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T/APP/B1415/A/89/132474/P7
Date
21 DEC 89

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9 AS AMENDED BY THE
HOUSING AND PLANNING ACT 1986
LOCAL GOVERNMENT ACT 1972, SECTION 250(5)
APPEAL AND APPLICATION FOR COSTS BY BALFOUR BEATTY HOMES LTD
APPLICATION NO: HS/FA/89/400

1. I have been appointed by the Secretary of State for the Environment to determine the above-mentioned appeal. This appeal is against the decision of the Hastings Borough Council to refuse planning permission for a block of 83 flats at Hollingsworth Garage, Braybrooke Road, Hastings. I held a local inquiry into the appeal on 5 December and inspected the site on 6 December 1989. At the inquiry an application for costs against the Council was made on behalf of your clients, and I deal with this separately below.

APPEAL

2. The site is in a residential area on the edge of Hastings town centre, but is itself occupied by a vehicle repair garage and filling station. The ground slopes south-eastwards across the site, with the houses on the opposite side of Braybrooke Road being on a bank above road level, and the railway south-east of the site being at the bottom of a steep bank down from the site. There is also a fall along the site and along Braybrooke Road, on a convex gradient, down to the north-east. South-west of the site is a turn of the century terrace of houses, 3 storeys high at the front and 4 storeys at the rear. The proposed block of flats, as viewed from Braybrooke Road, would be 3-4 storeys high at either end, with basement car parking partly on 2 levels, rising to 5 storeys in the middle. As seen from the rear, because of the ground slope, the block would be mainly 5 storeys high.

3. From the evidence given at the inquiry, from my inspection of the site and its surroundings and from the written representations made, I consider that the main issues raised by this proposal are firstly the effect upon the character of the area, bearing in mind the prominence of the site from a number of viewpoints, secondly whether there would be adequate amenity space for occupiers of the flats, and thirdly the effect on the amenities of existing adjoining residents, especially those on the north-west side of Braybrooke Road.

4. On the first issue, it is pointed out on behalf of your clients that there is no uniformity to the character of Hastings. However the high Victorian and Edwardian terraces introduce a strong vertical element to the older parts of the town, which more modern development has copied; and the steep valleys and hillsides of the town have strongly influenced the evolution of the townscape. This proposal in your view would follow both those traditions. The southern end of the block would be about the same height as the existing terrace of houses to the south-west. The

height of the block would then fall away with the drop in ground levels, more pronouncedly at the northern end. The intention is to make the best use of this site, tightly constrained between the road and the bank down to the railway. The building would be carefully designed to avoid creating a monolithic structure, with a varied roofline and front and rear elevations, and a variety of building materials. You consider that it would make a positive contribution to the townscape, and by replacing the existing unsightly garage would help to rejuvenate the town. You point out the planning policy support, at government and local level, for the best use to be made of urban land and in particular for meeting the demand for smaller dwellings.

5. The Hastings Borough Plan, adopted in 1986 and revised in 1989, contains 2 policies which the Council believe would be breached by this proposal. Policy PE1 states that the Council will take into consideration the height, massing, scale and proportions of a proposal and seek to ensure that the development has a satisfactory relationship to other properties. Policy PE13 states the factors to be taken into account in determining residential densities. You consider that the proposal would accord with those policies.

6. At the inquiry you submitted photographs showing older and modern developments in Hastings, and after the inquiry I made an accompanied visit to some of these. I note that few if any of the Victorian and Edwardian terraces are as high as 5 storeys, although I appreciate that ceiling heights were often greater than. The few modern developments reaching 5 storeys are set in more spacious sites than this one.

7. The proposed building would be slightly higher at its southern end than the terrace of older houses to the south-west, and in relation to the falling ground levels it would be over 3 m higher for much of its central portion. When the length and mass of the building are also taken into account, it would, I think, be a significant departure from the tradition of the older buildings of the town. That need not be an objection in itself: the Borough Plan points out that high buildings can enhance the quality of the townscape, and you describe the building as making a bold architectural statement. But this building would be conspicuous from many parts of the town, particularly from West Hill and the adjoining slopes, and I consider that it would look discordant next to the more domestic scale dwellings nearby, including the terrace to the south-west. As seen from Braybrooke Road too, the building would have an oppressive effect. I appreciate that the building has been designed with considerable care and attention to detail, with a view to breaking up its visual impact, but this would not in my opinion remove these objections to it. I consider that the proposal would not be in accordance with policy PE1 of the Borough Plan.

8. I turn to the amenities of the occupiers of the building. This is not an issue pressed by the Council, and I have taken account of the advice contained in Annex A to Circular 22/80, that functional requirements within a development are for the most part a matter for the developers and their customers. However it is an aspect raised by some of the local objectors, and I drew attention to it at the inquiry. The proposal provides for very little private amenity space, most of the ground area being taken up by car parking. The landscape drawing 2193/400 indicates a larger amenity area at the back of the building, but this takes in land outside the application site, and I was given no indication at the inquiry that your clients would be in a position to acquire such land.

9. The proposal includes 38 two-bedroom and 9 three-bedroom flats, and in my opinion, while it would be inappropriate to lay down precise standards, it is reasonable to expect a significant area of private amenity space to be provided for such a development. You say that the dwellings would probably be occupied mainly by older people or others without children, but I do not think it can be assumed that families will not be interested in purchasing these flats. Yet the development would be most unsuitable for families, not only because of the lack of amenity space, but also because the proximity of a railway and a busy main road would make

if seen also to be a safety issue - that the building is not a terrace. (see attached)

hazardous the seeking of recreation space further afield. For this reason I do not regard Alexandra Park as being an adequate substitute. I conclude that the lack of amenity space is a serious objection to this proposal.

10. The Council point out that, while they do not wish to set precise density standards, the density here would be nearly 83 dwellings per acre. This is a high figure, even taking account of the size of the units and proximity to the town centre, and is indicative that the proposal would be over-development. Further harm would be caused if this were taken as setting a precedent for other developments in the town. I consider that when the criteria set out in policy PE13 of the Borough Plan are taken into account, my conclusions on the above issues are reinforced.

11. As for the amenities of existing residents, those most affected would be the occupiers of Nos 117-135 who look across at the site from the other side of Bray-brooke Road. At present there is a view from these houses, in their elevated position above the road, over the top of the existing garage building, to West Hill, the castle and the Old Town. The sea can be seen from some positions. Understandably, these residents object to the prospect of losing this view. However it is well accepted that it is not the purpose of the planning system to protect purely private interests. Moreover I inspected this view during my visit to the site, and it seems to me that the present outlook onto the garage building detracts greatly from its quality, with the more distant views being available only above or at the side of that building. I have concluded above that the height and mass of the proposed building would be out of scale with its surroundings; that would of course be most immediately apparent to those living nearby, and to that extent that is a further objection to this proposal. But I do not consider that the loss of view from the houses opposite would by itself be an overriding objection. The development would maintain standards of light and privacy, in relation to these houses, compatible with those normally found acceptable in urban areas.

12. In examining all the above issues I have kept in mind the desirability of replacing the existing unsightly garage buildings, and that in principle the Council support residential redevelopment here. The site is a tightly constrained one, in terms of size, shape, position in relation to road and railway, and topography, and some compromises on the above issues may be necessary in order to achieve the best use of this urban site. It appears to me that the Council's planning officer reasonably had this in mind when he recommended acceptance of this scheme. But even so, I am convinced that this proposal would be so excessive in both its effect on the townscape, and lack of amenity space for the type of flats proposed, that it should not be permitted.

13. I have taken account of all the other matters raised. The Council refused permission on 3 grounds, one of which related to traffic hazard, but they withdrew that ground prior to the inquiry and no evidence was presented on it. I am satisfied that that would not in itself be a clear objection to this proposal. There are no other matters which outweigh my above conclusion.

14. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal.

APPLICATION FOR COSTS

15. In support of the application for costs, it was stated on behalf of your clients that the Council had unreasonably refused planning permission and it should not have been necessary for the case to come to inquiry. Reference was made to paragraph 7 of Circular 2/87, which points out that planning authorities will be expected to show that they had reasonable planning grounds for taking a decision against the advice of their officers, and to be able to produce evidence to support those grounds. In this case, Members had before them a professional report prepared by officers who had inspected the site and negotiated amendments to the applica-

tion. The chief planning officer was an architect as well as a planner. Members had refused permission without making a formal visit to the site - indeed no evidence had been presented that they had made any visit. My attention was drawn to an appeal decision in Harrow where costs were allowed in such circumstances. The Council had failed to justify their decision at the inquiry. It was not good enough either to rely on the unanimity of view amongst Members, or to send a witness to the inquiry who disagreed with the view that he was defending. In taking account of the views of local residents, the Council had failed to show that such opposition was founded upon valid planning reasons supported by substantial evidence.

16. In response, it was stated on behalf of the Council that they had taken their decision on the basis of all the circumstances before them, including their officer's recommendation. It was not clear whether individual Members had visited the site, but that should not lead to a presumption that they had not done so. In any event, this was a prominent site in a fairly small town, and it was reasonable to expect that Members would be familiar with it. The objections were based on policies of the adopted Borough Plan; the issues raised were open to subjective assessment. Weight should be attached to the fact that no Members or local residents support this proposal. In the case at Harrow referred to, the Council had put forward no expert witness, and the issues were not quite the same.

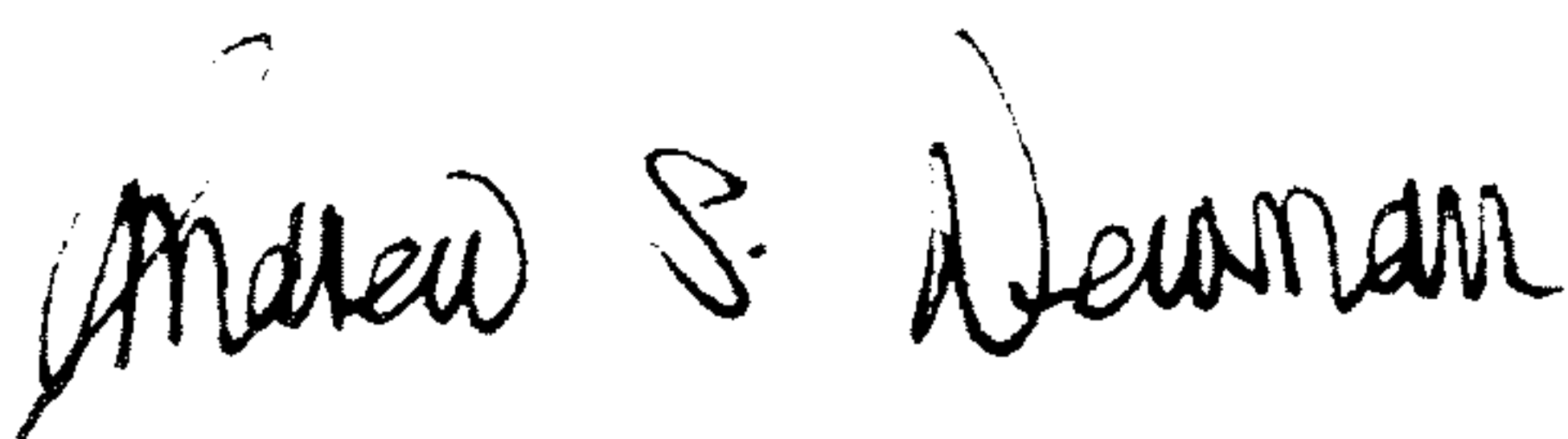
17. In determining your client's application for costs, I have borne in mind that in planning appeals the parties are normally expected to meet their own expenses, irrespective of the outcome of the appeal, and that costs are awarded only on grounds of unreasonable behaviour. Accordingly I have considered the application for costs in the light of Circular 2/87, the appeal papers, the evidence submitted by the parties, and all the relevant circumstances in this appeal.

18. I think that it was ill-advised of Members not to make a formal visit to the site before departing from their officer's advice in such a case as this where appearance is a main issue, but that does not in itself, in my view, justify an award of costs if the decision is otherwise defensible. In this case, it is clear from my above decision that I regard the conclusion reached by the Council as a reasonable one. In the Harrow case in contrast, the Inspector was not convinced either as to the reasonableness of the Council's stance, or their ability to defend it at the inquiry. I conclude that the Council's behaviour in this case does not justify an award of costs.

FORMAL DECISION ON COSTS

19. For the above reasons, and in exercise of the powers transferred to me, I hereby refuse your client's application for an award of costs.

I am Gentlemen
Your obedient Servant



A S NEWMAN BA MA DipTP MRTPI
Inspector