



Public Document Pack

Uttlesford District Council

Chief Executive: Dawn French

SUPPLEMENTARY PACK

Extraordinary Council Remote Meeting

Date: Thursday, 30th April, 2020

Time: 6.00 pm

Venue: Zoom - <https://zoom.us/>

Chairman: Councillor R Freeman

Members: Councillors A Armstrong, H Asker, G Bagnall, S Barker, M Caton, A Coote, C Criscione, C Day, A Dean, G Driscoll, D Eke, J Evans, P Fairhurst, M Foley (Vice-Chair), N Gregory, N Hargreaves, V Isham, R Jones, A Khan, P Lavelle, G LeCount, P Lees, M Lemon, B Light, J Lodge, J Loughlin, S Luck, S Merifield, E Oliver, R Pavitt, L Pepper, N Reeve, G Sell, A Storah, M Sutton, M Tayler and J De Vries

ITEMS WITH SUPPLEMENTARY INFORMATION PART 1

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To consider the report on the Local Plan – Decision Following Inspectors' Letter

This supplementary pack contains:

- An amendment proposed by Cllr Caton
- Public representations received prior to the deadline of 12pm on 28 April.

For information about this meeting please contact Democratic Services

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Agenda Item 2

Extraordinary Council, 30 April: Notice of an amendment as submitted by Councillor Caton

To remove the recommendation in the report in full and replace with the following wording:

The Council recognises the deeply held and divergent views of members across the Council, which reflect personal principles and the range of views in our community.

The Council believes that in whatever future form (revised or new), our District's Local Plan should:

- (1) Contribute to building a strong, responsive and competitive economy by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- (2) Support strong, vibrant and healthy communities, by providing the supply of low/zero carbon housing of all types and costs, including truly affordable homes, required to meet the needs of present and future generations; and create a high quality, built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
- (3) Contribute to protecting and enhancing our natural, built and historic environment; and, as part of this, help to improve biodiversity, prudent use of natural resources, minimise waste and pollution, and mitigate and adapt to climate change, including moving to a low carbon economy, with the potential to create surplus energy.

The Council, however, is disappointed by the invidious position the current administration has placed our community in. In particular, it is concerned by:

- (1) the distinct lack of public engagement and participation since January in the proposal to withdraw the current draft Local Plan;
- (2) the estimated £1m spent by the administration on the Plan in the period since they declined to withdraw the draft plan when the Inspectors offered them that opportunity in the summer of 2019 and the likely £3m cost of developing a new plan;
- (3) a lack of any indication of a revised spatial strategy before making a decision which indicates in broad terms where new housing will be allocated in any new plan and a readiness to rule out large Garden Communities as an option before any reconsideration; and
- (4) the inevitability that the development of a new plan will require a two-fold increase in required housing under central government regulations, and
- (5) that the district will increasingly be subjected to speculative applications for ad hoc developments without adequate infrastructure to address an even greater five-year land supply deficit.

Therefore, Council instructs the Cabinet Member for Planning and the Local Plan to refer consideration of the future direction of the Local Plan firstly to open and transparent discussion with Members and public participants within a forum such as the Planning Policy Working Group, or equivalent, before bringing back the matter to this Council with considered proposals.

Submitted on behalf of **Cllrs M Caton, A Dean, A Khan, J Loughlin and G Sell.**

Public Representations: Extraordinary Council Meeting on 30 April – received before the deadline of 12pm on 28 April

Dear Councillors,

We are residents of Church End, Broxton. We understand that you will be considering the Local Plan at your meeting on 30th April, and we urge you to vote for complete withdrawal of the Plan as in our opinion it is so badly flawed that no amount of amendment would make it acceptable.

Yours sincerely,

Helen and Stuart Walker

.....

Sirs,

As a local resident I wish to support the withdrawal of the most recent Local Plan due to the concerns outlined by the Inspectors.

It is imperative that we have a Local Plan to protect us from unscrupulous developers but it needs to meet the standard requirements.

Any future plan needs to be monitored throughout the creation stages to ensure that the next submission will be successful.

Yours Faithfully,

Alison Farrell

.....

Dear Sir/Madam,

It is with great relief that the UDC are considering to adopt the sensible conclusions regarding the Easton Park plan as put forward by the Inspectors and withdrawing the current Easton Park plan. Stepping back for a moment. It is not logical to build 10,000 dwellings beneath an airport which will expand and is one of the largest in the United Kingdom .

The social impact that would occur from pollution from the numerous vehicles from the tens of thousands of new residents mingled with the many hundreds of thousands of currently agreed passenger expansion travellers would be of great detriment to the local area. Couple that with the foolhardy plan of having the bus link from Braintree to Stansted Airport as a sustainable means of maximising the plans allegedly sound sustainable credentials (that meant buses only could use the A120 at certain times) would seriously hinder the growth of businesses and employment in local area. There is little benefit to the local residents to such a plan . Merely building dwellings to satisfy a statistical need is not a serious and grown up way of resolving a national housing shortage.

There needs to be more housing in the UK. Dunmow has certainly taken it's fair share of housing development. The houses built in the last few and next ten years will double the size of it's population even without the Easton Park development . There are insufficient doctors surgeries,schools, and other services (noting there in no longer a police station) in Dunmow to

suggest this town can really take any more development than has already been pre agreed is doomed to fail.

Why not focus on brownfield sites. Build very small developments next to villages so that local families have a sporting chance of being able to encourage teachers and essential workers to stay in the community. However looking to build 10,000 dwellings adjacent to a flood plain is clearly foolish but sadly is what Little Easton in the Duckend area suffers from on occasion.

In conclusion if you consider the Inspectors report and reject the plan. Go back to the local populace and work with us to help fulfil your duties. Together we are more able to support you where we can collectively agree a sensible plan for Uttlesford where we can all (in the main)agree with.

Kind regards,
Andy Wise

.....

Dear Sirs,

I understand that you are meeting on 30.4.20 to discuss the proposal to remove the current Local Plan. I would like to support this proposal. Having read the Inspector's letter 10.1.20 on the Local Plan, it is clear that the plan is not achievable in its current form and the clear oversight in infrastructure, cost, transport links, increase in transport etc have not been considered in detail. The cost of this Local Plan was £4million and consideration needs to be given to what UDC can expect back from the group who wrote this document - it is shoddy and has served no purpose. We need a clear Local Plan that takes account of the valuable heritage of the area. Perhaps another questionnaire to all residents is in order when clear choices of proposed developments have been compiled.

Regards,
Ruma Lacey

.....

Dear Councillors

Following the significant concerns of the inspectors and your independent review I feel confident that you will now agree to formally withdraw the flawed local plan submitted by your predecessors . You now have all the facts supporting this decision verified by independent experts . This is why we voted for you.Thank you for listening to your "customers".

I am sure that we can all agree that when we eventually return to normal it will be a new normal. The benefits to the environment of the current lock down may be short lived but please go with the evidence and support Easton Park's plan to return this area to its former glory with 10,000 trees to be planted to replace those destroyed during the last world war and make it clear that this area of natural beauty will never be a building site.

With the considerable expansion to our neighbouring towns of Dunmow and Takely we need to balance this with a new woodland .

Thank you . Yours,
Warwick Newbury

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I am writing to express my opposition to the proposed New Town at Easton park.

The plan should be withdrawn for many reasons, not least because withdrawal of the plan was the planning Inspectors' preferred option.

As someone who has lived in the area all my life, I consider the park to be an invaluable asset for local people that should be retained for the benefit of future generations.

Kind regards

Geraldine Allars

.....

Yet again we find ourselves having to justify why Easton Park should not go ahead. As a resident of Little Easton it horrifies me, my family and neighbours, that this ridiculous plan was ever put forward in the first place. Destroying acre upon acre of much needed farmland and nature sights in this area. Building so close to a large airport brings pollution and safety issues into the discussion. Lack of infrastructure, roads, schools, hospitals, shops need looking at. Jobs for all new residents are non-existent in the surrounding area so more traffic using the A120 and M11 for journeys to and from London. The market town of Great Dunmow would be overwhelmed, schools, doctors, Tesco's, our local roads would not cope. Some years ago, Uttlesford was voted one of the top areas to live in the whole of the country and ever since then the powers that be seem bent on making the people's lives in Uttlesford a misery. Our wild life will be affected. Take Highwood and its herd of deer which have roamed the area for ever, where will they roam if Easton Park gets the go ahead? The answer is, they won't. They will disappear from our countryside mostly killed on the roads in the area which will be clogged with so much additional traffic. 10,000 homes means at least an additional 18,000 cars in the area and that is without all the additional traffic from all the other major building developments in the surrounding district. Crime rates will increase, they always do when these types of developments are built, look at the history of places over the years that have been built, Harlow, Basildon to name but two. Uttlesford have over the years allowed so much of our green belt and other sites to be built on. We are now faced with Acres of new homes from Highwood down to Tesco's and at the back of the defunct police station. Plus we have the gravel pits to contend with for many more years in the area. Come on Uttlesford, enough is enough. Let's end this problem and say NO to Easton Park once and for all.

Mr D Harmer

.....

Dear Councillors,

I am writing to urge you to vote for the withdrawal of the Uttlesford Local Plan, a plan that has been diplomatically, yet heavily criticised by the Government-appointed Inspectors and also the regional Local Government Association; eminent professionals with decades of planning experience. To ignore their separate and independent recommendations to withdraw would not only be unwise, but truly reckless. A vote not to withdraw will perhaps finally prove to residents that excessive hubris does exist among some Members (and Officers) of Uttlesford District Council. And will need expunging at the earliest opportunity.

Having stated the above, I fully expect the vote will overwhelmingly support withdrawal. There were inordinate criticisms in the Inspectors report, again confirmed in the separate LGA report, that cannot be ignored. Even those Councillors who steadfastly supported the plan through Regulations 18 and 19 must now surely recognise its significant failings.

I am not going to recap those failings; the Inspectors and LGA have already done that. Nor am I going to suggest what should be done to create a sound new local plan in a cost-effective way (although I have many ideas for those willing to listen). No - this vote is solely about withdrawal. Starting a new local plan, which benefits residents over land development promoters and truly encapsulates transparency when arriving at realistic solutions to real-world problems is for tomorrow. And another vote.

To Councillors who have had and continue to have grave misgivings about the Local Plan, thank you for your pragmatism and support to the many residents who would otherwise be adversely affected by it.

To the few Councillors (if any) who plan to continue supporting the Local Plan despite the aforementioned professional and experienced advice, there is nothing more that can be added to the argument to dissuade you. But you should quiz your motivation. After all, it may be courageous to take a contrary position to your peers but to ignore professional recommendations for no better reason than hubris would be foolhardy in the extreme.

To those that understand residents concerns, no further professional advice is necessary. To those that don't, no amount of advice will ever be enough.

Yours respectfully,

Peter R. Bright

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Dear Committee Members,

Following the UDC press release of 21 April, I wish to make a representation to encourage all Councillors to vote to withdraw the Local Plan at the at an Extraordinary Council Meeting on Thursday, 30th April.

Development at Easton Park would be unsustainable for the environment. There already is a lack of infrastructure in the area and pressure is increasing because of developments at Great Dunmow and Little Canfield.

Withdrawal of the local plan would result in preserving this historic landscape and the quality of life for existing residents.

Yours faithfully

Diana Houlst

.....

Dear Sir/Madam

I would like to strongly object to the local plan on the following grounds:

Stortford Road is often, under normal circumstances, extremely busy. There is already a building scheme destined for land west of Woodside Way. This will lead to further congestion, more pollution and noise.

Great Dunmow is a beautiful historic market town which is slowly losing its identity due to an expanding population in the neighbouring area. More building in the area will have a detrimental effect upon its character.

Under the current circumstances, with an impending economic downturn, I suspect there will not be a requirement for extra housing given people's financial status in being able to afford to purchase houses.

Yours Sincerely
John Woodhead

.....
Re vote at ECM on Thursday 30 April 2020 regarding Uttlesford Local Plan

I am writing to urge you to vote to withdraw the Local Plan, the entire strategy needs to be rethought, this Plan has shown to be flawed and to have little public support.

Please withdraw it and when you start again please truly consult with residents and dare to be innovative by recognising the need to protect the rural nature of this district, the need to keep our environment healthy, the need to give people space, the need to reduce congestion. Take this opportunity to think again, really listen and find a way forward without the blight that would be Easton Park.

Regards, **Lisa Smith**

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I am writing to express my agreement to the Local Plan being withdrawn as advised by the Planning Inspectors.

Yours faithfully

Carol Allars

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In accordance with your email update on the local plan, I wish to make the following submission:

1. I welcome the abandonment of the existing, proposed Local Plan;
2. In particular, I objected to the huge "Garden Communities" planned for the Uttlesford area. They will be a blight on the local landscape and would put an enormous strain on local infrastructure. For instance, the absence of REAL, SUBSTANTIVE mass transit plans would lead to unbelievable pressure on local roads. Uttlesford would slowly become like South Essex – a large metropolitan area swamped by road traffic and enormous urban

developments. Maintaining this beautiful part of the world should be the Council's number one priority. It is why people live here;

3. Account should be taken of the THOUSANDS of properties that have been built in Uttlesford whilst the last Plan was being prepared. This must surely make a significant dent in the council's housing obligations for the next ten years. We should not try to plan ahead too far. As the coronavirus epidemic has shown, things can change quickly and we should not be wedded to one single path;
4. Wherever possible, housing needs should be shared among the existing conurbations in the district, where people want to live. Garden Communities should be resisted.

Regards,
Tim Young

.....

I write in relation to Uttlesford District Council's recommendation that the Local Plan in its current format is withdrawn when the Council meet this coming 30th April. I understand this was the planning Inspector's preferred option and I am writing to state my support of this measure.

Yours faithfully,

Bob Brooker

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I most sincerely hope that you do vote to withdraw from the current, flawed local plan.

Why?

- 1) The traffic in our area has reached its limit for ease of travel. The noise pollution and air quality are hugely unpleasant.
- 2) I am appalled to see the new Arris fencing all along the Stortford Road from the Tesco Roundabout to the Highwood. Once this is finished the roundabout will be a real pollution and accident hot spot. I live on the Folly Farm development and frequently have near misses on returning home. How would it be if the area behind and around Stags Farm and Folly Farm are also developed! I shudder to think.
- 3) The infrastructure of new doctors surgeries, a new school, outdoor facilities and community Centers has not been forthcoming, despite the huge amounts of development already achieved. So little area of natural habitat is now left for our wildlife. These things were all promised in the original plan, in fact they were unreasonably highlighted in the canvassing!
- 4) With the housing market and economy in general all now in a state of flux, and who knows just where we are headed? IT IS TIME TO STOP!

Please vote against the current plan. We have all had enough.

With sincere thanks
In anticipation of the right decision
Keep safe and well

Caroline Woodhead

I strongly endorse the proposal to withdraw the local plan.
It was badly drawn and never had the support of the local community on which any successful implementation will depend.
I ask that my earlier suggestions regarding the flaws in the local plan will not be lost when the new local plan is being developed.
Yours faithfully,
Bruce Drew

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We are writing in support of the Council's recommendation, being discussed at the Extraordinary Council Meeting on Thursday 30th April, to withdraw the draft Local Plan. Indeed, given the twenty-four page letter setting out the Inspectors' response following the examination of the Local Plan last year, it is difficult to see how any other course of action can be taken. The Inspectors expressed many serious concerns about the sustainability and suitability of 'Garden Communities' in this area, and it is to be hoped that the new plan will abandon the previous fixation on these developments as the way forward. So much public money has been wasted on the submission of the Local Plans in recent years that it is also to be hoped that this time the process is carried out speedily, effectively and with transparency.

Best regards, **Maggie and John Stevens**

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I have two questions for consideration:

1-How can UDC taxpayers be sure that any replacement Plan will be 'sound' and have all the 'required evidence attached' to its submission? I ask this because surely the UDC Planning officials should not have allowed the submission of the previous Plan rejected by the Inspectors on the grounds (among others) that it was 'unsound' that it 'lacked supporting evidence' in many respects, with many examples being submitted later apparently in attempted justification rather than having obtained them in advance and used the material to aid decision-making? These are matters that politicians as well as taxpayers are surely entitled to look to officials to get right?

Thursday's Chairman, Mr Freeman is aware that my experience and that of neighbours in the newish development where we live and for which planning permission was granted only about seven or eight years ago was that we have suffered because Planning Officials were not alert to many fairly straightforward issues and even allowed permission for some things that were against UDC's own published policies.

2-Given the inter-dependency on decisions made by other bodies, in particular Highways England, Essex County Council and Cambridgeshire County Council, will UDC ensure that any replacement Local Plan including new houses in Saffron Walden and the area north of there will not be submitted unless the relevant bodies have given firm commitments, with dates, to adding north-bound access to, and exit coming from the north on the M11 at Junction 9 and also fundamental measures to remove the daily bottlenecks lasting several hours at the 'McDonald's roundabout' at the A505 junction? These measures need to be completed in advance of any such new housing development.

Yours faithfully
James Little

.....
I would like to add my support for the Planning Inspector's proposal to reject planning permission for the building of 10,000 new homes at Easton Park.

Thank you,

Kind regards,
Jan Maze

.....
I understand UDC have recommended withdrawal of the Local Plan. This has my full support and in these troubled times this action would be some very good news.

Kind Regards

Alan Veats

.....
I am writing to express my view that the Local Plan should be withdrawn.

In saying this, I note that this was the recommendation of the planning inspector.

Yours sincerely

Jonathan Fox

.....
This is to confirm my support for withdrawal of Dunmow New Town. **Jean Thompson**

.....
We wanted to support the withdrawal of the local plan, to protect the deer park and keep Great Dunmow as it is and not turn it into a mass housing estate.

I'm saddened to see this happening opposite the vast woodlands park development where it looks like three fields are already being getting ready for development.

Please protect our area and the way it is today so that in years to come it can still be enjoyed and appreciated.

Thank you
Mr and Mrs D Chalkley

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Thank you for updating me on the meeting with regard to the UDC LP on 30th April. I very much support the fact that it has now been realised that the UDC LP is unworkable, particularly in light of the Government Inspector's post Inspection conclusions. Both the Inspectors and the Peer Review

that has been carried out have highlighted the issues and difficulties relating to large scale garden communities that the majority of us have known about since these were first mooted.

I hope very much that a new LP which focuses on putting houses in the right places, building out from existing settlements rather than trying to force large scale development into unsuitable locations, is the way forward for UDC.

Best wishes

Sue Baugh

The draft Local Plan **did not contain General Planning Policies (GEN1 etc.)** which are necessary principles to guide future development in the District. it was claimed that these policies were incorporated elsewhere in the draft Plan, but this was not true. **The GEN policies have withstood the test of time and should be carried over to the next Local Plan.**

In the circumstances, I support the withdrawal of the draft Local Plan.

Yours sincerely

Richard Walford

I thoroughly support the proposed withdrawal of the local plan , to be approved at the meeting on 30th April.

Easton Park needs to be protected, as well as our surrounding countryside.

Penny Steele

Agreed - it should be reworked but quickly to prevent any more expansion without due regard to services and facilities like schools, doctors, dental practices etc.

John Howett

Further to your request, please find attached my comments.

I live at Great Chesterford, where the North Uttlesford (alleged) Garden Village is being considered. In my view the proposal is totally inadequate, flawed and in the wrong place.

I hope the failings expressed by the Inspectors Report are acted upon in terms of:

A. The removal of North Uttlesford Garden Community (NUGC) as there are numerous barriers and fails to perform against the principles of a Garden Community.

B. The Local Plan is ill-conceived and insufficiently funds to support the needs of NUGC.

C. The concept that Essex should support the housing requirements of Cambridgeshire is ill considered.

D. The proposed road system for vehicles and cycles is ill-conceived and shows a lack of vision, verging on impulsive planning.

E. The proposal to use the current Railway Station at Great Chesterford as a main station is flawed as it has limited ad-hoc parking, with a poor access road.

Regards

Phillip Lamborn

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We are invited to send representations on the Local Plan Report, to be shared with all councillors prior to the meeting.

Our representations are:

- Given that the Local Plan Report by Councillor Evans dated 30 April 2020 is based on the reasoned conclusions of the Government appointed Examining Inspectors (their letter of 10 Jan 2020), **and** an independent Peer Review by the East of England Local Government Association undertaken in light of the 10 Jan 2020 letter (Review dated 23 March 2020), surely the only sensible option is to withdraw the 2018 proposed version of the Local Plan and start work on a new plan.
- Our own experience has been that UDC has asked three times for comments on 3 proposed versions of the Plan (2014, 2017, 2018), we have responded three times (with reasons and professional support – see attached) and UDC has three times ignored what we and/or the Inspector has said on the points raised. This suggests UDC is conducting a conversation of its own, in isolation, disconnected from the process it is supposed to be following.
- We suggest the time may have come for UDC to listen (objectively, and not selectively) to the independent professional feedback that it has received, start again and get it right (or hand it over to someone else who can).
- In the circumstances, it is unclear to us why a meeting is being called asking for people to comment and Councillors to vote.

Yours sincerely

Jeremy and Fiona Brittenden

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END

Uttlesford District Council
London Road
Saffron Walden
Essex
CB11 4E

25th April 2020

Dear councillors,

Further to my letter of 18th February, having previously commented at both stages (regulation 18 and 19) I am please to see the outcome of the local plan peer review has recommended withdrawal. This is in accordance with the view detailed in the inspector's letter.

I share the view that the plan should be withdrawn and hope that the council will vote in accord with these reasonable and weighty recommendations. The council now comprises of members who are almost totally different from when the plan was written, therefore with little or no ownership of the previous offering, I hope this will be a simple "rubber stamping" exercise.

Moving forward, preparing a new plan would allow focus on, what I see as, two key features contained in the recommendations of the EELGA review, which I echo below:-

1. To conduct an open and transparent plan making process engaging with residents and taking account of their views.
2. A reassessment of infrastructure deficits and requirements.

Both of these points were sadly lacking in the previous offering.

Your Faithfully

Alan J. Bowie

Statement of CPRE Essex regarding the UDC Local Plan to be considered at the Extra-Ordinary Full Council Meeting on 30 April 2020

The Essex branch of the Campaign to Protect Rural England (CPRE) has been actively involved in the preparation and examination of Uttlesford District Council's Local Plan. During this process CPRE has repeatedly voiced its concerns over the emerging spatial strategy - and, in particular, the proposed Garden Communities.

In this respect, the Planning Inspectors' letter reflects many of the key issues that CPRE has highlighted - most notably:

- * The North Uttlesford Garden Community is flawed in terms of landscape and heritage impacts and the potential for the A505 improvements and public transport infrastructure are uncertain, undermining the potential for this Garden Community to be a sustainable place;
- * The Easton Park Garden Community is flawed in terms of heritage impacts, the potential for highway improvements to M11 junction 8 and the M11 between junctions 8 and 13 are uncertain pending further investigations by Highways England and the unknown implications of the gas pipeline crossing the site on its capacity for built development;
- * The West of Braintree Garden Community is flawed since the sustainability appraisal and viability assessment only considers the part of the site within Uttlesford despite it being dependent of the delivery of the larger proposed site allocation in Braintree District.

CPRE agrees with the Inspectors' findings that the Garden Community approach predetermines the strategy long beyond the plan period and so is unduly inflexible. Also that realistic infrastructure costs have not been established - so it is uncertain whether the Garden Communities will be at all viable and developable.

CPRE therefore welcomed the Inspectors' recommended withdrawal of the Local Plan and considers the conclusions of the Peer Review Team's report to be a robust analysis of the situation and the right the way forward in the preparation and delivery of an acceptable and robust Local Plan.

Yours sincerely,

Michael Hand
Planning Advisor, CPRE Essex

GREAT DUNMOW TOWN COUNCIL

CAROLINE FULLER Cert.HE , MILCM
Town Clerk & Responsible Financial Officer



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27th April 2020

Cllr John Lodge
Uttlesford District Council

By Email Only

Dear Cllr Lodge

Local Plan - Decision following Inspectors' Letter – ECM to be held on 30th April 2020

Great Dunmow Town Council welcomes and supports the recommendation to withdraw the submitted Local Plan from examination.

We note the significant costs UDC has incurred since 2006 and would like to add that, over the past 3 years, the Town Council and several other parish councils have also incurred significant costs, commissioning independent professional reports which have provided compelling evidence of the negative impacts on our communities from parts of the submitted Local Plan. We hope that these reports will be included in UDC's evidence base for the new plan.

In its Neighbourhood Plan, the Town Council has allocated sustainable sites with associated infrastructure which are set to deliver new homes in the town over the coming years. We are starting to review our Neighbourhood Plan and look forward to working together on this, and to play our part in the formation of a new district Local Plan.

Yours sincerely

Jackie Deane

Jackie Deane
Deputy Town Clerk

Response to the UDC Local Plan - Decision following the Inspectors' Letter by Cllr Evans and Stephen Miles

Edward Gildea Green Party member and leader of St Mary's Eco team.

I wholeheartedly applaud the recommendation to withdraw the Local Plan.

I am pleased to see that in para 2b the council's commitment is to sustainable growth, sustainable transport and the protection of air quality, bio-diversity and water resources.

However I am surprised to see the reference to achieving the Government's aim to achieve net zero carbon by 2050, rather than **by 2030, in line with the UDC's own Climate emergency declaration and more ambitious net zero target**. I ask for this to be amended.

I applaud 2d, the recommendation to effectively engage residents, business groups and town/parish councils. Please also include environmental and other relevant interest groups.

I applaud the commitment in 2f to holistic planning of new developments. I would like 'clean, sustainable and health promoting transport' to be explicitly included within the phrase 'necessary physical and social infrastructure'.

The phrase 'high quality and affordable' housing is also too vague and open to slack interpretation. It should explicitly include the principle of zero carbon or Passiv haus standards in *all* housing, in anticipation of the government's long postponed paper, the Future Homes Standard.

I would urge you to include as a background paper for future reference the Chartered Institute for Highways and Transport (CIHT) report of 2019 'Better planning, better transport, better places'. This includes 3 seminal arguments that the UDC might consider adopting as guiding principles:

1. That planning system should '**shape places in ways that contribute to radical reductions in greenhouse gas emissions**' and take 'a proactive approach to mitigating and adapting to climate change'
2. That **transport issues should be considered from the earliest stages of plan-making** and development proposals.
3. **That the process of selecting sites for development should *not* be driven by developers or land owners**; it should be driven by the vision and principles of local authority.

I applaud para 22 on Addressing Climate Change. It is now an overwhelming priority.

A Local Plan needs to start with clear vision and strong principles. If the existing Local Plan falls short of these, then now is the time to reject it and establish the vision and principles upon which a new plan can be based.

UTTLESFORD DISTRICT COUNCIL

Extraordinary Council Meeting – The Local Plan 30th April 2020

My name is Richard Haynes. I am a former Chartered Surveyor who specialised in advising central and local government on property valuation and development viability.

The history of Plan making in Uttlesford is not good. This is of course due, in part, to the difficulties created by unrealistic central government policy which has sought to impose more housing on rural communities than they can satisfactorily accommodate. The flaws and inadequacies in the previous Regulation 19 draft however were so obvious that it was almost inevitable that they would lead to a second rejection at an Examination in Public.

The examining inspectors found fault in many areas but principally in relation to:

- The Spatial Strategy analysis;
- The lack of assurance on Garden Community principles;
- Transport and other infrastructure;
- Heritage sensitivities;
- The fact that the boundaries of development areas were not clearly defined; and
- The viability analysis.

These issues are so fundamental in establishing the soundness of the Plan that I cannot see how as a council, you can do anything other than start afresh.

The Garden Communities were clearly perceived as an easy solution to the housing need where single landowning developers could be left to 'get on with it'. Sadly, Garden Communities cannot be created in that way. They require a level of master-planning, infrastructure assessment and viability analysis way beyond what was undertaken for the Regulation 19 stage. A complete understanding of the detail is necessary if they are to form the basis for housing allocations in Plan policy for the next 20 years.

It is clear that there is still some resistance to withdrawing the Plan. This is partly due to the amount of resource that has already been applied to the development of it. I suspect, however, that it is also due to reluctance on the part of councillors whose wards have previously got off lightly to subject their constituents to the uncertainty of a new spatial strategy.

There also seems to be a general view that by fiddling with the current draft an historic level of housing need can be maintained. As the Peer Review study (and the Inspectors' letter) points out however there will be a need for re-appraisal whatever happens. First, the Plan period will have to be extended meaning that the projected 10 year average growth will be using a different base; and secondly, it is inevitable that new guidance and new data will emerge over the Plan development period and which will have to be taken into account.

It is therefore worth considering what might emerge over the next two or three years. The current household growth projections used as the baseline for establishing housing need relate to 2014 data. A re-appraisal of that data is (or perhaps was) anticipated this year. Given that 2014 was pre-Brexit and that according to the Office for National Statistics, 37% of household growth is due to net international migration, this element of the growth could reduce significantly.

It is also interesting that the recent paper 'Planning for the Future' published by the MHCLG refers throughout to building 'within and near to urban areas'. It may be that this heralds a new approach to satisfying housing need and a realisation that effectively allocating huge amounts of development to rural authorities ill-equipped to accommodate it, is neither sustainable nor practical. I, and others, have been arguing for some time that attempts to increase supply in high value areas (through the Step 2 affordability adjustment to the standard method of assessing housing need) will not bring down house prices. Building more houses simply increases demand for both materials and skilled labour leading to cost-push inflation in the housing market while developers will in any case, regulate the housing build-out rate so as to at least maintain prices at current levels. Perhaps that message is at last getting through to politicians and civil servants and we may see a change of policy which ultimately reduces housing need in areas like Uttlesford.

After the failure of the Stansted Airport planning application and the current crisis in the airline industry it will in any case be hard to argue for airport related growth.

I do not see therefore, that there can be any justification for trying to work any further with the current draft and that a fresh start is the only option.

The Salings Parish Council

Clerk to the Council: Mrs Cathryn Carlisle
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23rd April 2020

Uttlesford District Council
Council Offices
London Road
Saffron Walden
Essex
CB11 4ER

Dear Sir

Re: Uttlesford District Council Local Plan – Decision following the Inspectors' Letter

Good Morning

Thank you for updating The Salings Parish Council with regard to the UDC LP meeting on 30th [April](#). We very much support the recognition that the UDC LP is unworkable as it stands. Both the Government Inspectors for the UDC LP and the subsequent Peer Review have highlighted the issues and difficulties relating to large scale garden communities. These are issues and difficulties that have been evident to the majority of us since these large scale developments were first mooted.

We hope that the new UDC LP focuses on building the right houses in the right places and building out from existing settlements, rather than trying to force large scale development into unsuitable and unsustainable locations.

Best wishes

The Salings Parish Council

**Extraordinary Full Council Meeting: Local Plan
Stebbing Parish Council Statement**

30 April 2020

Stebbing Parish Council asks the Council to consider its statement re The Local Plan.

1. We agree with the Inspectors' conclusion 'the most effective and transparent way to (make key decisions) would be through the preparation of a new plan' (127). *Page 46 6.26*
2. We agree with the Inspectors' Main Concerns 'The Garden Communities are insufficiently justified and have not been shown to have a reasonable prospect of being delivered as submitted' (112) *Page 41 4.3*
3. We agree with EELGA Recommendations that
 - i. A reassessment of housing and employment assumptions be made
 - ii. A reassessment of infrastructure deficits and requirements be made
 - iii. Development for a net zero carbon future be investigated.

These recommendations are even more important in light of our current circumstances. The Coronavirus Pandemic has changed society overnight. If work on three Garden Communities had already begun, the grim prophecy of many opponents would now be apparent. We would be stuck with anonymous housing estates dumped in the middle of the countryside, devoid of infrastructure, support and community.

4. We agree there must be democratic control over plan making and local towns and villages' Neighbourhood Plans should be referred to. These Plans are written with great care and responsibility by Communities who know the capabilities, strengths and shortfalls of their parishes and deserve that knowledge to be recognised when planning decisions are taken.
5. Whilst we appreciate it is necessary to plan what the housing requirement may be, it is also necessary to recognise that other factors must be taken into consideration and that 'requirement' is a moveable feast.
 - i. Applications for large developments cannot be approved if they appear to satisfy the requirement for numbers, whilst the site is directly under a flightpath from Stansted.
 - ii. We experience recession in our economy with dreadful regularity and may be heading into one now, so we cannot risk empty and half-finished large developments blighting our communities.
 - iii. It is also necessary to assess the availability of existing housing. Quite probably, with the prospect of many businesses closing following the Coronavirus Pandemic, offices, shops, other business sites can provide desirable homes within well-established towns and villages without destroying even more of the countryside.

Stebbing Parish Council appreciates this is the first step on a long journey and support the Council in producing, with the co-operation of local communities, a Local Plan which is suitable in meeting the requirements of the National Planning Policy Framework, Protection of the countryside, clean air and good climate policies.

27.04.202

...follow history - revive villages - connect communities...

...linked-countryside, a series of villages hamlets and towns, linked, very much as they once were by the land and a common purpose, *but now by technology and new infrastructure.*



**A TABULA RASA
Uttlesford without a Local Plan.**

by Michael Culkin

**with Brian Smith and Richard Till
commissioned by Thaxted Society in the absence of a current Local Plan.**

The failure of Uttlesford's local plan may be seen as either curse or blessing. The curse is obvious enough, but the possible blessing less evident.

If there were, as the Inspector alluded to, manifest flaws in the plan then it may be that both the thinking and the plans direction were in themselves flawed and the failed plan simply a by-product of failed thinking. It may also be true that the failed thinking, twice, was in both instances believing a commonplace plan for Uttlesford was sensible.

Therefore, we have the self-evident *curse*, of not having a plan, *but*, and this is simply a question of viewpoint, because of this failure we also have the *blessing* of a 'tabula rasa' upon which a new vision may now be written.

Whilst there are proscribed demands for compliance, against the background of a more imaginative 'vision', compliance may be introduced as a requirement but not the driver. Putting compliance first may prove the inhibitor of vision and thus the opposite of its true purpose.

While imagination may well get a tough response from those married to *due process* and compliance, in truth, imagination is very much at the heart of planning. Foresight in planning is imagination at work?

The application of imagination to the question, *where we might be in the next thirty years?* Although not an exact science imagination may well throw up truths and possibilities overlooked in a plan driven by institutionalised thinking and due process alone.

For the Thaxted Society, against this background, some kite flying is deemed essential in reaching a vision which might well be etched upon this tabula rasa.

...is this a joke

Uttlesford formally came into being on April 1st 1974. For someone, other than those celebrating its inception, this may have been a private joke but the record does not make clear how or why the date was chosen. With hindsight, the new authority might have taken a moment to reflect and refuse that particular date.

Uttlesford was the outer reaches of influence, mostly rural, and important only for having an expanding business prospect within it, in Stansted Airport. It certainly wasn't a burgeoning rates revenue stream.

If on that day the nascent Stansted Airport featured in importance within Uttlesford, its proximity to Cambridge did not and the pressures for growth were not yet manifest.

This was a sleepy corner of North Essex. It was also one other important thing. It was largely filled with well established, but mostly *small* landowner farmers, who had arrived from Cornwall Scotland and Somerset to buy the manorial farms being sold off cheaply.

As pressures for housing grew, so their land became valuable for an utterly different reason to what had brought their forebears to the area, and they were tempted.

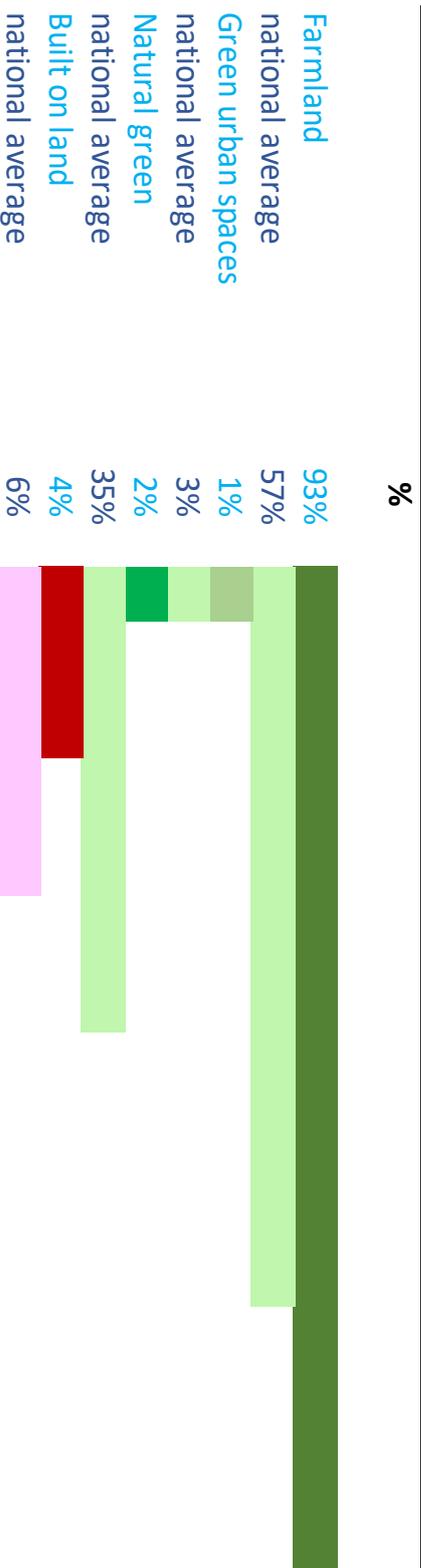
If growing demand has an evident and eager supply then two of the factors for growth are manifest. But without a plan, these two factors ride rough shod over the sensitive rest - and we are concerned here with that *sensitive rest*.

For the Thaxted Society the failed plan appeared to pay little heed to these historic facts and Uttlesford's largely rural make up. In fact, the plan appeared to do the very opposite and apply generic thinking in an attempt to make the *numbers* work rather than responding to the area's extraordinary qualities first.

The fact that Uttlesford today is largely agricultural, with ratios that exceed the national norms, increases pressures on the area to respond to demand for housing against the overriding presence of the area's medieval past and layout

Granted the numbers are problematic but the area's unique qualities may demonstrate inherent solutions to this.

UTTLESFORD LAND USE 2019 COMPARED TO NATIONAL AVG USE



uttlesford has less green urban space, parks and recreation.

Less natural green space ie habitat that is not farmland

2% less built land than the average

and a huge 36% more agricultural land than average

This data is based upon the latest ONS figures. The graph bars are for illustration only. This data is the basis for certain assertions and proposals in the document. The assertion that Uttlesford remains largely rural is borne out by these figures and gives rise to the proposals herein.

...it is what it is but what might it be?

'Uttlesford' came to be as set out in the Royal Commission Redcliffe - Maud 1969: *"to recognise the requirements of planning and communications in the modern age."* and *"To end the anachronistic division between town and country. A new structure which will permit services to be provided more efficiently than is possible at present and create a more effective system of local democracy."*

Clearly localism is not a new idea, what is important however is the implication that the provision of infrastructure and services would benefit from economies of scale when a larger authority took charge. *These have not been forthcoming.*

As for the suggested anachronism between town and country, this is not evident at Uttlesford, as the towns are too small, and the countryside too large. It is the 'rural' that dominates the towns. There is mud on boots in town and country.

Of course, the demand placed upon the area for housing forces the Local Planning Authority's hand, but *what might a plan look like if the rural and historic nature of the 'place' were the driver and not the demand for housing.*

Much of the layout of Uttlesford is medieval. That is to say most roads, fields, and water courses, all remain much as they were in the late medieval period. Our roads are not new, they are very old 'high ways and by ways'.

Because we live among the buildings and bones of our past and have come to value these. We may be obsessed in this country with the past, but where it still lies it does have affect and impact until it is ignored and at Uttlesford that does appear to be the case.

The LP proposals at Chesterford, in ignorance of the Roman site there, attest to this blindness. *"The Roman fort at Great Chesterford is one of the rare examples in the south east of England and one of only four in Essex"*. The Inspector drew the Local Plan authors to this worrying oversight.

It is true that there had been award winning planning before Uttlesford was formed, but post inception, no more awards for farsighted planning. No more 'greens or closes'. It is the form of growth that matters here and its sensible response to 'legacy' and how that growth stands amongst and alongside it.

Any change is an awkward sell and Uttlesford has its own cadre of opposing voices, not all NIMBYS, except by inference. This said there is too the silent majority which should not be overlooked. As Edmund Burke remarked: *"Because half a dozen grasshoppers under a fern make the field ring with their of the British oak, chew the cud and are silent, pray do not imagine that those who make the noise are the only inhabitants of the field."*

Further as a French counterpart to a British guest remarked on the opening of Charles de Gaulle Airport, when asked how they got the locals to agree, *'Oh, but when we want to drain a swamp, we do not ask the frogs'*.

But in the event that the vision is both farsighted and exciting it is possible to engender broad enthusiasm for the idea and move onto the detail where the devil does *not* necessarily lurk.

- transparent sustainable development
- including low cost housing
- and evident community benefit
- with provision for recreation and habitat
- and new infrastructure to enable the above.

Of the needed factors for a Local Plan, local planners have some factors within their control and others without. In fact, the list of what they may *not* control is longer than the list of what *they do*.

- | | |
|---------------------|-----|
| 1. Education | ECC |
| 2. Highways | ECC |
| 3. Health | ECC |
| 4. Policing | ECC |
| 5. Public transport | ECC |
| 6. Recreation | UDC |
| 7. Legacy | UDC |
| 8. Planning | UDC |

The last two of these carry with them weighty implications for the first five, but over these the Local Authority has no proper control. Whilst ECC has a requirement to co-operate, this has proved a clumsy and ineffective process. Also, what none of these may control is demand as this is driven by the larger conurbations of Cambridge and inevitably London.

The need for housing in the area is not organic but imposed by outside forces.

If the planning authority then is without control of the greater factors at play, an LP is in so many ways a redundant exercise, and simply a prosaic response to requirement and not planning at all. In this the field must be levelled if the Local Planning Authority is required to produce a plan.

It is a matter of compliance that housebuilding be located in locales that provide levels of measurable amenity and service. This requirement excludes many spaces from growth while robustly including others.

But if a plan were organic in the holistic sense it might suggest further *like-provision* in order to spread the growth as before. The new growth would flow organically from the established historic truth and purpose.

Thaxted, as an example, does not have: a large church, a Guildhall, and a broad main street, because they were good ideas, but because they grew organically with the town, and with the arrival of the cutlers and then weavers, who were encouraged to come.

It might follow therefore if we are to continue this established trend that providing houses and *more* is a gentle way to encourage growth without leaving others behind and accidentally building 'country cities' in error.

*Surely the real meaning of the sustainable is: where **life** is sustained.*

The recent Conservative Manifesto indicated that the planning rules would be reformed to ensure that there is more infrastructure in place before new homes are occupied. This would provide part of that basic encouragement.

The Queen's Speech 2019 confirms that: *there will be a £10bn investment in a new Single Housing Infrastructure Fund" to help deliver what is needed to support new homes; roads, schools, and GP surgeries.*

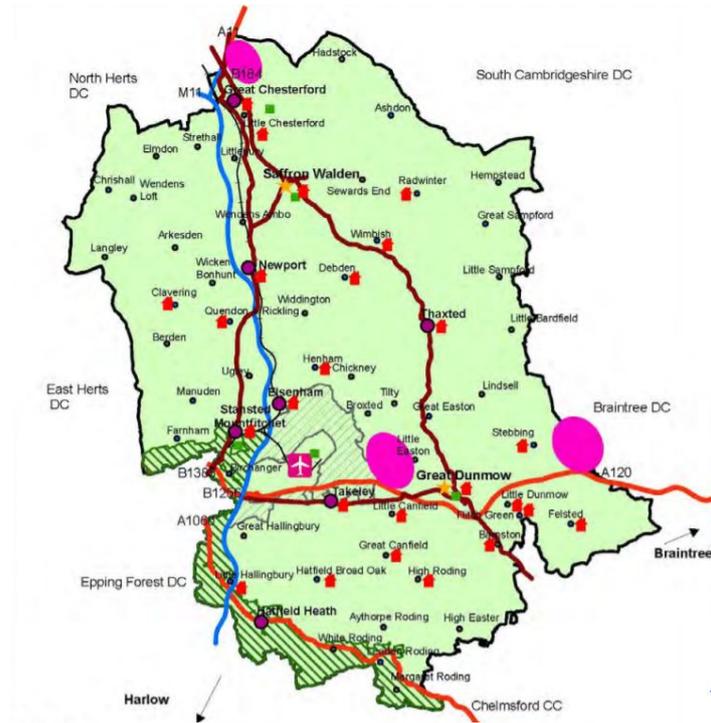
The current model of 'go to centre's' utterly denies the realities of rural living. If to live rurally one has to hop in the car for every eventuality, then in some sense one is living an urban life in the country. And an unsustainable one at that.

The Prime Minister has also announced new funds to improve bus routes particularly in rural areas. This may well be a first step towards the sensible provision of one vital element of the needed infrastructure at Uttlesford.

There are many small communities in Uttlesford which are *discounted* for growth because they do not possess the required amenities to support such growth. But if the Government means what it appears to be saying and if there are funds to enable that vision, then all areas in Uttlesford maybe in a position to support some moderate growth.

There is a total of fifty-eight towns, villages, and clusters, in the district. Of these, 26 are excluded from the failed plan for not meeting requirements for growth. But if these small 'places' have both legacy and connectivity as a result of their history, then advances in technology and provision of innovative services and infrastructure might make them suitable for some growth. (Planned not windfall).

Of the Uttlesford population, there are approximately fifteen thousand people who may work from home, self-employed, and retired. This is almost as large as the fulltime employed. This suggests a changed requirement for 'other' services to support these people in a changed environment, where living in the countryside no longer means inevitable disconnection and isolation.



From the current 'failed plan' showing proposed areas for growth, development, housing. Unlabelled settlements are excluded from the plan.



A map of all settlements in Uttlesford, including those excluded from the plan.

...promises, and possibilities.

Given that manifesto promise, the incredible advances in technology and sustainable building, it might be possible to imagine something other.

A linked-countryside. A series of villages hamlets and towns, linked, very much as they once were by the land and a common purpose, *but now by technology and new infrastructure.*

Joined up thinking and places is at the heart of these ideas and the areas future.

If the new funds and impetus for infrastructure were real, then all of the district's myriad communities could take some sensitive growth and provide housing figures which might aid in meeting requirements. In addition, such an innovative approach might provide the return of long-lost assets.

- the village pub/ post office.
- the village shop
- the village health clinic weekly
- a village hall/offices/community centre.

In suggesting what has been lost one is not suggesting replication, but rather a single multifunctioning 'hub' where all these services might be concentrated. Lessons from the French may not be popular but their 'polyvalent hubs' are a shining example.

The economic realities of the village shop are mostly unworkable but if for instance the 'shop' did not stock goods but received deliveries of them, then much of the value of 'village shop' might be replicated without the economic difficulties.

- community interaction.
- provision of product.
- allied services
- ordering and supply services (medicines, library services, and groceries)

The Royal Mail provides delivery and posting points to every corner of Britain. Subsidised or not the postman and the pillar box suggest an analogue service in a digital world, which might well serve as a pointer for this innovative growth.

People's belief in the 'specialness' of where they live gives rise to the opposition to change but if that change responded *to* rather than *overrode* those unique qualities, then perhaps opposition might be sated.

If these links were on the one hand technological and on the other physical, might not the whole of many be one unified community separated by countryside but joined by these factors.

This would require:

- new community services
- new public transport,
- up to date technology

However, these would be benign in nature, responding directly to the particulars of the locality's legacy and need. These needs would be met in conjunction with growth, but the added benefits would outweigh impact.

The impact of this thinking could:

- reduce road use and increase sustainability.
- improve social well-being and community cohesiveness.
- increase renewable energy supply and reduce household costs.
- increase property values and desirability.
- provide uplift in local employment and engagement.

It is clear today that 'connectivity' has dramatically altered the working landscape and that in many cases some degree of home-work is allowed or encouraged.

The three abandoned railways in the district are an example of what was once discarded and now under the cloud of climate change might be repurposed to respond to both the global issue and the local.

The roads of Uttlesford still possess many of the medieval characteristics which made them. While cities under pressure for a sustainable future respond to demand for more pedestrianisation, the removed curbs, and often cobbled surfaces, are a surprising throwback to an older model recognised in an historic rural landscape like Uttlesford's.

The village school's isolation will have contributed to falling numbers and may have disappeared because it was isolated and disconnected. It did not have the breadth of resource which a larger school could provide and those pesky economies of scale demanded centralisation.

Today the village school may be easily connected. May swiftly access all resources available to a larger school and will respond to moderate village growth as proposed. Thus providing:

- child community cohesion
- parental local participation
- a gentle introduction to education
- social cohesion
- a more sustainable model without car use.

There are a number of transportation models at work in the area among them:

- school transport
- public transport
- community transport

The last provides services to the residents of Uttlesford who find it difficult to access normal public transport, the over 60's, the disabled and those who are rurally isolated. But these services are not joined up with others and are perversely complex to access. They are not a timetabled service ensuring rightful independence and convenience.

Also transport in the private sector:

- local taxi services
- local grocery deliveries
- online shopping deliveries
- Royal Mail deliveries

This duplication of service is hugely unsustainable and a clear example of non joined up thinking. It is worth noting that such public sector fiefdoms of service may hark back to the medieval model and in this instance not in a good way.

The ideas here respond to the changes in train and encourage more of the same, increasing allied local employment, and sustainable work and home patterns.

Much as changes in working wrought the changes at Thaxted with the cutlers, so today's work changes might illuminate and suggest forms of growth and change which are in step with peoples lives and not imposed growth out of step.

The implication of these ideas is the need for government support, and broad joined up thinking with the participation of responsible authorities across the board. With these in place, much of what is suggested is by no means a stretch of the imagination or the government purse, but a new future which responds to: a mistaken post 1974 past and an historic rural truth.

...legacy of April 1st 1974.

The 'new' Uttlesford is required to provide a plan and yet not truly given the tools to so do. Meanwhile demand upon the *underdeveloped* becomes more stringent as growth nearby marches on. It may be treated like a backwater, but for new housing Uttlesford is prime for imposed growth.

Requirement and pressure to deliver without the means is untenable.

If those means are held by another layer of government then 'localism' is a hollow gesture. If the means are vested in the developer then planning is just another sop to localism and undeliverable.

National government, as well as many cross -boundary departments, must play their part for this to work. Joined up thinking and real co-operation are not just bywords here but much needed actors in the whole.

For now, Uttlesford may, through no fault at home, be lacking:

- it may not have the expertise.
- nor the heft for implementation.
- it does not have the infrastructure to support the wish
- or control the means to provide it.

These factors have to be part of the root cause of planning failure at Uttlesford. And the fact that some are inherently historical and overlooked and others beyond us suggests that we need help...

Introduction and Background

We object to the wording of draft policy H4 ('Policy H4 (2018)') proposed by Uttlesford District Council ('UDC').

Draft Policy H4 (2018) is the third attempt by UDC to propose a new policy for replacement dwellings in the Countryside. We have objected to all three proposals on substantially the same grounds (as explained below), and at no stage has UDC responded to our reasoned objections with a reasoned explanation which addresses the concerns raised. We have been advised by leading counsel (Hereward Phillpot QC), that UDC's conduct amounts to Wednesbury unreasonableness.

In 2017 we objected to the draft H4 policy wording proposed by UDC at that time ('**Policy H4 (2017)**') because, in summary, it essentially applied to the whole Countryside, development restrictions linking position and size of proposed replacement dwelling to position and size of existing dwelling, which are only appropriate to areas within the Green Belt. In addition it was unnecessarily prescriptive, not positively prepared and not in accordance with the NPPF or NPPG. As such it was unsound and should be rejected.

We have substantively the same objections to the draft Policy H4 (2018).

Below is a table comparing draft Policy H4 (2017 wording) with draft Policy H4 (2018 wording). It shows that, whilst UDC has restructured some of the language following our 2017 objection, it still essentially says the same thing, namely that in all areas of the Countryside (not just the Greenbelt), a replacement dwelling should not be materially larger than the one it is replacing.

Policy H4 (2017)	Policy H4 (2018)
<p>"Policy H4 – House Extensions and Replacement Dwellings in the Countryside and the Green Belt</p> <p>Proposals to extend or replace existing dwellings within the area designated as Countryside will be permitted provided that the proposal:</p> <ul style="list-style-type: none"> • Would not result in a disproportionately large increase in the height or scale of the original dwelling, and • <u>Would not materially increase the impact of the dwelling</u> on the appearance of the surrounding countryside or the openness of the Green Belt through excessive scale, bulk or visual intrusion. <p>In addition to the above criteria a replacement dwelling will be permitted provided that the proposed dwelling is <u>on the footprint of the existing dwelling unless the applicant can demonstrate why the dwelling would be best located elsewhere on the plot.</u></p> <p>In determining what constitutes a 'disproportionately large increase', <u>account will be taken of the size of the existing dwelling, the extent to which it has previously been extended or could be extended</u> under permitted development rights, and the character of the area."</p>	<p><i>Policy H4</i> <i>House Extensions and Replacement Dwellings in the Countryside and the Green Belt</i></p> <p><i>House extensions and replacement dwellings beyond the Green Belt:</i></p> <ol style="list-style-type: none"> <i>1. Proposals to extend or replace dwellings within the area designated as Countryside or Countryside Protection Zone will be permitted provided that the proposal <u>would not materially increase the impact of the dwelling on the appearance of the surrounding countryside or the open character of the Countryside Protection Zone by virtue of its siting, scale, height, character and design.</u></i> <i>2. A replacement dwelling should be positioned <u>on or close to the footprint of the existing dwelling, unless design, landscape, highway safety, residential amenity or other environmental grounds indicate that a more appropriate location on the plot can be justified.</u> ...</i> <p><i>Both within the Green Belt and beyond it account will be <u>taken of the size of the existing dwelling, the extent to which it has previously been extended or could be extended</u> under permitted development rights, and the character of the area."</i></p>

The deletion of the words 'would not result in a disproportionately large increase in the height or scale of the original dwelling' which were included in Policy H4 (2017), does not alter the effect of Policy H4 (2018) which is still the same as Policy H4 (2017) as highlighted by the words underlined in the table.

Our reasoned objection to Policy H4 (2017) dated 29 August 2017 (attached as **Appendix 1**) concluded that the proposed policy was demonstrably unsound because:

(a) It was not consistent with national policy:

- **Paragraph 89 of the National Planning Policy Framework (2012)** ('NPPF') restricts size of extension or replacement dwelling by reference to that of the existing dwelling, only in Green Belt areas
- **Paragraphs 56 - 68 of the NPPF** and in particular:
 - i. Paragraph 58 which says that design policies should optimise the potential of a site to accommodate development, and respond to local character and identity while not preventing or discouraging appropriate innovation. This is reflected in paragraph 26 of the National Planning Policy Guidance ('NPPG') which recognises that under development of a site is no less unsustainable than over-development, and will not optimise the potential of a site to accommodate sustainable development
 - ii. Paragraph 59 which says that design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally.
 - iii. Paragraph 60 which says that while it is proper to seek to promote or reinforce local distinctiveness, planning policies should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles
 - iv. Paragraph 65 which says that planning permission should not be refused for buildings which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design.

(b) It was over prescriptive, going further than is necessary to ensure that extensions or replacement dwellings within the Countryside are permitted only where they comprise sustainable development suitable for their context:

- It applies to the whole Countryside, development restrictions which exceed those applied by paragraph 89 to Green Belt Areas only
- The need for a separate policy setting additional design criteria for replacement dwellings on sites outside the Green Belt has not been demonstrated

(c) It was not positively prepared:

Our reasoned objection to UTC's draft Policy H06 (the 2014 version of H4 which similarly sought to restrict the size or location of a replacement dwelling by reference to the existing dwelling) arrived at substantially the same conclusions.

Importantly, those arguments were heard in November 2014 by the Examiner (Mr Roy Foster) who accepted that there was no logical reason for limiting the size and scale of a replacement dwelling by reference to the existing dwelling (which could just as easily be significantly under-sized as over-sized), and who commented that limiting a replacement dwelling to the existing footprint is simply another way of limiting scale, and is also unduly prescriptive. He was also sympathetic to the argument that restrictions appropriate to the Green Belt should not be applied to the Countryside as a whole, and when this argument was made, he turned to UDC's representative and said the Brittendens must be right on this point, and asked UDC how they responded. UDC had no response, and so the Examiner asked the parties to attempt to agree alternative wording for the policy.

The subsequent email exchanges between us and UDC are attached hereto as **Appendix 2**. The email exchanges and the UDC's subsequent proposed Policy H4 (2017) show that, without any valid explanation, the UDC refused to alter its initial stance on the key wording despite the Examiner's comments.

We must now repeat the points, in what seems to us to be an unreasonable exercise in endurance.

Why Draft Policy H4 (2018) is Unsound

Draft Policy H4 (2018) still applies to the whole Countryside, development restrictions linking position and size of proposed replacement dwelling to position and size of existing dwelling, which are not appropriate to areas outside the Green Belt, and which exceed those applied by paragraph 89 of the NPPF to Green Belt areas only. The March 2018 draft revised NPPF preserves the para 89 (replacement buildings) wording which is now contained in paragraph 144. So there is no proposed change in national policy on this issue.

In particular:

(a) Policy H4 (2018 version) is not consistent with national policy: the NPPF contains no restrictions on size or location of replacement dwellings by reference to existing dwellings except in Green Belt areas where para 89 of the NPPF states:

"89. A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are: ...

- *The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;..."*

However draft policy H4 (2018) applies this restriction to house extensions and replacement dwellings in all areas of the Countryside both within and beyond the Green Belt:

“Policy H4

House Extensions and Replacement Dwellings in the Countryside and the Green Belt

House extensions and replacement dwellings beyond the Green Belt:

1. Proposals to extend or replace dwellings within the area designated as Countryside or Countryside Protection Zone will be permitted provided that the proposal would not materially increase the impact of the dwelling on the appearance of the surrounding countryside ...

2. A replacement dwelling should be positioned on or close to the footprint of the existing dwelling...

Both within the Green Belt and beyond it account will be taken of the size of the existing dwelling, the extent to which it has previously been extended or could be extended under permitted development rights, and the character of the area.”

How is ‘...not materially increase the impact of the dwelling on the appearance of the surrounding countryside...’ to be judged ? It must surely be by comparison with the existing dwelling. However if the replacement dwelling is of an overall scale, density, massing, height and layout that is appropriate to the local context of the site and the character of the surrounding landscape, why should it then be contrary to the development plan because it differed in scale to a building which would no longer exist if the development went ahead ? It will meet the objectives of the policy, be consistent with the relevant policies of the NPPF and give rise to no harm at all to any relevant interest of acknowledged importance.

(b) It is over prescriptive, going further than is necessary to ensure that extensions or replacement dwellings in the Countryside are permitted only where they comprise sustainable development suitable for their context: Policy H4 will apply to the whole Countryside, development restrictions which:

- link position and size of proposed structure to position and size of existing structure, which exceed those applied by paragraph 89 to Green Belt areas only (where the only design restriction is ‘not materially larger than the one it replaces’).
- do not recognise that under-development of a site is no less unsustainable than over-development, and will not optimise the potential of a site to accommodate sustainable development. These principles are set out in para 58 of the NPPF (*“Planning policies and decisions should aim to ensure that developments...optimise the potential of a site to accommodate development...”*) and para 26 of the National Planning Policy Guidance (‘the NPPG’) which reflects the guidance in the NPPF, and with which the eventual policy on replacement dwellings must be consistent (*“Too little [building mass compared to open space] and neither land as a resource or monetary investment will be put to best use”*). The March 2018 draft revised

NPPF preserves the para 58 wording which is now contained in paragraph 126. So there is no proposed change in national policy on this issue.

Consequently, draft policy H4 (2018) would serve to restrict well-designed and innovative development in circumstances where no material planning harm would arise.

(c) It is not positively prepared:

Draft policy H4 (2018) misses the opportunity to adopt the positive approach to development encouraged by the NPPF. The Ministerial Foreword to the NPPF stresses that sustainable development is about change for the better, encouraging creative excellence and positive growth. “...planning must not simply be about scrutiny. Planning must be a creative exercise in finding ways to enhance and improve the places in which we live our lives.”

In Chapter 7 (Requiring good design) the NPPF says that planning policies and decisions should:

- aim to ensure that developments respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation (para 58)
- avoid unnecessary prescription or detail (para 59)
- not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles (para 60)
- not allow concerns about incompatibility with an existing townscape to result in a refusal if the proposal promotes high levels of sustainability and the concerns are otherwise mitigated by good design (para 65)

Therefore while the character of the open Countryside should be protected, the policy should not seek to regulate the character or design of replacement dwellings. Attempts to do so are unsound.

As noted above, Draft policy H4 (2018) also appears to completely ignore paragraph 14 of our 2017 objection which sets out the 2014 comments of the Examiner in response to draft Policy H06 (the 2014 version of H4 which similarly sought to restrict the size or location of a replacement dwelling by reference to the existing dwelling).

We are aggrieved that having decided to participate in the plan preparation process in 2014 and 2017, the UDC has now prepared a third revision of this policy that still displays essentially the same flawed approach as the 2014 and 2017 versions of this policy.

We are driven to conclude that the UDC is attempting to prevent a replacement dwelling from being materially larger than the dwelling it replaces in all areas of the Countryside for no logical or planning based reason; it is attempting to stifle innovation and good design but has endeavoured to disguise the nonsensical nature of such a criterion through restructuring the language (and/or being vague) in order to give the appearance of alignment rather than addressing the substantive concerns.

We have leading Counsel's opinion that this is not an appropriate or sound way to draft a development plan policy in light of paragraph 154 of the NPPF which makes it plain that "only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan", and the Council's suggested criterion is incapable of satisfying that requirement.

Therefore, draft Policy H4 (2018) is unsound, and should be rejected.

(d) It is not 'justified' in that it does not represent the most appropriate policy when considered against the reasonable alternatives:

Assuming that the requirements of draft policies C1-4 (Countryside) and D 1-10 (Design and Construction) are satisfied, it is entirely unclear why it should be necessary in the public interest to satisfy any additional criteria simply because the proposed dwelling is replacing an existing one. The need for a separate policy setting additional design criteria for replacement dwellings on sites outside the Green Belt has not been demonstrated, and therefore Policy H4 is unsound.

In the alternative, if it is demonstrated that the policy dealing with replacement dwellings should apply to sites outside the Green Belt, a preferable alternative policy is proposed which would separate development controls into:

- (a) Those applicable to extensions or replacement dwellings within the Countryside beyond the Green Belt. This would contain fewer and less prescriptive criteria which are aligned to the NPPF, NPPG and consistent with draft Policies C1-4 (Countryside) and D 1-10 (Design and Construction); and
- (b) Those applicable to extensions or replacement dwellings within the Green Belt. This would contain criteria aligned to para 89 of the NPPF

Alternative Proposed Policy Wording:

"Policy H4

House Extensions and Replacement Dwellings in the Countryside and the Green Belt.

House extensions and replacement dwellings beyond the Green Belt:

- 1. Proposals to extend or replace dwellings within the area designated as Countryside or Countryside Protection Zone will be permitted provided that the proposal ~~would not materially increase the impact of the dwelling on~~ is appropriate to the local context of the site, the appearance of the surrounding countryside or the open character of the Countryside Protection Zone by virtue of its ~~siting,~~ scale and height. ~~character and design.~~**

2. A replacement dwelling should be positioned on or close to the footprint of the existing dwelling, unless design, landscape, highway safety, residential amenity or other environmental grounds indicate that a more appropriate location on the plot can be justified.

House extension and replacement dwellings within the Green Belt:

- 2. House extensions will be permitted which would not result in disproportionate additions to the original dwelling or harm the purposes of the Green Belt; and**

Replacement dwellings will be permitted provided that the proposal does not harm the purposes of the Green Belt, is not materially larger than the dwelling being replaced, and is otherwise appropriate to the local context of the site and the appearance of the surrounding countryside by virtue of its ~~siting~~, scale and height. ~~character and design.~~ “

4. Replacement dwellings should be positioned on or close to the footprint of the existing dwelling and will only be permitted if they are not materially larger than the one it replaces.

Both within the Green Belt and beyond it account will be taken of the size of the existing dwelling, the extent to which it has previously been extended or could be extended under permitted development rights, and the character of the area.”

Conclusion

We believe that UDC’s position on the wording of Policy H4 (2018) is untenable because it is a position that no reasonable decision maker could properly adopt, and UDC has provided no rational basis on which the Examiner could endorse its approach.

We believe that the need for a separate policy to deal with replacement dwellings in the Countryside beyond the Green Belt has not been demonstrated. The other policies that would be engaged by an application for planning permission for a replacement dwelling would be adequate to ensure proper control over its design, relationship to site and surroundings, and other matters of legitimate public interest.

If a separate policy is found to be justified, UDC has not identified any proper public interest objective that would be left inadequately protected by the alternative form of words that we have proposed.

**Jeremy and Fiona Brittenden
9 August 2018**

Appendix 1: Objection prepared on our behalf by Counsel Hereward Phillpot QC on 29 August 2017

Appendix 2: 2014 Email exchanges between the Brittendens and Uttlesford District Council

UTTLESFORD LOCAL PLAN

OBJECTION TO DRAFT POLICY H4 – HOUSING EXTENSIONS AND REPLACEMENT DWELLINGS IN THE COUNTRYSIDE AND THE GREEN BELT

Introduction

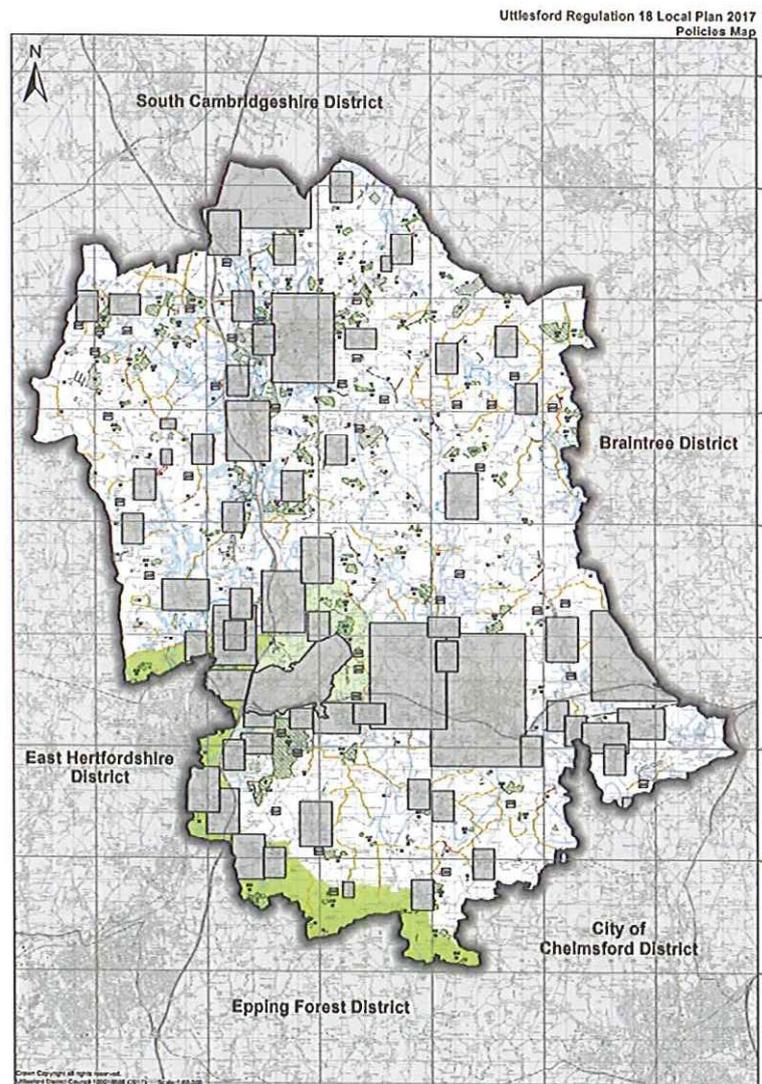
1. This written objection to draft **Policy H4 – Housing Extensions and Replacement Dwellings in the Countryside and the Greenbelt** has been prepared on behalf of Mr and Mrs Brittenden, who live in Bush End, a small rural hamlet within Uttlesford District Council’s administrative area. Bush End is located outside the Green Belt and the Countryside Protection Zone.
2. Mr and Mrs Brittenden wish to demolish their existing dwelling and ancillary buildings, and replace them with a new more efficient and sustainable dwelling in order to accommodate their family. They commissioned a leading architectural firm to draw up the designs for such a dwelling, and to prepare an application for planning permission. The design of the proposed replacement dwelling evolved through a rigorous process of assessment and design review by Design South East and consequent revision to address their comments, and to lead them to conclude that the design was of such a high quality that it passed the “exceptional quality” test in paragraph 55 of the NPPF. The proposed replacement dwelling is significantly larger than the existing dwelling on site.
3. On 28 April 2017 Uttlesford District Council (“UDC”) granted detailed planning permission for the proposed development (“the 2017 permission”), pursuant to a delegated decision. In explaining why it was appropriate to grant planning permission the delegated decision report stated, inter alia that:
 - The design is truly outstanding, helping to raise the standards of design more generally in rural areas. It reflects the highest standards in architecture, significantly enhances its immediate setting and is sensitive to the defining characteristics of the local area.
 - By reference to adopted Local Plan policies, the proposal represents an enhancement to its immediate and wider setting, in accordance with policies S7, GEN2, ENV9 and H7. Taking into account the comments of Historic England, it is concluded that there would be no adverse effect on the setting of nearby listed buildings, in accordance with Policy NV2.

- The NPPF states that great weight should be given to outstanding designs, but the proposed design achieves more than this by passing the 'exceptional quality' test.
4. A copy of the delegated decision report, the grant of planning permission and certain key application documents (Planning Statement, Design and Access Statement and approved plans) are included with this representation in CD format as **Appendix 1**. The Planning Application and Decision are also available to view at uttlesford.gov.uk (Application ref UTT/17/0546/FUL).
 5. It is Mr and Mrs Brittenden's intention to implement the 2017 permission, but prudently they recognise the possibility that in due course some change or changes may need to be made to the approved design, either before or during implementation. If that does turn out to be the case (as often happens), a further grant of planning permission will be necessary. They therefore have a clear and genuine interest in the terms of those draft policies in the emerging plan that would apply to the proposed development if a further grant of planning permission is needed.
 6. Draft Policy H4 would apply to any such application, and Mr and Mrs Brittenden are rightly concerned that as drafted it would represent a potential obstacle to any further grant of planning permission for the development that they wish to undertake. That is the case notwithstanding the obvious and substantial merits of that development, as reflected in the decision to grant the 2017 permission.
 7. The draft policy is demonstrably unsound. As drafted, it is not positively prepared, and is not 'justified' in that it does not represent the most appropriate policy when considered against the reasonable alternatives. Nor is it consistent with national policy.
 8. The essential difficulty with draft Policy H4 is that it is over-prescriptive, going further than is necessary to ensure that replacement dwellings are permitted only where they comprise sustainable development suitable for their context, and it would serve unduly to restrict well-designed and innovative development in circumstances where no harm would arise.
 9. This difficulty is reflected in, and compounded by, the fact that draft policy H4 applies to all areas of the 'Countryside', development restrictions which exceed those appropriate to Green Belt land only.

10. It does this through:

- Draft Policy SP10 which defines 'Countryside' as comprising (1) Metropolitan Green Belt (2) London Stansted Airport Countryside Protection Zone and (3) Countryside beyond both the Green Belt and the Countryside Protection Zone; and
- Draft policy H4 which serves to restrict the size of extensions or replacement dwellings by reference to that of the existing dwelling, within all areas of the Countryside.

11. The draft Policies Map (below) shows that Uttlesford District has extensive areas of Countryside (within the rural areas generally shown as white background on the Map), of which the Green Belt area is shaded lime green and the Countryside Protection Zone is shaded light green. The rest of the white background areas largely comprise Countryside beyond both the Green Belt and the Countryside Protection Zone.



Boundaries		
 District Boundary	 Inset Map Boundary	 Existing Employment Sites
Proposals		
 Allocated Residential Sites	 Uttlesford Garden Community	 Braintree Garden Community
 Proposed Employment Sites	 Education Site	 Community Education Site
 Allocated Green Space Sites	 Development Opportunity Areas	 Policy Areas
 Development Limits	 Countryside Protection Zone	 Site of Special Scientific Interest (SSSI)
 National Nature Reserve	 Local Wildlife Site	 Ancient Woodland
 Important Woodland	 Special Verges	 Ancient Monument
 Historic Parks & Gardens	 Protected Lanes	 Town/Local Centre Boundary
 Primary Shop Frontages	 Secondary Shop Frontages	 Metropolitan Green Belt
 Protected Open Space	 Poor Air Quality Zone	 Air Quality Management Zone
 Source Protection Zone 1	 Source Protection Zone 2	 Source Protection Zone 3
 Conservation Area	 Stansted Airport Development	 Mineral Safeguarding Site
 Landscaped Areas	 Public Safety Zone 1:10,000 risk	 Public Safety Zone 1:100,000 risk
 Mobile Home Park	 Geological Sites	

12. A preliminary question arises as to whether draft Policy H4 is needed at all in relation sites beyond the Green Belt and Countryside Protection Zone, and whether its scope exceeds what is necessary. If an application is submitted for development involving a replacement dwelling, the following design policies would apply and need to be satisfied:

- Policy D1: High Quality Design. This policy sets design criteria that must be met by any new development in order to ensure that it contributes to the creation of high quality places through a design-led approach underpinned by good design principles and reflecting a thorough site appraisal.
- Policy 5: Design Review (if the site is important and or in a sensitive location). Where this policy applies the Council will refer schemes to the East of England Design Review Panel, and the final scheme as submitted should include a report on the design review process and how the scheme responded to this.

13. Assuming that the requirements of those policies (and in particular Policy H4) are satisfied, it is entirely unclear why it should then be necessary in the public interest to satisfy any additional design criteria simply because the proposed dwelling is replacing an existing one. Unless UDC is able to demonstrate a need for a specific policy separately regulating replacement dwellings outside the Green Belt and Countryside Protection Zone, draft Policy H4 should be confined in its application to sites within those areas. If it is judged that a separate policy applying outside of those areas is required, the design criteria its sets should be no more onerous than those which would apply to a completely new dwelling. If any

additional criteria are set, they must be clear, fully justified and not such as to lead to uncertainty in application.

14. Draft Policy H4 is demonstrably unsound, and requires substantial amendment because:

(a) it is not consistent with national policy: Paragraph 89 of the NPPF restricts size of extension or replacement dwelling by reference to that of the existing dwelling, only in Green Belt areas.

(b) it is over-prescriptive, going further than is necessary to ensure that extensions or replacement dwellings within the Countryside are permitted only where they comprise sustainable development suitable for their context: It applies to the whole Countryside, development restrictions which exceed those applied by paragraph 89 to Green Belt areas only. It would serve to restrict well-designed and innovative development in circumstances where no material planning harm would arise.

(c) it is not positively prepared: On 20 November 2014, at the Examination of the 2014 proposed Local Plan, the Brittenden's Objection to draft Policy HO6 – Replacement Dwellings in the Countryside (relevant documents attached as **Appendix 2**), was discussed by the Examiner with the Brittendens and the Council. The Examiner commented that limiting a replacement dwelling to the existing footprint is another way of limiting scale, and is unduly prescriptive. He asked the parties to attempt to agree alternative wording for the policy. The subsequent email exchanges between the Council and the Brittendens are attached as **appendix 3**. Mr and Mrs Brittenden are understandably aggrieved that having decided as individual householders to participate constructively in the earlier plan-preparation process (at considerable cost in terms of time, effort and expenditure on advice), and having clearly persuaded the then Examiner of the need for the policy to change, UDC has now prepared a revised draft policy that displays essentially the same flawed approach.

15. Draft Policy H4 is not 'justified' in that it does not represent the most appropriate policy when considered against the reasonable alternatives.

16. It is the Brittenden's primary submission that the need for a separate policy setting additional design criteria for replacement dwellings on sites outside the Green Belt and Countryside Protection Zone has not been demonstrated, and therefore Policy H4 is unsound. They take

no position as to whether a separate policy dealing with house extensions is required, because that does not directly affect them in the same way.

17. In the alternative, if it is demonstrated that the policy dealing with replacement dwellings should apply to sites outside the Green Belt and Countryside Protection Zone, a preferable alternative policy is proposed which would separate development controls into:
 - (a) those applicable to extensions or replacement dwellings within the Countryside beyond both the Green Belt or the Countryside Protection Zone. This would contain fewer and less prescriptive criteria which are aligned to the NPPF, NPPG and consistent with draft Policies SP10, C1, D; and
 - (b) those applicable to extensions or replacement dwellings within the Countryside within both the Green Belt and the Countryside Protection Zone. This would contain criteria aligned to para 89 of the NPPF.

National Planning Policy Context

The NPPF

18. The Ministerial foreword to the NPPF stresses that sustainable development is about change for the better, encouraging creative excellence and positive growth.
19. That is reflected in the guidance contained within the NPPF itself, which explains that pursuing sustainable development involves seeking positive improvements in the quality of the built environment, replacing poor design with better design, and widening the choice of high quality homes.
20. Of particular relevance to draft policy H4 are the second and fourth of the core land-use planning principles, namely that planning should:
 - a. not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives; and

- b. always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
21. The Government attaches great importance to the design of the built environment. This is reflected in the design policies at paragraphs 56 to 68 of the NPPF. Whilst those paragraphs must be read together as a whole, the following guidance is of particular relevance to the consideration of draft Policy H4:
- a. Design policies in Local Plans should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics.
 - b. Such policies should optimise the potential of a site to accommodate development, and respond to local character and identity while not preventing or discouraging appropriate innovation.
 - c. Design policies should avoid unnecessary prescription or detail, and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally.
 - d. While it is proper to seek to promote or reinforce local distinctiveness, planning policies should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles.
 - e. Planning permission should not be refused for buildings which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design.

The NPPG

22. The NPPG on Design provides much in the way of helpful guidance, with which the eventual policy on replacement dwellings must be consistent.

23. It explains that achieving good design is about creating buildings that work for everyone, look good, last well, and will adapt to the needs of future generations. Good design puts land, water, drainage, energy, community, economic and other such resources to the best possible use over the long term.
24. Paragraph 4 explains that great weight should be given to outstanding or innovative designs which help to raise the standard of design more generally in the area. It also reinforces the clear guidance in the NPPF that planning permission should not be refused for buildings that promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design.
25. The NPPG reflects the guidance in the NPPF on the promotion of local character, and the importance of not using this to prevent or discourage appropriate innovation.
26. In addition, however, the NPPG adds the important point that local distinctiveness is not solely about the built environment – it also reflects, amongst other things, its potential for change.
27. Specific guidance on the consideration of scale is provided at paragraph 26. It is explained that decisions on building size and mass, and the scale of open spaces around and between them, will influence the character, functioning and efficiency of an area. Importantly, it recognises that under-development of a site is no less unsustainable than over-development:

“Too little [building mass compared to open space] and neither land as a resource or monetary investment will be put to best use”.

28. It also identifies the matters which may be affected by the size of individual buildings and their elements: overshadowing and overlooking of others; local character; skylines; and vistas and views. The scale of building elements should be both attractive and functional when viewed and used from neighbouring streets, gardens and parks.
29. In the light of that guidance, policies which seek to restrict the scale of extensions and replacement dwellings in ways which are not justified by reference to those matters should be regarded as unnecessarily prescriptive.

Draft Policy H4

The Draft Policy

30. Draft policy H4 is headed 'House Extensions and Replacement Dwellings in the Countryside and the Green Belt'. As presently drafted, a proposal to extend or replace an existing dwelling anywhere in the Countryside (regardless of whether it is within the Green Belt or not), would only be in accordance with draft policy H4 if it satisfied each of its criteria:

- the proposal would not result in a disproportionately large increase in the height or scale of the original dwelling; and
- the proposal would not materially increase the impact of the dwelling on the appearance of the surrounding countryside or the openness of the Green Belt through excessive scale, bulk or visual intrusion.
- In addition to the above criteria a replacement dwelling will be permitted provided that the proposed dwelling is on the footprint of the existing dwelling unless the applicant can demonstrate why the dwelling would be best located elsewhere on the plot.
- In determining what constitutes 'disproportionately large increase' , account will be taken of the size of the existing dwelling, the extent to which it has previously been extended or could be extended under permitted development rights, and the character of the area.

31. Taking each criterion in turn:

a. *"The proposal would not result in a disproportionately large increase in the height or scale of the original dwelling".*

- a. The essential flaw in this criterion is that it starts from the implicit assumption that the existing dwelling will always (or at least generally) be of an appropriate height or scale in the context of the site and surroundings, and is thus an appropriate yardstick against which to measure the appropriateness of the height or scale of its replacement.

There is no logical basis for making that assumption, and no evidence that it is justified either in this district or more generally.

- b. The addition of an explanation of what will be taken into account in judging what constitutes a ‘disproportionately large increase’ does not address that essential flaw, and indeed in some respects it compounds it.
 - i. *The size of the existing dwelling.* Given that what is being assessed pursuant to this criterion is whether the proposal is disproportionately large by reference to the existing dwelling, this element of the explanation does not take matters any further.
 - ii. *The extent to which it has previously been extended or could be extended under PD rights.* There is no explanation as to why this is relevant or even whether this will tend to support a larger replacement dwelling or make it less likely that a larger replacement would be appropriate. Logically it should not be used as an indication either way, because what ultimately matters is whether the replacement dwelling is appropriate in size and scale having regard to the site and surroundings. If it is, the fact that the building it replaces has or has not been extended in the past does not and could not alter that conclusion.
 - iii. *The character of the area.* Whilst the issue of whether the size of the replacement dwelling is appropriate to the character of the area is an appropriate and sensible criterion, it has no necessary connection with the size of the *original* dwelling. Thus a criterion which provided that the height and scale of a replacement dwelling must be appropriate to and compatible with the character of the surrounding area would in itself be unobjectionable, but for the reasons set out above the issue should not be confused by linking it to a comparison with the size of the original dwelling.

- b. *“The proposal would not materially increase the impact of the dwelling on the appearance of the surrounding countryside or the openness of the Green Belt through excessive scale, bulk or visual intrusion”.*
 - i. This criterion creates uncertainty and unnecessary prescription by seeking to bundle together a Green Belt criterion (“not materially

increase the impact ... on the openness of the Green Belt”) with a poorly drafted and unclear general countryside criterion (“not materially increase the impact on the appearance of the surrounding countryside”). It is not at all clear what is meant by an increase in the impact “on the appearance of the surrounding countryside”. Would this be breached simply by reason of increased visibility of the dwelling from the surrounding countryside, regardless of whether this caused harm?

- ii. The reference at the end of the criterion to impact “through excessive scale, bulk or visual intrusion” simply brings one back to the question of what is “excessive” and how is it to be measured?
 - iii. It underlines the recurring issue that insofar as this part of the draft policy is meant to do no more than reflect the requirements of draft Policy D1 that relate to scale and height, it is unnecessary. Insofar as it seeks to go further and be more prescriptive simply because the new dwelling will replace an existing one it is entirely unjustified – and logically unjustifiable.
 - iv. Furthermore, in addition to the need to satisfy the requirements of draft policy D1, the protection of countryside character is already adequately addressed by draft policies SP10 (Protection of the Countryside), C1 (Protection of Landscape Character) and the other relevant policies in section D (Design), which would also fall to be applied by the local authority when considering proposals for replacement dwellings (see further below).
- c. *“In addition to the above criteria a replacement dwelling will be permitted provided that the proposed dwelling is on the footprint of the existing dwelling unless the applicant can demonstrate why the dwelling would be best located elsewhere on the plot”.*
- i. The starting point identified in this criterion (i.e. that the replacement dwelling should normally be located on the footprint of the existing dwelling) makes two assumptions about what would be appropriate, neither of which is justified or in accordance with national policy.

1. It assumes that the replacement dwelling will not be materially larger than the existing. The caveat regarding locating the dwelling “elsewhere on the plot” necessarily presupposes that the reason the proposed footprint does not follow the existing is because the dwelling is in a different location, and not because it is larger. For the reasons set out above, it is inappropriate for the policy to include either an explicit or implicit assumption that replacement dwellings should normally be of the same size and scale as those they replace.

2. It assumes that the replacement dwelling will also be essentially the same shape as the existing dwelling. There is no explanation as to why this is assumed to be an appropriate design response in all (or even most) cases, whatever the age, shape or design quality of the existing dwelling, and the extent to which it continues to provide suitable and efficient accommodation to meet contemporary needs in an efficient and sustainable fashion.

ii. This criterion serves to achieve no separate public interest objective to those which would be covered by the simplified and less prescriptive alternative policy set out below. If a replacement dwelling results in an improved contribution to the character and appearance of the surrounding area, is in scale and character with properties in the local area, and is not harmful to the landscape by reason of its size, scale, setting or design, what proper planning objective would be served by making it contrary to development plan policy simply because it does not follow the footprint of the existing dwelling?

iii. In the premises, this criterion is unjustified, unduly prescriptive and contrary to national planning policy.

32. These criteria are more restrictive than those contained in paragraph 89 of the NPPF applicable to Green Belt land. In particular the expectation that any replacement dwelling

will be on the footprint of the existing dwelling, is more prescriptive than paragraph 89 which provides:

“A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions are: ...

- *The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
- *the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces; ...”*

33. These criteria are applied by the draft policy to all areas of Countryside including those extensive areas of Countryside which are beyond both the Green Belt and the Countryside Protection Zone.
34. So, for example, a replacement dwelling within the Countryside beyond both the Green Belt and the Countryside Protection Zone which would result in a visual improvement to the site and surrounding area, and is not harmful to the landscape by reason of its size, scale, setting or design, would nevertheless seem to be in breach of the policy if it happened to be materially larger than the one it is replacing. That would be the case, even if the smaller scale of the existing dwelling was out of keeping with the surrounding area and a materially larger replacement would be a better fit with (and even enhance) existing local character and local distinctiveness.
35. In circumstances such as those, where it would plainly be inappropriate (indeed wholly unreasonable) to refuse planning permission on grounds of scale, an applicant for planning permission would nevertheless have to rely on ‘other material considerations’ to seek to justify the proposed replacement dwelling as a departure from the development plan. That is not an appropriate way in which to plan to achieve sustainable development, and demonstrates the over-prescriptive and inflexible nature of the current draft Policy.

The relationship between draft Policy H4 and other related draft policies

36. In considering the degree to which draft Policy H4 seeks to prescribe the appropriate scale of extensions and replacement dwellings in the Countryside, it is also important to consider the effect of related policies which would apply to any proposed development, in addition to draft Policy H4. This is relevant when considering the extent to which draft Policy H4 needs to reproduce (let alone go beyond) the general design criteria found in the related policies.

Draft Policy SP10 – Protection of the Countryside

37. Draft Policy SP10 requires no more than that:

“Proposals for development need to take into account the landscape’s key characteristics, features and sensitivities to change in accordance with Policy C1”

Draft Policy C1 – Protection of Landscape Character

38. On the issue of overall scale, draft Policy C1 requires no more than that:

- *“No material harm is caused to the historic settlement pattern, especially scale and density, and that it uses materials and colours that complement the landscape setting and landscape character. Such development should be well integrated with the surrounding landscape;”*

Draft Policy D1 – High Quality Design

39. On the issue of overall scale, draft Policy D1 requires no more than that:

“Proposals for new development should seek to optimise the capacity of the site by responding appropriately to the scale, character and grain of the existing built form. Proposals should also demonstrate how they respond to the landscape, local and longer-views, the environment and historic assets.”

It is very hard to see why any greater degree of prescription is justified in the case of extensions and replacement dwellings within the Countryside which are outside the Green Belt and/or the Countryside Protection Zone. At most, the relevant criterion should follow the same approach as draft policies SP10, C1 and D1. The most appropriate and clearest approach must be to avoid unnecessary duplication in the policies, and thereby reduce the scope for uncertainty as to what is required and the approach that will be taken to determining the acceptability of the design of proposed dwellings.

40. In considering the degree to which draft Policy H4 seeks to prescribe the appropriate scale of replacement dwellings in the Countryside which are outside the Green Belt and/or the Countryside Protection Zone, it is also relevant to consider the degree of prescription applied to development proposals within other designated rural areas.

Draft Policy EN2 – Design of Development within Conservation Areas

41. Draft Policy EN2 requires no more than that:

- *There is no detrimental visual impact...*
- *It does not damage key views...*

On the matter of scale, draft Policy H4 exceeds draft Policy EN2 in its degree of prescription. A greater degree of prescription for replacement dwellings in the Countryside which are outside the Green Belt and/or the Countryside Protection Zone, than for development in Conservation Areas, is clearly not justified.

Alternative proposed policy

42. As set out above, Mr and Mrs Brittenden's primary position is that there is no need for a separate policy to address replacement dwellings in the countryside beyond the Green Belt and Countryside Protection Zone. Provided that such proposed dwellings satisfy the requirements of the other applicable policies identified above, they should be judged acceptable. Indeed it is impossible to conceive of circumstances in which a proposed dwelling that did satisfy all of those requirements should nevertheless be held to be unacceptable simply by reference to the scale of the building it would replace.

43. In the alternative, if some separate policy for such replacement dwellings is demonstrated to be justified, the objections to the current form of draft Policy H4 could all be overcome by adopting an alternative in the terms set out below:

“Policy H4

- (a) House Extensions and Replacement Dwellings in areas of the Countryside beyond both the Green Belt and the Countryside Protection Zone.**

Proposals to extend or replace existing dwellings within areas of the Countryside which are beyond both the Green Belt and the Countryside Protection Zone will be permitted provided that the scale, form, massing and height of the proposed extension or replacement dwelling is appropriate to the local context of the site and to the character of the surrounding landscape.

If the proposed replacement dwelling is not on the footprint of the original, the existing house will be required to be demolished within a month of the first occupation of the new house. In order to make sure that the new dwelling remains of a size appropriate to the local context of the site and to the character of the surrounding landscape, permitted development rights may be removed.

- (b) House Extensions and Replacement Dwellings in areas of the Countryside within both the Green Belt and the Countryside Protection Zone.**

Proposals to extend or replace existing dwellings within areas of the Countryside which are within both the Green Belt and the Countryside Protection Zone will be permitted provided that:

- The extension or alteration of a building does not result in disproportionate additions over and above the size of the original building;
- The replacement building is in the same use and not materially larger than the one it replaces.”

Conclusion

44. Draft Policy H4 as currently drafted is demonstrably unsound, and should be revised as suggested above.

HEREWARD PHILLPOT QC

**Francis Taylor Buildings
Inner Temple
London EC4Y 7BY
29 August 2017**

Appendix 1.

CD containing key Planning Application documents (Design and Access Statement, Planning Statement, Drawings, Delegated Officer Report Recommendation, Permission)

Appendix 2.

Objection to draft Policy HO6 of the 2014 Proposed Plan

UTTLESFORD LOCAL PLAN

OBJECTION TO DRAFT POLICY HO6 - REPLACEMENT DWELLINGS IN THE COUNTRYSIDE

Introduction

1. This written objection to **draft Policy HO6 - Replacement Dwellings in the Countryside** has been prepared on behalf of Mr and Mrs Brittenden, who live in Bush End, a small rural hamlet within Uttlesford District Council's administrative area.
2. Mr and Mrs Brittenden are working with a leading architectural firm to prepare an application for planning permission for an efficient and sustainable replacement for their existing dwelling, in the context of the equivalent existing policy (H7 - Replacement Dwellings) in the extant Uttlesford Local Plan, the National Planning Policy Framework (NPPF) and the National Planning Policy Guidance (NPPG). They therefore have a direct and legitimate interest in the emerging draft replacement policy.
3. Draft Policy HO6 is demonstrably unsound, and requires substantial amendment. As drafted, it is not positively prepared, and it is not 'justified' in that it does not represent the most appropriate policy when considered against the reasonable alternatives. Nor is it consistent with national policy.
4. The essential difficulty with the draft policy is that it is over-prescriptive, going further than is necessary to ensure that replacement dwellings are permitted only where they comprise sustainable development suitable for their context, and it would serve to restrict well-designed and innovative development in circumstances where no material planning harm would arise.
5. A preferable alternative policy is proposed which would be simpler, with fewer and less prescriptive criteria, and would ensure that any replacement dwellings would be sustainable, in keeping with their surroundings and of a high design quality.

National planning policy context

The NPPF

6. The Ministerial foreword to the NPPF stresses that sustainable development is about change for the better, encouraging creative excellence and positive growth.

7. That is reflected in the guidance contained within the NPPF itself, which explains that pursuing sustainable development involves seeking positive improvements in the quality of the built environment, replacing poor design with better design, and widening the choice of high quality homes¹.
8. Of particular relevance to draft Policy HO6 are the second and fourth of the core land-use planning principles, namely that planning should:
 - a. not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives²; and
 - b. always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings³.
9. The Government attaches great importance to the design of the built environment⁴. This is reflected in the design policies at paragraphs 56 to 68 of the NPPF. Whilst those paragraphs must be read together as a whole, the following guidance is of particular relevance to the consideration of draft Policy HO6:
 - a. Design policies in Local Plans should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics⁵.
 - b. Such policies should optimise the potential of a site to accommodate development, and respond to local character and identity while not preventing or discouraging appropriate innovation⁶.
 - c. Design policies should avoid unnecessary prescription or detail, and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally⁷.

¹ Paragraph 9

² Paragraph 17, 2nd bullet point

³ Paragraph 7, 4th bullet point

⁴ Paragraph 56

⁵ Paragraph 58

⁶ Paragraph 58

⁷ Paragraph 59

- d. Whilst it is proper to seek to promote or reinforce local distinctiveness, planning policies should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles⁸.
- e. Planning permission should not be refused for buildings which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design⁹.

The NPPG

- 10. The NPPG on Design provides much in the way of helpful guidance, with which the eventual policy on replacement dwellings must be consistent.
- 11. It explains that achieving good design is about creating buildings that work for everyone, look good, last well, and will adapt to the needs of future generations. Good design puts land, water, drainage, energy, community, economic and other such resources to the best possible use over the long term¹⁰.
- 12. Paragraph 4 explains that great weight should be given to outstanding or innovative designs which help to raise the standard of design more generally in the area. It also reinforces the clear guidance in the NPPF that planning permission should not be refused for buildings that promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design.
- 13. The NPPG reflects the guidance in the NPPF on the promotion of local character, and the importance of not using this to prevent or discourage appropriate innovation¹¹.
- 14. In addition, however, the NPPG adds the important point that local distinctiveness is not solely about the built environment - it also reflects, amongst other things, its potential for change¹².
- 15. Specific guidance on the consideration of scale is provided at paragraph 26. It is explained that decisions on building size and mass, and the scale of open spaces around and between them, will influence the character, functioning and efficiency of an area. Importantly, it

⁸ Paragraph 60

⁹ Paragraph 65

¹⁰ Paragraph 1

¹¹ Paragraph 7

¹² Paragraph 20

recognizes that under-development of a site is no less unsustainable than over-development:

"Too little [building mass compared with open space] and neither land as a resource or monetary investment will be put to best use".

16. It also identifies the matters which may be affected by the size of individual buildings and their elements: overshadowing and overlooking of others; local character; skylines; and vistas and views. The scale of building elements should be both attractive and functional when viewed and used from neighbouring streets, gardens and parks.
17. In the light of that guidance, policies which seek to restrict the scale of replacement dwellings in ways which are not justified by reference to those matters should be regarded as unnecessarily prescriptive.

Draft policy HO6

The overall approach

18. As presently drafted, a proposal to replace an existing dwelling would only be in accordance with draft policy HO6 if it satisfied each one of its five criteria.
19. No flexibility has been incorporated in the policy or supporting text so as to cater for circumstances where some but not all of the criteria are met. So, for example, a replacement dwelling which would result in a visual improvement to the site and surrounding area¹³, and is not harmful to the landscape by reason of its size, scale, setting or design, would nevertheless be in breach of the policy if it happened to be materially larger than the one it is replacing¹⁴. That would be the case, even if the smaller scale of the existing dwelling was out of keeping with the surrounding area and a materially larger replacement would be a better fit with existing local character and local distinctiveness.
20. In circumstances such as those, where it would plainly be inappropriate (indeed wholly unreasonable) to refuse planning permission on grounds of scale, an applicant for planning permission would nevertheless have to rely on 'other material considerations' to seek to justify the proposed replacement dwelling as a departure from the development plan. That is not an appropriate way in which to plan to achieve sustainable development, and

¹³ Criterion b.

¹⁴ Criterion d

demonstrates the over-prescriptive and inflexible nature of the current draft. If (contrary to this objection) it is decided to retain the existing proposed criteria, the policy would need to be re-drafted so as to make it clear that it is not necessary to satisfy each criterion in every case.

21. Of course, a far preferable approach, and the one that is reflected in the alternative draft policy below, would be to simplify the criteria and limit them to those which are justified and would not impose unduly prescriptive requirements.

The draft criteria

22. The legitimate public interest objectives to which draft Policy HO6 is directed could be appropriately and comprehensively addressed by the retention of suitably modified versions of existing draft criteria b. and e., and the addition of a further criterion that the replacement dwelling should promote high levels of sustainability. Such an approach would accord with the national guidance summarised above, in that it would promote and secure good and highly sustainable design, and the protection and enhancement of local distinctiveness. Moreover, it would achieve this in a way that was not unduly prescriptive, and did not discourage or prevent appropriate innovation.
23. The other three criteria are not justified, and run contrary to national policy.

Criterion a: the existing property does not make a positive contribution to the local character of the area

24. Criterion a. is rendered unnecessary by criterion b. If the replacement dwelling is of a sufficiently high standard of design that it would result in an *improvement* to the site and the surrounding area, then the fact that the existing property makes a positive contribution cannot in itself be a legitimate objection to its replacement.
25. Draft Policy HO6 is not concerned with buildings that are located in conservation areas, or have otherwise been singled out for particular policy protection because of their architectural or historic interest. In effect, however, criterion a. is no different from the prohibition in draft Policy HE1 - Design of Development within Conservation Areas:

"Development involving the demolition of a structure which positively contributes to the character and appearance of the area will not be permitted".

There is no justification for providing an equivalent level of protection to all buildings in the countryside which make a positive contribution to local character, no matter what the qualities of the proposed replacement. To do so would act as an unwarranted brake on sustainable development which would make a positive improvement in the quality of the built environment, preventing or discouraging appropriate innovation. It is thus contrary to national planning policy.

26. Any planning harm arising from a proposal to remove a dwelling which makes a positive contribution to local character would necessarily be outweighed by the planning benefits associated with its replacement by one that would make a greater positive contribution.
27. The wording of criterion b. could usefully be revised to make it clearer that it is dealing with improvements to character and/or appearance of the site and the surrounding area, and this is proposed in the alternative form of the draft policy set out below. In any event, there can be no doubt that the addition of criterion a. is unjustified, unduly prescriptive and restrictive of good innovative high quality design. In short, if the replacement dwelling is an improvement over the existing position, why should the policy presume that planning permission ought to be refused?

Criterion c: the proposed dwelling follows the footprint of the existing dwelling unless the applicant can demonstrate why the dwelling would be best located elsewhere on the plot

28. Criterion c. as drafted makes two assumptions about what would be appropriate in a replacement dwelling, neither of which is justified or in accordance with national planning policy.
 - a. It assumes that the replacement dwelling will not be materially larger than the existing. The caveat regarding locating the dwelling 'elsewhere on the plot' necessarily presupposes that the reason the proposed footprint does not follow the existing is because the dwelling is in a different location, and not because it is larger. In this respect criterion c. only makes any sense if criterion d. is retained. For the reasons set out below, that would be entirely inappropriate and contrary to national planning policy.
 - b. It assumes that the replacement dwelling will also be essentially the same shape as the existing dwelling. There is no explanation as to why this is assumed to be an appropriate design response in all (or even most) cases, whatever the age, shape or

design quality of the existing dwelling, and the extent to which it continues to provide suitable and efficient accommodation to meet contemporary needs in an efficient and sustainable fashion.

29. As with criterion a., criterion c. serves to achieve no separate public interest objective to those which would be covered by the simplified and less prescriptive alternative policy set out below. If a replacement dwelling results in an improved contribution to the character and appearance of the surrounding area, is in scale and character with properties in the local area, and is not harmful to the landscape by reason of its size, scale, setting or design, what planning objective would be served by making it contrary to the development plan simply because it does not '*follow the footprint*' of the existing dwelling?
30. In the premises, criterion c. is unjustified, unduly prescriptive and contrary to national planning policy.

Criterion d.: the proposed dwelling is not materially larger than the one it is replacing

31. The same essential question arises with criterion d.: if a replacement dwelling results in an improved contribution to the character and appearance of the surrounding area, and is of a scale, form, massing and height which is appropriate to the local context of the site and to the character of the surrounding landscape, what planning objective would be served by making it contrary to the development plan simply because it is '*materially larger*' than the one it is replacing?
32. As with criterion c., this criterion is based on an important but unspoken assumption, namely that the scale of the existing dwelling will always (or at least generally) be in keeping with the scale of all other relevant properties in the local area. There is no possible justification for such an assumption, which introduces a wholly unnecessary degree of inflexibility and prescription to the policy.
33. Further and in any event, even if an existing dwelling is in keeping with the scale and character of *some* properties in the local area, the same could equally be true of a materially larger dwelling. Many rural areas will feature a variety of building sizes, and indeed it is unlikely that buildings in rural areas will exhibit the regularity of scale that might be found in some urban areas. Thus more than one scale of building might very well be capable of reflecting what is found in properties in the local area. As a consequence, a criterion which seeks to determine the acceptability of scale simply by asking whether what is proposed is

materially larger than what exists is inappropriate and contrary to national planning policy because it is unduly prescriptive and restrictive of positive change, and unjustified.

34. In the premises, criterion c. is unjustified, unduly prescriptive and contrary to national planning policy.

The relationship between draft Policy HO6 and other related draft policies

35. In considering the degree to which draft policy HO6 seeks to prescribe the appropriate scale of replacement dwellings, it is also important to consider the effect of related policies.

Draft Policy DES1 - Design

36. Draft Policy DES 1 would apply to any proposed replacement dwelling, in addition to draft Policy HO6. This is relevant when considering the extent to which draft Policy HO6 needs to reproduce (let alone go beyond) the general design criteria found in draft Policy DES1.
37. On the issue of overall scale, draft Policy DES 1 requires no more than that the density, scale, form, massing and height of a development:

"must be appropriate to the local context of the site, and to the character of the surrounding streetscape/landscape".

It is very hard to see why any greater degree of prescription is justified in the case of replacement dwellings. At most, the relevant criterion should follow the same approach.

38. Given that DES1 would apply in any event, there is perhaps no need for a separate criterion within draft Policy HO6 covering the same matters. Whilst an appropriate criterion has been included in the alternative policy set out below for the avoidance of doubt, this could be omitted and addressed by means of a cross-reference in the supporting text to the need also to satisfy the requirements of Policy DES1.

Draft Policy HO4 - Residential Extensions

39. In considering whether the prescriptive approach to scale in the current draft Policy HO6 is justified, it is relevant to consider what would be considered acceptable in policy terms if the owner of an existing dwelling sought to extend rather than replace it.
40. There is (of course) no policy presumption against making an existing dwelling materially larger through extensions. The scale of the extension simply has to "respect" the scale of

the existing dwelling, avoid over-development of the site, avoid certain harmful effects on neighbouring properties, and avoid a detrimental impact on the overall character of the street scene. Providing that those potential harms are avoided (which will depend on the size, nature and location of the site, and the scale and character of properties in the local area), there is no other restriction on the scale of extension that could potentially be consistent with the draft policy.

41. That is as it should be, because any greater level of prescription would be unjustified. However, it begs the obvious question of why the same end result - in terms of scale - should be treated as unacceptable in policy terms simply because it is reached by means of a well-designed replacement rather than an extension. There is no legitimate public interest served by treating the two differently, and no justification in national policy or otherwise for doing so.

Alternative proposed policy

42. The objections to the current form of draft Policy HO6 could all be overcome by adopting an alternative in the terms set out below:

"Policy HO6 - Replacement dwellings in the Countryside

The replacement of existing dwellings will be permitted providing the following criteria are met:

- a. the replacement will result in an improvement to the character and appearance of the site and surrounding area;
- b. the scale, form, massing and height of the replacement is appropriate to the local context of the site and to the character of the surrounding landscape; and
- c. the design of the replacement promotes high levels of sustainability.

If the proposed new dwelling is not on the footprint of the original, the existing house will be required to be demolished within a month of the first occupation of the new house. In order to make sure that the new dwelling remains of a size that is appropriate to the local context of the site and to the character of the surrounding landscape, permitted development rights may be removed."

Conclusions

43. Draft Policy HO6 as currently drafted is demonstrably unsound, and should be revised as suggested above.

**Francis Taylor Building
Inner Temple
London EC4Y 7BY**

HEREWARD PHILLPOT

16 May 2014

Appendix 3.

November 2014 email exchanges between Uttlesford District Council and the
Brittendens

[Redacted Box]

Subject: Uttlesford Local Plan - Potential changes to Policy H06

Dear Mr and Mrs Brittenden

Further to the discussion today the Inspector requested that we discuss this issue with you.

Our Hearing Statement suggests the following change to the policy:

11.25 In certain circumstances the provision of replacement dwellings in the countryside will be acceptable. **Replacement dwellings need to respect the footprint and size of the existing dwelling so not as to introduce an unacceptably large dwelling where once a small subservient dwelling stood.** ~~These are set out in the policy below together with the criteria that will need to be complied with and the requirements that will be placed upon the grant of any planning permission.~~

Policy HO6 - Replacement dwellings in the Countryside

The replacement of existing dwellings will be permitted providing the following criteria are met:

- ~~a) the existing property does not make a positive contribution to the local character of the area;~~
- ~~b) the replacement will result in a visual improvement to the site and the surrounding area;~~
- c) the proposed dwelling follows the footprint of the existing dwelling unless the applicant can demonstrate why the dwelling would be best located elsewhere on the plot;
- d) the proposed dwelling is not materially larger than the one it is replacing; and
- e) the replacement dwelling is not harmful to the landscape by reason of its size, scale, setting or design.

If the proposed new dwelling is not on the footprint of the original, the existing house will be required to be demolished within a month of the first occupation of the new house. In order to make sure that the new

dwelling remains of a proportionate size to that which it replaces, permitted development rights may be removed.

Further to the discussion today I would suggest the following change:

11.25 In certain circumstances the provision of replacement dwellings in the countryside will be acceptable **providing that the replacement dwelling has an acceptable impact on the local area.** ~~These are set out in the policy below together with the criteria that will need to be complied with and the requirements that will be placed upon the grant of any planning permission.~~

Policy HO6 - Replacement dwellings in the Countryside

The replacement of existing dwellings will be permitted providing the following criteria are met:

- ~~a) the existing property does not make a positive contribution to the local character of the area;~~
- ~~b) the replacement will result in a visual improvement to the site and the surrounding area;~~
- c) the proposed dwelling **is on** the footprint of the existing dwelling unless the applicant can demonstrate why the dwelling would be best located elsewhere on the plot;
- ~~d) the proposed dwelling is not materially larger than the one it is replacing; and~~
- e) **the scale, form, massing and height of the proposed dwelling is appropriate to the local context of the site, the existing dwelling, and the character of the surrounding landscape.**

If the proposed new dwelling is not on the footprint of the original, the existing house will be required to be demolished within a month of the first occupation of the new house. In order to make sure that the new dwelling remains of a proportionate size to that which it replaces, permitted development rights may be removed.

I would appreciate your comments.

[Redacted]

Cc: Louise St John Howe

Subject: RE: Uttlesford Local Plan - Potential changes to Policy H06 (Replacement Dwellings in the Countryside)

Dear Mr Taylor,

Thank you for your swift e-mail response yesterday.

Unfortunately your proposed changes do not address the substance of our objection and so do not take us forward. You proposed similar (if not the same) wording during the hearing yesterday and we did not accept this at the time (and cannot accept it now), as it goes to the heart of the problem (and our objection) which is that it is illogical, unduly restrictive and unsound to limit footprint, scale and design (etc.) of a replacement dwelling by reference to the footprint, scale and design (etc.) of the existing dwelling.

As mentioned yesterday, the Council's proposed criteria assume that all existing dwellings are at their optimum size and shape, and have the optimum relationship with the surrounding area. There is no logical or evidential foundation for that assumption.

The Inspector pointed out that limiting the replacement to the existing footprint is another way of limiting scale, and is unduly prescriptive. It also stifles innovation and has no logical basis (etc.).

We believe it is wrong (and defensive) to assume that every replacement home will result in a "ghastly Mansion style home". There are many styles, and innovation and good design should be encouraged, particularly where replacing small sub-standard dwellings (which the Council recognise exist) and/or seeking to improve the places where people live.

It concerns us also that the Council's proposals for H06 will result in a similar level of control for replacement homes in the countryside generally as the NPPF says is appropriate to replacements in the Green Belt, and that if the proposed Policy H06 were adopted in the form proposed by the Council, this would also result in a higher level of control than would exist under the existing Policy H7. In both cases, this is illogical and unsound given that the direction of travel under the NPPF is the other way.

At the hearing yesterday afternoon, the Inspector said he has sympathy for the points we have raised, and asked us both to work together with a view to reaching agreement on the wording of Policy H06 so as to ensure that it is sound.

Our suggested changes

Set out below are our suggested changes to your wording. We feel it is clearer if the introduction is consistent with the wording of the policy.

We believe this wording respects the NPPF and NPPG requirements, addresses your key concerns and is sound.

~~11.25 In certain circumstances the provision of replacement dwellings in the countryside will be acceptable providing that the replacement dwelling has an acceptable impact on the local area is appropriate to the local context of the site and the character of the surrounding landscape. These are set out in the policy below together with the criteria that will need to be complied with and the requirements that will be placed upon the grant of any planning permission.~~

Policy H06 - Replacement dwellings in the Countryside

The replacement of existing dwellings will be permitted providing the following criteria are met:

- ~~a) the existing property does not make a positive contribution to the local character of the area;~~
- ~~b) the replacement will result in a visual improvement to the site and the surrounding area;~~
- ~~c) the proposed dwelling is on the footprint of the existing dwelling unless the applicant can demonstrate why the dwelling would be best located elsewhere on the plot;~~
- ~~d) the proposed dwelling is not materially larger than the one it is replacing; and~~
- ~~e) scale, form, massing and height of the proposed replacement dwelling is appropriate to the local context of the site, the existing dwelling, and to the character of the surrounding landscape.~~

If the proposed new dwelling is not on the footprint of the original, the existing house will be required to be demolished within a month of the first occupation of the new house. In order to make sure that the new dwelling remains of a ~~proportionate size to that which it replaces~~ **is appropriate to the local context of the site and to the character of the surrounding landscape**, permitted development rights may be removed.

Conclusion

If this is not acceptable, and we are to move forward, It would be helpful if the Council could grapple with the issues we have raised and provide us with a fully reasoned response to our concerns so that we can better understand the Council's thinking as to why what we have proposed is wrong. We have fully articulated our concerns (on a fully reasoned basis) in our objection, hearing statement and at the hearing (and also summarised some of these above).

We are available to deal with this issue, and hope we can close it out swiftly, or refer it back the Inspector with our respective positions on the issues.

Yours sincerely

Fiona Brittenden

Cc: Louise St John Howe

Subject: RE: Uttlesford Local Plan - Potential changes to Policy H06 (Replacement Dwellings In the Countryside)

Dear Mrs Brittenden

Further to your email, I have proposed some further suggested changes to the policy taking into account your suggestions. The full reasoning for the policy and our stance has already been set out in our Hearing Statements so there is no need to repeat that here.

I appreciate that we may not be able to agree on a final suggested wording.

11.25 In certain circumstances the provision of replacement dwellings in the countryside will be acceptable **providing that the replacement dwelling is appropriate to the local context of the site and the character of the surrounding area.** ~~These are set out in the policy below together with the criteria that will need to be complied with and the requirements that will be placed upon the grant of any planning permission.~~

Policy HO6 - Replacement dwellings in the Countryside

The replacement of existing dwellings will be permitted providing the following criteria are met:

- ~~a) the existing property does not make a positive contribution to the local character of the area;~~
- ~~b) the replacement will result in a visual improvement to the site and the surrounding area;~~
- c) the proposed dwelling **is on** the footprint of the existing dwelling unless the applicant can demonstrate why the dwelling would be best located elsewhere on the plot;
- ~~d) the proposed dwelling is not materially larger than the one it is replacing; and~~
- e) **the scale, form, massing and height of the proposed dwelling is appropriate to the local context of the site, the existing dwelling, and the character of the surrounding landscape.**

If the proposed new dwelling is not on the footprint of the original, the existing house will be required to be demolished within a month of the first occupation of the new house. In order to make sure that the new dwelling **is appropriate to the local context of the site and to the character of the surrounding landscape,** ~~remains of a proportionate size to that which it replaces,~~ permitted development rights may be removed.

Andrew Taylor MRTPI
Assistant Director Planning and Building Control

Uttlesford District Council
Council Offices
London Road
Saffron Walden
Essex
CB11 4ER
T 01799 510601

[Redacted]
To: Andrew Taylor

Cc: Louise St John Howe

Subject: RE: Uttlesford Local Plan - Potential changes to Policy H06 (Replacement Dwellings in the Countryside)

Dear Mr Taylor,

Thank you for your swift reply. Unfortunately it seems clear that we will not be able to reach agreement, as the revised policy you have suggested does not overcome the fundamental problem we have identified as to the reference to the existing dwelling.

We assume that the issue will now have to be determined by the Examiner. In your reply you indicate that you are content that the Council's position is adequately set out in its hearing statement. So far as we are aware, the only statement from the Council that specifically responds to what we have said is in document EX104. Could you please confirm that this is correct?

You have made clear that you do not wish to add to what has already been said on behalf of the Council, and so we would now propose to submit this exchange of correspondence to the Examiner, together with our explanation of why we are maintaining our objection, so that he can make his decision. Please confirm you are content with this approach.

Yours sincerely
Fiona Brittenden

[Redacted]
Cc: Louise St John Howe

Subject: RE: Uttlesford Local Plan - Potential changes to Policy H06 (Replacement Dwellings in the Countryside)

Dear Mrs Brittenden

I am not prepared to adjust our position further. Our approach is clearly set out in all the submission documents.

Andrew Taylor MRTPI
Assistant Director Planning and Building Control

Uttlesford District Council
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T 01799 510601
F 01799 510550
E ataylor@uttlesford.gov.uk

From: Andrew Taylor [mailto:andrew.taylor@mrtpi.co.uk]
Sent: 20 November 2014 17:30

To:
Cc: Louise St John Howe
Subject: Uttlesford Local Plan - Potential changes to Policy HO6

Dear Mr and Mrs Brittenden

Further to the discussion today the Inspector requested that we discuss this issue with you.

Our Hearing Statement suggests the following change to the policy:

11.25 In certain circumstances the provision of replacement dwellings in the countryside will be acceptable. **Replacement dwellings need to respect the footprint and size of the existing dwelling so not as to introduce an unacceptably large dwelling where once a small subservient dwelling stood.** ~~These are set out in the policy below together with the criteria that will need to be complied with and the requirements that will be placed upon the grant of any planning permission.~~

Policy HO6 - Replacement dwellings in the Countryside

The replacement of existing dwellings will be permitted providing the following criteria are met:

- ~~a) the existing property does not make a positive contribution to the local character of the area;~~
- ~~b) the replacement will result in a visual improvement to the site and the surrounding area;~~
- c) the proposed dwelling follows the footprint of the existing dwelling unless the applicant can demonstrate why the dwelling would be best located elsewhere on the plot;
- d) the proposed dwelling is not materially larger than the one it is replacing; and
- e) the replacement dwelling is not harmful to the landscape by reason of its size, scale, setting or design.

If the proposed new dwelling is not on the footprint of the original, the existing house will be required to be demolished within a month of the first occupation of the new house. In order to make sure that the new

dwelling remains of a proportionate size to that which it replaces, permitted development rights may be removed.

Further to the discussion today I would suggest the following change:

11.25 In certain circumstances the provision of replacement dwellings in the countryside will be acceptable **providing that the replacement dwelling has an acceptable impact on the local area.** ~~These are set out in the policy below together with the criteria that will need to be complied with and the requirements that will be placed upon the grant of any planning permission.~~

Policy HO6 - Replacement dwellings In the Countryside

The replacement of existing dwellings will be permitted providing the following criteria are met:

- ~~a) the existing property does not make a positive contribution to the local character of the area;~~
- ~~b) the replacement will result in a visual improvement to the site and the surrounding area;~~
- c) the proposed dwelling **is on** the footprint of the existing dwelling unless the applicant can demonstrate why the dwelling would be best located elsewhere on the plot;
- ~~d) the proposed dwelling is not materially larger than the one it is replacing; and~~
- e) **the scale, form, massing and height of the proposed dwelling is appropriate to the local context of the site, the existing dwelling, and the character of the surrounding landscape.**

If the proposed new dwelling is not on the footprint of the original, the existing house will be required to be demolished within a month of the first occupation of the new house. In order to make sure that the new dwelling remains of a proportionate size to that which it replaces, permitted development rights may be removed.

I would appreciate your comments.

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Andrew Taylor MRTPI

om:]
Sent: 21 November 2014 15:30
To: Andrew Taylor
Cc: Louise St John Howe
Subject: RE: Uttlesford Local Plan - Potential changes to Policy H06 (Replacement Dwellings in the Countryside)

Dear Mr Taylor,

Thank you for your swift e-mail response yesterday.

Unfortunately your proposed changes do not address the substance of our objection and so do not take us forward. You proposed similar (if not the same) wording during the hearing yesterday and we did not accept this at the time (and cannot accept it now), as it goes to the heart of the problem (and our objection) which is that it is illogical, unduly restrictive and unsound to limit footprint, scale and design (etc.) of a replacement dwelling by reference to the footprint, scale and design (etc.) of the existing dwelling.

As mentioned yesterday, the Council's proposed criteria assume that all existing dwellings are at their optimum size and shape, and have the optimum relationship with the surrounding area. There is no logical or evidential foundation for that assumption.

The Inspector pointed out that limiting the replacement to the existing footprint is another way of limiting scale, and is unduly prescriptive. It also stifles innovation and has no logical basis (etc.).

We believe it is wrong (and defensive) to assume that every replacement home will result in a "ghastly Mansion style home". There are many styles, and innovation and good design should be encouraged, particularly where replacing small sub-standard dwellings (which the Council recognise exist) and/or seeking to improve the places where people live.

It concerns us also that the Council's proposals for H06 will result in a similar level of control for replacement homes in the countryside generally as the NPPF says is appropriate to replacements in the Green Belt, and that if the proposed Policy H06 were adopted in the form proposed by the Council, this would also result in a higher level of control than would exist under the existing Policy H7. In both cases, this is illogical and unsound given that the direction of travel under the NPPF is the other way.

At the hearing yesterday afternoon, the Inspector said he has sympathy for the points we have raised, and asked us both to work together with a view to reaching agreement on the wording of Policy H06 so as to ensure that it is sound.

Our suggested changes

Set out below are our suggested changes to your wording. We feel it is clearer if the introduction is consistent with the wording of the policy.

We believe this wording respects the NPPF and NPPG requirements, addresses your key concerns and is sound.

11.25 In certain circumstances the provision of replacement dwellings in the countryside will be acceptable providing that the replacement dwelling ~~has an acceptable impact on the local area~~ is appropriate to the local context of the site and the character of the surrounding landscape. These are set out in the policy below together with the criteria that will need to be complied with and the requirements that will be placed upon the grant of any planning permission.

Policy H06 - Replacement dwellings in the Countryside

The replacement of existing dwellings will be permitted providing the following criteria are met:

- ~~a) the existing property does not make a positive contribution to the local character of the area;~~
- ~~b) the replacement will result in a visual improvement to the site and the surrounding area;~~
- ~~c) the proposed dwelling is on the footprint of the existing dwelling unless the applicant can demonstrate why the dwelling would be best located elsewhere on the plot;~~
- ~~d) the proposed dwelling is not materially larger than the one it is replacing; and~~
- e) scale, form, massing and height of the proposed replacement dwelling is appropriate to the local context of the site, the existing dwelling, and to the character of the surrounding landscape.**

If the proposed new dwelling is not on the footprint of the original, the existing house will be required to be demolished within a month of the first occupation of the new house. In order to make sure that the new dwelling remains of a proportionate size to that which it replaces is appropriate to the local context of the site and to the character of the surrounding landscape, permitted development rights may be removed.

Conclusion

If this is not acceptable, and we are to move forward, it would be helpful if the Council could grapple with the issues we have raised and provide us with a fully reasoned response to our concerns so that we can better understand the Council's thinking as to why what we have proposed is wrong. We have fully articulated our concerns (on a fully reasoned basis) in our objection, hearing statement and at the hearing (and also summarised some of these above).

We are available to deal with this issue, and hope we can close it out swiftly, or refer it back the Inspector with our respective positions on the issues.

Yours sincerely

Fiona Brittenden

[Redacted]

Subject: RE: Uttlesford Local Plan - Potential changes to Policy HO6 (Replacement Dwellings in the Countryside)

Dear Mrs Brittenden

Further to your email, I have proposed some further suggested changes to the policy taking into account your suggestions. The full reasoning for the policy and our stance has already been set out in our Hearing Statements so there is no need to repeat that here.

I appreciate that we may not be able to agree on a final suggested wording.

11.25 In certain circumstances the provision of replacement dwellings in the countryside will be acceptable **providing that the replacement dwelling is appropriate to the local context of the site and the character of the surrounding area.** ~~These are set out in the policy below together with the criteria that will need to be complied with and the requirements that will be placed upon the grant of any planning permission.~~

Policy HO6 - Replacement dwellings in the Countryside

The replacement of existing dwellings will be permitted providing the following criteria are met:

- ~~a) the existing property does not make a positive contribution to the local character of the area;~~
- ~~b) the replacement will result in a visual improvement to the site and the surrounding area;~~
- c) the proposed dwelling is on the footprint of the existing dwelling unless the applicant can demonstrate why the dwelling would be best located elsewhere on the plot;
- ~~d) the proposed dwelling is not materially larger than the one it is replacing; and~~
- e) **the scale, form, massing and height of the proposed dwelling is appropriate to the local context of the site, the existing dwelling, and the character of the surrounding landscape.**

If the proposed new dwelling is not on the footprint of the original, the existing house will be required to be demolished within a month of the first occupation of the new house. In order to make sure that the new dwelling **is appropriate to the local context of the site and to the character of the surrounding landscape,** ~~remains of a proportionate size to that which it replaces,~~ permitted development rights may be removed.

Andrew Taylor MRTPI
Assistant Director Planning and Building Control

Uttlesford District Council
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Essex
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T 01799 510601

[Redacted]
cc: Andrew Taylor
cc: Louise St John Howe
Subject: RE: Uttlesford Local Plan - Potential changes to Policy H06 (Replacement Dwellings in the Countryside)

Dear Mr Taylor,

Thank you for your swift reply. Unfortunately it seems clear that we will not be able to reach agreement, as the revised policy you have suggested does not overcome the fundamental problem we have identified as to the reference to the existing dwelling.

We assume that the issue will now have to be determined by the Examiner. In your reply you indicate that you are content that the Council's position is adequately set out in its hearing statement. So far as we are aware, the only statement from the Council that specifically responds to what we have said is in document EX104. Could you please confirm that this is correct?

You have made clear that you do not wish to add to what has already been said on behalf of the Council, and so we would now propose to submit this exchange of correspondence to the Examiner, together with our explanation of why we are maintaining our objection, so that he can make his decision. Please confirm you are content with this approach.

Yours sincerely
Fiona Brittenden

[Redacted]
cc: Louise St John Howe
Subject: RE: Uttlesford Local Plan - Potential changes to Policy H06 (Replacement Dwellings in the Countryside)

Dear Mrs Brittenden

I am not prepared to adjust our position further. Our approach is clearly set out in all the submission documents.

Andrew Taylor MRTPI
Assistant Director Planning and Building Control

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