



Appeal Decision

Site visit made on 1 February 2022

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th February 2022

Appeal Ref: APP/E5330/W/21/3276586

125A Lee Road, London SE3 9DS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Cyrus Homes Limited against the decision of the Council of the Royal Borough of Greenwich.
 - The application Ref 20/3934/F, dated 18 December 2020, was refused by notice dated 8 February 2021.
 - The development proposed is for the formation of a second floor roof terrace (part retrospective).
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Decision

1. The appeal is allowed and planning permission is granted for the formation of a second floor roof terrace (part retrospective) at 125A Lee Road, London SE3 9DS in accordance with the terms of the application, Ref 20/3934/F, dated 18 December 2020, subject to the following conditions:
 - 1) The development hereby permitted shall be completed and retained in accordance with the following approved plans: Proposed Elevations 1900_E(2)01, Proposed Site Location Plan 1900_SP(0)01, Proposed Plans 1900_P(2)01 and Proposed Plans 1900_P(2)02.
 - 2) The appearance and materials to be used in the construction of the external door onto the roof terrace shall match those of the windows in the existing appeal building, 125A Lee Road.

Preliminary Matters

2. The appeal is part-retrospective with the balustrade and roof terrace area already completed. The external door from the bedroom, onto the terrace has not been installed, however, access is possible from the existing window. During my appeal site visit I was able to stand on the roof terrace.
3. The most recent London Plan was published in March 2021, however, part of the Council's decision notice refers to superseded Policy 7.6 of the 2016 London Plan. Both the Appellant's and the Council's statements of case acknowledge the 2021 London Plan.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of the occupants of 123 Lee Road with particular reference to outlook and privacy, and the occupants of 127 Lee Road with particular reference to privacy.

Reasons

5. 125A Lee Road comprises a 4-bedroom flat located within a three-storey building. A shop occupies the basement and part of the ground floor with a 1-bedroom flat occupying the remainder of the ground floor and part of the first floor. No 125A sits on part of the first floor as well as the second and third floors. The appeal site forms part of a wider terrace of buildings.
6. This part retrospective appeal seeks to convert an existing flat roof, accessed from a proposed door onto a roof terrace at second floor. The roof terrace would be surrounded by a timber balustrade.
7. When stood on the proposed roof terrace the acute angle of view means that opportunities for looking into the window of No 123 Lee Road would only be possible from the north-eastern corner of the roof terrace. Any potential view from this corner of the roof terrace affords a limited view of the interior reveal of No 123's window and a very narrow view of the near corner of the room behind the reveal. There are no other windows at No 123 which are sited close to the roof terrace. Consequently, given this narrow line of sight which is only possible from one limited area of the roof terrace, the proposed development would not result in an adverse loss of privacy upon neighbouring residents at No 123.
8. The timber balustrade would measure approximately 1.1m in height and extend around the edges of the roof terrace. It is also sited close to the window of No 123 and would run perpendicular to the southern side of this neighbouring window but would not cross in front of the window. The height of the balustrade would only sit modestly above the windowsill of No 123. On this basis, open and broadly unrestricted views would be retained from this window at No 123. Accordingly, the proposed development would not have an adverse impact upon the outlook of No 123.
9. The roof terrace would be surrounded by a timber balustrade. The presence of up to 5 floors of accommodation with several terraced buildings and existing Juliet balconies at neighbouring properties mean that the immediate area surrounding the appeal site has an established level of substantial overlooking. However, considering the height of the balustrade, when stood or sat down within the roof terrace, there are limited, if any, opportunities to overlook neighbouring courtyards. When stepping up to the balustrade the roof terrace would provide opportunities for some overlooking of the courtyards of adjacent properties particularly Nos 123 and 127 Lee Road. While I have not been made aware of any relevant distances set out in policy or guidance, the courtyards are already substantially overlooked by an existing Juliet balcony and existing windows of the wider terrace block. Additionally, windows and Juliette balconies within the opposite buildings in Canal Walk also overlook these courtyards.
10. While I accept a roof terrace will offer further opportunities for overlooking, it is not unusual, when living in flatted development, to have levels of mutual overlooking which may not be expected elsewhere. Qualified levels of privacy prevail here, and I consider many occupiers accept them as part of living in such a location. Consequently, I find that additional adverse harm would not arise from this appeal proposal given the established pattern of overlooking and its location. The proposed development, therefore, would not result in an adverse loss of privacy upon neighbouring residents at No 123 and No 127.

11. I conclude that the proposed development would not have an unneighbourly or harmful effect on the living conditions of neighbouring residents, the proposal therefore accords with the visual protection aims of Policy DH(b) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies (2014), the Residential Extensions, Conversions and Basements Guidance SPD (2018) and Policy D3 of the London Plan (2021).

Conditions

12. I have attached a condition to ensure the works are completed and retained in accordance with the plans in the interests of certainty. The materials condition is also necessary to ensure that the external door is in keeping with the character of the existing building. As the permission is retrospective it is not necessary to impose a time limit for commencement.

Conclusion

13. For the above reasons, having regard to the development plan as a whole, the approach in the National Planning Policy Framework and all other relevant material considerations, the appeal is allowed subject to the conditions above.

N Praine

INSPECTOR