

Appeal Decision

Site visit made on 13 March 2017

by G J Fort BA PGDip LLM MCD MRTPI

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

Decision date: 27 March 2017

Appeal Ref: APP/V5570/Z/16/3165855

193 Upper Street, Islington, London N1 1RQ

- 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 Mrs Maya Estraiikh (Maya Magal Jewellery Ltd) against the decision of the Council of the London Borough of Islington.
 - The application Ref P2016/2856/FUL, dated 15 July 2016, was refused by notice dated 26 October 2016.
 - The development proposed is described as "I am applying to install either an electric or manual shutter to the entire front of the shop (193 Upper Street) in place of the existing shutter that only covers half the shop front. The shutter would be of tasteful nature and be as discreet as possible. The current shutter is white metal and the shop front is white. I would match the shutter and shutter box to the same colour. The shop would be open seven days a week so the only time the shutter would be down would be in the evening after 7pm. The glass is quite fragile so I want to protect this in the evening when the shop is closed. There are no other changes necessary to the shop front."
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Decision

1. The appeal is dismissed.

Procedural Matter

2. At my site visit I saw that the shutters subject to this appeal had already been installed in line with the submitted plans. I have assessed the appeal on the basis that it thus relates to a retrospective application for planning permission.

Main Issues

3. The main issues in this appeal are whether the appeal development preserves or enhances the character and appearance of the Upper Street North Conservation Area, and its effects on the character and appearance of its host building.

Reasons

4. The appeal property is located in the Upper Street North Conservation Area within a terrace of buildings with shopfronts of varying scales and proportions, although predominantly of a traditional character. The appeal building's shopfront is of a larger scale than most others in the block and this, combined with the architectural detailing and vertical emphasis of its prominent console, capital and cornice, and the elegant lines of its slim mullions contribute considerably to its significance and status as a locally listed building. In this
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respect the appeal building is a good example of the traditional commercial aesthetic of the properties that address Upper Street and contributes to the significance, character and appearance of the Conservation Area as a whole.

5. The appeal development is a shutter that extends across the full width of the shop window housed in a metal box. There is a gap between the shutter box and the bottom of the shopfront's fascia, and it projects proud of the shop window and the fascias and windows of the adjoining properties.
6. The shutter box is a bulky and prominent addition, which due to its projection forward of the shopfront's fascia, windows and parts of its console reads as a dominant and insensitive development, which undermines the proportions of its host shopfront. This harmful effect is exacerbated by the siting of the shutterbox, considerably below the fascia, which obscures the proportions of the shop windows, and its horizontal emphasis is jarringly discordant in the context of the elegant vertical emphasis of the shopfront's slim mullions. The use of a matching colour in its finish and the reversibility of the changes without undue damage to the shopfront, are matters that do little to mitigate these harmful effects. The shutter box thus reads as a discordant and insensitive bolt-on to the historic shopfront, that is harmful to the character and appearance of the host building and its significance as a locally listed structure. As a consequence, the shutter diminishes the shopfront's contribution to the character and appearance of the Conservation Area.
7. The prominent shutter box is widely visible and its projection is proud of the windows and fascias of the adjoining traditional shopfronts. Its siting combined with its bulky and utilitarian design provide a discordant contrast to the proportions and detailing of these neighbouring frontages, causing considerable harm to the character and appearance of the streetscene. The appellant supplied some details of other shutters in the area; however, these do not provide a context for the proposed development or serve to justify its harmful effects. Due to the prominent and bulky nature of the shutter box, the harm caused to the character and appearance of the appeal property and its surroundings would not be limited to times when the shutter was down.
8. Whilst I saw other security shutters in the block containing the appeal building, in most cases these were integral and more sensitive to the shop fronts in which they were fitted, and I saw none with a shutter box as visually dominant as the one at No 193. I also note that the appeal development replaced an existing shutter at the site; however, this was of a much more limited scale and of a lightweight design that did not cause the same level of harmful effect to the character and appearance of the shop front as the currently installed shutters.
9. As the appeal development has caused harm to the character and appearance of the host building and its surroundings, it would also have a harmful effect on the Conservation Area's significance. The relatively localised effects of the appeal development mean that in the context of the Conservation Area taken as a whole the harm caused to its significance would be less than substantial. However, it does not follow that a finding of less than substantial harm equates to less than substantial weight in the overall planning balance, and the National Planning Policy Framework (the Framework) establishes, at paragraph 134 that the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

10. The Government's Planning Practice Guidance (PPG) advises that "If there is a range of alternative uses, the optimum use is the one likely to cause the least harm to the significance of the asset"¹. I saw few, if any, visibly empty commercial properties in the environs of the appeal building, and as a consequence it is reasonable to conclude that there is demand for retail space in the area, and I have been supplied with no substantive evidence that would suggest otherwise. As a result, there could be a range of other uses for the appeal property. Thus, due to the harm caused by the appeal development, it has not been established that the current use is the optimum viable one for the purposes of the Framework.
11. The existing use has some economic benefits including providing 5 local jobs, with related economic output. The business could also help to bring customers into the area. However, I have been supplied with no substantive evidence to suggest that the removal of the shutters would necessarily lead to cessation of the current use and the consequent loss of an independent business. Furthermore, whilst the design of the shopfront may limit the types of external shutters that could be employed, it has not been demonstrated that the appeal development is the only measure that could enhance the security of the premises. As a consequence, the economic benefits of the existing use only weigh in favour of the appeal development to a minimal degree.
12. The appeal development could reduce the fear of crime to a limited degree, and to some extent meet the requirements of Policy CS9 of the Islington Core Strategy (the Core Strategy) in this regard. However, this would be a modest benefit that would not weigh heavily in favour of the appeal development in the overall planning balance.
13. The shutters would avoid harm to the living conditions of adjacent residential occupiers, a matter made clear in the Officer Report on the scheme. However, this is merely indicative of an absence of harm in these regards, not a positive public benefit of the scheme and thus does not weigh heavily in the appeal development's favour.
14. Consequently, these matters either taken individually or cumulatively do not outweigh the less than substantial harm caused to the significance of the Conservation Area, a consideration to which I attach considerable weight and importance in the overall planning balance.
15. Thus for the reasons given above, the proposed development causes harm to the character and appearance of its host building. Mindful of my duty under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I also conclude that the appeal development has failed to preserve the character and appearance of the Conservation Area. Moreover, the exceptional circumstances necessary to justify the installation of shutters have not been demonstrated in this case, and as a result, the appeal development conflicts with Policies 7.4 and 7.6 of The London Plan: The Spatial Development Strategy for London Consolidated with Alterations Since 2011; Policy CS9 of the Core Strategy; Policies 2.1, 2.3 and 4.8 of Islington's Local Plan Development Management Policies; and the Islington Shopfront Design Guide. Taken together, and amongst other matters, the policies and guidance seek to ensure that alterations to existing buildings in conservation areas conserve their significance, and make a positive contribution to the distinctiveness of

¹ Paragraph: 015 Reference ID: 18a-015-20140306

their surroundings through respecting and responding positively to existing buildings, and the streetscape's local architectural language, surrounding heritage assets, and distinctive patterns of development.

Other Matters

16. The appellant considers that the Council did not comply with paragraph 187 of the Framework during the determination of the planning application; however, this is essentially a procedural matter that has not been determinative in my assessment of the planning merits of the development.
17. I note that no objections were received in relation to the appeal development; however, this consideration does not alter my conclusions in respect of the appeal development's harmful effects.

Conclusion

18. The appeal development conflicts with the development plan insofar as the policies that have been drawn to my attention are concerned. Accordingly, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

G J Fort

INSPECTOR