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Contact: Cilpa Beehook
Direct line: 020 7974 8780

**Validation & fast track team
Regeneration and planning**
Supporting Communities directorate
London Borough of Camden
2nd Floor
5 St Pancras Square
London
N1C 4AG
Tel: 020 7974 8780
Fax: 020 7974 1680
planning@camden.gov.uk
www.camden.gov.uk/planning

Dear Planning Inspectorate

Site at 14 Heath Street London NW3 6TE

Appeal by Mr Ian Trehearne against the issue of an Enforcement Notice dated 15 March 2016. It instructs 1) Completely remove the external roller shutters and associated fixtures from the shop frontage and 2) Make good any damage to the building as a result of the works.

The Council's case for this appeal is largely set out in the officer's delegated report dated 27 April 2015 which was sent with the Questionnaire. The report recommends enforcement action within a period of 3 months to completely remove the external roller shutters and associated fixtures from the shop frontage and make good any damage to the building as a result of the works. It sets out how the external roller shutters are unacceptable on grounds of design and impact upon the Hampstead Conservation Area. The report also details the site and surroundings, the site history and all consideration of the issues.

In addition to the information sent with the questionnaire I would be pleased if the Inspector could take into account the following information and comments before deciding the appeal.

Summary

The site refers to the ground floor level retail unit of a three storey terraced building located on the east side of Heath Street. The site is not listed but it is situated in the Hampstead Conservation Area. Although not a listed building- it is surrounded by many Grade II Listed buildings. Other nearby buildings (1-13, 15-21 odd Heath Street) are identified as positive contributors.

Unauthorised black metal external roller shutters, half solid and half of a brick bond style have been installed to the front elevation of the ground floor retail unit. The enforcement notice was issued on the basis that the location and design of the works that have been carried out detract from the building on the site and the surrounding

Hampstead Conservation Area; the works fail to respect the established character, appearance and architectural quality of the site and surroundings. The appeal is made against the Enforcement Notice (ref: EN15/0454) under grounds (a), ground (c) and ground (g) only.

Status of Policies and Guidance

The London Borough of Camden Local Development Framework was formally adopted on the 8th November 2010. The policies of relevance to the appeal scheme as expressed in the reasons for refusal are:

- CS5 – Managing the impact of growth and development
- CS7- Promoting Camden’s centres and shops
- CS14 – Promoting high quality places and conserving our heritage
- CS17 – Making Camden a safer place
- DP24 – Securing high quality design
- DP25 – Conserving Camden’s heritage
- DP26 – Managing the impact of development on occupiers and neighbours
- DP30 - Shopfronts

The Council also refers to supporting guidance documents. The Camden Planning Guidance was recently updated and following public consultation was approved by the Council in September 2013. In CPG 1 Design, Chapter 7 provides guidance for shopfronts.

With reference to the National Planning Policy Framework 2012, policies and guidance contained within Camden’s LDF 2010 are up to date and fully accord with paragraphs 214 – 216 (Annex 1). They should therefore be given substantial weight in the decision of this appeal. There are no material differences between the Council’s policies and the NPPF in relation to this appeal. The NPPF states that development should be refused if the proposed development conflicts with the local plan unless other material considerations indicate otherwise.

Ground (a) Appeal:

Section 174(2)(a) states that planning permission should be granted for what is alleged in the notice.

The appellants’ grounds of appeal can be summarised briefly as follows and are subsequently addressed in the paragraphs beneath.

Appellant’s Case

The appellant states that ‘The installation of the roller shutter has unfortunately been necessitated by a significant degree of insecurity.’

They also state that ‘The shutter is retracted and not visible between the early morning and when the shop closes in the evening. Retractable blinds are not unusual in the area, and the jeweller at no 17 Heath Street has one. Consideration has been given to fitting a shutter internally, but it would require a major shop refit and would reduce the internal space available.’

Council’s response

The roller shutter is at odds with the historic character of the building and is contrary to the council’s policies and CPG guidance.

The council contends the appellants’ view that the installation of external roller shutters is necessary for the shops security. Core Strategy policy CS17 addresses Making Camden a Safer Place and it is stated within this policy under paragraph 17.6 that the provision of appropriate management and maintenance arrangements can play a key role in reducing the opportunity for crime and disorder and making the borough feel safer. The Council will seek the use of shop front security measures that do not require external shutters or grilles of any kind.

Development Policy DP30 specifically refers to shop fronts and expects a high standard design of shop fronts, canopies, blinds and security measures and that consideration should be given to the *(a) the design of the shop front, as well as (e) community safety and a contribution made by shop fronts to natural surveillance.*

Furthermore, Camden Planning Guidance 1: Design (section 7.27) states that, *‘The Council strongly encourages internal rather than external shopfront security measures. Other forms of enhanced shopfront security should be considered instead of external shutters. For example, improved internal lighting, alarm systems, the use of toughened or laminated glass, etc.’*

Paragraph 7.29 of CPG 1 Design states that where an external shutter is proposed it may only be considered acceptable provided it is integrated into the shop front in terms of design, materials and colour. External measures should avoid using solid roller shutters. These designs have negative environmental impacts including:

- obscuring the shop front and hiding window displays;
- attracting graffiti;
- preventing natural surveillance;
- creating a hostile and unsafe appearance in streets and shopping centres;
- and being visually unattractive.

Core strategy policy CS14 promotes high quality places by only granting planning permission for development of the highest standard of design that respects local context and character. Development Policy DP24, Paragraph 24.7 states that development should consider its contribution to the public realm and paragraph 24.12 requires careful consideration to be given to the characteristics of the site and

the wider context to achieve high quality design which integrates into the surroundings.

In view of the above, the inappropriate material and design details are considered to be contrary to policy. Shutters and security grills along Heath Street are predominantly installed internally. The appellant refers to 'no 17 Heath Street' having a similar development. There are however no records of planning permission being granted for external solid roller shutters on any property in Heath Street. Should properties nearby have similar roller shutters this may be subject to a current enforcement investigation or may have been in place for over 4 years and is therefore immune from enforcement action. The unauthorised works at this property if allowed would set an unacceptable precedent.

The shutters, in terms of size, design and location are neither appropriate nor sympathetic to the character and appearance of the host and adjacent buildings and have a harmful impact on the appearance and character of the conservation area and street scape. The external shutters do not contribute to the public realm, and are an unduly dominant visual feature in the street scene.

The external roller shutters, by reason of their location, design and external appearance result in an incongruous addition to the building which harms the character and appearance of the building and the wider Hampstead Conservation Area, contrary to policies CS5, CS7, CS14 and CS17 of the Camden Core Strategy and policies DP24, DP25, DP26 and DP30 of the Camden Development policies LDF.

Ground (c) Appeal:

Section 174(2)(c) states that an appeal can be made under ground (c) if there has not been a breach of planning control (for example because permission has already been granted, or it is "permitted development").

The appellants' grounds of appeal can be summarised briefly as follows and are subsequently addressed in the paragraphs beneath.

Appellant's Case

The Appellant states that, 'The roller shutter that has been installed is not an alteration to the building but a fixture to the outside of it. Its installation does not materially alter the external appearance of the building contrary to s55(2)(a)(ii) Town and Country Planning Act 1990. 'Materially' is defined by the Oxford English Dictionary as '*In a significant way; considerably*', and the actual degree of the alteration cannot be said to be material other than in the relatively short night time period between 7.00 pm and 5.30 am when the shutter is closed.'

Council's Case

Planning permission has never been sought for the external roller shutters and such development is not considered to be 'permitted development'. The Council considers that the installation of external roller shutters is operational development requiring planning permission as defined by s.55 of the Town & Country Planning Act 1990 (T&CPA). Section 55 provides as follows:

Meaning of "development" and "new development":

(1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

[F1(1A) For the purposes of this Act "building operations" includes—

(a) demolition of buildings;

(b) rebuilding;

(c) structural alterations of or additions to buildings; and

(d) other operations normally undertaken by a person carrying on business as a builder.]

The external roller shutter is considered operational development requiring planning permission as defined by s55 of T&CPA. The council routinely processes planning applications for roller shutters. The effect of the shutters on the building and thereby whether it would serve to preserve or enhance the character or appearance of the conservation area should be considered.

Ground (g) Appeal:

Section 174(2)(g) states that an appeal can be made under ground (g) if the time given to comply with the notice is too short.

The appellants' grounds of appeal can be summarised briefly as follows and are subsequently addressed in the paragraphs beneath.

Appellant's Case

With regard to the ground (g) appeal, the Appellant states that the time frame of three months allowed by the Notice is inadequate and that a 6 month period would be more suitable to carry out the works.

Council's Case

The Council believes a three month period gives adequate time to undertake the required works, and notes the Appellant has not specified reasons as to why the works would take longer than 3 months. In the absence of any additional documentation or description demonstrating the works will exceed 3 months, the

LPA contends the original compliance period stated in the Notice is an appropriate length of time to bring the property into conformity with planning controls.

Conclusion:

On the basis of information available and having regard to the entirety of the Council's submissions, including the content of this letter, the Inspector is respectfully requested to dismiss the appeal and uphold the issuing of the Council's Enforcement Notice without variation.

If any further clarification of the appeal submissions is required please do not hesitate to contact Cilpa Beehook on the above direct dial number or email address.

Conditions

The works have already been carried out. Conditions cannot be attached which would control the development or mitigate the harm that has been caused.

If any further clarification of the appeal submissions is required please do not hesitate to contact me on the above direct dial number or email address.

Yours sincerely,

Cilpa Beehook
Planning officer
Appeals & Enforcement
Supporting Communities Directorate