



Appeal Decision

Site visit made on [Event Date]

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 April 2024

Appeal Ref: APP/V5570/W/23/3332236

128 Whitecross Street, Islington, London EC1Y 8PU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Shah Group Investments Ltd against the decision of the Council of the London Borough of Islington.
 - The application Ref is P2023/1952/FUL.
 - The development proposed is construction of mansard roof extension, retaining shop on the ground floor and having 1 No. of 3 bed 5 person flats above shop.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the Council determined the application, it has adopted the Islington Local Plan Strategic and Development Management Policies (2023) (SDMP). As such, it forms part of the development plan for the area and the appeal has been determined on this basis.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area, including the appeal property, bearing in mind that it would be in the St Luke's Conservation Area (SLCA);
 - the effect of the proposal on the living conditions of neighbouring occupiers at 130 Whitecross Street and 126 Whitecross Street, with regard to outlook and daylight;
 - the effect of the proposal on the living conditions of the future occupiers of the proposed development, with regard to private outdoor space; and
 - whether or not an affordable housing contribution is required, and if so whether appropriate arrangements have been made.

Reasons

Character and appearance

4. The appeal site is a three storey mid-terrace property within an area characterised by commercial uses at ground floor and flats above. The wider terrace and other terraces in the surrounding area are of varying heights and

design, predominantly constructed from traditional materials, which creates a pleasing sense of scale and a harmonious character and appearance.

5. The appeal site falls within the SLCA and in line with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) I have paid special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. From my observations, and the St Luke's (CA16) Conservation Area Design Guidelines (2004) (CADG), the significance of the SCLA, insofar as is relevant to this case, is primarily derived from the special character and appearance of the ancient thoroughfare of Whitecross Street, a medieval lane fronted by domestic-scale properties which is an important surviving part of historic Finsbury. As a domestic -scale property fronting Whitecross Street the appeal site makes a positive contribution to the SCLA.
6. Although the proposal would not exceed the height of the four storey and three storey buildings either side of the appeal site, it would result in a bulky addition and create a more uniform roofline, to the detriment of the prevailing character and appearance. In doing so the proposal would unbalance the wider terrace and the general scale of the built form in the surrounding area. Consequently, the excessive scale at the appeal site would be unduly prominent, standing out as being visually incongruous. The use of matching materials and retention of the parapet would not alleviate the harm that would be caused.
7. I acknowledge that in seeking the effective use of land, the National Planning Policy Framework (the Framework) at Paragraph 124e) provides support for using airspace above existing premises for new homes where the development would be consistent with the overall street scene. However, the varied building heights of the roof profile in the appeal site locality has historical importance. The Urban Design Guide Supplementary Planning Document (2017) (UDG) advises that in these circumstances an alteration to the existing roofline is likely to be unacceptable. For the reasons set out above, the proposal would not be consistent with the domestic scale of the surrounding terraces, undermining the rhythm of the street frontage in this sensitive location.
8. The Framework also supports the use of mansard roof extensions on suitable properties. As defined in the glossary, mansard roofs are generally regarded as a suitable type of roof extension for buildings which, amongst other things have a parapet running the entire length of the front elevation of a terrace of at least three buildings. There is no such parapet in the appeal site location owing to the varying heights of the neighbouring properties.
9. While there are several mansard roof additions nearby to the appeal site they do not detract from the character and appearance of the area in the way the appeal scheme would. Despite being set back from the existing parapet the additional massing created by a mansard roof on top of the proposed third floor extension would be a discordant feature that would be readily apparent in views in either direction along Whitecross Street.
10. The proposed rear extension would not be prominent in public views. It would extend above an existing projection and would be of a relatively narrow width. Nonetheless, owing to its significant height and depth the increase in built form in this dense urban environment, the proposal would draw the eye in views from the surrounding properties.

11. Overall, the proposal would fail to preserve or enhance the character or appearance of the SLCA and would harm its significance as a whole. The harm that I have identified is 'less than substantial' harm. The Framework requires that great weight should be given to the conservation of heritage assets, irrespective of the level of harm. Any harm to the significance of a designated heritage asset should also require a clear and convincing justification.
12. Nevertheless, the Framework also requires such harm to be weighed against any public benefits. The proposal would improve the quality of housing in the area which weighs moderately in favour of the proposal. There are also likely to be modest, time-limited economic benefits from the construction stage. However, these public benefits are insufficient to outweigh the great weight attached to the harm to the designated heritage asset.
13. For the reasons given, the proposal would harm the character and appearance of the area, including the appeal property, failing to preserve the SLCA and harming its significance. The scheme is therefore in conflict with policies D4 and HC1 of the London Plan (2021) (LP) and policies PLAN1 and DH1 of the SDMP, insofar as they require development to deliver good design and make a positive contribution to local character and distinctiveness, responding to and enhancing the existing site context which could extend beyond the site itself. The cumulative impacts of incremental change from development on heritage assets should also be actively managed to conserve or enhance Islington's heritage assets.
14. The proposal would not meet the requirements of section 72(1) of the Act, the provisions of the Framework which seek to conserve and enhance the historic environment, or the guidance within the CADG in relation to preserving and enhancing the special character and appearance of the SLCA. It would also be contrary to the guidance set out in the UDG in relation to rooflines and mansard roof extensions.

Living conditions – neighbouring occupiers

15. There is currently a clear gap between the rear elevation of 126 Whitecross Street and the rear of properties that front Banner Street at the first, second and third floor level. The proposal would be of a significant height and would extend beyond the rear elevation of No 126 filling the existing gap, resulting in a noticeable difference in built form in views from the rear facing windows of No 126. The introduction of a tall blank brick wall in proximity to these windows would be a dominant feature, having an overbearing effect and creating an unacceptable outlook for the occupiers of this property.
16. There would be no significant overshadowing owing to the orientation of the appeal property to the north of No 126. However, given the proposal's height it would obscure more of the sky than the existing situation and the reduction in the amount of daylight the rear facing windows would receive would be noticeable given the existing narrow outlook and detrimental to the occupiers' living conditions.
17. The Council suggest that the planning history and Council Tax records indicate that No 130 is in residential use. While I note that the submitted plans suggest that windows on the side elevation of No 130 serve a staircase for offices there is no clear evidence to demonstrate this, or that the property is not in residential use. Therefore, I cannot be certain there would not be occupiers in

proximity to the development which would create a sensitive relationship. The increase in height of the proposal would create an uninviting outlook and poor daylight levels for the occupiers of No 130.

18. Overall, the proposal would have an unacceptable effect on the living conditions of neighbouring occupiers at 130 Whitecross Street and 126 Whitecross Street, with regard to outlook and daylight, in conflict with Policy PLAN1 of the SDMP. This policy, amongst other things, requires development to provide a good level of amenity, including consideration of overshadowing, daylight, sense of enclosure and outlook. It would also be contrary to the advice within the UDG regarding amenity.

Living conditions – future occupiers

19. The proposal would provide private outdoor space where currently there is none, however the proposed balconies would be recessed within the main building which would create largely uninviting spaces with limited outlook and daylight, indicative of the confined nature of the external space. As such, the activities that could reasonably take place in the outdoor space would be restricted, therefore limiting the usability of the balconies.
20. Consequently, the proposal would have an unacceptable effect on the living conditions of the future occupiers of the proposed development, with regard to private outdoor space, in conflict with Policy D6 of the LP and Policy H5 of the SDMP. Insofar as they relate to this case, these policies require the design of development to maximising the usability of outside amenity space which should be designed in terms of its shape, position and location to ensure a good level of amenity with regard to daylight/sunlight and enclosure.

Affordable housing

21. The Council has sought a contribution towards the provision of affordable housing in line with Policy H3 of the SDMP which requires sites delivering fewer than 10 residential units to provide a financial contribution to fund the development of off-site affordable housing.
22. Notwithstanding what is shown on the submitted plans or the ongoing lawful development certificate application at the appeal site¹, the Council indicate that there is no planning history or Council Tax records to confirm that the appeal property is in residential use. The appellant suggests that the proposal is an extension to an existing residential unit and therefore a financial contribution is not required, however there is no substantive evidence to demonstrate that the upper floors of the appeal property are in residential use or have an authorised use as such. Consequently, I have no clear reason to come to a different conclusion to the Council that the proposal would create a new residential unit.
23. Accordingly, a financial contribution towards the provision of affordable housing is required and in the absence of any planning obligation to secure the required sum, the proposal would conflict with Policy H3 of the SDMP. The proposal would also be contrary to advice within the Islington Affordable Housing Small Sites Supplementary Planning Document (2012).
24. On the decision notice, the Council have also referred to the Environmental Design Planning Guidance Supplementary Planning Documents. This relates to

¹ Ref: P2023/1723/COL

tackling fuel poverty and enhancing quality of life and environment and my attention has not been drawn to any wording in it that is relevant to this main issue. It has not therefore been determinative in my decision.

Other Matters

25. Even if the requirements of the sustainable design and construction and car free development policies of the newly adopted SDMP could be secured through the imposition of suitably worded planning conditions, this policy compliance would be a neutral matter weighing neither for nor against the proposal.

Conclusion

26. My above findings bring the proposal into conflict with the development plan, read as a whole. There are no material considerations that indicate that I should take a decision otherwise than in accordance with it. Therefore, I conclude that the appeal is dismissed.

F Harrison

INSPECTOR