

<u>No:</u>	BH2022/00749	<u>Ward:</u>	St. Peter's And North Laine Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	12 London Road Brighton BN1 4JA		
<u>Proposal:</u>	Removal of existing shop awning and installation of electric roller shutter to shopfront.		
<u>Officer:</u>	Steven Dover,	<u>Valid Date:</u>	15.02.2022
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	12.04.2022
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	12.05.2022
<u>Agent:</u>	N/A		
<u>Applicant:</u>	Cowley Club Ltd. 12 London Road Brighton BN1 4JA		

1. RECOMMENDATION

1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **REFUSE** planning permission for the following reasons:

1. The installation of the roller shutter would harm the appearance of the building by reason of its height, scale and solid nature creating an unattractive and dead appearance. The shutter would obscure the shop front and window display when down, creating an unsightly, passive appearance to the frontage harming the visual amenity of the building and surrounding area and the vitality of the wider shopping street. Furthermore the shutter housing would be poorly located and would fail to respect the architectural features of the shopfront resulting in an unsightly feature even when the roller shutter is retracted. The development is contrary to CP12 of the Brighton and Hove City Plan Part One, QD5, QD8 and QD10 of the Brighton and Hove Local Plan and Supplementary Planning Document SPD02 on Shopfronts

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

2. This decision is based on the drawings received listed below:

Plan Type	Reference	Version	Date Received
Location Plan			15 February 2022
Proposed Drawing	B1b		7 March 2022
Proposed Drawing	B4		7 March 2022

2. SITE LOCATION

- 2.1. The application relates to a mid-terrace three storey property on the east of London Road. The property is commercial on the ground floor (and basement) and appears to have residential uses on the first and second floor.
- 2.2. It forms part of a parade of shopfronts, with a variety of uses including retail, cafes and restaurants in this section of London Road. The site is currently in use as The Cowley Club, which is mixed retail, café and social/community space.

3. RELEVANT HISTORY

- 3.1. **BH2021/03628** - Installation of electric roller shutter to shopfront, with metal grillwork above shutter canopy. Refused for the following reason:
The installation of the roller shutter would harm the appearance of the property by reason of its solid nature creating an unattractive and dead appearance. The shutter would obscure the shop front and window display when down, attracting graffiti and creating an unsightly, passive appearance to the frontage which would harm visual amenity of the building and surrounding area and the vitality of the wider shopping street. Furthermore, the shutter housing would be poorly located by not respecting the architectural features of the site meaning the installation would be unsightly even when the roller shutter is retracted. The development is contrary to CP12 of the Brighton and Hove City Plan Part One, QD5, QD8 and QD10 of the Brighton and Hove Local Plan and Supplementary Planning Document SPD02 on Shopfronts.
- 3.2. **BH2001/02816/FP** - Change of use from retail (use class A1) to retail, cafe and private members club to front and ancillary office and meeting space to rear (use class A1, A3 and sui generis), residential above to remain - approved 9.1.2002
- 3.3. 45 London Road:
BH2019/02692 - Installation of new shopfront, with 1no external punch hole shutter and 2no internal punch hole shutters and associated refurbishments. Approved
- 3.4. **BH2018/03733** – Installation of new shopfront, roller shutter & refurbishment works. Refused and dismissed on Appeal.

4. APPLICATION DESCRIPTION

- 4.1. The application is for a full width, solid roller shutter. The proposal would be 5.3 metres in height and 8.3 metres in width.
- 4.2. The current application is a resubmission of a similar proposal which was refused last year on design grounds. The current application increases the size of the roller shutter from that previously refused by extending the full height of the shopfront, covering the current high level grills. The proposed shutter

remains full width, solid panelled with external motor mechanisms, and covers the whole of the shopfront parallel to the pavement, thus obscuring the shop completely as per the previously refused application. Therefore no alterations to make the proposal more acceptable are proposed, and the overall size of the roller shutter has increased.

- 4.3. The planning statement shows examples of shutters in the vicinity of the site, however, there are no applications granting these. Moreover, some of the examples shown, are for butchers and greengrocers that don't have a front wall and therefore accord with the guidance contained in the SPD.

5. REPRESENTATIONS

- 5.1. **Twenty Three (23)** representations have been received from members of the public supporting the application for the following reasons:
- Improved security
 - Ease of use – which would allow more people to volunteer
 - Better access
 - Appearance
 - Permitting art on the front of the shutters

6. CONSULTATIONS

None

7. MATERIAL CONSIDERATIONS

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 7.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
 - Shoreham Harbour Joint Area Action Plan (adopted October 2019)
- 7.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

8. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP10	Biodiversity
CP12	Urban Design

Brighton & Hove Local Plan (retained policies March 2016):

QD14	Extensions and Alterations
QD27	Protection of Amenity
QD5	Design - street frontages
QD8	Shop shutters
QD10	Shopfronts

Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications. Some policies have gained further weight following the CPP2 examination hearings and publication of the Post Hearing Action points by the Inspector (INSP09) and Main Modifications for consultation March 17th (BHCC44 Schedule of Main Modifications).

DM20	Protection of Amenity
DM21	Extensions and alterations
DM18	High quality design and places
DM23	Shop Fronts

Supplementary Planning Documents

SPD02	Shop Fronts
SPD11	Nature Conservation and Development

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The key considerations for this application relate to the design and appearance of the proposed development on the existing building and the wider street scene. In addition, the impact to vitality of the shopping area is a consideration, and crime prevention.
- 9.2. Planning permission is sought for an external roller shutter to the front elevation. A tube motor electric operation galvanised roller shutter is proposed to be mounted across the width of the shop front, externally at the level of and replacing the existing awning housing.
- 9.3. The existing shop front has some character and architectural merit. The timber detailing, deep fascia and lettering with an off-centre recessed entrance door gives the property a more historic feel compared with other shopfronts in this section of London Road. The property is not within a conservation area but

adopted policies seek to ensure shop front alterations, including those made for security reasons, relate well to the property and contribute positively to the streetscene.

- 9.4. The application includes a Planning Statement which seeks to justify the roller shutter being proposed. It is noted that there are some specific challenges in relation to homelessness and anti-social behaviour in this part of London Road. Whilst the inset door is a positive element to the street scene from an aesthetic viewpoint, it does present a specific location for anti-social behaviour which impacts on those using the site. Therefore, it appears rational to seek to improve the current situation.
- 9.5. Nevertheless, planning policy in relation to roller shutters is clear and they are not generally supported. Roller shutters obscure the shop front and window display when down, creating an unattractive, 'dead' appearance to the frontage which harms the vitality of shopping streets. They also attract graffiti, and the box housings often protrude unattractively in front of the shop front. It is noted there are roller shutters in the locality, as evidenced by the applicants planning statement, although it does not appear that there is planning permission for the majority of these installed. The existing roller shutters in the vicinity serve to show how unattractive these features can be on the streetscene. Where planning permission has been granted it has been for more limited proposals (i.e. entrance only such as the former Santander bank) on less architecturally interesting shopfronts. A number of the shutters shown relate to open shopfronts, such as the greengrocers and the butchers. In such instances a solid shutter is permitted since there is no alternative to secure the premises.
- 9.6. SPD02 on shop fronts specifically recognises the issues with these types of shutters and advises that they would not be acceptable except in:
- *“Isolated locations or in special circumstances where evidence, supported by the Police, has shown that security poses a special problem and all other appropriate security measures as advised by the Police have already been taken;*
 - *Where the shopfront is of an open type with no window, such as traditional ‘fishmongers, butchers and greengrocers, and where no alternative solution would be possible; or*
 - *Where there is no acknowledged need to retain a visible display outside opening hours, such as with Kings Road Arches on Brighton seafront.*
 - *In all cases the box housing must be concealed behind the fascia or set back beneath it and the shutter and all associated components must be painted or colour finished to match the shop front or bronze anodised.”*
- 9.7. The thrust of these exceptions in SPD02 are also reconfirmed in emerging policy DM23 Shopfronts in the City Plan Part 2 which now carries more weight than policies QD8 & QD10 which it replaces.
- 9.8. In regard to this specific application, there is not considered to be any justification that the scheme is an exception to SPD02 or policy DM23. An active frontage should be maintained and although a security/crime issue has been alluded to,

it is not evident that the proposal is the only feasible way of improving the security of the site.

- 9.9. The applicant has failed to demonstrate in their submission why there should be an exception to policy which would permit the proposed roller shutter. As submitted, the proposed roller shutter would obscure the shop front and window display when down, attracting graffiti and creating an unattractive, passive appearance to the frontage which harms the vitality of shopping streets, such as this one, which is one of the main thoroughfares in Brighton down to the seafront. There is a clear conflict with local policies which seek to prevent harm to the street scene.
- 9.10. Solid panel shutters in the London Road location have been previously refused and dismissed on appeal (ref. BH2018/03733 at 45 London Road), with the Appeal Inspector stating the following:
“Such shutters deaden shopfronts and prevent them from contributing to the streetscene. As a result, policy QD8 only supports solid shutters in certain circumstances. Given that London Road is a busy road where shopfronts contribute to the streetscene and No 45 has an enclosed shopfront such circumstances do not exist here.”
- 9.11. While relating to a different site, this emphasises the contribution shopfronts make to the London Road streetscene, and that the special circumstances allowing shutters do not apply in this locality.
- 9.12. The visual harm of shutter would be exacerbated by the relationship between the shutter housing and physical features of the existing shopfront. The shop front has two windows facing the street with the door inset. The two front facing windows are not on same plane. The southern window runs parallel against the back of the pavement whilst the window to the north angles inward towards the door. The proposed shutter would be a single unit running the width of the site. The design of the shopfront would be lost behind the shutter which would completely dominate the entire shopfront. When the shutter is retracted, the shutter housing would still be visible and given that it would not respond to the form of the shopfront, the shutter housing would appear particularly clunky and unattractive in this instance.
- 9.13. The overall height of the proposed shutter would be 5.3 metres and the width 8.3 metres, which has increased the size of the shutter from that previously refused in BH2021/03628, due to the removal of the mesh at the top and replacement with full roller shutter. The harm to the host property and streetscene is therefore increased over and above the previous refusal.
- 9.14. It is noted that following the previously refused scheme the applicant was offered the option of seeking pre-application advice from the Local Planning Authority to see if a mutually acceptable compromise could be found. Furthermore, the applicant has also been given the opportunity to address the concerns that have been raised during both the applications. Up until the present time the applicant has chosen not to access these services or engage in any dialogue for amendments with the Local Planning Authority. The current scheme fails to

address the previous reason for refusal and actually increases the size of the proposed roller shutter from that previously refused.

Conclusion

- 9.15. Overall, the installation of the roller shutter would harm the appearance of the property by completely dominating the frontage of the site. The shutter housing would be unattractive and poorly located and would fail to respect the existing architectural features of the shopfront. The shutter would obscure the shop front and window display when down, creating an unsightly, passive appearance to the frontage harming the visual amenity of the area and the vitality of the shopping street. The development is contrary to policy CP12 of the Brighton and Hove City Plan Part One, QD5, QD8 and QD10 of the Brighton and Hove Local Plan and emerging policy DM23 (which carries more weight than QD8 and QD10 which it replaces) of Brighton and Hove City Plan Part 2 and Supplementary Planning Document SPD02 on Shopfronts.

10. EQUALITIES

- 10.1. The applicant has identified the some volunteers are not able to put up and take down the existing wooden shutters that are used at the site. Whilst the benefits are noted, this is does not outweigh the harm identified.

11. CLIMATE CHANGE/BIODIVERSITY

- 11.1. The application proposes minor works to the shop front. No conflict with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development has been identified and given the scope of the application, it is not considered that there are many options to improve ecology outcomes for the site.

