
Appeal Decision

Site visit made on 29 June 2026

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30th June 2026

Appeal Ref: APP/Q4245/C/25/3374872

17 Hastings Drive, Flixton, M41 8TG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Eric Grubb against an enforcement notice issued by Trafford Metropolitan Borough Council.
 - The notice was issued on 7 October 2025.
 - The breach of planning control as alleged in the notice is without planning permission, the operational development comprising the erection of a front boundary fence.
 - The requirements of the notice are to 1) remove the front boundary fence panels and posts, shown in photographs ENF/01 and ENF/02 and 2) remove from the land all building materials, rubble and waste arising from the carrying out of the above step.
 - The period for compliance with the requirements is three months after the notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 (as amended).
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Decision

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

Ground (f) appeal

2. The appeal on ground (f) is made on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control or to remedy any injury to amenity which has been caused by any such a breach.
3. The appellant's ground (f) case is that the requirement to fully remove the fence from the land is excessive as it would be possible to erect a 'permitted development' new fence without the need for planning permission and up to 1 metre in height above ground level under Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
4. The purpose of the notice is to remedy the breach of planning control by removing the whole of the fence. In that regard, the requirements of the notice are not excessive as they seek to remedy the breach of planning control. Nonetheless, the courts have held that in relatively simple cases like this it may be reasonable to consider a permitted development fallback position as an 'obvious alternative' from the point of view of the requirements of a notice.
5. The fence has been constructed adjacent to a highway used by vehicular traffic. Owing to its height, it does not fall to be permitted development under Class A of Part 2 of Schedule 2 of the GPDO. Article 3(5) of the GPDO states that *'the*

permission granted by Schedule 2 does not apply if— (a) in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful. Article 2(1) of the GPDO states that a building *'includes any structure or erection'*. Under this definition, a building would therefore include a fence. In this regard, it would not be possible to make the unauthorised fence permitted development. This is because the building operations involved in the construction of the fence are unlawful. It is noteworthy that there is no ground (a) appeal and deemed planning application before me and hence I am unable to consider the planning merits of retention of part of the appeal fence.

6. Notwithstanding the above position, I do recognise that the appellant could erect a lawful permitted development new fence up to one metre in height above ground level upon the removal of the existing unauthorised fence. However, I do not have an alternative fencing scheme before me relating to the unauthorised fence being reduced to no more than one metre in height above ground level and to reflect a permitted development fallback position which would follow if the notice requirements were complied with. I do not know how the resultant fence (including posts) would be finished.
7. In the absence of a ground (a) appeal, the planning harm identified in the reasons for issuing the notice must be conclusively presumed. Even if it had been possible to vary the requirements of the notice so that the fence was lowered in height to no more than one metre in height above ground level, I do not have sufficient evidence from the appellant demonstrate that it would be possible to make such changes to both the fence panels and to the concrete posts in a manner whereby the resultant development did not continue to be of poor design, or visually intrusive.
8. Given the above, I cannot conclude that there is an 'obvious alternative' based on the consideration of a permitted development fallback position and which would fully address the planning harm which has been caused by the breach of planning control. Moreover, the appellant has not provided me with any alternative wording for the requirements of the notice which would have the effect of ensuring that it would be possible to achieve an acceptable alternative scheme based on the permitted development fallback position.
9. For the above reasons, I conclude that the ground (f) appeal fails.

Overall Conclusion

10. I conclude that the appeal should not succeed.

D Hartley

INSPECTOR