

Planning Statement of Common/Uncommon Ground prepared for a
Planning Appeal at

**SANDOWN PARK RACECOURSE
PORTSMOUTH ROAD
ESHER
KT10 9AJ**

Planning Application Reference: 2019/0551
Appeal Reference: APP/K3605/W/20/3249790

17 June 2020

Appellant Ref: WH/385/12/6

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MATTERS IN AGREEMENT

1 INTRODUCTION

- 1.1 This Planning Statement of Common / Uncommon Ground sets out the joint position between Jockey Club Racecourses Ltd (herein ‘the Appellant’) and Elmbridge Borough Council (the Local Planning Authority, herein ‘the LPA’) relative to an appeal (herein ‘the Appeal’) lodged by the Appellant at Sandown Park Racecourse, Portsmouth Road, Esher KT10 9AJ (herein ‘the Appeal Site’). A Site Location Plan is attached at **Appendix 1**.
- 1.2 A Core Documents List is attached at **Appendix 2**.
- 1.3 This statement should be read in conjunction with a Transport Statement of Common Ground.

2 BACKGROUND TO THE APPEAL

2.1 The original application (herein ‘the Application’) to which the Appeal relates sought permission for development (herein ‘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.*

2.2 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.

2.3 The description of development 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.

2.4 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:

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.

2.5 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.

2.6 Planning officers at the LPA recommended to the authority’s Planning Committee at a meeting on 1st October 2019 that planning permission be granted subject to a satisfactory legal agreement. However, the Planning Committee resolved to refuse planning permission

against officer recommendation, and a decision notice was subsequently issued on 3rd October 2019.

2.7 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.*

3 SITE AND SURROUNDINGS

- 3.1 The Application/Appeal Site Location Plan is attached at **Appendix 1** (also Core Document CD5.4, list attached at **Appendix 2** of this document). Details of the site and surroundings are illustrated on a plan at **Appendix 3**. These plans illustrate the following.
- 3.2 Located immediately to the north east of Esher District Centre and to the west of Esher Railway Station, Sandown Park Racecourse extends up to circa 66 hectares in total, 17.68 hectares of which comprise the Appeal Site. The boundaries of Sandown Park Racecourse are illustrated as a blue line on the site location plan, the boundaries of the Application/Appeal Site are illustrated as a red line.
- 3.3 The whole of Sandown Park Racecourse is located within the Green Belt and is bound by roads including Portsmouth Road (A307) to the south, Station Road to the east, Lower Green Road and a railway line to its north, and More Lane to the west. The racecourse's main access is via Portsmouth Road (A307) which is a primary route through Esher connecting to London, Surrey and further afield.
- 3.4 The operational facilities including the stables and paddock area, stable staff accommodation, and car parking are located on the southern part of Sandown Park Racecourse, with the Grandstand and Eclipse building overlooking the racetracks and the golf course to the north.
- 3.5 Sandown Park Racecourse also contains a Grandstand (8,755 sqm) with established conference and banqueting facilities for holding conferences, events and public exhibitions. In addition to the racecourse and its associated buildings and facilities, there is also a dry ski slope/gym/fitness centre/skywalk adventure at The Warren (south west of the racecourse), a 1,065 sqm karting circuit and associated structures, golf centre including driving range (in the centre of the racecourse) of circa 1,025 sqm, a 397 sqm children's nursery (on Portsmouth Road), and 586 sqm of staff housing (in the north west of the racecourse).
- 3.6 There are several bus services along Lower Green Road, More Lane and Portsmouth Road that travel to and from the site, specifically to Weybridge, Brooklands, Addlestone, Kingston Upon Thames, Staines, Guildford, Downside and Walton-on-Thames. The nearest bus stops to the Appeal Site are located on the A307 Portsmouth Road, Esher Green and More Lane. Esher Train Station (east of the site) is approximately 1.3km walking distance from the Grandstand, providing services travels towards London Waterloo, Clapham Junction, Surbiton, Walton-on-Thames, Weybridge and Woking.
- 3.7 The Appeal Site is therefore in a sustainable location as a sporting venue and visitor attraction.
- 3.8 There are suburban residential neighbourhoods and business premises adjacent to parts of the racecourse, particularly to the south east and south west, with the high street of Esher District Centre offering a wide range of shops and facilities, with its boundary immediately abutting the south west corner of the Appeal Site and its primary shopping frontage located less than 50 metres away.
- 3.9 More specifically, the individual proposal sites are described below.

THE ENHANCEMENT SITES

Site A

- 3.10 Site A comprises an area of 2.2 hectares to the southwest corner of the Appeal Site. Main vehicular access is from Portsmouth Road (A307) to its east with secondary/emergency access off More Lane to its west, through Site 1. The site has no boundary with any public road or footpath except for More Lane.

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- 3.11 The site comprises the main operational area and facilities for the racecourse, including a pre-parade ring, stable blocks, saddling enclosures, and a hardstanding area for horsebox unloading and car parking. It also contains Sandown Park Lodge, a two-storey detached brick building providing hostel accommodation (21 bedrooms) and a canteen for stable staff during race meetings.
- 3.12 Ground levels rise from Portsmouth Road to the north where it abuts 'The Warren', with steep banking to the north of the main stable areas. 'The Warren' is a Key Landmark, also designated as the ancient woodland, with its part identified as a priority habitat by Natural England. 'The Warren' also contains the Sandown Health Club and a dry ski slope.
- 3.13 In addition to a line of four veteran Sweet Chestnuts that adjoin the ancient woodland, the site contains a significant number of good quality higher grade trees. The northwest section of the site falls within an area of high archaeological potential and abuts an area with a tree preservation order (TPO EL:144). In addition, four trees to the north of the pre-parade ring are subject to a tree preservation order (TPO EL:19/55) confirmed on 10 January 2020.
- 3.14 The south west and the south east boundaries of the site abut the Esher District Centre character area, as defined in the Esher Companion Guide to the Design and Character SPD (April 2012) (also Core Document CD3.2, list attached at **Appendix 2** of this document). The south west corner of the site is adjacent to the designated air quality management area. The western section of the site is covered with hardstanding and low-rise buildings. The site is within flood zone 1.

Site B

- 3.15 Site B covers an area of 0.3 hectares and is located to the east of the Grandstand. It is surrounded to its north, east and south by Site F. The site is covered by predominantly a hard-standing area overlooking the racecourse. It is vacant of buildings and is used for overflow car parking.
- 3.16 The ground levels rise to the southwest, towards the Grandstand. Vehicular/pedestrian access is via the existing main carpark (Site F) from Portsmouth Road. The site falls within flood zone 1.

Site C

- 3.17 Site C is a 3.3 hectare site located in the central part of the racecourse. It comprises a go-kart track, and hard surfaced parking area with associated facilities, including low-rise buildings.
- 3.18 Adjoining the site to the north is a golf course and drive range, and further to the south is the Grandstand. The racetrack passes closely along the north and south boundaries of the site (along the latter is an internal service road).
- 3.19 The site's ground level drops from the south west to the north east, with access to the site from More Lane to its west via a tarmac road running through Site D. The site falls within flood zone 1 with limited areas to the west of the site subject to low to high risk of surface water flooding.

Site D

- 3.20 Site D covers an area of 3.5 hectares situated immediately to the west of Site C.
- 3.21 A limited area of the site contains a hard-surfaced parking area for the golf course customers, with the remainder of land being laid to grass which is used as an overflow car park during race meetings. Access to the site is provided via an internal road from More Lane to the west.

3.22 There are no significant buildings or trees within the site. The ground levels slope down from the south west to the north east. The site falls within flood zone 1, with a limited area to the east of the site at low risk of surface water flooding.

3.23 To the north is a golf course and driving range with the racecourse passing closely along the northern, southern and western boundaries of the site. To the south is the Grandstand.

Sites E1 and E2

3.24 Site E1 is 0.46 hectares of grassed land is situated towards the southwestern edge of the racetrack and includes the access road from More Lane. It borders Site D and is currently used as part of an overflow carparking on high capacity race days. The site falls within flood zone 1.

3.25 Site E2 is 0.22 hectares of grassed land forming a crescent shape, located on the edge of the racetrack in the north eastern corner, adjacent to the golf course. It falls within flood zone 2 and the area is of low to medium risk of surface water flooding.

Site F

3.26 Site F extends to 3.68 hectares and is located to the north west of Portsmouth Road (A307) to the east of the Grandstand. It shares a boundary with the racecourse to the north, Site 5 to the east, and Sites A and B to the west and south/south west respectively.

3.27 The site operates as the main visitor car park for the racecourse on race and major event days. The southern part of Site F is formally laid out in rows and it is tarmacked. The northern section of Site F is also used for car parking, however the area is grassed with no marked parking bays. The area between Site B and the racecourse is used as a broadcasting compound on race days.

3.28 A group of good quality mature Lime trees is situated to the eastern section of the site along the secondary access road off Portsmouth Road (A307). The boundary along Portsmouth Road is marked by listed metal railings with two sets of listed piers, two gates, timber fencing and a white single rail fence further to their south west along Portsmouth Road towards Site A.

3.29 Along Portsmouth Road (A307), Site F abuts New Road, Esher Park Avenue and Milbourne Lane character area, as defined in the Esher Companion Guide to the Design and Character SPD (April 2012). The site abuts Grade II Listed gates, posts and railings, which form part of the site's formal boundary treatment along Portsmouth Road.

3.30 The ground levels rise in the southwest direction towards the Grandstand. The site falls within flood zone 1 with sections of the site are subject of low to medium risk of surface water flooding.

THE HOUSING/IMPROVEMENT FACILITATING SITES

Site 1

3.31 Site 1 covers 0.24 hectares and is situated to the south west corner of the racecourse. It comprises single storey stable blocks located along the south and north boundaries with associated hard standing areas for overflow provision on race days. The site's primary access is from More Lane enclosed by a 2.5m solid green gate with a secondary access provided via Site A to the east.

3.32 The site falls within flood zone 1, with its ground levels rising to the north (from approximately 39m AOD to 42m AOD).

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- 3.33 To the north is 'The Warren', a Key Landmark that is partially designated as ancient woodland and a priority habitat. The site is also adjacent to an area of high archaeological potential and an area covered by a tree preservation order (TPO EL:144).
- 3.34 The site is adjacent to and to the rear of both traditional and more recently built residential properties in More Lane and Tellisford cul-de-sac to the south/south west.
- 3.35 The southern boundary of Site 1 is also a boundary of the Esher Conservation Area, which extends further to the southwest. A limited area of approximately 44sqm to the west of the site lies within the conservation area. This is the only conservation area affected by the proposals.
- 3.36 All adjacent properties along the east side of More Lane/Esher Green from No. 2 More Lane to No. 18 Esher Green, except for a terrace of No.'s 28-34 Esher Green, which are Grade II Listed Buildings, were identified as significant unlisted buildings in the Townscape Analysis Map in association with the Esher Character Appraisal and Management Plan (endorsed by the Planning Committee in 2008). There are also other Grade II Listed Buildings in the vicinity including Cobblestones, No.5 More Lane and Garden Reach Cottage, and No.7 More Lane with Garden Walls and The Orangery.

Site 2

- 3.37 Site 2 comprises an area of 0.46 hectares and is situated in the most southern corner of the racecourse with the north west and north east boundaries adjacent to Site A.
- 3.38 The site includes a terrace of single storey stables and is covered by hard standing used for car parking associated with Sandown Park Lodge (located within Site A).
- 3.39 Vehicle access is provided via the main entrance to the racecourse off Portsmouth Road (A307), into the north eastern edge of the site. Pedestrian access is provided via steps to Portsmouth Road (A307) in the south western corner which also provide pedestrian links to the parade of shops and facilities in the High Street.
- 3.40 The site's south west boundary abuts residential properties of No.'s 2 and 2a Warren Close and the mixed-use premises of No. 2 High Street. The site lies behind a row of mixed deciduous and evergreen trees as well as a close boarded timber fence to the northwest of Portsmouth Road (A307). The site falls within flood zone 1 with the ground sloping down gently across the site to the east (from approximately 34m AOD to 30m AOD). An area of land along the south western boundary is at low risk of surface water flooding.
- 3.41 The site's south west and south east boundaries are adjacent to the Esher District Centre character area, as defined in the Esher Companion Guide to the SPD (April 2012) (also Core Document CD3.2, list attached at **Appendix 2** of this document). In addition, the south west corner of the site is adjacent to the designated air quality management area and area of high archaeological potential.
- 3.42 Adjacent to the southern boundary is a Grade II Listed Building known as the Travellers Rest, with Sandown House, Portsmouth Road, a Grade II Listed Building located opposite Site 2.

Site 3

- 3.43 Site 3 extends to 1.76 hectares and is located at the north western end of the racecourse, comprising the racecourse grounds maintenance compound and staff housing. Staff accommodation, totalling 8 units in total, comprises four pairs of single and two-storey semi-detached dwellings. To the east of the site is an allotment/compound area.

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- 3.44 Vehicular access is provided via a short driveway from Lower Green Road to the north, secured by a metal gate. Staff access is also available from within the racecourse via a narrow service road that runs along the perimeter of the racecourse.
- 3.45 The site benefits from several reasonably good quality trees close to the boundary with Lower Green Road, interspersed with lower quality shrubland trees. The site has a close boarded fence and trees along its boundary with More Lane and it lies behind mixed deciduous trees and undergrowth along its boundary with Lower Green Road.
- 3.46 The site is largely flat, with a small embankment up to the racecourse in the southwest corner. The whole of the site falls within flood zone 2, with parts within the low to high risk of surface water flooding. An ordinary watercourse runs through the site in the west-east direction.
- 3.47 The north east section of Site 3 abuts Lower Green, a registered town/village green. A Coal Tax Post, a Grade II Listed building, is located to the east of the site. Locally listed buildings, 57 & 59 More Lane and 144 & 146 Lower Green Road are also situated in the vicinity. The north and west boundaries are adjacent to the Lower Green and the Esher Place character areas, as defined in the Esher Companion Guide to the Design and Character SPD (April 2012) (also Core Document CD3.2, list attached at **Appendix 2** of this document).

Site 4

- 3.48 Site 4 comprises 0.57 hectares of land situated at the eastern corner of the racecourse. It is bounded by Station Road to the east, the racecourse to the north, the customer car park behind the two-storey Café Rouge to the south, and two/three storey commercial premises to the west.
- 3.49 The site contains no buildings and has a metal gate at the Station Road entrance, with the remainder of the boundaries being lined by scattered trees and shrubs.
- 3.50 The site's south and west boundaries abut the New Road, Esher Park Avenue and Milbourne Lane character area as defined in the Esher Companion Guide to the Design and Character SPD (April 2012) (also Core Document CD3.2, list attached at **Appendix 2** of this document). Esher Railway Station is less than 250m distance from the site. The site lies behind some deciduous trees and close boarded fencing with a corrugated iron gate on Station Road and is set back behind buildings, deciduous trees, walls and car parks on Portsmouth Road.
- 3.51 There are no heritage designations on the site however the following buildings assets within the local vicinity are identified:
- The White Lady Milestone - Grade II Listed Building and a Scheduled Monument, located at the corner of Station Road/Portsmouth Road (A307), approximately 33m from the site.
 - No.'s 1- 4 Myrtle Cottages, Portsmouth Road (A307) - a terrace of Grade II Listed Buildings to the south west of the site, approximately 150m from the site.
 - Rosery and Glenfield, Portsmouth Road (A307) - Locally Listed buildings, to the south west of the site, approximately 90m from the site.
- 3.52 Most of the site falls within flood zone 1, with the south west corner falling within flood zone 2.

Site 5

- 3.53 Site 5 covers 0.99 hectares and is characterised by two parts. The western half of the site is currently used as an informal overflow car park on high capacity race days and a through route into the eastern parts of the site. The eastern part accommodates a children's nursery with an associated detached dwelling.

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- 3.54 Access to the site is provided from Portsmouth Road (A307) via the main entrance to the racecourse to the west. The southern boundary is screened from Portsmouth Road (A307) by timber fence and trees.
- 3.55 Part of the children's nursery building is the locally listed Toll House that has been extended over the years with a further single storey building. There are two Grade II Listed heritage assets situated in proximity to the site. Adjacent to the southern boundary is a coal tax post attached to the fabric of the Toll House, and to the south west of the site are gates and railings to the racecourse.
- 3.56 The site is screened by mature trees and vegetation, with a landscape buffer screening the site from the racecourse to the north. The site has close boarded fencing and deciduous trees along its boundary with Portsmouth Road and deciduous trees along its eastern boundary.
- 3.57 The eastern edge of the site abuts Cheltonian Place - a residential apartment building. There are also further residential dwellings opposite the site to the south.
- 3.58 Most of the site lies within an area of high archaeological importance, with the whole site falling within flood zone 1.

Summary

- 3.59 The majority of the Appeal Site is previously developed land or adjacent to existing development. All proposal sites have good accessibility being in close proximity to Esher District centre and Esher Railway Station. As such, they are highly sustainable locations for the Proposed Development.

4 PLANNING HISTORY

- 4.1 Sandown Park Racecourse is one of fourteen racecourses owned by The Jockey Club. The racecourse was laid out in 1875 and was the first in Britain to be enclosed and charge for entry.
- 4.2 There is extensive planning history associated with the Appeal Site and wider Sandown Park Racecourse site.
- 4.3 Dating back to 1962, an outline application was refused for the change of use of the entire racecourse to residential-led development (LPA Ref: 1962/0361), and the refusal was upheld at appeal.
- 4.4 Between 1967 and 2000, several applications have granted permission for new buildings/structures and works relating to the racecourse's operations, including the Grandstand, Eclipse Building and parade ring.
- 4.5 Most recently, in 2019, the LPA's Screening Opinion concluded that an Environmental Impact Assessment ('EIA') was not required in respect of the Proposed Development (LPA Ref: 2018/3728).
- 4.6 As aforementioned, the racecourse extends in total to 66 hectares, of which 17.68 hectares (approximately 27%) forms the Appeal Site. On this basis, for ease of reference, the planning history below is outlined in accordance with the areas of the Appeal Site, as defined by the current Appeal.
- 4.7 A full set of agreed Planning History Schedules is attached at **Appendix 4**.

SITE A

- 4.8 In 1966, planning permission was granted for additional stable staff accommodation and construction of 16no. saddling boxes (LPA Ref: 1966/0243).
- 4.9 Between 1975 and 1989, planning permission was also granted for general improvements including an office portacabin and jockeys' changing room.

SITE A AND 2

- 4.10 In 1961, planning permission was granted for a new bus terminal on the western corner of Sandown Park Racecourse, directly opposite the then Esher Urban District Council offices (LPA Ref: 1961/0084).
- 4.11 In 1966, planning permission was granted for the gravel and tarmac surfacing to the existing car parking areas (LPA Ref: 1966/0819).
- 4.12 Between 1989 and 2003, three planning permissions were granted relating to the new two-storey jockeys hostel/hospital building and extensions to existing buildings including a weighing room and boiler house, and its continued use without compliance with conditions (with planning references 1989/0206, 1989/1302 and 2003/1852).
- 4.13 In 2008, the LPA's Screening Opinion confirmed that an EIA was not required for a hotel proposal (LPA Ref: 2008/0316). Subsequently, two planning permissions were granted in 2009 (LPA Ref: 2008/0729) and 2011 (2011/0811) in respect of a detached hotel, associated parking, medical facilities, canteen, changing rooms and saddling enclosures following demolition of the existing hotel and associated facilities. In 2014, a lawful development certificate confirms that planning permission 2011/0811 has been implemented. Whilst the permission therefore remains extant, the hotel building has not been completed.

SITES A, B, D, E1 AND 2

- 4.14 In 2000, planning permission was granted in respect of extensions and alterations to the Grandstand and ancillary buildings, and a new stand to replace the Lawn Suite with alterations to the access and car park (LPA Ref: 1999/2041). In the same year, reserved matters were granted in respect of details of amendments to Portsmouth Road and More Lane accesses, and the internal layout and landscaping of Portsmouth Road car parks (LPA Ref: 2000/0683).

SITE B

- 4.15 In 2005, planning permission was granted for a car parking attendants' kiosk (LPA Ref: 2005/1313).

SITE C

- 4.16 In 1989, planning permission was granted for a single-storey building comprising a bar and concourse with a roof terrace following demolition of the existing bar and public conveniences (LPA Ref: 1989/0064).
- 4.17 In January 1994, temporary planning permission was granted for the use of hardstanding as a silenced karting circuit between mid-June and mid-September on non-race days daily between 10am and 8.30pm for 1 year only (LPA Ref: 1993/1256). In September 1994, the permanent continuation of planning permission 1993/1256 was granted.
- 4.18 In 1996, planning permission was granted for a two-storey detached building to be used as a betting bar, club room, toilets, children's play area and nursery facilities, and the construction of a silenced go-kart circuit following demolition of the existing buildings (LPA Ref: 1995/1317). Under this permission, two conditions are noted:
- Condition 3 of the permission states: The kart circuit hereby permitted shall not be used otherwise than between the hours of 10.00 and 20.30 (or dusk whichever is sooner) on Mondays to Saturdays and 10.00 and 18.00 (or dusk whichever is sooner) on Sundays. The reason for imposition of the condition was to safeguard the amenities and character of the locality.
 - Condition 4 of the permission prohibits the use of floodlights or public address system in connection with the use of the kart circuit.
 - Condition 5 of the permission limits the use of the site to silenced go-karts.
- 4.19 However, the ability to implement this permission was qualified by a s106 Agreement linked to an otherwise unrelated planning permission at Site 5, granted in 2000 (LPA Ref: 1999/0672). This agreement restricted the implementation of the consent to the silenced go-kart circuit. As such, whilst the kart track was constructed, the two-storey detached building granted planning permission by consent Ref: 1995/1317 was not.
- 4.20 In 1997, planning permission was granted for the variation of condition 5 under the 1996 permission (LPA Ref: 1995/1317) to allow the use of twin engined karts (LPA Ref: 1997/0259).
- 4.21 In 2004, planning permission was granted for two single-storey modular buildings on land adjoining the go-kart circuit (LPA Ref: 2004/0216).
- 4.22 In 2005, an application to vary condition 5 under the 1996 permission (LPA Ref: 1995/1317) to allow the use of two stroke engineered karts in addition to the existing four stroke engineered karts was submitted but subsequently withdrawn by Daytona (LPA Ref: 2005/0885). Within their withdrawal letter, Daytona reiterated that whilst the two stroke engines would not cause any increased noise pollution, they had no desire to "*make enemies of the local community*".

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- 4.23 In 2008, an application was submitted to the LPA to vary conditions 3 and 4 under the 1996 permission (LPA Ref: 1995/1317) to allow the use of floodlights and PA system during the operation of the circuit and extended hours to 10:00 -21:30 Mondays to Fridays, 10:00-20:00 Saturdays and 10:00 -18:000 on Sundays (LPA Ref: 2008/1093/INVALID). According to the Officer's Report, "*further information*" was required from the applicant, and the application was not registered and as such not considered by the LPA.
- 4.24 In 2009, planning permission was refused (LPA Ref: 2009/1679) for the same proposal as the 2008 unregistered application, albeit the application was subsequently allowed on appeal.
- 4.25 In allowing the proposal, the appeal decision imposed the following restrictions to the go-kart hours of operation, including the use of the floodlights and public address system as follows:
- Use of the circuit by karts:
 - Mondays to Saturdays 09.00 - 21.00
 - Sundays 10.00 - 18.00
 - The use of the track/circuit of a public address system, together with the illumination (no more than 21 lighting columns) of the track/circuit:
 - Mondays to Saturdays 09.00 - 22.00
 - Sundays 10.00 - 19.00
- 4.26 In 2010, an appeal was allowed following the LPA's refusal of a Lawful Development Certificate application in respect of whether planning permission is required for the continuous use of floodlights, public address system, extend opening hours, and various kart types contrary to permissions 1995/1317 and 1997/0259 (LPA Ref: 2009/0326).
- 4.27 In 2011, planning permission was granted for the variation of condition 5 under the 1996 planning permission (LPA Ref: 1995/1317) to allow the use of two stroke water cooled karts (LPA Ref: 2010/2743) subject to further conditions. This included that noise generated from the use of the track shall not exceed a level of 50dB(A) at the approved measurement locations. Details of the designated locations where noise levels shall be measured was subject of condition 2 of this decision. Details associated with condition 2 were subsequently approved in 2011 (LPA Ref: 2011/0219).

SITE F

- 4.28 In 1959, an application for the use of land with frontage on Portsmouth Road for the erection of 10 houses was refused (LPA Ref: 1959/15512). At the same time, an application was refused for a three-storey block of 15no. flats with the provision of garages to the rear and access to Portsmouth Road (LPA Ref: 1959/15513).

SITES F AND 5

- 4.29 In 1971, planning permission was granted for the occasional use of a secondary car park and canteen as a driving school for heavy vehicles (LPA Ref: 1971/0058).

- 4.30 Between 1975 and 1982, planning permission was granted for several proposals relating to the driving school and ancillary facilities.

SITE 2

- 4.31 In 1957, planning permission for a petrol filling station was refused (LPA Ref: 1956/13104), followed by a further refusal in 1959 for a terrace of 18no. lock up shops with 14 flats or

maisonettes above and 15no. lock up garages at the rear, and petrol filling station with access to Portsmouth Road (LPA Ref: 1959/15514).

SITE 3

- 4.32 In 1959, planning permission was refused for the use land fronting Lower Green Road and More Lane for the erection of 21 houses (Plot A- 9 detached houses, Plot B - 12 detached houses) (LPA Ref: 1959/16023). Following this an application was refused for the use of land as a garden centre (LPA Ref: 1972/0640).
- 4.33 In 1980, planning permission was granted for the erection of two pairs of semi-detached bungalows with detached car port (LPA Ref: 1980/0218).

SITE 4

- 4.34 In 1959, planning permission was refused for the use of land with frontage on Station Road for the erection of a four-storey block of 20no. flats and lock up garages at the rear, with access to Station Road (LPA Ref: 1959/15515).
- 4.35 In 2002, planning permission was granted for the continued use of the car park to the rear of Café Rouge as overflow car parking for Medicom International (LPA Ref: 2001/1439).
- 4.36 In 2011, planning permission was refused for a change of use the overspill car park to a hand car wash and valet facility including office/kiosk and hardstanding (LPA Ref: 2011/6295).

SITE 5

- 4.37 In 1973, planning permission was granted for the use of the Toll House as a training office for South West London Group Training Association for lectures/training for managers and employees for a period of two years (LPA Ref: 1973/0249).
- 4.38 In the same year, planning permission was refused for a proposal relating to two detached dwelling houses or bungalows, garages and alterations to access following demolition of the existing building (LPA Ref: 1973/1039).
- 4.39 In 1976, planning permission was granted for a new single storey dwelling, together with alterations to the Toll House (LPA Ref: 1976/0085).
- 4.40 In 1977, planning permission was granted for the erection of a two-storey house and use of the Toll House for garaging and playroom following demolition of outbuildings (LPA Ref: 1977/0381).
- 4.41 In 1997, a Lawful Development Certificate was refused in respect of whether the house may be occupied without compliance with condition 3 of 1977 planning permission (LPA Ref: 1977/0381). Subsequently an appeal was partially allowed permitting the house to be occupied by any employee or director of the racecourse.
- 4.42 In 2000, planning permission was granted for the change of use from a staff house to creche/day care nursery (LPA Ref: 1999/0672). As aforementioned, this permission was subject to a s.106 Agreement which restricted implementation of planning permission Ref: 1995/1317 on Site C (as previously detailed). That same year, planning permission was granted for a single storey rear extension to the original Toll House (LPA Ref: 2000/1905).
- 4.43 Between 2002 and 2006, several planning permissions have been granted for minor site and building maintenance.

SUMMARY

- 4.44 The above planning history demonstrates that there has been continual Local Planning Authority support over many years for the use of Sandown Park for recreation, leisure and

related uses and that since the 1960s the facilities have continually been the subject of a range of operational changes across the Appeal Site and wider Sandown Park Racecourse in order to upgrade and enhance the existing infrastructure and facilities.

5 PLANNING POLICY AND GUIDANCE

- 5.1 The parties agree that planning decisions have to be made in accordance with currently adopted national and local planning policies. As set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for any decision is the Development Plan unless material consideration(s) indicate otherwise.
- 5.2 The Development Plan pertinent to the Proposed Development and Appeal Site comprises policies from Elmbridge Core Strategy (2011) (also Core Document CD1.1, list attached at **Appendix 2** of this document) and Elmbridge Development Management Plan (2015) (also Core Document CD1.2, list attached at **Appendix 2** of this document). In addition, the revised National Planning Policy Framework (February 2019, herein 'the Framework') (also Core Document CD2.1, list attached at **Appendix 2** of this document) represents the Government's statement of national planning policy.
- 5.3 The Local Authority is currently working on policies to replace the current Development Plan, and the most recent published timescales for this are set out in the Elmbridge Local Development Scheme 2019-2022, December 2019. This indicates the following milestones:
- Regulation 18 Consultation relative to the direction for development management policies (consultation undertaken between 27 January and 9 March 2020)
 - Regulation 19 Consultation - September/October 2020
 - Submission to Secretary of State - December 2020
 - Examination by Secretary of State - Spring/Summer 2021
 - Adoption - Autumn 2021

RELEVANT PLANNING POLICY AND GUIDANCE TO REASONS FOR REFUSAL

National Planning Policy Framework (2019)

- 5.4 The Framework sets out Government's planning policies for England and is underpinned by the presumption in favour of sustainable development applied by plan making and decision taking.
- 5.5 Although reference to the Framework is included in the reasons for refusal, the reasons do not address which sections or paragraphs of the Framework are relevant to them.

Elmbridge Core Strategy (2011)

- 5.6 The following Development Plan Core Strategy policies are referenced in the reasons for refusal:
- Policy CS9 (Esher)
 - Policy CS15 (Biodiversity)
 - Policy CS17 (Local Character, Density and Design)
 - Policy CS21 (Affordable Housing)
 - Policy CS25 (Travel and Accessibility)

Development Management Plan (2015)

- 5.7 The following Development Plan Development Management policies are referenced in the reasons for refusal:
- Policy DM2 (Design and Amenity)
 - Policy DM5 (Pollution)
 - Policy DM7 (Access and Parking)
 - Policy DM12 (Heritage)
 - Policy DM17 (Green Belt - Development of New Buildings)
 - Policy DM21 (Nature Conservation and Biodiversity)

Design and Character SPD (April 2012) and Companion Guide: Esher

- 5.8 This document (also Core Document CD3.2, list attached at **Appendix 2** of this document) sets out the character summary of Esher the design guidance in accordance with the character of the area. The document also provides design guidance for specific development types including commercial development and affordable housing. With the proposals being made in outline, specific design guidelines cannot be considered until reserved matters stage. As such - when considering this Appeal - only general principles can be drawn from this document.
- 5.9 The Companion Guide: Esher (2012) (also Core Document CD3.2, list attached at **Appendix 2** of this document) sets out a detailed character assessment of Esher and works alongside the Design and Character SPD. Sandown Park is considered an important feature to Esher, particularly as a visitor attraction and its provision of long views towards London. In this context, the document is largely informative in nature, intended to assist in the design process of development proposals.

Developer Contributions SPD (2012)

- 5.10 This document (also Core Document CD3.3, list attached at **Appendix 2** of this document) sets out guidance on Community Infrastructure Levy and general planning obligations, including affordable housing contributions.

OTHER RELEVANT PLANNING POLICY AND GUIDANCE

- 5.11 As set out in the Committee Report, the following national and local policies and guidance were also considered by the LPA in determining the application, although no conflicts with them were identified in the reasons for refusal.

The Framework

Section 2: Achieving Sustainable Development

Section 3: Plan-Making

Section 4: Decision-Making

Section 7: Ensuring the vitality of town centres

Section 8: Promoting Health and Safe Communities

Section 9: Promoting Sustainable Transport

Section 11: Making Effective Use of Land

Section 12: Achieving Well-Designed Places

Section 13: Protecting Green Belt Land

Section 14: Meeting the Challenge of Climate Change, flooding and coastal change

Section 15: Conserving and Enhancing the Natural Environment

Section 16: Conserving and Enhancing the Historic Environment

Planning Practice Guidance

Core Strategy (2011)

- Policy CS1 (Spatial Strategy)
- Policy CS14 (Green Infrastructure)
- Policy CS16 (Social and Community Infrastructure)
- Policy CS18 (Town Centre Uses)
- Policy CS19 (Housing Type and Size)
- Policy CS23 (Employment land provision)
- Policy CS24 (Hotels and Tourism)
- Policy CS26 (Flooding)
- Policy CS27 (Sustainable Buildings)

Development Management Plan (2015)

- Policy DM1 (Presumption in favour of sustainable development)
- Policy DM6 (Landscape and Trees)
- Policy DM3 (Mixed Uses)
- Policy DM8 (Refuse, recycling and external plant)
- Policy DM9 (Social and community facilities)
- Policy DM10 (Housing)
- Policy DM11 (Employment)
- Policy DM14 (Evening Economy)
- Policy DM18 (Green Belt - development of existing buildings)
- Policy DM19 (Horse-related uses and development)
- Policy DM20 (Open space and views)

Flood Risk SPD (2016)

- This document sets out guidance on how to assess sites that have potential to flood.

OTHER RELEVANT LEGISLATION AND GUIDANCE

5.12 The following legislation and non-planning guidance are also referenced in the Committee Report:

- The Planning (Listed Buildings and Conservation Areas) Act 1990;
- The Town and Country Planning (Environmental Impact Assessment) Regulations 2017;
- 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).

6 CORE (INCLUDING APPLICATION) DOCUMENTS

6.1 An agreed Core Documents List is attached at **Appendix 2**. The Core Documents can be summarised as falling within the following categories:

- CD1: The Development Plan
- CD2: National planning policy and guidance
- CD3: Other relevant policy, guidance and evidence base documents
- CD4: Relevant appeal decisions/judgements
- CD5: Application documents and plans (*versions for approval shaded in yellow*)
- CD6: Additional information submitted after validation of the Application (*versions for approval shaded in yellow*)
- CD7: Other documents

6.2 Background commentary relative to documents falling within categories CD5, CD6 and CD7 is set out below.

Site Location Plan

6.3 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. These areas are identified on the Site Location Plan attached at **Appendix 1**.

Masterplan, Design and Access Statement and Application Drawings

6.4 The Application was made in outline with the means of access and the proposed track widening to be determined in full.

6.5 A Masterplan Document was prepared to illustrate the Appellant's vision and a masterplanned approach to deliver future regeneration and upgrades of existing facilities and residential development to secure the long-term future of Sandown Park Racecourse.

6.6 The Parameter Plans represent the key design principles for the proposed development, which are detailed further and supported by indicative layout and section drawings. These principles are set out in the Design and Access Statement. These principles set out the delineation of each development parcel, proposed use and amount, access and movement, indicative layout, landscape and refuse, indicative scale and appearance, detailed track widening details, access strategy and indicative phases of delivery.

Additional Application Documents

6.7 Following formal validation and during the determination process, additional supporting/replacement documents were formally submitted by the Appellant's Agent for consideration as follows and referenced in the Core Documents List attached at **Appendix 2**.

6.8 On 14th March 2019, a response to comments made by Thames Water Development Planning Department in respect of water supply capacity was sent via an email to the Case Officer (Core Document Ref DC6.64, list attached at **Appendix 2** of this document).

6.9 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 (Core Document Ref DC6.1, list attached at **Appendix 2** of this document).

6.10 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 (Core Document Ref CD6.2, list attached at **Appendix 2** of this document) was submitted to the Case Officer via email.

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- 6.11 On 8th May 2019, a topographical survey, sets of existing OS plans, and proposed indicative section plans (Core Document Refs CD6.5-6.35, list attached at **Appendix 2** of this document) were submitted to the Case Officer via email following her site visit and request for clarification.
- 6.12 On 12th July 2019, a formal supplementary submission was submitted to the Case Officer via email, which included:
- Covering Letter, dated 12th July 2019 (Core Document Ref CD6.3, list attached at **Appendix 2** of this document);
 - Amended Application and Certificate B Forms, dated 18th June 2019 (Core Document Ref CD6.4, list attached at **Appendix 2** of this document);
 - Bat and Great Crested Newt Survey Report, dated 31st May 2019 (Core Document Ref CD6.46, list attached at **Appendix 2** of this document);
 - Post-Consultation Supplemental Statement, dated July 2019 (Core Document Ref CD6.47, list attached at **Appendix 2** of this document);
 - Amended Masterplan, dated July 2019 (Core Document Ref CD6.48, list attached at **Appendix 2** of this document);
 - Amended Design and Access Statement, dated July 2019 (Core Document Ref CD6.49, list attached at **Appendix 2** of this document);
 - Amended Planning Statement, dated 12 July 2019 (Core Document Ref CD6.50, list attached at **Appendix 2** of this document);
 - Amended Green Belt Statement, dated 12 July 2019 (Core Document Ref CD6.51, list attached at **Appendix 2** of this document);
 - Existing Block Plans (PL_601 to PL_608-1 and 608-2) (Core Document Ref CD6.36-6.45, list attached at **Appendix 2** of this document), and
 - Amended Site 4 Indicative Layout (PL_204_REV A) (Core Document Ref CD5.34, list attached at **Appendix 2** of this document).
- 6.13 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) (Core Document Ref CD6.53, list attached at **Appendix 2** of this document).
- 6.14 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 (Core Document Ref CD6.54-6.55, list attached at **Appendix 2** of this document).
 - The Pedestrian Pound: The Business Case for Better Streets and Places (2018 Updated Edition), commissioned by Living Streets (Core Document Ref CD6.56, list attached at **Appendix 2** of this document).
- 6.15 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, dated 10th September 2019 (Core Document Ref CD6.57, list attached at **Appendix 2** of this document), and
 - A Note and accompanying appendix on Need for Early Years Childcare Places in Elmbridge Borough Council, prepared by Rapleys LLP, September 2019 (Core Document Ref CD6.58, list attached at **Appendix 2** of this document).

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- 6.16 On 1st October 2019, an email was sent to the Case Officer enclosing advice from the Appellant's appointed QC in respect of representations dated 29th September 2019 from Daytona and Save Esher Greenbelt (Core Document Ref CD6.61-6.62, list attached at **Appendix 2** of this document).

Composite List of Application Documents for Determination

- 6.17 An agreed list of the final versions of supporting application documents which were considered at the application stage are listed in the Core Documents List at **Appendix 2**.

The Planning Committee's Consideration of the Application

- 6.18 The Application was considered by the Special Planning Committee on 1st October 2019, at which Officers recommended to grant outline and full planning permission, subject to a satisfactory legal agreement and a referral to the Secretary of State.
- 6.19 The Special Planning Committee voted unanimously to refuse the application, against Officers' recommendation.
- 6.20 On 3rd October 2019, a formal decision notice was issued by the LPA.
- 6.21 The Special Planning Committee Report and Update Sheet, Minutes, and formal decision notice are listed in the Core Documents List at **Appendix 2**.

7 CONDITIONS

7.1 The parties agree that if planning permission is granted, it should be subject to conditions.

7.2 A schedule of agreed planning conditions is attached at Appendix 5. One condition, referred to as Condition 17, concerning acoustic issues is not agreed and is therefore identified in Section 11 of this report, addressing the matters in dispute. Although the principle of the condition is accepted, the wording is not.

8 PLANNING OBLIGATIONS

- 8.1 The parties agree that if planning permission is granted it should be subject to planning obligations.
- 8.2 The Appellant agrees to enter into a Section 106 Agreement in accordance with Section 106 of the Town and Country Planning Act 1990 (as amended) with the LPA and Surrey County Council.

It is intended by both parties that the s.106 agreement is finalised prior to the exchange of Proofs of Evidence.

9 OTHER MATTERS NOT IN DISPUTE

PRINCIPLE OF DEVELOPMENT

- 9.1 When assessed individually, it is agreed that the proposed developments on Sites A, C, E1, E2 and F are not inappropriate development in the Green Belt. In accordance with Policy CS9 the Council promotes a provision of hotel accommodation in Esher to support the visitor attractions including Sandown Park and Claremont Landscape Gardens. Permission was previously granted for a hotel at Sandown Park (2008/0729 & 2011/0811) with the latter remaining extant, as confirmed through a Lawful Development Certificate ref.2014/2030.

IMPACT ON CHARACTER OF SURROUNDING AREA

- 9.2 The Proposed Development on Sites A, C, D, E1, E2 and F will not result in any adverse visual impact in the wider surrounding area.

- 9.3 In terms of the other development parcels:

- Site 5 - the principle of blocks of flats are acceptable in principle.
- Site A - the indicative layout does not raise concerns in principle as the majority of the proposed development replaces the existing facilities in similar areas.

IMPACT ON HERITAGE ASSETS

- 9.4 The proposed developments at Sites A, B, C, D, E1 and E2 are not in principle considered to have a harmful impact on the surrounding heritage assets. In addition:

- Site 1 - the proposed access, subject of the full element of the application, would preserve the character of the adjoining conservation area.
- Site 3 - providing an acceptable design is proposed and the depth and height of the existing vegetation is retained, it is considered likely that the proposals would have a minimal impact on the setting of the locally listed buildings.
- Site 5 - the retention of the tollhouse is welcomed.

TRAVEL PLANS

- 9.5 Should planning permission be granted, the Appellant has agreed to prepare race day and exhibition day Travel Plans for the residential and hotel uses. These measures would improve the safety of road users and pedestrians.

OTHER PLANNING OBLIGATIONS AND CONDITIONS

- 9.6 Subject to settlement of the areas not in agreement between the parties, the schedule of agreed planning conditions in Appendix 5 and both parties intend to agree a s.106 agreement prior to exchange of Proofs of Evidence.

PARKING

- 9.7 Notwithstanding the proposed loss of car parking spaces, there will still be more than sufficient car parking to meet the maximum demand and compliance with standards.

AFFORDABLE HOUSING

- 9.8 EBC's adopted Local Plan policy (CS21) requires 40% of the gross number of dwellings to be affordable housing provision on sites with over 15 residential units, where viable, or at least



50% on greenfield sites. Following discussions and negotiations during consideration of the application, the final position of 20% was reached before the application was presented to the Planning Committee.

10 MATTERS IN DISPUTE

- 10.1 In the context of agreement of appropriate planning obligations, the matters in dispute between the LPA and the Appellant arise from reasons for refusal 1 and 2.
- 10.2 The wording, albeit not the principle, of Condition 17 is in dispute.
- 10.3 The Appellant and LPA are in continuing dialogue on the matters in dispute and, as appropriate, in order to assist the Inspector an addendum to this Statement of Common Ground will be provided at the earliest possible juncture.

11

DECLARATION

SIGNED ON BEHALF OF THE APPELLANT 	SIGNED ON BEHALF OF ELMBRIDGE BOROUGH COUNCIL 
Name: Wakako Hirose	Name: Aline Hyde, Senior Planning Officer
Date: 17th June 2020	Date: 17th June 2020