

SECTION A – MATTERS FOR DECISION

Planning Applications Recommended For Approval

<u>APPLICATION NO:</u> P2016/0111	<u>DATE:</u> 03/03/2016
PROPOSAL:	Erection of 4metre high welded mesh ball stop fence
LOCATION:	Cwmafan Primary School, School Terrace, Cwmafan, Port Talbot SA12 9BB
APPLICANT:	Cwmavon Primary School Governors
TYPE:	Full Plans
WARD:	Bryn & Cwmavon

BACKGROUND INFORMATION

Members should be aware that Cllr Whitelock requested on 26th April 2016 that this application be determined at Planning Committee due to the public interest that the application has generated, potential detrimental impact upon visual amenity and highway access arrangements of neighbouring residential properties.

Planning History:

None

Publicity and Responses (if applicable):

13 neighbouring properties were consulted and one site notice was displayed on site: 47 letters of objection were received and can be summarised as follows:

1. The fence will be unsightly and while the use of the green coloured weld mesh fencing is chosen to reduce visual impact, its impact will still be significant at close quarters. The fence will have a serious and detrimental impact to residents giving a cage like and being overbearing in appearance;
2. Proposal will result in a loss of access to where residents, visitors and businesses park vehicles. The resident's parking is considered to be a lawful right and the applicant has proceeded despite the resident's application to land registry. The fence will result in resident's losing access to their parking and to access to their properties from the rear as the proposal does not include a gate to allow access to the existing steps which will result in a detour via

an unsafe and poorly lit and maintained lane. The loss of the car park will also result in the loss of the bus turning area and drop off and collection point for children;

3. The low level fence already installed in the car park has led to access being obstructed by cars trying to park when there are sporting events in the field opposite. This has been alleviated by opening the gate and allowing visitors to utilise the car park. The low level fence has also resulted in parking being displaced which is reducing the customer base of local businesses as a result of a loss of parking as well as the ability to take rear deliveries;
4. This is a clear change of use of land as the area has always been a car park and not a designated play area or ball court. It is considered that the change of use will result in increases in crime, anti-social behaviour outside of school hours, increases in noise (in and out of school hours) as the use will bring children closer to the residential properties, result in damage to nearby property as the fence only covers two sides and damage to cars and will have an adverse impact on the quality of life of residents and an adverse impact on property values and the ability to sell those properties on. The parking of vehicles on this land over a substantial period will mean that there is a risk of contamination from the cars and due to this contamination is this area suitable for children to play on?
5. Section 22 of the application form is incorrect which gives the current use of the site as a school. It is understood that the existing and established use of the land in planning terms is as a car park used by school staff and used by local residents and businesses on a continual basis. Fences and signage has recently been erected in the car park in an attempt to exclude parking and markings set down for the ball court. Irrespective of land ownerships the application is on land that does not form part of the School as the planning unit of Cwmafan Primary is clearly defined by walls, fences, gates forming the school boundary. Therefore no permitted development rights within Schedule 2, Part 12 of the General Permitted Development Order can be claimed. Therefore there if an unauthorised change of use of land is occurring the current application for a ball stop fence to facilitate this use should not proceed. The supporting Design and Access statement fails to give information on the use aspect of this land;
6. Suggests alternative locations for the location of sports courts rather than the change of use and loss of the car park and in order to avoid the contamination, noise and privacy impacts which are considered to result from the change of use of this land;

7. There will be a lack of privacy from both sides of the fence (children and residents) and also as bedroom windows of nearby residential properties are eye level with the car park;
8. The installation of the fence will mean the removal of a mature tree which provides some privacy to residents and there is no commitment to replacing or mitigating this impact;
9. The school already has two ball courts why is another required?;
10. The proposal is a waste of money;
11. The proposed height of the fence plus the bank up to the raised car park area gives an actual height of 6m - 8m as viewed from the gardens at the rear of Tyr Owen Row which results in an increase in the fences impact and prominence and also obstructs the view to the rear of Ty'r Owen Row;
12. This application affects a number of residents and potentially businesses. The School has a clear connection to the Council's Education Department which is a cause for concern to ensure that full and proper consideration of planning issues takes place without corporate interference. To ensure openness, public trust and transparency the application should be reported to and determined by planning committee and not decided under Officer Delegated Panel.
13. Questions the validity of the application form as several questions have been misrepresented and the display of the necessary public notice currently displayed on a lamp post. The application form and Design and Access Statement have been written in such a way to path the approval by officials who may not have a true knowledge of the true history of the area involved. The application includes a post code which refers to Crynalt School and not Cwmafan Primary School. This error strikes at the validity of the application and it should be corrected and the consultation re-issued so there is no doubt as to the location of the development.

Head of Engineering & Transport (Highways): No objection.

Aboricultural Officer: No objection.

Description of Site and its Surroundings:

The area adjacent to the application site is currently utilised as a netball court/ games area and forms part of Cwmafan Primary School. The perimeter of the courts (to the east and south) is partially enclosed by the presence of some vegetation and trees. The site is bound by the

remainder of Cwmafan Primary School to the east, residential properties to the south, commercial properties to the west and playing pitches to the north of the site.

Brief Description of Proposal:

This application seeks full planning permission to erect a 4m high welded open mesh ball stop fence. The proposed fence will be formed from EuroGuard Regular welded open mesh panels. The construction will be from powder coated steel which will be finished in green (RAL6005). The fence will be located to the south and east of the netball court/ games area and will be utilised to enclose the area so the courts can be used for supervised ball games.

EIA Screening/Scoping Opinion & Habitat Regulations:

As the development is not Schedule 1 or Schedule 2 Development and is not a sensitive site as set down within the EIA Regulations, a screening opinion is required for this application.

Material Considerations:

The main issues for consideration concern the impact of the proposal upon visual and residential amenity, and also highway and pedestrian safety having regards to prevailing planning policies.

Policy Context:

Adopted Local Development Plan (LDP)

The existing Development Plan comprises the Neath Port Talbot County Borough Council Local Development Plan (LDP) which was adopted in January 2016 and covers the period 2011-2026. The Development Plan is the primary document for consideration of land use planning in the County Borough, within which the following Policies are of relevance: -

SP3	Sustainable Communities
SC1	Settlement Limits
SP21	Built Environment and Historic Heritage
BE1	Design
SP20	Transport Network
TR2	Design and Access of New Development

Land Use:

A number of the objections have referred to the fence and its impact on the use of the adjacent land. The Local Planning Authority is aware that residents have previously used the adjacent land for parking and that discussions between local residents and the Council's Estates department are currently ongoing. A legal view was obtained and it confirmed that the land adjacent to but including the fence forms part of Cwmafan Primary School and as such constitutes one planning unit. Although the objections refer to the use of the land as a car park and the sports courts use this planning application only relates to the proposed 4m fence. In terms of the use of the land this is a civil matter that will need to remain between the land owner (Council's Estates Department) and the local residents and as such these issues do not form part of the planning application.

Visual Amenity:

The proposed fence is located to the rear of Ty'r Owen Row, Old Market Place and adjacent to Cwmafan Primary School. Due to its location the fence will not be widely viewable from the wider street scene and will be constructed from open mesh welded panels which will reduce the visual impact of the fence. From a distance the open weld mesh will create an impression of a fence that is transparent as the area beyond will remain viewable. The proposed fence is considered to be acceptable.

Residential Amenity:

The proposed fence is located approximately 17m from the nearest rear elevation of the neighbouring property of 4 Ty'r Owen. This distance increases to approximately 22m as the fence line moves further away from the rear of the properties on Ty'r Owen Row. There is also a change in levels of approximately 2m between the ground level of the proposed fence and the residential properties of Ty'r Owen Row which makes the height of the fence appear greater when considered from the ground level of Ty'r Owen Row. In spite of this change in levels the distance between the residential properties and the presence of a number of garages/ outbuildings to the rear of a number of the residential properties on Ty'r Owen Row is considered to be adequate separation to ensure that the proposed fence would not have any unacceptable impact on adjacent properties. In terms of overlooking the proposal is for a fence only and the issue of overlooking associated with

the use of the adjacent land does not form part of this planning application. Therefore the proposed fence is considered to be acceptable in terms of residential amenity.

Highway Safety (e.g. Parking and Access):

The proposal includes the erection of a 4m high fence to two sides of an area used as sports courts. The proposal does not involve any changes to the public highway. The proposal has been reviewed by the Council's Head of Engineering and Transport (Highways) who has confirmed that they do not object to the proposal. As such the proposal is not considered to have any impacts on highway and pedestrian safety.

Ecology (including trees & protected species):

There is a semi mature sycamore which is located adjacent to the proposed fenceline which runs parallel to the rear of the residential properties on Ty'r Owen Row. The tree is not protected by a tree preservation order but the applicant has confirmed that the tree will be retained and as such an adequately worded condition will be added to the decision notice. Therefore the proposal is considered to be acceptable in terms of ecology

Others (including objections):

In response to the objections that have been received the following comments should be noted:

- Point 1 refers to visual and residential amenity which has been addressed within the report.
- Point 2 – 3 relating the adjacent land as a car park are noted and have been addressed within the report but to reiterate the application is for the 4m fence only. The current proposal does not include an access gate at this time;
- Point 4 refers to the change of use of the adjacent land which has been addressed within the report. The planning application relates to the fence only and as such the matters relating to the use of the land do not form part of this planning application. Effects on property values is not a planning matter and is not a material planning consideration;
- Point 5 refers to the permitted development rights of the Local Authority which has been addressed within the report;

- Point 6 is noted but the suggestion of alternative sites for sports courts will not form part of the planning application as the proposal relates to the fence only;
- Point 7 refers to impacts from the use on privacy. The proposal relates to the fence only and residential amenity has been addressed within the report;
- Point 8: The applicant has amended the application to ensure that the mature sycamore located to the rear of Ty'r Owen Row is retained;
- Point 9: Sports court and provision within the school is not a material planning consideration and will not form part of the planning application;
- Point 10: The comment referring to cost is noted;
- Point 11: The change in ground levels has been addressed within the residential amenity section of the report. A loss of view is not a planning matter;
- Point 12: The comments regarding the process are noted. However the application has been processed in the same way as any other planning application and all material planning issues relating to the proposed fence have been taken into account. Due to the scale and type of development it is considered that the application should be determined via delegated panel. However, in accordance with procedure the application has been called-in to committee by the local Councillor for the reasons stated above; and
- Point 13: The application has been completed correctly for the proposed fence and adequate neighbour consultation has occurred in accordance with Planning Regulations. The comments on the design and access statement are noted but the proposal relates to the fence only and full consideration has been given to all relevant planning matters. The error relating to the post code is noted and has been corrected. It is not considered that the error would invalidate the application as the location of the proposed fence is clear and there is no doubt to the location of the proposed development.

Conclusion:

It is considered that the proposed development does not have an adverse impact on visual or residential amenity, or upon highway and pedestrian safety. As such it is considered that the proposal would accord with Policies SP3, SC1, SP21, BE1, SP20 and TR2 of the Neath

Port Talbot Local Development Plan. Approval is therefore recommended.

RECOMMENDATION: Approval with Conditions

CONDITIONS

Time Limit Conditions

(1) The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason : To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

Approved Plans

(2) The development shall be in accordance with the following approved plans and documents: Drawing 15-0694 (Location Plan), the Jacksons EuroGuard Regular welded mesh panels details sheet and the Jacksons specification and technical data sheet received on 16 February 2016 and the Design and Access Statement received on 19 February 2016.

Reason : In the interest of clarity.

Regulatory Conditions

(3) The fence hereby approved shall be constructed from Euro Guard Regular Welded Mesh powder coated steel, colour green RAL 6005 and shall be in accordance with the Jacksons EuroGuard Regular welded mesh panels details sheet and the Jacksons specification and technical data sheet received on 16 February 2016. The fence shall be retained as such thereafter.

Reason

In the interest of visual amenity.

(4) The mature sycamore shown on Drawing Number 15-0694 (Location Plan) shall be retained onsite.

Reason: In the interest of visual amenity