



Council Response to the Independent Review of the Local Plan Process

26 November 2015

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Introduction

This document draws together the key messages from an independent review of the withdrawn 2014 Submission Local Plan, and explains how these lessons have been incorporated into the new Local Plan process set up during 2015.

In inviting the Planning Advisory Service (PAS) to undertake a review of the processes around the 2014 Submission Local Plan, the Council's aim was to understand what lessons should be learned and incorporated into work on the new Local Plan.

The PAS reports provide a very helpful independent review of the critical issues and an honest appraisal of mistakes that were made. The Council's response to the review is to unflinchingly address these points and learn from them.

Preparation of the 2014 Submission Local Plan took place over a number of years, and culminated in the withdrawal of the plan in January 2015, following receipt of a report from the Local Plan Inspector that he was unable to recommend adoption of the plan as submitted. For reference the Inspector's report is attached and is also available at www.uttlesford.gov.uk/developinguttlesford

The documents comprising the PAS review were presented to the Scrutiny Committee on [10 September 2015](#) (agenda item 8) as follows:

- Executive Summary
- Timeline of Uttlesford Local Plan Meetings
- Review of Inspector's letter
- Review of Strategic Environmental Assessment and Sustainability Appraisal
- Review of Site Selection Process

The review addressed planning policy matters using terminology contained in the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) and assumes some degree of familiarity with basic planning concepts.

The Council response (this document) cites both the PAS review documents and the inspector's report extensively in order to draw out the main themes and to enable the lessons to be drawn out. In order to assist in this process key passages and recurrent themes have been underlined for emphasis.

The conclusions of this document (pages 18-19) include a table showing the main issues raised by PAS in their comments, together with the actions taken by the Council in response. More detailed officer comments are set out in the grey boxes within each section.

PAS Task 1: Timeline of Uttlesford Local Plan Meetings

For this task PAS reviewed the minutes of 49 meetings held between 2007 and 2014 at which the Local Plan was progressed. It should be noted that PAS did not review the evidence base which supported the 2014 Submission Local Plan. The report is quite dense and by its nature picks up repeated issues and concerns across multiple meetings.

Careful reading identifies four broad themes as set out below and illustrated with quotations from the document.

Theme 1: The importance of an evidence-led approach

- *“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.” Environment Committee (Oct 2007)*
- *“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.” Preferred Options Consultation, Nov-07*
- *“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” LDF Working Group (Aug-09)*
- *“Again, it appears as though decisions are being made in advance of detailed evidence.” (LDF Working Group (Nov-09)*
- *“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 the time.” Extraordinary Environment Committee (Nov-09)*
- *“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. (LDP Task group, May -08)”*
- *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’? Cabinet Meeting (Nov-13)*

Evidence-led approaches: Officer Comment

The Council should be led by consideration of up-to-date evidence, national policy requirements, and keeping to a clear process of justification throughout the process. It should avoid knee-jerk responses driving changes to the emerging strategy, especially if such changes are not based on carefully considered and tested evidence. There should be equal assessment of all the options. Clearly if new options are introduced late in the day, this is very difficult.

At paragraph 4.4 of his report the Inspector stated that: *“There appeared to me to be fairly widespread recognition that some form of ‘new settlement(s)’ may form an appropriate means for catering for the future long-term growth of the District... However, I do not consider it for me to comment further upon this matter.”* In preparing its new plan the Council should reserve judgement about the merits or otherwise of a new settlement approach until the necessary evidence has been assembled to allow a sound judgement to be made, in light of national policy, sustainability and deliverability issues seen as a whole.

Areas of Search and Scenarios were introduced as part of the Issues and Options consultation in autumn 2015 in order to provide a framework to assist this process of equal appraisal. However, there may be pressure to steer the solution in favour of one strategy or another, and this should be firmly resisted. The Council should try to do what is right rather than what is popular. This means adhering to a transparent, evidence-led process based on sound planning principles.

A report to the Working Group entitled *“Preferred Options: Guidelines and Recommendations”* (PPWG, 26 November 2015) provides pointers on the way forward in this respect.

Theme 2: Duty to Co-Operate

- *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? LDF Working Group, Feb-13*
- *Revising the SCI [Statement of Community Involvement] 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'. LDF Working Group, (March-13)*
- *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. Local Plan Working Group (Aug 13)*

Duty to Co-Operate: Officer Comment

Engagement must be constructive, active, and ongoing, should involve Members as the decision-makers on the plan, and should be systematic rather than ad-hoc.

The Council is now formally represented at Member-level on the Co-Op Board and minutes of meetings with Duty-to-Co-Operate partners are published once agreed. The Council is focusing on the critical cross-boundary strategic planning issues. The Council will prepare a Duty to Co-Operate statement using template e.g. from PAS.

Theme 3: Housing Numbers

- *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. LDF Working Group (July 09)*
- *"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." LDF Working Group (Feb-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." Cabinet Meeting (Aug-11)*
- *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? Cabinet meeting (May-12)*
- *"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." Cabinet Meeting, (Dec-11)*
- *"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!” LDF Working Group, Nov-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.*
- *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. (Cabinet Meeting, Nov-13)*

Housing Numbers: Officer Comment

Evidence on housing numbers is complex but it must respond to national requirements, for example taking account of inward migration. The Council should consider the relationship between the strategies for housing and economic development, and ensure that they are aligned. It is also important that the housing strategy is internally consistent: is the Council’s priority to deliver more affordable housing? How does that square with thinking about sustainable development ‘in the round’?

Many Local Planning Authorities have struggled with calculating their housing numbers, a new responsibility which in the past was undertaken by Regional Assemblies. However, the Council has worked closely with the other authorities in the Housing Market Area to prepare the new NPPF-compliant Strategic Housing Market Assessment (SHMA) and this was published in September. These concerns have now been addressed.

A thorough application of the framework provided by the strategic scenarios contained within the Issues and Options consultation document will help the Council to consider the implications of a higher level of growth for the overall spatial strategy, and avoid a situation where additional sites need to be added into the plan at the last minute. The Council needs to be able to demonstrate positive planning, not seeking to ‘drive the numbers down’.

Theme 4: Clarity and transparency

- *“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’.” Policy Choices and Options for growth assessment of growth options (August 07):*
- *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.*

Clarity and Transparency: Officer Comment

Clarity and transparency should be intrinsic to the process. The Council needs to be very clear how the balance of considerations was made in reaching decisions.

The Council has made great efforts to improve this aspect of work on the plan, including holding all meetings in public through the cross-party Planning Policy Working Group. All the evidence is published on the Council's website. A regular Local Plan Update is sent to all Members and to all Town and Parish Clerks for circulation to all Parish Councillors which draws attention to the key documents.

A report to the Working Group entitled "*Preferred Options: Guidelines and Recommendations*" (PPWG, 26 November 2015) provides pointers on the way forward in this respect. It is recommended that the Council should first narrow down the options through an interim stage, and then use an 'Interim Development Strategy Report' to provide a clear narrative of how draft Local Plan strategy was reached.

PAS Task 2: Review of Uttlesford Local Plan Inspector’s Letter

This short report provided some clarification of the main issues raised by the Inspector. The majority of the report provides a summary of the main points covered by the Inspector.

PAS Review	Officer Response
<i>“With regard to OAN, the Inspector highlighted that further work needed to be done in order to clarify the level of need.”</i>	This further work has been done and published in the Strategic Housing Market Assessment (SHMA, September 2015). The SHMA addresses national policy requirements but the Council will need to closely monitor challenges through the appeals system.
<i>“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.”</i>	These concerns are acknowledged. The Council has set out mechanisms to ensure that deliverability is addressed early in the process, and has also engaged a transport consultant to advise in relation to the Areas of Search and other transport planning matters.
<i>“Other issues were more about some details and less about the overall strategy... Other points relating to other settlements related to the need for clarity in some of the details, again usually expressed through the supporting evidence.”</i>	The need for greater clarity is acknowledged. The new Local Plan process is based around ensuring a clear audit trail of evidence and explanation of how this feeds into decision-making.
<i>“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.”</i>	This point is at the heart of the new Local Plan process and is about ensuring that the new Local Plan is fully justified (one of the ‘tests of soundness’ in NPPF Paragraph 182).
<i>“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.</i>	<p>Agree that this was a reasonable conclusion. It is anticipated that the new Local Plan will be submitted in 2017, at least two years after the examination hearings.</p> <p>The Council has incorporated the lessons from the examination into a new process, and is in a strong position to ensure that the new Local Plan is sound.</p>

The remainder of the report focuses on positive messages coming out of the review: *“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...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."

PAS refer to the settlement hierarchy and the Employment Land Review as good examples mentioned by the Inspector, who also endorsed the approach to windfall (unplanned development) at 50 dwellings per year as *"reliably based upon well-evidenced research and consistent with para 48 of the NPPF" (paragraph 3.7).*

Task 2: Officer Comments

PAS' review of the Inspector's letter indicates two main concerns: evidence for the level of Objectively Assessed Need (OAN) and the justification of the proposed Elsenham site allocation. PAS agreed with the Inspector that it was likely to take more than six months to address these points.

Nearly a year on from the Inspector's report, it is clear that these conclusions were reasonable, and the Council has used the intervening time to ensure a thorough response to these key points, both by establishing a robust Strategic Housing Market Assessment to identify a well-evidenced housing figure, and also through the Issues and Options consultation (Autumn 2015) which ensures that the Council will give thorough consideration to a wide range of options before making any decisions on a preferred option next year.

Not cited by PAS, but nevertheless of central importance in the Inspector's letter in this context, is paragraph 4.3 which states: *"The brief for the new SHMA [Strategic Housing Market Assessment], currently being prepared for Uttlesford and its 3 neighbour authorities in the 'Harlow/M11 corridor' requires that it should be PPG [Planning Practice Guidance] -compliant. If it is, it should provide up-to-date OAN [Objectively Assessed Needs] assessments for these authorities both individually and jointly. This could provide a platform to take forward complementary Local Plans for these areas which are fully consistent with the NPPF and PPG and able to be prepared with full regard to any DtC and/ or SA issues which may arise."*

This somewhat dense passage is of crucial importance to understanding how cross-boundary strategic planning and the OAN are interlinked. The Council will need to understand the plans for other areas as well as its own.

PAS' point about 'banking' some aspects of the plan is important. Whilst on the two fundamental issues of the OAN and the equal assessment of alternative options required a considerable amount of extra work, the plan does not need to be fully reworked from 'scratch'. The settlement hierarchy approach, for example, was 'soundly set out' according to the Inspector. Clearly, if a new strategy and new growth locations are identified then the settlement hierarchy would need to be updated to reflect this, but the general approach and methodology is still considered sound. The Issues and Options consultation includes a question on this and these responses can then be taken into account.

PAS Task 3: Review of the Strategic Environmental Assessment and Sustainability Appraisal

This section formed an appendix to a report on the Sustainability Appraisal of the Areas of Search, which subsequently formed part of the Issues and Options Consultation (Autumn 2015). See Planning Policy Working Group, [29 September 2015, agenda item 9](#)

1. An independent review of the process used to create the 2014 Submission Local Plan (withdrawn January 2015) was carried out by the Planning Advisory Service (PAS) and reported to the Scrutiny Committee on September 10th 2015.
2. The PAS review covered a number of aspects of the previous Local Plan process, including a summary of the main issues from the Local Plan Inspector's report, and a review of the site selection process.
3. As part of this package of work, PAS also undertook a critical friend review of the Pre-Submission Local Plan Strategic Environmental Assessment (SEA) and Sustainability Appraisal (SA) Environmental Report (April 2014) and addendum (June 2014).
4. Officers have shared this document with the Council's consultants (Place Services at Essex County Council) and have discussed the implications for the sustainability appraisal of the new Local Plan.
5. The table below is based on the central findings of the PAS review, and demonstrates how the findings have been incorporate into a robust SA process going forward.

SEA Directive Requirements	PAS comment: Is the SEA Directive Requirement met?	Officer Comment
a) An outline of the contents, main objectives of the plan or programme, and relationship with other relevant plans and programmes.	Yes , 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.	Addressed by Place Services in the new SA Framework.
b) The relevant aspects of the current state of	Yes , although the baseline analysis will need to be	Addressed by Place Services.

SEA Directive Requirements	PAS comment: Is the SEA Directive Requirement met?	Officer Comment
the environment and the likely evolution thereof without implementation of the plan or programme.	reviewed and updated as appropriate. Further information could be provided in respect of trend based data and the evolution of baseline without the ULP.	
c) The environmental characteristics of areas likely to be significantly affected.	Partially. The environmental characteristics of those areas likely to be significantly affected by the ULP are implicitly rather than explicitly described.	The environmental characteristics of areas are described at a high level in the SA of the Issues and Options, and this will be reviewed and refined in the SA of the Draft Plan.
d) Any existing environmental problems which are relevant to the plan or programme including, in particular, those relating to any areas of a particular environmental importance, such as areas designated pursuant to Directives 79/409/EEC and 92/43/EEC.	Yes	Subject to ongoing monitoring.
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.	Yes , although the review of plans, programmes and policies should be updated.	Review of plans, programmes and policies has been updated.
f) The likely significant effects on the environment, including on issues such as biodiversity, population,	Partially. Whilst the LDP vision, objectives, policies and site allocations have been assessed, there is	The initial SA (Issues and Options) assesses the Scenarios which addresses cumulative impacts. The next stage of the SA (Draft

SEA Directive Requirements	PAS comment: Is the SEA Directive Requirement met?	Officer Comment
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, positive and negative effects).	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.	Plan/Preferred Options) will assess the cumulative impact of proposed sites on settlements. The Council is working closely with neighbouring Local Planning authorities to consider the impacts of their emerging Local Plans and this information will inform the next stage.
g) The measures envisaged to prevent, reduce and as fully as possible offset any significant adverse effects on the environment of implementing the plan or programme.	Yes. The Environmental Report does identify specific mitigation measures.	Approach carried forward into the new process.
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.	No. 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. The Environmental Report does not describe the difficulties encountered during the assessment.	The Areas of Search and the Scenarios has been developed by the Working Group as a framework to address this deficiency. At the next stage of SA this will provide a firm basis to enable a clear narrative to be provided of why the preferred options were either taken forward or rejected, with consideration of the reasonable alternatives.
i) A description of measures envisaged concerning monitoring in accordance with Art. 10.	Yes. The Environmental Report includes a monitoring framework.	Approach carried forward into the new process.
j) A non-technical summary of the	Yes. A non-technical summary is provided.	Approach carried forward into the new process.

SEA Directive Requirements	PAS comment: Is the SEA Directive Requirement met?	Officer Comment
information provided under the above headings.		

Task 3: Officer Comments

When assessed against the 10 SEA requirements the PAS critical friend review highlighted that the main area of concern related to the explanation of the reasons for selecting or rejecting alternative options.

This concern was summarised and elaborated in the presentation delivered at the Scrutiny Committee meeting on 10th September 2015. The presentation delivered at the meeting identified three concerns about the previous SA process, namely that it:

- Did not clearly tell the story of how sites were identified
- Did not effectively provide narrative around Elsenham as a site
- There were an excessive number of options for policies

The third point relates to development management policies rather than site allocations, for example in relation to general environmental or other policies. This has been discussed with Places Services and it is agreed that alternative policy approaches will only be considered where there is a clear justification for doing so. If there are no clear alternatives, or where alternatives are insufficiently distinct, then no options will be elaborated. However, this is a case-by-case judgement and a pragmatic approach will be taken.

The first two points both address the consideration of alternatives and the way in which this process is explained. In the case of the 2014 Submission Local Plan the failing related to the selection of Elsenham as a preferred location for development, but it is important going forward that the Council should avoid this pitfall in terms of the selection of sites for inclusion in the new Local Plan.

This critical point relates not only to the legal requirements of the SEA Directive, but also to the tests of soundness at examination in public, particularly in terms of the requirement to prepare a justified Local Plan. This matter has been addressed at length in a methodology paper supported by the Planning Policy Working Group ('Preparing a Justified Local Plan', PPWG 27 July 2015, item 5) and which has subsequently been rolled out as part of the Issues and Options consultation. It is considered that this represents a robust basis on which to ensure that the necessary legal requirements are met.

PAS Task 4: Review of the Site Selection Process

Based on the Inspector's concerns about the accessibility of the Elsenham site, PAS recommended that additional attention should be given to consideration of physical constraints at an early stage in the site selection process. The key parts of this analysis and recommendations are quoted below:

"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;*
- *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 has 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."

"Mapping the accessibility of locations to highlight the implications of existing settlements and for the rural area. This would form a combination of barriers and opportunities which could inform site assessments in the SHLAA [Strategic Housing Land Availability Assessment]:

- *The barriers presented by natural and physical features – e.g. the M11 and the railway at Elsenham and Newport;*
- *The standard of the existing road infrastructure*
- *The incidence of 'pinch point' and potential associated capacity/environmental impacts on the network"*

Task 4: Officer Comment

The key point arising from the PAS review for this task was that the Local Plan process should have included a mechanism to ensure that matters of deliverability were picked up at an earlier stage in the process. In the case of the 2014 Submission Local Plan, such a mechanism would probably have flagged up potential difficulties with Elsenham.

PAS did not review the evidence supporting the 2014 Submission Local Plan and therefore the document adds the qualification that *“these views imply that the sites only clear attribute was that it has been promoted and was available”* is important (underlined for emphasis). But this concern is in general consistent with the main point about the importance of a transparent comparison of the options, and the reasons for choices between options, including in refinement of the spatial strategy.

The Council has modified its approach to the SHLAA in order to introduce such a mechanism. In particular, the assessment of achievability has been expanded to including consideration of *“constraints, for example flooding, noise, and physical features which need to be overcome and where the cost of mitigation measures may prejudice viability”*

In order to improve quality control early on, the SHLAA assessments will be published in draft for comment, and comments from key stakeholders including Town and Parish Councils and site promoters will be sought, and will be added to the assessment forms.

Paragraph 2.27 of the Inspector’s report states *“PPG on ‘transport evidence in plan making’ indicates (54-005) the importance of having a robust transport evidence base for local plans in place at submission in order to identify any potential measures that may be required to mitigate the negative impacts, particularly those affecting a wider area than a single authority. In the light of all the above I cannot conclude that the plan is effective in this respect.”*

Taking account of this and the PAS recommendations, the Council has appointed transport consultants to review each Area of Search and advise on the transport implications of development in each. This advice will inform the strategy and site selection process.

A report to the Working Group entitled *“Preferred Options: Guidelines and Recommendations”* (PPWG, 26 November 2015) suggests how a Development Strategy report, in balancing the options, could make use of a proforma approach to consider the constraints, opportunities, and deliverability (see especially Appendix A).

PAS Task 5: Review of Consultation and Duty to Co-Operate processes

The final PAS Task was a review of the 2014 Submission Local Plan consultation and Duty to Co-Operate processes. Although not presented in a separate document, a synopsis of this work was presented to the Scrutiny Committee in the Executive Summary report on 10 September 2015 as follows:

“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 [Uttlesford Local Plan].

“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.”

Task 5: Officer Comment

The PAS review highlights a number of documents which could be prepared to fill gaps in explanation of the involvement of key bodies in the preparation of the plan. These include a ‘consultation strategy’, ‘consultation delivery plan’, and ‘stakeholder management strategy’ and ‘a plan for the fulfilment of the Duty to Co-Operate. At the Scrutiny Committee on 10 September 2015 PAS staff gave a presentation in which all these different documents were drawn together under the umbrella term of ‘Engagement Strategy’. In summary, this is about explaining how the Council will work with organisations with an interest in the plan.

The Council has addressed these points through the preparation of an Engagement Strategy (Planning Policy Working Group, 29 September 2015). The Engagement Strategy document should be updated over time and the latest version should be submitted to the Planning Inspector for Examination, together with a completed Duty to Co-Operate Statement, using the template provided by the Planning Advisory Service (see *Preferred Options: Guidelines and Recommendations – PPWG 26* November 2015).

Conclusions

Five key points emerge from the PAS review as set out in Table 1 below. The table relates each of these points to the separate tasks undertaken by PAS.

The Inspector's main concerns were set out in paragraph 4.1 of his report as cited by PAS:

“Taken together, my soundness concerns about the OAN [Objectively Assessed Needs] and Elsenham policy 1 lead to my not being able to recommend adoption of the plan as submitted. Nor, given the extent of change that would be likely to be required to the overall strategy, can I recommend Major Modifications under S20 of the Act to overcome these soundness issues.”

Whilst the Council has already prepared a new Strategic Housing Market Assessment to address the first point, the second point about Elsenham is a wider point about the process needed in terms of assessing alternatives and preparing a justified plan. The Council has agreed a robust approach to ensuring that this is done in accordance with all the legal and national policy requirements, and which all those with an interest in the plan rightly expect. The Council recognises the implications of this for the Local Plan timeline.

As mentioned under Task 2, PAS commented that notwithstanding these major issues which the Council should address:

“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...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.”

Table 1: Council summary of PAS comments and Actions

PAS comments	Council summary of PAS comments	Actions
<p>Task 2: Accessibility issues with Elsenham should have been flagged earlier. Cross-boundary strategic highways issues.</p>	<p>Need greater certainty about delivery of key pieces of strategic transport infrastructure</p>	<p>Appoint transport consultants. Strategic Housing Land Availability Assessment (SHLAA) process amended to take account of constraints early on.</p>
<p>Task 1; Task 5: duty to co-operate met 'only just'. Stakeholder management strategy etc.</p>	<p>Explain how Council will work with organisations with an interest in the plan</p>	<p>'Engagement Strategy' and Duty to Co-Operate Statement.</p>
<p>Task 1; Task 2: need for a robust housing figure for the whole housing market area. Member engagement in formal processes. Duty to co-operate met 'only just';</p>	<p>Better cross-boundary planning of strategic issues e.g. housing figures, transport.</p>	<p>Strategic Housing Market Assessment prepared jointly to establish robust housing need; joined formal groupings of Local Authorities (Co-Op Board). Duty to Co-Operate Statement</p>
<p>Task 1: decisions about the new strategy must be led by the evidence, carried through in accordance with the agreed process in a transparent fashion, a step at a time.</p>	<p>Evidence-led plan making</p>	<p>Cross-party Working Group set up, all evidence posted to Council's website. <i>Preferred Options: Guidelines and Recommendations</i> report (PPWG 26 November 2015)</p>
<p>Task 1; Task 3: concerns about lack of clear justification of Elsenham ('only merit was that it was promoted and that it was available'). Equal appraisal of all the reasonable options.</p>	<p>Alternatives must be appraised and a clear narrative provided (i.e. plan must be justified)</p>	<p>New approach based on 'Areas of Search'. Development Strategy Report to provide a clear narrative. Sustainability Appraisal to accompany this.</p>

