

Committee: Planning Policy Working Group

Agenda Item

Date: 27 January 2016

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Title: Local Plan Risk Assessment

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Summary

1. Production of a sound Local Plan is complex and requires the sustained commitment and understanding of Members as decision-makers. The process does contain a number of risks and it is considered appropriate to keep these under review.

Recommendations

That the Risk Assessment be noted, subject to future modification as circumstances change.

Financial Implications

2. None.

Background Papers

3. None

Impact

Communication/Consultation	Formal consultation as the Local Plan develops will be carried out in accordance with the Statement of Community Involvement.
Community Safety	None
Equalities	The Local Plan impacts on all sectors of the community.
Health and Safety	None
Human Rights/Legal Implications	None
Sustainability	Appraisal of alternatives to the emerging plan will be undertaken.
Ward-specific impacts	All.

Workforce/Workplace	Planning Policy Team and other officers as appropriate.
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Situation

4. Risk assessment is a key part of any Local Plan work programme. There are numerous risks to the work programme and delays have been almost universal across the country. Whilst good project management can help to minimise risks, the experience of most LPAs in preparing Local Plans has been one of frustration and delay.
5. In many cases a risk assessment can help LPAs to manage the risks and reduce the impact on the work programme. However there are likely to be some cases where risk management opportunities are limited or prove ineffective. Examples of this might include changes in government policy, or failure of key stakeholders to provide clarity in relation to their own areas of responsibility.
6. In broad terms there are three main types of risk: *resource risks, operational risks, and political risks.*

Resource risks

7. Preparing a Local Plan is very expensive and can be a significant call on the resources of Local Planning Authorities (LPAs). The technical nature of much of the evidence requires the commissioning of specialists (for example in sustainability appraisal, ecology, transport, flood risk, and financial viability) who can be called upon to produce reports and if necessary to provide support at Examination in Public.
8. Uttlesford District Council has a small Planning Policy team with responsibility for preparing the Local Plan, comprising four officers (three full-time). An additional member of staff has now been recruited on a temporary basis to increase this resource. The priorities of this limited staff resource need to be carefully managed in order to ensure that progress with the Local Plan is not impeded.
9. Resource risks can affect not only LPAs but also the key stakeholders upon which they depend in order to progress their Local Plans. Many public sector stakeholders such as County Councils and the NHS are suffering their own resourcing challenges and this can make it difficult to obtain timely information for input to Local Plan formulation, which is often seen by such bodies as non-core activity and therefore low priority.
10. Private sector stakeholders such as utility companies are often reluctant to provide any financial or cost data for commercial reasons. Water supply companies usually only provide input once a planning application is received, and regard the Local Plan stage in the planning process as too uncertain to invest resources in undertaking expensive investigative modelling work.

11. These challenges are often complicated by the need for considerable up-front effort to understand the particular needs and challenges of each body, particularly in light of the different terminology and approaches in different specialist fields.
12. An additional thread of this risk is Councillors asking for additional information, justification or evidence over and above that which officers consider is required. This could include reviewing the evidence base which has already been adopted, asking for additional papers on topics already covered or seeking papers on the management of the officers workload and time plans. Councillors and the Working Group need to carefully balance their desire for information with the need for a proportionate evidence base the need to move the plan forward.
13. A further risk to the timeline is the resourcing of the Planning Inspectorate (PINS) itself. There has been much publicity given to delays in issuing appeal decisions and this can have knock-on implications for Local Plan examinations.

Operational risks

14. The formulation of a Local Plan is a complex process, and there is no 'one size fits all' methodology: some limited guidance is available, but it is up to each LPA to devise an approach which addresses the unique set of circumstances in its own area. At the same time, national policy contains many requirements with which Local Planning Authorities must comply. Some requirements, which may seem straightforward as articulated in national policy, often become highly complex and challenging in practice.
15. Plan-making is an iterative process, involving the gradual accumulation and testing of evidence. Sound judgement is required in terms of what constitutes 'proportionate' evidence in many cases. Sometimes critical new evidence may come to light at a late stage in the plan-making process, which can necessitate early options to be reviewed. At other times the anticipated evidence is not available and a judgement is needed as to how to proceed.
16. Finally, plan preparation requires the Local Planning Authority to act as a co-ordinator in drawing together the different strands of the plan. However this co-ordination role is very much dependent on timely input from a wide range of key stakeholders, including site promoters (landowners and developers) and infrastructure providers. Notwithstanding the Duty to Co-Operate, LPAs have no power to compel stakeholders to provide input, and therefore communication and persuasion are an important part of the task of plan-making. Nevertheless this presents a considerable risk to progress with the plan.

Political risks

17. Local Plans are required to address many contentious issues, for example the location of strategic-scale development sites, as well as provision for Gypsy and Traveller sites, and consideration of the role and function of Green Belt. Politically these are very challenging matters for District Councillors.
18. As the decision-makers on the Local Plan, the political risks for Councillors are considerable, as are the risks to the plan-making process if Councillors do not fully grasp the challenges. It is therefore important that all Members make an effort to understand national requirements set out in the NPPF and the wider context and implications of their decisions and their public statements.
19. Councillors have a crucial role as community leaders representing not just the interests of their Ward, but the interests of the District as a whole. The Planning Advisory Service/Local Government Association provides some salient guidance in relation to this, as set out in the box below:

The Leadership Role of District Councillors

District Councillors have a vital **leadership** role to play to produce a **robust** Local Plan for your area that has **buy in** from all parties. The key challenge is to listen to the views and aspirations of your constituents and **balance** this with the professional advice of your planning staff in order to **plan** for, and **meet**, the **development needs of your area**.

Source: PAS: Local Plans and Plan-Making – Presentation to Local Plans Steering Groups (April 2015)

20. Perhaps the most challenging aspect of this comes when the evidence is finely balanced, and then the role of informed judgement becomes all the more crucial, as set out in the section on operational risks above.
21. Table 2 below sets out the main risks, as currently appraised in June 2015. The risk assessment may need to be revised and updated as work progresses.

Table 2: Risk Assessment

No.	Risk to Local Plan timeline	Implications	Type	Likelihood	Impact	Mitigation/management options
1	Insufficient evidence on which to base a decision. For example, risk that available traffic models for parts of the district are inadequate, or that M11 Junction 8 solutions are not demonstrated.	Potential indefinite delay since confidence in the deliverability of any plan is low.	O	High	High	Ask MP to seek DCLG assistance in provision of advice from a Planning Inspector, and to seek views from relevant government department (e.g. Department for Transport). Work with Local Enterprise Partnerships and key stakeholders e.g. Stansted Airport to build business case for investment. Councils to collectively evidence and lobby wider need for investment in strategic road junctions.
2	Significant new evidence or material planning concerns received as a result of consultation at Regulation 18 or Regulation 19, resulting in significant changes to the emerging strategy and a need for further consultation.	Depending on scale and significance of changes, could add 6 months to a year to the timeline.	O	Medium	High	Agree main planning issues and anticipated challenges with key stakeholders in writing early on.
3	Concerns about the public consultation process, e.g. people not aware of consultation.	Impacts on confidence in the Local Plan formulation process.	R, P	Low	Low	Council has agreed engagement strategy. All Members to take an active role in explaining and publicising forthcoming consultation within their Wards and to work with Parish and Town Councils to promote consultations.

No.	Risk to Local Plan timeline	Implications	Type	Likelihood	Impact	Mitigation/management options
4	Significant number of public responses to consultation resulting in delays whilst responses are collated, planning issues recorded, issues investigated, and planning issues addressed.	Allowance made in work programme for four weeks' Officer time. Larger response likely to result in delay.	R	Medium	Medium	Group consultation responses making the same or very similar points whilst ensuring that material planning issues are properly addressed. Retain additional staff resource as necessary.
5	Council fails to agree a draft plan, or fails to agree critical aspects of a draft plan, for example relating to provision for Gypsy and Traveller sites.	Potential indefinite delay and reduced control over planning appeals.	P	Low	High	Member suggestions and concerns can be raised directly with Planning Policy Team at any time and if appropriate given further consideration through a subsequent Working Group meeting.
6	Council need more time to consider the implications of the emerging plan or require more information before they feel comfortable reaching a decision.	May need to allow additional time in work programme.	O	Medium	Medium	Provide Members with an opportunity to comment and provide feedback to the Planning Policy Team at all stages during plan formulation, so that views may be addressed as work progresses.
7	Key stakeholders fail to provide a clear view on the implications or acceptability of the emerging development options, or provide a view not supported by adequate evidence.	Case-by-case judgement call as to whether planning issue is critical to soundness. If so, lack of a view could delay plan indefinitely or pose high risk of being found unsound at	O, R	Medium	High	Develop and maintain close communications with key stakeholders. Establish framework for joint working and set out key milestones including expectations in terms of timelines and nature of consultation responses.

No.	Risk to Local Plan timeline	Implications	Type	Likelihood	Impact	Mitigation/management options
		examination.				
8	Other demands on the resources of the Planning Policy Team, for example meeting requests (e.g. landowners/developers, Parish Councils)	Allowance has been made in the work programme for key stakeholder meetings (for example with infrastructure providers), but little allowance has been made for other meetings.	R	Medium	Medium	Council to take a view on appropriate resourcing and implications for the timeline. Set up guidance in terms of expectations around of meetings at each stage in the plan-making process to ensure that any meetings add value. Consider alternative to meetings, such as email and phone contact. Consider potential for group meetings rather than single meetings.
9	Neighbourhood Plans prepared which conflict with emerging Local Plan.	Could impact on the credibility of both Local Plan and Neighbourhood Plans.	O, P	Low	Medium	Set up regular email update on District Plan progress to all Parish Clerks. Encourage email updates and input from Parish Councils which can be considered as part of Local Plan process.
10	Failure to agree on cross-boundary strategic planning matters, for example in relation to location for any unmet housing needs across the Strategic Housing Market Area.	Judgement call as to how much delay is reasonable in order to resolve differences before an LPA submits plan for examination.	O, P	Medium	Medium	Ensure that the Council has made all reasonable efforts to comply with the Duty to Co-Operate and the NPPF and that this is clearly set out in a Duty to Co-Operate statement. Council should actively participate in mechanisms and groupings to advance cross-boundary strategic planning in a positive fashion.
11	Inconsistency with national or European requirements	Impact depends on whether an	O	Low	High	Use Planning Advisory Service Soundness Checklist to ensure that

No.	Risk to Local Plan timeline	Implications	Type	Likelihood	Impact	Mitigation/management options
	resulting in failure at examination. For example, failure to comply with SEA Directive, the Development Plans Regulations, or the NPPF/Planning Practice Guidance.	Inspector can address deficiencies through a Main Modification, or whether further work and re-consultation is necessary.				requirements are covered.

Risk Analysis

22. A Risk Assessment is contained within the report.

23.

Risk	Likelihood	Impact	Mitigating actions
Resource risks, operational risks, and political risks are identified in the report.	2. Risks are identified some within and some outside the Council’s control.	3. There are some significant risk to the production of the Local Plan.	A list of mitigating actions are contained in the Risk Assessment Table

- 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.