
Appeal Decisions

Site visit made on 13 June 2017

by **S J Papworth DipArch(Glos) RIBA**

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

Decision date: 23 June 2017

Appeal A: APP/X2220/W/17/3169504 **48 Castle Street, Dover CT16 1PJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr L Del Duca against the decision of Dover District Council.
 - The application Ref DOV/16/01240, dated 26 October 2016, was approved on 6 January 2017 and planning permission was granted subject to conditions.
 - The development permitted is alterations to shopfront and ground floor layout to create separate access to first floor.
 - The condition in dispute is No 2 which states that: The works hereby permitted shall be carried out in accordance with the following approved plans: 160920-P-002 A.
 - The reason given for the condition is: For the avoidance of doubt.
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Appeal B: APP/X2220/Y/17/3169505 **48 Castle Street, Dover CT16 1PJ**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against the grant of listed building consent subject to conditions.
 - The appeal is made by Mr L Del Duca against the decision of Dover District Council.
 - The application Ref DOV/16/1241, dated 26 October 2016, was approved by the Council on 21 December 2016 and Listed building consent was granted subject to conditions.
 - The works proposed are to create new entrance door to front elevation and erection of new partition walls to ground floor.
 - The condition in dispute is No 2 which states that: The works hereby permitted shall be carried out in accordance with the following approved plans: 160920-P-002 A.
 - The reason given for the condition is: For the avoidance of doubt.
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Decision Appeal A

1. I allow the appeal and the planning permission Ref DOV/16/1240 to create new entrance door to front elevation and erection of new partition walls to ground floor at 48 Castle Street, Dover CT16 1PJ granted on 21 December 2016 by Dover District Council, is varied by deleting condition 2) and substituting for it the following condition 2).
- 2) The works hereby permitted shall be carried out in accordance with the following approved plans: 160920-P-003.

Decision Appeal B

2. I allow the appeal and the listed building consent Ref DOV/16/1241 to create new entrance door to front elevation and erection of new partition walls to ground floor at 48 Castle Street, Dover CT16 1PJ granted on 21 December 2016 by Dover District Council, is varied by deleting condition 2) and substituting for it the following condition 2) and adding a new condition 4).
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- 2) The works hereby permitted shall be carried out in accordance with the following approved plans: 160920-P-003.
- 4) Prior to the commencement of works the following details shall be submitted to and approved in writing by the local planning authority and the works thereafter shall be carried out in accordance with the approved details: a) Section drawings at scale 1:10 of the proposed alterations to the floor levels and stair, to include sections and elevations of the upper flight after the landing and any support required there.

Main Issue

3. This is the effect of the proposal on the architectural or historic significance of the listed building and its setting.

Reasons

Preliminary Findings

4. The approved layout shown on the stated drawing 160920-P-002A was an amended proposal, as a result of discussions between the applicant and the Council over what would be acceptable, and omitted a contentious item of work. The conditions to which the appellant objects are those naming drawing 02A, and the appellant seeks a new condition naming a revised drawing 160920-P-003. The effect of this change would be to permit the internal wall layout originally sought, prior to the discussions that took place.

Listed Building

5. The building is listed Grade II and only the listed building consent regime applies to the proposed internal alteration. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The building is within the Dover Castle Conservation Area and section 72(1) of the same Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
6. Paragraph 132 of the National Planning Policy Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. The courts have determined that considerable importance and weight should be given to harm found to the significance of listed buildings.
7. The works proposed would be to form a straight wall closely enclosing the separate entrance hall and stairs, and to demolish a length of wall that presently allows a corridor to the rear alongside the stairs and within the stair enclosure. The amended plan 002A retained this wall and hence resulted in the wash-up area being of the same size as previously, whilst the layout now sought on drawing 003 would result in a larger wash-up and serving area. The Decision in Appeal B turns on the significance of this wall, whether its removal would cause harm to the significance of the building and whether any harm is outweighed by public benefits.
8. The main part of the significance of the listed building resides at the front elevation and its setting within the conservation area along with its neighbours.

Previous internal alterations around the area of the stair and corridor and its relationship with the servery area, with changes in level and the like, have altered considerably the understanding of the original layout. That layout of a corridor alongside and within the stair compartment is not unusual and in this case has been severely compromised by earlier works. There is limited evidence of the age of the wall in question, although the style of architrave and panelling on the stair side do appear of some age.

9. The approved arrangements of the canted wall and the return corners to suit the external door position appear contrived and the Council have not provided historical evidence for this layout. The introduction of the separating fire proof partition would undermine the remaining, but limited, evidence of the layout of the building. The proposed works would make use of an existing later structural system across the width of the building, with a column at the east party wall and another that would be expressed within the servery area.
10. There would be limited harm to the pre-existing layout, but some of that would occur with the approved works. The level of harm is 'less than substantial', a differentiation required between paragraphs 133 and 134 of the Framework. In this case the latter applies and this states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
11. The appellant claims that to retain much the same servery and wash-up area as at present, but reduced to allow for the proposed separate route to upstairs, would reduce the viability of the business and that equipment would not fit. Whilst business preferences carry limited weight, it is clear that the premises are in a prime location between the town centre and the Castle for visitors arriving by train or otherwise going on-foot. The prosperity of the town centre would rely on there being good quality offerings such as this. There is no suggestion that the present use is inappropriate or not the optimum viable use, as some investment would have gone into the initial fit-out for this use.
12. In the balance required by paragraph 134 of the Framework it is concluded that the public benefits do outweigh the limited harm that has been identified and that with a new condition seeking larger scale details of the stair and corridor area as proposed, the alterations would not be contrary to the aims of the 1990 Act or the Framework. For completeness and consistency, the planning permission is varied to name drawing 3 in condition 2). For the reasons given above it is concluded that the appeals should succeed. The permission and consent are varied by deleting the disputed conditions and substituting others.

S J Papworth

INSPECTOR