
Appeal Decision

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: 10 January 2017

Appeal Ref: APP/T5720/C/16/3149346

Land at Swinburn Court, 32 The Downs, London, SW20 8JA shown edged red on the plan attached to the enforcement notice ("The Land")

- 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 David Sandifer against an enforcement notice issued by the Council of the London Borough of Merton.
 - The enforcement notice was issued on 15 March 2016.
 - The breach of planning control as alleged in the notice is without the grant of planning permission, the erection of a single storey outbuilding the approximate position of which is shown hatched black on Plan 1 attached to the enforcement notice ("The Outbuilding").
 - The requirements of the notice are 5.1 Remove the Outbuilding from the Land and 5.2 Remove from the Land all waste materials resulting from compliance with step 5.1 above.
 - The period for compliance with the requirements is 3 calendar months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) 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.
-

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

The appeal under ground (a) and the deemed planning application

3. Swinburn Court is a reasonably large two-storey building which fronts on to Worple Road and comprises a number of flats. The building occupies a corner plot with a wrap-around garden area. The wider area is residential in character and contains a number of blocks of flats interspersed with single dwellings. Development, particularly along The Downs, is set well back from the road behind front garden areas. These front gardens combine with mature trees and planting in the area to contribute to a sense of openness and greenery.
-

4. The single storey timber outbuilding is sited parallel to Worple Road but set back behind the main building adjacent to the boundary with The Downs. A side gate provides access from The Downs. Due to its siting, the outbuilding is viewed not only alongside Swinburn Court from Worple Road but also in the context of other buildings on The Downs where it breaches the established building line.
5. The outbuilding is large and reduces the garden area visible at this prominent corner location, thus harming the sense of openness which characterises the area. I note that the timber building has been stained in an attempt to help it to blend with its surroundings. Nevertheless, there are, no other examples of timber buildings occupying such prominent locations in the area. As a consequence the materials draw further attention to the outbuilding.
6. Whilst vegetation and trees do screen the outbuilding from a number of viewpoints the roof of the structure remains visible and fuller views are enabled through gaps in the planting. Moreover, the newly planted screening and trellis, regardless of their planning status, act to screen the outbuilding but in doing so further harm the openness of the garden area.
7. I consider that, due to its excessive size, incongruous materials and prominent location the outbuilding is visually intrusive and causes harm to the established character and appearance of the area.
8. I therefore find conflict with Policy DM D2 of the London Borough of Merton Sites and Policies Plan and Policies Maps, July 2014 which expects proposals for development to relate positively and appropriately to surrounding buildings and existing street patterns. The development is also at odds with Policy CS 14 of the London Borough of Merton Core Strategy, July 2011 which states that all development needs to be designed in order to respect, reinforce and enhance the local character of the host area.
9. The appellant has identified a number of other outbuildings which he considers to be similar to that at the appeal site. I did note several examples of other outbuildings at my site visit. However, these were largely of a smaller scale and sited within different contexts to that at the appeal site. In any event, I have not been provided with full details surrounding these other structures and furthermore, each case must be treated on its own merits.
10. I have considered all other matters raised, but these do not change my conclusion that the appeal under ground (a) should be dismissed and planning permission should be refused.

The appeal under ground (g)

11. The ground of appeal is that the time given to comply with the requirements of the notice is too short. The Council have given three months. The appellant holds that a period of six months would be a reasonable and practical amount of time to allow for the relocation of items currently stored in the outbuilding and the undertaking of the works.
12. I acknowledge the appellant's need to find an alternative means of storing the items within the outbuilding. However, it is in the public interest to address the harm to the character and appearance of the area by removing the outbuilding. A balance between these competing interests must be struck. In this instance, I have not been provided with full and compelling reasons as to why the

appellant believes that six months would be an appropriate time frame. Due to the nature of the construction of outbuildings such as this, I consider that on balance a period of three months is an adequate length of time to allow for the removal of the items stored within the outbuilding and the undertaking of the required works and strikes the appropriate balance between the public and private interests.

13. For the reasons detailed above the appeal under ground (g) fails.

Laura O'Brien

Appointed person