

13 GROSVENOR ROAD

A CASE OF PERSISTENCE AND COMMUNITY SOLIDARITY

For some five years now the residents of Grosvenor Road with the support of HRA, have been fighting a wholly inappropriate proposed development to turn a large family home into either a 15 bed HMO or the latest proposal, 5 'flats' with a potential for 22 occupants!

This has been a long and difficult fight which has cost both residents and HRA several thousands of pounds for the engagement of a specialist Planning Barrister to fight both the intransigence of the developer, who refused all attempts at a negotiated compromise scheme, and the City Council's officers, who after their early support for the objectors, finally caved in to the unremitting pressure from the applicant and a lack of resolve to fight on.

Whilst doubtless this will not be the last attempt by probably the city's largest and most rapacious HMO landlord to maximise his profits at the expense of his neighbours and the wider community, we have achieved a major result here, against all the odds and predictions, although no thanks to the Council's Planning and Legal Depts. This was the third Appeal in five years for this site and in every instance we have had to engage our own professional help to provide support for the Council and stiffen their resolve.

This is perhaps understandable when one considers the Council had to spend some £15,000 prior to the first Appeal to obtain an Injunction in the High Court to prevent the unauthorised occupation by 15 students. This was initially granted, but by the time of the full hearing the Landlord had signed tenants up, so the judge said he did not want to make them homeless! This in spite of the fact no one had actually yet moved in and it was only July, when term did not commence until the end of September, which would have given them plenty of time to find alternative accommodation. How the Judge failed to recognise this manoeuvre as a blatant Contempt of Court by a totally avaricious, unscrupulous and arrogant landlord I do not understand! One has to question the competence of the Council's representation in the High Court perhaps? However, after that it seems the Council rather lost their resolve and eventually Officers actually recommended Approval for the third Application.

This is where it gets particularly interesting, because with the appointment of Michael Rudd (still of Kings Chambers) this time, it meant a fresh pair of eyes and he took the view that the previous Inspector's Decision was flawed in a number of ways and would have been challengeable within the prescribed time after her Decision, which unfortunately we had not realised. (Just as well perhaps for this would have meant a very expensive legal challenge in the High Court!). Nevertheless he considered our case

still had merit and we should oppose any Appeal once again following a further Planning application. It was then, to our horror, we found that Officers were going to recommend approval this time! We spoke with the Case Officer and the then Temporary Head of Planning who were adamant they had no choice but to follow the previous Inspector's findings. We then had to obtain an additional Legal Opinion to present to the Planning Panel considering the application, as to why they would be in error to grant permission. However despite the THoP's contemptuous dismissal of this legal opinion, which was also rejected by the Council Solicitor, the Panel of Councilors accepted the Opinion and voted to refuse the planning application, which meant it could then be considered by another Inspector at a further Appeal.

The Barrister then had to prepare our Appeal submission by Written Reps, which included much direct evidence from the residents of Grosvenor Road which was to prove crucial in the new Inspector's findings.

There are some important lessons to be learnt here I believe and if this case illustrates one thing above all, it is the importance for Residents and their RAs to have access to qualified professional help when it is needed. Without the input of Michael Rudd of Kings Chambers on this last Appeal and Sarah Clover of the same Chambers for the previous two Appeals, we would not be where we are today.

Also the importance of getting one's Ward Councillors involved at an early stage; it is their support which will get the application brought before the Planning Panel in the event of the Officers recommending approval, as in this case.

Additionally and perhaps most importantly of all, is the need for residents to come together and cooperate in the writing of letters of objection, obtaining evidence, taking photos of Parking for example and working with the community as a whole to protect and preserve their area. Finally it is important to turn up in support of the elected speaker at the Planning Panel; the number of objectors present does have an influence on members of the Planning Panel. Plus of course, either form, or join your local RA.

This is but one of some 30 odd Appeal decisions over the last three years or so that have gone in residents favour, having originally been recommended for Approval by Officers, yet refused at Panel. I am also reminded of other similar cases, all recommended by Officers for approval, where there were a number of successive Appeals over several years, Crofton Close, Pointout Close, several in Bassett; all of which required the legal representation of Kings Chambers to enable residents to obtain the desired result. One has to question why this should be necessary when it is after all, the Council's job in the first place, especially when one considers the Inspectors observation at para 8.2 of his Decision for Costs against the Council (!) where he says of the application ... *it would not comply with policies in the Development Plan*, plus...the

Panel were within their rights to disagree with a previous Inspector's decision as ... *other material considerations dictate...*

Perhaps I can do no better than to quote from our Barrister's final email by way of summary...

This is an excellent result and testament to the need for local communities not to be put off by indifferent Planners... and... Hopefully it will serve as a lesson to the Council and they will take more interest in the environment they are charged with preserving.

It will be very interesting to see what lessons the City Council will take from this episode, but past experience does not make us terribly hopeful.

Jerry Gillen, Vice Chairman, October 15