



Appeal Decision

Site visit made on 1 July 2024

by C Skelly BA (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2024

Appeal Ref: APP/V5570/W/24/3336764

63 Cross Street, Islington, London N1 2BB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Christopher Procter against the Council of the London Borough of Islington.
 - The application Ref is P2023/2813.
 - The development proposed is a deep energy retrofit to include erection of a mansard extension with PV panels, installation of roof level Air Source Heat Pump, replacement windows to front and rear elevations, external insulation to rear elevation.
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Decision

1. The appeal is dismissed and planning permission for a deep energy retrofit to include erection of a mansard extension with PV panels, installation of roof level Air Source Heat Pump, replacement windows to front and rear elevations, external insulation to rear elevation at 63 Cross Street, Islington, London N1 2BB is refused.

Preliminary Matters

2. The appeal relates to a planning application that was not determined by the Council within the prescribed period. I note that the Council would have refused planning permission should it have made a decision on the application. I have had regard to the parties' submissions in establishing the main issues which I set out below.
3. The Council considers that the proposed installation of the ground floor shopfront is acceptable, and the proposals would meet all relevant sustainable design policies. The Council considers that the scheme would harm the character and appearance of the host property and the street scene and fail to preserve or enhance the character or appearance of the Cross Street Conservation Area (CA). The Council also considers that the proposal would harm the living conditions of neighbouring occupiers with regards to privacy, outlook, daylight and sunlight and has failed to demonstrate that there will be no impact from noise.
4. The parties agreed a revised description, as set out in the banner heading, which has been used for the basis of the appeal.

Main Issues

5. The main issues are;

- the effect of the proposed mansard roof extension and roof level Air Source Heat Pump (the rooftop plant) on the character and appearance of the building and the surrounding area including its effect on the significance of 63 Cross Street as a non-designated heritage asset, whether or not it would preserve or enhance the character or appearance of the Cross Street Conservation Area and whether it would preserve the setting of the Grade II listed building known as 61 Cross Street.
- the effect of the proposed mansard extension and roof level Air Source Heat Pump (the rooftop plant) on the living conditions of the occupiers of No 294, 295 and 296 Upper Street with particular reference to privacy, outlook, daylight and sunlight and potential for noise.

Reasons

Character and Appearance

Site and Surroundings

6. The appeal site is a mid-terrace three storey property, with a shop front on the ground floor, which is currently in residential use. It is set at an angle from its neighbours, Nos 65, 67 and 69 Cross Street but shares the same architectural style, having a detailed parapet wall at roof level.
7. The ground floor shopfront is listed as a Non-Designated Heritage Asset (NDHA) on the register of locally listed buildings and locally significant shopfronts. The site is adjacent to No 61 Cross Street, a Grade II Listed Building, which is prominent within the street scene due to being taller and of different architectural style to adjacent buildings. The properties on either side of the listed building are also three storeys in height, which gives the street a well-balanced appearance. The site is located within the Cross Street CA.
8. The proposal is for the creation of a mansard extension, with 4 solar panels, air source heat pump and a mechanical ventilation with heat recovery. At ground floor level a new entrance would be created to provide a separate access to the residential accommodation, thereby allowing the commercial premises to be brought back into use.

NDHA and Setting of a Listed Building

9. Section 66(1) of the Planning (Listed Buildings and Conservations Areas) Act 1990 (LBCAA) says that in considering whether to grant planning permission for development which affects a listed building, or its setting, special regard should be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
10. The appeal site is a locally listed shop front with its importance being the timber frontage and the main window divided into three by two mullions. Given the above I consider that its significance insofar as it relates to this appeal is the traditional shopfront appearance and its positive contribution to the appearance of the street scene.

11. The Conservation Area Design Guidelines (January 2002) (CADG) say that the Council wishes to retain all locally and statutorily listed buildings together with all the shopfronts listed which includes No 63 Cross Street.
12. The proposal seeks to bring the retail unit back into use and would include a new door insertion and replacement of windows of a traditional design and materials. As the traditional shop front appearance would be retained, I do not consider that the proposal would harm the special interest of the shopfront and therefore the proposal preserves the significance of this NDHA and thereby complies with paragraph 209 of the National Planning Policy Framework (2023) (the Framework).
13. The adjacent property, 61 Cross Street was listed in 1973 (Ref: 1195575) and dates from the mid-18th century. The listing of No 61 refers to rendered brick with metalised mansard roofs and corner stacks. The building is described as being 3 storeys, attic and basement, with 4 window range and projecting bow. I find that the setting of the listed building, insofar as it relates to this appeal, to be primarily associated with its height, the mansard roof and the projected bow window and architectural features which means that it stands out from other buildings in the street.
14. The proposal would increase the roof height of the host property so that it almost matches that of No 61. This increased height would remove the prominence of No 61 as it sits within the street scene. This building was clearly designed to stand out from others in the street and therefore the removal of this prominence in terms of height would fail to preserve the setting of the Listed Building.
15. Paragraph 205 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through the alteration or destruction of the asset or from development within their setting and that this should have a clear and convincing justification. Given that the proposal would erode the prominent setting of the Listed Building, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.

Cross Street Conservation Area

16. Section 72 (1) of the LBCAA requires special attention to be paid to preserving or enhancing the character or appearance of conservation areas. In addition, the Framework requires great weight to be given to the conservation of heritage assets.
17. The Urban Design Guide 2017 (UDG) highlights the importance of rooflines and says that proposals for their alteration is likely to be unacceptable where the existing street frontages and roof profile have historical and/or architectural importance and/or contribute to an area's individual character and includes listed buildings and conservation areas. It goes on to say that in conservation areas, proposals will be assessed against the Conservation Area Design Guidelines. The Cross Street Conservation Area (CA13) Design Guidelines (2002) (CADG) specifies properties along Cross Street where traditional roof extensions may be permitted, however this excludes 63 Cross Street.

18. The CA covers an area encompassing Cross Street and a number of roads which intersect it. Its significance is derived from it lying between two of the oldest thoroughfares in Islington, Upper Street and Essex Road. The area is a mix of residential and retail which is characterised by narrow plot widths and small-scale 17th and 18th century buildings. I therefore find that the significance of the CA, insofar as it relates to this appeal, to be primarily associated with the consistent, traditional appearance of the street scene along Cross Street with its traditional shop frontages and rooflines. Along with the neighbouring properties Nos 65-71, the appeal site contributes positively to the traditional appearance of the street. Accordingly, it makes a positive contribution to the character and appearance of the area and the special interest and significance of the CA.
19. The height, scale and design of the proposed mansard would be out of keeping with the simple parapet walled, roof line of Nos 65 to 71. The proposed development would increase the height of the host property so that it would be similar to that of No 61. This increase would detract from the prominence of the listed building within the street scene, unbalancing its relationship with Nos 65, 67, 69 and 71.
20. The effects of these works would harmfully erode the building's special interest and relationship with neighbouring properties which contributes to the significance of the CA and fails to preserve and enhance the character and appearance of the CA. Given that the building makes a positive contribution to the significance of the CA and that the proposal would unbalance the appearance of the traditional street scene, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.

Heritage Balance

21. Paragraph 208 of the Framework advises that where there are harms to the significance of heritage assets including the contribution made by its setting that this should be weighed against the public benefits of the proposal, which are considered below.
22. The Framework says that significant weight should be given to the need to support energy efficiency and low carbon heating improvements to existing buildings, both domestic and non-domestic. The proposal would address issues relating to water egress from the roof and would improve the energy efficiency of the building. The retrofit design would reduce energy use to 10% of the existing through additional window insulation, heat pump technologies and solar PV, which is undoubtedly a significant benefit of the proposal. There would be some limited public benefits resulting from these improvements, however these are not sufficient to outweigh the harm identified.
23. The proposal would support the reconfiguration of the stairs and creation of a fire exit to meet building regulation standards. It would also support the general improvement to the quality and space standards of the residential dwelling. However, these are private benefits which do not outweigh the harm that I have identified.
24. The Framework also supports the growth, management and adaptation of town centres. The proposal would create a new door within the shopfront to provide separate access to the residential element and bring back into use the retail

shop and retain the locally listed shopfront. There is no disagreement between the parties in relation to this and I note that this is supported by a number of neighbouring retailers. However, the appellant argues that bringing the retail element back into use would not be possible without the addition of the mansard extension due to space standards. Given the harm which I have found in respect of the mansard extension, this reduces the public benefit associated with bringing the retail shop back into use. Consequently, the public benefits do not outweigh the harm identified.

25. The appellant has referenced other examples in the local area of double pitch mansard roofs and in particular at 53 Cross Street. However, this property is some distance from the appeal site and aligns to properties at the other end of the street, so does not have the same impact on the setting of the listed building or conservation area.
26. Whilst I have not found that the development would harm the NDHA, for the reasons set out above and in the absence of any defined significant public benefit, I conclude that the proposal would fail to preserve the special historic interest setting of the Grade II Listed Building and the character or appearance of the CA. This would fail to satisfy the requirements of the LBCAA and paragraph 205 of the Framework. The proposal would thereby conflict with Policy HC1 of the London Plan (2021) and Policies DH1 and DH2 of the SDMP, the UDG and the CADG, which seek amongst other things, to protect and enhance the unique character of the area and resist development which would cause harm to the significance of historic assets. The proposal would also be contrary to policy PLAN1 of the SDMP which seeks to achieve development of a high-quality design that is sustainable and inclusive and contributes to local character.

Living Conditions

Privacy

27. The rear of the proposed mansard would include two windows. A third party has raised concerns in relation to potential overlooking from the proposed new windows and the internal reconfiguration of room layouts and loss of daylight and sunlight.
28. During my site visit I viewed neighbouring properties from the rear windows at 63 Cross Street. I noted that at present there is very limited overlooking of the rear garden of No 294 Upper Street when viewed from the first-floor window where the existing stairs are located. Views were only visible from the opening in the location of the existing kitchen and bathroom when standing at the window itself and there is no visibility from within the room. Accordingly, the proposed reconfiguration of the internal layout at the first-floor level would not increase overlooking which currently exists.
29. I note that the SDMP seeks to ensure a minimum of 18m between the windows of habitable rooms to protect privacy. In this case the existing windows between 63 Cross Street and the rear outrigger of 294 Upper Street are already less than this distance. Cross Street lies at an angle towards Upper Street and part of the rear elevation of the host property projects forward. Given the relationship of the building lines, there are limited direct views towards Upper Street from the host property with overlooking limited to when

standing at the window. This could if necessary be mitigated through a condition requiring the use of fixed, obscure glazing. The increased height of the proposed mansard would further increase the distance and angles between the properties. Therefore, I conclude that the proposed mansard roof extension would not further harm the levels of privacy currently enjoyed by the occupiers of neighbouring properties. The proposal thereby does not conflict with policy PLAN1 of the SDMP which seeks to ensure that development provides a good level of amenity with regards to privacy.

Outlook

30. The proposed mansard extension would be less than 18m distance from existing habitable rooms within properties along Upper Street. The increased height of the proposal would increase the sense of enclosure of the windows on neighbouring properties and their gardens, thereby harming the living conditions of existing occupiers in relation to outlook. The proposal thereby conflicts with policy PLAN1 of the SDMP which seeks to ensure that development provides a good level of amenity with regards to outlook.

Daylight and Sunlight

31. In relation to the effect of daylight and sunlight on Nos 294, 295 and 296 Upper Street, using the 25 degree BRE guide, light would be blocked if a 25 degree line drawn from the centre of the lowest window would be obstructed. The appellant has produced a revised drawing as part of the appeal and comments have been sought from the Council in relation to this additional information. The Council maintains its concerns about the impact on windows in the rear outrigger at No 295. I am also not persuaded by the additional information.
32. The appellant has sought to provide further information in this respect, but I have not accepted this information as part of the evidence as both the Council and the interested parties would be prejudiced if I were to do so.
33. In the absence of evidence to demonstrate that the effects of the development on the occupiers of neighbouring properties would not be significant, I therefore conclude that the proposal would harm the living conditions of the occupiers of neighbouring properties in relation to sunlight and daylight. The proposal thereby conflicts with policy PLAN1 of the SDMP which seeks to ensure that development provides a good level of amenity with regards to daylight and sunlight.

Noise

34. With regards to noise, the proposal does not provide sufficient information regarding the specifications of the heat pump. In the absence of these details, I cannot conclude that there would be no unacceptable impacts in relation to noise.
35. Consequently, I consider that there would be harm to the living conditions of neighbouring occupiers with regards to noise. The proposal thereby conflicts with policy PLAN1 of the SDMP which seeks to ensure that development provides a good level of amenity with regards to noise.

Other Matters

36. The appellant has referred to the conduct and advice of the Council during the determination of the planning application process and delays in preparing policy. However, these are not matters for my deliberation in the context of a planning appeal.
37. Although drawings reference future mansards I note that these are for illustration only and therefore they have not informed my decision.

Conclusion

38. The development would not harm the NDHA and it would not have a harmful effect on the living conditions of neighbouring occupiers in terms of loss of privacy. However, it would fail to preserve the special historic interest setting of the Grade II Listed Building and the character or appearance of the CA and would be harmful to the living conditions of neighbours in respect of outlook, daylight, sunlight and noise. These harms are not outweighed by the benefits which I have identified and are sufficient to justify dismissing the appeal.
39. The proposed development would conflict with the Development Plan, when taken as a whole, and the Framework. There are no material considerations that indicate that the decision should be made other than in accordance with the Development Plan. Accordingly, for the reasons given above the appeal should be dismissed.

C Skelly

INSPECTOR