Penderfyniadau Cynllunio ac Amgylchedd Cymru
Planning & Environment Decisions Wales

Costs Decision

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by N Jones BA (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 22.01.2026

Costs application in relation to Appeal Ref: CAS-04331-J4H7H3

Site address: Pavement Outside 16 Lord Street, Wrexham, LL11 1LG

- The application is made under the Town and Country Planning Act 1990, sections 78, 322C and Schedule 6.
- The application is made by Mr Ben Porte (New World Payphones) for a full award of costs against Wrexham County Borough Council.
- The appeal was against the grant, subject to conditions, of planning permission for the installation of digital communications kiosk / defibrillator.
- A site visit was made by the Inspector on 9 December 2025.

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Section 12 Annex 'Award of Costs' of the Development Management Manual ('the Annex') advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably, thereby causing the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The application is made on the grounds that the Council granted only a temporary planning permission and that it did so in reliance on an incorrect section of the Town and Country Planning Act 1990 (the Act). Moreover, national policy and established guidance require that temporary permissions must be supported by clear, site-specific planning reasons. The Council has provided no evidence of anticipated changes in planning circumstances, policy, or site constraints that would justify the condition. There is no suggestion that the kiosk would be unacceptable in design, scale, or siting beyond 2030, nor is there any evidence of harm that would arise after that date. The imposition of a fixed end date is therefore arbitrary and unsupported by planning rationale. The condition places an unnecessary and disproportionate restriction on a valuable permanent public infrastructure proposal. The condition does not satisfy the statutory tests for conditions in Circular 016/2014: The Use of Planning Conditions for Development Management (the Circular) and its imposition constitutes unreasonable behaviour as set out in the Annex.
4. The Council provided a response to the application.
5. The Council's reliance on Section 91 of the Act, which deals with time limits for the commencement of development, rather than the granting of temporary permissions under

Section 72 of the Act, was misplaced. Nevertheless, there is nothing in the applicant's case to suggest that the effect of the condition was misunderstood as a consequence.

6. I consider that the 5-year duration specified on the application form was clearly in relation to the applicant's accompanying application for express consent for the associated advertisement to be displayed on the appeal kiosk. Whilst the applicant's Planning & Design Statement (PDS) instructed that the dual application as made, for both the appeal kiosk and a separate advertisement consent, must be considered as an integrated whole, there was nothing in the description of the intended development or in the PDS to suggest that a temporary planning permission was being sought for the appeal kiosk. Even so, it was open to the Council to grant a temporary consent. However, its reasons for doing so must be clear and evidenced.

7. Notwithstanding that planning conditions should be relevant to planning and should not normally duplicate other controls, the condition as worded goes further than is necessary to address the Highway Authority's concerns as it requires the removal of the kiosk at the end of the temporary consent whether it is damaged, or considered obsolete, or not. The Council produced no substantive evidence in support of the appeal that the kiosk, or associated advertisement, would be likely to become obsolete within 5 years, or that it would be necessary to remove the kiosk structure even if the continuing display of the advertisement became unacceptable over that time. It also failed to provide cogent evidence of likely changes in policy or local circumstances which would justify the temporary consent. The ability to apply for a renewal of consent before the expiry of the temporary permission does not itself make the condition acceptable whilst the availability of routes for the applicant to seek to vary or remove the condition does not obviate the need for the condition to meet the Circular tests.

8. In imposing a condition that does not comply with the tests set out in the Circular, the Council acted unreasonably. This unreasonable behaviour resulted in the applicant incurring unnecessary expense in pursuing the appeal. A full award of costs is therefore justified. The application for an award of costs is allowed in the terms set out below.

Conclusion

9. In exercise of the powers under section 322C and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, it is hereby ordered that Wrexham County Borough Council shall pay to Mr Ben Porte (New World Payphones) the costs of the appeal proceedings described in the heading of this decision.

10. The applicant is now invited to submit Wrexham County Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, an application for a detailed assessment by the Senior Courts Costs Office should be considered

N Jones

INSPECTOR