

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	20/02/19
Planning Development Manager authorisation:	AN	21/2/19
Admin checks / despatch completed	Kne SB	22/02/19 22/02/19

Application: 18/02073/FUL **Town / Parish:** Mistley Parish Council

Applicant: Mr Robin Mills

Address: Mistley Cricket Club New Road Mistley

Development: Proposed temporary safety netting and posts.

1. Town / Parish Council

Mistley Parish Council

Following the vote, the Planning Committee of Mistley Parish Council at its meeting on the 7th February 2019 agreed to support this application, which although it is in a conservation area, the practical rationale around the temporary fencing is considered necessary.

2. Consultation Responses

ECC Highways Dept

The Highway Authority does not object to the proposals as submitted.

Informative1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

SMO1 - Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester
CO4 9YQ

Tree & Landscape Officer

No trees, shrubs or hedgerows will be adversely affected by the development proposal.

Sport England

Thank you for consulting Sport England on the above named application.

Sport England - Statutory Role and Policy

It is understood that the proposal prejudices the use, or leads to the loss of use, of land being used as a playing field or has been used as a playing field in the last five years, as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015 (Statutory Instrument 2015 No. 595). The consultation with Sport England is therefore a statutory requirement.

Sport England has considered the application in light of the National Planning Policy Framework (NPPF) (in particular Para. 97), and against its own playing fields policy, which states:

'Sport England will oppose the granting of planning permission for any development which would lead to the loss of, or would prejudice the use of:

- all or any part of a playing field, or
- land which has been used as a playing field and remains undeveloped, or
- land allocated for use as a playing field

unless, in the judgement of Sport England, the development as a whole meets with one or more of five specific exceptions.'

Sport England's Playing Fields Policy and Guidance document can be viewed via the below link:

www.sportengland.org/playingfieldspolicy

Assessment against Sport England Policy/NPPF

The proposal is for temporary ball stop netting (8m high) that would be erected along an 80m length of Mistley Cricket Club's northern site boundary for 8 weeks per year during the cricket season. The purpose of the netting is to reduce the risk of ball strike on the road and properties to the north of the site. I have consulted the England & Wales Cricket Board (ECB) who have advised that following a ball strike complaint in 2017, the club commissioned a professional ball strike risk assessment which recommended that a ball strike mitigation solution be implemented to reduce the risk of ball strike which could damage properties or pose a safety risk to residents or motorists. While the proposed netting may not stop all shots from landing beyond the cricket pitch boundary, it would be expected to reduce their frequency. The ECB have confirmed that the proposed netting combined with management proposals for the use of the cricket pitch would be a sensible and suitable solution to addressing the ball strike risk. In terms of the impact on the playing field, the netting would be positioned around the northern periphery of the site and would not impact on the cricket square or its outfield area.

The proposed netting would be considered to be clearly ancillary to the use of the site as a playing field as it intended to reduce the risk of ball strike associated with the use of the playing field.

Conclusion

Further to the above assessment, Sport England is therefore satisfied that the proposal meets the following Sport England Policy exception:

- 2 - The proposed development is ancillary to the principal use of the site as a playing field or playing fields, and does not affect the quantity or quality of pitches or adversely affect their use.

Sport England therefore does not wish to raise an objection to this application, nor do we wish to recommend any conditions should planning consent be granted. The principle of the proposed netting is also supported by Sport England as a non-statutory consultee for the reasons set out above.

The absence of an objection to this application in the context of the Town and Country Planning Act, does not in any way commit Sport England or any National Governing Body of Sport to support for any related funding application.

3. Planning History

00/02028/TCA	Fell storm damaged Ash tree on railway boundary	Approved	16.01.2001
07/01420/TCA	1 No. Oak - fell	Approved	17.09.2007
07/01917/TCA	1 No. Eucalyptus - fell	Approved	17.12.2007
09/00287/FUL	Alterations and extension to existing pavilion including partial demolition.	Approved	13.05.2009
09/00288/CON	Partial demolition.		30.03.2009
14/01248/FUL	Replacement of the roof of the original pavilion to create similar design and construction of the roof of the pavilion extension granted permission under 09/00287/FUL.	Approved	10.11.2014
15/00058/FUL	Rear extension to form new bar store to pavilion.	Approved	04.03.2015

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

EN1 Landscape Character

EN3 Coastal Protection Belt

EN17 Conservation Areas

EN23 Development Within the Proximity of a Listed Building

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

PPL2 Coastal Protection Belt

PPL3 The Rural Landscape

PPL8 Conservation Areas

PPL9 Listed Buildings

SPL3 Sustainable Design

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

5. Officer Appraisal

Site Description

The application site is Mistley Cricket Club, which is located on the southern section of New Road within the parish of Mistley. The works proposed are located to the northern section of the site, adjacent to New Road. The surrounding area is relatively free of development, although there is the Sports Pavilion located adjacent to the south-west and St Mary's and St Michael's Church, a Grade II Listed Building, located to the north-east. The site also falls within the Mistley Conservation Area and also within a Coastal Protection Belt. Adjacent to the south of the site is the Suffolk Coasts and Heaths Area of Outstanding Natural Beauty.

Description of Proposal

This application proposes the erection of 17 x 8m high netting posts with associated 8m high safety netting along the northern elevation of the site, adjacent to New Road.

The proposal would only be required on a temporary basis each year between the months of July and September, and is in response to a health and safety concern following an incident involving a member of the public in 2017 nearly being struck by a cricket ball.

Assessment

1. Visual Impact

The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Policy EN3 of the Adopted Local Plan states new development which does not have a compelling functional need to be located in the Coastal Protection Belt will not be permitted. The onus will be on the applicant to prove such a need, by showing that by reason of its critical operational requirements the development cannot be located outside the Coastal Protection Belt. Even where a compelling functional need is demonstrated, the development should not significantly harm the landscape character and quality of the undeveloped coastline.

Whilst the application does fall within a Coastal Protection Belt, the applicant has supplied supporting information which explains that, due to a 'near-miss' incident in 2017 with a member of the public, there is functional health and safety need for the temporary netting during the cricket season. Further, the materials of both the posts and netting will be predominantly green in order to help them assimilate within the semi-rural surroundings, while the permission will be conditioned so the use is only granted for three months, thereby ensuring no permanent harm to the character of the Coastal Protection Belt.

2. Heritage Impact

Paragraph 196 of the National Planning Policy Framework (2018) states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Policy EN17 states that development must preserve or enhance the character of appearance of a Conservation Area, whilst Policy EN23 states that proposals for development that would adversely affect the setting of a Listed Building, including group value and long distance views will not be permitted.

The application site is sited within the Mistley Conservation Area and is also approximately 25m from a Grade II Listed Building. As such the impact of future works to both the listed building and to the character of the surrounding area is a key consideration of this application. However, given that the proposed works are of a temporary nature, are easily reversible and efforts have been made for them to assimilate within their surroundings there is not considered to be significant harm to the character or appearance of the Mistley Conservation Area. There is also sufficient separation distance to the Grade II Listed Building to ensure there will be no harm to the buildings setting.

Therefore, the works result in less than substantial harm to designated heritage assets and will also provide a small public benefit. Therefore the development is acceptable against the criterion of the above national and local policies.

Other Considerations

Mistley Parish Council support the proposal.

No other letters of representation have been received.

6. **Recommendation**

Approval.

7. Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans, documents titled 'Site Location Plan', 'Proposed Site Plan', 'Elevations', the untitled Block Plan showing the length of the proposed development, the untitled Heritage Statement and the details supplied by the applicant via email dated 21 January 2019.

Reason - For the avoidance of doubt and in the interests of proper planning.

- 3 The fencing as hereby permitted shall only be erected between 1 July and 30 September each calendar year.

Reason - To reduce the visual impacts of the proposal.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.