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## Costs Decision

Site visit made on 23 September 2025

by **M. P. Howell BA (Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 OCTOBER 2025

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### **Costs application in relation to Appeal Ref: APP/X1118/C/25/3358984**

#### **Land lying to the south of Park Cottage, Lee, Ilfracombe EX34 8LN**

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Craig Erskine for a full award of costs against North Devon District Council.
  - The appeal was against an enforcement notice alleging without planning permission, within the last 4 years, unauthorised operational development consisting of the erection of a timber building outlined in green on the attached plan.
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### **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 (PPG) 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. The submissions from the applicant indicate a request for a full award of costs based on the assertion that the appellant (Council) exhibited unreasonable behaviour throughout the enforcement process.
3. The applicant highlights several key areas of concern, including the Council providing inaccurate information regarding permitted rights associated with forestry activities prior to the submission of the planning application. The Council's subsequent refusal of the planning application for a development the appellant considers acceptable, and where they did not consider highlighted appeal decisions. It is also said that the Council failed to provide a clear explanation why they deemed it expedient to pursue enforcement action, and they used the term 'offender' to describe the applicant, which has caused distress.
4. In response, the Council maintains that they did not mislead the applicant regarding permitted development rights and asserts that, since the development had already been executed, prior approval under Part 6, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order) did not apply. They contend that the rationale behind the refusal of the retrospective planning application is outlined in the Officer Delegated Report, and that the reasons for issuing the Enforcement Notice (Notice) are indicated on the Notice. Additionally, they assert that their actions were taken in response to public complaints and that they were acting in the interest of the local community when enforcing these measures.
5. It is important to clarify that the costs application pertains specifically to the appeal against the issuance of the Notice, rather than the refusal of the planning application

- for the timber building and gazebo. The advice and guidance on costs in the PPG stipulates that local planning authorities must carry out a thorough prior investigation when considering enforcement action. They could be liable for costs if it is determined that a more diligent investigation might have avoided the appeal or ensured the accuracy of the enforcement notice itself<sup>1</sup>.
6. With the above in mind, it is acknowledged that the applicant is entitled to certain development rights connected with forestry under Part 6 of the Order. Still, it is crucial to note that these rights are accompanied by a requirement for the applicant to provide details of the proposed development to the Council for prior approval before the work commences. Based on the evidence presented, the appellant did not seek prior approval before constructing the building, and the Council concluded that the building was a breach of planning control. Accordingly, the applicant was advised of the breach, leading to the submission of a retrospective planning application.
  7. Notwithstanding my findings on the accompanying appeal on ground (a), the planning matters associated with the development are subjective. Whilst I appreciate that the outcome of the application would have been a disappointment to the applicant, the Local Planning Authority were not unreasonable in coming to a different conclusion, particularly if they had genuine concerns over the impacts of the building, which are set out within the Officer Report. Considering the refusal of the application, the issuance of the Notice was a necessary step to remedy the breach of planning control. In this context, it would have been unusual for the Council to then conclude that it was not expedient to pursue formal action.
  8. In paragraph 4 of the Notice it outlines the reasons the Council considered it expedient to take action, along with referencing the relevant development plan policies. As such, the Notice issued includes all the requisite information as mandated by section 173 of the Town and Country Planning Act 1990 and Part 2, Regulation 4 of the Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002. As such, while it is understood that the appellant disagrees with the Council's decision to refuse the planning application, this is not unreasonable behaviour. The enforcement investigation itself appears to have been diligent, and I have no evidence to suggest that a more thorough investigation would have avoided the appeal.
  9. It is noted that the advice regarding permitted development could have been relayed more effectively, and I understand how the term 'offender' could be perceived as distressing by the appellant. However, any pre application advice is informal and does not guarantee the outcome of a planning application or enforcement action, where all relevant factors must be duly considered. Furthermore, the use of the term 'offender', whether unreasonable or not, would not have had any effect on the enforcement investigation, and has not resulted in unnecessary or wasted expense in the appeal.
  10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred, and an award of costs is not warranted.

*M. P. Howell*

INSPECTOR

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<sup>1</sup> Paragraph: 048 Reference ID: 16-048-20140306