

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
18/0717/RET 20.09.2018	Markham Welfare Club Miss N Jones 12 Hillside Avenue Markham Blackwood NP12 0PT	Retain fenced beer garden area Markham Miners Welfare Club Bryn Road Markham Blackwood NP12 0QE

APPLICATION TYPE: Retain Development Already Carried Out

SITE AND DEVELOPMENT

Location: The beer garden is located within the grounds of the Markham Miners Welfare Club on its eastern side where it is situated adjacent to the highway at Commin Close near its junction with Bryn Road. Residential properties surround the site.

Site description: A Welfare Club with an open forecourt frontage providing pedestrian access to the building and also parking provision. Additional parking is provided to the rear accessed off Bryn Road on the western side of the building. A grassed area forms the eastern boundary of the site and it is a section of this grassed area that has been fenced off to provide a beer garden.

Development: Planning permission is sought to retain a fenced area for use as a beer garden. The fenced area has access to it from a small footpath around the Welfare club.

Dimensions: The height of the fence is estimated to be approximately 1.2m high.

The applicant has included in their plans that the beer garden is 11.0m deep by 4.0m wide.

Materials: A close boarded timber fence.

Ancillary development, e.g. parking: None.

PLANNING HISTORY 2005 TO PRESENT

None.

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POLICY

LOCAL DEVELOPMENT PLAN Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010.

Site Allocation: The site is located within the settlement limits of Markham.

Policies: Policy SP6 (Place Making), Policy CW2 (Amenity) and Policy CW7 (Informal Open Space) and guidance contained in SPG LDP8: Protection of Open Space.

Policy SP6 (Place Making) ensures that sustainable places are created and are of an appropriate mix of uses that reflect the role and function of settlements, is of a high standard of design that reinforces attractive qualities of local distinctiveness and designs out crime.

Policy CW2 (Amenity) ensures that development proposals have regard for all relevant material planning considerations to ensure that there is no unacceptable impact on the amenity of adjacent properties or land; the proposal would not lead to overdevelopment; and that the development would be compatible with the surrounding land uses.

Policy CW7 (Informal Open Space) requires applications on open parcels of informal open space to ensure that there is sufficient informal open space remaining in terms of recreational and visual amenity.

NATIONAL POLICY Planning Policy Wales (9th Edition), Technical Advice Note 11: Noise (1997) and Technical Advice Note 12: Design (2016).

Paragraph 4.11.9 of Planning Policy Wales states

"The visual appearance of proposed development, its scale and its relationship to its surroundings and context are material planning considerations. Local planning authorities should reject poor building and contextual designs. However, they should not attempt to impose a particular architectural taste or style arbitrarily and should avoid inhibiting opportunities for innovative design solutions."

Annex B.18. of Technical Advice Note 11 states

'Commercial developments such as fast food restaurants, discos, night clubs and public houses pose particular difficulties, not least because associated activities are often at their peak in the evening and late at night. Local planning authorities will wish to bear in mind not only the noise that is generated within the premises but also the attendant problems of noise that may be made by customers in the vicinity. Disturbance that can be caused by traffic and associated car parking should not be underestimated.'

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Paragraph 2.6 of TAN 12 (2016) states

"design which is inappropriate in its context, or which fails to grasp opportunities to enhance the character, quality and function of an area, should not be accepted, as these have detrimental effects on existing communities."

ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? No.

Was an EIA required? N/a.

COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? No.

CONSULTATION

Head Of Public Protection - No objection subject to the imposition of opening times for the beer garden, and for amplified music.

Transportation Engineering Manager - No objections.

ADVERTISEMENT

Extent of advertisement: The application was advertised by means of site notice and letters to the adjoining nine residents.

Response: Two letters of objection were received and one petition with seven signatures.

Summary of observations:

- 1) Development will cause an additional amount of noise in the area.
- 2) Could a curfew be put in place?
- 3) Since installation, the beer garden has seen a rise in anti-social behaviour- including having the police called round.
- 4) The music blaring from the loudspeakers in the beer garden is unbearable and overpowering. The music and revelry continues in the beer garden until late.
- 5) Beer glasses and bottles were smashed and left strewn about on the grass and in the roadway.
- 6) When the club is closed, groups of youths congregate around the beer garden causing a nuisance, and kicking the fence panelling off.

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- 7) The objections do not extend to the welfare club itself, which is a welcome part of the community.
- 8) The Beer garden is within close proximity of the Old Age Pensioner bungalows.
- 9) The Beer garden may detract from the value of the properties nearby.

SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonably can to prevent crime and disorder in its area? Representations have been received that note that there has been a rise in anti-social behaviour. Matters relating to crime are a Police matter, and will be dealt with accordingly. The club already exists and any anti-social behaviour that may be associated with the proposed beer garden will be relatively minor and would not justify a refusal of planning permission.

EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No.

COMMUNITY INFRASTRUCTURE LEVY (CIL)

Is this development Community Infrastructure Levy liable? Not applicable.

ANALYSIS

Policies: This application has been considered in accordance with National policy and guidance and Local Plan policies. The main issues in the determination of this application is whether the beer garden is acceptable from a design and visual amenity perspective, and whether there would be a negative impact on the amenity on occupiers of the adjacent residential properties.

Policy SP6 (Place Making) considers design. In terms of design and visual amenity, the fence measures approximately 1.0m high and forms an enclosure close to the junction of Bryn Road and Commin Close. The Commin Close estate is characterised by large amenity areas abutting the road and parking areas from the bungalows. The front walls along the estate are typically low brick with wrought iron decorative railings that help maintain the open appearance.

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The fence subject to this retention planning application has been erected within the curtilage of the Welfare Club on a parcel of informal open space. In accordance with policy CW7 (Protection of Open Space), an open space assessment (OSA) has been carried out. The OSA highlights that the area is deficient in useable informal open space, however as the area is within close proximity to King Georges Fields. As the site itself is rather small, (some 44 square metres) the loss of this parcel would not be significant to justify a refusal. With regards to the visual impact, it is important to note as that the parcel of land enclosed belongs to the Club, and as landowner, the club can erect a fence of no more than 1.0m high under the General Permitted Development Order (1995) (As Amended).

In summary, whilst there is a loss of open space and loss of visual amenity in the area, the loss would be minimal and not sufficient to justify a refusal of the application, especially considering that the enclosure is permitted development. This element of the application is therefore deemed acceptable.

As the erection of the fence would be considered as Permitted Development, the use of the enclosure as a beer garden and its impact on the adjoining neighbours would need to be assessed. Policy CW2 (part a) requires applications to ensure that 'there is no unacceptable impact on the amenity of adjacent properties or land'. As the beer garden has been in use since May 2017, it is important to assess whether there have been any complaints reported prior to this application being formally received. Whilst one complaint was received to Planning (and subsequent enforcement case opened), no noise complaints were reported to Environmental Health and only one call-out has been registered with the Police since 2017.

Through the formal planning application consultation, a number of objections state that there has been an increase in noise pollution (including loud music) and antisocial behaviour emanating from the beer garden since its construction. In response to this, Environmental Health have raised no objection to the application; however, they have requested that conditions relating to the opening of the beer garden are restricted to the hours of 11:00 and 22:00, and that no amplified music is to be played at the beer garden. As the beer garden area can be accessed and used at any point in time, the introduction of measures to limit the times of opening and for no amplified music to be played, would assist in curtailing any noise nuisance.

It is also important to note that before the erection of the beer garden fence, the Welfare Club would have had an impact on residential amenity, especially as patrons would be entering and leaving the site. On balance, as the structure is Permitted Development coupled with the site not being in public ownership, the application is recommended for approval subject to conditions limiting opening hours and amplified music.

Comments from Consultees: These are included in the above report.

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Comments from public:

- 1) Development will cause an additional amount of noise in the area.
- This is addressed in the above report.
- 2) Could a curfew be put in place?
- This is addressed in the above report.
- 3) Since installation, the beer garden has seen a rise in anti-social behaviour- including having the police called round.
- This is addressed in the above report.
- 4) The music blaring from the loudspeakers in the beer garden is unbearable and overpowering. The music and revelry continues in the beer garden until late.
- This is addressed in the above report.
- 5) Beer glasses and bottles were smashed and left strewn about on the grass and in the roadway.
- This is not a Planning matter, but will be drawn to the attention of the Licensing authority.
- 6) When the club is closed, groups of youths congregate around the beer garden causing a nuisance, and kicking the fence panelling off.
- As the structure is Permitted Development and the land is owned by the club, this is a private legal matter for the Club owner.
- 7) The objections do not extend to the welfare club itself, which is a welcome part of the community.
- Noted.
- 8) The Beer garden is within close proximity of the Old Age Pensioner bungalows.
- This is addressed in the above report.
- 9) The Beer garden may detract from the value of the properties nearby.
- This is not a Planning matter.

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Other material considerations: None.

The duty to improve the economic, social, environmental and cultural well-being of Wales, has been considered in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015. In reaching the recommendation below, the ways of working set out at section 5 of that Act have been taken into account, and it is considered that the recommendation is consistent with the sustainable development principle as required by section 8 of that Act.

RECOMMENDATION that Permission be GRANTED

This permission is subject to the following condition(s)

- 01) The development shall be carried out in accordance with the following approved plans and documents:
 - Site Location Plan received 20/09/2018 and
 - Plan view with dimensions received 20/09/2018.REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.
- 02) No amplified or other music shall be played in the beer garden subject of this consent.
REASON: In the interests of the amenity of the area.
- 03) The beer garden hereby permitted shall not be open to customers outside the following times:
Monday to Sunday 10:00 to 22:00.
REASON: In the interests of residential amenity.

Advisory Note(s)

The following policy(ies) of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 is/are relevant to the conditions of this permission:
CW2.

