



Appeal Decision

Site visit made on 26 February 2026

by John Braithwaite BSc(Arch) BA(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 March 2026

Appeal Ref: APP/E2340/C/25/3367890

Land adjacent Pasture Barn East, Pasture Lane, Barrowford, Nelson BB9 6QX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
 - The appeal is made by Mr Gregory Farnell against an enforcement notice issued by Pendle Borough Council.
 - The notice was issued on 16 May 2025.
 - The breach of planning control as alleged in the notice is the material change of use of the land from agricultural to mixed use of agricultural and recreational with the siting of structures for human habitation.
 - The requirements of the notice are: 1) Remove the mobile structures, wooden decking, fire pits, logs and other items associated with that; 2) Cease using the land for the storage of mobile structures and decking and activities associated with recreation; and 3) Cease using the land for any purpose other than agriculture.
 - The period for compliance with the requirement is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (c), (d), (f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The enforcement notice is varied by:
 - a. The deletion of text in section 3 of the notice and the substitution instead of 'The material change of use of the land from agriculture to a mixed use of agriculture and recreation';
 - b. The deletion of text in step 1 in section 5 of the notice and the substitution instead of 'Remove the mobile structure, wooden decking, fire pits, logs and other items associated with recreation';
 - c. The deletion of 'storage of mobile structures' in step 2 in section 5 of the notice and the substitution instead of 'siting of mobile structure'.
2. Subject to the variations the appeal is dismissed and the enforcement notice is upheld.

Reasons

The ground (b) appeal

3. The Appellant's land is three fields used for grazing livestock. Close to the north-west boundary of the land is a shepherd's hut on wheels. Alongside the mobile hut, but not attached to it, is raised decking with steps down to ground level. Logs are stored under the decking and nearby to the hut is a small pond fed by a stream and a fire pit.

4. The alleged breach of planning control refers to 'the siting of structures for human habitation'. The shepherd's hut has no water or electricity supply, has no sanitary accommodation, has no kitchen facilities other than a double gas ring, and has only a small wood burning stove to provide heating. The hut is not capable of being inhabited and the Council has not provided any evidence to show that it has been used 'for human habitation'. The siting of a structure for human habitation has not occurred, as a matter of fact. The alleged breach of planning control is, principally, the change of use from a single use to a mixed use; the siting of the hut and other items are ancillary to the added recreational use. So, without causing prejudice to either main party, the breach of planning control shall be varied to be 'the material change of use of the land from agriculture to a mixed use of agriculture and recreation'.

5. The first and second steps of the enforcement notice refer to 'mobile structures'. The only mobile structure on the land is the shepherd's hut so the two references to 'structures' is incorrect. The steps shall be varied to refer to 'structure' rather than 'structures' without causing any prejudice.

6. The second step requires the cessation of the 'storage of mobile structures' whilst the enforcement notice alleges, though not as varied, the 'siting of structures'. Storage and siting are different uses of land and, in this case, the shepherd's hut has been sited not stored. The second step shall be varied to refer to 'siting' rather than 'storage' without causing any prejudice.

7. The Appellant claims that "There has been no recreational use of the land..." and that the hut "...was sited for the purposes of being a place for shelter and welfare, and store, for the Appellant to use whilst working on the land for agricultural purposes". There is no evidence that the hut has been used as a place of shelter and welfare by the Appellant. The Council has provided a photograph of the interior of the hut and, at that time, it contained a sofa, an armchair, several other chairs, several rugs and a table. The contents of the hut are not what you would expect for a place of shelter and welfare for a single person, but could be expected if it were in use for recreation.

8. An exterior photograph of the hut, before the installation of the decking, shows there to be, around the hut, a pond under development, a fire pit, a chimenea, a picnic table and a seat cut into the trunk of a fallen tree. Such items are what would be expected if the land around the hut was in use for recreation purposes. Evidence indicates that part of the land, and the enforcement notice does not need to identify which part of the land, has been used for recreation. The alleged breach of planning control, as varied, has occurred, as a matter of fact.

9. The first step in section 5 of the enforcement notice ends with "...associated with that". It is not clear what 'that' is referring to but its replacement with 'recreation' would make sense and would be the same ending as in step 2. This necessary variation will be included in those to be made to the notice.

10. The ground (b) appeal succeeds in part as set out above. The enforcement notice has been varied accordingly.

The ground (c) appeal

11. The shepherd's hut is not, as concluded above, "...incidental to the primary use of the agricultural land"; the hut is associated with a recreation use of part of the land. The decking is operational development but, principally, provides a means of access to the hut and is used in association with the recreation use of the land; it serves no

agricultural purpose. The recreation use is separate to the primary agricultural use of the land, is not a *de minimis* use, or an ancillary or incidental use. There has been a change of use of the land under and around the hut (how the Council became aware of this use is not relevant) and, as a matter of fact and degree, the mixed use of the land is a material change of use.

12. Section 55(1) of the Act states that the making of any material change in the use of land is “development”. Section 57(1) of the Act states that planning permission is required for the carrying out of any development of land. Planning permission is therefore required for the material change in use of the land from agriculture to a mixed use of agriculture and recreation, which has not been granted. The development, in addition, is not permitted under the provisions of The Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO).

13. Planning permission has not been granted for the material change of use of the land and the material change of use of the land is not development permitted under the GPDO. The ground (c) appeal thus fails.

The ground (d) appeal

14. The ground (d) appeal relates to the timber decking. To be immune from enforcement action through the passage of time the decking must have been substantially complete more than four years before the date of issue of the enforcement notice; before 16 May 2021. The onus of proof is on the Appellant who must provide sufficient precise and unambiguous evidence to justify a conclusion, on the balance of probability, that the decking was substantially complete before 16 May 2021.

15. The Appellant’s Agent has stated that “The area of timber decking...is operational development having been installed in April 2021” and “Appendix 5 is a dated photograph taken of the shepherd’s hut (including the area of decking) completed”. The photograph is dated 5 August 2022. The date of the photograph, which purports to show the completed decking, contradicts the claim that it was installed in April 2021. The Appellant has not provided sufficient precise and unambiguous evidence to justify a conclusion, on the balance of probability, that the decking was substantially complete before 16 May 2021. The ground (d) appeal thus fails.

The ground (f) appeal

16. The varied breach of planning control has occurred and must be remedied. The steps required by the enforcement notice are wholly necessary to ensure that the land is returned to its lawful use for agriculture. The ground (f) appeal thus fails.

The ground (g) appeal

17. It was noted at the site visit that nearby to the shepherd’s hut is an alternative place of shelter, the proximity of a public footpath to the land is not relevant, and the compliance period will be in spring rather than winter. Three months is a reasonable period to tow the hut from the land, to take down and remove the timber decking, and to remove other recreational items from the land. The ground (g) appeal thus fails.

John Braithwaite

Inspector