

Sandown Park Appeal - Matters of dispute – 5th August 2020

1. Green Belt and Harm:

a. Whether the proposed development represents inappropriate development in the Green Belt; the Council considers, as a whole, the proposed development to be inappropriate, notwithstanding its acceptance that certain elements are not inappropriate (specifically, the development proposed at Sites A, C, E1, E2, and F, as confirmed by paragraph 6.15 of the Council's statement of case). The Appellant considers that none of the development proposed would be inappropriate within the Green Belt.

b. If inappropriate, whether the proposed development would result in definitional harm and actual harm to the openness of the Green Belt; The Council considers that the development taken as a whole is inappropriate, and so definitional harm would occur. It further considers that actual harm (in terms of openness and the purposes of designating land as Green Belt) would occur in the case of sites B, D, 1, 2, 3, 4 and 5. The Appellant considers that if the development is determined to be inappropriate, definitional harm is automatic but the Appellant does not consider that actual harm to the openness of the Green Belt would occur as a result of any part of the development.

c. if the development is inappropriate, whether the very special circumstances required to clearly outweigh the harm to the Green Belt and any other harm, have been demonstrated in this case. The Council considers that there is harm by reason of inappropriateness and other harm in the form of impact on transport (highway and public transport capacity), air quality, insufficient affordable housing provision, detrimental impact on the character and openness of the Green Belt arising from the development's prominent location and harm to the character of the area arising from the second reason for refusal. The Council considers that very special circumstances have not been demonstrated which clearly outweigh the harm identified. The Appellant considers that, if any part of the development is determined to be inappropriate and that there would be harm as alleged, very special circumstances have been demonstrated that clearly outweigh harm to the Green Belt by reason of inappropriateness and the other harm alleged by the Council; the Appellant further disputes that any other harm would occur as a result of the development. Additionally, the Appellant does not consider that the proposed development would be unduly prominent and thereby detrimental to the character and openness of the Green Belt by reason of its degree of prominence or otherwise.

2. Level of residential development and hotel:

Whether the level of residential development and hotel proposed could be designed without resulting in an adverse impact on the character of the area; The Council's position is that 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. The Appellant considers that it has been demonstrated, to an appropriate extent given the outline nature of the planning application, that the level of residential development and hotel proposed could be designed in a manner that would not result in an adverse impact on the character of the area.

3. Overall Planning Balance

Whether overall the planning benefits of the development outweigh the alleged harm. The Council's position is that harm is caused by the development and that it would not be outweighed by the planning benefits. The Appellant's position is that no harm would be caused by the development and that, in any event, the alleged harm is clearly outweighed by the benefits of the development. For the benefit of doubt, the Council does not say that the harms to highway and public transport capacity, air quality, and insufficient contribution towards affordable housing would give rise to a reason for refusal in and of themselves (Council's Statement of Case para 6.23).

4. Since the submission of the Council's statement of case in which a disagreement relating to the wording of Condition 17 was identified (at paragraph 6.72), the parties have been able to agree amended wording and so this is no longer a matter of dispute to be explored at the inquiry. The wording agreed between the parties is as follows:

Prior to the commencement of any development on each Site hereby permitted, a scheme to demonstrate that the external noise levels within the curtilage and internally of the residential units will meet the guideline values for outdoor amenity space, bedrooms and living space (as appropriate) as specified within BS8233:2014, Guidance on Sound Insulation and Noise Reduction for Buildings, or as may be amended or updated, shall be submitted to and approved in writing by the Local Planning Authority. The report shall include details of noise attenuation measures required to meet the standard for internal and external noise levels, as defined in table 4 of BS8233:2014 (including glazing and ventilation details). The work specified in the approved scheme shall then be carried out in accordance with the approved details prior to the occupation of the premises and be retained thereafter.