



Appeal Decision

Inquiry held on 2-5 July 2019

Site visit carried out on 2 July 2019

by Zoe Raygen Dip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th July 2019

Appeal Ref: APP/Y9507/W/19/3223613

Paris House, Frenchmans Road, Petersfield GU32 3AW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr S Paull of Yourlife Management Services Limited against the decision of South Downs National Park Authority.
 - The application Ref SDNP/18/03309/FUL, dated 20 June 2018, was refused by a notice dated 19 December 2018.
 - The development proposed is the erection of assisted living/extra care accommodation with communal facilities and car parking.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 2 July 2019, during the course of the Inquiry, the South Downs Local Plan 2014-2033 (SDLP) was adopted. This replaces the East Hampshire District Local Plan: Joint Core Strategy 2014 and the East Hampshire District Local Plan: Second Review 2006. Together with the Petersfield Neighbourhood Development Plan 2013-2028 made in 2016 (PNDP), the SDLP forms part of the development plan for the South Downs National Park Authority (SDNPA).
3. The notes of a pre-application meeting on 9 January 2018 show that the SDNPA drew the appellant's attention to emerging Policies within the SDLP. They are also referenced in the SDNPA's reasons for refusal, were discussed at the Inquiry and are referenced in the appellant's closings. I am satisfied therefore that the interests of the appellant have not been prejudiced by the adoption of the SDLP during the Inquiry.
4. Matters relating to a potential conflict of interest in respect of witnesses for both the SDNPA and the appellant were brought to my attention. Firstly, Miss Kiwanuka, a witness for SDNPA, works for East Hampshire District Council (EHDC) and advises the SDNPA on economic development matters. The appellant alleges that this creates conflict with the role of EHDC as a prospective purchaser of the appeal site. Mr Ferguson referred to this possibility in a pre-application meeting¹ and indicated that the District Valuer or other independent body may need to be involved to consider the marketing

¹ P5.3 Minutes of meeting 9 January 2018

and viability testing undertaken by the appellant. However, it was explained at the Inquiry that Miss Kiwanuka is bound by a Code of Professional Conduct and her role is to gather evidence and present it to the SDNPA as a consultee in the process. She is removed from the bid making process of EHDC through “Chinese walls” within the organisation. Mr Ferguson also confirmed that at the time of the pre-application meeting he was unaware of individual roles within EHDC. Subsequent legal advice had confirmed that there would be no conflict of interest.

5. The SDNPA allege that as Alder King is acting both for the appellant as developer of the appeal site, with representatives attending pre-inquiry meetings with the SDNPA, and the landowner in undertaking the marketing for the appeal site there is an inherent conflict of interest. Mr Barefoot of Alder King admitted that although there is a conflict of interest, his Code of Professional Conduct required him to discuss the matter with both parties and for them to agree with the arrangement. Such agreement had been forthcoming.
6. Notwithstanding that there may have been the potential for conflicts of interest, based on the evidence before me, I am satisfied that all parties have acted in a professional manner, in accordance with their Codes of Professional Conduct and that no actual conflict has arisen.
7. Miss Kiwanuka relies on a number of confidential documents within her Proof of Evidence (PoE) and Rebuttal Statement. These are Red Book valuations of the appeal site undertaken by Hurst Warne on behalf of EHDC dated 10 January 2017, 15 May 2017 and 10 December 2018 and reports regarding the viability of the Liphook Ordnance Business Park Scheme undertaken by Savills and AECOM on behalf of Enterprise M3 Local Enterprise Partnership. A supplemental statement was provided by Miss Kiwanuka prior to the Inquiry, outlining that the documents were confidential due to commercial sensitivities regarding a live offer made on the appeal site by EHDC. This was accompanied by a letter from Hurst Warne dated 25 June 2019 confirming the figures contained in the Red Book valuations, and the condition of the building prior to its demolition as recorded during inspection. In addition, a letter dated 18 June 2017 confirming the viability of the Liphook Ordnance Business Park Scheme was submitted by EHDC.
8. In submissions on disclosure, the appellant stated, with reference to the “Ikarian Reefer”² case, that he is entitled to sight of the missing documents. I agree. In the cited case, Point 7 of the “duties and responsibilities of the expert witness” states that where expert evidence refers to photographs, plans, calculations, analyses, measurements, survey reports or other similar documents, these must be provided to the opposite party at the same time as the exchange of reports.
9. In the afternoon of the first day of the Inquiry the three documents authored by Hurst Warne regarding the Red Book valuations of the appeal site were submitted to the Inquiry in a heavily redacted format. I share the concern of the appellant that, without the full information within the reports, he is not able to satisfactorily test the evidence which led to the land valuations. This is reinforced in the letter from Hurst Warne dated 25 June 2019 which states that

² The Ikarian Reefer [1993]2 Lloyd’s Rep.68

“Please note that if you wish to rely on the figures provided then these have to be read in conjunction with our full reports that we have provided”.

10. Despite Miss Kiwanuka’s comments in her supplemental statement, she relies on the Red Book valuations in paragraphs 9.3.3 and 9.3.4 of her PoE to cast doubt on the appellants guide price/market value for the appeal site. As the appellant is unable to readily test this evidence then I have given it no more weight than as an untested written representation in my decision. Elsewhere, at paragraph 8.4.3 of her PoE, she relies on the description of the condition of the building contained within the Hurst Warne report dated 10 January 2017. It seems to me that a description of the condition of the building provided by qualified chartered surveyors and commercial property consultants could be taken at face value. The description was provided within Miss Kiwanuka’s PoE. Therefore, I am satisfied that weight can be given to this element of the report.
11. The confidential reports undertaken by Savills and AECOM referred to in paragraph 10.1.17 of Miss Kiwanuka’s PoE have not been supplied. Therefore, I cannot give them any weight in my decision.
12. In the absence of all of these documents in their entirety, I was invited to place no weight on any of Miss Kiwanuka’s evidence. However, the documents relate to three discrete parts of the evidence as a whole, namely the Red Book valuations of the site prepared for EHDC, the condition of the building prior to its demolition and the viability of Liphook Ordnance Business Park. I have applied appropriate weight to the evidence, given the level and nature of the information supplied and its ability to be tested in the Inquiry. In any case, as will become clear in my reasoning below, my decision does not rely, or turn on, the missing or incomplete documents referred to by Miss Kiwanuka. Therefore, the appellant has not been prejudiced in the determination of this appeal.
13. The SDNPA raised similar concerns regarding the Monthly Enquiries Report December 2017-2019 contained within the appellant’s Marketing Report 2 (MR2), within which the names of the companies enquiring or making offers on the site are redacted, making it impossible for effective interrogation of the list against known interest in the site by EHDC. However, this seems to be a reasonable thing to do given the GPDR legislation. Specific details regarding the nature of the business and further comments are included which, in my view, give enough information to identify whether the enquiry related to employment use or not.
14. The SDNPA decision notice set out four reasons for refusal. Reason No 3 states that in the absence of a completed legal agreement, the proposal fails to secure a financial contribution towards the mitigation of the loss of the site as an employment land allocation through the re-provision of sites elsewhere and local employment initiatives. The SDNPA advised at the Inquiry that Policies in the SDLP do not provide such a basis for requesting a contribution. Accordingly, the reason for refusal was not pursued at the Inquiry.
15. Reason for refusal No 4 alleges that insufficient information has been provided to demonstrate that the proposal incorporates a satisfactory means of managing surface water drainage. However, both parties confirmed that discussions subsequent to determination of the planning application have led to the issue being satisfactorily resolved, subject to the imposition of a suitably worded condition. Having viewed the information, I see no reason to disagree with this approach and the matter was not pursued at the Inquiry.

16. A previous planning application for the erection of 47 dwellings on the appeal site was dismissed at appeal³. The Inspector considered at that time, that the relevant tests of the development plan policies had not been met to warrant the loss of existing employment use and that the development did not demonstrate a high standard of design. That decision is a material consideration.
17. Following the publication of revisions to the Planning Policy Guidance on 22 July, I sought the views of both parties on the new guidance regarding the Effective Use of Land⁴. Comments received have been taken into account in my determination of the appeal.

Main Issues

18. Within that context, the main issues are:

- whether or not there are circumstances that would justify the loss of employment land and its contribution to the supply of employment land within the South Downs National Park (NP) with particular regard to development plan policies and
- the effect of the proposal on the character and appearance of the area.

Reasons

Employment Land

Employment Land Supply

19. The appellant refers to the previous appeal decision and the description by the District Valuation Office of the market at that time as "sluggish at best". This was in relation to most of the transactions in the Petersfield commercial market involving second hand units with an average size of 3,600 sqft, with completed lettings being undertaken after a year of marketing. Furthermore, notwithstanding the availability of land at Buckmore Park for many years that is allocated for employment use, actual employment development has not taken place there to date. Moreover, there is an element of churn in the market. Whilst the SDNPA asserts that a number of properties in the appellant's list of available floorspace contained in its Marketing Report 1 dated June 2018 (MR1) are now occupied, this is because occupiers have moved from other premises elsewhere demonstrating appropriate market churn.
20. Policy BP1 of the PDNP allocates three new sites for employment use within Petersfield, totalling around 3.23 hectares (ha). Together with existing employment sites, including the appeal site, this gives some 27.85 ha of employment land. It is noted though that The Petersfield Employment Land Requirement Final Report 2014 (PELRFR) suggests that at least another 2 ha should be provided to accommodate employment development over the plan period. This, it states, would provide choice and flexibility for existing and new occupiers - without additional supply there are limited opportunities and choices available for new and expanding businesses.
21. Policy SD35 of the SDLP makes provision for 10.3 ha of new employment land based on the evidence contained in the Employment Land Review in 2015

³ APP/Y9507/W/16/3147296 (previous appeal decision)

⁴ Paragraph: 001 Reference ID: 66-001-20190722

(ELR), an update to it in 2017 and a Housing and Economic Needs Assessment in 2017 (HEDNA). The ELR and the 2017 update considered the appeal site and recommended that it be retained as an existing allocation. The 2017 update considered it as part of its brief to make policy recommendations in regard to safeguarding land for employment in the Local Plan or disposal for other uses such as housing. I was advised that some sites were deallocated following the Review, although those decisions were based on their location and neighbouring uses, rather than any viability study. Specifically, the Independent Examiner for the PNDP considered that the appeal site appeared to be suitable and sustainable for residential and office development and that the future of the site would be best guided by the application of Policy BP2 of the PNDP.

22. While development at Buckmore Park may not have progressed, that site is different from the appeal site. It is greenfield and on the edge of the town. Furthermore, the SDNPA advises that reserved matters approval and discharge of conditions are currently being sought, the reserved matters application was only approved in mid-2018⁵ and an application to discharge a condition is ongoing⁶. The warehousing/industrial component of this allocation was sold to an owner occupier and is also currently progressing through the planning system⁷. It should also be remembered that the HEDNA and ELR suggest that employment land is required for the overall plan period, which is some time in the future.
23. This is particularly relevant to Petersfield, which is one of only two relatively small market towns within the NP which has good road and rail links serving as economic and social hubs within the mainly rural landscape. Indeed, Policy SP25 of the SDLP seeks to focus development on existing sustainable settlements within tightly drawn boundaries in order to protect the wider NP.
24. The vacancy rate of business premises at 3.3% is agreed between the parties as being quite tight. The Inspector in the previous appeal decision considered that at that time the evidence was not indicative of a general over supply of employment land in Petersfield. He found that while transactions can take some time to occur, the position then seemed to be of a relatively limited extent of vacancy of business premises and stronger demand for smaller more modern units.
25. Since that time, the SDNPA Annual Monitoring Report 2018 shows that although some 7,810 sqm of employment floorspace has been completed across the NP in the monitoring year 2017/18, as there was also a loss of floorspace, the net gain was only 570 sqm. There was no new floor space in Petersfield but 5,528 sqm remained to be built at Buckmore Park South. Since that time, proposals at Buckmore Park North have been submitted which include 4,730 sqm of employment floorspace. The two proposals provide around 3.72 ha of employment land, which, along with employment land allocations at The Domes and the car park at Frenchmans Road, the appellant believes would provide alternative employment land for the lifespan of the SDLP.

⁵ SDNP/16/05330/REM

⁶ SDNP/18/03072/DCOND

⁷ SDNP/17/05966/FUL

26. The allocations referred to by the appellant may provide the requirement identified in the numerous reports to cater for growth. However, the appeal proposal relates to an existing employment allocation and the business use employment land requirement for Petersfield took account of existing supply, including at the appeal site. The subsequent reports reviewed the Frenchmans Road allocation and found that it should be safeguarded. Its loss therefore, would remove an element of the existing supply of employment land. The development plan policies set out the criteria against which proposals for the loss of allocated employment sites might be justified.

Development Plan Policies

27. Policy BP1 of the PNDP states that planning permission will be granted for appropriate new employment development on a number of sites, including the appeal site, provided it complies with design principles and other relevant Policies within the plan. Applications for alternative uses will not normally be approved.
28. Policy BP2 of the PNDP states that proposals that result in the loss of business floor space, whether through change of use or redevelopment, will not normally be allowed unless it can be demonstrated that the premises are no longer suitable for business use and evidence has been submitted that demonstrates that the property has been actively marketed for at least six months on realistic market terms and it is shown that there is no prospect of new business occupiers being found.
29. Policy SD35 of the SDLP states that all existing employment sites that are fit for purpose will be safeguarded from development proposals for non-employment use. It outlines different scenarios for the length of a robust marketing campaign demonstrating that there is no market demand for the business premises, based on whether the proposal is a change of use or on a designated principal or local employment site. The SDNPA consider that as the appeal site is a local employment site, then 18 months would be required. The appellant, raising issues regarding the wording of the Policy, suggests 12 months may be the requirement. I return to this matter below. Details of marketing requirements are set out in Appendix 3 to the SDLP.
30. Accordingly, there are a number of requirements to be met by the appellant to demonstrate compliance with these policies. These include whether the appeal site could viably be redeveloped for employment purposes and, whether the marketing of the appeal site was sufficiently robust, undertaken for the relevant period of time on realistic market terms and shows that there is no market demand or realistic prospect of new business occupiers being found.

Viability

31. Both parties have undertaken viability appraisals, but with different inputs relating to quantum of floorspace achievable on the appeal site, build costs, developer profit, rental values and yield, thereby reaching opposing conclusions regarding the viability of employment use on the appeal site.

Quantum and use of floor space

32. Mr Barefoot uses three schematic redevelopment layout plans prepared by Eric Cole Architects which reflect a typical build density of 35% (the Eric Cole drawings). These, it is suggested, allow for a good standard of vehicle

- manoeuvring on site, together with planting and car parking. The levels of car parking in particular have been provided in accordance with EHDC car parking standards.
33. This has resulted in two of the layouts having about 100 car parking spaces. It seems to me that such a high level of car parking on a brownfield town centre site, near to facilities and services and the railway station would be at odds with the aspirations in the National Planning Policy Framework (the Framework) to promote sustainable transport and limit the need to travel and offer a genuine choice of transport modes.
34. Mr Ferguson stated that the standard used is from EHDC guidance from 2002 as the SDNPA has no adopted parking standards. They also include reference to the consideration of reduced standards in appropriate circumstances such as accessible locations. He confirmed that the EHDC publication Vehicle Parking Standards Supplementary Planning Document 2018 (the SPD) does not apply to the SDNPA. I note though that the minimum standards are the same in the SPD as those used by the appellant⁸.
35. I understand that reduced levels of parking may affect the rental values achievable on the appeal site. However, a viability appraisal that considers increased floorspace, less parking and consequent evidenced lower rents would have been a more realistic option for this town centre site, rather than a rigid adherence to parking standards and not taking account of guidance at Paragraph 105 of the Framework.
36. I am also aware from the evidence of Dr Burns that local residents raise issues regarding local parking pressure, particularly with regard to the railway station. In addition, Policy HP8 of the PNDP seeks to ensure that new developments provide adequate off-street parking provision. However, this needs to be balanced with the location of the appeal site in an accessible town centre location.
37. Option 1 of the Eric Cole drawings is a headquarters office building, Option 2 a campus style office building and Option 3 a terrace of light industrial/business units. The rental assigned to Option 3 within Mr Barefoot's "Appraisal assumptions and inputs" relates to trade counters and this Option incorporates the lower car parking standard relating to use classes B1 (b) and (c) and B2 within the Town and Country Planning (Use Classes Order) 1987 (UCO). It seems to me therefore that while there is some consideration of uses other than Class B1a in Option 3, it is not clear based on the combination of rental levels and car parking spaces, whether this is Class B1 (b) or (c), B2 or includes potential for B8. Furthermore, there is no consideration of a scheme which could incorporate a mixture of B uses based on the assigned rental values.
38. While I note that Class B1 is defined within the UCO as that which can be carried out in a residential area without detriment to amenities, it does not necessarily follow that a B2 or B8 use would not be acceptable here and this was confirmed by Mr Ferguson.
39. However, paragraph 11.5.2 of the PNDP includes key points for the redevelopment of the Frenchmans Road area, including the appeal site, within

⁸ Miss Kiwanuka's PoE appendix 18

the “town centre vision”. The area is reserved for employment use and seeks to regenerate from existing light-industrial to a more office based environment and explore the potential for the provision of serviced office space for small businesses and start-ups and the possibility of creating a Business Enterprise Centre.

40. I accept therefore, that the PNDP seeks to move towards an office based environment. However, this is an aspiration of the community and is not reflected within the wording of Policy BP2 itself, which seeks to protect existing employment sites. In any event, that would not preclude the inclusion of other uses within the B class or at least a mixture of uses, especially when it is accepted that the established use of the site includes Classes B1, B2 and B8 within the UCO. Moreover, paragraph 2.8 of Appendix 3 of the SDLP requires that the marketing exercise should reflect the existing use of the premises or business in its entirety.
41. That is not to say though that the approach of the SDNPA, regarding floorspace, necessarily finds more favour. Reliance on the provision of a quantum of floorspace similar to that which was previously on the appeal site of about 51% site coverage⁹, notwithstanding the disagreement between the parties of the exact floorspace, seems to me to be optimistic. Even if I were to assume that the lower figure of 50,090 sqft advocated by the appellant is correct, the Paris House layout drawing¹⁰ shows that if this were to be provided as per the previous building on the site, room for the turning and manoeuvring for a HGV would be tight and the number of parking spaces would be limited, particularly for an office based use. I appreciate that more storeys of accommodation could be provided, but I have seen no drawn up scheme to appropriately demonstrate how the amount of floorspace, together with a reasonable level of car parking and room for vehicle manoeuvres could be achieved on the appeal site as suggested by the SDNPA.
42. Comparisons to other schemes in the area are also not helpful. For example, although Ordnance Business Park achieved 55.1% site coverage, it was able to include 63 car parking spaces for 21,905 sqft of accommodation. There were only 65 car parking spaces on the appeal site prior to the demolition of the building on the site, which was over twice the size of that constructed at the Business Park.
43. Reference was made to the total amount of floorspace proposed by EHDC within its pre-bid report prepared by Montague Evans on its behalf (the ME report) of 38,416 sqft. The appellant seemed to suggest that this would be an overdevelopment of the site, which would not allow for the requisite number of car parking spaces. Mr Barefoot estimated that the amount of floorspace over and above that in the Eric Cole drawings would lead to a reduction of about seven or eight car parking spaces. Given my findings on the location of the appeal site then this would not appear an unreasonable amount.
44. I am not passing comment on the suitability of the EHDC scheme. To my mind however, given the existing use of the appeal site and its accessible location, to fully test the viability reference should have been made to a scheme with increased floor space, less parking and consequent realistic rental levels if a reduction in car parking would have a significant impact in this accessible

⁹ Miss Kiwanuka's POE p49

¹⁰ Mr Barefoot's PoE Appendix 9 MR1 Appendix 4

- location. Furthermore, some investigation of different land uses including B2 and B8 uses, together with a mixture of uses would have been appropriate.
45. I heard a lot of evidence regarding the other inputs into the viability tests including build costs and yield levels. However, it was explained to me that if the initial floorspace assumptions are incorrect then, as other inputs are based on these assumptions, the viability report would not be correct.
46. A second series of sensitivity tests by Mr Barefoot sought to illustrate the rental levels necessary to achieve the open market value of the site at £2.5 million. This is a figure that had been the subject matter of an unconditional offer to the landowner. Part 3 a) of Appendix 3 of the SDLP regarding financial viability information required from the applicant states that a valuation of the site in its existing use, and not the "hope value" of alternative uses should be used.
47. The appellant considers that there could be no better evidence of market value than the actual record of what value the market has placed on the site in the bidding process, particularly as bids were not invited on the basis that the site was suitable for high value uses.
48. However, this would not preclude prospective purchasers bidding on the appeal site based on its potential uses. The difficulty is that there is limited information regarding the four unconditional offers received prior to the building being demolished, other than the EHDC offer of £2.1 million pounds was the lowest, with the other offers at, or in excess of, £2.5 million. According to Mr Barefoot, the proposed use for the site in relation to those offers was not disclosed. The monthly Enquiries Report in MR2 shows that of the eight offers received after the building was demolished those for solely employment use are below £2.5 million. Those for non-employment use, or a mixture of uses, are around £2.5 million.
49. On this basis, and in the absence of a suitably tested Red Book valuation of the site before and after the demolition of the building, I cannot be sure that the figure of £2.5 million reflects the value of the land in its current permitted use. Certainly, the bids received after the building was demolished in the region of £2.5 million were not solely for employment use.
50. Reference is made by the appellant to a comparable land sale at Buckmore Park. However, as already mentioned, that is a greenfield site on the edge of Petersfield, and is therefore not directly comparable with a brownfield site in the town centre.
51. While I have made comment on the SDNPA's viability appraisal and initial assumptions, the wording of both Policy BP2 and Policy SD35 means that it is for the appellant to demonstrate that the premises are no longer suitable for business use or fit for purpose. From my findings above I conclude that this has not been appropriately demonstrated by the appellant.

Marketing

52. The previous appeal decision is dated August 2016 and the Inspector at that time considered a Marketing Report which demonstrated that the appeal site had been marketed for in excess of six months and he had no reason to doubt that the marketing exercise has been independent and genuine. In addition, he found that the range of channels used, and likely extent of coverage achieved through these could be regarded as an adequately comprehensive approach.

However, he considered that there was a critical shortcoming in the marketing exercise in the omission of a reference to the opportunity to purchase the freehold. Therefore, he was unable to conclude that there was no prospect of new business occupiers being found.

53. In light of that, I consider that any marketing of the appeal site undertaken prior to August 2016 cannot reasonably be accepted as satisfactory in the determination of this appeal. Following the previous appeal decision, reference was added to the marketing literature to make it clear that the appeal site was being advertised on a freehold and/or leasehold basis and the marketing continued on that basis, undertaken by Daniel Watney as agent for the landowners, until November 2017. This resulted in four unconditional bids being submitted one of which was from EHDC for the use of the then existing building on the appeal site for employment use. Mr Barefoot confirmed that the Council's bid was not the highest at that time. In addition, the three top bidders were not interested in the building, with one stating that their offer would increase if the building was demolished.
54. I heard some evidence on the state of the building at that time, taken mostly from the Hurst Warne report dated 10 January 2017. The report notes that the warehouse part of the building, given its age was in reasonable condition, but the roof was asbestos and significant work and cost were required in the short to medium term. However, as the report was commissioned by EHDC, it is reasonable to assume that it based its offer for the building, on its condition at the time and with a reasonable knowledge of works required to render it to a satisfactory condition.
55. I make no comment on the condition of the building at that time or the decision to remove it, given that it has now been demolished. However, there does not seem to be any good reason why the initial offer by EHDC for the building was not taken up. Whilst there is an email from the landowners stating that it is not being pursued, no reason was given for it not being accepted at that time, other than that higher offers had been made on the site. It seems to me therefore at this stage, that there was a realistic prospect of new business occupiers being found for the building which was not pursued by the landowner.
56. Instead, the appropriate approvals for demolition were received from the SDNPA and the building was demolished between December 2017 and February 2018. Alder King were appointed to "refresh" the marketing campaign.
57. Alder King proceeded to market the vacant site as a cleared brownfield development site from November 2017. It went one step further than the previous marketing campaign and incorporated the Eric Cole drawings into the marketing literature making reference to the availability of employment land. Final and best bids were requested from all interested parties by 25 May 2018, prior to the submission of the planning application the subject of this appeal. However, it was confirmed at the Inquiry that the appeal site continues to be marketed and bids accepted.
58. It is a moot point as to whether the marketing period, for the purposes of policy compliance, should be for 12 or 18 months and commence from August 2016 following the previous appeal decision, or November 2017 when marketing of the cleared site commenced. Either way, at the time of the Inquiry, there had been a marketing period in excess of 18 months thereby

meeting the temporal requirements of Policy BP2 of the PNDP and Policy SD35 of the SDLP.

59. Turning to the matter of whether this has been undertaken on realistic market terms, the SDNPA raise concerns regarding the omission of a freehold price on any of the marketing literature which would have gone towards ensuring transparency.
60. I understand that in the previous appeal decision, the Inspector found that the critical flaw in the marketing exercise was the absence of its availability as a freehold opportunity. However, this does not suggest that a related price has to be advertised - the appellant has supplied details of a number of other local sites that have been marketed without including details of the freehold price on literature. In this instance, I accept the argument that in some circumstances, it is part of a strategy to attract as wide a market as possible to enquire after the site and initiate discussions.
61. Appendix 3 of the SDLP states that premises should be marketed at a price commensurate with market values for the existing use, based on evidence from three recent and comparable transactions and deals involving a similar site and similar terms within the local area. If this is not done, the SDNPA may invite a revised asking price based on an independent valuation by a professional.
62. Although not on the marketing literature, it is stated in the appellant's MR 1 that the guide price, on enquiry, is in the region of £2.5 million pounds. This is based on unconditional offers received prior to the demolition of the building and higher conditional offers (subject to planning), comparable evidence, viability testing and consideration of the original cost to the landowners and its capital growth. At no time, despite a request from the SDNPA, was a Red Book valuation carried out. This seems to be a significant omission, particularly at the start of the process undertaken by Daniel Watney when the availability of the freehold was added to the particulars after the previous appeal decision. The previous appeal decision refers to one freehold offer at that time. Other than that, there do not appear to be any previous offers on which to base a guide price of £2.5million.
63. After the building was demolished, the guide price remained the same. The appellant suggested that there was little requirement for a Red Book valuation as the marketing exercise had already elicited a market value, and the land owners would be unlikely to advertise it at a lower price having already received offers in excess of the guide price.
64. I understand that there have not been at least three examples of similar transactions within the local area in the past twelve months. Therefore, the appellant is unable to meet that requirement of Appendix 3 - the only available transaction is not comparable with the appeal site. Moreover, as Alder King act for the developer as well as the land owner, while individuals may have acted in a professional manner, a valuation from Mr Barefoot, even though he is a Fellow of the RICS could not be described as wholly independent. In this situation, it would have been prudent for the appellant to seek an independent valuation of the appeal site. All in all, I have seen no substantive or tested evidence which leads me to the view that the site has been marketed at a price that is commensurate with market values for its existing permitted use.

65. Where the guide price came from in the first place when the freehold was initially included into the marketing literature under Daniel Watney from September 2016 remains unclear. Even if I were to accept that it is based on offers received, I have already found that they derive from the use of the land for purposes other than purely employment use. It seems to me therefore, that in the absence of a Red Book valuation, or other independent valuation undertaken at the start of the freehold marketing process, that the guide price assigned to the appeal site is based on the value placed on the site by the market of it in use other than in solely employment use. While I accept that the value of the land relies on a number of variables, the use of the site and planning policy associated with that use have to be part of those variables.
66. In the background to the marketing process, the landowners entered into an "Agreement for Sale" with McCarthy and Stone Retirement Lifestyles Limited, the potential developers of the appeal site, dated 30 August 2017 prior to the demolition of the building. Mr Barefoot drew my attention to various clauses within the agreement which mean that the contract would automatically terminate if the landowners receive an acceptable offer for employment purposes.
67. These would seem to be reasonable and essential clauses in any such an agreement where a proposed use would not be in accordance with relevant local Policy subject to marketing and viability evidence. On closer examination of the clauses, it is apparent that the owner may only sell to a party other than McCarthy and Stone for employment purposes. In addition, the owner must provide written evidence of the employment offer to McCarthy and Stone. While the SDNPA considers these to be onerous terms, it seems to me sensible that the appellant, having agreed a land sale which is reliant on demonstrating Policy compliance, has these clauses in. Offers for the purchase of the land for employment use could still be accepted and therefore, based on the limited evidence before me, the situation is different to that on appeal decision APP/M1710/W/15/300325 referenced by Miss Kiwanuka.
68. At the time of the call for final and best bids for the appeal site in May 2018, a number of bids were made, one of which was for a light industrial scheme. Others involved a mixture of employment and non-employment uses and some purely non-employment uses. Furthermore, in March 2019 a further offer from EHDC was made on the land. I accept that the timing of the bid was similar to the appeal being submitted by the appellant and no indication has been given by EHDC as to why a bid was not made by the May 2018 deadline. Nevertheless, both Mr Barefoot and Mr Bendinelli for the appellant confirmed that the appeal site continues to be marketed and is available to purchase. Moreover, the ME report was prepared in February 2019, and it seems unlikely to me that EHDC would invest in the preparation of such a report if its intention to bid was not serious. Despite the appellant stating the company was not aware that Montague Evans had prepared the EHDC pre-bid report, it is clearly stated in the email from EHDC to the SDNPA included in Miss Kiwanuka's PoE.
69. The appellant dismisses the later EHDC offer and that known as Developer Enquiry No 98 as high risk speculative ventures. At the Inquiry, the appellant reported that No 98 is no longer responding to enquiries. Nonetheless, even if that is that case, the offer from EHDC remains on the table as do other mixed use schemes.

70. The MR2 states that the EHDC bid is based on floor space which represents 39% site cover and may compromise carparking and vehicular access and turning. However, I have already found that to be unlikely. In addition, the MR2 states that proposed rental levels within the ME report are higher than those considered to be achievable in Petersfield and that development experience of EHDC is limited and that the other scheme achieved by EHDC was a joint venture with the Local Enterprise Partnership. Concerns are also raised regarding how the scheme would be funded and what levels of authorisation are required. It goes on to state that discussions are ongoing.
71. It seems to me that such considerations of whether a scheme would be acceptable or not goes above and beyond the judgement that the appellant should reasonably apply to any offer made on the land. Mr Barefoot explained that the owners of the land had originally wished to retain the appeal site and make it work as an employment site to provide an income for the pension fund but were unable to viably do so. It was his responsibility therefore to appropriately test bids for the use of the land for employment purposes and report back to his client on whether they were credible. Furthermore, he has a duty to ensure that an appropriate return was made on the site.
72. However, in my view, ultimately if an offer is made on land that is being sold that is acceptable to the vendor then the offer is accepted, and the land sold. It is then up to the purchaser to satisfy any planning requirements, how the project would be funded and its viability.
73. It would have helped if the SDNPA had engaged with the appellant on the marketing process. I accept that the pre-application letter dated 5 February 2018 makes passing reference to the marketing being carried out by the appellant, with Mr Ferguson stating that it is a "more comprehensive approach". However, it also identifies that Appendix 3 of the SDLP should be used as a guide.
74. Various emails have been submitted to the Inquiry by the SDNPA from individuals, including Petersfield Town Council, expressing dissatisfaction with the marketing process. There are also two emails from a Peter Bellion stating that he had submitted an offer on behalf of a developer to purchase the appeal site to carry out a commercial development, but that the offer was rejected as a residential consent was being sought at that time. These latter emails were sent prior to Mr Barefoot undertaking marketing on the property and he stated that he had been told that the individual had not made an offer on the appeal site and that they had been subsequently been contacted and invited to make an offer and none had been forthcoming. Therefore, as the individuals involved at that time were not available to the Inquiry, these emails have not been determinative in my assessment of the marketing exercise.
75. The appellant refers me to an appeal decision¹¹ which he considers support his case regarding the credibility of the marketing exercise. However, there is not sufficient information before me to usefully draw comparisons between the two cases. I have determined the appeal on its own merits.
76. Taking account of all of the above, it seems to me, even if I were to conclude that the marketing had been undertaken on a realistic basis, that given the current and previous offers on the site it has not been demonstrated that there

¹¹ APP/Y3940/W/17/3166946

is no prospect of business users being found, or that there is no market demand, even if this were to be on a mixed use basis. My attention is drawn to a pre-application letter written by Mr Ferguson in this respect, on behalf of the SDNPA, in response to a scheme by Aldi to erect a supermarket and an office unit. The appellant appears to have interpreted the letter as meaning that a mixed use development would not be acceptable. However, the author concludes that the inquirer would need to justify why the mixed use scheme is more appropriate for the site compared to retaining it wholly in industrial use. This is not to say a mixed use development could not accord with relevant Policy, but that the onus is on the applicant to justify why it is more appropriate and satisfactorily demonstrate compliance.

77. Irrespective of the qualifications of the SDNPA's witness on this matter, I have found the appellant's case to be unpersuasive. Therefore, I conclude that in accordance with development plan policies it has not been demonstrated that there are circumstances that would justify the loss of employment land and its contribution to the supply of employment land within the NP. The proposal would therefore be contrary to Policies BP1 and BP2 of the PNDP and Policy SD35 of the SDLP.
78. There is some question raised by the appellant as to the proper interpretation of Policy BP2 of the PNDP with regard to case law,¹² in that the phrases "business use", "business floor space" and "new business occupiers" are not defined, suggesting that the ordinary meaning of the words used cannot be equated with uses solely falling within the B Class of the UCO. The proposed scheme is agreed to create an element of employment and is in a very material sense a "business use". Whilst it is not for me to interpret planning policy, I am mindful in this regard, that the proposal is essentially a residential based use in terms of the UCO, notwithstanding the element of employment, and I have assessed the scheme on that basis. I am mindful in this regard that, Policy SD35 clearly states that the SDNPA will safeguard all existing employment sites and allocations that are fit for purpose from development proposals for non-employment uses where employment is defined with reference to the UCO.
79. The SDNPA also refer to Policy SD34 of the SDLP in its reason for refusal. However, my attention was not been drawn to any relevant part of the Policy and therefore it has not been determinative in my assessment.

Character and appearance

80. The SDNPA's reason for refusal states that the proposed development, by virtue of its siting, scale and design would not be of an exemplary standard of design which would make a positive contribution to the character and appearance of the area and Petersfield nor enhance local distinctiveness and a sense of place in regard to the built form and the NP. It then alleges conflict with a raft of development plan Policies.
81. Policies SD4 and SD5 of the SDLP advocate a detailed 'landscape-led' approach to development proposals in order to respect local character to achieve high quality design that makes a positive contribution to the overall character and appearance of an area contributing to its local distinctiveness. The supporting text to Policy SD5 includes a definition of landscape in its widest sense which encompasses all types and forms, including townscape. Furthermore, Figure

¹² Tesco Stores v Dundee City Council [2012] UKSC 13

- 5.3 demonstrates what a landscape-led approach to design would be, which incorporates a number of elements. The supporting text to the Policy states that this contextual analysis should include considerations, as relevant, of topography, landscape features, historic landscape features, the water environment, biodiversity and other ecosystem services, key routes and street patterns, landmarks, views and vistas, the scale, proportions, pattern and vernacular architecture and materials. The surrounding mix of uses should also inform proposals. It will then need to be demonstrated how the design has been informed through an analysis of the opportunities and constraints of the site, its context, and how it responds positively to these.
82. In my view therefore, even though the appeal site is within an urban area, and therefore has a different character from the wider rural landscape of the NP, the approach advocated by the SDNPA requires a thorough assessment of the existing landscape, which here would include the surrounding townscape, to inform development proposals so that they reflect the context and type of landscape in which the proposal is located.
83. The appeal site is within the town of Petersfield within the NP. The purpose of the NP is to conserve and enhance the natural beauty, wildlife and cultural heritage of the area and to promote opportunities for the understanding and enjoyment of the special qualities of the NP for the public. The SDNPA also has a duty to seek to foster the economic and social wellbeing of the local communities within the NP.
84. The area of Petersfield in which the appeal site is located has a mixed use character with houses located close to commercial uses. This is reflected in the footprint of buildings. Residential properties mainly have a small footprint forming a mixture of mainly detached, semi-detached and terraced dwellings demonstrating a primarily linear form adjacent to the road network. The commercial buildings have a much larger individual footprint. However, they generally do not have significant height, so they are not overly dominant within the street scene, particularly along Frenchman's Road where buildings are mostly set back from the road giving it an open character. This is enhanced by green verges and a number of trees and shrubs adding a verdant appearance to the street. Tilmore Brook runs through the appeal site near to its eastern and northern boundaries. The overall character of the area is one of an urban environment but with a modest scale of development and a green open appearance.
85. The appeal site, now cleared, forms a large area of land, mainly hard surfaced. To the west is a row of predominantly two storey residential properties on Rushes Road with long gardens backing onto the appeal site. There are a number of trees along the eastern boundary, but they are intermittent, so views of the houses are apparent from Frenchmans Road. To the north is a mixture of residential properties in the form of detached and semi-detached dwellings and flats. They are mostly sited within their plots so that there is ample space around them, allowing views of the appeal site through the gaps between them. There is also a parking area adjacent to the appeal site. To the south is an industrial unit of modest size with a shallow pitched roof. It is agreed within the Statement of Common Ground (SoCG) relating to character and appearance that, in its current form, the appeal site detracts from the character and appearance of the area. From my observations on site I see no

reason to disagree with this view, with the exception of the trees on site which positively contribute to the green appearance of the street.

86. The appellant submitted a Design and Access Statement (DAS) and a Townscape and Design Assessment (TDA) which assess the scheme against the CABE guide *Design and Access Statements: how to write, read and use them 2006* to check the quality of the development at the time of the planning application. The DAS includes some detail as to the evolution of the scheme with the TDA assessing the final design rather than informing the design process.
87. However, while including some detail, the analysis undertaken by the appellant, does not, in my view, provide the holistic analysis required by the landscape-led approach and does not consider fully the surrounding built form in its entirety, particularly with regard to the surrounding townscape and how that informed the design, scale and massing of the proposed building.
88. The previous building on site was 6.3 metres high. Although the proposed structure would have a smaller footprint, it would be significantly higher, at 8.6 metres to eaves level and 12.1 metres to the ridgeline. That is not to say that three storey development would not be acceptable here. Indeed, there are examples of buildings of a similar height, or higher, within the immediate area included in the appellant's DAS and TDA and visible at my site visit, on the opposite side of the road to the appeal site and at Winchester House. However, these buildings have a far smaller footprint than that proposed. Consequently, although high, they retain an overall domestic scale within the streetscene. Furthermore, although there are pictures of larger buildings within the DAS, these are some distance from the appeal site and do not reflect the majority of the smaller scale residential properties in the immediate locality of the appeal site.
89. The proposed footprint, although not unique within the local area, when combined with the height proposed, would present a large mass of building which is not representative of the surrounding built form and, as a result, would fail to satisfactorily integrate into its surroundings. The fact that the building is a single footprint is not in itself inherently harmful, it is the combination of the footprint, height and consequent mass.
90. This would be reinforced by the level of repetition within the design of the elevations and the extensive roof forms with long and consistent ridge lines. Although a series of projections, insets and feature balconies would break up the massing of the facades to some extent, their repetition, together with the lengthy roof form, creates a building with an untypical regular rhythm of design. While I am not convinced that the resultant design would be what the SDNPA deem to be "institutional" in nature, it is not reflective of the local established townscape character. Even on Rushes Road, where there are some rows of terraces, there is some difference in the design of those terraces, be it a set back to a building line, a difference in roof height or the design of the front bays. Therefore, even though they represent closely spaced urban housing of about 270 metres in length, they do not display the consistency proposed on the proposed building and have a domestic scale.
91. The TDA contains an example of the proposed building with a varied roofline which the author deems to be contrived. However, I have seen nothing to suggest that this would be the only solution to providing an interesting and

varied roofline within such a large building. In any event I am required to consider the scheme as proposed.

92. The height of the development would reduce to two storeys at the western elevation facing the properties on Rushes Road. Even so, the incorporation of the gables on this elevation gives it a highly repetitious design which I have already found is not characteristic of this area. Furthermore, although of two storeys, above that would be a substantial continuous roof which due to its height, even though of a relatively shallow pitch, would be out of proportion creating a top heavy appearance, to this elevation contrary to the traditional appearance of adjacent terraces.
93. Glimpses of the proposed building would be available through the gaps between the houses on Rushes Road and it would also be visible from the windows in the rear elevations of the properties themselves. Nevertheless, the lengthy rear gardens of the houses, together with planting on the boundary, and the shallow pitch of the roof, would be sufficient to ensure that the proposal would not be materially overbearing in terms of the outlook from the rear windows of those properties.
94. While the TDA includes a graphic showing the building constructed in red brick as an alternative, the proposal itself incorporates a buff brick and artificial slate whereas the predominant building material in the local area is red brick with red clay tiles or natural slate. An inherent part of the landscape-led approach would be to identify local materials. The fact that the appellant has attempted to justify the choice of buff brick through the existence of a single building, which is much smaller and in a different context to the proposed building, is not compelling. Nonetheless, such matters could be controlled by condition.
95. The DAS states that the main driver for the scheme was to create a large centrally located verdant landscaped courtyard which informed the overall layout of the building and is intended to enhance and improve the area. This seems at odds with the landscape-led approach which would be to analyse the style and form of existing buildings. The photographs referred to in the TDA do not convincingly demonstrate that the courtyard development proposed on the appeal site as being typical of development in Petersfield.
96. At the Inquiry it was put to me that the proposed front courtyard reflected the plan at paragraph 11.5.2 of the PNDP regarding the potential future development of the Frenchmans Road area for employment opportunities, which shows a series of buildings around courtyards. Even if weight can be given to this sketch plan, it has not been based on the landscape-led approach to development, and the plan relates to a larger area than the appeal site. Moreover, the courtyard appears longer and narrower than the one proposed.
97. In any case, in this instance the massing and form of the building to the rear would dwarf the courtyard. The low level planting proposed means that the built form would predominate, with the landscaping giving little relief to the building. Moreover, the planting would be behind car parking spaces, albeit the spaces are broken up by some of planting. While these would be limited in number, and may not be occupied at all times, when cars were present, they would further reduce the aesthetic contribution of the courtyard planting to the appearance of the area. Therefore, the proposal would not enhance and improve the character or appearance of the area.

98. It is agreed in the SoCG that the site is not particularly discernible in wider elevated views outside of Petersfield, or within the wider townscape. The predominant views of the appeal site are from Frenchmans Road, where the site has a large frontage and the junction of Winchester Road to the north. I saw this to be the case at my site visit and it was apparent that the proposed building would be particularly visible. Due to its size, massing and location it would dominate views and be particularly intrusive and incongruous in its context. I also saw that glimpses of the building would be available along Winchester Road, and Rushes Road where its massing and height would be apparent. As a result, the proposed building, although contemporary architecture, would not be reflective of local character and distinctiveness. Consequently, it would not make a positive contribution to the overall character and appearance of the area as required by Policy SD5 of the SDLP.
99. The DAS makes limited reference to the water environment, as required by the landscape-led approach. However, the PDNP refers to waterways or blue corridors at the heart of the town which should be recognised for their contribution to the biodiversity and the character of the townscape. Policy NEP8 therefore requires that development adjacent to waterways should, where appropriate, contribute to their enhancement as part of the green infrastructure network.
100. Tilmore Brook forms a narrow water channel through the appeal site and has a heavily engineered character, being canalised with an unnaturally deepened bed and steep sides lined with concrete. The appellant's ecological report¹³ states that it should be considered a feature of the site rather than as a drainage ditch. However, the appellant reports that fixed access points and mature trees constrain any works and that, whilst retention in its current form would provide continued ecological value to the site, given the 2.6 metre height difference it would be impractical to open up access. Mr Bendinelli also reported that the landscaping and planting associated with the Brook together with the provision of controlled drainage into it would enhance the watercourse.
101. However, the Brook runs through an extensive area of the appeal site, which is not all constrained by trees and the access point. There is very limited evidence to suggest that the appellant actively considered incorporating the watercourse into the scheme, as part of a landscape-led approach, instead of seeing it as a constraint as detailed in paragraph 3.6 of the TDA.
102. The EPS finds that the stream is the most notable habitat feature on site, being colonised by some native riparian species. Even if it had been considered from the outset of the development of the site as an opportunity, the planting proposed alongside it is not shown as riparian in nature. Policies SD2, SD9 and SD17 of the SDLP and Policy NEP8 of the PDNP state that development should deliver all opportunities to protect and provide more, better and joined up natural habitats. Development proposals should retain, protect and enhance features of biodiversity, restore and enhance existing habitats. In addition, those that affect watercourse corridors will not be permitted unless they conserve and enhance biodiversity, character, appearance and setting and should contribute to their enhancement as part of the green infrastructure network. The provision of controlled drainage and non-native tree species

¹³ Abbas Ecology Extended Phase 1 Survey (EPS)

would be a benefit of the scheme, however, given the wording of the relevant policies, this would not in itself ensure compliance with them.

103. In light of my conclusions above, I am of the view that the appellant has not sufficiently embraced a landscape-led approach to the development of the site as advocated by Policy SD5 of the SDLP. The appellant stated at the Inquiry that the difference in approach in this scheme due to its location in a NP, involved the use of quality materials and a larger design team. I don't doubt that materials would be of a high quality. Rather, it is how they have been informed by local circumstance that is at issue.
104. Mr Brown states that development should be design led rather than landscape led by considering all relevant design issues rather than just focusing on one element of the design and that townscape is as, or more important than landscape in this urban area. Policy SD5 recognises townscape as part of the landscape and this should be the main focus in this urban context. As such the landscape-led approach to development as advocated by the SDNPA does not focus on one element of the design but incorporates all the elements that go to making a landscape in its widest sense, including townscape.
105. The appellant places significant weight on the fact that the amount of planting within the scheme (about 11,000 specimens) means the proposal is landscape led and would be a significant visual improvement on the existing and previous situation and improve biodiversity. Given the existing state of the appeal site, this is true. However, it misses the point of the landscape-led approach which is particular to the NP and involves elements of design other than planting. Nevertheless, while the link between some Green Infrastructure (GI) may have been missed, this does not necessarily lead me to the view that there would necessarily be any inherent conflict with Policy SD45 of the SDLP in this regard.
106. New GI would be provided where there is currently none, particularly on the northern and eastern side of the building. I appreciate that part 2e) of Policy SD45 states that GI proposals must support health and wellbeing and improve opportunities for understanding and enjoyment of the NP and its special qualities. However, the appellant has wide experience in providing this type of accommodation and the feedback from residents has been positive¹⁴. Picking up on one of the SDNPA's criticisms, while the circular pedestrian walkway would be routed through the dining area and courtyard, this would give occupiers a welcome opportunity for social interaction.
107. Furthermore, the lack of planting in the car parking area, appears to be directly related to the outlook for residents, both within the outside dining area and those occupying the rooms on the southern elevation of the building. These matters together with the quality of the external area for future residents, in my view, verges into matters relating to the living conditions of future residents and the harmful impact on the character and appearance of the area are less clear.
108. Whether the landscaping would improve residents' opportunities for understanding and enjoying the NP or not leads me to whether the species used would be reflective of the local area and suitable for specific local conditions. Each party has an opposing view on this issue. It seems to me that

¹⁴ Mr Bendinelli PoE Appendix 2

opportunities for riparian planting have not been taken, and that, much of the landscaping scheme is ornamental in nature. However, these are issues which could be resolved through the imposition of a condition. This could also assist with the issue of whether the chosen planting would satisfactorily cope with specific on-site conditions.

109. Taking all of the above into consideration, I am of the view that the appellant has not fully embraced the required landscape-led approach to the development of the appeal site, to the detriment of the established character and appearance of the area and its location within the NP. Having said that, the lack of a holistic landscape-led approach has not resulted in conflict with all the Policies alleged by the SDNPA. Nevertheless, overall, even considering the potential positive impact of the increased landscaping on the appeal site, subject to the imposition of conditions, this would not outweigh the harm caused by the proposed building itself.
110. The appellant refers to the SDNPA's preference for employment development on the site which carries with it the inevitable recognition that the appeal scheme provides a greater opportunity to enhance landscaping both quantitatively and qualitatively and provide a richer palette of materials in its construction than would, in all likelihood, otherwise be the case with employment type development. In particular, he considers that the schemes identified within the Eric Cole drawings, provide limited space for landscaping and two of the options have buildings on a large single footprint and have been identified as acceptable in the SDNPA's committee report.
111. I acknowledge the comments in the SDNPA's application report which state that "There is the potential for the character and amenity of the area to be respected with the right approach to scale and design and the type of B class use in any future scheme. Indications of this are arguably shown in the sales particulars which includes layouts of potential redevelopment options". However, those layouts only show a footprint. While the building on two of the Options may have a single footprint, their design, articulation and massing are not detailed. Furthermore, there has been no formal detailed assessment of the three Options by the SDNPA. Moreover, although there would be less room on the three layouts for landscaping than on the appeal scheme, the landscape-led approach is not just about the provision of planting on any site.
112. In any case, the SDNPA confirmed that it would apply its landscape led approach to an employment scheme as rigorously as to a residential scheme. Given the detail contained in the evidence of the SDNPA, and given that such an approach would not just be concerned with the amount and extent of landscaping on the appeal site, I have no reason to doubt this. I have determined the proposals before me against the relevant Policies. It would be for the SDNPA in the first instance to assess any alternative application for an employment based building in the first place.
113. Reference is also made to the scheme that was previously proposed on the appeal site for the 47 houses and was the subject of the previous appeal decision. This was robustly supported by the Design Officer even though the area of landscaping is much less than in the current proposal. That may be the case but again, the landscape-led approach is not just about planting. From the details before me it seems that the housing scheme included units of two and three storeys of a domestic scale with varied roof forms. I accept that at

the time of consideration of the planning application the 2012 Framework and its requirement for high quality design was in place. However, the SDLP was in its very early stages and the current requirement for a landscape-led approach was not applied to the site.

114. For the reasons above, I conclude that the development proposals do not fully adopt a landscape-led approach and, as a consequence, the proposal would lead to material harm to the character and appearance of the area. The scheme would therefore be contrary to Policies SD4 and SD5 of the SDLP and Policy BEP1 of the PDNP.
115. The appellant states that the appeal site does not have any significant landscape character or beauty associated with it. Furthermore, the surrounding area is generally unremarkable. However, the appeal site, even though in an urban area is still covered by the NP designation. As Policies SD4 and SD5 seek to fundamentally conserve and enhance landscape character and achieve development of the highest possible design quality which respects the exceptional quality of the natural, agricultural and built environment of the NP, then I have to conclude that in not meeting the requirements of these policies, the development would also neither conserve or enhance the natural beauty of the NP.
116. Policy SD8 of the SDLP relates to Dark Night Skies, and I have seen nothing to suggest that the proposal could not comply with the requirements of this Policy. Indeed, in the SDNPA's application report the Dark Night Skies comments seem generally supportive of the approach subject to refinement to the lighting plan which it considers is easily achievable. This could be the subject of a condition.
117. Policy SD48 SDLP relates to climate change and sustainable use of resources and Policy BEP7 of the PDNP to sustainable and adaptable buildings. I recognise that these matters are inherent to the landscape-led approach to development. However, as discussed at the Inquiry, the appellant has submitted information which confirms that the proposal would be at a level of BREEAM Excellent. Any further measures relating to a reduction of CO2 emissions via a low/zero carbon energy production could be the subject of a condition. With this in place there would be no conflict with these Policies.
118. Policy GAP1 of the SDLP relates to providing pedestrian, cycle and mobility scooter access to the town centre from new developments. There is no footway on the side of the road on which the appeal site is located. Residents would therefore need to cross the road to reach a safe means of access to the town centre. While not ideal, I am not convinced that the access is so poor as to be materially harmful in this regard, and I find no conflict with the Policy.

Other Matters

119. To the north west of the appeal site is 10 Winchester Road, a Grade II listed building constructed around 1840. The SoCG relating to the effect of the proposals on the setting of the listed building show it originally sited in a relatively isolated position in the open countryside. Subsequently, development has occurred all around the property so that it is no longer isolated or in the open countryside. Instead it forms a detached two storey residential property, in a fairly large plot with the majority of its garden to the north-west side. It seems to me that the special interest of the property

derives largely from its age and architecture, and that the elements of setting that contribute to its significance include its relationship with the street and its garden area.

120. The rear boundary of the house with the appeal site is formed from a close boarded fence. Existing and proposed planting within the appeal site adjacent to the boundary would ensure that the garden setting of the listed building would be retained in this location. Consequently, there would be no harm to the heritage significance or special interest of the listed building.

Balancing and Conclusion

121. The proposal would deliver social and economic benefits by providing 66 assisted living/extra care homes. There is no dispute between the parties that there is demand for this type of accommodation in the local area, the provision of which is supported by the Planning Policy Guidance¹⁵. According to the HEDNA, across the NP, looking purely at the increase in the number of people aged 75 and over there is potential demand during the plan period for 455 enhanced sheltered and extra care units such as those proposed at the appeal site. Using similar methodology to that employed in the HEDNA, the appellant suggests that within a 10 km radius of Petersfield there is a current unmet demand for 113 units. Increasing this to a radius of 20km this rises to 335 units. Taking account of current supply there would be a shortfall of 149 units. These figures have not been disputed by the SDNPA. However, the PDNP through Policy HP3 already allocates two sites for housing for an ageing population, being alert to the expected demand. One of the allocated sites benefits from planning permission for 70 units¹⁶. The other is allocated for 40 properties and is currently the subject of ongoing pre-application advice for an extra care scheme of 56 properties¹⁷. While this would make inroads into the alleged current shortfall, there would still be an outstanding current shortfall as well as likely increased demand in the future.
122. It is also agreed that there are social benefits associated with living in a retirement community which include delaying the onset of cognitive decline and increased life expectancy. Economic benefits include health and social care savings, and the release of larger houses into the housing market as people downsize into smaller units. Furthermore, the proposal would create 20 FTE jobs. In this respect, the development would make a considerable contribution to meeting the particular housing requirements and choice in the SDNPA whilst supporting local services and businesses. There would also be temporary economic benefits arising from the construction activity required to deliver the development.
123. The proposed planting would, given the existing state of the appeal site and the amount involved, generate a net gain in biodiversity which would be an environmental benefit.
124. In this context, I attach considerable weight to the social, economic and environmental benefits identified.
125. However, I have found that the marketing exercise has not been realistic in terms of the guide price for the appeal site. Neither has it been appropriately

¹⁵ Paragraph:001 Reference ID:63-001-20190626

¹⁶ SDNP/17/03513/OUT and SDNP/18/06215/REM

¹⁷ SDNP/19/01355/PRE

demonstrated that the site is not fit for purpose or that it is no longer suitable for business use. Moreover, it has not been shown that there is no prospect of new business occupiers being found or that there is no market demand. In this regard, the development would undermine the provision of employment land within the town bringing it in conflict with Policy SD35 of the SDLP and Policies BP1 and BP2 of the PNDP.

126. In addition, the failure to adopt a fully landscape-led approach has resulted in a development that would be materially harmful to the character and appearance of the area bringing it into conflict with Policies SD4 and SD5 of the SDLP and Policy BEP1 of the PNDP. There would also, as a consequence, be harm to the scenic beauty of the NP.
127. There was no suggestion that the policies most relevant to the determination of the appeal are out of date or that the so called tilted balance set out in paragraph 11 of the Framework is engaged in this instance. On a straightforward balance, when all matters are taken into account, I consider that the combined benefits of the scheme do not outweigh the harm which I have identified. As such, the proposal does not represent sustainable development. There are no material considerations which warrant a decision other than in accordance with the development plan and the appeal does not succeed.
128. For the reasons set out above, and having regard to all other matters raised, I conclude that on balance the appeal should be dismissed.

Zoe Raygen

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY

Ms N Strachan

Instructed by Mr Ferguson,
SDNPA

She called:

Mr M Waller-Gutierrez

Design Officer SDNPA

Miss A Kiwanuka B. Mass Comm (Hons) MBA,
PGCert, MSC

Development and Investment
Project Lead EHDC

Mr R Ferguson BA (Hons) MSc MRTPI

SDNPA Development
Management Lead

FOR THE APPELLANT

Mr J Barrett

Instructed by Mr P Graham,
The Planning Bureau

He called

Mr K Brown MRTPI, BSc (Hons) MA Urban Design

Managing Director, Townscape
Solutions Ltd

Mr M Johnson BA BLA CMLI

Director, Ubu Design Limited

Mr N Armitage BA(Hons) Dip Arch RIBA

Partner, Re-Format LLP

Mr P Barefoot FRICS

Consultant to Alder King
Property Consultants

Mr G Bendinelli MRTPI

Principal Planning Associate,
The Planning Bureau

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Appearances on behalf of the appellant
- 2 Missing p86 from East Hampshire Employment Land Review Update: Final Report
- 3 Opening on behalf of the appellant
- 4 Opening Statement on behalf of the SDNPA
- 5 Submissions from the appellant on Disclosure
- 6 Extract entitled Disclosure from the Litigation Library from the SDNPA
- 7 Hurst Warne Report dated 10 January 2017

- 8 Hurst Warne email dated 15 May 2017
- 9 Hirst Warne Valuation Report date 10 January 2017
- 10 Proposed agreed draft condition regarding a Landscape and Ecological Management Plan
- 11 Closing submissions on behalf of the SDNPA
- 12 Closing submissions on behalf of the appellant