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## Costs Decision

Site visit made on 23 August 2022

**by Helen Smith BSc (Hons) MSc MA MRTPI**

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

**Decision date: Thursday 15 September 2022**

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### **Costs application in relation to Appeal Ref: APP/V4630/W/22/3292577 Land at Gomer Street, Willenhall WV13 2NR**

- 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 Simon North for a full award of costs against Walsall Metropolitan Borough Council.
  - The application Ref 20/1001, dated 17 August 2020.
  - The appeal was against a refusal to grant planning permission for the proposed development described as "15 x 1 Bed Apartments and 3 x 2 bed apartments."
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### **Decision**

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

### **Preliminary Matters**

2. The description of the proposed development in the banner heading above is taken from the planning application form. However, during the application stage the number of proposed apartments changed from 18 to 14 to allow for more communal amenity space at ground floor level. The above description therefore differs from that on the appeal form which is "full application for 14 (8 x 1 bed and 6 x 2 bed) apartments and associated parking and amenity space." My decision is based on this description from the appeal form since it more accurately describes the proposal. It also appears in the Council's statement, as such none of the parties would be prejudiced by my use of it.

### **Reasons**

3. 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.
4. Unreasonable behaviour can relate to procedural matters (i.e. the appeal process) or substantive matters (i.e. issues related to the planning merits of the appeal).
5. The applicant alleges that the Council acted unreasonably during the planning application stage. The appellant submitted their case in writing and therefore there is no need to repeat it in full.
6. Essentially the applicant is seeking a full award of costs due to the Council's non-determination of the planning application (20/1001) and their alleged unreasonable behaviour. The Council has not provided any explanation of the reasons for the delay in reaching a decision.

7. The application was not determined by the Council, and while I understand the applicant's frustration at the delays, I have seen no sufficiently compelling evidence that the Council behaved unreasonably. The Council has indicated that it would have refused the application if it had been able to determine it and has provided clear and detailed reasons why it would not have granted permission. It is not therefore the case that the appeal could have been avoided and therefore the applicant has not incurred unnecessary expense. Moreover, I have found that the Council had reasonable concerns about the proposal in my findings on the appeal.

### **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. An award of costs is not therefore justified.

*Helen Smith*

INSPECTOR