Appeal Decision

Site visit made on 4 October 2022

by C Hall BSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 November 2022

Appeal Ref: APP/X2220/D/22/3293653
Nyumba, 2 Short Street, Sandwich CT13 9BN

- 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 Dale Welleton against the decision of Dover District Council.
- The application Ref 20/01211, dated 20 October 2020, was refused by notice dated 14 December 2021.
- The proposed development is for a retrospective application for a sun deck to the top of the existing garden room.

Decision

1. The appeal is allowed and planning permission is granted for a retrospective application for a sun deck to the top of the existing garden room in accordance with the terms of the application, Ref 20/01211, dated 20 October 2020, subject to the following condition:

   1) Unless within 3 months of the date of this decision details of privacy screening to the boundaries of the sun deck are submitted in writing to the local planning authority for approval, and unless the approved details are implemented within 3 months of the local planning authority's approval, the development shall be removed. The privacy screening shall be carried out in accordance with the approved details and retained thereafter.

   In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Preliminary Matter

2. At my site visit, I saw that the development has been completed and I note that the application has been submitted retrospectively. I have dealt with the appeal on that basis.

Main Issues

3. The main issues are the effect of the development on the living conditions of the occupants of adjacent properties in respect of privacy.

Reasons

4. The appeal site relates to a mid-terrace dwelling on Short Street, located in the Walled Town Sandwich Conservation Area. The immediate surrounds are predominantly residential in nature.

5. At my site visit I was able to access the sun deck and closely examine the relationships with surrounding properties. The area currently allows for unobstructed views into neighbouring rear windows and gardens. Whilst there is already an element of mutual overlooking between dwellings, the incidence has been increased as the flat roof is being used as a terrace.

6. The Planning Practice Guidance states that conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects.

7. To this end, I consider that any undue overlooking of adjacent properties could be mitigated through the formation of border screening, such that any adverse loss of privacy would be prevented. There is sufficient space along the boundaries of the sun deck for such elements to be created, and to be constructed at a height that would ensure the protection of the living conditions of the occupants of neighbouring dwellings. The precise location, height and materials to form the screening would be the subject of a condition.

8. I conclude that the scheme would not result in harm to the living conditions of the occupants of adjacent properties in respect of privacy. It would be consistent with the advice in the National Planning Policy Framework (the Framework), which aims to secure safe and healthy living conditions with a high standard of amenity.

Other Matters

9. The Council is of the view that the proposal, including any screening, would not harm the wider character and appearance of the Walled Town Sandwich Conservation Area within which the site is located. I am also satisfied that there would be no adverse impact upon the setting of nearby Listed Buildings. I consider that the significance of the heritage assets would be unharmed.

10. Given the tight-knit relationship of houses in the locality, the existing built form of dwellings already casts a shadow over the rear amenity areas. I consider that the development would not appreciably exacerbate this situation above and beyond that presently experienced.

11. In respect of noise, the extent of the deck is modest and this would limit the scale of the proposal to prevent large gatherings. There is no evidence before me to suggest that noise from the users of the development would increase during unsociable hours or that there have been any anti-social issues in the locality. Of course such occurrences may happen sometimes, but that would be the case for any number of properties in the neighbourhood. Therefore I judge that no demonstrable harm would arise.

Conditions

12. I have considered the imposition of conditions in light of advice in Planning Policy Guidance and the Framework. The development is complete and thus the standard time limit and plans condition are no longer necessary. A condition requiring the submission of privacy screening is necessary to ensure the protection of the living conditions of the occupants of surrounding houses.

Conclusion

13. Based on my findings, the appeal is allowed.

C Hall

INSPECTOR