

Building Community Support for Community Housing TOOL KIT

Why do some people oppose affordable housing?



MAIN REASONS DIFFERENT GROUPS OPPOSE AFFORDABLE HOUSING DEVELOPMENTS

SURROUNDING COMMUNITY CONCERNS

JSA reviewed 88 cases regarding boarding house and affordable housing development applications that have come before the NSW Land and Environment Court since the gazettal of the SEPPARH in 2009. Around 40% of these cases received resident objection that was registered with the Court.

Those residents who made formal objections about these affordable housing proposals were mainly concerned about (in descending order):

- **Physical amenity** – parking and traffic impacts, solar access, noise, overlooking and privacy impacts.
- **Physical character** – incompatibility with the local character, bulk/scale, setbacks, landscaping.

Social impact concerns and specific fears about the profile of future residents, 'who' will be living in the new development and what their 'behaviours' would be like, represented **only a very small proportion of stated concerns**.

Whether or not concerns about 'who' tenants will be and what their 'behaviours' will be masked by concerns about physical amenity and character – such matters have not been **common reasons given by the NSW LEC for refusal** of development applications for affordable housing or boarding houses.

Making sure you address substantive issues related to physical and amenity and character will make it more difficult for people opposed to the development to gain traction on more subjective grounds.

It is also important to **anticipate and proactively engage existing residents, particularly those immediately surrounding the proposed development, and attempt to mitigate potential concerns around design, amenity and character to the greatest extent possible**.

LOCAL GOVERNMENT CONCERNS

Councils that refused applications since SEPPARH was gazetted were mainly concerned about (in descending order):

- **Physical character** – incompatibility with the local character, bulk/scale, setbacks, landscaping, etc.
- **Physical amenity** – parking and traffic impacts, solar access, noise, overlooking and privacy impacts.
- **Administrative issues** – compliance with legislation or policies, documentation, studies
- Adverse community reaction (insofar as relate to **tangible impacts**).

Councils, especially elected representatives, can be quite risk averse when it comes to adverse community reaction to development proposals. Again this highlights the importance of proactively engaging with your community and council well-before a DA is lodged important. Such issues and potential sensitivities can also be canvassed at your pre-DA meetings.

And remember, **addressing the substantive issues** will make it more difficult for a consent authority to refuse an application on more subjective grounds, like fears about who will live in the development!

LAND AND ENVIRONMENT COURT

Where a consent authority has refused a development application for an affordable housing development under State Environmental Planning Policy Affordable Rental Housing 2009 (SEPPARH), an applicant has the opportunity to appeal this decision in the NSW Land and Environment Court (NSW LEC). The NSW LEC may uphold the consent authority's refusal (deny the appeal) or grant development consent (uphold the appeal), generally with conditions of consent.

JSA reviewed 88 cases that have come before the NSW LEC since the gazettal of SEPPARH. Of these, 55 cases related to boarding house applications and 33 cases related to affordable housing applications, and:

- 62% of **boarding house** development applications were approved by the Court on appeal.
- 42% of **affordable housing** development applications were approved by the Court on appeal.

As such, applicants have reasonable prospects of having their application approved by the Court, particularly for a boarding house, but a Court action can be costly and lead to major delays for the proposed development.

Typical grounds for denying the appeal against a council refusal (i.e. refusing the development) by the NSW LEC were (in descending order):

- **Physical character** – bulk and scale, compatibility with local character, heritage, setbacks, landscaping and other on-site issues.
- **Administrative issues** – non-compliance with legislation or the SEPPARH, lack of proper documentation.
- **Physical amenity** – noise and privacy impacts, traffic and parking impacts, solar access, other physical impacts on neighbours.
- Adverse **residential amenity impacts** (particularly for boarding houses) – internal design of the building, size or amenity of rooms.

Adverse community reaction to potential social impacts of proposals, based on 'who' would be living in the new development and their potential 'behaviours', have to date been largely irrelevant to LEC determinations.

Refusal by the Court requires strong planning grounds. Underlying concerns about 'who' may live in affordable housing and their 'behaviour' may exist, but again, **ensuring that the substantive issues above are addressed makes refusal of an application far more unlikely.**