

**East Malling & Larkfield**                      **569498 159122**    **25 September 2006**    **TM/06/03104/DR4D**  
Larkfield South

Proposal:                      Change of use from amenity/open space to domestic garden and erection of new fence 1.8m high  
Location:                      19 Willow Road Larkfield Aylesford Kent ME20 6QZ  
Applicant:                      Tonbridge And Malling Borough Council

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**1. Description:**

1.1 Permission is sought to change the use of a small triangular shaped parcel of land adjacent to the south eastern boundary of number 19 from amenity space to private garden. This would involve the erection of a 1.8m high fence along the southern boundary of the site, approximately 22.4m in length.

**2. The Site:**

2.1 Number 19 is a detached house with attached garage situated at the end of a private drive off the end of a cul-de-sac. To the south of the site is an area of land that forms a branch of an Area of Local Landscape Importance, under the ownership of the Council. Adjacent to the southern boundary of number 19 is a small triangle of land that also falls within the Councils ownership but outside of the ALLI. Whilst the main extent of the amenity space comprises mown grass, the site the subject of the application is currently overgrown with brambles and vegetation.

2.2 Number 19 is adjoined on the eastern side by number 18 Willow Road which is set at a higher slab level. The boundary between the two properties is defined by a 1.8m high fence with a row of mature leylandi trees on the side of number 19. It has been stated that the fence and the trees are under the ownership of number 19.

**3. Planning History:**

81/10433/FUL                      Use of land as public open space.  
(TM/80/1379)  
Grant with conditions    3 February 1981

85/11602/OUT                      Outline application for residential development of 45 detached houses and estate roads.  
(TM/85/881)  
Refuse                                      31 October 1985

86/11023/OUT  
(TM/86/236)      Outline application for 37 detached dwellings with estate road access public open space and allotment car park.

Grant with conditions      27 March 1986

87/11285/FUL  
(TM/86/1061)      Details of 26 detached dwellings with garages, estate roads, landscaping and boundary treatment.

Grant      5 November 1986

#### 4. Consultees:

- 4.1 PC: Raises no objection but believe that this land is in Leybourne Parish. (Although the land falls within Larkfield Parish Leybourne Parish Council have been notified).
- 4.2 Leisure Services: It is assumed that the change of use is preceding the sale of this area of Public Open Space into private ownership. On the sale of the land appropriate procedures should be put into place to protect this area from future residential development. The erection and future maintenance of all boundary fences surrounding this area of land should also fall under the responsibility of the resident and not the Borough Council. Subject to the above, the application is supported.
- 4.3 Private Reps: Two letters received raising the following concerns:
- Site should be maintained as public amenity land.
  - Proposal does not give occupants of number 18 direct access to amenity area.
  - Proposal would restrict light to kitchen window of number 18.
  - Concern about maintenance and appearance of proposed fence.
  - Extension of leylandi hedge would be unacceptable.
  - Creation of a precedent.
  - Possible use of the land for the parking of vehicles.
  - Area of land identified does not correspond with that outlined in previous informal discussions.

**5. Determining Issues:**

- 5.1 The main considerations are the effect of the proposed change of use on the amenities of neighbouring properties and the public amenity space to the south.
- 5.2 The proposal involves the change of use of a relatively small parcel of this open space to domestic garden. In terms of the changes to the visual appearance of the area this will involve the construction of a 1.8m fence along part of the northern boundary of the amenity land. Such a structure may appear new and stark to start with, but I do not consider it would be entirely alien or harmful to the area. The maintenance of the fence would as is normal be a private matter.
- 5.3 This proposal involves the change of use of a small pocket of land on the edge of the amenity area. The change of use will not materially alter the overall appearance or purpose of the large area of remaining amenity space. Due to its small size the change of use will not erode the overall character of the area. The land does not form part of the ALLI and there is no justification in terms of general visual amenity for it remaining as public amenity space. I do not consider it would create a precedent as any other future applications would be considered on their own merits.
- 5.4 The precise use of the land has led to queries from the neighbours, especially with regard to the parking of vehicles. The applicant has indicated that whilst vehicular access to the front of his property might be improved, the main purpose of the change of use is to provide additional garden space. Provided the use remains for purposes ordinarily incidental to the enjoyment of the dwelling then there would be no planning objection.
- 5.5 Any earlier discussions of alternative arrangements do not bear on this decision. The owners of number 18 have indicated that they have access over the application site to the remaining amenity land. As far as can be established from the Councils Property Services section there is no record of a legal right being granted over the application site from 18 Willow Road.
- 5.6 The neighbour has raised a concern about a situation that may possibly occur if a leylandi hedge is planted along the extended eastern boundary of the garden of number 19. There is no planning legislation that prevents home owners from planting leylandi hedges. If such a hedge were to be planted and allowed to grow without maintenance then it is possible that it may have an impact on the occupants of number 18 in the future. If that situation arose, other and separate legislation is available in which to pursue a grievance against a high hedge. In my view the erection of a 1.8m/2m fence along the boundary is unlikely to have an unduly harmful effect on the residential amenities of the occupants of the adjacent properties, such as to justify withholding consent.

5.7 It is concluded that the proposed change of use of this parcel of land will not have a detrimental effect on the residential amenities of neighbours or the general character of the public amenity area to the south. There are no planning reasons to withhold permission subject to safeguarding conditions.

**6. Recommendation:**

6.1 **Grant Planning Permission** as outlined on drawing PR/2602/SE2 received 25.09.2006 and 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 site the subject of the application shall be used only for purposes ordinarily incidental to the enjoyment of the dwelling and at no time shall the land be used for business or commercial purposes.

Reason: In the interests of the residential amenities of the occupants of the adjacent properties.

**Informative:**

1. The erection and future maintenance of all boundary fences surrounding this area of land should also fall under the responsibility of the resident and not the Borough Council.

Contact: Hilary Johnson