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## Appeal Decision

Site visit made on 30 April 2026

**by Katie McDonald MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8<sup>th</sup> May 2026

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**Appeal Ref: APP/U5360/W/26/3377234**

**69 Chatsworth Road, Hackney, London E5 0LH**

- 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 H Pasha against the decision of the Council of the London Borough of Hackney.
  - The application Ref is 2025/0655.
  - The development proposed is for the partial demolition of ground floor rear extension to form rear courtyard and basement lightwell, erection of new rear wall with new doors and windows at ground and basement level, and conversion of Class E commercial unit to a one bed self-contained flat accessed from existing residential entrance off Chatsworth Road.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. A unilateral undertaking planning obligation (UU) has been submitted as part of the appeal by the appellant. This is to remedy reasons for refusal 4 and 5. These relate to carbon offsetting and car free developments. Comments from the local planning authority were requested on the UU, and the appellant was provided with the opportunity for final comments. I have considered these below.

### Main Issues

3. These are:
  - a) the effect of the proposal on the protection of existing employment floorspace.
  - b) the effect of the proposal on the living conditions of the future occupiers, with specific reference to outlook and privacy.
  - c) Whether the provision for affordable housing would be necessary.
  - d) Whether the proposal would provide carbon offsetting and car free developments, having regard to the development plan.

### Reasons

#### *Employment space*

4. Located to the rear of 69 Chatsworth Road, the site comprises a basement and ground floor rear extension. The proposal is to change the use from an office (Use Class E(g)) to a one bedroom duplex flat. Demolition of the rear most part of the extension is proposed to facilitate a light well.

5. The proposal would result in the loss of around 75 square metres of employment floorspace, restricted to Use Class E(g) by condition 5 of planning application Ref 2021/2850. This details that *the use of the unit and any future unit that benefits from access solely from the rear of the site shall remain, in perpetuity, within Use Class E(g)*. Whilst the condition could have been written with more clarity, I disagree with the appellant that it would only bite if access was taken from the rear. The 'and' before 'any future unit that benefits [...]' separates the condition into 2 parts, the unit, and any future unit. The restriction applies for both.
6. Regardless, it would be highly unlikely that another commercial use within Class E would take place in this unit with access solely from the front, given it is pedestrian. Therefore, the fallback position presented by the appellant has little weight.
7. Policy LP27 of the Hackney Local Plan 2033 (July 2020) (HLP) seeks to protect office space. Part I of the policy sets out criteria that must be met to permit the net loss of B1 office space in areas outside Priority Office Areas (POAs). Only part i) of the criteria is relevant, which requires robust marketing evidence to demonstrate there has been no demand for the existing or vacant land and floorspace for its current or former use, and the possibility of retaining, reusing or redeveloping it for similar or alternative smaller or more flexible units for employment generating use, or other alternative employment generating use has been fully explored.
8. Appendix 1 of the HLP sets out what the Council considers to be robust evidence. For employment floorspace, it must be shown that the site has been adequately marketed through a commercial agent at a price that reflects market value for employment use for a minimum of 2 years, with no realistic prospect of employment generating use/re-use, including provision for smaller flexible units. Paragraph 1.9 sets out 15 requirements that the Council considers to be active marketing.
9. The Planning and Marketing Report<sup>1</sup> concludes that the property has been on the market since April 2023, with PSS Commercial and another agent (who is unnamed and referred to only once, caveated by "I believe"). The report claims that interest has been almost non-existent, and the factors that have resulted in this are a lack of retail frontage, rear alley access that is via a locked gate, and a small floor area.
10. However, the Report fails to meet several of the requirements in Appendix 1 of the HLP. The main areas of concern are the lack of evidence relating to 2 agents, evidence of online marketing over 2 years, for example, details of the listing with online marketing companies; and evidence of a letting board outside the premises (either front or back). Google Street View does not show a letting board in 2024. It was also not registered with the Council's Economic Development Team, and the marketing brochure does not even include a photo of the property, it shows the adjacent property. Collectively, the evidence before me does not adequately justify that the property has been *robustly* marketed for a period of 2 years and it fails to meet the requirements of Appendix 1.
11. Furthermore, commercial space retained at the front of the property is not relevant to the appeal before me, and just because the space is 'small' does not mean that the policy requirements are not applicable. Its location outside the POAs means the proposal is subjected to less stringent policy requirements in the first instance, and this is not a reason to dismiss the policy that does apply.

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<sup>1</sup> Prepared by Nicholas J Seaton BSc (Hons) DipTP, PSS Commercial Estate Agents Limited

12. Therefore, whilst the property *may* have no realistic prospect of employment generating use/re-use, I do not have the robust evidence before me to conclude that this is currently the case. For this reason, the proposal would result in the failure to protect existing employment space, contrary to Policy LP27 of the HLP.

*Living conditions of the future occupiers*

13. The flat would have a single aspect only, with windows facing west into the rear alley. The Mayor of London's Housing Design Standards (2023) sets out that all new homes should be dual aspect unless exceptional circumstances make this impractical or undesirable. Where single aspect dwellings are proposed, by exception, they should be restricted to homes with one or two bedspaces; should not face north; and must demonstrate that the units will: have adequate passive ventilation, daylight and privacy; and not overheat (particularly relevant for south or west-facing single aspect units).
14. The proposal would be a conversion in the rear extension of a terrace row. The walls of the property are built up to the boundaries and therefore, windows in the side elevations would be impractical and undesirable. The proposal would have one bedspace, faces east and would have adequate daylight and sunlight. It would be unlikely to overheat, given the location of 70 Blurton Road, which would to some extent, block direct sunlight in the afternoon. There are suitable window and door openings to enable adequate passive ventilation through the 2 floors. Therefore, the single aspect nature of the proposal would be acceptable in this instance.
15. Additionally, future occupants would not be subjected to harmful overlooking from passersby. This is because the rear alley is locked to the public and passersby would be limited in numbers. Additionally, it is not unusual to have facing windows at the street edge.
16. The gable end of 70 Blurton Road is opposite the frontage of the proposed dwelling. The distance between the existing windows on the ground floor and No 70 is proximate. However, the proposed windows would be set back owing to the lightwell, such that the ground floor would have a sufficient outlook. I accept that the windows in the basement would face a solid wall, however, this is not an unusual or indeed unacceptable situation for dwellings in this tight knit urban area. The duplex nature of the proposal and the roof light would ensure that there is sufficient light and the basement would provide a spacious bedroom. Thus, although outlook would be compromised to an extent in the basement, on balance, it would not be so poor as to result in unacceptable living conditions for the future residents given the other features of the dwelling.
17. Therefore, the proposal would provide suitable living conditions for the future occupiers. This would comply with Policy D6 of the London Plan (2021) (LP) and Policy LP17 of the HLP, which together seek to provide high quality living conditions.

*Affordable housing*

18. Policy LP13 of the HLP seeks to ensure that new residential development maximises opportunities to supply genuinely affordable housing on site. For schemes which fall below 10 units, there is an expectation to provide 50% affordable housing. However, as the proposal is for one unit, a payment in lieu up to the equivalent of 50% would be necessary. The Council's S106 Planning

Contributions Supplementary Planning Document (SPD) requires a payment of £50,000 per unit.

19. An Affordable Housing Statement and Viability Report<sup>2</sup>, was submitted with the planning application. This concluded that the affordable housing financial contribution would make the proposed development unviable.
20. The SPD sets out that the Council may appoint a suitably qualified independent third party to assess any financial information submitted related to development viability. The costs of this assessment will be met by the applicant. However, the Council did not request that the report was independently reviewed. This is because it intended to refuse the application for other reasons.
21. Whilst I accept that they did not want to put the appellant to additional costs, they included the lack of a contribution towards affordable housing as a reason to refuse the proposal. I have no other material evidence to demonstrate that the appellant's findings are not reasonable or realistic, even though I do have some concerns over assumed build costs and benchmark land value.
22. Nonetheless, based on the undisputed evidence that is before me, the viability of the site means that it cannot provide the affordable housing contribution. This means that the proposal would comply with Policy LP13 of the HLP.

*Whether suitable infrastructure would be provided*

23. Carbon offsetting and car free developments are required by Policies LP45 and LP55 of the HLP and Policy T6 of the LP. The purpose of the UU would provide a contribution towards carbon offsetting and puts in place measures that would stop future residents of the flat obtaining residential car parking permits. This would, in theory, enable compliance with the above policies. This is necessary to ensure that the proposal would mitigate climate change and would not lead to an unacceptable increase in parking stress in the area.
24. As detailed above, I requested comments on the submitted and completed UU from both main parties. The Council highlighted that carbon offset contribution is incorrect; the car free development is not clearly laid out; and the monitoring costs are incorrectly defined and the sum is incorrect. Moreover, they also detail that the title register and plan have not been submitted to the Council to verify proof of ownership and identify all interested parties to the land.
25. Notwithstanding, the UU as submitted is riddled with errors. Clauses are referred to in error, and this renders the effective operation of the UU null and void. This is because Clause 10 (taking effect) refers to Clause 14, not Clause 13. Clause 11 refers to Clauses 14.9-14.12, but these do not exist. Similarly, Clause 13.5 and 13.8 refers to Clauses 14.10 and 14.11, but these also do not exist. Clause 17.2 refers to Clause 18.1, but this is incorrect. The monitoring contribution is referred to as Clause 16, but this is Clause 15. The page which is signed by the parties to the deed appears to have no relation to the rest of the deed, such that I am unable to confirm if the deed is indeed one complete document.
26. Additionally, the deed assumes both the owner and developer would be liable, but there is no detail as to whom the liability would ultimately rest. The definitions fail to include a description of the development, the planning appeal reference is missing,

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<sup>2</sup> prepared by Rapleys, dated 10/03/2025

and the 'planning permission' definition is incorrect, referring to this being issued by the Council. The definition of the 'application' also refers to it having a resolution to grant planning permission. There are also several words in Clause 13 that are not defined.

27. Therefore, given the ineffective and poor drafting of the UU, I am not satisfied that the contribution towards carbon offsetting or the restriction for car free development could be achieved. This would result in the development failing to mitigate climate change and lead to increased parking stress in the area. The proposal would fail to meet Policies LP55 and LP45 of the HLP and Policy T6 of the LP.
28. The appellant has requested that a new UU be submitted considering the Council's comments. In the interest of expediency, this would not change the decision I have reached, and if I had been minded to find the loss of employment land was acceptable, I would have invited a new UU.

### **Conclusion**

29. Whilst I have no opposing evidence to conclude that the proposal would be unviable with the provision of affordable housing and suitable living conditions could be provided, the proposal, on the evidence before me, would result in an unjustified loss of office accommodation. Additionally, the UU would be ineffective, and this would result in the development failing to mitigate climate change and lead to increased parking stress in the area.
30. These adverse impacts would significantly and demonstrably outweigh the benefits, and there are no material considerations that would indicate a decision other than in accordance with the development plan.
31. For the reasons set out above, the appeal is dismissed.

*Katie McDonald*

INSPECTOR