Costs Decision

Hearing held on 17 December 2025

Site visit made on 17 December 2025

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2026

Costs application in relation to Appeal Ref: APP/V4630/W/25/3372783
520 Simons Restaurant, Chester Road, Walsall, Aldridge WS9 0PU

- 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 Walsall Metropolitan Borough Council against The Little Ripley Day Nurseries Ltd.
- The appeal was against change of use of vacant restaurant and cafe (Class E(b)) to Class E(f)) children's nursery (up to 130 children) and associated access, parking and landscaping (resubmission of refused Appeal ref: APP/V4630/W/24/3348824).

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 Council's claim for costs relies on that the appellant has acted unreasonably in the drafting of the unilateral undertaking with regard to failure to provide a clear and appropriate Annex 1 plan, Insistence on off-site BNG flexibility contrary to the submitted scheme and approach to the BNG monitoring fee.

4. There is no dispute between the parties that the Annex 1 plan does not illustrate how the access sits in comparison to the development, nor does it identify any adjoining highway land that is relevant to the appeal proposal. However, in regard to the obligations that are secured by the UU, these are unrelated to the access and highway land, and I therefore find their omission is not unreasonable. Instead, the Annex 1 plan identifies the land to which it relates and there is no reason why the UU could not be enforced in this regard.

5. In regard to the reference to BNG being delivered off-site, there is no reason to suggest that the BNG would not be delivered on site which is clearly the intention of the appellant and submitted documents and plans. Instead, reference to off-site delivery follows the BNG hierarchy and is not unreasonable in this regard.

6. The appellant's original BNG monitoring fee was in line with the Council's guidance, despite which the Council requested a higher sum during the consideration of the UU. The appellant sought clarification from the Council in regard to this higher fee, which was to account for monitoring over a 30 year period, the appellant made changes to the UU to comply with this increased amount. The appellant was not in a position to provide the increased fee during the original drafting of the UU and they were not unreasonable to request clarification on the Council's request for increased fees which were subsequently drafted into the UU in any case.
7. For these reasons, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and a full award of costs has not been demonstrated.

D Wilson

INSPECTOR