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## Appeal Decision

Site visit made on 8 October 2020

**by H Lock BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16 November 2020**

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**Appeal Ref: APP/Z1510/W/20/3248234**

**The Lawn House, Felix Hall Park, Hollow Road, Kelvedon, Essex, CO5 9DG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr and Mrs K Wilson against the decision of Braintree District Council.
  - The application Ref. 19/02243/VAR, dated 11 December 2019, was refused by notice dated 6 February 2020.
  - The application sought planning permission for erection of single storey dwelling within new walled garden (replacing 1no. apartment within Felix Hall) without complying with a condition attached to planning permission Ref. 13/00811/FUL, dated 23 January 2014.
  - The condition in dispute is No.2 which states that: Notwithstanding the approved plans listed above, the following elements are specifically excluded:- the proposed door and portico on the north elevation at [sic] shown on Drawing reference 25E. Details shall be submitted to and approved in writing prior to the commencement of the development.
  - The reason given for the condition is: To ensure that the work does not affect the character or setting of the listed building on the site and in the interests of the appearance of the countryside.
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### Decision

1. The appeal is dismissed.

### Background and Main Issue

2. The appeal site sits alongside Felix Hall, a Grade II listed eighteenth century mansion. The building is in the process of renovation to return it to use as a dwelling, having been fire damaged in 1940. Various planning permissions and listed building consents have been granted to Felix Hall as part of this process.
3. In 2014, planning permission was granted subject to a legal agreement to create a single-storey dwelling within a new walled garden, to replace an approved apartment within Felix Hall. It is a condition attached to this application, ref. 13/00811/FUL, that is the subject of this appeal. According to the Council's officer report, the design concept for the new building was to create a modern interpretation of the type of buildings and enclosures that would normally be associated with an historic country house. According to the Council, this 'classical pavilion' was designed such that when viewed in conjunction with the Hall, the building would appear to be ancillary and subservient to Felix Hall. There does not appear to be any dispute between the parties that the original planning permission has been implemented.

4. The alterations the subject of this appeal include changes to window positions, an increase in internal footprint (by replacing covered parking and garden store with additional rooms), and associated changes to the internal layout. Additional rooflights are proposed, and solar panels to the north east elevation. Gates are proposed in the walled garden.
5. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses when considering whether to grant planning permission for development which affects a listed building or its setting.
6. In this context, the main issue is the effect that varying the condition to allow alterations to the approved development would have on the character and appearance of the proposed dwelling and its surroundings, including the setting of Felix Hall.

### **Reasons**

7. The appeal site is approached via a long access road set within an open landscape. Felix Hall and the appeal site are visible for some distance along the approach road, albeit there would be limited public vantage points. At present, Felix Hall is the dominant feature in the vista, set within a landscaped background. This relationship would obviously alter with the construction of the approved single-storey dwelling on the appeal site. However, although the approved building would be wide, it is traditionally proportioned, and its height and form would achieve the original aim of creating a subservient and ancillary structure to the main Hall.
8. The proposed increase in width and height of the central gable, and width of the flanking projecting gables on the south eastern elevation, would create overly large and imposing features that would materially alter the traditional character and appearance of the building. In so doing, it would increase the visual impact of the structure to the detriment of the rural setting and the relationship with Felix Hall. Whilst these elements would be partly screened from wider view by the walled garden and existing landscaping, the roofline and additional bulk would nevertheless be perceived above the enclosure. I do not consider that this would be offset by the reduction in footprint of the building, nor that the resultant building would have less of an impact on Felix Hall than the extant permission, as suggested by the appellants. I share the Built Heritage Advice to the Council, that the proposed alterations would dilute the character of the approved dwelling.
9. The Council considers that the proposal would result in over-development of the site. Given the technical reduction in footprint, this would not be the case, but the design of the resultant building would undermine the subservience of the building relative to Felix Hall. The proposed alterations would conflict with the design aims of Core Strategy (CS) Policy CS9, and Policy RLP90 of the Braintree District Local Plan Review 2005 (LP), which amongst other criteria requires designs to recognise and reflect local distinctiveness, and to be sensitive to the need to conserve local features of architectural, historic and landscape importance; and for the layout, height, mass and overall elevational design of buildings to be in harmony with the character and appearance of the surrounding area.

10. I note the Built Heritage Advice to the Council included no objection to an increase of the internal volume of the property, but I share the Council's assessment that the proposal would result in a vehicle-dominated parking courtyard that would constitute poor design. However, this must be balanced against the appellants' view that, as approved, there would be no planning restriction to prevent open parking in the courtyard.
11. Parking within the courtyard would have little visual impact beyond the walled enclosure. However, in design terms, it would diminish the quality of the courtyard and the setting of the dwelling by dedicating most of the area to surfaced parking and manoeuvring space. The appellants consider that people do not tend to park cars in garages or covered areas when there are larger, easier and more accessible outdoor places to park. However, as proposed there would be no option to park under cover, and the adverse visual impact of open parking in the courtyard will be inevitable rather than a matter of choice.
12. The National Design Guide confirms that well-designed parking is attractive, well-landscaped and sensitively integrated into the built form so that it does not dominate the development or the street scene<sup>1</sup>. In this case, the scale of open parking that would result from the removal of options for covered parking would detract from the character and appearance of the building and the classical courtyard arrangement. The indicative planting would not effectively mitigate the expanse of hard surfacing.
13. I find the alterations to windows and the proposed gates, rooflights and solar panels to be acceptable, but as these are an integral part of the proposal I am unable to determine them separately.
14. I therefore conclude that the proposal would detract from the character and appearance of the dwelling the subject of planning permission 13/00811/FUL. The change to the character and design of the building would undermine its relationship with the listed Felix Hall, and would harm the setting of the historic asset. Whilst this harm would be less than substantial<sup>2</sup>, it is not evident that this would be outweighed by any public benefits arising from the proposal. Paragraph 193 of the National Planning Policy Framework (the Framework) confirms 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, irrespective of the level of harm to its significance.
15. The proposed alterations would therefore conflict with the statutory duty, the Framework, CS Policy CS9, and LP Policies RLP90 and RLP100, which seeks to preserve and enhance the settings of listed buildings by appropriate control over the development, design and use of adjoining land. Condition 2 of planning permission 13/00811/FUL remains valid and overall meets the tests set out in paragraph 55 of the Framework. I do not consider LP Policy RLP 18 to be relevant to the proposal as it relates to extensions to existing dwellings.
16. For the reasons given above, I conclude that the appeal should be dismissed.

*H Lock*

INSPECTOR

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<sup>1</sup> National Design Guide, October 2019. Paragraph 86.

<sup>2</sup> Having regard to paragraph 196 of the National Planning Policy Framework