The Planning Inspectorate

Appeal Decision

Hearing sittings on 13 December 2022 and 18 July 2023

Site visits made on 13 December 2022 and 18 July 2023

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2023

Appeal Ref: APP/H1033/W/22/3302879
Buckingham Hotel, 1 - 2 Burlington Road, Buxton SK17 9AS

- 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 A Barar against the decision of High Peak Borough Council.
- The application Ref HPK/2020/0352, dated 24 August 2020, was refused by notice dated 13 January 2022.
- The development proposed is the application is for the redevelopment of the Buckingham Hotel, specifically:
  -the demolition of the existing Buckingham Hotel
  -the erection of a replacement hotel building (89 beds) with ancillary facilities and substantial basement parking.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal application was submitted by Mr A Barar but it was subsequently identified that a company, Westcroft Ventures Limited, has an interest in the appeal site. The Appellant has confirmed that he is the only active officer of the company and has subsequently served it with formal notice of the appeal. Given these circumstances, I do not consider that any prejudice to any interested parties has occurred.

3. The Council's decision notice refers to a 95 bedroom hotel based on the originally submitted plans. The revised elevation plans on which that decision was based were different to those originally submitted but were not supported with associated floorplans. Therefore, the deliverable number of bedrooms was technically unknown at the time of determination and the original description for a 95-bed hotel was carried through to the decision. Following the submission of the floorplans with the appeal, the number of deliverable bedrooms has been clarified to amount to 89. Consultation on the appeal has been undertaken on this basis so as to avoid any prejudicial effects on interested parties and this change has been reflected above.

4. Prior to the opening of the hearing, the Environment Agency confirmed in writing that its objection relating to the effects of the scheme on the source protection zone were capable of being addressed by way of planning conditions. Consequently, the second reason for refusal listed in the Council's decision notice no longer forms a main issue in the appeal.

5. Following the determination of the appeal application, Natural England wrote in March 2022 to highlight that the Peak District Dales Special Area of Conservation designated under the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations), was being adversely affected by proposals for residential and overnight accommodation from the nutrient loadings from additional waste water. This issue has been promoted to a main issue in the appeal and has been the subject of ongoing written submissions up to the date of the hearing.

6. The hearing was originally opened on the 13 December 2022, but owing to the absences of key experts appointed by both main parties, it needed to be adjourned soon after. The second sitting and accompanied site visit took place on the 18 July 2023, whereafter the hearing was formally closed.

7. A completed S106 planning obligation was submitted on the 18 July 2023 which provides for the submission, implementation and monitoring of a travel plan and contribution of £6325.00 towards sustainable travel measures.

Main Issues

8. The main issues are:

- the effects of the scheme on the integrity of the Peak District Dales Special Area of Conservation;
- the effects of the proposal on the significance of the '*Buxton Central Conservation Area*', the setting of '*The Park Conservation Area'* and on the significance of the Grade II* registered park and garden, '*Buxton Pavilion Gardens*';
- the effects of the scheme on the character and appearance of the area;
- the effects of the scheme on the appeal building as a non-designated heritage asset and related considerations such as its condition, optimum viable use, and the economic viability of either retaining or redeveloping it in some way.

Reasons

Peak District Dales Special Area of Conservation

9. The Peak District Dales Special Area of Conservation (SAC) is a site designated under the Habitats Regulations for a number of features, including scarce heathlands, grasslands and woodlands, but also aquatic features such as freshwater crayfish, Austropotamobiu pallipes; brook lampey, Lampetra planeri; and bullhead, Cottus gobio. These features are associated with units 70 and 71 of the Wye Valley Site of Specific Scientific Interest (SSSI) component of the SAC to which nutrient neutrality guidance applies.

10. Essentially, any development that would give rise to an increase in overnight stays and generate additional waste water within the catchment of Units 70 and 71 of the SSSI must be assessed through the Habitats Regulations to consider the nutrient impact it would have on the river. To be acceptable, it must be robustly proven that the development would be nutrient neutral over its lifetime to avoid any adverse effects on the integrity of the SAC, considered in isolation or cumulatively with other similar schemes.

11. Clearly, the scheme is not directly connected with or required for management of the SAC. As the proposal would result in the increase in the hotel capacity from 37 bedrooms to 89 bedrooms, which would result in more than doubling of the overnight accommodation, significant effects on integrity of the SAC would be likely either alone or in combination with other projects. An Appropriate Assessment under the Habitats Regulations is therefore required.

12. There is currently no borough-wide or joint authority area mitigation scheme to address harms arising from additional overnight accommodation. I was advised in December 2022 and July 2023 that such a scheme is in development but is still some way from being finalised and implementable.

13. The Appellant has undertaken a number of scheme-specific assessments to prove that there would be no net increase in waste water and thus, that the scheme could be made nutrient neutral, with measures to secure this over the lifetime of the development. Natural England has been consulted on a number of these submissions made and has highlighted areas of concern with the approach, which is not considered sufficiently precautionary, and which would place a high reliance on water efficiency measures being implemented and maintained for the lifetime of the development.

14. As an example of this, the typically accepted figure put forward by Natural England for hotel water usage is 250-300 litres per day (l/d) per person[1]. Natural England does not have evidence to dispute the existing hotel's water usage based on an operational 37 bedroom hotel and combined bar/restaurant and thus, a figure of 12,354 l/d has been offered by the Appellant. The Appellant's figures suggest that the new hotel would primarily be a 3 star rated equivalent accommodation provider and would be capable of limiting the total permitted waste water when compared to higher rated hotels, which may include spas. The Appellant suggests ways that water usage could be limited, including by non-staying guests and staff, by means including specifying the efficiency of sinks, showers, WCs and other appliances and fittings for installation within the hotel and requiring that they, or similarly efficient fittings or appliances are retained throughout the lifetime of the development.

15. The Appellant's submission of the 11 April 2023 suggests that based on 78% average occupancy per annum, the efficiency measures would be capable of limiting the total water usage to below either 13,035 l/d or 12,704 l/d depending on which metric is used. In the submission of the 29 May 2023, a figure of 12,850 l/d is offered. That there is such variability between the figures presented in quick succession and the extensive range of factors that influence such leaves me incapable of ascertaining the robustness of the figures and concluding beyond all reasonable scientific doubt that such high efficiency savings would be achievable over the lifetime of the development.

16. On the day of the hearing, an alternative approach was offered by Mr Goodman which would involve the imposition of a Grampian condition to require the submission of a composite mitigation scheme to be subsequently implemented. The condition seeks to limit the total average water use to 12,300 l/d (daily average across the year), again, a different figure to those presented elsewhere. The same condition would secure ongoing monitoring of total waste water outflows through a meter over the lifetime of the development, but, despite inferences in the evidence of there being adverse consequences for any

[1] British Water Flows and Loads 4 – revised 2013

hotel operator in the event of exceedances, the condition does not specify any clear means of identifying or remedying such, should they occur, if indeed harm to the SAC hadn't already occurred by that point. Therefore, notwithstanding the numerous detailed submissions by the Appellant which provide some context to the suggested Grampian condition, I do not have a composite mitigation scheme, nor robust evidence that one could be devised and maintained, to be certain that nutrient neutrality could be achieved.

17. Mr Goodman provided a copy of an appeal decision[2] in which a Grampian condition required the submission of a mitigation scheme to avoid effects on the relevant protected site. Irrespective of the difference in scale between that single dwelling scheme and the one before me, I do not consider that approach sufficiently sound in the context of the requirements of the Habitats Regulations and the same conclusion was reached by the High Court in the quashing order pertaining to that particular decision.

18. Therefore, in summary, the evidence before me does not form a robust basis for concluding that the scheme could avoid adverse effects. I conclude that the scheme would harm the integrity of the Peak District Dales Special Area of Conservation and would thus fail to accord with the requirements of the Habitats Regulations.

Effects on designated heritage assets

19. The appeal building, the Buckingham Hotel, was originally built in c.1876 as two adjoining 3 and a half storey villas which were combined into a single hotel by 1920. It occupies a prominent position on the corner of Burlington Road and St Johns Road entirely within the '*Buxton Central Conservation Area*' (host CA) and adjacent to '*The Park Conservation Area*' (Park CA). The site is also adjacent to the Grade II* Registered Park, '*Buxton Pavilion Gardens'*. As a typically Victorian building and one of the earliest to have been built within the host CA, it is also a non-designated heritage asset (NDHA) in its own right.

20. The building is constructed from a regularly coursed and dressed local sandstone with ashlar dressings, also notable for its symmetrical six-bay principal façade onto Burlington Road which has two-storey canted bay windows alternating with single sash windows. Other key features include the two gabled entrance porches, gabled dormer windows and prominent stacks on the hipped slated roof with wide-spread bracketed eaves. Similar features carry through to the visible return elevations, with some alteration at the rear.

21. The proposal seeks to demolish the existing hotel and construct an 89 bed hotel with 3 basement levels, offering some accommodation but largely to facilitate parking. The above-ground building would be larger than the existing but built in a style and of materials that would seek to closely emulate it. All existing trees on the boundary of the site with St Johns Road and another single tree to the south side would be removed to facilitate the development, although replacement landscaping is proposed.

22. The Buxton Conservation Areas Character Appraisal (2007) (Character Appraisal) notes that the host CA, and those adjoining it, including The Park CA, are most marked for their large concentration of exceptional Victorian buildings and housing which have a cohesive character. This Victorian

[2] Appeal ref: APP/L2630/W/21/3289198 dated 22 October 2022, redetermined by decision dated 6 July 2023

expansion facilitated the increase in visitors to the town as a spa and leisure destination. In between the buildings are a series of high quality public parks threading through the Wye valley, including Buxton Pavilion Gardens, which as a Grade II* Registered Garden, is a designated heritage asset of the highest significance.

23. The vast majority of buildings within the conservation areas make positive contributions to their respective characters and appearances. The appeal building is no different. Only those which make either a neutral or negative contribution are specifically identified within the Character Appraisal. However, the status of the appeal building as the first to have been erected in Burlington Road on a prominent corner plot means that it contributes greatly to the significance of both the host CA and adjoining Park CA.

24. Buxton Pavilion Gardens are believed to have originated as the private gardens of Buxton Hall in C17 and which were later altered and improved in C18 and C19. The area alongside the River Wye, the Serpentine Walks, were improved and embellished by Joseph Paxton for the sixth Duke of Devonshire, probably around mid C19. The significance of the Gardens derives from their evidential, historic and aesthetic attributes which relate to the role and expansion of the town as a visitor destination.

25. The setting of the Registered Gardens includes the C18 and C19 townscape surrounding it, and there is a direct historic relationship between the leisure use and enjoyment of the gardens with the surrounding town. This persists today and the experience and understanding of the Registered Gardens is enhanced by the survival of the historic townscape and built form. The Buxton Hotel also forms part of this setting, and it is partly visible from the Serpentine Walks, thus, contributes positively to the significance of the Gardens as a designated heritage asset.

26. In summary, the appeal building contributes positively to the significance of the host CA, the adjoining Park CA and the Registered Gardens. The loss of the appeal building would therefore harm the significance of these assets to varying degrees. The effects of the scheme must however be considered as a whole, which includes the construction of a replacement hotel building; to which I return below.

Non-designated Heritage Asset (NDHA)

27. Paragraph 202 of the National Planning Policy Framework (the Framework) sets out that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

28. The building is an NDHA which has much surviving historic fabric and which is in the visitor accommodation use it was originally built and adapted for. It is a fine example of the Victorian architecture of its period and contributes positively to the significance of a number of designated heritage assets. In my view, the building is a highly significant NDHA.

29. The proposal would result in the demolition, and thus, total loss of the NDHA. The total loss of a highly significant NDHA therefore equates to a high magnitude of harm. The balanced view I must reach about this scale of harm

balancing a range of other considerations as detailed below and considering the effects of the scheme as a whole, as per the Bohm[3] and Bramshill [4]cases.

Scale, Design and Appearance

30. The current scheme has evolved following a number of past refusals for larger schemes. The building now proposed would be a broadly rectangular plan building on the footprint of the existing hotel, albeit both Burlington Road and St Johns Road elevations would be longer. The overall height would be 0.3 metres lower than the existing hotel.

31. The scale and proportionality of buildings of the same period give a consistency and homogeneity to the townscape. The increased bulk of the Burlington Hotel, whilst relatively modest in numerical terms, would have the effect of making the building appear squatter and more horizontal, with some differences in the spacing between fenestration also contributing to a loss of its proportionality, verticality and finesse. Though I agree with the Appellant that the lift shafts would be hidden from view from street level when within reasonable proximity of the building, the bulkier replacement building would still appear at odds with its period counterparts and these key effects would be particularly noticeable from Burlington Road, and even more so from St Johns Road with the removal of the treed boundary.

32. In terms of the detailing, many notable features would be replicated on the replacement building, including the chimney stacks, twin porches on the Burlington Road elevation, two storey bay windows, window surrounds and gabled porches. However, whilst present, the features would differ in some respects from the existing, in terms of the proportions of the windows and the absence of the gabled roofs from the porches. The combination of these and other such variations from the original would contribute to the replacement appearing as a blander, lower order building. The imposition of conditions to require dressed stone finish and detailing of the finer aspects of the scheme do not satisfy me that the replacement building would achieve the same high quality or authentic appearance of age as the existing.

33. In terms of changes to the site, the loss of the established trees from St John's Road would be the most notable. Whilst this harm would be reduced by replacement trees in the fullness of time, there would be no direct enhancement to the character and the appearance of the CA. The other aspects of the site that would change, including the ramp to the basement levels, alterations to surface level parking and other changes to landscaping would be of lesser effect on the overall streetscape.

34. Overall, in my view, the creation of the imitation replacement hotel would maintain the essence of the current relationship of the site to the surrounding townscape. However, the increased bulk, the distinguishable difference in the detailing and more generally, its unavoidable inauthenticity when viewed at closer quarters, would undermine the contribution the site makes within the streetscape. The detectable differences would be harmful to the character and appearance of the area, particularly given the prominent position of the site and the time lag between the removal of the established trees on the St Johns Road side and the establishment of any landscaping scheme.

[3] Bohm and others v SSCLG [2017] EWHC 3217 (Admin
[4] Bramshill v SSHCLG [2021] EWCA Civ 320

35. Drawing these aspects together, by reason of its scale, design and appearance, the scheme would be harmful to the character and appearance of the area, and would thus conflict with Policies S7, EQ6, EQ7 and E6 of the High Peak Local Plan (2016). These Policies collectively seek to prevent the loss of buildings and features which make a positive contribution, protect and enhance the unique character of Buxton's spa heritage, and for new development to contribute positively to the area's townscape character, history and identity.

Building condition

36. There have been a number of previous applications which have involved the demolition of the building in which reports have detailed its compromised structural condition, including in 2013 (H & H) and 2017 (PKD) and summarised in March 2022 by Mr Thompson, a conservation accredited structural engineer of GCA. More recently, the parties' specialist representatives have met on site to discuss, and where possible, agree the extent of structural defects. The Statement of Common Ground - Structural (Structural SoCG) sets out the key points of agreement where structural repair is needed, including the replacement of inadequate beams; stitching of the elevations back to internal cross walls; dismantling and reconstruction of the two front bay windows; repairing the crack in the attic party wall and tying all bay windows back to the floor structure. The costs of these agreed essential works are estimated to be around £409,328 plus professional fees and VAT (Update on Cost of Work, Thomasons, July 2023). In places, the Appellant's evidence refers to this cost as the 'conservation deficit'.

37. Following queries raised at the hearing site visit and following correspondence on the point, the parties maintain disagreement on a number of omissions from the Structural SoCG and the cost of associated works. Thomasons, on behalf of the Council, suggest that the additional costs to add to the agreed £409,328 would be around £3,000. GCA, on behalf of the Appellant, suggest that these additional items would cost around £27,000 to fix.

38. The Appellant has responded with a 'List of Additional Costs Claimed' (July 2023) where he believes the estimated costs are below what would be necessary to undertake the works in reality. Though he has pointed to what he believes are some omissions which have not been quantified, the total value of the costs in this list come to around £230,000, including the replacement of the roof covering.

39. GCA's view is that a number of additional works related to the structure of the building are necessary, or may be necessary, including: cracking repairs to stone and cills; the replacement of the flat roof at the rear of the building; pending investigation, the underpinning the rear corner of the building; reconstruction of the masonry panel between the central bays to be replaced; works to lightwell surrounds and works to the staircases beyond strengthening the balustrades.

40. GCA also assert that other works would be necessary for the building to continue to function as a hotel that may go beyond the definition of structural repairs; including, repairs to the drainage system and repairs to sash windows throughout. The Appellant has estimated the costs of these additional items at around another £240,000.

41. Some of the differences between the parties' respective conclusions can be explained by their respective instructions: Thomasons to consider the structural integrity of the building and the Appellant/GCA to consider what would need doing to the building to resume a viable hotel business with a fair and maintainable operating profit. The Thomasons' position appears to be that the truly structural repairs necessary are more limited than made out and that many works outside this scope that now need attention should have been addressed previously as part of ongoing maintenance.

42. The parties also disagree on whether the building would need to be fully and comprehensively refurbished. Whilst the Hotel only technically closed relatively recently, its customer base has diminished over time, which is understandable given that limited improvements or changes to décor appear to have taken place in recent years. It is debatable whether the building would need to be refurbished to reopen with a 'flourish', as was suggested by Mr Spencer at the hearing, but I do consider that the building is likely to demand a thorough refurbishment to preserve its many positive features and attract guests at a viable room rate. The 'light refurbishment' provided for in Appraisal 2 of the Matthews and Goodman report (July 2023) (discussed below), which was explained as focussing on key rooms and public areas, is, in my view, unlikely to be sufficiently comprehensive.

43. In summary, my view is, that whilst the building has some structural defects that would not be beyond repair, they would be costly to implement. However, a more comprehensive scope of works and refurbishment at an even greater cost would realistically be necessary to enable the hotel to recommence trading.

Optimum viable use / economic viability

44. On questioning at the hearing, Mr Goodman indicated that the scheme's viability was not a relevant consideration for me. Yet, the Appellant's Statement of Case suggests that "*unless planning permission for a financially viable replacement building is granted, the existing building will fall into dilapidation which will harm the CA and Grade II* Registered Park*". Evidenced by the September 2020 date of the Bruton Knowles Feasibility Opinion, the appellant's position and presumably, principal rationale behind the originally submitted scheme was that it would be economically viable in the absence of other such alternatives.

45. Another proposition put to me was that the viability of the scheme would not be of a concern if a condition were imposed to secure a contract for the full scheme prior to any commencement of demolition or construction works. The example conditions offered were from the Institute of Historic Building Conservation and from Westminster City Council, both in line with the Framework's requirement to ensure that the loss of a heritage asset is not permitted without ensuring that the new development will proceed after the loss has occurred.

46. The principle of using such a condition is not necessarily in dispute. However, the Framework sets out that any harm to, or loss of, the significance of a designated heritage asset, including from development within its setting, should require clear and convincing justification. The balanced judgement to make in respect of the loss and replacement of an NDHA may also trigger considerations about the possible alternatives considered.

47. The Framework also sets out that less than substantial harm to the significance of a designated heritage asset should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Consequently, given the particular considerations relevant to both designated and non-designated heritage assets at play in this case, whether there are prospects of avoiding the loss or mitigating the harm are relevant considerations that cannot be adequately addressed by simply imposing such a condition, particularly as there could be some doubt about the means to proceed with the development. Additionally, in respect of optimum viable use, whilst it may be difficult to apply this consideration in relation to conservation areas, the Planning Practice Guidance (PPG) notes that securing the optimum viable use of any individual heritage assets within an area-based designated heritage asset may still be a relevant consideration[5].

48. The Appraisals undertaken on behalf of the Council by Matthews and Goodman in July 2023 reappraise four scenarios which were detailed in the Matthews and Goodman Viability Report of October 2022. The Appellant's viability evidence was prepared primarily by Bruton Knowles in 2020 and 2022. Options in relation to office or residential care uses of the building have been discounted by both parties and I find no reason to disagree with these findings.

49. Appraisal 1 of the Matthews and Goodman report concerns the retention of the existing hotel with its value agreed between the parties as being £500,000 without a need for structural repairs in this scenario. However, once the basic costs of the structural repairs are deducted with allowances for contingency and professional fees, the surplus is estimated to be around £55,000 (less any costs of omitted structural items since highlighted).

50. Appraisal 2 concerns the light refurbishment of the hotel along with the structural works. Despite an uplift in the resultant value of the refurbished hotel at £875,000, this scheme would still result in a deficit in the order of £255,000. But the view I have already expressed is that this is unlikely to be a sufficiently comprehensive refurbishment.

51. Nevertheless, these first two scenarios indicate that, in essence, the costs of the basic structural works are not entirely dissimilar to the current value of the building as a 37 bed hotel and a more extensive programme of works to the building envelope and interior is unlikely to be covered by any increased value of the building based on the same number of bedrooms in a hotel use.

52. Appraisal 3 provides for a scenario where the structural repairs are undertaken along with a full programme of building works involved in the conversion of the building to 21 apartments costing an estimated £3.46 million, including the essential structural repairs omitting double counting, 5% contingency and 8% professional fees. The valuation has been based on flat values for one bed apartments at around £180,000 (7 no.) and two beds at £224,000 (14 no.). The gross development value (GDV) in this scenario is around £4.4 million, with a development surplus of around £190,000.

53. Appraisal 4 assesses the cost involved in the construction of the appeal scheme in the region of £13.2 million. The resultant valuation for the replacement hotel is estimated at £10 million. Taking into account other associated costs, the total scheme deficit in this scenario is estimated to be in the region of £5.6

[5] Reference ID: 18a-016-20190723

million. An earlier appraisal of the same scheme undertaken in October 2022 suggested the deficit would be around £4.6 million.

54. From the Council's evidence, it appears that the optimum viable use and most economically viable scenario is the retention of the building and its conversion to residential uses, and the least viable is the current scheme to demolish the building and redevelop it as detailed in the plans.

55. The Appellant's recent submissions, including verbally at the hearing, indicate that the values in the Matthews and Goodman Appraisal 3 scenario should be treated with some caution, as the recent upturn in the housing market may not have been as strong a suggested. More detailed evidence has been put forward as to why two particular flats at the basement level should be valued differently in relation to issues of outlook and bedroom sizes relative to the Nationally Described Space Standards[6].

56. The Bruton Knowles assessment of 2022 of a similar conversion scheme for 19 apartments results in a GDV of around £4 million with the total estimated costs of structural repairs and conversion to be deducted from this to be around £4.3 million. The deficit is highlighted as being around £1.67 million. The Appellant's more recent evidence criticises the Matthews Goodman valuation and points to such a scheme being more marginal or also resulting in a deficit. However, it is interesting to note that the Bruton Knowles' valuation of a scheme for 19 apartments is within £500,000 of the Matthews and Goodman valuation, and is higher, despite being for fewer apartments. An alternative scheme involving an extension with a total of 26 apartments was also estimated in the Bruton Knowles report as yielding a greater deficit on account of the high costs of providing basement level parking spaces which it has assumed would be necessary.

57. The Appellant's valuation evidence from 2020 (prepared by Bruton Knowles) relates to a scheme similar to the proposal for a 95 bedroom hotel. This appraisal does not appear to have been updated in the 2022 report. The 2020 report estimates the build costs, including contingency, to be around £12.7 million. It would be reasonable to expect some upward adjustment on these costs based on the pattern adopted for other reappraisals. However, these costs are within around £500,000 of those set out in the July 2023 estimated costs in Appraisal 4 undertaken by Matthews and Goodman for the current 89 bed hotel scheme. So, in essence, the build cost figures for the scheme of around £13 million can be taken to be relatively realistic.

58. However, the biggest difference is between the valuations of the hotel on completion, with the Bruton Knowles evidence from 2020 suggesting that a 95 bedroom hotel would have been valued at £16 million, and Matthews and Goodman suggesting that the value of the completed 89 bed hotel in today's market would be in the region of £10 million. This £16 million valuation has not been revisited in the 2022 report for reasons unexplained.

59. I understand the points put to me about the variables that can influence hotel valuations, including the extent to which they focus on bedroom numbers or previous trading accounts. The difference in the size of hotel valued (of either 89 or 95 bedrooms) and the two-year difference in the date of the valuations may be relevant variables in this context, but even taking them into account,

[6] Technical Space Standards – nationally described space standard – CLG 2015

the wildly different outcomes of £10 million and £16 million are difficult to rationalise.

60. Whereas the build cost estimates are reasonably similar between the parties and from this I am capable of assuming some sense in the figures presented, that is not the case for the valuations. There is no suggestion that I do so, but even crudely adopting the mid-point between the two valuations, at £13 million, would generate a similar value to the costs that would be expended on building the replacement hotel and thus, could result in as similarly marginal a scheme as some of the other scenarios put to me.

61. I summarise on these issues as follows. A viability assessment does not specifically provide certainty that a development will proceed but is a useful basis where the premise of the case is that planning permission must be granted for a financially viable replacement building. Whilst the case has been made that the costs of repairing the existing building are high relative to its existing value, the evidence points to some uncertainty as to whether the optimum viable use has been appropriately tested and whether the valuation of the 95 bed hotel from 2020 should be considered realistic for the scheme before me now, undermining the confidence I have in relying on it. Thus, the evidence is not clear or convincing on the proposal being the only economically viable solution.

Other Matters

62. The submitted S106 planning obligation provides for travel plan measures, and a contribution towards implementing the same. As these measures are necessary to mitigate the effects of the development, they are of neutral effect on the overall planning balance. Similarly, the use of planning conditions to secure other mitigation measures would not result in any additional public benefits.

63. Despite much being made of a previous permission to extend the building in terms of justifying the increased scale and position of the replacement building, that permission has lapsed. Consequently, references to such have not materially influenced my findings in respect of the current scheme.

64. Though the general contribution of the scheme to the local authority finances has been highlighted as a public benefit, I do not share this view and do not attribute such any weight in the planning balance.

Planning Balance and Conclusion

65. The identified harm to the Peak District Dales Special Protection Area is a key reason that the scheme is in conflict with the development plan.

66. In my view, the scheme as a whole would fail to preserve the character or appearance of the Buxton Central Conservation Area. This would result in harm to its significance, in conflict with the expectations of s72(1) of the Listed Building and Conservation Areas Act 1990. Under the terms of the Framework, the degree of harm would be less than substantial, but still of a moderate to high level of harm on that scale.

67. For similar reasons, the scheme would also harm the settings, and thus the respective significance of Buxton Pavilion Gardens and The Park CA. The effects on the significance of the Registered Park would be less than substantial, of a

moderate magnitude of harm in my view, whereas I place the magnitude of harm to the significance of The Park CA towards the lower end of less than substantial harm. The total loss of the building as an NDHA and the failure of the scheme to adequately offset this loss is an additional harm that also weighs against the scheme. Thus, these factors also conflict with the development plan, when also taken as a whole, and do not accord with the heritage expectations of the Framework.

68. I have considered the prospect that the scheme is a means of avoiding further dilapidation of the building to minimise harms to the aforementioned heritage assets. Avoiding the loss of significance of heritage assets would be in the public interest.

69. The enduring public benefits of the scheme would flow from the additional visitor stays and the multiplier spends that would be directed towards local businesses. The improved sustainability of the building and its accessibility to a greater range of users would also be positive. The creation of employment opportunities would also be an economic benefit of the scheme, as would the shorter-term, yet sizeable economic benefits from the construction phase. Whilst the evidence does not quantify all of these benefits, the scale of the scheme suggests that when taken collectively, they would be of notable effect on the area, such that I attribute them a high degree of weight in favour of the scheme.

70. However, the outcome of the balancing exercises required by the Framework result in my conclusion that the sum of the public benefits does not outweigh the loss of the NDHA itself or outweigh the less than substantial harms to the significance of the respective designated heritage assets.

71. For the foregoing reasons, the appeal is dismissed.

Hollie Nicholls

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Barar	Appellant
Mr Alex Goodman	Landmark Chambers
Mr Sam Spencer	RICS
Mr James Thompson	GCA Consulting – Structural

FOR THE COUNCIL:

Mr Howard Leithead	No5 Chambers
Dr Nicholas Doggett	Asset Heritage Ltd
Ms Jane Entwistle	Thomasons
Rachael Simpkin	High Peak Borough Council
Rachel Robinson	High Peak Borough Council
Phil Winckles	Matthews & Goodman LLP

INTERESTED PARTIES:

Ms Christine Campbell	Local Resident

DOCUMENTS SUBMITTED AT THE HEARING:

- Updated Document List
- Suggested viability condition wording from Westminster City Council
- Suggested viability condition wording from IHBC
- Copy of Judgement - Bohm and others v SSCLG [2017] EWHC 3217 (Admin)