

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	07/10/2020
Planning Development Manager authorisation:	TF	07/10/2020
Admin checks / despatch completed	CC	07/10/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	BB	07/10/2020

Application: 20/00812/FUL **Town / Parish:** Mistley Parish Council

Applicant: Fiona Reid

Address: Mistley Norman C of E Primary School Remercie Road Mistley

Development: Replacement of low level boundary fencing, gates and internal and external perimeter fencing with new weldmesh fencing.

1. Town / Parish Council

Mistley Parish Council
07.08.2020

At its Planning Committee Meeting on the 6th August 2020, the Parish Council recommended approval.

2. Consultation Responses

ECC Highways Dept
28.09.2020

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. The public's rights and ease of passage over public footpath no. 24 (Mistley_176) shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Policies DM1 and DM11.

2. Any gates provided shall be inward opening only and shall be set back a maximum of 0.5 metres from the back edge of the footway/cycleway.

Reason: In the interest of highway safety in accordance with policy DM1.

3. Prior to commencement of the works, the areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1: On the completion of the works, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

2: Steps should be taken to ensure that the Developer provides sufficient turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site. No vehicles associated with the works shall affect the ease of passage along the PROW.

3: 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

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

3. Planning History

00/00126/FUL	Playhouse/storage shed for storage of large play equipment and play area for children	Approved	16.05.2000
95/01518/CMTR	(Norman C of E Primary School, Remercie Road, Mistley) CC/TEN/21/95 - Removal of existing clerestorey roof cladding and replacement with composite panelling incorporating new 'Velux' rooflight arrangements	Determination	08.02.1996
04/02188/FUL	Entrance extension.	Approved	07.01.2005
08/01154/CMTR	Construction of four car parking bays on the grass area on the south east part of the site.	Determination	23.09.2008

10/00640/FUL	Provision of a new single storey pre-school together with associated external storage and soft play surfacing and 2 No. additional car parking spaces.	Approved	26.08.2010
14/01591/FUL	Variation of condition 7 of planning permission 10/00640/FUL to extend opening hours 7am to 6pm Monday to Friday.	Approved	04.12.2014

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

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

SPL3 Sustainable Design

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) 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, with further hearing sessions in January 2020. The Inspector issued his findings in respect of the legal compliance and soundness of the Section 1 Plan in May 2020. He confirmed that the plan was legally compliant and that the housing and employment targets for each of the North Essex Authorities, including Tendring, were sound. However, he has recommended that for the plan to proceed to adoption, modifications will be required – including the removal of two of the three Garden Communities 'Garden Communities' proposed along the A120 (to the West of Braintree and on the Colchester/Braintree Border) that were designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033.

The three North Essex Authorities are currently considering the Inspector's advice and the implications of such modifications with a view to agreeing a way forward for the Local Plan. With the Local Plan requiring modifications which, in due course, will be the subject of consultation on their own right, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications – increasing with each stage of the plan-making process.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will progress once modifications to the Section 1 have been consulted upon and agreed by the Inspector. 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 (including Site Description and Proposal)

Site Description

The application site relates to Mistley Norman C of E Primary School which is located within the development boundary.

The school is located on Remercie Road off Stourview Avenue and situated within a residential area, backed onto along the north, east and west perimeters by the back gardens of residential properties. The site is not listed nor does it fall within a conservation area.

There is a public footpath along the main front entrance (south perimeter) between Remercie Road and Harwich Road where the existing external fences consist of low level bow top fencing (1.26m high) with pedestrian and vehicular gates along the main access road to school, chain link fencing (1.4m high) and welded mesh fencing along the public footpath.

The existing site has a mixture of chain-link, bow top and welded mesh fencing, all varying in heights, and all 3 types of which are present on the southern elevation, the front elevation of the school. The current 1.2m high low-level bow top fencing, which also includes pedestrian and vehicular gates along the main access road to the school, is not currently high enough to provide safeguarding to the school and can be easily scaled. Furthermore, the fact that these gates lack any form of access control or regulation means that the gates are manually operated and can be opened by anyone who wishes to gain access to the school grounds, or to children leaving the site without permission.

The welded mesh fencing, although relatively new, also lacks the sufficient height to provide adequate safeguarding to the school. This area of fencing has also been affected by vegetation growth which is 'breaking through' the fencing.

The 1.4m high chain-link fencing to the front elevation also faces the same issues and is in a very poor state, but this fencing has also become unsecure where people have attempted to climb over it, therefore damaging it and causing it to bow outwards.

These arrangements and fencing types/heights are not suitable for providing safeguarding for the school and has led to a number of incidents and numerous 'near misses' in recent years, highlighting that the safety and security of the school and pupils is now a major concern.

Proposal

This application seeks planning permission for the replacement of low level boundary fencing, gates and internal and external perimeter fencing with new weldmesh fencing.

Assessment

The main considerations for this application are:

- Design and Appearance
- Impact upon Neighbouring Amenities
- Highway Safety
- Other Considerations

1. Design and Appearance

The Government attach 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. One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 130 is to always seek to secure high quality design.

Saved Policies QL9, QL10 and QL11 aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties. Emerging Policy SP1 reflects these considerations.

With regards to the boundary treatment; it is acknowledged that the height and extent of fencing proposed could, under any other circumstances, result in an urbanising form of development. In order to ensure consistency within design, all existing gate openings and fencing around the site will be replaced in the same locations, but with new Zaun Duo 8 perimeter style wired mesh fencing. It is proposed that the existing boundary fencing along the schools perimeter is removed, including the higher risk area along the public footpath, and replaced with new powder coated 2.4m high 358 weld mesh perimeter fence and post system, powder coated to RAL 6005. Matching integrated vehicle and pedestrian gates will be installed, fully automated providing access control for security. The existing timber fencing and gates inside the boundary will be replaced with new 1.8m high welded mesh fence and post system, also powder coated to RAL 6005. It is considered that the proposed works are considered to make a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design.

2. Impact upon Neighbouring Amenities

The NPPF, at paragraph 127 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The application site is surrounded by residential properties to the north, east and western perimeter. Although the proposed replacement fencing will be visible to the neighbouring amenities, it is considered that the fencing is of an 'open-mesh' nature and for this reason is unlikely to materially harm the amenity of these adjoining properties.

3. Highway Safety

Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Essex Highways Authority have been consulted on this application and have stated that there are no objections subject to conditions relating to the public footpath and that the gates shall be inward open only and set back a maximum of 0.5 metres from the back edge of the footway. Overall the development will not have a highway safety impact.

4. Other Considerations

Mistley Parish Council Recommend this application for approval.

1 letter of objection has been received raising the following concerns:

- *Concerns in regards to the proposed height of the fencing due to a difference in land height and the existing height is already 3.5 metres from the property to the top of the existing fence. Further increase in fence height coupled with the more heavy duty/dense wire mesh of the proposed fence could lead to a potential loss of light.*

In response to the concern, it is acknowledged that there is a difference in land levels of approximately 1m between the school boundary and the Stourview properties (with the school being on slightly higher ground); however - the fence is of an 'open-mesh' nature and for this reason is unlikely to materially harm the amenity of these adjoining properties.

6. Recommendation

Approval - Full

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:

- Drawing No. 3198/2/SD04 - Proposed Site Layout Plan
- Drawing No. 3198/2/SD05 - Proposed Perimeter Fencing Elevations
- Drawing No. 3198/2/SD06 - Proposed External/Internal Fencing Elevations

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

- 3 If, during the erection of the fence, it becomes necessary for any of the boundary hedges to be removed to facilitate the works then replacement planting at the same place, of such size and species and shall be planted, in accordance with details which shall be agreed in writing by the local planning authority. If any part of the hedge subsequently dies or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season with others of a similar size and species unless the local planning authority gives written consent to any variation.

Reason - To ensure the presence of boundary hedges are retained as they are considered essential to enhance the character of the development.

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.

Highways

Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

On the completion of the works, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Steps should be taken to ensure that the Developer provides sufficient turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site. No vehicles associated with the works shall affect the ease of passage along the PROW.

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.

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Are there any letters to be sent to applicant / agent with the decision? If so please specify:	YES	NO
Are there any third parties to be informed of the decision? If so, please specify:	YES	NO