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## Appeal Decision

Site visit made on 27 November 2024

**by H Nicholls FdA MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 December 2024**

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**Appeal Ref: APP/Z3825/W/24/3340624**

**Littlefold, Bashurst Hill, Itchingfield RH13 0NY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Gary Collier against the decision of Horsham District Council.
  - The application Ref is DC/23/1153.
  - The development proposed is construction of an earth bund.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. I have taken the description of development from the Council's decision notice as it more concisely describes the proposal.

### Main Issues

3. The main issues are:
  - the effects of the proposal on existing trees;
  - the effects of the proposal on the biodiversity interests of the site and surrounding area;
  - the effects of the proposal on the significance of the Grade II listed buildings, Old Pinkhurst and Littlefold;
  - the effects of the proposal on the character and appearance of the site and surrounding area; and
  - whether there is sufficient need for the proposal in the countryside and the waste implications of such.

### Reasons

4. The appeal site 'red line' area takes in a small-scale agricultural paddock and the dwelling, Littlefold, and its gardens, outbuildings and parking areas. The surrounding area is predominantly rural with scattered dwellings. The paddock is typically used for the grazing of sheep and appears to be the remnant part of the wider agricultural holding that belonged to Littlefold. The dwelling and its gardens maintain an open visual connection across the paddock due to the separation being only by a timber post-and-rail fence.
5. The appeal site lies between the A264 (Five Oaks Road), broadly to the north, and Bashurst Hill, to the south. Another residential dwelling, Old Pinkhurst, lies to the north-east. The boundaries around the paddock are largely formed from

timber post-and-rail fencing with an outer perimeter of mixed native trees and an understorey of vegetation, predominately blackthorn. A public right of way (PROW) (No 1467) crosses the far side of the paddock.

6. The proposal seeks to provide a bund of around 3 metres in height along the boundary with the A264 and extending along the north-eastern boundary, with a gap to maintain the alignment of the PROW. It also appears that some degree of infilling would occur on the southern part of the site where the land level drops away more sharply.

#### *Existing trees*

7. It is clear that there are a number of trees within the northern boundary and around the site, and in broad terms, their respective species has been identified and discussed in the evidence. I understand that the appellant seeks to retain all of the trees that are suitable to retain and only cut back some of the encroaching blackthorn within the paddock to provide space for the bund. The evidence discusses some unavoidable tree losses to Ash dieback, which will involve future tree works being undertaken by or on behalf of the Council as the trees are within the highway verge. Overall, the appellant's intention is to maintain as much of a boundary as possible and supplement it with an internal 'green screen' for the associated acoustic reductions and minimisation of light pollution from the busy A264.
8. However, the evidence provided does not constitute a tree report conforming to BS 5837:2012<sup>1</sup> and does not plot the root protection areas (RPAs) of the respective trees relative to a topographical survey and does not clearly specify what effect, if any, depositing of such a volume of material within the RPAs would have. Similarly, it is not clear if any construction methods, such as the use of protective fencing, is advisable. Whilst it is evident that supplemental landscaping is proposed, and such could be required by way of planning condition, the degree of effect on the existing trees is not as easily resolvable at such a juncture, particularly given their importance to the character and appearance of the area.
9. Overall, in the absence of clear evidence to the contrary, I can only conclude that there would be harm to existing trees, in conflict with, in particular, Policy 33 of the Horsham District Planning Framework (2015) (HDPF). This Policy presumes in favour of the retention of existing important landscape and natural features, for example trees, hedges, banks and watercourses, seeking mitigation against any losses that may occur through the development.

#### *Biodiversity*

10. The appeal was submitted with a *Great Crested Newt Impact Assessment* (GCNIA) undertaken in 2023 in respect of another proposal on land within the appellant's ownership. The GCNIA states that the surrounding habitats are largely farmland, paddocks and areas of woodland, with many roads and fields lined with wooded shaws, but also that there are a range of ponds suitable for Great Crested Newts (GCNs) in the immediate surroundings. Ultimately, the GCNIA found that that particular project could proceed without harm, subject to adherence to specified working methods and the provision of enhancement measures.

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<sup>1</sup> BS 5837:2012 Trees in Relation to Design, Demolition and Construction - Recommendations

11. The submitted GCNIA does not specifically relate to the appeal proposal and it is not possible to draw inference from its conclusions that GCNs would be similarly unaffected by this proposal. Furthermore, the GCNIA only looks at the potential effects on GCNs and not any other species that could be present or use the habitats on site; it falls short of a preliminary ecological appraisal that might indicate the presence of a range of species or consider the potential effects of the development thereupon.
12. Therefore, in the absence of clear evidence, I can only conclude that the proposal would be harmful to the biodiversity interests of the site and surrounding area, contrary to Policies 25 and 31 of the HDPF. These Policies seek to maintain and enhance existing sites and species and seeks to provide net gains in biodiversity where possible.

#### *Heritage effects*

13. Old Pinkhurst is a Grade II listed building which fronts onto Bashurst Hill at an angle and sits within a modest, manicured domestic curtilage. Its listing description notes that it is a C17 or earlier timber-framed two storey cottage with painted brick infilling, tiled roof and casement windows. The significance of this designated heritage asset is principally embodied in its physical fabric, which has architectural, artistic and historic interest. Its rural setting contributes to its significance, albeit in a lesser way. The tree-lined Bashurst Hill and undeveloped paddock forming the appeal site maintain some degree of the area's rural character, whereas the nearby commercial garage detracts from it. Nonetheless, the appeal site contributes in a minor way to the rural setting and thus significance of Old Pinkhurst.
14. The proposed bund would be inset behind the tree belt and hedgerow which separates the appeal site from Old Pinkhurst. Even if some alterations in levels were detectable initially, the establishment of landscaping in due course would minimise any sense that this were an engineered feature. Therefore, it is my view that the appeal proposal would not detract from the area's rural character such that the significance of Old Pinkhurst would be harmed in any way. The proposal would be of neutral consequence to this particular designated heritage asset.
15. Littlefold is the designated heritage asset falling within the red line site area and is similarly a C17 or earlier timber-framed two storey building, altered and enlarged. The most recent enlargements and alterations have managed to preserve the historic integrity of the building.
16. The appeal site appears to be the remnant part of agricultural land of a wider holding previously connected with Littlefold. Again, whilst the significance of this particular designated heritage asset is primarily embodied in its physical fabric, which has architectural, artistic and historic interest, the rural setting and the open visual connection it maintains with it also greatly contributes to its significance. The open views and sense of openness across the paddock retain an element of the authentically rural, special historic charm and, thus, significance of the building.
17. During my site visit I noted that the busy A264 felt like an intrusive presence within the garden areas of Littlefold and the paddock, with near-constant traffic noise and visual perception of regularly passing cars. My visit wasn't undertaken during a typical peak-hour time, but the road was busy

nonetheless. The timing of my visit did not allow me to assess the impact of passing headlights, but I envisage that there would be a degree of regular visual disturbance of this type, of lesser significance given the timing of use of the external areas.

18. The proposal would introduce a bund as a form of enclosure around much of the outer perimeter of the paddock inset within the existing treed boundary. My assessment of the effects is predicated on the retention of the existing trees and much of the vegetation beneath. Over time, with the establishment of a landscaping scheme by way of condition, the bund could establish to provide a thickened wooded boundary along the A264 and north-eastern edge of the site. The area of infilling would have a neutral effect, limited only to providing a more level area in the southern extent of the site. My view is that the proposal could minimise the presence of the A264 and reintroduce a greater degree of tranquillity to the setting of Littlefold. The experience of Littlefold as a cottage within a rural setting would be more authentic if this were capable of being achieved.
19. Therefore, the proposal would have a positive effect on the significance of Littlefold, through enhancing the way in which it is experienced as a historic cottage within a rural setting without detracting visually from the surrounding context. The proposal would therefore preserve, and in a modest way, enhance the significance of Littlefold, in compliance with Policy 34 of the HDPF which seeks to retain and improve the setting of heritage assets, including views, public rights of way, trees and landscape features, including historic public realm features.
20. Under the terms of the National Planning Policy Framework (the Framework), the minor enhancement to the significance of Littlefold as a designated heritage asset constitutes a minor public benefit of the proposal. I return to this in the balance below.

#### *Character and appearance*

21. The paddock benefits from a reasonable degree of visual screening from both the A264 and Bashurst Hill owing to the trees and understorey vegetation. For the majority of viewers that pass in a vehicle, glimpses through gappy areas of vegetation are fleeting and reveal little more than an open, grassy paddock and with glimpses to the dwelling and its domestic paraphernalia.
22. I visited when the onset of winter had already reduced the amount of leaf cover on the boundaries, but there was still some degree of screening from the structure of the trees and branches of vegetation. However, given that a PROW passes through the site, receptors of a more sensitive nature would see the full extent of the bund at close quarters, with a gradual greening taking effect over time.
23. I have considered that there has been little justification put forward for a bund of 3 metres in height given that the Acoustic Assessment<sup>2</sup> reveals that a 2m high bund would achieve a similar level of noise mitigation. The visual effects of the proposal would be minimised by a small degree from such a height reduction.

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<sup>2</sup> Acoustic Assessment, Ref RFE-0536-23-01-02, dated February 2024

24. Nevertheless, despite its overall height, length and volume, I do not envisage that the bund would be particularly visually prominent from either the A264 or Bashurst Hill. Over time, it would blend well to form a landscape feature which would not be particularly distinguishable. From the PROW, it would seem a more deliberate feature, not entirely natural, but given the intent for it to be green and vegetated over time, I do not envisage that it would be a materially visually harmful feature. Such effects could be further reduced by its height reduction as identified.
25. In view of the above, the proposal would not unduly harm the character or appearance of the area, and would not raise conflict with Policies 25, 26, 32 or 33 of the HDPF which collectively seek to protect, conserve and enhance landscape and townscape character, protect the rural character and undeveloped nature of the countryside against inappropriate development and presume in favour of the retention of existing landscape and natural features.

*Need for, and waste implications of the proposal*

26. The two policies raised by the Council which question the need and waste implications of the proposal include Policy 26 of the HDPF and Policy W8 of the West Sussex Waste Local Plan (2014).
27. In respect of Policy 26 of the HDPF which seeks to protect the countryside, one criterion requires that proposals provide for quiet, informal recreational use. Whilst this proposal would not facilitate any active or alternative recreational use than otherwise already offered on the site, it would provide a more quiet, relaxing space in the garden areas of the house for the current and future occupiers to enjoy and serve in the longer-term interests of the designated heritage asset. It would have similar effects on the users of the PROW who would have a slightly more authentic experience of passing through a rural area.
28. The proposal may not have adequately demonstrated compliance against the second part of HDPF Policy 26 through the submitted evidence for reasons relating to trees and biodiversity, but it does not appear to raise an in-principle conflict.
29. In terms of Policy W8 of the WLP, the proposal would meet the need under (a) to yield clear benefits to the site. Whilst (a) goes on to state that benefits to the wider area are sought, this is only where it is possible. There is a residual question under (e) as to whether the amount of waste material to be used is the minimum necessary to deliver the benefits. This question arises in the context of the potential for a 2 metre bund to serve the acoustic reduction purposes as effectively as a 3 metre bund.
30. However, as the appeal is failing for other reasons in any event, whether the proposal complies fully with these two policies is not determinative of the outcome.

**Other Matters**

31. The appellant opines that some works would be possible to undertake as permitted development, although the specifics of such potential fallback options have not been fully detailed. As such, I give this consideration limited weight. However, I share the view that a boundary fence of a more solid form that may otherwise be permissible under permitted development rights could

be more visually incongruous for the rural setting than a profiled and landscaped bund.

32. I also note the Council's view that there are quieter areas of the garden that could be enjoyed in connection with the host dwelling without the need for intervention and that the existing dwelling cannot be retrospectively required to adhere to maximum noise standards more applicable to new-build dwellings. However, the dwelling is a designated heritage asset and, consequently, has more limited options for adaptations and reorientation. The areas of the garden that relate best to the dwelling and its linking internal rooms are not necessarily those which are shielded best from road noise.

### **Planning balance and conclusion**

33. Insofar as the proposal would be harmful to existing trees and the biodiversity interests of the site and surrounding area, it would conflict with the development plan when taken as a whole. The absence of other harms does not weigh in favour of the proposal.
34. There would be a public benefit of the proposal from the positive contribution to the significance of a designated heritage asset. Private benefits would be achieved for the enjoyment of the current and future occupiers of said designated heritage asset. I anticipate that there would be some limited economic benefits from the construction phase of the proposal to add to the totality of benefits.
35. However, even when taken collectively, the conflict with the development plan when taken as a whole is a determinative factor and is not outweighed by the public benefits or other considerations advanced in relation to the proposal. As a result, the appeal should be dismissed.

*H Nicholls*

INSPECTOR