

Thank you.



The Planning Inspectorate

Appeal Decision

Site visit made on 21 December 2022

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 18 January 2023

Appeal Ref: APP/X5990/C/22/3301834

Ground Floor, 117 Praed Street, London W2 1RL

- 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 Asim Zahur against an enforcement notice issued by City of Westminster Council.
- The enforcement notice was issued on 27 May 2022.
- The breach of planning control as alleged in the notice is the installation of an external roller shutter, box housing and guide rails, fittings and fixtures at ground floor level to the front elevation of the property.
- The requirements of the notice are:
 - 1) Remove the external shutter, the guide rails and all associated fixtures and fittings from the Property.
 - 2) Make good any damage caused by compliance with Step 1).
- The period for compliance with the requirements is six 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 of Decision: The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

1. It is noted that following a City Council's Cabinet Members Report dated 14 January 2022, the SPG Design Guidelines for Shopfront Security has been revoked. I understand that the SPG was listed on the Enforcement Notice in error.
2. As the proposal is in a conservation area, I have had special regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), paying special attention to the desirability of preserving or enhancing the character or appearance of the Bayswater Conservation Area.

The appeal on ground (a)

3. The ground of appeal is that planning permission should be granted. The main issue is the extent to which the development preserves or enhances the host property and the character or appearance of the Bayswater Conservation Area.

Reasons

4. The appeal site comprises a three storey unlisted building located on the southeast side of Praed Street and within the Bayswater Conservation Area. It forms part of a parade of ground floor shops and other commercial businesses

- along the street. There is a variety of commercial frontages along the street, including different security shutters.
5. The Bayswater Conservation Area was first designated in 1967 and has been subsequently extended. Key features of this Conservation Area are several large areas of nineteenth century development in the form of an interrelated pattern of wide streets, crescents and squares planned on either side of the two main boulevards, Westbourne Terrace, and Sussex Gardens. The wider Conservation Area is mainly residential, but there are also local shops and amenities including along this part of Praed Street. The street is close to St Mary's Hospital and Paddington Station which have both strongly influenced the conservation area, including its layout, the importance of thoroughfares and linkages and the hierarchy of streets.
 6. The Notice relates to the unauthorised installation of a metal roller shutter and associated equipment and housing at the front of the property. I observed at my site visit that there are a wide variety of shutters and security installations to the front of commercial properties in the immediate locality. Indeed, the appellant has drawn my attention to a number of these in his appeal submissions.
 7. However, solid metal shutters have the effect of deadening commercial frontages and detract from the vibrancy of commercial areas, harming the overall character and appearance of ground floor frontages, in particular. In this case, the appeal property is part of an attractive terrace with a range of ground floor uses with residential or other associated uses above. The terrace is constructed mainly of London Stock brick, there is a uniformity at upper floors with respect the materiality and the regular pattern of window openings and design detailing.
 8. At ground floor there is variety in the design and materiality of the commercial frontages, but the row of properties is important as a lively thoroughfare in the Conservation Area. When closed, the shutter has a harmful effect in detracting from the liveliness and vibrancy of commercial frontages, dominating the front elevation and detracting from the overall high quality façade. In addition, the installation of the shutter has also involved the attachment of box housing, guide rails and other fittings which add to the visual clutter on the frontage, further detracting from the appearance of the building and its surroundings.
 9. The appellant contends that as a consequence of the width of the shop front in question and the variety of shutters and shop frontages within the immediate vicinity the development does not have a harmful effect on the visual amenity of the street scene or the area, generally. However, the prevailing design of shutters in the locality is not external solid shutters. The evidence before me is that one other property with an external shutter is the subject of an extant enforcement notice and is therefore unauthorised and all other shutters were immune from enforcement action through the passage of time or are otherwise unlawful. Other unauthorised shutters or shopfront alterations in the locality serve to illustrate the harm that can be done by poorly conceived and implemented development. In any case, I have determined this appeal on its own merits.
 10. Given the scale of the development within the context of the Conservation Area as a whole, I consider that it would cause less than substantial harm to the character and appearance of the Bayswater Conservation Area. In accordance

with the provisions of the National Planning Policy Framework (the Framework), I must weigh the harm against the public benefits of the development.

11. The appellant has stated that the development delivers wider public benefits through improving public safety and security to the commercial unit. It has not been demonstrated that such wider public benefits could not be delivered by an alternative scheme which preserves the character or appearance of the host property and Conservation Area. In any case, with respect to this particular development, in my view the public benefits would be minimal, and insufficient to outweigh the harm identified. I conclude therefore that the development would fail to accord with national policy.
12. For these reasons the development would fail to preserve or enhance the host property and the character or appearance of the Bayswater Conservation Area. As such, would conflict with Policies 38, 39 and 40 of the City of Westminster City Plan 2019-2040 Adopted April 2021 and Policies D3 and HC1 of the London Plan March 2021. Among other objectives these seek to ensure that all developments follow a design-led approach, development proposals affecting heritage assets should conserve their significance, by being sympathetic to the asset's significance and appreciation within their surroundings and development will ensure that all heritage assets are conserved and enhanced in a manner appropriate to their significance.

Conclusion

13. 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 application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decision

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

A A Phillips

INSPECTOR