



Appeal Decision

Site visit made on 17 May 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 June 2022

Appeal Ref: APP/M1005/W/22/3290040

6 Chevin Road, Milford, Belper DE56 0QH

- 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 Jessica Saunders against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2020/1211, dated 4 December 2020, was refused by notice dated 5 July 2021.
 - The development proposed is erection of new build dwelling within the grounds of the existing 6 Chevin Road.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the Derwent Valley Mills World Heritage Site (WHS), the extent to which it would preserve or enhance the character or appearance of the Belper and Milford Conservation Area (CA) and whether the proposal would preserve the setting and special interest of the nearby Grade II listed buildings.

Reasons

3. The proposed dwelling would be sited within the grounds of 6 Chevin Road, which is a Grade II listed building. The listing also includes No 4. There are a number of other Grade II listed buildings close to the appeal site including Milford Baptist Chapel and the former Wesleyan Chapel. In addition, the appeal site falls within the WHS and CA.

Effect on the WHS and CA

4. The existing stone boundary wall screens the appeal site from Chevin Road. Land levels within the appeal site slope away from Chevin Road and the site follows the general contours of the valley. The proposed development would utilise the existing access and driveway serving No 6, albeit there would be modifications to the boundary wall to improve visibility.
5. Paragraph 189 of the National Planning Policy Framework (the Framework) says that World Heritage Sites are heritage assets of the highest significance, which are internationally recognised to be of Outstanding Universal Value (OUV). The WHS has OUV primarily because it is recognised as the origin of the factory system and the start of the industrial revolution. The site is surrounded

- by numerous designated heritage assets and attributes that contribute to the international significance of the WHS. The site is close to one of the main textile mill sites and is closely associated with the core of the WHS which characterises the mill community settlement.
6. Based on the information before me, the CA is characterised by the mill buildings, attractive stone buildings (which include a range of listed buildings and workers housing), River Derwent, A6 road, topography of the area and mature trees.
 7. The appeal site was originally allotments which were separate from the garden associated with the cottages (Nos 4 and 6). Subsequently, the allotments were taken into the ownership of No 6. The cottages contribute to the cultural heritage narrative of the WHS due to their previous uses. It is thought that the cottages were previously the School House for Milford School, head-teachers accommodation and homes for workers at the Cotton Mill. The appellant states that the curtilages of the cottages in 1987 were very restricted and the remainder of the land was used as allotments by various tenants.
 8. Monitoring view No 38 is situated on the other side of the valley and is an important consideration as it looks towards the appeal site. The description of the viewpoint specifically states that the allotments were an important part of the domestic economy of the mill community in the 18th and 19th century. I recognise that changes to the built environment and tree cover will have altered the view. The appellant highlights that the use of the land as allotments ceased some 50 years ago. Nonetheless, they recognise that the value of allotments as an element of the creation and development of a new way of life in the mill communities.
 9. I observed on my site visit that there are no clear visual or functional attributes that indicate or demonstrate the former use of the land as allotments. In addition, the appeal site does not clearly read as an open space from Chevin Road and the proposed development would not be conspicuous from viewpoint No 38 because of the extent of mature trees and vegetation.
 10. Nevertheless, the viewpoint description emphasizes allotments are elements of attributes that contribute to the OUV of the WHS. When viewed within the site, the former allotment land maintains an open character. It respects the cultural landscape as it is land not previously developed for anything other than ancillary structures to the dwelling. The introduction of the proposed dwelling, and associated curtilage, would have a far greater impact on the cultural landscape than the ancillary structures. The historic use as allotments helps one appreciate the evolution and operation of the factory settlement as well as the cultural landscape of the mill communities to be interpreted. Consequently, the appeal site forms part of the cultural landscape, and the proposed development would erode the general open character of the site and would dilute the historic authenticity of the WHS.
 11. The proposed development would not be prominent from Chevin Road due to the height of the dwelling, land levels and the boundary stone wall. The dwelling would respect the horizontal alignment of existing development along Chevin Road. Nevertheless, generally buildings within this part of Milford are built close to the road. The siting of the new dwelling, set away from the road, would not follow this character or pattern of development within this part of the CA and WHS. For the above reasons, the scheme would cause harm to the

WHS and it would not preserve or enhance the character or appearance of the CA.

Effect on the listed buildings

12. Nos 4-6 Chevin Road are a pair of two and a half storey, stone slate roofed houses with their rear façade adjacent to Chevin Road which has a low key appearance. The main elevations face away from the road and have broadly a symmetrical design. They feature brick chimneys, bay windows, pediments with roundel windows and sash windows.
13. The proposed dwelling would be sited outside of the original garden of the listed building and would respect the orientation of the listed building. The separation distance between the listed building and proposed dwelling, as well as the ground levels, design and ridge height, would ensure that subservience would be achieved. In addition, based on the information presented, alterations to the boundary wall could be subject to a planning condition and I am satisfied that an acceptable arrangement could be achieved. Accordingly, the proposed development would have a neutral effect on this heritage asset and would preserve the special interest of this listed building.
14. The Milford Baptist Chapel is opposite the appeal site. It is a stone building with a hipped slate roof and arched windows. The former Wesleyan Chapel is a two-storey stone building with a hipped slate roof and sash windows. Both of these buildings are set up above the road which results in them being more imposing than the cottages when viewed from Chevin Road.
15. The scheme would not unduly interrupt views of these listed buildings nor would it have any notable impact on how the heritage assets are experienced. This is due to the distance between the appeal site and the listed buildings, intervening highway, boundary wall and differences in levels. As such, I am satisfied that the development would have a neutral effect on these heritage assets and would preserve the special interest of these listed buildings.

Heritage balance

16. For the reasons given above, and based on the information presented, the proposed development would preserve the setting and special interest of the Grade II listed buildings. Consequently, it would comply with Policy EN24 of the Amber Valley Borough Local Plan (2006) (LP) which states that development will only be permitted where the proposals contribute to the preservation of the listed building and its setting. However, it would cause harm to the WHS and it would not preserve or enhance the character or appearance of the CA.
17. Framework paragraph 199 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Framework paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Where there is less than substantial harm, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

18. Given the scale of the proposal within the context of the WHS and CA as a whole, limited public views and no clear visual or functional attributes of the historic allotment use, the level of harm would be less than substantial but nevertheless of considerable importance and weight. I acknowledge the family's personal circumstances and that the scheme would provide a self-build, adaptive and accessible home that is close to family which will meet the current and future needs of the appellant and her dependents.
19. The scheme would provide a new dwelling which would contribute towards the Council's housing need. There would also be economic benefits, including through the construction period and ongoing contribution to the local and wider economy. In addition, the new dwelling would be constructed to Passivhaus standards. Based on the evidence submitted, the public benefits associated with the proposed development would be limited and would not justify or outweigh the harm to the WHS and CA that I have identified.
20. In the absence of public benefits to outweigh the harm identified above, I conclude that, on balance, the proposal would cause harm to the WHS and it would not preserve or enhance the character or appearance of the CA. Accordingly, the scheme would conflict with Policies EN27 and EN29 of the LP and Policy NPP 11 of the Neighbourhood Plan for Belper Civil Parish 2019-2028 (2021). These collectively seek, amongst other matters, to ensure development proposals preserve or enhance the character and appearance of the conservation area and World Heritage Site as well as development will only be permitted where the proposals contribute to the preservation of the listed building and its setting. It would also conflict with section 16 of the Framework which seeks to protect and enhance the historic environment. As a result, the proposal would not be in accordance with the development plan.

Other matters

21. My attention has been drawn to approved developments, these include Milford Mills, the former Glow Worm site and an appeal decision at Sunny Hill Gardens¹. There are similarities between those proposals and the case before me as the sites relate to former allotments and in this regard the appellant has referred to a legal judgement².
22. The Council has also referred to appeal decisions³ which the appellant has commented on. These decisions cannot be directly compared to the appeal before me. This is because it appears that in those cases that the development would be more prominent than that proposed. In addition, the proposed development is acceptable in other regards, such as residential amenity, which were the main issues in those decisions.
23. There is limited information before me regarding the highlighted cases. However, there appears to be differences in terms of the context of the appeal site, proposed siting of the dwelling relative to its surrounding and public benefits. In any event, I have dealt with the proposal before me on its merits and in accordance with its site specific circumstances.

¹ APP/M1005/A/05/1192405

² N Wiltshire DC v SSE (1993) 65 P. & C.R. 137

³ Including APP/M1005/W/17/3187432, APP/M1005/W/18/3202331, APP/M1005/W/19/3222933, APP/M1005/W/20/3261521, APP/M1005/Y/20/3261512, APP/M1005/W/20/3265272 and APP/M1005/W/21/3279110

24. I have considered the comments received from residents which primarily relate to matters dealt with above. My attention has also been drawn to the Equality Act 2010. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I find that dismissing this appeal would not amount to unlawful discrimination. The highlighted developments and other matters raised in the support comments do not outweigh the harm identified above.

Planning Balance and Conclusion

25. Both main parties consider that paragraph 11 d) is engaged. On the basis of the information before me, I have no reason to disagree. As set out above, the proposed development would preserve the setting and special interest of the Grade II Listed Buildings. However, it would cause harm to the WHS and it would not preserve or enhance the character or appearance of the CA. The public benefits associated with the proposed development would be limited and would not justify or outweigh the harm identified. The scheme would provide a new home and economic benefits. The benefits associated with the development would be limited given its scale.
26. Paragraph 11 of the Framework, in the context of the presumption in favour of sustainable development, indicates that planning permission should be granted unless (d)(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Policies in the Framework which protect designated heritage assets are included in paragraph 11(d)(i)⁴. The proposed development would be contrary to section 16 of the Framework, and the harm to the WHS and CA that I have identified above provides a clear reason for refusing the development proposed.
27. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal does not succeed.

L M Wilson

INSPECTOR

⁴ See footnote 7 of the Framework