



# Uttlesford District Council

Chief Executive: John Mitchell

## Cabinet

**Date:** Thursday, 22 October 2015  
**Time:** 19:00  
**Venue:** Council Chamber  
**Address:** Council Offices, London Road, Saffron Walden, CB11 4ER

**Members:** Councillors Howard Rolfe (Leader and Chairman), Susan Barker, Simon Howell, Julie Redfern and Lesley Wells

**Other attendees:** Councillors Alan Dean (Liberal Democrat Group Leader and Chairman of Scrutiny Committee), John Lodge (Residents for Uttlesford Group Leader) and Edward Oliver (Chairman of Performance and Audit Committee)

### Public Speaking

At the start of the meeting there will be an opportunity of up to 15 minutes for members of the public to ask questions and make statements subject to having given two working days' prior notice.

## AGENDA PART 1

### Open to Public and Press

- 1 Apologies for absence and declarations of interest.**  
To receive any apologies for absence and declarations of interest
- 2 Minutes of previous meeting** 5 - 10  
To receive the minutes of the meeting held on 17 September 2015
- 3 Matters Arising**  
To consider matters arising from the minutes
- 4 Questions or statements from non executive members of the council**  
To receive questions or statements from non-executive members on matters included on the agenda

- 5 Matters referred to the Executive (standing item)**  
To consider matters referred to the Executive in accordance with the provisions of the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules
- 6 Reports from Performance and Audit and Scrutiny Committees (standing item)**  
To consider any reports from Performance and Audit and Scrutiny Committee
- 7 Refugee Working Group**  
To receive a report from the Refugee Working Group
- 8 Local Plan Review** 11 - 64  
To receive the PAS review of the Local Plan process
- 9 Treasury Management Outturn 2014/15** 65 - 74  
To consider the Treasury Management report
- 10 Business Rates Pooling 2016-17** 75 - 84  
To consider whether to join the Essex Business Rate Pool
- 11 Fraud and Compliance** 85 - 88  
To inform members about initiatives to reduce fraud
- 12 Carnation Nurseries Newport** 89 - 98  
To consider affordable housing delivery options
- 13 Great Dunmow Neighbourhood Plan** 99 - 108  
To consider the response to the pre - submission consultation document
- 14 Assets of Community Value** 109 - 112  
To consider an addition to the Assets of Community Value list
- 15 Dunmow depot - transfer of land** 113 - 116  
To consider the transfer of a small piece of land
- 16 Enforcement** 117 - 120  
To inform members of the operation of the Enforcement Team
- 17 Chairman's urgent items**  
To receive any items that the Chairman considers to be urgent

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The agenda is split into two parts. Most of the business is dealt with in Part 1 which is open to the public. Part II includes items which may be discussed in the absence of the press or public, as they deal with information which is personal or sensitive for some other reason. You will be asked to leave the meeting before Part II items are discussed.

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**CABINET MEETING held at COUNCIL OFFICES LONDON ROAD  
SAFFRON WALDEN on 17 SEPTEMBER 2015 at 7.00pm**

Present: Councillor Howard Rolfe – Leader  
Councillor Susan Barker – Deputy Leader and Cabinet Member  
for Environmental Services  
Councillor Simon Howell – Cabinet Member for Finance and  
Administration  
Councillor Julie Redfern – Cabinet Member for Housing and  
Economic Development  
Councillor Lesley Wells – Cabinet Member for Communities and  
Partnerships

Also present: Councillors Geoffrey Sell and John Lodge.

Officers in attendance: John Mitchell (Chief Executive), Maggie Cox  
(Democratic Services Officer), Roger Harborough (Director of  
Public Services), Angela Knight (Assistant Director – Finance),  
Michael Perry (Assistant Chief Executive – Legal) and Adrian  
Webb (Director of Finance and Corporate Services).

**CA26 APOLOGIES FOR ABSENCE AND DECLARATION OF INTERESTS**

An apology for absence was received from Councillor Alan Dean.

**CA27 MINUTES**

The minutes of the meeting held on 23 July 2015 were received and signed by  
the Chairman as a correct record.

**CA28 BUSINESS ARISING**

i) Minute CA18 - Land clearance at Broxted

Councillor Howell reported that the land clearance had taken place and  
thanked the Enforcement Team for their work in resolving this matter.

ii) Minute CA20 – Replacement Essex Waste Local Plan

Council Barker said that the Waste Local Plan had been discussed at the  
recent Locality Board meeting, and members had put forward their concerns  
about some of the proposed sites.

CA29

## **REPORTS FROM PERFORMANCE AND AUDIT AND SCRUTINY COMMITTEES**

Councillor Sell said the recent Scrutiny Committee meeting had discussed its future work programme. It had decided to concentrate mainly on internal council services and would look at the Enforcement Service for its first area of review.

The Committee had also considered the PAS review of the Local Plan. A report would be submitted to the Cabinet meeting in October.

CA30

## **2015/16 BUDGET MONITORING**

Councillor Howell presented a report on the financial performance for the General Fund, Housing Revenue Account, Capital Programme and Treasury Management for the first four months of 2015/16 and considered a forecast to the end of the financial year. He drew attention to a suggested amendment to the Capital Programme, that the allocation for the works to the Catons Lane car park, which were not now planned to go ahead, should be put back into the SIF reserve.

He reported that the council had now published its Statement of Accounts for 2014/15 and for the 7<sup>th</sup> consecutive year had received an unqualified Audit opinion. He thanked the Assistant Director – Finance and her team for their considerable efforts in completing this work.

The cabinet discussed the implications of the provisions in the Housing Bill and the significant affect this might have on the council's housing stock and HRA Business Plan. The council had been lobbying Government in respect of these changes and the Chief Executive was preparing a collective local authority response.

In answer to a question, it was confirmed that Essex Police had decided not to continue with the agreement with local councils to match – fund Police Community Support Officers (PCSO).

In relation to a question about revenue administration, the cabinet was advised of work that was currently taking place around fraud compliance. There would be a quarterly report on the effect on the council tax base.

The Leader explained plans for the future use of the London Road offices now that ECC had vacated the building. There would be vacant accommodation on the ground floor of the offices and it was the council's intention to use this to its best economic advantage.

In relation to discussion about the Audley End cycle path, it was explained that the council had put forward £200k to pump prime the scheme which was to be replenished with S106 monies. However, some shortfall was expected in the short term as some of the anticipated developments had not received planning permission.

The Leader asked for a report to future meeting regarding allocations made from the Strategic Initiative Fund Reserve.

**RESOLVED**

- 1 To approve a report detailing financial performance of the General Fund, Housing Revenue Account, Capital Programme and Treasury Management.
- 2 To remove Catons Lane Car Park budget of £155,000 from the capital programme and put it back into the Strategic Initiatives Fund Reserve

**CA31 CLAVERING PARISH PLAN**

The Cabinet received the Clavering Parish Plan. This had been produced by the community and included the history of the parish, the survey responses and a comprehensive action plan.

An area identified in the plan was the shortage of accommodation suitable for the elderly. It was suggested that the council revisit its policy on the provision of this type accommodation. This would be informed by the new SHMA report and what it said about future housing mix.

RESOLVED to adopt the parish plan as council approved guidance in determining planning applications in the Parish and as background evidence in the preparation of the Local Plan.

**CA32 QUENDON AND RICKLING VILLAGE PLAN**

Members received the Quendon and Rickling Village Plan, which had been endorsed by the parish council. It included the findings of the residents' survey and an action plan.

RESOLVED to adopt the village plan as council approved guidance in determining planning applications in the Parish and as background evidence in the preparation of the Local Plan.

**CA33 DESIGNATION OF STANSTED MOUNTFITCHET NEIGHBOURHOOD PLAN AREA**

Stansted Mountfitchet Parish Council had submitted an application for the designation of a Neighbourhood Development Plan Area. This had been advertised in accordance with the regulations for a period of 6 weeks and no responses had been received. The parish council had agreed an amendment to the original proposal, to amend the boundary to exclude airport operational land.

Councillor Sell reported that the parish council had set up a working group which would be chaired by local residents. He understood that a number of parish councils were currently going through the neighbourhood plan process and said it would be useful if there was a mechanism to enable these councils to share information and best practise. The Director of Public Services said he would facilitate this.

RESOLVED to designate an amended area as outlined on the map appended to this document as the Stansted Mountfitchet Neighbourhood Development Plan Area.

**CA34 COMMUNITY PROJECT GRANT SCHEME 2015/16**

The Cabinet noted the list of grants, which had been awarded under the Community Grant Scheme. It was suggested that in future the Cabinet should ratify this list.

The Cabinet requested a progress report on members' spending of the £3,000 allocation for projects in their ward. Councillor Sell said the members of the North and South Stansted Ward had wanted to pool their funds towards a project that would benefit the whole of the area, but had been advised that they could only fund projects within their ward area. The Assistant Chief Executive – Legal explained the legal position. Members were asked to provide details of the projects concerned and officers would see whether they could be progressed in an alternative way.

**CA35 CHRISTMAS CAR PARKING**

Councillor Barker presented a report on a proposal to waive parking charges within all District Council managed car parks over the Christmas and New Year period. Interested parties had been consulted on a number of different charges. Some additional/alternative proposals had been made by Great Dunmow Town Team, Saffron Walden Town Team and Saffron Walden Town Council. In coming to the recommendations these comments had been balanced against the objectives of the concession, which was to attract people to the town in quieter periods and support town centre shops and businesses..

RESOLVED that

- 1 To introduce "free after 3pm" on all council-managed car parks EXCEPT Fairycroft/Waitrose from Saturday 7 November 2015 to 23 December 2015 inclusive.
- 2 To introduce free parking on all council-managed car parks EXCEPT Fairycroft/Waitrose from 24 December 2015 to Sunday 4 January 2015 inclusive.



- 3 To introduce free parking all day on Saturday 5 December 2015 at Lower Street car park (to note that the Crafton Green car park will be closed to host the Fayre) due to the Frost Fayre.

**CA36 TRANSFER OF PIECE OF LAND AT DUNMOW DEPOT**

This item was withdrawn for further consideration.

**CA37 DEVELOPER CONTRIBUTION GUIDANCE**

Councillor Barker reminded members that at its meeting in January 2015, the Cabinet had adopted revised Developer Contributions Guidance, which responded to the Government's change to the national Planning Policy Guidance (PPG) to remove the requirement for affordable housing contributions on schemes of under 10 units.

Two councils, through Judicial Review had subsequently challenged the amended national guidance. The process by which the amended paragraphs had been inserted into the PPG had been found unsound and had been quashed.

As a result, the council was now able to collect financial contributions for affordable housing on schemes of under 10 units providing it had the evidence to support this. This would reinstate the council's position prior to January 2015 and the guidance would be amended accordingly.

Members welcomed the report as there was a genuine need for affordable housing in the district and the council had previously been successful in obtaining financial contributions from smaller housing schemes.

RESOLVED To adopt a revised Developer Contributions Guidance, which is in accordance with the updated National Planning Practice Guidance, as a material planning consideration.

**CA38 STANSTED AIRPORT ADVISORY PANEL**

RESOLVED to appoint Councillor John Lodge to the vacancy on the Stansted Airport Advisory Panel

**CA39 CHAIRMAN'S URGENT ITEMS**

*The Chairman agreed to the consideration of the following items on the grounds of urgency.*

i) **Refuge Working Group**

The Council meeting on 16 September 2015 had recommended establishing a working group to oversee the implementation of the Council's policies regarding support for refugees within the Uttlesford area.

**RESOLVED**

- 1 to establish a Refugee Working Group
  - i) Comprising 5 members (3 Con, 1 LD, 1 RFU).
  - ii) Membership – Councillors Julie Redfern (C), Graham Barker, Marie Felton, Elizabeth Parr and Sharon Morris,
  - iii) Terms of reference - as set out in the report to Council on 16 September 2015
  
- 2 A report from the working group to be received at each cabinet meeting as a standing item on its agenda for the duration of the emergency.

ii) **Cooperation for Sustainable Development Board**

As part of the Duty to Cooperate work for the Local Plan the Council held frequent meetings with neighbouring authorities, one of which was at Member level.

**RESOLVED** that Councillor Susan Barker, as the relevant portfolio holder be appointed as the Council's representative on the Cooperation for Sustainable Development Board.

The meeting ended at 8.00 pm

<b>Committee:</b>	<b>Scrutiny</b>	<b>Agenda Item</b>
<b>Date:</b>	<b>22 October 2015</b>	<b>8</b>
<b>Title:</b>	<b>Local Plan Review</b>	
<b>Author:</b>	<b>Adrian Webb, Director of Finance and Corporate Services</b>	Item for information

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## Summary

1. The Planning Advisory Service (PAS) review into the Local Plan process was reported to the Scrutiny Committee in September.
2. At the meeting, the committee passed the following resolution:

The committee welcomes the report from the Planning Advisory Service and thanks its representatives for their detailed work on identifying flaws in the past process and in making recommendations for improving the process used to produce the new local plan.

The PAS report and the minutes of this meeting be referred to Cabinet, working with the Planning Policy Working Group, and ask that it take account of the findings of the report and the Scrutiny Committee's deliberations.

3. The PAS review as presented to Scrutiny comprised five documents. A further document to set out the background to the review was requested by the committee and has now been submitted by PAS. This is included in the papers for Cabinet. Also included are the minutes from the Scrutiny Committee meeting on 10 September.
4. Therefore the PAS review documents are now as follows:
  - i Introduction
  - ii Executive Summary
  - iii Timeline of meetings
  - iv Review of the Inspector's Letter
  - v Review of the Strategic Environmental Assessment and Sustainability Appraisal
  - vi Review of the Site Selection process
  - vii Minutes of the Scrutiny Committee 10/9/15
5. Cllr Alan Dean, Chairman of the Scrutiny Committee, will speak to this item at the Cabinet meeting.



## Introduction

Following the closure of the Local Plan Examination in December the Chief Executive received a request from representatives of Elsenham and Henham residents for an inquiry into the local plan process to date. This report follows from that request.

At Scrutiny Committee on 10<sup>th</sup> February 2015, a report by the Director of Finance and Corporate Services sought approval for the Planning Advisory Service (PAS) to progress the review. The report stated that “Officers are of the view that it would not be possible for anyone directly associated with the Council to carry out this review. Accordingly an approach has been made to the Local Government Association (LGA) and through them to the PAS to enquire of their availability to undertake the review. The purpose of PAS is to support local planning authorities to provide effective and efficient planning services, to drive improvement in those services and to respond to and deliver changes in the planning system.”

The brief which was agreed, and which is delivered through this report, was:

That PAS starts by reviewing the Inspectors Examination Conclusions in his letter to the Council dated 19th December 2014 and that the PAS will:

- Summarise the issues the Inspector raised, to ensure there is a common understanding;
- Provide a high level review of the work carried out on the plan to date, including technical work, engagement with stakeholders and governance arrangements;
- Highlight, by way of examples from elsewhere in the country, where the issues raised have commonality with current practices; and,
- Consider how the council can move forward, making recommendations as appropriate.

This review seeks to assist the Council in learning from the process to date, and also in setting out how work can move forward positively.

However, it is important to note that this review is not:

- a) Any kind of inspection at the end of which there would be some kind of assessment or grading, either of individuals or the council as a whole.
- b) A substitute for legal advice on any particular issue raised. It is advice from independent professionals, but cannot be seen to form, or supersede any legal advice, and would therefore be provided without prejudice to any future examinations, challenges or appeals.

Following the agreement at the February Scrutiny Committee, PAS undertook the elements set out in points I-IV above, and this report sets out the findings.



## Executive Summary

### Timeline

This section looks at the minutes of every meeting held between 2007 and 2014 where the development plan was discussed. It is important to note that this work did not review any of the papers that were sent to the meetings. It simply reviews all the minutes. The process involved calling up each meeting on the Uttlesford website and reviewing the minutes. Where there was a discussion on the development plan, this was noted and considered in the context of the overall process.

It is clear that the mechanisms were in place for the council to make decisions on the plan, from working groups, through Environment and Scrutiny committees to Full Council. However, the review also shows that the groups were not always represented in a way which is common in most councils across the country. The timeline provides a commentary, intended to show how the decisions made play out as the plan progresses. This should provide the council with some useful points to consider as future work gathers momentum.

### Inspectors' Letter

This report sets out the main recommendations from the Inspector. It provides a brief summary of the role of the Inspector and the 'Tests of Soundness' and also the options open to him when considering how to deal with a plan which requires further work.

In writing this report, PAS looked at other examples from around the country. Whilst not specifically referenced, they were used to help determine whether the Inspector can be seen to have behaved in a manner consistent with other Inspectors faced with similar issues.

### Uttlesford Local Plan SEA/SA Review

This review intends to support the Council in determining a response to the Planning Inspectors letter (dated 19 December 2014) regarding the conclusions of the Examination of the Uttlesford Local Plan (ULP), specifically it seeks to consider the final comment by the Inspector:

*“that future SAs need to ensure that the requirements of the Regulations and the principles established by case law are built-into the process transparently from the outset.”*

In consequence, the review identifies recommendations and actions to minimise the risk to the Council of non-compliance with the requirements of European Union Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment, referred to as the SEA Directive when undertaking future SEA/SA work.

**Table 2.1** of the report presents the requirements of Annex I of the SEA Directive and then summarises where, and to what extent, this is covered in the Environmental Report. A third column highlights whether the information provided is sufficient to meet the SEA Directive requirements. A final column outlines further

actions that are required to address any issues identified in any subsequent Environmental Report.

### **Uttlesford Local Plan Site Selection Review**

The Site Selection review considers the process of site identification considering Objectively Assessed Need and the required process that must take place of an assessment of suitability, viability and availability and development options can, to a degree, be prescribed by the sites put forward by the development industry.

In the context of ULP the Inspector raised concerns on a number of issues. These views imply that the sites only clear attribute was that it had been promoted and was available. If constraints had been identified at a more strategic level, then early conclusions can be drawn about the potential of Elsenham (or parts of Elsenham) and by extension therefore, about sites being proposed there.

Further to this the review considers the relationship to the Strategic Housing Land Availability Assessment (SHLAA) to plan making, the importance of interim arrangements and 5 year land supply.

### **Uttlesford Local Plan Consultation and Duty to Cooperate processes**

A desktop review of the Consultation and Duty to Cooperate documentation and required processes has been undertaken. The information reviewed was collated from the publicly available documents on the Uttlesford Council website which relate to the ULP.

The key message emerging from the review is that a range of significant documents do not appear within the materials available. It would have been of advantage to have provided a consultation strategy for the development of the ULP and its required stages. It would also have been of benefit to provide consultation delivery plan to help inform the inspector of the approach taken to engage with the public and key stakeholders for each of the required stages.

With regard to the Duty to Cooperate much the same can be said for the documentation that appeared to be lacking. A stakeholder management strategy and a respective plan for fulfilling the duty to cooperate would have been of significant benefit to the Inspector when reviewing this element of the Local Plan production.

Although speculative, it is felt that if the Inspector had continued with inspection these would have likely formed further issues that would have been raised as part of the examination process.



## Timeline of meetings

Meeting	Date	PAS Commentary on the context of the discussions relating to the ULP process
<b>LDF Management Group</b>	2007	No comments on ULP of relevance
<b>Policy choices and options for growth summary of representations received and recommendations</b>	Jul-07	No comments on ULP of relevance
<b>Policy choices and options for growth assessment of growth options</b>	Aug-07	The task of setting out options and impacts is not easy. However, it appears an unnecessarily complicated means of setting this out. Options are described as 'the best against some things, but not others'. It is difficult to see how Option 3 is taken forward in the matrix. It is described as 'growth split over a hierarchy of settlements and the start of new settlement'. Yet although 'growth split over a hierarchy' is assessed (Option 2) and 'new settlement' is assessed in the matrix, there doesn't appear to be a specific option combining the two. At best, this is very confusing. At worst it's a process failure. SA is an essential part of the evidence base, and must be used to assess and explain why options are chosen, and why they are rejected.
<b>LDF Management Group</b>	Aug-07	No comments on ULP of relevance
<b>Environment Committee</b>	Sep-07	<p>This appears to start with a false premise, namely that there is enough information now to determine the preferred option. Elsenham was named as a potential location for 750 houses under Option 2 (West of Elsenham), and for 1,440 houses under Option 3 (North East of Elsenham) 'as the start of a new settlement of at least 3,000 homes'.</p> <p>If taken at face value then, the Council resolved to insert a new option into the consultation, albeit one presented 'without any rationale', and also moved to approve this as the preferred spatial strategy. This appears to contradict an evidence-based approach. That said, the option to develop 'at least 3,000 homes' North East of Elsenham was part of option 3.</p>
<b>Scrutiny</b>	Oct-07	This appears to show that there was continued pressure to have more explanation of the decision to include Elsenham as the preferred option for the plan. In voting not to take this back to Full Council the way was cleared to continue. There is little doubt that at the least there would have been further discussion prior to making the decision on the preferred option. Whilst this may have led to short term delay, given what followed and the evidence that supported the 'dispersal', it would have meant a speedier arrival at the eventual (initial) preferred option. There is little that could be done to alter the subsequent changes once the latest population projections came out, which led to the return to some more development around Elsenham.

<b>Environment Committee</b>	Oct-07	Although rejected, this motion suggests that some Members were aware that not all the evidence was available to make the decision to select a preferred option. Certainly not the option that was chosen, as it did not have the same level of assessment as the other 3.
<b>Preferred Options Consultation</b>	Nov-07	The rationale appears to be that putting most of the growth in one place allows the infrastructure to come along at the same time/in advance. However, it is also acknowledged that any benefits of development at other centres would be lost, notably affordable housing, by having it all in one new settlement. The mitigation required to make a new settlement work, does not appear to have been considered as an option to help deliver sites elsewhere. The lack of capacity at the school in Saffron Walden for example appears as an ultimate constraint, rather than something which could be mitigated. It therefore seems as though the same considerations have not been applied equally to assess each option.
<b>Local Development Framework Task Group</b>	May-08	Some of this language suggests that not all the work required to assess option 4 has actually been done. This means the Council has chosen a preferred option in advance of knowing the impact and sustainability of it. I believe it is this approach which comes back to bite them later on, when the decision to go for 'dispersal' rather than concentrate in a new settlement, is made.
<b>LDF Task Group</b>	Sep-08	This effectively highlights that the work on Option 4 had not been done before the decision was made to take it forward. There are also signs that all is not well in terms of the consultation on various issues.
<b>Environment Committee</b>	Nov-08	Further evidence that Option 4 was not supported by evidence. The sentence that 'the Council had been required to put forward a preferred option for consultation' simply suggests that the decision to go out to preferred option was flawed, and should not have been taken at that time.
<b>LDF Working Group</b>	Jul-09	This serves to highlight Member awareness of affordability issues in Uttlesford. The decision made later not to adjust for market signals seems out of kilter with this discussion, and many subsequent ones.
<b>LDF Working Group</b>	Aug-09	This simply highlights an awareness of the need to plan expediently. However, there is no substitute for an evidence-led plan. The Council had created more work for itself in putting forward an option which required evidence after the event.
<b>LDF Working Group</b>	Nov-09	Again, it appears as though decisions are being made in advance of detailed evidence. The preferred option does not appear to include Elsenham.
<b>Extraordinary Environment Committee</b>	Nov-09	This decision appears to suggest that all other options are now back in play, although the Elsenham option has been refined to clarify where the rest of the development will go. This additional consultation would not have been necessary if the work to support Elsenham had been carried out prior to the original preferred option being chosen. This adds delay and cost. It also adds a layer of confusion. Note that there are still some

		technical studies to carry out/finalise. It is not the case that absolutely everything should be lined up and available prior to consultation, but key evidence must be ready. It is unclear that this is the case at this time.
<b>LDF Working Group</b>	Jul-10	There is a realisation that the single settlement option is unpopular. However, the statement that capacity should drive scale of growth is now clearly not NPPF compliant. At the time, such thinking may have been more common. The ranking of various factors really ought to have been settled as part of a visioning exercise, along with setting of sustainability objectives, long before this point. Such an exercise would have been referred to here to remind Members how they had got to this point.
<b>LDF Working Group</b>	Aug-10	<p>Whilst a lot of the language here is very much current thinking, there are clearly some areas of major concern. The mandate to drive down the number is clearly contrary to NPPF. Although this was not even in draft at the time, I think it shows the prevailing political desire was always going to make decisions on housing numbers difficult.</p> <p>There is also the clash between this wish and that of making affordable housing a top council priority. In the absence of grant funding, only market housing can deliver high levels of affordable housing. Whilst some councillors appear to lament this, it is nevertheless a fact.</p> <p>A perhaps unintended consequence of the accepted motion is the notion that by adopting smaller numbers, difficult decisions can disappear. It introduces the idea that policy should drive numbers rather than evidence.</p>
<b>Environment Committee</b>	Sep-10	The mandate is clear. However, it is apparent that the consultation has been ongoing and also perhaps confusing to many. All of which has led to the realisation that the single settlement option is not apparently supported by evidence to deliver council objectives. The idea that only a reduction in numbers can make it go away is somewhat strange.
<b>LDF Working Group</b>	Feb-11	It seems officers did not feel confident in putting forward a more robust case for a higher figure (based on what we now know to be a more conventional way of looking at the projections), at worst, they did not know what the proper response was. Either way, it is not clear from this that they had come up with a truly robust figure, as there are some assumptions which appear 'dodgy'. These seem to stem from the mandate to drive the number down. At least they moved away from zero-net migration.
<b>Environment Committee</b>	Mar-11	Clearly some councillors were aware this was not necessarily the right figure. Whilst it was also correct to say that the NPPF could be taken on board as and when it came out, if there was a draft at this stage, it should have been treated seriously.
<b>LDF Working Group</b>	Jul-11	The quote from the DHoP is very disappointing. Using language such as 'forcing councils to provide for housing' really should not come out from an officer. However, merely 4 months after one councillor questioned whether the NPPF would have an impact, it is clear that it has.

<b>Cabinet Meeting</b>	Aug-11	Once again this is a realisation that the proposed figure does not take account of inward migration and is not apparently compliant with emerging national policy.
<b>LDF Working Group</b>	Sep-11	This is a side note on the fact they looked at the green belt and suggested there was no scope to warrant a change. This decision was probably right at the time, given that at this point they did not know what the revised housing requirement was likely to be.
<b>LDF Working Group</b>	Oct-11	Officers now mention the methodology is unsound and so the figure has to be revised. This could have been said earlier, when initial discussions about a new figure were being held. The national policy may not have been in place but the direction of travel may have been.
<b>Cabinet Meeting</b>	Dec-11	This is a further piece of the narrative that affordable housing is a key council priority. Once again, this was not borne out when considering potential 'market signals'.
<b>Cabinet Meeting</b>	Dec-11	Over a year after suggesting they needed to review the housing requirement, the council consults on a range of distribution of sites but does not consult on a new requirement. The statement from the Leader that the 'ground rules had changed and were continuing to change' is perhaps to some extent true, but the council has been aware of the task at hand for over a year and has failed to come up with a number, or range of numbers.
<b>Scrutiny Committee</b>	Apr-12	Decision taken on a scenario to support a new housing requirement, apparently balancing the economic needs with housing.
<b>Scrutiny Committee</b>	May-12	Hints that the consultation has not been well carried out, or has led to criticism from some quarters. The scenario most favoured is now dispersal, which was one of the original scenarios back in 2007. Finally, with all the evidence behind it, an option of dispersal is seen to be the best.
<b>Scrutiny Committee</b>	May-12	This shows some good responses to some parochial points being made, namely that there is a wider process, a body of evidence and some tough decisions to be made. The link to infrastructure is made. It clarifies the hierarchy of settlements as a driver for the distribution.
<b>Cabinet Meeting</b>	May-12	The reduction in housing number immediately made the choice of a single settlement option less sustainable. My initial thought is, how do you demonstrate that 900 houses equals the tipping point? Or is that the 'economic growth' factor is the driver?
<b>Cabinet Meeting</b>	May-12	Note, previous justification for Elsenham was that all the infrastructure could be provided. It is now for precisely that reason that the option is not seen to be deliverable.
<b>LDF Working Group</b>	Jul-12	Members now question the ability of the chosen strategy to deliver the infrastructure required. Apparently, only now are consultants being commissioned to look at this. This does not seem and surely cannot be right.

<b>LDF Working Group</b>	Aug-12	Just to note they feel the plan is broadly NPPF compliant
<b>LDF Working Group</b>	Sep-12	At the time, using RSS was still acceptable (ie pre-Hunston)
<b>LDF Working Group</b>	Oct-12	Shows the time lag between new information coming out and being treated in the plan. May not need to be reflected, just a statement of where they were at relative to new evidence.
<b>LDF Working Group</b>	Nov-12	New evidence was being taken into account and the sensible approach of apparently not waiting until all new projections from the Census had been finalised, noting the length of time it would be before these were ready. A good decision! However, it is not clear that the advice about the lifespan of the plan was correct, from officers. That said, it has not been a major issue nationally. However, whether linked to this or not, there is already more comment about reinstating the single settlement option.
<b>Cabinet Meeting</b>	Dec-12	One of the slightly off-topic points about affordable housing being recognised as a still-large issue. Conflicting with the later point about not seeking to increase the number at all to respond to market signals.
<b>LDF Working Group</b>	Feb-13	Ad hoc, reactive response to a plan consultation rather than the proactive, ongoing discussions that are supposed to be held. Early warning about the Duty?
<b>LDF Working Group</b>	Mar-13	Revising the SCI highlighted potential areas for improvement in communicating with Parishes, although officers disagreed. N Herts plan consultation again highlights potentially slightly ad hoc way of dealing with 'cooperation'. It may be that the 'monitor progress and review as necessary' is sufficient. But it may also explain why the Inspector raised DtC and said 'only just'.
<b>LDF Working Group</b>	Jun-13	Continued feedback on lack of trust between public and council over local plan.
<b>Local Plan Working Group</b>	Aug-13	This shows that there were questions raised about the timeframe of the plan. At the time, the decision was deferred until advice had been sought. On the duty to cooperate it appears as though the cross boundary impacts are being looked at. With regard to East Herts the statement about 'ongoing discussions' is helpful, but there does not appear to be Member involvement.
<b>Cabinet Meeting</b>	Sep-13	Clarification the relationship between the Local Plan Working Group and Cabinet.

<b>Local Plan Working Group</b>	Oct-13	This meeting confirmed what the new numbers should be and what the plan period is. It's interesting to note the highways comments, in particular that there is no consideration (even at this stage) of any of the potential growth from the as-yet unpublished plans in the area (Harlow and East Herts to name but two). If, as reported, 'meetings were regularly held with neighbouring authorities', this is a positive. But the Inspector raised the issue of engagement with HE. This is not reported and must have been less 'regular'.
<b>Local Plan Working Group</b>	Nov-13	The redistribution of the numbers confirms a slight hybrid of existing dispersal and more concentration in one place (Elsenham). However, it is not immediately apparent what the difference between options A and C is? The proposed sites are SHLAA sites and so have been in the public domain. It would have been important to be very clear why these were the chosen sites.
<b>Cabinet Meeting</b>	Nov-13	Realisation that the Council had to run with new numbers (the ones that went into the examined plan) based on the latest evidence. That was a good decision. However, some worrying language around the selection of the strategy for delivery. Is it 'continued dispersal' or is it 'as you are, plus Elsenham'?
<b>Local Plan Working Group</b>	Feb-14	Duty to cooperate with neighbouring authorities is being formalised and an MoU being drawn up. The only potential concern would be how they demonstrated the working to this point?
<b>Scrutiny Committee</b>	Feb-14	Just the 'admission' that driving down the numbers was a 'mistake'.
<b>Cabinet Meeting</b>	Mar-14	Ongoing concern about water capacity for Elsenham. It also shows that most of the houses are planned there for the end of the 20 year plan period. This is interesting as it shows that Elsenham is clearly not deliverable in the short term. If that was always the case then it shows that it was never a deliverable option when the plan period was much shorter and one could question its' inclusion at that early stage once again.
<b>Local Plan Working Group</b>	Mar-14	This highlights further issues with Elsenham not having a developed evidence base relative to other sites.
<b>Council Meeting</b>	Apr-14	Indications of a diversity of opinions, many references to a lack of trust and transparency, and of course, more criticism about the reappearance of Elsenham. It would appear that the process isn't flawed overall. If the council chooses to make decisions at cabinet and committee, as advised by a working group, that is a reasonable way forward. There were many representations from individuals minuted, they are clearly emotional statements but they do show the general feeling of mistrust. The Council will still have to consider how it moves forward. Perhaps most telling is the statement that this is the first time the plan has appeared before Council.

## Review of Inspector's Letter

This short report seeks to clarify the main issues raised by the Inspector in his letter to the Council following the closure of the examination. It also provides a brief analysis of the decision, compared to the other options open to the Inspector.

The Inspector considered the main issues he felt needed to be addressed in order to deliver a sound plan. These are set out briefly below:

### Main issues

- Objectively Assessed Need (OAN) – Market signals, employment assumptions, London (a future consideration)
- Elsenham – Scale, connectivity, deliverability, transport evidence

### Other issues

- Duty to cooperate – Met (narrowly)
- Sustainability Appraisal – Audit trail, transparency
- 5 year land supply – Robust
- Saffron Walden – Sound allocation, details unclear
- Great Dunmow – Generally sound, affordable housing
- Employment – ELR a “good example of its kind”, sound policies
- Settlement classification – “generally soundly set out”

The Inspector is charged with examining the plan against the tests of soundness. Briefly, these are that the plan should be:

- Positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
- Justified – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
- Effective – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and
- Consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.

With regard to OAN, the Inspector highlighted that further work needed to be done in order to clarify the level of need. For Elsenham, he felt there had to be more evidence on why the scale was considered appropriate, the connectivity of the proposed site, and also issues about deliverability and how the transport evidence supported the allocation.

Other issues were more about some details and less about the overall strategy. However, the point about ensuring the sustainability appraisal had a clear audit trail is not to be taken lightly. This appraisal must show not only the reasons why the chosen sites are in the plan, but also why the rejected sites are not.

Other points relating to other settlements related to the need for clarity in some of the details, again usually expressed through the supporting evidence.

It is worth noting several areas where the Inspector pointed to some good examples of the work done on the plan. The Duty to Cooperate was met, albeit there needed additional clarity on the work with other agencies, in particular Highways England. The employment land review is highlighted as a good example of its' kind and has led to sound policies. The Inspector also pointed to the settlement hierarchy as being generally soundly set out.

The issues the Inspector has highlighted are very common in recent examinations across the country. Issues around OAN, and the role of the sustainability appraisal in particular have led to a dozen or so plans being found unsound or withdrawn. Many authorities have approached PAS for an independent view on how they have tackled the OAN in their areas, or even to seek advice before embarking on the exercise.

Whilst many of the issues raised can be dealt with by updating some of the evidence, others require more work. So why did the Inspector recommend withdrawal and not a suspension, or a third alternative of an early plan review?

In the case of a suspended examination, he has to be satisfied that the proposed changes can be made within 6 months, and that even if that is possible, that the plan which returns for examination is not fundamentally different from that which was submitted previously.

As he felt further work was required on both the overall scale (OAN) and key locations of new housing, he clearly felt this scale of work was not possible in 6 months. This decision is certainly consistent with others we have seen across the country. Whilst not what the council was hoping for, we think it is fair to say it was a reasonable conclusion to come to.

With regard to an early review, it important to note that the plan must be 'sound' in order to be able to be adopted. Even if there are some issues still to be addressed, the Inspector is not able to allow an unsound plan to be adopted, even if subject to an early review. It is clear from his conclusions that the plan fell short of meeting all the tests of soundness, and so that is why he could not recommend an early review.

Again, this decision, whilst not what the council wanted, was made in line with many others like it across the country and is a reasonable conclusion to reach.



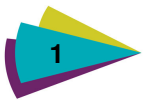
It is important to understand therefore that the Inspector saw no alternative but to recommend withdrawal of the plan. On the basis of what we have seen, we believe this to be a sensible decision.

This is not to say the plan should be seen as 'going all the way back to the beginning'. As mentioned in various parts of the letter, there are many parts of the plan which are sound and good examples of the kinds of policies written. The plan should not therefore be seen as a 'failure'. The context in which it was produced is one of a long process, during which national policy changed, and new law was introduced.

Clearly, this is true for all local authorities, and not all of them have taken the time it has taken Uttlesford to get a plan to examination. However, from an independent perspective that the Planning Advisory Service has, it would not be correct to call the plan a failure. It would certainly not be correct to suggest all the work to date has been abortive. Much of what has been done can be 'banked'. The Inspector has pointed out where further work must be done and the council is already carrying out this work.

In conclusion, we believe that the Inspector has highlighted a sufficient scale and breadth of work to be carried out as to warrant the decision to recommend withdrawal of the plan.





# Uttlesford District Council: Uttlesford District Council Pre-Submission Local Plan Review (DRAFT)

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## 1. Introduction

### 1.1 Overview

Amec Foster Wheeler Environment and Infrastructure UK Ltd (hereafter referred to as Amec Foster Wheeler) has completed a critical friend review of the Uttlesford District Council Pre-Submission Local Plan (LP) Strategic Environmental Assessment (SEA) and Sustainability Appraisal (SA) Environmental Report (April 2014) and addendum (June 2014).

This review is intended to support the Council in determining a response to the Planning Inspectors letter (dated 19 December 2014) regarding the conclusions of the Examination of the Uttlesford Local Plan (ULP), specifically it seeks to consider the final comment by the Inspector:

*“that future SAs need to ensure that the requirements of the Regulations and the principles established by case law are built-into the process transparently from the outset.”*

In consequence, the review identifies recommendations and actions to minimise the risk to the Council of non-compliance with the requirements of European Union Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment, referred to as the SEA Directive when undertaking future SEA/SA work.

### 1.2 Context

#### The Uttlesford District Council Pre-Submission Local Plan

The Council is preparing its Local Plan with reference to the National Planning Policy Framework (NPPF) to replace the 2005 Adopted Local Plan for the district. The new ULP will contain the Council planning policies and site allocations which collectively will set out the scale, nature and location of new development in the District up to 2031.

On 4 July 2014 the Local Plan and its supporting documents were submitted for independent examination to the Secretary of State for Communities and Local Government via the Planning Inspectorate. The Local Plan Examination was programmed for 18-21 November and 2-5 December 2014; however, the Inspector halted the Examination on 3 December 2014. He concluded with regard to the soundness of the ULP that:

- ▶ The submitted plan did not provide for a full Planning Policy Guidance compliant objectively assessed housing need and that the proposed annual housing requirement of 523 per annum required an uplift of at least 10% to take into account such matters as affordable housing needs, employment issues and market signals.
- ▶ The justification for the Elsenham strategic allocation was inadequate given the lack of evidence to demonstrate the suitability of the local roads and the capacity of junction 8 on the M11. He questioned whether the Council considered the claims of other candidate locations for growth ('new settlement' or otherwise) to the transparent extent required to constitute 'proportionate evidence'

He concluded that he could not recommend adoption of the Plan unless these matters were addressed. In consequence, the council formally withdrew the Local Plan on 21 January 2015.

The next steps were identified in a report to the Full Council, dated 18 December 2014, 'Uttlesford Local Plan Examination: Inspector's decision and next steps' as:

- ▶ Reassess the 5 year land supply requirement based on an objectively assessed housing need of 580 homes a year from 2011.
- ▶ Complete a new Strategic Housing Market Assessment
- ▶ Review the SEA methodology in the light of recent case law to ensure it is fit for purpose.
- ▶ Seek to ensure that M11 J8 modelling and other technical assessment work is brought to a conclusion to confirm scope for improvement works and capacity that can be created, together with estimated costs. Duty to Cooperate discussions to take place and conclude on this and other relevant transport related matters.
- ▶ Issue a call for sites focusing on a new settlement once the Council's OAN is determined.

A revised Local Development Scheme has also been approved<sup>1</sup> for the production of the revised ULP. The key dates are as follows:

- ▶ Jan – April 2016 Regulation 18 public consultation;
- ▶ May – June 2016 Regulation 19 Local Plan Pre-Submission Consultation;
- ▶ July / Aug 2016 Local Plan Submission;
- ▶ December 2016 – Hearing sessions;
- ▶ March 2017 Local Plan adoption.

The recommendations from this review will support the Council to ensure that it undertakes the future development of the ULP in manner the requirements of the SEA Directive and relevant regulations and the principles established by case law.

### Requirement for SA/SEA

Uttlesford District Council as the local planning authority (LPA) is required to carry out a SA of the Local Plan to help guide the selection and development of policies and proposals in terms of their potential social, environmental and economic effects under Section 19(5) of the Planning and Compulsory Act 2004. In undertaking this requirement, LPAs must also incorporate the requirements of European Union Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment, referred to as the SEA Directive, and its transposing regulations the Environmental Assessment of Plans and Programmes Regulations 2004 (statutory instrument 2004 No. 1633).

The SEA Directive and transposing regulations seek to provide a high level of protection of the environment by integrating environmental considerations into the process of preparing certain plans and programmes. The aim of the Directive is *“to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.”*

At paragraphs 150-151, the National Planning Policy Framework<sup>2</sup> (NPPF) sets out that local plan are key to delivering sustainable development and that they must be prepared with the objective of contributing to the achievement of sustainable development. Paragraph 165 reiterates the requirement for SA/SEA as it relates to local plan preparation:

<sup>1</sup> Minutes of meeting of Uttlesford Planning Policy Working Group, 26 January 2015

<sup>2</sup> DCLG (2012), The National Planning Policy Framework

*“A sustainability appraisal which meets the requirements of the European Directive on strategic environmental assessment should be an integral part of the plan preparation process, and should consider all the likely significant effects on the environment, economic and social factors.”*

The Planning Practice Guidance (paragraph 016) also makes clear that SA plays an important role in demonstrating that a local plan reflects sustainability objectives and has considered reasonable alternatives. In this regard, SA will help to ensure that a local plan is “justified”, a key test of soundness that concerns the extent to which the plan is the most appropriate strategy, when considered against the reasonable alternatives and available and proportionate evidence.

### SA/SEA of the Uttlesford District Council Local Plan

To-date, the development of the ULP represents a considerable body of work, undertaken over an eight year period. Outputs from the SA and SEA process during this period as follows:

- ▶ Sustainability Appraisal of the Core Strategy Objectives and the Different Growth Options (2007);
- ▶ Sustainability Appraisal of Preferred Options Document (2007);
- ▶ Sustainability Appraisal of Options for Delivering the Balance of the Housing Requirement (2010);
- ▶ Core Strategy Sustainability Appraisal (2010);
- ▶ Scoping Report October (2011);
- ▶ Sustainability Appraisal of Role of Settlements and Site Allocations DPD (January 2012);
- ▶ Sustainability Appraisal of Proposals for a Draft Local Plan (June 2012);
- ▶ Sustainability Appraisal of Additional Housing Numbers and Sites (November 2013);
- ▶ Sustainability Appraisal of Uttlesford Local Plan Pre-Submission (April 2014);
- ▶ Pre-Submission Local Plan Sustainability Appraisal Addendum (April 2014).

### 1.3 This Report

This report provides an assessment and commentary on the SA and SEA Environment Report against the requirements of the SEA Directive (with specific emphasis on the Environmental Report) (**Section 2**). It also contains more specific comments on the consideration of reasonable alternatives (**Section 3**) and proposed structure for any subsequent Environmental Report (**Section 4**). A summary of the key findings of the review and associated recommendations are provided for consideration by officers in undertaking the assessment of the revised ULP (**Section 5**).

Whilst the report will provide an assessment against the requirements of the SEA Directive, presented using a checklist from Government guidance<sup>3</sup>, it does not provide a full technical review of the documentation with detailed consideration of the validity of the identification, characterisation and evaluation of effects. The time available to consider such matters has been insufficient and it is recommended that officers complete a detailed technical review of the SA and SEA Environmental Report before each stage of future publication.

This review is offered in the spirit of a ‘critical friend’ and does not constitute a legal opinion of the soundness of the SA/SEA process to-date in relation to the SEA Directive.

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<sup>3</sup> Appendix 9 Quality Assurance checklist, A Practical Guide to the Strategic Environmental Assessment Directive, ODPM (2005).

## 2. Compliance with the SEA Directive

### 2.1 Approach

Annex I of the SEA Directive sets out the information that is required for inclusion in an environmental report “*in which the likely significant effects on the environment of implementing the plan or programme, and reasonable alternatives taking into account the objectives and geographical scope of the plan or programme, are identified, described and evaluated*”. Environmental reports should therefore comply with Annex I to be compliant with the SEA Directive.

The requirements of the SEA Directive have provided the framework for the review set out in **Section 2.2**. The review relates particularly to the Environmental Report prepared in support of the Pre-Submission ULP as this is the most recent document that has been produced by the Council, in order to determine whether it provides a suitable framework to enable compliance against the requirements of the SEA Directive in future. The review also draws upon previous SEA and SA reports as evidence, although a detailed analysis of these documents has not been undertaken.

### 2.2 Findings

**Table 2.1** presents the requirements of Annex I of the SEA Directive and then summarises where, and to what extent, this is covered in the Environmental Report. A third column highlights whether the information provided is sufficient to meet the SEA Directive requirements. A final column outlines further actions that are required to address any issues identified in any subsequent Environmental Report.

Table 2.1 Coverage of SEA Directive Requirements

SEA Directive requirements	Where and to what extent is this requirement addressed in the Environmental Report?	Is the SEA Directive requirement met?	What actions are required to meet the SEA Directive requirement?
<p>a) An outline of the contents, main objectives of the plan or programme, and relationship with other relevant plans and programmes.</p>	<p>Section 1 of the Environmental Report provides a very high level overview of the contents of the ULP, supporting by brief commentary on the earlier iterations of the plan and SA:</p> <ul style="list-style-type: none"> <li>• Uttlesford Core Strategy - Policy Choices and Options for Growth, January 2007</li> <li>• Uttlesford Core Strategy - Preferred Options Consultation, November 2007</li> <li>• Uttlesford Core Strategy - Further Consultation on Preferred Options, February 2010</li> <li>• Public Participation on the Role of Settlements and Site Allocations Development Plan Document, January 2012</li> <li>• Public Participation on Proposals for a Draft Local Plan, June 2012</li> <li>• Public Participation on Consultation on Additional Housing Numbers and Sites, November 2013</li> </ul> <p>Within the assessment sections of the Environmental Report, detailed information is provided on the wording of the vision, objectives plan policies and sites; however, as this is spread through sections 3 -16, it is not easily accessible to the reader from the outset.</p> <p>It would, however, be useful for this section to describe the overarching ULP spatial strategy in terms of the quantum of development to be delivered over the plan period and its broad distribution. It would also be preferably if it included the proposed vision, objectives and listed the policies and allocations.</p> <p>The review of plans, programmes and policies is summarised in Section 2 of the Environmental Report. Annex A of the Environmental Report contains a detailed review of plans, programmes and policies at the national, county and local level. This review includes specific consideration of the relationship of these documents with the ULP. It has not been possible within the scope of this review to undertake a detailed analysis of Annex A. However, a brief evaluation indicates that it would be useful to extend the scope of the review of plans and programmes, to consider international and European plans and programmes and it is usual to reference relevant European Directives, for example:</p>	<p><b>Yes</b>, although the review of plans, programmes and policies should be updated, and consideration given to extending its scope to include international and European plans and programmes, in addition to those already considered at the national, county and local level.</p>	<p>It is recommended that any subsequent Environmental Report provides a high level overview of the spatial strategy set out in the ULP in terms of the quantum and distribution of development which could be accompanied by a map or figure. It would also be preferably if it included the proposed vision, objectives and listed the policies and allocations. Consideration could be given to providing a comprehensive list of ULP policies as an Annex. The text that summarises the evolution of the plan should be retained.</p> <p>The review of plans, programmes and policies could be expanded to include international and European plans and programmes. The national plans and programmes also need to be reviewed, as there are some omissions, including:</p> <ul style="list-style-type: none"> <li>• DCLG (2012) Planning Policy for Traveller Sites</li> <li>• DCLG (2014) National Planning Policy for Waste</li> </ul> <p>All plans and programmes will need to be reviewed to ensure that</p> <ul style="list-style-type: none"> <li>• the documents identified are up-to-date;</li> <li>• any gaps are addressed;</li> <li>• any comments received during consultation on previous SEA reports have been taken into account.</li> </ul> <p>This information should be presented in an Annex (and Annex A forms a suitable basis) and should also be summarised in the main body of any subsequent Environmental Report. It would be useful for this section to include a summary of the key messages arising from the review.</p>

## SEA Directive requirements

## Where and to what extent is this requirement addressed in the Environmental Report?

## Is the SEA Directive requirement met?

## What actions are required to meet the SEA Directive requirement?

- The Cancun Agreement (2011)
- Council Directive 91/271/EEC for Urban Waste-water Treatment
- European Commission (EC) (2011) A Resource-Efficient Europe- Flagship Initiative Under the Europe 2020 Strategy, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions (COM 2011/21)
- European Landscape Convention 2000 (became binding March 2007)
- EU Nitrates Directive (91/676/EEC)
- EU Directive on the Landfill of Waste (99/31/EC)
- EU Water Framework Directive (2000/60/EC)
- EU 2001/42/EC on the Assessment of the Effects of Certain Plans and Programmes on the Environment (SEA Directive)
- EU Environmental Noise Directive (Directive 2002/49/EC)
- EU Floods Directive 2007/60/EC
- EU Air Quality Directive (2008/50/EC) and previous directives (96/62/EC; 99/30/EC; 2000/69/EC & 2002/3/EC)
- EU Directive on the Conservation of Wild Birds (79/409/EEC)
- EU Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora (92/43/EEC) & Subsequent Amendments
- EU Directive on Waste (Directive 75/442/EEC, 2006/12/EC 2008/98/EC as amended)
- EU (2011) EU Biodiversity Strategy to 2020 – towards implementation
- UNFCCC (1997) The Kyoto Protocol to the UNFCCC
- World Commission on Environment and Development (1987) Our Common Future (The Brundtland Report), The World Summit on Sustainable Development (WSSD), Johannesburg, September 2002 - Commitments arising from Johannesburg Summit (2002)

Additional national plans and programmes that could also be considered relevant could include (but not be limited to):

- DCLG (2012) Planning Policy for Traveller Sites



SEA Directive requirements	Where and to what extent is this requirement addressed in the Environmental Report?	Is the SEA Directive requirement met?	What actions are required to meet the SEA Directive requirement?
	<ul style="list-style-type: none"> <li>• DCLG (2014) National Planning Policy for Waste</li> <li>• Department for Food and Rural Affairs (Defra) (2007) The Air Quality Strategy for England, Scotland, Wales and Northern Ireland</li> <li>• Defra (2009) Safeguarding Our Soils: A Strategy for England</li> <li>• Defra (2011) Biodiversity 2020: A Strategy for England's Wildlife and Ecosystem Services</li> <li>• Defra (2011) Natural Environment White Paper: The Natural Choice: Securing the Value of Nature</li> <li>• Defra (2012) UK post 2010 Biodiversity Framework</li> <li>• Defra (2013) The National Adaptation Programme – Making the Country Resilient to a Changing Climate</li> </ul> <p>The plans and programmes could also be presented in accordance with the identified topics for the assessment.</p>		
<p>b) The relevant aspects of the current state of the environment and the likely evolution thereof without implementation of the plan or programme.</p>	<p>Section 2.3 of the Environmental Report provides an overview of the baseline for the following topics:</p> <ul style="list-style-type: none"> <li>• Economy and Employment</li> <li>• Housing</li> <li>• Population and Society</li> <li>• Health</li> <li>• Transport</li> <li>• Cultural Heritage</li> <li>• Biodiversity and Nature Conservation</li> <li>• Landscapes</li> <li>• Water Environment</li> <li>• Climate</li> <li>• Air and Noise</li> <li>• Waste</li> </ul> <p>More detailed information on each of these topics is contained in Annex B of the Environmental Report.</p> <p>The topics contained in the Environmental Report cover the SEA Directive Annex I (f) topics of biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural heritage including architectural and archaeological heritage and landscape. It is noted that whilst soil is not an explicit heading, information is contained under the landscape section of the report. The additional</p>	<p><b>Yes</b>, although the baseline analysis will need to be reviewed and updated as appropriate. Further information could be provided in respect of trend based data and the evolution of baseline without the ULP.</p>	<p>Section 2.3 and Annex B provide a comprehensive range of data presented in a variety of formats (text, tables, figures); however, any subsequent Environmental Report will need to include updates datasets, where available.</p> <p>Consideration should be given to improving the treatment of the evolution of the baseline without the implementation of the ULP by drawing on projections and targets (taken from those relevant plans and programmes reviewed), to supplement the information contained in Table 4, of section 2.5.</p>



SEA Directive requirements	Where and to what extent is this requirement addressed in the Environmental Report?	Is the SEA Directive requirement met?	What actions are required to meet the SEA Directive requirement?
	<p>topics included in the Environmental Report (Economy and Employment, Housing, Society, Transport and Waste) address the subjects that could be included under the heading of material assets, and also provide the opportunity to include subjects that would be expected to be part of the wider interpretation of sustainability.</p> <p>The extent of baseline information provided in Annex A is comprehensive and appears to include recent data (from ONS etc), although it has not been possible to consider this in detail. The information is presented in a variety of formats (text, tables, figures). Section 2.3 summarises the information for the topics and the level of detail provided appears appropriate.</p> <p>The likely evolution of the baseline without implementation of the plan or programme is contained as part of Table 4 and this reflects a qualitative judgement on possible changes. Given the availability of projections for some subjects (population and climate change for example) and targets (so for conditions of European sites), it is possible to supplement the existing commentary with some quantitative information</p>		
c) The environmental characteristics of areas likely to be significantly affected.	<p>Section 2.3 and Annex A of the Environmental Report presents the baseline context which includes the identification of specific designated sites/areas. However, there is no explicit consideration of the areas likely to be most significantly affected by the ULP. For example, this could include details of those factors affecting the Sites of Special Scientific Interest (so an expansion of the information contained in Figure 25 'Condition of Sites of Special Scientific Interest' of Annex B) or a summary of the environmental characteristics of the differing settlements within District.</p>	<p><b>Partially.</b> The environmental characteristics of those areas likely to be significantly affected by the ULP are implicitly rather than explicitly described.</p>	<p>Any subsequent Environmental Report should include specific consideration of the environmental characteristics of those areas of the District likely to be significantly affected by the ULP (for example, towns and larger villages, designated sites etc).</p> <p>Consideration should be given to improving the information presented with regard to the national or local factors that are currently affecting designated conservation sites (which could include direct habitat loss from new development, habitat damage and species disturbance from recreational activities, trampling and cat predation, as well as noticeable urban edge effects).</p>
d) Any existing environmental problems which are relevant to the plan or programme including, in particular, those relating to any areas of a particular	<p>Table 4 within section 2.5 provides a summary of issues and constraints for each topic considered within the Environmental Report. There are no international or European designated sites within Uttlesford. Nationally designated sites include 2 National Nature Reserves (NNRs)</p>	<p><b>Yes.</b></p>	<p>Any subsequent Environmental Report should build on the information contained in Table 4 of the previous report and update it as appropriate to reflect any additional issues arising from the revised baseline analysis. In particular, this should include commentary relating to the condition of designated</p>

SEA Directive requirements	Where and to what extent is this requirement addressed in the Environmental Report?	Is the SEA Directive requirement met?	What actions are required to meet the SEA Directive requirement?
<p>environmental importance, such as areas designated pursuant to Directives 79/409/EEC and 92/43/EEC.</p>	<p>and 12 Sites of Special Scientific Interest (SSSIs) which are referenced in Table 4.</p>	<p></p>	<p>sites and any particular issues/threats to their status/integrity.</p>
<p>e) The environmental protection objectives, established at international, Community or national level, which are relevant to the plan or programme and the way those objectives and any environmental considerations have been taken into account during its preparation.</p>	<p>As noted above, Annex A of the Environmental Report contains a detailed review of plans, programmes and policies at the national, county and local level. This review includes specific consideration of the objectives relevant to the ULP. It has not been possible within the scope of this review to undertake a detailed analysis of Annex A. However, a brief evaluation indicates that it would be useful to extend the scope of the review of plans and programmes, to consider international and European plans and programmes and it is usual to reference relevant European Directives. Additional national plans have also been identified.</p> <p>The review of plans, programmes and policies is signposted in Section 2.3 of the Environmental Report.</p>	<p><b>Yes</b>, although the review of plans, programmes and policies should be updated.</p>	<p>The review of plans, programmes and policies could be expanded to include international and European plans and programmes. The national plans and programmes also need to be reviewed, as there are some omissions, including:</p> <ul style="list-style-type: none"> <li>• DCLG (2012) Planning Policy for Traveller Sites</li> <li>• DCLG (2014) National Planning Policy for Waste</li> </ul> <p>All plans and programmes will need to be reviewed to ensure that:</p> <ul style="list-style-type: none"> <li>• the documents identified are up-to-date;</li> <li>• any gaps are addressed;</li> <li>• any comments received during consultation on previous SEA reports have been taken into account.</li> <li>• relevant objectives are identified and summarised, along with the relationship with the ULP.</li> </ul> <p>Any subsequent Environmental Report should contain a summary of those plans, programmes and policies reviewed in Annex A. It would be useful for this section to include a summary of the key messages arising from the review and how they have been reflected within the SEA (for example how they have informed the assessment objectives).</p>
<p>f) The likely significant effects on the environment, including on issues such as biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural heritage including architectural and archaeological heritage, landscape and the interrelationship between the above factors. (These effects should include secondary, cumulative, synergistic, short, medium and long-term permanent and temporary,</p>	<p>Section 3-16 of the Environmental Report presents the findings of the assessment of the high level spatial options/alternatives, objectives, policies (including alternative approaches where these have been identified) and site allocations.</p> <p>The assessment uses the assessment framework set out in Table 4, section 2.5 of the Environmental Report. Annex C contains further detail on the sustainability assessment framework. The assessment framework comprises of 12 sustainability objectives with an extensive suite of further appraisal questions for each topic. Separate questions are used for the completion of the site appraisal in recognition of the need to tailor the objectives to reflect specific quantifiable aspects of the sites (such as proximity to designated nature</p>	<p><b>Partially.</b> Whilst the LDP vision, objectives, policies and site allocations have been assessed, there is considered to be an overall lack of assessment of the cumulative effects of the ULP both alone and in combination with other plans and programmes.</p>	<p>A number of recommendations have been identified based on the review of sections 3 - 16 of the Environmental Report. These are listed below:</p> <ul style="list-style-type: none"> <li>• Any subsequent assessments should be based on the assessment framework (reflected any updated information) comprising of 12 assessment objectives, which has been modified to reflect application to proposed policy and sites.</li> <li>• Any subsequent assessment of the ULP vision and objectives should be based on an approach similar to that of the compatibility assessment contained in the 2014 Environmental Report.</li> </ul>

## SEA Directive requirements

## Where and to what extent is this requirement addressed in the Environmental Report?

## Is the SEA Directive requirement met?

## What actions are required to meet the SEA Directive requirement?

positive and negative effects).

conservation and cultural heritage sites, location with a flood risk zone 2 or 3 or proximity to public transport and community facilities). The use of assessment objectives and questions is consistent with Government Guidance and is standard practice. The development of the assessment framework was undertaken as part of the 2011 scoping and was subject to consultation with the three statutory consultation bodies (the Environment Agency, Natural England and English Heritage) and a wider set of organisations listed on the Statement of Community Involvement (July 2006), Sustainable Uttlesford, Essex County Council and Saffron Walden and District Friends of the Earth. All information was made available on Uttlesford District Council's website for wider consultation. Given the range of topics covered by the assessment objectives, their relationship to the baseline information collected and that views of a broad range of consultees sought, it is considered an appropriate basis to identify the likely significant effects of the ULP.

The ULP objectives have been tested for their compatibility with the SEA objectives. Alternatives, policies and site allocations, meanwhile, have been awarded scores ranging from 'Major Positive' impacts to 'Major Negative' impacts.

Specific comments in relation to the assessment of each Plan component are set out below.

### Options/Alternatives to the Plan

The assessment of ULP strategic options is contained within the Environmental Report; however, it is not readily summarised early in the report and is instead located in a number of different places within the report:

- Section 5.1 (page 72 - 75) presents Strategic Policy SP3 - Employment Strategy which contains the provision of employment land allocation and the strategic sites where it will be allocated. This section includes the assessment of the preferred option and the reasonable alternatives.
- Section 7.1 (page 92 - 96) presents the housing requirement (10,460 new homes between 2011 and 2031), the justification, the assessment of the preferred options along with reasonable alternatives
- Section 7.3 (pages 98-102) presents Strategic Policy

- Any subsequent Environmental Report should contain a section describing the evolution of the plan, with respect to the principal questions (how much housing is required, how much employment land is required, where will it be distributed and over what time frame). Whilst it is appreciated that the Council has the opportunity to start afresh following the withdrawal of the ULP, there will be a need over subsequent iterations of the ULP to present the evolving thinking, and the influence of the evidence base, consultation and the SA on the revisions.
- The Council should review the merit of presenting alternatives for all policy options contained in the ULP. This is exceptionally precautionous interpretation of the SEA Directive requirement to consider reasonable alternatives to the ULP, leads to an assessment of excessive length and obscures the detailed consideration of the key alternatives regarding the quantum of growth and the approaches to its distribution.
- The commentary provided on the assessment of likely significant effects of policies and sites in any future revised Environmental Report is considered objectively to ensure that all significant effects are identified, described and evaluated. The use of uncertainty should be avoided as there appear to be instances (such as Elsenham) where the use of uncertainty understates the nature and scale of adverse effects.
- With specific regard to the assessment of site allocations, the approach to present the cumulative effects on identified settlements is continued.
- An approach should be developed to address the cumulative effects of the ULP as a whole and in combination with other plans and programmes.

## SEA Directive requirements

## Where and to what extent is this requirement addressed in the Environmental Report?

## Is the SEA Directive requirement met?

## What actions are required to meet the SEA Directive requirement?

SP7 - Housing Strategy which contains the preferred spatial strategy to distribute the housing requirement. This section includes the assessment of the preferred option and the reasonable alternatives. Section 7.3.5 presents an assessment of the alternatives to the preferred distribution of housing (which includes a new settlement at Elsenham):

- Alternative 1: Distribute development between the District's three main settlements of Great Dunmow, Saffron Walden and Stansted Mountfitchet
- Alternative 2: Distributing the development across a hierarchy of settlements, from the towns to the villages.
- Alternative 3: Distributing development across a similar hierarchy of developments as proposed under Alternative 2 i.e. across a hierarchy of settlements, from towns to the villages but with significantly less development at Takeley/Little Canfield and a significant increase in development as the start of a new settlement.

The Environmental Report does not contain alternative possible site locations to the new settlement at Elsenham.

- Section 15.2.27 (page 235 – 236) Elsenham Policy 1 - Land North East of Elsenham presents the policy regarding the strategic site north east of Elsenham, allocated for 2100 homes. Whilst alternatives to the development around the village of Elsenham are provided, the justification of a new settlement approach and in particular one sited at such a location is absent.

The fragmented approach to presenting the strategic options and in particular the limited commentary on the strategic alternatives to a new settlement option, and one located at Elsenham hinders an understanding of the key choices made by the Council.

The scoring of alternatives itself may also be questioned in some instances. For example, regarding the 3 alternatives to the preferred Housing Strategy, against the 12 objectives, the scoring is assessed as the same, with the only discriminator being a long term benefit identified for alternative 3 against objectives 10 (promote the efficient use

**SEA Directive requirements**
**Where and to what extent is this requirement addressed in the Environmental Report?**
**Is the SEA Directive requirement met?**
**What actions are required to meet the SEA Directive requirement?**

of resources and the necessary provision of infrastructure) and objectives 11 (improve education and skills). These scores are the same as the preferred option. It is perhaps surprising that there was not greater differentiation between the options and that the concerns subsequently raised against the development of the Elsenham new settlement by the Inspector (unsuitability of the local roads and the capacity of junction 8 on the M11) did not score negatively (against either objectives 6, 7 and/or 11). It would be expected that all proposals for growth would have some adverse effects on some of the sustainability objectives (for example, resource use and emissions to air in both the short term during construction and in the longer term once development is occupied/operational). It could also be expected that those options which seek to disperse development would be more likely to have adverse effects on the sustainability objectives relating to biodiversity and landscape (due to, for example, increased pressure on greenfield sites for development).

The reasons for the selection of the new settlement however reflect earlier decisions taken in the SA/SEA process. However, the Environmental Report does not present the outcomes of previous assessments and the alternatives considered at that stage, so the reader is unclear on the reasons for the selection of the proposed strategic options (so the quantum and distribution of development across the district and the selection of the new settlement option at Elsenham in particular) and the influence of earlier assessment on the evolution of the ULP. To some extent this is understandable as the evolution of the scale and location of development is complex and reflects a number of changing factors; however, its absence, does make it problematic to understand the context for the assessment.

However, whilst understanding the evolution of the ULP and how it addresses the key questions of how much growth, and its location and distribution over the plan period is problematic, the Environmental Report does contain information on individual policies. Specifically, in considering the detail of individual policy assessments, the Environmental Report does provide, on occasion, instances of previous alternatives considered and where amendment has been made to policy wording at a previous stage.

## SEA Directive requirements

### Where and to what extent is this requirement addressed in the Environmental Report?

### Is the SEA Directive requirement met?

### What actions are required to meet the SEA Directive requirement?

#### Vision and Objectives

Section 3 presents a compatibility assessment of the ULP vision and objectives with the SEA objectives. The approach, presentation and level of assessment accords with standard practice.

#### Policies

Sections 4 – 14 and section 16 present the assessment of the proposed policies that are contained in the ULP. For each policy considered the following information is presented:

- Justification
- Impact on SA objectives
- Progress through the SA process
- Alternatives considered
- Impact on indicators
- Proposed mitigation measures

The use of standard headings does ensure consistency in the approach; however, for some policies, the alternatives proposed are not particularly meaningful (particularly where the policies are designed for environmental benefit) and take the concept of assessing the reasonable alternatives to the plan to a level of potentially unnecessarily detail that obscures the key issues that need to be considered in the assessment.

It has not been possible within the scope of this review to consider in detail the validity of the assessment of individual ULP policies against the SEA objectives.

#### Site Allocations

Section 15 presents the assessment of the proposed site allocations that are contained in the ULP. For each site considered the following information is presented:

- Impact on SA objectives
- Secondary, Cumulative and Synergistic Effects
- Alternatives Considered
- Recommendations / Mitigation Measures

The consideration of secondary, cumulative and synergistic effects presents the potential effects of all sites proceeding

## SEA Directive requirements

## Where and to what extent is this requirement addressed in the Environmental Report?

## Is the SEA Directive requirement met?

## What actions are required to meet the SEA Directive requirement?

on specific settlements (such as Saffron Walden, Great Dunmow and Stansted Mountfitchet). This is a very useful approach to determine the extent to which the development on the new sites can be accommodated or whether the effects will be detrimental on the receiving community unless additional infrastructure or further mitigation measures are provided. With regard to the Elsenham site, this is where the effects on accessibility and access would be expected to be identified; however, whilst a number of negative effects were described, the potential effects on accessibility are described as uncertain:

*'There will however be a number of cumulative negative impacts. The scale of development on greenfield land will see negative landscape implications (including those in the Countryside Protection Zone), which will need sensitive mitigation and design features for individual developments. There will also be a significant cumulative loss of high quality agricultural land. There will additionally be cumulative negative impacts associated with the disruption of existing historic field boundaries.*

*There will be negative impacts on the capacity of nearby schools resulting from the site allocations in Elsenham. It is recommended that the cumulative impacts of development on the capacity of schools are carefully addressed with the relevant service providers, and new education provision is delivered so as to not to have any significant shortfalls in local capacity. There will also be negative cumulative impacts on the capacity of healthcare facilities.*

*A number of uncertain impacts are associated with safe highways access and accessibility by sustainable transport means, walking and cycling.'*

**Cumulative Effects**

As noted, the cumulative effects of the site allocations on settlements have been considered; however the cumulative effects of the plan overall (so the combined effects of all ULP policies) has not been considered. Similarly the cumulative effects of the plan in conjunction with other plans or programmes (so other local planning authority local plans) have not been considered. This is a gap that needs to be addressed.

g) The measures envisaged to

Sections 4 – 14 and 16 present the assessment of the

Yes. The Environmental

Following revision to the assessment of ULP objectives,



SEA Directive requirements	Where and to what extent is this requirement addressed in the Environmental Report?	Is the SEA Directive requirement met?	What actions are required to meet the SEA Directive requirement?
<p>prevent, reduce and as fully as possible offset any significant adverse effects on the environment of implementing the plan or programme.</p>	<p>proposed policies that are contained in the ULP. For each policy considered, there is a heading to permit the identification of mitigation measures, which usually takes the form of minor amendments to policy wording and specific policy criteria. For a number of policies (such as SP7 – Housing Strategy however, it is surprising that there is no reference to other policies within the plan, that would ensure that any adverse effects of the development of the housing requirement were minimised).</p> <p>Section 15 presents the assessment of the proposed site allocations that are contained in the ULP. For each collection of site policies (based around a settlement) a range of recommendations and mitigation measures are identified. This can include direction towards working with relevant service providers, for example of the provision of additional capacity at local schools. These also anticipate that further work will be required which will be resolved by individual masterplanning.</p>	<p>Report does identify specific mitigation measures.</p>	<p>options, policies and site allocations, officers should review the assessment in order to identify opportunities to both mitigate adverse effects and enhance positive effects associated with the Plan’s implementation. It would be expected that the site assessments in particular will identify a range of measures to address any potentially adverse effects. In identifying the mitigation measures, officers should ensure the use of cross referencing where appropriate. The measures identified should be clearly set out in the Environmental Report together with how they have been addressed in the Plan (where appropriate).</p>
<p>h) An outline of the reasons for selecting the alternatives dealt with, and a description of how the assessment was undertaken including any difficulties (such as technical deficiencies or lack of know-how) encountered in compiling the required information.</p>	<p><b>Alternatives</b> As set out above, the Environmental Report includes an assessment of alternatives of policies and sites. To this extent it is comprehensive; however, the approach is problematic in attempting to identify the likely significant effects of the reasonable alternatives to the key questions facing the ULP regarding how much growth, its location and distribution over the plan period.</p> <p>A detailed review of the Environmental Report indicates that this is contained in a number of disparate sections:</p> <ul style="list-style-type: none"> <li>Section 5.1 (page 72 - 75) presents Strategic Policy SP3 - Employment Strategy</li> <li>Section 7.1 (page 92 - 96) presents the housing requirement (10,460 new homes between 2011 and 2031)</li> <li>Section 7.3 (pages 98-102) presents Strategic Policy SP7 - Housing Strategy</li> <li>Section 15.2.27 (page 235 – 236) Elsenham Policy 1 - Land North East of Elsenham</li> </ul> <p>However, in regard of one key policy (Elsenham Policy 1 and the commitment to a new settlement), the Environmental</p>	<p><b>No.</b> The Environmental Report does not adequately set out the reasons for the selection of the alternatives dealt with, for the rejection of reasonable alternatives and for the selection of the preferred options.</p> <p>The Environmental Report does not describe the difficulties encountered during the assessment.</p>	<p><b>Alternatives</b> Officers should consider the inclusion of a specific chapter with any subsequent Environmental Report that outlines the reasons for the selection of the alternative dealt with, for the rejection of reasonable alternatives and for the selection of the preferred options. These alternatives should include differing scales of growth for both housing and employment, differing spatial distributions and differing configurations of proposed sites.</p>

SEA Directive requirements	Where and to what extent is this requirement addressed in the Environmental Report?	Is the SEA Directive requirement met?	What actions are required to meet the SEA Directive requirement?
	<p>Report is deficient, as it does not contain alternative possible site locations to the new settlement at Elsenham.</p> <p>It is understood that the reasons for the selection of the new settlement reflect earlier decisions taken in the SA/SEA process. However, the Environmental Report does not present the outcomes of previous assessments and the alternatives considered at that stage (with the exception of 2007), so the reader is unclear on the reasons for the selection of the preferred option.</p> <p>The justification section (7.3.1) for the Housing Strategy states:</p> <p><i>'The NPPF specifies that Local Plans should set out the strategic priorities for the area and include strategic policies that can deliver the homes and jobs needed. They should specify the housing need and then identify a supply of sites or broad locations for growth that will deliver the housing strategy across the plan period'.</i></p> <p>This does not provide sufficient justification for the selection of the new settlement approach to the allocation of development.</p> <p>The Environmental Report describes at section 2.4 data limitations as a difficulty encountered during the assessment.</p>		
i) A description of measures envisaged concerning monitoring in accordance with Art. 10.	Annex C of the Environmental Report sets out a monitoring framework.	<b>Yes.</b> The Environmental Report includes a monitoring framework.	Officers should review any outcomes of future assessments of likely significant effects of a revised ULP to ensure proposed monitoring measures are appropriate.
j) A non-technical summary of the information provided under the above headings.	A non-technical summary has been provided.	<b>Yes.</b> A non-technical summary is provided.	Officers should prepare a non-technical summary of the information provided in the Environmental Report.

### 3. Reasonable Alternatives

#### 3.1 The Requirement to Consider Reasonable Alternatives

Consideration of reasonable alternatives to a plan is a fundamental aspect of planning policy development and the requirements of the SEA Directive (Article 5(1)) formalise this, requiring that the choices and resulting decisions be made explicit through their inclusion in the resulting environmental report. The consideration of reasonable alternatives has been the focus of recent legal challenges to local plans in England, based on the inadequate implementation of the SEA Directive. This is the case law that the Inspector referred to in his concluding remarks on the SA. These legal challenges include:

- ▶ **Save Historic Newmarket v Forest Heath District Council [2011] EWHC 606 (Admin) (25 March 2011)** case in which it was found that reasonable alternatives to a 1,200 home Sustainable Urban Extension in northeast Newmarket had not been adequately assessed and the reasons why it was rejected had not be sufficiently explained in the SA Report. The High Court ruling, in quashing parts of the Forest Heath Core Strategy, stated:

*“40. .... It was not possible for the consultees to know from it what were the reasons for rejecting any alternatives to the urban development where it was proposed or to know why the increase in the residential development made no difference. The previous reports did not properly give the necessary explanations and reasons and in any event were not sufficiently summarised nor were the relevant passages identified in the final report. There was thus a failure to comply with the requirements of the Directive and so relief must be given to the claimants.”*

- ▶ **Heard v Broadland District Council et al. [2012] EWHC 344 (Admin) ( 24 February 2012)** case in which it was found that the reasons for the selection of the reasonable alternatives and the preferred option had not been presented in the final SA Report (or in the Joint Core Strategy), nor was there any evidence presented in the final SA Report that the options had been examined to the same degree and in the same depth. The judge held at [71]:

*“the aim of the directive, which may affect which alternatives it is reasonable to select, is more obviously met by, and it is best interpreted as requiring, an equal examination of the alternatives which it is reasonable to select for examination alongside whatever, even at the outset, may be the preferred option. It is part of the purpose of this process to test whether what may start out as preferred should still end up as preferred after a fair and public analysis of what the authority regards as reasonable alternatives. I do not see that such an equal appraisal has been accorded to the alternatives referred to in the SA of September 2009. If that is because only one option had been selected, it rather highlights the need for and absence here of reasons for the selection of no alternatives as reasonable. Of course, an SA does not have to have a preferred option; it can emerge as the conclusion of the SEA process in which a number of options are considered, with an outline of the reasons for their selection being provided. But that is not the process adopted here.”*

- ▶ **Cogent Land LLP v Rochford District Council [2012] EWHC 2542 (Admin); (21 September 2012)** case in which the claimant submitted that documents produced in 2008 for the SA/SEA did not set out adequately the reasons for preferring the selected locations over alternatives that had been rejected, so that the public was not allowed the early and effective engagement that was required. Rochford's preparatory work on the Core Strategy had been carried out before the decision in *Save Historic Newmarket v. Forest Heath District Council*. On consideration of Forest Heath (which was handed down after the Examination in Public into the Rochford Strategy had closed) Rochford asked the Inspector to defer her report to allow the Council to prepare an Addendum SEA Report which addressed the conclusions in Forest Heath. The Inspector agreed. The Addendum (which supported the policies in the Core Strategy) was made public and all parties were given the opportunity to respond to it, but the Inspector declined to reopen the EiP. When the Inspector concluded that the Core Strategy was sound and the document was subsequently adopted, the Claimant challenged and Bellway Homes (which had an interest in land in West Rochford) was joined as an interested party. The judge was inclined

to accept that submission but he held that a July 2011 Addendum cured any defects in the earlier stages of the process and that the Inspector's decision not to reopen the EiP was fair

- ▶ **Chalfont St Peter PC v Chiltern DC [2013] EWHC 1877 (Admin)** case in which the claimant attempted to quash part of Core Strategy. The ruling applied *Heard v Broadland* in respect of the adequacy of consideration of alternatives and found that alternatives which were obvious non-starters did not need to be considered.
- ▶ **Ashdown Forest Economic Development LLP v Secretary of State for Communities and Local Government [2014] EWHC 406 (Admin) (21 February 2014)** case in which the claimants sought to extend similar arguments to those pursued in *Save Historic Newmarket* and *Heard*, to an extent that was considered inapplicable and impermissible by the court. The judge ruled that:

*“97 A plan-making authority has an obligation under the SEA Directive to conduct an equal examination of alternatives which it regards as reasonable alternatives to its preferred option (interpreting the Directive in a purposive way, as indicated by the Commission in its guidance: see *Heard v Broadland DC* at [71]). The court will be alert to scrutinise its choices regarding reasonable alternatives to ensure that it is not seeking to avoid that obligation by saying that there are no reasonable alternatives or by improperly limiting the range of such alternatives which is identified. However, the Directive does not require the authority to embark on an artificial exercise of selecting as putative “reasonable alternatives,” for full strategic assessment alongside its preferred option, alternatives which can clearly be seen, at an earlier stage of the iterative process in the course of working up a strategic plan and for good planning reasons, as not in reality being viable candidates for adoption.”*

In consequence, in regard to the identification, development, appraisal and discarding of reasonable alternatives and the selection and justification of a preferred option, the SA/SEA Reports must provide a sufficiently detailed narrative around the reasons for the selection of key options (whether the preferred quantum of growth, distribution of growth or the allocation of sites) at each stage of the process. Whilst it is for the LPA to determine what constitutes a reasonable alternative, once identified, each must be treated in the same manner as the preferred option (and so appraised to the same degree using the same methodology).

### 3.2 Consideration of Reasonable Alternatives in the SA/SEA of the LP

The revised Local Development Scheme indicates that the Council has determined to start afresh with the ULP. In consequence, whilst there has been a considerable body of evidence, assessment and information gathered, the Council does not need necessarily to be constrained by what has been considered already.

With regard to the reasonable alternatives to the ULP, for the regulation 18 iteration of the plan, these should address the following key questions:

- ▶ How much housing is required?
- ▶ How much employment land is required?
- ▶ What is the preferred spatial distribution of the growth?
- ▶ Given the sites available, what is the preferred configuration of sites that best meets the preferred spatial distribution?

In determining the quantum of growth, reference should be made to the evidence base (so ONS SNPP figures for the district, with further allowance made for projected migration and household formation rates over the period covered by the ULP). As noted in the Inspectors letter to the Council, consideration is also need for an upward adjustment for market signals and for an adequate provision of affordable homes. This should lead to the generation of a number of differing options, depending on the variables selected. Before being subject to assessment, each should be considered to determine whether each is a reasonable alternative. So for example, an option that is based on net zero migration for example would not be considered realistic or reasonable.

When considering the preferred distribution of growth, there is considerable previous consideration of options to draw upon. For example, section 2.3 of the Sustainability Appraisal of the Core Strategy Objectives and the Different Growth Options (Jan 2007) identified 12 options:

- ▶ 1a: Concentrate all development in Saffron Walden.
- ▶ 1b: Concentrate all development in Great Dunmow:
  - ▶ (i) 1 large greenfield urban extension;
  - ▶ (ii) Larger number of smaller greenfield sites;
  - ▶ (iii) Reuse of employment designated sites within Greater Dunmow for housing.
- ▶ 1c: Concentrate Development in Stansted Mountfitchet – greenfield extension.
- ▶ 1d: Concentrate Development in the largest centres of Great Dunmow, Saffron Walden and Stansted – split growth between settlements, with growth located on greenfield sites.
- ▶ 1e: Concentrate Development in a single new settlement (consistent with EoE Plan – unspecified location):
  - ▶ (i) East of Stebbing;
  - ▶ (ii) Between Elsenham and Henham;
  - ▶ (iii) Within the vicinity of Stansted airport.
- ▶ 2a: Distribute development over hierarchy of settlements from villages with services and facilities through key rural centres to largest settlements.
- ▶ 2b: Distribute Development along the West Anglia Rail Corridor.
- ▶ 2c(i): Distribute all the development in villages around the District.
- ▶ 2c(ii): Distribute all the development in villages around the District - proportionate to facilities.
- ▶ 2d: Distribute development along the A120 corridor and in Dunmow.

The Pre-Submission Local Plan Sustainability Appraisal and Strategic Environmental Assessment Addendum (June 2014) attempted to address concerns over alternatives to the new settlement at Elsenham by considering specific sites:

- ▶ Easton Park to the north west of Great Dunmow (LtEAS1);
- ▶ Boxted Wood and Andrewsfield, two separate proposals to the east of Stebbing (STE1 and STE2);
- ▶ Chelmer Mead, between Great Dunmow and Felsted (LtDUN1); and
- ▶ Land to the north east of Great Chesterford (GTCHES7).

However, the underlying concern not adequately addressed by the Addendum relates to whether a new settlement is the most appropriate and sustainable way to accommodate the development that the district needs.

Given the Inspectors comments regarding Elsenham, and that the justification for the Elsenham strategic allocation was inadequate and that the Council needed to consider the claims of other candidate locations for growth ('new settlement' or otherwise), it is recommended that further attention is given to options perhaps similar to those from 2007 above, as a starting point, to examine the competing merits of a new spatial strategy.

Once this has been subject to consultation and SA/SEA, and revised to reflect any changes in the evidence base and submissions, consideration could then be given to specific site allocations and the preferred configuration of sites best able to deliver the preferred spatial strategy (which then may or may not include a new settlement). This would then be presented in the Regulation 19 Local Plan Pre-Submission

Consultation ULP. It is recommended that both a preferred configuration of strategic sites and reasonable alternatives is considered and the effects assessed to demonstrate adequate consideration of reasonable alternatives.

All options should be considered against the sustainability objectives, and the effects recorded in the same manner and the detail presented to the same degree. This will be important to demonstrate that the effects of the plan and reasonable alternatives to it have been considered to the same degree and depth (and so addresses the requirements of *Heard v Broadland District Council et al.* [2012] EWHC 344).

## 4. Reporting Approach and Structure

### 4.1 Contents of any Subsequent Environmental Report

The Council may wish to consider how any subsequent Environmental Report is structured. Adopting a logical structure that meets the requirements of the SEA Directive will help to avoid unnecessary consultation responses, lead to the publication of a more accessible document and help ensure compliance. Whilst there is much to be commended in the current Environmental Report, there are a number of key points, where the structure does not support the ready demonstration of compliance against the SEA Directive requirements.

In this context, a possible alternative structure for an Environmental Report is set out below:

- ▶ **Non-Technical Summary.**
- ▶ **Section 1: Introduction** (including the context, description of the ULP, an overview of the SEA process, summary of other assessments (including how they have informed the SEA process) and report structure)).
- ▶ **Section 2: Evolution of the ULP** (describing the development of the ULP to-date, the options considered and how the evidence base and other considerations have informed the Plan. This should include an explicit statement of the reasons for rejecting alternative options and selecting preferred options (for the scale of growth, its broad distribution and the location of sites). [NB, this section becomes increasingly important at the Regulation 19 Stage, as it demonstrates the evolution of the key issues for the ULP, the extent to which the evidence base, assessment and consultation responses have informed its development and the Council's rationale for its choices].
- ▶ **Section 3: Review of Plans and Programmes** (summarising the updated reviews of plans and programmes).
- ▶ **Section 4: Baseline Context** (including the updated baseline analysis and summary of sustainability issues).
- ▶ **Section 5: Methodology Framework** (providing an overview of the evolution of the SEA Framework and its application across the assessment of the different plan components and any technical difficulties encountered during the assessment process (including uncertainties and assumptions)).
- ▶ **Section 6: Assessment** (presenting the findings of the assessment of the vision, objectives, plan options, policies and site allocations including cumulative effects and a summary of mitigation measures).
- ▶ **Section 7: Next Steps** (including consultation arrangements and monitoring proposals).
- ▶ **Appendices** (including a record of consultation responses, site assessments, quality assurance checklist and review of plans and programmes).

## 5. Conclusions and Recommendations

The Council is now committing to completing a ULP, in accordance with the revised Local Development Scheme. As part of this process, it has an opportunity to revisit and revise its approach to undertaking

SEA/SA, to ensure that it complies with the requirements of the SEA Directive and Regulations and the principles established by case law. To aid compliance, when completing the next Environmental Report, the Council are recommended to consider the following matters:

- ▶ The assessment process:
  - ▶ Any subsequent assessment of the ULP vision and objectives should be based on an approach similar to that of the compatibility assessment contained in the 2014 Environmental Report.
  - ▶ Any subsequent assessments should be based on the assessment framework (reflected any updated information) comprising of 12 assessment objectives, which has been modified to reflect application to proposed policy and sites.
  - ▶ The Council should review the merit of assessing alternatives for all policy options contained in the ULP. It is recommended that effort is focused on the key choices for the ULP regarding the scale and location of growth with assessment of:
    - Options for growth reflecting the comments from the Inspector, the updated evidence base and guidance dealing with market signals and affordable homes.
    - Options for the location of growth including a number of broad choices, such as
      - Concentration of development on principal settlements (Saffron Walden, Great Dunmow and Stansted Mountfitchet through combination of infill and greenfield extensions).
      - Concentrate Development in a single new settlement (to be located east of Stebbing, between Elsenham and Henham or within the vicinity of Stansted airport).
      - Distribute development over hierarchy of settlements.
      - Distribute Development along a transport corridor (either the West Anglia Rail Corridor or the A120).
      - Distribute all the development in villages around the District proportionate to facilities.
  - ▶ An approach should be developed to address the cumulative effects of the ULP as a whole and in combination with other plans and programmes.
  - ▶ Following the assessment of the ULP, officers should review the assessment in order to identify opportunities to both mitigate adverse effects and enhance positive effects associated with the Plan's implementation.
  - ▶ Officers should review any outcomes of future assessments of likely significant effects of a revised ULP to ensure proposed monitoring measures are appropriate.
- ▶ The reporting process:
  - ▶ Information is presented that provides a high level overview of the spatial strategy set out in the ULP in terms of the quantum and distribution of development which could be accompanied by a map or figure. It would also be preferably if it included the proposed vision, objectives and listed the policies and allocations. Consideration could be given to providing a comprehensive list of ULP policies as an Annex. The text that summarises the evolution of the plan should be retained.
  - ▶ Completing a new section which presents information on the evolution of the ULP (describing the development of the ULP to-date, the options considered and how the evidence base and other considerations have informed the Plan. This should include an explicit statement of the reasons for rejecting alternative options and selecting preferred options (for the scale of growth, its broad distribution and the location of sites).

- ▶ Including a section and Annex that presents a review of plans, programmes and policies building and supplementing the information already collated and summarised. All plans and programmes will need to be reviewed to ensure that
  - The documents identified are up-to-date;
  - Any gaps are addressed;
  - Any comments received during consultation on previous SEA reports have been taken into account.

It would be useful for this section to include a summary of the key messages arising from the review.


- ▶ Including a section that presents the baseline, building on the comprehensive range of data already collated and analysed. Up to date datasets should be used, where available. Consideration should be given to improving the treatment of the evolution of the baseline without the implementation of the ULP by drawing on projections and targets (taken from those relevant plans and programmes reviewed), to supplement the information already presented. This section should include specific consideration of the environmental characteristics of those areas of the District likely to be significantly affected by the ULP (for example, towns and larger villages, designated sites etc).
- ▶ The commentary provided on the assessment of likely significant effects of policies and sites in any future revised Environmental Report is considered objectively to ensure that all significant effects are identified, described and evaluated.
- ▶ With specific regard to the assessment of site allocations, the approach to present the cumulative effects on identified settlements is continued.
- ▶ Officers should prepare a non-technical summary of the information provided in the Environmental Report.

Author



Pete Davis

Reviewer



Simon Ford

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# Uttlesford District Council: Pre-Submission Local Plan Review



## 1. Introduction

### 1.1 Overview

Amec Foster Wheeler Environment and Infrastructure UK Ltd (hereafter referred to as Amec Foster Wheeler) has completed a critical friend review of the Uttlesford District Council Pre-Submission Local Plan (LP) Strategic Environmental Assessment (SEA) and Sustainability Appraisal (SA) Environmental Report (April 2014) and addendum (June 2014).

This review is intended to support the Council in determining a response to the Planning Inspectors letter (dated 19 December 2014) regarding the conclusions of the Examination of the Uttlesford Local Plan (ULP), specifically it seeks to consider the final comment by the Inspector:

*“that future SAs need to ensure that the requirements of the Regulations and the principles established by case law are built-into the process transparently from the outset.”*

In consequence, the review identifies recommendations and actions to minimise the risk to the Council of non-compliance with the requirements of European Union Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment, referred to as the SEA Directive when undertaking future SEA/SA work.

This note considers the process of site identification and the relationship to the Strategic Housing Land Availability Assessment (SHLAA) to plan making.

## 2. Process of Identification

### 2.1 Objectively Assessed Need

The Council has signalled the intent to commission a Strategic Housing Market Assessment in co-operation with neighbouring authorities to evaluate its Objectively Assessed Need (OAN). This is a discreet piece of evidence that will set out the demand for housing to be addressed through the Plan and is not considered further here.

### 2.2 Requirement

Site selection to meet the OAN is a product of an assessment of suitability, viability and availability and development options can, to a degree, be prescribed by the sites put forward by the development industry.

In all cases sites will possess a range of attributes and constraints. Aside from the transparency of the process through which the Elsenham growth option emerged, the Inspector's comments on the weaknesses of the allocation are informative. They suggest a refinement to the Council's environmental sieving to identify the physical implications of development as well as any policy compromises that will need to be made. In particular, the Inspector expressed concern about:



- ▶ The scale of the proposed development (badged as a strategic extension) in relation to the size, character and function of the village taking into account already committed proposals to extend its boundaries;
- ▶ The ability of the allocation to integrate with and to take advantage of services in the existing settlement given the intervening influence of the railway line and the sporadic nature of access across the level-crossing; and
- ▶ The accessibility of the allocation given the length, quality and environmental issues associated with transport routes to the strategic highway network.

These views imply that the sites only clear attribute was that it had been promoted and was available. If constraints had been identified at a more strategic level, then early conclusions can be drawn about the potential of Elsenham (or parts of Elsenham) and by extension therefore, about sites being proposed there.

### 3. Towards Reasonable Options

#### 3.1 Characterisation of the District

The issues highlighted by the Inspector can be addressed through the following approach to characterise the opportunities and constraints of the District to assess the degree of realism of particular options for the LP given locational attributes.

##### Environmental Policies

The Council's evidence base sets out a process of sieving sites and identifying environmental constraints – through exclusionary and discretionary objectives. This approach is highly appropriate. If Stages 1 and 2 of the approach relate to the Exclusionary and Discretionary Constraints respectively, then suggested refinements are as follow.

##### Existing Settlements

Stage 3 would map settlement boundaries and the level of facilities found within them. This can be done on the basis of the settlement hierarchy but with a particular emphasis upon the incidence of higher level facilities and high trip generators such as secondary schools, supermarkets and business parks.

##### Accessibility

Stage 4 could map the accessibility of locations to highlight the implications for existing settlements and for the rural area. This would form a combination of barriers and opportunities which could inform site assessments in the SHLAA:

- ▶ The barriers presented by natural and physical features – e.g. the M11 and the railway at Elsenham and Newport. An example from an exercise that reflects the constraints posed by infrastructure on accessibility to educational facilities is at Appendix A. Other barriers such as the River Cam will already have been revealed under Stages 1 and 2;
- ▶ The standard of existing road infrastructure. This assessment would comprise a combination of junction capacity, accident data, highway width and extent of highway land and should, as a minimum, be applied to all 'A' and 'B' category roads as well as to motorway junctions;
- ▶ The incidence of 'pinch points' and potential associated capacity / environmental impacts on the network. The Inspector cited Lower Street in Stansted as an area of concern;
- ▶ Consideration could be given to the assessment of isochrone travel times around existing facilities and existing (and potentially) proposed employment locations and transport nodes such as – but not limited to – Stansted Airport, Saffron Walden, M11 Junction 8, Bishop's Stortford etc. This would form a context against which candidate sites could be assessed. The example at Appendix A depicts sustainable walking distances around secondary schools which

could be replicated in Uttlesford. As this exercise may be labour intensive it is suggested that it be restricted to higher order services with assessment of lower order services being requested from promoters as part of the SHLAA call for sites. A suggested division is in Table 3.1.

Table 3.1 *Plotting Facilities – A suggested division*

	SHLAA Call for Sites?	Apply Isochrones?	Source of Data
Convenience Store	Yes		
Supermarket	Yes		
Community Hall / Pub	Yes		
Primary School	Yes		
GP Surgery	Yes		
Playing Pitches	Yes		
Bus Stops with frequent service	Yes		
Retail Centre		Yes	Local Plan Layer
Employment / Commercial Location		Yes	Local Plan Layer
Secondary School (x6)		Yes	LEA Website
Railway Stations (x5)		Yes	
Leisure Centre (x2)		Yes	UDP Website
M11 / Trunk Road access		Yes	Local Plan Layer / other

A simplification of this process could be to apply a simple buffer around each facility according to the distances drawn from the report of the Urban Task Force which are attached at Appendix B. However, the presence of strong physical barriers in the District – the effect of which is demonstrated in the example at Appendix B – mean that this approach needs to be applied with thought.

This process should enable the existing environmental policy and accessibility of the District to be effectively characterised. When mapped, it should be possible to evaluate how far strategic development options and candidate sites in the SHLAA could be served by existing services and transport infrastructure.

A further Stage 4a could identify where gaps exist within the utilities network. Strategic issues such as wastewater treatment capacity should already be known and the implications for particular settlements understood. Other issues such as lengthy stretches of undersized trunk sewers / combined sewers may also have implications for viability in certain locations.

It is considered that the onus will be upon the promoter to demonstrate how non-designated assets and detailed constraints – archaeological potential / wildlife habitats can be accommodated within their own proposals.

### 3.2 Issues and Options Stage

The product of the above work could usefully support consultation on the Issues and Options providing a valuable element to the District Portrait as well as informing the future LP and the SA of each option.

### 3.3 Addressing the Urban / Rural Split

It is likely that the Issues and Options to be consulted upon will represent degrees of urban concentration, strategic extensions or new settlements but also a contribution from the rural area.



In addressing the rural area, there is danger in assuming that 'villages' will collectively contribute a particular percentage of growth as it removes this contribution from the supply that is supported by specific policy support in favour of unplanned windfalls. It would introduce an element of chance and, therefore risk.

Depending upon the extent to which the Council wishes to rely on urban or strategic sites. This decision will need to be informed by the following:

- ▶ The need to ensure the effectiveness of the ULP to deliver the significant boost in housing delivery that national policy requires;
- ▶ An analysis of the delivery of windfalls historically delivered across the villages;
- ▶ A judgement based on the Settlement Appraisals on the ability of villages to grow within acceptable limits and the level of facilities available to serve / be supported by growth;
- ▶ A judgement on the likely contribution of any Neighbourhood Plans being produced.

In the final analysis, a balance will need to be struck and the plan making process should be proportionate to the objectives it seeks to deliver. However, for a Plan to be 'sound' and to continue to be 'up to date' the LPA must demonstrate the effectiveness of its delivery. Should unrealistic or unspecified expectations be attached to village windfalls then the Council will be rendered vulnerable to appeals and lose control of its spatial strategy.

#### 4. The Relationship to the SHLAA and Site Promotion

The SHLAA forms a two way engagement with the development industry through which the attributes of potential sites are assessed. The Issues and Options stage of plan making can be used to further the Council's aims in the following way:

- ▶ Focus early attention on the constraints faced by particular locations. Whilst the Council will take its own view on the attributes of particular sites, it will also serve to prompt the developer to seek to address constraints and reassure the Council that their proposal represents a deliverable site;
- ▶ It could focus early attention on the attributes of particular locations where sites have not been promoted. This would send a strong message to the development industry which is likely to respond;
- ▶ This may imply a flexible approach to the SHLAA updated at year end but with sites accepted at any other time so removing any artificial deadline that would preclude the ongoing consideration of new options.

#### 5. Interim Arrangement and Five Year Supply

Time is clearly of the essence. As a new adopted LP is some years away, the Council is reliant upon the 2005 Uttlesford District Plan and windfalls to demonstrate a five year supply of housing land. As this may not be possible without an up-to-date OAN, then the Council will be vulnerable to speculative applications coming forward outside of the plan making process.

Clearly any such applicants will need to demonstrate that they represent sustainable development as required by the NPPF.



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Reviewer

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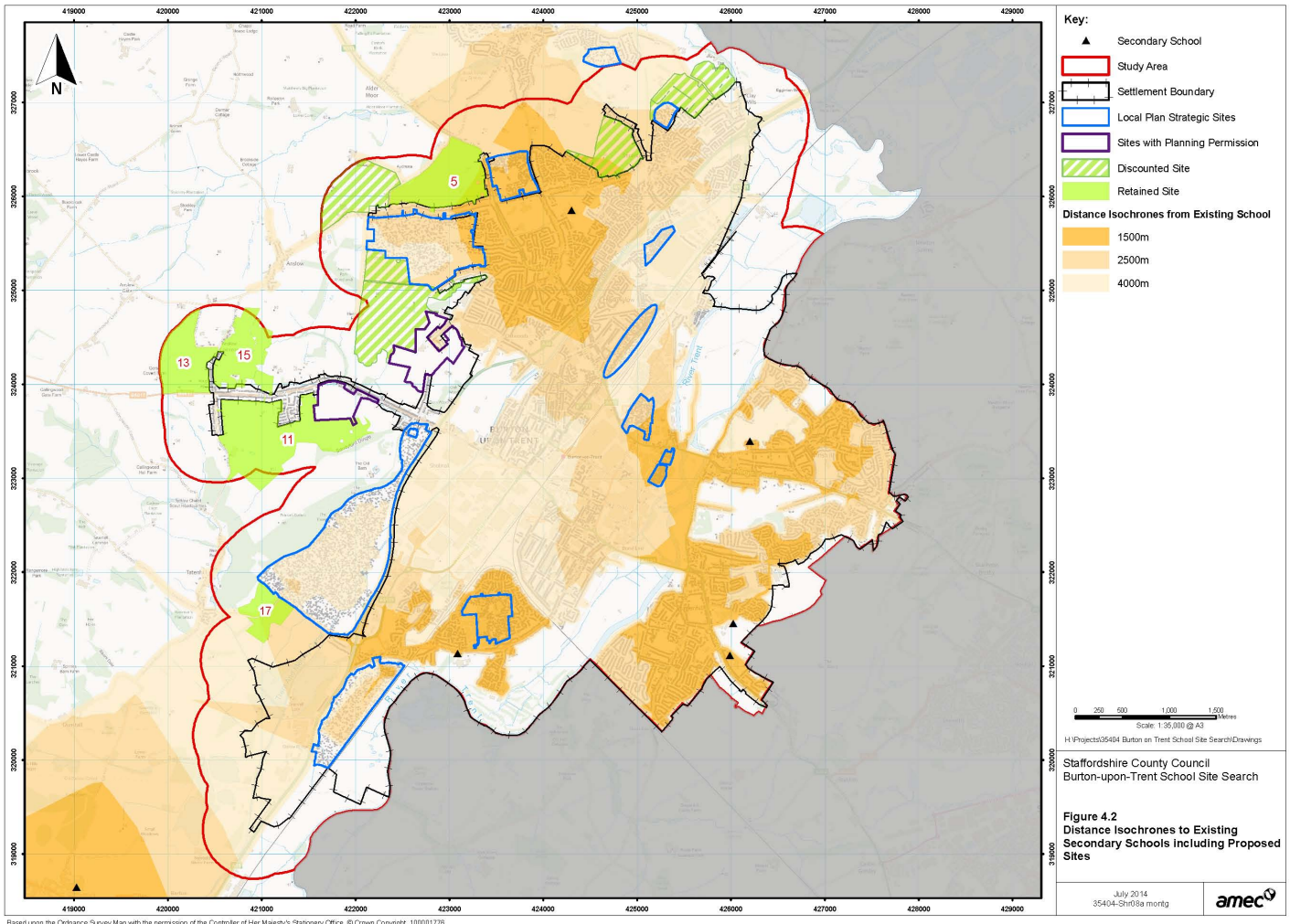
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# Appendix A

## Sample Isochrone Analysis

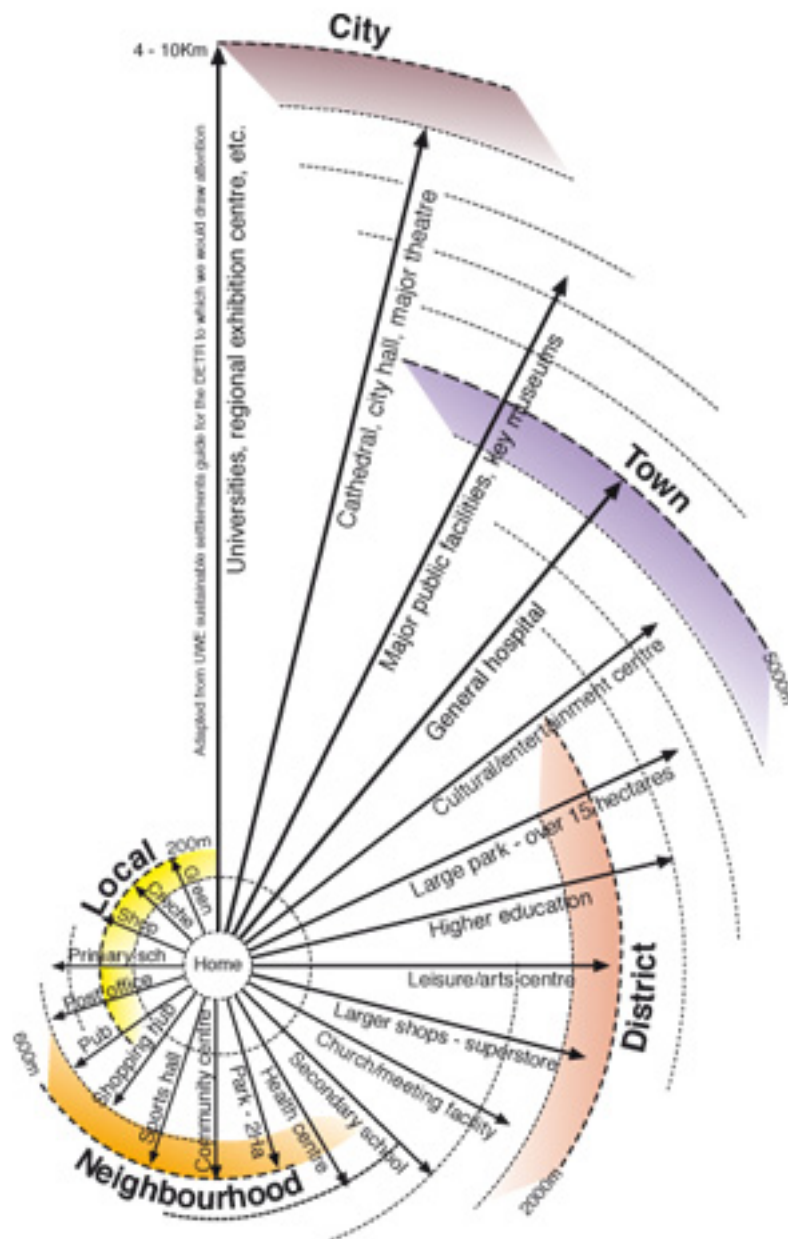


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# Appendix B

Sustainable Distances by Facility (Source: Towards an Urban Renaissance, the report of the Urban task Force, 1999)





**SCRUTINY COMMITTEE MEETING held at COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN on 10 SEPTEMBER 2015 at 7.30pm**

Present: Councillor A Dean – Chairman.  
Councillors H Asker, G Barker, P Davies, M Felton, T Goddard, S Harris, B Light, E Oliver and G Sell.

Also present: Councillors H Rolfe and M Lemon  
Adam Dodgshon – Principal Consultant PAS and Simon Ford – Principal Consultant Amec Foster Wheeler.

Officers in attendance: R Auty (Assistant Director Corporate Services), L Cleaver (Communications Manager), M Cox (Democratic Services Officer), V Taylor (Business Improvement and Performance Officer) and A Webb (Director of Finance and Corporate Services).

**SC7 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST**

Members declared the following non - pecuniary interests

Councillors Barker, Harris, Davies and Oliver as they had been members of the Scrutiny Committee from 2011 – 2015 when the Local Plan had been considered. Councillor Oliver was also a member of the Local Plan working group during that period.

Councillor Sell as a member of Stansted Parish Council.

Councillor G Barker said he had been granted a dispensation in that he was the husband of Councillor Susan Barker and she had been involved in the Local Plan process from 2007- 2015.

**SC8 MINUTES**

The Minutes of the meeting held on 24 June 2015 were received and signed by the Chairman as a correct record, subject to the inclusion of Councillor Harris in the list of apologies for the meeting.

**SC9 LOCAL PLAN REVIEW**

The Chairman welcomed to the meeting Adam Dodgshon from the Planning Advisory Service (PAS) and Simon Ford from Amec Foster Wheeler. They were to present the findings of the review, requested by the Scrutiny Committee, into the process leading up to the withdrawal of the Local Plan in December 2014. As this was the first formal feedback of the report the Chairman suggested that this meeting should be an opportunity for members to ask questions, digest and understand the findings of the report and then

consider how to take it forward within the council. He did not intend this meeting to challenge members or officers about the actions taken but in due course the council would see what lessons had been learned.

Mr Dodgshon presented the report. He explained that it was a high-level review of the work to date and aimed to consider how the council could move forward with the new Local Plan.

The review had considered the following areas - the timeline of the plan preparation, the Inspector's letter, the Sustainability Appraisal, the site selection process, engagement and duty to cooperate. It also included a summary and conclusions.

Mr Dodgshon said that the timeline provided a commentary of how the decisions had been made. He had reviewed the minutes of every council meeting that had discussed the Local Plan between 2007 -2014. This had revealed that the expected political structures were in place and there had been no process failure or impropriety.

However, some other areas had been highlighted which should be addressed in the new plan process. One concern was the lack of any formal reviews in response to disagreements about the direction of the Plan. The Plan should have been evidence led but throughout the document the narrative appeared inconsistent. There was also evidence that a political mandate had created the potential for disagreement between officers and members. The plan preparation had taken seven years, which was not the norm, and whilst there had been fundamental policy changes during this period there should be better resilience built into the plan to prevent these unforeseen delays. The council should also look at how to deal with contrary opinions and realise the importance of a comprehensive risk register.

In relation to the Inspector's letter, the main matters of concern was the shortfall in the council's Objectively Assessed Need (OAN) and the lack of clear justification for the site at Elsenham. Other matters such as the Duty to Cooperate and the Sustainability Assessment required further work but other elements of the plan such as the 5 year land supply, employment and settlement classifications had been regarded as good pieces of work.

Mr Dodgson explained the test of soundness that all Inspectors had to take into account and the options open to the Inspector if the Plan failed these tests. He considered that the decision of the Inspector to withdraw the Plan was consistent with these tests. As a comparison, he gave details of recent decisions for other authorities whose plans had been withdrawn or rejected. He said Uttlesford's Plan was by no means a complete failure and work that had been done could be carried forward to the new plan. The Inspector had helpfully set out the key pieces of work going forward – a new Strategic Housing Market Assessment, cooperation on strategic issues and a new Sustainability Appraisal.

Mr Ford continued the presentation. One area that the report had identified was that the Plan included an excessive number of options for policies and a

lack of narrative around how sites had been identified, in particular the site at Elsenham. The council was now required to prepare a new Sustainability Appraisal, which was a key technical document and should provide a transparent narrative on the options and how the sites were chosen. This was currently being prepared and there were positive signs from the early draft, which had recently been prepared.

Mr Ford said site selection should have an effective mechanism and process. The Inspector had been concerned that that the council could not evidence that it had taken account of all three factors - suitability, availability and viability. The council should first establish which sites were potentially available, then develop a vision that fits the sense of place and then assess all sites equally under a common framework, taking account of the OAN. This process should not be developer led.

There had also been concerns about the limited documented evidence of an Engagement Strategy and evidence of ongoing engagement with key agencies during the plan preparation. Mr Ford said this was about process and documentation and could easily be addressed.

Mr Ford concluded that the council would not need to start from scratch. The main actions were for the council to focus on the key areas identified by the Inspector and consider the resources and support that might be required. It should also look to develop resilience against changes in policies to ensure the plan kept moving forward. He emphasised that the importance of robust evidence could not be overstated.

The Chairman thanked Mr Dodgshon and Mr Ford for conducting a very thorough review and for the clear presentation of the findings.

The Committee discussed the report and asked the following questions.

Do you consider that Full Council has been sufficiently engaged through the process? *This is really for the council to decide. Standard practice is for Full Council to consider the key stages. If significant issues are raised these can also be brought to the council.*

Uttlesford is a very popular district and residents feel passionate about their areas. How is it best to engage with the community? *Community engagement is an emotive issue but there are a number of important things to consider. It should be upfront, start early, be ongoing and consistent and clear in the messages. The public should be clear on what value they can add to the process but also about what can't be changed within statutory requirements. The process should be mapped, audited and trackable.*

Do you consider that Scrutiny Committee has done enough in this process as the timeline only mentions meetings in 2007 and 2012? *For much of this period, work was continuing behind the scenes on technical studies. The committee was probably engaged when necessary, but it might be worth looking at the role of Scrutiny going forward.*

Can the PAS offer a view on the plan before it is submitted? *We expect that PAS will remain a critical friend and offer support with assessing the plan's documents. However, at this stage the future of PAS funding and the council's requirements are unclear.*

Please can you explain the following phrases in the report?

Prevailing political desires – *this was taken from the LDF working group August 2010 where there was a policy to reduce the housing number which appeared to be politically rather than officer led.*

Dodgy assumption – *this referred to a discussion at the working group around the zero migration assumption, many examinations had failed on this point.*

How can officers best advise members about complicated advice and technical issues so that members fully understand the issues and can be sure that the advice is sound? *Probably the most effective way is to arrange focused member briefing sessions on particular issues. The PAS has also produced some learning sessions.*

Is there value in using a project management tool (eg Prince 2) for this process? *This type of project management tool is not generally appropriate for Local Government projects, but the underlying principles are a sound basis to include in the project plan. It is also very important to produce a detailed risk register, so that mitigation measures can be triggered in the light of changed events during the production of the plan.*

Members welcomed the report and said the presentation had been helpful in summarising the findings. The council was now working collaboratively on the new plan and there was optimism about the outcome. It was now for the council to move forward by focusing on the identified areas and a lot of this work had already taken place.

The committee discussed how to take this matter forward. The Chairman suggested sending the report to Cabinet, with a request for a response in the form of an action plan; then the Chairman and Vice Chairman of the committee could consider what further action, if any, was required.

Other members felt it was unnecessary to ask for a response from Cabinet as this would needlessly hinder the process. The report had been published and many of the identified actions had already been taken on board. Members were also aware that the Scrutiny Committee had finite resources and there were other service areas that it wished to consider.

The Chairman felt that Cabinet, as the responsible body, should at least acknowledge the report to ensure that the recommendations were progressed. Members said that they would like to receive feedback on the progress of the Plan. Officers explained that this could be achieved through the pre-scrutiny process, which gave the committee the opportunity to comment on key issues before reports were considered by PPWG and Cabinet. The Leader also offered to feed back progress to the committee when appropriate.

The Chairman suggested forwarding the report to Cabinet, for it to be taken into account in the new Local Plan preparation. He proposed the following recommendation, which was seconded and agreed.

RESOLVED that

- 1 The committee welcomes the report from the Planning Advisory Service and thanks its representatives for their detailed work on identifying flaws in the past process and in making recommendations for improving the process used to produce the new local plan.
- 2 The PAS report and the minutes of this meeting be referred to Cabinet, working with the Planning Policy Working Group, and ask that it take account of the findings of the report and the Scrutiny Committee's deliberations

#### SC10 **CABINET FORWARD PLAN**

The Committee received the latest version of the Forward Plan. As requested at the last meeting this now included a column, which set out brief information about each item.

#### SC11 **SCRUTINY WORK PROGRAMME**

The Committee received a list of suggested topics for Scrutiny to review from Councillors Dean and Davies. The Chairman suggested appointing a task group to look at this list in detail and suggest key areas for the committee to review.

Councillor Sell said that at the last meeting the committee said it would focus on internal rather than external relationships. He suggested that the committee look at the enforcement service for its first review and members agreed.

RESOLVED

- 1 The committee appoint a task group, comprising Councillors A Dean, G Barker and B Light, to consider areas for review and recommend a work programme to the Scrutiny Committee meeting on 17 November 2015.
- 2 Officers prepare a scoping report on the enforcement service for the next meeting of the committee.

The meeting ended at 9.45pm.





**Committee:** Cabinet

**Agenda Item**

**Date:** 22 October 2015

**9**

**Title:** 2014/15 Treasury Management Outturn

**Portfolio Holder:** Councillor Simon Howell

Key decision: **No**

---

## Summary

1. It is a requirement of the Council's Constitution that the Cabinet receives an annual statement of the key treasury management activity and outcomes during the year.
2. Treasury Management is the activity of the Council's finance function which manages cash flows, bank accounts, deposits, investments and borrowing. The objective is to manage risk effectively in order to ensure the security of funds, sufficient liquidity to enable commitments to be met, to generate income and minimise cost.
3. The Authority has borrowed and invested substantial sums of money and is therefore exposed to financial risks including the loss of invested funds and the revenue effect of changing interest rates. This report covers treasury activity and the associated monitoring and control of these risks.
4. In summary, during 2014/15:
  - a) No other short term or long term borrowing was needed to meet the Council's commitments and no cash flow difficulties were experienced.
  - b) The Council continued to operate a cautious approach when lending money to counterparties. All deposits and investments made were in compliance with the Council's approved treasury management strategy which is prepared with the assistance of the Council's independent treasury consultants, Arlingclose Ltd.

## Recommendations

5. The Cabinet is recommended to approve the 2014/15 Treasury Management Outturn as set out in this report.

## Financial Implications

1. Included in the body of the report.

## Impact

Communication/Consultation	None
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	None
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

## Background

2. Treasury management is defined as: “The management of the local authority’s investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks.”
3. The Council’s treasury management activity is underpinned by CIPFA’s Code of Practice on Treasury Management (“The Code”), which requires local authorities to produce annual Prudential Indicators and a Treasury Management Strategy on the likely financing and investment activity. This is approved by the Council as part of the annual budget setting process. Monitoring reports are submitted to the Cabinet as part of regular budget monitoring reports.
4. The Council is supported in its treasury management activity by the independent financial advisers Arlingclose Limited.
5. All responsibility for decision making rests with the Council. Under the Council’s constitution the Assistant Director of Finance is authorised to make investment and borrowing decisions in line with the policy approved by the Council.

### External Context

6. **Economic background:** The economy remained resilient over the 2014-15 financial year. The financial market has been stable and there is currently an over supply of cash within the financial markets. As a result the interest rates on cash lent to counterparties continue to be at record low rates. According to UDC’s Treasury Management consultants, Arlingclose Ltd, there are indications that interest rates will increase but not to the levels seen prior to 2008. There is an expectation that the Bank of England will raise interest rates in 2016 but the rate rise will be gradual at 0.25%.

## Treasury Position

1. The Council's Treasury Position for the year is summarised in the table below, and explained in the following sections of the report.

<b>Balance 1 April 2014</b>		<b>Balance 1 April 2015</b>
<b>£m</b>		<b>£m</b>
(88.407)	Long Term Borrowing	(88.407)
-	Short Term Borrowing	-
(88.407)	<b>Total Borrowing</b>	(88.407)
(5.169)	Other Long Term Liabilities (PFI Contract)	(5.063)
<b>(93.576)</b>	<b>Total External Debt</b>	<b>(93.470)</b>
0.666	Funds on call	2.834
18.000	Short Term investments	23.500
0	Long Term investments	0
<b>18.666</b>	<b>Total Investments</b>	<b>26.334</b>
<b>(74.910)</b>	<b>Net Treasury Position</b>	<b>(67.136)</b>
(97.980)	Capital Financing Requirement ** (notional indicator of underlying need to borrow)	(96.520)

\*\* The capital financing requirement (CFR) measures an authority's underlying need to borrow or finance by other long-term liabilities for a capital purpose.

## Borrowing

2. As part of the Council's strategy for 2014/15 there was no need to take out external borrowing to finance capital expenditure. The table below shows how capital expenditure was financed.

<b>2013/14 £000's</b>		<b>2014/15 £000's</b>
135	Capital Receipts	730
2,605	Grants & Other Contributions	3,768
3,191	Revenue Contributions	3,374
3,200	Major Repairs Reserve	3,227
633	Underlying need to borrow	(522)
<b>9,764</b>	<b>TOTAL</b>	<b>10,577</b>

3. The Localism Act enabled the reform of council housing finance and the abolition of the housing subsidy system. This required the Council to make a one off payment of £88.407m to the Government on 28 March 2012. This was funded by loans taken out from the Public Works Loans Board, in accordance with a borrowing strategy approved by the Council on 23 February 2012. The loans taken out were as follows:

<b>Amount (£m)</b>	<b>Loan Type</b>	<b>Remaining Term</b>	<b>Interest rate</b>	<b>Fixed or Variable</b>	<b>Maturity Date</b>
2.000	Maturity	3 years	0.65%	Variable	28/03/2018
2.000	Maturity	4 years	0.65%	Variable	28/03/2019
2.000	Maturity	5 years	0.65%	Variable	28/03/2020
2.000	Maturity	6 years	0.65%	Variable	28/03/2021
2.000	Maturity	7 years	0.65%	Variable	28/03/2022
2.000	Maturity	8 years	2.56%	Fixed	28/03/2023
3.000	Maturity	9 years	2.70%	Fixed	28/03/2024
3.000	Maturity	10 years	2.82%	Fixed	28/03/2025
3.000	Maturity	11 years	2.92%	Fixed	28/03/2026
3.000	Maturity	12 years	3.01%	Fixed	28/03/2027
3.000	Maturity	13 years	3.08%	Fixed	28/03/2028
3.000	Maturity	14 years	3.15%	Fixed	28/03/2029
4.000	Maturity	15 years	3.21%	Fixed	28/03/2030
4.000	Maturity	16 years	3.26%	Fixed	28/03/2031
4.000	Maturity	17 years	3.30%	Fixed	28/03/2032
4.000	Maturity	18 years	3.34%	Fixed	28/03/2033
4.000	Maturity	19 years	3.37%	Fixed	28/03/2034
4.000	Maturity	20 years	3.40%	Fixed	28/03/2035
4.000	Maturity	21 years	3.42%	Fixed	28/03/2036
5.000	Maturity	22 years	3.44%	Fixed	28/03/2037
5.000	Maturity	23 years	3.46%	Fixed	28/03/2038
5.000	Maturity	24 years	3.47%	Fixed	28/03/2039
5.000	Maturity	25 years	3.48%	Fixed	28/03/2040
5.000	Maturity	26 years	3.49%	Fixed	28/03/2041
5.407	Maturity	27 years	3.50%	Fixed	28/03/2042
<b>88.407</b>	<b>Total</b>				

4. The interest cost in 2014/15 for these loans was £2.64m.
5. No short term borrowing was required in order to meet cash flow commitments.
6. The only other debt during the year was the Council's ongoing long term liability relating to the PFI Contract and Finance Leases, which under accounting rules is recognised as a debt on the Council's balance sheet.

## Investments

7. The approved latest investment strategy for 2014/15 is summarised as follows:
- To prioritise security and liquidity of the investment over yield
  - To place funds with UK Banks and Building Societies that have a minimum credit rating of BBB+ or to place funds with the UK Government bodies or approved Building Societies.
  - The table below summarises the risk appetite of the Council in 2014-15:

General Counterparty list		Cash limit	Time limit
Banks and other organisations whose lowest published long-term credit rating from Fitch, Moody's and Standard & Poor's is:	A-	£2m	182 days
Banks and other organisations whose lowest published long-term credit rating from Fitch, Moody's and Standard & Poor's is:	BBB+	£2m	100 days
Council's current bank account if it fails to meet the above criteria, excluding deposit accounts		£1.5m	next day
UK Central Government (irrespective of credit rating)		unlimited	no limit
UK Local Authorities (irrespective of credit rating), per authority		unlimited*	no limit*
UK Building Societies without credit ratings, per BS**		£1m	100 days
Saffron Building Society		£0.5m	100 days
Money Market Funds, UK Domiciled per MMF	AAA	£1m	next day

\* At the discretion of the Assistant Director of Finance a cash limit of £3m and a time limit of 182 days was applied per Local Authority during the year.

\*\*There are 14 Building Societies suggested by Arlingclose

8. There was no appetite from Standard Chartered and HSBC to work with Uttlesford as they will only borrow large sums of cash. There was also no appetite from Saffron Building Society to borrow cash from UDC even after several visits and formal letters to the Building Society.
9. All deposits placed during the year complied with the Council's policy. All deposits expected to be repaid during the year were received without difficulty. The table below summarises the investment activity during the year;

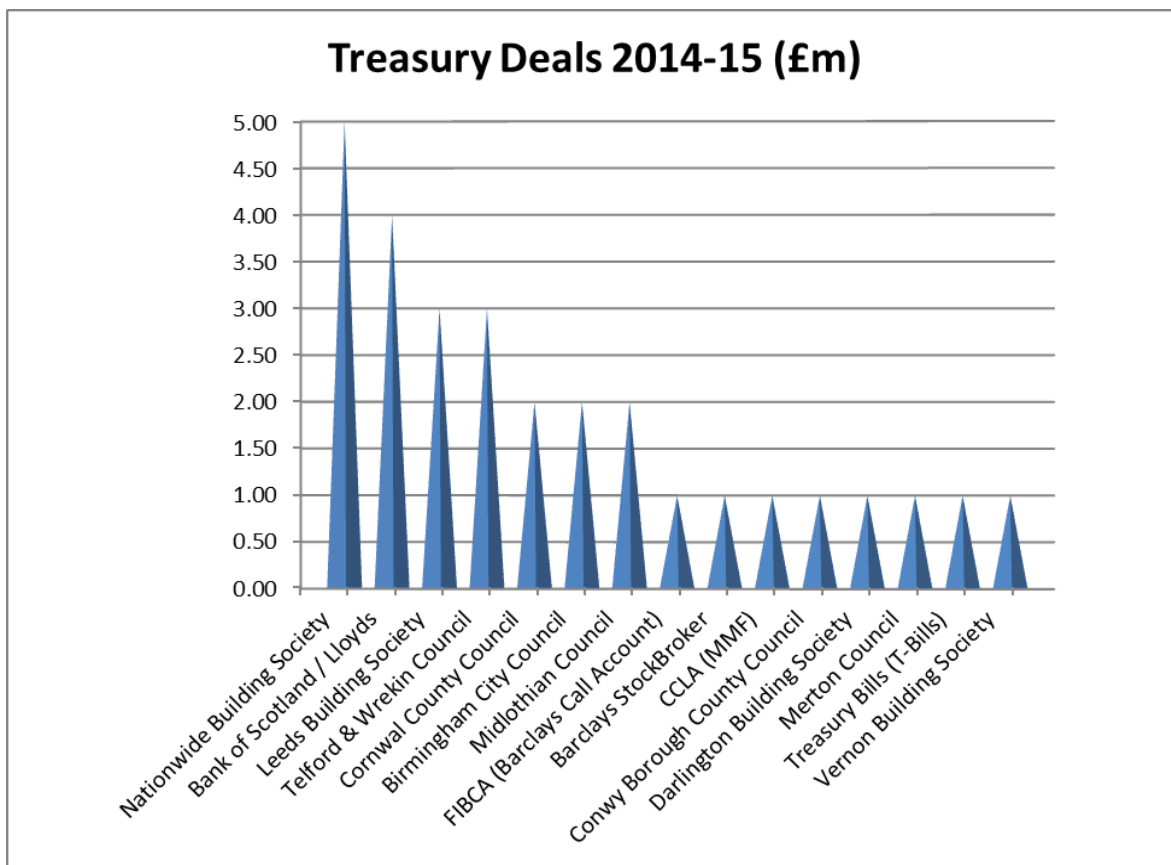
	Balance at 31/03/14 £m	Investments made £m	Investments repaid £m	Balance at 31/03/14 £
Local Authorities	-	11.0	(11.0)	-
Treasury Bills	-	1.0	(1.0)	-
Government deposit a/c.	18.0	150.5	(145.0)	23.5
Barclays Call Accounts	-	2.0	(1.0)	1.0
Bank of Scotland / Lloyds	-	4.0	(4.0)	-
Nationwide Build. Society	-	5.0	(5.0)	-
MMF (CCLA)	-	1.0	-	1.0
Unrated Building Societies	-	5.0	(5.0)	-
Leeds Building Society	-	3.0	(3.0)	-
<b>TOTAL</b>	<b>18.0</b>	<b>179.5</b>	<b>(172.0)</b>	<b>25.5</b>

10. The Authority assessed and monitored counterparty credit quality with reference to credit ratings; Gross Domestic Product (GDP) of the country in which the institution operates; the country's net debt as a percentage of GDP and share price. The minimum long term counterparty credit rating determined by the authority for 2014/15 treasury strategy was [BBB+] across rating agencies Fitch, S&P and Moody's.

11. Counterparty credit quality was assessed and monitored with reference to credit ratings published by the major agencies Fitch, S&P and Moody's. The Council aimed to achieve credit ratings of at least BBB+ to reflect the Councils overriding priority of security of monies invested with counterparties as shown in the table below.

12. Counterparties the Council has lent to in 2014-15

<b>Institution</b>	<b>Treasury Deals (£m)</b>	<b>No of Deposits</b>	<b>Average No of Days</b>	<b>Credit Rating</b>	<b>Average Interest Rate</b>
Debt Management Office (DMO)	150.50	47	49	AA+	0.25%
Nationwide Building Society	5.00	5	97	A	0.50%
Bank of Scotland / Lloyds	4.00	4	124	A+	0.60%
Leeds Building Society	3.00	3	93	A-	0.41%
Telford & Wrekin Council	3.00	1	79	N/A	0.41%
Cornwall County Council	2.00	1	14	N/A	0.30%
Birmingham City Council	2.00	2	98	N/A	0.45%
Midlothian Council	2.00	1	63	N/A	0.37%
FIBCA (Barclays Call Account)	1.00	1	364	A	0.45%
Barclays Stockbroker	1.00	1	28	A	0.38%
CCLA (MMF)	1.00	2	173	AAAmf	0.34%
Conwy Borough County Council	1.00	1	96	N/A	0.35%
Darlington Building Society	1.00	1	82	N/A	0.50%
Merton Council	1.00	1	31	N/A	0.30%
Treasury Bills (T-Bills)	1.00	1	104	AA+	0.40%
Vernon Building Society	1.00	1	94	N/A	0.50%
<b>Total</b>	<b>179.50</b>	<b>73</b>			



\* The graph above excludes DMO deals and provides an overview of all the other counterparties the Council has invested, within 2014-15.

### Liquidity Management

In keeping with the DCLG's guidance on Investments, the authority maintained a sufficient level of liquidity averaging £1.079m through the use of its main call account.

### Prudential Indicators

13. The Council is required to calculate and publish a set of statutory prudential indicators. These are technical measures of the Council's indebtedness and exposure to risk, and are intended to ensure that treasury management is prudent, sustainable and affordable.
14. The prudential indicators are set out in Appendix A of this report. There are no concerns or issues to highlight for Members' attention.

### Compliance

The Authority confirms that it has complied with its Prudential Indicators for 2014/15 which were approved as part of the Council's Treasury Management Strategy Statement (TMSS)

The authority also confirms that during 2014/15 it complied with its Treasury Management Policy Statement and Treasury Management Practices.

## Investment Training

The needs of The Authority's treasury management staff for training in investment management are assessed regularly as part of the appraisal process. During 2014/15 staff attended training courses, seminars and conferences provided by Arlingclose, CIPFA and other relevant organisations.

## Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
Loss of council funds through failure of banking counterparty	1 (minimal risk due to nature of institutions used)	4 (significant sums are placed on deposit)	Treasury Management Strategy and regular monitoring with independent advice from Arlingclose Treasury consultants.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.



**PRUDENTIAL INDICATORS****INVESTMENTS**

	<b>2014/15 Estimate</b>	<b>2014/15 outturn</b>
Upper limit for principal sums invested for over 364 days	£0	£0

**INTEREST RATE EXPOSURE**

	<b>2014/15 Estimate*</b>	<b>2014/15 outturn</b>
Upper limit for fixed interest rate exposure	£78.4m	£78.4m
Upper limit for variable interest rate exposure	£10m	£10m

**BORROWING LIMITS**

	<b>2014/15 Estimate*</b>	<b>2014/15 outturn</b>
Authorised Limit (maximum level of external borrowing)	£93.5m	£93.5m
Operational Boundary (risk of Authorised Limit breach)	£101.5m	£101.5m

**DEBT PORTFOLIO - MATURITY**

<b>Maturity structure of fixed rate borrowing</b>	<b>2014/15 Estimate (as per HRA borrowing strategy)</b>	<b>2014/15 outturn (as per actual HRA loans)</b>
Under 12 months	0%	0%
12-24 months	0%	0%
24 months – 5 years	6.8%	6.8%
5+ -10 years	13.6%	13.6%
10+ - 20 years	40.7%	40.7%
20+ - 30 years	38.9%	38.9%
30+ years	0%	0%

## CAPITAL FINANCING COSTS

	2014/15 Estimate*	2014/15 outturn
Incremental impact of capital investment financed from Internal Borrowing – General Fund	£13.51	£25.30
Incremental impact of capital investment financed from Internal Borrowing – Housing Revenue Account	£16.03	-£6.73
Ratio of financing costs to non-HRA net revenue stream	8.00%	8.71%
Ratio of financing costs to HRA net revenue stream	17.10%	16.96%
Minimum Revenue Provision charged to the accounts	£467,000	£467,000

\*Estimate from the 2015-16 Treasury Management Strategy approved in February 2015.

## BALANCED BUDGET REQUIREMENT

The Council complied with the statutory requirement to set and remain within a balanced budget.

**Committee: Cabinet**

**Agenda Item**

**Date: 22 October 2015**

**10**

**Title: Business Rates Pooling in 2016/17**

**Portfolio Holder: Councillor Simon Howell**

**Key decision: No**

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**Overview:**

1. In summary prior to 1 April 2013 all business rates income was paid over to central government in full. Following the introduction of Business Rates Retention scheme 50% is now paid to central government and 50% retained by local government (40% district council, 9% county council, 1% fire authority). A complex array of tariffs, top-ups, levies and safety net adjustments operate to avoid significant adverse fluctuations or enrichment, nevertheless risks and opportunities for local authorities now exist.
2. Under the old scheme any increase in business rates within an area was paid to central government with no direct benefit to the local authority. In setting up the scheme, the government has tried to incentivise authorities to pursue economic growth by allowing them to retain some of the benefit from growth in business rates.
3. It is possible for groups of local authorities to be financially better off if they pool their business rates, compared with each local authority acting alone. By combining in a pool it is possible to retain more of the additional funds from growth in business rates within a county wide area.
4. In the past the Council discussed the option of entering into the Essex business rates pool and agreed not to put itself forward as a pooling partner but to consider the pooling arrangement for future years. The 2014/15 business rate pool didn't go ahead. 2015/16 is the first year of the Essex business rate pool and Uttlesford is not a member it. It is now time to look at the potential for joining the pool for 2016/17.
5. The Essex business rate pool intention is to minimise the amount of levy paid on business growth to central government, thus maximising the funds retained in Essex. The matter has been discussed at the Essex Finance Officer Association (EFOA) meeting and a formal commitment to pursue the pooling project is sought from each Essex authority. The Council needs to notify Essex County Council (ECC) its decision so that the ECC can submit a formal interest to DCLG by 30 October 2015.
6. With all of the recent announcements around Business Rates and in particular local authorities retaining 100% of sums collected it is possible that the ability to pool business rates may be removed as part of the Autumn Statement. It has been agreed with our Essex colleagues that all relevant authorities will proceed with establishing a 2016/17 pool.

## Recommendations

7. It is recommended that the Cabinet:
  - a) Approve in principle to join the Essex business rates pool administered by Essex County Council.
  - b) Approve delegated authority be given to the Section 151 Officer, in consultation with the Finance Portfolio Holder, for the pooling proposal and governance arrangements.

## Financial Implications

8. Included in the body of this report.

## Background Papers

9. None

## Impact

Communication/Consultation	Cross-Essex collaboration through the Essex Finance Officers Association.
Community Safety	No specific issues.
Equalities	No specific issues.
Health and Safety	No specific issues.
Human Rights/Legal Implications	No specific issues.
Sustainability	No specific issues.
Ward-specific impacts	No specific issues.
Workforce/Workplace	No specific issues.

## Background

10. Under the new system of local business rate retention some authorities collect more rates than the government has determined they need to fund their activities and these authorities are required to pay over the excess to central government. Therefore authorities that normally raise more business rate income than what the government thinks it requires will pay a **tariff**. Most district councils are in this position. Authorities that normally raise insufficient business rate income in their own area get payments from central government and are known as **top up** authorities. The most common group of authorities receiving top ups are county councils.

11. If during the year the authority unexpectedly ends up with a reduced level of business rate income following the tariff/top up adjustments and this is below the amount which government has determined they need to fund their activities, that authority would receive a safety net payment. The Council does not forecast to be in a Safety Net position in 2016/17 and 2017/18.
12. Where an authority sees growth in its business rate income it has to pay a proportion of that growth to central government as a **levy**. The levy rate for the Council is **50%** and so this is the effective amount of growth that districts (including UDC) will be able to retain if they do not pool.
13. The advantage that comes from pooling is the inclusion of a large top up authority in the levy calculation, which substantially boosts the baseline funding level relative to the business rates baseline. The ultimate intention is to reduce the levy rate as far as possible and hence pay reduced levy to central government. Based on the proposed business rate pool membership the levy rate will be zero. This means that the pool will not need to pay any levy to central government and will share the benefits across the members of the pool.

#### **Current and proposed members of the business rate pool**

14. There are 11 local authorities who are forecasting business rates income which is above the set safety net level. Therefore they will contribute positively to the pool and have shown an interest in the pool, these authorities are as follows:

<b>Authority</b>	<b>2015/16 Member?</b>	<b>2016/17 Proposed Member?</b>
Essex County Council	Yes	Yes
Essex Fire Authority	Yes	Yes
Basildon	No	No
Braintree	Yes	Yes
Brentwood	Yes	Yes
Castle Point	Yes	Yes
Chelmsford	Yes	No
Colchester	Yes	Yes
Epping Forest	Yes	Yes
Harlow	No	No
Maldon	No	Yes - tentative
Rochford	Yes	Yes
Tendring	Yes	Yes
Uttlesford	No	Yes - tentative
Southend-on-Sea	No	No
Thurrock	No	Unclear

## **Distribution of the funds**

15. It is proposed that the Essex region pool distributes its funds on a 'no worse off' basis. Each member authority will receive the same payments it would have received as if it were not in the pool, subject to available resources within the pool.
16. The balance of the Business Rates income after the payment of the administration costs to the Lead Authority and any safety net payments will be distributed as follows:  
  
Any surplus remaining after payment of the pool levy will be distributed as follows:
  - 25% of the net gain will be distributed using each authority's baseline funding level, and
  - 25% of the net gain will be distributed using each authority's local share of Business Rates income
  - 50% of the net gain will be distributed on the growth in Business rates income achieved in each District.
17. The distributed surplus for an authority which pays a tariff will be capped at the amount of levy the authority would have had to pay if they were not in the pool. Any remaining surplus will be distributed to the remaining authorities on the same basis as above.
18. It is possible, although very unlikely for a net loss to occur. Where the pooling of the Business Rates income results in a net loss, this will be funded by the member authorities as follows:
  - 50% using each Party's baseline funding level, and
  - 50% using each Party's Gross contribution to the pool

## **Forecast Benefits of pooling**

19. If the pool proceeds with the authorities listed in point 14 for 2016/17 pool membership, including Maldon and Uttlesford it is forecasted that it will raise £4.47m and there will be no levy payments to central government. The membership of the pool produces an accumulated baseline funding level being greater than the sum of the business rates income as per 2013/14 data and therefore ensures that the pool will pay a zero percent levy.
20. In this case Uttlesford would pay the pool £0.52m with a levy rate of 50% as it would have done under current arrangements to central government. The pool will not need to pay this to central government and based on the agreed distribution stated above UDC will receive 7% of the £4.5m. This equates to £0.32m and in effect it will eventually pay £0.2m to the pool instead of the £0.52m highlighted above. Please see Appendix A for details which also provide data in the event Maldon District Council decides not to be part of the pool.

21. If at year end Uttlesford unexpectedly ends up in a safety net position and the pool has the financial resources to contribute fully towards the safety net payment the council will be in the same situation had it not entered the pool. The main risk is if the pool does not have the financial resources to make all safety net payments to members of the pool.

### Risks to consider

22. Essex business rates pool success depends on levy contribution from members of the pool. Therefore if authorities anticipate a safety net position they are encouraged to not join the scheme in order to optimise the financial surplus in the pool. For 2016/17 financial year Chelmsford City Council forecasts a safety net position and therefore has not put itself forward for the 2016/17 business rate pool. The higher the numbers of authorities which unexpectedly end up in a safety net position the less income there will be to distribute across members of the pool. If the total pool is in a net loss then the Council can potentially end up in a much worse position.

23. For Uttlesford to end up in a safety net position it will need to lose an additional 7% in business rate income which equates to approximately £2.8m of the total business rate income collectable. Please see Appendix B.

24. In total members of the pool will need to lose £28m in order for the pool to end up in a safety net position which appears to be highly unlikely but not impossible if councils had to place provisions for appeals in the way they did during 2013/14 financial year.

25. The Council expects that all disputed appeals and other issues impacting the business Rateable Values will be settled and provisions will be recognised prior to 2016/17 year. This will ensure that the retained income of the Council in 2016/17 is not reduced to levels that will put itself and other districts into a safety net position.

### Next Steps

26. The following are the next steps to progress the pooling proposal:

22 October	UDC Cabinet meeting – update on progress and confirmation of agreement to join a pool, subject to this being in UDC's interests
30 October	Pooling proposal to be submitted to DCLG by Essex County Council
November	DCLG to consider proposals and issue “designations” to authorise the approved pools.
Late November / early December	2016/17 provisional Local Government Finance Settlement issued  Each authority then has 28 days to withdraw from the pool. In the event of any authority withdrawing, the DCLG designation

	would be revoked, and the pool would not go ahead.
1 April	Commencement of pooling arrangement.

### Dissolution of the Pool

27. The membership in the pool is on a voluntary basis and any member authority will be able to leave the pool at the end of the financial year.
28. A member authority that wishes to leave the pool must notify the other pool members of their intent no later than six months prior to the beginning of the next financial year to allow remaining members sufficient time to reconsider continuation of the pool.
29. If it is determined that the pool will be dissolved, any accumulated funds will be distributed on the basis of the net gain distribution as described in point 16.

### Conclusion

30. Under current arrangements and forecast the council expects to benefit from being part of the Essex business rate pool. The major concern and risk which the council and other members of the pool need to consider is the unexpected situation when an authority receives less than expected business rates income and ends up in a safety net position.
31. The Council does not forecast or expect significant loss in business rate income for the pool such that it will end up in a financial position that would be worse than had it opted out of the pool.
32. In general Local Authorities in the Essex region recognise that by pooling together it can retain a greater proportion of any business rate growth within the pool area. This will provide Councils with an opportunity to promote and encourage further economic growth within this area.
33. Therefore to summarise it is forecasted that UDC will be £0.32m better off by joining the pool.
34. The proposal commands wide political support and is entirely consistent with the Localism Agenda.

### Risk Analysis Table

Risk	Likelihood	Impact	Mitigating actions
There is a risk that by not pooling business rates, UDC is not maximising its	2 (setting up the pool will be a challenging process)	3 (loss of funds to Central Government)	Collaborative working to investigate opportunities for setting up a pool. The risk to each authority



Risk	Likelihood	Impact	Mitigating actions
income.			is limited by the scheme being constructed such that no authority can be worse off than if they had remained outside the pool.
The pool will not have the resources to make safety net payments	1 (significant amount of income will need to be lost)	3 (contribution to the pool from council general fund)	The financial position will be reviewed again after the Local Government Settlement figures are released as part of the Autumn Review
Difficulties gaining cross-Essex agreement on pooling principles	2 (up to 11 partners potentially involved)	3 (the beneficial effects of pooling may be diminished)	Strong leadership by senior members and officers  Flexibility on the membership of any proposed pool

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.



**2016/17 - Essex Pool Including Maldon DC**

Council	Business rates Baseline	Top up / Tariff	Baseline Funding	Expected Benefit - Based on Q1							Pool levy calculator	
				Pre Levy Income	Retained income	Growth	(Levy) / Safety net	Benefit share %	Benefit share	Net Levy Payment from / (to) Pool	2013/14 baseline funding	2013/14 Business rates
Essex County Council	42,694,715	117,623,851	160,318,566	45,047,395	162,666,306	2,347,740	0	0	1,748,360	1,748,360	154,306,620	#####
Essex Fire Authority	6,302,902	8,690,254	14,993,157	6,577,033	15,266,739	273,582	0	0	190,760	190,760	14,430,913	6,066,543
Braintree	16,070,792	(12,905,986)	3,164,806	17,901,000	4,995,014	1,830,208	(915,104)	0	504,491	(410,613)	3,046,126	#####
Brentwood	12,060,177	(10,554,217)	1,505,959	12,490,263	1,936,046	430,086	(215,043)	0	181,495	(33,548)	1,449,486	#####
Castle Point	6,045,260	(3,991,102)	2,054,158	6,381,018	2,367,964	313,806	(156,903)	0	118,967	(37,936)	1,977,127	5,818,563
Colchester	23,880,021	(19,952,832)	3,927,189	25,840,878	5,888,045	1,960,856	(980,428)	0	590,662	(389,766)	3,779,919	#####
Epping Forest	13,252,295	(10,229,675)	3,022,620	14,805,737	4,576,062	1,553,442	(776,721)	0	427,504	(349,217)	2,909,272	#####
Maldon	5,208,111	(3,817,197)	1,390,914	5,850,669	2,033,472	642,558	(321,279)	0	175,756	(145,523)	1,338,755	5,012,807
Rochford	6,420,791	(4,843,526)	1,577,265	6,862,110	2,018,584	441,319	(220,659)	0	144,501	(76,158)	1,518,118	6,180,012
Tendring	9,880,894	(5,289,313)	4,591,581	11,244,797	5,955,484	1,363,903	(681,952)	0	374,717	(307,235)	4,419,396	9,510,360
Uttlesford	16,093,387	(14,684,508)	1,408,879	17,141,664	2,457,156	1,048,277	(524,139)	0	335,017	(189,122)	1,356,046	#####
	157,909,346	40,045,748	197,955,094	170,142,565	210,160,873	12,205,779	(4,792,228)	1	4,792,230	2	Levy rate	0.00%
											Levy Payment	-

**2016/17 - Essex Pool - Excluding Maldon DC**

Council	Business rates Baseline	Top up / Tariff	Baseline Funding	Expected Benefit - Based on Q1							Pool levy calculator	
				Pre Levy Income	Retained income	Growth	(Levy) / Safety net	Benefit share %	Benefit share	Net Levy Payment from / (to) Pool	2013/14 baseline funding	2013/14 Business rates
Essex County Council	42,694,715	117,623,851	160,318,566	45,047,395	162,666,306	2,347,740	0	0	1,671,985	1,671,985	154,306,620	#####
Essex Fire Authority	6,302,902	8,690,254	14,993,157	6,577,033	15,266,739	273,582	0	0	182,893	182,893	14,430,913	6,066,543
Braintree	16,070,792	(12,905,986)	3,164,806	17,901,000	4,995,014	1,830,208	(915,104)	0	493,611	(421,493)	3,046,126	#####
Brentwood	12,060,177	(10,554,217)	1,505,959	12,490,263	1,936,046	430,086	(215,043)	0	176,686	(38,357)	1,449,486	#####
Castle Point	6,045,260	(3,991,102)	2,054,158	6,381,018	2,367,964	313,806	(156,903)	0	115,760	(41,143)	1,977,127	5,818,563
Colchester	23,880,021	(19,952,832)	3,927,189	25,840,878	5,888,045	1,960,856	(980,428)	0	577,221	(403,207)	3,779,919	#####
Epping Forest	13,252,295	(10,229,675)	3,022,620	14,805,737	4,576,062	1,553,442	(776,721)	0	418,238	(358,483)	2,909,272	#####
Rochford	6,420,791	(4,843,526)	1,577,265	6,862,110	2,018,584	441,319	(220,659)	0	140,973	(79,686)	1,518,118	6,180,012
Tendring	9,880,894	(5,289,313)	4,591,581	11,244,797	5,955,484	1,363,903	(681,952)	0	366,290	(315,662)	4,419,396	9,510,360
Uttlesford	16,093,387	(14,684,508)	1,408,879	17,141,664	2,457,156	1,048,277	(524,139)	0	327,292	(196,847)	1,356,046	#####
	152,701,235	43,862,945	196,564,180	164,291,896	208,127,401	11,563,221	(4,470,949)	1	4,470,949	0	Levy rate	0.00%
											Levy Payment	-

Levy to safety net movement

Council	Safety Net Level	Pre Levy Income (District Share)	Top Up / Tariff	Forecasted Retained Income (District Share)	Difference between Retained Income and Safety Net Level (District Share)	Difference between Retained Income and Safety Net Level (Gross)	Total NNDR Income (Gross)	Percentage loss required to turn Rainted Income to Safety Net
Essex County Council								
Essex Fire Authority								
Braintree	2,927,446	17,901,000	(12,905,986)	4,995,014	2,067,569	5,168,922	42,404,924	12.19%
Brentwood	1,393,012	12,490,263	(10,554,217)	1,936,046	543,033	1,357,583	30,081,392	4.51%
Castle Point	1,900,096	6,381,018	(3,991,102)	2,389,916	489,820	1,224,550	14,564,688	8.41%
Colchester	3,632,650	25,840,878	(19,952,832)	5,888,045	2,255,396	5,638,489	61,917,604	9.11%
Epping Forest	2,795,924	14,805,737	(10,229,675)	4,576,062	1,780,138	4,450,346	34,918,485	12.74%
Maldon	1,286,595	5,850,669	(3,817,197)	2,033,472	746,877	1,867,192	13,461,769	13.87%
Rochford	1,458,970	6,862,110	(4,843,526)	2,018,584	559,614	1,399,034	15,903,534	8.80%
Tendring	4,247,212	11,244,797	(5,289,313)	5,955,484	1,708,272	4,270,679	25,160,461	16.97%
Uttlesford	1,303,213	17,141,664	(14,684,508)	2,457,156	1,153,943	2,884,858	41,416,533	6.97%
<b>Total</b>	<b>20,945,118</b>	<b>118,518,137</b>	<b>#####</b>	<b>32,249,780</b>	<b>11,304,662</b>	<b>28,261,654</b>	<b>279,829,390</b>	<b>10.10%</b>

**Committee: Cabinet**

**Agenda Item**

**Date: 22 October 2015**

**11**

**Title: Fraud and Compliance**

**Portfolio Holder: Councillor Simon Howell**

Item for decision

## Summary

1. To update and inform members on the progress of the Essex wide Council Tax sharing agreement and the Fraud and Compliance Business Case.
2. To update members on other initiatives to reduce fraud that has been implemented by the Revenues and Benefits Teams.

## Recommendations

3. This report is for members to note and for information purposes only

## Financial Implications

4. Included in the body of this report.

## Background Papers

5. None

## Impact

- 6.

Communication/Consultation	None
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	None
Sustainability	None
Ward-specific impacts	Beneficial to all wards
Workforce/Workplace	None

## Situation

7. An agreement has been in place with Essex County Council, Essex Fire Authority, Essex Police Authority and 12 of the Essex district councils to maximise council tax collection and minimise fraud since April 2013.
8. This agreement was updated in April 2015 to include the Fraud and Compliance Business Case and has a 3 year life span.
9. The Fraud and Compliance Business Case was developed to introduce new incentives and work streams to combat fraud, ensure compliance and increase the tax base.
10. Major Preceptors will contribute to the costs of employing resources to implement these work streams and the increase in income will then be shared back as per the terms and conditions of the agreement. Local Authorities receive 16% of the additional income generated.
11. The agreed resource funding for Uttlesford in the Business Case is £80,000 of which Uttlesford fund approximately £11,600 of this and the remainder being funded by the three major preceptors, Essex County Council , Police and Fire Authority.
12. Work streams implemented
  - a. Empty Homes Review.
  - b. Single Resident Discount Review.
  - c. Recruitment of 2 Compliance Officers on 3 year fixed term contracts.
13. Empty Homes review was completed at the end of September and the process has identified 38 previously empty properties as now occupied. This has generated a potential revenue value (including New Homes Bonus) of £333,751. Please note this is subject to final verification.
14. Single Resident Discount review is currently in progress and 1,288 letters were issued to residents who are in receipt of the discount. Prior to this review an amnesty period of one month was publicised, offering residents claiming the single resident discount the opportunity to declare a change of circumstance without incurring a penalty. Revenues are currently awaiting responses from reminder letters issued on 6<sup>th</sup> October. To date this review has identified 12 claims where residents no longer qualify for the discount.
15. The compliance officers are looking at individual cases of fraud on Housing Benefit and Council Tax including local council tax support. To date officers have identified £97,165 of overpayments. These relate to Housing Benefit of £79,600 with an expected recovery rate of 65%, Council tax and Local council tax support of £17,565 with recovery rates of 90%.
16. The sharing agreement is based on a model which looks at the difference in council tax income between 2012/13 and 2015/16 financial year. It then

removes any natural inflation and growth. The remaining amount is recognised as additional income as a result of better collection rate which the major preceptors promotes by sharing a portion of the income with the districts.

17. The financial position based on September data shows additional income of £1,398,000 compared to an original projection of £468,000. As per the basis of this agreement the council receives an additional £253,000. The table below gives a summary of the data and adjustments.

	1st April 2015 £ '000	30th September 2015 £ '000
Estimated collection for 2015/16 (calculated using 2015/16 collection rate of 98.97%) <sup>2</sup>	(50,775)	(51,141)
Estimated receipts relating to previous years	0	(543)
<b>Forecast y/e debit collected - as at end September 2015</b>	<b>(50,775)</b>	<b>(51,684)</b>
2012/13 collection	(47,243)	(47,243)
Budgeted increase in collection	(3,532)	(4,441)
2013/14 Natural growth adj	925	925
2014/15 Natural growth adj	932	932
2015/16 Natural growth adj	930	930
2013/14 Ctax increase adj	271	271
2014/15 Ctax increase adj	6	6
2015/16 Ctax increase adj	0	(21)
<b>"Anticipated Additional Income" <math>\uparrow</math> increase in collection due to additional activity)</b>	<b>(468)</b>	<b>(1,398)</b>
Share back as per agreement @ 16% plus smoothing amount for year 1 of new agreement		
Essex County Council	106	212
Police Authority	14	28
Fire Authority	6	13
<b>Total additional income receiveable by UDC</b>	<b>(126)</b>	<b>(253)</b>

18. The additional income of £1,398,000 is still included in the total collection fund calculation at year end of which the council will receive a further 9% of the total surplus.
19. The Fraud and Compliance Business Case has a second phase which is the procurement of a Data Warehouse (centralised IT database/system) for the district councils who have committed to this business case.
20. The Data Warehouse will enable the cross referencing of claimant details across all the districts and enable the identification of fraud and ensure compliance in an efficient and effective process.
21. The terms and conditions for this are currently being reviewed by each Local Authorities legal department and once these have been agreed the tender process will begin.

### Other Fraud work

22. Single Fraud Investigation Service (SFIS) has been set up by the Department of Work and Pensions (DWP) to centralise Housing Benefit Fraud. The Council successfully transferred this work to the SFIS team on the 22<sup>nd</sup> September and all future benefit fraud referrals will be dealt with by the SFIS team.

23. The DWP are also running a Fraud and Error Incentive Scheme (FERIS). A target reduction in housing benefit is set for each quarter and if this is achieved DWP will make a payment direct to the Local Authority for reinvestment into the service. Uttlesford signed up to the scheme in the latter part of 2014 and the table below gives details of this scheme to the end of June.

	<b>DWP Target reduction</b>	<b>Service reduction achieved</b>	<b>Incentive payment received</b>
December 2014- March 2015	34,790.00	32,800.00	0.00
April - June 2015	28,720.00	34,700.00	5,603.00

24. A webpage is now available on our website giving residents details of what constitutes fraudulent activity, the responsibilities of the claimant and contact telephone numbers.

### Risk Analysis

25.

Risk	Likelihood	Impact	Mitigating actions
The new initiatives fail to identify and combat fraudulent activity	1 – unlikely as this is being monitored by multiple bodies	3 – reduction in taxbase/revenue which supports the overall budget	All activities are being monitored quarterly by senior officers and more regularly by the service managers and DWP

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.



**Committee:** Cabinet

**Agenda Item**

**Date:** 22<sup>nd</sup> October 2015

**12**

**Title:** Carnation Nurseries, Cambridge Road,  
Newport

**Portfolio Holder:** Cllr Redfern

Key decision: **Yes**

## Summary

1. The report provides details as to the affordable housing delivery options relating to the Bloor Homes development at Carnation Nurseries, Cambridge Road, Newport.
2. The Housing Board have considered the options and made the following recommendations to be taken forward to Cabinet:
  - a. **Not** to accept the offer of gifted units at the Carnation Nurseries site on the terms laid out in this report.
  - b. To consider all future offers of gifted units on a scheme by scheme basis, and in the same format.

## Recommendations

3. That Cabinet decides as follows:
  - c. Whether the Council accepts the offer of gifted affordable units on the terms laid out in this report, and
  - d. Whether the Council should consider future offers of gifted affordable units on developments.

## Financial Implications

4. Financial implications are detailed in the report.

## Background Papers

5. The following papers were referred to in the preparation of this report:
  - None

6.

Communication/Consultation	Parish Council
Community Safety	N/A
Equalities	N/A

Health and Safety	The development will be undertaken with full compliance to Health and Safety Regulations.
Human Rights/Legal Implications	The option for the Council to accept gifted units is detailed within the S106, and therefore the legal processes contained therein will need to be complied with
Sustainability	N/A
Ward-specific impacts	Newport
Workforce/Workplace	Housing Development and Planning

## Situation

7. This development by Bloor Homes consists of a scheme of 21 new homes in total. The scheme has received Planning Permission and has started on site. A 40% affordable housing contribution would constitute 8 units, which are located at plots 8 – 15 on the attached layout plan.
8. During S106 negotiations with the Planning Department, Bloor Homes suggested an option whereby they could gift the Council a number of affordable homes on the site, in lieu transferring the 8 affordable units to a Housing Association in the normal way. Due to the cost implications of gifting units, this would mean the delivery of a smaller number of units on site. It was agreed that the S106 would be written to allow this option to be considered by Members, but if rejected, would revert to the traditional 40 % affordable housing delivery via a Housing Association.
9. Bloor Homes have put forward their offer to the Council with regard to gifted units. This has been calculated on the basis that the land value, build costs, sales values, developers profit do not change from the “normal” delivery process.
10. The developer is proposing to gift UDC 3 affordable housing units, plus make a cash payment of £99,247. The other 5 identified affordable housing plots would then revert to being private sale housing plots for the benefit of Bloor Homes. The gifted plots in question are 13, 14 and 15, which equate to 1, two bedroom house and 2, two bedroom flats and equates to a 15% affordable housing provision.
11. Due to the nature development appraisals, it is impossible to balance precisely the swap of units between affordable and private. Therefore, this is reason for the cash settlement sum which is to be paid to UDC as part of the offer. Bloor did also provide an option for gifting the Council 4 affordable units, but this resulted in UDC making a £122,639 cash settlement to Bloor.

12. The 40% affordable housing scheme would provide accommodation for 26 people through a Housing Association. The proposed gifted unit scheme would only house 9 people.
13. However, the three gifted units would be let on affordable rents and would provide the Council with additional rental income of £22,000 per annum. This extra income could be used to fund the development of new Council homes through the Council's own development programme.
14. Members should also be aware that there are a number of proposed developments for Newport (yet to receive planning approval) that will provide affordable housing within the Parish, if approved. Alongside these, there is also the Council development at Reynolds Court that will provide 41 high quality sheltered housing apartments for older people.
15. Bloor Homes have also indicated a desire to offer the Council gifted affordable homes on their sites at Walpole Farm, Stansted and Flitch Green, Felsted. The offers for both of these larger sites are likely to be at a similar % level to Carnation Nurseries. Therefore, it would be helpful to have a steer from Members as to whether the principal of such offer is acceptable and worth exploring on a scheme by scheme basis.

## Risk Analysis

16.

Risk	Likelihood	Impact	Mitigating actions
Not delivering 40% affordable housing on-site	1 Option contained in the S106	4 Fewer families in need of affordable housing are housed	Extra rental income to be invested in future affordable housing development.
Extra rental income not received	4 Affordable Housing provided by Housing Association	3 Less investment into affordable housing development	Investigate different ways of increasing affordable housing investment and delivery

1 = Little or no risk or impact

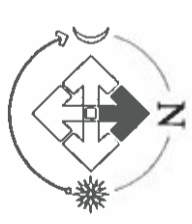
2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.



THIS DRAWING IS TO BE READ IN CONJUNCTION WITH SEPARATE GROUP / SITE SPECIFIC CONSTRUCTION NOTES AND MATERIALS SPECIFICATION.



-  AREAS OF SOFT LANDSCAPING
-  TARMAC HIGHWAYS / DRIVEWAYS
-  BLOCK PAVING

**SCHEDULE**

OPEN MARKET (ALL LIFE TIME HOMES)	
309 - 3 BED HOUSE	(966) - 2
310 - 3 BED HOUSE	(952) - 4
402 - 4 BED HOUSE	(1150) - 2
450 - 4 BED HOUSE	(1418) - 1
454 - 4 BED HOUSE	(1650) - 1
456 - 4 BED HOUSE	(1702) - 1
550 - 5 BED HOUSE	(1867) - 2
<b>TOTAL PRIVATE -</b>	<b>13</b>

AFFORDABLE (ALL LIFE TIME HOMES)	
207 - 2 BED FOG	(740) - 1
2BF - 2 BED FLAT	(651) - 2
2B4P - 2 BED HOUSE	(811) - 3
3B5P - 3 BED HOUSE	(967) - 2
<b>TOTAL AFFORDABLE -</b>	<b>8</b>
<b>GRAND TOTAL -</b>	<b>21</b>

Revision	Date	By
A	30.06.14	AMG
B	14.07.14	AMG
C	18.07.14	AMG
D	22.07.14	AMG
E	03.10.14	AMG
F	03.11.14	AMG
G	21.04.15	LBT

Job:	Cambridge Road, Newport
Title:	SITE LAYOUT
Scale:	1:500@A2
Date:	June 14
Drawn:	AMG
Checked:	JMW

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# Cambridge Road, Newport

Drawing No. EA109-SL-100G

Site Name:	Cambridge Road, Newport	Date:	16-Jun-15	16-Jun-15
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PRIVATE MIX	Square Foot No.	%	Tot Ft	Net Sales Price / Type	E/Ft	Unit Sales	Construction Cost Base & Extras	E/Ft	Unit cost
402	1150	2	2,300	£403,200	£350.61	£806,400	£58,915	£66,893	£58.17
450	1454	1	1,454	£498,750	£343.02	£498,750	£74,154	£82,436	£56.70
456	1702	1	1,702	£561,750	£330.05	£561,750	£87,975	£96,405	£56.64
309	950	2	1,900	£355,000	£373.68	£710,000	£52,079	£59,857	£63.01
310	952	4	3,808	£355,000	£372.90	£1,420,000	£54,321	£62,101	£65.23
454	1650	1	1,650	£550,000	£333.33	£550,000	£81,613	£90,091	£54.60
550	1860	2	3,720	£599,500	£322.31	£1,199,000	£92,000	£100,688	£54.13
2b3p (Swap)	811	0	0	£289,000	£356.35	£0	£36,064	£43,703	£53.89
3b4p (Swap)	967	0	0	£355,000	£367.11	£0	£41,427	£49,222	£50.90
2bF (Swap)	651	0	0	£225,000	£345.62	£0	£40,570	£48,049	£73.81
2b FOG (Swap)	740	0	0	£230,000	£310.81	£0	£53,280	£60,848	£82.23
Total Private plots	13		16,534	Ft		5,745,900			
									972,212

Total OMV of Tenure Swap Plots : £0

AFFORDABLE MIX	811	3	2,433	£165,768	£204.40	£497,304	£36,064	£41,875	£51.63	£125,625
3b4p	967	2	1,934	£197,655	£204.40	£395,310	£41,427	£47,394	£49.01	£94,788
2bF	651	2	1,302	£133,064	£204.40	£266,128	£40,570	£46,221	£71.00	£92,442
2b FOG	740	1	740	£151,258	£204.40	£151,258	£53,280	£59,020	£79.76	£59,020
Total Affordable plots	8		6,409	Ft		£1,310,000				£371,875
										£1,344,087
Statistics	Total Housing Ft	22,943	Private Average	£347.52	Tot No. of units (P+AH)	21				
	Private Ft / Net Ac	18,371	Sales /ft	£347.52	Tot Density / housing Ac	15.00				
	Affordable Ft / Ac	12,818			AIB Exl. Abnormals	£105,77				

Best Offer for Full Affordable Provision : £1,310,000

Areas: Gross	1.66 Acres	1.4	Nett acres
Pos/Play+buffers	0 Acres		for All Housing
Unusable+Trees	0.26 Acres	0.9	Nett acres
Affordable	0.5 Acres		for Private Housing
Extra Build costs	Private Units		
New Regs	£1.00		Materials per pri plot
Build Cost Inflation	£0.00		Spec per private plot
Extra Build costs AH Units			Code per private plot
New Regs	£1.00		Materials per AH plot
Build Cost Inflation	£0.00		Extra AH spec per plot
SDW's Base per ft2	£20.00		Code per AH plot
Additional Make Up	£45,000		Extra Planning per plot
Sales Set up	£35,000		Private Plot Extras
Services Extra BT			AH plot extras (Code)
Extra Water			Base per Plot
Abnormals Site Lump Sums			Extra Gas and Electric
Muck away	£276,200		Service diversions
Demolition/asbestos	£40,000		106 costs
Sales Costs @ 4%	£229,836		SUDS
Access Road/Bellmouth	£20,000		FW Pump
Foundations Per ft2			Cash Settlement To UDC
			Foundations per plot
Prelims	Sales Rate/mth	4	Price/mth
	Mths Lead in	6	£281,250
			Tot Cost
			£125,720
			Direct Cost Overheads
			£125,720
Land Value Calculation			Grant / Social
			Gross Sales Revenue (GDV)
			£7,055,900
			Blended Margin
			18.59%
			Total Development Costs
			£3,528,007
			HT cost Inflation
			0.0%
			Gross Land
			£2,216,430
			Stamp charge on offer price@ rate of
			4.00%
			Extra Stamp if vendor charging VAT@
			0.0000%
			Less Legal Fees @
			0.45%
			Agents Fees @
			0.0000%
			OFFER PRICE FOR SITE
			£2,122,000

Site Name: Cambridge Road, Newport Date: 16-Jun-15

PRIVATE Mix	Square Foot No.	%	Tot Ft	Price / Type	Nett Sales	E/Ft	Unit Sales	Site Total	Base	Construction Cost	& Extras	E/Ft	Unit cost
402	1150	2	2,300	£403,200	£350.61	£806,400	£58,915	£66,893	£58.17	£133,786			
450	1454	1	1,454	£498,750	£343.02	£498,750	£74,154	£82,436	£56.70	£82,436			
456	1702	1	1,702	£561,750	£330.05	£561,750	£87,875	£96,405	£56.64	£96,405			
309	950	2	1,900	£355,000	£373.68	£710,000	£52,079	£59,857	£63.01	£119,714			
310	952	4	3,808	£355,000	£372.90	£1,420,000	£54,321	£62,101	£65.23	£248,404			
454	1650	1	1,650	£550,000	£333.33	£550,000	£81,613	£90,091	£54.60	£90,091			
550	1860	2	3,720	£599,500	£322.31	£1,199,000	£92,000	£100,688	£54.13	£201,376			
2b3p (Swap)	811	2	1,622	£289,000	£356.35	£578,000	£36,064	£43,703	£53.89	£87,406			
3b4p (Swap)	967	2	1,934	£355,000	£367.11	£710,000	£41,427	£49,222	£50.90	£98,444			
2bF (Swap)	651	0	0	£225,000	£345.62	£0	£40,570	£48,049	£73.81	£0			
2b FOG (Swap)	740	1	740	£230,000	£310.81	£230,000	£53,280	£60,848	£82.23	£60,848			
Total Private plots	18		20,830 Ft										1,218,910
Total OMOV of Tenure Swap Plots : £1,518,000													

AFORDABLE Mix	811	1	33	811	£1	£36,064	£41,875	£51.63	£41,875
2b3p	811	1	33	811	£1	£36,064	£41,875	£51.63	£41,875
3b4p	967	0	0	0	£1	£41,427	£47,394	£49.01	£0
2bF	651	2	67	1,302	£1	£40,570	£46,221	£71.00	£92,442
2b FOG	740	0	0	0	£1	£53,280	£59,020	£79.76	£0
Total Affordable plots 3 2,113 Ft 0.0% of omv 3 2,113 Ft 0.0% of omv									
Statistics Total Housing Ft 22,943 Private Average Sales /ft £348.72 Tot No. of units (P+AH) 21									
Private Ft / Net Ac 23,144 Tot Density / housing Ac 15.00									
Affordable Ft / Ac 4,226 AIB Exl. Abnormals £106,17									

Best Offer for Full Affordable Provision : £1,310,000

Areas: Gross 1.66 Acres Net acres 1.4

Pos/Play+buffers 0 Acres for All Housing

Unusable+Trees 0.26 Acres Net acres 0.9

Affordable 0.5 Acres for Private Housing

Extra Build costs Private Units Materials per pri plot £4,500

New Regs £1.00 Spec per private plot £1,828

Build Cost Inflation £0.00 Code per private plot £500

Extra Build costs AH Units Materials per AH plot £4,500

New Regs £1.00 Extra AH spec per plot £0

Build Cost Inflation £0.00 Code per AH plot £500

SDW's Base per ft2 £20.00 Extra Planning per plot £0

Additional Make Up £45,000 Private Plot Extras £1,200

Sales Set up £35,000 AH plot extras (Code) £1,200

Services Extra BT Base per Plot £5,316

Extra Water Extra Gas and Electric £0

Abnormals Site Lump Sums Service diversions £55,000

Muck away £276,200 106 costs £142,543

Demolition/ashesilos £40,000 SUDS £61,550

Sales Costs @ 4% £290,556 FW Pump £66,125

Access Road/Bellmouth £20,000 Cash Settlement To UDC £99,247

Foundations Per ft2 Foundations per plot £10,000

Prelims Sales Rate/mth 4 Price/mth £25,000

Mths Lead in 6 £281,250 Tot Cost £125,720

Direct Cost Overheads £125,720

Land Value Calculation Grant / Social

Gross Sales Revenue (GDV) £7,263,903

Blended Margin 18.59% £1,353,568

Total Development Costs £3,697,114

HT cost Inflation 0.0% £0

Gross Land £2,216,429

Stamp charge on offer price@ rate of 4.00% £84,880

Extra Stamp if vendor charging VAT@ 0.0000% £0

Less Legal Fees @ 0.45% £9,549

Agents Fees @ 0.0000% £0

OFFER PRICE FOR SITE £2,122,000









**Committee: Cabinet**

**Agenda Item**

**Date: 21 October 2015**

**13**

**Title: Great Dunmow Neighbourhood  
Development Plan**

**Portfolio holder: Cllr Barker**

**Key decision: No**

## Summary

1. The attached documents are the Great Dunmow Pre-submission Neighbourhood Development Plan and the Council's response to the consultation which closes on the 31<sup>st</sup> October 2015.

## Recommendations

2. That Cabinet approve the Council's consultation response to the Great Dunmow Neighbourhood Plan Pre-submission consultation document.

## Financial Implications

3. There are no financial implications as a direct result of this consultation however the Council will need to bear the costs of the external examination and referendum once the plan has been submitted to the Council. These costs can be covered through the Neighbourhood Plan reserve.

## Background Papers

4. None

## Impact

- 5.

Communication/Consultation	The plan has undergone significant community involvement in its preparation and is currently on Pre-submission consultation.
Community Safety	The plan deals with community safety
Equalities	The plan is widely consulted.
Health and Safety	None
Human Rights/Legal Implications	None
Sustainability	The plan deals with sustainability of the Neighbourhood Plan designated area.
Ward-specific impacts	Great Dunmow North and South

Workforce/Workplace	None
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## Situation

6. This report is asking Cabinet to consider the Council's response to the public Pre-submission consultation on the Great Dunmow Neighbourhood Plan. The pre-submission document details their preferred approach and all responses have to be received by the closing date of the 31<sup>st</sup> October 2015.
7. A Neighbourhood Plan must:
  - a. Have appropriate regard to national policy and advice and guidance issued by the Secretary of State;
  - b. Be in general conformity with the strategic policies contained within the current adopted development plan; and
  - c. Meet all EU and Human Rights obligations.
8. The Great Dunmow Neighbourhood Plan has been out on pre-submission consultation before in October 2014. However, due to the withdrawal of the Uttlesford Local Plan in January 2015 the Great Dunmow Neighbourhood Plan had to undertake a Sustainability Appraisal, and therefore has had to repeat the pre-submission consultation process.
9. A number of changes to the policies have been suggested in our response, along with minor textual changes. Our response incorporates comments from Planning Policy, Development Management and Landscape Officers.
10. Once this stage of consultation is complete the Great Dunmow Neighbourhood Plan Group will consider all the representations and make any changes they feel are needed. The Town Council will then need to formally submit the Plan to UDC for independent examination. At this stage UDC must satisfy itself that the Plan complies with all the relevant statutory requirements, if it does then UDC will publicise the Plan for six weeks and invite representations and send the Plan off for independent examination.

## Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
That the Neighbourhood Plan does not comply with UDC adopted Local Plan 2005 and National Policy	1. Little - Officers have worked closely with the Town Council and the NP Steering Group throughout the process.	2. Some - The views of the community are not taken into account, devaluing community-led planning	Continuing communication and engagement.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

**Uttlesford District Council's Response to  
The Great Dunmow Neighbourhood Plan Pre  
Submission Document  
2015-2032**

## **1.0 Introduction**

- 1.1 The District Council supports the desire of Great Dunmow Town Council to produce a Neighbourhood Development Plan for its area. The Council has worked closely with the Town Council and the Neighbourhood Plan Steering Group and commits to continuing to do so.
- 1.2 We hope that you find the Council's comments useful. These comments are designed to improve the robustness and effectiveness of the Plan. If you wish to discuss any of these comments further please contact the Planning Policy Team.

## **2.0 Maps**

- 2.2 All maps must have a licence number. At present your maps do not, and those that do are not at all clear. It is a serious offence, which could lead to a costly fine, if your licence number is not shown clearly on every single map.
- 2.3 The Plan is missing a policies map. This map shows all of the policy designations that are in the Plan. It should therefore include:
  - The Neighbourhood Plan area
  - The TDA (DS1)
  - Important Views (LSC2)
  - The Chelmer Valley (LSC3)
  - Character Areas
  - Wildlife Corridors (NE2)
  - Woodland Sites (NE1)
  - Core Footpath and Bridleway Network (GA1)

### TDA Inset Map

- TDA (DS1)
- Site Allocations (DS2-DS8)
- Important Views (LSC2)
- Local Green Spaces (LSC4)
- Identified Sports Facilities (SOS1)
- Children's Play Space (SOS3)
- Cemetery (SOS4)
- Coach Park (HSTC2)
- Conservation Area

## **3.0 General Comments**

- 3.1 Throughout the Plan Census figures have been used, it is not clear whether these figures relate only to Great Dunmow town (made up of the ward statistics) or for Great Dunmow Parish as a whole. Please could this be made clear in the text.
- 3.2 Paragraph numbers are lost on pages 13-15 and from page 44 onwards.

#### 4.0 Notes on Neighbouring Planning

4.1 Paragraph 9: Whilst we agree that Woodlands Park Sector 4 should be included in the figures it may be useful to add a note next to it stating that it is outside the NP area.

4.2 Paragraph 20: Need to include the date the Town Design Statement was written.

#### 5.0 The State of the Parish Today

5.1 Paragraph 26: Source needs to be included for the 71.6%.

5.2 Fig 2: This table is out of date and needs updating. A date also needs to be given along with the source. The most up-to-date table can be found on line:

<http://www.uttlesford.gov.uk/CHttpHandler.ashx?id=1487&p=0>

5.3 Paragraph 34: Suggest the following changes to the text :

*“The UDC Strategic Flood Risk Assessment (2008), as quoted above, is the document cited by the UDC **Great Dunmow Neighbourhood Plan** Sustainability Appraisal and Strategic Environmental Assessment (2012-2015).”*

5.4 Paragraph 40: Please delete ‘Essex County Council’ as they are not the correct body to contact regarding listed buildings. Please replace with ‘Historic England’.

5.5 Paragraph 43: The date of the conservation area appraisal is needed (2007).

5.6 Page 27: Suggest a sub heading is added at the top of this page as the text is now discussing important approaches.

5.7 Paragraph 73: Essex County Council Rights of Way Improvement Plan needs a date.

5.8 Paragraph 74: Suggest the following changes to text:

*“it comes from the south of the town (from Great Waltham), makes use of the Flich Way, and carries on to the north towards Saffron Walden.”*

5.9 Fig 12: Date and source needed.

5.10 Paragraph 81: Dates are needed for the Employment Land Review and the Appraisal of Employment Land.

5.11 Paragraph 84: A date is needed for the Great Dunmow Business Survey.

5.12 Paragraph 90: As evidence to this statement you could use the following statistics from Commission School Places in Essex 2014-2019:

School	Net Capacity 2013/14	No. on Roll May 2014	Surplus deficit	Future net capacity	Forecast no. on roll 2018/19	Forecast surplus deficit	Forecast inc adj for new homes	Forecast surplus deficit
St Marys, Great	432	406	26	432	417	15	508	-76

<b>Dunmow</b>								
<b>Great Dunmow Primary</b>	420	405	15	420	425	-5	516	-96

## 6.0 Development Standards

- 6.1 Figure 15: This map needs a key. What is the blue line on the map? Ongar Road North and South should be included in the TDA as they both have planning permission.
- 6.2 Policy DS1: Development Limits: Should include Ongar Road North and South as allocations, as both have planning permission.
- 6.3 Policy DS2: TDA The Existing HRS Site: Add 'site' at the end of the first paragraph. Bullet point one mentions a specific site this policy relates to, however, in paragraph 1 of the policy it is not so specific. This policy requires a 1.8ha landscape buffer to the north and west of the site which is welcomed. There is an additional requirement for a substantial 20m buffer to the existing properties of Parsonage Downs, plus a substantial open green space in the centre of the development which connects to a green-strip pathway around the site. Has the site been adequately assessed to demonstrate that it can take this amount of open space plus provide the 100 dwellings required? Has a viability assessment been completed based on this policy approach? This policy doesn't stipulate a requirement for bungalows, unlike the other housing policies.
- 6.4 Policy DS3 Land South of Stortford Road: This policy should include Policy DS4 as you don't want one happening without the other. The map should be updated to include the blue shaded area for the school and the last paragraph should be deleted. At present the map only shows the housing development area, yet the policy talks about both. Policy DS3 continues with a requirement for a buffer either side of the Flitch Way but the allocation only exists to the north of the Flitch Way, which again suggests that the site map needs to be amended to include the school site. However, does a substantial buffer, which is required on ecological grounds, pose problems for the operation of the school, in particular the playing fields. ECC have very stringent requirements in relation to school sites and probably won't accept the requirement to have a buffer. If this ends up outside of the school site who maintains it?
- 6.5 Bullet point 5: LAPs should be included in the brackets.
- 6.6 Policy DS4 Land adjacent to Butleys Lane (land south of Stortford Road): Delete policy and map as it is to be included in policy DS3 (see above comment).
- 6.7 Justification DS4:TDA Land West of Woodside Way: In the first sentence delete 790 and replace with 850.
- 6.8 Policy DS5 Land West of Chelmsford Road (Smiths Farm): This policy is supported.
- 6.9 Policy DS6 Land West of Chelmsford Road Waste Transfer Station: This policy is supported.



- 6.10 Policy DS7 Woodlands Park: Replace ‘Tree Protection Orders’ with ‘Tree Preservation Orders’.
- 6.11 Policy DS8 Land at Brick Kiln Farm: Suggest that the following bullet point is included as it was in UDC Submitted Local Plan:  
*‘Access into the existing public open space on the eastern and western sides of the River Chelmer’*
- 6.12 Policy DS9 Building for Life: Building for Life assessment to be submitted with the planning application is not a requirement for applications submitted to Uttlesford District Council. It is not a national requirement or part of our local requirements. We don’t have a policy to justify the request and it will not be possible to implement a policy in respect of applications only relating to Great Dunmow. Therefore we cannot accept the wording of this policy. We can encourage developers to take the approach, but not insist on it.
- 6.13 Policy DS10 The Case for Space: The DCLG has published “Technical housing standards – nationally described space standard”. This supersedes the RIBA document.
- 6.14 Policy DS11 Hedgerows: This policy is supported.
- 6.15 Justification DS12 Eaves Height: There is a quote from English Heritage, however, there is no reference as to what document this came from. English Heritage has changed its name and is now Historic England.
- 6.16 Justification DS13 Rendering, Pargetting and Roofing: At the end of the first paragraph delete *‘...by nearly half the population.’*
- 6.17: The second paragraph states there was an English Heritage report, what report was this? The name is now Historic England.
- 6.18 Policy DS13 Rendering, Pargetting and Roofing: The wording appears muddled and it is unclear with regards to house finishes.
- 6.19 Policy DS14 Integration of Affordable Housing: This policy is supported.
- 6.20 Page 74, Fig 24 and 25: The tables need a source and date.
- 6.21 Page 75: A new SHMA has been published for Uttlesford. It would be worth updating the figures in Fig 26.
- 6.22 DS15 Local Housing Needs: This policy is confusing as it appears to be asking for 100% of dwellings to be 3 bed or less. It is also contrary to the new Strategic Housing Market Assessment 2015 which shows that the District is in need of 3 and 4 bed market houses. Please see below:

Figure 76: Market and affordable housing mix by LA (Source: ORS Housing Model. Note: Figures may not sum due to rounding)

		East Herts	Epping Forest	Harlow	Uttlesford	TOTAL
<b>MARKET HOUSING</b>						
Flat	1 bedroom	710	430	170	140	1,400
	2+ bedrooms	810	450	30	80	1,400
House	2 bedrooms	1,510	1,020	610	690	3,800
	3 bedrooms	5,640	4,090	1,690	4,290	15,700
	4 bedrooms	2,740	1,580	50	3,110	7,500
	5+ bedrooms	770	510	-	1,410	2,700
<b>Total Market Housing</b>		<b>12,200</b>	<b>8,100</b>	<b>2,500</b>	<b>9,700</b>	<b>32,500</b>
<b>AFFORDABLE HOUSING</b>						
Flat	1 bedroom	820	570	100	320	1,800
	2+ bedrooms	470	450	550	330	1,800
House	2 bedrooms	1,210	710	940	850	3,700
	3 bedrooms	1,410	1,180	1,400	1,060	5,100
	4+ bedrooms	310	310	360	220	1,000
<b>Total Affordable Housing</b>		<b>4,200</b>	<b>3,200</b>	<b>3,400</b>	<b>2,800</b>	<b>13,600</b>
<b>TOTAL DWELLINGS</b>		<b>16,400</b>	<b>11,300</b>	<b>5,900</b>	<b>12,500</b>	<b>46,100</b>

- 6.23 To ask for a different mix in your policy you will need evidence.
- 6.24 The Council require 5% bungalows on all schemes of 10+ dwellings. This should be repeated in this policy.

## 7.0 Landscape, Setting and Character

- 7.1 Policy LSC1 Landscape Setting and Character: This policy is supported.
- 7.2 Policy LSC2 Important Views: Support in principle, but it should be noted that view 5 is now affected by a proposal granted on appeal.
- 7.3 Policy LSC3 The Chelmer Valley: Essential utility works are generally permitted development and we have no control over them. Could the GHQ Line pill boxes be a non-statutory heritage assets?
- 7.4 Policy LSC5 Assets of Community Value: This policy is supported.

## 8.0 The Natural Environment

- 8.1 Page 91 Justification NE1: In the second paragraph what are the dates of the reports you refer to?
- 8.2 Policy NE1 Identified woodland sites: This policy repeats national policy. SSSI's are protected by law under the Wildlife and Countryside Act 1981 (as amended). And the NPPF stresses the importance of woodland and local wildlife sites. You could turn this into a position statement promoting good management of these sites.
- 8.3 Paragraph 2: Delete all reference to the policy map and replace with the figure number. The term Policies Map is used for a map which shows all policy designations on it. (see comment on page 1) The date of the Tarpey reports needs to be given.

- 8.4 Paragraph 3: A date for the Hughes-Grieg report needs to be given.
- 8.5 Page 95, Map: This map needs a figure number.
- 8.6 NE2 Wildlife Corridors: The policy states that the map is overleaf when it isn't. Support in principle, but need to be aware that there may be some conflict with safety of operations at Stansted Airport so there may be some restrictions on the type of trees, plants or amount of waterbodies that can be established when within the control of planning.
- 8.7 Policy NE3 Street Trees on Development Sites: Same comments as above in relation to Stansted Airport.
- 8.8 Justification NE4 Screening: What report has English Heritage produced and what is the date? Also note name change to Historic England.
- 8.9 Policy NE4 Screening: Same comments as above in relation to Stansted Airport.
- 8.10 Page 99: A date needs to be included for the Essex Sports Facilities Strategy
- 9.0 Sport and Open Spaces**
- 9.1 Policy SOS1 Identified Sports' Facilities: This policy is supported.
- 9.2 Policy SOS2: Sporting Infrastructure Requirements: There is no evidence to support the inclusion of this policy. It is not enough to say there is a deficit and it is a priority area. Where has the 30 unit threshold come from? Developer contributions can only be collected in relation to designated schemes and then a maximum of 5 contributions per scheme. What criteria are they wishing to use for the calculation of contributions? Who is going to calculate the requirement and how is it going to be monitored? Has a viability report been carried out on this policy?  
Ensuring sporting provision is open for community use is not a land use planning issue and something neither this Plan, nor the Local Plan can enforce. It is therefore suggested that this policy is made into a position statement, excluding the 30 unit threshold.
- 9.3 Policy SOS3 Children's Play Space: This policy is supported.
- 10.0 Getting Around**
- 10.1 Policy GA1 Cycle Footpath and Bridleway Network: This policy is supported.
- 10.2 Policy GA2 Integrating Developments (Paths and ways): This policy is supported.
- 11.0 The High Street and Town Centre**
- 11.1: Policy HSTC1 Uses and Variety: Where is primary shopping frontage identified? If they have been taken from the Local Plan then a map needs to also be included in this Plan. Given the new permitted development rights for change of use from A1 to residential, this policy may be considered to be contrary to current regulations. However, the majority of the A1 uses are within the Conservation Area or are in listed buildings and therefore would require planning permission anyway. Who is going to keep an up-to-date list of all the shop uses in the primary and secondary areas for this policy to be implemented? At present the Council

do a town centre survey every year but this may not be frequent enough to ensure a policy like this is enforced.

11.2: Policy HSTC2 Coach Park: This policy is supported.

## **12.0 The Economy**

12.1 E1 Employment Land: This policy is supported.

12.2 Policy E2 Loss of Employment Land: This policy is contrary to the permitted development rights set out in the Town and Country Planning (General Permitted Development) (England) Order 2015. It could be amended to, "Where planning permission is required" in the same way as HSTC1.

## **13.0 Healthcare, Education and Infrastructure**

13.1 HE11 Medical Facilities: The Council understands the issues behind the policy aims, however, the criteria for new medical centres rests with NHS England. The Council would apply the County Car Parking Standards; the NP would need to provide evidence to show why a different standard would apply.

13.2 HE12 Secondary School Provision: This policy is supported, however, it should be noted that Essex County Council are the deciding planning authority for schools in their control.

13.3 HE13 Primary School Provision: This policy is supported, however, it should be noted that Essex County Council are the deciding planning authority for schools in their control.

13.4 HE14 Conversion to Educational Use: This policy is supported.

**Committee:** Cabinet

**Agenda Item**

**Date:** 22 October 2015

**14**

**Title:** Assets of Community Value

**Portfolio Holder:** Cllr Barker

Key decision: **No**

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## Summary

1. The Localism Act 2011 introduces a concept of an 'Asset of Community Value'. Section 87 of the Localism Act places a duty of Local Authorities to 'maintain a list of land in its area that is land of community value'.
2. Officers have requested submission from Parish and Town Councils and this report reports the most recent response.

## Recommendations

3. To agree to include the following on the Assets of Community Value list:
  - The Yew Tree Public House, Manuden

## Financial Implications

4. There are direct financial implications arising at this stage which relate to the formal process of identifying and contacting asset owners and, if relevant, registering an asset as a Land Charge. These costs can be met from existing budget and staff resources.
5. There is also an unquantifiable financial risk to the Council. This needs to be kept under review and at an appropriate time consideration should be given to establishing a contingency reserve to mitigate the risk to the Council's budget.

## Background Papers

6. None

## Impact

- 7.

Communication/Consultation	Notice to the owner is required.
Community Safety	No impact.
Equalities	The duty will effect all equally.
Health and Safety	No impact.

Human Rights/Legal Implications	Pursuant to s.19 Human Rights Act 1998 the Secretary of State has certified that in his opinion the Localism Act is compatible with the Convention rights.
Sustainability	No impact.
Ward-specific impacts	Stort Valley
Workforce/Workplace	Work will be coordinated within the Planning and Housing Policy, Land Charges and Legal Teams.

## Situation

8. The Localism Act 2011 introduces a concept of an 'Asset of Community Value'. Section 87 of the Localism Act places a duty of Local Authorities to 'maintain a list of land in its area that is land of community value'.
9. Section 87 states as follows "*s. 87 of the Act requires local authorities to maintain a list of land and buildings in their areas which are of community value. Entry of an asset on the list lasts for 5 years although it may be able to be removed earlier in certain circumstances which may be specified in secondary legislation. Subject to the Act and any regulations made under it the form of the list is in the local authority's discretion.*"
10. An Asset is of community value if (in the opinion of the local authority) either:
  - The current use furthers the social wellbeing or interests of the local community; and
  - it is realistic to think that at some time in the next five years the Asset will further the social wellbeing or social interests of the community or
  - there was a time in the recent past when a use of building or land had furthered the social wellbeing or interests of the community; and
  - it is realistic to think that in the next five years the building/land could further the social wellbeing or interests of the community.
11. Although it is for the local authority to determine whether an Asset falls within the criteria to be included in the list s. 89 provides that Assets may only be included in the list in response to a community nomination (a parish council or a voluntary or community body with a local connection) or in circumstances contained in secondary legislation. In addition to the List of Assets of Community Value the council must also maintain a list of land which has been the subject of unsuccessful community nominations.
12. The Act defines social interest as: cultural interest, recreation interest and sporting interests which is a fairly wide definition.

## Assessment

### The Yew Tree Public House

13. Manuden Parish Council has submitted a request to the Council to consider the listing of the Yew Tree Public House. It is situated in the heart of the village and is well used by the local community, including local groups such as the WI and fundraising events. It meets all the four tests set out in paragraph 10 above. It is therefore recommended that it is added to the list.
14. The Council has not received any representations regarding the above proposed assets of community value.
15. In line with paragraph 8 of The Assets of Community Value (England) Regulations 2012 the Council have taken all practicable steps to give information that it is considering listing the land to the relevant Parish Council, owner of the land, freeholder and occupant. This has taken the form of letters and site notices.

## Conclusion

1. The Council has received a valid request for consideration and the recommendation is set out in paragraph 3.

## Risk Analysis

2.

Risk	Likelihood	Impact	Mitigating actions
The nominating body is unhappy with the decision reached.	1 – If the property comes onto the market the nominating body can always bid.	2 – While there might be some cost exposure this would be minimal	Carefully scrutinise submissions for inclusion on the Asset List so as to ensure only those which comply with the criteria are included.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.





**Committee:** Cabinet

**Agenda Item**

**Date:** 22 October 2015

**15**

**Title:** Transfer of small piece of land currently part of Dunmow depot

**Portfolio Holders:** Cllr Susan Barker  
Cllr S Howell

Key decision: No

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### Summary

1. Following an accident in the depot resulting in damage to an adjacent residential property it is proposed to transfer about 60sq m of the depot into the grounds of the house as part of package of risk mitigation measures.

### Recommendations

2. The land be sold to the owners of 72A High Street Great Dunmow for £5,000 subject to a covenant restricting its use. Their legal costs will be met by the council, as will the cost of erecting a boundary wall.

### Financial Implications

3. The land has been valued and it is assessed to be worth £3,600 as garden land (mean value within range £2,700 to £4,500). On the basis of the current use as depot land, it has a similar value at £3,300. The site has potential alternative uses as car parking or residential which would put the value of the parcel in the range £9,500 to £13,000. This latter range represents the Best Value consideration for the land under s.123 of the Local Government Act 1972, in the opinion of the company appointed as the council's advisors. It is anticipated that the cost of the new boundary wall will be met by the insurance settlement.

### Background Papers

None

### Impact

4.

Communication/Consultation	If the council disposes of the land at less than its Best Value consideration it needs to give public notice of its intention.
Community Safety	

Equalities	
Health and Safety	The proposal is a risk mitigation measure
Human Rights/Legal Implications	See para 10 of the report below
Sustainability	
Ward-specific impacts	The depot is in Great Dunmow South
Workforce/Workplace	

## Situation

5. Following an accident on 7 May 2015 involving one of the council's waste collection trucks colliding with the boundary wall between the Dunmow Street Services depot and 72A High Street, the council received an approach from the owners requesting realignment of the boundary. The accident resulted in the boundary wall falling against the house causing external and internal damage to the render and plaster, and displacing fixtures inside the property. The damage was referred to the council's insurers.
6. The requested alignment would straighten out the boundary and increase the separation of trucks manoeuvring from the residential property. The parcel is a flat triangle. The length of the base is some 30 m, the distance from the base to the apex is 4 m. The existing boundary wall was part of the council's property. The new boundary would be a brick wall and belong to the council.
7. The new boundary line would have no material impact on the operation of the depot site. However, the council is actively seeking a new site to which to relocate the stabling of its vehicle fleet working out of Dunmow. The boundary alignment would not significantly affect the potential of the site for any alternative uses.
8. The owners are prepared to agree to a covenant restricting use of the transferred land to purposes ancillary to the residential occupation of 72A High Street.
9. s.123 Local Government Act 1972 provides that a local authority may not dispose of land (other than by way of a tenancy for less than 7 years) for less than the best consideration that can reasonably be obtained without the consent of the secretary of state. s.128 of the Act gives the secretary of state power to grant a general consent for such disposals. In 2003 the secretary of state issued Circular 06/03, the Local Government Act 1972: General Disposal Consent. This applies to transactions where the shortfall between the best consideration reasonably obtainable and the actual consideration (if any) received does not exceed £2 million. In such cases where the authority is satisfied that the disposal will help to secure the promotion or improvement of the economic, social or environmental well-being of its area specific consent is

unnecessary and the general consent may be relied upon. In deciding whether to dispose of land at an undervalue authorities are required by the Circular to have regard to their community strategy. It is also a requirement that the authority should comply with normal and prudent commercial policies including taking advice from a professionally qualified valuer as to the amount of the undervalue (or in the case of a gift of land the value of the land itself).

10. The transfer of the parcel would help alleviate the concerns of any occupiers of 72A High Street about a future re-occurrence of a similar incident, and therefore is consistent with the improvement of the social well-being of the area.

### Risk Analysis

11.

Risk	Likelihood	Impact	Mitigating actions
Reduction of the depot site area would constrain the existing or potential uses of the land	2 The current use of the site is likely to become redundant. A site search is underway for a new depot site.	1 The parcel in question is triangular and only 60 sq metres in area	

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.



**Committee: Cabinet**

**Agenda Item**

**Date: 22 October 2015**

**16**

**Title: Enforcement**

**Author: Cllr Simon Howell**

Item for information

### **Summary**

1. This report is to inform members of the cabinet of the operation of the Enforcement Team within the council.

### **Recommendations**

2. That members note this report.

### **Financial Implications**

3. As set out in the body of this report.

### **Background Papers**

4. None.

### **Impact**

- 5.

Communication/Consultation	None
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	None
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

## Situation

6. The Enforcement Team in Uttlesford District Council is responsible for a wide range of functions. The main areas of activity are planning, licensing (in respect of licensed drivers, operators and vehicles and also licensed premises); environmental health street scene (e.g. abandoned vehicles and fly-tipping) and smoking in the workplace legislation.
7. The Enforcement Team comprises a team leader and three enforcement officers all of whom are full-time. The budget for the service for the year 2015/16 is £149,630.
8. The council has an enforcement strategy with regard to planning matters which was adopted by the then Development Control Committee on 1 June 2011. The strategy appears on the council's website at <http://www.uttlesford.gov.uk/article/1982/Planning-Enforcement> . The emphasis is on trying to secure compliance with the legislation without taking formal action where possible. The Enforcement Team's mission statement is "to prevent and detect crime and breaches in regulatory legislation. To achieve compliance by education, negotiation and where necessary by enforcement action".
9. In the first instance therefore where a breach of planning control has been identified, enforcement officers will explain to the developer what the breach is and endeavour to secure compliance by way of negotiation. Where this fails, the council has a range of options open to it. Where a developer has failed to comply with a condition attached to a planning condition a breach of condition notice may be served to require compliance with that condition. An enforcement notice may be served for any breach of planning control (i.e. unauthorised development or development in breach of condition). There is no appeal against a breach of condition notice, although a decision to serve such a notice may be challenged by way of judicial review. There is a right of appeal against an enforcement notice. Where a developer lodges an appeal against an enforcement notice, this has the effect of suspending the notice until such time as the appeal has been determined. The appeal process therefore effectively delays securing compliance with planning legislation.
10. In addition to these remedies in cases of urgency the council may serve a Stop Notice and where an individual frequently breaches planning control an injunction may be applied for.
11. The Enforcement Team have opened 466 planning enforcement cases between 1 January 2015 and 9 October 2015. In round figures, 39% of these were in respect of work carried out without planning permission; 30% for breaches of conditions attached to planning permission; 13% for unauthorised changes of use; 8.5% for unauthorised works to listed buildings and 7% in respect of unlawful advertisements. The remaining 2.5% encompassed breaches of tree preservation orders; removal of hedgerows; untidy sites and high hedges.

12. Seven enforcement notices have been served since the 1 January 2015 including 3 in relation to airport related parking.
13. On two occasions the Enforcement Team took direct action to secure compliance with the legislation. Cabinet members will recall approving the finance for the clearance of land at Broxted. In addition, the team took direct action in respect of a breach of the High Hedges legislation where all other efforts to secure compliance had failed.
14. Planning enforcement is not a duty. It is a power. Further that power is not unlimited. The council may only take enforcement action if it considers it expedient to do so. "Expediency" can be a difficult subject for the public to come to terms with. There is frequently a perception that action should be taken merely because there has been a breach of planning control. The council's approach to expediency is set out in paragraph 1.06 of the Enforcement Strategy. In essence enforcement action should not be taken merely to rectify a breach or to seek retribution. Action should only be taken if the nature of the breach itself causes material harm of a planning nature. Expediency can cover a number of issues. The breach may be so minor (e.g. a very small amount above the permitted development rights), that the breach can be considered only a technical breach not worth pursuing. Even if the breach is more than a technical breach then a decision must be considered as to whether planning permission would have been considered being granted for the breach. Although in circumstances where permission would have likely been accepted, a planning application would be invited, if one is not submitted then unless particular conditions would need to be attached to any permission, formal action should not be pursued and the matter is closed for lack of expediency. Planning and enforcement officers meet every week to review files to determine whether there is evidence of a breach of planning control and if so whether it is expedient to take enforcement action if compliance cannot be achieved through negotiation. Where a decision is taken to close a case for lack of expediency officers endeavour to explain to the complainant and other interested parties the reason for that decision.
15. For the period from the 1 January 2015 to the 9 October 2015 the Enforcement Team also carried out 112 investigations into various licensing issues. Eighty-six of these involved the private hire/hackney carriage trades. Eighteen were complaints under the Licensing Act 2003. There were 8 miscellaneous other matters. As a result of the team's work the council has brought a total of 12 prosecutions for a range of offences including making false statements to obtain licences; failing to report accidents and driving unlicensed vehicles or driving without a driver's licence. The team have also carried out a number of road spot checks in conjunction with Essex Police which have resulted in some of these prosecutions.
16. With regard to complaints made under the Licensing Act 2003, to date compliance has been secured by negotiation and no formal action has been necessary.
17. The Council has a duty to remove any vehicles abandoned in the district and has power to remove untaxed vehicles under an agency agreement with the

DVLA. Not all vehicles reported as abandoned can be treated as such. From 1 January 2015 the team have investigated 103 complaints of abandoned or untaxed vehicles resulting in the removal and destruction of 27. The majority of the rest of the vehicles were removed by the owners.

18. The team have investigated 47 cases of fly tipping since 1 January 2015. Unfortunately there were no eyewitnesses to these events and in the majority of cases the waste contained no identifying material. However in 2 cases there was identifying matter and prosecutions are pending in both of these cases.
19. 48 fixed penalty notices have been issued for breaches of the smoking at work legislation. 44 have been paid. 2 are pending prosecution and in the remaining 2 the time for payment had not lapsed at the time of presentation of this report.

### **Risk Analysis**

20. There are no risks associated with this report