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## Appeal Decision

Site visit made on 28 January 2020

**by S J Papworth DipArch(Glos) RIBA**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 February 2020**

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**Appeal Ref: APP/Q1445/Y/19/3239413**

**12 Pavilion Buildings, Brighton BN1 1EE**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by The Edinburgh Woollen Mill Ltd against the decision of Brighton & Hove City Council.
  - The application Ref BH2019/01889, dated 25 June 2019, was refused by notice dated 23 August 2019.
  - The works proposed are installation of roller shutter to front elevation.
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### Decision

1. I dismiss the appeal.

### Reasons

2. The building is listed Grade II and is within the Valley Gardens Conservation Area. The main issue is the effect of the shutters as installed on the architectural and historic interest of the listed building and its setting.
3. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and the primacy of the Development Plan do not apply to applications and appeals made under the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 16(2) of the latter Act requires special regard to be had to the desirability of preserving the listed building or its setting or any special architectural or historic features it possesses. These duties are reflected in Policy HE1 of the Brighton and Hove Local Plan which seeks the protection of listed buildings and Policy HE3 which concerns their setting. Policy CP15 of the City Plan Part One sets out the requirements for protecting the city's heritage.
4. Development within conservation areas is the subject of Local Plan Policy HE6 and section 72(1) of the 1990 Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
5. Paragraph 193 of the 2019 National Planning Policy Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
6. The Officer's Report refers to saved Local Plan Policy QD8 but that was not carried forward to the Reason for Refusal. This states that solid shop shutters will not be permitted except where security poses a special problem and all other appropriate security measures have already taken place.

7. The Council have adopted Supplementary Planning Document 02 '*Shop Front Design*' which states that the entrance should ideally be recessed from the shop window; this not only gives visual relief to the frontage and breaks down its scale but extends the display space, allows easier access for all and gives protection from the weather. The document continues that shop security measures may be needed to address break-ins, vandalism, exclusion of rough sleepers from recessed entrances and insurance requirements. Such measures should always be carefully considered at the design stage of a new shop front. Where an existing shop front requires additional security, this should be limited to the minimum measures necessary; should as far as possible be integral to the shop front; and should be chosen on the basis of aesthetics, the need to retain a visible display, long-term durability and ease of maintenance.
8. The shopfront as previously installed is plain aluminium of a somewhat utilitarian design, although the east pilaster and console brackets shared with number 13 are in place and it is unclear the extent to which the building of the bank on the corner in 1905 affected the west arrangement. The main shop window glazing is frameless at the return into the recessed doorway and there is a continuous transom over the main windows and recess. The recess is a desirable feature noted in the Supplementary Planning Document, although it does not appear to be required in this case to cover an outward-opening door as the drawing shows only an inward opening arrangement and a stop on the headrail confirms this.
9. The shutter put in place is solid and extends over the full width of the shopfront with the guides at the outer ends of the windows. The shutter rolls outwards and is covered by a projecting metal box, again of utilitarian construction and appearance, which sits partly across the depth of the transom glazing and hence clear of the fascia sign which extends over the adjoining doorway, although the shutter box stops short. The arrangement is poorly integrated with the design of the shopfront or the building. The effect with the shutter in the lowered position would be the dead frontage sought to be avoided in policy and guidance and when raised the shutter box is an incongruous projecting feature that detracts from the architectural interest of the listed building.
10. Looking particularly at the Supplementary Planning Document, measures are apparently needed to address rough sleepers, but this was not considered at the design stage of the shopfront, and as an addition to an existing shopfront the full-width shutter is not the minimum necessary, is not well-integrated with the shopfront and does not allow a visible display. The shutters as installed cause harm to the architectural significance of the listed building and its setting, hence causing harm to the character and appearance of the conservation area.
11. The level of harm is 'less than substantial', a differentiation required between paragraphs 195 and 196 of the Framework. In this case the latter applies and this states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
12. The problem sought to be solved is anti-social use of the recessed doorway overnight, causing work and distress to shop staff on opening in the morning. The health and safety of employees of a private company is also a matter of public interest if it results in a claim on the resources of such as the police or the health service. There is photographic evidence of a fire having been

started, and the prevention of the harm that could have befallen the listed building is also a public benefit.

13. It is apparent that the minimum intervention required to address the problem would have been the closing off of the recess, although the appellant claims that an open mesh would not have been appropriate. Be that as it may, the frameless glazing junctions would have required a visually intrusive free-standing guide rail either side to be installed, but this would have allowed the shopfront display to be visible. A reverse-rolled shutter housing could have been hidden within the building line behind the transom glazing.
14. The ideal solution would have been to replace the shopfront with a design more in keeping with the listed building and its setting, while providing the necessary level of security integrated with the design, as recommended in the guidance. The fitting of the appeal shutter to an existing shopfront has sought to address the singular problem of the recessed doorway, but has caused visual harm to the wider shopfront, the listed building and the conservation area and that extent of harm has not been shown to be justified by the public benefits.
15. To conclude, the shutter has caused harm to designated heritage assets contrary to the Development Plan policies previously detailed, the statutory tests in the Planning (Listed Buildings and Conservation Areas) Act 1990, and chapter 16 of the Framework on conserving and enhancing the historic environment, as well as the Supplementary Planning Document on shopfront design. For the reasons given above it is concluded that the appeal should be dismissed.

*S J Papworth*

INSPECTOR