

DELEGATED FILE NOTE

CASE OFFICER: ...Mark Simmons.....

APPLICATION REFERENCE	BRIEF DESCRIPTION OF DEVELOPMENT	APPLICATION SITE
24/01184/LDCLB	Installation of stairlift.	Old Rectory Church Lane Kelshall Royston Hertfordshire SG8 9SP

Submitted Plan Nos

260-Q4114775 260-Q4114775 Location Plan Floor Plans

1.0 **Relevant History**

- 1.1 The full planning history can be viewed on file and none of the previous applications are directly relevant to this application.

2.0 **Legislation**

- 2.1 Section 26H of the Planning (Listed Buildings and Conservation Areas) Act 1990 or Sections 16 & 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and as supported by the aims of the NPPF.

3.0 **Representations**

- 3.1 No consultation required.

4.0 **Planning Considerations**

4.1 **Site & Surroundings**

- 4.1.1 The Old Rectory is grade II listed and is located east of St Faith's Church. The list entry for the Old Rectory reads as follows:

Large house. 1691 for T. Wren. Front block rebuilt c.1790 for Rev. Waddington. Altered and extended in C19. Brick with some timber framing to rear, all stuccoed. Slate and tiled double mansard roof. 5 bays, double depth. 2 storeys and attics. Central entrance with 4 panelled architraved door, rectangular fanlight with ellipse tracery. Small timber Tuscan porch. Flush frame sashes with moulded frames. 4 red brick extruded end stacks. Slate to front pitch of roof only. Left return has 2 ground floor sashes, a first floor sash to rear with glazing bars, horizontal sliding sash and a casement window in attic. To rear: scattered glazing bar sashes, ground floor right tripartite 2 dormer windows with horizontal sliding sashes, entrance to right of centre. Right return: a casement window in front attic. Stack to rear range is largest, serving kitchen, originally external now on ridge of lower 2 storey C18 dairy, red brick with blind openings, dentilled eaves, extended by 1 bay to right in C19 with a lower roof. Gable end has 2 ground floor 2 light casements with cambered heads and a first floor horizontal sash, a further C19 range projects to rear with entrances and a horizontal sliding sash. Interior: round arch from entrance hall to late C18 dog-leg stair with moulded handrail. Panelled doors, simple cornices. In rear block a stop chamfered binding beam and large fireplace. Sir J. Soane is known to have made plans for a remodelling of Kelshall Rectory and these served as the basis for the late C18 work. (RCHM Typescript: Pevsner 1977). (Description amended 12.04.2013)

4.2 **Proposal**

4.2.1 Installation of stairlift.

4.3 **The Equality Act 2010**

- 4.3.1 Under Part 2 of the Equality Act 2010, “service providers” have a duty not to discriminate directly or indirectly against, among others, disabled people. This clearly has implications for the owners of older buildings. A “service provider” is effectively a person or organisation concerned with the provision of a service to the public or a section of the public (for payment or not). The Old Rectory is in private ownership and therefore not open to the public by virtue of its use i.e. there is no “service provider.”
- 4.3.2 It should, however, be noted that all public authorities in carrying out their functions are to have due regard to *“the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act.”* This duty must be balanced against the existing duties to have special regard to the preservation of historic buildings and areas.
- 4.3.3 The Old Rectory has two staircases: the Main Staircase and a Back Staircase. The list entry refers to *“round arch from entrance hall to late C18 dog-leg stair with moulded handrail”*. It is acknowledged that both staircases impose a barrier to the applicant having reasonable access to the first floor.
- 4.3.4 Generally, where such barriers exist in buildings with a public use such as a country house, a castle, hotels, railway stations etc. alternative means of accessing upper floors may be deployed such as a conventional lift, hydraulic platform lift, escalator, or other means. To propose an alternative means of accessing the first floor here would likely result in a significantly greater impact on historic fabric.

4.4 **Key Issues**

- 4.4.1 The key issue for consideration here is whether the works constitute alterations affecting the building's special character, in which case, an application for listed building consent is required or, whether the works are considered lawful within the meaning of Section 26H(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, and in which case, a Certificate of Lawfulness of Proposed Works can be granted.
- 4.4.2 Section 26H of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the 1990 Act”) provides that anyone who wishes to ascertain whether proposed works for the alteration or extension of a listed building would be lawful (i.e. that the works would not affect the character of the listed building as a building of special architectural or historic interest) may make an application to the local planning authority, describing the works, in order to receive a formal response – a certificate of lawfulness of proposed works. Section 26H broadly mirrors the provisions of section 192 of the Town and Country Planning Act 1990 (“the 1990 Act”) in respect of certificates of lawfulness of proposed use or development in the planning system. Sections 26I and 26K were inserted into the Act by section 61 of the Enterprise and Regulatory Reform Act 2013 (c. 24) (“the 2013 Act”).

- 4.4.3 Applications for Certificates of Lawfulness of Proposed Works cannot be submitted in respect of works which have already been carried out as stated in the Guidance Notes on the Planning Portal. The works have not yet commenced on site.
- 4.4.4 The Planning (Listed Buildings) (Certificates of Lawfulness of Proposed Works) Regulations 2014, states that such applications should be accompanied by, amongst other things, a statement explaining why the applicant believes the proposed works would not affect the character of the listed building as a building of special architectural or historic interest. Although no Heritage Statement has been submitted, the necessity of the proposal is apparent from the submission and from my meeting with the applicant on site.
- 4.4.5 On the application form it refers to a telephone call between the applicant and the planning duty officer in which the applicant was advised that on the basis that the stair lift does not interface with the walls at all (just off the stairs) an application for a Certificate of Lawfulness of Proposed Works to a Listed Building would be appropriate.
- 4.4.6 It is proposed to fix the stairlift to the Main Staircase as the Back Staircase is narrow and to access the main landing at first floor the floor level drops by 1m and is accessed by a short flight of steps.
- 4.4.7 It is noted that the stairlift would have up to 5no. mechanical fixing point for each base plate. An image forming part of the Safety Notice submitted with the application shows only 3 of the screw holes being utilised. Drawing no. 260-Q4114775 indicates that there would be 12no. fixing points (4no. on the lower stair, 4no. on the half-landing and 4no. on the upper flight) requiring a minimum of 36no. screw fixings into the softwood (pine) treads. There are no wall fixings proposed but it is noted that the top rail to the stairlift will come close to the sill of the half-landing window. A radiator is noted against the wall at the top of the stairs but the case officer has been assured that the stairlift rail would not be affected by this.
- 4.4.8 By its very nature, when no longer required, the stairlift is readily demountable with the opportunity for the Main Staircase to revert to its current appearance and if necessary, the treads can be repaired with the screw holes plugged.

4.5 **Conclusion**

- 4.5.1 Although the stairlift will impact upon the Main Staircase, given the need for the installation, its reversibility and that the screw fixings are small enabling the treads to be relatively easily repaired, it is considered that the stairlift would not affect the listed building's special character. It is considered, therefore, that listed building consent is not required and that a Certificate of Lawfulness of Proposed Works can be granted.
- 4.5.2 It is considered that even if the certificate was declined there would be no justifiable reason to withhold the granting of listed building consent considering the specifics of this case.
- 4.5.3 Having said that, one additional benefit of not granting this certificate and inviting an application for listed building consent would be that a 'personal' grant of listed building consent could be given. See *Gwinnell v Secretary of State* for an example, where the court considered that it was reasonable to grant listed building consent for works to

facilitate the use of a listed house by a disabled occupier, on condition that they were removed after five years or when she no longer occupied the building.

- 4.5.4 A condition such as that mentioned above cannot be imposed on a Certificate of Lawfulness of Proposed Works but the applicant has said that the stairlift would be removed when no longer required by himself.

5.0 **Recommendation**

- 5.1 That a Certificate of Lawfulness of Proposed Works be **GRANTED**.

The proposal would not constitute an alteration affecting the special character of this grade II listed building and is lawful within the meaning of Section 26H(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Signed  Anne McDonald	Development Management North Hertfordshire District Council Council Offices Gernon Road Letchworth Herts SG6 3JF
Determining Officer Date: 3 July 2024	