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## Costs Decision

Site visit made on 16 December 2024

by **Chris Couper BA (Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4<sup>TH</sup> February 2025

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### **Costs application in relation to Appeal Ref: APP/B4215/W/24/3348391 and APP/B4215/Z/24/3348393**

#### **Pavement outside Carding Building, Whitworth Street, Manchester M1 3NR**

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, the Local Government Act 1972, section 250(5), and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
  - The application is made by Mr Ben Porte (New World Payphones) for a full award of costs against Manchester City Council.
  - The appeal was against the refusal of applications for planning permission and advertisement consent for the removal of existing New World Payphones red telephone box south of Sackville Gardens (Whitworth Street) and installation of new digital communications kiosk and ancillary advertisement outside Carding Building on Whitworth Street.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance states that the aim of the costs regime is, amongst other things, to encourage all those involved to behave in a reasonable way and to follow good practice, and to encourage local planning authorities to properly exercise their development management responsibilities. It 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. At ID: 16-049-20140306 it provides examples of types of behaviour that may give rise to a substantive award of costs against a local planning authority. These include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; providing vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; not determining similar cases in a consistent manner; and refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal.
4. The applicant states that the Council did not submit substantive details of their objections to the scheme such as to warrant withholding consent. However, I consider that its decision notices and its officer reports clearly set out the harm that

it considered the proposals would cause to the visual amenity of the area, having regard to the design and scale of the proposed kiosk, the appearance of its illuminated digital display, siting, and the context of the area, including street furniture and historic buildings.

5. Whilst there are similarities between this scheme and the concurrent applications for kiosks by New World Payphones that it was considering elsewhere in the city, taken together these two documents did this by reference to this particular location within the Whitworth Street Conservation Area and close to listed buildings. In so doing they had appropriate regard to the development plan and the National Planning Policy Framework, including policies promoting good design which responds to local character.
6. In my appeal decisions I reached a different conclusion to the Council in respect of the proposed kiosk and, for the reason cited, I attributed very little weight to its Street Furniture Guidance Strategy. However, my findings were on matters of planning judgment, and this is not a case where the Council provided vague, unsubstantiated or generalised assertions about the proposals' impacts.
7. The Council has dealt with many street hubs, kiosks and digital advertisement displays throughout the city, some of which were approved and others refused. However, I am satisfied that it dealt with these particular proposals in this particular location on their merits, whilst also having regard to cumulative impacts as a result of advertisements, street furniture, and other fixtures. Thus, notwithstanding the approval of other structures with advertisements in the area, including on Whitworth Street and Aytoun Street, I am not persuaded that it determined similar cases inconsistently.
8. The Council entered into pre-application discussions with New World Payphones, with its email dated 10 November 2023 referencing general concerns about footpath clearance, and stating that it would be difficult to agree to the location of the proposed kiosk on Whitworth Street until a condition relating to street tree planting had been discharged. Whilst those discussions may have become protracted as the issue remained unresolved, the Council was not unhelpful, and its response did not indicate that it would support these proposals.
9. Finally, I have no evidence that this is a case where the Council persisted in objections to a scheme despite a previous Inspector indicating it to be acceptable; nor one where it failed to grant a further planning permission for a scheme that was the subject of an extant or recently expired permission where there had been no material change in circumstances.
10. For all these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated, and the application for an award of costs is therefore refused.

*Chris Couper*

INSPECTOR