

Planning Appeal by
Jockey Club Racecourses Ltd

MAIN STATEMENT OF CASE

SANDOWN PARK RACECOURSE PORTSMOUTH ROAD ESHER KT10 9AJ

Planning Application Reference: 2019/0551
Appeal Reference: to be confirmed

25 March 2020

Our Ref: WH/385/12/6

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1 INTRODUCTION

- 1.1 This Statement of Case has been prepared by Rapleys LLP on behalf of Jockey Club Racecourses (“JCR”, ‘the Appellant’) in response to the refusal of hybrid planning permission for redevelopment at Sandown Park Racecourse, Portsmouth Road, Esher KT10 9AJ (‘the Appeal Site’) by Elmbridge Borough Council (‘the LPA’).
- 1.2 This Appeal relates to a hybrid planning application (ref: 2019/0551) seeking outline planning permission for up to 318 dwellings and racecourse enhancements at Sandown Park Racecourse, Portsmouth Road in Esher, with all matters reserved save for access and racetrack widening.
- 1.3 The Appeal Site boundary consists of five residential parcels (Sites 1 to 5) and six racecourse enhancement parcels (Sites A to F). In total, these parcels total 17.68 hectares. A site location plan is enclosed at **Appendix 1**. The boundaries of Sandown Park Racecourse are illustrated as a blue line, with the boundaries of the Appeal Site illustrated as a red line.
- 1.4 This SoC sets out an overview of the appeal statement of case is submitted in support of, an appeal pursuant to Section 78 of the Town and Country Planning Act 1990 (as amended) and is made in accordance with the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 (as amended).

DESCRIPTION OF DEVELOPMENT

“Hybrid planning application for the redevelopment of Sandown Park Racecourse involving: Outline application for development/redevelopment of sections of the site to replace/modify existing operational/associated facilities, and to provide up to 150 bedroom hotel (Use Class C1), family/community zone, residential development up to 318 units (Use Class C3) and to relocate existing day nursery (Use Class D1), all with car parking, access and related works following demolition of existing buildings and hardstanding (for access only).

Full application for the widening of the southwest and east sections of the racecourse track including associated groundworks, re-positioning of fencing, alterations to existing internal access road from More Lane and new bell-mouth accesses serving the development.”

REASONS FOR REFUSAL

- 1.5 There are five reasons for refusal listed on the Decision Notice, dated 3 October 2019, as follows:
- 1. The proposed development represents inappropriate development in the Green Belt which would result in definitional harm and actual harm to the openness of the Green Belt and it is not considered that the very special circumstances required to clearly outweigh the harm to the Green Belt and any other harm, including impact on transport (highway and public transport capacity), air quality and insufficient affordable housing provision, have been demonstrated in this case. The proposed development by reason of its prominent location would be detrimental to the character and openness of the Green Belt contrary to the requirements of the NPPF, Policies CS21 and CS25 of the Elmbridge Core Strategy 2011, Policies DM5, DM7 and DM17 of the Elmbridge Development Management Plan 2015.*
 - 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.*

3. *In the absence of a completed legal agreement, the proposed development fails to secure the necessary contribution towards the affordable housing contrary to the requirements of Policy CS21 of the Elmbridge Core Strategy 2011 and the Developer Contributions SPD 2012.*
4. *Due to the lack of a legal agreement to secure a financial contribution towards the long-term management plan of Littleworth Common SNCI, the proposed development is likely to result in adverse impact on biodiversity contrary to the Policy CS15 of the Elmbridge Core Strategy 2011, Policy DM21 of the Development Management Plan 2015, the requirements of the NPPF 2019 and the Developer Contributions SPD 2012.*
5. *Due to the lack of a legal agreement to secure a financial contribution towards the accessibility improvements at Esher Railway Station and monitoring fee associated with the Travel Plans, the proposed development would result in adverse highway and transport implications in the local area of Esher. As such, the proposed development is contrary to the aims of Policy CS25 of the Elmbridge Core Strategy 2011, the requirements of the NPPF 2019 and the Developer Contributions SPD 2012.*

GROUPS OF APPEAL

1.6 The grounds of appeal can be summarised as:

1. The proposal represents “appropriate” development within the Green Belt, with reference to paragraph 145 within the NPPF;
2. Even if this were not the case, the proposal brings forward a raft of planning and other benefits which, collectively, represent very special circumstances that clearly outweigh any potential harm to the Green Belt by reason of inappropriateness, or any other harm resulting from the proposal;
3. The planning obligations referred to in the reasons for refusal are agreed by the appellant, and will be included within a s.106 agreement which - subject to discussion with the local authority - the appellant intends to present to the Inspector in advance of inquiry;
4. There are no other development management issues which would tell against the proposal, and
5. The proposal complies with national and local planning policy.

1.7 On that basis, planning permission should be granted.

STRUCTURE OF STATEMENT

1.8 This Statement addresses the following matters:

- Appeal Site and Surroundings
- Planning History
- The Racecourse and the Need for the Proposed Development
- The Need For Housing In Elmbridge Borough
- The Proposed Development
- Planning Policy and Guidance
- The Local Authority’s Evidence Base - Green Belt
- Green Belt Openness
- Chronology of the Application
- The Appellant’s Case Relative to Green Belt Matters
- The Appellant’s Case Relative to Other Matters
- The Benefits of the Development
- The Appellant’s Response To The Reasons for Refusal
- Response to Consultation Responses by Third Parties

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- Conditions
 - Planning Obligations
 - Planning Statement of Common/Uncommon Ground
 - Witnesses

1.9 This Statement provides a framework of the Appellant's Appeal Case, supported by a number of Statements of Case of Consultants included as Appendices, a list of which is set out above. This statement, and the supporting information (including the statements listed above) cumulatively confirm that the appeal should be allowed, and planning permission granted for the development proposals.

OTHER MATTERS

1.10 The Appellant requests that this appeal be dealt with through the Public Inquiry procedure, and notice was served to the Local Authority and Planning Inspectorate, to this effect, on 5 March 2020. The full reasons for this are set out within the appeal submission, however the matters arising are summarised below:

- The reasons for refusal raise a number of disputed issues of fact and technical evidence which require cross-examination in order to allow the Inspector to make an informed decision;
- The application proposals generated a substantial amount of interest locally, and
- There are significant differences in interpretation of policy, and submissions will be made to the effect that the Local Authority's approach to interpretation and application of relevant planning policies was wrong.

1.11 Further, the Appellant will be seeking a partial costs award relative to this Appeal. Further detail of this is set out in the application submitted in parallel to this appeal - the main grounds on which costs are sought arise from the Local Authority's actions below:

- Preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations;
- Failure to produce evidence to substantiate each reason for refusal on appeal, and
- The offering of vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.

1.12 In these terms, the grounds for which costs are sought are both procedural and substantive, and we reserve the right to review the costs application during the appeal process.

2 APPEAL SITE AND SURROUNDINGS

- 2.1 The Appeal Site and surroundings are described in detail in Section 2 of the Planning SoCG and other Statements of Case listed in the previous section. In summary, it demonstrates that the majority of the Appeal Site is previously developed land and/or adjacent to or surrounded by existing development. All proposed sites have good accessibility, being in close proximity to Esher District Centre and Esher Railway Station. As such, they are sustainable locations for development.

3 PLANNING HISTORY

- 3.1 The planning history of the Appeal Site is detailed in the Planning SoCG, which confirms that there is extensive planning history associated with the Appeal Site and the wider Sandown Racecourse site, reflecting its historic use and its evolution over time.
- 3.2 The planning history review confirms:
- That the facilities at Sandown Park have evolved and been improved upon over time, with the support of the local planning authority;
 - Some of the facilities for which planning permission is sought as part of the development proposals are already present (for example, stables and car parks), and
 - Some aspects of the development proposal have already been granted planning permission in the past (not least the hotel, albeit in a different location to that now proposed, whose planning permission has been implemented).
- 3.3 In this context, the development proposals are a comprehensive programme of enhancements which reflect the site's long planning history as a major asset for Esther, Elmbridge and further afield, supported by Local Plan policy, discussed below.

4 BACKGROUND TO THE PROPOSED ENHANCEMENTS TO SANDOWN PARK

- 4.1 The JCR SoC (at **Appendix 2**) addresses the need for the enhancements to Sandown Park and the rationale behind the planning application. It demonstrates that
- JCR's financial position, which has been affected by a number of factors, including the financial impacts from the reduction in horseracing's media rights and an industry-wide decline in racecourse attendance, is such that JCR would need to look for funds outside The Jockey Club-wide profit in order to provide capital investment in significant improvements and modernisation of Sandown Park.
 - Sandown Park requires substantial improvement works to secure the site's long term future in order to address the poor, dilapidated and deteriorating state of the facilities which do not meet the quality and standard required to attract a high quality race-card or to meet customer needs.
 - Sandown Park requires substantial improvement works so that it is able to compete with high quality sporting venues and leisure facilities which have undergone substantial upgrades in recent years in order to retain customers and visitors and to increase their spending per head, in turn underpinning the economic viability of Sandown as a racecourse.
- 4.2 The consequence of not carrying out the works would ultimately result in further decline and deterioration of the racecourse and its associated facilities, which would threaten the venue's future viability. JCR's remit, as it pertains to Sandown Park, is to operate the racecourse successfully; JCR, not least through the Jockey Club's Royal Charter, is committed to this. However, as with all businesses it is not immune to market forces and competition, and requires its operations to be commercially sustainable.
- 4.3 In this context, the proposed enhancements need to be funded by the sale of surplus land at the Racecourse, as required by its Royal Charter to reinvest all of JCR's profits back into British Racing, and the need for improvements must pay for themselves. Therefore, in order to support and deliver the enhancement works, JCR has proposed the delivery of an appropriate level of residential development around the edge of the Racecourse, which will facilitate capital to be raised and reinvested into the business to secure a competitive and sustainable future for Sandown Park Racecourse.

5 THE NEED FOR HOUSING IN ELMBRIDGE BOROUGH

- 5.1 The housing position in Elmbridge has been analysed based on data provided by both the LPA and the Government, and the local position relative to housing need and delivery is summarised below.

HOUSING REQUIREMENTS

- 5.2 The current Local Plan sets a housing target of 225 dpa, although it was adopted in 2011 and has not been subject to a review within the last five years. It is therefore considered to be out of date under the provisions of the Government's policy and guidance. As a result, the Standard Method applies in terms of calculating the Borough's housing requirements. The most recent consultation document (Shaping Elmbridge A New Local Plan Options Consultation 2019) (Core Document Ref: 1A.1) indicates that this minimum requirement is 623 dpa.

FIVE YEAR HOUSING LAND SUPPLY

- 5.3 The supply of housing is also well below required levels. Based on evidence within the latest monitoring report published by the LPA covering the period 2018/19 (Core Document Ref: CD3.13), the LPA is only able to demonstrate 3.13 years' supply of housing at present.

PAST DELIVERY AND THE HOUSING DELIVERY TEST (HDT)

- 5.4 Past delivery of housing in the Borough has averaged 265 dpa over the period 2009/10 to 2017/18. This is considerably below the minimum requirement set by the Standard Methodology. Further, LPA have delivered only 58% of their requirement under the Housing Delivery Test, as stated by results published by the Government in February 2020. As a result, the LPA are compelled to apply a 20% buffer in any calculations relative to its five year housing land supply. In addition, the LPA will need to issue a Housing Delivery Action Plan.

HOUSING NEED

- 5.5 Considering the fact that the Local Plan is at an early stage of preparation, its adoption is not expected to take place any earlier than late 2021 based on time periods for other authorities. The latest consultation document relative to meeting the Borough's housing need put forward five potential strategies for future growth, only three of which are claimed to deliver the required number of homes. Neither a preferred strategy nor a list preferred sites has been published, and it is considered highly unlikely that the local authority will be in a position to put forward a strategy for accommodating growth requirements in the short to medium term. Given that under-delivery and under-supply are expected to remain at current levels for the foreseeable future until adoption of the Plan, the only way to address this until then is through grant of planning permission for development proposals falling outside of the Local Plan-making process. It is to be noted that prematurity is not a Reason for Refusal and does not arise in the case of this appeal.
- 5.6 Therefore, as stated in Paragraphs 11.14-11.6 of the Planning Statement (Core Document Ref 6.50), the proposal will deliver a total of circa 318 new residential units which will make a significant contributing towards the Borough's significant housing needs. By way of context, this quantum of development represents:
- Over half a year of the local authority's annual housing requirement, and
 - Substantially more than what has been historically delivered each year across the whole of Elmbridge.
- 5.7 It is recognised that an unmet housing need will not, in itself, outweigh any harm to the Green Belt. Nevertheless, bringing forward much needed housing is a key consideration as part of an overall balance.

AFFORDABLE HOUSING

- 5.8 There is a substantial identified need for affordable housing in Elmbridge Borough, with latest housing evidence base confirming that across the last six monitoring years, the LPA is - on average - failing to meet its Local Plan target of 77 affordable homes per annum. The current SHMA (Core Document Ref: CD3.12) shows a need for 332 affordable homes per annum.
- 5.9 The provision of affordable housing from the proposed development (20%) will make a measurable contribution to the Borough's affordable housing requirements that is appropriate in terms of the balance between established need, viability and the need for ensuring that the quantum of development in the Green Belt is no more than is required in order to support the necessary improvements to the racecourse. Putting the provision into context, the 64 or more affordable housing units that would be delivered by this proposal on current projections represent:
- Nearly an entire years supply with reference to the Local Plan target;
 - Including of the type for which there is the greatest need (see below);
 - Is in excess of a years delivery of affordable housing at current rates, and
 - About 20% of Elmbridge's annual need for affordable housing, as identified by the SHMA.
- 5.10 In this context, the contribution towards meeting Elmbridge's identified need for affordable housing was given significant weight by planning officers, confirmed in paragraph 9.9.2.2.14 of their Committee Report (Core Document Ref: CD7.3).

SMALL UNITS

- 5.11 The adopted the LPA Core Strategy Policy C19 seeks to secure a range of housing types and sizes in order to create inclusive and sustainable communities reflecting the most up to date SHMA in terms of the size and type of residential units.
- 5.12 The adopted Development Management Policy DM10 also requires that housing development on sites of 0.3ha or more should promote house types and sizes that make most efficient use of land and meet the most up to date measure of local housing need whilst reflecting the character of the area.
- 5.13 The latest SHMA identifies that the majority of the additional requirement is for smaller (1-2 bedroom) units. It seeks the following mix of units to balance the supply of housing in Elmbridge Borough: 1bed units - 28%, 2bed units- 42% and 3bed units - 29%. The housing mix for the proposed sites has been informed after discussion with officers by balancing the SHMA needs/target and local market demand, appropriately, so that the scheme will deliver a development much better suited to the Esher residential market place that becomes a destination of choice for both local and out of area buyers.
- 5.14 In this context, it is proposed that the proposals will deliver the following mix of units across the residential sites:
- Studio unit - 1%
 - 1 bed unit - 23%
 - bed unit - 59%
 - bed unit - 18%
- 5.15 An accommodation schedule is enclosed with this application.
- 5.16 In order to deliver smaller units, it is proposed that the all residential sites are promoted on the basis of flatted development, which is in line with the latest SHMA identifying the need for smaller residential units and local market demand. This matter is set out in further detail in the Housing Mix Background Note at Appendix 3 of the Planning Statement supporting the application.

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- 5.17 Finally, the provision of smaller units, and the contribution they would make towards meeting Elmbridge's identified housing need was given significant weight by planning officers, confirmed in paragraph 9.9.2.1.9 of their Committee Report (Core Document Ref: CD7.3).

SUMMARY

- 5.18 In the context of the above commentary, it is clear that there is a considerable shortfall in:
- Housing generally, given low levels of historic delivery and identified supply;
 - Affordable housing, and
 - Small residential units in particular.
- 5.19 The proposals will make a measurable contribution to addressing all three identified shortfalls, and this matter should carry significant weight in favour of granting planning permission.

6 THE PROPOSED DEVELOPMENT

6.1 The details of this hybrid planning application are set out in Section 5 of the Planning SoCG. However, in summary the outline element of the application (with all matters reserved aside from bell-mouth access arrangements to the public highway) includes the following operational enhancement and facilitating proposals:

- Redevelopment and enhancement of the operational racecourse facilities and infrastructure, including stables and car parking;
- A circa 150 bedroom hotel;
- Remodelling of the kart track site with a new family/community zone comprising an outdoor recreation area (including cycle track) and an indoor soft play/ancillary café;
- Repositioned fencing;
- Demolition of existing buildings/structures, where relevant, and the provision of residential development of circa 318 units (Use Class C3) across five individual sites, and
- Re-provision of an upgraded nursery (Use Class D1).

6.2 The full element of the application comprises racecourse track widening, and the means of vehicular access to the public highway.

6.3 The description of the Proposed Development is set out in the Planning Statement of Common/Uncommon Ground ('Planning SoCG'), which confirms the validation/re-validation of the Application by the LPA, which altered the description of the Proposed Development. The description of the Proposed Development as determined by the LPA is as follows:

Hybrid planning application for the redevelopment of Sandown Park Racecourse involving: Outline application for development/redevelopment of sections of the site to replace/modify existing operational/associated facilities, and to provide up to 150 bedroom hotel (Use Class C1), family/community zone, residential development up to 318 units (Use Class C3) and to relocate existing day nursery (Use Class D1), all with car parking, access and related works following demolition of existing buildings and hardstanding (for access only).

Full application for the widening of the southwest and east sections of the racecourse track including associated groundworks, re-positioning of fencing, alterations to existing internal access road from More Lane and new bell-mouth accesses serving the development.

6.4 It should be noted that the description of development proposals for which planning permission was sought remained unchanged from submission of the Application to its determination.

6.5 Full detailed descriptions of each proposed development parcel are contained within the Appellant's Masterplan Document, Design and Access Statement, Planning Statement and accompanying plans as listed in the Core List of Documents appended to the Planning SoCG.

7 PLANNING POLICY AND GUIDANCE

7.1 The relevant current planning policy framework is as follows:

- National Planning Policy Framework (2019);
- National Planning Practice Guidance (as launched and updated since 2014);
- Elmbridge Core Strategy (2011);
- Elmbridge Development Management Plan (2015);

7.2 The relevant Supplementary Planning Guidance and Other Guidance includes:

- Design and Character SPD (2012) and Companion Guide: Esher;
- Developer Contribution SPD (2012);
- Elmbridge Strategic Flood Risk Assessment (2015);
- Non-Statutory Technical Standards for Sustainable Drainage Systems (2015);
- BS8233:2014 (Guidance on sound insulation and noise reduction for buildings); and
- BEAMA Guide for Electric Vehicle Infrastructure (2015).

7.3 Evidence base documents published by the Local Planning Authority includes the following:

- Arup Green Belt Review (2016 and 2018, reviewed in the following section)
- Documents relative to housing need

7.4 A detailed review of relevant planning policy and guidance is set out in the Planning Statement supporting the application, the Planning SoCG and, where relevant, the other Statements of Case supporting this appeal. The Appellant reserves the right to add to these documents as appropriate. In addition, the policies specifically cited within the reasons for refusal are reviewed in Section 15 of this document.

7.5 However, general policy themes most relevant to the Appeal, and the basis for the underlying objective of the Appellant's planning application, are summarised below:

- The presumption in favour of sustainable development should be applied decision making, with three overarching aspects of sustainable development - economic, social and environmental - being interdependent and needing to be pursued in mutually supportive ways.
- Sandown Park Racecourse is identified in local policy as one of the Borough's main tourist venues with the provision, in accordance with Core Strategy Policy CS9, of hotel accommodation to support it and bring economic, social and environmental benefits to local residents and Esher town centre.
- The construction of outdoor sport and recreation facilities within the Green Belt is acceptable subject to preserving openness and purpose of including land within it. Further, limited infilling or the partial or complete redevelopment of previously developed land is also appropriate provided it does not cause substantial harm to the openness of the Green Belt, and contributes to meeting an identified affordable housing need.
- Development that is "inappropriate" can also be supported in planning terms if very special circumstances arise that clearly outweigh harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal.
- The Government's objective of significantly boosting the supply of homes and ensuring land can come forward, where it is needed, to address the housing requirements of different groups, and that land with permission for housing in sustainable locations is developed without unnecessary delay.

7.6 The policies highlighting these themes are reviewed in further detail below (along with other policies relevant to the development proposal), but from the above it is clear that any planning decision which:

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- does not support Sandown Park,
 - risks the decline and deterioration of the racecourse and its associated facilities, and
 - the loss of the other substantial planning benefits accruing from the site (as reviewed in detail in section 2 of the Green Belt Statement submitted with the application)

would have a negative planning and sustainability consequence for the local area which in turn would be contrary to the Development Plan and national planning policy.

7.7 Notwithstanding these principles it is recognised that, given Sandown Park's Green Belt location, any proposals would either need to be "appropriate" (with reference to national policy), or supported by very special circumstances to outweigh any planning harm (to the Green Belt as a result of inappropriateness and other harm) arising. However, the application and appeal submissions supporting these proposals confirm that the development is "appropriate" and, even if it was not, very special circumstances arise which substantially outweigh any planning harm.

8 THE LOCAL AUTHORITY'S EVIDENCE BASE - GREEN BELT

8.1 The Local Authority's evidence base relevant to the Green Belt which informs the preparation of the new Local Plan includes the following documents by Arup:

- Green Belt Boundary Review 2016 (the "2016 Review"), issued in March 2016, and
- Green Belt Boundary Review 2018 ("the 2018 Review"), made public in association with the 2019 emerging Local Plan consultation.

8.2 The purpose of these work is to provide a review of all existing Green Belt land in Elmbridge, including an assessment of the extent to which such land continues to meet the aim and purposes of Green Belts. In this context, the 2016 Review addressed Green Belt in the borough in strategic terms, and the 2018 Review built on its findings with a finer grain analysis. Importantly, none of these documents have been adopted for development control purposes and are therefore of evidential relevance but have no policy weight.

2016 GREEN BELT REVIEW

8.3 This work identified two tiers of land parcel for assessment, namely:

- Strategic Green Belt Areas (Strategic Areas) - broad areas defined through, inter alia, commonalities in landscape character and national constraints or barriers, and
- Local Green Belt Areas (Local Areas) - more granular parcels.

8.4 In undertaking the review, it considers the first three purposes of including land within the Green Belt, namely:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another, and
- c) to assist in safeguarding the countryside from encroachment.

8.5 The purpose of preserving the setting of historic towns was not considered as being relevant to the review. This is because there was not deemed to be any instances where this consideration arose in the Borough. Further, the local authority considered that the amount of land within urban areas had properly been considered before identifying Green Belt land for development. Consequently, the purpose of assisting urban regeneration was also set aside from the review.

8.6 In these terms, Sandown Park is identified (in the strategic sense) as lying within Strategic Area A, which is confirmed - in general terms - as being:

- Fragmented in nature, often reduced to small pockets of green space utilised for functional/infrastructure and recreational uses;
- Inclusive of green space within urban areas, with the racecourse being specifically referenced, and
- Less tranquil than the other strategic areas.

8.7 The review found that Strategic Area A met two purposes of including land in the Green Belt very strongly (specifically, checking the unrestricted sprawl of large built-up areas, and preventing neighbouring towns from merging with one another). However, in terms of assisting in safeguarding the countryside from encroachment, Strategic Area A was found to be weak in meeting this purpose. In this respect, it is recognised that "change could be accommodated" in the more fragmented or degraded parts of this strategic area without causing any further harm to the integrity of the Green Belt.

8.8 The boundaries of Sandown Park Racecourse, in this context, also broadly correspond to Local Area 52. In these terms, the report acknowledges that the racecourse:

“is comprised of managed, private open space with a number of buildings and hardstanding structures dispersed across the site. While the racecourse maintains a high level of openness, the concentration of structures and hardstanding linked to the racecourse, the motor racing circuit and the managed nature of the land contribute to a semi-urban character.”

8.9 In this context, the following conclusions are reached on the “purposes” assessed by the report:

- Checking the unrestricted sprawl of large built-up areas - moderate
- Preventing neighbouring towns from merging - strong/very strong
- Assisting in safeguarding the countryside from encroachment - relatively weak

8.10 The overall summary is that the area/site is strong in terms of meeting the purposes of including land within the Green Belt, notwithstanding that this is derived primarily from the need for preventing neighbouring towns from merging into one another (and, as such, as a result of only one of the three purposes identified in the report).

2018 GREEN BELT REVIEW

General comments

8.11 As previously confirmed, the above findings were fed into finer grain analysis within the 2018 Review. The main matters arising from this work are summarised below:

- Site 4 (annotated as RSA-35) is found in the Review to perform weakly in terms of meeting the purposes of including land within the Green Belt, and it is recommended that this site be further considered for release from the Green Belt.
- Although Site 3 is found in the Review to perform strongly overall, more detailed inspection of the analysis indicates that the site is only found in the Review to perform strongly in terms of one of the three purposes (no. 2). In addition, the more detailed analysis of this purpose is flawed. As such, contrary to the findings of the 2018 Review Site 3 performs weakly overall - further commentary relative to this matter is set out below.
- Sites 1, 2 and 5 (and enhancement sites) are not reviewed at all within the published supplemental work. However, it is noted by the appellant that (with the exception of sites C, D and E) they are all well integrated within existing patterns of development and buildings (in terms of Esher Centre, development on Portsmouth Road and the racecourse grandstand and other structures within the racecourse boundary).

8.12 Further, more detailed commentary relative to Sites 3 and 4 is provided below.

Site 3

8.13 As previously indicated, the Review is flawed in its assessment of Site 3 (annotated as “Sub-area 70”) - in particular:

- The overall assessment of meeting the purposes of including land within the Green Belt, in the context of the more detailed commentary supporting this conclusion, and
- In its more detailed assessment, not least in terms of purpose 2.

8.14 The overall categorisation of this site, within the Review, finds that “it meets the assessment criteria strongly, and makes an important contribution to the wider strategic Green Belt”. On this basis, further analysis is not recommended by the Review. This conclusion is not supportable, nor is the decision not to undertake further analysis.

8.15 Of the three purposes reviewed in support of this conclusion, the site is found by the Review to perform strongly only in relation to one purpose - purpose 2 (preventing neighbouring towns from merging). In terms of purpose 1 (checking the unrestricted sprawl of settlements), it is

found by the Review that the purpose is merely met i.e. not strongly, and in terms of purpose 3 (safeguarding the countryside from encroachment) the purpose is found by the Review to be relatively weakly met. In this context, the conclusion of the assessment by the Review significantly overstates how much the site contributes to the purposes of including land within the Green Belt, in the context of the more detailed analysis supporting it.

8.16 Further, the more detailed analysis places significant weight on the contention that Site 3 lies between Greater London (Weston/Lower Green) and Esher. However, this is unsupportable on the following grounds:

- **Administratively** - in the first instance, Weston and Lower Green clearly fall within Elmbridge Borough, within the non-metropolitan county of Surrey. This has been the case for many years and no circumstances have recently changed to determine otherwise. As such, they lie outside the Greater London Authority (GLA) boundary, and by this yardstick not in Greater London. Further, More Lane, Sandown Park, Site 3 and Lower Green to the north of the Racecourse all form part of Esher Ward. They are all also included within the settlement area boundary of Esher, as defined by the Proposals Map of the Development Plan. It is unequivocal that, administratively, Site 3 and its surroundings all lie within Esher, and are not on the boundary of the Greater London Authority area.
- **Functionally** - the built-up area, as defined by the Office of National Statistics based on 2011 Census data, includes Sandown Park, Site 3 and parts of areas to the north of the railway (and Esher itself). The schools, shops and local facilities in the area have catchments which include the location of Site 3. In this context, functionally these areas are part of the same built up area and Site 3 is not in a 'narrow gap' between or on the boundary between two distinct urban areas.
- **Spatially** - the Surrey Landscape Character Assessment for Elmbridge Borough (2015), prepared by Surrey County Council, defines a series of landscape character areas in the County. The Racecourse falls within Character Area UW6: Lower Green to Weston Green and Littleworth Common (within the wider Landscape Character Type UW: Significant Greenspaces within Urban Areas). However, Site 3 and properties on Lower Green Road and More Lane are outside of any of the identified Landscape Character Areas. The Landscape Character Assessment states that "this study has identified and briefly considered several significant individual green space areas within the county's Built Up Areas of towns across the county". As such, this confirms that Site 3 is assessed as being part of a Built-Up Area, and not at the boundary of two distinct urban areas.
- **Visually** - views of Site 3 are not obtained from recorded or promoted viewpoints. Receptors would be located either within the Racecourse, including the Grandstand, or on More Lane, which includes residential receptors. However, some longer views would be experienced from a short section of Portsmouth Road where only lower sensitivity receptors may experience these in glimpsed appreciation. In these views, or in any views, the site is not perceived as forming part of the 'narrow gap between Greater London (Lower Green) and Esher'.

8.17 The above analysis feeds into the detailed assessment of purposes 1 to 3 of the NPPF reasons for including land within the Green Belt, as follows.

8.18 **Purpose 1** - the analysis in the Review relative to this criterion suggests that the site is perceptually and functionally at the edge of the large built up area of Greater London (Weston Green) - in the context of the above commentary, this is clearly not the case. Further, although the Review indicates that the site has a role in preventing outward sprawl into open land, the analysis goes on to recognise that the site currently does little to prevent such sprawl due to its small scale, proximity to development and weak intermittent boundary. In this context, the site does not meet purpose 1 of including land within the Green Belt, and

the scoring should reflect this. Applying this purpose, the site is logically part of the same urban area as its surroundings.

8.19 **Purpose 2** - in the context of the above commentary, it is clear that the site does not form part of the narrow gap between Greater London (Lower Green) and Esher. Aside from properties on the site, there is no material gap between residential properties on Lower Green Road and More Lane, as illustrated by the photographs appended to these representations (Appendix 12). According to the Council's own criteria, More Lane and Lower Green Road form part of the continuous built-up area of Esher within Elmbridge. Therefore, evidence demonstrates that the site forms part of a single built-up area rather than a green space or a gap between Greater London and Esher.

8.20 **Purpose 3** - the Review suggests that the site relatively weakly assists in safeguarding the countryside from encroachment. However, this overstates the position - the site is not in or adjacent to open countryside. Indeed, it forms part of a built-up area. Further, the Racecourse, to the south, exhibits a semi-urban character (recognised in the Review work carried out by Arup in 2016), and the site itself is previously developed with more residential development to the north.

8.21 In the context of the foregoing commentary, it is clear that Site 3 does not strongly meet the purposes for including land within the Green Belt. It should further be noted that:

- The Review finds that the release of Site 3 would result in a Green Belt boundary of "similar strength" to the existing one, and
- The site is previously developed, and lies in a highly sustainable location between Esher and its railway station.

8.22 The Review is flawed in the assessment of Site 3 for the reasons rehearsed above, and it performs weakly in terms of meeting the purposes of including land in the Green Belt, and its loss would not harm the Green Belt.

Site 4

8.23 As previously confirmed, the Review recommends further assessment relative to whether Site 4 should be released from the Green Belt, not least as:

- It is not on the edge of a distinct large built-up area;
- It is semi-urban in character, and
- Its removal from the Green Belt will not harm the integrity of the wider strategic Green Belt.

8.24 The appellant concurs with these views, and these findings should be seen as part of the local authority's direction of travel in terms of policy telling in favour of the appeal. Further, the review's findings relative to Site 4 indicate that - in spatial terms - the site does not contribute to the Green Belt, and as such its loss would not harm the Green Belt.

SUMMARY COMMENTS

8.25 From the foregoing commentary, it is clear that:

- On a strategic level, Arup's work indicates that the wider racecourse site is strong in terms of meeting the purposes of including land within the Green Belt, albeit this is derived primarily from the need for preventing neighbouring towns from merging into one another (and, as such, as a result of only one of the three purposes identified in the report, or five overall), and
- At a more detailed level, the work finds that Site 4 weakly meets the purposes of including land within the Green Belt, and recommends further investigation relative to its removal - this is supported by the Appellant. The analysis relative to Site 3 is deeply

flawed, and this site also weakly meets the purposes of including land within the Green Belt. The other development sites are not reviewed, but with the exception of sites C, D and E, none of them meet the purposes of including land within the Green Belt.

9 GREEN BELT - OPENNESS

- 9.1 In the context of planning policy, and whether development is “appropriate” or “inappropriate” within the Green Belt, a key consideration is evidently the “openness” of the Green Belt and the implications of any proposal on it. These matters were reviewed by Rapleys in the context of national policy, appeal decisions and case law in Section 6 of the Green Belt Statement supporting the planning application (Core Document Ref: 6.51).
- 9.2 This review found that, general terms:
- Openness is the absence of built development;
 - When assessing the extent of a site’s openness, it is relevant to consider how built up it is at present, and
 - Openness can have a spatial and visual dimension.
- 9.3 When assessing the implications of development on the preservation of the openness of the Green Belt, the review concluded that:
- Development cannot preserve the openness of the Green Belt if it causes harm to openness;
 - In certain circumstances, new buildings in the Green Belt do not have an impact (and therefore do not cause harm) to the openness of the Green Belt;
 - The land use of a new building can negate any harm caused by its visual and spatial impact, and
 - When assessing harm, spatial and visual impact need to be taken together, and the latter can ameliorate the former.
- 9.4 When assessing whether development will have “substantial harm” on the Green Belt:
- There is understood to be no case law to guide in the interpretation of this, but
 - When the same terminology is used relative to heritage assets, it is a high test that considers impact to the asset and its significance over the scale of development per se.
- 9.5 Since the planning application was submitted, the Supreme Court in 5 February has issued a judgement [2020] UKSP3 - R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council. An earlier ruling on this case was reviewed in the aforementioned Green Belt Statement supporting the planning application at Sandown Park. The matter drawn from this previous judgement was that factors such as the purpose of development could be taken into account to the extent that, even if there was adverse spatial and visual impact, the development would nevertheless not harm, but instead preserve, the openness of the Green Belt.
- 9.6 The Supreme Court judgment underlines that some forms of development may in principle be appropriate in the Green Belt, and compatible with the concept of openness. However, the key change in circumstance arising from the Supreme Court ruling is the confirmation that:
- Visual considerations are not as a matter of law an element of Green Belt policy required to be considered by the decision maker;
 - Whilst the relevance of spatial considerations, as they relate to openness, in principle remain a matter of law, the extent to which visual considerations are relevant in any particular case are a matter of professional judgement for the decision maker.
- 9.7 This is a key change in circumstance and has necessitated a reconsideration of the site-by-site analysis of development appropriateness, as set out in the Green Belt Statement supporting the planning application. This reconsideration is set out in Section 12 of this report, addressing the appellant’s relative to Green Belt considerations.

10 CHRONOLOGY OF THE APPLICATION

PRE-APPLICATION ENGAGEMENT

10.1 The Appellant sought to secure engagement, advice and agreement with Officers from early stage as part of the pre-application process, managed through a Planning Performance Agreement. Four meetings were held with LPA Officers (including Development Management, Planning Policy, Townscape, Landscape, Trees, Heritage and Conservation, and Environmental Health), in addition to on-going email and telephone correspondence with LPA Officers. The Appellant submitted a pre-application package of information prior to each meeting, at which the contents were discussed. While no formal written pre-application advice was received, this extensive engagement enabled the Appellant to:

- Scope the application, including supporting documents required for validation;
- Identify key consultees;
- Define and review issues addressing the planning policy and other matters, and
- Submit evolving drafts of the proposals for comment and feedback.

10.2 In addition, the Appellant undertook pre-application engagement with the following statutory and other bodies to ensure their requirements and expectations, are addressed as far as possible through the application process:

- Surrey County Council relative to Environmental Impact Assessment, Highways, Historic Environment/Archaeology, and Local Lead Flood Authority;
- Natural England;
- Sport England, and
- Surrey Wildlife Trust.

10.3 The local community and the general public were engaged through two public exhibitions attended by a total of circa 400 people. In addition to the public exhibitions, meetings and/or engagement took place with local elected officials and local stakeholders. Responses/feedback received were reviewed and addressed in the Statement of Community Involvement ('SCI') (Core Document CD 6.52) and, where possible, the application submission took the feedback into consideration.

10.4 The SCI details the extensive consultation undertaken by the Appellant in line with national legislation and policy, and the LPA's SCI requirements for community engagement.

APPLICATION SUBMISSION

10.5 The original application to which the Appeal relates sought permission for development herein described as 'the Proposed Development', described by the Appellant on application as:

Outline planning permission (with all matters reserved except for access for the development) is sought for:

- *Enhancement and rationalisation of existing racecourse facilities/infrastructure and car parking;*
- *Re-location of an upgraded children's nursery (Use Class D1);*
- *Development of a hotel of approximately 150 rooms (Use Class C1), and*
- *Demolition of existing buildings/structures and residential development of approximately 318 dwellings (Use Class C3).*

Full planning permission is sought for:

- *Racetrack widening to the southwest and east sections of the existing racecourse track, including associated ground levelling/earthworks to the southwest section, and re-positioning of fencing, and improvements to a section of the existing internal access road from More Lane, and*
- *New bell mouth accesses serving the development.*

10.6 The Application was submitted to the LPA on 22nd February 2019. It was subsequently made valid on the same day and assigned with the reference number 2019/0551.

10.7 The description of development (chiefly the Post-Consultation Supplementary Statement - Core Document Ref: CD6.47) was amended during the validation process to:

Outline application for the re-development of the site to provide 318 residential units, an hotel (150 rooms), the re-location and development of existing children's nursery and alterations to existing racecourse facilities and car parking (for access only).

Full application for the widening of the southwest and east sections of the racecourse track including associated groundworks, re-positioning of fencing, alterations to existing internal access road from More Lane and new accesses serving the development.

10.8 A supplementary submission was formally made to the LPA on 12th July 2019 with the description of development further amended during the re-validation process to as followings (herein '**the Proposed Development**'):

Hybrid planning application for the redevelopment of Sandown Park Racecourse involving: Outline application for development/redevelopment of sections of the site to replace/modify existing operational/associated facilities, and to provide up to 150 bedroom hotel (Use Class C1), family/community zone, residential development up to 318 units (Use Class C3) and to relocate existing day nursery (Use Class D1), all with car parking, access and related works following demolition of existing buildings and hardstanding (for access only).

Full application for the widening of the southwest and east sections of the racecourse track including associated groundworks, re-positioning of fencing, alterations to existing internal access road from More Lane and new bell-mouth accesses serving the development.

10.9 Notwithstanding the changes in description, the Proposed Development did not alter, and the development proposals for which planning permission was sought remained unchanged from submission of the Application to its determination.

10.10 The above is confirmed within Chapters 1 and 5 of the Planning SoCG.

10.11 Full detailed descriptions of each proposed development parcel are contained within the Appellant's Masterplan Document, Design and Access Statement, Planning Statement and accompanying plans as listed in the Core List of Documents appended to the Planning SoCG.

THE PLANNING APPLICATION POST-SUBMISSION CONSULTATION

10.12 Following formal validation and during the determination process, additional supporting/replacement documents were formally submitted by Rapleys LLP, the planning agent, for consideration.

10.13 On 14th March 2019, a response to comments made by Thames Water Development Planning Department in respect of water supply capacity via an email sent to the Case Officer.

10.14 On 5th April 2019, a letter response to Surrey County Council's Environmental Statement Review was submitted to the Case Officer via email in respect of the competence and qualifications of the individuals who prepared Chapter 7 (Transportation) and Chapter 8 (Air

Quality) in line with Regulation 18(5)9b of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

- 10.15 On 30th April 2019, to assist the Case Officer in advance of her site visit, a revised indicative layout in respect of Site A with the existing buildings overlaid was submitted to the Case Officer via email.
- 10.16 On 8th May 2019, a topographical survey and sets of existing OS plans and proposed indicative section plans were submitted to the Case Officer via email following her site visit and request for clarification.
- 10.17 On 12th July 2019, a supplementary submission was submitted to the Case Officer via email, which included:
- Covering Letter, dated 12th July 2019;
 - Amended Application and Certificate B Forms, dated 18th June 2019;
 - Bat and Great Crested Newt Survey Report, dated 31st May 2019;
 - Post-Consultation Supplemental Statement, dated July 2019;
 - Amended Masterplan, dated July 2019;
 - Amended Design and Access Statement, dated July 2019;
 - Amended Planning Statement, dated July 2019;
 - Amended Green Belt Statement, dated July 2019;
 - Existing Block Plans (PL_601 to PL_608), and
 - Amended Site 4 Indicative Layout (PL_204_REV A).
- 10.18 On 13th August 2019, an email sent to the Case Officer confirmed that the Appellant's submission to date had addressed the relevant considerations arising from the new Planning Practice Guidance on Green Belt Matters (revision dated 22nd July 2019).
- 10.19 On 11th September 2019, in response to the Case Officer's request, the following transport related documents were submitted via email:
- A note and diagram prepared by the Appellant's transport consultants TPP to address sustainable transport connections between Esher Station, the racecourse and Esher Town Centre.
 - The Pedestrian Pound: The Business Case for Better Streets and Places (2018 Updated Edition), commissioned by Living Streets.
- 10.20 On 12th September 2019, an email containing the following documents was submitted to the Case Officer to demonstrate that the proposed nursery enhances the existing provision in terms of the quality of the facility, the number of child spaces and associated increase in job opportunities, and contribution towards meeting the need for nursery provision in the Borough:
- Letter from Bright Horizons (the existing nursery operator), dated 10th September 2019, and
 - A Note and accompanying appendix on Need for Early Years Childcare Places in Elmbridge Borough Council, prepared by Rapleys LLP, September 2019.
- 10.21 The above is confirmed in the core List of Documents) of the Planning SoCG.

PUBLIC CONSULTATION

- 10.22 The formal consultation period on the Appellant's application began on 1st March 2019.

- 10.23 Enclosed as part of the Appellant's supplementary submission to the LPA on 12th July 2019 was a Post-Consultation Supplemental Statement (July 2019) which responded to the main issues cited during the consultation period.
- 10.24 In summary, the Post-Consultation Supplemental Statement acknowledged and addressed the following:
- The overwhelming majority of technical consultee responses raised no concerns or objections relative to the Proposed Development.
 - The consultation responses could be grouped into three categories - those who have no objection (or otherwise support), those who seek further information, and those who object.
 - Objections from local groups and approximately 600 local residents related in the main to the following matters - Green Belt, traffic, affordable housing/viability, and the built form of the development (e.g. scale and density), which in turn were comprehensively explored.
 - Daytona Sandown Park's objections to the potential impact of new residential dwellings in the vicinity of their operations were acknowledged, with the Appellant considering that if necessary, this could be addressed through appropriate phasing of the development, and by way of planning condition.
- 10.25 The basis and rationale for the Proposed Development was also set out within Chapter 3 of the Post-Consultation Supplemental Statement including the evident need to make improvements to Sandown Park and (by association), the opportunity to deliver enhanced community benefits.

OFFICERS' REPORT

- 10.26 The Officers' Report (Core Document Ref: CD7.3) was published on 23rd September 2019 for the Special Planning Committee on 1st October 2019. An Update Sheet (Core Document Ref: CD7.4) was prepared by Officers for the Special Planning Committee meeting.
- 10.27 In summary, the following matters were reviewed within the Officers' Report:
- A summary of statutory and non-statutory consultation responses and Officers' response to matters raised in representations.
 - Principle of development and impact on the Green Belt, covering planning policy and case law, purposes of including land within the Green Belt, and spatial and visual impact on openness of the Green Belt;
 - Any other harm - including highway and transport implications, impact on the character of the surrounding area (including heritage assets, landscape and visual amenities), impact on residential amenities, impact on biodiversity(including trees), flooding implications and SuDS, archaeology, pollution and utilities and waste management;
 - Benefits of the scheme - in terms of economic, social and environmental benefits;
 - Financial considerations and planning obligations, and
 - Whether the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
- 10.28 Section 7 of the Officers' Report sets out the statutory and non-statutory consultation responses and representations. Officers' responses to matters raised in the representations are addressed in relevant sections of Section 9 dealing with planning considerations and Section 11.
- 10.29 In summary:
- No objection was raised by the following consultees, subject to conditions and/or financial contribution, or further information to be submitted at the detailed design stage:

- SCC (Local Lead Flood Authority)
- SCC (Archaeology)
- SCC (Highways Authority)
- SCC (Education)
- Thames Water
- The LPA - Head of Leisure and Cultural Services
- Environment Agency
- Natural England
- The LPA - Environmental Services
- The LPA - Environmental Health (Noise & Pollution)
- The LPA - Environmental Health (Contaminated Land)
- The LPA - Tree Officer
- Surrey Police (Secure by Design)
- Surrey Wildlife Trust
- Scotia Gas Networks
- The following consultees raised objections/further comments:
 - Esher & Lakeside Drive Conservation Area Advisory Committee - the main concern related to impact on the Green Belt.
 - Surrey Bat Group - suggested further surveys were required.
- In terms of representations, the Report recorded a total of 671 letters of objection, 85 letters of support and 28 letters of observation had been received.

10.30 The Officers' Report concludes that while the proposed development constitutes inappropriate development in the Green Belt, the cumulative benefits arising from the scheme clearly outweigh the identified harm and therefore very special circumstances required to justify the development in the Green Belt exist. It also confirms the Officers' assessment that no conflict was identified at this outline stage with the Elmbridge Local Plan or the national policy in association with the other material considerations. The Officers' Report also states that any raised concerns related to the matters that are currently reserved for later application stages and confirms that there is a potential for these to be addressed through careful design.

10.31 The Officers' Report concludes that proposals for which full planning permission is sought (namely Sites E1 and E2 and accesses) were found by Officers to be appropriate development in the Green Belt and that no conflict in terms of other material considerations was identified.

10.32 Accordingly, the Officers' Report recommended granting outline and full planning permission, subject to a receipt of a satisfactory legal agreement and a referral to the Secretary of State. It therefore recommends:

Recommendation A

Subject to the receipt of a satisfactory legal agreement within 6 months of the Committee resolution, or any such extended period as agreed with the Head of Planning Services, and subject of the referral to the Secretary of

State, the recommendation is to grant outline and full planning permission.

Recommendation B

If a satisfactory legal agreement is not completed within 6 months of the Committee resolution, or any such extended period as agreed with the Head of Planning Services, delegated authority be given to the Head of Planning Services to refuse planning permission for the following reasons:

1) In the absence of a completed legal agreement, the proposed development fails to secure the necessary contribution towards the affordable housing contrary to the requirements of Policy CS21 of the Elmbridge Core Strategy 2011 and the Developer Contributions SPD 2012.

2) Due to the lack of a legal agreement to secure a financial contribution towards the long-term management plan of Littleworth Common SNCI, the proposed development is likely to result in adverse impact on biodiversity contrary to the Policy CS15 of the Elmbridge Core Strategy 2011, Policy DM21 of the Development Management Plan 2015, the requirements of the NPPF 2019 and the Developer Contributions SPD 2012.

3) Due to the lack of a legal agreement to secure a financial contribution towards the accessibility improvements at Esher Railway Station and monitoring fee associated with the Travel Plans, the proposed development would result in adverse highway and transport implications in the local area of Esher. As such, the proposed development is contrary to the aims of Policy CS25 of the Elmbridge Core Strategy 2011, the requirements of the NPPF 2019 and the Developer Contributions SPD 2012.

10.33 Although the LPA did not accept that the development was “appropriate” in the context of paragraph 145 of The Framework, paragraph 9.1.11.4 of the Report concluded that “very special circumstances required to justify development in the Green Belt to exist” with the cumulative benefits considered to outweigh the identified harm to the Green Belt and any other harm.

10.34 The grounds of very special circumstances are set out in the Officers’ Report as follows:

- Paragraph 9.9.1.1.7 - “It has been demonstrated above that Sandown Park Racecourse is a key part of the local economy. It is considered that the loss of the economic benefits would result in a significant downturn of the local economy. On this basis, significant weight is attached to the need for the retention of the viable operations at the Site.”
- Paragraph 9.9.1.2.8 - “There is identified need for a hotel in this location, which is also supported by the Local Plan policies. In conclusion therefore, significant weight is attached to the provision of a hotel on the Site”.
- Paragraph 9.9.2.1.9 - “...it is considered that significant weight should be associated with the delivery of smaller residential units on this Site”
- Paragraph 9.9.2.2.14 - “The proposal would assist in meeting the identified acute affordable housing need in the Borough and it is considered that significant weight should be afforded to this benefit of the scheme”

10.35 Beyond the above, the Officers’ report reviewed a number of other development management matters, which were considered to be positively addressed by the Appellant.

11 THE LOCAL PLANNING AUTHORITY'S DECISION

MEMBER DISCUSSION IN COMMITTEE AND REASONS FOR REFUSAL

- 11.1 Officers at the LPA recommended to Planning Special Committee at a meeting on 1st October 2019 that planning permission be granted subject to a satisfactory legal agreement and a referral to the Secretary of State.
- 11.2 During the debate, Members raised site specific issues including:
- Site 1 proposal will have an impact on the Conservation Area, as the proposal would be visible when the existing closed gate is opened.
 - The proposed development on Site 1 will be higher than the existing buildings, and therefore result in the loss of openness - disputes that it is appropriate development,
 - Access/egress at Site 1 is a concern due to parked up cars near the pub.
 - The proposed development on Site 1 will adversely impact the already dangerous pinch point on More Lane.
 - Site 2 is an important site, and while there is merit, impacts of the proposal cannot be assessed without details.
 - In relation to Site 3, the proposed widening to remove the existing on-street parking off street/footway to provide a proper footway for pedestrians will result in additional cars or will not improve the flow of traffic.
 - Site 4 has station traffic and existing infrastructure cannot cope with any more development.
 - Sites 4 and 5 overlook open Common Land.
- 11.3 On the proposed development as a whole, Members raised the following issues:
- The proposed development is on the Green Belt and submitted in outline and lacks detail in order to assess. The application should be refused as it is not possible to take a view without detail.
 - Approving the proposed development could be a gateway for more residential development.
 - The proposed development, as a whole, constitutes inappropriate development on the Green Belt. It would do very significant harm to the openness of the Green Belt and deliver extremely limited benefits to Esher and Elmbridge. The application has not gone anywhere near Very Special Circumstances.
 - Whether or not a very special circumstance is reached with the development, the application cannot be supported as Members are not able to look at concerns in relation to the conservation area, highways, access, built forms, and massing and general harm it could potentially do.
 - The Jockey Club should invest its own profit into improvements to the facilities at Sandown Park.
 - The proposed 20% affordable housing provision is not enough as it falls short of the 40% requirement, and it is not believed be unviable to provide more.
 - The proposed residential development should not all be flats.
 - There is a concern with the junctions, but no junction impact assessments were carried out.
 - The air quality in Esher high street is already bad that any additional development will have a negative impact.
- 11.4 Officers noted that Members had not debated the character of the area and advised that it would be useful to identify which of the proposed parcels would have an impact on the

character of the area, if it were to be included in a reason for refusal. However, no debate was held.

11.5 The Committee resolved to refuse planning permission against officer recommendation, and a decision notice was subsequently issued on 3rd October 2019.

11.6 Five reasons for refusal are listed on the decision notice, as follows:

1. *The proposed development represents inappropriate development in the Green Belt which would result in definitional harm and actual harm to the openness of the Green Belt and it is not considered that the very special circumstances required to clearly outweigh the harm to the Green Belt and any other harm, including impact on transport (highway and public transport capacity), air quality and insufficient affordable housing provision, have been demonstrated in this case. The proposed development by reason of its prominent location would be detrimental to the character and openness of the Green Belt contrary to the requirements of the NPPF, Policies CS21 and CS25 of the Elmbridge Core Strategy 2011, Policies DM5, DM7 and DM17 of the Elmbridge Development Management Plan 2015.*
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.*
3. *In the absence of a completed legal agreement, the proposed development fails to secure the necessary contribution towards the affordable housing contrary to the requirements of Policy CS21 of the Elmbridge Core Strategy 2011 and the Developer Contributions SPD 2012.*
4. *Due to the lack of a legal agreement to secure a financial contribution towards the long-term management plan of Littleworth Common SNCI, the proposed development is likely to result in adverse impact on biodiversity contrary to the Policy CS15 of the Elmbridge Core Strategy 2011, Policy DM21 of the Development Management Plan 2015, the requirements of the NPPF 2019 and the Developer Contributions SPD 2012.*
5. *Due to the lack of a legal agreement to secure a financial contribution towards the accessibility improvements at Esher Railway Station and monitoring fee associated with the Travel Plans, the proposed development would result in adverse highway and transport implications in the local area of Esher. As such, the proposed development is contrary to the aims of Policy CS25 of the Elmbridge Core Strategy 2011, the requirements of the NPPF 2019 and the Developer Contributions SPD 2012.*

OBSERVATIONS ON REASONS FOR REFUSAL

11.7 When reviewing the reasons for refusal, the following matters have to be recognised:

Reason 1

11.8 This reason for refusal alleges that the development is inappropriate and that very special circumstances had not been demonstrated to overcome the definitional and actual harm arising. However, notwithstanding the detailed assessment presented to the Committee by LPA officers to the contrary, Members had no evidence in front of them to substantiate this claim.

-
- 11.9 Further, beyond the matter of definitional harm, actual harm is alleged in terms of transport and air quality. However, these matters were subject to environmental impact assessment which confirmed that any impact would be negligible relative to these matters. LPA environmental health and planning officers, and County highway officers, agreed with this assessment and this was confirmed in the Officers' report.
- 11.10 Further, LPA planning officers and their technical advisors were satisfied that the level of affordable housing was the maximum that could be viably provided whilst securing the necessary improvements to the racecourse.
- 11.11 In this context, there is no technical or specialist evidence suggesting that there will be harm arising relative to transport and air quality, nor that the development proposals were capable of supporting a higher level of affordable housing, and therefore the planning committee had no sound reason for rejecting the advice of their officers on these matters.

Reason 2

- 11.12 At the heart of reason 2 is the allegation that the development will have an adverse impact on the character of the area. However, matters of landscaping and visual appearance were discussed in detail with LPA officers during the pre-application process, and the scope of supporting information agreed.
- 11.13 The application was submitted with the level of information agreed with officers. Although the Officers' report found that it was not possible to assess character impact at the outline stage, Officers were evidently sufficiently confident that this was a matter that could be satisfactorily addressed through more detailed design work and the reserved matters process.
- 11.14 Further, at the committee meeting Members (against the suggestion of their officers) did not discuss the character of the area, let alone how the development proposals would offend it. In this context, reason for refusal 2 has no evidential basis to support it.

Reasons 3 to 5

- 11.15 These reasons for refusal derive from a lack of a legal agreement to secure planning obligations relative to affordable housing and financial contributions towards management of Littleworth Common, Esher Railway Station and Travel Plan monitoring. However, a position on all these matters were agreed between the applicant and LPA officers in advance of Committee, and as such these reasons could readily be addressed.

12 THE APPELLANT'S CASE RELATIVE TO GREEN BELT MATTERS

- 12.1 The Appellant's Case is clearly set out in the following section, by explaining why the Appellant considers that planning permission should be granted.

APPROPRIATE DEVELOPMENT IN THE GREEN BELT

- 12.2 This section reviews the "appropriateness" of the proposals, in the context of paragraph 145 of the NPPF in terms of:

- The analysis on the matter set out in the application submission;
- Changes in circumstance since then, and
- A revised analysis in light of those changes in circumstance.

The application submission

- 12.3 This matter was addressed in detail within the Green Belt Statement submitted with the planning application and an amended version issued in July 2019 (Core Document Ref: CD6.51).

- 12.4 This confirmed that the benchmarks for whether development is "appropriate" relevant to this case are:

- The enhancement elements of the development proposals are either facilities for outdoor sport and recreation, or development supporting to it, and as such are appropriate as long as they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it, and
- Given that the development is a comprehensive package of enhancements and facilitating residential development, which also contributes to meeting an identified housing need within the area of the local authority, the development is appropriate provided it is "limited infilling or the partial or complete redevelopment of previously developed land", and does not cause "substantial harm" to the Green Belt.

- 12.5 In the context of these principles, the appropriateness of development was considered on a site-by-site basis on the table appended to application Green Belt Statement, which considered each site, and the development proposed on it, in terms of:

- Size;
- Existing Land Use;
- Proposed Land Use;
- Whether the site is previously developed land;
- Affordable provision;
- The change in volume of development on each site as a result of the proposals;
- The impact of the developing each site on the openness of the Green Belt (feeding on analysis by EDP which, understandably, concentrates on the "purpose" of preventing towns from merging with one another), and
- A conclusion as to whether - in isolation and balancing volumetric and visual considerations - the proposal on each site would be considered appropriate development.

- 12.6 The conclusion of this analysis indicated that the development proposals on all but two of the sites was "appropriate" (with development found to be inappropriate on Site 3 and Site 4 - further analysis of the findings relative to these sites is set out below). Further, the analysis found that in any event, all sites will be continued to perform the key local role, of the Green Belt, to prevent the coalescence of settlements. As such, it found that there will be no harm and as such the proposals will preserve the openness of the Green Belt.

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- 12.7 The site-by-site analysis was then followed by a review of the development proposals as a whole, which found that the development was “appropriate”, particularly as they will bring forward the provision of affordable housing (for which the test as to whether development is appropriate in the Green Belt is “substantial harm”).

Changes in circumstance

- 12.8 As confirmed earlier in this statement, since the application was refused the Supreme Court has issued its ruling on the Tadcaster case. This confirms that the relevance given to visual considerations is a matter of professional judgement, not law. In this context, it is appropriate to review the analysis on appropriateness set out within the planning application, in order to address spatial matters without reference to visual considerations. This analysis is carried out in the following section.

Spatial analysis

- 12.9 Following review of the table within the application Green Belt Statement, in light of the Tadcaster decision, the following conclusions are drawn:
- 12.10 **Site 3** - as confirmed in the table, the site is previously developed land and a gap of approximately 480m would be retained across the racecourse, in turn providing an “essential gap between settlements”. Notwithstanding this, the table found that “due to the increased indivisibility with the nearest settlement edge, namely the perceived northern built context of Esher being formed by the Grandstand, there would be a degree of reduction in the sense of openness within the Racecourse”. However, this is a purely visual consideration. In spatial terms, for the reasons set out in section 8 of this statement Site 3 performs weakly as a Green Belt site, and therefore its loss would not cause harm to the Green Belt. As such, the proposed development on Site 3 is appropriate.
- 12.11 **Site 4** - the application analysis indicated that the proposed development at the site was inappropriate by dint of it not being previously developed land, notwithstanding that it does not contribute to be perceived separation between settlements. Further, it was found that that the proposals would not harm the openness of the Green Belt and were appropriate in these terms.
- 12.12 However, from a purely spatial analysis, and drawing from the findings of the local authority’s Green Belt Review, the development can be considered as “limited infill”, in the context of paragraph 145 g). Accordingly, and given the local authority’s findings that the removal of the site from the Green Belt would not harm the integrity of the wider strategic Green Belt. In these terms, the development on this site is appropriate development in the Green Belt.
- 12.13 **Other development sites** - the Green Belt Statement found the development on all the other sites to be appropriate in both spatial and visual terms and addressing spatial matters alone does not alter this analysis.
- 12.14 Therefore, in the context of the Tadcaster decision, development on all the sites is appropriate on the basis of site-by-site analysis, and as such it follows that the development must be appropriate as a whole.

Summary

- 12.15 In summary, the Green Belt statement submitted with the planning application confirmed that the development was appropriate on nine out of the eleven development sites, and that taken as a whole the proposals were appropriate development in the Green Belt. This analysis has been reviewed in light of the Tadcaster decision, and further analysis indicates that on a site-by-site basis all of the elements of the proposal are appropriate, and therefore it would be inappropriate for planning permission not to be granted on the basis of Green Belt policy.

VERY SPECIAL CIRCUMSTANCES

- 12.16 As set out above, the Appellant’s case is that the Proposed Development should be supported in principle, in Green Belt policy terms, without the need for “very special circumstances” as it is appropriate in the context of paragraph 145 of the NPPF. However, even if the development was not found to be “appropriate”:
- As confirmed in Sections 4, 8 and 9 of this report, and in the Appellant SoC, the development proposals will secure the future of Sandown Park, and its contribution to the purposes of including land in the Green Belt that are relevant in this location (specifically, preventing neighbouring towns from merging into one another);
 - As stated in Section 5 of this Statement, the development proposals will make a measurable contribution to meeting the substantial shortfall of housing in Elmbridge, both in terms of market and affordable homes, and
 - The development proposals will bring forward a wide-range of planning benefits in economic, social and environmental terms, as reviewed in Section 14 of this statement.
- 12.17 Taken together, these matters represent very special circumstances arising which clearly outweigh any harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal.

13 THE APPELLANT'S CASE RELATIVE TO OTHER MATTERS

- 13.1 The following review of other development management considerations demonstrate that the Proposed Development accords with relevant planning policies and there is no harm identified which could not be addressed by the use of planning conditions or s.106 obligations or in the subsequent reserved matters application(s).

Climate Change

- 13.2 The UK Government is committed to bring all greenhouse gas emissions to net zero by 2050. "Net zero" means any emissions would be balanced by schemes to offset an equivalent amount of greenhouse gases from the atmosphere, such as planting trees or using technologies. The NPPF places climate change mitigation and adaptation as one of the key components of meeting an environmental objective in achieving sustainable development. The NPPF requires that new development will be expected to minimise energy consumption and comply with any development plan policies on local requirements for decentralised energy supply, subject to viability and feasibility.
- 13.3 EBC's Development Plan requires that an energy assessment should be submitted to demonstrate how reductions of the carbon footprint in new development can be achieved. There are no specific policies requiring emissions reduction beyond the regulatory compliance standard. The Appellant prepared an Energy and Sustainability Report, in support of the planning application to set out a sustainability strategy for the proposed developments which seeks to address the climate change, through the use of on-site low carbon and renewal energy solutions at the reserved matters stage, where possible and viable.
- 13.4 Further, it is anticipated the development will meet relevant Government policy at the time of implementation, by way of the sustainability and climate change measures set out in Building Regulations.

Landscape and Visual Impact

- 13.5 The Landscape SoC has been prepared to provide the Appellant's case in response to the Reasons for Refusals 1 and 2 in relation to landscape and visual matters. This SoC draws from a SoC by the project architect which provides detailed commentary on the design approach to each of the development parcels, which demonstrates that the proper design considerations have been applied to support the proposed level of residential development and proposed hotel without resulting in an adverse impact on the character of the area at the outline application stage.
- 13.6 It concludes that in terms of potential landscape and visual effects, the limitation in views available of a proposed development in this location confirms that development on the site would have little, or no, effects upon either sensitive or non-sensitive receptors, with any change limited to public receptors passing along Portsmouth Road and More Lane, and a small number of adjacent residential dwellings. The impact on public receptors along the roads surrounding the racecourse is highly limited.
- 13.7 Overall, the Landscape SoC concludes that the proposal addresses the constraints of the site and would contribute to retaining the openness of the Green Belt. It provides much needed housing on a site where its Green Belt function would not be compromised in landscape and visual terms, whilst also providing a sustainable and high-quality development which links very well into the existing context.

Heritage and Archaeology

- 13.8 Notwithstanding that LPA Officers were satisfied in respect of heritage conservation or archaeological matters in their recommendation to Planning Committee, Reason for Refusal alleged that it has not been demonstrated that the level of residential development and hotel

proposed could be designed resulting in an adverse impact on the character of the area making reference to relevant historic environment policy.

- 13.9 Heritage and archaeology SoC demonstrates 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, in accordance with the Development Plan.
- 13.10 It is evident from the LPA's formal consultation responses considering the Appellant's assessments, as well as the Officers' 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 Officers' Report identifies that no element of the Proposed Development is in conflict with historic environment policies of the Elmbridge Local Plan or national policy.
- 13.11 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 the LPA's heritage experts' assessments. It is the Appellant's case that 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.

Transport

- 13.12 Transport SoC has been prepared to address the Reason for Refusal 1 relative the impact on transport (highway and public transport capacity), despite the County Highway Authority (Surrey County Council 'SCC') having no objections to the Proposed Development, subject to the agreed transport measures to encourage the use of sustainable transport.
- 13.13 It demonstrates that the Proposed Development will provide an extensive number of measures to encourage non car modes of transport and the Appellant has agreed to provide further benefits for non-car modes. These measures will not just benefit residents of the Proposed Development but will also improve conditions for existing residents and should reduce car use by encouraging the use of non-car modes.
- 13.14 The transport work undertaken in support of the planning application demonstrates that the Proposed Development is acceptable from a highway and transport perspective and that this is a view shared by LPA and SCC Officers. As such, there is no sound reason for refusal as the Proposed Development will not have a noticeable impact on the highway and transport network, that all the sites have acceptable access and that the proposed transport measures will encourage travel by non-car modes (not least due to the Appeal Site's highway sustainable location). Consequently, the Proposed Development is acceptable relative to the impact on transport.

Ecology

- 13.15 The Statement of Case in respect of ecology is at Appendix 9. It confirms that an extended phase 1 habitat survey in 2018 and phase 2 protected species surveys in 2019, as required by the Surrey Wildlife Trust (SWT) to inform the planning application. The latter was subsequently confirmed by SWT as being not required until such time that reserved matters application(s) for the proposal is considered. In addition, a shadow Habitats Regulations Assessment was undertaken which identified that there is no likely significant effects on relevant European designated sites within 10KM of the site are likely as a result of the proposed development, as agreed with Natural England.
- 13.16 In ecological terms, in addition to the environmental benefits set out in the following section, the Proposed Development will:

- Have a minimal impact on habitats of ecological importance, and where habitats of ecological importance are to be lost (isolated tree and scrub loss), these losses can be mitigated through replacing planting;
- Have minimal impacts on protected/notable species, which is considered likely to be able to be fully mitigated;
- Mitigate for any potential recreational impacts on the adjacent Littleworth Common Site of Nature Conservation Importance (SNCI), through a financial contribution towards the survey of the SNCI and the production of suitable management plan for the SNCI.
- Not result in any adverse impacts on nearby statutory designated sites, as agreed with Natural England.

Arboriculture

13.17 The Statement of Case in respect of arboriculture is at Appendix 10. Based on a survey of the existing trees, it confirms that the Proposed Development has been designed to ensure that it does not require the removal of trees:

- Subject to a Tree Preservation Orders;
- Located within a designated Ancient Woodland, or
- Categorised as high value.

13.18 The level of tree retention suggests that the Proposed Development will not adversely affect the appearance or character of the site's treescape and its contribution to visual amenity. The Proposed Development is therefore in conformity with the relevant planning policy on trees.

13.19 The Proposed Development also provides opportunities for arboricultural benefits from new tree planting, improvements to the rooting environment of veteran trees and enhancement of existing site-wide arboricultural features.

13.20 Finally, the LPA Senior Tree Officer confirmed, that on sites were there was likely to be most impact on arboricultural issues (Sites 1 and A), that any matters could be addressed through detailed design relative to site layout.

Air Quality

13.21 Against LPA Officers' recommendation relative to the air quality impact, it is identified as "other harm" in the Reason for Refusal 1. The Appellant's case on the matter is set out in Air Quality SoC which demonstrates that air quality impacts associated with the proposed development were predicted to be "not significant" in accordance with the relevant best practice guidance. No evidence has been provided by the LPA to disprove these results. As such, impacts of the Proposed Development in air quality terms are considered acceptable and fully in accordance with current legislative and planning policy requirements.

Noise

13.22 Notwithstanding that the LPA was satisfied in terms of the impact of noise on or from the Proposed Development with the use of planning conditions, the Appellant has prepared a statement of case to address this matter, in response to the third-party objection.

13.23 A without prejudice assessment of the noise impact of activity at Daytona Sandown Park has been carried out based on the current planning restrictions on the operation of the go-kart track. Noise SoC finds that if the noise level were to be 50 dB at the measuring point in the condition relative to the go kart operation, the theoretical noise level at the nearest boundary of Site 5 to the go-kart track would be 51 dB. The noise level at all other proposed sites would be below 50 dB, making an increase of 1dB which is imperceptible to the human ear.

13.24 In addition, although considered unnecessary, a number of mitigation measures can be taken in the event that it is considered necessary. The SoC demonstrates that there would be no

case of further restricting the existing go-kart operations, as a result of the proposed residential development.

SUMMARY

- 13.25 From the foregoing commentary it is clear that, beyond the acceptability of the Development Proposals in Green Belt terms, they are also in full compliance with other relevant planning policies at a national and local level, and as such planning permission should be granted.

14 THE BENEFITS OF THE DEVELOPMENT

- 14.1 The proposal will bring forward substantial and wide-ranging planning benefits to Esher, Elmbridge as a whole and regionally. These benefits are reviewed below:

THE BENEFITS ARISING FROM SUPPORTING THE RACECOURSE

- 14.2 In reviewing the benefits of the scheme, the importance of Sandown Park to the local area, and therefore the need to support it, must be recognised. These matters are reviewed in the Green Belt Statement by Rapleys submitted with the planning application (Core document 6.51) and the Appellant SoC appended to this statement.
- 14.3 The role the racecourse plays in the local area in planning terms is wide-ranging, and its continued operation (which this proposal will cement) is essential to the ongoing permanence and maintenance of the Green Belt, not least as its absence would result in the degradation of the Green Belt. It is in principle contrary to planning policy both in the Development Plan and in terms of NPPF to prevent development for development of the racecourse which would bring about positive planning benefits to the local area. The racecourse's role also covers a wide variety of socio-economic matters (the latter reviewed in the paper at Appendix 3 of the Post Consultation Supplemental Statement). These points are reviewed below:
- As a major outdoor recreational facility, which by nature is largely (although not completely) "open", the racecourse is key to supporting and protecting the Green Belt in this location. Without the racecourse, the site would not be readily maintained and could suffer, potentially, degradation: thus, providing the prospect of greater pressure to more fully accommodate the Borough's residential requirement at Sandown, having regard to the site's highly sustainable location between Esher centre and its railway station. In this context, support for the racecourse's plans would ensure the long-term protection of the Green Belt and its permanence in this part of Elmbridge.
 - The racecourse is a key part of the local economy supported by the main policy for Esher in the Core Strategy, namely Policy CS9. It is one of the largest employers in Esher, providing 110 permanent jobs across a wide variety of skills, and it also generates significant additional employment on race and other event days equivalent to approximately 17,000 shifts. The latter provides a vital source of employment locally, particularly with students and retirees on event days.
 - Sandown Park supports 480 suppliers, 277 of which are in Elmbridge Borough and neighbouring postcodes (the latter equivalent to a £4.04m spend).
 - The racecourse has 25 race days a year, and hosts around 300 non-racing events annually. As confirmed in the applicant's Green Belt Statement, these activities bring 230,000 visitors to Esher a year, significantly boosting the town centre and local businesses. It is estimated that organiser, spectator and attendee spend in the local economy is equivalent to around £6.5m.
- 14.4 As such, by supporting the future health and viability of the racecourse by way of the significant investment proposed, the development proposals secure a range of direct planning benefits. Further, the proposal - through the enhancements and new facilities - will cement and bolster the economic profile of Elmbridge, through (additional) direct, indirect and induced employment in the Borough during the construction and, beyond this, in the operational phases.

ECONOMIC, SOCIAL AND ENVIRONMENTAL BENEFITS

Economic Benefits

- 14.5 The economic benefits of the proposal are reviewed in the Planning and Green Belt Statements submitted with the planning application, and in further detail in the Post

Consultation Supplemental Statement paragraphs 4.12 to 4.30 and the Socio-Economic Paper appended to it (and also appended to this Statement of Case, at **Appendix 13**).

14.6 In addition to the direct benefits arising from the support of the racecourse, the improvements to Sandown Park will contribute to the economic wellbeing of Esher centre through spin-off benefits, which extend beyond employment considerations. In particular:

- One of the aims of the improvement works is to increase average spend by racecourse customers and encourage them to stay longer in the area, and this additional available revenue will benefit the centre;
- The hotel element is not only supported by the Development Plan (as policy CS9 confirms that the local authority will support a hotel at Sandown Park), but it will also complement the racecourse both in terms of its status as a racing venue and a more widely as an entertainment destination, creating jobs and economic activities in the area (see a letter from Hilton attached at Appendix 9 of the Post Consultation Supplemental Statement);
- There is an identified shortage of beds in the area, as confirmed by the Surrey Hotel Futures report from 2015, which was commissioned by Surrey County Council as part of the evidence base to inform the review and updating of Local Plans in the county. This position is also confirmed in the market analysis prepared by Savills attached at Appendix 9 of the Post Consultation Supplemental Statement). In this context, a high quality business hotel will assist in meeting this demand and, by association, likely result in support for local restaurants, pubs and leisure providers, and
- As also confirmed in the market analysis by Savills, hotel provision in the local hotel market is predominantly within the budget sector, with few hotels providing modern, high-quality meeting, conference and public exhibition facilities. Such facilities at Sandown Park would therefore not only complement the racecourse, but would also increase the economic attractiveness of the area to business.

14.7 As such, the proposals will increase economic activity in Esher centre and support local businesses. Further, it will create jobs by increasing direct, indirect and induced employment, as set out in detail in the socio-economic paper in Appendix 3 of the Post Consultation Supplemental Statement. In addition, the proposed enhancements of the Racecourse and new facilities will generate additional induced employment and jobs for the Borough (during the construction and, beyond this, in the operational phases).

Social Benefits

14.8 The extensive social benefits of the scheme are rehearsed in the Planning and Green Belt Statements submitted with planning application. In particular, the proposal will supplement the Borough's important community/leisure assets through enhancements of the existing offer and new uses, such as the proposed family-focused leisure and recreational area and the upgraded nursery building.

14.9 On race days, the facilities at Site C will provide a family-friendly environment to be enjoyed in association with the race-card. The facilities will include:

- Play areas for both older and younger children;
- Open park space;
- A cycle track;
- A soft play area and café, and
- Associated parking.

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- 14.10 Indicative images illustrating the above are shown at Figure 73, on page 60 of the Design and Access Statement.
- 14.11 The enjoyment of these facilities (on race days) will be enhanced, for local people, by the introduction of a membership scheme which offers, selectively, free and discounted access and ticketed entry to the facilities, which will be provided in a Community Use Agreement (CUA), secured by s.106 agreement.
- 14.12 Further social benefits, however, derive from the applicant's objective to improve the accessibility of Sandown Park, and its facilities, to the local community at large by providing year-round access to Site C on non-race days (equivalent to approximately 340 days of the year). On these days, the majority of the above facilities will be free for public use, including 3 hours car parking which will also be a material benefit to the town centre. The only charge arising will be to use the soft play area.
- 14.13 LPA's Elmbridge Open Space and Recreation Assessment (October 2014) assessed future needs, relative to open space provision, of the Borough up to 2026. It identified that an additional 6ha of public parks and an additional 800sqm of formal children's play provision are needed to alleviate deficiencies in access to parks and formal and informal play provision for children and teenagers within 400m of home. The provision of the children's play area within the proposal, although outside 400m distance threshold, nevertheless will contribute to meeting the need for the children's play provision for residents in the vicinity of the site, and Esher more generally.
- 14.14 The benefits of this arrangement (in principle) were recognised and supported by Elmbridge's Head of Leisure and Cultural Services, who suggested a Community Use Agreement ('CUA') in order to define the initiatives that the applicant is proposing, and to secure them by way of planning obligation. The applicant is content with, and indeed welcomes, such an agreement and presented, at Appendix 2 of the Post Consultation Supplemental Statement, a suggested structure for inclusion in any planning obligation (which should be recognised as a significant commitment, by JCR, to deliver the community benefits envisaged by the application).
- 14.15 Further social benefits will be brought forward by the proposed relocation of the nursery to a modern and upgraded facility which will provide additional places for children.
- 14.16 In addition, other social benefits will include:
- Meeting housing needs generally and a contribution to affordable housing (in the context of a Borough-wide shortage of both, further explored in section 5 of this statement);
 - To highlight the history, historic assets and heritage of the racecourse, and to enhance public interest and appreciation of the site, a network of interpretation boards will be installed; and
 - Greater integration between Esher and its railway station (not least, given the local authority's 2016 Retail Study intimated that the linkage between the two was poor). Potential options for improvements to Station Road and Portsmouth Road are set out in the Transport SoC.
- 14.17 That aside, the proposals will secure/cement, with enhancement, the ongoing availability of car parking to meet the needs of local residents, and local businesses (alongside other parties), who require ready access to Esher and its surrounding hinterland by car. Whilst this is inherently a social benefit, through the provision of convenient access to Esher's amenities and services, it also has an added economic angle where the traders/operators in the centre will derive associated financial and related returns. This principle is, of course, widely promoted in retail planning practice and, in this context, Rapleys retail agency team is aware

of operators whose locational strategies are closely aligned to leisure attractions, in the interests of benefiting from related linked trips and pass-by trade.

Environmental Benefits

- 14.18 It should be acknowledged that a central tenet of the planning system is its commitment to deliver sustainable development which, in part, comprises an environmental dimension.
- 14.19 The proposal, in these terms, seeks to recycle (in part) previously developed land in close proximity to the centre of Esher and its railway station. In these terms, the site is accessible to a range of transport options, including walking, cycling, bus, train and others. As a result, and notwithstanding the policy considerations relative to the Green Belt, it is a location that national and local policy would normally direct development to.
- 14.20 The proposal also offers significant opportunities for linked trips between the proposed development and other facilities within the demise of the racecourse, such as the ski-centre, gym and golf course. It is, unequivocally, sustainable development, in principle, and this constitutes a material factor in favour of the planning application (against which other considerations can be weighed).
- 14.21 The proposal, expressly, also brings other environmental benefits. These include:
- Boundary enhancements, which will increase openness (visually), will enhance the landscape as well as the ability for local residents to appreciate the racecourse, longer distance views across the racecourse, and beyond, and the Green Belt more generally. As confirmed in paragraph 4.8 of the Landscape SoC, visual openness will be further increased by removing some of the existing fencing along More Lane;
 - Planting of trees and native woody hedgerows, where possible, to maintain/enhance the well treed character of Sandown Park and enhance the local character of Portsmouth Road;
 - New landscape feature aligning the northern boundary of Site 3, and
 - Setting back the proposed development on Site 4 from Station Road to maintain the green, well-treed characteristics of the eastern-edge of the Racecourse and the replacement of the existing fence with an active site frontage which better engages and interacts with the public realm.
- 14.22 Beyond these matters, it is also relevant to note that the proposed development will further deliver an ecological management plan for the entire racecourse to include the introduction of additional bat boxes and bird boxes, which represents a substantial environmental benefit. An outline of the plan, which can be controlled by planning condition, was attached at Appendix 11 of the Post Consultation Supplemental Statement.
- 14.23 These benefits can only be brought forward through the proposed development as a whole.

15 THE APPELLANT'S RESPONSE TO THE REASONS FOR REFUSAL

15.1 The Appellant's case indicating that planning permission should be granted is reviewed in the previous section, however the following response is also offered in terms of the reasons for refusal. In terms of the commentary relative to the Development Plan policies cited in each reason for refusal, it should be noted that planning officers at the Local Authority were satisfied that, with the exception of those relating to the Green Belt, the proposals were in compliance with these policies.

15.2 It is not clear, at this stage, how the policies referenced in the reasons for refusal are deemed to be offended by the Development Proposals, as discussions in the planning committee did not turn to this matter. As such, the Appellant reserves the right to comment further on these policies (particularly those that are more generally worded) until there is an opportunity to review and respond to the Local Authorities position. At this stage, however, the following commentary is offered.

REASON 1

15.3 As confirmed within Section 12 of this statement, the development is appropriate in the Green Belt, with reference to paragraph 145 of the NPPF. Even if this were not the case it is also confirmed in this section that very special circumstances arise which clearly outweigh any harm arising from the development. Further, the Transport SoC and Air Quality SoC also confirm that there will be no harm generated by the proposals in these terms (on the contrary, the proposal has the potential to generate benefits). The viability statement of case confirms that the level of affordable housing offered is the maximum that can be viably delivered by the development (albeit, it should be noted that, due to the current extreme economic uncertainties as a result of the COVID-19 pandemic, the maximum viable level of affordable housing may need to be reviewed at the time of the public inquiry).

15.4 Finally, the Landscape and Visual Impact SoC also confirms no detriment to the character and openness of the Green Belt as a result of the proposal - on the contrary, the Landscape SoC confirms that there will be a benefit to open character of the Green Belt (through contributing to its retention) and that the development will link very well into existing context. Further, and in order to increase openness further, as confirmed in the previous section of this statement fencing on More Lane will be replaced.

15.5 With specific reference to the policies cited within the reason for refusal, the following must be recognised:

- Policy CS21 - confirms that that the Local Authority will require development to include affordable housing. A number of percentages of provision against numbers of units are expressed, but the text associated with the policy recognises that a lower percentage may be acceptable if supported by viability evidence. In this case, it was agreed between the Appellant and the local authority's viability experts that the level offered within the Development Proposals (20%) is the maximum that can viably provide (albeit as previously confirmed, this needs to be reviewed at a later date in light of the economic effects of the current COVID-19 pandemic) - therefore the Development Proposals do not offend this policy. This matter is confirmed in the LPA Officers' report, which confirms at paragraph 9.9.2.2.14 that the *"proposed development would deliver the maximum level of Policy compliant affordable housing"*.
- Policy CS25 - this policy is generally worded, but - inter alia - directs high trip generating uses to sustainable locations, including town centres and areas of good public transport accessibility (with Sandown Park being adjacent to Esher centre, and adjacent to bus and rail connections). Other matters raised by this policy are explored in detail in the Transport Statement of Case, which confirms that the Development Proposals comply with this policy. This matter is further confirmed in the LPA Officers' report at paragraph

9.8.1.28, where it is confirmed that the “County Highway Authority accepts that with the transport measures [agreed between the Appellant and Highway Authority] in place, the proposals would comply with Policy CS25”.

- Policy DM5 - confirms that development should address matters such as noise, lighting and air quality. The Development Proposals were supported by specialist evidence relative to all the above matters (specifically Acoustic, Lighting and Air Quality assessments), which confirm that the proposals are acceptable in these terms. Further, the LPA Officers report addresses the requirements of DM5 in a number of places, relative to air quality, noise and light pollution and contamination, and no conflict is identified between the Development Proposals and this policy.
- Policy DM7 - addresses access and parking, indicating that development should be acceptable in terms of both matters. The Transport Statement of Case addresses these matters, and confirms that the proposal is acceptable in these terms. The LPA Officers’ report addresses this policy, and no conflict is identified relative to the Development Proposals.
- Policy DM17 - reflects, in broad terms, national policy relative to the Green Belt. This statement confirms that the Development Proposals are acceptable in terms of Green Belt policy by dint of the appropriateness of the Proposed Development (with reference to paragraph 145 of the NPPF), and on the basis that even if the Proposed Development was inappropriate very special circumstances arising which clearly outweigh any harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal.

15.6 In this context, the proposal is not contrary to the policies cited in the decision notice relative to this reason for refusal.

REASON 2

15.7 It is confirmed in the Architect SoC, the Landscape SoC and the Heritage SoC that the proposals were carefully considered in terms of its impact on the character of the area, and confirm that the development can be implemented in a manner which will link very well into the existing context. Further, the Landscape SoC confirms that the reference to the “prominent location” of the site are unfounded, and that the site and the particular characteristics of this urban location are able to accommodate the proposed development without resulting in unacceptable effects on local character or views.

15.8 With reference to the policies cited within the reason for refusal, all are considered in the LPA Officers’ report, and no conflict is identified. In terms of the Appellant’s initial response to these conditions, the following commentary is offered:

- Policy CS9 - encourages residential, recreational and tourism development across Esher, and makes specific reference to promoting the provision of hotel accommodation at Sandown Park. In this context, the Development Proposals are embraced by Policy CS9, and the refusal of planning permission runs contrary to the policy.
- Policy CS17 - seeks to ensure that development is respectful of local character, development density and sustainable design. These matters were addressed in detail within the Design and Access and Heritage Statements supporting the planning application, and these matters are addressed in, inter alia, the Landscape and Heritage Statements of Case supporting the appeal.
- Policy DM2 - is also generally worded, but confirms that development should achieve high quality design, and inter alia preserve and enhance the quality of the area. Again, these matters were addressed in detail within the Design and Access and Heritage Statements supporting the planning application, and these matters are addressed in, inter alia, the Landscape and Heritage Statements of Case supporting the appeal.

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- Policy DM12 - confirms that planning permission will be granted for development that protects, conserves and enhances the Borough's historic environment - the Heritage Statement supporting the planning application, and the Heritage Statement of Case submitted with this appeal, confirm that the Development Proposals are in accord with this policy.

15.9 In this context, the proposal is not contrary to the policies cited in the decision notice relative to this reason for refusal.

REASONS 3, 4 AND 5

15.10 These reasons for refusal derive from the lack of a legal agreement to secure planning obligations relative to affordable housing and financial contributions towards management of Littleworth Common, Esher Railway Station and Travel Plan monitoring. However, a position on all of these matters were agreed between the applicant and LPA officers in advance of Committee.

15.11 Therefore, and subject to further discussion with the local authority, the Appellant hopes to present the Inspector with a draft s.106 agreement addressing these obligations in a manner which is agreed by both parties at exchange of proofs of evidence, thereby overcoming reasons for refusal 3,4 and 5.

16 RESPONSE TO CONSULTATION RESPONSES BY THIRD PARTIES

- 16.1 The LPA Officers' report (Core Document Ref: CD7.3), at Section 7, reviews all consultation responses received by the local authority during the course of the planning application.

STATUTORY AND NON-STATUTORY BODIES

- 16.2 At Table 1 in Section 7 of the Officers' report, the responses of 24 statutory and non-statutory consultee bodies are reviewed. With one exception, no objections are noted and - where concerns are identified - it is acknowledged that they can be addressed as part of further detailed design.
- 16.3 The report records that the Esher and Lakeside Drive CAAC objected to the proposals, on the grounds of perceived impact on the Green Belt as a result of development on Sites 1 to 4. The matter of impact on the Green Belt has been addressed earlier in this statement, and it has been confirmed that the Proposed Development is "appropriate development" in the context of Paragraph 145 of the NPPF, and even if this were not the case, there are very special circumstances arising which clearly outweigh any harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal.

OBJECTIONS FROM THE PUBLIC

- 16.4 As confirmed previously, during the course of the Planning Application the LPA received objections from two local groups and approximately 600 residents. As the third-party objections were wide-ranging, to assist the local authority a Post-Consultation Supplemental Statement (Core Document Ref: 6.47) was submitted on 12th July 2019 to the Case Officer, addressing them.
- 16.5 This statement responded to the planning issues raised by the objectors. Further, at Appendix 4 it reviewed a number of non-planning related concerns arising from various misconceptions about Appellant and the Development Proposals, including the nature of JCR as an organisation and its financial arrangements.
- 16.6 Local objections were also addressed in the LPA Officers' Report (Core Document Ref: 7.3) and Update Sheet (Core Document Ref: 7.4) for the Special Planning Committee on 1st October 2019 within the following key sections as follows:

- The Green Belt - paragraphs 9.7.3 and 9.7.4 of the Officer's Report.

Officers considered that as a whole, the proposed development was inappropriate development, however that the scale of identified harm was at a "lower level" with 6 out of 12 sites considered appropriate development within the Green Belt, with the balancing exercise between the harm and benefits of the scheme therefore needing to be weighed proportionately (with the economic, social and environmental benefits of the scheme further set out at chapter 9.9 of the Officer's Report).

Following Officers undertaking this balancing exercise, it is concluded at paragraph 9.11.4 of the Officer's Report that the cumulative benefits of the scheme clearly outweigh the identified harm to the Green Belt and any other harm and as a result, very special circumstances exist to justify development in the Green Belt. The final sentence of the paragraph confirms that "*Therefore, the development proposals would be in accordance with the development plan and the national policy.*"

- Affordable housing/viability - paragraphs 9.9.2.2 and conclusions at 9.9.2.2.14 of the Officer's Report.

In summary, Officers considered that proposed development would deliver the maximum level of policy compliant affordable housing, while ensuring the viability of the development.

- Character area (including heritage assets, landscape and visual amenities) - paragraph 9.8.2 and conclusions at sub-paragraphs 9.8.2.42 to 9.8.2.48 of the Officer's Report.

In summary Officers was acknowledged that the development proposals were in outline form and that it is not possible to assess the impact on the character of the surrounding area arising from the proposed development with certainty at this outline stage. The proposals' design (including materials), scale, layout and landscaping details would be reserved for a later stage of the planning process.

- Residential amenity - paragraph 9.8.3 and conclusions at sub-paragraph 9.8.3.20 of the Officer's Report.

In summary, Officers considered that the development proposals would likely have potential to address any concerns regarding the amenities of neighbouring or future occupiers and that as the proposals were largely in outline form, further detailed plans would need to be assessed at a later stage of the planning process.

16.7 These matters are also addressed within this appeal, in this document, and the following statements of case submitted with this appeal:

- The Green Belt and Landscape Statement of Case;
- The Viability Statement of Case;
- The Noise Statement of Case, and
- The Air Quality Statement of Case.

SUPPORT FROM THE PUBLIC

16.8 It should also be noted that the planning application attracted 85 letters of support, on matters including:

- The need for improvements to Sandown Park, and
- The wide-ranging planning benefits of the proposal.

18 **CONDITIONS**

- 18.1 The schedule of conditions is appended to the Planning SoCG. The schedule of conditions derives from those recommended within the LPA Officers' Report. Specifically, all conditions recommended by LPA Officers are acceptable, with the exception of Condition 17, which is acceptable subject to the tracked changes illustrated on the schedule.
- 18.2 The amendment to Condition 17 illustrated within the schedule removes reference to noise criteria. The requirement to meet these specific criteria is considered to be unnecessarily onerous, in the context of the relevant noise guidance cited. It is intended that this matter be discussed further following submission of the Appeal, in the interests of agreeing a shared position between the two parties relative to all planning conditions. If such agreement can be reached, this will be confirmed to the Inspector within the Planning SoCG.

19 PLANNING OBLIGATIONS

- 19.1 A note relative to the Appellant's position regarding planning obligations is attached to this document at Appendix 14. This note was sent to the LPA as a basis for further discussion in advance of submission of this Appeal.
- 19.2 As previously confirmed, the Appellant will engage with the LPA following submission of this Appeal, with the intention of agreeing a shared position in terms of planning obligations. Subject to this engagement, this shared position will be put to the Inspector, in the form of an agreed draft s.106 agreement, at exchange of proofs of evidence, thereby addressing Reasons for Refusal 3, 4 and 5.

20 PLANNING STATEMENT OF COMMON/UNCOMMON GROUND

- 20.1 An initial draft of the Planning SoCG was sent to the LPA in advance of submission of this Appeal.
- 20.2 This draft will be the subject of further discussion through the Appeal process with the intention of providing the Inspector with a final version, clarifying the areas of agreement and non-agreement to the Inspector, at exchange of proofs of evidence.

21 WITNESSES

21.1 Provide list of witnesses and specialism, and confirm that it is subject to the response of the local authority and third parties

Specialism	Witness
Appellant	William Gittus, Property Director, The Jockey Club
Town Planning	Robert Clarke, Senior Partner, Rapleys LLP
Landscape and Green Belt	Ben Connolley, Principal Landscape Architect, EDP
Heritage	Eddy Stratford, EDP
Transport	Michael Lewin, Director, Transport Planning Practice
Affordable Housing	Nicholas Fell, Partner, Rapleys LLP
Development Delivery	Angus Irvine, Partner, Rapleys LLP
Air Quality	Jethro Redmore, Director, Redmore Environmental Ltd
Noise	Gary King, Associate, Sharps Redmore

22 CONCLUSIONS

- 22.1 The Appellant's case concludes, from an assessment of the relevant planning issues, assisted by a suite of technical documents which have been prepared, that this appeal should be allowed, and planning permission be granted.
- 22.2 The rationale behind the development is that the Racecourse brings considerable planning benefits to Esher, Elmbridge and further afield. However, the current facilities are out of date, deteriorating, less than fully utilised and in need of substantial renovation and modernisation. These improvements must be of a very high-quality as a bare minimum, and must pay for themselves.
- 22.3 The Appellant's vision for the site will enhance the site's offer and deliver a wider and enhanced community provision. The consequence of not carrying out the works, or not carrying them out properly would be substantial harm for JCR, the Borough and more broadly. However, this investment needs to be facilitated by a limited amount of residential development (including an element of affordable housing).
- 22.4 In this context:
- The Masterplan-led approach to the delivery of the vision for Sandown Park Racecourse to secure its long-term future as a nationally and locally important racing and leisure/community venue is entirely appropriate in the context of the Green Belt setting.
 - The proposal is appropriate development within the Green Belt, as it falls into the types of development described in Paragraph 145 of the NPPF. Even if it were not appropriate, the substantial positive planning benefits of the proposal would, collectively, be very special circumstances that clearly outweigh any harm by reason of inappropriateness and any other harm resulting from the proposal.
 - The proposal has been designed and developed in accordance with a range of other planning policies, and all relevant development management considerations have been addressed (a matter which has been confirmed by the various specialist consultees during the course of the planning application).
 - The proposals would bring forward substantial planning benefits which go beyond the requirements of planning policy.
- 22.5 The proposals were carefully considered by the Planning Officers at the Local Authority, in consultation with statutory and other relevant specialist consultees, and they concluded that planning permission should be granted at the Elmbridge planning committee on 1 October 2019. However, the Committee resolved to grant application, including on technical matters without any technical information to support the refusal of planning permission.
- 22.6 Notwithstanding this, following submission of this appeal, the Appellant will engage with officers the Local Authority in order to agree as many matters as possible, with the intention of providing the Inspector with an agreed Statement of Common and Uncommon Ground (including a shared position on planning obligations and conditions) at exchange of Proofs of Evidence.
- 22.7 The Appellant reserves the right to add to any of the information attached to this appeal, in advance of agreement of the Statement of Common Ground and in advance of seeing the Local Authority's detailed Statement of Case, including any evidence base to justify the technical grounds for refusal.
- 22.8 Finally, the Appellant will be pursuing a partial Award of Costs application.