



Appeal Decision

Site visit made on 16 September 2025

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 October 2025

Appeal Ref: APP/U5360/W/25/3368151

Flat 7, 28 Brooke Road, Hackney, London N16 7LS

- 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 J Gluck against the decision of the Council of the London Borough of Hackney.
 - The application Ref is 2023/2721.
 - The development proposed is the erection of rear roof extension above the existing two-storey outrigger (to serve flat 7).
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Mr J Gluck against the Council of the London Borough of Hackney, this is the subject of a separate decision.

Preliminary Matters

3. I have been made aware of a recent appeal decision¹ that was allowed for accommodation at basement level at the appeal property, which I have taken into account insofar as it is relevant to my decision. As this decision was made after the appeal was submitted, the main parties have been given the opportunity to comment on whether that appeal decision has any relevance to this appeal, and any comments made have been taken into account in my decision.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the host property, the terrace it is part of, and the area, with particular regard to its scale and design; and,
 - the living conditions of neighbouring occupiers, with particular regard to outlook and light for a rear first floor window serving Flat 6 (no. 28 Brooke Road) and light to a first-floor rear window serving no. 30 Brooke Road.

¹ Ref: APP/U5360/W/25/3362931

Reasons

Character and appearance

5. The appeal property is a pitched roof, mid-terraced property, arranged as self-contained flats in a predominately residential area. The terrace of properties the appeal property is part of, mainly have two-storey pitched roof outriggers projecting from their rear elevations, that are paired with an adjoining property. Although, it is noted that the adjoining end terraced property, no. 26, has a three-storey outrigger following an extension on its rear side, which has a pitched roof. Due to the partly diagonal alignment of this terrace of properties in relation to neighbouring Bayston Road, the rear side of no.28, is visible from that road.
6. Hackney's Supplementary Planning Document, Residential Extensions and Alterations, dated April 2009 (REA), seeks to create a high-quality, sustainable built environment, it requires extensions to not dominate or detract from the building or group of buildings and to respect the original architectural character. It adds that rear extensions must be subordinate to the principal building, and it is said they should be at least one storey lower than the eaves height of the building. It also recognises that where a rear projecting element was part of the original design or built as a subsequent extension, there may be limited capacity for further extensions to the rear.
7. Notwithstanding the alterations made to no.26, the scale and position of the proposed extension, which would be directly above the existing pitched roof outrigger, would not respect the original two storey paired pitched roof outrigger arrangement on the host property and most of the properties in the terrace. Furthermore, its flat roofed design and set-in from most of its outer sides would not respect the appearance, proportions, and form of the existing outrigger, or the architectural character of the host property and the terrace it is part of. Although it could be said that the proposed extension is subordinate to the host property as it would not be above its main eaves height, it would not nevertheless be one storey below the host property's main eaves height, and it would significantly increase the scale and bulk of it at second storey level. Therefore, it would result in an unsympathetic design that would harm the character and appearance of the property. Views of the proposed extension from Bayston Road, because of its siting, scale and design would also harmfully contrast against the appearance of the appeal property, the terrace it is part of, and the area.
8. The appellant has drawn my attention to three examples of rear extensions nearby at; no 10 Dynevor Road; no 18 Brooke Road; and no 118 Nevill Road. I have carefully considered all these examples. In all cases, they did not have rear elevations that were highly visible from a neighbouring road like the appeal site. Furthermore, no. 10 Dynevor Road featured a timber clad extension in a contemporary style, no 18 Brooke Road had a pitched roof, and the pitched roof design of the extension at no, 118 Nevill Road was only considered to be acceptable because of a similar extension on an adjoining property. Given the appeal site's prominence from Bayston Road, and its flat roof design and cladding, it is not entirely comparable to these examples, and they have not led me to conclude differently regarding the identified harm on this main issue.
9. I also note that the proposed extension would not affect heritage assets, it would respect the profile of the main roof and not project above its ridge line, and that it is

set-in from some of its sides. However, these are mainly neutral factors that do not weigh in favour or against the proposed development.

10. I therefore conclude that the proposed development would be harmful to the character and appearance of the host property, the terrace it is part of, and the area, and there would be conflict with Policy LP1 of the Hackney Local Plan 2033, adopted July 2020 (HLP), which amongst other things, requires new development to be of the highest architectural and urban design quality that responds to local character and context. In addition, there would also be conflict with the REA, in terms of its requirements, which are set out above.
11. The Council referred to conflict with Policies D1 and D4 of The London Plan, The Spatial Development Strategy for Greater London, dated March 2021. However, as Policy D1 is aimed at plan making and Policy D4 is mainly focussed on strategic design review and analysis, I did not find them to be directly applicable to this main issue.

Living conditions – neighbouring occupiers

12. The REA says extensions may need to be limited by the degree to which they block out daylight from the neighbouring property's windows and requires a reasonable outlook to be retained for existing occupiers. It adds that where necessary, daylight calculations must be submitted as part of any application and that extensions should comply with the 45-degree rule (no incursion within a line taken at 45 degrees from the centre of the nearest window), to avoid them becoming overly dominant and visually bulky resulting in over-shadowing and loss of amenity for neighbouring occupiers. The REA also says the 45-degree rule should be used as a guide and should be assessed on both plans and elevations.
13. Flat 7 is located at second floor level, and flat 6 is located directly below it. I saw on my site inspection that flat 6 only has one window, which is located on the rear side of the main building at first floor level. The outlook from flat 6's window is already constrained by the very close proximity and considerable projection of the two-storey rear outrigger on the appeal property. The proposed additional storey above it, would significantly add to this sense of enclosure, and would introduce a dominant feature that would harmfully affect the outlook from flat 6's only window, by virtue of the proposed extension's increased scale and bulk, even considering its set-in. Its proposed position, depth and scale would also likely affect the light that flat 6's window would receive, and in the absence of a daylight/sunlight assessment I cannot be certain that it would retain adequate light. Whilst the appellant has said they are willing to provide such an assessment this has not been submitted. In addition, it would also be likely that flat 6's window would not conform to the 45-degree rule if the proposed extension was built. Although in view of my findings above this is not itself a decisive factor in terms of the harm identified for the living conditions for the occupiers of flat 6.
14. I note the appellant's comments that the 45-degree rule should be applied flexibly as both flat no's 6 and 7 are in the same ownership. Be that as it may, they would be occupied independently of one another, and it does not automatically follow that this is a reason to allow a flexible approach. I also note that the 45-degree rule was not used for assessment within the 3 no. examples cited by the appellant, I can understand the appellant's frustration at this. However, all three of those examples are said to have been dwellings at the time the respective applications were

determined, unlike the appeal property which has been converted into 7 no. flats. Even if one of the properties mentioned by the appellant had been used as 2 no. flats, the effects of those extensions on the living conditions of other occupiers of those properties are likely to be much different than in this case. Consequently, those examples, along with there being no objections from neighbouring occupiers in terms of light and outlook in this case, have not altered my findings.

15. The appellant has also suggested obscure glazing and other amendments could be made to address the identified harm. No such amendments have been submitted, and given my findings above, I am not convinced that conditions, including obscure glazing, could be used to address the harm in this case.
16. The findings on the recent appeal decision² at the appeal property have been carefully considered, particularly relating to whether future occupiers would have satisfactory living conditions. In that case a 30-degree test was used, and it was accepted to be met by both main parties in respect of daylight, which is much different to this appeal which relates to the living conditions for existing occupiers. Furthermore, it was accepted in that decision that there would be a restricted outlook for future occupiers, but this would partly be offset by the larger accommodation including space at ground floor level. Whereas on this appeal, there would not be any mitigating factors, such as any increased space for the occupiers of flat 6. As such, that decision has not led me to conclude differently regarding the identified harm in this case.
17. I saw that the first-floor window on the rear of no.30, is a much smaller window than that on no.28, and it did not have any glazing bars, I could not be certain whether it was obscure glazed. Given its smaller size and distance from the side of the proposed outrigger, whether it would meet the 45-degree rule or not, I am not persuaded that there would be harmful effects upon the outlook and light for that window even if it was not obscure glazed. For the same reasons along with my site observations, it would not be reasonable to require a daylight and sunlight assessment in respect of this window.
18. I note the concerns raised by an interested party regarding risks from falling debris, the use of machinery, and access during construction works. However, with the proposed extension being to the rear of the property, construction works would be on the opposite side to the main entrance, and whilst there could be some disruption in the rear garden and internally within the property, a suitably worded condition should be capable of ensuring construction works are appropriately managed, in the event the appeal were to be allowed.
19. Apart from the harm identified above regarding the occupiers of flat 6, I am content that there would be no other harmful effects upon the living conditions of neighbouring occupiers. It is also noteworthy the Council found similarly.

Public Sector and Equality Duty and Human Rights

20. A resident of a flat within the appeal property has objected to the proposed development and raised the possible effects of construction works on another occupier of the building that is said to have a medical condition making them more vulnerable to dust from construction works. Based on the limited information before me, it indicates to me that they have a protected characteristic.

² Ref: APP/U5360/W/25/3362931

21. In light of this, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had due regard to the Human Rights Act 1998 (HRA) which at Article 8, requires that decisions ensure respect for private and family life, and the home, Article 8 is also engaged in this case. In reaching my decision, I have kept these interests at the forefront of my mind. However, they are qualified rights, and interference may be justified in the public interest. The concept of proportionality is key.
22. I recognise the paramount importance of the neighbouring occupiers right to have their home, private, and family life respected and this is a primary consideration. Any adverse effects experienced from the appeal proposal could interfere with the neighbouring occupier's rights in respect of their home, private, and family life. Any such impacts would weigh against the proposal in these respects.
23. Whilst I found above that the proposed development would be harmful in respect of light and outlook for the occupiers of flat 6, I did not find that there would be any other unacceptable effects upon the living conditions of neighbouring occupiers. The use of a construction management plan condition, in the event the appeal was to be allowed, could be imposed to minimise such impacts, particularly in regard to hours of work, noise, disturbance, and dust. Whilst this would not completely remove the effects of construction works for neighbouring occupiers, it is anticipated that it would ensure that they were mitigated as far as reasonably practical.
24. Having regard to the legitimate and well-established planning policy aims in respect of allowing extensions to existing buildings to provide good quality housing and protecting living conditions, a refusal of permission for a reason beyond the harm identified above in relation to the occupiers of flat 6, would not be proportionate and necessary on the information before me, or consistent with the requirements of the HRA and my PSED duty contained in Section 149 of the Equality Act 2010.

Conclusion

25. I therefore conclude that although the proposed development would not be harmful to the living conditions for the occupiers of no.30, the proposed development would unacceptably affect the outlook and light for the first-floor window serving flat 6 at the appeal property, and as a result the proposed development would be harmful to the living conditions of those occupiers. In doing so, I find the proposed development to conflict with HLP Policy LP2 which requires that development is designed to ensure there are no significant adverse impacts on occupiers and neighbours, including from outlook and daylight effects. There would also be conflict with the REA, in terms of its requirements as set out above.

Other Matters

26. The comments made by an interested party regarding their tenancy of a flat within the appeal property, in the event the appeal were to be allowed, fall outside of my consideration of the planning merits of the proposed development.

Conclusion

27. The proposed development conflicts with the development plan taken as a whole. There are no other material considerations, including the Framework and those raised by the appellant, that indicate a decision should be made other than in accordance with the development plan. For the reasons given above the appeal should be dismissed.

A Hunter

INSPECTOR