the first bullet point of Option C within paragraph 7.5 of the report.
- The absence of an overwhelmingly strong single candidate from amongst the options consulted upon had led to the proposal to continue work on option appraisals in relation to four of the five routes (B, C, D and E) for presentation to Government. All aspects of the routes, including the detail concerning the proposed junctions within Braintree town and the implications in terms of cost and pollution, would be analysed.

The Chairman thanked Mr Nee, Ms Bright and Ms Brayley for attending the meeting.

Resolved:

1. That of the initial 68 route options assessed and the five options taken to consultation, only two broad options, corresponding to the central (routes B and C) and southern corridors (routes D and E), will now be pursued in greater detail to determine the best overall performing route;
2. That Option A (northern corridor) is the worst performing option and would appear unlikely to emerge as a candidate for preferred route status through further study;
3. That work continue to present a full set of route option appraisals to Government in accordance with Highways England processes; and
4. That a final decision on Essex County Council's preferred route option be delegated to the Deputy Leader and Cabinet Member for Economic Growth, Skills, Infrastructure, and the Digital Economy in consultation with the Executive Director for Infrastructure and Environment.

6 M11 J7A - Decision to acquire land by Compulsory Purchase and the publication of Compulsory Purchase Orders and associated documents (FP/968/10/17)

Information contained within a confidential appendix was taken into account in reaching a decision on this issue (minute 11 below refers).

The Cabinet considered a report which provided information on the current status of the M11 J7A project and sought authority for ECC to exercise its own highways construction etc powers and those of Highways England Company Limited to compulsorily purchase the land identified on the land plots drawing in Appendix A and detailed in Schedule 1 to Appendix B for the purpose of constructing the scheme. The report requested authorisation for the publication of the necessary Compulsory

Purchase Orders (CPOs) to avoid potential delays and excessive costs should land negotiations, which are ongoing, prove unsuccessful. Acquisition was required for both temporary and permanent situations (as denoted by the colour of the land plots on the CPO plan attached as Appendix B to the report).

The report also requested authority to proceed with the project through the Main Works tender process up to the decision to award the contract and to delegate authority to award the Enabling Works contract to the Director for Capital Delivery, Paul Crick.

In presenting the report, the Deputy Leader and Cabinet Member for Economic Growth, Skills, Infrastructure and the Digital Economy highlighted an amendment to recommendation 2.3, such that the words 'to the schedule and' be inserted after 'minor changes'. This is reflected in resolution 3 below.

In response to Councillor Pond, the Deputy Leader and Cabinet Member for Economic Growth, Skills, Infrastructure and the Digital Economy advised that the negotiations surrounding the scheme, and the desire to see this key project implemented without delay, may result in the County Council assuming certain additional highway responsibilities. He noted Councillor Pond's preference for a negotiated settlement with landowners where possible, and emphasised that no decisions regarding compulsory purchase would be taken prior to consultation with the Leader of the Council.

Resolved:

1. That the Director, Capital Delivery be authorised to enter into agreements with Highways England and the Secretary of State for Transport, under which the Council will deliver the M11 Junction 7A scheme at the expense of Highways England / the Secretary of State for Transport.
2. That, if the Director, Capital Delivery is unable to acquire the land by agreement on reasonable terms he may, after consulting the Leader of the Council, authorise the making of Compulsory Purchase Orders to acquire the land shown at Appendix A to report FP/968/10/17 for the construction of the M11 J7A scheme and the improvement of the B183 and other roads and to pursue the Orders to confirmation as well as any additional legal processes required as a result of the arrangements with Highways England Company Limited.
3. That the Director, Capital Delivery, be authorised to agree minor changes to the schedule and to the boundaries of the land to be acquired after consulting the Leader of the Council.
4. That the Director, Capital Delivery may progress enabling works to facilitate construction of the scheme.
5. That the tender process for the enabling works be progressed using the Eastern Highways Framework procurement process.
6. That authority be delegated to the Director, Capital Delivery to

award the enabling works contract to the tenderer who submits the bid which is evaluated as the highest scoring, subject to a maximum value of £3m.

7. That the Director, Capital Delivery be authorised to approve the illustrative design and undertake procurement of a contractor using a design and build contract using the restricted procedure in the Public Contracts Regulations 2015. This will include the determination of the price/quality split of the contract by the Director, Capital Delivery. A further report will be submitted to the Cabinet on the award of the contract to the successful tenderer.

7 Award of Service Orders under 0538 Residual Waste Disposal Framework (FP/947/09/17)

Information contained within a confidential appendix was taken into account in reaching a decision on this issue (minute 12 below refers).

The Cabinet was asked to approve the award of a number of Service Orders to various waste disposal providers following a mini-competition conducted pursuant to the 0538 Residual Waste Disposal Framework set up by Essex County Council (ECC) in October 2017.

The Cabinet Member for Environment and Waste responded as follows to questions raised by Councillors Mackrory, Pond and Young:

- The proposals contained within the report represented contingency arrangements required to meet ECC's statutory duties as a Waste Disposal Authority. They would only be implemented in the event that the TOVI waste treatment facility in Basildon were to become wholly or partly unavailable, at which point there would be cost implications in relation to additional liability for landfill tax. The Cabinet Member emphasised that the landfill option would be pursued only as a last resort if absolutely necessary.
- A written reply would be provided to Councillor Mackrory regarding any risk assessment undertaken to identify the likely need for implementation of the contingency arrangements.
- The proposed arrangements for meeting the costs associated with the contract would not disadvantage any other service areas within Waste Management.
- Refuse Derived Fuel (RDF) was of low grade and unsuitable for domestic use in this country. It would be exported abroad.
- There was a commitment to increase recycling rates by engaging with partners through the Essex Waste Partnership. Experience had shown that the most successful way of achieving this was by influencing behavioural change.

Resolved:

1. That 13 Service Orders totalling £19.7m be awarded to the relevant providers for the period February 2018 - 31 March 2019 as set out in

paragraph 3.4 of report FP/947/09/17, following a mini-competition conducted in accordance with the Residual Waste Disposal Framework (reference 0538), with the breakdown of the individual order values as set out in the confidential appendix to report FP/947/09/17.

2. That the actual spend under each order be determined by officers using delegated powers, as set out in paragraphs 3.5 - 3.7 of report FP/947/09/17.

8 Decisions taken by or in consultation with Cabinet Members (FP/957/10/17)

The report of decisions taken by or in consultation with Cabinet Members since the last meeting of the Cabinet was noted.

9 Date of Next Meeting

It was noted that the next meeting of the Cabinet would take place on Tuesday 19 December 2017 at 10.00am at County Hall, Chelmsford, CM1 1QH.

10 Exclusion of the Press and Public

Resolved:

That the press and public be excluded from the meeting during consideration of the remaining items of business on the grounds that they involve the likely disclosure of exempt information as specified in paragraph 3 of Schedule 12A of the Local Government Act 1972.

11 M11 J7A - Decision to acquire land by Compulsory Purchase and the publication of Compulsory Purchase Orders and associated documents (FP/968/10/17) - Confidential Appendix F (Public and press excluded)

The Cabinet noted Confidential Appendix F to report FP/968/10/17, which contained information exempt from publication referred to in that report and in decisions taken earlier in the meeting (minute 6 above refers).

12 Award of Service Orders under 0538 Residual Waste Disposal Framework (FP/947/09/17) - Confidential Appendix (Public and press excluded)

The Cabinet noted the confidential appendix to report FP/947/09/17, which contained information exempt from publication referred to in that report and in decisions taken earlier in the meeting (minute 7 above refers).

Chairman