



Appeal Decisions

Site visit made on 19 November 2025

by **David Jones BSc (Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 December 2025

Appeal A Ref: APP/A2335/C/24/3354253

Appeal B Ref: APP/A2335/C/24/3354254

St. Michaels Manse, Parkgate Drive, Lancaster LA1 3FN

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - Appeal A is made by Mrs Cheryl Mulqueeney and Appeal B by Mr Philip Mulqueeney against an enforcement notice issued by Lancaster City Council.
 - The notice was issued on 23 September 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of three outbuildings with a connecting fence structure, forward of the front elevation of St Michael's Manse, and within the curtilage of a Listed Building.
 - The requirements of the notice are:
 - Remove the outbuildings, labelled 1, 2 and 3 within Appendix C from the land, and;
 - Removal of the connecting fence structure labelled F within Appendix C, and;
 - Remove all resultant materials and debris from the land and restore the land to its previous former condition prior to the development taking place.
 - The period for compliance with the requirements is: Thirteen weeks.
 - The appeals are proceeding on the ground set out in section 174(2)(d) of the Town and Country Planning Act 1990 (as amended).
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Decisions

1. It is directed that the enforcement notice is corrected by:
 - In section 3 the deletion of the alleged breach of planning control in its entirety and replacement with "The erection of three outbuildings and a connecting fence".
 - In section 5 the deletion of the second requirement in its entirety and replacement with "Remove the connecting fence labelled F within Appendix C from the land, and;"
2. Subject to the above corrections, the appeals are dismissed and the enforcement notice is upheld.

The Notice

3. It is important for me to get the notice in order. On an appeal any defect, error, or misdescription in an enforcement notice may be corrected using the powers available in section 176(1)(a) of the Town and Country Planning Act 1990 as amended, or the terms varied, where the correction or variation will not cause injustice to the appellant or the local planning authority.
4. In section 3 of the notice the breach of planning control alleged contains various words, such as "without planning permission", and "within the curtilage of a listed building", which do not describe an act of development. In the interests of brevity, I

shall remove all superfluous wording from the allegation. I shall also correct the wording of the second requirement in section 5 of the notice so that it is clearer and reads better.

5. The above corrections do not fundamentally change the notice or its requirements. Consequently, they do not cause injustice to either party.

Appeals A and B on Ground (d)

6. For the appeals on ground (d) to succeed it has to be shown that at the time the notice was issued it was too late to take enforcement action. The burden of proof is on the appellants, and the relevant test is the balance of probability. If the local planning authority has no evidence itself to contradict or otherwise make the appellant's version of events less than probable, an appeal on ground (d) can succeed, provided that the appellant's evidence alone is sufficiently precise and unambiguous.
7. It is not disputed that the operational development attacked by the enforcement notice was substantially completed prior to 25 April 2024, before the legislative changes to time limits came into effect. Therefore, no enforcement action can be taken after a period of four years beginning with the date on which the operations were substantially completed. As the notice was issued on 23 September 2024, the appellants need to demonstrate, on the balance of probabilities, that the development had been substantially completed on or before 23 September 2020.
8. The appellants contend that the structures were all in place by November 2019. In support of that position the appellants have provided documentary evidence including:
 - Photograph dated 30 August 2019
 - Photograph dated 26 December 2019
 - A Facebook post by The Heartwood Consortium Ltd (HC) dated 11 November 2019 which includes a photograph of an open sided timber framed outbuilding
 - An invoice from DB Installations (DB) dated 18 November 2019
 - An exchange of messages between HC and Mrs Mulqueeney
9. I shall turn firstly to the photographic evidence provided. It is not clear where on the appeal site the photograph dated 30 August 2019 was taken, and although it shows a mini digger, none of the outbuildings and fencing that are subject of the enforcement notice are visible.
10. The photographs dated 11 November 2019 and 26 December 2019 both show the same open sided timber structure at the appeal site. The appellants contend that these show the outbuilding which is labelled "3" on the notice and demonstrate that it has been in situ for more than four years prior to the issue of the notice. However, it needs to be established when this outbuilding was substantially completed.
11. It has been established by case law that substantial completion requires a fully detailed building. In this case, the building shown in the 2019 photographs is an

open sided timber structure with a roof. This is materially different from the building that existed on site when the enforcement notice was issued, which had been enclosed by timber walls on two sides and with a fence connecting it to the adjacent outbuilding. Therefore, in my view, it was not until these additional works were carried out to create the outbuilding in its current form that the building was substantially completed.

12. To summarise, there is no photographic evidence of either the connecting fence or the buildings labelled “1” and “2” on the notice from before the relevant date of 23 September 2020. There is also no photographic evidence of the building labelled “3” on the notice in its completed form prior to the relevant date.
13. In terms of the documentation from DB and HC, I find the evidence is somewhat unclear and ambiguous. The exchange of messages between HC and Mrs Mulqueeney refer to the erection of a gazebo, with the subsequent Facebook post and photograph showing the open sided timber structure. It would therefore be reasonable to conclude from this evidence that HC erected the open sided timber structure around early November 2019.
14. However, the invoice from DB, which is dated seven days after the HC Facebook post, quotes for the erection of three wooden outbuildings, as well as ground preparation, and the erection of buildings. The appellant has confirmed that HC and DB are separate companies, and the evidence therefore suggests that there would be a total of (at least) four wooden outbuildings erected on site. There is no evidence before me to suggest that more than three outbuildings were erected at the appeal site.
15. The invoice from DB stipulates that 50% of the total cost is to be paid upfront, with the remaining 50% paid upon completion of the works. No evidence has been provided detailing if or when any such payments were made. Additionally, whilst the invoice confirms the billing address to be the appeal site, it does not clarify that the works were due to be carried out at the same address.
16. The appellants have made me aware that there was a serious fire at the appeal property in December 2022, which resulted in the loss of physical evidence relating to the erection of the outbuildings and fencing. Whilst I have the upmost sympathy with the appellants in respect of the fire and its subsequent impact, I cannot second guess what evidence may or may not have been lost in the fire and I must determine the appeals on the evidence before me.
17. The burden of proof is on the appellants, and the evidence before me is not sufficiently precise and unambiguous to demonstrate, on the balance of probabilities, that the development subject of the enforcement notice was immune from enforcement action at the date the notice was issued. Accordingly, the ground (d) appeals fail.

Other Matters

18. I note that a third party representation was received in support of the appeal development, including that the outbuildings were considered to “fit in well” with the surrounding area. However, in the absence of an appeal on ground (a) I am unable to consider the planning merits of the development.

Conclusion

19. For the reasons given above, I conclude that the appeals fail. I have therefore upheld the enforcement notice as corrected.

David Jones

INSPECTOR