



Intelligent Plans
and examinations

**Independent Planning Review
of Fairmont/Dell Park
Planning Application
RU.21/2211**

Runnymede Borough Council

**Report by: Keith Holland BA (Hons) DipTP MRTPI ARICS
Director, Intelligent Plans and Examinations (IPE) Ltd**

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Intelligent Plans and Examinations (IPE) Ltd, 3 Princes Street, Bath BA1 1HL
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1. Brief and Engagement

- 1.1 The brief for this independent review is to consider whether maladministration and unreasonable/unethical behaviour have occurred in relation to the processing of application RU.21/2211 by the Runnymede Borough Council Planning Department. The complaint that this review relates to is a document submitted by Councillor Andrea Berardi on 25 January 2023 prepared by local residents. The brief requires consideration of the process followed, the way the matter was reported to the Planning Committee, the recommendation to the Planning Committee and the way the Local Planning Authority (LPA) has dealt with enforcement matters in relation to this site.
- 1.2 As part of the consideration of how planning application RU.21/2211 was dealt with, this planning review includes a broad assessment of the background to the recent development of the Fairmont Hotel. In addition, as requested, a comment is provided in relation to the recently submitted application by Grove WP Limited and Grove WP Property Limited.
- 1.3 I have been engaged to undertake the independent review. I am a founding Director at planning consultancy Intelligent Plans and Examinations (IPE) Ltd and a chartered town planner and chartered surveyor with more than 50 years' experience, including 25 years' experience inspecting and examining development plans as a Government Planning Inspector.
- 1.4 As part of my review, I interviewed relevant officers in the Council's Planning Department on 14 February 2023 and undertook a site visit to land at the Fairmont Hotel, the adjacent Dell Park House and surrounding area on 21 February 2023.

2. Background

RU.16/0824

- 2.1 Under reference RU.16/0824 planning permission was granted for the redevelopment and refurbishment of the Savill Court Hotel. The development applied for included substantial upgrading of, and extensions to, the existing hotel and grounds. As the site was (and remains) in the Green Belt, it was necessary for the LPA to be satisfied that very special circumstances existed that justified the grant of permission to development that would by definition be harmful to the Green Belt. Based on the guidance in the National Planning Policy

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Framework (NPPF) regarding generating economic growth and the need identified in the Surrey Hotel Futures Study 2015 (undertaken by Hotel Solutions between October 2014 and June 2015 for Surrey County Council) for a high quality 5*hotel and conference facility in Surrey, the LPA concluded that very special circumstances existed that outweighed the harm to the Green Belt. The Secretary of State did not intervene in the decision.

[RU.17/1368 and RU.18/1239](#)

- 2.2 Under references RU.17/1368 and RU.18/1239 the proposals were revised to include complete demolition of the existing building as opposed to extensions granted under RU.16/0824. The revised proposals were justified on the basis that ground conditions and the high water table prevented the earlier permission being implemented. In design terms, the LPA concluded that the revised proposals would introduce a high quality development that would reflect the scale and design of the original building and the wider character of the area. While acknowledging that the revised scheme would have a greater impact on the openness and visual qualities of the Green Belt than the existing hotel and the 2016 approval, the LPA concluded that the same economic considerations that applied to the 2016 permission applied to RU.17/1368 and RU.18/1239 and that these special circumstances outweighed the harm to the Green Belt. Applications RU.17/1368 and RU.18/1239 were approved and implemented.
- 2.3 The way these three applications were dealt with followed conventional lines, taking account of the importance of the Green Belt and balancing the identified harm to the Green Belt with very special circumstances based on economic considerations.

3. RU.21/2211

- 3.1 This application was for retrospective planning permission for the proposed erection of 4 detached treehouse lodges ancillary to the existing hotel use at Fairmont Hotel and associated access and pathways, and the proposed part change of use of existing land at Dell Park House for hotel use. The application site comprised a parcel of land within both the Fairmont Hotel Site and the adjacent Dell Park House. The application was reported to the Runnymede Planning Committee on 22/06/2022 with a recommendation that the application be approved. The Committee did not agree with the Planning Department recommendation and the application was refused (decision notice dated

13 July 2022). The Committee decided that the proposal would harm the Green Belt and that there were no very special circumstances that clearly outweighed the significant harm to the Green Belt.

- 3.2 The Planning Department report to the Committee followed conventional lines. Details of the application were provided and the Design and Access statement summarised. A full explanation of what the applicant considered to be the material considerations was provided, together with the relevant planning history of the site, and the main relevant national and local planning policies were identified.
- 3.3 Consultation responses from Surrey Wildlife Trust, the Council's drainage section, the Council's Tree Officer, the County Highway Authority and the Surrey County Council Minerals section were listed. The Surrey Wildlife Trust is an independent and professional organisation that the Council relies on in respect of ecological matters, given that the Council does not have in-house expertise in this field. Details of the consultation process was provided, a full summary of the 34 letters in response, and the response from the Englefield Green Neighbourhood Forum which listed a series of objections as well as three suggestions that would make the proposal acceptable. An objection from the Englefield Green Village Residents Association supporting the Neighbourhood Forum's objections was reported.
- 3.4 Under the heading "Planning Considerations" the report by the Planning Department identified the key planning matters as the principle of development in the Green Belt and the potential impact of the development on the Green Belt. Assessing the proposal against the NPPF, the report notes four points:
 1. The proposal would be inappropriate development in the Green Belt.
 2. The proposal would cause significant harm to the Green Belt.
 3. The Planning Authority must give substantial weight to the harm to the Green Belt.
 4. Very special circumstances that outweigh the harm to the Green Belt are needed for the development to be acceptable in planning terms.
- 3.5 The assessment of the proposal against the NPPF is clear and unsurprising. The report sets out the balancing exercise that is required by national planning policy where a proposal is not within the scope of appropriate development in the Green Belt. Local plan policy EE17 is

noted and the report concludes that the proposal, because of the floor area, height and massing involved, would not comply with this policy that concerns redevelopment on previously developed land in the Green Belt.

- 3.6 In addition to the Green Belt considerations, the report fully deals with other relevant matters that arise from policies in the Local Plan and the NPPF. Matters relating to design, highways, agriculture, trees, ecology, wildlife, drainage, minerals, sustainability and the living conditions of occupiers of neighbouring properties are dealt with comprehensively. The report makes it clear that the critical contentious consideration is whether there are very special circumstances that clearly outweigh the identified harm to the Green Belt. Members were thus provided with a clear and authoritative assessment of the important considerations that they needed to take into account.
- 3.7 In general terms, in Green Belt cases the weight to be given to the substantial harm to the Green Belt on the one hand, and the counter-balancing very special circumstances on the other, does not usually lend itself to easy quantification. As noted by Lord Justice Sales, "*The concept of openness of the Green Belt is not narrowly limited to the volumetric approach suggested by Mr Budd. The word openness is open-textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case*".¹ In the planning context, the concept of weight is based largely on judgement. Such judgement needs to take into account the context and circumstances that apply in a particular case.
- 3.8 In this instance, the advice to Members was that there were three considerations that weighed in favour of the proposal. First, the removal of existing buildings, second, the findings of the Surrey Hotels Future Study and competition in the hotel market and third, the need for the hotel to provide a unique offer to guests seeking exceptionally high standards of accommodation. The Planning Department's judgement was that the first carried very significant weight, and the other two moderate weight. The report from the Planning Department advised that in combination these three considerations amounted to the very special circumstances needed to clearly outweigh the significant harm to the Green Belt. From the minutes of the Planning Committee, it is evident that the Planning Department viewed this as a finely balanced decision although the Committee report does not provide this clarification. Given

¹ *Turner v Secretary of State for communities and Local Government and East Dorset Council [2016] EWCA Civ*

the planning history of the site and the redevelopment of the hotel that has occurred, it is considered that the report provided a full and sound assessment of the context for the decision by the Committee.

- 3.9 The Planning Department's judgement that the removal of existing buildings would be a significant consideration led them to persuade the applicant to add a further stable block to what is termed the demolition plan, thereby increasing the weight that could be applied to the removal of buildings on the land. This action by the Planning Department shows that they were alert to the concept of the openness of the Green Belt and sought to negotiate to get as many buildings included in the demolition schedule as they could.
- 3.10 Having identified the removal of existing buildings as the most significant special circumstance, one would expect the report to deal with this matter particularly comprehensively. To some extent the report fails to do this. There is no explanation or justification of which buildings were included in the demolition plan. Further, as written there is a degree of confusion by the reference to both existing buildings and some which have already been demolished in the same sentence. The confusion is compounded by the lack of clarity about what is meant by "*this programme of works*". However, it is noted that the Committee Members were supplied with photographic material and plans that provided additional clarification regarding the situation on the ground. It was also made clear to Members that their decision did not need to follow the recommendation in the Committee report.
- 3.11 Having noted the confusion in the report, there is an arguable case for including already demolished buildings in the demolition schedule. First, the previous very special circumstances case justifying the hotel redevelopment did not rely on the removal of existing buildings such as the stables and grooms accommodation. Consequently, there is no 'double counting'. Secondly, if "*this programme of works*" refers to the construction of the tree houses, it is reasonable to argue that recently demolished buildings should be taken into account.
- 3.12 Another deficiency is that the report does not explain the planning status of the buildings/structures on the schedule. Given the planning history of the site and the passage of time it seems most likely that the schedule only contains buildings/structures that are now lawful. Clarification of this in the report would have been helpful. Similarly, it would have been helpful to the Committee if the report had explained that the courts have now established that in the planning context the definition of a building

is a wide one and includes structures that would not ordinarily be described as buildings.²

- 3.13 The identified lack of explanation in the report does not negate the conclusions reached by the Planning Department nor does it point to a clearly unjustified conclusion regarding the weight to be attached to the removal of buildings/structures on the site. The Planning Department report is based on a planning judgement about this matter and the extent of the harm to the Green Belt. The legitimacy of the approach taken in the report is reinforced by the evidence that the Planning Department pressed the applicant to demolish an additional stable block at Dell House. Clearly the Planning Department had in mind the openness of the Green Belt. Furthermore the approach taken in the report is not out of line with other recent decisions by the Council in relation to the Runnymede Hotel in Egham — another high quality hotel in the Green Belt. Nor is it inconsistent with decisions by several other planning authorities, including the New Forest and the Royal Borough of Windsor and Maidenhead where guest or woodland lodges have been permitted associated with high quality hotels on Green Belt sites. Interestingly, in the instances of the other authorities, the justification for permitting the development rested on economic considerations and did not include the additional demolition justification that, in the Planning Department's view, applies at the Fairmont Windsor Park Hotel.
- 3.14 The inclusion of the two economic circumstances is logical given that economic considerations were the basis of the very special circumstances cases accepted by the Council when applications for redevelopment were approved in 2016, 2017 and 2018. As the treehouses are not essential for the survival of the hotel, it is understandable that the weight given to them is less than was the case in 2016 – 2018.
- 3.15 I understand that the Council has been criticised for registering and starting to process the current application on the site on the grounds that the matter has already been dealt with and permission refused. I consider that the Council is taking the correct course of action for two reasons. First, the current application deals with more than the tree houses and is seeking to regularise matters such as the tennis courts and children's play areas. Consequently, it is not a repeat application that the Council can refuse to deal with. Second, it may give the Council the opportunity to agree to or negotiate further changes/arrangements that benefit the openness of the Green Belt.

² *R (Save Woolley Action Group Ltd) v Bath and North East Somerset Council* [2012] EWHC 2161 (Admin)

4. Conclusion

- 4.1 The initial and subsequent applications that allowed for the redevelopment of the hotel site were based on a sound consideration of Green Belt and national planning policy issues. Account was taken of the existing development on the site, whether the proposed development was appropriate in the Green Belt, the degree of harm that could be caused and whether there were any very special circumstances that clearly outweighed the identified harm to the Green Belt. The very special circumstances identified were justified.
- 4.2 As regards application RU.21/2211, I do not consider that there is any convincing evidence that the Planning Department deliberately sought to mislead the Runnymede Planning Committee or unduly favoured the applicant's case. The report to the Committee identified and fairly dealt with the relevant important national and local planning considerations. The recommendation, although not accepted by the Committee, was based on planning judgments that the Planning Department was entitled to make. The arguments advanced in the report to support the recommendation were reasonable and comprehensible.

5. Enforcement Considerations

- 5.1 It is noted that a complaint has been made claiming that the LPA has or is failing to take enforcement action/issue stop notices in relation to a range of matters involving alleged unlawful development. I have not researched the enforcement situation in detail but, based on information provided by the Council, I note that action has been taken by the Council in a number of instances where matters have been brought to its attention. In some cases the situation has been regularised through the planning application route, for example the signage at the main entrance. In some instances investigations have shown that there has been no breach of control, for example the main entrance lighting, while in other instances action by the Council's enforcement team has secured a positive result — Oaklands House demolition.
- 5.2 The approach adopted by the Council is, where possible, to seek solutions before enforcement action is taken. Thus, where there is no risk of immunity from enforcement action and there is a reasonable prospect of planning permission being obtained, a planning application is encouraged. This is a sensible approach that takes into account the need have regard to public finances and to use resources sensibly.

- 5.3 The Council has stated that it has a complete audit trail of investigations/enforcement action taken. Further there are a number of files still open in relation to the Fairmont Hotel site. In addition, the Council confirms that it will respond as necessary to any further complaints made.

Keith Holland

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3 March 2023