

East Area Planning Committee

5th March 2013

APPEAL DECISION – LAND TO THE REAR OF 82 – 86 WINDMILL ROAD, HEADINGTON – 12/00660/FUL - AWARD OF COSTS.

RECOMMENDATION

Committee is recommended to note the report.

1. This report is brought to Committee at the request of Michael Crofton-Briggs and concerns the award of costs at appeal for a refused planning application for residential development comprising the erection of 2 x 3 and 1 x 2 bedroom dwellings on land at the rear of 82 – 86 Windmill Road. A site plan is attached at Appendix 1.
2. Also attached to this report at Appendix 2 are copies of appeal decisions in respect of the above site and a costs decision. The costs decision refers to Appeal A only and allows a full award of costs to the appellant based on the unreasonable behaviour of the City Council which has resulted in unnecessary expense for the appellant.
3. The site has been the subject of a number of planning applications and there is an extant permission for the erection of a new building to provide 3 x 2 bedroom dwellings [10/01496/FUL granted under delegated powers in August 2010.
4. In 2011 an application was submitted [11/02994/FUL] for the erection of a similar building to that already approved but with accommodation in the roofspace to provide 2 x 3 bedroom dwellings, 2 x 2 bedroom flats and 1 x 1 bedroom flat. The application site also included 2 garages sited in an adjacent garage block to provide a single car parking space for the two larger dwellings with the remaining units being 'car free'. The application was refused under delegated powers for reasons relating to overdevelopment of the site, overlooking from the first and second floor windows and inadequate amenity space for the one bedroom flat in the roofspace. No objection was raised to the provision of the two car parking spaces.
5. The application the subject of the costs award is for the erection of a similar building to that already approved to provide 2 x 3 bedroom dwellings and 1 x 2 bedroom dwellings with a study in the roofspace. Officers took the view that the study was large enough to be used as a bedroom and therefore the application was tantamount to the erection of 3 x 3 bedroom dwellings and the Inspector agreed with this view. The application site included the same two garages in the adjacent

block to provide a single car parking space for two of the new dwellings. The application was called in to Committee with an officer recommendation of approval.

6. East Area Planning Committee resolved to overturn the officer recommendation and refuse the application for a single reason relating to the substandard size of the two car parking spaces in the garage block and the parking provision being inadequate to serve the needs of the 3 x 3 bedroom dwellings proposed.
7. A subsequent appeal was allowed subject to conditions by letter dated 21st January 2013. The Inspector noted that no objection had been raised to the proposal by the County Council as Local Highway Authority and took the view that the proposal would provide appropriate and acceptable parking arrangements that would not have an adverse impact on highway safety or result in any material effect on highway conditions in Norton Close.
8. In allowing a full award of costs against the City Council, the Inspector has taken the view that the Council refused the 5 unit scheme [under delegated powers] which proposed more units and numbers of bedrooms only some 4 months before it refused the 3 unit scheme [overturn at Committee] for one reason relating to inadequate car parking when this did not form a reason for refusal of the 5 unit scheme and when the red edged areas for the two applications were identical including the two garages. The Inspector goes on to describe the reason for refusal as 'spurious' and states that the two applications had not been determined in a like manner which amounts to unreasonable behaviour.
9. The Committee is also advised that the Inspector did not accept the Council's suggestion that a condition should be imposed on any planning permission withdrawing permitted development rights in respect of the enlargement or alteration of the proposed dwellings and the provision of buildings and enclosures within their curtilages. As a result of this, the appellant is seeking pre-application advice regarding the enlargement of the proposed dwellings by way of the erection of single and two storey rear extensions to provide enlarged living accommodation. Given the Inspector's stance on permitted development, if the proposals fall within the remit of permitted development, officers consider that the Council will have no realistic alternative but to support the proposals and grant planning permission for larger dwellings on the site.

Angela Fettiplace
Principal Planner
14.2. 2013