

Environment & Sustainability Committee



Date of meeting: 29 February 2024

Title	Local Plan – Resumption of Examination
Purpose of the report	To make a decision
Report Author	Ann Biggs, Service Lead for Strategic Planning & Enterprise Catriona Riddell, Critical Friend for Spelthorne Council
Ward(s) Affected	All Wards
Exempt	Report and Appendices A through E – No Appendix F - Yes
Exemption Reason	Appendix F contains exempt information within the meaning of Part 1 of Schedule 12A to the Local Government Act 1972, as amended by the Local Government (Access to Information) Act 1985 and by the Local Government (Access to Information) (Variation) Order 2006 Paragraph 5 – Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
Corporate Priority	Community Addressing Housing Need Resilience Environment Services
Recommendations	Committee is asked to: Decide an option for each of the subject areas (Green Belt sites, flood risk sites and Staines Development Framework) to propose to the Inspector in order to progress the Local Plan back to Examination
Reason for Recommendation	The Local Plan Examination hearings were paused with agreement by the appointed Inspector to allow consideration to be given to the revised National Planning Policy Framework (NPPF) and whether further modification should be sought before requesting the resumption of the Examination. The revised NPPF was published at the end of 2023. Members are asked to decide on the options for proposed modification in order to progress the Local Plan towards adoption.

1. Summary of the report

What is the situation	Why we want to do something
<ul style="list-style-type: none"> Local Plan Examination is currently 'on pause' pending the publication and our subsequent review of the revised NPPF and its implications for Spelthorne 	<ul style="list-style-type: none"> This report sets out the options for requesting modifications to the Local Plan in order to resume the Examination hearings and progress the Plan to adoption
This is what we want to do about it	These are the next steps
<ul style="list-style-type: none"> Decide on modifications then request the Inspector resumes the hearings if he agrees the modifications can be incorporated for consideration through the remainder of the Examination process 	<ul style="list-style-type: none"> E&S Committee to make a decision on each of the options for Green Belt sites, flood risk sites and the Staines Development Framework Request to our Inspector to consider the modifications and resume the Local Plan Examination

1.1 This report seeks to set out options on modifications to the Local Plan before the Examination resumes.

1.2 There are three broad areas covered by the submission version of the Local Plan that fall to be considered for further modification. Each area has a set of options for Members of this committee to consider. These areas are:

- Green Belt
- Flood risk
- Staines Development Framework and Policy SP1 (Staines upon Thames) of the Local Plan

2. Key issues

2.1 Background

2.2 The Spelthorne Local Plan was submitted to the Secretary of State on 25 November 2022 for examination, following over five years of preparation and public consultation. An inspector was appointed, Mr Jameson Bridgwater, who began examination of the Plan in January 2023. Hearing dates were scheduled over three weeks in May and June 2023. It should be noted that the Inspector is only considering the technical soundness of the Plan as submitted and does so on the basis that the Council had made a political decision on the strategy for the area. 'All-out' local elections were held on 4 May 2023, which resulted in 22 out of 39 new councillors being elected. The

first week of Local Plan hearings took place, commencing on 23 May and covering issues such as the overall strategy, legal compliance and the duty to cooperate. Before the next hearings could take place, an Extraordinary Council meeting was called on 6 June 2023 to consider the motion referred to above, which sought a pause to the remainder of the hearings. This then resulted in a review of the Council's decision as to whether Spelthorne's strategy is right for the Borough and if it delivers positive change for place.

- 2.3 The motion was agreed and the Chief Executive wrote to the Inspector, Mr Bridgwater, the following day to formally request the pause in line with the motion. Mr Bridgwater replied on 8 June to agree, under the specific circumstances, to the pause in the hearings. A training schedule was proposed and agreed by the Group Leaders (minus the Conservatives) to take place in July. Alongside the training, Members of the Corporate Policy & Resources Committee agreed on 26 June 2023 to appoint a 'critical friend' to carry out an external review of the Local Plan. The full specification of the work was then agreed by Council on 19 July and Catriona Riddell Associates (CRA) were appointed.
- 2.4 On conclusion of the training and review, an extraordinary Council meeting took place on 14 September 2023 as the three-month pause had come to an end and a decision was required for the future direction of the Local Plan. The options for consideration were:
1. Continue with the plan as drafted but introduce robust risk management measures to help address some of key risks identified in the review, or
 2. Seek a further pause in the Examination timetable until the proposed changes to the NPPF have been published (expected in the Autumn) before agreeing next steps, or
 3. Withdraw the Local Plan from examination and prepare a new Local Plan
- 2.5 On the day of the meeting, a letter was received from the Housing and Planning Minister to direct the Council that it could not withdraw the Local Plan from Examination. This meant Option 3 was no longer available to Members and they could only decide on Options 1 or 2. Option 2 was amended by a Motion and subsequently agreed as follows:

Extend the pause in the Examination timetable until the proposed changes to the National Planning Policy Framework have been published (expected in the autumn) before determining the next steps and take immediate legal advice to confirm the validity of the minister's directive.

- 2.6 The Inspector agreed to this further pause until publication of the revised NPPF. It was subsequently published on 19 December 2023. In the

meantime, the Council received legal advice on the validity of the Minister's directive and decided not pursue further action to challenge the decision and instead wrote to the Minister to seek a meeting which has so far been declined. All correspondence between the Council, the Inspector and the Minister can be found on the Examination website: [News and Updates - Spelthorne Takes Shape \(spelthornelocalplan.info\)](https://www.spelthornelocalplan.info/news-and-updates)

2.7 Current position

2.8 The next steps set out in the Motion have now been undertaken and this report sets out the options before the Committee in order to request resumption of the Local Plan Examination. These options have been considered through a series of meetings with the Administration Group Leaders (GLs), the Critical Friend (CRA) and officers. An all-Member briefing took place on 12 February 2024 in order to discuss the options and offer the opportunity for questions to be asked ahead of this committee meeting to ensure Members are fully understanding of the background, the options, their implications and the next steps for the Local Plan. The Committee will decide on an option from each of the three Local Plan themes. These deliberations have been informed by advice from CRA in person and as set out in Catriona Riddell's report at Appendix A.

2.9 Revised National Planning Policy Framework 2023

2.10 The revised NPPF is not significantly different to the version consulted on from 22 December 2022 to 2 March 2023. Key areas affecting the Spelthorne Local Plan are around the approach to meeting development need and review of and release of Green Belt to assist in meeting that need. These policy provisions are largely providing clarity to the previously published NPPF rather than 'new' policy. It is important to note that a new provision in the latest NPPF sets out transition arrangements and these did not feature in the consultation version:

230. *The policies in this Framework (published on 19 December 2023) will apply for the purpose of examining plans, where those plans reach regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (pre-submission) stage after 19 March 2024. Plans that reach pre-submission consultation on or before this date will be examined under the relevant previous version of the Framework in accordance with the above arrangements. For Spatial Development Strategies, this Framework applies to strategies that have reached consultation under section 335(2) of the Greater London Authority Act 1999 after 19 March 2024. Strategies that reach this stage on or before this date will be examined under the relevant previous version of the Framework in accordance with the above arrangements. Where plans or strategies are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan or strategy produced for the area concerned.*

- 2.11 The provisions under Para. 230 of the NPPF above mean that Spelthorne's Local Plan at this advanced stage will be examined under the previously published NPPF. The CRA report considers the implications for the Council in deciding its approach to seeking further modification of the Local Plan and on what basis. Ultimately, it will be for our Inspector to decide whether he accepts these modifications and their justification for consideration once the Examination resumes. The [procedural guidance](#) for Local Plan examinations sets out as follows:

Once the plan has been submitted, the Inspector will take control of the examination process from start to finish. The Inspector's role is to examine whether the submitted plan meets the tests of soundness defined in the NPPF (The tests of soundness are that the plan is positively prepared, justified, effective and consistent with national policy. See paragraph 35 of the NPPF) and meets all the relevant legislative requirements, including the duty to co-operate. The examination will therefore concentrate on the issues that affect the plan's soundness and legal compliance, and will not delve into other matters. The Inspector's conclusions will be based on a consideration of all the evidence and on the application of professional expertise and judgment.

And:

Once the plan has been submitted, further changes may only be made in accordance with section 23 of the PCPA. This allows main modifications [MMs] to be made only if they are necessary to make the plan sound and/or legally compliant, provided that the LPA has formally requested that such modifications be recommended by the Inspector. The LPA may also make additional (minor) modifications to the plan on adoption, but only if they do not materially affect the plan's policies. Additional modifications are not subject to the formal examination process.

- 2.12 This guidance makes it clear it is the Inspector's decision to consider modifications **only if they are necessary to make the Plan sound and/or legally compliant**. The options set out in this report will include the basis for seeking the modifications and the context of soundness. If the Inspector is not able to accept the suggested modifications as necessary and/or if they would result in a significant change to the spatial strategy of the Local Plan and the Council still wishes to progress with the amendments, it would normally open to him to suggest the Council withdraws the Plan from Examination and draft a new Plan for submission. This option is not currently available to Spelthorne as a result of the Minister's directive to prevent the Council withdrawing the Local Plan. It can now only be withdrawn if the Inspector or the Minister recommends or directs the Council to withdraw it for soundness reasons as it cannot be adopted.

3. Options analysis and proposal

- 3.1 Spelthorne Council is not the only authority considering its current position in light of a pause to its Local Plan Examination and the implications of the revised NPPF. Most recently, Mole Valley District Council held a [Council meeting](#) to make a similar decision for its own Local Plan, albeit that their examination hearings had concluded and with their inspector finding the Plan effectively sound at that point. Under the current administration, Spelthorne also finds itself in the position of wishing to make changes to deliver a Local Plan it can support on behalf of those residents of the Borough who are dissatisfied with the Plan as submitted but within the bounds of the procedural guidance for this stage of the Examination and in light of the Minister's directive. It is therefore essential that Members understand what the options mean for the Plan, whether they are likely to be accepted and what happens if they are not.
- 3.2 It should be noted that Duty to Cooperate discussions should take place with our neighbouring authorities to consider the impact of the chosen options on Spelthorne's land supply position should it reduce as a result of the decisions made by the committee. The NPPF requires Local Plans to meet the objectively assessed need for housing and other uses unless there are reasons to restricting the amount of development to be delivered (such as Green Belt or flood risk) and authorities in such a position should explore with its neighbours whether the unmet need can be met beyond its boundaries (Para. 11, NPPF). An updated Duty to Cooperate Compliance Statement would then be provided for the Examination.
- 3.3 Each area for modification will be considered in depth below but overall modifications that would result in a significant change to the Local Plan spatial strategy would pose a difficulty to the Inspector. This is because it would no longer be the same Local Plan submitted for examination and it could be that the justification and evidence underpinning the spatial strategy would not support the amendments, requiring additional and/or revised justification for the change in approach. This is why, in other circumstances, a new Plan should be drafted rather than seeking to attempt to amend the submission version. The submitted Local Plan strategy can be summarised as follows (from [Topic Paper 1 – Spatial Strategy](#)) as reference will be made to this in the options below:

Overarching strategy – Spelthorne Local Plan
Meet our development need in full
Protect strategically important Green Belt
Preserve publicly accessible open spaces in the urban area
Maximise density in developed areas where character allows
Reduce some building heights and densities in most sensitive areas in Staines
Increase affordable housing provision
Provide more family homes with gardens
Deliver community benefits and infrastructure
Respond to the climate emergency

3.4 Green Belt allocations

3.5 The Administration Group Leaders wished to explore the opportunity to make changes to the draft Local Plan and remove some or all of the Green Belt allocations. The Plan as submitted considered Exceptional Circumstances existed to release a number of Green Belt sites to deliver homes (particularly affordable homes and family houses with gardens), Gypsy & Traveller sites, and community facilities. The case for Exceptional Circumstances is set out in [Topic Paper 3](#), following review of each type of development need. This resulted in proposed release of 15 sites and a resulting loss of 0.7% of Spelthorne's Green Belt.

3.6 The options for this committee to consider are:

1. **Keep Green Belt allocations in the Local Plan as submitted**
2. **Remove all Green Belt allocations from the Local Plan**
3. **Remove all Green Belt allocations from the Local Plan with the exception of the two allocations that meet the need for Gypsy, Traveller and Travelling Showpeople**

3.7 The Critical Friend (CRA) has produced the report at Appendix A to set out a potential way forward to revise the Exceptional Circumstances case for Green Belt release. Paragraph 2.10 of this report makes it clear that the new national policy set out in the updated NPPF does not apply to the draft Local Plan due to the transitional arrangements that have been put in place. However, the evidence presented in the Appendix suggests that some of the key changes could be considered as clarification of existing policy rather than new policy and are therefore not subject to the restrictions applied through the

transitional arrangements. The following paragraphs 3.8 to 3.14 inclusive are provided by CRA:

- 3.8 The Government has made it clear in both the updated NPPF and the accompanying papers and statements that the intention has always been that the standard method for assessing housing needs should be considered as an 'advisory starting point'. It also clarifies that there should not be an automatic assumption that Green Belt should be released to meet the housing target unless the Council is satisfied that there are Exceptional Circumstances for doing so. Evidence that this is clarification of existing national policy is included in the Appendix. This sets out various statements over the last few years where the Government has sought to clarify the intentions behind the policy. For example, in [responding to a consultation on the standard methodology](#) for housing in 2021, the Government stated:

“Within the current planning system the standard method does not present a ‘target’ in plan-making, but instead provides a starting point for determining the level of need for the area, and it is only after consideration of this, alongside what constraints areas face, such as the Green Belt, and the land that is actually available for development, that the decision on how many homes should be planned for is made. It does not override other planning policies, including the protections set out in [Paragraph 11b of the NPPF](#) or our strong protections for the Green Belt. It is for local authorities to determine precisely how many homes to plan for and where those homes most appropriately located. In doing this they should take into account their local circumstances and constraints.”

- 3.9 In reviewing the committee papers and supporting documents that set out the process by which the local plan strategy was developed (included in Appendix A), it is clear this was not the context within which the plan was prepared. There is strong evidence that the risks of developing a strategy that did not meet the standard method target were considered too great, given the way in which the NPPF was being interpreted at examinations. There is also evidence that the implication from previous Ministers and civil servants as the plan was prepared was that the target was mandatory and should be met in full, regardless of the concerns consistently raised by the Council about the detrimental impact this would have on the Borough.
- 3.10 Alongside the changes made to the NPPF, the Government has set out its long term plan for housing which has a very clear focus on the 20 largest towns and cities in England, including London. These are expected to deliver a significant uplift in the number of new homes provided on top of their own needs. Again, this is not new national policy but the Government has now developed a plan for how this will be implemented. A consultation earlier this month sets out a clear expectation that all local planning authorities should adopt a 'brownfield site first' approach with building more homes on brownfield land to “be turbocharged under a major shake-up to planning rules to boost housebuilding while protecting the Green Belt.” An even tougher stance is proposed on housing delivery for the largest towns and cities,

especially London which has been subject to an [external review of the London Plan's housing target](#).

- 3.11 One of the five purposes of Green Belt policy, as set out in the NPPF, is to assist in urban regeneration by encouraging the recycling of derelict and other urban land. A core action required for the successful implementation of the Government's long term housing plan will therefore be a much more robust approach to the Metropolitan Green Belt around London, especially in those areas on the edge, such as Spelthorne.
- 3.12 In deciding what changes, if any, should be made to the Green Belt allocations in the draft plan (and as a consequence, the local plan housing target), the Council should consider the following questions:
- (a) Is it reasonable to assume from the evidence presented in Appendix A (see specifically Paragraphs 14 to 24) that the options considered by the Council as the plan was prepared were unduly constrained by the assumption that the standard method target must be met in full and that this could only be achieved through the release some Green Belt?
 - (b) Should the changing national context, with significantly more housing delivery expected from Greater London, be given more weight in any Exceptional Circumstances considerations for releasing Green Belt in Spelthorne, especially as many of the proposed allocations are considered to be 'strategically important' Green Belt?
 - (c) Taking into account (a) and (b), does the need to meet specific housing and community needs in Spelthorne still justify Exceptional Circumstances for releasing all or some of the proposed Green Belt allocations, as presented in the plan's supporting evidence?
- 3.13 The Local Plan has been prepared during a period of inconsistent messaging from Government and a constantly changing national policy landscape. From the evidence in the critical friend review in Appendix A, this has clearly had an impact on the Local Plan and potentially the choices open to the Council in developing a sound plan for Spelthorne. However, as set out in this report, the Council is limited in terms of what it can do at this late stage in the process and as a result of the Ministerial intervention. Any changes to the overall strategy will have to be justified on the basis of technical soundness and agreed with the Planning Inspector.
- 3.14 It could be argued that, notwithstanding the transitional arrangements set out in the NPPF, the updated national policy context and specifically the clarification of some of the key aspects of national policy, are issues of soundness. The Council could therefore propose some Modifications to address these. However, any proposed changes to the plan will have to be done in a way that does not result in a significantly different plan to the one submitted for examination. Within this context, it is important to note that, even if all housing allocations currently proposed within the Green Belt and those impacted by flood risk (see from Para. 3.16 of this report) are removed

from the plan, the local plan would still be meeting over 90% of the nationally set standard method target. This is also approximately three times the current local plan target so could still be considered a significant boost to the supply of housing in the Borough.

3.15 However, the Council will also have to be satisfied that any decision to change the proposed allocations in the Green Belt does not have a disproportionate impact on some of the Council's other priorities. The Exceptional Circumstances case for releasing Green Belt was not dependent on solely meeting housing need. There remains a strong case for allocating sites for Gypsies, Travellers and Travelling Showpeople as no land was identified in the urban area for this type of development. The two selected Green Belt sites are deliverable with good access to the strategic road network, space for storing fairground equipment and well screened from existing residential properties. There is a duty to meet need for this community and failure to do so could result in appeals being allowed for retrospective pitches in less suitable locations. The Exceptional Circumstances case also refers to delivery of affordable homes (Green Belt release sites can viably deliver 50% as opposed to up to 30% on urban sites), family houses with gardens and community benefits such as a new sixth form college, replacement community centre and improvements to sports facilities. Members should take into account that if they consider Exceptional Circumstances no longer exist and the Inspector accepts this approach, these benefits, including 438 affordable homes, would be lost if the Green Belt allocations were removed from the Plan and 98% of new homes would be flats. There is a consistently low delivery of affordable housing currently and in the last reporting year none were delivered in Spelthorne. The list of Green Belt sites can be found at Appendix C.

3.16 Flood Risk

3.17 A full Statement of Common Ground has yet to be signed between the Council and the Environment Agency (EA). A Preliminary Statement of Common Ground between the Environment Agency and Spelthorne Borough Council was agreed by the EA on 22 May 2023 and published on 23 May. It was key the Inspector knew we had agreed which version of the Thames (Hurley to Teddington) modelling would be used as a basis of discussion during the Examination hearings (2019). The statement also simply set out the titles and dates of the evidence produced and that we had agreed to continue to work together. We will continue to work with them to agree a more comprehensive Statement of Common ground to set out the areas of agreement and any remaining areas of disagreement between the two parties. Updated modelling has resulted in some sites proposed for allocation, particularly in Staines, now being at greater flood risk and the EA is objecting to their allocation in the Local Plan for residential use. This is a soundness issue as there is an objection from a statutory consultee. The challenge for Spelthorne is that many of these sites need redevelopment as part of the wider vision for the future of Staines and these considerations should be balanced against the flood risk implications for allocating them in the Plan. It is important to have an established position from the Council on which

modifications to site allocations will be sought in order to resume dialogue with the Environment Agency. The options for Members to consider are as follows:

- 1. Keep all proposed flood risk sites in the draft Local Plan**
- 2. Keep all proposed flood risk sites except for those at high risk of flooding**
- 3. Keep all proposed flood risk sites but remove those at high risk of flooding and move some higher risk sites to later in the Plan period (11-15 years) to allow for the River Thames Scheme to be implemented and the design code to be completed**

3.18 As it stands, Option 1 is unlikely to result in the Local Plan being found sound. Officers had already proposed modifications to take some of the sites at highest risk out of the Plan, namely the Surrey County Council buildings on Burges Way and Fairways Day Centre at Knowle Green. After discussion with the GLs, further sites were recommended for removal which total 258 homes. Those remaining would be retained but in some instances moved to the later part of the plan period and the yield of homes amended to an 'up to' figure (subject to the Inspector's agreement to this approach for the purposes of the housing trajectory). This would allow time for the River Thames Scheme (RTS) to be implemented, which will see reductions in floodwater levels by up to 0.5m in Staines and the design code to be in place in order to address concerns over the heights, densities and appearance of buildings in the town centre.

3.19 The type of flood risk varies – in some cases the risk is flooding of the site itself, in others the risk is not to the site but the safe means of access and egress in a flood event even though the site itself is 'dry'. For the latter sites, it is proposed that as well as the RTS there would be other interventions implemented in Staines town centre as part of a wider, holistic plan to facilitate safe exit during a flood event that would also benefit existing residents.

3.20 Options 2 & 3 would reduce the quantum of new homes that the Local Plan will deliver and, in the case of Option 3, when in the plan period they will come forward. This will affect the housing trajectory, resulting in not meeting our housing need in full as previously proposed but for soundness reasons. If the Inspector is willing to consider proceeding with the Examination on the basis of these modifications in order to explore this matter further, a Statement of Common Ground would need to be signed with the EA to set out which areas of their objection remain ('uncommon ground') and remain to be resolved through the hearings with reference to the wider planning and regeneration reasons for the Council's approach to keep the lower risk sites in the Plan with

the necessary interventions. The following table sets out the housing delivery implications:

		Green Belt Sites		
		Option 1 (All Green Belt sites in)	Option 2 (All Green Belt sites out)	Option 3 (Only Gypsy & Traveller and Travelling Showpeople sites)
Flood Risk Sites	Option 1 (All Flood Risk sites in)	Up to 9613 dwellings over plan period Up to 641 dwellings per annum 100% of 'Local Plan as submitted' supply	Up to 8758 dwellings over plan period Up to 584 dwellings per annum 90% of 'Local Plan as submitted' supply	Up to 8758 dwellings over plan period Up to 584 dwellings per annum 90% of 'Local Plan as submitted' supply
	Option 2 (High risk flood risk sites out)	Up to 9355 dwellings over plan period Up to 624 dwellings per annum 97% of 'Local Plan as submitted' supply	Up to 8500 dwellings over plan period Up to 567 dwellings per annum 87% of 'Local Plan as submitted' supply	Up to 8500 dwellings over plan period Up to 567 dwellings per annum 87% of 'Local Plan as submitted' supply

	Option 3 (High risk flood risk sites out plus push back of some sites to 11-15 years)	Up to 9355 dwellings over plan period Up to 624 dwellings per annum 97% of 'Local Plan as submitted' supply	Up to 8500 dwellings over plan period* Up to 567 dwellings per annum 87% of 'Local Plan as submitted' supply	Up to 8500 dwellings over plan period* Up to 567 dwellings per annum 87% of 'Local Plan as submitted' supply	* sites would come forward later in plan period, so risk of no five year supply.
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- 3.21 The three options should also be considered together with the impact on the housing trajectory of the option chosen for the Green Belt allocations. Most of the Green Belt allocations were anticipated to be brought forward as allocations in the first five years of the Plan, which would support a five-year housing land supply and gives a degree of 'grace' for other sites such as the Staines flood risk sites to come forward later once interventions are in place. The NPPF at Para. 69 states that planning policies should identify a supply of specific, deliverable sites for 5 years following the intended date of adoption. For the later period, it states we should identify a supply of specific, developable sites or broad locations for growth, for the subsequent years 6-10 and, where possible, for years 11-15 of the remaining plan period. As such, the bar is set higher for the first five years than the remaining years and Spelthorne does not currently have a five-year supply of housing land so past under-delivery places additional burden on the earlier part of the Plan. Adopted Local Plans are required to be reviewed every five years, which allows for that important first phase of delivery to be assessed to ensure an adequate number of homes continue to be planned for. This could be an area of concern for the Inspector if the trajectory for housing delivery does not meet the requirements of Para. 69 even if overall the sites are left in the Plan but moved to later periods. The list of affected sites can be found at Appendix D, together with the comments from the Environment Agency and the Administration Group Leaders' recommendations.
- 3.22 A number of flood risk sites are owned by the Council. Other than the fact that delivery of development of these sites being within the control of this authority, the ownership of land is not relevant to the Local Plan. Resulting impacts of decisions on modifications from a landowner perspective, such as the financial implications, are not for consideration in this report.
- 3.23 Staines Development Framework and Policy SP1 (Staines upon Thames) of the Local Plan
- 3.24 During the first week of hearings that took place before the remainder of the Examination was paused, the Inspector asked the Council to proposed modifications to Policy SP1 of the Local Plan. This was to address his

concerns that too much responsibility was being placed on the Staines Development Framework (SDF) for setting height and density restriction in the town centre and that Policy SP1 should be strengthened as the 'parent policy' instead of within a guidance document. Furthermore, CRA recommended in the Critical Friend review of the Plan last summer that Policy SP1 be amended to include reference to design codes that are now underway and should be at an advanced stage once the Local Plan is ready for adoption as this would 'future-proof' the policy.

- 3.25 Subsequently, and as part of the wider discussion with GLs on modifications to the Local Plan, it is considered that this committee should decide whether or not the SDF ought to be withdrawn. It does not require examination in public as it is a guidance document and is ready to be adopted, having gone through the required preparation and consultation stages, but was submitted as a core document because it is intrinsically linked to Policy SP1 of the draft Local Plan. If it is withdrawn, this would allow for changes to be made to reflect the design code work with a view to resubmitting or for it to be superseded entirely. The options for Members to consider are as follows:

1. Retain the SDF as a core document

2. Withdraw the SDF as a core document

- 3.26 The draft SDF, even if amended, currently provides some reassurances in relation to any speculative applications that are submitted in advance of the design code work reaching an advanced stage. This has been confirmed by legal advice. However, to mitigate these risks, proposed changes to the draft local plan policy framework are being drafted, as requested by the Inspector, and work on developing new design codes is being expedited to ensure that it is in place as soon as possible. There are also risks associated with retaining the SDF as currently drafted, the main one being that the design codes could result in a very different vision for Staines than the one set out in the SDF. Added to this, there are likely to be major amendments needed to the SDF to reflect the changing context around flood risk in Staines, especially in relation to the zoning approach set out in the SDF.

- 3.27 Appendix B is the report produced by Andy Von Bradsky, acting as another critical friend to Spelthorne, on his review of the Staines Development Framework and his recommendations. At Appendix E is the summary of legal advice from counsel representing Spelthorne at the Local Plan Examination. Appendix F is the full legal advice available to Members only as a 'Part 2' document.

4. Financial management comments

- 4.1 The financial implications were set out in the [report](#) to Council on 14 September 2023, which included further costs for resuming the examination and producing a design code for Spelthorne. Those costs were expressed as a minimum as they are dependant on the extent of modification Members agree to pursue. Options under each theme that require further justification and evidence will incur additional cost beyond those anticipated if the hearings resume on the basis of the Local Plan as submitted. This is also dependant on the Inspector's expectations for what he requires in order to recommence the Examination, given the passage of time since the first hearings and any external factors that may need addressing or evidence that would have required updating even if the Local Plan remains as submitted.
- 4.2 In the event that modifications are proposed to the Inspector that he cannot consider as part of the Examination (and we are unable to withdraw it), further deliberations will be required by the Council on a revised set of changes that may be more acceptable. This additional time could result in further costs for additional evidence and justification to be prepared.
- 4.3 Once the committee has made its decision, and with any guidance the Inspector is able to provide, we will be able to estimate with greater certainty what these costs might be in order to resume the Examination.

5. Risk management comments

- 5.1 As well as the financial risks identified above, there is the risk of further intervention by the Minister for Housing and Planning. The initial letter with the directive to prevent withdrawal of the Local Plan contained the following advice:

Should a significant delay occur to progressing the examination, and should you fail to comply with the directions in this letter, I will consider taking further intervention action to ensure that an up-to-date local plan is in place.

- 5.2 Spelthorne is making positive progress to resume the Local Plan Examination but if the initial set of proposed modifications are rejected by the Inspector, there is the risk that continued review of changes results in the significant delay the Minister warns us of and triggers further intervention. This could result in the Plan being taken over by another body and progressed to adoption.

6. Procurement comments

- 6.1 Any of the options chosen that result in proposing modifications are likely to require further evidence and justification, which may result in the need to commission consultants to update work they have already produced for us to support the Local Plan or new pieces of work entirely. This would be discussed with the Procurement Team as required after this meeting.

7. Legal comments

- 7.1 Specific legal advice was obtained by Spelthorne's counsel for the Local Plan Examination on the matter of the Staines Development Framework and is referred to above. An option to withdraw the Local Plan from Examination is not available to the Council under the Minister's directive and is not an option included within this report so the Council is complying with the directive.

8. Other considerations

8.1 See previous reports from [6 June 2023](#) and [14 September 2023](#).

9. Equality and Diversity

9.1 These matters have been addressed throughout the development of the Local Plan, including the production of an Equalities Impact Assessment that was submitted with the Local Plan. Sustainability/Climate Change Implications

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. Depending on which options are ultimately taken forward, further sustainability appraisal may be required.

11. Timetable for implementation

11.1 This committee is asked to make a decision on each of the sets of options in this report. The Council will then write formally to the Inspector to set out the proposed modifications (if any) and await his advice on whether or not the Examination hearings can resume. The timetable thereafter will be for the Inspector to set out.

12. Contact

12.1 Ann Biggs, Service Lead for Strategic Planning and Enterprise
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Background papers: There are none.

Appendices:

Appendix A: Catriona Riddell Associates report: Spelthorne (Draft) Local Plan Implications of revised NPPF for Green Belt allocations: Critical Friend Advice January 2024

Appendix B: Andy Von Bradsky report: Staines Development Framework Critical Friend Review

Appendix C: Green Belt sites

Appendix D: Flooding sites

Appendix E: Summary of counsel advice on Staines Development Framework

Appendix F: Full advice from counsel on Staines Development Framework [PART 2]