
Appeal Decision

Site visit made on 23 January 2017

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 February 2017

Appeal Ref: APP/X2220/W/16/3159690

Land Fronting St Georges Church, High Street, Deal CT14 6BB

- 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 Benoit Dezecot against the decision of Dover District Council.
 - The application Ref DOV/16/00701, dated 9 June 2016, was refused by notice dated 19 August 2016.
 - The development proposed is the change of use of land to facilitate outdoor seating area (8 tables and 16 chairs) in connection with 102 High Street.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address provided on the planning application form has been replaced by a more accurate address on the Council's decision notice. I consider this to be usefully more precise and have thus employed it here.
3. A fuller description of the proposed development has also been given on the planning application form and explains that the site is almost directly opposite Le Pinardier wine shop and bar. The furniture would be for the proprietor Mr Dezecot's customers to use when they visit the establishment and the tables and chairs would be taken in each evening.
4. However, a revised proposal description has been provided on the appeal form. A reduced number of 5 tables and 10 chairs are proposed. This revised proposal also includes a reduction in the amount of time the furniture would be available and it has been put forward on a six month trial period. Although the reduced number of tables and chairs is not reflected on the submitted plans, the revisions to the scheme do not significantly change the proposal and, as such, the revisions would not, in my view, prejudice the interests of third parties. For this reason I have had regard to amendments to the proposed scheme.

Main Issue

5. The effect of the outdoor seating area on staff, pedestrian and highway safety.

Reasons

6. The area comprises a mix of commercial premises and residential uses, alongside St George's Church. The appeal site is an area of publicly accessible open space positioned between the front wall of the church and the pedestrian
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footpath. This part of the High Street has a good number of shops, restaurants, drinking establishments, and forms a continuation of the pedestrianised town centre a short distance to the south. Traffic restrictions are in place either side of the road to prevent parking in the vicinity of the premises, although on-street parking is available further along this highway. I observed that cars and service vehicles travel in both directions at a variety of speeds.

7. I note that regular markets are held at the Town Hall just across the road from the appeal site and at Union Road car park not far from the appeal site. The appellant advises that footfall in the area increases during the holiday season, weekends and on market days and implies that this naturally tames the flow of traffic and gives a pedestrianised impression. It is suggested that at busy times it is difficult to pass along the street without stepping into the road.
8. Whilst traffic patterns may have seasonal variations and differ day by day and throughout the day, I observed this to be a busy area with regular pedestrian and traffic movements. Waiting staff would be required to cross both the pedestrian and vehicular highways to service the seating area opposite. The staff would be carrying plates or trays of food and drink and used crockery and cutlery back and forth across this highway. Attentive servicing and the carrying of items would mar concentration. The potential for accidents to pedestrians, staff and other road users would, therefore, increase with the recurrent movement of staff traversing the highway, irrespective of any fluctuations in pedestrian and traffic movements.
9. I note the appellant indicates that the outside seating area would be operated in a tidy manner with tables cleared quickly once vacated with litter and spillages dealt with throughout the day. Although the use of plastic crockery and non-glass ashtrays would limit potential for broken glass on the highway, there is still the potential for other debris which would require service staff to linger on the highway. This would be a potential hazard to staff and other road users.
10. The appellant indicates that there would be two members of serving staff, one of whom would be dedicated to serving the outdoor seating area. Signs would be put in place within the premises, at the outdoor tables and upon pavement bollards close by, that would indicate table service only with this house rule being verbally reinforced. The appellant also suggests that one or two portable café barriers could be used to define and ring fence the space pertaining to the outside eating area. In addition, it is suggested that the staff member serving the seating area would wear a high visibility garment which, I accept, would make the serving staff more visible. Nonetheless, these measures aimed to prevent patrons from crossing the highway and to increase the visibility of staff to road users would be very difficult, in my opinion, to enforce. Furthermore, this would not preclude patrons visiting the premises of their own volition, potentially to use toilet facilities.
11. I acknowledge that the appellant has obtained a licence from the Council's Licensing Authority for an outdoor seating area for a trial six month period for use between 09:00 to 21:00 every day. The appellant indicates that the premises is usually closed on Mondays and Tuesdays and the outdoor area would not be required during inclement weather and the furniture would be kept inside when not required. Notwithstanding this, I have considered the

effects of the proposed use upon staff and other road users and have taken into account the opinion of Kent Highway Authority. This leads me to conclude that there would be a significant risk to the safety of staff, patrons and other road users. This risk would be present even if a trial period were agreed or if the number of patrons at the outside seating area were reduced to 10.

12. I appreciate the appellant is committed to Deal and has set up successful businesses in the town and wishes to expand this premises in a way that is commonplace on the continent. The outdoor seating area would go some way to meet the increasing local and visitor demand for food and drink options in the town and would contribute to its economy and support local business. It would also add to the vibrancy of the area and expand pavement culture. I accept that the space has been used for fundraising events, art exhibitions and by musicians and that the appellant is willing to vacate the space to facilitate future charity and fundraising events. However, these benefits would not outweigh the harm that I have identified above.
13. For the above reasons the proposed development would be harmful to the highway safety of staff, pedestrians, patrons and other highway users of High Street, Deal, and would be contrary to paragraphs 14 and 32 of the National Planning Policy Framework which seek a safe and suitable access to be achieved for all people, amongst other matters.

Other Matters

14. The appellant considers there is a need to improve signage and vehicle control in the area north of the already pedestrianised stretch of the High Street to support the safety of the public, particularly at the junction where St. George's Road and High Street meet. It is indicated that this area is a highly popular area and is a gateway to the café and shopping area and the appellant suggests that a traffic calming system should be brought into place to safeguard pedestrians and discourage through traffic. Whilst I acknowledge the sentiments of the appellant in respect to increasing pedestrian safety at the town centre, this would be a separate highway matter and beyond the scope of this appeal.
15. I have also considered the impact of the proposal upon the accessibility to public benches in the area and do not consider this would be restricted. Nor do I consider the outdoor seating area would significantly infringe upon the public space or effect passing pedestrians. A number of local people have raised other concerns in relation to the proposal but in view of my conclusion on the main issue, there is no need for me to address these in the current decision.
16. I note the appellant's comment that the area has been linked with on-going anti-social problems but I have no substantive evidence before me that would indicate that such problems would change as a result of the proposed development.

Conclusions

17. For the reasons given above, I conclude that the appeal should be dismissed.

Nicola Davies

INSPECTOR