



Appeal Decision

Site visit made on 18 May 2023

by John D Allan BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 June 2023

Appeal Ref: APP/E5900/D/22/3313620

155 Mellish Street, Tower Hamlets, London, E14 8PJ

- 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 Mr Harry Papanastasiou against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/22/01944, dated 26 September 2022, was refused by notice dated 28 November 2022.
 - The development proposed is a loft conversion, erection of a rear dormer and terrace & 2 No. Roof lights to front slope.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal form wrongly quoted the address of the appeal property. This was later corrected by the appellant. All other details on the appeal form, and submissions that accompanied it, correctly related to 155 Mellish Street. I am satisfied that this was a simple error that has not prejudiced any parties involved with the appeal process.

Main Issue

3. The main issue is the effect of the proposal upon the living conditions of neighbouring occupiers in terms of privacy.

Reasons

4. The appeal property is a two-storey terraced dwelling within a street of similar age and type properties. In common with others to this side of Mellish Street, it has a very shallow rear garden which faces the rear of a linear block of four-storey flats in Tiller Road. The proposal would convert the existing loft space into additional living accommodation via an 'L-shaped' dormer to the rear roof slope and over part of the side slope to an existing two-storey outrigger. Access is also proposed to a new roof terrace beyond the dormer, at second floor level.
5. The Council has raised no objection to the proposed dormer window subject to the use of materials to match the existing building. Based on the information and evidence before me, I have no reason to disagree with these findings. Had

I been minded to allow the appeal, the choice of materials could reasonably have been controlled by condition.

6. The proposed roof terrace would measure over 3m deep and around 2.5m wide positioned over the end of the outrigger, with a 1m high aluminium framed clear glazed balustrade around its perimeter. It would create a space large enough to be used for outside recreation and from where there would be clear sight from an elevated position directly into the rear gardens of neighbouring properties, especially the immediately adjoining garden at No 153, and towards the rear facing windows of the flats at Corvette Court.
7. I saw during my visit that the rear garden context surrounding the appeal property is tightly enclosed and that there is an inevitable degree of mutual overlooking between properties from existing windows above ground level. However, from the dwellings along Mellish Street, this would be from either bedroom windows or from bathrooms. In the latter case, windows are likely to be obscurely glazed. From others, anyone choosing to look out is unlikely to do so for any sustained period. I consider the same would be true from Corvette Court where it appeared that most rear facing windows either served an internal corridor to individual units or bathrooms, with a minority serving living space where any outlook would be unlikely to be sustained for long periods.
8. In contrast to this, an outside amenity space would function quite differently. The roof terrace would create the potential for periods of more prolonged use and outlook. It would also be likely to be used at times when others would be wanting to enjoy their own outside garden amenity at ground level. Although I am not persuaded that there would be any significant impact upon the living conditions within the dwellings at Corvette Court due to the nature of the building's fenestration pattern, the roof terrace would have the potential to result in an unacceptable level of overlooking towards the garden at 153 Mellish Street. This would significantly impact the levels of privacy the occupiers might reasonably expect to enjoy. As such, there would be conflict with Policy D.DH8 of the Tower Hamlets Local Plan 2031 (2020) as far as it seeks to protect amenity by maintaining levels of privacy and avoiding unreasonable degrees of overlooking. Although I have not been directed to any specific conflict with Policy D6 of The London Plan (LP), which is quoted within the Council's reason for refusal, the officer's report refers to LP Policy D3, which includes the need to deliver appropriate outlook, privacy and amenity. By failing to achieve an acceptable level of privacy and amenity for the neighbours there would be conflict with LP Policy D3, and with the National Planning Policy Framework's similar objectives for achieving well-designed places.
9. The appellant has directed me to other roof terraces in the area. The examples at Nos 157 and 159 Mellish Street, next door to the appeal site, function within a different context to No 155. They sit at the end of the terrace where the rear of these properties is more tightly constrained than others in Mellish Street by the presence of a three-storey building directly at the foot of their gardens, and the enclosure to the side of No 157 by the deeper outrigger at No 155. I was unable to draw any comparison between the impact of the roof terraces at these two properties upon neighbours' living conditions and the effects of the appeal proposal. Furthermore, from my observations from the rear garden at

the appeal site, I saw no other obvious examples of roof terraces to the rear of other terraces to this side of Mellish Street.

10. In other cases that have been presented to me, the conclusions reached found there to be no harmful effects upon others' living conditions. That does not reflect my findings in this instance for the reasons I have amplified.

Conclusion

11. For the reasons given, I find that the proposed roof terrace would be harmful to the living conditions at 153 Mellish Street. I recognise that there was no objection to the proposal from any neighbouring occupiers, but neither this, nor any other matters raised, alters my conclusion that the appeal should be dismissed.

John D Allan

INSPECTOR