



Surrey Heath Borough Council

Department: Legal & Democratic Services

Surrey Heath House

Knoll Road

Camberley

Surrey GU15 3HD

Switchboard: (01276) 707100

DX: 32722 Camberley

Web Site: www.surreyheath.gov.uk

Our Ref:

Your Ref:

Direct Tel: 01276 707310

Direct Fax:

Email: Nathalie.boateng@surreyheath.gov.uk

BY EMAIL ONLY

27 April 2025

Dear Ms Attieh Fard

Re: Marketing – Various Council Owned Sites

Thank you for your letter dated 22 April 2025.

Your letter refers to advice from Peter Oldham KC. It would be helpful if you would provide a copy of Counsel's advice. However, without having sight of the advice my understanding is you and Mr Oldham take the view that the Council's Working Group and or Officers lacked the necessary powers to undertake marketing exercises. You believe, marketing land, is an Executive function pursuant to the Local Government Act 2000, Section 9E.

Having carefully reviewed your letter, I remain of the view that the Council has acted lawfully in this matter. Local Authorities have wide powers to sell land. S123 of the Local Government Act 1972 provides powers for local authorities to dispose of land held by them in any manner they wish, subject to the requirement to secure the best consideration that can reasonably be obtained. Furthermore, section one of the Localism Act 2011 provides Local Authorities with the general power of competence which confirms Authorities are legal entities which can do anything that an individual generally may do, which would include the ability to dispose of land.

Surrey Heath Borough Council operates Executive functions, which as you have stated means that section 9E of the Local Government Act 2000 applies. The requirements of this Act are replicated in the Councils Constitution. The Constitution provides that "Acquisitions or disposals of land or property with a value in excess of £25,000" is a matter reserved to the Executive. The governance arrangements around seeking the approval (or otherwise) of the Executive for the disposal of land or property is undertaken by way of an officer preparing a report to the Executive with a recommendation. The report to the Executive would include information to enable the Members to make an informed decision, including information concerning the best consideration that might reasonably be obtainable, which is a requirement under the 1972 Act.



For the reasons provided above I disagree that the marketing exercise was contrary to S9E of the Local Government Act, marketing is not a 'disposal' it's an exercise to gather information to assist the Executive in its deliberations. A disposal of the site will only take place if the Executive make the decision to do so.

The Council is unable to provide you with details of the Red Book valuation, due to the commercial sensitivity of this information.

As you have correctly stated there is no statutory duty to undertake a consultation exercise regarding this matter. The Council therefore can determine whether this type of transaction should be consulted on. You have already had correspondence from the Leader of the Council advising that the decision to consult will be taken on a case-by-case basis.

The Council's responsibilities under the Equalities Act, forms part of its decision making. In this regard, it is anticipated that the St Barbaras car park will be open from Autumn 2025 to provide parking for the public, it will provide disability bays, cycle bays and more parking spaces, the new facility is only a very short distance at approximately 320 metres away.

The power of the Monitoring Officer to issue a report under S5 of the Local Government and Housing Act 1989 only comes into play if the Monitoring Officer is of the view that the Council is intending to implement an unlawful decision. For the reasons I have highlighted above I am not of this view.

Yours sincerely

A handwritten signature in black ink, appearing to read 'N. Boateng', written in a cursive style.

Nathalie Boateng
Head of Legal and Democratic Services
and Monitoring Officer