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## Appeal Decision

Site visit made on 20 June 2017

**by Andrew McGlone BSc MCD MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 18 July 2017**

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### **Appeal Ref: APP/B4215/H/17/3169750**

#### **Land at Ashton Old Road corner Chancellor Lane, Manchester M12 5FX**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against conditions imposed when granting express consent.
  - The appeal is made by Mr Thomas Johnston of JCDecaux UK Ltd against the decision of Manchester City Council.
  - The application Ref 114310/AOH/2016, dated 13 October 2016, was approved on 20 January 2017 and planning permission was granted subject to conditions.
  - The development permitted is the installation of 2 no. internally illuminated digital displays with the removal of the existing five externally illuminated advertisements.
  - The condition in dispute is No 3 which states that:
    - (a) *The express advertisement consent hereby granted is limited to a period of 5 years starting on the date of the commencement of the display of the advertisement hoarding(s).*
    - (b) *Written notice shall be given to the Council of the date of commencement of the display of the advertisement hoarding(s) within 7 working days of that commencement.*
    - (c) *On the date of the expiry of the express consent period in (a) above the advertisement hoarding(s) and all associated development shall be removed, any use of the land authorised by this consent shall be discontinued, and the land/building shall be reinstated in accordance with a scheme previously approved.*
  - The reason given for the condition is:
  - *To enable the City Council to consider the acceptability of the continuance of the display of the advertisement hoarding(s) at the site on the expiry of the period of express consent, having regard to visual amenity and changing circumstances in the locality in order to comply with saved policies DC15.1 and DC15.2 of the Unitary Development Plan for the City of Manchester and policies SP1 and DM1 of the Core Strategy for the City of Manchester.*
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### **Decision**

1. The appeal is allowed and the advertisement consent Ref 114310/AOH/2016 for the installation of 2 no. internally illuminated digital displays with the removal of the existing five externally illuminated advertisements at land at Ashton Old Road corner Chancellor Lane, Manchester M12 5FX granted on 20 January 2017 by Manchester City Council, is varied by deleting condition No 3 and substituting for it the following condition:
    - 1) (a) The express advertisement consent hereby granted is limited to a period of 5 years starting on the date of the commencement of the display of the advertisement hoarding(s). (b) Written notice shall be given to the Council of the date of commencement of the display of the advertisement hoarding(s) within 7 working days of that commencement.
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## **Main Issue**

2. I consider the main issue is the effect that removing the condition would have on the amenity of the surrounding area.

## **Reasons**

3. The appeal site is on the corner of Ashton Old Road and Chancellor Lane at a traffic light controlled junction with Pin Mill Brow and Fairfield Street. These highways are very busy and well used by vehicular and pedestrian traffic in this mixed use area. Locally, there is an internally illuminated digital display on the corner of Fairfield Street and Chancellor Lane, and several non-illuminated and externally illuminated 48 sheet advertisements on Fairfield Street, Chancellor Lane, Ashton Old Road and Pin Mill Brow.
4. Advertisements locally are generally not as large as the digital display that would face Ashton Old Road and they are not digital. However, the number of overall advertisements on the appeal site would, as the Council accepts, be reduced from the five that benefit from deemed consent. This would result in a more open setting to the site, even next to these radial and orbital routes. On this basis, the Council considered that the digital displays would not represent a substantial change to the existing situation and did not raise issue with the scheme on visual amenity or public safety grounds.
5. While the appellant seeks to remove the condition, they do not raise issue with the condition in terms of the five year express consent period or the need to provide the Council with written notice of the advertisements commencement. (Parts (a) and (b)) Both elements are necessary and reasonable in the interest of the amenity of the surrounding area. They would remove any ambiguity.
6. In respect of part (c), the Council wish, after five years, to review the relationship of the digital displays to the surrounding area, having regard to any regeneration that may have taken place. The five year period conditioned reflects the time period set out on the application form. Despite this the Council considers that there was no justification for a longer time period. However, the imposition of extra conditions other than those set out in Schedule 2 of The Town and Country Planning (Control of Advertisement) (England) Regulations 2007 should be supported by specific and relevant reasons. The Planning Practice Guidance<sup>1</sup> is clear that such conditions should not be imposed as a matter of general policy to prevent the operation of Class 14 in Schedule 3 of the Regulations.
7. I am also not satisfied that the Council has outlined how the site or the area could potentially be influenced by regeneration plans, notwithstanding saved Policy E3.3 of The Manchester Plan The Unitary Development Plan for the City of Manchester (UDP). Without such detail I give this little weight. Moreover, I am not convinced that the Council has set out sufficient specific and relevant planning reasoning for part (c) of condition No 3, given the site's context. I acknowledge the parties did discuss the condition prior to the Council reaching its decision in tune with paragraph 187 of the National Planning Policy Framework (the Framework). However, even if the displays were to remain for a significant period of time, it is unclear what harm would arise if they were to remain beyond the initial five years and they were not required to be removed and the land reinstated.

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<sup>1</sup> Planning Practice Guidance Reference ID: 18b-034-20140306

8. I recognise the appellant could very well submit a further application in the future to extend the displays lifetime, but equally, even if matters changed, the Council could seek to serve a notice requiring the displays discontinuance<sup>2</sup> after entering into dialogue with any relevant parties. Thus, I consider condition No 3(c) is not, even if the site may have regeneration potential and circumstances may change, with regard to the tests set out in paragraph 206 of the Framework not necessary or reasonable.
9. For these reasons, I conclude that condition No 3 is reasonable and necessary in the interests of the amenity of the surrounding area. However, I will replace the version of condition No 3 that is subject of this appeal with one that does not include part (c) as this element is not necessary or reasonable in the interests of the amenity of the surrounding area. The proposal would accord with Policies SP1 and DM1 of the Core Strategy for the City of Manchester, saved UDP Policies DC15.1, DC15.2 and E3.3 and the Guide to Development in Manchester Supplementary Planning Document and Planning Guidance<sup>3</sup>. Mutually these policies seek to, among other things, ensure advertisements create a well-designed place by having regard to the areas character, their location, siting, layout, scale, form and detail so that they protect and enhance the built environment.

### **Conclusion**

10. For the reasons set out above, the appeal should be allowed, but I conclude that it is necessary to continue to impose condition No 3 in its varied form, as it is set out in the formal decision.

*Andrew McGlone*

INSPECTOR

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<sup>2</sup> Regulation 8, The Town and Country Planning (Control of Advertisement) (England) Regulations 2007

<sup>3</sup> Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990; National Planning Policy Framework, Paragraphs 17(1), (4) and 196