Planning Inspectorate

Appeal Decision

Site visit made on 24 November 2026

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2026

Appeal Ref: APP/A2335/C/25/3373640
Land at 46 Slaidburn Drive, Lancaster LA1 4QX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Zubeir Mister against an enforcement notice issued by Lancaster City Council.
- The enforcement notice numbered REF 2025/46 was issued on 21 August 2025.
- The breach of planning control as alleged in the notice is, without planning permission, the erection of a part two storey, part single storey side and rear extension for the use of a HMO.
- The requirements of the notice are:
  (i) Remove the part two storey, part single storey side and rear extension
  (ii) Cease the use of HMO accommodation within the part two storey, part single storey side and rear extension
  (iii) Remove all resultant materials and debris from the Land following the steps set out in (i)
- The period for compliance with the requirements is 24 weeks.
- The appeal is proceeding on the ground set out in section 174(2) (a), (c), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary Decision: the appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision

Procedural Matters

1. The appellant maintains that the enforcement notice is defective because it is unclear which elements of the extension are targeted, citing the judgement in *Miller-Mead v MHLG* [1963] 2 QB 196 in support of that. The Courts have subsequently held in more recent judgments that a degree of uncertainty does not necessarily render a notice non-compliant with statute and that the notice should be read as a whole. In any event, I am satisfied that when read as a whole the notice tells the recipient with reasonable certainty what the breach of planning control is and what must be done to remedy it.

2. The appellant also points out that the notice fails to include a plan identifying the extension referred to in the alleged breach. Without a plan, the appellant contends that he cannot know with certainty which part of the property is subject to the notice. In this respect, the appellant refers to section 173(3) of the 1990 Act which, on my reading, relates to the requirements of the notice. Section 173(1) of the 1990 Act requires that an enforcement notice shall state the matters which appear to the local planning authority to constitute the breach of planning control but is entirely silent in relation to any plans that may be attached to a notice.

3. Section 173(1) of the 1990 Act must be read in conjunction with the Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002 (the 2002 Regulations). These regulations state that an enforcement notice must specify the precise boundaries of the land to which the notice relates, whether by reference to a plan or otherwise.

4. The requirement in the 2002 Regulations is to specify the precise boundaries of the *land* to which the notice relates (emphasis added). There is no requirement in the 2002 Regulations for the breach of planning control to be specifically shown on any plan attached to a notice or for any plan attached to the notice to be annotated for that purpose. In this case, the plan attached to the notice shows the whole of the land to which the notice relates shaded in red. It therefore complies fully with the 2002 Regulations.

5. For these reasons, I do not find the notice to be a nullity or invalid.

6. The notice alleges, without planning permission, the erection of a part two storey, part single storey side and rear extension *for the use as a HMO* (emphasis added). It is apparent that this is intended to relate to the use of the property as a whole as a House in Multiple Occupation (HMO) rather than alleging the creation of a separate HMO. Nevertheless, in the interests of clarity, I will correct the notice to refer to the use of the extension as part of the use of the property as a whole as a HMO. I am satisfied that no injustice would be caused by doing so: indeed, this is how the property was configured at the time of my site visit.

The appeal on ground (c)

7. The ground of appeal is that, in respect of any breach of planning control that may be constituted by the matters stated in the notice, those matters do not constitute a breach of planning control. An appeal on this ground is one of the 'legal' grounds of appeal, in which the burden of proof is on the appellant to show, on the balance of probability, that the matters alleged in the notice do not constitute a breach of planning control.

8. On 9 February 2016, the Council granted a Certificate of Lawful Use or Development (LDC) for a single storey rear extension (Council Ref: 16/00011/PLDC). The extension found to be lawful was shown on Drawing No 233 – 010 REV B, as specified in the LDC. The appellant maintains that part of the matters stated in the notice are therefore lawful.

9. For that extension to be lawful, it would have to have been substantially completed in the form shown on Drawing No 233 – 010 REV B. But that has not been shown to have been the case. On the evidence before me, the part two storey, part single storey side and rear extension subject to the notice was constructed as a single building operation. At no point, on the evidence before me, was the single storey extension found to be lawful in the LDC substantially completed as a single entity.

10. I am advised that a planning application (Council Ref: 21/00803/FUL) was submitted for the partial retrospective application for the erection of a part single storey side and rear extension and part first floor side extension. The planning application applied for the extension as now built and subject to the notice. However, the application was returned as being invalid and was not

determined. No other planning applications have been submitted for that development. It follows that no planning permission has been granted for the extension subject to the notice.

11. I conclude that, on the balance of probability, the matters stated in the notice do constitute a breach of planning control. Consequently, the appeal on ground (c) fails.

The appeal on ground (d)

12. The appeal on this ground is that, at the date on which the notice was issued, no enforcement action could be taken in respect of any breach of planning control that may be constituted by those matters. In order to succeed on this ground, the appellants must show that the development was substantially complete on the date four years before the notice was issued. The test in this regard is the balance of probability and the burden of proof is on the appellant.

13. The phrase 'substantially completed' must be taken as having the meaning established by Lord Hobhouse in *Sage v SSETR & Maidstone BC* [2003] UKHL 22: in the case of building operations, what is required is 'a fully detailed building of a certain character'. The House of Lords held in *Sage* that the exception to development at Section 55(2)(a) of the 1990 Act applied only to a completed building. In so doing, the House of Lords rejected the findings of the lower courts that operations and other works which do not amount to development are not to be taken into account in deciding whether there has been a substantial completion for the purposes of Section 171B(1) of the 1990 Act.

14. Instead, the House of Lords preferred a holistic approach in which, where planning consent is made for permission (deemed or otherwise) for a single operation, it is made in respect of the whole of the building operation. It follows from *Sage* that a building could not be regarded as being substantially complete for the purposes of Section 171B (1) even if the outstanding works affected only the interior.

15. The Council acknowledges that works continued on the part single-storey, part two-storey extension over a period of time and that images on Google Streetview show the extension as being complete in May 2022. Photographs taken by the Council a year earlier, in May 2021, show a single storey side extension still under construction and patently not substantially complete.

16. From the evidence before me, it is more likely than not that work continued to complete the part two storey, part single storey side and rear extension subject to the notice as a single building occupation. It follows that if works were substantially completed on the extension as a whole sometime between May 2021 and August 2021 then it would be immune from enforcement action, given that the notice was served in August2025.

17. I have been provided with no evidence to show that was the case. The appellant's Appeal Statement asserts that the structure was substantially complete by 6 August 2021, but again there is no documentary or photographic evidence to support that. The schedule of works, inventory and contractor invoices submitted the appellant is just that: a schedule with no documentary or photographic evidence to support it. As such, it is of limited evidential value.

18. The appellant explains that occupation of the HMO commenced again on 1 September 2021 for 3 people and on 2021 September 2021 for 5 people, totalling the full 8 people accommodated in the building as extended. However, occupation does not necessarily equate to the building being a fully detailed building of a certain character held by the Courts as being the relevant test as to whether a building can be considered to be substantially complete.

19. I conclude that, on the balance of probability, at the date on which the notice was issued the Council was in a position to take enforcement action in respect of the breach of planning control constituted by the matters stated in the notice. Accordingly, the appeal on ground (d) fails.

The appeal on ground (a) and the deemed planning application

20. The ground of appeal is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The Council has stated one substantive reason for issuing the enforcement notice, from which the main issues raised is the effect of the development on the character and appearance of the area.

21. The appeal property is a two-storey end terrace dwelling located on the southern side of Slaidburn Drive. The street comprises of a mixture of two storey dwellings, some being linked semi-detached and others in short terraces. The dwellings typically have rendered walls under slate roofs. The properties along the street exhibit a degree of uniformity in terms of height, design, features and materials, whether they are semi-detached properties with single storey side extensions or terraced properties. This results in Slaidburn Drive having a distinctive character.

22. The Council maintains that the side and rear extension when viewed altogether lacks coherence with both the main dwelling house and the existing rear extension. Moreover, with a different roof height to the existing flat roof, and a substantially larger projection, the Council considers that the extension does not appear as a well-integrated addition to the main property. It is the Council's view that the part two storey, part single storey side and rear extension appears out of character with the remainder of the street, given that the street is uniform and characterised with single storey flat side extensions.

23. The Council has a point, to an extent. The extension is different in concept, height and design to extensions to other properties in the street. In that sense, it is not fully in keeping with the distinctive character of Slaidburn Drive.

24. Nevertheless, I noted on my site visit that whilst typically uniform in scale, design and appearance, there are some noticeable differences between individual properties in Slaidburn Drive. For example, some properties feature full height bay windows whereas in some cases there is a single-storey bay window with a canopy above. Other properties have no bay window at all, with the elevation being devoid of canopies or other features. Similarly, some properties have fully hipped roofs whereas others (including the appeal property) have gable ends.

25. Consequently, whilst Slaidburn Drive does exhibit a degree of uniformity, that uniformity is not present throughout. There are some subtle (and in some cases not so subtle) variations between properties.

26. Whilst certainly different in some respects, the part two storey, part single storey side and rear extension respects the overall scale of the host dwelling. The height follows the stepping down of the roof across the terrace of which the property forms a part, albeit the plane of the roof is on a different orientation. The external materials used are entirely consistent with and sympathetic to the host property.

27. In my planning judgment, the part two storey, part single storey side and rear extension contributes positively to the identity and local distinctiveness of Staidburn Drive, notwithstanding the differences in design and concept. The development therefore does not harm the character and appearance of the area. For that reason, there is no need for me to consider any other benefits that might accrue from the development in terms of providing additional accommodation.

28. The Council has not suggested any conditions to be imposed in the event that planning permission is granted, and none occur to me.

29. I conclude that the development does not conflict with Policy DM29 of the Local Plan for Lancaster District – Part 2 Development Management Plan Development Plan Document which, amongst other things, states that development should contribute positively to the identity and character of the area through good design, having regard to local distinctiveness, appropriate siting, layout, palate of materials, separation distances, orientation and scale.

30. I further conclude that the development broadly accords with the Council's Householder Design Guide which provides, amongst other things, that the form of an extension should respond to that of the house so that the extension is well proportioned.

31. I therefore conclude that planning permission ought to be granted for the matters stated in the notice.

Conclusion

32. For the reasons given above, I conclude that the appeal should succeed on ground (a). I shall grant planning permission for the erection of a part two storey, part single storey side and rear extension for use in connection with the use of the property as a whole as a House in Multiple Occupation (HMO) as described in the notice as corrected. It follows that the appeals on grounds (f) and (g) do not fall to be considered.

Formal Decision

33. It is directed that the notice is corrected by:

    - in paragraph 3, deleting the words 'for the use as a HMO' and substituting there instead the words 'for use in connection with the use of the property as a whole as a House in Multiple Occupation (HMO)'.

34. Subject to that correction, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a part two storey, part single storey side and rear extension for use in connection with the use of the

property as a whole as a House in Multiple Occupation (HMO) at 46 Slaidburn Drive, Lancaster LA1 4QX as shown on the plan attached to the notice.

Paul Freer
INSPECTOR