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# **Report on Send Neighbourhood Plan 2019 - 2034**

**An Examination undertaken for Guildford Borough Council with the support of the Send Parish Council on the Autumn 2019 submission version of the Plan.**

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## **Main Findings - Executive Summary**

From my examination of the Send Neighbourhood Plan (the Plan/SNP) and its supporting documentation including the representations made, I have concluded that subject to the policy modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- The Plan has been prepared and submitted for examination by a qualifying body – the Send Parish Council;
- The Plan has been prepared for an area properly designated – the Parish of Send indicated on the reference map on page 9;
- The Plan specifies the period to which it is to take effect – 2019 to 2034; and
- The policies relate to the development and use of land for a designated neighbourhood area.

I recommend that the Plan, once modified, proceeds to referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

## **1. Introduction and Background**

### *Send Neighbourhood Plan 2019-2034*

- 1.1 Send is a rural parish in the east of Guildford Borough, and is some 5 miles to the north east of the cathedral town of Guildford. It is well connected to the main highway network being bounded on its southern side by the main A3, which connects to the M25 London Circular approximately 5 miles to the north east, and is bisected by the A247 which runs between Woking to the north west and the A246 and A25 to the south. Within the Parish, there are the three settlements of Send, Send Marsh and Burnt Common which are served by a wide range of amenities and services, including a health centre and primary school. It has a population of around 4,250, living in 1,700 dwellings<sup>1</sup>.
- 1.2 The main part of the countryside of the Parish is designated as Green Belt, excepting the villages which are inset<sup>2</sup>, and has a peaceful semi-enclosed landscape character crossed by narrow rural lanes. The winding channel of the River Wey forms the northern Parish boundary and its multiple

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<sup>1</sup> 2011 Census and see State of the Parish Report – Send Parish Council 2018.

<sup>2</sup> See the Local Plan: Strategy and Sites 2015-2034.

channels, open water bodies and water meadows together with the Wey Navigation are important features of the natural environment.

- 1.3 The decision to prepare a Neighbourhood Plan was taken by Send Parish Council (SPC) in May 2015 when an application was made for designation as a Neighbourhood Area. On 2 July 2015, Guildford Borough Council (GBC) designated the whole of the Parish as a Neighbourhood Area. A Working Group comprising Parish councillors and residents was established and focus groups convened to gather information on identified issues and areas of concern. Public consultation events were held and in autumn 2016 consultants were appointed to support the Parish Council and its working groups and the Plan was re-launched at the Annual Parish Meeting in April 2017. The Consultation Statement, which accompanied the submitted Plan, sets out how the community has been involved, detailing the various consultation events held to engage with the local community and with interested stakeholders over the 4-year period since the Plan's inception.

#### *The Independent Examiner*

- 1.4 As the Plan has now reached the examination stage, I have been appointed as the examiner of the SNP by GBC, with the agreement of the SPC.
- 1.5 I am a chartered town planner and former government Planning Inspector, with some 40 years of experience in the public and private sectors, latterly determining major planning appeals and examining development plans and national infrastructure projects. I have recent experience of examining neighbourhood plans. I am an independent examiner, and do not have an interest in any of the land that may be affected by the draft Plan.

#### *The Scope of the Examination*

- 1.6 As the independent examiner I am required to produce this report and recommend either:
- (a) that the neighbourhood plan is submitted to a referendum without changes; or
  - (b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
  - (c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.7 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('the 1990 Act'). The examiner must consider:
- Whether the Plan meets the Basic Conditions;

- Whether the Plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
  - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the Local Planning Authority;
  - it sets out policies in relation to the development and use of land;
  - it specifies the period during which it has effect;
  - it does not include provisions and policies for 'excluded development';
  - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area;
  - whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to referendum; and
- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 ('the 2012 Regulations').

1.8 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

#### *The Basic Conditions*

1.9 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood plan must:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan for the area;
- Be compatible with and not breach European Union (EU) obligations; and
- Meet prescribed conditions and comply with prescribed matters.

1.10 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the making of the

neighbourhood plan does not breach the requirements of Chapter 8 Part 6 of the Conservation of Habitats and Species Regulations 2017(the 2017 Regulations).

## **2. Approach to the Examination**

### *Planning Policy Context*

- 2.1 The Development Plan for this part of Guildford Borough Council, not including documents relating to excluded minerals and waste development, is the Local Plan: Strategy and Sites 2015-2034 (LPSS), which was adopted in April 2019<sup>3</sup>, and the strategic saved policies of the Guildford Local Plan 2003 (GLP)<sup>4</sup>. Although the South East Plan has been largely withdrawn, policy NRM6 remains in place, and deals with protection of the Thames Basin Heaths Special Protection Area (TBHSPA).
- 2.2 The LPSS makes strategic allocations in the Neighbourhood Plan area for approximately 650 houses, employment floorspace and for new north facing slip roads to/from the A3 at Send Marsh/Burnt Common.
- 2.3 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF). The NPPF of July 2018 replaced the first NPPF published in March 2012<sup>5</sup> and itself has been replaced by the NPPF published in February 2019, which includes minor clarifications to the 2018 revised version<sup>6</sup>. All references in this report are to the February 2019 NPPF<sup>7</sup> and the accompanying guidance in the Planning Practice Guidance (PPG).

### *Submitted Documents*

- 2.4 I have considered all policy, guidance and other reference documents I consider relevant to the examination, including those submitted which comprise:
  - the draft Send Neighbourhood Plan 2019-2034, Autumn 2019;
  - the Map on page 9 of the Plan which identifies the area to which the proposed Neighbourhood Development Plan relates;
  - the Consultation Statement, August 2019;
  - the Basic Conditions Statement, October 2019;
  - all the representations that have been made in accordance with the Regulation 16 consultation;

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<sup>3</sup> The Borough Council's February 2020 Statement for the Examiner refers at paragraph 5.6 to the High Court's dismissal of challenges to the adoption of the LPSS.

<sup>4</sup> Appendix 8 of the LPSS is a schedule of replaced policies.

<sup>5</sup> Footnote on page 4 of the NPPF, July 2018.

<sup>6</sup> Footnote 1 on page 4 of the NPPF, February 2019.

<sup>7</sup> See paragraph 214 of the NPPF. The Plan was submitted under Regulation 15 to the local planning authority after 24 January 2019.

- the Strategic Environmental Assessment screening and Habitats Regulations Assessment report prepared by Guildford Borough Council in April 2019, and its update of January 2020; and
- the responses of the SPC dated 28 August 2020 and GBC dated 25 August 2020 to the questions attached to my initial procedural letter of 27 July 2020<sup>8</sup>.

#### *Site Visit*

2.5 I made an unaccompanied site visit to the Neighbourhood Plan Area on 21 September 2020 to familiarise myself with it, and visit relevant sites and areas referenced in the Plan and evidential documents.

#### *Written Representations with or without Public Hearing*

2.6 This examination has been dealt with by written representations. I noted the request from a representor to attend hearing sessions, if any were to be held. However, I considered hearing sessions to be unnecessary as the consultation responses clearly articulated the objections to the Plan and presented arguments for and against the Plan's suitability to proceed to a referendum.

#### *Modifications*

2.7 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in the Appendix.

### **3. Procedural Compliance and Human Rights**

#### *Qualifying Body and Neighbourhood Plan Area*

- 3.1 The SNP has been prepared and submitted for examination by SPC, which is a qualifying body for an area that was designated by GBC on 2 July 2015.
- 3.2 It is the only Neighbourhood Plan for the Parish of Send and does not relate to land outside the designated Neighbourhood Plan Area.

#### *Plan Period*

3.3 The Plan specifies clearly the period to which it is to take effect, which is from 2019 to 2034.

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<sup>8</sup> View at: <https://www.guildford.gov.uk/article/16998/Send>

## *Neighbourhood Plan Preparation and Consultation*

- 3.4 Details of how the community was involved in the preparation of the SNP is set out in the formal Consultation Statement of August 2019 and in Section 3 of the SNP. Engagement and consultation with the community was undertaken in a variety of ways; regular newsletters, updates at Parish Council meetings, information on the Neighbourhood Plan pages of the Parish website, use of local websites and social media, the Village Facebook page, displays at village events, word of mouth as well as undertaking Parish wide surveys and making presentations and holding public meetings at critical times. A launch event was held in September 2015 with displays on what might be the key aspects of the proposed Plan and seeking views. With the appointment of consultants in the autumn of 2016, the Plan was 're-launched' at the Annual Parish Meeting in April 2017, which was attended by 75 people. The Plan's preparation was further publicised with stands at the Send May Fair, at the Send School Fair and at a local music festival.
- 3.5 In April 2018, a survey was carried out of local residents with 1,665 questionnaires distributed by post to every household in the Parish. The survey could also be completed online and a total of 353 responses (postal and electronic) were received, a response rate of around 21%. There was also targeted engagement with young people in collaboration with the Primary School and an online survey of local businesses. In addition to survey questions on the character of the area, the Working Group also held a half day character assessment workshop, attended by 16 people, to identify and record locally distinct character areas to inform the Send Character Assessment document and thereby policy in the Plan.
- 3.6 Formal Regulation 14 consultation on the draft SNP took place between 8 April and 28 May 2019<sup>9</sup>. Local residents were informed of this through the village newsletter, posters, social media, and the village website. Hard copies of the draft Plan were made available at various locations through the Parish including the two pubs. It was also available online and comments could be made online or in writing. In addition, two drop in events were held at the Lancaster Hall where residents could look at the draft Plan and talk to members of the Working Group. In all 38 responses were received, of which 6 were from statutory consultees, including GBC, Surrey County Council, Natural England, Historic England and Highways England. A summary of the Regulation 14 representations and the SNP's response, including any proposed changes to the draft SNP, is contained in the Consultation Statement at pages 17 to 54.

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<sup>9</sup> As indicated on the poster included at page 14 of the Consultation Statement (although the text gives dates of 27 March to 15 May) and paragraph 3.5 of the Basic Conditions Statement.



- 3.7 The submitted Plan was subject to a further 6-week consultation between 17 January and 28 February 2020 under Regulation 16 when 13 representations were made. Representations were submitted by Surrey County Council, Ripley Parish Council, Natural England, National Trust, Highways England, and Burpham Neighbourhood Forum. In addition, representations were made by Gladman Developments Ltd and by consultants acting on behalf of interested developers.
- 3.8 I am satisfied that engagement and consultation with the wider community and interested parties has been thorough and robust throughout the Plan making process; that they were kept informed of what was being proposed, were able to make their views known and had opportunities to be actively involved in shaping the emerging Plan, and would have been aware of how their views had informed the draft SNP. I conclude that a transparent, fair and inclusive consultation process has been followed in the production of the Plan, having due regard to the advice in the PPG on plan preparation and in procedural compliance with the legal requirements.

#### *Development and Use of Land*

- 3.9 The Plan sets out policies in relation to the development and use of land in accordance with section 38A of the 2004 Act.

#### *Excluded Development*

- 3.10 The Plan does not include provisions and policies for 'excluded development'.

#### *Human Rights*

- 3.11 I have to consider whether the SNP has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act 1998. The Basic Conditions Statement<sup>10</sup> sets out the SPC's view that the preparation and content of the SNP had regard to the Convention's fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act. GBC reviewed the submitted documents against the legal requirements of the 2012 Regulations and other relevant legislation, which would include the Human Rights Act 1998<sup>11</sup>, and was satisfied that the requirements had been met. It has further confirmed that there are no issues it is aware of with any aspect of the SNP and compatibility with Human Rights<sup>12</sup>. I have considered this matter independently and I have found no reason to find that the SNP, including its preparation, breaches or is otherwise incompatible with any

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<sup>10</sup> Paragraph 4.11 of the Basic Conditions Statement.

<sup>11</sup> See paragraph 2.1 of GBC's Statement for the Examiner.

<sup>12</sup> GBC's response of 25 August 2020 to Examiner's question 6.

of the Convention rights within the meaning of the Human Rights Act 1998.

#### **4. Compliance with the Basic Conditions**

##### *EU Obligations*

- 4.1 The SNP has been screened for Strategic Environmental Assessment (SEA) by GBC. This is a legal requirement and accords with Regulation 15 (e)(1) of the 2012 Regulations. A draft SEA screening report prepared by the Council in April 2019 found that the SNP would not be likely to have significant environmental effects and it was unnecessary to undertake SEA. This conclusion was reviewed in January 2020 in an updated SEA report in which GBC confirmed that the SNP did not require a SEA, primarily because it does not allocate locations for further development but rather includes policies that seek to influence the type, style, tenure and design of LPSS allocated developments, and which are not likely to adversely impact on any of the sensitive environmental receptors within or around Send Neighbourhood Area. Both Natural England and Historic England agreed with that conclusion<sup>13</sup>. Having read the SEA Screening report and considered the matter independently, I support that conclusion.
- 4.2 The SNP was further screened in April 2019 for Habitats Regulations Assessment (HRA)<sup>14</sup>. There are no European sites in the Plan area. However, the screening report found that the draft Plan would require HRA because the Parish is approximately 2km from the Thames Basin Heaths Special Protection Area (TBHSPA) site at Whitmoor Common and all the Plan area falls within the SPA 5km zone of influence within which net new dwellings are likely to have significant effects on the SPA by increasing recreational pressure. Likely significant effects were identified for SNP policy Send 2.
- 4.3 Appropriate Assessment of the submitted Plan to assess avoidance and/or mitigation measures was undertaken by GBC in January 2020. Having regard to the strategy set out in policy NRM6 of the South East Plan and GBC's TBHSPA Avoidance Strategy 2017, the available SANG<sup>15</sup> capacity in the Borough, and the likely size of development, the Assessment concludes that any development that goes ahead as a result of policy Send 2 can be supported by appropriate SANG. Thus, adverse effects on the integrity of the SPA will be avoided and the Plan is compatible with European obligations. Natural England was consulted and agreed with that conclusion. I am satisfied that the HRA and Appropriate Assessment

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<sup>13</sup> See Appendix 1 to GBC's January 2020 SEA Screening and HRA Report. The Environment Agency were also consulted but did not respond due to resourcing issues.

<sup>14</sup> Habitats Directive (Council Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora), which is transposed into UK law through the Conservation of Habitats and Species Regulations 2017 (as amended).

<sup>15</sup> SANG is Suitable Alternative Natural Greenspace.

procedures have been correctly followed by GBC as the competent authority. On the basis of the information provided and my independent consideration, I agree with the conclusion of GBC that subject to appropriate mitigation, the making of the Plan would not be incompatible with EU obligations.

### *Main Issues*

4.4 Having regard for the Send Neighbourhood Plan, the consultation responses and other evidence, and the site visit, I consider that there are 2 main issues relating to the Basic Conditions for this examination. These are:

- Whether policy in the SNP appropriately provides for the protection and enhancement of the natural and built environment, having regard to national policy and guidance and the need to be consistent with the local planning of sustainable development; and
- Whether the SNP's policies for housing, the economy, community facilities, sustainable transport and parking provide an appropriate framework to shape and direct sustainable development, having regard to national policy and guidance, and are in general conformity with the strategic policies of the LPSS.

### *Introduction*

4.5 The Foreword and sections 1 and 2 of the SNP give an overview of the role of neighbourhood plans, the plan making process, and the national and local planning context whilst section 3 describes how the community were involved in the preparation of the Plan, as set out in the Consultation Statement. Section 4 provides background on the Parish, its location, environment, history, character and local facilities. Section 5 of the Plan sets out the Vision and Objectives for the Parish; that it will be *'vibrant and sustainable with a distinct character, good facilities, a strong sense of community and retain a rural village feel. Send will have an enhanced local centre and provide a mix of housing types for all, whilst retaining the character, environmental and heritage assets of the parish and separate identities of the various settlements, which have not merged into surrounding towns and villages'*. Eight objectives are identified, under five themes, to achieve this Vision.

4.6 Policies are included in section 6 of the Plan on design, housing, the local economy, green and blue infrastructure, local green spaces, community facilities, transport and parking. Section 7 sets out community aspirations, which go beyond planning policy but which are matters raised during the Plan's preparation for the Parish Council and local community to pursue. Generally, the Plan has a clear structure and overall purpose. It is well set out and easy to read with the policies clearly identified in coloured boxes and with a Non-Technical Summary included at the front

of the Plan. However, there are issues in respect of the clarity of some of the maps which I address below.

- 4.7 There are 8 policies that fall to be considered against the Basic Conditions. When made, the SNP will form part of the statutory development plan and the PPG advises that neighbourhood plan policy should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence, and should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared<sup>16</sup>. Policies should relate to the development and use of land<sup>17</sup>. With this in mind, I now turn in the following paragraphs to address each of my main issues.

#### *Issue 1 – the natural and built environment*

- 4.8 In order to satisfy the Basic Conditions, the SNP must contribute to the achievement of sustainable development. The NPPF at paragraph 3 sets out three overarching objectives for achieving sustainable development, economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The environmental objective is *'to contribute to protecting and enhancing our natural, built and historic environment'*. In respect of the built environment, paragraph 124 of the NPPF identifies good design as a key aspect of sustainable development, creating better places in which to live and work and helping make development acceptable to communities.

#### Design

- 4.9 The Parish of Send comprises Send, Send Marsh and Burnt Common and the surrounding countryside. The map on page 27 of the SNP shows the extent of the Green Belt around the villages, where it is longstanding national policy to prevent urban sprawl by keeping land permanently open. The LPSS altered the boundaries of the Green Belt to inset the built-up areas and also allocated sites in the Parish for development, including land for approximately 650 new homes. Policy D1 of the LPSS deals with place shaping and requires that all new development achieves *'high quality design that responds to distinctive local character (including landscape character) of the area in which it is set'*. In particular, it refers to proposals taking account of local design guidance, including that in neighbourhood plans. This accords with the NPPF which refers at paragraph 125 to design policies being developed with local communities and that *'neighbourhood plans can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development'*.

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<sup>16</sup> PPG Reference ID: 41-041-20140306.

<sup>17</sup> Section 38A(2) of the 2004 Act.

- 4.10 In accord with national policy, SNP policy Send 1 requires high quality and sustainable design and the conservation and enhancement of the Parish's heritage and environmental assets, including the Wey and Godalming Navigations Conservation Area and its setting. As part of the Plan's preparation process, work was carried out on a Character Assessment of the Parish, to identify and describe the key physical features and characteristics of 13 different individual areas and what made them locally distinctive. I am satisfied that a systematic and rigorous approach was taken to the identification of the key characteristics of each of the character areas in the Character Assessment, and which drew on responses from the 2018 consultation survey. In expecting all development proposals to demonstrate how they promote and reinforce the local distinctiveness and high quality built and natural environment, policy Send 1 refers to the Character Assessment and at parts A) to M) sets down particular requirements for each of the identified character areas.
- 4.11 However, in respect of area J) (Portsmouth Road, Burnt Common (south) and Clandon), I have concerns that the policy requirements do not support the delivery of strategic policy in the LPSS, contrary to national policy<sup>18</sup>. By requiring that proposals reflect the variety of styles and land uses in the area, there is little flexibility to accommodate the LPSS strategic allocation A41 of Land at Garlick's Arch, Send Marsh/Burnt Common and Ripley for approximately 550 homes, where the whole area will become predominantly residential in use and character. Also, the retention of mature trees along the roads, whilst desirable, will depend in part on their health and on their contribution to the character of the area. I therefore consider that modification to the policy wording is required to allow for a suitable degree of variety, as provided for in the NPPF at paragraph 126 (**PM1**). Similarly, modification is needed to the requirements for area I) (Send Barns Lane) to accommodate the proposed delivery by Surrey County Council of an improved shared footway/cycleway along Send Barns Lane. This accords with SNP policy Send 7 for sustainable transport, will be on highway land but will have an impact on the grass verges that the policy, as currently drafted, seeks to retain (**PM2**).
- 4.12 Policy Send 1 also requires that development should '*not result in significant adverse effects on the key views identified in the Character Assessment and respects and retains key natural landscape assets*'. Those landscape assets are not specifically identified and described in the Character Assessment. However, the map on page 25 of the Plan identifies Local Character Views which I assume are the '*key views*' that the policy is seeking to protect. They are represented by 36 narrow red lines of varying length, the significance of which is not obvious, and whilst they indicate the direction of the view, they do not show the field of view, nor because of the scale and poor resolution of the base map, is it easy to identify the viewpoints. In response to my question, the SPC has

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<sup>18</sup> NPPF paragraph 13.

provided additional information with updated views and evidence to support the Character Assessment including more detailed individual maps, photographs and justification for 21 views.

- 4.13 I have visited the area and seen all the views. I appreciate that local people place a high value on the countryside that they see every day and can walk and ride through on public footpaths and byways. However, for a landscape to be valued in NPPF terms '*in a manner commensurate with their statutory status or identified quality in the development plan*'<sup>19</sup>, it is not enough for a landscape to have some valued elements, it should have something that lifts it above the ordinary. Potential indicators of value could include landscape quality, scenic quality, local distinctiveness and sense of place, recreation and enjoyment, associations, or performance of an important spatial function.
- 4.14 In that respect, there are some of the views identified that warrant particular consideration; in particular, views A1 and A2 from Highbridge looking over the Wey Navigation and water meadows, views C5 and D5 looking south from Vicarage Lane and from the churchyard towards the distant Surrey Hills, view G1 of The Manor House across Send Marsh Green, views G2 and G3 that have a historic association with an ancient moated site, and view K1 with open views across fields and water meadows towards the River Wey. There are also attractive views across the river valley from Footpath 61 to the northwest of the church, though viewpoints D1, D2, and D4 appear to be incorrectly plotted on the maps. However, views E2, F1, M1 and M2 do not include any obvious noteworthy landscape features, other than that they may be valued by residents as being close to 'home'. As to views C1, C2, E1, I1, I2 and I3 of open farmland, they are not in themselves very different from countryside views that might be found elsewhere in the Parish, Borough or County.
- 4.15 I am satisfied from what I saw on my site visit that views A1, A2, C5, D1, D2, D4, D5, G1, G2, G3, and K1 are special to the area and justify the protection provided for in policy Send 1. Subject to this revised list of views being clearly identified and plotted on a map/maps in the Plan and the modified policy wording (**PM3**), I conclude that policy Send 1 has regard to national policy and guidance, would be in general conformity with the strategic policy D1 (4) of the LPSS, and would contribute to the achievement of sustainable development, thus meeting the Basic Conditions.

#### Green and Blue Infrastructure

- 4.16 The NPPF requires that planning policies and decisions should contribute to and enhance the natural and local environment, including by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services, and by

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<sup>19</sup> NPPF paragraph 170 a).

minimising impacts on and providing net gains for biodiversity<sup>20</sup>. Send Parish is within the 5km zone of influence of the Thames Basins Heath SPA where LPSS policy P5 requires new residential development to deliver avoidance and mitigation measures. SANGs and SAMM<sup>21</sup> are being provided at a strategic level and, as set out in paragraph 4.3 above, I agree with GBC's Appropriate Assessment that the SNP would not be incompatible with EU obligations.

- 4.17 Other than the Papercourt Site of Special Scientific Interest (SSSI), Send is not subject to national or local landscape or nature conservation designations. Nonetheless, its natural environment is of a high quality, and key features include the River Wey and Wey Navigation, within the control of the National Trust, which have a peaceful rural ambience, enjoyed by local people and visitors alike. The semi-enclosed farmland and woodland around the villages are also attractive features, which can be accessed by a network of public rights of way and are protected as Green Belt from inappropriate development.
- 4.18 Saved strategic policy G11 of the 2003 Local Plan protects the special character of the corridor of the River Wey and of the Guildford and Godalming Navigations, and the LPSS identifies the river and its environs as a Biodiversity Opportunity Area where LPSS policy ID4(2) on green and blue infrastructure particularly encourages opportunities for habitat restoration and creation. Whilst the supporting text to SNP policy Send 4 refers to the River and Navigations, I agree with the National Trust that it would be helpful, for the sake of completeness and in the interests of clarity, if references are also included to the National Trust's own planning guidance and a map of the Wey and Godalming Navigations Conservation Area (**PM4**).
- 4.19 Policy Send 4, as drafted, seeks to protect and enhance the green and blue infrastructure in the local area. In addition to protecting the countryside setting of Send, Send Marsh and Burnt Common, part a) requires that proposals for development should '*retain the gaps in between these settlements and Woking and Guildford as identified in the Character Assessment*'. In response to my question, the PC has provided more detailed maps showing the boundaries and extent of the three gaps, which were difficult to interpret from the map in the Character Assessment. They are wholly in the Green Belt and therefore already subject to longstanding national Green Belt policy, the fundamental aim of which is to prevent urban sprawl by keeping land permanently open<sup>22</sup>. Paragraph 134 of the NPPF sets out the purposes of the Green Belt which include checking the unrestricted sprawl of large built-up areas, preventing neighbouring towns merging into one another and assisting in safeguarding the countryside from encroachment.

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<sup>20</sup> NPPF paragraph 170 b) and d).

<sup>21</sup> SAMM is Strategic Access Management and Monitoring.

<sup>22</sup> NPPF paragraph 133.

- 4.20 Strategic policy P2 in the LPSS protects against inappropriate development in the Green Belt, and, having regard to the Secretary of State's guidance<sup>23</sup>, I am not persuaded that there is justification, in terms of the unique characteristics or planning context of Send, to have a non-strategic local gap policy here. Indeed, in seeming to make a distinction between Green Belt sites, depending on whether or not they are in one of the gaps, such a policy could give rise to confusion and less effective development management decisions. For these reasons, I find that this part of policy Send 4 does not fulfil the Basic Conditions and I am recommending a modification to delete the requirement to retain the gaps from part a) (**PM5**).
- 4.21 In respect of part b), whilst the inclusion of the words '*proportionate to the scale of development*', gives some flexibility, as drafted the requirement to provide and enhance green and blue infrastructure, could risk making unviable smaller developments that might otherwise be acceptable. National guidance on viability<sup>24</sup> is that plan policies should be realistic and deliverable. I am therefore proposing to modify part b) to add the words '*wherever possible*' to clarify that that the requirement only applies to proposals on sites where provision is feasible (**PM6**).
- 4.22 Subject to the proposed modifications, I consider that policy Send 4 would have regard to national policy and guidance, and would contribute towards the achievement of sustainable development, thus meeting the Basic Conditions.

### Local Green Spaces

- 4.23 Section 8 of the NPPF addresses the way planning can promote healthy and safe communities and sets out national policy on open space and recreation. The LPSS, through strategic policy D1 on Place Shaping, provides for the achievement of high-quality design, with essential elements of place making including creating places with a clear identity that promote healthy living. Paragraph 99 of the NPPF enables local communities through local and neighbourhood plans to identify and protect green areas of particular importance to them. However, the designation of land as Local Green Space (LGS), should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. They should be capable of enduring beyond the Plan period.
- 4.24 Stringent guidelines on when the LGS designation should be used are set out in the NPPF at paragraph 100 and there is further advice in the PPG<sup>25</sup>. The NPPF is clear that the designation should only be used where the green space is in reasonable clear proximity to the community it serves, is demonstrably special to a local community and holds a particular local

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<sup>23</sup> PPG Reference ID: 41-041-20140306.

<sup>24</sup> PPG Reference ID: 10-002-20190509.

<sup>25</sup> PPG Reference IDs: 37-005-20140306 to 37-022-20140306.



significance, and is local in character and not an extensive tract of land. Policy Send 5 identifies 7 sites as LGSs, which are shown on the map in Appendix A. They vary in character and include allotments, playing grounds, woods and fishing lakes. Further detail on them and justification for their inclusion in policy Send 5 is provided in the Local Green Spaces report<sup>26</sup>. Having regard to this evidence, and what I saw when I visited the sites, I am satisfied that all the spaces are local in character, but not extensive tracts of land, are demonstrably special (and hold a particular local significance) and are in close proximity to the community they serve. Further, I consider that each is capable, because of its particular characteristics, of enduring beyond 2034, which is the end of the Plan period. They should therefore be listed in policy SEND5. However, a minor modification is needed on the key to the appended map to include the correct size of the land now identified as LGS6 (land by Heath Drive near Wey Navigation)<sup>27</sup> (**PM7**).

- 4.25 The NPPF requires that policies for managing development within a LGS should be consistent with those for Green Belts<sup>28</sup>. However, in a recent judgement it was noted that the Framework chose not to align other aspects of Green Belt policy with LGS policy<sup>29</sup>. SNP policy Send 5 states that proposals for development on the LGSs '*will only be permitted in very special circumstances*' and goes on to give examples of where these might be considered to apply. National policy for proposals affecting the Green Belt is set out in the NPPF at paragraphs 143 to 147. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved '*except in very special circumstances*'; the same term being taken and used in policy Send 5.
- 4.26 However, paragraphs 145 and 146 of the NPPF list certain forms of development that are not inappropriate in the Green Belt, including local transport infrastructure and outdoor sport and recreation facilities (subject to preserving openness and not conflicting with Green Belt purposes). Thus, it may not always be the case, depending on what is being proposed, that national Green Belt policy would require the demonstration of very special circumstances for LGS development. For this reason, I am proposing a modification to policy Send 5 to delete the second part of the policy and replace with the requirement that development in the LGSs should be managed in a manner compatible with their designation. I see no need to give examples of possible acceptable developments (**PM8**).
- 4.27 Subject to these modifications, I conclude that policy Send 5 will appropriately provide for the designation and protection of LGSs, having regard to national policy and guidance and the need to be consistent with the local planning of sustainable development, and is in general

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<sup>26</sup> Local Green Spaces Report, March 2019.

<sup>27</sup> See SNP's response to the question in my initial procedural letter.

<sup>28</sup> NPPF paragraph 101.

<sup>29</sup> High Court Judgement [2020] EWHC 1146 (Admin) Lochailart Investments Ltd and Mendip District Council and Norton Saint Philip Parish Council, paragraph 33. View at: <https://www.bailii.org/ew/cases/EWHC/Admin/2020/1146.html>

conformity with the strategic policies of the LPSS. Accordingly, the Basic Conditions will be met.

- 4.28 Providing that the modifications set out above are made, I conclude that the SNP's policies will appropriately provide for the protection and enhancement of the natural and built environment, having regard to national policy and guidance and the need to be consistent with the achievement of sustainable development, and are in general conformity with the strategic policies of the Local Plan. Accordingly, the Basic Conditions will be met.

## *Issue 2 – housing, the economy, community facilities, transport and parking*

### Housing

- 4.29 Within Send Parish, the LPSS has made three strategic housing allocations which together provide for 650 new homes (along with plots for travelling showpeople and travellers), confirming it as a sustainable location for growth. The 2019 LPSS also 'inset' the settlements of Send, Send Marsh and Burnt Common, removing them from the Green Belt, and where windfall housing development could come forward, subject to meeting other policies of the LPSS, to contribute towards the Borough's housing requirement over the Local Plan period. I note from paragraph 6.8 of the SNP that at July 2019, applications had been made for another 59 new homes. Objection has been made to the negative tone of the paragraph, but I do not consider it unreasonable for the Plan to outline local concerns about the impact windfall development might have on the character of the village and on local services and infrastructure.
- 4.30 Policy H1 of the LPSS provides for 'homes for all' and part (1) requires new residential development *'to deliver a wide choice of homes to meet a range of accommodation needs as set out in the latest SHMA'*. The reasoned justification refers to the various needs for different sized homes identified in the Strategic Housing Market Assessment (SHMA) and Addendum Report. However, paragraph 4.2.5 also refers to the need to provide for a flexible housing stock and policy H1 goes on to state that *'New development should provide a mix of housing tenures, types and sizes appropriate to the site size, characteristics and location'*.
- 4.31 Policy Send 2 deals with housing development in the Parish which will be supported provided that it meets certain provisions, the first four being expressed as alternatives, and all being subject to part e) which requires a mix of dwelling sizes to be provided. I am satisfied that a), b) and d), which deal with Local Plan allocated sites, sites within the inset villages, and rural exception sites, have regard to national policy, are in general conformity with the strategic policies of the LPSS and would contribute towards the achievement of sustainable development. As to c), which refers in part to *'limited infill development on sites considered to be within the village'*, the SPC has accepted that it is not well written where, as here, the villages have been inset from the Green Belt. Consequently, the

- SPC has suggested the deletion of the above wording in c), which I consider clarifies the policy intent. Subject to this modification (**PM9**), part c) would also meet the Basic Conditions.
- 4.32 Turning then to part e) of policy Send 2, as drafted this requires that new housing development, that conforms with the preceding a), b), c) or d), should provide a mix of dwelling sizes with at least 85% of the open market dwellings and at least 95% of the affordable homes being small units, with minimum percentage requirements for 1 and 2 bedroom dwellings and maximum percentage requirements for 3 bedroom dwellings. These housing mix percentages differ from the West Surrey SHMA<sup>30</sup> mix both in terms of the percentage split between one to three-bedroom and four-bedroom dwellings, and in the imposition of maxima and minima. GBC has referred to other neighbourhood plans across the Borough which have justified a local variation on the SHMA percentage mix on the basis of a local housing need survey. However, the only evidence put forward for this local increased requirement for smaller properties is the 2011 Census which showed that Send's stock of smaller units was lower than the Borough average.
- 4.33 Any housing mix policy in a neighbourhood plan needs to be considered alongside the requirement in the LPSS policy H1 for new development to provide a mix of housing tenures, types and sizes appropriate to the site size, characteristics and location. In that respect, there appears to me to already be a tension inherent within policy Send 2 at the prescriptive tone of part e). Part a) of policy Send 2 refers to Local Plan allocated sites complying with development guidelines or briefs adopted by GBC. As the three strategic housing sites in Send Parish were allocated in the LPSS to meet borough wide needs, GBC has noted that it would be more appropriate for their housing mix to be consistent with that for the borough as identified in the SHMA, rather than a locally identified mix<sup>31</sup>. As to development within the settlements, part b) requires it to reflect the character and settlement pattern of the surrounding area which also might indicate a different mix of dwelling sizes to that set out in e). In terms of d), a rural exception site is expected by the LPSS to be supported by an up to date local housing need survey and at that time, it could be that the identified affordable housing needs of the local community differ from those set out in e).
- 4.34 I conclude that the proposed introduction of the prescriptive dwelling mix criterion e) in policy Send 2 is based on limited evidence, thus failing to have regard to national guidance, and is not in general conformity with strategic policy H1 of the recently adopted LPSS, which requires a more balanced and nuanced approach. As such, it would prejudice the achievement of sustainable development objectives. I am recommending modifications to policy Send 2 to delete e) and the accompanying text at paragraph 6.10 (**PM10**). Subject to these modifications, I am satisfied that the policy would fulfil the Basic Conditions.

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<sup>30</sup> West Surrey SHMA 2015 and West Surrey SHMA Guildford Addendum Report 2017.

<sup>31</sup> GBC's letter of 25 August 2020.

## Economy

- 4.35 The LPSS at policy E3 identifies the Send Business Centre/Tannery Studios at Tannery Lane as a strategic employment site and through policy A45 allocates land in the London Road around the existing Burnt Common warehouse for a minimum of 14,800 sqm of light industrial/general industrial/storage and distribution uses. Within the village of Send, there is a small parade of shops, identified in LPSS policy E9 as a rural local centre where retail and other main town centre uses consistent with the scale and function of the centre will be supported and changes of use controlled. Policy Send 3 deals with the local economy and supports new business or retail development of less than 100sqm within the settlements, subject to meeting policy criteria including impact on the environment, amenity, accessibility and traffic.
- 4.36 I am satisfied that policy Send 3 has appropriate regard to national policy to build a strong, competitive economy and to ensure the vitality of local centres, is in general conformity with the LPSS, in particular policy E9, and would contribute to the achievement of sustainable development, thus meeting the Basic Conditions.

## Community Facilities

- 4.37 It is national planning policy that to provide the social, recreational and cultural facilities and services the community needs, planning policies should, amongst others, plan positively for the provision and use of community facilities and guard against the unnecessary loss of valued facilities and services<sup>32</sup>. LPSS policy E5 on the rural economy supports the retention and development of accessible local services and community facilities in inset villages like Send, Send Marsh and Burnt Common. Paragraph 6.19 of the Plan explains their importance to local residents in supporting their quality of life and reducing the need to travel elsewhere.
- 4.38 Proposals for the provision of new community facilities in the Parish are supported through policy Send 6 which also lists 18 existing community facilities of particular importance, including the two churches, public houses, Lancaster Hall, medical centre, primary school, and sports grounds, and which are shown on the policy map at page 47. Where proposals would result in the loss of existing community facilities, policy Send 6 requires evidence to be provided that the facility is no longer needed by the community, or that it would be replaced by equivalent or better provision, or that it is unviable. I am satisfied that the policy has regard to national policy promoting healthy and safe communities, is in general conformity with the LPSS policy on the rural economy, and would

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<sup>32</sup> NPPF paragraph 92.

contribute towards the achievement of sustainable development, thus meeting the Basic Conditions.

### Sustainable transport

- 4.39 Traffic volumes, vehicle speeds, congestion and inappropriate parking are issues in the Parish which is close to the busy A3 and crossed by the A247. Other than the main A and B roads, many of the roads in the Parish are narrow lanes and without footways, including those serving the Send Business Centre. It is Government policy to promote sustainable transport and that the planning system should actively manage patterns of growth, focusing significant development on locations that are or can be made sustainable<sup>33</sup>. However, it recognises that opportunities to maximise sustainable transport solutions can vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making<sup>34</sup>. LPSS policy ID3 in addressing the provision of sustainable transport for new development, requires that new development contributes to the delivery of an integrated, accessible and safe transport system, maximising the use of the sustainable transport modes of walking, cycling and the use of public and community transport.
- 4.40 Although the SNP recognises that most of the issues of local concern are matters for Surrey County Council as Highways Authority, policy Send 7 seeks to support proposals that enhance sustainable and accessible transport opportunities and which help address transport issues in the Parish. Examples of sustainable transport proposals that would be supported include the provision or improvement of public transport facilities, public footpaths and cycle ways, electric charging points, and park and ride facilities for local railway stations. I am satisfied that policy Send 7 meets the Basic Conditions, being in general conformity with the objectives of LPSS policy ID3 on sustainable transport and having regard to the guidance in the NPPF at paragraphs 102 and 103 to identify and pursue opportunities to promote walking and cycling, to provide for high quality walking and cycling networks, and to avoid and mitigate any adverse effects of traffic. As such, it would contribute to the achievement of sustainable development.

### Parking

- 4.41 Part (4) of LPSS policy ID3 deals with vehicular parking for new developments and requires that off-street vehicle parking for new developments should be provided such that the level of any resulting parking on the public highway does not adversely impact road safety or the movement of other road users. Whilst it refers to consideration being given to setting maximum parking standards, this is for Guildford town centre.

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<sup>33</sup> NPPF paragraph 103.

<sup>34</sup> NPPF paragraph 103.

- 4.42 Send is a rural parish where car ownership levels are high and the SPC has referred to the significant level of local concern about on-street parking, its impact on traffic congestion on the area's narrow lanes and the difficulties for pedestrians to pass safely when cars are parked on the pavements. Surrey County Council's Vehicular and Cycle Parking Guidance Supplementary Planning Document (SPD) of January 2018 sets maximum parking standards. However, policy Send 8 seeks to apply these standards as a minimum.
- 4.43 National policy is that maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport<sup>35</sup>. I note from the preamble to the SPD and from GBC's statement that the County Council's maximum standards are not being rigidly applied and that account is being taken of the particular characteristics of each site. Indeed, the SPD specifically notes that no objection would be made by SCC if parking in excess of residential guidance were being provided. It comments that *'Excessive parking provision in residential development is unlikely to generate travel by car, unless it is also used by other more restrained land uses, where restraint might have been applied in that locality. There is no policy to restrict car ownership so there is little to be gained in heavily restraining residential parking'*.
- 4.44 SPC has confirmed that policy Send 8 would be applied to all types of development as on-street parking issues have also arisen from business, retail and community uses. I appreciate the concern raised by GBC that there may be instances where it is not feasible to provide off-street parking, but in such cases, it is reasonable to require through the application of policy Send 8 that any resulting on-street parking should not adversely impact on road safety or the movement of other road users.
- 4.45 As such, I find the policy, as drafted, to be sufficiently flexible and provides for account to be taken of the particular circumstances of the site and of the proposed development. Subject to the supporting text referring to GBC's current drafting of a new SPD to replace its 2006 guidance on vehicle parking standards (**PM11**), I am satisfied that policy Send 8 has regard to national policy and would be in general conformity with strategic policy ID3 of the LPSS.
- 4.46 I conclude that subject to the recommended modifications set out in the Appendix to this report being made, the SNP's policies for housing, the economy, community facilities, sustainable transport and for parking would provide an appropriate framework to shape and direct sustainable development, having regard to national policy and guidance, and are in

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<sup>35</sup> NPPF paragraph 106.

general conformity with the strategic policies of the LPSS, thus meeting the Basic Conditions.

## **5. Conclusions**

### *Summary*

- 5.1 The SNP has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard for all the responses made following consultation on the Neighbourhood Plan, and the evidence documents submitted with it.
- 5.2 I have made recommendations to modify a number of policies and text to ensure the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

### *The Referendum and its Area*

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates. The SNP as modified has no policy or proposals which I consider significant enough to have an impact beyond the designated Neighbourhood Plan Boundary, requiring the referendum to extend to areas beyond the Plan boundary. I recommend that the boundary for the purposes of any future referendum on the plan should be the boundary of the designated Neighbourhood Plan Area.

### *Overview*

- 5.4 I recognise that the SNP is the product of a lot of hard work by the Working Group and the Send Parish Council, who were effective in engaging with their local community to consider how it wished to see the area in the years to come. Considerable effort has been put in over the last 5 years to achieve the submitted Plan. The result is a Plan that should help to guide the area's future development in a positive way with the support of the local community. I commend the Parish Council for producing this Plan which, subject to some modifications, will form the basis for development management decisions over the coming years.

*Mary O'Rourke*

Examiner

## Appendix: Modifications

Proposed modification number (PM)	Page no./ other reference	Modification
PM1	Page 23	In policy Send 1 replace part J) with the following:  J) <b>Portsmouth Road, Burnt Common (south) and Clandon Road – outside of the Local Plan strategic housing allocation, proposals should reflect the variety of styles in this area, and in the whole of area J) the aim should be to retain the healthy mature trees along the roads.</b>
PM2	Page 23	In policy Send 1 part I) line 7 after 'it' add ' <b>except where highways improvement schemes may be required</b> '.
PM3	Pages 22 and 25	In policy Send 1 line 8 delete the reference to ' <i>the Character Assessment</i> ' and replace with ' <b>the maps on page 25</b> '.  Replace the Local Character Views map on page 25 with either maps showing views A1, A2, C5, D1, D2, D4, D5, G1, G2, G3, and K1 or with a single composite map clearly identifying the views and their correct locations.
PM4	Page 31	In paragraph 6.16 add references to the National Trust's River Wey Planning Guidance Document and a map showing the extent of the Wey and Godalming Navigations Conservation Area.
PM5	Page 32	In policy Send 4 a) second line delete from ' <i>and retain</i> ' to ' <i>Character Assessment</i> '.
PM6	Page 32	In policy Send 4b) line 1 before ' <i>they</i> ' insert the words ' <b>wherever possible</b> '.
PM7	Page 45	In the key to the Policy 5 map on page 45 for LGS 6 delete 2.03 hectares and replace with 0.8 hectares



PM8	Page 34	Delete the second part of policy Send 5 and replace with the following:  <b><i>'Development in the designated LGSs should be managed in a manner compatible with their designation.'</i></b>
PM9	Page 29	In policy Send 2 c) delete the words <i>'limited infill development on sites considered to be within the village or other'</i> .
PM10	Pages 27 and 29	Delete the second part of paragraph 6.10.  In policy Send 2 delete e) and the preceding <i>'and'</i> .
PM11	Page 37	In paragraph 6.22 add a reference to the GBC's current drafting of a new SPD to replace its 2006 guidance on vehicle parking standards.