



Appeal Decision

Site visit made on 11 July 2025

by **Andy Harwood CMS MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 August 2025

Appeal Ref: APP/U5360/C/23/3325497

36 Bergholt Crescent, London N16 5JE

- 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 Meir Ausch of Ohel Moshe V'Leah Ltd (the appellant) against an enforcement notice issued by the Council of the London Borough of Hackney.
- The notice was issued on 31 May 2023.
- The breach of planning control as alleged in the notice is: Without planning permission, the operational development consisting of the erection of an extension at first floor level.
- The requirements of the notice are to:
 - 1 Remove the whole structure from the first floor as shown in in appendix 1;
 - 2 Make good all damage to the Property resulting from the removal of the unauthorised works as listed above; and
 - 3 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: 2 months.
- The appeal is proceeding on the ground[s] set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 (as amended). 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.

Decision

1. It is directed that the enforcement notice is varied by:
 - At section 6 of the notice, delete “2 months” and replace it with “6 months”.
2. Subject to the variation, 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 1990 Act as amended.

Preliminary Matters

3. The notice is targeted at a first floor extension on top of an existing rear extension. The notice clarifies that this is the extension at first floor level on the eastern side of the property and at the time of my visit, was painted grey. It adjoins a similar extension on the western side of the building which at the time of my visit was painted light green. There is no dispute between the parties that the green extension on the western side is not part of what is alleged and that the notice does not affect it.

Appeal on ground (a)

Main Issues

4. The Council confirms that the building has been used as a religious institution, a synagogue, for at least 15 years. In considering these main issues therefore, I

have not taken into account the Council's Residential Extensions and Alterations Supplementary Planning Document because this is not a residential property. Notwithstanding that, the main issues raised by the reasons for issuing the notice are:

- the effect of the development on the character and appearance of the host property and surrounding area;
 - the effect of the development on temperature control and greenhouse gas emissions; and
 - the effect upon living conditions at neighbouring properties with respect to outlook, privacy and the effects of activities in the extension.
5. In addition, given the matters raised by the appellant, an additional main issue is the effect of the development on the Jewish Charedi community including the children in that community.

Reasons

Character and appearance

6. The appeal site is within an area of terraced properties which from the front have a general consistent form and design, set out around the road in a regular pattern and distance from the highway. There is more variety along the rear elevations of the terrace. There are a range of extensions at ground floor level and also some more obvious first-floor additions and a range of dormers at roof level. The original parts of the building with attractive stock-brick and detailing such as red-brick quoins are still evident and there remains some sense of harmony along the rear of the buildings. The discordant elements such as high dormers have not had a prevailing effect upon the character and appearance of the area.
7. The appeal property has a large single-storey extension at the rear and on top of this there are 2 additions which both have a similar appearance. These are constructed of boarding and plastic translucent roofs and there are windows in the end elevations. There are gaps around the tops of the walls of these structures which overall have a makeshift appearance. There are also railings around the edge of the single storey extension.
8. The green extension on the western side, is at odds with the general defining character of the area. The extension subject to the enforcement notice adds to that impact. The makeshift appearance of these structures contrasts with the elegance of the original buildings within the terrace due to the use of conflicting materials, poor the design approach and prominent position. The rudimentary design is obvious and jarring.
9. In relation to this main issue, the development has a harmful effect on the character and appearance of the host property and surrounding area. This does not comply with Policy LP1 of the Hackney Local Plan 2033, adopted July 2020 (HLP) which seeks, amongst other things, to ensure that all new development is of the highest architectural and urban design quality, responding to local character and context. Furthermore, it does not comply with Policies D3 and D4 of the London Plan 2021 (LP). These together include the requirements that all development must make the best use of land by following a design-led approach, optimising the capacity of sites, ensuring that development is of the most

appropriate form for the site, enhancing local context as well as responding to existing character, delivering high quality design.

Green house gases

10. The extension has a crude appearance, constructed of timber boarding and the roof is translucent plastic with no additional insulation and gaps around its edges. This does not prevent heat getting in. I visited on an extremely hot day when the structure was unbearably hot inside. I recognise that this was not representative of the general climatic conditions but it does demonstrate that the extension is not insulated against heat getting in. From this and its appearance, I would expect that it is not very good at retaining heat in the more temperate conditions that I have more often experienced in north London. I don't have any expert evidence about the energy efficiency of the extension but some of its defects in these terms are obvious to a non-expert. It does not appear that the building has been designed to naturally regulate internal and external temperatures.
11. In relation to this main issue, it has not been demonstrated that the development would adequately control temperature or limit greenhouse gas emissions. This would not comply with HLP Policies LP54 regarding adaptation to climate change or LP55 regarding mitigation of climate change. Furthermore, for the above reasons, LP Policies SI 2 and SI 4 are not complied with. These also relate to minimising greenhouse gas emissions including the need for development to minimise adverse impacts on the urban heat island through design, layout, orientation, materials and the incorporation of green infrastructure. There is also no evidence that the development has been constructed bearing in mind the advice in the Council's Sustainable Design and Construction Supplementary Planning Document.

Living conditions

12. The extension is very close to the boundary with the adjoining property which appears to be a dwelling. I could not enter that property. However, I saw at my site visit that there is a large single-storey extension at the rear which is a similar depth to the single storey addition at the back of the appeal building. Whilst the extension enforced against is in a very high position relative to ground level, the presence of that adjoining single-storey extension means that those neighbours would not be substantially affected when in their garden.
13. There are windows at first-floor level in the rear of the adjoining dwelling. The outlook from those, especially the one closest to the mutual boundary with the appeal site, is interrupted by the extension. The effect is greater than it would have been with just the extension on the western side in place. Given the position and depth of the extension, this has an imposing impact upon the neighbouring occupiers.
14. I do not consider that the high-level windows in the unauthorised structure cause unacceptable overlooking and the insertion of further windows could be prevented by the imposition of a planning condition. A condition could also be used, had I been allowing the appeal, to secure the obscure glazing of the larger opening that has an internal shutter in the side-wall facing the adjoining building.
15. The room is used as part of the synagogue and specifically as a yeshiva to assist in the education of Jewish children. The structure as it stands, particularly due to

the gaps as well as rudimentary construction that I have previously described, seems unlikely to retain noise very effectively. Congregations of people in the extension could cause noise disturbance for neighbouring occupiers particularly when they are in their first-floor rear rooms and even more significantly if they have their windows open.

16. I agree with the appellant's view that there would be little impact upon daylight and sunlight on adjoining residential properties. That is because the development is on the northern side of the terrace where it is unlikely to cause over-shadowing or significant loss of ambient light.
17. In relation to this main issue, the development has a harmful effect upon living conditions of neighbouring properties with respect to outlook and the potential for noise and disturbance from activities in the extension. This would not therefore comply with HLP Policy LP2 which requires all development to be appropriate to its location and designed to ensure that there are no significant adverse impacts on the amenity of neighbours.

Community and children

18. The extension allows additional space or 'Yeshivah' for the education of Jewish Charedi children. The appellant has referred to there being 14,000 Charedi children being born in Hackney each year. I am not provided with information about the supply of similar facilities at other institutions in Hackney to know how critical this space is for the local Jewish community. Nevertheless, the extension covers a large area and can therefore accommodate many children as evidenced by the tables and chairs which I saw had been recently used. This does therefore provide an important facility for the community in this part of London where there is a significant demand for this type of faith-related education.
19. In relation to this main issue, the development therefore has a positive effect on the Jewish Charedi community including the children in that community.

Other matters

20. The Public Sector Equality Duty (PSED) contained in the Equality Act 2010, sets out the need to eliminate unlawful discrimination, harassment and victimisation and to advance equality of opportunity. The Act recognises that race and religion are both relevant protected characteristics for the purposes of the PSED which the people using the development share. I am required to give due regard to the PSED equality duty. I am also mindful that Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of the child shall be a primary consideration in all actions by public authorities concerning children. As I have set out above with respect to the last of the main issues, the development has a positive effect upon the Jewish Charedi community and provides important educational facilities for children in that community.

Overall planning balance

21. The loss of this facility would have a negative effect on the Jewish Charedi community and in particular their children for whom it provides an important educational facility. I therefore give a substantial degree of positive weight in favour of retaining the development. This and my conclusion on the last of the

main issues is insufficient however to outweigh my conclusion on the 3 other main issues including the conflict with the development plan.

22. I have considered the appellant's request for a 5 year temporary planning permission. The Planning Practice Guidance states that it may be appropriate to grant planning permission for a specified temporary period including when a trial run is needed. In this case a trial run has already been undertaken as the development has already occurred. Any effects of the development should by now be fully apparent and indeed I agree with the Council that they cause harm as set-out above.
23. Given my consideration of the last main issue, the PSED and best interests of the children within the appellant's community, I have given further consideration to whether a temporary planning permission would be a more proportionate solution rather than removal of the extension as required by the notice. However, given the degree of harm caused by the extension, I consider that this would not strike the correct balance where the development is clearly unacceptable. I do not consider that a temporary 5 year period would be acceptable.

Conclusion on ground (a)

24. For the above reasons, having had regard to the development plan as a whole and all other material considerations, I conclude that the appeal on ground (a) should fail and consequently, the deemed planning application shall be refused.

The Appeal on ground (f)

25. The appeal on this ground is that the steps required exceed what is necessary to achieve the purpose of the notice. The Council has confirmed that the purpose of the notice is to remedy the breach of planning control, which I take to mean the purpose within s173(4)(a) of the Act.
26. The appellant states that the notice should allow for the development to be changed in terms of materials and its form. That would create a different development. As such, that would not achieve the purpose of the notice and is not an obvious alternative step. If a different design and different materials are proposed, that would have to be considered in the normal manner through the consideration of a planning application.
27. The appeal on ground (f) therefore fails.

The Appeal on ground (g)

28. The appeal on this ground is that any period specified in the notice falls short of what should reasonably be allowed
29. I have no evidence that the requirements of the notice to remove the structure as well as making good and removing resultant materials, could not be undertaken within the 2 months specified. However, the appellant has requested 12 months to comply with the notice to allow the Yeshivah to continue operating smoothly without disruption. I have considered in relation to the appeal under ground (a), that the PSED and best interests of the children within the appellant's community are important considerations.

30. The 2 month period which would apply from the date that the notice comes back into effect, is not very much time to enable the discussions about how to plan for its replacement. That may involve relocation or revised proposals for this site. In addition, once an alternative solution is found, it would need to be implemented with the necessary permissions achieved and contractors instructed.
31. Whilst the Council does have powers and discretion to allow additional time, I consider that the period specified is clearly unsuitable and that I should use my powers to extend it. The harms though should not be allowed to continue to an unreasonable extent and given that this does include adverse effects upon neighbours' living conditions, I have to balance these matters carefully. I consider that 12 months or more would be too long a period for those harmful effects to continue and that a period of 6 months would strike a more reasonable and proportionate balance between the harm and achieving compliance whilst enabling the community to adequately educate their children.
32. To this extent, the appeal on ground (g) succeeds.

Conclusion

33. For the reasons given above, I conclude that the appeal should not succeed other than on ground (g). I shall uphold the enforcement notice with the variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Andy Harwood

INSPECTOR