

## Send Neighbourhood Plan Examination Statement for the examiner

February 2020

### 1. The purpose of this document

- 1.1 The purpose of this document is to set out background information for the examination of the Send Neighbourhood Plan and to provide a statement from Guildford Borough Council, which sets out the Council's views on the document.

### 2. Legal requirements

- 2.1 The Council has reviewed Send Parish Council's submission documents against the requirements of regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended) and other relevant legislation and is satisfied that the required documents have been submitted, and that the requirements of the Town and Country Planning Act 1990 (as amended) have been met.

#### *Strategic Environmental Assessment and Habitat Regulations Assessment*

- 2.2 The Council has determined that the Plan does not need an environmental report under the Strategic Environmental Assessment (SEA) regulations. It has also been subject to Habitats Regulations Assessment (HRA) screening and appropriate assessment and the Council has determined that the Plan will not lead to adverse effects upon the integrity of European habitats.
- 2.4 Send Parish Council included a draft *Strategic Environmental Assessment Screening and Habitat Regulations Assessment Report* (prepared by Guildford Borough Council in April 2019), which sets out the above determinations, within its Basic Conditions Statement. The Basic Conditions Statement was published as one of the submission documents for the Regulation 16 public consultation on the neighbourhood plan, held between 17 January 2019 and 28 February 2020.
- 2.5 The Council updated the SEA and HRA report in January 2020 to update some of the wording and correct minor factual errors and sent the updated version to the three statutory consultation bodies under the SEA and Habitats Regulations<sup>1</sup> (Historic England, the Environment Agency and Natural England) for comment. Their responses were included in an appendix in the final version of the report, which is available to download from <https://www.guildford.gov.uk/article/16998/Send>.

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<sup>1</sup> *The Environmental Assessment of Plans and Programmes Regulations 2004* (the SEA Regulations) and *The Conservation of Habitats and Species Regulations 2017* ('the 'Habitats Regulations')

### **3. The basic conditions**

- 3.1 Neighbourhood plans must meet the basic conditions as set out in paragraph 8(2) of schedule 4B to the Town and Country Planning Act 1990 (as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004). The Council made detailed comments on the Regulation 14 version of the neighbourhood plan, which suggesting ways to improve the effectiveness of the plan's policies, as well as pointing out whether they would meet the basic conditions set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (as amended)<sup>2</sup>. The basic conditions test is the one the inspector will consider at examination, so this is what this statement solely focuses on.
- 3.2 We believe that the Send Neighbourhood Plan meets most of the basic conditions set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (as amended)<sup>3</sup>. However, we have concerns that it may conflict with the following conditions:
- a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).
  - d. the making of the order (or neighbourhood plan) contributes to the achievement of sustainable development.
- 3.3 The reasons for our concern are set out in the section below.

### **4. Policy comments**

- 4.1 This section details the Council's comments on the policies of the Send Neighbourhood Plan in section 6 of the plan (pages 21-38) where there appears to be an issue with respect to their compliance with the basic conditions for neighbourhood plans. Any amendments that may be required to the policies to comply with these conditions will also need to be made in the plan's Non-Technical summary (on pages 2-8).

#### *Policy Send 4: Green and blue infrastructure*

- 4.2 The last part of point a) of this policy supports development proposals within the parish that complies with other Development Plan policies only if "they protect the countryside setting of the settlements of Send, Send Marsh and Burnt Common and retain the gaps in between these settlements and Woking and Guildford as identified in the Character Assessment;". The gaps referred to are indicated on Map 3 of the *Send NDP Character Assessment (March 2019 – Amended September 2019)*. This is a separate evidence base document that was submitted with the plan, and not published for consultation at the Regulation 16 stage as it is not one of the submission documents listed in 15(1) of the Neighbourhood Planning Regulations 2012.

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<sup>2</sup> [excluding 2b, c, 3 to 5 as required by 38C(5)]

<sup>3</sup> [excluding 2b, c, 3 to 5 as required by 38C(5)]

- 4.3 The boundaries of the gaps are difficult to interpret from the map in the Character Assessment due to the map's small scale and poor resolution. The boundaries also appear to have been drawn rather haphazardly as the map shows areas of land within the gaps that include existing developments, for example within Gap 1 adjacent and to the east of the A347 (Broadmead Road). As it stands there is a real risk that both the Council and developers will be unable to clearly establish which areas fall within the gaps and a risk that the Council would be unable to operate this part of the policy consistently, particularly for sites close to the boundaries.
- 4.4 In the Council's view, the requirement to retain gaps in between settlements in the last part of point a) of the policy would unduly restrict development and conflict with basic condition d), which states that the making of a neighbourhood plan must contribute towards sustainable development. This would apply both for existing built up areas and undeveloped areas, including Green Belt land, where paragraph 145 of the National Planning Policy Framework (NPPF) indicates that certain types of development may be acceptable in principle, for example an agricultural or forestry building, or a rural exception housing scheme.
- 4.5 The requirement in point b) of Policy Send 4 for all developments to fund or provide green and blue infrastructure is very broad as currently worded, and, in the absence of viability assessment, could risk making smaller developments unviable. The subsequent requirement in point b) for such infrastructure to be "*proportionate to the scale of development*" is a useful inclusion as it would allow a reduced requirement for smaller schemes; such developments (e.g. minor developments and some householder developments) *can* include provision for green infrastructure through measures incorporated into buildings like integrated nesting boxes and green roofs/walls. However, there may be certain sites, for example smaller plots within existing built up areas where provision of blue and green infrastructure may not be feasible at all.
- 4.6 As the current wording of this policy does not take any account of the fact that smaller schemes may not be able to comply with this requirement, the policy could therefore be considered to conflict with basic condition a), as paragraph 34 of the NPPF and the Planning Practice Guidance on Viability (Paragraph: 002 Reference ID: 10-002-20190509) both state that plan policies should be realistic and deliverable. This shortcoming might be overcome if "*wherever possible*", or wording along these lines could be added after "*within Send Parish*", which would allow the requirement to be applied only to development proposals on sites where provision is feasible.

*Policy Send 8: Car parking provision*

- 4.7 This policy references Surrey County Council's *Vehicular and Cycle Parking Guidance SPD* (January 2018). Guildford Borough Council is not applying the standards in this SPD rigidly as paragraph 105 of the NPPF states that parking policies should be flexible and take account of the particular characteristics of particular sites. In some cases, it would not be feasible to provide off-street parking, for example redevelopment of an existing building in a narrow street or where the building plot size is too small to accommodate car parking. The policy would require new development to meet the SCC parking guidelines for off-street parking as a *minimum*, provided that "*the level of any resulting parking does not adversely*

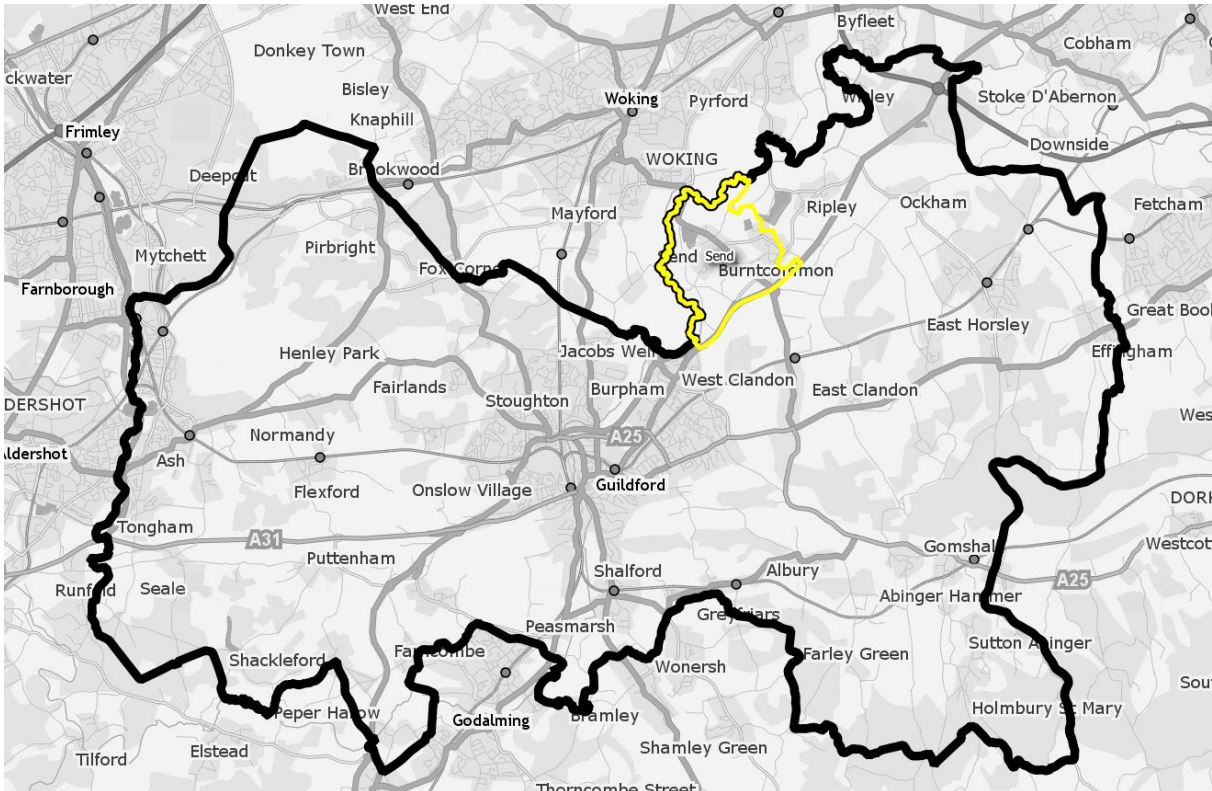
*impact road safety or the movement of other road users*". This requirement appears too inflexible with regard to basic condition a. and may benefit from adjustment to ensure it is compliant with national planning guidance.

- 4.8 The policy could perhaps be amended to state that parking should be provided off-street unless restricted by insufficient space. As the Council is presently drafting a new parking standards supplementary planning document to replace its Vehicle Parking Standards SPD (which was adopted in September 2006), the examiner may also feel it appropriate to recommend that Policy Send 8 is reviewed to reference the Council's future SPDs on this matter.

## 5. Information to support the examination

### Location of the plan area

- 5.1 The Send Neighbourhood Plan relates to the Send Neighbourhood Area, which covers the parish of Send. Send is a parish in the east of Guildford borough (see map below; parish and neighbourhood area boundary in yellow).



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### Description of the plan area

- 5.2 Send is a rural parish with a population of around 4,250<sup>4</sup>. The Local Plan: strategy and sites 2015 – 2034 designates most of the parish as Green Belt, except for a large part which is inset.
- 5.3 The parish is adjacent to the main A3 road which forms its entire southern border and provides connectivity to Southampton via Petersfield and Guildford (located approximately 5 miles to the south west) and to the M25 London Circular approximately 5 miles to the north east. In addition, there are numerous A and B road links to nearby villages and towns. The village is served by a wide range of amenities and services, including a health centre, post office, two public houses, two churches, a primary school, social club, recreation ground, two well-equipped play areas and several shops, cafes and restaurants.

<sup>4</sup> Send Neighbourhood Development Plan 2017 – 2031 State of the Parish Report (Send Parish Council, 2018)

- 5.4 For a detailed map of the neighbourhood area and its relationship to surrounding parishes, see **Appendix 1**.

### **The Development Plan**

- 5.5 With regard to basic condition (e) which requires neighbourhood plans “to be in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)”, the relevant sources of strategic development plan policy are:
- The Local Plan: Strategy and Sites 2015-2034 (LPSS);
  - The remaining strategic saved policies of the Local Plan 2003; and
  - Policy NRM6 of the South East Plan

#### *Adopted (current) Local Plan*

- 5.6 The Council adopted the LPSS in April 2019. Adoption of the plan was subject to legal challenge by three parties. The High Court dismissed all three challenges, but one appellant has sought leave to appeal on one of the grounds of challenge. The Court of Appeal is currently considering whether to grant the request.
- 5.7 The LPSS and Policies Maps, the High Court judgement and copies of examination documents are all available online in electronic format at <https://www.guildford.gov.uk/newlocalplan/examination>

#### *Local Plan 2003*

- 5.8 The LPSS did not replace all of the policies of the pre-existing Local Plan 2003. A schedule of replaced policies is listed in Appendix 8 of the LPSS and a version of the Local Plan 2003 with superseded policies struck through can be found here: [https://www.guildford.gov.uk/newlocalplan/media/1068/localplan2003-2/pdf/local\\_plan\\_2003\\_\(2\).pdf](https://www.guildford.gov.uk/newlocalplan/media/1068/localplan2003-2/pdf/local_plan_2003_(2).pdf)
- 5.9 An online version of the Local Plan 2003 proposals (policies) map can be accessed via: <http://www.guildford.gov.uk/planningmap>

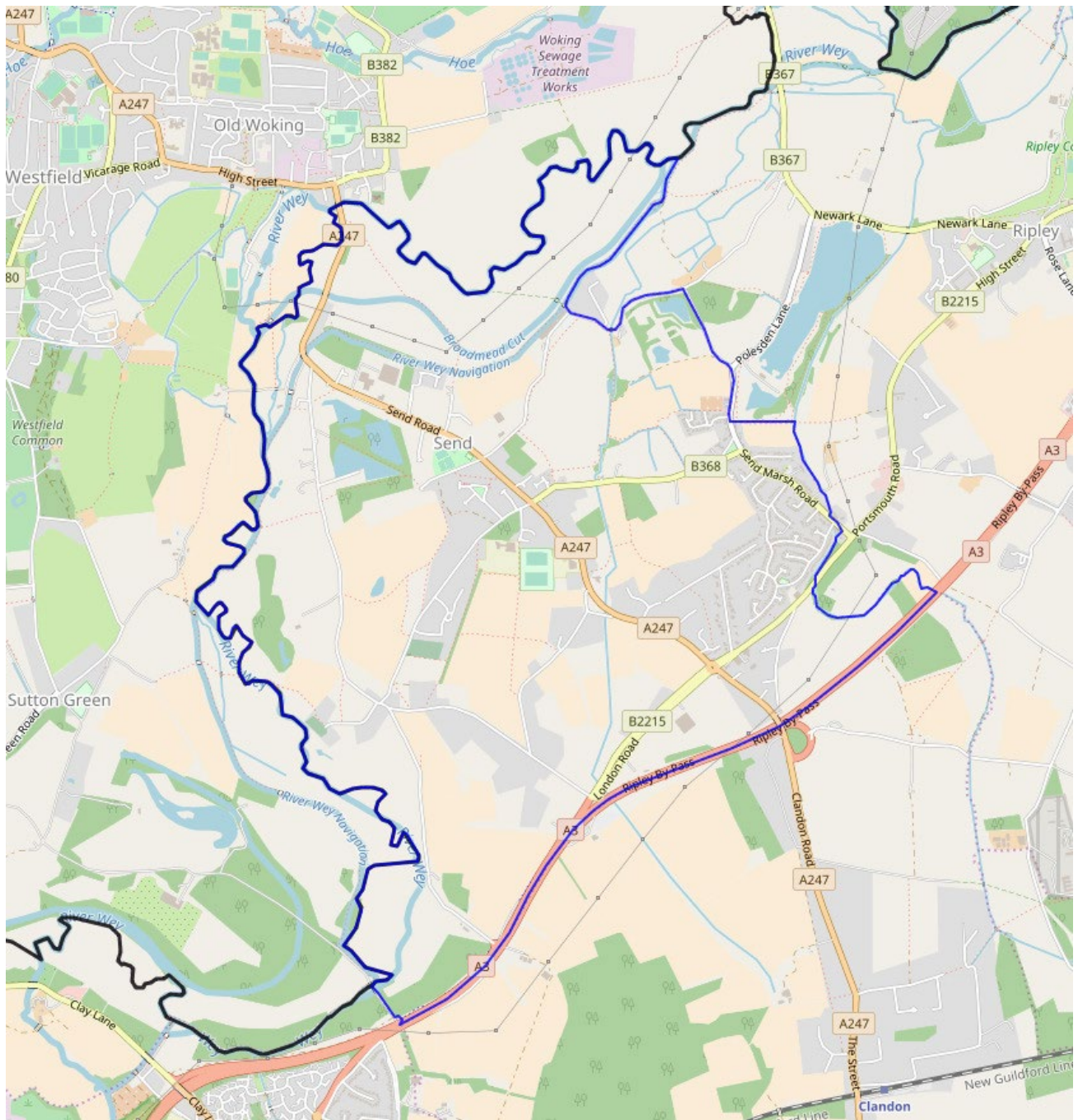
#### *NRM6 and the TBHSPA*

- 5.10 The South East Plan has been largely withdrawn, but policy NRM6 remains in place. NRM6 deals with protection of the Thames Basin Heaths Special Protection Area (TBHSPA) and can be seen in Appendix 2 of the TBHSPA Avoidance Strategy: <https://www.guildford.gov.uk/article/16927/Special-Protection-Area-SPA->

### **Further information**

- 5.11 The evidence base for the Send Neighbourhood Plan can be found at <http://www.sendparishcouncil.gov.uk/documents.php?dir=Neighbourhood%20Plan/SNDP%20Regulation%2014&by=date&order=asc>

## Appendix 1 Map of Send Parish/Send Neighbourhood Area



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