
Appeal Decision

Site visit made on 11 January 2021

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th February 2021

Appeal Ref: APP/Y9507/W/20/3255468

Former Tews Engineering, Rear of 34 Lavant Street, Petersfield GU32 3EF

- 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 Alistair Harris of Metis Homes against the decision of South Downs National Park Authority.
 - The application Ref SDNP/19/04720/FUL, dated 23 September 2019, was refused by notice dated 1 July 2020.
 - The development proposed is erection of 29 apartments and approximately 241 square metres of office floor space following demolition of existing buildings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The address of the appeal site set out in the banner heading above is taken from the application form. The submitted plans and evidence indicate that the site also includes Number 36 Lavant Street (No 36) although this is not given as part of the appeal address. I have included this building in my assessment of the appeal.
3. Following the submission of the original application, the proposed development was changed by the appellant to exclude one dwelling, bringing the number of proposed apartments to twenty-nine. The description of development in the banner heading above includes this change and is taken from the Authority's decision notice and the appeal form.
4. During the course of the appeal, the appellant submitted a signed and undated planning obligation by way of a Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 (as amended). This deals with affordable housing. I will discuss this in more detail later in this decision.
5. The Authority has provided an update to its review¹ of the appellant's Economic Viability Assessment (EVA) alongside its statement of case. This alters the Authority's position on the level of affordable housing the scheme could provide and remain viable. The appellant considers this amounts to new evidence as it seeks to revise the Authority's position on abnormal costs and to alter their methodology for calculating the Existing Use Value (EUV) of the site and its buildings.

¹ Bruton Knowles, Review of Applicant Viability Appraisal – December 2020 Update, 11 December 2020

6. The Authority's evidence is relevant and necessary to my decision. The appellant has had an opportunity to respond to this and has done so in his final comments. I am therefore satisfied that the appellant has not been disadvantaged by this. I have therefore taken both this evidence and the appellant's comments into account in my decision.

Main Issues

7. The main issues are whether or not the proposed development:
- makes adequate provision for affordable housing, taking account of the relevant policies of the development plan and the viability of the development; and
 - would preserve or enhance the character or appearance of the area, the Petersfield Conservation Area and the South Downs National Park.

Reasons

Affordable housing

8. Policy SD28 of the South Downs Local Plan 2019 (Local Plan) requires development proposals for new residential development to maximise the delivery of affordable housing to meet local need and to provide, as a minimum, on sites with a gross capacity to provide 11 or more homes, a minimum of 50 per cent of new homes created to be provided as affordable homes on site, of which a minimum of 75 per cent will provide a rented affordable home. The supporting text to the policy sets out that in exceptional cases where viability is a genuine barrier to delivery, the Authority will require this to be demonstrated through a robust viability appraisal.
9. The need for affordable housing is not disputed. The appeal proposal would provide 29 flats of which 3 one-bedroom units would be provided as one shared ownership unit and two affordable rented units. These would be secured through the submitted section 106 UU. This affordable housing provision, at around 10 per cent, would fall significantly below the requirement of Policy SD28 which seeks a minimum provision of 50 per cent affordable housing on a scheme of this size.
10. As required by policy, the appellant submitted an EVA² to justify the lower level of affordable housing proposed. This initial EVA drew upon an earlier viability appraisal³ of the site dating back to 2016, which concluded that a scheme put forward at that time could not provide affordable housing and remain viable. The EVA for the appeal proposal concluded the same.
11. The Authority commissioned an independent review⁴ of this initial EVA which concluded the scheme could not make a fully policy compliant contribution towards the provision of affordable housing and remain viable but that it could provide 3 affordable housing units. The appellant subsequently revised their EVA⁵ and whilst this made some adjustments to costs and values, this nevertheless maintained the position that the scheme could not provide affordable housing.

² Tangent EVA, 16 October 2019

³ DVS Viability Assessment, 6 May 2016

⁴ Bruton Knowles, Review of Applicants Viability Appraisal, 10 February 2020

⁵ Tangent EVA, 30 March 2020

12. During the appeal, the Authority provided an updated review⁶ of the appellant's updated EVA. This latest review concluded that the scheme could provide five affordable housing units and remain a viable form of development.
13. The Planning Practice Guidance (PPG) provides guidance on viability assessments in decision making. It identifies a number of standardised inputs to viability assessment. Both parties have presented evidence in relation to viability with differing outcomes. The main areas of disagreement between the parties are around: the site's Benchmark Land Value (BLV), the site's EUV, the abnormal and external works costs, professional fees and bank charges and interest payments. I deal with these matters in turn.

Benchmark Land Value / Existing Use Value

14. The PPG⁷ advises that a BLV should be established on the basis of the EUV of the land plus a premium for the landowner. The premium for the landowner should reflect the minimum return at which it is considered a reasonable landowner would be willing to sell their land. The PPG⁸ also sets out that the EUV is the value of the land in its existing use. It is not the price paid and should disregard hope value.
15. The appellant considers that the BLV is £1,200,000 whereas the Authority says it is £650,000, a difference of some £550,000. Both parties agree a premium for the landowner of 20 per cent.
16. The existing use of the site is the frontage building comprising a retail unit with offices above at No 36, a store building to the rear of 34 Lavant Street and a large vacant factory/warehouse building and industrial land.
17. The appellant's updated EVA contends that a £1,000,000 EUV for the site is appropriate. This EUV draws upon the 2016 valuation which set the BLV at £1,272,000 for the site but reduces it by £72,000 to account for demolition of the factory/warehouse building which is considered an impediment to the commercial use of the site. With the removal of the building, the appellant considers this rear part of the site, equating to around 0.26 hectares (0.64 acres) should be assessed with reference to an Alternative Use Value (AUV), as industrial land.
18. In establishing this value, the appellant relies on recent transactions evidence for other industrial land sales in the wider locality. These values range from £1,111,974 per hectare to £2,352,443 per hectare (£450,000 per acre to £952,000 per acre) with one example provided for a transaction in Petersfield at Buckmore Farm site which is indicated to have sold for £750,000 per acre which is the equivalent of £1,853,290 per hectare. On this basis, the appellant considers that the rear part of the site would have a land value of at least £500,000. For the remaining buildings on the site, the appellant has used rent and yield evidence to support an EUV of £499,357 of which the frontage building (No 36) accounts for £383,314.
19. The Authority's updated review also considered the site's different components, separating the frontage building from the rest of the land and buildings to the rear. This assessed the EUV for No 36 to be £320,000. Unlike the appellant, it

⁷ Paragraph: 014 Reference ID: 10-014-20190509

⁸ Paragraph: 015 Reference ID: 10-015-20190509

did not include the store building. For the remainder of the site which the Authority calculated as just over 0.3 hectares (0.75 acres), the Authority relies on the Local Plan and Affordable Housing Viability Assessment drawn up for the purposes of plan making. This indicates the value attributable to previously developed land for BLV purposes of £850,000 per hectare which includes the 20 per cent premium, without which it would be £680,000 per hectare. Based on 0.3 hectares, the EUV for the site would be £206,390.

20. The appellant submitted a Commercial Viability Report⁹ (CVR) to provide an assessment on the suitability of the site for ongoing commercial occupation. This considered the three separate buildings on the site: the main warehouse, the store building and the retail unit and offices above at No 36. It set out that due to their age, condition and poor layout, the buildings are largely unsuitable for modern occupiers and continued commercial use. It also indicated that the Lavant Street entrance and access to the site make it impractical for HGV access which further reduces its viability as an ongoing commercial site. The report concluded that the site, as an industrial or storage use, would create a negative land value of -£1,141,715.
21. Given the site's existing use has generated very limited, if any, interest as demonstrated by the CVR, this appears to contradict the appellant's view of either the EUV or the AUV of the site. Whilst the condition of the buildings have deteriorated due to the time that has passed since commercial activities operated from the site, nevertheless the CVR also refers to the layout, location and inadequate access for commercial vehicles (HGVs) as constraining the use of this site. The CVR would therefore support a £nil value due to there being no value in either the existing or alternative use of the site. Both parties agree a £nil value would not persuade the landowner to sell the site.
22. Whilst the examples provided of industrial land sales lend support to a higher land value, I have not been provided with the full details of the sites referred to including their condition or location. I am unable to draw a direct comparison between these sites and the appeal site. In view of the CVR, which has clearly demonstrated a lack of interest in the buildings in their existing use, this would strongly suggest that the appellant's benchmark valuation placed on the premises is too high. Given that Policy SD28 was only recently adopted, it is reasonable to assume that the evidence base underpinning that policy that was tested through the examination process is robust. This demonstrates that the policy requirements of SD28 should be largely achievable in terms of viable schemes being delivered. In these circumstances, and taking into account the CVR findings, I consider that a lower value would be more realistic, closer to that advocated by the Authority in their December 2020 review of the figures.
23. The appellant contends that the frontage office and retail premises are in good order. However, I note the CVR indicates the building requires modernisation, replacement windows and frames as well as repairs due to water ingress. The EVA indicates that the EUV for this building is some £60,000 higher than that calculated by the Authority. I have no firm evidence to support the differing views of either party given the condition of the building. However, even if the site were to be split into component parts and sold off, the difference between the EUV assessments for this part of the site is not so great as to significantly reduce the gap between both parties' position on the BLV.

⁹ Sturt & Company, Commercial Viability Report, 20 September 2019

24. With regards to the storage building at the rear of No 34, both the CVR and the appellant's structural survey¹⁰ conclude this building is in poor condition with no merit in its retention or reuse in its current form. In view of the condition of this building and assessment, it seems to me that this building, like the larger warehouse building at the rear, should be considered in the same way. For this reason, I consider the approach taken by the Authority to be appropriate.
25. Drawing together my assessment, the EUV for the frontage building may be marginally higher than the value attributed to this building by the Authority. However, the EUV for the larger part of the site, taking into account the site condition and characteristics, the CVR findings and lack of interest from potential occupiers, suggests a lower value, closer to that advocated by the Authority, than that put forward by the appellant. It follows therefore that I consider the BLV should also be considerably lower than that put forward by the appellant.

External and abnormal works costs

26. The appellant has identified combined external and abnormal works costs to be £1,232,461, whereas the Authority has calculated these to be £1,149,486. The difference between these two figures is approximately £83,000. With a 5 per cent contingency on that figure, the difference between the two parties would be approximately £87,000. Notwithstanding these differences, the Authority's abnormal costs review¹¹ indicates that the differences between these cost estimates are marginal and concludes the appellant's overall assessments of these costs are not unrealistic.
27. On this basis, whilst it seems likely that some savings could possibly be made in respect of the appellant's figures, they are not unreasonable, and so can be relied on in this viability assessment.

Professional fees

28. Both parties agree that professional fees should be allocated on the basis of 8 per cent. The appellant calculated the actual cost of professional fees to be £425,821 which accounted for 7.53 per cent of the build costs within the EVA March 2020. The Authority has calculated these fees to be £353,519, however, this figure appears to be 8 per cent of the base build costs, excluding any external and abnormal works costs. This figure therefore appears to underestimate the professional fees which are more likely to be in the region of those identified by the appellant.

Bank charges and interest payments

29. The rate of interest applied to financing the development is 6 per cent which is a figure agreed by both parties. However, with different inputs in terms of works costs and fees a difference is inevitable.

Overall findings on viability

30. The inputs and assumptions made as part of the viability testing process can give rise to markedly different results. I have concerns that the appellant's BLV does not fully reflect the value of the site and that a figure closer to that

¹⁰ Boulter Mossman, Survey Report to advise on Feasibility of Retaining the Existing Building, March 2020

¹¹ Silver, Cost Validation of Tangent Chartered Surveyors EVA Update Report (Abnormal costs), 10 December 2020

proposed by the Authority would be more realistic. However, I also accept that the external and abnormal works costs and professional fees advocated by the appellant are not unreasonable. Each of these different inputs will inevitably impact on bank charges and interest payments. Nevertheless, taking all these factors into account, it seems to me that the 'surplus' for affordable housing is potentially greater than that being offered by the appellant.

31. The submitted UU includes a clawback clause to secure a further financial contribution towards affordable housing if market conditions dictate a greater level of developer profit. This would be subject to a new viability assessment undertaken at the point of 90 per cent occupation of the market units. This approach is supported by Policy SD28 in circumstances where a lower provision of affordable housing has been accepted by the Authority. The clawback clause would provide some mitigation against a lower proportion of affordable housing being provided, however, it would not overcome the shortfall in the proposed provision arising from the BLV.
32. This leads me to conclude that the proposed development would not make adequate provision for affordable housing, taking account of the relevant policies of the development plan and the viability of the development. It would therefore conflict with Policy SD28 of the Local Plan and Policy HP6 of the Petersfield Neighbourhood Development Plan 2015 (amended 2018) (NP) which together require new residential development to maximise the delivery of affordable housing to meet local needs, including provision of a minimum of 50 per cent of new homes to be provided as affordable on site. It would also not comply with the National Planning Policy Framework (the Framework) which seeks a minimum of at least 10 per cent of homes to be available for affordable home ownership as part of the overall affordable contribution from the site. It would also not accord with the objectives of the English National Parks and the Broads UK Government Vision and Circular 2010 (the Circular), which provides that new housing should be focused on meeting affordable housing requirements. Nor would it accord with General Policy 50 of the South Downs Partnership Plan 2013 (SDPP) which seeks housing within the National Park to be closely matched to the social and economic needs of local people.

Character and appearance

33. The appeal site is a large, irregular shaped plot located at the far end of Lavant Street next to Petersfield railway station. The front part of the site, comprising a two-storey commercial/retail building, a store/workshop at the rear and the access way are located within the defined town centre but detached from the main shopping areas. This same part of the site is also within the Petersfield Conservation Area (PCA). On the opposite side of Lavant Street, the appeal site faces towards the side elevation of a three/four storey modern block of flats fronting Charles Street.
34. The PCA covers a large part of Petersfield, an historic market town and important settlement within the South Downs National Park (SDNP). The Petersfield Conservation Area Character Appraisal and Management Plan 2017 (CAMP) identifies the railway station as a principal focal point due to its architectural quality and visual prominence within the PCA. It also sets out that Lavant Street developed around the 1880s as a link between the station and the town centre.

35. Lavant Street is a secondary shopping area and continues to provide the main link between the focal building of the railway station and the historic town centre. It has several examples of quality, late nineteenth and early twentieth century purpose built shops which retain their original details and materials. Together these buildings make a positive contribution to the character and appearance of the PCA and contribute to its significance.
36. Due to its location at the top of Lavant Street which slopes down towards the town centre and within and on the edge of the PCA, the proposed frontage building would be prominent. It would also be one of the first buildings experienced by visitors to the National Park arriving in Petersfield by train. For this reason, both a gateway and landmark building of quality would be required which would provide a contextual link to both the National Park and the PCA.
37. The proposed building would be three-storeys with additional accommodation within the roof and a shopfront at ground floor level. This part of the building would accommodate the commercial element of the proposed development, with the residential block to the rear facing towards the station. The appellant describes the development as having a contemporary form with traditional proportions, detailing and materials.
38. Due to the limited width of the site and the need to retain the existing vehicular access, the proposed building would be tall and relatively narrow. Its height and scale, in combination with its high gables, would make it prominent from both the station and approaching the area from the town centre. These features would also provide a visual stop to the line of built development along Lavant Street. However, the arrangement of upper floor windows which are both tall and narrow, add to the vertical emphasis of the building which would be in stark contrast with the adjacent wider property with more generously sized bay windows. Furthermore, in comparison to properties with a similar layout of individual upper floor windows a little further along Lavant Street, those within the main elevation of the proposed building would appear small.
39. The station elevation would be wider with a large pitched roof and a high gable feature facing towards the station and a similar design and arrangement of upper floor windows to the Lavant street elevation. The pitched roof would step down at eaves level adjacent to the residential part of the building and a second residential block, both of which would be set back from the main station elevation. This would give the proposed frontage building a slightly irregular appearance which would add visual interest. The windows would follow a similar arrangement to those in the Lavant Street elevation. However, without being viewed in the context of other buildings, in this elevation the small size and layout of these would be less apparent.
40. The proposed windows would be painted aluminium which would be in keeping with a contemporary building although not a traditional material of the PCA. However, the windows to both main elevations of the building would have a simple form, with no glazing bars which are a characteristic feature of many buildings within the PCA. This would make them appear bland and unrelated in character or appearance to the wider area.
41. A number of windows on the station elevation serve the stairwell of the building, however since these would be set back from the projecting gabled element of this elevation they would not dominate, although they would add interest to the arrangement of windows. The remainder of the station elevation

would be occupied by the residential part of the building which through a mix of large windows, some behind balconies, brick detailing and the use of a complementary but different shade of red brick would provide variation and some visual interest to this elevation.

42. The main elevations of the corner building would be finished in English bond brickwork and red bricks in a darker shade to provide contrast with the residential part of the proposed development. These main elevations would additionally incorporate raised brickwork feature courses, a characteristic feature within the PCA. These features would provide visual links with traditional buildings and materials used within the PCA. The use of contrasting brick colours and additional detailing would also add prominence to the proposed frontage building. However, there is little in the design or use of materials to link the development with the National Park which would enable the building to fulfil its role as a gateway building. For this reason, the building does not create a distinctive sense of place or contextual link to its location as a gateway to the National Park.
43. The CAMP identifies that new shopfronts are a particular priority in the PCA, using traditional materials, timber, and detailing. Limited details have been provided about the proposed shopfront although a condition is proposed to require this. However, as a key element of the building and how it is experienced by pedestrians, in addition to shopfronts being identified as sensitive to the character and appearance of the PCA, it seems to me that this detail should be confirmed as part of the overall design of the frontage building rather than being left to later in the process.
44. I have paid special attention to the desirability of preserving or enhancing the character or appearance of the PCA, as required by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The poor design and arrangement of windows, the use of unsympathetic materials and the lack of detail around the design of the shopfront on what would be a prominent building within the PCA all contribute to the harm that would arise from the proposed development. As such the proposal would fail to preserve or enhance the character and appearance of the PCA as a whole.
45. The harm would be less than substantial and therefore in accordance with the requirement of paragraph 196 of the Framework, this harm should be weighed against the public benefits of the proposal.
46. The proposed frontage building would replace an existing building on the site which has a negative effect on the character and appearance of the PCA. As a whole, the appeal scheme would provide 29 residential units including 3 affordable units and bring back into use a neglected area of previously developed land. However, these public benefits would not outweigh the less than substantial harm that I have found.
47. Bringing together my assessment, I have found that the proposed frontage building, due to its size, height and elevated position, at the top of Lavant Street would appear as a visually prominent building within the streetscene. Whilst some elements of the design would be high quality and provide detailing that would contribute to the building being a memorable one that could serve as a landmark, other aspects of the scheme notably the lack of detail for the proposed shopfront, some of the materials used and the simple form and arrangement of windows detract from this. The proposal also fails to contribute

to local distinctiveness and to provide a contextual link to the National Park through the use of appropriate materials. As such the proposal would not provide a building that could function as a landmark or gateway building.

48. I appreciate that the design of the proposed development has evolved during the planning application. However, I have found that aspects of the design of the proposed frontage building would be harmful to the character and appearance of the area.
49. I conclude that the proposed frontage building would not preserve or enhance the character or appearance of the area, the PCA and the SDNP. It would therefore conflict with Policies SD1, SD4, SD5, SD12 and SD15 of the Local Plan. These policies together require sustainable development, which respect local character through sensitive and high quality design that integrates with and complements the landscape context, contributes to local distinctiveness and sense of place, utilises design that is sympathetic to its setting in terms of materials and elevational detailing, conserves and enhances the historic environment and the character or appearance of the conservation area.
50. It would also not comply with Policies BEP1 and BEP2 of the NP which require all developments to be a high standard of design, to be complementary to their context and positively contribute to the local character and distinctiveness of the CA. It would also not accord with the Framework which requires developments to function well and add to the overall quality of the area over the lifetime of the development, to establish a strong sense of place and to be sympathetic to and make a positive contribution to local character and distinctiveness.
51. The proposal would also conflict with the first purpose of the designation of the SDNP and the provisions of the Circular which, amongst other things, advises that cultural heritage is fundamental to the quality of place in the national parks and should be protected and enhanced. It would also conflict with General Policies 9 and 50 of the SDPP which together seek a high quality of design to protect the significance of the historic environment from harm and exploit opportunities to reveal its significance.

Other Matter

52. The appellant has expressed frustration that the Authority's Planning Committee did not accept the recommendation for approval of the scheme made by the Authority's officers. However, Members are permitted to take a different view to their officers provided they provide clear reasons for doing so which they have done. In any event, this is a procedural matter and does not affect the merits of the case.

Conclusion

53. For the reasons set out above, I conclude the appeal should be dismissed.

Rachael Pipkin

INSPECTOR