

SCRUTINY COMMITTEE held at ZOOM - [HTTPS://ZOOM.US/](https://zoom.us/), on MONDAY, 6 JULY 2020 at 7.00 pm

Present: Councillor N Gregory (Chair)
Councillors A Coote, C Criscione, A Dean, G Driscoll, R Jones,
P Lavelle, G LeCount and G Sell

Officers in attendance: D French (Chief Executive); R Auty (Assistant Director - Corporate Services) and B Ferguson (Democratic Services Manager)

Also in attendance: P Davies and Councillor R Pavitt (public speakers); Councillors Evans (Portfolio Holder for Planning and the Local Plan) and Storah (Cabinet Deputy for Planning).

SC8 PUBLIC SPEAKING

Mr Davies and Councillor Pavitt spoke on the Local Plan Governance Arrangements item. Their statements have been appended to these minutes.

SC9 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Councillor Sutton was substituting for Councillor Reeve who was unable to sit on the Scrutiny Committee following his appointment to Cabinet.

SC10 MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 21 May were approved as a correct record. The minutes of the Call-In meeting held on 16 June were not available and would be considered for approval at the next meeting.

SC11 CONSIDERATION OF ANY MATTER REFERRED TO THE COMMITTEE IN RELATION TO CALL IN OF A DECISION

The Chair referred to the Scrutiny Call-In meeting held on 16 June 2020. The Committee had rejected the proposal to refer the Corporate Plan Delivery Plan back to Cabinet.

In response to a question from Councillor Sell, the Chair said he would welcome sight of the scrutiny call-in protocols of neighboring authorities. If appropriate, such a protocol could be referred to the Governance, Audit and Performance Committee for consideration.

SC12 CABINET FORWARD PLAN

In response to a question relating to the Corporate Plan Delivery Plan (CPDP), the Leader said he expected the CPDP to be complete and ready for further review by the Scrutiny Committee in September.

Councillor Sell said he expected the Portfolio Holder for Finance to attend Scrutiny when the Budget Strategy and Funding Update report was brought before the Committee at its meeting in October.

SC13 **TASK & FINISH GROUP: FLY-PARKING**

The Assistant Director – Planning summarised the Task and Finish Group’s report on Fly-Parking. He said the emergence of Covid-19 had prevented the Group from progressing their work, primarily due to the fact that the problem of fly-parking had disappeared in the face of the global pandemic and the subsequent impact this has had on air travel.

Councillor Driscoll said he had researched the experience of fly-parking at other airports, such as London Southend Airport, where the problem was solved through Traffic Regulation Orders.

The Chair said the issue would re-emerge as the economy recovered and asked for a brief report to be submitted on Fly-Parking for the Committee meeting in September.

SC14 **EAST OF ENGLAND LOCAL GOVERNMENT ASSOCIATION PHASE 2 LOCAL PLAN SUPPORT**

The Chair asked the Portfolio Holder for Planning and the Local Plan, Councillor Evans, to present the report on East of England Local Government Association’s (EELGA) recommendations on the new emerging Local Plan arrangements.

Councillor Evans said the report had been drafted in collaboration with Councillor Storah and the EELGA consultants, who had provided expert advice and helped develop the bespoke structure of governance that had been outlined in the report. He said both he and Councillor Storah disagreed with a number of EELGA’s recommendations in regard to the Local Plan Leadership Group (LPLG), namely a restricted membership and the proposal for meetings to take place in private, which they felt were in direct contradiction to the Administration’s mandate. In contrast, they proposed a larger membership, somewhere between eleven and fifteen members, and meetings open to the public. Councillor Storah would likely Chair the LPLG but Councillor Evans would not sit on the Group as a voting member. He said the timetable was very tight with a proposed completion date of December 2023.

Councillor Dean said he had concerns around timings as the process of engaging members had yet to begin, although the papers stipulated that the phase of member engagement on governance arrangements concerning the Local Plan, such as workshop sessions, would end on 31 July 2020. He said he

also had concerns regarding the arrangements of the LPLG, particularly the idea of an extensive membership.

The Chair asked Members to bear in mind that the Local Plan Governance Arrangements would be discussed specifically on the next item.

In response to a question from Councillor Criscione, Councillor Evans said the Planning Policy team were working on the project initiation document which should be available later this week. Furthermore, he hoped that a member workshop could be scheduled before the end of July.

In response to a question from the Chair, Councillor Evans said slippage had already occurred but a project plan was coming forward and it would be vital that those dates referred to in the plan were adhered to.

Councillor Criscione expressed his concerns regarding the timetable and the prospect of government intervention. He said the initiation document was pivotal if Members were to keep the project on track for completion in 2023.

In response to a question from Councillor Jones, Councillor Evans said slippage had been caused by the delay in receiving the documentation from EELGA.

Councillor Storah clarified that the target date, as specified by the Government, for adoption of the Local Plan was December 2023. Most Local Plans took four years to make but he was confident that this could be completed in less time. He said this stage of preparation would be vital as it would set the direction of travel for the entire Local Plan process.

The Assistant Director – Planning said the work programme was still being finalised but it was unlikely that a Plan could be adopted by the end of 2023. He said the Council would remain in dialogue with central government to show that progress was being made and intervention was not required. He hoped that public hearings could take place by the end of 2023.

In response to a question from Councillor Sell, Councillor Evans said the issue of capacity and resources would be kept under review and he would provide an update at the Committee meeting in September.

Councillor Coote congratulated the Administration for applying the principle of pre-scrutiny to these proposals. He said he wanted the Council to adopt the best Plan possible and therefore the governance arrangements needed to encapsulate the principles of accountability, transparency, inclusivity and shared executive leadership. He said he was absolutely opposed to the concept of private meetings.

Councillor Storah said he agreed with Councillor Coote although there would be a role for Part 2/private meetings on those occasions when releasing information into the public domain would disadvantage the Council in its negotiations with developers and landowners.

The Chief Executive said that the Council would continue to have conversations with central government and as long as it could be demonstrated that progress was being made, and another body could not progress the Plan any quicker, government intervention would be unlikely.

Members discussed the concept of public and closed meetings. There was agreement that whilst meetings should predominantly take place in public, there would be times in which confidential information should be discussed in Part 2 so as not to put the Council at a disadvantage in negotiations.

Councillor Dean said he was uncomfortable with the proposed size of the LPLG.

Members discussed the failures of the previous Local Plan and the lack of reference made to the previous Plan in the report.

Councillor LeCount said the Council needed to learn from the mistakes of the past and evaluate the previous experience to show the way ahead.

Councillor Coote agreed and said the consultants should have shown how they came to their conclusions as there was little by way of explanation in the report.

Councillor Sell said the previous Administration had paid the political price for failing to produce a sound Local Plan. He said it was vital that the Council looked forward as there was little value in looking back if the “goalposts” had now moved.

Councillor Dean concurred and said the Council could not afford to waste time by looking back.

The meeting was adjourned at 8.35pm for a comfort break.

The meeting was reconvened at 8.45pm

SC15 **THE NEW LOCAL PLAN GOVERNANCE ARRANGEMENTS**

Councillor Storah presented the report on the proposed governance arrangements concerning the new Local Plan. He said he had concerns regarding the consultants’ proposals for a small and private Local Plan Leadership Group, which were shared by party colleagues, parish councils and residents. He said there was a political aspect to this process and perception was important. He was confident that the proposal for a larger, cross-party LPLG, with a wider geographical spread of Members, was the right thing for the district. In regards to scrutiny of the Plan, he said he had a preference for pre-scrutiny of planning policies but was ambivalent in terms of which body would be responsible for the scrutiny function.

Councillor Evans said accountability was at the core of the governance structure. He said there was no template to follow and the proposed arrangements outlined in the report were bespoke and designed with UDC in mind.

Councillor Criscione asked whether there were any similar tried and tested governance models in existence or whether UDC was acting as a “guinea pig” for this bespoke proposal. He said the Council could not afford to experiment and required a governance structure with a proven track record in producing sound and deliverable Local Plans. He asked what was the difference between the existing Local Plan governance bodies, such as the Planning Policy Working Group and Garden Communities’ Boards, and the new proposals. He said that private meetings could not be discounted as sensitive information could not be made public as it would disadvantage the Council during negotiations. He also said it was important that consultation took place “on the ground” and “out on the road” to ensure as many residents as possible contributed to the Local Plan process. Finally, he said he would welcome a distinct Local Plan Scrutiny Committee to ensure that the existing work streams of the current Committee would not be over shadowed by the Local Plan.

In response to questions from Councillor Criscione, Councillor Evans said that the proposals put forward by the consultants were bespoke to Uttlesford and therefore he could not say the proposed structure had a “proven track record” in producing deliverable Local Plans. However, the consultants had a great deal of experience on which the proposals were based and the intention was for the process to be reviewed in six months’ time.

In response to a question from Councillor Criscione, Councillor Evans said there was a desire to move away from the Planning Policy Working Group and create a new group with fresh terms of reference.

In response to a question from Councillor Criscione, Councillor Evans said it was his intention to take consultation “out on the road” and to ensure that “Joe public” took an interest and had an opportunity to contribute to the discussion.

Councillor Coote said he would not be happy with meetings of the LPLG being held in private. He added that formal consultation was required and that third tier councils should be given a leadership role in the making of the Plan.

At 9.20 the Chair asked the Committee whether they were content to continue as the meeting had passed the two hour mark. The Committee consented.

Councillor Sutton said the Council needed to work together to produce a sound Plan as quickly as possible. She said the public could not be ignored and their representations must be taken into account.

Councillor Dean said a distinct Local Plan Scrutiny Committee needed to be established to distribute the workload; if the current Scrutiny Committee were to keep the Local Plan processes within its remit, it would be over burdened by a heavy work programme. He said it would not be possible for all meetings of the LPLG to be held in public and a large group would lead to it becoming unmanageable. He asked the Administration to give serious thought to the governance arrangements as he had concerns regarding duplication and efficiency of such a structure.

Councillor LeCount said public engagement was important and that this Administration would do it differently from the last. He said that councillors would not work in the interest of only their own wards but in the wider interests of the district. He praised the idea of a “Local Plan bus” that would tour Uttlesford, with members from all parties, to engage with residents on the Local Plan.

Councillor Sell highlighted the importance of communication and said clear and consistent engagement was required throughout the entire process. He said he thought there should be a dedicated Local Plan Scrutiny Committee but highlighted the resource issue in Democratic Services, which he hoped would be resolved soon.

Councillor Jones said he would prefer a sub-committee of the Scrutiny Committee to be established for the purpose of scrutinising the Local Plan. He said there simply was not enough members to establish a larger, distinct Local Plan Scrutiny Committee.

The Chief Executive said the proposals before Members were the culmination of work between EELGA, the Executive and officers. She said lessons had been learnt from the previous process, such as moving away from the Planning Policy Working Group which was chaired by the previous Leader and appeared far too similar to the Executive, even though it was not a decision making body. The options open to the Committee were to establish a distinct Local Plan Scrutiny Committee as appointed by Full Council, or to establish a sub-Committee as appointed by the current Scrutiny Committee, or to keep the Local Plan scrutiny function within the remit of the existing Scrutiny Committee. She said she had concerns regarding the workload of the existing Scrutiny Committee, particularly in light of the public health emergency and the subsequent recovery. The years ahead would be challenging and effective scrutiny of all aspects of council work would be vital going forward.

The Chair asked whether the arrangements had not been thought through, considering there was still no concrete proposal on the scrutiny function.

The Chief Executive said it was not that the proposals had not been thought through but rather that the Administration had come to a different view from officers and the EELGA consultants as set out in the report.

Members discussed the EELGA proposals. There was general agreement that it would be helpful if the EELGA consultants had included their rationale behind the arrangements.

Councillor Dean said it was clear from the papers that there had been disagreements between EELGA and the Administration and that’s why there was no concrete proposal in regard to scrutiny’s role in the process.

As summarised by the Chair, the following recommendations to Cabinet were endorsed by the Scrutiny Committee:

- We would welcome an explanation from the EELGA consultants as to their reasoning in coming to their conclusions and how they were illuminated in their thinking by the lessons learnt from the past.
- We wish to see the maximum amount of transparency in the workings of all of the bodies in relation to the Local Plan process, but we appreciate that by whatever mechanism there must be some degree of confidentiality in certain fora.
- We would encourage the highest possible degree of consultation with residents by the Local Plan Leadership Group. However, it is a matter for that Group as to how they discharge that duty.
- The Committee would welcome a greater role for the Leader of the Council alongside the Chief Executive on the Corporate Overview Board.

The point of contention related to which body would be responsible for oversight and scrutiny of the Local Plan process. In summary, the views were as follows:

- Oversight and scrutiny of the Local Plan to be carried out by the existing Scrutiny Committee
- A sub-committee of Scrutiny to be established, answerable to and comprised of existing Scrutiny members, to provide oversight and scrutiny of the Local Plan or
- A Local Plan Scrutiny Committee to be established by Full Council, with distinct Terms of Reference and a different membership to the existing Scrutiny Committee.

Cllr Driscoll proposed to recommend to Cabinet the establishment of a distinct LP Scrutiny Committee, duly seconded by Cllr Sell. The proposal was rejected with 4 for, 6 against.

The Chair said that there was no overwhelming mandate on the issue.

Members agreed to defer the discussion of the Local Plan scrutiny function until Cabinet had met.

SC16

LOCAL AUTHORITY INVESTMENT IN COMMERCIAL PROPERTY - NATIONAL AUDIT OFFICE REPORT

The Chair welcomed Councillor Caton, who had sat on the Scrutiny Committee in the previous municipal year and had worked on the matter of Local Authority investments, to present the report.

Councillor Caton said he had asked the Committee to look into the National Audit Office report that had been published in February for three reasons: to ensure that Members were aware of any forthcoming changes on national policy in regard to Local Authority investments; to consider the need to audit the Council's processes to ensure they were robust enough, and; to ensure that all Members were aware that Uttlesford was an outlier in terms of investments. He said 66% of UDC investments were outside of the district, with 34% in the area.

The national split was 49% within a Local Authority and 51% outside. He said the Council could not be complacent and said such a significant divergence to the national average warranted an investigation.

As the Director – Finance and Corporate Services was not present to answer questions, Councillor Caton asked for the item to be deferred for further discussion until the next meeting.

The Committee agreed.

The meeting ended at 10.30pm.

Public Speaking – 6 July 2020

Councillor Richard Pavitt

I have really struggled to understand this document. Something I learnt long ago is that if people don't understand what you're saying, then it is either too complex or you're a bad communicator.

One of the criticisms of the last plan process was that it did not consult the community early enough or sufficiently. Did they even understand when they could or ought to contribute?

Last time, the term "community" was skewed towards landowners and developers. They were consulted from the outset and in continuing detail, but Parish and town councils were a grudging also ran.

In effect, our communities – the people who live here - were told where the housing was to go and asked what colour curtains they would like.

Last time the plan was reactive. It reacted to a housing target, it reacted to a call for sites, it reacted to Govt's desire for garden communities. There was little done to harness creative and pro-active thinking from our communities.

I don't see anything in these papers that reassures me this will not happen again.

The LGA consultants report at 2.4 says:

Public value can be created, for example, by engaging communities in making a plan that is evidence led, puts infrastructure before new homes, provides homes that are affordable for local people and built in locations evidence shows are most sustainable.

I would argue that engaging communities is more and lot earlier than reg 18 consultation.

This administration has said it will do things differently. I am concerned that it may get dragged back into the conventional thinking that applied last time, that the public are a bunch of nuisance nimbies best avoided unless contact is absolutely necessary.

I appreciate that this document is intended to layout a governance structure rather than an operational timeline of project management - nor necessarily, is it intended to be an explanation to the public.

However people need to understand what comes first and what it leads to.

I would like to suggest that officers and the cabinet portfolio holder produce a simple timeline schematic – something that runs from left to right - to show the work flow, the points at which the community is engaged, the points at which decisions are made, when they are reviewed, and so on.

In short, it should be something that is logical, that our communities can comprehend and that allows them to understand how and when they can contribute.

I think council may be surprised to find that there are many people willing and interested to engage positively and constructively if they are allowed to understand what is going on.

Paul Davies

I wish to make a short statement which does include some questions around the approach set out in this meeting's papers and the governance around the District's compilation and delivery of the Local Plan.

It has now been well over a year since the political party Residents for Uttlesford were elected as the Administration in our District. During this 12 month period, little has been achieved in the way of plan progress. In fact, it has been a year filled with happy talk, limited detail, policy-making on the hoof and very little in the way evidence-based and data-based decision-making.

The Local Plan, having finally been withdrawn at the Council meeting on 30 April has changed by one sole metric; that an increased housing need will have to be baked into the new Local Plan when it finally comes forward. I'm sure many would be interested to know the intended completion date for this new Local Plan, the common understanding is that 2023 is the Government's intended date. I would welcome your view of this.

Around timescales, a detailed project plan is mentioned. Having had 12 months lead-in, are we to assume that the opportunity to undertake large amounts of the detailed review necessary has already taken place? If not, residents can quite reasonably draw the conclusion that this time has been wasted. With these new Governance arrangements featuring timelines which will QUOTE 'need to be challenging' why does it appear that it won't be for a further 6 months in December 2020 before the structure and governance arrangements proposed will be placed under review.

Having spent a numbers of years battling away constant Resident for Uttlesford accusations of the previous administration holding 'private meetings' on Local Plan matters (which never happened) I was surprised to see mention of private meetings appear within the recommendation of this new Governance Arrangement structure.

While some adjustment in the recommended structure of the Local Plan Leadership Group has been made after the initial guidance of the outside expertise of the EELGA Peer Review Team, it still appears that it is the intention for the Local Plan Leadership Group to hold private sessions, with no terms of reference as what constitutes 'confidential information'. Some clarity on this specific item is welcomed.

To many, this is not the openness and transparency promised and championed by the Residents for Uttlesford party. Outside of commercial negotiations both in-District and within the cross-boundary Strategic Infrastructure Delivery Group it is the right for all to have a clear view of the process and any content, not to come away asking questions about murkiness. Otherwise it's a case of promises made, promises broken.

The formation of a new 'Local Plan Scrutiny Committee' is an interesting precedent and has a role to play, as long as it has a clear purpose and scope and doesn't present an unnecessary and additional layer of bureaucracy and delay. It seems appropriate that the formation of this Local Plan Scrutiny Committee follows the accepted principles of scrutiny and is chaired by a member of the opposition. Please can this be confirmed.

As we have seen in other key delivery areas, this Administration shows that it's lacking in the competencies needed to deliver upon the promises made to residents for them to get into power. It is my over-riding fear that it will be us residents and our local areas paying the highest price for this latest attempt by Residents for Uttlesford to kick the can down the road once more.

A lot is at stake and we all know that delivering a Local Plan is not easy. Recent positive comments made by the Government around planning and their declared interest in infrastructure gives us all cause for real optimism. I hope the opportunity to do your very best for the District and our residents is grasped.