

Appeal Decisions

Site visit made on 22 November 2016

by L J O'Brien BA (Hons) MA

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

Decision date: 9 January 2017

Appeal Ref: APP/P5870/C/16/3150875

Land south of 40 Hillfield Avenue, Morden, SM4 6BA shown edged red on the plan attached to the enforcement notice

- 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 Mr Shoaib Zafar against an enforcement notice issued by the Council of the London Borough of Sutton.
 - The enforcement notice, numbered EC15/0142, was issued on 21 April 2016.
 - The breach of planning control as alleged in the notice is without planning permission the erection of a single storey detached building (outlined in blue on the plan attached to the enforcement notice).
 - The requirements of the notice are i Demolish the building outlined in blue on the attached plan; ii Remove from the land all building material and rubble arising from compliance with i. above.
 - The period for compliance with the requirements is 6 months after the date 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.
-

Appeal Ref: APP/P5870/C/16/3150876

Land south of 40 Hillfield Avenue, Morden, SM4 6BA shown edged red on the plan attached to the enforcement notice

- 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 Mr Zafar Ahmad against an enforcement notice issued by the Council of the London Borough of Sutton.
 - The enforcement notice, numbered EC15/0142, was issued on 21 April 2016.
 - The breach of planning control as alleged in the notice is without planning permission the erection of a single storey detached building (outlined in blue on the plan attached to the enforcement notice).
 - The requirements of the notice are i Demolish the building outlined in blue on the attached plan; ii Remove from the land all building material and rubble arising from compliance with i. above.
 - The period for compliance with the requirements is 6 months after the date 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.
-

Decisions

1. The appeals are dismissed, the enforcement notice is upheld, and planning permission is refused on the applications 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. 40 Hillfield Avenue is a two-storey dwelling located at the end of a residential cul-de-sac. Properties along the street are of a broadly similar appearance, addressing the street on both sides and set back behind parking or front garden areas. Numbers 40 and 63 differ slightly as they mark the end of the cul-de-sac and have larger front garden areas which wrap around the hammerhead turning area.
4. The building at No. 40 occupies part of the land which wraps around the head of the cul-de-sac, abutting the turning area. The development is the only building to face directly down the street and, as such, the established building line is breached by the structure.
5. The building is a large, single-storey, flat-roofed structure constructed of concrete with some block work remaining visible at the boundary with No. 63. A large black metal garage type door dominates the front elevation. Due to its excessive size, stark materials and inappropriate location the building is highly prominent in views along the cul-de-sac and appears as an incongruous feature in the street scene. The development also fails to visually relate to the host dwelling due to its siting.
6. I note the appellants' suggestion that the building is not yet finished and would be fully rendered and painted if planning permission were granted. I also note their willingness to change the garage door to a white timber gate, alter the roof form and to use planting to soften the building's appearance. The appellants have also advised that they would renovate the garden and replace some fencing so as to enhance the appearance of the area. These alterations would, however, not be sufficient to mitigate the harm I have identified.
7. The appellants also state that the use of the structure as a garage would lead to improvements with on-street parking and the ability for vehicles to effectively use the turning area. Even if some slight benefits were realised as a result of the scheme, the harm is such that these would be markedly outweighed by the injury to the character and appearance of the area.
8. For the reasons outlined above, I have found conflict with Core Policy BP12 of the London Borough of Sutton Core Planning Strategy 2009 and Policy DM1 of the London Borough of Sutton Site Development Policies 2012 (SDP). These policies seek to ensure that development respects or improves the local context and character. The development would also fail to comply with Policy DM3 of the SDP which expects new development to contribute positively to the street scene.

9. I have considered all other matters raised, including the petition submitted by the appellants and signed by those in the street who do not object to the development , but this does not change my conclusion that the appeals under ground (a) should be dismissed and planning permission should be refused.

Laura O'Brien

Appointed person