



Appeal Decision

Site visit made on 27 August 2024

by **C Rafferty LLB (Hons), Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 22 October 2024

Appeal Ref: APP/C1435/W/23/3331484

Land to the rear of Farm Cottages, High Street, Pevensey BN24 5LF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Philip and Annette Williams against the decision of Wealden District Council.
The application is Ref WD/2023/1571/F.
 - The development proposed is the erection of a detached dwelling and creation of associated driveway and parkway.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement (WMS), which is a material consideration, the proposed changes to the Framework can only be given limited weight at this stage, given that no final document has been published. The main parties have been provided with an opportunity to comment on these documents and their responses have been taken into account, where received.

Main Issues

3. The main issues are: the effect of the proposal on the character and appearance of the area, including whether the proposal would preserve or enhance the character or appearance of the conservation area and the effect of the proposal on the setting of listed buildings; the effect of the proposal on highway safety; the effect of the proposal on flood risk; and whether the appeal site would be a suitable location for the proposal.

Reasons

Character and Appearance; Heritage Assets

4. The appeal site comprises a plot of open land to the north of High Street, located within the Pevensey and Westham Conservation Area (the CA). The CA comprises a core of primarily historic medieval and non-medieval development. Within the immediate vicinity of the site, it is defined largely by such development of a consistent pattern and placement, being tight-knit, street-fronting buildings with simple, traditional designs that provide an overall legibility to the area and its historic context. To the north, behind the

High Street buildings, the CA is notably more undeveloped, transitioning to the open fields outside of its boundary, allowing the overall visual focus and understanding of the CA to be the tight-knit, historic core. In this respect, the site contributes positively to the character of the immediate section of the CA.

5. The immediate section of the CA also includes the Grade II Listed Buildings of The Smugglers Inn and The Old Farmhouse (the Listed Buildings) on the northern section of High Street, to the southeast and southwest of the appeal site, respectively. These are examples of traditional, post-medieval buildings that derive significance from both architectural and historic interest. The setting of the Listed Buildings contributes positively to their significance due to the combination of the focus of the tight-knit and traditional style development along High Street and the more limited built form to the north, allowing the historic context of the Listed Buildings to be appreciated.
6. The proposal relates to the erection of a detached two-storey dwelling at the site, described by the Council as being of arts and crafts style. It would have an intricate design with a high level of detailing along all elevations and a range of projecting elements. Even acknowledging the size of the plot, it would be a sizeable structure, and would be notably set back behind the main focus of development in this immediate section of the CA. While other larger buildings are present in the area, among the surrounding context of tight-knit, street-fronting development the proposed dwelling would fail to reflect the defining pattern and placement of built form. It would also appear incongruous alongside existing buildings where, despite a variety of styles and some examples of more modern builds, an overarching simplistic and historic design remains evident, which would not be reflected within the external appearance of the proposal. Furthermore, a dwelling would lead to domestication of the currently open plot through the introduction of other residential paraphernalia.
7. I acknowledge that other examples of buildings set back from High Street do exist within the immediate surrounds. However, during my visit I did not observe this to be a key or defining feature of the immediate area or section of the CA. Such buildings appear to be largely ancillary. They would not provide context for a standalone, intricately designed, two-storey dwelling in this position, which would appear out of step with the predominant pattern of dwellings within the immediate vicinity. Despite its setback the presence of the proposal in this location would be experienced within the surrounds, particularly from the rear spaces of the adjacent dwellings fronting High Street and the car park and rear space of The Smugglers Inn, even noting the boundary treatments and intervening built form.
8. I note the findings of the appellant's Heritage Assessment. Nevertheless, on my observations the proposal would result in an incongruous placement of a dwelling beyond the prevailing extent along High Street, in a form and design that fails to meaningfully reflect the largely traditional surrounds. It would thereby harm the appreciation of the built form in the immediate section of the CA and its overarching rural and historic nature, with consequent harm to the character and appearance of the CA. It would also be clearly appreciable in the setting of the Listed Buildings, both of which the Council has highlighted as being impacted by the development. Despite its position behind the main development of High Street, the incongruous placement and design of the proposal, along with its urbanising effect on a currently open space, would distract from the Listed Buildings and the ability to appreciate their context in

the vicinity. It would therefore make a negative contribution to the setting of the Listed Buildings, harming their significance.

9. I find the harm arising to designated heritage assets in this case to be less than substantial, such that it should be weighed against the public benefits of the proposal. The proposal would provide an additional dwelling immediately adjacent to an established residential location, close to accessible services, adding to housing mix and choice among constrained supply. It would also bring associated economic benefits. These represent benefits of the scheme, but given its single dwelling nature, I attach only limited weight to this.
10. In considering the impact of a proposed development on the significance of designated heritage assets, I must give great weight to the assets' conservation, and any harm to, or loss of, the significance of a designated heritage asset from development in its setting requires clear and convincing justification. In addition, I must have special regard to the desirability of preserving a listed building or its setting, or any features of special architectural or historic interest. The limited identified public benefits of the proposal would not outweigh the harm to designated heritage assets that I have identified in this regard.
11. For the reasons given, the proposal would result in harm to the character and appearance of the area, including failing to preserve or enhance the character or appearance of the CA and harming the setting of the Listed Buildings. As such, it would fail to comply with Policies EN19 and EN27 of the Wealden Local Plan 1998 (the WLP) and Policy SPO2 of the Wealden District Core Strategy Local Plan 2013 (the CS) insofar as they seek to ensure development design respects the character of adjacent development, preserves or enhances the existing character of conservation areas, and protects the intrinsic quality of the historic environment.

Highway Safety

12. Vehicular access would be provided to the proposal via the junction with High Street, utilising the existing access road that currently serves the neighbouring dwelling. The main parties agree that the intensification of the use of this driveway when shared would be limited given the single dwelling proposed. Based on my observations, I have no reason to disagree.
13. However, due to the position of the driveway between two existing buildings, it is not possible for splays to be provided, significantly limiting the visibility of drivers at this section of the road, particularly when exiting onto High Street. At the time of my visit I also observed that it is not uncommon for vehicles to park along this section of the street, creating further visual obstruction for drivers using this junction. Even noting the appellant's comments regarding the level of vehicle movements on the highway and the speed limit at this section, I observed that this limited driver visibility has the potential to result in collision risk and give rise to highway safety concerns.
14. I note the comments on the width of the driveway, which I observed during my visit. While this is wider than 'single track' it nevertheless does not provide adequate space to safely accommodate two way vehicle traffic allowing vehicles to pass. As such, the introduction of the additional vehicle movements of the proposal, while single dwelling in nature, could lead to conflict in this regard. There is a reasonable prospect that the use of the driveway would result in additional vehicular activity or sudden stopping within High Street to

accommodate two separate household movements. Combined with the limited visibility I observed, this would have an unacceptable impact on the safe and efficient operation of this part of the road and thus on highway safety.

15. I accept that private driveways can in other instances accommodate multiple households and that other, narrower accesses exist along High Street. Nevertheless, based on my observations, it remains that the proposal would result in highway safety concerns at this precise location.
16. For the reasons given, the proposal would result in harm to highway safety. As such, it would fail to comply with Policy TR3 of the WLP insofar as it seeks to ensure that development does not create or perpetuate unacceptable traffic conditions.

Flood Risk

17. In accordance with the Environment Agency Flood Maps, the appeal site is predominantly within Flood Zone 1, suggesting a low probability of flooding, with areas in the north of the site located in Flood Zones 2 and 3. However, the Council has demonstrated through flood mapping with reference to climate change allowances within its Strategic Flood Risk Assessment (SFRA) that, with the application of climate change, the dwelling would fall within Flood Zone 3, suggesting a high probability of flooding.
18. The Framework aims to direct development away from areas at highest risk through a sequential test, taking into account all sources of flood risk. It is clear that development should not be permitted if there are reasonable available sites in areas with a lower risk of flooding. This is supported by Planning Practice Guidance (PPG), which refers to avoiding, so far as possible, development in current and future medium and high flood risk areas.
19. In this regard, the PPG is clear that the flood zones shown on the Environment Agency's Flood Map do not take account of the possible impact of climate change and consequent changes in the future probability of flooding, and that reference should be made to the SFRA when considering location and potential future flood risks. While the appellant has concerns with regard to the modelling of the SFRA, it remains that on the information currently available there is a risk that the proposal would fall within Flood Zone 3 in the future, taking account of climate change, and there is nothing substantive to lead me to a different conclusion. I am also mindful that a section of the northern end of the site currently falls within Flood Zones 2 and 3, as per the Flood Risk Assessment, which would be located within the wider residential use of the site associated with the proposal.
20. Taking all of the above into account, national policy and guidance is clear that, in the case of the proposal, a sequential test should be undertaken to determine if there are other reasonably available sites, with a lower probability of flooding. The appellant's Flood Risk Assessment includes a section on sequential testing, which concludes that development is appropriate in the site area currently in Flood Zone 3 with residual risk to be managed with mitigation, and that the development is otherwise laid out to locate the dwelling in Flood Zone 1. Nevertheless, no substantial evidence of a sequential test process in relation to other reasonable available sites appears to have been undertaken.
21. The appellant refers to the Pevensy Bay Sea Defences. However, the PPG is clear that climate change will also impact upon the level of protection that existing flood

risk management infrastructure will offer throughout the lifetime of the development and that even where a Flood Risk Assessment shows that development can be made safe throughout its lifetime, the sequential test will still need to be satisfied. Even acknowledging the Pevensy Bay Coastal Management Scheme and the lack of objection from the Environment Agency, I find that a sequential test should be undertaken in this case.

22. I therefore find that the requirements of the sequential test have not been satisfied by the appellant and that it has not been demonstrated that the proposed development cannot be located in an area that is at a lower risk of flooding.
23. For the reasons given, the proposal would result in harm with regard to flood risk. As such, it would fail to comply with the provisions of the Framework in this regard.

Suitable Location

24. The appeal site is located outside of nearby settlement boundaries such that it is within the open countryside. Policies GD2 and DC17 of the WLP seek to prevent residential development outside of settlement boundaries unless any of the exceptions listed in the supporting text to Policy DC17 are met. There is nothing substantive before me to suggest that the proposal would comply with any of those listed exceptions.
25. The Framework seeks to avoid development of isolated homes in the countryside, subject to certain exceptions. It has been established that in this context the term isolated should be given the ordinary meaning. Given the proximity of the development along High Street, including other residential dwellings, the proposal would not represent an isolated home.
26. In addition, the main parties agree that the proposal would provide some support to services in Pevensy and Westham, a range of which I observed to be easily accessible from the site, such as the nearby Smugglers Inn pub. Submitted evidence also indicates that in addition to the ability to reach services on foot, adequate alternatives to private car usage would be available for future occupants. Overall, the main parties agree that the proposal would comply with the general requirements of the Framework in this regard.
27. Consequently, while the proposal would fail to comply with Policies GD2 and DC17 of the WLP due to its location, for the reasons outlined I attach limited weight to the harm arising due to this conflict.

Other Matters

28. The proposal would provide an additional housing unit, which would contribute to the housing mix and supply of the area and maximise the potential and use of the appeal site. Such housing would be provided in a sustainable location, adjacent to services and public transport opportunities. This is a clear benefit of the scheme but, due to its single dwelling nature, attracts limited weight. The proposal would also have economic benefits arising from the creation of jobs during the construction phase, spending by future residents in the local economy, and increased revenue for the provision of local services. These benefits also attract limited weight.

29. The proposal falls beyond the 7km buffer zone of the Ashdown Forest Special Protection Area (SPA). Accordingly, there is no requirement to consider the implications of the proposal upon the integrity of the SPA. The Council has highlighted that the development could result in an impact pathway that could affect the Ashdown Forest Special Area of Conservation and result in likely significant effects to the Pevensy Levels Special Area of Conservation (the SACs). However, as I am dismissing for other matters, I have not considered these matters further.

Planning Balance and Conclusion

30. The proposal would result in harm to: the character and appearance of the area, including the character and appearance of the CA and the setting of the Listed Buildings; highway safety; and flood risk. I have also found limited harm arising due to the site not being a suitable location for the proposal. As such, there would be conflict with Policies GD2, DC17, EN19, EN27 and TR3 of the WLP and Policy SPO2 of the CS. The proposal would not accord with the development plan as a whole.

31. However, the main parties agree that the Council cannot demonstrate a five year housing land supply such that paragraph 11(d) of the Framework is engaged. It is agreed between the main parties that the Council currently have a shortfall in housing land supply. Therefore, in accordance with paragraph 11(d) of the Framework, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 7 to paragraph 11(d) is clear that this includes designated heritage assets and areas at risk of flooding. The harm identified with regard to designated heritage assets and flood risk is such that the policies in the Framework relating to these matters provide that clear reason for refusing the development. As a result, the presumption in favour of sustainable development does not apply.

32. I have outlined the benefits of the proposal above, which even when taken together are not sufficient to outweigh the harm identified. My findings in this regard would not be altered had I found no adverse effect on the SPA and SACs.

33. For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR