

**SCRUTINY COMMITTEE held at COUNCIL CHAMBER - COUNCIL OFFICES,
LONDON ROAD, SAFFRON WALDEN, CB11 4ER, on MONDAY, 13 MARCH
2023 at 6.00 pm**

Present: Councillor N Gregory (Chair)
Councillors C Criscione, G Driscoll, V Isham, R Jones,
P Lavelle, G LeCount (Vice-Chair), S Luck and G Sell

Officers in attendance: D Hermitage (Director of Planning), P Holt (Chief Executive),
C Shanley-Grozavu (Democratic Services Officer) and A Webb
(Director - Finance and Corporate Services)

Also Present: Councillors A Coote (Portfolio Holder for Housing), J Evans
(Portfolio Holder for Planning, Stansted Airport, Infrastructure
Strategy and the Local Plan) and P Lees (Leader of the Council)

Public Speakers: Councillor P Bright, A Dodsley and R Haynes

SC58 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies for absence or declarations of interest.

SC59 MINUTES OF THE PREVIOUS MEETING

The minutes of the previous meetings were approved as a correct record.

SC60 PUBLIC SPEAKERS

Mr Richard Haynes, Mr Andy Dodsley and Mr Peter Bright addressed the meeting. Copies of their statements have been appended to these minutes.

Following the statements, the Chair invited the meeting to make comment. Summaries of the discussion can be found below.

Mr Richard Haynes

In response to Mr Hayne's statement, the Portfolio Holder for Planning, Stansted Airport, Infrastructure Strategy and the Local Plan reassured the Committee that Mr Haynes' concerns had been addressed in private correspondences, and that he was happy to put them on public record. He said that matters regarding the emerging Local Plan had not been predetermined, and there had been no meetings between members of the administration and prospective land promoters and developers. Technical details, including the heritage study, would be considered by the Local Plan Leadership Group (LPLG), and officers were reviewing the inclusion of neighbourhood plan evidence.

The Chair asked why there had been a delay previously to consider a newly-identified site, if there had been no discussion with the land owners. The Portfolio Holder clarified that officers have had discussions with the relevant parties and would carry on to do so, as part of the process. Members would not get their say on sites until the site appraisal stage.

Councillor Criscione asked Mr Haynes what he wanted from the Scrutiny Committee and Mr Haynes responded that he wanted more openness. Whilst his comments had been answered thoroughly in private, he did not understand the secrecy in the process and the lack of engagement, such as the disappearance of the Community Forums.

In response to a question from Councillor Sell about the speaker's experience with Uttlesford in relation to other Essex Councils, Mr Haynes said that in his experience, there with concerns with just about any Local Authority's local plan development process. UDC had wanted to try a whole new way of developing Local Plans with the award-winning community forums and open discussions; however this has since disappeared.

Mr Andy Dodsley

The Chair requested that the Portfolio Holder for Planning, Stansted Airport, Infrastructure Strategy and the Local Plan provide a definitive answer to Mr Dodsley on the position of the 1939 Agreement within the Local Plan process. The Portfolio Holder said that he was aware of the deed and was willing to provide an answer but was not in a position to confirm a deadline as to when this would be given.

Members raised concerns for the lack of opinion in which the Council had on the covenant, given that the site had scored highly in previous Local Plans.

Cllr Peter Bright

The Portfolio Holder for Planning, Stansted Airport, Infrastructure Strategy and the Local Plan thanked Councillor Bright for his observations and said that the time estimates provided within the project management documentation were a realistic and accurate assessment.

The Director of Planning clarified that officers intended to have the emerging Local Plan submitted before June 2025, due to the government's upcoming changes in how Local Plans were developed.

The Leader of the Council proposed that an FAQ section be created on the Local Plan webpage, which will publish responses to queries from the public.

SC61

LOCAL PLAN – PROJECT PLAN TO FEBRUARY 2023

The Director of Planning provided an update on emerging Local Plan, covering the progress of the project plan as well as risks and mitigations. He highlighted staffing and the timetable within the updated risk register and explained that

whilst he had managed to recruit into the outstanding vacancies, the team were now four weeks behind schedule and likely to lose further traction as new staff aligned themselves with the work. As a result, officers would be requesting that the LPLG consider an extension to the Regulation 18 consultation which would be until no later than the end of October 2023. If approved, a revised Local Development Scheme would be brought to an upcoming meeting of Cabinet.

In response to questions, the Director of Planning confirmed that no site allocations had been made and officers were conducting robust site assessments over the coming months in preparation for members to consider potential allocations over the summer. In addition, all sites had been put forward by site owners, bar one where officers had approached the landowner. In this case, it had been agreed not to publish details of the site in order to not worry tenants if nothing were to happen. Members raised concerns with the decision to choose to commercial interests over transparency and the Council's obligations as a public authority.

The Director of Planning agreed to provide Councillor Driscoll with an update on the Local Housing Needs Assessment.

Members debated the progress made on producing a Local Plan over the last four years. Some argued that the Council had failed in the duty to communicate and engage with the public, and that the lack of a Local Plan had led to a mass of speculative and inappropriate for the district as the Planning Committee were not provided with the tools required to defend their decisions. In regard to the committee's function within the process, members had not been kept informed enough to be able to apply the required levels of scrutiny and the next cohort must be more demanding, as well as ask more questions.

On the other hand, others highlighted that members needed to be patient as it had taken some time for the Council to realise what had to be changed in order to produce a robust plan. Furthermore, officers had encountered further delays due to unforeseen factors such as staff changes and the pandemic.

In response to the debate, the Leader of the Council explained that whilst the district was in trouble because of the lack of a Local Plan, they were also in trouble when they have submitted the wrong plan which subsequently failed. She said that it was crucial that the Council needed to get it right this time around.

The Portfolio Holder agreed to provide a resume of work to-date before the start of the pre-election period.

To summarise, the Chair thanked the Director of Planning for his work and honesty in recruitment and project management. He did not agree with the approach of some members that the emerging Plan would "take as long as it takes", as a lack of a Local Plan had left Planning exposed and he was disappointed that the recurring reaction to problems was to delay the process further.

The report was noted.

SC62

HOUSING REVENUE ACCOUNT 2023/24 UPDATE

The Chief Executive presented an update on the Housing Revenue Account for 2023/24. He explained that the item had been brought under urgency, due to the upcoming pre-election period.

He highlighted that since the publication of the report, the Regulator for Social Housing for whom the Council had self-referred themselves to had agreed to not intervene as they were satisfied with the progress made towards compliance. However, as a result of the pace in which the Path to Compliance Action Plan had been delivered, along with other recent external developments, the HRA revenue budget set for 2023/24 was now insufficient to support the required level of service for tenants. Cabinet would be recommended to approve additional one-off revenue expenditure of up to £1 million during 2023/24 which would be funded from a reduction in revenue contributions to capital expenditure, as set out in the report.

The Chair raised concerns for how the administration were still finding issues with the housing stock, four years after inheriting the housing portfolio. The Portfolio Holder for Housing agreed with the Chair and explained that they act on the reports provided to them by officers and that officers have to wait for a decision before they can act. He highlighted areas of concern, including mould, repairs and pests and said that the problems within the housing was due to decades of underfunding; money which the Council could not bring back.

In response to a further question from the Chair around the role of the finance function, the Leader of the Council clarified that much of the additional expenditure was unforeseen at the time of the preparing and agreeing the budget, such as the extension of the Interim Director of Housing's contract.

The Director of Finance and Corporate Services added that the expenditure was not missing finance, but a service request made after the budget was set. For example, the expenditure around resolving damp and mould issues was now the Council's obligation to fund, as it would not be recovered from Norse.

Members debated the management of finances with some raising concerns that the unforecastable expenditure should have been expected, given the Council's knowledge of the historical problems around the housing stock and the need to ensure that there was adequate resource in place to address it. On the other hand, it was argued that finance officers had identified and handled the unexpected expenditure promptly, to ensure that it was brought to Cabinet and resolved before the pre-election period began.

The report was noted.

Councillor Driscoll left the meeting at 19:15

Meeting ended 19:38

APPENDIX: PUBLIC SPEAKERS

Mr Andy Dodsley

"The council have been advised on several occasions that one of the sites in the Local Plan site assessment process - Easton Park - has a restrictive covenant on the land - known as "the 1939 agreement" –which restricts any building development to no more than 10 dwelling houses.

The agreement was set up by the Countess of Warwick to protect Easton Park from building development. As a party to the agreement, UDC has both the right and the obligation to preserve Easton Park.

The council are aware of the covenant as in 2011 they signed a Deed of Variation to allow for the extraction of gravel from the site. In the deed, the council also agreed that "in all other respects other than varied by this deed, UDC and the Owners uphold the 1939 Agreement".

The Agreement has never been included in any previous site assessment methodology, even though it is a material issue with the site. Over the last few months, we have asked the council a number of times to clarify their position on the agreement and whether they recognise their obligations' in respect of Easton Park. No response has been received to any of these enquiries.

Why am I raising this at scrutiny committee?

This evening's LPLG is just the 2nd LPLG meeting in the last year at which the public have had the opportunity to attend and speak and the process has become opaque rather than transparent to the public. The most recent LPLG meeting was held "In Camera" to enable members and officers to discuss things frankly without the risk of being legally challenged for apparent prejudice.

Some may argue that apparent prejudice is one of the key reasons that council meetings should be held in public rather than behind closed doors.

It has therefore been impossible for members of the public to follow the Local Plan process and apply regular scrutiny to either the process or the development of the evidence base. As the body that monitors the decisions and actions of the council, I am therefore raising the following questions with the committee to undertake this scrutiny on our behalf:

Question1

Has the restrictive covenant on the Easton Park site been raised as part of the site assessment process and is it included in the site assessment criteria?

And Secondly

Does the council have a position on the 1939 agreement and if so, what is it?

It is worth noting that Easton Park was also put forward as part of the 2021 call for sites process as a potential green site with the intention of creating a new country park for the district to relieve the pressure on Hatfield Forest. The council therefore have the opportunity within the Local Plan to provide much needed green space for the district and meet their obligations under the 1939 agreement”

Mr Richard Haynes

“My name is Richard Haynes. I’m a trustee of CPRE Essex with specific responsibility for Uttlesford.

I have two principal areas of concern that I’d like to bring before the Scrutiny Committee in relation to the Local Plan. These relate to transparency and progress.

Transparency

With the exception of one rather meaningless meeting in November, tonight’s Leadership Group meeting will be the first public session that has taken place for 12 months.

*Last month – nothing
February – nothing
January – nothing
December – nothing
October – cancelled
September – nothing
August – nothing
July – nothing
June – nothing
May – postponed and not reinstated
April – nothing.*

It was made clear at the outset that this was going to be the most democratic and open Plan development process that had ever been undertaken by any authority anywhere and it all started so well with the setting up of the Community Forum (of which I was a member) and full public scrutiny in relation to nine different themes. This all though, then ground to a halt and everything went into secret session with no scope for public participation or public scrutiny. This has inevitably caused suspicion and accusations of ‘done deals’.

The reason given for all this secrecy is that if the deliberations of the Group were in public then this could influence the financial interests of the different land-owning parties. That though, is complete nonsense. If there were genuine concerns on that issue then no discussions by the Planning Committee on

planning applications would ever take place in public since the views they expressed would similarly affect the financial interests of the applicants.

As I say, secrecy breeds suspicion. Something that was only intensified by the release of reports to the parish councils which indicated 'preferred allocation options' that bore no relationship to any of the evidence that had been collected from the public consultations or from earlier Leadership Group discussions, back in the days when they were publicly available.

Progress

We may not have had anything much in the way of public involvement for the last year but we would have expected there to have been a lot of work going on in preparation for the Regulation 18 draft. It doesn't appear though, that that is the case. The output seems to have been restricted to project plans and risk analysis schedules (which presumably have only been prepared because the Scrutiny Committee demands them). What I would have expected is a lot of work on how sites should be selected for the various allocations; the criteria to be used, how they will be weighted and how they will be prioritised or scored. Without proper objective analysis the draft plan will be torn to shreds when it gets to the Regulation 18 stage and certainly when it gets to the EiP.

There was an outline statement in relation to the process of site selection for housing and employment attached to the agenda for the November meeting but this was only very high-level and provided no indication of the approach to the assessment process or even the criteria to be used.

Similarly, the studies that were commissioned in relation to landscape and heritage were both deficient, a fact which I think is now widely accepted, but as far as I can see nothing has been done to try to rectify this. These are both critical elements of the evidence base.

I can cope with delay, if it means that we get the Plan right but I do want to see meaningful progress and at the moment I'm not."

Mr Peter Bright

"On 10th October there was an Extraordinary Joint Session between the Scrutiny Committee and Local Plan Leadership Group when the Director of Planning confirmed there were shortcomings in the LDS process and it was not robust enough for Reg 18 consultation. Consequently there were concerns about accountability and communication failures to identify problems earlier. Ultimately the Reg 18 consultation period was rescheduled to run from late August 2023 into September - a period of six weeks being noted in the minutes of the meeting.

When I spoke at the meeting I said there was:

- a worrying disconnect between Officers and Councillors*
- residents were frustrated that the new local plan was headed the same way as the earlier two plans with long periods of silence where the public had no idea of status*

- *and I made a plea that all parties/groups within UDC pull together and not make the same mistakes that scuppered the two previous plans.*

Based upon what I've subsequently seen in the local press that last point was a waste of my breath; some past, present and prospective councillors conveniently forgetting the two failed plans under the auspices of previous UDC administrations.

I have no idea whether internal communication issues have improved since that October meeting. If they have, how? Perhaps someone could confirm during this meeting?

At the Scrutiny meeting of 27th January this year the LDS schedule was reported by the then Interim Local Plan Manager to be one week behind schedule, despite substantial staff attrition and loss of knowledge. Staff retention and recruitment were highlighted by the Director of Planning as a high risk factor and the coming weeks were going to determine whether that risk translated into another delay. I would add the Director of Planning has been very pragmatic in his dealings with this poisoned chalice of a project.

Those coming weeks have been and gone. And tonight another delay is requested; a further two months in the start of Reg 18 consultation from late August to late October. Because the delay is staffing-based my intuition is there are more delays in store, and I reckon final adoption won't occur until mid 2026 at the earliest.

Is the current schedule a best, realistic or worse case? I hope it's somewhere between realistic and worst. The identified risks inherent in the LDS as displayed on pages 12 and 13 of the reports pack are very high - even after mitigation where of the 11 dominant risks only five can be said to be adequately addressed. And staffing still remains in the red.

So now we have late October before Reg 18 is produced for consultation. But also a final target of early December to receive comments. Personally, as December is the worst month in the year to start a new phase I'd leave consultation open until the end of that month and start 2024 afresh. The project takes as long as it takes.

I am glad to note that MS Project is now being used. Maybe if it had been deployed earlier problems would have been identified sooner.

With all this pressure it is not surprising that e-mails/letters referring to the local plan go go unanswered. But they shouldn't. Some of the points made in such letters can inform thus allowing focus on the things that need addressing. Long responses are not necessary. Bullet points are acceptable for everyone's convenience. I particularly refer to Stop Easton Park's questions re recognition of the 1939 agreement and heritage issues."