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## Appeal Decision

Site visit made on 28 September 2016

**by Susan Wraith DipURP MRTPI**

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

**Decision date: 27 October 2016**

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**Appeal Ref: APP/W4705/C/16/3149792**

**Land at 342 Great Horton Road, Bradford, West Yorkshire, BD7 1QJ**

- The appeal is made under s174 of the Town and Country Planning Act 1990 [hereafter "the Act"] as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Lala's Restaurant Bradford Ltd against an enforcement notice issued by the City of Bradford Metropolitan District Council.
  - The notice was issued on 15 March 2016.
  - The breach of planning control as alleged in the notice is: The unauthorised installation of two externally mounted roller shutters, roller shutter boxes and guide rails on the north east facing elevation of the building on the land, as shown on the photograph attached to the enforcement notice.
  - The requirements of the notice are:
    - i Remove the unauthorised externally mounted roller shutters, roller shutter boxes and guide rails, together with all associated fixtures and fittings from the building on the land; and
    - ii Make good any resulting damage to the building caused by the removal and works specified in the first step above and restore the building to its former state prior to the installation of the unauthorised works.
  - The period for compliance with the requirements is two calendar months.
  - The appeal is proceeding on the ground set out in s174(2)(a) of the Act. Since an appeal has been brought on ground (a) an application for planning permission is deemed to have been made under s177(5) of the Act.
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### Decision

1. The appeal is dismissed and the enforcement notice is upheld; and planning permission is refused on the application deemed to have been made under s177(5) of the Act.

### Preliminary matter

2. It had been intended that the appeal site visit would be undertaken on an accompanied basis. However, the appellant did not attend. I did not need to enter the premises and proceeded to carry out the visit unaccompanied. I was able to observe the shutters in their closed position from the street. I am satisfied that I have sufficient information to make a decision.

### The appeal on ground (a) and the deemed application

*Planning policies and statutory requirement*

3. The development plan policies to which I have been referred comprise D1, UDP3 and UR3 of the City of Bradford Metropolitan District Council Replacement
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Unitary Development Plan 2005. Taken together these policies seek to ensure that development makes a positive contribution to the environment and quality of life through high quality design; and enshrines the principles of good urban design, is sustainable and does not have an adverse impact upon the surrounding environment.

4. Planning law requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise<sup>1</sup>.
5. National planning policy for requiring good design is set out in section 7 of the National Planning Policy Framework [hereafter "the Framework"]. The Framework states (amongst other things) that good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. One of the core planning principles set out in the Framework is to always seek to secure high quality design. The Framework is an important material consideration for this appeal.
6. The development plan policies referred to above pre-date publication of the Framework. However, they are in general conformity with it and remain capable of carrying substantial weight in decision making.
7. In order to provide guidance on what is meant by high quality and sustainable design, insofar as measures for shop security are concerned, the Council has produced a Supplementary Planning Document "A Shopkeepers Guide to Securing their Premises" [hereafter "the SPD"].
8. The SPD is a further material consideration for the appeal. The SPD aims to protect and enhance the appearance of the District's high streets, centres and shopping parades to ensure they remain attractive and welcoming places whilst still providing for effective security measures. The SPD sets out, amongst its design principles, a strong presumption against solid external roller shutters and external shutter boxes.

#### *Main issue*

9. Having regard to the planning policies and submissions made by the parties I consider the main issue in this appeal to be the effect of the shutters, shutter boxes and guide rails upon the visual amenity of the area.

#### *Effect upon visual amenity*

10. The main façade of the appeal property is to Great Horton Road whereas the shutters are positioned upon its north east side elevation which fronts Summerseat Place, a single width access road. From here the appeal property is seen to form the end section of a terrace of (otherwise) residential properties the principal elevations of which collectively front Summerseat Place.
11. To the opposite side of Summerseat Place is a pleasant area of open space containing mature trees, grassed areas and shrubbery. The open space is crossed by a footpath which runs generally in alignment with the terrace at a lower level.
12. The shutters, shutter boxes and grilles can be clearly seen in views from Summerseat Place and also from the open space to the opposite side of the

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<sup>1</sup> S38(1) and (6) of the Planning and Compulsory Purchase Act 2004 and s70(2) of the Town and Country Planning Act 1990.

access road, and from the footpath which crosses it when looking upwards below the tree canopies and between the trees. In these views the shutters and their fixings appear as prominent and incongruous features upon the stone elevation of the traditional terrace with its domestic scale window and doorway openings. Their upper sections, including the shutter boxes, are clearly visible above the open slatted timber fence which encloses the area to the front of the openings. They protrude from the simple elevation and fail to integrate with the building's architecture. When closed they are of solid, blank and unwelcoming appearance starkly contrasting with the active frontages of the residential properties in the remainder of the terrace.

13. In these respects the development fails to accord with the SPD and its strong presumption against solid shutters and externally mounted shutter boxes. It has a harmful effect upon the visual amenity of the street scene and is contrary and policies D1, UDP3 and UR3 of the Replacement Unitary Development Plan.

*Other matters*

14. I saw, at my site visit, that a number of other shops and premises in the area had security shutters of various designs. Some of these were recessed and appeared to reflect the design advice of the Council's SPD. Others were of solid form with externally affixed shutter boxes and rails similar to those at the appeal property. Additionally, the appellant has made reference to shutters elsewhere on the appeal building against which (it says) the Council has taken no action.
15. I have no information about the planning and enforcement history of these other shutters. However, I do not consider the presence of other externally mounted boxes and solid shutters in the area (either singularly or collectively) justify the appeal development. The Council has recognised the design shortcomings of these types of shutters. It is seeking to raise design standards and has produced guidance through its SPD on how good design and security can be achieved together. The SPD accords with government's overriding policy for requiring good design and should be supported as a general rule.
16. I acknowledge that the appellant has security needs for the property. However, having regard to the SPD and the various design solutions set out therein, I am not persuaded that the use of solid shutters housed in external boxes is the only way that the necessary level of security can be achieved.
17. The enforcement notice requires the building to be restored to its former state. Whilst, from the appellant's photograph, it appears the openings were boarded this is preferable to their concealment by the externally applied shutters, shutter boxes and rails. The photograph also shows the land in front of the openings to have been unkempt. However, I cannot see that its tidier condition is dependant upon these particular shutters.
18. I have taken into account all matters raised but there are no matters which sufficiently justify the development and outweigh the harm I have identified in my consideration of the main issue. The development does not accord with the cited policies of the development plan. The appeal on ground (a) fails.

## **Conclusion**

19. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with correction and refuse to grant planning permission on the deemed application.

*Susan Wraith*

Inspector