

Appeal Decision

Site visit made on 10 May 2024

by D A Hainsworth LL.B(Hons) FRSA Solicitor
an Inspector appointed by the Secretary of State

Decision date: 10th June 2024

Appeal Ref: APP/Q4245/C/23/3334773
479 Chester Road, Manchester, M16 9HF

- The appeal is made by Masoomah Kermani under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: 23/00327/UWCA) issued by Trafford Borough Council on 17 November 2023.
 - The breach of planning control alleged in the notice is “the demolition of the front boundary wall, gate and railings”.
 - The requirements of the notice are as follows: -
 - “1. Reinstate the front boundary gate, wall and railings as shown in photograph ENF/01.
 - 2. Remove from the land all building materials, rubble and waste arising from carrying out the above steps.”
 - The period for compliance with these requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g). Since the appeal has been brought on ground (a), an application for planning permission is deemed to have been made by section 177(5) in respect of the matters stated in the notice as constituting a breach of planning control.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to be made by section 177(5) of the Town and Country Planning Act 1990.

Reasons for the decision

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

2. The main issues in deciding whether planning permission should be granted for the demolition of the front boundary wall, gate and railings concern (1) the effect of their removal on the character and appearance of the property, the street scene and the Empress Conservation Area, within which the property is situated, (2) the effect on road traffic conditions of the use of the forecourt for car parking and (3) the car-parking needs of the businesses operating from the property.
 3. I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. It was designated in 1995 and was placed on English Heritage’s *Heritage at Risk Register, North West* in 2012, where its vulnerability was described as high and its condition as very
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bad and deteriorating. The description was unchanged in the 2014 edition of the *Register*.

4. The Council carried out an appraisal of the Conservation Area in 2016, which led to the adoption by the Council of the *Empress Conservation Area – Supplementary Planning Document SPD5.17*. This document notes that “The overall condition of the Empress Conservation Area is poor and is at risk of deteriorating further.” The terrace containing 479 Chester Road is included amongst those being notable for the retention of front gardens, “rather than their conversion into off-road parking, which has a further positive effect on the streetscape and appreciation of the terrace elevation”. “Typically low level boundary walls have been retained to the pavement and are in good condition, though some have been removed to provide vehicle access.”
5. Policy R1: Historic Environment of the Trafford Local Plan Core Strategy states that all new development must take account of historic distinctiveness and that developers must demonstrate how the development will complement and enhance the existing features of historic significance in relation to conservation areas.
6. The walls and railings that have been removed at No 479 appear to have been installed pursuant to the 1987 planning permission H/LPA/24409 relating to Nos 479-483. They were therefore not historic original walls and railings, but they were established features that enhanced the character and appearance of the Conservation Area, the property itself and the street scene, as well as supporting the retention of a front garden. The contention that their removal should be approved because others have been removed in the terrace is not persuasive since this would make it impracticable to refuse more removals, adding to the deteriorating condition of the Conservation Area.
7. I turn now to the effect on road traffic conditions of the use of the forecourt for car parking. This was not given by the Council as a reason for issuing the enforcement notice, but it has been raised by third parties in their comments on the appeal. They make the point that vehicles are reversed out of the parking area across the dedicated cycle lane on Chester Road. This is a potentially hazardous manoeuvre that is also likely to be disruptive, particularly to cyclists who are commuting.
8. I now turn to the car-parking needs of the businesses operating from the property. The forecourt provides one parking space at the front. The property, however, has several parking spaces at the rear which are accessed off Manchester Street. On-street parking is also available in the vicinity and the property is readily accessible by public transport.
9. The appellant maintains that the loss of the parking space at the front will “cause significant difficulties in various ways” and “severely disrupt our business”, and that when permission was granted for the change of use of the property to offices there was a reasonable expectation that the parking space could be provided to meet a functional need. In the absence of details supporting these statements and in the circumstances described in paragraph 8 above, I am not satisfied that there is a business need for the parking space.
10. I have concluded that the demolition of the front boundary wall, gate and railings has had a harmful effect on the character and appearance of the

property, the street scene and the Empress Conservation Area. It has led to the creation of a parking space the use of which is potentially hazardous and for which there is no evident business need. The appeal on ground (a) has therefore been dismissed and planning permission has been refused.

The appeal on ground (f)

11. The purpose of the appeal on ground (f) is to maintain that the steps required by the notice exceed what is necessary to remedy the breach of planning control or the injury to amenity caused by it. The appellant indicates that railings with architectural detailing could be provided around parts of the parking area that would still allow vehicular access from the road for parking on the forecourt. This proposal would, however, not remedy the breach specified in the notice or the injury to amenity it has caused. The appeal on ground (f) has therefore been dismissed.

The appeal on ground (g)

12. The compliance period specified in the notice is 6 months; the appellant seeks 12 months in order to reduce business disruption and to allow sufficient time for the works to be carried out. The Council do not consider that business relocation will be required or that extensive works are involved. I agree with the Council. The compliance period of 6 months (from the date of this appeal decision) does not fall short of what should reasonably be allowed and the appeal on ground (g) has therefore been dismissed.

D.A.Hainsworth

INSPECTOR