

PROPOSED SUBMISSION EPSOM AND EWELL LOCAL PLAN (REGULATION 19)

Head of Service:	Justin Turvey, Head of Place Development
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Wards affected:	(All Wards);
Urgent Decision?	Yes
If yes, reason urgent decision required:	The Committee's decision on this matter is scheduled to be considered at a meeting of the Full Council to be held on 10 December 2024. The Committee's decision is required to be considered as urgent in order to meet the requirements of Section 100B of the Local Government Act 1972 (as amended) for the publication of the agenda for that meeting of Full Council.
Appendices (attached):	Appendix 1 – Proposed Submission Local Plan (Regulation 19) Appendix 2 – Proposed Submission Local Plan Policies Map Appendix 3 – Sustainability Appraisal and Non-Technical Summary Appendix 4 – Summary of comments on Regulation 18 Epsom and Ewell Local Plan

Summary

The purpose of this report is to present the Proposed Submission Local Plan (2022-2040) to the Committee so that they can make a recommendation to Full Council that public consultation be undertaken on the Proposed Submission Local Plan as soon as practically possible and in accordance with our Local Development Scheme (the Local Plan timetable).

The Regulation 19 consultation is the second consultation stage on the Local Plan prior to the document being submitted for examination by a Planning Inspector appointed by the Secretary of State. The Regulation 19 consultation seeks representations on legal compliance and the four tests of soundness set out in the National Planning Policy Framework (NPPF).

Recommendation (s)

The Committee is asked to:

- (1) Recommend to Full Council that the Proposed Submission Local Plan be endorsed as being sound.**
- (2) Recommend to Full Council the public consultation on the Proposed Submission Local Plan commences as soon as is practicably possible for a period of 6 weeks, dates to be agreed with the Chair of Licensing and Planning Policy Committee.**
- (3) Recommend to Full Council that following the six week consultation, as soon as is practicably possible, the Proposed Submission Local Plan 2022-2040 and all associated documents, together with a Statement including how the responses from previous consultations have been taken into account and a summary of the main issues raised in the publication stage responses, be submitted to the Secretary of State for independent examination under Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations.**
- (4) Nominate and Authorise the Head of Place Development in consultation with the Chair of Licensing and Planning Policy Committee, once the Local Plan 2022- 2040 has been submitted for examination, to invite the examining Inspector(s) to recommend any modifications they consider to be necessary in accordance with section 20(7C) of the Planning and Compulsory Purchase Act 2004.**
- (5) Nominate and Authorise the Head of Place Development in consultation with the Chair of Licensing and Planning Policy Committee, to propose changes and corrections to the Local Plan (2022-2040) and supporting documents, including policy updates, editorial, typographical and grammatical errors, during and following the publicity period, plan submission and during examination.**

1 Reason for Recommendation

- 1.1 The Council is required by legislation to review its Local Plan every five years. The Council's current Development Plan consists of three Epsom and Ewell Borough Council documents all of which were adopted more than five years ago. In the absence of an up-to-date Local Plan, the continued absence of a 5-year housing land supply and the additional measures introduced through the Housing Delivery Test, this poses risks including that of speculative planning applications and appeals.

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- 1.2 An up to date Local Plan is key to delivering other corporate priorities of the Council, including supporting the economy and reducing homelessness through the delivery of more homes, and delivering additional affordable housing in the borough.
- 1.3 The Proposed Submission Local Plan is not just about housing, it includes up-to date policies to secure higher environmental standards and quality design from development, in addition to setting out policies for shaping development in our town and local centres.

2 Background

- 2.1 The current Epsom and Ewell Development Plan consists of three locally produced documents detailed below:
 - Core Strategy (adopted 2007)
 - Plan E Area Action Plan (2011)
 - Development Management Policies (2015)
- 2.2 It is important to note that two of the above development plan documents adopted by the borough pre-date the introduction of the National Planning Policy Framework and Planning Practice Guidance, which have been updated several times since their introduction. Local Plans must be prepared to be in general conformity with National Planning Policy.
- 2.3 The Government introduced a legal requirement for all local planning authorities to review their local plans at least every five years in 2018. The Council's existing Development Plan documents are therefore considered to be out of date which has implications for the determination of planning applications in the borough. Without an up to date Local Plan in place the council could find that it is unable to resist unacceptable development or refused applications being allowed on appeal. This could result in unplanned development and in unsustainable locations.
- 2.4 Local Plans must be evidence based and therefore planning officers have undertaken a significant amount of work to ensure that the Local Plan is informed by a suite of up-to-date evidence base documents which are set out in primary and secondary legislation, national policy and guidance.

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- 2.5 National planning guidance requires local authorities to produce Local Plans. The process for preparing Local Plans is set out in the Town and Country Planning (Local Planning) (England) Regulations 2012. This includes consultation on a draft version of local plans prepared in accordance with the requirements set out under Regulation 18, which the Council undertook in 2022. Following this stage and the consideration of comments submitted, the next stage is publication of the Pre-Submission Local Plan in accordance with requirements set out under Regulation 19, followed by Submission to the Secretary of State.
- 2.6 The diagram below illustrates the Local Plan process and the stages that the recommendation of this report relates to (Stage 3 and 4):

Stage 1	Gather evidence and early stakeholder engagement
Stage 2	Public consultation on Draft Local Plan (Regulation 18)
Stage 3	Public consultation on proposed submission Local Plan (Regulation 19)
Stage 4	Submit Local Plan for Examination (Regulation 22)
Stage 5	Examination by an Independent Planning Inspector
Stage 6	Planning Inspectors Report (Regulation 25)
Stage 7	Adopt the Local Plan (Regulation 26)

Draft Local Plan 2022-2040 (Regulation 18)

- 2.7 The Council consulted on a Regulation 18 Draft local Plan in February and March 2023 in accordance with the Local Development Scheme approved in November 2022. This is stage 2 in the diagram above.
- 2.8 The draft Local Plan was a single (all in one) Local Plan that contained a strategy and proposed sites to guide how the borough will change and develop over the plan period up until 2040 as well as detailed development management policies. The Plan proposed a housing requirement of 5,400 homes over the Local Plan period including the strategic release of four green belt sites to provide 2,175 new homes.
- 2.9 We received 1,736 responses from individuals or organisations to the consultation which were published on our consultation platform.

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- 2.10 Following the close of the consultation, at an extraordinary meeting of Full Council on the 22 March 2023, a decision was made to pause the Local Plan and only allow specific tasks to be undertaken in relation to the Local Plan.
- 2.11 On the 24 October 2023, at an extraordinary Council meeting, the decision was made to un-pause the Local Plan. Following this decision to un-pause the Local Plan, the Licensing and Planning Policy Committee approved a revised Local Development Scheme (the timetable for preparing the Local Plan) in November 2023 which states that consultation on the Proposed Submission Local Plan will take place in January and February 2025. However, following the change of Government and the publishing of new deadlines for plans in development we intend to move to Regulation 19 as soon as possible following approval by Full Council.

3 Proposed Submission Local Plan (Regulation 19)

- 3.1 The Proposed Submission Local Plan (attached as Appendix 1) is based on the structure of the Regulation 18 plan and is informed by national planning policy and guidance, county plans and strategies and other district and borough council's local plans as well as a detailed evidence base on matters such as housing and economic needs, flood risk, climate change, Gypsy and Traveller needs, and future retail needs.
- 3.2 The consultation responses to the 2023 consultation have been taken into account, and these are summarised in Appendix 4, along with changes made to the draft Local Plan.

Environment and Sustainability

- 3.3 Policies in the Proposed Submission Local Plan promote sustainability and seek to ensure that new developments contribute to climate change mitigation and adaptation.
- 3.4 The core changes from the Regulation 18 Local plan in terms of environment and sustainability are:
- Updates to the Policy on Flooding and Sustainable Drainage (Policy S15) in response to comments from the Environment Agency and the Lead Local Flood Authority (Surrey County Council).
 - Requiring building emission standards that exceed the buildings from all developments delivering additional dwellings or non-residential development.

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- Requiring biodiversity net gain requirements that exceed the national minimum of 10% from specific greenfield housing allocations.

3.5 In addition, there have been other changes to the plan including:

- Updates to the Strategic Employment Policy (Policy S9) so that it covers a broader spectrum of economic uses in the borough and the creation of a new policy on employment land (Policy DM7).
- A new policy requiring the submission of a Health Impact Assessment from schemes exceeding 100 dwellings or 50 or more residential institution (Use Class C2) bedspaces.
- Updates to the heritage policies (Policies S12 and DM13) to reflect feedback from Historic England, Surrey County Council and the Council's Conservation Officer.
- Inclusion of a self and custom build policy (Policy DM2).

Housing

- 3.6 A key purpose of a Local Plan is to set out the scale and location of new homes to be built over the plan period. In determining the housing requirement for the borough, over the period to 2040, officers have had regard to a range of evidence.
- 3.7 The current Government's standard methodology (2024 baseline) sets an annual housing need figure for Epsom and Ewell of 569 dwellings per annum which, over the Plan period, totals 10,242 new homes.
- 3.8 A number of studies have been undertaken to inform the approach to housing delivery, including a Land Availability Assessment (LAA), Site Assessment and the Housing and Economic Development Needs Assessment (HEDNA).
- 3.9 In total 456 new homes have already been built in the borough during the period 2022 to 2024 and a further 667 homes have planning permission (as of the 1 April 2024), although to reflect that some permissions are not implemented, we have applied a 10% best practice lapse rate which reduces the supply to 600 dwellings from this source. The remaining supply will come from sites allocated for housing in the draft Local Plan and 'windfall' sites.
- 3.10 Work undertaken on potential capacity identified that sites from within the urban area, and other sources listed above, did not provide sufficient capacity to deliver the housing need set out by the standard methodology. In line with guidance in national planning policy and under the duty to co-operate, discussions were held with neighbouring authorities as to whether unmet needs could be met elsewhere.

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- 3.11 These discussions have concluded that our housing needs cannot be met in neighbouring and other local authority areas.
- 3.12 The Proposed Submission Local Plan proposes a housing requirement of 4,700 homes over the Local Plan period (equivalent to 261 dwellings per annum) and identifies a supply of 4,928 homes. This small surplus over the requirement is to provide flexibility which is best practice, should sites not deliver as expected over the plan period.
- 3.13 The housing requirement contained in the Proposed Submission Local Plan is a reduction compared to that contained the Draft Regulation 18 Local Plan (5,400 homes) and presents a significant shortfall when compared to the need generated by the standard method. However, officers consider that this position is in accordance with paragraph 11b(i) and (ii) of the National Planning Policy Framework (NPPF, 2023).
- 3.14 The Strategy contained within the Local Plan has been assessed along with 6 other growth scenarios (reasonable alternatives) through the Sustainability Appraisal that is published alongside the Local Plan (attached as Appendix 3). Officers consider that the Local Plan Strategy (scenario 5 in the Sustainability Appraisal) provides the optimal balance when assessed against social, environmental, and economic objectives.
- 3.15 Table 1 below summarises the source of housing supply for the Local Plan period.

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Table 1 - Sources of housing supply over the Local Plan period: 2022-2040	
Source of supply	Net number of dwellings
Housing completions to date (1 April 2022 to 31 March 2024)	456
Commitments (permissions as of April 2024) with 10% lapse rate applied	600
Windfall (1-4 units)	455
Windfall (5-19 units)	407
Large urban sites (20+ units)	1,308
Small urban sites (5 to 19 units)	110
Allocations beyond current urban area to be inset from the Green Belt	1,580
Total supply over the plan period	4,916

- 3.16 In preparing the proposed growth strategy for the borough, officers have taken into account the need to balance the provision of new homes (including affordable housing) with environmental and policy constraints such as land designated as Sites of Special Scientific Interest, Sites of Nature Conservation Importance, Local Nature Reserves and Green Belt.
- 3.17 The proposed strategy directs development first to the most sustainable locations, making the best use of previously developed land in the urban area. In sequential order these locations are:
- Epsom Town Centre - Epsom town centre is the most sustainable location in the borough to accommodate new high density housing development due to its greater access to public transport, services and amenities. The town centre is the most sustainable location for other uses such as new retail, leisure and office development and as a result 13 sites are allocated for development in this area.
 - Kiln Lane and Longmead Industrial Estates – most appropriate for intensification for employment uses to support the borough and wider regional economy over the local plan period.

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- Other centres and train stations within the urban area - These centres fulfil several important functions for the borough including providing a distinct place identity and a hub for the community through convenience shopping and other commercial services such as professional services, restaurants and public services like libraries. Infill and redevelopment opportunities should be taken to increase the numbers of residents served by these centres. This will help to make them more viable in the long term.
 - The wider urban area - between the borough's network of centres; between the pedestrian catchments of its railway stations; away from the borough's principal road corridors, opportunities will arise for the redevelopment of sites. It is important these sites that come forward for housing growth accommodate development that makes efficient use of available land.
- 3.18 Whilst these sustainable locations are the preferred locations for new development, it is considered that they cannot deliver adequate housing to meet our social responsibilities for providing housing, in particular affordable housing. For this reason, the proposed Spatial Strategy incorporates appropriate previously developed land within the existing built-up area currently designated as Green Belt and green field land in the most sustainable locations adjacent to the existing built-up areas that is currently designated as Green Belt.
- 3.19 The proposed strategy locates a significant proportion of new homes within Epsom Town Centre contributing to its regeneration and making efficient use of land, for example the following strategic sites are allocated:
- SA1 – Southern Gas Network Sites – approximately 455 dwellings and a bespoke performing arts centre for the Laine Theatre Arts.
 - SA2 – Hook Road Car Park – approximately 150 dwellings
 - SA5 – Epsom Town Hall – approximately 90 dwellings
 - SA7 – Former Police and Ambulance Station Sites – 85 bed care home
 - SA9 – Depot Road and Upper High Street Car Park – approximately 100 dwellings
 - SA12 – Global House – approximately 75 dwellings
- 3.20 Outside of Epsom town centre are approximately 17 site allocations within the wider urban area that will contribute towards meeting the development needs of the borough, these include allocations for specialist forms of accommodation for older people at the following allocations:

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- SA18 - Land to the Rear of Rowe Hall
- SA29 – 65 London Road - Care home
- SA30 - Epsom General Hospital

Gypsies and Travellers and Travelling Showpeople

- 3.21 The Council has a responsibility through the National Planning Policy Framework (NPPF), Planning Policy for Traveller Sites (PPTS) and other legal requirements to assess and plan for the housing needs of all residents, including the Gypsy and Traveller and Travelling Showpeople communities.
- 3.22 A Gypsy and Traveller Accommodation Assessment (GTAA) was prepared in 2022, to provide robust evidence in respect of Gypsy, Traveller and Travelling Showpeople needs for the Borough across the Plan period.
- 3.23 The GTAA identified a need for at least 10 pitches for Gypsies and Travellers meeting the then planning definition. However, in December 2023 the Government revised the planning definition to include those who have ceased to travel permanently. As a result, the identified need for Gypsies and Travellers meeting the planning definition has increased to 18 pitches.
- 3.24 There are two public gypsy and traveller sites in the borough managed by Surrey County Council and it has been confirmed that there is no opportunity to expand or intensify these sites to provide additional pitches. Through the call for sites undertaken there have been no sites put forward for gypsy and traveller accommodation in the borough.
- 3.25 The Local Plan provides a criteria based policy for assessing gypsy and traveller applications against and for protecting the existing sites. However, there is no certainty additional sites will come forward in the urban area, and it is for this reason that the proposed Local plan contains a requirement for 10 Gypsy pitches to be provided as part of the Strategic allocation at Horton Farm.
- 3.26 The Council has also engaged with neighbouring Local Authorities through the duty-to-cooperate but no authority has identified any capacity to help meet gypsy and traveller needs.

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Employment and retail

- 3.27 The HEDNA identifies the need for approximately 35,000sqm of additional floorspace for these uses over the Local Plan period. The industrial and storage / distribution needs are planned to be met from existing commitments (such as the Big Yellow consent that will deliver approx 1,850 sqm of storage and distribution (B8) floorspace and a small amount of office floorspace) and the intensification of sites within the allocated strategic employment area and a small extension to the strategic employment site on land at Gibraltar Crescent.
- 3.28 In the light of changing market requirements office floorspace growth needs are considered to be far less certain, with a focus more on improvements to the quality of existing stock, through refurbishment, rather than a requirement for additional land supply.
- 3.29 Evidence on town centre uses suggests that there is limited need for additional retail floorspace in the borough in addition to proposed developments and vacant floorspace and having regard to the changing way in which people shop and the growth of internet shopping. Epsom town centre will continue to be the focus for town centre uses along with the Local Centres, and the neighbourhood parades will continue to serve an important local function.

Green Belt

- 3.30 National policy states that Green Belt boundaries should only be amended in exceptional circumstances and highlights the need to promote sustainable patterns of development when reviewing boundaries.
- 3.31 Paragraph 146 of the NPPF states that before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the strategic policy-making authority should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development. This will be assessed through the examination of its strategic policies, which will take into account the preceding paragraph, and whether the strategy:
- a) makes as much use as possible of suitable brownfield sites and underutilised land;
 - b) optimises the density of development in line with the policies in chapter 11 of this Framework, including whether policies promote a significant uplift in minimum density standards in town and city centres and other locations well served by public transport; and
 - c) has been informed by discussions with neighbouring authorities about whether they could accommodate some of the identified need for development, as demonstrated through the statement of common ground.

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- 3.32 Through the Local Plan the use of suitable brownfield sites and underutilised land in the borough have been maximised, such as the sites set out in paragraph 3.19 of this report. Turning to criteria b, densities of sites within the urban area have been maximised having regard to character and heritage limitations. In terms of criteria c, the Council has been proactive in engaging with our neighbouring authorities to determine whether they can assist in meeting our unmet needs for housing and gypsy and traveller accommodation.
- 3.33 It is important to note that there is no definition in national planning policy or guidance as to what constitutes exceptional circumstances, however there is case law¹ on this matter which identifies the following tests for making a decision as to whether exceptional circumstances can be demonstrated at the strategic level for reviewing Green Belt boundaries through the Local Plan process:
- the acuteness/intensity of the objectively assessed need (matters of degree may be important);
 - the inherent constraints on supply/availability of land prima facie suitable for sustainable development;
 - (on the facts of this case) the consequent difficulties in achieving sustainable development without impinging on the Green Belt.
- 3.34 The acuteness / intensity of the unmet need against the standard method is well documented, as set out in Table 1, without Green Belt release the borough is only able to accommodate 3,348 dwellings (approximately 33% of the standard method).
- 3.35 In terms of land supply, it is limited, due to the nature of the borough with the urban area tightly bounded by Green Belt and some parts of the borough's Green Belt are protected by other designations which limit their development potential, such as being designated as Sites of Special Scientific Interest (SSSI), Local Nature Reserves (LNR) or Areas of Great Landscape Value (AGLV).
- 3.36 In terms of the difficulties of achieving sustainable development without impinging on the Green Belt, the Council needs to increase the delivery of affordable housing to meet existing needs, for example the Council's Housing Register is also a core consideration, with numbers on the list having increased from approximately 1,200 households in 2022, to 1,350 households. This demonstrates a significant need for additional affordable housing delivery in the borough. In addition, the Council requires the release of Green Belt to assist in meeting some of the need for Gypsy and Traveller accommodation in the borough over the Local Plan period.

¹ Calverton Parish Council v Greater Nottingham Council and Others [2015] EWHC 1078 (Admin)

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- 3.37 For the reasons set out above it is considered that there are exceptional circumstances to release land from the Green Belt to assist in meeting development needs over the plan period to deliver sustainable development.
- 3.38 The Proposed Submission Local Plan therefore includes amendments to the borough's Green Belt Boundaries, these consist of three core types of changes:
- Minor boundary amendments to address anomalies in the current green belt boundary, for example the boundary not reflecting property boundaries (clear defensible boundaries)
 - Insetting areas that are currently designated as Major Development Sites in the Green Belt as they have been assessed as poorly performing green belt that do not meet the overall aim of the Green Belt to prevent urban sprawl by keeping land permanently open.
 - The release of five land parcels (two of which are contained within the areas proposed to be inset that currently form major development sites).

Insetting of developed areas in the Green Belt

- 3.39 The first type of change detailed above, is the insetting of developed areas at the five Hospital Cluster Sites (the boundaries are shown on the Policies Map – Appendix 2). These sites have been developed in phases over the Local Plan period and have been 'washed over' by the Green Belt, although Policy DM2 of the Development Management Policies DPD (adopted 2015) contains a policy enabling infilling within the Major Development Sites as defined on the Epsom and Ewell Local Plan 2000 policies map.
- 3.40 Since the last review of the Green Belt boundaries there have been changes to national planning policy regarding the approach to the designation of settlements within the Green Belt.
- 3.41 Green Belt Studies have been prepared to support the Local Plan. The evidence concludes that the five hospital clusters do not exhibit an open character and do not contribute significantly to the openness of the Green Belt. The Proposed Submission Local Plan therefore removes (insets) parts of the five hospital sites from the Green Belt (as shown on the policies map). It is important to note all other designations that apply to these areas (such as conservation area designation) will not be affected by this change. In addition, the removal of these areas from the Green Belt does not affect permitted development rights.

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- 3.42 In addition, to the above, it is proposed to inset part of the NESCOL site from the Green Belt that consist of college buildings or car parking (as shown on the policies map). The NESCOL playing fields and urban farm are proposed to remain in the Green Belt.

Site Allocations in land currently designated as Green Belt

- 3.43 The Proposed Submission Local Plan contains two allocations at West Park which focus on the remaining areas of NHS estate that are either vacant or due to be vacated in the near future. The allocations which are on previously developed land are:

- SA31 Land at West Park Hospital South - approximately 50 dwellings
- SA32 – Land at West Park Hospital North - approximately 150 dwellings

- 3.44 The remaining three allocations in the Plan form part of a strategic cluster of sites to the North West of the borough, these allocations are:

- SA33 – Land at Chantilly Way – approximately 30 dwellings
- SA34 – Land at Hook Road Arena – a new sports hub to include playing pitches, a pavilion and changing facilities on the majority of the site. Approximately 100 homes are also proposed as enabling development on the eastern part of the site (which is surrounded on three sides by existing residential development).
- SA35 – Land at Horton Farm – allocated for approximately 1,250 homes (C3) including some specialist housing and self-build plots, 10 gypsy and traveller pitches, community building and new public park of approximately 7ha in addition to other areas of green and blue infrastructure.

Risks of amending the Proposed Submission Local Plan Spatial Strategy as recommended.

- 3.45 As set out above the spatial strategy and site allocations detailed within the Proposed Submission Local Plan have been informed by an evidence base and have been subject to a sustainability appraisal (SA) / strategic environmental assessment (SEA). The Local Plan seeks to address the balance between meeting development needs and protecting the borough's environment and as a result does not propose to fully meet the housing needs generated by the standard method.

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- 3.46 Whilst officers recognise that the Local Plan includes sites that may be considered to be contentious as they are currently located in the Green Belt and that this committee may recommend to full council that some of these sites be removed prior to the Proposed Submission Local Plan being subject to consultation, we wish to highlight that officers consider that this would significantly increase the risk of the Local Plan being found unsound at the Examination stage.
- 3.47 If for example, committee recommends to Full Council that any of the key greenfield green belt sites that are proposed for housing (Site Allocations SA32-SA35) are to be removed from the Local Plan prior to consultation this would:
- Significantly increase the level of unmet need against the current standard as the Local Plan would be delivering up to 1,380 less homes over the plan period.
 - Significantly reduce the council's ability to deliver affordable housing. Policy S6 (Affordable Housing) requires 40% affordable housing from greenfield sites, which has been concluded to be viable. Site allocations SA32-SA35 could deliver approximately 550 affordable homes over the Local Plan period which will make a significant contribution to supply.
 - Limit the delivery of a mix of housing, including family homes (both market and affordable) for which there is an identified need over the Local Plan period. Sites within the urban area tend to deliver higher density residential developments such as apartments as opposed to family homes. This is partly due to development viability (the existing use value of the site) and partly due to the need to make efficient use of land in accordance with national planning policy.
- 3.48 The failure to deliver a significant increase in affordable homes is likely to result in increased costs to the council for temporary accommodation for homeless households. The council spent over £1.6 million on nightly paid accommodation in 2023/24 with the highest temporary expenditure being for family sized households.

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3.49 In addition to the potential implications identified above in terms of housing supply and mix, it is important to note that the council is required to plan to meet the needs of Gypsy and Travellers in the borough. Gypsies and Travellers are protected by the Equalities Act 2010 and Housing Act 1996 (as amended). Site allocation SA35 – Land at Horton Farm - contains a requirement to provide 10 gypsy and travelled pitches to assist in meeting some of the unmet need over the plan period. The approach of requiring a small number of gypsy pitches as part of strategic housing allocations in local plans is not uncommon. Without this allocation the council will not be providing any additional gypsy accommodation through the local plan process, this will come under intensive scrutiny at examination.

3.50 Turning to wider benefits:

- Site allocation SA34 - Hook Road Arena provides the opportunity to deliver a sports hub for the benefit of the community which will assist in meeting the deficits in sporting provision identified in the borough's Playing Pitch Strategy.
- Site allocation SA35 – Land at Horton Farm provides for approximately 7 hectares of public open space to the North of the site adjoining the Horton Cemetery, in addition to other wider community benefits such as the requirement for a community building capable of being used for early years provision and potentially primary health care capacity.

Consultation on the Proposed Submission Local Plan

3.51 Publication of the Proposed Submission Local Plan must be in accordance with the regulations with specific documents to be prepared to support the consultation including:

- The proposed submission Local Plan (Regulation 19)
- Local Plan Policies Map
- Sustainability Appraisal
- Habitats Regulations Assessment
- Consultation Statement
- Statement of Representations Procedure and Statement of Fact
- Equalities Impact Assessment
- Duty to Cooperate Statement of Compliance

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- 3.52 It is important to note that any changes made to the Local Plan at committee or Full Council will require the above documents to be updated prior to public consultation commencing.
- 3.53 The Local Plan will be published as both a pdf (with hard copies available during the consultation at local libraries and the town hall – during opening hours) and using our digital consultation platform.
- 3.54 The consultation must be consistent with the principles set out in the councils adopted Statement of Community Involvement (2022) and in summary will comprise:
- Notification to all those on the Planning Policy database (includes statutory consultees)
 - Information on the Council's website
 - Information in the borough's libraries and at the Town Hall

What happens after the public consultation on the Regulation 19 Local Plan?

- 3.55 Once the consultation has closed officers will need to:
- Process all the representations received during the consultation period – manually uploading emails and written responses to the consultation portal is time consuming.
 - Summarise the main issues raised during the Regulation 19 consultation and produce a statement setting out the consultation undertaken throughout the Local Plan process – this is essentially an update to the consultation statement attached as Appendix 4. This requires a planning officer to read each of the representations in detail and interpret the response and identify the core issues being raised.
 - Prepare statements of common ground with statutory consultees following the receipt of their formal responses at Regulation 19 Stage. We anticipate statements of common ground with Surrey County Council and neighbouring authorities as a minimum. The number of statements of common ground will depend upon the issues raised by statutory consultees during the consultation period.
- 3.56 The comments received during the consultation are also forwarded to the Secretary of State for consideration by the Planning Inspectorate alongside the Proposed Submission Local Plan.

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- 3.57 Having considered the Regulation 19 consultation responses, the council should only submit its Local Plan if it is considered to be sound and there will not be delays of over 6 months during the examination because significant changes or further evidence work are required. It is important for Members to note the revised guidance provided to Planning Inspectors that in effect move away from shortfalls or fixes being worked on within the examination period leading to lengthy delays. This places a greater onus on council looking to submit plans for examination to ensure that all is as it should be prior to submission in light of the reduced ability to fix the plan during the examination process (see section 3.63 onward).

Local Plan Submission and examination

- 3.58 Once the tasks detailed in paragraphs 3.51 – 3.54 above are complete and officers are satisfied all legislative requirements are met, we will submit the Local Plan, the policies maps, other procedural documents and the evidence base to the Planning Inspectorate for examination.
- 3.59 At this time, we will also appoint a programme officer. The role of the Programme Officer is to provide administrative support to the examination and provide the channel of communication between the Inspector, the council and the other participants in the examination outside of the hearing sessions.
- 3.60 It is important to note that once the plan has been submitted, the Inspector will take control of the examination process from start to finish. It is therefore important that the council submits what it considered to be a sound local plan to the Inspectorate.
- 3.61 The council will create an examination library which will be hosted on our website (or a dedicated examination webpage), this will contain material relating to the examination including the submission documents, supporting evidence base and correspondence between the planning authority and programme officer.
- 3.62 A Local Plan examination will follow afterwards where a government appointed Inspector(s) will be looking to determine if the Plan is sound. This means that the Plan should be:
- Positively prepared – the plan should provide a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;
 - Justified – the plan should provide an appropriate strategy when considered against reasonable alternatives based on proportionate evidence;

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- Effective – the plan should be deliverable over the plan period up to 2040 and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
- Consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the policies of the Framework or other statement of national policy, where relevant.

Pauses during examination to undertake more work to make plans sound

- 3.63 It is important to note that on the 30 July 2024, the new Minister of State, Matthew Pennycook MP, wrote to the Planning Inspectorate (PINS) directing them to no longer allow pauses to local plan examinations of more than six months.
- 3.64 This direction marks a step change from the government's position since 2015 that inspectors should allow "deficient plans" to be "fixed" during the examination process. The Minister of State considers that this "pragmatic" approach had gone too far, fuelling the doubling in the length of examinations from an average of 65 weeks in 2016 to 134 weeks in 2022.
- 3.65 It is important to note that Inspectors are adhering to this direction, this is reflected in the correspondence between the Elmbridge Borough Council and the Inspector appointed to Examine their Local Plan:
- 11 September 2024- Interim inspectors findings [letter](#) issued to Elmbridge Borough Council, stating that their plan as submitted was unsound but is capable of being made sound through major modifications with the necessary changes to make the plan sound and additional work required, to be undertaken within 6 months.
 - 1 October 2024 – Elmbridge Borough Council [write](#) to the Inspector requesting a pause of the examination of between 12-15 months to rectify the issues of soundness.
 - 18 October 2024 - The Inspector responds stating that the 12-15 month request is well beyond the 6 month overall time period set out in the Ministers letter of the 30 July 2024. The inspector recommends that the Plan should now either be withdrawn or the Inspector will prepare the necessary report which will conclude that the Plan is unsound.
- 3.66 The implication of the above, is that the examination stage should not be seen as the opportunity for the appointed planning inspector(s) to make significant modifications (amendments) to the Local Plan to make it sound.

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- 3.67 If the Local Plan that we submit is determined to be unsound during the examination process, we will have to re-start the Local Plan process with our plan being prepared to be in conformity with the new NPPF (see below) and the new planning system introduced by the Levelling-up and Regeneration Act (LuRA) (2023) which the new government are committed to implementing from summer or autumn 2025. This is likely to require additional resources and the updating of components of the Local Plan evidence base, specifically that relate to development needs and viability.
- 3.68 The LuRA will require Local Plans to be prepared in 30 months with plans being more focused on spatial planning matters (quantity and location of development) with other matters currently dealt with through local plans being delivered through National Development Management Policies.

Proposed reforms to the National Planning Policy Framework

- 3.69 Following the publication of a Written Ministerial Statement (WMS) entitled 'Building the homes we need' which is an expression of Government policy, the new Government launched a consultation on changes to the National Planning Policy Framework (NPPF) on 2 August 2024 which closed on the 24 September 2024 and this committee approved the submission of a detailed response to the consultation.
- 3.70 The consultation proposed a range of reforms, with three key proposals affecting Epsom and Ewell from a plan making perspective as follows:
- a change to the Standard Method for Calculating Housing Need (the "standard method"), which for Epsom and Ewell will mean an increase from the current standard method derived target of 576 per annum to 817 per annum,
 - alterations to national Green Belt policy, including the introduction of a new category of land known as Grey Belt.
 - transitional arrangements for Local Plans which set out instances where local plans will be examined against the current (December 2023) version of the NPPF once the new version is published.
- 3.71 We understand that there has been a significant level of response to the government consultation, however we understand the government intends to publish the revised NPPF by the end of the year.
- 3.72 It will only be once the revised NPPF is published that we will know what the details are and what the implications are for the borough and our emerging Local Plan, this includes the transitional arrangements that will apply for Local Plans.

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- 3.73 However, it can be seen from the WMS and NPPF consultation that the indications are that the borough will be expected to provide significantly more housing under the new system than at present. Were the figure to, as is suggested in the consultation, increase to 817 dwellings per annum, then this would significantly increase the need for sites compared to this proposed submission Local Plan, which would be likely to result in the need to include more land that is currently designated as Green Belt which is not proposed for development within this proposed submission Local Plan.

4 Risk Assessment

Legal or other duties

4.1 Equality Impact Assessment

- 4.1.1 An Equality Impact Assessment has been prepared to appraise the Proposed Submission Local Plan (regulation 19) to ensure that the plan itself promotes equality and does not discriminate. The work concludes that there the Local Plan will not impact negatively on specific groups.

- 4.1.2 The EIA will need to be updated in light of any changes committee make to the Proposed Submission Local Plan.

4.2 Crime & Disorder

- 4.2.1 None arising from this report.

4.3 Safeguarding

- 4.3.1 None arising from this report.

4.4 Dependencies

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

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

- 4.4.2 Changes committee makes to the Proposed Submission Local Plan could impact the ability to deliver the above dependencies.

4.5 Other

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- 4.5.1 If members recommend changes to the proposed submission Local Plan, specifically in relation to site allocations, there is an increased risk that the Local Plan will be found unsound at the examination stage. As noted above, the planning inspectorate are limiting opportunities to 'pause' local plan examinations to address soundness issues identified during the examination stage to 6 months.
- 4.5.2 The implications of the plan being found unsound are that the council would need to recommence plan making under the new planning system, which would likely come at additional cost (see financial implications below) and would significantly increase the length of time it would take to get an up-to-date local plan in place. The lack of an up-to-date local plan increases the risk of speculative planning applications and planning by appeal.

5 Financial Implications

- 5.1 There are no direct financial implications as a result of this report. Local Plan funding has already been secured in terms of staffing within the Planning Policy team, funding for specialist external support in the preparation of technical evidence base documents and the costs of Examination (including appointment of a programme officer)
- 5.2 There are, however, three indirect financial implications associated with progressing the Local Plan. The first would arise if a decision is made not to recommend the Local Plan to Full Council, as there are likely to be additional costs in preparing an up to date local plan.
- 5.3 The second would arise if the council consults on a regulation 19 Local Plan that is found to be unsound by the planning inspectorate, as detailed in section 4.5, as again there are likely to be additional costs in preparing an up to date local plan.
- 5.4 The third relates to any delay in submission, leading to the risk of increased speculative planning applications, which if refused by the council, may be subject to planning appeals. Defending planning appeals, especially those held as public inquiries, are expensive and will require additional resource.
- 5.5 **Section 151 Officer's comments:** The Council has earmarked significant sums to fund the current Proposed Submission Local Plan. Should the risks highlighted in sections 5.2 or 5.3 arise, the likely scale of these costs would make it unfeasible to fund from within the existing Committee budget envelope, necessitating a request to Strategy & Resource Committee for further funding.

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- 5.6 The estimated balance of uncommitted funds within the Corporate Projects reserve stands at £1.823m, which after removing the minimum balance, leaves only £823,000 for all future corporate funding requests. Any requirement to fund further costs highlighted in section 5.2 and 5.3 would seriously reduce the Council's ability to manage future risks.

6 Legal Implications

- 6.1 The Proposed Submission Local Plan will be examined for soundness after submission to the Secretary of State. There are various potential risks to the plan being found sound, and it may be vulnerable to a legal challenge by way of judicial review on grounds such as procedural defect or flaw, or failure to take into account any relevant material consideration.
- 6.2 In either case, it is essential that we can show that we have observed the procedural steps and requirements set out in the relevant regulations. These include not only the Town and Country Planning (Local Planning) (England) Regulations 2012, but also the Environmental Assessment of Plans and Programme Regulations 2004 and the Conservation of Habitats and Species Regulations 2017 (as amended).
- 6.3 During its preparation, the Local Plan has been the subject of Strategic Environmental Assessment in accordance with the Environmental Assessment of Plans and Programme Regulations 2004 and an Appropriate Assessment in accordance with the Conservation of Habitats and Species Regulations 2017.
- 6.4 We will need to show that we have prepared our Local Plan with regard to National Planning Policy (currently the NPPF, 2023) and the National Planning Practice Guide (digital resource), as well as creating and maintaining an up to date and proportionate evidence base to inform our policy decisions.
- 6.5 **Legal Officer's comments:** Consultation on the Local Plan is required by the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) ("LPR"). The provisions relating to consultation on the draft Local Plan are addressed by Regulations 18 and 19.
- 6.6 Under section 110 of the Localism Act 2011 a local planning authority has a duty to co-operate in relation to planning of sustainable development. The duty requires the local planning authority to engage constructively, actively and on an ongoing basis in the preparation of the development plan documents. This would include the preparation of the Local Plan.

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- 6.7 Looking ahead to the Examination in Public, the Council will have to show the Inspector that it has discharged this duty from the earliest stages of the Plan's preparation. The Council will be required to demonstrate how co-operation with its partners and neighbouring councils has fed into the Plan-making process. In this regard, Para 3.10 and 7.5 of this report detail the Council's efforts to comply with this duty.
- 6.8 Under Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012 local planning authorities must review a local plan every five years from the date of their adoption.
- 6.9 Public consultation is required under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The people and bodies to be consulted are "specific consultation bodies", "general consultation bodies" and "such residents and other persons carrying on business in the area that the local planning authority considers it appropriate to invite representations from." Regulation 18 (3) of the Regulations requires the local planning authority to take into account any representation made during the consultation.
- 6.10 Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 states that the local planning authority before submitting a local plan must (a) make a copy of each proposed submission documents and a statement of the representations procedure and (b) ensure that a statement of the representations procedure and a statement of fact is sent to each of the specific consultation bodies invited to make representations under regulation 18(1).
- 6.11 Before submitting a local plan to the Secretary of State for independent examination, the Council acting in its capacity as Local Planning Authority (LPA) must make available a copy of each of the following documents:
- The local plan which the LPA propose to submit to the Secretary of State
 - A submission policies map, if the adoption of the local plan would result in changes to the adopted policies map.
 - The sustainability appraisal report.
 - A statement setting out:
 - which bodies and persons were invited to make representations;
 - how those bodies and persons were invited to make representations;
 - a summary of the main issues raised by those representations; and

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- how those main issues have been addressed in the local plan.
- Any supporting documents that the LPA believes are relevant to the preparation of the local plan.
- A "statement of the representations procedure" that specifies:
 - the title of the local plan;
 - the subject matter of, and the area covered by, the local plan;
 - the date by which representations about the local plan must be received by the LPA, which must be not less than six weeks from the day on which the statement is published;
 - the address to which representations about the local plan must be made; o that representations about the local plan must be made in writing or by email; and
- that representations can be accompanied by a request to be notified at a specified address of certain specified matters.

(Regulation 17 and Regulation 19(a), LPR 2012.)

- 6.12 The Council must also send a statement of the representations procedure, and a statement of the fact that the proposed submission documents are available for inspection, and where and when they can be inspected, to each of the consultation bodies invited to make representations under regulation 18(1) of the LPR 2012 (regulation 19(b), LPR 2012). This publication and notification stage provides a formal opportunity for the local community and other interested parties to consider the proposed local plan. Failure to comply as a minimum with the Council's own adopted Statement of Community Involvement could put the Council at risk of a potential legal challenge.

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- 6.13 Anyone can make representations to the Council about a local plan before the deadline date specified in the statement of the representations procedure (regulation 20, LPR 2012). Where they do, the Council must consider representations and can propose further changes to the local plan. If of a substantial nature, these changes should be further consulted on, and subject to, a sustainability appraisal before submission. It is a basic requirement of consultation that the Council must give sufficient reasons for any proposal to permit intelligent consideration and response so as to ensure that any interested party is able to participate in the plan-making process. Members should be aware that objectors may threaten judicial review proceedings if they take the view that the Council has failed to do something that it ought to have done or provided robust/sufficient evidence to justify its conclusions. In addition, should changes to the Plan be accepted post-Consultation, the Council may face legal challenge unless they agree to run a further Regulation 19 consultation should objectors suggest that they transform the Plan into something substantially different to that which was subject to consultation.
- 6.14 Having considered any representations received, the Council (acting as LPA) must submit the local plan and any proposed changes to the Secretary of State for independent examination, together with the following documents (section 20(1)(3), Planning and Compulsory Purchase Act 2004 (as amended) ("PCPA 2004")):
- The sustainability appraisal report.
 - A submission policies map (if the adoption of the local plan would result in changes to the adopted policies map).
 - A statement setting out:
 - which bodies and persons the LPA invited to make representations under regulation 18 of the LPR 2012;
 - how those bodies and persons were invited to make representations;
 - a summary of the main issues raised by the representations;
 - how any representations have been taken into account;
 - if representations were made pursuant to regulation 20 of the LPR 2012, the number of representations made and a summary of the main issues raised in those representations; and

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- if no representations were made under regulation 20, that no such representations were made.
- Copies of any representations made in accordance with regulation 20. □ Any supporting documents that the LPA believes are relevant to the preparation of the local plan.

(Regulation 22(1), LPR 2012.)

6.15 After submission to the Secretary of State, they will appoint a planning inspector to examine the local plan (section 20(4), PCPA 2004).

- If the local plan is very straightforward and uncontentious, the inspector can deal with the examination by written representations.
- The planning inspector will make an initial assessment of the local plan. If any major concerns are identified, in relation to the soundness of the plan, the duty to co-operate, or other procedural requirements, the inspector will write to the LPA setting out these concerns. If the issues cannot be addressed through correspondence the inspector may arrange an exploratory meeting.
- If the inspector considers that the LPA has not met the duty to co-operate or other procedural requirements, then the inspector may suggest that the plan is withdrawn to allow these issues to be rectified.
- If there are significant concerns about the soundness of the plan, the inspector may suggest that the plan is withdrawn, but exceptionally may also suspend the examination process to give the LPA time to undertake further work to address the issues raised.

6.16 Anyone who made representations seeking to change a local plan must, if they request, be given the opportunity of appearing and being heard at the examination (section 20(6), PCPA 2004). During the examination, the planning inspector will assess whether the local plan:

- Has been prepared in accordance with the:
 - relevant statutory requirements contained in sections 19 and 24(1)(b) of the PCPA 2004;
 - procedural requirements contained in the LPR 2012; and
 - duty to co-operate.
- Is sound.

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(Section 20(5), PCPA 2004).

6.17 At the end of the examination, the planning inspector will make one of the following recommendations:

- Recommendation to adopt
 - The planning inspector must recommend adoption of the local plan, if it is reasonable to conclude that:
 - The plan satisfies the statutory requirements contained in section 20(5)(a) of the PCPA 2004.
 - The plan is sound.
 - The LPA has complied with its duty to co-operate.

(Section 20(7), PCPA 2004).

- Recommendation not to adopt
 - If the planning inspector concludes that the statutory requirements contained in sections 20(5)(a) of the PCPA 2004 have not been met, or there are fundamental issues regarding the soundness of the plan that cannot be addressed through modifications, the inspector must recommend that the plan is not adopted (section 20(7A), PCPA 2004).
 - In these circumstances the Council will be expected to withdraw the local plan in accordance with regulation 27 of the LPR 2012 (paragraph 025, Local Plans, Publication and examination of a local plan, Planning Practice Guidance). If that occurs, until a revised local plan is brought forward to adoption, any existing local plan policies will remain in place, although some of those existing policies are likely to become increasingly out-of-date (paragraph 004, Local Plans, Key issues, Planning Practice Guidance).
- Main modifications
 - If requested by the Council, the planning inspector must recommend modifications of the local plan, if by doing so the local plan would comply with the requirements set out in sections 20(5)(a) and 20(5)(b) of the PCPA 2004 (section 20(7C), PCPA 2004) (main modifications).

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- If, however, the main modifications are so extensive as to require a virtual re-write of the local plan, the inspector can suggest that the LPA withdraws the plan (paragraph 024, Local Plans, Publication and examination of a local plan, Planning Practice Guidance).
 - The LPA must consult on all proposed main modifications. Depending on the scope of the modifications, a further sustainability appraisal may also be required (see Sustainability appraisal and report) (paragraph 024, Local Plans, Publication and examination of a local plan, Planning Practice Guidance).
 - The inspector's report on the local plan will only be issued once the LPA has consulted on the main modifications and the inspector has had the opportunity to consider any representations on these and any further sustainability appraisal report (paragraph 024, Local Plans, Publication and examination of a local plan, Planning Practice Guidance).
- 6.18 The LPA must publish the recommendations and the report of the planning inspector following an examination (section 20(8), PCPA 2004 and regulation 25(2)(a), LPR 2012).
- 6.19 This must be done as soon as reasonably practicable after receipt of the planning inspector's recommendation and report (regulation 25(1)(a), LPR 2012) or if the Secretary of State has given a direction under section 21(1) or 21(4) of the PCPA 2004 (regulation 25(1)(b), LPR 2012).
- 6.20 The LPA must also notify those persons who requested to be notified of the publication of the inspector's recommendations that the recommendations are available (regulation 25(2)(b), LPR 2012).
- 6.21 The examination process is then complete. Once this point in the process is achieved, Members will be informed and further advice as to the adoption of the approved Plan will follow at that stage.
- 6.22 Members should note that a Plan may be challenged by judicial review before it is adopted or under section 113 of the Planning and Compulsory Purchase Act 2004 if it has been adopted, but only on a point of law.

7 Policies, Plans & Partnerships

7.1 **Council's Key Priorities:** The following Key Priorities are engaged:

- The new Local Plan will contribute towards delivering the Council's Vision and priorities identified in its new five year Plan.

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7.2 **Service Plans:** The matter is included within the current Service Delivery Plan.

7.3 **Climate & Environmental Impact of recommendations:** The Local Plan will play a key role in implementing our Climate Change Action Plan, specifically Objective 4 which requires the development and delivery of a Local Plan and associated policies that contribute positively and demonstrate the Council's commitment to climate change.

7.4 **Sustainability Policy & Community Safety Implications:**

The Local Plan itself has a key role in delivering sustainable development.

7.5 **Partnerships:** The Council has a duty to cooperate with relevant stakeholders in the preparation of a Development Plan. The Council has consulted relevant stakeholder on a Duty to Co-operate Framework throughout the Local Plan Process and following the Regulation 19 consultation will prepare statements of common ground with key Duty to Cooperate bodies.

8 Background papers

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

Previous reports:

- Special meeting, Licencing and Planning Policy Committee – 30 January 2023 – Epsom and Ewell Local Plan.
- Licencing and Planning Policy Committee – November 2024 – Local Development Scheme.

Other papers:

- Background evidence that has been produced to support the Local Plan can be accessed on the Council's Local Plan evidence page at:
 - <https://www.epsom-ewell.gov.uk/residents/planning/planning-policy/planning-and-supplementary-planning-documents/evidence-base>
- Letter to the Chief Executive of the Planning Inspectorate from the Minister of State – 30 July 2024
 - <https://www.gov.uk/government/publications/local-plan-examinations-letter-to-the-chief-executive-of-the-planning-inspectorate-july-2024>
- Planning Inspectors Interim Findings letter to Elmbridge Borough Council – 11 September 2024

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- <https://www.elmbridge.gov.uk/sites/default/files/2024-09/Inspector%27s%20Interim%20Findings%20Letter.pdf>
- Letter from Elmbridge Borough Council to the Planning Inspectorate in response to interim findings letter – 1 October 2024
 - <https://www.elmbridge.gov.uk/sites/default/files/2024-10/EBC%20Response%20to%20Inspector%27s%20Interim%20Findings%20-%20Letter%20from%20Councillors.pdf>
- Planning Inspectors final response letter to Elmbridge Borough Council – 23 October 2024
 - <https://www.elmbridge.gov.uk/sites/default/files/2024-10/Elmbridge%20%20final%20response%20letter%20to%20LPA.pdf>