Planning Inspectorate

# Appeal Decision

Site visit made on 17 November 2026

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

**an Inspector appointed by the Secretary of State**

**Decision date: 17th November 2026**

**Appeal Ref: APP/E2340/C/26/3377722**
**76 Walton Lane, Nelson, BB9 8HU**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Shafqat Hussain against an enforcement notice issued by Pendle Borough Council.
- The notice was issued on 7 December 2025.
- The breach of planning control as alleged in the notice is I. within the last 10 years, construction of an access onto a classified road; II. within the last 10 years, the laying of a non-porous hard surface greater than 5 square metres with no provision to direct water run-off from the hard surface to a porous area within the curtilage of the dwelling house; and III. within the last 10 years, the raising of the boundary wall along Glenfield Road to a height over 1 metre.
- The requirements of the notice are to 1. reinstate the boundary wall to their former height and extent (indicated in red and green perforated line on plan), and 2. reduce the height of the boundary wall to its original height (indicated with yellow and red perforated line).
- The period for compliance with requirement one is 3 months and requirement two is 4 months.
- The appeal is proceeding on the ground set out in section 174(2)(a) 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.

## Decision

1. It is directed that the enforcement notice is corrected by the deletion of the words *"DATED: 07th December 2026"* and their substitution with the words *"DATED: 07th December 2025"*. Subject to the correction, 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 revised National Planning Policy Framework was published on 17 August 2026 (the Framework). It is a material consideration of "critical importance" in decision making terms. It has not been necessary for me to invite further comments from the main parties in respect of the Framework because my consideration of the ground (a) appeal main issue and the associated policy considerations have not materially changed in respect of the determination of this appeal.

## The Notice

3. In respect of the laying of a non-porous hard surface on the land, the notice seeks to underenforce in so far that it does not require its removal. The Council confirmed on 2 November 2026 that this is because the notice requires the reinstatement of a boundary wall and that this would contain surface water which may otherwise have reached the highway. For the avoidance of doubt, if the notice is upheld, planning permission would be approved under section 173(11) of the

Act for the non-porous hard surface because it does not require its removal from the land.

4. The notice is dated 7 December 2026. This is clearly an error because the notice states that it *"takes effect on 11 February 2026 unless an appeal is made against it beforehand"* and because it is a date which has not yet occurred. An appeal has been made. The error does not relate to a breach of the requirement of section 173(8) of the Act. I shall therefore correct the date of the notice to 7 December 2025 and, in doing so, no injustice would be caused to the main parties.

**Ground (a) Appeal Main Issue**

5. 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 issue is the effect of the breach of planning control on highway safety.

**Reasons**

6. The breach of planning control relates to the formation of an access onto a classified road, the laying of a non-porous hard surface greater than 5 square metres with no provision to direct water run-off, and the raising of the boundary wall along Glenfield Road to a height over 1 metre. The unauthorised development is associated with a dwellinghouse on the corner of Walton Lane and Glenfield Road in Nelson.

7. Owing to the height of the boundary wall, it means that the occupiers/visitors of the appeal property egress the access/driveway without suitable sightlines. The appellant does not dispute that ground levels have also been lowered. Moreover, approaching pedestrians also have impaired sightlines of any moving vehicle to the detriment of highway safety.

8. The unauthorised access is very close to an existing highway junction at Glenfield Road and the access to Nelson Cemetery is opposite. There are schools near to the appeal site. There is no on-site turning space within the site to enable a vehicle to enter and leave in forward gear. Instead, a vehicle must either reverse into or out of the car parking space. This is not a safe manoeuvre in a location where motorists need to be particularly alert given the nearby road junctions and the presence of pedestrians. In my judgement, reversing manoeuvres in this location would likely lead to unacceptable vehicular and pedestrian conflict to the detriment of highway safety.

9. While the appellant considers that the use of the access associated with one dwellinghouse would be limited, it nonetheless remains the case that an accident could still occur. Such an event would not be acceptable.

10. A non-porous hard surface has been laid in association with the unauthorised access. Water-run off onto the highway would not be acceptable particularly in the winter months when it could freeze and leading to unacceptable safety risks for motorists and pedestrians alike. However, this is a concern that could be addressed by either the imposition of a condition which would require the provision of a drain to mitigate water run-off, or the reinstatement of the boundary wall.

11. The above would not, however, alter or overcome my concern about the adverse effects arising from the appeal boundary wall and the formed access which are

matters of overriding concern. It is noteworthy that the Council does not require the removal of the non-porous hard surface. As I am upholding the notice, this element of the breach of planning control has the benefit of planning permission given section 173(11) of the Act. Given the requirement to reinstate the former boundary wall, this would directly address the concern raised about water run-off onto the highway.

12. The appellant states that prior to the access being formed, there was *"historically dangerous parking outside the application site"*. This comment has not been reasonably substantiated with objective evidence, and, in any event, there are double yellow lines in front of the formed access and around the junction with Glenfield Road. Consequently, there are enforcement powers available to prevent unlawful car parking.

13. While there is an existing driveway associated with the property adjacent to the Glenfield Road back street and accessed from Walton Lane, this does not have the same close relationship with the busier Glenfield Road and the access to Nelson Cemetery. Moreover, I emphasise that I have in any event considered the breach of planning control on its individual planning merits.

14. For the reasons outlined above, I conclude that the formation of an access and the raising of the boundary wall have caused unacceptable harm to highway safety. Consequently, such development fails to accord with the highway safety requirements of national decision-making policy TR6(4) of the Framework. This policy states that development proposals should be *"refused"* if they would have an unacceptable impact on highway safety. In this case, the benefits associated with providing car parking space off the highway and freeing up some on-street car parking space, coupled with the appellant's claim of increased security and reduced litter being dropped in the garden, are substantially outweighed by the identified adverse highway safety effects when assessed against the national decision-making policies in the Framework.

15. In terms of national decision-making policy S4 of the Framework, it is noteworthy that S4(2)(c) states that the circumstances in which the benefits of approving development are likely to be substantially outweighed by adverse effects include (but are not restricted to) situations where the development proposal would fail to comply with one of the national decision-making policies which state that development proposal should be refused in specific circumstances. National decision-making policy TR6 is a refusal type policy. On balance, I therefore conclude that the ground (a) appeal fails.

**Overall Conclusion**

16. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction 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