



by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 22nd February 2022

Appeal Ref: APP/B4215/C/21/3285082

Land at 87 Chapman Street, Manchester, M18 8UA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Abdul Rehman Sandhu against an enforcement notice issued by Manchester City Council.
 - The notice was issued on 20 September 2021.
 - The breach of planning control as alleged in the notice is :Without planning permission:
 - 1.The laying of a hard surface exceeding 5 square metres, using nonporous materials, and without provision being made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse;
 - 2.The erection of a boundary wall, personnel gate and motorised driveway gate exceeding 1m in height, adjacent the highway.
 - The requirements of the notice are to:
 1. Remove the hard surface, the approximate extent of which is shown hatch blue on the attached plan, ENF/ PLAN1, and return the land to its condition prior to the breach taking place.
 2. Reduce the boundary wall and personnel gate as highlighted in yellow on the attached photograph ENF/01 to a height not exceeding 1m.
 3. Remove the motorised driveway gate and supporting structure as highlighted in red on the attached photograph ENF/01 including any electric motor housing and isolating any electricity supply or reduce the gate to a height not exceeding one 1m.
 4. Remove from the land all building materials rubble and waste resulting from carrying out the above steps.
 - The period for compliance with the requirement is 6 months.
 - The appeal is proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended (the Act).
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. The appeal is made under the limited ground (f). There is no ground (a) appeal before me which would have included a request for planning permission to be granted. In view of the nature of the appeal, the parties were informed that a site visit was not necessary and given an opportunity to comment. I am satisfied that I can proceed to determine the appeal on the basis of the information before me without a site visit.

An appeal under ground (f)

3. Section 174(2)(f) of the Act states that an appeal may be made on the ground that the steps required by the notice to be taken, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. An appeal under ground (f) is limited to consideration of whether the requirements of the notice exceed what is necessary to remedy the breach or remedy any injury to amenity. It is

therefore necessary to establish whether the purpose of the notice is to remedy the breach or remedy any injury to amenity.

The boundary treatment

4. The requirements relate to reducing elements of the boundary treatment to 1 metre rather than removal. The reduction would accord with permitted development rights which allow boundary walls or fences of up to 1 metre in height subject to stated conditions and limitations. The purpose of the notice is therefore to remedy the breach.
5. The appellant has provided reasons largely relating to his personal circumstances as to why he wishes to retain the boundary treatment at its current height but those are not matters that I can consider when there is no appeal under ground (a). Similarly, comparisons with other boundary treatments are not matters that I can take into account. The requirement to reduce the boundary treatment is not excessive when the purpose of the requirement is to remedy the breach.

Hardstanding

6. The Council requires the removal of the hardstanding as it considers that the surface of the hardstanding is not adequately drained and the hardstanding is therefore not permitted development under Schedule 2, Part 1, Class F of the Town and Country Planning (General Permitted Development Order) 2015 as amended and requires planning permission.
7. The requirement to remove the hardstanding means that the purpose of this part of the notice is also to remedy the breach. The Council visited the appeal site in July 2021 when the issue with the build-up of water had not been resolved. The appellant has submitted drainage drawings which he considered would resolve the issue but it is not within my powers under this ground of appeal to grant planning permission for the hardstanding subject to conditions in any event. The requirement to remove the hardstanding is not excessive. The ground (f) appeal therefore fails with regard to both elements of the notice, namely the boundary treatment and the hardstanding.

Other Matters

8. The appellant appears to be unclear as to what the issues are with regard to the hardstanding. Should the appellant wish to have hardstanding in the future, it would be advisable for him to discuss his proposals with the Council to establish whether what he proposes falls within permitted development rights or whether he needs to make a formal planning application.

Conclusion

9. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

E Griffin

INSPECTOR