



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: 18 June 2025

Appeal Ref: APP/M1005/W/24/3348679

Church Lane, Mugginton, Ashbourne DE6 4PL

- 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 Smith against the decision of Amber Valley Borough Council.
 - The application Ref is AVA/2023/0811.
 - The development proposed is described as: 'Proposed erection of a new two storey dwelling'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Old Rectory Farmhouse, lying opposite the appeal site, is a Grade II listed building¹. Further to the south is the Grade I listed² Church of All Saints. The appeal site is also located within the Mugginton 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).
3. The Council does not find harm to the setting of the listed church in its reasons for refusal, however this is a matter of concern to interested parties, including the Conservation Officer and local residents. Nevertheless, I have a duty under section 66(1) of the Act when considering planning permission which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting.
4. Both parties consider the Grade I listed church in their evidence. I am therefore satisfied that neither party's interests would be prejudiced by my consideration of the effect on the setting of the listed building in my decision in line with the statutory duty above.

Main Issues

5. The main issue is the effect of the development on heritage assets, including the effect on the settings of the Grade II listed building of Old Rectory Farmhouse and the Grade I listed building of Church of All Saints, and the extent to which it would preserve or enhance the character or appearance of the Mugginton Conservation Area (the CA).

¹ List Entry Number: 1233131.

² List Entry Number: 1109067.

Reasons

Special Interest and Significance

6. Old Rectory Farmhouse is a sizeable late eighteenth century farmhouse of three storeys. It is constructed of red brick with a Welsh slate roof. Fenestration is laid out with a degree of symmetry to the primary elevation and windows largely comprise of two and three light casements. The building occupies an elevated position, with its primary east facing elevation orientated towards and set back from Church Lane. Former agricultural buildings, now in separate ownership, lie immediately to the north. I understand from the evidence that these buildings previously formed part of the farmstead that was operated from Old Rectory Farmhouse.
7. Based on the limited evidence before me, the special interest and significance of the listed building is principally derived from its historic and architectural interest as a good example of an eighteenth century farmhouse retaining a number of authentic features within a largely rural agricultural setting. In that regard, significance is also derived from its group value alongside its former agricultural buildings.
8. The appeal site is a gently sloping agricultural field located to the opposite side of the road to the listed building. A gate providing access into the field lies at its highest point on the roadside, close to the driveway serving Old Rectory Farmhouse. The site is bounded to the north by a historic brick wall defining the garden of a dwelling that was converted from a former barn. Whilst now in residential use, this building retains its agricultural character. Its front elevation faces onto the aforementioned garden.
9. The appeal site is part of a former orchard that was subdivided in the twentieth century, with its southern part being incorporated into the garden of the residential property to the south. Based on the evidence provided by the Council and local residents, both the appeal site and the adjacent former barn, previously formed part of the same ownership as Old Rectory Farmhouse and were part of the same lot when the landowner partly disposed of the estate in 1931. Taking into account their historic connection, it is likely that the open and undeveloped nature of the appeal site and the wide-ranging views that can be obtained across it, led to the orientation of the primary elevation of the listed building facing across this space, towards the wider agricultural landscape.
10. Whilst no longer in use as an orchard, the appeal site retains its rural, open, undeveloped nature and its boundary treatments. Its historic use in connection with the former agricultural surroundings therefore remains evident in views from the road and from the grounds of the nearby Church of All Saints, where it is seen broadly opposite Old Rectory Farmhouse and adjacent to the converted former barn.
11. The special interest and significance of the listed building is therefore also drawn, in part, from the clear historic functional connection between Old Rectory Farmhouse, the adjacent former agricultural buildings to both sides of the road and the open space forming the appeal site. Furthermore, the open nature of the green space, allows for views out to the rolling agricultural landscape to the east and provides a space within which to experience the listed building and understand these historic associations. As such, the appeal site makes an important contribution to the special interest and significance of Old Rectory Farmhouse.

12. I acknowledge that views into and out of Old Rectory Farmhouse have been partly limited by the provision of the garage building to its frontage. However, this is a relatively small-scale structure and the listed building remains a dominant structure within the streetscene where it is seen above and around the garage building.
13. Located adjacent to Old Rectory Farmhouse is the Grade I listed Church of All Saints. This coursed sandstone church of eleventh century origin with alterations through to the eighteenth century, lies in an elevated position at the southern end of the village. The special interest and significance of this asset largely stems from its architectural and historic interest as a medieval parish church. Its significance also derives from its elevated siting and dominant position within its wider historic and agricultural setting as part of the rural village of Mugginton.
14. As an area of open green space associated with agriculture that has remained free of development, the appeal site contributes to the wider agricultural setting of the listed building. Its undeveloped nature allows for views from the spaces around the Church to the wider agricultural landscape. The appeal site and its immediate surrounds provide an area within which to experience the listed building as a dominant building in the locality.
15. The CA extends over much of the small village of Mugginton. Owing to the former estate ownership there is a high degree of consistency across the built development within the village. Buildings are predominantly red brick with slate roofs and are arranged somewhat sporadically, often interspersed by small fields and gardens. The historic juxtaposition of former farmhouses, agricultural buildings, many of which have now been converted, and the green spaces between them has strongly influenced the settlement pattern today. From the limited information provided and pertinent to the appeal, the character and appearance and thus special interest and significance of the CA, derives in part from the former estate ownership and the historic juxtaposition of buildings interspersed with enclosed green spaces and set within a rural and strongly agricultural landscape.
16. As a former orchard, associated with agriculture and the adjacent former farmstead, the appeal site thus strongly reinforces the character and appearance of the CA and positively contributes to its significance as a designated heritage asset.

Proposals and Effects

17. The footprint of the proposed dwelling and the associated hardstanding, access and detached garage would occupy much of the appeal site. The proposed dwelling would be a substantial structure with a linear form and two storey height extending for almost the full depth of the site. This would become a highly evident and imposing feature of the streetscene here, significantly diminishing the open, green and undeveloped nature of the appeal site. Furthermore, the proposal would require considerable digging down into the site, creating a series of steps and radically altering the landforms here.
18. The majority of the proposed development would be highly visible from the road and the space around the Church of All Saints owing to the removal of the hedge to form the proposed access and parking area. This part of the site would be predominantly hardsurfaced for its full length, eroding its green and undeveloped nature. This, alongside the substantial nature of the dwelling and the extensive alterations to the landforms, would lead to an urbanised appearance that would be at odds with this historic rural setting. Whilst the appellants argue that only the

- upper, single storey section would be visible from the road, I am not convinced by this argument due to the proximity of the structure to the remaining section of hedge. Moreover, the proposal would also be easily visible as a dominant structure in views from the pathway and the grounds of the Church of All Saints.
19. The loss of the green space and introduction of a large expanse of built form onto the appeal site would significantly disrupt the legibility of the relationship between the former farmstead, the orchard and the wider agricultural landscape. Intervisibility between the appeal site and Old Rectory Farmhouse would be diminished, reducing the ability to appreciate the listed building from the open space. For these reasons, the proposal would fail to preserve the setting of Old Rectory Farmhouse to the detriment of its special interest and significance.
 20. The development of the appeal site would intrude into views of the wider agricultural landscape gained from the spaces around the Church of All Saints and, through the resulting urbanisation, would diminish its rural, agricultural setting. This harm to its setting would, in a small yet discernible way, adversely affect the special interest and significance of this listed building.
 21. The loss of the appeal site to development, including the radical alteration to the landforms, the significant reduction in green space, and the urbanised appearance described above, would incrementally erode the character of the CA. In that regard it would fail to preserve the character and appearance of the CA as a whole.
 22. The appellants have referenced the scale of the nearby dwelling of Beltoli, a relatively recent development, however, this is located further away from the listed buildings than the site of the proposed dwelling. Furthermore, I have not been provided with the circumstances that led to the grant of permission for this development, such as pre-existing development, policy context or public benefits. It is therefore not clear to me that this represents a parallel with the appeal scheme. Moreover, I would note that evidence of existing harm to heritage assets is rarely justification for additional harm.
 23. For the reasons set out above, the proposal would fail to preserve the setting of the Grade II listed building, Old Rectory Farmhouse. It would also fail to preserve the setting of the Grade I listed building, Church of All Saints. The proposal would fail to preserve the character and appearance of the CA. This would be contrary to the requirements of sections 66(1) and 72(1) of the Act. In doing so it would cause harm to the significance of these designated heritage assets.

Public Benefits and Balance

24. Paragraph 212 of the Framework advises 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. That is irrespective of the magnitude of that harm. Consistent with that approach, paragraph 213 sets out that any harm to, or loss of, the significance of a designated heritage asset, should require clear and convincing justification.
25. Given the extent and nature of the proposal, I find that the harm in this instance would be '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, including, where appropriate, securing the asset's optimum viable use.

26. The appellants plan to plant orchard trees to the lowest part of the site in a bid to restore the original orchard which they consider represents a significant betterment of the scheme. Whilst the details of this are limited, and the area planted is a comparatively small part of the site, I nonetheless consider that such an action would represent a small public benefit of the scheme.
27. The proposal would provide a new dwelling which would add to the Council's housing supply and help support local services. Additionally, there would be economic benefits arising from the construction and occupation phase of the proposal. However, relating to a single dwelling, these benefits are inherently limited.
28. Taken together, the overall limited public benefits that would arise are not sufficient to outweigh the considerable importance and weight I attach to the identified harm to the significance of the designated heritage assets.
29. The proposal would fail to preserve the settings of the Grade II listed building, Old Rectory Farmhouse and the Grade I listed building Church of All Saints. The proposal would also fail to preserve or enhance the character or appearance of the CA. This would be contrary to the requirements of sections 66(1) and 72(1) of the Act and the provisions within the Framework which seek to conserve and enhance heritage assets. The harmful impact would also be contrary to Policies EN24 and EN27 of the Amber Valley Local Plan (2006) which together seek to ensure proposals conserve and enhance heritage assets and safeguard the historic environment.

Other Matters

30. I appreciate that the appellants have sought advice from the Council and provided amendments during the course of the application, including the use of local materials. However, my role is to make a decision on the plans on which the Council made its decision, as I have done.
31. Whilst I acknowledge that the appellants are local residents seeking a home in a nearby village, I have found that the proposal would result in harm to heritage assets as set out above.

Conclusion

32. 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.

Paul Martinson

INSPECTOR