
Appeal Decision

Site visit made on 25 October 2022

by R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL

an Inspector appointed by the Secretary of State

Decision date: 5 January 2023

Appeal Reference: APP/Z1510/W/21/3289237

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

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr and Mrs Wilson against the decision of Braintree District Council.
 - The application (reference 21/02630/VAR, dated 20 August 2021) was approved on 19 October 2021 and planning permission was granted subject to conditions.
 - The development permitted is described as follows:
"Variation of Condition 2 (Approved Plans) of permission 13/00811/FUL granted 23/01/2014 for: Erection of single storey dwelling within new walled garden (replacing 1 No. apartment within Felix Hall); Variation would allow: Alterations to fenestration, insertion of gates to boundary walls, solar panels to NE elevation, internal layout, rooflights and chimney position".
 - The condition in dispute is condition number 1 which states:
"Notwithstanding the approved plans listed above, the following elements are specifically excluded:
 - *The rooflights;*
 - *The static caravan;*
 - *Tent; and*
 - *Storage Containers.**These elements shown on the submitted block plan are not approved and shall be omitted from the design and not installed".*
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Decision

1. The appeal is allowed and the planning permission (reference 21/02630/VAR) for *"Variation of Condition 2 (Approved Plans) of permission 13/00811/FUL granted 23/01/2014 for: Erection of single storey dwelling within new walled garden (replacing 1 No. apartment within Felix Hall) Variation would allow: Alterations to fenestration, insertion of gates to boundary walls, solar panels to NE elevation, internal layout, rooflights and chimney position"*, at 'The Lawn House', 'Felix Hall Park', Hollow Road, Kelvedon CO5 9DG, granted on 19 October 2021 by Braintree District Council, is varied by deleting condition number 1 and substituting a revised condition number 1 and an additional condition 1A, as follows,

"Condition 1. Notwithstanding the approved plans listed above, the following elements are specifically excluded: the Static Caravan, the Tent and the

Storage Containers. These elements shown on the submitted block plan are not approved and shall be omitted from the design and not installed."

"Condition 1A No work shall be carried out for the installation of the rooflights that are hereby approved until details of the rooflights have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details, using the approved materials."

2. The planning permission remains subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect.

Procedural matters

3. Section 79 of the Town and Country Planning Act 1990 provides that, *"on an appeal under section 78 the Secretary of State may ... reverse or vary any part of the decision of the local planning authority, whether the appeal relates to that part or not"*. This is plainly an appeal to which Section 79 also applies and I have dealt with it on that basis.
4. The original development, for which planning permission was granted in January 2014, was the erection of a *"single storey dwelling with new walled garden"*. However, in the application form for variation of condition 2 (which provides the basis for the current appeal), the proposed development was described as follows: *"Variation of Condition 2 (Approved Plans) of permission 13/00811/FUL granted 23/01/2014 for: Erection of single storey dwelling within new walled garden (replacing 1 No. apartment within Felix Hall); Variation would allow: Alterations to fenestration, insertion of gates to boundary walls, solar panels to NE elevation, internal layout, rooflights and chimney position"*. This is the description that I have adopted in the banner heading above.

Main issues

5. The main issue to be determined in this appeal is the effect of the proposed development on the character and appearance of the host building and its surroundings, including the setting of 'Felix Hall', which is a listed building.

Reasons

6. 'Felix Hall' is located in an area of open countryside, to the north-west of Kelvedon. It is situated on rising land in a parkland setting and is visible for some distance, especially from the approach driveway. It is a rather grand mansion in a classical style dating from the eighteenth century, although it has been reduced in size and somewhat altered over the years. 'Felix Hall' is listed (Grade II) as a building of special architectural or historic interest.
7. Planning permission was granted in 2014 for the erection of a new house, 'The Lawn House', in the grounds of 'Felix Hall', to the south of the principal residence, and it is now under construction. The new house is a single storey building that has been designed around a courtyard with the general form of a subsidiary outbuilding, making use of simple, traditional forms and materials.

8. It is now proposed, in effect, that the approved design for 'The Lawn House' should be modified by the insertion of six rooflights that would serve internal corridors.
9. Provisions in the Planning (Listed Buildings and Conservation Areas) Act 1990 impose obligations on those considering whether to grant planning permission for development that would affect the setting of a listed building. In such cases, it is necessary to have special regard to the desirability of preserving the setting.
10. Those formal requirements are reinforced by the 'National Planning Policy Framework', especially at Section 16, which emphasises the importance of conserving and enhancing the historic environment, though it also points out the desirability of putting a heritage asset to its "optimum viable use" as does the 'Planning Practice Guidance'.
11. Section 15 of the 'National Planning Policy Framework', is aimed at "conserving and enhancing the natural environment" in broad terms and it includes a recognition of "the intrinsic character and beauty of the countryside", among other things. The 'National Planning Policy Framework' also has the more general aim of "achieving well designed places" (notably at Section 12), while making effective use of land and encouraging economic activity. It is aimed at achieving good design standards generally, by adding to the overall quality of the area and being visually attractive and sympathetic to local character and history (while not preventing or discouraging appropriate innovation or change).
12. The same planning principles underpin Policies in the Development Plan. In particular, Policy SP7 of the 'Braintree District Local Plan 2013-2033 Section 1' (which was adopted in February 2021) emphasises the importance of achieving high standards of urban and architectural design and includes the protection of heritage assets, while Policies LPP47 and LPP52 of the 'Braintree District Local Plan 2013-2033' likewise promote high standards of design in general and specifically in relation to the protection and enhancement of the historic environment.
13. 'The Lawn House' is a single-storey building which, as intended, is clearly subservient to 'Felix Hall' itself. It is, moreover, set apart from the principal house and a degree of separation is achieved not only by the distance from the main house but also as a result of the topography and the existence of mature trees and shrubbery that create the setting for the new house.
14. The construction of the new dwelling is now well advanced and the work to the roof was almost complete at the time of the site visit, although it would not be too difficult to alter, as now envisaged. The insertion of rooflights as proposed would change the appearance of the roof but only to a very limited degree, although they ought to be installed with a shallow profile, not extending materially above the roof plane and designed as "conservation" rooflights. Subject to that, I have formed the opinion that they would not cause material harm to the host building, or to the setting of the listed building at 'Felix Hall' and other associated features.
15. On the other hand, the proposed rooflights would provide natural light to parts of the building that would otherwise require artificial light even during the day.

There would be only a small number of rooflights, serving corridors that do not have conventional windows since such windows would interrupt the plain exterior north-east and south-west elevations, but the benefits would nonetheless be real.

16. In short, I have concluded that the proposed rooflights would cause very little or no harm to the appearance of the host building and no material harm to the setting of the listed building or to the character and appearance of the wider rural surroundings. At the same time, it would make a small improvement in the usefulness of the accommodation in the new dwelling.
17. In forming my opinion, I have had regard to the history of the site and I have noted that previous Inspectors have also come to the conclusion that the proposed rooflights would be acceptable in themselves. I share that view.
18. It follows that, in its current form, the condition against which this appeal is lodged is not necessary, in the terms set out in the 'National Planning Policy Framework'. Removing the condition would not conflict with the Development Plan and it should not be imposed, therefore. The remaining conditions from the previous permission (which have not been disputed in this appeal) are retained.
19. I have, however, considered the need for an additional condition, as suggested in the submissions, and I accept that it is necessary for a condition to be imposed to require the submission of details of the construction of the proposed rooflights, to ensure that quality will be maintained.

Roger C. Shrimplin

INSPECTOR