

PROOF OF EVIDENCE

OF

ALINE HYDE

BA(Hons) MA MRTPI

APPEAL BY: Jockey Club Racecourses Limited

SITE: Land at Sandown Park Racecourse, Portsmouth Road, Esher, Surrey, KT10 9AJ

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Introduction & Scope of Evidence

1. I am Aline Hyde, a Senior Planning Officer with a Bachelor of Arts degree in Politics from the University of Nottingham (2014) and a Master of Arts degree in Planning Policy and Practice from London South Bank University (2019). I am a Chartered Member of the Royal Town Planning Institute. I have been employed within the Development Management team at Elmbridge Borough Council since April 2016. Since September 2020, I have been seconded to the Planning Policy and Strategy team.
2. In relation to this case I have read the planning application submission and the officer report to, and minutes of, the Planning Committee. I am familiar with the relevant policies of the Borough's development plan and with the appeal site and its locality.
3. The evidence which I provide in this document is true and has been prepared in accordance with the guidance of my professional institution, the Royal Town Planning Institute. Where opinions are expressed, these are my own professional and sincerely-held opinions.
4. My evidence deals specifically with the planning issues raised by the proposal under consideration and will address:
 - The principle of development;
 - The benefits advanced in favour of the scheme;
 - The policy basis for reasons for refusal 4 & 5 and the necessity for a planning obligation to overcome those reasons for refusal;
 - The overall planning balance between the benefits arising from the development and the adverse impacts

The Principle of Development

5. The appeal site is located in the Green Belt. By policy DM17 of the Elmbridge Development Management Plan (2015) inappropriate development will not be approved in the Green Belt unless the proposal reveals very special circumstances. Applying national and local policy, the evidence of Mr David Webster establishes that the proposal would be inappropriate development within the Green Belt.
6. As a consequence of the acknowledged shortfall in the supply of housing however, paragraph 11(d) of the NPPF is engaged. Paragraph 11(d) provides that permission should be granted unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed;*
 - or*
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*
7. The Green Belt is included within the list at footnote 6 of areas or assets of particular importance in which there is a clear reason for refusing the proposed development. As such, the NPPF Green Belt policies should be applied first in order to see whether the tilted balance is available in this instance.
8. Paragraph 144 of the NPPF advises that *‘local planning authorities should ensure that substantial weight is given to any harm to the Green Belt’*. It further directs that the very special circumstances required to permit inappropriate development within the Green Belt *“will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm arising from the proposal, is clearly outweighed by other considerations.”*
9. In addition to the definitional harm arising from the inappropriate nature of the proposal, Mr Webster has identified additional harm to the openness of the Green Belt and the purposes of designating land as such. The evidence of Mr Ian Mitchell demonstrates that there would be additional harm arising from the development’s impact on local transport networks, and the evidence of Dr Anthony Lee details that the Appellant has failed to provide sufficient affordable housing.
10. Having identified these harms, my evidence is produced on the basis that very special circumstances which clearly outweigh the harm to the Green Belt and any other harm, would be necessary in order for the proposal to be granted planning permission. The Appellant disagrees, and considers that the proposed development would be appropriate within the Green Belt, and so very special circumstances are not required. Notwithstanding this, at both the application and appeal stages the Appellant have set out what they consider to be the benefits of the scheme. All considerations which weigh in favour of granting permission go towards a case for very special circumstances, whether or not these considerations are eventually judged to clearly outweigh the harms arising from the proposal.

11. The local planning authority's approach to assessing whether or not very special circumstances had been demonstrated to justify the proposal taken as a whole was correct: it is not necessary to separate the component parts of a mixed-use proposal and apply the test of very special circumstances to each of these parts.

12. In order to ascertain whether the principle of development is acceptable, I now turn to evaluate the claimed benefits of the scheme, as advanced by the Appellant. I have considered them individually and cumulatively in order to see whether they amount to circumstances which are very special and which clearly outweigh the harm to the Green Belt, and any other harm identified by the other expert witnesses for the Council.

The Claimed Benefits

The need to improve the racecourse facilities

13. The Appellant has set out what it considers to be a need to improve the racecourse facilities. They advise that the current condition of the buildings and facilities is poor: the stables have become run-down, with rotting timbers and a need for re-painting as well as upgraded utilities installation (JCR Statement of Case, page 7, paragraph 4.8). Sandown Park Lodge, is suffering from general wear-and-tear and requires replacement of the ceiling tiles (page 8, paragraph 4.11). The Appellant has not offered any explanation as to why the facilities have not been maintained, such that they now require such extensive remedial works.
14. Indeed, the Appellant's aspirations go far beyond remedial works. They seek to provide "*excellence as standard*" (JCR Statement of Case page 9, paragraph 5.6) and many of the works proposed are intended to enhance the service provided to customers. The need to comply with animal welfare and human safety standards is acknowledged and is not disputed by the Council. The extent of the enhancement works proposed, which has in turn necessitated the quantum of residential development, is at issue.
15. The Council's support for local business is clear and is demonstrated in the following extract from Policy DM11 of the Development Management Plan 2015 (CD1.2):

"Encouragement will be given to employment development that has a positive impact on the local area and supports:

 - i. Sustainable economic growth*
 - ii. Existing business sectors, whether expanding or contracting,*
 - iii. ...*
 - iv. The vitality and viability of town, district and local centres.*
16. Aside from the works intended to improve human and animal safety, much of the funding needed is for desirable (rather than essential) upgrades which the Appellant believes will bring in additional revenue.
17. The Appellant has made much of the ongoing decrease in racecourse attendance and the collapse in the value of horseracing media rights (JCR Statement of Case, page 6, paragraph 3.3). The fall in the value of the media rights alleged by the Appellant is somewhat contradicted by the assessment of the 'Economic Impact of British Racing 2013' (CD3.43, page 21) which states that these grew 54% between 2008 and 2012, though we are told that this increase subsequently reversed (CD6.47, Appendix 5, page 4, second bullet point). In any event, an ongoing decrease in racecourse attendance suggests that public interest in horseracing is declining. If this is the case, it is far from clear that the proposed enhancements to the facilities will draw in additional custom and it seems unrealistic for the site to compete with Twickenham and White Hart Lane (as advanced by the Appellant in the JCR Statement of Case, page 9, paragraph 5.2) which offer very popular music and sporting fixtures. Of course, horse-racing only occurs at the site on 24 days per year and so it is assumed that the upgrades

would be enjoyed mostly by visitors to conferences and other events which occur on 300 days annually.

18. The Appellant advises that the development proposed will be sufficient to sustain the racecourse only for the next twenty years (CD6.47, Appendix 5, page 1, paragraph 2). Beyond this time, it is unclear what is expected: whether it is likely that public interest in horseracing will increase over this period, or whether it is planned to stage an increased number of other events at the site. I consider that this failure to set out a coherent strategy for the future of the site is concerning, and suggests that the Appellant may in future have to resort to further development of the site to subsidise its ongoing operation. There is no doubt that after the passage of twenty years, the new facilities would also appear dated and there would be a desire to improve them.
19. The Appellant advises that if they cannot carry out the improvement works, the continued deterioration of the facilities would render operations on the site unsustainable (Appendix 13 to the Appellant's Main Statement of Case, page 10 – 11). Whilst I consider some of the works to be non-essential, I acknowledge the site's contribution to the health of the local economy. The racecourse provides permanent employment for 110 individuals, and brings in approximately 250,000 visitors to Esher per year. Of the suppliers to the racecourse, 277 are based locally (Appendix 13 to the Appellant's Main Statement of Case, pages 3-5).
20. Whilst the desire of the Appellant to improve its offer itself only attract only limited weight in the overall balance, I agree that allowing the facilities to deteriorate to such an extent that operations would no longer be viable would have a negative impact on the viability and vitality of Esher district centre. As such, I attach **moderate weight** to the need to carry out improvements to the facilities.

The need for a hotel

21. The Appellant argues that there is a need to construct a new hotel on the site.
22. The Council does not dispute that the area would benefit from increased hotel provision. Policy CS9 (Esher) of the Core Strategy (CD1.1) states that: *"The Council will promote the provision of hotel accommodation in order to support the tourist venues at Sandown Park and Claremont Landscape Gardens"*. Paragraph 6.50 of the supporting text identifies the site as one of the Borough's main visitor attractions, providing employment for approximately 500 people at the time of publication. It is suggested that new hotel development would generate additional jobs for the area, and would bring in additional customers.
23. Policy CS24 (Hotels and Tourism) advises that *"In order to support sustainable growth of tourism in the area and to ensure that it remains a strong element of the Borough's economy, the Council will:...*
 2. *Promote all new hotel development on previously developed land within or adjacent to town and district centres or visitor attractions..."*

24. Paragraph 7.54 of the supporting text identifies Sandown Park as one of a number of significant tourist attractions within the Borough and surrounds. The following paragraph acknowledges that most of these attractions are located within the Green Belt and so the need to secure improved visitor facilities must be balanced against the need to protect and enhance the Green Belt.
25. As set out in paragraph 9.9.1.2.3 of the officer's report (CD7.3), the Surrey Hotel Futures Study (hereafter referred to in this section as 'the Study') published in 2015 provides an analysis of the hotel market within the county, its potential for future growth and future requirements and opportunities for hotel development. The study was produced with the intention of informing the plans and policies of the County Council, the local planning authorities and Local Enterprise Partnerships. It was therefore not produced with the intention of defending or rebuffing individual proposals for hotel development.
26. Notwithstanding this, I acknowledge that the Study identifies "*significant potential and need for hotel development*" in Surrey. The authors suggest that local planning authorities should plan for hotel growth, including "*flexibility to consider appropriate and less intrusive hotel proposals in Green Belt locations*". Later in the document, it is suggested that local planning authorities could apply flexibility in considering hotel development on Green Belt sites where there would not be a significant increase in the built footprint of such sites, and/or there would not be encroachment into the countryside (page 115).
27. There are a number of ways in which an appropriate proposal for hotel development in the Green Belt could come forward, without the harm to the Green Belt caused by this scheme. The exceptions at paragraphs 145c) and d) could be used to enlarge existing hotel facilities, albeit to a relatively limited extent. Paragraph 146d) could be relied upon to bring a disused building back into use as a hotel. Paragraph 145g) would allow the re-development of previously developed land within the Green Belt, so long as it would not have a greater impact on openness than the existing development. Though the authors of the Study could not have known it at the time, the 2018 revision to the NPPF included a new exception at paragraph 146e), being material changes in the use of land.
28. It is therefore possible that a proposal for hotel development could come forward within the Green Belt and be found to be appropriate development within the Green Belt. As set out in Mr Webster's evidence, however, that is not the case with this application. I note that the Appellant has not explored meeting the need in a less harmful way.
29. It is not, in any event, a foregone conclusion that hotel development should come forward only within the Green Belt. The Council's planning policies refer to hotels to support the status of Sandown Park as a visitor attraction but do not suggest that any such hotels would need to be based at the site itself. On this point, the Study states the following (page 108):

"There is potential for hotels to be developed at Kempton Park and Sandown Park racecourses to cater for local corporate demand, residential conferences and weddings and leisure breaks

at weekends. Lingfield Park and Epsom Downs have already successfully developed hotels and there is no reason to think that these other racecourses could not do the same. Kempton Park already has planning consent for a hotel.”

30. The Study therefore refers to the potential to develop a hotel at the appeal site: not that there is a need to develop a hotel at this specific location. The Appellant has not advanced any evidence to show that there are no other developable sites in the area which could accommodate a hotel, without the harm to the Green Belt. I acknowledge that hotel providers would be in competition with other sectors for developable sites, including residential for which there is a very strong demand in Elmbridge. However, it is the Appellant’s responsibility to demonstrate that very special circumstances exist and they have failed to address the possibility that hotel development could be located elsewhere.
31. At the time of the Study’s publication, the authors found that Esher had no hotel provision at all. With their application, the Appellant provided a paper entitled ‘Esher hotel market analysis’ which identified five facilities providing a total of 57 bedrooms. All of these were public houses with rooms, as opposed to purpose-built hotels (with the exception of Sandown Park Lodge, which is a budget hotel on the site and is proposed for demolition as part of the scheme under consideration). Whilst this is a modest number of rooms, there is some evidence of provision for overnight stays in Esher which seems not have been taken into account within the Study.
32. Setting aside the above discussion, I accept that the racecourse benefits from an extant permission for a hotel. This was granted under application ref. 2008/0729, and the time limit for implementation was subsequently extended under application ref. 2011/0811. The extant permission differs from the proposal in that it was proposed to provide 109 beds, rather than the current 150 beds under consideration. The hotel already permitted would be located on the site of the existing Sandown Park Lodge in the site’s south-western corner, adjacent to the A307 Portsmouth Road. This is in contrast to the proposed location adjacent to the eastern end of the Grandstand. Whilst the consented hotel would also have been inappropriate development within the Green Belt, I consider that it would have met the need for a hotel in a less harmful way. In addition, given that it has not been constructed there is surely some doubt as to the likelihood of the proposed hotel being built.
33. At the time of the consideration of application ref. 2008/0729, the Appellant provided a convincing case for the construction of a hotel which hinged on the apparently urgent need for additional revenue (CD6.47, Appendix 5, page 2, paragraph 8). In the previous year, the racecourse had generated less income than it needed for outgoings. In addition, the value of horseracing’s media rights had reduced significantly and public attendance at racecourses around the country was declining.
34. This hotel was never constructed, though works commenced on the site and so the permission remains extant. The Appellant has not explained how it was able to continue trading on the site during the intervening twelve years without the hotel, for which it had previously suggested there was an urgent need. They do, however, provide some explanation (JCR

Statement of Case, page 6, paragraph 3.4) as to why they decided against proceeding with construction. It is said that only one party was interested in occupying the consented hotel, and that the offer made by this party would not have been sufficient to provide the funding needed to secure the ongoing operation of the racecourse. It is, however, noted that the Appellant has been able to produce only one letter (CD6.47, Appendix 9) from a single party indicating their interest in occupying the hotel now proposed. Indeed, only three hotel operators expressed any interest in opening a site in Esher in the Surrey Hotel Futures Study and without knowing which these were, it is impossible to say whether or not the proposal would align with the operating models of these companies. As such, it remains unclear that the current proposal would be financially viable.

35. One can only speculate as to why the hotel did not attract more interest from the sector. A reason put forward by the Appellant (CD6.47, Appendix 5, page 2, paragraph 9) is the poor economic conditions at the time of the permission arising from the global financial crisis. I agree that obtaining investment in the hotel may have been difficult during this period and the years following. However, the Surrey Hotel Futures Study identifies that, by 2014-15, hotel operators were again optimistic and demand for hotel accommodation was growing again (page 63, paragraphs 4.7.1 and 4.7.2). The Appellant does not say whether, following the improvement in the performance of the national and local economy, they attempted again to identify any parties interested in occupying the consented hotel.
36. In addition, the Appellant did not explore any changes to the design or layout (via Section 73 of the Town and Country Planning Act 1990) which might have rendered the hotel a more attractive proposition to investors. They say that the location of the hotel is, in retrospect, problematic as it does not offer any views of the track. However, much of the demand for this type of hotel accommodation in Surrey arises from midweek business users (page 47, table 18 and page 49, paragraph 4.3.1). Whilst staying in pleasant surroundings is no doubt a priority for this type of visitor, I consider that they are less likely to demand a room with a view than persons checking-in for leisure purposes.
37. The Appellant advises that hotel development can generate expenditure within the local area by encouraging visitors to stay in the area for longer (Appendix 13 to the Appellant's Statement of Case, page 9, paragraph 5.7). That such a benefit can arise from hotel development is not disputed. However, the consented hotel would have been more likely to result in these benefits than the proposal now under consideration. The hotel is outside of the district centre boundary, in which a main town centre use (as defined by Annex 2 to the NPPF, which includes hotels) would usually be located. The consented hotel was to be located close to the north-eastern end of the High Street, where a very short stroll would have provided guests with the range of shops and services offered by the district centre. The closest restaurant to the hotel's original location is only approximately 57m away as the crow flies, and is little further to walk. Close by are also a cinema, cafes and retail units. Given the proximity of that site to the High Street, a measurable impact in terms of an increase of users of the High Street and associated expenditure is credible.

38. The location of the hotel now proposed is further north-east, away from the High Street. The distance from the nearest restaurant would increase to approximately 322m as the crow flies. The distance to dining facilities may not be a problem for guests, however, as the Design and Access Statement advises (CD6.49, page 50) that “[t]he ground floor will likely consists [sic] of lounge, bar, restaurant...”. The Appellant has not provided any supporting explanation to account for the inclusion of these facilities, given their assertion that the hotel would result in a benefit for traders nearby. In the absence of any information to the contrary, one might just as easily conclude that the inclusion of food and beverage facilities within the hotel would have a negative impact on the viability of existing outlets within the district centre. In the report for application ref. 2008/0729, the officer wrote “...restaurants are not included in the proposals. The applicant confirms that it is not the intention for the hotel to compete with the racecourse facilities or the High Street where many restaurants exist.” The same cannot be said for this proposal.
39. Furthermore, the consented hotel would have resulted in less harm to the openness of the Green Belt than the proposal currently under consideration. In his evidence, Mr Webster has opined on the impact on openness arising from the proposed hotel’s scale and location. In its consented position, the hotel would have been located on an area which already had built form, albeit of a smaller scale. In addition, it would have been perceived in connection with the existing buildings on the High Street both to the south-west and opposite. The current proposal would see an area of hardstanding developed to provide a six-storey building relatively distant from the district centre.
40. In considering the 2008 application for a hotel, the officer concluded that the proposal represented good design and would not have an adverse impact on the visual amenities of the area. In relation to the current proposal, the opposite conclusion has been reached by the Council: the second reason for refusal refers specifically to the hotel and notes that it has not been demonstrated that it could be designed without resulting in an adverse impact on the character of the area. Despite offering only 41 additional bedrooms beyond the existing consent, the proposed hotel would be much larger. The officer’s report for application ref. 2008/0729 states that the hotel under consideration at that time would occupy a footprint of 1188sq.m. and would range between two and three storeys in height. As the current application has been submitted in outline, the drawings are necessarily indicative at this stage but the footprint of the hotel shown is approximately 1700sq.m. (based on measurement of the indicative layout plan) and it would have up to six storeys. Accordingly, the visual impact both on the openness of the Green Belt and the visual amenities of the locality would be greater.
41. Condition 17 of the previous permission for a hotel required the applicant to submit details of proposed enhancement to the setting of the Grade-II listed Traveller’s Rest, to include new hard and soft landscaping and an interpretation plaque. In support of their application to discharge this condition (ref. 2011/5561), the Appellant submitted a letter committing to the payment of a financial contribution of £6,100 towards these works. This payment was to reimburse the Council for carrying out the works, on the proviso that they commenced immediately following the opening of the hotel and were completed within a twelve-month

period. As the hotel has not opened, the contribution has not been paid to date. Paragraph 10.39 of the Planning Statement produced by Rapleys and dated 12th July 2019 sets out the Appellant's proposal to make a financial contribution towards the enhancement of the Traveller's Rest, but this offer has been withdrawn since the Council determined the application.

42. The purpose of carrying out the above comparison between the consented and proposed hotels is to demonstrate that, whilst the extant permission is a material consideration in the assessment of this proposal, the same circumstances which were found to apply to the earlier scheme are not necessarily applicable to this proposal. Moreover, the extant proposal demonstrates it is possible to meet the claimed demand for a hotel in a less harmful way, even on the same site. The lack of progress on the extant permission also calls into question whether the fall back has more than a theoretical possibility of being built-out. I consider that the weight to be given to the fallback position (being the extant permission) should be very limited.
43. In summary, I accept that there is some demand for increased hotel provision within the locality. It appears to me, however, that it would be possible to meet the demand in a less harmful way either on a site outside the Green Belt or, if necessary on the site, in a less harmful location. Moreover, the benefit to the district centre of providing the hotel has been overstated by the Appellant. I therefore consider that the weight to be attributed to the benefits of this hotel proposal, as part of the appeal scheme, should be **limited**.

The unmet need for housing

44. The Council does not dispute that it has an unmet need for housing. The Housing Delivery Test Action Plan 2020 (CD4.48) identifies that the Borough scored 58% in the 2019 Housing Delivery Test. Whilst the number of homes delivered over the last three-year period has increased from 267 in 2016/17 to 427 in 2018/19 (based on the data accepted by the Government at the time of writing) it falls short of the local housing need of 623 identified using the standard methodology. The Annual Monitoring Report 2018/19 (CD3.13) demonstrates that the Council can demonstrate a housing land supply of 3.13 years, which is less than the minimum five-year period required by paragraph 73 of the NPPF.
45. Policy CS19 of the Core Strategy 2011 advises that a range of housing types and sizes will be sought in order to create inclusive and sustainable communities. The required mix reflects the need set out in the most recent Strategic Housing Market Assessment. Policy DM10 of the Development Management Plan requires that development on sites of this size must make the most efficient use of land and meet the most up-to-date measure of housing need, whilst reflecting the character of the area.
46. Aside from the standard methodology figure, the Borough's most recent measure of housing need is set out in the Kingston and North Surrey Strategic Housing Market Assessment 2016 (CD3.12). This document identifies that the need is primarily for smaller units: 28% to be one-

bedroom units, 42% to be two-bedroom units, 29% to be three-bedroom units and just 1% being units with four or more bedrooms. The units proposed by the Appellant would adopt the following mix: 23% (74 units) would be one-bedroom units, 59% (186 units) would be two-bedroom units and 18% (58 units) would be three-bedroom units. I consider that the mix proposed by the Appellant would be broadly reflective of the need identified in the Strategic Housing Market Assessment.

47. The Government has made clear that single issue of unmet housing demand (and, by necessary implication, the economic and social benefits associated with the provision of housing) is unlikely to amount to very special circumstances justifying inappropriate development on the Green Belt. A shortfall in housing land supply can be a very special circumstance, but it is a rare occasion on which unmet housing need alone will suffice as justification for residential development within the Green Belt. That said, I accept that the decision-maker may take into account the unmet housing need when evaluating whether very special circumstances exist which clearly outweigh Green Belt harm.
48. It is important to note that the housing land supply has been calculated (as required) against the standard methodology figure (CD3.13, paragraph 4.2). The standard methodology figure takes no account of constraints. Elmbridge is a Borough with a good many constraints on housing delivery, for example:
 - 57% of the Borough is Green Belt
 - 6.9% of the Borough is within Flood Zone 3b
 - 5.9% of the Borough is land registered as Common or as a Village Green
 - 4.7% of the Borough is within a SSSI
 - 2.8% of the Borough is designated as Ancient Woodland
 - 1.8% of the Borough is within a Registered Park or Garden
 - 1.5% of the Borough is within an SPA, or is designated as SANG
49. Given these constraints, it is not altogether surprising that the Borough has a shortfall against the unconstrained standard methodology figure. That bears on the weight to attach to the shortfall and the contribution to the shortfall.
50. The Housing Delivery Test Action Plan 2020 (CD4.48) sets out the steps being taken by the Council in order to address the shortfall in housing delivery. Progress continues on the production of a new Local Plan: the recently-approved Local Development Scheme identifies that a Regulation 19 representation period on the draft Local Plan is due to take place in early 2021, with submission to the Planning Inspectorate shortly thereafter and the adoption of the Plan the following year. The draft Plan is being produced with an up-to-date housing target and will seek to respond positively to the Borough's identified housing needs.
51. The Council works with Registered Providers and other housing providers to deliver affordable housing. In 2019/20, 157 affordable homes were delivered within the Borough and the Council has committed (within the Housing, Homelessness and Rough Sleeping Strategy 2020-24) to support the delivery of at least 300 additional affordable homes by March 2024. In

2018, EBC Homes was established as a wholly council-owned housing company, as a means of helping the council to increase its involvement in the direct delivery of market and affordable homes and as at October 2020, the housing company has around 45 homes in management.

52. Other actions proposed by the Council within the Housing Delivery Test Action Plan include the expansion and improvement of the pre-application advice service, the increasing use of Planning Performance Agreements, and the publication of Development Management Advice Notes to guide developers on the types of development needed within the Borough. Developers with extant unimplemented permissions have been contacted to identify issues preventing housing delivery. The Council is also reviewing publicly-owned sites and working with external organisations to identify potential opportunities for housing development.
53. Due to the development pipeline and the length of time taken for permitted developments to be completed, the Council anticipates that it may take several years for the approach set out within the Action Plan to be demonstrated to be effective. It is clear, though, that a strategy to tackle the under-provision of housing has been carefully considered and is proportionate to the extent of the shortfall.
54. The Borough has a very limited supply of large sites available for the delivery of new homes, and supply consists mainly of small sites which are expected to deliver fewer than ten units each. Whilst small sites have a significant role to play in delivery, it is acknowledged that development opportunities on the scale proposed by the Appellant are few and far between. That said, the Appellant does not appear to have a developer lined up to deliver the market housing and it is unclear whether the residential sites would be sold as a package, or to multiple parties. In view of this, there can be no certainty about the timeframe for delivery.
55. I therefore consider that, on balance, the weight to be attached to the delivery of up to 318 residential units (including smaller units) in the context of a shortfall against an unconstrained figure should be significant (but not substantial).

The delivery of affordable housing

56. The Council's policy CS21 (Affordable Housing) is clear that between 40% and 50% of units provided (acknowledging that some of the residential development proposed here is located on previously developed land, and some is on greenfield) is expected to be provided as affordable housing. I consider that in this case, policy compliance would be met with provision of 45% of the units as affordable housing.
57. The supporting text for this policy advises that, where it is considered that the delivery of affordable housing in accordance with the policy requirement would render the development unviable, a developer should submit a financial viability appraisal to demonstrate this. Such submissions are to be made only in exceptional circumstances. The section concludes that if the Council is subsequently satisfied that a policy-compliant quantum of affordable housing cannot be provided, "*it will seek to negotiate alternative provision.*"

58. The Borough has a significant need for affordable housing. Elmbridge has some of the highest land values and property prices in the country and this makes it very difficult for residents to find reasonably priced homes either to buy or to rent. The latest published assessment of the Borough's need for affordable housing units is the Kingston and North Surrey Strategic Housing Market Assessment 2016 (CD3.12). This document identifies an annual need for 458 affordable units in Elmbridge, reducing to 332 new affordable units when future annual supply (comprising annual re-lets of rented units and annual re-sales of shared ownership units) is subtracted.
59. It is acknowledged that the Appellant made their application on the basis that the proposed residential units would be provided for the sole reason to finance upgrades to the racecourse facilities, and therefore a lesser provision of affordable housing units is to be expected. Indeed, any greater provision would undermine the Appellant's case that the residential development is no more than is necessary to deliver the funding needed for the improved racecourse facilities. However, as set out in Dr Lee's evidence, the Council does not accept that this is a permissible approach to determining whether or not the proposal would comply with the Council's affordable housing policy. Policy CS21 is written in such a way that challenges to viability on specific sites can be taken into account, but does not provide for developers to decide to direct the revenue generated by residential development into other projects of their choosing. I agree with Dr Lee's evidence on this point, which need not be repeated in full here.
60. Contrary to the Appellant's assertion that the delivery of affordable housing would be a benefit of the scheme, I consider that the failure to deliver the policy-stipulated amount combined with the failure to demonstrate that the amount proposed would be the maximum viable weighs against the scheme.
61. Even if the Inspector were to conclude (contrary to the Council's case) that the developer had provided a policy-complaint level of affordable housing in light of the viability evidence (which I do not accept), I consider that the maximum weighting to be afforded to this provision would be **moderate**. The number of affordable units proposed is 64, which is 19.2% of the Borough's annual need.
62. It must be noted at this stage that the 64 units offered by the Appellant, include 11 which would be set aside for households presently accommodated on the site and employed by the Appellant. It is difficult to see how these units could possibly fall within the accepted definitions of affordable housing, given that a nomination agreement would be required to ensure that occupancy of the affordable housing units would be limited to persons on the Council's Housing Register. The Appellant has provided no information regarding the tenure proposed for these units. These 11 units would not go towards meeting the affordable housing need in the Borough.
63. I therefore consider that, properly calculated, the number of affordable housing units to be provided by the scheme would be 53, which is 15.9% of the Borough's annual need. I consider

this to be a modest contribution when considered against the overall quantum of residential development: sites this large rarely come forward in Elmbridge and the 318 units proposed overall would meet 51% of the Borough's annual need. The Appellant cannot have it both ways: if, as they argue, the scheme cannot support a more substantial contribution towards affordable housing, they should accept that the weight attached to the provision of the limited affordable housing is necessarily restricted.

64. In their Statement of Case, the Appellant suggested that the economic impacts arising from the COVID-19 pandemic may have a negative impact on the scheme's ability to provide affordable units. The Appellant has not, at the time of writing, adduced any evidence to support this assertion. In any event, it is logical to conclude that were the number of affordable units to be provided reduced, the moderate weight attributed to this benefit would be similarly reduced.

The site's 'sustainable' location

65. The Appellant considers that the site is within a sustainable location. For the reasons set out in Mr Ian Mitchell's evidence, the Council disagrees. Whilst I do not accept that the site is in a sustainable location, I accept that the site is relatively sustainably-located when one considers the conditions across the whole Borough. Many areas within Elmbridge are less well-served by public transport, active travel options and community facilities than the appeal site, including within the town and district centres.
66. However, paragraph 103 of the NPPF states that "*significant development should be focused on locations which are or can be made sustainable*". The fourth objective of the Core Strategy 2011 is to reduce reliance on driving by directing new development to sustainable locations and Policy CS25 of that document advises that development which would generate a high number of trips should be directed to previously developed land in sustainable locations. The ninth objective of the Core Strategy 2011 is to provide sufficient housing within the most sustainable locations, and the supporting text for Policy DM7 confirms that development will be directed to sustainable locations.
67. In the Council's Statement of Case, the sustainability of the location was given no weight in the planning balance as it was considered to be a minimum requirement of both national and local policy rather than a direct benefit of the scheme. However, the supporting text for Policy DM11 confirms that the provision of residential accommodation within a sustainable location can be considered a wider benefit of a proposal. In addition, I recognise that if not accommodated here, a similar quantum of residential development might be proposed in a location less sustainable than this. On reflection, I therefore consider that the relatively sustainable location of the proposal can be attributed weight, and this weight should be **limited**.

The provision of a family/community zone

68. The existing go-karting track would be replaced by a recreational complex comprising an outdoor cycle track, outdoor play areas and an indoor soft play area with an ancillary café as well as associated vehicle parking provision. These facilities would be available for the use of the public all year round, with the exception of race days which are held 24 times per year. On race days, the facilities would be open to racegoers only. The indoor soft play area would be chargeable, with the outdoor cycle track and play areas free to visit.
69. The Appellant has provided a document setting out the heads of terms for the community use agreement and these are broadly considered acceptable. The provision of these recreational spaces would contribute towards meeting the aims of the local and national policy relating to the promotion of physical activity.
70. The loss of the existing go-karting track is regrettable. In addition, the proposed soft play area would compete with a similar facility already in existence within the wider racecourse site (being the Play Café at the golf course in the centre of the racecourse track). It is further noted that the Open Space and Recreation Assessment 2014 (CD3.53) did not identify any deficiency in access to children's play provision within the settlement area. Indeed, Esher already benefits from children's play provision in excess of the quantitative standard of 0.76sq.m. per child.
71. As such, whilst the inclusion of the family/community zone within the proposal is not without benefits, the weight to be attributed to it in the planning balance is **limited**.

The replacement day nursery

72. A children's day nursery currently exists in the north-eastern corner of Site 5. The Appellant proposes to demolish the structures attached to the locally-listed Toll House (from which the nursery currently operates) and re-locate it to the south-western corner of Site 5.
73. The Council does not dispute the unmet need for childcare provision identified by the Appellant. At the application stage, a letter was provided by the operator of the existing nursery (CD6.57) and the salient points were re-produced at paragraph 9.9.2.3.3. of the officer's report (CD7.3). It is accepted that a purpose-built nursery, if well-designed, would offer a high-quality, energy-efficient environment and is likely to be less challenging in terms of maintenance.
74. The letter goes on to state that *"...we anticipate, following a ramping period, that we would operate at a higher percentage occupancy..."*. This is a surprising comment, given the significant unmet need identified within the Appellant's research. Neither the letter, nor any of the other application documents, give any explanation as to why the existing nursery is presently operating below its capacity. Without understanding the reasons for this, it is difficult to predict whether or not the provision of the new nursery is likely to result in an

increase in users of this service. If, for example, the existing capacity is not filled because of the congestion on Portsmouth Road making it difficult to get to and parental concerns about the area's poor air quality, the new nursery could not expect to see increased demand because it would do nothing to address these issues.

75. Where information about the nursery is provided, it is vague. The Appellant (nor the nursery operator) indicates how much greater the new nursery's capacity would be, how many new jobs this would generate, or what new facilities might be offered that cannot be accommodated at present.
76. It is noted that the Appellant has not identified any use for the Toll House building, which is shown as retained on the indicative layout (CD5.35). The history of this building, from which its importance is drawn, is recounted at paragraph 9.8.2.30 of the officer's report. Without any use, I would be concerned that the building may not be so rigorously maintained as it necessarily is at present, given the safety demands of accommodating children. If it is not maintained, it is likely to deteriorate over time and this could lead to total loss.
77. Taking account of unexplained operation of the existing nursery at below capacity and the ambiguity of the alleged benefits of the new nursery, the weight ascribed to the replacement nursery must be **limited**.

Ecological improvements

78. The Appellant has indicated that they will propose an ecological management plan for the site with the aim of maximising biodiversity. Again, details of the measures to be included in the plan are vague, but may include the installation of bird and bat boxes around the racecourse and the establishment of new native hedgerows. The Council does not dispute that there would be a benefit to biodiversity arising from these measures, subject to confirmation of the number and location of the bird and bat boxes, and the quantity of planting to be undertaken. Without quantification, however, the weight to be attributed to the benefit must be **limited**.
79. In addition, it is considered that these interventions could come forward without the proposed development. None would require planning permission and in the absence of any information to the contrary, could be assumed to be so restricted in quantity that the funds acquired by sale of the residential sites would not necessarily be required to implement them. Indeed, the Appellant seems not to have referred to costs arising from these improvements in their financial viability appraisals.

Integration between the district centre and the railway station

80. The Appellant has suggested that the proposed development would enhance pedestrian connectivity between the district centre and the railway station. As part of the development, they propose to include a new pedestrian crossing on Station Road, a new informal crossing

on Portsmouth Road, provision of new signage to direct pedestrians and improvements to the footway surface and to drainage at the junction between Portsmouth Road and Station Road. It is also suggested that the presence of residential development on Sites 4 and 5 will overlook the footway and thereby increase the sense of security for pedestrians walking along this route.

81. With the exception of the surveillance arising from the residential development, all of the other improvement works were requested by the County Highways Authority in their consultation response and were intended to be secured by condition in the event that planning permission was granted. Paragraph 55 of the NPPF sets out the tests that conditions must meet in order to be imposed: they must be *“necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.”* The improvement works sought by the County Highways Authority were therefore judged to be necessary to render the proposal acceptable in planning terms. To describe these works as a ‘benefit’ would be to suggest that the developer would be delivering something beyond simply the bare minimum required to make the development permissible.
82. The potential for surveillance of the footway arising from the positioning of buildings on Sites 4 and 5 is noted. The harmful visual impacts arising from the buildings on Sites 4 and 5 are articulated in Mr David Webster’s evidence, and these are not at all mitigated by the suggestion that pedestrians would more safely travel along Portsmouth Road which is in any case busy with vehicular traffic for most of the day. The hours in which the Road has fewer vehicles travelling along it are likely to be those in which the residents of the units on Sites 4 and 5 are asleep, and therefore unable to observe or deter any criminal activity. The Appellant has not provided evidence to suggest that there have been any such incidents, or that the fear of crime prevents existing residents and visitors using the footway.
83. Notwithstanding the above, the Council recognises that the pedestrian crossing to be installed on Station Road (whilst necessary to render the development acceptable in planning terms), would provide a wider benefit by improving safety for residents travelling to the station from the district centre as well as from the development sites. For this reason, I consider that the integration between the district centre and the railway station can be given **limited** weight in the planning balance.

The provision of interpretation boards

84. The Appellant has stated their intention to install a number of interpretation boards to explain the history of the racecourse and to highlight the heritage assets in the vicinity. These boards seemingly have no relationship to the proposed development, and accordingly cannot be considered a benefit arising from it.

Spending by new residents

85. The Socio-Economic Paper submitted by the Appellant argues that the addition of residential development would have a beneficial impact on the Borough's economy. It is said that new residents moving in to occupy the proposed residential units would spend approximately £29,000 locally per annum (per unit).
86. This suggestion (in the Socio-Economic Paper (Appendix 13 to the Appellant's Main Statement of Case, page 8, paragraph 4.23), does not take account of household spending patterns observed in Elmbridge. Across the Borough taken as a whole, only 29.2% of comparison (non-food) spending (CD7.9A, page 29, table 6.1) and only 57.4% of convenience spending is retained within the main centres and stores in Elmbridge (CD7.9B, page 82, table 5a). For Esher specifically, only 8.3% of comparison spending is retained within the district centre (CD7.9b, page 59, table 5a). Small amounts of this comparison spending is directed elsewhere within the Borough: Walton-on-Thames (as the Borough's largest retail centre) receives 4.2%, and Weybridge receives 3.6% (CD7.9b, page 59, table 5a). The majority of comparison spending, however, is lost to other areas, with only 23% of Esher residents' comparison spending retained within Elmbridge and 51.2% of it directed to the neighbouring Royal Borough of Kingston-upon-Thames (CD7.9b, page 59, table 5a).
87. It is considered that new residents in this location are likely to continue with this pattern of comparison spending, with the bulk either online or in Kingston: this does little to support Elmbridge's High Streets and has an added burden arising from congestion on the local routes into Kingston. Based on an average household size of 2.1 and an average per capita expenditure of £5,074 on comparison goods (CD7.9B, page 57, table 2), the development would be expected to generate approximately £3.3million on comparison spending. Of this, just £270,000 would be expected to be retained within the district centre of Esher. Including this, approximately £759,000 might be retained within the wider Borough.
88. In relation to convenience expenditure, Esher's residents spend just 43.2% of their main food and drink expenditure within the district centre (CD7.9A, page 38, table 8.1). Based on an average household size of 2.1 and an average per capita expenditure of £2,327 on convenience goods (CD7.9B, page 80, table 2), the development would be expected to generate approximately £1.5million on convenience spending. Of this, just £648,000 would be retained within the district centre.
89. On the basis of the above, it is clear that the benefits arising from spending by new residents have been significantly overstated by the Appellant. On the basis that only a relatively small proportion of this expenditure would be retained locally, only **limited** weight can be afforded to it.

The 4th and 5th reasons for refusal

90. A draft legal agreement to address the fourth and fifth reasons for refusal remains under discussion with the Appellant. Without prejudice to its argument that permission should be refused, the Council also seeks assurance (by way of the legal agreement) that the funds generated from the sale of the residential land would indeed be used to carry out the racecourse improvement works. It will not be possible to reach agreement as to the amount of affordable housing to be delivered on the site, and so the Appellant has been invited to submit a Unilateral Undertaking to address the third reason for refusal.

The fourth reason for refusal

91. The fourth reason for refusal refers to a financial contribution sought in relation to the impact of the development on the Littleworth Common Site of Nature Conservation Importance (SNCI). This site has been designated for its woodland and grassland habitats. Following the occupation of the proposal development, it is expected that the SNCI would experience an increase in the number of visitors attracted to it for recreational purposes. The increased footfall would result in a deterioration in the quality of the habitats which would be directly attributable to the proposal. In their consultation response, Surrey Wildlife Trust stated that *“enhanced site management for nature conservation could help to ameliorate the impacts of increased visitor pressure.”*
92. A contribution is sought from the developer to fund the production of a Management Plan for the SNCI, which would set out appropriate habitat management and enhancement measures in the long term in order to reduce the impacts of additional visitor pressure. If the Appellant agrees to pay this contribution (which has been informed by a quote from a suitably-qualified party to carry out the production of the plan) with an acceptable trigger for payment, the fourth reason for the refusal of the application would be overcome.
93. If the Appellant does not agree to the payment of the contribution, there would remain a conflict with Policy CS15 of the Core Strategy, which seeks to ensure that sites designated for their biodiversity importance are protected and improved and that new development does not result in a net loss of biodiversity. There would also be a conflict with Policy DM21 of the Development Management Plan 2015, which states the expectation that all new development must preserve, manage and where possible enhance existing habitats, protected species and biodiversity features. This policy also advises that development will not be permitted if it would result in significant harm to a locally-designated site’s nature conservation value. I therefore consider the planning obligation sought is (i) necessary, (ii) directly related to the development and (iii), fairly and reasonably related in scale and kind to the development.

The fifth reason for refusal

94. The fifth reason for refusal refers to a financial contribution towards accessibility improvements at an Esher railway station and a further payment required for monitoring of the travel plans.
95. In their consultation response, the County Highways Authority recommended that a financial contribution of £300,000 be sought in order to improve accessibility to the railway station and to provide step-free access. This contribution was to be matched by external sources of funding. It is considered that these works would offer choice to future occupiers of and visitors to the site, enabling them to choose a more sustainable mode of transport than private vehicle (as indicated by paragraph 108 of the NPPF). The requirement for this contribution is supported by Policy CS25 of the Core Strategy 2011, which advises that the Council will:
- “[Work] in partnership with transport providers and Surrey County Council, as the Highway Authority, to support improvements to transport infrastructure. Those relating to new development will be delivered through the collection of developer contributions subject to viability. The Council will support improvements to stations and station parking that facilitate increased public transport use.”*
96. This policy’s overall goal is to promote improvements to sustainable travel and accessibility to services. Appendix 5 to the Core Strategy 2011 defines accessibility as *“The ability of people to move around an area and reach places and facilities, including elderly and disabled people, those with young children and those encumbered with luggage or shopping.”*
97. The requirement for this contribution is further aligned with paragraph 110 of the NPPF, which demands that the needs of people with disabilities and reduced mobility must be taken into account in relation to all modes of transport.
98. The County Highways Authority also requested that a financial contribution of £,6150 be sought to cover the costs of auditing the travel plans to be produced in relation to the development (secured by Condition 34 in the schedule of agreed planning conditions).
99. Policy CS25 of the Core Strategy 2011 advises that the Council will require a travel plan for all major development proposals, *“in order to promote the delivery and use of sustainable transport.”* Paragraph 111 of the NPPF also advises that developments generating a significant number of movements should provide a travel plan. Monitoring by the County Highways Authority is required to ensure the effectiveness of the travel plans.
100. If the developer agrees to pay these contributions with an acceptable trigger for payment, the fifth reason for refusal would be overcome. If agreement cannot be reached, there would remain a conflict with Policy CS25 of the Core Strategy 2011. I therefore consider the planning obligation sought is (i) necessary, (ii) directly related to the development and (iii), fairly and reasonably related in scale and kind to the development.

Other obligations

101. The Council has sought further assurances by way of a legal agreement, to which the Appellant has so far been resistant.
102. I consider it necessary to ensure that, in the event that planning permission is granted and the developer begins works on Site B (to construct the proposed hotel), the developer does not have the option to additionally implement the extant permission for a hotel (most recently granted under application ref. 2011/0811). If this occurred, there would be a grave impact on the Green Belt and additionally on the character and appearance of the area. If such a restriction is not to be included in a schedule to the Section 106 agreement currently under discussion, it could perhaps be resolved by way of a binding phasing plan which ensured that the development on Site A and Site 2 was completed prior to the commencement of works on Site B. Agreement on a phasing plan has not yet been reached and so this concern remains outstanding.
103. A further restriction is considered necessary to ensure that, if planning permission is granted, the approved day nursery on Site 5 is fully operational prior to the demolition of any part of the existing nursery facilities (currently accommodated within the Toll House and extensions thereto). In the event that this is not feasible, there would be the option to provide an alternative day nursery elsewhere in Esher for a temporary period between the demolition of the existing facilities and the completion of the new day nursery.
104. Whilst I have attached limited weight to the provision of the nursery in my assessment of the benefits of the proposal, if it is to be given any weight in the planning balance its delivery must be secured. The Appellant has identified a significant unmet need for childcare provision in the area, and the loss of the existing nursery without a suitable replacement would conflict with Policy CS16 of the Core Strategy 2011. This policy resists the loss of existing social and community facilities subject to a small number of exceptions, none of which would apply in this case. I therefore consider the planning obligation sought is (i) necessary, (ii) directly related to the development and (iii), fairly and reasonably related in scale and kind to the development.
105. If the above additional obligations cannot be secured within the Section 106 agreement by the time of the inquiry, it is my opinion that permission should be withheld.

The Planning Balance

106. Having identified the relevant harms and benefits arising from the proposal, the following table summarises the weight given to each of the benefits:

Benefits of the scheme	Weight afforded to the benefit			
	Significant	Moderate	Limited	None
The need for improved racecourse facilities		•		
The provision of a hotel			•	
Provision of market homes	•			
Provision of affordable housing		•		
Provision of the community zone			•	
Re-provision of the nursery			•	
Interpretation boards				•
Integration between the town centre and the railway station			•	
The site's sustainable location			•	
Ecological improvements			•	
Heritage benefits				•
Spending by new residents			•	

107. Paragraph 144 of the NPPF requires that *“When considering any planning application, local planning authorities must ensure that substantial weight is given to any harm to the Green Belt.”* By reason of the development’s overall inappropriateness and additional impact on openness and conflict with the purposes of designation, the proposal would conflict with Policy DM17 of the Development Management Plan 2015. I duly accord the harm to the Green Belt substantial weight.
108. Further harm has been identified by Mr David Webster in respect of the impact of the proposal on the character and appearance of the area. I consider that the buildings proposed on Sites 3, 4 and B would be particularly harmful, insofar as one can assess the impact given the outline nature of the proposal. Policies CS9 and CS17 of the Core Strategy 2011 and Policy DM2 of the Development Management Plan 2015 would be breached. Given the importance of design set out in both national and local planning policy and extent of the conflict with the character and appearance of the area, I give this harm significant weight in the balance.
109. The impact of the proposal on the local highway network and on the capacity of public transport has been identified and articulated in the evidence of Mr Ian Mitchell. I accept that this is not sufficient to be described as ‘severe’ (as per paragraph 109 of the NPPF), but the harm is nonetheless material and there would be a tension with Policy CS25 of the Core Strategy 2011 and Policy DM7 of the Development Management Plan 2015. In view of the level of the impact, I give this harm moderate weight.

110. The failure to provide a satisfactory contribution towards affordable housing (as required by Policy CS21 of the Core Strategy 2011) has been documented in the evidence of Dr Anthony Lee. Given the extent of the shortfall (some 79 units) and the absence of a full justification for this, as well as the scale of the Borough's unmet need for affordable units, I give this harm significant weight.
111. Notwithstanding the significant weight attached to the provision of market homes to contribute towards the Borough's housing need, I conclude that this does not in itself, nor in combination with any of the other benefits of the scheme, clearly outweigh the harm to the Green Belt and the other harm. Accordingly, very special circumstances (as defined by paragraph 144 of the NPPF) do not exist.

Overall Conclusion

112. The scheme under consideration inescapably conflicts with the Development Plan when taken as a whole. Accordingly, by Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should be refused unless material considerations indicate otherwise. The scheme constitutes inappropriate development in the Green Belt and the material considerations pointing in favour of the scheme do not amount to very special circumstances which clearly outweigh the harm to the Green Belt and any other harm. Accordingly, the harm to the Green Belt amounts to a "clear reason" to refuse planning permission and therefore, the application of paragraph 11(d) of the NPPF nor any other material consideration justifies the grant of permission in this instance.
113. Even if the Inspector were to conclude (contrary to the Council's case) that the proposal would not be inappropriate development within the Green Belt, I still consider that the harm to the character and appearance of the area, taken with the failure to provide a policy-compliant level of affordable housing and the impact on the local transport network, would significantly and demonstrably outweigh the benefits of granting permission.