
Appeal Decision

Site visit made on 24 August 2016

by D A Hainsworth LL.B(Hons) FRSA Solicitor

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

Decision date: 22 September 2016

Appeal Ref: APP/W4705/C/16/3144161
46-48 Duckworth Lane, Bradford BD9 5HB

- The appeal is made by Atiqu Rafiq of A A Pharm, trading as Sahara Pharmacy, under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: 14/00999/ENFUNA) issued by the City of Bradford Metropolitan District Council on 21 January 2016.
 - The breach of planning control alleged in the notice is "The installation without planning permission of externally mounted roller shutters with shutter boxes and guide rails to the front, side and rear elevations of the premises".
 - The requirements of the notice are "Remove the unauthorised roller shutters, shutter boxes and guide rails from the premises."
 - The period for compliance with these requirements is two months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g).
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Procedural matter

1. It was established at my site visit that, as well as relating to the shutters at the appellant's pharmacy, the notice also relates to the shutter at the entrance door at the rear of the property that leads to the solicitors' office on the first floor. The appeal decision relates to this shutter as well.

Decision

2. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to be made by section 177(5) of the Town and Country Planning Act 1990 for development at 46-48 Duckworth Lane, Bradford BD9 5HB consisting of the installation of externally-mounted roller shutters with shutter boxes and guide rails to the front, side and rear elevations of the premises.

Reasons for the decision

Ground (a)

3. The main issues in deciding whether planning permission should be granted for the shutters are their effect on the appearance of the locality and the extent to which they conform with the planning policies and guidance that apply in the circumstances arising in this appeal.
 4. The locality is characterised by parades of ground-floor retail and commercial premises, which have side frontages at corner properties. The pharmacy is a
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corner property that is typical of the area. It has shutters at its front and side, and also at the rear of its side extension. The shutter at the door of the solicitors' office is further back at the rear of the property.

5. Many of the retail and commercial premises in this locality have shutters. The ones I saw at my visit have an inferior appearance to those at the pharmacy. Significantly, in 2014 the Council approved the installation of shutters at the opposite end of the parade containing the pharmacy. The design of the approved shutters is only slightly different to the design of the shutters at the pharmacy. However, the impact of the approved shutters on the locality is more obvious, because of their colour.
6. Policy D1 of the Bradford Unitary Development Plan indicates that the design of development should be well-related to the existing character of the locality. Policy UR3 of the Plan adds that development will be permitted provided that it does not have an adverse effect on the surrounding environment. Policy UDP3 seeks to maintain, and where practical improve, the quality of the built environment.
7. The focus of the Council's attention in the appeal is on the shutters on the front and side elevations of the pharmacy. The Council have not made any particular observations about the shutters at the rear of the side extension or at the door of the solicitors' office. For the reasons I have given in paragraph 5, I do not consider that any of the shutters to which the notice relates is in conflict with Policies D1, UR3 or UDP3 in so far as their effect on the existing character of the locality or the existing built environment and its quality is concerned.
8. Policy UDP3 also seeks to improve the quality of the built environment, where practical, and this objective is supported by the Supplementary Planning Document "A Shopkeepers Guide to Securing their Premises". This Guide sets out the Council's wish to protect and enhance the appearance of shop fronts in general, whilst acknowledging that there is a balance to be struck between this objective and the provision of effective security measures to protect against criminal activities.
9. The Guide does not rule out external shutters: it states in paragraph 1.2 that they "are unlikely to be acceptable in all circumstances". If the external shutters to which the Council object in this appeal are needed for security reasons, it seems to me that the details of their design and appearance are within the parameters of the Guide. The Council's preference, however, is for internal lattice shutters set back 1m behind toughened windows.
10. The appellant's argument about the need for security is indisputable and is supported by Policy D4, which states that proposals should be designed to ensure a safe and secure environment and reduce opportunities for crime. The premises contain controlled drugs that must be kept under secure conditions. There are also other prescription drugs within the dispensing area that are likely to be a target for thieves. The pharmacy has already been broken into twice, the first occurring before the rear shutter was installed and the second when the side shutter jammed half closed, and it is well known that pharmacies in general are a frequent target for thieves seeking to steal drugs that can be used by them or sold on.

11. Neither party has supplied me with technical information relating to the effectiveness of the shutters that have been installed compared to the Council's preferred alternative. On the face of it, the shutters are an effective deterrent, whereas the alternative may be more likely to attract an attack. In addition, window displays are uncommon in pharmacies and this one does not have one; the alternative would in my view have little visual appeal, since it is unlikely that attractive use would be made of the 1m-space between the lattice shutters and the windows.
12. On balance, I have concluded that there is insufficient justification to withhold planning permission for the shutters. The appeal has therefore succeeded on ground (a) and planning permission has been granted. It has not been suggested that any planning conditions should be imposed in this event and I do not consider that any are required.

Grounds (f) and (g)

13. The notice has been quashed as a result of the appeal's success on ground (a). Grounds (f) and (g) no longer fall to be considered.

D.A.Hainsworth

INSPECTOR