



Appeal Decision

Site visit made on 7 July 2026

by **A Berry MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6 August 2026

Appeal Ref: APP/N4720/C/25/3376890

5A Fire Station Houses, Gipton Approach, Gipton, Leeds LS9 6NL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act").
 - The appeal is made by Mr Juris Vilumsons against an enforcement notice ("EN") issued by Leeds City Council.
 - The EN was issued on 2 December 2025.
 - The breach of planning control as alleged in the EN is: Without planning permission, the erection of a dwellinghouse.
 - The requirements of the EN are to:
 1. Dismantle and permanently remove the dwelling, including the base and foundations; and
 2. Clear all debris arising from the above step.
 - The periods for compliance with the requirements are:
 1. Within 9 months from the notice falling into effect.
 2. Within 10 months from the notice taking effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the 1990 Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The EN is quashed.

Matters Concerning the Notice

2. An EN should enable every person who receives a copy to know exactly what, in the Council's view, constitutes the breach of planning control, what steps the Council need to be taken to remedy the breach, and the time for compliance. The recipient of the EN is entitled to find out from within the four corners of the EN what they are required to do or abstain from doing.
3. I can correct any defect, error, or misdescription in an EN using the powers available to me in s176(1)(a) of the 1990 Act, or the terms may be varied, where the correction or variation will not cause injustice to the appellant or Council. However, it may be the case that defects are too fundamental to be corrected without causing injustice, leading to the EN being quashed.

The EN

4. Full planning permission was granted on 8 January 2023 for the construction of a dwelling at 5 Fire Station Houses¹. The Council's officer report describes the site as forming "*the side garden area*" to No 5 and the proposed dwelling as having "*two levels of accommodation with the upper floor rooms contained within the roofspace*". A dormer bungalow has subsequently been constructed on the land.

¹ Planning Ref 21/06794/FU

5. The alleged breach of planning control described within the EN is *“without planning permission, the erection of a dwellinghouse”*. The reasoning makes no mention of the planning approval for the construction of a dwelling and why the as-built dwelling fails to comply with it. Consequently, it is not clear from the four corners of the document why the EN has been issued against a dwelling that has planning permission. This is reinforced by the appellant stating in the appeal form that *“the proposed enforcement requires total demolition yet the build is identical in size and footprint to the original approval”*.
6. The reasons for issuing the EN are that the *“unauthorised development and boundary treatment...give rise to an over dominant and incongruous form of development that is considered detrimental to the visual amenity of the street scene and adversely impacts on the living conditions for the immediate neighbours at Nos. 4 and 5 Fire Station Houses due to its scale and massing”*.
7. The reasoning is imprecise as it does not explain how the unauthorised dwelling harms the living conditions of the occupiers of neighbouring properties, or how the dwelling and boundary treatment are harmful to the visual amenity of the street.
8. The reasons for issuing the EN refer to *“boundary treatment”* within the first paragraph, and *“associated frontage boundary treatment as built”* within the second paragraph. Therefore, it is unclear which boundary treatment(s) are harmful. In addition, the alleged breach of planning control does not include boundary treatment(s). The EN requires the demolition of the dwelling and the removal of debris arising from its demolition. However, there are no requirements for the boundary treatment(s). Consequently, it is unclear whether the EN relates to boundary treatment(s) or not.
9. For these reasons, I am not satisfied that the EN has been drafted to tell the recipient fairly what they have done wrong. This causes injustice to the appellant as they may have appealed under different grounds had the reasons for issuing the EN been clear and precise. It also undermines the appellant’s appeal under grounds (a) and (f) as they are unaware what aspects of the dwelling, as constructed, are harmful and whether they could propose an alternative that could overcome the issues raised by the EN.

The Council’s Appeal Statement and Subsequent Clarification

10. The Council’s Planning Enforcement Appeal Statement states that the dwelling has been sited in a different position to that approved. The Appeal Statement asserts that the dwelling’s position closer to the shared boundaries harms the living conditions of the occupiers of neighbouring properties with reference to an overbearing effect and an *“undue of loss of overlook”* [sic].
11. Appendix A of the Council’s Appeal Statement shows an image of the Block/Site Plan approved under planning permission 21/06794/FU for the construction of the dwelling and an aerial photograph taken from Google. The Council’s Appeal Statement asserts that Appendix A shows *“clear documentary photographic evidence demonstrating the discrepancy between the approved plans (21/06794/FU) and the development as built”*.
12. The Council has not added annotations to the images within Appendix A, nor has an overlay been provided to demonstrate how the dwelling’s siting as-built differs from the approved siting. Consequently, far from providing *“clear documentary*

photographic evidence”, it is unclear how the dwelling as constructed has been built closer to the shared boundaries.

13. As it was not possible to determine from either the EN or the Council’s Appeal Statement the reason for issuing the EN, I requested clarification from the Council’s representative during my site visit as to which boundary(s) the dwelling as constructed has been built closer to. The Council’s representative confirmed that the dwelling had been built closer to the side elevation of No 5.
14. The approved Block/Site Plan within Appendix A includes a measurement between the side elevation of No 5 and the side elevation of the approved dwelling as “5.5”. At my site visit I therefore asked both appeal parties to measure this distance. They confirmed that it measured 5.5m. I also asked both appeal parties for clarification regarding the positioning of the close boarded fence between the two properties, and it was agreed that it was not positioned as shown on the approved Block/Site Plan.
15. From my observations on site and following confirmation by both appeal parties that the distance between the two properties measures 5.5m, it is my judgement that the thin black line within the land outlined in red on the EN Plan denotes the existing boundary between the two properties. Consequently, it is likely that the dwelling has not been built closer to the side elevation of No 5. Instead, the close boarded fence is positioned incorrectly.
16. Subsequently, I wrote to the Council seeking an explanation as to how the dwelling, as constructed, constitutes unauthorised development, given that it is sited at the same distance from No 5 as shown on the approved Block/Site Plan and that the Council’s representative had confirmed during my site visit that this was the only distance alleged to be incorrect.
17. The Council’s response introduced new reasons for issuing the EN including: the planning unit is smaller than approved which results in a substandard amount of amenity space; the driveway is larger than approved; the dwelling is positioned too close to the boundary shared with No 5 contrary to a separation distance included within a document titled “*Neighbourhoods for Living*”; and various matters were raised regarding how the dwelling as constructed is materially different to the approved dwelling in terms of its external appearance. The Council’s response serves to further emphasise the discrepancies with the EN as drafted.
18. The reasons for issuing the EN are to inform the appellant of the Council’s objection to what has been done. To vary or introduce new reasons during the appeal process causes injustice to the appellant as, had they been aware of such reasons, they may have advanced different grounds of appeal, or submitted different or additional evidence in support of their case.

The EN Plan

19. The EN plan outlines the land to which the EN relates in red which includes the boundaries shared with 84 Gipton Approach and 4 Fire Station Houses, and the front boundary adjacent to the pavement of Gipton Approach. The red outline adjacent to No 5 is in proximity of this property’s side elevation and a faint black line is visible within the area edged red that extends between Gipton Approach and No 4’s side boundary.

20. As previously stated, the faint black line depicts the boundary between No 5 and 5A Fire Station Houses that consists of a close boarded fence. The land to the southwest/west of the close boarded fence clearly forms part of No 5's garden. The Council's list of persons on which the EN was served excludes the owner or occupiers of No 5.
21. The EN has therefore been served contrary to the provisions of s172(2)(a) of the 1990 Act due to the failure to serve a copy of the EN on the owner/occupier of No 5. Should the EN stand as drafted, the owner/occupier of No 5 could be prosecuted for failure to comply with the necessary steps, which include demolishing a dwelling not in their ownership/control.
22. I could correct the EN plan by excluding the land forming the garden to No 5, however doing so may further undermine the Council's case, thereby causing injustice.

Conclusion

23. For the reasons given above, I conclude that the EN does not specify with sufficient clarity the alleged breach of planning control, the reasons for issuing the EN, the steps required for compliance, or the land to which the EN relates.
24. It is not open to me to correct the errors in accordance with my powers under section 176(1)(a) of the 1990 Act, since injustice would be caused were I to do so. Consequently, the EN is invalid and will be quashed.
25. In these circumstances, the appeal on the grounds set out in section 174(2)(a), (f) and (g) of the 1990 Act and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act, do not fall to be considered.

A Berry

INSPECTOR