
Report of 18 January 2012

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| West Malling West Malling And Leybourne | 567716 157907 | 31 March 2011 | TM/11/00671/FL |
| Proposal: | Change of use from D2 use to D1 and D2 use to allow the building to be used as a day centre for adults with learning disabilities. | | |
| Location: | West Malling Cricket Club Norman Road West Malling Kent ME19 6RN | | |
| Applicant: | Town Malling Cricket Club | | |

1. Description:

- 1.1 In addition to the permitted use of the existing building as a pavilion for cricket use, it is also proposed to use the building as a day centre for adults with learning disabilities between 09.00 and 15.00 – 15.45 to be operated by KCC: the applicants have confirmed that there is no proposed use by Age Concern, who occupy a building in close proximity to the application site.
- 1.2 It is apparent from case officer's discussions with the applicant and KCC that the building has been used on this basis for a number of months. The application indicates that the use comprises approximately 12 adults with learning difficulties and 2 – 3 staff. Staff travel independently to the site by car and park at the spaces to the east of the cricket pitch and the adult clients are driven to and from the site independently (dropped off and picked by family members or by taxi). A people carrier is used on occasions for day-trips off site and is parked at the spaces to the east of the cricket pitch.
- 1.3 There are no proposed alterations to the physical appearance of the building.

2. Reason for reporting to Committee:

- 2.1 At the request of Councillor Luker because of the site's planning history.

3. The Site:

- 3.1 The application site comprises the cricket pavilion located within the south-western corner of the cricket pitch/playing field, together with the existing parking area located along the eastern side of the cricket pitch/playing field. The whole site is located outside the defined settlement of confines of West Malling (i.e. in the MGB), in the West Malling CA, to the north of Norman Road and to the south of the allotments located to the south of Ryarsh Road. The site also comprises the parking area located on the western side of the vehicular access from Norman Road to West Malling Church of England Primary School.

3.2 Norman Road is characterised by a mixture of two storey semi-detached and terraced houses, with a collection of single storey buildings located within the vicinity of the aforementioned access from Norman Road. The single storey Age Concern building is located on the corner of Norman Road and this access.

4. Planning History:

TM/59/10925/OLD Grant with Conditions 4 February 1959

Pavilion (replace existing).

TM/84/1418 Refuse 22 February 1985

Alt Ref:

TM/85/10423/FUL

Single storey building for use as day care centre for elderly persons including dining area, common room, office, lavatories and kitchen for temporary period of 5 years.

TM/85/442 Grant with Conditions 24 June 1985

Alt Ref:

TM/85/10352/OUT

Outline application for a sports pavilion.

TM/85/449 Grant with Conditions 24 June 1985

Alt Ref:

TM/85/10173/FUL

New vehicular access and day care centre for elderly persons welfare for temporary period of 5 years.

TM/89/1163 Grant with Conditions 23 January 1990

Alt Ref:

TM/90/10894/OLD

Conservation Area Application: Demolition of existing pavilion.

TM/89/1827 Grant with Conditions 23 January 1990

Alt Ref:

TM/90/10980/FUL

Sports pavilion to replace existing inadequate pavilion.

TM/09/02435/FL Approved 8 February 2010

Retention of shipping container for storage purposes and provision of footpath to club house

5. Consultees:

- 5.1 Two consultation exercises were undertaken in respect of this application: the second of which followed the applicants amending the stated hours of use and method of transport of adults to the site. I have set out the most recent consultee responses (i.e. those which comment on the proposal before Members), where relevant.
- 5.2 PC: No objections.
- 5.3 KHS: As stated in your previous correspondence, the application is already in existence and has been operating for the past year/18 months without causing detriment to highway safety. With regard to parking, although there is no parking dedicated to the site, I believe that there is adequate parking that is already being utilised as part of the playing field/cricket club, should this parking be associated with the pavilion I see no reason to object on parking. I believe that the operating hours of the proposals will not interfere with the existing usage of the Cricket Club. With regard to parking within the area, all schools generate significant levels of traffic during pick up/drop off, this is a common occurrence throughout Kent. There have been no recorded personal injury crashes in the vicinity of the school over the past 3 year period, therefore I see no reason to refuse this application on safety grounds. It is considered that emergency vehicle access is sufficient and the gap between the back of the existing day care centre and no. 18 is helpful, if required, in this regard. It is also not untypical for sports pitches to serve as useful helicopter landing areas where/when necessary. Ultimately the ambulance service would be best placed to provide a definitive response but it is considered that this is not a material issue. Similarly in relation to other more dominant transport movements in this area at school times, this application is considered to be of minor material consideration and the Highway Authority would not object to this proposal.
- 5.4 DHH: No comments in respect of environmental protection, whilst from a food safety point of view, it is requested that the applicant be advised to ensure that the existing kitchen facilities are suitable for the type of cooking activities the adults will be carrying out.
- 5.5 Private Reps: The only comments received from neighbouring properties following the most recent consultation exercise were from West Malling CE Primary School, requesting confirmation regarding a number of points (which were answered by case officers) and stating that the school supports the proposal (16/0X/0R/1S). In respect of the original notification of neighbours by letter and the advertisement of the proposal by Site and Press Notice, two letters (16/0X/2R/0S) were received objecting to the proposal on the grounds that there is no emergency vehicular access, would lead to increased parking pressure which in-turn would result in

conditions which would be harmful to highway safety and would be harmful to residential amenity, including through the lighting of the existing path to the pavilion.

6. Determining Issues:

- 6.1 The chief determining issues are: a) whether the development conforms with the adopted Development Plan policy and national planning guidance regarding the re-use of buildings in the designated countryside, including whether it comprises appropriate development in the MGB; b) whether the development harms the character and appearance of the West Malling CA; c) whether the use harms the residential amenity of neighbouring properties; and d) whether the development results in conditions which are harmful to highway safety.
- 6.2 The planning policy which needs to be taken into account in the consideration of this application includes:
- National planning guidance: the Draft National Planning Policy Framework was subject to a period of consultation from 25 July 2011 – 17 October 2011. The NPPF is a consultation document and is capable of being a material consideration: it is for the decision making authority to determine how much weight is to be attached to the draft Framework. Given the draft status of the NPPF, it is considered that the national planning guidance relevant to this application is that contained in PPS1, PPG2, PPS5, PPS7 and PPG13;
 - TMBCS: Policies CP1, CP3, CP6, CP12, CP14, CP24 and CP26;
 - MDE DPD: Policies SQ1, SQ8 and DC7.

Principle of development and MGB

- 6.3 MDE DPD Policy DC7 sets out that proposals for local community facilities outside the built confines of settlements will be permitted where they involve the re-use of existing rural buildings appropriately located and well related to the community they serve in order to improve the social functioning of the settlement, are otherwise acceptable in planning terms and, for those sites in the MGB, will be subject to Green Belt policy as set out in PPG2.
- 6.4 CS Policy CP3 states that national planning guidance will be applicable for development proposals located in those parts of the Borough designated as such. Paragraph 3.8 of PPG2 details that, subject to conformity with a number of specific requirements, the re-use of buildings should not prejudice the openness of Green Belts since the buildings are already there. As the pavilion comprises a relatively modern permanent building of seemingly sound and substantial construction, and it is not proposed to undertake any alterations to the existing building, the main requirement is that the proposed use does not have a materially greater impact on the openness of the MGB and the purposes of including land in the MGB than the

present use. I am of the opinion that, given that the use takes place within the existing building and only requires limited additional parking at the existing parking area during the day, the use of the building for both D2 use and as a day centre will not have a materially greater impact on the MGB or the purposes of including land in it. The development therefore represents appropriate development in the MGB and is in accordance with Policy CP3 of the CS. Similarly, whilst the use of a pavilion for both sport and recreation and as a day centre for adults with learning disabilities does not fall easily within any of the categories listed in CS Policy CP14 as acceptable in the designated countryside, I am of the opinion that the proposal conforms with the general thrust of this Policy.

- 6.5 Therefore, subject to the use satisfying all other planning considerations (detailed below), the development is considered to be acceptable in principle.

Impact on the character of the West Malling CA and character of the area

- 6.6 The mixed use of the building as indicated would not require any physical alterations to the building: it would therefore not have an effect on the character of the CA or the area in general.

Impact on residential amenity

- 6.7 The pavilion is situated in close proximity to the rear of residences located on the northern side of Norman Road. It is understood that, during late spring, the summer and early autumn, the cricket pavilion is used intensively by various cricket teams, predominantly at weekends and at weekday evenings. The additional use of the building as a day centre for adults with disabilities together with its use as a cricket pavilion has, and will, result in activities taking place in the building during weekdays as well as in the evenings and weekends, and throughout the year (including the winter).
- 6.8 DHH has raised no objection to the development on environmental protection grounds. I consider that, given the relatively low numbers of adults who would use the building for a day centre as set out in the application this use does not and will not harm the residential amenity of adjoining neighbours. However, I have recommended that conditions be attached to any grant of planning permission to control the numbers of adults and staff and the hours of operation in order that any more intensive use of the building can be assessed on its own merits. The recommended condition regarding hours of use will incorporate the existing hours of use of the building as a cricket pavilion, as set out on permission TM/89/01827.
- 6.9 I have had regard to the comments of neighbours regarding their concerns that the footpath will need to be lit so that people travelling to and from the pavilion can see the path on arriving and leaving during winter months. However, having regard to the stated hours of operation, I am of the opinion that it is still likely to be sufficiently light when people arrive at and leave the building during the winter to

enable navigation along the path, particularly as it is relatively flat and is grassed on either side. A condition is attached to planning permission TM/09/02435/FL for the retention of this path which precludes its lighting.

Parking and highway safety

- 6.10 When planning permission was originally granted for the pavilion under reference TM/89/01827, the report detailed that it was satisfied “that it is unnecessary to formally demarcate parking spaces...many local cricket clubs such as this club, Offham and Harvel already operate happily without formal marking out”.
- 6.11 When case officers have made visits to the site in connection with assessment of the current application, on a number of occasions it has been witnessed that there were very few parking spaces available and in several instances cars had parked within the turning area adjacent to the boundary with the school. The proposed drop off times in the morning co-incide with the period of time that children are taken to the primary school. Nevertheless, KHS has advised that there have been no recorded personal injury crashes in the vicinity of the school over the past 3 years (which includes a number of months that the pavilion has been used for both D2 purposes and as a day centre for adults with disabilities) and has raised no objection to the proposal. Having regard to these comments, together with the fact that as the adults are dropped off and picked up (with only staff parking at the site for any significant period of time) and there is only a limited reduction in the number of parking spaces available during the day, I am of the opinion that the proposal does not result in conditions which are harmful to highway safety. The conditions I have recommended in respect of number of people, hours of use and restriction of use will also prevent a more intensive use of the site which may have a greater effect on parking and highway safety.
- 6.12 The stated use can therefore be considered to accord with MDE DPD Policy SQ8.

Conclusion

- 6.13 I am of the opinion that the use of the building as detailed in the application, which has seemingly been on-going for a number of months, represents the use of an existing building as a local community facility which is appropriately located and well related to the community, serves to improve the social functioning of the settlement and is otherwise acceptable in planning terms, subject to the conditions I have recommended below. It therefore accords with MDE DPD Policy DC7, and all other relevant adopted Development Plan policy and national planning guidance.

7. Recommendation:**7.1 Grant Planning Permission** subject to the following Conditions:

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

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

- 2 The number of people (not including staff members) utilising the building as a day centre for adults with learning disabilities shall not at any time exceed 14 people and the number of staff at the building associated with the use of the building as a day centre for adults with learning disabilities shall not exceed 3 people at any time.

Reason: The application was determined on the basis of the information provided and so that any difference in the proposed use can be assessed on its own merits, having regard to impact on amenity, parking and highway safety.

- 3 Notwithstanding the provisions of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) Order 1995 as amended, the use of the building shall be restricted to that as a day centre for adults with learning disabilities and as a cricket pavilion and shall not be used for any other purpose.

Reason: The application was determined on the basis of the information provided and so that any difference in the proposed use can be assessed on its own merits, having regard to impact on amenity, parking and highway safety.

- 4 The building shall only be used as changing rooms and for ancillary purposes for cricket teams between the hours of 08.00 - 23.00 on any day and shall only be used as a day centre for adults with learning disabilities between the hours of 09.00 and 16.00 from Mondays to Fridays. The building shall not be used at any other times.

Reason: The application was determined on the basis of the information provided and so that any difference in the proposed use can be assessed on its own merits, having regard to impact on amenity, parking and highway safety.

Informatives

- 1 You are advised to ensure that the existing kitchen facilities are suitable for the type of cooking activities which will be carried out in association with the use of the building as a day centre for adults with disabilities.

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