

Main Statement of Case Appendix 5

HERITAGE STATEMENT OF CASE BY EDP



**Sandown Park
Racecourse,
Esher**

**Statement of Case
in respect of
Heritage Matters**

LPA REF:
2019/0551

March 2020
Report Ref:
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Contents

Section 1	Introduction	1
Section 2	Relevant Legislation and Planning Policy.....	3
Section 3	Review of Relevant Background and Context	9
Section 4	Conclusions	16

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Section 1

Introduction

Purpose and Background

- 1.1 This Statement of Case in respect of Heritage Matters has been prepared in relation to the appeal against the decision of Elmbridge Borough Council to refuse a hybrid planning permission (LPA Ref 2019/0551) for redevelopment proposals at Sandown Racecourse.
- 1.2 As set out in the Officer's Report to Planning Committee (Core Document CD7.3), no objections were raised by the Council's officers in their formal consultation responses in respect of heritage conservation or archaeological matters.
- 1.3 Nonetheless, the planning application was considered by Committee on 01 October 2019 and, against officer recommendation, was refused. A Reason for Refusal (RfR) of relevance to historic environment matters (Reason for Refusal 2) was included as follows:

"2) It has not been demonstrated that the level of residential development and hotel proposed could be designed without resulting in an adverse impact on the character of the area, in conflict with Policies CS9 and CS17 of the Elmbridge Core Strategy 2011, Policies DM2 and DM12 of the Elmbridge Development Management Plan 2015, the Design and Character SPD 2012 and the NPPF."
- 1.4 In light of the above Reason for Refusal, this Statement of Case has been prepared on behalf of the Appellant to address this Reason for Refusal, in respect of matters of relevance to the historic environment; i.e. the appeal proposal's concordance with Policy CS9 and CS17 of the Core Strategy, Policy DM12 of the Elmbridge Development Management Plan (Core Document CD1.2) and Chapter 16 of the National Planning Policy Framework (NPPF) (Core Document CD2.1), where each is of relevance to heritage assets.
- 1.5 At this time, the Appellant reserves the right to amend or add to this Statement of Case, should this become necessary, once the Statement of Common Ground (SoCG) has been agreed and/or in the light of the Statements of Case received from the Local planning Authority (LPA) or any subsequent Rule 6 parties.
- 1.6 The Appellant will demonstrate in evidence that the above reason for refusal is not justified in as far as heritage matters are concerned and the Appeal should be allowed, giving due weight to the Development Plan and all other material considerations of relevance to the historic environment.

Scope and Structure of the Statement of Case

- 1.7 This Statement of Case considers the appeal proposals in respect of heritage matters. It begins by outlining the legislation and planning policy of relevance to the conservation

and management of heritage assets. The relevant framework is summarised in **Section 2**.

- 1.8 In **Section 3**, the Statement of Case sets out a review of the conclusions of the Archaeology and Heritage Assessment (Core Document CD5.39) submitted with the application and the manner in which historic environment matters were considered by the planning authority and relevant consultees, as well as third parties, during the determination period.
- 1.9 Finally, the Statement of Case responds to the Reason for Refusal by considering the degree to which the appeal proposals accord with historic environment aspects of the development plan and national policy, before setting out conclusions in **Section 4**.

Section 2

Relevant Legislation, Planning Policy and Guidance

- 2.1 This section outlines the legislative and planning policy framework of relevance to historic environment considerations associated with this appeal. Full details of the relevant legislation and planning policy context are set out in the Archaeology and Heritage Assessment (edp5237_r004d) (Core Document CD5.39), which was submitted with the planning application.

Legislation, National Planning Policy and Guidance

- 2.2 To summarise the legislative and planning policy framework, Section 66(1) of the 1990 Planning (Listed Buildings and Conservation Areas) Act requires a decision-maker to give special regard ("*considerable importance and weight*") to the desirability of preserving a listed building, its setting and any features of special architectural or historic interest which it possesses, while Section 72(1) requires the decision-maker to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area, for developments in a conservation area.
- 2.3 Whilst paragraph 193 of the NPPF (Core Document CD2.1) identifies that "*great weight*" should be given to the conservation of a designated heritage asset, subsequently adding that the "*more important the asset, the greater the weight should be*", paragraphs 195 and 196 set out a framework for the evaluation of harm and the balancing exercise, which should be undertaken against public benefits in determining the acceptability of a proposed development, which results in harm to a heritage asset.
- 2.4 The Historic Environment Planning Practice Guidance (PPG) (Core Document CD2.3), which supports the NPPF, advises that development affecting heritage assets and their settings is only harmful when there is an adverse impact on an asset's significance. The NPPF and PPG is nonetheless clear that harm to heritage assets may be acceptable to the decision-maker when the benefits of development proposals are found to outweigh any identified harm.
- 2.5 Historic England guidance of relevance includes: *Environment Good Practice Advice in Planning 2: Managing Significance in Decision-Taking in the Historic Environment* (HE 2015) (Core Document CD3.21); *Historic England Advice Note 1: Conservation Area Designation, Appraisal and Management* (HE 2019) (Core Document CD3.32); and *Historic Environment Good Practice Advice in Planning Note 3: The Setting of Heritage Assets* (HE 2017) (Core Document CD3.20).

Local Planning Policy

- 2.6 The Elmbridge Core Strategy (Core Document CD1.1) was adopted in July 2011 and continues to form part of the adopted Development Plan that guides development within the district until the formation of a new local plan.
- 2.7 The Core Strategy contains general development policies for Elmbridge, which make reference to the historic environment, with those of relevance comprising Policy CS9 and Policy CS17.
- 2.8 Policy CS9 is a general development policy for Esher, which states the requirement for development proposals to pay specific attention to ‘areas of high heritage value’ such as conservation areas, as set out below:

CS9 – Esher

“Esher will continue to fulfil a diverse range of important roles as a centre for residential, employment, leisure, recreational and tourism uses. Additional residential development will be provided across the area, primarily through redevelopment of previously developed land, taking account of relative flood risk. All new development will be expected to enhance local character. Specific attention will need to be given to areas of high heritage value, including West End and Esher Conservation Areas.

Esher has relatively good accessibility and higher density residential / mixed use developments could be appropriate within and around the town centre, provided that they take account of its historic context and support the town centre's vitality and viability, contributing to the diversity of uses available to local people. Restaurants and cafés contribute to the character of Esher and its evening activity. However, these uses do need to be controlled, in order that its function as a retail centre during the day time is not threatened. (see CS19 - Town Centre Uses).

The Council will work in partnership with landowners and Surrey County Council to implement appropriate measures that could address traffic congestion through the town centre and reduce the negative impact of lorry movements through residential areas. The Council will also promote improved access to and within the area for pedestrians and cyclists and public transport users. The Council will continue to work in partnership with Surrey County Council, in order to take a coherent approach to on and off-street parking.

The Council will promote the provision of hotel accommodation in order to support the tourist venues at Sandown Park Racecourse and Claremont Landscape Gardens (see CS24-Hotels and Tourism).

Environmental management and improvement programmes will be undertaken across Esher Common in order to protect biodiversity and provide opportunities for leisure and recreation (see CS14-Green Infrastructure and CS15-Biodiversity).”

- 2.9 Policy CS17, although focussed on design considerations, also states the requirement for development proposals to have regard to effects on heritage assets, as set out in the extract below:

CS17- Local Character, Density and Design

“Elmbridge's unique environment is characterised by its green infrastructure, river corridors, historic assets and distinctive town and village settlements. The consideration of sustainable design should be considered as an integral part of the design process (see CS27-Sustainable Buildings) In order to provide a positive strategic design framework that protects and enhances that environment, the Council's forthcoming development management policies and the Design and Character SPD will take into account the following key principles.

Local Character

New development will be required to deliver high quality and inclusive sustainable design, which maximises the efficient use of urban land whilst responding to the positive features of individual locations, integrating sensitively with the locally distinctive townscape, landscape, and heritage assets, and protecting the amenities of those within the area.(27) Innovative contemporary design that embraces sustainability and improves local character will be supported (see CS1-Spatial Strategy). New development should enhance the public realm and street scene, providing a clear distinction between public and private spaces. Particular attention should be given to the design of development which could have an effect on heritage assets which include conservation areas, historic buildings, scheduled monuments, and the Borough's three historic parks and gardens.”

- 2.10 The Development Plan also includes the Elmbridge Development Management Plan (Core Document CD1.2), which was adopted by the Council in 2015 and provides the day-to-day policies against which planning applications are assessed.
- 2.11 In relation specifically to the historic environment, the Elmbridge Development Management Plan contains Policy DM12 – *Heritage*, which provides a breakdown of the requirements for development proposals in respect of the various types of heritage assets that might be affected:

“Planning permission will be granted for developments that protect, conserve and enhance the Borough’s historic environment. This includes the following heritage assets:

- *Listed Buildings and their settings*
- *Conservation Areas and their settings*
- *Parks and Gardens of Special Historic Interest and their settings*
- *Scheduled Monuments and their settings*

- *Areas of High Archaeological Potential and County Sites of Archaeological Importance (CSAIs)*
- *Locally Listed Buildings and other identified or potential assets (including non-designated locally significant assets identified in the local lists compiled by the Council).*

a. Listed Buildings

- i) *The Council will encourage appropriate development to maintain and restore Listed Buildings, particularly those identified as being most at risk.*
- ii) *Development to, or within the curtilage or vicinity of, a listed building or structure should preserve or enhance its setting and any features of special architectural or historical interest which it possesses.*
- iii) *A change of use of part, or the whole, of a Listed Building will be approved provided that its setting, character and features of special architectural or historic interest would be preserved or enhanced. Consideration will also be given to the long-term preservation that might be secured through a more viable use.*
- iv) *Development which would cause substantial harm to or loss of a listed building (including curtilage buildings), such as total or partial demolition, will be permitted only in exceptional circumstances. In such cases, consideration will be given to the asset's significance. Applicants will need to clearly demonstrate that either:*
 1. *There are substantial public benefits outweighing any harm or loss; or*
 2. *All of the following apply:*
 - *The nature of the listed building prevents all reasonable use of the site; no viable use of the listed building can be found in the medium term through appropriate marketing that will enable its conservation;*
 - *Can be demonstrated that charitable or public funding/ownership is not available to enable its conservation;*
 - *Any harm or loss is outweighed by the benefit of bringing the site back into use.*

b. Conservation Areas

- i. *Proposals for all new development, including alterations and extensions to buildings, their re-use and the incorporation of energy efficiency and renewable energy technologies, must have a sensitive and appropriate response to context and good attention to detail.*

- ii. *Development within or affecting the setting of a conservation area, including views in or out, should preserve or enhance the character and appearance of the area, taking account of the streetscape, plot and frontage sizes, materials and relationships between existing buildings and spaces.*
- iii. *Open spaces, trees and other hard and soft landscape features important to the character or appearance of the area should be retained or be in keeping with the character of the area.*
- iv. *Proposals to demolish buildings and/or structures will be assessed against their contribution to the significance of the conservation area as a heritage asset.*
- v. *Where substantial harm would be caused to a conservation area's significance, the proposal will be resisted unless exceptional circumstances, including substantial public benefits outweighing any harm to the conservation area, can be demonstrated. Where the harm would be less than substantial, it will be weighed against any public benefits of the proposal, including securing optimum viable use of the heritage asset and whether it would enhance or better reveal the significance of the conservation area.*

c. Parks and Gardens of Special Historic Interest

- i. *Parks and gardens identified as being of special historic interest, including landscape features and buildings, and their setting, will be protected and their sensitive restoration encouraged.*
- ii. *Any proposed development within or conspicuous from a historic park or garden will be permitted provided that it does not detract from the asset.*

d. Scheduled Monuments and County Sites of Archaeological Interest (CSAIs)

- i. *Development that adversely affects the physical survival, setting or overall heritage significance of any element of a Scheduled Monument or CSAI will be resisted.*
- ii. *Any new development should be sensitive to these criteria and positively act to enhance the monument or CSAI overall and ensure its continued survival.*

e. Areas of High Archaeological Potential

- i. *Proposals for development should take account of the likelihood of heritage assets with archaeological significance being present on the site, provide for positive measures to assess the significance of any such assets, and enhance understanding of their value.*

f. Locally Listed Buildings and other non-designated heritage assets

- i. The Council will seek to retain these, where possible, and will assess proposals which would directly or indirectly impact on them in the light of their significance and the degree of harm or loss, if any, which would be caused."*

- 2.12 In summary, analysis of the adopted Development Plan policies in respect of the historic environment; i.e. CS9 and CS17 of the Elmbridge Core Strategy, and DM12 of the Elmbridge Development Management Plan; emphasises the requirement for development proposals to give due regard to the conservation of the historic environment and heritage assets, in line with the NPPF.
- 2.13 Similarly, in concordance with the policy of the NPPF, the Development Plan policies reflect the balancing exercise enshrined in paragraphs 195 and 196 of the NPPF, which makes clear that harm to designated heritage assets, such as listed buildings or conservation areas, may be acceptable to the decision-maker when the benefits of development proposals are found to outweigh any identified harm.
- 2.14 It is the Appellant's position that the appeal proposals are fully in accordance with relevant historic environment policy of the NPPF and the Development Plan.

Section 3

Review of Relevant Background and Context

- 3.1 This section of the Statement of Case provides a review of the background to the appeal, relevant to the consideration of heritage matters. It does this in the following sequence:
- (i) A summary of the relevant findings of the assessments of the historic environment, which informed the planning application;
 - (ii) A review of and commentary on the Council's and relevant consultees', and third parties' consideration of the appeal proposals in terms of their interaction with relevant aspects of the historic environment; and
 - (iii) Subsequent analysis and conclusions on the degree to which the appeal proposals accord with relevant historic environment aspects of national and local development plan policies and response to the Reason for Refusal.

(i) Summary of Historic Environment Assessments

- 3.2 The historic environment related documentation accompanying the planning application included the following assessment:
- Archaeological and Heritage Assessment (EDP, February 2019; edp5237_r004d) (Core Document CD5.39);
- 3.3 A review of this assessment indicates that it was undertaken with due regard to industry best-practice and guidance at that time, namely the requirements of the NPPF (Core Document CD2.1), standards specified by the Chartered Institute for Archaeologists and Historic England guidance, including the 2017 *Historic Environment Good Practice Advice in Planning Note 3: The Setting of Heritage Assets* (GPA 3) (Core Document CD3.20) and the 2015 *Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision-Taking in the Historic Environment* (GPA 2) (Core Document CD3.21).
- 3.4 The historic environment of the appeal site and the heritage assets that are of relevance to the appeal proposals are set out in the Archaeological and Heritage Assessment (edp5237_r004d; Plan EDP 1 and Plan EDP 2) (Core Document CD5.39).
- 3.5 In summary, the assessment identifies in respect of designated heritage assets, that the site lies within a small part of the Esher Conservation Area (CA), specifically the proposed access to Site 1. The assessment identifies that the development sites, which together form the appeal site, also lie within the setting of 11 Grade II listed buildings and a single scheduled monument.

- 3.6 The listed buildings of relevance include the Gates and Railings to Sandown Park Racecourse, Traveller's Rest 'folly', a Post by the Tollhouse, Myrtle Cottages, Sandown House and the White Lady Milestone (also a scheduled monument), all located on the Portsmouth Road, in addition to a group of listed dwellings on More Lane to the south-west.
- 3.7 In all cases, the assessment has identified that the implementation of the appeal proposals, in line with the parameters of the submitted planning application, would cause no harm to these designated heritage assets, either through direct physical impacts, or through changes to their settings.
- 3.8 The assessment identifies a number of benefits to designated heritage assets that would result from the implementation of the appeal proposals. These include a minor enhancement to the access to Site 1 within the Esher Conservation Area and enhancement to the setting of the Traveller's Rest folly. Further enhancements are proposed within the setting of the Grade II listed gates to the racecourse including measures for traffic control. Provision is also made for interpretation boards to enhance the public appreciation of the racecourse and its heritage interest.
- 3.9 In relation to archaeological matters, the assessment identifies two *Areas of High Archaeological Potential* within the appeal site. One of which is located on the hilltop of The Warren in the south-western part of the appeal site, north of Site 1 and outside the extents of proposed development. The available evidence indicates that associated archaeological activity does not extend into any proposed development area.
- 3.10 The second *Area of High Archaeological Potential* lies within Site 5 and relates to the possible site of a former medieval hospital.
- 3.11 There is considered to be a low potential for significant archaeological remains to be present within the remainder of the appeal site, with such evidence potentially relating, in particular, to former field boundaries and other agricultural activity from the medieval period to the late 19th century and of consequent negligible significance.
- 3.12 The assessment concludes that for all development sites within the appeal site, any potential archaeological features that survive can be adequately investigated and recorded in advance of development by an appropriate programme of archaeological work secured by condition.
- 3.13 In terms of other non-designated heritage assets, the assessment concludes that the implementation of the proposals would result in no adverse impacts on the locally listed tollhouse within Site 5, or the locally listed buildings, including lodges, in the wider environs of Site 3.
- 3.14 As such, it is the Appellant's position that the assessment submitted with the planning application provided a proportionate assessment of all relevant heritage assets within the appeal site's wider zone of influence. It is considered that the significance of these designated heritage assets, which include listed buildings, a scheduled monument and a

conservation area, would in no way be adversely affected or harmed by the form of development proposed within any site, either in terms of an effect on their physical form/fabric or through change to the contribution made by their setting.

- 3.15 With particular regard to the Grade II listed Traveller's Rest, Grade II listed gate piers, and the Esher Conservation Area, the Appellant considers that the implementation of the appeal proposals would result in benefits to the significance of these designated heritage assets.
- 3.16 In terms of non-designated heritage assets, it is considered that there will be no adverse effects on locally listed buildings. It is the Appellant's position that potential impacts on any archaeological remains that survive within any of the proposed development sites within the appeal site could be adequately identified and mitigated by a suitable programme of archaeological investigation and recording secured as a condition attached to planning permission.

(ii) The Council's Consideration of Historic Environment Matters

- 3.17 A review of the consultation responses of Council officers and statutory consultees identifies that the Archaeology and Heritage Assessment submitted with the planning application provided a sufficient body of information to enable the Council to determine the planning application, with respect to historic environment policy considerations.
- 3.18 The effects of the appeal proposals on the designated and non-designated heritage assets were duly considered by Council officers, including the conservation officer and the archaeological officer, in formal consultation responses, which are summarised below.

Conservation Officer Comments

- 3.19 The Council's conservation officer's consultation comments on the planning application were issued on 27 March 2019 and 13 May 2019.
- 3.20 The conservation officer identified the potential for 'limited' and 'minimal' harm to a limited number of heritage assets and a consequent requirement for further assessment of detailed plans for each development site at future Reserved Matters stage, to ensure that any harm is avoided or minimised. Nonetheless, the potential for harm to designated or non-designated heritage assets identified by the conservation officer did not lead to an objection to any element of the hybrid application and neither did the officer identify any conflict with any Development Plan policy.
- 3.21 The conservation officer acknowledged the potential benefits of the proposals to the Esher Conservation Area.

Archaeological Officer Comments

- 3.22 The consultation comments of the archaeological officer were issued on 01 August 2019.
- 3.23 The archaeological officer identified that no further archaeological consideration was required in respect of any developments associated with the full planning application elements.
- 3.24 In respect of the outline elements of the appeal proposals, the archaeological officer recommended that, in line with Policy DM12 of the Development Management Plan (Core Document CD1.2), a suite of further archaeological works – secured by a condition attached to the outline planning permission – is implemented in advance of development to preserve by record any surviving archaeological remains.
- 3.25 As a result, the archaeological officer raised no objection to any element of the hybrid application.

The Officer's Report to Committee

- 3.26 A review of the Council's consideration of historic environment matters set out in the Officer's Report to Planning Committee (Core Document CD7.3) identifies that a comprehensive review of the Appellant's assessments and the assessments of the Council's conservation officer and archaeological officer was undertaken by the officer, in addition to consideration of issues raised by third parties in respect of the historic environment.
- 3.27 Due regard is given to the conservation officer's consideration of the potential effects of various elements of the appeal proposals.
- 3.28 The Officer's Report identifies that in all cases where the appeal proposals are considered to have the potential to adversely affect heritage assets, any harm would be no more than 'less than substantial', which is further clarified as 'limited'.
- 3.29 Table 6 of the Officer's Report identifies that the implementation of the appeal proposals for Site 1 are considered by the Council to have the potential to affect the conservation area and listed buildings, while the implementation of the appeal proposals for Site 4 is considered to have the potential to affect the setting of Grade II listed Myrtle Cottages and two locally listed buildings.
- 3.30 In each case the Officer's Report identifies that, in matters of potential harm to built heritage (i.e. listed buildings, the conservation area or locally listed buildings), any impacts can be adequately addressed through consideration of detailed designs for each site. On this basis, Section 9.11 of the Officer's Report does not identify harm to heritage assets as a factor carrying any weight against the parameters of the development proposals that are the subject of the hybrid application.

- 3.31 The Officer's Report to Planning Committee identifies that the implementation of the appeal proposals would result in beneficial effects to The Grade II listed Traveller's Rest and the Grade II listed Racecourse gates on Portsmouth Road.
- 3.32 In terms of archaeological matters, the Officer's Report acknowledges, in line with the recommendations of the archaeological officer at Surrey County Council (SCC), that sufficient information has been provided by the Applicant to inform determination of the application subject to the appeal and that further archaeological work is required in order to ensure that any surviving remains are adequately identified and recorded in advance of development. The Officer's Report recommends this work is secured by a pre-commencement condition attached to planning permission in line with Policy DM12 of the Development Management Plan (Core Document CD1.2).
- 3.33 The appeal proposal's compliance with historic environment policy is therefore affirmed by the Officer's Report, where no objections are raised by the Council's officers in their formal consultation responses in respect of heritage conservation or archaeological matters.
- 3.34 The Officer's Report concludes that, in terms of all outline proposals (including residential development and hotel development sites) no conflict is identified with historic environment policies of the Elmbridge Local Plan or national policy.
- 3.35 It goes on to state that *"any raised concerns relate to matters that are currently reserved for later application stages and it is considered that there is a potential for these to be addressed through careful design"*. In this context it is clear that this applies to the identified concerns in respect of the 'limited' potential effects on heritage assets.
- 3.36 Similarly, for the proposals for which full permission is sought, the Officer's Report concludes that there is no conflict with historic environment policies of the Elmbridge Local Plan or national policy.

Historic Environment Matters Raised by Third Parties

- 3.37 Analysis of third-party responses to the planning application, including the Esher Conservation Area Advisory Committee and the Save Esher Green Belt Group of Residents, identifies concerns in respect of effects of the proposals on the Esher Conservation Area and on non-designated buildings.
- 3.38 The Appellant considers that all such concerns, and the potential for effects on the historic environment, including all relevant designated and non-designated heritage assets, have been adequately addressed in the Archaeology and Heritage Assessment (Core Document CD5.39) submitted with the planning application.
- 3.39 Furthermore, these considerations were given due regard in the Officer's Report, which nonetheless confirmed that the appeal proposals are not in conflict with historic environment policies of the Elmbridge Local Plan or national policy (Core Document CD1.1, CD1.2, CD2.1 and CD2.3).

(iii) Conclusions on the Policy Compliance of the Appeal Proposals and Analysis of Reason for Refusal 2

- 3.40 Review of the assessment submitted in support of the planning application, alongside the consultation responses of Council officers and the planning officer's report to planning committee, identifies that together these documents have provided a sufficient body of information to enable the Council's planning officer to recommend positive determination of the planning application, with respect to historic environment policy considerations.
- 3.41 The Council's heritage experts and planning officer concur with the Appellant that the appeal proposals do not conflict with the historic environment policies of the Elmbridge Local Plan or national policy and that there are no historic environment grounds to either object to or refuse the application.
- 3.42 It is the Appellant's view, set out in the conclusions of the Archaeology and Heritage Assessment that accompanied the planning application, that there would not be any adverse impacts on any designated heritage asset, while several designated heritage assets would benefit from enhancements.
- 3.43 As such, it is considered that there is no requirement to engage either paragraph 195 or 196 of the NPPF (Core Document CD2.1) to determine the acceptability of the appeal proposals, and that in that context the appeal proposals are also in accordance with Policy DM12 of the Development Plan (Core Document CD1.2).
- 3.44 It is also the Appellant's position that there would be no adverse impacts on any locally listed (non-designated) buildings. Furthermore, the Appellant is in agreement with the Council's archaeological officer that effects on any potential archaeological remains within the appeal site could be appropriately addressed through a programme of further archaeological investigation and recording in advance of development, secured through a condition. In this context the proposals are considered to be in compliance with NPPF policy and the policy of the Development Plan.
- 3.45 Despite the Officer's Report (Core Document CD7.3) recommending approval of the planning application, Reason for Refusal 2 states the following:
- "It has not been demonstrated that the level of residential development and hotel proposed could be designed without resulting in an adverse impact on the character of the area, in conflict with Policies CS9 and CS17 of the Elmbridge Core Strategy 2011, Policies DM2 and DM12 of the Elmbridge Development Management Plan 2015, the Design and Character SPD 2012 and the NPPF."*
- 3.46 It is clear that Reason for Refusal 2 does not take account of the Council officers' established position with regard to the acceptability of the potential impacts of the residential development and hotel development elements of the appeal proposals on the historic environment, which is set out above.
- 3.47 Neither does Reason for Refusal 2 acknowledge that the residential development and hotel development elements of the appeal proposals are in outline form only, with their

exact design, details and form to be agreed through Reserved Matters applications and where any potential concerns, where they are of relevance to heritage assets, can be addressed through sensitive detailed design, as set out in the Officer's Report (Core Document CD7.3).

- 3.48 Furthermore, it is the Appellant's position that the wording of Reason for Refusal 2 does not reflect the balancing act enshrined para 195 and 196 of the NPPF (Core Document CD2.1) and mirrored in the policy of the local development plan. To be clear, neither the NPPF or Development Plan (Core Document CD1.1 and CD1.2) require that, in any event, harm or 'adverse impacts' to heritage assets are to be avoided in order for development proposals to comply with relevant policy.
- 3.49 It is considered that, in merely identifying apparent 'adverse impacts' with reference to the NPPF, Policy CS9 and Policy CS17 of the Core Strategy (Core Document CD1.1) and Policy DM12 of the Development Management Plan (Core Document CD1.2), without applying any subsequent balancing act to determine the acceptability of the impacts against the public benefits of the proposals, Reason for Refusal 2 does not properly interpret the policies, which it contends are being offended.
- 3.50 It is therefore the Appellant's position that the conclusions of the Appellant's Archaeology and Heritage Assessment, alongside the considered opinions of the Council's own heritage experts and planning officer – which together are aligned in their agreement that there are no historic environment grounds to either object to or refuse the application – should be preferred to Reason for Refusal 2. Reason for Refusal 2 is clearly unsupported in its contention that the appeal proposals are in conflict with relevant historic environment policy.

Section 4

Conclusions

- 4.1 This Statement of Case sets out how a full and robust assessment of the effects of the appeal proposals on the historic environment has been undertaken by the Appellant to inform the determination of the planning application.
- 4.2 The Appellant's assessment concludes that there would be no adverse effects on the significance of any designated heritage assets, either through physical change to their fabric or change within their setting and instead there would be benefits to a number of such heritage assets.
- 4.3 Therefore, it is the Appellant's case that the appeal proposals fully accord with the policy of the Development Plan (Core Document CD1.1 and CD1.2), with respect to designated and non-designated heritage assets.
- 4.4 The Appellant's assessments – and the appeal proposals themselves – were comprehensively analysed by relevant consultees, including the Council's conservation officer and archaeological officer, and robustly considered in the Officer's Report to Planning Committee (Core Document CD7.3). No reasons for objection or refusal were identified by Council officers on the basis of the appeal proposal's effects on the historic environment.
- 4.5 The Officer's Report (Core Document CD7.3) acknowledges that the implementation of the appeal proposals would result in limited beneficial effects to two listed buildings.
- 4.6 Notwithstanding, the Appellant's position on 'harm', the Officer's Report identifies that any potential adverse effects on heritage assets, where relevant, can be addressed through the agreement of detailed designs for relevant development sites in respect of designated heritage assets and built heritage, or through mitigation secured by condition attached to planning permission in respect of archaeological remains.
- 4.7 It is clear from the Council's formal consultation responses considering the Appellant's assessments, as well as the Officer's Report, that historic environment policy requirements have been appropriately addressed in the planning application and no deficiencies in the development proposals have been identified in this regard. The Officer's Report identifies that no element of the appeal proposals is in conflict with historic environment policies of the Elmbridge Local Plan or national policy.
- 4.8 In contrast, the Planning Committee's Reason for Refusal 2, while making reference to relevant historic environment policy, does not properly reflect the requirements of local or national planning policy in respect of heritage assets and neither does it reflect the findings of the Appellant's or Council's heritage experts' assessments.

- 4.9 The Council's planning officer determined that the appeal proposals fully accord with relevant historic environment policy of the development plan and recommended approval of the planning application.
- 4.10 It is the Appellant's case that the development is fully in accordance with heritage policies in the Development Plan, with government and Historic England heritage policy and guidance and that there is no reason on heritage grounds why planning permission should not be granted.



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