



Appeal Decisions

Site visit made on 22 June 2026

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

Decision date: 13 July 2026

Appeal A: Ref APP/Z1510/C/24/3352972

Canie Hall, Toppesfield Road, Great Yeldham, Essex CO9 4HB

- 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 Mr Paul Eary against an enforcement notice issued by Braintree District Council.
 - The enforcement notice was issued on 26 September 2024.
 - The breach of planning control as alleged in the notice is:
Without planning permission, the erection of a single storey rear extension to a detached outbuilding (*shown edged in blue on the plan*) and the material change of use of the outbuilding (*shown edged in blue on the plan*) to a separate self-contained residential unit, and the construction of fencing all within the Land shown edged in red on the attached plan.
 - The requirements of the notice are to:
 1. Cease the use of the outbuilding as a separate self-contained residential unit
 2. Remove from the outbuilding kitchen units, sink, all cooking facilities, together with the bathroom suite and provision of all sleeping accommodation
 3. Demolish the unauthorised rear extension of the outbuilding
 4. Remove all perimeter fencing in its entirety and reinstate the hedgerow
 5. Remove from the land all debris, waste and building materials associated with the requirements of the notice
 - The period for compliance with the requirements is 4 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) (b) (c) (f) (g) of the Town and Country Planning Act 1990 as amended (the Act). Since the appeal on ground (a) has been made, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Appeal B: Ref APP/Z1510/W/24/3352645

Canie Hall, Toppesfield Road, Great Yeldham, Essex CO9 4HB

- 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 Mr Paul Earey against the decision of Braintree District Council.
 - The application Ref 22/01781/HH, dated 5 July 2022, was refused by notice dated 25 September 2024.
 - The development is an extension to an existing outbuilding (retrospective).
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Decisions

1. It is directed that the enforcement notice be varied by replacing "4 months" with "12 months" in section 6.

Subject to this variation, which is due to success on ground (g), Appeal A is otherwise dismissed and the notice is upheld.

2. Appeal B is dismissed.

Appeal A Ground (b)

3. For success on this ground, I must be satisfied on the balance of probabilities that matters stated in the notice said to constitute a breach of planning control have not in fact occurred. The burden of proof sits with the appellant.
4. It is argued in the appeal submissions ("the property is ancillary and not a separated dwelling") that the change of use of the outbuilding to a separate self-contained residential unit has not occurred.
5. The extended building, substantial in comparison to the host dwelling, has all the facilities for independent day-to-day living including kitchen, bathroom and toilet facilities. While it is currently occupied by family members of the occupants of the host dwelling, I have seen very limited evidence that the occupants of the 2 buildings occupy them together as a functionally single household.
6. Fencing has been arranged to create a private garden for the new residential unit to its west, accessed independently from a gate in the fencing off the drive. A path leads from that gate through the enclosed garden to what is, effectively, the independent access into the new dwelling without any need to enter the host dwelling. Notwithstanding that there is also a door on the other side of the new dwelling, which can be accessed from the host dwelling externally via a short walk across an open patio, taking all of the above factors into account I find as matter of fact and degree that a new residential planning unit has been created which is not part and parcel of the host dwelling.
7. Accordingly, and notwithstanding that there is no separate postal address and there are shared electrical, water and sewerage connections (for which there is no separate billing), I am not satisfied on the balance of probabilities that a separate self-contained residential unit has not resulted.
8. For these reasons, ground (b) does not succeed.

Appeal A Ground (c)

9. For success on this ground, I must be satisfied on the balance of probabilities that matters stated in the notice do not constitute a breach of planning control.
10. As I have found on ground (b) that a new residential planning unit has been created, and there is no planning permission for that material change of use, I find it to constitute a breach of planning control.
11. For these reasons, ground (c) fails.

Appeal A Ground (a) and the deemed planning application; Appeal B

Main Issues

12. The main planning issues in the appeals are:
 - the effect of the developments upon the character and appearance of the host dwelling, the streetscene and the countryside area (Appeals A and B); and
 - the suitability of the location for a new dwelling, particularly as regards sustainable transport modes (Appeal A).

Reasons

Character and appearance (Appeals A and B)

13. The significant extension is of a utilitarian, unaesthetic design which (despite its single storey, flat roofed nature) can be partially seen in views from the open countryside to its south and from Toppesfield Road running adjacent to it. It can be seen to a much higher degree, at close range, in views from the pre-existing host dwelling (Canie Hall). I appreciate that black-stained timber-clad buildings are common in Essex, which are appropriate in the right context, but of particular adverse visual impact in this case is the joining of the extension at a level above the eaves of the original building. The outcome is jarring.
14. The appeal site is within the countryside outside of the Great Yeldham village envelope. Notwithstanding other examples of close-boarded fencing in the wider area, the prevailing characteristic on this part of Toppesfield Road is generally for dwellings to have open spaces of land in front of them up to the highway boundary with no or limited front boundary treatments – thereby establishing a sense of openness. Hedgerows are also common at the highway boundary. The fencing (targeted by the notice in Appeal A), which has replaced a hedgerow, represents a prominent enclosing boundary feature which dominates the local streetscene. Whilst the previous hedgerow offered a softer boundary treatment which integrated effectively within the street scene, the hard and dominant timber fencing by comparison does not.
15. For these reasons, the appeal developments (Appeal A and B) cause significant harm to the character and appearance of the host dwelling, the streetscene and the countryside area. As such, the appeal developments are in conflict with Policies LPP36 and SP7 of the Braintree District Local Plan 2013-2033 (LP) which seek amongst other things to protect character and appearance.

Location (Appeal A)

16. I have seen nothing submitted to demonstrate that the new dwelling is not, as stated by the Council in its reasons for issuing the notice, in an unsustainable location which places reliance on travel by unsustainable modes of transport. As such, the appeal development is in conflict with Policy LPP42 of the LP.

Planning Conclusions

17. The appeal developments (Appeals A and B) do not accord with the development plan as a whole, and there are no other considerations which outweigh these findings. Accordingly, I shall not grant planning permission in respect of either appeal.
18. The appellant has, as regards Appeal A, suggested that permission might be granted subject to a condition that the appeal building be used ancillary to the host property (Canie Hall). However, I have found on ground (b) that the appeal building is in use as a new dwelling within its own planning unit; therefore the deemed planning application on ground (a) is for that use. The suggested condition would be at odds, and unlawful, with the description of development. In any respect, (a) Policy LPP36 of the LP specifically precludes annexes which are self-contained; and (b) the suggested condition would not make the character and appearance issues I have identified above any less harmful.

Appeal A Ground (f)

19. For success on this ground, I must be satisfied that the notice requirements are excessive in achieving its purpose.
20. It is clear to me from the way the notice is drafted that its purpose is to remedy the breach of planning control by requiring the unauthorised use to cease and for the condition of the land before the breach to be restored.
21. Accordingly, I do not find it excessive to require removal of features of the building which would ensure that it ceases to be used as a separate self-contained residential unit (step 2 of the notice requirements).
22. The appellant has suggested a reduced requirement as regards step 4, to allow fences to be retained in line with permitted development (PD) rights under the Town and Country Planning (General Permitted Development) (England) Order 2015. However, PD rights do not apply retrospectively and, in any case, it is not clear that the hedgerow to be re-instated could be successfully achieved with fencing in place. For instance, would there be sufficient room between any such fence retained (to PD height) and the highway for the hedge to be re-instated? I have not seen sufficient details to satisfy me on that matter.
23. For these reasons, ground (f) does not succeed.

Appeal A Ground (g)

24. For success on this ground, I must be satisfied that the 4-month compliance period of the notice falls short of reasonable.
25. The appellant has provided limited submissions in support of this ground, and has not suggested an alternative compliance period. However, the appeal building is a family home for 2 young children and it seems to me that 12 months is alternatively a reasonable period for the family to find a new home and move out (and for all the other steps of the notice to be completed). The Council says that the appellant has known for some time about the enforcement action – however, it is only with this Decision that they will learn that their deemed planning application has been unsuccessful.
26. Ground (g) succeeds to this extent and I shall vary the notice accordingly.

Human Rights

27. Article 8 of the First Protocol to the European Convention on Human Rights, as incorporated into the Humans Rights Act 1998, is engaged due to potential loss of a home for the building's occupiers due to conflict with planning policy. Therefore, I have undertaken a proportionality assessment and considered whether the objectives of the planning policies could be met by a less intrusive action. However, the policy objectives cannot otherwise be achieved other than ensuring that planning permission is refused in the circumstances before me. The implementation of the policies in respect to the appeal site would not be excessive or disproportionate taking all into account, including my decision to extend the compliance period to 12 months.

Andrew Walker

INSPECTOR