



Appeal Decisions

Site visit made on 14 May 2024

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 12 August 2024

Appeal A Ref: APP/G2435/W/23/3333599

Collins Cottage, 7A Church Street, Swepstone, Leicestershire LE67 2SA

- 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 and Mrs Ian Lynam against the decision of North West Leicestershire District Council.
 - The application Ref is 19/02435/FUL.
 - The development is a single storey extension and rooflights.
-

Appeal B Ref: APP/G2435/Y/23/3333604

Collins Cottage, 7A Church Street, Swepstone, Leicestershire LE67 2SA

- 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 and Mrs Ian Lynam against the decision of North West Leicestershire District Council.
 - The application Ref is 19/02436/LBC.
 - The works are a single storey extension and roof lights.
-

Appeal C Ref: APP/G2435/Y/23/3333614

Collins Cottage, 7A Church Street, Swepstone, Leicestershire LE67 2SA

- 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 and Mrs Ian Lynam against the decision of North West Leicestershire District Council.
 - The application Ref is 19/02400/FUL.
 - The development is a single storey extension, rooflights and porch.
-

Appeal D Ref: APP/G2435/Y/23/3333615

Collins Cottage, 7A Church Street, Swepstone, Leicestershire LE67 2SA

- 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 and Mrs Ian Lynam against the decision of North West Leicestershire District Council.
 - The application Ref is 19/02401/LBC.
 - The works are a single storey extension, roof lights and porch.
-

Decision

1. Appeal A: the appeal is dismissed.
 2. Appeal B: the appeal is dismissed.
 3. Appeal C: the appeal is dismissed.
 4. Appeal D: the appeal is dismissed.
-

Applications for costs

5. An application for an award of costs in relation to these appeals was made by Mr and Mrs Lynam against North West Leicestershire District Council. That application is the subject of a separate Decision.

Preliminary Matters

6. As the appeals relates to a listed building I have had special regard to section 16(2) and section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
7. Planning permission and listed building consent¹ were granted in 2011 for conversion and extension of barn to form two no. dwellings and car ports, erection of double garage and alterations to existing access². The permissions have been implemented and the converted barn is in residential use. However, the conversion has not been carried out in accordance with the approved plans. The appeals relate to the unauthorised works, namely the extension, front porch, the retention of two rooflights and the creation of two new rooflights in the rear roof slope of Collins Cottage. I have determined the appeal on the basis that planning permission and listed building consent are sought to retain the development and the works that have been implemented.
8. The four appeals at this site all relate to the single storey extension and the rooflights. Appeals C and D additionally relate to the porch. In the interests of avoiding duplication, I have dealt with all appeals together.

Main Issues

9. The main issue is the effect of the appeal schemes on the character and appearance of the appeal building, with particular regard as to whether the proposed single storey extension and rooflights (Appeals A, B, C and D) and proposed porch (Appeals C and D) would preserve a Grade II listed building, "Church Farmhouse and Upper Church Farmhouse, and front railings" (Ref: 1361262), and any of the features of special architectural or historic interest that it possesses.

Reasons

10. Church Farmhouse and Upper Church Farmhouse was originally listed in 1983 and dates from around 1800, renewing a 17th century range. Although now a pair of properties, the listed building (the LB) farmhouse was historically a single dwelling. The farmhouse is finished in red brick with some rubble stone and an exposed timber truss. It is a 2-storey dwelling with a long 4-window frontage, and an extension built in Measham 'gobs'. The farmhouse is narrowly set back from the village street with railings, on the opposite side of the road to St Peter's Church.
11. Collins Cottage is a converted single storey barn. It lies perpendicular to the farmhouse, with its low gable end facing the road. It is set close to and slightly back from the rear elevation of the farmhouse. It is a low, long and narrow building with a simple rectangular plan form and simple pitched roof. Its front

¹ Refs 09/00602/FUL and 09/00601/LBC respectively

² The two dwellings known as Collins Cottage and Lynam Towers

elevation, with openings, faces into the yard area to the rear of the farmhouse. Its long blank rear elevation forms part of the boundary of the adjacent field.

Whether or not curtilage listed

12. For the purposes of the Act, a listed building includes any structure that is within its curtilage which has existed since before 1st July 1948. As structures within the curtilage that have a principal and accessory relationship to the main building, the outbuildings are also consequently listed.
13. The works to convert the former outbuilding to residential use were the subject of both planning permission and listed building consent. The related Council officer's report states that the outbuilding is considered to be listed as it lies within the curtilage of the principal listed building and was erected before 1948. Notwithstanding that the appellants did not challenge this at the time or subsequently, they now consider that Collins Cottage is not within the curtilage of the LB farmhouse and it should not be considered a curtilage listed building.
14. I note the correspondence from the Council's senior solicitor. This refers to the fact that as listed building consent was applied for and granted in relation to the residential conversion, a listed building enforcement notice could be issued in relation to unauthorised works to Collins Cottage. In this regard, it appears to relate more to whether or not the works subject of the appeals should be the subject of listed building consent applications rather than more fundamentally whether or not Collins Cottage is curtilage listed for the purposes of the Act.
15. I acknowledge that the former barn is not mentioned in the listing description. However, listings are primarily for identification purposes and do not provide a definitive description of the special interest. The listing does not define the curtilage nor do the parties define the curtilage of the LB farmhouse.
16. On the basis that the former outbuilding has existed since at least 1881, it meets the age criteria to be curtilage listed. In relation to curtilage, case law has established that there are 3 relevant factors. These are the physical layout of the listed building and the structure; ownership, past and present; and use or function, past and present.
17. As discussed above, the former outbuilding is closely physically associated with the LB farmhouse. However, except for map excerpts, little historic evidence has been provided with the appeal in relation to the historic farmstead, its buildings and their use or landholding.
18. The maps from the early 1880s illustrate the outbuilding and the farmhouse, the latter with a further large detached outbuilding to its rear. At that time, there appear to have been several subdivisions of the land rear of the farmhouse but, while part of the northern range of outbuildings may have been physically separated from the farmhouse, the closest part of Collins Cottage appears to be open to the rear of the dwelling. In 1901 and 1927, a small area was enclosed to the rear of part of the farmhouse, but the remainder of the rear appears open with no physical boundaries between it and the outbuilding. By 1959, the situation had changed again, with the northern range open to the yard and farmed land to the rear but the rear of the farmhouse enclosed.
19. By 1994, the earlier enclosures apparently no longer existed. The aerial photograph from 2000, prior to the conversion of the outbuilding, illustrates no

physical separation between the rear of Church Farmhouse and the northern range of outbuildings. While there appears to have been a relatively constant enclosure to the rear of Upper Church Farmhouse, there is little evidence that this was a residential curtilage and not for example a small paddock. The maps do not indicate the nature of any historic physical boundaries nor differentiate an established residential curtilage from historic agricultural use.

20. The various properties at Church Farm are apparently owned and occupied separately. However, the evidence suggests that the outbuilding was in the same ownership as the farmhouse, both historically and at the time of listing in 1983 when the farmhouse was owned and occupied by Mr Lynam's parents. Mr Lynam bought Church Farm from his parents in 1987 and subdivided the farmhouse.
21. In terms of the function or use of the outbuilding, the photographs illustrate a pre-1880s farm building with an open shelter to the left and a stable to the right. The Council's heritage asset consultee notes that in 1841 the Church Farm farmstead contained a house, shoemaker's shop, stable, cowshed and pigsty. The Planning, Heritage and Design and Access Statement (the PHDAS) does not provide a history of the farmstead or its buildings. However, the PHDAS acknowledges that the northern range of outbuildings have some historic and functional associations with Church Farmhouse.
22. From some time before the date of listing and until about 1988, Mr Lynam used outbuildings, including Collins Cottage, for turkey and bird farming. He lived for part of the time in the farmhouse with his parents, who were not involved in farming. There is little evidence that the outbuildings or bird rearing enterprise was part of a farming business operating independently of Church Farmhouse. It has not been demonstrated that the bird rearing enterprise was a viable business rather than an activity ancillary to the occupation of the farmhouse. Moreover, while Mr Lynam states he is not aware that the appeal building was used for residential purposes during that time, there is little substantive evidence in relation to the way in which the outbuildings were used.
23. After 1988, the outbuilding was in industrial use for a time, although planning permission had been refused in 1983 for the manufacturing of metal connectors. A certificate of existing lawful development (Ref 03/01624/CLE) was granted in January 2004 for use of part of the outbuilding for B1 purposes. However, an unauthorised brick cutting business ceased around the same time following an enforcement investigation.
24. The photographic survey from 2009 does not include the interior of the Collins Cottage outbuilding. It does however illustrate that the open-sided end closest to Church Farmhouse was used for the parking of domestic vehicles and the Council's officer report (ref 09/00602/FUL) notes that part of the building was in use as a double carport for the Church Farm dwelling. The photographs also illustrate a domestic rotary washing line in the open yard between the farmhouse and Collins Cottage at that time. At least part of the Collins Cottage outbuilding was in ancillary residential use and there was no physical barrier between it and the domestic yard and rear of the farmhouse.
25. My attention has been drawn to R v Taunton Deane Borough Council 2008 (the 'Jews Farmhouse' case). It relates to a listed building, an 18th century farmhouse, in the same ownership as Mill Barn (and others) at the time of

listing. Mill Barn lies around 34m to the south west of the farmhouse, beyond an intervening outbuilding, and it was part of a group of 4 buildings that turned its back on the farmhouse on the far side of a wall that enclosed the western and southern sides of the farmhouse. The farmhouse did not share its principal residential access with the main access to the farmyard buildings. There were further large agricultural buildings to the west of Mill Barn, with no readily discernible feature to define the curtilage to the west or the south of the farmhouse except for the wall. At the time of listing, there was a clear distinction between the farmhouse and its curtilage and the farmyard with its buildings including Mill Barn.

26. In the Jews Farmhouse case, there was little evidence in relation to the use and function of the converted barns. However, their names, Old Granary and Mill Barn, reflected their former agricultural use. At the time of listing, they were not in use ancillary to the dwelling house, but as part of the farming enterprise carried on at Jews Farm. It was specifically noted that they were not being used for example *"to garage the farmer's car, to store his domestic items, as a children's playroom, staff quarters et cetera"*. The separate, distinct residential function of the farmhouse was reinforced by the fact that it was sold shortly after it was listed, but the former occupier continued to farm Jews Farm from another dwelling and did so using Mill Barn and the other buildings just as they had been used previously, namely as agricultural buildings, until planning permission was granted to convert to dwellings.
27. In contrast, the Collins Cottage former outbuilding is within only a few metres of and it faces Church Farmhouse. It is not physically separated from the farmhouse nor part of a wider group of farm buildings and it shares its access with the dwelling. Moreover, unlike the solely agricultural use as part of a farming enterprise in the case of Jews Farm, the outbuildings at Church Farm were apparently in varied uses historically and more recently in ancillary domestic use, at least in part as car parking for Church Farmhouse. As the Jews Farmhouse case is not directly comparable to the situation here, it does not justify excluding Collins Cottage from the Church Farmhouse curtilage.
28. In summary, the Collins Cottage outbuilding is closely physically related to Church Farmhouse. There is little compelling evidence that it was outside an established farmhouse curtilage either historically or at the time of listing. It was part of the Church Farm farmstead historically and it was in the same ownership as Church Farmhouse at the time of the listing. The outbuilding was not demonstrably solely in agricultural use at any time and it had both a historic and functional association with Church Farmhouse. Its function, at least in part, ancillary to the farmhouse appears to have continued until the outbuilding was converted for independent residential use. Therefore, based on the above, I conclude that Collins Cottage is a curtilage listed Grade II building.
29. Collins Cottage has been altered to provide living accommodation. However, it retains its historic plan form and openings. There have also been changes to the rear of the LB farmhouse including extensions, new buildings and the division of the curtilage to create gardens for the subdivided farmhouse. Even so, setting aside the unauthorised alterations subject of these appeals, Collins Cottage remains legible as a historic ancillary outbuilding and it has heritage value as an early example of a barn and stables with a historic functional relationship with the farmhouse.

30. Given the above, I find that the significance of the barn, insofar as it relates to these appeals, to be primarily derived from its architectural and historic interest connected to its role and association with the historic farmstead to which its location, simple form, modest design and historic fabric all contribute. The agricultural nature of the outbuilding signifies the former presence of a working farm and confirms the history of Church Farm. Therefore, the outbuilding has significance in its own right but also contributes positively to the special interest of the farmhouse through its historical and functional association ancillary to it.

The single storey extension

31. The extension replaces and it encloses part of the open carport at the end of Collins Cottage. It is contained within the footprint of the building and it does not alter the roof. However, while the brickwork differs, the extension is flush with the principal building elevation and, notwithstanding the enlarged domestic window, it does not read as a contemporary addition to the historic building.
32. I note that the Council considers the extension is not harmful, given its limited impact on the overall appearance of the building. However, there is little information before me in relation to impacts on historic fabric as a result of the extension and associated internal alterations. Moreover, I agree with the Council's heritage consultee insofar as the extension erodes the historic built form. In combination with other alterations to the building frontage including the replacement of the single light window with a larger 3-pane window, external soil vent pipe and the porch, it contributes cumulatively to an increasingly domesticated character and appearance.

The rooflights

33. The approved plans for the residential conversion illustrate the two earlier rooflights removed. However, these have been retained and augmented by a further two rooflights, one to either side of the existing. The rooflights are proud of the roof, irregularly spaced and they do not appear to match.
34. There is an absence of evidence that the creation of the new rooflights did not result in a loss of historic fabric. Moreover, notwithstanding the 2 existing, there is little evidence that rooflights are an authentic historic feature of this, or similar type of, outbuilding.
35. While the building extends away from the road, the long rear roofslope is prominent in the streetscene due to its length and location along the adjacent open field boundary. The proliferation of rooflights is conspicuous in the context of the long blank rear elevation and roof which would otherwise retain its unassuming rural functional character and appearance. The light spill at night, and domestic noise when the rooflights were open, would further contribute to an obtrusive form of development and the increasing domestication of the former rural outbuilding.
36. I understand that the existing rooflights were approved to be removed in the interests of protecting the privacy and therefore the living conditions of the occupiers. While the Council may now consider that the retention of the earlier

rooflights would not be detrimental to the living conditions of the occupiers, nevertheless that is not a justification to retain four rooflights.

37. My attention has been drawn to rooflights elsewhere. Rooflights unobtrusively sited to the rear of residential dwellings, particularly the principal listed building, and that are not prominent in public views are not directly comparable to the appeal property rooflights. The agricultural buildings to the north appear to be substantial contemporary portal frame buildings with corrugated roofs and not historic buildings. While Home Farm Barns appears to be a converted former farmstead, I am not aware that the former barns in that case are either curtilage listed or in the setting of a listed building. Consequently, rooflights elsewhere do not provide a justification for the appeal schemes.

The porch

38. The porch is partway along the building frontage, protruding out into the open yard. While it is subservient in scale to Collins Cottage, it is nevertheless a bulky and visually obtrusive feature that disrupts the simple plan form of the building and the long roofslope. The blind gable end of the porch obscures the doorway that historically served the building. The height and expanse of brickwork, breaking the eaves line, is out of keeping with the low elevations of the building.
39. Notwithstanding its set back from the road, the porch is conspicuous by virtue of its forward protrusion and its domestic side-facing doorway. The porch disrupts and obscures the long frontage of the building. It is poorly related to the building, discordant and incongruous. It is an inauthentic and overtly domestic feature that significantly erodes the simple historic agricultural character of the former outbuilding.
40. The extension to Lynam Towers appears to be to the rear of the site. From what I saw, it appears to be a subservient single storey feature in keeping with the historic functional appearance of the northern range. The domestic extensions to the rear of Upper Church Farmhouse³, which is a historic residential dwelling, are not directly comparable to the domestic extension to the historic Collins Cottage functional rural outbuilding. On the basis that neither is directly comparable to the porch, they do not provide a justification for it.

Findings in relation to the heritage asset

41. Individually and cumulatively, the extension, the rooflights and the porch increasingly domesticate the former outbuilding. They erode its historic and architectural interest and appearance as a modest former rural agricultural outbuilding causing harm to its significance. Although the building would retain the same physical relationship to Church Farm, it would harm its significance due to the unacceptable loss of the historic agricultural character and layout of the barn eroding its historic functional relationship with Church Farm.

³ Ref 21/00915/FUL Removal of existing conservatory and erection of single and two storey rear extension and landscaping amendments (resubmission of application 21/00268/FUL) and Ref 21/00916/LBC Removal of existing conservatory and erection of single and two storey rear extension and internal alterations (resubmission of application 21/00269/LBC) at Upper Church Farmhouse, 9 Church Street.

42. Given the above, I find that the appeal schemes fail to preserve the special interest of the listed building. Consequently, I give this harm considerable importance and weight in the planning balance of these appeals.
43. Paragraph 205 of the National Planning Policy Framework 2023 (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets and that any such harm should have a clear and convincing justification. Given the scale and nature of the works, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
44. Where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimal viable use. The appellant is of the opinion that the proposal would be beneficial because the extension provides additional internal living space, the rooflights allow for additional light into internal rooms, and the porch allows the occupiers to leave the dwelling safely.
45. There is little evidence that the approved dwelling would fail to provide an adequate extent of internal living space or that, in the absence of rear rooflights, there would be substandard levels of natural daylight or sunlight to habitable rooms.
46. The approved doorway, flush with the front elevation, opens into the yard area as it did historically. While the yard is used by other vehicles in connection with the property to the rear, there is little evidence that the approved arrangement is inherently unsafe. In any case, as the porch doorway faces sideways towards the road, the appellants would have even less opportunity to see and be seen by vehicles exiting the site from the rear. Consequently, the porch is not demonstrably necessary in the interests of safety.
47. These are private benefits and they are not sufficient to outweigh the harm that I have identified. In any event, the continued viable use of the appeal property as a residential dwelling is not dependent on these features as the building has an ongoing residential use that would not cease in their absence.
48. Given the above, I conclude that, on balance, the schemes subject of the appeals fail to preserve the special historic interest of the Grade II listed building. This fails to satisfy the requirements of the Act, paragraph 205 of the Framework and conflicts with policy He1 of the North West Leicestershire Local Plan Adopted March 2021 (the LP) that requires, among other things, that schemes conserve or enhance the significance of heritage assets and contribute to local distinctiveness. It also conflicts with the design and visual amenity aims of LP policies D1 and S3 and the Good Design for North West Leicestershire Supplementary Planning Document. As a result the proposal would not be in accordance with the development plan.
49. The Council's decision notice also refers to conflict with the National Design Guide, in relation to well-designed places taking into account factors including the form and scale of buildings and their appearance. Given that I have found that the works are not well related to the historic building, I similarly find

conflict in this regard. Moreover, I am not aware that the guidance in the National Design Guide does not apply to small developments.

Conclusion

50. For the reasons set out above, I conclude that each of the appeal schemes conflict with the development plan and there are no material considerations that would outweigh that conflict.

51. Therefore, I conclude that the appeals are dismissed.

Sarah Manchester

INSPECTOR