



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: 05 February 2025

Costs application in relation to Appeal Ref: APP/B4215/W/24/3348176 and APP/B4215/H/24/3348178

Pavement outside 15 Whitworth Street West, Manchester M1 5WG

- 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 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 outside Ritz Theatre (Whitworth Street West M1 5NQ) and installation of new digital communications kiosk and ancillary advertisement on pavement outside 15 Whitworth Street West.
-

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. Additional examples of unreasonable behaviour which may give rise to a substantive award of costs include a Council persisting in objections to a scheme which an Inspector has previously indicated to be acceptable; and failing to grant a

further planning permission for a scheme that is the subject of an extant or recently expired permission where there has been no material change in circumstances.

5. 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 structures.
6. 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 in the Whitworth Street West streetscene, and opposite the Manchester South Junction and Altrincham Railway Viaduct, having regard to the development plan and the National Planning Policy Framework, including policies promoting good design which responds to local character.
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. In particular, the applicant states that a Planning Inspector had already ruled on the design, siting and appearance merits of a similar proposal on land nearby.
8. However, that allowed appeal decision (Ref: APP/B4215/W/18/3192639), was in 2019 for a telephone kiosk with a different design, which did not include a digital screen, and it was in a slightly different location. The officer reports for the scheme before me also refer to recent positive changes taking place in the area, including on the land opposite; and the Council's appeal statement notes that bike stands and BT installations have been implemented in the vicinity since that decision.
9. Thus, whilst I allowed the planning appeal, and I attributed very little weight to the Council's Street Furniture Guidance Strategy, I am satisfied that there are material differences between that previously allowed scheme and the proposal before me, which the Council was entitled to take into account.
10. Consequently, I am not persuaded that it determined similar cases inconsistently; 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; or that it persisted in objections to a scheme which an Inspector had previously indicated to be acceptable.
11. Notwithstanding the approval of other structures with advertisements in the vicinity, including next to the A5103, and in the wider area, I am satisfied that the Council 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. These are matters of planning judgment, and this is not a case where the Council provided vague, unsubstantiated or generalised assertions about the proposals' impacts.
12. Finally, the Council entered into pre-application discussions with New World Payphones, with its email dated 10 November 2023 referencing general concerns about footpath clearance. Whilst it raised concerns regarding a new kiosk outside The Ritz, I am not aware of any support for a kiosk in the location proposed.

13. 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