



Costs Decision

Site visit made on 22 April 2026

by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th April 2026

Costs application in relation to:

Appeal A Ref: APP/K0235/C/24/3355359

Appeal B Ref: APP/K0235/C/24/3355360

Appeal C Ref: APP/K0235/C/24/3355361

Land known as 10-12 Iddesleigh Road, MK40 4LW

- 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 Bedford Borough Council for a full award of costs against Mr Ameer Hamza (Appeal A), Mr Muhammad Ammar (Appeal B) & Mr Ghulam Murtza (Appeal C).
 - The appeals were against the Council's decision to issue an enforcement notice in respect of the material change of use of land to a vehicle storage and sales use (sui generis), the erection of a temporary sales building and the erection of temporary fencing.
-

Decision

1. The application for an award of costs in respect of Appeals A, B & C is allowed in the terms set out below.

Procedural Matter

2. Three appellants were named on the appeal form which was submitted against the Council's decision to serve an enforcement notice in respect of the land in question. In such cases each appellant is afforded an appeal reference number because technically, three appeals have been made against the notice. The appeal reference numbers and the names of the respective appellants are set out in the banner heading above.
3. However, the evidence submitted in respect of each appeal was identical and all three proceeded on ground (d) alone. The Council's application for an award of costs is made against all three appellants¹. The appellants have responded to that costs application collectively, as they did the appeal itself. In other words, the fact that there were three appeals did not equate to 3 times the work. The work was the same as if a single appeal was submitted but each appellant was, in effect, jointly liable for the whole.
4. Consequently, whilst there are technically three appeals, the costs application covers all three and I have dealt with the application as such within this single decision letter. It is a matter for the parties involved to agree the actual amount of any costs involved.

¹ See letter from Penny Jewitt, Senior Planning Officer to the Planning Inspectorate, dated 11 April 2025

Details of the Application and the Appellants' Response

5. The application for a full award of costs was made by the Council in writing and the response, on behalf of all three appellants, was also made in writing. Consequently, each party is familiar with the details of those submissions and the following is a brief summary of the respective cases.

The Application made by Bedford Borough Council

6. The Council considers that the appellant has behaved unreasonably in providing information which is untrue and has been fabricated to suit their case and for appealing under a ground which had no reasonable prospect of success.
7. The PPG identifies examples of unreasonable behaviour which may result in an award of costs include providing information that is shown to be manifestly inaccurate or untrue and if the appeal or ground of appeal had no reasonable prospect of succeeding².
8. The Council have demonstrated that there was a warehouse building on site until at least 2010 and that the site was empty as of June 2012. The Council has provided strong evidence that car sales have not taken place continuously since 2008 or 2009, as claimed by the appellants. The evidence the appellants' produced must therefore be manifestly untrue and fabricated. The production of false evidence is wholly unreasonable and the Council seeks a full award of costs for having to defend a ground (d) appeal that had no reasonable prospect of success.

The Response from Mr Hamza, Mr Ammar and Mr Murtza

9. The fact that the appeals on ground (d) were accepted by the Planning Inspectorate is evidence that there was enough to suggest that the use could be lawful and that point alone refutes the suggestion that the appeals had no reasonable prospect of success.
10. In procedural terms the appellants have complied with every deadline in terms of the submission of evidence.
11. On substantive grounds the appellants took professional planning advice and gathered supporting evidence and legally signed affidavits from long standing residents. The suggestion that those statements are fabricated is defamatory and without evidential basis.
12. At no point have the appellants claimed that cars were sold from inside the former warehouse building. The existence of cars on site in images contrasts with the Council's evidence that car sales were not taking place.
13. The appellants are well-regarded, professional people and it is inappropriate and offensive for the Council to accuse such individuals of dishonesty and fabrication. The assertion that a handwritten amendment to a date on one affidavit—fully explained and supported by the affiant's own clarification—amounts to "fabrication" is not only legally baseless but borders on defamation. To suggest that such individuals would compromise their careers and reputations for a planning matter is absurd and grossly irresponsible.

² Paragraph: 053 Reference ID: 16-053-20140306

14. It is abundantly clear that there are gaps in the Council's evidence. If enforcement was a priority, why wait so long to take enforcement action? PINS' acceptance of the ground (d) appeals confirms that, on the balance of probabilities, the Council was out of time to take enforcement action.
15. It is clear that no unreasonable behaviour has occurred and an award of costs is not justified.

Reasons

16. 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.
17. The appellants contend that the fact that PINS accepted their appeals is sufficient to indicate that they had a reasonable prospect of success. That is a fundamental misunderstanding of the way in which the appeal system operates. At the point at which an appeal is accepted, no analysis of the merits of the arguments presented is made. That only occurs once the case is allocated to an Inspector to determine the appeal.
18. At the initial stage, it is a question of checking that the appellants have an interest in the land or are relevant occupiers, such that they have a right of appeal against a notice; that the relevant appeal forms are filled in and that the evidence provided relates to the grounds upon which the appeal has been made. Thus, the suggestion that there must have been at least some merit in the arguments presented on the basis that the appeal was accepted holds no water.
19. As set out in my associated decision letter in respect of the appeals, the appellants initially contended that the use for car sales dated back to at least 2014. The evidence provided for that was limited and not sufficient to demonstrate that the use had continued for 10 years or more at any point. Moreover, there was clear evidence from the Council that enforcement investigations had been undertaken during that period and that led to a clear break in use in late 2018 to at least mid-2019.
20. The landowner seemingly contacted the Council to confirm the use had ceased, subsequent visits showed that all cars except one was removed and that no car sales were taking place. The Council was sufficiently satisfied to close the enforcement case without the need to serve an enforcement notice. That was understandable, given that all indications were that the use had ceased.
21. Only when faced with the Council's evidence did the appellants alter their position with a claim that the use had actually taken place since 2008. No real explanation as to why that claim wasn't made initially has been provided. Moreover, there were obvious flaws in the amended case. Not least that the building which formerly occupied the site was still in situ in 2008. It occupied the vast majority of the site and had no openings large enough to allow vehicles to enter.
22. There was only space for about 2 cars to park on a small area to the front of the building. A single image indicating that one car parked in that area may have been for sale is clearly not sufficient to indicate that there had been a material change of use of the site as a whole, given the extremely limited scale compared to the scale

- of the warehouse building and site as a whole. Nor was it indicative that there was a car sales business operating from the land.
23. There are also inconsistencies in the affidavit provided by Mr Yasir Mahmood who claims to have operated a car sales business from the site since December 2008. It is not clear how he could have done so in the absence of any space to display or sell vehicles.
24. Furthermore, the initially printed version of his affidavit stated that he could confirm that vehicles had been continuously sold from the site since at least 2009 but the '9' was subsequently altered to an '8' in pen, after the document had been signed. The appellants put this down to an administrative mistake, rather than an indication of dishonesty. However, the basic wording of the affidavit appears to have been pre-populated for Mr Mahmood because the wording of all of the affidavits submitted by the appellants is basically the same, with 2009 being referred to as the date upon which the use commenced.
25. In other words, somebody had prepared those documents on the basis that 2009 was the commencement date and the various residents had been asked to sign the documents on that basis. It is not clear why 2009 was chosen as the date of commencement. Mr Mahmood's was then altered to say 2008. It is not clear why his recollection was 2008 when all others suggested 2009. I can understand the Council's suspicions that 2008 was used on the basis that was the required 10-year period prior to the clear break in use in December 2018.
26. In any event, I needn't draw a conclusion on whether any dishonesty was involved; it could be that memories are not precise as to which month something occurred 17 or so years earlier. The fact is that the onus rests with an appellant to demonstrate their case. The former building was still in situ, there was no space to sell cars on any commercial basis and the photograph provided within Mr Mahmood's statement showing a "Safecars" advertising board at the site clearly doesn't date from 2008. The building had been cleared when the sign was in place and that didn't take place until sometime between 2010 and 2012.
27. The Council have clear evidence that the site was vacant in June 2012 and the site visit log shows that the "Safecars" signage was present in March 2015. In January 2013 and March 2014, signage for "Yasir Choudhary Tradecars" was present which also contradicts Mr Mahmood's claim to have run his business from the site from 2008 to 2015.
28. Thus, there were clear inconsistencies in the evidence presented by the appellants and their version of events was manifestly inaccurate. I note that they had professional representation. To any trained eye it should have been obvious that the evidence presented fell way short of the necessary burden of proof in enforcement proceedings. Especially when the Council had a clear record of its own of various visits to the site, previous planning applications, along with evidence of correspondence with the owners and occupiers of the site.
29. It would also have been impossible to continue any car sales over the land in the period when the former building was being demolished. Purely from a health and safety perspective. The demolition of the structure was effectively a pre-requisite for the subsequent change of use to a car sales lot. That could not have happened

until some time between 2010 and 2012, with Council photographs showing the site was vacant as of June 2012.

30. The appellants question why the Council did not take enforcement action sooner. That is a matter for it. However, investigations did take place and those led to the cessation of the use. That use then commenced again and a temporary planning permission was granted. That marked a new chapter in the planning history. After the end of that temporary permission the continued use or recommenced use was unauthorised and the Council was entitled to take action when it did. The appellant has not demonstrated that the use was lawful due to the passage of time.
31. Overall, the appellants' evidence was inaccurate, contradictory and hopeless. It stood no reasonable prospect of success. Accordingly, I find that the appeals were unreasonably made and that a full award of costs to the Council in relation to the need to defend each appeal is justified.

Costs Order

32. 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 Mr Ameer Hamza, Mr Muhammad Ammar and Mr Ghulam Murtza shall pay to Bedford Borough Council, the costs of the appeal proceedings described in the heading of this decision, namely, the costs involved in Appeals A, B and C respectively; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Mr Ameer Hamza, Mr Muhammad Ammar and Mr Ghulam Murtza, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Chris Preston

INSPECTOR