



Appeal Decisions

Hearing held on 10 May 2011

Site visit made on the same day

by Jennifer Vyse DipTP DipPBM MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2 June 2011

Appeal A: APP/A5270/E/10/2141256

Crossways, 134 Church Road, Hanwell, London W7 3BE

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Drs James and John Fowler against the decision of the Council of the London Borough of Ealing.
- The application No PP/2009/4420, dated 1 January 2010, was refused by a notice dated 22 July 2010.
- The works proposed are described on the application form as the demolition and reconstruction of existing house; demolition and reconstruction of existing garage; removal of plinth walls to ruined greenhouse; erection of new, two storey house within the curtilage of the listed building.

Appeal B: APP/A5270/A/10/2141261

Crossways, 134 Church Road, Hanwell, London W7 3BE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Drs James and John Fowler against the decision of the Council of the London Borough of Ealing.
- The application No PP/2009/4419, dated 1 January 2010, was refused by a notice dated 22 July 2010.
- The development proposed is the reconstruction of, and extension to, existing house and erection of new garage and car port; erection of new two storey house; removal of two protected trees (T4 and T5).

Procedural Matters

1. With regard to Appeal A, it was agreed at the Hearing that neither the erection of the dwelling that it is proposed to reconstruct, the reconstruction of the garage, nor the proposed erection of the additional two storey dwelling, requires listed building consent. The appellants' preference for the term 'dismantling' over 'demolition' was also acknowledged.
2. The appellants consider that Crossways was listed in error and, even were that not the case, that subsequent alterations have 'so altered and mutilated' the property that it is no longer worthy of listing. As a consequence, they applied to have the building de-listed. That application was made in August 2009 and is still under consideration by the Department for Culture, Media and Sport. I understand that no decision is to be made until the outcome of these appeals is known. At the present moment in time therefore, Crossways remains as a statutorily listed building and I have dealt with the appeals on that basis.

Application for Costs

3. At the Hearing, an application for costs was made by the appellants against the Council. That application is the subject of a separate Decision.

Decision

4. For the reasons that follow, I dismiss both appeals.

Main Issues

5. The main issues are whether the proposal would preserve the special architectural and historic interest of Crossways, a grade II listed building and, if not, whether there are other considerations that might outweigh that harm; the effect of the additional dwelling proposed on the setting of the listed building; and the effect of the proposal on the character and appearance of Hanwell Village Green Conservation Area.

Reasons for the Decision

Listed Building

6. Dating from the C18th, Crossways is believed to be the oldest surviving domestic building in the area. The building occupies a dominant roadside location within the Conservation Area, lying end-on to the triangular remains of the village green. It has a long rectangular footprint and appears to have been constructed in three linear phases. The earliest is the central section, which is surmised to date from the C18th. It comprises a three-bay symmetrical double-depth plan house, with a central valley gutter and a pair of chimney stacks to each end. A slightly later two storey section, also with twin pitched roofs, was added to the western end, extending to the back of the pavement on Church Road. Lastly, a single storey extension with a pitched roof, was added to the eastern end of the building at some later date, possibly Victorian. The building is generally of red brick, coated in the C20th with roughcast render. It has pitched slate roofs, with the eaves to the two storey elements concealed behind parapet walling.
7. The internal space of house has been the subject of various alterations over the years, but most particularly in the late C18th/early C19th, when it would seem that the house was re-modelled. Those alterations have, unfortunately, reduced the structural integrity of the mid-height lateral restraint within the oldest section. Other movement, caused possibly by shallow foundations, further alterations, ground conditions, and the effect of tree roots, plus the lack of any significant on-going maintenance, has led to long term water ingress and the failure of various timber members, leaving the building in a poor state of repair.
8. The appellants maintain that the building has little intrinsic architectural merit in terms of original features, details or decoration, arguing that its significance lies with its overall form and familiar presence in the Conservation Area. However, as confirmed during the site visit, it is apparent that significant features do remain. These include the main staircase which is of late C18th appearance, a late Georgian secondary stair, and a dresser in the kitchen that I understand may be late C18th/early C19th in part. I am advised that the house underwent internal refurbishment in the late C19th/early C20th and most fireplaces are from that date, with earlier features remaining at first floor, including dado panelling, cupboards in the north-east bedroom and architraves that are surmised to date from the later Georgian period. All in all, notwithstanding its alterations over time and its current physical condition, I agree with English Heritage and the Council, that the building retains considerable architectural charm in its vernacular, predominantly mid-

Georgian, appearance and fabric, which, together with the remaining internal features, create overlays of history that demonstrate how successive generations have adapted the building to meet domestic needs, providing important evidence of the changing patterns of social history.

9. A similar proposal to that the subject of these current appeals, was dismissed on appeal in 2008¹ and the views expressed by the previous Inspector are a material consideration in this case. However, whilst the earlier decision was made in the light of the same development plan framework as the current appeals, Planning Policy Guidance Note 15 'Planning and the Historic Environment', the relevant national guidance at the time, has since been replaced with Planning Policy Statement 5 'Planning for the Historic Environment' (PPS5) and its accompanying Historic Environment Planning Practice Guide. I also have additional evidence before me in the form of later building surveys on behalf of the appellants, English Heritage and the Council.
10. Although the remains of the plinth to the former greenhouse, to the east of the dwelling, are deemed to be listed by association with the listed house, they are of no particular interest or significance and there is no objection to their removal. There is no objection either to the demolition of the existing overgrown garage and sheds. However, policy HE9.2 of PPS5 advises that consent for the demolition of a grade II listed building should be resisted unless it is necessary to secure substantial public benefits. In addition, policies 4B.11, 4B.12 and 4B.13 of the London Plan (consolidated with Alterations since 2004), together with saved policy 4.6 of the London Borough of Ealing Unitary Development Plan (October 2004) also seek to protect and enhance historic assets, resisting the demolition of listed buildings, other than in exceptional circumstances, and supporting schemes that secure the repair and re-use of Buildings at Risk.
11. Crossways is identified in the Conservation Area Appraisal (dated 2008) as being in a very poor state, in need of urgent repairs to prevent it falling further into dereliction and, since 2003, it has been included on English Heritage's 'Heritage at Risk Register', its condition being described as 'very bad' with a priority category of A². Indeed, at the time of the previous appeals, the oldest part of the building had been shored up and, in early 2011, following the issue of an Urgent Works Notice³, the Council entered the property and installed internal supports and a scaffolding frame around the property, which supports a temporary corrugated roof over the entire building, in an effort to prevent further water ingress.
12. As was the case before, the appellants consider that the piecemeal repair of the building would, in effect, result in the entire building being completely rebuilt in an unsatisfactory patchwork fashion. Instead, they prefer a replacement building of similar form, with some modifications and an extension, using salvaged features and materials where possible. Whilst the appellants take issue with the use of the word 'demolition', on the basis that it implies that no care would be taken, preferring as an alternative the term 'dismantling' (notwithstanding that that is how it is described on both the application form and in material submitted with the applications) the effect, so

¹ APP/A5270/E/08/2071747 and APP/A5270/A/08/2071748. The main difference between the 2008 scheme and that before me is a minor change to the access arrangement for Crossways in order to improve visibility.

² Category A - Immediate risk of further rapid deterioration or loss of fabric; no solution agreed.

³ Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 gives local authorities the power to execute works that appear to be urgently necessary for the preservation of a listed building in their area, having first served notice on the owners to that effect.

far as Crossways is concerned, would be the same, in that the listed building would be removed and a new building erected in its place.

13. The overarching aim of national planning guidance in PPS5 is that the historic environment and its heritage assets, which include listed buildings, should be conserved and enjoyed for the quality of life that they bring to this, and future generations. In this regard, a number of surveys have been undertaken to assess the condition of Crossways. The appellants have submitted three surveys⁴, the earliest two of which were before the previous Inspector. In addition, representatives of both English Heritage and the Council surveyed the building in March 2010. All the main parties are agreed that the house suffers from major structural defects and requires significant intervention in order to retain any historic fabric. However, the evidence as to whether complete removal of the building is the only course of action is not conclusive.
14. In coming to a view on this matter, I am mindful that the surveys submitted by the appellants do not appear to have been undertaken by a conservation/heritage specialist and, as a consequence, do not appear to approach the task with a view to securing the conservation/preservation of the building as a first option. As mentioned earlier, the appellants shored up part of the building in 2007 and have, at some time, felted and battened the roof slates. Those works, however, did not make the building weatherproof/watertight and it has fallen further into disrepair subsequently. I note in this regard that, although the appellants maintained that they were prevented from securing the building against water penetration, on the basis that they considered the building to be unsafe, the Council took advice on the matter and was, in the event, able to enter the property to carry out the urgent works specified on the Section 54 Notice, in order to provide temporary protection.
15. Given the irreversibility of any decision to dismantle/demolish a listed building, such works must be considered as a last resort after every option to secure a viable future for the building has been exhausted. The surveys of English Heritage and the Council clearly approach the condition of the building with preservation in mind and suggest that a remedial works strategy may be feasible. Whilst the most recent surveys, namely those of the Council and English Heritage, consider that the decay may not be as widespread as feared, and that *in situ* repairs/replacement may be practicable, it is also acknowledged that the reverse could be true such that, in combination with the need to do other works, complete dismantling of the roof and floor structures is required. Given the state of the building, the latter scenario seems more likely. In any event, both reports recommend further survey works on the individual stability of the different elements of the building, and the need for restraint.
16. There is no substantiated evidence from the appellants to demonstrate that the detailed investigations outlined by the Council and English Heritage have been fully pursued by an appropriate person. I recognise that new foundations might well be required, but have no reason to suppose that this could not be achieved without the complete loss of the listed building. I am aware that a conservation approach would, in all likelihood, involve some demolition and dismantling, and note in this respect that English Heritage takes no issue with the demolition and reconstruction of the later, single storey element of the building. However, it is likely that at least some elements of the original fabric and features would be capable of retention *in situ*. I am not convinced

⁴ Reports from SC Consulting Engineers Limited 2005 (extract), Bush Booth Associates June 2007, and Berry Consulting December 2009.

therefore, on the basis of the evidence before me, that the 'lighter' touch recommended by the Council and English Heritage amongst others, an approach that would interfere with the historic fabric and features as little as possible, would equate to the wholesale demolition of the listed building as proposed, as suggested by the appellants. To this end, I do not find that the appellants' structural surveys provide the necessary exceptional circumstances required before demolition of a listed building can be contemplated (UDP policy 4.6).

17. Removal of the existing building would lead to the loss of a designated heritage asset which, as a consequence would, result in an almost total loss of significance - there being some significance in the features and fabric that might be salvaged. Where substantial harm to, or total loss of, the significance of an asset is proposed, policy HE9.2 advises that consent should be withheld unless a case can be made on the grounds that it is necessary to secure substantial public benefits. As confirmed in the Practice Guide that accompanies PPS5, for the loss to be necessary, there will be no other reasonable means of delivering similar public benefits, for example through a different design, or development of an appropriate alternative site. In this case, the appellants argue that whoever carries out repair works to the building would be reliant on public funding, whereas the scheme proposed would not require such assistance, and that the proposal would result in a habitable dwelling without defects. With regard to the latter point, I am not convinced that a similar outcome could not be achieved through repair but, in any event, those considerations do not amount to a substantial public benefit, in the terms of the policy, that would outweigh the loss of the listed building.
18. Policy HE9.2 also allows for a case to be made on the basis that the nature of the asset prevents all reasonable use of the site where no viable use for the asset can be found that would enable its conservation, where conservation through grant-funding or some form of charitable or public ownership is not possible, and where the loss is outweighed by the benefits of bringing the site back into use.
19. With regard to the potential for a viable use for the site, policy HE9.3 clarifies that the applicant should provide evidence that other potential owners or users of the site have been sought through appropriate marketing, and that reasonable endeavours have been made to seek grant funding for conservation of the asset and to find charitable or public authorities willing to take on the asset. It was confirmed for the appellants that, following the previous unsuccessful appeal, whilst the property was placed with two estate agents and went to auction, the reserve price was not reached and it was not sold. At the Hearing, I was advised that a sign advertising that the property was up for auction had been erected only two days before the event. The Council also cast doubt as to whether the asking price at the time was realistic, given that the building seems to have been advertised as a development site, with no mention made of the earlier unsuccessful appeal or the impending Section 54 Notice. Whilst the policy does not oblige an owner to sell a property, I agree with the Council that going to auction on one occasion does not equate to the required marketing exercise.
20. As for funding, the appellants advised that advice had been sought in the past from English Heritage who had, apparently indicated that no funding was available. However, there was no corroborative evidence on this matter, with those representatives of English Heritage who were present at the Hearing

confirming that funding would be available for urgent works. The appellants accepted that no formal application had been made.

21. Moving on to interest from charitable bodies etc, it was confirmed at the Hearing that the Spitalfields Trust, a charity dedicated to restoring Georgian houses, had expressed an ongoing interest in acquiring the property and restoring it. Nevertheless, the appellants advised that the interest had not been pursued since they wanted to live on the site themselves. I am mindful in this respect that it is the needs of the heritage asset that are the focus of the guidance, rather than the circumstances of the present owners.
22. Turning to the final aspect of the policy, although it was the appellants' case that there would be no harm or loss, the proposal is to take down the entire building. The evidence before me suggests that there could well be an alternative that would allow for the building to be retained and brought back into use as a dwelling.
23. To conclude on this matter, I find that the proposal would not preserve the special architectural and historic interest of Crossways, a grade II listed building and that there are no other considerations sufficient to outweigh that harm. The proposal would therefore conflict with national guidance in PPS5 and with the relevant development plan policies.

Setting of the Listed Building

24. Part of the proposal before me includes the erection of an additional dwelling within the curtilage to Crossways. The Council objected to this element of the scheme on the basis that there would be harm to the setting of the listed building. However, an integral part of the proposal includes the removal of the listed building. Even were a facsimile to be erected (which, in any event, is not proposed, the replacement dwelling including modifications and a first floor extension over the eastern, single storey element) the new structure would not, in my view, be a listed building. I am supported in this view by the extract from Charles Mynors' "Listed Buildings, Conservation Areas and Monuments" submitted by the appellants, that 'A building should obviously be removed from the list if it is totally or substantially demolished.' During the Hearing, the Council agreed that, were the appeal to succeed in relation to the proposals for Crossways itself, its sole objection to the additional dwelling in terms of the setting of the listed building, would fall away. I find no harm in this regard.

Conservation Area

25. Crossways occupies a prominent position opposite the remnant of the old village green, and is surrounded by mature trees. I saw that the building makes a strong contribution to, and is an integral part of, the character and appearance of the Conservation Area. Indeed, as noted in the Conservation Area Appraisal, the building forms part of a key view within the Conservation Area and is itemised as one of the Area's most notable historic properties.
26. UDP policy 4.8, policies 4B.11 and 4B.12 of the London Plan, and guidance in PPS5, reflect the statutory requirement that new development should preserve or enhance the character or appearance of conservation areas. Although the Council took no issue with the proposal in relation to any impact on the character or appearance of the Conservation Area, local residents, some of whom were present at the Hearing, two local Conservation Panels and Ealing Civic Society did express concern at the application stage and the matter was discussed at the Hearing.

27. No objection is raised by any party to the proposed new garage and car port that would occupy a discreet location within the south-eastern corner of the site. I also recognise that the general form of the replacement dwelling proposed might well provide an appropriate replacement for the building to be removed in terms of the appearance of the street scene, as recognised by the previous Inspector. However, he also found, given the prominent location of the building at the heart of the Conservation Area, that every effort should be made to ensure its retention, commenting that the resultant reconstructed building would lack the historic integrity and interest of the listed building. I agree with those sentiments, which generally reflect the concerns of those objecting to the proposal. Whilst it is the intention of the appellants to erect a similar building in place of the listed building, the Conservation Area derives its significance from its history, as recognised in the Conservation Area Appraisal. On this basis, and given my findings above in relation to the loss of significance of the listed building, I find that there would be harm to the character and appearance of the Hanwell Village Green Conservation Area, contrary to the thrust of national guidance and the relevant development plan policies.
28. Part of the proposal involves the erection of an extended first floor within a mansard roof above the reconstructed single storey element at the eastern end of the building. Again, whilst the Council took no issue on this point, the previous Inspector found this to be a questionable feature, given the intention to restore the character and appearance of the original building. I share those concerns and find further harm to the Conservation Area in this regard.
29. The additional dwelling proposed would be sited adjacent to the eastern site boundary. As was the case before, and as set out in the appellants' Urban Design Statement (section 2.02) the confirmed objective for the additional dwelling is to fund the works relating to Crossways itself. The dwelling would front onto, and would take access from, Cuckoo Lane. Although the Council and others were critical of the design at the time of the earlier application, the Inspector found that it would fit in well with the character of the housing within the Conservation Area as a whole, and with other housing in the near vicinity. The design remains the same in the current scheme. The dwelling would not reflect the design of either the closest properties on Cuckoo Lane, or Crossways itself. Nevertheless, there is some variety in the wider street scene and it would be respectful in terms of its bulk and mass. I find no harm to the character, appearance or significance of the Conservation Area in this respect.
30. There are a significant number of trees within the appeal site, eight of which are protected by Tree Preservation Orders (TPOs). The proposal includes the removal of seven trees, two of which are protected yews to the north of the house. No objection is raised to the loss of any the specimens not covered by the TPO. With regard to the yews, although the Council is of the view that they could be retained if pruned, it is accepted, given their close proximity to the northern façade of the property, that they can be felled, subject a satisfactory scheme of replacement. Again, I find no harm to the character, appearance or significance of the Conservation Area with regard to this consideration.

Other Matters

31. In support of the proposal, the appellants drew attention to two listed buildings, Platt's Hall in Cheshire and the Chinese Embassy in London, that had been demolished and reconstructed (the former in a different location) arguing that this approach should be regarded as a means of preservation. However, I have no detailed information about either of the two buildings referred to and

- so am unable to establish whether the considerations in those cases are directly comparable to the proposal before me, which I have considered on its own merits.
32. Local residents are concerned at the effect of the additional dwelling proposed on the living conditions of the occupiers of 24 Cuckoo Lane. Although the new dwelling would be slightly deeper than the adjacent property, it was confirmed that the Council's 45° rule-of-thumb, used to assess the impact of development on outlook from adjoining windows, would be complied with and there would be no harm in this respect. It was also confirmed that the shadow of the additional dwelling, and that of the first floor addition to the replacement dwelling, would affect only the front garden of the adjacent property. I therefore find that there would be no harm to the living conditions of adjoining residents as a consequence of the development proposed.
33. Other concerns related to the proposed access onto Cuckoo Lane for the additional dwelling, which would be close to a sharp bend in the road, although no substantiated evidence was submitted in this regard. Nonetheless, subject the provision of pedestrian visibility splays, the Highway Authority considers the proposed arrangement to be acceptable from a highway safety point of view and I take no issue on this point.

Conclusion

34. I have considered all matters raised both at the Hearing and in writing. There is no objection to removal of either the existing garage or the plinth to the old greenhouse, and there would be no harm to the setting of the listed building since, were the appeal to succeed, there would be no listed building. Moreover, the additional building proposed would not cause harm to the character or appearance of the Conservation Area. However, removal of the existing building would result in the loss of a designated heritage asset and, as a consequence, the proposal would not preserve the special architectural and historic interest of Crossways, a grade II listed building or the character or appearance of the Conservation Area. I find no considerations sufficient to outweigh that substantial harm. For the reasons given above therefore, I conclude, on balance, that the appeals should not succeed.

Jennifer A Vyse
INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Dr James Fowler	Appellant
Mrs C Fowler	Dr James Fowler's wife
N J Carr	

FOR THE LOCAL PLANNING AUTHORITY:

R Lester BA, MSc(planning)	Planning Officer with the Council
Miss R Wakelin BA(Hons) LandArch,	Principal Conservation Officer with the Council
PGDip LandArch, MA Urban Design	

INTERESTED PERSONS:

English Heritage:

M Dunn	Team Leader (City and North) with English Heritage
S Ellis CEng,	Engineer with English Heritage
MICE,	
D Bianco	Architect with English Heritage

Others

Ms C Brown	Chair of Hanwell Community Forum, member of Hanwell Conservation Area and Lawns Residents Associations. Also a local resident
O Leigh-Wood	Administrator with Spitalfields Trust
Mrs D Morgan	Deputy Chair of Lawns Residents Association and local resident
L Wallis	Local resident

DOCUMENTS HANDED IN DURING THE HEARING

- 1 Schedule of enclosures to appellants' statement
- 2 List of suggested conditions

PLANS

- A Application plans: Nos 0612/C10B, /C11B, /C12A, /C13, /C14, /C15 and /C16B, 0612/SR10, /SR11 and /SR12, and an unnumbered site location plan.



Costs Decision

Hearing held on 10 May 2010

Site visit made on the same day

by Jennifer Vyse DipTP DipPBM MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2 June 2011

Costs application in relation to Appeal A: APP/A5270/E/10/2141256 Crossways, 134 Church Road, Hanwell, London W7 3BE

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
 - The application is made by Drs James and John Fowler for a full award of costs against Ealing Council.
 - The Hearing was in connection with an appeal against the refusal of listed building consent for what was described on the application form as the demolition and reconstruction of the existing house; demolition and reconstruction of existing garage; removal of plinth walls to ruined greenhouse; erection of new, two storey house within the curtilage of the listed building.
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Costs application in relation to Appeal B: APP/A5270/A/10/2141261 Crossways, 134 Church Road, Hanwell, London W7 3BE

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Drs James and John Fowler for a full award of costs against Ealing Council.
 - The Hearing was against the refusal of planning permission for the reconstruction of, and extension to, existing house and erection of new garage and car port; erection of new two storey house; removal of two protected trees (T4 and T5).
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Procedural Matters

1. As set out in the substantive appeal decision, it was agreed at the Hearing that, in relation to Appeal A, neither the erection of the dwelling that it is proposed to reconstruct, the reconstruction of the garage, nor the proposed erection of the additional two storey dwelling, requires listed building consent.

Decision

2. For the reasons that follow, I refuse the application for an award of costs.

The Submissions for the Appellants

3. The Council's refusal of the planning and listed building applications was unreasonable, in that it was based on misleading information given to the planning committee at its meeting on 21 July 2010. The committee did not take account of the fact that the proposal is to rebuild the property in the original materials, believing it to be a new building in its entirety. Indeed, the minutes for the meeting record that the committee was advised by the planning officer that *'The plan to re-use materials, as detailed by Mr Fowler, hasn't been submitted to Planning prior to the meeting and isn't part of the proposals before the committee. What's before the committee is a proposal to*

demolish the old building and build a new house.' As a consequence, the applications were refused which has necessitated these appeals.

4. The son and nephew of the appellants (G Fowler) presented a summary of the proposals to the committee on their behalf and the applications were accompanied by a 'PPG15 Assessment and Conservation Method Statement' which sets out in detail how the original materials are to be salvaged and re-used in the replacement building and the application plans are clearly labelled.
5. The appellants sought to have the matter dealt with by way of written representations but the Council insisted on a Hearing, even though not many interested parties attended on the day. In order to be properly represented at the Hearing, the appellants felt it was necessary to appoint a specialist adviser, Mr N Carr, to help prepare and present their case. The costs associated with that witness are sought. Concern was also expressed that the Council's suggested conditions were not tabled before the Hearing and are unduly prescriptive and onerous.

The Response by the Council

6. The officer's report includes a direct quote from the appellants' Conservation Method Statement, advising that *'the proposal is to take down the existing building and reconstruct it utilising, where possible, salvaged original materials on new foundations. The final sentence of the assessment confirms that the proposal is for the demolition of the listed building.'* The report was sent out in advance of the meeting and Members would have been well aware of exactly what the proposals entailed.
7. The Mr Fowler, and the details referred to by him in the committee minutes, is Mr G Fowler, not either of the appellants. Mr G Fowler made a verbal presentation to the planning committee in support of the proposals on their behalf. He advised that, given the fragile state of the building, the applications suggested *'a system of carefully deconstructing the building and labelling everything that can be salvaged for its reconstruction. Once everything is deconstructed and stored, we can then remedy the problem of the building's foundations.'* That is significantly different from re-using what might be salvageable and goes beyond the details submitted as part of the applications. The planning officer advised Members that no detailed plans, drawings, photographs or other methods of recording the historic building had been submitted to show how, or where, the materials would be re-used.
8. The committee had a thorough discussion about the proposals. It was pointed out to Members that the level of dismantling and reconstruction suggested by Mr G Fowler was not detailed in any of the statements accompanying the applications. The committee was advised that the development was tantamount to demolition, and that the additional dwelling proposed could not be considered as 'enabling' development since the proposals entailed removal of the historic asset. The plans and details submitted do not go as far as suggested by G Fowler.
9. It was the appellants' choice to require the presence of the witness at the Hearing. The Council did not field its own structural engineer.
10. The Conservation Method Statement submitted by the appellants was taken into account by the planning officer and the committee, but it does not go into sufficient detail. No plans of sufficient detail or scale were submitted, to show

precisely which specific elements might be salvaged, their condition, whether it would be possible to save them etc. What is proposed in the applications is very different to the scheme suggested by G Fowler in his presentation. In effect, he was suggesting a restoration project, but that is not what is proposed.

11. Once the appeals had been lodged, there was a clear case for the matter to be dealt with by way of a Hearing, given the complexities of the cases, the need to interrogate evidence submitted, and given the interest of third parties including local residents, interest groups and English Heritage. Three members of English Heritage, three local residents, including two who represented local interest groups, and the representative of a Restoration Trust, took part in the proceedings.
12. The conditions were tabled at the appropriate time during the Hearing and there was no undue delay to the proceedings. The conditions suggested are standard conditions and are not unduly onerous. The Council has not behaved unreasonably and there are no grounds for the award of costs.

Reasons for the Decision

13. I have considered this application for costs in the light of Circular 03/2009 and all the relevant circumstances. The Circular advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.
14. The Planning (Listed Buildings and Conservation Areas) Act 1990, sets out that listed building consent is required for any works for the demolition of a listed building, or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest. Crossways is a grade II listed building¹ and the works proposed require listed building consent on the basis that it involves removal of the listed building and associated structures.
15. For the reasons set out in the appeal decision, I consider that removal of the building would result in substantial harm to a designated heritage asset. In support of its case, the appellants stress that, wherever possible, elements of the building would be salvaged and re-used. Although some information is set out in the 'PPG15 Assessment and Conservation Method Statement', I agree with the Council that it lacks the meticulous detailing required in connection with a proposal involving a listed building.
16. The planning committee was clearly aware that the proposal was to remove the existing building and to build a replacement on the same footprint. They were also clearly aware that it was the appellants' intention to incorporate, where possible, salvaged elements of the original building. What was not before the committee, as confirmed in the minutes, was a fully detailed plan of exactly what was to be saved and how each of the various elements to be salvaged would be incorporated into the new building. For example, Section 2.03 of the Assessment advises that all casement windows are to be removed except where beyond repair – there is no confirmation of which are beyond repair, nor where the salvaged windows would be re-used. In any event, the fundamental

¹ The appellants believe the listing to be erroneous and have applied to have the building removed from the statutory list. That application is, as yet, undetermined. For the time being therefore, the building is listed and the appeals fall to be determined on that basis.

thrust of the officer's concerns was that, the building should be retained and restored, as opposed to being removed in its entirety, albeit to be replaced with a new dwelling on the same footprint, incorporating salvaged elements, not the absence of a plan for the selection, treatment and re-use of salvaged materials. Therefore, even had the details been before the committee, I have no reason to suppose that the eventual decision would have been any different and the appellants would still have resorted to appeal. I find, therefore, that the committee was not misled and I find no unreasonable behaviour on the part of the Council in this regard.

17. In relation to the suggested conditions, it would have been helpful for both myself and the appellant to have had fully worked out conditions, and the reasons for them, in advance of the Hearing. A list was, however, submitted at the relevant part of the Hearing and we were able to work through them then. Each condition was explained to the appellants, many resulting in subsequent discussion about the need for them and their implications, time that might have been saved had the conditions been submitted in advance. However, the Hearing was scheduled to last for one day and it did not overrun as a consequence of that discussion. No wasted or unnecessary expense was incurred on the part of the appellants in this respect.
18. For the reasons set out above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 3/2009, has not been demonstrated in this case, and an award of costs is not justified.

Jennifer A Vyse
INSPECTOR

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