



Appeal Decisions

Site visit made on 25 February 2026

by **R Hitchcock BSc DipCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23rd March 2026

Appeal A Ref: APP/T2350/C/25/3365109

Land at 4a Wiswell Lane, Whalley, BB7 9AF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr John Atherton against an enforcement notice issued by Ribble Valley Borough Council.
 - The notice was issued on 3 April 2025.
 - The breach of planning control as alleged in the notice is '(a) Without planning permission, carried out the erection of an unauthorised dwellinghouse and decking, (b) Without planning permission, a material change in the use of the land consisting in the unauthorised use of the building as a dwellinghouse and the use of other parts of the land for incidental purposes.
 - The requirements of the notice are to: Remove the dwellinghouse and decking and all materials from the site and restore the land to its previous condition.
 - The period for compliance with the requirements is: 4 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(d) and (g) of the Town and Country Planning Act 1990 (as amended).
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Appeal B Ref: APP/T2350/W/25/3365028

Land adjacent to 4a Wiswell Lane, Whalley, BB7 9AF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr John Atherton against the decision of Ribble Valley Borough Council.
 - The application Ref is 3/2024/0851.
 - The development proposed is 'Retrospective planning application for the retention of a single dwelling house and associated parking, soft and hard landscaping and associated works'.
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Decisions

Appeal A

1. It is directed that the enforcement notice is varied by the deletion of 4 months and its substitution with 6 months as the time for compliance. Subject to the variation, the enforcement notice is upheld.

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. As set out above there are two appeals relating to the same site and development. Appeal A is concerned with an enforcement notice (the Notice) relating to both the construction of the dwelling and attached decking, and the associated residential use of the plot. Appeal B is against the refusal of a retrospective planning application for the retention of the development.

Appeal A – Ground (d)

4. An appeal on ground (d) is that, at the date when the Notice was issued, no enforcement action could be taken in respect of any such breach. The burden of evidence lies with the appellant. To be successful on this ground it would be necessary for the appellant to demonstrate that any relevant period of immunity has been achieved. The test is on the balance of probability – that is to say whether the claim is more likely than not to have occurred.
5. For operational development substantially completed before 25 April 2024, the amendment¹ of s171B(1) extending the time limits for enforcement action from 4 years to 10 years does not apply. The relevant period is 4-years on, or prior to, the 3 April 2025, being the date on which the Notice was issued.
6. If the building was demonstrated to be initially used for purposes other than as a dwellinghouse prior to a change of use for that purpose then the relevant time limit is also four years (s171B(2)), otherwise, if constructed and first used as a dwellinghouse, the time limit for enforcement expires after 10 years (s171(3)).

Substantial completion

7. In conjunction with the appellant's appeal statement, the principal evidence stems from his responses to a Planning Contravention Notice (PCN), a statement supporting an application for a certificate of lawful development² (LDC) in 2025, including a statutory declaration, and evidence reported by the Council.
8. On 5 October 2022, the Council served a PCN under s171C of the Act. It compels a recipient to provide information about potential breaches of planning control on land identified within it. As the PCN highlighted, it is an offence to fail to comply or give information which is false or misleading. It is a matter of significant gravity.
9. In response to the PCN, the appellant duly confirmed that the structure was completed in October 2021 and was thereafter occupied by him on an ancillary basis. However, this directly conflicts with his application for an LDC in 2025 – particularly a signed statement made under the Statutory Declarations Act 1835 which included the claim that 'Windows, doors and internal fittings (kitchen and bathroom) were installed by the end of December 2020'.
10. The later LDC claim runs contrary to the Council's determination which reported that in December 2020 photographs of the cabin held by them showed it without cladding, windows or doors. Moreover, the appellant has not challenged the Council's finding that windows were only installed on 24 February 2021.
11. While evidence in relation to windows is not before me, photographs of the kitchen and bathroom, dated 12 and 22 March 2021 respectively, show the incomplete installation of the kitchen sink, bathroom basin and shower unit. Wall and floor treatments and electrical fittings also appear to remain incomplete.
12. Following *Sage*³, a building could not be regarded as substantially completed for the purposes of s171B(1) if there are outstanding works, even if they affect only the

¹ by the Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024

² Ref. 3/2025/0074

³ *Sage v SSETR & Maidstone BC* [2003] UKHL 22

interior. In referencing *Gravesham*⁴, the appellant accepts that if facilities have not yet been installed it is unlikely that the building is substantially complete. The unfinished works are in direct contrast to the appellant's signed statement of 21 January 2025. This limits the weight to its claim. Further, contrary to the appellant's assertion, the Council's pre-application⁵ advice provided in January 2021 stating that the accommodation would be 'ancillary' in nature does not confirm the building's substantial completion.

13. Another declaration was made for the appellant when submitting application 3/2024/0851 for the retention of the building. It states that the works were complete on 30 June 2020. In the light of the foregoing, this only adds to the degree of inconsistency in the appellant's evidence.
14. In the face of the above hopelessly ambiguous claims, and the absence of precise details to demonstrate that the works were fully completed by 3 April 2021, I find the appellant has failed to discharge the evidential burden in relation to the time of substantial completion of the building.

Use

15. The evidence also shows that there is a discrepancy between the appellant's PCN response in relation to the date of first use of the cabin, and that stated in support of the LDC claim of commencement from the end of February 2021. According to the Council, an email submitted on the appellant's behalf, dated 24 March 2024, explained that the PCN testimony was a misunderstanding by the appellant. It stated that occupation from January 2021 until October 2021 was on an *ad-hoc* basis until his son moved into 4a Wiswell Lane (the appellant's former residence) in the October. Although that email is not before me, the appellant does not dispute the Council's reference to it.
16. In essence, the email claim is consistent with the Council's pre-application advice in January 2021 for a two-part enquiry relating to a 'single dwelling/annex'. As the Council had previously advised that the structure could not be considered a 'caravan' as originally asserted by the appellant, the advice clarified that the use of a structure containing primary living accommodation (bedrooms, bathrooms, kitchen, for example) as 'extra living accommodation' could not be 'incidental' for the purpose of considering the appellant's permitted development rights. However, it confirmed that an annex would be ancillary to the occupation of no.4a ('the main household') if used as set out in the PCN response.
17. Those matters give weight to an initial period of ancillary use. This is also consistent with the appellant's earlier position that the structure was within the definition of a caravan and did not require planning permission on the basis it was not development if sited within the curtilage of his house at no.4a and used on an ancillary basis⁶.
18. The LDC declaration affirms that the appellant moved into a cabin 'always intended and occupied as a residential property' at the end of February 2021. That appears to directly contradict any earlier claimed ancillary status. Moreover, no explanation for the discrepancy between a January *ad hoc* or late February 2021 full time occupation is provided.

⁴ *Gravesham BC v SSE & O'Brien* [1982] 47 P. & C.R. 142

⁵ RV/2020/ENQ/00108

⁶ Email to Council 18 August 2020

19. Notwithstanding, neither scenario assists the appellant. If the cabin was constructed as an independent dwelling as stated in the LDC application, no material change of use of an existing building would have occurred to engage the time limit at s171B(2). Rather, a material change of use of the land by the formation of a new functionally independent and physically separate planning unit arising from a second primary residence (additional to no.4b) would engage the time limit specified in s171B(3). The applicable time limit in that circumstance would be 10 years.
20. In the alternative, the evidence seems to suggest a new planning unit was probably created in October 2021 as a consequence of changing between ancillary and independent residential uses. This is because the fixtures and fittings were not complete and installed by 22 March 2021 to facilitate independent use and there is little to demonstrate how independent occupation might otherwise have been achieved before then. Even if full-time occupation occurred shortly after that date, the appellants evidence does not demonstrate that, nor that it persisted continuously without significant interruption for four years or more prior to the issue of the Notice.
21. Again, in the absence of precise and unambiguous evidence, I find that the appellant has not discharged the evidential burden and the time for enforcement had not been demonstrated to have expired by the date the Notice was served.
22. I acknowledge that the Council have construed the inconsistencies in information provided by the appellant as evidence of 'positive deception' such that the time limits for enforcement set out in s171B are disengaged. However, given my finding that neither the operational development nor the use of the building have been demonstrated as being beyond the respective time limits for enforcement as set out in s171B (1), (2) or (3), and an enforcement notice has been served to effectively 'stop the clock' on the time limits for enforcement, it is unnecessary to consider that matter further.
23. For the reasons above, the appeal on ground (d) fails.

Appeal A – Ground (g)

24. This ground of appeal is that the period for compliance specified in the notice falls short of what should reasonably be allowed. The appellant seeks an extension to six months to allow him to secure alternative accommodation.
25. My role here is to balance the public interest in securing expeditious compliance with the Notice against the private interest bound up in the development subject to it. In so doing, I must assume that the use of the land subject to the Notice causes the harm alleged in the reasons for issuing the Notice.
26. I am mindful that the enforcement notice, which will be upheld, will interfere with the appellant's rights under Article 8 of the Human Rights Act 1998 (HRA). Article 8 of the HRA states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest, subject to the concept of proportionality.
27. In enforcement appeals, human rights considerations come into play on ground (g) as the decision maker has some discretion. The Council's decision to enforce was legitimate and in the public interest, given the harm caused by the development.

However, to my mind, the Notice does not afford the appellant reasonable time to look for alternative accommodation and arrange for the transfer of possessions and the removal of the cabin thereafter. To allow that to happen, I consider that a period of six months should be allowed, which would be proportionate.

Appeal A Conclusion

28. For the reasons above, I conclude that the period for compliance with the Notice falls short of what is reasonable. I shall vary the enforcement notice prior to upholding it. The ground (g) appeal succeeds to that extent.

Appeal B – the refusal of planning permission

Main Issues

29. The main issues are:

- the effect of the development on the character and appearance of the locality
- highway safety.

Reasons

Character and appearance

30. The site is located in an enclave of large, individually designed, detached, residential buildings within a leafy area of the Whalley settlement. While vernacular buildings are of stone construction with stone slab or slate roofs, the locality includes later examples of brick and rendered single and two-storey dwellings. Within the area of development served by a loop road off Wiswell Lane, the main buildings appear in spacious green settings despite plot size variation likely as a result of their subdivision.
31. The appellant states that the design and materiality of the building are of a high standard. However, in stark contrast to the masonry-built dwellings characteristic of the area, the building is predominantly constructed in timber with a corrugated sheet roof. It appears reflective of a utilitarian rural building. The simple form and limited detailing lack the architectural or visual interest of the nearby buildings.
32. Although the appellant highlights that the timber elevations reflect materials approved for the dwelling on adjacent land to the south, little detail of that development has been provided in evidence to enable me to draw comparisons or otherwise, particularly as to the extent such materials might be used or how they would appear.
33. On the appellant's assertion that it had initially been constructed as an ancillary structure, the dwelling neither reflects the typical scale or proportionality to the (then) principal building at no.4a when compared to other primary/secondary building relationships of the area. While I have little doubt that the plot ratio of building to open space lies within the range of examples found locally, the building sits close to the plot boundaries and provides a poorly considered parking and turning area.
34. In conjunction with its siting and the cordoning of no.4a, any requirement to further enclose the main external amenity spaces to provide privacy run contrary to the characteristic spacious open setting of buildings in the enclave. Accordingly,

compared to other buildings locally, the cabin neither reflects their scale, massing, style, detailing or layout. It appears incongruous in its setting.

35. For those reasons, I find the development conflicts with Policy DMG1 of the Ribble Valley Core Strategy 2008-2028 [2014] (the RVCS) as it requires development to be of a high standard of design that responds to its context and is sympathetic in scale, massing, style, features and materials to protect the character and visual amenity of locations.

Highway safety

36. Access to the site is via a shared driveway from Wiswall Lane. The drive includes part of a loop road serving other residential properties and a single-track arm serving nos. 4, 4a, the cabin and 4b, which is currently under construction. The status of a nearby static caravan also served by the track is unclear. At the south-western entrance from Wiswell Lane, the opening is flanked by curved splay walls terminating at ornate stone pillars. The access is considered by the Council's highways advisor to be of insufficient width to allow vehicles to pass with potential for an increase in adverse effects on highway safety at the entrance and along the shared internal route.
37. There is no dispute between the main parties that the development can accommodate parking for two vehicles in accordance with standards adopted by the Council. Although the appellant's highway impact assessment does not account for the unit under construction, the increase in traffic arising from that and the additional dwelling would be limited.
38. However, while the appellant's swept path turning analysis purports to demonstrate a theoretical ability to turn cars within the site, I have significant doubt that turning would be practical without significant risk of damage to vehicles and/or surrounding structures. This is because vehicles would need to almost touch the building, an access step, a boundary and/or another parked vehicle in order to leave in a forward gear.
39. Given the risk to even medium-sized cars, and that the constrained extents of the appeal site provides a lack of turning opportunities for larger vehicles such as modern family cars or delivery vans, for example, the independent use of the site is, in my view, likely to necessitate significant reversing manoeuvres along the access route. This includes the route past neighbouring homes and the internal junction.
40. The appellant may currently have options to utilise land formerly occupied by him to enable turning and forward vehicular movement past neighbouring properties and on exit onto Wiswell Lane. However, there is little to demonstrate that those options could be relied upon for the duration of the development or alternatively be provided elsewhere within land under the appellant's control. In the absence of confirmed use of the remainder of the loop road or land about it, there is little to suggest those circumstances could be mitigated.
41. Limited additional forward movements onto and from Wiswell Lane are unlikely to materially affect highway safety. This is because of the existing level of user intervisibility and good forward visibility for approaching traffic on the 30mph road. However, any significant reversing manoeuvres within the enclave, or through the

south-western access from the site, would significantly prejudice highway safety and fail to achieve safe and suitable access to and from the development.

42. In support of the scheme the appellant has submitted a technical note which highlights that the site lies close to services and facilities accessible by a range of transport modes. It demonstrates general compliance with Key Statement DMI2 and Policy DMG3 of the RVCS, which promote sustainable locations to minimise the use of private vehicles and encourage sustainable modes of transport.
43. However, the appellant acknowledges a previous refusal for two residential units (including no.4b) on the site. This encompassed reference to policy DMG1 of the RVCS and the Framework's requirement for safe and suitable access to development. Furthermore, his submissions seek to address the highway safety issue referred to in the Council's Decision Notice. Accordingly, I am satisfied that no injustice arises from my consideration of the requirements set out in the alternative policy in the RVCS or the overarching Framework, which is a material consideration in planning decisions.
44. For the reasons set out above, I find the appellant has failed to demonstrate that safe access has or could be provided to serve the development for which planning permission is sought. The development conflicts with the development plan and the Framework as they seek safe and suitable access.

Other Matters

45. I note that the development may not adversely affect living conditions in the locality and has been constructed with sustainability in mind. It would meet nationally described space standards. In conjunction with an on-site pond, landscaping could deliver biodiversity benefits; however, the extent of those benefits is unqualified. As general requirements of national and local planning policies and Building Regulations, these are benefits of limited weight in favour of the development.
46. I recognise that the dwelling would allow the appellant to reside close to other family members. However, there is little to suggest that this could not be achieved by other means, including policy-compliant forms of development. Moreover, as those circumstances would probably be outlasted by the development, they are not a strong justification for development designed to last tens of years.
47. The appellant asserts that the Council is unable to demonstrate a 5-year housing land supply, such that the 'tilted balance' in favour of the development should be engaged in accordance with Paragraph 11 of the Framework. In that respect, the appellant refers me to a supporting statement made in conjunction with an application elsewhere. However, no substantive evidence to support that claim is provided. In contrast, the Council's 5 Year Housing Land Supply document (May 2025) confirms a supply of 6.2 years. This was not subsequently contested by the appellant.
48. Even if that is wrong, footnote 9 and paragraph 115 b of the Framework requiring safe and suitable access to the site for all users would provide a significant reason for outweighing the limited benefits of a single residential unit on the site.

Appeal B Conclusion

49. The development harms the character and appearance of the area and the appellant has failed to demonstrate that adequate safe and suitable access could

be provided. The development conflicts with the development plan taken as a whole. There are no material considerations, including the Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that Appeal B should be dismissed.

R Hitchcock

INSPECTOR