

<b>Reference:</b>	16/01249/FUL
<b>Ward:</b>	Victoria
<b>Proposal:</b>	Erect Boundary Fence (Retrospective)
<b>Address:</b>	Southend Bowls Club, 7 Tunbridge Road, Southend-on-Sea, Essex SS2 6LT
<b>Applicant:</b>	Mr Peter Lovett (Southend Bowls Club)
<b>Agent:</b>	
<b>Consultation Expiry:</b>	09/09/16
<b>Expiry Date:</b>	12/10/16
<b>Case Officer:</b>	Ian Harrison
<b>Plan Nos:</b>	Existing and Proposed Elevations, Item 3, Item 4 and Site Plan
<b>Recommendation:</b>	<b>REFUSE PLANNING PERMISSION AND AUTHORISE ENFORCEMENT ACTION</b>



## **1 The Proposal**

- 1.1 Retrospective planning permission is sought for the erection of a fence at the east boundary of the Southend Bowls club site.
- 1.2 The side boundary of the site was formerly demarked with a 0.5 metre tall retaining wall above which was a hedge that extended for 49 metres along the east boundary of the site. The hedge has been removed and replaced with a fence that measures 1.8 metres tall above the existing 0.5 metre high retaining wall, with gravel boards measuring 0.28 metres tall. This gives a total boundary treatment height of approximately 2.58 metres.
- 1.3 In support of the application the applicant has included letters that set out that the former hedge was a maintenance burden, was encroaching into the public highway and was causing an electric fence to 'short' which allowed foxes onto the rink. Six response forms to a neighbour survey have been submitted showing general support for the fence and photographs have been submitted of various other fences and walls that have been erected within similar proximity to the public highway.

## **2 Site and Surroundings**

- 2.1 The application site comprises a large plot of land accommodating a bowling green, a two storey clubhouse and vehicle parking area lying to the west side of Tunbridge Road approximately 50m from its junction with Carnarvon Road to the south. The Council has a freehold interest in the land which is the subject of a long lease in favour of Southend Bowls Club.
- 2.2 Public amenity land exists to the west of the application site, a doctor's surgery exists to the south and all other neighbouring properties are in residential use.

## **3 Planning Considerations**

- 3.1 The main considerations in the determination of this application are the principle of the development, design and impact on the streetscene, impact on residential amenity of neighbouring residents and traffic and highways issues.

## **4 Appraisal**

### **Principle of Development**

#### **National Planning Policy Framework; DPD1 (Core Strategy) policies KP2 and CP4; Development Management DPD Policies DM1 and DM15 and the Design and Townscape Guide SPD1 (2009)**

- 4.1 This proposal is considered in the context of the Borough Council policies relating to design. Also of relevance are National Planning Policy Framework Sections 56 and 64, Core Strategy DPD Policies KP2, CP4 and CP8. Paragraph 56 of the NPPF states; *"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."*

Paragraph 64 of the NPPF states; *“that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.”*

- 4.2 Policy KP2 of the Core Strategy requires that new development contributes to economic, social, physical and environmental regeneration in a sustainable way through securing improvements to the urban environment through quality design, and respecting the character and scale of the existing neighbourhood. Policy CP4 requires that new development be of appropriate design and have a satisfactory relationship with surrounding development.
- 4.3 The proposed development has occurred ancillary to an existing use of land and does not represent a change of use of land. As such, subject to the following detailed considerations, it is considered that no objection should be raised to the principle of a boundary treatment.

### **Design and Impact on the Character of the Area**

#### **National Planning Policy Framework, Policy KP2 and CP4 of the Core Strategy, Development Management DPD Policies DM1 and DM3 and Design and Townscape Guide.**

- 4.4 In the Council’s Development Management DPD, policy DM1 states that development should “add to the overall quality of the area and respect the character of the site, its local context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, layout, proportions, materials, townscape and/or landscape setting, use, and detailed design features.”
- 4.5 The fence here comprises close boarded wooden panels with concrete gravel boards supported by concrete posts which have been erected to the top of the previously existing low wall. This is a vernacular form of boundary enclosure commonly used in both domestic and commercial situations. However, It is considered that, in this location, its height is excessive and this, together with its substantial length, renders its appearance incongruous and out of keeping in the streetscene.
- 4.6 It is noted that other walls and fences exist within the Southend Borough, but it is established planning practice that each case has to be considered on its own merits and it is also considered that the visual impact of a wall is often materially different to a fence as it is considered that walls are of materially greater aesthetic quality than a fence.
- 4.7 The applicant has drawn attention to a wall on the opposite side of Tunbridge Road but this does not provide grounds to support an expansive and elevated fence. Similarly, wall and fences in Lodwick, Shoebury Common Road and unspecified locations elsewhere in the Borough are considered to be of no relevance to the determination of this application. Further to the above it is considered that there are no examples of fences within the vicinity of the site that are of comparable length, height or prominence in relation to the public highway and therefore it is considered that the development that has occurred is not in-keeping with the established character of the surrounding area.

- 4.8 The unauthorised boundary enclosure is considered to be detrimental to the character and visual amenities of the area in that its excessive height and substantial length renders its appearance incongruous and out of keeping in the streetscene contrary to the National Planning Policy Framework (NPPF), Core Strategy (DPD1) Policies KP2 (Development Principles) and CP4 (The Environment and Urban Renaissance), Policy DM1 of the Development Management DPD and the Design and Townscape Guide (SPD1).

#### **Impact on Residential Amenity.**

#### **National Planning Policy Framework, Policy CP4 of the Core Strategy, Development Management DPD Policy DM1 and Design and Townscape Guide.**

- 4.9 Paragraph 343 of SPD1 (under the heading of Alterations and Additions to Existing Residential Buildings) states, amongst other criteria, that extensions must respect the amenity of neighbouring buildings and ensure not to adversely affect light, outlook or privacy of the habitable rooms in adjacent properties. Policy DM1 of the Development Management DPD also states that development should “Protect the amenity of the site, immediate neighbours, and surrounding area, having regard to privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution, and daylight and sunlight.”
- 4.10 Notwithstanding the visibility of the fence and its impact on the streetscene, due to the separation distance between the fence and the neighbouring residential properties it is considered that the fence does not cause a loss of light, privacy or outlook within any residential property to an extent that would justify the refusal of the application.

#### **Highways and Transport Issues:**

#### **National Planning Policy Framework, Policy KP2, CP4 and CP8 of the Core Strategy, Development Management DPD Policies DM1, DM3 and DM15 and the Design and Townscape Guide.**

- 4.11 The fence that has been erected does not restrict visibility splays within the public highway and has no implications for parking. It is therefore considered that no objection should be raised on those grounds.

#### **Community Infrastructure Levy**

- 4.12 The development that has occurred is not CIL liable.

#### **Conclusion**

- 4.13 For the reasons set out above, it is considered that the fence that has been erected causes material harm to the character and appearance of the site and the streetscene of Tunbridge Road. The proposal is therefore considered to be contrary to the abovementioned development plan policies.

## **Enforcement Action**

- 4.14 Officers were due to present an item to the Council's Development Control Committee in June 2016 but it was decided that the matter should be deferred pending the submission of a planning application. This is that application and, as set out above, it remains the opinion of Officers that the development is visually unacceptable and should not be granted planning permission. In addition to the recommendation to refuse planning permission, it is recommended that authorisation to take enforcement action is granted.
- 4.15 Taking enforcement action in this case may amount to an interference with the owners' and/or occupiers' Human Rights. However, it is necessary for the Council to balance the rights of the owners and/or occupiers against its legitimate aims to regulate and control land within its area. In this particular case it is considered reasonable, expedient, proportionate and in the public interest to pursue enforcement action on the grounds set out in the formal recommendation.

## **5 Planning Policy Summary**

- 5.1 National Planning Policy Framework
- 5.2 DPD1 Core Strategy Policies CP4 (Environment & Urban Renaissance) and KP2 (Development Principles), CP8 (Dwelling Provision)
- 5.3 Development Management DPD Policies DM1, DM2, DM3, DM7, DM8 and DM15
- 5.4 Community Infrastructure Levy Charging Schedule
- 5.5 Design & Townscape Guide 2009 (SPD1).

## **6 Representation Summary**

### **Highway Authority**

- 6.1 No objection is raised to the proposal.

### **Public Consultation**

- 6.2 27 neighbours were notified of the application and a site notice was posted at the site. One letter of objection has been received which objects on the grounds that the site now looks like a factory site, hedging was preferred, no notice was given before the fence being erected and it has caused a change to the view from their property.
- 6.3 The application has been called-in to the Council's Development Control Committee by Cllr Woodley.

## **7 Relevant Planning History**

- 7.1 Permission was granted for an entrance porch under the terms of application 86/0872.



- 7.2 The authorised enforcement action to include (if/as necessary) the service of an Enforcement Notice under Section 172 of the Act and the pursuance of proceedings whether by prosecution or injunction to secure compliance with the requirements of the Enforcement Notice.
- 7.3 When serving an Enforcement Notice the local planning authority must ensure a reasonable time for compliance. In this case, the necessary remedial works would probably require quotes to be obtained and contractors to be engaged so a compliance period of 3 months is considered reasonable.

## **8 Planning Recommendation**

- 8.1 **Members are recommended to REFUSE PLANNING PERMISSION for the following reason**

**The boundary fence is detrimental to the character and visual amenities of the area by reason of its excessive height and length which render its appearance incongruous and out of keeping in the streetscene contrary to the National Planning Policy Framework (NPPF), Core Strategy DPD Policies KP2 (Development Principles) and CP4 (The Environment and Urban Renaissance), Policy DM1 of the Development Management DPD and the Design & Townscape Guide (SPD1).**

**The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The detailed analysis is set out in a report prepared by officers. In the circumstances the proposal is not considered to be sustainable development. The Local Planning Authority is willing to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development, should the applicant wish to exercise this option in accordance with the Council's pre-application advice service.**

### **Informative:**

**You are advised that in this instance the development is CIL liable however, due to the nature of the development, the chargeable amount for the Community Infrastructure Levy (CIL) has been calculated as zero.**

## **9 Enforcement Recommendation**

- 9.1 Members are recommended to: AUTHORISE ENFORCEMENT ACTION to secure the removal of the fence constructed to the eastern boundary of the property adjacent to Tunbridge Road or reduce its height to a maximum of 1.0m on the grounds that the unauthorised development is detrimental to the character and visual amenities of the area by reason of its excessive height and length which render its appearance incongruous and out of keeping in the streetscene contrary to the National Planning Policy Framework (NPPF), Core Strategy DPD Policies KP2 (Development Principles) and CP4 (The Environment and Urban Renaissance), Policy DM1 of the Development Management DPD and the Design & Townscape Guide (SPD1).**