
Costs Decision

Site visit made on 14 July 2021

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 25 August 2021

Costs application in relation to Appeal Ref: APP/Q1153/Y/21/3270991 South Hill Cottage, Bratton Clovelly EX20 4JP

- 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 & Mrs J May for a full award of costs against West Devon Borough Council.
 - The appeal was against the refusal of listed building consent for wooden garden gazebo to replace dilapidated wooden pergola (See photo No. 1). Constructed on cleaned existing base.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance¹ advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense.
3. The parties agree that listed building consent for the works is not required. Based on the evidence before me and my observations on site I agree with this position.
4. The applicants submit that despite this the Council determined the application for listed building consent and that in choosing to appeal the applicants were required to appeal the refusal of the listed building consent alongside the refusal for planning permission.
5. However, the Council's officer report for the listed building consent sets out clearly that listed building consent for the proposal is not required, but that as the application had been submitted it chose to process it alongside the application for planning permission. Furthermore, an informative was added to the listed building consent decision to make this clear. Thus, the applicants were made aware of the situation, and there was no requirement for them to submit an appeal against the listed building refusal, as only planning permission is required to retain the building.

¹ Planning Practice Guidance Paragraph 030 Reference ID: 16-030-20140306

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and that the application for an award of costs should be refused.

A Tucker

INSPECTOR