The Planning Inspectorate

Appeal Decision

Site visit made on 22 August 2017

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 September 2017

Appeal Ref: APP/J1860/W/17/3175482
Witley Park Farm, Worcester Road, Great Witley, Worcestershire WR6 6JT

- 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 D Pain & Sons against the decision of Malvern Hills District Council.
- The application Ref 15/01760/FUL, dated 1 December 2015, was refused by notice dated 4 January 2017.
- The development proposed is the erection of a grain store.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect on Witley Court registered park and garden and the setting of nearby listed buildings.

Reasons

3. The appeal site forms part of the overall farm complex at Witley Park Farm and currently comprises a hardstanding. There is a large building adjacent to the appeal site that is currently used as a grain store. The proposed development would involve the erection of a large building, of similar design and materials to that of the adjacent building, which would also be used as a grain store.
4. In 2016 the appellant submitted an application for prior approval determination under the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) in relation to an agricultural building on the appeal site. The Council considered that prior approval for that building was not required. Taking into account the stated need for additional storage space for arable products on this farm I consider that it would be likely that the prior approval would be implemented if I was minded to dismiss the appeal. Consequently, I give it considerable weight as a fallback position.
5. The submitted drawings for that building indicate that it would be of a similar height and width to the proposal. However, it would have mainly open sides and it would be appreciably shorter in length. As such, the proposal would have a greater visual impact than the prior approval building.
6. The site is within the boundary of the grade II* registered park and garden of Witley Court. Witley Court (grade I listed building) and the Church of St Michael (grade I listed building) are to the south east of the appeal site. S.66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (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.

7. The National Planning Policy Framework (the Framework) at paragraph 128 states that in determining applications local planning authorities should require an applicant to describe the significance of any heritage assets affected including any contribution made by their setting. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise.
8. At paragraph 132 the Framework emphasises that great weight should be given to the asset's conservation. It goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. The glossary to the Framework states that the setting of a heritage asset comprises the surroundings in which it is experienced and that different elements of that setting may either make a positive, negative or neutral contribution to its significance.
9. The application is not accompanied by a heritage statement or an assessment of the significance of the heritage assets and the evidence submitted by the appellant in association with the appeal is also limited in relation to the significance of the heritage assets. Even though previous planning and prior approval applications have not been accompanied by heritage statements I consider that the limited analysis of significance within the appellant's evidence does not comply with the requirements of paragraph 128 of the Framework.
10. Nevertheless, based on my observations on site and the evidence before me I consider that the significance of the registered park and garden largely derives from its historical and aesthetic value as an example of a 19th century designed landscape originating from a 17th century deer park. According to the list description the park and garden have been designed and 'improved' by a number of renowned individuals including John Nash and George Stanley Repton.
11. The main approaches/entrances to Witley Court were from the A443 and whilst the drive still exists it is now an unmade access track and the main visitor entrance to Witley Court is now from a new location on the A443. The proposed building would be located between the A443 and the unmade access track adjacent to a track/path that traverses between the A443 and the access track. Historic England has stated that the track/path is shown as a tree lined avenue on historic maps and I have no reason to dispute this. The trees along the western side of the track/path no longer exist.
12. According to Historic England "*the entrance from the north-west led past the gate lodge through trees on either side and then reached a point where it opened out and revealed views of the surrounding landscape to the viewer. This 'reveal' was a characteristic device of Nash*". In my experience and based on the evidence before me this is a reasonable assertion. Many of the trees have been removed but the hedges and landscaping alongside the access track restrict views in a similar way.
13. At the point where the views open out the existing agricultural building is clearly visible across the intervening field. The proposal would be located with its front wall set behind the existing buildings nearest wall to the path/track. Moreover, both buildings are seen against the backdrop of the adjacent trees. However, the proposal would still be clearly visible and it would be of a bulk, scale and mass which, when viewed in combination with the existing building, would appear as considerable built form that would be a dominate feature

within the view from the access track. This view forms an important part of the significance of the heritage asset and as such the proposal would harm that significance.

14. The significance of Witley Court and the Church of St Michael as grade I listed buildings is considered nationally to be of exceptional historic and architectural interest and character. I consider that based on the evidence before me that their significance is largely derived from their architectural form, age, quality of materials and their associated architects. The significance of Witley Court also lies in the impression that the estate made, and still makes, on other people including visitors. Consequently, the approach to, and views of, the listed buildings play a vital role in building anticipation of what the Witley Court Estate had and still has to offer.

15. The inclusion of the appeal site within the boundary of the registered park and garden indicates that the site forms part of the Witley Court Estate which would have been managed historically as an economic and social entity. As a result, there are historical and functional links between the appeal site and Witley Court. Moreover, when approaching the new entrance to Witley Court from the west views of the gold cupola and parts of Witley Court are visible, across the appeal site, over and through the trees. The gold cupola of the Church of St Michael and the height of the buildings mean that they are designed to draw attention and to be seen in views from long distances to build that sense of anticipation. As such, the appeal site is part of the visitor experience to both listed buildings. Taking into account all of the above I consider that the site is within the setting of Witley Court and the Church of St Michael.

16. The existing building is clearly apparent within the views of the listed buildings across the site from the A443 and due to its scale and massing it does visually compete with the listed buildings. As such, it is a negative feature within the existing setting of the listed buildings. Nonetheless, the appeal building would also be clearly visible from the A443 even though it would be behind the existing building. The green cladding at the top of the walls would be seen against the backdrop of trees.

17. However, the bulk, scale and massing of the proposal in combination with the existing building would result in a considerable built form that would dominate views of the listed buildings from the A443. The listed buildings would still be visible above the trees and the proposed building. However, the resultant built form would visually compete with and distract attention away from the listed buildings. As such, the proposal would be detrimental to the settings of the listed buildings which would materially harm their significance.

18. Furthermore, whilst the provision of landscaping and the potential reinstatement of some of the trees along the path/track would help to eventually reduce the visual impact of the development I am not satisfied that it would mitigate the harm altogether. Moreover, due to its greater length and 'solid' walls the proposal would have an appreciably greater visual impact than the fallback position.

19. The access track does not appear to be a public road but it is used by residents who live in properties served by it and visitors to the Church of St Michael. The majority of users of the A443 are within vehicles but it is a busy road and as such a large number of motorists would be affected. Nevertheless, the contribution of the listed buildings' setting to their significance does not depend on public rights or ability to access the heritage asset and significance is not dependent on the numbers of people visiting or experiencing it.

Other matters

20. I note the appellant's concern regarding the Council's determination of the planning application. However, that is not a matter for my consideration in the context of this appeal decision.
21. The appellant has stated that he would have to apply for planning permission to erect a building in another location on the farm but it is unlikely that a more suitable location would be found. Furthermore, the principle of the site accommodating agricultural buildings has been accepted in the past. However, I am required to determine the appeal on its own merits.
22. I note that Witley Court is also a Scheduled Ancient Monument but no party has raised any issues in this respect and I have dealt with the appeal on this basis.

Conclusion

23. Accordingly, overall, I conclude that the proposal would be harmful to the significance of the registered park and garden. It would not preserve the setting and significance of the listed buildings, to which I give considerable weight and importance. In the language of the Framework, these would result in less than substantial harm to the significance of the heritage assets. Paragraph 134 of the Framework states that where a proposal would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal.
24. The main public benefits would be associated with the provision of additional storage for arable products on the farm. This would reduce the amount of journeys required which in turn would reduce associated transport costs and greenhouse emissions. It would also meet an identified agricultural need of the business that would support the rural economy. Given the general encouragement in the Framework for such development, I give these benefits significant weight.
25. Even though I have found that the harm to the heritage assets is less than substantial it is not to be treated as a less than substantial objection to the proposal. The public benefits attributable to the proposal would be significant but in my judgement they would not outweigh the great weight to be given to the harm to the heritage assets. As such the proposal would not comply with paragraph 134 of the Framework.
26. The harm that would be caused to the significance of the heritage asset also leads me to conclude that the proposal would conflict with Policies SWDP6, SWDP21, SWDP24 and SWDP25 of the South Worcestershire Development Plan which, amongst other things, seek development that is of a high design quality, conserves and enhances the significance of heritage assets, including their settings and integrates with the character of the landscape setting. In accordance with S38(6) of the Planning and Compensation Act 2004, and as set out in paragraph 12 of the Framework, development which conflicts with the development plan should be refused unless other material considerations indicate otherwise. In this case there are no material considerations of such weight which indicate that the proposal should be determined other than in accordance with the development plan.
27. For these reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

D. Boffin

INSPECTOR