

**Epsom & Ewell Local Plan 2022-2040 –
Examination in Public**

Examination Statement: Matter 1- Legal Compliance and the Duty to Cooperate

August 2025

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Document History

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1. Introduction/Background

- 1.1 This hearing statement has been prepared by Savills on behalf of Atkins Properties Ltd, in relation to the Epsom & Ewell Local Plan 2022–2040. It responds to the Inspector’s Stage 1, Matter 1 questions concerning legal compliance and the Duty to Cooperate, specifically with regard to the adequacy of the Sustainability Appraisal (SA).
- 1.2 Atkins Properties is promoting Land at Downs Road, Epsom (site reference COL023) for residential development. The land comprises four parcels: the northern field, which is proposed for up to 160 homes, and three additional parcels (references COL020, COL021 and WOO019) which are promoted for Green Infrastructure and biodiversity enhancement.
- 1.3 This representation raises fundamental concerns regarding the way the Downs Road site has been assessed within the SA and associated evidence base. In particular:
- The Growth Scenarios considered in the SA do not test all reasonable strategic alternatives, including combinations of sites and spatial distributions that were promoted through the Local Plan process;
 - Certain sites or areas appear to have been mischaracterised in terms of the extent of development proposed, leading to flawed assumptions about landscape or environmental effects;
 - The SA over-relies on grouping sites into broad clusters, rather than appraising the merits of individual components;
 - The distribution of development that underpins the submitted Plan is therefore based on a partial and inaccurate appraisal of options.
- 1.4 As a result, the distribution of development in the Plan is unbalanced, and the SA has not assessed all reasonable alternatives, contrary to both policy and legislation. They also undermine the robustness of the spatial strategy and the Plan’s ability to respond to the Borough’s acute housing pressures.
- 1.5 This statement provides a response to Inspector’s questions 2.4, 2.7, & 2.8, and draws on the Regulation 19 representations submitted on behalf of Atkins Properties in February 2025.

2. Response to the Inspectors Questions

Stage 1, Matter 1: Legal Compliance and the Duty to Cooperate

The Sustainability Appraisal

Q 2.4 - Has the SA tested all reasonable alternatives? Is it clear how the conclusions drawn have been justified?

- 2.1 The SA has not addressed all reasonable alternatives, and therefore the conclusions drawn are not justified.
- 2.2 Paragraphs 5.2.9 – 5.2.16 of the SA discuss whether “*is it reasonable to explore setting the housing requirement at a figure below LHN?*” The SA identifies the lack of clarity and ambiguity arising from the wording of the 2023 NPPF stating that the outcome of the standard method is “*an advisory starting-point for establishing a housing requirement for the area*”.
- 2.3 The SA recognises that it is not mandatory, under the December 2023 NPPF, to provide for the identified housing need in full, and that it is unclear that local authorities should be “required” or “expected” to release Green Belt in order to provide for housing needs.
- 2.4 The SA recognises that the mechanisms in place result in a local housing need (LHN) requirement for the delivery of 569 dwelling per annum (dpa) (10,242 total dwellings over the plan period) through the capped route, and the delivery of 736 dpa if there were to be no cap in place (13,248 over the plan period).
- 2.5 There is therefore clearly a high level of housing need in EEBC, and this is compounded by an affordability ratio of 16.8 (where the median house price is 16.8 times the median earnings of a full-time worker) as identified in paragraph 5.2.21 of the SA.
- 2.6 Chapter 5 of the SA seeks to define growth scenarios, with section 5.5 of the SA defining the reasonable growth scenarios. Table 5.2 of the SA “*The reasonable alternative growth scenarios (with constant supply components greyed out)*” identifies the alternative growth scenarios that have been assessed. It can be observed from the table that Scenarios 4, 5 and 6 have made inconsistent treatment of which sub-areas are included in the assessment scenarios. For example, the ‘south’ sub area is first included in Scenario 3, then not considered in Scenarios 4 and 5, before being included again in Scenarios 6 and 7.
- 2.7 As the only sites identified in the south sub-area, there can be no legitimate concern that their inclusion would distort the spatial balance of development across the borough. The exclusion of the south sub-area — and the combined exclusion of both the south and east sub-areas in Scenario 5 — indicates that the SA has failed to test all reasonable alternatives.
- 2.8 Table B of the SA Non-Technical Summary confirms that the highest growth scenarios considered have been rejected, largely on the basis of landscape impacts relative to Scenario 5. However, this analysis is significantly undermined by the misrepresentation of sites within the so-called “southern cluster”, which includes Land at Downs Road (COL023).
- 2.9 The Non-Technical Summary even acknowledges that a “missing scenario” exists — one “whereby Downs Farm is allocated in addition to Horton Farm (i.e. a scenario in between Scenarios 5 & 6)”. While we welcome this recognition of the SA’s shortcomings, it is essential to clarify that this should have referred to Downs Road (COL023), which was actively promoted through Regulation 18 and

19 with development proposed only on the northern part of the site. The clustering of COL023 with COL020, COL021 and WOO019 — none of which were ever promoted for built development — has distorted the landscape assessment and masked the suitability of Downs Road as a standalone allocation.

- 2.10 As set out in our Regulation 19 submissions, the SA scenarios treated COL023 as though both the northern and southern fields were proposed for development. This is incorrect. Only the northern field was proposed for housing, with the remainder of the land explicitly submitted for biodiversity enhancement and/or public open space. By failing to disaggregate this clearly defined and promoted site, the SA has assessed COL023 in an unrepresentative and misleading way. This is particularly problematic as the site could make a meaningful contribution to housing supply — potentially in a scenario that sits between Scenarios 5 and 6.
- 2.11 The Inspector's own Matters, Issues and Questions further highlight these concerns. In Matter 5, Questions 6.4–6.7 query why Downs Road and other southern/eastern sites were excluded from Scenario 5, why a combined Downs Road + Horton Farm scenario was not assessed, and whether the landscape conclusions are based on accurate assumptions. These questions directly support the contention that the SA has failed to assess reasonable alternatives — both in terms of site-specific detail and broader growth strategy.
- 2.12 It is therefore nonsensical for the Plan to propose only 4,700 dwellings when (1) the SA was not presented with correct information to assess, and (2) the potential to test a figure closer to the identified need — particularly one that reflects the updated standard method — was ignored. The plan delivers less than 50% of the identified capped need, and only around 35% of the uncapped figure, despite severe affordability pressures.
- 2.13 In summary, the Sustainability Appraisal is unsound and legally flawed. It has failed to test all reasonable alternatives, relied on inaccurate assumptions about the extent of development on specific sites, and excluded growth scenarios that could meaningfully address the borough's severe housing need.

Q2.7 - Is the distribution of housing growth supported by the SA and will it deliver an appropriate pattern of housing growth?

- 2.14 The distribution of proposed housing growth is unbalanced and will not deliver an appropriate pattern of growth.
- 2.15 The chosen scenario around which the Plan has come forward – Scenario 5 – does not allocate any development in the southern or eastern areas of the Borough. Instead, the proposed strategy is heavily weighted toward the north and west. This is despite clear evidence of site availability and sustainability advantages in the south, including at Downs Road (site reference COL023).
- 2.16 It is acknowledged that the SA refers to potential landscape impacts and coalescence concerns in relation to sites in the south and east. However, these concerns are unfounded in relation to Downs Road. Figure 6.4 of the Green Belt Study Update assigns a blanket “red” landscape sensitivity score to the entire so-called “southern cluster”, which includes COL020, COL021 and WOO019. This is a flawed conclusion: these three parcels have never been promoted for built development, but rather as part of a landscape and biodiversity enhancement strategy. They form part of the wider Downs Road site but were expressly submitted for non-developable uses.
- 2.17 The conclusions drawn by the SA, based on the Green Belt Study update, therefore rest on a mischaracterisation of what development is actually proposed. As set out in our Regulation 19 representations, only the northern part of site COL023 is promoted for housing. The remainder — COL020, COL021 and WOO019 — would deliver Green Infrastructure and biodiversity gains. Taken together, this strategy would provide a robust landscape buffer to the south of the urban edge, with scope for additional planting if needed. Moreover, topographically, the land rises southward from the

settlement edge, so any development confined to the northern field would sit discreetly in the landscape. This undermines the landscape harm attributed to this area and calls into question the SA's rationale for excluding the south from the spatial strategy.

- 2.18 The Inspector's MIQs (notably questions 6.4-6.7) highlight similar uncertainties, querying why the southern sites were excluded from growth scenarios 4 and 5, and why a scenario including Downs Road alongside Horton Farm was not tested. These questions go to the heart of the SAs failure to fairly assess the spatial distribution of development, and reinforce the point that the Plans pattern of growth is unjustified.

Q2.8 – Overall, does the SA demonstrate that the submitted plan is justified and would comprise an appropriate strategy, taking into account the reasonable alternatives

- 2.19 Overall, the SA does not suitably demonstrate that the submitted plan comprises an appropriate strategy.
- 2.20 The SA itself identifies that there are shortcomings within it, namely missing scenarios where analysis of a greater level of housing delivery could have been assessed above that identified in the selected Scenario 5.
- 2.21 Furthermore, the conclusions drawn are based upon incomplete and inaccurate evidence, as identified in paragraphs 2.16-2.17 of this response.
- 2.22 The proposals therefore do not deliver an appropriate quantum of housing, and are not based on an evidence base that has appropriately assessed what has been presented for consideration. Therefore the strategy arrived at in the SA has not appropriately considered all reasonable alternatives and is not properly justified.

3. Conclusion

- 3.1 The evidence indicates that the Sustainability Appraisal has failed to assess all reasonable alternatives and contains factual inaccuracies about the scope and extent of certain promoted sites. These issues have materially influenced the appraisal of growth scenarios and the resulting spatial strategy.
- 3.2 This raises concerns not only about the Plan's justification and effectiveness, but also about its legal compliance. A legally compliant and sound Local Plan must be based on a robust and accurate assessment of strategic options.

Appendix A : Site Location/Context Plan



Proposed Development Site
Proposed Biodiversity
Enhancement Sites



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