



Costs Decision

Site visit made on 10 July 2023

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2023

Costs application in relation to Appeal Refs: APP/M1710/C/22/3307496, APP/M1710/C/22/3307497, APP/M1710/C/22/3307498

- The applications are 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 applications are made by Mrs Kelly Stevens (Appeal A), Mr Jessie Stevens (Appeal B) and Ms Jayne Stevens (Appeal C) for a full award of costs against East Hampshire District Council.
 - The appeal was against an enforcement notice alleging the material change of use of land to a sui generis use comprising of the storage of motor vehicles.
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Decision

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

Reasons

2. 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.
3. The thrust of the appellants case is that the Council has received extensive communications in relation to a B8 usage for the land affected by the enforcement notice and has failed to adequately and properly deal with those. If they had, the enforcement notice would not have been issued.
4. The extent of any communications were largely not before me, but the Council maintains that the site does not benefit from a lawful storage use. There is then limited evidence that the Council failed to openly and actively engage with the appellants. An enforcement notice was therefore always likely to be issued.
5. The onus is firmly on the appellants to demonstrate lawfulness, either through a certificate of lawfulness, which does not appear to have been submitted, or through these appeal proceedings, which have then failed.
6. Whilst I did accept that the storage of motor vehicles was not a sui generis use, the notice was capable of correction without causing injustice. There then remained the ground (d) appeals, being the only ground of appeal pleaded on the appellant's appeal form, and which was always going to arise given the Council's position and absence of a certificate of lawfulness. Unreasonable behaviour resulting in unnecessary or wasted expense therefore does not arise from this.
7. The assertion then raised by the appellants in respect of the Breach of Condition Notice did not assist them for the purposes of demonstrating

immunity from enforcement action. Unreasonable behaviour on the part of the Council accordingly does not arise.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Paul T Hocking

INSPECTOR