The Planning Inspectorate

Costs Decision

Site visit made on 12 June 2017

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28th June 2017

Costs application in relation to Appeal Ref: APP/J1535/W/17/3167348 Royal Oak, Forest Road, Loughton, Essex IG10 1EG

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Steve Hancocks for a full award of costs against Epping Forest District Council.
- The appeal was against the refusal of planning permission for the partial demolition and extension of the former royal Oak public house and change of use to provide 5 flats, demolition of 171 Smarts Lane and redevelopment for 9 flats, and associated parking and landscaping.

Decision

1. The application for an award of costs is refused.

Reasons

2. Irrespective of the outcome of the appeal, the National Planning Practice Guidance (PPG) states that an award of costs may only be made against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.

3. It is broadly a point of common ground between the appellant and the Council that some form of residential development of the appeal site would be acceptable. To this end the site has been identified as a potential allocation in the emerging Local Plan. The Council's objections do not relate to matters of principle. Instead the Council found issue with the particular scheme as presented to them. These are mainly aspects of the design, the effect on the living conditions of neighbours and highway safety. I have found in favour of the Council on two of the issues. The third and fourth, which related to a lack of parking and turning space for vehicles, were not clear cut matters given the apparent parking stress currently being experienced by the area. The proposal was not therefore a development which should clearly have been permitted.

4. The Council referred to matters of bulk, scale and massing in its first reason for refusal. These are factors that need to be considered when assessing a proposal. The Council have not provided measurements but its reference to storey heights was sufficient in articulating its concerns and demonstrating the change that would occur, which I have found would be harmful. It is also possible to gauge the scale of the proposal by comparing it to the height of the Royal Oak, which is shown on the drawings. Thus the Council's concerns in

respect of the proposal's compatibility with the surrounding built form are not unsubstantiated.

5. The Council's concerns with respect to the setting of Epping Forest are less straightforward and harder to comprehend. On balance, the Council just about articulated its concerns that the proposal would appear uncharacteristically built up and intense when viewed from, and in the approach to, Epping Forest. I do not share these concerns but I do not consider they are sufficiently vague and lacking in substance as to be unreasonable. Especially so as this was a point shared by many local residents, who have local knowledge, and the Council were entitled to attach weight to these views.

6. Policy DBE9 does not specifically refer to 'perceived overlooking'. It does however refer to overlooking and I do not consider it is over stretching the point to consider the perceived loss of privacy under the umbrella of this term. The appellant is being over literal in their approach to suggest otherwise. Notwithstanding this, the thrust of Policy DBE9 is to protect the living conditions of neighbours by having regard to matters such as overlooking. The Policy does not specify that it would not have regard to other matters. Therefore the Council's concerns legitimately fall within the ambit of this policy.

7. Planning judgment is required in concluding whether the appeal site fell within a 'main urban area' for the purposes of applying the parking standards. The Council's Officers considered it did but the planning committee Members were not bound by this. They were entitled to reach the conclusion they did – that the edge of town location of the site meant it was not a 'main urban area' and therefore future residents would be heavily car dependant.

8. The Council were also entitled to give weight to the site's location outside a town centre, as this is a factor that needs to be considered and weighed. It is not the only factor, as the proximity of public transport, services and facilities also need to be considered. Members would have been aware of the proximity of these when arriving at the judgment they did. Again, I do not share the Council's overall conclusion on this matter but it was not so flawed as to be unreasonable. This is because what does, and does not, result in a site being well related to public transport and local services has an element of subjectivity and there will be variation within a given main urban area. Moreover, I do not share the appellant's view that a consideration of proposed parking levels can be divorced from a consideration of local parking stress. The level of parking is, to an extent, informed by local issues including any parking stress.

9. The Council questioned the 'sustainability' of the site given its edge of town location. This is relevant to the level of parking that should be provided and therefore I do not consider the Council introduced a new concern. This is a point directly related to the third reason for refusal. The committee report may have concluded that the site is a 'very sustainable location' but it is unclear whether the committee Members endorsed this. The concerns over the level of parking would suggest they did not. The committee Members were entitled to reach the judgment they did based on their local knowledge.

10. The Council took the view that to avoid congestion, delivery vehicles should be able to park and turn within the appeal site rather than wait within the public highway. Interested parties provided representations to suggest that waiting delivery vehicles blocked the road. Given the extent of on street parking in the area that I observed, I consider this to be a legitimate concern.

11. I ultimately concluded that it was unnecessary for all delivery vehicles to be able to enter and turn within the site but this does not render the Council's findings as unreasonable. This is because planning judgment is required in this assessment and I do not consider the Council employed it's unreasonably as the planning committee Members would have had genuinely held opinions based on local knowledge.

12. It is hard to see how a planning condition requiring a delivery and servicing plan could have overcome the Council's concerns as it is apparent that any vehicle greater than a transit van would be unable to turn within the appeal site.

Conclusion

13. My overall conclusion is that the Council did not act unreasonably in refusing the appeal scheme for the reasons it did and subsequently defending its decision through the appeal process. As such, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not occurred.

Graham Chamberlain
INSPECTOR