



Appeal Decision

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2026

Appeal Ref: APP/A1530/C/25/3358290

95 Nayland Road, Colchester CO4 5EN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr John Connolly against an enforcement notice issued by Colchester City Council.
- The notice was issued on 27 November 2024.
- The breach of planning control as alleged in the notice is without planning permission, the subdivision of a dwellinghouse to create two self-contained dwelling houses, including the raising of the roof, removal of a chimney and the construction of a two-storey rear extension. ("The Activity")
- The requirements of the notice are to:
 - (i) Cease the use of the land as two separate self-contained dwellinghouses.
 - (ii) Reinstate the roof line by lowering the northern element of the roof back to its original height. (For the avoidance of doubt see the attached photograph taken from the google street view dated April 2019).
 - (iii) Reinstate the chimney on the side (north) elevation.
 - (iv) Reinstate the rear elevation of the property back to its original condition prior to any development taking place.
 - (v) Return the front elevation of the property back to that which resembles the attached google street view photograph dated April 2019, by reinstating the window openings back to their previous positions, reinstate the alley way access to the rear of the property, reinstate the front door back to its original position.
 - (vi) Remove the cladding including the doorway to the north side elevation of the property.
 - (vii) Reinstate the render finish to the external walls of the property to match that of the attached google street view photograph dated April 2019.
- The period for compliance with the requirements is:
Twelve (12) calendar months.
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with a correction in the terms set out in the Formal Decision

Formal Decision

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

At section '**3. The Breach of Planning Control Alleged** to have taken place:' the deletion of the words;

'Without the benefit of planning permission, the subdivision of a dwellinghouse to create two self-contained dwellinghouses, including the raising of the roof, removal of chimney and the construction of a two-storey rear extension. ("The Activity")

And their substitution with the words;

'Without planning permission, the material change of use of a dwellinghouse through sub-division to create two dwellinghouses, including the raising of the roof, removal of a chimney and the construction of a two-storey extension. ("The Activity")

Subject to the correction, the appeal is dismissed and the enforcement notice is upheld.

The Notice

2. It is the duty of the Inspector to put the notice in order, irrespective of the grounds of appeal. The allegation refers in part to '*Without the benefit of planning permission, the subdivision of a dwelling house to create two self contained dwelling houses....*'. I am satisfied that the appellant has understood what it is that the notice is alleging, but for the avoidance of doubt and to refer specifically to an act of development, I will correct that part of the notice's allegation to '*Without planning permission the material change of use of a dwelling house through sub-division to two dwelling houses.....*'. The wording beyond this point remains as initially set out in the notice.

The appeal on ground (f)

3. There are two purposes which the requirements of an enforcement notice can seek to achieve. The first is to remedy the breach of planning control which has occurred (section 173(4)(a) of the Town and Country Planning Act (1990) (as amended)). The second is to remedy any injury to amenity which has been caused by the breach (section 173(4)(b) of the Act).
4. An appeal on ground (f) is that the steps required by the notice, or the activities required by the notice to cease, 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. The requirements of the notice are clearly stated and seek to remedy the breach of planning control by the cessation of the use appeal property as two separate self-contained dwellings and the removal of the changes, alterations and additions to property as specified on the notice.
5. The appellant's case is set out briefly within the appeal questionnaire. Thus, it is stated that concerns expressed by the local planning authority regarding the appearance of the property's front elevation, side weather boarding and parking arrangements could 'easily' be resolved via communication and / or a meeting. This ignores the principle of the material change of use of the appeal property through sub-division to create two separate dwellinghouses, whilst no indication has been given as to what steps the appellant envisages would achieve these 'aims' regarding the building's appearance.
6. No obvious alternative scheme has been put forward by the appellant and, as the purpose of the notice is to remedy the breach of planning control alleged to have occurred, the required steps as set out by the notice are proportionate as being the minimum necessary to remedy that breach. Nor is it the role of an inspector to scout around looking for, or to raise, a possible alternative if none has been raised.
7. There is no appeal on ground (a). As such the planning merits of any alternative, required to be 'part of the matters' to be considered within the scope of a deemed planning application, had one been presented, do not fall to be considered under ground (f). The appeal on ground (f) must therefore fail.

The appeal on ground (g)

8. A ground (g) appeal is that any period specified in the notice in accordance with s173(9) of the Act falls short of what should reasonably be allowed. The appellant states that a time period of 4 weeks is not acceptable to make the required

changes. However, the time period for compliance with the notice's requirements was clearly stated as 'twelve (12) calendar months' from the date that the notice takes effect.

9. The appellant's case appears to be based upon a misunderstanding of the notice and the compliance period for its requirements. The notice's specified compliance period is clearly stated, and a 12-month period is reasonable for the carrying out of works of the nature required by the notice. The presence of support from the local parish and community, whilst disputed by the Council, has no bearing on the outcome on an appeal on ground (g). The appeal on ground (g) must therefore fail and the stated compliance period – twelve (12) months – remains as stated on the notice.

Conclusion

10. For the reasons given above, I conclude that the appeal should not succeed. The appeal is dismissed and I shall uphold the enforcement notice with a correction.

G Robbie

INSPECTOR