

Extraordinary Council

6 June 2023



Title	Request to ‘pause’ the Local Plan Examination hearings (Executive Summary)
Purpose of the report	To make a decision
Report Author	Heather Morgan, Group Head Place, Protection and Prosperity
Ward(s) Affected	All Wards
Exempt	No
Exemption Reason	N/A
Corporate Priority	Community Affordable housing Environment
Recommendations	Council needs to decide whether: <ol style="list-style-type: none">1. To agree the request that “the Planning Inspector pauses the Examination Hearings for a period of four (4) months in order that the new members (councillors) can be fully instructed as to the policies of the Local Plan and the implications on the Borough”, or2. Not to agree the request and continue with the Local Plan Examination Hearings, on the basis that Council will have further opportunities to review the Inspectors Report before making any final decision on whether to adopt the Local Plan or not, or3. To agree the request but for a shorter period of time of a minimum of two months to ensure momentum is maintained whilst councillors are fully instructed
Reason for Recommendation	<p>A request was received from the previous mayor whilst still in office to call an Extraordinary Council meeting to make a decision on a request to pause the Local Plan for 4 months to allow new members to be briefed on the Local Plan.</p> <p>This followed on from an informal request by four of the five political group leaders to the Planning Inspectorate.</p> <p>The Local Plan is currently in the process of being examined and the second set of hearings are due to commence on 13 June.</p>

1. Summary of the report

- 1.1 A request was received from the previous Mayor when she was still in office to call an extraordinary Council meeting to make a decision on a request that the Planning Inspector pauses the Examination Hearings for a period of 4 months to allow new members to be briefed on the Local Plan.
- 1.2 The current position of the Council in respect of the Local Plan is the one which was made on 19 May 2022 – namely that the Publication version of the Local Plan be submitted to the Planning Inspectorate for formal examination. From a governance point of view, any decision to move away from that position needs to be agreed by Council.
- 1.3 There are a number of options which are open to the Council, all of which have sets of benefits and risks attached. These are set out in the report below.
- 1.4 In order to assist members **Appendix A** sets out key information on:
 - the journey towards the adoption of the Local Plan so far
 - the benefits and risks of each of the three options set out in the recommendations section of this report
 - plus the 10 page pull-out from the summer 2022 bulletin which sets out all the key information on the Local Plan in an easy to read format for any new councillors who may not be familiar with the matter.

2. Key issues

- 2.1 Officers fully understand the central importance of the Local Plan to members. It is a complex area, and any report needs to ensure all the benefits and risks are covered, to enable councillors to make a fully informed decision. Officers have therefore chosen to provide Council with two reports:
 - an Executive Summary which contains all the key information
 - a Full Technical Report which provides all the key information plus a detailed justification. Members are urged to read this report to fully understand all the matters before they make a decision,

Background (para 2.2 – 2.6 in Full Technical Report)

- 2.2 The Local Plan contains policies for making decisions on planning applications. It sets out how much development will be planned for and where in the Borough over the 15-year lifespan of the Plan (5 yearly review built in). As the Local Planning Authority (LPA), we have a statutory duty to have a Local Plan in place. Our current Local Plan (Core Strategy and Policies Development Plan Document) was adopted back in 2009 and is still used in decision-making. Current policies are still applied unless they conflict with the National Planning Policy Framework (NPPF). The Council is currently unable to demonstrate a five-year supply of deliverable housing land. Therefore, the most important policies of the plan are out of date.
- 2.3 Work began on a new Local Plan over six years ago. After going through many public consultations and Council meetings, Spelthorne's Local Plan (Regulation 19 version) was agreed by the Environment and Sustainability

Committee on 26 April 2022 and by Council on 19 May 2022 for submission to the Secretary of State.

- 2.4 The final version was submitted to the Government for ‘examination’ on 25 November 2022. The Planning Inspectorate appointed an inspector to examine the Plan, which he began in January 2023. A key part of the examination process is the public hearing sessions which are currently underway. The next set of hearings are due to commence on 13 June.

Governance/decision making (para 2.7 in Full Technical Report)

- 2.5 New councillors may not be aware of all the stages a Local Plan needs to go through. Since April 2018 the authority has formally considered the Local Plan eight times and the Staines Development Framework three times (whether at Cabinet, Committee or Council).

Councillor engagement (para 2.8 – 2.10 in Full Technical Report)

- 2.6 It is worth noting the invaluable work undertaken by previous councillors on both the cross party Local Plan Task Group and the cross party Staines Development Framework Task Group. Between them, these task groups spent over 100 hours in 57 individual meetings. The extent of engagement demonstrates the positive working relationship between councillors and officers.
- 2.7 25 councillors voted to agree the pre-submission version of the Local Plan and the draft Staines Development Framework.

Community engagement (para 2.11 – 2.14 in Full Technical Report)

- 2.8 The level of engagement has been significant, and our Communications team have used all forms of social media to engage. There have been regular updates in the Borough Bulletin with a specific Bulletin at Issues and Options stage, plus a 10 page pull out in Summer 2022 (**Appendix A**).
- 2.9 There have been five separate sets of public engagement (totalling 35 weeks), and we have received 1,764 comments from people or organisations, 2,996 individual comments or representation and seven petitions of several hundred signatures each.

Where we are now/journey to adoption (para 2.18 in Full Technical Report)

The Council are currently part-way through the Hearing stage of the Examination. Once completed the Inspector will let the Council know if any changes need to be made to the plan (known as ‘main modifications’). Agreeing to go out to consult on the changes is a matter which will be decided on by the E&S Committee.

The Inspector then considers everything before them (including comments on proposed changes) and writes a final report which is sent to the LPA. That marks the end of the examination. The LPA then has to decide if it wants to formally adopt the plan as its local planning policy. If they do, they can only adopt the plan with the changes recommended by the inspector. This is a matter which will be decided on by Full Council.

Decision to be made

- 2.10 The current position of the Council is the one made on 19 May 2022 –to agree the Publication version of the Local Plan for Regulation 19

consultation. From a governance point of view, any decision to move away from that position needs to be agreed by Council.

- 2.11 This Extraordinary Council meeting was called by the previous Mayor when she was still in office to request that *“the Planning Inspector pauses the Examination Hearings for a period of four (4) months in order that the new members (councillors) can be fully instructed as to the policies of the Local Plan and the implications on the Borough”*.
- 2.12 It is not a request to halt the Local Plan, halt the examination or to withdraw the Plan altogether. Members are advised that in the professional view of officers (whose role it is to give advice) the implications of a pause do nevertheless result in a number of significant risks.
- 2.13 There are a number of options open to the Council, which all carry benefits and risks. The type and number are very unlikely to alter whether there is a pause, or a potentially more significant change in strategy. However, on a sliding scale, the likelihood of those risks becoming a reality, or those benefits slipping away, proportionately increases in relation to the length of any delay.
- 2.14 After reviewing all the options, members will need to make the final decision on the overall level of risk they wish to take on the Local Plan.

3. Options analysis

Option 1 - request that “the Planning Inspector pauses the Examination Hearings for a period of four (4) months in order that the new members (councillors) can be fully instructed as to the policies of the Local Plan and the implications on the Borough”.

- 3.1 This would mean the Council pauses with the Plan as submitted (but Council is **not** agreeing at this stage whether the Publication Version of the Local Plan should be halted or withdrawn). In practical terms, the Examination Hearings would cease until the end of the four-month period (e.g. they would re-start in early October 2023). At the end of the pause, the process of Hearings would automatically re-start unless a further report were required to come to Council with alternative options.

Benefits and risks of pausing (para 3.2. – 3.3 in Full Technical Report)

- 3.2 Officers recognise that the severity of risk is not as significant as would be the case if the Local Plan were to be halted or withdrawn. The risks still exist and the likelihood of them materialising cannot be under-estimated.

Benefits of pausing
In depth Councillor engagement
Implementing three key recommendations of the 2022 Peer Review
Risks of pausing
Does not fully recognise the work to bring the Local Plan to this point and potentially alienates those communities who want the Plan adopted as soon as possible
Pressure on our Local Plan to deliver unmet housing need for adjoining boroughs.

<p>For example, Elmbridge are only meeting two thirds of their need, and this could be imposed on us to deliver for them by their Inspector. Waverley Borough Council had significant additional housing need from Woking and London imposed on them</p>
<p>Does not help deliver certainty around housing delivery and the Council 5-year housing land supply. We currently only have 3.5 years supply which means we have to apply the tilted balance.</p> <p>An appeal has very recently been allowed in Tandridge for 100 units in the green belt as they only have 1.5 years supply. York Council has had an appeal allowed by the Secretary of State for 970 units in the green belt</p>
<p>Potential for unsuitable development to come forwards on higher performing green belt sites (including sites which the Council have not taken forwards).</p> <p>Two omission sites in Halliford and Sunbury West including Stratton Road, Sunbury (<i>housing</i>)</p> <p>Four omission sites in Laleham and Shepperton Green including Shepperton Studios and two sites off Charlton Road, Charlton (<i>housing</i>)</p> <p>One omission site in Shepperton Town (<i>housing</i>)</p> <p>Four omission sites in Stanwell North including land at Hithermoor, Oakleaf Farm and CEMEX site south of the Perimeter Road (<i>employment, waste treatment</i>)</p> <p>One omission site in Sunbury Common at the Running Horse PH (<i>housing</i>)</p> <p>One omission site in Sunbury East at Kempton Park (<i>housing</i>)</p>
<p>Potentially inappropriate development continues to come forward in Staines-upon-Thames. The zoning approach to sensitive areas of Staines in the SDF is only likely to be given substantial effect once the Local Plan is adopted. In the absence of a local policy base, the potential yield of sites in town centres could be considered contrary to national policy</p>
<p>We need to show we are meeting our needs over the 15-year plan period <i>from adoption</i> (and not submission).</p>
<p>Potential of future increases in housing need numbers</p>
<p>Development continues to come forward in the developed area (including on sites which in future may benefit from a Local Green Space designation)</p>
<p>Government deadline to adopt Local Plans by December 2023 will not be met</p>
<p>Unsuitable Gypsy, traveller and travelling showpeople sites come forwards.</p>
<p>Risk of legal challenge from those with the benefit of an allocation sites, or those interested to see the early adoption of the local plan</p>
<p>Re-scheduled Examination Hearings cannot be convened</p>

Note: the table in the Full Technical Report provides a rationale for each of the headings and needs to be read.

3.3 **Option two – Not to agree the request, and continue with the Local Plan Examination Hearings, on the basis that Council will have further opportunities to review the Inspectors Report before making any final decision on whether to adopt the Local Plan or not.**

3.4 This would mean the Council continues with the Plan as submitted.,. In practical terms, the Examination hearings would continue to take place, and the Inspector would then consider any changes to the plan.

Member decision making (paras 3.5 – 3.9 of Full Technical Report)

3.5 Members need to be aware that this option does not mean that the Council has no further role in the process towards the adoption of the Local Plan, far from it. There are still **two further stages where councillors can give their input, and more importantly, will make a formal decision.** This will not change as between Options one and two, as the examination itself is conducted by the inspector and not by the Council.

3.6 Firstly, any Main Modifications to the Local Plan will need to go out to consultation, and **the decision to consult will need to be made by the E&S Committee.** At that point, members of the committee will still be able to take into consideration any material matters which may have arisen in the intervening period which might mean the Council wishes to review its position.

3.7 Secondly, even if the authority does decide to consult on the Main Modifications there is still a further critical decision which needs to be made right at the end of the process – whether or not to formally adopt the Local Plan. **This will be a decision for Full Council to make.**

3.8 Officers have made it clear throughout that members have the ability to change direction right up until the point at which the Council decides to adopt the Local Plan. This does however need to be done through the appropriate governance process to protect the position of the Council against challenge, and more importantly to demonstrate transparent decision making to the wider public.

Benefits/risks of not pausing (para 3.10 and table of Full Technical Report)

Benefits of not pausing
Up to date Plan as per timetable. An adopted Local Plan with a 5-year land supply will allow us to defend against speculative development
No need to review the Local Plan for 5 years This places us in a protective 'bubble', during which we are expecting further changes to the planning system which may not be in our favour
Significantly greater proportion of affordable housing on all sites Higher threshold for affordable housing - 30% on brownfield and 50% on greenfield.
Policies to deal proactively with the Climate emergency Sets requirements on developments to incorporate mitigation and zero carbon solutions.

Delivering Homes to meet a variety of needs Family homes with gardens, accessible homes, specialist accommodation, and the travelling community.
Improvements to key infrastructure (including health and community) Includes education and healthcare, strategic flood relief measures and enhanced community centre and sports/recreation improvements
Improved Green and Blue Infrastructure and greater protection for open space
Enhancing Spelthorne's unique character
A new vision for Staines-upon-Thames
Support for the local economy and business
A new Sixth Form college
Delivering on the Council's CARES priorities
Risks of not pausing
Councillor engagement
Councillors do not have the space to set the strategic direction of the Council

Note: the table in the Full Technical Report provides a rationale for each of the headings and needs to be read

Option 3 – To support the request but for a shorter period of time of a minimum of two months to ensure momentum is maintained on moving the Local Plan forwards whilst councillors are fully instructed.

- 3.9 This option potentially offers the opportunity to maximise the benefits of a 'focused window' for training, whilst mitigating as far as possible the risks that a four-month pause entails.
- 3.10 Officers have looked at the current timetable of committee meetings and training which is already in place for councillors to see if this window exists – it does. The training sessions will be recorded and made available to any councillor not able to attend. The Strategic Planning team have also agreed to make time to deal with queries from new councillors.
- 3.11 Informal enquiries have been made to the Planning Inspectorate to understand if the pause of a minimum of two months is feasible. He has also been formally advised that this ECM is taking place.

Benefits of a two-month minimum pause

- 3.12 This would allow focused training to be given in the shorter window. However, it is recognised that councillors would have to find time in their diaries for Local Plan training alongside induction training and a number of committees. This may not be as easy to achieve.

Risks of a two-month minimum pause

- 3.13 The list of benefits of a shorter pause are the same as those for not pausing at all (option 2), but the shorter timeframe will inevitably reduce the level of benefit in terms of speed. Similarly, the lists of risks set out in

option 1 (the pause) remain the same, but their potential adverse effects will be mitigated somewhat due to the reduce time period.

4. Financial implications (paras 4.1 – 4.5 of Full Technical Report)

- 4.1 Whilst this report does **not** cover the option of withdrawing the Local Plan or comprehensively reviewing it, it is important to make members aware of what such a decision could look like. Were the Council to decide to review the Local Plan strategy, this could mean the authority has to refresh its evidence base. We estimate the cost could be around £100k.
- 4.2 Over the 6-year period spent getting to this point it is estimated that the figure for consultants, legal advice, and public consultation is around £1m. On a very rough calculation, officer time over the same period is £1.3m. If we withdrew and took another 2 years to reach the same stage, officer costs alone would be roughly half a million.
- 4.3 Delays to the adoption of the Local Plan are likely to increase the prospect of planning applications coming forwards. Were these to be refused there is always the risk of appeal. The cost of defending each major appeal at public inquiry will be in the order of £100k. There is currently no budget allocation for this level of expenditure.

5. Risk considerations (paras 5.1 - 5.7 of Full Technical Report)

Corporate risk register

- 5.1 The Council has a Corporate Risk Register and there are currently 9 risk categories. Risk Category 1a (Housing – Development and Targets) specifically identifies that one of the five key risks in this category is the impact of any delay the adoption of the Local Plan on bringing forward the appropriate quantum of housing development. The risk of this happening is currently red (major impact and almost certain likelihood).
- 5.2 As part of the work of the Audit Committee, the Council is now asked to formally consider the level of risk appetite for all of its service areas. The current agreed appetite level for strategic planning/local plan is 'cautious'.

Staffing and resources

- 5.3 There is a risk staff within the strategic planning team decide to move elsewhere. We would then need to recruit which may take a long time due to the scarcity of high quality qualified professional staff.
- 5.4 Even a pause may be sufficient for developers to decide to put in speculative applications which would require additional resource within the planning development management team.

6. Procurement considerations

- 6.1 There are no procurement considerations on any of the options in this report.

7. Legal and governance considerations (paras 7.1 – 7.6 of Full Technical Report)

Legal

- 7.1 Whilst this report does **not** cover the option of withdrawing the Local Plan or comprehensively reviewing it, it is considered important to make members aware of what such a decision could look like. Were the Council

to decide to review the strategy, it should be noted that any significant amendments sought to the Local Plan risks unravelling the document and the strategy behind it.

- 7.2 The Planning and Compulsory Purchase Act 2004, as amended (the 2004 Act”) requires local planning authorities to prepare Local Plans, which must be kept under review and revised as necessary. The preparation and adoption of a Local Plan is subject to various statutory requirements and procedures which have been complied with.

Governance

- 7.3 Council might want to consider whether or not they wish to re-activate the Local Plan Task Group and the Staines Development Framework Task Group, and/or review the terms of reference and the membership of each group at the same time.

8. Other considerations (paras 8.1 – 8.6 of Full Technical Report)

Weight in deciding planning applications

- 8.1 The submitted Local Plan and the Staines Development Framework began to have limited weight in decision making on planning applications from the start of the Regulation 19 consultation in June 2022 stage - but this weight is limited. Full weight can only be given on adoption of both documents and a pause will mean the weight remains static.

Housing need

- 8.2 Those few authorities that have attempted not to meet their housing need have so far failed. This is because the Inspectors have considered that the Duty to Cooperate test has not been met and that more should have been done to secure assistance from neighbouring authorities to meet housing need. Plans that have had a lower number accepted were submitted under the regime that preceded the standard method.

CARES priorities

- 8.3 The Council’s CARES corporate objectives have been used to set out the Destination and Objectives for the Local Plan so that there is a ‘golden thread’ that binds strategic objectives with planning policy.

Viability

- 8.4 The whole Local Plan process needs to be underpinned by a robust viability assessment. Policies can only be relied upon where they do not prevent development coming forward due to overly onerous requirements. If the Local Plan is found sound, developers will find it very difficult to argue against these requirements through individual planning applications.

9. Equality and Diversity

- 9.1 An Equalities Impact Assessment has been produced for the Local Plan, although consideration of impact on all sectors of our community is integral to the sustainability appraisal process.

10. Sustainability/Climate Change Implications

- 10.1 Sustainability appraisal, including climate change implications, is the cornerstone of plan making and has been included throughout the Plan’s preparation to respond positively to the Climate Change Emergency.

11. Timetable for implementation

- 11.1 The next set of Examination hearings are due to commence on 13 June 2023. If the decision of Council is to request a 'pause', this would be with immediate effect. Officers would write to the Planning Inspector advising him of the decision of the Council, and all parties would be contacted by the Programme Officer and advised that the hearings will be put on hold.
- 11.2 There would be separate discussions with the Planning Inspectorate on the availability of the Planning Inspector regarding the re-convened hearings.
- 11.3 Separately, officers will need to pull together a set of dates for all councillor briefings to bring them up to speed on the Pre-Submission version of the Local Plan and its policies. The areas that will be covered will include:
- i) Government policy and guidance
 - ii) Housing Numbers and five-year housing land supply
 - iii) Implications of not meeting housing need
 - iv) Other Local Plans and recent appeal decisions
 - v) Local Plan policies and site allocations
 - vi) Staines Development Framework (6 Big Ideas)
- 11.4 Set out below are the impacts of the three options on the timeframe for the adoption of the Local Plan

Stage	Option 1	Option 2	Option 3
Hearings	October	June	August
Changes to the plan Decided on by E&S Cttee	January	September	November
Final report	February or March	October or November	December or January
Adoption Decided on by Full Council	May or June	December or January	March or April

12. Contact

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Background papers: There are none.

Appendices:

A - Information Sheet

B - Opening statement of the Council - Examination Hearing (23.05.23)