

TM/23/02034/FL

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

Additional correspondence received from the Agent 22 May 2024 relating to the following matters:

Limited infilling in a village

The Agent makes reference to planning application TM/19/01226/FL, a site at Powder Mills and questioned why this site was granted and how it differs from the current application site. At the Powder Mills site the officer opined that the area comprised a cohesive settlement without having any facilities and constituted limited infilling of a village.

Officers: There is no definition of a village when assessing applications against section d) of paragraph 154 of the National Planning Policy Framework 2023. The Courts have established that the assessment as to whether a site lies within a village is a matter of planning judgement. The absence of any community facilities or shops, or other facilities can be useful in making this assessment. However, it is also important to consider the physical context of the site – the surrounding built form and the ability of the any proposed development to integrate into that existing form. In the Powder Mills site the absence of facilities is noted but the Officer concluded that owing to the surrounding development and overall design and height of the building the proposed constituted limited infilling of a village.

6.7 This section of Leigh Road within which the application site falls has a clear linear pattern with modest dwellings located within spacious plots. It also physically links in with the Powder Mill development to the south. The site is bordered by The Hutchings to the west and by Oast Cottage and Delamere to the east. To the north is a sand school and cluster of buildings associated with the former smallholdings. The proposed dwelling is to be two storeys in height and is comparable in size to the surrounding dwellings. Taking into account the physical characteristics of the site and its' surroundings and the limited nature of the proposed development for one dwelling, it is my judgement that the proposal amounts to limited infilling and therefore the exception provided for by paragraph 145 (e) is met and very special circumstances are not required to be demonstrated.

It must be remembered that every site must be judged on its individual merits. However, there have been other examples in the Borough where an alternative view has been reached. The erection of four dwellings was refused under planning reference

TM/22/02295/FL at Land East Of Quarry Hill Road, Borough Green. In this instance the Officer concluded

5.8 The agent opines that the proposal falls within section e) of paragraph 149 which allows for the "limited infilling of villages". I appreciate that the site lies to the south of Borough Green which could arguable be considered as a large 'village', although is designated in the local development plan as a Rural Service Centre rather than a village. However, despite the existence of the Medical Centre to the north and the recent development to the west, the site does not lie immediately adjacent to the defined settlement boundaries.

This application is subsequently the subject of an Appeal.

Passive House as a very special circumstance

The agent opines that Passive House requires an approved design consultant to check the design at the design stage and issue a design certificate confirming that the design will meet the Passive house standard. To ensure that Passive House standards are met the Agent suggests that this could be the subject of a prior commencement planning condition which requires a copy of the certificate/design report to be submitted.

Officers: This is noted. The erection of dwellings to Passive House standard would not fall within any exceptions set out in the NPPF to overcome the inappropriate nature of the proposal. It is a matter of planning judgement as to whether this approach could *potentially contribute* to the 'very special circumstances', as set out in paragraph 152 of the NPPF. However, the erection of Passive Houses does not in itself constitute the very special circumstances required.

An application for two detached Passive Houses was dismissed at appeal in 2017. Appeal Ref: APP/B1550/W/16/3159712. The Inspector noted that whilst the Passive House movement was well-established as a means of achieving the highest standards of environmental construction, although such properties may not yet be commonplace, neither are they any longer rare and, in themselves, can no longer be described as truly innovative. The Inspector continues to conclude that whilst there may be some modest benefits these did not outweigh the identified harm and consequently there were no very special circumstances necessary to justify the development. Similarly, in 2022 an application for a Passive House dwelling in the Hertfordshire green belt, Appeal Ref: APP/J1915/W/22/3292603, was dismissed at appeal with the Inspector concluding that its volume was greater than a house of conventional construction and its sustainable design of limited benefit in an assessment of whether very special circumstances justified the development.

Future pressures on trees

The Agent opines that the design has tried hard to retain every tree on the site as they are an integral part of the design to create a natural environment around the houses. The agent

states that this has not been appreciated or acknowledged in the report and that all trees could potentially be protect by planning condition or tree preservation order.

Officers: This is noted. However, this would not alleviate the concerns that the proximity of the mature trees to the proposed dwellings would potentially result in pressures for future tree works. The suitability of enacting tree protection measures has already been considered by the Council's Landscape Officer.

RECOMMENDATION REMAINS UNCHANGED
