
Leybourne

6 AUGUST 2025

TM/24/01969/PA

Birling Leybourne And Ryarsh

Location: 2 BAYWELL LEYBOURNE WEST MALLING ME19 5QQ

Proposal: Outline Application: all matters reserved for: Demolition of existing garage and erection of new detached self build dwelling

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1. Description of Proposal:

- 1.1 The application seeks outline planning permission for the subdivision of an existing residential plot and the erection of a detached, four-bedroom, two storey dwelling, following the demolition of the existing detached double garage. All matters are reserved as part of this application and therefore it is the principle of development only under consideration. However, comments will be provided on other relevant matters in establishing the principle of the proposed development at the site.

2. Reason for reporting to Committee:

- 2.1 The application was called to committee by Councillor Boxall for the following reasons:

“The proposed development at 2 Baywell, Leybourne, constitutes overdevelopment of a constrained residential plot and would result in demonstrable harm to the character, safety, amenity, and environmental quality of the area. The application is contrary to Policy CP24 of the Tonbridge & Malling Core Strategy (2007), which requires development to be well-designed, of high quality, and respectful of its surroundings. Expanded Grounds for Call in:

1. Overdevelopment and Incompatibility with Local Character The proposal seeks to insert a new detached dwelling into a narrow and shallow plot by subdividing the garden of an existing property. This results in • Two dwellings (existing and proposed) being tightly packed with minimal separation. • Loss of green frontage and visual openness, replaced by hardstanding and gravel. • A significant departure from the established pattern of development along the shared driveway, where all other properties benefit from garages, generous spacing, and landscaped frontages. This level of intensification is excessive for the site and constitutes overdevelopment, leading to a visibly discordant and cramped form of development.

2. Demonstrable Harm to Highway Safety The proposed parking and turning arrangements are inadequate. Vehicles associated with both the existing and proposed dwellings would likely need to reverse along a narrow shared driveway and onto Baywell, close to a T-junction with Oxley Shaw Lane. This creates: • A

foreseeable risk of collisions with passing traffic. • Danger to pedestrians, particularly near a bus stop, speed bump, and school crossing point. • Increased likelihood of on-street parking in already constrained and sensitive locations.

3. Loss of Residential Amenity The proposed two-storey dwelling would directly overlook neighbouring properties, particularly a bungalow to the rear, resulting in: • Loss of privacy and outlook. • A diminished sense of openness for adjacent residents. • Increased noise and activity in a previously quiet garden area.

4. Environmental and Ecological Impact The site forms part of a semi-wild garden adjacent to a mature hedgerow and wildlife corridor. Despite evidence of protected species (e.g. stag beetles, bats, nesting birds), the application: • Fails to provide an ecological survey, contrary to national and local biodiversity policies. • Risks irreversible harm to local habitats, in breach of the Biodiversity Net Gain requirement.

5. Drainage and Infrastructure Concerns The area has a known history of drainage issues. The application does not demonstrate: • That the existing foul and surface water systems can accommodate additional load. • Any professional assessment of the drainage network's capacity or fall gradient.

6. Construction Phase Disruption and Nuisance The shared driveway is not designed for heavy construction traffic. The absence of a construction management plan raises concerns about: • Damage to shared infrastructure, including concrete slabs and underground services. • Obstruction and nuisance to neighbouring residents during the build phase."

3. The Site:

- 3.1 The application site is located on a private drive set back from and overlooking Oxley Shaw Lane, the spine road that runs through main urban area. Number 2 Baywell is located at the end of the private drive. The site abuts a path which joins Oxley Shaw Lane with Rectory Lane South. The site is currently occupied by a double garage and garden space associated with the host dwelling. The immediate setting comprises a run of four detached houses set back from the passing highway, Oxley Shaw Lane.
- 3.2 The application site forms part of the side garden of 2 Baywell, a detached house on a relatively large plot at the end of a private drive.
- 3.3 The site is located within the urban area of Leybourne.
- 3.4 Existing vehicle access is to be provided off of the existing private drive which serves the existing properties.
- 3.5 There is a Public Right of Way MR577 which briefly runs along the north western boundary of the site.

4. Planning History (relevant):

08/00913/FL

Approved - 07 May 2008

White upvc reinforced framed conservatory with faced brickwork

04/03402/FL

Grant With Conditions - 05 November 2004

Variation of condition 1 of TM/99/1465/FL (two storey side extension and alterations to existing bay) to allow a further 5 years in which to implement planning permission

99/01465/FL

Grant With Conditions - 14 October 1999

two storey side extension and alterations to existing bay

93/00799/FL

Grant With Conditions - 20 May 1993

Two storey side extension (garage with study over)

79/11035/OLD

Grant With Conditions - 13 July 1979

Master plan of residential development of 108.5 acres of land (including proposed density ranges, phasing, infrastructure, open space, shopping and community facilities).

5. Consultees:

Consultee	Summary of comments
Parish Council	Laybourne Parish Council - We are writing to register our formal objection to the above-referenced planning application, which proposes the demolition of two garages and the construction of a new dwelling at the end of a private shared driveway serving four existing homes.

	<p>While we understand that the application is currently in outline form, we have serious concerns about both the principle and the indicative form of development being proposed. Our objections are based on several material planning considerations, and we urge Tonbridge and Malling Borough Council to refuse the application for the reasons set out below.</p> <p>1. Overdevelopment of a Constrained Plot – CP24 Core Strategy</p> <p>The proposal constitutes a clear case of overdevelopment. The site in question is irregularly shaped, significantly narrower at the rear, and was never designed or designated to accommodate an additional residential dwelling.</p> <p>While we recognise that the current application seeks permission for a single dwelling in outline, and does not define the final form of the building, we note that the indicative plans suggest a four-bedroom detached house in keeping with the existing neighbouring properties. This only reinforces our concern: the site is not suitable for any type of additional detached dwelling, regardless of its size or architectural design.</p> <p>The scale and massing shown in the indicative drawings would be entirely out of keeping with the site constraints, and would represent a forced, cramped addition to the established pattern of development. This would be contrary to Core Policy CP24 of the Tonbridge and Malling Core Strategy, which requires new development to respect the site's context and deliver a layout, scale and density appropriate to the surroundings.</p> <p>2. Misleading and Inaccurate Indicative Plans – Material Planning Consideration</p> <p>A fundamental concern is that the submitted indicative plans contain material inaccuracies. For example:</p> <p>In our opinion the plan misleadingly indicates that two cars can be parked in front of the existing property at No. 2 without encroaching the shared driveway and obstructing access. In reality, it is not possible to park two vehicles there without encroaching onto the shared access driveway, thereby restricting movement to the proposed new dwelling.</p> <p>The submitted layout fails to acknowledge the true dimensions and constraints of the plot, including the</p>
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	<p>tapering rear boundary and proximity to neighbouring dwellings.</p> <p>These inaccuracies are significant and undermine the integrity of the application. Where plans are materially misleading, it is entirely appropriate for the Council to refuse the application on that basis alone.</p> <p>3. Loss of Turning Circle and Increased Highway Risk – SQ8</p> <p>The proposal would eliminate the current informal turning head at the end of the shared access. This turning space is essential for:</p> <p>Safe manoeuvring Access by emergency and delivery vehicles Ensuring vehicles do not have to reverse down the length of the driveway</p> <p>Removing this facility would seriously compromise highway safety, in direct conflict with Policy SQ8 of the Managing Development and the Environment DPD, which stipulates that development must not create or exacerbate hazards on the highway.</p> <p>Additionally, we are concerned that vehicles displaced from the existing parking spaces at No 2 and those of the proposed new property would be unable to turn and would end up parking on the tight and dangerous corner where the drive meets Baywell, affecting visibility and safety or, on Oxley Shaw Lane, which is the main route through the estate and already has speed restriction bumps because of safety concerns on the road.</p> <p>4. Poor Residential Amenity – National Planning Policy Framework (NPPF)</p> <p>The indicative layout suggests a house positioned on a narrowing, awkwardly shaped plot that could only support a very small or oddly configured rear garden. This would result in:</p> <p>Substandard outdoor amenity space for future occupants;</p> <p>Potential loss of daylight and outlook for neighbouring properties.</p>
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	<p>An overbearing structure close to rear boundaries of existing homes;</p> <p>The proposal fails to meet the requirement in Paragraph 130 of the NPPF, which states that developments should create a high standard of amenity for existing and future users.</p> <p>5. Unclear Legal Access Rights – A Material Planning Issue</p> <p>The proposed dwelling would rely on access via a shared private driveway, which was granted rights of way to the four existing properties as part of the original development. It is not clear that such rights would extend to a new fifth dwelling, and there is no evidence that the applicant has secured such access.</p> <p>This is a material consideration in planning terms. If rights cannot be granted, there is no alternative means of access to the site, meaning the dwelling would be effectively landlocked and incapable of lawful use.</p> <p>6. Conclusion – Request for Refusal</p> <p>In summary, the proposal is flawed on both technical and planning grounds. It represents overdevelopment of a constrained plot, relies on inaccurate information, compromises access and safety, and offers substandard amenity. Furthermore, legal access rights are uncertain. The application conflicts with multiple local and national policies, including:</p> <p>Core Strategy CP24 – design, scale and character Policy SQ8 – highway safety NPPF Paragraph 130 – residential amenity Material planning considerations – accuracy of drawings, access rights</p> <p>We therefore urge the Planning Officer to recommend refusal of this application in the interest of protecting the safety, character, and amenity of the area.</p>
Environmental Protection	No objection subject to condition regarding working hours
Waste Services	Standard Advice applies
Southern Water	Outside of supply area.

Private Reps Site Notice Press Notice	<p>Fourteen letters of objection have been received from eight properties which are summarised as follows:</p> <p>Overdevelopment Out of keeping with streetscene Inadequate Services Insufficient parking No consultation with neighbours Restrictive covenant on the access Landlocked site Inadequate land to turn vehicles on site Inadequate onsite parking Inadequate drainage provision Ecology concerns Impacts on residential amenity Overlooking Loss of privacy</p>
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6. Determining Issues:

Relevant Policy Considerations

6.1 The Adopted Local Development Plan comprising:

- Tonbridge & Malling Borough Core Strategy (2007)
- Managing Development and the Environment DPD (2010)
- Saved Policies (Local Plan) (1998)

Relevant Material Considerations

- National Planning Policy Framework 2024
- National Planning Policy Guidance

6.2 Assessment of Impact:

Principle of Development

6.3 The Council cannot currently demonstrate an up-to-date five-year supply of housing when measured against its objectively assessed need (OAN). In the absence of a five-year supply of housing, it is necessary to apply the presumption in favour of development as set out in paragraph 11 of the National Planning Policy Framework 2024 (NPPF). For decision taking this means:

“c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

- 6.4 In undertaking this exercise, it must be recognised that the adopted development plan remains the starting point for the determination of any planning application (as required by s.38 (6) of the Planning and Compulsory Purchase Act 2004) and which is reiterated at paragraph 12 of the NPPF. The consequence of this in these circumstances must be an exercise to establish conformity between the development plan and the policies contained within the Framework as a whole.
- 6.5 Policy CP11 of the Tonbridge and Malling Borough Core Strategy 2007 (TMBCS) is the most relevant to the determination of this application as it addresses the matter of the principle of development for residential development in the urban confines of Leybourne. Policy CP11 outlines that development will be concentrated within the confines of urban Areas. The development involves the provision of a residential dwellinghouse within the urban confines. Therefore, the principle of development is acceptable, complying with Policy CP11.
- 6.6 With regards to the application of the presumption in favour of sustainable development, regard must first be had to whether any restrictive policies within the Framework (paragraph 11 d (i), footnote 7) provide a clear reason for refusing the development proposed. In this case, none of the policies referred to in Footnote 7 of the NPPF apply to the site the subject of this application. As such, pursuant to paragraph 11(d) (ii) of the NPPF, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when the proposal is assessed against the policies in the Framework taken as a whole. It is on this basis that the remainder of the assessment takes place.

Provision of Housing

- 6.7 Paragraph 61 of the NPPF sets out that, to support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it’s needed, that the needs of groups with specific housing requirements are addressed and that land with permission is

developed without unnecessary delay.

- 6.8 Paragraph 73 of the NPPF acknowledges that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, are essential for Small and Medium Enterprise housebuilders to deliver new homes and are often built out relatively quickly. It adds that LPA's should support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes. To make effective use of land, Paragraph 125 d) of the NPPF requires planning decisions to promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively.
- 6.9 With regard to the above, it is acknowledged that the provision of a dwelling would be considered a 'small site', however, together with other windfall sites in the Borough, would still make a positive contribution towards the Council's housing supply.
- 6.10 The provision of a net increase of one additional dwelling, given the shortage of housing land supply in the Borough, is a matter that attracts positive weight in the overall planning balance, but this weight is scaled to the fact that only one additional dwelling is proposed in the context of the overall housing need in the Borough.

Residential amenity

- 6.11 Paragraph 135 f) of the NPPF states that planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 6.12 Policy CP1 of the TMBCS requires all new development to result in a high-quality sustainable environment and (inter alia) in determining planning applications residential amenity will be preserved and where possible enhanced.
- 6.13 Policy CP24 of the TMBCS outlines that development by virtue of its design which would be detrimental to amenity will not be permitted.
- 6.14 Third party comments have raised concerns (amongst others) that the proposal would result in loss of privacy and be overbearing.
- 6.15 The application site is in an urban setting, where existing houses cluster loosely together with each other. The siting for the proposed new dwelling is indicative at this stage given all matters are reserved. It is therefore difficult at this stage to be certain of impacts upon neighbouring amenities. However, the indicative siting is likely to be a close representation of the siting sought at reserved matters stage, given the size of the plot.
- 6.16 Whilst a property at the end of this row of dwellings would not result in any harmful overbearing and is unlikely to result in overshadowing to nearby properties, there could be a conflict with regards to overlooking. Due to the angled rear boundary line with 11 Highberry, new first floor rear facing windows, if serving habitable rooms,

could lead to unacceptable overlooking due to the limited distances between any proposed rear elevation and the rear garden to 11 Highberry which abuts the rear boundary of the site. It would therefore be prudent to add an informative to any grant of permission to advise the applicant of the need to consider siting habitable room windows to the front and south western side elevation. The design of the proposed dwelling could be as such, so as to avoid significant levels of overlooking. These matters would be considered as part of the reserved matters applications.

- 6.17 The closest residential properties are the host dwelling itself and the neighbouring properties to the south west and south east. The proposal would be situated a minimum of approximately 19.5m from the closed property to the south east, 11 Highbury, and approximately 30m from the properties to the south west. Given the separation distances, it is not considered the proposal would result in adverse harms to the neighbouring amenities by of overbearing or overshadowing as mentioned above.
- 6.18 Given the siting, scale, and retained separation distances between properties, the proposal would not create unacceptable impact on the residential amenity of the neighbouring properties in terms of light, privacy or overlooking of garden areas, over and above, the existing situation.
- 6.19 With all matters reserved the view as based on the indicative siting and elevations is that a dwelling on the proposed site could be located and designed so as not to cause any adverse impact upon the amenities of neighbouring properties. As such, the proposal would comply with Policy P4/12 of the TMBLP.

Design, material, streetscene and character of the area

- 6.20 Policy CP1 of the TMBCS states that all proposals for new development must result in a high quality sustainable environment. This is expanded upon in sub paragraph 6.1.5 and includes matters such as making efficient use of land and making a positive contribution to local distinctiveness, character, townscape and the setting of settlements.
- 6.21 Policy CP24 of the TMBCS sets out a number of key objectives in terms of design. It requires that:
- “1. All development must be well designed and of a high quality in terms of detailing and use of appropriate materials, and must through its scale, density, layout, siting, character and appearance be designed to respect the site and its surroundings.*
- 2. All development should accord with the detailed advice contained in Kent Design, By Design and Secured by Design and other Supplementary Planning Documents such as Village Design Statements and Planning Briefs and, wherever possible, should make a positive contribution towards the enhancement of the appearance and safety of the area.*

3. Development which by virtue of its design would be detrimental to the built environment, amenity or functioning and character of a settlement or the countryside will not be permitted...”

6.22 Policy SQ1 of the Managing Development and the Environment Development Plan Document 2010 (MDE DPD) states:

“All new development should protect, conserve and, where possible, enhance:

(a) the character and local distinctiveness of the area including its historical and architectural interest and the prevailing level of tranquillity;

(b) the distinctive setting of, and relationship between, the pattern of settlement, roads and the landscape, urban form and important views; and

(c) the biodiversity value of the area, including patterns of vegetation, property boundaries and water bodies.”

6.23 These policies within the LDF are broadly in conformity with those contained within the NPPF.

6.24 In particular, paragraph 135 of the NPPF seeks to ensure that development:

“a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”

6.25 Chapter 11 of the NPPF is specifically focused on ‘Making effective use of land’. Paragraph 124 states that:

- 6.26 *“Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.”*
- 6.27 The proposal involves the demolition of an existing garage which is in association with No. 2 Baywell. The garage itself is of no special architectural interest and is of a residential character in connection with the host property. As such the demolition is considered acceptable and the removal of the garage would have no harmful upon the character of the area.
- 6.28 Third party comments have raised concerns over the impact of the proposed development on the character and appearance of the area and that it would not be in keeping with surrounding area as the proposal would result in a smaller plot and result in a cramped appearance.
- 6.29 Within the area there is a variety of property styles, overall size, form and design. The new dwelling would therefore be likely to integrate into the varied character of the area once design details are assessed at reserved matters stage. The new dwelling would be located to the west of the host property and would be set back by at least 10 metres from the road. The position of the dwelling has been indicated to follow the established stagger in the building line. Whilst final details are to be secured by way of the reserved matters application, the principle of a new dwelling in this location would be acceptable. The overall height and bulk of the proposed new dwelling would also likely be in keeping with the character of the area given the varied building design within the area which would, therefore, not cause significant harm to the character and appearance of the area. The resultant plot size may be slightly smaller than the others in the row of 4 along this shared driveway, however not so significantly smaller as to appear discordant with the prevailing plot sizes in the wider area.
- 6.30 Overall, the proposed dwelling would likely correspond well to the scale, form and massing of the adjoining properties and would not dominate the streetscene along Baywell. As such, the proposed development would correspond well to its surroundings and would be in keeping with the landscape character of the area. Final details of the design of the dwelling are to be secured through the reserved matters application. At this time, the principle of a dwelling on the site as indicated upon the supporting drawings, would be acceptable.
- 6.31 As such, it is considered that the proposal would result in a scheme that would assimilate well with the overall form and layout of its surroundings, in compliance with paragraph 135 of the NPPF, Policy CP24 of the TMBCS and Policy SQ1 of the MDE DPD.

Highway safety and parking provision

- 6.32 Policy SQ8 of the MDE DPD states that development will only be permitted where there will be no significant harm to highway safety. Paragraph 115 of the NPPF

requires development to promote sustainable transport modes, provide safe and sustainable access to the site, the design of any road layout to reflect current national guidance and any significant impact on the highway to be assessed. Paragraph 116 continues to state that development should only be refused on transport grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts of the development would be severe.

- 6.33 It is acknowledged that objections have been raised from residents with regards to the proposed use of the existing access. However, this is an existing access which serves 4 dwellings, and it is considered that a further dwelling in this location would not result in severe harm to the local highway network. Notwithstanding any private matters outside of the planning process, it is considered that an existing access would be acceptable for an additional dwelling. The proposal for one dwelling does not trigger a consultation with the Highways Authority.
- 6.34 Concern has been raised from neighbouring properties regarding the limited width of the access road. The existing property is served by a shared access road, which is not being changed in any way. It is considered the access would be adequate to serve one additional dwelling. The proposed site plan shows an area to the frontage wherein two vehicles appear to be able to park which would accord with the parking requirements for a 3-bed dwelling.
- 6.35 Further concerns have been raised with regards to the size of the proposed parking spaces. In reviewing the indicative drawings, the frontage area where vehicles would park measures 5 metres so would accord with the space requirements for a parking space. In addition, concerns with regards to turning on site have been raised. As the application is for outline permission with all matters reserved, access matters are for determination at RM stage. Notwithstanding this, an informative to advise the applicant that appropriate manoeuvring space should be demonstrated at RM stage.
- 6.36 Accordingly, the development would not have an unacceptable impact upon highway safety and parking provision, adhering to Saved Policy P4/12 of the TMBLP, Policy SQ8 of the MDE DPD and paragraphs 115 and 116 of the NPPF.

Trees

- 6.37 The applicant has indicated in their design and access statement that the existing landscape features would be retained. There are several large trees located outside of the application site, to the west which have a positive impact upon the character of the area. Further details with regards to the placement of the dwelling within the site, tree protection and services plans would be required as part of the reserved matters application suitably conditioned at that stage.
- 6.38 It is considered at this time that there are no significant trees that would be impacted as a result of the proposed development. No objections have been received with regards to on site trees or landscape features, further given that the site is within an existing urban, built-up area limited harms would result. As such, the principle of the

proposal is considered to be acceptable in this regard.

Biodiversity and Ecology

- 6.39 Policy NE2 of the MDE DPD seeks to protect, conserve and enhance the biodiversity of the borough, in particular priority habitats, species and features. The restoration and creation of new habitats will be pursued. Policy NE3 of the MDE DPD further states that development that would adversely affect the biodiversity will only be permitted if appropriate mitigation and/or compensation measures are provided within the site. Proposals must make provision of the retention of the habitat and protection of its wildlife links. Opportunities to maximise the creation of new corridors and improve permeability and ecological conservation value will be sought.
- 6.40 Policy NE4 seeks to maintain and enhance tree cover and the hedgerow network.
- 6.41 Paragraph 187 of the NPPF advises that planning decisions should contribute to and enhance the natural environment, including protecting and enhancing sites of biodiversity and minimising impacts on and providing net gains for biodiversity. Paragraph 193 of the NPPF states that if significant harm to biodiversity resulting from a development cannot be avoided through relocation, mitigation or compensated for, then planning permission should be refused, whilst opportunities to improve biodiversity in and around developments should be integrated as part of their design.
- 6.42 In regard to biodiversity, it is now a national requirement that small scale developments must provide at least a 10% biodiversity net gain.
- 6.43 In this instance, the proposal seeks to retain the existing trees and boundary features and provide a self-build dwelling.
- 6.44 As part of the Biodiversity Net Gain (BNG) requirements, self-build dwellings are exempt from the provision of a 10% BNG.
- 6.45 A Unilateral Undertaking confirming that the development is to be a self-built and thus exempt from BNG has been submitted and is under consideration by the Legal Department. Subject to the signing of this agreement, it is considered that the proposal would be a self-build and thus exempt from BNG.
- 6.46 On this basis, no objections are raised in this regard.

Public Right of Way

- 6.47 Public Right of Way Footpath MR577 lays to the west of the property, as such Kent Public Rights of Way (PRoW) have been consulted. They have not raised any objection to the proposal subject to the several informative to notify the applicant that the granting of Planning Permission does not confer any other permission or consent with regards to the Public Rights of Way. These informatives have been added.

- 6.48 Given the proximity of the PRoW, the proposal would alter the character and experience of this footpath. However, it is considered that the proposal would not result in detrimental harms in this regard. The PRoW is situated within a built-up area wherein there is existing built form in close proximity to the footpath. Whilst the proposal would add further bulk at first floor over the existing garage in place, this would not result in significant harm given the context of the footpath within a built-up area.

Archaeological Notification Area

- 6.49 The application site is situated within an Archaeological Notification Area, as such, KCC Heritage have been consulted. Comments have not yet been received; however, this has been followed up and comments requested. It is anticipated that a condition would likely be required to ensure the archaeological potential of the site is recorded and appropriate excavation techniques are undertaken. A cautionary approach is recommended in this instance and as such a condition has been imposed to this effect. Should the comments of KCC Heritage not require such a condition, this will be reviewed and reflected in the supplementary agenda paper.

Planning Balance

- 6.50 For the reasons set out above, the presumption in favour of development is engaged on this application. It has already been established that the proposal would not result in harm to any protected areas or assets and there is no strong reason to refuse the application in accordance with Paragraph 11 d) (i) of the NPPF.
- 6.51 Therefore, in this case paragraph 11 d) (ii) is applicable and the application should only be refused if any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well designed places and providing affordable homes, individually or in combination.
- 6.52 In weighing the proposal in the overall planning balance, as noted above, the council cannot currently demonstrate a 5 year housing land supply. Substantial weight should be attributed to all housing schemes even though it is noted that in this case the provision of only one additional dwelling.
- 6.53 It is considered that no unacceptable impacts arising from the proposal have been identified that would significantly and demonstrably outweigh the potential benefits of the scheme, and that could not be suitably mitigated at reserved matters stage. Therefore, the presumption in favour of development must apply in this case and consequently, the application is recommended for approval.

7. Recommendation:

- 7.1 **Approve** subject to the signing and completion of the Unilateral Undertaking and the following conditions:

Conditions

1. The 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.

2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Application Form, Planning Statement, Site location plan, Proposed site plan, Proposed elevations and site layout

Reason: To ensure the development is carried out in accordance with the approval and to ensure the quality of development indicated on the approved plans is achieved in practice.

3. No development above dpc level 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.

4. (a) If during development work, significant deposits of made ground or indicators of potential contamination are discovered, the work shall cease until an investigation/ remediation strategy has been agreed with the Local Planning Authority and it shall thereafter be implemented by the developer.

(b) Any soils and other materials taken for disposal should be in accordance with the requirements of the Waste Management, Duty of Care Regulations. Any soil brought onsite should be clean and a soil chemical analysis shall be provided to verify imported soils are suitable for the proposed end use.

(c) A closure report shall be submitted by the developer relating to (a) and (b) above and other relevant issues and responses such as any pollution incident during the development.

Reason: In the interests of amenity and public safety.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order), no development shall be carried out within Class A, AA, B, and E of Part 1 of Schedule 2 of that Order or within Class A of Part 2 of Schedule 2.

Reason: In the interest of safeguarding the appearance of the development and the character of the surrounding area and residential amenities.

6. The development hereby approved shall not be occupied until the parking bays shown on the proposed layout plan have been provided and are available for use for both the proposed dwelling and the host property.

Reason: To ensure that parking is provided and maintained in accordance with the Council's adopted standards.

7. Prior to the commencement of the development hereby approved, arrangements for the management of any and all demolition and construction works shall be submitted to and approved by the Local Planning Authority. The management arrangements to be submitted shall include (but not necessarily be limited to) the following:

- The days of the week and hours of the day when the construction works will be limited to and measured to ensure these are adhered to;
- Procedures for managing all traffic movements associated with the construction works including (but not limited to) the delivery of building materials to the site (including the times of the day when those deliveries will be permitted to take place and how/where materials will be offloaded into the site) and for the management of all other construction related traffic and measures to ensure these are adhered to;
- Procedures for notifying neighbouring properties as to the ongoing timetabling of works, the nature of the works and likely their duration, with particular reference to any such works which may give rise to noise and disturbance and any other regular liaison or information dissemination; and
- The specific arrangements for the parking of contractor's vehicles within or around the site during construction and any external storage of materials or plant throughout the construction phase.
- The controls on noise and dust arising from the site with reference to current guidance.

The development shall be undertaken in full compliance with the approved details.

Reason: In the interests of general amenity and highway safety.

8. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved by the Local Planning Authority. The works undertaken thereafter shall be in strict accordance with the details approved.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

Informatives:

1. To avoid undue disturbance to neighbours, during the demolition and construction phase, the hours of working (including deliveries) shall be restricted to Monday to Friday 07:30 hours - 18:30 hours. On Saturday 08:00 to 13:00 hours, with no work on Sundays or Public Holidays.
2. Although it would not be possible at this stage under Environmental Health legislation to prohibit the disposal of waste by incineration, the use of bonfires could lead to justified complaints from local residents. The disposal of demolition waste by incineration is also contrary to Waste Management Legislation. The applicant is therefore advised to prohibit fires on site during the development stage of this project.

3. **Bin provision & service**

The Council operates an alternate weekly collection service for refuse and recycling, and a weekly food waste collection. Refuse and recycling is collected in separate 240 litre wheeled bins, paper and cardboard is collected in a separate 55 litre box, and food waste is collected in a 23L free standing container. There is a paid subscription service for garden waste collection using a 240-litre bin.

All individual properties must be able to accommodate up to 3 x 240 litre wheeled bins, 1 x 55 litre box & 1 x 23L food bin.

Bins & boxes are provided by the Council, and all repairs/replacements, subject to normal wear and tear. Bins damaged by the user may be recharged to the managing agent or householder. (For dimensions see below)

Presentation of bins/boxes

Although advice in accordance with the Local Plan states 'no carry distance to exceed 25m from either the bin store or house to the refuse vehicle' it is emphasised that consideration should always be given to a shorter distance. Bins/boxes must be stored within the boundary of the property and placed at the nearest point to the public highway by 7am on collection day and returned to the storage point on the property by the end of the day.

Container dimensions

- a. Standard Wheeled Bin (240 litre) dimensions: 1070mm H x 580mm W x 740mm D
 - b. Small Wheeled Bin (140 litre) dimensions: 1070mm H x 480mm W x 555mm D
 - c. Large Wheeled Bin (360 litre) dimensions: 1100 H x 620mm W x 860mm D
 - d. Eurobin (communal) (1100 litre) dimensions: 1470mm H x 1360 W x 1080mm D
 - e. Standard Box (55 litre) dimensions: 500mm H x 600mm W x 450mm D
- Standard Food waste bin/individual properties (23 litre)

4. Under paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 (as amended) every planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition”) that development may not begin unless:

- a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- b) the planning authority has approved the plan.

This permission will require the submission and approval of a Biodiversity Gain Plan before development is begun.

For guidance on the contents of the Biodiversity Gain Plan that must be submitted and agreed by the Council prior to the commencement of the consented development please see the Government Website: Submit a biodiversity gain plan (www.gov.uk)

5. The applicant is advised that all habitable first floor windows would be best located to the front and south western side elevations to avoid overlooking, based on the indicative siting shown.
6. The granting of planning permission confers no other permission or consent on the applicant. It is therefore important to advise the applicant that no works can be undertaken on a Public Right of Way without the express consent of the Highways Authority. In cases of doubt the applicant should be advised to contact this office before commencing any works that may affect the Public Right of Way. Should any temporary closures be required to ensure public safety then this office will deal on the basis that:
- The applicant pays for the administration costs.
 - The duration of the closure is kept to a minimum.
 - Alternative routes will be provided for the duration of the closure.
 - A minimum of six weeks notice is required to process any applications for temporary closures.

This means that the Public Right of Way must not be stopped up, diverted, obstructed (this includes any building materials or waste generated during any of the construction phases) or the surface disturbed. There must be no encroachment on the current width, at any time now or in future and no furniture or fixtures may be erected on or across Public Rights of Way without consent.

7. The granting of planning permission confers no other permission or consent on the applicant. It is therefore important to advise the applicant that no works can be undertaken on a Public Right of Way without the express consent of the Highways Authority. In cases of doubt the applicant should be advised to contact Kent County Council Public Rights of Way and Access Service before commencing any work on site as the Public Right of Way needs to be diverted.
8. 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 e-mail to addresses@tmhc.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.

9. This permission does not purport to convey any legal right to undertake works or development on land outside the ownership of the applicant without the consent of the relevant landowners.
10. The granting of this permission does not purport to convey any legal right to block or impede any private right of way which may cross the application site without any consent which may be required from the beneficiaries of that right of way.

Contact: Phillip Richards