



# Appeal Decision

Site visit made on 9 March 2009

by **Katie Peerless Dip Arch RIBA**

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

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**Decision date:**  
**19 March 2009**

## Appeal Ref: APP/Q1445/C/08/2088914

### Land at 15 St James' s Street, Brighton BN2 1RF

- 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 M Ramis against an enforcement notice issued by Brighton & Hove City Council.
- The Council's reference is 2007/0734.
- The notice was issued on 29 September 2008.
- The breach of planning control as alleged in the notice is the installation of box security shutters to South and West elevations of the shop premises.
- The requirements of the notice are:
  - a. Remove the two external box roller shutters at the George Street elevation and remove the single box roller shutter at the St James's Street elevation.
  - b. Make good any damage to the shop front caused by the removal of the shutters.
- The period for compliance with the requirements is twelve weeks.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (e) and (g) of the Town and Country Planning Act 1990 as amended.

## Decision

1. I direct that the enforcement notice be varied by the deletion of twelve weeks and the substitution of six months as the period for compliance. Subject to this variation, I dismiss the appeal, uphold the enforcement notice, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

## Ground (e)

2. The appellant claims that the enforcement notice was not properly served because, if it had been posted, it might not have arrived as the post code of his address was wrong. However, the enforcement notice was served personally on the appellant and he is clearly aware of its contents and requirements. The hypothetical possibility he refers to does not invalidate the notice and I conclude that it was properly served. The appeal on ground (e) does not therefore succeed.

## Ground (a)

3. The appeal site is a mobile phone shop/internet café in a corner location in an area containing a variety of commercial premises within the East Cliff Conservation Area. The area is bustling and vibrant and, in George Street, is characterised by generally small, specialist shops whereas in St James's Street the shop units tend to be larger.

4. The boxes housing the security shutters that have been installed at the appeal site are mounted above, and project beyond, the shopfront on two elevations of the building. The roller shutters are constructed of steel slats, painted yellow, and have a solid appearance when lowered.
5. The appellant considers that such security measures are necessary to prevent break-ins to his premises, as the stock is clearly visible behind the plate glass windows of the shop and is of high value and easily carried away. He notes that there have been two recent attempts to enter the premises and he also points to a number of other premises in the area where such shutters have been installed.
6. Saved policies QD5, QD8, QD10 and HE6 of the Brighton and Hove Local Plan 2005 (LP), supported by Supplementary Planning Guidance 02 (SPD) on shop front design, resist the installation of this type of solid shutter, particularly in conservation areas, as they are considered to be unsightly and create a sterile and forbidding appearance. Whilst box shutters may be an effective means of providing security there are, nevertheless, other practical alternatives, some of which have been outlined by the Council in its representations and are referred to in the SPD.
7. The appellant has drawn my attention to a number of shops in the vicinity that have some form of external security shutters similar to those on the appeal site. However, I am told that one of the quoted examples was permitted under a different policy regime and the Council has given details of other, recently refused, applications for shutters that were also refused at appeal. I consider that the Council's stance on resisting the incremental accumulation of such shutters should be supported, as they have a damaging effect on the character of the conservation area by presenting a blank and standardised façade to what should be a varied and welcoming street scene. Such shutters also attract graffiti, as can be seen on the photographs of the appeal site submitted by the appellant. In these circumstances, I consider it important to support the principles set out in the Council's shopfront design guide, which clearly notes that solid external shutters are generally unacceptable.
8. Policy QD8 does allow for exceptions to this rule, where special circumstances apply. These include isolated locations, which this is clearly not, and where there is evidence, supported by the police, that security poses a special problem and all other appropriate security measures advised by the police have been put in place. The appellant has provided no such evidence in this case and the claim that the property cannot be insured without external box roller shutters is not supported by the limited information presented with the appeal documentation. In any event, the SPD and policy QD8 make clear that even if a solid external roller shutter is permitted in exceptional circumstances, the box housing must concealed behind the fascia or set back beneath it. On the appeal property they are not.
9. Therefore, for the reasons given above and having regard to all other matters raised, I conclude that the box shutters fail to preserve the character and appearance of the conservation area and there are no special circumstances that indicate that planning permission for them should be granted. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

**Ground (g)**

10. The appellant asks for twelve months to comply with the enforcement notice, rather than the twelve weeks granted by the Council. The Council has agreed to an extension of time, but not to the extent asked for by the appellant. The appellant states that it will take considerable time to gain approval for alternative security measures and does not want the premises left vulnerable if the shutters have to be removed before an alternative scheme has been agreed.
11. I see no reason to prolong the harm to the conservation area for any longer than is absolutely necessary and it seems to me that six months would be a reasonable compromise to replace the shutters with more suitable security measures, particularly given the comprehensive and detailed advice available in SPD 02. Internal shutters would not need planning permission and, in any event, the Council has powers under S173A(1) to vary the period for compliance whether or not the enforcement notice has come into force, should circumstances, such as a delay on their part in approving another scheme, indicate this to be necessary.
12. I will, therefore, vary the enforcement notice to substitute six months as the period for compliance and the appeal on ground (g) succeeds to this extent.

*Katie Peerless*

**Inspector**

