
Appeal Decision

Site visit made on 2 February 2017

by K R Saward Solicitor

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 February 2017

Appeal Ref: APP/Z5060/C/16/3162740

25 Muggeridge Road, Dagenham, Essex RM10 7BG

- 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 Ms Alina Radoescu against an enforcement notice issued by the Council of the London Borough of Barking & Dagenham.
 - The enforcement notice was issued on 27 October 2016.
 - The breach of planning control as alleged in the notice is without planning permission, erection of automatic gates and railings to front and side of front garden.
 - The requirements of the notice are:-
 - Remove the automatic gates and railings to front and side of front garden
 - Remove all alterations and fixtures related to the unauthorised automatic gates and railings to front and side of front garden
 - Remove all subsequent waste material from the property.
 - The period for compliance with the requirements is 1 month.
 - 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 an appeal has been brought on ground (a) an application for planning permission is deemed to have been made under s177(5) of the Act.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. 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 street scene along Muggeridge Road.

Reasons

3. Muggeridge Road is composed of two storey terraced houses. Whilst there are some variations, the houses are all in simple architectural style. They have reasonably sized front gardens with either open highway frontages to accommodate off-street parking or bounded by low level walls or hedging.
 4. No 25 is an end terrace house located towards the end of the cul-de-sac. Unlike any others, it has been fully enclosed with metal railings and gates. Metal railings extend along both side boundaries atop 1m high walls. They continue in similar manner to the front boundary on either side of a metal pedestrian gate and double metal electric gates. The railings and gates are affixed to tall brick pillars topped with painted ball finials.
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5. A retrospective application for planning permission to allow retention of the gates and railings was dismissed on appeal on 29 February 2016¹. The enforcement notice follows the issue of that decision.
6. The Council has clarified that it recognises the low level walls are permitted development and does not require their removal. It considers that the brick piers are caught by the notice because it requires removal of "all alterations and fixtures related to the unauthorised automatic gates and railings". The allegation is expressed to concern solely the gates and railings. The allegation and requirements must match. It is not clear on its face that the allegation includes brick pillars when no mention is made of these. As such, I must confine my consideration to the gates and railings.
7. There is nothing lightweight about the appearance of these gates and railings. Given their height, design, materials and length, they have a bold, harsh appearance. In this setting, they are a very obtrusive feature in the street scene being immediately evident upon entering the cul-de-sac. Not only does the development severely compromise the sense of spaciousness, it is also completely at odds with its locality where no other properties are enclosed in this manner.
8. From the image supplied by the appellant of the appeal property prior to the erection of the new boundary treatment, the boundaries were easily identifiable despite its open frontage. Those boundaries are now obvious even from distance to the extent of creating a fortress like appearance in relatively open surroundings.
9. Whilst there are examples of railings nearby, none are as high and expansive or comparable in terms of their ornate design. The appellant has drawn my attention to other railings in the wider proximity, but none are closeby. The Council advises that two of the three examples are unauthorised in any event.
10. Compliance with the requirements of the notice is not a fallback position. If the appellant were to remove the boundary treatments entirely as suggested as a possibility, it would not create a situation that would be more harmful. That option is not a fallback position that would justify the grant of planning permission for the development.
11. The development has a significant adverse effect on the street scene in this part of Muggeridge Road. Therefore, it is contrary to Policies BP8 and BP11 of the Borough Wide Development Policies DPD, 2011 which, amongst other things, seeks development that has regard to, and protects and enhances the character of the area. It also conflicts with the aims in paragraphs 56 and 58 of the National Planning Policy Framework for good design that responds to local character.

Conclusion

12. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal on ground (a) and the application for deemed planning permission should fail.

KR Saward INSPECTOR

¹ Appeal ref: APP/Z5060/D/15/3138643