Uttlesford District Council

Chief Executive: Dawn French

Scrutiny Committee

Date: Tuesday, 25th June, 2019

Time: 7.30 pm

Venue: Committee Room - Council Offices, London Road, Saffron Walden, Essex CB11 4ER

Chair: Councillor N Gregory

Members: Councillors M Caton, A Coote, C Criscione, G Driscoll, J Evans, R Jones, G LeCount (Vice-Chair), N Reeve and G Sell

Substitutes: Councillors S Barker, C Day, A Dean, M Foley, M Lemon, R Pavitt and A Storah

Public Speaking

At the start of the meeting there will be an opportunity of up to 15 minutes for members of the public to ask questions and make statements subject to having given notice by 12 noon two working days before the meeting. A time limit of 3 minutes is allowed for each speaker. Please refer to further information overleaf.

AGENDA
PART 1

Open to Public and Press

1   Apologies for Absence and Declarations of Interest

To receive any apologies for absence and declarations of interest.

2   Minutes of Previous Meetings   5 - 14

To consider the minutes of the call-in meeting on 21 March and the meeting on 11 June.

3   Responses of the Executive to reports of the Committee

To consider any responses of the Executive to reports of the Committee.

4   Consideration of any matter referred to the Committee in relation to call in of a decision

To consider any matter referred for call in.

5   Cabinet Forward Plan   15 - 20

To receive the updated Cabinet Forward Plan.

6   Scrutiny Work Programme   21 - 22

To receive the Scrutiny Work Programme for 2017-18.

7   Governance Arrangements

To discuss the Committee's approach to the topic of governance arrangements.

8   Planning

To discuss the Committee's approach to the topic of planning.

9   Major Planning Application Processes - Planning Advisory Service proposal   23 - 48

To consider the Planning Advisory Service's proposal for a scoping review.

MEETINGS AND THE PUBLIC

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

Agenda and Minutes are available in alternative formats and/or languages. For more information please call 01799 510510.

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SCRUTINY COMMITTEE held at COMMITTEE ROOM - COUNCIL OFFICES, LONDON ROAD, SAFFRON WALDEN, ESSEX CB11 4ER, on THURSDAY, 21 MARCH 2019 at 6.30 pm

Present:	Councillor A Dean (Chairman) Councillors G Barker, J Davey, P Davies, S Harris, G LeCount, M Lemon, B Light and E Oliver.
Officers in attendance:	R Auty (Assistant Director – Corporate Services), B Ferguson (Democratic Services Officer), S Pugh (Assistant Director – Government & Legal Services) and A Webb (Director - Finance and Corporate Services).
Also present:	Councillors D Jones, T Knight, V Ranger and J Redfern.
Public speakers:	James Hewlett and Derek Jones

SC29   **PUBLIC SPEAKING**

James Hewlett and Derek Jones made statements to the Committee. A summary of their statements have been appended to these minutes.

SC30   **APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST**

Apologies for absence were received from Councillors Asker and Chambers.

The Assistant Director – Corporate Services declared a non-pecuniary interest as a club member of Saffron Striders.

SC31   **CALL IN OF AN EXECUTIVE DECISION - GRANT TO CARVER BARRACKS: DELEGATION OF AUTHORITY TO THE CABINET MEMBER FOR COMMUNITIES AND PARTNERSHIPS**

The Chairman provided background context relating to the Council's grant to Carver Barracks for the provision of building a running track. He asked Councillors LeCount and Light to explain why they had called this item in.

Councillor LeCount said it was inappropriate for one person to make a decision of this magnitude and it should instead be made by Committee or Cabinet.

Councillor Ranger said Council had in fact passed a resolution in July 2017 that had given delegation on the terms of the grant to the Head of Legal Services and

the Director of Finance and Corporate Services, in conjunction with himself, the Portfolio Holder for Communities and Partnerships.

Councillor Light said she did not have a problem with the running track itself, but rather with the procedure of allowing one person to make such an important decision alone. Before making a decision, the Heads of Terms, a set of clear objectives and construction timeline should be produced.

The Chairman asked whether a written contract had been signed and agreed between the Council and the MOD. He said he wanted to ascertain the current status of any agreements, and whether they had included the 'clawback clause'.

Councillor Ranger said this should be discussed under the next agenda item. He said this item was concerned with the delegation of authority to make the decision. He reiterated that this course of action had previously been agreed at Full Council in July 2017.

The Assistant Director – Governance and Legal said this item was concerned with the narrow decision on the delegation of authority by the Leader to Councillor Ranger. He asked members to limit their comments to this matter until business was moved on to the next item.

The Committee discussed the scope of the decision before them and what options were available.

The Assistant Director – Governance and Legal Services explained the definition and procedure of a 'key decision' and confirmed that the decision to remove the pay back clause was an executive function.

Councillor Light proposed to refer this matter to Full Council. The motion was worded as follows;

"Scrutiny Committee requests Full Council to review the delegation of authority to the Cabinet Member for Communities and Partnerships to make the decision on the requested removal of the payback clause on the grant of £500,000 towards the provision of a running track at Carver Barracks."

Councillor LeCount seconded the motion.

The motion was defeated.

SC32   **CALL IN OF AN EXECUTIVE DECISION - GRANT TO CARVER BARRACKS: TO REMOVE THE REQUIREMENT FOR A PAYBACK CLAUSE ON THE GRANT OF £500,000**

In response to a question from the Chairman, Councillor Ranger summarised the history of the proposed running track, and the issue of the clawback clause. He said there was widespread support for the running track, as demonstrated by previous studies and the canvassing of athletic clubs opinions. He added that a

motion to withdraw the grant was defeated at Council on 21 February. Since the original agreement, it had become apparent that the 'payback clause' was a sticking point and if the Council was to break the deadlock to ensure the project moved at pace, the clause needed to be removed. He said the MOD had confirmed public access time (weekdays 4.30pm to 9.00pm; weekends 9.00am to 6.00pm) to the proposed running track and they would embark on an information campaign once the project was underway.

The Director – Corporate Services said Heads of Terms had previously been agreed back in November 2017 but a new agreement would be put in place if the decision to remove the payback clause went ahead.

Members discussed support for the running track, and it was noted that news of the proposal had been welcomed by clubs, local newspapers and the general public.

Councillor Lemon said he supported the running track but wanted to know why the MOD would not accept a payback clause when there were no guarantees that Carver Barracks would remain open to the public in perpetuity. He asked whether there was a way to safeguard the Council's money without delaying the construction of the track.

Councillor Knight said the Council's grant to the running track was not a financial investment but rather an investment in a community facility that could be enjoyed by residents. She stressed that this was not a joint venture and it would be up to the MOD to run and maintain the running track. The MOD had lost confidence due to the Council's procrastination and if the payback clause was removed from the agreement, the construction of the track could commence immediately.

The Chairman said he had heard reports that local athletic clubs had not been approached by the Council and a lack of engagement had taken place. He asked if this could be rectified.

Councillor Ranger said it would have been inappropriate to correspond on this matter whilst the process was open and the issue unresolved, but he would certainly engage with stakeholders when agreements were in place.

In response to a Member question, Councillor Jones said the insertion of a clawback clause was a flawed concept as it rendered the grant unusable. He said an organisation could not spend the grant on building the track if they had to keep the said grant in reserve to cover the clawback clause. He said he had raised this issue in October 2018.

Councillor Light proposed that the decision was referred back to Full Council for reconsideration, where the new Heads of Terms could be examined.

The motion was worded as follow,

"Scrutiny Committee requests Full Council to review the revised Heads of Terms which propose a grant aiding the building of the running track at Carver Barracks with the view of making a recommendation to Cabinet."

Councillor LeCount seconded the motion.

Councillor Barker requested a recorded vote.

For the motion:

Councillors LeCount and Light

Against the motion:

Councillors Barker, Davey, Davies, Harris, Lemon and Oliver.

Abstained:

Councillor Dean.

The Chairman proposed that the Committee advise the Portfolio Holder for Communities and Partnerships to engage with clubs and respond to their enquiries.

Members discussed the proposal but felt the assurances from Councillor Ranger regarding the Council's plans for public engagement were sufficient and no formal resolution was passed.

The meeting ended at 7.45pm.

PUBLIC STATEMENTS

James Hewlett – Club Development Officer, Saffron Walden Striders

Mr Hewlett said he spoke for a club which was inclusive and open to all types of runners. He said currently the club were limited to running around the town, which was not ideal, particularly for children. The club supported the proposed running track at Carver Barracks, as it would expand the options available to the club and he mooted the potential for creating a children's section. He said the club enjoyed good relations with the Barracks and in partnership they held two runs a year together.

Mr Hewlett said he had two reservations regarding the track. The first was the location of the Barracks, which was only accessible by car, although he conceded this could not be helped. The second was the issue of communication and the lack of dialogue the club had achieved with the Barracks. He said it was essential that an open dialogue was established so the maximum benefit for club members and the public could be achieved. He concluded by saying he was strongly in support of the running track although his reservations needed to be addressed.

Derek Jones – Leader of Saffron Walden Organisations for Sport; Chair of WaldenTRI and Walden Track and Field

Mr Jones said local clubs needed to be involved with the arrangements of the running track straight from the start. He said he had submitted a plan to Councillor Ranger which outlined the priorities of grassroots organisations. For instance, guidance issued by Sports England stated that a user group agreement was a 'must have' and further issues such as availability, accessibility and affordability still needed to be looked at and resolved.

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SCRUTINY COMMITTEE held at COMMITTEE ROOM - COUNCIL OFFICES, LONDON ROAD, SAFFRON WALDEN, ESSEX CB11 4ER, on TUESDAY, 11 JUNE 2019 at 7.30 pm

Present:	Councillor N Gregory (Chair) Councillors M Caton, C Criscione, C Day (In place of N Reeve), J Evans, R Jones, G LeCount and G Sell
Officers in attendance:	R Auty (Assistant Director - Corporate Services), A Bochel (Democratic Services Officer) and A Webb (Director - Finance and Corporate Services)

SC1   THANKS TO THE PREVIOUS CHAIR

Members agreed to pass a vote of thanks to Councillor Dean for his work as the previous Chair of the Scrutiny Committee.

SC2   APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies for absence were received from Councillors Coote, Driscoll and Reeve.

SC3   MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 21 March were approved and signed by the Chair as a correct record.

SC4   REFLECTIONS ON TRAINING

Members agreed that training provided to the Committee had been of a high standard.

Members noted that it was the job of the Scrutiny Committee to work as honest brokers instead of as representatives of political parties, in order to be effective as a critical friend. This would make for an effective committee and add the most value for residents of the district.

Councillors Sell and Evans noted that training ought to be a continuous process and asked that additional training be provided throughout the Council's term.

SC5   STATUTORY GUIDANCE ON OVERVIEW AND SCRUTINY AND MEMORANDUM OF UNDERSTANDING

The Chair introduced the report which presented two documents: the Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities

published by the Ministry of Housing, Communities and Local Government and the Memorandum of Understanding between Scrutiny and Cabinet.

The Chair said paragraph 18 of the report stated that Members who had been appointed "topic leads" should not take part in any research, discussion or decision on any subject relating to their topic. However officers had since advised him that this had been reviewed and could prove to be too restrictive. . Members agreed to review the matter if concern arose regarding the role of topic leads in this respect.

Members agreed that it was important to maintain a positive relationship with Cabinet, including having Cabinet members attend meetings of the Committee to discuss issues which they were leading on.

Councillor Criscione said having the budget presented to the Committee within good time would be important for effective scrutiny. The Director – Finance and Corporate Services said the procedure for this was the same annually. The budget strategy was initially presented to Scrutiny Committee in November, and then the budget reports were presented to the Committee in February.

On the request of Members, the Democratic Services Officer said he would circulate the list of Members who were topic leads once this list had been finalised.

SC6   **WORK PLANNING**

The Chair said the Scrutiny Committee had developed a number of ideas at the training session that they could choose to look into in greater depth. He would prefer to focus on a smaller number of items so that the focus of the Committee's work was quality rather than quantity.

Councillor Evans said that Councillors Criscione, Jones and himself had put together a proposal for the Committee to undertake a review of the Council's current approach to and management of planning processes, including the appraisal, drafting, agreement, monitoring and enforcement of conditions and planning obligations associated with major planning applications.

Members noted that an independent study had been commissioned to identify improvements to the Council's processes for handling major planning applications. It was agreed that the Vice Chair and a representative of Councillor Criscione, Evans and Jones would meet to discuss whether there was merit in combining the work on these two projects.

Members discussed how the Committee might play a part in the review of the Council's governance structure. It was decided to invite the Leader or the Deputy Leader of the Council to the next meeting to discuss what forum would lead this review and the role that it was envisaged that the Scrutiny Committee might play in this work.

The Committee agreed that it was unnecessary to hold the meeting scheduled for 31 July because this would not allow sufficient time for Members to carry out enough work on its projects. Instead the meeting could be moved to 31 October.

The Chair said that if Members had no objections, the Local Council Tax Support Scheme would be removed from the Work Programme as there was to be no change made to the Scheme for the upcoming year.

The meeting ended at 8.35.

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UTTLESFORD DISTRICT COUNCIL
DRAFT FORWARD PLAN

Item	Meeting	Date	Brief information about the item and details of documents submitted for consideration	Key Decision?	Part 2?	Portfolio Holder	Contact officer from where the documents can be obtained
Local Council Tax Support Scheme Proposals 2020/21	Cabinet	18 Jul	To propose the LCTS scheme contribution rate and any changes to discounts and premiums	Yes	Open	Portfolio Holder for Finance and Budget	Angela Knight, Assistant Director - Resources aknight@uttlesford.gov.uk
Budget Outturn - 2018/19	Cabinet	18 Jul	Actual budget spend for GF, HRA and Capital for 2018/19	No	Open	Portfolio Holder for Finance and Budget	Angela Knight, Assistant Director - Resources aknight@uttlesford.gov.uk
Officers Write Off - 2018/19	Cabinet	18 Jul	annual report on officer write offs less than £10k	No	Open	Portfolio Holder for Finance and Budget	Angela Knight, Assistant Director - Resources aknight@uttlesford.gov.uk
Treasury Management Outturn 2018/19	Cabinet	18 Jul	Outturn for TM, investment and borrowing for 18/19	No	Open	Portfolio Holder for Finance and Budget	Angela Knight, Assistant Director - Resources aknight@uttlesford.gov.uk

Item	Meeting	Date	Brief information about the item and details of documents submitted for consideration	Key Decision?	Part 2?	Portfolio Holder	Contact officer from where the documents can be obtained
Members New Homes Bonus Scheme 2018/19	Cabinet	18 Jul	Report on the good causes supported during 2018/19	No	Open	Portfolio Holder for Finance and Budget	Angela Knight, Assistant Director - Resources aknight@uttlesford.gov.uk
Essex Coast Recreational Disturbance Avoidance & Mitigation Strategy (RAMS)	Cabinet	18 Jul	To gain member approval of RAMS Strategy Document (Technical Report and Mitigation Report) and to approve the Essex Coast Recreational Disturbance Avoidance & Mitigation Strategy (Essex RAMS) draft Supplementary Document for consultation	No	Open		Sarah Nicholas, Senior Planning Officer snicholas@uttlesford.gov.uk
Budget Outturn 2019/20 - Qtr. 1 Forecast	Cabinet	5 Sep	budget prediction for 19/20 - GF, HRA and Capital	No	Open	Portfolio Holder for Finance and Budget	Angela Knight, Assistant Director - Resources aknight@uttlesford.gov.uk
Shareholder report on the accounts for the Aspire companies	Cabinet	15 Oct		No	Open	Portfolio Holder for Finance and Budget	Adrian Webb, Director - Finance and Corporate Services awebb@uttlesford.gov.uk

Item	Meeting	Date	Brief information about the item and details of documents submitted for consideration	Key Decision?	Part 2?	Portfolio Holder	Contact officer from where the documents can be obtained
Budget Strategy and Funding update 2020/21	Cabinet	26 Nov	To present the budget consultation responses and provide an update on the budget strategy for 20/21 including the outcomes of the central government funding reviews	No	Open	Portfolio Holder for Finance and Budget	Angela Knight, Assistant Director - Resources aknight@uttlesford.gov.uk
Local Council Tax Support Scheme 2020/21 consultation responses	Cabinet	26 Nov	To present the responses of the consultation for the 20/21 LCTS scheme	Yes	Open	Portfolio Holder for Finance and Budget	Angela Knight, Assistant Director - Resources aknight@uttlesford.gov.uk
Investment Strategy Mid-Year Review	Cabinet	26 Nov	To update members on the status/progress of the non treasury investments	No	Open	Portfolio Holder for Finance and Budget	Angela Knight, Assistant Director - Resources aknight@uttlesford.gov.uk
Capital Strategy Mid-Year Review	Cabinet	26 Nov	To update members on the capital financing position	No	Open	Portfolio Holder for Finance and Budget	Angela Knight, Assistant Director - Resources aknight@uttlesford.gov.uk

Item	Meeting	Date	Brief information about the item and details of documents submitted for consideration	Key Decision?	Part 2?	Portfolio Holder	Contact officer from where the documents can be obtained
Treasury Management Mid-Year Reveiw	Cabinet	26 Nov	To update members on the current investments and borrowing (cashflow not commercial)	No	Open	Portfolio Holder for Finance and Budget	Angela Knight, Assistant Director - Resources aknight@uttlesford.gov.uk
Budget Outturn 2019/20 - Qtr. 2 Forecast	Cabinet	26 Nov	Predicted spend for 19/20 - GF, HRA and Capital	No	Open	Portfolio Holder for Finance and Budget	Angela Knight, Assistant Director - Resources aknight@uttlesford.gov.uk
Medium Term Financial Strategy and Budget Proposals - 2020/21	Cabinet	13 Feb	MTFS, Section 25 report and proposals for 20/21 budget GF, HRA and Capital. To include Strategies for Treasury, Capital and investments	No	Open	Portfolio Holder for Finance and Budget	Angela Knight, Assistant Director - Resources aknight@uttlesford.gov.uk
Budget Outturn 2019/20 - Qtr. 3 Forecast	Cabinet	13 Feb	Predicted budget spend for 19/20 - GF, HRA and Capital	No	Open	Portfolio Holder for Finance and Budget	Angela Knight, Assistant Director - Resources aknight@uttlesford.gov.uk

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Work Programme 2019/20

Date	11 June	25 June	24 September	5 November	17 December	4 February	10 March
Standard agenda items	Responses of the Executive to reports of the Committee	Responses of the Executive to reports of the Committee	**Responses of the Executive to reports of the Committee**	Responses of the Executive to reports of the Committee	Responses of the Executive to reports of the Committee	Responses of the Executive to reports of the Committee	Responses of the Executive to reports of the Committee
	Consideration of any matter referred to the Committee in relation to call in of a decision	Consideration of any matter referred to the Committee in relation to call in of a decision	Consideration of any matter referred to the Committee in relation to call in of a decision	Consideration of any matter referred to the Committee in relation to call in of a decision	Consideration of any matter referred to the Committee in relation to call in of a decision	Consideration of any matter referred to the Committee in relation to call in of a decision	Consideration of any matter referred to the Committee in relation to call in of a decision
	Invited reports from the Executive	Invited reports from the Executive	Invited reports from the Executive	Invited reports from the Executive	Invited reports from the Executive	Invited reports from the Executive	Invited reports from the Executive
	Cabinet Forward Plan	Cabinet Forward Plan	Cabinet Forward Plan	Cabinet Forward Plan	Cabinet Forward Plan	Cabinet Forward Plan	Cabinet Forward Plan
	Scrutiny Work Programme	Scrutiny Work Programme	Scrutiny Work Programme	Scrutiny Work Programme	Scrutiny Work Programme	Scrutiny Work Programme	Scrutiny Work Programme
Agenda items	Reflections on training	Governance discussion		Budget Strategy 20/21		Budget 20/21	Annual Report
	Statutory Guidance and Memorandum of Understanding	Planning ToR/scope					
	Work Planning	Major Planning Applications Review proposal					

Reserved for call-in dates are:
Monday, 1 July 2019
Monday, 5 August 2019
Monday, 23 September 2019
Thursday, 31 October 2019
Thursday, 12 December 2019
Monday, 27 January 2020
Monday, 2 March 2020
Tuesday, 21 April 2020

Agenda Item 6

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Committee:	Scrutiny Committee	**Date:**
Title:	Major Planning Application Processes - Planning Advisory Service proposal	Tuesday, 25 June 2019
Report Author:	Richard Auty, Assistant Director - Corporate Services	
	rauty@uttlesford.gov.uk	

Summary

1. The Planning Advisory Service (PAS) has prepared a proposal with regard to the request by the Scrutiny Committee for a review into the council's processes for major planning applications. PAS is proposing an initial scoping review to ascertain where further work is required.

Recommendations

2. The committee approves the proposal for a scoping review as set out in the attached letter.

Financial Implications

3. PAS has quoted a cost of £5,000 to £6,000 plus expenses to carry out this scoping review. The S151 Officer confirmed to the Scrutiny Committee before the election that the money would be made available for this piece of work.

Background Papers

4. None

Impact

5.

Communication/Consultation	The results of the review will be reported back to the Scrutiny Committee
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	None

Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	The scoping review will require the involvement of some members of planning staff.

Situation

6. The Planning Advisory Service (PAS) provides consultancy and training on planning and service delivery to councils. It is funded by the Ministry of Housing, Communities and Local Government through the Local Government Association.

7. The Council approached PAS following a request from the previous Scrutiny Committee with regard to reviewing the council's processes for dealing with major planning applications.

8. PAS is recommending an initial scoping review which is outlined in the attached letter. Also attached is the full review proposal, which follows established PAS methodology. The scoping review would identify where further review work may subsequently be required.

9. This general review of process and documentation can be carried out irrespective of the status of the most recent major planning application.

10. PAS has indicated that it would be in a position to commence work in July and report back in September.

Risk Analysis

11.

Risk	Likelihood	Impact	Mitigating actions
The committee does not approve the proposal, meaning the review cannot proceed	1 – the committee has already indicated it would like the review to proceed	3 – the review would not proceed	PAS is an independent organisation with great experience in such matters. The proposal is based on established methodology.

1 = Little or no risk or impact
2 = Some risk or impact – action may be necessary.
3 = Significant risk or impact – action required
4 = Near certainty of risk occurring, catastrophic effect or failure of project.

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Richard Auty
Assistant Director, Corporate Services
Uttlesford District Council
London Road
Saffron Walden
Essex
CB11 4ER

DRAFT: Proposal letter sent via e-mail

Dear Richard,

Review; Major Planning Applications Processes at Uttlesford District Council

Background
Uttlesford District Council (the council) has asked Planning Advisory Service (PAS) to review its processes for handling Major planning applications. This is a response to the council's Scrutiny Committee's request for a review of processes for dealing with major planning applications (which stems from a recent application to increase the passenger cap at Stansted Airport (which, while not having been called in by the Sec. of State, is potentially subject to a legal challenge).

Scope:
The review will not examine any individual planning applications, but will look more generally at the major applications process, using the Stansted application as an example.

PAS' starting point for reviewing the major applications process is its Development Management (DM) Review Framework and this is set out in **Appendix 1.** The PAS DM framework reviews processes right through from pre-application to discharge of conditions and monitoring.

However, it is rarely the case that planning services' require a review of every aspect of their DM process. The PAS framework is designed to be used on a modular basis so that a review can focus on specific aspects of the overall process.

At this stage, it is unclear where any issues with the process may lie, if indeed there are any issues. So, PAS proposes first of all to carry out a small scoping review that encompasses 2 key aspects of the service's decision making framework for major applications:

- A review of the planning policy framework;

- A review of pre-application processes

It is our view that an initial review of these elements of the planning service will form a useful backdrop and help us to identify whether a more focused review of specific parts of the actual major applications process is required (and which aspects to focus on).

How PAS will deliver the review
PAS will use its extensive network of peers and approved consultants to deliver the review. For this review we are proposing to use a team that consists of a PAS Team

Consultant and PAS approved consultant that is an experienced Head of Planning/Chief Planner.

The peers will review the aspects service as outlined above and, based on their own experience and knowledge of good practice, report back on these-r aspects and make some recommendations for building on what works well and areas for improvement.

The review process

The review will:

- Include a pre-review scoping meeting between PAS Consultant(s) and the Chief Planner
- One day on site interviewing a sample of planning staff and planning committee members
- A desk top review of the planning policy framework and pre-application processes
- A short and concise report responding to the points agreed in the scope, including references to good practice from elsewhere where possible, and recommendations.

Working with Planning Advisory Service

PAS will manage the overall project and in agreement with you select the PAS approved peer. PAS likes to work closely with councils and the key things we would expect from you are: -

- To supply any key documents and information.
- To provide facilities for interviews.
- To assist in managing the availability of interviewees.
- Review and feedback on draft and final reports.

Estimated Costs

We estimate that the cost of the review will be in the region of **£5-6,000, <u>plus</u> VAT and reasonable expenses.**

Timing

To be agreed. Dependencies; Consultant Availability, Stansted application call-in/legal challenge

Next steps and contact details

This proposal is based on my current understanding of the requirements of the council, however nothing is set in stone and I'd be pleased to get your feedback on the scope and the planned method of delivery.

I look forward to hearing from you.

Yours sincerely,

Martin Hutchings
Improvement Manager
Planning Advisory Service

Appendix 1

DRAFT

Uttlesford

Decision Making on Planning Applications

Draft Review Proposal

Consultation Document

Contents

Introduction and Purpose of the Review

Uttlesford District Council (the council) has asked Planning Advisory Service (PAS) to review its processes for handling Major planning applications. This is a response to the council's Scrutiny Committee's request for a review of processes for dealing with major planning applications (which stems from a recent application to increase the passenger cap at Stansted Airport (which, while not being called in by the Sec. of State, is potentially subject to a legal challenge).

1. **PRE - APPLICATION PROCESS**: What is the pre - application process for – and how can the community and members be sure officer advice is consistent with agreed planning policy and standards? Why is pre application advice often confidential? How can the community and members be assured officers are not ensuring the scheme will be approved even when there are likely to be many objections?

2. **WHEN AN APPLICATION ARRIVES – WHAT HAPPENS**? How do officers make sure the application is processed efficiently and all the right people informed about it?

3. **CONSULTATION:** What are the values and purpose behind consultation on planning applications in UDC – how can the community and members be sure that all their concerns are taken into account? What are "relevant" planning comments? Why can't the impact on neighbour property prices be taken into account when a big new development is proposed?

4. **CASE ALLOCATION**: On what basis are planning application cases allocated to officers?

5. **ASSESSMENT – CONSULTATION COMMENTS**: How should officers consider consultation comments by the community; members and advisors – what weight should be given to each?

6. **ASSESSMENT – POLICY & STANDARDS**: How do planning officers assess planning applications? What balance should officers give objections from the community compared to comments by professional advisors?

7. **ASSESSMENT – REPORT QUALITY:** How should reports on application be written – what should they take into account, and how do they find the right balanced and justified recommendation? How are officer reports checked and signed off in UDC?

8. **DECISION – DELEGATED / COMMITTEE**: Which applications are delegated to officers to decide and which to Committee? How should Planning Committee make decisions on planning applications before them – and what weight should they give to the officer's report and community comments? Can a Committee overturn an officer's recommendation – what are the rules?

9. **DECISION NOTICE**: Once a decision is made, how does the City ensure the correct decision is sent out?

10. **MONITORING**: When a mistake is made – how does the Planning Service review and learn from mistakes and from good practice?

This draft proposal for a Planning Application Review is about these 10 issues.
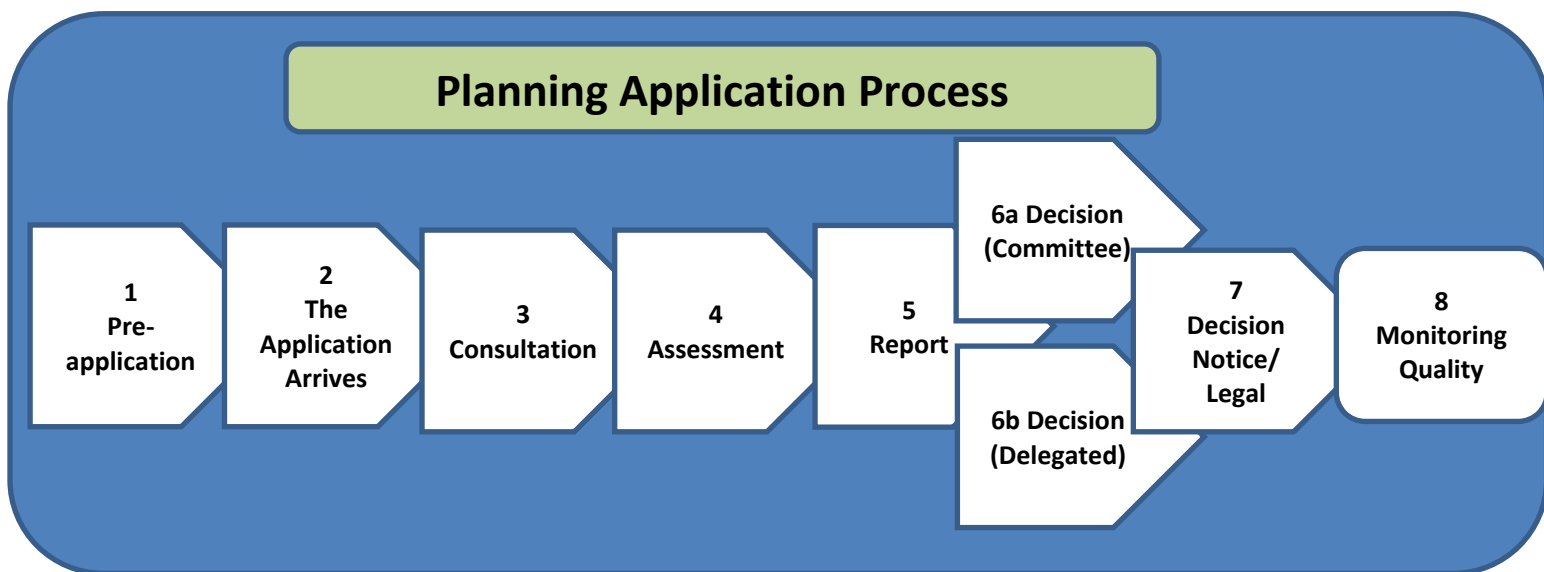
Why is this a "Draft" Proposal?

PAS is proposing an initial scoping review of the councils planning policy framework and pre-application processes. The findings of the scoping review will be used to inform and identify whether a more detailed review of specific aspects of the major applications process is required.

The Planning Application Process – UDC Draft Review Questions

This is rooted in the day-to-day aspects of the planning process as planners deliver and customers experience it. It is often based on the legal requirements of the Development Management Procedure Order (DMPO), which is a surprisingly readable and straightforward document.

(The DMPO sets out what is required by law: April 2015: SI 2015 No. 595 - The Town and Country Planning (Development Management Procedure) (England) Order 2015. Note the planning jungle website maintains a consolidated version).

(Not Planning Appeals or Planning Enforcement)

Planning Application Process

1 Pre-application → 2 The Application Arrives → 3 Consultation → 4 Assessment → 5 Report → 6a Decision (Committee) / 6b Decision (Delegated) → 7 Decision Notice/ Legal → 8 Monitoring Quality

1.Development Management - Customer, Community and Service Promises

Good councils set out their commitments to good performance and fair decision making on planning applications.

Like all other Planning Authorities, UDC will have consulted residents and businesses on its Local Plan and a set of planning policies and development standards. These should all be published on the Council's web site and are the basis for deciding planning applications.

Almost all decisions are made by planning officers under delegated powers, leaving a few important, strategic or especially contentious applications for planning committee.

Planning Committee members will all be trained before they sit on committee.

Planning decisions are "community decisions". Planning is about finding the balance between housing and business growth on the one hand - and good building design, quality environmental standards and protecting the fair amenity of existing homes and businesses on the other. The agreed policies and development standards of UDC are the criteria used to find that balance. These are the only things that can be used to consider planning decisions. The impact on the value of a property neighbouring the proposed development cannot be taken into consideration. The things that can be considered are called "relevant planning matters" – these include the quality of the design; does the application fit into the character of the area; does the proposal overshadow or dominate a neighbour's property to level that significantly changes the quality of life and environment of the occupants; noise and light pollution; severe traffic congestion; unacceptable flooding.

On contentious applications, the balance between a recommendation for approval and refusal can be fine. In these cases officers must be careful to present a professional and well judged case to Planning Committee. And then trained elected members must consider that balance and in public, find a final decision. Planning Committee can overturn an officer's recommendation – but is must be on "relevant planning matters".

A good planning service…

Sets out a customer promise to planning applicants and the community and monitors against this promise and publishes the results.
Clearly sets out which decisions should be delegated to officers and which to Planning Committee
Has clear policies and standards for deciding planning applications – and these are understood by both supporters and objectors to planning applications.
Has a clear and ongoing training plan for officers and councillors who assess and make decisions on planning applications.
At Planning Committee – officers and members make it clear to the public how application decisions will be made. .
Monitor the planning application process – a) the efficiency and effectiveness of process for neighbours and the community; for applicants and for officers and members and b) the delivery of the objectives of the UDC local plan and its development standards.

Questions	Comments
1.1 How does UDC keep officers and members up to date on planning regulations and good planning application decision making?	
1.2 How does UDC check and review the efficiency and effectiveness of its planning application process for all its stakeholders?	
1.3 How does UDC ensure good pre application practice? Do pre apps go to Planning Committee? If not why not?	
1.4 Are there any measures in place to help UDC understand and manage the work of planning committee ? - Count of applications going to committee - Time taken for committee to make decisions (cf deferrals) - Counts of overturns - Survey consultees and objectors about how well Committee performs	
1.5 How does UDC ensure that that planning decisions are made well and quickly – but also in a way that consultees and objectors feel they are properly involved?	
1.6 How does UDC make sure planning committee members can question an officer's report and recommendation and know when they can over turn it?	
1.7 Does UDC have a planning charter – is it monitored and published? What is UDC's performance – improving/declining? Does UDC have a DM Improvement plan?	
1.8 How does UDC make sure officers and members know their respective roles and work well together?	
1.9 How effective is UDC's scheme of delegation (delegated decision to an officer or decision by Committee) – how often reviewed?	

2. Pre-application

Good pre-app improves the quality of applications submitted to the council in the longer term. It enables early involvement in the evolution of a scheme and resolution of issues (or progress towards) prior to submission.

A good planning service…

Has a good and well-publicised pre-application service which acts as effective branding for a council that is both open for business and cares about environmental standards and neighbouring amenity.

Provides a pre-application service that
- reduces costs to the council at application stage;
- leads to fewer refusals and appeals;
- turns away early "no-hope" applications at very low cost for all
- ensures applicants get a corporate response from the whole authority
- and involves the early consideration of both development neighbours and planning committee members.

Questions	Comments
2.1 Does the UDC pre app service deliver - reduced costs to the council at application stage? - fewer refusals and appeals? - early turn away of "no-hope" applications at very low cost for all ? - a corporate response from the whole authority - early consideration of both development? neighbours and planning committee members?	

3. Receipt / validation

Aside from any pre-application advice this is the first encounter that an applicant has with the council. It's important to get it right to start off on the right foot. The validation step is important because it is when 'the clock starts ticking' for measuring 8 and 13 week targets for planning decisions. It is also critical – because it is the moment when the local community and neighbours and members may first find out about the application for development.

High numbers of invalid applications indicates problems with your Validation Check List, or/and your IT and administrative process and represents additional cost to the council and applicants.

A good planning service…

On declaring applications valid, begins working on them at the earliest opportunity.

Does not use the validation process to 'manage' demand.

Deals with validation within a few days of receipt (or shorter). Where it has validation 'targets' (e.g. 3 days) it takes care that this approach is not adding unnecessary delay to 'good' applications / or causing other 'perverse' outcomes in order to meet targets.

Finds a balance between being helpful and proportionate but without doing rework for agents at public expense.

Has clear guidance available and engages proactively with regular applicants to make their expectations and standards clear.

Trims its validation requirements to the minimum, really questioning whether an extra set of information will add value to the consideration of the proposal.

Applies a risk-based approach to some of the processes for high volume work e.g. minimal validation requirements, no site visits – perhaps linked to an incentive for agents to submit 'good work'.

Uses common sense for example if they can see at validation stage that something is unacceptable, will advise applicants at the same time as letting them know about an application being valid/invalid.

Questions	Comments
3.1 Is the local validation list regularly reviewed to make sure that it is relevant and necessary (e.g. Do we use all of the information that we routinely require?), or to look for ways of reducing the amount of information automatically required (e.g. by moving it into a discretionary category?).	
3.2 A good registration and validation service is delivered by staff that understands the elements of the local list that are always required, and where they have some flexibility. The opposite can be said of a service where staff rigidly apply the requirements of the local list on all occasions or wilfully apply their 'own' rules based on personal preference. What is your approach?	
3.3 The way that the service is structured and resourced can affect the number of hand-offs, applications queueing and bottlenecks. What have you done to mitigate against this? E.g. do registration / validation staff process applications through to decision? Do planners register and validate	

their own cases?	
3.4 Good councils try and prevent validation issues holding things up by working to the minimum legal requirement; phoning or visiting applicants to sort out issues (rather than using a letter or email as the default communication); asking themselves what else can be progressed while waiting for missing information. How closely do you follow these approaches?	
3.5 Do you 'performance manage' the validation process? E.g. do you know: How much works comes in valid and therefore ready to be worked on? Whether validation is an issue that affects all types of applications or just certain types? What is the standard time for an invalid application to pass through this stage?	
3.6 Do you regularly review or invite feedback that helps you understand: What the common validation issues are and the types of application they are associated with? What problems applicants are having submitting valid applications? What can be done to help them get it right first time?	

4. Consultation – Neighbours/Public; Councillors; Advisors

Consultation (for many applications) is a step required by law. It involves making neighbours; community groups/parish and town councils; local members and statutory consultees aware of the application and then inviting them to make comment on it.

A good planning service…

Uses its Statement of Community Involvement (SCI) to set out its consultation policy and complies with it.

Has a checklist that means that decisions about the process of consultation can be taken quickly and consistently.

Works with stakeholders to get timely consultation responses.

Ensures consultees know who the case officer is and have access to them to facilitate discussions. Or has a generic case system that ensure enquires are answered quickly.

Reviews how effective the different consultation methods are and make the most of the more effective methods e.g. many councils are reviewing how they use the media and letters in favour of site notices.

Questions	Comments
4.1 A good consultation process is conducted in plain English and makes it clear what is in or outside scope to change. It is done by staff who understand what is always required and where they have some flexibility. The opposite can be said of a service where consultation is often unclear about the issues at hand and/or that often without good reason goes beyond the requirement of the Law, perhaps due to staff applying their 'own' rules. How would you describe your approach?	
4.2 Are the results of consultation shared with applicants and the community immediately? It can play a part in reducing the need for conditions if an applicant has time to consider and respond to issues identified.	
4.3 Do you understand what consultees are typically concerned about, and when they get concerned? Most of the time you'll be consulting the same consultees about the same things; a little understanding on both sides can help to anticipate and address issues earlier and more proactively, and should lead to better and more timely responses.	
4.4 Consultees (including statutory ones) can represent a risk and a bottleneck to planning decisions. Do officers work proactively and engage with consultees on concerns prior to producing the committee report?	

4.5 Do you have measures or processes in place that allow you to understand how much time and resources are spent on consultation?	
4.6 Do you have any feedback mechanisms that allow you find out what consultees say about your approach to consultation?	

5. Consideration – Planning Application Assessment – Allocation to officers, Case Assessment and Consultations Assessment

A good planning service…

Has a flexible and proportionate approach: many councils go through a standardised approach for every application e.g. visiting the site and considering the application against a wide range of issues. This is because of a perceived need to be "bullet proof" against challenge.

Knows the issues that are regularly the subject of negotiation and considers whether particular policies (e.g. viability) are causing trouble without benefit.

Works with applicants (avoiding where possible quick refusals) when problems occur or revisions are required to the application and only refuse schemes that are clearly unacceptable and not fixable. Note that quick refusals can lead to "free go" applications.

Only use extension of time agreements and planning performance agreements when appropriate; not as a default way of bypassing NI targets.

Works with other parts of the service or council to ensure a co-ordinated and joined up approach.

Crucially has respect for the "consultation process" and ensures relevant planning matters are carefully taken into account

Employs case officers who are regularly trained to deal with planning applications and decision making criteria.

Questions	Comments
5.1 What criteria do you use to decide on whether a site visit is necessary on an application? Are there alternatives (e.g. Google Earth or similar, or applicant photos?).	
5.2 Do you have an early triage process that makes a decision about whether an application will ultimately get there or whether the kindest approach is a quick refusal? Do planners feel able to ask for help or a second opinion?	
5.3 Do you work with consultees to understand if there are issues that are typically/regularly the subject of negotiation so that you can address these concerns specifically?	
5.4 How closely do you work with other parts of the service (e.g. policy, design, enforcement, heritage) to look at opportunities to address issues that regularly occur as sticking points in negotiations?	
5.5 How is time managed at this stage e.g. is there a process that prompts for action on cases that are about to	

'expire'? How 'old' are cases once they get in front of an officer?	
5.6 How do you ensure that extensions of time and planning performance agreements are used properly i.e. in cases that genuinely need more time to approve?	
5.7 Do you carry out any performance management of this part of the process to understand volumes and where problems might be focused? e.g. Volume of free goes per application type Volume of withdrawn applications per type Volume of open applications per officer	
5.8 When a case is controversial and the planning balance fine how does a Cttee report get signed off and how is the planning balanced judged before it gets to Cttee?	

6. The Report

There is no requirement for a report on a planning application, although reports can be used as a "dry run" for the requirements of the decision notice. This is a very useful area to focus on as it will increase capacity. Equally on controversial applications neighbours, the community and members like to see a report in order to understand the "planning balance" behind the recommendation. Reports should properly consider all relevant consultation responses.

A good planning service…

Thinks about the audience and the purpose of the report (delegated, committee) and adjusts the content accordingly.

Ensures that reports set out the decision-making logic, accepting that these can vary widely in length, detail and approach depending on the complexity of the application. Even so, still make sure that the report is clear, focussed and relevant.

Is aware of risk and challenges to decisions.

Questions	Comments
6.1 Who decides what form a report should take and how long it should be? What criteria are these decisions based on?	
6.2 Is there inconsistency among officers e.g. do different officers follow different rules (for the same types of cases)?	
6.3 Report templates are often tweaked as a result of a perceived gap in a particular case. They can become longer and longer over time and represent a burden to everyone. When were they last critically appraised?	
6.4 Are officers clear about what the reports are for? Who the audience is? And do reports have any subsequent use?	
6.5 Do you ask councillors for their views on committee reports – are they meeting the needs of the committee?	

7. The Decision (Delegated)

Decisions are made by a Planning Authority. In practise almost all decisions are made by planning officers under delegated powers, leaving a few important, strategic or especially contentious applications for planning committee.

A good planning service…

Has a clearly understood and accepted delegated agreement that enables decisions to be taken at the right level.
Is clear about the purpose of every single report, and tailor the task according to its audience and risk profile.
Makes sure that the reasons for the decision are clear and well communicated.

Questions	Comments
7.1 How do you make sure that the triggers for call-in to committee are clear, well communicated and understood, and are regularly reviewed to reflect the needs and priorities of planning in your place?	
7.2 Good planning committees spend their time on important work. How do you make sure that the right work is getting in front of them?	
7.3 Have you considered alternative ways of getting a political steer on applications that is short of being called-in by committee?	
7.4 Are there any measures in place to help you understand and manage the work of the committee e.g. Count of applications going to committee Time taken for committee to make decisions (cf deferrals) Counts of overturns	
7.5 Are there any processes in place to get feedback e.g. What do committee members say about how committee is serviced by officers? Do your customers understand your decisions?	

8. The Decision (Committee)

Decisions are made by a Planning Authority. In practise almost all decisions are made by planning officers

under delegated powers, leaving a few important, strategic or especially contentious applications for planning committee.	

A good planning service…

Has a clearly understood and accepted delegated agreement that enables decisions to be taken at the right level.
Is clear about the purpose of every single report, and tailor the task according to its audience and risk profile.
Makes sure that the reasons for the decision are clear and well communicated.

Questions	**Comments**
8.1 How do you make sure that the triggers for call-in to committee are clear, well communicated and understood, and are regularly reviewed to reflect the needs and priorities of planning in your place?	
8.2 Good planning committees spend their time on important work. How do you make sure that the right work is getting in front of them?	
8.3 Have you considered alternative ways of getting a political steer on applications that is short of being called-in by committee?	
8.4 Are there any measures in place to help you understand and manage the work of the committee e.g. Count of applications going to committee Time taken for committee to make decisions (cf deferrals) Counts of overturns	
8.5 Are there any processes in place to get feedback e.g. What do committee members say about how committee is serviced by officers? Do your customers understand your decisions?	

9. The Decision Notice (and legal agreement)

A good planning service…

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Aims to issue a 'shovel-ready' permission so minimises later work e.g. pre-commencement conditions; recognises the cost to applicants and risks to development of these conditions.

Minimises the number of conditions to those that are essential.

Has already discussed with applicants the conditions required and has agreed Heads of Terms for legal agreements.

Minimises jargon to the legal minimum and makes sure that the decision is clear and well communicated

Keeps up to date with the requirements of the DMPO; many people's knowledge is out of date.

Questions	Comments
9.1 What is in place to ensure the correct DN is issued after a delegated or Cttee decision?	
9.2 A decision notice can be attacked in various ways. Permissions can be JR'd, and refusals appealed. These represent risks to the council, but how often do they happen and is the 'bullet-proofing' proportionate?	
9.3 Performance – do you count the number of pre-start conditions you issue?	
9.4 Are there any processes in place to get feedback from customers about their experience and understanding e.g. do your customers understand your decisions?	

10. Monitoring and Achieving Quality

After the decision notice, good councils monitor and learn about their work.

A good planning service…

Takes the planning committees on post-decision site visits to see how schemes turned out and to assess particular issues that they'd considered or acted on.

Ensures its planning officers can continue to "own" the development and deal with any problems or questions as they arise.

Monitor what doesn't start on site, and works with land owners and developers to resolve any planning related reasons for delays.

Has a well-resourced enforcement service that can help with monitoring and then enforcement breaches, and works to an enforcement plan.

Questions	Comments
10.1 How does the service monitor and learn from what developments get built?	
10.2 How does the service monitor and learn from schemes that do not get built or have stalled?	
10.3 Lots of quality assessment is focussed on finding problems or mistakes. Does the council notice and celebrate success?	
10.4 Is there an agreed enforcement plan that sets out and explains how enforcement is targeted and prioritised?	
10.5 How well is enforcement resourced e.g. do resources reflect the priority?	
10.6 Do you monitor complaints and record feedback from customers (e.g. using surveys)?	

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