



Appeal Decision

Site visits made on 5 and 9 July 2024

by Tom Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 26 July 2024

Appeal Ref: APP/P1133/Y/23/3325692

13 Devon Square, Newton Abbot TQ12 2HN

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'LBCA Act') as amended against a refusal to grant listed building consent ('LBC').
 - The appeal is made by Barrie Douglass, of Premier Parking Solutions Ltd., against the decision of Teignbridge District Council ('TDC').
 - The application ref. is 18/02317/LBC.
 - The works are described on the application form as the '...installation of CCTV cameras to ensure premises security'.
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Decision

1. The appeal is allowed and LBC is thereby granted for CCTV cameras to ensure premises security at 13 Devon Square, Newton Abbot TQ12 2HN in accordance with the terms of application ref. 18/02317/LBC, subject to the conditions below.

Application for costs

2. The appellant's application for a full award of costs against TDC is the subject of a separate decision.

Preliminary matters

Context

3. No.13 is part of grade II listed nos. 9-13 Devon Square (the 'listed building').¹ The listed building falls within the Newton Abbot Town Centre Conservation Area (the 'CA'). The CA includes various heritage assets and listed buildings, including the grade II* listed Church of St. Paul central to Devon Square.² As the appeal is in relation to LBC, section 16(2) of the LBCA therefore applies.
4. As above there is an inter-relationship between various heritage assets. I have therefore also approached the appeal in the context of sections 66(1) and 72(1) of the LBCA Act. There are, however, logically differential implications in respect of heritage assets (setting the scale of the works relative to that of heritage assets and their settings). The greatest implications would be in respect of no.13 as part of the listed building, lesser in respect of the CA as a whole and the surroundings in which other listed buildings or heritage assets are experienced.

¹ List entry no. 1257148.

² List entry no. 1257096.

5. The application form states that the cameras were installed on 31 October 2017. They are illustrated on, and described by, by various plans and documents.³ There are 4 external cameras. TDC's decision notice of 18 April 2023 cites that, in their view, only 2 external cameras would be unacceptable (to which I will return). LBC is sought retrospectively.⁴

Adequacy of evidence

6. TDC take issue with the extent of heritage evidence within the appellant's statement of case; 'the Appellant can be considered to be introducing significant new information at the Appeal Stage which should have been provided in order to inform assessment of the application.' Paragraph 200 of the National Planning Policy Framework (20 December 2023, the 'NPPF') sets out how appellants should provide proportionate evidence in terms of significance. Whilst evidence in respect of significance submitted at application stage is limited, there is no substance in that contention.
7. TDC do not refer to the adequacy, or inadequacy, of the appellant's evidence in their decision notice. Their decision notice does not refer to NPPF paragraph 200 specifically,⁵ or to policy NANDP11 of the Newton Abbot Neighbourhood Development Plan (made 14 June 2016, the 'NDP'). In summary, and amongst other things, policy NANDP11 sets out how development proposals which affect heritage assets must be accompanied by a heritage impact assessment. There is also no express reference to that matter in the officer report associated with application ref. 18/02317/LBC.
8. The officer report furthermore refers to a 'series of discussions' between the appellant and TDC regarding potential approaches to improving security at no.13. There is no indication those discussions concerned the need for more fulsome evidence on significance. There is nothing to indicate that the validity of the application was contested. TDC and others have also had the opportunity to comment on the appellant's statement of case at appeal.

Planning background

9. There is a relatively extensive planning history to no.13, its uses, and its configuration.⁶ Various plans associated with a successful application for LBC in 1995 appear to have been repurposed to illustrate this scheme.⁷ I have, however, focussed solely on the works as above; anything else is incidental. Aside from the CCTV cameras that are the subject of this appeal, there is nothing to indicate that the existing state of no.13 is unauthorised.
10. Furthermore, via decisions of 30 September 2021, TDC authorised the residential use of part of the property (it seems what is referred to as no.13A).⁸

³ Site Plan no. 'TQRQM18326094619343', Rear North Elevation no. '4508 AL[0]15 B', East Elevation no. 'AL[0]14 A', Survey Elevation no. '4508 AL[S]11', a document entitled 'Camera Locations' referenced simply as no. '18/02317', an annotated photograph of the southern (principal) elevation of no. 13 also referenced simply as no. '18/02317', a document of 14 September 2017 entitled 'C.C.T.V. Installed Specification' prepared by Sound and Visual Systems Ltd., and email correspondence between the appellant and Council dating between 5 April and 28 October 2019.

⁴ With reference to section 8(3) of the LBCA Act, notwithstanding that 'permission' as opposed to consent is used in the description of works in the application form (which I have omitted from the banner heading).

⁵ Equivalent provisions being at paragraph 194 of the 20 July 2021 version of the NPPF.

⁶ As set out in the associated officer report under 'relevant site history'.

⁷ Ref. 95/02050/LBC.

⁸ Permission ref. 21/00101/FUL, LBC ref. 21/00102/LBC.

Via decision of 20 June 2024, however, TDC refused permission for development described as the 'change of use of offices to a residential unit and erection of new dwelling'.⁹ The new dwelling was proposed to occupy the presently open north-western corner of the rear plot of no.13.

11. In short, the appellant's intentions for no.13 may fairly be characterised as in a state of flux. Potentially by consequence no.13 appeared to have fallen into something of a state of disrepair at the time of my site visits. Notably, relative to the photographs included within the documents referenced in footnote 3 above, the plot of the property had become overgrown.
12. There is, however, no indication that the current state of no.13 or its plot has arisen other than by virtue of the passage of time. There is no contention or indication of deliberate neglect with reference to the terms set out in the Planning Practice Guidance ('PPG').¹⁰ I am told that elements of no.13 remain in use in conjunction with the appellant's business, namely associated with the management of parking provision.¹¹

The dispute between the appellant and TDC (the 'main parties')

13. TDC's decision notice refers solely to the harm stated to arise in respect of cameras 3 and 4. With reference to the documentation referenced at footnote 3 to this decision, TDC accept that is incorrect; instead cameras 1 and 2 should have been cited. It appears on account of the implications of Covid-19, the associated officer report describes that there was 'no site visit conducted by assessing officer'. For clarity, 'camera 1' is located on the south-facing elevation to no. 13, the elevation facing Devon Square; 'camera 2' is located on the east-facing elevation to no. 13, an elevation facing across Oak Place.
14. Similar to TDC's argument regarding the adequacy of heritage information submitted, they set out how 'there does not appear to be a (proposed) southern elevation drawing showing the location of camera No. 1. In the absence of the missing elevation, it is not considered possible to approve the application in any case...'. That is otiose. 'Camera 1' is in place. It is shown in the supporting annotated photograph of the southern elevation of no. 13 (referenced as no. '18/02317').¹² Even if that were not the case, section 17(2) of the LBCA Act sets out how a condition may legitimately be imposed 'requiring specified details of the works (whether or not set out in the application) to be approved subsequently...'.

Main issue

15. The main issue is the effect of the works to historic significance.

Reasons

Implications for significance

16. The listed building is characteristic of many Devonian Italianate villas. That architectural form became prevalent hereabouts during the mid-nineteenth century. It is closely associated with growing societal affluence and pursuit of

⁹ Ref. 23/02142/FUL.

¹⁰ Reference ID: 18a-014-20190723.

¹¹ As described in correspondence of 8 July 2024, upon which TDC has had the opportunity to comment.

¹² Date stamped by TDC.

leisure, the expansion of the railway network, and Victorian architectural conceptions. The appellant's appeal statement quotes from the relevant Pevsner Guide, in that Devon Square is 'the centre of the development carried out by the Courtenays c. 1840-1860 by their surveyors. They adopted a provincial version of the type of villa rustica advocated by J. C. Loudon ...'.¹³ Local architect J. W. Rowell was principally responsible for the design of Devon Square, and also for that of the Church of St. Paul. Devon Square, the setting to the Church, and the CA retain a clear historic coherence (to which no.13, by and large, contributes positively).

17. As with many other properties around Devon Square, the elevations of no.13 are largely symmetrical, classically proportioned and finished in painted stucco. Architectural detailing, including window surrounds and accentuated quoins, is relatively modest. Insofar as this appeal is concerned, the significance of the listed building along with its contribution to the CA and setting of other assets derives from its coherent historic architecture as part of a planned composition. Those characteristics in turn honestly reflect wider contemporaneous trends. Cameras 1 and 2 are inherently modern, engineered, and anachronistic relative to the original nature of the listed building. I therefore agree with the appellant's position that the elevations to which they relate 'would be better conserved without the presence of the cameras...'. In my view their effect cannot rationally be characterised other than as harmful.

The extent of harm

18. For 4 principal reasons, however, the extent of harm may fairly be described as less than substantial with reference to NPPF paragraph 205, and at the lowest end of a spectrum within that categorisation.
19. Firstly the cameras are attached to elevations with little meaningful effect to historic fabric. They are intrinsically 'modern'. They are therefore inevitably perceived as such rather than interfering with an appreciation or understanding of the historic significance of the listed building. No one would, for example, confuse them with some sort of Victorian ornamentation. That they are different is in contrast, for example, to works that would meaningfully affect historic fabric (where the ability to discern where history ends and modern interventions begins risks becoming blurred).
20. Secondly the cameras are, unsurprisingly, small. They obscure little fabric or architectural detailing, the latter in any event being characteristically understated. Each is some 12cm in diameter, less than the width of an A5 sheet of paper, and less than 10cm in depth.¹⁴ Whilst visibility and significance are different concepts, the former has some relevance to the latter. Camera 1 was almost entirely subsumed within ivy at the time of my site visit. It was also screening by substantial planting demarcating the canted Devon Square plot boundary of no. 13. Substantial boundary features and mature planting are commonplace hereabouts. As such a fair degree of screening would, in all likelihood, remain. The presence of camera 1 is not as stark as might be assumed on paper.

¹³ Paragraph 5.2.6, Citing *The Buildings of England: Devon*. B Cherry & N Pevsner. Yale University Press, 1989.

¹⁴ Appellant Statement of Case, paragraph 6.2.5, ostensibly referring to the dimensions contained at page 14 of the technical specification document (127.3mm in diameter and 84.4mm in depth).

21. Whilst the existence of interventions detrimental to integrity do not serve to justify further harm, and although camera 2 is more visible on account of being located within an elevation set hard against the pavement, it is nonetheless tucked by what appears to be a non-original soil vent pipe connected to waste-water runs from within no.13. It is a truism that historic buildings need to evolve somewhat to respond to modern circumstances, and camera 2 is inevitably seen in conjunction with evidence of how that process has occurred here previously. Seen also in a wider context including traffic signs, lighting upstands, and business signage, neither camera is particularly visually incongruous or discordant.
22. Fourth, cameras 1 and 2 could readily be removed. Whilst reversibility alone does not justify alteration,¹⁵ provision in that respect could be made in the eventuality that cameras 1 or 2 ceased to serve a purpose, or contingent to a material change of use to no.13 occurring. Fundamentally commercial premises deal with items or information of value which dwellings, for example, do not. Moreover offices or commercial premises tend to be used intermittently and at standard times, and therefore it is fair to reason that residential occupation would likely result in greater levels of natural surveillance. Subject to an appropriately worded condition in that respect, the cameras would therefore not necessarily be an enduring element of the built environment.

Consideration

23. Recognising that heritage assets are an irreplaceable resource, NPPF paragraph 206 sets out how any harm, not just that which is substantial, should require 'clear and convincing justification'. That position builds upon section 16(2) of the LBCA Act. NPPF paragraph 208 further sets out that where less than substantial harm would result that should be weighed against the public benefits of the proposal (including, where appropriate, securing an optimum viable use). As with other properties around Devon Square, both commercial and residential, there is no dispute that those uses are optimally viable here.

The heritage balance

24. The appellant's arguments in favour of the works are weak in 2 respects. Firstly, the Design and Access Statement sets out 'due to the nature of our business, we are vulnerable to disgruntled customers who may try to enter the premises to complain, or as an extreme, use violence and abuse against us.' That is reiterated in the appellant's statement of case. Within those terms it could be argued that not all businesses have comparable need for security. Secondly there is a tension between the cameras being 'as discretely located as possible',¹⁶ yet still seeking to have a deterrent effect. The latter might best be achieved by ensuring individuals are clearly aware of surveillance. In that context there is no indication as to what alternative means of providing surveillance were previously considered and discounted for whatever reason.¹⁷
25. Many businesses are nonetheless customer facing. They may also deal with sensitive information or hold stock of value necessitating a secure environment. Albeit that the present use of part of no. 13 perhaps result in a heightened need for security, that is not unique. The approach taken to the installation of

¹⁵ As reflected in Historic England Advice note 2, Marking Changes to Heritage Assets, February 2016.

¹⁶ Appellant's statement of case, paragraph 3.6.

¹⁷ Notwithstanding some indication of alternatives post-dating the original application.

cameras 1 and 2 has clearly taken account of the need to integrate in an historic environment (inherent in my reasoning in paragraph 20 and 21 above). An appropriate balance has, in other words, been struck.

26. Although there is no evidence before me in terms of the statistical prevalence of crime here, it is a consistent theme running through the appellant's evidence that crime or anti-social behaviour has occurred previously.¹⁸ At the time of my site visit graffiti was present on the side elevation of no.13 facing Oak Place. That evidently detracts from the character of the area. Being at the junction of Devon Square and Oak Place, with an elevation to both and open space accessible via the latter, no. 13 is inherently not as secure as other buildings fronting the Square.
27. Although security cameras did not appear to be prevalent around Devon Square, alarm boxes were (including at nos. 9, 15-18 and 20 all of which are elements of grade II listed buildings). I accept, as TDC note, those may not benefit from LBC. Nevertheless their prevalence at the least points to a commonly-held perception that the security of properties needs to be on show.
28. NPPF paragraph 96.b) sets out how planning should aim to create safe places where crime and the fear of crime do not undermine quality of life. NPPF paragraph 85 sets out that 'decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity...'. The latter is clearly aided by a safe environment. NDP policy NANDP11 moreover recognises that heritage assts 'make a significant contribution to the economic vitality of Newton Abbot'. The security benefits of the cameras in that respect may fairly be characterised as a public benefit.
29. Given the specific circumstances that have occurred here previously, the situation of no. 13, and the prevailing perception of needing to demonstrate the security of premises, the public benefits of cameras 1 and 2 provide clear and convincing justification for their presence (relative to the level of harm that would result). Reflecting my reasoning in paragraph 4 of this decision, that is in relation both to the listed building, the setting of other heritage assets and the character and appearance of the CA as a whole.
30. For comprehensiveness, the rear elevation of no. 13 is less formal than its southern elevation (reflecting the primary importance of the planned composition around Devon Square). It has also, as above, been much altered. With that in mind, cameras 3 and 4 would have such little effect so as to fairly be characterised as neutral in terms of, thereby preserving, significance. I note that is consistent with the position of the main parties, neither of whom refer to 'camera 5' installed internally at the same time as those externally.

Conclusion

31. Drawing together my reasoning, the works are justified in accordance with the expectations of section 16(2) of the LBCA Act, and also of sections 66(1) and 72(1). The works would also be in line with the relevant elements of NPPF paragraphs 205, 206 and 208, and the relevant provisions of policy EN5 of

¹⁸ Ibid, correspondence of 21 October 2019 from the appellant to TDC, correspondence on behalf of the appellant of 8 July 2024.

Teignbridge Local Plan 2013-2033 (adopted May 2014) and NDP policy NANDP11. Having considered the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

Conditions

32. As LBC is sought retrospectively, there is no need to secure commencement within the relevant statutory period.¹⁹ A condition is, however, necessary to ensure the works remain consistent with the approved plans and documents. Reflecting my reasoning in paragraph 9, condition 1 is specifically limited in defining details of the external cameras rather than other works.
33. Notwithstanding the appellant's position in respect of TDC's suggestion in that regard, condition 2 is nonetheless necessary. Adherence to that condition would, following on from my reasoning in paragraphs 17 and 22 above, serve to 'better preserve' no. 13, in the eventuality there is a less compelling public benefit to their presence in the future. In imposing conditions I have had regard to the tests in the NPPF, PPG, and to relevant statute. Accordingly I have amended the wording of conditions proposed to ensure that they are appropriate, without altering their aims.

Tom Bristow

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The works hereby authorised shall accord with the following approved plans and documents insofar as those plans and documents contain details of the 4 external CCTV cameras for which listed building consent is granted: Site Plan no. 'TQRQM18326094619343', Rear North Elevation no. '4508 AL[0]15 B', East Elevation no. 'AL[0]14 A', Survey Elevation no. '4508 AL[S]11', a document entitled 'Camera Locations' referenced as no. '18/02317', an annotated photograph of the southern (principal) elevation of no. 13 referenced as no. '18/02317', and a document of 14 September 2017 entitled 'C.C.T.V. Installed Specification' prepared by Sound and Visual Systems Ltd.
- 2) The works hereby authorised shall be permanently removed in their entirety within 3 months of either of the following occurring: (i) the CCTV cameras cease to be used or required, (ii) there is a material change in use at No. 13 such that a commercial use no longer persists. At the time the CCTV cameras are permanently removed, the affected areas of the building shall be made good and restored so as to match its existing historic fabric and appearance.

¹⁹ Section 18 of the LBCA Act.