

<b>Committee:</b>	Full Council	<b>Date:</b>	9 October 2018
<b>Title:</b>	Addendum of Focussed Changes to the Local Plan Regulation 19 Pre-Submission Document		
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## Summary

1. This report sets out further detail around an Addendum of Focussed Changes to the Regulation 19 Local Plan. The Council is required to formally publish any proposed amendments to the Local Plan, so that interested persons can make representations about those changes. In strict terms it is not a consultation but any representations made are passed to the Inspector appointed by Government to examine the Local Plan for them to consider as part of the examination. The Addendum of Focussed Changes to the Regulation 19 Local Plan is brought to Full Council today following the close of the Regulation 19 representation period on 13 August.

## Recommendations

2. That Council being satisfied that the preparation of the Local Plan, as amended by the Addendum of Focussed Changes, has complied with the relevant regulatory requirements and being of the view that the Regulation 19 Pre-Submission Local Plan document is ready for submission to government for independent examination, approves the Regulation 19 Pre-Submission Local Plan for publication in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012.
3. That following the conclusion of the Regulation 19 publication period on the Addendum of Focussed Changes, the Local Plan be submitted to the Secretary of State for Independent Examination under section 20 of the Planning Compulsory Purchase Act 2004 (as amended) ("the 2004 Act"), together with the submission documents prescribed by Regulation 22 of the 2012 Regulations before 31 March 2018;
4. That the Director of Public Services, in consultation with the Environmental Services Portfolio Holder, be authorised to make non-material typographical, formatting, mapping and other minor amendments to the Plan prior to the submission of the Plan to the Secretary of State;
5. That the Director of Public Services be authorised to write to the Local Plan Inspector appointed to carry out the Examination of the submitted Local Plan ("the Local Plan Inspector") asking him/her to recommend such modifications of the submitted Local Plan as may be necessary to make the Plan sound and legally compliant, in accordance with section 20(7C) of the 2004 Act;

6. That the Director of Public Services, in consultation with the Environmental Services Portfolio Holder, be authorised to submit a schedule of proposed main modifications of the submitted Local Plan to address any issues relating to soundness and legal compliance identified by the Local Plan Inspector; and
7. That the Local Plan Submission Version 2018 be endorsed as a material consideration to be used in the determination of planning applications and enforcement decisions to be given appropriate weight in accordance with paragraph 216 of the National Planning Policy Framework.

### Financial Implications

8. The financial implications of a representation period of the Addendum of Focussed Changes are limited. The consultation system and staff time are already covered in the budget, as are the costs associated with promoting the representation period.
9. There are costs associated with printing the Addendum, and engaging consultants to undertake Sustainability Appraisal and Habitats Regulation Assessment. These are estimated to be under £8,000, and can be taken from the contingency that has been included in the Local Plan forecasted spend for 2018/19. Officers have considered not recommending a representation period on the Addendum, as this would save time and money in the short term. However, the legal advice indicates that not going forward with the Addendum, could end up costing the Council far more money and time.

### Background Papers

10. 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.
  - [Uttlesford Regulation 19 Pre-Submission Draft Local Plan](#);

### Impact

11.

Communication/Consultation	<p>The representation period on the Regulation 19 Draft Local Plan took place between 25 June 2018 and 13 August 2018.</p> <p>The representation period for the Addendum of Focussed Changes to the Regulation 19 Local Plan is planned to take place 16 October 2018 to 27 November 2018.</p>
Community Safety	This is an underlying theme of the Local Plan.

Equalities	<p>The Addendum of Focussed Changes to the Regulation 19 Local Plan is subject to an equalities impact assessment.</p> <p>Officers have reviewed the Equalities Impact Assessment for the Regulation 19 Local Plan and consider it does not need to be updated as a result of the proposed changes in the addendum.</p>
Health and Safety	<p>Health and wellbeing of the Uttlesford community is an important theme of the Local Plan and is considered as part of the sustainability appraisal/ strategic environmental assessment of the Local Plan.</p>
Human Rights/Legal Implications	<p>The Local Plan needs 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.</p>
Sustainability	<p>This is an underlying theme of the Local Plan e.g. ensuring homes and jobs are provided near to each other and minimising reliance on the private car. The Local Plan is subject to sustainability appraisal/ strategic environmental assessment throughout its preparation.</p>
Ward-specific impacts	<p>Some wards may be affected by site specific proposals but the overall spatial strategy for the Local Plan is for the benefit of all wards.</p>
Workforce/Workplace	<p>The Local Plan is a key corporate document and officers from across the council's services have contributed to its preparation.</p>

## Background

- The representation period for the Regulation 19 Pre-Submission Draft Local Plan took place between 25 June and 13 August 2018. Nearly 3,000 representations from around 1,500 individuals and organisations were received. Officers are now looking at these in more detail.

13. Officers are recommending holding a further representation period on an Addendum to the Regulation 19 Local Plan, attached at appendix 1 to this report. The amendments do not alter the strategy of the Local Plan, but seek to clarify a small number of matters relating to the examinations into the North Essex Authorities (NEA) Local Plans; the requirement to identify strategic priorities and strategic policies; and the policy relating to the consideration of sites protected under the Habitats Regulation Assessment.
14. The reasons for these focussed changes are as follows:
  - a. Following the examination into the NEA Local Plans we consider that there is an elevated level of risk around the delivery of the West of Braintree Garden Community (WoB GC). The North Essex Authorities have committed to undertake the necessary additional work supporting their common Section 1 Plans with the aim of enabling the resumption of their examination with the Garden Community proposals remaining in their Local Plan. However, this work is unlikely to be complete at the time Uttlesford's Local Plan is submitted to the Secretary of State and hence there is an elevated level of risk to the principle and timing of delivery around the WoB GC proposal. The Council still believes that that WoB GC is a sustainable location for major development and there remains a reasonable prospect of delivery on this site at the time point anticipated in our local plan. Nevertheless, further wording is required to reflect the elevated level of risk and set out what measures the Council will take if there are delivery issues around WoB GC;
  - b. The National Planning Policy Framework 2012 (NPPF2012) states that a local planning authority should set out clearly the strategic policies for their area (para 184). There is guidance provided at national level for identifying strategic policies both within the National Planning Policy Framework (NPPF) – paragraph 156 and the National Planning Practice Guidance (NPPG) (paragraph 074 -077 Ref ID: 41-074-20140306).
  - c. Sites protected at a European level, e.g. Epping Forest Special Area of Conservation (SAC), are afforded strong protection from impacts. The policy seeking to protect such sites from development should make clear that air quality impacts on the SAC will need to be assessed and that where planning applications are supported by mitigation measures the Council as competent authority will need to undertake appropriate assessment, and will expect applicant to provide the necessary information to allow this to be done.
15. The focussed changes have new text underlined, and deleted text with a strikethrough. Only policies in the plan are capable of putting a restriction on development, consequently the focussed changes proposed in this document are only to policies in the plan. There are a number of consequential and explanatory changes to the supporting text of the plan, however as these do not go to the soundness of the plan and in order to expedite the process, these changes can be picked up as additional modifications later on in the process.

16. The addendum should be read alongside the Regulation 19 Local Plan that was subject to a representation period from 25 June 2018 to 13 August 2018.
17. Representations will be welcomed on these focussed changes and on other parts of the plan where the representations arise from new information contained in the addendum, or newly published evidence base. The Council will not accept representations on the Regulation 19 Local Plan that do not arise from new facts related to this addendum, such representations should have been made during the representation period over the summer.

### **New Household Projections**

18. Members will be aware that new household projections were released on 20 September. For Uttlesford they indicate household growth of 10,070 from 2011 to 2033; this compares with the household growth in the 2014-based projections of 11,733. These 2014-based projections are the basis for the figure calculated in the SHMA to be our objectively assessed housing need (OAHN).
19. If the Council were to recalculate our OAHN using this updated information, this would require the cooperation of our SHMA partners and involve commissioning ORS (or another provider) to undertake the work. The outputs would need to be reflected in our plan and then that amended plan would require a further regulation 19 representation stage. This will take our submission date past 24 January 2019 when the transition window for submission under the NPPF1 arrangement closes; we would therefore be required to submit the plan under the new NPPF (NPPF2).
20. Calculating the housing requirement under NPPF2 (using the standard methodology) results in a requirement of 13,900 homes in Uttlesford from 2011 to 2033, which is almost exactly the same as the requirement in the Regulation 19 Local Plan. However, the Government have advised that they 'will consider adjusting the (standardised) method after the household projections are released in September 2018' in the event they go down.

### **Evidence Base updates**

21. Officers have been working on various updates to the evidence base over the summer. There is an opportunity to publish this work alongside the Addendum of Focussed Changes.
22. One piece of work completed is **updating the Spatial Strategy Background Paper**, this will be attached at appendix 2 to this report. This was originally published alongside the Regulation 19 Local Plan, and sets out the process and decisions that the Council has made in developing the Spatial Strategy within the Local Plan. The update focusses on completing the picture up to the Regulation 19 stage and includes as appendices the comparative site assessments for each of the Garden Community alternatives, drawing all the already published evidence base together into one place.

23. A further piece of work completed is a **review of the employment policies**, this will be attached at appendix 3 to this report in the Local Plan; this was commissioned in the light of the NEA examination. The review identifies a number of suggestions to assist the clarity of the plan, these are set out below:

- a. Strengthening of policy drafting to provide a clear indication of the anticipated requirement for employment land across Uttlesford throughout the plan period.
- b. Strengthening of policy drafting setting out the portfolio of supply to meet the identified requirement including the role of Garden Communities. There is already detail within the site allocations policies which could be brought forward into a summary table in a similar fashion to the approach to housing at Policy SP3.
- c. Strengthening of policy drafting to provide indicative guidelines on the scale and nature of employment land provision within Garden Communities to inform DPD development.
- d. An updated employment topic paper which brings together the available evidence in order to justify with greater clarity the adopted policy positions. This would enable the differences in approach e.g. within the AECOM ELR and HJA FEMA study to be explained and a way forward taking into account the evidence base in its entirety to be articulated.
- e. Reviewing potential technical drafting errors

24. Officers are not recommending any of these changes are incorporated into the Addendum of Focussed Changes, as they do not go to the soundness of the plan and they would dilute the focus of the document. The advantage of having this work completed, is that if the Inspector is not convinced by the Council's case and considers that it is necessary to, for example, include a figure for employment land in the Garden Communities, the Council will have this work to draw upon.

### **Representation period**

25. A six week representation period is planned for the Addendum of Focussed Changes; this will run from 9am on 16 October to 5pm on 27 November.

### **Sustainability Appraisal**

26. A Sustainability Appraisal of the Addendum of Focussed Changes is being prepared by Place Services. This will not be ready in time for Full Council, however we are expecting to receive the document before the representation period commences. At this point in time officers do not anticipate it identifying any fundamental issues.

### **Equalities Impact Assessment**

27. Officers have reviewed the Equalities Impact Assessment for the Regulation 19 Local Plan and consider it does not need to be updated as a result of the changes in the addendum.

### **Habitats Regulation Assessment**

28. A Habitats Regulation Assessment of the Addendum of Focussed Changes is being produced, this is expected to be available for publication at Full Council.

### **Options for Council**

29. Council has the option not to approve the draft addendum to the Regulation 19 local plan. If so, it will be important for Council to identify clearly the reasons for its decision. Members are advised against this option as the legal advice the Council has received is that without these changes the plan is likely to be subject to increased risk if submitted to the Secretary of State.
30. If the Council were to miss the transition window afforded to local authorities who submit within the six month period following the adoption of the new NPPF, the Local Plan would need to meet the housing requirement from the standardised methodology. As discussed in paragraph 20, this is currently calculated as 13,900 homes. However, if the government review the standardised methodology as they have said they will, this would most likely increase the Council's housing requirement.
31. Council has the option to amend the addendum prior to the start of the representation period. The Council has received legal advice regarding the content of the addendum, and officers consider the advantages of keeping it focussed are considerable. Most notably, expediting the process will allow for the Local Plan to be submitted on or before 24 January.

### **Local Plan Programme and the Next Stages**

32. After the representations period on the Addendum of Focussed Changes has closed the results of the consultation will be considered, collated and submitted with the Local Plan and supporting documentation for independent examination. Submission is expected to take place in January 2019. As well as the Local Plan itself, the following documents will be submitted:
- The Addendum of Focussed Changes;
  - The Local Plan Policies Map;
  - The Sustainability Appraisal of the Local Plan and the Addendum;
  - All the representations received to the Regulation 19 Pre-Submission Local Plan received between June and August 2018 and all the representations received to the Addendum of Focussed Changes received between October and November 2018;
  - Documents that form part of the supporting Evidence base;

- the Duty to Cooperate Compliance Statement; and
- A Consultation Statement setting out details of the consultation undertaken for the Regulation 18 Local Plan including a summary of the main issues and how those issues have been addressed in the Regulation 19 Local Plan.

33. An independent Inspector will be appointed by the Government to examine the soundness of the Local Plan. The Inspector will take all of these documents into account together with the supporting evidence base and hold a public examination into the Local Plan. It is expected that the hearings sessions of the Examination will take place early in 2019 subject to confirmation from the Planning Inspectorate.

34. The Local Plan programme is therefore set out below:

- Agree Addendum of Focussed Changes for consultation at Full Council – 9 October 2018
- Representation period on the Addendum takes place – 16 October to 27 November 2018
- Consideration of responses to Regulation 19 consultation – October to December 2018
- Consideration of responses to the Addendum – December 2018
- Submission to Secretary of State – January 2019
- Examination hearings – expected to be early 2019

## Risk Analysis

35.

Risk	Likelihood	Impact	Mitigating actions
The Council fails to publish an Addendum of Focussed Changes	2 Whilst legal advice has been given identifying the advantages of publishing this addendum to limit risk the scale of necessary growth within the plan poses	3 Failure to progress the Addendum would mean there was increased risk to the soundness of the plan.	Members have been provided with a briefing to assist them with their understanding of the issues, challenges and risks.  The examination by an independent inspector will consider representations made,

	political challenges		including by councillors, and determine the weight to be given to those issues in dispute.
The plan submitted for examination is not legally complaint or is found unsound	<p>2 Officers have sought to discharge the duty to cooperate by regular meetings and the production of Memorandums of understanding and/or Statements of Common Ground.</p> <p>Officers have developed an evidence-based plan that seeks to meet the full growth requirements of the District</p>	4. If duty to cooperate is not demonstrated, that failure could not be mitigated by modifications.	<p>The council has engaged with statutory bodies and either entered a MoU or statement of common ground.</p> <p>Officers have engaged regularly with PINS and keep up to date with local plan examinations.</p> <p>The Council retains the services of legal and other professional specialists.</p> <p>The Addendum of Focussed Changes is intended to further mitigate the legal and soundness risks.</p>
The Inspector carrying out the Examination of the Plan recommends modifications to make the Local Plan a “sound” Plan	4 Generally, modifications will be recommended	2 – Will result in a sound Local Plan which will form a robust basis for guiding development and investment and determining planning applications.	
That the Sustainability Appraisal of the Addendum	2 The addendum is not making fundamental	4 Depending on the issues identified the identification	Officers have discussed the scope of the addendum with the SA consultants,

identifies fundamental issues.	changes to the plan and officers do not anticipate the identification of fundamental issues in the SA	of fundamental issues in the SA could delay the submission of the Local Plan	and will be receiving updates from the consultants to ensure any issues can be identified and confronted swiftly
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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.