



Appeal Decision

Site visit made on 26 February 2025

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2025

Appeal Ref: APP/C1435/W/24/3349065

Land adjoining Mill Lane, Lewes Road, Cross in Hand, Heathfield TN21 0TA

- 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 Leach Projects Ltd against the decision of Wealden District Council.
 - The application Ref is WD/2024/0171/F.
 - The development proposed is described on the application form as 'full planning application for the erection of 1no. detached two bedroom single-storey property with associated access, car parking and landscaping.'
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposed development relates to the settings of listed buildings. Accordingly, I have had special regard to the desirability of preserving the listed buildings or their settings, as required under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issue

3. The main issue is whether the proposed development would preserve the setting of the Grade II* listed building, Cross-in-Hand Windmill, and the setting of the Grade II listed building, Mill House.

Reasons

Special interest and significance

Cross-in-Hand Windmill

4. Cross-in-Hand Windmill (New Mill) is a Grade II* listed building¹. It dates from around 1806, although was relocated to its present site in 1868. It has been altered over time, in part to include a single-storey lean-to structure. The mill ceased production in 1969.
5. The special interest and significance of the listed building is largely derived from its historic and architectural interests. Important contributors in these regards are its powerful presence within Mill Lane, its surviving historic fabric (including internal machinery), its historic use as a windmill having been adapted over time with the progress of technology, and its association with millwright Samuel Medhurst of Lewes.

¹ List Entry Number: 1183064

6. Pertinent to this appeal, the building's special interest and significance is also derived, in part, from its setting. The largely open surrounding area, albeit interspersed by occasional buildings, has an historic, visual and functional connection with the heritage asset. This is principally due to the former function of the listed building, located here to maximise wind power, as well as for access from nearby farms. This surrounding area forms the asset's setting.
7. Whilst the listed building is best appreciated from the 'top part' of Mill Lane, the open and rural character of the asset's setting, which includes the approach along Mill Lane from Lewes Road and the undeveloped, enclosed appeal site, contributes considerably to the asset's special interest and significance. Despite some development having occurred in more recent times within Mill Lane, there nevertheless remains an overriding rural character here.

Mill House

8. Mill House is a Grade II listed building², with its origins in the mid-19th century. It has possible associations with the Mill, noting its name and age, but is nevertheless listed in its own right.
9. The special interest and significance of the listed building is largely derived from its historic and architectural interests. Important contributors in these regards are its age, use of historic building techniques and materials and its illustration as vernacular rural house set within an expansive garden plot.
10. As with the Windmill, the largely open and rural character of the surrounding area, has an historic and visual connection with the heritage asset. This surrounding area, which includes the undeveloped appeal site, forms the asset's setting and contributes positively to the asset's special interest and significance.

Appeal proposal and effects

Cross-in-Hand Windmill and Mill House

11. The appeal site forms part of the setting of the nearby heritage assets and contributes positively to their special interest and significance. This would be markedly compromised by the proposed development, introducing built form of a domestic nature where there is currently, and historically, none.
12. The cumulative totality of the proposed development, when taking into consideration the likely associated paraphernalia such as domestic garden features, bike store and parked cars, would harmfully erode the historic and rural setting of, the Windmill and Mill House, and the approach to the Windmill along Mill Lane. Moreover, the proposed areas of hardstanding for the parking area and paths (whatever their final material) would result in a reduction in the verdant character of the site. Ultimately, the proposed development would have a harmful urbanising effect on the site and would diminish the ability to appreciate the significance of the Windmill and Mill House in their historic settings.
13. My attention has been drawn to several development proposals within the surrounding area, including at Land East of Dads Hill, Windmill Feeds and The Roundhouse. In respect of Land East of Dads Hill, this site is located some distance away from the appeal site in a different context. The Windmill Feeds

² List Entry Number: 1353399

scheme appears to relate, principally, to the conversion of existing buildings and the Roundhouse scheme, although close to the listed assets, was assessed as having heritage benefits. There is limited evidence before me to indicate that those other schemes are directly comparable to the current appeal. I acknowledge those schemes would change the surrounding area if they were all implemented. However, I do not consider that this would fundamentally alter the overriding rural character of the appeal site or Mill Lane generally. Moreover, the acceptance of other developments does not mean that development at the appeal site should automatically be accepted, particularly where harm has been identified.

14. I also appreciate that the proposed scheme has been amended since a previous proposal (and appeal decision³) at the site, and that this includes a reduced overall height, a larger setback from the lane and the use of more appropriate facing materials of timber cladding and a profiled metal roof. Nevertheless, I do not agree with the appellant's assertion that the proposed development would appear as a traditional or utilitarian rural building rather than a domestic bungalow. The proposed development would still introduce an overtly domestic character here, diminishing the ability to appreciate the significance of the heritage assets in their historic setting. Ultimately, the design changes have not led me to an alternative conclusion on this main issue.
15. Overall, I conclude that the proposed development would fail to preserve the settings of Grade II* listed building, Cross-in-Hand Windmill, and Grade II listed building, Mill House. Consequently, the development would harm the significance of these designated heritage assets. In doing so, it would be contrary to the requirements of Section 66(1) of the Act.

Public benefits and balance

16. Paragraph 212 of the National Planning Policy Framework (the Framework) advises that when considering the impact of a proposed development or works on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 213 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have clear and convincing justification.
17. With reference to paragraphs 214 and 215 of the Framework, in finding harm to the significance of designated heritage assets, the magnitude of that harm should be assessed. Given the extent of the development and works relative to the listed building, I find the harm would be 'less than substantial' in this instance. Under such circumstances, paragraph 215 advises that this harm should be weighed against the public benefits of the proposal.
18. The scheme would bring about benefits, including the contribution of an additional dwelling to housing supply in an area with an acknowledged lack of housing supply (3.83 years according to the appellant and 4.45 years according to the Council). There would also be some economic benefits, including employment during the construction phase and the increase in trade to local services and facilities following occupation. Nevertheless, these benefits would be very limited by reason of the scale and nature of the proposed development.

³ APP/C1435/W/22/3292454

19. Overall, the weight that I ascribe to the public benefits that would accrue from the proposal, is not sufficient to outweigh the considerable importance and weight that I attach to the harm I have found. Accordingly, the proposed development would fail to preserve the settings of Grade II* listed building, Cross-in-Hand Windmill and Grade II listed building, Mill House.
20. Consequently, it would be contrary to the requirements of section 66(1) of the Act and the relevant provisions of the Framework which seek to conserve and enhance the historic environment. The proposed development also conflicts with the relevant provisions of saved policy EN1 of the Wealden Local Plan (1998) and policies SPO2 and SPO13 of the Wealden Core Strategy Local Plan (2013). These policies, in summary, seek to ensure high quality design in development and the protection of heritage assets, including their settings.

Other Matters

Housing supply

21. As noted above, the Council cannot currently demonstrate a five-year housing land supply of deliverable housing sites. This means that the policies which are most important for determining the proposed development are deemed to be out of date in accordance with paragraph 11.d of the Framework. This states that in such a situation where development plan policies are deemed out-of-date, planning permission should be granted unless one of two criteria apply.
22. One of these at (i), and which is pertinent to the appeal scheme before me, is if the application of policies in the Framework that protect areas or assets of particular importance, including designated heritage assets, provides a strong reason for refusing the development. As I have explained above, there would be harm to the settings of Grade II* and Grade II listed buildings that would not clearly be outweighed. Therefore, the proposed development would not benefit from the presumption in favour of sustainable development in this instance.

Other considerations

23. Even were I to agree that the site is sustainably located and would make an efficient use of land, which are both objectives supported by the Framework, this is not at any cost. This matter has not led me to an alternative conclusion on the main issue.
24. I acknowledge that visibility of the appeal site would likely be relatively limited when boundary vegetation is in full leaf. However, as set out by the previous Inspector, this vegetation would not be in leaf year-round. This was observed during my early spring site visit, when the site (and its open character) was clearly discernible through gaps in landscaping. Moreover, landscaping cannot be relied on in perpetuity to provide the same level of screening as at present. This matter has not led to an alternative conclusion on the main issue.
25. I note the concerns and frustration of the appellant in respect of pre-application processes and communication with the Council. However, pre-application advice is not determinative in appeals. These matters do not affect the outcome of this decision.

Conclusion

26. For the reasons given above, having regard to all other matters raised, I conclude that the appeal should be dismissed.

A Price

INSPECTOR