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## Costs Decision

Site visit made on 2 June 2020

**by Bhupinder Thandi BA (Hons) MA MRTPI**

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

**Decision date: 02 July 2020**

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### **Costs application in relation to Appeal Ref: APP/G4620/W/19/3242702 Land to the rear of Vicarage Road/Ebrington Road/Arlington Road, West Bromwich**

- 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 Windyridge Property Ltd for a full award of costs against Sandwell Metropolitan Borough Council.
  - The appeal was against the refusal to grant subject to conditions of planning permission for the erection of nine new dwellings (Use Class C3) comprising 5no 3-bedroom houses and 4no 2-bedroom maisonettes with associated infrastructure.
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### **Decision**

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

### **Reasons**

2. 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. Paragraph 049 of the PPG sets out the examples of unreasonable behaviour by local planning authorities which includes making vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The application essentially relies on the fact the Council Officers recommended that planning permission be granted for the proposal, but that the Council Members took a different course of action without adequate justification.
5. I have noted the recommendation of the Council's Officers. However, the decision is one which is a matter of planning judgement. Whilst Council Members have taken a different view from that of their officers, they are not duty bound to follow the advice of their officers, provided that there are sufficient planning grounds to come to a contrary view.
6. Whilst I have not sided with the Council with regard to the merits of the development proposal it is apparent to me that the Council had reasonable concerns based on the evidence provided. Members visited the site to make an assessment and the Council has substantiated its position on appeal rather than vague, generalised or inaccurate assertions. Furthermore, the reason for refusal set out in the decision notice is complete, precise, specific and relevant

to the application. As a result, it follows that I do not agree that the Council acted unreasonably in this case.

7. I note that reference has been made to previous award of costs for a development on the site. However, each appeal and indeed application for an award of costs must be considered on its own merits, which is what I have done.

### **Conclusion**

8. 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 had regard to all other matters raised, an award of costs is not justified.

*B Thandi*

INSPECTOR