
Appeal Decision

Site visit made on 30 May 2023

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 June 2023

Appeal Ref: APP/U1430/W/22/3311292

49 & 49a Devonshire Road, Bexhill-on-Sea, TN40 1BD

- 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 Mrs Vandy Seng against the decision of Rother District Council.
 - The application Ref RR/2022/64/P, dated 12 January 2022, was refused by notice dated 6 September 2022.
 - The development proposed is described as replacement of existing timber sash windows and frames with uPVC sliding sash windows and frames.
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Decision

1. The appeal is dismissed insofar as it relates to the replacement of existing timber sash windows and frames with uPVC sliding sash windows and frames on the front elevation of the building. The appeal is allowed insofar as it relates to the replacement of existing timber sash windows and frames with uPVC sliding sash windows and frames on the rear elevation of the building at 49 & 49a Devonshire Road, Bexhill-on-Sea, TN40 1BD, in accordance with the terms of the application, Ref RR/2022/64/P, dated 12 January 2022, and the plans submitted with it, so far as relevant to that part of the development hereby permitted and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans insofar as they are relevant to the development hereby permitted: 1135- LBP, 1135-1, 1135-2, 1135-3 and 1135-EX.
 - 3) Prior to manufacture and installation, 1:2 vertical and horizontal sections of the proposed windows and wall build up showing the relationship between the two shall be submitted to and approved in writing by the local planning authority. Once approved the works shall be carried out in accordance with the approved details and retained as such thereafter.

Preliminary matter

2. In their appeal statement the appellant has suggested the use of 'Ultimate Rose' uPVC windows as an alternative to 'Heritage Rose'. However the design detailing and appearance of replacement windows that may affect the significance of a heritage asset is not something that can be dealt with by condition. Accordingly, as the council has not formally considered the merits of

using 'Ultimate Rose' windows and they have not been subject to public consultation, I am unable to take them into account in the determination of this appeal.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the Bexhill Town Centre Conservation Area (BTCCA).

Reasons

4. The BTCCA is located between the coast and the railway line. It is laid out in a grid pattern and was developed as a seaside town in the late C19th and early C20th. Devonshire Road occupies a central position within the BTCCA and links the railway station and the coast, including the De La Warr Pavilion. It also comprises the widest road within the BTCCA and is a principal commercial road. The road is flanked by late Victorian and Edwardian terraces and the individual buildings include a varied range of materials and detailing. Their front elevations include a mixture of red brick, render, stone and stucco detailing, slimline timber sash windows and a combination of 'Dutch' and triangular gables.
5. There are a number of more recent developments along Devonshire Road and most of the original shopfronts have been replaced or modernised. However, the upper floor front elevations of the Late Victorian and Edwardian buildings, which are prominent within the street scene, have largely retained their form and detailing, including the retention of a good proportion of the slimline sash windows. They make a valuable contribution to the character and appearance of the BTCCA and its historic, cultural and aesthetic significance.
6. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that when assessing proposals for new development within a conservation area, special attention shall be paid to the desirability of preserving or enhancing its character or appearance.
7. The National Planning Policy Framework (the Framework) promotes sustainable forms of development and paragraph 126 advises that design is a key aspect of sustainable development. Section 16 of the Framework deals with heritage assets. It states that when considering the impact of a development on the significance of a designated heritage asset great weight should be given to its conservation. Any harm should require clear and convincing justification. Where a proposal would lead to less than substantial harm to a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
8. Consistent with this and amongst other things, policy EN2 of the Rother Local Plan Core Strategy 2014 (Core Strategy) seeks to reinforce the special character of historic towns. To preserve and ensure clear legibility of local vernacular building forms, features, setting and materials, including forms specific to historic building typologies. Core Strategy Policy BX2 states that the strategy for Bexhill Town Centre includes ensuring that development and change respects and where appropriate enhances the Victorian/Edwardian character of BTCCA.
9. The council has stated that the existing windows have benefitted from little maintenance for a prolonged period and have produced photographs that show

that the outside of the windows were in good repair up to 2009. An additional glazing rail was added to one window by 2011, which suggests a deterioration and since then the windows have continued to deteriorate. Paragraph 196 of the Framework states that where there is evidence of deliberate neglect of a heritage asset, the deteriorated state of the building should not be taken into consideration in any decision.

10. The appellant has stated that the appellants purchased the building in 2016, when it was already in a poor state and have been slowly bringing the building back to life. Replacement windows are the final part to this process and they are proposing to use high quality heritage uPVC windows and have sought to follow the correct process. They started the process of seeking suitable replacement windows in 2020/21.
11. It is clear that the existing windows have been left to deteriorate over a period of time, although there is little evidence to demonstrate that the windows have been deliberately neglected in the hope of making permission easier to gain for uPVC replacement windows. Particularly as uPVC replacement windows are evident within the BTCCA.
12. It is acknowledged that a number of older buildings along Devonshire Road and elsewhere in the BTCCA have uPVC replacement windows. However, in the vicinity of the appeal property traditional slimline timber sash windows remain a distinctive and characteristic feature of older buildings.
13. The appeal building is located within the southern part of Devonshire Road and comprises a three and a half storey late Victorian/early Edwardian building with a first-floor bay window, 'Dutch' gable and timber sash windows above a ground floor cafe. Whilst the shop front has been changed, the detailing on the upper front elevation has been retained and it continues to have timber sash windows, other than within the 'Dutch' gable. Such features contribute to the character and appearance of the street scene and the BTCCA, although due to their poor condition the existing sash windows have a degrading impact both on the building and its immediate setting.
14. The design of the proposed uPVC sash windows would reflect that of the existing first and second floor windows and include the replacement of the existing gable window. However, the framing and detailing of the proposed uPVC sash windows would be bulkier than the existing timber sash windows. As indicated in the submitted evidence the mid-rail meeting bars would be approximately 4mm wider and the glazing bars would be 9mm wider.
15. Whilst the increase in the mid-rail would be modest, the increased width of the glazing bars would be material. Also, from the details submitted the windows would butt up to the sides of the apertures, rather than being set within them. As a result, the windows would appear uncharacteristically bulky from the street scene, particularly in view of the slim lines of the existing timber sash windows in the immediate area. The reflective qualities of the double glazing and the use of uPVC, which would be discernible despite its textured finish, would serve to draw attention to the bulkier frames.
16. For these reasons the proposed replacement windows on the front elevation of the appeal building would fail to preserve and ensure clear legibility of local vernacular building forms, features, setting and materials, including forms specific to historic building typologies. They would not preserve the historic

character and appearance of the street scene and the contribution it makes to the character, appearance and significance of the BTCCA.

17. I acknowledge that the existing windows have a degrading impact on the appearance of the building and its immediate setting. Also, the proposal would restore uniformity in the front elevation with the replacement of the gable window. However, from the limited evidence submitted I am not convinced that the proposed windows are the only possible and viable glazing solution for the building. As such I give only a modest amount of weight to the condition of the existing windows, which would not outweigh the harm that would be caused by the bulk of the proposed window frames.
18. To the rear of the appeal property is Eversley Road which is primarily characterised by a variety of large detached and semi-detached late Victorian and Edwardian dwellings. Many of the dwellings appear to have been altered over the years and this includes a significant number of replacement windows.
19. Although the appeal building and terrace is largely screened from Eversley Road, they are visible from a car park located between two of the dwellings that front onto the highway. They are also visible from a distance within the street scene to the front of the carpark. The rear elevation and fenestration of the appeal building and the terrace are more varied than the front elevation and include a number of replacement windows of various designs and includes some uPVC windows. As a consequence, the fenestration in the rear elevation of the appeal building, the terrace and the nearby dwellings lack the same sense of unity and consistency of the windows on the front elevation of the appeal building and the street scene in Devonshire Road.
20. The proposed 'Heritage Rose' replacement windows would dilute the historic identity of the rear of the building due to the bulk of the frames, materials and double glazing, although from public vantage points this would not be evident. They would simply add to the diverse range of replacement windows in the immediate area. They would also bring about an improvement in the condition of the rear elevation of the appeal building.
21. For these reasons I find that the proposed replacement windows on the rear elevation would respect the character and appearance of the existing terrace and would have neutral impact on the significance of the BTCCA. In this respect the proposal would comply with Core Strategy Policies EN2 & BX2 and Section 16 of the Framework. This would be subject to adherence to the submitted drawings and approval of a further drawing showing the vertical and horizontal sections of the windows and their relationship with the walls of the building. These are matters that could be satisfactorily secured through the imposition of conditions. However, this would not outweigh the harm to the significance of the BTCCA that would be caused by the proposed replacement windows at the front of the appeal building.
22. Whilst this overall harm to the significance of the BTCCA would be less than substantial, it nonetheless needs to be weighed against the public benefits that would result from the scheme. The proposed replacement windows would improve the physical condition of the building, improve its energy efficiency and reduce maintenance costs during the life of the windows. At the end of their life the uPVC could be recycled. In addition, the proposed windows are less expensive than the double-glazed timber replacement windows for which the appellant has submitted quotes.

23. As a consequence, the proposed windows would potentially enhance the viability of the building and help to secure its future, whilst also addressing climate change. Despite this, insufficient evidence has been submitted to demonstrate that there are no more sensitive solutions which would be viable and similarly deliver other public benefits. In reaching this conclusion I have taken into account the support expressed for the scheme by Bexhill Heritage.
24. Finally, the appellant and the council have referred to various buildings which have uPVC replacement windows and two appeal decisions. With regard to the scheme in Park Road that proposal related to Roseview Ultimate windows. Rather than set a precedent they serve to highlight the need to determine each proposal in accordance with the prevailing planning policies and in light of its individual merits.
25. For these reasons I conclude on the main issue that the overall proposal would unacceptably harm the character and appearance of the BTCCA and that the resultant harm to the significance of the BTCCA would not be outweighed by public benefits. Accordingly, the proposal would conflict with Core Strategy Policies EN2 and BX2 and Section 16 of the Framework.

Other matter

26. The appellant has expressed concern regarding a lack of consultation with the council's heritage officer during the processing of the appeal application. This is not material to the merits of the scheme and is something that the appellant could take up directly with the council.

Conclusion

27. In view of the acceptability of the use of the proposed replacement windows on the rear elevation of the appeal building I have considered the appropriateness of issuing a split decision. In this instance this would be possible and appropriate as the front and rear elevations are physically and visually independent.

Elizabeth Lawrence

INSPECTOR