

<b>Reference:</b> 20/00048/FUL	<b>Site:</b> Marvy Jade, Rear Of 150 and 152 London Road Grays Essex RM17 5YD
<b>Ward:</b> Grays Riverside	<b>Proposal:</b> Retention of existing containers in the rear yard (for storage purposes)

Plan Number(s):		
Reference	Name	Received
01	Existing and Proposed Plans	27th January 2020
02	Site Layout	27th January 2020

The application is also accompanied by: <ul style="list-style-type: none"> <li>Design and Access Statement</li> </ul>	
<b>Applicant:</b> Mr Jude Dicson	<b>Validated:</b> 10 February 2020 <b>Date of expiry:</b> 6 April 2020 <b>Extension of Time (as agreed):</b> 30 June 2020
<b>Recommendation:</b> Refuse Permission	

This application is scheduled for determination by the Council’s Planning Committee because the application has been called in by Cllrs Fish, Kerin, Muldowney, Potheary and Shinnick in accordance with Part 3 (b) 2.1 (d) (i) of the Council’s Constitution to consider concerns relating to odour nuisance and the obstruction of the highway during deliveries.

## 1.0 DESCRIPTION OF PROPOSAL

- 1.1 This application seeks retrospective planning permission for the siting of two containers in the yard found to the rear of 150 and 152 London Road.
- 1.2 The application has been submitted following enforcement complaints (reference 19/00275/AUNUSE) in relation to the use of the site for the siting of containers used for the storage of dried fish.

## **2.0 SITE DESCRIPTION**

- 2.1 The containers are sited in the yard area behind 150 and 152 London Road, adjacent to Parker Road. There is an existing vehicle access directly from Parker Road into the site.
- 2.2 To the south of the site is a parade of shops at ground floor with residential flats above at first floor. Residential properties are situated to the immediate east of the site on Meesons Lane and London Road, to the immediate west on London Road and to the immediate north on Parker Road.

## **3.0 RELEVANT HISTORY**

- 3.1 The application site is situated to the rear of both 150 and 152 London Road. There is no directly relevant planning history.
- 3.2 Following complaints from local residents and evidence gathered by the Environmental Health department, an Odour Abatement Notice was served on 27<sup>th</sup> April 2020. This Abatement Notice requires the operators to cease the production of odours and the operator had until 26<sup>th</sup> May 2020 to comply with the terms of the Notice.

## **4.0 CONSULTATIONS AND REPRESENTATIONS**

- 4.1 Detailed below is a summary of the consultation responses received. Full text versions are available on the Council's web-site at: [www.thurrock.gov.uk/planning/20/00048/FUL](http://www.thurrock.gov.uk/planning/20/00048/FUL)

### **PUBLICITY:**

- 4.2 The application has been publicised by the display of site notices and consultation with neighbouring properties.
- 4.3 Six letters of objection have been received raising the following concerns:
- Access to the site;
  - Additional Traffic;
  - Litter/Smells;
  - Out of Character;
  - Environmental Pollution;

- Unacceptable Materials;
- Application form states that containers are to be used for various materials and the Design & Access Statement states the containers would be used for electrical goods;
- Thurrock Council Environmental Officers had observed a smell from the containers;
- Hours of operation have not been adequately explained or how these would be monitored at the site and how the garage with shutters facing Parker Road would also operate;
- No explanation of the potential noise impacts at the site and
- No explanation of the vehicles accessing the site nor the types of deliveries.

The following non-material planning comments have also been received:

- Applicant has not demonstrated how the storage of electric goods would meet the WEEE Regulations 2013 and
- The site is currently operating a forklift truck.

4.4 A letter has also been received from Cllrs Potheary, Kerrin and Fish, who have raised concern in relation to the following:

- Impact to the neighbouring residential properties that are unable to use gardens.
- A strong fish smell from the containers and
- Severe traffic resulting from deliveries to the site.

4.5 HEALTH AND SAFETY EXECUTIVE:

No objection.

4.6 HIGHWAYS:

No objection.

4.7 ENVIRONMENTAL HEALTH:

Environmental Health commented that it has received a number of complaints regarding odour from the application site alleging that the source of complaint was from the storage/handling of fish.

The application states that, 'the containers will be used to store used electrical goods. They will not be used to store any other items.' On the basis of this proposed end-use, Environmental Health advice that the proposal should not give rise to such complaints and there are no objections in this regard provided the storage of used electrical goods is the only activity on site.

## 5.0 POLICY CONTEXT

### 5.1 National Planning Policy Framework (NPPF)

The revised NPPF was published on 24<sup>th</sup> July 2018 (and subsequently updated with minor amendments on 19<sup>th</sup> February 2019). The NPPF sets out the Government's planning policies. Paragraph 11 of the Framework expresses a presumption in favour of sustainable development. This paragraph goes on to state that for decision taking this means:

- c) *approving development proposals that accord with an up-to-date development plan without delay; or*
- d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date<sup>1</sup>, granting permission unless:*
  - i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>2</sup>; or*
  - ii *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

<sup>1</sup> *This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites ...*

<sup>2</sup> *The policies referred to are those in this Framework relating to: habitats sites and/or SSSIs, land designated as Green Belt, Local Green Space, AONBs, National Parks, Heritage Coast, irreplaceable habitats, designated heritage assets and areas at risk of flooding or coastal change.*

Paragraph 2 of the NPPF confirms the tests in s.38 (6) of the Planning and Compulsory Purchase Act 2004 and s.70 of the Town and Country Planning Act 1990 and that the Framework is a material consideration in planning decisions. The following chapter headings and content of the NPPF are particularly relevant to the consideration of the current proposals:

6. Building a strong, competitive economy;
8. Promoting healthy and safe communities;
9. Promoting sustainable transport;
11. Making effective use of land.

## 5.2 National Planning Practice Guidance (NPPG)

In March 2014 the former Department for Communities and Local Government (DCLG) launched its planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning policy guidance documents cancelled when the NPPF was launched. NPPG contains a range of subject areas, with each area containing several sub-topics. Those of particular relevance to the determination of this planning application include:

- Effective use of land
- Enforcement and post-permission matters
- Healthy and safe communities
- Use of planning conditions

## 5.3 Local Planning Policy: Thurrock Local Development Framework (2015)

The Council adopted the “Core Strategy and Policies for the Management of Development Plan Document” (as amended) in 2015.

The Adopted Interim Proposals Map shows the site as land without notation, or white land, where it is broadly considered that the same or similar uses will prevail.

The following Core Strategy policies in particular apply to the proposals:

THEMATIC POLICIES:

- CSTP23: Thurrock Design

POLICIES FOR THE MANAGEMENT OF DEVELOPMENT:

- PMD1: Minimising Pollution and Impacts on Amenity

- PMD2: Design and Layout
- PMD8: Parking Standards
- PMD9: Road Network Hierarchy

#### 5.4 Thurrock Local Plan

In February 2014 the Council embarked on the preparation of a new Local Plan for the Borough. Between February and April 2016 the Council consulted formally on an 'Issues and Options (Stage 1)' document and simultaneously undertook a 'Call for Sites' exercise. In December 2018 the Council began consultation on an 'Issues and Options (Stage 2 Spatial Options and Sites)' document, this consultation has now closed and the responses have been considered and reported to Council. On 23 October 2019 the Council agreed the publication of the Issues and Options 2 Report of Consultation on the Council's website and agreed the approach to preparing the Local Plan.

#### 5.5 Thurrock Design Strategy

In March 2017 the Council launched the Thurrock Design Strategy. The Design Strategy sets out the main design principles to be used by applicants for all new development in Thurrock. The Design Strategy is a supplementary planning document (SPD) which supports policies in the adopted Core Strategy.

### 6.0 **ASSESSMENT**

6.1 The assessment below covers the following areas:

- I. Principle of the development;
- II. Design and Layout
- III. Impact to Neighbouring amenity;
- IV. Traffic Impact, Access and Car Parking;
- V. Flood Risk and Site Drainage

#### I. PRINCIPLE OF THE DEVELOPMENT

6.2 The area which forms the application site is land that was once associated with Nos 150 and 152 London Road. Information ascertained by officers indicate that the yard area has been separate from the commercial and residential units for at least 10 years. Although there is no planning history for the use of the yard area it appears that it has been used separately from the commercial and residential premises for some time.

The buildings that face onto London Road at Nos 150 and 152 can both be lawfully used for A1 (retail) purposes. This type of use is reflective in many such parades of commercial units.

- 6.3 Complaints were received about the stationing and use of containers in the yard area in July 2019. Whilst this application would not change the land use designation, planning permission is required for the stationing of containers for storage use. Given the previous use of the yard, it is considered that the principle of a storage use of the land would be difficult to substantiate. Nonetheless, consideration must therefore be given to the physical impact of the storage containers in the location.

## II. DESIGN AND LAYOUT

- 6.4 Policy PMD2 of the Core Strategy requires that all design proposals should respond to the sensitivity of the site and its surroundings and must contribute positively to the character of the area in which it is proposed and should seek to contribute positively to local views, townscape, heritage assets and natural features and contribute to the creation of a positive sense of place.
- 6.5 Policy CSTP22 of the Core Strategy indicates that development proposals must demonstrate high quality design founded on a thorough understanding of, and positive response to, the local context.
- 6.6 In considering applications, the Council is keen to support viable business where they can be carried out without harm to residents and the local environment. In the case of the current application, the site is located in close proximity to a number of residential properties. Care has to be taken within these environments.
- 6.7 The two containers are sited to the rear of 150 and 152 London Road and are visible from Parker Road to the western boundary. The containers are generic shipping containers of the design, size and type that would often be expected in commercial areas. Whilst they are sited to the rear of commercial premises, the site is in a predominantly residential area.
- 6.8 The use of containers as a solution for the storage of goods in this type of area conflicts with the Council's policies in relation to design and visual amenity, particularly because of the residential location. The containers, by reason of the size, design and prominence from public vantage points are unacceptable. The containers cause harm to the character and visual amenities of the area and are an unwelcome feature to the local street scene
- 6.9 In conclusion under this heading, given the visual prominence of the containers from the public realm it is considered that the siting of the containers results in harm to the

visual amenities of the location detrimental to the appearance and character of the street scene. The application is consequently considered to be contrary to Policies CSTP22 and PMD2 for this reason.

### III. IMPACT TO NEIGHBOURING AMENITY

- 6.10 Policy PMD1 of the Core Strategy indicates that developments will not be permitted where it would cause unacceptable effects on the amenities of the area; the amenity of neighbouring occupants, or the amenity of future occupiers of the site.
- 6.11 A number of comments have been received in relation to the current use of the containers which have been used to store dried fish. A consequence of the storage of dried fish within these containers was that the Council received reports of an unpleasant fish odour emanating from the containers when deliveries and collection occurred.
- 6.12 The Council has taken action, via the service of an Odour Abatement Notice using public protection powers, to control the issue. This has resulted in the use of the containers for the storage of dried fish ceasing. It is noted that the Council's Environmental Health Officer has no objections to the storage of used electrical goods (subject to agreement and control via the Environment Agency).
- 6.13 The applicant advises within the application that it is his intention to store used electrical goods. The storage of non-food goods would be unlikely to result in any loss of amenity to nearby occupiers as a result of smells emanating from the site. However the containers remain entirely unacceptable in terms of design and visual appearance.

### IV. TRAFFIC IMPACT, ACCESS AND CAR PARKING

- 6.14 A number of the neighbour comments received expressed concern regarding the deliveries to the site and the impact to the adjacent highway on Parker Road. As detailed earlier in the report, the area is separate from Nos 150-152 London Road.
- 6.15 The site is operating as a storage use at present and the storage containers are just on one part of the site. Vehicular activity and deliveries would already be occurring to this site. It is also likely that deliveries and servicing for the nearby retail units on London Road would occur along Parker Road as opposed to on London Road.
- 6.16 London Road is a Level 2 Urban Road and the concerns with deliveries and their impact to the highway are noted. Whilst the proposed use for storage of electrical goods is separate from the uses carried out in the buildings that face onto London Road the Highways Officer has been consulted and does not consider that the

deliveries relating to the containers on the site would lead to any intensification of Vehicle movements to the site. As a consequence the Highways Officer has raised no objections to the application on highway grounds

- 6.17 In light of the above, it is considered that the application complies with Policies PMD8 and PMD9 of the Core Strategy (2015).

#### V. FLOOD RISK AND SITE DRAINAGE

- 6.18 The site is located within high flood risk zone 3 where there are already flood defences in place. The application does not change the use of the Land and accordingly a Flood Risk Assessment is not required. The application is unlikely to lead to any further risk by way of flooding or surface water drainage.

### 7.0 CONCLUSIONS AND REASONS FOR RECOMMENDATION

- 7.1 The application seeks retrospective planning permission for the siting of two containers to be used for storage purposes.
- 7.2 The containers are intended to be permanently sited and are highly visible from Parker Road. The siting of the containers results in harm to visual amenity which is detrimental to the appearance and character of the street scene.
- 7.3 The application is recommended for refusal. In the event the application is refused, planning enforcement action will follow to seek the removal of the containers from the land.

### 8.0 RECOMMENDATION

- 8.1 Refuse for the following reason:

1. The containers are visually prominent in Parker Road and, by virtue of their utilitarian appearance and materials are harmful to the visual amenities of the location detrimental to the appearance and character of the street scene. The siting of the containers is consequently considered to be contrary to Policies CSTP23 and PMD2 of the Core Strategy (2015) and design guidance in the NPPF.

#### **Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online:

[www.thurrock.gov.uk/planning](http://www.thurrock.gov.uk/planning)

