

UNPAUSING THE LOCAL PLAN

Head of Service:	Justin Turvey, Interim Head of Place Development
Wards affected:	(All Wards);
Appendices (attached):	Appendix 1 – Council Motion 22 March 2023 Appendix 2 – Local Development Scheme (November 2022)

Summary

Public consultation on the Draft Local Plan (2022-2040) was undertaken between 1 February 2023 and 19 March 2023. Following the closure of the public consultation an extraordinary Council meeting was held on the 22 March 2023 where the decision was made to pause the Local Plan and to allow specified tasks to be undertaken.

The Licencing and Planning Policy Committee on the 24 September 2023 agreed to recommend to Full Council that work on the Local Plan is un-paused.

This report recommends that Council un-pause the Local Plan, to enable all necessary work to be progressed, so that the Local Plan can be submitted for examination within the transitional arrangements set by the government.

Recommendation (s)

The Council is asked to:

- (1) Un-pause the Local Plan with immediate effect.**
- (2) Note the work that has been undertaken since and in line with the decision by full Council on the 22 March 2023 to pause the Local Plan.**

1 Reason for Recommendation

- 1.1 The Council is required by legislation to review its Local Plan every five years. The Council's current development plan consists of three Epsom and Ewell Borough Council documents all of which were adopted more than five years ago. The Epsom and Ewell Core Strategy (2007) and Plan E (2011) both predate the introduction of the National Planning Policy Framework and National Planning Practice Guidance. In the absence of an up-to-date Local Plan, there is risk to the Council, including the continued absence of a 5-year housing land supply and the additional measures introduced through the Housing Delivery Test. The NPPF's presumption in favour of sustainable development is currently engaged.
- 1.2 A substantive delay to the Local Plan timetable risks missing the transitional arrangements that are likely to feature as part of a revised NPPF that is anticipated due to be published in Autumn of this year (originally expected in Spring 2023).
- 1.3 The government have recently re-iterated their intention that any Local Plans that are being prepared under the 'current system' will need to be submitted to the Planning Inspectorate for Examination by 30 June 2025 and must be adopted by 31 December 2026. However, these dates are contingent upon Royal Assent of the Levelling Up and Regeneration Bill, as well as Parliamentary approval of the relevant regulations. It is therefore recommended that work continues developing the Local Plan and its supporting evidence.

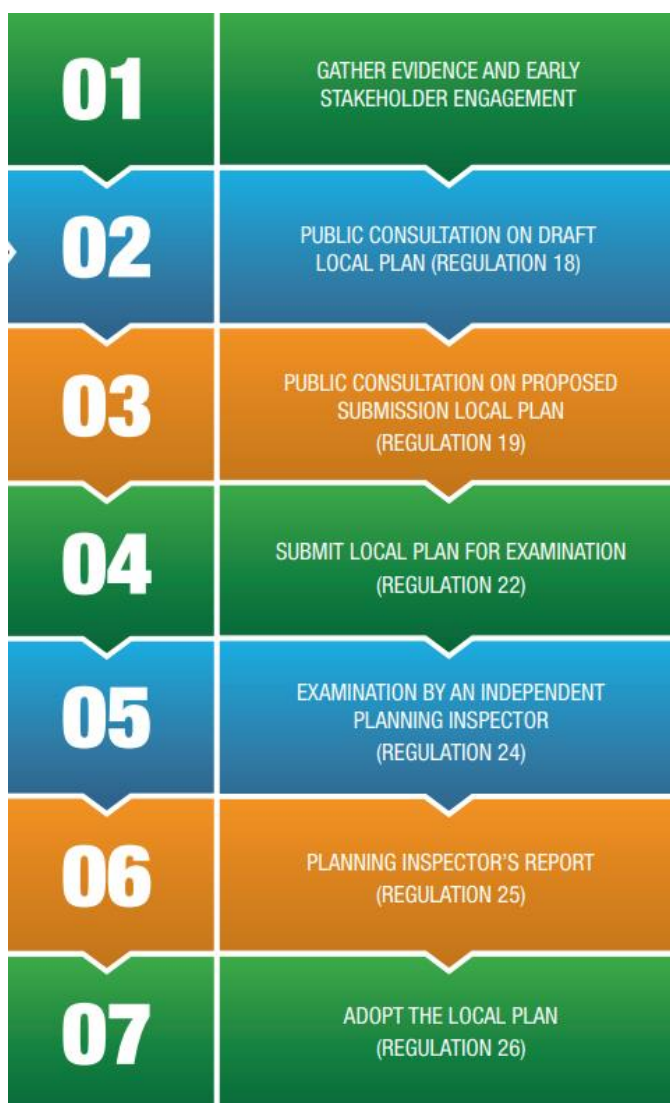
2 Background

- 2.1 The current Epsom and Ewell Development Plan consists of three locally produced documents detailed below:
 - Core Strategy (adopted 2007)
 - Plan E Area Action Plan (adopted 2011)
 - Development Management Policies (adopted 2015)
- 2.2 It is important to note that two of the above development plan documents adopted by the borough pre-date the introduction of the National Planning Policy Framework and Planning Practice Guidance, which have been updated several times since their introduction. Local Plans must be prepared to be in general conformity with the National Planning Policy.
- 2.3 The Government introduced a legal requirement for all local planning authorities to review their local plans at least every five years in January 2018. The Council's existing Development Plan documents are therefore considered to be out of date which has implications for the determination of planning applications in the borough.

Consultation on the Draft Local Plan

- 2.4 Following agreement by this committee on the 30 January 2023, consultation on the Draft Epsom and Ewell Local Plan (2022-2040) was undertaken between the 1 February and 19 March 2023.
- 2.5 The Draft Local Plan (Regulation 18) contained a strategy and sites to guide how the borough will change and develop over the plan period up until 2040 as well as detailed development management policies. This formed stage 2 of the 7-stage process to adopting a Local Plan (see Figure 1).

Figure 1 – 7 Stages of Local Plan Preparation



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- 2.6 The draft Local Plan that was consulted on between 1 February 2023 and 19 March 2023 set out a proposed growth strategy for the borough, to provide a minimum of 5,400 homes over the Local Plan Period (average of 300 dwellings per annum). The proposed growth strategy contained within the Draft Local Plan reflects the need to balance the provision of new homes (including affordable housing) with environmental and policy constraints such as land designated as Sites of Special Scientific Interest, Sites of Nature Conservation Importance, Local Nature Reserves and Green Belt.
- 2.7 The consultation received responses from 1,736 individuals or organisations, including statutory consultees (including Surrey County Council, Neighbouring Authorities and Sport England), residents, land owners and other interested parties. All responses received during the consultation period have been published on our consultation platform, however it is important to note that any comments that were inflammatory, offensive or otherwise inappropriate have been redacted.
- 2.8 A Consultation Statement will be published alongside the next version of the Proposed Submission Local Plan (Regulation 19) that will provide a summary of the main issues that have been raised and how they have been taken into account.

The Council Motion

- 2.9 At an Extraordinary meeting of the council on Wednesday 22 March 2023, a motion was considered under CR 14 of Part 4 of the Council's Constitution (Appendix 1). The motion that was Carried was that the Council agrees that:
- i) Other than for the purpose of analysing the responses of the public consultation to capture residents' views and any new information, the Local Plan process be paused to enable:
 - a. further work on brown field sites, including information arising out of the Regulation 18 consultation.
 - b. further options to be considered that do not include green belt sites.
 - c. an analysis of Epsom and Ewell's required future housing numbers based on 2018 data.
 - d. a clearer understanding of the Government's legislative intentions in regard to protections for the green belt and the current mandatory target for housing numbers.

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- ii) Write to the MP for Epsom and Ewell calling on him to use his influence to get the Government to abandon its use of 2014 data to calculate housing need and accept that all planning and housing policies must reflect the latest data if they are to be effective as well command the respect of the people they affect.

Work undertaken since the motion was carried

- 2.10 The selected workstreams detailed in the Council Motion have been completed. Further detail on the work undertaken in accordance with the Local Plan pause up until June 2023 is contained in the report that was considered by Licencing and Planning Policy Committee on the 15 June (link to report in section 7 of this report) which provided a comprehensive update on the work undertaken up until that point that was in accordance with the Local Plan pause and some additional workstreams that could commence.
- 2.11 The core changes since the June 2023 LPPC report are the close of the call for sites process at the end of July 2023 and the publication of the responses received on the Draft Local Plan. The call for sites opened alongside the Draft Local Plan consultation on 1 February 2023 and during this five-month period 13 new sites were submitted. In addition, a small number of revisions to previous call for site submissions were received (for example minor amendments to boundaries or confirming the availability of land for a particular use).
- 2.12 These additional sites now need to be considered as to whether they are suitable for development and warrant inclusion in the next iteration of the Local Plan. This will be through an update to the Land Availability Assessment and if the plan is un-paused a review of the reasonable alternatives considered through the Interim Sustainability Appraisal that supported the Draft Local Plan. Subject to a decision being made to un-pause the Local Plan, member briefings will be arranged to update members on these matters.

Limitations of the Motion on Plan Making

- 2.13 The Council motion is prescriptive of the work that officers can undertake in preparing the Local Plan and as a result until there is a formal decision to un-pause, we are unable to progress the Local Plan to Regulation 19 (Proposed Submission Stage).
- 2.14 It is only once the Local Plan has been formally un-paused that we will be able to:

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- produce a revised Local Plan timetable (the Local Development Scheme) and progress other key pieces of evidence to support a future version of the Local Plan.
 - progress work in relation to site selection having regard to the latest information on land availability (see para 2.12) to inform the spatial strategy and site allocations of the next iteration of the Local Plan.
- 2.15 It is important to note that un-pausing the Local Plan does not mean that the proposed submission (Regulation 19) version of the Local Plan will remain the same the Draft Local Plan (Regulation 18) that we consulted on earlier this year. As noted above, additional sites have been promoted through the call for sites process that need to be considered, alongside the evidence base and information submitted during the consultation period. The proposed submission version of the Local Plan (Regulation 19) will be subject to public consultation.

National Legislative / Policy Changes

- 2.16 The Levelling up and Regeneration Bill continues to progress, with the House of Commons due to consider the Lords amendments on the 17 October 2023 (correct as of 06/10/23), and if implemented will radically change how Local Plans are produced in the future, for example Local Plans are likely to be more streamlined focusing on the spatial (what, where and when) as opposed to detailed development management policies, a significant number of which are proposed to be set out in a National Development Management policies (which will be subject to consultation).
- 2.17 As with all substantive changes to national planning policy and legislation there will be transitional arrangements in place. The government have recently re-iterated their intention that any Local Plans being prepared under the 'current system' will need to be submitted to the Planning Inspectorate for Examination by 30 June 2025 and must be adopted by 31 December 2026.

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- 2.18 The transitional dates set out in paragraph 2.17 above are contingent upon Royal Assent of the Levelling Up and Regeneration Bill, as well as Parliamentary approval of the relevant regulations. At time of writing, it is unclear if Royal Assent will be in place prior to the end of the current parliamentary session in November when the King will open the new parliamentary year (on 7 November 2023). Officers therefore seek confirmation from Members as to what to do next as there is a need to progress the Epsom and Ewell Local Plan if we are to meet the timescales for submission by the transitional deadline on 30 June 2025. The failure to do so will significantly delay the production and subsequent adoption of a Local Plan in the borough, increasing the risk of speculative development with the presumption in favour of sustainable development applying.
- 2.19 The report considered by Licencing and Planning Policy Committee on 15 June 2023, highlighted that the current timetable for preparing the Local Plan (the Local Development Scheme) was no longer achievable. The current Local Development Scheme (November 2022) is attached as Appendix 2.
- 2.20 Table 1 below provides an indicative timetable for preparing the Local Plan on the assumption that the Local Plan is un-paused, a new timetable is agreed by the Licencing and Planning Policy Committee by the end of 2023, and that a spatial strategy to be contained within the Regulation 19 version of the Local Plan is agreed in early 2024.

Table 1 – Local Plan timetable – existing and potential

Stage	November 2022 LDS	Potential Revised Local Plan Timetable
Publication of Regulation 19 Local Plan	February / March 2024	January / February 2025
Submission and Examination of Local Plan	June 2024	May 2025
Adoption	Spring 2025	Spring 2026

- 2.21 The indicative timetable detailed in Table 1 demonstrates that there is minimal contingency for delay if we are to submit by 30 June 2025 for the transitional arrangements to apply.

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- 2.22 As part of the governments Levelling up-and Regeneration Bill: reforms to national policy consultation that were published for consultation in December 2022, a track changed version of the NPPF was consulted upon (link to document in section 7 of this report) with the government due to respond to this consultation and publishing the framework revisions by Spring 2023.
- 2.23 A minor update to the NPPF was published on the 5 September 2023 (link to document in section 7 of this report), however the amendments relate to renewable energy development only. No other potential changes set out in the government's consultation in December 2022 on the draft track change version of the NPPF have been made.
- 2.24 The latest information from the government is that a focused update to the NPPF will be published in Autumn 2023. Whilst this delay does provide a degree of uncertainty, the draft changes that were consulted upon predominantly clarified national policy rather than introduced new requirements. It is important to note that the proposed changes did not amend the standard methodology for calculating housing needs which is currently based on 2014 data.

Options for progressing the Local Plan

- 2.25 We consider that there are two options for progressing the Local Plan which are detailed below along with the advantages and potential risks for each.

Option 1 - Un-pause the Local Plan (Recommended Option)

Advantages

- Officers will be able to commence all work to progress the Local Plan, including developing the spatial strategy to determine what the councils preferred strategy may look like to inform a future version of the Local Plan. It is important to note that any changes to the Local Plan, including the Spatial Strategy, must be justified and supported by the evidence underpinning the Local Plan.
- Evidence base will remain up-to date and therefore is unlikely to need updating, reducing costs to the council.
- Dependent upon the timing of the publication of the revised NPPF, we will be able to respond to the changes. The revised NPPF is due to be published in Autumn 2023 and a delay to this has been factored into the potential timetable detailed in Table 1.

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- The Local Plan could be submitted within the transitional arrangements (see indicative timetable above) if timely decisions are made upon local plan content, including the spatial strategy. This will be dependent upon Full Council agreeing to consult on the proposed submission Local Plan (Regulation 19) and submitting the Local Plan for Examination (Regulation 22).
- Following adoption of the local plan we will have an up to date plan in place to determine planning applications reducing the risk of speculative development and planning by appeal.
- The timely adoption of the Local Plan will enable the delivery of other corporate objectives, such as affordable housing delivery. The Local Plan is the key delivery mechanism for delivering additional affordable housing in the borough, through the inclusion of an affordable housing policy based on up to date viability evidence and the allocation of sites.
- Availability of resource to progress the Local Plan as the Planning Policy Team is currently dependent upon two fixed term contract posts that were approved by the Strategy and Resources Committee on the 30 March 2021. Both contracts expire in 2024.

Risks

- Delays to the government publishing a revised National Planning Policy Framework could impact our ability to respond to changes and potentially submitting the Local Plan under transitional arrangements.
- Lack of agreed position on the spatial strategy to be contained within the next iteration of the Local Plan will impact the production of evidence base required to support the Proposed Submission Local Plan (such as the transport assessment).
- Delays in agreeing a spatial strategy shortly after a decision to un-pause the Local Plan will impact the timescales for progressing the Local Plan and could result in the authority missing the deadline for submitting the Local Plan under the transitional arrangements.
- If substantial changes are made to the Local Plan, including the Spatial Strategy, compared to that contained in the Regulation 18 Draft Local Plan, that are not justified by evidence or through national policy / legislative changes, there is a risk that the Local Plan will not be found sound at examination. This will have financial and reputational impacts for the local authority. In addition, it will significantly delay the introduction of an up to date development plan for the borough.
- Staff retention remains a risk due to the national shortage of planners and the fact that two members of the planning policy team are on fixed term contracts. There is a risk that they will leave before their contracts expire.

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Option 2 - Local Plan remains paused

Advantages

- This will provide the council with greater certainty over reforms to the national legislation (emerging levelling up and Regeneration Bill) and subsequent substantive changes to national planning policy (including the introduction of national development management policies) and revisions to national guidance.
- Local Plan to be prepared under the new planning system as we will not be able to meet the June 2025 submission date for the transitional arrangements to apply.
- Potential short term cost savings in developing the Local Plan towards submission stage (e.g. evidence base development) which could be utilised in the future to progress a Local Plan under the 'new' system of plan making.

Risks

- Delays to the Levelling up and Regeneration Bill receiving royal assent and subsequent updates to national planning policy could delay work commencing on the Local Plan and would mean we have an out of date Local Plan in place for longer.
- Evidence base supporting the Local Plan will become out of date and the availability of resource (staff or funding) to produce the evidence base required from the new planning system (note the government have stated their intention to streamline the amount of evidence required). There is currently limited information on what evidence will be required to support the new planning system, there is therefore the risk that the evidence requirements could remain resource intensive.
- Resourcing – availability of staff to progress the Local Plan. Staff retention remains a risk due to the national shortage of town planners and the fact that two members of the planning policy team are on fixed term contracts (due to expire in 2024). There is a risk that they will leave before their contracts expire and that other members of the planning policy team may move on to new roles to gain additional experience.
- Potential risk of government intervention to progress the Local Plan, specifically considering that the Core Strategy was adopted in 2007 to guide development over the period up until 2022.
- Increased risk of speculative development and planning by appeal in the absence of an up-to-date Local Plan.

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- 2.26 Whilst we acknowledge that several other planning authorities have 'paused' their Local Plans, including Mole Valley and Spelthorne, it is important to note that Mole Valley and Spelthorne are further along in the plan making process and are at the Examination Stage (having submitted their Local Plans to the Planning Inspectorate).
- 2.27 At an Extraordinary Council meeting of Spelthorne Borough Council on the 14 September 2023, councillors were due to consider three options for their Local Plan. Prior to the meeting the Council received a letter from the Minister of State for Housing and Planning notifying them that the Secretary of State was using his powers of intervention to prevent the council from withdrawing their Local Plan from examination (one of the three options due to be considered) and requiring them to report monthly to government on progress with the Local Plan examination. As a result, the Council agreed to request an extension to the pause until the proposed changes to the NPPF have been published. On the 22 September the Inspector agreed for the continuation of the pause, with the expectation that the Council will undertake work to identify issues raised by the Inspector in the early stages of the examination.
- 2.28 We are at a much earlier stage of Local Plan development and for the reasons set out above, it is recommended that the Local Plan is un-paused.

3 Risk Assessment

Legal or other duties

3.1 Equality Impact Assessment

- 3.1.1 An Equality Impact Assessment (EqIA) of the Draft Local Plan was published as part of the consultation materials. The purpose of the EqIA is to ensure that the plan promotes equality and does not discriminate. The EqIA concluded that there the Draft Local Plan will not impact negatively on specific groups.

3.2 Crime & Disorder

- 3.2.1 None arising from this report.

3.3 Safeguarding

- 3.3.1 None arising from this report.

3.4 Dependencies

- 3.4.1 The delivery of key corporate objectives/actions are dependent on progressing the Local Plan, including:

- Actions identifies in the Affordable Housing Audit
- Homelessness and Rough Sleep Strategy and supporting action plan
- Climate Change Action Plan

3.5 Other

3.5.1 None arising from this report.

4 Financial Implications

- 4.1 The budget envelope for the delivery of the Local Plan was agreed by Strategy & Resources in March 2021. Any delay in delivering the Local Plan is likely to have budgetary implications.
- 4.2 The Council has previously agreed that progress of the Local Plan programme will be reported twice yearly to Licensing & Planning Policy Committee, and that should additional budgetary implications arise, these should be reported to Strategy & resources Committee as appropriate.
- 4.3 **Section 151 Officer's comments:** In considering whether to un-pause the Local Plan, members are asked to weigh-up the advantages and risks in this report – including potential future plan-making reforms on the horizon – to satisfy themselves (or otherwise) that progressing the Local Plan would be an effective use of the Council's limited resources.

5 Legal Implications

- 5.1 There are no direct legal implications as a result of this report. The Local Plan must be prepared within the legal planning framework.
- 5.2 **Legal Officer's comments:** None other than as outlined in this report.

6 Policies, Plans & Partnerships

- 6.1 **Council's Key Priorities:** The new Local Plan will contribute towards delivering the Council's Vision and priorities in its Four-Year Plan.
- 6.2 **Service Plans:** The matter is included within the current Service Delivery Plan.
- 6.3 **Climate & Environmental Impact of recommendations:** The Local Plan will play a key role in implementing our Climate Change Action Plan.

- 6.4 **Sustainability Policy & Community Safety Implications:** The Local Plan itself has a key role in delivering sustainable development.
- 6.5 **Partnerships:** The Council has a duty to cooperate with relevant stakeholders in the preparation of a Development Plan. The Council notified Duty to Cooperate bodies of the Draft Local Plan consultation and invited comments on the draft document.

7 Background papers

7.1 The documents referred to in compiling this report are as follows:

Previous reports:

- Licensing and Planning Policy Committee 26 September 2023 – Unpausing the Local Plan:
<https://democracy.epsom-ewell.gov.uk/documents/s28582/Unpausing%20the%20Local%20Plan.pdf>
- Licensing and Planning Policy Committee 15 June 2023 – Local Plan Update:
<https://democracy.epsom-ewell.gov.uk/documents/s27565/Local%20Plan%20Update.pdf>
- Licensing and Planning Policy Committee 30 January 2023 – Epsom and Ewell Local Plan 2022-2040:
<https://democracy.epsom-ewell.gov.uk/documents/s26335/Epsom%20and%20Ewell%20Local%20Plan%202022-2040.pdf>
- Licensing and Planning Policy Committee 21 November 2022 – Local Plan – Revised Local Development Scheme:
<https://democracy.epsom-ewell.gov.uk/documents/s25299/Local%20Plan%20-%20Revised%20Local%20Development%20Scheme.pdf>

Other documents:

- National Planning Policy Framework (September 2023):
<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

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- National Planning Policy Framework – draft text for consultation (published December 2022):

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1126647/NPPF July 2021 -
_showing proposed changes.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1126647/NPPF_July_2021_-_showing_proposed_changes.pdf)