



Appeal Decision

Site visit made on 5 November 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2024

Appeal Ref: APP/J3720/W/24/3345681

22 Millers Close, Welford on Avon, Warwickshire CV37 8QG

- 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 Valla Homes against the decision of Stratford-on-Avon District Council.
 - The application Ref is 23/03308/FUL.
 - The development proposed is demolition of single storey lean to and construction of 1 no. dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of the appeal, the appellant has submitted amended plans (2550.TAY-01 J Existing Location Plan, 2550.TAY-02 J Proposed Location Plan, 2550.TAY-03 J Proposed Floor Plan, 2550.TAY-04 J Proposed Elevations, 2550.TAY-05 J Proposed Elevations, 2550.TAY-06 J Proposed Roof Plan, 2550.TAY-07 J Proposed Perspective, 2550.TAY-08 J Proposed Perspective). In summary, the amended plans indicate changes to the design of the roof, the porch, the north and east elevations, the addition of a chimney, the removal of the rooflights and removal of the proposed timber cladding. The amendments are submitted to overcome the concerns raised by the Council with regard to design.
3. Section 16 of the Procedural Guide: Planning Appeals – England, 2023, advises that the appeal process should not be used to evolve a scheme and that it is important that what is considered by the Inspector at appeal is essentially the same scheme that was assessed by the Council and interested parties at the application stage. In deciding whether to accept the amended plans I have had regard to the judgment in *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin).
4. In this case, the amended plans result in a substantially different scheme over what was considered at the planning application stage. The amended plans would, therefore, fail the substantive test as set out in the *Holborn* case.
5. Furthermore, although the appellant has contacted all interested parties and advised them that amended plans were to be submitted as part of the appeal, and even though the amendments would reduce the scale of the proposal, the correspondence provided does not constitute a full consultation on the amended scheme. I have no compelling evidence that the Council and interested parties have been invited to comment on the amended scheme. Consequently, if I were to accept the amended plans there would be procedural unfairness to interested parties.

6. In the interests of natural justice, I have, therefore, not accepted the amended plans for the purposes of this appeal and I have determined the appeal on the basis of the plans submitted to the Council.

Main Issues

7. The main issues are:

- whether or not the proposed development would preserve or enhance the character or appearance of the Welford on Avon Conservation Area, including the effect on trees; and
- the effect of the proposed development on the setting of the Grade II Listed Building, The Wynns.

Reasons

Character and appearance, Conservation Area, and trees

8. The appeal site is the side garden and lean-to of the host dwelling, 22 Millers Close (No. 22). It sits on the corner of Millers Close and Chapel Street near the junction with Duck Lane. The site lies within the Welford on Avon Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) states that, with respect to any buildings or other land, in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character, or appearance of that area.
9. An understanding of the importance of the conservation area is supported by the Welford on Avon Conservation Area Study (the CA Study) which, albeit of some age, details the historic development of Welford on Avon and the characteristics which are of special architectural or historic interest. Overall, the conservation area has a wide variety of buildings and contexts. This variety contributes positively to the picturesque character of the conservation area and the village as a whole.
10. Millers Close is noted in the CA Study analysis of historic growth as 20th century expansion near the group of properties containing The Wynns and Flower Cottage. It is only the host dwelling and its adjoining neighbour that are within the conservation area, the rest of Millers Close lies outside of it. Millers Close is linear residential development of a mix of pairs of semi-detached houses, a short terrace of bungalows and detached houses, including the two newer build houses and the property on the opposite corner of the Chapel Street junction. The host dwelling is one of a number of similar, simple designed, semi-detached houses with hipped roofs. The housing on Millers Close does not detract from the character of the conservation area. The housing on Chapel Close, which has been built since the adoption of the conservation area, is not visible from within the conservation area and also does not detract from its character and appearance.
11. The area immediately around the junction of Millers Close, Chapel Street and Duck Lane is made up of the pair of semi-detached houses forming the host dwelling and its neighbour and three, larger, detached houses. Albeit that not all of these are older buildings they do form a loose knit group of houses set in larger gardens more reflective of the older properties in the village.

12. The area of Chapel Street, near Millers Close, is noted in the CA Study as more open than the part of Chapel Street nearer the village maypole. Although two new houses have been built on Millers Close and the Coppers has been replaced with a new dwelling, the houses around the junction are very similar to when the CA Study was written.
13. Chapel Lane, at this point, is green and pleasant with the houses set behind well-established hedges and set back from the road. The presence of the hedges reduces the visual openness of the immediate area, and although the area is no longer open orchard land, it continues to have the feeling of openness due to the limited amount of built development close to the road. The Wynns is closer to the road than the other houses, but this helps provide a prominence to this important building and does not detract from, or alter, the character of the area.
14. In so far as it is relevant to the appeal, I consider that the significance of this part of the Conservation Area is mainly derived from the spacious gaps between the buildings and the loose knit layout of the group of houses around the junction. These features contribute positively to the character and appearance of the Conservation Area as a whole.
15. The appeal site forms the side garden to the host dwelling. However, it also functions as a buffer between the houses on Millers Close and those on Chapel Street. The appeal site currently contributes positively to the significance of this part of the conservation area. Even if I were to agree with the appellant, that the site is not a key vista in the conservation area, it is an important green space and part of the character of the area around the junction. The host dwelling is visible through gaps in the roadside planting, but is clearly set back from the road and respects the buffer to Chapel Street.
16. The proposal would infill most of this gap with a new dwelling and reduce the spaciousness of the layout of the properties around the junction. Whilst the front elevation of the proposed dwelling would face Millers Close, the new dwelling would also be experienced as part of the group of houses on the junction. Moreover, it would be viewed as a prominent new dwelling on Chapel Street.
17. The building line on Chapel Street is not easily identifiable. However, in the area around the appeal site, with the exception of The Wynns, the houses are all set back from the road. The proposal would be closer to Chapel Street than the other houses, including the projecting gable at Oakwood. It would, therefore, not fit in with the context of the houses around the junction or at this end of Chapel Street. That it would be further back than The Wynns would not be sufficient to reduce the prominence of the new dwelling on the street scene.
18. The loss of the gap currently provided by the side garden would be harmful to the character of the conservation area. Any outbuildings and domestic paraphernalia within the existing garden would not be to the same extent as the appeal proposal. The retention of the grass verge would not be sufficient to retain the character of the spaciousness of the plots around the junction and the development of the appeal site would significantly reduce the buffer between the housing on Millers Close and Chapel Street, even though the demolition of the lean-to would provide a gap between the appeal proposal and No. 22.

19. Even though the proposal would follow the building line of the houses on Millers Close the visuals submitted indicate that the roof height of the proposal would be higher than No. 22. This would result in a dwelling that would be out of keeping with the height of the houses on Millers Close.
20. The elevations of the proposed dwelling, albeit brick and tile, indicate windows of different shapes, sizes, and designs, would have large areas of blank brickwork, and would include timber cladding. The proposed dwelling would not reflect the appearance of any of the houses in the immediate area. The elevation facing Millers Close appears to be the principle elevation yet lacks the symmetry, rhythm, or the clarity of design that is found on other houses on this road. The elevation facing Chapel Street, which would be prominent in the street scene due to being close to the road, also lacks any symmetry and introduces a prominent balcony.
21. The timber cladding on three of the proposed elevations would also be a new material to the houses around the junction. The cladding proposed would not respect the timber-framing of The Wynns or reflect how timber has been used at Coppers. I noted a property on the other side of The Wynns which has timber cladding, however, this is also used differently to the appeal proposal. Even if I were to accept that timber cladding would be appropriate in Welford on Avon the cladding would not mitigate the harm that results from the design of the elevations.
22. The half-hipped roof design would also conflict with the appearance of the houses on this side of Millers Close and the properties on Chapel Street. The two new houses built on the opposite side of Millers Close are materially different in that they are larger properties with dormer windows in the roof slopes which provide a transition between the bungalows and the large house on the corner.
23. The proposed porch is simple in design, and I saw other similar porches on Millers Close. However, that the porch would not be harmful to the appearance of the area would not overcome the harm that would result from the design of the elevations, the roof shape and height. The proposed development, albeit of some suitable materials, would not screen the housing on Millers Close or mitigate the negative aesthetic noted in the CAA.
24. Albeit that the proposed driveways to the front of the site would provide two spaces for the proposed dwelling and two spaces for the host dwelling, and would not cause adverse highway safety conditions, the proposal would result in the frontage on Millers Close being dominated by two large hard surfaced areas with only a small area of landscaping in between. There are other wide driveways on Millers Close. However, I have not been provided with any compelling evidence of any of a similar size, position, or with a similar limited extent of landscaping as the appeal proposal.
25. The proposal would provide an improvement by removing vehicles parked near the junction. However, the appeal scheme is not the only means of achieving this outcome. I also have no evidence that permitted development rights could be used to provide both of the two driveways proposed.
26. The effect of the driveways and cars on the street scene of Chapel Street would be reduced by the proposed landscaping between the drive and the junction and the retention of the grass verge on Chapel Street. However, this

would not mitigate the visual harm of the proposed driveways on the character and appearance of Millers Close.

27. The submitted Arboricultural Implications Assessment (the AIA) notes that two trees would need to be removed and that the development would fall within the root protection area (RPA) of two other trees. Although tree protection fencing is proposed around those two trees the protective fencing follows a line set just outside the building line of the proposed dwelling. The protective fencing would not include a significant part of the root protection area of these two trees and would also be within the canopy of at least one of the trees.
28. Consequently, although tree protection fencing is proposed and the AIA advises that trial trenches should be carefully excavated within the RPA of the two trees, given that the proposed dwelling would need to be built within the RPAs, I cannot be certain that the proposed development would ensure the retention of the two trees.
29. The trees on this corner are noted in the CA Study as an important group. They contribute positively to the character and appearance of the conservation area and the green and pleasant feel to Chapel Street. The potential loss of these two trees, in addition to the two indicated to be removed in the AIA, would result in harm to the character and appearance of the conservation area.
30. The proposal would remove the existing *Leylandii* along Millers Close and, in that regard would be a benefit to the conservation area. However, the proposal would not provide replacement screen planting along Millers Close with only a small area of planting proposed in between the car parking areas.
31. The new hawthorn hedge proposed on the corner and along Chapel Street would provide beneficial planting and would have the capability to be grown to a height that is similar to other hedges around the junction. Nonetheless, the planting of the hedge would only partially screen the development and the proposed dwelling would, even with the new hedge, be prominent in both street scenes. The construction of a dwelling on the appeal site would reduce the openness of the area and reduce the screening of the modern development as viewed from Chapel Street. This would be contrary to the advice set out in the CA Study which seeks to enhance the screening of recent developments, especially on the corner of Millers Close and Chapel Street.
32. For the above reasons, I find that the proposed development, would not preserve nor enhance the character or appearance of the Welford on Avon conservation area, including the effect on trees.
33. The harm to the conservation area would be less than substantial. In accordance with the National Planning Policy Framework (the Framework) great weight should be given to the conservation of heritage assets. Paragraph 208 of the Framework advises that less than substantial harm should be weighed against the public benefits of the proposal. This advice is also reflected in policy CS.8 of the Stratford-on-Avon District Core Strategy 2011 to 2031 (the CS). I will return to this later.

Listed building

34. Section 66(1) of the Act requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or

its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.

35. The appeal site lies next to the Grade II Listed Building, The Wynns. The listing description for The Wynns advises that the house is C17 with C20 alterations. It is a black and white timber-framed property with a steeply pitched roof. It sits with its gable end close to Chapel Road behind a well-established hedge. In so far as it is relevant to the appeal the significance of the listed building is, in part, derived from its age and retained appearance but also its prominence in the street scene.
36. The setting of a listed building is defined in the glossary of the Framework as the surroundings in which a heritage asset is experienced. It is not fixed and may change as the asset and its surroundings evolve. Even though there is housing development on all four sides of the listed building the appeal site, as a gap in the built development, and part of the spacious area around the listed building, is part of its setting. The appeal site currently contributes positively to the significance of the setting of the listed building and the way in which it is appreciated.
37. The proposed dwelling would interrupt that significance by building on an area that currently forms part of the spacious setting of the listed building, as viewed from Chapel Street. That there is other modern development around the listed building would not justify building on the appeal site. The proposed dwelling would not be significantly closer to The Wynns than No. 22. However, the proposed dwelling would be closer to Chapel Street than No. 22 and would, consequently, harmfully alter the significance of the setting and the way the listed building is appreciated.
38. For the same reasons as given in regard to the conservation area, building a dwelling on the appeal site would significantly alter the character of the area and, consequently, even though the house would be an addition to Millers Close, it would also be an addition viewed from Chapel Street on a site which currently provides separation between the modern housing from the more traditional forms.
39. The design of the proposed dwelling would not dominate the listed building which would still be read as a prominent feature in the street scene. However, in my judgement it would also not be sufficiently recessive due to its height, design, and position on the site.
40. For the above reasons, I find that the appeal proposal would have a harmful effect on the setting of the Grade II Listed Building, The Wynns.
41. The harm to the setting of the listed building would be less than substantial. As with the effect on the conservation area, the Framework advises that great weight should be given to the conservation of heritage assets and that less than substantial harm should be weighed against the public benefits of the proposal.

Heritage and Planning Balance

42. The development would provide one additional dwelling with the associated social and economic benefits both during and post construction. It would be very energy efficient and highly insulated. It would also accord with the Framework aim to boost the supply of housing. The site would be located so

that occupants of the appeal dwellings would have access to the services and facilities in Welford on Avon by foot or bicycle and there would not be a dependence on the private vehicle for all journeys. However, as only one dwelling would be provided I attach limited weight to the public benefits of an additional single dwelling.

43. That the development would not harm the living conditions of the occupiers of the neighbouring residential properties or the living conditions of the future occupiers of the proposed development, notwithstanding the concerns raised by an interested party, is neutral in the planning balance.
44. That the development would be capable of mitigating any adverse effects on ecology, archaeology, and drainage, subject to conditions, would provide limited public benefits.
45. The Framework advises that any harm to the significance of a designated heritage asset should require clear and convincing justification and that great weight should be given to the asset's conservation, irrespective of the level of potential harm. For the above reasons, I find that the proposal would fail to preserve or enhance the character or appearance of the Welford on Avon Conservation Area, including from the potential effect on the loss of trees. I also find that the proposal would adversely affect the setting of the Grade II Listed Building, The Wynns.
46. The public benefits of the proposal are afforded limited weight and, therefore, would not outweigh the harm to the Conservation Area nor the harm to the significance of the setting of the Listed Building.
47. It, therefore, follows that the proposal would be contrary to Policies CS.5, CS.8, CS.9 and CS.20 of the CS. Collectively these policies seek to ensure that development takes place in a manner that minimises and mitigates its impact, has regard to local distinctiveness and historic character, protects and enhances the historic environment and historic assets, is of a high quality, sensitively designed and integrated with the historic context, informed by an understanding of the significance of the historic asset and environment, enhances the sense of place, is sensitive to the setting and existing built form and context of the locality, takes account of the fact a key principle of good design is the relationship between the height, width and depth of buildings, and does not lead to any loss or damage to trees.
48. For the same reasons, the proposal would also fail to comply with policies HE4 and HLU2 of the Welford-on-Avon Neighbourhood Development Plan 2011 to 2031 (the NP) which, taken together require new development to conserve or enhance the conservation area, requires high levels of design quality, and requires development within the setting of a heritage asset to conserve or enhance the heritage asset.
49. The proposal would also not comply with the Stratford-on-Avon Development Requirements Supplementary Planning Document which provides additional advice regarding good design and, amongst other matters, advises that design should incorporate local scale and massing, respect the setting, take account of established building lines and the grain that surrounds the site, provide active frontages and corners which are key elements in place-making, respect local building materials, resists parking dominating the public realm, avoid repetitious parking layouts, seeks to allow for front gardens with planting, and

advises that development should make space for existing trees to mature and flourish.

50. The proposal would also not align with paragraph 212 of the Framework which aims for new development within the setting of heritage assets to enhance or better reveal their significance and preserve those elements of the setting that make a positive contribution.

Conclusion

51. For the reasons given above I have found that the proposal would be contrary to the development plan as a whole, including the Framework. There are no other material considerations that would indicate that the proposal should be determined other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

K Townsend

INSPECTOR