



Appeal Decision

Site visit made on 22 July 2025

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th July 2025

Appeal Ref: APP/U5360/W/25/3365555

134E Kingsland Road, Hackney, London E2 8DY

- 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 Romain Cohen of Eurobridge against the decision of the Council of the London Borough of Hackney.
 - The application Ref is 2024/1611.
 - The development proposed is 1st floor rear roof terrace.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Mr Romain Cohen against the Council of the London Borough of Hackney. This is subject to a separate decision.

Preliminary Matters

3. The incorrect address of 134B Kingsland Road, Hackney, London E2 8DY was used by the appellant in their application form. Therefore, I have used the address as it appears on the decision notice.
4. The appeal has been accompanied by a set of amended plans. These plans have been amended to remove some of the garden planters along the boundary to a neighbouring property and replace these with 1.8m timber boarded panels. This set of plans was not before the Council, or any interested party and it is not clear from the evidence that these have been seen by these parties.
5. This is tantamount to the submission of new information. The Planning Inspectorate Appeals' Procedure Guide makes it clear in chapter 16 that the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector is essentially what was considered by the Council. I have not therefore considered this new information in this appeal as it would prejudice the Council, its decision and any interested parties.
6. The evidence indicates that a rear roof terrace has now been constructed. However, during my site visit, it was noted that this development has been constructed to the amended design as submitted in this appeal. It does not correspond with the plans submitted within the application. I have assessed the proposal based on the plans as submitted with the application.

Main Issue

7. The main issue is the effect of the proposal upon the living conditions of the neighbouring occupants, with specific regard to noise and privacy.

Reasons

8. 134E Kingsland Road is a mid-terraced, four storey building which is divided into a retail unit at the ground floor and three individual, self-contained flats on the three upper floors. The proposed development would create a roof terrace to the first floor flat. This would be constructed on top of an existing flat roof to the rear on a timber decking structure. It would have planters located along each of its edges and a 1.8m high timber board fence along its boundary with 134D Kingsland Road.
9. 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. The appellant notes that the maximum occupancy of this one-bedroom flat is two people. However, this does not account for the presence of guests. As such, whilst the roof terrace would not cover a significant area, by reason of its space, multiple people may be able to use it at any one time.
10. In this location, there are no other neighbouring terrace spaces. During my site visit, it was noted that the flats found within the building of 134E Kingsland Road host bedrooms which are located to the rear of the property. As such, the second-floor flat bedroom would be directly above the proposed roof terrace. Therefore, it would be close to this source of external noise generation in a room which is used for sleeping. This would have a negative effect upon the living conditions of this occupier, particularly during the hours of the evening.
11. The first-floor windows which service the rear of 134D were obscurely glazed or boarded. The closest window which serves 134F Kingsland Road to the proposed roof terrace was obscurely glazed and appeared to be used as a bathroom. As such, it is not considered that these windows serve habitable rooms. Therefore, the effect of any noise generation would not have a strong negative effect upon the habitable rooms of these flats. It was not possible to determine the use of the upper floor flats to either of these units due to the height differences from the position of the proposed development to these rooms.
12. The rear of this terraced row is host to several fume extraction and ventilation systems and the London Overground is located a short distance away. It is contended that in this context, there is a general ambient noise environment. This is not unusual for a London suburb location. However, during my site visit, when stood within 134E Kingsland Road, the effect of these noise sources was negligible and could not easily be heard.
13. The appellant suggests that the Council has a broad range of enforcement powers which could be utilised to combat anti-social behaviour or noise. On the other hand, the Council must also act in the interests of its residents to protect them from the generation of the possible harmful effects of development proposals during their assessment of planning applications.
14. It is also suggested that a condition could also be utilised to restrict the hours of the terrace. I have considered the use of such a condition in my assessment of this

appeal. However, it would not be reasonable in my view to restrict when a private residential terrace may be utilised by its occupants. It would prevent the occupants of the first floor flat to use the terrace at a time of day where relaxation and its use would be greatly sought.

15. I now turn to the matter of privacy. As previously noted, the first-floor windows which service the rear of 134D were obscurely glazed or boarded and for this reason, visibility into these rooms is not easily possible. Furthermore, a privacy screen would also be positioned along the boundary to 134D. Therefore, there would be no negative effects upon the privacy of the occupants of this flat.
16. The boundary with 134F would not be provided with a privacy screen. Whilst this is not optimal, the closest window to the appeal site was obscurely glazed. As such, I do not find that this would have a negative implication on the privacy of this room. Due to the height differences between the upper floors in this terraced row and the proposed development, there would be no implications on the privacy of the rooms located on these upper floors.
17. To conclude, the proposal would have an unacceptable effect on the living conditions of the occupants of the second floor flat to 134E Kingsland Road with specific regard to noise. It would therefore conflict with Policy LP2 of the Hackney Local Plan 2020 (HLP) and Policy D14 of the London Plan 2021 (LP). These policies note that new development must be appropriate to its location to ensure that there are no significant adverse impacts on the amenity of occupiers and neighbours.
18. Policy LP1 of the HLP and Policy D6 of the LP were cited in the decision notice presented by the Council. Policy LP1 relates to design and character, whilst Policy D6 is related to housing quality and standards. These policies do not appear to be immediately relevant and therefore are not determinative to this main issue.

Other Matters

19. The appeal site lies within the Kingsland Road Conservation Area. Although no concerns were raised with regard to the effect of the development on the 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. Due to the very limited visibility of the development proposed, I find that the proposal would preserve the character and appearance of the Kingsland Road Conservation Area.

Conclusion

20. For the reasons given above, the proposed development would conflict with the development plan when read as a whole and therefore, the appeal should be dismissed.

J Smith

INSPECTOR