

RAPLEYS

Planning Appeal by
Jockey Club Racecourses Ltd

PROOF OF EVIDENCE:

**FINANCIAL VIABILITY IN PLANNING
SANDOWN PARK RACECOURSE
PORTSMOUTH ROAD
ESHER
KT10 9AJ**

Planning Application Reference: 2019/0551
Appeal Reference: APP/K3605/W/20/3249790

15 October 2020

Our Ref: 18-01839

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Appendix 1: Qualifications & Experience

1 QUALIFICATIONS & EXPERIENCE

1.1 My name is Nicholas Fell LL.B (Hons) PGDip MRICS. I am a Partner in the Firm of Rapleys LLP and responsible for the firm's Affordable Housing & Viability Team. Further details of my qualifications and experience are set out in Appendix 1.

2 VIABILITY APPROACH

2.1 My evidence focuses solely on the inputs to the development appraisals. All matters relative to the application of planning policy are dealt in the evidence of Mr Clarke.

2.2 The methodology that has been used in this case, in order to ascertain the maximum viable amount of affordable housing, is the standard viability methodology applied to residential development. However in this case 'Benchmark Land Value' ('BLV') is a misnomer as it is nothing to do with land value, but instead, it is directly related to the cost of delivering the racecourse improvement works, however standard viability methodology requires this to be called the 'BLV' as this is the term used for residential development, a better term would be 'Benchmark Cost'.

2.3 Therefore, it is necessary in this case to adopt a 'Benchmark Cost' that is equivalent to the cost of the improvements works, which after detailed negotiation with the Council's cost consultant have been agreed at **£35.79m**. The applicant has sought to deliver as much affordable housing as is capable across the identified 5 residential sites whilst ensuring land receipts will allow the facilitating works to come forward.

2.4 This approach has been accepted by the Council and set out at the Officer's report at para 9.9.2.2.11:

"To establish the appropriate level of affordable housing contribution while ensuring the deliverability of the scheme as a whole and taking into account the fact that the residential development is the enabling development for the delivery of the essential racecourse improvements, the cost of these improvements has been accepted as a benchmark against which the scheme's viability was assessed."

2.5 It is against this backdrop that the viability assessment was undertaken, and it is the Appellant's position that 20% affordable housing represents the maximum reasonable level and that this has been fully tested and agreed with the Council and their viability consultant.

3 VIABILITY METHODOLOGY

3.1 As set out at 2.4 above, the Appellant's approach to the viability methodology was agreed with the Council as part of the planning application process; however, the Council's Statement of Case now sets out their opposition to the viability methodology, which goes to the heart of the application and the proposals to deliver the improvements to the racecourse and associated facilities.

3.2 The following has all been agreed and or has not been disputed:

- All racecourse improvement works to be undertaken;
- All racecourse improvement works costs;
- All sales values for the private and affordable housing as well as the land value for the hotel and nursery and capitalised values of the rent from the softplay / café in the centre of the course; and
- All build costs associated with the delivery of the residential sites.

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- 3.3 The outcome of running the viability appraisals based on these inputs is that 20% affordable housing is the maximum viable position that the scheme can deliver.
- 3.4 The counter position on viability is to assume the proposal is a standard residential development, which it is not. This approach ignores the fact that the development is facilitating development to bring about the necessary upgrading of racecourse facilities, together with affordable housing to the maximum amount which would also deliver the racecourse enhancement scheme as a whole. The Appellant's position, as stated in the evidence of Mr Gittus, is that neither the racecourse enhancements nor the residential development would take place unless the scheme as a whole is viable. That is the position that was previously agreed with the Officers as the basis of the scheme proposal.
- 3.5 The output of all of this is that the maximum amount of affordable housing obtainable is 20%, taking all relevant costs, values and other matters into account. In addition, the Council's figure of a BLV of £3.81m (£0.5m per ha) supplied on 14th October 2020 i.e. immediately before exchange of Proofs of Evidence, is neither explained or understood. In any event it is not accepted as the correct method to determine viability in this case.
- 3.6 I have also considered any material changes which have taken place since February 2019 when the Financial Viability Assessment that accompanied the planning application was submitted. The 2019/20 years have been exceptional due to the impact of Covid-19 and it would be wrong to conclude that when development takes place it would necessarily be under the same market conditions. Market conditions, particularly throughout 2020 have changed on a monthly basis, however predictions anchoring government policy are that house prices and build costs are likely to return to the pre-Covid situation in the future.
- 3.7 Therefore, rather than carrying out a new appraisal based upon information that will inevitably be based on short term market fluctuations, likely to continue into 2021, it has been concluded that the final appraisal carried out in February 2019, when the market was more stable, is as accurate as one can predict for the time when the market returns to stability in the next 12 months or so.
- 3.8 In addition, in accordance with EBC Development Contributions SPD July 2020 (paras 4.70-4.72 and 6.64-6.69), as well as Viability PPG (para 009, revision 09 05 2019), the Appellant has proposed an early and late stage viability review mechanism that will seek to capture any improvements in the market and provide additional financial contributions towards affordable housing. It was agreed with the Council officers that the viability reviews would be upwards only i.e. the percentage affordable housing will be a minimum of 20% in any event. These reviews are anticipated to take place in more stable market conditions.

4 CONCLUSION

- 4.1 The methodology adopted in this case to determine the percentage of affordable housing which can be delivered and also permit the racecourse enhancement scheme as a whole to be deliverable follows the standard viability methodology but instead of adopting a standard Benchmark Land Value it adopts a Benchmark Cost for the racecourse improvements. This is entirely consistent with the approach adopted for facilitating developments, as is the case here.
- 4.2 This approach was agreed with the Council during the planning application process and the Appellant has been entirely consistent with this approach from the outset.
- 4.3 The output of the viability testing is that 20% affordable housing, equivalent to 64 affordable tenure units, can be delivered on site.
- 4.4 The evidence supporting the February 2019 viability assessment was prepared during more stable market conditions and the impact of Covid-19 throughout 2020 has created significant

market fluctuations which prevent meaningful updating of the appraisals in the current market. The final appraisal carried out in February 2019, when the market was more stable, is as accurate as one can predict for the time when the market returns to stability in the next 12 months or so.

- 4.5 In accordance with SPD and PPG guidance there are both early and late stage review mechanisms that will seek to capture any uplift in value and convert this into additional affordable housing contributions.

5 STATEMENT OF TRUTH AND DECLARATION

STATEMENT OF TRUTH

- 5.1 I confirm that I have made clear which facts and matters referred to in this proof of evidence are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

DECLARATION

- 5.2 I confirm that my proof of evidence has drawn attention to all material facts which are relevant and have affected my professional opinion.
- 5.3 I confirm that I understand and have complied with my duty as an expert witness which overrides any duty to those instructing or paying me, that I have given my evidence impartially and objectively, and that I will continue to comply with that duty as required.
- 5.4 I confirm that I am not instructed under any conditional or other success-based fee arrangement.
- 5.5 I confirm that I have no conflicts of interest.
- 5.6 I confirm that my Proof of Evidence complies with the requirements of the RICS - Royal Institution of Chartered Surveyors, as set down in the RICS practice statement *Surveyors Acting as Expert Witnesses*.

APPENDIX 1

QUALIFICATIONS & EXPERIENCE

My name is Nicholas Fell. I hold a Law Degree from Nottingham Trent University, a Post Graduate Diploma from South Bank University in Property Development & Planning and have been a Member of the Royal Institution of Chartered Surveyors (RICS) since 2007.

Since 2015 I have been a Partner in the firm of Rapleys LLP, Chartered Surveyors and Planning Consultants, of 33 Jermyn Street, London SW1V, having other offices in Bristol, Birmingham, Manchester, Edinburgh and Huntingdon. I am the Partner in charge of the Affordable Housing & Viability Team which is part of the wider Development Team.

Prior to my appointment at Rapleys I spent 10 years at Strettons Ltd, where for the last 4 years I was jointly responsible for the Affordable Housing & Viability Team.

Prior to Strettons I was a Project Manager for Bellhouse Joseph Ltd, a private sector Developer and also for the BBC in relation to their developments at White City and the Mailbox in Birmingham.

I have 15 years of experience on development matters, principally in residential and mixed use schemes. My area of expertise is principally valuation and agency advice in connection with residential development. In my current role I predominately provide development valuation advice to private developers and Registered Providers in connection with financial viability in planning but I have also provided valuation advice to local authorities, banks, and charities on a range of residential development issues including strategic land assembly, development valuation, s.106 and affordable housing valuation and secured lending.

I also advise clients on the purchase and sale of residential-led development sites which includes providing advice on appropriate pricing strategies, negotiating offers on behalf of both land owners and acquiring bodies and advising on appropriate marketing and sales strategies.

I have previously prepared reports for referral to arbitration and independent experts and have acted as a single joint expert in proceedings dealing with both residential and commercial property. I have been instructed to prepare CPR-compliant expert witness reports for both claimants and defendants in respect of properties in London and South East England where professional negligence is alleged or where mortgage fraud is suspected. I have also prepared reports in connection with planning appeals and public inquiries and have provided oral evidence to assist the Planning Inspectorate.