



Proof of Evidence of Gemma Fitzpatrick BA(Hons) MRUP MRTPI

Supplied on behalf of Dorset Council

In respect of

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

Description of Development:

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

LPA reference P/FUL/2022/06840

Appeal Reference: APP/D1265/W/24/3348224

November 2024

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1. INTRODUCTION

- 1.1 My name is Gemma Fitzpatrick and I have been engaged by Dorset Council (“the Council”) as an expert planning witness in this Inquiry. I have an honours Bachelor’s degree in economics and politics, a Master’s degree in Regional & Urban Planning and I am a Chartered Member of the Royal Town Planning Institute. I have over 30 years’ experience in the field of planning, working in local and central governments and for the RTPI. My particular area of expertise and experience is in Development Management and Enforcement. In the last 12 years I have been employed as a Development Manager in five local planning authorities.
- 1.2 The evidence which I have prepared and provide for this appeal in this proof of evidence is true, is within my scope of expertise and experience and has been prepared and is given in accordance with the guidance of my professional institution. I confirm that the opinions expressed are my true and professional opinions.
- 1.3 I have been engaged by the Council during the preparation for this Inquiry. I have visited the appeal site and surrounding area.
- 1.4 This appeal is against the refusal of planning permission issued by Dorset Council (“the LPA”) on 11th January 2024, in respect of a proposed development at Knoll House Hotel, Ferry Road, Studland.
- 1.5 The reasons for refusing the application are set out in the Council’s Statement of Case.

2. SITE DESCRIPTION & PLANNING HISTORY

- 2.1 The site is fully described in the Officer’s Report (OR) to Committee which is Core Document CD 3.046.
- 2.2 A comprehensive summary of the planning history relevant to the site is set out in the Officer’s Report to Committee.

3. POLICY CONTEXT

- 3.1 Section 38 (6) of the Planning & Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that, when making a determination on development proposals, the decision shall be made in accordance with the Development Plan unless material considerations indicate otherwise. For Purbeck the statutory development plan comprises:

Purbeck Local Plan 2024

- 3.2 The current Local Plan for Purbeck was adopted in July 2024 and sets out the development strategy for growth of the area from 2018 to 2034. This post-dates the determination of the application and policy references in this Proof have been updated to reflect the newly adopted plan where relevant.

Given the recent adoption of the Local Plan Review full weight should be given to the policies therein.

3.3 The following policies of the adopted Local Plan are considered the most relevant to this appeal:

- (a) Policy V1 - Spatial strategy for sustainable communities
- (b) Policy E1 - Landscape
- (c) Policy E5 - Sustainable drainage systems (SuDs)
- (d) Policy E7 - Conservation of protected sites
- (e) Policy E8- Dorset heathlands
- (f) Policy E10 - Biodiversity and geodiversity
- (g) Policy E12 - Design
- (h) Policy EE4 – Supporting vibrant and attractive tourism
- (i) Policy H2 – Housing Land Supply
- (j) Policy H11: Affordable housing
- (k) Policy H14 – Second homes

Other relevant adopted documents

3.4 The Dorset Heathlands Planning Framework 2020-2025 supplementary planning document (SPD) adopted 31 March 2020.

Dorset AONB Management Plan 2019-2024 in particular,

C1 – The AONB and its setting is conserved and enhanced by good planning and development

C2 – Landscape assessment and monitoring is effective and supports good decision making

C4 – Development which has negative effects on the natural beauty of the AONB, its special qualities, ecosystem flows and natural processes is avoided

3.5 In the preamble to the policies of the adopted Local Plan it states that “The aim of the Purbeck Local Plan is to protect Purbeck’s distinctive character whilst improving the quality of life for the local community. The natural and historic assets of the area will be protected, whilst continuing to manage effective recreational access and use.”

It goes on to say that “New development will have high standards of sustainable design and respond positively to Purbeck’s rich diversity of local architecture, beautiful landscape and wealth of wildlife.”

In relation to its Environmental objectives, it says it will “Conserve the outstanding character and distinctiveness of Purbeck's coastline, countryside, cultural heritage and settlements.”

In relation to its Economic objective, it says it will “Promote a prosperous and diverse local economy”.

Other Material Planning Considerations

National policy and guidance

3.6 National Planning Policy Framework (December 2023)

Section 2: Achieving sustainable development,

Section 4: Decision-making,

Section 6: Building a strong, competitive economy

Section 12: Achieving well-designed and beautiful places,

Section 15: Conserving and enhancing the natural environment

4. PLANNING CONSIDERATIONS

4.1 The main issues for consideration are:

- Whether the proposal constitutes “major development” in the National Landscape
- Whether the proposal results in unacceptable harm to the National Landscape and the reasons for such a designation.
- Whether the proposal results in unacceptable harm to the character of the area and the Heritage Coast
- Whether the proposal is of an acceptable design
- Whether the proposal would result in harm to protected sites
- Whether C3 Housing is an acceptable use

Whether the proposal constitutes “major development” in the AONB

4.2 The Planning Practice Guidance (PPG) advises that within AONBs (now National Landscapes):

“The National Planning Policy Framework makes clear that the scale and extent of development in these areas should be limited, in view of the importance of conserving and enhancing their landscapes and scenic beauty.”

The PPG outlines the statutory duties of local planning authorities in relation to Areas of Outstanding Natural Beauty. Section 11A(2) of the National Parks and Access to the Countryside Act 1949 and section 85 of the Countryside and Rights of Way Act 2000 require that ‘in exercising or performing any functions in relation to, or so as to affect, land’ in National Parks and Areas of Outstanding Natural Beauty, relevant authorities ‘shall have regard’ to their purposes for which these areas are designated.

The National Planning Policy Framework makes clear that the scale and extent of development in Areas of Outstanding Natural Beauty /National Landscape should be limited, in view of the importance of conserving and enhancing their landscapes and scenic beauty.

All development in National Parks, the Broads and Areas of Outstanding Beauty will need to be located and designed in a way that reflects their status as landscapes of the highest quality. Where applications for major development come forward, paragraph 183 of the Framework sets out a number of particular considerations that should apply when deciding whether permission should be granted.”

4.3 In my opinion the appeal proposal should be properly categorised as Major Development because:

- The site is located in a very sensitive part of the designated landscape and the proposal would, as a result of its scale, form and massing, have significantly adverse impacts on the National Landscape and the purposes for which the area was designated. These are set out in more detail in Ms Ede’s Proof.
- The appeal development proposes an increase in floorspace of more than two and a half times the existing. This growth is achieved by increasing the height of the new buildings, adding basement/lower ground floorspace, and by utilising areas where buildings are not currently located, within central and peripheral parts of the site area. The proposals would result in a significant intensification and expansion, both upwards and outwards, with some buildings and structures being proposed in very close proximity to the site boundary. The nature and scale of the development is significantly greater than the existing hotel buildings.

4.4 Para 183 of the Framework states that “Consideration of such applications should include an assessment of:

- (a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- (b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
- (c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

4.5 Taking each of these tests in turn:

(a) The supporting text to Policy EE4 - Supporting vibrant and attractive tourism – states that Tourism and related revenue is key to the South West region's economy. I fully acknowledge that the proposal would bring significant investment into the site. The provision of a high-quality luxury resort meets the overall aims of the tourism strategy and the appeal proposal would provide high quality accommodation. It would also provide all year-round tourism as opposed to the current arrangement of only operating seasonally. The inclusion of self-catering villas and apartments would allow the resort to appeal to a wider range of visitors including families, a clientele that tend to spend more in the local economy than older retiree visitors.

(b) Given that there is already an existing hotel on the site, it would be unreasonable to insist on the development being located outside the National Landscape. This being the case, the development could not be located outside of the National Landscape and the second test is considered to have been satisfied.

(c) Overall, the impacts are assessed by the appellant in a very positive light within the submitted LVIA, which finds that the proposal will have a major positive impact on the AONB. However, Ms Ede's conclusion, and that of the Council's AONB Team and Natural England, identify the majority of impacts as being adverse. I agree with their analysis and conclusions. Attempts to moderate the negative of the impacts of the proposed development such as reducing the scale of the development from that originally submitted and proposing landscaping have not reduced the negative impacts to an acceptable level.

- 4.6 No measures are proposed to enhance the National Landscape as required by Policy E1 and paragraph 182 of the Framework. The proposal therefore fails to conserve and enhance the natural beauty of the National Landscape.

Do Exceptional circumstances exist?

- 4.7 For this appeal to be allowed, given that the National Landscape must be given the highest level of protection, it would need to be demonstrated that exceptional circumstances exist and that it would be in the public interest. No exceptional circumstances have been identified. There is no need for the development in terms of national interests and although there would be benefits to the local economy in approving the proposals, the detrimental effects on the environment as outlined in this and other proofs put forward by the Council, shows that there are significant constraints in terms of environmental protection. Additionally, mitigation measures have not been adequately demonstrated which could be put in place to moderate any residual effects.

The appellant has not put forward any measures nor has the Council identified any such measures which might accrue from the proposed development such that the proposal would be in the public interest. For the avoidance of doubt, I do not consider that the benefits of the scheme I have outlined in this Proof amount to public interests. These are very stiff tests, and on the basis of the submitted evidence, I do not consider that the appeal proposal meets those requirements.

Heritage Coast

- 4.8 The defined heritage coast overlaps with the land designated as part of the Dorset National Landscape. The site also lies within the Dorset Heritage Coast. Whilst named 'coast', parts of the heritage coast can extend inland up to 5km. In the case of the application site, the heritage coast extends inland to west to Foxground Plantation, near Rempstone. It includes all of Studland Heath, Godlingston Heath and Ballard Down.
- 4.9 Heritage Coasts are designated to preserve their special character. Paragraph 184 of the NPPF states that "Major development within a Heritage Coast is unlikely to be appropriate, unless it is compatible with its special character." The proposals fail to respect the character of the Heritage Coast. As such the proposal further fails to comply with Policy E1 of the adopted Purbeck Local Plan and paragraph 184 of the NPPF.

Whether the proposal results in unacceptable harm to the National Landscape and the reasons for such a designation.

- 4.10 Ms Ede has concluded that

"When the magnitude of change of the proposals is considered alongside the high and very high sensitivity of the landscape receptors, the overall level/significance of effect would be Major Adverse for the Site and AONB Special Qualities and Minor to Moderate Adverse." I agree with that conclusion and consider that this represents a significant level of landscape harm.

Impact on the character of the area

- 4.11 The site covers an area of 2Ha and is located 400 metres inland of Studland Bay. The site is immediately bordered to the east by the B3351 Ferry Road, with land associated with the hotel beyond, accommodating an informal golf course, tennis courts and space for informal recreation. To the immediate south are open fields and to the west and north are heavily wooded areas. These areas fall within a leasehold from the National Trust, but have been, and continue to be, managed by the Hotel. The site is located outside of the settlement boundary for Studland, in an isolated location along Ferry Road some 170m from its nearest neighbour. It is therefore located in open countryside in planning policy terms. The appeal site forms part of the rural landscape. The spatial strategy seeks to protect and reinforce the character and local distinctiveness of the surrounding area. Although buildings have evolved and grown over time, natural features such as the site's topography as well as tree cover and vegetation prevail over the limited presence of built form. I consider that the overriding character and appearance of the area is rural. Paragraph 180 of the NPPF requires that "Planning policies and decisions should contribute to and enhance the natural and local environment by:

- (a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan)
 - (b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
 - (c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
- 4.12 The substantial scale, form and massing of the proposed development, as well as the significant amount of hardstanding would adversely erode the existing undeveloped character and sense of spaciousness. The buildings and structures would occupy a considerable extent of the appeal site such that built form would be dispersed across most of the site. As such, upper parts of the buildings would be visible from surrounding vantage points and in the foreground on the approach from Ferry Road. This would contrast harmfully with the existing spacious setting between buildings and their relatively low height.
- 4.13 The proposal would result in the loss of protected and other trees which form a key feature of the existing site and an important component in the setting of the site within the area. The proposed development relies heavily on retained and proposed trees. However, as is explained in Mr Douglas' Proof, there is very serious concern that, given the spread of development across the site and the very extensive earthworks proposed, these trees are at risk of not surviving or not establishing successfully. As submitted, the proposals lack of evidence adds weight to the concerns regarding landscape impacts, as there is doubt regarding the deliverability and long-term retention of mitigation. This is contrary to Policies E1 and E12 of the Purbeck Local Plan.
- 4.14 In her Proof, in Section 7, Ms Ede details the numerous ways in which the proposed development would have a serious deleterious impact on the existing rural character of the area. I fully concur with her findings and conclusion.

Design

- 4.15 Policy E12 states that the Council will expect proposals for all development and other works to demonstrate a high quality of design that, inter alia, positively integrates with their surroundings.

The existing hotel is a relatively modest set of buildings albeit that it has been the subject of a number of alterations and extensions over the years which are non-descript in their design and form and have not received up to date maintenance. Despite this, the hotel sits relatively lightly in its setting, taking advantage of the site's contours to limit the impact and prominence of the buildings in the wider landscape.

The domestic origins of the main building can still be seen, particularly in the front elevation presented to Ferry Road. The containment of the existing built form by way of its modest scale and height, the site's existing topography and contours and the existing tree cover would be lost by its replacement with the development now proposed.

In particular:

- The proposal includes development along all boundaries of the site and introduces new relationships between development and the countryside, particularly regarding the southern boundary which adjoins open countryside and is highly visible from an adjacent PRoW.
- The proposed built form is located very close to existing boundaries, allowing insufficient space for landscaping and relies heavily on landscaping outside of the appeal site to screen or reduce the impact of the proposed buildings.
- The height of existing buildings on site respects the contours of the land, with higher buildings on lower parts of the site. The proposed plans significantly increase the amount of built form on the site and significant earthworks would take place to facilitate the proposal. The roofline, particularly along Ferry Road, would no longer reflect the underlying land levels but rather be generally continuous along the length of the frontage, with increases in height either side of the retained façade. This approach results in a much more dominant scale of building at the northern end of Ferry Road. It also reduces the prominence of the retained façade in comparison to the existing buildings. The near continuous glazed frontage to Ferry Road is out of character with its rural location.
- Overall, the proposed development would introduce buildings of a much more urban character, with significant levels of glazing, at odds with its rural setting. It is proposed to build a decked car park along the southern boundary which would essentially level the 'ground floor' within the site (with a second tier of parking underneath). This would raise parking above existing ground levels to the south-west of the site where the tiered parking would be enclosed behind an approx. 4.4m (max) 'green wall'. The approach along the southern elevation of the site would increase the scale and bulk along this edge.
- The addition of balconies, terraces, swimming pools and vehicle movements adjoining the adjacent countryside to the south would intrude upon the rural character of the hotel's surroundings.
- To the rear of the site a mass of three storey, terraced villas would be positioned at the uppermost point of the site, with earthworks taking place to provide a consistent ground level and to provide under-croft parking. These villas introduce bulk and height in a part of the site which is currently predominantly without built form. The grouping of villas in a single terrace is unrelenting and creates a very dominant and urban feature. Submitted images demonstrate that the three-storey villas would be a prominent feature rising above development in the foreground when viewed from the adjacent PRoW.
- The core of Knoll House Hotel, particularly the frontage to Ferry Road, still retains charm. While the appellant has attempted to incorporate the existing facade into the new building by retaining existing columns, I do not consider that this has been successfully achieved. The columns sit uncomfortably in the very modern façade and the existing frontage's distinctive roof lantern is lost in the new design.

- 4.16 Whilst it is clear that the appellant has thought carefully about the design approach, my concern is of a fundamental nature and so, whilst design measures (such as the use of green roofs/walls and timber cladding) may go some way to reducing the degrees of harm, they would not negate them altogether.
- 4.17 Having reviewed the Proofs of Evidence of Joanna Ede and Andrew Douglas I consider that the distinctive characteristics of the protected landscape and the character of the area would be harmed by the development.
- 4.18 This amounts to harm contrary to Policies E1 and E12 of the adopted Local Plan and the guidance set out in Sections 12 and 15 of the Framework and I consider that substantial weight should be given to this conflict.

Whether the proposal would result in harm to protected sites

Policy E8: Dorset heathlands

- 4.19 As part of the appeal development 44No. self-catering units are proposed to be provided as C3 dwellinghouses. I note that the proposal states that the accommodation is for "tourist accommodation" but the application form itself refers to market housing and the net gain of residential units. The Appellant's Statement of Case also states that "the proposed use could technically fall within Use Class C3 (at para. 7.24). I agree with that analysis. Although the description of development refers to "tourist accommodation", tourist accommodation is a very broad term, and in any event that is inconsistent with what is proposed both on the application form and in substance are new residential units. The Operations Report for example refers to the way this resort will be operated and compares it to other examples which are similar to this proposal which contain a mix of "self-contained accommodation". Having reviewed the plans submitted which show the villas and apartments, they have all the facilities which would be sufficient to allow the villas and apartments in particular to be used as residential dwelling-houses in Use Class C3: i.e. they appear to be self-contained residential units. This is despite the Operations Report in parts appearing to assert otherwise (I do not understand how a "kitchenette" for example is any different to a kitchen, which is how the Operations Report refers to them).

4.20 I understand that the Appellant has indicated it would be prepared to agree to a blue pencil test in a planning obligation constraining the accommodation in question to either C3 or C1 use (and I assume a condition restricting it to C1 use). I have some concerns over the practicability of enforcing any obligation or condition which limits this accommodation to C1 use, given that the villa and apartment accommodation is clearly configured to be self-contained residential units on the application plans. That would require an amendment to the application because it is not what has been sought on the application form and it would be inconsistent with it. I accept that whether or not such an amendment can lawfully be allowed at this appeal stage is ultimately a legal question, but from a planning judgment perspective I consider that such an amendment would constitute a substantial difference to what has been applied for (i.e. it does not meet the substantive limitation on amending a proposed scheme described in the PINS Procedural Guide at para. 16.3 (which refers to the *Holborn Studios Ltd v Hackney* case).

For the avoidance of doubt, I address below the planning implications should the proposal be considered to be market housing in Use Class C3 in a separate section below.”

- 4.21 The Dorset Heathlands Planning Framework 2020 – 2025 SPD restricts C3 dwellings within 400m of the heathlands. The SPD advises that additional residential development within 400 metres of the Dorset Heathlands is likely to have a significant effect upon the designated site, either alone or in combination with other developments and that this cannot be mitigated.
- 4.22 The proposal is contrary to the adopted SPD in this respect and substantial weight should be given to this conflict. Further evidence on the harm to the Dorset Heathlands as a result of the proposed C3 is provided in the Proof of Mr Rendle.
- 4.23 The Council has given consideration to proposed restrictions which could be placed on the C3 accommodation, through planning condition or obligation. The appellant has recently suggested that all of the proposed accommodation to be provided would be for C1 use only. However, this would conflict with the information provided on the submitted application form and supporting information and was not the basis on which the Council considered the application. At the time of writing, the Council had not been any suggested obligation or condition which would adequately secure a C1 use only.
- 4.24 As a C3 residential use, the proposal would clearly be prohibited as that would be contrary to Policy E8 and the SPD. For that reason also, the Council must consider that the proposed development, in the event that permission was granted, as providing C3 dwellinghouses and accordingly, assess the proposal against adopted housing policies.

The principle of introducing a C3 Use

- 4.25 If the proposal is for C1 tourist accommodation with ancillary dining and spa facilities (as provided for in the description of development), which limits their use to hotel guests only, then the proposal could be compliant with Policy E8 subject to strict controls. However, for the avoidance of doubt, if the proposal is for a resort type development which would attract members of the public to the spa and restaurant, for example, as a wider tourist facility, then an assessment of the impacts on the Dorset Heathlands would need to be made, which is provided for by E8 which requires an assessment on a case-by-case basis. The different impacts for the differing operational use of the tourist facility are explained in Mr Rendle's Proof.
- 4.26 Policy V1 sets out the overarching spatial strategy for development in Purbeck, within the context of the settlement hierarchy. It directs new housing to existing towns and villages. Outside of these areas it says:
- “High quality **small scale** (my emphasis) development on unallocated sites within the boundaries of settlements listed in the hierarchy or on small sites, outside the Green Belt, adjoining existing settlement boundaries of towns, key service villages, local service villages and other villages with a settlement boundary will be supported where:
- the scale of development is proportionate to the size and character of the existing settlement;
 - development does not harm the character and value of any landscape or settlement either individually or
 - cumulatively through the size, appearance and layout of proposed homes; development contributes to a mix of different types and sizes of homes (as specified in relevant policies); and
 - development would not have an adverse effect on the integrity of sites within the national site network (including European sites).”
- 4.27 The appeal site lies outside a settlement in the open countryside, would harm the character and value of the protected landscape and would have an adverse effect on the integrity of sites within the national site network (including European sites). The proposal would therefore not comply with the objectives of Policy V1.
- 4.28 For the purposes of Footnote 7 of paragraph 11 of the NPPF, as the site is located in a designated area, the presumption in favour of sustainable development does not apply. Furthermore, the Council can demonstrate a 5 Year Housing Land Supply for the Dorset area as confirmed by the Annual Position Statement dated XXX. This was upheld by an Inspector in a recent appeal decision.

Policy EE4 Supporting vibrant and attractive tourism

- 4.29 This policy states that “Development opportunities to enhance the visitor economy will be supported where they are of a scale, type and appearance appropriate to the locality and provide local economic benefits.” It acknowledges that Tourism and related revenue is key to the South West region's economy and that Purbeck’s attractive designated landscapes, towns and villages make the area popular with visitors but is also sensitive to the pressures that tourist activities can cause.
- 4.30 Outside settlement boundaries the Council will permit:
- ii. *limited new development that is closely related to existing buildings*
- but caveats that provided that:
- a. the impact of proposed development on the national site network (including European sites), alone or in combination with other existing and proposed development, will be screened for likely significant effects under the Conservation of Habitats and Species Regulations (amended) (EU exit), 2019 and/or any equivalent relevant legislation or regulations. Where there is a probability or risk of a significant effect, the proposed development will be subject of an appropriate assessment (taking into account the lifetime of the development). Development proposals should, therefore, be accompanied by information reasonably required to undertake an appropriate assessment, and demonstrate how the development will avoid or otherwise mitigate any adverse impact on the integrity of any relevant site(s) in the national site network; and*
- b. it does not result in harmful impacts upon local services and the capacity of roads and other infrastructure; and*
- c. the scale of any proposed buildings, and nature of the development does not harm the character and value of any landscape or settlement potentially affected by the proposals, and avoids any adverse impact to the amenity of neighbouring uses; and;*
- d. it can demonstrate that it would result in benefits for the economy of Purbeck; and*
- e. If located within the Dorset National Landscape or green belt, would meet the requirements of national policy as well as clauses a-d above.*
- 4.31 The appeal site is located outside any settlement boundary. Given that the appeal proposal involves the complete demolition of existing buildings it cannot be said to comply with Policy EE4 ii above. Neither does it comply with the requirements of a, c and e above. It is acknowledged that the proposal would result in benefits for the economy of Purbeck, but overall, I find that it would not comply with Policy EE4 and significant weight should be given to this conflict.

- 4.32 Policy H11: Affordable housing requires all new residential development, including residential elements of mixed-use schemes to provide affordable housing. On brownfield sites which provide more than 10 dwellings the requirement is for 30% on site. The Housing Enabling Team do not think this is the right location in Studland for affordable housing and would look for a financial contribution that would be spent to provide affordable housing in the Purbeck Local Plan area. This is because of the site's location away from the village centre, along a road with no pavement and no lighting and very limited public transport. There are no schools in Studland and limited facilities. This means households living in this location would realistically need a car and would need to do a lot of travelling.
- 4.33 If the 44 villas and apartments are classed as additional housing then the affordable housing contribution would be as follows:

Proposed: 44 homes in the Coast sub market area

Proportion of a dwelling that the applicant must provide as a financial contribution = 30% of 44 = 13.2 dwellings

Equivalent contribution of 10% of smallest market home (using a 2 bed flat as example) = £14,500 (which is 0.1 of a home)

£14,500 x 132 = £1,914,000.

In order to be compliant with Policy H11 the appellant would need to enter into a s106 agreement to secure this and no such agreement has been offered. The appeal proposal therefore fails to comply with Policy H11.4.32 Policy H14: Second homes. New housing in the Dorset National Landscape will only be supported where there is a restriction in perpetuity to ensure that such homes are occupied only as a principal residence. Should the Inspector be minded to allow this appeal a suitably worded condition restricting the 44 No C3 dwellings could ensure compliance with this policy.

Surface Water management

- 4.34 Since the application the subject of this appeal was determined the appellant has submitted further information in an attempt to address Reason for Refusal 3. This has been assessed and no objection is raised by the Lead Local Flood Authority, the Council's Natural Environment Team or Natural England.
- 4.35 However, as the implementation of this drainage scheme relies on land outside the redline of the application site this will need to be secured through a S106 obligation.

Biodiversity

- 4.36 The Biodiversity Plan, as recently amended by the Appellant, fails to ensure that there would be no effect on the assemblage of bats and nightjars on or around the appeal site and therefore the proposal fails to comply with Policy E10 and paragraphs 180 and 186 of the NPPF. Further details are outlined in Mr Williams Proof.

5. RESPONSE TO THE APPELLANT'S STATEMENT OF CASE

5.1 In response to the Appellant, I note the following:

In relation to Issue 1 – The Principle of Development

5.2 At paragraph 7.4 of their Statement of Case the appellant says:

“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.”

There is no dispute between the parties that the principle of the redevelopment of the existing hotel for tourist accommodation is acceptable. It is also accepted that the existing buildings are tired and in need of refurbishment. The retention and upgrading of the existing hotel business is supported in principle. Policy EE4 Supporting vibrant and attractive tourism is supportive of opportunities to enhance the visitor economy, subject to meeting various criteria. However, I do not consider that this can be a justification for the scale, form and massing for the development now proposed.

In relation to Issue 2 – Design Concept

5.3 At paragraph 7.4 of their Statement of Case the appellant says:

“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. 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”.

I disagree that the design concept adopted by the appellant is “appropriate for the locality and represents high quality sustainable design” or “that the scale and mass of the proposal is acceptable in its context, including in respect of landscape and visual effects”. (Paragraphs 7.7. and 7.8 of the Appellant's SoC).

The application site is located beyond the village settlement of Studland in the open countryside. Policy E1 states that “The Council attaches great weight to conserving and enhancing landscape and scenic beauty in the Dorset National Landscape. The scale and extent of any development within these designated areas will be limited.” It goes on to say that “Development that significantly adversely affects the character, or visual quality, of the local landscape or seascape, in protected areas will not be permitted”.

In relation to Issue 3 – Landscape Effects

5.4 At paragraph 7.11 of their Statement of Case the appellant says:

“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.”

The appellant has significantly downplayed the impact of the proposal on the National Landscape and the character of the area. The effects of change are also underrepresented. The appellant relies heavily in their assessment that an overall reduction in the maximum overnight occupancy of the hotel complex by guests and equates that with a likely subsequent reduction in adverse recreational impacts. However, this significantly underplays the impact of the large replacement buildings and facilities now proposed on the landscape and on the rural character of the area.

This is particularly significant in such a sensitive part of the National Landscape.

5.5 At para 7.14 of their Statement of Case the appellant says:

“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.”

I agree “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”. However, I fundamentally disagree with the appellant’s conclusion that the proposal is not considered to be Major Development in the context of NPPF paragraph 183.

Footnote 64 says that “For the purposes of paragraphs 182 and 183, whether a proposal is ‘major development’ is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined. The size of the development is not the defining factor as to whether an application is major, but rather its impacts.”

For the reasons set out in paragraphs 4.3 - 4.5 above I consider that the appeal proposal is Major Development in the context of paragraph 183 of the NPPF.

In relation to Issue 4 – Impact on European Designated Sites

5.6 At paragraph 7.17 the Appellant says “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 Poole Harbour are also referred to without justification.” In response, I would say that there would be effects by way of recreational pressure on Poole Harbour but these could be mitigated by contributions. However, if the development is classified as a C1 use there would be no CIL liability and therefore that mitigation would need to be secured through other means.

5.7 At paragraph 7.18 the Appellants says “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.” These can be agreed to the extent that they relate to actual numbers of people staying overnight at the site. However, the relevant impacts of individuals on site are disputed.

- 5.8 At paragraph 7.18 the Appellants says *“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.”*
- 5.9 At paragraph 7.22 the Appellant says “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.” I disagree agree with this conclusion. As explained in more detail in Mr Rendle’s Proof, the relative impacts both between the use classes and whether the proposals facilities are ancillary to a C1 use or available to the public more widely, demonstrates that there would be very different impacts on the protected sites.

In relation to Issue 5 – Surface Water Management

- 5.10 The revised Drainage Strategy submitted by the Appellant is agreed save for certainty around its implementation and continuation in perpetuity. This could be addressed in a s106 obligation.

In relation to Issue 6 – Lack of Biodiversity Plan

The Appellant has submitted a revised a Biodiversity Plan. This has been assessed by the Council, but it is not possible to accept its conclusions around the lighting impacts of the proposed development. Further details are set out in the Proof of Mr Williams. Therefore RfR 4 has not been overcome and therefore the proposal fails to comply with Policy E10 of the adopted Local Plan.

- 5.11 .

6. THE BENEFITS OF THE SCHEME

- 6.1 It is acknowledged that the ageing condition of the fabric of the hotel and its facilities require the business to operate at lower value. It is agreed that the regeneration of the hotel would deliver a high quality tourism facility.
- 6.2 It is further acknowledged that the appellant has reduced the quantum of development proposed from the previously refused scheme and during the course of consideration of the application the subject of this appeal (particularly the reduction in height of the proposed villas). It is also acknowledged that the ‘fabric first’ approach to construction would mean achieving a higher standard and more sustainable buildings for the future. Other sustainable strategies to be implemented such as providing green roofs for enhancing biodiversity and carbon sequestration and the reduction and attenuation of surface water run off through absorption by green roof substrate are welcome.

- 6.3 The economic benefits of the proposed development would be significant. The Environmental Statement submitted with the planning application details that significant investment would be made during the construction process with a £40 million spend on construction and significant investment of nearly £5 million in wages. After construction, the hotel would employ 152 jobs, generating £2.7 million in wages and 21 jobs supported by £3.3 million of supplier spend, generating £0.5 million in wages. Outside the hotel, nearly £2.5 million would be generated by visitors every year supporting 60 jobs. In addition, the Environmental Statement identifies indirect benefits including moving away from seasonal work, an increase in the quality of job providing career progression opportunities, increased confidence in the area, the creation of higher quality tourism in the area and the provision of good quality leisure facilities in the area. The development is also liable for a Community Infrastructure Levy payment (CIL), calculated at approximately £1,217,555 if planning permission is granted after 1st January 2025.
- 6.4 Tourism Strategy for Purbeck (2008), which proposes that development which will help to diversify Purbeck's accommodation and attraction assets to meet tourism trends should be considered in appropriate locations. The proposed redevelopment of the Site provides the opportunity to enhance an existing site of hotel accommodation by not only improving the quality for the accommodation on offer but also diversifying the accommodation types available for guests. This diversification will provide added flexibility for guests and respond better to the tourism market demand.
- 6.5 The benefits outlined above are significant and should be given significant weight in the planning balance.

7. PLANNING BALANCE

- 7.1 Pursuant to section 38(6) the relevant question is whether the proposal accords with the development plan considered as a whole.
- 7.2 It is acknowledged that there is an existing hotel business operating from the site and I recognise that there would be significant benefits arising from the appeal scheme. The hotel provides employment and contributes toward fostering the economic and social wellbeing of the local community as set out in Paragraph 88 of the NPPF and Policy EE4 of the Local Plan. I attach substantial weight to these benefits.
- 7.3 I therefore acknowledge that the proposal draws draw policy support from this particular policy. However, in my view this is a case where policies in the development plan pull in different directions (for the reasons I have outlined above in relation to conflicts with policies V1, E1, E5, E7, E8, E10, E12, H2 and H11). As such I have sought to identify which policy is the dominant policy i.e. which is the one to which the greater weight should be given (see for example *R(on the application of TW Logistics v Tendring DC)* (CD6.001). That includes assessing factors such as the importance of the policies and the extent of compliance.
- 7.4 In my view, it is clear that greater weight should be attached to the policies in the local plan which protect landscape. My reasons for this are as follows:

- 7.5 First and foremost, those policies reflect the national importance ascribed to National Landscapes as set out in paras 182 and 183 of the NPPF. Those policies prescribe an exceptional circumstances test. It would undermine that test if policy EE4 could, even if the exceptional circumstances test is not met, nonetheless be ascribed greater weight than the local plan policies for the purposes of assessing compliance with the development plan as a whole. In my view, due to the conflicts with Policies E1 and E12, I consider that it is clear the proposal does not comply with the development plan as a whole.
- 7.6 In terms of whether or not the benefits of the scheme outweigh that conflict, I do not consider that this is the case.
- 7.7 Relevant to the question of weight to be attached to the conflict with the development plan set out above is the fact that the proposals clearly conflict with the aims and objectives of the NPPF, especially paragraphs 182 and 183.
- 7.8 The Framework requires that for planning decisions in National Landscapes, permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. The Local Plan has also adopted policies to achieve these aims. No exceptional circumstances have been established and no public benefits identified. I consider that the appeal proposal, which would result in harm to the character of the area, fails to ensure that there would be no detrimental effect upon the environment and natural landscape and would not be compatible with the special character of the Heritage Coast, would also be contrary to the Framework.
- 7.9 I acknowledge the benefits of the scheme as outlined above. They include the following:
- The substantial economic benefits during construction and during the life of the proposed development;
 - The provision of high quality and diverse tourist accommodation
 - The replacement of outdated buildings with those of a more sustainable construction
- 7.10 I also acknowledge that the Paragraph 88 of the NPPF states that “Planning policies and decisions should enable
- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, beautiful new buildings; and c) sustainable rural tourism and leisure developments which respect the character of the countryside.
- However, the economic benefits I have identified clearly above do not outweigh the conflict with a number of the policies in the development plan which I have identified above.
- 7.11 I therefore do not consider that, for the purposes of section 38(6) PCPA 2008 (as amended), there are material considerations that outweigh the conflict with the development plan as a whole.

8. CONCLUSION

- 8.1 I consider that that the appeal proposal would significantly harm the character of the area and fails to conserve and enhance the National Landscape, contrary to Policies V1, E1, E7, E8, E10, E12, EE4, H2 and H11 of the adopted Local Plan, and those parts of the NPPF which seek to conserve and enhance the natural environment and require good design.
- 8.2 Overall, in my view, the appeal proposal fails to accord with the development plan taken as a whole, and no material considerations of sufficient weight have been identified to outweigh this conflict.