

APPEALS PANEL NO. 2

MONDAY 10 JANUARY 2011 AT 2:00PM

PRESENT: Councillors Earp, Nedved and Mrs Rutherford

AP2.01/11 APOLOGIES FOR ABSENCE

There were no apologies for absence.

AP2.02/11 PUBLIC AND PRESS

RESOLVED - That in accordance with Section 100A(4) of the Local Government Act 1972, the Public and Press were excluded from the meeting during consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information, as defined in Paragraph Number 1 of Part 1 of Schedule 12A of the 1972 Local Government Act.

AP2.03/11 COMPLAINT REGARDING CARLISLE PARKING DISC ZONE D

Consideration was given to a complaint regarding Carlisle Parking Disc Zone D.

The Chairman explained the process for the hearing and invited the appellant to present the basis of the complaint for consideration.

The Chairman outlined the major points of the complaint.

The appellant advised that the complaint was in two parts. The first part related to issues when purchasing a property within a Disc Zone in Carlisle. He stated that the City and County Council websites both indicated that the scheme was run by the City Council. There was no indication there were any restrictions when issuing permits to residents and stated that there was no restriction on the number of permits residents may apply for. The City Council parking department advised that residents moving into an area were able to apply for an exemption permit.

The appellant stated that local searches did not highlight the parking scheme and restrictions but did state that there were currently no new schemes that had been agreed but not yet implemented. The appellant believed that there was nothing in the planning application for the development that would indicate that residents would be excluded from the car parking scheme. The City Council did not hold a list of properties that were exempt from the car parking scheme.

As a result the appellant would like it to be made clear to potential purchasers of properties in the Disc Zones that some properties may be excluded in the car parking scheme.

The appellant advised that the second part of the complaint related to the scheme being implemented by the City Council that was not supported by the Traffic Order and that the actions of the City Council were discriminatory to some residents but beneficial to others.

The appellant stated that information given as a result of the Freedom of Information request was different to that from the City Council officer. The appellant believed there were further inaccuracies in a letter from the Assistant Director regarding parking in respect of the planning permission for the apartments in question.

The appellant advised that information he had received indicated that the current scheme stated that a resident would not be guaranteed a parking space outside their property but would be able to park within the parking zone. That did not appear to be the case in Zone D.

The Ward Councillor had advised the appellant that his property lay outside parking Zone D but information obtained under the Freedom of Information Act indicated that it was within the Zone.

The appellant believed that the property he had purchased met the criteria to qualify for a parking permit and that a second permit could be issued at the discretion of the Council. As far as the appellant was aware that discretion had never been used. However, the appellant believed that permits had been issued to other residents on the street since July 2010 and that the discrimination to some residents was on the grounds of the location of the property.

The appellant stated that as a result of those issues the current parking scheme should be enforced fairly and that the discrimination should be removed.

The appellant advised that he had contacted the Ward Councillor asking him to represent the appellant at the Board of Arbitration as he would not be available personally. The Ward Councillor had stated that the appellant did not reside within the parking area and that he would respond further to the appellant but he had not done so. The appellant had copied the Portfolio Holder into the e-mail to the Ward Councillor regarding the lack of response but heard nothing from either Member. The appellant had telephoned the Ward Councillor who advised that he had been in hospital and unable to respond to the e-mails. The appellant had been given a copy of the minutes of the Local Area Committee meeting from September 2010 that indicated that the Transport and Highways Working Group were looking at the parking issues in Zone D.

The appellant stated that he had received the pack of papers for the hearing for his approval with a deadline for response the following day. The appellant was then advised on 22 December 2010 that the information could be received by 29 December 2010 for circulation. The appellant stated that that would give 2 working days over the Christmas period and he believed that was insufficient time to get the paperwork together. Therefore there was paperwork that the appellant had but that Members of the Panel had not had sight of. The appellant stated that he had also been advised that the date of the hearing could not be changed but was asked at a later date if he wished to change the date of the hearing.

The Chairman confirmed that the Panel had seen a letter from the County Council that the appellant referred to that advised that the issue was a matter for the City Council and not the County Council.

The Chairman confirmed that the officer from the County Council had been invited to attend the hearing to give advice on the policy as it was a County Council policy.

The appellant had asked for a list of properties exempt from obtaining parking permits. He was advised that there was no such list. The appellant believed that some residents in the street had on street parking permits but those in the new build were not eligible. That, he believed, was discrimination.

The appellant informed Members that he had contemplated the purchase of a further property in the area to lease to two professionals who would require an additional parking permit. Due to the policy of the City Council the appellant had decided not to go ahead with the purchase. The appellant also believed that the value of the property he already owned in the area had reduced and that the Council Tax band did not reflect the parking issues.

Members were concerned that on a number of occasions there had been a delay in the appellant receiving a response from Officers. Although holding letters had been forwarded to the appellant Members were dissatisfied that full responses had been delayed.

The Chairman thanked the appellant for attending the hearing and advised that a letter confirming the Panel's decision, and what steps he could take should he disagree with the decision, would be forwarded to him within 20 working days.

The appellant left the hearing.

The Panel invited an Assistant Director and officer from the Parking Department into the hearing. An Officer from Cumbria County Council was also invited into the hearing.

The Officer from the Parking Department stated that while Zone D showed 66% occupancy it was a huge zone that crossed a main highway. There were parking problems in the area where the appellant owned the property and the Officer believed that the area required a zone of its own, an issue that the County Council were consulting on. The Officer gave the background to the provision of the zones and explained that new builds, particularly flats, exacerbated the parking problem in certain areas. The Officer confirmed that he had made the decision, in consultation with the County Council Transport and Highways Task Group, to refuse the issue of a permit to the appellant.

The Officer explained that Articles 42 to the Traffic Order dealt with the matter of issuing parking permits and stated that residents of the flats in question had one off street parking space allocated under the flats while residents of the terraced properties had no off street parking facilities and had to park on the street. The Traffic Order stated that the issue of parking permits was at the discretion of the City Council. The Chairman believed that there was nothing to explain the matter within the policy and that it was difficult to explain to members of the public requesting the information.

The Officer from the County Council explained the proposed revisions to the Traffic Order and advised that the appellant could make representation as part of the consultation process. The Officer explained the policy and stated that the issue of the permits was not about entitlement but was subject to the availability of parking spaces in the area. While the appellant was correct that there was 66% capacity in Zone D that was not necessarily the case for the area of the property he owned but for the zone in general. Members advised the Officers that the appellant believed that there should be some system whereby potential purchasers of properties should be able to gain the information regarding the potential restriction on the issue of parking permits.

The Assistant Director advised that the flats in question were part of a new development and the policy had been made by the officer/Member working group that if a development has off street parking facilities residents would not be eligible for an on street parking permit. Residents were advised when applying for permits that the issue is at the discretion of the City Council. She believed that the appellant had made an assumption that he would receive a permit without checking with the authority.

A Member asked, if a member of the public spoke to officers in the Parking Department regarding a parking permit, what advice they would be given. The Assistant Director confirmed that officers would not advise that residents would get a permit.

A Member believed that if the Council were making some discrimination there should be something written in the policy that explained why some people may be issued with a parking permit while others may not. There was discussion about the number of spaces in Zone D and the parking problems in specific areas of that zone.

With regard to searches the Officer from the County Council advised that changes in the Traffic Order would be flagged up by a local search but would not flag up anything that was planned.

The Officer confirmed that only one parking permit per residence was allowed, although he was aware that Members in the past had informed him that some residences in the City had more than one permit.

There was discussion on how a potential purchaser could be advised that a property may not be eligible for a parking permit. A Member believed that it should be written down somewhere if a property within a development was unlikely to be eligible for an on street parking permit, or whether there was a surfeit in supply of permits so that no more would be issued. That would flag up to interested parties that further information should be sought.

The Assistant Director reiterated that the current policy did not state whether a resident would get a permit or not, but she confirmed that the policy was being developed by officers and Members through the Working Group and that the Group were looking at reducing the size of Zone D.

A Member asked why there had been a delay in the appellant receiving the information requested under the Freedom of Information Act. The Assistant Director advised that the request had been sent to the County Council Officer who had responded promptly. The delay from the City Council was due to the relevant Officer being on sick leave for three weeks. The appellant had then been advised that the information was not available as the Freedom of Information Officer would only look at the information held by the City Council and she confirmed that she could not supply the required information.

A Member asked whether information was logged when a permit was requested. The City Council Officer stated that a file was kept with all decisions. As the parking permits were renewed annually the information was only kept for the current year.

A Member asked if there was a change of ownership of a property would the owners have to return the permit. The City Council Officer confirmed that the new owner would usually re-submit an application for a permit.

The Panel thanked the Officers for their input. They then left the hearing.

The Panel then considered the evidence that had been presented to them, prior to and during the hearing and made the following decision.

RESOLVED:

- That the policy contained within the County Council Traffic Order was not in itself discriminatory although there was no automatic right to parking permits. Parking permits were issued at the discretion of the local authority. However, investigation showed that custom and practice of the application of the policy did appear to be discriminatory. The discrimination occurred where off street parking was provided in new developments, in this case in Zone D.
- There should be clear guidance for members of the public that current and future properties that had off street parking facilities, or were in an area where the number of parking permits had been exceeded, may not be entitled to an on street parking permit.
- The issues within Zone D had been investigated over a period of months by the Transport and Highways Working Group and the Carlisle Local Committee. The Transport and Highways Working Group was proposing to remove Milbourne Street and Shaddongate Mill from Zone D and create a new zone – Zone M. The matter would be subject to public consultation and the appellant may express his views on the proposal via that consultation.
- To prevent ambiguity, the Panel would make a recommendation to the relevant authority that all new developments in Carlisle with off street parking facilities should not be entitled to an on street parking permit, if

there was an insufficiency of on street car parking provision in the locality.

- Concern was expressed by members of the Panel regarding the delay in responding to enquiries and requests by members of the public and that should be actioned at the earliest convenience.

The meeting ended at 17:20pm.