



Appeal Decisions

Site Visit made on 29 June 2021

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th August 2021

Appeal A Ref: APP/A1530/W/20/3256768

Mantells, Foxes Lane, Eight Ash Green CO6 3PS

- 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 Mr and Mrs Spence against the decision of Colchester Borough Council.
 - The application Ref 200873, dated 29 April 2020, was refused by notice dated 22 June 2020.
 - The development proposed is erection of a linked outbuilding (garden room).
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Appeal B Ref: APP/A1530/W/20/3256771

Mantells, Foxes Lane, Eight Ash Green CO6 3PS

- 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 Mr and Mrs Spence against the decision of Colchester Borough Council.
 - The application Ref 200875, dated 29 April 2020, was refused by notice dated 22 June 2020.
 - The development proposed is extension to residential dwelling.
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Appeal C Ref: APP/A1530/Y/20/3256770

Mantells, Foxes Lane, Eight Ash Green CO6 3PS

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr and Mrs Spence against the decision of Colchester Borough Council.
 - The application Ref 200874, dated 29 April 2020, was refused by notice dated 22 June 2020.
 - The works proposed are erection of a linked outbuilding (garden room).
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Appeal D Ref: APP/A1530/Y/20/3256774

Mantells, Foxes Lane, Eight Ash Green CO6 3PS

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr and Mrs Spence against the decision of Colchester Borough Council.
 - The application Ref 200876, dated 29 April 2020, was refused by notice dated 22 June 2020.
 - The works proposed are extension to residential dwelling.
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Decision

1. Appeals A and C are dismissed.

Appeal B

2. The appeal is allowed and planning permission is granted for extension to residential dwelling at Mantells, Foxes Lane, Eight Ash Green CO6 3PS in accordance with the terms of the application Ref 200875, dated 29 April 2020, subject to the attached schedule of conditions.

Appeal D

3. The appeal is allowed and listed building consent is granted for extension to residential dwelling at Mantells, Foxes Lane, Eight Ash Green CO6 3PS in accordance with the terms of the application Ref 200876, dated 29 April 2020, and the plans submitted with it, subject to the attached schedule of conditions.

Procedural Matters

4. As set out above there are four appeals on this site, concerning two schemes under different, complementary legislation. The schemes referred to in appeals A and C, and B and D (herein referred to as 'Appeal Scheme 1' and 'Appeal Scheme 2'), only differ in the detail of the design of the proposed extensions. I have considered each proposal on its individual merits, but to avoid duplication I have dealt with the two schemes together.
5. The National Planning Policy Framework was revised on 20 July 2021 (the Framework). The main parties have had the opportunity to comment upon the relevance of any revised content of the Framework and I have had regard to any responses received in my decision.

Main Issue (All Appeals)

6. The main issue is whether the proposals would preserve a Grade II listed building, known as 'Mantells Farmhouse', and any of the features of special architectural or historic interest that it possesses, including its setting.

Reasons

Significance and setting

7. The appeal concerns a detached two storey timber-framed former farmhouse, originally arranged on a L-shape plan, that probably dates from the 17th Century and is Grade II listed. It is of painted plaster, weatherboarding and red brick, beneath clay tile roofs.
8. Although the list description primarily focuses on the front of the property, it is for identification purposes only and does not form an exhaustive list of the features of the listed building that are of special architectural or historic interest. Furthermore, it is evident that the building has been subject of much alteration and extension over time, particularly at the rear, most notably the western wing, which was completely rebuilt in 1999 following fire damage, and a Z-shape plan form has been created. There are also further single-storey additions to the south of this wing. While these incorporate some modern features, they predominantly use traditional materials, so reflect the historic character of the house and contribute to its special interest. A curtilage listed barn lies to the northeast.

9. Despite modern alterations to the listed building, based on the above, its significance today is derived from its architectural and historic interest, as a fine example of a 17th Century timber-framed house. I am also mindful of the definition of 'setting' contained in the Framework, as being the surroundings in which a heritage asset is experienced. In so far as is relevant to this appeal, the house is set back some way from Foxes Lane and is contained within extensive landscaped grounds. The visual and spatial relationship of the house with its garden therefore forms an integral part of its historic setting, which contributes to its understanding and significance.

The Proposals

10. The schemes referred to in the appeal schemes both comprise single storey extensions to the gable end of the late 20th Century rear western wing. Appeal Scheme 1 is for a hipped roof extension, connected to the existing building by a wholly pitched roof. Appeal Scheme 2 is for a gabled extension, connected to the existing building by a partly flat lead roof adjacent to the existing gable.

Effect of the proposals on the significance of the listed building

Appeal Scheme 1

11. I appreciate that the listed building has undergone much change, particularly more recently, but I am conscious that buildings continually evolve and further change should be managed and not prohibited. I therefore do not find the nature and extent of use of existing accommodation within the building to be a determining factor in this appeal.
12. Although it would sit on lower ground in the garden of the house, the proposed extension would project to the south beyond the 20th Century gable. This would not be as far as the existing lean-to for the kitchen, but it would compromise the legibility of the historic floor plan layout of the listed building and appear ungainly, particularly as it would be wider than the gable end.
13. The pyramidal roof and its significantly shallower pitch would also be departures from the steeper pitched and gabled roofs found on the listed building and would result in a squat appearance, which would be further empathised by the proposed eaves and soffit details. While I do not dispute that natural slate is a common material to rural Essex, its use in the extension would also contrast with the clay tiles found elsewhere on the house.
14. The proposal would provide a direct link between the building and the substantial garden and landscape spaces within its grounds, which would better reveal the contribution made to its significance by its setting. However, given my findings above, this proposal would have a harmful effect on the setting, albeit limited to the surroundings of the building.
15. The link to the house would have a pitched roof but otherwise be glazed and inset from the 20th Century gable. Its form and height would enable the first-floor bedroom window to remain in use. This would represent a modest intervention to the listed building. The use of lime-based render on the main part of the extension would also be complimentary to the house and the extent and nature of glazing would also be appropriate for its intended use as a garden room.

16. While the rear wing is not part of the historic fabric of the building, I have referred to the positive contribution that it makes to the character of the listed building. Although this includes the external chimney stack to the gable end, its removal would not have a harmful effect on the significance of the listed building, particularly as it would reveal the form of the gable around it at first floor. The internal works would also be to alter modern fabric and would be sympathetic to its current form and appearance.
17. The features of the design of the proposal would evidently distinguish it from the 17th and 20th Century elements of the listed building and it would be subservient to it. However, it would stand out as a discordant addition that would jar with the form, scale, appearance, and floor plan of the historic range of the listed building and later additions to it. The proposal would therefore distract from the historic range of the listed building.
18. The statutory duties in Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) are matters of considerable importance and weight. Paragraph 197 of the Framework states that the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation should be taken into account in determining applications. Furthermore, paragraph 199 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets and that this should have a clear and convincing justification.
19. The proposal in Appeal Scheme 1 would be harmful to the special historic interest of the Grade II listed building and would have a negative effect on its significance as a designated heritage asset. In my view the harm that I have identified would equate to less than substantial harm to the significance of the designated heritage asset, but nevertheless of considerable importance and weight. In such circumstances, paragraph 202 of the Framework identifies that this harm should be weighed against the public benefits of proposals.
20. I have had regard to the judgement in *South Lakeland DC v the Secretary of State for the Environment* [1992], but as the harm I have identified is not neutral it has little relevance to this appeal scheme.
21. The proposal would help to better reveal significance of the listed building, in respect of its setting, which would be a heritage benefit of considerable weight.
22. The proposed extension would complement existing accommodation within the house and improve the living environment. While this would better meet the needs of the appellants and their family, this would amount to a private benefit. Moreover, there is no substantive evidence before me to suggest how the proposals are required to make the building habitable or sustain the heritage asset. The continued viable use of the appeal property as a residential dwelling is therefore not dependent on the proposal, as the building has an ongoing residential use that would not cease in its absence.
23. The proposal would also not result in harm to historic fabric of heritage significance, the absence of such harm would only amount to a public benefit of very limited weight as this should be the principal aim of proposals.

24. There would be some minor environmental, social, and economic benefits associated with the proposal, including to the local community but due to the scale of the development these would be limited in scale and kind.
25. Taking the above together, the public benefits I have outlined would not justify allowing works and development that would fail to preserve the special interest of the listed building, including its setting. Therefore, in accordance with paragraphs 199 and 202 of the Framework, considered together, I conclude that the public benefits do not outweigh the great weight to be given to the less than substantial harm that I have identified.
26. In light of all of the above, I conclude that, on balance, the proposal in Appeal Scheme 1 would fail to preserve the special historic interest of the Grade II listed building. Hence, that proposal would fail to satisfy the requirements of the Act, paragraphs 197 and 199 of the Framework and conflict with the design and heritage aims of paragraph 130 of the Framework and Policies ENV1 and UR2 of the Colchester Local Development Framework Core Strategy document (Adopted December 2008) (the CS); and Policies DP1, DP13 and DP14 of the Colchester Local Development Framework Development Policies document (Adopted October 2010) (the DPD).

Appeal Scheme 2

27. I appreciate that the listed building has undergone much change, particularly more recently, but I am conscious that buildings continually evolve and further change should be managed and not prohibited. While the proposed extension would add to the extent of accommodation, it would be a simple continuation of the form of the 20th Century extension that would be inset to either side and sit on lower ground in the garden. Given these factors, the additional length added to this part of the building would not appear over elongated or harm the legibility of the historic floor plan layout of the listed building and would assimilate well with the 20th Century extension.
28. The proposed extension would also provide a direct link between the building and the substantial garden and landscape spaces within its grounds, which would better reveal the contribution made to its significance by its setting, albeit for its occupants. I therefore do not find the nature and extent of use of the existing accommodation within the building to be a determining factor in this appeal.
29. The roof pitch of the extension would be slightly shallower than on the two-storey elements of the listed building and its soffits would be deeper. The part of the extension adjoining the 20th Century gable is also shown on the application drawings to be partly pitched with a flat roof. This would enable the first-floor bedroom window to remain in use and represent a modest intervention to the listed building. The simple materials palette would be complimentary to the existing building but incorporate a greater amount of glass. The application drawings also refer to a brick plinth with weatherboarding over, but this does not appear to be a typical plinth that projects beyond the outer façade, rather the elevations appear to simply show lower brick coursing beneath the weather boarding. This would be identical to the finish on the 20th Century gable and have some similarities with how weatherboarding is dealt with on the older parts of the building.

30. Together these features would distinguish the proposed extension from the 17th and 20th Century elements of the listed building and it would appear as a subservient addition that would be more comparable with the other single storey elements of the building to the north, which join with a glazed link.
31. While the rear wing is not part of the historic fabric of the building, I have referred to the positive contribution that it makes to the character of the listed building. Although this includes the external chimney stack to the gable end, its removal would not have a harmful effect on the significance of the listed building, particularly as it would be replaced by built form that positively contributes to the listed building and it would reveal the form of the gable around it at first floor. The internal works would also be to alter modern fabric and would be sympathetic to its current form and appearance.
32. The form, scale and appearance of the proposal would therefore represent an appropriate design response to providing a clear and distinct contemporary addition to the listed building that would contribute to its evolution and be subservient to the historic range. The proposal would not therefore compete with or be a distraction from the historic range of the listed building, which would continue to be the more dominant form within its large garden.
33. In light of the above, I conclude that the proposal in Appeal Scheme 2 would preserve the special historic interest, including the setting, of the Grade II listed building. This would satisfy the requirements of sections 16(2) and 66(1) of the Act, paragraphs 197 and 199 of the Framework and would not conflict with the design and heritage aims of paragraph 130 of the Framework and Policies ENV1 and UR2 of the CS and Policies DP1, DP13 and DP14 of the DPD.

Conditions (Appeal Scheme 2 only)

34. In addition to the standard time limits for both appeals, in the interests of clarity I have specified the approved plans received with Appeal B. This is unnecessary in Appeal D (the listed building consent appeal), as the decision incorporates the plans. Furthermore, in the interests of preserving the special interest of the listed building, conditions for the specifications and samples of materials are necessary and I have amended and merged the Council's suggested conditions to provide one concise condition for each appeal that covers all the details. Finally, for Appeal B only, given that the appeal property dates from the 17th Century there is high potential for archaeological deposits to exist within the site. It is therefore necessary for a programme of archaeological work to be undertaken prior to any groundworks being undertaken, but I have amended the Council's suggested condition to enable above ground works to the building to be undertaken.

Conclusion

35. For the reasons given above, I conclude that Appeal Scheme 1, comprising Appeals A and C should not succeed. However, Appeals B and D, which comprise Appeal Scheme 2, should both be allowed.

Paul Thompson

INSPECTOR

Schedule of Conditions

Appeal B Ref: APP/A1530/W/20/3256771

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1178.L.001, 1178.L.006 Revision A and 1178.L.008.
- 3) Prior to their use in the construction of the development hereby granted, specifications and samples of the materials to be used in the development shall be submitted to and approved in writing by the local planning authority. These shall include: -
 - i) the manufacturer, type, and colour of proposed external facing and roofing materials;
 - ii) details of the locations, design, types, and colours of the proposed rainwater goods (gutters, downpipes, hopperheads and soil pipes);
 - iii) the number of coats, mix, finish, backing material and relationship to existing finishes of the proposed external render; and
 - iv) additional 1:20 and 1:1 scaled sectional and elevational drawings (as appropriate) of the proposed window, door, eaves, verge, cill and head details.

The development shall thereafter be carried out in accordance with the approved specifications/samples.

- 4) No groundworks shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the local planning authority. The scheme of investigation shall include an assessment of significance and research questions; and: -
 - i) The programme and methodology of site investigation and recording;
 - ii) Provision to be made for analysis of the site investigation and recording;
 - iii) Provision to be made for reporting, publication and dissemination of the analysis and records of the site investigation;
 - iv) Provision to be made for archive deposition of the analysis and records of the site investigation;
 - v) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation; and
 - vi) The scheme of investigation shall be completed as agreed and approved in writing by the local planning authority.

Appeal D Ref: APP/A1530/Y/20/3256774

- 1) The works authorised by this consent shall begin not later than three years from the date of this consent.
- 2) Prior to their use in the construction of the works hereby granted, specifications and samples of the materials to be used in the development

shall be submitted to and approved in writing by the local planning authority.

These shall include: -

- i) the manufacturer, type, and colour of proposed external facing and roofing materials;
- ii) details of the locations, design, types, and colours of the proposed rainwater goods (gutters, downpipes, hopperheads and soil pipes);
- iii) the number of coats, mix, finish, backing material and relationship to existing finishes of the proposed external render; and
- iv) additional 1:20 and 1:1 scaled sectional and elevational drawings (as appropriate) of the proposed window, door, eaves, verge, cill and head details.

The works shall thereafter be carried out in accordance with the approved specifications/samples.

END OF SCHEDULES