



**REPORT of
ASSISTANT DIRECTOR OF PLANNING AND IMPLEMENTATION**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
14 JANUARY 2025**

Application Number	24/00755/HOUSE
Location	1 Oxley Cottage, 1 Oxley Hill, Tolleshunt D'Arcy
Proposal	S73A application for alterations to detached garage previously approved under 16/00002/HOUSE including, raising the ridge height, altered roof pitches, changes to fenestration and external materials.
Applicant	Mr Matthew Lockyer – That Design Co Ltd
Agent	Mr Sam Cook
Target Decision Date	17.01.2025
Case Officer	J.Kirkaldy
Parish	TOLLESHUNT D'ARCY
Reason for Referral to the Committee / Council	Member Call In – Councillor M E Thompson regarding Policy D1 and impact on neighbouring amenity.

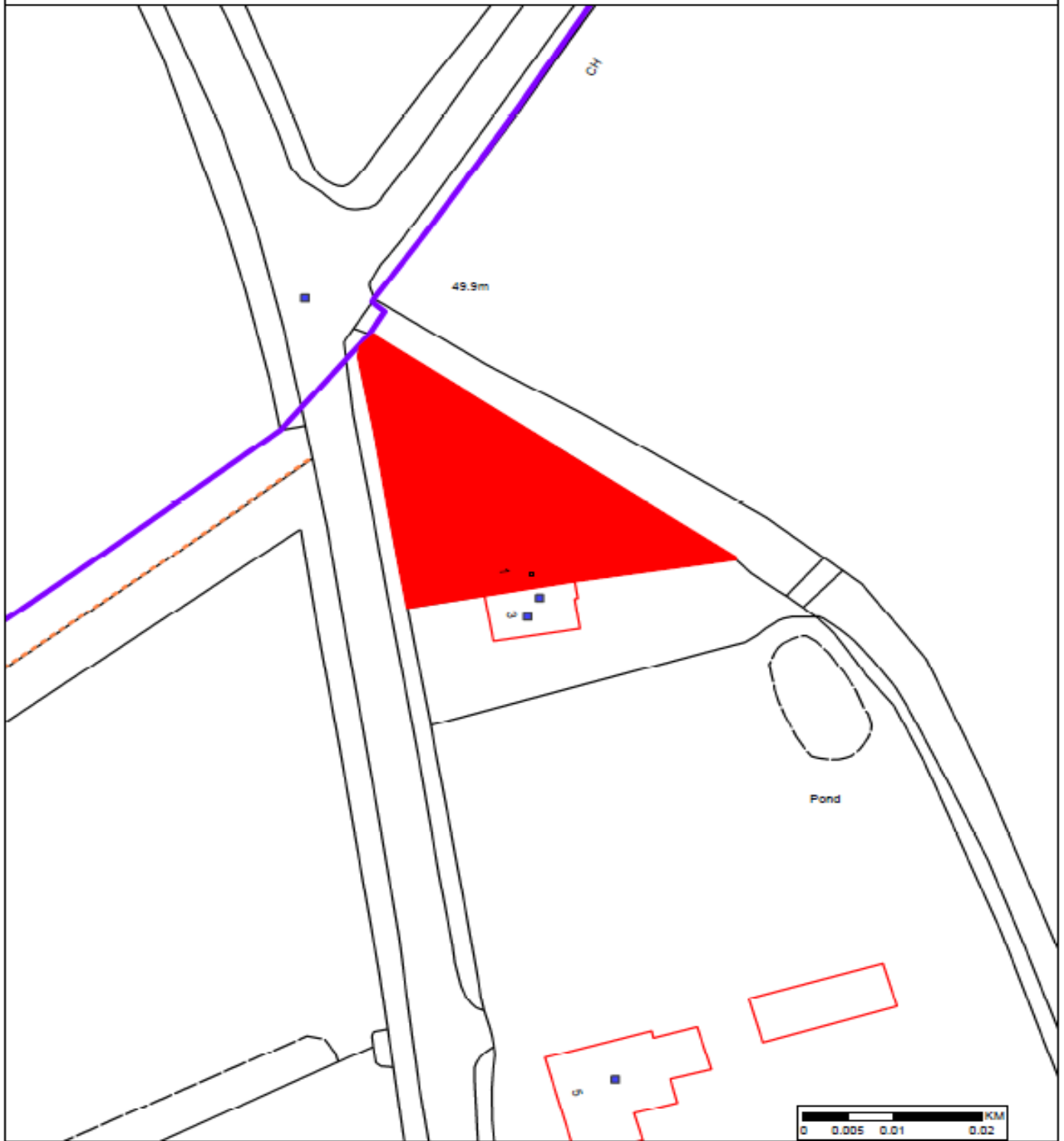
1. **RECOMMENDATION**

REFUSE for the reason as detailed in Section 8 of this report.

2. **SITE MAP**

Please see below.

Oxley Cottage - 1 Oxley Hill - Tolleshunt D'Arcy
 24/00755/HOUSE



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Organisation: Maldon District Council

Department: Department

Comments: North West Area Committee

Date: 12/12/2024

MSA Number: 100018588



3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is situated on the eastern side of Oxley Hill at its junction with Top Road. The site is triangular in shape with a semi-detached dwelling set back from the highway and fronting onto Oxley Hill.
- 3.1.2 The adjoining semi-detached dwelling (No.2) is to the south. The pair of dwellings are two storey, two bedroom properties which benefit from a conjoined single storey rear projection. Vehicular access for both dwellings is to the rear (east) from a private track which provides access to off street parking for both dwellings.
- 3.1.3 The site is situated outside of a settlement boundary and within a rural area with open fields to the front (east) and rear (west) of the site.

The Proposal

- 3.1.4 In May 2016, planning permission (16/0002/HOUSE) was granted at Planning Committee, contrary to the Officer recommendation for a *'Two storey side extension and a double garage'*.
- 3.1.5 The two-storey side extension has been completed and the double garage is currently under construction, with the block / brick work completed. The roof rafters have also been installed.
- 3.1.6 The double garage is situated to the south eastern rear corner of the site with the garage entrance facing north towards the existing vehicular entrance from the track. To the rear of the double garage is an office area. The garage has a triangular shaped form which fits with the angle of the common boundary with the garden of the adjoining dwellinghouse.
- 3.1.7 The approved garage (16/0002/HOUSE) has a width of 6.7 metres, depth of 12.1 metres, a height of 2.5 metres to the eaves and 3.9 metres to the ridge. It was proposed to be cladded in a weatherboard. On the approved drawing (10H-ELE C) there were only two proposed elevations shown for the double garage, this was the front north western elevation and side north eastern elevation. There were no elevations provided for the southern elevation (abutting the common boundary and facing the rear garden of No.2) and the side southern western elevation. No roof plan was submitted either. Although a floor plan was approved (10H_GLX B), without an elevation / roof plan for the southern and south western elevation we are unable to understand how this elevation / roof should have appeared. The approved floor plan indicated a single window on the southern elevation and a single window on the south western elevation. On the front north western elevation two garage doors were proposed. On the side north eastern elevation a single pedestrian door was proposed providing access into the garage. A further single window and door was also proposed on this elevation providing access into the office space.
- 3.1.8 This is a revised application which proposes the following amendments from that of the approved scheme:
- The change of materials for the exterior of structure from cladding to red brick.
 - The change of roof pitch from 20 degrees to 25 degrees with increased ridge height to 4.4 metres

- Alterations to the fenestration. Removal of window on southern elevation. Insertion of two roof lights on north eastern elevation. Repositioning of external door for garage on the north eastern elevation.

3.1.9 The submitted Design and Access Statement states that, '*the amendments are due to onsite decisions and the site conditions with surface water run off from the local fields and the desire to tie the structure in with the architectural palette of the primary structure*'. It further states, '*It is understood the ground is not completely level from the track into the curtilage of the plot boundary hence a perceived increase in height to overcome the natural surface water run off from the adjacent fields to the North East. This has the appearance of raising the DPC level by a course of bricks, this combined with the increased roof pitch has the effect of slightly increasing the ridge height*'.

3.2 Conclusion

3.2.1 It is considered that the principle of development is acceptable. The design and layout of the proposed would result in harm to the amenity and outlook for occupiers of the neighbouring dwelling at no.2 Oxley Hill. It would appear overbearing, oppressive and dominant and would be an unneighbourly form of development. It is therefore considered that the proposed development is contrary to the relevant policies contained within the approved Maldon District Local Development Plan (LDP) and the National Planning Policy Framework (NPPF).

3.2.2 It is therefore recommended that planning permission is refused.

4. MAIN RELEVANT POLICIES

Members' attention is drawn to the list of background papers attached to the agenda.

4.1 National Planning Policy Framework 2023 including paragraphs:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision making
- 47-50 Determining applications
- 54 – 57 Planning conditions and obligations
- 119 -123 Making effective use of land
- 126 – 136 Achieving well designed and beautiful places

4.2 Maldon District Local Development Plan 2014 – 2029 approved by the Secretary of State:

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- H4 Effective Use of Land

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- Car Parking Standards

- Maldon District Design Guide Supplementary Planning Document (SPD)

5. **MAIN CONSIDERATIONS**

5.1 **Principle of Development**

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004), Section 70(2) of the Town and Country Planning Act 1990 (TCPA 1990), and Paragraph 47 of the National Planning Policy Framework (NPPF) require that planning decisions are to be made in accordance with the LDP unless material considerations indicate otherwise. In this case the Development Plan comprises of the adopted Maldon District Local Plan 2014-2029 (The Local Development Plan or LDP).
- 5.1.2 Policy S1 of the LDP states that “When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF” and apply a number of key principles in policy and decision making set out in the Policy.
- 5.1.3 The principle of extending an existing dwellinghouse, or an outbuilding, to provide facilities in association with an existing residential use is considered acceptable in line with policies D1 and H4 of the approved LDP.
- 5.1.4 The acceptability of the proposal against policies and all other relevant material planning considerations is assessed below.

5.2 **Design and Impact on the Character of the Area**

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high-quality built environment for all types of development. It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF.

- 5.2.2 The NPPF states that: *“The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”*.

“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account local design standards, style guides in plans or supplementary planning documents”.

- 5.2.3 The proposed garage is of a substantial size and is highly visible from within the street scene of Oxley Hill. In the Committee report for the previously approved scheme (16/0002/HOUSE) concerns were raised by Officers that, *‘the location of a large double garage / office building to the rear of the site, which would be close to both the rear boundary and the common boundary with the adjoining property, would result in a significant built form in this location leading to a cramped and contrived development to the rear of these modest properties. The proposal would result in encroachment and visual intrusion of built form into the open landscape to the east of the site which currently contributes to the rural character and appearance of the*

street scene'. However, the proposal was approved and therefore the principle of development has been established.

- 5.2.4 The submitted proposal is to increase the ridge height of the garage roof to 4.4 metres (previously approved 3.9 metres). The roof pitch is also proposed to change to 25 degrees (previously approved 20 degrees). Despite the proposed increase in ridge height, the proposed garage would still be subservient to that of the host dwelling (in terms of height). It would not appear to have a significantly greater impact on the character and appearance of the surrounding area or host dwelling. However, as detailed below in paragraph 5.3 (Impact on Residential Amenity) there is concern regarding the proposed gabled southern elevation and the impact on the neighbouring amenity for occupants at No.2 as it appears overbearing, oppressive, and dominant.
- 5.2.5 The proposed two roof lights on the northern side elevation and repositioning of external door would be visible in glimpses when travelling along Oxley Hill in a southerly direction. However, the roof lights appear to be compatible with the size of the roof slope and do not appear harmful to the character and appearance of the surrounding area or the host dwelling.

Materials

- 5.2.6 The proposal to have a red brick exterior as opposed to weatherboard cladding as approved in the previous scheme (16/0002/HOUSE) would contrast with the weatherboard exterior of the host dwelling and outbuilding, breaking up the proliferation of a weatherboard material within the site. The red brick would be compatible with the countryside setting and there are no objections raised to this aspect of the proposal.

Summary

- 5.2.7 The application proposes amendments to a previously approved scheme (16/0002/HOUSE) and therefore the principle of development has been established. The proposed increase in height and roof pitch from that of the previous scheme is relatively minor and would not have a significantly greater impact on the street scene or character and appearance of the host dwelling. It would also remain subordinate to the host dwelling in terms of its overall height. Whilst there are no concerns raised regarding the proposed red brick exterior, Officers are concerned regarding the brick gabled southern elevation and the impact on neighbouring amenity in terms of its overbearing impact. This is assessed further below.

5.3 Impact on Residential Amenity

- 5.3.1 The basis of Policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlooks, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by Section c07 of the Maldon District Design Guide 2017 (MDDG). Policy H4 requires consideration of the effect of development on neighbouring amenity and safety.
- 5.3.2 The application site is bordered by one neighbouring property, attached to the south, no.2 Oxley Hill. An objection representation has been received from the neighbouring property to the proposal.
- 5.3.3 In the previously approved application (16/0002/HOUSE) the Committee report raised concerns regarding the impact of the proposed garage / office structure on

neighbouring amenity stating that, *'The garage / office structure would be 0.7m from the common boundary of the properties and would extend for 7.8m along the boundary at an eaves height of 2.5m and overall ridge height of 3.9m. This is considered to result in a loss of amenity to adjacent neighbouring occupiers by way of the extent of built form adjacent to the common boundary which is considered to be an unneighbourly form of development due to its depth, height and proximity to the common boundary. The scheme is therefore contrary to emerging policies D1 and H4 of the submitted LDP'*. Whilst it is noted that the application was approved by Planning Committee, as stated above, the previously approved application did not provide elevations of the southern and south western elevation, therefore it would not have been possible to fully assess the impact on neighbouring amenity at no.2 Oxley Hill.

- 5.3.4 The elevations submitted for the current application propose a gabled southern wall to the garage. This has mostly been constructed. Following an Officer site visit there is concern that it appears oppressive and overbearing from the garden of no.2 Oxley Hill. This is exacerbated by the close proximity of the built form to the shared southern boundary (0.8 metres) and the depth of the building which is almost the entire length of the shared boundary. It appears dominant and results in an unneighbourly form of development. It would also create a poor outlook for the occupiers of no.2 Oxley Hill.
- 5.3.5 The neighbouring property (no.2) has raised concern regarding loss of light into their kitchen window as a result of the proposal. It is noted in the Committee report for the previously approved scheme (16/00002/HOUSE) there were no concerns raised by Officers regarding loss of light for neighbouring amenity.
- 5.3.6 On the front north eastern elevation there are two roof lights proposed. Given its position on the north eastern roof slope, it would not be visible from the neighbouring property at no.2 Oxley Hill. There are no windows proposed on the southern or south western elevation facing the common boundary with no.2 and therefore, there is no overlooking / loss of privacy to neighbouring amenity.
- 5.3.7 Given the design and layout of the proposal, it is considered that the development would represent an unneighbourly form of development and would have a harmful impact on the amenities of the occupiers of the neighbouring property.
- 5.3.8 The proposal is therefore contrary to Policy D1 of the LDP and the NPPF.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas.
- 5.4.2 The proposal would not result in any alterations to existing access arrangements to the dwelling, along a track which runs along the northern boundary of the site.
- 5.4.3 The internal dimension of the proposed garage is 6 metres in width and 5.8 metres in depth. The Maldon District Vehicle Parking Standards refers to a minimum size of 6 metres in width and 7 metres in depth for a two bay garage. The proposed garage falls slightly below this size standard; however, this size has previously been found to be acceptable when assessing the previous application 16/00002/HOUSE. Officers

also note that there is space for at least three vehicles on the hardstanding to the north/front of the garage.

- 5.4.4 Therefore, the proposed development in relation to parking provision would be in accordance with Policy D1 of the LDP and Vehicle Parking Standards SPD.

5.5 Private Amenity Space

- 5.5.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25m² for flats.

- 5.5.2 In the previous application 16/00002/HOUSE the Committee report stated that, *‘the proposal would result in a net gain of two bedrooms from two to four. The main garden for the dwelling is to the northern side of the dwelling and is inherently open to the public realm. The works would result in a limited change to the existing provision providing the existing double garage is removed in favour of the proposed garage and as previously stated, providing the existing garage is removed the scheme would meet the criteria of the Design Guide’.*

- 5.5.3 It is noted that there was no condition imposed on the decision notice for 16/00002/HOUSE requiring the removal of the existing double garage to the north of the dwelling house although it has been removed but replaced with a single outbuilding. Historic satellite imagery suggests that this outbuilding was under construction in 2021.

- 5.5.4 Sufficient amenity space (excluding the outbuilding) would be retained to comply with the SPD, which requires 100sqm for a four bedroom dwelling. Therefore, the proposal is in compliance with Policy D1 of the LDP.

5.6 Flood Risk and Drainage

- 5.6.1 Policy D5 of the Local Development Plan sets out the Council’s approach to minimizing flood risk. Policy S1 of the same Plan requires that new development is either located away from high-risk flood areas or is safe and flood resilient when it is not possible to avoid such areas. Policy D5 of the LDP also acknowledges that all development must demonstrate how it will maximize opportunities to reduce the causes and impacts of flooding through appropriate measures such as Sustainable Drainage Systems (SuDS).

- 5.6.2 The site is entirely within Flood Zone 1 and presents a low risk of flooding.

6 ANY RELEVANT SITE HISTORY

- 6.1 The relevant planning history is summarised in the table below:

Application Reference	Description	Decision
12/00372/FUL	Demolition of two existing houses at 1-3 Oxley Hill and replacement with (i) a single, detached dwelling on the site of 1-3 Oxley Hill and (ii) a single, detached dwelling on land	Refused. Dismissed on appeal.

Application Reference	Description	Decision
	adjoining 21 Oxley Hill, both with associated garaging, car spaces, foul and surface water drainage and landscaping.	
13/00816/FUL	Demolition of two existing houses and replacement with two detached dwellings with associated garaging, car spaces, foul and surface water drainage, landscaping, creation of new access (following closure of existing) and change of use of land to residential.	Refused.
16/00002/HOUSE	Two storey side extension and double garage	Granted.

7 CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Tolleshunt D’Arcy	No Comment.	Noted.
Tolleshunt Knights	Objection to the scale, bulk, size of the development and harmful effect this has on neighbouring amenity.	Noted. This is assessed in paragraph 5.2.

7.2 Representations received from Interested Parties (summarised).

7.2.1 One objection representation has been received from a neighbouring dwelling.

Comment	Officer Response
Due to new gable the current height and gable at the boundary fence line has caused a negative visual impact.	Noted. This is discussed in paragraph 5.2 and 5.3.
It is a dominating structure that is less than 1 metre from the boundary fence.	Noted. This is discussed in paragraph 5.2 and 5.3.
The amenity and character of 1 and 3 Oxley Hill Cottages will be severely impacted due to height and pitch of the new roof. Outlook onto a red brick wall and gable.	Noted. This is discussed in paragraph 5.2 and 5.3.
Overbearing and prominent.	Noted. This is discussed in paragraph 5.2 and 5.3.
No consultation has taken place with neighbours.	Noted.
Loss of light to kitchen.	Noted. This is discussed in paragraph 5.3.
Affects the value of our property.	Not a material planning consideration.

8 PROPOSED REASON FOR REFUSAL

1. The design and layout of the proposal would create poor amenity and outlook for occupiers of the neighbouring dwelling (no.2 Oxley Hill). It would appear dominant, oppressive and overbearing and would represent an unneighbourly form of development. The development is therefore contrary to the Policy D1 and H4 of the approved Maldon District Local Development Plan, Maldon District Design Guide and guidance set out in the National Planning Policy Framework.

Application Plans

Location REV C – Existing Block/Roof Plan, Location Plan

Site RevA – Proposed Block Plan

GL RevD – Proposed Floor, Roof Plan (Garage)

GE2 RevB – Proposed Elevation, Section (Garage)

GE1 RevB – Proposed Elevations (Garage)

GLX RevB – Proposed Floor Plan (Approved Garage)

ELE RevC – Existing and Proposed Elevations, Block Plan (Approved House).