



Costs Decisions

Hearing held on 11 June 2025

Site visit made on 10 June 2025

by AJ Mageean BA(Hons), BPI, PhD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th August 2025

Costs application in relation to Appeal A Ref: APP/Y2430/W/25/3358716

The Lodge, Gaddesby Lane, Ashby Folville, Leicestershire, LE14 2TG

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Jamie Lewis for a partial award of costs against Melton Borough Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for the erection of 2 residential dwellings and the partial demolition and redevelopment of the Lodge House along with the reinstatement of a former access route to Ashby Folville Manor House and further reinstatement of parkland to the north in place of the current access road.
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Costs application in relation to Appeal B Ref: APP/Y2430/W/25/3359000

The Manor, Folville Street, Ashby Folville, Melton Mowbray, Leicestershire, LE14 2TE

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Jamie Lewis for a partial award of costs against Melton Borough Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for partial demolition and remodelling of the Lodge to create annex to the Manor including access works; erection of 5no. cottages; reinstatement of the former driveway and gates to the Manor and reinstatement of parkland in place of modern driveway; resurfacing of driveway and hardstanding surrounding the Manor; and restoration of bridge.
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Decisions

1. The application for a partial award of costs is allowed in the terms set out below.

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.
3. The appellant is seeking a partial award of costs in relation to the costs associated with the preparation of expert heritage evidence and attendance of the heritage expert at the hearing. They set out that the basis of the application related to

comprehensive heritage evidence in support of the assessed impacts on the various heritage assets impacted by the proposals. Specifically, it sought to demonstrate that the heritage benefits secured would support development which would, on balance, be acceptable.

4. The starting point for decision making in such cases is the development plan, this is unless material considerations indicate otherwise. As is demonstrated by my decisions in these cases, heritage and other matters are significant material considerations in the outcome of these appeals.
5. Whilst the Council's officer reports suggest that there was agreement that on balance the proposals were acceptable, the decisions made indicate that members took a different view. In this regard it is acknowledged that local councils are not obliged to accept the recommendations of their officers. The reasons for refusal indicate that 'the limited heritage benefits' of the proposals 'would not outweigh the significant harm that would be caused by the unsustainable location' of these developments, meaning that conflict with the adopted development plan would not be outweighed by heritage benefits. The reasons for refusing the applications also set out the policy basis for the decisions.
6. In defending the appeals, in both their statement of case and their attendance at the hearing, the Council focused primarily on the development plan conflict. This was on the basis that, whilst they took into consideration the heritage benefits, they were not viewed as the main considerations when assessing the planning balance.
7. More specifically, the Council suggests that as both statements of common ground (SoCG) set out the agreement that there were some heritage benefits, they did not consider that this would become a focus for the hearing. They therefore did not engage a heritage specialist to defend the appeal. They also suggest that the attendance of the appellants heritage specialist was excessive in relation to an agreed matter. It is also suggested that the appellant exaggerated the weight to be given to heritage benefits, compared to the position in the SoCGs.
8. Nonetheless, it was clear from the 'matters not agreed' in the SoCGs that heritage would be an important topic for the hearing. Specifically, the SoCG set out that there was not agreement on '*whether the heritage benefits outweigh the harm caused by the unsustainable location of the proposed dwellings*', nor was there agreement on '*the level of weight to be attributed to individual heritage benefits*'. It was not unreasonable, therefore, to anticipate that some time would be spent during the hearing examining the differences between the parties in relation to these 'other considerations.'
9. It was apparent in the Council's statements of case that there was some misunderstanding of the correct approach to assessing settings and significance. For example, it was suggested that the public benefits would be limited as they would not all be visible within the wider context of the setting of the listed building.¹ On this point, case law has clarified that intervisibility is not a pre-requisite for the determination of the setting of a heritage asset.
10. As would be expected in such circumstances, the Appellant's approach to the assessment of the settings and the significance of the heritage assets, and the contribution of the various identified benefits, was clearly set out in their Heritage

¹ Council Statement para 6.86

Statement. This was proportionate to the assets' importance and sufficient to understand the potential impact of the proposals on their significance, as is required by the National Planning Policy Framework, paragraph 207.

11. In my consideration of this matter I note that the PPG indicates that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Specific examples of this includes where vague, generalised or inaccurate assertions about a proposal's impact are unsupported by any objective analysis. It also includes acting contrary to, or not following, well-established case law.²
12. In defending these cases I have found that the Council's assessment presented to the hearing was based on vague and inaccurate assertions about the extent of the heritage benefits, which were not supported by a clear and objective analysis. In some ways it did not pay regard to established caselaw. The extent of such misunderstandings could bring into question whether the planning balance was correctly calibrated.
13. That said, the decisions in these cases were not necessarily clear cut in that they were based on acknowledged development plan conflict and an 'on balance' consideration of other material considerations. This is set out in the Council's officer report and reasons for refusing the applications. In defending these appeals, it was incumbent on the appellant to clearly set out the basis of their cases in terms of the extent of the heritage benefits. This was the basis of their challenge to the Council's position. I therefore do not agree that the cost of commissioning heritage evidence represented unnecessary or wasted expense.
14. In terms of the hearing event itself, it was clear that heritage matters would need to be analysed and for this reason it was appropriate that the appellants heritage consultant should be in attendance. However, the Council's representatives were not able to engage in the debate on heritage matters with cogent and appropriate responses. I find this to be unreasonable, noting that the weight to be attached to heritage benefits and other heritage matters were areas of disagreement in the SoCGs. This undermined the basis for an informed debate on heritage matters at the hearing, and therefore the value of the appellant's heritage consultant's attendance. On this basis I agree that the presence of the appellant's heritage consultant for the discussion of heritage related matters during the hearing resulted in unnecessary and wasted expense for the appellant.

Conclusion on the costs application

15. I therefore find that the preparation of heritage evidence by the appellant did not represent unnecessary or wasted expense in the appeals process given the nature of the appeals. It was also appropriate that this consultant be present at the hearing. However, the inadequacy of the Council's preparation for the hearing procedure and event undermined the value of attendance by the appellants heritage expert for the discussion of heritage related matters. My view is that this was unreasonable behaviour. Therefore a partial award of costs relating to this point is justified.

² Paragraph: 049 Reference ID: 16-049-20140306

Costs Order

16. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Melton Borough Council shall pay to Mr Jamie Lewis, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred as a result of the appellant's heritage experts attendance at the hearing during the discussion of heritage matters; such costs to be assessed in the Senior Courts Costs Office if not agreed.
17. The applicant is now invited to submit to Melton Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

AJ Mageean

INSPECTOR