



Appeal Decision

Site visit made on 22 July 2025

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2025

Appeal Ref: APP/U5360/W/25/3365462

34 New Inn Yard, Hackney, London EC2A 3EY

- 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 Sola 9 Ltd against the decision of the Council of the London Borough of Hackney.
- The application Ref is 2024/2066.
- The development proposed is amalgamation of two self contained flats to create a single family dwelling house and the erection of a single storey roof extension and rear infill extension with external works to the front elevation.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal site lies within the South Shoreditch Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of that area.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character or appearance of the host property and the South Shoreditch Conservation Area; and,
 - the effect of the proposal on the living conditions of neighbouring occupiers, with specific regard to outlook, daylight and sunlight, noise, and privacy.

Reasons

Effect on the host property and the conservation area

4. The appeal site is located a short distance from Shoreditch High Street and lies within the South Shoreditch Conservation Area (CA) and the Shoreditch High Street character area. The significance of the CA is associated with its long and distinguished association with the furniture and printing industries which were at their most prominent during mid-late 19th century. Many of the buildings within the CA originated from these trades, or were utilised to accommodate them. As such, there is a mix of grand, four and five storey retail and warehouse buildings. These structures line the main thoroughfares of the CA. Smaller buildings with lower storeys are set behind these main buildings.

5. However, some of the buildings within the CA were constructed after this period. As such, whilst there are similarities in their form such as their use of flat roofs, there is a clear distinction between the historical and more recent make up of buildings. This is evident through their contrasting fenestration details and use of materials. Nevertheless, the history and thus the significance of the CA is evident in the strong vertical emphasis from three to five storey building heights and their large ground floor openings which are found throughout this area of the CA.
6. The existing form of 34 New Inn Yard dates from the 1950s. It is a part three storey building with a part two storey extension to its rear. Its front façade is made up of sectioned brick and render with simple fenestration detail. Owing to its lower height than other buildings within the CA and its simple detailing, there is a clear contrast between this building and the older buildings within the CA. I therefore find that the existing building makes a limited contribution to the CA due to its visual inconsistency with the older buildings which are highly visible within this character area.
7. The proposed development would increase the height of the front elevation by one storey. The adjacent building of 36-42 New Inn Yard is a three-storey property with a slight front roof pitch. As such, the proposal would be higher than the eaves of this neighbouring property and this would compete with its primacy. It would also include several openings which are different to that of the existing property. However, whilst this proposal would alter the pattern of development in this immediate context, the wider street scene must be assessed. There are buildings with various heights, openings and forms within the immediate vicinity, some of which would remain taller than the appeal building. As such, this would not appear unusual or overtly dominant in this context. It would add a new appearance to a building which makes a limited contribution to the CA in a location with a complex mix of old and modern buildings.
8. The Council contend that a new two storey development between the appeal building aligns with the height of the railway line bridge which spans across New Inn Yard. As such, this two-storey form provides a stepped transition between the increase in height along this street scene. It is suggested that this is a common characteristic of the built form within the locality. However, immediately on the opposite side of this railway bridge is 2 King John Court. This building is a four-storey building which transitions to a building with a greater height than its initial four storey form. This is immediately adjacent to the railway bridge and therefore, this transition is only applicable to the appeal site and its adjacent neighbours. The proposal would therefore not appear unusual in this context.
9. The proposed development would also provide a conservatory, a shed extension and a roof terrace to the rear. The conservatory structure would have an appearance of a light weight glazed structure. The appearance of properties in the immediate street scene is one of strong brick-built industrial forms with glazed openings. Therefore, fully glazed conservatory structures do not make up the predominant form in this location. Nevertheless, owing to its height, it would be subordinate to its host building through its single storey form and height which would be lower than the building post construction of its proposed works.
10. The shed would be a flat roof structure located in an isolated position at the end of the roof terrace. In this position, it would appear unusual due to its isolated nature. The proposal would also include a roof terrace. Roof terraces are not a common

visible feature within this location. However, with regard to each of these structures, they would be contained to the rear and bound by the main form of the appeal property and the other buildings which make up New Inn Yard. As such, its visibility would be extremely limited to a small number of private views and the users of the nearby railway line. In relation to the railway line, this would be a momentary view which would not appear unusual against this backdrop of contrasting-built forms and appearances of buildings from this elevated position of the railway line.

11. For the above reasons, I conclude that the development would preserve the character and appearance of the CA and would not have a negative effect upon the character and appearance of the appeal property. It would therefore accord with Policies D3 and HC1 of the London Plan 2021 (LP), Policies LP1 and LP3 of the Hackney Local Plan 2020 (HLP) and the contents of chapter 16 of the National Planning Policy Framework (the Framework). Collectively, these policies seek for developments which affect heritage assets, including conservation areas, to preserve or enhance the character and appearance of the area through their respect to the rhythms and historical form of that area.

Living conditions

Outlook

12. The proposal includes the extension of the host property to the rear of the first floor and across the existing roof area. Above this extension, a conservatory, shed structure and roof terrace would be constructed. The neighbouring property of 36-42 New Inn Yard hosts windows in its side elevation which face onto the appeal property. The appellant refers to the rooms to which these windows serve in their evidence as R1/311, R2/313 and R3/311. These rooms are used as bedrooms, with R3/311 noted as a living/bedroom. As such, these are habitable rooms. I shall use these references throughout my assessment of this main issue.
13. The first-floor rear extension would cover the full length and height of these windows at a close distance from them. As such, each of these windows would experience a compromised outlook which would create a feeling of enclosure for the occupants of these rooms. However, I am mindful that with regard to R1/311 and R3/311 that these are not the only windows which serve these rooms. The window which serves R1/311 is a small window in a corner of this bedroom. This bedroom is served by two windows to its front elevation. With regard to R3/311, two windows are located to the rear of this building. As such, whilst the windows which face the appeal site would be compromised, an adequate outlook would still be provided to this room through other primary windows.
14. However, the harm to R2/313 with regard to outlook would be significant. There would be no other outlook to this bedroom and therefore, the outlook for the occupants of this bedroom would be harmful. The material circumstances of the windows which service the two other bedrooms would not overcome the harm to this particular room.

Daylight and Sunlight

15. I now turn to the matter of daylight and sunlight. The appeal is accompanied by a Daylight and Sunlight Appeal Statement (prepared by Point 2, dated 21 March 2025). The appellant refers to the BRE Site Layout Planning for Daylight and

Sunlight – A Guide to Good Practice 2022. The guidelines are intended for use for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens, and bedrooms.

16. As previously noted, bedroom R2/313 has one window to serve this room which faces the appeal site. The accompanying appeal statement notes that there would be a 38.6% reduction in the Vertical Sky Component (VSC). VSC is a measure of direct skylight reaching a point from an overcast sky. The evidence suggests that overall, this would have a moderate impact on this room. With regard to sunlight, this room would receive a reduction in 22.2% of sunlight through this window. This is assessed to be a minor impact.
17. The appellant contends that this room would have a reduction in the No-Sky Line (NSL) Contour of 8.2%. NSL is a measure of the distribution of daylight within a room. However, the Daylight and Sunlight Report (prepared by Point 2) to support the initial application notes in assessing the loss of light to an existing building, the VSC is generally recommended as the appropriate parameter to use. I have therefore used this parameter for the basis of my decision. The BRE Guide considers a reduction of 20% or less to be unnoticeable. Therefore, this would have a detrimental effect to the occupier of this bedroom. It would reduce the amount of daylight and sunlight which enters this habitable room.
18. Bedroom R1/311 would experience a 26.8% effect to its VSC through its window which borders the appeal site. This would constitute as a minor impact to this room. However, the window which looks out onto the appeal site is a small, secondary window. A further two windows are located to the front elevation of this room and face onto New Inn Yard. Therefore, whilst daylight and sunlight may be affected as a result of the proposal, owing to the small size of the window affected and the provision of two windows to the front elevation, I find that an adequate proportion of daylight and sunlight would enter into bedroom R1/311.
19. The appellant refers to the 'Shoreditch Village' development. It notes that a review of the VSC data indicates that this development impacted 46% of the windows in surrounding properties with reductions up to varying levels. Whilst this approved development highlights that some daylight losses can be acceptable, the evidence before me is limited in its discussion on this example. Most decisively, there is no convincing evidence before me which indicates what the affected rooms in this example served.
20. It is alleged that the first floor of 36-42 New Inn Yard is used as an Airbnb property and therefore, there would be a transitory nature of its use. This is based on a claim by the appellant that during a site visit, an occupant was consulted and this was confirmed. However, this evidence is anecdotal. There is no convincing evidence before me which confirms that this is indeed the use of this property.
21. Furthermore, even if this evidence was before me, the concept of Airbnb is to allow guests to book homes from local hosts. Whilst I recognise that corporate Airbnb businesses do exist, local individuals can rent out their home for periods where they are away from their residence. As such, these premises may be occupied by the owner who may reside at the property when the Airbnb has not been booked. Therefore, these rooms would be used as bedrooms or living rooms in one way or another. Therefore, this holds limited weight in my assessment of this matter.

Noise

22. The proposed development would formalise the flat roof area as a second-floor roof terrace alongside a conservatory structure and a shed to the rear of the site. The appellant contends that the roof space in its existing form is used as a terrace and that this use is not restricted by a planning condition. During my site visit, it was noted that a shed was present on this roof space. It did not appear as a permanent or notably used area due its absence of seating or any arrangement which would indeed resemble a terrace. The Council note that the use of this roof space as a terrace does not have planning permission.
23. As such, the formation of a terrace in this location would introduce an area where the occupants of the proposed development could gather to relax. The terrace would comprise of a walkway from the conservatory doorway to the shed and a seating area which, due to its size, would be usable by several people. Noise would be generated by its users through conversation, but other noise may be generated through its use, including the use of speakers to listen to music or the movement of outdoor furniture.
24. This formalised roof terrace area would be in close proximity to the neighbouring side windows of 36-42 New Inn Yard. This would allow for noise to be generated by the occupants of the proposed scheme close to noise sensitive rooms such as bedrooms. This would have a negative effect on the occupiers of these neighbouring rooms.
25. I am cognisant that the appeal site is located within an area where noise is not absent. In a busy area of London such as this, ambient noise which is generated by the overground railway line, traffic and the noise of people in the street is apparent. However, the noise which would be generated from a roof terrace near the habitable room of a neighbouring property is different to the background noise of a busy city location.

Privacy

26. It follows that during periods where the terrace would be used, the occupants of the proposed development would be capable of overlooking into the side windows of 36-42 New Inn Yard. This is due to the proposed height level of the terrace in relation to these neighbouring windows. The separation distance from the proposed terrace to these windows would be particularly limited to a short distance where privacy would not be preserved.
27. The appellant contends that the use of evergreen plants could be used for screening purposes and thus, could be conditioned to reduce the possibility of overlooking. In my assessment of this matter, this could have a positive effect in reducing the effect of the proposed terrace on the reduction in privacy to these neighbouring rooms. Such a condition would require the screen to be retained at an appropriate height with an agreed scheme of evergreen plants. However, whilst this suggestion may alleviate the harm with regard to privacy, it may result in a further harm. The provision of this screening in this location would be close to these windows. This would have an implication on these windows with regard to outlook.
28. In their discussion on the matter of privacy, the appellant refutes that roof terraces are not common within the area and suggests that this claim does not consider

that the flat roof of the appeal building is used as a roof terrace. As noted above, it did not appear that this roof space was used as a permanent or notably used area due its absence of seating or any arrangement which would indeed resemble a terrace. The Council note that the use of this roof space as a terrace does not have planning permission.

29. It is also contended that there is a precedent for roof terraces in the surrounding area. An example is given at 154-158 Shoreditch High Street. There is no convincing evidence before me such as a decision notice to show that this terrace does indeed have planning permission. In addition, no approved plans which show that this terrace would have similar effect with regard to privacy have been provided. As such, I cannot ascertain any similarities between these cases. I also note that this example is 100m away from the appeal site. In my view, this would not highlight that there is a precedent for roof terraces within this area of Shoreditch.

Summary

30. To conclude, the proposed development would have a detrimental effect upon the living conditions to the occupants of several units within the neighbouring property of 36-42 New Inn Yard. This is with specific regard to the effects of the development upon noise, overlooking, outlook and its effect on daylight and sunlight.
31. Therefore, the proposed development would conflict with Policies D3 and D6 of the LP and Policy LP2 of the HLP. Together, these policies seek for all new development to be designed to ensure that there are no significant adverse impacts upon the living conditions of its neighbours. It is noted that specifically, development should deliver appropriate outlook, promote privacy, mitigate the impacts of noise and provide sufficient daylight and sunlight.

Planning Balance and Conclusion

32. Section 38(6) of the Planning and Compulsory Purchase Act 2004 outlines that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework indicates that a decision should be taken in accordance with the development plan.
33. I acknowledge that the proposed development would result in the loss of two smaller sized units. However, it would be replaced by a dwelling which would be capable to host a large family in a highly accessible location. Despite the net loss in overall units, this would still be a positive contribution to the supply of family housing.
34. The proposal would also provide local economic benefits during the construction period, which would also provide workforce experience and training opportunities to the construction industry. The future occupiers would also provide economic benefits to the local area once the development would be complete through their use of local shops and services.
35. I am also mindful that the proposal would deliver environmental improvements to the fabric of the building and its energy efficiency. The replacement of uPVC windows, the provision of photovoltaic panels and the upgrade of thermal

insulation, amongst other things, would contribute to the promotion of the EPC rating of the building. It would do this in a manner which is, in my view, sympathetic to the character and appearance of the CA. These elements are positive benefits which collectively attract moderate weight in my decision.

36. However, in my overall consideration of the scheme, these benefits are modest. They do not outweigh the harm I have found above in relation to the living conditions of the neighbouring occupants to the appeal site. There are no material considerations of such weight or significance before me as to justify a decision otherwise than in accordance with the development plan.
37. For the reasons given above, the appeal should be dismissed.

J Smith

INSPECTOR