

CABINET: MINUTES

Date: 8th September 2009

Time: 10.00 a.m. – 10.50 a.m.

Present: Chairman Councillor J M Tuck

Councillors: M Curtis, Sir P Brown, S. Criswell, D Harty, T Orgee, R Pegram, J Reynolds and

Apologies: Councillors L W McGuire and F H Yeulett

23. MINUTES 7th JULY 2009

The minutes of the meeting of the Cabinet held on the 7th July 2009 were approved as a correct record.

Matters Arising – Minute 8

As a follow up to comments made on the report "Cambridge Infrastructure Fund (CIF2) Cambridge Gateway" provided by Councillor Sadiq (set out in the appendix to Minute 8), Cabinet had been e-mailed an update indicating that the County Council Project Manager had followed up on the issues raised and had held a meeting with Cllr Sadiq on the 6th of August to discuss the scheme focusing upon the traffic impact of the proposals. As a consequence, Cllr Sadiq supported the joint approach put forward by the delivery team and the need for detailed analysis of traffic movements and undertaking a full public consultation on the proposals.

24. DECLARATIONS OF INTERESTS

The following Members declared interests as follows:

Councillor J. Reynolds declared a personal and prejudicial interest under Paragraph 8 and 10 of the Code of Conduct in respect of agenda items 8 'Development at Cambridge Southern Fringe – Section 106 Agreements (Glebe Farm / Clay Farm)' and 9 'Transport, Education and Community Services for North West Cambridge' on the agenda as a member of the Joint Planning Committee for Cambridge City Fringes who might at a later stage be required to make decisions on subsequent planning applications. Councillor Reynolds left the room and was not present during the discussion and subsequent decisions taken on these two reports.

Councillor Orgee declared a personal and prejudicial interest under Paragraph 8 and 10 of the Code of Conduct in agenda items 8 'Development at Cambridge Southern Fringe – Section 106 Agreements (Glebe Farm / Clay Farm)' and 9 'Transport, Education and Community Services for North West Cambridge' as a substitute member of the Joint Planning Committee for Cambridge City Fringes and as a Member of the Joint Development Control Committee for Cambridge Fringes who might at a later stage be required to make decisions on subsequent planning / development applications. Councillor

Orgee left the room and was not present during the discussion and subsequent decisions taken on these two reports.

Councillor Harty declared a personal interest under Paragraph 8 of the Code of Conduct in agenda item 7 'Developer Section 106 Deferral Requests' as a School Governor at The Round House Primary School located on the Loves Farm Development.

Councillor Tuck declared a personal and prejudicial interest under Paragraph 8 and 10 of the Code of Conduct in agenda item 10 'Community Infrastructure Levy: Consultation on Draft Regulations' as a builder. Councillor Tuck left the room and was not present during the discussion and subsequent decision taken on this report.

25. PETITIONS AND ISSUES FROM SCRUTINY COMMITTEES.

None received.

26. COUNCIL DECISIONS.

None.

27. HIGHWAYS OPERATIONAL MATTERS

Cabinet received a report setting out:

- proposed changes regarding re-wording the Highway Network Management Policies and Standards document in respect of levying charges for development control agreements
- a proposed protocol in respect of civil parking enforcement powers in relation to double parking and parking across drop kerbs following recent changes in regulations.

Cabinet was reminded that in 2008 various highway policies had been brought together in a single Highway Network Management Policies and Standards document setting out the charges levied for various highway services varied in line with inflation each year and which Cabinet reviewed annually. Cabinet noted that while the policy document set out the charges for development control (section 38, 106 & 278) agreements that were currently levied, the current wording did not reflect the long standing practice of calculating the fees for the agreements based on a bond sum rather than the works costs. As a consequence revised wording had been brought forward for consideration and agreement.

Cabinet noted that Sections 85 and 86 of the Traffic Management Act 2004 (TMA) came into force on 31st March 2008 prohibiting double parking and parking at dropped footways in special enforcement areas. The prohibitions in these sections were enforceable as if imposed by a Traffic Regulation Order. Following consultation, Government had introduced new regulations which came into operation on 1st June this year stating that traffic signs and road markings were not required to enforce the prohibitions.

Officers were however concerned over the number of challenges that might be raised through the adjudication service if the new regulations were enforced under civil parking arrangements (which currently only operate in Cambridge) and therefore put forward

operational protocols to be adopted initially to be reviewed through operational experience as part of the annual policy review in the Spring.

During the debate an issue of concern to a number of Cabinet members (which had been raised previously) was again discussed regarding the sometimes unacceptably long timescale taken to complete the construction of many new estates to a standard whereby they could be adopted as part of the public highway. It was highlighted that this was a source of great concern to many new, local house purchasers. In addition where roads were inadequate this often presented problems of access to emergency and refuse disposal vehicles. Also raised during the discussion was a similar issue concerning adoption of sewers.

Officers explained that currently while they sought to enter into Highways Act 1980 Section 38 agreements with developers providing new housing to enable roads to be brought up to a specified Council specification, currently there was no statutory requirement on developers to sign such agreements and this was not always made clear to new home buyers by their solicitors. This was an area officers could look at in terms of making the appropriate advice more widely available.

There was agreement that as this was a national problem officers should continue to press the Government on agreeing a national policy requiring developers to enter into a (currently voluntary) bond guarantee arrangement to ensure that roads on new estates were made up to a standard where they could be adopted. The Executive Director: Environment Services agreed that following the current meeting he would ask the Service Director: Highways and Access and Service Director: Growth and Infrastructure to further review policies on adopting highways and to also pursue with relevant Central Government officials the suggestion made by Cabinet regarding the need for legislation to require developers to enter into a bond guarantee.

It was resolved:

- i) To approve the clarification of the road adoption agreement charges set out in Appendix A to the Cabinet report and
- ii) Support the enforcement protocol for parking enforcement set out below with a further review to be undertaken in March 2010.

Drop kerbs

Only take enforcement action at private accesses where an access protection marking is provided to identify the location of a private access and at pedestrian drop kerbs where tactile paving is provided to highlight its existence.

Double parking

Only take enforcement action where vehicles are parked alongside other motor vehicles.

28. DEVELOPER SECTION 106 DEFERRAL REQUESTS

As a result of the economic slowdown, the County Council had received a number of requests from developers who were seeking to defer Section 106 payments that had already been negotiated with the Council in terms of financial contributions for community facilities / infrastructure (e.g. education, libraries and transport). Further to this, Cabinet now received a detailed report in order to consider eight requests with the recommendations utilising a process agreed by Cabinet on 7 July 2009. (Note the process agreed required that deferral requests in excess of £250,000 were considered individually in a report to Cabinet) In addition, it was confirmed that the relevant local County and district members had been informed of the requests along with parish council clerks and the applicable District Council Development Control Officers.

In answer to questions raised, it was confirmed that none of the deferrals being recommended for approval would financially disadvantage the County Council and none of the schemes in the report were in receipt of housing growth funding monies (which had been a concern to one member as this funding had recently been significantly cut back by Central Government). Where there would be a financial cost or negative impact to the community the recommendation was to reject the deferral request. In addition it was confirmed that where a deferral was being recommended, the system of index linking the contribution or the date negotiations commenced to the date of payment would continue, in order to ensure the County Council was protected against rising construction costs.

It was resolved to agree:

- i) Acceptance of the deferral request regarding Loves Farm (St Neots Market Town Transport Strategy Contributions) for the reasons set out in the report.
- ii) Acceptance of the deferral request regarding Loves Farm (Bus Revenue Contributions) for the reasons set out in the report.
- iii) Rejection of the deferral request regarding Loves Farm (Primary School Contributions) for the reasons set out in the report.
- iv) Acceptance of the deferral request regarding Loves Farm (Library Contribution) –for the reasons set out in the report.
- v) Rejections of the deferral request regarding Summersfield (Education Contributions) for the reasons set out in the report.
- vi) Rejection of the deferral request regarding Summersfield (Bypass Contribution) for the reasons set out in the report.
- vii) Rejection of the deferral request regarding Riverside Mill (Education Contribution) for the reasons set out in the report
- viii) Acceptance of the deferral request regarding Riverside Mill (St Neots Market Town Transport Strategy Contribution) –for the reasons set out in the report

29. DEVELOPMENT AT CAMBRIDGE SOUTHERN FRINGE – SECTION 106 AGREEMENTS (GLEBE FARM / CLAY FARM)

Cabinet received a report providing details of the current position that had been reached on the Section 106 negotiations for the proposed development of Clay Farm at Cambridge Southern Fringe.

Cabinet was informed in July that;

- the negotiations on the Clay Farm and Glebe Farm applications were progressing well but at the time had not reached a conclusion and therefore a further report would be brought to Cabinet.
- The developer, countryside, had lodged an appeal for non determination of the planning application and that if the negotiations could not be concluded the appeal would be held in September.

Cabinet noted that since July there had been a period of intense negotiation between officers of the County Council, the City Council and the developer resulting in the refinement of the section 106 requirements on the County Council's part. The outline of the revised Section 106 package was set out in Appendix 1 of the Cabinet report with the significant areas that had changed since Cabinet last considered the development as detailed in paragraph 2.1 of the report.

Cabinet was informed that despite the extensive negotiations and progress that had been made, the developer remained of the view that the Clay Farm and Glebe Farm developments were not viable in their current form in respect of the amount of affordable housing being proposed (40%) and was the reason they were currently still pursuing the appeal route.

As an oral update Cabinet was informed that as a result of the continued negotiations since preparing the latest Cabinet report, all matters in relation to the S106 transport payments (with the exception of the Guided Busway revenue contributions) had now been agreed by the Appellant. As a result, these matters would now not be debated at the Inquiry and therefore narrowed its focus. In addition the risk of not recovering the funding (for the Cambridgeshire Guided Busway scheme and Addenbrooke's Access Road) that the County Council was in the process of spending, had now been removed. Officers were continuing negotiations on all County related matters where there was still no agreement.

Given the current position Cabinet agreed to endorse the renegotiated s106 package as contained in Appendix 1 and that should the developer decide not to pursue the appeal and move towards completion of a Section 106 agreement, the contents of Appendix 1 would form the Heads of Terms for that Agreement. In addition, if the developer still continued with the appeal route, the contents of Appendix 1 would form the Council's requirements of development case for defending the appeal at the planning Inquiry currently due to commence on 28th September.

It was resolved:

To note the current position and endorse the proposed s106 heads of terms for the developments at Clay Farm and Glebe Farm, subject to the current appeal.

30. TRANSPORT, EDUCATION AND COMMUNITY SERVICES FOR NORTH WEST CAMBRIDGE

Cabinet received a report advising it of the cumulative impact of development proposals emerging in the North West of Cambridge on transport, education and community services infrastructure; and to seek approval to proceed with negotiations with the developers on the identified County Council requirements for education and community services provision.

Cabinet was reminded that at its 7th July 2009 meeting it took the decision to defer further consideration of the identified requirement for primary school places to serve NIAB1 in the light of recent confirmation of additional development capacity in the North West (over and above the previous total of 4,280 homes on NIAB and University land together). Cabinet had also requested a further report setting out a detailed assessment of the transport, education and community infrastructure requirements to meet the needs across the North West quadrant of Cambridge, including land owned by the University.

Cabinet noted that the position was now much clearer in terms of the required future primary and secondary education provision. More detailed and up to date information showed the need for up to 630 primary school places as opposed to the previous proposal for a 420 place (2FE) primary school which was unlikely to be adequate in the event that NIAB2 was delayed or was not developed. It was further noted that while for primary education provision the preferred solution would be 2 equal sized primary schools for NIAB1 and NIAB2, this relied on NIAB2 being developed at an appropriate time to enable certainty that pupils from NIAB1 could use its school. Until there was sufficient certainty, Cabinet agreed that the Council should pursue a solution that enabled all pupils from NIAB1 to be catered for within a school on the development. Officers had concluded that a site should be secured capable of accommodating a 3FE primary school on the NIAB1 site. The option of building a 2FE school, with the capability of providing an additional 1FE subject to monitoring of growth in the number of pupils, was therefore now being pursued with the developers of NIAB1, with a view to removing the Council's outstanding objection in relation to primary education to their planning application

Cabinet noted that transport modelling was previously carried out in 2006/7 to assess the impact of development proposals in the North West quadrant and to identify potential measures to mitigate the impact. The initial study;

- covered a development range with an upper limit of 5,280
- informed the drafting of relevant policies within the Area Action Plan, and;
- informed the County Council's response to the NIAB1 planning application.

The modelling showed that;

- Without any development in north west Cambridge there would be an increase in traffic, with significant queuing in Huntingdon Road and at Girton and Histon Interchanges.
- at the upper level of development, the impact was not significantly greater than that from the general growth in Cambridge (an additional 4% increase in vehicles over and above the general forecast increase of 32%).

Cabinet supported the importance of promoting sustainable modes of travel in achieving reduced car use.

Cabinet members however expressed their concerns regarding the conclusions of the most recent modelling (which extended the initial study in early 2009 to enable assessment of the

most recent proposed level of development within the Area Action Plan) and its conclusions that an additional 700 dwellings (tested prior to the capacity of the larger development footprint having been determined) would not cause significant additional queuing over that already identified in the initial model. They therefore asked whether it would be possible to undertake a further appraisal of the transport implications.

Officers in reply responded that officers could do so, but were already continuing to monitor any possible increase in congestion arising from the enlarged size of the development on a regular basis, to ensure transport infrastructure requirements were still appropriate.

It was resolved to:

- i) Endorse the community facilities needed to meet the needs of the development being proposed.
- ii) To note the conclusions of the transport infrastructure assessment and to request a further revised appraisal of the transport implications.
- iii) Endorse the identified requirements for early years, primary and secondary provision, and in particular:
 - to grant approval for officers to proceed with negotiations with the developers of the National Institute of Agricultural Botany (NIAB1) site on the basis of provision of a primary school capable of providing for up to 630 pupils aged 4 – 11.
 - The need for a 1200 place (8 form entry (FE)) secondary school and the associated requirement for an 8 hectare (ha) site.

CHANGE OF CHAIRMAN

Due to the Chairman Councillor Tuck having already declared a personal and prejudicial in respect of the next report Councillor Reynolds took over the chairing of the report 'Community Infrastructure Levy: Consultation On Draft Regulations' with Councillor Tuck having left the room.

31. COMMUNITY INFRASTRUCTURE LEVY: CONSULTATION ON DRAFT REGULATIONS

Cabinet received a report advising it of the detailed Government proposals for the introduction of a Community Infrastructure Levy (CIL) and which sought local authorities' views with the consultation period ending on 23rd October 2009 with the regulations to be brought into effect in April 2010.

Cabinet noted that CIL was to largely replace the current system of securing contributions from development through Section 106 agreements and would be a charge on development which local planning authorities can choose to set and was designed to help fund infrastructure identified in local development plans.

It was highlighted that the County Council together with the district councils had successfully been operating the current Section 106 arrangements in Cambridgeshire for a number of years with considerable s106 funds being received from developers annually to meet local infrastructure needs. However it was recognised that the system had the

potential for improvement, as demonstrated by work led by Cambridgeshire Horizons on developing a Variable Tariff scheme to be applied across the whole of Cambridgeshire.

Members of Cabinet expressed the following views during the discussions noted the following responses to issues raised:

- Real concerns were expressed by one member regarding who would benefit from the new arrangements and that the proposed changes could result in considerable workload implications for officers.
- Receiving confirmation that the proposals appeared to omit several significant development areas for which the County Council was the planning authority (e.g. schools and for which it was not clear whether contributions would be required).
- Questioning whether councils could decide not to implement CIL. In response it was indicated that while this was possible, it was very unlikely, as by opting out they would reduce the ability to secure local community facilities.
- Concern that as the County Council, together with the districts and Cambridgeshire Horizons were engaged in or about to start, negotiation with developers on planning obligations for a number of major developments in Cambridgeshire including, the Southern Fringe and North West Cambridge (NIAB and the University) and Northstowe, adding an additional degree of uncertainty in relation to the provision of necessary services and infrastructure at the current stage was extremely unhelpful in meeting Government targets for growth.
- Concerns that the Government could use the new process as a means of asset redistribution.
- Concerns that the new regulations prevented the County Council from being able to participate in negotiations on individual sites as it would only in future have a strategic role.

Cabinet agreed to the need for a co-ordinated response via Cambridgeshire Horizons (who had indicated a willingness to prepare an overarching response to include the District Councils and the County Council) and asked that officers consult with the Chief Executive of Cambridgeshire Horizons in order to seek to have a relevant report included as a formal item at the next Cambridgeshire Horizons meeting.

It was resolved:

- i) To agree the current proposed draft response to the consultation.
- ii) To delegate to the Cabinet Member for Growth Infrastructure and Strategic Planning in consultation with the Executive Director: Environment Services the authority to agree any adjustments to the final response.

CHANGE OF CHAIRMAN

Councillor Tuck returned and chaired the rest of the meeting.

32. CLIMATE CHANGE ACT: ADAPTATION REPORTING POWER – RESPONSE TO NATIONAL PROPOSALS

Cabinet received a report providing details for the Government's proposed Adaptation

Reporting Power and seeking agreement to a response to be sent to the Government further to their current consultation exercise on the planned use of the power with the consultation closing on Wednesday 9th September, 2009.

Cabinet noted that The Climate Change Act, introduced in 2008, gave the Government the power to ask public sector organisations, and other statutory bodies such as energy companies, to report on the work they were doing to adapt to our changing climate and was known as the Adaptation Reporting Power. The introduction of the Reporting Power would ensure that adaptation becomes a key issue across a range of key sectors.

Cabinet noted that the consultation outlined the proposed list of 'reporting authorities' affected by the Reporting Power, the strategy for issuing the Reporting Direction, and the draft statutory guidance to assist authorities in assessing their level of preparedness for climate change. The Adaptation Reporting Power would require certain organisations to provide a detailed report to Government on how they have assessed the impacts of climate change on the delivery of their functions, and how they are responding to this.

Cabinet noted that local authorities were not included in the priority reporting list which was recognition by DEFRA of the important work on climate change being undertaken by many authorities and also taking into account that local authorities already reported progress against National Indicator 188. However it was highlighted that poorly performing authorities might be asked to report formally in the future and this was supported in the proposed response which also suggested a number of factors that needed to be taken into account if, at a later date, the reporting power was widened to include all local authorities.

Great concern was expressed that the Highways Agency (one of those included on the new list) were only being invited to report voluntarily, as it was considered important that they should be included as a required responder. The County Council needed to be assured that the Agency had taken into account climate impacts and had responded to this in their planning for the four strategic routes in Cambridgeshire. The response commented specifically on the inclusion of the health sector and the Highways. Another key issue was growth, especially housing and how adaptation to climate change was taken into account in buildings, given the particular susceptibility to flooding and water scarcity in Cambridgeshire.

An oral update was provided indicating that the timing of the consultation had been such that there had not been an opportunity for the paper to be discussed at the Growth and Environment Policy Development Group PDG on the 16th September. However to ensure views were sought consultation had been undertaken with PDG members and the relevant Liberal Democrat spokespersons via e-mail. Comments had been received from councillors Pegram, Bates and Harrison who all supported the response. Cllr Harrison commenting specifically on the issue of adaptation in housing, Cllr Bates raising issues around the need for the Highways Agency to report, the involvement of UK Climate Impacts Programme in advising reporting organisations, and housing. The comments had been taken on board in the final version of the response.

Cabinet noted that the County Council was making steady progress in its own approach to adaptation, with a series of internal workshops to begin the risk assessment process across Services in the autumn, and aiming to have an adaptation action plan in place by 2010.

It was resolved:

To agree the suggested response to the Department for Environment, Food and Rural Affairs (DEFRA) set out in Appendix 1 to the Cabinet report.

33. DELEGATIONS FROM CABINET TO CABINET MEMBERS / OFFICERS

To report progress on matters delegated to individual Cabinet Members and / or to officers to make decisions on behalf of the Cabinet up to May 2009.

In respect of item 6 'The Sale of Land to Duxford Imperial War Museum' an oral update indicated that negotiations were now at an advanced stage for the exercise of the option to purchase, with formal completion expected later in the current financial year. The action was still ongoing.

In respect of item 7 'Aiming High For Disabled Children And Young People' it was orally reported that a response had been received to the letter dated 29th April 2009 sent to the Chief Executive of Cambridgeshire PCT in the name of the Cabinet Member for Children on which had sought clarification regarding their proposed use of Aiming High Funding and the amount of funding received. It had been clarified that the funding received by the PCT was not ring-fenced. However Cabinet was reminded that the Children and Young People's Plan 2009-2012 – 'Big Plan 2' was now progressing funding initiatives and that closer working was taking place with health partners (in terms of joint commissioning) with a jointly funded post to be appointed to help track resource and ensure through Cambridgeshire Together that there would be greater transparency in the future. Attention was drawn to the recognised excellent work already being undertaken with partners in the east of the region in relation to inclusive respite care / short break funding initiatives. The action was seen as having been discharged.

It was resolved:

To note the progress on delegations to individual Cabinet Members and / or to officers previously authorised by Cabinet to make decisions / take actions on its behalf.

34. DRAFT CABINET AGENDA 29TH SEPTEMBER 2009

The draft agenda for the 29th September was noted with the following amendments: Agenda Item 8 titled 'Shirley Community Primary School – Final Decision' - Moved to the October Cabinet meeting. Agenda Item 9 'The Learning Revolution' – rescheduled for the November Cabinet meeting. Agenda Item 21 titled 'Shared Services' taken off agenda and was currently to be programmed for a later Cabinet meeting. (Note: has since been programmed for Additional reports not included on the published draft agenda: Recession Initiatives

Chairman
29th September 2009