

---

<b>East Malling &amp; Larkfield</b> East Malling	<b>570481 158302</b>	<b>04.08.2005</b>	<b>TM/05/02443/OA</b>
---	----------------------	-------------------	-----------------------

Proposal:	Outline Application for car park and pair of semi detached dwellings
Location:	Land Adjoining 23 And 24 Garner Drive East Malling West Malling Kent
Applicant:	East Malling And Larkfield Parish Council

---

### **1. Description:**

- 1.1 This is an outline application for the erection of a pair of semi-detached dwellings and the formation of a car park. The application has been submitted in outline form with all matters reserved apart from the means of access. The applicant is proposing to extend the existing spur road between Nos. 23 & 24 Garner Drive into the application site.
- 1.2 The applicant has submitted an indicative layout which shows the provision of 17 parking spaces to the east of the access, the retention of the oak tree and siting of the two dwellings to the west of the access.
- 1.3 The applicant, East Malling & Larkfield Parish Council has submitted a supporting letter which states that *"the purpose of the application is to assist with private parking facilities for the adjacent London Road dwellings and the intention of providing private pedestrian access from the site into the rear gardens of the London Road properties. Please note there is no intention to provide for public access from the site to London Road"*.

### **2. The Site:**

- 2.1 The application site lies to the north of Garner Drive & Chatfield Way between the rear gardens of residential properties on London Road (Nos. 717-747 & the parking area to Walnut Tree Court). The site is currently accessed off Garner Drive. The site drops away to the north and includes a mature Oak tree, some chestnut coppice and scrub. The northern boundary is formed by a chain link fence, whilst the southern boundary with the Garner Drive and Chatfield Way is formed by timber fencing, apart from the metal gate at the access into the site. The residential properties on London Road are Victorian houses, whilst the dwellings in Garner Drive and Chatfield Way are modern semi-detached and detached dwellinghouses.

### **3. Planning History:**

- 3.1 TM/94/0362OA      Approved 01.12.1995  
Outline application for residential development, open space, medical centre and associated roads.

3.2 TM/99/00471/FL Approved 02.07.1999  
Erection of 30 houses and associated garaging, parking and external works.

**4. Consultees:**

4.1 KCC (Highways): The proposal will provide a new turning head with access to a new car park with 17 spaces.

4.1.1 The application site is served from the main access in New Road and the supporting letter suggests that the new spaces will provide parking for properties that front London Road A20, where off street and on street parking space is generally at a premium. It could be advantageous to provide limited waiting areas on this length of London Road.

4.1.2 Pedestrian access to the site will only be via private access through the properties, there will be no public pedestrian route between the site and London Road. As outline proposal, no house details are shown, but parking should accord with current KCCVPS. In principle raise no objections to this application.

4.2 DHH: No objection subject to the standard land contamination condition.

4.3 MKW: No response.

4.4 Private Reps: 34/0X/1S/14R. One letter received supporting the proposal subject to:

- Provision of adequate lighting;
- Replacement of chain link fence with timber fence and pedestrian gates.

14 letters and a petition with 54 signatures have been received objecting to the proposal on the following grounds:

- Loss of trees;
- Adverse impact on wildlife;
- Oak tree should be protected;
- Increase in traffic movements;
- Increase in traffic noise;
- Potential light pollution;
- Potential danger to existing boundary treatment;
- Concerns over the security of the area and littering;

- Increase risk of vandalism and burglary;
- Noise from A20 will be more audible;
- Safety of children to play whilst the development is constructed;
- Loss of privacy;
- Car park should only be for the residents of London Road;
- Result in hazardous highway conditions;
- Loss of buffer between London Road and Garner Drive/Chatfield Way;
- Loss of amenity land.

4.5 A8 Site Notice: No response.

## **5. Determining Issues:**

- 5.1 The main issues to be considered are whether the proposal is appropriate development, whether the proposal will harm the residential amenity of the nearby dwellings and whether the proposal will not result in hazardous highway conditions.
- 5.2 The application site lies within the housing allocation P5/1 (H) of the TMBLP 1998. This application site formed part of the original outline planning permission TM/94/0362OA. The outline planning permission included a Section 106 Agreement, which required amongst other things that a parcel of land be transferred to the Parish Council for use as a car park for the owners and occupiers of 717-747 London Road. The Legal Agreement also allows vehicular access to the Parish Council land through the Redrow site and a convenient access point along the southern boundary of the Parish Council site. Whilst the planning permission for the provision of the car park through the means of the submission of a reserved matters application has now lapsed, there is still the legal requirement for the land to be used as a car park for the owners and occupiers of 717-747 London Road.
- 5.3 A subsequent planning application (TM/99/00471/FL) detailed the housing layout adjacent to the car park area and identified the access.
- 5.4 The provision of a car park on this parcel of land is a long standing commitment, and I understand the residents of Garner Drive & Chatfield Way. Equally the objections relating to the principle of the proposed use of the land must be mitigated by the fact there is legal requirement of the land to be used as a car park along with former planning permission for its use.

- 5.5 This is an outline application with all matters reserved apart from the means of access. The vehicular access to the application already exists and was formed under TM/99/471/FL. Therefore, Members are only looking at the principle of the development. Given that the permitted use of the land by a Section 106 Agreement is for the land to be car park and the current proposal to use it as a car park, in essence nothing has changed. Whilst it is acknowledged that the houses at Garner Drive have now been built, the development adjacent to the car park has always been residential. The impact on the residential amenity of the adjoining properties in principle has not changed and DHH raise no objection.
- 5.6 The proposal will not result in the loss of amenity land, it has never been designated as such. In terms of wildlife, the site is not designated as either a SSSI or a SNCI. However, a condition could be imposed to require a nature conservation survey to be carried out, along with any mitigation measures that may be justified as a result of any changes over the last few years. The applicant has submitted an indicative layout for the car parking and housing, which shows the provision of 17 parking spaces and the retention of the mature oak tree, plus some new planting. The retention of the oak tree is welcomed and has recently been protected by a Tree Preservation Order. The creation of the car park will involve the removal of scrub, some coppice and self sown saplings, but none of this was considered worthy for protection either individually or collectively by a Tree Preservation Order. Therefore, the removal of the scrub, coppice and saplings to create a car park and site for two dwellings is acceptable.
- 5.7 I also note local residents concerns over the management of the car park, external lighting and boundary treatment. The Parish Council will manage the car park and control over external lighting and boundary treatment should be covered by condition.
- 5.8 Therefore, I am satisfied that the use of the land for a car park is appropriate development, particularly given the history of the site.
- 5.9 Concern has also been raised over possible vandalism and the security of the neighbouring properties in Garner Drive and Chatfield Way by creating a car park in close proximity. Whilst these are material considerations, given that this is an outline application, the precise details of the layout and security matters will arise from any subsequent reserved matters application, where the local residents will be able to make representations on the detailed scheme.
- 5.10 In terms of the housing development, the site technically lies within the housing allocation as part of the Bradbourne Fields development. Therefore, the principle of erecting two houses on this parcel of land is acceptable.
- 5.11 The application site is physically capable of accommodating two dwellings without undue harm to the neighbouring properties subject to controls over the position of windows in order to protect neighbours privacy. The reserved matters will cover

matters of the design, external appearance and siting. Therefore, the proposed housing is appropriate development.

- 5.12 I note local residents concerns that the removal of the existing coppice trees and landscape buffer will increase noise pollution, however, members may recall from previous Committee discussions that trees do not act as noise buffers. Therefore, the removal of the trees will not increase the noise levels from the nearby A20 London Road.
- 5.13 In highway terms, the proposed development will be served by an existing access designed to meet the needs of a car park. In addition, in considering the original application TM/94/0362OA, consideration was given to the traffic generation from the car park and the overall housing development , but found to be acceptable. The additional traffic movements from the two dwellings proposed will not be significant and adequate parking on site can be secured by condition. Members will note that KCC Highways raises no objections to this proposal. Therefore, the proposed development will not result in hazardous highway conditions.
- 5.14 Local residents have raised concerns over the impact of the construction of the car park and dwellings upon their residential amenity and highway safety. However, Members will recall from previous applications, the planning system does not control the impact actually constructing a development. An informative could be used to alert the applicant to the opportunity to agree with the DHH a prior agreement to operating hours.
- 5.15 In light of the above considerations, I am satisfied that the proposal is appropriate, will not harm the residential amenity of the nearby dwellings and will not result in hazardous highway conditions, therefore I support this proposal.

## **6. Recommendation:**

6.1 **Grant Outline Planning Permission** as detailed by letter dated 03.08.2005 and by plans 1627 and 1627/1, subject to the following conditions:

- 1 Approval of details of the siting, design and external appearance of the building(s), and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority.

Reason: No such approval has been given.

- 2 The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990.

- 3 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990.

- 4 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.

- 5 The details submitted in pursuance of condition 1 shall be accompanied by a scheme of landscaping and boundary treatment which shall include a tree survey specifying the position, height, spread and species of all trees on the site, provision for the retention and protection of existing trees and shrubs and a date for completion of any new planting and boundary treatment. The scheme as approved by the Authority shall be implemented by the approved date or such other date as may be agreed in writing by the Authority. 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 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.

- 6 The details submitted in pursuance of Condition 1 shall show land, reserved for parking or garaging in accordance with the adopted County Parking Standards. None of the buildings shall be occupied until this area has been provided, surfaced and drained in accordance with the approved details. Thereafter 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 (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access to reserved vehicle parking area.

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

- 7 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 and south elevation(s) of the building 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.

- 8 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.

- 9 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.

- 10 The use of the access shall not be commenced until turning facilities have been provided within the curtilage of the site and these facilities shall be retained thereafter free from any obstruction.

Reason: In order that a vehicle may enter and leave the site in a forward direction to ensure the safe and free flow of traffic.

- 11 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.

- 12 No development shall take place until details of finished floor levels for 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.

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

- 13 No development shall take place until details of slab levels for car parking spaces have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

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

- 14 No development shall take place until details of external lighting have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

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

- 15 No vehicular access shall be afforded to London Road, with only pedestrian access made available to the residents of 717-749 inclusive (odd) to the north of the site.

Reason: In the interests of highway safety.

- 16 No development shall not take place until the detailed nature conservation survey has been submitted to and approved by the Local Planning Authority. This submission shall include details of any mitigation measures required, which shall be implemented in accordance with the approved details, including any timetable specified therein.

Reason: In the interests of nature conservation interest.

- 17 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.

- 18 No development shall commence until details of a scheme for the storage and screening of refuse has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the development is occupied and shall be retained at all times thereafter. (R004)

Reason: To facilitate the collection of refuse and preserve visual 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 the Chief Solicitor, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or contact Trevor Bowen, Principal Legal Officer, on 01732 876039 or by e-mail to [trevor.bowen@tmbc.gov.uk](mailto:trevor.bowen@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 With regard to works within the limits of the highway, the applicant is asked to consult The Highways Manager, Engineering Services, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent. ME19 4LZ. Tel: (01732) 844522.

- 3 No surface water run off shall discharge onto the public highway.
- 4 The applicant is advised to contact the Director of Health & Housing on 01732 844552 to agree a set of operating hours for the construction works.

Contact: Aaron Hill