



Application No: 151071

Location: Bungalow Diner, 45 London Road, Marks Tey, Colchester, CO6 1EB

Scale (approx): 1:1250

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7.3 Case Officer: Richard Collins Due Date: 04/09/2015 ADVERTISEMENT

Site: 45 London Road, Marks Tey, Colchester, CO6 1EB

Application No: 151071

Date Received: 10 July 2015

Agent: Mr Edward Gittins

Applicant: Mr M Rahman

Development: 1 fascia sign measuring 1.000 height x 4.000 width and 0.150 depth. 1 other sign measuring 5.000 height x 0.200 width and 0.100 depth.

Ward: Marks Tey

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee at the request of Councillor Elizabeth Blundell for the following reasons:-

- Lack of neighbour consultation;
- Impact on visual amenity;
- Impact on highway safety;
- Impact upon residential amenity;
- Concern over anti-social behavior/crime.

2.0 Synopsis

2.1 The key issues explored below are that of amenity and public safety. The proposal is considered to have an acceptable design that would not result in any impact on visual amenity or residential amenity, and the adverts would not have an adverse impact on public safety, including highway safety. Approval is recommended.

3.0 Site Description and Context

3.1 The application site is located within the defined settlement limits of Marks Tey. The application site is located to the south of London Road, with the junction to Mill Road, with residential properties to the south, south-east, west, and residential flats to the north of the site. Rosewood Car Sales is situated to the east of the application site.

3.2 The site is accessed from London Road, which is the B1408, and is in close proximity to the Prince of Wales Roundabout. The site frontage is largely open with two large vehicular accesses.

- 3.3 The site itself is largely laid out to hardstanding which forms a car park for the Diner. The Diner is set back from the highway and sits centrally within its plot. The Diner is the subject of a further pending application for various external works (ref. 151218).

4.0 Description of the Proposal

- 4.1 The proposal is seeking consent to display two advertisements. These being:-

Sign A – Fascia sign. This sign measures 4 metres wide by 1 metre tall by 0.15 metres deep. The sign is constructed using 3mm aluminium with powder coated finish. The text and cup design of the sign will use 10mm acrylic, and be 400mm high, and coloured white on red background. The sign is to be positioned on top of the Bungalow Diner, and be externally illuminated by front lit spotlights or trough light. The lighting will be static.

Sign B – Post sign. This sign measures 2.5 metres wide by 1.2 metres tall by 0.1 metres deep. The sign is constructed using 3mm aluminium with powder coated finish. The text and cup design of the sign will use 10mm acrylic. The 'B' in Bungalow of the sign will be 250mm high, and the 'D' in Diner of the sign will be 300mm high. The sign is to be positioned towards the site frontage with London Road, between an area 10 metres by 2 metres to be fenced off with wooden posts and rope and filled with a small shrubs and plants. For clarity, the sign would be located in the area between existing frontage planters, where there is an existing low level sign. The sign would be attached to a post measuring 160mm, and 5 metres above ground. The sign itself would be no more than 5 metres above ground level attached to the post, and be externally illuminated by front lit spotlights or trough light. The lighting will be static.

5.0 Land Use Allocation

- 5.1 The site has been used as a café for more than 20 years, which falls with an A3 Use. There are no controls over the hours of operation.

6.0 Relevant Planning History

- 6.1 The following planning history is relevant to the current proposal:

- 151218 – Erection of faux roof, entrance awning, window awning and new wooden balustrading alongside existing decking. Decision pending.
- 142477 – Front elevation vinyl wrap mural depicting classic American car with 'Diner' number plate incorporating approved 'Bungalow Diner' fascia sign (resubmission of 131800). Refused 2 May 2014.
- 131800 - Front elevation vinyl wrap mural depicting classic American car with 'Diner' number plate incorporating approved 'Bungalow Diner' fascia sign. Refused 10 December 2013.
- 130957 – New illuminated fascia sign. Approved 8 July 2013.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.
- 7.2 Paragraph 67 refers specifically to advertisements. It states poorly placed advertisements can have a negative impact on the appearance of the built and natural environment. Control over outdoor advertisements should be efficient, effective and simple in concept and operation. Only those advertisements which will clearly have an appreciable impact on a building or on their surroundings should be subject to the local planning authority's detailed assessment. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.
- 7.3 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:
- SD1 - Sustainable Development Locations
UR2 - Built Design and Character
- 7.4 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):
- DP1 Design and Amenity
DP17 Accessibility and Access
- 7.5 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:
- Shopfront Design Guide

8.0 Consultations

- 8.1 Colchester Borough Council Environmental Protection have commented that should planning permission be granted, any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone E2 RURAL, SMALL VILLAGE OR DARK URBAN AREAS. Reason being in order to safeguard the amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of light pollution.
- 8.2 Essex County Council as the Highway Authority has assessed the highway and transportation impact of the proposal and does not wish to raise an objection to the application subject to the following conditions/informatives:

- The proposed light source shall be so positioned and shielded, in perpetuity, to direct light towards the proposed advertisement sign and away from the Highway.
Reason: To ensure that users of the highway are not subjected to glare and dazzle in the interest of highway safety and in accordance with Policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.
- The maximum luminance of the sign shall not at any time exceed the standards contained within the Institution of Lighting Engineers Technical Report No. 5, for zone E3 locations, which in this case is 800 Candelas per square metre (800 cd/m²) for signs less than 10m², and 600 Candelas per square metre (600 cd/m²) for those over 10m².
Reason: To ensure that users of the highway are not subjected to glare and dazzle in the interest of highway safety and in accordance with Policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

No part of any sign, including any foundations required, shall be erection on land covered by highway rights as this would constitute a breach of the Highways Act 1980.

INF1 Highway Works - All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

INF2 Cost of Works - The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

9.0 Parish Council Response

- 9.1 At a meeting of Marks Tey Parish Council on 20 July 2015 it was resolved that the Parish Council would raise no objection. At its 3 August 2015 meeting Marks Tey Parish Council considered the Planning Application for the building signage and visual improvements to the Bungalow Diner in London Road, Marks Tey ref. 151218) and resolved to have no objections to the proposals. It was noted, however, that this application rightly included wide consultation with neighbours about the proposals and there was concern that the previous application by the Bungalow Diner on their proposed frontage sign (ref. 151071) had had significant restricted consultation involving no involvement of the neighbours. In giving its reaction of no objection to the frontal signage proposal, the Parish Council had undertaken no consultation itself with neighbours and requests that CBC extend the same wide consultation to application 151071 before a decision is made.

10.0 Representations

10.1 Valesco, Mill Road – One representation of objection has been received (following neighbour consultation exercise). Comments are summarised below:

- Land not adequately set up for its intended purpose.
- Lots of noise pollution from car park after dark.
- No barrier between diner car park and Mill Road – leads to physical pollution (empty bottles etc).
- Security concern (people found in driveway).
- Proposal will attract more people to site causing further concern.
- Don't like ascetics of the sign but will not directly cause as issue.
- Concern over sign on building and potential light nuisance towards property.

The full text of all of the representations received is available to view on the Council's website.

11.0 Parking Provision

11.1 N/A

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

13.1 N/A

14.0 Development Team and Planning Obligations

14.1 This application is not classed as a "Major" application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990.

15.0 Report

15.1 Policy DP1 of the adopted Colchester Borough Development Policies (adopted 2010, amended 2014), states all development must be designed to a high standard and avoid unacceptable impacts on amenity. Furthermore, the policy states that development proposals must demonstrate that they (amongst other things):

- Respect and enhance the character of the site, its context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density and detailed design features;
- Protect existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight.

- 15.2 In this instance, given that the application is for consent to display advertisements, the main issues for consideration are visual amenity and public safety, i.e. impact upon highway safety.
- 15.3 The Diner currently has an internally illuminated fascia sign approved under ref. 130957. The various external alterations to the Bungalow Diner submitted under ref. 151218 results in the need to locate a sign on top of the building. The proposed sign would be approx. one metre higher than the current sign.
- 15.4 Although much of the surrounding development is residential, it is recognised that given the building is set well back from the road and externally illuminated sign to make the Diner visible from the road in the dark has merit. The close provision of the roundabout lights and street lighting would ensure that the impact of the illuminated sign is not unreasonable, and it would not have an impact on visual amenity or residential amenity subject to controlling conditions.
- 15.5 Furthermore, the erection of a sign 5 metres in height above ground level is not considered to have an adverse impact upon visual amenity, or residential amenity, subject to controlling conditions. Whilst the proposed sign on the frontage is 5 metres in height, it is noted that the character of the area contains tall frontage signs, including the illuminated Shell garage forecourt sign on London Road to the west of the site, and The Swan Hungry House public house/restaurant to the east of the site. This existing signage together with the tall street lighting and roundabout lighting in the locality is considered to assist in the proposed development assimilating itself into the wider built-up area.
- 15.6 It is noted that the current luminance level of the existing fascia sign is controlled by condition (condition 3 of 130957). This allows a maximum luminance of 600 Candelas per square metre, and that the illuminated sign is switched off when the premises are closed. The reason for the conditions is to ensure that's users of the highway are not subjected to glare and dazzle in the interests of highway safety, and in order to safeguard the amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of light pollution.
- 15.7 The Highway Authority and the Council's Environmental Protection team has been consulted on the signs. Accordingly, it is considered similar conditions are necessary so that the luminance levels of the signs do not have an adverse impact on amenity or public safety.
- 15.8 The Parish Council's concerns are noted. The lack of neighbour notification was quickly realised, and the same neighbours who were notified of the planning application (151218) have been notified of this advert application (151071) on the 24 July 2015. The full list of neighbours consulted is on the website. For clarity, the failure to notify neighbours at the start of the application has not hindered the ability of neighbours to make their objections known to the Local Planning Authority before being presented to Planning Committee.
- 15.9 The concerns raised with regards to other matters such as security concerns and noise pollution from car park after dark, are not material considerations (in this instance) in the assessment of this advertisement consent application.

16.0 Conclusion

- 16.1 The design and form of the proposed advertisements is considered acceptable, and subject to controlling conditions, would not result in any adverse impact upon amenity or public safety, and would comply with Policies SD1, UR2, DP1 and DP17.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions

18.0 Positivity Statement

- 18.1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

19.0 Conditions

1 - Standard Advert Condition

Unless an alternative period is specifically stated in the conditions below, this consent expires five years from the date of this decision and is subject to the following standard conditions:

1. Any advertisements displayed, and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.
2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.
3. Where an advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.
4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
5. No advertisement shall be sited or displayed as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air or so as otherwise to render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).

Reason: In order to comply with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Number EGA/01 and Elevational drawing.

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

3 - Non-Standard Condition/Reason

The proposed light source shall be so positioned and shielded, in perpetuity, to direct light towards the proposed advertisement sign and away from the Highway.

Reason: To ensure that users of the highway are not subjected to glare and dazzle in the interest of highway safety.

4 - *Illuminated Advert Light Pollution

Any illuminated elements of the ADVERT/SIGNAGE (including resultant sky glow, light trespass, source intensity and building luminance) shall have a maximum luminance as specified below:

- WITHIN ZONE E2 RURAL, SMALL VILLAGE OR DARK URBAN AREAS;

1. BELOW 10m² SURFACE AREA = MAXIMUM LUMINANCE OF 600 CD/m²

Reason: In order to safeguard the character and amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of light pollution, and in the interests of highway safety from any glare or dazzle.

5 - Non-Standard Condition/Reason

The hereby permitted illuminated signs shall be switched off when the premises are closed.

Reason: In order to safeguard the amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of light pollution.

6 - Flashing or Intermittent Display

Notwithstanding any details shown on the approved drawings, this permission does not authorise any flashing, intermittent or recurring form of illumination.

Reason: It is considered that these forms of illumination may cause harm.

20.0 Informatives

- (1) **ZT0 – Advisory Note on Construction & Demolition** The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.
- (2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.
- (3) **ZTA - Informative on Conditions Stating Prior to Commencement/Occupation**
PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission. Please pay particular attention to these requirements.
- (4) No part of any sign, including any foundations required, shall be erection on land covered by highway rights as this would constitute a breach of the Highways Act 1980.

- (5) Highway Works - All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.
- (6) Cost of Works - The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.