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# Appeal Decision

Site visit made on 28 March 2023

**by Alison Fish BA (Hons) DipTP MRTPI**

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

**Decision date: 21 April 2023**

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**Appeal Ref: APP/D1265/W/22/3309112**

**Flat 3 Dorchester Apartments, 5-7 Westerhall Road, Weymouth DT4 7SZ**

- 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 Mr Phillips against the decision of Dorset Council.
  - The application Ref P/FUL/2022/00075, dated 6 January 2022, was refused by notice dated 19 April 2022.
  - The development proposed is described as 'install replacement windows to property'.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. I have used the site address given on the appeal form as it appears to more accurately reflect the address of the appeal property.

## Main Issue

3. The main issue in this appeal is whether the proposed development would preserve or enhance the character or appearance of the appeal building as a non-designated heritage asset and the Weymouth Town Centre Conservation Area.

## Reasons

4. The appeal site is located within the Weymouth Town Centre Conservation Area (CA). The CA is divided into five sub areas, each with an identifiable physical character. The sub area of Northern and Southern Greenhill including Westerhall encompasses the appeal site.
5. It is characterised by large detached villas, large semi-detached pairs and terraces. Grand buildings are located in prominent junction locations and there is a wealth of original features and detailing including windows. The CA therefore gains some historic value and significance from this concentration of period buildings in one of its sub areas, as it provides a repository of bygone styles, fashions, materials and townscapes.
6. The appeal site relates to a ground floor flat in the Dorchester Apartments, which is made up of three distinct architectural elements. The principal building when viewed from the west, is recorded in the Weymouth Town Centre Conservation Area Character Appraisal (adopted December 2012) ('CACA') as an important local building known as 'Westers' noting that it is a late Victorian detached villa, with French Empire detailing. In fact, this building is attached to Number 5 Westerhall Road, one half of a semi-detached pair of villas known as

4 and 5 Westerhall Road, by way of a twentieth century brick linking building. Together, the principle building, Number 5 Westerhall Road and the twentieth century link make up the Dorchester Apartments.

7. The appellant questions the accuracy of the CACA by pointing out that it records the principal property as being detached and Numbers 2, 3 and 4 Westerhall Road being three detached houses, where they are in fact semi-detached properties. This is clearly an error but in my view it does not detract from their inclusion in the CACA as important unlisted buildings given that they form an attractive grouping displaying many original features and details.
8. The windows the subject of the appeal are in the part of the building identified as Number 5 Westerhall Road. The windows are in well proportioned openings and have an elegance to them. They appear to be original, being single glazed, timber sliding sash windows with a slim profile and horn detailing. Even if they are not the original windows, they clearly display the detail and form described in the CACA<sup>1</sup> being of vertical sashed form and as such, positively contribute to the character and appearance of the host building and the wider CA.
9. By contrast, the proposed windows would be double-glazed casement design with an outwards opening lower section. The UPVC frames would have a much thicker profile than the existing windows. They would appear chunkier and heavier, lacking the detail and slim form of the existing timber fenestration. For these reasons I do not agree with the submitted Design and Access Statement which states that the scale and visual appearance of the windows would be unchanged. The replacement windows would be clearly discernible as UPVC casement windows for the reasons I have set out.
10. I find that the proposed windows, by virtue of their design and detailing would result in moderate harm to both the character and appearance of the host building as a non-designated heritage asset and the wider CA. As such, the proposal would fail to preserve the character and appearance of the CA.

### **Heritage Planning Balance**

11. The moderate level of harm that would occur would be 'less than substantial' within the meaning of the National Planning Policy Framework (the Framework). Policy ENV4 of the West Dorset, Weymouth and Portland Local Plan 2011 – 2031 adopted October 2015 (LP) and Paragraph 202 of the Framework requires such harm to be weighed against the public benefits of the proposal. However, less than substantial harm should not necessarily be equated with less than substantial planning objection when the statutory test in the Act<sup>2</sup> that seeks to preserve the character and appearance of a CA has not been met.
12. The appellants reasons for seeking to replace the existing windows are understood and include improving the thermal efficiency of the property, reducing maintenance and improving safety and sound insulation. However, I am not persuaded that the proposed windows are the only solution to the issues highlighted by the appellant.

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<sup>1</sup> Page 88 of the Weymouth Town Centre Conservation Area Character Appraisal

<sup>2</sup> Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

13. The Heritage Statement and Design and Access Statement<sup>3</sup> states that the existing windows are in a poor condition. I saw that the windows were in need of some maintenance and repair to ensure a better fit, but they did not appear to be beyond reasonable economic repair. In fact, their maintenance and repair may well be less costly than replacement. The same document also refers to the proposed windows having increased longevity versus timber and that they have a slimmer profile than timber but I have seen no evidence to convince me that this is the case.
14. The appellant has dismissed the use of secondary glazing but thermal efficiency can be improved by other means such as the installation of draught strips, shutters and thermal curtains and I am not persuaded that all measures to improve the thermal efficiency of the existing windows have been exhausted.
15. The appellant refers to opting for the proposed windows over UPVC sash windows, for example, as they are better for keeping noise out and heat in, but I have no evidence to substantiate this.
16. The appellant acknowledges that most cars, driven normally, do not result in excessive noise within the property and I observed this at my site visit. The appellant refers to excessive noise from speeding cars and loud exhausts but I have no details before me as to the frequency of these events.
17. The rear elevation of the appeal property is set well back from the road and footway which passes the site. However, even from here the thicker frames of the UPVC casement windows on the rear of Number 4 Westerhall Road were clearly visible and as such, I find that the proposed windows would be equally discernible when compared to timber sliding sash windows in other parts of the building. The same is also true of the proposed windows in the front elevation which is only partially obscured by the existing boundary hedge and positioned closer to the footway.
18. The appeal building has been sub-divided into several flats. I saw that a number of the original windows had been retained but there were also a number of replacement windows. In particular, the lower ground floor (those partially located below the level of the car park) all had UPVC casement windows with horn detailing. I also saw that 4 Westerhall Road, attached to the appeal building, had UPVC casement windows. I therefore have some sympathy for the appellant in seeking to replace the existing windows in the manner proposed.
19. However, far from justifying the proposed windows at the appeal site, these examples seek to highlight the impact that inappropriate windows can have on the historic integrity of a building and the wider CA. The CACA refers to replacement windows in the CA tending to be UPVC noting that even where replacements follow historical proportions, they lack the detailing of the originals and this is what I observed.
20. Section 72 (1) of the Listed Buildings and Conservation Areas Act 1990 requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of the CA and Paragraph 199 of the Framework requires great weight to be given to the designated heritage assets' conservation.

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<sup>3</sup> Prepared by Anglian Home Improvements

21. Therefore, giving great weight to the conservation of the designated heritage asset, I consider that the less than substantial harm I have identified would not be outweighed by any public benefits. Accordingly, the appeal proposal would conflict with Policies ENV4, ENV10 and ENV12 of the LP which amongst other things seek high quality design which contributes towards maintaining local identity and distinctiveness and conserving the significance of designated and non-designated heritage assets. There would also be conflict with Paragraph 200 of the Framework as the harm to the designated heritage asset would not have clear and convincing justification.

### **Other Matters**

22. The appellant refers to the manner in which the Council determined the planning application. However, this relates essentially to procedural matters rather than to the planning merits of the proposal, which is the substantive matter relevant to this appeal.
23. I note that the appeal proposal received no objections from the Town Council and the elected Ward Member but this does not override the harm I have found in respect of the main issue.

### **Conclusion**

24. The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal has failed.

*Alison Fish*

INSPECTOR