



The Planning Inspectorate

Costs and Decisions Team
C/O QUADIENT
69 Buckingham Avenue
Slough
Berks, SL1 4PN

Direct Line: 0303 444 5601
Customer Services: 0303 444 5000

Matthew Kilsby
Senior Development Compliance
Officer
Manchester City Council

Your Ref:

Our Ref: APP/B4215/X/25/3358463

Date: 4 March 2026

Dear Sir

**LOCAL GOVERNMENT ACT 1972 - SECTION 250(5)
TOWN AND COUNTRY PLANNING ACT 1990 - SECTIONS 195 & 322
LAND AT 23 WINTERMANS ROAD, CHORLTON, MANCHESTER, M21 7GE:
APPEAL BY MR DEAN O'BRIEN (NUTRIRE CARE LTD): APPLICATION FOR
COSTS**

1. I am directed by the Secretary of State for Housing, Communities and Local Government to refer to the Planning Inspectorate's correspondence of 4 August 2025 confirming the withdrawal of the above appeal. The appeal was against the decision of Manchester City Council to refuse to grant a Lawful Development Certificate (LDC) for "Use of a dwellinghouse (Class C3a) to provide residential care accommodation (Use Class C2) for 3 young persons" at land described above.

2. This letter deals with the Council's application for an award of costs against the appellant as made in correspondence of 29 April, 19 May and 18 August 2025. The appellant responded on 12 May 2025.

Summary of decision

3. The formal decision and costs order are set out in paragraphs 12 and 13 below. The application succeeds, to the extent, that a partial award of costs will be made.

Basis for dealing with the costs application

4. In LDC appeals, as with appeals in general, the parties are normally expected to meet their own expenses, irrespective of the outcome. Costs are awarded only on the grounds of "unreasonable" behaviour, resulting in unnecessary or wasted expense. The applications for costs have been considered by reference to the Planning Practice Guidance on awards of costs (as published on the Gov.uk website under "Appeals"), the appeal papers, the correspondence on costs and all the relevant circumstances.

5. All the available evidence has been carefully considered. The decisive issue is whether or not the appellant acted unreasonably by not withdrawing the appeal sooner, with the result that the Council incurred wasted or unnecessary expense. The sequence of events leading to the withdrawal of the appeal has been carefully examined.

6. The initial appeal form was received by the Inspectorate on 6 January 2025. 2025. The Inspectorate's Start letters of 25 February 2025 informed the parties that the appeal would be dealt with by the written representations procedure and a timetable was set for the submission of appeal documentation. The letter to the appellant warned that withdrawal of the appeal at any stage in the proceedings, without good reason, may result in a successful application for costs and directed him to the costs guidance for further information, which could be found on GOV.UK website. The Council's appeal statement was received by the Inspectorate on 8 April 2025, and their final comments were received on 29 April 2025. The appellant decided to withdraw the appeal on 31 July 2025 and confirmed his decision on 2 August 2025.

Conclusions

7. The Council contend that the appeal stood no prospect of succeeding at the outset. However, as the appeal has been withdrawn, thus ending the proceedings, the issues arising on the appeal remain unresolved as they have not been tested by an appointed Inspector after assessing all the evidence before him/her. Therefore, it is not possible to assess the authenticity or reasonableness of either party's appeal evidence; and the Secretary of State has no further jurisdiction in the matter. The only issue before the Secretary of State to consider therefore is whether or not the appellant acted unreasonably by withdrawing the appeal when he did.

8. Paragraph 054 of the guidance explains that appellants are encouraged to withdraw their appeal at the earliest opportunity if there is good reason to do so. The Secretary of State has to decide whether the appellant had good reason for the withdrawal due to a material change of circumstances relevant to the planning issues arising on the appeal, and, if so, whether it was withdrawn promptly.

9. The right to appeal is a statutory right, but it is expected that it will be exercised in a reasonable manner and as a last resort. When deciding to appeal, appellants should be confident of the strength of their case and have a responsibility to ensure they are in a position to pursue it through to a decision unless a material change in circumstances relevant to the planning issues arising on the appeal occurs.

10. It appears clear from the evidence that the appellant withdrew the appeal in order to pursue a revised LDC application. The Council had advised the appellant to do this in correspondence of 21 January 2025 before the appeal had started. They point out that had the appellant taken their advice at the time, the Council would not have incurred any costs at that stage. However, the appeal was not withdrawn until more than 6 months later, by which time the Council had incurred expense in contesting the appeal in accordance with the set timetable. The appellant contends that he submitted the appeal in good faith, with a genuine belief that the proposed use was lawful, or at least worthy of clarification. However, if the appellant was confident that the use was lawful, it is not clear why he did not continue to pursue the appeal through to a decision. The Secretary of State takes the view that the appellant's decision to withdraw the appeal in favour of pursuing a revised application was a matter of personal or commercial choice, which does not amount to a material change of circumstances arising on the appeal to

justify its withdrawal. The appellant's actions in doing so caused the Council to incur wasted expense in contesting an appeal which was subsequently withdrawn. An award of costs will therefore be made.

11. As to the extent of the award, the view is taken that the Inspectorate's letter of 25 February 2025 gave sufficient warning to the appellant that withdrawal of the appeal without good reason, at any time in the appeal process, could result in an award of costs against him. The appellant therefore had adequate opportunity, from that date to consider his position in relation to the risks of costs. Consequently, it is considered that a partial award of costs from 3 March 2025 is justified. This date allows a nominal period of seven days for the appellant to have fully considered the warning on costs.

FORMAL DECISION

12. For these reasons, the Secretary of State concludes that the appellant acted unreasonably and caused the Council to incur wasted or unnecessary expense as a result. A partial award of costs is therefore considered justified in the particular circumstances.

COSTS ORDER

13. Accordingly, the Secretary of State for Housing, Communities and Local Government in exercise of his powers under section 250(5) of the Local Government Act 1972, sections 195 and 322 of the Town and Country Planning Act 1990 and all other powers enabling him in that behalf, **HEREBY ORDERS** that Mr Dean O'Brien (Nutrire Care Ltd) shall pay to Manchester City Council their costs of the abortive appeal proceedings before the Secretary of State, limited to those costs incurred from 3 March 2025; such costs to be assessed in the Senior Courts Costs Office if not agreed.

14. The Council are now invited to submit to the appellant, details of those costs with a view to reaching an agreement on the amount. copy of this letter has been sent to him.

Yours faithfully

K McEntee

KEN McENTEE
Authorised by the Secretary of State
to sign in that behalf