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## Costs Decision

Site visit made on 13 February 2019

**by J D Westbrook BSc(Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 1<sup>st</sup> March 2019**

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### **Costs application in relation to Appeal Ref: APP/L3245/W/18/3213742 Land between McDonalds and Pizza Hut, Meole Brace Retail Park, Shrewsbury, Shropshire, SY3 9NB**

- 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 Coal Pension Properties Ltd for a full award of costs against Shropshire Council.
  - The appeal was against the refusal of planning permission for the erection of a Class A1/A3 Use unit with drive through, provision of parking, servicing, landscaping and all associated works.
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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 application related to the erection of a drive through A1/A3 Use on a site currently comprising part of the car park to an adjacent Pizza Hut and part of a landscaped area immediately to the north of that car park. It was refused for one reason which related to issues of highway safety that would be caused by movement of HGVs within the application site, and a reduction in the existing number of car parking spaces.
4. The appellants contend that the application was:
  - supported by technical consultees, and Highways officers in particular – i.e. there were no technical objections;
  - recommended for approval by planning officers;
  - and supported by officers at the Shropshire Council Central Planning Committee of 2nd August 2018, with the technical consultees reiterating there were no grounds to refuse the application.

The appellants also contend that the Planning Committee ignored the technical case and provided no technical evidence to support their decision to overturn the officer recommendations on this case.

5. From the evidence before me, it would appear that the technical comments made by the Highway Officer, related primarily to proposed improvements to

the circulation system around roundabouts at the entrance to and within the estate, and that these would mitigate potential congestion and queuing issues that might arise as a result of the proposed development. Furthermore, provision of these improvements measures could be required by condition. As a result, the Officer considered that a highway objection would be difficult to sustain. This is different from unqualified support. Moreover, from an early stage, the Highways Officer raised concerns about HGVs compromising disabled parking spaces gaining access to the delivery area, and about the effects of reducing the car parking provision to below the level currently serving just Pizza Hut.

6. In the Officer's Report to Committee, the Highways Officer noted that concerns regarding the somewhat cramped layout of the site remained, and that certain other matters, including HGV movements across the site and the neighbouring Pizza Hut site, needed clarification. Other than statements about current delivery practices by the proposed operator of the Drive-Through, which could not effectively be controlled by condition, it would not appear that any other clarification was provided. Furthermore, there would not appear to be any detailed justification provided by the appellants that the reduction in car parking spaces from 56 to 48 would be capable of providing adequately for the needs of two outlets. The Planning Committee apparently visited the site, and I do not consider it unreasonable for the Committee to take into consideration the remaining concerns of the Highway Officer, as well as other matters such as the potential impact of the reduction in car parking spaces.
7. The concerns of the Highway Officer were carried through into the reason for refusal, which indicated that the proposal would conflict with provisions of paragraphs 108-111 of the National Planning Policy Framework, and also with Policy CS8 of the Council's Core Strategy (CS). Although reference was also made in the Officer's Report to Policy C6 of the CS, which is arguably the most relevant of the two policies, it was not referred to in the Decision Notice. Nevertheless, it is given greater emphasis in the Council's Statement of Case, and this provides support for the decision. Moreover, it is an indication that the Council considered the proposal not to be compliant with either local or national policy requirements.
8. I accept that the Council has not provided technical evidence relating to the above concerns, but the fact that manoeuvring HGVs would need to compromise disabled parking spaces is not disputed. Moreover, no clarification has been provided by the appellants as to whether 48 parking spaces to serve both the existing Pizza Hut and the proposed new operator could adequately compensate for the 56 spaces currently serving Pizza Hut alone. It is not unreasonable for the Council to make its decision on the evidence available to it at the time, and to take into consideration detailed issues of vehicular and pedestrian safety within and around the application site.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

*J D Westbrook*

INSPECTOR