

Heritage Addendum

On Behalf of
City Outdoor Media Ltd

Concerning

Proposed Frameless Digital Display Unit
ECP Car Park
Aytoun Street
Manchester
M1 3DG

December 2024

General Enquiries

e: info@borderarchaeology.com

t: 01568 610101

w: borderarchaeology.com

Administration

The Plaza, Owen Way, Leominster Enterprise Park, Leominster, HR6 OLA

Post-Ex Facility - Leominster

t: 015678 610101

e: ask@borderarchaeology.com

Post-Ex Facility – Milton Keynes

t: 01908 533233

e: ask@borderarchaeology.com

Regional Offices

Milton Keynes

Unit 4, Twizel Close
Stonebridge
Milton Keynes
MK13 0DX
t: 01908 53323

Leeds

No 1 Leeds
26 Whitehall Road
Leeds
LS12 1BE
t: 0113 8187959

London

4-4a Bloomsbury Square
London
WC1A 2RP
t: 02033 015670

Newport

Merlin House
No 1 Langstone Business Park
Newport
NP18 2HJ
t: 01633 415339

Bristol

First Floor
Citibase Bristol, Aztec West
Almondsbury
Bristol
BS32 4TD
t: 0117 9110767

Winchester

Basepoint Business Park
Winnal Valley Road
Winchester
SO23 0LD
t: 01962 832777



Technical Specifications

Compilation

Stephen Priestley MA MCIfA

Report Reference

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Artwork

Holly Litherland BA (Hons)

Grid Reference

NGR: NO 64133 40970

Editing

George Children MA MCIfA

OS Licence Number

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Final Edit & Approval

George Children MA MCIfA

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Front Cover

View looking northwest along Minshull Street towards Grade II* listed Crown Court



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1 Introduction

BA was instructed by Mrs Susan Jones on behalf of Mr. S. Smith, City Outdoor Media Ltd to produce a Heritage Addendum with regard to a decision to refuse planning permission for the erection of one 96-sheet LED digital advertisement display and removal of two existing advertisement hoardings at the ECP Car Park, Aytoun Street, Manchester (140398/AOH/2024), which was appealed and subsequently refused on 29th November 2024 (APP/B4215/Z/22/3294291).

The reasons for refusal given in the original planning decision state that: *'The proposed advertisement would by virtue of its size, location, design and appearance have a detrimental impact on visual amenity, in particular on the character, appearance and condition of the adjacent listed building, and the character and appearance of the surrounding area constituting an unduly obtrusive and incongruous feature within the street scene, potentially delaying the redevelopment of the site. The proposal would therefore have an unacceptable and detrimental impact on the amenity of the area and constitute unjustifiable harm to a listed building contrary to Government Guidance contained in Section 12 and 16 of the National Planning Policy Framework, the Core Strategy for the City of Manchester in particular policies EN1 (Design Principles and Strategic Character Areas), CC9 (Design and Heritage), EN3 (Heritage), DM1 (Development Management) and SP1 (Spatial Principles), the Guide to Development in Manchester, in particular paragraphs 2.6 and 11.45 and saved policies DC15.1, and DC15.2 (Advertisements, Hoardings and Posters), DC19.1 (Listed Buildings) of The Unitary Development Plan for the City of Manchester (UDP).'*

A discontinuance notice ((ENF/15345/22) was subsequently issued by the Council with regard to the three existing advertisement hoardings (marked as Nos. 2, 4 and 5 on fig. 1) and three car park signs along the E side of the ECP Car Park (marked as Nos. 1, 3 and 6 on fig. 1). The discontinuance notice states that:

'the use of the site for continued display for those advertisements deemed to be granted under Class 13, as shown numbered 1 through 6 on attachment ENF1, is considered to cause substantial injury to the amenity of the locality, due to the scale, positioning and form of the advertising, the site appears cluttered, overbearing and obtrusive, dominating the foreground and harmfully interrupting public views of the listed building, thereby causing harm to the setting of the Grade II listed Manchester Crown Court and the nearby Whitworth Street Conservation Area.*

The advertisement site is on a main city centre route, and those advertisements appear overly prominent and visually obtrusive to the public views of the listed building on the approach along Aytoun Street. The negative impact of the advertisement site is not only confined to the images on display, but the totality of the structures that are used for those displays: to the rear, each of those advertisements have a blank, featureless appearance when viewed from the car park and is completely at odds with the improved appearance of this part of the city. The continued display of advertisements at the site fails to make a positive contribution to the amenity of the area, and when viewed against the backdrop of the wider regeneration improvements already made, there is a substantial injury caused by the advertisement site.'

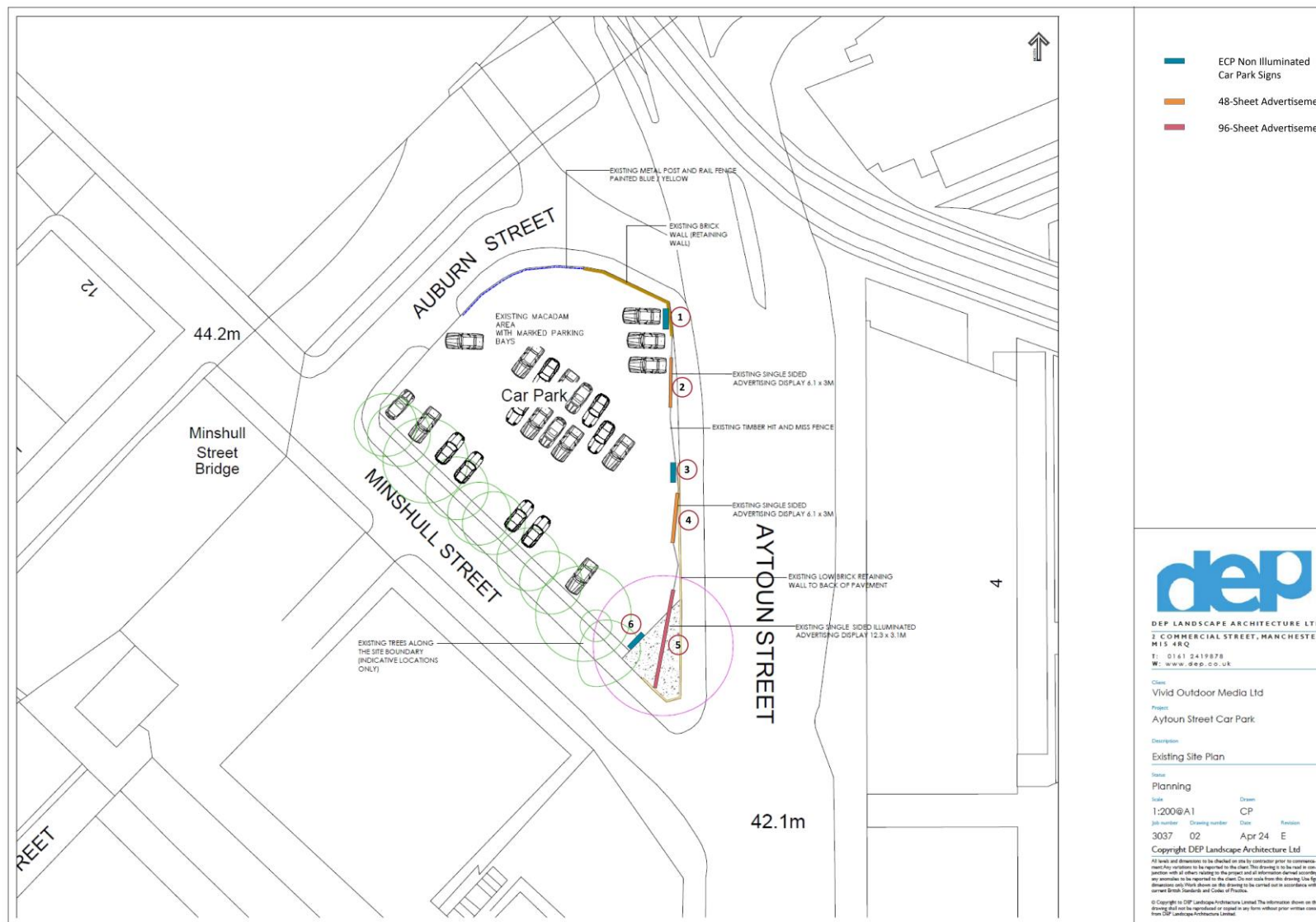


Fig. 1: Plan showing locations of advertisements & ECP signage referred to in Discontinuance Notice

2 Methodology

In light of the reasoning given by the Council for the discontinuance notice and the recent refusal of the planning application for conversion to digital of the 96-sheet advertisement, this Heritage Addendum seeks to establish whether retention of the three advertisements in their current state, or proposals for removal of one or more advertisements and conversion of the remaining to a digital display, along with removal and/or retention of the three ECP car park signs referred to in the Discontinuance Notice, represent ‘substantial harm’ to the setting of the Grade II* listed Crown Court and the Whitworth Street Conservation Area.

2.1 Criteria for Assessment of Substantial Harm

Firstly, it should be noted that there is no explicit definition of substantial harm within the National Planning Policy Framework within regards to the Historic Environment. The following definition is therefore based on guidance provided in the latest iteration of *National Planning Policy Guidance*, supplemented by recent case law regarding the definition of substantial harm with regards to heritage assets.

Paragraph 18a-018 of *National Planning Policy Guidance* (NPPG) relating to the Historic Environment (2019) contains the following statement regarding the definition of substantial harm.

‘Whether a proposal causes substantial harm will be a judgment for the decision-maker, having regard to the circumstances of the case and the policy in the National Planning Policy Framework. In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset’s significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting.’

While the impact of total destruction is obvious, partial destruction is likely to have a considerable impact but, depending on the circumstances, it may still be less than substantial harm or conceivably not harmful at all, for example, when removing later additions to historic buildings where those additions are inappropriate and harm the buildings’ significance. Similarly, works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all. However, even minor works have the potential to cause substantial harm, depending on the nature of their impact on the asset and its setting’ (Paragraph: 040 Reference ID: 18a-040-20190723).

Based on the above guidance given in the NPPG, it is evident that the definition of substantial harm remains a matter of professional judgment but that it represents a high test and that it focuses on whether the development will seriously affect the significance of the heritage asset, which may not necessarily be linked to the scale of the development per se.

The decision given in the High Court case of Bedford Borough Council v Secretary of State for Communities and Local Government, Nuon UK Ltd (26th July 2013) in which the Council appealed against a decision made by a planning Inspector to uphold an appeal regarding a proposed large wind-turbine development at Airfield Farm, Podington, Bedfordshire has been cited as representing an important precedent in case law regarding the definition of substantial harm with regard to heritage assets.

Paragraphs 24 and 25 of the High Court judgment state that *‘What the inspector was saying was that for harm to be substantial, the impact on significance was required to be serious such that very much, if not all, of the significance was drained away.*

(25) Plainly in the context of physical harm, this would apply in the case of demolition or destruction, being a case of total loss. It would also apply to a case of serious damage to the structure of the building. In the context of non-physical or indirect harm, the yardstick was effectively the same. One was looking for an impact which would have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced’.

Based on the above planning guidance and the important precedent set by the Bedford case which has significantly influenced both the wording of the NPPG and has been cited in other similar appeal cases regarding the definition of substantial and less than substantial harm (most notably the recent application for the Holocaust Memorial in Victoria Tower Gardens, Westminster) it may thus be suggested that ‘substantial harm’ can be defined broadly as harm that would seriously damage the heritage asset’s significance. This may include demolishing or destroying all or part of the asset, development that results in long-term or permanent damage to significant heritage fabric or features, or causing severe or more than minor damage to the asset’s setting.

3 Assessment of Impacts

Based on the above criteria, we will now determine whether 1/ retention of the three advertisements and the three ECP signs in their current state, 2/ conversion of the 96-sheet to digital and removal of the two 48-sheet advertisements, or 3/ removal of the 96-sheet advertisement and conversion of the remaining two advertisements to digital, is likely to cause substantial harm either to the Grade II* listed Police Courts or the Whitworth Street Conservation Area. An assessment of impact is presented in the table below:

Option	Assessment of Effects	Overall Impact
1/ Retention of all three advertisements as existing (plus the three ECP car park signs)	Minor: It is considered that retention of all three advertisements plus the three ECP signs as they currently exist would have a Minor Adverse impact on both the setting of the Crown Court and the Whitworth Street CA. This assessment acknowledges that the advertisements in particular, due to their current appearance and condition, continue to detract from and partially obtrude upon views of the principal elevation of the Crown Court and, to a lesser extent, views from the Whitworth Street Conservation Area. The three signs associated with the car park are considered to be a neutral component in views of the Grade II* listed Crown Court.	Slight to Moderate (Adverse)

Option	Assessment of Effects	Overall Impact
2/ Conversion of the existing 96-sheet advertisement to a frameless digital display & removal of the two 48-sheet advertisements	Negligible/Minor: While the conversion of the 96-sheet advertisement to digital, due to its position on the corner of Aytoun Street and Minshull Street, would increase its prominence in views looking N along Aytoun Street from the Whitworth Street Conservation Area, this impact would be offset by the removal of the two smaller advertisements further to the north, removing clutter and opening up views of the Grade II* listed Crown Court looking WNW from the upper end of Aytoun Street. Although this vantage point is not within a Conservation Area, it represents an important gateway view for visitors to the city centre approaching from Manchester Piccadilly railway station and the listed building represents a dominant landmark in this particular view.	Slight (Positive)
3/ Retention of the two 48 sheet advertisements and conversion to digital and removal of the 96-sheet advertisement	Minor: It is considered that removal of the 96-sheet advertisement would open up views of the Crown Court looking N along Aytoun Street from the junction with Fairfield Street, on the edge of the Whitworth Street Conservation Area. This would enhance the setting of the Crown Court and the Whitworth Street CA, particularly as the 48-sheet advertisements are barely discernible in views looking N from vantage points within the CA. However, the two remaining advertisements would still appear noticeably in the foreground to views looking WNW towards the Police Courts and their conversion to digital would increase their prominence in views of the principal elevation of the listed building.	Slight to Moderate (Adverse)
4/ Removal of all three advertisements	Minor Positive: The removal of the advertisements would have a broadly positive effect on the setting of the Grade II* listed Crown Court, enhancing its prominence in gateway views experienced looking WNW from Aytoun Street and looking N from the junction of Aytoun Street, Fairfield Street and Whitworth Street within the Whitworth Street CA. There would also be a slight enhancement to existing views from the Whitworth Street CA.	Slight to Moderate (Positive)

3.1 Assessment of Harm

Applying the definition of substantial harm as outlined above, do any of first three abovementioned options fall within this category of harm?

In the case of Option 1, while it is conceded that the existing advertisements in their current appearance and condition detract from appreciation of the principal elevation of the Crown Court, they do not completely obscure views of the heritage asset. Moreover, it should be noted that there have been advertisements in this location for a long period of time, dating back to before the demolition of Hughes Buildings in 1974, as shown on a photograph looking N along the western side of Aytoun Street from the junction with Fairfield Street and Granby Row, taken in 1965 (*Plate 1*).

Thus, it may be observed that these advertisements represent a long-established element in the street scene (dating back some sixty years or more), while acknowledging that, in aesthetic terms, they do constitute an

obtrusive element in the foreground to certain views of the listed Police Courts. However, if the harm was judged serious enough to warrant complete removal, then it is curious that consent was previously granted in 2012 and 2013 for retention of the existing 96-sheet advertisement and its conversion to a digital display.

With regards to the three ECP signs which are also stipulated for removal in the Discontinuance Notice, it is considered that these represent a neutral element in views of the front elevation Grade II* listed Crown Court as experienced looking from Piccadilly Station approach and from Aytoun Street. While they are undeniably apparent in the view, it is considered that, due to their relatively small size and height they do not obstruct or noticeably obtrude upon views of the Grade II* listed building.



Plate 1: Photograph taken in 1965 looking N along Aytoun Street from the junction of Fairfield Street and Granby Row, with Hughes Buildings visible in background behind the Manchester College of Commerce

Based on the above assessment, it is considered that the current advertisements would fall within the category of less than substantial harm but would not, by any reasonable application of the criteria outlined above, represent substantial harm either to the Grade II* listed Police Courts or the Whitworth Street Conservation Area.

With regard to Option 2, it may be noted that it was acknowledged in the temporary planning consent given in 2013 for the retention of the 96-sheet advertisement and its conversion to digital and removal of the other hoardings that *'the proposals would significantly improve the appearance of the site, by removing the current advertisement clutter and replacing the existing fence with one that is a more neutral colour. The report also concludes that whilst proposed hoarding would be within the setting of the Grade II* Listed Manchester Crown Court, but would be located further from the building than two of the existing double-sided hoardings and the car park signage. The removal of the existing advertisements would also open up views of the listed building and remove the clutter currently affecting its setting'*.

It is considered that this assessment still remains valid and the proposed conversion of the 96-sheet display to digital and removal of the other two advertisement hoardings would enhance the setting of the listed building, particularly in terms of gateway views looking WNW from Piccadilly Station approach.

Option 3 would result in an improvement to existing views looking N from the junction of Aytoun Street and Fairfield Street within the Whitworth Street Conservation Area but the conversion of the two remaining 48-sheet advertisements to digital displays could result in them being increasingly prominent in the foreground to views of the Crown Court as experienced from Piccadilly Station approach. However, neither Option 2 nor Option 3 are considered to result in 'substantial harm' to the setting of the listed building or the Conservation Area, based on the criteria outlined above.

4 Examples of Comparable Applications for Advertisements

When the refused scheme at the ECP Car Park is considered in the context of recent planning applications for large scale advertisements adjacent to listed buildings in Manchester City Centre, it may be argued that there is a marked inconsistency in terms of the reasoning given by the Council for the granting or refusing planning permission for these advertisements.

4.1 Example A: Gateway House

To give a recent example, an application for the installation of curved digital advertising screen measuring 5m x 7m on the corner of Gateway House, a prominent 1960s building was granted planning permission in 2016 at appeal after initial refusal by the Council (112306/AOH/2016/C2).

However, this new digital display may be said to represent a discordant element in the street scene, not only distracting from views of Gateway House (which may be regarded as a non-designated heritage asset in its own right as one of the best-known works of the notable modernist architect Richard Seifert) but also the Grade II listed London Warehouse, a seven-storey warehouse building of 1867 in Ducie Street (*Plate 2*).

It appears, based on the available planning documentation, that no consideration was given to the potential impact of the advertisement on the setting of the London Warehouse, even though it is features prominently in views looking along Ducie Street from the junction with Auburn Street.

When the reasons cited for approval of the digital advertisement at Gateway House are considered against the rationale given for the refusal of the application at the ECP Car Park (and subsequent discontinuance notice), it may be justifiably observed that this consented scheme, which may be described as a prominent and obtrusive element in views both of the London Warehouse and Gateway House, causes as much harm if not more than the existing advertisement scheme at Aytoun Street or its proposed replacement. In both cases, however, the degree of harm would probably still fall within the 'less than substantial' category.



Plate 2: View looking ENE towards Ducie Street from Auburn Street, with the digital advertisement attached to the corner of Gateway House visible alongside the Grade II listed London Warehouse

4.2 Example B: 67 Piccadilly

Another example of a recent advertisement application within the city centre adjacent to several listed buildings is represented by a large scaffold shroud screen advertisement measuring 28 x 12m with external illumination located at 67 Piccadilly, at the corner of Piccadilly and Newton Street within the Stevenson Square Conservation Area and immediately adjoining a Grade II listed building at Nos 69-75 Piccadilly, which was granted consent following an appeal in 2022 (134191/AO/2022).

The building at 67 Piccadilly, which is considered to be a non-designated heritage asset, is subject to rebuilding as a hotel, which will also involve extensive refurbishment of the listed building at Nos. 69-75. There has in fact been a long history of advertisements attached to either No. 67 or Nos. 69-75, apparently dating back to 2002, but it may be argued that the existing large wrap-around screen is overly dominant in the streetscape and features obtrusively in views of the listed building and the surrounding Conservation Area (*Plate 3*).



Plate 3: View NE from Piccadilly towards the large-scale advertisement at No. 67, at the corner of Piccadilly and Newton Street, with the Grade II listed buildings at Nos. 69-75 visible to right of picture

Again, it may be argued that the present advertisement, in its present form, while temporary in duration, causes at the least the same if not greater harm than the current advertisement displays at Aytoun Street, obscuring views of the Grade II listed building and representing an obtrusive and dominant element in views looking NE along Newton Street within the Stevenson Square Conservation Area.

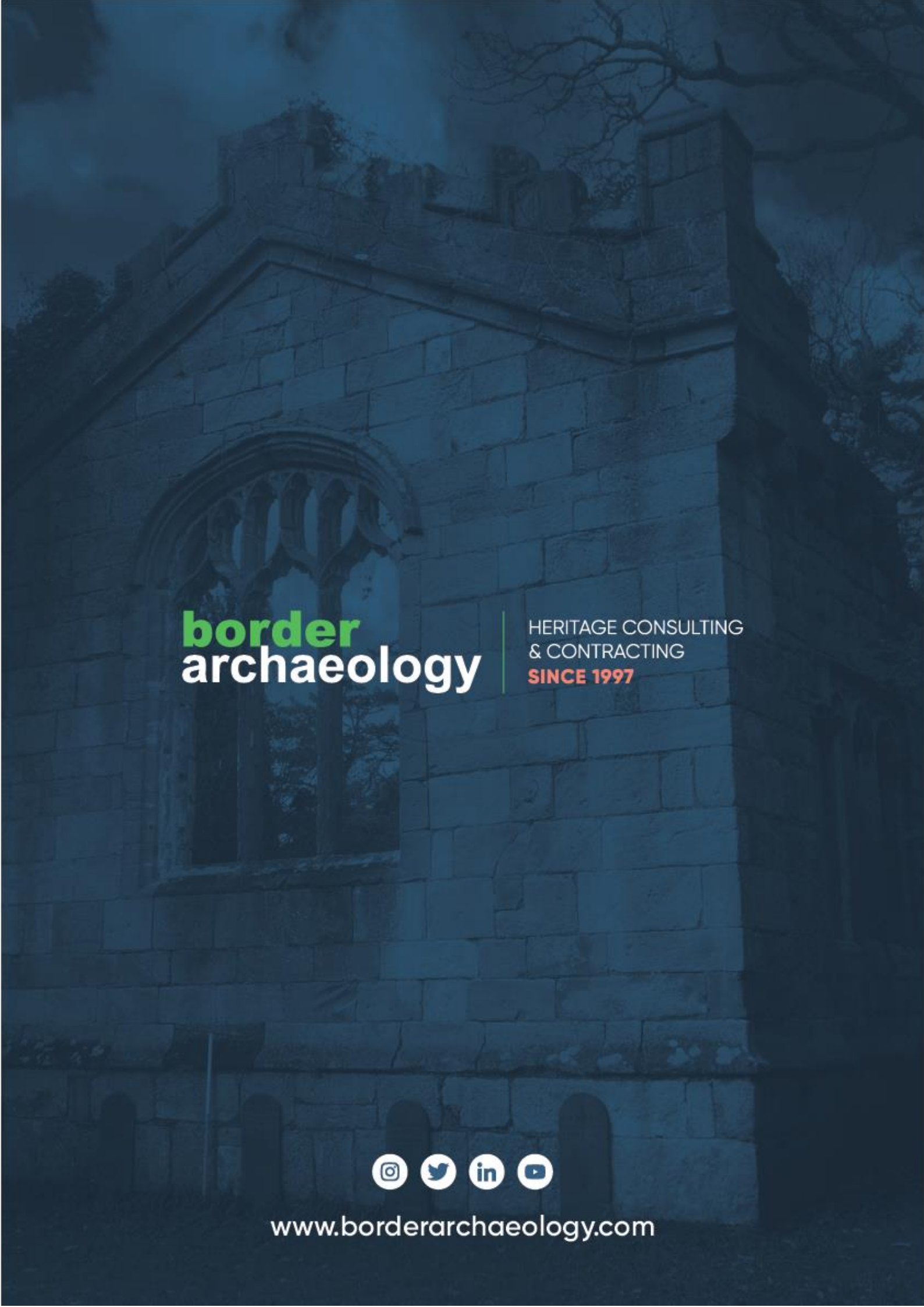
5 Conclusion

In conclusion, based on an assessment of the current proposals and options for retention, removal or conversion to digital of the advertisements (and ECP car park signs) situated along the E side of the Aytoun Street car park, it is considered that the existing advertisement hoardings, while in their current state and appearance detract from the setting of the Grade II* listed Crown Court and (to a lesser degree) from the Whitworth Street Conservation Area, do not meet the test for 'substantial harm', based on the criteria contained in the NPPG.

The proposed option for conversion of the 96-sheet display to digital and removal of the two 48-sheet advertisements would enhance the setting of the Grade II* listed Crown Court (by removing clutter and opening up views from Piccadilly Station approach) and thus would be considered preferable to the alternative option of removing the 96-sheet display and converting the remaining two hoardings to digital.

However, neither of these options are considered to result in 'substantial harm' to the setting of the Grade II* listed building or the Whitworth Street Conservation Area.

With regards to the three signs associated with the ECP Car Park which have been listed for removal in the Discontinuance Notice, it should be noted that it is a requirement in the British Car Park Association Code of Practice that 'business information must be displayed in a prominent position so that it can be read easily' and on this basis it may be argued that the signage identified for removal should in fact be retained to ensure that it is suitably prominent not only at the entrance but elsewhere within the car park. The signage associated with the car park is considered to be a neutral component in views of the Grade II* listed Crown Court.



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