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## Appeal Decision

Site visit made on 27 May 2025

by J E Jolly BA (Hons) MA MSc MCIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 June 2025

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**Appeal Ref: APP/C3810/W/24/3356084**

**23-25 Beach Road, Littlehampton, West Sussex, BN17 5JA**

- 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 Phil Edwards (DPFI Homes Ltd) against the decision of Arun District Council.
  - The application Ref is LU/101/24/PL.
  - The development proposed is for the demolition of existing warehouse and erection of 2 No. attached three storey dwellings.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised in December 2024. I have sought comments from the main parties and have taken them into consideration in determining this appeal. Consequently, in reaching my decision I have had regard to the new Framework published in December 2024, and any reference to Paragraph numbers are to this version.
3. For clarity and brevity, I have used the description of development given on the Council's decision notice.

### Main Issues

4. The main issues in this appeal are:
  - whether the proposal would preserve or enhance the character and appearance of the area, including the setting of the East Street Conservation Area (CA), and the setting of nearby listed buildings,
  - the effect of the proposal on the living conditions of future and neighbouring occupiers; and,
  - flood risk.

### Reasons

#### *Character and appearance*

5. The appeal site has an existing structure which is a single storey, shallow-roofed warehouse building that is located in the setting of the CA near to Littlehampton town centre. The site looks directly onto Manor House carpark which is adjacent to the Grade II listed buildings known as the Parish Church of St Mary the Virgin (the Church) and the Manor House, which both front onto Church Street.

6. The proposal is to demolish the warehouse and to construct a pair of 'M' shaped roofed dwelling houses with an undercroft parking area and a landscaped/planted garden type space to the rear.
7. As the proposal would be in the setting of the CA, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the area, as set out in section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). Section 66(1) of the same Act also requires that special regard should be paid when assessing proposals for development that affect listed buildings and their setting.
8. The special character and significance of the setting of the CA is typified by one and two storey brick buildings/offices and service yards related to the ground floor commercial premises facing Beach Road. These premises form part of a four-storey terrace that is a locally Listed Building of Character (non-designated heritage asset) which has apartments above. The Church and Manor House can be appreciated from Church Street and across Manor House car park from the non-designated heritage asset and other dwellings, such as the separate 3-storey terrace found to the right-hand side of the appeal site. The Church is characterised by an attractive turreted tower and a walled cemetery, and the Manor House is a substantial and imposing two storey, rendered building of some character. As both buildings can be seen from Church Street and the Church grounds, they are important landmark structures in this town centre location.
9. The three-storey proposal would be subordinate to the terraced non-designated heritage asset and would also be more in keeping with the mostly red-stock brick appearance of the surrounding buildings and dwellings in comparison to the utilitarian warehouse on the appeal site. However, the fact remains that the proposal would still be a building of some scale and mass with a convoluted roofscape that would have a range of conspicuous fenestration as part of an active frontage facing across Manor House car park towards the listed buildings. Consequently, the development would 'sit up' between the two listed buildings for those travelling or walking along Church Street in comparison to the simple warehouse and other neighbouring structures. As such, while the appellant argues that the height of the development is necessary to mitigate potential harm from flood risk, the proposal would nevertheless be an incongruous and prominent addition in this specific location by virtue of its height and bulk. As a result, the significance and setting of the CA and the two listed buildings would be eroded by the close and immediate proximity of the proposed development.
10. Therefore, I concur with the Council that the proposal would result in 'less than substantial harm' to the setting of the CA and the significance and setting of the nearby listed buildings. In accordance with Paragraph 215 of the Framework, I must weigh this harm against the public benefits of the scheme. I will return to this later in my decision.
11. Accordingly, the proposal would be contrary to Policies D SP1 & HER DM1 of the Arun Local Plan (2018) ALP, which say that heritage assets and their settings will be given the highest level of protection.

### *Living conditions*

12. The outside space for the proposed dwellings would be less than the Council's desired minimum. Nonetheless, the space would be of a size to be expected in this dense urban location. In addition, while less than ideal at certain times of the day and year, the development would still meet the requirements of the BRE '25-degree rule' for adequate daylight and sunlight and Section M of the Arun Design Guide related to overshadowing.
13. However, the space would be overlooked by some of the occupiers of the upper floor apartments contained within the Beach Road terrace. Moreover, even though the fenestration to the rear of the proposed dwellings would be relatively limited, it would still enable inter-looking between the habitable rooms of new and existing dwellings. This would diminish privacy levels for the future and neighbouring occupiers of the proposed development.
14. Furthermore, notwithstanding the 'M' shaped design of the proposed roofscape, the immediate proximity of the proposed development to the existing flats would not only be overbearing to both future and neighbouring occupiers, but also lead to a sense of enclosure between the buildings where currently there is none. This would have a significant negative effect on the living conditions of future and neighbouring occupiers. Landscaping and/or planting would not be adequate mitigation.
15. Therefore, I conclude that the proposal, in respect of the living conditions of future and neighbouring occupiers, would be contrary to Policies D DM1 and QE SP1 of the ALP, which are clear that development should not have a significantly negative impact on residential amenity.

### *Flood risk*

16. The proposal would be located in Flood Zone 1, 2, 3 & 3a, and areas susceptible to surface and groundwater flooding. Therefore, Paragraph 175 of the revised Framework says that a sequential test should be used in areas known to be at risk now or in the future from any form of flooding. Nonetheless, even though I have limited details of other residential developments in the town centre<sup>1</sup>, such as in Surrey Street and Pier Road where a sequential test was not required by the Council, the appellant also argues there are no alternative sites that offer a sustainable town centre location. Moreover, that the vulnerability of the site to flood risk is limited, and therefore, that the exception test set out in Paragraph 178 of the Framework applies.
17. To pass the exception test it should be demonstrated that: a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall. As such, the appellant contends that the proposal would be in a sustainable town centre location where the Environment Agency has confirmed there has been no recorded flood events. Moreover, that the benefits of the proposal would include an economic contribution to the 'Littlehampton Growth Area' through the provision of two new dwellings.

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<sup>1</sup> LU/244/23/PL, LU/46/20/PL and LU/86/22

18. Furthermore, while the submitted Flood Risk Assessment (FRA) records that the site is at a 'high' risk of flooding, that the higher-level habitable areas of the proposal would be elevated above the ground level garages. This would mean during a peak flood event occupiers would have refuge in the upper floors of the dwellings until safe egress was possible.
19. However, as the Council has brought to my attention that there are likely to be sites at a reasonable distance from Littlehampton town centre where flood risk is lower, I have minimal evidence to persuade me, as the sequential test requires, that there is an absence of alternative sites nearby. Moreover, even if the occupiers on the first floor and above would be safe from harm during a peak flood event, and suitable conditions for surface and groundwater drainage could be agreed with the Council, even though the Environment Agency do not object to the scheme the proposal would not pass the required exceptions test as the very limited benefits of the small-scale scheme do not outweigh the established high flood risk for the site. I also have no substantiated evidence, despite the inclusion of garden spaces and planting, that the hard surfaces of the proposal, now or in the future, would not cause flooding on the site or elsewhere.
20. It follows then that the proposal would be contrary to Policy W DM2 (a-f) of the ALP when read as a whole, and Paragraph 170 of the Framework, which says, inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, whether existing or future.

### **Planning and Heritage Balance**

21. The main parties agree that the Council cannot demonstrate a 5 Year HLS. However, while mindful of Paragraph 11 (d)(i), as the development would be in an area at risk of flooding and there are clear and strong reasons to dismiss the appeal, the 'tilted balance' is not engaged.
22. Nonetheless, Paragraph 212 of the Framework states that great weight should be given to a heritage asset's conservation, and that this is irrespective of whether harm is substantial or less than substantial. The proposed development would fail to preserve or enhance the character and appearance of the setting of the CA. It would also have a harmful effect on the significance and setting of the nearby listed buildings. I have found above that this harm would be 'less than substantial'. Therefore, Paragraph 215 of the Framework is clear that this harm should be weighed against the public benefits of the proposal.
23. The proposal would include local employment opportunities connected to the construction of the development and be of an upgraded appearance to the existing warehouse. Notwithstanding the Council's 3.41-year HLS, as these opportunities would be small scale and/or short-term, I can only attribute this limited weight. For similar reasons, only limited economic weight can be given to the patronage of local services and businesses by the small number of new occupiers.
24. The proposed development would have a permeable landscaped and planted terrace area, be thermally efficient with low carbon energy supply systems, include electric vehicle charging points and cycle storage to encourage sustainable methods of transport, and have bee and swift nest bricks. Given that some of these elements would be normal ALP requirements, I also attribute these environmental benefits limited weight.

25. There would be a small social benefit associated with direct surveillance of the car park by the new occupiers, even though surveillance of the site by neighbouring occupiers, albeit more distant, is already established. As there can be no certainty that the proposed development would be a catalyst for change and wider redevelopment adjacent to Manor House car park as forwarded by the appellant, I attribute this potential social benefit very little weight.
26. In relation to the designated heritage assets, I have set out above how the public benefits of the scheme are limited. Overall, the weight I ascribe to the public benefits which would accrue from the proposal, is not sufficient to outweigh the considerable importance and weight I attach to the harm I have found. As such there is no clear and convincing justification for allowing the appeal with reference to the expectations of statute and Paragraph 213 of the Framework.

### **Conclusions**

27. For the reasons given above, I conclude that the appeal should be dismissed.

*J E Jolly*

INSPECTOR