



Appeal Decision

Site visit made on 16 July 2025

by **L Douglas BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24th July 2025

Appeal Ref: APP/U5360/C/23/3322727

64 Green Lanes, Hackney, London N16 9NH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
 - The appeal is made by Mr Ergun Yurdagul against an enforcement notice issued by the Council of the London Borough of Hackney.
 - The notice was issued on 17 April 2023.
 - The breach of planning control as alleged in the notice is Without planning permission, erection of a basement and ground floor rear extension and the erection of a mansard roof extension.
 - The requirements of the notice are: 1. Make all necessary amendments to the mansard roof at the Property so that it accords with the conditions and approved drawings ERGUN-64.40-REV-B & ERGUN-64.50-REV-B of planning permission 2020/3925 dated 21/02/2023; as attached OR 2. Remove the mansard roof extension; AND 3. Remove the unauthorised basement and ground floor rear extension. 4. Make good all damage to the Property resulting from the removal of the unauthorised works as listed above; 5. Upon completion of the above steps, remove all materials, debris, waste and equipment resulting from compliance with the other requirements of the notice from the property and its premises.
 - The period for compliance with the requirements is three months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (d) of the Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Preliminary Matters

2. The main parties agree that Step 1 of the notice has been complied with, and that the mansard roof extension now accords with planning permission reference 2020/3925. I see no reasons to disagree and I shall not consider this part of the alleged breach further. There is no evidence that the mansard roof extension accorded with the planning permission prior to the notice being issued, and I shall not therefore remove reference to this part of the alleged breach of planning control from the notice.
3. Passing reference has been made by the appellant to the decision notice for planning permission reference 2020/3925, which is said to list approved plan numbers for works described as 'erection of mansard roof extensions'. It is claimed those plans show that the basement and ground floor extension was approved. No evidence has been provided to support this claim, and no appeal has been lodged under ground (c) to claim the basement and ground floor rear extension is not in breach of planning control. On account of the very limited evidence in this regard

and the description of the development approved by that planning permission, I shall not consider this unsubstantiated claim further.

4. At the site visit a member of the public claiming to be an owner of 3 Aden Grove (an adjoining property at the rear of the appeal site) approached me to query the purpose of my inspection. He was not aware of the notice or the appeal. It has since been confirmed that The Owner/Occupier of 3 Arden Grove was notified of the appeal and given an opportunity to make representations on 22 June 2023. I am therefore satisfied that the owner of 3 Aden Grove was provided with sufficient opportunity to comment on the appeal.

Ground (d)

5. To succeed under this ground of appeal the appellant needs to show that, at the date when the notice was issued, no enforcement action could be taken in respect of the basement and ground floor rear extension. With regard to section 171B of the Act it is necessary for the appellant to show, on the balance of probabilities, that the development was substantially complete at least four years before the notice was issued.
6. Limited evidence has been provided to show when the development may have been carried out. Copies of lease agreements relating to the ground and basement floors at the site address dating back to January 2016 have been provided. These do not include any floor plans or descriptions referring to the extent of the basement and ground floors. As such, they offer no indications that the basement and ground floor rear extension may have been substantially complete at those times.
7. A Design and Access statement dated 15 July 2018 refers to the building being four storeys in height, including basement, and notes that the basement and ground floors were in office use at that time. This does not suggest the basement and ground floor extension was in place at that time.
8. It may well be the case that a basement has existed at the site for a number of years. However, the notice only alleges an extension of the basement, not the creation of a basement.
9. The appellant has not provided sufficiently precise and unambiguous evidence to show, on the balance of probabilities, that the basement and ground floor rear extension was substantially complete at least four years before the notice was issued.
10. The appeal under ground (d) must therefore fail.

Ground (a) and the deemed application for planning permission

11. The main issues are: the effect of the development on the character and appearance of the area, with particular regard to the setting of the Grade II listed building at 3 Aden Grove (the LB); and whether the development mitigates climate change.

Character and appearance, and the setting of the LB

12. The appeal site and its surroundings are broadly residential in character, with commercial uses at ground/basement levels along Green Lanes. Many of the

- buildings have Victorian design features, with the appeal building finished in stock brickwork.
13. The basement and ground floor rear extension adjoins the LB and therefore affects its setting. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the LB or its setting or any features of special architectural or historic interest which it possesses.
 14. The LB is an attractive early-mid nineteenth century building finished in stock brickwork, with moulded architraves, cornices and bracketed cills to windows facing onto Aden Grove. It has the appearance from the street as a detached building, save for the addition of the extension the subject of the notice. The significance of the LB, on the information available and so far as relevant to this appeal, lies in its historic character and architectural detailing, including its brickwork.
 15. The basement and ground floor rear extension has a flat roof finished in a felt-like material and plastic cladding lining a narrow lightwell. That lightwell can only be seen from upper floor windows to 64 Green Lanes. There are limited views of the basement and ground floor rear extension from public viewpoints, but it remains appreciable from the street, the front garden of the LB, and rear upper floor windows along this part of Green Lanes. In those views it is seen as a poor quality addition adjoining the historic brickwork of the LB, alongside another poor quality extension. That neighbouring extension appears to have been made to 66 Green Lanes (No.66), which is finished in plastic corrugated sheeting.
 16. Notwithstanding the unsightly finish to the extension at No.66, the basement and ground floor rear extension obscures the brickwork and attractive qualities of the LB as an historic standalone building. This harms the character and appearance of the area and the setting and significance of the LB. The restricted views of the development and its limited scale mean the level of harm caused to the character and appearance of the area and the significance of the LB are low. In the context of the National Planning Policy Framework (the Framework) the level of harm caused to the significance of the LB is 'less than substantial'.
 17. The Framework explains that great weight should be given to the conservation of designated heritage assets and that any harm to the significance of a designated heritage asset should require clear and convincing justification. Where development leads to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against public benefits. Policy LP3 of the Hackney Local Plan 2033 (2020) (HLP) is reflective of this. I have not been referred to any public benefits associated with the ground and basement rear extension, or any clear or convincing justification for the harm.
 18. The basement and ground floor rear extension does not preserve the setting of the LB, and it fails to accord with Policies D3 and HC1 of the London Plan (2021) (LP) and Policies LP1, LP3, and LP17 of the HLP. These require, amongst other things, development to be of high quality design that responds to local character, and to be sympathetic to and compatible with heritage assets and the existing townscape, amongst other things.

Climate change

19. Policy SI4 of the LP and Policies LP54 and LP55 of the HLP seek to mitigate the impacts of climate change by addressing the adverse effects of the urban heat island effect, amongst other things. One way of achieving this is through the use of design, layout, orientation, materials and green infrastructure to avoid overheating and maximise sustainability.
20. No evidence has been provided to show that the basement and ground floor rear extension incorporates any features which deal with the urban heat island effect or seek to mitigate the impact of climate change. The development is therefore in conflict with Policy SI4 of the LP and Policies LP54 and LP55 of the HLP.

Conclusion on Ground (a) and the deemed application for planning permission

21. The basement and ground floor rear extension harms the character and appearance of the area, fails to preserve the setting of the LB, and harms the significance of the LB. The level of that harm is low, but I assign great weight to it, and that harm is not outweighed by any public benefits. It has also not been shown how the development may mitigate the impacts of climate change. The basement and ground floor rear extension is therefore contrary to the development plan as a whole, and there are no material considerations which indicate planning permission should be granted.
22. The appeal under ground (a) fails and the deemed application for planning permission is refused.

Conclusion

23. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

L Douglas

INSPECTOR