



Appeal under Section 78 of the Town and Country Planning Act 1990

Proposed development at Sandown Race Course, Portsmouth
Road, Esher KT10 9AJ

Summary Proof of Evidence of Anthony Lee PhD MRTPI
MRICS

PINS Ref APP/K3605/W/20/3249790

LPA Ref: 2019/0551

16 October 2020

Contents

1	Qualifications and experience	3
2	Background and scope of evidence	4
3	Agreed appraisal inputs	5
4	Benchmark land value	6
5	Appraisal results	7
6	Conclusions	8

1 Qualifications and experience

- 1.1 I, Anthony David Lee BSc (Hons) MSc (Econ) MA (TP) PhD MRTPI MRICS confirm that:
- 1.2 I am a Senior Director and Head of UK Development Consultancy at BNP Paribas Real Estate, one of the UK's leading real estate consultancies with fifty regional offices in addition to its London offices.
- 1.3 I am also the Director in charge of the Development Viability Team in the London office with responsibility for the viability service across London, the South and the East of England.
- 1.4 I have degrees in social policy and town planning and a doctorate in social policy and administration.
- 1.5 I am a professional member of the Royal Institution of Chartered Surveyors and a professional member of the Royal Town Planning Institute. I am a RICS Registered Valuer.
- 1.6 I have provided expert valuation evidence at numerous planning inquiries, examinations in public and informal hearings.
- 1.7 I was a member of the advisory panel drafting the Local Housing Delivery Group 'Viability Testing Local Plans: Advice for practitioners' (June 2012). I was also a member of the 'Developer Contributions Technical Expert Panel' established by the Ministry of Housing, Communities and Local Government to advise on the viability section of the 2019 Planning Practice Guidance.

2 Background and scope of evidence

- 2.1 On 22 February 2019, Jockey Club Racecourses Limited ('the Appellant') submitted a part outline, part detailed planning application ("the Appeal Scheme").
- 2.2 The Council resolved to refuse planning permission on 3 October 2019, citing five reasons for refusal. The Appellant lodged an appeal in April 2020.
- 2.3 The first reason for refusal indicates that the Appeal Scheme fails to provide sufficient affordable housing in the context of a development in the greenbelt.
- 2.4 My evidence deals with affordable housing provision and does not address other matters within the first reason for refusal. The Appellant offered to provide 20% affordable housing which is lower than the 40% to 50% targets in adopted Core Strategy Policy CS21.
- 2.5 The Appellant's Financial Viability Assessment ('FVA') by Rapleys reported that the maximum percentage of affordable housing was 15% of units, predicated on the cost of works to Race Course facilities being treated as the benchmark land value.
- 2.6 This FVA was reviewed by Dixon Searle Partnership ('DSP') who advised that the Appeal Scheme could viably provide 20% affordable housing, assuming that the Appellant's benchmark land value (based on the cost of the works to racecourse facilities) was acceptable to the Council.
- 2.7 In the absence of any support for the Appellant's approach in national guidance and/or local policy, the decision to accept or reject the Appellant's approach was a matter of judgment for the Council
- 2.8 The Appeal Site extends to 4.02 hectares and includes 318 residential units; and sale of 0.3 hectares for a 150 bed hotel and 3.3 hectares for a family/community zone.

3 Agreed appraisal inputs

- 3.1 The inputs to the appraisals have been debated at some length between Rapleys and DSP. I was not party to those discussions but I have reviewed the conclusions of the parties and am content to accept the agreed inputs.
- 3.2 The main issue in this appeal is the benchmark land value. Minor changes to inputs to the appraisal of the proposed residential development would not have a significant bearing on the overall results.

Ground rents

- 3.3 I note that Rapleys and DSP were unable to reach agreement on the issue of the inclusion of ground rents in the appraisals. Whilst I have not included ground rents in my appraisals, I note the inspector's decision reference APP/A5270/W/19/3227828, which indicates that such income can be legitimately taken into account in a viability assessment.

4 Benchmark land value

- 4.1 The Appellant's benchmark is based on the cost of works to their operational race course facilities and ancillary buildings (agreed to amount to £35,792,504).
- 4.2 Clearly the Council could have decided to accept the Appellant's approach but chose not to. The key question before the inquiry in relation to viability is whether there is any *requirement* in national guidance or policy, or in local policy, that could have *compelled* the Council to accept the Appellant's approach in arriving at its decision on the Application.
- 4.3 The Planning Practice Guidance ('PPG') paragraph 013 indicates that "*to define land value for any viability assessment, a benchmark land value should be established on the basis of existing use value (EUV) of the land, plus a return for the landowner [which] should provide a reasonable incentive, in comparison with other options available*". The Appeal Site is located in the Green Belt and there is a clear presumption against development, eliminating the "*other options available*".
- 4.4 There are no provisions in the PPG that mandate local planning authorities to take account of private sector investment requirements when determining planning applications.
- 4.5 Core Strategy policy CS21 indicates that the Council will require the provision of 50% of units on greenfield sites and does not indicate that the Council will accept a reduction in affordable housing to provide funds for investment in private sector facilities. Nothing obligated the Planning Committee to do so.
- 4.6 For the purposes of assessing the viability of the proposed residential development, I have therefore adopted the benchmark land value provisionally advanced by DSP (£500,000 per hectare, or £3.81 million).
- .

5 Appraisal results

- 5.1 On the basis of 50% affordable housing, the developments generate a total residual land value of £20,929,878. After deducting the benchmark land value of £3,810,000, the developments generate a surplus of £17,119,878.
- 5.2 On the basis of 40% affordable housing, the developments generate a total residual land value of £26,807,246. After deducting the benchmark land value, the developments generate a surplus of £22,997,246.
- 5.3 As the residual land values are significantly higher than the benchmark land value, the proposals are viable and there is no justification for adopting a percentage of affordable housing that does not meet the relevant target in policy CS21.
- 5.4 Assuming the developments are required to provide 50% affordable housing, the full £20.9 million residual land value would be available for re-investment purposes.
- 5.5 If the developments did not proceed, the Appellant would need to identify the full £35.8 million of its investment requirements from other sources, whereas if policy-compliant developments were to proceed, 58% would be covered by land value, leaving only £14.9 million (42%) to be addressed from other sources
- 5.6 The Appellant could develop the schemes themselves which would reduce transaction costs and enable them to retain £17.15 million of profit. Total receipts would amount to £39.4 million.
- 5.7 The Appellant could also issue a bond to fund the balance of its investment requirements. Its profits appear to be adequate to support the operating costs of a bond.

6 Conclusions

- 6.1 The Appellant argues that the land receipt from the proposed residential development must cover - in full - the proposed improvement works and investments in its race course assets. They also argue that if the full £35.8 million costs of the works are not covered by the land value generated by the residential development, none of the investments will proceed.
- 6.2 There is an important principle to be determined in this appeal; namely that planning policy should not be flexed to fund investments in private sector assets which enhance their value and/or their revenue generating capacity.
- 6.3 Allowing the appeal would establish a principle that a private company can seek reductions in affordable housing to fund investment in their own assets. This would open the floodgates to a whole series of applications from owners of a range of private sector facilities for residential development with sub-policy levels of affordable housing.
- 6.4 The Appellant's approach is flawed in that it assumes that planning requirements should be foregone to subsidise a commercial enterprise and accepting the approach would undermine the principles set out within the Planning Practice Guidance.
- 6.5 Whatever economic benefits the Race Course may generate (and they are not questioned), the race course is run to generate a profit. The Appellant is solely responsible for securing any investment it may require.
- 6.6 There is nothing in national planning guidance nor the Local Plan that requires members to forgo policy requirements when dealing with such facilities and it is entirely discretionary. There is no reason for the Inspector to exercise this discretion in this case.
- 6.7 A revised proposal incorporating 50% affordable housing could deliver a significant contribution towards the Appellant's investment requirements, equating to £20.9 million, or 58% of the total requirement the Appellant has identified. Alternatively, if the Appellant chose to develop the amended schemes themselves, they could fully fund the cost of their planned investments.