



Appeal Decision

Site visit made on 17 December 2024

by **M. P. Howell BA (Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 JANUARY 2025

Appeal Ref: APP/T5720/C/23/3321482

Land at 37 Octavia Close, Mitcham CR4 4BY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Daniel Owen against an enforcement notice issued by the Council of the London Borough of Merton.
- The notice was issued on 3 April 2023.
- The breach of planning control as alleged in the notice is without planning permission the unauthorised erection of a front porch on the land.
- The requirements of the notice are to:
 - (a) Permanently remove the Porch; and
 - (b) Remove from the Land all materials and debris accumulated as a result of compliance with step 5(a) above.
- The period for compliance with the requirements is: 1 (one) month.
- 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 an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: The appeal is dismissed, and the enforcement notice is upheld with a variation.

Preliminary Matters

1. Since the original decision, The Merton Local Plan 2024-2038 was adopted by the Council in December 2024 (Local Plan). This replaces the Merton Core Planning Strategy 2011 and Merton Sites and Policies Plan 2014, such that the policies cited on the Enforcement Notice (Notice) are no longer part of the development plan and have no weight. The main parties were given time to provide observations on the changes, and I have considered the relevant replacement policies set out within the recently adopted Merton Local Plan.
2. During the appeal, the revised National Planning Policy Framework December 2024 (the Framework) was also published. However, there are no substantive changes relevant to this appeal, and no prejudice would be caused by my having regard to it.

Appeal on Ground (a) and the Deemed Planning Application

3. The main issue in this appeal is the effect of the development on the character and appearance of the area, including the preservation or enhancement of the Wandle Valley Conservation Area.

Reasons

4. The appeal site and surrounding residential estate are within the Wandle Valley Conservation Area (Conservation Area). The Wandle Conservation Area Character Assessment (Assessment) outlines that the Conservation Area runs roughly north to south through the Borough following the course of the river Wandle. Several

extensions to the Conservation area were agreed in 2000, including the 1970s housing blocks in Octavia Close and Rawnsley Avenue. In the immediate area, the significance of the Conservation Area appears to stem from the distinctively unique design and layout of the 1970s housing estate, set close to Wandle River and within the verdant adjacent parkland.

5. From what I saw, the housing estate comprises houses and flats arranged in a winding three-storey block, set within landscaped grounds. The terraced houses are finished with grey cladding and front the road, with pairs of projecting single-storey garages and recessed covered entrances. Several properties have been altered by infilling the covered entrances and converting the garages into habitable spaces. Despite these alterations, the estate has primarily retained the consistent design features as well as the uniformity of the projecting garages and the spaces in between. The uniformity in the design, layout and appearance of the estate contributes positively to the character and appearance of the area, which adds significance to the Conservation Area.
6. Despite being a small, single-storey development, the projection of the porch as far forward as the garages is at odds with the consistent pattern of development throughout the estate. For instance, the projection forward of the porch as far as the garage results in a greater combined width that causes a visual imbalance with the adjoining neighbour's garage. Furthermore, as the porch extension infills the space created by the setback, the development is out of rhythm with the built form and spaces that run consistently throughout the estate and contribute positively to its character and appearance. The height of the porch also results in an awkward and clumsy arrangement where the roof meets the cladding of the main block and the projecting garage. The impact of this arrangement is exacerbated by its unfinished appearance and prominent position at the front.
7. I appreciate the development is not visible from wider views outside of Octavia Close, but this does not lessen the impact of the development on the property and housing block from localised views directly outside the site. A condition could be imposed to finish the porch in materials to match the existing property. While this would mitigate the unfinished appearance of the porch, it would not overcome the failings of its design and impact on the host property and housing block.
8. Accordingly, the scale, design and finish of the porch detract from the character and appearance of the host property and wider three-storey block, failing to preserve the significance of the Conservation Area and resulting in less than substantial harm. Paragraph 215 of the Framework is applicable in these instances and indicates that less than substantial harm to heritage assets should be weighed against the public benefits of the proposal.
9. The appellant has not set out any public benefits, but the development contributes to additional private space for the host property. There would also have been limited economic benefits from using local trades and materials when constructing the porch. However, these public benefits are limited and are not sufficient to outweigh the less than substantial harm that I have identified. In coming to this conclusion, I am giving considerable weight and importance to paying special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

10. Accordingly, the development harms the character and appearance of the property and housing block, failing to preserve or enhance the significance of the Conservation Area. Therefore, the development would conflict with Policies N3.1, D12.1, D12.2, D12.3 D12.4 and D12.5 of the Merton Local Plan 2024. These policies, amongst other things, seek to ensure all new developments are a high standard of design that responds to and harmonises with local distinctiveness as well as protect, preserve and enhance the setting of the district's heritage assets. Also, only where the public benefits of a proposal significantly outweigh the harm to a designated heritage asset or its setting, will planning consent be granted.

Other matters

11. I have had regard to other front porches in Octavia Close, which have been highlighted by the appellant in Appendix 2 of his Appeal Statement. However, the porch extensions highlighted do not extend further than the main housing block, ensuring that the width of the pair of garage projections is maintained as well as the recesses in between. Accordingly, from what I saw on site, none are comparable to the development subject of the appeal.
12. Furthermore, I acknowledge that a smaller porch had been in place before the development subject of this appeal. However, no ground (c) appeal is before me for consideration, and based on the evidence I have, the replacement porch is a development that requires planning permission. The presence of a previous porch does not infer all replacement porches would be acceptable, and therefore, I have considered this development on its own merits.

Conclusion on Ground (a) Appeal and Deemed Planning Application

13. For the reasons given above, and taking into account the development plan as a whole and all other relevant material considerations, I conclude that the appeal should not succeed on ground (a). I shall uphold the enforcement notice and refuse to grant planning permission for the application deemed to be made under section 177(5) of the 1990 Act (as amended).

The Appeal on Ground (g)

14. An appeal on ground (g) is that the period specified in the notice falls short of what should reasonably be allowed. The enforcement notice specifies one month from the date the enforcement notice takes effect. It is set out by the appellant that the time frame of one month is unreasonable, and a period of at least three months would be more appropriate. This is to allow the appellant time to complete the work himself.
15. Having regard to how long the work could take to complete by himself, a period in excess of one month can be justified. I consider that a period of three months for the appellant to comply with the varied notice would be reasonable. This time frame would strike an appropriate balance between having to minimise the harm identified and the time needed to complete the work by himself.
16. To this limited extent, the appeal on ground (g) succeeds. I shall vary the terms of the notice accordingly.

Formal Decision

17. It is directed that the enforcement notice is varied by:

In paragraph 5, the deletion of the words 'one calendar month' and the substitution with the words 'three calendar months.'

18. Subject to the variation, 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.

M. P. Howell

INSPECTOR