



Appeal Decision

Site visit made on 25 November 2021

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 06 January 2022

Appeal Ref: APP/C3240/C/21/3269890

The Hall, Waters Upton, Telford TF6 6NP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Christopher Yapp against an enforcement notice issued by Telford and Wrekin Council.
- The enforcement notice was issued on 28 January 2021.
- The breach of planning control as alleged in the notice is without planning permission, the unauthorised erection of a timber pergola with tiled roof and roof lights.
- The requirements of the notice are:
 - 1) Demolish the timber pergola with tiled roof and roof lights; and
 - 2) Remove all materials arising from the land.
- The period for compliance with the requirements is one month.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and planning permission is refused.

The ground (a) appeal and the deemed planning application

Main Issue

1. The terms of the deemed planning application are derived from the allegation. Hence, planning permission is sought for the erection of a timber pergola with a tiled roof and roof lights.
2. The main issues are whether the development preserves the setting of a grade II* listed building, The Hall at Waters Upton, and its effect on the character and appearance of the area.

Reasons

3. The pergola is a modest sized-structure that has been erected in a rear courtyard at The Hall in Waters Upton, which is a grade II* listed building.
4. The Hall is a circa 16th Century timber-framed house encased in an early 18th Century red brick. It has a vernacular style and form, the most striking features include its steeply pitched and hipped roof, sash windows and two canted ground floor bay windows. There are a series of later additions, including gabled dormers and a brick two-storey bay window, which show how the building has changed over the years. There is also a late-20th Century single-storey extension to the rear, which projects in the courtyard. This partially cobbled courtyard, at the rear of The Hall, is enclosed by ancillary historic buildings which would have functioned as a barn, stables and a cart shed.

5. I consider the significance of the listed building, insofar as is relevant to the matters before me, to be attributed to its age, its architectural form and detailing and the series of alterations, which provide evidence of the building's function and evolution over the years. The courtyard and its buildings assist in the interpretation of the listed building and contribute positively to its setting.
6. The pergola is constructed from an oak timber frame and, in that respect, it is a relatively simple structure. However, the timber is inlaid with planks at the rear, which has a virtually solid appearance and the side panels are infilled with timber lattice. In addition, the structure has a tiled roof which accommodates six rooflights. Its resulting appearance is more akin to a substantial garden shed than an open pergola.
7. The design and choice of materials bear little relationship with the principal listed building nor any of the curtilage buildings in the immediate vicinity. Moreover, the structure is sited within the historic courtyard at the rear of The Hall. As explained, the courtyard contributes positively to the setting of the listed building. The pergola is prominently located in the courtyard, and it is seen in the context of the historic curtilage buildings, and crucially, the rear elevation of The Hall itself. It is an incongruous and obtrusive feature that would be better sited elsewhere in the grounds. I accept that the roof tiles have been selected to reflect the historic buildings but the effect is lost due to the number and size of rooflights, which completely dominate both roof planes and are a modern and uncharacteristic feature. I understand that the oak frame sides have removable larch laps, but for the majority of the year these are in place. Even without the laps, the structure would still be an uncharacteristic feature.
8. I consider that the pergola has a harmful effect on the setting of a grade II* listed building, The Hall at Waters Upton, and hence its significance, and on the character and appearance of the historic courtyard due its siting, design and materials. I do not consider that conditions could be imposed to alleviate the harm since any form of screening or landscaping would need to be substantial and thus out of character in this historic setting.
9. The National Planning Policy Framework (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. It goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets. Given the works relate to a new curtilage structure, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. Under such circumstances, the Framework advises that this harm should be weighed against the public benefits of the proposal. I understand that the pergola houses a hot tub, used for medical purposes by an elderly occupant. This cannot be considered a public benefit and it carries limited weight.

Other Matters

10. Age and disability are 'relevant protected characteristics' for the purposes of the Equality Act 2010 and the Public Sector Equality Duty. Hence, I must have due regard to the need, among other things, to advance equality of opportunity between persons who share a relevant protected characteristic and those who do not.

11. The retention of the pergola would allow one of the occupants to access the hot tub in a location close to the swimming pool. However, the harm resulting from the development is considerable and the negative impact on the appellant of dismissing this appeal would not outweigh the conflict with relevant legislation and planning policy. Crucially, there is adequate space close to the house that would enable the hot tub to be located in a less historically sensitive area of the grounds.

Conclusion

12. Given the above and in the absence of any substantiated public benefit, I conclude that, on balance, the proposal would fail to preserve the setting of the grade II* listed building and the character and appearance of the area. This would fail to satisfy the requirements of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, paragraph 197 of the Framework and would conflict with Policies BE1, BE2 and BE4 of the Telford and Wrekin Local Plan that seek, among other things, to ensure that development preserves the setting of listed buildings and respects the character of the area. As a result, the proposal would not be in accordance with the development plan.
13. The ground (a) appeal fails, therefore.

Conclusion

14. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Formal Decision

15. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Debbie Moore

Inspector