

West Malling **567716 157907** **25 September 2009** **TM/09/02435/FL**
West Malling And
Leybourne

Proposal: Retention of shipping container for storage purposes and
provision of footpath to club house
Location: West Malling Cricket Club Norman Road West Malling Kent
ME15 9RA
Applicant: Mr David Gurton

1. Description:

- 1.1 This application seeks to regularise an existing footpath that has been constructed to the south east of the Sports Pavilion. It runs from the west of Rotary House to the Sports Pavilion and has a tarmac finish. Previously there was no dry route for pedestrians to the Sports Pavilion from the access point to the cricket field on Norman Road. The path is very close to the rear gardens of 18, 20, 22, 24, 26 and 28 Norman Road before turning north-west to the Sports Pavilion.
- 1.2 The application also seeks to retain a second shipping/storage container to the north west of the site. It is alleged that the first container was sited some 20 years ago. There is no record of any planning permission for this unit however if it was placed here by the Parish Council, and deemed necessary for the purpose of any function exercised by them, then no planning application would have been required.
- 1.3 The application states that the retention of the shipping container is required for the storage of cricket equipment, its small size relating to the equipment to be stored. The application also states that the new footpath is to provide access for less able members of the public to access the pavilion and is built in accordance with the appropriate specification provided in the Sport England Design Guidance Note.
- 1.4 The container is 6m x 2.5m x 2.5m of metal sheeting painted green. The application states that it is needed for the storage of cricket equipment the size of which relates to the equipment being stored and is of a similar scale to the existing container.
- 1.5 It became clear during the processing of the application that the original site plan was inaccurate. This has now been amended and an accurate site plan, received 02.11.09, now forms part of the application and has been the subject of revised consultation.
- 1.6 No trees are affected by the proposal.

2. Reason for reporting to Committee:

2.1 The application has been the subject of significant public interest.

3. The Site:

3.1 The site is owned by West Malling Parish Council and has a long established history as a cricket ground.

3.2 The site lies within the Metropolitan Green Belt adjacent to the built confines of West Malling. The site is bounded to the south by dwellings that front onto Norman Road.

3.3 The site lies within the West Malling Conservation Area.

4. Planning History:

MK/4/59/3 Grant with Conditions 4 February 1959

Pavilion (replace existing).

TM/85/422 Grant with Conditions 24 June 1985

Outline application for a sports pavilion.

TM/89/1862 Grant with Conditions 23 January 1990

Conservation Area Application: Demolition of existing pavilion.

TM/89/1827 Grant with Conditions 23 January 1990

Sports pavilion to replace existing inadequate pavilion.

5. Consultees:

5.1 PC: Objection.

- The route is considered to be too close to the rear of Norman Road properties; Members have been made aware that the residents of those properties have significant concerns about their privacy and security being compromised.
- The materials used should be more in keeping with the location within the CA.

5.2 DL: Leisure Services recognise the need to encourage the development of local sports clubs and would support this application.

5.3 Kent Police (Crime Reduction Design Advisor): Had I been asked before the path was installed I would have suggested that the edge of the path should be at least 900m from the boundary fence to the eight properties along the path. This would then have allowed for some planting or a close boarded fence to be erected. The fence that is already in place is chain link so any person sitting (in) their garden would be seen as the footpath is very close to the chain link fence. This means these eight properties have no privacy.

5.4 Private Reps: 14/0S/0X/5R. 5 letters of objection have been received from 4 households. The objections are summarised below.

- Retrospective application has denied the opportunity to moderate the design and set the footpath back from the boundary with the dwellings fronting Norman Road.
- Inappropriate urban element, particularly the materials.
- Question the need for a second storage container.
- Bulk and design will have an adverse impact upon the character of the CA and rural setting.
- Path may encourage/allow vehicles, including ambulances onto the field.
- Metal of the storage container will degrade and become unsightly and dangerous.
- Storage container a target for unsociable behaviour.
- Path too close to the boundary which will reduce residential amenity and privacy as pedestrians will be encouraged to walk closer to the dwellings than previously.
- Footpath will compromise residents' security and encourage anti social behaviour – already associated with the Pavilion including bicycles and motorbikes being ridden on the field.
- Unsuitability of the use of the Pavilion for non sports related uses.
- The upgrading of the rear access from the corner of Maceys Meadow would be more appropriate.

6. Determining Issues:

6.1 The site lies within the MGB. The application must therefore be determined with regard to PPG2. This guidance seeks to ensure no adverse impact is made upon the open nature of the countryside. As PPG2 states, the carrying out of operations is inappropriate development unless they maintain openness and do not conflict

with the purpose of including land in the Green Belt. I am of the opinion that the footpath will make a minimal impact only upon the wider countryside and Green Belt. Similarly I am of the opinion that the storage container, being coloured green and well screened by mature trees, will not have a material adverse visual impact to a degree that would warrant the refusal of planning permission. It is small scale and an appropriate facility serving an open recreational use.

- 6.2 The site lies within the West Malling CA. The application must therefore be determined with regard to PPG15. This guidance seeks to preserve and enhance the special character of CAs. I note the comments raised by residents regarding the suggested negative impact upon the wider area, however I do not concur with this view. The footpath does not intrude into the existing wider open space, having a minimal impact only, whilst the introduction of a second storage container close to the boundary of mature trees will ensure any impact is minimised.
- 6.3 Policy CP24 of the TMBCS seeks to ensure all development is well designed and respects the site and its surrounding. The path is 1500mm in width and follows the design recommended by the Council's Access Officer as being suitable for access by all. The path runs directly to the rear of numbers 18, 20, 22, 24, 26 and 28 Norman Road. These dwellings have rear garden boundaries with the cricket pitch and are primarily of 4m height open mesh fencing. Residents have expressed concern that the siting of the path will have a detrimental impact upon their residential amenity, particularly reducing their privacy. It is asserted that the creation of a footpath will direct users to walk closer to the adjacent dwellings than previously experienced - thus increasing any associated nuisance and loss of privacy. Whilst I do appreciate the concerns of the neighbours and understand their preference for re-siting the footpath further from the boundary, I am of the opinion that the path is acceptable when considered on its individual merits for the following reasons.
- 6.4 The planning system recognises that public open space may require development in the form of play equipment and paths for example. It is therefore possible for Local Councils, including Parish Councils, to undertake such works without the need for submission of a formal planning permission by use of permitted development rights. Therefore should the works have been undertaken by the PC then no planning application would have been required. Whilst I am fully aware that the works were not undertaken by the PC but the Cricket Club, Members may agree that the 'permitted development' regime rights represent a tacit acceptability of such works within areas of public open space.
- 6.5 Planning permission was granted for a replacement Sports Pavilion in 1989. In commenting on that application the Council's Access Officer recommended the construction of a paved approach route to the Pavilion – 1200mm in width to provide adequate disabled access. I can confirm that Building Control advice is that the current drawings indicate that the path will provide a suitable surface for wheelchairs, pushchairs etc. The width of the path at 1500mm is acceptable and,

because of the good visibility along the path, the location of the passing place is ideal. The proposal therefore meets the guidance in BS 8300:2001.

- 6.6 I appreciate the concern of the neighbours regarding the close proximity of the footpath and the comments made by Kent Police. I am aware of the potential of the path to direct pedestrians closer to the dwellings. However the path will not necessarily increase the total number of pedestrians crossing the field as a whole and the provision of paths within areas of public open space is not unusual and is often to be found. I do not consider, therefore, the existence of the path and its likely level of use to have such a significant additional impact upon the existing levels of residential amenity to warrant a refusal of planning permission.
- 6.7 I am aware that areas of public open space can be associated with incidents of anti-social behaviour. However the control of such behaviour lies primarily with other agencies and the restrictions upon motorised vehicles are contained within the Parish Council byelaws. It is nevertheless the aim of CP24 to ensure that all development is designed to ensure the works do not compromise existing levels of security. Kent Police has not identified any issues relating to security or anti-social behaviour and we have addressed the issue that they raise with regard to privacy elsewhere in the report. I am of the opinion that the provision of the footpath and the storage container do not in themselves have a detrimental impact upon the existing situation.
- 6.8 The PC and other objectors have brought the issue of land ownership to the attention of the Council. It is alleged that the passing bay encroaches onto land beyond that leased to the Cricket Club. However the application contains details of the appropriate notices and therefore obligations in respect of the planning process have been addressed.
- 6.9 The existing and proposed use of the Sports Pavilion has been highlighted by objectors. Permission was granted for a replacement Pavilion in 1989. No planning conditions were attached to limit the use of the Pavilion for specific uses and it is generally accepted that such buildings are often used for wider community purposes especially in more rural communities. Planning conditions do however exist to limit the hours of usage and to restrict the number of occasions on which amplified music may be played. The application does not seek, nor need, to change the use of the Sports Pavilion.
- 6.10 In my view the application is appropriate in the Green Belt and makes no adverse impact upon the openness of the MGB or the character and appearance of the CA. I appreciate the concerns of the neighbours, but in view of the prevailing use of the site for open space uses, the desirability for the footpath and the likely frequency of use, the balance is in favour of granting planning permission.

7. Recommendation:

- 7.1 **Grant Planning Permission** as detailed by Design and Access Statement dated 25.09.2009, Planning Statement dated 25.09.2009, Details shipping container dated 25.09.2009, Letter dated 02.11.2009, Site Plan dated 02.11.2009, subject to:

Conditions / Reasons

- 1 The shipping/storage container hereby permitted shall be used for the storage of sports equipment associated with the Sports Pavilion and/or Town Malling Cricket Club only.

Reason: To avoid the use of the container for an inappropriate non sports related use.

- 2 If at any time the shipping/storage container is no longer required for the storage of sports equipment associated with the Sports Pavilion and/or Town Malling Cricket Club then it shall be removed as soon as reasonably practical and the land restored to its former condition.

Reason: In the interest of the visual amenities of the area.

- 3 There shall be no exterior lighting except in accordance with details that have been submitted to and approved by the Local Planning Authority.

Reasons: In the interest of the amenity of the area.

- 4 The existing dark green colour of the shipping/storage container must be retained.

Reason: In the interest of the visual amenities of the area.

Contact: Maria Brown