

RAPLEYS

Rebuttal Proof of Evidence of
Ian Robert Clarke BA (Hons) DipTP MSc MRTPI

SANDOWN PARK RACECOURSE, PORTSMOUTH ROAD, ESHER KT10 9AJ

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1 INTRODUCTION

- 1.1 This Rebuttal is prepared in response to the evidence of Aline Hyde and Sections 2 and 3 of David Webster's Proof. The absence of comment, on particular matters, should not be taken as any form of agreement on statements being made by Ms Hyde and Mr Webster. Rather, this rebuttal responds to some of the new evidence now being taken by the Council, beyond its Statement of Case (and Mr Webster's evidence, in respect of Policy DM6, should be acknowledged as extending beyond the terms of the decision notice).

2 PARAMETER PLANS

- 2.1 Mr Webster, in Section 3 of his evidence (for example, at paragraph 3.63), asserts that the illustrative layouts, on occasion, fail to respect the parameter plans relative to Sites 2, 3, 4 and 5.
- 2.2 I do not understand his point. He seems to misinterpret the purpose and import of the parameter plans. They are indicative and are not part of the design and access statement which is a requirement of the appealed application. They are not, in this context, listed in the agreed conditions schedule.
- 2.3 In this respect, the Officer's Report (CD7.3, paragraph 9.9.4.1), to Committee, advises that "the indicative layout plans and the parameter plans should be taken only as illustrative at this stage". In this context, the parameters provide for flexibility in the ultimate design.
- 2.4 Mr Webster's comments cannot be given any weight in the circumstances.

3 HARM TO GREEN BELT OPENNESS (SPATIAL CONSIDERATIONS)

- 3.1 It is acknowledged that the Council's Statement of Case, at paragraphs 6.18 - 6.20, raises harm to the openness of the Green Belt. However, the commentary does not provide any detail on the Council's case. This is set out in Mr Webster's proof at paragraphs 3.9 - 3.88 inclusive.
- 3.2 In response, the Appellant's position - on spatial considerations - follows below (which should be read alongside the proof/rebuttal of Mr Connolly on matters relating to visual considerations, relative to character and openness, to the extent they are relevant in this case).

RACECOURSE (MR WEBSTER 3.14 - 3.27)

- 3.3 Sandown Park Racecourse lies within an urban area (Esher) and, in these terms and generally, it is relevant to consider how built up the Racecourse is at present (as recognised by Mr Webster, paragraph 3.14). In this context, I contend that Purpose c) is not relevant in this case. Whilst the Racecourse supports large tracts of open land, it portrays a semi-urban character in its urban setting (as confirmed by CD3.8). Its character is as a Racecourse and its openness, spatially, should be considered in this context. It is largely dominated by the Grandstand and the Eclipse Building with a spread of other structures and hard-standing areas, including the stables, lodge, parade rings, staff accommodation, nursery, go-karting and golf facilities and associated car and coach parking. It is enclosed, to the south and west, by development along Portsmouth Road and More Lane respectively, with properties along Lower Green Road to the north. Mr Webster's comments, at paragraph 3.26, are therefore contested, particularly as Sites 1 and 4 lie in gateway locations (CD3.2) where the sense of arrival, in Esher, should be celebrated.
- 3.4 That aside, the following matters should also be expressly acknowledged:

- That the Grandstand is recognised as a local landmark (CD3.2) and this places, into context, the spatial significance, or otherwise, of the development which sits between this structure and Portsmouth Road.
- That the development sites comprise, overwhelmingly, previously developed land.
- That the Council does not dispute that Sites A, C, E1, E2 and F are appropriate development (and, thereby, are acceptable in spatial terms). At the time of Committee, Site 1 was also considered to be appropriate in the Green Belt.
- That, of the disputed sites, built floor space is present on Sites 1, 2, 3 and 5 (with an extant hotel consent on Site 2) with hard standing areas on, inter alia, Sites B, D, 2 and 4.
- That the majority of the Racecourse is untouched by the development, as proposed (that is, beyond the application sites). This amounts to circa 48.6 hectares.
- That approximately 9.9 hectares constitute, undisputed, appropriate development.
- That circa 2 hectares, within the disputed sites, are free from development, as proposed: comprising landscaping areas (as shown on the illustrative layouts). This extends to 3.6 hectares if the greenfield areas, as remaining within Site D, are included in the calculation.
- That the combination, of the above figures, dictate that circa 62 hectares (94% of the Racecourse) will be open (or free from buildings), in association with appropriate development and the untouched areas, post the development (based on the illustrative layouts) and this position needs to be recognised in the context of the existing situation where, of course, there are already buildings present on (some of) the disputed sites.
- That Mr Webster's view (paragraph 3.25), on the area for assessing openness, is mis-placed. It ignores, for example, the presence of existing development on Site 3, although it is noted that he accepts the established building line as being towards the rear of residential and commercial properties on the north side of Portsmouth Road (which are respected by the development proposals at, inter alia, Sites 4 and 5).
- That the gap (and thereby the spatial openness of the Racecourse in this respect), between the Grandstand and these building lines and the northern aspect of Sandown Park, is maintained by the development (see EDP Plan 2 in CD5.50): particularly as, in the centre of the course, the karting facility is being replaced, appropriately, by the family/community zone (Site C), at less footprint and volume than existing, and the limited engineering operation, at Site D, is to support the existing/operational use.

3.5 The overarching spatial position is that, post the development, the Racecourse - and thereby the Green Belt - will continue to portray its semi-urban character in the urban context of Esher. Spatially, therefore, its character will remain as a Racecourse. The development is acceptable, in the context of the wider Racecourse, in Green Belt policy terms.

THE SITES (MR WEBSTER 3.28 - 3.88)

3.6 Of the disputed sites, it is accepted that Sites 1, 2, 3, 4, 5 and B will introduce, through the proposed development, larger footprints and volumetric areas. Mr Webster seeks, in part, to exaggerate the differences between the existing and proposed development, by quoting percentage increases in volumetric area and the maximum building heights. However, this - alone - is too simplistic an approach and fails to acknowledge the context, and setting, of the development sites and some of their existing characteristics. The following must be recognised:

- **Site 1** - In the Officer's Report to Committee, the development of this site is considered to be appropriate. This is understandable, as the development on this land parcel seeks to consolidate the spread of buildings, compared to the layout of the existing overflow stables (and Mr Webster's comments, at paragraph 3.43, are not understood). It also offers comparable footprint to the existing development. It is adjoined, in part, by built development and will continue, spatially, form part of the urban fabric of this part of Esher. It also provides the opportunity for the site to be landscaped (at 38% coverage), which should be favourably compared to the large expanse of existing hard standing.

- **Site 2** - This site forms hard standing, the end of the terraced stables and the frontal elevation of the lodge in the Racecourse grounds (which sits immediately behind it). It also benefits from the extant hotel consent. It lies in close proximity to the Grandstand which is recognised as a local landmark (CD3.2) and Esher District Centre (which houses buildings of similar scale and, in this respect, the development is, essentially, an extension of the “High Street”). Spatially, these existing built forms frame the setting of the site (with the Grandstand being taller in scale), as further supplemented by the appropriate development on Site A. Landscaping areas are also proposed within the illustrative scheme, comprising 27% site coverage.
- **Site 3** - This site comprises housing, car parking, access roads and storage compounds for the Racecourse (which takes circa 25% of the land parcel). The illustrative scheme demonstrates the scope for significant landscaped areas, managed and supplemented as appropriate, once developed (based on the illustrative layout). This landscaped area extends to 52% of the site. It is also in close proximity to the existing built form on Lower Green Road and More Lane, with the later displaying, spatially, apartment buildings of similar scale and layout. The proposal is acceptable, having regard to these spatial references.
- **Site 4** - This site comprises, in part, previously developed land. It lies close to the junction of Station Road and Portsmouth Road (with the former being its eastern boundary). It is a recognised gateway location (CD3.2), and comprises weakly performing Green Belt (CD 3.9). It is adjoined, to the south and west, by commercial and residential uses. It will support, through the illustrative layout, areas of landscaping as part of the development (as extending to circa 40% of the site).
- **Site 5** - This site comprises a children’s nursery, and coach and car parking for the Racecourse. The proposed nursery will sit, lower, than the existing development. It is adjoined by a three-storey villa development, with similar and other built fabric along Portsmouth Road. The proposals respect the scale of development in the vicinity and will - spatially - be set against them. The scheme, on this site, will also offer the opportunity to introduce more structured landscaping than the current arrangement, as extending across 51% of the development.
- **Site B** - This site comprises hard standing and adjoins the Grandstand. It therefore lies between this structure and the existing and proposed development along Portsmouth Road. It will sit below the height of the Grandstand and benefit from landscaping areas in and around the site, which will assist in framing its setting in the Green Belt. These landscaped areas extend to circa 30% of the site and, further, will be supplemented by the planting in Site F (which wraps around the hotel development).

3.7 Beyond these land parcels, Site D is also contested (albeit, only slight harm is alleged by Mr Webster at paragraph 3.38). However, the proposal here is for the continuance of the existing use, as car parking, and thus the land will be free from buildings. Even in this regard, only part of the site is proposed for development (engineering operation), which should be recognised in the context of its relatively weak performance in Green Belt terms (see Officer’s Report to Committee (CD7.3) at paragraph 9.7.2.12). There will be no recognisable change to the spatial function of this site.

3.8 Overall, therefore (and contrary to Mr Webster’s views), the proposals cannot, spatially (nor visually/perceptionally in the context of Mr Connolly’s evidence), be said to fail to preserve the openness of the Green Belt (NPPF, 145b/146b) or introduce greater impact than existing development (NPPF, 145g), or substantial harm (NPPF, 145g), to the openness of the Green Belt.

4 HARM TO GREEN BELT PURPOSES

4.1 It is accepted that the Council’s Statement of Case, at paragraphs 6.4 - 6.9, addresses Green Belt Purposes (and includes reference to the Arup Reviews). However, it is limited in its

commentary and focuses on Purposes a) and b) and Site 3. Mr Webster's evidence, however (at paragraphs 3.89 - 3.130), is more extensive and expansive. The Appellant's position, in response, is set out in its Statement of Case (Section 8) and my proof (paragraphs 7.3 and 7.4) but, in reply to Mr Webster's comments, attention is also drawn to the following matters:

- The Officers Report, to Committee, did not identify any harm - to Green Belt purposes - relative to Site 1 (CD7.3, paragraph 9.7.2.10).
- The methodology and scoring system, as contained in the Arup studies, do not follow any national standard, or guidance. There is none. It is, therefore, entirely appropriate for alternative views to be expressed, where necessary, particularly as the Arup studies have not been adopted for development management purposes and, in any event, do not form any part of the Development Plan in force for Elmbridge.
- Strategic Area A, in which the Racecourse sits, is referenced as the starting point (by Mr Webster at paragraphs 3.103 and 3.110) for assessing the appeal proposals. It is noted, in this context, as very strongly performing Green Belt (albeit, this should be acknowledged as not relating to all purposes). However, this tract of land is acknowledged by Arup as being more readily able to accommodate change (than the other strategic areas) and, due to its extensive cover, cannot be applied to credibly understand the merits of individual sites: hence, the finer grain work, undertaken, by Arup.
- Local area 52, which essentially is the Racecourse, is stated to be strongly performing relative to the Green Belt purposes. However, this is derived from it scoring highly in respect of purpose b) which, under the Arup methodology, means that it scores highly as a whole. However, local area 52 scored less well in respect of purpose a), and particularly purpose c). In this respect, Mr Webster acknowledges (paragraph 3.110) that the most relevant purpose to consider, the disputed sites, is purpose b).
- At sub-area level, Mr Webster advises that Sites 1, 2 and 5 were promoted for consideration but not subsequently assessed (paragraph 3.101). In my view, they cannot directly contribute to the prevention of sprawl nor the merging of neighbouring towns (and Mr Webster's findings, at paragraph 3.116, are surprising in this respect: albeit, the lack of reference, to Site 1, is welcomed).
- Again, at sub-area level, it should be noted that Site 4 failed in respect of Purpose a) and scored the lowest mark for preventing neighbouring towns from coalescing. Overall, it was deemed to meet the assessment criteria weakly and its consideration, for release from the Green Belt, is recommended. I agree with these findings.
- As regards Site 3, it was noted - by Arup - as having little role in preventing sprawl (notwithstanding that, in my opinion, it is evidently challengeable as to whether Lower Green Road, in the context of the distribution of green spaces in the locality (alongside other considerations), should be treated as forming any part of a large built up area) and only scores strongly due to it triggering a high mark relative to Purpose b). This relates to the coalescence of towns and my evidence, in this regard, questions the definition of settlement boundaries for this analysis (having regard to the Development Plan).

4.2 The appeal scheme will not harm, or conflict, with the purposes of including land within the Green Belt. Rather, there is evidence to suggest that some of the development sites should be removed from the Green Belt as part of the emerging local plan process. I do not, therefore, agree with Mr Webster's position.

5 PLANNING BENEFITS / VERY SPECIAL CIRCUMSTANCES

5.1 The Proof of Evidence of Aline Hyde principally addresses the weight to be afforded to the planning benefits in this case. My evidence, at Section 9 and Appendix 9, provides the Appellant's position (following the terminology of the Committee Report). In this respect, the references to "significant" should be treated as largely inter-changeable with "substantial" or "great", as relevant to the NPPF. That aside, attention is drawn to the following matters:

NEED FOR RACECOURSE ENHANCEMENTS

- 5.2 This forms the *raison d'être* of the appeal scheme. It should be noted in response to Ms Hyde's commentary that:
- The Appellant disputes the suggestion that no explanation has been offered relative to the maintenance of the Racecourse facilities (paragraph 13). This is addressed in CD6.47 and elsewhere.
 - The extent of the enhancement works is commensurate to the identified need for maintenance and improvement (paragraphs 14 and 16). The works, in this respect, have been costed, and agreed, with the Council's appointed consultant as part of the application process. It is very surprising that this point is now being taken, particularly as Officers recommended approval for the scheme proposals.
 - Horse racing is not a declining or failing sport but, that said, Sandown has to compete with other venues for discretionary spend and, in this context, does need to offer first class sporting, music and other events, with the former being the key driver (paragraph 17). This is addressed, further, in the evidence of Mr Gittus.
- 5.3 Significant, or otherwise substantial, weight therefore needs to be attached to this benefit. It will meet policies CS9 and DM19 of the Development Plan.

HOTEL

- 5.4 The evidence, of Ms Hyde, questions the siting of the hotel and various economic matters relating to the extant consent and the current proposal. For the avoidance of doubt, the hotel has to be sited next to the Grandstand and course in order to provide the necessary linkage, and experience, for visitors to Sandown Park. This approach is commonplace, where other sporting venues support hotels in similarly sought locations.
- 5.5 In reply:
- The site, of the proposed hotel, is acceptable in the Green Belt and does not lie in the countryside (paragraph 26).
 - The proposed hotel satisfies NPPF, 145 b) and g). That aside, there is no existing hotel which is capable of limited extension, or otherwise vacant building, within Sandown Park to accommodate the identified need (paragraph 27).
 - The Development Plan does not allocate any specific site, within Esher, for hotel use (paragraphs 29 and 30). Rather, support is given for hotel development for Sandown Park.
 - There is an acceptance, by the Council, that Esher does not benefit from "recognised" hotel provision and only offers a modest number of rooms in any event (paragraph 31).
 - There is more than one occupier showing interest in the proposed hotel. The hotel is a viable proposition (paragraph 34).
 - The proposed hotel site is within easy walking distance of Esher Centre and will not have a negative effect on its vitality and viability (paragraph 38). To suggest otherwise is without foundation. The principle of patronage, from hotel guests to the "High Street", is accepted by the Council, at paragraph 37, in any event.
 - The Officers recommended approval, for the scheme, inclusive of the hotel (at Committee in October 2019). The current views, of the Council's witness, should be acknowledged in this respect (paragraph 40).
 - The Council, in refusing the appealed application, did not raise any issue, through the absence of any legal agreement, in respect of the Traveller's Rest: hence, the Appellant's current position (paragraph 41).
- 5.6 The weight to be attached, to the benefit, should therefore be significant and not limited as suggested by Ms Hyde. At Committee, the Officers afforded significant weight to the benefit and it is difficult to understand the basis for the Council's changed position.

ECONOMIC BENEFITS

- 5.7 The Council does not, comprehensively, address the economic benefits associated with the appeal scheme. Rather, there is commentary relative to the effects of Racecourse facilities and the hotel but, expressly, the Officer seems to have focussed on spending by new residents (which is suggested to have been overstated).
- 5.8 Two points arise:
- The Council has underplayed the weight to be attached to the economic benefits (which are addressed in the evidence of Mr Gittus and include the creation of employment at the hotel - CD3.54), and
 - Ms Hyde has misunderstood the analysis of spending patterns.
- 5.9 The economic benefits, overall, should be afforded significant, or otherwise, substantial weight.
- 5.10 In this respect, there is no evidence to support Ms Hyde's comment at paragraphs 87 and 88 regarding patterns of comparison/convenience spending (which projects from paragraph 6.54 of the Council's Statement of Case). It is merely assertion. Amongst other considerations, it should be noted that the Council's figures are based on a wider zonal analysis for Esher than the distribution of the development sites. The sites, being in close proximity to Esher, will likely see residents of them being attracted to the District Centre by reason of distance and ease of access alone. The Council's position is, therefore, unsustainable and, in any event, does not question the many other aspects of the Appellant's submissions, in this regard, in its socio-economic paper.

DELIVERY OF MARKET AND AFFORDABLE HOUSING

- 5.11 Ms Hyde raises, in respect of the unmet need for housing, some concern over delivery (due to the lack of a developer being "lined up") and qualifies the weight, to be afforded to this matter, as significant (rather than substantial), due to the shortfall in numbers being set against an unconstrained figure re: the application of the standard methodology (paragraphs 54 and 55).
- 5.12 On delivery, there is significant interest in the housing parcels. The Appellant has received many approaches already. However, of greater import, is the reference to the unconstrained housing figure. Whilst it is recognised that Elmbridge has many absolute constraints (albeit, the Green Belt is not one), this should not be utilised to discount the contribution being made, to supply, by the development (particularly, here, in the context of a large shortfall and the residential sites coming forward on previously developed land in whole or part). The benefit is substantial, or at the substantial end of the range of significance.
- 5.13 The affordable housing position is equally challenging in Elmbridge and, in this respect, the view expressed by Ms Hyde, at paragraph 62 of her evidence, is no longer a position being advanced by the Appellant. The need to rehouse staff will be met elsewhere. On this basis, the proposal will provide circa 20% of the Borough's annual need. This is a sizeable contribution from one development, particularly in recognition of the Council's supply position and the proposal's conformity with planning policy. To suggest that moderate weight should only be attached to this benefit is surprising. It clearly should be afforded significant, or otherwise, substantial weight (as per the Officers approach to Committee).

THE SITE'S SUSTAINABLE LOCATION AND INTEGRATION WITH STATION AND CENTRE

- 5.14 The Council's witness disagrees with the site's sustainable credentials (paragraph 65), as advanced by the Appellant (although the sustainable case is presented, slightly differently, when compared to its Statement of Case at paragraph 6.49). That said, it is - at least -

acknowledged that the Racecourse/sites is/are relatively sustainably located, when one considers the conditions across the whole Borough. However, this position should be viewed in the context of Policy CS9 where the Council promotes Sandown Park Racecourse and, further, residential development on previously developed land in Esher (which is noted as benefiting from relatively good accessibility). The proposals comply with the spirit and thrust of this policy and, further, policies CS25 and DM7 of the Development Plan, particularly as they will bring a range of measures, to enhance sustainable modes, and improve connections between Esher and its railway station (for the benefit of proposed residents, and users of the Racecourse, and by association others who live in, or visit, the local area). Ms Hyde's comments, at paragraph 82, are refuted in this respect.

5.15 The highway related benefits should be afforded significant weight.

PROVISION OF A FAMILY/COMMUNITY ZONE

5.16 The Council's Statement of Case, in dealing with this matter (at paragraph 6.50), refers back to the Committee Report and, in this context, the weight being afforded, by Ms Hyde (paragraph 70), appears to have been informed by (inter alia):

- The loss of the go-karting track/facility;
- The provision of a similar soft-play area in the vicinity of the site, and
- The findings of the Open Space and Recreation Assessment 2014 relative to deficiencies in children's play space.

5.17 In reply, and whilst acknowledging that the first two concerns were referenced in the Officers Report to Committee (CD7.3 - paragraph 9.9.2.3.8), the reason for refusal does not cite the loss of the karting facility which cannot, on this basis, be treated as a measure for down-playing the weight to be attached to the family/community zone. The track, in any event, is remaining for cycle usage. Similarly, the specified specific issues with the soft-play area and children's play space, in my opinion, should not render any "watering down" of the significance of the benefit. This is because:

- They are components of the overall package which, in one location, cannot be found elsewhere in the locality.
- The Council's Leisure and Cultural Services consider that the proposed facility will help to meet the strategic need identified in various documents, including "Towards an Active Nation 2016 - 2021" (Sport England) and the Surrey Physical Activity Strategy 2015 - 2020 (CD7.3, paragraph 9.9.2.3.7).
- The Elmbridge Physical Activity Strategy (2015 - 2020) supports all children and young people to have an active start in life (CD7.3, paragraph 9.9.2.3.7).
- The role, and function, of the soft play area in the development, compared to the one in the golf centre, will differ (particularly on race days).
- Ms Hyde's reference, to CD3.53, should be placed in context. There are areas of high child density to the north of the racecourse which, in my estimation, are greater than referenced in the document (as the area includes Sandown Park). This area is assessed to be suffering deprivation and, in this respect, the proposed facility will provide a source of much needed relief and enjoyment.

5.18 The weight which should be attached to this benefit is significant. It is in line with national policy and DM9, as acknowledged by the decision notice in this case.

REPLACEMENT OF DAY NURSERY

5.19 Again, as with family zone, the Council's Statement of Case references the Committee Report. In this context, it recognised that Bright Horizons letter has been previously reviewed but, at paragraph 74, it is my view that Ms Hyde misinterprets the correspondence. It should not be inferred that the existing nursery is operating at below its capacity. Rather, through

providing an enhanced facility, there may be a ramping up period associated with its patronage.

- 5.20 That aside, it is recognised that this is a replacement of an existing facility. Therefore, the weight to be attached to its provision should, and must, respect this circumstance. This consideration, coupled with the unmet need for childcare provision, dictates that this benefit should be afforded moderate weight in my opinion.

HERITAGE

- 5.21 Ms Hyde does not consider heritage benefits in this case, save for the interpretation boards. It is stated that the boards will have no relationship to the proposed development: they are not considered to constitute a benefit. This is wrong, as the boards will, in part, explain the history and heritage of Sandown Park (and its listed features), including the Toll House (which, contrary Ms Hyde's comments at paragraph 76, is proposed for re-use - CD6.50, paragraph 7.2). Historic England's remit includes the conservation of heritage assets and increasing the public's understanding of their significance.

- 5.22 However, in this case, the heritage benefits are wider and extend beyond the mere provision of interpretation boards. They are set out in the Heritage Statement, from EDP (dated October 2020 - JCR8), as lodged in support of the scheme. Taken as a package, the benefit is significant.

ECOLOGY ENHANCEMENTS

- 5.23 It is acknowledged that the Council's Statement of Case cross refers to the Committee Report (in reviewing this matter). The Council attaches limited weight to this benefit, contrary to the Appellant's view. This is principally because some of the details remain unknown and, further, could be delivered without association with the scheme proposals and any planning permission arising in this respect (paragraphs 78 and 79). This is dismissive, as the proposals will bring:

- A local ecological management plan.
- A survey of Littleworth Common, the preparation of a management plan (where, currently, one does not exist) and a contribution towards its associated implementation/enhancement.

- 5.24 These on-site and off-site benefits, with the latter being available to users more widely of Littleworth Common, indicates that the benefit should be afforded significance and not be treated as merely of limited value.

6 CONCLUSIONS

- 6.1 Overall, it is requested that the appeal be allowed and planning permission be granted for the scheme. The proposals constitute appropriate development in the Green Belt and conform with the Development Plan. However, should an alternative view be taken, very special circumstances do exist, in this case, to outweigh any harm arising, as alleged by the Local Planning Authority. The planning balance also tells in favour of the appeal scheme.