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## Appeal Decisions

Site visit made on 25 October 2022

**by Mr C Parker BA(Hons) PGCert MA MRTPI MCMi IHBC**

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

**Decision date: 27 October 2022**

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### **Appeal A Ref: APP/L2250/W/22/3290982**

#### **Garden Flat, 11 Clifton Crescent, Folkestone CT20 2EL**

- 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 Ms Sue Peake against the decision of Shepway District Council.
  - The application Ref 21/1991/FH, dated 27 September 2021, was refused by notice dated 18 November 2021.
  - The development is described as 'retention of replacement windows and doors'.
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### **Appeal B Ref: APP/L2250/Y/22/3290985**

#### **Garden Flat, 11 Clifton Crescent, Folkestone CT20 2EL**

- 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 Ms Sue Peake against the decision of Shepway District Council.
  - The application Ref 21/2004FH, dated 27 September 2021, was refused by notice dated 18 November 2021.
  - The works are described as 'retention of replacement windows and doors'.
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## **Decisions**

1. Both appeals are dismissed.

## **Procedural Matters**

2. This decision letter considers two appeals; Appeal A for planning permission and Appeal B for listed building consent. The scheme is the same for both. Whilst subject to different legislative considerations, given the similarities I have assessed and determined both in this single decision letter.
3. The works for which permission and consent are sought have already taken place. It is unclear from the evidence when such activity took place, whether this was secured through consent or permission at that time if required, or what existed before the uPVC material openings were inserted. Nonetheless, applications for planning permission and listed building consent have now been made. Following their refusal, the Appellant has exercised their right to appeal the local planning authority's decisions. I have proceeded on this basis for determining the appeals.
4. There are separate appeals (ref 3290974 and 3290973) for the same building; albeit a separate flat contained therein. Whilst the agent acting for both is the same and subsequently there is some cross over within the evidence submitted by the main parties, I have considered each on its own planning merits.

## Main Issue

5. The main issue for both appeals is whether the works would preserve the special architectural or historical features of the listed building, and whether they would preserve or enhance the character or appearance of the conservation area.

## Reasons

6. The appeal scheme relates to a basement-level garden flat of 11 Clifton Crescent; at Grade II listed building located within the Folkestone Leas & Bayle Conservation Area. Clifton Crescent comprises a number of buildings arranged in a shallow crescent facing out towards The Leas. The significance of the listed building and this part of the conservation area derives from the fact that Clifton Crescent is one of the centrepiece compositions of the formally planned suburb of West Folkestone, laid out during the end of the 19th Century. The building is part of a Victorian villa<sup>1</sup> in a grand Italiante style with cream painted stucco elevations enriched with detailing such as cornicing pediment over the first floor windows and rusticated quoin blocks at the corners.
7. The works sought seek permission and consent for replacement windows and doors to the front, side and rear of the Garden Flat using uPVC. Whilst there is a paucity of evidence as to what was present before these at the Garden Flat, given the age of the building from the late C19<sup>th</sup> it is likely that these were originally timber painted frames and casements. Indeed, within the photos of Clifton Crescent supplied by the Appellant, it is possible to see many examples of timber framed windows, including sliding sash windows along and throughout the crescent.
8. This point is important: the frames of timber windows and doors tend to be considerably thinner than uPVC alternatives. This can be seen from drawing 20220 002 'Existing South Elevation', where the Garden Flat windows labelled W06 to W09 have considerably thicker frames to those at ground (with iron work balconies), first (with tympanum features above some windows) and the second floor, where the windows appear to be principally timber framed vertically sliding sashes. I note that the attic level contains uPVC openings, notwithstanding that this is subject to a separate appeal (ref 3290974), it is clear that timber framing is the most likely original material for this building.
9. This visual incongruity is further compounded through the use of single glass panes rather than a two-over-two over meeting rail form created through the use of glazing bar. An example of this at basement level is found in the bottom right-handside photo for the adjoining building called 'Westward Ho!'. The effect of the windows installed – for example W09 – is a considerably thick and heavy central glazing bar with chunky architrave and frame.
10. This visual oddness, compared to other openings in the same elevation, would be compounded through the use of uPVC, which tends to have a considerably shinier and smooth appearance compared to painted timber. For similar reasons, the use of uPVC for the basement door labelled D01, as shown on drawing 20220 004 'East Elevation as Existing' has a given the door a bulky appearance.

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<sup>1</sup> The list description, from 1975, suggests the building to be mid-19<sup>th</sup> Century

11. Another important consideration is the style of window. The casement windows shown on drawing 20220 002 are single paned with top hung opening casement windows. Visually, when opened in particular, these would project outwards from the building interrupting the vertical façade of the elevation. Examples of this in practice are evidenced in the Appellants document *Photos of Clifton Crescent* at Numbers 5 and 13 for example (top hung fan light open in the mansard window or dormer of the attic). This contrasts with those found at Nos 21 and 23, where vertical sliding openings retain the vertical emphasis of the façade; especially when the windows are open.
12. I therefore find that the windows and door have a negative impact on the listed building and fail to preserve its special interest. For similar reasons, it fails to preserve or enhance the Folkestone Leas & Bayle Conservation Area. This harm would be no greater than 'less than substantial harm', as set out in Section 16 of the *National Planning Policy Framework* (the Framework).
13. Nonetheless, considerable importance and weight needs to be given to the desirability to preserve certain heritage assets as set out in s16(2), s66(1) and s72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990*, as amended.
14. Paragraph 202 of the Framework sets out that where a development proposal will lead to less than substantial harm, this harm should be weighed against the public benefits. No specific public benefits have been set out by the Appellant. I note the point raised with respect of the 'harsh marine' environment in which the building is situated in, based on The Leas and overlooking the English Channel, and the durability of timber windows in such locations. Also noted is the fact that uPVC windows are likely to provide greater levels of thermal efficiency; though there is little evidence before me which indicates to what degree this would be better. These are both factors which provide environmental public benefits. However, I do not find that these outweigh the harm arising to the listed building or the conservation area in this case.
15. As such, I find that the works for which permission and consent is sought would fail to preserve the special architectural or historical features of the listed building, and would fail to preserve or enhance the character or appearance of the conservation area. Accordingly, the appeal schemes conflict with Policies HB1, HB8 and HE1 of the *Places and Policies Local Plan Adopted September 2020* (LP) which, amongst other aims, seek to grant permission for proposals which are consistent with their conservation and their significance. It would also conflict with the Policies of the Framework, including Paragraph 199 which sets out that great weight should be given to an asset's conservation.

### **Other Matters**

16. The Appellant has suggested that the personal circumstances of the occupiers should justify allowing the appeal. They also point to the arbitrary nature of the Council's enforcement (or potential formal enforcement) in this case when other examples exist of uPVC windows. In terms of the latter, and how the local planning authority exercises its powers, is a separate matter for the Council to consider. I also note the various changes that have occurred to the crescent as identified in the Appellant's spreadsheet. Nonetheless my remit is to consider the schemes before me, which I have done.

17. In terms of other matters raised, I have considered the effect of the works in light of local and national planning policies and legislation and found that harm would arise which cannot be mitigated. I do not find that these matters provide justification for the approval of the scheme before me.

### **Conclusion**

18. Appeal A conflicts with the adopted development plan and there are no material considerations that indicate a decision otherwise than in accordance with it. Appeal B would fail to preserve the special architectural and historical features of the listed building.
19. For the reasons given above in this decision letter, I conclude that both appeals should be dismissed.

*C Parker*

INSPECTOR