

West Malling
West Malling And
Leybourne

568037 157850 21 May 2009

**(A) TM/09/00859/AT
(B) TM/09/00861/LB**

Proposal: (A) Retrospective application for the display of 1no. externally illuminated projecting sign, 1 internally illuminated menu box sign and 1no. small fascia sign
(B) Listed Building Application: Erection of 1 no. projecting sign (including the two brackets to support it) 1 no. internally illuminated menu box sign and 1 no. fascia sign (retrospective)

Location: 40 High Street West Malling Kent ME19 6QR

Applicant: Mrs Bridgett Lindsey

1. Description: (A & B)

- 1.1 These applications are retrospective as all of the signage is currently being displayed on this building.
- 1.2 The projecting sign measures 1.23m x 0.92m. It is affixed to the front elevation of this Grade II Listed Building by two square profiled metal brackets, one located on top and the other underneath the sign. The brackets have been screw fixed into the brickwork of this building. This sign has a pink/purple background with a red and blue striped top hat in the foreground. The name "Manhattans" is spelled out across the top part of the sign in gold lettering. Both sides of the projecting sign bear the same image.
- 1.3 The projecting sign is mounted at first floor level at a similar height to the first floor windows within this property. The sign is located at the northern end of the front elevation of this Listed Building.
- 1.4 The smaller fascia sign is located on the south side of the front door serving this property. The sign measures 400mm x 300 mm and displays the same image as the larger projecting sign.
- 1.5 The menu box is located on the north side of the front door serving this property. It measures 500mm x 450mm. It is manufactured from black plastic and is internally illuminated.

2. Reason for reporting to Committee:

- 2.1 These are retrospective applications and it is recommended that Consent be refused. Enforcement proceedings are also recommended, which require the authorisation of the Area Planning Committee.

3. The Site: (A & B)

- 3.1 The site is located within the Rural Service Centre of West Malling and the building to which these applications relate is Grade II Listed. The front elevation comprises white painted brickwork with white painted timber windows. The stall riser and window reveals of the building are painted black. The site lies within a row of other retail and restaurant premises. The site is within West Malling Conservation Area.

4. Planning History: (selected)

TM/00/01728/LB Grant With Conditions 5 October 2000

Listed Building Application: Repaint brickwork to facade and painted advertisement on shop elevation.

TM/00/01730/AT Grant With Conditions 5 October 2000

Painted advertisement on shop elevation.

TM/92/00900/LB grant with conditions 3 March 1993

Listed Building Application: Internal alterations.

TM/92/10249/FUL grant with conditions 8 May 1992

Change of use from public house (Class A3) to offices (Class B1) at ground floor level above rear addition and flat at first and second floor levels of main building.

TM/97/01155/FL Grant With Conditions 12 September 1997

Change of use of ground floor and cellar from offices to retail (A1) and craft workshop (B1(C)).

TM/97/01392/LB Grant With Conditions 14 November 1997

Listed Building Application: Remove of floodlights, repainting of existing hanging sign, non-illuminated fascia sign and 2 signs flanking front door along with repainting of doors, hoods, plinth and doorcase.

TM/98/01770/FL Grant With Conditions 26 March 1999

Erection of conservatory and wall.

TM/98/01771/LB Grant With Conditions 26 March 1999

Listed Building Application: Demolition of store building, erection of conservatory, wall and associated internal alterations.

TM/05/02901/LB Grant With Conditions 6 February 2006

Listed Building Application: Change of use from retail to restaurant; removal and replacement of internal walls; enlargement of basement stair; extension of rear roof; demolition and replacement of rear extension.

TM/05/02905/FL Grant With Conditions 6 February 2006

Change of use from retail to restaurant; removal and replacement of internal walls; enlargement of basement stair; extension of rear roof; demolition and replacement of rear extension.

TM/06/00860/LB Grant With Conditions 8 May 2006

Listed Building Application: Internal alterations.

TM/06/00967/LB Grant 8 May 2006

Listed Building Application: Paint front elevation magnolia (retrospective).

TM/06/01342/FL Grant With Conditions 15 June 2006

Variation of conditions 2 and 3 of planning permission TM/05/02905/FL (change of use from retail to restaurant; removal and replacement of internal walls; enlargement of basement stair; extension of rear roof; demolition and replacement of rear extension) to allow food to be sold on a take-away basis and variation of opening hours.

TM/06/03122/LB Approved 16 March 2007

Listed Building Application: New door to chimney breast and new stub wall to bar area. Lobby to disabled toilet, lantern light removed rear ground extension. Black escape stair to King Street and raised timber deck to be attached to neighbouring party wall. Courtyard. Plant for climate control and drinks systems fitted within bin store. Access to bin store from Courtyard removed. Triangular window to end wall of new dining area to be solid oak frame.

TM/06/03123/FL Approved 16 March 2007

New door to chimney breast and new stud wall to bar area. Lobby to disabled WC, lantern light removed rear ground extension. Black escape stair to King Street and raised timber deck to be attached to party wall, courtyard. Plant for climate control and drinks systems fitted in bin store. Access to bin store from courtyard removed. Triangular window to end wall of new dining area to be solid oak frame.

TM/06/03537/LB Approved 6 December 2007

Listed Building Application: Erection of kitchen extract duct extension to rear of building.

TM/06/03538/FL Approved 6 December 2007

Erection of kitchen extract duct extension to rear of building.

5. Consultees:

(A) TM/09/00859/AT:

- 5.1 PC: Members objected to the design of the projecting sign. They considered it not to be in keeping with its location in the Conservation Area.
- 5.2 Private Reps (including public Notices): 8\0X\0S\0R (No responses have been received).
- 5.3 KCC (Highways) No objections.

(B) TM/09/00861/LB:

- 5.4 PC: No objection to the brackets. Members objected to the design of the projecting sign. They considered it not to be in keeping with its location in the Conservation Area.
- 5.5 Private Reps (including public notices): As for application (A).

6. Determining Issues:

- 6.1 As there are more wide-ranging issues that relate to the merits of application (B) (the Listed Building Consent application), I consider it would be appropriate to discuss this application first.

(B) TM/09/00861/LB:

- 6.2 The principal issue is whether the signage detracts from the special architectural or historic interest of the Listed Building. It is a statutory requirement that, in

considering whether to grant Listed Building Consent, the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.

- 6.3 Current Government guidance contained in PPG 15 (Planning and the Historic Environment) is relevant to these works. It states at paragraph 3.4;

“Applicants for listed building consent must be able to justify their proposals. They will need to show why works which would affect the character of a listed building are desirable or necessary”.

- 6.4 Paragraph 3.5 of PPG 15 lists the issues that are generally relevant to applications for Listed Building Consent. These include the intrinsic architectural or historic interest of the building, its particular physical features which justify its inclusion in the List, the building’s setting and contribution to the local scene and the extent to which the proposed works would bring substantial benefit for the community (such as the enhancement of the local environment).
- 6.5 Saved policy P4/13 of the TMBLP requires proposals to alter shop fronts on Listed Buildings or within Conservation Areas to be designed with traditional proportions, details and materials. It also requires proposals to meet the design criteria contained within Policy Annex PA4/13. This annex refers at paragraph 38 to projecting signs on Listed Buildings. It states that traditional hanging signs should be carefully designed and positioned and be appropriate to the style of the building. Concerning fascia signs, Policy Annex PA4/13 states that colours used should respect the character of the street and particularly adjacent properties.
- 6.6 Policy CP 24 of the TMCS requires all proposals to be well designed and of a high quality in terms of detailing. It also requires proposals to be designed to respect the site and its surroundings.
- 6.7 In this particular instance the signage does not involve alterations to features of the Listed Building that are contained within the list description (such as the wooden modillion eaves cornice for example). However, the projecting sign is larger than similar types of signage displayed on neighbouring properties and has been fixed to the façade of the building by the use of two contemporarily designed brackets that are manufactured from tubular steel with a square profile. The projecting sign also hangs lower on the building than others in the locality (it projects below the sill of the first floor windows on this building). The design of the projecting sign incorporates bright colours for its background that contrast starkly with the white painted façade of this building. The combination of the size, position and design of the projecting sign are such that it does detract from the intrinsic architectural interest of this Grade II Listed Building. I also consider that the signage also negatively impacts upon this Listed Building’s contribution to the street scene which contains many Listed Buildings and is at the core of the West Malling Conservation Area. The projecting sign is a domineering feature, not only

on this Listed Building, but also the street scene as a whole, due to its size, position and design. Consequently I consider that this particular sign is contrary to Government advice contained within PPG 15, policy CP 24 and saved TMBLP policy P4/13.

- 6.8 Whilst the fascia sign is a lot smaller than the projecting sign, as it is of the same design (including a brightly coloured background), this is also considered to detract from the building's contribution towards the local scene. This smaller sign is, therefore, also considered to be contrary to PPG 15 and policies P4/13 and CP 24.
- 6.9 The menu box is more discreet in terms of its impact upon the Listed Building. It is small and located next to the entrance to the restaurant within this building. It is black in colour which is in keeping with the existing black and white colour scheme of the Listed Building. I do not consider that this particular sign causes detriment to the special architectural or historic interests of this Grade II Listed Building.
- 6.10 The applicant has not submitted any information to demonstrate why this particular scheme of signage is considered to be necessary or desirable. Whilst signage on retail/restaurant buildings in town and village high streets is accepted in principle, I do not consider that the particular projecting and fascia signs, the subject of this application, are necessary or desirable.

(A) TM/09/00859/AT:

- 6.11 The determining issues relate to the impact of the signage upon amenity and public safety, taking into account the provisions of the development plan, so far as they are material, and any other relevant factors.
- 6.12 I have already identified the harm that I believe to be caused by the signage in discussing application (B) in the preceding paragraphs, which I believe also sets the context for consideration of application (A). The statutory duty to pay special attention to desirability of preserving or enhancing the character or appearance of the Conservation Area applies when considering applications for Advertisement Consent. It is evident, in my opinion, that the projecting sign fails to preserve or enhance the character and appearance of the Conservation Area and as such causes demonstrable harm to the amenity of the area.
- 6.13 However Members will need to be aware that given the small size of the fascia sign and that it is not illuminated, this does not need the express consent of the Local Planning Authority to be displayed on this building. It benefits from deemed consent as defined within Regulation 6 and Schedule 3, Part 1 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
- 6.14 Concerning the internally illuminated menu box sign, due to its limited size, position and design, I do not consider that this causes demonstrable harm to the amenity of the locality.

6.15 KCC (Highways) does not consider that the signage causes detriment to public safety.

6.16 Given my concerns regarding the impact of the signage upon this Grade II Listed Building and the amenity of the locality, I recommend that Listed Building Consent and Advertisement Consent be refused. Furthermore as the signage has already been erected, I also recommend that enforcement proceedings be commenced. This will be by way of serving a Listed Building Enforcement Notice, and prosecution for breach of the Advertisement Regulations.

7. Recommendation:

(A) TM/09/00859/AT:

7.1 **Refuse Advertisement Consent** for the projecting sign, for the following reason

1 The projecting sign by reason of its size, position and design is detrimental to the amenity of the area.

7.2 **Grant Advertisement Consent** for the internally illuminated menu box sign, subject to the following conditions:

1 This consent shall expire at the end of a period of five years from the date of consent.

Reason: In pursuance of Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

2 Any advertisements displayed, and any land used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.

Reason: In pursuance of Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

3 Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.

Reason: In pursuance of Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

4 No advertisement shall be sited or displayed so 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 pursuance of Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

- 5 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.

Reason: In pursuance of Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

- 6 Where any advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.

Reason: In pursuance of Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

- 7.3 Subject to the Chief Solicitor being satisfied as to the evidence, **Proceedings Be Commenced** in the Magistrates Court against all responsible parties under Section 224 of the Town and Country Planning Act 1990 (as amended) and the Town and Country Planning (Control of Advertisement) (England) Regulations 2007, with regard to the display of the projecting sign.

(B) TM/09/00861/LB:

- 7.4 **Refuse Listed Building Consent** for the following reason

1. The projecting sign and the fascia sign, by reason of their size position and design detract from the special architectural or historic interests of the Grade II Listed Building and its contribution to the local area and are contrary to current Government guidance contained within PPG 15, policy CP 24 of the Tonbridge and Malling Borough Core Strategy 2007 and saved policy P4/13 of the Tonbridge and Malling Borough Local Plan 1998.

- 7.5 A Listed Building Enforcement Notice **be issued** as set out below and copies **be served** on all parties with a relevant interest in the land.

The Notice to take effect not less than 28 days from the date of service, subject to:

- The concurrence of the Chief Solicitor, he being authorised to amend the wording of the Listed Building Enforcement Notice as may be necessary.
- In the event of an appeal against the Notice, the Secretary of State and the appellant to be advised that the Local Planning Authority is not prepared to grant Listed Building Consent for the works the subject of the Listed Building Enforcement Notice.

Breach of Listed Building Control Alleged:

Without Listed Building Consent the unauthorised erection of one externally illuminated projecting sign and one fascia sign.

Reasons For Issuing The Notice

The building is Grade II Listed and any alterations to it must not harm its special architectural or historic interest which includes the contribution the building makes to the local street scene. The building is also located within a Conservation Area whose special character and appearance it is desirable to preserve or enhance.

Saved policy P4/13 of the TMBLP requires proposals to Listed Buildings or within Conservation Areas to be designed with traditional proportions, details and materials. It also requires proposals to meet the design criteria contained within Policy Annex PA4/13. This annex states that traditional hanging signs should be carefully designed and positioned and be appropriate to the style of the building. Concerning fascia signs, Policy Annex PA4/13 states that colours used should respect the character of the street and particularly adjacent properties.

Policy CP 24 of the TMCS requires all proposals to be well designed and of a high quality in terms of detailing. It also requires proposals to be designed to respect the site and its surroundings.

The projecting and fascia signs, by reason of their size, position and design detract from the special architectural or historic interests of the Grade II Listed Building and its contribution to the local area and are, therefore, contrary to current Government guidance contained within PPG 15, policy CP 24 of the Tonbridge and Malling Borough Core Strategy and saved policy P4/13 of the Tonbridge and Malling Borough Local Plan 1998.

Requirement

To remove the externally illuminated projecting sign (including its brackets) and the fascia sign from the building.

Period For Compliance

One calendar month from the date the notice takes effect.

Contact: Matthew Broome