APPLICATION FOR COSTS AT APPEAL

Town and Country Planning Act 1990

Town and Country Planning (Control of Advertisements) (England) Regulations 2007

Manchester Planning Application Refs. 139727/FO/2024 and 139728/AOH/2024

July 2024

New World Payphones
33 Golden Square, London, W1F 9JT

NEW WORLD PAYPHONES

INTRODUCTION

1. New World Payphones hereby apply for an award of costs against Manchester City Council ("the Council").
2. The application(s) for costs relate to the refusal of applications for planning permission and express advertising consent made to the Council.
3. The appeal proposal is for a new digital communications kiosk and ancillary advertisement outside 121 Oxford Road, Manchester.

THE COSTS REGIME

4. The Planning Practice Guidance ("the PPG") advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably, and that unreasonable behaviour has directly caused another party to incur unnecessary expense in the appeal process.
5. The mechanism is designed to ensure that parties behave in a reasonable way, encourage decision makers to exercise judgment in a sound manner and, ultimately, discourage unnecessary appeals. In this regard, it is considered that the local planning authority has failed on all counts.

REASONS FOR AN AWARD OF COSTS

6. The Appeals PPG advises that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples[1] include, but are not limited to, the following:

    i. vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
    ii. persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable.
    iii. Not determining similar cases in a consistent manner.
    iv. 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.

[1] Paragraph: 049 Reference ID: 16-049-20140306

v. 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.

7. The Council has not submitted any substantive detail of their objections to warrant withholding consent. References to strategies which may or may not be ongoing, or undocumented and vague regeneration programs/objectives, are considered unsubstantiated and contrived respectively. Anything submitted now would be *after the fact*.

8. Furthermore, the Council approved similar proposals a short distance away on Oxford Road for replacement communications apparatus (and ancillary advertisements) and a double-sided advertising unit.

9. The premise of these approvals was the installation of new modern equipment to bolster the connectivity of the city centre. This is exactly what is advanced by the appeal proposal, but the Council have not been consistent in their approach towards NWP compared to other operators.

10. Based on the evidence presented in this application (and ancillary appeal), New World Payphones consider that Manchester City Council has acted unreasonably, and the appellant has incurred unnecessary costs in appealing this decision. It is NWP's view, therefore, that the Council has refused consent as a matter of general policy rather than for any substantive or objective reasons.

11. The main expense in this appeal is time, and whilst submitting an appeal may be free of charge, it has necessitated a greater degree of work and effort compared with the original application[2].

SUMMARY AND CONCLUSION

12. New World Payphones hereby apply for an award of costs against Manchester City Council. The claim is made on the basis that the Council have behaved unreasonably with respect to the substance of the matter under appeal, and the reasons underpinning the decision are unreasonable, unnecessary, and unjustified.

13. Hence, it is concluded that the Council has acted unreasonably, resulting in unnecessary or wasted expense, and a full award of costs is justified.

[2] This does not consider the time and expense taken by the Planning Inspectorate.