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<b>Tonbridge</b> Cage Green	<b>559389 148541</b>	<b>6 August 2013</b>	<b>TM/13/02172/FL</b>
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Proposal:	Construction of two replacement dwellings on frontage and detached garage to rear (to serve detached dwelling approved under planning ref TM/09/00951/FL)
Location:	335 - 337 Shipbourne Road Tonbridge Kent TN10 3EU
Applicant:	Prolem Ltd

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## **1. Description:**

- 1.1 Planning permission is sought for the demolition of two existing bungalows and the construction of two detached five bedroom houses along the site frontage, and a detached garage to the rear. This garage is intended to serve a detached dwelling within the rear of the site. The dwelling at the rear was approved under planning reference TM/09/00951/FL, and that permission also included the demolition of the same two units on the site frontage and their replacement with two new residential properties of a different design and layout to those now proposed. The development approved under TM/09/00951/FL has been commenced by virtue of works undertaken to the rear part of the site and the permission therefore remains extant.
- 1.2 Setting aside that extant permission there have been a number of previous applications on this site for various schemes of residential redevelopment. All of those schemes proposed the demolition and replacement of the two bungalows on the site frontage with a central access drive to facilitate access to the rear part of the site. The first scheme (TM/06/01702/FL) proposed three additional dwellings to the rear and the second scheme (TM/08/00806/FL) proposed only one dwelling to the rear; this was extremely large and of a contemporary design. The third application was for 6 dwellings: two pairs of semi-detached chalets on the site frontage and a pair of semi-detached chalets to the rear with a parking court (TM/11/02362/FL). Planning permission was refused for all three proposals, two of which were dismissed at appeal. The applicant did not appeal the third refusal (TM/11/02362/FL).
- 1.3 Most recently, planning application TM/12/00551/FL related to the demolition of the two existing dwellings and the erection of four semi-detached three bedroom houses on the site frontage and one detached four bedroom house and garage on the rear part of the site. That application was also refused and subsequently dismissed at appeal.
- 1.4 The application now before Members for consideration in effect represents a hybrid between the extant planning permission (TM/09/00951/FL) and the most recent refusal (TM/12/00551/FL). Essentially, the dwelling to the rear itself does not form part of this submission as that dwelling already has the necessary planning permission by virtue of TM/09/00951/FL. The garage now proposed to

serve that dwelling is to be located to the northern end of the site (as sought in the 2012 application) rather than in its approved position to the southern end. The two replacement units to the site frontage are intended to largely represent the form and design of the units approved in 2009 but with the footprints relocated further back into the site to allow for a greater amount of space between the buildings and the boundary with the public highway on Shipbourne Road.

- 1.5 Access is to remain as the extant permission, provided by a central access drive. Each of the frontage dwellings would incorporate a double attached (integral) garage and additional parking and turning to the front.

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

- 2.1 Extensive and controversial planning history.

**3. The Site:**

- 3.1 The site lies on the eastern side of Shipbourne Road. It currently comprises two detached bungalows and their rear gardens. To the north lie the rear boundaries of the dwellings in White Cottage Road and the private clinic in Shipbourne Road; to the east (beyond the site of the approved dwelling on the rear part of the site) the rear gardens of the dwellings in Thorpe Avenue; and to the south the long gardens of the dwellings in Shipbourne Road. There are also residential properties to the west on the other side of Shipbourne Road.

- 3.2 This eastern side of Shipbourne Road is characterised by mainly detached bungalows and chalets and those along Shipbourne Road have substantial gardens to the rear.

**4. Planning History:**

TM/06/01702/FL	Refuse Appeal Dismissed	5 December 2006
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Demolition of two bungalows and erection of 5 detached dwellings

TM/08/00806/FL	Refuse Appeal dismissed	30 July 2008
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Demolition and replacement of 2 no. residential units and provision of 1 no. residential unit to rear

TM/09/00951/FL	Approved	28 July 2009
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Demolition and replacement of 2 no. residential units and provision of 1 no. residential unit to the rear

TM/11/02362/FL      Refuse      25 October 2011

Demolition of two dwellings and erection of six three bedroomed dwellings

TM/12/00551/FL      Refuse      14 May 2012  
Appeal Dismissed

Demolition of two existing dwellings and the erection of four semi-detached three bedroom houses and one detached four bedroom house

TM/12/01089/FLX      Refuse      9 July 2012

Extension of time to implement planning permission TM/09/00951/FL (Demolition and replacement of 2 no. residential units and provision of 1 no. residential unit to the rear)

TM/12/01747/RD      Approved      9 July 2012

Details of external materials, acoustic protection, hard and soft landscaping and sustainability measures submitted pursuant to conditions 2, 3, 12 and 15 of planning permission TM/09/00951/FL (Demolition and replacement of two residential units and provision of one residential unit to the rear)

## **5. Consultees:**

5.1 KCC (H&T): No objections.

5.2 Private Reps: 25/0X/4R/0S. Objections centre on the following grounds:

- Setting buildings back would be out of character with the street scene;
- These are houses not bungalows and are too large in this area;
- Entrance gates are too prominent;
- More hardstanding arising from the revised layout, diminishing the vegetation residents were trying to save;
- No need for such a large amount of parking to serve each of the dwellings;
- Parking should be permeable as there is already enough surface water on the road;
- Concern about the number of car movements in close proximity to the pedestrian crossing, schools and a nursery;
- Rear garden is now 'Greenfield' land;
- Landscaping and boundary treatment should be given more thought;

- No objection to the relocation of the garage provided it does not become a workshop or den;
- Question why the developer can change their minds for profit with no consultation;
- Impacts on highway and pedestrian safety during construction;
- Question the extent of the works undertaken to date constituting commencement of the development.

## **6. Determining Issues:**

- 6.1 One of the core planning principles of the NPPF is the need to proactively drive and support sustainable economic development to deliver the homes, businesses and industrial units needed. It also encourages the effective use of land by reusing land that has been previously developed (brownfield land) that is not of high environmental value. Annex 2 of the NPPF defines previously developed land (PDL) as being land which is or was occupied by a permanent structure including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed). Annex 2 specifically excludes private residential gardens from the definition of PDL.
- 6.2 It is important to stress that the current application before Members for consideration does not include (and does not need to include) the detached house to the rear; the site has the benefit of an extant permission for the replacement of the two dwellings on the site frontage *and* one new detached dwelling to the rear (TM/09/00951/FL), and development has commenced in that a material start has been made on the construction of the detached dwelling to the rear.
- 6.3 Therefore, although the policy context has moved on with the publication of the NPPF since the 2009 decision, particularly in respect of the definition of PDL, that portion of the scheme does not require any further consideration in itself. Some of the representations received make reference to the limited works undertaken on site just before the 2009 permission was due to expire, and the lack of works undertaken since that time. Section 56(1) of the Planning Act 1990 states that commencement of development is taken to be initiated if any material operation or change of use comprised in the development is carried out, including:
- Any work of construction in the course of erection of a building;
  - Any work of demolition of the building;
  - The digging of a trench which is to contain the foundations, or part of the foundations of any building;

- The laying of any underground main pipe to the foundations or part of the foundations of a building, or to any such trench mentioned above;
- Any operation in the course of laying out or constructing a road or part of a road;
- Any change in the use of the land which constitutes material development.

6.4 It was judged at the time that a material start had been made on site and, whilst nothing more may have occurred on site since that time, there is no evidence that can be brought forward that could reasonably lead to the conclusion that the works undertaken represent anything other than a meaningful intention to commence the development. Furthermore, the Inspector when determining the most recent appeal last year made the following statement:

6.5 *“The proposal to place a substantial four bedroom detached house in that rear garden area, with detached double garage and extensive vehicle manoeuvring space, would profoundly alter its character and appearance. However, save for the position of the garage, that element of the appeal proposal also forms part of the 2009 permission. Whilst that permission was granted prior to the exclusion of garden land from the definition of previously developed land, the appellant’s evidence is that a start has been made on implementing that permission.”*

6.6 With this position in mind, it is necessary for Members to consider *only* whether the changes now proposed in respect of the two frontage units and the garage, when compared to the extant permission, are acceptable, and not whether the principle or detail of the unit to the rear is acceptable.

6.7 In this respect, it is crucial to ensure that any proposed development suitably respects the surrounding environment. Indeed, the NPPF attaches great importance to the design of the built environment, stating that good design is a key aspect of sustainable development and is indivisible from good planning (paragraph 56). It also stresses the need for development to respond positively to local character, reflecting the identity of local surroundings whilst not discouraging appropriate innovation (paragraph 58).

6.8 TMBCS policy CP24 sets out the general criteria for all new development including a provision that development must respect the site and its surroundings and that it will not be permitted where it would be detrimental to the built environment and amenity of a locality. This is supported by policy SQ1 of the MDE DPD which states that all new development proposals should protect, conserve and where possible enhance:

- the character and local distinctiveness of the area including any historical and architectural interest and the prevailing level of tranquillity;

- the distinctive setting of and relationship between, the pattern of settlement, roads and the landscape, urban form and important views.

- 6.9 The relevant reference made by the Character Area Appraisal is to the line of bungalows on the eastern side of Shipbourne Road, north of Cage Green Road.
- 6.10 The proposed dwellings to the front of the site, replacing 335 and 337 Shipbourne Road, are very similar in terms of scale, form and detailed design to those approved under planning reference TM/09/00951/FL. They are proposed to be sited further back into the site, allowing for more generous space to the frontage and thus improved manoeuvrability within the plots. I am satisfied that this change in layout would not have any detrimental impact on the visual amenities of the street scene or the residential amenities of the properties either side of the application site, again, when compared to the extant position.
- 6.11 I cannot share the neighbours' concerns that this set back would be to the overall detriment of the street scene or that the buildings would be read as two storey houses, out of character with the locality. The submitted plans, including the street-scene elevation, indicate that the bulk and scale of the replacement buildings would be reflective of the existing buildings within the street scene, *with the first floor rooms accommodated within the roof spaces rather than as a typical first floor within walls*, and would not be materially at odds with those of their neighbours. Furthermore, the marginally greater depth of the proposed houses would not be readily discernible from the public realm. Indeed, this arrangement was shown in the 2012 scheme and was found to be acceptable in that case by the Planning Inspector, even though that scheme was found to be unacceptable, and the Appeal subsequently dismissed, for quite other reasons.
- 6.12 This application also proposes to relocate the approved garage serving the unit to the rear from the southern boundary to a position that is approximately 3.8m away from the northern site boundary. The proposed siting in this respect reflects that submitted under application TM/12/00551/FL (demolition of two existing dwellings and the erection of four semi-detached three bedroom houses and one detached four bedroom house). Whilst that application was refused, the impact of relocating the garage to this position did not, quite rightly, form part of the reasons for refusal and it is important to recognise that the Inspector stated that:
- "The proposed revised location for the detached double garage would place it much nearer to the rear boundary of 2a White Cottage Road than in the approved scheme. Even so it would be around 15 m from that bungalow's rear elevation, and there would be room within the appeal site for intervening screen planting. Though there is a slight downward slope towards No 2a, the outlook from that property would not be unduly affected."*
- 6.13 The conclusion drawn by the Inspector forms a material planning consideration in the current case and, as such, I must conclude that there is no objection to the

revised position of the garage at the northern end of the site. I have noted the neighbours' representations in respect of the use of this garage and can confirm that this can be controlled by planning condition.

6.14 In light of the above assessment, I conclude that the proposal is acceptable in light of the requirements of the NPPF, policy CP24 of the TMBCS and policy SQ1 of the MDE DPD. As such, the following recommendation is put forward:

**7. Recommendation:**

7.1 **Grant Planning Permission** in accordance with the following submitted details: Letter dated 24.07.2013, Design and Access Statement dated 06.08.2013, Planning Statement dated 06.08.2013, Statement materials dated 06.08.2013, Acoustic Assessment dated 06.08.2013, Landscape Statement dated 06.08.2013, Sustainability Report dated 06.08.2013, Drawing SR.RL01 dated 06.08.2013, Drawing SR.RL02 dated 06.08.2013, Drawing SR.RL03 dated 06.08.2013, Location Plan dated 06.08.2013, 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 This permission shall be an alternative to the following permission(s) and shall not be exercised in addition thereto, or in combination therewith other than insofar as it relates to the detached dwelling to the rear of the site. (Permission(s) granted on 28 July 2009; and under reference(s) TM/09/00951/FL).

Reason: The exercise of more than one permission would result in an overintensive use of the land.

3 All materials used externally shall accord with the approved plans, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.

4 The development shall be undertaken in accordance with the recommendations as detailed in the 'Statement on Materials, Acoustic Protection, Hard and Soft Landscaping and Sustainability', and received on 06 August 2013, and the buildings shall be retained thereafter and maintained to ensure compliance with the aims of the Statement.

Reason: To safeguard the aural amenity of the occupiers of the dwelling(s)

hereby approved and in accordance with Core Strategy policy CP1 of the Tonbridge and Malling Borough Council Local Development Framework.

- 5 If during the implementation of this permission, contamination not previously identified, is found to be present at the site then, unless otherwise agreed in writing with the Local Planning Authority, no further development shall be carried out until details of how that contamination shall be dealt with have been submitted and approved by the Local Planning Authority. The approved remediation scheme shall be fully implemented insofar as it relates to that part of the development which is to be occupied, and a Certificate shall be provided to the Local Planning Authority by a responsible person stating that remediation has been completed and the site is suitable for the permitted end use.

Thereafter, no works shall take place within the site such as to prejudice the effectiveness of the approved scheme of remediation.

Reason: In the interests of amenity and public safety.

- 6 The development shall be constructed at the levels indicated on the approved plan.

Reason: In the interests of residential and visual amenity.

- 7 No building shall be occupied until that part of the service road which provides access to it has been constructed in accordance with the approved plans.

Reason: To ensure the safe and free flow of traffic.

- 8 The access drive shall be constructed no steeper than 1 in 14.3 for the first 4.5 metres from the edge of the highway and no steeper than 1 in 8 on any other part.

Reason: To ensure the safe and free flow of traffic.

- 9 Any gateway to the access shall be set back 5.0 metres from the edge of the highway.

Reason: To enable vehicles to stand off the highway whilst any gates are being operated.

- 10 The access shall not be used until vision splays of 2m x 2m x 45° between the driveway and the back of the footway have been provided. The area of land within these vision splays shall be reduced in level as necessary and cleared of any obstruction exceeding a height of 0.6m above the level of the nearest part of the carriageway. The vision splays so created shall be retained at all times thereafter.

Reason: In the interests of highway safety.



- 11 The use shall not be commenced, nor the premises occupied, until the area shown on the submitted layout as vehicle parking space has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to hazardous on-street parking.

- 12 The garage(s) shown on the submitted plan shall be kept available at all times for the parking of private motor vehicles.

Reason: Development without the provision of adequate vehicle parking space is likely to lead to hazardous on-street parking.

- 13 The scheme of landscaping and boundary treatment shown on the approved plans shall be carried out in the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or plants which within 10 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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.

- 14 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.

- 15 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Classes A, B, C, E of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: In order to regulate and control development in the interests of residential amenity.

### **Informatives**

- 1 The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal address(es) to the new property/ies. To discuss the arrangements, you are invited to write to Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to e-mail to [addresses@tmbc.gov.uk](mailto:addresses@tmbc.gov.uk). To avoid difficulties for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.
- 2 Tonbridge and Malling Borough Council operate a two wheeled bin and green box recycling refuse collection service from the boundary of the property. Bins/boxes should be stored within the boundary of the property and placed at the nearest point to the public highway on the relevant collection day.
- 3 You are also advised that, in undertaking the works hereby approved, due regard should be had to the provisions of the Wildlife and Countryside Act 1981 relating to the protection of species and habitats. The applicant is recommended to seek further advice from the Natural England, The Countryside Management Centre, Coldharbour Farm, Wye, Ashford, Kent, TN25 5DB.
- 4 The Local Planning Authority supports the Kent Fire Brigade's wish to reduce the severity of property fires and the number of resulting injuries by the use of sprinkler systems in all new buildings and extensions.
- 5 No surface water shall drain onto the public highway.

Contact: Emma Keefe

