



Costs Decisions

Site visit made on 14 June 2022

by Simon Hand MA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 June 2022

Costs applications in relation to Appeal Refs: APP/D1780/C/21/3287575 & 3287582

Land at the rear of 2A and 10 Oakridge Road, SOUTHAMPTON, SO15 0LX

- The application is made under the Town and Country Planning Act 1990, sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Simon reeve for a full award of costs against Southampton City Council.
 - The inquiry was in connection with an appeal against an enforcement notice alleging the material change of use of the Land from residential curtilage (Use Class C3) to use for the storage and preparation for sale of motor vehicles (Sui Generis).
 - A counter claim has been made by Southampton City Council against Mr Simon Reeves for a partial award of costs.
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Decisions

1. Both costs claims are refused.

The Case made by the Appellant

2. The appellant argues that the Council failed to issue a PCN and so failed to gather useful background information. The Council also issued a notice directed against possible future harm and failed to identify any actual harm. No evidence has been provided to actually demonstrate any harm. The allegation of 'preparation' of cars for sales has not been substantiated. The cumulative effect is that the notice should never have been issued in the first place as parking cars on the land in question causes no harm.

The Response by the Council

3. The Council respond that the PCN is merely a tool for info gathering, not a mandatory requirement. They already had all the necessary information they needed so there was no need for a PCN. On the basis of the complaints received the Council had grounds to believe there had been preparation of cars for sale.

Reasons

4. I agree the lack of a PCN is really neither here nor there in a case where there is little dispute over the facts. The main basis for the appellant's claim is that either there has been no material change of use or if there has it is so obviously harmless the issue of the enforcement notice was a waste of time. As I have upheld the notices, subject to corrections concerning 'preparation', then that is not a view I share with the appellant. It follows the issue of the

notices was not a waste of time and the appellant does not seem to have been put to any unnecessary costs as a result.

Counter claim by the Council

5. The Council argue that the appellants have muddled up ground (c) and (b), in that their ground (c) arguments should more properly have been made under (b). Their evidence is contradictory as they argue the parking use is B8, but also that the land is being used as part and parcel of the car sales use, which is sui generis. Late ground (d) evidence was provided.

The Response by the Appellant

6. Whatever the merits of the Council's arguments concerning grounds (b) and (c) they fail to present any example of a delay or wasted costs. The use of the land as open storage is exactly what the land use gazetteer defines as B8. The late statutory declarations were not admitted to the appeal which continued as written representations.

Reasons

7. I agree that the arguments for grounds (b) and (c) were muddled, but that does not actually seem to have caused a delay or any extra work. I also agree that there was an inherent contradiction between the use of the land as part of the car sales and the claim it was B8, the same as the use by Chapter 8. However, it was open to me to find that the use of the appeal site was different from the car sales use and so was a separate B8 use. This outcome was unlikely but not so much so that it was unreasonable to even raise it as a possibility. The late ground (d) evidence was turned away and so did not form part of the appeal.

Conclusions

8. Neither party have been guilty of unreasonable behaviour and if they have been then that has not led to wasted work or delays that caused unnecessary costs to be incurred.

Simon Hand

Inspector