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# Appeal Decision

Site visit made on 23 February 2021

**by A A Phillips BA(Hons) DipTP MTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 05 March 2021**

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**Appeal Ref: APP/B4215/G/20/3264592**

**Shudehill, corner of Mayes Street, Manchester M4 4AN**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a Discontinuance Notice relating to the use of a site for the display of an advertisements with deemed consent.
  - The appeal is made by Mr Martin Stephens of JCDecaux UK Limited against discontinuance action by Manchester City Council.
  - The Council reference is ENF/14874/20. The Discontinuance Notice is dated 29 October 2020.
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## Decision

1. The appeal is dismissed. I direct that the Discontinuance Notice shall come back into effect immediately and the use of the site for the display of an advertisement with deemed consent cease by the end of 8 weeks from the date of this decision.

## Main Issue

2. The main issue is whether the continued use of the site for the display of an advertisement would cause substantial injury to amenity.

## Reasons

3. The Council has drawn my attention to the policies it considers to be relevant to this appeal and I have taken them into account as a material consideration. However, powers under the Regulations to control advertisements may only be exercised in the interests of amenity and public safety, taking account of any material factors. In my determination of this appeal the Council's policies have not therefore, by themselves, been decisive. The site lies adjacent to both the Shudehill Conservation Area and Smithfield Conservation Area and I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Areas in my decision.
4. The appeal site comprises a small plot of land situated adjacent to the junction of Mayes Street and Shudehill, which is a major busy thoroughfare in and out of Manchester City Centre. The advertisement in question is a 48 sheet illuminated hoarding that stands approximately 1.6 metres above ground level and is positioned diagonally to the junction. It displays static printed images which are changed on a regular basis. Immediately adjacent to the advertisement is a surface car park in front of which is a brick electricity sub-station and another 48 sheet advertisement hoarding. The car park is bounded by mature trees and shrubs and forms part of the setting of the nearby Grade II Listed CIS Tower.

5. The advertisement is situated directly opposite the Crowne Plaza Hotel and next to an historic terrace of buildings which are situated within the Shudehill Conservation Area. The terrace is highly prominent in the local street scene and the decorative façade makes an important contribution towards the architectural and historic significance of the Conservation Area.
6. The locality is characterised by a mix of uses and a wide range of buildings of different scales, designs, styles and ages, including hotels, residential flats, offices, retail, food and drink related uses, entertainment and other commercial uses, car parking and a major transportation hub known as Shudehill Interchange. It is my understanding that the area has been the subject of significant investment in recent years with the construction of a number of significant new buildings, including the Crowne Plaza Hotel and residential developments. The appeal site is also situated within the part of the City Centre which forms part of the wider regeneration strategy known as NOMA which is bounded by Corporation Street, Rochdale Road, Angel Street and the Victoria to Shudehill Metrolink line.
7. The existing hoarding is highly prominent in the street scene, particularly from close quarters and from the adjacent road when leaving the City Centre. It looms above the pavement and obscures important views of buildings in the vicinity, particularly those on the opposite side of the adjacent car park. In addition it contrasts greatly with the adjacent terrace of three historic buildings which make a positive contribution to the architectural quality of the Shudehill Conservation Area, harming the setting of those buildings and the setting of the Conservation Area, generally.
8. The appellant argues that the advertisement fits within the context of the area and is part of the local urban fabric and townscape, the use of the land for advertisements is not required to make a positive contribution to the regeneration of the area and the failure to do so is not a justifiable reason to discontinue a lawful use of land. That may be the case, but the 2007 Regulations state that when considering whether to issue a discontinuance notice, regard should be given to any material change of circumstances that has occurred. Over the years the advertisement has become an established part of the townscape, but not in a positive way, but rather as a feature which dominates its immediate surroundings, constituting a prominent and visually intrusive feature within its urban context.
9. The Courts have held<sup>1</sup> that the continuance of a display for many years is of value as a matter of history, but the right question is that of the current impact and whether or not there is substantial injury to the amenity of the area; whilst taking into account any material change in circumstances which may have brought about that substantial injury. In other words, what may have been acceptable in the past may not be acceptable today. The injury to amenity caused has been exacerbated by the high quality developments and regeneration projects that have taken place in recent years which have enhanced the site's surroundings. This includes a number of nearby new buildings such as the Crowne Plaza Hotel, which have enhanced the character and appearance of the adjacent Conservation Areas.

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<sup>1</sup> Chequepoint (UK) Ltd v Secretary of State [1996] 72 P&CR 415

10. I accept the appellant's point that advertisements are expected features of commercial areas, but the advertisement in question is of a scale and location that is significantly harmful to the built environment, locally.
11. Owing to its orientation, the advertisement does not have particularly long advanced visibility, but when approaching it from the South West leaving the City Centre along Shudehill, it emerges conspicuously beyond the high quality built frontage of Nos 77 to 97 Shudehill as a dominant feature which is at odds with its surroundings. The appellant argues that the appeal site is sufficiently removed from Conservation Areas so as not to harm their setting to any meaningful degree, but I dispute this point given the degree of injury to amenity I have identified and the site's location immediately adjacent to the Shudehill and Smithfield Conservation Areas.
12. In my view therefore the character and appearance of the adjacent Conservation Areas is harmed and the advertisement does cause substantial injury to the amenity of the area. Therefore, the continued use of the site for the display of an advertisement causes substantial injury to amenity and I shall dismiss the appeal and uphold the notice.

*A A Phillips*

INSPECTOR