



Appeal Decision

Site visit made on 26 April 2024

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th June 2024

Appeal Ref: APP/Z2260/W/23/3329037

Flat 2, 46 Westgate Bay Avenue, Westgate-on-Sea, Kent CT8 8SN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Miss Vivienne Hughes against the decision of Thanet District Council.
 - The application Ref is FH/TH/23/0606.
 - The development is the replacement of wooden sash windows to Ultimate Rose Roseview sash windows.
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Decision

1. The appeal is allowed and planning permission is granted for the replacement of wooden sash windows to Ultimate Rose Roseview sash windows at Flat 2, 46 Westgate Bay Avenue, Westgate-on-Sea, Kent CT8 8SN in accordance with the terms of the application, Ref FH/TH/23/0606, and the plans submitted with the application.

Application for costs

2. An application for costs was made by Miss Vivienne Hughes against the decision of Thanet District Council and is the subject of a separate decision.

Procedural Matters

3. The development has been completed and the appeal windows appear to match those shown on the submitted drawings. As such, I have assessed the appeal development on this basis. For conciseness I have used the shorter description of development in the appellant's appeal form for the banner heading above.
4. Submitted with the appeal are site survey documents from window installation companies regarding. These documents do not alter the appeal development and the Council and interested parties have had the opportunity through the appeal process to make representations on them. Therefore, neither the Council's interests nor those of third parties would be unfairly prejudiced by me taking them into account in assessing the appeal.
5. The Westgate-on-Sea Town Council Neighbourhood Development Plan 2021-2040, Made 12 October 2023, ("the NP") is now part of the development plan. The main parties have had an opportunity to provide comments on the relevance of the NP to this appeal. Therefore, I am satisfied that no unfair prejudice would arise by me taking account of the NP in determining this appeal.

6. The Government published a recently revised National Planning Policy Framework ("the Framework"). Compared to the previous iteration of the Framework, there are no changes relevant to the substance of the appeal development. Therefore, I am satisfied that the parties will not be prejudiced by the changes to the national policy context. All references to the Framework in this appeal relate to the revised document.

Main Issue

7. The main issue in this appeal is whether the development preserves or enhances the character or appearance of the Westgate-on-Sea Conservation Area ("the CA").

Reasons

8. The heritage significance and special interest of the CA appears to be derived from the period style residential buildings that are concentrated in this area of the settlement. They include large grand residential buildings set close to the seafront and comparatively smaller buildings set further away from it, that are mostly tightly spaced and front on to a grid-like street pattern. These buildings are predominantly built to traditional architectural styles and from traditional materials, and often feature bay windows extending across multiple floors, sash style windows and well-detailed exteriors.
9. UPVC windows are identifiable in a number of buildings in the CA, mostly those of a non-sliding sash style. However, timber sliding sash style windows appeared to be the predominant style of fenestration in the CA, reflecting the materials and methods prevalent at the time of construction. They complement the authenticity and architectural integrity of the attractive period style buildings in the CA. Together, these elements combine to give the area a traditional and formal suburban character and appearance.
10. In determining this appeal, it is my statutory duty under s72(1) of the planning (Listed Building and Conservation Areas) Act 1990 ("the Act"), to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
11. The appeal building is set within a row of predominantly tall, period style buildings of broadly similar scales, forms and proportions, that are set in tightly spaced rows. These buildings feature tall bays across several floors and traditional materials and detailing. The installation of a number of non-sash style windows with unequal sized panes and opening louvres to Number 48, and sliding sash UPVC windows to the top floor of Number 46, has diluted the authenticity of the design and materials of these buildings. Furthermore, this mixed styles of windows contrasts with the symmetrically matching pattern of sash style timber windows in the façade of numbers 42 and 44. Nonetheless, timber sash style windows, including the pre-existing timber windows in the appeal property, contribute positively to the authenticity of the buildings and to the significance and special interest of the CA as a whole.
12. The UPVC window frames the subject of this appeal substantially replicate the traditional sliding sash design, dimensions and frame proportions of the pre-existing timber sash frames, and the windows in the bay above. They do not appear clunky or heavy and are relatively matt in finish. Seen in long and medium distance views, the appeal windows were largely indistinguishable in

all significant respects from the timber sliding sash windows in the bay above and on nearby properties, and from the pre-existing timber windows in the submitted photographs.

13. However, in close distance views the UPVC appeal windows have a crisper and more precise appearance to their frames than the equivalent timber sash frames within the locality, including those in the bay above and those at Numbers 42 and 44. This machine-made appearance is emphasised by the narrow trickle vents to the outer frames. The visible differences between the UPVC frames of appeal windows and the existing timber sash window frames are not jarring or stark, and are diminished in context by the mixture of window styles in the buildings at Numbers 46 and 48. However, it is nonetheless discernible in close distance views and would be expected to be most noticeable from the interior of the appeal property.
14. The change in material brought about by the replacement of the pre-existing timber frames with UPVC window frames has therefore caused a modestly harmful change to the traditional character and appearance of the host building. It has introduced a relatively modern material to the CA that has eroded the authenticity of the architectural materials and construction methods of the building. Therefore, it has caused a modest degree of localised harm to the significance of the CA as a designated heritage asset.
15. Several examples of planning permissions granted by the Council for UPVC window frames on buildings in the CA are submitted in evidence. However, decisions on replacement windows in the CA are highly context specific, as evidenced in the Officer Reports accompanying those decisions. In any case, I am not bound by those decisions which pre-date the Thanet District Council Local Plan, Adopted July 2020 ("the TDCLP"). Therefore, the planning permissions brought to my attention have limited relevance and weight in favour of the appeal development.
16. For these reasons, the appeal windows fail to preserve the character or appearance of the CA as a designated heritage asset. As such there is conflict with Policies HE02 and QD02 of the TDCLP, and NP Policy WSNP7, which seek to ensure that development respects the character of the original building, preserves or enhances the significance of heritage assets, including through use of appropriate materials and detailing, and retains features that contribute to the character or appearance of the conservation area. Although stated in the Council Officer's report, but not included in the reason for refusal, for the same reasons the appeal windows conflict with TDCLP Policy SP36, insofar as it seeks to protect the historic environment.
17. In terms of the Framework the appeal windows conflict with Paragraphs 135 and 139, which state that development should be sympathetic to local character and history. The harm to the CA, whilst relatively modest and localised in extent, nonetheless amounts to 'less than substantial harm' as set out in the Framework. In accordance with the Framework great weight should be given to the conservation of the CA as a designated heritage asset. Any harm requires clear and convincing justification and is a matter of considerable importance and weight. Paragraph 208 of the Framework requires me to weigh this harm against the public benefits of the development.
18. The evidence indicates that the appellant has made a number of attempts to replace the pre-existing timber windows with equivalent timber framed sliding

sash style windows. The appellant entered a contract with a window installation company for the like-for-like replacement of the pre-existing windows with Softwood windows and a deposit was paid. However, following a site survey the company cancelled the contract as it was unable to provide replacement timber sash windows within a structurally supporting bay.

19. The appellant placed an order for hardwood sliding sash windows with a second window installation company and a paid a deposit. However, the evidence shows that this contract was changed to substitute hardwood frames for UPVC as the evidence suggests that the window installer's surveyor would not approve the installation of timber windows owing to concerns over their structural capability of safely bearing the load of the bay window above.
20. The pre-existing timber windows may well have been in situ for a long period of time and there is no evidence to suggest they were not bearing the weight of the bay above. However, the evidence before me from the window installation companies raises significant concerns over the ability of timber framed windows to safely withstand the loading of the bay above. I have limited substantive evidence to dispute the findings of the FENSA approved window companies' surveyors or their expertise.
21. Despite photographs of the pre-existing timber windows, I have limited substantive evidence concerning their conditions prior to removal. In the face of the appellant's evidence from the window installation companies, I have no substantive authoritative evidence to the contrary to demonstrate that replacement timber windows would be capable of safely bearing the load of the bay above. I therefore cannot be assured with sufficient certainty that the pre-existing timber windows could have been replaced by timber units. On balance, it is unlikely in this instance that the appellant would have been able to replace the pre-existing timber window units with equivalent timber units, even though this was their intention as evidenced by entering contracts and paying deposits to installers.
22. In this scenario, the evidence suggests that the deterioration of the pre-existing timber windows would have placed the appellant in a difficult position, caught between being unable to fit timber windows for structural reasons and being unable to fit UPVC window frames based on the Council's stance on the planning application. In that scenario the pre-existing windows could have reached such an advanced stage of deterioration as to leave the appeal property open to the elements or uninhabitable. The resultant decline in the condition of the appeal property could have left it unviable for occupation and could potentially have caused wider environmental and social harms to the area, such as attracting antisocial behaviour. It would also have been expected to have eroded its contribution to the significance of the CA.
23. Therefore, on the evidence before me, I find that the windows the subject of this appeal have likely prevented the harms that could have arisen from the decline in the appeal property's condition and have secured the continued viable occupation of the building. As such, the appeal windows have delivered a public benefit in favour of the appeal development and the level of harm caused by the appeal windows to the significance of the CA has been clearly and convincingly justified in this instance. Furthermore, the weight I attribute to the public benefits of the appeal development is sufficient in this instance to

outweigh the less than substantial harm caused to the CA as a designated heritage asset.

Conclusion

24. I have found that the appeal window frames fail to preserve or enhance the character or appearance of the CA, contrary to TDCLP Policies HE02, QD02 and SP36, and NP Policy WSNP7. This brings the appeal development into conflict with the development plan when read as whole. In terms of the Framework, the appeal windows harm the significance of the CA as a designated heritage asset and I have given considerable importance and weight to this harm.
25. However, on the evidence before me and on the specific circumstances of this case, the appeal windows have delivered a public benefit sufficient to outweigh the less than substantial harm caused to the CA as a designated heritage asset. This is a material consideration that outweighs the conflict between the appeal windows frames and the development plan. I therefore allow the appeal and as the development has been carried out, it is unnecessary to impose any planning conditions.

G Sylvester

INSPECTOR