MINUTES OF THE MEETING OF THE PLANNING COMMITTEE, HELD ON TUESDAY, 8TH JULY, 2025 AT 5.00 PM IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA, CO15 1SE

Present:	Councillors Fowler (Chairman), White (Vice-Chairman), Alexander (except item 22), Everett, Goldman and Smith (except item 22)
In Attendance:	Gary Guiver (Corporate Director (Planning & Community)), John Pateman-Gee (Head of Planning & Building Control), Joanne Fisher (Planning Solicitor), Jacob Jaarsma (Planning Team Leader) (except items 22 - 24), Bethany Jones (Democratic Services Officer) and Katie Koppenaal (Democratic Services Officer)

15. DEFERMENT OF PLANNING APPLICATION A.1 - 24/00560/OUT - WELLWICK, COLCHESTER ROAD, ST OSYTH, CO16 8HS

The Chairman (Councillor Fowler) informed the meeting that she was proposing to defer consideration of Planning Application **A.1 – 24/00560/OUT – Wellwick, Colchester Road, St Osyth, CO16 8HS** until another meeting of the Committee on the grounds that the Committee had not been able to get access on the site visit for the St Osyth Priory to look at the Heritage building (associated, and to be enabled, as part of the proposal).

It was moved by Councillor Alexander, seconded by Councillor Everett and unanimously:-

RESOLVED that any consideration of application **A.1 – 24/00560/OUT – Wellwick, Colchester Road, St Osyth, CO16 8HS** be deferred until another meeting of the Committee to enable a further site visit to be arranged that will include the necessary access to the Priory Grounds.

16. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology for absence was received from Councillor Wiggins (with no substitution).

17. MINUTES OF THE LAST MEETING

It was moved by Councillor Smith, seconded by Councillor Goldman and unanimously:-

RESOLVED that the minutes of the meeting of the Committee, held on Tuesday 10 June 2025, be approved as a correct record and be signed by the Chairman.

18. DECLARATIONS OF INTEREST

Councillors Alexander and Smith both declared an Interest in relation to Planning Application **24/01890/FUL – Land at High Street Car Park, Carnarvon Road, Clacton-on-Sea, CO15 6QF**. Both Councillors informed the Committee that they would withdraw from the meeting and leave the room whilst the Committee deliberated on this application and reached its decision.

Councillor White declared for the public record that he had not attended the site visit in relation to Planning Application **25/00755/FUL – Land to the North-East of Bloomfield Cottage, Grange Road, Lawford**. He therefore informed the Committee that he would remain in the room but not take part in the deliberation and decision-making on this application.

19. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were no such Questions on Notice submitted by Councillors on this occasion.

20. REPORT OF THE CORPORATE DIRECTOR (PLANNING AND COMMUNITY) - A.1 - 24-00560-OUT - WELLWICK, COLCHESTER ROAD, ST OSYTH, CO16 8HS

This item had been deferred for the reasons set out in Minute 15 above.

21. REPORT OF THE CORPORATE DIRECTOR (PLANNING AND COMMUNITY) - A.2 - 25-00755-FUL - LAND TO THE NORTH-EAST OF BLOOMFIELD COTTAGE, GRANGE ROAD, LAWFORD

Earlier on in the meeting as reported under Minute 18 above, Councillor White had declared for the public record that he had not attended the site visit for this application. He therefore remained in the room but did not take part in the deliberations and decision making on this application.

The Committee heard that planning permission (ref. 21/01718/FUL) had been granted on 17 April 2024 for the construction of a two-bedroom bungalow on a smaller site, with a three-year implementation timeframe. That permission remained extant and was considered by Officers to carry significant weight in the planning balance, despite the site being located outside any designated Settlement Development Boundary (SDB). The current proposal sought to replace this with a larger, two-bedroom dwelling on an expanded site, incorporating substantial landscape enhancements. Crucially, the net effect remained a single dwelling in this location. From a general sustainability standpoint, the overall impact was considered by Officers to be comparable to that of the approved two-bedroom bungalow.

Members were told that the proposed development involved the removal of unsightly existing structures and was regarded by Officers as a more effective and visually appropriate use of the land compared to the extant approval. The scheme would have no adverse impact on residential amenity, and the access and highway safety implications remained broadly in line with the extant approval. Subject to conditions, the proposal was also considered by Officers to offer landscape and biodiversity benefits that arguably exceeded those of the previously approved scheme.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council's Planning Team Leader (JJ) in respect of the application.

There were no updates circulated to Members on this application.

There were no public speakers on this application.

Matters raised by Members of the Committee:-	**Officer's response thereto:-**
The fallback position sets a precedent that it is acceptable in planning terms to develop this site against planning policy; can you explain to me why that is?	*Because there is planning permission in place on the site, which was only granted last year, it has a three-year time limit, this means in planning terms a two-bedroom dwelling has been granted here. In terms of sustainability, it is a key material consideration and has considerable weight, mainly because the planning permission remains extant and there is a realistic prospect of that planning permission being implemented. If you were looking purely at the spatial planning policies and the Local Plan, the development here is not supported by the Local Plan. It is strongly advised to Members to not ignore the material planning considerations because the Town and Country Planning Act makes it clear that Members should have regard to all planning considerations. A dwelling is on its way and the principle of development here is acceptable.*
Do Members have to have regard to the material planning considerations?	*By law, Members must have regard to material planning considerations.* *If Members take into consideration something that is not a material planning consideration or fail to take into account something that is a planning consideration, then the decision would be open to be challenged. Material planning consideration is legally required.*
Are there any updates on the representations?	*Since the publication of the report (A.2), there have been no further correspondence or third-party consultations received. The Lawford Parish Council response has been covered and addressed within the report.*

It was moved by Councillor Alexander, seconded by Councillor Smith and unanimously:-

RESOLVED that:

1) the Head of Planning and Building Control be authorised to grant planning permission subject to the conditions as stated at paragraph 10.1 of the Officer report (A.2), or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and

2) the sending of any informative notes to the applicant as may be deemed necessary.

22. REPORT OF THE CORPORATE DIRECTOR (PLANNING AND COMMUNITY) - A.3 - 24-01890-FUL - LAND AT HIGH STREET CAR PARK, CARNARVON ROAD, CLACTON-ON-SEA, CO15 6QF

Earlier on in the meeting, as detailed under Minute 18 above, Councillors Alexander and Smith had both declared an Interest in this application. They thereupon withdrew from the meeting and left the room whilst the Committee deliberated on this application and reached its decision.

Members were told that this application was before the Planning Committee on the basis that the applicant and owner of the site was Tendring District Council. The application sought the demolition of the existing multi-story car park and all other structures, to be replaced by a new multi-story car park providing 301 spaces, the erection of 28 affordable residential units and the erection of 1,330sqm of flexible commercial floorspace.

Officers made Members aware that, since the resolution of approval subject to securing a Section 106 legal agreement for affordable housing provision and Biodiversity Net Gain (BNG) by the Planning Committee in March 2025, it had not been possible to enter into such a Section 106 legal agreement to secure the monitoring of the BNG. That was due to Tendring District Council being the landowner, and alternative arrangements between the applicant and legal services to secure those legal obligations had been agreed. That was because the delivery of the onsite habitat creation and enhancement works, and arrangements for its subsequent management and monitoring, required approval by the Local Planning Authority through the discharge of the statutory BNG condition. To facilitate those agreements to achieve the same outcome as the Planning Committee had resolved in March 2025, a change in resolution was required. That included a further planning condition requiring the submission of a 30-year Habitat Monitoring and Management Plan (HMMP) prior to the commencement of development.

To address the outstanding matter, it was proposed to allow BNG to be completed solely through the use of planning conditions instead of a legal agreement. Condition 18 of the earlier report, which required the submission of a biodiversity gain plan, was proposed to remain. However, it was now recommended to include one further condition requiring the submission of a 30-year Habitat Monitoring and Management Plan (HMMP) prior to the commencement of development. The full details of that condition were shown in the Officer report (Condition 20), however it would require details of features to be managed, ecological trends/constraints that might influence management, details of monitoring and a timetable, as well as reporting on specific years.

The Committee was informed that all other elements of the proposed development remained exactly as per the report put before Members of the Planning Committee in March 2025.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council's Head of Planning and Building Control (JP-G) in respect of the application.

An Officer Update Sheet had been circulated to Members prior to the meeting which informed the Committee as follows:-

"a) The recommendation is to be amended to include reference to RAMS and BNG monitoring fees, and to read as follows:

***Recommendation:** Approval subject to securing Planning Obligations*

1. *On appropriate terms below and those as may be deemed necessary to the satisfaction of the Head of Planning and Building Control to secure the completion of a legal agreement under the provisions of Section 106 of the Town and Country Planning Act 1990 dealing with the following matters:*

    - *Affordable Housing provision;*
    - *RAMS; and*
    - *BNG Monitoring Fee*

2. *That the Head of Planning and Building Control be authorised to grant planning permission subject to the agreed section 106 agreement and conditions as stated at paragraph 2.2, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,*

3. *The informative notes as may be deemed necessary.*

Or;

4. *That in the event of the Planning obligations or requirements referred to in Resolution (1) above not being secured and/or not secured within 12 months that the Head of Planning and Building Control be authorised to refuse the application on appropriate grounds at their discretion.*

b) Condition 19, which requires securing RAMS at a later date, is to be removed on the basis that it is instead being dealt with under the legal agreement as per the recommendation above.

c) Condition 20 shall be revised to read as follows:

CONDITION: No development shall commence until a 30 year Habitat Management and Monitoring Plan (HMMP), prepared in accordance with the approved Biodiversity Gain Plan under Condition 18, has been submitted to and approved in writing by the local planning authority and shall contain the following:

a) a description and evaluation of the planned habitat works for the creation and/or enhancement of the onsite habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
b) the management measures to maintain the onsite habitat creation and/or enhancement works for a period of a least 30 years from the completion (defined for this purpose as first use and/or occupation unless agreed in writing by the LPA) of the development including:
i) ecological trends and constraints on site that may influence management;
ii) aims, objectives and targets for management e.g. links with local and national species and habitat action plans;
iii) a description of the management operations necessary to achieving aims and objectives;

iv) prescriptions for management actions;
v) preparation of a works schedule, including annual works schedule;
vi) mechanisms of adaptive management to account for necessary changes in work schedule to achieve the required targets;
c) details of the monitoring methodology, to measure the effectiveness of the management of the onsite habitat creation and/or enhancement works together with the timetable for each element of the monitoring programme including when first implemented with provision for monitoring reports to be provided to the local planning authority in writing on year 1, 2, 3, 5, 7, 10, 15, 20, 25 and 30, with biodiversity reconciliation calculations at each stage; and
d) details of the roles and responsibilities of the people or organisation(s) delivering the HMMP including implementation and monitoring;
The approved HMMP shall be strictly adhered to at all times and implemented in full for its duration no later than the first use/occupation of the development; and
e) There shall be a completion report evidencing the completed habitat enhancements prior to first use and/or occupation unless agreed in writing by the LPA.

REASON: To enhance biodiversity in accordance with the National Planning Policy Framework and to achieve the Biodiversity Net Gain objectives set out in Schedule 7A of the Town and Country Planning Act 1990 (as amended)."

Matters raised by Members of the Committee:-	**Officer's response thereto:-**
Has the change made any difference to affordable housing?	*No, it is still the exact same as the previous application.*

It was moved by Councillor White, seconded by Councillor Fowler and unanimously:-

RESOLVED that:-

1) subject to securing Planning Obligations on appropriate terms below and those as may be deemed necessary to the satisfaction of the Head of Planning and Building Control to secure the completion of a legal agreement under the provisions of Section 106 of the Town and Country Planning Act 1990 dealing with the following matters:

    - Affordable Housing provision;
    - RAMS; and
    - BNG Monitoring Fee.

2) the Head of Planning and Building Control be authorised to grant planning permission subject to the agreed Section 106 agreement and conditions as stated at paragraph 2.2, the updates to conditions in the Officer Update Sheet, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained;

3) the sending of any informative notes to the applicant as may be deemed necessary; and

4) in the event of the Planning Obligations or requirements referred to in Resolution (1) above not being secured and/or not secured within 12 months that the Head

of Planning and Building Control be authorised to refuse the application on appropriate grounds at their discretion.

23. REPORT OF THE CORPORATE DIRECTOR (PLANNING AND COMMUNITY) - A.4 - REVISED PLANNING SERVICE ENFORCEMENT POLICY AND THE ASSOCIATED HARM ASSESSMENT

Members were told that the National Planning Policy Framework (NPPF) required planning authorities to consider publishing a local planning enforcement policy or plan which described how the Council would manage planning enforcement in a way which was appropriate to their specific area. The NPPF also made clear that planning enforcement was discretionary and local authorities should act proportionately in responding to breaches of planning control.

The Committee heard that the purpose of the policy was to provide elected Members and the wider public with a clear understanding of how planning enforcement would be delivered and the criteria used in making assessments of potential breaches of planning law.

It was reported that the Planning Service Enforcement Policy document had been updated from the version last adopted with the approval of the Planning Committee in September 2022 to address areas requiring updating and taking the opportunity to make improvements.

Members were made aware that some notable areas of the new Enforcement Policy where changes from the 2022 version were proposed included:

1. Integration with Building Control Enforcement

The current 2022 policy only covered planning enforcement and did not include any reference to how the Council might deal with breaches of building control regulations, which could have significant safety and compliance implications.

Members also heard that the revised document took the opportunity to incorporate Building Control Enforcement, ensuring that non-compliance with building regulations (which could be a criminal offence) was addressed alongside planning breaches. Building Control was now required to have an Enforcement Policy under Building Safety Regulator requirements introduced recently, and if not included in the document, must form a separate policy for the Council or otherwise it represented a risk to the Council and potential penalties.

2. Prioritisation and Response Times

Officers made Members aware that the 2022 policy referred to four priority levels (Levels 1 to 4) for the consideration of enforcement complaints, which in practice had proven to be unnecessary and, for some cases, ineffective. The current policy required urgent breaches to be investigated within 2 working days, while the least urgent could take up to 15 days. However, in practice, Officers had been able to carry out most visits quicker than 15 days.

The revised policy simplified priorities into a single standard response time (5 working days) but allowed for immediate action in urgent cases (e.g. demolitions, protected

trees). A traffic light system approach (Red, Amber, Green) was now proposed to help determine urgency.

3. Improved Transparency & Public Accountability

Members were also informed that the Council had, in recent years, improved public accessibility to information on enforcement cases and their progress. In the past, information had not always been readily available online, and complainants had had to wait for 21-day updates with limited details.

The new policy reflected current practice which ensured that all live enforcement cases (except confidential ones) were published online. Updates were more structured, with specific reporting stages as detailed in the policy.

4. Clearer Enforcement Decision-Making Framework

The current 2022 version of the Planning Enforcement Policy, whilst setting out the Council's approach to enforcement matters, was not presented as a set of clear policies on different subjects relating to enforcement. To improve the clarity and usability of the document, including a clearer definition of what constituted "harm" the structure of the new revised policy set out specifically defined policies that would help ensure that enforcement decisions were consistent, justified, and based on clear public interest and proportionate action. In addition, the policy background had been updated and added to reflect all current considerations and changes in legislation, policy and approach.

5. Clearer commentary around Legal Position & Unclear Consequences

The proposed revised policy sought to improve the commentary around the distinction between unlawful and criminal offences as well as specifying clear consequences for breaches. The current 2022 version of the policy covered those matters in general terms, but the update had offered an opportunity to strengthen the text and offer more clarity.

The revised policy therefore explicitly stated which breaches were criminal (e.g. demolishing a listed building), the legal consequences for non-compliance with notices (e.g. fines, prosecutions, injunctions) and specific procedures for withdrawing enforcement notices.

6. Improvements to Compliance Monitoring & Follow-Up

To strengthen arrangements around monitoring compliance with planning obligations and planning conditions, the revised policy included a structured case review process, including six-monthly updates on all cases and regular updates to the Planning Committee.

7. Biodiversity & Environmental Protections

The revised policy had been updated and strengthened to refer to environmental legislation including the introduction of new requirements (e.g. biodiversity protection). The provisions of the Natural Environment and Rural Communities Act 2006, for example, were now having to be factored into enforcement decisions. The Council must ensure that enforcement actions conserved and enhanced biodiversity.

8. Withdrawing Enforcement Notices

The revised policy had been improved to include explanation of when and why an enforcement notice might be withdrawn. It set out the need for a formal justification for withdrawing notices.

9. Case Investigation & Evidence Collection

The revisions to the policy sought to strengthen consistency in the approach taken to site investigations. It set out clear guidance on when Officers could record evidence such as photographs, drone footage and body cam footage. The ability to use such evidence, when appropriate, would help to improve the effectiveness of enforcement investigations.

After discussion by the Committee, it was moved by Councillor Alexander, seconded by Councillor Smith and:-

RESOLVED that the revised version of the Planning Service Enforcement Policy 2025 (Appendix A) along with the associated Harm Assessment 2025 (Appendix B) along with the LABC Enforcement Policy (Appendix C) be adopted.

24. REPORT OF THE CORPORATE DIRECTOR (PLANNING AND COMMUNITY) - A.5 - BIODIVERSITY NET GAIN (BNG): DELEGATION AND CONSULTATION ARRANGEMENTS IN RESPECT OF PROPOSALS FOR HABITAT BANKS

The Committee was made aware that, on 21 October 2024, the Cabinet had considered a report of the Portfolio Holder responsible for Housing and Planning seeking their agreement to adopt a policy statement on 'Biodiversity Net Gain' (BNG) to serve as the Council's interim corporate position on the subject, ahead of detailed consideration as part of the forthcoming Local Plan review.

Members were informed that the policy as adopted for interim use was now applicable both in the determination of planning applications and in the consideration of proposals for 'Habitat Banks'. Habitat Banks were parcels of land where habitats had been created or enhanced, in advance, to provide an uplift of biodiversity units. Those surplus biodiversity units could then be sold to developers to meet their BNG requirements 'off-site'. In order to sell off-site biodiversity units, there were a number of legislative criteria that must be met; and whilst the establishment of a Habitat Bank did not require planning permission, in many cases it would require landowners to enter into a Section 106 legal agreement with the Council alongside a formal registration process with Natural England.

As well as agreeing to the adoption of the policy statement, the Cabinet had resolved to invite the Planning Committee, at its earliest convenience, to consider and determine how it would exercise its power in respect of Council decisions on entering into legal agreements with landowners under Section 106 of the Town and Country Planning Act 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 deemed it appropriate for such decision-making powers to be delegated to Officers; and any arrangements for public consultation on specific proposals. That was because this was a fairly new area of work with no explicit arrangements set out in the Council's Constitution in respect of delegated powers and no legislative requirements around public consultation.

It was reported that it was recommended by Officers that the consideration, approval and entering into Section 106 agreements with landowners for the establishment of Habitat Banks should be delegated to the Head of Planning and Building Control, along with decisions around future enforcement action against non-compliance. If agreed, it was recommended that those arrangements should be put forward for consideration, as part of a future review of the Council's Constitution, as to whether explicit amendments to the wording were required.

The Committee heard that it was also recommended by Officers that no specific requirements for public or other stakeholder consultation on Habitat Bank proposals needed to be put in place, apart from technical consultation with suitably qualified ecologists for the purpose of seeking their professional advice.

Members were told that it was important to emphasise that the establishment of a Habitat Bank (as described in the Officer report (A.5)) was a different and separate concept and process from the determination of planning applications for new development that, in many cases, had a requirement to address Biodiversity Net Gain (and for which existing constitutional arrangements for the Planning Committee and appropriate delegation to Officers already, along with, statutory consultation requirements applied).

After discussion by the Committee, it was moved by Councillor Alexander, seconded by Councillor Goldman and unanimously:-

RESOLVED that the Planning Committee:-

a) notes the adoption of the 'Policy on Biodiversity Net Gain (BNG)' as attached as part of the report tot Cabinet of 21 October 2024 (Appendix 1), as the Council's interim policy on the subject of BNG – which was applicable to the determination of planning applications and to the consideration of proposals for 'Habitat Banks';

b) agrees that future decisions for approval and/or entering into a Section 106 legal agreement with landowners for the establishment of Habitat Banks, along with any associated decisions around enforcement against non-compliance, will be delegated to the Head of Planning and Building Control;

c) agrees that the above delegation to the Head of Planning and Building Control be put forward for consideration as part of the next review of the Council's Constitution to determine whether any specific wording changes need to be made to either the Planning Committee's Terms of Reference or Part 3 Delegated Powers; and

d) confirms that the process for considering Habitat Bank proposals will not include any specific arrangements for public or wider stakeholder consultation, aside from technical consultation with suitably qualified ecologists as considered necessary for the purpose of seeking their professional advice.

The meeting was declared closed at 6.14 pm

Chairman