Planning Inspectorate

Costs Decision

Site visit made on 17 February 2026

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th February 2026

Costs application in relation to Appeal Ref: APP/B4215/C/25/3372339
Land at 393 Dickenson Road, Manchester, M13 0WG

- 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 against N Retail Ltd for a full award of costs.
- The appeal was against an enforcement notice alleging without planning permission, alterations to the front and side elevations and the installation of a shop front, as shown highlighted in red on the attached photograph ENF/01.

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (the PPG) advises that costs may be awarded against a party who has behaved unreasonably, in either a substantive or procedural way. The power to award costs relates only to those costs necessarily and reasonably incurred in the appeal process.

3. The Council seeks a full award of costs on the basis that the appellant unreasonably pursued the ground (f) appeal, despite professional representation and prior warning that the Council would submit a costs application if the appeal were not withdrawn. The Council argues that the appeal had no prospect of success given established case law preventing consideration of alternative remedial steps where there is no concurrent ground (a) appeal. As a result, the Council says it incurred unnecessary expense in preparing for an appeal that was bound to fail.

4. In response, the appellant submits that they acted reasonably throughout. Although they initially lodged a ground (a) appeal, this was barred, leaving only the ground (f) appeal. Pursuing it was proper and within the scope of s174 of the Act. They argue that the right to appeal on ground (f) is not extinguished because there is no ground (a) appeal, and that refusing the Council's invitation to withdraw does not constitute unreasonable behaviour. They maintain they caused no delay or unnecessary work, and that the Council's reliance on the previous costs case is misplaced because, unlike that appellant, they did not choose to exclude ground (a). Accordingly, they state that neither limb of the PPG test – unreasonable behaviour nor unnecessary expense – has been met.

5. Appellants are required to exercise the right of appeal in a reasonable manner. According to the PPG paragraph 053, an appellant will risk an award of costs being

made against them on substantive grounds if their appeal had no reasonable prospect of succeeding.

6. The appellant was of course entitled to bring the ground (f) appeal under s174(2) of the Act. The key issue is whether it was reasonable to pursue that appeal once the Planning Inspectorate confirmed that the ground (a) appeal had been barred.

7. The barring of the ground (a) appeal did not alter the well established legal position that a ground (f) appeal seeking lesser steps that would result in a grant of deemed planning permission cannot succeed without a ground (a) appeal. The appellant's submissions focus largely on the merits of an alternative scheme which would require the benefit of planning permission. However, a ground (f) appeal examines only whether the steps in the notice exceed what is necessary to remedy the breach or any resulting injury to amenity. It is clear that the purpose of the notice is to remedy the breach of planning control, and any lesser steps than removing the unauthorised works and reinstating the building to its previous condition would not achieve this and cannot be accepted through a ground (f) appeal.

8. While the appellant sets out the reasons why they consider an alternative scheme to be acceptable, it is unclear from their evidence why they consider the specific requirements of the notice to be excessive given that these are the minimum necessary to remedy the breach of planning control.

9. For the reasons set out in my decision, I have found that the appellant's suggestion that the requirements of the notice are ambiguous and excessive is also without foundation.

10. Accordingly, I find that the appeal had no reasonable prospect of succeeding and it was therefore unreasonable for the appellant to have pursued it once the ground (a) appeal had been barred. This caused the Council to incur unnecessary expense in dealing with the appeal, including in preparing a statement of case and an application for costs.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

12. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that N Retail Ltd shall pay to Manchester City Council, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

13. The applicant is now invited to submit to N Retail Ltd, to whose agent a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

M Ollerenshaw

INSPECTOR