



Appeal Decision

Site visit made on 27 June 2024

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 August 2024

Appeal Ref: APP/C1055/D/23/3335741

20 Welney Close, Mickleover, Derby DE3 0NZ

- 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 Muddasser Nazir against the decision of Derby City Council.
 - The application Ref is 22/00598/FUL.
 - The development proposed is a first floor extension, single storey rear and front extension.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Muddasser Nazir against Derby City Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are 1) whether or not the proposed development would preserve or enhance the character and appearance of the Mickleover Conservation Area (MCA), and 2) the effect of the proposed development on the setting of nearby listed buildings.

Reasons

Character and appearance of the MCA

4. The appeal property is a detached bungalow. It is situated in a small cul-de-sac section of Welney Close. Although on the whole, Welney Close is made up of detached two storey dwellinghouses, this section of the street is distinctly different, being formed of detached bungalows. This pattern is also repeated at the top of the adjacent Ingham Drive resulting in a clear and distinct separation in scale between the bungalows and the houses. There is a slight incline to the bungalows from the other houses in Welney Close. This gives the appeal site a degree of prominence in the street-scene.
5. The appeal site is located within the Mickleover Conservation Area (MCA) which is identified as an historic village which is characterised by its evolution containing a range of historic buildings and is predominantly formed of residential properties.
6. The proposed development would add an additional storey to the property and include the provision of accommodation above the existing garage with the

installation of front and rear dormers. There would also be a single storey rear extension which would span the width of the existing property and involve the removal of an existing conservatory. At the front, the ground floor would be brick with a rendered first floor with two glazed gable features projecting above the eaves. At the rear, the elevation would be fully rendered.

7. The proposed development would result in a considerable increase in the scale and mass of the property. When considered with the bungalows either side, the resultant dwelling would appear significantly out of character with the scale and mass of these properties, with the higher ground level exemplifying and exacerbating the disparity. This would disrupt an otherwise steady rhythm of lower rise properties, across the top of Welney Close and Ingham Drive, with the proposed dwelling appearing overly prominent and dominant. The impact would not be significantly reduced by the use of light-coloured render as suggested.
8. The overall design approach and materials of the resulting dwelling would also appear somewhat discordant when viewed in the context of the properties closest to the appeal site, even if there is a rendered property at no. 14 Welney Close which I have considered further below. This harm is, however, minor and secondary to that caused by the scale and massing of the proposed development, and I acknowledge that were I to have allowed the appeal the specific materials could be subject to an appropriately worded planning condition.
9. I acknowledge the modern dwelling that has been constructed at no. 14 Welney Close. Unlike the appeal property, this dwelling sits deep into the plot. It is also of a different design to the appeal proposal and is adjacent to the two-storey dwellings of Welney Close. The evidence also suggests that this development has not been carried out in accordance with the approved plans or that conditions which impact upon character and appearance have been discharged. Furthermore, although the appeal property and no. 14 Welney Close are close to each other, they are not readily viewed together from any public vantage points. Collectively, due to these factors, I give limited weight to this development in the appeal, which I have in any event determined on its own individual planning merits. It does not justify allowing the harm to be caused which I have identified with the appeal proposal.
10. The appellant has also referred to 1 Ivy Close. I have taken this to be Ivy House to the north of the site. Although this property is of a greater scale and mass than the appeal property, it is part of a separate cluster of buildings around Ivy Court and The Green. The appeal property is not part of this cluster, instead forming part of the similar group of residential properties which make up Welney Close and Ingham Drive. I therefore give this limited weight in the appeal.
11. The appellant suggests that the significance of the appeal site to the MCA lies in the mature planting creating a verdant boundary with The Hollow, as opposed to any special interest in the building itself. I agree that the mature trees within the site positively contribute to the character and appearance of the MCA, and I also consider that the low-rise nature of this part of the MCA is a positive characteristic. Either way, the statutory duty under Section 72(1) of the Act¹ requires special attention shall be paid to the desirability of preserving

¹ Planning (Listed Buildings and Conservation Areas) Act 1990

or enhancing the character or appearance of that area when considering development proposals.

12. I therefore find that the proposed development would cause significant harm to the street-scene and would thereby fail to preserve or enhance the character and appearance of the MCA. It would be contrary to Policies CP3, CP4 and CP20 of the Derby Local Plan (2017) and Saved Policies E18 and H16 of the Derby Local Plan Review. These policies require, amongst other things, that new development is of high quality design which positively contributes to the character of the area including having regard to design, scale and massing; and that developments within conservation areas preserve or enhance its character.
13. The proposed development would also be contrary to the requirement of the National Planning Policy Framework (2023) (the Framework) that heritage assets are conserved in a manner appropriate to their significance, and that when considering the impact of a development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Setting of listed buildings

14. There is a row of Grade II listed buildings to the rear of the site on The Hollow. These buildings are situated in an elevated position on The Hollow and are clearly appreciated from the street level. They are in close proximity to the modern housing development of Madeley Court which comprises two-storey dwellings. There is a densely planted embankment and mature trees between these buildings and the appeal building, and the modern house at no. 14 Welney Close sits closer to these properties.
15. The appeal development would be on the same siting as the current bungalow, albeit with an extended footprint due to the single storey rear extension. Although there would be an increase in the overall scale and mass of the property, given the context I have described above, it would not cause harm to the setting of the listed buildings. There would be very limited viewpoints where both the appeal development and the listed buildings are experienced in conjunction, with a reasonable degree of separation, landscaping and existing built development in closer proximity.
16. I therefore find that the proposed development would not harm, and would thereby preserve, the setting of the listed buildings to the rear of the site. The proposed development would therefore comply with the requirements of Policy CP20 of the Derby Local Plan (2017) and Saved Policy E19 that developments do not have a detrimental impact on, and preserve or enhance, the setting of heritage assets including listed buildings.
17. In relation to the setting of the nearby listed buildings, it would comply with the requirement of the Framework that heritage assets, including their settings, are conserved in a manner appropriate to their significance, and that when considering the impact of a development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
18. The proposal would preserve the setting of the listed buildings as required by Section 66(1) of the Act².

² Planning (Listed Buildings and Conservation Areas) Act 1990

Other Matters

19. The appellant outlines how the amended proposal was originally scheduled to be presented to the planning committee with a recommendation for approval. I acknowledge that given planning permission was refused, this would have caused frustration for the appellant. Nevertheless, the recommendation was not put to the planning committee and indeed the formal decision of the Council, which is subject to this appeal, was to refuse planning permission. The chain of events would not be a reason to allow the appeal having identified the harm that would be caused.
20. The development would involve some investment in the property and create a large family home for the appellant. Neither factor would however represent public benefits and the personal circumstances do not outweigh the harm I have identified. I therefore give these matters limited weight in the appeal.

Planning Balance and Conclusion

21. Paragraph 205 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial or less than substantial harm to its significance.
22. Having regard to paragraph 208 of the Framework, I find that as the proposed development would affect a limited part of the conservation area, the harm to the conservation area is relatively localised, and therefore the proposed development would cause less than substantial harm to the significance of the designated heritage asset. Under such circumstances the Framework advises that this harm should be weighed against the public benefits of the proposal. There are however no identified public benefits that would outweigh the harm.
23. The proposed development would therefore conflict with the development plan and there are no identified other considerations, including the Framework, that outweigh this conflict.
24. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR