

Technical Note: Mayer Brown Comments in relation to More Lane Appeal Decision Reference APP/K3605/W/19/3226579

- 1.1 It is noted that the highways question for the More Lane Appeal decision is different from the current Appeal, in that:
- More Lane – Will the provision of parking at the proposed development lead to Severe Harm in accordance with the NPPF
 - Sandown Park Appeal – It is accepted that the proposed development will not lead to Severe Harm and the question is whether there is residual harm and does the mitigation proposed actually provide a Significant Benefit having addressed the Harm caused by the development.
- 1.2 I would also note that 61 More Lane was not significant development on any view and therefore the policy test at para.103 NPPF did not apply. Of note the More Lane application was for 17 units, compared to 318 dwellings for the appeal site.
- 1.3 In the context of the above, from reviewing the More Lane Appeal decision main transport paragraphs are 19, 21 and 23
- *Para 19 - There are bus and train services available to future occupiers within convenient reach of the site and secure cycle storage would also to be provided as part of the scheme. The site is therefore reasonably well connected and occupiers of the new flats would have a choice of means of transport other than the private car. As a result, not all future occupiers will necessarily own or have regular access to a car and thus add to the demand for parking.*
 - *Para 21 - Overall, I am not convinced that the proposal would be accompanied by congestion or occupation of parking space to the extent that significant harm would be caused even taking into account the influx of vehicles associated with school dropping off or picking up times, a nearby industrial area or other permitted schemes. On the second main issue, I therefore conclude that the proposed development would not result in significant harm to vehicle parking. As such, the proposal does not conflict with DM Policy DM7, CS Policies CS9, CS17 and CS25 or the guidance in the Council's SPD, which aim to ensure that adequate parking is provided to serve new development. It also complies with the Framework, which notes that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.*

- *Para 23 – The proposal would also respond positively to local character and optimise the potential of the site. It would make suitable and safe access to the site for all users, with no unacceptable impact on highway safety.*

1.4 In the context of the appeal decision:

- there is no particular inconsistency with the Council's evidence for the Sandown Appeal and the conclusions of paragraph 19 '*the site is therefore reasonably well connected*' (the inspector makes no finding that the site is sustainable, still less 'very' or 'highly' sustainable).
- In paragraph 21 the Inspector correctly describes the test, they are required with that appeal which is whether the highways impacts would be severe and in paragraph 23, he concludes that there would no unacceptable impact on highways safety, which must be set against the test explained in Para 21. The Inspector did not conclude that there was no harm whatsoever, just '*no unacceptable impact on highway safety*'.

1.5 The above is consistent with the Officers report where in paragraph 64 the Officers report states:

- *A Transport Statement has been submitted as part of the application. the applicant utilised the TRICS database to inform the predictions, an industry standard tool. The Highway Authority accepts the trip generation figures provided and does not view the impact to represent any significant or severe impact.*

1.6 This is the same conclusion in terms of residual impacts drawn for the current Appeal by the Local Highway Authority and again that all parties are following the NPPF in terms of determining that the test of refusal on highways grounds is Severe Harm and there is no requirement to require nil detriment to occur.

1.7 In conclusion the Appeal decision does not provide any weight to conclude that the Local Highway Authority seeks nil detriment as opposed to Severe Harm as a response in relation to development within this area and the conclusions regarding accessibility are consistent with the Evidence of the Council at the Inquiry. In that context, there is no evidence to be drawn from this Appeal decision to conclude that '*significant weight*' should be attached to the Appellants Transport Mitigation Proposals.

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