

**IN THE MATTER OF SANDOWN PARK RACECOURSE, PORTSMOUTH ROAD,
ESHER AND 2019/0551**

ADVICE

1. I am instructed to advise Save Esher Greenbelt on particular issues that arise on a planning application for development at Sandown Racecourse, Portsmouth Road, Esher. I have considered the Officer's Report published for the Planning Committee meeting on 1st October 2019.
2. There is a failure throughout the Report to appreciate that the quantum and location of development, in particular the number of dwellings, will be fixed by the grant of outline planning permission. For example, it would not be possible subsequently to refuse Reserved Matters approval on the basis that 318 dwellings were too many for the site. The Council would only be able to refuse Reserved Matters if they themselves caused harm and there was a less harmful way of carrying out the development contained in the Outline planning permission.

Green Belt

3. The analysis of Green Belt issues and the Green Belt balancing exercise contains a series of fundamental errors:
 - a) The assessment conflates Green Belt openness and purposes. The introduction of additional built development or new or visually altered elements impact on openness whether or not they affect Green Belt purposes;
 - b) There is a failure to consider the effect of the use of land facilitated by the application, in particular car parking, on the Green Belt;
 - c) There is a failure to consider the effect of increasing the scale of built development on openness, through the increase in building mass, rather than its visual impact. The assessment of Site 1 is a good example;
 - d) Considerable weight has to be attached to the harm caused by inappropriate development in the Green Belt. That harm is not reduced by some other elements of the scheme being, on their own, appropriate development;

- e) This error is compounded by a simplistic totalling up of allegedly ‘appropriate’ and inappropriate sites leading to a conclusion that ‘the proportion of development sites identified as appropriate indicate that a lower spectrum of such weight should be associated with the development as a whole’. In that exercise improvements to racecourse operating facilities are counted the same as 114 flats. The weight to be attached to over 300 inappropriate dwellings in the Green Belt is not reduced by the application including further development which is said to be appropriate.
- f) Definitional harm to the Green Belt is omitted from the balancing exercise;
- g) Whilst ‘other harm’ is mentioned as being part of the Green Belt test, the Green Belt balancing exercise is carried out without including any of the other harm which the Council has identified;
- h) Government policy is explicit that the single issue of unmet need for housing is unlikely to outweigh any harm in a Green Belt balance so as to constitute Very Special Circumstances. Whilst the report does not rely solely on housing need, it accords it considerable priority, without this caveat;
- i) The Affordable Housing being offered is well below that required by the Development Plan and the needs of the borough. That is not a factor in favour of allowing development in the Green Belt, but would if anything be a further reason for refusal. Understandably, the Council’s policy (CS21) does not allow a Viability exception when it requires at least 50% Affordable Housing on greenfield sites. Such sites in Elmbridge can be expected to meet the full Affordable Housing requirement.

Historic Environment

4. There is a failure to assess the impact of the scheme on the setting of numerous Listed Buildings and to address the acceptability of acknowledged harm to designated and undesignated Heritage Assets. The balancing exercise has to be carried out at this stage. Those matters cannot be deferred (as in the report) to Reserved Matters; elements capable of causing harm, such as scale and location, are fixed at the Outline stage.

Viability

5. The scheme relies on Viability arguments to justify two crucial elements:
 - (i) The building of a considerable amount of housing, harming the Green Belt, to fund improvements to the racecourse;
 - (ii) Providing considerably less Affordable Housing than is required by policy.
6. The Viability assessment deals with the racecourse improvements by costing them at £38 million and using that figure as the 'benchmark' land value for the residential, hotel and nursery sites. The Jockey Club therefore requires its receipt as landowner for the development sites to pay for the entirety of the racecourse improvements.
7. That approach relies on a number of false assumptions:
 - (i) It values the product of £38 million of works carried out at zero. Those improvements, it is said, generate no capital value for the Jockey Club;
 - (ii) It assumes that these racecourse related works, which include £16 million of improvements to the grandstand, parking improvements and stable lads accommodation will generate no additional income;
 - (iii) It assumes that the hotel will simply generate a land value for the sale of the site with planning permission. No income is ascribed from the same of the completed hotel, operation of the hotel, or secondary spending by hotel guests at the Racecourse;
 - (iv) It assumes that there is no income from the operation of Sandown, either from race days or from conferences and events, which can be used to fund the works. Ordinarily a business will use part of its income to fund the capital works required to maintain and improve its ability to generate that income;
 - (v) None of the Jockey Club's other income, for example from media or corporate partnerships, is treated as being available for Sandown, even though this income relies on the holding of race events and the Jockey Club does use some of its income to invest in facilities at its racecourses.
8. There is no justification for the basic premise of the application that harmful housing development is necessary to fund improvements to the racecourse.

Conclusion

9. The application and the Council's assessment of it are seriously deficient for at least the reasons summarised in this advice.
10. If any matters arise out of this advice, please do not hesitate to contact me in Chambers.

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29th September 2019