



Appeal Decision

Site visit made on 19 November 2025

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2026

Appeal Ref: APP/A2335/C/24/3344855

Former Co-op Warehouse, John Street, Carnforth, Lancashire LA5 9ER

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Marshaw Developments Ltd against an enforcement notice issued by Lancaster City Council.
 - The notice was issued on 24 April 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the change of use of commercial building basement to two self-contained flats (C3).
 - The requirements of the notice are: Cease the use of the basement as self-contained flats for residential accommodation.
 - The period for compliance with the requirement is: Seven months
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 (as amended). 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. It is directed that the enforcement notice is corrected by:
 - In section 3 of the notice the insertion of the word “material” before the word “change”.
2. Subject to the above correction, the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

3. Since the appeal was lodged, a revised version of the National Planning Policy Framework (“the Framework”) was published in December 2024. The parties were afforded the opportunity to comment on whether the changes were relevant to the appeal development. I have taken those comments received into account and the appeal has been determined having regard to the revised Framework.
4. Since the Council issued the enforcement notice, it has adopted A Local Plan for Lancaster District 2020-2031 Part Two: Development Management Development Plan Document (climate emergency review) (DMDPD) on 22 January 2025. The policies in the DMDPD supersede those policies from A Local Plan for Lancaster District 2011-2031 Part Two: Review of the Development Management DPD (Adopted July 2020) which were included in the Council’s reasons for issuing the notice. I have determined the appeal based on the current applicable policies in the DMDPD.

The Notice

5. 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 (“the 1990 Act”), or the terms varied, where the correction or variation will not cause injustice to the appellant or the local planning authority.
6. The notice alleges the “change of use of commercial building basement to two self-contained flats (C3)”. The “change of use” of land is not, in itself, development requiring planning permission. I shall therefore correct the notice to refer to a “material change of use” of the land as defined in section 55(1) of the 1990 Act.

Ground (a) – the deemed planning application

Background and Main Issues

7. The appeal site comprises the former Co-op warehouse, a stone building which fronts onto John Street. There is a small external yard to the north of the building, with a small parking area to the south and east. The surrounding area contains a mix of residential properties and small commercial units. However, the area is characterised by mostly terraced housing laid out in a back-to-back pattern with small rear yards which are often separated by narrow alleyways.
8. Prior approval¹ was previously granted at the appeal site for the “*change of use of commercial building into six apartments (C3)*”. A subsequent application to vary the approved plans was refused by the Council, before being allowed at appeal² on 18 June 2024. It is clear from the Inspectors decision that whilst the basement area was labelled on the plans as “landlord accommodation”, the proposal did not seek permission for the basement to be utilised as separate self-contained residential units.
9. A separate planning application was also submitted to the Council seeking the “*change of use of basement areas to two dwellings*” (“the COU application”). This application was refused by the Council, and an appeal³ (“the COU appeal”) against that decision was dismissed on 27 June 2024. The appointed Inspector made clear in the decision letter that the appeal sought retrospective permission for the development, which had already commenced.
10. The previous COU appeal at the site considered the same two self-contained residential units that the enforcement notice is directed against. The previous Inspector found harm in relation to the development failing to provide adequate living conditions for occupants of the appeal premises. The Council’s first reason for issuing the enforcement notice is focused on this issue, which is essentially a repeat of the Council’s reason for refusing the COU application.
11. A further planning application relating to external works at the appeal property comprising the “*removal of external staircase, various alterations to windows and openings as well as the installation of metal balustrades*” was also refused by the Council, with an appeal⁴ against that decision dismissed on 27 June 2024. One such alteration included the insertion of a window at basement level which had

¹ Council Ref: 22/00393/PAC

² Council Ref: 23/00755/VCN and APP/A2335/W/23/3330242

³ Council Ref: 23/00756/FUL and APP/A2335/W/24/3337571

⁴ Council Ref: 23/01159/FUL and APP/A2335/W/24/3336666

replaced a door on the east elevation. The Council's second reason for issuing the notice sets out that this window serves a habitable room and is considered to look directly into the amenity areas at 25 and 27 Edward Street, resulting in a loss of privacy.

12. Consequently, the main issues are the effect of the development on:

- the living conditions of current and future occupiers, with particular regard to outlook, light, and the size and layout of the accommodation; and
- the living conditions of occupiers of 25 and 27 Edward Street, with particular regard to privacy.

Reasons

Living Conditions of current and future occupiers

13. A recent appeal decision relating to the development that is subject of the notice is clearly a material consideration and regard should be had to it. Indeed, there must be very sound reasons for me to reach a different conclusion to the previous Inspector, not least because of the importance of consistency in the planning process.
14. The Council have highlighted outlook, light, and the size and layout of the two flats as being the factors which result in the development failing to provide adequate living conditions for current and future occupiers. I shall look at each of these matters in turn.
15. The previous Inspector concluded that the development failed to provide adequate living conditions to occupiers with regard to outlook. Paragraphs 14 to 17 of the decision letter set out the following findings:

In the north elevation, the window openings which serve Flat 1 although large, they face out onto a private enclosed courtyard. The outlook from these windows would be constrained by virtue of the close proximity of the high boundary fence which encloses the courtyard. The proximity of the boundary fence contributes to a strong sense of enclosure experienced from these windows. As they serve primary living accommodation, it has not been demonstrated that this would provide an adequate level of outlook for future occupiers.

In respect of Flat 2, the submitted plans show that the bedroom would be served by a new high-level window, which would provide some natural light and ventilation into this space. However, the appellant has stated that no approval for this window is being sought under this proposal, it is the subject of a separate application. This would mean that this bedroom would have no window, which would not provide acceptable living conditions for the future occupiers.

Even if the window was permitted and notwithstanding its intended use as a bedroom, the only window would be situated at a high level and face out onto a car parking space. Therefore, it does not provide any meaningful outlook for this room and the proximity of a parked car is likely to contribute to an unacceptable sense of enclosure for the future occupiers of the bedroom.

The living, dining, kitchen area of Flat 2 would have a single window opening located in the East Elevation. This window faces out onto a retaining wall which is

located in very close proximity to the window. As this is the only window within the main living accommodation of Flat 2, it therefore fails to provide an adequate level of outlook for future occupiers.

16. In respect of Flat 1, I entirely agree with the previous Inspector's findings in relation to the openings in the north elevation. I also noted during my visit that in the living, dining and kitchen area there was also a window in the east elevation, however the outlook from this window was also poor with a boundary wall in close proximity. The same also applies to the window in the bedroom.
17. The outlook from Flat 2 is very poor, and I wholly endorse the findings of the previous Inspector in this regard. I did observe that there was a second window in the living, dining and kitchen area of Flat 2. This window though was very small, obscure glazed, and was also in the east elevation. Consequently, it does not assist in improving outlook from Flat 2.
18. Turning next to light, as was the case with the COU appeal, I have not been provided with a Daylight and Sunlight Assessment or any other substantive evidence to demonstrate that the flats have adequate levels of daylight and sunlight. The previous Inspector also opined at paragraph 23 that:

As already stated, the flats would be located solely within the basement of the building. However, due to the topography of the area, I recognise that the lower ground floor/basement has windows which are visible above the ground level. Nevertheless, the proximity of neighbouring buildings and built features such as retaining/boundary walls would be likely to reduce the amount of daylight and sunlight that enters these properties at different times of the day. As a consequence, the occupiers of these properties would be likely to need to rely upon artificial light sources for the majority of the time.

19. My visit to the appeal site was carried out during the late morning on a clear, bright, sunny day. Despite the conditions outside, the occupants of both residential units had the lights on. It was readily apparent from my visit that the amount of daylight and sunlight that entered the properties was insufficient, and that artificial light would be required most, if not all, of the time. I therefore find that the previous Inspector's concerns in this regard were well founded, and that it has not been demonstrated that the flats receive adequate levels of daylight and sunlight.
20. Finally, the previous Inspector found that the development did provide adequate living conditions for occupiers in respect of the size and layout of the accommodation. The Council though maintain that the two flats do not comply with the minimum size criteria as set out in the Nationally Described Space Standards (NDSS). The Council contend that the flats, whose overall floor spaces measures 43.3m² and 46.7m² respectively, do not meet the minimum 50m² floorspace set out in the NDSS for a one bedroom, one storey dwelling.
21. I accept that the flats do not meet the minimum floorspace required by the NDSS for a one bedroom, two-person flat, however they do exceed the minimum standards for one bedroom, one person flats which stands at 39m². There is no evidence before me to suggest that the flats are not single occupancy, and on that basis, I find that there is no conflict with the NDSS in that regard. Overall, I am satisfied that the development provides adequate living conditions for current and future occupiers, with regard to the size and layout of the accommodation.

22. Whilst consistency is an important part of decision making, any material changes in circumstances and/or other considerations may enable me to reach a different conclusion to that of the previous Inspector. However, in this case there is nothing that leads me to reach a different conclusion and, based on my own observations, I find no reason to disagree with the previous Inspector.
23. In view of the above, although I have found that the development provides adequate living conditions for current and future occupiers in respect of the size and payout of the accommodation, I have found that the development is harmful to those living conditions in respect of outlook and light.
24. Therefore, as a whole, the development fails to provide adequate living conditions for current and future occupiers, with particular regard to outlook and light. The development therefore fails to accord with Policies DM13 and DM29 of the DMDPD which seek, amongst other things, to ensure that developments have no significant detrimental impact to amenity. The development is also contrary to section 12 of the Framework which requires developments to provide a high standard of amenity for existing and future users.

Living Conditions of occupiers of 25 and 27 Edward Street

25. Policy DM29 of the DMDPD includes Part IV which states that the Council will expect development to “*Ensure there is no significant detrimental impact to amenity in relation to overshadowing, visual amenity, privacy, overlooking, massing and pollution*”. Within the supporting text of Policy DM29 in relation to ensuring privacy, it states that development proposals should give consideration to four principles including:
 - There should normally be at least 21 metres between dwellings where windows of habitable rooms face each other and 12 metres where a habitable room faces onto a side wall with no such window.
26. The Council considers that the window that has replaced a door on the east elevation looks directly into the private amenity areas of 25 and 27 Edward Street, and fails to meet the separation distances referred to in Policy DM29 above. The Council state that the boundary wall of the neighbouring properties is 3.27m away, with their windows being some 10.47m away from the newly installed window on the eastern elevation of the appeal property. The appellant does not dispute that the separation distances set out above are not achieved.
27. Nevertheless, the separation distances are not contained within the actual policy itself and are only referred to in the supporting text. The text also includes the word “normally” which clearly indicates that the distances may not be applicable or relevant in all circumstances. Indeed, paragraph 9.4 specifically states “*The highlighting of minimum distances does not mean that they will always be acceptable. There may be instances where these minimum distances need to be increased or reduced depending on circumstances*”.
28. In this case the surrounding area is characterised by tight-knit residential streets of predominantly terraced properties, and as a result there is a lot of intervisibility between properties. It was also clear from my site visit that the properties on surrounding streets including Edward Street, New Street, and Booth Street all have limited distances between them.

29. Furthermore, having taken the opportunity to look out of the window concerned, and all other windows on the east elevation, due to the orientation of the building, and the presence of existing walls and other boundary treatments, in my assessment the development does not cause undue harm to the living conditions of occupiers of Nos. 25 and 27 by virtue of a loss of privacy.
30. I acknowledge that the window referred to by the Council is in relatively close proximity to neighbouring properties, and that the separation distances referred to in the supporting text to Policy DM29 are not met. However, taking into account the context of the site and surrounding area, I conclude that the development does not cause adverse harm to the living conditions of occupiers of Nos. 25 and 27, with particular regard to privacy. The development therefore complies with Policy DM29 of the DMDPD as it does not cause a significant detrimental impact on the amenity of neighbouring occupiers.

Other Matters

31. The appeal site is located approximately 1420m from Morecambe Bay which is designated as a Special Protection Area (SPA), Special Area of Conservation (SAC), and Ramsar Site. The Council considers that the development would not have an adverse impact on the integrity of the designated site, and that any mitigation measures necessary could be adequately covered by an appropriately worded planning condition. However, since the appeal is being dismissed for other reasons, it is not necessary for me to consider this further.
32. The appeal site is also located within the Carnforth Conservation Area (CCA), and I have therefore paid special attention to the desirability of preserving or enhancing the character or appearance of the CCA, as set out in section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
33. The overall significance of the CCA stems from its historic value and architectural character as a traditional small market town. Its centre retains a strong, cohesive identity due to the substantial survival of late 19th century buildings. Development within the town is compact, with minimal open space, creating a unified urban form across the Conservation Area. The street layout contributes to an intimate and enclosed feel, heightened by generally narrow streets.
34. The significance of the appeal building itself, which is a former warehouse, lies in its historic and architectural interest as one of the surviving buildings from the town's expansion in the 19th century. This interest is exacerbated by the building's prominent location on the corner of New Street and John Street.
35. Although the development relates only to the basement level of the building and does not affect the existing residential use of the upper floors, it nevertheless contributes to the continuation of a viable use for the building. I therefore consider that the development preserves the significance of the building within the CCA.

Planning Balance and Conclusion on ground (a)

36. The appellant sets out that the Council cannot demonstrate a five-year housing land supply, with the current deliverable supply of housing land standing at only 2.1 years. This matter has not been disputed by the Council and therefore it is accepted that there is a significant undersupply of housing land. Consequently,

paragraph 11d) of the Framework is engaged and, due to the provisions of footnote 8, paragraph 11d) ii should be applied.

37. Paragraph 11d) ii states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
38. The development would provide economic and social benefits through the additional contributions of the occupiers to the local economy. The two flats would also support the Government's objective of significantly boosting the supply of homes and would contribute towards the Council's supply of housing. These matters weigh in favour of granting planning permission for the development. However, given the limited scale of the development these benefits would be modest and, as a result, I ascribe them limited weight.
39. I also acknowledge that the appeal site is located in a sustainable location and utilises part of an existing building, however I am not persuaded that this development makes efficient or effective use of the land given my concerns regarding its poor quality. Paragraph 124 of the Framework sets out that planning decisions should promote an effective use of land in meeting the need for homes, nevertheless that is contingent on the proposal ensuring safe and healthy living conditions.
40. In this instance I have found that the development provides unsatisfactory living conditions for current and future occupiers. That is set against the pressing need for housing in the locality, where the provision of housing of an adequate standard would be of particular benefit. Unfortunately, the poor quality of the two units means that I do not consider them to make a valuable contribution to meeting local housing need. The development is therefore contrary to the development plan and the aims of the Framework in relation to its requirement for developments to provide a high standard of amenity for existing and future users as set out in section 12. The harm caused to the living conditions of occupants will be long lasting, and as such I ascribe it substantial weight.
41. The proposal conflicts with the development plan when read as a whole and other material considerations, including the Framework, do not indicate that the appeal should be determined other than in accordance with it. It therefore follows that the appeal on ground (a) fails and the deemed planning application is refused.

Ground (g)

42. An appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant seeks a period of compliance of twelve months on the basis that the two flats are currently occupied, with the tenants on twelve-month tenancy agreements. The appellant contends that further time would be needed to for tenants to exit their agreements and find suitable housing elsewhere.
43. Whilst I understand that having to find and relocate to alternative premises is likely to be an onerous and stressful experience for the tenants, I have not been provided with information to substantiate the claim that a whole year would be

necessary. I also acknowledge that the tenants signed twelve-month tenancy agreements, however given the length of time that has lapsed since the appeal was made it is unlikely that the full period remains. In any event, tenancy agreements usually allow reasonable period to terminate the contract.

44. In my assessment, the seven-month period of compliance is reasonable given the nature of the steps required by the notice. Accordingly, the appeal on ground (g) fails.

Conclusion

45. For the reasons given above I conclude that the appeal does not succeed. I have therefore upheld the enforcement notice with a correction, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

David Jones

INSPECTOR