

Hadlow (Hadlow)
Bourne

25 September 2023

TM/23/02034/FL

Proposal: Proposed three detached dwellings with double garages
(resubmission following withdrawal of 23/01395/FL)
Location: Land Between Birchfield And Mid Kent Nurseries Ashes Lane
Hadlow Tonbridge Kent

Go to: [Recommendation](#)

1. Description:

1.1 Planning permission is sought for the erection of three detached dwellings with double garages. The dwellings have been designed in a contemporary style with vertical timber cladding and ragstone boundary walls. The application states that the proposed dwellings are to be designed to Passive Haus Standard. The dwellings are to share a single entrance onto Ashes Lane with the provision of two curtilage vehicle parking spaces to each, in addition to the double garages and turning spaces.

1.2 The site comprises 0.904 hectares.

2. Reason for reporting to Committee:

2.1 At the request of Councillor Lark in order for Councillors to be given the opportunity to fully assess whether the application constitutes inappropriate development in the green belt.

3. The Site:

3.1 The site lies in the countryside, within the green belt. A PROW runs to the rear of the site. The site was formerly used as a brick making works. Although evidence of this can be found at ground level there are no above ground remaining structures. There are two areas of protected trees at the north of the site adjacent to Ashes Lane and the site lies within an area of archaeological protection.

4. Planning History (relevant):

TM/20/01193/FL Application Withdrawn 23 July 2020

Proposed three detached dwellings with double garages

TM/23/01395/FL Application Withdrawn 8 September 2023

Proposed three detached dwellings with double garages

5. Consultees:

- 5.1 PC: Hadlow Parish Council notes that this application has been “called in” to Area 2 Planning Committee and therefore will not comment at this time.
- 5.2 Waste: General advice
- 5.3 EP: No objection – recommend planning conditions and informatives
- 5.4 KCC Highways: (18.10.23) The proposal has submitted an automatic traffic count (ATC) to provide lesser sight line visibility splay. Visibility sight lines are demonstrated at 79.1metres by 2 metres eastbound, and 151metres by 2 metres westbound. The calculation to achieve these sight lines, are drawn to the below 37 mph (miles per hour) deceleration rate. In line with Manual for Streets 2, submitted automatic traffic count (ATC) results, requires calculation of absolute minimum deceleration rates, to be above 37mph, when speeds are shown at 43.06 mph (85% Speed) eastbound, and 41.85 mph (85% Speed) westbound. Consequently, the submitted visibility splay drawing, does not reflect the required visibility distance sight lines.

(17.11.23) It is not considered that it has been demonstrated with sufficient confidence that an adequate level of visibility can be achieved. Consequently, KCC Highways raise objection on the basis that the proposals would lead to the creation of an access with a sub-standard level of visibility.

(13.02.24) The applicant has now provided a revised traffic survey and calculations, to determine lesser visibility sight lines are adequate for actual driven (observed) speeds. Consequently, I can confirm that provided the following requirements are secured by condition or planning obligation, then I would raise no objection on behalf of the local highway authority.

- 5.5 KCC Ecology: (22.11.23) We have reviewed the ecological information submitted in support of this application and advise that additional information is sought from the applicant prior to determination of the planning application. This includes:

- Clarification of the extent of proposed buffer planting and fencing relative to the priority habitat woodland in the south-east of the site;
- Submission of the great crested newt report for review;
- Further information regarding badger.

(17.01.24) We have reviewed the ecological information submitted in support of this application and advise that additional information is

sought from the applicant prior to determination of the planning application. This includes:

- An updated landscaping plan confirming the extent of proposed buffer planting and fencing location relative to the priority habitat woodland in the south-east of the site and the adjacent residential garden.

(20.02.24) We have reviewed the ecological information submitted in support of this application and advise that additional information is sought from the applicant prior to determination of the planning application.

(16.04.24) We have reviewed the amended information submitted and advise that sufficient information has been provided. Should planning permission be approved we advise that the following conditions are attached.

5.6 Neighbours: 1 letter of support

- The plot of land between Birch Field and Mid Kent Nurseries in Ashes Lane appears to be agricultural land suitable for farming, but in practice I believe it has a history of more industrial usage, with the consequence that there is evidence of buried foundations of buildings and detritus from previous workings. As such, it could be described better as a brown field site rather than green field.
- Given the existing ribbon development along the southern edge of Ashes Lane between The Poults and Pitts Wood and the point made above, the plot of land between Birch Field and Mid Kent Nurseries would seem to be eminently suitable for residential development, provided it is compatible with the rural nature of the area.
- The proposal for just three detached properties built along eco-home principles with the retention of the existing mature trees and supplemented by native planting between the houses is, in my opinion, a very sensible forward-thinking proposal, which could be used by Tonbridge and Malling Council as a flagship development of modern eco thinking, an example to all as to how residential development should be undertaken today and into the future.

5.7 Site Notice: As above

5.8 KCC: Contributions have been sought towards education, community learning, children's services, libraries, adult social care and waste. A total of £34,436.67 is sought by the County.

6. Determining Issues:

Principle of development

- 6.1 The site lies in the countryside beyond the settlement confines. The proposal is therefore contrary to CP14 of the TMBCS. However, TMBC cannot presently demonstrate a five-year supply of housing and consequently, in accordance with paragraph 11 d) of the NPPF, much of the development plan is out of date for the purposes of determining applications for new housing development. Currently the Council can demonstrate a 4.39 housing land supply.
- 6.2 Paragraph 11 d) of the NPPF sets out that planning permission should be granted unless the application of policies within the Framework that protect areas or assets of particular importance provides a clear reason for refusing the proposed development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 6.3 Footnote 7 provides a list of those policies that relate to protected areas and assets of particular importance, including land within the green belt. It must therefore firstly be established whether the proposal is acceptable in terms of local and national green belt policy in order to determine whether the presumption in favour of sustainable development applies.

Green belt considerations

- 6.4 The site lies within the green belt. The application must therefore be determined with regard to policy CP3 of the TMBCS. CP3 states that national green belt policy will apply. Paragraphs 152 – 155 of the NPPF relate specifically to proposals that affect the green belt.
- 6.5 Paragraph 152 of the NPPF states that ‘inappropriate development is, by definition, harmful to the green belt and should not be approved except in very special circumstances.
- 6.6 Paragraph 153 of the NPPF states that ‘substantial weight should be given to any harm to the green belt and that very special circumstances will not exist unless potential harm to the green belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 6.7 Paragraph 154 of the NPPF requires the LPA to regard the construction of new buildings in the green belt as inappropriate development. However, a number of exceptions are listed.
- 6.8 The agent opines that the proposal falls within section e) of paragraph 149 which allows for the “limited infilling of villages”. (Now section d) of paragraph 154 of the NPPF 2023). It is not disputed that the site was once used in association with

brickmaking and that Pitts Wood, as a recognised area itself is signposted. It is also appreciated that the proposed site lies between detached dwellings in large plots to the east and glasshouses to the west. However, it is not considered that Pitts Wood is a village as referred to in the NPPF. There are no remaining community facilities or shops, or other facilities that would create a cohesive settlement. This conclusion is reached in the knowledge that there is no definition of a village in this context and that, as acknowledged that in *Wood v Secretary of State for Communities and Local Government* [2014] the Court of Appeal held that whether a site lies within a village is a matter of planning judgement. It is therefore, officers judgement, that not only does Pitts Wood not constitute a village the proposal does not comprise limited infilling.

- 6.9 I appreciate that the proposed development would fall within an existing dwelling and existing glasshouse. However, this linear arrangement would not result in a cohesive pattern of development such as exists to the east of the site - with existing dwellings clustered to the south of Ashes Lane opposite the junction with High House Lane. I am also aware of the approval of planning permission under planning reference TM/19/01226/FL to which the application refers. However, each site must be considered on its own merits. The site in Powder Mills formed an infill site with development to the east, north and west. This development as previously discussed is linear and it clear that the residential use encroaches on the greenbelt and further into the countryside.
- 6.10 I also note the application refers to the proposed development as minor. Whilst the number of dwellings can be considered minor, the size and scale of the proposed dwellings, and their associated residential curtilages has been designed to extend considerably to the south of Ashes Lane – to a much further depth than the adjacent dwellings to the east. This would comprise a much greater intrusion of development into the countryside and green belt. For these reasons I conclude that the proposal does not fall within the exception listed under section e) of paragraph 154 of the NPPF.
- 6.11 I am also aware that the application refers to the site as being designated as a brown field site noting that it is referred as such in the previous TMBC “Call For Sites” (Ref 59795). In this context the application makes reference to exception g) of paragraph 149 of the NPPF (now exception g) of paragraph 154 of the NPPF 2023). This exception allows for the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use which would not have a greater impact on the openness of the green belt than the existing development.
- 6.12 There is no dispute that the land has previously been used for an industrial purpose. However, the application states that the buildings were removed in the 1990s I have no reason to doubt this assertion. The site now and has for a considerable time comprised of open space which is the basis of the assessment below. The application refers to the definition of previously development land in

the NPPF noting that it refers to “Land which is or was occupied by a permanent structure...”. However, section g) specifically states that in the redevelopment of previously developed land there should not be a greater impact on the green belt than the existing development. Notwithstanding the former use of the site there are no above ground structures in situ. Therefore, the introduction of three large, detached dwellings and associated garages and residential curtilages will inevitably have a greater impact on the openness of the green belt – and this would constitute definitional, spatial and visual harm. I am aware that the proposed seeks to retain the existing trees which will provide screening however this does not override the definitional or indeed the visual harm resulting from the proposal. I am therefore of the view that the proposal fails to meet this exception.

Sustainable development as a very special circumstance

6.13 As detailed in paragraph 152 of the NPPF substantial weight should be given to any harm to the green belt and that very special circumstances will not exist unless potential harm to the green belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

6.14 The application states that the proposed dwellings are to be designed to Passive House standard. The BRE Trust (Building Research Establishment) is an independent charity dedicated to improving the built environment for the benefit of all. The BRE define Passive House as

“The core focus of Passivhaus is to dramatically reduce the requirement for space heating and cooling, whilst also creating excellent indoor comfort levels. This is primarily achieved by adopting a fabric first approach to the design by specifying high levels of insulation to the thermal envelope with exceptional levels of airtightness and the use of whole house mechanical ventilation.”

6.15 The application lists the design features of the dwellings to show that they have been designed to Passive House standard.

- The orientation of each dwelling will be to the south to maximise the affect from the sun, particularly during winter, to assist with heating of the dwellings.
- The houses will be designed to achieve a maximum overall minimum energy requirement.
- Insulation between all thermal elements will be continuous without cold bridging.
- All external windows and doors will be triple glazed.
- The houses will be designed to have minimal air leakage.

- The houses will include a whole house ventilation system with heat recovery.
- Heating will be provided by underfloor heating so that low water temperatures can be utilised from ground source heat pumps.
- Flat roof areas to the dwellings will be finished with Sedum to reduce the amount of surface water runoff but also increase diversity for insects and birds etc.
- Any rainwater runoff will be harvested and used within the dwellings for flushing WC's, washing machines and watering gardens etc. therefore reducing water usage.
- All hard standings will be porous construction, again to reduce surface water runoff from the development.
- Although not a requirement of Passivehaus, a PV array will be provided on each dwelling to generate electricity. This will be hidden by the parapet to the flat roof.
- The dwellings will be provided with electric car charging points and cycle storage.

6.16 It is vital in the assessment of this application that a distinction is made between development that is purported to have been designed to meet the Passive House standard and development that will be undergo the rigorous tests to become formally recognized as Passive House.

6.17 The Passive House standard seeks to reduce the overall demand for energy rather than incorporating the use of renewable energy sources. The standard is a globally recognised and registered process. To achieve Passive House standard, it is necessary to go through robust auditing procedures and post-construction checks. To my knowledge there are only three buildings that have achieved this status in the Borough, (a dwelling in north Tonbridge 2018, an educational building at Hadlow College 2010 and a dwelling in Holly Hill 2013). If the applicant can prove that the dwellings will undergo the formal registration for Passive House then this could *potentially* be put forward, in part, to demonstrate possible 'very special circumstances' to allow for inappropriate development in the green belt. However, this information is not contained within the application. It must also be noted that the features outlined in the application do not incorporate all the features necessary to meet the Passive House standard and that many of the features listed will nevertheless be required under the Building Control regime – the energy efficiency in buildings falling within Part L of the Building Act 2010 (as amended). This sets out the minimum standards only and compliance does not demonstrate any exceptional design.

- 6.18 In my view therefore the design of the dwellings is such that would not warrant the very special circumstances required under paragraph 152 of the NPPF to overcome the definitional, spatial and visual harm to the green belt which the application would cause.
- 6.19 I am aware of section e) of paragraph 84 of the NPPF. This states that a design of exceptional quality, in that it is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area. However, this relates to the exceptional circumstances in which dwellings may be permitted in isolated areas, this is not listed as an exception to green belt policy.
- 6.20 Consequently, there are no very special circumstances that would outweigh the identified harm and therefore, in accordance with paragraph 11 of the NPPF there is a clear reason to refuse the application. In the interests of completeness however it remains appropriate to assess the application in light of local development policies, in so far as they remain in conformity with the NPPF and the Framework as a whole.

Design and amenity considerations

- 6.21 Policy CP24 of the TMBCS seeks to ensure that all development is well designed and respects the site and its surroundings. Policy SQ1 of the MDE DPD requires all new development to protect, conserve and, where possible enhance the character and local distinctiveness of the area. The aims of these local plan policies are echoed in paragraph 135 of the NPPF.
- 6.22 Paragraph 135 sets out that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and are sympathetic to local character and history.
- 6.23 The design of the proposed dwellings is contemporary and the desire to incorporate sustainable measures is acknowledged. It is noted that the dwellings have been designed to retain the mature trees and the separation distances between the proposed dwellings and the existing dwelling to the east will ensure suitable residential amenity can be achieved.

Highway considerations

- 6.24 Policy SQ8 of the MDE DPD that development will only be permitted where there will be no significant harm to highway safety. Paragraph 114 of the NPPF requires development to promote sustainable transport modes, provide safe and suitable 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 115 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.

- 6.25 The impact of the proposal on the highway network has fully examined with additional information being provided. I am able to confirm that subject to planning conditions the highway authority has removed its objection to the proposal.

Ecological considerations

- 6.26 Policy NE2 of the MDE DPD seeks to protect, conserve and enhance the biodiversity of the Borough, whilst policy NE3 requires development that would adversely affect biodiversity to only be permitted if appropriate mitigation measures are provided. This is supported by paragraph 186 of the NPPF which requires the planning system to contribute to and enhance the natural and local environment. For clarity, the application was submitted prior to the commencement of the Biodiversity Net Gain requirements.
- 6.27 The trees at the front of the site are protected by a Tree Preservation Order. An arboricultural report has been submitted along with tree protection measures. An oak and cherry tree are scheduled for removal but are in poor condition and the Council's Landscape Officer is in agreement. Measures relating to trees can potentially be ensured by planning condition. However, the proximity of the trees to the proposed dwellings gives rise to some concern as this may lead to future pressures for tree works from future occupiers.
- 6.28 In terms of biodiversity, as with highway considerations, the matters relating to ecology have been fully examined with additional information being provided. I am able to confirm that subject to planning conditions the KCC Ecology advisory service has removed its objection to the proposal.

Potential land contamination

- 6.29 With regards to potential land contamination, paragraph 189 of the NPPF requires (inter alia) planning policies and decisions to ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities. Although paragraph 190 notes that the responsibility for securing a safe development rests with the developer and/or landowner, paragraph 191 requires planning policies and decisions to ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment.
- 6.30 The site has formerly been used for an industrial purpose and the application includes information relating to potential land contamination. The Council's Scientific Officer comments that this information adequately reviews the history and environmental setting of the site and that any potential sources of

contamination in the form of buried made ground exposed by rabbit burrowing and ground gas generation can be dealt with through the imposition of planning considerations.

Developer contributions

- 6.31 Section 1 of Policy CP25 of the TMBCS requires development proposals to either incorporate the infrastructure required as a result of the scheme or make provision for financial contributions. Paragraph 55 of the NPPF requires local planning authorities to consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.
- 6.32 The KCC Developer Contribution Guide 2023 sets the threshold for contributions as 10 dwellings and above or a site size of 0.5Ha or more. Although the proposal only relates to three dwellings the overall size of the site, being 0.904 hectares triggers developer contributions. KCC are seeking contributions towards education, community learning, children's services, libraries, adult social care and waste to a total sum of £34,436.67. This contribution could potentially be secured by legal agreement and the applicant has confirmed his willingness in writing enter into such an agreement if all other matters were considered acceptable.
- 6.33 To conclude, the application has been assessed in accordance with paragraph 11 d) of the NPPF and it has been demonstrated that there is a clear reason to refuse development, it being contrary to green belt policy and consequently the presumption in favour of sustainable development fails to apply. Whilst other aspects of the proposal may be acceptable, subject to suitable planning conditions, this does not override the fundamental policy objection to the principle of the development. I must therefore recommend planning permission is refused for the following reason.

7. Recommendation: Refuse planning permission for the following reason:

- 1 The proposed development constitutes inappropriate development within the green belt and very special circumstances are not considered to exist that outweigh the harm by reason of definitional inappropriateness, and the spatial and visual erosion of the openness of the green belt. Consequently, the development is contrary to policy CP3 of the Tonbridge and Malling Core Strategy 2007 and paragraphs 152 - 155 of the National Planning Policy Framework 2023.

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