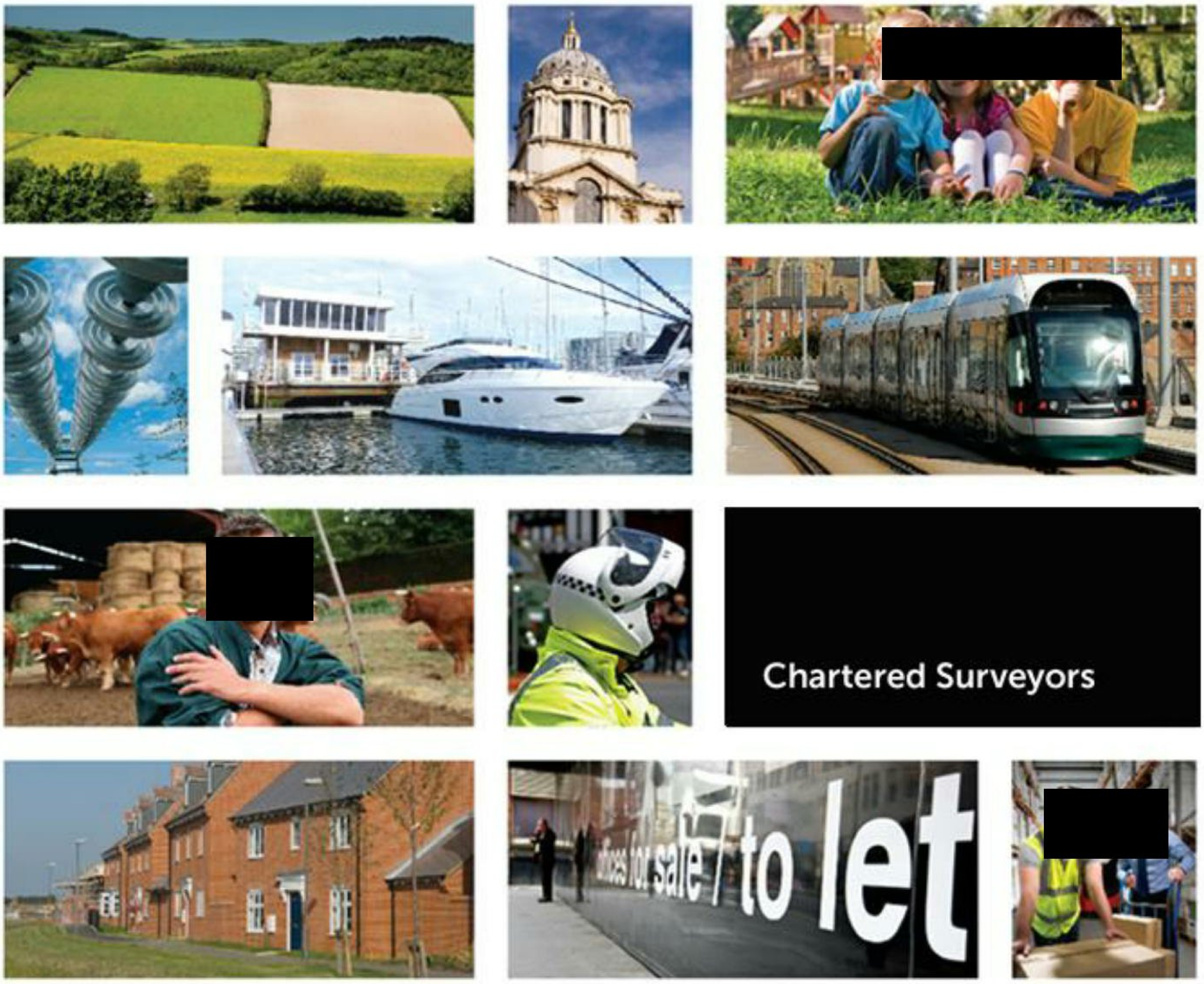
Committee Briefing Note – Former Police Station, Southampton Road, Lymington SO41 9GH (Affordable Housing/S.106 Contributions in respect of Application Ref – 23/10282)

Produced by Bruton Knowles LLP



BK | Bruton Knowles

Introduction

In accordance with New Forest District Council's (NFDC) instructions Bruton Knowles (BK) undertook a review of the Applicant's Financial Viability Assessment dated March 2023 in order to advise what appropriate affordable housing/S.106 contributions could be supported based on the delivery of the scheme under application reference 23/10282, having previously advised in respect of an application at the subject site in 2021 under reference 21/10938.

Following consideration by the planning committee to defer the decision NFDC has instructed BK to provide a high-level briefing note to inform members of the rationale for the differences in off-site affordable housing/s.106 contributions recommended in respect of the historic and current planning application.

This briefing note is to be read in conjunction with BK's Financial Viability Assessment of April 2023, and is further to email correspondence with planning officers and the Applicant thereafter. Our advice has been prepared in accordance with the National Planning Policy Framework, Planning Practice Guidance, RICS Valuation – Global Standards 2022 and RICS Professional Statement Financial viability in planning: conduct and reporting (1st Edition, May 2019).

Confidentiality/Sensitivity of this Document

This document is provided to assist the Committee's understanding of the evolution of negotiation over viability in relation to this planning application and includes sensitive commercial information from the perspective of the Council which should not be shared with the Applicant.

Evolution of Assessment/Negotiations

2021 – It is understood that, further to Bruton Knowles' advice in 2021, a contribution in lieu of affordable housing was agreed at **£584,837**, only for the application at the time to be refused on another issue.

March 2023 - **Applicant's** Financial Viability Assessment submitted in support of its latest planning application confirmed that there is now **£zero** surplus available to support a financial contribution in lieu of on-site affordable housing provision.

April 2023 - **Bruton Knowles'** initial FVA Review concluded that the proposed scheme might support up to **£759,031** of offsite contributions.

May 2023 - **Applicant** provisionally conceded some valuation points and revised its viability conclusions to **£142,233** of offsite contributions, whilst critiquing some of Bruton Knowles' valuation approach.

June 2023 - **Bruton Knowles'** reconsidered some of its initial conclusions and revised its estimate to **c.£665,000** of offsite contributions, with an explanation how our conclusions were informed by the £2.2 million understood to already have been paid for the site by the Applicant.

July 2023 - Applicant countered with a further critique of Bruton Knowles' valuation methodology, in particular the approach a planning inspector might adopt when ultimately reviewing the issue at appeal.

July 2023 - **Bruton Knowles'** provided a further, without prejudice, commentary to the planning officers, explaining the subjectivity and nuances of this valuation negotiation. We concluded more cautiously that, after sensitivity testing of the valuation approaches, **£390,000** might be conceded as an offsite contribution.

July 2023 - The **Applicant** responded with an offer of **£300,000** for the offsite contribution.

Bruton Knowles subsequently re-iterated to officers how, particularly in the current deteriorating market, if the matters were to go to appeal purely on viability, then by the time submissions are in front of the planning inspector, Bruton Knowles may struggle to defend its higher surplus estimates for the site and the Council might take the view that £300,000 represents the majority Bruton Knowles' latest conclusion of £390,000.

Bruton Knowles' Background

The Committee may be aware that Bruton Knowles regularly provides financial viability assessment advice to local and unitary authorities in relation to planning applications and the ability of each proposed scheme to deliver affordable housing, or a contribution in lieu. This includes recommending viability as a reason for refusal and representing LPA's at appeal when Bruton Knowles considers the Applicant's conclusions to be incorrect.

With the subjectivity of valuation and the ultimate appeal determination of viability overseen by a planning inspector, there is something of a 'loss of control' over the ultimate conclusion. When acting for local government clients, Bruton Knowles has continually tried adapt the NPPF viability guidance to generate fair outcomes (as opposed to the outcome being skewed towards the Applicant), primarily by seeking to introduce transactional evidence of development land into the assessment, rather than the what, we consider, something of an 'over-reliance' by applicants on the residual appraisal approach to valuation. The latter outputting a 'residual' land value after estimating multiple inputs (end sales values, fees, construction costs, finance, profit, timescales). A residual appraisal is a very sensitive tool and the output of negotiated inputs may not reflect reality. Comparable transaction evidence reflects market reality, however its criticism is that it is generated by other unique sites, and cannot accurately be adjusted to reflect the subject site.

However, despite our efforts, the Financial Viability Assessment process tends towards focusing on the residual appraisal approach. For example, in the appeal at Astley House, Lewes (ref: 3269823/3295783), Bruton Knowles based its case on comparable development transactions, only for the planning inspector to seemingly disregard this approach and focus on the residual appraisal conclusions (which supported the applicant's position).

Valuation Approach

Within a viability appraisal the Residual Land Value (RLV) can be calculated by deducting overall development costs from the Gross Development Value. The RLV is then assessed against the Benchmark Land Value (BLV) to identify whether any surplus is generated – i.e. it is viable. The BLV in this instance is based upon an 'Alternative Use Value' (AUV) as a 9 dwelling residential scheme which would not generate affordable housing provision. This is an increase on the 7 dwellings estimated by the Applicant in 2021. The 9 dwelling scheme presented by the Applicant appears as realistic a prospect as the original 7 dwelling proposal, and the increase in dwelling numbers mitigates the reduction in land value the 7 dwelling scheme would have suffered (see below for pressures on the residual valuation approach).

However, the proposed scheme remains broadly the same as that proposed in 2021. Since 2021, pressures have increased on the residual valuation inputs, as follows:

- *Gross Development Value* – We are now in a poor/deteriorating market, with very little evidence to support our estimated end sales values. Sales rates have reduced and housebuilders/retirement developers are now reporting an increased level of incentives are being offered to purchasers, meaning 'net' prices achieved are now lower. The slower sales rates (no. of units sold per month) result in uncreased finance costs and empty property costs.

- *Build Costs* – Within our assessment we have applied BCIS (Building Cost Information Service) Build Costs which are based on average costs within the New Forest District. Build cost inflation since 2021 has had a significant impact on the RLV output and impacting inputs within an appraisal including: base build costs, externals, contingency, professional fees and finance costs. The BCIS Build Costs adopted within Bruton Knowles' appraisals have increased in the region of 17% between Q3 2021 and Q3 2023. In addition updates to building regulations have come into force since 2021 in relation to conservation of fuel and power within new build development and therefore additional costs are allowed within the appraisal for 'Part L' at £3,000 per unit.

- *Finance Costs* – Lending rates have increased significantly over the last 9 months. Since the December 2022 budget, the BoE have increased the base rate on a number of occasions, most recently to 5.25%.

After Bruton Knowles' initial estimate that the site generated a surplus of up to £759,031, counter arguments from the Applicant caused us to concede on some points. Further, in an increasingly uncertain, and definitely deteriorating market, we were aware of the difficulty we would have in defending a surplus anywhere near this this quantum when using the residual appraisal approach to valuation of the scheme – in a market where dwelling sales values are under pressure, costs have undergone months of inflation, finance costs have risen, and developers are factoring in higher profit to counter market risk.

However, in this case, there is the relatively unique scenario where the Applicant is already understood to have purchased the site for £2,200,000 in February/March 2023.

As articulated to the Council, on further review, we are reliant on this purchase price of £2.2m as evidence to underpin a viability conclusion that produces a reasonable quantum of offsite contribution. There is a risk (and precedent) that a planning inspector might disregard transaction evidence and focus on the residual approach, giving the Applicant a stronger position, but this is such a unique scenario where the transactional evidence in question is on the subject site, relates to a purchase by the Applicant and pre-dates the grant of planning consent.

However, notwithstanding that it does not accept the £2.2m as suitable evidence upon which to base an assessment of viability, the Applicant has made the argument (which it would also at appeal) that the market has deteriorated further since February/March 2023. By exploring how increased costs and finance might since have affected the £2.2m purchase price, Bruton Knowles' conclusion at £390,000 represents a sensitivity tested and cautious conclusion (as at July 2023), albeit one which assumes that the planning inspector accepts the £2.2m purchase price as relevant evidence.

Our reservation is that, if the planning inspector were to, for whatever reason, disregard the £2.2m purchase price, then the financial contribution outcome at appeal could be below £390,000 and we could face an Applicant returning to its position to £zero surplus in appeal submissions.

The above informed our advice that, whilst the Council might consider the Applicant's latest offer of £300,000 to be low, it does constitute over 75% of Bruton Knowles' latest estimate, and might be concluded as palatable if it facilitates a prompt conclusion to the application.

This valuation is particularly subjective and being negotiated in the context of a deteriorating market. Ultimately we would expect to be able to defend £300,000 surplus, have some chance of defending £390,000, but are not confident of maintaining the £584,837 agreed in 2021.

Whatever the contribution level accepted, the Council might consider a review mechanism to extract additional contributions, should the proposed scheme perform better than reviewed. However, the difficulty here is that BK and the Applicant are not formally agreed on any of the valuations and the £300,000 offered by the Applicant is purposefully 'without prejudice' and in excess of/not justified by its own valuation submissions to date.

Bruton Knowles LLP