



Appeal Decision

Site visit made on 21st August 2012

by Clive Whitehouse BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 August 2012

Appeal Ref: APP/B2355/C/12/2174357

Dixy Chicken, 23 Manchester Road, Haslingden, Lancashire BB4 5SL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr I Aktar against an enforcement notice issued by Rossendale Borough Council.
 - The Council's reference is 128/2011.
 - The notice was issued on 26th March 2012.
 - The breach of planning control as alleged in the notice is the unauthorised erection of roller shutters and shutter box to the front of the premises.
 - The requirements of the notice are to remove the roller shutters and shutter box from the front of the premises.
 - The period for compliance with the requirements is one calendar month.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.
-

Decision

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

Grounds of Appeal

2. The appeal was submitted initially on ground (b); that the alleged breach had not occurred as a matter of fact. Since the roller shutter and box are clearly in place, the appellant changed the ground of appeal to ground (c). That ground is available where it is contended that there has not been a breach of planning control. However, the appellant does not argue that planning permission is not required, but complains that a planning application for perforated roller shutters and a shop front, that was refused in December 2010 and dismissed on appeal in August 2011, was not correctly dealt with.
3. It is claimed that both the Council and the Inspector in that case made their decisions on the basis of the roller shutter as it existed (and still exists), and not on the basis of the proposal to install new, replacement shutters. A complaint was accepted by the Planning Inspectorate as justified, but it was pointed out that the only way in which an Inspector's decision can be re-determined is following a successful challenge in the High Court, and that the period for making such a challenge had passed. The present appeal is against the enforcement notice directed at the existing shutters (which have been in

place since at least 2010) and it does not provide a means for re-consideration of the previous planning application and appeal.

4. Planning permission has not been granted for the existing roller shutters and shutter box and I am satisfied that they require planning permission. There has therefore been a breach of planning control and the appeal on ground (c) fails.
5. It remains open to the appellant to apply for planning permission for replacement shutters of a different design.

C Whitehouse

INSPECTOR



Appeal Decision

Site visit made on 1 May 2012

by **Kay Sheffield BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8 May 2012

Appeal Ref: APP/B2355/A/12/2168410

36 Manchester Road, Haslingden, Rossendale, BB4 5ST

- 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 Mashuk Ali against the decision of Rossendale Borough Council.
 - The application Ref 2011/0490, dated 27 April 2011, was refused by notice dated 1 December 2011.
 - The development proposed is a shop front and roller shutter.
-

Decision

1. The appeal is dismissed.

Procedural matters

2. In refusing planning permission the Council cited Planning Policy Statement 1: *Delivering Sustainable Development* (PPS1) which has been cancelled by the National Planning Policy Framework (the Framework) published on 27 March 2012. Regard must be given to the Framework in lieu of PPS1 in the determination of the appeal. Therefore, in the interests of reaching a fair and balanced decision the parties have been given the opportunity to submit representations with regard to the Framework and those submitted have been taken into account in reaching a decision on the appeal.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the street scene.

Reasons

4. The appeal site lies on the east side of Manchester Road and is located within Haslingden Town Centre. The appeal property is a three storey mid terrace which is in use as a hot food take away at ground floor level with residential above. The neighbouring properties are also in commercial use at ground floor level. The development to which the appeal relates has already been carried out and whilst the shutter was drawn down at the time of my site visit and obstructed my view of the shop front, I am satisfied that I am able to reach a balanced decision from my observations on site and the submitted documents.
5. There is a broad range of shop fronts in the vicinity of the site in terms of the materials used and the height of the stall-risers, although the majority have large display windows with minimal stall-risers. The frontage to the appeal property contains two entrance doors either side of a central brick panel which is approximately one metre in height and topped by a window. The reduced

- area of glazing to the frontage, in contrast to neighbouring units, together with the height and materials of the brick panel form an incongruous feature, to the detriment of the character and appearance of the street scene.
6. The shutter is solid and therefore allows no views through to the shop front creating a dead rather than an active frontage. Consequently when the shutter is drawn down there is no interaction with the street which causes significant harm to the character and appearance of the area. This harm is intensified by the fact that the shutter is drawn down during the day.
 7. The appellant has indicated that the shutter has been installed on the advice of the police following attacks on the premises, which have included arson. Although it is acknowledged in the Government publication *Safer Places – The Planning System and Crime Prevention*, 2004 that roller shutters provide a high level of security, it also states that they can have a negative effect on the street scene, are susceptible to graffiti and do not reflect light in the way that windows do. It suggests that alternatives such as open grilled designs or internal shutters should be considered. Whilst it is not disputed that the premises may require protection, there is no substantive evidence that the solid external shutter is the only solution to the problem in this instance.
 8. Although the appellant has stated that he would be prepared to limit the use of the shutter to between the hours of midnight and 07.00 which may overcome some of the concerns identified, it would not outweigh the harm identified to the character and appearance of the street scene with regard to the shop front.
 9. Whilst there are other premises in the area with external shutters no details regarding their planning history have been submitted. In addition the Council has commented that enforcement investigations are ongoing in respect of other shutters in the area which may be unauthorised. In view of this, little weight can be attributed to similar developments in the area in the determination of the appeal, which has been treated on its merits
 10. The evidence therefore leads me to conclude that the development would harm the character and appearance of the street scene, contrary the guidance contained in *Safer Places – The Planning System and Crime Prevention*, the Framework and Policies 1, 23, and 24 of the Council's Core Strategy Development Plan Document, 2011 which seek to ensure developments make positive contributions which enhance their surroundings. Although the Council cited Policy EM 1 of the North West of England Plan Regional Spatial Strategy to 2021, no reasons for doing so have been given. In the absence of any identified environmental assets which the policy seeks to protect and enhance or evidence specifying the harm the development would cause to them, I have had no regard to this policy in reaching my decision.
 11. For the reasons given above, and having had regard to all other matters raised, the appeal is dismissed.

Kay Sheffield

INSPECTOR



Appeal Decision

Site visit made on 1 May 2012

by **Kay Sheffield BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8 May 2012

Appeal Ref: APP/B2355/A/12/2168218

6 Bacup Road, Rawtenstall, Rossendale, Lancashire, BB4 7ND

- 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 Mohammed Younis against the decision of Rossendale Borough Council.
 - The application Ref 2011/0426, dated 30 August 2011, was refused by notice dated 4 November 2011.
 - The development proposed is the installation of roller shutters to windows and door.
-

Decision

1. The appeal is dismissed.

Procedural matters

2. In its reason for refusing planning permission the Council cited the Rossendale District Local Plan, 2001 (LP) which was replaced prior to the submission of the appeal by the Council's Core Strategy Development Plan Document (DPD). The Council also cited Planning Policy Statement 1: *Delivering Sustainable Development* (PPS1) and Planning Policy Statement 5: *Planning for the Historic Environment* (PPS5) which were cancelled by the publication of the National Planning Policy Framework (the Framework) on 27 March 2012. In the interests of reaching a fair and balanced decision the parties have been given the opportunity to submit representations regarding the Framework and in reaching my decision I have had regard to the Framework in lieu of PPS1 and PPS5 and Policies 1, 16, 23, 24 and AVP 4 of the DPD in lieu of Policies DC1 and HP1 of the LP.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the Rawtenstall Town Centre Conservation Area.

Reasons

4. The appeal site is located in the town centre at the junction of Bacup Road and James Street and lies within the Rawtenstall Town Centre Conservation Area. The appeal property forms part of a single storey stone property which is in use as a shop. The adjoining unit is used as a taxi office and other uses in the area include funeral directors, offices, parking and the bus station.
5. The shutters and their associated guide rails and boxes have been fitted to the entrance door to the shop and its two windows. Although the shutters were retracted at the time of my site visit, I am satisfied that from my observations

- on site and the submitted details I am able to make a balanced decision on the case.
6. The building is in a relatively prominent position in the street scene and makes a positive contribution to the character and appearance of the Conservation Area. Although, due to their size, the windows are less prominent than the door, the shutters and boxes to the windows and the door are clearly seen in views of the appeal property and together they form an incongruous feature in the street scene. They also create a dead frontage to the property when the shutters are drawn down.
 7. The appellant has indicated that the shutters would only be drawn down between 22.30 and 06.00 hours or other hours as may be agreed. Although outside these times the shutters would be retracted and an active frontage would be displayed, this does not overcome the effect of the shutter boxes. Whilst the incorporation of signage on the front of the boxes helps disguise their function, it does not overcome their overall size or their dominance in the appearance of the building and the street scene.
 8. The appellant states that the building was the subject of attacks from vandals prior to its change of use from a taxi office to a newsagent and as the attacks have continued it has become necessary for the shutters to be installed. However I noted that the window to the taxi office, which is of the same proportions and located alongside those to the appeal property, did not benefit from external shutters. In addition no substantive evidence of the attacks has been submitted and I saw no evidence of vandalism or graffiti during my site visit.
 9. Although it is acknowledged in the Government publication *Safer Places – The Planning System and Crime Prevention*, 2004 that roller shutters provide a high level of security, it also states that they can have a negative effect on the street scene, are susceptible to graffiti and do not reflect light in the way that windows do. It suggests that alternatives such as open grilled designs or internal shutters should be considered. This is also reflected in the Council's Supplementary Planning Document: *Shop Front Design Guide*, 2011 which seeks to ensure that external shutters are only permitted as a last resort. Whilst it is not disputed that the premises may require protection, there is no evidence that the external shutters are the only solution to the problem.
 10. The evidence therefore leads me to conclude that the development would fail to preserve or enhance the character or appearance of the Rawtenstall Town Centre Conservation Area, contrary to the guidance contained in *Safer Places – The Planning System and Crime Prevention*, the Framework, Policies 1, 16, 23, 24 and AVP 4 of the DPD and Policies DP1-9 and EM 1 of the North West of England Plan Regional Spatial Strategy to 2021 (RSS) which seek to ensure developments make positive contributions which enhance their surroundings.
 11. For the reasons given above, and having had regard to all other matters raised, the appeal is dismissed.

Kay Sheffield

INSPECTOR



Appeal Decision

Site visit made on 26 June 2012

by J S Nixon BSc(Hons) DipTE CEng MICE MRTPI MCIHT

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 July 2012

Appeal Ref: APP/B2355/A/12/2168700

71 Deardengate, Haslingden, Rossendale, BB4 5SN.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission under section 73A of the Act for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by MR Imran Munir against the decision of Rossendale Borough Council.
- The application Ref. No: 2011/0499, dated 12 October 2011, was refused by notice dated 14 December 2011.
- The application sought planning permission for the installation of a new shop front (retrospective).
- The condition in dispute is No2a of planning approval 2011/0013 granted planning permission on 8 March 2011:

No.2a states: Within 3-months of the date of this decision: the recently constructed external roller shutter to cover the shopfront hereby permitted shall be removed;

- The reason given for the condition is to protect the character and appearance of the building and Haslingden Town Centre, in accordance with PPS1/PPS4, Policy Em1 of the Regional Spatial Strategy for the NW of England (2008), Policies DC1/HP5 of the Rossendale District Local Plan (1995).
-

Decision

1. For the reasons given below, this appeal is dismissed.

Procedural matters

2. Reference is made in the Council's Reason for Refusal to Planning Policy Statement 1: Delivering Sustainable Development (PPS1). This has been cancelled by the National Planning Policy Framework (the Framework) published on 27 March 2012, regard to which must now be given in determining this appeal. The parties have been appraised of this situation and, in the interest of reaching a fair and balanced decision, the parties have been given the opportunity to submit representations with regard to the Framework. However, no amendments to the Appellant's grounds of appeal or the Council's statement of case have been submitted.

Main Issue

3. Having regard to the written representations and a visit to the site and surroundings, it follows that the main issue to be decided in this appeal is the effect retaining the roller shutters would have on the character and appearance of the host building and the wider street scene.

Reasons

4. The appeal site lies on the west side of Deardengate, within Haslingden Town Centre. Although the host building is not protected by any heritage designation, it is an attractive, traditionally built 2-storey stone building with a slate roof occupying a relatively prominent position in a busy street environment. While the shutter was not drawn down at the time of my visit, it has been possible to reach a balanced decision from observation and the submitted documents, plans and photographs.
5. From this information, it is clear that any devaluation of the architectural integrity of frontage of the building would be unfortunate. To an extent this has already happened with the new shop front, which the Council says is not entirely appropriate. Irrespective, any perceived harm would be compounded inordinately with the retention of the roller shutter. When closed, the shutter allows no views through to the inside of the property and reduces interaction with the street scene. It creates a 'dead' frontage. Thus, employing the shutter would detract visually from the host building and the wider street scene in a most pronounced way. This would be particularly so in the evenings and when the business is closed.
6. The frontages vary along the street, and other premises also boast roller shutters, some of similar design. However, it is not clear what planning status these have and the Council indicates that enforcement investigations are ongoing. As such, little weight can be afforded to this line of argument.
7. As for security, it is acknowledged in the Government publication "Safer Places – The Planning System and Crime Prevention, 2004" that roller shutters provide a high level of security. However, it also registers several downsides and these include their susceptibility to graffiti and their inability to reflect light. The Government advice suggests that alternatives such as open grill designs or internal shutters should be considered.
8. In this case, there is no objective evidence of break-ins, but there are recorded instances of vandalism. In the light of this, one can fully appreciate the wish to take precautions. However, it would have been more appropriate to implement these precautions when the new shop front was fitted. There can be no doubt that had Government guidance been adhered to then, a far more neutral effect on the host building and wider frontage would have been achieved. However, even though the Council has accepted the current position with respect to the shop front this is not a good reason for making a less than ideal position far worse. In fact, one might conclude that implementing protection of this kind instils a lower level of respect for the public realm.
9. In summary, retention of the roller shutter would detract visually from the character and appearance of the host building and wider street scene to an unacceptable degree. I agree with the Council that a condition limiting the time the shutter would be down would not outweigh the visual harm and would be both inconvenient for the owner and difficult for the Council to enforce. As such, this would be contrary to Government Guidance referred to above, Regional Spatial Strategy Policy EM1C, which seeks to protect our historic environment and Policies 1 and 23 of the adopted Core Strategy relating, respectively, to general development principles and promoting high quality

design and spaces. This visual harm is not outweighed by the risks of theft and social crime. Accordingly, and having taken into account all other matters raised, this appeal fails.

JS Nixon

Inspector