

Appeals Decision

Site visit made on 16 December 2025

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 23 December 2025

Appeal refs: APP/A2335/C/24/3354743, APP/A2335/C/24/3354744
8 Copy Lane, Caton, Lancaster LA2 9QU

- The appeals are made by Mr Tony Edmondson, (APP/A2335/C/24/3354743) and Mrs Nicola Edmondson, (APP/A2335/C/24/3354744), under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by Lancaster City Council.
- The enforcement notice was issued on 26 September 2024. The appeals were made on 30 October 2024.
- The breach of planning control alleged in the notice is failure to comply with condition No. 2 of planning permission ref: 23/00696/FUL granted on 19 July 2023. The application described the project as: *Re submission of application 19/01052/FUL Second storey side extension*.
- Para. 3.2 to the enforcement notice headed "The matters which appear to constitute the breach of planning control" says: *"Condition No. 2 stated that the development should be carried out in accordance with the approved plans. In particular the development has not been carried out in accordance with the Proposed Elevation, Floor, Site and Location Plan – Drawing No. 001 Rev A, dated 12.08.2019, received 16 June 2023. It appears to the Council that the condition has not been complied with because walls have been erected to the ground floor element of the two storey side extension."*
- The notice alleges that the condition has not been complied with in that It appears to the Council that the above breach of planning control has occurred within the last four years. The Council do not consider that the Development is built in accordance with the approved planning application (reference 23/00696/FUL) for the erection of a two storey side extension. The Development by reason of its design, results in an incongruous and harmful form of development that is detrimental to the visual amenity of the street scene and wider National Landscape, which is at odds with the general character and appearance of the properties within the area. Consequently, the unauthorised works fail to comply with the paragraphs and provisions of the policies DM29 and DM46 of the Development Management DPD, Policies EN2 and SC1 of the Strategic Policies Land Allocations DPD, policies CL8 and CL4 of the Caton-with-Littledale Neighbourhood Development Plan (2021 to 2031) and sections 12 and 15 of the National Planning Policy Framework.
- The requirements of the notice are:
 - (i) Remove the wall that has been erected to the ground floor of the side extension, indicated within Appendix B between points A and B, and between points C and D as per approved Proposed Elevation, Floor, Site and Location plan – drawing number 001, dated 12.08.19, received 16 June 2023 in accordance with approved planning permission 23/00696/FUL and;
 - (ii) Reinstate the 1m high boundary walk to the eastern boundary as per approved Proposed Elevation, Floor, Site and Location plan – drawing number 001, dated 12.08.19, received 16 June 2023 in accordance with approved planning permission 23/00696/FUL.
- The period for compliance with the requirements is seventeen weeks.
- The appeals are proceeding on the grounds set out in section 174(2)(c), (f) and (g) of the Town and Country Planning Act 1990 (as amended). The appeals submitted on

ground (a) are not considered, being barred as the requirements of s.174(2A) are met, because the enforcement notice on related development was issued: 1. Within the time allowed for determination of the retrospective planning application or, 2. Within two years of the date on which the related application ceased to be under consideration.

Summary of decision:

The appeals are dismissed and the enforcement notice is upheld with a variation in the terms set out below in the Formal Decision.

Appeal property and development enforced against

1. The appeal property, No. 8 Copy Lane, is a semi-detached 2 storey hipped roof dwelling situated in a residential road in the village of Caton. It is within the Forest of Bowland National Landscape.
2. The appeals concern the alleged non-compliance with Condition No. 2 to Planning permission 23/00696/FUL, a narrow 2 storey extension project at the side of No. 8 close to the neighbouring house, No. 6 Copy Lane. Permitted layout drawing 19-010, drawing No. 001, Rev A, shows the first floor of the new 2 storey to be supported at its outer edge by 3 columns close to the boundary with No. 6 Copy Lane, leaving an open area on the ground floor through to the rear of the property.
3. However, 2 sections of walls built to the permitted side extension were said by the Council to have not been in compliance with the approved layout. Walls to enclose more of the proposed extension's open ground floor area have been erected to the road facing part of the extension and along the side of the extension adjacent to the narrow footpath that runs to the rear of and between dwellings Nos. 6 and 8 Copy Lane. The side wall runs on a line where the approved plan shows the 3 columns supporting the first floor of the extension.

The appeals on ground (c)

4. An appeal on ground (c) asserts that those matters alleged in the enforcement notice do not constitute a breach of planning control.
5. Planning permission 23/00696/FUL - Project No. 19-010, drawing No. 001, Rev A, shows the first floor of the new 2 storey to be supported at its outer edge by 3 columns close to the footpath alongside No. 6 Copy Lane, leaving an open area on the ground floor through to the rear of the property.
6. Photographs, forming part of the enforcement notice plan, show the 2 sections of walls built alleged to have been erected as part of the 23/00696/FUL permitted side extension. The notice allegation is that they were not built in compliance with the approved drawing. The walls are shown running between points A and B at the front of the extension, where tall, narrow walls flank a high pedestrian timber gate, and a wall said to be just under 2m high built between the 3 permitted columns that support the first floor of the side extension.
7. The Appellants said the 23/00696/FUL proposal was effectively a first-floor extension mounted on supports over the existing side garden below allowing for the creation of an additional bedroom and extended bathroom at first floor level. They started works in accordance with approved plans. Then, with the extension nearing completion, they asked their builder to replace the side garden wall. What they described as a new garden wall was erected between the new supporting columns as shown line C – D on the enforcement notice plan. The new wall was said to be no higher than 2m. The Appellants claimed that those works amounted to permitted development.

8. The question that arises is as to whether the 2 sections of walling enforced against accord with the approved layout, or are materially different. In my view, particularly when seen from the fronting road, the closed in appearance on the ground floor level of the new side extension looks much different to how it would have looked if the full width open way through to the rear of the house had been provided, as permitted. Also, the ground floor level side wall, running the full extent of the side of the extension, looks quite different to the open nature of the extension side which would have provided by the just the 3 first floor supporting columns.
9. In my view, the built wall changes as set out in the enforcement notice were significant and material alterations to that approved and in breach of Condition No. 2 to planning permission 23/00696/FUL that stated the development should be carried out in accordance with the approved plans. Built as part of the permitted 23/00696/FUL project, they cannot avail of permitted development rights under any part of the General Permitted Development Order, (the Order). The 2 sections of walling, nearly 2m high are clearly visible, especially so in the case of the 2 narrow sections to the road facing façade of the dwelling. The side wall is a substantial structure, and while less visible from the road, is a dominant feature at the side of No. 8. The walls do not amount to insignificant alterations to the permitted extension layout.
10. The appeals made on ground (c) must fail.

The appeals made on ground (f)

11. An appeal on ground (f) asserts that the requirements of the enforcement notice are too onerous. In this instance, I consider that the purpose of the requirements of the enforcement notice as defined in s.173(4)(a) of the Act is to remedy the breach of condition by making the development comply with the terms of planning permission 23/00696/FUL.
12. Although the requirements are appropriate and not excessive, the Appellants said, particularly in respect of the side wall element, (between points C and D – enforcement notice plan), it would not be reasonable to require what would be removal of this almost 2m high wall only for it to be capable of replacement permitted by the Order. They said that would allow them to build a new wall to a height not exceeding 2m. They may be right. The 1m height limitation referred to by the Council applies only to any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic.
13. However, there would need to be compliance with the requirements of the enforcement notice and the 23/00696/FUL planning permission considered to have been implemented. Whilst the Council were of the view that a new permitted development C to D wall could be no more than 1m high because it would be alongside a footpath, it would not be prevented by Schedule 2, Part 2, Class A.1 (b) of the Order. There might remain an impediment to replacing the wall under the provisions of the Order because a new wall in the same position could be considered to be an alteration to the dwelling if integral with the 3 columns supporting the side extension. That is especially so in respect of the additional walling on the façade of the extension.
14. In the absence of the ground (a) appeals, and the limitations of what I may consider in the context of a ground (f) appeal, I am of the view that there is little scope other than to dismiss the appeals. The suggested quashing of the enforcement notice is unwarranted. Any lessening of the requirements of the enforcement notice, by for instance, allowing for the retention of any part of the unlawful walling, would be tantamount to the granting of planning permission for the walls. The appeals on ground (f) fail.

The appeals made on ground (g)

15. An appeal on ground (g) says the period for compliance with the requirements of the notice is insufficient.
16. I accept that the Appellants may find themselves in a somewhat awkward and difficult situation. I agree that more time than the 17 weeks compliance period should be allowed, either to seek a resolution of the matter or arrange for necessary work to be carried out. I increase the period of compliance to 9 months. The appeals on ground (g) succeed to that extent.

Conclusion

17. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with a variation.

FORMAL DECISION

18. It is directed that the enforcement notice is varied by the deletion of the words “**SEVENTEEN WEEKS**” in line 1 of para. 6.1 of the second page of the notice and the substitution therefor of the words “9 months”. Subject to that, the varied enforcement notice is upheld.

John Whalley

INSPECTOR