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## Appeal Decision

Site visit made on 24 July 2026

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

an Inspector appointed by the Secretary of State

Decision date: 27 July 2026

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**Appeal Ref: APP/Z2315/C/25/3376788**

**Land at Cold Soil Ruins, Kebs Road, Off Long Causeway, Todmorden, Lancashire, OL14 8SD**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
  - The appeal is made by Mr Christian Hoyle against an enforcement notice issued by Burnley Borough Council.
  - The notice was issued on 25 November 2025.
  - The breach of planning control as alleged in the notice is without planning permission, the erection of a building in the approximate position marked with an 'X' on the attached plan.
  - The requirements of the notice are to (a) demolish the building and remove all related materials including hardstanding and foundations, plus materials imported to the site.
  - The period for compliance with the requirement is six months of the date the notice takes effect.
  - The appeal is proceeding on the grounds set out in section 174(2)(b), (d) and (f) of the Town and Country Planning Act 1990 (as amended) (the Act).
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### Decision

1. The appeal is dismissed and the enforcement notice is upheld.

### Preliminary Matters

2. While the appellant did not tick ground (f) on his appeal form, his statement of case nonetheless includes reasoning in respect of a ground (f) appeal. The Council has responded to the appellant's ground (f) appeal claims in its statement of case. I have therefore determined this appeal based on grounds (b), (d) and (f) of section 174(2) of the Act being pleaded by the appellant.
3. A notice was issued for the same land/building on 30 March 2023. This was the subject of an appeal<sup>1</sup> made under grounds (a), (b), (f) and (g) of section 174(2) of the Act (October 2024 Appeal Decision). The Inspector quashed the notice after considering the ground (b) appeal, concluding that the alleged breach of planning control was not a dwellinghouse on the date of the issued notice and hence the alleged development had not occurred. The breach of planning control for this appeal refers only to the erection of a building (i.e., operational development). There is no reference to the use of such an erected building.

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<sup>1</sup> Appeal reference APP/Z2315/C/23/3320978 – breach of planning control described as 'without planning permission and within the last four years, the carrying out of the construction of a new dwelling on the site of a former ruinous dwelling on the land known as Cold Soil Ruins'.

### Ground (b) appeal

4. An appeal made on ground (b) is that the matters comprising the alleged breach of planning control have not occurred. The onus is on the appellant to make a case on the legal grounds of appeal.
5. The undisputed evidence indicates that construction commenced in respect of the appeal building sometime in 2021. Aerial photographs in the Council's statement of case demonstrate that the subject building was not on the land on 24 April 2020. The Council's aerial photographs dated 17 March 2025 and 11 March 2026, as well as my own site visit observations, show the erection of a new structure/building. This is in direct contrast to the remains of the former dwellinghouse on the site which is shown as a 'ruin' and with the associated dwellinghouse use being abandoned. The photographs submitted in evidence show the provision of only parts of the former walls of the original dwellinghouse on the land.
6. As a matter of fact and degree, I conclude that the alleged breach of planning control has occurred. In other words, a new building has been erected on the land.

### Ground (d) appeal

7. An appeal made on ground (d) is that at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters. In an appeal against an enforcement notice on ground (d), the burden of proving relevant facts is on the appellant, and the relevant test of the evidence is on the balance of probability.
8. Section 171(B) of the Act states that where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of ten years beginning with the date on which the operations were substantially completed (my emphasis). In respect of operational development, it is necessary that I emphasise that the above ten years immunity period relates to those developments which were substantially completed on or after 25 April 2024. The immunity period before 25 April 2024 is four years for operational development.
9. While the appellant now states that there is no intention to use the building, it is clear from the evidence that his original intention was to construct the building for the purpose of it being expressly used as a dwellinghouse. This is indeed a matter that was considered by the previous Inspector in the October 2024 Appeal Decision. Indeed, he says *"planning applications were submitted to the Council for the 'retention of the reconstruction to former ruined dwellinghouse' in June 2021 and August 2021...The use identified by both applications was that of a dwellinghouse. Both applications were refused planning permission by the Council but show the appellant's clear aspiration for the building and the site"*.
10. As per the reasoning in the October 2024 Appeal Decision, the operational development is not substantially completed from the point of view of being capable of being used as a dwellinghouse. There are no windows or doors to many of the openings within the elevations, and no bathroom, kitchen or sleeping facilities. I was able to see on my site visit that there were also no staircases, fittings, insulation, or connections to utilities. Moreover, surrounding land levels were such that in some areas it would be difficult to gain access externally into door openings.

11. While the appellant states that he now has no intention to use the building, in objectively considering whether a building is substantially completed it is also appropriate to consider the original intention of the appellant from an associated use point of view. In this regard, the building is not watertight and nor does it have the facilities in place for day to day living purposes for use as a dwellinghouse.
12. I have considered section 55(2)(a) of the Act which states that development does not include *'the carrying out for the maintenance, improvement or other alteration of any building of works which— (i) affect only the interior of the building'*. The internal works required to substantially complete the building as a dwellinghouse would not come into the above exception. This is because the exception relates to a substantially completed building.
13. As a matter of fact and degree, I find that the appeal building is a dwellinghouse in the course of being constructed. The space inside the building has been subdivided using blockwork walls to reflect what most would associate as being proposed residential living spaces. It is also noteworthy that in one ground floor room there is a blockwork fire place surround. While not a determinative matter, I was able to observe on my site visit that the appeal structure is experienced externally as an unfinished dwellinghouse.
14. There is no precise or unambiguous evidence from the appellant to indicate that the intended dwellinghouse use had changed during the period of construction of the building and prior to the notice being issued. The appellant may assert that the building could be used for a different use now, but that is not the same as the intended use of it as a dwellinghouse throughout its period of construction.
15. Even if I were to ignore the original intention of the appellant to use the newly constructed building as a dwellinghouse (which I argue in this case would not be appropriate for the reasons outlined), it is in any event the case that it does not currently have any windows or doors to large parts of its elevations.
16. It may be the case, with some adaptation, that a possible future use of the appeal building (e.g., agriculture) would be possible and that such a use of the unfinished building would not need upper floors, utility connections, or the same degree of weatherproofing. However, the fact that the building has not been finished off externally is also enough for me to conclude, in this case and as a matter of fact and degree, that it has not been substantially completed. In other words, it is also my judgement that the breach of planning control is not currently experienced as being a detailed building of substantially completed character. The required external works to the building would materially affect its external appearance.
17. The appellant considers that the building was substantially completed when the Council determined planning application FUL/2021/0521 on 6 August 2021 and hence is of the view that it is immune from enforcement action based on the 'four years' immunity period. The photographs in the officer report show that the building had elevations without windows/doors and with the roof/gable of the single storey side/rear part of the building unfinished/not completed. This is for example shown in photograph 7 of the officer report. It is dated June 2021. It is my judgement that in June 2021 the building was not substantially completed. My view on this matter is also the same based on the building's condition now. The ten-year immunity period as referred to in the notice is therefore correct in this case.

18. Given the above findings, I conclude that when the notice was issued, the subject building was not substantially completed and hence was not immune from enforcement action under section 171(B) of the Act. In other words, and, on the balance of probability, the appellant has not suitably demonstrated that the building has been substantially completed for ten years. Consequently, the breach of planning control is unlawful. Therefore, the ground (d) appeal fails.

### **Ground (f) appeal**

19. An 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.

20. The claim made by the appellant is that it is excessive to require the removal of the building and related materials/foundations as it has “*no accruements to be residentially occupied*”. The appellant also claims that requirement 5 of the notice is excessive in so far that “*restoring the land to its condition before the breach took place*” would mean reinstating an unauthorised skip business as alleged to be shown in a June 2018 Google earth image and in the form of the provision of containers and stockpiles.

21. The purpose of the notice is to remedy the breach of planning control. In this regard, the requirement to demolish the building and to remove all related (my emphasis) materials, hardstanding and foundations, plus materials imported to the site, is not an excessive requirement. Indeed, it remedies the breach of planning control. Moreover, given section 173(4)(a) of the Act, it is not excessive to require the restoration of the land to its condition before the breach took place. That is indeed expressly specified in section 173(4)(a) of the Act.

22. The evidence from the appellant is not sufficiently precise or unambiguous to demonstrate that prior to the breach of planning control occurring, the land was in use as a skip hire business as alleged to be shown in the photograph dated June 2018. The Google aerial photograph dated 24 April 2020 submitted by the Council shows that most of the containers and stockpiles had been removed at this time. The notice does not require the reinstatement of containers or stockpiles which appear to relate to an unauthorised use of the land and not to the breach of planning control.

23. The appellant will be best placed to know what the previous condition of the land was like. The evidence indicates that construction of the appeal building commenced sometime in 2021. Indeed, this date has not been disputed by the appellant. The requirement to restore the land to its condition before the breach took place is not excessive. It is in accordance with section 173(4)(a) of the Act.

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

### **Conclusion**

25. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

*D Hartley*, INSPECTOR