



Appeal Decision

Site visit made on 30 December 2025

by Thomas Shields DipURP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2026

Appeal Ref: APP/Z2505/F/23/3320189

Mobile Hub Boston, Fish Hill, Market Place, Boston, PE21 6NN

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991 ("the Act").
 - The appeal is made by Mr Naveed Abbas (Al Jannat Ltd) against a listed building enforcement notice issued by the Boston Borough Council.
 - The listed building enforcement notice was issued on 16 March 2023.
 - The contravention of listed building control alleged in the notice is without listed building consent, the execution of alterations and works (the Works") to the Building, namely the installation of a roller shutters on the inside of the building over the front elevation openings.
 - The requirements of the notice are:
 - (a) Remove the roller shutters installed on the inside of the building.
 - (b) Repair and redecorate any damage caused to the building by the works carried out to remove the roller shutters with like for like materials and to match the existing material and colour scheme.
 - The period of time for compliance with the notice is 1 month.
 - The appeal is made on grounds (c) and (d) within section 39(1) of the Act.
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Decision

1. It is directed that the listed building enforcement notice be varied in section 6 by substituting 1 month for 9 months. Subject to the variation, the appeal is dismissed and the listed building enforcement notice is upheld, and listed building consent is refused for the retention of the works carried out in contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended ("the Act").

Preliminary Matters

2. Although the appellant indicated in his appeal form that only grounds (c) and (d) were pursued it is clear from his reasons therein that his arguments also fell within ground (e) - that listed building consent ought to be granted. Since the Council in their submissions addressed these arguments in detail in their Appendix C there would be no injustice to either party in my also dealing with the appeal on this additional ground.

Reasons

Appeal on ground (c)

3. To be successful on this ground of appeal it must be shown that the works carried out (the installation of the roller shutters) do not constitute a contravention of sections 7 and 8 of the Act. Section 7 states that *'Subject to the following provisions of this Act, no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any manner*

which would affect its character as a building of special or architectural or historic interest unless the works are authorised'. Section 8 sets out when works to a listed building are authorised. The question to be answered is simply whether the character of the listed building has been affected, and not whether the works are considered harmful.

4. 'The Assembly Rooms' is listed in Grade II* since 1949 being an imposing and prominent early C19th building in Boston town centre finished in stucco and painted ashlar with a hipped copper roof. The front elevation has 7 bays with a central pediment, first floor central bay on columns and full width iron trellis balcony at first floor. The eastern side elevation (in which the appeal shop is located) has three large arched openings at ground floor with traceried fanlights above bay windows, the central one also with shop entrance door to the appeal premises.
5. The roller shutters subject of the appeal have been installed inside the shop to the rear of two of the glazed arches. The shutters sit below and set back from the level of the two glazed fanlights, but closer to the rear glazing in the bay window and entrance door. The shutters are constructed in solid grey metal and are a highly visible modern addition when in the closed position. Even when fully open the lower part of the shutters does not withdraw into the housing and remains visible through the glazed frontages. Regardless of whether they are beneficial or not they undoubtedly "affect" the building's character as a building of special or architectural or historic interest. The appeal on ground (c) therefore fails.

Appeal on ground (d)

1. For this ground of appeal to be successful an appellant must demonstrate that the works carried out were essential and "urgently necessary".
2. As such, three tests must **all** be satisfied. Firstly, that the works to the building were urgently necessary in the interests of safety or health or for the preservation of the building; secondly, that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter; and thirdly, that the works carried out were limited to the minimum measures immediately necessary.
3. The appellant states the roller shutters were necessary to ensure "shop safety" or security of the building. However, in contrast for example to the temporary boarding-up of a broken window, the ordering and installation of roller shutters for general security does not constitute works "urgently necessary" for safety or health or for preservation of the building. None of the three tests above are met in this case. Consequently, the appeal on ground (d) must fail.

Appeal on ground (e)

4. The appeal on this ground is that listed building consent ought to be granted for the works carried out.
5. Section 16(2) of the Act requires that special regard be paid to the desirability of preserving the special architectural and historic interest of the listed building. The main issue in this ground (e) appeal is the effect of the roller shutters on the special architectural and historic interest of the listed building, or upon its "significance" in the language of the Framework¹.

¹ National Planning Policy Framework (December 2024)

6. The building's significance derives from its architectural and historic features I have previously described, and also from the historical social purposes for which it was constructed, and how the building and such uses evolved over time to the present day to its various commercial uses.
7. As set out earlier the grey metal shutters are highly visible, albeit less so when the shop is open. Their overtly solid industrial appearance is prominent and of a scale which detracts from the traditional design and features of the frontage glazing and to the listed building as a whole. As such, and in contrast to the transparency of glass, they also have a more permanent barrier effect to intervisibility through the archways which reduces their legibility as historically open features.
8. I acknowledge that security of the premises is important. However, alternative designs of perforated or lattice-style internal security shutters are readily available which would provide the same level of protection from crime without resulting in the harm to the significance of the listed building I have identified. There is no evidence before me as to how or why other shutter designs were considered, along with any other security measures, and discounted as unsuitable.
9. I also note the existence of external roller shutters located at the north-eastern shop unit of the listed building. However, the Council confirms that no listed building consent has been granted for them. Their existence therefore does not provide a precedent in terms of suitable types and designs of shutters.
10. In accordance with paragraph 215 of the Framework I find the harm to the listed building to be 'less than substantial' and of a minor scale. However, the harm is not outweighed by public benefits and hence listed building consent should be withheld.

Other Matters

11. No appeal is made on ground (h) that the compliance period falls short of what should reasonably be allowed. However, powers available under s41(1)(b) of the Act allow me to vary the terms of a listed building enforcement notice where there would be no injustice to either party.
12. In my view removal of the shutters in the absence of alternative replacement security measures would increase the risk of crime and potentially thereby result in harm to the fabric of the listed building. In this regard the removal of the roller shutters within one month would not allow sufficient time for the appellant to find suitable alternative shutters, with or without other security measures, that would be suitable in terms of preserving the special interest of the listed building, and for securing listed building consent and subsequent installation.
13. Accordingly, given these circumstances, I have varied the notice to extend the compliance period to 9 months which I consider is more reasonable.

Thomas Shields

INSPECTOR