

**BUGLE NURSERIES, 171 UPPER HALLIFORD ROAD,  
SHEPPERTON**

**APPEAL PURSUANT TO SECTION 78 (2) OF THE TOWN  
AND COUNTRY PLANNING ACT 1990**

# **APPELLANT'S STATEMENT OF CASE**

**JULY 2023**



## Contents

1.0	Introduction	1
2.0	The Appeal Site and the Appeal Scheme	2
3.0	Justification for the Appeal Route	9
4.0	Outline of the Appellant's Case	12
5.0	Outline of the Appellant's Case	15

## Appendices

Appendix 1	Bugle Nurseries Appeal Decision (3268661)
Appendix 2	Draft Site Allocation HS1/009 (Bugle Nurseries)
Appendix 3	Spelthorne Council Extraordinary Council Report dated 6 <sup>th</sup> June 2023
Appendix 4	Housing Land Supply Statement of Common Ground for 37-45 High Street Appeal (3312440)
Appendix 5	Inspector's Letter to Spelthorne Council dated 8 <sup>th</sup> June 2023

## 1.0 Introduction

- 1.1 This Statement of Case relates to an appeal following the failure of Spelthorne Borough Council to determine planning application 22/01605/OUT. The planning application seeks outline planning permission with approval sought for scale, access and siting, with details of appearance and landscaping reserved, for a residential development for up to 80 units.
- 1.2 The Appeal relates to Bugle Nurseries on Upper Halliford Road in Shepperton.
- 1.3 The Appellant is Angle Property (RLP Shepperton) LLP.
- 1.4 Given that at this time the appeal is being made as a non-determination appeal the Appellant has not been informed what the Council's decision on the application would have been, the Appellant reserves the right to update or supplement this Statement of Case once the Council has indicated what its decision would have been had it had the power to determine planning application 22/01605/OUT.

## 2.0 The Appeal Site and the Appeal Scheme

### The Appeal Site

- 2.1 The Appeal Site measures 4.84 hectares and comprises a bungalow and a range of commercial buildings as well as extensive areas of hard standing used for the storage of vehicles and other open storage compounds. There is evidence of derelict nursery related structures close to the site frontage. The application site includes highway land related to the proposals. Also included within the Appeal Site is 3.37ha of land comprising:
- Approximately 0.5ha in the far western part of the site which is used for aggregate grading and recycling; and
  - Paddocks within the central part of the site which are grass fields extending to approximately 2.87ha located either side of the access road to the recycling area.
- 2.2 The Site is bound by and accessed from Upper Halliford Road to the east. To the northeast is the former Bugle Public House which has been acquired by the Council and has been redeveloped for 8 flats in line with planning permission granted on 25 August 2017 (LPA Ref: 17/01028/FUL). There is undeveloped land and a lake to the rear of the public house to north and residential development to the south. A railway line forms the western boundary of the site, beyond which is Halliford Park, public recreation land, and fields bounded by the M3 motorway and the extensive Charlton Lane Community Recycling Centre and waste transfer station.
- 2.3 The Site is well connected for access both by car and by public transport. The Site is accessed directly from Upper Halliford Road, which benefits from frequent bus services and Upper Halliford railway station is located approximately 750m to the north of the Site. In addition the Site is a short distance from Junction 1 of the M3.
- 2.4 The Site is located within Flood Zone 1 as set out on the Environment Agency's flood map. This indicates a low risk of flooding.
- 2.5 The Site is currently located within the Metropolitan Green Belt, though is identified for release in the emerging Local Plan. We comment on this in more detail in Section 3.0 below.

### Site Planning History

- 2.6 The Appeal Site benefits from an extant outline planning permission (ref: 20/00123OUT / APP/Z3635/W/21/3268661) for the redevelopment of the Site for up to 31 dwellings that was allowed at appeal on 15<sup>th</sup> July 2021 (Appendix 1).
- 2.7 The following matters from the Inspector's decision for the allowed appeal are particularly relevant to this Appeal:
- The principle of residential development on the Site is established;
  - The consented scheme did not constitute inappropriate development within the Green Belt as the development was contained to the area of previously developed land within the site. The amount of previously developed land at the site is established by the appeal;
  - The visibility of the site from Upper Halliford Road can be mitigated through an appropriate landscaping mitigation response;

- The Council cannot demonstrate a deliverable five year housing land supply and its Housing Delivery Test result was only 69%. In this context the Inspector gave significant weight to the delivery of new housing. The Council's housing land supply has materially worsened since this appeal which we deal with in Section 3.0 below;
- The Inspector agreed that there is a very substantial shortfall in the delivery of affordable housing across the borough. The Inspector gave significant weight to this consideration;
- Bugle Nurseries is a sustainable location with good access to local services and facilities, including public transport links. The Inspector gave this moderate weight;
- The Inspector agreed that the removal of the existing bad neighbour use and remediation of the site was a clear benefit of the proposals, which in his view attracted moderate weight;
- The Inspector also attached moderate weight to the provision of public open space in the western part of the site; and
- The proposals will deliver economic benefits during construction and operational phases of the development, which weighed in favour of the development and were given moderate weight.

It is relevant to note that a second, linked appeal was dismissed by the Inspector for a larger proposal for up to 43 residential units and a 62 bed care home (19/01022/OUT / APP/Z3635/W/20/3252420). The Inspector concluded that this scheme, unlike the allowed appeal discussed above, was inappropriate development in the Green Belt and at that time, very special circumstances did not exist to overcome the harm to the Green Belt necessary to justify the development. In our opinion the perceived harm identified by the Inspector was because of the height of the scheme, particularly the large scale care home block and apartment block. This Appeal Scheme proposes 2 storey housing units and does not include large scale buildings of this nature.

## **The Appeal Scheme**

2.8 The Appeal Scheme is described thus:

*“Outline application with approval sought for scale, access and siting, with details of appearance and landscaping reserved, for the demolition of existing buildings and structures, removal of waste transfer facility and the redevelopment of the site for up to 80 residential units and the provision of open space and a play area, plus associated works for landscaping, parking areas, pedestrian, cycle and vehicular routes”.*

2.9 The proposal is being brought forward to deliver on the Council's objectives of the draft site allocation (ref: HS1/009) in the draft Plan. The Appeal Scheme will result in the demolition of the existing bungalow, resulting in a scheme of net 79 units. The proposals also seek to address the matters raised by the Council and the Inspector in relation to application 19/01022/OUT. We discuss how the Appeal Scheme has addressed these matters in Section 4.0 below.

2.10 The Appellant is seeking outline planning permission to redevelop Bugle Nurseries to provide 80 new homes along with the provision of public open space and landscaping areas. Approval is sought for scale, access and siting with details of landscaping, appearance and layout reserved. We explain this in more detail below in relation to the parameter plans for approval.

### **Land Use Parameter Plan**

- 2.11 The Land Use Parameter Plan (ref: D2001 P1) identifies the Development Zone where the residential development must be contained and identifies the remainder of the site as Open Space. The Plan also identifies adopted highway land and the proposed pedestrian crossing on Upper Halliford Road.

### **Development Zone and Height**

- 2.12 The Development Zone Height Parameter Plan (ref: D2002 P1) identifies a maximum building ridge height of 21.30 AOD (equivalent to 9.5m). This will ensure that the new buildings will be no greater in height than the existing buildings in the locality, allowing for existing site levels.

### **Siting Plan**

- 2.13 The Siting Parameter Plan (ref: D2005 P1) seeks permission for the siting of residential accommodation, including garages and carports within the Development Zone.

### **Proposed Site Access/Egress**

- 2.14 Detailed permission is sought for access in respect of the Proposed Development. The Proposed Site Access/Egress Parameter Plan (ref: D2003 P1) shows an alignment for the roads within the Site and that the adopted highway land is to be incorporated within the proposed landscaping strategy.
- 2.15 The proposed access points remain the same as the existing, but this will be widened and improved, as per planning permission ref: 20/00123/OUT. The retained main access in the centre of the site will provide access for all residential users. The existing secondary access from Upper Halliford Road (on the northern edge of the site) will be removed and the public footpath retained.

## **The Indicative Scheme**

### **Indicative Layout/Appearance**

- 2.16 The general approach of this proposal has been to deliver development which focuses on the previously developed part of the site, whilst looking to retain as much greenfield land as possible. In addition, works will be undertaken to provide a material improvement to the openness and character of the Green Belt by removing the existing buildings and re-landscaping the brownfield parcels of land to provide public open space that will be available to residents and the general public.
- 2.17 The Appeal Scheme proposes to demolish all existing buildings and structures at the Site which comprises a total of 1,087 sqm floorspace. The demolition of existing buildings was established by appeal decision 3268661.
- 2.18 Whilst the siting is for approval at this stage, ultimately the layout and appearance of the proposed housing development is reserved for future consideration. However, the parameters of the proposed access roads and development zones allow for a traditional housing and flatted development layout with appropriate car parking, private gardens, cycle parking and refuse.

- 2.19 It is envisaged that future development will comprise traditional housing development under pitched roofs with materials and fenestration which is appropriate to the characteristics of the locality.

### **Proposed Housing**

- 2.20 The proposed housing development is focused in the south east corner of the site, which would result in the reordering of previously developed land at the Site by restoring the north east corner of the Site with open space as part of the Strategic Gap provision. The Appeal Site comprises approximately 4.84 hectares, of which 2.28 hectares is proposed to accommodate the residential units. The indicative layout would provide for 6,948 sqm of built footprint.
- 2.21 A summary of the existing and proposed comparison for the revised proposal is provided below.

	<b>Existing</b>	<b>Proposed</b>	<b>Difference</b>
<b>Footprint</b>	1,087 sqm	4,147 sqm	+ 3,060 sqm (+281.5%)
<b>Floorspace</b>	1,087 sqm	6,948 sqm	+ 5,861 sqm (+539%)
<b>Hardstanding</b>	9,503 sqm	8,541 sqm	- 962 sqm (-10.1%)
<b>Green Space</b>	33,110 sqm	35,337 sqm	+2,227 sqm (+6.7%)

- 2.22 The proposal shows the following mix of accommodation:

<b>Unit Type</b>	<b>Number of Units (+ Ratio%)</b>
1 bedroom maisonette	18 units (22%)
2 bedroom maisonette	6 units (8%)
2 bedroom house	11 units (14%)
3 bedroom house	34 units (42%)
4 bedroom house	11 units (14%)
<b>Total</b>	<b>80 units</b>

- 2.23 The Scheme will provide a number of units as maisonettes, contributing 24 units consisting of 1 and 2 bed units. The remainder of the units will be provided as houses across the across the remainder of the site, consisting of 2, 3 and 4 bedroom homes, which is line with the Council's strategic objectives set out within the Housing Size and Type SPD (July 2012) and the 2019 SHMA Update which identifies a need for a range of unit sizes including family homes across both market and affordable tenures. The Appeal Scheme also responds to the identified need for family housing within the Site's draft allocation and emerging Plan.

2.24 In the Council's own case for exceptional circumstances to amend its Green Belt boundaries presented as part of the Local Plan Examination evidence, Topic Paper 1 (July 2022) explained at Paragraph 3.15 that:

- Green Belt release sites provide the only opportunity to deliver a greater mix of homes including the provision of family housing, which would not be feasible on previously developed urban sites;
- The Borough's urban sites are expected to prioritise the delivery of housing through flatted development schemes in order to "maximise the efficient use of land and boost densities"; and
- Greenfield sites are not subject to the same constraints and viability issues and therefore offer somewhat of a 'blank canvas' to increase the provision of dwellinghouses.

2.25 Within this context the scheme will respond to current prevailing needs including conventional family housing as opposed to flats. The Proposed Scheme will deliver 50% affordable housing provision which comprises 40 units.

2.26 Each dwelling will have dedicated car parking to comprise 1 or 2 spaces depending on size. The indicative layout shows provision for private gardens appropriately sized for each the dwelling houses and extensive shared amenity space. All residents will be able to access the public open space to the west of the Site in addition to the aforementioned on-site resource.

### **Indicative Landscaping**

2.27 A landscaping masterplan has been prepared and is included within the application submission. This allows for existing boundary planting to be retained where possible and held privately by a management company to ensure views of the site remain screened. An illustrative landscaping strategy is provided for the proposed housing development and the open space.

### **Proposed Public Open Space**

2.28 The proposal includes provision of approximately 2.75 hectares of public open space including the aggregate processing facility in the western part of the site which will be returned to a natural state. This will be linked to an extensive area of open space in the central part of the site which will be publicly accessible.

2.29 The open space will be appropriately landscaped and will provide a pedestrian gated access along the southern boundary of the site to improve the general accessibility of the open space and to connect to the footpaths which extend northwards of the site. Provision will also be made for a children's play area and Strategic Gap to separate the area of built development from the land north of the Site. This area has been included within the application boundary to enable the decision maker to apply full weight to it as a material consideration.



## Proposed Pedestrian Crossing

- 2.30 As per the previous applications, a pedestrian crossing is proposed as part of the Appeal Scheme, in response to feedback from local residents and in accordance with the draft site allocation HS1/009.
- 2.31 Discussions with the Surrey County Council and the highways agency were undertaken during the preparation stages of the previous application and a new pedestrian crossing in this location has previously been agreed.
- 2.32 The proposed pedestrian crossing will be in the form of a pelican crossing providing easy and safe pedestrian access between the Site and Halliford Park situated opposite to the east. The proposed access will also provide a direct route to public footpath FP20.

## Compliance with the Draft Site Allocation

- 2.33 The Appeal Scheme is entirely compliant with the Council's emerging Local Plan and specifically the requirements of the draft site allocation as we have described in this Statement and the Planning Statement submitted as part of the application. Appendix 2 includes the draft site allocation including policy requirements and the site allocation plan.
- 2.34 Below in Table 1 we demonstrate how this has been achieved:

**Table 1: Bugle Nurseries draft site allocation compliance**

Compliance with Draft Site Allocation: HS1/009 - Bugle Nurseries, Upper Halliford Road	
Policy Requirement	Compliance
A mixed development of dwelling - houses and apartments on Part A	✓
Provision of a publicly accessible open space on the remainder of the site (Part B)	✓
The creation and maintenance of a buffer along the northern boundary of the site to retain and enhance the Green Belt function. The buffer should be no less than 50 meters and remain open and free of development. This should be continuous with the public open space to the rear of the site.	✓
Provision of a pedestrian crossing adjacent to the site on Upper Halliford Road	✓
50% Affordable Housing (75% Affordable Rent : 25% Affordable Home Ownership)	✓
The enhancement of boundary planting should be used as an opportunity to provide net gains in biodiversity. This will need to be demonstrated through appropriate habitat/species surveys and implementation of management plans.	✓
Strengthening of the adjacent Green Belt boundaries to retain its performance and strategic role adjacent to the site.	✓

Remediation of the existing waste transfer use on site.	✓
Include measures to mitigate the impact of development on the local road network and take account of impacts on the strategic road network as identified through a site-specific Travel Plan and Transport Assessment.	✓
Provide or contribute to any infrastructure as set out in the IDP and/or identified at the application stage which is necessary to make the site acceptable in planning terms.	✓
Maximise the use of Climate Change measures and renewable energy sources, in accordance with Policy DS2 to make buildings zero carbon where possible	✓

2.35 Table 1 confirms that the Appeal Scheme will meet each of the Council's criteria under draft Policy HS1/009, including the creation of a Strategic Gap to establish a durable boundary to retain and enhance the Green Belt function in the remaining undeveloped land that would be publicly accessible.

## 3.0 Justification for the Appeal Route

### The Status of the Emerging Local Plan

- 3.1 The Appellant has positively engaged with the Council in its preparation of the emerging Local Plan 2022-2037. This culminated in a draft site allocation (ref: HS1/009) which identifies the Appeal Site for approximately 79 dwellings in the Regulation 19 draft Plan that was consulted on between June and September 2022 (extract of draft Local Plan included at Appendix 2).
- 3.2 At the Council's Environment and Sustainability Committee on 8th November 2022, Members voted publish the updated Local Development Scheme (LDS) which included a commitment of submission of the draft Plan to the Secretary of State in November 2022 which the Council achieved.
- 3.3 In January 2023 the Council voted to continue with the draft Plan as submitted at its Extraordinary Committee, despite the Government's consultation on potential changes to the NPPF.
- 3.4 Following this, Inspector Bridgwater was appointed to examine the draft Plan and a hearing programme was published including public hearing sessions across May and June 2023. The first week of hearing sessions were held on 23<sup>rd</sup> to 25<sup>th</sup> May 2023 as per the hearing programme. Subsequently the Council voted to pause the Local Plan Examination hearings at Extraordinary Council on 6<sup>th</sup> June 2023. The Committee Report (Appendix 3) referred to a need for "in depth Councillor engagement" as the reason for delaying the Examination following the May 2023 Local Elections which resulted in new Councillors being elected.
- 3.5 Notably the Committee Report accepted that referred to a number of risks of pausing the draft Plan, the following of which are highly relevant to the Appeal Site:
- No certainty around housing delivery and the Council's five year housing land supply. At the May 2023 Debenhams inquiry (ref: 21/01772/FUL / APP/Z3635/W/22/3312440) it was common ground that the Council's housing land supply was between 2.78 and 3.52 years only (Appendix 4).
  - The potential for unsuitable development 'omission sites' on Green Belt land, rather than on areas of poorly performing Green Belt land that have already been built on and that could bring benefits to the community. Bugle Nurseries would meet this description given it comprises the provision of open space on a previously developed (in part) site in the Green Belt.
  - Inappropriate development in Staines-upon-Thames coming forward before adoption of the Local Plan.
  - The Council would need to update its employment supply position to demonstrate how needs are being met over the 15-year plan period from adoption (rather than submission in November 2022).
  - Failure to meet the Government's deadline to adopt Local Plans by 2023. This could result in the Council falling into special measures such that the Secretary of State assumes control of the Plan-making process.
- 3.6 Despite this, the Council voted to pause the Examination for three months which Mr Bridgwater accepted in his letter (Appendix 5) to the Council dated 8<sup>th</sup> June 2023. In passing the motion the

Council explained that it will decide what actions may be necessary before proceeding with the Local Plan after the three month pause of the Plan-making process.

- 3.7 Therefore at this time there is no certainty on the Local Plan Examination continuing and the Council has failed to progress the draft Plan in accordance with the November 2022 LDS which targeted adoption of the Plan by September 2023. The Appellant progressed the application scheme against this Plan-making programme to deliver on the Council's objectives for the Site in the draft Plan, which included the Appeal Site as a central component of its five year housing land supply which was agreed in a Statement of Common Ground with the Appellant in support of the Local Plan Examination.
- 3.8 As it stands the supply picture is worsening. Appeal 3268661 confirmed that the Council could demonstrate 4.79 years of supply as per its 2020 AMR, though the Debenhams inquiry confirms that the Council's supply is in the range of 2.78 years to 3.52 years.
- 3.9 This appeal is therefore submitted out of necessity as a result of the political decision to postpone the Local Plan Examination, where the risks identified by the Council in Appendix 3 are legitimate and are the inevitable outcome of delaying the Plan.

### **The Need for a Public Inquiry**

- 3.10 The Appellant requests that this Appeal be considered by way of a public inquiry for a number of reasons, including:
- a) given the site features as a draft site allocation in the emerging Local Plan and forms part of the Council's five year housing land supply that was presented to the Inspector at the Local Plan Examination, there is a need to test the Council's position in relation to the supply and delivery of housing across the Borough;
  - b) that the planning application relates to the delivery of a significant amount of housing, it will be necessary to test how housing can be met without reliance on proposed allocated sites;
  - c) the issues are complex and not simply matters of judgement. Points of legal interpretation and policy approach will be significant in relation to the draft site allocation;
  - d) the significant amount of public interest in the Appeal Scheme as demonstrated by the number of representations that were submitted in relation to the Appeal Application and earlier proposals for the site;
  - e) the Development Plan policies require a mix of evidence and legal submissions; and
  - f) there will be a need for the Council's evidence to be tested through formal questioning by an advocate.
- 3.11 The Appellant has appointed counsel with this in mind and therefore an inquiry is the only suitable forum for a proposal of this scale and nature to be dealt with.
- 3.12 The Appellant reserves the right to prepare evidence on matters as necessary which may include housing supply, affordable housing delivery and landscape and visual matters in relation to green Belt openness considerations.

### **Spelthorne Borough Council's Consideration of the Application**

- 3.13 The planning application was validated on 21<sup>st</sup> November 2022. Following validation of the planning application consultation was completed with statutory consultees and third parties.
- 3.14 All comments from consultees have been addressed to the satisfaction of consultees such that there are no environmental or technical matters unresolved that would warrant the refusal of planning permission . The Appellant will say this is common ground with the Council.

## 4.0 Outline of the Appellant's Case

### Planning Policy

- 4.1 Spelthorne does not have a five year housing land supply and so its Development Plan policies related to the determination of the Appeal Scheme are therefore out of date and Paragraph 11 of the NPPF is engaged in relation to this Appeal.
- 4.2 The weight given to the Development Plan in the consideration of this Appeal is therefore diminished considerably. It is necessary to defer to the relevant policies of the NPPF in the determination of this appeal.
- 4.3 We acknowledge the Site is designated as Green Belt, however it is relevant that the Site is proposed for allocation in the draft Plan that would result in its removal from the Green Belt.

### Outline of the Appellant's Case

- 4.4 Whilst the Appellant is not aware of what the Council's decision would have been on the Appeal Scheme (and therefore may need to respond to the Council's position by way of an updated Statement of Case in due course), it envisages that its case will be as follows:
  1. The Appeal Scheme represents appropriate development in the Green Belt under Paragraph 149(g) which allows for the complete redevelopment of previously developed land where this would not have a greater impact on openness than the existing development or cause "substantial harm" to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need. We say that the extant planning permission does not set a limit on what can be regarded as appropriate development and the development represents an appropriate form of development resulting in no greater impact on Green Belt openness. The Appeal Scheme would achieve 50% affordable housing so in any event would fall well below the threshold of substantial impact. As such Paragraph 149(g) is complied with and it follows that the presumption of favour of granting planning permission applies in this case.
  2. Were the decision maker to reach an alternative view in relation to the degree of harm to the openness of the Green Belt, the presumption in favour of granting planning permission would still apply where there are material considerations in the form of "very special circumstances" that would outweigh the perceived harm. The Appellant will draw upon the Site's planning history and other relevant appeal decisions in relation to the appropriate level of weight to be afforded to each material consideration. The Appellant accepts that the quantum of development proposed is greater than the extant approved scheme (ref: 3268661) but the benefits package of the Appeal Scheme is materially greater including the provision of additional housing, affordable housing and securing the Strategic Gap. The Appellant will refer to appeal decisions including Colney Heath<sup>1</sup>, York<sup>2</sup>, Wheatley Campus<sup>3</sup> and Basildon<sup>4</sup> in relation to housing supply and delivery, affordable housing and the weight to be attached to draft site allocations within emerging Local Plans as a material consideration. This would include the following factors:

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<sup>1</sup> APP/B1930/W/20/3265925

<sup>2</sup> APP/C2741/W/21/3282969

<sup>3</sup> APP/Q3115/W/19/3230827

<sup>4</sup> APP/V1505/W/22/3296116

- a. Housing supply and delivery: the Appeal Scheme would make a substantial contribution to housing requirements. The Council cannot demonstrate a 5 year supply against objectively assessed need and the Council is reliant on the Appeal Scheme in this respect in its August 2022 Housing Trajectory and Five Year Housing Land Supply Statement.
  - b. Provision of affordable housing: the Appeal Scheme is of strategic significance in terms of addressing the need for affordable housing by providing 40 affordable homes, with 30 units for affordable/social rent and 10 units for First Homes. This exceeds the 40% target within adopted policy and complies with the 50% target set out in the draft site allocation and the emerging Local Plan. In York the SoS confirmed that the inclusion of a Site in an emerging Plan as suitable in principle for strategic development was a material consideration that contributed to the VSC case in support of the proposal. The SoS also confirmed that housing and affordable housing delivery in an area of acute need is capable of being afforded significant weight in the planning balance outweighing substantial weight afforded to protection of the Green Belt. The Appellant will refer to appeal decisions where the provision of affordable housing carries very substantial weight.
  - c. Removal of bad neighbour uses and remediation of the Site.
  - d. Provision of public open space: The proposal will restore a substantial area of open space within the western part of the site. It is intended that this area will be publicly accessible, which is a considerable benefit to the community on land which is currently private and inaccessible.
  - e. Provision of a strategic gap: the Appeal Scheme would provide a permanent and defensible Green Belt boundary through provision of a strategic gap of at least 50 metres as sought by the draft site allocation. This would not be achieved by the extant approved scheme (ref: 20/00123/OUT), nor was it proposed by dismissed appeal scheme 19/01022/OUT.
  - f. Local views: there is clearly support locally for the proposals that adds significant weight to the very special circumstances case of the Appeal Scheme.
3. Indeed, given the Council's worsening housing land supply the benefits of housing delivery at Bugle Nurseries are even more compelling as a package of very special circumstances than those which the Inspector acknowledged in allowing appeal 3268861.
4. Further, we note that the Site has been identified for release from the Green Belt within the Pre-Submission Publication Version of the Local Plan, under draft site allocation HS1/009. The Local Plan and the policies and allocations within it are yet to be adopted, however weight can be given to the draft site allocation under paragraph 48 of the NPPF and given the draft Plan has progressed to Examination stage we will say this is relevant as a material consideration given the Council's direction of travel. The Appellant will refer to Basildon which gave weight to a site allocation in a draft, withdrawn Local Plan which is highly relevant to the Appeal Scheme. In this appeal the Inspector found it relevant that the site in question was found to be part previously developed land, suitable for development and for withdrawal from the Green Belt, and that the Council's Action Plan relied on adoption of the Plan to improve the Council's housing land supply position. Both sites in the York and Wheatley Campus appeals were similarly subject to draft allocations

which were factored into the decisions as material consideration weighing in support of the proposals.

5. A further material consideration is Spelthorne's reliance on housing development being achieved through reliance on Green Belt release as part of its draft Local Plan strategy.

### **The Appellant's Evidence**

- 4.5 The Appellant will prepare a comprehensive suite of evidence in support of this Appeal. This will include expert evidence in relation to:
  - a. Housing supply;
  - b. Housing delivery including affordable housing delivery;
  - c. Landscape matters; and
  - d. Planning.
- 4.6 Following receipt of the LPA's Statement of Case the Appellant will prepare any additional evidence that may be necessary.



## 5.0 Conditions and Obligations

- 5.1 The Appellant will submit that planning conditions and obligations can satisfactorily deal with a number of matters.
- 5.2 The Appellant will submit that all planning conditions must comply with the six tests set out at Paragraph 56 of the NPPF:
1. necessary;
  2. relevant to planning and;
  3. to the development to be permitted;
  4. enforceable;
  5. precise and;
  6. reasonable in all other respects.
- 5.3 The Appellant will also submit that all planning obligations must comply with Regulation 122 (2) of The Community Infrastructure Levy Regulations 2010 and must therefore be:
- (a) necessary to make the development acceptable in planning terms;
  - (b) directly related to the development; and
  - (c) fairly and reasonably related in scale and kind to the development.
- 5.4 The Appellant will also explain that the nature and scale of all other section 106 obligations will comply with Regulation 122 (2) and will satisfactorily mitigate the effects of development.

# APPENDIX ONE – BUGLE NURSERIES APPEAL DECISION (3268661)



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## Appeal Decisions

Hearing Held on 25 May 2021

Site visit made on 27 May 2021

**by Adrian Hunter BA(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15<sup>th</sup> July 2021.**

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### **Appeal A Ref: APP/Z3635/W/20/3252420**

#### **Bugle Nurseries, 171 Upper Halliford Road, Shepperton TW17 8SN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Angle Property (RLP Shepperton) LLP against the decision of Spelthorne Borough Council.
  - The application Ref 19/01022/OUT, dated 23 July 2019, was refused by notice dated 13 November 2019.
  - The development proposed is outline application with all matters reserved other than 'access' for the demolition of existing buildings and structures and the redevelopment of the site for a residential-led development comprising up to 43 residential homes, a 62-bed care home and the provision of open space, plus associated works for landscaping, parking areas, pedestrian, cycle and vehicular routes.
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### **Appeal B Ref: APP/Z3635/W/21/3268661**

#### **Bugle Nurseries, 171 Upper Halliford Road, Shepperton TW17 8SN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Angle Property (RLP Shepperton) LLP against the decision of Spelthorne Borough Council.
  - The application Ref 20/00123/OUT, dated 31 January 2020, was refused by notice dated 13 November 2020.
  - The development proposed is outline planning application with all matters reserved other than 'access' for the retention of existing dwelling and demolition of all other existing buildings and structures and the redevelopment of the site for up to 31 dwellings along with the provision of public open space and other associated works for landscaping, parking areas, pedestrian, cycle and vehicular routes.
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## **Decisions**

1. Appeal A is dismissed.
2. Appeal B is allowed and outline planning permission is granted for the retention of existing dwelling and demolition of all other existing buildings and structures and the redevelopment of the site for up to 31 dwellings along with the provision of public open space and other associated works for landscaping, parking areas, pedestrian, cycle and vehicular routes, on land at Bugle Nurseries, 171 Upper Halliford Road, Shepperton TW17 8SN, in accordance with planning application Ref 20/00123/OUT dated 31 January 2020, subject to the conditions in the attached schedule.

## **Preliminary Matters**

3. Both appeal applications were submitted in outline with all detailed matters, except for access, reserved for a subsequent approval. Indicative layout plans were submitted to accompany both appeals. I have taken both these plans into account in so far as establishing whether or not it would be possible, in principle, to erect 43 residential homes and a 62-bed care home in relation to Appeal A, and 31 dwellings in relation to Appeal B.
4. The proposals are supported by a planning obligation in the form of a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990. I have had regard to it in reaching my decision. As agreed between the parties, a completed version was submitted shortly after the hearing closed.
5. The appeal hearing was conducted as a Virtual Hearing.

## **Main Issues**

6. The main issues in both appeals are:
  - Whether the proposals would be inappropriate development in the Green Belt, having regard to the openness of the Green Belt; and
  - If the developments are inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

## **Reasons**

### *Whether inappropriate development*

7. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
8. The National Planning Policy Framework (the Framework) identifies that the construction of new buildings should be regarded as inappropriate development in the Green Belt, other than in respect of a limited range of specified exceptions. Paragraph 145(g) of the Framework identifies one of the exceptions to be limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), where it would not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
9. Saved Policy GB1 of the Spelthorne Borough Local Plan 2001 (SBLP) identifies that development will not be permitted where it would conflict with the purposes of the Green Belt and fail to maintain its openness. The Policy identifies a number of uses that are considered not to be inappropriate in the Green Belt.
10. This Policy however pre-dates both the current Framework and the original 2012 version. Furthermore, whilst it shares some level of consistency with national Green Belt policy, it makes no reference to the balancing exercise

established in the Framework. As a result, due to a general lack of consistency and in line with Paragraph 213 of the Framework, I consider that this policy is out of date. It is my duty to determine the scheme in accordance with the development plan unless material considerations indicate otherwise. However, where there is inconsistency between the SBLP and the exceptions identified in Paragraph 145 of the Framework, the Framework attracts more weight.

11. It was agreed between the parties that in terms of the exception identified in Paragraph 145 (g) both appeals fell to be considered as proposals that would deliver complete redevelopment of the appeal site and against the second test as set out in the Paragraph. I would concur with this view.
12. It was common ground between the parties that both proposals would deliver a policy compliant level of affordable housing. As such, they would contribute to meeting an identified affordable housing need within the area. From my own assessment of both proposals, I have no reason to disagree with this conclusion.
13. With regards to previously developed land, it was common ground between the parties that a substantial proportion of those parts of the site to be redeveloped, would meet the definition as identified in the Glossary to the Framework. There were, however, disagreements over a number of specific elements. This related to the land around the existing bungalow and the land to the south of the existing access.
14. In terms of the appeal proposals, Appeal A would involve new development on all these areas, whereas Appeal B would keep these areas free from development, with the exception of a small strip of land, immediately to the south of the existing access road to be used to provide a widened access into the site. This element would be common to both proposals.
15. It was agreed that the western parcels of the site, with the exception of the former Waste Transfer Station, were not previously developed. I would concur with this position.
16. From my visit, it is clear that the bungalow and its associated outbuildings comprise previously developed land as defined by the Framework. In terms of its surrounding garden area, I note the exceptions within the definition exclude land in built-up areas, such as residential gardens. No definition is provided as to what constitutes a built-up area.
17. In this case, whilst the site is identified as lying outside the settlement boundary, given the nature of surrounding development and activity, I consider that the surrounding area is built-up. As such, I therefore find that the garden area surrounding the existing bungalow does not meet the definition of previously developed land as set out in the Glossary to the Framework.
18. In respect of the land to the south of the access, it is separated from the bungalow and its garden area by the existing access and as such, clearly lies outside its curtilage. Furthermore, it displays a very different character to the majority of the appeal site, with evidence of a former agricultural use, although there are parts where the activity from the main use of the site has spilled out into this area. Notwithstanding this, I do not find that it falls within the curtilage of the main site either. As a result, I therefore conclude that the

southern portion of the site, adjacent to the road, does not constitute previously developed land.

19. To my mind, because of the lack of demarcation or enclosure, this conclusion would also include the area of land, immediately to the south of the access road that would be used, in both appeals, to provide the widened access road.
20. Drawing all this together, I find that neither proposal would be located entirely on previously developed land. Although, in this respect, the amount of development to be provided on non-previously developed land as part of Appeal B, would be limited to the strip of land required to provide a widened access.
21. Paragraph 145(g) requires such a redevelopment not to cause substantial harm to the openness of the Green Belt. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It identifies openness as an essential characteristic of the Green Belt. There is no definition of 'openness' in the Framework, but it is commonly taken to mean the absence of built or otherwise urbanising development.
22. At the Hearing, whilst it was agreed between the parties that the first element of Paragraph 145 (g) does not apply to either appeal, it was recognised that in considering the effect upon the openness, this has to include some assessment of the proposals against the existing buildings and structures on site.
23. Within the main body of the site, the existing development comprises a mix of single storey buildings, storage containers and open-sided covered structures. Buildings are of a permanent construction and are predominantly clustered around the main entrance and the southern part of the site. The remainder of the site is laid to hardstanding and, at the time of my site visit, was used predominantly for the parking and storage of vehicles, which included cars, buses, coaches and lorries. Land was also being used for the external storage of materials, mainly associated with the existing businesses on site.
24. To the west, the land is different in character, being mainly laid to grass and subdivided by post and rail fencing, which provides a number of individual paddock areas.
25. Due to the boundary treatment and the low height of the existing development on the site, views of the current activity from surrounding roads and public viewpoints are relatively limited. The exception to this is from the footpath, which runs along the northern boundary of the site, where there are clear views onto the commercial activities, across the open paddock areas. Views are also possible down the main access road into the site. However, due to the open and verdant nature of the site frontage, the appeal site serves as an open gap in development, when travelling along Upper Halliford Road.
26. A substantial element of the site to be redeveloped is currently used by the existing commercial operations, with a significant amount of the land used for vehicle storage. Whilst some of these vehicles are visible from outside the site, they are different in appearance and nature to the existing permanent buildings on site and are very much temporary features. As a result, despite their presence having some influence upon the existing openness of the site, given

their temporary nature, I have given their presence limited weight in my assessment.

27. In both instances, the appeal proposals, through the introduction of new buildings and associated infrastructure, would result in a substantial increase in the amount of built footprint on the site. Furthermore, both proposals would also be of a considerably greater height than the existing development and would extend across the full width of the appeal site.
28. In terms of Appeal A, due to the considerable size and bulk of the proposed buildings, in particular the care home element and the apartment blocks, these would be clearly visible both from the road and the public footpath. Furthermore, despite the potential for new landscaping, the car parking area and proposed play area, along with the substantial buildings, would increase the presence and visibility of residential activity and urban development when viewed from Upper Halliford Road. Given the proximity of the proposed care home to the footpath along the northern edge, the proposed development would also be highly prominent from this location. Despite the potential for additional landscaping along the site frontage, this would not be sufficient to entirely screen the development. As a consequence, the appeal proposal would have an urbanising effect, which would harm the character and appearance of the area.
29. In respect of Appeal B, development would be located away from the eastern boundary of the site, which would maintain the existing gap and sense of openness along Upper Halliford Road. The proposed dwellings would be taller than the existing buildings, structures and activities on the site. However, due to their design, height and their position within the site, along with the provision of new landscaping, the vast majority of the development would not be visible. Furthermore, car parking and the majority of the infrastructure would be contained within the site. Despite this, due to the increased amount of built form, the proposal would still have an urbanising effect and would therefore harm the character and appearance of the area. However, due to the design of the scheme, I consider this harm to be limited.
30. Therefore, in contrast to the current situation, the proposed developments would have a more permanent appearance, with a significant increase in built form, including the provision of residential paraphernalia and associated infrastructure. The effect of this would be considerably greater in Appeal A than Appeal B, principally due to the size and scale of the proposed care home and apartment block, and the development being located closer to the eastern boundary of the site.
31. Both proposals would deliver a reduction in hardstanding across the site and its replacement with green areas in the form of residential gardens and landscaped areas. However, whilst these new green areas would serve to improve the nature and character of the area, considerable parts of these, especially in Appeal B, would be contained within private garden areas which are likely to be fenced off. Therefore, the reduction in hardstanding across the site does not necessarily translate into an increase in openness.
32. Paragraph 134 of the Framework sets out the main purposes for including land within the Green Belt. It was put to me by the Council that the appeal site performs strongly against Purpose a), to check the unrestricted sprawl of large



- built-up areas, and Purpose b), to prevent neighbouring towns merging into one another.
33. In terms of Appeal A, due to the urbanising nature of the development, along with the protrusion of development in an easterly direction, it would conflict with Purposes a) and b) of the Green Belt as set out in Paragraph 134 of the Framework.
34. Whilst Appeal B would extend across the full width of the site, due to the development being set back from the road, and the retention of the existing eastern elements, the overall effect of the proposal upon the identified Purposes of the Green Belt would not be sufficient to have an adverse effect on the Purposes.
35. I note that the western parts of the appeal site would be retained as open space and would therefore not conflict with the identified Purposes.
36. In terms of Appeal A, drawing all of the above together, the proposed development would have a more permanent appearance than the existing development on site and, due to the height and position of the development in relation to the eastern boundary, it would be highly prominent when seen from surrounding viewpoints. As a result, the site would have a more urban, developed feel. In this instance, due to the urbanising effect of the proposal, it would have a significant impact upon the openness of the Green Belt, which would cause substantial harm. Furthermore, the proposal would conflict with the identified purposes of the Green Belt.
37. This would be contrary to the Framework where it states an essential characteristic of Green Belts are their openness. Consequently, notwithstanding that substantial parts of the site are previously developed land and that the proposal would include the provision of affordable housing to meet local needs, Appeal A would not fall within the scope of development described in Paragraph 145(g) of the Framework. It follows therefore, that Appeal A would constitute inappropriate development within the Green Belt.
38. In terms of Appeal B, as with Appeal A, the proposal would have a more permanent appearance than the existing development and would result in the site having a more urban and developed feel. However, due to its layout and additional landscaping, its visibility from outside of the site would be limited. Furthermore, the existing openness along the eastern boundary of the site would be retained, with the exception of a small area of land to be used for the access, although, given the proposed use, this would still retain a sense of openness. The proposal would also not conflict with the purposes of the Green Belt.
39. Overall, therefore, given its urbanising effect, the proposed development would harm the openness of the Green Belt. However, considering the above, this harm would be limited. As a consequence, given that the majority of the site would comprise previously developed land, and where it does not, the land would remain open, and that the proposal would meet an identified affordable housing need and it would not cause substantial harm to the openness of the Green Belt, I conclude that Appeal B would meet the exceptions in Paragraph 145(g) of the Framework and would therefore not be inappropriate development.



### *Other considerations*

40. Paragraph 144 of the Framework requires decision makers to ensure that substantial weight is given to any harm to the Green Belt. Other considerations in favour of the development must clearly outweigh the harm in order to amount to the very special circumstances necessary to justify the proposed development. Given my conclusions in relation to whether the proposals represent inappropriate development, it follows that this requirement only applies to Appeal A.
41. It is common ground between the parties that the Council, at this moment in time, are unable to demonstrate a 5-year supply of housing land. Furthermore, it was put to me by the appellant that this needs to be also seen against the background of the Council's Housing Delivery Test which showed the Council to have delivered 50% of the District's minimum housing target over the previous three years, which demonstrates persistent under-delivery of housing in Spelthorne. In the appellant's view this should weigh heavily in favour of the proposal.
42. In response, whilst the Council accepted that they are unable to demonstrate a 5-year supply of deliverable housing land, they highlighted that the current level fell only slightly below the threshold at an agreed level of 4.79 years.
43. Notwithstanding the above, it is clear from the evidence in this case that, the Council is unable to demonstrate a 5-year supply of deliverable land and, whilst it is only marginally below the required level, their HDT demonstrates a persistent level of under delivery over the past three years. Given the national importance placed on the delivery of new homes, it is appropriate to give significant weight to the delivery of new housing.
44. The appellant has cited the current position with regards to the provision of both affordable housing and the level of care home provision within the Borough and that, due to a lack of delivery, there is an acute need for both types of accommodation. From the evidence presented to me, it is clear that there is a very substantial shortfall in the delivery of new types of accommodation across the Borough. In this respect, I am mindful of Paragraph 59 of the Framework and the Government's objective to significantly boost the supply of homes, and that the need to ensure that groups with specific housing requirements are addressed. Furthermore, I note that the proposal would deliver a policy compliant level of affordable housing.
45. Considering the overall level of the shortfall, in combination with the delivery of much needed affordable housing units and care home provision, it would be appropriate to attribute significant weight to both these aspects of Appeal A.
46. It was suggested at the Hearing by the appellant that, due to the related benefits from the delivery of housing, affordable housing and specialist accommodation, these should be combined, and in their view, would therefore attract very significant weight.
47. In this instance however, I can see no reason or justification as to why these or any other benefits for that matter, should be afforded a further, combined weight in the overall planning balance. In my view, each benefit has to be considered, with a level of weight attached to it as a specific benefit, not in

combination with others, regardless of whether they may be linked. In this way, it is quite conceivable that a single benefit could be sufficient to tip the balance in favour of a proposal, rather than the total number of benefits a scheme can deliver.

48. The appeal site lies in a relatively sustainable location, with good access to local services and facilities, along with nearby public transport links that provide access to a wider area. On this basis, I have given this moderate weight.
49. Appeal A would involve the development of previously developed land. I have however taken this into account when considering whether the development would be inappropriate.
50. It was put to me by the appellant that the proposal would remove a 'bad neighbour' use from the site and would deliver remediation and environmental improvements that would only be possible through the site's re-development. From the evidence, both in writing and at the hearing, it is clear that the current use of the site does indeed have an adverse effect upon a number of surrounding residents. Although in this regard I note that the evidence from the Council appeared to indicate that the level of complaints about activities on the site was relatively low in numbers. That said, given the relationship of the site with surrounding residential properties and the types of activities which take place on the site, combined with the fact that these appear to be unconstrained in terms of their hours or level of disturbance, it is appropriate to attach moderate weight to both these elements.
51. The appellant has drawn my attention to the substantial area of public open space that would be delivered to the west of the proposed dwellings. As a consequence, enhanced public access to both the countryside and the wider Green Belt would be provided, along with the remediation of the former waste transfer site. These elements would deliver social benefits. In this case, the proposal would provide over and above the policy requirement, and I consider these to be benefits of the proposal. In response, the Council drew my attention to their Open Space Assessment which showed there to be an overprovision of open space within the area. Be this as it may, I am aware of the guidance in Paragraph 141 of the Framework, which requires local planning authorities to plan positively to enhance the beneficial use of the Green Belt and seek to improve damaged or derelict land. Therefore, given the current state of the land, despite the current over-provision of open space within the area, it is appropriate to give the provision of open space moderate weight.
52. The proposal would also deliver economic benefits during the construction phase of the development and would support existing local services and facilities once the homes are occupied. Further economic benefits would be provided through the employment provision at the care home, although this is slightly off-set by the loss of the existing employment uses from the site. These factors weigh in favour of the proposal. Considering the scale of the development proposed, I attribute moderate weight to these.
53. I note that the Council raise no other issues in relation to transport, design, flooding and impact on neighbouring occupiers, amongst other things. However, as these are requirements of policy and legislation, the absence of harm in respect of these matters are neutral factors that weigh neither for nor against the development.

### *Green Belt conclusion*

54. I have already concluded that Appeal B is not inappropriate development in the Green Belt.
55. Appeal A would constitute inappropriate development in the Green Belt. As such, the Framework requires that the harm by reason of inappropriateness be accorded substantial weight. In addition, harm would result from the reduction in the openness of the Green Belt. These matters attract substantial weight against Appeal A.
56. In the context of the above, very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations. Consequently, other considerations weighing in favour of the development must clearly outweigh any harm.
57. I have found that Appeal A would constitute inappropriate development in the Green Belt and would harm its openness. Paragraph 144 of the Framework places substantial weight on any harm to the Green Belt.
58. Additionally, Paragraph 143 of the Framework states that inappropriate development should not be approved except in very special circumstances.
59. The totality of the above harm has to be balanced with the provision of new housing to help meet the Council's acknowledged shortfall, the provision of a policy compliant level of affordable housing, the provision of specialist accommodation in the form of the care home, the benefits of site remediation and the removal of a 'bad' neighbour, along with the delivery of social and economic benefits, including the provision of improved public access to the countryside and associated bio-diversity and green infrastructure gains.
60. Whilst I acknowledge that these are considerations, in this particular case, considering the substantial weight and national importance to protecting the Green Belt, all of the considerations that weigh in favour of the proposal do not clearly outweigh the identified harm to the Green Belt and any other harm, so as to amount to the very special circumstances necessary to justify Appeal A.

### **Planning Balance**

61. In terms of Appeal B, I have found that this would not constitute inappropriate development within the Green Belt. The proposed development would contribute 31 dwellings towards the existing housing stock within the Borough, where there is no 5-year land supply. The proposal would also deliver a policy compliant level of affordable housing provision, along with other benefits in terms of the use of previously developed land and short-term economic benefits from the construction phase and longer-term economic impacts from the reliance of new residents on local facilities.
62. I have concluded that Appeal A would be inappropriate development in the Green Belt and that very special circumstances do not exist to overcome the harm to the Green Belt to justify the development.
63. Paragraph 11 of the Framework states that where relevant policies are out of date, permission should be granted, unless the application of policies in this Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. Footnote 6 of the Framework

specifies that Green Belt is included within such protected areas. As I have already found that the Framework policy relating to Green Belt in Paragraph 143 indicates that the proposed development is inappropriate, the tilted balance does not apply to Appeal A.

64. Considering the substantial weight and national importance to protecting the Green Belt, all of the considerations that weigh in favour of Appeal A do not clearly outweigh the identified harm to the Green Belt, so as to amount to the very special circumstances necessary to justify the development.

### **Conditions**

65. At the hearing, a number of minor changes to the conditions were suggested, to ensure that the correct plan references were included. As such, I have made the requisite amendments in the interests of clarity and precision.
66. The suggested conditions have been considered in light of the advice contained within the Framework and the National Planning Practice Guidance (NPPG).
67. Standard outline implementation conditions, along with a requirement to implement the scheme in accordance with the approved plans is necessary in the interests of certainty.
68. To ensure that risks from contaminated land to the future users of the site and adjoining land are minimised, it is necessary to require the submission of a desk top study and that a validation report to demonstrate that any risks have been adequately mitigated.
69. To ensure the delivery of sustainable development, it is appropriate to attach a condition requiring the submission of details with regards to the use of renewable energy as part of the scheme. For the same reason, it is appropriate to attach a condition requiring the provision of electric vehicle charging points.
70. In the interests of highway safety, it is necessary to require the provision of adequate visibility splays. For the same reason, it is appropriate to require the access to be constructed from suitable material and to ensure that the car parking is laid out and available prior to the use of the site. For the same reason, it is also necessary to attach a condition requiring the cessation of the use of the existing northern site access and to require the insertion of the pedestrian crossing on Upper Halliford Road.
71. In the interests of local residents and also in the interest of highway safety, it is necessary to attach a condition requiring the submission of a Construction Transport Management Plan.
72. To prevent the risk of flooding, it is necessary to attach a condition requiring the submission of a surface water drainage scheme and to ensure its verification once constructed. To ensure adequate provision of drainage infrastructure, it is necessary to attach a condition to ensure sufficient capacity exists within the network.
73. To deliver bio-diversity enhancements, it is necessary to attach a condition requiring the submission of a biodiversity enhancement scheme. To ensure no harm to protected species, it is appropriate to require the demolition of the existing buildings to be carried out in accordance with the submitted report.

74. The Council suggested conditions in relation to the removal of permitted development rights and limiting the total gross internal floor area of the proposed development. However, having considered these conditions against the guidance contained within the Framework and the NPPG, I consider that, in this instance, such conditions are neither necessary nor appropriate.

**Conclusion**

75. For the above reasons I conclude that Appeal A should be dismissed.

76. For the above reasons, I conclude that Appeal B should be allowed, subject to the Conditions set out in the attached schedule.

*Adrian Hunter*

INSPECTOR

**APPEARANCES**

*FOR THE APPELLANT*

Guy Williams	Landmark Chambers
Edward Ledwidge	Montagu Evans
Tom Cole	Montagu Evans
James Good	Angle Properties

*FOR THE LOCAL PLANNING  
AUTHORITY*

Asitha Ranatunga  
Philip Hughes

### **Schedule of Conditions**

1. That in the case of those matters in respect of which details have not been given in the application and which concern the:
  - a) The Appearance, Landscaping, Layout and Scale; hereinafter called "the reserved matters", and which are hereby reserved for subsequent approval by the Local Planning Authority, application for such approval shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
  - b) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
2. Before any work on the development hereby permitted is first commenced detailed drawings shall be submitted to and approved in writing by the Local Planning Authority to show:
  - Appearance;
  - Landscaping;
  - Layout; and
  - Scale.
3. The development hereby permitted shall be carried out in accordance with the following approved plans and drawings: Proposed Site Access and Pedestrian Crossing Plan; Site Location Plan (F0001-P1); Land Use Parameter Plan D1001 Rev.P1; Height Parameter Plan D1002 Rev.P1; Access/Egress and Circulation Parameter Plan D1003 Rev.P1.
4. No development shall take place until:-
  - c) A comprehensive desk-top study, carried out to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site, has been submitted to and approved in writing by the Local Planning Authority.
  - d) Where any such potential sources and impacts have been identified, a site investigation has been carried out to fully characterise the nature and extent of any land and/or groundwater contamination and its implications. The site investigation shall not be commenced until the extent and methodology of the site investigation have been agreed in writing with the Local Planning Authority.
  - e) A written method statement for the remediation of land and/or groundwater contamination affecting the site shall be agreed in writing with the Local Planning Authority prior to the commencement of remediation. The method statement shall include an implementation timetable and monitoring proposals, and a remediation verification methodology.

The site shall be remediated in accordance with the approved method statement.

5. Prior to the first use or occupation of the development, and on completion of the agreed contamination remediation works, a validation report that demonstrates the effectiveness of the remediation carried out shall be submitted to and agreed in writing by the Local Planning Authority.



6. No development shall commence until a report has been submitted to and agreed in writing by the Local Planning Authority which includes details and drawings demonstrating how 10% of the energy requirements generated by the development as a whole will be achieved utilising renewable energy methods and showing in detail the estimated sizing of each of the contributing technologies to the overall percentage. The detailed report shall identify how renewable energy, passive energy and efficiency measures will be generated and utilised for each of the proposed buildings to meet collectively the requirement for the scheme. The agreed measures shall be implemented with the construction of each building and thereafter retained and maintained.
7. The development hereby approved shall not be commenced unless and until the proposed vehicular access to Upper Halliford Road has been provided with visibility zones in accordance has been provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority and thereafter the visibility zones shall be kept permanently clear of any obstruction measured from 0.6m above the road surface.
8. During and after the construction of the development hereby approved, there shall be no means of vehicular access from the site to Upper Halliford Road over the existing access at the northern boundary of the site.
9. The development hereby approved shall not be first occupied unless and until space has been laid out within the site in accordance with the approved plans for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes.
10. No development shall commence until a Construction Transport Management Plan, to include details of:
  - a) Parking for vehicles of site personnel, operatives and visitors;
  - b) Loading and unloading of plant and materials;
  - c) Storage of plant and materials;
  - d) Programme of works (including measures for traffic management;
  - e) Provision of boundary hoarding behind any visibility zone;
  - f) Measures to prevent the deposit of materials on the highway; and
  - g) On-site turning for construction vehicles has been submitted to and approved in writing by the Local Planning Authority.

has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme.

11. The development hereby approved shall not be first occupied unless and until a pedestrian crossing facility to improve the safety of pedestrians crossing Upper Halliford Road has been provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.
12. The development hereby approved shall not be occupied unless and until at least 25 of the proposed parking spaces have been provided with a fast charge socket (current minimum requirements - 7 kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply) for the charging

of electric vehicles in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority and thereafter retained and maintained.

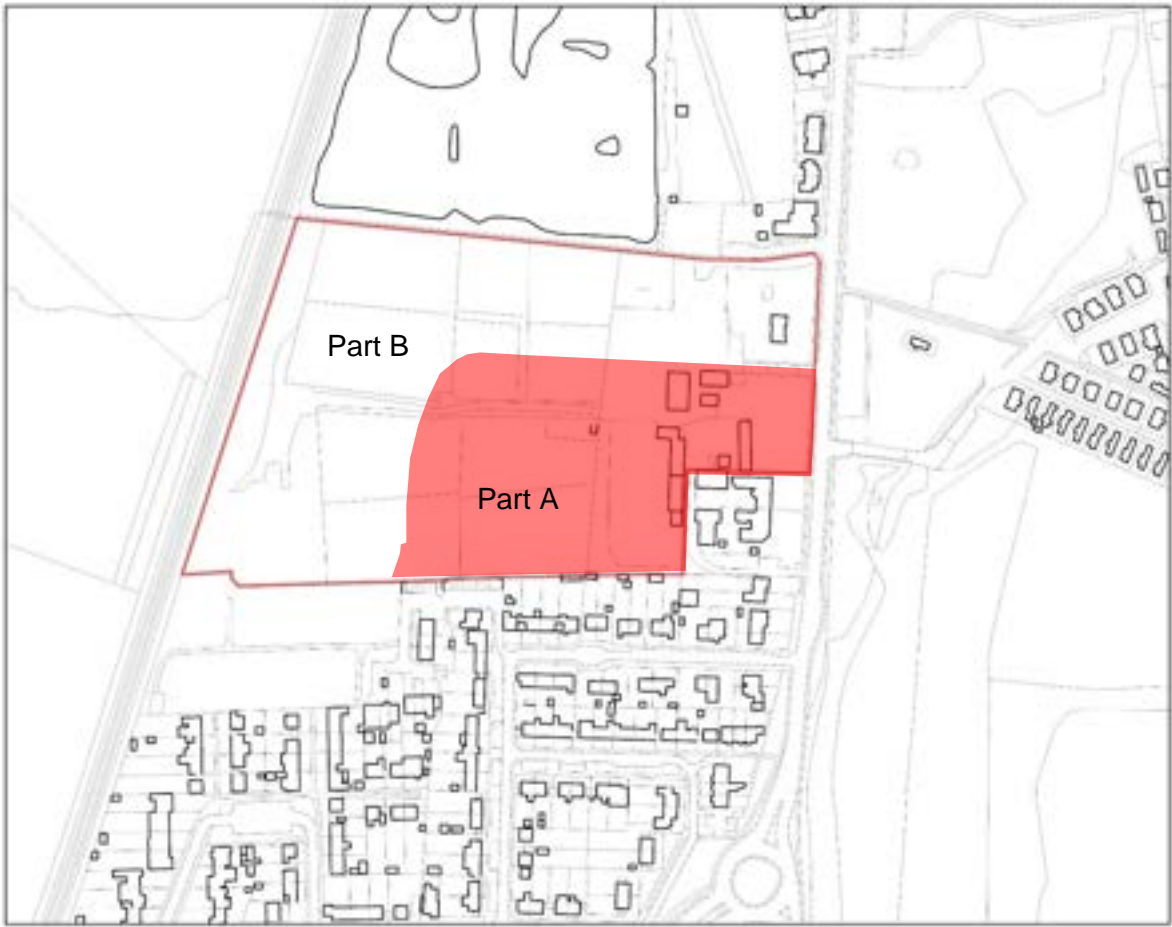
13. The development hereby permitted shall not commence until details of the design of a surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The design must satisfy the SuDS Hierarchy and be compliant with the national Non-Statutory Technical Standards for SuDS, NPPF and Ministerial Statement on SuDS. The required drainage details shall include:
- a) The results of infiltration testing completed in accordance with BRE Digest: 365 in the location of proposed soakaways and confirmation of groundwater levels
  - b) Evidence that the proposed final solution will effectively manage the 1 in 30 & 1 in 100 (+40% allowance for climate change) storm events and 10% allowance for urban creep, during all stages of the development.
  - c) Detailed drainage design drawings and calculations to include: a finalised drainage layout detailing the location of drainage elements, pipe diameters, levels, and long and cross sections of each element including details of any flow restrictions and maintenance/risk reducing features (silt traps, inspection chambers etc.).
  - d) A plan showing exceedance flows (i.e. during rainfall greater than design events or during blockage) and how property on and off site will be protected.
  - e) Details of drainage management responsibilities and maintenance regimes for the drainage system.
  - f) Details of how the drainage system will be protected during construction and how runoff (including any pollutants) from the development site will be managed before the drainage system is operational.
14. Prior to the first occupation of the development, a verification report for the SUDS scheme, carried out by a qualified drainage engineer, must be submitted to and approved in writing by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).
15. The precautionary measures to safeguard bats during demolition shall be carried out strictly in accordance with the recommended safeguarding measures in the Delta Simons Bat Survey Report January 2020.
16. Prior to the construction of the buildings, a biodiversity enhancement scheme to be implemented on the site shall be submitted to and approved in writing by the Local Planning Authority. The biodiversity enhancement measures shall be implemented in accordance with the approved scheme and thereafter maintained.
17. No properties shall be occupied until confirmation has been provided that either:-



- Drainage infrastructure capacity exists off site to serve the development; or
- A housing and infrastructure phasing plan has been agreed with Thames Water. Where a housing and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan; or
- All wastewater network upgrades required to accommodate the additional flows from the development have been completed.

# APPENDIX TWO – DRAFT SITE ALLOCATION HS1/009

## HS1/009 (Bugle Nurseries, Upper Halliford Road)

Site Information	
Site ID	HS1/009
Site name/ address	Bugle Nurseries, 171 Upper Halliford Road, Shepperton, TW17 8SN
Site area (ha)	4.83 2.28 (developable area for residential use)
Location	Part previously developed land/part greenfield. Former Green Belt (Part A) Retain in Green Belt (Part B)
Ward	Halliford and Sunbury West
Proposed Allocation	Residential (C3): 79 units (approx.)
	
Site description & existing use	The site is located to the west of Upper Halliford Road and comprises open fields with paddocks, old nursery structures and other buildings and hardstanding in commercial use, including parking and access. The site is part of the wider Bugle Nurseries site which extends to include a residential bungalow to the north and additional open fields to the west.

	<p>Part A is 2.28ha and has been identified for housing development and release from the Green Belt. Part B is 2.55ha and is identified for open space and is to be retained in the Green Belt to maintain the northern boundary. Immediately to the south east of the site are residential properties positioned at right angles within Halliford Close, whose rear gardens adjoin the application site. Further to the west, the garages of properties at Bramble Close and allotments adjoin the application site to the south. Directly to the north of the site is a public footpath and the site of the former Bugle Public House which has been rebuilt as apartments. Further to the north are other dwellings fronting Upper Halliford Road, with open grass land behind and a large fishing lake to the north west of the site. A Tree Preservation Order is on a tree in the north-eastern corner of the wider Bugle Nurseries site however this is outside the allocation boundary.</p>
Site-specific requirements	<p>In addition to meeting the policies in the plan, any developer of this site will be required to provide the following:</p> <ul style="list-style-type: none"> <li>• A mixed development of dwellinghouses and apartments on Part A.</li> <li>• Provision of a publicly accessible open space on the remainder of the site (Part B).</li> <li>• The creation and maintenance of a buffer along the northern boundary of the site to retain and enhance the Green Belt function. The buffer should be no less than 50 meters and remain open and free of development. This should be continuous with the public open space to the rear of the site.</li> <li>• Provision of a pedestrian crossing adjacent to the site on Upper Halliford Road.</li> <li>• 50% Affordable Housing [subject to viability testing].</li> <li>• The enhancement of boundary planting should be used as an opportunity to provide net gains in biodiversity. This will need to be demonstrated through appropriate habitat/species surveys and implementation of management plans.</li> <li>• Strengthening of the adjacent Green Belt boundaries to retain its performance and strategic role adjacent to the site.</li> <li>• Remediation of the existing waste transfer use on site.</li> <li>• Include measures to mitigate the impact of development on the local road network and take account of impacts on the strategic road network as identified through a site-specific Travel Plan and Transport Assessment.</li> <li>• Provide or contribute to any infrastructure as set out in the IDP and/or identified at the application stage which is necessary to make the site acceptable in planning terms.</li> <li>• Maximise the use of Climate Change measures and renewable energy sources, in accordance with Policy DS2 to make buildings zero carbon where possible.</li> </ul>

Opportunities	<ul style="list-style-type: none"><li>• Development should contribute to the enhancement of public transport, walking and cycling infrastructure and links to local town centres and other destinations such as places of employment, services and leisure in order to minimise traffic generation and improve the connectivity.</li><li>• The site should accommodate a scheme of high-quality design that makes a positive contribution to the wider environment and character.</li></ul>
Delivery Timeframe	2023-2037 (years 1-5)

# APPENDIX THREE – SPELTHORNE COUNCIL EXTRAORDINARY COUNCIL REPORT 6 JUNE 2023

# Extraordinary Council

6 June 2023



<b>Title</b>	<b>Request to 'pause' the Local Plan Examination hearings (Full Technical Report)</b>
<b>Purpose of the report</b>	To make a decision
<b>Report Author</b>	Heather Morgan, Group Head Place, Protection and Prosperity
<b>Ward(s) Affected</b>	All Wards
<b>Exempt</b>	No
<b>Exemption Reason</b>	N/A
<b>Corporate Priority</b>	Community Affordable housing Environment
<b>Recommendations</b>	<p><b>Council needs to decide whether:</b></p> <ol style="list-style-type: none"> <li><b>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”, or</b></li> <li><b>2. 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, or</b></li> <li><b>3. 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</b></li> </ol>
<b>Reason for Recommendation</b>	<p>A request was received from the previous Mayor whilst she was still in office to call an Extraordinary Council meeting to make a decision on 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'.</p> <p>This followed on from an informal request by four of the five political group leaders to the Planning Inspectorate.</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 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. This followed an informal request by four of the five political group leaders to the Planning Inspectorate.
- 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. The key ones around the request for a four-month delay are:

### Benefits

- In depth Councillor engagement
- Implementing three key recommendations of the 2022 Peer Review

### Risks

- 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.
- Does not help deliver certainty around housing delivery and the Council 5-year housing land supply.
- Potential for unsuitable development to come forward on green belt sites across the Borough which are currently not included for release for development in Publication version.
- Potentially inappropriate development continues to come forward in Staines-upon-Thames and the rest of the borough.
- We need to show we are meeting our needs over the 15-year plan period *from adoption* (and not submission).
- Development continues to come forward in the developed area (including Local Green Space designation).
- Potential of future increases in housing need numbers
- Unsuitable Gypsy, traveller and travelling showpeople sites come forward.
- Risk of legal challenge (for individuals with the benefit of a site allocation or those wanting the early adoption of the Local Plan).



- Government deadline to adopt Local Plans by December 2023 will not be met which in turn means matters could be taken out of the Council's hands.
- Re-scheduled Examination Hearings cannot be convened resulting in further delay.

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 accept that this is an extensive report, but is reflective of the central importance of the Local Plan, its complexity and the need to ensure all the benefits and risks are contained in the report. This will enable councillors to make a fully informed decision on the basis of all the facts. It is particularly important for new councillors to understand the journey so far.

### Background

2.2 The Local Plan is a Council document that 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, although Local Plans need to be reviewed every 5 years. 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 in accordance with footnote 8 to the NPPF.

2.3 In the words of the Councils Barrister on the opening day of the Examination Hearings (23 May 2023):

*“Following the various public consultations which have taken place since 2018, and which led to this stage, the strategy has been formed by listening to the local community. It is based on choice and balance: The choice to decide where development should take place, and the balance between meeting need against the adverse impacts of doing so. The Government intends that the planning system should be plan led. Having an up-to-date, evidence based Local Plan allows the Borough to take a proactive approach to planning for and managing growth in a way that most benefits its present and future residents, while protecting what is most important. It has struck an appropriate balance, in seeking to proactively and positively resolve the inevitable tensions in planning considerations that arise in highly constrained Boroughs.”*

- 2.4 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.
- 2.5 At those meetings the Council agreed that:
- “The Plan had been positively prepared, was based on a strategy which seeks to meet objectively assessed development and infrastructure requirements; was justified by robust evidence; could be delivered; and was consistent with national policy. Members also accepted that the authority had carried out its responsibilities under the Duty to Cooperate and engaged effectively with our neighbouring authorities. As such, the Plan was considered to meet the test of soundness and was therefore a step closer to examination and eventual adoption”.* (Under the Duty to Cooperate councils need to engage in on-going discussions with adjoining boroughs on whether there is scope to meet each other's un-met need).
- 2.6 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, where people who have made formal comments at the last consultation (known as the Regulation 19 version) are able to appear before the Inspector to express their views. The hearings are currently underway (with the first of three weeks of hearings having taken place on 23 to 25 May). The next set of hearings are due to commence on 13 June.

#### Governance/decision making

- 2.7 New councillors may not be aware of all the stages a Local Plan needs to go through (and in particular where the Council as a decision-making body fits into this). The key elements in terms of decision making to date are:

Stage of Local Plan	Body	Date
Consult on 4 options for the <b>Local Plan</b> (1) intensify brownfield sites (2) release green belt (3) maximise development in Staines-upon-Thames (4) a combination (hybrid) approach	Cabinet	24 April 2018
Agreed the fourth option (combination) for the <b>Local Plan</b> for consultation	Cabinet	25 September 2019
Agreed the consultation response document on Preferred Options for the <b>Local Plan</b> for publication	Cabinet	23 September 2020
Agreed to proceed with the lower provisional housing figure for the <b>Local Plan</b> in anticipation it would be formally adopted.	Cabinet	4 November 2020

Government methodology then changed		
Considered a brownfield only approach, further Call for Sites, and reviewed whether a lower provisional housing figure could be used	Local Plan Task group	October 2020 – May 2021
Agreed the Analysis and Review report, the Objectives and Options report, and the Objectives and Options consultation questionnaire for the <b>Staines Development Framework</b>	Cabinet	29 March 2021
Agreed the revised strategy for the <b>Local Plan</b> (meet housing need, release approximately 0.6% of Green Belt and no longer include an additional housing allocation for Staines)	E&S Committee	13 July 2021
Agreed the Pre-Submission Publication version of the <b>Local Plan</b> and the draft <b>Staines Development Framework</b>	E & S Committee	26 April 2022
Agreed the Pre-Submission Publication version of the <b>Local Plan</b> and the <b>draft Staines Development Framework</b> <b>This is the current formal stated position of the Council</b>	<b>Council</b> <b>(25 for, 8 against, 0 abstain)</b>	19 May 2022
Confirmed that Spelthorne Council will be proceeding with the examination of the submitted <b>Local Plan</b> in accordance with the agreed timetable (considered potential implications of changes to the National Planning Policy Framework)	E & S Committee	31 January 2023

The link below will take members to the Environment and Sustainability (E&S) Committee report dated 26 April 2022. There is more detail here on how the Council has got to where it is now.

<https://democracy.spelthorne.gov.uk/documents/s43250/Report%20-%20Pre-Submission%20Publication%20Version%20of%20Local%20Plan%20and%20Draft%20SDF.pdf>

### Councillor engagement

- 2.7 It is worth noting the extensive, detailed and invaluable work undertaken by previous councillors on both the cross-party Local Plan Task Group and the cross-party Staines Development Task Group in order to get to this point. The Local Plan Task Group comprised a member from each ward plus the chair and vice chair of the task group and the vice chair of Environment and Sustainability committee (16 in all). The Staines Development Task Group comprised all Members from each Staines ward plus the chair and vice chair of the Environment and Sustainability Committee (12 in all). Overall, 21 of the 39 Spelthorne councillors on the previous Council were directly involved in this process. Between them, these task groups spent over 100 hours in 57 individual meetings between June 2020 and early 2023 (excluding all the reading and preparation work required).
- 2.8 It was noted in the report to E&S committee on 26 April 2022 that the move to agree the Local Plan for publication *“is an incredibly difficult decision for councillors to make, but it does now need to be made. Pivotal to a lot of councillor discussion and debate has been whether or not the Borough should meet its housing need in full. This has been debated vociferously by councillors over a considerable period at numerous Local Plan Task Group meetings, Environment and Sustainability Committees, as well as motions to Council. Each time, councillors have reached the conclusion that the right approach is to meet our need”*.
- 2.9 This level and extent of engagement is significantly above and beyond what has been done by other councils, demonstrating the positive working relationship between officers and councillors on this matter (though not without the necessary discussions and exchange of views along the way). 25 councillors (the majority) voted to agree the pre-submission version of the Local Plan and the draft Staines Development Framework.
- 2.10 It should be noted that the recent Peer Review (January 2023) stated:  
*“The peer team was very pleased to see the example of very good collaborative working between officers and Members at Spelthorne Borough Council in the development of the emerging Local Plan to progress it to submission stage. There is perhaps the opportunity for other areas of the Council to look at this example as well as best practice in other authorities in the light of the need to improve the Member and officer collaborative approach”*.

### Community engagement and consultation

- 2.11 The level of engagement on this Local Plan, and the Staines Development Framework, has been significantly greater in magnitude than for the 2009 adopted Local Plan. The key stages in this journey are set out below, alongside the number of people or organisations who responded. Engagement has taken place in a variety of formats, from attending community events with a stand (e.g. Staines-Upon-Thames day, Sunbury Regatta), attending resident group meetings (at their request) to update on progress and to understand issues, holding on-line consultations (which we are formally required to do), briefings with all residents groups immediately prior to each stage of public consultation, as well as drop ins at the Elmsleigh Centre over a period of weeks last summer.

- 2.12 The Communications team have ensured we have used all forms of social media to engage and reach as widely as we can. There have been regular updates in the Borough Bulletin (which goes to every household in the borough) with a specific Bulletin at Issues and Options stage, plus a 10 page pull out in Summer 2022 on the Publication version of the Local Plan (**Appendix A**). This document in particular gives a very useful overview of the Local Plan, key themes, benefits and how to respond to the consultation.
- 2.13 All the iterations of the emerging plan have been the subject of full public consultation, where all our residents, businesses and interested parties have had the opportunity to have their say. Key stages have been agreed through the formal decision-making process by Committee and prior to that by Cabinet. Whilst the Plan must comply with national planning policy and guidance, there are decisions to be made locally on the overall strategy and direction of the Plan and these have been Member-led, with support and professional advice from officers, taking account of consultation feedback. The table below sets out the formal consultation steps to date and the level of engagement:
- 2.14 Overall, the engagement undertaken to date equates to 35 weeks.

Consultation	Dates	Number of people or organisations responding
<b>Local Plan</b> Issues & Options (including events across the borough)  Set out the key issues affecting Spelthorne and the options considered for how we could meet our needs.	14 May – 25 June 2018 (5 weeks)	247
<b>Local Plan</b> Preferred Options  The selection of sites was made on the basis of maximising building on land in urban areas such as town centres, particularly Staines-upon-Thames, and to consider releasing some 'weakly performing' Green Belt for development (1.6%).	5 November 2019 – 21 January 2020 (11 weeks excluding Christmas/New Year)  6-week statutory period	437 plus seven petitions of several hundred signatures each  2,096 individual comments or representations
<b>Staines Development Framework</b> Objectives & Options	18 May – 29 June 2021 (7 weeks)	745
<b>Local Plan</b> public consultation (the Pre-Submission Publication version of the Local Plan)	15 June – 5 September 2022	335 people or organisations

This is effectively the plan the Council is putting forward to eventually adopt, which we believe to be sound.	(12 weeks) 6-week statutory period	900 individual comments or representations
<b>Staines Development Framework</b> public consultation on Draft Development Framework  This is effectively the framework the Council is putting forward to eventually adopt.	15 June – 5 September 2022  (12 weeks)	Combined with the above

### National Planning Policy Framework

- 2.15 The Government consulted on potential changes to national policy in the National Planning Policy Framework (NPPF) from December 2022 to March 2023. The Council's Environment & Sustainability Committee considered the impacts of the proposed changes on the Spelthorne Local Plan via a presentation given at a meeting on 31 January 2023, which councillors noted.
- 2.16 None of the proposed changes have been made yet and the Government says they are still reviewing the 26,000 consultation responses and whether they will make any changes. On 24 April 2023, the Housing Minister, Rachael Maclean MP, told the Levelling Up Select Committee that she does not have a date for when any changes might be made. Some industry experts predict the Government will wait until after the next general election to make changes as it is hard to balance the reforms against the acknowledged need for more homes to be built.
- 2.17 One complete unknown at the moment is if a Labour government is returned, whether they will set tougher housing targets. There certainly is a risk (whichever government is in power) that we don't know whether they will make any changes that places even more emphasis on brownfield sites/existing urban areas to deliver additional housing in order to attempt to protect the green belt. So, could be argued that it is better to adopt the current Local Plan which would give us protection for 5 years than take the risk that towns like Staines may have to face a much higher burden. The Council is obliged to consider reviewing the local plan every 5 years, but can choose to review the plan (by a single issue or more) at an earlier stage if it decides to do so. The benefit is that any such review would take place against the background of an adopted and up to date development plan which can be used to resist inappropriate planning applications.
- 2.18 Councillors will be aware the ONS figures have just been published for net migration which are significantly higher than previous years since the Standard Method was devised (even taking account of Ukraine refugees etc). The current Government already said they would review the Standard Method once the 2021 census data on household growth projections is published. Again, this raises a risk that Spelthorne's needs in terms of

housing provision will be increased, rather than decreased, when measured by the standard method.

#### Where we are now and the journey to adoption

The Planning Inspectorate are currently holding three weeks of Examination hearings as part of the examination to test the 'soundness' of our Local Plan (effectively the Plan has to pass certain legal tests which are set by central government). The stages below need to be followed:

**Initial assessment** - The inspector will look at the plan, the Local Planning Authority's (LPA's) evidence supporting it and the consultation responses to decide what they consider the main issues are. At this stage the inspector is expected to write to the Council if he considers that there are serious issues with the submitted plan. The inspector did not write such a letter and has indicated through the examination hearings that he anticipates a constructive approach from the parties involved with a view to seeing the draft local plan emerge successfully from the examination.

**Completed.**



**Written statements** - the inspector may invite written statements from participants addressing specific questions.

**Completed.**



**Hearings** - the main issues will be discussed at public hearings led by the inspector. **Appendix B** is the Opening Statement of the Council at the Examination Hearing which was given on 23 May 2023.

**We are at this stage**



**Changes to the plan** - the Inspector will let the LPA know if any changes need to be made to the plan (known as 'main modifications') in August time and these are then consulted on by the LPA. **Agreeing to go out to consult on the changes is a matter which will be decided on by the E&S Committee.** Members need to be aware that they are not able to change the Inspectors proposed main modifications. The reason for this approach is that the inspector can only suggest main modifications if, in his view, they are necessary in order to make the plan sound.

**c. September if no pause**



**Final report** - the Inspector then considers everything before him (including comments on proposed changes) and writes a final report which is sent to the LPA and published on their website. That marks the end of the examination. This will usually take at least 2 months.



**c. October/November 2023 if no pause**



**Adoption** - 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.**

**c. December 2023/January 2024 if no pause**

Decision to be made by Council

- 2.19 The current position of the Council in respect of the Local Plan is the one which was made on 19 May 2022 – which was to agree the Publication version of the Local Plan for Regulation 19 consultation. (Members should note that all responses went direct to the Planning Inspectorate and there was no ability at this stage of the process for the Council to make any further material changes to the plan). The same plan was submitted to the Planning Inspectorate (under the scheme of delegation) for formal examination in November 2022. From a governance point of view, any decision to move away from that position needs to be agreed by Council.
- 2.20 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”*.
- 2.21 The request is to ‘pause’ the hearings for a period of four months. 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.
- 2.22 There are a number of options which are open to the Council, all of which have sets of benefits and risks which are set out in the sections below. The type and number of risks and benefits are very unlikely to alter whether there is simply 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 the pause (or a potential future change in strategy).
- 2.23 After reviewing all the options, members will need to make the final decision on the level of risk appetite they have on the Local Plan e.g. the level of risk of pausing to bring new councillors up to speed, as opposed to continuing the Examination Hearings. (More information on risk appetite is provided in section 5).

**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

- 3.2 There are several benefits to a pause around enabling new councillors to get up to speed on the Local Plan. With 22 new councillors in the Chamber, it is recognised that there is considerable merit in ensuring that they are fully briefed on one of the key documents that will shape the future of Spelthorne. Set against this are a significant number of risks which officers are duty bound to make councillors fully aware of, to ensure a fully informed decision can be made.
- 3.3 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. 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 the pause. The risks still exist and are very real. In the view of officers, the likelihood of them materialising cannot be under-estimated.

Benefits of pausing	
In depth Councillor engagement	<p>Newly elected councillors will have the opportunity to be briefed on the Local Plan, the National Planning Policy Framework, housing numbers etc in advance of the Inspector concluding the Examination Hearings.</p> <p>The four-month period would allow for a series of detailed briefings which would enable councillors to be confident in actively engaging with and understanding the process, and to ask informed questions.</p> <p>This would improve decision making by all councillors who will feel fully informed of all the facts before making any key decisions.</p>
Implementing three key recommendations of the 2022 Peer Review	<p>There are a number of key recommendations coming out of the 2022 Peer Review which are relevant:</p> <p>“All Members need to identify what they have in common in terms of shared priorities and objectives for your Borough and your residents and use them to progress the delivery of your shared ambitions for Spelthorne”.</p>

	<p>"Then share your agreed political ambitions for the Borough to create a longer-term vision embodied in a broadly agreed Corporate Plan".</p> <p>"Take the time today to plan for tomorrow. Do not put off the 'non-urgent strategic' work you need to do".</p> <p>The 'pause' would give more than sufficient time for all councillors to be briefed and brought up to speed in order to then consider whether a change of approach is required to deliver an alternative shared ambition for Spelthorne.</p>
<b>Risks of pausing</b>	(Prioritised based on Councils risk scoring matrix of impact and likelihood)
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	<p>Whilst it is accepted there will be a range of views from councillors, pausing for four months might appear to some to fail to fully recognise the extensive engagement that has taken place over a number of years with the residents, business and visitors to the borough. Nor does it necessarily recognise the hard work and dedication of those councillors who sat on task groups (for over 100 hours) and who 'turned over every stone' to bring the Local Plan to this point.</p> <p>There is a very real risk that those communities who are supportive of the Local Plan as submitted become dis-engaged, frustrated and feel alienated that their views are being 'set to one side' (especially when a number of communities are very keen to see the Local Plan adopted so it provides certainty and helps provide a robust defence against predatory development).</p> <p>It is critical to the whole democratic process that all voices are heard.</p>
Pressure on our Local Plan to deliver unmet housing need for adjoining boroughs	<p>Members may be aware of the decision made by Elmbridge Borough Council (EBC) on their Regulation 19 Local Plan, which was to only meet two thirds of their housing need, and not to release any Green Belt.</p> <p>We have already objected to EBC's LP at their own Regulation 19 and they'll be submitting in the summer. Our expressed concerns are on the grounds of soundness of their approach to meeting their housing need rather than on the Duty to Cooperate.</p> <p>There is the risk that an Inspector examining their Plan, should it reach that stage, would say Spelthorne's Plan should meet some of their unmet need. (Different Inspectors could conceivably have different views).</p> <p>This is not an idle threat as this has happened elsewhere in Surrey - Waverley Borough Council had significant additional housing need from Woking and</p>

	<p>London imposed on them and were expected to plan to deliver it.</p> <p>This is an argument which was run by a number of developers on the first day of our Examination Hearings (23 May).</p>
Does not deliver certainty around housing delivery and the Council 5-year housing land supply	<p>At the Debenhams public inquiry which was held in May it was agreed between parties that the Council's housing land supply is <b>c3.5 years</b> (as opposed to the 5-years required by government). In the past the Council have had a figure of closer to 4.8 years which meant we had a much stronger position in defending against unacceptable planning applications.</p> <p>Unfortunately, the figure is heading in the wrong direction. By not having a 5-year housing land supply, the NPPF requires officers (and inspectors on appeal) to apply a 'tilted balance' to decision making which increases the prospect of planning permission being granted because it 'tilts' the balance substantially in favour of approving an application.</p> <p>It should be noted that apart from the developments undertaken by the Councils Assets team under the direction of councillors, the Local Planning Authority has no control over the delivery of the housing which is down to the housebuilding industry.</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 due to a delay in bringing forward their own replacement local plan.</p> <p>York Council has had an appeal allowed by the Secretary of State for 970 units in the green belt (Redrow Homes) in part on the basis that they could not demonstrate they had a five-year housing land supply.</p> <p>An adopted Local Plan will give greater certainty around the delivery of housing over the period of the Plan and allow the Council to demonstrate 5 years of housing land supply.</p>
Potential for unsuitable development to come forwards on green belt sites	<p>There is the very real potential for larger, more important, and higher performing Green Belt sites to come forward for development with greater prospect of success without the Local Plan progressing at its current pace.</p> <p>Our housing need is high, we have years of under-delivery against the latest objectively assessed need figures – we are currently delivering 69% of our housing need against the government figure of 75% below which there is a tilted balance in favour of development (outside of the green belt). We also have areas of Green Belt that are not performing against its stated</p>

	<p>aim, that have already been built on and that could bring additional benefits to our communities.</p> <p>Members have already separately been provided with details of those developers and site promoters who are taking an active role in the Examination hearings, and a number of these are proposers of green belt sites that the Council has not taken forwards as allocated sites in the Local Plan. These are known as ‘omission sites’ and include:</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>Every week there is a delay, the Councils ability to robustly defend such applications at committee or at appeal is weakened.</p> <p>The Council will find it even harder to defend against these developments without a 5-year supply of homes and no up to date Local Plan.</p> <p>The hearings have drawn out potentially more concern over meeting employment need and this increase the risks around the Stanwell/Stanwell Moor sites in particular, some of which are proposed within the local plan as residential instead (with support from the local community).</p>
Potentially inappropriate development continues to come forward in Staines-upon-Thames	<p>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 supporting the SDF approach reducing the potential yield of sites in town centres could be considered contrary to national policy on optimising densities in sustainable locations.</p> <p>SP1 Staines-upon-Thames contains that local policy base. It provides for the SDF to “<i>set[s] out more sensitive character areas where height and density limits will apply to new buildings. Development proposals in the relevant zones will be expected to</i></p>

	<i>comply with these limits unless, in exceptional cases, there is robust justification for a deviation that weighs heavily in favour of granting permission”.</i>
We need to show we are meeting our needs over the 15-year plan period <i>from adoption</i> (and not submission).	<p>Pausing the remainder of the Examination Hearings for a period of four months hearings would push back the adoption date. As a result, the Council would need to revisit its housing and employment supply position yet again.</p> <p>Depending on the situation at that particular time, this could result in the borough having to meet an even higher housing number.</p>
Potential of future increases in housing need numbers	If there is a new national Government after the next general election, Spelthorne would potentially be vulnerable to further increases in housing need after the Labour Party recently announced measures they would implement to tackle the housing crisis should they come into power that include ‘restoring housebuilding targets’ and building on Green Belt.
Development continues to come forward in the developed area (including on sites which in future may benefit from a Local Green Space designation)	<p>There is nothing to prevent applications coming forward at any time in the developed areas of the borough (including Staines-upon-Thames) regardless of whether it is a ‘allocated site’ or not (i.e. not constrained by green belt or other constraints such as floodplain or nature conservation designations).</p> <p>These applications would have to be assessed against the aging Core Strategy policies and national guidance, rather than emerging policies which reflect what the Council is expecting to see from future developments in the borough.</p> <p>In particular, there may be pressures on sites which do not currently have any protection afforded by the proposed Local Green Space designation.</p>
Government deadline to adopt Local Plans by December 2023 will not be met	<p>It is crucial that the plan is in place before deadline of December 2023 which has been imposed on all councils by central government. The delay of four months (up to early October) before any Examination Hearings re-commence means there is no realistic prospect of getting through the process by the end of the year.</p> <p>Failing to do so runs the risk of control of its production being taken away from Spelthorne (either to the Secretary of State or a body such as Surrey County Council).</p> <p>Effectively this would take control out of the hands of local elected members entirely, and either put in the hands of central government or County Councillors who may not have the same intensity of local focus.</p>

Unsuitable Gypsy, traveller and travelling showpeople sites come forwards.	Unsuitable green belt sites come forward for development (no brownfield sites are available or viable) with no policy basis for defending such applications as we cannot meet our need and have no policy to demonstrate alternative site provision.
Risk of legal challenge	There is a prospect that an individual with the benefit of an allocation sites, or other individuals interested to see the early adoption of the local plan, might make a legal challenge to a decision to seek to pause the plan
Re-scheduled Examination Hearings cannot be convened	<p>The Planning Inspector will already have a programme of Examination Hearings planned in for the coming months and a separate discussion would be required to re-convene the hearings in the autumn.</p> <p>The longer the delay the greater the risk that this cannot be accommodated within the Inspectors wider timetable of work which may further push back the hearing dates</p>

3.4 **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.**

3.5 This would mean the Council continues with the Plan as submitted, following the decision made by the Council on 22 May 2022. In practical terms, the Examination hearings would continue to take place, and the Inspector would then consider any changes to the plan. The process set out in the flowchart at para 2.18 would continue to be followed.

#### Member decision making

3.6 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. As set out in the flowchart at para 2.18 there are **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.

3.7 Firstly, any Main Modifications to the Local Plan recommended by the inspector will need to go out to consultation, and **the decision to consult will need to be made by the E&S Committee (September time).** 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 (e.g. government guidance actually issued) which might mean the Council wishes to review its position. Long-standing members will recall that the E&S Committee did precisely that on 31 January 2023.

3.8 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 (December/January time).**

- 3.9 Officers have made it clear throughout this whole process that members have the ability to change course and 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 (e.g. Committee or Council) to protect the position of the Council against challenge, and more importantly to demonstrate transparent decision making to the wider public.

Benefits and risks of not pausing

- 3.10 There are considerable benefits to not pausing and continuing the process to adoption in line with the timetable as set out in the approved Local Development Scheme (with some very minor slippage). This indicates that the adoption of the Local Plan and the Staines Development Framework could be achieved December 2023 or January 2024.

<b>Benefits of not pausing</b>	
Up to date Plan as per timetable	<p>Plan as submitted meets our development need in full, against the standard method housing figure we are still required to use.</p> <p>An adopted Local Plan with a 5-year land supply will allow us to defend against speculative development:</p> <p>(1) on Green Belt sites we want to see protected (using ‘very special circumstances’, whether originally proposed for allocation or not)</p> <p>(2) on urban sites of excessive density and/or height, where they may otherwise be treated more favourably without a 5-year housing land supply (e.g. Inland Homes scheme in Staines, where the lack of a 5-year housing land supply weighed in favour of allowing the appeal)</p> <p>(3) ensure a robust defence against any Green Belt applications as we would have an up-to-date supply of homes – have already received enquiries from developers, asking about the impact of changes on the Local Plan timetable</p>
No need to review the Local Plan for 5 years	<p>Having an up-to-date Local Plan which places us in a protective ‘bubble’ for five years, during which we are expecting further changes to the planning system, and these may not be in our favour, particularly if there is a change in national government. The Government says the implications of the latest Census data on the standard method will be reviewed in 2024, the same year as when general election is expected.</p>
Significantly greater proportion of affordable	<p>Policies which set out ambitious affordable housing targets, especially on undeveloped sites and mean that it will be much harder for developers to backtrack on their promises.</p>

housing on all sites	<p>Higher threshold for affordable housing, plus viability tested so more defensible - 30% on brownfield and 50% on greenfield.</p> <p>The Green Belt allocation sites will deliver most or all of our family houses with gardens (567) and a significant number of affordable homes (428).</p>
Policies to deal proactively with the Climate emergency	<p>The Plan responds positively to the climate emergency with more robust up to date policies and will be supported in time by more detailed guidance for developers and homeowners in a new a Supplementary Planning Document.</p> <p>Sets requirements on developments to incorporate mitigation and zero carbon solutions.</p> <p>See section 10 for more detail</p>
Delivering Homes to meet a variety of needs	<p>Delivery of a range of homes that will meet a variety of needs including providing family homes with gardens and enhanced standards for those with additional needs.</p> <p>Policies are included on Accessible Homes and Specialist Accommodation, as well as meeting the needs of the travelling community.</p> <p>Protection for the two Stanwell Green Belt sites from being developed for employment purposes to instead be developed for residential (which the community here opposes due to scale and HGVs).</p> <p>Protect against a Local Plan which would (without the minor green belt release) have to deliver 98-100% flats, as opposed to a greater mix with family homes (especially on the green belt allocation sites).</p>
Improvements to key infrastructure (including health and community)	<p>Improvements to key infrastructure such as education and healthcare to support growth, including an innovative new health and wellbeing centre in Staines upon Thames</p> <p>Policies make provision for appropriate levels of infrastructure to support new development, and ensure that opportunities to facilitate sustainable and active modes of travel will be taken up.</p> <p>There is a policy supporting strategic flood relief measures including the River Thames Scheme.</p> <p>Enhanced replacement community centre in Ashford, plus sports and recreation improvements to Staines and Laleham Sports Club and Ashford Sports Club.</p>
Improved Green and Blue Infrastructure and greater	<p>The Plan supports the delivery of new Green and Blue Infrastructure, offers greater protection for existing open spaces with the new Local Green Space designation (as opposed to the ineffective Public Urban Open Space designation).</p>



protection for open space	<p>Enable the enhancement of sports and recreation facilities, and securing appropriate on-site open space provision within new developments.</p> <p>There are policies to support the Colne Valley Regional Park, to recognise the importance and opportunities provided by the River Thames, and to manage flood risk</p>
Enhancing Spelthorne's unique character	<p>Policies which focus on maintaining and enhancing Spelthorne's unique character, recognising the sensitive areas need greater protection, setting positive design standards and ensuring the protection of heritage assets.</p> <p>Begin work on Design Codes – 'beautiful buildings', with significant public engagement in the process to help inform and guide decisions made on planning applications across the borough.</p> <p>To optimise density of new building in developed areas where character allows.</p>
A new vision for Staines-upon-Thames	<p>Will bring new life to the town, enhancing access to the river, improving pedestrian and cycle links, creating new open spaces and managing development opportunities.</p> <p>Staines Development Framework can be implemented – requires Local Plan to be adopted at the same time. This will ensure the zoning policy comes into effect to help ensure 'appropriate' development and to reduce some building heights and densities in the most sensitive areas of Staines.</p> <p>Enable the council to deliver the Six Big Ideas – (1) connecting to the rivers (2) development that respects character (3) healthy streets for people (4) new open spaces (5) redevelopment of the Elmsleigh and Tothill area (6) design for urban living.</p>
Support for the local economy and business	<p>Policies supporting economic growth will maintain and intensify the use of the Borough's employment floorspace offer, protecting in particular the five designated Strategic Employment Areas.</p> <p>Local centres and shopping parades will be protected and supported, recognising their value to the communities they serve.</p> <p>Policy framework for supporting future expansion of the airport, if done in a sustainable and integrated way, in recognition of the potential economic benefits and opportunities that an expanded airport could bring to Spelthorne, the wider South East, and the UK as a whole.</p>
A new Sixth Form college	<p>A new Sixth Form college in Sunbury to support further education for our students so many will not need to travel out of our Borough to access courses.</p>
Delivering on the Council's	<p>Cements the Council's strategic objectives within planning policy including affordable housing (% required),</p>

CARES priorities	Environment (mitigation and carbon zero), and Recovery (supporting business, retail and town centres).
<b>Risks of not pausing</b>	
Councillor engagement	<p>Newly elected councillors will not have the opportunity to be briefed on the Local Plan, the National Planning Framework, housing numbers etc in advance of the Inspector concluding the Examination Hearings.</p> <p>However, there is still more than sufficient time to fully brief councillors before the Council receives the Inspector's report and recommendations without a pause taking place.</p> <p>This may lead to some councillors being less sure about their ability to actively engage and understand the process, and to ask informed questions in the meantime</p>
Councillors do not have the space to set the strategic direction of the Council	<p>Continuing with the process would not allow new councillors to be briefed and brought up to speed prior to potential main modifications to the plan, in order to then consider whether a change of approach is required to deliver an alternative shared ambition for Spelthorne.</p> <p>Members would not have the opportunity to identify what they have in common in terms of shared priorities and objectives in order to deliver a shared ambition.</p> <p>Nor would it allow councillors to 'take the time today to plan for tomorrow' and to focus on the important but non urgent strategic work of the Council.</p>

**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.**

- 3.11 This option potentially offers the opportunity to maximise the benefits of a 'focused window' for training to bring new councillors up to speed, whilst mitigating as far as possible the risks that a four-month pause entails.
- 3.12 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. There is space in the diary for up to three evening sessions towards the end of June, plus up to three or four sessions in July. 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 (who will need dedicated support to ensure they are fully comfortable).
- 3.13 Informal enquiries have been made to the Planning Inspectorate to understand if the pause of a minimum of two months is feasible in terms of the Inspector's other commitments. We would anticipate that the inspector to be using the period immediately after to write up his report in any event. Whilst a delay of a minimum of two months would shift this back slightly it would be less problematic than a four-month delay, when the inspector

may have expected to move on to a completely fresh Local Plan examination.

- 3.14 The Inspector has been formally advised that this ECM is taking place and the three suggested options. A response is awaited, and this will be reported via a supplementary report or a verbal update at the meeting, as soon as we have any response.

- 3.15 The key matters are very similar to the two options which have already been set out.

#### Benefits of a two-month minimum pause

- 3.16 Effectively the benefits of the two-month minimum pause in terms of councillor briefings are the same as a longer pause. 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, especially for those councillors who also work full-time.

#### Risks of a two-month minimum pause

- 3.17 The list of benefits of a shorter pause are the same as those for not pausing at all (option 2), but members should note that the two-month delay will inevitably reduce the level of benefit as they will not be delivered as swiftly. Similarly, the lists of risks set out in option 1 (the pause) remain the same, but their potential adverse effects will be mitigated somewhat by the fact that the pause is only for two-months.

- 3.18 In short, this option helps to mitigate some of the risks around the four-month pause, whilst delaying the benefits of continuing without a pause. It is recognised that this would mean Hearings being held in August.

## **4. Financial implications**

- 4.1 To continue with the Local Plan as submitted would result in no additional financial implications other than those already agreed.
- 4.2 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 (on the basis that this forms a useful context to the decision-making process for members).
- 4.3 Were the Council to decide to review the Local Plan strategy, this could mean the authority has to refresh its evidence base (as it becomes out of date). This will include updating the transport modelling, viability and possibly other evidence in relation to flooding for example. We estimate the cost could be around £100k (for which there is currently no budget). This would be in addition to the costs already incurred to date on the Local Plan review and the costs that are yet to come.
- 4.4 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. Neither cost includes the time members have spent in meetings (cabinet, committee and task group) plus engaging with their local residents. If we withdrew and took another 2 years to reach the same stage, officer costs alone would be roughly half a million.

- 4.5 Delays to the adoption of the Local Plan are likely to increase the prospect of planning applications coming forwards (on green belt sites in particular). Were these to be refused there is always the risk that the matter then goes to appeal. Regardless of whether there are any applications for costs by the appellants, the cost of defending a major appeal at public inquiry will be in the order of £100k per appeal. There is currently no budget allocation for this level of expenditure. The relevant budget for 2023/34 has already been overspent in defending the refusal of planning permission for the redevelopment of the Debenhams site.

## 5. Risk considerations

### Corporate risk register

- 5.1 The Council has a Corporate Risk Register which sets out the key risks to authority. There are currently 9 risk categories and Risk Category 1a (Housing – Development and Targets) specifically identifies that one of the five key risks in this category is that any delays in the Examination and adoption of the Local Plan is likely to continue to impact on the ability to bring forward the appropriate quantum of housing development.
- 5.2 The current Corporate Risk Register risk scoring matrix is set out below (the relevant risk category is RC1a).

IMPACT	4 (Catastrophic)				
	3 (Major)			RC2 RC3 RC5 RC6 RC8 RC9	RC1a RC1b RC4 RC7
	2 (Medium)				
	1 (Trivial)				
		1 (Rare)	2 (Unlikely)	3 (Likely)	4 (Almost certain)
		Likelihood			

- 5.3 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 set out below:

Appetite	Minimal	Cautious	Exploratory	Seeking
Strategic Planning		X		

- 5.4 This was agreed by the E&S committee in November 2022 when members agreed the service for plan for the Strategic Planning team (which forms a key element of the annual budget setting process).

### Staffing and resources

- 5.5 There is a risk that staff within the strategic planning team may decide they wish to move elsewhere in light of the current pause and uncertainty around what might follow. We would then need to recruit new staff which

may take a long time due to the scarcity of high quality qualified professional staff.

- 5.6 Even a pause may be sufficient for developers to decide to put in speculative applications which may require additional resource within the planning development management team. They are incredibly unlikely to have the capacity to absorb the additional work alongside their already very heavy workloads.

- 5.7 All other risks are set out in the three options above.

## **6. Procurement considerations**

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

## **7. Legal and governance considerations**

### 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 (on the basis that this forms a useful context to the decision-making process for members).
- 7.2 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. The Plan is the culmination of an evidence-based approach, assessed through sustainability appraisal, so it is not as simple as being able to lift elements out or drop new elements in.
- 7.3 If amendments were made, we would:
- Need to update our evidence base - a further cost and time delay. Around 12 months.
  - Need to carry out further public consultation (Regulation 19 as a minimum but potentially another Regulation 18 consultation followed by a Regulation 19 consultation). Minimum of 12 months but more likely to be 18 months if there are two stages.
  - Then resubmit the Local Plan for examination in 2025-26 (when new government guidance and political landscape may be in play).
- 7.4 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. Without a Local Plan in place, the Council may be more vulnerable to appeals and judicial review against planning decisions.

### Governance

- 7.5 Members of the previous Council will recall that councillor engagement was via the Local Plan Task Group (‘parent’) and the Staines Development Framework Task Group (‘child’). These groups have not met since May 2022. Council might want to consider whether or not they wish to re-activate these two groups, and/or review the terms of reference and the membership of each group at the same time.

- 7.6 Should members decide they want to do so, then a report would need to go to the next available E&S committee if members want to agree *revised* terms of reference (the Local Plan Task Group reports to the E&S Committee).

## **8. Other considerations**

### 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. The level of weight has increased on submission and will increase throughout the examination stage to the inspector's report on the soundness of the Plan, but full weight can only be given on adoption of both documents.
- 8.2 A 'pause' in the Examination process for four months to brief members will mean that the weight to be applied to policies which are considered by the development management team who deal with planning applications will remain static. Any reports on planning applications considered during this pause will have to place greater reliance on the National Planning Policy Framework and out of date 2009 Local Plan policies as opposed to the emerging policies in the Publication version of the Local Plan which are reflective of the Council's current position. This will limit the ability to the LPA to push back on schemes which do not meet the new policies in the Publication Version of the Local Plan.

### Housing need

- 8.3 For information, those few authorities that have attempted not to meet their housing need since the introduction of the standard methodology have so far failed. This is because the plans such as those submitted by Sevenoaks District Council and Wealdon District Council have not proceeded to full examination as 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. In that respect it is worth noting that Sevenoaks is 93% Green Belt. Plans that have had a lower number accepted were submitted under the regime that preceded the standard method.

### CARES priorities

- 8.4 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. This means we have been able to focus on how these common objectives can be achieved at a practical and deliverable level. Examples include:
- Affordable housing, where the Local Plan policy and key allocations will ensure delivery of significantly higher levels of affordable housing than we are currently achieving.
  - Environment, where climate change has been at the forefront of new policies that go much further in terms of requirements on developments to incorporate mitigation and zero carbon solutions.

- Recovery, where both the Local Plan and the Staines Development Framework have a clear emphasis on supporting local businesses and employment opportunities, enhancing our town centres and retail offer.

This is the link to the current corporate plan (Spelthorne Council corporate plan). [Corporate publications - Spelthorne Borough Council](#)

### Viability

- 8.5 It is important to set out that the whole Local Plan process needs to be underpinned by a robust viability assessment to ensure that the Plan and the SDF are deliverable and commercially sound. Policies can only be relied upon where they do not prevent development coming forward due to overly onerous requirements. The reality is that developments will only be built if they are viable to the developer and make a return, otherwise there is no incentive for them to be built here. Such requirements are on top of the Community Infrastructure Levy, which is fixed and non-negotiable, and include the level of affordable housing, sustainability measures, open space provision and additional infrastructure.
- 8.6 It is a careful balance to ensure these requirements are met without rendering schemes unviable and we have consultants advising us on these provisions within the policies themselves and the allocations. Once we are confident that they are viable and if the Local Plan is found sound on this basis and subsequently adopted by the Council, developers will find it very difficult to argue against these requirements through individual planning applications as they should have been taken into consideration when the site was acquired in negotiating the purchase price and the cost of development. This means our policies have a significantly greater chance of being upheld than under the current policies.

## **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. This means that the social element of sustainability is balanced against environmental and economic factors in developing a strategy and policies that meet the needs of residents, including aspects covering social inclusion, suitable homes, affordable housing, access to healthcare, adequate infrastructure and reducing the need to travel.

## **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. As set out in the Destination and Objectives of the Plan, this will be achieved by:
- Implementing Local Plan policies to safeguard the environment against air, noise, light and water pollution and remediating land contamination.

- Local Plan policies and allocations which support the requirement for biodiversity net gain, through partnership working and the use of Nature Recovery Strategies.
- Implementing Local Plan policies to encourage waste prevention and promote recycling.
- Implementing Local Plan policies to promote sustainable travel, including actively supporting improvements to public transport access to Heathrow.
- Promoting residential development that is sustainably located with access to existing services and transport hubs.
- Promoting energy efficiency for new buildings and refurbishments.

## 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 need to be with immediate effect. Officers would need to write to the Planning Inspector advising him of the decision of the Council, and at that point all parties would be contacted by the Programme Officer and advised that the hearings will be put on hold.
- 11.2 It should be noted there would then need to be separate discussions with the Planning Inspectorate on the availability of the Planning Inspector to accommodate two weeks of re-convened hearings several months hence.
- 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 Plan 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
<b>Hearings</b> The main issues will be discussed at public hearings led by the inspector.	October	June	August
<b>Changes to the plan</b> The Inspector will advise if any changes need to be made to the plan ( 'main modifications') and these are then consulted on. <b>This will</b>	January	September	November



<b>be decided on by the E&amp;S Committee.</b>			
<b>Final report</b> The Inspector then considers everything before them and writes a final report. This will usually take at least 2 months	February or March	October or November	December or January
<b>Adoption</b> The LPA then has to decide if it wants to formally adopt the plan as its local planning policy. <b>This will be decided on by Full Council</b>	May or June	December or January	March or April

## 12. Contact

- 12.1 Heather Morgan, Group Head Place, Protection and Prosperity ([h.morgan@spelthorne.gov.uk](mailto:h.morgan@spelthorne.gov.uk))  
Ann Biggs, Strategic Planning Manager ([a.biggs@spelthorne.gov.uk](mailto:a.biggs@spelthorne.gov.uk))  
Jane Robinson, Local Plan Manager ([j.robinson@spelthorne.gov.uk](mailto:j.robinson@spelthorne.gov.uk))

**Background papers:** There are none.

### Appendices:

#### A. Information Sheet

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

# APPENDIX FOUR – HOUSING LAND SUPPLY SOCG (37-45 HIGH STREET)

Town and Country Planning Act 1990 – Section 78  
Town and Country Planning (Development Management Procedure) (England) Order 2013  
Town and Country Planning (Inquiries Procedure) (England) Rules 2000

**Appeal by Future High Street Living (Staines) Ltd**

Against the decision of Spelthorne Borough Council to refuse to grant planning permission  
for:

***“the demolition of the former Debenhams store and redevelopment to provide 226  
build-to rent dwellings (Use Class C3) and commercial units (Use Class E) together  
with car and cycle parking, hard and soft landscaping, amenity space and other  
associated infrastructure and works.***

**At 37-45 High Street, Staines-upon-Thames**

**Appeal Ref: APP/Z3635/W/22/3312440**

**Statement of Common Ground on Housing Land Supply**

**between**

**Spelthorne Borough Council**

**&**

**Future High Street Living (Staines) Ltd**

Signed



Date

05/04/23.

**NAME** Russ Mawsey

On behalf of Spelthorne Borough Council

Signed Ben Pycroft

Date 04/04/2023

**BEN PYCROFT (Emery Planning)**

On behalf of Future High Street Living (Staines) Ltd

# Statement of Common Ground on Housing Land Supply

## **1. Matters of agreement**

*The base date for the 5 year housing land supply (5YHLS) calculation*

- 1.1. The agreed base date is 1<sup>st</sup> April 2022. Therefore, both parties agree that the relevant 5-year period for the determination of the appeal is 1<sup>st</sup> April 2022 to 31<sup>st</sup> March 2027.

*Housing requirement for the 5YHLS calculation*

- 1.2. It is agreed that in accordance with paragraph 74 and footnote 39 of the Framework, the five year housing land supply should be measured against the local housing need as calculated by the standard method set out in paragraph 2a-004 of the PPG.

*The latest Housing Delivery Test (HDT) result*

- 1.3. It is agreed that the latest HDT result is 69%.

*The buffer*

- 1.4. It is agreed that the 20% buffer applies.

*A 5YHLS cannot be demonstrated*

- 1.5. Both parties agree that a 5YHLS cannot be demonstrated in accordance with the Framework.

*The weight to be given to the 5 year supply position*

- 1.6. Whilst the shortfall in the 5YHLS is not agreed, it is agreed that the deliverable supply is within the range of 2.78 to 3.52 years. As a result, both parties invite the Inspector to determine the appeal having regard to that range within the context of the current Framework. Should a revised Framework be published prior to the determination of the appeal then both parties reserve the right to submit additional representations on 5YHLS.

- 1.7. The respective positions are set out in the following table:

## Statement of Common Ground on Housing Land Supply – 04 April 2023

		Council	Appellant
	<b>Requirement</b>		
A	Annual housing requirement	618	625
B	Five year housing requirement (A X 5 years)	3,090	3,125
C	20% buffer (20% of B)	618	625
D	Five year supply to be demonstrated at 1 <sup>st</sup> April 2022 (B + C)	3,708	3,750
E	Annual requirement plus 20% (D / 5 years)	742	750
	<b>Supply</b>		
F	5YHLS at 1 <sup>st</sup> April 2022	2,615	2,086
G	Supply in years (F / E)	3.52	2.78
H	Undersupply against 5 year housing requirement and buffer	-1,093	-1,644

- 1.8. Both parties agree that as the deliverable supply is within the range of 2.78 to 3.52 years. The parties agree that the precise position within the bracket does not alter the Council's assessment of significant weight or the Appellant's assessment of substantial weight to the benefit of providing 226 new homes. In those circumstances the parties agree that it is not necessary for the Inspector to make a finding as to where within that bracket the housing land supply falls.**

### *Affordable housing supply*

- 1.9. Based on the parties' respective 5YHLS, the (gross) affordable housing supply in Spelthorne over the period 2022 to 2027 is as set out in the following table:**

Site	Remaining Capacity at 1 <sup>st</sup> April 2022	Council's Affordable Housing in 5YHLS period	Appellant's Affordable Housing in 5YHLS period
Brooklands College, Church Road, Ashford	107	107	107
17-51 London Road, Staines	467	41	41
15 (15-51) London Road, Staines	22	2	2
The Old Telephone Exchange, Elmsleigh Road, Staines	206	70	70

## Statement of Common Ground on Housing Land Supply – 04 April 2023

Site	Remaining Capacity at 1 <sup>st</sup> April 2022	Council's Affordable Housing in 5YHLS period	Appellant's Affordable Housing in 5YHLS period
524-538 London Road, Ashford	66	7	7
Builders Yard, Moor Lane, Staines	36	7	7
Sunbury Cross Ex Services Association Club, Crossways, Sunbury	47	17	17
Renshaw Industrial Estate, Mill Mead, Staines	391	40	40
Car park r/o Tesco, Town Lane, Stanwell	127	22	22
Oast House, Kingston Road, Staines	184	184	0
Vacant Land, White House	17	17	0
Staines Fire Station	50	25 / 15	0
Ashford Multi-storey car park	45	22 / 14	0
Land at Woodthorpe Road and Station Approach, Ashford	40	20/ 12	0
Benwell House, Green Street	35	17 / 11	0
Sunbury Fire Station	12	6 / 4	0
Fir Tree Place, Church Road	8	0	0
<b>Total</b>		<b>602 / 568</b>	<b>311</b>

## **2. Matters of disagreement**

### *The Local Housing Need*

- 2.1. The Council considers that the capped local housing need is 618 dwellings per annum.
- 2.2. The Appellant considers that the capped local housing need is 625 dwellings per annum.
- 2.3. The reason for the difference is because the Council has calculated the projected average annual household growth over a 10 year period using 2022 as a starting point. The Appellant has used the current year (i.e. 2023) as a starting point.

### *The extent of the deliverable supply*

- 2.4. The respective positions are set out in the first table on page 3 above.

[ENDS]





# **APPENDIX FIVE – INSPECTOR’S LETTER TO SPELTHORNE COUNCIL DATED 8 JUNE 2023**

Daniel Charles Mouawad  
Chief Executive  
Spelthorne Borough Council  
(by email)

Our Ref: PINS/Z3635/429/8  
Date: 8 June 2023

Dear Mr Mouawad,

### **Spelthorne Local Plan Examination**

I refer to your request dated 7 June 2023 on behalf of the Council to seek a pause in the examination of the Spelthorne Local Plan to allow time for the new council to understand and review the policies and implications of the Local Plan.

Having carefully considered the Council's request, I agree that in this specific circumstance a pause in the examination for a period of three (3) months would be reasonable. Therefore, I will as a matter of urgency liaise with the Programme Officer to ensure that all participants are notified today of the immediate pause in the hearings programme.

In the meantime, I look forward to being kept updated by your Strategic Planning Team through the Programme Officer.

Yours sincerely,

*Jameson Bridgwater*

Inspector