

Appeals by Mr & Mrs RYAN

Against the decision of Shepway District Council to refuse Planning Permission (Y16/0902/SH) and Listed Building Consent (Y16/0903/SH)

For removal of existing window, lowering of window cill and installation of French doors on rear elevation

at Flat A, 7 Clifton Crescent, Folkestone, Kent

LPA refs: Y16/0902 & 0903/SH

Appellant ref: 0210/16

Appeal refs: 3164367 & 3164477

Further comments of Appellant

- 1. Failure of LPA to submit Statement of Case**
 - 2. Costs application**
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Failure of LPA to submit Statement of Case

1. These comments have been prepared on behalf of the appellant jointly by Robert George BArch, DipArch, ARB, AABC, Conservation Architect, and Mike Simmonds, BA, DMS, MRTPI, Chartered Town Planner.
2. The LPA supplied their Questionnaire and accompanying documents within the timetable and, in reply to Q.21, confirmed that a Statement of Case would be submitted. This was due on or before 27 February 2017 but progress checks at PINS has confirmed that the case submitted in defence of the LPA decisions has been rejected as out of time. Further comments are required to be submitted by 13 March 2017.

Documents supporting the Questionnaire

3. This LPA no longer employs in-house Conservation or Listed Buildings expertise and relies on advice from specialist consultants.
4. The LPA retains Messrs Anthony Swaine Architecture Ltd to advise them. The firm is a reputable and respected independent Architectural Practice specialising (inter alia) in Conservation and Listed Buildings.
5. It is a document now of record that Anthony Swain Architecture Ltd advised the LPA that this application would NOT harm the character or appearance of the listed building.
6. This document was neither referred to in the LPA case officer's notes nor recorded on the case file at the LPA website. The appellants therefore knew nothing of its existence until it was supplied along with the Questionnaire following lodging of the appeals.



7. The advice given to the LPA was:

Comments:
The character of Clifton Crescent remains very much <i>as built</i> (apart from no33) however some of the buildings have been altered in the past, especially at roof level, with extra levels of dormers added to the substantial mansard roofs. Nevertheless the general character remains and most buildings retain their original windows. The applicants have pointed out the fact that similar alterations to their proposals have been made to four other properties (nos 5, 15, 19 and 27). It is not clear whether any of these have listed building consent. On the other hand, the appeal decision at no21 upheld the Council's refusal for a similar proposal, stating that "such alterations when considered accumulatively serve to erode the special architectural and historic value of heritage assets and that the proposed alteration here would be harmful to the preservation of the historic building". The situation on <i>this</i> building is slightly different, not least because the other half of the property has had a similar alteration. Putting this to one side, the window in question is set very low down in the building and part way into the ground, therefore the impact of the proposed alteration to the window would be fairly limited. The proposed steps may well have more of an impact than the window alterations to the building. If the proposal was considered acceptable in principle, I would suggest an amended design for the door since the proposed door design is not really appropriate for a building of this age. I would suggest a pair of doors with a low bottom panel and two glazing bars would be more appropriate to the character of the Victorian building. I enclose a sketch showing the design of a typical pattern of c19th patio doors which they might follow
Recommendations:
In this instance, partly because of the similar situation on the other half of the pair, I would suggest the proposal is acceptable in principle. The design needs to be amended along the lines of the attached sketch showing a more suitable design, which should be sent to the applicant.

8. The comments
 - a. summarised the sensitivity of the Terrace and it's degree of originality,
 - b. noted the precedents set nearby and commented upon them
 - c. distinguished the uniqueness of the appeal proposals, and
 - d. recommended minor changes to the detailing of the doors
9. The Consultant recommends "The proposal is acceptable in principle" and suggests that a copy of his alternative, more suitable, design solution be sent to the applicants.
10. This did not happen.
11. The LPA instead refused the applications and issued threats of Enforcement Action upon the appellants if they did not urgently act to reinstate the opening as a window or appeal their decisions.
12. The appellants consider that the LPA has acted completely unreasonably in withholding, if not concealing, this vital document which confirms the expert opinion of the appellants' own Consultant.
13. The appellants are unable to determine the reasons behind this extraordinary omission and would have been extremely interested in the LPA defence of their



decisions in these circumstances, which should have been set out in their intended Statement of Case.

14. It will be noted that, without foreknowledge of this evidence, the appellant's own Consultant Conservation Architect made an identical suggestion for revised door designs, and the appellants' willingness to comply with that has been transmitted to the Inspectorate and the LPA as part and parcel of these appeals.
15. Suitable conditions can be drafted to ensure that the doors are altered to a more appropriate design within a given timetable, therefore there is no reason for the LPA to maintain their objections to the appeal development.

COSTS APPLICATION

16. Neither the appellant nor their agent has been contacted by the LPA to follow up the advice they had received and seek a negotiated solution.
17. Had the LPA done so before the applications were determined, amended designs would have been submitted and there would have been no need to pursue these appeals.
18. Had the LPA done so on reading the appellants' statement of case or at any time up to the drafting of these comments, amended applications would have been submitted immediately and the appeals need not have proceeded.
19. Under either of those circumstances, the appellants' costs would have been eliminated completely or significantly reduced.
20. The LPA was fully aware of the option of a negotiated solution but failed to communicate that to the appellants until obliged to do so under the appeal procedures. There has been attempt to remedy this omission since the appeals were lodged.
21. This unreasonable behaviour by the LPA has put the appellants to the entirely avoidable and unnecessary cost of pursuing these appeals, which has entailed seeking professional advice and representation.
22. An award of the full costs of pursuing these appeals is therefore sought, and the completed PINS recommended pro-forma is supplied.

