



Appeal Decisions

Site visit made on 5 December 2025

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 DECEMBER 2025

Appeal A ref: APP/Q9495/C/25/3365481

Appeal B ref: APP/Q9495/C/25/3365482

Ambleside Tap Yard, Rydal Road, Ambleside, LA22 9AN

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - Appeal A is made by Mr Alex Mauro of High Spirits Leisure Group Ltd and Appeal B is made Mr Adrian Sankey against an enforcement notice issued by Lake District National Park Authority.
 - The notice was issued on 9 April 2025.
 - The breach of planning control as alleged in the notice is without planning permission, operational development has occurred specifically building operations consisting of the installation of plant and equipment as shown on the photographs appended with this notice.
 - The requirements of the notice are to restore the Land to its condition before the breach took place by: removing from the Land the four units as identified in photographs 1, 2 and 3 appended with this notice, along with all associated framing, pipework, ducting and cabling, and upon removal of the units, making good the external face of the building with a whitened roughcast render.
 - The period for compliance with the requirements is three months after this notice takes effect.
 - The appeals are proceeding on the grounds set out in section 174(2)(c) and (d) of the Town and Country Planning Act 1990 (as amended).
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Decisions

1. The appeals are dismissed, and the enforcement notice is upheld.

Appeals on ground (c)

2. An appeal made on ground (c) is that the matters alleged do not constitute a breach of planning control. The onus is on the appellant to make a case on the legal grounds of appeal.
3. The appellants' claim is that the plant and equipment which constitutes the breach of planning control, and as shown on the photographs appended to the notice, does not amount to an act of development and hence there has not been a breach of planning control.
4. Section 55(1) of the Act defines development as meaning '*the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land*'. Section 55(2)(a)(ii) of the Act states that development is not '*the carrying out for the maintenance, improvement or other alteration of any building of works which do not materially affect the external appearance of the building*'.
5. As part of my site visit, I was able to experience the building operations in the context of both the appeal building (i.e., that falling within the red edge on the plan attached to the notice) and the surrounding area. While the building operations are to the rear of the appeal building, they are nonetheless visible from outside it and from localised viewpoints within the shared and open passageway (including from

properties positioned along its route), as well as from longer albeit glimpsed distance views in Millans Park.

6. Whether I consider the 'building' as being that which forms part of a wider group of individual buildings, or as part of one single larger building, I find, as a matter of fact and degree, that the building operations have had a material effect on the external appearance of the building. Indeed, the building operations are seen in direct contrast to what are otherwise predominantly flat and uncluttered rear elevations, and which are finished in muted tones/colours.
7. Owing to the position, size, colour and projecting elements of the building operations, they are experienced in stark contrast to the appearance of the appeal building prior to the breach of planning control occurring. The fact that the building operations are on the rear of the building does not alter this conclusion.
8. For the above reasons, I therefore conclude that the breach of planning control constitutes development. Such building operations do not fall to be permitted development in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Consequently, the ground (c) appeals fail.

Appeals on ground (d)

9. An appeal made on ground (d) is that at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters. In an appeal against an enforcement notice on ground (d), the burden of proving relevant facts is on the appellant, and the relevant test of the evidence is on the balance of probability.
10. The appellants' claim relates only to 'unit 1'. There is no dispute between the parties that the other building operations are not immune from enforcement action owing to the passage of time. The appellants state that unit 1 was installed '*prior to 3 March 2021*'. This claim is made based on the submission of an invoice from 'Volland Cellar Cooling' for a '5 km cellar cooling system'. The invoice dated 2 March 2021, and for £2,398.80, states '*full payment or 50% deposit is to be paid in full via BACs before install date with balance due on install date*'.
11. The appellants state that unit 1 was substantially complete before 25 April 2024 and hence the four year and distinct from ten-year immunity period is relevant based on legislative transitional arrangements. The notice was issued on 9 April 2025. The appellants do not provide a date when unit 1 was substantially complete but say that it was installed '*prior to 3 March 2021*'.
12. It is not clear from the evidence whether the invoice date of 2 March 2021 equates also to an installation date for unit 1. Given the wording in the invoice, it is possible that the invoice was sent prior to the actual installation date. Indeed, the invoice specially states that '*full payment or 50% deposit is to be paid in full via BACs before install date with balance due on install date*'. The evidence before me is neither precise nor unambiguous in terms of when unit 1 was installed and indeed substantially complete. The appellants contention that it was substantially complete prior to 3 March 2021 is not sufficiently and precisely supported with objective or compelling evidence from the appellants.
13. Even if one were to disagree with my conclusion above, I have also considered the photographic evidence submitted by the Authority. In my judgement, and, as a

matter of fact and degree, there is a material difference between the appearance of building operation in the position of unit 1 on 19 October 2021, and the appearance of the building operation in the position of unit 1 on 25 May 2023. This evidence casts sufficient doubt about the appellants' claim that unit 1, which is the subject of this appeal, was installed/substantially complete in March 2021.

14. In my judgement, the evidence indicates that unit 1 was installed as a new building operation between 19 October 2021 and 25 May 2023. The notice was issued on 9 April 2025. Based on an installation/substantial completion date of 19 October 2021, the appellants have not demonstrated a continuous four-year period for unit 1 which comprises part of the breach of planning control.
15. For the above reasons, I conclude on the balance of probability that when the notice was issued it was not too late to take enforcement action in respect of the breach of planning control. This includes unit 1. Therefore, the ground (d) appeals fail.

Conclusion

16. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice.

D Hartley

INSPECTOR