



Costs Decision

Hearing held on 6 August 2025

Site visits made on 5 and 6 August 2025

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 September 2025

Costs application in relation to Appeal A Ref: APP/J1535/W/24/3350572

London Hoist Ltd, 43 London Road, Stanford Rivers, Ongar, CM5 9PH

- 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 London Hoist Ltd for a partial award of costs against Epping Forest District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for proposed siting and operation of a tower crane.
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Costs application in relation to Appeal B Ref: APP/J1535/C/24/3350190

London Hoist Ltd, 43 London Road, Stanford Rivers, Ongar, Essex, CM5 9PH

- 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 London Hoist Ltd for a partial award of costs against Epping Forest District Council.
 - The appeal was against an enforcement notice alleging without planning permission, the erection of a tower crane.
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Decisions

The application for Appeal A:

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

The application for Appeal B:

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

The submissions for London Hoist Ltd

3. The costs applications were submitted in writing as a single statement. The following additional points were made orally.
4. The appellant has had to second guess the Local Planning Authority's case. That meant the appellant had to interpret the limited information given to it. In turn, this resulted in additional time and expense from the appellant's planning, landscape and heritage consultants.

The response by Epping Forest District Council

5. The response was made orally at the hearing.
 6. The Council worked within the resources available, and the constraints of staff leave. Additional time was sought but not supported by the appellant.
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7. The changes to the National Planning Policy Framework (“the Framework”) relating to grey belt are new to everyone.
8. It was not unreasonable for the Council to consider the application and appeal without landscape consultee comments.
9. The Council’s heritage evidence was provided on time, and using general language is acceptable with clarification, which was later provided.
10. Conflict with Local Plan Policy DM9, which relates to high quality design, was implied in the Council’s original officer report.

Reasons

11. 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.
12. The appellant’s case essentially relates to the limited amount of information provided by the Council, the timeliness of its responses, and the introduction of late evidence.

The application for Appeal A:

13. The appellant alleges that despite having produced a draft statement of common ground (SoCG) from the outset, the Council’s comments were only received on the day it was due to be submitted. As the appeal was initially started following the written procedure, the appellant had submitted their statement of case prior to the requirement for a SoCG. A SoCG was only required shortly before the Hearing, following the change in procedure, and I have not seen evidence of unnecessary or wasted expense incurred by the appellant as a result, except in relation to heritage matters.
14. The Council’s evidence in relation to the effects on designated heritage assets was vague and generalised, referring to harm to “multiple designated heritage assets” without specifying them. I therefore required the Council to provide a list of the assets it considered to be affected in advance of the Hearing. One of the buildings, the Grade II Listed Building Little Colemans, had not been mentioned previously, and was not included in the appellant’s Heritage Statement or statement of case. The Council’s failure to alert the appellant earlier to a heritage asset it deemed to be harmed, and at such a late stage, was unreasonable. The appellant incurred unnecessary additional expense in providing additional evidence at very short notice to supplement its heritage statement and appeal statement in relation to that building.
15. At the Hearing the Council changed its position in relation to whether the Land met the definition of grey belt land on the basis of whether harm to designated heritage assets would provide a strong reason for refusing or restricting development. The appeal was submitted prior to the revised Framework of December 2024 and, although statements of case were submitted after its issue, the matter of grey belt land is a relatively new one. The Council’s change in position arose as a result of a direct question from the Inspector into the definition of Grey Belt in Annex 2 of the Framework, as all parties sought to grapple correctly with the new measures. Ultimately, I found it to have been of no consequence in my appeal decision but it

was not unreasonable for the Council to respond the way it did given its existing case on harm to heritage assets. As this matter arose at the Hearing, and no further written submissions were made by either party, no additional expense was incurred by the appellant.

16. The appellant provided technical landscape evidence in support of the application and appeal and a landscape expert at the Hearing. But there is no requirement for the Council to consult a landscape architect in relation to its case on the character and appearance of the area, and the weight attributable to evidence is a matter for the Inspector. Neither was it unreasonable for the Council's officers to comment on the appellant's landscape evidence verbally at the Hearing, in the context of the discussion occurring, and their comments were not inconsistent with the case they made in writing.
17. The Council's decision notice did not specify conflict with Local Plan Policy DM9 as part of its second reason for refusal, but in its statement the policy is considered and included as one with which the development conflicts. DM9 is referenced in the officer report for the application in relation to character and appearance and is acknowledged as one of the most relevant policies in the SoCG. Given its subject matter in relation to local character and contribution to place, its inclusion by the Council should not have been surprising to the appellant. The Council's position was set out at an early stage, and the appellant had ample opportunity to address it at the Hearing. The Council's behaviour was not unreasonable in this respect.
18. The appellant's general point is essentially that the Council's case in writing was brief and the appellant therefore considered it necessary to comprehensively cover the evidence to ensure it covered all the issues. However, the Council have not failed to produce evidence to substantiate all its reasons for refusal. And other than in relation to Little Colemans, the appellant has not directed me to any specific parts of the evidence that were provided unnecessarily on account of any lack of clarity by the Council. Unreasonable behaviour leading to unnecessary or wasted expense has therefore not been demonstrated.

The application for Appeal B:

19. In relation to appeal B, the appellant had expected the Council's enforcement officer to be present at the Hearing, but the SoCG made clear only two named officers were likely to be present. There is no requirement for the Council to provide a specific officer to present its case, and it was not unreasonable for the Council to be represented by planning and conservation officers at the Hearing.

Conclusion on appeal A:

20. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of assessment of the effect of the development on the Listed Building known as Little Colemans. A partial award of costs is therefore warranted.

Conclusion on appeal B:

21. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Costs Order

22. 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 Epping Forest District Council shall pay to London Hoist Ltd the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to assessment of the effect of the development on the Listed Building known as Little Colemans in relation to Appeal A; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Epping Forest District Council, to whose agents a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Peter White

INSPECTOR