
Leybourne West Malling And Leybourne	569463 158281	3 August 2006	TM/06/02540/FL
Proposal:	24 no. residential units, associated parking, access and roads		
Location:	Parkfoot 2 London Road Leybourne West Malling Kent		
Applicant:	Parkfoot Garage Ltd		

1. Description:

- 1.1 This proposal is for the demolition of the existing petrol filling station and garage workshop building and for the erection of 24 residential units. The proposed mix of units is 1 no. 1 bedroom flat, 1 no. 2 bedroom flat, 4 no. 2 bedroom semi-detached units, 1 no. 2 bedroom terraced units, 9 no. 3 bedroom terraced units, 4 no. 3 bedroom semi-detached units and 3 no. 4 bedroom terraced units. The proposed semi-detached units fronting onto the A20 are 2½ stories high.
- 1.2 The existing petrol filling station is currently served by two accesses. The proposed development would be served by a single access located to the east of the existing entrance. The application has been amended since it was first submitted, principally by the re-siting of the proposed dwellings on the northern part of the site bringing them further away from the northern boundary, and by reducing the height of the building in the south-west corner of the site.
- 1.3 The proposed number of residential units is 24, the site area is 0.598 hectares and the density is 40 dwellings per hectare.

2. The Site:

- 2.1 The application site lies within the Urban Settlement confines of Leybourne and on the northern side of London Road (A20). The site contains a petrol filling station and a garage repair workshop. The eastern part of the site is currently hard surfaced and is partly occupied by a car wash. The remainder of the site has been used for second hand car sales, but currently lies empty.
- 2.2 To the north of the site lies a number of residential properties. These are positioned at a lower ground level than the application site.
- 2.3 London Road is characterised by properties set well back from the highway with low boundary walls fronting the properties and planting.
- 2.4 To the south of the A20 lies an open field.

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4.1.9 Trees that border and overhang the site should not be felled or cut back.

Views awaited on revised plans:

4.2 Leybourne PC: The parish council has considered the above application and would wish to see it refused on the grounds that the proposed development is out of character with the surrounding developments/properties by virtue of the proposed height of the buildings.

4.2.1 These buildings would have an overbearing impact on no. 4 London Road and the adjacent properties 17, 68 and 107 Baywell.

4.2.2 Should the planning department see fit to approve the application, the parish council would welcome a section 106 agreement being agreed to enhance the area of land at the junction of Lunsford Lane and London Road, adjacent to the development site.

Views awaited on revised plans:

4.3 Mouchel on behalf of KCC Education: An assessment of Community Facilities, namely Libraries, Adult Education and Youth & Community has identified a need for contribution towards Library and Youth & Community.

4.4 KCC (Highways): No objections.

4.5 DHH: **Noise:** The adoption of a single aspect design, whereby the properties fronting London Road are single aspect, leads me to conclude that the proposed development will be exposed to road traffic noise within NEC B. Therefore, I do not wish to object to the proposed development. No objections in terms of road traffic noise, subject to a condition requiring full details of a scheme of acoustic protection.

4.5.1 **Contamination:** On reviewing the various papers relating to this site, I can confirm that we have sufficient information to be satisfied that the site is capable of remediation sufficient to render it suitable for residential use. Accordingly, it is not necessary for the applicant to provide additional information prior to the determination of the application. However, it is essential that any permission that might be granted be subject to the "standard" land contamination condition and informative.

4.5.2 **Housing:** The number of dwellings proposed on the planning application (24) and the site area (0.593 hectares) triggers the Council's affordable housing policy. The LDF Core Strategy DPD was approved by Cabinet on 11 July and is a 'material consideration' in any planning decision. This contains the provision that on sites above 0.5 ha in urban areas

and/or where 15 or more dwellings are proposed, 40% of the number of dwellings can be sought for affordable housing.

4.6 Private Reps: Art 8 site and press notice + 16/0S/6R/1X. Seven responses received, six objecting on the following grounds:

- With parking proposed adjacent to the rear gardens of neighbouring properties. It appears that there would be a walkway behind the gardens of plots 10 and 11. The walkway would be well hidden from anyone and would allow any potential burglars easy access to adjacent rear gardens;
- Loss of privacy from first floor windows of the proposed dwellings;
- The proposed development is too dense for this semi-rural location;
- The lay of the land means that the proximity, density and height of the proposal would have an adverse visual impact, which is out of character with the existing adjacent housing. The inter-relationship between the application proposal and existing housing is not clearly shown on the sectional plans submitted;
- Measures to mitigate noise from the A20 on the proposed housing development will exacerbate the impact of the development on existing housing in Baywell;
- Car parking and housing to the north of the site is too close to existing properties and should not be incorporated;
- Rainwater run-off from the site has in the past caused flash flooding, which has impacted on adjacent properties. The increased use of paving and hardstanding is likely to further exacerbate this issue;
- Existing commercial activities involve the use of underground fuel storage tanks, which may lead to ground contamination. An EIA should be undertaken to establish whether there are any issues;
- The proposal would have an overbearing impact on adjacent properties, particularly the proposed dwellings with 3 floors;
- The site plan does not accord with the site itself and it may be that the proposed properties would have a greater overbearing impact than is apparent from the plan;
- Noise disturbance during construction.

Views awaited on revised plans (consultation period expires prior to date of Committee meeting).

5. Determining Issues:

- 5.1 The site has been identified as having potential for housing use within the Urban Capacity Study December 2004 and within the Preferred Options Consultation for the Local Development Framework, with an estimated capacity of 24 houses. The submission drafts of the Core Strategy and the Development Land Allocations Development Plan Document have been adopted by the Council on 11 July 2006 as a material consideration for the purposes of development control and were submitted to the Secretary of State in early September 2006. Because of the very early stage they are at in the adoption process, these documents are therefore of limited weight as a material consideration.
- 5.2 Nevertheless, these documents clearly indicate that the Borough Council has accepted the principle of residential development of this site. Moreover, although the previous planning application (TM/05/02630/FL) was refused, the reasons for refusal related to matters of detail – the principle of residential development was not raised as an issue. The potential for residential use is therefore subject to any specific proposal being of an acceptable layout and design to address all other material considerations.
- 5.3 In terms of the level of development of the site, I am of the opinion that the number of units proposed is not unacceptable (40 dwellings per ha) and is in accordance with the advice contained within PPG3.
- 5.4 The main issues to be considered are whether the proposal addresses the reasons for refusal of the previous application and whether issues that have arisen as a result of the amended layout and design that are now included in this new application are acceptable. The previous application was refused for the following reasons:
 - 1 The height, bulk and layout of the proposed buildings together with the wall along London Road would appear out of character with the surrounding development and the general characteristics of the locality. As such, it is considered that the development would be harmful to the visual amenities of the locality, contrary to the advice of PPG3 and to policies RS1 of the Kent Structure Plan 1996 and P4/11 of the Tonbridge and Malling Borough Local Plan 1998.
 - 2 The proposal would result in an overbearing impact on no. 4 London Road as a result of the height and proximity of the adjacent proposed dwelling, and is therefore contrary to Policy P4/11 of the Tonbridge and Malling Borough Local Plan 1998.

- 3 The relationship between the parking for the type 3 dwellings and the dwellings themselves will lead to vehicles parking outside these dwellings, and thus adversely affecting vehicle manoeuvring within the development. This will have an adverse affect on highway safety.
- 4 Parts of the site fall within Noise Exposure Category C. As such, it is considered that noise would have a significant impact on the quality of life as a result of road traffic noise from the A20 London Road, contrary to the advice of PPG24 and P3/17 of the Tonbridge and Malling Borough Local Plan 1998. The detail provided thus far does not satisfy the Local Planning Authority that all necessary steps have been taken to prevent the proposed dwellings from experiencing unacceptable noise levels.
- 5.5 The submitted proposal has removed the acoustic wall that was proposed to front London Road in the previous scheme. The dwellings along the London Road frontage have been reorientated from the previous scheme, so that the frontages face London Road.
- 5.6 London Road is characterised by linear development, with the front of the properties facing onto the road and low walls separating those properties from the highway. The proposed properties fronting London Road would be set back from the road and would be screened from the road by planting. I am of the opinion that this is in-keeping with the general form of the locality.
- 5.7 The design of the proposed dwellings is a mix of two and two and a half storey buildings. To the front of the site are semi-detached properties. London Road is currently characterised by mainly two-storey, semi-detached properties, set back from the road. The proposed semi-detached properties fronting London Road are in-keeping with the existing properties along London Road and the openness of the area to the east. I am of the opinion that they would not detract from the character of the streetscene.
- 5.8 I consider that the proposal has been altered from the previous proposal to satisfactorily address the first reason for refusal, and as such is in accordance with the advice of PPG3, and policies QL1 of the KMSP and P4/11 of TMBLP.
- 5.9 The property adjacent to the western end of the site (and fronting London Road) is a single storey shallow-pitched bungalow. The proposed building at the western end of the site frontage (flat types A and A1) has been altered from the previous proposal, in terms of positioning and design. The proposal has been amended during the course of the application to lower the roof and eaves of this building further by 300mm. The way that the applicant has dealt with the relationship of the proposal to 4 London Road is an improvement to the

previous scheme and I am satisfied that the proposal will not have an overbearing impact on the adjacent bungalow.

- 5.10 I am of the opinion that the proposed development is a sufficient distance away from the dwellings bounding the rear of the site, so as not to have an overbearing impact, despite the differences in ground level, and therefore I am of the opinion that this satisfactorily addresses the second reason for refusal on the previous scheme.
- 5.11 The layout of the proposed scheme has addressed a further issue that was of concern with the previous scheme, in that the parking for the dwellings and the dwellings themselves are much better related. Much of the parking is provided in or adjacent to the curtilages to the proposed dwellings. Where parking is to be provided in communal areas it is situated close to the dwelling which it would serve. I am of the opinion that this will reduce on-street parking and, as a result, is unlikely to result in an adverse impact on highway safety. The overall level of parking provision is to the required standard.
- 5.12 In terms of the fourth reason for refusal, the dwellings fronting London Road have been redesigned so that non-habitable rooms have been positioned at the front of the dwellings and habitable rooms and gardens have been positioned to the rear of these dwellings.
- 5.13 This leads me to conclude that the proposed development will be exposed to road traffic noise within Noise Exposure Category (NEC) B. Policy P3/17 of the TMBLP states that where noise levels fall within Category B, the applicant will be required to demonstrate that adequate mitigation measures are included in the proposal to reduce noise to a satisfactory level. I am of the opinion that this can be dealt with by way of a condition requiring a scheme of acoustic protection to be submitted for approval.
- 5.14 Turning now to issues relating to the specific scheme proposed, Policy TP12 of the KMSP states that development will normally be refused which involves the construction of a new access onto the primary or secondary road network where an increased risk of accidents or significant traffic delays may occur. I am of the opinion that the traffic generated by the existing petrol filling station, combined with the other outlets operated on the site, will generate far more traffic than that which would be generated by 24 dwellings. Members will note that this was not an issue that led to refusal of the previous application (albeit that this was for a lesser number of units).
- 5.15 Policy Annex PA4/12 of the TMBLP seeks a minimum distance of 21 metres between the principal rear windows of dwellings where these face each other. It states that in order to avoid an unacceptable loss of

privacy to the private garden areas of adjoining properties, all new windows should have their principal outlook so that it avoids direct overlooking into such areas and none should overlook these areas at a distance of less than 21 metres. However, the Kent Design Guide encourage a flexible approach to be taken over privacy distances. The applicant has amended the plans to reposition units 3, 4, 5 and 6 1.5m further away from the boundary with nos. 66 and 68 Baywell, to provide a minimum distance of 24.25m between the rear elevations of these dwellings and 66 and 68 Baywell. I am of the opinion that these additional measures taken by the applicant will ensure that the proposal will not result in a significant loss of privacy. The proposal has been amended to provide a minimum distance of 15m between the dwellings on plots 11 and 12 and the rear of 107 Baywell. The applicant has removed the first floor rear bedroom window to plot 10 and placed it on the side elevation. I am of the opinion that these additional measures taken by the applicant will ensure that the proposal will not result in a significant loss of privacy.

- 5.16 I note the comments raised that the plan submitted does not appear to accord with the actual boundary line. I have checked the measurements of the plans submitted with an ordnance survey plan and on site and can find no evidence of the submitted plans being inaccurate.
- 5.17 I note the comments raised relating to funding for library and youth and community facilities, however, it has not been made clear how and where such facilities would be provided, and in these circumstances it is not appropriate to seek a contribution.
- 5.18 Whilst the adopted Affordable Housing Guidance Note has a target requirement that affordable housing provision on all sites above the national threshold of 25 units (or above 1ha in size) should be 30% of all dwellings provided, policy CP18 of the Core Strategy states that in urban areas affordable housing provision will be sought on all sites of 15 dwellings or above at a level of 40% of the number of dwellings in any scheme. In light of the evolving policy circumstances since the previous scheme was considered, I have been in discussion with the applicant about the justification for providing affordable housing and will report further within the Supplementary Report.
- 5.19 Subject to clarification on this issue, I am of the opinion that the proposal is acceptable.

6. Recommendation:

- 6.1 **Grant Planning Permission**, as detailed in letters dated 03.08.2006, 17.10.2006 and 18.10.2006 and plan nos. PFG/011A, PFG/012A, PG/100A, PG/101, PG/102, PG/103, PG/104A, PG/105, PG/106,

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PG/107, PG/108, PG/109 and PFG/013, 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. No development shall take place until details and samples of materials to be used externally have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

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

3. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping and boundary treatment. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings 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.

4. The premises shall not be occupied until the existing vehicular accesses to A20 London Road have been closed permanently.

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

5. 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.

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6. The individual access driveways 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.

7. Any gateway to the individual access driveways 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.

8. Development shall not begin until details of the junction between the proposed service road and the highway including details of the necessary visibility splays, have been approved by the Local Planning Authority; and the building shall not be occupied until that junction has been constructed in accordance with the approved details.

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

9. No vehicular access to individual properties or a group of properties shall 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.

10. 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.

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

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

12. No building shall be occupied until the area shown on the submitted plan as turning area 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 and 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 turning area.

Reason: Development without provision of adequate turning facilities is likely to give rise to hazardous conditions in the public highway.

13. No development shall be commenced until:
 - (a) a site investigation has been undertaken to determine the nature and extent of any contamination, and
 - (b) the results of the investigation, together with an assessment by a suitably qualified or otherwise responsible person, and details of a scheme to contain, treat or remove any contamination, as appropriate, have been submitted to and approved by the Local Planning Authority.

Prior to the first occupation of the development hereby permitted (or, where the approved scheme provides for remediation and development to be phased, the occupation of the relevant phase of the development):

 - (c) the approved remediation scheme shall be fully implemented (either in relation to the development as a whole or the relevant phase, as appropriate), and
 - (d) 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.

- 14 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

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within Class A, B or C of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto. (R001)

Reason: In the interests of amenity.

- 15 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), no windows or similar openings shall be constructed in the north elevations of plots 3-6 or plots 10-13 other than as hereby approved, without the prior written consent of the Local Planning Authority. (D013)

Reason: To enable the Local Planning Authority to regulate and control any such further development in the interests of amenity and privacy of adjoining property.

- 16 No development shall be commenced until full details of a scheme of acoustic protection of habitable rooms having windows that will be exposed to a level of road traffic noise or railway noise in Noise Exposure Categories B, C or D as set out in Policy P3/17 of the Tonbridge and Malling Borough Local Plan have been submitted to and approved in writing by the Local Planning Authority. The scheme of acoustic protection shall be sufficient to secure internal noise levels no greater than 30 L_{Aeq} dB in bedrooms and 40 L_{Aeq} dB in living rooms with windows closed. Additionally, where the internal noise levels will exceed 40 L_{Aeq} dB in bedrooms or 48 L_{Aeq} dB in living rooms with windows open the scheme of acoustic protection shall incorporate appropriate acoustically screened mechanical ventilation. Mechanical ventilation shall also be provided to bedrooms having openings into facades that will be exposed to a level of road traffic noise or railway noise in excess of 78 L_{Amax} (Slow) time weighting. The approved scheme shall be implemented prior to the first occupation of the dwelling to which it relates and shall be retained at all times thereafter. (N016)

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

Contact: Glenda Egerton

SUPPLEMENTARY REPORTS

AREA 2 PLANNING COMMITTEE

DATED 8 November 2006

Leybourne **TM/06/02540/FL**
West Malling And Leybourne

**24 no. residential units, associated parking, access and roads at
Parkfoot 2 London Road Leybourne West Malling Kent for Parkfoot
Garage Ltd**

KCC (Highways): No objections.

DHH: No objection to the revised layout, subject to additional condition requiring the submission, approval, implementation and subsequent maintenance of a scheme of airborne and structure borne noise insulation of the party construction between the garages and the first floor dwellings of flat types A and A1.

Private Reps: Two additional responses received, objecting on the following grounds:

- paragraph 5.16 of the committee report states that the author can find no evidence of any boundary line being inaccurate on the plans. The boundary line does not accord with the actual boundary line;
- plots 4, 5 and 6 would still have an adverse affect on the adjacent properties. They would overlook and dominate these properties. Because the properties to the rear of the site are lower than the ground level of the site, additional privacy screening could not be provided;
- The design of the houses is not in-keeping with existing surrounding houses and would not be appropriate from the A20.
- Could the rear bedroom window of plot 12 be moved to the side elevation, as with plot 10;
- Plot 13 is a 2 storey property, but given the rise of the land it will appear as 3 storey from the adjacent site. Bedrooms 3 and 4 will also directly overlook into bedroom, sitting room and dining room windows of 103 Baywell. Could the first floor windows be moved to other elevations?
- The construction noise resulting from the development will cause disturbance to residents of adjacent existing properties.

DPE: Members will note that my main report identified that there remained matters to be clarified with respect to affordable housing, our consultant has advised me that they cannot see any justification economically as to why the applicant cannot provide some affordable housing as part of the overall scheme. Therefore, I recommend that any approval granted is subject to a condition requiring details of a scheme to be submitted to provide affordable housing within the scheme in accordance with the draft policy.

The site plan submitted by the applicant does show a discrepancy in one of the boundary lines, between 103 and 107 Baywell. However, I am of the opinion that the boundaries of the application site are accurate and the dwellings adjacent to the site are accurate on the submitted plans.

There would be a minimum distance of 24.25m between the rear elevations of plots 4, 5 and 6 and 66 and 68 Baywell. These adjacent properties lie at a lower ground level to the application site, by approximately one storey. Policy Annex PA4/12 of the TMBLP seeks a minimum distance of 21 metres between the principal rear windows of dwellings where these face each other. It states that in order to avoid an unacceptable loss of privacy to the private garden areas of adjoining properties, all new windows should have their principal outlook so that it avoids direct overlooking into such areas and that no windows should overlook these areas at a distance of less than 21 metres. However, the more recent Kent Design Guide encourages a flexible approach to be taken over privacy distances and contains no prescriptive distance. I am of the opinion that the proposal will not result in a significant loss of privacy or significantly dominate the properties to the rear of the site.

I note the concerns raised relating to the design of the proposed dwellings and their impact upon the streetscene. These issues have been discussed within my main report.

Although I note representations that certain windows could be relocated, it is the submitted case before the Council that must be assessed. In any event, the plans indicate that plot 12 is attached to a first floor link to plot 13, and therefore it would not be possible to relocate the window as suggested.

Plot 13 would be 16.5m from 103 Baywell, and I am of the opinion that given the distance and siting and inter-relationship between the proposed and existing properties, there would not result in a significant loss of privacy.

Issues relating to noise resulting from construction are not a material planning consideration.

AMENDED RECOMMENDATION:

Additional Conditions:

17. No development shall commence until a scheme has been submitted and approved by the Local Planning Authority for a scheme of airborne and structure borne noise insulation of the party construction between the garages and flat types A and A1. The scheme should include the treatment of the garage door and frame to minimise structure borne noise arising from the opening and closing of the garage door. The development shall be carried out in accordance with the approved details.

Reason: In the interests of amenity.

18. The garages below flat types A and A1 shall be used for the parking of cars only unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of amenity.

19. Development shall not begin until an affordable housing scheme has been submitted to and approved in writing by the local planning authority; for the purposes of this condition such a scheme is one which:

(a) ensures the provision and implementation of 40% of the development as affordable housing which shall be occupied by persons in need as defined in the affordable housing scheme;

(b) secures the involvement of a registered social landlord as defined in the Housing Act 1996; and

(c) identifies a specific alternative arrangement (such as low cost market housing) in the event that funding for the affordable housing has not been secured within 2 years of the date the development begins, and if funding for the affordable housing has not been so secured, the affordable housing units may be used for the alternative specified in the approved affordable housing scheme.

The development shall not be carried out other than in accordance with the approved scheme.

Reason: In order to secure a satisfactory standard of development.