



Costs Decision

**by David L Morgan BA (Hist) MA (T&CP) MA (Build Con) IoAAS MRTPI
IHBC**

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

Decision date: 11 November 2019

**Appeal No 1: Costs application in relation to Appeal Ref:
APP/L3245/W/19/3235080 Hempyards, Osbaston, Knockin, Oswestry
SY10 8HS**

- 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 Mr and Mrs Ward for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of planning permission for new window openings to northeast and southeast elevations.
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**Appeal No 2: Costs application in relation to Appeal Ref:
L3245/Y/19/3235078 Hempyards, Osbaston, Knockin, Oswestry SY10
8HS**

- 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 Mr and Mrs Ward for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of listed building consent for new window openings to northeast and southeast elevations.
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Decision

1. An award of costs in respect of both Appeals is refused.

Reasons

2. It is the case that the Council does not set out a detailed assessment of significance in the officer report or their appeal statement. However, their appraisal of the appeal building from the outset makes clear that their specialist historic environment team were aware of the building's relationship with the listed former farmhouse and the contribution the buildings of historic farmsteads make to the setting and therefore significance of the principal heritage asset. Moreover, it is clear their approach to the proposals was founded on a conclusion that the proposed south east opening was not consistent with character of the barn as an historic farm building.
3. The Council make clear in their evidence that having considered the submissions of the Appellants, the proposals for the northeast elevation

opening were considered acceptable. They go on to state that (in para 6.3.4) that their specialist team reviewed the additional information and advised they could not concur with the conclusions presented. They go on to say in paragraph 6.3.8 that 'officers do not consider that a clear and convincing justification has been provided for the (first floor) window'. They go on in the paragraph to explain articulately why they think the proposed works and development fail, in their view, to preserve the special architectural and historic interest of the curtilage listed building and the setting of the adjacent listed former farmhouse. Whilst this reasoning has not been expressly framed as a balance of harm against public interest, as Paragraph 196 of the Planning Policy Framework anticipates, I am satisfied in the circumstances of this particular case, that the 'justification' for this part of the works had been considered.

4. In undertaking this assessment in accordance with both sections 16 and 66 of the Act, and in the robust and articulate manner of their reasoning as to why the proposals fail to preserve special interest and setting, the Council have demonstrated 'careful consideration' of the proposals. This is, in my view, the sound (and statutory) basis for decision making in relation to works and development that would affect the character of a building as a curtilage listed building and those affecting the setting of a listed building.
5. I have, in my formal decisions, come to a different view, allowing the appeals. This does not mean the Council, on this occasion, behaved unreasonably in reaching a decision different to mine. In not acting unreasonable, the Council has not caused the Appellants unnecessary expense, and on this basis the award of costs is not made in respect of both appeals.

David Morgan

Inspector