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## Costs Decision

Site visit made on 27 February 2023

**by B.S.Rogers BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 02 March 2023**

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**Costs application in relation to Appeal Ref: APP/B4215/C/22/3306236  
Alibaba Turkish Grill, 1176 Rochdale Road, Manchester, M9 6ER**

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Manchester City Council for a full award of costs against Mr Ali Can Erdogan.
  - The appeal was against an enforcement notice alleging the material change of use of the ground floor to a hot-food takeaway (sui generis).
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### Decision

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

### Reasons

2. The appeal is only on ground (g). The Council submits that it met the appellant's reasonable request for an extended compliance period of 6 months by formally varying the enforcement notice in September 2022. It also took account of the potential different timescale for determining the parallel S78 appeal (Ref: APP/B4215/W/22/3306249) by giving an assurance that the compliance period would be further extended to allow for 6 months beyond the determination of that appeal. In those circumstances, the appeal should have been withdrawn. The failure to do so was unreasonable and caused the Council the unnecessary expense of conducting the appeal.
3. The appellant submits that he put forward three alternative options for extending the compliance period and chose not to withdraw the appeal in order that each of these options could be considered.
4. 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.
5. This case was slightly complicated by the parallel progress of the S78 appeal, the uncertainty as to whether the two appeals would be conjoined and what would be the timescale for their determination. However, the Council's assurances appear to have addressed these issues.
6. The significant matter remaining is that one of the options put forward by the appellant was to extend the compliance period to 11 August 2026, this being the end date of his lease agreement. It is unlikely that further negotiation with the Council would have resolved this option and therefore it appears prudent

for it to have remained before me for consideration in determining the S174 appeal.

7. In the event, I found no good reason to extend the compliance period beyond the 6 months already instigated by the Council. However, in conclusion, the appellant's pursuit of the appeal was not unreasonable and did not result in unnecessary expense on the Council's part. The application for costs does not succeed.

*B.S. Rogers*

Inspector