



Appeal Decision

Site visit made on 7 March 2023

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 June 2023

Appeal Ref: APP/C4615/W/22/3309424

433 Stourbridge Road, Brierley Hill DY5 1LB

- 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 Peshraw Mahmod against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P22/0411, dated 18 March 2022, was refused by notice dated 28 July 2022.
 - The development proposed is the change of use from unused public house to a barbers shop, installation of roller shutter and alterations to front elevation.
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Decision

1. The appeal is dismissed insofar as it relates to the installation of the roller shutter. However, planning permission is granted for the change of use from unused public house to a barbers shop and alterations to front elevation at 433 Stourbridge Road, Brierley Hill DY5 1LB in accordance with the terms of the application Ref P22/0411, dated 18 March 2022, and the plans submitted with it insofar as they relate to that part of the development hereby permitted, and subject to the following conditions:
 - 1) The development hereby permitted shall be retained in accordance with the following plans insofar as they relate to the change of use to a barbers shop and alterations to front elevation: Location Plan Drawing No TQRQM22066235133686, Existing/Proposed Rear and Front Elevations Drawing No v.01, Proposed and Existing Side Elevations Drawing No v.02, Proposed Floor Plan View Drawing No v.03
 - 2) The use hereby permitted shall only take place between the following hours: 0800 – 2000 Mondays to Sundays.

Procedural Matters

2. I have taken the description of development from the Council's decision notice and the appeal form as it more succinctly describes the appeal proposal. However, I have removed the word 'retrospective' as this is not an act of development. At the time of my visit the change of use to a barbers shop and the installation of a roller shutter and alterations to the front elevation had already taken place. I have therefore determined the appeal on this basis.
3. It is clear from the reasons for refusal and the Officer Delegated Report that although the application was refused, the Council nor any other parties had any specific concerns regarding the change of use of the property to a barbers or the alterations to the front elevation. Indeed, it is stated in the Officers Delegated Report that the change of use is acceptable and it was readily

apparent that the concerns raised related specifically to the roller shutter. Nothing I have seen or read leads me to a different conclusion in respect of the change of use and alterations to the front elevation. I am satisfied that these aspects of the appeal scheme are clearly severable from the roller shutter, and I therefore intend to issue a split decision in this case.

Main Issue

4. The main issue is the effect of the roller shutter on the character and appearance of the host building and surrounding area.

Reasons

5. 433 Stourbridge Road is a two-storey brick building that was formerly the Malt Shovel Public House. The appeal site is located within an area comprising a mix of uses, with various commercial and industrial premises immediately adjacent to No 433 and predominantly residential properties located opposite. By virtue of its proximity to the highway and position set forward of the immediately adjacent built form, No 433 appears as a prominent feature within the street scene.
6. Policy L12 of the Dudley Borough Development Strategy (adopted March 2017) (DBDS) sets out a hierarchical approach to shopfront security, and states that external roller grilles or shutters will only be accepted if it has been clearly demonstrated that all other security options have been fully exhausted. In these circumstances further design guidance is provided including the shutters not extending beyond the span of the shop window and that shutter box housing should form an integral part of the shopfront design and be concealed behind the fascia or set back flush with the shop front. The hierarchical approach to shopfront security and design guidance for external roller shutters is largely replicated in the Council's Shopfront & Advertisement Supplementary Planning Document (adopted September 2017) (SPD).
7. The shutter box housing is a bulky feature which projects beyond the front elevation of the building. Though partially obscured by advertisement signage, the box housing remains a dominant and discordant feature which represents visual clutter that detracts from the appearance of the host building.
8. The submitted plans detail that two roller shutters are contained within the box housing. These shutters are solid in appearance and therefore, when down, the majority of the building's front elevation at ground floor level would be obscured. The design of the shutters does not allow any visibility through to the shopfront, resulting in a harsh and unattractive appearance that causes harm to the character and appearance of both the host building and the surrounding area.
9. The appellant contends that the hierarchical approach to shopfront security set out in the SPD was considered, but other options were not considered feasible. The options considered included internal lattice grilles or roller shutters and the provision of CCTV cameras. The appellant considers that internal grilles or shutters would not be viable due to the interior structure of the building, the nature of the use would result in them becoming dirty over time, and they would not protect the windows and door. CCTV cameras were also discounted as the appellant considered that they would not protect the shop from vandalism.

10. However, I have not been provided with any substantive evidence to support the appellant's views or to justify why alternative means of security would not be appropriate. In particular, no structural report or other form of independent assessment has been provided to detail why the interior structure of the building would prevent the installation of internal grilles or shutters. Additionally, the floor plans submitted with the application do not indicate that the building's layout would give rise to any issues or complexities when installing any such internal security features. The appellant has also referenced vandalism and other crime, yet there is no evidence before me to suggest that these are a particular issue in the local area or that the appeal property is at a high risk of crime. Accordingly, I find that it has not been clearly demonstrated that all other security options have been fully exhausted.
11. The appellant states that the shutters are not seen during normal working hours, nevertheless I find it likely they would be down during evening hours or any other time that the premises was closed. Consequently, there would be a significant number of hours during which the shutters would present a blank and unwelcoming façade in close proximity to passing pedestrians and vehicles using Stourbridge Road.
12. Furthermore, the identified harm is not lessened by the existence of roller shutters on a small number of other properties nearby. I noted during my visit that these shutters were typically found on premises that were set further back from the highway and were less prominent in the street scene than the appeal site. The Council also claim that any roller shutters on nearby properties have been installed without the necessary planning permission. In any event, their presence does not justify the appeal proposal which would be harmful for the reasons explained. Planning conditions attached to any approval would not overcome this harm.
13. I therefore conclude that the roller shutter causes harm to the character and appearance of the host building and surrounding area. It would conflict with Policy L12 of the DBDS, Policies ENV2 and ENV3 of the Black Country Core Strategy (adopted February 2011), and guidance contained within the SPD. These seek, amongst other matters, to ensure that developments achieve good design and contribute to local character and distinctiveness.

Other Matters

14. The appellant has sought to overcome the objections to the proposal by suggesting an alternative design for the external roller shutters in his appeal statement. This design would include the middle section of the shutters comprising a perforated or grill section. I am conscious however that the appeal process should not be used as a means to progress alternatives to a scheme that has been refused, particularly where interested parties have not had the opportunity to comment on the proposal. In any event, as I have not been provided with any detailed drawings in relation to these suggested changes, I have not been able to take the alternative design into consideration.

Conditions

15. The Council has suggested two conditions which I have assessed against the tests set out in paragraph 56 of the National Planning Policy Framework. As a result, I have amended the wording of some for clarity.

16. I have imposed a condition concerning the approved plans for clarity, however given I have issued a split decision I have specified that the plans relate to the change of use to a barbers shop and alterations to front elevation only. A further condition controlling the hours of operation is also necessary in order to protect the living conditions of nearby residents.

Conclusion

17. For the reasons set out above, and having considered all other matters raised, I conclude that the appeal should be allowed insofar as it relates to the change of use to a barbers shop and alterations to the front elevation. Insofar as the appeal relates to the roller shutter, I conclude that for the reasons given above, the proposal would conflict with the development plan, when read as a whole. Material considerations, including the Framework, do not indicate that a decision should be made other than in accordance with the development plan. Having considered all other matters raised I therefore conclude that this element of the appeal is dismissed.

David Jones

INSPECTOR