

Uttlesford District Council and Newport Quendon & Rickling SG Response to Further Comments of the Independent Examiner

Regulation 16 Comments

Question 5. Firstly, I would like to offer the Steering Group the opportunity to respond to the comments made in the representations submitted at the Regulation 16 stage. I would be particularly interested in the response to Essex CC's comments on the workability of the Primary School Places policy but many other representations including those from parties promoting other sites, deserve a response.

NQRSG Response: Refer to separate NQRSG Response to Further Comments of the Independent Examiner

Emerging Local Plan

Question 6. Can UDC give me an update on the Local Plan Examination – has a time frame been set for the next stage, clearly dependent upon the Local Plan Inspectors being satisfied that the plan can move beyond Stage 1? Is there a likely date for adoption, depending on examination outcome? I am working on the basis that the matters dealt with at stage 1 are not directly relevant to my examination particularly with regard to housing numbers in the Key Villages and the Class A and B Villages.

Uttlesford District Council Response:

The Local Plan Stage 1 concluded on 24 July 2019. The Inspectors' letter regarding the soundness or the Legal Compliance of the Local Plan will not be available until after 12 December 2019 because PINS will not be issuing the letter during the election period. There is no timeframe set for Stage 2 as this is dependent on the content of the awaited Inspectors' letter.

Assuming UDC is not asked to withdraw the plan, we will either move on to Stage 2 Hearings (then modifications consultation, report and adoption); or UDC may be asked to do further work on specific areas. Under the quickest scenario we would think it unlikely the plan was adopted before autumn next year and if we are asked to do further work, this could extend the timetable by up to 6 months or more.

UDC's position regarding housing supply, argued at the Stage 1 hearings, is that the Local Plan allocates sufficient sites to meet the identified need. Others at the hearings argued that this was not the case and further allocations were needed. The Inspectors' forthcoming letter will give their views on this.

Outstanding Planning Applications

Question 7. Can UDC inform me whether the public inquiry into the Gladman appeal has been held yet, and is there any indication as to when a decision is anticipated.

Uttlesford District Council Response

The Site North of Wicken Road, Newport Planning Appeal Inquiry (Gladman Appeal) was held 24 September 2019 – 1 October 2019.

The decision was initially expected on 22 November 2019. However, an email received from The Planning Inspectorate on 21 November 2019 stated that the appeal decision will be issued as soon as possible after the General Election (after 12 December 2019).

Status of Neighbourhood Plan Recommendations

Question 8. The Secretary of State requirement is that a neighbourhood plan should contain planning policies for the use and development of land. This plan includes not just policies but what it terms *Recommendations*; some of which appear to relate to land use matters. The PPG states that: “*Wider community aspirations than those relating to the development and use of land, if set out as part of the plan, would need to be clearly identifiable (for example, set out in a companion document or annex), and it should be made clear in the document that they will not form part of the statutory development plan.*”

NQRSG Response: Refer to separate NQRSG Response to Further Comments of the Independent Examiner

Question 9. There is a lack of clarity how a decision maker or an applicant would view what is described as a “Recommendation”. One particular planning policy, which are patently intended to be development plan policy, include reference to matters that are set out in what is a recommendation. See NQRAQ1 which cross references to NQRAQ3. Policy NQRSL2 refers to a levy that is not part of the policy.

NQRSG Response: Refer to separate NQRSG Response to Further Comments of the Independent Examiner

Question 10. Furthermore, a number of the recommendations cover matters that are actually related to the “use and development of land” and which may, or may not, be considered material to the determination of a planning application. For example, NQRTR8 recommends “that no further expansion of JFA be permitted unless solutions are implemented to the problems caused by the school transport”. Where matters are relevant to the determination of a planning application, then is it not appropriate that these should be set out as a planning policy, and where the issue is not relevant to the determination of a planning application, they are identified as Non-Planning Recommendation or Community Aspirations. It is clear from the Regulation 16 representations that some consultees do not appreciate the status of the recommendations.

NQRSG Response: Refer to separate NQRSG Response to Further Comments of the Independent Examiner

Air Quality

Question 11. The following matters are principally directed to Uttlesford’s Environmental Health Officers as the PPG places importance to having their input into the neighbourhood plan process, in the area of air quality.

Uttlesford District Council Response

Uttlesford District Council Responses to Questions 12 - 15 are provided below.

Question 12. I note that Newport, nor the rest of the neighbourhood plan area is not an AQMA. Would the results of air quality monitoring, indicate that conditions currently warrant AQMA designation or would the level of development currently anticipated likely to lead to conditions, where designation is justified. How close are the levels of pollution to be

breaching EU limits? What is the process for designating AQMA and what are the types of measures that are likely to be included in an Air Quality Action Plan for an area such as Newport?

Uttersford District Council Response

The results of air quality monitoring to date do not indicate that AQMA designation is warranted. Outcomes from modelling of emission levels carried out in association with Air Quality Assessments for development in Newport, taking account of committed development, have to date demonstrated that resultant levels of emissions are not likely to lead to conditions where AQMA designation is warranted.

Worst case levels within Newport for concentrations of nitrogen dioxide are currently at approximately 75% of EU limits. See below:

	Tube ref	2017	2018
Wicken Road/High St	UT039	31.3	30.1
M11	UT010	25	14.8
Station Rd/High St	UT041	N/A	18.6
Cambridge Road	UT040	N/A	19.8

NB. Monitoring for concentrations of nitrogen dioxide at these locations is carried out by means of diffusion tubes. Values are for concentrations in ug/m3. The tubes are left in place for a month before analysis and the national air quality objective is based on the mean of 12 months.

Local authorities have a duty to designate an AQMA for areas where EU limits/objective levels are not being met or are at risk of not being met, and people are regularly present. The decision is based on evidence from monitoring data and/or modelling predictions. As AQMA designation is not under consideration for Newport, measures likely to be included in an Air Quality Action Plan (AQAP) have not been considered. As a guide, measures normally include promotion of non-car travel and use of low emission vehicles, and traffic management to improve traffic flow.

Question 13. I have noted that the District Council’s threshold for requesting an Air Quality Impact Assessment, as set out in the District Council’s Local Validation Checklist, is development within the Saffron Walden AQMA or development elsewhere of 200 or more residential units. Is having a threshold at 10 units deliverable, in terms of what documents can be required to be submitted with a planning application and is a lower threshold justified on the basis of air quality in the plan area?

Uttlesford District Council Response

A lower threshold of 10 units for requesting an AQA is deliverable, however technical guidance submitted with the Local Plan confines the lower threshold to development within Saffron Walden AQMA. Elsewhere an AQA will be requested depending on the physical characteristics of the proposal and for schemes in excess of 75 dwellings, and development resulting in a change in traffic volumes of more than 1000 AADT. Other than the above, an AQA is not justified outside the AQMA unless exceptional local circumstances suggest otherwise. However a qualitative Air Quality Statement may be requested, setting out measures to be taken during the construction phase and best practice measures to encourage non car travel.

Question 14. Do the EHOs consider that the air quality is reaching the levels envisaged by emerging Policy EN15 which references “significant adverse effects on health”?

Uttlesford District Council Response:

Air quality in Newport is not approaching EU limits/objective levels and should not be regarded as reaching levels that have a significant adverse effect on health. Each proposal for development is considered on its merits according to the location and scale, with the air quality impacts taking into account cumulative effects.

Question 15. I would be interested in both the LPA and the Steering Group’s views on what conclusions I should draw on air quality issue, bearing in mind the Inspector’s comments made when he determined the very recent appeal proposal for up to 150 dwellings on the land south of Wicken Road, where he states: “However, on the basis of the evidence before me, I have no reason to conclude that the proposal would give rise to unacceptable levels of air quality to the extent that there would be demonstrable harm to human health”.

Uttlesford District Council Response

The conclusion is that proposals currently under consideration with cumulative impact do not give rise to conditions approaching or exceeding objective levels.

NQRSG Response: Refer to separate NQRSG Response to Further Comments of the Independent Examiner

Question 16. I would invite the Steering Group to consider the apparent discrepancy between on the one hand, Policy NQRAQ2 which refers to “developments *of any scale* will not be supported without consideration of the cumulative impact of related vehicle movements” when applicants are only required to undertake an Air Quality Impact Assessment on schemes of ten or more dwellings.

NQRSG Response: Refer to separate NQRSG Response to Further Comments of the Independent Examiner

Travel Plans

Question 17. One of the tests, under the basic conditions, is the extent that the plan’s policies have regard to Secretary of State policy and advice. Relevant advice is found in the section of the Planning Policy Guidance (PPG) dealing with the question “What are Travel Plans” - Para 003 Ref ID 42-003-20140306. Is the thrust of the plan’s approach to Travel Plans consistent with that advice? In particular, I am anxious to understand what is meant by

the sentence in Policy NQRAQ2 “Travel Plans may be given weight in considering development applications ifthey provide information not obvious to residents”. Is the statement that Travel Plans will not be given material weight, inconsistent with national policy?

NQRSG Response: Refer to separate NQRSG Response to Further Comments of the Independent Examiner

Business Zones

Question 18. Can the Steering Group provide me with a plan showing the actual properties which are covered by the policy in Map 2, as the trapezium shaped annotations seem to cross through buildings, rather than covering the whole site? A clearer plan would aid the implementation of the policy at development management stage.

NQRSG Response: Refer to separate NQRSG Response to Further Comments of the Independent Examiner

Question 19. Can the Steering Committee clarify, how a decision maker would be satisfied that a change of use of a shop or community facility was justified, on the basis that “the need for the proposed use is clearly greater than the need for continued use as an employment site”. Perhaps it could give an example of how this criterion may be used.

NQRSG Response: Refer to separate NQRSG Response to Further Comments of the Independent Examiner

Views Sensitive to Change

Question 20. I note that the way that views are displayed, are different between the Newport and Quendon Maps. Can I ask that the Quendon map, Map 17 be changed to use an arrow which points away from the viewpoint, in the direction that it is seeking to protect. I found the way the view is identified on the Quendon Map somewhat confusing.

NQRSG Response: Refer to separate NQRSG Response to Further Comments of the Independent Examiner

Policy on Development Limits

Question 21. If Policy NQRHA1 includes a presumption against development outside of the development limits, why is it necessary to have a separate policy presuming against development in two specific locations, as set out in Policy NQRHA3 and would such locations be acceptable for development deemed suitable for areas outside of the development limits, that need a countryside location for example an agricultural building?

NQRSG Response: Refer to separate NQRSG Response to Further Comments of the Independent Examiner

Question 22. Policy NQRHA4 is titled “Buildings in the Countryside” but it applies to “planning applications in the Plan Area” - should the policy only be focussed on buildings outside the development limits?

NQRSG Response: Refer to separate NQRSG Response to Further Comments of the Independent Examiner

Housing Policy

Question 23. Can UDC give me an update on the current housing supply for Newport? I see from the figures in the emerging Local Plan, a figure of 94 unit are required for the period, since April 2017. In view of subsequent consents granted, what is the current residual requirement? Also, can I be advised as to what the current residual number is for Type A and Type B villages, which the allocations at Quendon will relate to? Is the LPA able to give an indicative housing figure or is it able to confirm the statement in the Neighbourhood plan that “the policies and site allocation in the Plan meets the housing requirement figure given by the LPA in the ELP”? Do all the housing allocations in this Plan area identified in the emerging local plan now have planning permission and how many have actually been implemented.

Uttlesford District Council Response

Table 1 below shows the current housing supply situation in Newport and Key A& B Villages.

The current residual requirement for Newport is 190 dwellings and for Key A & B villages is 430 dwellings.

UDC’s position regarding housing supply, argued at the stage 1 hearings, is that the Local Plan allocates sufficient sites to meet the identified need. Others at the hearings argued that this was not the case and further allocations were needed. The Inspectors’ forthcoming letter will give their views on this.

Table 1: Housing Supply: Newport and Type A & B Villages

	Dwellings built 2011-19 (sites of 6+ units)	Dwellings in outstanding planning permissions at 1 April 2019 (sites of 6+ units)	Dwellings to be provided in New Allocations 2019-2033 (sites of 6+ units)	Total Dwellings 2011-2033 (sites of 6+ units)
Newport	201	190	0	391
Type A & Type B villages	563	283	147	993

Table 2: Emerging Local Plan Allocations (all with planning permission and included in the third column of Table 1)

Application No.	ELP Allocation	Address	Application Status	Built	Outstanding
UTT/15/1869/FUL	NEWP 1	Land west of London Road	Appeal allowed 27/10/17		Not Started
UTT/15/3423/FUL	NEWP 2	Land at Bricketts, London Road	Revised Scheme for 20 refused by Planning Committee and at Appeal		Not started
UTT/19/1064 OP	NEWP 3	Land at Holmewood, Whiteditch Lane	Granted on Appeal. Reserved matters application submitted		Not Started

UTT/17/1561/OP UTT/17/1561/DFO	NEWP 4	Land at Bury Water Lane		7	74
UTT/13/1769/OP & UTT/16/1574/DFO	NEWP 5	Bury Water Lane/Whiteditch Lane		84	
UTT/14/1794/OP & UTT/16/0786/DFO	NEWP 5	Land Opposite Branksome, Whiteditch Lane		20 (nearly finished)	
UTT/14/3266/OP &UTT/15/3824/DFO	NEWP 5	Land south of Wyndhams Croft, Whiteditch Lane		16	
UTT/12/5198/09/OP	NEWP 5	Land West of Cambridge Road		34	
UTT/14/36/55/FUL	NEWP 5	Reynolds Court, Gaces Acre		7	

NQRSG Response: Refer to separate NQRSG Response to Further Comments of the Independent Examiner

Question 24. I am trying to assess the weight to be given to these housing figures for the reasons as set out in paragraph 65 and 66 of the NPPF (2019). Based on the debates that have so far taken place at the Local Plan Inquiry, including outstanding objections, is it likely that these numbers are likely to be changing. I am aware that the overall housing figure is expressed as a minimum figure.

Utlesford District Council Response

The overall figures are indeed a minimum. UDC’s position regarding housing supply, argued at the stage 1 hearings, is that the Local Plan allocates sufficient sites to meet the identified need. Others at the hearings argued that this was not the case and further allocations were needed. The Inspectors’ forthcoming letter will give their views on this.

Question 25. Could the Steering Group assist me by pointing me to where an applicant would be likely to gather the information required by Policy NQRHD4, as to what the local demand for the respective sizes of affordable and market housing, as the policy refers to “evidenced local demand” or refers to “greatest demand”? What type of body would be likely to be judged to providing “independent evidence”?

NQRSG Response: Refer to separate NQRSG Response to Further Comments of the Independent Examiner

Question 26. Could the Steering Group comment on how the density policy for development outside of the development limits, which is expressed as a maximum density, sits against the Secretary of State’s policy as set out in paras 122 and 123 of the NPPF, regarding the need to be “making efficient use of land”?

NQRSG Response: Refer to separate NQRSG Response to Further Comments of the Independent Examiner

Question 27. Does UDC consider that Policy HQRHD5 dealing with the allocation of social housing to be a housing allocation policy, administered by the Housing Authority, rather than a land use policy?

Uttlesford District Council Response

Allocation of social housing is a housing allocation policy issue and therefore Policy NQRHD5 is not a land use policy.

Planning Obligations

Question 28. Can UDC clarify whether residential schemes of under 11 units, are required to make contributions to local services and infrastructure via Section 106 agreements, beyond the need not to be delivering affordable housing?

Uttlesford District Council Response

Residential schemes of under 11 dwellings are not required to make contributions to local services via Section 106 agreements. However, UDC has recently employed consultants to develop a CIL charging schedule.

Question 29. Could UDC and the Steering Group comment as to how the neighbourhood plan policy, as set out in Policy NQRSSL2 differs from what would be sought under a district wide policy and has there been any viability testing of the impact of the NQRSSL2 Levy, alongside other contributions. In view of the need for the obligation, being required as a result of the development, why is it justified that affordable housing development should not be contributing to additional sports and leisure services as surely, their residents would be expected to be able to access the facilities?

Uttlesford District Council Response

Under a district wide policy an obligation would have to be lawful and meet the following legal tests:

- it must be necessary to make the development acceptable in planning terms;
- it must be directly related to the proposed development and
- it must be fairly and reasonably related in scale and kind to the proposed development

A district wide policy would seek contributions from developments of 11 dwellings and over. Section 106 Contributions are not sought on dwellings under 11 dwellings.

New development will be required to make appropriate on-site or financial contributions to off-site provision of indoor and outdoor sports facilities. Financial support for the continued maintenance of the facility will be secured by planning obligation.

Section 106 contributions will take into account the viability of the scheme under consideration and an 'open book' independent financial assessment will have to be provided before any exceptions are made to contributions.

The Steering Group is in a better position to respond to why affordable housing development will be exempt from the levy. UDC would not normally seek to exempt affordable housing from contributions towards open space etc.

NQRSG Response: Refer to separate NQRSG Response to Further Comments of the Independent Examiner

Question 30. In Policy NQRTR2, can the Steering Group say whether there is a threshold of size of schemes, where developers will be required to address the impact of traffic including on air quality, and how does that relate to the threshold set out in Policy NQRAQ2 dealing with the cumulative impact of traffic on air quality and traffic congestion?

NQRSG Response: Refer to separate NQRSG Response to Further Comments of the Independent Examiner

Question 31. What is the timescale of the District Council's consideration as to whether to introduce a Community Infrastructure Levy Scheme?

Uttlesford District Council Response

The Community Infrastructure Levy (CIL) is at the research and evidence gathering stage. Consultation on the Draft CIL Schedule is expected to be in May 2020 for 6 weeks. Submission for examination is anticipated to be late summer 2020. Adoption of CIL Scheme is expected to be in late autumn/early winter.

Flooding

Question 32. I assume that Policy NQRGSE 1 only relates to surface water drainage rather than foul drainage, which will be via the sewage system although it will eventually discharge into a watercourse itself. Can UDC confirm whether Sustainable Urban Drainage Systems (SUDS) area are appropriate in areas such as the plan area, as I am aware that some area's geology prevent their use?

Uttlesford District Council Response

Although some elements of SuDS, such as infiltration basins, are reliant on local geology in order to function there are a wide range of features that will work in areas that infiltration is not possible. Therefore any variation in geology between these parishes shouldn't affect the applicability of this policy.

A minimum requirement is that SuDS are used to mitigate any potential increase in flood risk caused by a new development. However, in areas such as Newport, the Lead Local Flood Authority would like to see Developers take this further and use new development to help manage existing issues as part of their wider responsibility to communities.