Risks and Issues around not delivering on the Councils development programme

1. Background

1.1 For the purposes of this Appendix it is assumed that the Staines Development Framework is adopted in parallel with the Local Plan and that they are both adopted in March 2023. All the figures are presented on this basis. Councillors should bear in mind that if schemes do not progress at all, then the lost revenue impacts will be on-going in perpetuity.

Financial Impacts
Adverse impact on Council's Revenue budget requiring additional budget savings and/or generating alternative income: Thameside expected to contribute **£1.1m** per annum (net interest margin). Lost rental income for KGE for development would be in the order of **£12m** Holding costs for all schemes **£8.87m** Adverse impact on the net interest margin on mixed schemes Smaller schemes are likely to result in a net loss once the cost of purchase of site is taken into account. Cost of compulsorily acquiring housing sites to ensure we can deliver Local Plan housing numbers

<u>Budget pressures</u>

1.2 2020 was an unprecedented year due to the worldwide coronavirus pandemic. In his statement on 25 November 2020, the Chancellor highlighted that the Office for Budget Responsibility forecasts that the economy will contract by 11.3% this financial year, the biggest drop in one year in 300 years (since 1709). He also recognised the long-term scarring of the economy with GDP likely to be 3% lower than otherwise would have been the case in 2025.

1.3 The full economic and financial impacts of COVID-19 on the Borough and the Council are not yet known. Spelthorne, along with the whole of England, is currently under a new lockdown, and it is anticipated that this regime will be in place until the country starts to see the positive impacts of the vaccination programme. In particular, the Council needs to wait to see what impact the ending of the national furlough scheme will have on unemployment numbers, and the number of families needing to claim benefits, receiving localised council tax support or housing support. The collection fund is already being impacted by economic situation. In turn, the future impacts on the economy and how it recovers will have an impact on the Council's service fees and charges income for a number of years to come (which will be supressed).The Council also needs to be mindful of how local development can support the economic recovery post COVID-19.

1.4 These pressures are in addition to the 'normal' budget pressures we as a Council already face. Councillors will be aware that as a result of the impacts of COVID-19 and the shift in policy towards greater Affordable Housing delivery the revenue gaps for the Outline Budget are more challenging than previously.

1.5 The removal of any of the Council's development schemes from the Capital Programme 2021/22 to 2024/25 would have a negative impact on the overall fiscal position of the Council at a time it will already be under strain. With limited options for alternative income generation, significant savings are likely to be required. This could result in potentially very painful decisions having to be made around service delivery, with potential cuts and/or possible future redundancies.

1.6 Difficult conversations would potentially have to be made around non-statutory services such as those delivered for the community, for example Day Centres/Independent Living services, Spelride, and leisure/cultural activities. Clearly these non-statutory services are incredibly important to our residents and it was one of the great strengths that has come through in our proactive approach to dealing with the current coronavirus pandemic. Longer term potential redundancies could impact across the board, and would affect the level of service that could be provided.

<u>Impact of schemes not progressing on rental income</u>

1.7 The schemes which the ECM are considering are Ceaser Court Phase 2, Thameside House, Ashford MSCP, Oast House and Kingston Road car park, Tothill car park and William Hill/Vodaphone unit. **Confidential Appendices 1 and 2** provide further details.

1.8 As Council are aware, once development schemes are completed they are currently transferred to Knowle Green Estates Ltd (a 100% wholly owned Council company), who are responsible for managing the residential portfolio on behalf of Spelthorne. Deciding not to proceed with all or some of the development projects as part of the capital programme, or delaying them will have a knock-on effect on the rental income stream and the net interest margin the Council will earn on mixed tenure schemes.

1.9 Whilst removing any of the development schemes will have an adverse effect on the Council's financial position, Thameside House is by far the most progressed. The current timeline assumes that permission is granted in Spring 2021, work starts in the last quarter of 2021 (calendar year) and is completed in the last quarter of 2023 (calendar year). The financial consequences of either not developing at all, changing the scheme dramatically, or delaying until the adoption of the Local Plan would be considerable.

1.10 All borrowing on completed residential schemes will be more than covered by the loan repayments made by Knowle Green Estates (KGE) to the Council which are entered into on completion of schemes. In the case of mixed tenure schemes such as Thameside House, Ceaser Court Phase 2 and Tothill car park, the Council will earn a considerable margin between the rate it is able to borrow (say 1.5% based on current PWLB rates) and the “market rate” it will charge to KGE. This is called the net interest margin.

1.11 As an example, the annual net interest margin by to the Council is expected to be £1.1m per annum once Thameside is completed, and will help support the Councils budget with an on-going revenue stream. If the development does not go ahead at all then this receipt cannot be used to offset future budget gaps. Even delaying the development in line with the adoption of the Local Plan would result in lost rental receipts. This rental income shortfall would remain until March 2026 when the development is completed and can be let. The total cost in terms of lost rental income from Thameside to KGE would be in the order of £5.26m to March 2026.

1.12 Assuming the Oast House development comes forward as 100% affordable housing, there will be no net interest margin to be gained by the Council as the borrowing rate and the market rate charged to KGE will be the same. Were the affordable figure to drop however there would be a net interest margin which would add to the gap already created if the Thameside House scheme is delayed. The total cost in terms of lost rental income from Oast House to KGE would be in the order of £4.326m to March 2026.

1.13 There is no net interest margin to be gained for the other sites being considered by this ECM as the sites are already in the ownership of the Council.

<u>Impact on ‘holding’ costs of development schemes</u>

1.14 Of the six development schemes under consideration by the ECM, four have been directly acquired for redevelopment and regeneration purposes – Thameside House (£8.5m), Oast House and Kingston Road car park (£19.5m), Ceaser Court phases 1 and 2 (£9.5m) and William Hill/Vodaphone (which formed part of the Elmsleigh Centre acquisition). These were acquired through borrowing from the Public Works Loan Board, and these loans have to be paid back over a 50-year period. Delaying completion of the developments up until the adoption of the Local Plan, for example, will impact on the holding costs (monthly loan payments, insurance etc) which will still accumulate whilst the schemes are ‘on ice’. These impacts would be magnified exponentially if any of the developments were not agreed to go forward at all, as the loans would still need to be repaid regardless of whether there was any development income to KGE to then cover the net interest margin paid back to the Council..

The ‘holding’ costs if schemes did not progress until the adoption of the Local plan would total £8.87m. These ‘holding’ costs include interest costs and security.

Affordable/Development
Delay in affordable housing by 2 years (2,100 households in need on the housing register) Schemes deliver between 50 – 100% affordable rented

Development schemes could deliver c.493 units (24% of current need)

Last year no net new additional affordable units were delivered by developers

Capital monies on abortive development projects will have to be converted into revenue **(£3.95m**)

Reduction in CIL payments will impact on the 'pot' available for infrastructure projects **(£650k)**– Thameside and Ceaser Court phase 2)

Market conditions are not favourable for securing a realistic price for sale (due to COVID-19 and Brexit concerns)

Affordable Housing

1.15 Any delay in delivering Council schemes will have a significant impact on the number, type and size of affordable housing units coming forward in the town centre.

1.16 Delivery of section 106 affordable housing is particularly concerning when you consider that between 2015 and 2020 only 199 units have been delivered (and mostly in the early years as a result of A2D's Stanwell New Start regeneration programme). No net additional affordable units have been provided by developers in the past two years. There are nearly 2,100 residents currently on our Housing Register, and on average 11 households are 'chasing' each new affordable property that comes forward for letting.

1.17 Levels of section 106 affordable are determined through a viability assessment which is undertaken as part of the planning application process. Within the borough, the most recent large-scale schemes have delivered a mere handful of units through this process. For example, the London Square and Berkeley Homes developments between them have only provided around 10% affordable across their sites.

1.18 Often, the Council are offered shared ownership rather than affordable rented units (which are out of reach of the vast majority of our residents), and officers also have to negotiate very hard to achieve the right outcome in terms of the size of unit (two beds rather and one). The viability process acts as a constraint on delivery.

1.19 Whilst Council applications have to go through the same viability assessment to determine the level of s106 affordable, the Council can voluntarily decide to provide more affordable if it so wishes. That decision has been made on all the Council's development schemes which are under consideration by the ECM this evening. 50% of the units at Thameside House can be delivered as affordable (70 flats), in addition to the possibility of 100% on the Oast House site (217 units), 100% at William Hill/Vodaphone (14 units), 100% affordable for Ashford MSCP (48 units) and a target of 50% for both the Tothill site (c125 units) and Ceaser Court Phase 2 (19 units).

1.20 In total these six schemes could deliver 493 affordable rented units which would meet around 24% of the current need on the Housing Register. Holding developments until the adoption of the Local Plan would put delivery of these units back by over 2 years by the time a planning application is worked up, submitted post March 2022 and then approved (a 12 month process). In those 2 years, with the current economic position of the Country, the housing register numbers are likely to materially increase with more residents in the borough being unable to live here. (The register has increased from 1,600 on 2016 up to 2,100 in 2020 without the economic shock of COVID-19 having taken hold - so we can expect an increase of at least the same level if not more within the next 2 years).

1.21 The lack of affordable housing provision, if development schemes are not agreed by this ECM to be put forward within the capital programme, will undoubtedly result in greater pressure on front line services. Housing register numbers will increase and there is a greater risk that the Council will be failing to meet basic needs of residents and local communities (social housing provision). It may well result in increased levels of homelessness and impact on mental health/wellbeing within the community.

Development matters

1.22 A number of development specific matters would further compound the fiscal challenge which the Council will face in terms of its budgetary position:

- Added pressure on the revenue budget. Any capital monies on abortive development projects will have to be converted into revenue (£3.95m)

- High risk of claims from contractors due to delays. Furthermore a hold on construction does not support the Governments steer for public bodies to financially support its key suppliers in order to stay afloat in the current challenging COVID economic situation

- Reduced level of Community Infrastructure Levy (CIL) payments to the Council as a result of delayed projects (set out above). This will adversely impact the amount of money available to deliver infrastructure projects (£650k) (which is only for Thameside and Ceaser Court Phase 2 as the other Council schemes are not sufficiently progressed to determine the CIL payment)

- The scope to recharge assets, legal and finance costs to KGE would be diminished if schemes did not progress, putting further additional pressure on the Council’s revenue budget.

1.23 One option for Council to consider would be to proceed with the development schemes at a reduced scale and therefore a reduction in Capital budget. However, any significant changes (e.g. drastically reducing the height of the developments to address the concerns of some residents and councillors) would result in a net loss once the cost of purchasing the site is taken into account. This does not make sound financial sense.

1.24 The only other option available if the developments are not agreed and do not go forward as part of the capital programme would be to sell the assets. Market conditions are not favourable for securing a realistic price (due to COVID-19 and Brexit concerns), and conceivably the Council may have to dispose of sites for less than the price we acquired them for. In addition, those developers would then be able to submit a planning application and would be looking to maximise density and height, whilst only delivering affordable at a level determined by a viability assessment. ‘Forced’ disposal would not only put the Council at a considerable disadvantage it would also not prevent developments coming forward in any event and would not fulfil the Council’s stated aim of providing affordable homes.

Strategic Planning
Housing figure back up to 606 from 489 per annum Pressure to provide alternative sites especially if brownfield only option is pursued (need to find around a *further* **708** units over the life of the plan on top of the deficit of 2,614 homes if the housing number is 603 pa and 931 if the number is 489 pa) Concerns over the deliverability - Council schemes for ECM consideration are delivering 19% of the SLAA sites (444 units in years 1 to 5 and 264 in years 6 to 15) Threat of Green Belt sites coming forward via planning applications, including those rejected at the Preferred Options stage Contrary to national policy/guidance (would fundamentally restrict the use of significantly increased densities in sustainable areas) Increased risk that the examining inspector will end up picking sites which the Council, left to its own choices, would not have brought forward Worsen position in terms of housing land supply (only delivering 60% of government requirement)

Local Plan matters

1.25 There are a number of very significant implications arising if Council decide not to agree the inclusion of any developments as part of the capital programme, both in terms of the Local Plan process itself and in ensuring that there is a Local Plan which is capable of being adopted. If the latter cannot be achieved, then there are severe ramifications not only in terms of delivering the Council’s schemes (and the additional financial costs and housing implications falling out of this), but also more broadly in terms of planning the future of the whole of the borough against unacceptable forms of development, particularly in terms of large-scale release of Green Belt sites.

Current Housing Delivery

1.26 As a Council we are not presently meeting the development management requirements imposed by national policy in relation to housing land supply. We do not have a five-year supply so we are already at the level where the presumption in favour of sustainable development applies for all schemes within the developed area.

1.27 We are therefore required to put in place an annual Housing Delivery Test Action Plan (HDTAP) setting out how we will increase our supply. Our delivery in 2019/20 was only 60% of what the Government requires (using the 606 units per annum figure).

1.28 The ultimate sanction in terms of failure to deliver would be for government to directly intervene and take over the planning service and taking away local democratic accountability from the Council. However, this would be as a last resort, and the step before this would be for external advice and support to be brought in.

1.29 Within the HDTAP, the Council is required to set out what steps it is taking to boost supply. Two of the key elements are the delivery of a revised Local Plan with a Staines Development Framework which ‘will review and update existing policies acting as a barrier to delivery to help development come forward such as densities, design and parking’ and using the Councils strategic landholdings to deliver the lion’s share of new development.

Impact on Housing Land Supply

1.30 It is clear that if Council development schemes are not agreed by this ECM to go into the capital programme, the early years of the plan will under-deliver on housing numbers and will require even greater volumes of delivery in later years usually Local Plans are front loaded as the early years give certainty). The problem that the authority already faces will be compounded. As a result, an Inspector is likely to conclude that this requires increased flexibility within the housing land supply so that the plan can deliver over its time horizon to 2035.

1.31 Put simply this means that more sites will have to be identified *over and above* the number actually required to meet the current annual number of 606 units pa (called the objectively assessed need) in order for the plan to be found sound. (Council is reminded that shortly before Christmas 2020 the Government back-tracked on its housing methodology which means our figure has gone back up to 606 from 489 per annum under the methodology consulted upon).

1.32 Strategic sites such as those owned by the Council have the ability to deliver at a high rate for a number of years later in the plan period, and the risk of additional strategic sites needing to come forward if these Council sites are not agreed and do not come forward as part of the capital programme is not something that can be ignored.

1.33 Council owned sites are expected (within the Strategic Land Availability Assessment - SLAA) to deliver a significant proportion of the identified housing need over the Local Plan period. The six sites under consideration this evening will contribute 444 units to the 5-year land supply and a further 264 units are projected to be delivered in years 6-15. Overall, they account for **19%** of the total SLAA sites and therefore our supply as a whole.

1.34 The Local Plan Task Group has determined that the current deficit of 913 homes over the life of the Local Plan (using the 489 units pa figure) should be met on brownfield sites alone unless sufficient supply can be identified. This means the Task Group (then Cabinet and ultimately Council) will need to agree significant increases in density, heights and the number of units which can be delivered on sites which have already been identified across the borough.

1.35 If the six development schemes for consideration by the ECM do not get agreed for the capital programme, then they are in effect also being taken ‘off the table’ for consideration within the Local Plan process. This would leave us with a deficit of 1,621 homes over the Local Plan period rather than the current 913 figure in order to meet our housing need – *another 708 units*.

1.36 The Council would then be required to find an even greater number of units than those 'lost'. This might involve further significant financial outlay (when budgets are still expected to be tight in future years) if the only way the Council can guarantee delivery of the housing numbers required by government is through compulsory acquisition of completely new sites. These would be sites that have not been identified either as available or deliverable up until now. There would be a significant cost to the Council, and we would in effect be paying twice for having to deliver the housing numbers dictated to us by central government (once for the town centres sites which may not come forward and once for the new sites in order to demonstrate we have a 'sound plan').

Impact on the Green Belt

1.37 Failing to agree to move forward on these six schemes could also affect the Green Belt. As has been set out above, if there are not sufficient sites to otherwise meet the housing supply in the developed area then this will undoubtedly lead to a greater pressure through the Examination process to release additional Green Belt land to compensate (with all the additional environmental implications which will also fall out as a result). Developers will always look for ways to push greenfield sites where the costs are lower and the rewards higher. Experience has shown that they will engage legal counsel, even Queen's Counsel, to represent their interests at Examination, and exploit every potential weakness in the Plan to argue the case for releasing their site.

1.38 If the 'brownfield only' approach cannot deliver the required numbers then the only alternative is to go back to the approach being taken in 2019/20 and consider some limited release of Green Belt sites (though there would be fewer sites than proposed in the Preferred Options consultation). Failing to agree these six sites for inclusion in the Capital Programme would increase the deficit by 78% (using the 489 units pa figure), and this would inevitably mean reverting back to similar numbers of Green Belt sites to the Preferred Options rather than being able to remove from consideration some of the larger and most contentious sites.

1.39 There would also undoubtedly be the additional threat of Green Belt sites coming forward for development via planning applications, including those sites rejected at the Preferred Options stage. The consequences of not having a 5-year housing land supply become more onerous as the supply declines. Green Belt policy would still apply but a landowner or developer could make a case for very special circumstances and the weight given to meeting housing need alongside other benefits could help tip the balance to outweighing the harm to the Green Belt.

Staines Development Framework

1.40 If the ECM do not agree the four Staines-upon-Thames sites for inclusion in the Capital Programme, it would be unreasonable to include them for consideration at any stage in the Staines Development Framework, when the consultants who are producing the SDF are in discussion with landowners and developers, to ensure their schemes do not compromise the aspirations of the Framework. There would be a risk that those sites outside the Council's control that are put 'on hold' never come forward if there is a change in the viability of the site in that period, for example. An Inspector examining the

Local Plan and SDF may have significant concerns over the deliverability of housing supply as a whole if the Council itself has decided not to proceed with a number of developments that could already be contributing to the 5-year housing land supply and the overall supply within the Local Plan.

Other matters

1.41 When making a decision of whether to include such sites in the Capital Programme it should be considered that such a decision would run counter to a whole raft of policies which set the direction of the Council, causing misalignment in delivering the Council's overall vision and corporate strategy. This includes the current Corporate Plan 2015 – 2019, Capital Strategy (though this is due for review and will be considered at February Cabinet and Council), Housing Strategy 2020 – 2025, Asset Management Plan 2020 – 2025, and the Housing Delivery Test Action Plan 2020 amongst others. This may increase the risk of a judicial review of the Local Plan, as well significantly undermining the Council's ability to achieve/deliver the Council's corporate priorities relating to financial sustainability and housing.

Key affordable housing information

Number on Housing Register as at 1 April

	2016	2017	2018	2019	2020
Number	1,598	1,869	2,186	1,245[1]	2,098

Number of social housing vacancies offered to the Council for re-letting

	2015/16	2016/17	2017/18	2018/19	2019/20
Number of lettings	249	197	199	170	196
Ratio applicants to vacancies	6:1	9:1	11:1	7:1	11:1

Ratio of median house prices to median wages by region

	2015/16	2016/17	2017/18	2018/19	2019/20
Spelthorne	9.39	10.42	11.16	11.06	11.61
South East	8.81	9.43	9.79	9.93	9.74
England	7.53	7.72	7.91	8	7.8

Number of affordable homes completed under s106 by tenure

Year	Affordable dwelling completions (Gross)	Affordable dwellings lost (Gross)	Affordable dwellings completed (Net)	Rented (Gross)	%	Shared Ownership (Gross)	%
2015-16	138	14	124	82	59%	56	41%
2016-17	46	0	46	46	100%	0	0%
2017-18	9	0	9	5	55%	4	45%
2018-19	6	0	6	6	100%	0	0%

2019-20	0	0	0	0	0%	0	0%
Total	**199**	**14**	**185**	**139**	**70%**	**60**	**30%**

Risk Assessment

The Council evaluates its risks on a four-point scale on the likelihood of the risk occurring and the impact caused should the risk occur. Risks are evaluated with their controls in place. Risks are plotted on a risk matrix (see below) and prompt action is taken on those risks that fall into the red zone. Action is considered for “yellow” risks while “green” risks are regarded as acceptable.

Cause of risk

Council development schemes not agreed by ECM for inclusion in the capital programme 2021/22 to 2024/25

Consequences of risk

Risk 1	Financial	as per blue boxes above
Risk 2	Affordable Housing	as per blue boxes above
Risk 3	Development Impacts	as per blue boxes above
Risk 4	Strategic Planning	as per blue boxes above

Matrix for impacts of ECM decisions

Impact	**4 (Catastrophic)**				**1 4**
	3 (Major)				**2 3**
	2 (Medium)				
	1 (Trivial)				
		1 (Rare)	**2 (Unlikely)**	**3 (Likely)**	**4 (Almost certain)**
		Likelihood (over 4 years)			

Impact Rating

	Trivial (1)	Medium (2)	Major (3)	Catastrophic (4)
Financial	Less than £20k Up to 2% of value of project or activity	£20k - £200k Up to 5% of value of project or activity	£200k - £2m Up to 10% of value of project or activity	More than £2m More than 10% of value of project or activity
Corporate Objectives	No effect	One objective cannot be delivered OR Some noticeable effect on several objectives	Failure to deliver more than one objective AND impact on others OR All objectives significantly effected	Cannot deliver most objectives
Service provision	No effect	Slightly reduced	Service suspended in the short term Reduced level over the longer term	Service suspended long term Statutory duties not delivered
Health & safety	Sticking plaster First aider	Broken bones/illness Lost time, accident or occupational ill health	Loss of life/major illness Major injury, including broken limbs/hospital admittance	Major loss of life Large scale major illness
Morale	No effect	Some hostile relationships and minor non cooperation	Industrial action	Mass staff resignation Unable to attract staff
Reputation	No media attention Minor letters	Adverse local media Leader column	Adverse national publicity	Remembered for years
Government relations	One-off single complaint	Poor assessment(s)	Service taken over temporarily	Service taken over permanently

Likelihood rating

Likelihood	Description
1 Rare	Once in every four years
2 Unlikely	A few times over four years but less than annually
3 Likely	Several times over four years, more than annually
4 Almost certain	Will probably happen several times a year