

<b>Reference:</b> 15/01342/FUL	<b>Site:</b> Bulimba Butts Road Stanford Le Hope Essex SS17 0JH
<b>Ward:</b> Stanford Le Hope West	<b>Proposal:</b> Retention of a boundary fence and change of use of existing part of residential garden to commercial open storage.

Plan Number(s):		
Reference	Name	Received
TQ6882	Location Plan	11th November 2015
BULIMBA	Site Layout	11th November 2015

The application is also accompanied by:

- Aerial Photograph

<b>Applicant:</b> Mr Darren Matthews	<b>Validated:</b> 11 November 2015 <b>Date of expiry:</b> 17 <sup>th</sup> March 2016
<b>Recommendation:</b> To refuse and to authorise enforcement action.	

This application has been called in by Councillor S. Hebb, Councillor J. Halden, Councillor B. Little, Councillor D. Stewart and Councillor S. Little for members of the Planning Committee to review the application and assess any impact of amenity to local community.

## 1. Description Of Proposal

- 1.1 This application seeks planning consent to reduce an existing 3m high fence to a 2.7m and the change of use of part of the residential garden to commercial open storage. The proposal also seeks to reduce the depth of the area for commercial use by 2.4m.
- 1.2 The application is a revised planning application following the refusal of application reference 14/01363/FUL which was subsequently appealed and dismissed by the Planning Inspectorate.

## 2. Site Description

- 2.1 The application site forms part of a residential garden which has been converted to part of a joinery works at the end of Butts Road, adjacent to a fenced National Grid compound and a railway line.
- 2.3 The site is on land designated as a residential area on the Council's LDF Proposals Map. Although Butts Road is primarily residential in character, there are pockets of commercial use, including the joinery works and a coal yard.

## 3. Relevant History

Reference	Description	Decision
14/01363/FUL	Retrospective Change of use of part of residential garden to commercial open storage space with the erection of a 3 metre high security fence.	Refused and subsequent appeal dismissed

## 4. Consultations And Representations

- 4.1 Detailed below is a summary of the consultation responses received. The full version of each consultation response can be viewed on the Council's website via public access at the following link:

[www.thurrock.gov.uk/planning/15/01342/FUL](http://www.thurrock.gov.uk/planning/15/01342/FUL)

### PUBLICITY:

The application has been advertised by way of individual neighbour letters. A public site notice has also been displayed. One written comment has been received, objecting to the proposals on the following grounds:

- Out of character;
- Spoiling view;
- Overlooking.

### ENVIRONMENTAL HEALTH:

- 4.2 No objections.

### LANDSCAPE:

- 4.3 Recommend refusal.

## 5. Policy Context

- 5.1 The NPPF was published on 27th March 2012. Paragraph 13 of the Framework sets out a presumption in favour of sustainable development. Paragraph 196 of the Framework 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. Paragraph 197 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.
- 5.2 The following headings and content of the NPPF are relevant to the consideration of the current proposals.
- 7. Requiring good design
  - 8. Promoting healthy communities
  - 11. Conserving and enhancing the natural environment

### Planning Practice Guidance (PPG)

- 5.3 In March 2014 the 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. PPG contains 42 subject areas, with each area containing several sub-topics. Those of particular relevance to the determination of this planning application comprise:

- Design;
- Noise

### **Local Planning Policy**

#### Thurrock Local Development Framework

- 5.4 The Council adopted the “Core Strategy and Policies for the Management of Development Plan Document” in December 2011. The following Core Strategy policies apply to the proposals:

#### Thematic Policies:

CSTP1 (Strategic Housing Provision)  
CSTP22 (Thurrock Design)

#### Policies for the Management of Development:

PMD1 (Minimising Pollution and Impacts on Amenity)<sup>2</sup>  
PMD2 (Design and Layout)<sup>2</sup>

[2: Wording of LDF-CS Policy and forward amended either in part or in full by the Focused Review of the LDF Core Strategy.]

5.5 The Core Strategy has been subject to a focused review for consistency with the (NPPF). The focused review document was submitted to the Secretary of State for independent examination on 1 August 2013, and examination hearings took place on 8 April 2014. The Inspector's report was received in October 2014 and was approved by Council on 28<sup>th</sup> January 2015. Minor changes have been made to some policies within the Core Strategy; the policies affected by the changes are indicated above.

## 6. Assessment

6.1 The principal issues to be considered in this case are:

- I. Plan designation and principle of development
- II. Design, relationship of development with surroundings
- III Residential impacts

### I. PLAN DESIGNATION AND PRINCIPLE OF DEVELOPMENT

6.2 The site is designated as a residential area on the Council's LDF Proposals Map. The NPPF states at paragraph 56:

*'The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.'*

6.3 Para 57 and 58 goes onto state *'It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.....Planning policies and decisions should aim to ensure that developments among other things will*

- *function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- *establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit; and*
- *are visually attractive as a result of good architecture and appropriate landscaping'.*

6.4 Policy PMD1 of the LDF Core Strategy relates to minimising pollution and impacts on amenity. This Policy states *'The main sources of pollution in Thurrock are emissions from road transport and industrial processes.....The Borough also has a history of incompatible land uses, with housing having been developed next to heavy industries. This has resulted in a poor living environment. The Council's aspiration is to break from previous trends and to minimise pollution, enhance local amenity and provide safe and healthy environments for the community....'*

- 6.5 Policy PMD1 further states that *'Development will not be permitted where it would cause unacceptable effects on: i. the amenities of the area; ii. the amenity of neighbouring occupants; or iii. the amenity of future occupiers of the site.'*
- 6.6 'Bulimba' and 'Shirley' are semi-detached pair of houses sitting between the joinery works and coal yard. Approximately 170 sqm of the original 231 sqm garden of Bulimba has been hard surfaced and fenced off to expand the joinery works premises.
- 6.7 The boundaries of the application site with the remaining garden for 'Bulimba' and the garden of 'Shirley' have been increased in height with a solid, green metal fence.
- 6.8 The previous application referred to in section 3 was refused on the basis of the impact of the new use, for commercial purposes on part of land previously occupied by the garden of Bulimba. The Inspector indicated in dismissing the previous appeal that changes to the fence *"would not address the issue of the closer proximity of businesses activity to the neighbouring properties"* (paragraph 9). Whilst this proposal would set the commercial use further away from the rear of Bulimba, in light of the comments of the Inspector it is considered that the use of the garden for commercial purposes in any respect should be viewed as harmful to neighbour amenity.

## II DESIGN, RELATIONSHIP OF DEVELOPMENT WITH SURROUNDINGS

- 6.9 The current proposal seeks a reduction of the height of the fence from 3m to 2.7m and extension in the depth of the existing garden by 2.4m (thereby reducing the size of the excluded commercial area).
- 6.10 The Council's Landscape Officer objects to the proposal. He indicates that although the visual impacts of the fence and change of use to commercial open storage are contained (with there being few significant effects beyond the immediate neighbours) the effects on these neighbours are considered significant as the tall, solid fence is very obtrusive and stored material would be close to the adjoining residential property. He advises that the scheme would mean that this property would be bounded on both sides by commercial premises which alter the character and the setting of their property. He recommends that this application as it stands is refused on landscape grounds.
- 6.11 In dismissing the appeal the Inspector stated (paragraph 8):

*Although the fence which has been installed seeks to minimise the impact on neighbouring residents, its height, solid materials and non-domestic appearance make it appear particularly intrusive and overbearing to the outlook for neighbouring residents from their homes and gardens. I note the appellant's view that, given the environmental circumstances, one would be*

*hard pressed to adversely affect the outlook of adjacent properties, but I find that the expansion of the business onto former garden land has materially diminished an already compromised environment.*

- 6.12 The proposed limited reduction in height of the fence and the similarly limited additional distance from the back of the property is not considered to be enough of a change to overcome the harm identified to the outlook and overbearing impact of the fence which was part of the Inspector's reasoning for dismissing the previous appeal. It could also be argued that reducing the height of the fence will cause additional harm to neighbours in relation to loss of amenity as a result of the activity carried out on the site. Fundamentally, the development is not appropriate for this location.
- 6.13 Accordingly the proposal is considered to adversely affect the character and residential amenity of the neighbouring properties, failing to accord with the aims of Core Strategy Policy PMD1 and PMD2.

### III RESIDENTIAL IMPACTS

- 6.14 The application site is a garden of a residential dwelling, the extension of the works yard into the garden is already impacting on the both the original property and the adjacent property 'Shirley'. The previous application was also refused on the basis of the impact of the use of the garden area on the amenities of the occupiers of the nearby properties
- 6.15 In dismissing the appeal the Inspector stated (paragraph 6):

*In this mixed residential and commercial context, there is a degree of noise and activity which residents already experience, and ambient noise levels would include operating trains and traffic noise. However, the sub-division of the garden of 'Bulimba' and the change of use to commercial storage has moved the associated activity closer to residents of that frontage house and 'Shirley'. The timber storage is an integral part of the business on site, and in the absence of any technical assessment to the contrary, I consider that use of the yard creates a material degree of noise and disturbance in close proximity to residential properties.*

- 6.16 The current proposal still seeks to use the majority of the garden area of Bulimba for commercial purposes. The marginal (2.4m) decrease in depth of the yard area is not considered to overcome the issued raised in the original refusal or by the Inspector at appeal.
- 6.17 Accordingly it is considered that the use of the garden area for commercial storage would continue to negatively impact on the amenities of the occupiers of Bulimba and Shirley, contrary to Policy PMD1 of the Core Strategy.

## **7. Conclusions And Reason(S) For Refusal**

- 7.1 The expansion of the commercial activities closer to residential properties would adversely impact on the amenities of neighbouring properties.
- 7.2 The proposed changes to the previous application are not considered to overcome the harm previously identified, and the in-principle objection identified by the Inspector.
- 7.3 The proposal therefore remains unacceptable in respect of the living conditions by reason of the uses taking place, contrary to Policy PMD1 of the Core Strategy and also impacting on the outlook and amenities as a result of the fence, contrary to Policies PMD1 and PMD2 of the Core Strategy.
- 7.4 Furthermore, it is expedient to take enforcement action to remedy this breach of planning control due to the impact of the use on the amenity of neighbours and the dominant and visually intrusive impact of the fencing on the occupiers of the neighbouring properties.

## **8. Recommendation**

- A) To refuse permission for the reasons set out below.
- B) To authorise the service of an Enforcement Notice under S.172 of the Town and Country Planning Act 1990 (as amended) and to authorise any subsequent legal action to enforce the provisions of that Notice to remedy the breaches of planning control identified in this report.

### **Reason(s):**

Refuse planning permission for the following reason:

1. The site is on land designated as a residential area on the Council's LDF Proposals Map. Policy PMD1 of the Local Development Framework requires development not to cause unacceptable effects on the amenities of the area, the amenity of neighbouring occupants or the amenity of future occupiers of the site and pollution.

Policy PMD2 (Design and Layout) 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.

A) The change of use of part of residential garden to commercial open storage space by reason of its proximity to existing residential properties is detrimental to the outlook and amenities of those properties, contrary to Policy PMD1 of the Core Strategy. The use of

the extended area of land for commercial purposes is considered to be unacceptable in principle.

B) In addition the erection of a 2.7m high security fence, by reason of its height, materials and proximity to the boundary of residential dwellings, is a dominant and visually intrusive feature to the occupiers of those properties, contrary to Policies PMD1 and PMD2 of the Core Strategy.

**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/15/01342/FUL](http://www.thurrock.gov.uk/planning/15/01342/FUL)

Alternatively, hard copies are also available to view at Planning, Thurrock Council, Civic Offices, New Road, Grays, Essex, RM17 6SL.



