

# Pre-Inquiry Statement of Case

**LPA REF: P/FUL/2022/06840**

**LPA: DORSET COUNCIL**

Land at

**Knoll House Hotel, Ferry Road, Studland, Dorset  
BH19 3AH**

Prepared on behalf of

**KINGFISHER RESORTS STUDLAND LTD (THE  
APPELLANT)**

July 2024

---

## Table of Contents

<b>1</b>	<b>Introduction</b>	<b>3</b>
<b>2</b>	<b>Site Description and Location</b>	<b>6</b>
<b>3</b>	<b>The Appeal Proposal</b>	<b>8</b>
<b>4</b>	<b>Planning History</b>	<b>10</b>
<b>5</b>	<b>Appeal Procedure</b>	<b>12</b>
<b>6</b>	<b>Planning Policy</b>	<b>14</b>
<b>7</b>	<b>Case for the Appellant</b>	<b>15</b>
<b>8</b>	<b>Planning Conditions and Obligations</b>	<b>19</b>

## 1 Introduction

1.1 This Statement of Case has been prepared by Black Box Planning on behalf of Kingfisher Resorts Studland ('Kingfisher' / 'the Appellant'). It sets out concise details of the relevant facts and arguments in support of an appeal under Section 78 of the Town & County Planning Act 1990. The appeal is made against the decision of Dorset Council to refuse an application for planning permission to redevelop Knoll House Hotel, Ferry Road, Studland ('the Site').

1.2 The appeal proposal seeks planning permission for:

*“Redevelopment of existing hotel to provide new tourist accommodation including: 30 hotel bedrooms, apartments and villa accommodation and associated leisure and dining facilities.”*

1.3 The planning application was refused following presentation to Dorset Council's Eastern Area Planning Committee on 10th January 2024. The Decision Notice was issued on 17th January 2024 (**CD3.45**). The planning application was refused for the following reasons:

1. The proposal has been assessed as being major development within the Dorset Area of Outstanding Natural Beauty (AONB). As such there is a requirement to assess the impact upon the local economy, any scope for developing outside of the AONB and ensuring that there is no detrimental effect on the environment and landscaping. The proposal by reason of its scale, form and massing fails to ensure that there would be no detrimental effect upon the environment and natural landscape and fails to be compatible to the special character of the Heritage Coast. This impact has been considered against the substantial local economic benefits. The proposal however is contrary to Policies D, TA, CO and LHH of the Purbeck Local Plan Part 1, the aims and objectives of the NPPF, especially paragraph 177 and 178 and Policies C1a, c and f, C2 d, e and f and C4 a, c, d, e, f and g of the Dorset AONB Management Plan 2019-2024.
2. The application site is located within 400m of protected heathlands and C3 use is proposed. Mitigation measures have been identified but do not address all matters and have not currently been secured in perpetuity. In this instance there is no overruling public interest and as such it cannot be certain, on the evidence presented, that the proposal would not adversely affect the integrity of the Dorset Heathlands European sites and international sites. Or, for that matter the Poole Harbour due to increase recreation in the harbour. The proposals are therefore contrary to Policies DH (Dorset Heathlands) and PH (Poole Harbour) of the Purbeck Local Plan Part 1 and Dorset Heathlands Planning Framework (2020-2025) SPD, Nitrogen Reduction in Poole Harbour (SPD 2017) and Poole Harbour Recreation Supplementary Planning Document (SPD) and the aims and objectives of the NPPF especially paragraphs 180 and 182.
3. Insufficient information has been provided regarding surface water management from the development. It has not been demonstrated that the proposed surface water drainage scheme can be viably achieved on site. Contrary to Policy FR of the Purbeck Local Plan, and paragraphs 167 and 169 of the National Planning Policy Framework.
4. The proposal is not accompanied by a Biodiversity Plan or adequate details regarding the ecological baseline and proposed mitigation and enhancement measures. It therefore fails to provide adequately certainty a Biodiversity Net Gain can be achieved on site, or that

proposed mitigation measures are deliverable. The proposed development is therefore contrary to Policies BIO and GI of the Purbeck Local Plan and paragraphs 174 and 180 of the National Planning Policy Framework.

5. Insufficient evidence has been submitted to demonstrate that the proposals will not result in damage/premature decline to trees proposed for retention through direct and indirect effects due to less-than-ideal growing conditions, their age and variable resilience to change, versus the magnitude of the development. In addition, insufficient details have been submitted to demonstrate that landscaping within the site including proposed earthworks will result in visually attractive, appropriate and effective landscaping of the development. The proposed development is therefore contrary to Policies LHH and D of the Purbeck Local Plan and paragraphs 135-136 of the NPPF.
  
- 1.4 This Statement of Case should be read alongside the draft Statement of Common Ground. The Appellant will work with the Local Planning Authority to try and agree matters where possible and clearly define the issues which remain in dispute.
  
- 1.5 However, until such time as matters are agreed with officers, the Appellant will present the necessary evidence to address the reasons set out, particularly in respect of reasons 3, 4 and 5 which were raised as issues very late in the application process and/or were considered to have been resolved by the time the planning application was presented to Committee.
  
- 1.6 The planning application was submitted in November 2022, alongside an Environmental Statement (the ES) (**CD1.59**) prepared pursuant to the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.
  
- 1.7 The context for the preparation of the ES is set out in section 4 of this Statement, which includes the relevant Planning History. It followed the preparation of a previous planning application (the First Application) (Ref: 6/2018/0566), which also sought planning permission for the redevelopment of the existing hotel for tourism accommodation. The First Application was submitted in October 2018 and refused following presentation to the Eastern Area Planning Committee in February 2022 (**CD3.45**).
  
- 1.8 A Scoping Opinion was received from Purbeck District Council (now Dorset Council) on 19th June 2018, which formed the basis on which the ES was prepared to assess the First Application. However, in respect of the appeal proposal it was considered that, irrespective of the environmental assessment information already held by the Local Planning Authority, it was decided to prepare a new Environmental Impact Assessment (EIA).
  
- 1.9 Alongside the extensive planning history and engagement, this Statement will set out:
  - An overview of the Appeal Site and Surroundings – Section 2;
  - An overview of the Appeal Proposal – Section 3;
  - The relevant planning history – Section 4;
  - The Appeal Procedure and justification for a Public Inquiry and the Evidence to be presented – Section 5;

- An overview of relevant planning policy will be provided at Section 6. This will include the emerging Purbeck Local Plan which was not considered by Officers in their assessment of the appeal proposals. The emerging Purbeck Local Plan is now at a very advanced stage and will be presented to Full Council in mid-July prior to adoption;
  - An overview of the Appellant's Case will be provided at Section 7; and
  - Planning Obligations at Section 8.
- 1.10 As set out in Section 5, this Statement has been prepared on the basis that it provides a Pre-Inquiry Statement of Case. It is the Appellant's view that a Public Inquiry is the appropriate procedure by which the planning appeal should be determined. Based upon the reasons for refusal, the complexity of identified issues and the matters that are likely to remain in dispute, it is considered that 8 sitting days will be required to hear the evidence.
- 1.11 This Statement of Case is accompanied by a Core Document List with relevant referencing throughout.

## 2 Site Description and Location

### The Appeal Site

- 2.1 An overview of the Site is set out in the Planning Statement (**CD1.46**) and the Design and Access Statement (**CD1.40**).
- 2.2 Covering just under 2ha, the hotel Site was constructed in the early 1900s and subsequently became a hotel in 1931. The hotel grounds extend further beyond the developed site, including a small golf course with tennis courts to the east of Ferry Road and woodland to the west.
- 2.3 The land currently used by the Hotel beyond the red line, as shown on the site location plan (**CD1.1**) is leased from the National Trust. The provisions of the lease include a statutory right to renew, which is currently in hand between Kingfisher and the Trust. Kingfisher has, and continues, to manage this area of land.
- 2.4 Vehicular access is currently from Ferry Road, which connects Studland Village with the Shell Bay Ferry Terminal, approximately 2.5miles north of the Site.
- 2.5 Since construction of the original component of Knoll House, the hotel has been the subject of piecemeal extensions. Today, there are approximately 30 buildings scattered across the site. Many are in poor condition. There is also a large amount of hard standing, which includes provision of parking for approximately 86no. cars.
- 2.6 The buildings are predominantly white rendered and conspicuous in the surrounding area. Whilst the Knoll House of old has invoked happy memories for many, it is in a very poor condition and has a negative impact on the surrounding landscape.
- 2.7 The hotel comprises 106no. guest bedrooms and 57no. staff accommodation units.
- 2.8 The facilities also include indoor and outdoor swimming pools, restaurant and lounges.
- 2.9 The existing hotel and buildings have a developed footprint amounting to 4,817sqm whilst the total area of hardstanding measures 8,283sqm, which includes areas of above ground car parking and service areas.
- 2.10 Existing buildings include single, two and three storey structures.
- 2.11 The site has two Tree Preservation Orders. The first, a group TPO covering the pine trees to the front of the Hotel, adjacent to Ferry Road. The second, a single Oak Tree on the southern boundary. Both are to be retained.

### SURROUNDINGS

- 2.12 The site is located within the Dorset National Landscape (formerly Area of Outstanding Natural Beauty, AONB). It is also located within the Purbeck Heritage Coast area.
- 2.13 There are a number of European designated sites within close proximity of the site, including the Dorset Heathlands SPA and Ramsar, and the Dorset Heaths and Studland Dunes SAC within 400m. Poole Harbour SPA and Ramsar is located to the north.
- 2.14 The area forms part of the Purbeck Heritage Coast. There are also a number of designated and non-designated heritage assets within the locality. The Conservation and Design Response

(CD3.10) concludes that the proposal will not affect the designated heritage assets locally, but does identify Knoll House as a non-designated heritage asset (NDA). Much of the significance as an NDA is in its numerous associations such as with the Bankes Family and Enid Blyton.

2.15 Mature woodland screens the site from the west and north.

### **3 The Appeal Proposal**

---

- 3.1 The Appeal Proposal adopts a landscape-led approach to the delivery of a new tourism development, comprising:
- A 30 bed hotel;
  - 16no 2 bed apartments;
  - 2no 3bed apartments
  - 6no 2 bed villas;
  - 20no 3 bed villas; and
  - Associated dining and leisure facilities, including a new spa building.
- 3.2 During the determination period, amendments were made to the proposal to reduce the total number of apartments by 4no, following removal of a complete floor of accommodation. The proposed amendments are set out at **CD2.21**. Aside from those amendments, the description of the development proposed is set out in the Application and further explained in the Planning Statement (**CD1.46**), the Design and Access Statement (**CD1.40**) and the Design and Access Statement Addendum (**CD2.15**).
- 3.3 The Appeal Proposal will be operated as a single boutique resort, providing a mix of accommodation types. The guest experience will be comparable for those staying in the villas as those in the hotel. An Operations Report (**CD1.61**) was submitted alongside the planning application.
- 3.4 Unlike the existing hotel, the Appeal Proposal does not include any staff accommodation. It will be staffed locally offering more consistent permanent contracts, replacing the predominance of temporary seasonal contracts and removing the need for onsite staff accommodation. It will include provision for 112FTE jobs on site. A Green Travel Plan is proposed to include a staff bus serving a regular timetable form local pick-up hubs.
- 3.5 The proposal will have a capacity for 280no. guests.

#### **ACCESS AND PARKING**

- 3.6 The access will be retained from Ferry Road and parking provision will reduce from 86 spaces currently to 75 proposed. No objection has been raised by the Local Highway Authority and the trip generation figures have not been disputed.

#### **DESIGN**

- 3.7 The Design and Access Statement and Addendum Statement set out a detailed overview of the design approach adopted to preparing the proposal.
- 3.8 It has adopted a landscape led approach to a contemporary design. Utilising a palette of high quality materials.



3.9 It incorporates a number of sustainable strategies, including:

- Additional tree planting;
- Green roofs;
- The reduction and attenuation of surface water, including adopting SUDS treatment train principles;
- Habitat creation onsite;
- Renewable energy production and a community heating system, replacing the existing oil tanks.

## 4 Planning History

- 4.1 Since acquiring Knoll House Hotel in 2017, Kingfisher Resorts have engaged with the Local Planning Authority, stakeholders and the local community about the regeneration of the site to deliver a high-quality tourism destination. They have extensive experience of developing and operating high quality tourism destinations.
- 4.2 The Appellant has undertaken an extensive programme of pre-application engagement and this will be demonstrated fully in the evidence and Statement of Common Ground. This element of the planning history associated with proposals to redevelop the site (including the First Application) will explain how the Appellant has focused on the key issues relating to landscape and the impacts on local designated sites.
- 4.3 **Pre-application 2017-2018:** A two-stage pre-application enquiry was submitted in November 2017. Meetings were subsequently held with officers in January and June 2018. Other meetings were also held with key stakeholders, including Natural England (on site in January 2018 and as part of the pre-app in June 2018) and the National Trust.
- 4.4 **EA2/2018/001 – May 2018 –** EIA Scoping Opinion 1 (**CD8.4**) for ‘Redevelopment of Knoll House to include the partial demolition of the existing hotel building & erection of a new hotel extension to include 30 rooms, 38 apartments, 25 villas and ancillary leisure facilities & associated car parking, servicing & landscaping.
- 4.5 **EA1/2018/0005 & EA2/2018/002 – September 2018 –** EIA Screening and Scoping Opinion (**CD8.5**) - ‘Redevelopment of Knoll House to include the partial demolition of the existing hotel building & erection of a new hotel extension to include 30 rooms, 38 apartments, 25 villas and ancillary leisure facilities & associated car parking, servicing & landscaping’. This response was provided following a revised Screening/Scoping Request made alongside further engagement with officers and ‘scoped’ out a number of matters.
- 4.6 **6/2018/0566 –** A Ful Planning Application for: Redevelopment of existing hotel to provide new tourist accommodation including 30 bedroom hotel, apartments & villa accommodation associated leisure & dining facilities. **Submitted November 2018. Refused February 2022. (Application 1).** A copy of the Decision Notice is attached at **CD8.6**.
- 4.7 The proposal included provision for:
- 30 bed hotel;
  - 39no x 2 bed apartments;
  - 2no 3 bed apartments;
  - 16no 2 bed maisonettes;
  - 2no 2 bed villas;
  - 4no 3 bed villages; and
  - Associated dining and leisure facilities.

- 4.8 It was agreed that the scheme would have a capacity to accommodate up to 324 people overnight. It was also significantly larger than the Appeal Proposal, including a regular block pattern. A CGI of the First Application is enclosed at **CD8.7** and **CD8.8**.
- 4.9 **August 2022** – Submission of pre-application enquiry in respect of revised proposal (**CD8.1, CD8.2 and CD8.3**). Further pre-application engagement and discussion was progressed with Natural England (**CD 8.12**).

## 5 Appeal Procedure

---

- 5.1 This Statement of Case has been prepared having regard to the Procedural Guide: Planning appeals – England, updated May 2024. In considering the most suitable procedure by which the appeal should progress, the Appellant has also had regard to the ‘Criteria for determining the procedure for planning, enforcement, advertisement and discontinuance notice appeals’, Published April 2022.
- 5.2 In this case, the Inquiry procedure would be most appropriate.
- 5.3 The relevant guidance sets out that an Inquiry would be appropriate if:
- There is clearly explained need for the evidence to be tested through formal questioning by an advocate;
  - The issues are complex (for example where large amounts of highly technical data are likely to be provided in evidence); or
  - The appeal has generated substantial local interest to warrant an inquiry as opposed to dealing with the case by a hearing.
- 5.4 In this case the issues are complex. They include matters relating to:
- The design approach to the proposals and context of the site, including issues of localised topography, scale and mass.
  - Major Development in the National Landscape (AONB), whether the proposal constitutes major development, the relevant landscape and policy considerations;
  - Landscape visual and character effects;
  - National Landscape management and policy matters;
  - The application of the (soon to be) adopted Purbeck Local Plan and the consequential changes to the relevant policy context for determination of the appeal.
  - The potential for adverse effects on European Designated Sites, including:
    - Dorset Heathlands SPA/Ramsar;
    - Dorset Heaths (Purbeck and Wareham) and Studland Dunes SAC;
    - Isle of Portland to Studland Cliffs SAC;
    - Studland to Portland SAC;
    - Solent and Dorset Coast SPA;
    - Poole Harbour SPA/Ramsar; and
    - St Albans Head to Durlston Head SAC.

- In part, the potential for adverse effects pertaining to The Conservation of Habitats and Species Regulations 2017, related to the inclusion of development within 400m of the designated site and the potential for an increase in recreational pressure.
- In part, the potential for adverse effects relate to matters relating to Nutrient Neutrality and Air Quality, albeit these are not referenced in the reason for refusal but are in the Appropriate Assessment.
- Compliance with policy regarding development in proximity to the Dorset Heathlands.
- The appeal will include evidence relating to the operation of the proposed resort, which are relevant to issues relating to use class and the potential for adverse effects derived. The evidence presented will also set out that the LPA have conflated matters relating to policy and the Appropriate Assessment. Such conflation would necessitate legal submissions.
- The evidence will include matters relating to economic benefits and the operation of the proposal, both direct and indirect effects. These matters are detailed and complex and would be most appropriately addressed through formal evidence and presentation.
- The reasons for refusal include technical issues relating to drainage, trees and Biodiversity Net Gain. In view of the inconsistent and contradictory approach taken to date by the LPA it is clear that this will require the presentation of detailed evidence and cross examination.

5.5 Each of the reasons for refusal demonstrate that it will be necessary for the relevant evidence to be presented by expert witnesses and fully tested by way of cross examination. The identified issues are both complex and detailed in their application.

5.6 Whilst the appellant will seek to narrow issues with the LPA, as part of a Statement of Common Ground, it is considered unlikely that there will be agreement to such an extent to diminish the need for evidence to be presented by expert witnesses and tested by advocates.

## **6 Planning Policy**

- 6.1 The planning policies and guidance that are most relevant to this appeal are set out in the draft SoCG and it is anticipated that agreement between the parties in this regard will be achieved prior to the opening of the Public Inquiry.

### **NATIONAL PLANNING POLICY**

- 6.2 The Appellant will refer to the National Planning Policy Framework (hereafter referred to as The Framework) and the National Planning Practice Guidance (hereafter referred to as the PPG).

### **THE DEVELOPMENT PLAN**

- 6.3 The adopted Development Plan for the area comprises:-
- Purbeck Local Plan Part 1 (Adopted November 2012).

### **THE EMERGING DEVELOPMENT PLAN**

- 6.4 At the time of writing, the emerging Purbeck Local Plan has reached an advanced stage of preparation. Following submission for examination in January 2019, the examination hearings sat in July and October 2019. Since then, the Local Plan has been subject to Main Modifications and Supplementary Main Modifications. The latter of these were subject to consultation in December 2023.
- 6.5 The Inspector's Report was published in May 2024 and concluded that the Plan was considered to be sound subject to the consolidated Main Modifications (**CD5.3**). It is due to be presented to Dorset Council at a meeting on 18<sup>th</sup> July 24, recommending that it be adopted for planning decision making purposes.
- 6.6 The Officer Report makes passing reference to the emerging Local Plan, but indicated that it could not be given any significant weight in the decision-making process. This was contested by way of a letter submitted prior to Committee (**CD3.39**), having regard to NPPF paragraph 48.
- 6.7 In particular, when the LPA refused the appeal application, it was following the close of second Main Modifications Consultation, with only the issue of the Inspector's Final Report remaining. The clear direction had been provided by the Inspectors after a lengthy and protracted examination process. In these circumstances it is hard to imagine there being a more advanced stage of preparation other than adoption. It is a Plan which should have been given significant weight.
- 6.8 Notwithstanding the issue of weight, the OR did not even refer to emerging Policy E8, Dorset Heathlands, as being relevant. Evidence will be presented to consider the proposal in the context of this advanced stage emerging Plan. It is realistic that it will be adopted by the time of exchange of evidence.

### **SUPPLEMENTARY PLANING GUIDANCE**

- 6.9 Where relevant, reference will be made to supplementary planning guidance, document and advice.

## **7 Case for the Appellant**

---

- 7.1 The appeal submission is accompanied by a Draft Statement of Common Ground (SoCG) to help narrow down the scope of issues in dispute for the appeal.

### **THE MAIN ISSUES**

#### **Issue 1 – The Principle of Development**

- 7.2 The appellant will explain that the existing site and use of the hotel is the baseline against which to assess future proposals. It will be demonstrated that the ageing condition of the fabric of the hotel and its facilities require the business to operate at lower value and higher intensity to remain commercially viable.
- 7.3 The regeneration of the hotel will deliver a high quality tourism facility. This regeneration will support a more environmentally sustainable and viable business moving forward but necessarily requires wholesale change and substantial economic investment. It will be demonstrated that the resort will operate as a single entity but to deliver the proposed services and facilities for guests requires a critical mass of accommodation. This relationship is central to the business model of delivering a five-star resort.
- 7.4 It will be demonstrated that in offering a mix of accommodation types, it will not change the way those guests experience the resort. Evidence will be prepared to assess the proposal in policy and impact terms on this basis.
- 7.5 It will also be explained that, when considering the Development Plan as a whole, supplementary planning documents, and other policy and guidance alongside other material considerations the proposal represents a sustainable form of development.
- 7.6 The full range of benefits will be considered and assessed against any impacts arising from the development.

#### **Issue 2 – Design Concept**

- 7.7 The appellant will present evidence in respect of the design concept adopted, demonstrating that it is appropriate for the locality and represents high quality sustainable design.
- 7.8 The Appellant will demonstrate that the scale and mass of the proposal is acceptable in its context, including in respect of landscape and visual effects set out in Issue 3.

#### **Issue 3 – Landscape Effects**

- 7.9 The evidence will explain the design ethos of the proposal and the concomitant changes to the site that will ensue as a result of adopting an alternative approach to the design when compared to the existing.
- 7.10 It will be demonstrated that the majority of visual receptors are distant and the effects upon them are largely either not adverse or beneficial.
- 7.11 The landscape evidence will set out landscape character and visual impacts of the proposed approach to scale and mass, including how the proposal has been designed to be more visually recessive in the landscape than the existing baseline situation.

- 7.12 It is unclear what evidence the LPA or third parties will produce in the context of landscape character and visual effects. It is also clear from the Officer Report that not all of the information submitted was considered by officers<sup>1</sup>. However, landscape evidence presented will follow a suitable methodology which represents the key issues in assessing and concluding on matters relating to impact.
- 7.13 It will be demonstrated that the existing baseline situation should be the starting point from which to consider Major Development within the National Landscape and recognition that where there is to be development in the landscape then large previously developed sites should be preferred.
- 7.14 It will be demonstrated, as part of the assessment of policy, that the proposal is not considered to be Major Development in the context of NPPF paragraph 183. However, even if it were, evidence will include an assessment of need, the potential to develop the scheme outside of the designated area and consideration of the proposal in the context of the environment, landscape and recreational opportunities. Reference will also be made to the AONB Management Plan 2019-2024, including the principle of a 'living and working National Landscape'.
- 7.15 Similarly, evidence will be presented to demonstrate that the proposal will not have an unacceptable impact on the Heritage Coast.

#### **Issue 4 – Impact on European Designated Sites**

- 7.16 The sensitivity and assessment threshold for consideration of whether a plan or project will likely have a significant effect on a European site are recognised by the Appellant. It has been a central consideration in preparing proposals to redevelop the Site over a period of 7 years.
- 7.17 Reason for refusal 2 is focused on the location of the Site within 400m of the Dorset Heathlands SPA and the introduction of a C3 use. Effects on Pool Harbour are also referred to without justification.
- 7.18 It is hoped that the respective accommodation capacity of the existing hotel, the First Planning Application and the Appeal Proposal set out in Table 1, below, can be agreed as common ground.
- 7.19 The Appeal Proposal will result in a net reduction of overnight accommodation when compared to the existing hotel baseline. This amounts to at least 59 fewer people based on a 'like for like' assessment. The Officer Report also undertakes an alternative approach to occupancy based on the formulaic occupancy levels reflected in the Dorset Heathlands SPD. This approach concludes that the Appeal Proposal would result in 127 fewer overnight occupants when compared to the existing hotel.

---

<sup>1</sup> Officer Report, page 39



Table 1: Capacity Comparison

	<b>Existing</b>	<b>The First Application</b>	<b>The Second Application, October 22 (CD List 5(b))</b>	<b>The Second Application Amendments, July 2023 (CD List 5(c))</b>
<b>No. of keys</b>	163 (106 Guest and 57 Staff)	93 (30no hotel and 63 apartments/villas)	78 (30no hotel and 48 villas/apartments)	74 (30no hotel and 44no villas/apartments)
<b>No. of staff living on site</b>	66	0	0	0
<b>No. of guests</b>	273	324	296	280
<b>Total</b>	339	324	296	280
<b>Difference vs existing</b>	0	-15	-43	-59

- 7.20 The LPA have not offered any reasoning why a reduction of overnight occupants would have a greater recreational impact on the heathland or Poole Harbour, other than to say that the change of use directs such a conclusion. Evidence will be presented to demonstrate that the Appeal Proposal will have less of an impact when compared with the existing hotel.
- 7.21 Notwithstanding the LPA's approach to Use Class in respect of the Dorset Heathlands, relevant policy and guidance do not preclude residential development in proximity to Poole Harbour, where there are also agreed strategic mitigation strategies in place and contributions collected by CIL.
- 7.22 The evidence will also include the provision of controls over the occupation of the proposed villa and apartment accommodation. In doing so, it will be demonstrated that the impact of C1 or C3 villas and apartments are the same in this case.
- 7.23 The consideration of impact will also be set alongside an assessment of policy, including emerging Local Plan Policy E8 which does not include an absolute restriction on residential development within 400m, adopting a more case by case basis for assessment.
- 7.24 It will be explained in the Appellant's evidence that, should it be concluded that it would be appropriate to restrict the entire proposal to a C1 use, it is possible to do so. The description of the development neither indicates a specific Use Class nor precludes the imposition of such a restriction should it be necessary in planning terms. Irrespective of this, the Appellant will adduce evidence of its established and proven business operations model for developments of this nature elsewhere in the country and in sensitive locations. It will be demonstrated that whilst the proposed use could technically fall within Use Class C3 this can be restricted and controlled

without impacting on the surrounding environment. However, the proposed development can be restricted to Use Class C1 albeit the Appellant will demonstrate that such a restriction would not be necessary.

### **Issue 5 – Surface Water Management**

- 7.25 It is hoped that reason for refusal no3, relating to the lack of information regarding surface water management can be agreed as common ground. The necessary details relating to the surface water outfall were provided prior to Committee and it was confirmed, verbally, that the LLFA had no objection.
- 7.26 In the absence of agreement on this issue, it will be demonstrated that the proposal will result in a range of qualitative benefits in respect of drainage, which is currently uncontrolled and discharges directly towards the designated sites currently, without any form of SUDS treatment. The extent to which the appellant has to instruct further input on this issue could form the subject of an application for a partial award of costs.

### **Issue 6 – Lack of Biodiversity Plan**

- 7.27 It is also hoped that reason for refusal no4, relating to the absence of a Biodiversity Plan and certainty of Biodiversity Net Gain calculations can be resolved by way of common ground. The issue was raised for the first time, by the LPA, only after the publication of the Committee Report. Notwithstanding this, sufficient information was before the Council to determine the details were acceptable prior to Committee. The appellant received written confirmation to the same effect after the determination of the planning application (**CD3.44**) and that details could be secured by way of a Landscape Ecological Management Plan (LEMP).
- 7.28 In the absence of agreement on this issue the Appellant will demonstrate compliance with both adopted development plan policy and national policy in respect of BNG. The extent to which the appellant has to instruct further input on this issue could also form the subject of an application for a partial award of costs.

### **Issue 7 – Tree Impacts and Landscaping Details**

- 7.29 As with Issue 6, above, the appellant received written confirmation that tree planting and landscape management could form the subject of a LEMP.
- 7.30 Similarly, it is also considered that conditions could be used to protect existing trees during construction. This is a common approach.
- 7.31 Should the LPA be unwilling to engage in discussion on this issue with a view to reaching common ground, the appellant will present evidence to demonstrate that the growing conditions are suitable for new trees and that an acceptable approach can be adopted to protecting existing trees. The Appellant will reserve its position on this issue also being the subject of an application for a partial costs award.

## **8 Planning Conditions and Obligations**

---

### **PLANNING CONDITIONS**

- 8.1 A set of planning conditions agreed between the Appellant and LPA shall be submitted to the Inspector before the start of the Public Inquiry.

### **PLANNING OBLIGATIONS**

- 8.2 Pursuant to Section 106 of the Town and Country Planning Act, The Appellant will submit a legal agreement/undertaking which will secure any planning obligations deemed necessary to make the proposed development acceptable in planning terms.
- 8.3 At the time of preparation of the Statement of Case, there has been no discussion with the LPA on matters relating to Planning Obligations.
- 8.4 The proposals are liable for the Community Infrastructure Levy (CIL).