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## Appeal Decision

Site visit made on 4 March 2025

by **M Madge Dip TP MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 March 2025

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**Appeal Ref: APP/W4705/C/24/3350520**

**Land at 5 - 7 Bow Street, Keighley BD21 3PB**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Miss Berera Khalil of Gadgetcare Keighley Ltd against an enforcement notice issued by City of Bradford Metropolitan District Council.
  - The notice was issued on 18 July 2024.
  - The breach of planning control as alleged in the notice is without planning permission, the installation of an externally mounted roller shutter to the south-east facing (corner) elevation of the building on the land, as shown on the attached photograph.
  - The requirements of the notice are to remove the unauthorised externally mounted roller shutter, shutter box and guide rails from the south-east facing (corner) elevation of the building on the land.
  - The period for compliance with the requirements is twelve calendar months.
  - The appeal is proceeding on the grounds set out in section 174(2) (d) of the Town and Country Planning Act 1990 (as amended).
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### Decision

1. The appeal is dismissed, and the enforcement notice is upheld.

### Preliminary Matters

2. While the appeal form indicates that appeals would be brought on grounds (a) and (d), the relevant fee was not paid within the specified period. The ground (a) appeal has therefore lapsed. However, the reasoning as to why a fee should not be paid in respect of ground (a) states *'it does not require planning permission because it is only a small shutter about 1 metre width and 3 metre long and it only covers the front glass main entrance door.'* This amounts to a hidden ground (c) appeal; that the development alleged does not constitute a breach of planning control. I shall proceed on this basis.
3. The only information provided in support of the appeal is the completed appeal form and several photographs showing the entrance door with its glass broken and the entrance door glazing boarded over.

### The Hidden Ground (c) Appeal

4. In an appeal of this type, the onus of proof is on the appellant to show that the matter alleged does not require planning permission. The relevant test is the balance of probability.
5. S55(1) of the Town and Country Planning Act 1990 (the 1990 Act) sets out the meaning of development, which includes the carrying out of building operations. Additions to buildings, or other operations normally undertaken by a person carrying on business as a builder, amount to building operations for the purposes

of s55(1). The installation of the roller shutter alleged therefore amounts to development.

6. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) at Class A, Part 7 of Schedule 2, confirms that '*The extension or alteration of a commercial, business or service premises*' is permitted development, subject to various conditions. Development is not permitted if any alteration would be on article 2(3) land (Condition A.1(e)), or the development would involve the installation or replacement of a security grill or shutter on a shop front (Condition A.1(i)). The size of the shutter does not have a bearing on the need for planning permission.
7. Article 2(3) land includes land in conservation areas. The appeal property is located within the Keighley Town Centre Conservation Area. There is no dispute that the development comprises the installation of a shutter on a shop front. The development therefore requires planning permission. I have been provided with no evidence to show that planning permission has been granted. The development therefore constitutes a breach of planning control. For these reasons, the appeal on ground (c) fails.

### **The Ground (d) Appeal**

8. In an appeal of this type, it is for the appellant to show that the development took place at least 4 years before the date the enforcement notice (notice) was issued. The material date is therefore 18 July 2020. The relevant test is the balance of probability.
9. The appellant confirms the roller shutter was installed only because the shop was robbed in March 2022. While a specific date of when the roller shutter was installed is not given, it would be reasonable to conclude that the development took place after the shop was robbed, i.e. no earlier than March 2022. The installation date consequently occurred after the material date. The appellant has therefore failed to show, on the balance of probability, that the development is immune from enforcement action due to the passage of time.
10. For these reasons, the appeal on ground (d) fails.

### **Overall Conclusion**

11. For the reasons given above, I conclude that the appeal should not succeed, and I shall uphold the enforcement notice.

*M Madge*

INSPECTOR