

# Epsom and Ewell Local Plan Examination

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**Our ref** 14836/01/SSL/SSL  
**Date** 12 September 2025  
**From** Lichfields on behalf of the Church Commissioners for England ‘The Commissioners’  
**ID** 155  
**Subject** **Matter 8: Natural Environment and Green Infrastructure**

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**1.0 Issue 8: Are the Plans policies in relation to the natural environment and green infrastructure positively prepared, justified, effective and consistent with national policy?**

**Policy S15 Biodiversity Net Gain**

- 1.1 The Commissioners’ response to questions relating to Policy S15 has been informed by Ecology Solutions – the appointed ecologist for the Horton Farm site (SA35).

**Question 10.12 The PPG states that it would be generally inappropriate for decision makers, when determining a planning application for a development subject to biodiversity net gain, to refuse an application on the grounds that the biodiversity gain objective will not be met. In light of this, is part 1 of the policy positively prepared?**

- 1.2 No, this is not positively prepared. The PPG (paragraph: 001 Reference ID: 74-001-20240214) notes that under the statutory framework for biodiversity net gain (BNG), subject to some exceptions, planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met (“the biodiversity gain condition”). This is a pre-commencement condition: once planning permission has been granted, a Biodiversity Gain Plan must be submitted and approved by the planning authority before commencement of the development.
- 1.3 Therefore, Part 1 of Policy S15 – which states that planning applications will be permitted provided that it can be demonstrated that at least 10% BNG can be achieved (with the exception of higher requirements set out in a site allocation policy) – is redundant above the mandatory national requirements that are already in place – its inclusion in the Local Plan is not necessary.

**Question 10.13 Is the hierarchy of part 2 of the policy consistent with the PPG?**

- 1.4 No. The proposed approach set out in part 2 of draft Policy S15 does not align with national guidance or legislation and is therefore not justified or sound, as currently drafted.
- 1.5 The PPG refers to the ‘Biodiversity Gain Hierarchy’ (para 008, reference ID 74-008-20240214<sup>1</sup>). The first bullet point identifies the need to prioritise the retention, where

possible, and then mitigation, where not possible, for impacts to more biodiverse habitats within any given site. This requires details of what is present within a site (the baseline) plus consideration of an emerging scheme. This element is not included into Part 2 of draft Policy S15 and it should be added.

- 1.6 In terms of off-site delivery of BNG, Part 2 of draft Policy S15 refers to a preference for this to be provided on land adjacent to or as close to the development site as possible, and then as a last resort *'if it can be demonstrated that neither of these options are either available or economically feasible'*, land within the Borough boundary only. In contrast, the PPG guidance is clear that, so long as off-site units are available in the same Local Planning Authority (LPA) or National Character Area (NCA) as the development site, then this is acceptable. It is not relevant in terms of the metric whether they are on land adjacent to, or close to, the development site or anywhere else within the LPA boundary.
- 1.7 Moreover, the position proposed by Part 2 of draft Policy S15 omits two further steps: namely: (1) securing off-site habitat units from sites which are from an adjoining LPA or NCA (or indeed further afield, beyond the adjoining LPA or NCA); and (2) the backstop of purchasing statutory biodiversity credits. Both are options set out in the national legislation and referenced in the PPG hierarchy and should therefore be included in Policy S15. Paragraph 7.56 of the supporting text in the draft Plan does refer to statutory biodiversity credits – but the wording of the policy omits this.
- 1.8 In this regard, draft Policy S15 represents a higher bar than is set out in the legislation and, therefore, this is not justified. To be sound, the wording should be amended so that it reflects the PPG and national guidance, including: omission of the 'test' of off-site provision being situated as close as possible to the site; adding reference to off-site delivery beyond the LPA boundary; and also, as a last resort, adding the purchase of statutory credits.

**Question 10.14 Part 1 of the policy identifies a higher BNG requirement in relation to site allocation policies. As the policy reads, a greenfield site which is not subject to a site allocation would only be looking to achieve a 10% BNG requirement - is that the Councils intention?**

- 1.9 Given the absence of a robust evidence base to justify the use of a higher net gain percentage for allocated greenfield sites (see question 10.5) - the 20% BNG should be removed from the Plan. The current draft requirement is not effective, given the lack of consistency and robust evidence (justification).

**Question 10.15 The PPG is clear that in order to justify such policies, they will need to be evidenced including as to local need for a higher percentage, local opportunities for a higher percentage and any impacts on viability for development. Consideration will also need to be given to how the policy will be implemented. Where is the evidence base to support the approach adopted within the Plan?**

- 1.10 The Council has published evidence in support of the proposed 20% BNG for greenfield site allocations; however, the Commissioners would question (below) how robust this is, and whether the approach is sound.

- 1.11 The Council responded to initial questions raised by the Inspector on this issue (ref. COUD\_001) and the evidence base cited refers to two key documents, provided in the appendices (ref. COUD\_001a, Appendix 9): (9a) the Position Statement – Surrey Nature Partnership (SNP) titled ‘*Recommendation for the adoption of 20% minimum BNG*’; and (9b) State of Surrey’s Nature (2017).
- 1.12 Firstly, with regard to ‘**COUD\_001a, Appendix 9a**’, an argument put forward to justify a higher BNG percentage, pertains to natural capital. In the position statement, SNP argue that the evidence for the importance of this in Surrey is growing, drawing reference to a further SNP report from 2018<sup>2</sup>. However, natural capital is not BNG – it extends beyond ecology to include retention and provision of ‘ecosystem services’ e.g. a more complex, multi-disciplinary consideration of the value that natural habitats offer in terms of a wide range of other aspects and disciplines such as air quality, carbon capture, hydrology, etc. One point noted in the Appendix is that the recognised way of measuring natural capital, in part, is BNG - however, this is the same, regardless of the context in which it is considered. Therefore, there does not appear to be any reasoning provided as to why ‘natural capital’ is a justifiable reason for the BNG target to be increased in the Plan, nor why it is particularly required for Surrey. Overall, COUD\_001a, Appendix 9a is based on a broad figure that is not directly comparable between national and local data and does not, therefore, provide the Council with a sound evidence base.
- 1.13 With regard to ‘**COUD\_001a, Appendix 9b**’, the justification is given that the extinction rate within Surrey is higher than the national extinction rate. It is noted that the document compares the measured extinction rate in Surrey (2017) with figures from the national State of Nature report (2016)<sup>3</sup>. In section 2.2 of the Surrey document (page 2), it is stated that the local extinction rate in Surrey is estimated at 11.5% since 1985 with a further 4.4% threatened with local extinction. In the document, this is contrasted with the national figures, which are estimated at 2% extinction rate and 13% threatened with local extinction. It is noted that this is based on Red List criteria. The Commissioners questions this evidence base on the following basis:
- 1 In Box 3 on page 7 of COUD\_001a, Appendix 9b, it is stated that “*for this report we have decided to assume that species with no local records for over thirty years are indeed likely to be extinct, and if this period is over fifty years our assumption is viewed as definite.*” From this, it is not clear whether there has been any survey or other formal search for the species in question on a county-wide basis in Surrey in the last 30 years or not, to provide further evidence. If this has not been completed, then the assumption of extinction could be incorrect. This can often be the case with less studied species and groups such as invertebrates, which can account for a disproportionate number of species listed of nature conservation interest and could therefore have a significant impact on the extinction percentage as quoted. Moreover, it is difficult to prove beyond scientific doubt the ‘absence’ of species, as surveys necessarily entail a ‘snapshot’ of time / effort.

<sup>2</sup> SNP (2018). *Natural Capital Investment Plan for Surrey*. Surrey Nature Partnership.

<sup>3</sup> Hayhow DB et al. (2016) *State of Nature 2016*. The State of Nature Partnership.

- 2 The second point relates to the definition of what is 'local'. It may be that the species in question is limited to a particular habitat which is rarer within the county (in this case, Surrey) than elsewhere. This could be the case for instance with species that are reliant on heathland, which is a rarer and more biodiverse habitat.

Alternatively, the species could be at the edge of its natural range in Surrey (i.e. as far north or south in terms of its national distribution), and therefore only just able to survive in the county. As such, this could mean that the species is 'lost' from a defined county but would be accommodated to one located immediately to the north.

Depending on the definition of extinction, therefore, this could be recorded as being 'locally extinct' from the county but evidently it would not be extinct nationally.

Therefore this would not be a useful comparison.

- 3 Thirdly, the national figures relate to Great Britain, and therefore include figures from Scotland, Wales and Northern Ireland. The report does not provide any breakdown or comparison by country, and therefore the stated national extinction rate may be lower than if one was to consider England only.
- 4 A final point is the evidence base cited pertains to analysis undertaken in 2016 (9 years ago). In terms of survey work to inform development, guidance issued by the Chartered Institute of Ecology and Environmental Management (CIEEM)<sup>4</sup>, is the lifespan of ecological surveys is no longer than 3 years at most, after which updated survey work is required to establish the baseline situation. Therefore, the situation could have changed since that time.

1.14 In summary, the Commissioners question the robustness of the Council's evidence base which seeks to justify a higher (20%) BNG requirement for greenfield allocations and encourages the Inspector to scrutinise this to satisfy themselves on this matter.

1.15 The Commissioners notes that the Council's Regulation 19 Viability Note – December 2024 (EVO3), considered the impact of delivering a further 10% BNG on greenfield allocations (total 20%). The assessment includes further cost required to increase BNG via onsite mitigation. Should the Inspector conclude that the policy is sound, the Horton Farm site (SA35) could accommodate the 20% BNG requirement, via the purchase of off-site credits. On current calculations, Savills - the appointed agents/ cost consultants - have confirmed that the scheme would remain viable.

**Question 10.16 A number of representations have raised concerns regarding the 20% biodiversity net gain being sought by the Plan on greenfield site allocations - are these concerns valid?**

1.16 Yes, the concerns are valid and important . For the reasons outlined above (question 10.15), the evidence base for an elevated net gain for greenfield site allocations, compared with other qualifying development proposals (i.e. all other applications with the exception of those which are exempt) is questioned.

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<sup>4</sup> CIEEM (2019) *Advice Note on the Lifespan of Ecological Reports and Surveys*. April 2019. Chartered Institute of Ecology and Environmental Management, Winchester.

**Question 10.17 Paragraph 7.53 of the supporting text indicates that 20% BNG will be sought on greenfield site allocations. Is this wording effective?**

- 1.17 No, for the reasons outlined above (question 10.15), the wording is not effective.

**Question 10.18 Part of the justification for this policy appears to rely on costings from Kent County Council. What is the relevance of these costings to the Borough**

- 1.18 These costings only provide some broad context to explain how this has been determined by another county in the same broad region (SE England) and does not provide a robust and justified approach in terms of costings that would be relevant to Surrey and the Borough specifically. The Commissioners would question how these have been derived and why these are directly relevant for sites in the Borough. If this is a Local Plan requirement, it should be justified with sound and specific local evidence.

## **Policy S16 Flood Risk and Sustainable Drainage**

**10.23 Does the policy require modifications in relation to soundness in light of the representations made by the Environmental Agency concerning part f of the policy?**

- 1.19 The suggested Environment Agency (EA) wording for part f of the policy would further enforce the requirement to manage the risk of flooding on site and elsewhere. The Commissioners have no objection to this request and can confirm that the proposals and masterplan for the site at Horton Farm (SA35) would accord with this requirement through the provision sustainable urban drainage (SuDS) features to manage run off.

**10.24 Is part b of the policy as currently drafted effective?**

- 1.20 As set out in the Commissioners' Regulation 19 representations, together, the Council's level 1 and level 2 SFRAs have informed the "Sequential Assessment," as described in National Policy and Guidance, to inform how sites are allocated in the plan with minimal flood risk. The level 2 assessment also provides further bespoke guidance for each allocated site regarding whether a further a site-specific Flood Risk Assessment (FRA) will be required on application, as well information about the FRA should be conducted - this includes information for Horton Farm (SA35).
- 1.21 Whilst the local plan is being examined under the December 2023 NPPF, the December 2024 NPPF will be the Framework for the determination of planning applications. Paragraph 180 of the 2024 NPPF clarifies that, where planning applications come forward on allocated sites which were previously subject to the sequential test at Local Plan preparation stage, it will not be necessary to reapply the sequential test. Paragraph 175 is also relevant with regard to the sequential test and master planning of sites.
- 1.22 Therefore, given Policy S16 is a development management policy, the Commissioners considers it would be prudent for the Council to ensure Policy S16 aligns with the NPPF

(2024), in this respect The following modification will assist the Council to ensure that the Plan and its policies remain effective over the plan period:

*b) Where necessary (as defined by Government Policy and Guidance), sequential and subsequent exception tests have been passed. **The sequential test will not be required where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk). Where planning applications come forward on allocated sites, applicants need not apply the sequential test again.***

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