



Appeal Decision

Site visit made on 6 February 2024

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st March 2024

Appeal Ref: APP/M1005/W/23/3329661

Castle Farm, Castle Lane, Codnor Park, Ironville NG16 5PQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Mr D Fretwell against the decision of Amber Valley Borough Council.
- The application is Ref PDR/2023/0007.
- The development proposed is a steel frame agricultural building site in agricultural land.

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr D Fretwell against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. The principle of development is established by Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). The provisions of Schedule 2, Part 6, Class A of the GPDO do not require regard to be had to the 2023 National Planning Policy Framework (the Framework). Nonetheless, where the prior approval matters include siting, design, and external appearance, it is appropriate to consider the impact of a development on heritage assets. I have therefore had regard to the policies of the Framework only in so far as they are a material consideration relevant to matters of siting, design, and external appearance.

Background and Main Issue

4. The Council is satisfied that the proposal would fall within the defined scope of permitted development set out in Part 6, Class A of the GPDO. I have no reason to take a different view. Condition (2) (i) of paragraph A.2 includes the requirement for the developer to apply to the Local Planning Authority for a determination as to whether its prior approval would be required for the siting, design, and external appearance of the agricultural building. The Council notified the appellant of this requirement.
5. The main issue is therefore whether the proposal would satisfy the detailed prior approval matters regarding siting, design, and external appearance.

Reasons

6. The proposal is for a building with a functional agricultural appearance. It would be around 15 metres in width by 30 metres in length. Its height to eaves would be approximately 6 metres with a shallow pitched roof and it would be clad in black profile steel cladding with a corrugated black roof. The building would be located on an area of land to the south and east of the existing collection of buildings.
7. The proposed site is located close to Codnor Castle, a scheduled ancient monument (SAM) and the Grade II listed remains of Codnor Castle. The significance of the SAM and the Grade II listed remains of Codnor Castle are derived, in part, from being a rare surviving example of a 13th century castle surrounded by a moat and a number of medieval formal garden features. Castles such as this were often sited for both dramatic and strategic effect, and so would be placed to be seen and to command views. The landscape setting of Codnor Castle therefore makes a positive contribution to its significance by providing an understanding of its function within the landscape.
8. The site is also close to the Grade II listed Castle Farm, a mid-16th century farmhouse which the listing description identifies as being built in the Lower Court of Codnor Castle either as additional accommodation for the owners of the Castle or to house a tenant farmer. Its significance in part derives from its vernacular farmhouse multi-phased architecture, and the evidence it provides of this architectural style, materials and building techniques that have developed over a considerable period.
9. Codnor Castle and Castle Farm together with the Grade II listed farm building to the south of Castle Farm have a group value given their historic associations.
10. The site lies within the setting of the listed buildings and the SAM. The site also lies in the Codnor Park Conservation Area (the CA) which is focussed on the medieval deer park surrounding Codnor Castle and which in part defines its significance.
11. While there a number of agricultural and other buildings within the wider site, these are generally located to its western side. This means that the extent of the view that they are seen in is relatively narrow. The location proposed for the building however would markedly expand the spread of utilitarian, modern buildings within the setting of the SAM and listed buildings and within the CA. In my judgement, the building would be seen as distinctly separate from the farmyard area when viewed from the Public Right of Way (PRoW) that runs to the west and north of the SAM, and through gaps in the roadside hedge along the PRoW to the south.
12. As a result, due to its scale and location and despite the sloping land, the building would appear as an obtrusive modern and utilitarian feature that would intrude into the setting of Codnor Castle and would draw the eye away from it. As a result, the building would visually compete with Codnor Castle and would undermine an appreciation of the relationship of the Castle to its landscape setting. It would therefore harm the significance of the SAM. For the same reasons, the proposal would impede legibility and undermine an appreciation of the listed buildings to their surroundings. Thus, the proposal would result in harm to the setting and therefore the significance of the listed

- buildings. As a consequence, the proposal would entail some harm to the historic integrity of the CA and therefore its significance as a designated heritage asset and would not preserve or enhance its character or appearance.
13. In terms of the Framework, I assess the harm to the SAM, listed buildings, and CA as less than substantial. Even so, less than substantial harm does not equate to a less than substantial planning objection, especially where national policy expectations for conserving such assets have not been met. In such circumstances, paragraph 208 of the Framework states that the harm should be weighed against the public benefits of the proposal.
 14. The proposal would no doubt benefit the operation of the agricultural enterprise. However, this would amount to a private rather than public benefit.
 15. Paragraph 205 of the Framework states that great weight should be given to the heritage asset's conservation, and the more important the asset, the greater the weight should be. Paragraph 206 requires clear and convincing justification for any harm to or loss of significance of a designated heritage asset. Consequently, the harm I have identified to the significance of the SAM, which the Framework identifies as a heritage asset of the highest significance, the listed buildings, and the CA, attracts considerable weight against the proposal. There are no public benefits that would outweigh the harm.
 16. Accordingly, I conclude that the proposal would not satisfy the detailed prior approval matters regarding siting, design, and external appearance.
 17. As such, the proposal would be contrary to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). The specific requirement under Section 66(1) of the Act, to have special regard to the desirability of preserving a listed building or its setting, only applies to applications for planning permission. In this case, planning permission has already been granted by Article 3(1) of the GPDO, subject to prior approval. The legislation relating to SAMs does not impose a statutory duty equivalent to section 72(1) of the Act. Nonetheless, insofar as it is a material consideration relevant to matters of siting, design and external appearance, the proposal would conflict with the heritage aims of the Framework, the most relevant of which have been summarised above.

Other Matters

18. The appellant has expressed concerns regarding the way the Council has determined the case. However, I am only able to address its planning merits.

Conclusion

19. For the above reasons, having had regard to all matters raised, I conclude that the appeal should be dismissed.

F Wilkinson

INSPECTOR