



Appeal Decision

Site visit made on 29 April 2025

by **Paul Martinson BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 June 2025

Appeal Ref: APP/M1005/W/24/3355268

6 Chevin Road, Milford, Belper DE56 0QH

- 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 & Mrs Timms against the decision of Amber Valley Borough Council.
 - The application Ref is AVA/2023/0912.
 - The development proposed is described as: 'Erection of new build dwelling within the grounds of the existing 6 Chevin Road'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form shows different applicants to those listed on the appeal form and in the decision notice. This was acknowledged as a mistake during the application, at which point it was corrected by the appellants' agent. I have therefore included the correct names of the appellants as they appear on the appeal form in the banner heading above.
3. The appeal site lies within the grounds of 6 Chevin Road which, alongside the adjoining dwelling, 4 Chevin Road, forms part of the Grade II listed building referred to on the National Heritage List for England as 'Milford View'¹. The site also lies within the Belper and Milford Conservation Area. I have therefore had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). The site also lies within the Derwent Valley Mills World Heritage Site.
4. The Council refers to the high boundary wall adjacent to the pavement along Chevin Road as being curtilage listed. However, part of this wall is physically attached to the listed building. Nonetheless, there is no evidence that an application for listed building consent was submitted and there is no appeal against a refusal of listed building consent before me. My assessment is therefore on the basis of the refusal of planning permission, having regard to the sections of the Act above.
5. The Council's refusal of planning permission follows an earlier refused application for a dwelling within the garden of 6 Chevin Road. This scheme was dismissed at appeal².

¹ List Entry Number: 1081506.

² APP/M1005/W/22/3290040.

Main Issue

6. The main issue is the effect of the proposed development on designated heritage assets including, the Grade II listed building of Milford View, with particular regard to its setting, the Belper and Milford Conservation Area (the CA) and the Derwent Valley Mills World Heritage Site (the WHS).

Reasons

Special Interest, Significance and Outstanding Universal Value.

7. The appeal site comprises of the gardens of 6 Chevin Road. The dwelling backs onto the pavement alongside a high coursed stone wall with triangular profile coping stones that extends along the roadside for a considerable distance, to the neighbouring property, 8 Chevin Road, and beyond. A similar wall also extends along the pavement edge from the adjoining property, 4 Chevin Road. The wall defines the roadside boundary of the gardens to the side of the appeal property. The gardens, formerly allotments, extend down to the edge of the mill lade of the River Derwent and comprise of three distinct terraces, defined by a series of coursed stone walls. The uppermost terrace has been predominantly hardsurfaced and includes a timber garage building. A small timber shed adjoins the garage building which is elevated above the falling ground level on the middle terraced section with storage beneath. Smaller narrow timber structures adjacent to the boundary wall and overgrown with vegetation adjoin this building. The majority of the lower two terraced areas is grassed and includes some small trees.
8. A coursed stone wall with coping stones similar to those along the roadside boundary extends down the slope for the full length of the former allotments, defining the boundary with 8 Chevin Road. The Council has provided map evidence that the uppermost terrace was initially part of the garden associated with the appeal property prior to its subdivision into a number of smaller allotments. Whilst the appellants dispute this, I find the Council's map analysis more convincing than the appellants' argument that the space was allotments from its inception that was let at will to any occupier of houses at Milford. The maps provided indicate that the stone retaining walls and the terraced nature of the gardens has been in place since at least the middle part of the nineteenth century and likely earlier, given the series of lines shown on the 1792 Estate Map and the 1805 -18 Estate Map.
9. Nevertheless, even if the uppermost terrace was never used as a garden in association with the appeal property, there is nonetheless a historic relationship between the listed building and this space, owing to their longstanding proximity and shared past as elements of the estate that functioned to serve its workers. Moreover, it forms part of the surroundings within which the building is experienced, has done so for a considerable amount of time, and contributes positively in that regard.
10. The appeal property is one of a pair of two and a half storey dwellings that together comprise the listed building. The building is constructed of coursed stone with a slate roof. The dwelling and gardens are aligned with the contours of the valley sides of the River Derwent. Whilst the rear, road facing elevation has a low-key appearance, the elevation facing out towards the valley is more ordered with two storey height bay windows and pediments including roundel windows.

11. The significance of the listed building is derived, in part, from its architectural and historic interest as a pair of late eighteenth or early nineteenth century houses constructed within a developing early industrial settlement, with views over the changing valley of the River Derwent. Key contributors in that regard that are pertinent to the appeal are, its characteristic use of local regular coursed stone and the careful composition of its façade facing towards and aligned with the River Derwent. Significance is also derived from its setting and historic relationship within the gardens and former allotments which remain highly evident today through their distinctive and consistent surviving retaining walls and their undeveloped nature.
12. The CA covers an extensive area of Belper and Milford, following the course of the River Derwent, which has strongly influenced the development of these areas as early industrial settlements in the eighteenth and nineteenth centuries. The special interest and significance of the CA mainly stems from the preservation of the area's historic layout, the extensive surviving architecture linked to the past development of this area as an early industrial settlement at the forefront of the Industrial Revolution and the distinctiveness and the consistency of materials. In that regard, the high prevalence of the use of coursed square cut stone in boundary walls and buildings are unifying characteristics of the CA and are highly distinctive and consistent features of development to both sides of the valley. Similarly, the prevalence of allotments, green spaces and gardens laid out amongst the workers' housing forms part of the cultural landscape and historic layout of the settlements that contributes to the significance of the CA.
13. The WHS is internationally recognised to be of Outstanding Universal Value (OUV) and a designated heritage asset of the highest significance. This area witnessed the birth of the modern factory system which was based around emerging technology for spinning cotton. The four principal settlements, including Milford, sit along the rising banks of the River Derwent which provided the power for these early factories. As set out in the Derwent Valley Mills World Heritage Site Management Plan 2020-2025 (the WHSMP) the relationship between the industrial buildings and their dependent urban settlements to the River Derwent and to the topography of the surrounding rural landscape has been preserved and is a key element of its OUV.
14. The installation of the factories necessitated the construction of housing for workers in the mills, creating the first modern industrial settlements. As set out in the WHSMP, the creation of the new communities and a new way of life for those relocating to the area for work, resulted in mill owners setting aside land for allotments to support the workers in growing their own food. I saw on my site visit that those allotments and some of the open green spaces that have preceded them remain highly evident features of the cultural landscape that contributes significantly to the OUV.
15. The appeal site is not visible from Chevin Road due to the presence of the high stone wall. The wall contributes significantly to the character of the streetscene here, providing a sense of enclosure and, owing to its aforementioned length, a consistency reminiscent of the estate ownership of the past.
16. The appeal site is nonetheless visible across the working allotments from the opposite side of the valley on Bridge View, highlighted by both parties as Monitoring Viewpoint 38. I saw that it was also visible from Church Steps, Shaw

Lane as it rises from the junction with Bridge View, as well as the walkways between Shaw Terrace and Hopping Hill Terrace and the public footpath linking these with Derby Road. I saw that the existing timber garage and the attached shed were easily visible in these views and that the lower parts of allotments were more screened by the canopies of trees. Referencing their prominence in Viewpoint 38, the WHSMP highlights the importance of allotments to the domestic economy of the area in the eighteenth and nineteenth centuries.

17. As a late eighteenth century or early nineteenth century dwelling aligned to the contours of the River Derwent with a garden comprising of former allotments, the open, undeveloped character of which is largely retained, alongside the terracing and coursed stone walls, the appeal site and the surrounding gardens positively reinforce the significance of the CA and the OUV of the WHS as a designated heritage asset of the highest significance.

Proposals and Effects

18. The appeal proposal would involve the removal of the existing timber garage and attached shed as well as the other adjacent timber structures located on the middle terrace. A new dwelling would be constructed over the upper and middle terraces. This would comprise of a lower, flat roof stone wall section on the middle terrace, orientated north-south. Above this would be a linear timber clad, standing seam metal roofed structure, orientated east-west, that would extend across the first terrace and for much of the lower section of building. Vehicular parking would be take place in a hardsurfaced area to the front of the upper part of the dwelling and the high wall adjacent to the existing vehicular access would be rebuilt to provide visibility splays.
19. The proposed development would occupy a large part of the garden of the listed building, eroding its open, undeveloped character, radically altering the ground levels on the site, resulting in the loss of the historic retaining walls and diminishing the evidential value of the site as gardens and former allotments. Furthermore, the sub-division of the former garden and allotments into a separate garden would undermine the legibility of the historic relationship between the listed building and the former gardens and allotments.
20. The full extent of the proposal including its new retaining walls, extensively regraded land and hardsurfacing would extend much closer to the space around the listed building than the existing ancillary structures and would be significantly more imposing in views from the remainder of the garden. The first floor element would have considerable length, projecting a much greater distance into the garden than the listed building or any other nearby structure, extending out above the falling gradient and across the contours of the slope, at odds with the orientation of the dwelling and the majority of those in Milford. As a result, the proposal would appear as an incongruous and dominant structure within the garden of the listed building. For these reasons the proposal would result in significant harm to the setting of the listed building, to the detriment of its special interest and significance.
21. The rebuilding of part of the high boundary wall in order to provide visibility splays would result in the gates being recessed into the site. The inset nature of the proposed entrance would appear as an incongruous feature at odds with the consistency of boundary walls fronting the pavement here. As a result, the

enclosed nature of the streetscene would be eroded to the detriment of its character, adversely affecting the special interest and significance of the listed building and the character and appearance of the CA.

22. I acknowledge the presence of the existing buildings on the site and that these are visible across the valley from the viewpoints referred to above. However, they appear as garden buildings and their modest scale, ancillary nature and relationship with the topography is evident in these views.
23. The upper section of the proposed dwelling would be a similar height and width to the existing garage building but would have a considerably greater length. This scale, its linear nature, projecting out from the uppermost terraced area above the falling gradient, would be highly evident in views from across the valley. In these views it would appear as an incongruous addition to the landscape, and at odds with the orientation of the majority of other buildings on the valley sides that characterise the CA and WHS.
24. Furthermore, the loss of a substantial portion of the open and undeveloped space, formerly allotments, to a new dwelling and its curtilage as well as the extensive associated regrading and hardsurfacing, would diminish the ability to appreciate the cultural landscape of this part of Milford, to the detriment of the OUV of the WHS and the character and appearance of the CA.
25. There would be screening to the lower parts of the building from the high level views across the valley, however, given that all of the screening falls outside of the appeal site, outside of the control of any future occupants, I cannot be certain that this would always be the case. Moreover, based on the photographs provided by the appellants, visibility is likely to increase when the trees are not in leaf.
26. I have had regard to the previous Inspector's decision which found no harm to the setting of the listed building. However, I have not been provided with precise details of that earlier scheme. Nonetheless, the Inspector's decision states that its orientation reflected that of the listed building, unlike the current proposal. Moreover, it is clear to me from the evidence that the full extent of the history of the site, as set out in the Council's map analysis, was not before the Inspector at that appeal.
27. Whilst the appellants have referred to other allotment sites that have been developed in the past, I do not have precise details of the circumstances involved in the Council's decisions including pre-existing development or the relative benefits of those schemes. Nonetheless I would note that evidence of existing harm to designated heritage assets is rarely justification for additional harm.
28. For the above reasons the proposed development would fail to preserve the setting of the Grade II listed building, Milford View. The proposal would also fail to preserve the character and appearance of the CA and would adversely affect the OUV of the WHS. This would be contrary to the requirements of sections 66(1) and 72(1) of the Act. On this basis the proposal would cause harm to the significance of these heritage assets.

Public Benefits and Balance

29. Paragraph 212 of the National Planning Policy Framework (the Framework) sets out that, when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Given the extent and nature of the proposed works, I find that the harm in this instance is 'less than substantial' but, nevertheless, of considerable importance and weight. Under such circumstances, Paragraph 215 advises that this harm should be weighed against the public benefits of the proposal.
30. I am not directed to any public benefits of the proposal directly, nonetheless, there would be benefits to housing supply from the provision of an additional dwelling, whilst economic and employment benefits would arise from the construction and occupation phase. There is a reference in the evidence to working with 'Passivhaus principles' and utilising sustainable technologies. This would constitute an environmental benefit. Nonetheless, these benefits are inherently limited by the small scale nature of the proposal, a single dwelling, and therefore carry only limited weight in favour of the scheme.
31. I am mindful of the advice set out in the Framework which 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. Mindful of the status of the WHS in particular, as an asset of the highest significance, the more important the asset, the greater the weight should be. Moreover, any harm to, or loss of, the significance of designated heritage assets should require clear and convincing justification, which, in all of the respects outlined above, I find not to be the case in the appeal before me.
32. The limited weight arising from the public benefits is not sufficient to outweigh the considerable importance and weight I attach to the identified harm to the significance of the designated heritage assets of Milford View, the CA and the WHS.
33. I therefore conclude that the proposal would fail to preserve the setting of the Grade II listed building, Milford View. It would fail to preserve the character and appearance of the CA. It would also adversely affect the OUV of the WHS. Overall, the proposal would be contrary to the clear expectations of sections 66(1) and 72(1) of the Act and the provisions within the Framework which seek to conserve and enhance heritage assets.
34. The harmful impact would also conflict with Policies EN24, EN27 and EN29 of the Amber Valley Borough Local Plan (2006) which together seek to preserve designated heritage assets including the WHS. Conflict would also occur with Policy NP11 of the Belper Neighbourhood Plan (2021) which sets out that, amongst other things, where there is harm to the WHS, this should be outweighed by public benefits.

Other Matters

35. I acknowledge the letters of support received in relation to the application and the appeal. I have also had regard to the comments received from Belper Town Council, however, as is clear from my above reasoning, the presence of the modest ancillary buildings on the site does not justify the subdivision of the former allotments or the scale of redevelopment proposed.

36. The design and access statement and some of the representations received identify clear personal benefits to members of the appellants' family. I have not been provided with any details of the health issues referred to nor would it be appropriate for me to outline the specific health conditions of any individuals concerned. However, on the limited evidence that is before me, it is likely that the proposal would be of benefit to the appellants' wider family providing them with a home within which they would be able to care for dependents.
37. I have had due regard to the Public Sector Equality Duty 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 have also had regard to rights conveyed within the Human Rights Act.
38. Whilst I have had regard to the benefits to the appellants' family identified above, I have not been provided with any convincing evidence that the appeal proposal or development of the appeal site would be the only means of achieving those benefits or that the accommodation needs to take the form before me. As such, these considerations do not outweigh the considerable importance and weight I am required to attach to the harm I have found to designated heritage assets.

Conclusion

39. The proposed development would conflict with the development plan. There are no material considerations that 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.

Paul Martinson

INSPECTOR