



Public Document Pack

Uttlesford District Council

Chief Executive: Dawn French

Extraordinary Council (Remote Meeting)

To all Members of Uttlesford District Council, you are hereby summoned to attend the extraordinary meeting of the District Council to be held remotely as shown below to deal with the business set out in the agenda.

Date: Thursday, 30th April, 2020
Time: 6.00pm
Venue: Zoom - <https://zoom.us/>
Live Broadcast: <https://uttlesford.moderngov.co.uk/ieListDocuments.aspx?CId=159&MId=5554>

Kind regards

Dawn French
Chief Executive

Chair: 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), A Gerard, 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

Public Participation

Members of the public who would like to listen to the meeting live can do so [here](#). The broadcast will be made available as soon as the meeting begins.

Members of the public are invited to send their representations relating to the Local Plan report in writing to Democratic Services – committee@uttlesford.gov.uk by 12 noon on Tuesday, 28 April. Any statements received will be shared with all councillors prior to the meeting taking place.

At the start of the meeting there will also be an opportunity of up to 60 minutes for members of the public to make statements via the virtual meeting platform Zoom subject to having registered their intention to speak by 12 noon on Tuesday, 28 April.

Please contact Democratic Services to register to speak on 01799 510369/430/548 or committee@uttlesford.gov.uk. Technical guidance will be provided on the practicalities of speaking to a virtual meeting at the point of confirming your registration. Further information relating to public participation can be found on page 3 of this document.

AGENDA PART 1

Open to Public and Press

1 Apologies for Absence and Declarations of Interest

To receive any apologies and declarations of interest.

2 Local Plan - Decision following Inspectors' Letter

4 - 50

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

REMOTE MEETINGS AND THE PUBLIC

Due to the Government's social distancing measures imposed in the wake of Covid-19, the way in which the public can participate in Uttlesford District Council meetings has changed. Meetings are no longer being held on site or in person and 'remote meetings' will be held on the virtual meeting platform Zoom until further notice.

Members of the public are welcome to listen live to the debate of any of the Council's Cabinet or Committee meetings. All live broadcasts and meeting papers can be viewed on the Council's [calendar of meetings](#) webpage.

Members of the public and representatives of parish and town councils are permitted to make statements at this meeting. You can do so in writing by sending your statements to committee@uttlesford.gov.uk by midday on Tuesday, 28 April. These representations will be shared with all Members prior to the meeting taking place.

If you wish to make a statement via Zoom video link, you will need to register with Democratic Services by midday on Tuesday, 28 April. There is a 60 minute public speaking limit and 3 minute speaking slots will be given on a first come, first served basis. Those wishing to make a statement via video link will require an internet connection and a device with a microphone and video camera enabled. Those wishing to make a statement to the meeting who do not have internet access can do so via telephone. Technical guidance on the practicalities of participating via Zoom will be given at the point of confirming your registration slot, but if you have any questions regarding the best way to participate in this meeting please call Democratic Services on 01799 510548/369/430 who will advise on the options available.

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.

Facilities for people with disabilities

If you are deaf or have impaired hearing and would like a signer available at a meeting, please contact committee@uttlesford.gov.uk or phone 01799 510430/369 as soon as possible prior to the meeting.

For information about this meeting please contact Democratic Services

Telephone: 01799 510430, 510369 or 510548

Email: Committee@uttlesford.gov.uk

General Enquiries

Council Offices, London Road, Saffron Walden, CB11 4ER

Telephone: 01799 510510

Fax: 01799 510550

Email: uconnect@uttlesford.gov.uk

Website: www.uttlesford.gov.uk

Committee:	Council	Date:	Thursday, 30 April 2020
Title:	Local Plan - Decision following Inspectors' Letter		
Report Author:	Cllr Evans – Portfolio Holder for Planning and the Local Plan Stephen Miles – Planning Policy Team Leader smiles@uttlesford.gov.uk		

Summary

1. This report is to recommend the withdrawal of the Local Plan following receipt of the Inspectors' letter, and to prepare a new Plan.

Recommendations

2. It is recommended that:
 - a) Having due regard to the terms of and recommendations contained in the Inspectors' letter dated 10 January 2020, subsequent to the draft Local Plan Post Stage 1 Hearings letter, and having taken and considered independent professional advice thereon, Council confirms its intention to withdraw the draft Local Plan (being that submitted to PINS on 18 January 2019).
 - b) Council confirms its commitment positively to prepare and submit a Local Plan that will, for the benefit of the District and its residents and businesses:
 - i. Deliver the corporate plan vision and themes for the District;
 - ii. Provide for sustainable growth to meet its objectively assessed housing and employment needs, utilising and promoting sustainable transport wherever possible, which will combine to contribute towards achieving the Government's net zero carbon emissions 2050 target;
 - iii. Protect and enhance the District's heritage, character and natural capital (including air quality, water resource management and biodiversity); and
 - iv. Ensure the timely delivery of all necessary infrastructure.
 - c) Council commits to review, develop and update the evidence base for the Plan to inform its proposals and policies.
 - d) The Statement of Community Involvement be reviewed and approved to facilitate and ensure effective public engagement of residents, businesses and town and parish councils.

- e) Council seeks to develop robust and effective strategic partnerships to support plan making through the duty to cooperate and access funding to manage the infrastructure provision required for a viable, deliverable and sound plan
- f) Council is committed to holistically planned new developments which enhance the natural environment, provide timely and necessary physical and social infrastructure, and offer high-quality affordable housing and locally accessible work in beautiful, healthy and sociable communities. This will involve implementing the TCPA's Garden City Principles on all applicable developments, regardless of scale.
- g) The Cabinet Member for Planning and the Local Plan shall propose a new governance structure for plan making, to be approved by Full Council.
- h) The Local Development Scheme shall be reviewed and approved, which will demonstrate a commitment to produce a sound Local Plan in a timely manner, having regard also to the Government's 'Planning for the Future' ministerial statement which proposes a deadline of December 2023 for all local authorities to have in place an up-to-date Local Plan.
- i) Council commits to updating, on a quarterly basis, the Ministry of Housing Communities and Local Government on the progress being made regarding the Local Plan, including slippage in the programme that may be encountered accompanied by full explanations. Before being sent, these updates will be referred to a member group.

Financial Implications

- 3.
 - a. Withdrawal and preparation of a new plan will be broadly consistent with the budget provision for 2020-21 and the Medium Term Financial Strategy for subsequent years. A new plan will require annual budgets for at least three years.
 - b. Seeking to continue with the submitted plan may result in a modified plan capable of adoption by an earlier date but with risks of abortive work whilst the feasibility of continuing is explored with the Inspectors and other parties. A likely modification requiring immediate review to meet needs beyond the current end of plan period date: 2032-33 should be anticipated requiring ongoing annual budgets beyond the next two years.

Background Papers

- 4. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.
 - a. Local Plan Inspectors' letter dated 10 January 2020
 - b. East of England Local Government Association Peer Review Report dated 23 March 2020
 - c. Flow chart depicting Table 1 from the Peer Review report

d. Potential Housing Requirement

Impact

5.

Communication/Consultation	A new Local Plan will be subject to statutory and non-statutory consultation and engagement.
Community Safety	This will be an underlying theme of a new Local Plan
Equalities	A new Local Plan will be subject to an equalities impact assessment
Health and Safety	Health and wellbeing of the Uttlesford community will be an important theme of a new Local Plan. This will be considered as part of the sustainability appraisal / strategic environmental assessment of a new Local Plan.
Human Rights/Legal Implications	A new Local Plan will need to comply with human rights and planning legislation. The regulatory framework is provided by the Planning and Compulsory Purchase Act 2004 (as amended) and related statutory instruments. Once adopted it will form part of the statutory development plan.
Sustainability	This will be an underlying theme of a new Local Plan e.g. ensuring new homes and jobs are provided near to each other and minimising reliance on the private car. A new Local Plan will be subject to sustainability appraisal / strategic environmental assessment throughout its preparation.
Ward-specific impacts	All.
Workforce/Workplace	A new Local Plan will be a key corporate document and officers from across the Council's services will contribute to its preparation.

Situation

6. Since 2015 the Council has been preparing a new Local Plan setting out a strategy for meeting the growth needs of the district. The Local Plan was submitted to the Secretary of State in January 2019 and hearings held in the summer of 2019.
7. The examination considered whether the Local Plan was legally compliant, passed the duty to cooperate and was 'sound'. To be sound the plan must be:
 - a. Positively prepared;
 - b. Justified;
 - c. Effective; and
 - d. Consistent with national policy.
8. In January 2020 the Council received a letter from the Planning Inspectors examining the Local Plan (enclosure 1) setting out serious concerns with the Local Plan.
9. Paragraph 113 of their letter summarises their main concerns. The paragraphs following this set out what the Council would need to do as a minimum to address those concerns. However, they also state that the likely required modifications process would be lengthy and result in changes that go well beyond what could be reasonably be described as main modifications. Consequently, they consider that the most appropriate course of action is for the Council to withdraw the Local Plan.
10. The Council has two potential options available to it now:
 - a. To withdraw the Local Plan and commence work on a new Local Plan;
or
 - b. To continue to proceed with the current Local Plan work, and seek to address the Inspectors' concerns.
11. In coming to a decision on the most appropriate way forward the Council has sought advice from independent consultants sourced through the talent bank of the East of England Local Government Agency (LGA). The report dated 23 March 2020 (entitled "Local Plan Peer Review") from the team appointed to advise the Council is appended to this report (enclosure 2), as is a flow chart (enclosure 3) setting out table 1 from this report in more detail.
12. The LGA report recommends against the "continue route". The report states that withdrawal and starting with a new plan would add certainty and more value to the key themes of the Council's draft Corporate Plan, namely:
 - a. To retain Council led democratic control over and governance of the plan making process;
 - b. To conduct an open and transparent plan making process engaging with residents and taking account of their views. This is also a central

objective of the Localism Act 2011 and the National Planning Policy Framework, that states that the Local Plan is the key to delivering sustainable development that reflects the vision and aspiration of local communities; and

- c. To re-evaluate, update and add to the existing evidence supporting the Local Plan, to include:
 - i. A reassessment of housing and employment assumptions.
 - ii. A reassessment of infrastructure deficits and requirements.
 - iii. Development and providing for a net zero carbon future.

13. Taking into account the advice from and recommendations of the peer review team, it is recommended that the Local Plan is withdrawn and a new Local Plan prepared.

A new Local Plan

14. It will be important to prepare a new Local Plan in a timely fashion given the new Government requirement that a plan is adopted by 2023. Ensuring the Local Plan is prepared by the Council will allow the people of the district to shape its future.

15. However, if the Council decides to withdraw the Local Plan, it will be left without a strategic policy framework to meet its identified housing and other development needs. If withdrawn, the policies in the emerging Local Plan will have no weight but the saved policies of the Local Plan 2005 will remain part of the Development Plan for the district. There are also a number of other potential implications arising from a decision to withdraw the plan, detailed further below.

16. Housing need – in 2019 the Government published a standard methodology for identifying local housing need. This new methodology would need to be used to assess housing need in any new Local Plan. In order to deviate from the standard methodology “exceptional circumstances” must be demonstrated. The extent to which the economic and social impact of COVID-19 will fall within the scope of this term is currently unknown, as also its effect upon housing demand generally and specifically within the district. The recent Ministerial Statement ‘Planning for the Future’ <https://www.gov.uk/government/publications/planning-for-the-future> has indicated that the government intends to review the formula for calculating Local Housing Need to make sure the country is planning for the delivery of 300,000 new homes a year. The Peer Review Group’s analysis on housing numbers, at paragraph 7.1 of their report reflects the uncertainty around housing numbers whether continuing with the existing plan or withdrawing and starting again. This takes into account the government’s intention to review the standard methodology, the need to take account of updated projections if we continue, and the likely need upon adoption to launch an immediate review of the Local Plan if the Council chooses to continue.

17. This statement (issued prior to the “lock down” caused by COV ID-19), indicates that it is appropriate to calculate a housing need figure at the start of the plan making process. Any such figure should be treated as indicative at this stage, and should be kept under review which is particularly relevant as the Government has stated its intention to review the standard methodology. Nevertheless, last year the annual target was calculated to be 715 dwellings per annum. Appendix 4 looks at what this could mean in terms of new allocations for the district, the analysis in this appendix should however be viewed with caution as the detail will change as further evidence emerges as the plan progresses.
18. A new local Plan will need to embrace the requirement to deliver new housing where this is sustainable. This needs to be reflected in positive policies and proposals in Neighbourhood Plans. Areas without Neighbourhood Plans will need to acknowledge the Council’s strategy for sustainable growth and embrace the need for new housing and infrastructure when considering planning applications in their local communities
19. Housing supply – the Council currently does not have a five year housing land supply (5YHLS) and it is unlikely to have a 5YHLS until the adoption of a new Local Plan. Housing development will still happen and the district could be vulnerable to the approval of unplanned, ad-hoc development, which may not deliver the benefits achievable through planned growth in accordance with an up-to-date plan.
20. Paragraph 11(d) of the NPPF states that Councils without a 5YHLS should grant permission for new housing development, unless and to the extent that any other policies in the NPPF that protect areas or assets of particular importance provide a justifiable reason for refusing the development proposed, or that any adverse impacts of approving proposals would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as whole.
21. Evidence – the Council would need to review the evidence base that has informed the process and determine where that evidence needs to be updated, added to or replaced.
22. Addressing climate change – the NPPF encourages the planning system to support the transition to a low carbon future, including Plans taking a proactive approach to mitigating and adapting to climate change. Furthermore, the Government’s Industrial Strategy supports moving to cleaner economic growth – through low carbon technologies and the efficient use of resources. A new Local Plan will allow for recent changes in technology, practice and legislation to be taken into account and take on board actions arising from the Council’s emerging Climate Change Strategy and Action Plan.
23. Delivery of strategic sites – the Council’s Corporate Plan states that UDC will use Locally Led Development Corporations (LLDCs) to deliver sustainable new communities and this commitment relates directly to achieving the TCPA Garden City principles. The Peer Review Group report states that members’ responses ‘were consistent and clear; Garden Community principles are good

in theory but may not be delivered in practice.’ The Peer Review Group emphasised the need to secure commitment from promoters and for UDC to assemble funding and effective delivery mechanisms to achieve these principles. To the extent that the case for one or more Garden Communities within Uttlesford will need to be considered as part of the new Local Plan, consideration will be given not only to the strategic planning case for these new communities but also to the funding, structure and delivery mechanisms for this type and scale of development. It is recommended that the governance structure for preparing the new plan also addresses issues regarding the possible use of LLDC structures as applicable.

24. Cost – between 2015 and 2020 the Council spent £3.907m on the emerging Local Plan. Between 2006 and 2014 the Council spent £2.006m on the previous Local Plan. The cost of starting work on producing a new Local Plan is uncertain at this stage, and will depend upon the actions the Council takes and the challenges it faces. However, on previous experience it is likely to be between £2m and £4m. It is noteworthy that the Peer Review Report, at paragraph 6.13, consider that there would be no effective difference in costs whichever route is taken, due to the likely need to start work on an immediate review the new plan if the continue route is followed.

25. Time – the Peer Review Group’s report notes that withdrawal of the Local Plan will place the timetable for its production back in the hands of the Council, and should allow the Government’s deadline of December 2023 to be met.

26. Interim policy and/or guidance – officers are looking at what interim policies and/or guidance can be put in place in advance of the adoption of a new Local Plan. Any such guidance would have limited weight in decision making and any such work should not delay production of a new Local Plan, which will have full weight as part of the Development Plan once adopted. A programme looking at interim policies and/or guidance will be brought before members in due course.

Risk Analysis

27.

Risk	Likelihood	Impact	Mitigating actions
Increased likelihood of planning appeals being upheld	4 – the lack of an up-to-date Local Plan, and the fact that it will be some years away will be a factor in Inspectors decisions	2 – approved sites will still have to meet the tests in paragraph 11 of the NPPF	Timely progress made on the new Local Plan will minimise this period; The Council should carefully consider the situation it finds itself in when making decisions on planning applications.

<p>Risk of intervention if the Local Plan is not in place by December 2023</p>	<p>3 – the LGA peer review team are of the view that it should take four years to get a Local Plan in place, this would take Local Plan production just beyond December 2023</p>	<p>4 – government intervention would significantly damage the reputation of the Council</p>	<p>A detailed, ambitious and realistic timetable will be drawn up to progress the Local Plan.</p> <p>Quarterly updates to MHCLG will provide the government confidence that the Council is working towards a new Local Plan.</p>
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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.

Uttlesford District Council Local Plan Examination
Inspector Louise Crosby MA MRTPI
Inspector Elaine Worthington BA (Hons) MT MUED MRTPI

Programme Officer: Louise St John Howe
PO Services, PO Box 10965,
Sudbury, Suffolk CO10 3BY,
email: louise@poservices.co.uk:
Tel: 07789-486419

10 January 2020

Mr. Stephen Miles
Planning Policy Team Leader
Uttlesford District Council
London Road
Saffron Walden
Essex
CB11 4E

By email only

Dear Mr Miles

EXAMINATION OF THE UTTLESFORD LOCAL PLAN

Introduction

1. Stage 1 hearing sessions were held between 2nd and 18th July 2019. We heard a great deal of evidence, some of which has required further formal targeted consultation and hence why it has taken us some time to fully consider everything put to us and to formally respond. This letter describes our findings in relation to several key matters and the plan's soundness.
2. Unfortunately, despite the additional evidence that has been submitted during the examination and all that we have now read and heard in the examination, including the suggested main modifications to the plan (ED41) put forward by the Council, we have significant concerns in relation to the soundness of the plan. In particular, we are not persuaded that there is sufficient evidence to demonstrate that the Garden Communities, and thus the overall spatial strategy, have been justified. We therefore cannot conclude that these fundamental aspects of the plan are sound.
3. It is not the intention of this letter to cover every matter that was discussed at the hearing sessions. Our letter focuses on those aspects of the plan and its evidence base which we do not consider to be justified. It also advises on specific changes that would be needed to some of the plan's policies. More detailed matters, and aspects of the plan that would not require significant further work at this stage or have not been subject to hearings sessions, are not dealt with here.

4. Also, we have not taken account of examination documents received after ED76 (October 2019), in this letter since there has come a point where we have had to draw a line under new documents submitted by the Council, not only so we could finalise this letter and thus ensure the examination is dealt with in an expeditious manner, but also because these documents have not been consulted upon and were not requested by us.
5. To clarify, the plan is being examined under the transitional arrangements set out in Annex 1 to the revised National Planning Policy Framework (the Framework) 2019. As such, the policies in the previous version of the Framework published in 2012 (and the associated version of the Planning Practice Guidance (the Guidance)) continue to apply. References in this letter to the Framework and the Guidance are therefore to those previous versions.

Proposed Garden Communities in General

Introduction

6. The Framework acknowledges that *'the supply of new homes can sometimes be best achieved through planning for larger scale development, such as new settlements or extensions to existing villages and towns that follow the principles of Garden Cities. Working with the support of their communities local planning authorities should consider whether such opportunities provide the best way achieving sustainable development'* (paragraph 52).
7. The plan contains three Garden Communities which are known as, Easton Park, North Uttlesford and West of Braintree. They are relied upon for the delivery of much of the new housing in the remainder of the plan period, and well beyond. In total they are expected to deliver around 18,500 new market and affordable homes.
8. In general terms we are concerned about the lack of evidence before us to enable us to conclude these parts of the plan are sound. Whilst we realise it is the Council's intention to lay down much of the detail of the proposed Garden Communities in further Development Plan Documents (DPDs), following the adoption of the plan, it is this examination which must determine whether the Garden Community proposals are properly justified and realistically developable. This is of major importance in this case given the large scale and long-term nature of the Garden Community developments, combined with the fact that they would be the primary source of housing in the district for the next 30 to 40 years.

Spatial Strategy and Sustainability Appraisal

9. We are concerned that all the reasonable alternatives tested in the Sustainability Appraisal (2018) (SA), included all three Garden Communities with varying degrees of other development, except one (option 3) which included no Garden Communities. No testing was carried out with say two Garden Communities, along with other development at existing settlements. This potential shortcoming of the SA is acknowledged in paragraph 8.165, but there is no explanation as to why such a scenario was not tested. This is a serious omission and has, in part, led to

fundamental problems with the overall spatial strategy which we set out later in our letter.

10. Also, in the 'Appraisal findings for the spatial strategy options' section of the SA (pages 431-448), option 1 (preferred option that is the submitted plan strategy) and option 2a (less development at Garden Communities and more at towns/villages (with a train station)) score equally in all of the 15 SA objectives. However, this was undertaken before the Council's Heritage Impact Assessment (HIA) (Donald Insall Associates January 2019) was published, albeit Historic England had raised objections to the North Uttlesford Garden Community at that stage.
11. In addition, SA objective 9 (to promote and encourage the use of sustainable methods of travel) testing was undertaken on the understanding that Easton Park and West of Braintree would provide a new Rapid Transit System (RTS) which would be delivered in phases alongside housing, employment and other infrastructure. Later in our letter we question whether a RTS would be delivered in the early years of the Garden Community developments. This adds to our concerns about the robustness of the SA.

Garden City Principles

12. The plan at paragraph 3.78 and in Policy SP5, sets out the Garden City Principles developed by the Town and Country Planning Association and advises that the Garden Communities will be developed in accordance with them. We share the Council's view that it is reasonable that these principles should be key pillars in the development of the Garden Communities in Uttlesford. Principle 1 concerns land value capture for the benefit of the community. Strong vision, leadership and community engagement are identified in Principle 2. Principle 3 expects community ownership of land and long-term stewardship of assets. However, the mechanisms by which these guiding principles will be delivered and ensured are not readily evident in the plan.
13. During discussions at the hearings it was suggested by one of the site promoters (West of Braintree) that land value capture for the community would not be realised. Additionally, the site promoter at Easton Park questions the need for a Quality and Collaboration Partnership (QCP), as set out in the Council's Focused Change 4 to Policy SP5. This objection is sustained in ED66 (Statement of Common Ground between the Council and Landsec).
14. We understand that the Council has introduced the QCP as a mechanism to ensure that the public and private sectors can together deliver strategic growth over several plan periods, and still ensure that the fundamental Garden City Principles (such as community engagement, long term stewardship, and to ensure that a holistic approach can be assured) are adhered to. The site promoter at Easton Park considers the QCP to be unnecessary and to replicate the planning system. Additionally, they cannot agree with the Council what the QCP will do (if it is to be accepted as a concept).

15. Furthermore, whilst it is understood that the Delivery Board for North Uttlesford has already been established, ED66 also highlights disagreement between the Council and the site promoter at Easton Park in relation to the terms of the Delivery Board that will oversee the plan making, delivery and implementation of that Garden Community. All these matters cast some doubt as to whether these vital Garden Community Principles would be met in Uttlesford. Without assurances that the necessary mechanisms outside the plan would be put in place, we cannot be content in principle that the new proposed settlements would be true Garden Communities, or that the plan's stated vision for these new settlements would be met. This is a serious concern.

Policies Map

16. The broad locations for the three Garden Communities are shown on the Policies Map and each is intended to be the subject of a detailed DPD which would determine, among other things, the full extent of the land required and the nature and form of the new communities. Nevertheless, Policies SP5, SP6, SP7 and SP8 set out the principles for the development for the Garden Communities along with a number of site-specific requirements.
17. We are concerned that the boundaries of the Garden Community site allocations are not shown on the Policies Map. This is not a matter to be left to DPDs. We cannot find the plan sound based on vague blurred annotations of broad locations, especially for something as significant as three large new communities. Indeed, The Town and Country Planning (Local Planning) (England) Regulations 2012, require that the adopted plan contains a Policies Map that illustrates geographically the application of the policies in the adopted development plan. The site boundary lines would need clearly defining on the Policies Map and need to include land to be safeguarded for transport and any other infrastructure.

Delivery of Market and Affordable Housing

18. The housing requirement for Uttlesford for the whole of the plan period (2011 to 2033) is 14,000 net additional homes. The quantum of new homes expected to be delivered in the remainder of the plan period (up to 2033) in the Garden Communities was proposed by the Council to be reduced from 4820 to 4190 during the stage 1 hearing sessions through a revised housing trajectory (ED51). This is against an overall requirement in those 10 years (2023/24 to 2032/33) for 7190 dwellings. In addition, changes to the anticipated start dates have occurred with delivery in Easton Park and North Uttlesford being pushed on by one year from 2022/23 to 2023/24 and some of the yearly delivery rates have also been amended. Our comments in this letter are based on this revised housing trajectory.
19. The Garden Community site allocations are for a very significant number of homes, over a considerable period, and all three would be developed more or less simultaneously. This would bring about a substantial amount of development and consequential change over a long timescale. Development of this scale and timing on three large sites in one essentially rural district is highly aspirational and ambitious. As such, it is vital that the Garden Communities are justified and deliverable. The Framework indicates that '*Local Plans should be aspirational but realistic*' (paragraph

154) and one of the key tests of soundness is that the plan should be effective, that it is, *'deliverable over its period and based on effective joint working on cross boundary strategic priorities'* (paragraph 182).

20. The latest housing trajectory relies on commencement dates in relation to Garden Communities in North Uttlesford and Easton Park, which we consider to be extremely optimistic considering the current timetable for the adoption of the plan and the overly ambitious timescales for the production and adoption of the DPDs (and the submission and approval of planning applications for the Garden Communities).
21. The Council has provided an update on the timelines for the production of the DPDs for Easton Park and North Uttlesford in Appendix 1 to ED30. This indicates that work on the preparation of the DPDs commenced in June 2019 and we acknowledge that the Council has appointed three members of staff to work on them. However, the update shows that despite consultations being timetabled with the Community Forums for July 2019, appointments to the Local Delivery Boards and the setting up of the Community Forums were yet to be completed at this point.
22. No indication as to how long this might take is given. Whilst ED71 provides a further progress report and indicates that members of the Community Forums have been identified, meetings have not yet been held. Thus, there is already some evidence of slippage in the timetable and the missing of key milestones. Bearing in mind the other subsequent stages set out in the timetable (including the Council's own three stage approval process), it is difficult to see how public consultation on the DPDs would realistically commence early in January 2020 as anticipated.
23. The proposed trajectory is even more optimistic if the promoters of the Garden Communities do not intend to submit planning applications until the DPDs have been adopted (as indicated by the promoter for Easton Park). The Council's timetable assumes promoters would twin track outline planning applications alongside the DPD preparation and examination process.
24. Although we note the North Uttlesford site promoter's willingness to prepare an outline planning application alongside the DPD, we share the Easton Park site promoter's reservations about how such an arrangement would work in practice. This is particularly so given the considerable amount of detail (including, as things stand, the defined site boundaries) that is to be left to the DPDs and the high level of uncertainty, potential wasted expense and associated risks that would be involved without the comfort of advancing a planning application which is in line with an adopted DPD.
25. The promoters of Easton Park have confirmed that they envisage first completions in around September 2025, approximately 2 years after the Council's estimate of 2023/24. All these factors point to the timetable not being realistic. Indeed, there seems to be a lack of recognition on the Council's part as to how complex and challenging it would be to deliver the

three Garden Communities and a lack of appreciation as to the delays that are very likely to occur.

26. The promoters of Easton Park argue for the details of the Garden Communities to be dealt with by Supplementary Planning Documents (SPDs) rather than DPDs, to speed up the process. However, since SPDs cannot set policies and are not subject to independent examination, proceeding down the route of SPDs would require the plan to contain far more detail than it does at present. Additionally, SPDs carry less weight in future decision making as they are not part of the development plan. With something so fundamental as large new Garden Communities it is our firm view that the key details need to be committed to DPDs which would be examined and adopted.
27. Overall, we strongly believe that the Garden Communities will not deliver the quantum of housing in the plan period that the Council's housing trajectory shows. Consequently, the housing requirement for the plan period would not be met.
28. Turning to consider the 5-year HLS situation, the revised housing trajectory (ED51) shows that the Council would have a 5.10 year HLS on adoption of the plan, based on a stepped trajectory and including a windfall allowance and two of the Garden Communities delivering houses in 2023/24. This has since been updated in ED73, a document entitled *Housing Trajectory and 5 year land supply statement 1 April 2019* (published October 2019). In this document, Table 6 shows a 5 year HLS calculation, taking account of the emerging plan and factors in the 'oversupply' of housing against the plan target since 2011/12 (the plan start date). This would provide a HLS of 5.65 years.
29. This calculation relies on the use of a reduced annual requirement of 568 dpa for most of the years, as it is based on the stepped trajectory set out in Policy SP3. It is also based on what we consider to be unrealistic commencement/housing delivery dates for two of the Garden Communities (North Uttlesford and Easton Park, as set out above). So, whilst the Council can, in theory, demonstrate a 5.65 year HLS, we are concerned that if the housing delivery at North Uttlesford and Easton Park slips by just one year, as seems very likely, this would result in 100 less dwellings in this 5 year period. This would result in a very fragile 5 year HLS position.
30. An additional factor is that around 14,000 homes allocated in the plan would be delivered after the plan period. As such, the plan is establishing the growth strategy for meeting the Council's long-term needs. Clearly it is not a problem to look beyond the plan period, but the number of homes that would be effectively allocated beyond the plan period would be similar to the identified OAN figure for the current plan period.
31. However, the scale of the need for housing for the next plan period is currently unknown and uncertain. We are concerned that the Council's chosen strategy would mean that other sites in the district would not be developed or permitted for a significant period of time in the future. This would be likely to adversely affect the vitality and viability of services in

existing towns and villages and result in a lack of housing choice in the market. It would also be difficult to accommodate changes in demand for certain types of development/services required over the very long period being committed to within the current strategy.

32. Furthermore, if the three Garden Communities allocated in the plan are granted planning permission and then work is commenced on site, it would be very difficult to deviate from this strategy. To do so, and to leave the intended Garden Communities effectively uncompleted, could potentially result in relatively small pockets of residential development in the open countryside that would not have the sustainability credentials of Garden Communities and would not ordinarily be supported. The Framework recognises that it is crucial that Local Plans should '*allocate new sites to promote development and flexible use of land, bringing forward new land where necessary...*' (paragraph 157). The current strategy which relies on the Garden Communities to deliver 4190 dwellings in the period 2023/24 – 2032/33 (the end of the Plan period), against a target in this period of 7190 dwellings carries with it significant risks and a lack of flexibility.
33. Finally, the Framework (paragraph 47) requires local planning authorities to '*use their evidence base to ensure that their Local Plan meets the full objectively assessed need for market and affordable housing in the housing market area...*' It also requires that through a Strategic Housing Market Assessment, local planning authorities should understand housing needs in their area and identify the housing that the local population is likely to need over the plan period which (amongst other things) addresses the need for all types of housing including affordable housing (paragraph 159).
34. The Council accepts that there is already an affordability issue in the district. The supporting text to Policy H6 states that there are, and will continue to be, many households in Uttlesford lacking their own housing or living in housing that is inadequate or unsuitable, who are unlikely to be able to meet their housing needs in the housing market without some assistance. The proposed stepped trajectory which arises from the strategy's reliance on the Garden Communities, would result in a worsening affordability problem as it would delay the provision of housing to meet the identified need in the district for a number of years. This is also a significant concern.

Employment Use

35. Whilst noting the main modifications suggested by the Council to provide indicative figures for employment floorspace in the Garden Communities (MM/03/15, 16, and 17), we are concerned that at this stage there is no information about where in the Garden Communities employment uses would be provided and more importantly when they would be delivered. The ethos of Garden Communities is that they are sustainable.
36. Garden Community Principle 4 envisages a wide range of local jobs within easy commuting distance from homes. Ideally, as many residents as possible would live and work within the Garden Communities and thus reduce the need to travel long distances to work, especially by private car.

Policy SP5 envisages that each Garden Community would demonstrate high levels of self-containment.

37. This is more likely to be successful if the employment uses, or at least some of them, are provided during early phases of development. Otherwise there is a risk that the Garden Communities would become little more than commuter settlements. This would require further work to be undertaken, in conjunction with the site promoters, to at the very least identify zones within the Garden Communities where the various employment uses will be located, at what stage they will be completed and how they will be delivered.

Transport and Infrastructure

38. This section of the letter deals with transport and infrastructure matters where they are interlinked or generic. Other separate matters are dealt with in the specific sections dealing with the individual Garden Communities later in our letter.
39. It is a core planning principle of the Framework to '*actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus significant development in locations which are or can be made sustainable*' (paragraph 17).
40. The Guidance, at paragraph: 001 Reference ID: 54-001-20141010 advises that '*it is important for local planning authorities to undertake an assessment of the transport implications in developing or reviewing their Local Plan so that a robust transport evidence base may be developed to support the preparation and/or review of that plan. A robust transport evidence base can facilitate approval of the Local Plan and reduce costs and delays to the delivery of new development, thus reducing the burden on the public purse and private sector. The transport evidence base should identify the opportunities for encouraging a shift to more sustainable transport usage, where reasonable to do so; and highlight the infrastructure requirements for inclusion in infrastructure spending plans linked to the Community Infrastructure Levy, section 106 provisions and other funding sources*'.
41. The Uttlesford Local Plan Infrastructure Delivery Plan July 2019 (IDP) (ED27 and ED27A) downgrades several highway infrastructure items from 'critical' to 'necessary' (compared to an earlier version), such that they are no longer required to be in place before development at the Garden Communities can commence. In particular, a RTS is proposed for West of Braintree and Easton Park (also referred to as Bus Rapid Transport (BRT)).
42. The plan seeks to bring about a step change increase in sustainable travel modes at both Easton Park and West of Braintree, to achieve significant use of public transport, with trips by active modes and public transport making up to 60% of all trips (paragraphs 3.90 and 3.107 of the plan). Policies SP6 (Easton Park) and SP8 (West of Braintree) both require from the early delivery phase a high quality, frequent and fast rapid transport measure to be provided. Also, there was general agreement amongst all the parties, including the Council, at the hearings that the RTS would need to be in

place from the early delivery phase of the Garden Communities to fulfil their anticipated role and to meet these ambitious targets and the modal shift relied upon.

43. In this context it is difficult to understand why the RTS is classified as 'necessary' rather than 'critical' in the IDP given that it is fundamental to the delivery of two of the largest sites allocated in the plan. This downgrading is also evident in the Council's response to the targeted representations (ED72). With reference to ED13 (Bus Rapid Transport for Uttlesford Supplementary Technical Study), the Council confirms that in the early phases the Garden Communities would be served by a conventional bus service, with a RTS only coming online when there is population to support it, (2029–2033).
44. The Council also advises that it is not necessary to delay the housing delivery to allow for the delivery of the RTS. Whilst appreciating the difficulties in providing a full RTS service from the outset and recognising the role of incremental improvements, in our view, the lack of a RTS until towards the end of the plan period would mean the modal shifts anticipated would not be realised. Moreover, the use of less sustainable modes of travel could have become engrained in the habits of residents living in the homes built within the early phases of the Garden Communities. According to the latest trajectory in ED51 this would be well in excess of 1000 homes.
45. There is valid, widespread concern, shared by us, that the infrastructure serving the Garden Communities would fail to meet the true BRT standards until after 2033. Table 3-2 of ED13, shows that after 2033 it is predicted that there would be a service every 5 minutes, between 6am and 10pm. This would be around 8-10 years after the delivery of the first homes. From 2024 until 2033, services would gradually increase from every 15 minutes to every 10 minutes. But this would depend upon commercial viability.
46. This being so, there is a danger that the Garden Communities would be served by little more than a conventional, regularly running bus service for a good number of years. This would use the existing road network, which is at times congested and there are concerns that such a bus service would be no quicker, and potentially slower, than travelling by car. It is also unclear to what degree the buses would run on existing roads as opposed to segregated bus lanes or busways and how the latter would be phased in.
47. Buses running on existing unsegregated carriageways, even based on a 10 or 15 minute service, is unlikely to encourage the residents to use their cars less for local journeys, despite this being better than the services that operate in Uttlesford at present. We consider this would be directly at odds with Garden Community Principle 7 which requires integrated and accessible transport systems, with walking, cycling and public transport designed to be the most attractive forms of local transport.
48. It would also run contrary to proposed Main Modification MM/3/19 to Policy SP5 which seeks to introduce new text indicating that the new communities will be planned around a step change in integrated and sustainable

transport systems that puts rapid transit networks, among other things, at the heart of growth in the area.

49. It is unclear at this stage which routes would be used for the RTS and how much of the routes would be shared with existing road users or on segregated/dedicated bus ways/lanes. As such, these have not been mapped or costed. This being so, the need for additional land to be identified/safeguarded in the plan to ensure the route of the RTS cannot be ruled out.
50. Accordingly, the scale and nature of the necessary road improvements and details of any vehicle restrictions that may be needed on the RTS route (and other routes) have not been set out. Additionally, little consideration has been given to whether there are likely to be any land assembly issues and/or costs or if Compulsory Purchase Order (CPO) powers would be required to deliver the route (and how long these processes would take).
51. Furthermore, consideration would need to be given to the impact on heritage assets, biodiversity, character and appearance and landscape of any sections of the route that would not utilise existing roads. It is also evident from the Council's response in ED72 that much work is yet to be done to establish how the route would be achieved to Stansted Airport.
52. Reference is made to the possibility of a 'new direct connection' between the airport and the road network to avoid the use of the airport entrance roundabout by the RTS. All these matters are likely to have a bearing on the costs and timing of the RTS, and so its viability and deliverability, and are yet to be properly considered.
53. Policy S6 relating to Easton Park, anticipates bus/rapid transport measures to Great Dunmow and beyond. In considering sustainable transport, ED52 (Statement of Common Ground between Landsec and Essex County Council) states that the Council and the Highway Authority have developed a BRT proposal for the Local Plan which connects Stansted Airport to Braintree via Easton Park, Great Dunmow and West of Braintree.
54. However, the Council's responses in ED72 confirm that the RTS could be provided in discreet segments and that any links via the RTS to West of Braintree (from Easton Park) would only be provided beyond the plan period. These positions do not seem to be aligned. Whilst appreciating that Easton Park and West of Braintree have different and separate employment destinations, in simple terms the absence of the RTS to West of Braintree and the town of Braintree beyond would mean that for trips eastwards to meet needs other than employment, the future residents of Easton Park would be without the sustainable transport options offered by the RTS.
55. We are also conscious that ED13 and ED36 are predicated on what is now an out of date housing trajectory and are concerned that the delivery of fewer homes than previously anticipated in the early years of the plan at Easton Park and West of Braintree has the potential to affect the delivery of the RTS.

56. The Council accepts that more work is required in relation to the RTS. Paragraph 177 of the Framework indicates that it is *'important to ensure that there is a reasonable prospect that planning infrastructure is deliverable in a timely fashion. To facilitate this, it is important that local planning authorities understand district wide development costs at the time Local Plans are drawn up'*. In this instance, considerable additional information would be required to establish that the RTS is a practical and viable solution and that it would be delivered at the time it is needed. Section 5.2 of (ED13) identifies the need for a strategic outline business case be developed alongside improved forecasts from a transport model.
57. In ED72 the Council responds to many of the concerns raised in the targeted consultation by acknowledging that further work is needed but indicates that such details would be available at the strategic planning stage. However, this plan is the strategic planning stage. It includes strategic policies, and these include two Garden Community site allocations that are predicted to begin delivering housing in 2023/24 in the case of Easton Park, and 2025/26 in the case of West of Braintree. We cannot agree that the evidence before us as set out principally in ED13 Bus Rapid Transport for Uttlesford - Supplementary Technical Study June 2019 and ED36 Further Information on Bus rapid Transport Modelling, provides a level of detail sufficient to show that the proposed RTS is practical in principle.
58. Easton Park and West of Braintree are reliant on the RTS to ensure they are sustainable communities, and it is critical that the evidence to support it is provided at this stage. It is not sufficient to say that these really important matters would be resolved at a later date. This work would need to be done now so that the development plan provides the necessary certainty of delivery, particularly given the housing trajectory before us and the significant reliance on Easton Park and West of Braintree to deliver homes (in the case of Easton Park within the next 5 years).
59. Finally, regarding infrastructure, the Framework sets out that it is *'crucial, Local Plans should plan positively for development and infrastructure in the area...'* (paragraph 157) and we continue to be concerned that significant gaps remain in the IDP for the cost of the provision of gas, water, waste, wifi/broadband and significant amounts of the social infrastructure items such as allotments, play space, amenity green space, to name a few. There are also considerable variations in estimated costs for 'big ticket' items, including transport infrastructure. For example, the A11/A1301/Stumps Cross Roundabout improvements are estimated to be between £5 million and £10 million and the improvements at B1256/A120 Dunmow Hoblongs junction are estimated at between £2 and £10 million.
60. There is also a lack of clarity about what the various planned sustainable transport upgrades would cost and until this is known and built into a robust viability assessment the viability of these Garden Communities is an unknown. Overall, the lack of evidence in relation to transport and infrastructure reinforces our concern that the Garden Community policies are not justified and effective.

Viability

61. The Framework advises that '*pursuing sustainable development requires careful attention to viability and costs in plan making...*' and states that '*plans should be deliverable*' (paragraph 173). The Viability Assessment 2018 (VA) carried out by Troy and Three Dragons was undertaken prior to the most up to date IDP and the revised housing trajectory. Moreover, as previously set out, there are a number of 'big ticket' items in the IDP, some of which would require funding up-front before any returns on the development would be seen. In addition, the IDP has many infrastructure items that have no known costs, as set out above.
62. The VA makes broad brush assumptions about the infrastructure costs for the three Garden Communities, based on typologies. It clearly shows in graph form the significant difference a change in infrastructure costs of £10,000 per dwelling (£50,000 as opposed to £40,000), can make to viability and so it is critical that this figure is as accurate as possible. Therefore, it is important that the viability assessment should use the most up to date infrastructure cost estimates rather than case studies and be based on maximum costs where there is a range. This is particularly important given the VA does not contain any specific contingency allowance.
63. Also, Appendix B to *Viability Testing Local Plans – Advice for planning practitioners (June 2012)*¹, advises in relation to costs of promoting schemes and associated fees that on large scale schemes care needs to be taken not to underestimate these. It suggests that fees relating to design, planning and other professional fees can range from 8-10% for straightforward sites to 20% for the most complex. The Council's VA allows for a higher percentage (12%) on the smallest of sites (10 units or less), but only 6% for the Garden Community sites. We consider this figure to be far too low, particularly as these sites are likely to be more complex than straightforward.
64. The build out rate and sales of dwellings would naturally be slower in the early stages of the development, as reflected in the housing trajectory, which has been amended by the Council since the VA was prepared. Combined with slow early delivery rates, there would be in the early years, disproportionately high infrastructure costs. Therefore, we are concerned that the cost of interest from borrowing and particularly peak debt has not been factored in at an appropriate level.
65. Table 5.4 of the VA shows viability results for 10,000 units across a range of scenarios. We are concerned that in the scenario with £50,000 of infrastructure cost per dwelling, where only 95% of the market value is achieved on the sale of the houses, there is very marginal viability. This scenario is a real possibility given the amount of infrastructure that would need to be funded, including the RTS and the fact that the spatial strategy would see three Garden Communities delivering dwellings during a similar timeframe and so competing for house sales.

¹ Document referred to at the hearings, published by The Local Housing Delivery Group

66. The VA at paragraph 5.20 advises that *'this scheme delivers housing over a long trajectory (38 years) and is very sensitive to changes of phasing. Small amendments to the timing of infrastructure items or delivery of residential units as well as to the housing density or mix can make a significant difference to the results. A developer would be able to maximise these factors to the advantage of economic viability and we do not consider that these marginal results would render a study undeliverable'*.
67. We have reservations that some of these 'amendments' may not be in the gift of the developer and housing density and mix, for example, may be controlled by a Local Plan Policy. Also, this scenario could lead to an erosion of some of the key principles of Garden Communities set out in Policy S5, such as the provision of mixed tenure homes and housing types that are genuinely affordable for everyone; beautifully and imaginatively designed homes with gardens; development that enhances the natural environment, providing a comprehensive green infrastructure network and net biodiversity gains and using zero-carbon and energy-positive technology to ensure climate resilience; and integrated and accessible transport systems, within walking cycling and public transport designed to be the most attractive forms of local transport.
68. Given these findings in relation to the long development timescales and the need to ensure that these large scale sites would deliver homes not only in the early years of the plan but for many years to come, in a policy compliant manner, we consider that a revised VA based on the residual valuation appraisal method would need to be supplemented with a discounted cashflow assessment (a valuation method used to estimate the value of an investment based on its future cash flows), in order to provide a more complete and robust analysis.
69. To summarise, the scale of funding necessary and whether the Garden Communities could support such costs is uncertain. For these reasons it has not been adequately demonstrated that the Garden Communities proposed in the plan are financially viable and therefore developable.

Proposed Garden Communities in Detail

North Uttlesford

70. North Uttlesford is in the north west of the District, adjoining the boundary with South Cambridgeshire and is identified in Policy SP7 for 5000 new homes. It is recognised in the plan as being an area of high landscape and visual sensitivity, given its steeply sloping landform and elevated position with open fields and limited vegetation. It is also accepted that the development of the site has the potential to harm the significance of heritage assets on the site, and in the wider area.
71. The Framework at paragraph 126, is clear that Local Plans should set out a positive strategy that recognises that heritage assets are an irreplaceable resource and conserves them in a manner appropriate to their significance. In developing this strategy, local planning authorities should take into account the desirability of sustaining and enhancing the significance of

heritage assets.

72. The HIA finds that North Uttlesford is situated within a sensitive landscape with significant highly sensitive areas and contains extensive heritage assets, comprising built heritage as well as, known and unknown archaeology. It identifies as highly sensitive the immediate setting of the Roman Temple Scheduled Monument which is within the site allocation and the visual and historic relationship to the Roman Fort Scheduled Monument at nearby Great Chesterford.
73. Paragraph 132 of the Framework recognises that Scheduled Monuments are of the highest significance and substantial harm or loss of them should be wholly exceptional. The HIA also highlights that there is evidence of significant buried archaeology on the site and in the wider area which contains evidence of human occupation from the Palaeolithic period onwards. There are other heritage assets nearby including listed buildings and several Conservation Areas.
74. The site promoter's illustrative masterplan indicates that around 42% of the site area would be developed, with 54% remaining for green infrastructure, agricultural land or outdoor recreation. We also note that the Council anticipates around a 50:50 split between developable land and open space.
75. Nevertheless, Historic England maintain an in-principle objection to the development at North Uttlesford due to the potential impact on the highly sensitive historic environment and consider that an alternative location should be sought for the development.
76. The Roman Temple complex consists of below ground archaeological remains and is a Scheduled Monument. It is set away from the Roman Town, but is significantly associated with it, both by function and by physical links in the form of Roman roads. The HIA finds that views between the Roman Town and the Roman Temple and the Great Chesterton Conservation Area make a major positive contribution to its significance.
77. This area is identified as being of high sensitivity in the HIA. Despite the retention of open areas within the site, given its scale, the proposed Garden Community would introduce major change to the setting of the Roman Temple that would be likely to affect its relationship with the Roman Town and the wider landscape. Paragraph 132 of the Framework indicates that *'significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting'*.
78. Historic England advises that the geographical and topographical location of Great Chesterford on the north west boundary of Essex in the Cam valley, at the entrance to the Fens in a gap in the chalk hills is one of its important defining attributes in terms of its archaeological significance. The HIA is clear that the area surrounding and within the site is rich in archaeology.
79. The HIA considers that the extent of the archaeology already identified at the site and nearby points to the possibility of a wider distribution of remains across the site. It also refers to previous excavations of remains

on and around the site as well as chance finds. The Brief Archaeological Impact Assessment of the Proposed Uttlesford Garden Communities July 2018 Place Services (Document 1000.1 HEN) indicates that extensive archaeological deposits of multi-period date are likely to survive here.

80. The Historic Environment Record identifies a number of pre-historic sites in the form of Bronze and Iron Age burial sites. It also refers to the possibility of Roman structures and burials bordering the route between the Roman temple and the Roman town (which runs through the site) and evidence of an Anglo-Saxon burial ground and the presence of both pre-historic and Roman settlement.
81. This being so, based on current knowledge, it seems highly likely that there are remains of significance within the site. Accordingly, the proposed development has the potential to cause harm through the loss of important and extensive heritage information and of the opportunity for increased understanding of the history and development of the area, even assuming around 50% would be undeveloped.
82. The HIA further recognises that the significant buried archaeology on the site may further add to the understanding and significance of the area and the inter-relationships between the other heritage assets on the site and nearby. As such, the evidence base on this matter is currently inadequate. Further archaeological investigations would need to be undertaken to establish the likely scale and significance of archaeological remains on the site.
83. Presently, the proposed Garden Community at North Uttlesford is not justified by the historic heritage evidence available and we share Historic England's views that there is a possibility that it is not a suitable location for the development proposed due to its impact on the significance of heritage assets. Also, as set out earlier in our letter, the SA was carried out in advance of the HIA, which in this case is a concern given the findings of the HIA.
84. The Council's Landscape and Visual Assessment (Chris Blandford Associates June 2017) finds that the landscape sensitivity to a new settlement here would be high, given the open hill slopes and topography of the site. The landscape means that the upper ground on the site is highly visible from a considerable distance. Historic England are also concerned about development on the higher ground in terms of its impact on heritage assets.
85. Having visited the site and viewed the indicative masterplan we are also sceptical as to how development on the high ground including the sensitive upper valleys and ridges could in practice be avoided if the quantum of development proposed, as well as the other necessary facilities that would make it a sustainable community, were to be provided. This issue also has the potential to affect the capacity of the site for development and consequently viability. In light of these matters, it is our view that North Uttlesford is not currently justified due to the harm that would be caused to the landscape and to the significance of heritage assets.

86. Turning to highway matters, the supporting text to Policy SP7 states that developer funded highway improvements could accommodate up to 3,300 new homes at North Uttlesford. The Council indicates that these highway improvements would be in the A505 corridor to provide additional capacity. The Council recognises that additional transport improvements would be required in the A505 corridor to accommodate the further housing provision at North Uttlesford.
87. The revised text set out in ED70 (and to be introduced as a main modification) indicates that *'the proposed developer funded highway improvements could accommodate up to 3,300 new homes at North Uttlesford' and that 'development beyond that would depend on strategic capacity improvements on the A505 corridor'*. It adds, *'it is proposed that beyond the end of the plan period, a cap of 3,300 new homes is placed on any the allocation at North Uttlesford Garden Community to ensure that development over this figure does not take place until strategic improvements have been implemented'*.
88. However, the Council's response to representations made as part of the targeted consultation exercise that took place after the hearings, in Document ED72 (pages 21 and 29) suggests that transport modelling has identified that the interim junction improvements would accommodate a development of up to only 2,700 dwellings. There appears to be some ambiguity here that would require clarification.
89. The A505 Corridor Study is being prepared and led by Cambridgeshire County Council. Whilst the Council have indicated that the study is due to be commenced shortly (Matter 8 Hearing Statement) no clear timelines or funding for this piece of work have been provided. As things stand it is not clear to us what improvements would be required to deliver more than 2,700 or 3,300 homes at North Uttlesford, what they would cost, and when they might happen. ED70 suggests that a funded strategic scheme (strategic capacity improvements) is anticipated towards the end of the plan period, by year 14 (2031/32). However, it also seeks to put in place a contingency to deal with any delay in that strategic scheme coming forward.
90. This does not inspire confidence and leads to a good deal of uncertainty. The Council advises in response to the targeted representations, that it has identified specific schemes to address transport impacts in Cambridgeshire if no strategic scheme were available. However, the details of such schemes do not appear to be before us. The possible lack of a strategic scheme to address capacity on the A505 and the potential inability of the site at North Uttlesford to grow beyond 2,700 or 3,300 homes would be likely to have a significant effect on the overall masterplan for this Garden Community and what could be provided there. It would also have further implications for, amongst other things, viability.
91. Additionally, we are conscious that not only is the production of the A505 Corridor Study largely outside of the Council's control, but also that cross boundary highway and other transport matters and improvements affecting

North Uttlesford are reliant on Cambridgeshire County Council, South Cambridgeshire District Council, Greater Cambridge Partnership or Cambridgeshire and Peterborough Combined Authority. However, notwithstanding the Position Statement from Cambridgeshire County Council, these partners are not signatories to any SoCG provided to this examination. As such, we cannot be assured that they agree and are committed to the necessary infrastructure for North Uttlesford Garden Community.

92. Aside from these points, we have serious doubts whether in the absence of a RTS and considering the train station capacity issues at Whittlesford Parkway Station we heard about at the hearings, the transport measures proposed at North Uttlesford are truly sustainable and in line with Garden Community principles.
93. We are also concerned about the apparent lack of bus provision/links to Saffron Walden and other locations listed in Policy SP7 alongside the focus on bus links to employment opportunities and train stations. This is not included in the IDP update (only a footpath and bicycle route are identified). In this context we question whether the IDP would deliver the aims of Policy SP7 to provide a package of measures to provide transport choice at North Uttlesford, including the delivery of high quality, frequent, and fast public transport services to Saffron Walden (and other destinations).
94. Finally, we are aware that the planning application for the proposed development at the Wellcome Genome Campus site, has recently been granted permission for a significant scheme. That could have ramifications for this plan and in particular the North Uttlesford Garden Community site allocation. Therefore, further work would need to be undertaken to understand the cumulative impacts of that development alongside North Uttlesford on transport in the immediate and wider road network and on rail station capacity.

Easton Park

95. Easton Park is a greenfield site between Great Dunmow and Stansted Airport. Policy SP6 anticipates a new Garden Community of 10,000 homes. The Council accepts that the site contains a number of constraints such as landscape and heritage features, including ancient woodland, scheduled monuments, Easton Lodge Registered Park and Garden, a number of listed buildings and that it is adjacent to the Little Easton Conservation Area.
96. The HIA finds the site to be in an area of moderate to high sensitivity and concludes that Easton Park has the potential to harm the significance of heritage assets. It identifies a number of areas within the site as having a high sensitivity. Notably, these include the northern section of the site around the Registered Park and Garden and Little Easton Conservation Area where there are views into and out of the site.
97. Historic England considers that the HIA, through its sensitivity testing, effectively identifies a reduced developable area at Easton Park and accordingly objects to any development within the site, north of Park Road.

Despite this, the Council anticipates that there is scope for some appropriately sensitive development on this part of the site (Matter 8 Hearing Statement).

98. We also note that this part of the site is shown to accommodate buildings on the site promoter's masterplan. Again, having visited the site and considered the evidence before us, we share Historic England's view that the sensitivity of the historic environment has not been adequately considered by the Council and we conclude that unless evidence is produced to show that it could be acceptably developed, development should not take place within this part of the site. Consideration would need to be given to what implications this has for the capacity of the site and its viability.
99. In addition, the HIA fails to consider the historic asset of Stone Hall (a Grade II* listed building) to the south of the site which was not accessible at the time of the survey. Historic England notes that Stone Hall responds to a wider rural setting which contributes to its setting. This is a serious omission that undermines the reliability of the HIA and would need to be re-considered.
100. Regarding transport and infrastructure matters, we understand that a committed interim improvement scheme at junction 8 of the M11 is being progressed by Essex County Council. The modelling analysis that has been undertaken suggests there is sufficient capacity to accommodate traffic growth up to a point between 2025 and 2030. However, it seems highly likely that further infrastructure improvements would be required at Junction 8 at some stage in the future.
101. Highways England are currently in the process of investigating strategic interventions to Junction 8 (and to the M11 between Junction 8 and 13) to help determine spending within the Department for Transport's next Road Investment Strategy. Given the potential for this to delay development at Easton Park more clarity would be needed as to when the outcome of these investigations will be known and as to the likelihood of the funding being available.
102. As set out in the transport and infrastructure section of this letter, more information would be required to support the RTS. In relation to Easton Park ED13 suggests the RTS should be given exclusive use of sections of the B1256 Great Dunmow bypass. We share the concerns raised by a number of representors as to how this would work in practice and whether it would have the effect of forcing traffic to use the High Street and thus reversing the benefits of the bypass.
103. ED65 proposes a main modification to determine, among other things, the issue of what further land may be required to deliver the RTS at Easton Park. This indicates a large area of land to the north west of the Garden Community for transport linkages. It is based on a plan provided by the Easton Park promoter in ED66 to show an area within which third party land may be required to provide linkages. The amount of land identified for this purpose is considerable and adds to our concerns outlined above under

the Transport and Infrastructure heading in relation to the land requirements/assembly issues and costs associated with the RTS and its consequent viability.

104. Also, the presence of an underground high-pressure gas pipeline crossing the site has recently come to light. Document ED75 proposes a main modification to Policy SP6 to reflect this situation. However, it has not been established what implications arise from the pipeline and its associated easements/restrictions (as described in ED75) in terms of the masterplan for Easton Park including any effect that it may have on the capacity of the site to accommodate development. This work would need to be undertaken.

West of Braintree

105. West of Braintree straddles the boundary with neighbouring Braintree District Council and would form part of a wider proposed Garden Community which is being advanced through the North Essex Authorities (NEA) local plan. That plan is also currently being examined. Policy SP8 of the Uttlesford plan indicates that the overall new Garden Community at West of Braintree would create a new community of 10,500 – 13,500 homes, up to 3,500 of which would be in Uttlesford.
106. During the hearings, the Council sought to reduce the number of dwellings that this allocation would deliver during the plan period by 330, from 970 to 640. It is accepted by the Council that the Uttlesford part of the wider Garden Community is wholly dependent on the Braintree element of it going ahead because the size of the Uttlesford part of the Garden Community would not be sufficient to deliver a Garden Community. The Council's addendum of focussed changes recognises the elevated risk around the delivery of the Uttlesford part of West of Braintree as a result of the initial findings of the NEA Local Plan Inspector in his letter of June 2018.
107. In this context, whilst our role is to examine the soundness and legal compliance of the Uttlesford plan and the proposed allocations within that area only, given that it is not a standalone proposal, it is vital that the Uttlesford plan's assessment of West of Braintree's sustainability and viability should be undertaken on the basis of the whole Garden Community (i.e. also including that part of it within Braintree District).
108. The examination of the NEA plan is ongoing. Whilst documents (ED47-47K) were submitted to this examination during the hearing sessions, they were prepared for the NEA examination, and are for that examining Inspector to consider in the first instance. The NEA Inspector has yet to conclude whether the West of Braintree allocation in that plan is sound. As the Council has recognised in its suggested main modifications, his findings will have ramifications for the housing strategy and numbers in this plan.

Objectively Assessed Need for Housing Land

109. Examination document ED32 is a response to our request at the hearings that the Council consider a Main Modification to SP3 to make it clear that 504 dwellings of the housing requirement relates to bed spaces in

communal establishments. The proposed main modification to Policy SP3 does this, however, there is another issue. The calculation of the housing requirement of 14,000 dwellings will have double-counted the 504 people who live in communal establishments. They will have been included already within the census data which provided the starting point for the OAN figure, but it seems they were also identified and added on again between the Regulation 18 and Regulation 19 consultations.

110. If the housing requirement figure is lower, this would affect the other housing calculations, such as the 5-year housing land supply (HLS) and require other consequential main modifications too.

Hatfield Forest Site of Special Scientific Interest (SSSI)

111. There are objections from Natural England to the plan arising from a lack of mitigation measures to address recreational impacts of development in the district and, in particular, of the proposed Garden Community at Easton Park, upon Hatfield Forest SSSI. We share their concerns but are aware that the Council is working with The National Trust, Natural England and neighbouring Council's which fall within the zone of influence of this SSSI, on a mitigation strategy. This matter would also need satisfactorily resolving.

Overall Conclusions

112. We are very conscious of the considerable work that has been undertaken over several years by the Council and the promoters of the Garden Communities in developing them as proposals. We are also aware of the in-principle support afforded to them as a concept by the Government and the funding that has been provided. However, for the reasons given, the Garden Communities are insufficiently justified and have not been shown to have a reasonable prospect of being delivered as submitted. Moreover, the unsolicited documents referred to in paragraph 4 above do not deal with these matters.

113. Consequently, as things stand the strategy set out in the plan is unsound.

In summary, our main concerns are:

- The lack of clear mechanisms to ensure the Garden Community Principles will be met;
- The need to define precise boundaries and to show these on the policies map;
- The proposed housing delivery trajectory is overly optimistic;
- There is unlikely to be a 5 year HLS on adoption;
- The stepped trajectory unreasonably delays addressing the housing affordability problem;
- The Garden Community approach predetermines the strategy long beyond the plan period and so is unduly inflexible;
- As part of the assessment of reasonable alternatives the SA does not consider a smaller number of garden communities, in combination with more housing in existing sustainable settlements, nor does it have regard to the evidence in the HIA;

- The lack of certainty about the delivery of employment uses undermines the potential for the Garden Communities to be sustainable places;
- The costs, viability and deliverability of the RTS are uncertain and any benefits would be realised too late to help ensure the Garden Communities at Easton Park and West of Braintree would be sustainable places;
- Realistic infrastructure costs have not been established meaning it is uncertain whether the Garden Communities will be viable and developable;
- 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.

In addition, further work would be needed on:

- Mitigation measures for Hatfield Forest Site SSSI;
- The housing requirement and trajectory in relation to people in communal establishments.

114. In order to arrive at a sound strategy, we consider that as a primary consideration, the Council would need to allocate more small and medium sized sites that could deliver homes in the short to medium term and help to bolster the 5 year HLS, until the Garden Communities begin to deliver housing. This would have the benefit of providing flexibility and choice in the market and the earlier provision of more affordable housing. It would also create a buffer, so the target of 14,000 homes is not only just being met by a narrow margin and would allow for a less steeply stepped housing trajectory.

115. Hand in hand with this approach, our view is that the Council should delete one of the Garden Communities from the plan. Our suggestion would be that this should be North Uttlesford, which for the reasons set out above, seems to have the most barriers to its development and perform the least well against the Garden Community Principles. As well as realising the benefits associated with the provision of a wider range of sites described above, to do so would realistically acknowledge and address the enormity of the scale of the highly ambitious task of delivering three Garden Communities in the district at once. It would also reduce the post plan period development by around 3000 dwellings, thus providing the potential

for a variety of small and medium sized sites to be allocated in the next local plan period, if appropriate.

116. We must stress however that in suggesting this course of action we are not endorsing the other Garden Communities in the plan. Our identified concerns in relation to the significant issues to overcome at Easton Park and West of Braintree remain and an enormous amount of further work would be required, as outlined above, to justify these ambitious allocations.

Next Steps

117. In our approach to the examination we have given great weight to the guidance to Inspectors on the examination of local plans in Greg Clark's letter to the Chief Executive of the Planning Inspectorate of 21 July 2015 (as recently restated in James Brokenshire's letter of 18 June 2019). At the same time, the recently updated Procedure Guide for Local Plan Examinations makes clear (third bullet point of paragraph 8) that one of the three possible outcomes for an examination is that there are soundness problems with a plan which it is not possible to address by main modifications and that, in advance of a formal recommendation of non-adoption, Councils would be asked to consider withdrawing the plan.
118. We must examine the plan against the soundness tests set out in the Framework and determine whether it is justified and effective. The points covered above are fundamental matters which relate to the soundness of the plan.
119. To address our concerns, the Council would have to prepare a very considerable amount of new evidence. Since the plan was submitted in January 2019 much new evidence and information to support it has already been produced and continues to be submitted. Although we accept that some of this has been at our request, that is not so in all cases.
120. During the course of the examination, so far the Council has sought to amend and justify significant strategic elements of the plan including: revised start dates for the Garden Communities; different housing numbers within the plan period; a revised trajectory; altered methodology for calculation of 5 year supply; detailed changes to Garden Communities policy wording arising from late Statements of Common Ground with key partners and statutory consultees; late emergence of transport RTS/BRT details; Hatfield SSSI draft Mitigation Strategy; a sports strategy; an updated IDP; and the need for additional targeted consultation after the hearings sessions which has lengthened timescales and added another layer of complexity to the process.
121. Documents, including an updated IDP (October 2019), continue to be submitted without the opportunity for participants to comment. To some degree, these are evidence base documents which should have informed the plan making process. As things stand, there are some 81 items in the Examination Documents library that have been submitted following the submission of the plan (and this number continues to grow). We fully appreciate the long timescales involved in the local plan process and understand that things move on.

122. Nevertheless, we share the views of a number of the participants in the examination that it is difficult to keep track of and understand the large volume of additional material that has been submitted and continues to emerge. This is especially problematic for local residents. There is also a risk that this additional material, and any further evidence that is produced, seeks to justify the strategy set out in the plan rather than informing the plan making process which is how it should be used.
123. Proceeding with this examination is likely to become protracted. It would be procedurally challenging to manage in practical terms and extremely difficult for participants to engage with. There is also no guarantee that this plan would be found sound at the end of that long and complex process.
124. We estimate it would take between 1 and 2 years, possibly longer, to complete the necessary work and that would include work which is normally undertaken as part of the plan preparation process, and to consult upon it. Also, any lengthy pause in the examination is likely to lead to the need to revisit the objectively assessed need for housing (OAN). The OAN for Uttlesford is based on the Strategic Housing Market (SHMA) update 2017 which in turn is based on the 2014-based household projections. If new national household projections were to be published, it would be necessary for this examination to consider whether the change was meaningful, in line with the advice in the Guidance. Other parts of the evidence base could also become out of date during this time. All this additional work and any changes the LPA considers necessary to the plan would need to be consulted upon and further hearings held.
125. Moreover, we consider that the work likely to be necessary goes well beyond what could be reasonably addressed by main modifications to the plan. The Council has already suggested a considerable number of main modifications and additional modifications to the plan (around 120 MMs and a similar number of AMs at 14 October 2019). These include amongst other things changes to the housing numbers in the Garden Communities, the altered housing trajectory, a suggested additional policy, a new Garden Community Inset Plan and the inclusion of employment figures for the Garden Communities. With the further work that is necessary the number of main modifications would be very likely to become much greater still.
126. As you will be aware, the examination process is not intended to allow the Council to carry out major changes to the plan or to complete the preparation of its evidence base. Based on our concerns about the soundness of the plan set out above we anticipate that the changes necessary would amount its almost complete re-drafting. The Guidance advises that where the changes recommended by Inspectors would be so extensive as to require the virtual rewriting of the plan, it is likely to be suggested that the local planning authority withdraw the plan.
127. We believe that the key decisions to be made on the future of the Garden Communities and the spatial strategy need to be taken by the Council, in consultation with local residents. The most effective and transparent way

to do this would be through the preparation of a new plan, based on a robust SA, rather than emerging as our recommendations in main modifications.

128. We realise that the Council's preference might be to continue with the examination if at all possible and, although we will not reach a final decision on the way forward until we have had the opportunity to consider the Councils' response to this letter, we are of the view that withdrawal of the plan from examination is likely to be the most appropriate option.
129. We appreciate that this will be not be the news the Council were hoping for and that you may need some time to reflect on the contents of this letter and to determine the preferred course of action. We are not setting a deadline for a response from the Council, but an early indication of when the Council is likely to be able to provide a response would be appreciated.
130. We are not seeking a response to this letter from any other parties and will not receive any comments on it. Nevertheless, we are happy to provide any necessary clarification to the Council via the Programme Officer.

Louise Crosby and Elaine Worthington

Examining Inspectors



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Local Plan Peer Review

Uttlesford District
Council

Malcolm Sharp &
Simon Smith

23 March 2020

Improving the East

Uttlesford Local Plan

Date: 31 March 2020
Subject: Local Plan Peer Review
Report by: Malcolm Sharp & Simon Smith, Talent Bank Associates
Contact: 07792855737 & 07956038468; malcolm@sharpplanningplus.co.uk
warwickbusiness@btconnect.com

Purpose

The Council commissioned the East of England Local Government Association (EELGA) to undertake a peer review in the light of the Local Plan Inspectors' letter of 10 January 2020 which followed the Stage 1 hearing sessions.

The EELGA peer review team was briefed to focus on the possibility and implications of repairing the plan or starting afresh. For clarity the team was not engaged to advise on the spatial strategy or policies contained in the Plan itself.

Recommendations

The Council to note the conclusion drawn from the Review Team's analyses is that against the continue route, withdrawal of the plan from the examination and preparing a new plan would add certainty and more value to the key themes of the Council's draft Corporate Plan. The key elements of such value creation being:

- i. To retain Council led democratic control over and governance of the plan making process.
 - ii. To conduct an open and transparent plan making process engaging with residents and taking account of their views. This is also a central objective of the National Planning Policy Framework, that states the Local Plan is the key to delivering sustainable development that reflects the vision and aspiration of local communities.
 - iii. To update and add to the existing evidence based plan, to include:
 - A reassessment of housing and employment assumptions.
 - A reassessment of infrastructure deficits and requirements.
 - Development for a net zero carbon future.
-

1. Introduction

- 1.1 The Council commissioned the East of England Local Government Association (EELGA), to undertake a peer review in the light of the Local Plan Inspectors' letter of 10 January 2020, which followed the Stage 1 hearing sessions.
- 1.2 The EELGA peer review team was briefed to focus on the possibility and implications of repairing the plan or starting afresh and for clarity the team was not engaged to advise on the spatial strategy or policies contained in the Plan itself.

2. Review Methodology

- 2.1 The Peer Review included the following activities:
 - Desk top review of all key documents.
 - Research into good practice guidance including Planning Advisory Service materials.

- Questionnaire based consultation with all Members.
- Meeting with MHCLG officials.
- Interviews with relevant officers.
- Briefing to all Members.
- This report of review findings and conclusions.

3. Background Context: Local Plan and Plan Making

3.1 The context for local plans and plan making is set out in materials published by the Planning Advisory Service,¹ a service operated by the Local Government Association.

3.2 Having a robust Local Plan in place helps to:

- Move from plan making to place shaping, (spatial expression of corporate vision).
- Provide certainty for communities, developers and the Council.
- Focus the Council on delivery.
- Access more funding and attract investment.
- Manage conflict.
- Meet statutory responsibilities.

3.3 Plan making is about much more than housing numbers and spatial strategy, it is one of the most significant tools available to a district council.

3.4 A robust, evidence based and sound Local Plan for Uttlesford will enable:

- The delivery of a vision for a better place for communities and the environment.
- Provision of infrastructure and development that will be required over at least the next 15/20 years and beyond to achieve a zero carbon future.

3.5 Members have a responsibility and a vital leadership role to play in producing a robust Local Plan for their area that seeks buy in from all parties. The key challenge is to listen to the views and aspirations of their constituents and balance this with the evidence and professional advice in order to plan for and meet, the development needs of their area, in accordance with statutory responsibilities and national planning policy and guidance. The Planning system is about balance, conflict resolution and compromise. In the Uttlesford context for example, the rural nature of the District, the high value landscape characteristics and extensive heritage assets are vital components in any planning decision making and this should be reflected in local plan policy. However, it is also vital to plan to meet objectively assessed needs such that change, although inevitable, is carried out and managed in the most sensitive way possible.

3.6 An effective local plan is essential to these transactions and decisions as set out in the National Planning Policy Framework (NPPF):

*“The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings”.*² and

In local plans, *“Strategic policies should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision for:*

- Housing (including affordable housing), employment, retail, leisure and other commercial development.*

¹Local Plan Making and the Councillor Role June 2019 www.pas.gov.uk

²NPPF para 15 MHCLG 2019

- b. *Infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat).*
- c. *Community facilities (such as health, education and cultural infrastructure).*
- d. *Conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation”.*³

*“Policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary.”*⁴

- 3.7 To achieve a sound plan it will be necessary to:
- Address the key priorities for the area
 - Plan positively
 - Develop a robust and credible evidence base
 - Co-operate with neighbouring areas
 - Focus on reasonable alternatives
 - Undertake comprehensive Sustainability Appraisal
 - Carry out effective stakeholder engagement
 - Ensure that proposals are viable (at plan level) and deliverable in practice.
- 3.8 Furthermore, to achieve a ‘sound’ plan in a timely manner also requires Member support for robust governance and processes and effective programme management in line with a realistic Council approved ‘local development scheme’.
- 3.9 There are serious implications / risks of not having an up to date Local Plan in place including:
- It may be difficult to maintain required the required 5 year housing land supply.
 - It may be difficult to meet the housing delivery test.
 - It may be difficult to resist unsuitable / unwanted development.
 - The application of the priority in favour of ‘sustainable development’ as set out in NPPF.⁵
 - Likelihood of increased ‘planning by appeal’.
 - The threat of Government intervention to remove plan making powers from a local planning authority (LPA) or other arrangements / mandates.
 - The lost opportunity to promote quality outcomes including good design, and high environmental standards.
 - The loss of local democratic control over decision making.
- 3.10 During the course of this commission the Secretary of State made a statement in the House of Commons and published a paper entitled ‘Planning for the Future’⁶; two particular proposals are of particular relevance and referred to later in this report. Firstly, that the Government intends to mandate all Local Planning Authorities to have a Local Plan in place by December 2023 and secondly that the calculation of objectively assessed need is to be reviewed. A Planning White Paper is to be published in the Spring.

4. The Inspectors’ Voices

- 4.1 In this section we have drawn together the main points made by the Inspectors’ in their letter of 10 January 2020; extracts from the letter are referenced with paragraph numbers in parenthesis. The Inspectors’ main points have been addressed in four sections; these are: the

³ NPPF para 20 MHCLG 2019

⁴ NPPF para 33 MHCLG 2019

⁵ NPPF para 11 MHCLG 2019

⁶ Planning for the Future MHCLG 12th March 2020

endorsed aspects of the plan, the Inspectors' main concerns, the Inspectors' advice on strategy and the Inspectors' critique of continue and withdraw.

4.2 The Endorsed Aspects of The Plan

The Inspectors were silent on 'aspects of the plan that would not require significant further work at this stage' (3). On this basis it is assumed the Inspectors are satisfied the plan is legally compliant, the duty to co-operate has been met and the objectively assessed need (OAN) is satisfactory. The latter point though is conditional as it would be necessary for the examination to consider changes in, say, new national household projections (due to be published in 2020), introduction of a new assessment methodology (proposed in a MHCLG post budget document, 'Planning for our Future').

4.3 The Inspectors' Main Concerns

Drawing together their concerns, the Inspectors concluded:

'The Garden Communities are insufficiently justified and have not been shown to have a reasonable prospect of being delivered as submitted. Consequently, as matters stand the strategy set out in the plan is unsound' (112).

4.4 The main components of this conclusion set out in letter paragraph 113 are:

i. The Sustainability Appraisal

As part of the assessment of reasonable alternatives, the Sustainability Appraisal did not consider a smaller number of garden communities, in combination with more housing in existing sustainable settlements, nor does it have regard to the Heritage Impact Assessment.

ii. The Garden Communities

- a. The lack of clear mechanisms to ensure Garden Community Principles will be met.
- b. The costs, viability and deliverability of the Rapid Transit System are uncertain and any benefits would be realised too late to help ensure the Garden Communities (at Easton Park and West of Braintree) would be sustainable places.
- c. Realistic infrastructure costs have not been established meaning it is uncertain whether the Garden Communities will be viable and developable.
- d. The Garden Communities at North Uttlesford, Easton Park and West of Braintree are flawed due to a raft of landscape and heritage impacts, highway improvements and assessment issues

iii. The Stepped Housing Delivery Trajectory

- a. The trajectory unreasonably delays addressing the housing affordability problem.
- b. The trajectory is overly optimistic as it relies on early completions in the Garden Communities.
- c. There is unlikely to be a 5 year housing land supply on adoption.

4.5 The Inspectors' Advice on Strategy

To arrive at a sound strategy, the Inspectors' (at 114 - 116) consider the Council:

- i. Would need to allocate more small and medium sized sites that could deliver homes in the short to medium term and help bolster the 5 year Housing Land Supply until the Garden Communities begin to deliver housing.
- ii. Delete one of the Garden Communities from the plan, the Inspectors suggest this should be North Uttlesford as it seems to have most barriers to its development and performs the least well against the Garden Community Principles.
- iii. Undertake an enormous amount of work (identified in the letter) to justify the ambitious Easton Park and West of Braintree allocations.

4.6 The Inspectors' Critique of Continue And Withdraw

Commenting on 'what if' the plan was continued; the Inspectors commented on three themes:

Evidence

- To address our concerns, the Council would have to prepare a very considerable amount of new work (119). This goes well beyond what could be reasonably addressed by main modifications to the plan (125) and would amount to its almost complete re-drafting (126).
- There is a risk that this additional material, and any further evidence that is produced, seeks to justify the strategy set out in the plan rather than informing the plan making process which is how it should be used (122).
- Any lengthy pause in the examination is likely to lead to the need to revisit the objectively assessed need for housing and other parts of the evidence base could also become out of date during this time (124).

Transparency

- New documents continue to be submitted without the opportunity for participants to comment (121).
- Continuing is likely to become protracted, procedurally challenging and extremely difficult for participants to engage with (123).
- There is no guarantee that this plan would be found sound at the end of that long and complex process (123).

Democratic control

- In concluding, the Inspectors stated, 'We believe that the key decisions to be made on the future of the Garden Communities and the spatial strategy need to be taken by the Council, in consultation with local residents. The most effective way to do this would be through the preparation of a new plan, based on a robust Sustainability Appraisal, rather than emerging as our recommendations in main modifications' (127).

5. Members' Voices

5.1 In this section we report Members' responses to a consultation involving a questionnaire survey and telephone conversations. The consultation addressed the key spatial, housing, infrastructure and quality of development issues raised by the Inspectors along with other specific issues of concern. Twenty two members responded by email and or over the phone. The responses were made in confidence on the basis the most commonly shared views would be reported in aggregate form. The responses are set out below as reported to and summarised by the Review Team without any commentary or judgement from the Team.

1. Priorities for The District Local Plan Over The Next 15 Years And Future Generations

Where expressed, the most common expressed vision for Uttlesford is one that:

- Protects and enhances the natural and built environment and heritage.
- Has thriving sustainable, net zero carbon communities.

Members were very clear their aspirations for the plan are for:

- Investment to address existing infrastructure deficits and future infrastructure requirements for sustainable transport, employment, education, health, social and community activities including sport and leisure.
- The right number of homes to meet people's needs by tenure (social, affordable and private), size (1,2,3 bed not just 5 bed executive homes) and location (close to jobs and services to reduce the need to travel).

2. Views on The Proposed Garden Communities Included In The Submitted Local Plan

Members' responses were consistent and clear; Garden Community principles are good in theory but may not be delivered in practice. On the latter point, Members expressed significant concerns about promoters' lack of commitment to the principles and the Council's abilities to assemble funding for and delivery of required advance strategic and site-specific infrastructure. A central concern was that the proposed developments would result in anonymous housing estates not the desired self-contained communities.

3. Views on How To Go About Finding Additional Sites In Town And Villages To Ensure And Maintain An Immediate 5 Year Supply Of Deliverable Housing Sites

At the strategic level, Members want to see a transparent, objective and evidence based assessment of sites informed by a comprehensive understanding of infrastructure pinch points and requirements.

At the operational level, Members want a search for sites that engages Town and Parish Councils and campaign groups. They also referred to the possibility of identifying sites from the 2015 call.

4. Views on Responses To The Inspectors' Letter

A small minority of the respondents want to retain the local plan in examination. These Members consider the benefits would be retention of the housing numbers (OAN), there is no alternative spatial strategy available and it would prevent a speculative 'free for all.'

A substantial majority of the respondents want to withdraw the local plan from the examination and start a new plan. The main benefits may be expressed as three opportunities:

- i. To conduct an open and transparent plan making process engaging with residents and taking account of their views.
- ii. To prepare an evidence based plan, to include:
 - A reassessment of housing and employment assumptions.
 - A reassessment of infrastructure deficits and requirements.
 - Development for a net zero carbon future.
- iii. To retain Council led democratic control over the plan making.

5. Views on Other Matters Relating To Preparation And Adoption Of A Sound Plan

Members highlighted four key challenges to preparing a sound local plan:

- i. Highway capacities and accesses: The small number of access points to the district from the major highways (M11 and A120) is subject to capacity issues.
- ii. Infrastructure: The requirements for advance infrastructure for new and existing communities, notably sustainable transport systems and existing deficits.
- iii. Value capture and bids: The institutional arrangements required to secure funding for infrastructure and hence the viability and deliverability of new development.
- iv. Residents' support: The reality that no one plan is going to satisfy everyone.

Members expressed a desire for a strengthened planning service as a whole. They want to see: a more open and responsive service culture; all Members having a better understanding of and engagement in the planning system and a higher standard of inputs from external consultants and advisers.

6. The Peer Team's Analyses

6.1 To help the Council make an informed response to the Inspectors' letter, we have:

- Analysed four factors mentioned as potentially significant in deciding whether to either continue with or withdraw the plan from examination. These are: Inspectors' advice; time, cost and housing numbers; spatial strategy; and transparency together with democratic control.

- Used the results of the above analyses to assess the additional value that each route could contribute to the plan as the spatial expression of the Council’s draft Corporate Strategy, notably its priorities for plan making, the plan and development outcomes.

6.2 Whose Choice? The Inspectors’ Advice

The Inspectors’ findings and critique of the continue and withdraw routes (117-128) led them to refer (at 117) to the Procedure Guide for Local Plan Examinations:

“As one of three outcomes of the examination, the Inspector finds the plan unsound and / or legally non compliant as submitted, and that it is not possible to make sound and legally compliant by making main modifications to it. In these circumstances the Inspector must recommend non adoption of the plan. In practice the local planning authority would be asked to consider withdrawing the plan before any such recommendation was made”⁷.

6.3 In their concluding remarks the Inspectors state:

“We are of the view that withdrawal of the plan from examination is likely to be the most appropriate option. We appreciate that this will not be the news the Council were hoping for and that you may need some time to reflect on the contents of the letter and to determine the preferred course of action” (128/9).

6.4 The Review Team’s reading of the letter is thus, that the Inspectors have not invited the Council to consider and make a choice between continue and withdraw. The Inspectors have taken the first step in the above procedure by inviting the Council to consider withdrawing the plan.

6.5 Time, Cost and Housing Numbers (Faster, Cheaper And Fewer)

Notwithstanding the question over the feasibility of continuing with the plan, this route is considered by some to have the merits of being faster and cheaper with fewer houses.

6.6 **Time:** In their critique (but not endorsement) of the continue route, the Inspectors estimated it would take between 1 and 2 years, possibly longer, to complete the necessary work and consult on it (124). Given the extent of technical work required and the preliminary work described below, our view is this route would at least take up to 2 years. This would be followed by the recommenced hearings, the Inspectors’ report and adoption procedures.

6.7 The above timeline assumes an immediate start. In practice, the Council would face an uncertain start date due to two risks, summarised in Table 1, which may require the Council to withdraw the plan after some delay in any event.

Table 1 Risks attached to continuing the existing plan in examination

Continue	First risk Third party support	Yes: proceed No: withdraw	Second risk Inspectors’ support	Yes: proceed No: withdraw	Continue
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6.8 The first risk arises from a need to enlist the support of the Garden Community promoters and other third parties towards work required to produce a sound plan. To do this the relevant third parties would need to confirm mechanisms to secure the Garden Community Principles and commit to address the Inspectors’ related questions of landscape, heritage, sustainable transport, infrastructure and viability. The third parties concerned may or may not agree.

6.9 In the event of the Council receiving confirmations of support, the second risk would arise from a need to convince the Inspectors that continue was a viable and better alternative to

⁷ Procedure Guide for Local Plan Examinations (third bullet point paragraph 8 June 2019 5th Edition):

withdrawal and preparing a new plan. The North Essex case has been cited as a precedent under which the three Councils made a successful case to the Inspector to repair their local plan. However, this followed the Inspector's invitation to the Councils to consider three ways forward. The Uttlesford Local Plan Inspectors have set out the reasons why they have not extended such an invitation (117 – 128). If such an invitation had been extended, the Council would need to enter correspondence with the Inspectors. For the North Essex plan, the Councils took four months to make a successful case to continue. It is reasonable to conclude the Inspectors may remain unconvinced and maintain their current position. In which case significant time would have been lost that could have been committed to commencing a new plan.

- 6.10 Under the withdraw route it should be feasible to prepare a new plan within 4 years in line with the timescale set out by other local planning authorities. However, consideration may need to be given to dropping the Issues and Options Stage in order to meet the Government's recently announced proposal⁸ to require all LPAs to have up to date local plans in place by December 2023. At this stage we do not know how negotiable this deadline will be depending on individual circumstances.
- 6.11 To sum up, the start date, if at all, for the continue route would be in the hands firstly of third parties and secondly the Inspectors. The withdraw route would provide the certainty required by the Council to demonstrate its commitment to prepare a sound plan at the earliest possible time having regard to the Government's possible deadline of December 2023 or subsequent announcement in the forthcoming White Paper.
- 6.12 **Cost:** The comparative costs of the continue and withdraw routes presented at the member workshop of 04 February 2020 were based on recurring expenditure of £800k pa. This is in accordance with a continuing need for LPAs to keep plans under review with peaks and troughs in expenditure during plan making, for example peaks during the preparation of evidence and the hearings. In the event of the current plan being found sound (under the transitional arrangements), the Inspectors would – in line with current practice – be highly likely to insert a main modification for an immediate review. The purpose being to needs beyond the current plan date of 2032 / 33 and in the light of changed policy and guidance.
- 6.13 The Review Team's conclusion is that there would be no effective difference in costs between the two routes over the next four years.
- 6.14 **Housing numbers:** A further attraction of the continue route might be seen as the possibility of retaining existing numbers as calculated through the existing Objectively Assessed Need (OAN) and the fact this was not raised by the Inspectors as an issue following the initial hearings. For a new plan, officers have advised Members the application of the Government's standard methodology for calculating housing needs would result in an additional housing requirement capped at approximately 80 dwellings per annum. This number arose from the Council's last five year housing land supply calculation. However, this will change over time and will need to be kept under review. Furthermore, a new plan with a new plan period ending in, say, 2038 / 39 would involve allocations for an additional six years.
- 6.15 The existing housing number would be highly vulnerable to changing data and guidance during the rest of the plan making period. In the Inspectors words:

"Also, any lengthy pause in the examination is likely to lead to the need to revisit the objectively assessed need for housing (OAN). The OAN for Uttlesford is based on the Strategic Housing Market (SHMA) update 2017 which in turn is based on the 2014-based household projections. If new national household projections were to be published (due during 2020), it

⁸ Planning for the future MHCLG 12th March 2020

would be necessary for this examination to consider whether the change was meaningful, in line with the advice in the Guidance”.

- 6.16 Furthermore, Government in a recent document ‘Planning for the future’ has indicated that it intends to be:

*“reviewing the formula for calculating Local Housing Need – we will introduce a new approach which encourages greater building within and near to urban areas and makes sure the country is planning for the delivery of 300,000 new homes a year”.*⁹

- 6.17 In the event of the continue route being made available, it would be prudent for the Council to expect a requirement to recalculate the housing needs during the rest of plan making period. If the existing plan was adopted, the Inspectors would most likely require the Council to move immediately to a review to assess requirements for a new extended plan period. Finally, it should be noted the Inspectors would not view artificially restricting housing need as a good reason to choose a particular route.

- 6.18 The review team are aware that some Members have wished to explore whether the nature of the District is such that it could plead a special case for restricting the extent of housing development. In addressing the question, ‘is the use of the standard method for strategic policy making purposes mandatory?’ Planning Practice Guidance states:

*“No, if it is felt that circumstances warrant an alternative approach, but authorities can expect this to be scrutinised more closely at examination. There is an expectation that the standard method will be used, and that any other method will be used only in exceptional circumstances”.*¹⁰

- 6.19 The Review Team are not aware of any case where this has applied to date and consider a very high bar would be set to justify ‘exceptional circumstances.’ In the unlikely event of success, the Council may well need to secure agreements with neighbouring authorities to take Uttlesford’s unmet need before the plan could be found sound.

- 6.20 The Review Team’s view is that the Council’s ability to hang on to the current housing numbers is too fragile a reason to inform decision making and pursuing ‘exceptional circumstances’ would most likely be a fruitless enterprise. Both causes would be unnecessary distractions from the urgent task of preparing a sound plan in a timely manner.

6.21 Spatial Strategy

In this section we have addressed the question: is there an alternative to the submitted strategy?

- 6.22 The Inspectors have concluded ‘as things stand the strategy set out in the plan is unsound’ (113). To arrive at a sound strategy, the Inspectors consider the Council should:

- Allocate more small and medium sized sites that could deliver homes in the short to medium term (114).
- Delete one of the Garden Communities, suggesting this should be North Uttlesford (115).
- Justify the ambitious allocations at Easton Park and West of Braintree (116).

- 6.23 The Inspectors added, ‘the work likely to be necessary goes well beyond what could be reasonably addressed by main modifications to the plan’ (125) and ‘changes necessary would amount to its almost complete re-drafting’ (126).

⁹ Planning for the Future para 10 MHCLG 12th March 2020

¹⁰ PPG Paragraph: 003 Reference ID: 2a-003-20190220

6.24 Our view is a new plan would result in a new spatial strategy in order to be found sound, this may or may not have some of the elements of the existing strategy but consideration at least would need to be given to more small and medium sized sites and fewer Garden Communities. As reported in Members' voices section 5.1 point 5 above, a new plan would present opportunities to take account of any new Council priorities and wider imperatives.

6.25 Whose Plan? Transparency and Control

A central concern contained in the National Planning Policy Framework is for planning to be open and transparent. In this context, the Inspectors raised the following concerns with the continue route:

- That new evidence base documents produced after submission of the plan 'should have informed the plan making process' (121).
- There is a risk that 'further evidence that is produced seeks to justify the strategy set out in the plan rather than informing the plan making process which is how it should be used' (122).
- It is 'especially problematic for local residents'... 'to keep track of and understand the large volume of material that has been submitted and continues to emerge' (122).

6.26 The Inspectors conclude, 'the most effective and transparent way to (make key decisions) would be through the preparation of a new plan' (127).

6.27 A significant difference between the continue and withdraw routes concerns control. Under the continue route, the Inspectors would be in control solely deciding on what main modifications to include. The Council would be reduced to preparing new evidence and proposing amendments and at the end of the process either agreeing or not to adopt the resulting plan as modified. Under the withdraw route, the Council would remain in control of the plan making process and content until submission for examination.

7. The Peer Review Team's Findings

7.1 The main findings from the analyses are as follows:

i. Whose Choice?

The Inspectors invited the Council to respond to their letter which makes a case for the Council to withdraw the plan. The Inspectors did not invite the Council to choose between alternative routes to produce a sound plan.

Notwithstanding doubt about the availability of the continue route we have assessed the additional value the continue and withdraw routes could add to the Council's priorities for plan making, the plan and development outcomes.

ii. Time, Cost and Housing Numbers (Faster, Cheaper and Fewer)

The analyses reveal there are weak grounds to justify support for the continue route. On time, continue would place the start date, if any, in the hands of third parties and the Inspectors. Withdraw would provide the certainty required to meet the Government's requirements for a possible deadline of December 2023.

On costs, it is the Review Team's view there would be no effective difference between the two routes over the next for four years.

On housing numbers, it is uncertain whether it would be possible to freeze the housing number in the current plan. Reflecting on the possible publication of new national household projections, the Inspectors predicted (at 124) that 'any lengthy pause in the examination is likely to lead to the need to revisit the objectively assessed need for housing (OAN).' Under the withdraw route, a new housing number would similarly need

to take account of any new household projections, as well as emerging methods of calculating the OAN and a longer plan period.

iii. Spatial Strategy

In the light of the Inspectors' comments, a plan under both routes would need to be different from that in the existing plan. Given a limit to changes to the existing plan within the reasonable scope of main modifications, a new plan would provide greater scope to extend and update the evidence base to include:

- A reassessment of housing and employment assumptions.
- A reassessment of infrastructure deficits and requirements.
- Development for a net zero carbon future.

iv. Whose Plan? Transparency and Control

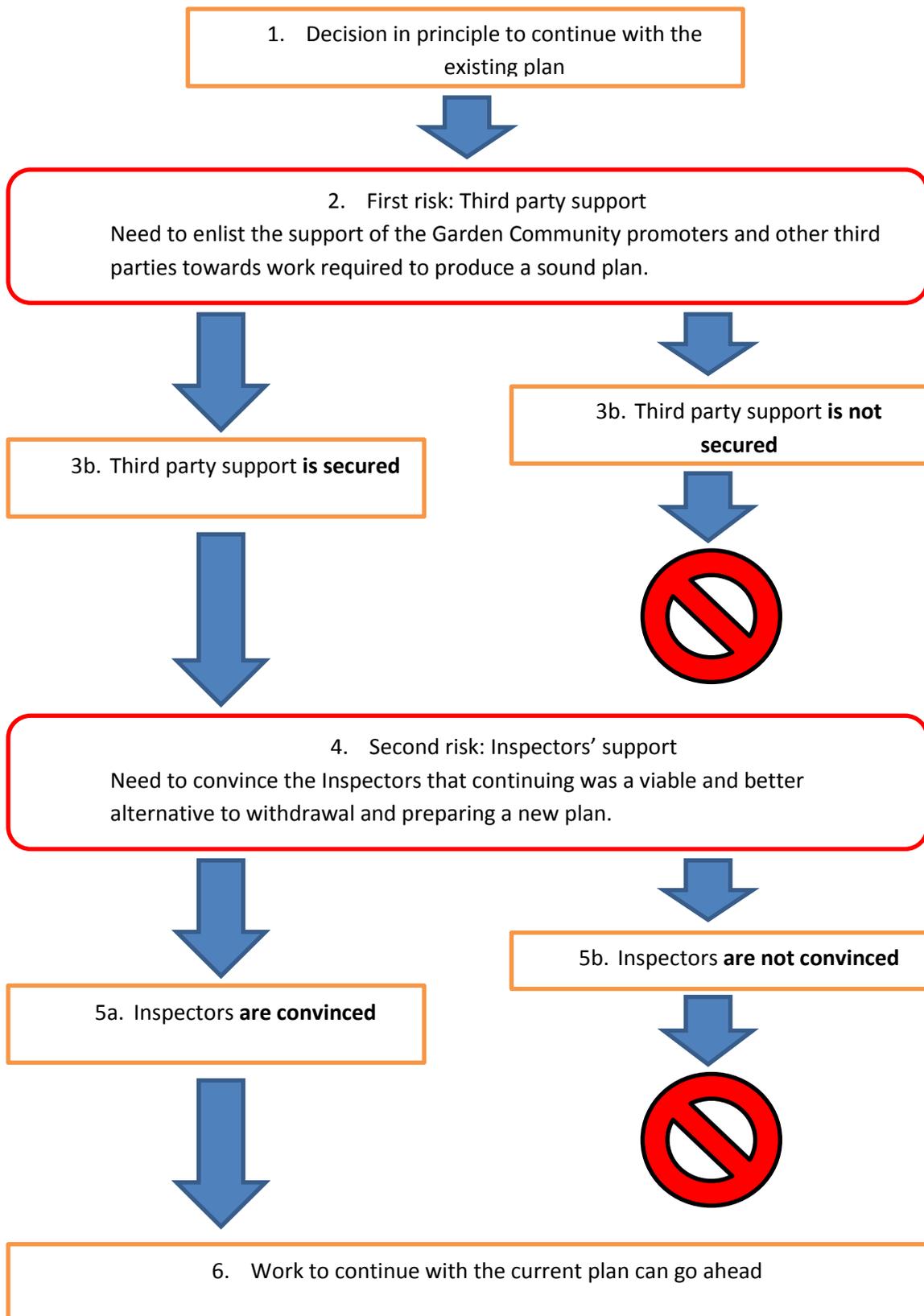
In the Inspectors' words, 'key decisions to be made on the future of the Garden Communities and the spatial strategy need to be taken by the Council in consultation with local residents. The most effective and transparent way to do this would be through the preparation of a new plan...rather than emerging as our recommendations in main modifications' (127).

8. The Peer Review Team's Conclusion

8.1 The conclusion to be drawn from the Review Team's analyses is that against the continue route, preparing a new plan would add more certainty to the timetable and more value to the key themes of the Council's draft Corporate Plan. The key elements of such value creation being:

- i. To retain Council led democratic control over and governance of the plan making process.
- ii. To conduct an open and transparent plan making process engaging with residents and taking account of their views. This is also a central objective of the National Planning Policy Framework, which states the Local Plan is the key to delivering sustainable development that reflects the vision and aspiration of local communities.
- iii. To update and add to the existing evidence based plan, to include:
 - A reassessment of housing and employment assumptions.
 - A reassessment of infrastructure deficits and requirements.
 - Development for a net zero-carbon future.

Appendix 3: East of England LGA Peer Review Report – Table 1



Appendix 4: Potential Housing Requirement

4.1 This appendix looks in more detail at what the housing requirement for a new plan for Uttlesford may be. The analysis within should be treated with caution as the detail will change as the plan progresses. Some reasons for this change will be:

- a. The Government's stated intention to review the standard methodology – this has the potential to radically alter the projections depending on how the Government reviews the methodology;
- b. New releases of data changing the inputs – the standard methodology is currently tied to the 2014-based household projections, so new household or population projections will not change the inputs currently. However, it is also tied to the affordability of housing in the district and new data for this is released annually;
- c. The passage of time – as time passes the base year for calculating the requirement changes.
- d. Other factors – there could be further unknown factors which influence the requirement

4.2 Having regard to the above qualifications it is nevertheless appropriate to consider what the housing requirement for the district could be. The detail of these figures should hold little weight in the mind of the reader, however the order of magnitude of the overall figure does have relevance when considering the challenge of developing a new Local Plan.

4.3 As stated in the main report, when the annual target was last calculated it stood at **715** dwellings per annum. The detail of this calculation can be found at appendix 1 of the latest published housing trajectory, [here](#).

4.4 To gain an appreciation of what the housing requirement for a new plan could be one must first determine a plan period. Uttlesford's neighbours developing the Greater Cambridge Plan are proposing 2017-2040, Uttlesford has not yet decided on an appropriate plan period, however to assist with this calculation this same period will be used. There is some merit in this, as it aligns the development of the new plan with a neighbouring authority. With the plan covering a period of 23 years, this would mean that the housing requirement would be **16,445** homes (715 x 23).

4.5 The Inspectors letter, at paragraph 114, advocates a buffer so that the housing requirement is not only just met by a narrow margin. At the point of submission of the current Local Plan there was a buffer of approximately 5%, this was not enough and changes in circumstances meant that this was not in evidence by the time of the hearings. A larger buffer should be planned for in any new Local Plan, of at least 10%, and there should also be consideration of a higher buffer. For the purposes of this appendix a range of 10% to 20% is shown. This would imply that the housing requirement would be between **18,000** and **19,700** (16,445 x 1.1 AND 16,445 x 1.2, then rounded to nearest 100).

4.6 Existing sources of supply can be subtracted from this requirement to understand the possible number of new homes for which sites would need to be found. The sources of supply are completions, commitments and windfall.

4.7 Completions: In 2017/18 and 2018/19 **1,849** homes have been built.

4.8 Commitments: At April 2019 there was planning permission for 2,721 homes on large sites (over 5 homes), the deliverability of these permissions was assessed and they were all considered deliverable. Furthermore, there was planning permission for 521 homes on small sites (5 or less homes), these were not assessed and it is appropriate to discount this source of supply by 63% in line with the evidence on delivery of windfall sites, see [here](#). Therefore, 328 homes can be expected from small sites with planning permission (521 x 0.63). Overall, from planning permissions **3,049** homes can be expected.

4.9 Windfall: Finally those sites that can be expected to be granted permission over the course of the plan period, not on allocated sites can be identified. The calculation that informed the previous plan (see [here](#)) identified 70 dwellings per annum from this source. As this source is only looking into the future, only future years can be counted. Furthermore, to avoid double counting with existing planning permissions the first three years from the 'as at date' cannot be counted. This leaves 17 years of supply from this source, i.e. **1,190** homes (70 x 17).

4.10 Bringing this all together, the potential overall need for a new plan can be calculated by subtracting the sources of supply from the housing requirement once the buffer is applied. This equates to between **11,900** homes (18,000 – 1,849 – 3,049 – 1,190 rounded to the nearest 100) and **13,612** homes (19,600 – 1,849 – 3,049 – 1,190 rounded to the nearest 100).