

RAPLEYS

Proof of Evidence of
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1 QUALIFICATIONS AND EXPERIENCE

- 1.1 My full name is Ian Robert Clarke. I am a chartered town planner and a Member of the Royal Town Planning Institute. I am Senior Partner and Head of the Town Planning Department of Rapleys LLP. Additional detail about my qualifications and experience is set out in **Appendix 1**.
- 1.2 The evidence which I have prepared and provide for this appeal reference APP/K3605/W/20/3249790 in this proof of evidence is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

2 INTRODUCTION AND CONTEXT

- 2.1 This case concerns the provision of essential improvements and enhancements, which are urgently required to Sandown Park Racecourse - a nationally important sporting venue in the UK - to prevent its decline. Sandown is also an important local leisure, recreation and events venue, supporting the local economy.
- 2.2 These improvements/enhancements are to be funded by supporting residential development. Such residential use is not to be treated in isolation or in the “ordinary sense” (although it is relevant to note that the Council cannot demonstrate five-years land supply). The proposal will not proceed if the cost of the development fails to be funded by the net proceeds of the facilitating development. Put simply, the proposal comprises a comprehensive and sustainable package of interlinked development to deliver a long-term masterplan for Sandown Park.
- 2.3 In this context, JCR has sought to maximise the income from all its racecourses but, under its royal charter, reinvests its profit into British horseracing, including subsidising racecourses within the fifteen venues in its ownership.
- 2.4 There are no alternative sources of funding, which are available, beyond the development package before this Inquiry.
- 2.5 This package, which minimises the extent of housing development required, will bring about a transformational change to the racecourse, and thereby sustain an appropriate use within the Green Belt. In doing so, it will sustain the Green Belt, whilst bringing significant planning benefits, including the provision of on-site affordable housing.
- 2.6 In this context, the appellant’s evidence demonstrates that planning permission should be granted on the grounds (inter alia) that:
- The proposals are sustainable development in a highly sustainable location;
 - None of the development proposed will be inappropriate within the Green Belt;
 - Even if any part of the development was found to be inappropriate, very special circumstances arise which clearly outweigh any definitional harm to the Green Belt and the other harm alleged by the Council and Third Parties, in the context that the Appellant concludes there is no actual or other harm arising from the proposals to openness or otherwise;
 - The proposed residential development and hotel proposed can be designed in a manner that would not result in an adverse impact on the character and appearance of the area or any other alleged adverse impacts, and
 - Relevant planning obligations/conditions are being brought forward which would result in overall positive planning benefits.
- 2.7 The Inspector and Secretary of State are invited to allow the appeal and grant planning permission, as per the Officer’s recommendation to Committee in October 2019.

3 PLANNING POLICY

3.1 The Planning Policy position, in this case, is discussed and reviewed in Sections 7 and 15 of the Appellant's main Statement of Case (which should be read alongside the application material and, further, the proofs and statements submitted on behalf of Jockey Club Racecourses in respect of this appeal).

3.2 These documents find that (inter alia):

- There is a presumption in favour of sustainable development (CD2.1), which the proposals embrace in terms of the economic, social and environmental objectives identified by the NPPF (through, amongst other considerations, maximising the re-use of previously developed land);
- There is recognition of the benefits of Sandown Park to the Borough in the Local Development Plan (in respect of its visitor attraction and contributions to employment and the town centre economy), and an aspiration for a new hotel at the racecourse (CD 1.1);
- Planning policy at national and local level makes allowance for development in the Green Belt, if it is "appropriate" or very special circumstances arise (CD 1.2/2.1) - which the proposals satisfy, on either base, in this case;
- There is provision for development to deliver lower levels of affordable housing, than cited in local policy, on grounds of viability (CD 1.1), which triggers in this case, and
- The proposals address - and meet - the policy requirements relating to transport, character and appearance (to the extent they apply to the outline aspect of the scheme), ecology/bio-diversity and other detailed development management considerations, as cited in the reasons for refusal.

3.3 The proposals are, therefore, consistent and compliant with the Development Plan/relevant supplementary documents. Furthermore, the scheme also respects the direction of travel in recent announcements from the Prime Minister in response to Covid-19, without creating any undesirable precedent.

4 CHARACTER AND APPEARANCE (REASONS 1 AND 2)

4.1 The decision notice (CD 7.2) cites character issues in reasons for refusal 1 (as related to prominence) and 2. There is no distinction between one when compared to the other. EBC provides no analysis.

4.2 The development will not be unduly prominent. The racecourse is a large semi-urban area of land and, as confirmed by Mr Connolley, is largely enclosed by man-made and natural features within an urbanised setting (as recognised in the Officer's report at 9.8.2.39 - CD 7.3). It is private with no public rights of access onto or across it.

4.3 Further, in respect of the first refusal, there is no specific Green Belt policy test relating to character, other than:

- In relation to the setting of historic towns (which does not apply in Elmbridge); and
- In recognition that the essential characteristics of Green Belts are their openness.

4.4 The Appellant's case in respect of openness is addressed elsewhere, and is confirmed to be acceptable in policy terms.

4.5 As regards the second reason for refusal, there is no suggestion - beyond the proposed residential and hotel development - that any other component of the appeal proposals are deemed to be unacceptable in terms of character and appearance.

4.6 This matter is further/principally addressed in the evidence of Mr Connolley. In particular, he confirms that, amongst other matters, the Council's position, as set out in paragraphs 6.62

to 6.66 of its Statement of Case, is without foundation: rather, the appeal proposals are appropriate to the character and appearance of the area.

4.7 I agree with Mr Connolley's views, particularly as the development proposals will also bring environmental and heritage benefits.

4.8 The table at **Appendix 2** is relevant. It confirms that siting of the appeal proposals are not unduly sensitive in planning policy terms, as relating to any on-site designations which may influence considerations of character and appearance: for example, they do not contain any listed buildings, conservation areas (save for access to Site 1), sit in landscapes of value, encompass or affect defined ecological/wildlife areas, nor lie within any protected viewing corridors. However, that is not to say that the proposals have been developed in isolation, without reference to their surroundings. In the wider context of the appeal scheme, the relevant analysis has been undertaken in respect of the proposals and evidence is submitted in support. The development has been informed by a full suite of evidence/material (see entries under CD 5/6), including a design and access statement alongside arboricultural, acoustic, ecology and heritage assessments.

4.9 In these terms, the general duties as respects listed buildings and conservation areas under Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 are met.

4.10 That aside, on other matters:

- The level of information (as relevant to design and character considerations), in support of the appealed application, was agreed with Officers prior to the submission, and in this context the application was registered accordingly;
- Supplemental information was provided by the applicant, on request, to meet the Council's evolving requirements relative to its consideration of the application, and
- The Officer's committee report raised no particular concerns relative to the impact of the proposals on the character and appearance of the area, with the exception of Site 4 (albeit it was also recognised, in the report, that any outstanding matters relating to this site could addressed through the reserved matters process). The Officer found that the sites would likely be able to accommodate the envisaged development quantum in a satisfactory manner relative to its surroundings (at paragraph 9.8.2.46 - CD 7.3).

4.11 The appeal proposals are acceptable, with Site 4 forming a gateway to Esher, having regard to character and appearance considerations (particularly as the parameters provide, in any event, for flexibility to refine scheme design during the detailed design stage).

5 PLANNING OBLIGATIONS (REASONS 3, 4 AND 5)

5.1 The decision notice (CD 7.2) cites three reasons for refusal relating to the lack of planning obligations.

5.2 The Council's Statement of Case at paragraph 5.2 does, however, accept that these reasons for refusal can be resolved by way of a suitably worded legal agreement.

5.3 The undertaking/agreement, to be submitted before this Inquiry, addresses these reasons for refusal and meets the relevant tests (see **Appendix 3**).

6 APPROPRIATENESS (REASON 1)

6.1 There is no dispute, between the principal parties in this case, that the proposed development of Sites A, C, E1, E2 and F, alongside the bell mouth accesses, will constitute appropriate development in the Green Belt (which also, in the Officer's committee report (CD 7.3) at 9.7.3.6, extended to include Site 1). Thus, there is no definitional, or other, harm arising in respect of the development of these sites as proposed.

6.2 In this context, the table in **Appendix 4** (in response to the Council's Statement of Case at 6.15) reviews matters relating to the principles of appropriate development in the Green Belt, as established within paragraphs 145/146 of the NPPF (CD 2.1).

6.3 The following matters are confirmed:

- As the planning application is a single package of development to provide appropriate facilities (in connection with the existing use of Sandown Park) for outdoor sport and outdoor recreation, paragraph 145(b) would apply in principle when looked as a comprehensive whole, and
- The large majority of the sites (see plan in **Appendix 4**, which includes all sites, and not just those being contested as comprising appropriate development by the Council) are previously developed land (in whole or part), and as such paragraph 145(g) would also trigger, in this case, in respect of Sites 1, 2, 3, 4, 5, B and D (not least as they are wholly or partially developed), particularly as the scheme, as a whole, will secure affordable housing (with Site D further benefitting from 146b).

6.4 This analysis acknowledges that the NPPF provides for, or does not expressly preclude, the determination of the scheme as a comprehensive whole and alternatively on a site-by-site basis when considering very special circumstances if development of any specific site is found to be inappropriate in the Green Belt when applying the overall planning balance.

6.5 It is, of course, accepted that there are caveats to the application of the cited paragraphs within the NPPF. These relate to:

- Preserving the openness of the Green Belt, and the purposes for including land within it (145(b)), and
- No greater impact on openness, or not causing substantial harm to openness where development would reuse previously developed land whilst contributing towards an identified affordable housing need (145(g)).

6.6 The appellant's evidence demonstrates that these provisions are met.

6.7 Consequently, the proposals do not constitute inappropriate development. In other words, they are appropriate development in the Green Belt.

7 THE EFFECTS OF THE PROPOSAL ON THE GREEN BELT (REASON 1)

7.1 The Supreme Court confirmed, in respect of Tadcaster (CD4.11), that the relevance and weight given to visual considerations relating to Green Belt openness is a matter for professional judgment.

7.2 In this case, it is the Appellant's position that visual considerations should be afforded little, or no, weight (although visual impact is addressed in the evidence of Mr Connolley, who finds the scheme to be acceptable in this respect: a view separately shared by me). It is my opinion that the decision must be driven by spatial considerations. This is addressed, further, in **Appendix 5** (where an appreciation of spatial considerations is addressed in the context of the relevant Green Belt purposes).

7.3 In these terms, it must be recognised that the local authority's evidence base (CD 3.8/3.9), and its Statement of Case (at 6.7), finds:

- Two purposes are not relevant within Elmbridge (specifically, purpose d and purpose e);
- The proposals will not conflict with Purpose c);
- Sandown Park and Site 3 are only deemed to be performing strongly relative to purpose b) (which the appellant questions in earlier submissions), whereas
- Site 4 should be considered for removal from the Green Belt, given its lack of performance in terms of the purposes of including land with it.

7.4 My findings indicate that:

- All the sites lie within one settlement (Esher) and are distant to Thames Ditton and Greater London: they cannot lead to any merging of towns or settlements therefore (or, for that matter, check the unrestricted sprawl of Greater London);
- Even if this was not the case (an issue addressed in response to earlier Council requests in the context of available Arup work at the time (CD 3.8) of EDP's Green Belt review - CD 5.50), all of the development sites on the south side periphery of the racecourse lie between existing built form and the Grandstand and, further, respect established building lines: Site 3 on the northern periphery redevelops and extends existing housing, also with Esher. The so called gap - as existing - will be maintained across the racecourse;
- Again, if it is accepted (contrary to my view) that land to the north of the racecourse is part of Greater London and therefore outside Esher, the only element of the development (in the context of Arup's findings on Site 4 - CD 3.9) that could possibly contribute to sprawl (or the coalescence of Esher with Thames Ditton) is Site 3 as all of the other development sites are to the south of the racecourse. However, even in this scenario, the development will not offend purpose a), as - inter alia - it already comprises built floor-space and, in Arup's view, does little to prevent sprawl (see **Appendix 6** for further details);
- The development proposed to the centre of the racecourse is either agreed to be appropriate development (Site C) or lays grass-crete (or similar) for the existing use as car parking without any harm to openness, and
- The Racecourse is not in the Countryside.

7.5 As a result, the development will not harm the openness of the Green Belt, nor the purposes for including land within it. The proposed development sits on the fringes of the course. Much of the racecourse, in the Green Belt, will be untouched by the development (see **Appendix 7**), including its core area. It comprises appropriate development.

8 ALLEGED OTHER HARM AND OTHER CONSIDERATIONS (REASON 1)

8.1 In the refusal notice (CD 7.2), reference is made to alleged harm arising relative to transport, air quality and insufficient affordable housing provision. However, it is stated that "for the avoidance of doubt, the Council does not say that these harms would give rise to a reason for refusal in and of themselves" (see Council's Statement of Case, paragraph 6.23). They constitute, in the Council's opinion, issues which lend weight in refusing the proposals. I disagree, as per the following commentary (which also addresses a range of development management considerations, beyond the decision notice, and should - in this context - be read in conjunction with the Appellant's specialist studies, and statements of case, in respect of these matters - CD 5/6).

TRANSPORT

8.2 The local highway authority has raised no objections to the proposals. Further, the evidence of Mr Lewin confirms that the proposed development is acceptable in transport terms. In short, Sandown Park is a highly sustainable location and the proposals can be accommodated, within the highway network, without harm. Enhancement measures proposed to the local highways in the vicinity of the racecourse will secure road safety and amenity benefits for road users and the local community.

AIR QUALITY

8.3 The air quality statement confirms that there are no matters being raised in this case which tell against the development. Rather, the statement advises that there are likely to be benefits accruing from the development, in air quality terms.

MARKET AND AFFORDABLE HOUSING

- 8.4 The Local Authority cannot demonstrate a five year land supply. It is also failing to meet its affordable housing targets (see **Appendix 8** and CD 3.1/3.48). This is a product of, inter alia, planning-led constraints to land availability in the Borough (CD 3.11), albeit these do not include the Green Belt. Land is difficult to find. The proposals, in this context, maximise the residential yield from the development and all the proposed affordable housing would be on-site, an added advantage in a constrained area (and are permissible, based on the Appellant's case, in the Green Belt).
- 8.5 That aside, the evidence of Mr Fell, on affordable housing and viability, advocates the appropriate method and approach in this case. I agree with his position, as the proposals must be viewed as a comprehensive whole package: the principal tenet, of which, is to secure racecourse improvements/enhancements (and, in this context, the provision of affordable homes, contrary to the Council's view, should be seen as a significant benefit, in particular as the affordable housing will be secured on-site in a highly sustainable location adjacent to Esher district centre).

HERITAGE

- 8.6 Whilst it is acknowledged that reference to heritage policies within the decision notice are in error, the submitted statement - from EDP - confirms that there will be no adverse impact to designated and non-designated heritage assets as a result of the development: conversely, the proposal will bring benefits in heritage terms.

NOISE

- 8.7 Daytona no longer objects to the proposals. EBC's Environmental Health Officer raises no objection either, and a mutually acceptable condition has been agreed between the principal parties relative to the matter. Furthermore, the appellant's acoustic statement confirms that the proposals are acceptable. The cessation of the Daytona go-kart racing, in this respect, will be a benefit in amenity terms.

ECOLOGY AND ARBORICULTURE

- 8.8 Statements, on these matters, are before the Inquiry. They confirm that the proposals should be supported in ecology and arboricultural terms, not least given the range of benefits that the proposal will generate relative to, inter alia, ecology. Some 225 trees are proposed to be planted and thereafter maintained, with - amongst other matters - commitments being made to the management, and enhancement, of Littleworth Common.

OTHER

- 8.9 The proposals appropriately address flooding and water management issues (CD 5.40) and, further, are able to accommodate considerations relative to climate change (see Appellant's Statement of Case at Section 13).

9 PLANNING BENEFITS AND VERY SPECIAL CIRCUMSTANCES (REASON 1 AND GENERALLY)

- 9.1 This section reviews the planning benefits that will arise from the development. These planning benefits:
- Should be recognised as matters further telling in favour of granting planning permission, should the Inspector agree with the Appellant relative to the "appropriateness" of the development, or
 - If the proposal is found by the Inspector to amount to inappropriate development, would represent very special circumstances that clearly outweigh any harm by reason of inappropriateness, or any other harm.

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- 9.2 These planning benefits are reviewed, amongst other documents, in the Appellant's Main Statement of Case and a Socio-Economic paper (CD 6.47) provided to the local authority during its determination of the application. In summary, they include:
- The unique benefits from supporting the Racecourse at Sandown Park;
 - Economic benefits - retaining/creating jobs, maintaining and increasing additional spend in the area, meeting an established need for a hotel;
 - Social benefits - providing much needed market and affordable homes (see **Appendix 8**), alongside the provision of a family zone, and
 - Environmental benefits - delivering ecological, heritage and highways/transportation improvements.
- 9.3 The Council recognises some of these benefits to varying degrees, albeit in its Statement of Case the majority are surprisingly now given limited or no value (with the notable exception of the provision of market homes which is considered a significant benefit). However, this should be compared with Officers' position at committee, whereby without any material change in circumstances, more factors were given moderate and significant weight, not least the provision of a hotel and the site's sustainable location.
- 9.4 A table illustrating the inconsistency of the local authority's approach is attached at **Appendix 9**. This table also confirms the Appellant's position relative to these benefits. It is concluded that these considerations, whether treated as benefits or as very special circumstances, reinforce the granting of planning permission.

10 MATTERS RAISED BY RULE 6 PARTY/PUBLIC COMMENTS

- 10.1 The appellant's response to the Rule 6 Party is attached at **Appendix 10**. It will be noted that there is no evidence before the Inquiry, from this party, which tells against the development.
- 10.2 The matters raised in public comments are wide ranging, but have all been addressed by the appellant's application and appeal submissions, or are not matters relevant to planning (see **Appendix 11**).

11 PLANNING BALANCE AND CONCLUSIONS

- 11.1 The appeal scheme constitutes sustainable appropriate development in the Green Belt and satisfies all other relevant policy matters. It is in accordance with the Development Plan.
- 11.2 However, should the proposal be found to conflict with the Development Plan, the Council cannot demonstrate a five-year housing land supply and therefore paragraph 11(d) of the framework applies.
- 11.3 In this context, the proposal will not harm, but rather bring significant benefits to Esher as well as the region and support a nationally important horse racing venue. The urgent need for the racecourse improvements should carry significant weight. The housing benefits, overall, should also be afforded significant weight. The hotel should also be acknowledged as a significant benefit. Similarly, the economic, community/family, heritage, landscape/ecology and highway benefits are all to be given significant weight.
- 11.4 These benefits are extensive and, individually or cumulatively, should be afforded substantial weight, amount to very special circumstances and clearly outweigh any harm to the Green Belt by reason of inappropriateness and any other harm (should this be found in this case); therefore very special circumstances exist to justify the development in accordance with Government policy. The planning balance also firmly lies in favour of the grant of planning permission to outweigh any alleged conflict with the Development Plan.