



Appeal Decision

Site visit made on 26 February 2026

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

an Inspector appointed by the Secretary of State

Decision date: 02 March 2026

Appeal Ref: APP/E2340/C/25/3367056

Land to the rear of 19 Hawley Street, Winewall BB8 8BY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Joe Mortiboy against an enforcement notice issued by Pendle Borough Council.
 - The notice was issued on 12 May 2025.
 - The breach of planning control as alleged in the notice is the erection of a single storey structure on green belt land.
 - The requirement of the notice is 1) Demolish the single storey structure and permanently remove from the land, all materials used in the formation of the structure.
 - The period for compliance with the requirement is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (d) and (f) 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. The appeal is dismissed.

Preliminary matters

2. The Appellant, in his comments on his ground (d) appeal, refers to the single storey structure being "...within my permitted development rights". This a matter that falls to be considered under ground (c). A ground (c) appeal will be considered.

Reasons

The ground (c) appeal

3. A ground (c) appeal is made when an Appellant claims that the breach of planning control either has planning permission, which it does not in this case, or is development permitted under The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). Under Class E of Part 1 of Schedule 2 of the GPDO, provision within the curtilage of a dwellinghouse of a building required for a purpose incidental to the enjoyment of the dwellinghouse is permitted development.
4. 19 Hawley Street is a mid-terraced two storey dwelling with a small front garden and a small rear yard. To the rear of the terrace is a track which provides vehicular access to the rear yards, and beyond the track is a grassed field. Owners of a few of the thirteen properties that comprise the terrace have, in the past, acquired parts of the field and use them for purposes incidental to the residential use of the dwellinghouse. One part of the field is associated with the appeal property.
5. To be permitted development the single storey structure must have been erected within the curtilage of the dwelling. The curtilage of a dwelling is enclosed land

adjacent to and intimately associated with the dwelling. From this definition the curtilage of the appeal dwelling does not, as it does not for any of the other twelve dwellings in the terrace, extend beyond the rear yard. The appeal land is not adjacent to or intimately associated with the dwelling and is not part of its curtilage.

6. The single storey structure that is the subject of the enforcement notice is not within the curtilage of the dwelling and is not therefore development permitted under Class E of Part 1 of Schedule 2 of the GPDO. The ground (c) appeal thus fails.

The ground (d) appeal

7. A ground (d) appeal is made when an Appellant claims that the breach of planning control is immune from enforcement action through the passage of time. To be immune the single storey structure that is the alleged breach of planning control must have been substantially complete more than four years prior to the date of issue of the enforcement notice. There may have been structures on the land over the last 70 years but these do not contribute to whether the single storey structure was substantially complete more than four years before the date of issue of the notice.

8. Prior to enforcement action the Appellant submitted a planning application for retention of the structure. On the application form he stated that the work to build the structure was started on 21 May 2020 and completed on 31 August 2021. In an aerial photograph dated 23 April 2021, provided by the Council, the structure appears to be incomplete whilst in another dated 6 March 2023 the structure is complete. The evidence of the photographs corresponds with the completion date on the application form. There is no reason to doubt that the structure was completed on 31 August 2021.

9. The structure was completed on 31 August 2021 after the date that was four years before the date of issue of the enforcement notice, 12 May 2021. The structure is not therefore immune from enforcement action. The ground (d) appeal thus fails.

The ground (a) appeal

10. The appeal site is in the Green Belt. The main issues are: first, whether the single storey structure is inappropriate development in the Green Belt; second, the effect of the retention of the structure on the openness of the Green Belt; and third, whether the harm caused by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations such that very special circumstances exist.

The first issue – inappropriateness in the Green Belt

11. National policy on Green Belts is set out in the National Planning Policy Framework (NPPF). Paragraph 154 of the NPPF states that development in the Green Belt is inappropriate unless it is for, amongst other things, the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The structure, which is in use as a garage, replaced a garage. But the new garage, in terms of its footprint and from information provided with the previous application, is about three times larger than the one it replaced. The new garage is, as a matter of fact, materially larger than the one it replaced, and is therefore inappropriate development in the Green Belt.

The second issue - openness

12. Paragraph 142 of the NPPF states that “The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential

characteristics of Green Belts are their openness and permanence. The structure, given that it is three times larger than the garage it replaced and its permanence, has reduced the openness of the Green Belt, both visually and spatially, and has undermined the fundamental aim of Green Belt policy.

The third issue – other considerations

13. NPPF paragraph 153 states that “Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations”. The structure is inappropriate development and does harm the openness of the Green Belt. The Appellant has not brought forward any material considerations to outweigh the harm by reason of inappropriateness and loss of openness. Very special circumstances do not therefore exist.

Conclusion on ground (a)

14. The single storey structure is inappropriate development and does harm the openness of the Green Belt, and very special circumstances do not exist. The ground (a) appeal thus fails and planning permission is withheld for the erection of a single storey structure on Green Belt land.

The ground (f) appeal

15. Reducing the size of the building by 34% would not remedy the harm caused by the structure. The only remedy, in the circumstances of this case, is the requirement set out in section 5 of the enforcement notice. The ground (f) appeal thus fails.

John Braithwaite

Inspector