



Costs Decision

Site visit made on 17 June 2019

by Michael Wood RIBA

an Inspector appointed by the Secretary of State

Decision date: 18 July 2019

Costs application in relation to Appeal Ref: APP/C3240/W/19/3223822 Wm Morrison Supermarkets Plc, Gresham Drive, Newdale, Telford TF3 5ES

- 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 Ms Clare Pilling for an award of costs against Telford and Wrekin Council.
 - The appeal was against the refusal of planning permission for the erection of an automatic number plate recognition (ANPR) camera.
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Decision

1. The application for the award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (the PPG) advises that costs may be awarded against a party that has behaved unreasonably and, thereby, caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG indicates that the right of appeal should be exercised in a reasonable manner. A Council is at risk of an award of costs being made against them if they behaved unreasonably with respect to the substance of the matter under appeal. For example, by failure to produce evidence to substantiate each reason for refusal on appeal, or by vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The Appellant's claim for costs is based on a substantive matter in that the Council were aware, from the officer's report to committee, that they could only consider concerns which were material planning considerations. They had been made aware that many public objections to the planning application were based on time limits for the use of the car park and were not material considerations in this case.
5. The officer's report stated: 'The erection of a 4m high pole and one ANPR camera is considered to be an acceptable addition to the Car Park, being of simple design and causing minimal impact to the overriding character of the area or design and appearance of Lawley Square. The erection of the pole and camera would not impact upon the daily movements of shoppers in Lawley Square, and would have no impact upon neighbouring residential properties or users. The proposal is considered to comply with Telford & Wrekin Local Plan Policy BE1 Design Criteria and with the NPPF'.

6. The Appellant claims, and it is not disputed, that throughout the report to Committee, the officer gave clear advice that the proposal should be assessed on the matters of scale and design only. The matters of sustainability and highways, upon which the application was refused were not considered to be relevant to the appeal.
7. The Council refused the application on the grounds that there would be a detrimental impact from the development. This would affect local residents and businesses, and, negatively impact the role of the car park and the economic function of the local centre. There would also be pressure on the surrounding highway network and highway infrastructure because cars would no longer be able to park for more than three hours. The Council put forward no evidence or objective analysis to support these assertions, and the Council's highway consultation on the application resulted in no comments.
8. Whilst members of the public, and others, may well have come to the conclusion that the erection of the camera should not be allowed, the planning application should have been determined in accordance with the development plan and based on relevant matters.
9. I therefore find that the Council has behaved unreasonably resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, and that a full award of costs is justified.

Cost Order

10. 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 Telford and Wrekin Council shall pay to Ms Clare Pilling the costs of the appeal proceedings described in the heading of this decision such costs to be assessed in the Senior Courts Costs Office if not agreed.

Michael Wood

INSPECTOR