



Appeal Decision

Site visit made on 19 October 2021

by M Madge DipTP, MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2021

Appeal Ref: APP/W4705/C/21/3276555

Land at 66-68 Lumb Lane, Bradford BD8 7QZ

- 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 Mrs Robina Nazir Butt against an enforcement notice issued by City of Bradford Metropolitan District Council.
- The enforcement notice was issued on 22 April 2021.
- The breach of planning control as alleged in the notice is without planning permission, the installation of externally mounted roller shutters, shutter boxes and associated guide rails to the front of the premises. Without planning permission, the erection of black hoarding and a projecting fascia board on the front of the premises.
- The requirements of the notice are:
 - (i) Remove the unauthorised externally mounted roller shutters, shutter boxes, associated guide rails, black hoarding and projecting fascia board.
 - (ii) Remove from the land all materials resulting from the removal of the externally mounted roller shutters, shutter boxes, associated guide rails, black hoarding and projecting fascia board.
 - (iii) Make good any damage caused to the property as a result of compliance with the requirements of this notice.
- The period for compliance with the requirements is 12 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period, an application for planning permission is deemed to have been made under section 177(5) of the Act as amended.

Summary of Decision: The appeal is dismissed, and the enforcement notice is upheld as varied in the terms set out below in the formal decision.

The notice

1. While the appellant has not appealed on ground (f), it is incumbent upon me to ensure that the steps required by the notice do not exceed what is necessary to remedy any breach of planning control or, as the case may be, to remedy any injury to amenity.
2. The purpose of the notice is to remedy the breach of planning control. Steps (i) and (ii) would secure the removal of the unauthorised development and the removal of the resultant debris from the site, which remedies the breach of planning control. Step (iii) goes beyond what is required to remedy the breach of planning control and is therefore excessive. No injustice would arise from my deletion of step (iii) and I shall vary the notice accordingly.

Appeal on ground (a)

3. The appeal property is within the Eldon Place Conservation Area, and I am conscious of my statutory duty arising from section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Council has also

supplied development plan policies and supplementary guidance relating to design, character and heritage. Taking these matters together with my observations on site, the **main issue** is whether the development preserves or enhances the character and appearance of the host property and the Eldon Place Conservation Area.

4. The Eldon Place Conservation Area covers an area of classical and Italian style mid 19 century housing, which varies according to building age, status and style. Parades of shops are also to be found, which exhibit modern and inappropriately altered traditional shop fronts. When considering the impact of development on the significance of a designated heritage asset, paragraph 199 of the amended Framework 2021, requires that great weight be given to its conservation.
5. The development carried out is of a modern design and materials, which obscures the ground floor stonework. Furthermore, the scale of the black hoarding and projecting fascia board visually dominates the front elevation. The installation of individual roller shutters may go some way to preserving the vertical emphasis to the building's façade, but this is overwhelmed by the uniformity of colour finish. The overall design of the development has not been informed by a good understanding of the property's context within the Eldon Place Conservation Area. This amounts to less than substantial harm to the significance of the identified heritage asset, to which I give great weight.
6. The use of solid roller shutters hides the shop front and reduces light to the pavement, leading to a deadening and unwelcoming effect on the street, which presents an unfriendly appearance and the potential perception of an unsafe environment. While the development has not resulted in the loss of a traditional shop front¹, an opportunity to enhance the appearance of the host property and the Eldon Place Conservation Area, which would amount to public benefits, has been missed. No public benefits have therefore been identified to outweigh the less than substantial harm to the Eldon Place Conservation Area.
7. While it is claimed that there is a high prevalence of criminal activity and burglaries in the local area, no evidence has been provided to substantiate this. The need for the roller shutters to act as a deterrent to criminal activity has not therefore been shown. Also, no evidence has been provided to demonstrate what alternative forms of deterrent were considered, which could have had a less harmful effect on the host building and the Eldon Place Conservation Area.
8. I saw that there were several neighbouring commercial properties that have similar roller shutters installed. I understand that enforcement action is being taken in respect of some of these. I have no details explaining the circumstances of the others. Regardless as to whether those other roller shutters are lawful or not, I have identified that the development before me for consideration does not conserve the character and appearance of the host building or the Eldon Place Conservation Area.

Conclusion on ground (a)

9. For the reasons given above, the development fails to preserve or enhance the character and appearance of the host property and the Eldon Place Conservation Area, it therefore conflicts with policies DS1, DS3 and EN3 of the

¹ photograph of previous shop front contained on the drawing dated 25 May 2021

Bradford Council Core Strategy Development Plan Document (July 2017), which aim to deliver high quality developments that create attractive streetscapes and conserve and enhance identified heritage assets, amongst other things. The development is also contrary to guidance set out in 'A Shopkeepers Guide to Securing their Premises' (December 2012), which amongst other things, aims to provide clear and practical design guidance to ensure that developments enhance the character of the original premises and surrounding area.

Appeal on ground (g)

10. The issue is whether the time for compliance is reasonable. The appellant accepts that 12 months would normally be reasonable. However, due to the uncertainty arising from the continuing pandemic, a period of 18 months is being sort to not unduly impact on the business.
11. The steps required to be taken affect the outside of the building in the main and would therefore have a minimal effect upon the operation of the business. I find 12 months to be a reasonable time period to secure a suitable contractor and have the works completed.
12. The appeal on ground (g) fails and the notice is upheld.

Formal Decision

13. It is directed that the enforcement notice is varied by:

The deletion of "(iii) Make good any damage caused to the property as a result of compliance with the requirements of this Notice." in section 5. WHAT YOU ARE REQUIRED TO DO.

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

M Madge

INSPECTOR