

**West Malling**                      **567716 157907**    **31 March 2011**                      **TM/11/00671/FL**  
West Malling And  
Leybourne

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

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**1. Description:**

1.1 Members will recall that this application was reported to APC2 in January 2012.

1.2 The detailed description of development as set out in that report is as follows:

*“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.*

*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.*

*There are no proposed alterations to the physical appearance of the building”.*

1.3 Members resolved at APC2 in January 2012 for the application to be deferred for officers to further investigate with the applicant whether there is scope for an alternative access to the site, given local concerns over levels of traffic.

1.4 The results of these investigations are detailed in Section 6 below: in summary the applicant has communicated to Officers that it does not wish to alter the proposed access to the site and requests that the application be determined on the basis of the submission as previously reported to Members. In effect, the description of development has not altered from that set out at paragraph 1.2 above.

**2. Reason for reporting to Committee:**

- 2.1 Following the deferral of the application from the APC2 in January 2012, the application is reported back to Members with the results of Officers' investigations with the applicant as to whether there is scope for an alternative access to the site.

**3. The Site:**

- 3.1 The description of the application site as set out in the report to the January 2012 APC2 is:

*"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 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.*

*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."*

- 3.2 Members are advised that Officers identified one potential alternative location for vehicular access to the pavilion. This potential alternative location lies immediately to the south-west of the cricket pavilion.
- 3.3 The land immediately to the west and north-west of the pavilion and cricket pitch comprises an approximately 25m wide strip of land containing grass and mature trees. The southerly boundary of the site comprises a mature and dense hedge. There is an existing gate within the eastern corner of this boundary which is apparently used on a relatively infrequent basis for vehicular access to this land. There is no corresponding dropped kerb in front of the gate. The curtilage of 38 Norman Road (a detached dwelling) is located immediately to the south-west of this gate. 5 pairs of semi-detached houses and associated curtilages are located to the east of No.38 Norman Road, all of which front Norman Road itself.
- 3.4 The boundary between the land to the east and north-east of the cricket pitch comprises a row of mature deciduous trees. There is an existing gap within these trees to the rear of the cricket pavilion, allowing one to walk from the rear of the cricket pavilion to this land.
- 3.5 Officers investigated the potential to provide a vehicular access from the existing gate to the rear of the cricket pavilion, through the gap in the hedge detailed above. This would potentially involve the provision of an access (either completely

metalled or metalled for its first 6m adjacent to the back edge of the highway and comprising a material such as Type-I rolled stone for the remainder) running to the immediate north-west of 38 Norman Road, with a parking and turning area located to the rear of the pavilion.

3.6 This land is also situated within the MGB but lies outside of the designated West Malling CA.

#### **4. Planning History:**

4.1 The planning history has not altered from that as detailed in the report to APC2 in January 2012 (Annex).

#### **5. Consultees:**

5.1 As no amended scheme has been submitted there has been no further formal consultation on the application, and no further representations received, beyond that reported to APC2 in January 2012.

5.2 However, views of KCC Highways were sought on the principle of utilising the access from Norman Road located to the north-west of 38 Norman Road. The response, in summary, was that whilst no detailed design drawings had been provided, the principle of providing an access could be acceptable, subject to the following:

- Due to the propensity for vehicles to park in Norman Road some local widening/flaring and cutting back of the hedge which forms the southerly boundary of the adjacent land would be required in order to enable better visibility and in-and-out movements to be undertaken with vehicles parked opposite;
- The first 6m of the access to be metalled;
- The minor relocation of a street light.

#### **6. Determining Issues:**

6.1 Members are advised that following investigation of the potential to utilise the access detailed above, KCC Highways advised that the principle of its use (subject to suitable design and cutting back etc) could be acceptable in highway safety terms.

6.2 However, I have concerns regarding the impact of the potential location of the access in such a position on the living conditions which the occupiers of 38 and 36 Norman Road could expect to enjoy through the movement of vehicles along the access, and manoeuvring within the space to the rear of the pavilion and these two houses. In particular, it is considered that disturbance could be caused

through noise, fumes and the movement of vehicle headlights (particularly in the winter when it will be dusk at the times that staff and individuals attending the day centre would be likely to be leaving the premises).

- 6.3 Notwithstanding the above, the applicant informed the Borough Council that it does not wish to amend the application to alter the access to the position detailed above. Therefore, despite Officers' efforts of acting on Members' instructions, the planning application falls to be determined on the basis of the plans and documentation as submitted and previously presented to Members.
- 6.4 Since the application was previously reported to APC2, the National Planning Policy Framework [NPPF] was published on 27 March 2012. The NPPF replaced much national planning guidance and policy previously contained in the various Planning Policy Statements and Planning Policy Guidance Notes and some other documents. The NPPF is a material consideration in the determination of this application.
- 6.5 I have re-examined the various matters which form considerations in respect of the development proposed in light of the publication of the NPPF and its replacement of the various Planning Policy Statements and Guidance notes: I am of the opinion that the policy framework has not altered in a way that leads me to reach different conclusions in terms of each material consideration. As such, my overall conclusion in terms of the proposed development remains as set out at paragraph 6.13 of the report to APC2 in January 2012, which for completeness I have repeated below:

*"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".*

- 6.6 Accordingly, having followed the Committee's wishes as resolved at APC2 in January 2012 and investigated the potential for alternative access to the site, the applicant has chosen not to amend the planning application. I have also identified potential concerns with the potential alternative access to the east of 38 Norman Road in terms of its possible impact on neighbouring residential properties. The application as originally submitted has been re-assessed having regard to the NPPF, which leads me to maintain my recommendation that planning permission be granted subject to Conditions. I have altered the wording of the suggested Conditions from those recommended in January to reflect the publication of the NPPF.

**7. Recommendation:**

**7.1 Grant Planning Permission** in accordance with the following details:

Letter dated 31.03.2011, Site Plan dated 31.03.2011, Drawing parking spaces dated 31.03.2011, Floor Plan dated 31.03.2011, Letter dated 15.03.2011, Site Plan dated 15.03.2011, Email dated 06.09.2011, Email dated 05.09.2011, subject to the Conditions detailed below:

**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 having regard to Policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy, Policy SQ8 of the Tonbridge and Malling Borough Managing Development and the Environment Development Plan Document and paragraphs 32 and 35 of the National Planning Policy Framework (2012).

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 having regard to Policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy, Policy SQ8 of the Tonbridge and Malling Borough Managing Development and the Environment Development Plan Document and paragraphs 32 and 35 of the National Planning Policy Framework (2012).

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 having regard to Policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy, Policy SQ8 of the Tonbridge and Malling Borough Managing Development and the Environment Development Plan Document and paragraphs 32 and 35 of the National Planning Policy Framework (2012).

**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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