
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

Appeal Ref: APP/L2250/W/22/3290974

Flat 5, 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 Kate Toumazi against the decision of Shepway District Council.
 - The application Ref 21/1934/FH, dated 17 September 2021, was refused by notice dated 15 November 2021.
 - The development is described as '*retrospective consent for renewal of replacement doors and installation of glazed balcony guard*'.
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Appeal Ref: APP/L2250/Y/22/3290973

Flat 5, 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 Kate Toumazi against the decision of Shepway District Council.
 - The application Ref 21/1954/FH, dated 17 September 2021, was refused by notice dated 15 November 2021.
 - The works are described as '*retrospective consent for renewal of replacement doors and installation of glazed balcony guard*'.
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Decision

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 and stainless steel framed glass balcony screening were installed. 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 these appeals.

4. There is another separate appeal (ref 3290982 and 3290985) 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 Issues

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 an attic-level flat at 11 Clifton Crescent which is a 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 villa¹ in a grand Italianate 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 doors and installation of glazed balcony guard at Flat 5. There is limited evidence as to what was present before these were installed. Nonetheless, given the age of the building it is likely that uPVC French-style doors and the opening contained therein are not original features of the building.
8. At some point in the building's past (maybe the 1980s as suggested by the Appellant) a balcony area was formed on the roof of the second floor bay. It is not possible to be certain on the basis of the evidence before me when the stainless steel appearing balustrade with glass inserts was erected. Nonetheless, there are schemes before me which require determination.
9. In terms of the uPVC doors, they have a heavy aesthetic with both the glazing and their surrounds appearing dominant. By contrast, timber doors tend to be considerably thinner than uPVC alternatives. When viewed in relation to the rest of the building and the crescent, with numerous examples of timber sliding sash windows, the visual incongruity and oddness is further compounded.
10. Similarly, the balustrade appears as visually prominent feature when viewed both in terms of the appeal building and the wider crescent. It is true that there are some limited examples along the crescent where flat roofs have been converted into balconies – for example stainless steel and glass at No 21, white painted metalwork and glass at No 23. However, the black painted metalwork balustrades without glass inserts, for example found at the adjacent No 9, echo the appearance of the ironwork balconies found at No 11 on the ground floor. By contrast, the thick stainless steel balustrade and glass inserts detract from the significance of the listed building. As such, they fail to preserve the special interest of the listed building.

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

11. I therefore find that the replacement doors and installation of glazed balcony guard 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). 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.
12. 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. However, it is unclear as to how the stainless steel-like material and glass would be any greater at dealing with this environment than black painted metalwork for example.
13. I also note that uPVC doors and 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.
14. 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.
15. Accordingly, the appeal schemes conflict with Policy HE1 of the *Places and Policies Local Plan Adopted September 2020*, 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, openings and glass balustrades. How the local planning authority exercises its powers is a separate matter for the Council to consider.
17. 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.
18. 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

19. 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.
20. For the reasons given above in this decision letter, I conclude that both appeals should be dismissed.

C Parker

INSPECTOR