
Leybourne **569463 158281** **3 August 2006** **TM/06/02540/FL**
West Malling And
Leybourne

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 Members will recall that this application was deferred from the November meeting of Area 2 Planning Committee to enable Members to inspect the site. This inspection took place on 24 November 2006. The application was due to be reported back to the Area 2 Committee on 10 January 2006. A copy of the report, which was circulated separately from the main Committee papers, **is annexed**. Both the applicant's agent and the landowner wrote to me prior to the January meeting regarding various aspects of the case and my Committee Report. In particular, the applicant's agent expressed disagreement with some of the judgements therein in terms of my assessment of the recently issued decision dismissing an appeal refusing permission for a 21 dwelling scheme on this site. In the light of this, and given the relatively short length of time that the applicant and landowner had to consider the issues raised in my report, the application was withdrawn from the agenda.
- 1.2 As mentioned in my published January report there have been two further significant occurrences that potentially affect the material considerations relevant to the application: the appeal decision (dismissed) has been received on the previous application (TM/05/2630/FL) and PPS3: Housing has been issued. The latter issue was dealt with in that earlier report and is not rehearsed here.
- 1.3 Amended plans have been submitted by the applicant in an endeavour to address the reasons for refusal proposed in the January Area 2 Committee report. The very latest amended plans remove the garages that were previously proposed near to the northern boundary, retaining the areas as open car parking spaces. In my January Report I expressed concern that the scheme as designed for the A20 frontage did not pose a suitable alternative to that dismissed on appeal even if different in concept. The applicant has now addressed the comments of the Inspector and my later concerns by saying that he is of the opinion that the design of the units fronting London Road in this scheme is now the correct approach for the site and in-keeping with the character with the neighbouring housing. The applicant has amended those units to plots 17-24, by amending their roof profile by lowering the ridge heights and hipping the side gable ends. The applicant has lowered the ground levels and the buildings to make the ridge heights 1.3m lower than previously proposed. A fresh round of consultations has been carried out.

2. Consultees (Received since the January meeting of APC2):

- 2.1 A further private rep has been received, reinforcing the objection set out in para. 2.3 of my January Report.
- 2.2 The consultation period for the latest revisions mentioned in 1.3 above expires on 7 February 2007 and any further views received will be included in a supplementary report.

3. Determining Issues:

- 3.1 My assessment of the scheme as a whole, with the garages close to the northern boundary, is set out in Section 3 of my January Report and Members are asked to refer to that.
- 3.2 Given the deletion of the garages I would no longer wish to pursue Reason for Refusal 2 in the January Report. This matter could be satisfactorily resolved by the acceptance of the amended plans and conditional controls preventing the erection of garages under permitted development provisions.
- 3.3 The units on the A20 frontage have now been reduced in overall height and bulk by a combination of a small amount of digging-in, reducing the height of the dwellings themselves and using hip details to reduce the visual bulk. I believe this change helps to reduce the overall impact of the development on the character and appearance of this urban/rural fringe location and addresses Reason for Refusal 1 in the January Report.
- 3.4 I feel that these two design responses have dealt with the objections that I raised in my January Report.

4. Recommendation:

- 4.1 **Grant Planning Permission** as amended by letter of 23 January 2007 and plans PG/10B, 11B, 12B, 13B, 101A, 105A and 109A 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. 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. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate.

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.

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 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.

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.

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 competent 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. The assessment and scheme shall have regard to the need to ensure that contaminants do not escape from the site to cause air and water pollution or pollution of adjoining land.

The scheme submitted pursuant to (b) shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking of the development hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority of the presence of any such unforeseen contamination.

Prior to the first occupation of the development or any part of the development hereby permitted

(c) the approved remediation scheme shall be fully implemented insofar as it relates to that part of the development which is to be occupied, 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 within Class A, B, C or E of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

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 elevation(s) of plots 3-6 or plots 10-13 other than as hereby approved, without the prior written consent of the Local Planning Authority.

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 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 LAeq dB in bedrooms and 40 LAeq dB in living rooms with windows closed. Additionally, where the internal noise levels will exceed 40 LAeq dB in bedrooms or 48 LAeq 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 in

excess of 78 LAmax (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.

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

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. Two units within the scheme hereby approved, shall be marketed in accordance with a scheme to be submitted to and approved by the LPA before development commences, as reduced price units. The scheme shall identify the units concerned, the open market value of the units, the level of discount that the units are to be sold at and a timetable for the marketing of the units for first sale (which shall not be less than 2 years).

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

Contact: Glenda Egerton