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## Appeal Decisions

Site visit made on 1 November 2024

**by Matthew Nunn BA BPI LLB LLM BCL MRTPI**

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

**Decision date: 24 January 2025**

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### **Appeal A: APP/U2235/W/24/3349371**

#### **42 Lower Stone Street, Maidstone, Kent, ME15 6NA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Cash Converters (UK) Stores Ltd against the decision of Maidstone Borough Council.
  - The application Ref: 24/501923/FULL, dated 2 May 2024, was refused by notice dated 5 July 2024.
  - The development proposed is described as 'replacement of existing external fine mesh shutter, with traditional open style external shutter with associated amendments to the shop fascia to reinstate the historic angled fascia'.
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### **Appeal B: APP/U2235/W/24/3349367**

#### **42 Lower Stone Street, Maidstone, Kent, ME15 6NA**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
  - The appeal is made by Cash Converters (UK) against the decision of the Maidstone Borough Council.
  - The application Ref: 24/501924/LBC, dated 2 May 2024, was refused by notice dated 5 July 2024.
  - The proposed works are described as 'replacement of existing external fine mesh shutter, with traditional open style external shutter with associated amendments to the shop fascia to reinstate the historic angled fascia'.
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## **Decisions**

1. Appeal A is dismissed. Appeal B is dismissed.

## **Main Issues**

2. The main issues are: (1) whether the proposals would preserve a Grade II listed building, and any special features of architectural or historic interest it possesses; and (2) whether the character or appearance of the Maidstone Centre Conservation Area would be preserved or enhanced.

## **Reasons**

3. The appeal property, No 42, located on the western side of Lower Stone Street, comprises part of a larger Grade II listed building which also includes No 40, the 'Fisherman's Arms' public house. The list description relating to both Nos 40 and 42 states: 'one building; a timber framed building with plastered front and first floor overhanging on a bressummer; two gables with attic storey and window to the north gable; two storeys; two sashes with glazing bars

missing; modern shop fronts'<sup>1</sup>. The Council estimates that the building is probably 16<sup>th</sup> century or earlier, with 17<sup>th</sup> century additions<sup>2</sup>. The list description also notes the building forms part of a group of listed buildings comprising Nos 26 to 36 (even), Nos 40 to 46 (even) and Nos 50 to 70 (even). There are a significant number of Grade II listed buildings along Lower Stone Street, including some Grade II\* listed buildings<sup>3</sup>. The ground floor frontage of the appeal property is predominantly glass with a low stall riser and a recessed entrance. There is also a modern protruding fascia in yellow bearing the name 'Cash Converters'. The upper floor of the premises is used for storage.

4. The special interest and significance of the listed building derives primarily from its architectural interest, its external appearance, its historic timber framed and jettied construction, including the plastered frontage, gable features and tiled roof. The significance also derives from its prominent role in the street scene on Lower Stone Street, as well as having a wider group value with other historic Grade II and Grade II\* listed properties in the vicinity, and the contribution to the character and appearance of the Maidstone Central Conservation Area, within which the properties are located.
5. The Conservation Area covers much of the medieval core of Maidstone and is urban in character. It is heterogenous and multi-phased, comprising buildings of different styles, varying materials and eras. The Conservation Area Character Appraisal and Management Plan notes there are examples of buildings from the 14<sup>th</sup> to the 21<sup>st</sup> century, with over 90 statutorily listed buildings. It also notes that the medieval street plan and much of the medieval burgh divisions remain intact<sup>4</sup>. There are cohesive stretches of historic development, including the statutorily listed properties on the western side of Lower Stone Street. This road was one of the four main thoroughfares in the medieval town.
6. The listed buildings comprising this part of the Conservation Area are generally of a modest scale and of a simple design, with narrow frontages. Although the upper storeys are historic, the shopfronts at ground level are generally modern, some with prominent advertising signs that detract from the character of the Conservation Area. The significance of this part of the Conservation Area derives from the presence of the listed buildings, and their architectural, historic and aesthetic value. Opposite the appeal site on the eastern side of Lower Stone Street, and falling just outside the Conservation Area, are substantial post war buildings with commercial units at ground floor level. These modern structures generally detract from the setting of the Conservation Area.
7. The appeal proposal has resulted from an enforcement investigation by the Council, as the shop front shutter currently in place has not been granted listed building consent. Although the shutter was, according to the Appellant, installed some 18 years ago, unauthorised works on listed buildings cannot become lawful over time. There are several other buildings along this section of Lower Stone Street that have roller shutters installed. According to the Council, most of these do not have permission and are currently under

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<sup>1</sup> The property was listed in August 1974

<sup>2</sup> Maidstone Centre Conservation Area Character Appraisal & Management Plan (2021), Page 32

<sup>3</sup> Paragraph 6.3.3, Appellant's Planning, Design and Access, including Heritage Statement, dated May 2024

<sup>4</sup> Maidstone Centre Conservation Area Character Appraisal & Management Plan (2021), Page 3

- enforcement investigation<sup>5</sup>. Therefore, the existence of other shutters in the vicinity cannot be used as a precedent or justification for this proposal.
8. The currently installed shutter is of a solid type. The proposal is for an 'open shutter' design coated black, allowing visibility into the shop when closed. The Appellant argues that this would be more appropriate for a heritage asset, allowing a more 'active frontage' when in a down position, and represent an improvement on the current unauthorised arrangement. I acknowledge that an open style shutter is generally preferable to a solid one. Nonetheless, the proposed security shutter would still result in an alien and incongruous addition to this historic listed building. It would be visually unattractive with a utilitarian appearance, incompatible with the host structure. The proposal would also result in the further forward projection of the fascia to accommodate the new shutter box<sup>6</sup>. The existing fascia, not sympathetic to the building, already protrudes beyond those of neighbouring properties. Therefore, the fascia would appear more prominent and bulky, detrimental to the character and appearance of the listed building and the Conservation Area.
  9. In support of the appeals, the Appellant has highlighted potential problems of theft and vandalism, citing regular damage to windows and shutters at other Cash Converters shops, and stressing the importance of appropriate security measures. In particular, the Appellant has provided photographs of stores at Waltham Cross and Bletchley, as well as other stores that have suffered break-ins. I acknowledge that there are high value items in the shop which may attract thieves, and that security is an important consideration. That said, the various cited incidents of security problems and vandalism relate to shops in other areas rather than in the vicinity of the appeal site. Consequently, I am not convinced they provide a justification for the shutters in this case.
  10. The Council's preferred security measures, as set out in its Shop front Guidance<sup>7</sup>, are toughened glass, additional glazing bars, or internal window grills. The Conservation Area Character Appraisal and Management Plan also states that external roller security shutters will be resisted<sup>8</sup>. In response, the Appellant says that toughened glass regularly gets broken requiring replacement at high cost and can suffer from graffiti being etched into the glass<sup>9</sup>. It is also said that internal grills do not stop shopfronts from being broken. In addition, the Appellant states the shop is small with a low ceiling, with a change in floor levels, and that there is limited space to install an internal shutter without severely impinging on the sales area such that it would compromise its functionality. It is further argued fitting an internal shutter may harm the historic fabric of the building.
  11. I acknowledge that there may be physical constraints associated with the appeal property. I also accept that there may be difficulties with certain measures advocated by the Council<sup>10</sup>. On the other hand, that does not mean that there are not other more appropriate security options available for this listed building. For example, although the Appellant dismisses toughened glass as an option on the basis it may be subject to breakage and vandalism, this opinion is not based on evidence from this locality, but rather other locations.

<sup>5</sup> No 35-37 has permission for a security shutter but is not listed nor within the Conservation Area

<sup>6</sup> Paragraph 5.3.7 of Appellant's Planning, Design and Access Statement, including Heritage Statement

<sup>7</sup> Shop Front Design Guidance (2023), Maidstone Borough Council

<sup>8</sup> Maidstone Centre Conservation Area Character Appraisal & Management Plan (2021), Page 53

<sup>9</sup> Photographs at Shepherd's Bush and Hayes

<sup>10</sup> Email from Paul Dale regarding security options, Appendix D of Appellant's Appeal Statement of Case

Toughened glass would have a lesser effect on the appearance of the listed building and Conservation Area than the scheme proposed.

12. My attention has been drawn to a scheme for a security shutter at 58 Lower Stone Street that was dismissed at appeal<sup>11</sup>. The precise details of that case are not before me, although it appears that the scheme was for a more solid type of shutter, in contrast to the 'open shutter' design proposed here<sup>12</sup>. I acknowledge the Appellant's point that there are differences between the two schemes. However, whatever the exact details, the earlier appeals do not provide support or justification for the current proposal, which I have determined on its merits.
13. Overall, I find that the proposal to install security shutters would result in harm to the listed building and a loss of significance. I consider that the listed building and its intrinsic qualities contribute to the character and appearance of the Conservation Area. It follows, therefore, that the harm I have identified to the listed building means that the character and appearance of the Conservation Area would not be preserved in accordance with the relevant legislation<sup>13</sup>.

### **Planning Balance**

14. The National Planning Policy Framework ('the Framework')<sup>14</sup> advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation<sup>15</sup>. The Framework further advises that significance can be harmed or lost through the alteration or destruction of those assets and that any such harm should have a clear and convincing justification<sup>16</sup>. In this case, I find the harm to be less than substantial, but nevertheless of considerable importance and weight. Where a proposal would lead to less than substantial harm to the significance of designated heritage assets, the Framework advises that this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use<sup>17</sup>.
15. The shutters would undoubtedly provide an effective security measure, and the importance of securing high value goods is fully understood. I note the Appellant's contention that occupancy levels in the locality could decline if properties cannot be properly secured, and that there is a need for pragmatism. I am mindful that an aim of Policy LPRSP1 of the Maidstone Borough Local Plan Review (2024) is to promote renewal, growth and increased employment levels. However, and importantly, that Policy also requires development to respond positively to the townscape, including ensuring the conservation and enhancement of the town centre's fabric.
16. I consider that alternative options for security that would be more sympathetic to the listed building and Conservation Area, such as toughened glass, appear to have been discounted on the basis of experiences at other locations. Importantly, none of the vandalism or security breaches relate to the locality of the appeal site. The appeal property appears to be in its optimum viable use

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<sup>11</sup> APP/U2235/W/23/3323573 & APP/U2235/Y/23/3323578

<sup>12</sup> Appellant's Statement of Case, Paragraphs 5.3.5 to 5.3.7

<sup>13</sup> S72(1) Planning (Listed Building and Conservation Areas) Act 1990

<sup>14</sup> Published December 2024

<sup>15</sup> Paragraph 212 of the Framework

<sup>16</sup> Paragraph 213 of the Framework

<sup>17</sup> Paragraph 215 of the Framework

as a shop unit and enabling this to continue is important. However, there is no substantive evidence before me to demonstrate the need for shutters at this specific site, or that less intrusive alternative measures would not work at this location. Overall, I do not consider that these matters in support of the appeal constitute the necessary public benefits that would outweigh the identified harm resulting from the installation of the proposed security shutter.

17. The relevant legislation requires that, in exercising planning powers in relation to listed buildings, special regard shall be had to preserving the building or its setting, or any features of special architectural or historic interest it possesses<sup>18</sup>. In exercising planning powers in conservation areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area<sup>19</sup>. Overall, I find that the scheme would fail to preserve the special architectural or historic interest of the Grade II listed building, and would fail to preserve the character and appearance of the Conservation Area in accordance with the relevant legislation.
18. The scheme would conflict with Policy LPRSP14(B) (Historic Environment) of the Maidstone Borough Local Plan Review which requires securing the conservation, and where possible, enhancement of heritage assets and ensuring sensitive management and design of development which impacts on heritage assets; Policy LPRENV1 (Development affecting heritage assets) which similarly requires development to conserve and, where possible enhance, the significance of heritage assets; Policy LPRSP15 (Principles of Good Design) which requires high quality design that responds to areas of heritage value; and Policy LPRQD3 (Signage and Building frontages) which requires proposals to be in sympathy with the architectural style, materials and form of the building.
19. For the reasons above, I conclude that both the appeals should be dismissed.

*Matthew Nunn*

INSPECTOR

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<sup>18</sup> S16(2) and S66(1) Planning (Listed Buildings and Conservation Areas) Act 1990

<sup>19</sup> S72(1) Planning (Listed Buildings and Conservation Areas) Act 1990