The Planning Inspectorate

Appeal Decision

Site visit made on 4 October 2016

by Paul Freer BA (Hons) LLM MRTPI

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

Decision date: 15 December 2016

Appeal Ref: APP/X5210/C/16/3149224
Land at 152 Camden High Street, London NW1 0NE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Gurinder Madhan against an enforcement notice issued by the Council of the London Borough of Camden.
- The notice was issued on 30 March 2016.
- The breach of planning control as alleged in the notice is, without planning permission, the installation of two solid roller shutters with a shutter box to the ground floor shopfront of the property.
- The requirements of the notice are:
  1. Remove the roller shutters and the roller shutter box; and
  2. Make good any damage caused to the front elevation.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld.

Procedural matter

1. At the time of my site visit, the roller shutters were not deployed, such that no part of the roller shutters was visible. I have subsequently been provided with photographs of the roller shutters in their lowered position, including a photograph of the shopfront in the context of the neighbouring properties and a close-up showing the construction of the shutters in detail. The photographs were taken on 14 November 2016 and therefore just over one month after my site visit. These photographs show the external appearance of the neighbouring properties to be the same as at the time of my site visit, including the upper floors of the adjoining building being covered by scaffolding and shrouds. I am satisfied that these photographs, together with my inspection of the surrounding area during my site visit, are sufficient for me to assess whether planning permission ought to be granted for the breach of control stated in the enforcement notice in the context of the planning application deemed to have been made under section 177(5) of the 1990 Act as amended.

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

2. The ground of appeal is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The Council has stated one substantive reason for issuing the enforcement notice, from which the following main issues are raised:

- the effect of the roller shutters and shutter box on the character and appearance of the host property
- whether the breach of planning control preserves or enhances the character or appearance of the Camden Town Conservation Area, and
- the effect of the roller shutters and shutter box on community safety.

Character and appearance of the host property

3. The appeal property is a terraced building located on the east side of Camden High Street, within the Camden Town Conservation Area. The building is identified as a 'positive building' in the Camden Town Conservation Area Appraisal and Management Strategy.

4. The ground floor of the building is a retail unit within a parade of shops on this side of Camden High Street. When in their lowered position, the roller shutters extend from the shutter box to ground level and across the full width of the shopfront. The shutters therefore obscure all the shopfront when deployed, albeit a door at one side of the building remains uncovered. The shutters are in two parts of unequal width, both of metal construction with a series of horizontal bars interspersed by pin-hole mesh. The shutters and the shutter box above are brown in colour.

5. In the lowered position, by reason of their near-solid form, the materials from which they are constructed and the colour of those materials, the roller shutters present a harsh and unattractive appearance that is incongruous in the context of other shopfronts in this parade. For the same reasons, the roller shutters detract from the character and appearance of the host property, and detract from the contribution that it makes as a 'positive building' in the Camden Town Conservation Area. The shutter box, whilst not obscuring any architectural features of the building, is of solid construction and itself represents an incongruous addition to the building.

6. The appellant refers to comments made by the London Borough of Camden Conservation Area Advisory Committee (CAAC) which, from the extract provided by the appellant, appear to approve the design of the shutters. However, the Council explain that this comment was made in the context of a planning application to retain the shopfront as a whole, including the roller shutters, and provide the full text of the consultation response from CAAC. Having regard to the full comments made by CAAC, the Council consider, and I concur, that their approval of the proposed design refers to the shopfront rather than being an endorsement of the roller shutters and shutter box. I therefore consider that the comments made by CAAC do not support the retention of the roller shutters or the shutter box.

7. I conclude that the roller shutters and shutter box unacceptably harm the character and appearance of the host property. I therefore conclude that the breach of planning control conflicts with Policy CS14 of the London Borough of Camden Local Development Framework Core Strategy (Core Strategy) as well as Policies DP24 and DP30 of the London Borough of Camden Local Development Framework Development Policies (Development Policies). These policies indicate, amongst other things, that the Council will expect a high standard of design in security measures on shopfronts, having regard to the existing character, architectural and historic merit and design of the building.

8. The roller shutters and shutter box also fail to accord with the Council's adopted Camden Planning Guidance: Design (CPG1). Chapter 7 of that guidance relates specifically to shopfronts. Under the heading of 'Shopfront Security', the guidance explains that security shutters can be visually unattractive and indicates that external shutters may only be considered acceptable where they are integrated into the shopfront in terms of design, materials and colour. For the reasons set out above, with the exception of the colour, the roller shutters and shutter box subject to this appeal do not accord with those criteria.

Character and appearance of the Camden Town Conservation Area

9. The Camden Town Conservation Area Appraisal and Management Strategy explains that this conservation area can be divided into two sub areas of distinctly different character: a busy commercial and retail area comprising of a traditional wide shopping street linking the busy junction at Mornington Crescent with the lively centre of Camden Town, and a quieter more formal residential area. The appeal property is located within the former.

10. The commercial and retail sub-area is urban in character and appearance, with an almost unbroken line of buildings on both sides of the street. This part of the conservation area contains a high proportion of 19th Century buildings many of which, including the appeal property itself, are of architectural or historic merit and make a positive contribution to character and appearance of the conservation area. At ground floor level, there is a wide variety of commercial and retail outlets, including banks, restaurants and shops. I noted during my site visit that these permanent outlets are augmented by a variety of market stalls and stands on the pavement. These all contribute to the bustle of activity that forms an important component of the character of this part of the conservation area.

11. The roller shutters and shutter box harm this character and appearance in two respects. Firstly, in the lowered position the roller shutters and shutter box detract from the character and appearance of the host building. This in turn detracts from the positive contribution that this building makes to the character and appearance of the conservation area. Secondly, in the lowered position the roller shutters present a hostile appearance and this creates a 'dead' area in the retail frontage. I recognise that the roller shutters are most likely to be lowered outside of normal working hours. Nevertheless, within an area that contains a number of restaurants and other establishments that typically operate outside normal working hours, the 'dead' area created by the hostile appearance of the shutters reduces visual interest for pedestrians and therefore activity outside the premises. This detracts from one the components that make up the character of the conservation area.

12. I conclude that the roller shutters and shutter box fail to preserve the character or appearance of the Camden Town Conservation Area. I therefore conclude that the breach of planning control conflicts with Policy CS14 of the Core Strategy and Policy DP25 of the Development Policies document in this respect. These policies indicate, amongst other things, that the Council will take into account conservation area statements, appraisals and management plans when assessing applications within conservation areas and will only permit development that preserves and enhances the character and appearance of the area.

13. I have a duty under section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 to pay special attention to the desirability of at least preserving the character and appearance of the conservation area. For the reasons given above, I consider that the roller shutters and shutter box, for which planning permission is sought, fail to achieve that objective. In terms of the National Planning Policy Framework, the harm to the character and appearance of the conservation area as a whole can be described as "less than substantial" harm to the significance of the heritage asset. Nevertheless, given the statutory duty, that harm carries considerable importance and weight. No public benefits have been advanced to weigh against that harm, which is sufficient reason by itself to refuse planning permission on the deemed application.

Community safety

14. I accept that the pin-hole mesh from which the shutters are partly constructed allows some light to penetrate from behind. Nevertheless, the near-solid appearance of the shutters creates a hostile atmosphere in the street, has the potential to attract graffiti and prevents natural surveillance. In all these respects, the roller shutters are detrimental to community safety when deployed, both actual and perceived. Given that the shutters are most likely to be deployed outside of normal working hours and during the hours of darkness, at a time when pedestrians may already feel more vulnerable to anti-social behaviour, this weighs significantly against the retention of these shutters.

15. I conclude that the roller shutters and shutter box unacceptably harm community safety. I therefore conclude that the breach of planning control conflicts with Policy CS17 of the Core Strategy as well as Policy DP30 of the Development Policies document. These policies indicate, amongst other things, that in considering proposals for security measures on shopfronts the Council will consider community safety and the contribution made by shopfronts to natural surveillance. The roller shutters and shutter box also fail to accord with the Council's adopted Camden Planning Guidance: Design (CPG1) in this respect, which indicates that security shutters can create a 'dead', hostile appearance that can harm the pedestrian experience.

Other matters

16. The appellant explains that the shutters provide safety and security for the premises on the Camden High Street frontage. However, I have been provided with no evidence to indicate that security is a particular problem for the appeal premises or that the necessary security could not be provided through other measures. In this respect, I note that the Council's adopted Camden Planning Guidance: Design (CPG1) indicates that other forms of enhanced security should be considered instead of external shutters. I have been provided with no evidence to show that other security measures have been explored.

Conclusion on the ground (a) appeal

17. Having regard to the above, I find that the roller shutters and shutter box are contrary to policies in the development plan and that there are no material considerations of sufficient weight to indicate that the deemed planning application should be determined otherwise than in accordance with it. I therefore conclude that planning permission ought not to be granted. Accordingly, the appeal on ground (a) fails.

Conclusion

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

Formal Decision

19. The appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Paul Freer

INSPECTOR