

RECORD OF EXECUTIVE DECISION (THE DECISIONS LIST)

Date:	Decision Maker:	Subject to Call-in*
21 October 2024	Cabinet	Yes

SUBJECT OF DECISION:

Leader of the Council's Items - A.1 - Highlight Priority Actions 2024/25 towards Corporate Plan Themes - Monitoring Report at the Half Year Point and Reference under Section 5A of the Local Government and Housing Act 1989

Decision:

That Cabinet:

- (a) notes the contents of the report together with the highlighted realignment of particular milestones for particular highlight priority actions, as set out in the Appendix to the Portfolio Holder's report (A.1);
- (b) formally receives and notes the Monitoring Officer's report issued under Section 5A of the Local Government and Housing Act 1989 in respect of the position in relation to Council's omission regarding the formulation and implementation of a Crime and Disorder Strategy for the Council, as required under Sections 5 and 6 of the Crime and Disorder Act 1998; and
- (c) in response, requests an update from the Portfolio Holder for Partnerships on the proposed form of action to resolve the historical omission at the next meeting of Cabinet complete with timescales.

Reasons for Decision:

In order to:-

- (i) to set out for the public record, the progress with the approved specific highlight priorities to deliver against the Corporate Plan 2024-28 Themes; and
- (ii) formally receive the Section 5A report from the Council's Monitoring Officer and to consider its contents and Cabinet's response thereto.

Alternative Options Considered:

Consideration had been given to not submitting this report to Cabinet. However, that would have been contrary to the approach adopted by the Council for monitoring and reporting on performance against the milestones for the highlight priorities for the year. It was felt that this information rightly should be in the public domain.

Conflicts of Interest Declared (and Dispensations Granted by the Monitoring Officer)

Councillor Barry declared a Discloseable Pecuniary Interest in the subject matter of this item insofar as he was a Trustee of the Brightlingsea Lido and the Lido Trust was referred to within the Appendix.

Councillor Barry had been granted a Dispensation by the Monitoring Officer pursuant to Section 33(2)(e) of the Localism Act 2011, to enable him to stay in the room and vote on this item, as reference to the Brightlingsea Lido, of which he was a Trustee was mentioned but only in noting a factual position, rather than regarding making any new decisions about the Lido.

Consultation with Ward Member:

N/A

Contact Officer:

Keith Simmons, Head of Democratic Services and Elections & Deputy Monitoring Officer

Date:	Decision Maker:	Subject to Call-in*
21 October 2024	Cabinet	No

SUBJECT OF DECISION:

Cabinet Members' Items - Report of the Corporate Finance & Governance Portfolio Holder - A.2 - Financial Performance Report 2024/25 - General Update as at the end of July 2024

Decision:

That Cabinet:-

- (a) notes the Council's in-year financial position at the end of July 2024;
- (b) approves the proposed adjustments to the 2024/25 budget, as set out in Appendix 1H to the Portfolio Holder's report (A.2), and requests Officers to review the potential on-going impact in 2025/26 and beyond where necessary as part of developing the forecast and detailed estimates for further consideration by Cabinet later in the year;
- (c) agrees that the Council continues to be a member of the Essex Business Rates Pool in 2025/26 if it remains financially advantageous to do so;
- (d) notes that £0.165m of unspent external funding previously received via the North Essex Health & Wellbeing Alliance, that has subsequently been carried forward into 2024/25, is being returned to them in accordance with the original agreement / MOU agreed by Cabinet on 17 September 2021;
- (e) notes the payment of £0.092m to East Suffolk District Council in-line with the previously agreed Freeport East Local Growth and Investment Strategy;
- (f) notes the updated financial forecast, as set out in this report, and requests Officers, in consultation with Portfolio Holders to further develop the financial forecast proposals

alongside the development of the Council's priorities; and

- (g) invites the views of the Resources and Services Overview and Scrutiny Committee on the information set out in this report along with the Council's wider financial position as part of its work programme for the year.

Reasons for Decision:

In order to set out the latest financial position for the Council; respond to emerging issues in 2024/25; and to develop the budget and long-term forecast from 2025/26.

Alternative Options Considered:

These were broadly covered in the main body of the Portfolio Holder's report.

**Conflicts of Interest Declared
(and Dispensations Granted by the Monitoring Officer)**

Councillor Barry declared a Discloseable Pecuniary Interest insofar as he was a Trustee of the Brightlingsea Lido which was referred to in Appendix 1D.

Councillor Barry had been granted a Dispensation by the Monitoring Officer pursuant to Section 33(2)(e) of the Localism Act 2011, that enabled him to stay in the room and vote on this item as the reference to the Brightlingsea Lido, of which he was a Trustee regarded noting a factual position, rather than making any new decisions about the Lido.

Consultation with Ward Member:

N/A

Contact Officer:

Richard Barrett, Assistant Director (Finance and IT) & Section 151 Officer

Date:	Decision Maker:	Subject to Call-in*
21 October 2024	Cabinet	Yes

SUBJECT OF DECISION:

Cabinet Members' Items - Report of the Housing and Planning Portfolio Holder - A.3 - Tendring District Council's Interim Policy on Biodiversity Net Gain (BNG)

Decision:

That the Cabinet:-

- 1) notes the contents of this report which, amongst other things, explains the Council's obligations around Biodiversity Net Gain (BNG), the role of Habitat Banks and the potential consideration of Council-owned land for BNG purposes;

- 2) agrees that proposed 'Policy on Biodiversity Net Gain (BNG)' (attached as Appendix 1 to the Portfolio Holder's report (A.1)) is adopted as the Council's interim corporate position pending the outcome of the Local Plan review, for the purposes of dealing with matters relating to BNG;
- 3) refers the aforementioned policy to the Planning Policy and Local Plan Committee for its consideration for inclusion in the Tendring District Local Plan as part of its current review;
- 4) invites the Planning Committee, at its earliest convenience, to consider and determine how it will exercise its power in respect of Council decisions on entering into legal agreements with landowners under Section 106 of the Town and Country Planning for the purposes of setting up Habitat Banks, guided by the aforementioned policy and the advice of Officers – including the extent to which the Committee deems it appropriate for such decision-making powers to be delegated to Officers; and any arrangements for public consultation on specific proposals; and
- 5) notes that the Portfolio Holder responsible for Housing and Planning in liaison with Officers will, in due course, consider and publish details of the fees to be charged to developers and landowners to cover the Council's costs in respect of monitoring BNG in line with its statutory obligations.

Reasons for Decision:

In the absence of a clear local policy or position on the subject of Biodiversity Net Gain (BNG) or any published expectations or criteria for the consideration of proposals for Habitat Banks, the Council can only refer to legislation and guidance produced by the Government when dealing with planning proposals that have BNG requirements and proposals for Habitat Banks from Tendring landowners. It is therefore difficult for Officers to have constructive conversations with landowners looking to set up Habitat Banks on the necessary content of legal agreements and associated expectations around monitoring fees – which is holding up the opportunity for local landowners to contribute towards BNG and enter into the market for biodiversity units to the benefit of the rural economy.

This policy will address these matters by putting in place a clear policy position to guide Officers and third parties in their deliberations in the short-term whilst allowing it to be considered fully in the context of the forthcoming Local Plan review and for it to be challenged and amended as appropriate through the plan-making process prior to inclusion and formal adoption as part of the Local Plan.

Alternative Options Considered:

To progress the proposed policy on BNG through the Local Plan review process only - awaiting its publication as part of the first draft consultation on the Local Plan in 2025 before it can be referred to for the purposes of matters relating the BNG and Habitat Banks.

The main consequence would be Officers having to discuss the setting up of Habitat Banks with interested landowners and negotiating the necessary legal agreements in the absence of any clearly agreed corporate position or direction from elected Members.

This would leave only national legislation and guidance, with no local dimension, upon which to guide discussions around BNG and Habitat Banks until some point in 2025, which is likely to delay meaningful progress in assisting local landowners in Tendring to set up their Habitat Banks, facilitate habitat creation in Tendring and benefit economically from entering into the competitive market for the sale of biodiversity units.

**Conflicts of Interest Declared
(and Dispensations Granted by the Monitoring Officer)**

None

Consultation with Ward Member:

N/A

Contact Officer:

Gary Guiver, Director (Planning)

Date:	Decision Maker:	Subject to Call-in*
21 October 2024	Cabinet	No

SUBJECT OF DECISION:

Cabinet Members' Items - Report of the Housing and Planning Portfolio Holder - A.4 - Making (Adoption) of the Ardleigh Neighbourhood Plan

Decision:

That Cabinet -

- (a) notes the result of the referendum held on Thursday 12th September 2024; and
- (b) duly agrees that the Ardleigh Neighbourhood Plan (attached as Appendix 1 to the Portfolio Holder's report (A.4)) be 'made' and that the necessary publicity and notifications are administered in accordance with Section 20 of the Neighbourhood Planning Regulations Town and Country Planning (Local Planning) (England) Regulations 2012.

Reasons for Decision:

In order to comply with the Neighbourhood Planning Regulations Town and Country Planning (Local Planning) (England) Regulations 2012 – ensuring that the Council, as Local Planning Authority, has made (adopted) the Neighbourhood Plan within eight weeks of the successful referendum held on 12 September 2024.

Alternative Options Considered:

None – as the Council is compelled to agree to the making of the Neighbourhood Plan following the local referendum.

**Conflicts of Interest Declared
(and Dispensations Granted by the Monitoring Officer)**

None

Consultation with Ward Member:

Yes

Contact Officer:

Gary Guiver, Director (Planning)

Date:	Decision Maker:	Subject to Call-in*
21 October 2024	Cabinet	No

SUBJECT OF DECISION:

Cabinet Members' Items - Report of the Housing and Planning Portfolio Holder - A.5 - Making (Adoption) of the Elmstead Neighbourhood Plan

Decision:

That Cabinet -

- (a) notes the result of the referendum held on Thursday 12th September 2024; and
- (b) duly agrees that the Elmstead Neighbourhood Plan (attached as Appendix 1 to the Portfolio Holder's report (A.5)) be 'made' and that the necessary publicity and notifications are administered in accordance with Section 20 of the Neighbourhood Planning Regulations Town and Country Planning (Local Planning) (England) Regulations 2012.

Reasons for Decision:

In order to comply with the Neighbourhood Planning Regulations Town and Country Planning (Local Planning) (England) Regulations 2012 – ensuring that the Council, as Local Planning Authority, has made (adopted) the Neighbourhood Plan within eight weeks of the successful referendum held on 12 September 2024.

Alternative Options Considered:

None – as the Council is compelled to agree to the making of the Neighbourhood Plan following the local referendum.

**Conflicts of Interest Declared
(and Dispensations Granted by the Monitoring Officer)**

None

Consultation with Ward Member:

Yes

Contact Officer:

Gary Guiver, Director (Planning)

* The call-in procedure will not apply to a decision where the Chairman of the relevant overview and scrutiny committee's agreement has been obtained that any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interest, (Rule 16 (h) of the Overview and Scrutiny Procedure Rules) or any decision made where such decision is to be referred to the Council or one of the overview and scrutiny committees for their consideration.