

## LAND AT HEATH DRIVE, SEND, WOKING

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### OPINION

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#### *Introduction and Summary of Advice*

1. I am instructed by Send Surrey Ltd (“SSL”) to advise in relation to the intended future residential development of a 2.51ha parcel of greenfield land situated at the north-western corner of the village of Send (the “Site”). The northern and western boundaries of the Site abut the Wey Navigation Canal, with the southern edge bordering existing residential developments on Heath Drive and Send Road. The eastern edge of the Site is currently delineated by the headquarters of Vision Engineering Ltd and undeveloped land, now forming a consented scheme for the erection of a factory and 23 residential dwellings. The relevant local planning authority is Guildford Borough Council (the “Council”).
2. The Council is preparing a new Local Plan for the period 2013-2033 which it has published for the purposes of Regulation 19 (the “**Proposed Submission Local Plan**”). The Proposed Submission Local Plan promotes the removal of the Site from the Green Belt, supported by a Green Belt boundary review (the ‘Guildford Borough Green Belt and Countryside Study’). The review concludes that there are better and more defensible Green Belt boundaries elsewhere to inset the village, resulting in the removal of the Site from the Green Belt. That conclusion was based on Send’s high density and distribution of development (including along Send Road), the sense of enclosure resulting from that development and the Wey Navigation Canal as a recognisable and defensible Green Belt boundary to the immediate north of the Site. Those conclusions are, as a matter of planning judgment, entirely sensible and coherent.

3. The Proposed Submission Local Plan proposes, however, to allocate the Site as open space (under Policy I4). I am asked to advise SSL on the appropriateness and lawfulness of that proposed allocation.
4. For the reasons set out below, I am unhesitatingly of the view that this allocation is incorrect as a matter of principle, and will require modification on examination (if not corrected before). Fundamentally, the Site fails to fulfil the requirements for open space as set out in the NPPF; it is privately owned, inaccessible to the public and thus unavailable for their sport and recreation. It appears that the Council's current evidence base fails accurately to reflect these important limitations on the Site's public value.

*Inappropriate allocation of the Site as open space*

5. Open space is defined at Annex 2 to the NPPF:

“All open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity.”

6. The definition requires that open space offers “important opportunities for sport and recreation”. That requirement is carried through to the key planning policies on the allocation of open space at paragraphs 73-74 of the NPPF. Paragraph 73 reads in material respect as follows:

“Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.”

7. Clearly, therefore, “open space” must be available for sport and recreation. However, such opportunities are entirely absent from the Site. The Site is privately owned, inaccessible to the public and no public rights of way are

enjoyed through it. Moreover, I understand that the Site's landowners will imminently erect warning signs (at its single access point) specifying that the Site is private and that trespassers will face legal action. The land is wholly unavailable to the public. As such, it does not meet the requirements in the NPPF for "open space" and should not have been put forward for possible allocation as such in the Proposed Submission Local Plan.

8. It is possible that this error arose as a consequence of the Council's currently deficient evidence base, particularly the Guildford Open Space, Sport & Recreation Assessment 2016-2033 (the "**Open Space Assessment**") and the Assessment of Sites for Amenity Value May 2016 (the "**Amenity Value Assessment**"). The Open Space Assessment categorised the Site as Accessible Natural Green Space and the Amenity Value Assessment provided it with a "high" Amenity Value Score. However, both assessments erroneously assumed the Site to be (and described it as) publicly accessible, by inference available for the public's recreation. Had these assessments accurately reflected the Site's private and inaccessible nature, they would necessarily have described it in different terms and excluded the Site as a candidate to be allocated as "open space".
9. I have no hesitation in concluding that the draft allocation of the Site as "open space" is inappropriate and unlawful. The Site does not fulfil the requirements set out in the NPPF, and the evidence base relied upon was materially flawed. The Council's ongoing targeted reassessment of open space allocations offers it a convenient and cost-effective opportunity to rectify that error in short order.

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