
Leybourne West Malling and Leybourne	569463 158281	14 July 2008	TM/08/01824/FL
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Proposal:	24 no. Residential units, associated parking and access road
Location:	Parkfoot 2 London Road Leybourne West Malling Kent ME19 5EY
Applicant:	Parkfoot Garage Limited

1. Description:

- 1.1 The development would consist of 2 no. 1-bedroom dwellings, 11 no 3-bedroom and 11 no. 4-bedroom dwellings. Five different dwelling types are proposed for this site. Type A would stand 9.4m high to ridge, type B 9.1m high to ridge, types C and D would stand 9m high to ridge and type E would stand 7.5m high to ridge level. All houses would have pitched roofs, some of which would be hipped or barn hipped. House types B and D would contain accommodation within the roof void.
- 1.2 The arrangement of the proposed dwellings is such that it would contain mainly terraces of dwellings, but two pairs of semi-detached houses are also proposed. No detached dwellings are proposed within this development.
- 1.3 Specific details of the external materials to be used on the proposed dwellings have not been submitted at this stage. However the application states that both red and yellow brickwork is to be used, together with render and tile hanging at first floor levels. No information has been provided at this stage regarding roof materials.
- 1.4 Some landscaping details have been submitted at this stage. It is proposed to plant many Oak, Downy Birch, Holly, Rowan and Cherry trees around the periphery of the site (most notably along the south and north boundaries), as well as undertaking dense shrub planting, mainly focused along the London Road site frontage, but also within the site as well.
- 1.5 The landscaping details also show the erection of a 2.4m high rendered wall that would be part boarded as well, set behind the proposed tree and shrub planting along the southern (London Road) site frontage.
- 1.6 The development has been designed with 49 dedicated parking spaces located in designated bays, within garages and private/shared driveways.
- 1.7 The site area is 0.593 ha and the development of 24 units would create a density of 40 dwellings per hectare.
- 1.8 The application does not provide for any affordable housing as part of this development.

2. Reason for reporting to Committee:

2.1 Due to the recent planning history of the site.

3. The Site:

3.1 The site is located within the settlement confines of Leybourne on the north side of the London Road (A20). The site is identified under policy H4 of the Tonbridge and Malling Development Land Allocations Development Plan Document 2008 as being suitable for residential development (20 units), subject to meeting certain site specific criteria.

3.2 The site currently contains a petrol filling station and to the rear (north) and west, residential developments are located. On the opposite side of the road, the site faces open countryside.

4. Planning History (most relevant):

TM/05/02630/FL	Refused	12 January 2006
	Appeal dismissed	14 December 2006

21 residential units together with associated parking, estate road and access arrangements including minor alterations to London Road

TM/06/02540/FL	Refuse	12 February 2007
	Appeal dismissed	31 August 2007

24 no residential units, associated parking, access and roads

5. Consultees:

5.1 PC: The Parish Council wish planning permission to be refused on the following grounds:

The scale drawings do not provide any detail of property dimensions and distances from neighbouring properties.

The ground elevations to plots 3-9 appear to be some 3 metres above the ground levels of the adjacent properties in Baywell (66 and 68) and will have an unacceptable impact on these properties, even more so being that the proposed plots are three storeys high.

The plots 10-13 being 3 storeys high will have an unacceptable and detrimental impact to the neighbouring properties at 103 and 107 Baywell.

The drawings are not detailed sufficiently to determine that there is sufficient provision for car parking.

5.2 KCC (Highways):

Parking: the proposal is for 24 units being served by a total of 48 car parking spaces that is acceptable. The parking is in general provided in curtilage in the form of single garage and driveway parking in front along with other communal areas of parking that I find satisfactory.

The applicant is reminded for the need for pedestrian visibility splays.

Access: The petrol filling station is currently served by two entrances. The proposal will result in the loss of one of these accesses. The development will be served by a single access being located slightly to one side of the other remaining access. The applicant has submitted a plan which shows the indicative junction layout and other amendments to the public highway.

Traffic Generation: 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 in excess of that generated by 24 residential dwellings.

Other Matters: Surface water from private areas is not to discharge onto the public highway.

All works are to be constructed in accordance with Kent Design and those put forward for adoption subject to a legal agreement.

The applicant is to liaise with TMBC regarding refuse storage and collection arrangements.

5.3 DHH: Environmental Protection:

The site adjoins the A20 London Road and is subject to high levels of traffic noise. The applicant has submitted an acoustic appraisal prepared by his consultant, which demonstrates that the proposed dwellings will be exposed to noise within NEC A and B set out in saved policy P3/17 where there is no objection to the principle of new residential development subject to the implementation of a scheme of acoustic treatment of the buildings.

Daytime noise affecting garden areas will be less than the 55 LAeq dB level which the World Health Organisation identifies as being “desirable” to prevent any significant community annoyance.

I do not wish to object on noise grounds but recommend that any permission be granted subject to a condition to require the implementation and maintenance of the scheme of acoustic protection, barrier roof construction glazing and acoustically screened mechanical ventilation detailed in the consultants report.

Housing-enabling:

The application triggers the affordable housing policy CP17. Based on a 40% yield I would expect 10 units of affordable housing. The suggested tenure mix is 7 social rent and 3 for shared ownership. The applicant's argument for not providing affordable housing is noted, however the previous applications referenced were both submitted and refused before the adoption of the Council's Affordable Housing SPD.

Contaminated Land:

If the Local Planning Authority is minded to grant planning permission, a condition regarding further investigation of contamination and any necessary remediation should be imposed.

5.4 Environment Agency:

Drainage: The site is underlain by the Folkestone Formation, which is classed as a principal aquifer. Use of soakaways at the site may only be permissible in areas where they would not result in pollution of controlled waters. Given the former use of the site, there is potential for hydrocarbons and other pollutants to be present beneath the ground surface. Any drainage to ground must not create a pathway by which contaminants can be mobile and migrate off site, or percolate toward the water table within the aquifer beneath the site.

There should be no discharge into land impacted by contamination or land previously identified as being contaminated. There should be no discharge to made ground. There must be no direct discharge to groundwater, a controlled water.

Only clean uncontaminated water should drain to the surface water system. Roof drainage shall drain directly to the surface water system. Appropriate pollution control methods should be used for drainage from access roads and car parking areas.

Land Contamination: The LPA should satisfy itself that the potential for contamination and any risks arising are properly assessed and that the development incorporates any necessary remediation and subsequent management measures to deal with risks.

5.5 Kent County Council (Education, Community and Social Services):

The development will create demand for extra primary and secondary school places. At present, the additional requirements for the school places can be accommodated within local schools.

An assessment of community facilities (Libraries, Adult education and Youth & Community) has identified a need for contribution towards Libraries and Youth & community. The cost of providing additional library facilities is currently £227 per dwelling and Youth & Community facilities is £827 per applicable house. Kent Adult Education Services are currently running at their maximum capacity in this area. Further clients will be generated by this development hence a requirement at a costing of £1,201 per dwelling.

5.6 Private Reps (Including Site and press Notices): 17/1X/0S/3R. The reasons for objecting to this application are:

- Loss of privacy to neighbouring properties
- Loss of light to neighbouring properties
- The impact of additional vehicle movements onto the A20
- The access to the site may be too close to the brow of the hill
- The parking arrangements are inadequate as people will not park in garages or in tandem and they will park on the road thus causing problems for other vehicles (including emergency services)
- The height of houses and their layout would have an overbearing impact upon the existing neighbouring properties.

6. Determining Issues:

- 6.1 The broad principle of a residential development of this size is acceptable under policy H4 of the Tonbridge and Malling Development Land Allocations Development Plan Document 2008. The main determining issues, therefore, relate to the impact of the proposal upon the character of the locality, the residential amenity of the existing adjacent properties and highway safety.
- 6.2 Policy CP 24 of the Tonbridge and Malling Borough Core Strategy 2007 relates to the quality of development. This policy requires developments to be well designed and through density, scale, layout, siting, character and appearance be designed to respect the site and its surroundings.
- 6.3 The density of the proposed development is 40 dwellings per hectare. This is higher than the density of the older ribbon development to the west and the late 20th century development to the north of the site. However, policy H4 stipulates for this site that any residential development is not to have a density of less than 30 dwellings per hectare. This would equate to 18 dwellings, which is below the number of units that policy H4 states should be located within this site. Therefore policy H4 envisages a density that would be more than 30 to the hectare and higher than the density of existing residential developments surrounding the site.

Furthermore, the layout of the proposed development, through the use of mainly terraced houses does create quite a spacious layout in my opinion. There is much room around the periphery of the site to retain existing trees and undertake additional soft landscaping, particularly along the A20 road frontage. I am satisfied that the proposed development whilst being of higher density than the existing adjacent residential areas, would not be so alien as to significantly detract from the character of the locality.

- 6.4 Members may recall the previous applications for residential developments on this site. Both were refused and dismissed on appeal. The last application (TM/06/02540/FL) was refused permission due to the impact of the development along the A20 site frontage being out of keeping with this edge-of-settlement location. The Inspector commented that the combination of the dwellings being sited well forward of the existing neighbouring properties, the lack of an opportunity for landscaping in front of the houses, their regular arrangement and height led him to conclude that this development would be discordant and alien to its surroundings.
- 6.5 The proposed development has been designed to address this concern. The dwellings have been set further back into the site, much in line with the existing adjacent properties and the number of houses fronting the London Road has also been reduced. Just three dwellings would be located with an elevation facing the A20. Two garage buildings would also be located along the London Road site frontage. This arrangement enables a much deeper area to the front of the proposed housing, immediately behind the road frontage, for soft landscaping to take place.
- 6.6 The proposed layout together with the indicative landscaping proposed would provide a more sensitive development than the previously refused schemes and which is more respectful of the semi-rural character of the locality.
- 6.7 The scheme does contain many dwellings containing rooms with the roof void. However, these dwellings have a ridge height of 9m which is not unduly high for a two-storey dwelling house. The dwellings with rooms within the roof have been designed with small pitched roof dormer windows facing into the site and these dwellings would be set well back from the London Road where they will not appear unduly prominent. The size/height of the individual buildings in the context of the proposed layout are such that they would not appear as an alien form of development in this locality in my opinion.
- 6.8 The applicant has stated that solar heating panels would be fitted to each of the dwellings. Whilst this is to be encouraged, specific details regarding the siting of the panels on each house have not been submitted. In the event that planning permission is granted, I would recommend the use of a condition to require these details to be submitted prior to the commencement of the development.

- 6.9 In light of the above, I consider that this scheme, in terms of its density, layout, the size, form and design of the proposed dwellings, complies with policy CP24.
- 6.10 Concerns have been expressed by some local residents over the impact of the development upon their residential amenity in terms of loss of privacy. Much concern is expressed due to the presence of loft rooms within some of the dwellings.
- 6.11 In terms of the potential impact on the existing property at 107 Baywell, the proposed dwellings on plots 10-13 have moved further away (to the east) from this property than in the previous scheme (TM/06/02540/FL). Whilst the previous scheme was refused permission, the Inspector considered the relationship between the proposed units in this corner of the site (north east) and the existing dwelling at 107 Baywell was acceptable in terms of overlooking/loss of privacy. Indeed the Inspector did not dismiss the previous scheme on the grounds of harm to the residential amenity of any adjacent properties. In the previous scheme the dwellings located in this corner also contained loft rooms as are currently proposed, but were 0.5m taller than the houses now proposed in this section of the site. I therefore have to conclude that the proposed development would not unacceptably detract from the residential amenity of 107 Baywell.
- 6.12 The proposed scheme also has a similar layout in relation to the existing properties at 68 and 103 Baywell as the scheme the subject of application TM/06/02540/FL. The dwellings would be of a similar height and contain loft accommodation with small, rear facing roof lights providing light to the north (rear) facing loft rooms. I consider the development to be acceptable in terms of its impact upon the amenity of these existing residential properties.
- 6.13 One of the residents in Lunsford Lane to the east of the site is concerned with the proposed development overlooking their property. However given the distance that this property is from the application site boundary (35metres) I am satisfied that the proposed development would not cause an unacceptable loss of amenity to this property.
- 6.14 Turning to matters of highway safety, the proposed development would be served by 2 car parking spaces per dwelling, which Kent Highway Services considers to be acceptable. The proposed parking bays are of an acceptable size and the way that the parking would be provided (within curtilage and in communal areas), is also considered to be acceptable. The communal parking areas would be overlooked by the proposed dwellings to reduce the likelihood of crime occurring within these areas.
- 6.15 The removal of the existing accesses and the creation of a single new access point together with the projected reduction in traffic movements to and from the site are considered to be beneficial in terms of highway safety. The proposed new junction with the London Road will need to be constructed to an adoptable

standard with the consent of the Highway Authority, which will ensure adequate levels of forward visibility for vehicles leaving the site.

- 6.16 Road traffic noise is an issue, but can be mitigated against. The proposed acoustic barrier along the southern boundary of the site would assist to reduce noise entering the site and some of the dwellings will be designed to incorporate measures to provide a reasonable internal aural environment. The proposed acoustic barrier would be set well back from the road and much landscaping is shown to take place in front of the wall, which would reduce its impact upon the street scene over time.
- 6.17 The applicant has submitted a case in support of the proposal not to provide affordable housing or any other developer contribution as part of this scheme. This centres on the viability of the development, which the applicant considers to be marginal. A financial valuation has been prepared and submitted in support of the applicant's position. This has been assessed by the Council's retained valuer and the applicant's figures for both development costs and projected sales values are considered to be fair and reasonable. It also has to be noted that the figures submitted by the applicant were produced before the recent economic downturn took effect in the latter half of last year.
- 6.18 Notwithstanding the above, it has to be recognised that the economic climate may change within the lifetime of a planning permission for this development, whereby houses sale revenue may rise above that anticipated in the application. There is a mechanism that could be used, if house prices rise sufficiently, for the Council to "clawback" a financial contribution towards the provision of affordable housing elsewhere in the Borough. Based on the projected sales figures provided by the applicant, a sum per square foot can be calculated. If the actual houses within this site sell for more (per square foot) than anticipated by the applicant, then a proportion of the additional revenue raised by the development could be used to fund affordable housing elsewhere within the Borough. The applicant has agreed in principle to this and this matter would need to be the subject of a legal agreement under S106 of the Planning Act.
- 6.19 Kent County Council, through its agent, has requested financial contributions for libraries, adult education, youth & community and adult social services. Whilst the County Council considers that the development would put added pressure on the existing services, it has not identified any capital projects where the requested money would be spent or identified where the local deficiencies are which would be placed under additional pressure by the occupiers of the proposed developments. Due to this and also in the light of the viability assessment, I do not consider it reasonable to require the developer to make the requested contributions.
- 6.20 In light of the above I recommend that planning permission be granted.

7. Recommendation:

7.1 Grant Planning Permission subject to:

- The applicant entering into an agreement under section 106 of the Town and Country Planning Act 1990 to secure a financial contribution towards the provision of affordable housing off site elsewhere within the Borough should the revenue gained from the sale of the proposed units exceed what has been specified in the application documents, and
- 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 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. (L005)

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 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.

- 6 The garage(s) shown on the submitted plan shall be kept available at all times for the parking of private motor vehicles. (P009)

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

- 7 No building shall be occupied until the area shown on the submitted plan as a 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. (P011)

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

- 8 The premises shall not be occupied until the existing vehicular accesses to the site have been closed permanently. (H005)

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

- 9 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. (H009)

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

- 10 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. (H011)

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

- 11 Development shall not begin until details of the junction between the proposed service road and the A20 London Road, including details of any works required within the existing highway, have been submitted to and approved by the Local Planning Authority; and none of the buildings shall be occupied until that junction has been constructed in accordance with the approved details.

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

- 12 No development shall take place until details of the number, size and position of the solar water heating panels to be installed on the dwellings have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details. (D008)

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

- 13 None of the buildings hereby permitted shall be occupied until underground ducts have been installed by the developer to enable telephone, electricity and communal telephone services to be connected to any premises within the site without recourse to the erection of distribution poles and overhead lines and 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 distribution pole or overhead line shall be erected within the area except with the express written consent of the Local Planning Authority. (E008)

Reason: In the interests of visual amenity.

- 14 None of the dwellings hereby permitted shall be occupied until details of the detailed design of the acoustic barrier have been submitted to and approved in writing by the Local Planning Authority. The dwellings shall be constructed in

conformity with the recommendations contained within the Cole Jarman Associates report ref. 06/01611/R1 to militate against road traffic noise. The approved noise mitigation measures, once installed, shall be maintained at all times thereafter.

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

15 Development approved by this planning permission shall not be commenced until:

a) Further site investigation has been designed for the site using the information obtained from the previous investigation and any diagrammatical representations (Conceptual Model). The proposed design for the investigation shall be submitted to, and approved in writing by the Local Planning Authority prior to that investigation being carried out on the site.

b) The site investigation has been undertaken in accordance with details approved by the Local Planning Authority and a risk assessment undertaken.

c) A Method Statement detailing the remediation requirements using the information obtained from the Site Investigation has been submitted to the Local Planning Authority. This shall be approved in writing by the Local Planning Authority prior to that remediation being carried out on the site.

d) If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing with the Local planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority, for an addendum to the Method Statement. This addendum to the Method Statement must detail how this unsuspected contamination shall be dealt with and from the date of approval the addendum(s) shall form part of the Method Statement.

e) Upon completion of the remediation detailed in the Method Statement a report shall be submitted to the Local Planning Authority that provides verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall also be detailed in the report.

f). A Certificate shall be provided to the Local Planning Authority by a responsible person (Developer) stating that remediation has been completed and the site is suitable for the permitted end use.

Reason: In the interest of public health and amenity.

- 16 No development shall take place until details of surface water drainage have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details. (D008)

Reason: To ensure that any discharges to ground do not result in pollution of controlled waters.

- 17 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 roof of the buildings within plots 1-13 inclusive without the prior written consent of the Local Planning Authority. (D014)

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.

Informatives:

- 1 The Borough Council will need to create new street name(s) for this development together with a new street numbering scheme. To discuss the arrangements for the allocation of new street names and numbers you are asked to write to the Chief Solicitor, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or telephone Trevor Bowen, Principal Legal Officer, on 01732 876039. To avoid difficulties, 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. (Q051)
- 2 For advice concerning the design of surface water drainage systems, please contact The Environment Agency, Orchard House, Endeavour Park, London Road, Addington, West Malling, ME19 5SH 08708 506.

Contact: Matthew Broome