

Leybourne
West Malling And
Leybourne

17 June 2016

TM/16/00413/FL

Proposal: Outside Adult Gym comprising of building of a wet pore surface, surrounding low fence and installation of gym equipment

Location: Land Parcel 2 Lillieburn Leybourne West Malling Kent

Applicant: Leybourne Parish Council

1. Description:

- 1.1 The application is for the installation of an outdoor adult gym. It will comprise a fenced area of 20.785m long by 5.955m wide. It will be surfaced in a green coloured wet pore surface and 9 items of black and lime green coloured exercise equipment will be installed for 13 different exercises eg a leg press, a mini cross trainer and a ski machine. The fence will be low green painted hooped style, similar to the one on the nearby children's play area.
- 1.2 The applicant intends to install an extra CCTV camera for security reasons.
- 1.3 Since the application was originally submitted, the applicants have confirmed that they have discussed the "designing out crime" aspects with the Community Safety Officer at TMBC, have moved the siting of the gym slightly to the south by 4m and proposed pruning back of overhanging branches and new tree planting.

2. Reason for reporting to Committee:

- 2.1 The application is locally controversial and was also called in by Cllr Shrubsole on that basis.

3. The Site:

- 3.1 The site is owned by KCC and the site of the gym is proposed on an area of mown grass within the Castle Way Open Space. To the north and north-west is amenity grassed area. To the west and south west (and now included in the application site) is a small copse of trees - young trees of oak, lime and hazel. To the south is a small cycle rack and the fenced children's play area.
- 3.2 To the south and beyond the road of Lillieburn is the donkey field. To the east is a tarmac footpath and beyond is an area of amenity grass owned and maintained by TMBC. That is part of the flood plain of a small affluent of the river Medway that runs parallel to the application site, just over 30m away.
- 3.3 The application site itself is within the Amenity Green Space of Castle Way covered by Policy OS1A of the MDE DPD. It is within the urban confines of

Leybourne. It is not within the floodplain but adjacent to the outer edge. The whole area is within an Area of Archaeological Potential (AAP).

4. Planning History (relevant):

None

5. Consultees:

5.1 Re-notification has been carried out on the revised and additional information and any further comments will be included in a supplementary report.

5.2 PC: The PC is the applicant.

5.3 KCC (H&T): No objection: The proposed outdoor gym is located next to an existing outdoor play area so is unlikely to significantly increase trip generation to the site. There is sufficient on street parking available in the local vicinity.

5.4 KCC (Heritage): The HER shows no known heritage assets in the vicinity. As such I have no comments on these proposals.

5.5 Private Reps: Art 15 site notices and (33/16S/26R/0X).

5.5.1 A petition has been submitted with 133 signatures against, 3 in support and 4 neutral to the proposed location.

5.5.2 In terms of individual letters, there are the 16 letters of support that have their main points summarised as follows:

- This free facility is needed to improve fitness and reduce obesity
- The siting next to the toddler play area will encourage family use
- This is the best location in the village
- I look forward to using it
- Most of those notified live on Castle Way and so will be an unrepresentative set of views
- The negative views are based in a misunderstanding that the gym is an outdoor one not a building
- It will not be as noisy as the play area.

5.6 The 26 individual objections are summarised as follows:

- Spoils a tranquil village beauty spot

- This will harm the attractive village green area, making it more like Disney
- Opens door for more intrusive development on what was intended to be a natural green space
- Noisy teenagers will gather there at anti-social hours - current problems to 0300hrs
- Will need patrols to deal with problems, not just CCTV
- Unsafe and risky to put next to a toddler play area and a walk through to the primary school
- Poor passive surveillance
- Worried if floodlighting is to be added
- Will need parking
- Will need cleaning and maintenance
- It has been rejected from 5 other local sites - so it is not a popular idea
- It will be a white elephant - similar ones in Maidstone are not used - inadequate research of the need for this project
- The PC did not fully seek local views before promoting this idea
- This is being rushed through to hit a funding deadline
- Health and Safety concerns if inappropriate age of users
- There are other, better sites for this - the MUGA or at Leybourne Chase
- Poor use of the PC's public money.

5.7 Kent Police (summarised): Kent Police has previously commented and given crime prevention advice on this Adult Outside Gym for different sites. I believe this proposal to be sixth location which appears to be causing some local concern and divided opinion. The equipment could become a target and subject of criminal damage; it may bring in unwanted visitors which in turn could lead to more anti-social issues which are already claimed to be happening in this area.

5.7.1 I would suggest that the Parish Council liaises with the Borough Council Community Safety Unit (CSU) at Tonbridge & Malling as there is no doubt that the CSU will have to deal with the reports that come in from this proposal if it is accepted. If this planning application is approved then I recommend that CCTV (local authority) is put in place for an added layer for safety and security, if this is

not an option then consider wiring up near or close by lampposts for mobile CCTV (held within CSU).

- 5.8 Community Safety Officer: Leybourne is a low crime area and although there are some pockets of anti-social behaviour I am not concerned that the new outdoor gym equipment proposed (or its location) will add to this in any significant way. I understand that the Parish Council will be erecting a new CCTV camera overlooking the equipment and this should have the effect of either deterring anyone thinking of causing damage or, if damage does occur, will help the police to identify those causing the damage.

6. Determining Issues:

- 6.1 The NPPF requires LPAs to take account of and support local strategies to improve health, social and cultural wellbeing for all and encourages strategic policies for enhancement of the natural and historic environment, including landscape. Paragraph 61 requires planning decisions to address the connections between people and places and the integration of new development into the natural environment. Paragraph 73 states that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.
- 6.2 The site lies in the urban area of Leybourne and policy CP11 states that development within the confines is acceptable in principle. The main determining issue is Policy OS1 of the MDE DPD where development which would result in the loss of, or reduce the recreational, nature conservation, biodiversity, carbon sink, landscape, amenity and/or historic value of, existing open spaces listed in Policy Annex OS1A will not be permitted unless a replacement site is provided which is equivalent or better in terms of quantity, quality and accessibility. Policy CP1 and CP24 of the TMBCS relate to the appearance and safety of an area. Policy SQ1 of the MDE DPD relates to spatial quality and that development should reflect conserve and where possible enhance the character of an area, its historical interest and the prevailing level of tranquillity. Policy SQ8 of the MDE DPD relates to parking.

Visual Impact/Character/Landscape

- 6.3 In terms of the visual impact of the gym, there is a potential issue that needs to be assessed with further development of this formal leisure facility in terms of the established natural open and informal recreational function of the Open Space. There is a children's play space here erected by the PC on KCC's land a few years ago and this has altered the balance of the type of leisure provided in the area. The proposed outdoor Gym is of the same ilk.

- 6.4 Members will note the strength of local feeling against the principle of such a formal facility in a natural environment and, notwithstanding the play area in situ, may feel that further formal leisure facilities are not desirable in terms of appearance, impact on character and historical interest of the locality. However, in my view it would be acceptable on balance.
- 6.5 The outdoor gym is to be sited close to some trees which could help to screen the gym from longer range views on approach from the north and the facility is proposed 4m further south to increase the effectiveness of existing tree screening. However, the northern end of gym would still be visible from the carriageway and footway of Castle Way and thus the applicants have agreed to plant additional trees under licence by KCC to help to screen the western sides.
- 6.6 The gym of course will be very visible from other vantages and would urbanise the area to a degree. Overall, the proposal is not considered to breach policies CP1, CP24 and SQ1 to such a degree to warrant refusal in my opinion.
- 6.7 It is, of course, the case that the landscape screening would reduce passive surveillance and make the facility more hidden and attractive to anti-social behaviour but this is discussed below.

Noise

- 6.8 In the light of the existence of the children's play area, I would not consider that the noise arising from the use would add to noise or affect prevailing tranquillity provided that the equipment is well designed and maintained. The equipment is designed to use the body's own weight as resistance: i.e. there are no "weights" that might "clang" when released which is typical in an indoor gym. Policy CP24 which respects amenity and Policy SQ1 which refers to tranquillity being preserved are therefore met in my opinion.

Designing Out Crime

- 6.9 Local Authorities have a duty under Section 17 of the 1998 Crime and Disorder Act to consider the crime and disorder implications of all their activities, including their policies, strategies, plans and individual decisions. This duty bears on KCC, TMBC and the PC.
- 6.10 This scheme has generated local concern on crime, disorder and safety and Kent Police has indicated that these sorts of facilities can be a magnet for anti-social behaviour. However, the applicants have liaised with the Borough Council's Crime Reduction Officer and she has no objections subject to the Parish Council erecting a new CCTV camera overlooking the equipment which she says should have the effect of either deterring anyone thinking of causing damage or, if damage does occur, will help the police to identify those causing the damage. In the light of this, it is considered that crime and disorder implications would not justify a refusal if

the suggested condition on CCTV is imposed. The CCTV would need to take account of the position of the existing and proposed tree screening.

Other issues

- 6.11 There is no direct impact on nature conservation, carbon sink or biodiversity. A few low overhanging branches need to be removed but they are from young trees which will continue to grow. New trees have also been agreed in a landscaping scheme.
- 6.12 In terms of concerns that this sets a precedent for more intrusive development on what was intended to be a natural green space, if the land remains under the licence of KCC then that authority would have a final control over future development as landowner, notwithstanding any permitted development rights that would accrue to the PC if they were to take on the “maintenance” of any part of the land under licence.
- 6.13 I would not consider that the use of a gym of this size would create a highway safety issue from parking. The scheme is promoted as being potentially combined with existing parents taking their children to the play area or by runners/walkers as part of a “trim trail”. There is no objection from KCC H&T and thus no breach of policy SQ8 on parking provision in my view.
- 6.14 Many of the objectors complain that the PC did not fully seek local views before promoting this idea, that it will not be used enough and is poor value for money and that they think that there are other, better sites for this – e.g. at the MUGA or at Leybourne Chase. However, the decision made by the PC to promote this particular scheme and how they went about it are not land use planning matters.
- 6.15 Relatively extensive consultation has taken place on this planning application and it is necessary to assess and make a determination on this detailed scheme on this specific site as proposed. It is not possible to compare it to an alternative site or scheme which is not before the LPA.
- 6.16 It is considered that floodlighting or any other form of lighting should not be added and a planning condition would be necessary in my view to control that specifically.

Conclusion

- 6.17 It is clear that the PC’s project to install an outdoor gym in Leybourne has a long history and the final proposed site is not without controversy. It is a scheme that would be permitted development not needing planning permission from TMBC if the land were owned and/or currently maintained by the PC.
- 6.18 In the light of this and because the Community Safety Officer does not object to this proposal and the scheme has been amended to try to better screen the

development with trees, on balance Members may agree that the application should be granted planning permission.

7. Recommendation:

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Other details of gym equipment dated 10.03.2016, Details Need for gym dated 10.03.2016, Drawing Flood Map dated 10.03.2016, Site Plan dated 18.03.2016, Location Plan dated 24.03.2016 subject to the following Conditions:

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 Prior to the first use of the facility hereby permitted, a scheme for CCTV that does not required the gym to be illuminated shall be installed in accordance with details to be submitted to and approved by the Local Planning Authority and retained thereafter.

Reason: To comply with Section 17 of the Crime and Disorder Act 1998.

- 3 There shall be no external lighting of the gym hereby permitted.

Reason: In the interests of amenity.

- 4 The development hereby approved shall be carried out in such a manner as to avoid damage to the existing trees, including their root system, or other planting to be retained as part of the landscaping scheme by observing the following:

(a) All trees to be preserved shall be marked on site and protected during any operation on site by a fence erected at 0.5 metres beyond the canopy spread (or as otherwise agreed in writing by the Local Planning Authority).

(b) No fires shall be lit within the spread of the branches of the trees.

(c) No materials or equipment shall be stored within the spread of the branches of the trees.

(d) Any damage to trees shall be made good with a coating of fungicidal sealant.

(e) No roots over 50mm diameter shall be cut and unless expressly authorised by this permission no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches of the trees.

(f) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect the appearance and character of the site and locality.

- 5 The excavation works beneath the canopy of any trees shown to be retained on the submitted plan shall be carried out by tools held in the hand (other than power-driven tools). Any roots encountered of 50mm or more in diameter shall be carefully retained and protected from exposure and desiccation. Any roots below 50mm in diameter which are damaged or severed shall be cut so that the final wound is as small as possible. Construction of the foundations around existing roots shall be carried out by hand or by tools held in the hand (other than power-driven tools), placing sufficient small material such as sharp sand around the roots to avoid damage by compaction.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect the appearance and character of the site and locality.

- 6 Before any work is commenced, details of the depth, extent and means of excavation of the foundations shall be submitted to and approved in writing by the Local Planning Authority and the excavations and foundations shall be carried out in accordance with the approved details.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect the appearance and character of the site and locality.

- 7 Within 1 month of the commencement of development, a scheme of landscaping shall be submitted for approval by the Local Planning Authority. This shall include detailed of pruning of existing trees affected by the development hereby approved. All planting comprised in the approved scheme of landscaping shall be implemented during the first planting season following the first use or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species, unless the Authority gives written consent to any variation.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

Contact: Marion Geary