

Case Name: *Dill v The Secretary of State for Communities And Local Government & Anor* [2018] EWCA Civ 2619 (26 November 2018)

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Commentary: The appellant appealed to the Court of Appeal against the refusal of an appeal in the High Court under section 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against the Secretary of State's decision to uphold a listed building enforcement notice issued by Stratford-on-Avon District Council.

Two 18th century piers were moved to a grade II listed building, Idlicote House, in 1973. The piers themselves were subsequently grade II listed in 1986. The appellant bought Idlicote House in 1993 and sold the piers abroad in 2009, without realising that they were listed.

The appellant made an application for retrospective listed building consent for the removal of the piers which was refused in 2016, following which the Council issued a listed building enforcement notice requiring the reinstatement of the piers. The appellant appealed against the refusal of listed building consent and the listed building enforcement notice. The appeals were dismissed.

The appellant contended that the piers were not in fact "buildings", a question which, the appellant argued, the inspector should have come to a conclusion on in determining the appeals. Hickinbottom LJ disagreed that this was a question for the decision-maker. He agreed with Singh J (the judge in the High Court) that the list is determinative in this regard. If something is listed in its own right (as the piers were) then it qualifies as a listed building without any consideration being needed from the decision-maker as to whether it is in fact a building, applying the definition in the Town and Country Planning Act 1990 and property-law concepts.

For further discussion see the blog at [Simoncity](#)

Case summary prepared by Ricardo Gama