



Costs Decision

Site visit made on 3 October 2023

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2023

Costs application in relation to Appeal Ref: APP/R0660/D/23/3320123 Ruthven, Sand Lane, Nether Alderley, Cheshire SK10 4TS

- 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 Mr John Morris for a full award of costs against Cheshire East Council.
 - The appeal was against the refusal of planning permission for the retention of existing carport.
-

Decision

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

Reasons

2. 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.
3. The applicant's claim relates to the delay by the Council in determining the application subject of this appeal beyond the statutory 8-week period. The delay led to the determination taking place after the adoption of the Site Allocations and Development Policies Document (SAD Policies Document) which is said to have introduced additional and more onerous requirements than were in place prior to its adoption.
4. The Council has however advised that the delays in determining applications were well publicised on their website. Although they haven't set out the reason for the delay, there is no evidence to suggest that this delay was deliberate. Reference has been made by the applicant to another application¹ relating to the garage, and whilst the carport structure may have been constructed concurrently with it, this garage planning application was received almost 8 months prior to the application subject of this appeal.
5. The Council's failure to engage or communicate with the applicant during the consideration of the application is regrettable. However, the length of time it took for the Council to determine it would not have come as a surprise to the applicant given the earlier garage application took around a 5-month period to be determined. This is not dissimilar to the length of time it took for this carport application to be determined.
6. The first reason for refusal contains a typographical error which has been acknowledged by the Council. However, it will have been clear to the applicant,

¹ LPA Ref: 22/0040M

from contents elsewhere in the decision notice and in the officer's report, that the Council considered the appeal development unacceptable and the reasons for it.

7. In any event, the second reason for refusal related to design concerns and the effect of the development on the character of the area. In this respect, the policy approach has not changed significantly following the adoption of the SAD Policies Document. As such, even if the application had been determined within the statutory period, an appeal would still have been necessary, and I do not consider that the applicant has incurred additional wasted expense as a result of the submission of the appeal.
8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

F Rafiq

INSPECTOR