



Appeal Decision

Site visit made on 7 January 2021

by Martin H Seddon BSc MPhil DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 January 2021

Appeal Ref: APP/E5900/D/20/3260543

4 Montague Mews, Tredegar Terrace, London E3 5GW

- 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 Thomas Floyd against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref: PA/20/00255, dated 4 February 2020, was refused by notice dated 20 July 2020.
 - The development proposed is a retrospective planning application to increase the height of the border wall around the garden of my residential property situated within 4 Montague Mews by adding a wooden fence, complete height is under 2 metres at all points. The purpose of the fence is to provide privacy, safety, and security.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposed development commenced prior to the application to the Council and following pre-application advice. Although the description of development includes “retention of existing premises”, Section 55 of the Town and Country Planning Act 1990 describes ‘development’ as ‘the carrying out of building etc. operations or the making of material changes of use’ - and not as their ‘retention’ or ‘continuation’. I have determined this appeal on the description of development as “increase the height of the border wall around the garden by adding a wooden fence” as it is an appropriate specification for the proposal.
3. The pre-application advice from the Council indicated that the fence would be permitted development. Unfortunately, the advice failed to take into account that permission ref: PA/07/01439 included a condition which removed permitted development rights from the new houses and therefore the erection of a fence required planning permission.

Main Issues

4. The main issues are:
 - the effect of the fence on the character and appearance of Montague Mews and the Tredegar Square Conservation Area, and
 - the effect on the living conditions of neighbours in respect of outlook and public safety.

Reasons

Effect on character and appearance

5. The appeal site is a modern 3 storey terraced house with a small, paved garden. The terrace consists of 5 similar dwellings. There is a gated pedestrian passageway from Tredegar Terrace which leads to a footpath which runs along the front of the paved gardens and provides access for each house. The Development Plan includes the Tower Hamlets Local Plan 2031 (adopted in 2020) and the London Plan (2016). The emerging development plan is the Intend to Publish London Plan (IP London Plan). Its policies cannot be afforded full weight at present as the plan has not yet been published.
6. The Council's *Tredegar Square Conservation Area* publication advises that the Tredegar Estate was laid out formally around the square and designed in a grand style. The area was developed to a grid and uniform pattern, and the character of most streets is created by the repetition of architectural elements to create a finely textured surface to the continuous building frontages. The quality of development is particularly apparent on long views. Several buildings in the Conservation Area are listed as being of special architectural or historic interest.
7. The front elevation of the terrace which includes the appeal building faces a boundary wall and views of the paved gardens from the surrounding area are very restricted. The gardens are the only amenity space for the houses and consequently contain various degrees of domestic paraphernalia. They have been designed with low walls topped by small railings. The fence is around 1.3 m in height and is situated on top of the low boundary wall on the inner side of the railings, resulting in an overall height of around 1.9 m. Prior to the erection of the fence and a timber gate, the low boundary walls allowed an open aspect across the gardens, despite domestic use.
8. In terms of form and design, the fence stands out as a visually dominant feature, because of its height and degree of enclosure, compared with the relative openness of neighbouring gardens. Although the timber fence which has been erected is of good quality design, and the appellant is willing to stain the outer sides blue, I consider that it significantly detracts from the setting of the terrace and consistency in layout. It fails to complement the character and appearance of the terrace and conflicts with Local Plan policies S.DH1 and D.DH2 and IP London Plan policy D4, which concern achieving good design and layout and attractive spaces.
9. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, when assessing development proposals, special attention should be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. The terrace is modern and was designed to reflect its conservation area location through the regularity in its layout. Although views of the appeal site are restricted by surrounding walls, the proposal would unbalance the unity of the terrace frontages and would fail to preserve the character and appearance of the conservation area. The fence conflicts with the *Tredegar Square Conservation Area Management Guidelines* which advises that one of the most significant qualities of the area is the unity of the residential terraces.

10. I consider that the harm from the fence to the character and appearance of the conservation area as a designated heritage asset would be less than substantial, because of its localised impact. The National Planning Policy Framework (the Framework) advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The fence provides private benefit and there is no public benefit sufficient to outweigh the harm which I have identified. I find that the fence is contrary to policy S.DH3 of the Local Plan and IP London Plan policy HC1 which seek to ensure that heritage assets in the Borough are preserved, or where appropriate, enhanced.

Effect on living conditions

11. Entry to the front of the terraced houses is controlled by a secure lockable metal gate. Despite this, the appellant has referred to visitors gaining access and using the garden, including late at night and an incident of theft. The appellant has advised that the fence has been erected to provide increased privacy and security for the house and garden. The fence has gaps between the boarding which prevents it being an entirely solid barrier. However, the fence does restrict views across the rear gardens for other occupiers of the terrace as well as partly blocking views for people using the shared footpath. It also restricts views along the gardens for anyone entering the footpath via the gated passageway. I consider that this loss of openness and visibility is contrary to the principle of natural surveillance whereby any intruders or anti-social behaviour would be less easy for residents in the terrace to detect. In this respect the fence significantly harms the living conditions of neighbours by decreasing the safety of the residential environment. It therefore conflicts with Local Plan policy D.DH2, which, amongst other matters, concerns public safety.
12. The fence undoubtably reduces the outlook from the nearest ground floor windows of neighbouring houses at either side of the appeal site because of its height and proximity. The adjoining property at No.3 has a high wall to its western boundary and consequently the new fence at the eastern boundary of No.4 has introduced an undue sense of enclosure for the occupants of that house. I find that the fence significantly harms the living conditions of neighbours in respect of loss of outlook. It therefore fails to comply with Local Plan policy D.DH8 which seeks to ensure development protects and where possible enhances the amenity of neighbours and avoids an unacceptable increase in the sense of enclosure. In addition, it requires that existing buildings have an acceptable outlook for their occupants. The proposal also conflicts with IP London Plan policies D1 and D3 regarding the need for safe, secure, and inclusive environments and delivering appropriate outlook.
13. I consider that the fence does not constitute a sustainable form of development because of its detrimental environmental and social effects. I have taken all other matters raised into account. For the reasons given above I conclude that the appeal should be dismissed.

Martin H Seddon

INSPECTOR