



Costs Decision

Site visit made on 16 January 2025

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

an Inspector appointed by the Secretary of State

Decision date: 14th February 2025

Costs application in relation to Appeal Ref: APP/B4215/W/24/3348073 and APP/B4215/Z/24/3348074

Opposite basement of Lindencourt House, 34 Charlotte Street, Manchester M1 4FD

- 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 and replacement of existing red telephone kiosk with single black digital communications kiosk and ancillary advertisement.
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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. 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 buildings, such as Fraser House and Lindencourt House.
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 opposite the George Street Conservation Area and close to listed buildings, having regard to the development plan and the National Planning Policy Framework, including policies promoting good design which responds to local character.
7. 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.
8. 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 previous Planning Inspector effectively ruled on the design, siting and appearance merits of the case when allowing a replacement New World Payphones kiosk on this site (APP/B4215/W/18/3195983).
9. However, the Council's officer reports referred to that decision in 2018, which did not include an advertisement, and explained, with the aid of photographs, the evolving site context since then in terms of street clutter, advertising, and the ongoing renovation of nearby historic buildings. Contrary to the applicant's case, the Council's decisions and officer reports made no reference to regeneration aims for Piccadilly Gardens.
10. Thus, I am satisfied that the Council did not fail 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 persist in unsubstantiated objections to a scheme which an Inspector had previously indicated to be acceptable.
11. The Council dealt with these particular proposals in this particular location on their merits, whilst also having regard to cumulative impacts. Thus, notwithstanding the approval of other structures with advertisements in the area, including further along Charlotte Street at its junction with Portland Street, where I have found the context to be different, I am not persuaded that it determined similar cases inconsistently.
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. That email also referred to the Council's previous concerns and the upheld appeal on this site, but it adequately explained in its

subsequent decisions and officer reports, and later in its appeal statement, how the context and circumstances have changed since then.

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