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# Appeal Decision

Site visit made on 26 October 2022

**by P Storey BA (Hons) DipTP MRTPI**

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

**Decision date: 27 April 2023**

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**Appeal Ref: APP/X5210/W/22/3300966**

**37 and 39 Belsize Lane, London NW3 5AS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Alon Kubi of AKY Limited against the decision of the Council of the London Borough of Camden.
  - The application Ref 2018/5532/P, dated 12 November 2018, was refused by notice dated 28 February 2022.
  - The development proposed is to remove the shutter from number 39 and fit 2 new shutters for 37 and 39 and remove 2 awning of 8m each and refit new one on top of the new shutters.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The application form refers only to No 39 Belsize Lane. However, the location plan provided, description of development and Council decision notice all refer to Nos 37 and 39. I have therefore used this as the site address.
3. This appeal refers to a development that has already taken place. The shutters and awnings I observed on my site visit appeared to accord with the details shown on the submitted plans. For the avoidance of doubt, I have determined the appeal in accordance with these details.
4. The Council's decision notice refers to an access ramp to No 37 Belsize Lane. However, this is not referenced in the original application form and does not form part of the Council's reason for refusal. I have therefore not considered this as part of the appeal.
5. The Council's evidence notes that an external shutter, associated apparatus and retractable awning having been in place to the shop front of No 39 since 2009 and have become lawful through the passage of time. The Council's assessment was therefore limited to No 37 only. Accordingly, I have considered only the works to No 37 in the determination of the appeal.

## Main Issues

6. The main issues are the effect of the development on the character and appearance of the host building and the parade of which it forms a part, and whether it preserves or enhances the character or appearance of the Belsize Conservation Area.

## Reasons

7. The appeal properties are a pair of adjoining ground floor commercial units within a shopping parade. When viewed from the street, No 37 sits to the left and No 39 sits to the right. Though they have the appearance of separate units, they are adjoined internally and in use as a café, bakery and delicatessen.
8. The appeal site is located within the Belsize Conservation Area (the CA), within the Belsize Village sub-area defined by the Conservation Area Statement (the CAS). It faces out on to a triangular public space with trees and outdoor seating at the junction of Belsize Lane and Belsize Terrace, which forms a focal point of the small shopping area of which the site forms a part. The public space provides an open vista of many of the building frontages along Belsize Lane and Belsize Terrace, which are predominantly traditional 3 to 4 storey terraces with ground floor commercial units. Adjoining terraced buildings feature a strong degree of uniformity in their detailing and materials which positively contribute to the significance of the CA. There are a variety of treatments to the ground floor frontages in the surrounding area, including numerous examples of awnings and shutters in various configurations.
9. The shutters and awning to the front of No 37 are currently in situ. The shutter box is installed externally above the glazed frontage. The mounts for the awning sit to the side of the shutter box and envelope it, with the awning sitting to the front of the shutter box. Whilst this has the effect of partially screening the shutter box, the shutter guide rails remain prominently visible to either side of the frontage, where they add to the visual clutter of the frontage. The positioning of the awning in front of the shutter box also increases the overall bulk of the structure and requires it to be stepped out further. The mounts are prominently visible to either side of the awning and are fixed directly to the front of the building in a haphazard manner that does not reflect the traditional proportions of the shop frontage. The cumulative effect appears as a visually dominant and disproportionate structure on the building frontage.
10. Furthermore, when the unit is closed, the solid shutters create an undesirable blank frontage which adversely affects the appearance of the building and fails to provide an element of active frontage, diminishing its contribution to the area's character as a small but vibrant local shopping centre. I acknowledge the security concerns of the appellant regarding the shutters, and I have referred to the newspaper articles submitted regarding instances of vandalism. Whilst the desire to secure the property is fully understandable, I have been provided with no justification for why shutters of the type proposed are required. Accordingly, I give this matter limited weight in my decision.
11. I also acknowledge there are other examples of similar developments in the vicinity, some of which may benefit from lawfulness through the passage of time. However, the presence of inappropriate development does not provide a reason to support further such development.
12. Given the above, the development detracts from the contribution made by the host building to the character and appearance of the CA. Although affecting only a small part of the CA, there is conflict with the statutory test set out in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the CA. In terms of the National

Planning Policy Framework (the Framework), the harm to the significance of the CA as a designated heritage asset would be less than substantial and needs to be weighed against the public benefits of the proposal. Although I have found the harm to the CA to be less than substantial, I give considerable importance and weight to this matter.

13. Whilst I acknowledge certain public benefits may arise through the continued operation of the premises, I do not find these to be intrinsically linked to the provision of shutters and awnings of the design installed. Accordingly, I find no public benefits arising through the development that would outweigh the identified harm.
14. For the above reasons, I conclude that the development results in harm to the character and appearance of the host building, the parade of which it forms a part and the area, resulting in less than substantial harm to the significance of the Belsize CA that would not be outweighed by public benefits. The development therefore conflicts with the aims of Policies D1, D2, D3 and C5 of the Camden Local Plan 2017 which seek, among other objectives, to secure high quality design that respects local context and character, to ensure development in conservation areas preserves or, where possible, enhances the character and appearance of the area, and to incorporate design principles that contribute to community safety. It also fails to accord with the objectives of the Framework in respect of conserving and enhancing the historic environment.

### **Conclusion**

15. The proposed development fails to accord with the policies of the development plan as a whole and there are no other considerations that outweigh this conflict. For the above reasons, and taking account of all other matters raised, I conclude that the appeal should be dismissed.

*P Storey*

INSPECTOR