

Statement of Case

Appendix 32

Opinion of Timothy Corner QC in respect of
appeal procedure

LAND AT 55 VASTERN ROAD
READING
APPEAL BY BERKELEY HOMES (OXFORD AND CHILTERN) LIMITED
AGAINST REFUSAL OF PLANNING APPLICATION
FOR RESIDENTIAL DEVELOPMENT

OPINION

1. I advise Berkeley Homes (Oxford and Chiltern) Limited (“the Appellant”) about the appropriate mode of determination of the above appeal. For the reasons which follow, in my opinion this appeal should be determined by a public inquiry.

2. In reaching this conclusion I have had regard to Annexe K to the Planning Inspectorate Procedural Guide-Planning Appeals-England. It is there stated that an inquiry would be appropriate if
 - a. There is a clearly explained need for the evidence to be tested through formal questioning by an advocate; or
 - b. The issues are complex; or
 - c. The appeal has generated substantial local interest to warrant an inquiry as opposed to dealing with the case by hearing.

3. In my view all of those criteria are met in the present case. The Council refused planning permission for seven reasons, which I can summarise as follows;
 - a. The North/South link through the scheme (reason 1)
 - b. Effect of the blocks nearest the river Thames on the river’s setting and character (reason 2)
 - c. Ecology (reason 3)
 - d. Noise (reason 4)
 - e. Heritage (reason 5)

- f. Failure to develop the allocated site comprehensively (reason 6)
 - g. Lack of a section 106 agreement (reason 7).
4. It is anticipated that reason 7 will be overcome by submission of a section 106 agreement, which it is hoped will be agreed. However, the issues raised by the other reasons for refusal are complex and their resolution will require expert evidence, which will need testing by cross examination.
 5. Reason 1 will require expert transport/highways evidence.
 6. Reason 2 raises an important issue of the design of buildings bordering the river Thames, and will require architecture and townscape evidence.
 7. In reason 3 the Council raises two main issues. The first is the overshadowing effect of the proposals and the Appellant's proposals to compensate for any such effect. This issue requires expert ecological evidence. The second issue concerns the Appellant's proposals for tree-planting as part of the scheme, on which the Council has cast doubt. This matter requires evidence from an expert arboriculturist.
 8. Reason 4 raises a technical noise objection and expert noise evidence is required.
 9. Reason 5 concerns heritage and the proposed demolition of the unlisted building at 55 Vastern Road. Expert heritage evidence is required in relation to this matter.
 10. Reason 6 contends that the appeal proposals would not provide for comprehensive development of the site allocated under policy CR 11 (g) of the Reading Local Plan. Architectural and planning evidence will be required in relation to this reason.
 11. All of the above issues will involve expert evidence which needs to be cross examined. A hearing is therefore not suitable and the appeal should be determined by way of inquiry.
 12. There is a further reason why an inquiry is required in this case. The planning application attracted interest from local groups and residents, as identified in the Committee Report. I expect there to be substantial public participation at the appeal.

13. For the above reasons it seems to me that an inquiry is plainly called for. Finally, because of the complexity of the issues and the need for testing, as well as the likely participation by local residents and groups, I think twelve days should be allotted if the appeal is determined by way of an inquiry. That further shows that this matter is not suitable for a hearing. Even if a hearing were imposed, the time taken would be greater than normally allotted for a hearing.

14. I therefore conclude that having regard to the relevant guidance, this appeal should be determined by way of a public inquiry.

TIMOTHY CORNER, QC
LANDMARK CHAMBERS
180 FLEET STREET
LONDON EC4A 2HG

20th May 2021