



Costs Decision

Site visit made on 7 August 2024

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th September 2024

**Costs application in relation to Appeal Ref: APP/Y9507/Y/23/3340762
East Lodge, Winchester Road, Bordon, near Petersfield, Hampshire GU32
1EP**

- 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 Warren Brazell for a full award of costs against South Downs National Park Authority.
- The appeal was against the refusal of the Council to grant listed building consent for the retention of existing windows.

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant considers that the Authority behaved unreasonably by giving the previous owner of the appeal property the impression the building was not listed and therefore the existing windows were installed. It is noted this took place in 2003. Accordingly, the applicant is now trying to regularise something which occurred before their ownership.
4. Although a regrettable situation it does not negate the fact that the applicant has not disputed that the appeal property should be considered as a 'curtilage' listed building due to its proximity and relationship with Bordon House, a Grade II listed building. As such on purchasing a listed building the onus of any unregulated works transfers with that building, and with no statutory limitation to enforcement, the need to gain the necessary consents also becomes a matter to be dealt with by that new owner.
5. As the works require consent, an application was submitted and it is for the decision maker, in this case the Authority, to consider that proposed and decide whether it is acceptable or not. As the advice given to the previous owners appears to be informal and as no formalised response was obtained to confirm that position, it simply constitutes the professional opinion of the responding officer at that time. The Authority is not bound to the opinions of their officers, and therefore it was within its capacity to formally refuse the

listed building consent. It was then the applicant's decision to appeal that refusal.

6. Notwithstanding my findings in the appeal, I do not, therefore, find that the Authority has behaved unreasonably resulting in unnecessary or wasted expense, as such an award of costs is not warranted.

RJ Redford

INSPECTOR