



Appeal Decisions

Site visit made on 9 March 2026

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP
an Inspector appointed by the Secretary of State

Decision date: 20 March 2026

Appeal A: Ref APP/W1905/C/24/3357949

14 Gaywood Avenue, Cheshunt, Hertfordshire EN8 8QD

- 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 Elizabeth Ann Whittick against an enforcement notice issued by Broxbourne Borough Council.
 - The enforcement notice was issued on 2 December 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, the subdivision of the property to create two independent dwellings.
 - The requirements of the notice are to:
 1. Cease the use of the property as two independent dwellings
 2. Return the property to use as a single dwellings house by undertaking internal alterations so that the property is in accordance with that approved via drawing 14/1417/01 (copy provided) (planning reference 07/15/0265/HF)
 - The period for compliance with the requirements is 12 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (d) (e) (f) of the Town and Country Planning Act 1990 as amended (the Act).
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Appeal B: Ref APP/W1905/W/24/3357951

14 Gaywood Avenue, Cheshunt, Hertfordshire EN8 8QD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Elizabeth Whittick against the decision of Broxbourne Borough Council.
 - The application Ref 07/24/0419/F, dated 6 May 2024, was refused by notice dated 9 October 2024.
 - The development is conversion of the existing single-family dwelling into two self-contained dwellings.
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Decisions

1. It is directed that the enforcement notice be corrected by:

- Replacing "use as a single dwellings house" with "the configuration of a single dwellinghouse" in section 5.2.

Subject to this correction, and as far as it is relevant given my Decision on Appeal B and the effect of Section 180 of the Act, Appeal A is dismissed and the notice is upheld.

2. Appeal B is allowed and planning permission is granted for conversion of the existing single-family dwelling into two self-contained dwellings at 14 Gaywood Avenue, Cheshunt, Hertfordshire EN8 8QD in accordance with the terms of the application, 07/24/0419/F, dated 6 May 2024, and the plans submitted with it (Location Plan, Drawing No.1, Drawing No.2).

Costs Applications

3. Applications for costs on both appeals were made by the appellant against Broxbourne Borough Council. These applications are the subjects of separate Decisions.

Procedural Matters

4. While an enforcement notice can require a use to cease and for the land to be restored to its condition before the breach took place, it cannot require that the land be used in any particular way. Accordingly, without any injustice being caused to the parties, I am correcting the wording of the requirement in section 5.2 of the notice.
5. The appellant makes a number of arguments that the enforcement notice is *ultra vires* due to the stated failure of the Council to follow proper procedures, including surrounding the expediency 'test' in section 172(1)(b) of the Act. However, it is established planning law that such matters are beyond my jurisdiction and should be the subject of an application for judicial review.
6. While the notes accompanying the notice concerning time limits for enforcement action do not incorporate changes made by the Levelling-up and Regeneration Act 2023, it is common ground that the appeal development is not caught by the changes due to transitional provisions. Therefore the notes were correct as far as they applied to the development targeted by the notice.
7. Since the appeals were made the Council has issued new Supplementary Planning Guidance (SPG) on Residential Design and Amenity (August 2025), replacing the earlier SPG referred to in the enforcement and decision notices.

Appeal A Ground (e)

8. For an appeal to succeed on this ground, I must be satisfied that copies of the enforcement notice were not served as required by section 172 of the Act.
9. The appellant suggests that the requirement was not met to provide not less than 28 days between the service of the notice and the date it was to take effect. The notice was hand-served on 2 December 2024 and would have come into effect (were it not for the appeal) on 2 January 2025. There being not less than 28 days between the 2 dates, ground (e) does not succeed.

Appeal A Ground (d)

10. For success on this ground, the appellant must demonstrate on the balance of probabilities that enforcement action was not possible on the date the notice was issued. Section 171B(2) of the Act provides that, as regards the appeal development, no enforcement action may be taken after the end of the period of 4 years.
11. While it appears that conversion work was undertaken in 2017 to create 2 independent dwellings (following the authorised extension of the property pursuant to 07/15/0265/HF), I have seen evidence that an enforcement intervention by the Council caused the appellant to undertake further works to return 14 Gaywood Avenue to a single dwellinghouse in October 2017¹ (verified by a Council site visit in November 2017).

¹ Email from appellant to Planning Compliance Officer dated 26 October 2017.

12. Further, various subsequent applications made in respect of the property show configurations suggesting that the property remained as a single dwellinghouse until 2023. While I note that there are tenancy agreements from before this time, they could relate to occupation of the annexe by persons (akin to them being lodgers) without the annexe forming an independent and separate dwelling from the main house. I also note that the appellant has said that these persons had access to the garden, which would have been only achievable through the kitchen of the main house. For these reasons, I find it more likely than not that an independent dwelling had not in fact been created (again) until 2023 for the purposes of determining whether the issue of the notice was too late.
13. For the above reasons, ground (d) does not succeed.

Appeal A Ground (f)

14. For success on this ground, I must be satisfied that the requirements of the notice are excessive.
15. The appellant has not really made a separate ground (f) case under this ground, with the essence of her argument being it excessive for the notice to require steps when it is too late for the Council to take enforcement action. However, I have already addressed that ground (d) matter above. Accordingly, ground (f) does not succeed.

Appeal B

Main Issues

16. The main issues are whether or not the appeal development provides:
- sufficient garden amenity space for the occupants of the 1-bedroom dwelling; and
 - adequate parking provision for the 3-bedroom and 1-bedroom dwellings.

Reasons

17. The 1-bedroom dwelling of the appeal development does not have any private outdoor amenity space, and therefore does not meet the requirement of the Council's SPG to provide a minimum 50m² garden. This accordingly conflicts with Policy DSC1 of the Broxbourne Local Plan (2020) (LP) which requires that regard should be had to the SPG on design matters. However, I do not find conflict with Policy EQ1 of the LP since (as acknowledged in the Delegated Report) the site benefits from a large driveway that can accommodate refuse and recycling storage to comply with the Council's Waste Supplementary Planning Guidance.
18. The Council's Car Parking Guidelines require 2.5 spaces per dwelling for 3-bedroom dwellings and 1.5 spaces per dwelling for 1-bedroom dwellings. In my view, the big driveway (which is both wide and deep) provides 4 car parking spaces even when allowing for space adjacent to the building for refuse and recycling storage. The Highways Authority concludes similarly² and finds that local amenities and bus stops are located within reasonable walking distances, with Cheshunt Railway Station located approximately 1.2km away.

² "The driveway is wide, and it appears that 3-4 cars can park within the curtilage of the property."

19. Policy TM5 of the LP, as well as setting the Car Parking Guidelines, says that the Council will seek a sensible balance of car and cycle parking spaces based on the nature of the proposal, site context and wider surrounding area, and accessibility of shops, services and sustainable transport infrastructure, with the overall aim of reducing private car use. I find that the appeal proposal achieves this balance, and that there is no harm or policy conflict on this issue.

Other Matters

20. I have read carefully the representations of third parties. There is concern raised that the creation of an extra dwelling ends the semi-detached pattern of development, and therefore is harmful to local character and appearance. However, the appeal development before me makes no or very limited external changes to the property (the operational development for the extensions and garage conversion already having been approved and implemented) and so I place very limited weight on the issue. Further, property devaluation in itself (another concern raised) is not a matter for the planning system.

Planning Balance and Conclusions

21. The Council and the appellant agree that the housing supply policies of the development plan are out-of-date with the National Planning Policy Framework (the Framework), since the Council cannot demonstrate a 5-year supply of deliverable housing sites (stated by the Council currently to be 2.13 years).
22. The appeal scheme does not have an impact on protected areas or assets listed in footnote 7 of the Framework and therefore, the 'tilted balance' in Paragraph 11d)ii. is engaged as an important material consideration. This states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
23. The delivery of an extra home (albeit a single 1-bedroom dwelling³) on previously developed land in a reasonably sustainable location are benefits of the appeal scheme supported by the Framework's policies in these regards. The adverse impacts of the development, which in essence are limited to the lack of garden amenity space for the 1-bedroom dwelling (which exceptionally, under the SPG, might not even have been required were the home created in a town centre), do not significantly and demonstrably outweigh these benefits.
24. The appeal development does not accord with the development plan as a whole, but the important material consideration of the 'tilted balance' indicates that permission should be granted. The appeal is allowed, with no conditions appearing necessary to make the development acceptable.

Andrew Walker

INSPECTOR

³ Given the extent of the Borough's housing supply shortfall, even the supply of a single home is a significant benefit in support of the Framework's objective of significantly boosting the supply of homes.