

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case officer recommendation:	OA	20.03.24
Planning Manager / Team Leader authorisation:	JJJ	21/03/2024
Planning Technician final checks and despatch:	ER	21/03/2024

Application: 23/01022/ADV **Town / Parish:** Ardleigh Parish Council

Applicant: Mrs Joanna Bradley

Address: SRC Martells Slough Lane Ardleigh

Development: Part Retrospective application for proposed change of business signage to a gabion block and sign, and relocation of the sign further to the north.

1. Town / Parish Council

Ms Clerk to Ardleigh
Parish Council

The site owner would and should have known that planning permission would be required for this signage. It is a matter of concern to us that it is raised as a retrospective application.

With the new sign already in situ and given its size and rural location, we would ask for stipulation that NO additional boards (eg: advertising hours of opening, open to public, etc) should be displayed at any time, on the verge / roadside.

2. Consultation Responses

ECC Highways Dept
(initial response)

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

The Highway Authority will protect the principal use of the highway as a right of free and safe passage of all highway users.

It is noted that this is a retrospective application, and the present gabion wall is a stone feature (estimated around 3.5 – 4.0 tonnes of stone) on which the sign is mounted.

It does however, present a hazard should a vehicle strike it. This section of road is de-restricted and looking on plan the southwestern bound approach is on a left-hand bend. The road alignment suggests there is an increased risk of a vehicle straying into the object from this direction. In addition to the obvious risk of injury from a direct strike there is also a risk that should it be struck; it could remain standing (but compromised) meaning it could collapse at a later time or with a minor subsequent strike. This type of object presents an increased risk/liability and unlike registered retaining walls which would have detailed inspections every 2 years this object would only be viewed (at distance) on a driven inspection once per year.

The Highway Records has been consulted and it is confirmed that part/all of the proposal has encroached onto highway land. It is unlawful to construct or enclose highway land and as such the Highway Authority cannot sanction the proposal.

The proposal creates unacceptable degree of hazard to all road users to the detriment of general highway safety and an obstruction on the highway where members of the public are entitled to pass and repass over highway land unobstructed. It is therefore contrary policy DM1 and DM14 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

ECC Highways Dept
(latest response following
additional information)

The additional information submitted with the application has been assessed by the Highway Authority and conclusions have been drawn from a desktop study with the observations below based on the submitted material and in conjunction with a previous site visit. It is noted that this is a retrospective application, and the present gabion wall is a stone feature (estimated around 3.5 – 4.0 tonnes of stone) on which the sign is mounted. Highway Records has been consulted and it is confirmed that part/all of the proposal has encroached onto highway land. It is unlawful to construct or enclose highway land and as such the Highway Authority cannot sanction the current location for the gabion block and sign. However, the revised proposal will see the feature relocated further back from the highway onto a piece of private land in the control of the applicant, considering these factors:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. The proposed gabion block and sign shall be relocated away from the highway boundary and installed as indicated and in principle with amended drawing no. 2303/GS/S/1 v2.

Reason: To ensure the proposal does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.

2. On the completion of the works, the grass verge where the original feature was located, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Reason: To preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

i) All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at

development.management@essexhighways.org

ii) 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.

3. Planning History

92/00941/FUL Change of use to Class B1 Approved 13.10.1992

4. Relevant Policies / Government Guidance

National:

National Planning Policy Framework ([NPPF](#))

National Planning Practice Guidance ([NPPG](#))

Local:

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 (adopted January 2021)

SP1 Presumption in Favour of Sustainable Development

SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

CP2 Improving the Transport Network

Neighbourhood Plan

Ardleigh Neighbourhood Plan

Supplementary Planning Documents

[Essex Design Guide](#)

Status of the Local Plan

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any neighbourhood plans that have been brought into force.

In relation to housing supply:

The Framework requires Councils boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, Paragraph 11 d) of the Framework requires granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (what is often termed the 'tilted balance').

The Local Plan fixes the Council's housing requirement at 550 dwellings per annum. On 19 October 2021 the Council's Strategic Housing Land Availability Assessment (SHLAA) updated the housing land supply position. The SHLAA demonstrates in excess of a six-and-a-half-year supply of deliverable housing land. On 14 January 2022 the Government published the Housing Delivery Test (HDT) 2021 measurement. Against a requirement for 1420 homes for 2018-2021, the total number of homes delivered was 2345. The Council's HDT 2021 measurement was therefore 165%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to applications for housing.

Neighbourhood Plans

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

5. Officer Appraisal (including Site Description and Proposal)

Application Site

The application site is located towards the north of Slough Lane, outside of any defined settlement development boundary as defined within the Tendring District Local Plan 2013-2033 and beyond.

Proposal

This application seeks retrospective planning permission for the change of business signage to gabion block and sign.

Since the original submission of this application amended plans have been received (18.03.24) moving the gabion block and sign back so that it does not encroach upon highway land and does not pose a highway safety risk.

Assessment

Design and Visual Amenities

Paragraph 135 of the National Planning Policy Framework (NPPF) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character and establish or maintain a strong sense of place.

Policy SP7 of the Tendring District Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Policies SPL3 and LP4 of the Local Plan also require that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout that relates well to its site and surroundings, create a unique sense of place.

Due to its location the signage is visible to the public views of Slough Lane. The signage comprises of a gabion block filled with grey stone measuring 1.8 metres in height by 3 metres in width and 0.47 metres in depth. To the front of the block is a metallic sign with a white and green text against a white and green background.

The proposed (retrospective) signage has replaced two existing advertisements at the site. Whilst the proposed signage is of a larger scale than these original advertisements, no further signage is proposed and the overall increase in scale is considered to be minor and poses no significant harmful impacts to the open and rural character of the area. Furthermore, the sign is situated back from the edge of the highway as to not appear overly dominant within the area.

The proposed (retrospective) signage is deemed to be of an appropriate design and appearance with no significant adverse impacts to the visual amenities of the area.

Impact on Residential Amenities

Paragraph 135 of the NPPF confirms planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and wellbeing, with a high standard of amenity for existing and future users.

Policy SP7 of the Tendring District Local Plan requires that the amenity of existing and future residents is protected. Policy SPL3 seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

There are no residential dwellings located immediately adjacent to the gabion block sign. The proposal therefore has no harmful impact on the loss of daylight/sunlight, overlooking or loss of privacy, or causes harm to any residential amenities.

Highway Safety

Essex County Council Highways have been consulted on this application. Their comments can be viewed in full above and have been summarised here.

Amended plans have been received on 18.03.24 following the original submission of this application. These plans have relocated the proposed (retrospective) gabion signage so that it is no longer encroaching highways land and does no longer obstructs views to the highway users. Hedging will be cut back to ensure maintenance of the signage. The proposed (retrospective) signage is therefore considered acceptable in terms of highway safety.

Other Considerations

Ardleigh Parish Council have objected to this application. The Parish Council have stated that the site owner would and should have known that planning permission would be required for this signage. It is a matter of concern that it is raised as a retrospective application. With the new sign already in situ and given its size and rural location, the Parish Council have asked for stipulation that no additional boards (e.g. advertising hours of opening, open to public etc.) should be displayed at any time on the verge / roadside.

Officer Response – Every application is considered on its own merits, whilst planning applications and consent should always be submitted and issued before the commencement of any works, should a retrospective application be received this will be assessed on its merits, in the same manner as any proposed development. The size and scale of the proposal has been fully assessed in the above report. Whilst it is acknowledged that the sign is of a large size and scale it is replacing the two previous signs at the site. Therefore, the overall increase in footprint is not considered to be so significant that it causes harm to the open character of the rural area. There are no other signs or forms of development proposed. Any proposal for further signage would require advertisement consent and would then be considered on its own merits. Therefore, In this instance it has not been deemed necessary to include a condition to restrict further signage.

No other letters of representation have been received.

Conclusion

The proposal is considered to comply with the above mentioned national and local planning policies. Whilst it is acknowledged that the sign is of a large size and scale it is replacing the two previous signs at the site. Therefore, the overall increase in footprint is not considered to be so significant that it causes harm to the open character of the rural area. The proposal is therefore considered to be acceptable and has been recommended for approval.

6. Recommendation

7. Conditions

1 ADVERTISEMENT CONSENT

CONDITION - All advertisement consents are subject to five standard conditions specified in Schedule 2 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 which are as follows: -

1. 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.

2. No advertisement shall be sited or displayed so as to

(a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);

(b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or

(c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

3. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

4. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

5. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Additionally all advertisement consents are for a fixed term of 5 years unless this period is varied on the formal decision notice.

2 APPROVED PLANS & DOCUMENTS

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard (except for Listed Building Consents). Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the Local Planning Authority prior to the commencement of development pursuant to this condition.

Aerial View – Drawing No. 2303/GS/D/1

Gabion/Sign Location Details - Drawing No. 2303/GS/S/1v2

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.

NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already

approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

- 3 Within one month from the date of this decision the gabion block and sign hereby approved shall be relocated away from the highway boundary and installed as indicated and in principle with amended drawing no. 2303/GS/S/1 v2.

REASON: To ensure the proposal does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety.

- 4 Within 6 weeks from the date of this decision the grass verge where the original feature was located must be left in a fully functional repaired/renovated state, and cleared of all debris and building materials.

Reason: To preserve the integrity of the highway and in the interests of highway safety.

8. **Informatives**

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Highways Informatives

Informative:

i) All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org

ii) 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.

9. Equality Impact Assessment

In making this recommendation/decision regard must be had to the public sector equality duty (PSED) under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions that in summary include A) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; B. Advance equality of opportunity between people who share a protected characteristic* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic* and those who do not, including tackling prejudice and promoting understanding.

It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.

In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

Protected Characteristics *	Analysis	Impact
Age	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Disability	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Gender Reassignment	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Marriage or Civil Partnership	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Pregnancy and Maternity	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Race (Including colour, nationality and ethnic or national origin)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sexual Orientation	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sex (gender)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Religion or Belief	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

<p>Are there any letters to be sent to applicant / agent with the decision? If so please specify:</p>	NO
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Are there any third parties to be informed of the decision? If so, please specify:	NO