

## Appeal Decision

Site visit made on 25 October 2016

by **John Whalley**

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

**Decision date: 14 November 2016**

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**Appeal ref: APP/J2373/C/16/3149940**

**7 Cookson Street/7 & 7B Charles Street, Blackpool FY1 3ED**

- The appeal was made by Miss Trudy Wheeler under Section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by Blackpool Borough Council.
- The notice was issued on 5 April 2016.
- The breach of planning control alleged in the notice was: Without planning permission, the installation of eight externally mounted roller shutters, housing boxes and associated guides mounted to the Cookson Street and Charles Street elevations.
- The requirement of the notice is to: Remove all the externally mounted roller shutters, housing boxes and associated guides mounted to the Cookson Street and Charles Street elevations in their entirety.
- The period for compliance with the requirement is one month.
- The appeal was made on grounds (a), (f) and (g).

**Summary of Decision: The enforcement notice is varied and upheld**

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### Appeal development

1. The appeal property, Nos. 7 Cookson Street and 7 & 7B Charles Street, Blackpool, stands at the corner of the 2 roads. The enforcement notice was issued against 8 window and door covering solid galvanised steel roller shutters and their associated housing boxes and guides that have been fitted to the unoccupied retail unit.

### The appeal on ground (a)

2. The appeal on ground (a) asks that planning permission be granted to retain the roller shutters installation.

#### *Policy*

3. The Blackpool Local Plan was adopted in June 2006. The majority of its policies were saved in June 2009. The Council set out what they considered to be relevant policies.

Policy LQ1 - all new development will be expected to be of a high standard of design and to make a positive contribution to the quality of its surrounding environment.

Policy LQ12 - Security Shutters

- (A) Applications for external shutters will not be permitted, other than in exceptional circumstances
  - (i) within the Town Centre
  - (ii) on Listed Buildings.
- (B) Outside of the Town Centre, shutters and grilles will be permitted subject to the following criteria:
  - (i) the shutter, housing box and guides are integrated sympathetically within the fascia
  - (ii) the shutter is designed to integrate with the existing shop front, and must not obscure architectural features of the building such as stall risers.
- (C) Solid shutters will not be permitted on properties within the following locations:
  - (i) local or district shopping centres
  - (ii) the Resort Core
  - (iii) Resort Neighbourhoods
  - (iv) the Promenade frontage.

In these locations shutters should be of brick bond design or similar, which allow an oblique view through into the property and the retention of a window display.

4. The Blackpool Local Plan: Part 1 – Core Strategy was adopted by the Council on 20 January 2016. The Council said it was to be published on the Council's website. They said significant weight could be given to policies in the Core Strategy. Policy CS7 requires new development to be well designed and to enhance the character and appearance of the local area.

*Considerations*

5. There had been a difference between the parties as to whether the appeal property was within the local plan designated Town Centre and therefore as to which policy should apply. The Council accepted that the appeal property was not within the Town Centre boundary in the Saved Blackpool Local Plan 2001-2016. But it was within the Town Centre Boundary within the Blackpool Local Plan: Part 1 - Core Strategy (2012-2027). So, as the Blackpool Local Plan: Part 1 - Core Strategy was adopted prior to both the refusal of planning permission, (16/0012 refused 14/03/2016), and the issue of the Enforcement Notice, (15/8657 issued 05/04/2016), the Council considered it fair to say the appeal building lay within the (Revised) Town Centre boundary, and therefore Saved Policy LQ12(A)(i) applied. The Council said there had to be "exceptional circumstances" to approve shutters in the Town Centre. There were no obvious exceptional circumstances. Policy LQ12 recognised that shutters could cause serious damage to the appearance of a building and the area, particularly where they were not integrated into the design of the building.
6. For the Appellant, Miss Wheeler, it was said that the Council had now made reference to the more recently adopted Core Strategy policy map. They did not refer to the Core Strategy policy map in section 5, 'policy context', of their appeal statement, in their delegated report relating to the subject application, nor in the enforcement notice. The only reference in their policy section to the Core Strategy was to policy CS7, design. The Council were trying to introduce a new argument to justify treating the appeal site as being within the town centre with regards to policy LQ12, having realised they had misinterpreted the 2001-

2016 Local Plan proposals map. Saved policy LQ12 was the only policy within the Development Plan that specifically related to the installation of security shutters. That was adopted in June 2006 as part of the 2001-2016 Local Plan. It was not replaced by any policies in the Core Strategy. Policy LQ12(A)(i) should therefore only apply to the geographical area identified at the time of adoption - the Town Centre as defined on the 2001-2016 Proposals Map. Accordingly it was considered that the meaning of the 'Town Centre' under Policy LQ12 could only be read alongside the accompanying 2001-2016 Proposals Map. That remained the case until such time as the Council adopted a replacement Development Management Policy DPD. Even if the site were located within the town centre, policy LQ12 allowed the installation of security shutters in exceptional circumstances.

7. In my view, Miss Wheeler was right to say that part (B) of policy LQ12 is more apposite to the fitting of shutters to the appeal property. That says: "*Outside of the Town Centre, shutters and grilles will be permitted where the shutter, housing box and guides are integrated sympathetically within the fascia and the shutter is designed to integrate with the existing shop front, and must not obscure architectural features of the building such as stall risers*". However, whilst there is a less stringent restriction on shutters in this part of Blackpool, I consider that the solid appeal roller shutters and their housings produce an unappealing, indeed disheartening look that is also somewhat intimidating. The 8 shutters are not a sight to lift the spirits. They are cold and defensive features that are detrimental to the character and appearance of the immediate area.
8. Miss Wheeler had inherited the dilapidated appeal property. She had been served with a notice under s.215 of the Act, (*Power to require proper maintenance of land*), requiring remedial works to be carried out. At a cost of some £40,000, Miss Wheeler had carried out an extensive schedule of works to put the property into better repair and to protect it while she looked for a beneficial use of the property. Her concerns about possible vandalism and other security matters are understood. But in the form they take, the shutters' unhappy appearance that is made worse by their being solid roller shutters with projecting housing boxes, is not, in my view, acceptable as a permanent feature in the street scene. They do not meet the guidance in Policy CS7 of the Blackpool Local Plan Part 1: Core Strategy - Proposed Submission (June 2014) that they should be well designed and are to enhance the character and appearance of the local area. The galvanised steel roller shutters may be a deterrent to those with malevolent intent. But that is at a cost in this fairly prominent site of a somewhat grim and forbidding appearance. The disagreeable feeling engendered particularly by the Charles Street frontage row of shutters is exacerbated by there being no daytime relief of open shutters while the property is unused.
9. The appeal on ground (a) fails. Planning permission is not granted to retain the appeal roller shutters.

#### **The appeal on ground (f)**

10. The appeal on ground (f) says the notice's requirement is too onerous.
11. It was suggested that, rather than requiring the removal of the shutters, the building's fascia could be altered to incorporate the existing shutter housing boxes into the fabric of the building. The galvanised shutters and their housings



boxes could be powder coated to an off-white colour to help visually integrate the shutters with the existing white render and fascia.

12. Whilst the suggested alterations would be of some help, I consider that a better solution would be to replace the solid roller shutters with open mesh shutters, such that the windows might be more visible and that possible use of graffiti spray paints might be reduced. But that would not improve the appearance of the 2 doors or where windows are not shop display windows. On balance, I find that the suggested alterations would make no worthwhile or necessary improvement. The appeal on ground (f) fails.

#### **The appeal on ground (g)**

13. I agree that Miss Wheeler be given more time to consider what other security measures might assist. I increase the period for compliance to 9 months for her to find a better long term solution and for her to decide on the future of her property. To that extent, the appeal on ground (g) succeeds.

#### **FORMAL DECISION**

14. The enforcement notice is varied by the deletion of the words "One month" in para. 6 on page 1 of the notice and the substitution therefor of the words: "Nine months". Subject to that variation, the enforcement notice is upheld.
15. Planning permission is not granted on the application deemed to have been made to retain the eight external roller shutters, housing boxes and associated guides mounted to the Cookson Street and Charles Street elevations of the property at 7 Cookson Street/7 & 7B Charles Street, Blackpool FY1 3ED.

*John Whalley*

INSPECTOR