
Appeal Decision

Site visit made on 17 October 2016

by L J O'Brien BA (Hons) MA

a person appointed by the Secretary of State for Communities and Local Government

Decision date: 29 December 2016

Appeal Ref: APP/T5720/C/16/3149511

The land and property known as 32 Cedars Avenue, Mitcham, CR4 1EA shown edged red on the plan attached to the enforcement notice ("The Premises").

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs Furhuth Mahmud against an enforcement notice issued by the Council of the London Borough of Merton.
 - The enforcement notice was issued on 25 April 2016.
 - The breach of planning control as alleged in the notice is without planning permission the erection of a front garden wall, pillars and gates on the front boundary of the Premises.
 - The requirements of the notice are "5(a) demolish the front garden wall, pillars and gates, b) remove all resultant debris from the Premises as a result of compliance with step 5(a) above."
 - The period for compliance with the requirements is three calendar months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the area.

Reasons

3. No. 32 Cedars Avenue is a two-storey dwelling within a primarily residential area. Whilst there is a degree of diversity with regard to the types of buildings along the street, properties are generally set back from the road behind reasonably large garden areas. The area is further characterised by a number of large trees and hedges which contribute to a somewhat verdant appearance.
 4. The front garden wall at No. 32 is constructed mainly of large, grey concrete blocks. The use of such stark, industrial materials is at odds with the typically domestic appearance of the majority of buildings in the road which are constructed mainly of red brick; including the larger scale blocks further along
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the road. The tall trees in front of this section of the wall provide a limited amount of screening as the foliage is largely above the level of the wall, leaving only the trunks at eye level.

5. This expanse of concrete combines with the hard edges and spikes of the black metal gates to exacerbate the industrial character and appearance of this boundary treatment. A small section of wall, along with the pillars, is finished with more attractive red bricks. However, this section is proportionally very small when the scale of the wall is considered and is not sufficient to mitigate the harm caused by the other materials.
6. The height of the wall is also out of keeping with the majority of other boundary treatments in the street scene which are of a lower level; many are also softened by greenery. These boundary treatments facilitate a sense of openness which is not present at the appeal site due to the height of the wall.
7. For these reasons I consider that the development appears as an alien feature in the street scene and is harmful to the character and appearance of the area. As such I find conflict with policy DM D2 of the London Borough of Merton Sites and Policies Plan and Policies Maps 2014 and policy CS 14 of the London Borough of Merton Core Strategy 2011. These policies expect new development to respect, reinforce and enhance the character of the area in which it is located, relate positively and appropriately to surrounding buildings and existing street patterns and use appropriate architectural forms which complement and enhance the character of the wider setting.
8. The development also fails to accord with Policies 7.4 and 7.6 of the London Plan, July 2011 which expect development to have regard to existing spaces and streets, comprise details and materials that complement the character of the area and integrate well with surrounding streets.
9. I have some sympathy with the appellant's desire to secure the property, provide privacy for the occupiers and ensure that children playing in the garden do not run into the road. However, I believe that these aims could largely be achieved through the use of other measures, including alternative boundary treatments. I am also aware of the benefits to the appellant in respect of the potential for the wall to reduce noise from the road and to prevent litter being thrown into the garden. These benefits, however, do not outweigh the need to determine this appeal in the public interest and to protect the character and appearance of the area.
10. My attention has been drawn to another example which the appellant considers similar on the same road. I have not been provided with specific details. I noted another brick wall on my site visit; however, this wall is broken up in places by fencing and is constructed of red brick. The visual context is also different. In any event, each case must be treated on its own merits and the presence of another harmful development does not justify perpetuating that harm by allowing other developments of this kind.
11. I have considered all other matters raised, including the appellant's willingness to place trellis and climbing plants in front of the concrete slabs, but these do not change my conclusion that the appeal under ground (a) should be dismissed and planning permission should be refused.

Laura O'Brien

Appointed person