



Appeal Decision

Site visit made on 13 August 2024

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2024

Appeal Ref: APP/N5660/W/24/3342418

12A Arlingford Road, Lambeth, London SW2 2SU

- 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 Ms Jessica Wyatt against the decision of the Council of the London Borough of Lambeth.
 - The application Ref is 23/03891/FUL.
 - The development proposed is the formation of metal steps from ground floor to lower ground floor garden, and creation of privacy screen to garden fence.
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Decision

1. The appeal is dismissed.

Procedural Matters and Main Issues

2. The description of development in the banner heading above is taken from the planning application form but without the reference to retrospective, as it is not an act of development. Since the development has been carried out, retrospective permission has been sought. In reaching my decision, I have assessed the development as shown on the submitted plans and not as built on site.
3. The Council has accepted the appellant's evidence that the window below the metal platform serves a bathroom rather than a habitable room. As such, it considers that the outlook and daylight afforded to the appeal property would not be affected by the proposal. Thus, it does not seek to defend reason for refusal 3 as set out on its decision notice. The Council also accepts further to the provision of the appellant's computer-generated shadow plan, that the proposal would not give rise to overshadowing of No 10 Arlingford Road. Based on all that I have seen and read, I see no reason to take a different view.
4. The main issues of this appeal are therefore the effect of the proposed development upon i) the living conditions of the occupiers of No 10 Arlingford Road, with particular regard to outlook, and ii) the character and appearance of the area.

Reasons

Living Conditions

5. The proposed development comprises an external metal staircase with platform and a boundary fence to a maximum height of 3.5m above ground level within the rear garden of the appeal property. The fence lies on the boundary with the adjacent dwelling of No 10 Arlingford Road.

6. Policy Q2 of the Lambeth Local Plan (LLP) 2021, seeks to ensure amongst other things, that adequate outlooks are provided, avoiding wherever possible, any undue sense of enclosure or unacceptable levels of overlooking.
7. The appellant points to the erection of a means of enclosure under the GPDO up to 2m in height. Be that as it may and acknowledging that land levels change across the rear garden, the proposed fence would extend to a height of 3.25m above ground level for 3.7m from the rear elevation of the host property¹. It would therefore extend 1.25m above the permitted development allowance, which is not insignificant.
8. There is an upper ground floor window in the rear elevation of No 10 that would extend above the height of the proposed fence, such that it would not unduly enclose the outlook from this window. However, there is a lower ground window already confined by the original boundary enclosure, that the proposed fence would exacerbate and tower above. In combination with the side elevation of the rear outshot, the fence would create a tunnel effect, which due to the height of the structure would lead to an excessive sense of enclosure.
9. From the evidence before me and the site visit, I have been unable to determine the type of room this window serves, in particular whether it is a type of, or only living space for this dwelling. The appellant has not provided evidence to demonstrate otherwise. Given the uncertainty and the potential harm that would be exerted on the living conditions of the neighbouring occupiers, arising from the scale and proximity of the proposed fence, it is reasonable to take a precautionary approach.
10. The outlook of the windows in the side elevation of the rear outshot to No 10 is already restricted by the rear outshot to the appeal building and the original fence. However, the proposed development due to its greater proximity, would make the situation materially worse. Whilst the proposed fence would be hit and miss, the gaps would be insufficient to generate any sense of space or open aspect. Again, it is not clear from the evidence presented and my observations as to whether these are primary or secondary windows, so precaution is reasonable.
11. Given the urban context of the appeal site, a degree of mutual overlooking between properties is to be expected. However, it is clear that without the proposed fence, direct overlooking from the raised platform and staircase could occur from a vantage point that would otherwise not be possible. This would particularly be the case when the occupants of the appeal site would be re-entering the property from the garden or sitting out on the platform, with views possible into the upper ground floor window of No 10. This would lead to the occupants of No 10 feeling uncomfortable through a reduction in privacy.
12. The appellant has failed to demonstrate that the proposal would not result in harm to the outlook afforded to the neighbouring occupiers of No 10. The proposed fence due to its height and form would appear oppressive, causing an unacceptable degree of harm to the living conditions of the occupiers of No 10 in respect of outlook. Consequently, the proposed development would fail to comply with Policy Q2 of the LP which states that development will be supported if adequate outlooks are provided, avoiding wherever possible any undue sense of enclosure.

¹ As cited in the Council's officer report.

Character and Appearance

13. The lower ground floor flat occupies a 3-storey terrace. The area is predominantly residential in nature although there are commercial premises on Tulse Hill to the west. It has attractive architectural detailing to the front elevation which it shares with other properties within the terrace, providing a strong sense of uniformity. It therefore contributes positively to the character and appearance of the area.
14. The Council has advised that the proposed metal staircase, platform and French doors to the upper ground floor window would not be harmful to the character and appearance of the appeal site or the wider area. I see no reason to disagree. The main matter of dispute is therefore the impact of the proposed fence on the character and appearance of the area.
15. Policy Q5 of the LLP seeks to ensure that the local distinctiveness of Lambeth should be sustained and reinforced through new development. With specific regard to boundary treatments Policy Q15 supports the raising in height of existing boundaries where it is undertaken in a well-designed and carefully detailed manner, which is consistent with local character and not discordant.
16. The proposed fence would be of a horizontal hit and miss modern trellis style. In this regard it would differ from the original fence below which is a close boarded fence comprised of vertical panels. Whilst trellis fencing is not found at nearby properties, it is a typical domestic feature used commonly in residential gardens such as this.
17. Boundary treatments typically follow the topography of the land they are sited upon. This would not be the case with the proposed fence, which would undulate across the depth of the rear garden. However, it would correlate with the position of the proposed staircase and platform. I also acknowledge that the highest part of the fence would go beyond that normally associated with a domestic enclosure. Nonetheless, its differing form would assist in reducing its scale visually.
18. The rear garden is not readily visible from any public vantage points such as public highways. Whilst the fence would be seen from a number of other properties to the rear and No 14 Arlingford Road, these are in the main private views. The highest part would also be positioned between the 3-storey outshots to the rear of the terrace, which provide a large-scaled backdrop, as well as a degree of screening. Even where the fence would be seen in private views, it would be observed in the residential context of other means of boundary enclosures, domestic structures and paraphernalia. It would not therefore appear particularly strident, inconsistent or discordant, despite its scale and form. Neither would it significantly undermine the positive contribution the host building makes to the local distinctiveness of the area.
19. The proposed development would not result in an adverse effect on the character and appearance of the area. It therefore accords with Policies Q5 and Q15 of the LLP, as set out above.

Other Matters

20. The appellant refers to a planning permission for the conversion of No 8 Arlingford Road to flats, which they suggest incorporated a rear extension to a

height of 5m above lower ground level on the boundary with its neighbour². The Council has clarified that the extension protruded 0.7m above the height of a 2m boundary fence, such that it did not materially compromise neighbouring amenity. This is less than the height of the fence proposed here. However, neither party has explained the relationship of the approved extension with the adjacent property, including whether it contained windows serving habitable rooms close to the boundary. I cannot therefore be satisfied that the circumstances are comparable to those before me.

21. The lack of objections to the proposal does not indicate a lack of harm. There is no evidence before me to indicate that the existing metal staircase at the rear of No 14 Arlingford Road has planning permission. In any event, its presence does not justify permitting new development that would compromise the living conditions of neighbouring occupiers.

Conclusion

22. I have found that the proposed development would not have an adverse impact on the character and appearance of the area. However, this lack of harm is neutral in the planning balance. It does not therefore, outweigh my findings in respect of the effect of the proposal on the living conditions of the occupants of No 10, with regard to outlook. For the reasons given, having considered the development plan and all other considerations, the appeal is dismissed.

M Clowes

INSPECTOR

² Paragraph 1.1.16.9 of the appellant's statement of case.