



Appeal Decision

Site visit made on 26 June 2026

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 June 2026

Appeal Ref: APP/R2330/C/24/3357117

Land at Wood Street, Church, Accrington, BB5 6PF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Nisar Hussain against an enforcement notice issued by Hyndburn Borough Council.
 - The notice was issued on 13 November 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the laying of concrete across the Land without adequate drainage provision.
 - The requirements of the notice are to i) remove the concrete that has been laid on the Land, and (ii) remove any resultant rubbish and debris from the Land, and (iii) return the Land to its previous condition prior to the breach of planning control.
 - The period for compliance with the requirements is two calendar months from the date on which the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) 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. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matter

2. A draft National Planning Policy Framework 'Plan-making and national decision-making policies' was issued by the Government for consultation on 16 December 2025 (Consultation Draft Framework). I afford the Consultation Draft Framework limited weight as a material planning consideration. This is relative to the published National Planning Policy Framework 2024 (the Framework) to which I afford full weight as a material planning consideration.

Ground (a) appeal and the deemed planning application

Main Issues

3. The appeal made on ground (a) of section 174(2) of the Act is that planning permission ought to be granted in respect of the breach of planning control alleged in the notice. I have considered the reasons for issuing the notice and the main issues for consideration are i) whether the development preserves or enhances the character or appearance of the Church Canalside Conservation Area, and (ii) whether the land has suitable drainage thereby ensuring that harm is not caused to surrounding land from surface water run-off.

Church Canalside Conservation Area

4. There is no dispute between the main parties that prior to the breach of planning control occurring, the land was essentially overgrown with vegetation. The evidence is that the land was in a state of neglect. There is no evidence to indicate that the land was historically finished in uneven concrete, and it is noteworthy that in this regard the appellant has not appealed on ground (b) of section 174(2) of the Act, i.e., that the breach of planning control has not occurred. The evidence is not, however, precise and unambiguous in terms of how the land was precisely finished prior to the breach of planning control occurring given its covering with vegetation. There is one representation which states that it was ‘cobbled’, but this is refuted by the appellant. The comments from Growth Lancashire (Conservation) are that *‘from viewing earlier views on Google Maps, it is evident that underneath the previous vegetation there appears to be some form of hardstanding material most likely tarmac; however, I cannot fully determine this from the images available’*.
5. The land falls within the Church Canalside Conservation Area (CA) and specifically the ‘Blackburn Road Gateway’ character area. The significance of the CA as a whole relates to waterpower and the reserves of coal that sparked industrial growth and includes several historic/traditional buildings and features which are typical of the industrial revolution. While there is a combination of traditional and more modern buildings in this part of the CA, the more traditional buildings are predominantly finished in stone or brick and many are imposing in scale, have pleasing fenestration/architectural details, and are aligned closely with the highway edge. Paragraph 212 of the Framework states that great weight should be given to the asset’s conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
6. Where roads and footpaths do exist, they tend to be finished in tarmacadam thereby ensuring some design consistency to the overall pattern and character of development in the area. The concrete hardstanding is significant in extent and can be seen from Blackburn Road by passers-by. While there are gates at the entrance from Blackburn Road, these are low in height and so the appeal land can be seen from this street. The land can also be seen when the gates are open. I acknowledge that the land has been cleared of overgrown vegetation and other items. Consequently, it now means that it can be used more efficiently for business/employment purposes and with associated economic benefits. The evidence is that the concrete hardstanding has been used in connection with the storage of tyres, although I must emphasise that the appeal notice relates to operational development and not to a material change of use of the land.
7. I afford the above public benefits some positive weight in the overall planning balance. However, owing to the stark colour and uneven concrete surface of the land, I find that it has caused less than substantial harm to the significance of the CA. In this case, the use of a smooth tarmacadam finish, which blended with the surface used on Blackburn Road and elsewhere in most of this part of the CA, would have been less visually intrusive and harsh when experienced by passers-by. I do not know why a concrete finish was chosen as distinct from a more sensitive visual solution such as either stone cobbles or even tarmacadam. I find that the concrete visually competes with the character of the traditional buildings, particularly when seen against the brick front facades on Blackburn Road. Overall, the development fails to assimilate well within its overall visual context.

8. In the context of paragraph 215 of the Framework, I conclude that the scale of harm caused to the significance of the CA is at the lower end of the spectrum of less than substantial harm. However, the identified public benefits are not sufficiently weighty in this case to outweigh the identified public benefits. Indeed, such public benefits could still have arisen by applying a more sensitive visual finish to the land. I therefore conclude that the development does not accord with the conservation and design requirements of policies Env 6 and Env7 of the Hyndburn Local Development Framework Core Strategy 2012 (CS), policy DM26 of the Hyndburn Development Management DPD 2018, and chapter 16 of the Framework.

Drainage

9. In response to the issued notice, and as part of the ground (a) appeal, the appellant has submitted a drainage strategy. The Council state that the drainage strategy has been reviewed by its Principal Engineer and is satisfactory. Despite this finding, it continues to be concerned about whether all the drainage facilities, including an underground attenuation area, are already fully in place. The Council also comments that no drainage areas are shown to the front of the site and where there may be possible flooding immediately adjacent to neighbouring premises.
10. While the evidence suggests that some drains have been laid, I do not know if all the required drains and the attenuation area are currently in place. However, there is no indication from the Council that it would not be possible to ensure adequate drainage on the site subject to facilities being provided on the land in accordance with the submitted drainage strategy. Subject to imposing a condition which required the submission of a detailed drainage scheme for approval, thereby enabling a competent engineer to also check the extent of compliance on the land now, I conclude that the evidence is that the development would be capable of according with the flood risk mitigation and amenity requirements of policy Env 7 of the CS, and paragraphs 135(f) and 181 of the Framework.

Other Matter

11. I note the representation made by the occupier of Jubilee Works and the claim made about flooding and damage to the building/trees under his control. Possible damage to third party land/property is a separate civil/private matter that would need to be considered outside of this appeal.

Planning balance and conclusion

12. I have concluded that the evidence indicates that it is likely that the development would be capable of being made acceptable from a surface water run-off and associated flooding point of view subject to the imposition of a condition. However, less than substantial harm has been caused to the character and appearance of the CA. In this regard, the development neither preserves nor enhances the character or appearance of the CA. This is a matter of overriding concern and is not outweighed by any other planning considerations including those which amount to public benefits. Therefore, the ground (a) appeal fails.

Ground (f) appeal

13. The appeal on ground (f) is made on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is

necessary to remedy any breach of planning control or to remedy any injury to amenity which has been caused by any such a breach.

14. The claim made by the appellant is that the access lane has long existed and that the steps required are therefore excessive. This is not a matter that is relevant to the consideration of a ground (f) appeal. The purpose of the notice is to remedy the breach of planning control. In this regard, the requirement to remove the concrete from the land and to restore it to its previous condition is not an excessive requirement as it remedies the breach of planning control.

15. For the above reasons, I conclude that the ground (f) appeal fails.

Ground (g) appeal

16. The appeal on ground (g) is made on the basis that the period specified in the notice in accordance with section 173(9) of the Act falls short of what should reasonably be allowed.

17. The compliance period in the notice is two calendar months. The appellant requests six months so that he can raise necessary funds to enable the requirements to be carried out, and so that the alternative arrangements can be carried out from a business use point of view.

18. The appellant has not submitted any objective information relating to financial hardship, and it is not clear why six months as distinct from two months is needed to make alternative business arrangements. In my judgement, a period of two calendar months to comply with the requirements of the notice strikes a reasonable and proportionate balance between affording the appellant time to remove the breach of planning control and making alternative business arrangements, while also removing the harmful development in the public interest.

19. I therefore conclude that the ground (g) appeal fails.

Conclusion

20. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

D Hartley

INSPECTOR