
Appeal Decision

Site visits made on 5 and 6 September 2022

by D A Hainsworth LL.B(Hons) FRSA Solicitor
an Inspector appointed by the Secretary of State

Decision date: 4 October 2022

Appeal Ref: APP/W4705/C/22/3298815
83-85 Main Street, Bingley, West Yorkshire BD16 2JA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 by Fatemeh Javanmard trading as Global Mini Market Limited against an enforcement notice (ref: 20/01118/ENFUNA) issued by the City of Bradford Metropolitan District Council on 5 May 2022.
 - The breach of planning control alleged in the notice is “the installation of an externally mounted roller shutter and roller shutter box on the front elevation of the building on the land, as shown in the attached photographs”.
 - The notice requires the removal of the roller shutter and roller shutter box.
 - The period for compliance with this requirement is twelve months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) and an application for planning permission is deemed to be made by section 177(5) in respect of the matters stated in the notice as constituting the breach of planning control.
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Decision

1. 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 the installation of an externally mounted roller shutter and roller shutter box on the front elevation of 83-85 Main Street, Bingley, West Yorkshire BD16 2JA.

Reasons for the decision

2. The main issue in the appeal concerns the effect the shutter and box have on the appearance of the building and the street scene and on the character and appearance of the Bingley Conservation Area. In deciding whether to grant planning permission for them I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
 3. Although the notice states that the shutter and box are shown on the photographs attached to the notice, the only photograph attached to the notice does not show the shutter and the Council have not supplied an image or a description of the shutter during the appeal process.
 4. 83-85 Main Street is a local convenience store in a row of commercial premises in the town centre. I viewed the store and its surroundings from the street in the evening, when the store was open and the shutter was fully retracted, and early in the following morning when the store was closed and the shutter was
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fully lowered. The appellant has explained that the shutter is needed to provide security because alcohol and cigarettes are kept in the store.

5. The shutter and box are coloured dark green and match the colour of the shopfront as a whole. The box is recessed under the store's fascia board signage. The shutter has perforated laths that provide a limited view of the windows and the door behind it. The security of most of the units in this row (seven out of ten, excluding the store) is protected by either solid or perforated external lath shutters, including the units on each side of the store. At the time of my evening visit all but one of these shutters were lowered: they were all lowered at the time of my early-morning visit.
6. The Council maintain that the shutter and box are not 'sustainable' development within the meaning of the National Planning Policy Framework (NPPF) and that they are also contrary to Policies DS1, DS3, SC9 and E3 of the Core Strategy Development Plan Document and to guidance in the Shopfront Design Guide, A Shopkeepers Guide to Securing their Premises, Supplementary Planning Document (SPD). Policies DS1, DS3, SC9 and E3 are wide-ranging and the Council have not explained in any detail how they have been applied in the site-specific circumstances of this appeal.
7. The NPPF has three interdependent sustainability objectives – economic, social and environmental. The Council have focussed only on the third of these and have drawn attention to paragraph 134 of the NPPF, which states that development that is not well designed should be refused. The development in this appeal is the "installation of an externally mounted roller shutter and roller shutter box on the front elevation" of the unit. For the reasons given in paragraph 5 above, this development has been well designed and is in keeping with neighbouring units; it is therefore not in conflict with paragraph 134 or Policies DS1 and DS3: the Council's real objection appears to be to the installation of an externally mounted shutter and box here irrespective of its design. The NPPF's sustainability objectives call for economic and social objectives to be taken into account as well; this means in this instance that the continued security and viability of this local convenience store should be supported because of the contribution it makes to the local economy and the community. This approach accords with the strategic and economy policies in the Core Strategy.
8. Policy SC9 states that proposals should be appropriate to their local context. Policy EN3 indicates that they will be required to respect and reinforce the distinctive character of their locality, taking into account adopted guidance and Conservation Area Appraisals in particular.
9. This guidance is contained in the Shopfront Design Guide SPD as amended in 2012 by the SPD 'A Shopkeepers Guide to Securing their Premises'. It encourages "high levels of security balanced with the promotion of high standards of design in our high streets". It seeks to ensure that proposals are well designed and complement or enhance the character of the original premises and the surrounding area as well as providing the highest levels of security for shopkeepers' premises. It advises that external roller shutters are unlikely to be acceptable in all circumstances and that there will be a general presumption against their use on frontages in conservation areas. The

preferred approach is to provide the required security by using internal grilles and other measures.

10. The Bingley Conservation Area Assessment divides the Area in to three character zones. The store is in Character Zone 2, which is described as being characterised by commercial activity where shop fronts are particularly prominent and where economic pressure for change is relatively high and the buildings have been susceptible to alteration, particularly shop fronts and other features that can be replaced easily. The store's shutter and box have not changed the character and appearance of this part of the Area or of the Area as a whole. They respect their local context and the locality's distinctive character.
11. In general, shopkeepers and their insurers understand best what security measures are necessary to protect stock, taking into account crime prevention advice. It is well known that convenience stores are frequently targeted by burglars because they hold stocks of alcohol and tobacco. This store's proprietor has decided that the external shutter and box are needed for security purposes. In my opinion, they achieve the SPD's standard of a high level of security balanced with a high standard of design and comply with Policies SC9 and EN3. They should be approved in this instance in spite of the SPD's general presumption against the use of external roller shutters in conservation areas.
12. For the above reasons I have decided on balance that planning permission should be granted for the shutter and box. It has not been suggested that any planning conditions should be imposed in this event and I do not consider that any are needed. The appeal has therefore succeeded on ground (a) and the notice has been quashed.

D.A.Hainsworth

INSPECTOR