

- 3.2 All of the shops in the parade have some form of signage, although the design and positioning of this signage varies on the properties. Three (including the application site) have folding canopies. 72 and 64 Western Road, a butchers and shop selling household goods and gifts respectively, comprise the units at either end of the parade and have fascia signs with folding canopies set below the first floor. 70 Western Road (located immediately to the left of the application site when viewed from the front – the Post Office) has a fascia sign set below the first floor and a projecting sign mounted on the vertical column between 70 and 68 Western Road (mounted at an approximate level to the top of the horizontal safety boarding) and no canopy.
- 3.3 66 Western Road (located immediately to the right of the application site when viewed from the front – the kebab shop) has both a projecting sign mounted on the vertical column between 66 and 64 Western Road and a fascia sign. The fascia sign is mounted above a box within which a security shutter is housed and projects above the two lowest horizontal boards to the front of the balcony at the flat above. The security shutter comprises a blue perforated roller shutter. Express consent was granted for the projecting sign under application TM/99/00926/AT (16 September 1999) but refused for the fascia sign under the same reference (a split decision) for the following reasons:
- The advertisement would, by virtue of internal illumination, be detrimental to the visual amenities of the locality;
 - The adverts would, by virtue of their siting, size and design, be detrimental to the visual amenities of the locality, and;
 - The proposal was contrary to the policy guidelines contained in Annex PA4/13 of the TMB LP.
- 3.4 Although enforcement action has not been progressed in relation to this fascia sign, unlike development which requires planning permission, advertisements do not become immune from enforcement action through the passage of time. An enforcement investigation is currently underway with regard to this sign.
- 3.5 It should be noted that there are no records of planning permission having been sought or granted for the installation of the security shutter at 66 Western Road.
- 3.6 The fire station is located to the east of 64 Western Road, with an estate agency positioned on the opposite side of the road to the application site.

4. Planning History:

TM/63/10508/OLD Grant with Conditions 19 December 1963

Outline application for five shops with living accommodation over, as amplified by plan and letter dated 12th November, for F. H. Haines.

TM/64/10628/OLD Grant with Conditions 21 October 1964

5 shops with flats over and garages with access road and waiting bay, for Messrs. All Holding Investments Ltd.

TM/65/10671/OLD Grant with Conditions 1 April 1965

Change of use from residential to office use (as amended by drawing No. 116/7A).

TM/69/10286/OLD Application withdrawn 10 October 1969

Change of use from living accommodation into Tea Rooms.

TM/87/11005/FUL Grant with Conditions 30 April 1987

Prefabricated store in yard to rear.

TM/88/11152/FUL Grant with Conditions 4 October 1988

Single storey rear extension.

TM/93/00196/FL Grant with Conditions 29 June 1993

Rear store to No. 66 for use with No. 68 and revised access.

TM/93/00197/AT Grant with Conditions 2 August 1993

Fascia sign.

TM/93/00198/FL Grant with Conditions 9 July 1993

Replacement shop front.

5. Consultees:

(A) TM/11/00320/AT:

5.1 PC: No objection.

5.2 Private Representations: 7/0X/0R/OS.

5.3 KHS was not consulted as no objection was raised in respect of previous applications for signage to these shops with regard to the safe use and operation of any form of traffic or transport or the safety of pedestrians.

(B) TM/11/00517/FL:

- 5.4 PC: No objection on planning grounds, but raised concern that the operators of the shop were aware of the permitted hours of opening.
- 5.5 Private Representations: 18/0X/0R/0S.

6. Determining Issues:

(A) TM/11/00320/AT:

- 6.1 The fascia sign permitted under TM/93/00197/AT (together with the shop front permitted under TM/93/00198/FL) was of a form and size similar to those in existence at 64 and 72 Western Road: i.e. did not project above the ground floor unit and did not encroach onto the balcony railings at first floor. It was externally illuminated.
- 6.2 As with all applications for Advertisement Consent, the determining issues comprise the interests of amenity and public safety.
- 6.3 National guidance on outdoor advertisement control is set out in PPG19, with adopted TMB CS policy CP1, TMB MDE DPD policies SQ1 and SQ8 and saved policy P4/13 of the TMB LP (together with the associated policy annex PA4/13) forming material considerations to which regard should be given in the determination of the application.
- 6.4 PPG19 details that, in assessing impact on amenity, it is necessary to have regard to the effect of the advert(s) on the appearance of the building or on visual amenity in the immediate neighbourhood where it is to be located, including any cumulative effect.
- 6.5 The base of the fascia sign is located towards the top of the shop frontage which, due to its size and position, means that the top of the sign is level with the top of the second horizontal board to the front of the first floor balcony. Policy Annex PA4/13 provides guidance on shop front design, including fascia signs: paragraph 5 requires that the fascia should be of a scale and proportion relative to other elements of the building, should not exceed the level of the first floor, should not overlap first floor windows or obscure architectural details.
- 6.6 Three of the other shops within this parade (64, 70 and 72 Western Road) have fascia signs which conform with the above advice: they are positioned on the shop front, below the first floor and do not encroach on the balcony area. However, the fascia signs erected at the application site and on the property adjacent (66 Western Road) are approximately twice the height of the fascia signs on the other shops and encroach onto the horizontal boards at the frontage to the balconies. The encroachment in part comes about as a result of the inclusion of shutter

housing below the fascia signs. It is considered that the sign at the application site is not in keeping with those in the immediate vicinity and performs poorly against the guidance offered in Annex P4/13: it encroaches onto the residential sections of the overall building, exceeds the level of the first floor and is poorly proportioned relative to the design and size of features which form part of the building. A similar conclusion was reached in respect of the fascia sign on the adjacent property (paragraph 5.4 of the report to the 15 September 1999 Area 2 Planning Committee).

- 6.7 The fascia sign is visible from Sevenoaks Road when approaching from the east and from a number of properties on both Western Road and Sevenoaks Road. Although outdoor advertising is essential to commercial activity, it is considered that the fascia sign, because of its size, siting and illumination causes unacceptable harm to the amenity of the area.
- 6.8 The sign is internally illuminated. There is no objection in principle to the illumination of a sign at the property; indeed the external illumination of a fascia sign was permitted previously under reference TM/93/00197/AT. However, due to the height of the sign in relation to the balcony of the flat at first floor, it is considered that the fascia sign could cause material harm to the living conditions which the occupiers of this flat could expect to enjoy.
- 6.9 The internally illuminated projecting sign at 66 Western Road (mounted at a similar height to that at the application site) was considered to not harm the amenity of the area. Given this conclusion, I consider that the retention of the projecting sign at the application site will not cause detriment to amenity either individually or cumulatively with the other signs in the vicinity.
- 6.10 In terms of the safe operation of traffic and pedestrian safety, although the signs are adjacent to a classified road, no objections to the retention of the fascia and projecting signs at 66 Western Road were raised by KHS (subject to control of the level of illumination). Given the similarities between the signs at the application site and 66 Western Road, it would be unreasonable to come to a different conclusion in respect of this application.
- 6.11 In light of the above considerations, it is considered that the fascia sign causes harm to the visual amenity of the area, the appearance of the building and residential amenity and it is recommended that advertisement consent be refused for this sign. As the application is for the retention of this sign, it is recommended that prosecution proceedings be commenced and authority is sought for this. In terms of the retention of the projecting sign, it is considered that this is not so harmful to amenity as to warrant refusal: accordingly it is recommended that advertisement consent be granted for the retention of this sign and a "split decision" be issued.

(B) TM/11/00517/FL:

6.12 The planning policy which needs to be taken into account in the consideration of this application includes:

- National planning guidance: PPS1;
- TMBCS: Policies CP1 and CP12;
- TMB MDE DPD: Policy SQ1;
- TMBLP: Saved Policy P4/13.

6.13 The chief consideration is the impact which the retention of the canopy and security shuttering will have on the character of the street scene and appearance of the area. Annex PA4/13 provides clear guidance on canopies and shuttering:

- New canopies should be appropriate in scale, design and materials to the shopfront and building;
- Retractable blinds are acceptable so long as they are capable of being retracted easily on a daily basis into a blind box which fits flush with the fascia;
- Blinds should be at ground floor level;
- Blinds should only bear the name and trade of the shop;
- Security shutters will only be permitted where a special need can be demonstrated and should be lattice shutters of an appropriate colour rather than solid roller shutters;
- Shutter boxes should be hidden within the structure of the shopfront.

6.14 As detailed above, 72 and 64 Western Road both have fabric canopies. The design and size of the blind at the application site is in keeping with those on the other shops in the parade. It can be easily retracted on a daily basis. However, when deployed, the bottom of the canopy would be 2.1m above the pavement level: this is 0.2m lower than the recommended lowest height. Due to the depth of the pavement outside the application site, the front of the canopy would be set well back from the edge of the road and I consider it very unlikely that the canopy would affect the movement of traffic on the highway. The lower height than that recommended may pose a hazard to taller pedestrians although, given the fact that the canopy is visible due to its colour, I do not consider that this is sufficient to warrant the refusal of planning permission.

- 6.15 The box which houses the canopy and electronically operated shutter protrudes slightly from the frontage of the shop, albeit not to such an extent that it materially harms the appearance of the building.
- 6.16 The security shutter which has been installed comprises a solid roller-shutter design, finished in red to match the shop front frame and signage which has been installed. When closed, it precludes views of the frontage of the shop. No conditions have been attached to previous grants of planning permission in respect of the shop's opening hours. The advertised hours of opening are 08.00 – 22.00 (including Saturdays and Sundays). Therefore, the period of time during which the shutters are closed is limited to night and early morning. However, there is the potential that the shop could be open for a shorter period of time each day, and accordingly the length during which the shutters would be closed could be considerably longer.
- 6.17 The use of a solid roller-shutter design (rather than a portcullis/lattice design grill) is contrary to both Policy P4/13 and the advice in Annex PA4/13. Although the security merits of a roller-shutter in front of the shop are acknowledged, it is considered that the solid roller-shutter has the effect, when closed, of "fortifying" the appearance of building to the extent that it is materially harmful to visual amenity and the localised character of the area. Furthermore, through precluding views through the windows, this reduces the degree to which the pavement area outside the application site is subject to passive surveillance. Accordingly, it is recommended that planning permission be refused for the retention of the shutters and authority is sought for enforcement action to be taken to bring about their removal.
- 6.18 In reaching this recommendation, and in accordance with the requirements of Section 17 of the Crime and Disorder Act 1998, I have given due regard to the effect which the refusal of planning permission will have in terms of potentially preventing crime and disorder within the Borough: given the level of harm to visual amenity and the character of the area detailed above, it is my opinion that this harm outweighs the potential benefits through making the shop unit more secure.
- 6.19 Although not central to my recommendation, I have also had regard to the fact that there are other properties within Borough Green which have installed security shuttering. A detailed appraisal of these properties would, I suggest, provide useful additional background information for Members. This is currently being prepared, and will be provided to the Committee in the form of a Supplementary Report.

7. Recommendation:

(A) TM/11/00320/AT:

7.1 Refuse Advertisement Consent for the retention of the internally illuminated fascia sign for the following reason:

- 1 The retention of the fascia sign, by reason of its siting, size and design, would be detrimental to the visual amenities of the locality and residential amenity. As a result, its retention would be contrary to the requirements of PPG19 and the Town and Country Planning (Control of Advertisement) (England) Regulations 2007, Policy CP1 of the Tonbridge and Malling Borough Core Strategy, Policy SQ1 of the Tonbridge and Malling Borough Managing Development and the Environment Development Plan Document and Saved Policy P4/13 of the Tonbridge and Malling Borough Local Plan.

7.2 In the event of the unlawful advertisement not being removed within 21 days of the date that the applicants are notified of this resolution, **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.

7.3 Grant Advertisement Consent for the internally illuminated projecting sign, subject to the following conditions:

- 1 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.

- 2 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.

- 3 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.

- 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.

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

- 5 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.

- 6 The height of the projecting sign shall be maintained such that a minimum headroom of 2.1 metres is provided.

Reason: in the interests of pedestrian safety.

- 7 The illumination of the advertisement(s) shall not be intermittent.

Reason: In the interests of visual amenity and road safety.

- 8 The sign shall be illuminated only while the premises are open for business.

Reason: In the interests of visual amenity.

(B) TM/11/00517/FL:

7.4 **Refuse Planning Permission** for the following reason:

- 1 The retention of the security shutter/grills, due to their solid design, is detrimental to the character and visual amenities of the locality and is contrary to Policy CP1 of the Tonbridge and Malling Borough Core Strategy, Policy SQ1 of the Tonbridge and Malling Borough Managing Development and the Environment Development Plan Document and Saved Policy P4/13 of the Tonbridge and Malling Borough Local Plan.

7.5 An Enforcement Notice **be issued** as set out below and copies **be served** on all interested parties:

- 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 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 planning permission for the development the subject of the Enforcement Notice.
- **Breach of planning control alleged:** without planning permission, a security shutter has been installed at the front of the shop;
- **Reasons for issuing the Notice:** A breach of planning control has occurred within the last 4 years. The security shutter, due to its design, is detrimental to the character and visual amenities of the locality. The installation and retention of the shutter is therefore contrary to Policy CP1 of the Tonbridge and Malling Borough Core Strategy, Policy SQ1 of the Tonbridge and Malling Borough Managing Development and the Environment Development Plan Document and Saved Policy P4/13 of the Tonbridge and Malling Borough Local Plan. The Enforcement Notice is necessary to alleviate the harm and detriment to character and amenity resulting from the unauthorised development. The Council has refused planning permission for the retention of the shutter because planning conditions could not overcome these objections.
- **Requirement:** Remove the security shutter installed on the frontage of 68 Western Road, Borough Green.
- **Period for compliance:** Two calendar months from the date that the notice takes effect.

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