

**PLANNING COMMITTEE – 30 APRIL 2020****PART 3**

Report of the Head of Planning

**PART 3**Applications for which **REFUSAL** is recommended

<b>3.1 REFERENCE NO - 19/506123/FULL</b>		
<b>APPLICATION PROPOSAL</b> Retrospective application for erection of boundary fence and entrance gates. (Works complete)		
<b>ADDRESS</b> St Nicholas Allotment St Nicholas Road Faversham Kent ME13 7PB		
<b>RECOMMENDATION</b> - Refusal		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Applicant is a member of the Town Council		
<b>WARD</b> Watling	<b>PARISH/TOWN</b> Faversham Town	<b>COUNCIL</b> Faversham Town Council
<b>DECISION DUE DATE</b> 09/03/20	<b>PUBLICITY EXPIRY DATE</b> 10/02/20	

**1. DESCRIPTION OF SITE**

- 1.1 This retrospective application relates to land used as allotments that is located within the Local Plan defined built up area of Faversham. The allotments are now in the control of the applicant following their transfer from Borough Council ownership some years ago. The site is now being restored for allotment use after a long period of dereliction. Access to the site is by two narrow footpaths from St. Nicholas Road, one of which leads south-westwards to a level crossing on the main railway line where it runs to the south of the allotments.
- 1.2 The allotments adjoin established housing to the north and east. Along its eastern boundary the fence runs at the bottom of the gardens of ten houses, whilst along its northern boundary it runs on the far side of a path that provides the only access to the front doors of five houses that face the site.
- 1.3 To the west of the allotments site is the southern part of the former Cremer and Whiting brickworks site which has been vacant for some years, but which is now being redeveloped for new housing under outline planning permission 14/502729/OUT (approved on 23 December 2015) and reserved matters application 18/506283/REM (approved 30 October 2019). These decisions authorise the re-development of the former brickworks and land to its north for up to 250 dwellings. The approved site layout includes two areas of public open space and five houses with relatively short rear gardens (and a small block of flats) alongside the allotments and the new fence. The approved layout indicates a path leading from the new estate directly in to the allotments adjacent to these new houses approximately halfway along the western boundary of the allotments.

- 1.4 A Section 106 Agreement (dated 22 December 2015) tied to the outline planning permission has secured an index linked financial contribution towards “Off-Site play Space and Allotment Contribution” of £861.24 per dwelling payable prior to the first occupation of the 63<sup>rd</sup> dwelling on the site. This contribution is intended to fund the construction of off-site play equipment in Lower Road and the refurbishment of the St. Nicholas Road Allotment Site, but it has not been triggered yet as the development has not yet reached that stage.

## 2. PROPOSAL

- 2.1 This application seeks retrospective planning permission for the erection of a boundary fence and entrance gates to the allotments site. The galvanised palisade fencing completely surrounds the allotments site and is 290m long and 2.4m in height. The fence has three pedestrian gates, one each on its northern, south-western and south-eastern sides. It does not have a gate on its western side where the path from the new housing estate is due to be built.

## 3. PLANNING CONSTRAINTS

- 3.1 Potential Archaeological Importance

## 4. POLICY AND CONSIDERATIONS

- 4.1 The National Planning Policy Framework (NPPF)

- 4.2 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies

Policy CP5: Health and wellbeing

Policy DM14: General development criteria

Policy CP5 reads as follows;

*The Council, working in conjunction with relevant organisations, communities and developers, will promote, protect and work to improve the health of Swale’s population, and reduce health inequalities.*

*Development proposals will, as appropriate:*

- 1. Bring forward accessible new community services and facilities, including health facilities;*
- 2. Safeguard existing community services and facilities where they are viable or can be made so, or where replacement facilities can be provided without leading to any shortfall in provision, or where the local Clinical Commissioning Group has indicated a need for health facilities;*
- 3. Safeguard or provide as appropriate, open space, sport and recreation in accordance with Policy DM 17, additionally enabling access to nature in accordance with the Local Plan Natural Assets and Green Infrastructure Strategy in Policy CP 7;*
- 4. Promote healthier options for transport, including cycling and walking;*
- 5. Improve or increase access to a healthy food supply such as allotments, markets and farm shops;*
- 6. Create social interaction and safe environments through mixed uses and in the design and layout of new development;*

*7. Create a healthy environment that regulates local climate by providing open space and greenery to achieve shading and cooling, particularly within existing urban environments; and*

*8. Undertake and implement a Health Impact Assessment for relevant proposals that are:*

- a. required to undertake Environmental Impact Assessments; or*
- b. within Swale's most deprived wards; or*
- c. identified as required by the Local Plan.*

In terms of Policy DM 14 amongst the criteria to assess all development proposals it includes the following:

“ .....7. Be both well sited and of a scale, design ,appearance and detail that is sympathetic and appropriate to the location.

8. Cause no significant harm to amenity and other sensitive uses or areas.....”

## **5. LOCAL REPRESENTATIONS**

5.1 Two letters from residents of wider Faversham have commented, in summary, that:

- the area had become a derelict area for some 20 years, with rubbish, fly tipping and anti-social behaviour
- local residents have worked hard to clear up the site and bring it to a condition fit for general and social use
- the fencing is absolutely necessary as the ground had been used for illegal fly tipping and other anti-social behaviour
- the fence not only provides security to the allotments site, but also to the rear boundaries of adjoining houses in St Nicholas Road
- when the site was unfenced tools were stolen from a wooden shed
- the fencing is standard industrial grade fencing used around the town
- planting is and will continue to be provided to reduce the initial stark nature in front of 96 to 104 St Nicholas Road
- the eastern boundary is already hidden by tall trees and adjacent domestic fencing and sheds
- the western boundary is set against rising land and the approved development includes trees which will screen the fencing

## **6. CONSULTATIONS**

6.1 The KCC Public Rights of Way East Kent Area Officer has raised no objection as long as the access gates open into the allotments. One resident of wider Faversham has written in response to point out that as the fence has already been built it can be seen that the gates open into the allotments.

- 6.2 The County Archaeological Officer has confirmed that no archaeological measures are required.
- 6.3 Swale Footpaths Group says that they have nothing to add to the KCC Public Rights of Way Officer's comments.
- 6.4 The Council's Green Spaces Manager has commented as follows:

*"I would recognise the strong desire to secure an allotment site given the level of both anti-social behaviour and theft that can be experienced both in terms of interference and theft of produce and from tool sheds etc. As such, supportive of fencing as it is not unusual for sites to have similar secure fencing to appropriate heights, for example East Hall Allotment site in Sittingbourne.*

*The St. Nicholas site is vulnerable tucked in behind housing with limited natural surveillance while also having a boundary on a public footpath with passers-by viewing potential "opportunities".*

### **APPRAISAL**

- 6.5 The main consideration in the determination of this planning application is the impact of the proposed fence on residential and visual amenity, and whether any adverse impact is outweighed by the benefits of the fencing.
- 6.6 In my view the new 2.4m high pallisade fence has a very intrusive and harsh appearance close to existing and proposed housing. It is prominent and harmful to visual and neighbouring amenities, especially those properties fronting onto it, and to the new development that was permitted close to it without an expectation of such an intrusive fence. The residents at 96-104 St Nicholas Road have short front gardens which face the new palisade fencing at close range, and they must pass the fence every time they enter or leave their homes. The fence has a very distinct industrial appearance and an enclosing effect and is very intrusive. The other surrounding properties (including the new housing development under construction to the west), have/will have rear gardens enclosed with appropriate fencing which are less intrusive.
- 6.7 The land has previously been set between rear gardens and the brickworks to the west. The former brickworks has been closed for some time and this may have reduced natural security and surveillance of the allotments site. However, the re-development of the brickworks site will bring back that natural security and reduce the need for such a high security fence. To my mind the need for the fence is doubtful and its harm is not outweighed by the need.
- 6.8 Whilst a 2m fence could be erected without the need for a planning application the applicants have exceeded that height without considering the need for planning permission. I see no reason why most, if not all, of the benefits of the fence cannot be secured by a 2m high fence, and that solution still exists. To that extent refusal of the current application does not deny the applicant from securing the site.
- 6.9 I have considered the supportive comments of the Greenspaces Officer in relation to the similar fencing around allotments at East Hall in Sittingbourne. However, that fencing is largely screened by established planting, is far further from and less intrusive to

neighbours, and surrounds a site which sits between the back of a housing estate and industrial development; not between housing areas and immediately in front of dwellings where it significantly affects their outlook and amenity. The fencing will also be alongside two areas of public open space that have yet to be laid out, and where I consider that it will detract from their quality and amenity. The East Hall site is far less well supervised by existing and proposed housing and more vulnerable. I do not see the situations as so similar that the fencing there provides any justification for the fencing at St. Nicholas Road.

## **7. CONCLUSION**

- 7.1 On the basis of the above, I consider the boundary fence and entrance gates would amount to an obtrusive structure which would give rise to significant harm to the visual and neighbouring amenities of the area, which the need for does not outweigh. As such I recommend planning permission is refused.

## **8. RECOMMENDATION – Refuse for the following reason;**

### **REASON**

- (1) The proposed fence would, by virtue of its siting, height and design, result in a prominent and intrusive form of enclosure which causes demonstrable harm to the character and appearance of the area and visual amenities of the area, which in the Council's opinion the need for does not outweigh the harm that it causes. It would therefore be unacceptable development contrary to policies DM14 and CP4 of the Council's 2017 adopted Local Plan Bearing Fruits 2031.

### **The Council's approach to the application**

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

In this instance the application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

