

Public Document Pack

**LOCAL PLAN PANEL held at COUNCIL CHAMBER - COUNCIL OFFICES,
LONDON ROAD, SAFFRON WALDEN, CB11 4ER, on WEDNESDAY, 10
APRIL 2024 at 7.00 pm**

Present: Councillor R Freeman (Chair)
Councillors J Emanuel, J Evans, R Gooding, R Pavitt, N Reeve
and G Sell

Officers in attendance: D Hermitage (Strategic Director of Planning), A Maxted (Interim
Planning Policy Manager) and C Shanley-Grozavu (Democratic
Services Officer)

Also Present: M Goodyear and L Knight (Bioregional)

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

Apologies for absence had been received from Councillors Criscione, Loughlin and Tayler.

There were no declarations of interest.

14 **PUBLIC SPEAKING**

The following speakers addressed the meeting. Copies of their statements have been appended to the minutes.

- Tim Bradshaw (on behalf of Little bury Residents Group)
- Councillor Jackie Cheetham (on behalf Takeley Parish Council)
- Councillor Graham Mott (on behalf of Elsenham Parish Council)
- Councillor Martin Foley

A statement from Councillor Geoff Bagnall was also read out.

In response to questions raised by Mr Bradshaw on the classification of Littlebury within the Local Plan, the Interim Planning Policy Manager said that they had not anticipated that Smaller Villages in Regulation 18 would be recategorised to Larger Villages.

The Chair confirmed that any further points raised by the speakers would be dealt with promptly.

15 **MINUTES OF THE PREVIOUS MEETING**

Councillor Emanuel highlighted that a statement under minute 10 was in her name, however it had been made by Councillor Evans. She requested that this be changed.

She also requested that “bene” in the first paragraph of minute 12 be amended to “been”.

The minutes of the previous meeting were approved as a correct record, subject to the above amendments.

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LOCAL PLAN PROGRESS UPDATE

Councillor Sell raised concerns regarding the lack of documentation within agenda pack. He said that the agenda was important as it told the public what was planned for discussion and to omit the reports lacked transparency, which was troubling, especially when there was an existing issue with credibility amongst residents.

Officers responded that nothing had yet been finalised, as the team were only three months into the six month Regulation 19 program. The majority of the agenda for the meeting was allocated to a presentation and follow-up discussion on the emerging climate change policy which had been a highly requested policy by members. They confirmed that further substantive items would be brought to May's meeting.

The Interim Planning Policy Manager then provided a verbal update on the progress on the Local Plan. He highlighted that there was a large amount of work which was "in progress" across the workstreams; including updating the evidence base, sites and policies as well as continuing to engage with stakeholders.

He explained that the Council aimed to deliver a Regulation 19 Local Plan in under seven months, which was considerably shorter than the timescale set by other Local Authorities. Nonetheless, the project management had been well planned out and was on track to be delivered by the summer, as planned. Due to changes to the Plan-making provisions, following the Levelling up and Regeneration Act 2023, the Council was required to have a plan adopted by 2026.

In response to questions from members, officers clarified the following:

- It was recommended that a new Local Plan be brought forward on a five-year cycle. Due to the gap since the current Local Plan was adopted, the emerging Plan would be a foundation which could then be built on in the future.
- Publishing the Regulation 19 Local Plan with a Policies Map would offer the Council additional protection by demonstrating a Four Year Land Supply.
- Project management was in place to ensure that the plan could be delivered within the seven-month period.
- Due to the tight timescale, many of the workstreams were running in parallel to another. The plan was on track to be ready to start the governance process at the end of June.
- The result of not meeting the Secretary of State's deadlines would be intervention and another body, such as the Planning Inspectorate, making the decisions. In addition to this, there would continue to be more speculative development.

Members discussed the need for further information to be provided in future updates in order to accurately monitor where progress had been made against the project plan. It was noted that under previous arrangements, it was the role of the Local Plan Panel to steer the substance of the plan, whereas the Scrutiny Committee were responsible for examining the progress. Therefore, it was Scrutiny Committee which received the regular project updates, including at the upcoming meeting which had a detailed copy of the project plan, along with a summary of the PAS project review.

Members requested that a copy of the Scrutiny report and minutes be appended to the next agenda.

CLIMATE CHANGE POLICY

Lewis Knight and Marina Goodyear from BioRegional gave a presentation on the emerging Climate Change Policy, including the work done to date and potential conflicts with the recent Written Ministerial Statement and Future Homes Standards. A copy of the slides have been appended to the minutes.

Members commended the presentation and supported the proposal for an ambitious Climate Change Policy, subject to the feedback received at the Regulation 18 consultation. They discussed the importance of having a strong policy in place at the start in order to set the high standards and be defensible at any planning appeals.

Members emphasised the need to delve deeper into the detail of the policy, such as ensuring there is sufficient infrastructure to provide for the future standards and considering the costs implications for energy efficiency measures. This would ensure that the ever-evolving development market would be able to meet the standards during the plan period.

They called into question the legal standing of the Written Ministerial Statement, which had been exercised without any prior consultation but noted that the examination for the Local Plan submission was not scheduled until 2025, when further guidance on this would likely be in place.

In response to questions around the risk officers clarified that, should an Inspector find the Climate Change policy to be too ambitious, it would not result in a complete rejection of the Local Plan, however there may be significant modifications required which would cause delay. They had, however, taken regular legal advice from a KC and formed the view to continue.

The consultants welcomed the feedback and in response to comments made, highlighted that the Regulation 18 policy did also have an Embodied Carbon Standards, making them one of the few Councils in the country to tackle this within a Local Plan. It was likely not to be in conflict with existing policy as both the Written Ministerial Statement and Future Home Standard did not mention this.

The Strategic Director of Planning summarised that officers would continue to work with the consultants, and the policy would be brought back when a decision was needed. They were confident that they would achieve the desired standards, but noted the risk that the examination may bring around major changes. He concluded to say that it was a climate change led plan and they would continue to push forward with this.

Meeting ended at 21:02.

APPENDIX A: PUBLIC SPEAKER STATEMENTS

APPENDIX B: BIOREGIONAL PRESENTATION SLIDES

Uttlesford District Council

Local Plan Panel Meeting - Wednesday 10th April 2024

Public Participation Statement On Behalf Of Littlebury Residents Group (LRG)

Thank you Mr Chair for the opportunity to speak this evening.

As mentioned in the introduction, my name is Tim Bradshaw and I am Deputy Chair of the Littlebury Residents Group.

LRG was formed recently by a group of Littlebury residents concerned about the potential for inappropriate housing development in our village. Our concerns arose from recent moves by Audley End Estate who own the majority of the land around Littlebury.

Approximately 30 responses to the Regulation 18 consultation were submitted by Littlebury villagers expressing concern about potential development and our WhatsApp group currently has over 70 members.

Since the publication of the Regulation 18 responses in March, we have reviewed those relevant to us, particularly the responses from Savills on behalf of Audley End Estate and these have raised further concerns for us. We note that AEE are proposing that land for development in Littlebury is added to the Local Plan, something we strongly oppose and something we ask UDC to resist, for the very reasons that it was excluded in the original draft plan.

On 21st March, several of our committee attended the last Local Plan Panel meeting using the video link and listened with interest to the updates on the Local Plan and the discussions around Site Selection and Larger Villages.

We understand that following the Regulation 18 feedback, the Local Plan settlement hierarchy is to be updated and that some Large Villages may be downgraded to Smaller Villages, particularly where a Larger Village designation had been given to what were effectively multiple hamlets.

What was less clear was whether Smaller Villages might be affected. In particular, we would appreciate clarification on whether any Small Villages are being considered for reclassification to Larger Villages. Can today's meeting provide any clarity?

Our concerns are fuelled by the fact that AEE (via Savills) have lobbied UDC for Littlebury and Wenden's Ambo to be classified as Larger Villages in their Regulation 18 response NDLP1450.

We are strongly opposed to Littlebury being classified as a Larger Village and in fact, as a number of our residents stated in their consultation comments, we suggest that Littlebury would be more appropriately classified as Open Countryside. This is because we believe that the number of amenities and facilities have been overstated in the original assessment. We certainly do not believe that Littlebury fits the profile, or has the infrastructure of, a Larger Village.

Having heard the discussions at the last Local Plan Panel, we wonder if our classification as a Smaller Village rather than Open Countryside may be because the original assessment was based on

Littlebury Parish as a whole - which includes the distinctly separate villages of Littlebury Green and Catmere End - with some of their facilities (such as a museum) being counted as being in Littlebury.

We are aware that UDC have held consultations with Larger Villages recently. We are concerned that if any Smaller Villages are being considered for promotion to Larger Villages, the residents of those villages may miss out on that consultation.

Similarly, we note that UDC are planning 1-1 discussions for any Larger Villages that are considering developing a Neighbourhood Plan. Again, we are concerned that if Littlebury is being considered as a candidate Larger Village, we may miss out on these discussions.

As things stand currently, Littlebury is classified as a Smaller Village in the draft Local Plan. We have no visibility on whether there are any plans to change this. There may be no plans to do so and as such, our concerns may be unfounded.

Are UDC and/or the Local Plan Panel able to provide any clarification on the process being used to finalise the settlement hierarchy and the draft Local Plan and how any affected villages will be engaged in this process?

In particular, are UDC and/or the Local Plan Panel able to provide any reassurance in respect of the classification of Littlebury in the next draft of the Local Plan?

We would welcome your feedback from tonight's meeting.

We also ask that the Littlebury Residents Group is included in any future Local Plan consultation in respect of Littlebury alongside the Littlebury Parish Council.

Thank you.

Councillor Graham Mott (Elsenham Parish Council)

Mr Chairman, I am Dr Graham Mott and I speak on behalf of Elsenham Parish Council, of which I am the Chairman.

First, administrative problems. The deadline for submissions to the Regulation 18 consultation was as long ago as 15 December, but it was not until 20 March that the results were available. The long delay was justified in terms of planning officers preparing responses to the various representations, grouped if necessary. That has not happened, and the failure has not been explained, as far as I'm aware. Unfortunately we have only recently been able to see that, for unknown reasons, the various submissions made by Elsenham Parish Council have all been rolled up together and placed in Chapter 1 under a single reference. It is obvious that others have had similar difficulties with the system.

But that is not the only problem. At your last meeting, Cllr Evans reported that the system now available for viewing submissions had been described as (and I quote) 'impenetrable and clunky' (end of quote). The whole process must be improved for the Regulation 19 consultation. The Limehouse system which was used for previous attempts at a Local Plan was not perfect, but it was much superior to the systems used this time.

I will mention briefly some of the matters included in the Parish Council's Regulation 18 responses. We support the proposal that there should be no new housing allocations to Elsenham. Indeed, it could scarcely be otherwise, given that, as stated, there are already over 1,000 homes approved in the village. But the commitment and explanation should be included within Core Policy 2, and **not** left in the subsidiary *Housing Selection Topic Paper*. The impact on the inadequate local road system of the large amount of housing approved but not yet delivered in Elsenham must be taken into account in the significant allocations to our neighbours in Stansted Mountfitchet and in Henham.

Core Policy 12 has resulted in representations regarding the CPZ. However, it is not correct to assert that the CPZ has been sacrosanct or consistently maintained since 1995. In Elsenham, no fewer than 470 new dwellings have been approved within the CPZ since 2015, under both the previous and the current administrations, without the benefit of a policy proposal put out for consultation; and in June 2023, a site within the CPZ was approved under the S62A regulations, with the Inspector shrugging the CPZ policy aside. (That's 130 dwellings south of Henham Road, Elsenham, and I won't read out the full reference: UTT/22/2174/PINS, S62A/22/0007, *Decision Notice and Statement of Reasons*, 14 June 2023, 105-06).

With regard to Core Policy 5, 'Providing Support Infrastructure and Services', it is much to be regretted that there is no commitment to improvements in Elsenham, on the grounds that development has already occurred. **Consultation** regarding new development proposals is key. There are provisions in the SCI for discussions with town or parish councils during the application process, but these do not always occur. There is not so much as a **commitment** to consultation with Essex Highways. They sometimes include S106 provisions for new developments which are inappropriate, and opportunities can be lost for improvements which would be of real benefit to the local community. The Local Plan will not be viable unless it includes enforceable provisions for genuine consultation by both UDC and Essex Highways with town and parish councils for all new planning applications.

Briefly to summarise, Sir, there are several other matters dealt with in our representations. As I mentioned at the start, they have all been rolled up together in Chapter 1, Ref 402, and the Parish Council requests access to the system so that they can be allocated to their correct policies and places. Thank you

TAKELEY PARISH COUNCIL CLLR JACKIE CHEETHAM SPEECH AT THE LOCAL PLAN PANEL MEETING - 10TH APRIL 2024

My name is Cllr Jackie Cheetham and I am speaking on behalf of Takeley Parish Council.

The Parish Council employed a transport consultant to comment on the sustainable transport proposals with new walking and cycling routes to link Little Canfield and Takeley with Stansted Airport railway station. Now that we have had the opportunity to read the comments made by Stansted Airport on this matter, we would like the opportunity to meet with the Planning Policy Team as soon as possible, to discuss how this information might affect the housing and employment proposals for Takeley and Little Canfield in the Local Plan.

It is now clear that the proposals in the Regulation 18 consultation would not be financially viable, nor would there be a safe alternative for a walking or cycling route to a railway station or for employment at the airport. In practical terms, it is only possible to access the airport's railway station by train, private car, taxi or bus. It is therefore no more sustainable to build homes in Takeley and Little Canfield than it would be to build anywhere else on a bus route to the airport and it would be less sustainable than building in towns and villages with their own railway station.

There are other proposals and policy changes in the Local Plan which raise concerns that the new Local Plan would alter the current relationship we have with Stansted Airport, removing the concept on 'an airport in the countryside' which has served Uttlesford so well for many years. Those policies have surrounded the airport with a wide countryside buffer and contained airport-related car parking and employment within the airport boundary. This strategy has been the envy of other major airports for many years and we fail to understand why Uttlesford would choose to open itself up to warehousing and other airport-related sprawl.

You will have read our Reg 18 objection to the removal of large areas from the Countryside Protection Zone. There are further policy changes in the plan, such as the removal of Policy T3, which currently prevents airport car parking in the parishes outside the airport boundary and changes to employment policy restrictions on airport-related employment land.

We hope that our comments will be considered by this panel and that a meeting can be arranged with Takeley and Little Canfield Parishes in the near future, to discuss how proposed changes would impact on the local community and to explore viable alternatives.

Councillor Geoff Bagnall

I found it disappointing to look at the agenda for this evening's meeting to see that there were no papers to be discussed or topics to be addressed. I should not have been surprised, as that's been the way things have developed over the last 6 months or so.

Here we are again waiting for things to be presented, no doubt with a promise that everything will be delivered just in time for a vote on the Regulation 19 Plan.

When we started on this journey, the LPLG made it clear that we would be evidence led and that we felt one new community may well work for this district, so ask yourself the question, why have we not undertaken any work at all in looking at a new community and the infrastructure that this would provide.

I don't understand why there has been no work at all on looking at a 'new Community'. It may well be that the officers did not feel they had the time to do that, however that is not good enough reason and certainly should not have prevented them from making a request of the major site promoters to undertake this exercise, on their behalf, by producing a Masterplan for their particular site, along with all the relevant constraints. This could have been provided using the same process as the work for the draft Regulation 18 Plan, carried out in the same way that the consultants have drawn up plans for the extensions to the existing towns and villages.

I am concerned that, with existing commitments already adding up to over 7500 new homes, relying only on the Towns and villages for our plan numbers is a mistake that will see the district suffer even more. The time is right to do something different for the second half of this plan period and think more strategically to prevent further harmful impacts on our towns and villages.

There is so much missing evidence and evidence that has to be re-worked. Where is the evidence regarding the work that needs to be undertaken, following the feedback from Essex County Council. Where are all the responses to the residents' concerns that we should now be able to see.

At the last meeting it was stated that all the responses will be published in July. Surely, we must see all those responses before then to assess how that might change things and lead to different conclusions. If answers have been developed they must be shared as soon as they are available, not wait until the end of the process.

Sadly, it appears that we are sleepwalking into a similar situation that we encountered with the vote at the Reg18 stage where all the evidence was delivered at the last minute and no time was given to either digest or challenge that evidence by the then LPLG or, indeed, at Scrutiny or Full Council.

We cannot allow the officers to dictate in this way again as that would mean the members have had no say in this process at all, other than voting on a plan for which they have had no input.

We must make sure we get the best plan for the sake of the residents that currently live in the district.

It pains me to think that as a 'Resident Party', we are not producing something to take away all the harmful impacts on our already beleaguered towns and villages. I fear this will lead to the ruination of this district.

I hope you think about what has been said and question yourself whether we are doing enough and if we are really heading in the right direction.

I certainly don't think we are.

Councillor Martin Foley

First of all I'd like to thank our officers here, Councillor Freeman and fellow Councillors for improved communication from both this Panel and previous iterations which Councillor Bagnall chaired.

I have one communication issue though that I feel could be improved. At a recent Parish Council meeting for Larger Villages on the 21st March in my Ward, I was told that UDC officers said there would be now not be under 10 houses in that particular Ward but 40. It would be helpful if District Councillors were informed too. It sets hairs running as the next Parish Council fear that it may impact on them; that's unintended consequences I realise, but I think it need to be said.

In the past, I've seen several Local Plans and from previous administrations. When, from a very early stage before, I was told there is no alternative to big one-site of 10,000 houses, 5,000 houses. This was despite massive reservations about developer delivery, and we all know why they failed so well done UDC for kicking that madness into touch.

Councillor Haynes, the other District Councillor for Thaxted Ward, had a number of issues which are in your minutes from the last meeting, and I would respectfully ask if they can be addressed and answered if that is practicable. It's in the minutes that you'll be discussing later.

I am pleased to see the realisation that Thaxted in the draft Local Plan is justifiably recognised as the least sustainable of the so-called "Key Settlements" with no major transport links, railway etc. Bus services are very light.

The Thaxted response to Local Plan Regulation 18 consultation documents was a team effort from Thaxted Parish Council, District and County Councillors, Neighbourhood Plan groups, Thaxted residents focus groups and was then sent to every resident to see. I have a copy of that because I understand that even some on this Panel had some difficulty at one stage accessing all of the documents.

In conclusion, deadlines have been set on us because there has not been a successful Local Plan since 2005. This is a personal view, I'm not speaking on behalf of any party when I say the next thing, but I would think its better another two weeks, two months or whatever is needed than 20 years of failure and that's really the main things that I want to say. I'm very concerned that the deadline that has been set upon us is realistic and that we're not rushing into something that we could fail on because there's much good about what's happened so far and I'm very pleased, but there's still some really serious things that need to be addressed. Thank you.



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Uttlesford District Council Net Zero Evidence Base (WMS update)

Minute Annex

09/04/24

Agenda & purpose

1. Introduction and recap of the project and our work tasks
2. Recap context: Powers and duties regarding carbon, and plan ‘soundness’
3. Recent national events – Future Homes Standard/Written Ministerial Statement
4. Potential next steps for Uttlesford in light of these national changes
5. Discussion and Q&A

1. Introduction

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About us

Bioregional



Lewis Knight BSc MSc IEMA

Head of Sustainable Places

15 years in sustainability
with BRE, developers & local
authorities



Marina Goodyear BA MSc

Senior Consultant

7 years in sustainability; local
authority & developer focus

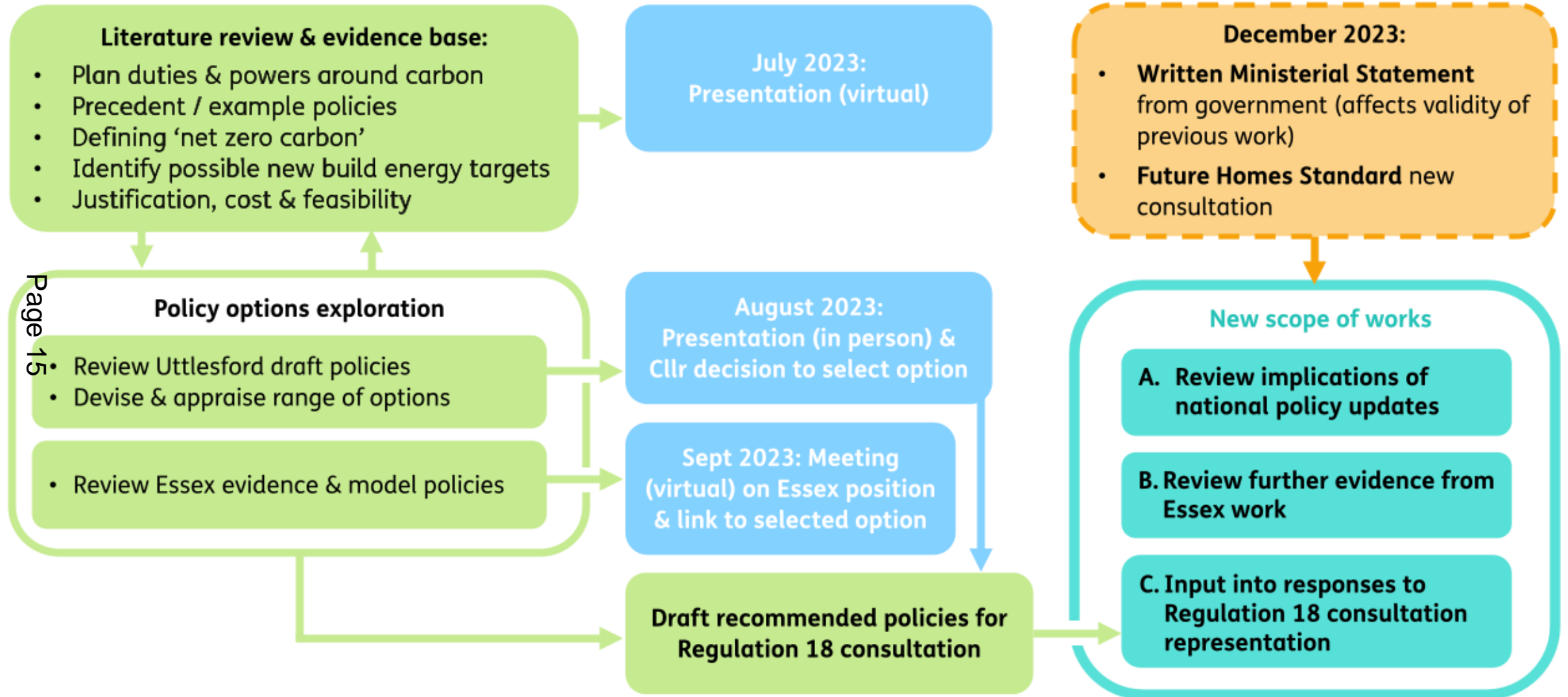


Alex McCann BSc MSc

Senior Sustainability Analyst

3 years in sustainability;
previously in local authority

Our project and tasks



Recap Uttlesford's draft policy at Regulation 18

UDC Requirement	UDC Target	UDC Applies to	UDC Size threshold	Tweaks made vs EDG?
Space heat demand	15kWh/m ² /year	New homes	1 or more homes	n/a
		New non-resi	100+m ² floorspace	
	20kWh/m ² /year	New bungalows		
Energy use intensity	35kWh/m ² /year	New homes Light industrial	1 or more homes	n/a
	70kWh/m ² /year	New offices	100+m ² floorspace	
	65kWh/m ² /year	New schools		
	Reporting only	Other newbuild		
Meet minimum fabric + systems efficiencies		Residential conversions & extensions (any size) (+Optional alternative for new minor builds)		Removed airtightness & thermal bridging target
Renewables onsite (OR offset £1.35/kWh)	≥100% of energy use	All newbuild	1 or more homes 100+m ² floorspace	Softened 'requirement' for >100% provision
Energy monitoring	5 years in-use, 10% coverage	All newbuild	100+ homes 10,000m ² floorspace	Extended to non-resi as well as homes
Embodied carbon per m² floor space	Upfront: ≤500kg Total: ≤800kg	New homes	100+homes	n/a (BUT: evidence yet to come)
	Upfront: ≤600kg Total: ≤970kg	New non-residential	5,000m ² floorspace	

Recap context: Duties, powers, and getting past the Inspector

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Getting past the Inspector: the Tests of Soundness

- Uttlesford's legal powers and duties regarding carbon and energy of new developments
- The two main 'camps' of approach to new build carbon policy

Getting through inspection

The four tests of 'soundness' in the NPPF

Plan should be positively prepared

- Responding to objectively assessed needs
- Delivering 'sustainable development'

Plan should be justified

- **Based on evidence**
- Having considered **reasonable alternatives**

Plan should be effective

- **Deliverable** in the plan period
- Based on effective joint working on cross-boundary strategic matters

Plan should be consistent with national policy

- Enable delivery of '**sustainable development**'
- **Accord with NPPF policies**
- **Accord with other statements of national planning policy**, where relevant
- Accord with relevant Acts (such as Climate Change Act 2008)

How can a local plan act on net zero buildings?

Planning & Energy Act 2008

Town & Country Planning Act 1990

National Planning Policy Framework (2021)

Planning Practice Guidance

Powers

Can require:

- “Energy efficiency standards” beyond building regs
- a % of energy use ... from low-carbon or renewable sources in scheme’s locality

S106 Obligations

- Can be used for offsetting

Local Development Orders:

De-risk the planning process for retrofit, renewables, etc

Reduce CO² by location, orientation, design

Positive strategy for renewable energy

Heritage “viable uses consistent with conservation”

Reduce need to travel; sust transport

Opportunities for renewables ≤50MW

Promote low-carbon energy efficient design in new builds

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Limits

Requirements that are ‘reasonable’

Energy efficiency standards = ‘endorsed by Sec of State’

Not inconsistent with relevant national policy

“Reflect the Government’s policy for national technical standards”

S106 only where necessary, directly related, proportional

Local standards must

- Use robust evidence
- Assess viability
- ... Use a specific carbon metric? (NEW – explained later)

Two main ‘camps’ of precedent plan policies

Sticking within Building Regulations metrics

Planning & Energy Act 2008

Metrics to use as ‘levers’

- “Energy efficiency standards” beyond the building regulations baseline
- “a proportion of energy used ... to be from **low-carbon or renewable sources** in the locality of the development”

Homes regulated energy & carbon % reduction (SAP)

Non-residential regulated energy & carbon (SBEM)

Renewables to match energy use of the building (annual)

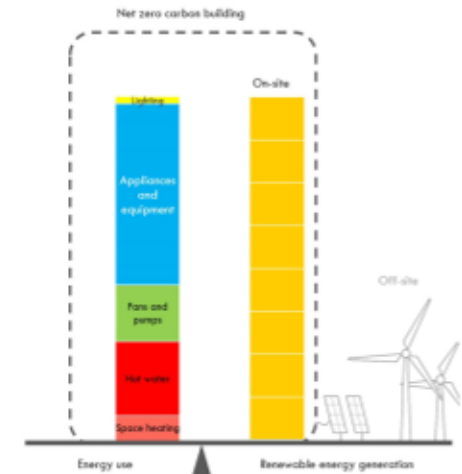
Section 106 carbon or energy offsetting

Going the extra mile

Alternative metrics – riskier for planning, but more effective

Fixed targets using PHPP/TM54

- Space heat demand
- Energy Use Intensity target (set low to rule out gas)
- Renewables to match 100% of onsite energy use



Policy approach

Two main 'camps' in the precedent policies

'Net zero' under Building Regulations

% improvement over TER (Building Regulations)

SAP compliance modelling – not intended to accurately model energy use

SAP does not reward good building design

Cannot be verified during operation

Not fit for development of true net zero buildings

... **but** this option is **what the 2023 WMS wants to see**

'True Net Zero' under EUI-based approach

Absolute energy-based targets – measurable post-construction

Proven predictive energy modelling tools

This option will require robust justification to the Planning Inspectorate

Supported by industry evidence

Easier to predict impact of design and construction choices on resident's energy bills

Prioritises renewable energy on-site, rather than through standalone renewable energy schemes (e.g. solar farms)

Uttlesford draft policy is in the 'true net zero' camp

UDC Requirement	UDC Target	UDC Applies to	UDC Size threshold	Tweaks made vs EDG?
Space heat demand	15kWh/m ² /year	New homes	1 or more homes	n/a
		New non-resi	100+m ² floorspace	
	20kWh/m ² /year	New bungalows		
Energy use intensity	35kWh/m ² /year	New homes Light industrial	1 or more homes	n/a
	70kWh/m ² /year	New offices	100+m ² floorspace	
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Recent events

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Recent events

Future Homes Standard 2023/24 consultation

What is it?

- The Future Homes Standard consultation was published by the UK government in December 2023
- It outlines **proposed new energy-efficiency standards** for new homes in England. Likely to be in place by 2025 – it will become the new Part L of Building Regulations
- The consultation is open until March 6, 2024.
- Builds on previous consultation and work done by the Future Homes Hub, where different five contender specifications were created and analysed
- The new standards require **all new homes to be "zero-carbon ready," meaning they would have zero carbon emissions once the electricity grid has decarbonised.** But: this places significant stress on grid decarbonisation to deliver 'net zero' new homes, which may not occur until 2035 at the earliest.



Department for Levelling Up,
Housing & Communities

The Future Homes Standard

2023 consultation on the energy efficiency requirements of the Building Regulations affecting new and existing dwellings.

Consultation-Stage Impact Assessment

Recent events

Future Homes Standard (FHS) 2023/24 consultation

Proposals insufficient for true 'net zero' transition

- **Two options** proposed for the Future Homes Standard – **both insufficient to achieve true net zero buildings**
- Both options propose heat pumps but also poor fabric standards
- One option proposes solar PV generation – but insufficient to match total energy use
- **Occupant bills not prioritised** – upfront capital cost to the developer is deemed to be further up the priorities (in FHS option 2, the developer saves money but the occupant's heating bills would be nearly double those of today's newbuilds!)
- In more positive news it also includes a replacement for SAP calculation – with the new Home Energy Model (HEM).

Additional justification for why local policy is still needed

- Neither option will deliver scale of action required to align with UK net zero 2050 target and legislated carbon budgets
- CCC recommendation that **all new homes are net zero by 2025** at the latest – the current FHS options do not meet this
- Therefore, local policy is required to drive innovation and deliver true net zero buildings now
- www.leti.uk/fhs
- <https://goodhomes.org.uk/future-homes-standard-consultation-response>

The Written Ministerial Statement (WMS)

What is it, and what did it do?

What is a WMS?

- **A formal statement of national policy therefore:**
 - Inspector will expect local policy to be consistent with it (as per NPPF tests of soundness)
 - Objectors will / could use this to undermine policy
- **Made by Lee Rowley – Minister for Housing**
- **No consultation, engagement or democratic process involved**

What did this one say?

“Planning policies that propose **local energy efficiency standards** that go beyond current or planned buildings regulation [BR] should be **rejected at examination** if they do not have a well-reasoned and robustly costed rationale that ensures:

- Development remains **viable**, and impact on housing supply and affordability is considered in accordance with the NPPF
- **Additional requirement is expressed as a percentage uplift of a dwelling’s Target Emissions Rate (TER) calculated using a specified version of the Standard Assessment Procedure (SAP).**

Where policies go beyond current/planned BR, policies should be applied flexibly where the applicant can demonstrate that meeting higher standards is **not technically feasible**, in relation to the appropriate **local energy infrastructure and access to adequate supply chains.**”

What does this do to potential policy options?

- EUI / Space Heat fixed target approach now more likely to be rejected by inspector (at least for residential development)
- Takes away power from local authorities to determine their own standards; hands this power to national government

The Written Ministerial Statement

What CAN we still do without contradicting the WMS?

Energy efficiency requirements

Must be expressed as a % improvement on Part L TER (Target Emission Rate).

Therefore, we can:

- Require a % improvement in Part L TER *from energy efficiency measures*.
- For feasibility evidence: Echo the % set by others e.g. London Plan?
- Define 'energy efficiency measures'
- Possibly: Require EUI or Space Heat Demand targets alongside this?

Renewable energy requirements

The WMS did not mention, therefore should not affect, renewable energy.

Therefore, we can:

- Propose a requirement for 100% renewable TOTAL energy use?
 - (... likely only feasible if building is also designed to the previously proposed energy efficiency targets!)
- OR require 100% renewable energy for regulated uses only, using Part L calculation?
 - (Would require extensive new feasibility evidence).

Embodied carbon requirements

No change – the WMS did not touch this.

Therefore, we can:

- Propose embodied carbon targets.
 - Note: There is only one adopted precedent for this, but several emerging.

2023 Written Ministerial Statement

Dynamic views and opinions – it is not all doom and gloom!

How things have moved on

- Initially a lot of confusion and fog around it. Many LPAs were unsure of its status and implications
- Importantly, **LPAs can still set local energy requirements**. Even the Chief Planner has re-confirmed this!
- However, it does look to push these down a Building Regs route (at least for homes) that we know is inadequate to meet net-zero targets

Status of the WMS

- The **WMS is subservient to statute** and can't undermine the primary powers of LAs to act on climate change [see High Court decision on other WMS, Feb 2024]
- We also feel that the **WMS doesn't strictly limit LPAs to only using BR metrics if local circumstances can be shown**.
 - Detailed feasibility and viability comparing the different approaches and carbon reductions
 - Engagement with the community

Legal advice

- Essex CC have undertaken specific legal advice (Estelle Dehon KC) on the WMS – some highlights:
 - Unlawful to stop LA from using their legislated primary powers to mitigate climate change**
 - WMS is contradictory in places**
 - WMS is not fit for purpose and not evidenced**

2023 Written Ministerial Statement

Further recent legal developments

Pre-action correspondence

- **Estelle Dehon KC** on behalf of client coalition of local planning authorities
- **‘Letter before Action’ challenged the lawfulness of the WMS2023**
- ... *if* the WMS2023’s intention was to significantly limit the exercise of local plan Energy & Planning Act powers and fulfilment of climate mitigation duty
- ... *especially considering* the apparent lack of evidence of the problems that the WMS2023 purported to address

Secretary of State response

- **Took a month to arrive** – indicates substantial legal consideration
- **Claims that this was *not* the intention of the WMS2023**
- **Concedes that:**
 - The WMS2023 only expresses *one way* to reasonably set local policy
 - WMS2023 not as binding as its language implies; only a material consideration alongside others
 - No evidence considered regarding the actual impact on housing supply, economies of scale, etc.

Consequences of the response

- **No Judicial Review resulting** – as deadline to initiate a JR was missed due to delayed response
 - (Albeit separate JR is ongoing by Rights:Community:Action)
- **Therefore, can be shared**
 - Likely to be published with interpretation note from industry planning professional body soon
- **Strengthens footing for any policies that go beyond Building Regs** – including ones like Uttlesford’s.

The Political Environment

Caveat: national policy & political leadership may change before examination

Uttlesford's timeline

If Uttlesford chooses to reformulate policy, could this affect timeline for:

- Regulation 19, Jul-Sept 2024?
- Submission, December 2024?
- Examination, 2025?

Planning & regulatory changes

- Levelling Up Act: National Development Management policies to come in 2024
- Transitional arrangements before the 'new local plan making process' come into force
- FHS Consultation closed in March – what regulations will be enacted in the future?
- Future national carbon budgets (for the period 2037 onwards) due to be set in 2025

Potential political changes in 2024-25

- Results of forthcoming general election
- Friends of the Earth high court challenge against Energy Security and Net Zero Strategy (heard at the end of February 2024; judgement may not arrive until late June)
 - Note: this follows a successful case in 2022 which found the previous version of that Strategy unlawful
- Challenges to WMS2023 including:
 - High Court challenge (JR)
 - Goodlaw campaign

What does this all mean for Uttlesford and its next steps?

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Recap: Policies are subject to a range of risks

Recap: Mismatch between duties/needs, and planning powers to fulfil them

Climate	Occupiers / users of building	Infrastructure & sectoral readiness	Planning acceptability
<ul style="list-style-type: none">• Carbon budgets & net zero goal• Necessary sectoral changes• Is the carbon responsibility proactively accepted, shirked, passed on, or postponed?• Opportunities grasped or missed	<ul style="list-style-type: none">• Energy bills• Future retrofit: costs; disruption	<ul style="list-style-type: none">• Electrical grid• Technical feasibility• Materials availability• Skills availability	<ul style="list-style-type: none">• Viability• Compatibility with national technical standards (Part L)• Compatibility with national strategy / formally stated future policy direction• Explicitly granted powers• Explicitly stated restrictions• Adopted precedent plans• Alignment / conflict with 2023 WMS

Continue as is, or revisit previous options?

← Least effective for climate

→ Most effective for climate

1. Downgrade to be WMS compliant

% TER improvement from energy efficiency measures

2. Step back, but test WMS boundaries

% TER improvement from 'energy efficiency features'
(And *guideline-only* targets and reporting for energy use intensity & space heat demand)

3. Stay the course to overcome the WMS

Energy Use Intensity and space heating demand limits

Use of a quality assurance methodology to reduce the energy performance gap in practice

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On-site renewable energy generation to get to 100% TER reduction (equivalent to matching total **regulated** energy use)

Offset any remaining regulated carbon emissions (£/tCO₂)

Report on embodied carbon for major development

LETI embodied carbon targets set as limit for large-scale development

On-site renewable energy generation to match total energy use (**regulated and unregulated**, calculated using Building Regs methods)

Offset any shortfall in on-site renewable energy generation (£/MWh)

Report on embodied carbon for major development

LETI embodied carbon targets set as limit for large-scale development

On-site renewable energy generation to match total energy use (**regulated and unregulated**, calculated with more accurate methods)

Offset any shortfall in on-site renewable energy generation (£/MWh)

Report on embodied carbon for major development

LETI embodied carbon targets set as limit for large-scale development

Potential policy approaches

Pros and cons of the range of potential next steps

Option 1. Downgrade to WMS compliant	Option 2. Step back but test boundaries	Option 3. Stay the course; overcome WMS
<p>Page 34</p> <ul style="list-style-type: none">• Safe route to compliance with the WMS, but improve on basic Building Regulations• Does not go far enough to ensure building performance needed for UK's legally-binding carbon goals – arguably not meeting climate duty• Safest option in terms of planning risk but poses significant risk to the climate and could cause future disruption to occupants and the electricity grid.• Inspector could still reject.	<ul style="list-style-type: none">• Middle ground between WMS compliance and existing ambition.• Capable of creating true net zero buildings if on-site renewable energy matches total energy use ...• ... EXCEPT that Building Regs calcs are used, therefore inaccurate. Performance gap due to use of SAP or SBEM.• Optimal energy efficiency will not be ensured, meaning more PV needed – in combination this is likely to put greater strain on local grid infrastructure.• Therefore, might not improve viability vs the existing draft Uttlesford policy.	<ul style="list-style-type: none">• Best practice approach delivering the new build performance needed for a 2050 net zero future. Most credible way to meet duty to mitigate climate change in the buildings sector.• Lowest risk levels for occupant energy bills and future retrofit disruption/cost.• Needs extensive robust evidence – already available from Essex work• Utilises a sophisticated modelling tool, PHPP, to predict energy use and space heating demand that will reduce the performance gap.

6. Q&A and feedback

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Thank you

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