



Appeal Decisions

Site visit made on 10 September 2024

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2024

Appeal A Ref: APP/J1860/W/24/3346606

Clerkenleap Farm House, Bath Road, Broomhall, Worcestershire WR5 3HR

- 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 Nigel White against the decision of Malvern Hills District Council.
 - The application Ref is M/23/01509/FUL.
 - The development proposed is "Change of use of building from Class E to Class C3 and refurbish to create 6 apartments. Demolish garage and replace with 2 storey, 3 bedroomed dwelling. Erect 2 storey, 3 bedroomed dwelling to southwest boundary."
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Appeal B Ref: APP/J1860/Y/24/3347074

Clerkenleap, Bath Road, Broomhall, Worcestershire WR5 3HR

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
 - The appeal is made by Mr Nigel White against the decision of Malvern Hills District Council.
 - The application Ref is M/23/01558/LB.
 - The proposed works are "Change of use of building from Class E to Class C3 and refurbish to create 6 apartments. Demolish garage and replace with 2 storey, 3 bedroomed dwelling. Erect 2 storey, 3 bedroomed dwelling to southwest boundary."
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. The address of the property above is taken from the planning and listed building applications respectively, but they differ. There is also an interchange in various documents submitted by the parties ranging from Clerkenleap, Clerkenleap Farm, Clerkenleap Farm House and Clerkenleap Farmhouse. On the official list entry¹ the property is known as "Clerkenleap Farmhouse." Despite the variations, there is no dispute that the property is one and the same. I shall hereafter refer to the building as 'the Farmhouse' for brevity.
4. The third planning reason for refusal in Appeal A relates to there being no mechanism² to provide for a policy compliant scheme to secure the provision of affordable housing and proportionate financial contributions towards a Travellers' site and the establishment of a Community Development Officer to

¹ National Heritage List for England: list entry number 1252650

² A section 106 agreement pursuant to Section 106 of the Town and Country Planning Act 1990

support the South Worcester Urban Expansion area. During the course of the appeal the appellant submitted a Unilateral Undertaking (UU) that would secure the above financial contributions, including monies in-lieu of on-site provision of 25% affordable housing. The UU has been amended in line with the Council's suggested corrections and a new UU has been signed and dated (21st October 2024). The Council has confirmed that the UU now overcomes its concerns and that the third planning refusal reason for Appeal A is withdrawn. From the evidence before me I have no reason to find otherwise, and have taken the document into account in the determination of the appeal.

5. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require me to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.
6. As the two appeals concern aspects of the same scheme under different, complementary legislation I have dealt with both appeals together in my reasoning to avoid unnecessary duplication.

Main Issues

7. In light of the above, the main issues are whether the proposal would preserve the Grade II listed Farmhouse, or its setting, or any features of special architectural or historic interest which it possesses.

Reasons

Special interest and significance of the heritage asset

8. The Farmhouse is a detached Grade II listed building dating from about the late 16th and 17th century, although the appellant's Heritage Statement (HS) would seem to indicate that the earliest phase of the building probably dates even earlier than the listing suggests to the 15th century and is medieval. The building was re-modelled in about 1840 around the older timber-framed wing, which now lies in the middle of the south elevation. The building is two storeys with attic; has a symmetrical 3-bay front with 3 gables facing the A38 road; a clay plain tile roof and is built of red brick with Flemish and English bonds. Despite a number of alterations over time, the HS regards this mid-19th century remodelling phase as being the most dominant and coherent. I saw that the historic core and phased evolution of the building are still legible to a degree. I also saw there was exposed timber framing and a good example of a 17th century winder staircase, mentioned in the listing description.
9. From the evidence before me the special interest and significance of the listed Farmhouse, insofar as it relates to these appeals, are largely derived from the building's architectural and historic interests as an example of a vernacular, but higher status dwelling. The building's age, use of traditional materials and construction, surviving historic fabric and legibility of its plan form and phased evolution make important contributions in these regards. Historic associative interest is also drawn from the building being the seat of the Winslow family and the birthplace of Treadway Russell Nash (1725-1811).
10. As set out in the National Planning Policy Framework (the Framework) and also pertinent to the appeals, significance derives not only from a heritage asset's physical presence, but also from its setting, which are the surroundings

in which the asset is experienced. The extent of an asset's setting is not fixed and may change as the asset and its surroundings evolve.

11. The Farmhouse fronts the A38, but is set back behind a hedge and lawned garden. Its design and visual prominence along a main route are indicative of the higher status dwelling. The building sits almost centrally in the plot surrounded by spacious landscaped grounds of lawn, mature shrubs and trees, with a gated gravel drive and parking area on arrival on the western side. There is a modern, double-gabled, detached brick garage to the side of the Farmhouse. It is easy to walk all the way around the Farmhouse and clearly see it from all sides and appreciate its special interest. The immediate surroundings of the asset thus provide a spacious but intimate garden setting from which the building's form, design, status and legible evolution can be experienced.
12. Beyond the immediate lawned grounds to the south, from where the building's oldest phase is best and most easily seen, a hedge and mature trees mark a divide in the garden. The area of land beyond the divide is more concealed and views of the house from it are more limited, such that the visual association of this area with the Farmhouse is lessened. However, the way in which an asset is experienced in its setting is also influenced by other factors, including an understanding of the historic relationship between the spaces and places around it. The submitted 1884 1st edition Ordnance Survey map of the site shows part of this area laid to trees. It also shows this area and the rest of the grounds lie within the curtilage of the Farmhouse and within the well-defined site boundaries. Thus the area beyond the landscaped garden divide still has historical and functional associations and forms part of the immediate setting of the listed Farmhouse.
13. Hence, the grounds form part of the immediate setting of the listed Farmhouse and help in the understanding of the heritage asset and appreciation of its special interest and significance. The grounds thus contribute in a positive and tangible way to the building's heritage interests and to its significance as a dwelling of prominence.
14. The building's functional and historical relationship with the wider landscape and surrounding countryside has lessened over time with the conversion of the nearby barn buildings into offices, and an industrial use on the land immediately to the west, which I saw was now a housing estate under construction. Nonetheless, there is still countryside that contributes to the understanding of the property as a Farmhouse in an agrarian context.

Appeal proposal and effects on the heritage asset

Conversion of the Farmhouse

15. The Farmhouse has been converted to offices, and at the time of my visit many of the rooms were no longer in use. Part of the proposal would see the Farmhouse converted into 6 apartments – three on the ground floor, two on the first floor and one on the second floor – which would comprise 4 x 1-bed units and 2 x 2-bed units. There would be associated internal alterations to facilitate the subdivision of rooms and communal spaces and making links between rooms, but few external changes.

16. The Council has no objection in principle to the conversion of the property into residential flats. From the evidence before me I have no reason to take a different view. Indeed, it would return the building to its historic residential use, albeit not as a single dwelling, and would remove the tell-tale signs of office occupation.
17. Internally, the proposed conversion would mostly follow the existing room subdivisions. The flats would largely have an open-plan layout and existing features would be retained, such as the front and rear porches, the winder staircase to access the upper floor flats, and open timber-framed areas on the staircase and within flat 6.
18. The Council has greatest concern about proposed works and the resultant loss of historic fabric to proposed ground floor flat 2 and first floor flat 5. The works would involve the formation of door-sized openings A, B, H and I either side of the historic fireplace in Phase 1 of the property, which is the oldest part and likely dates from the 15th century. In these rooms I saw that areas A, B, H and I comprised walk-in cupboard storage space with shelving either side of each fireplace, some with more modern doors and architraves. Therefore, it appears that there has already been some change to these oldest parts of the building.
19. The plans show the left-hand side cupboards and doors A and H would be retained. Only the right-hand side storage cupboards would be knocked through in each room to form openings B and I. However, there are no details or elevations of any of the openings to show whether the remaining cupboard doors or the openings B and I would be made taller or wider. The existing doors either side of the fireplace are different heights and widths. In what would be the living room of flat 5, the door for opening 'I' is close to the corner of the room and the sloping ceiling, so it is unclear if there would be any interference with the ceiling.
20. Indeed, in referring to openings A, B, H and I the appellant's HS³ states "*These are potentially the most sensitive areas of the building and could reveal information on the earliest phase of the building...Dependent on the scope of the client's work, the loss here could be total of elements of the highest significance. This could constitute a major impact*". The HS states that the Phase 1 building survives best at first floor (which would be proposed flat 5) and that it is possible that further elements of its structure remain within the walls to be removed.
21. The lack of clarity and detail in the 'scope' of the appellant's scheme in this regard is a major deficiency of the proposal. As a result it is not possible to determine the effects of the proposed works in this part of the building, which is highly sensitive to change.
22. With regards these openings in the oldest phase, the Council's Conservation Officer has suggested a condition could be imposed to record the historic building and its fabric. It is widely acknowledged that keeping historic buildings in continued use will entail repairs and alterations, and these will inevitably result in some loss of fabric⁴. The Framework advises⁵ that "*Local planning authorities should require developers to record and advance understanding of*

³ Pages 8 and 9

⁴ Understanding Historic Buildings: A guide to good recording practice - published by Historic England

⁵ Framework paragraph 211

the significance of any heritage assets to be lost (wholly or in part) in a manner appropriate to their importance and the impact.... However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted." A recording condition would not overcome my concerns about the lack of general basic details and plans in the first instance.

23. Notwithstanding the openings, converting the building from offices to residential flats would be a material change of use that would require works to comply with any necessary building regulations. Listed buildings are not exempt from complying with building regulations. However, the special needs of historic buildings are recognised in some of the building regulations approved documents. There would be a need to consider thermal and acoustic insulation, fire safety and means of escape. Whilst building regulations is separate legislation, works to satisfy the requirements may have an impact on the fabric of the listed building or any features of special architectural or historic interest which it possesses.
24. It is imperative that proposals are accompanied by drawings and specifications of sufficient detail to illustrate and/or describe the works in order to avoid uncertainty over what is proposed, and to allow a robust assessment of any consequential effects. This is even more important given the building's Grade II listed status, which is a designated heritage asset of national importance, and that it contains some medieval phases.
25. However, given the omitted information are vital components of understanding the proposed works and any effects they may have on the special interest and significance of the listed building, it would not be acceptable to leave such fundamental matters to condition.
26. Drawing together these various matters, given the limited information and details before me, at the very least the proposal would result in the irreversible loss or alteration of historic fabric and/or plan form of the building, some of which involves fabric within the oldest and most important phase of the building. This would not preserve the listed building or any features of special architectural or historic interest which it possesses, and would harm its significance.

Proposed dwellings in the grounds

27. The existing modern garage building would be demolished to make way for a proposed dwelling on Plot 1. A second proposed dwelling would be erected on Plot 2, which is a lawned area to the far south of the grounds. Being a modern and later addition, the demolition of the garage building itself would have a neutral effect on the setting of the listed Farmhouse.
28. Historic maps of the 1880s in the appellant's HS show no buildings located to the south of the Farmhouse where the proposed dwellings would be sited. Hence there is no evidenced historic precedent for other buildings in these locations within the grounds. Whilst the erection of two dwellings would not affect the fabric of the listed building itself it would, nonetheless, introduce substantial built form into the mostly undeveloped grounds of the Farmhouse. This, combined with the formal subdivision of the spacious garden into separate plots and the likely resultant domestic paraphernalia, would erode the generally open context of the heritage asset and undermine the authenticity of experiencing the listed building from within its immediate setting. In doing so,

this would diminish the ability to appreciate the significance of the listed building.

29. Furthermore, the two dwellings would be of a contemporary design. They would also be sizeable structures, each two storey with a steep 45 degree pitched gable roof and deep overhanging eaves. The dwellings would have an asymmetrical patchwork palette of materials, such as large areas of glazing, red brick, timber cladding, and grey render. The roof, rear end elevations and parts of the side elevations of the new dwellings would be in aluminium cladding. The use of multiple materials is in contrast to the simple palette of the red brick Farmhouse. Apart from the pitched roof, there would be little design reference with the listed Farmhouse or any farm buildings, and little to evoke an agrarian context. This would further lessen the positive contribution the building's setting makes to its special interest and significance.
30. I acknowledge that the proposed dwelling on plot 2 would be further away from the Farmhouse and would not be read in such a side-by-side manner due to the intervening vegetation and garden divide. It would also be set back from the road and the building line of the Farmhouse. This would reduce visibility from the A38 and some inter-visibility with the listed Farmhouse but would not overcome the harm I have identified. I also appreciate that the wider surroundings of the Farmhouse have changed with the conversion of former farm buildings to the north and new housing close the site's western boundary such that the site's links with the adjacent countryside have been lessened. Part of Worcester's planned urban extension adjacent and opposite the appeal site will also further change the Farmhouse's context and its association with the surrounding countryside. This, in my view, makes it all the more important that the immediate setting of the Farmhouse is retained intact.
31. My attention has been drawn to an appeal decision⁶ for housing adjacent to the Hundred House Hotel in Great Witley. The proposal was for 12 dwellings located on a field next to the hotel, which the Inspector considered part of its setting. A line of leylandii outside the appeal site and appellant's control prevented the dwelling and hotel being seen in the same viewpoint. The Inspector found that an amended scheme, which would move the dwellings further from the boundary to allow additional planting, would protect the setting of the listed building. That appeal was of a different nature and scale and comprises a different site and heritage context. As such, it is not directly comparable to the appeal proposal before me, which in any event I must consider on its own merits.

Public benefits and heritage balance

32. Paragraph 205 of the Framework states 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. With reference to paragraphs 207 and 208, in finding harm to the significance of a designated heritage asset, the magnitude of that harm should be assessed. In line with the Framework and the taking account of the nature and extent of the proposals, I find the harm to the significance of the listed building would be 'less than substantial'. Nonetheless this harm carries considerable importance and weight. Under such circumstances, paragraph 208 of the Framework requires the harm to be

⁶ Appeal ref: APP/J1860/Q/16/3164820 dated 13 September 2017

weighed against the public benefits of the proposal including, where appropriate, securing the asset's optimum viable use.

33. There would be some public benefits arising from short-term employment and benefits to the supply chain during conversion and construction and additional spend in the local area from future residents. The units created would have good amenity and habitation space, inside and out, and I have no reason to doubt the flats and new dwellings would be implemented to a high standard. Hence there would be the provision of good quality housing that would improve the housing stock, providing a range of house types together with financial contributions in-lieu of 25% affordable housing. The dwellings and flats would also be in a sustainable location close to a proposed urban expansion for Worcester, although it might take time before future residents were able to benefit from any additional services and facilities in the area due to the likely time it would take to build out the urban expansion.
34. Public benefits can also include works to a designated heritage asset to help secure its future. The appellant briefly mentions that the new dwellings would enable refurbishment of the Farmhouse. However, no evidence or financial information has been presented to further the claim that the new dwellings would enable refurbishment of the listed Farmhouse. In any event there is no mechanism before me that would secure this. The Farmhouse looked to be in generally good condition inside and out. Furthermore, the Farmhouse is already in use as offices and I have not been presented with a case that demonstrates that the listed Farmhouse would be at risk if the appeals were to fail. In this respect, clear and convincing justification for the harm to the asset's significance has not been provided.
35. The financial contributions in the UU, with the exception of the affordable housing, are required to mitigate potential adverse effects from the development and are therefore not a public benefit.
36. The public benefits identified above weigh in favour of the appeals. However, the weight I ascribe to them is not sufficient to outweigh the considerable importance and weight I attach to the harm that would be caused to the significance of the listed building.
37. Given the limited information before me, at the very least the proposal would result in the irreversible loss or alteration of historic fabric and/or plan form of the building. This would not preserve the Grade II listed building known as Clerkenleap Farmhouse or any features of special architectural or historic interest which it possesses. The proposal would also fail to preserve the setting of the listed building. As such the significance of the designated heritage asset would be harmed. The proposal would thus fail to satisfy the requirements of the Act and the relevant provisions of the Framework.
38. The proposal would also conflict with Policies SWDP 6, 21 and 24 of the South Worcestershire Development Plan. Collectively these seek, amongst other things, to ensure that development conserves and enhances the significance of heritage assets, including their settings. New development should integrate effectively with, and complement, its surroundings and distinctive features or qualities that contribute to the visual and heritage interests of the area.

Planning balance and Conclusion

39. The Council cannot currently demonstrate a 5-year supply of deliverable housing sites. On this basis, having regard to footnote 8 of the Framework, paragraph 11d) is engaged. Nonetheless, with reference to footnote 7 of the Framework and given my conclusions above, the application of policies in the Framework that protect areas or assets of particular importance, which includes designated heritage assets, provides a clear reason for refusing the proposal.
40. **Appeal A:** The proposed development would conflict with the development plan. There are no material considerations which indicate that the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.
41. **Appeal B:** For the reasons given, I conclude that the appeal should be dismissed.

K. Stephens
INSPECTOR