



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: 26 February 2025

Costs application in relation to Appeal Ref: APP/B4215/W/24/3347777 and APP/B4215/Z/24/3347778

Outside 3 to 10 Piccadilly, Manchester M1 3BN

- 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 double telephone kiosks with single black digital communications kiosk and ancillary advertisement.
-

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.
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 on Piccadilly, opposite the Stevenson Square Conservation Area and close to the listed buildings at Nos 77 to 83. They did so, having appropriate 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 the proposed advertisement, 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 Planning Inspector had effectively ruled on the design, siting and appearance merits of the case previously when a replacement New World Payphones kiosk was allowed here (APP/B4215/W/18/3195978).
9. However, the Council's officer reports referred to that decision in 2018, which did not include an advertisement, and explained the changing context as a result of its subsequent efforts to declutter footways, and its objectives to regenerate and uplift the whole area around 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. 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 Piccadilly and nearby Portland Street, 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 referred to the absence of listed buildings near to this site, the beneficial reduction in street clutter as a result of the net

reduction of one kiosk, and stated that the slight movement of the proposed kiosk was not a concern.

13. Its reply clearly intimated that Officers would not object to the scheme. The Council's decision was inconsistent with that pre-application advice. However, for the above reasons, I consider that it adequately explained its concerns, and its approach was not unhelpful or noncooperative.
14. 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