

Costs Decision

Site visit made on 14 April 2026

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 23rd April 2026

Costs application by Hampsey Ltd in relation to appeal ref: APP/A2335/C/25/3366959 Hampsey Ltd, Long Lane, Quernmore, Lancaster LA2 9EE

- The application was 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 was made by Hampsey Ltd for an award of costs against Lancaster City Council.
- The appeal was made under section 174 of the Town and Country Planning Act 1990 as amended, (the Act), by the Planning and Compensation Act 1991 against the issue of an enforcement notice.

Decision: The application for an award of costs is not allowed.

Application - submissions made by Hampsey Ltd

1. The Council only enforced against the hardstanding, not the land use or the screen fencing. Arguing about visual impact was really about land use, so it was without substance.
2. The Council had indicated it would have negotiated, but did nothing. It failed to substantiate its case as to visual harm to landscape that derives from the hardstanding and ignored the fall-back position.
3. The Council failed to grasp the consequence of its enforcement notice. The Appellants had justified their need for drainage and land use. Under 'Description', the Council relied on irrelevant historic consent for agricultural building, being in a state of denial as to its decision not to question the B2/B8 use, (General Industrial and Storage Distribution Uses).
4. As to the 'Principle of the development', it said it would have negotiated the development to be potentially provided elsewhere within the site that would not have had such a harmful effect to the character and appearance of the landscape. But not only was that an unviable argument, (having given consent by virtue of the EN/s.173(11) as to B2/B8 land use and the fall back), there was no substance to the Council's case.
5. As the Council took no issue with the industrial use of the site, when it could have easily enforced against it, it was in no position to allege the permitted right was not lawfully implemented; that was irrational. The alleged harm to the National Landscape and countryside was unsubstantiated. Their argument went to land use only. That was irrelevant as it was lawful.
6. As to fall back, the Council had no proper answer given the legal effect of serving its enforcement notice. Class J, Part 7 to Schedule 2 of the General Permitted Development Order, permitted the development, hard surfaces for industrial and warehouse premises. The enforcement notice granted planning permission for every use and operation at the appeal site apart from the identified breach. Not only was the Class J right complied with, the evidence of drainage works supplied, the

Appellants could comply with the enforcement notice then lay the hardstanding again. That rendered the compliance steps pointless. They failed the test of proportionality.

7. The Inspector should make a full award of costs against the Council on the basis of its failure to substantiate its case. It made vague, generalised, inaccurate assertions about the impact. It failed to review its case promptly following the lodging of the appeal as part of sensible ongoing case management. Nor did they follow well established case law by reviewing its case when they should have realised the legal problem that arose as a result of the decisions it made when formulating the enforcement notice.

Response by Lancaster City Council

8. The enforcement notice was only served on the land level changes and the creation of hardstanding areas. The use of the land had not commenced, nor was the fencing fully erected around the entire site. It would have been premature of the Council to include those elements in the enforcement notice.
9. In addition to the visual impact, the unauthorised land level changes and the hardstanding areas had caused harm to the character of the designated landscape and wider open countryside.
10. A Planning Contravention Notice was served on Hampsey Ltd. The notice was not returned, despite chasing a representative of Hampsey. On a site visit, a Hampsey representative had said the works did not require planning consent. There was therefore little to discuss. No negotiation could take place. The Council had relied on the history of the site, the last known use of the site being for agricultural purposes.
11. Hampsey Ltd provided no evidence the use of the overall site was immune from enforcement action. The works were not reasonably necessary for the purposes of agriculture. The Appellants should not be awarded full or partial costs.

Guidance on Costs Applications

12. Irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party or parties applying for costs to incur unnecessary or wasted expense in the appeal process. Parties in planning appeals normally meet their own expenses. Costs do not, as a rule, follow the result.
13. Costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process - PPG para 030.
14. Unreasonable procedural behaviour may include failure to meet deadlines, failure to attempt to resolve statements of common grounds. Unreasonable substantive behaviour includes running points which have no legal basis or substantive points with no evidence. Unreasonable behaviour must have directly caused unnecessary or wasted expense. Such wasted expense should be identifiable or capable of being quantified.

Inspector's conclusions

15. I have set out above, although in summary, more details of the Appellants' costs application and the Council's response than usual. It is my view that neither party to the enforcement notice appeal accurately focussed on the issues, particularly in relation to the lawful use of the land, nor on the matters relevant to a costs application. There was no pertinent effort to directly address any question of unreasonable behaviour in the appeal process that might have caused the party applying for costs to incur unnecessary or wasted expense. Instead, there was a

misplaced reliance by the Appellants on their assumption the use of the appeal site for an industrial use had gained lawfulness by the passage of time. They also said that compliance with the requirements of the notice would have conferred lawfulness on the concrete business use of the land because of the application of s.173(11) of the Act. That was despite the description of the breach of planning control having not referred to the land use. It was an argument on the merits of the appeal cases, not directly relevant to a costs application in relation to unreasonable behaviour.

16. The Appellants submissions on the s.174(2) ground (c) appeal on the use of the appeal site, wrongly in my view, assumed a lawful general industrial use of the land. The Appellants' costs application against the Council is somewhat fettered by their own running of points which had little legal strength or were unsupported by evidence.
17. The Appellant's application for an award of costs failed to properly deal with the Council's behaviour during the appeal process. Most of their submissions supporting their claim for an award of costs in this case were not relevant. They were more akin to a rehearsal of planning merit arguments.
18. Unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, was not demonstrated. An award of costs against Lancaster City Council is not justified.

COSTS ORDER

19. No order as to costs is made.

John Whalley

INSPECTOR