
Appeal Decision

Site visit made on 15 May 2017

by Claire Victory BA (Hons) BPI MRTPI

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

Decision date: 29 June 2017

Appeal Ref: APP/X2220/W/17/3168253

The First and Last PH, 57-58 East Cliff, Dover, Kent

- 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 Paul McMullan against the decision of Dover District Council.
 - The application Ref DOV/16/01147, dated 29 September 2016, was refused by notice dated 1 December 2016.
 - The development proposed is a roof dormer extension to form sun room, removable camping pod and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for a roof dormer extension to form sun room, removable camping pod and associated works at The First and Last PH, 57-58 East Cliff, Dover, Kent in accordance with the terms of the application, Ref DOV/16/01147, dated 29 September 2016, and subject to the conditions in the attached schedule.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of neighbouring occupiers with regard to privacy.

Reasons

3. The appeal property is a two storey property in use as a public house on the ground floor, and a hostel on the first floor. East Cliff is set in front of the Dover Cliffs with Dover Castle above, and there is no public access to the rear of the terraced properties, which are predominantly residential in use.
4. At the site visit I saw that railings of approximately 1 metre in height have been installed around the edges of the single storey flat roof at the rear of the property. Planning permission was granted in 2012¹ for hostel, which allowed access to part of the flat roof only for means of escape via a ladder. The appeal proposal would allow use of the entire flat roof, and would involve the erection of a rear dormer, accessed by an external staircase from the terrace. The camping pod would be positioned in front of the dormer window at the south-western end of the terrace. Its position in this location would significantly reduce direct overlooking into the rear yard of No 59. The pod would have an obscure glazed window in the western elevation, and thus direct view from within the pod would also be avoided.

¹ Ref 28/04/2012

5. Due to the position of the access way to the side of the appeal property there would be a gap of about a metre between the side of the proposed rear dormer and the common boundary with No 59, the neighbouring property to the south-west. There would be no windows in the side of the dormer but oblique views into the rear courtyard of that property might be possible from the proposed sun room and the balcony area, and the glazed screen at the side of the proposed rear dormer would not extend across the landing. However, whilst there might be some momentary overlooking as people travel up and down the staircase I consider it unlikely that anyone would remain in this location for an extended period of time. Moreover, the Council's suggested condition requires full details of balustrading to the staircase and balcony area serving the rear dormer roof extension to be obscure and imperforate and of a minimum 1.8m in height. This would prevent any undue overlooking of the adjacent yard. In addition, a high brick wall along the length of the rear courtyard between No 61 and No 63 would obscure further views in this direction.
6. There would be direct views from the proposed roof terrace at the appeal property onto a small flat roofed area about 1 metre in width and approximately 3 metres in depth to the rear of No 56 to the north-east, enclosed by timber balustrading. The occupants of that property are currently able look out onto other roof terraces to the north-east and over the flat roof of the appeal property. Furthermore, most properties to the north-east along East Cliff have rear roof terraces, some taking up a large proportion of the rear courtyard. As there is widespread mutual overlooking of neighbouring properties from these terraces, the proposal would not significantly worsen the existing situation.
7. The Council is also concerned that the external staircase and balcony for the rear dormer extension would result in clutter, but they would not be seen from the road, and in any case, conditions could be attached to require the Council's approval of the detailed design and materials, to ensure a satisfactory appearance, in accordance with the Kent Design Guide.
8. For the above reasons I conclude that the proposal would not harm the living conditions of neighbouring occupiers by reason of privacy. The Council did not refer to any development plan policies in the Decision Notice and the officer's report refers to the Council's Core Strategy but does not cite any specific policy in relation to living conditions. Nonetheless there would be no conflict with the National Planning Policy Framework, insofar as it requires a good standard of amenity for all existing and future occupiers of land and buildings.

Other Matters

9. I acknowledge the support from the local business community and some local residents for the proposal, but as I have found that there would be no harm to the living conditions of neighbouring occupiers it is not necessary for me to consider the potential benefits of the scheme in the planning balance.
10. The property lies within the Dover Castle conservation area. The Council has confirmed that as the development would not be seen from public views there would be no harm to the conservation area, and as conditions are to be imposed to control the materials used in the roof terrace, camping pod, staircase and balcony, I concur that the character and appearance of the conservation would be preserved.

11. I have also had regard to the potential for the proposal to set a precedent for similar development within the conservation area, in respect to the camping pod. Whilst each development must be considered on its merits, having regard to the individual circumstances of the site, I consider that as there are few non-residential properties within the terrace and the unusual position set into the cliffs, the proposal is unlikely to result in applications for similar development elsewhere in the conservation area.

Conditions

12. I have found that the proposal would be acceptable, subject to certain conditions, framed with regard to the Planning Practice Guidance. I have imposed a condition specifying the approved plans for certainty. I shall also require samples of external materials for the rear dormer roof extension and camping pod and all external joinery to ensure a satisfactory appearance.
13. Details of boundary treatment, including details of the balustrading to the roof terrace, staircase and balcony, and fenestration within the camping pod are required to safeguard the amenity of neighbouring occupiers. Restrictions in the hours of access to the roof terrace are also required for the same reason.

Conclusion

14. For the above reasons I conclude that the appeal should be allowed.

Claire Victory

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: E001 received 3 October 2016 and P001 received 6 October 2016.
- 3) No development shall take place until samples of materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place until a plan and details indicating the positions, design, materials and type of boundary treatment to be erected has been submitted to and approved in writing by the local planning authority. The boundary treatment shall be completed before the occupation of the development to which those details relate.
- 5) Full details of all external joinery including that to all new windows, doors and external staircase in the form of half or full size cross-sectional drawings (1:10 for the staircase), shall be submitted to and approved in writing by the local planning authority before any works (including window openings) are carried out in accordance with the approved details.
- 6) Access to the roof terrace hereby permitted shall only be permitted for general access between the following hours: 10:00 hours to 21:00 hours Mondays to Fridays, 10:00 hours to 21:00 hours Saturdays and at no time on Sundays and Bank Holidays. Only access for the camping pod, sun room and emergency egress shall be permitted outside of these hours.
- 7) Full details of all proposed balustrading to the roof terrace (which shall be obscure and imperforate) in a scale of no less than 1:10 including materials and finishes, shall be submitted to and approved in writing by the local planning authority before any works are carried out in connection with those details. The works shall be carried out in accordance with the approved details.
- 8) Full details of all the proposed balustrading to the staircase and balcony serving the sun room roof extension hereby permitted (which shall be obscure and imperforate to a minimum height of 1.8 m for the full run of the staircase and to the south-west of the balcony) in a scale of no less than 1:10 including materials and finishes, shall be submitted to and approved in writing by the local planning authority before any works are carried out in connection with those details. The works shall be carried out in connection with those details. The works shall be carried out in accordance with the approved details.
- 9) Full details of the camping pod extension hereby permitted including materials, finishes and fenestration, shall be submitted to and approved in writing by the local planning authority before any works are carried in connection with those details. The works shall be carried out in accordance with the approved details.