

The principle of the development

The site is located within the Green Belt. There is a presumption against development within the Green Belt, unless it would fall within one of the exceptions to inappropriate development listed at paragraphs 145 and 146 of the National Planning Policy Framework.

I accept that the proposals on Sites A, C, E1 and E2 and F would be appropriate. On the remaining sites, the evidence of Mr David Webster has established there would be a negative impact on the visual dimension of the openness of the Green Belt arising from the development. He has also provided calculations to quantify the spatial impact on the openness of the Green Belt. Mr Webster's evidence has assisted me in reaching conclusions on the appropriateness of the development sites. I refer to the table at the top of page 8 within the Council's Statement of Case, which summarises my conclusions in relation to the sites I consider to be inappropriate.

The hotel development on Site B would be located on previously developed land. This could potentially fall within the exception at paragraph 145g) of the NPPF, but in this case there would be a greater impact on the openness of the Green Belt than the existing development. As such, the development on Site B would be inappropriate.

The proposal on Site D, which is for improvements to and the extension of a car parking area, could be considered as engineering works which are listed as a potential exception at 146b). In this case, however, the proposal would result in a negative impact on the openness of the Green Belt and would in addition conflict with the third purpose of designating land as Green Belt, as there would be an urbanising effect from the encroachment of the proposed hard standing. Accordingly, the proposal would be inappropriate.

The proposal on Site 1 is for fifteen residential units, all of which would be affordable housing. The site is previously developed land and should therefore be assessed against paragraph 145g) of the Framework. As the units would be affordable, the following test applies: it is necessary to determine whether or not there would be a substantial impact on the openness of the Green Belt. In this case, there would be a substantial impact and so the development would be inappropriate.

The proposal on Site 2 is for forty-nine residential units and again all of these would be affordable housing. The proposal on this site would result in substantial harm to the openness of the Green Belt and is therefore inappropriate.

The proposal on Site 3 is for 114 residential units. Part of the site is previously developed, and part is greenfield. The Framework does not list any exception which this proposal could conceivably fall within, and so it is inappropriate within the Green Belt. It would in addition result in significant harm to the openness of the Green Belt, and it would conflict with the purposes of designating land as Green Belt.

The proposal on Site 4 is for 72 residential units. Part of the site is previously developed, but it is mostly greenfield. There is no exception listed within the NPPF within which the proposal might fall. The Appellant has sought to characterise the proposal on Site 4 as 'limited infilling' but I consider that the scale of the proposal on this site goes beyond what could be called limited. The proposal is not infill, as the site is open to the north and east. In any event, there would be significant harm to

openness and additionally a conflict with the purposes of designating land as Green Belt. I therefore conclude that the proposal would be inappropriate development within the Green Belt.

The proposal on Site 5 is for 68 residential units and a day nursery. The site is partially previously developed land, and is partially greenfield. There is no exception listed within the Framework into which this proposal might fall and so the development must be inappropriate. In addition, it would have a greater impact on the openness of the Green Belt than the existing development.

With the exception of the proposal on Site 1, my conclusions on the appropriateness of the Green Belt match those of the case officer in her report to the Planning Committee. In relation to Site 1, my conclusion that it would be inappropriate is based on the visual impact on the openness of the Green Belt which has been evidenced by Mr Webster, and the increase in the volume of built form on the site. The harm to openness would be substantial.

I conclude overall that the proposed development, taken as a whole, would be inappropriate within the Green Belt and that there would be additional harm to the openness of the Green Belt and conflict with the purposes of designating land as Green Belt. Mr Webster has provided evidence on the function of the site in relation to the prevention of sprawl, the coalescence of settlements and encroachment into the countryside: the question of whether or not there is a separation turns largely on a visual analysis, as does the character of the countryside and the effect of development on this character.

Given that I have concluded that the proposal is inappropriate, there is a conflict with Policy DM17 of the Development Management Plan 2015. This policy states that inappropriate development should not be approved unless the applicant can demonstrate very special circumstances that will clearly outweigh the harm.

Other considerations advanced by the Appellant

While I am addressing the other considerations, it will be useful to refer to the table at paragraph 106 of my proof of evidence, which summarises the weight I have given to these.

Racecourse facilities

The Appellant first draws attention to the need to improve the racecourse facilities and I give moderate weight to this. They say that if they cannot carry out the improvement works to racecourse, the existing facilities would continue to deteriorate and this would render continued operations on the site unsustainable. The Appellant has conflated the importance of the scheme to their business with the planning benefit. The purpose of the planning system is to operate in the public interest: it is not intended to subsidise private operations. The need for the racecourse facilities should therefore be considered in relation to the public benefit arising from them. The site does provide permanent employment for 110 individuals, and uses 277 local suppliers. It brings many thousands of visitors to Esher every year.

That said, the Appellant has not demonstrated that the only way that these planning benefits can be retained is through the granting of permission for this scheme. I refer to Core Document reference

5.38, which is the first part of the Financial Viability Appraisal submitted by the Applicant. The table at the top of page 28 sets out the overall cost of each of the racecourse improvement works. The total project cost was revised downwards from £38m to just under £36m during the course of the application, but this is not material to my point. The Appellant has failed to demonstrate that all of the racecourse improvement works are truly essential to its ongoing operation: for example, the cost of the works to the Grandstand is given as approximately £16m. The Appellant has not presented any sensitivity modelling to indicate what would happen if this work was not carried out, or if a lesser package of works was carried out. The cost of the family/community zone is given as just under £6m – again, they have not demonstrated or provided any evidence to suggest what might happen to the planning benefits of retaining the racecourse operation if this work was not carried out. The refurbishment of the staff houses is a lower cost, at £132,000, but the Appellant has not shown that the failure to carry out this work would lead directly to the closure of the racecourse, and therefore the loss of the planning benefits associated with it.

The costs for these improvement works have been agreed between the Council and the Appellant and are not in dispute, but it has not been satisfactorily demonstrated that all of the works are essential. It is pertinent to note at this point that there was a letter of support received from the British Horse Racing Authority dated 6th April 2019. This letter deals only equine welfare and the provision of appropriate facilities for jockeys. The letter makes no mention of the other works proposed by the Appellant, from which one might infer that they did not consider them to be essential.

Hotel

The Appellant argues that there is a need to construct the proposed hotel. I give limited weight to the provision of the hotel. The Council's planning policies offer support for the provision of hotel accommodation in the area, but do not stipulate that a hotel could or should be constructed at the racecourse or within the Green Belt more widely. Notwithstanding, the racecourse benefits from an existing consent for a hotel. The very existence of this consent demonstrates that the need for a hotel can be met in a less harmful way on the site, even before alternative sites outside the Green Belt are considered. In addition, the benefits of the hotel for the district centre have been overstated by the Appellant as it would be located some distance from the High Street and would provide dining facilities within, reducing the likelihood that guests would venture out into the district centre. In his opening submissions, Mr Steel referred to between 100 and 150 jobs being generated by the appeal proposal: this was the first time that this had been quantified. We are not told anywhere in the evidence how many of these jobs would be full-time equivalent, and how many would be expected to result in a benefit to the local economy. The reference to the number of jobs in the opening submissions does not change the weight I attach to the provision of the hotel.

Residential units

The proposal would provide up to 318 residential units. Elmbridge has an unmet need for housing and scored 58% in the most recent Housing Delivery Test. However, this test was against the housing need figure generated by the standard methodology and does not take account of the many constraints on land within the Borough. For example, with 57% of land designated as Green Belt, it is unsurprising that it has not been possible to deliver the unconstrained figure. Government policy is clear that the single issue of unmet housing need, and by implication, the spin-off benefits arising

from the delivery of new housing (such as increased spending) is unlikely to amount to very special circumstances. That said, sites with the potential to deliver such a large number of homes do not regularly present themselves in Elmbridge. The proposal would deliver smaller units, for which the Borough has the most need. This must be balanced though, against the fact that there seems to be no developer on board and so there can be no certainty about the timeframe for delivery. Overall, I consider that significant weight should be given to the delivery of the residential units.

Affordable housing

The Borough has a significant need for affordable housing. As Dr Lee's evidence has demonstrated, the developer has not taken a defensible approach for establishing how many units could viably be provided on the application site and a full policy-compliant contribution could be made. Indeed, in justifying the scheme the Appellant has double-counted of the cost of the racecourse improvement works: they present them both as a benefit of the proposal in allowing them to achieve the racecourse improvement works, but also as an excuse for failure to provide sufficient affordable housing in line with the policy requirement. In my view, the failure to provide such a full contribution towards affordable housing is a harm arising from the scheme and should in fact weigh against the proposal.

Even if one were to disagree and to consider the provision of 64 affordable units on the site as a benefit, I consider that moderate weight would be the maximum applicable. This is just 16% of the Borough's annual need for affordable units which is a modest contribution when considered against the overall quantum of residential development proposed on the site. Dr Lee's evidence has demonstrated that much more affordable housing could be delivered on the site, and this must have an impact on the weight to be given to the provision of affordable housing if its delivery is considered to be a benefit. I accept that the Appellant no longer intends to retain 11 of the affordable units to house its staff, but this does not change my overall assessment of the weight to be given to the affordable housing.

The sustainable location

The Appellant presents the site as a highly sustainable location and indicates that this is a benefit of the scheme. Mr Mitchell has set out why this assertion is not correct. Notwithstanding, I appreciate that the location is more sustainable than some other locations within the Borough, and a development proposal of this size could conceivably be proposed in many less sustainable locations. On the other hand, I note that the affordable units would be located furthest from the train station, in a less sustainable location in that regard. Overall, I give limited weight to the sustainability of the development site's location.

Family/community zone

I do not dispute that the provision of the family/community zone is beneficial and I give limited weight to it. The benefits have been overstated by the Appellant. It is true to say that the recreational spaces would contribute towards the promotion of physical activity in line with local and national policy. However, Esher already benefits from childrens' play provision in excess of the recommended quantitative standard. In addition, the zone would not be accessible to members of

the public on race days. I consider that limited weight should be given to the inclusion of the family/community zone within the proposal.

The replacement day nursery

It is proposed to replace the existing day nursery which is currently situated on Site 5. I give limited weight to this. There is an unmet need for childcare provision in the locality and I agree that there is the potential for a purpose-built nursery to provide a high-quality environment. That said, there is insufficient information provided to allow me to determine whether or not the new nursery would be able to cater for more children than attend the existing nursery, whether it might generate additional jobs, or what new facilities might be offered. It is said that the new nursery might be able to operate at a higher percentage occupancy than the existing nursery, but we are not told why the existing occupancy rate is lower: for example, it might be the location of the nursery, rather than the facilities provided, which is an issue.

Ecological benefits

The on-site ecological improvements associated with the proposal are vague. I do not dispute that there could, in theory, be improvements for biodiversity arising from the development, but more than limited weight cannot be given to this hypothetical possibility. In addition, it is not clear to me that the development proposal would be required in order for any such benefits to be realised.

Turning to the off-site ecological impacts, the Appellant has agreed to fund the creation of a Management Plan for the Littleworth Common Site of Nature Conservation Importance and has proposed a budget to implement its recommendations. I consider this satisfactory to overcome the fourth reason for the refusal of the scheme. However, as a benefit I afford this limited weight, as we cannot know at this stage to what extent the budget for implementation proposed by the Appellant would compensate for the impacts of additional visitors coming from the residential units and from the hotel.

Integration between the district centre and the railway station

The Appellant suggests that the proposal would enhance pedestrian connectivity between the district centre and the railway station and I give this limited weight. Almost all of the measures proposed were requested by the County Highways Authority in their consultation response and can therefore be considered necessary to render the proposal acceptable in planning terms: it is the Appellant's case that there is no transport harm arising from the proposal, but this is only the case if their predicted modal shift is realised. The Appellant has overstated the extent to which there would be surveillance of Portsmouth Road arising from the development. I do, however, accept that the pedestrian crossing of Station Road provides a greater benefit than simply addressing potential harm and therefore I have given it limited weight in the balance.

Interpretation boards

The Appellant intends to install a number of interpretation boards. The number, location and content of these is not specified anywhere in the appeal documents. The boards seemingly have no relationship to the proposal and, as the Appellant points out in their evidence, there is no public

right of way across the racecourse site and so it is unclear to whom these boards would be accessible other than racegoers. I give the interpretation boards no weight in the balance.

Spending by new residents

I agree with the Appellant that new residents would spend money locally, and that this would be beneficial. However, the amount of spending by residents retained locally is small as much of it is directed to the neighbouring borough of Kingston, or is spent online. I consider that only limited weight can be afforded to the expenditure of new residents. It is suggested that more of the spending of residents of the appeal site might be retained locally than on average across Esher, due to the proximity of the sites to the district centre. However, the Appellant has not provided any evidence to suggest that it is simply distance from the district centre which dissuades other residents of the settlement area from spending on the High Street.

Heritage

The Appellant refers to heritage benefits arising from the proposal. Of these, I consider that only the improvement to the access of Site 1 would be a benefit, and I give this very limited weight in the balance.

Air quality and noise

New benefits in relation to air quality and noise have been claimed. These do not feature in the table at paragraph 106 of my evidence.

In relation to air quality benefits claimed by the Appellant, Mr Mitchell has demonstrated that there is insufficient evidence to support the modal shift and if the modal shift does not occur, the air quality benefits will not arise. I therefore attach no weight to these benefits.

The Appellant argues that there would be a noise benefit arising from the loss of the go-karting track which currently exists on Site C. No evidence has been presented to demonstrate that the family/community zone would generate less noise than the go-karting track. As such, no weight can be given to the supposed noise benefits.

Esher Railway Station/Travel Plan Monitoring

Finally, the Appellant has agreed to make financial contributions towards accessibility improvements at Esher railway station, and for the County Highways Authority to monitor the travel plan. I consider this sufficient to overcome the fifth reason for the refusal of the application. I do not, however, consider the contribution to improvements at the railway station to be a benefit of the scheme: the amount payable will not cover the costs of the accessibility improvements, and without these improvements occurring it would be more difficult for the modal shift predicted by the Appellant's transport witness to occur.

The planning balance

Paragraph 144 of the NPPF requires that a local planning authority, and by implication the decision-maker when that is not the local planning authority, give substantial weight to any harm to the Green Belt. The development is inappropriate and would result in harm to the openness of the Green Belt, as well as conflicting with the purposes of designation. The proposal would conflict with Policy DM17 of the Development Management Plan and I accord this harm substantial weight.

Mr Webster's evidence demonstrates that the proposed development would conflict with Policies CS9 and CS17 of the Core Strategy 2011 and Policy DM2 of the Development Management Plan 2015 as it would fail to respect the character and appearance of the area, as these policies require. At this stage, I refer to paragraph 108 of my proof of evidence: this paragraph incorrectly says that I find the proposals on Sites 3, 4 and B would be particularly harmful. It should read Sites 3, 4 and 5. I give this harm significant weight in the balance.

The evidence of Mr Mitchell has demonstrated that there would be a negative impact on local transport networks arising from the proposal. There would be a conflict with Policy CS25 of the Core Strategy 2011 and Policy DM7 of the Development Management Plan 2015. I give this harm moderate weight in the balance.

Dr Anthony Lee's evidence shows that there would be a conflict with Policy CS21 of the Core Strategy 2011, as the development would fail to provide a policy-compliant contribution towards affordable housing. The extent of the under-provision in relation to the policy requirement and the absence of a proper justification for this causes me to give the harm significant weight in the balance.

I consider that the policies with which the proposed development would conflict align with the the aspirations of the National Planning Policy Framework. There is no allegation from the Appellant that these policies should not be relied upon for the determination of the application. Accordingly, I attach great weight to the conflict of the proposal with the policies in the development plan.

Paragraph 11d) of the Framework advises that, where a local planning authority cannot demonstrate a five year supply of deliverable housing sites, permission should be granted. This presumption in favour of development applies unless the application of policies in the Framework provides a clear reason for refusal, or if the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of this Framework.

Footnote 6 clarifies that where development is proposed on land designated as Green Belt, and the development would conflict with Green Belt Policy, there is a clear reason for refusal and the so-called 'tilted balance' in favour of granting permission does not apply. Even if one were to conclude, contrary to my view, that the development is appropriate within the Green Belt, the second part of paragraph 11d) would prevent the granting of permission as the adverse impacts would significantly and demonstrably outweigh the benefits. It is clear then, that the application of paragraph 11d) indicates that permission for this scheme should be refused.

Paragraph 144 of the NPPF advises that the very special circumstances required to grant permission for inappropriate development within the Green Belt will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm arising from the proposal, is clearly

outweighed by other considerations. Whilst I give significant weight to the provision of residential units to contribute towards meeting the Borough's housing need, I conclude that this does not in itself, nor in combination with any of the other benefits of the scheme, clearly outweigh the harm to the Green Belt and the other harms.

Conclusion

The proposed development conflicts with a number of policies in the development plan. It is inappropriate development within the Green Belt and whilst I accept that the proposal is not without benefits, I do not consider that these would amount to very special circumstances sufficient to outweigh the harm to the Green Belt and the other harm arising from the proposal. The harm to the Green Belt is a clear reason to refuse planning permission and the application of paragraph 11d) nor any other material consideration would justify the grant of planning permission.