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## Costs Decision

Site visit made on 19 November 2019

**by G Pannell BSc (Hons) MA MRTPI**

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

**Decision date: 12<sup>th</sup> December 2019**

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### **Costs application in relation to Appeal Ref: APP/B1550/W/19/3236455 1 Daws Heath Road, Rayleigh SS6 7QJ**

- 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 I Hilburn for a full award of costs against Rochford District Council.
  - The appeal was against the refusal of planning permission for conversion of existing motor repairs garage to residential flats.
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### **Decision**

1. The application for 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 was determined by the Council some considerable time after the statutory 8-week period and whilst I understand the sense of frustration which delays might have, it would not be reasonable to conclude that the Council had behaved unreasonably in the procedure leading up to the appeal on the basis of the information before me, which indicates that there was ongoing dialogue between the parties.
4. Whilst there were requests for further information, which required additional information to be submitted, these requests appear to have resolved the issues identified with bin storage, which did not form part of the Council's reasons for refusal.
5. The applicant states that the appeal was unnecessary as there were other considerations that the Council failed to take account of when reaching its decision.
6. The reason for the refusal set out in the decision notice is complete, precise, specific and relevant to the application. It also clearly states the policies of the Rochford District Council Local Development Framework that the proposal would be in conflict with. The reason in relation to the impact on 52 Eastwood Road has been adequately substantiated by the Council in its Officer Report. The Officer Report demonstrates how the proposal would result in an overbearing impact on no. 52 Eastwood Road and there is no mention within the reasons for refusal with regard to a loss of daylight to that property.

Therefore the Council has not acted unreasonably with regard to the applicant's submitted daylight indicators.

7. For the reasons set out in the appeal decision I too have concerns regarding the effect of the development on the character and appearance of the area and the living conditions of 52 Eastwood Road. I came to that decision on the basis of my consideration of the details and merits of the scheme, having regard to all the evidence and representations submitted.
8. The applicant has indicated that the Council failed to properly apply paragraph 11 of the National Planning Framework, as they consider that the Council is unable to demonstrate a five year housing land supply. I do not have any conclusive evidence as to whether this is the case or not, however I have applied the presumption in favour of development and found that the harm identified would significantly and demonstrably outweigh what would be limited benefits of the scheme.
9. Accordingly, the Council did not fail to properly evaluate the application or consider the merits of the scheme and therefore an appeal was likely. I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision.

### **Conclusion**

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is not justified.

*G. Pannell*

INSPECTOR

