



Appeal Decision

Site visit made on 6 January 2025

by J Reid BA(Hons) BArch(Hons) RIBA

an Inspector appointed by the Secretary of State

Decision date: 21st January 2025

Appeal Ref: APP/C3810/W/24/3350009

Land East of Commonmead Barn, Pagham Road, Pagham PO21 3PY

- 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 Mr Howard Phillips against the decision of Arun District Council.
 - The application Ref is P/9/24/PL.
 - The development proposed is Construction of three No. two-storey dwellings along with associated car and cycle parking.
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Decision

1. The appeal is dismissed.

Preliminary matters and main issues

2. The appeal site lies roughly south east of Rookery Farmhouse (the listed building), which is listed in Grade II. As the proposed development would be fairly close to the listed building, I am required to exercise my statutory duty. The revised National Planning Policy Framework (Framework) came into force in December 2024. The main parties have had the opportunity to comment on the relevant changes, and the comments received have been considered.
3. The main issues are:
 - whether the proposed development would be safe from flooding and whether it would increase flood risk elsewhere, and
 - whether the proposal would preserve the setting of the listed building.

Reasons

Flood risk

4. The irregular-plan appeal site lies outside the built up area boundary of any settlement designated in the Arun Local Plan 2011-2031 (LP), so it is, in policy terms, in the countryside. The appeal site includes a mostly undeveloped mainly grassed area of land adjoining the backs of the plots of Field View and Farm Gate Cottage, which are reached from the roughly north west side of Pagham Road, and part of the drive to the dwellings at Commonmead Barn and Windmill Barn. An adjoining part of the drive, and the land adjoining the part of the drive that is within the appeal site, are within the control of the appellant.
5. The proposal would be situated within the mainly grassed area of land, which I shall refer to as 'the site' hereafter. Farm Gate Cottage and Field View lie roughly south east, the drive to the former barns lies roughly south west, Commonmead Barn and its grounds lie roughly north west, the listed building

lies roughly north west, and its grounds lie roughly north west and north east. Mostly residential development is being built on the opposite side of Pagham Road, a discrete residential development has been found acceptable in the field to roughly south west of the site, and mainly open fields within the wider broadly flat agricultural landscape lie to roughly north west and north east of the listed building and Windmill Barn. The culverted ordinary watercourse (culvert) that runs through the site serves an essential purpose of reducing flood risk related to the pond in the listed building's grounds.

6. In terms of flood risk, the proposal would introduce a more vulnerable use to the site. The appellant's flood risk assessment and surface water drainage strategy dated August 2024 (FRA) states that the site is within an area where the risk of groundwater flooding is greater than or equal to 75%. The FRA adds that to mitigate flood risk posed by post development runoff, adequate control measures would be required within the site to ensure that surface water runoff is dealt with at source and the flood risk off site is not increased. So, whilst the design and access statement states that surface water drainage would be dealt with by soakaways, the FRA proposes a hybrid surface water drainage strategy, which would include some parts that would rely on infiltration, and other parts that would drain into attenuation features, which would discharge into the culvert at a controlled rate to reduce the risk of flooding elsewhere. Water butts for garden use would also be included to supplement attenuation and to reduce household water consumption.
7. The FRA explains that the 2016 Arun District Council Strategic Flood Risk Assessment states that the dataset covers a large area of land, and only isolated locations within the overall susceptible area are actually likely to suffer the consequences of groundwater flooding. So, amongst other things, the FRA has investigated and reported upon the ground conditions at the site. The FRA identifies the underlying geology from British Geological Survey maps, includes the results of 3 cycles of infiltration testing to BRE 365 methodology in 2 test pits, and states that groundwater was encountered at a depth of 1.77 m below ground level. However, as the test results in the FRA do not include sufficient supporting data, such as the dates of the infiltration tests, or groundwater observations, or evidence of the strata encountered in each test pit, there is insufficient evidence to show that the peak groundwater levels and slowest infiltration rates have been considered. Moreover, it has not been shown that worst case design options for full infiltration or full attenuation drainage options could be accommodated within the site. So, it has not been shown that the proposal could be sustainably drained without increasing flood risk elsewhere.
8. A detailed surface water drainage design was not a validation requirement when the application was made, so the appellant has suggested that surface water drainage could be dealt with by condition. However, Planning Practice Guidance (PPG) explains that conditions that impact on the proper implementation of the planning permission should not be used. As there is insufficient evidence to show that the proposal would be deliverable in terms of surface water drainage, the condition could not reasonably be imposed.
9. Therefore, I consider that it has not been shown that the proposed development would be safe from flooding and that it would not increase flood risk elsewhere. It would be contrary to LP Policy W SP1 which seeks to reduce the risk from flooding whilst increasing biodiversity, LP Policy W DM3 which aims for development to incorporate a range of Sustainable Urban Drainage

Systems at an early stage of the design process, and the Framework which aims for proposals to meet the challenge of climate change and flooding.

Listed building

10. The listed building is set well back from Pagham Road and reached by its drive by the site's north east boundary. The mostly 2 storey plus attic listed building is mainly characterised by its roughly north east facing side gabled main range, its historic features, including multipaned windows, modest front dormer and gable end stacks, and its subservient back gabled outshoot. The broadly symmetrical composition of its elegant roughly early C18 front, the prominence of its roofscape, its historic form, and its relationships with its historic grounds and nearby historic farm buildings, which include Commonmead Barn and Windmill Barn, and the nearby farmland to roughly north west and north east, are important to its special architectural interest, and to its significance as the historic former farmstead's principal dwelling.
11. The listed building and the former farm buildings to roughly south has been identified as a Historic Farmstead in the Historic Farmsteads and Landscape Character in West Sussex study as a C18 dispersed multi-yard farmstead which has suffered partial loss. The roughly 1849 tithe map extract shows that the listed building, its former farm buildings and the site were parts of the same parcel of land. The appellant's heritage statement implies that the south east part of the land including the site was a separate woodland or plantation of trees by 1875, but from the roughly 1875 OS map extract, it could also have been an orchard. Moreover, the site is part of the land that was historically bounded by the grounds of the listed building, which include its drive and the pond, the former farm buildings including Commonmead Barn, Commonmead Lane, and the land by Pagham Road, which had been a separate land parcel in and since the tithe map. So, the site is legible as part of the historic farmstead. That land including the site was also within the same ownership as the listed building until roughly the late C20. Whilst part of the farmstead had been included in the slightly deeper plots of Farm Gate Cottage and Field View by roughly 2023, the site is part of the historic farmstead, and it is an important part of the listed building's setting.
12. Whilst the grounds of the listed building and Windmill Barn have been extended into the former farmland to roughly north west of the listed building, the openness and greenery within the site contribute positively to the significance of the listed building, and to the rural character of the historic farmstead. Commonmead and Windmill Barns are now dwellings, but as their conversion largely respects their historic utilitarian character, their positive contribution to the significance of the listed building, and to the historic farmstead, has been conserved. The site is partly separated from the grounds of the listed building and Commonmead Barn by the tall fence and nearby trees, and by the tall late C20 evergreen hedge, by their common boundaries. Even so, as the vegetation within the grounds of the listed building and Commonmead Barn is not within the appellant's control, and as the existing and proposed vegetation within the site could not reasonably be controlled by condition for more than a few years, it could not be relied upon to partly screen the proposal in the long term.
13. The three 2 storey 4 bedroom dwellings and their car ports would be squeezed in between the drive to the former barns and the culvert. Because the proposal would be relatively close to the listed building and poorly related to its former

farm buildings, and as it would intrude into the important openness between the listed building and Farm Gate Cottage, the proposal would erode the listed building's prominence and relationship with the historic farmstead, especially so in views across the field to roughly north east. Because the proposal's built forms, extensive hard surfaces, and the related domestic paraphernalia in the gardens, would unacceptably erode the important openness and greenery within the site, which contributes positively to the rural character of its setting, it would diminish the significance of the listed building. Moreover, due to its built-up suburban character and discordant appearance, the proposal would be incongruous in views from the listed building and its grounds.

14. Whilst the listed building is partly screened by the intervening partly deciduous vegetation in views from Pagham Road, PPG advises that the contribution that setting makes to the significance of the heritage asset does not depend on there being public rights of way or an ability to otherwise experience that setting.
15. In the terms of the Framework, the proposal would cause less than substantial harm to the significance of the listed building. As the listed building is not within the control of the appellant, its optimum viable use is not relevant. So, the optimum viable use of the site attracts little weight. The proposal's public benefits, including 3 welcome new homes in a reasonably accessible location, jobs during construction, and the future occupiers' likely local spend, would not be enough to outweigh that less than substantial harm. Moreover, insufficient clear and convincing justification has been put to me to explain why the proposal would be necessary to conserve the significance of the heritage asset.
16. Thus, I consider that the proposal would fail to preserve the setting of the listed building. It would be contrary to LP Policy HER SP1 which reflects the thrust of my statutory duty regarding listed buildings, and the Framework which aims for heritage assets to be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

Other matters

17. The site is within the 400 m to 5 km (Zone B) Zone of Influence of the Pagham Harbour Special Protection Area (SPA). In determining this appeal, I am the competent authority for the purposes of The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations).
18. The proposal would increase the number of people living near the SPA. So, the proposal would be likely to have a significant effect on the SPA due to increased recreational disturbance. Because the proposal would not be directly connected with or necessary for the management of the SPA, it would be necessary for me to undertake an appropriate assessment of the implications of the proposal for the SPA in view of its conservation objectives. I could only grant planning permission if I were to ascertain in that appropriate assessment that the integrity of the SPA would not be adversely affected. However, as the proposal would not be acceptable for other reasons, it is not necessary for me to undertake an appropriate assessment.
19. So, whilst the appellant has submitted a completed planning obligation that seeks to secure a financial contribution towards measures to avoid, or to mitigate to an acceptable level, the harm that the proposal would cause to the

SPA in accordance with LP Policy ENV DM2 and the Habitats Regulations, I shall not consider it.

20. The proposal would be within the wider setting of the roughly C19 Nyetimber Windmill (the listed windmill), which is listed in Grade II, and which lies roughly south west. Whilst the fairly tight knit development close by, which was built after its inclusion in the statutory list, has partly screened much of the heritage asset, its upper part forms a local landmark that can be appreciated in longer views, including those from Pagham Road to roughly north east. The appellant's heritage statement recognises that there is some intervisibility between the listed building and the listed windmill. Even so, due to the distance and relationships between the assets, and as housing has been found acceptable in the intervening field, the listed windmill's setting would be preserved.
21. The Council cannot demonstrate a 5 year supply of deliverable land for housing, and the shortfall is significant. However, as the application of policies in the Framework that protect areas or assets of particular importance, individually and cumulatively, provide strong reasons for refusing the development proposed, planning permission should not be granted.

Conclusion

22. I have found that the proposed development would be contrary to the Development Plan when taken as a whole. The other considerations in this case, including the Framework, do not outweigh that conflict.
23. For the reasons given, the appeal should be dismissed.

J Reid

INSPECTOR