
Costs Decision

Site visit made on 9 December 2025

by **D Boffin BSc (Hons), DipTP, MRTPI, Dip Bldg Cons (RICS), IHBC**

an Inspector appointed by the Secretary of State

Decision date: 17th February 2026

Costs application in relation to Appeal Ref: APP/W2465/C/23/3324396

Aylestone Meadows, Land North of Braunstone Lane East

- 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 Mrs Michelle Ikin for a full award of costs against Leicester City Council.
 - The appeal was against an enforcement notice alleging: Without planning permission, construction of outbuildings.
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Decision

1. The application for an 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. Awards against a Council may be either procedural or substantive. The PPG provides non-exhaustive lists of examples of the types of behaviour which may give rise to an award of costs, these include providing information that is shown to be manifestly inaccurate or untrue and lack of co-operation with the other party or parties.
4. The application and responses were made in writing, so I need not repeat them in full. In summary, a full award is sought because it is argued that the Council served an enforcement notice (EN) following factually incorrect information being presented. Moreover, the applicant considers that the Council is now aware of these errors and should have withdrawn the EN. The applicant has also stated that the Council charged them the incorrect fee for their appeal and were unreasonable when they tried to challenge the amount.
5. The reasons for issuing the EN include *“the loss of part of a defined Local Nature Reserve and a local wildlife site”*. The Council has subsequently stated, in its detailed comments on the applicant’s statement, that the appeal site is not within the Local Nature Reserve (LNR) (Aylestone Meadows) but adjoins it. However, it maintains that the site is within the local wildlife site (LWS), Aylestone Meadows North (Twelve Arches Bridge to Braunstone Lane East) and has provided evidence to support that. The applicant disputes that fact regarding the notification and designation procedures that they believe were incorrectly carried out.

6. The reference to the LNR within the Council's Officer Enforcement Report and the EN is manifestly inaccurate. Moreover, it appears that in 2021¹ the Council's Officer responsible for drafting its Enforcement Report knew that the appeal site was not within the LNR. Therefore, the reference to the LNR within the Council's Officer Enforcement Report and the EN has been shown to be manifestly inaccurate. Even though the Council admitted that it had erred in that way in my judgement the inaccurate references to the LNR, in the reasons for issuing the EN, constitutes unreasonable behaviour.
7. Nevertheless, there is little evidence to indicate that the designation and notification procedures relating to the LWS (formerly known as a Site of Importance to Nature Conservation) were carried out incorrectly. As such, the Council's references to the appeal site being within a LWS do not appear to be inaccurate and do not constitute unreasonable behaviour.
8. The Council's Officer Enforcement Report also makes reference to the appeal site being within flood zones 2, 3a and 3b. It also states that the Environment Agency (EA) were consulted and in an email dated 19 January 2021 they indicated that the site lies within Flood Zone 3b. The reasons for issuing the EN make reference to flood risk and impact on the floodplain. As acknowledged in my substantive decision the EA has submitted a response that states: *"Our initial response to the appeal (our letter date 5 September 2023, reference LT/2023/128036/01-L01) was mistakenly based on the River Soar 2017 model data, which showed the site to be in flood zone 3b. This was corrected in our October 2023 response where we clarified that the latest modelling, the Soar 2022 model, showed the site to be in flood zone 1. At that time, the Flood Map for Planning (FMfP) had not been updated with the Soar 2022 model, and so the FMfP was showing the site in flood zone 3 (the FMfP did not differentiate between FZ3a and FZ3b). The Soar 2022 model superseded the FMfP at that time, although it was not yet published on the FMfP. The Soar 2022 model has now been incorporated into the FMfP and the application site is now therefore showing as flood zone 1 on the published FMfP.....We can therefore state that according to our current best available data, the application site is in flood zone 1."*
9. When preparing its Enforcement Report and the EN the Council would have relied upon the information supplied to it by the EA. That information was only confirmed to be incorrect during the appeal process. Therefore, even though the flood zone categorisation and the probability of flood risk data was manifestly inaccurate the Council would not have been aware of that inaccuracy when it authorised and issued the EN. In this respect the Council's behaviour does not constitute unreasonable behaviour.
10. I acknowledge that the inaccuracies relating to the LNR and the Flood Zone categorisation have an impact on the reasons for issuing the EN. However, those reasons also relate to the effect on the character and appearance of the area and biodiversity given the site's location within the LWS. As a result, I consider that an appeal against the EN would still have been necessary and in any case the applicant has only appealed under ground (a) in relation to Building C. The Council's behaviour in not withdrawing the EN cannot be treated as being unreasonable.

¹ Email correspondence dated 30 June 2021

11. Nevertheless, the Council's unreasonable behaviour in respect of the inaccurate information regarding the LNR has meant that the applicant has incurred unnecessary expense in researching the extent of the LNR and providing evidence in relation to that specific matter for the ground (a) appeal.
12. The applicant considers that the Council set the incorrect fee relating to the deemed planning application and acted unreasonably when it was challenged. The fees associated with planning applications, including deemed planning applications, are set nationally by the government and are detailed in the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012, as amended.
13. The applicant queried the amount of fee requested by the Council and the Council indicated that the fee was based on Category 2 -the erection of buildings part 3c) and the floor space of the outbuildings. The applicant questioned the floor space calculation and both parties subsequently agreed that the floor space created due to the removal of one outbuilding was below 40m². The applicant then paid the requested fee based on that floor space.
14. However, the applicant had also raised why the fee was based on Category 2 and not Category 3 - the erection, on land used for the purposes of agriculture, or buildings used for agricultural purposes. The Council's Statement of Case² states that *"the Council considers that the use of the land for grazing while not authorised by any planning permission appears to have been occurring for more than 10 years and would therefore be immune from any enforcement action. Grazing land is considered an agricultural use in planning terms."* Therefore, it appears that the incorrect fee for the deemed planning application may have been paid. However, as stated in my substantive decision I have no jurisdiction over the fee requested/paid and the costs regime only applies to the costs associated with the appeal process.
15. Taking into account all of the above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a partial award of costs is justified.

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 Leicester City Council shall pay to Mrs Michelle Ikin, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in researching the extent of the Local Nature Reserve and providing evidence in relation to that specific matter for the ground (a) appeal such costs to be assessed in the Senior Courts Costs Office if not agreed. The applicant is now invited to submit to Leicester City 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.

D Boffin

INSPECTOR

² Paragraph 3.6