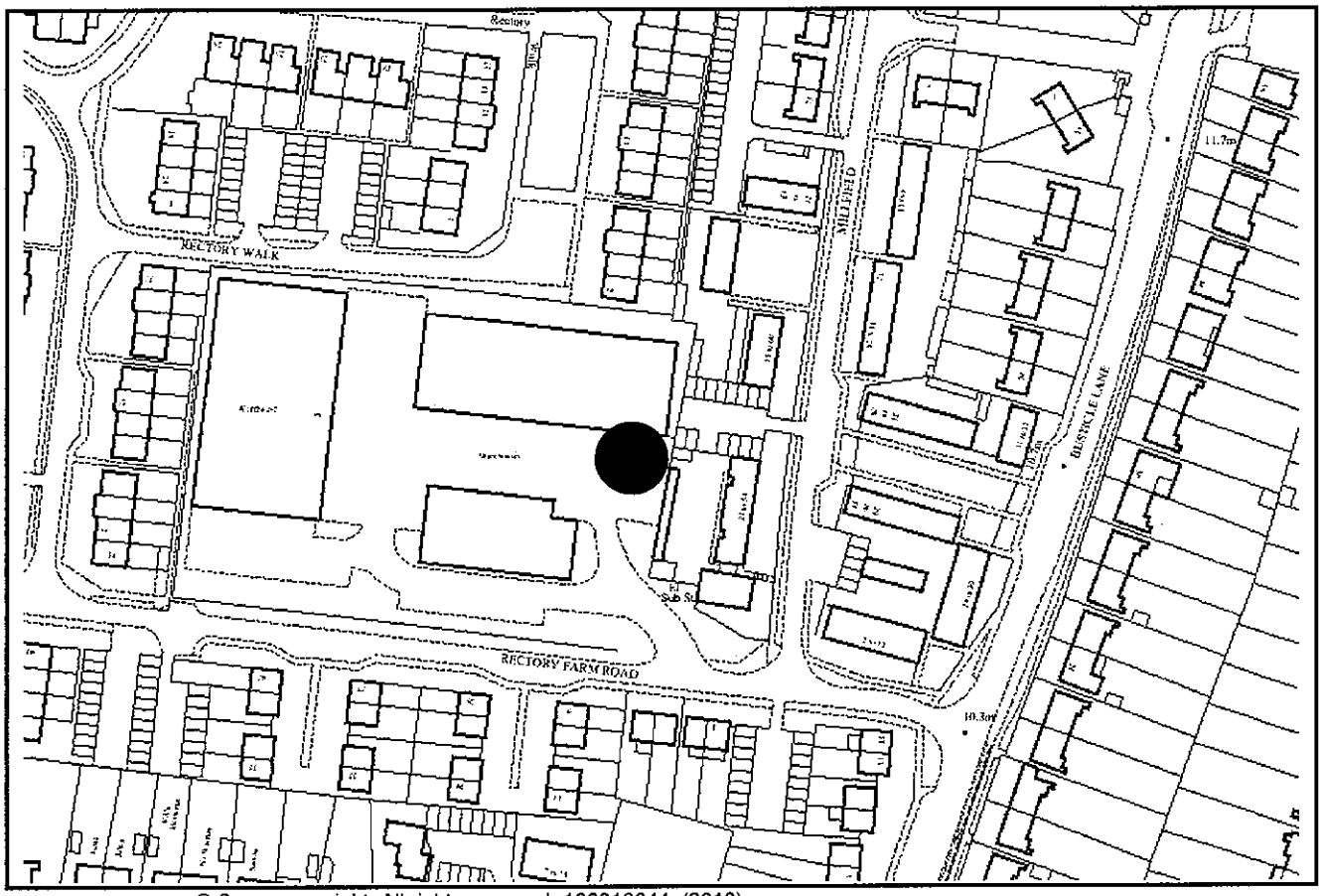
Application Number: ADC/0288/10 **Recommendation – REFUSE**

Site: **Unit 3, Rectory Farm Road, Sompting BN15 0DP**

Proposal: **Removal of condition 5 of planning permission ADC/0314/09 and replacement with new condition requiring woven mesh shading panels to be affixed to fence on eastern boundary (instead of close-boarded fence)**



© Crown copyright. All rights reserved. 100018844. (2010)

The Application

This application is to erect green-coloured acrylic-type woven mesh (to a maximum height of 2m) on the 3m high green weldmesh fence of the eastern boundary of this site (with Millfield flats). This would be instead of erecting a 2m high close-boarded fence.
The condition requiring the erection of this timber fence was imposed by the Committee, contrary to officer advice, on an application for permanent relaxation of a condition restricting working hours (and reception/departure of deliveries) at the adjacent warehouse building occupied by R & L Pet Products Ltd.

The applicant's agent states that the condition, as worded, requiring the timber fence to be erected within 2 months in accordance with details to be submitted and approved is unenforceable following the case law set by *Clive Payne v the National Assembly for Wales and Caerphilly County Borough Council 2007.* The Court's decision, although on an enforcement notice, means that a condition imposing such a time period for implementation is invalid because the applicant would have no control over how long the local planning authority would take to approve the submitted details or the eventuality that unsatisfactory details would be submitted and refused.

The warehouse is one of three permitted in 1972 (L/103/71) and has a floorspace of 1,393sqm. In 2003, conditional permission was granted to subdivide it into 5 units (S/63/03) for use for light industrial, research & development, storage and distribution and trade counter purposes. Condition 3 stated no working whatsoever (including loading/unloading of vehicles) shall take place outside the hours of 8am-6pm Mon-Fri and 8am-1pm Sats.

The building continued to remain vacant and, in 2006, temporary permission (S/8/06) was granted to relax condition 3 subject to further conditions preventing loading/unloading and manoeuvring (including arrival/departure) of goods vehicles outside the hours of 7am-6pm Mon-Fri and 8am-1pm Sats; and preventing any industrial process or trade counter from operating outside 8am-6pm Mon-Fri and 8am-1pm Sats. Also, no activity on Sundays and public holidays. A 2m screen fence was required on the east side boundary to protect neighbouring flats in Millfield. The whole building was occupied in 2007 by R & L Pet Products Ltd.

Consultations and Representations

Sompting Parish Council: No comments received.

Third Parties: A letter from the resident of No.54 Millfield objects on grounds that the proposal would block light out of the communal washing line area and shed area.

Relevant Planning Policies and Guidance

Adopted Adur District Local Plan 1993-2006 (ADC 1996) (saved policies): AG1, AE16
PPS 1 'Delivering Sustainable Development' (ODPM 2005)
PPS4 'Planning for Sustainable Economic Growth' (DCLG 2009)

Planning Assessment

Policies

The site comprises a small warehouse/business estate within a residential area. Unlike the main industrial areas within the District, it is not specifically identified for such use in the Local Plan. Policy AE16 states that alterations to existing business premises within the built-up area required to improve efficiency will be permitted provided access and parking is acceptable and there are no significant adverse effects on the amenity of nearby residents.

At the time permission was granted to relax the condition in 2003, the building had been vacant for over 7 years and it was considered desirable that it should be brought into use in view of the benefit to regenerating the local economy in accordance with planning objectives.

Effect on residential and visual amenities

The yard and parking area in front of Unit 3 is located adjacent to the rear boundary of the southernmost block of flats at Millfield (No's 37-54). The rear windows and doors of the flats are 14m from the boundary. The flats are on a lower ground level and have a long outbuilding (row of brickbuilt storage sheds) at the rear, abutting the boundary, with a concrete yard area (with washing lines) between the sheds and the flats.

The greatest potential for causing noise disturbance to residents arises from activity in the external yard and parking area in front of the building, rather than from within the building. In order to avoid disturbance, conditions were imposed on the previous relaxation of hours permission which require:-

1. No loading/unloading or manoeuvring of goods vehicles outside the hours of 7am-6pm Mon-Fri and 8am-1pm Sats and at no time on Sundays or public holidays;

2. No industrial process shall take place within the premises outside the hours of 8am-6pm Mon-Fri and 8am-1pm Sats and at no time on Sundays or public holidays.
3. No trade counter shall be open to visiting customers outside the hours of 8am-6pm Mon-Fri and 8am-1pm Sats and at no time on Sundays or public holidays.
4. The erection of a 2m screen fence on the east side boundary with the neighbouring flats in Millfield.

Under these conditions, full 24 hour working is prevented from taking place whether the units are used for light industry, warehousing or trade counter purposes. This leaves scope for 24 hour working in respect of the activities of research & development, maintenance and administration. If substantial numbers of employees were to be involved in these activities with shift changes during the night-time period involving significant numbers of cars arriving/departing, there could be significant disturbance to the nearest residents, but this is very unlikely in practice.

At the time of the last application, the applicants argued that the 2m high screen fence required by the Committee would do little to improve the amenities of the Millfield flats to the east because of their lower ground level and intervening outbuildings. The screen fence was not recommended by officers because it was considered unlikely to have a significant effect on noise levels or lights from vehicles and could be oppressive when viewed from the groundfloor rear windows of the flats because of the difference in levels. Nevertheless, the Committee concluded that the erection of a screen fence on the boundary was justified, although there was no consultation with the residents of the flats about such a fence. It now appears that the condition imposed is unenforceable because of the Case Law referred to above.

It is considered that the green-coloured woven mesh now proposed by the applicants as an alternative to the timber fence required by the Committee would have a poor standard of appearance and look out of place in its surroundings. There are also concerns about its deterioration over time. It would not affect the streetscene but it would adversely affect the outlook from the rear of the Millfield flats. It is considered that it would be detrimental to the appearance of the locality and that its benefit as a screen is insufficient to outweigh this objection. The Committee should note, however, that in refusing this application there would be no prospect of having any screen erected along this boundary.

Recommendation

REFUSE for the reason that:-

1. The proposed green-coloured woven mesh would be out of place and detrimental to the visual amenities of the locality, its benefits as a screen not outweighing the harm that would be caused to the appearance of the site and the outlook from the rear of the adjacent flats. It would therefore be contrary to policies AG1 and AE16 of the Adur District Local Plan.

.....