



Appeal Decisions

Site visit made on 16 April 2025

by **R J Redford MTCP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8th May 2025

Appeal A Ref: APP/U5360/W/24/3351389

27 Hackney Grove, London E8 3NR

- 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 Mr Mauro Persic of Dogen LTD against the decision of the Council of the London Borough of Hackney.
 - The application Ref is 2023/2940.
 - The development proposed is described as the change of use from offices to mixed residential/commercial with 3x 1-bed/1person self contained flats and 1x office space at the lower ground floor, side infill extension and 1st and 2nd floors, demolition of additions at the rear, window change to rear, front railing refurbishment and restauration, bike storage, waste storage, planter extension to front garden, new paving to the front, new cast iron stairs to rear garden from upper ground floors level, internal alterations.
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Appeal B Ref: APP/U5360/Y/24/3351391

27 Hackney Grove, London E8 3NR

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
 - The appeal is made by Mr Mauro Persic of Dogen LTD against the decision of the Council of the London Borough of Hackney.
 - The application Ref is 2023/2941.
 - The works proposed are described as the change of use from offices to mixed residential/commercial with 3x 1-bed/1person self contained flats and 1x office space at the lower ground floor, side infill extension and 1st and 2nd floors, demolition of additions at the rear, window change to rear, front railing refurbishment and restauration, bike storage, waste storage, planter extension to front garden, new paving to the front, new cast iron stairs to rear garden from upper ground floors level, internal alterations.
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Decision

Appeal A Ref: APP/U5360/W/24/3351389

1. The appeal is dismissed.

Appeal B Ref: APP/U5360/Y/24/3351391

2. The appeal is dismissed.

Preliminary Matters

3. Within its reasons for refusal, the Council have referred to Hackney Local Plan (LP) Policies LP12 and LP43, the Residential Extensions and Alterations Supplementary Planning Document, and the Hackney S106 Planning Contributions Supplementary Planning Document (P-SPD). As these have not been submitted, the online versions have been reviewed as part of this decision.

4. The National Planning Policy Framework (the Framework) was updated in December 2024 and amended in February 2025. However, the sections pertinent to this appeal have not changed to such an extent as to affect the matters raised by the main parties. The revised version has been referenced in this decision.
5. The appellant has referred to a Unilateral Undertaking or Agreement, which they stated would be submitted post the original appeal submission. This has not occurred and due to the written representation process¹ which requires any planning obligations to be submitted at the time of making the appeal, a late submission would have likely been unacceptable.
6. The appellant has submitted additional plans within Appendix D of their statement relating to Appeal B. These plans would alter the proposal by retaining the stairwell between the lower and upper ground floor. An appeal should not be used to evolve the proposal and, due to the quantum of change proposed, where I to take account of these plans there would be a risk of disadvantaging interested parties. I have therefore determined the appeal based on the plans considered by the Council.

Main Issues

7. The main issues are whether the proposal would:
 - preserve a Grade II listed building known as ‘25 and 27, Hackney Grove E8’ (Ref: 1226756), and any of the features of special architectural or historic interest that it has;
 - preserve the setting of the nearby Grade II listed building, known as ‘Forecourt wall to number 25’ (Ref: 1226757), and preserve or enhance the character or appearance of Mare Street Conservation Area;
 - provide adequate living conditions for future occupiers with specific regard to internal space;
 - provide sufficient affordable housing; andthe effect of the proposal on
 - transport infrastructure with regard to car parking; and
 - climate change.

Reasons

8. The appeal site forms half of the listed building ‘25 and 27, Hackney Grove E8’ (LB) which is a pair of 3 storey, early 19th Century town houses positioned towards the Town Hall end of Hackney Grove. Hackney Grove’s importance within the Mare Street Conservation Area (CA) is due to it being part of the 19th Century historic market porter’s route, a path connecting Clapton and Hackney to the city.
9. Although this part of Hackney has developed continually since the 19th Century, the striking linear and relatively narrow form of Hackney Grove has remained a link between London Fields and the Town Hall Square. That Hackney Grove is still only accessible by foot or cycle means it has retained its human scale, rather than being subsumed in the more urban grain surrounding it. This is reflected in the domestic

¹ As set out in the Procedural Guide – Planning appeals – England

scale of the LB and therefore its relationship with Hackney Grove forms part of the buildings significance, which is further emphasised by the listed nature of the *'forecourt wall to number 25'* (LB2).

10. The LB itself has been altered both internally and externally overtime, including conversion to a singular office building. In recent history it has been mainly vacant and in 2022 was registered as a Building at Risk. Nevertheless, there are enough key features to recognise its architectural interest, including the floorplan and form, and internally, areas of original lath and plaster ceiling, floorboards, and other woodwork. This means that although the LB is degraded its original form and character is still legible and therefore important to preserve.
11. As the proposal relates to listed buildings in a conservation area, special regard must be given to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act).

25 and 27, Hackney Grove E8 (LB)

12. It is noted that the appeal building and No 27 are not identical, with the appeal building having a single storey flat roofed lobbied entrance to one side. This creates a visual gap between it and the adjacent buildings whilst emphasising the LB's domestic scale. The proposal would seek to extend the appeal building above the entrance lobby to full height. Although it would be stepped back from the front elevation it would bring imbalance to the LB by creating an additional bay to one side, and it would create a terrace with the adjacent building. This would have the effect of reducing the domestic scale of the LB as well as the grandeur provided to the appeal building by having a pronounced entrance. It would therefore harm a feature of both architectural and historic interest important to the LB's significance.
13. Turning to the proposed French window in the rear elevation. This would replace an existing window that the appellant asserts, is not original inferring the opening had been a French window previously. Although access to the rear was unavailable during the site visit, Figure 5 of appellant's Design, Access, and Heritage Statement shows that there have been some alterations to the brick work immediately around the existing window. However, the brick work further above and below the window appears undisturbed and the proposed French window would require the raising of the header and elongating of the window opening. This would result in the loss of existing and likely historic fabric. In combination with this the alteration to the LB's layout, by the formation of a new access into the rear garden would, further harm its significance.
14. It is appreciated that there is a French window similarly located in No. 27. However, there is no evidence that shows this is an original or significant feature of the LB, or that similar had been part of the appeal building previously.
15. The main internal works proposed are the alterations to ceilings and floors, to provide acoustic barriers between each storey, the loss of the stairwell to the basement, and the positioning of the bathroom and kitchen in the proposed upper ground floor flat.
16. Although the replacement of areas of non-original plasterboard ceiling would not be harmful to the significance of the building, the proposal does not take account of the areas of lath and plaster which would be contemporaneous to the LB. As such, their replacement would constitute a loss of historic fabric. The proposed ceiling

finish would appear to be thicker than the existing. So, when considering the proximity of some of the window openings to the existing ceiling, it is not clear how the proposed replacement ceiling would relate to the tops of the windows. In some instances, it could overlap, thus truncate the window openings, and cause harm by concealment to these architectural features of the LB.

17. The appellant has confirmed any original floorboards would be retained. However, the proposed flooring would cover them up and there is no detail concerning the relationship between the proposed additional layers of material and existing skirting boards. As such it has not been shown that this element of the proposal would preserve the significance of the building.
18. A key element of a property such as the LB is the legibility of the original layout. By removing the stairwell between the upper and lower ground floor the proposal would physically separate the lower ground floor from the rest of the building. This would reduce the legibility of the building's layout, and this would be further reduced by the proposed location of the kitchen and bathroom on the upper ground floor. The proposed kitchen would permanently conceal the linkage between what would have been the principal rooms of the building from the stairwell, and the proposed bathroom would sever any connectivity between the front and back room creating an awkward relationship and overly dominant feature when transitioning between the 2 rooms. As such the proposal would fail to preserve the original plan form of the LB, so harm its significance. In conjunction with this, the introduction of facilities which require plumbing and other services to be functional, could result in additional loss of historic fabric which has not been properly addressed.
19. The appellant considers that the majority of the historic features have been stripped from the LB. However, this simply means the preservation of any remaining historic fabric is even more important.
20. Therefore, the appellant's position that each element of the proposal could be considered a small alteration so have limited impact, is unjustified. When taken in combination, the proposed extension, French window and afore mentioned internal alterations would have a harmful impact on the significance of the LB both in terms of the loss of historical features as well as materially impacting the legibility of the building's original purpose, a single residential property.
21. The proposed replacement of the non-original lower ground floor door, alterations to the entrance path and front steps, replacement railings, downpipes, and hoppers would not constitute a loss of historic fabric and providing the installations are high quality would better align with the age of the LB. The proposed removal of the lower ground floor shower room and other non-original room partitions on the first and second floor would also better reveal the floor plan of those parts of the building. Equally the detailing of the bike shed, and replacement front door could be dealt with by condition. Accordingly, these elements of the scheme would not harm the significance of the LB, but equally they do not outweigh the harm other elements of that proposal would cause.
22. The proposal would therefore fail to preserve the LB, and many of the features of special architectural or historic interest that it possesses, so conflict with London Plan (Ldnp) Policies D3 and HC1, and LP Policies LP1 and LP3 which, amongst other things, seeks to protect, conserve, and enhance the borough's historic environment.

23. However, this would be considered less than substantial harm and where this has been identified, paragraph 215 of the Framework advises that it harm should be weighed against the public benefits of the proposal, including, where appropriate, securing the LB's optimal viable use and this will be dealt with the below.

Forecourt wall to number 25 (LB2) and Mare Street Conservation Area (CA)

24. Although the proposed internal works and those to the rear elevation would not affect LB2, the striking effect the proposed side extension would have on the LB would also, but to a lesser extent, affect the significance of LB2. This is because it would alter the relationship between it and the LB, and the clarity of its position and proportionality as a front boundary wall, would be eroded.
25. The internal works of the proposal are unlikely to affect the relationship between the appeal building and its surroundings, and the repair of the front elevation would likely improve the relationship between it and the street. However, the proposed side extension would remove the space between the upper floors of the appeal building and adjacent property which would have a terracing effect and erode the domestic scale the appeal building. Further the unusual angle between the appeal building and adjacent property creates a unique feature and allows an understanding of the development of the buildings and the proposed side extension would remove this legibility entirely.
26. In combination with the already identified harmful impact the proposal would have on the significance of the LB, which is important in the understanding of the area's development, the proposal would fail to preserve the setting of LB2, nor preserve or enhance the character or appearance of the CA. It would not comply with LdnP Policies D3, D4 and HC1, and LP Policies LP1 and LP3 insofar as they seek a high level of design quality which does not harm the heritage of the local area.
27. Again, this would constitute less than substantial harm and so will also need to be weighed against the public benefits of the proposal later in this decision.
28. The Council referred to LdnP Policy D1. This sets out how London boroughs should consider design within local plans so is not determinative in this instance.

Living conditions

29. The proposal would provide 3 one-bedroom flats, each with a shower room and the appellant has confirmed occupancy would be 1 person per flat.
30. LdnP Policy D6 requires that, amongst other things, dwellings must provide at least the gross internal floor area and built-in storage area set out in LdnP Table 3.1. This table specifies the minimum gross internal floor area for a single storey, 1 bedroom, 1 person dwelling with shower as 37sqm. LP Policies LP2 and LP17 supports this policy in terms of ensuring new residential development has appropriate internal space standards to ensure occupier amenity.
31. The main parties agree that the proposed first floor and second floor flats would provide 45sqm of internal floor area and the proposed upper ground floor flat would provide 33sqm. Accordingly, 1 of the 3 proposed flats would fail to meet the minimum internal floor area. This would be an under provision of 4sqm which would be over 10% of the required minimum floor area and so when considering such small living spaces this would be a significant short fall. A minimum standard is set for that exact reason, it is considered the minimum requirements to ensure

adequate living conditions for future occupants and aligns with nationally known and understood standards². Therefore, the proposed upper ground floor flat would fail to provide adequate living standards for future occupiers.

32. The appellant has argued that the access to the rear garden, and lack of harm in relation to light and privacy would negate the sub-minimal proportions of the proposed upper ground floor flat. A lack of harm, by definition, cannot outweigh identified harm, and although access to the rear garden would be a benefit, this does not mitigate a lack of internal space.
33. Consequently, the proposal would fail to provide adequate living conditions for future occupiers with specific regard to internal space. It would, therefore, fail to comply with LdnP D6, HLP Policies LP2 and LP17.

Affordable housing

34. It is recognised that paragraph 65 of the Framework states that affordable housing should not be sought for residential developments that are not major (10 houses or more). However, as a concept of national planning policy this has been in place since before the LP and LdnP were adopted, and so both development plan documents would have been assessed against it.
35. In conjunction with the information in the PC-SPD it is clear that the borough has a significant shortfall of affordable housing and that much residential development comes forward on smaller sites not through major development. Accordingly from the evidence before me and with nothing to contradict this position I find the requirements of LdnP Policy H4, which sets a strategic target for 50% of all new homes delivered across London to be genuinely affordable, and LP Policy LP13 which for schemes of 1 – 9 residential units requires a provision of or contribution towards affordable housing, relevant in this case.
36. It is recognised that it would not be practical for on-site provision of affordable housing, and so the PC-SPD prescribes an affordable housing contribution of £50,000 per housing unit provided.
37. The main parties have submitted financial viability reports (VR) and both in the main have combined provision across both the appeal site and the adjacent building 25 Hackney Grove. There is nothing before me to suggest that an application for the development of No 25 has been submitted or permission received. Therefore, I am satisfied at this stage the proposal before me does not constitute a split proposal and so affordable housing provision need only be secured for the conversion of the appeal building.
38. However, as the appellant's VR fails to identify the split of deficit that the proposal would attract, it is impossible to conclude whether it would be unviable if an affordable housing contribution was made. Nevertheless, I note the Council's VR has looked at both sites individually as well as together and has concluded that the offsite affordable housing contribution for the appeal site would be in the region of £4,000, which is substantially below the £150,000 originally identified in the P-SPD.
39. Therefore, from the evidence before me it can only be concluded that the proposal would fail to provide for sufficient affordable housing, so would not comply with LdnP Policy H4 and LP Policy LP13.

² As set out in the Technical Housing Standards – Nationally Described Space Standards 2015

40. It is noted the Council has also referenced LdnP Policy H5, which deals only with major development, and LP Policy LP12 which sets out the need for affordable housing, neither of which are determinative in this instance.

Transport infrastructure

41. As residential development, there is a likelihood the proposal would attract additional cars into the area. However, the appeal site is located on a no-car road, towards the centre of Hackney. It is a densely populated area and there is a high demand for parking, which in the main is permit controlled. Therefore, any additional cars seeking to park could have an impact on the traffic flow and safety of the immediate roads. Accordingly, the proposal would need to be secured as car-free development (CFD) to ensure it would not affect the transport infrastructure. The appeal site is located within an area falling within the second highest category of public transport accessibility³, so securing the proposal as CFD would not harm the ability of future occupants to travel.
42. The Council have identified that to secure the proposal as CFD a financial contribution would have to be secured to modify the existing traffic order to prohibit future occupiers from purchasing parking permits, and this would normally form an obligation. However, the appellant has not submitted an agreement to secure this nor provided another mechanism by which to secure CFD.
43. Accordingly, the proposal cannot be secured as CFD, so may have a detrimental effect on the surrounding transport infrastructure with regard to car parking. It would, therefore, fail to comply with LdnP Policy T1 and T4, and LP Policies LP43 and LP4, as far as they seek to promote non-vehicular transport and CFD.

Climate change

44. A main factor in climate change is the release of carbon, and LdnP Policy SI2 sets out how the city seeks to become a zero-carbon city. In relation to residential development this policy states that a minimum on-site reduction of 10% should be achieved via energy efficiency measures, and where this cannot be fulfilled an off-site alternative or financial contribution maybe necessary. LP Policy LP55 aligns with this, but also seeks the maximum feasible reductions in carbon emission for the re-use and extension of existing buildings whilst protecting the heritage and character of the building.
45. The appellant has produced an Energy Statement (ES) which sets out a reasonable series of actions to improve the carbon emissions of the existing building, especially as that building is listed and therefore the level of intervention is necessarily limited. However, the statement fails to clearly identify the improvement these actions would make and therefore it cannot be concluded as to whether the proposal would achieve any meaningful reduction.
46. Nevertheless, due to the specific circumstances of the appeal building, including its current state of repair and the need to protect its importance as a heritage asset, in the balance of probabilities it is likely that were the ES actions undertaken the proposal would have at least a neutral impact on carbon reduction and likely a modest improvement in the building's energy efficiency. Therefore, from the information provided, the proposal would not have a detrimental impact on climate

³ Public Transport Accessibility Level 6a

change and so comply with LP Policy LP55 as well as the overarching aim of LdnP Policy SI2 to minimise greenhouse gas emissions.

Balance and Conclusion

47. Returning to the Framework's Paragraph 215 balance, the LB was built as 2 separate residential dwellings, and the proposal is seeking to return the appeal building, in part, to a residential use. The evidence shows that such a use would be viable for the appeal building. However, the optimal viable use would be as a single residential dwelling and the proposal would not secure this. The proposal would not affect the optimal viable use of LB2, which is as a boundary wall.
48. The proposal would bring a vacant, at risk building back to use and reinstate some original features which have been lost. It would also create 3 self-contained residential units in a sustainable location, and the Framework seeks to boost the supply of homes and make more efficient use of land in accessible locations. These benefits would therefore attract considerable weight.
49. The Council considered that the proposal could also bring short term public benefits during the construction phase in relation to the local economy, but due to the size of the proposed this would only carry very limited weight.
50. However, the proposal would fail to take account of the historic significance of the appeal building and its current form as part of the LB in the setting of LB2 within the CA, as well as not represent the optimum viable use for that building. There is also a lack of clarity as to the precise impact elements of the proposal would have on specific features of the LB. Due to the potentially irrevocable damage loss of historical context and fabric could have, it is not found that the public benefits of the proposal would outweigh the harm caused to 3 heritage assets, harm that must attract great weight. The proposal would not comply with the Act and Framework.
51. As the Council cannot demonstrate a 5-year housing land supply, Paragraph 11(d) of the Framework indicates that permission should be granted, unless the application of policies in the Framework that protect areas or assets of particular importance provide a strong reason for refusing the development proposed. The application of heritage policy provides that to be the case here. As such, the proposal would not be the sustainable development for which Paragraph 11 of the Framework indicates a presumption in favour.
52. No harm has been found in relation to the living conditions of neighbouring occupants, waste and recycling storage, and the use of part of the building for offices. A lack of harm has also been identified in relation to climate change. But, a lack of harm, by definition, cannot weigh for or against the proposal.
53. Harm has however been found with regard to the preservation of heritage assets, the living conditions of future occupants, the provision of affordable housing, and transport infrastructure. Consequently, the proposal would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. Appeal A and Appeal B are, therefore, dismissed.

RJ Redford

INSPECTOR