

**SCRUTINY COMMITTEE held at COUNCIL OFFICES LONDON ROAD
SAFFRON WALDEN at 7.30pm on 11 NOVEMBER 2013**

Present: Councillor E Godwin – Chairman.
Councillors G Barker, P Davies, S Harris, S Howell, D
Morson, E Oliver and D Watson.

Also present: Councillor S Barker (Portfolio Holder for Environment),
Councillors C Cant, R Chambers, A Dean, E Parr, V
Ranger and J Redfern.

Officers: J Mitchell (Chief Executive), R Auty (Assistant Director
Corporate Services), R Dobson (Principal Democratic
Services Officer), R Harborough (Director of Public
Services), M Perry (Assistant Chief Executive-Legal), A
Taylor (Assistant Director Planning and Building Control)
and A Webb (Director of Corporate Services).

SC33

CALL IN OF DECISION MADE BY CABINET ON 1 NOVEMBER 2013

Councillor Godwin welcomed all present, and in particular those members of the public who had registered their intention to speak, Mr Matt North of Uttlesford United Residents and Mr Nick Baker of Henham Parish Council.

The Director of Corporate Services said this meeting related to the call-in of the recent decision of Cabinet on 1 November 2013 in relation to the consultation on additional site allocations for the Local Plan, in order to scrutinise the changes that had arisen since the last Local Plan update to the Scrutiny Committee. He said that in the interests of public inclusion, a procedure to enable the registered public speakers to put questions to the Portfolio Holder for the Environment had been agreed with the Chairman prior to the meeting. The speakers would have the opportunity to ask supplementary questions following her reply. The Director of Corporate Services said the possible outcomes of this meeting were that the Committee decided to refer the called in decision with recommendations back to Cabinet as the decision-making body, or to refer it, again with recommendations, to Full Council, or to endorse the decision, which would then be effective as from today's date.

APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies for absence were received from Councillors Evans and J Ketteridge.

Councillors G and S Barker declared their respective disclosable non pecuniary interests as they were married to each other, each having a dispensation in respect of that interest.

Councillor S Barker also declared a disclosable pecuniary interest as a member of Essex County Council.

Councillor Rich asked why there were different procedures for public speaking at this meeting. The Assistant Chief Executive-Legal said that the Overview and Scrutiny Procedure Rules provided that the Committee could invite others to address it. The decision to adopt different procedures this evening had been taken in the interests of transparency, given the role of the Committee to scrutinise decisions of the Council.

The Chairman said the changes had been agreed with her consent and that of the Vice Chairman, Councillor Morson.

PUBLIC QUESTIONS AND STATEMENTS

Mr North made a statement and asked questions as follows:

'For 18 months Uttlesford District Council had worked on the draft Local Plan based on 3,300 households. In October the Council announced a new plan based on new demographics with a dramatic increase in housing numbers. Residents had been told housing numbers were mandated, but nothing had changed since the publication of the local plan. The question Cabinet should have considered on 1 November was therefore "What was the most sustainable way of meeting all Uttlesford's housing needs, not just the additional numbers?" Members have said time constraints were a factor, but I believe Uttlesford has a duty to do its best to consider housing needs, and not to take the fastest or most convenient way forward. I believe it was not possible that the right decisions were made by Cabinet on 1 November 2013.'

Councillor Rich asked the Chairman if he could question the speakers. Councillor Godwin said public speakers could not be questioned at this stage in the meeting.

Mr Baker made a statement:

"I am Chairman of the Joint Parish Councils Steering Group. The process on 1 November was hurried. The Local Plan Working Group ("LPWG") voted 7:3 then reported to a 7-member strong Cabinet. How can this be right? This is a complex process. Before embarking the Scrutiny Committee should ask Cabinet to look again. The methodology is based on the 2010 census; many authorities are using the 2011 local government households projections, which are more up to date. Why base the recommendation on 2010 figures when the result of doing so indicates we need higher housing figures?

Why does the consultation period cover 20 years when the requirement is to plan for 19 years? Why would you not use 1,669 as a base, not the 2,680 as in the consultation paper? The Elsenham site was opposed. Now there is a

huge development proposal for that village when it has already been allocated 500 houses in other applications. It is nearly as big as Option 4 in 2007. It is a new town by any measure, and not sustainable. ECC accepts that the roads infrastructure can't cope. Option 4 was removed from the Local Plan and the Planning Committee refused permission for 800 homes. It has now been forced through by a small group of district councillors.'

The Chairman invited members of the Committee to ask questions.

Councillor Morson said the Scrutiny Committee had to be satisfied that the decision of 1 November was sound; if not, the Committee could refer it. He proposed to refer the matter to Full Council for two reasons: first, the decision had been made with undue haste. On 1 November the LPWG had met in the morning, and the Cabinet had endorsed its findings later that day. How could information recommended in the morning be endorsed on the afternoon of the same day? On the LPWG were four Cabinet Members, one of whom was the Leader. Scrutiny Committee members had an obligation to ensure all councillors had a say in an issue which affected all wards. He had seen the minutes of the Cabinet on 1 November, but not minutes from the meeting of the LPWG on that date. He considered there was insufficient information about what was discussed. The other reason he felt the matter should be referred to Full Council related to documentation. The consultation paper policy documents were known about, but the numbers had been controversial, and members needed more time to look at those in more detail. If it was proposed to look at more sites then members needed to look at more reports to the LPWG regarding additional housing sites. Why were only four sites identified? What was the methodology for selecting the SHLAA sites? Reasons were given pro and con for each, but the problem was that without any debate on which sites were best, the list was put forward with not enough consideration given to alternative sites. Therefore he proposed the matter be referred back to Full Council.

Councillor G Barker asked Mr North to explain who he represented.

Mr North said he was a member of the public speaking on behalf of Uttlesford United Residents ("UUR"), which was a non-political group representing concerned residents. UUR sought more transparency and openness in Planning within Uttlesford. Members of UUR did not believe the decisions of 1 November were valid.

Regarding a comment by Mr North which was questioned by Councillor G Barker, relating to notice required for putting questions at the meeting, the Assistant Chief Executive advised that whilst it was right that no notice had to be given to members of the public regarding member questions, it was not for members of the committee to question the public speakers, but the other way round.

Councillor Watson then seconded the motion put forward by Councillor Morson.

Councillor Watson made a statement. He said it was not in dispute that the Government had set figures requiring a lot more houses. However he questioned whether the Cabinet should continue with the existing plan by tacking additional sites on to it. He therefore questioned the process. In his view the only answer was a single settlement: he did not know where it could go as he did not have enough information. The Council should be discussing with neighbouring authorities the suitability of any large scale plan. He referred to Poundbury and Port Sunlight, which he said were examples of successful and attractive developments. The reality in Uttlesford was that masses of houses would destroy its character. Saffron Walden's medieval streets made it an unsuitable site for development. Officers should look for something bigger and better. The issue should be debated in public in Full Council. He therefore seconded Councillor Morson's proposal.

Councillor Rich said the LPWG process was transparent and longstanding. On the one hand people were speaking about undue haste, but in *The Observer* he read of delay and confusion in the process. This was a process that the Liberal Democrats had refused to participate in. The Council had produced these new plan proposals, which represented some sadness for Uttlesford, but had put forward some sensible sites. However the coalition government had imposed new numbers. The Council was at a crossroads. He was very concerned that some councillors wanted to see all development in one site. The only site which had been worked up was one north east of Elsenham. He had attended a planning appeal last week caused by the lack of a Local Plan. He was concerned for the sake of the district in this situation. The process was not unduly hasty; if anyone was putting forward a genuine alternative then he would like to hear it. The important thing was genuine deliverability. He acknowledged the impact of that application on Councillor Morson's ward but he did not feel the matter should be referred to Full Council.

Councillor Morson said he had hoped to avoid introducing politics into this debate, but in view of Councillor Rich's comments he had to respond. He asked where the original Option 4 had come from, and on what planning grounds. He said in 2007 officers had recommended Option 1 but Option 4 had emerged at the Environment Committee meeting two weeks later, but there were no planning grounds for Option 4. What needed to be questioned was whether the process had been rushed, and whether it was right. He asked whether the four sites being recommended were justified on any planning reasons, but were merely chosen because something had to be done quickly. Regarding the Great Chesterford site, the reason given for not pursuing it was because 'not enough information is known'. He felt it was a political not planning decision.

Councillor Rich said he wished to respond. Councillor Godwin said he had already had his opportunity.

Councillor Howell said Mr Baker had raised questions, and he considered the debate should be confined to addressing those at this point.

Councillor Watson said he was a member of the Local Plan Working Group. He had never suggested a specific site and was offended at any suggestion that he had pressed for the site at Elsenham. He had never heard any reference to co operation with any other local authorities and until that was done no one could say where a single settlement should be.

At the invitation of the Chairman, Councillor Dean said he wished to ask two questions. The first related to confusion over the target this Council had to meet, which had caused a degree of distrust in the community. Regarding housing numbers, why was it that from the last Planning Committee on 23 October the annual housing target figure that was used in analysis was based on 523 yet the only thing that had happened was that the Council had put out a press release?

He too had attended the planning inquiry last week regarding the Taylor Wimpey appeal on the application at Bentfield Green at Stansted, at which there had been considerable confusion as to what the Council's target was. The Planning Committee reports on 2 October had claimed the Council had only 5 years' housing land supply, that is, 1612 houses. Following the meeting on 23 October the reports claimed there were 2295 houses in the five year supply. It had subsequently been confirmed to him by email from the Chief Executive that the difference in the figures was 683. He questioned why the number of new approvals in housing had been stated to be 501 when only 182 houses were approved at the meeting on 2 October.

Councillor Morson said he too had a question about the Planning Committee meeting of 2 October. He said the Planning Committee on that date had rejected an application for 800 houses in Elsenham. Therefore why were 2100 houses deemed appropriate in the Local Plan? Had the Planning Committee got it wrong?

Councillor G Barker said Dunmow had also taken significant new development. The reason the Council had opted for dispersed development was so that affordable housing could be easily accessed for local people throughout the district.

Councillor S Barker then responded to the questions that had been asked. She said it was true that for 18 months the policy had been worked on; yes the housing numbers were mandated; yes Members had made a mistake in thinking they could set a lower annual building rate.

Regarding Option 4, there had indeed been a great deal of opposition to it; that option had come from her; she was not ashamed about that choice; and the Council had agreed to take it forward.

She appreciated Mr North was representing different areas. What he had said were fine words but he had not said how he would have done things. He had not been elected to take this decision, and it was the Council's Members who had been elected so as to make this kind of difficult decision.

Regarding process, there had been more meetings of the LPWG than she could list. After the ECC Highways study the Working Group had met several times in quick succession. Members had been told that if they did not put forward robust plans that their draft local plan would be rejected at an early stage. Members had got on with working on this Plan, and the length of time it had taken was normal for a local authority working on a local plan. Yes, there had been delays, because it had taken months to get the Highways Agency's report.

Regarding the 20 year period, the reason why the Plan had been drafted to cover 20 years was because the Council needed to plan for a long time.

Regarding the recent planning application at Elsenham, she was not a member of Planning Committee, but this site had not been recommended for refusal.

Regarding the withdrawal of Option 4, this was because the Council was looking at a lower number of homes at that time.

Regarding timings of decisions made on 1 November 2013, yes, the Cabinet had to decide on a recommendation made by the LPWG earlier that day. It was open to all Members of the Council to attend the LPWG. There were some members who did not come to the meetings and some political groups did not attend. At the meetings, Councillor J Ketteridge had invited any Member to comment, whether they were appointed to the Working Group or not. The LPWG was there to inform Cabinet, and did so after its meeting of 17 October. The Inspector was going to be inundated by local authorities' draft local plans, and if this council's plan was dealt with in 2015 it would be lucky.

The proposed consultation was about additional sites. All sites available for development identified in the SHLAA had been looked at by officers, but there were not many big sites which were deliverable. Consultation had taken place on, for example, land for a new settlement at Great Chesterford, but there had been no response from the landowner. How were officers meant to discuss sites for development where sites were not being promoted? The only sites they could discuss were those put forward by developers.

There were 1200 houses deliverable in some villages, so the draft plan would still have been 1500 houses short. The benefit of big sites was that they could bring new schools.

Regarding Councillor Watson's reference to current significant development, it was impossible to put the cork back in the bottle. Many applications were now gaining planning consent, and the Government was intent on increasing the supply of new homes.

Regarding Councillor Watson's comments on talking to neighbouring authorities, yes, the Council had a duty to co operate. The Working Group had received regular reports on how it was meeting this duty. The Leader and Deputy Leader had recently been to East Hertfordshire to discuss the impact on this district of major developments in that area. All local authorities were facing large developments. If the Council did nothing it would have the Government pushing for increased housing numbers in the district.

Regarding reference to developments such as Poundbury and Port Sunlight, this council had built some good quality homes, such as Forest Hall Park, which was popular with its residents. Of course the numbers were difficult. The preparation of the plan had been a long running process, but the numbers were a moveable feast. Members had to make judgments on facts as they were at a given point. The extra year on the plan period would deliver a new secondary school

In the course of co-operation meetings with other authorities, no one had put forward a single settlement to jointly address housing needs.

Regarding comments made by Councillor Dean, it was true that the housing supply situation changed. This was inevitable as planning applications were determined. Live planning applications, however, were not a matter for the Scrutiny Committee.

Regarding reference to development at Dunmow, even under Option 4 houses had been proposed there. No Planning Inspector would accept a plan that did not provide for affordable housing across the district. Some villages had, and would, come forward with development proposals, and there was nothing to prevent them doing so.

Councillor Godwin asked if there were any further questions for Councillor S Barker.

Mr North asked whether an overall change in spatial strategy had been considered. He asked whether at the meetings on 1 November the option of building two new settlements had been discussed, and if not why not.

Councillor S Barker said at the LPWG there had been discussion around whether to start all over again or stick with the draft local plan. Many of the

sites put forward had already been committed, and this could not be undone, as that course of action would be totally unreasonable.

Mr Baker asked for his specific questions to be answered.

Councillor S Barker said that a 20 year plan rather than 19 years was something that the public could readily understand. Regarding specifics, officers would be able to supply information.

Councillor Morson said he did not wish to ask Councillor Barker to comment on live applications, but he wished to know what planning principles were applied for putting 2000 houses on a site where 800 had been refused, and what were the benefits of a new school when at the same time the area had to take a massive settlement.

Councillor S Barker said she had not been at Planning Committee, and was not able to comment on any live planning application.

Councillor G Barker asked if the draft Local Plan were to be abandoned and a new plan drawn up, how long that would take.

Councillor S Barker said it would take quite some time, and she would guess it would take about two and a half years.

Councillor Rich said the scenario recommended by the LPWG to Cabinet was one where all the work had been done and the sites were well known. He apologised if he had offended Councillor Watson. He had not intended to imply that he had suggested that Elsenham was appropriate as a new settlement. However what he was arguing was that those sites had come forward and others had not. He asked what evidence was available about alternatives.

Councillor S Barker said all papers had been presented to every meeting of the LPWG and were available to all Members of the Council. She referred to Option B. Site after site had been identified, some were very small. Officers believed only 1200 houses could be delivered. There were lots of sites that could be built in Felsted, and the school there was full. If housing was dispersed it was far less sustainable than if it was located on larger estates that could deliver related facilities. If all sites were very small ones ECC as the education authority would not be able to secure financial contributions to school capacity. If the Council adopted every site under that option there would be many more people in Uttlesford who were unhappy with the education facilities.

Councillor Dean questioned whether the National Planning Policy Framework required the Council to choose a number which was evidence based. His understanding was that annual housing provision of 415 previously chosen was based on job growth prospects. The SNPP took into account migration

and the implication was that there would be too few new jobs. He questioned whether that evidence had been ignored. He asked what evidence justified such a precise figure as 523 homes a year. The NPPF expected local planning authorities to assess national population projections.

Councillor S Barker agreed the figures had to be evidence based. The number of 415 was based on the economic scenario using national projections. Using revised projections had increased the figure to 415 from 338. The latest projections not constrained by job growth had indicated a rate of 500, but the rate indicated by the 2010 based SNPP was higher. The Government was clearly looking for the highest objectively assessed need projections to be used. If the Council argued for anything less than that, it would be difficult to justify. The Council could not go against planning officers' advice. Councils were being challenged on figures and if the Council did not go forward with a robust plan it would risk rejection.

Mr North said he was familiar with how models worked, and the ONS sub-national projection estimates were not a forecast. The Planning Advisory Service stated the SNPP was a useful starting point but councils could challenge the assumptions on which they were based. Regarding knocking off two years from the Plan, he had asked the Planning Inspectorate last year if the Plan could be backdated and could run for less than 15 years, and the Inspectorate had said it was not mandatory but strong evidence would be required to support a shorter plan. The Inspectorate had said the plan would need to last for 15 years from the date of adoption. If the SNPP numbers were mandatory, why was South Cambridgeshire choosing a number that exceeded its needs in line with the SNPP but less than the level of housing consistent with economic growth forecasts?

Councillor S Barker said she did not know the reasons for South Cambridgeshire's growth as she did not represent that area.

Councillor Ranger made a statement. He said he represented Dunmow, he was chairman of the Housing Board, a member of the LPWG and was Deputy to the Portfolio Holder for Housing. He did not have a vote at Cabinet, but at LPWG he had voted in favour of the recommendation. Extensive numbers of reports had been considered at the LPWG representing vast amounts of officers' time. These reports had been pored over and scrutinised by the members of the LPWG, and all these reports had been available to every member. He had stood for election to make a difference. In its election campaign, the administration had committed itself to planning for the minimum number of new houses, but the goalposts had moved which was frustrating. The Council had approved a dispersal strategy on land identified as deliverable. It could only look at sites which were put forward for development. Members had had to put aside personal preferences and act for the good of the district. To abandon the draft local plan would create development hell. The draft plan had enhanced planning policies, and developers were waiting to hear the outcome. If the Council abandoned the

plan then it would end up with housing but without the improvement of amenities and infrastructure. Development would be allowed on appeal, and the Council would not have the relevant up to date policies to require 40% affordable housing. He asked the Committee to consider all the salient facts. Cabinet had had no option but to approve the recommendation.

Councillor Howell said this had been a very informative evening. He was grateful to Councillor S Barker and to the public speakers. He represented a rural ward which would not be subject to significant new housing, but he did understand this was an emotive and distressing subject. However nobody went into local politics to be popular. Planning was not his specialism, but he was conscious of the challenges this council faced. Uttlesford was one of the top 10 growing areas mainly due to migration. It was a commuter area within the influence of London and Cambridge. He had initially supported a single site as a member of the Environment Committee. In 20 years he had seen piecemeal development which brought nothing with it. The district was growing faster than anybody would want. However, it had become apparent that it would leave the Council open to challenge if development did not take place in all the main settlements of the district. Much work had gone into the LPWG, and all had hoped for the smallest possible requirement of new homes but he was satisfied that officers had properly advised members. Based on information and guidance officers had had to come up with he was satisfied the figures were robust, unhappy though he was that the Council was obliged to do this. It would take perhaps two and a half years if the Council were to start again, and although it was uncomfortable contemplating development on all those sites, he would be voting against Councillor Morson's proposal.

Councillor Harris said she represented Felsted, which was also not featured in the local plan. She echoed Councillor Howell's comments about the level of housing numbers which exceeded what people wished to see for the district, but elected representatives had to make unpopular choices. She believed the Cabinet had to move ahead. Fitch Green was a community whose growth had been determined through successive appeals to its detriment. In considering 19 years versus 20 years for the Plan, the latter was more prudent as it gave breathing space. She supported the Cabinet decision.

Councillor G Barker said delay would mean the district would become victim to predatory development. He acknowledged the appearance of haste by holding two meetings on the same day, but members could not start again from scratch. They had tried to get away with the lower figure.

He was unhappy with the way the recommendation to Scrutiny Committee was drafted, as with different wording members might have had a different view.

Councillor Oliver said he too represented a rural ward, and was a member of the LPWG. He was not a Cabinet member. He had seen the effects of

predatory development in his ward and had spent time before Planning Committee arguing against such development. Objectors had on occasion succeeded at Planning Committee but not on appeal. In Clavering the school was full. Deferring the production of a local plan for two or more years might open the way to more predatory development. The district needed a degree over control over the process, and provision of schools and health amenities. Whilst he was unhappy at the prospect of any development, it was necessary to look at affordable housing for young people. He therefore opposed this motion, but with a heavy heart.

Councillor Rich said he too was unhappy with the way the decision was called in to Scrutiny Committee. No one was happy about what the district had to do, but the decision should not be referred back to Cabinet or onwards to Full Council. He had been very concerned when Option 4 had first been suggested. He accepted that what was now coming forward looked like Option 4. He had been in favour of the dispersed strategy which gave villages a certain amount of development. The coalition government required robust numbers to be put forward, and chiselling these numbers down was not an option because that would result in open season for developers. He too had last week attended the planning appeal regarding Bentfield Green, and that had been an unedifying process. The Cabinet had identified certain sites for development, and the district should not be exposed to loss of control over that development. Therefore he would not be voting to refer the decision for further consideration.

Councillor Watson said the decision on the local plan was the most important one the Council was ever going to make. Its effects would be irrevocable. Every councillor should have the right to say what they thought about the plan. At the moment it did not feel like a process in which all councillors had the ability to comment. There was no need to rush it and the Council owed it to those they represented to allow every Member to speak. The matter should therefore go to Full Council.

Councillor S Barker said the decision which was the subject of tonight's call in was the consultation, and the adoption of the local plan would be a matter for Full Council.

Councillor Godwin asked Councillor Morson if he had further comments.

Councillor Morson said that Councillor Watson had already said what he was going to say. He was not casting aspersions on the hard work which had been done. This decision was extraordinarily important to everyone. Members were not local government officials implementing what central government dictated. This matter would affect all wards. He was not asking to suspend the local plan for two and a half years or open up the district to much more predatory development. In his view this was a decision which should be taken and owned by the whole council. If adopted by Full Council he would accept the decision, and if the arguments were sound there was

nothing to be frightened of. Everyone on Full Council should have the opportunity to consider it.

Councillor Godwin read out Councillor Morson's proposal, that the Scrutiny Committee refer the called in decision to Full Council in order to enable all members to participate in this major decision.

The motion was put to the vote and was rejected five to three, with one abstention.

The Assistant Chief Executive-Legal said the Committee had considered whether to refer the called in decision, and as it decided not to do so, the decision of Cabinet took effect automatically.

SC34 **SCOPING REPORT – DOG FOULING**

The Committee considered a report seeking terms of reference for substantive report on the issue of dog fouling.

The Assistant Director Corporate Services said the two aspects to be considered were strategy and enforcement and clarity on what information members required would be helpful to officers.

Members suggested the report should include further information on the following aspects:

- The rationale of the current service;
- Costs analysis including assessing whether there were more effective ways to deliver the service;
- Supply and demand analysis of the supply of dog bins;
- whether a consistent policy of payment for the service by either the district or parishes should be applied;
- How best to support the role of the Dog Warden, how much that post cost;
- What priority was being given to prosecution;
- The best way to balance education and enforcement; ensuring facilitation for dog owners to pick up after their animals rather than enforcement;
- Signage

SC35 **SCOPING REPORT – SWIMMING POOL PROVISION**

The Committee considered a report seeking terms of reference for a full report on the issue of swimming pool provision

Suggestions for further information to be obtained on the following were:

- Information on the many providers throughout the district should be collated;
- The possibility of encouraging independent providers to offer swimming lessons to the public should be explored;
- The PFI pool provision should be reviewed in light of more development since those agreements were entered into;
- Which areas were served and which areas lacked pools, referring to the background study for the Local Plan on figures for pool provision.

The Chairman thanked all officers and members.

The meeting ended at 9.30pm.