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Dear Sir

Guildford Town Centre Interim Framework ("TCIF") and Proposed North Street Design and Development Brief ("NSDDB")

We are instructed by Guildford Vision Group ("GVG") in this matter. As your client will be aware, GVG is a pressure group with one objective, namely, to assist in the creation of a new vision for Guildford having regard to the new NPPF and the recent changes brought about by the Localism Act 2011.

Following discussions with our client last week, we were advised that the Executive intended to adopt both the TCIF and the NSDDB at its meeting on 6 September 2012. We advised GVG that such adoption might be unlawful and further advised GVG to obtain Leading Counsel's formal opinion on this important matter. This we were instructed to do and we enclose with this letter a copy of the Opinion of David Elvin QC, a leading planning Silk in Landmark Chambers.

As you will see, the Opinion is clear and unequivocal that the adoption of either the TCIF or the NSDDB would be unlawful. Furthermore, adoption of either of these documents would inevitably give rise to potential judicial review claims, not only in relation to the adoption of those documents but also in relation to the grant of any planning permissions where regard had been given to either of those documents.

The Opinion is fully reasoned and referenced. We would encourage your Council's Chief Executive, Head of Planning and members of its Executive to read the Opinion in full so that all the legal issues may be properly understood prior to any decision being taken by the Executive. We have set out below the main conclusions which David Elvin QC has reached in formulating his Opinion:

1. the TCIF is, in law, a local plan and is subject to the provisions of Regulations 5 and 6 of the Town and Country Planning (Local Planning) (England) Regulations 2012 ("the 2012 Regulations");
2. even if the TCIF is not, in law, a local plan (which is not accepted), the TCIF is an SPD and is subject to Regulation 2(1) and Regulation 5(1)(a)(iii) of the 2012 Regulations;

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3. the TCIF has not been subject to Strategic Environmental Assessment, despite it being a "plan or programme" for urban development projects and, consequently, it would not be lawful for the Council to adopt the TCIF or the NSDDB without taking into account an SEA environmental report and any consultation upon it (Regulation 8(2)(b) of the Environmental Assessment of Plans and Programmes Regulations 2004);
4. the failure to treat either of the documents as a local plan or to subject them to Strategic Environmental Assessment, or for that matter a Sustainability Appraisal, means that consultation has not been appropriate, has not been founded on the evidence base required by the NPPF and has not been submitted to the Secretary of State and examined for soundness by an independent inspector;
5. the TCIF is a document which will be used for development management purposes, not only because it sets policy objectives for the Town Centre both at a general level and in detail but also because it refers to compulsory purchase as being part of the means of delivery of the strategy;
6. the TCIF not only falls within Regulation 5(1)(a)(i) of the 2012 Regulations but also within Regulation 5(1)(a)(ii) and Regulation 5(1)(a)(iv), even though only one of these sub-paragraphs need be met for the document as a matter of law to be a local plan;
7. even if the documents do not seek to supersede earlier policy (which is not accepted), they are still unlawful as they are not in conformity with such earlier policy and are in breach, therefore, of Regulation 8(5) of the 2012 Regulations;
8. it is questionable whether the Council has complied with its own Community Involvement in Planning (July 2011), since the TCIF has changed significantly from the Masterplan which was consulted upon towards the end of 2011, such that it deprives those affected from the opportunity to consider and respond on aspects of the TCIF;
9. as a consequence of the TCIF being a local plan (and thus a DPD), the Executive does not have the power to adopt it (Article 4.2(4) of the Council's Constitution and the definition of "Policy Framework" in Article 4.1(a)); and
10. the NSDDB suffers from the same difficulties as the TCIF to the extent that it relies upon the changes made by the TCIF.

We would also refer you, in particular, to the conclusion and consequences set out in the Opinion at paragraphs 96 to 100. In particular, paragraph 99 makes the point set out above that there must be a real prospect that any planning decisions based on either of these documents, including any compulsory purchase order proposed by the Council, would be at significant risk of successful legal challenge.

Our client seeks assurance that neither the Executive nor any other part of the Council will adopt either of these two documents. As the Opinion sets out, there are clear and unambiguous statutory processes applicable to such policy documents and these must be followed in accordance with the legal provisions. As you will appreciate, it will be open to GVG and any person with sufficient interest in the Town Centre to apply for the quashing of either of these documents should they be adopted, together with any planning permissions which may be granted and which are based on such documents.

Our client would respectfully request that you confirm forthwith that neither of these documents will be adopted without full and proper compliance with the statutory provisions.

Yours faithfully

Forsters LLP

Forsters LLP

Enc

cc (by email only)

David Hill
Carol Humphreys
Tony Rooth