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 18 November 2026**

## Appeal Ref: APP/T2350/C/25/3376953
## Unit 12, (operating as Change Gym Ltd) Baublock, Simonstone Business Park, Blackburn Road, Simonstone, Lancashire, BB12 7FS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
- The appeal is made by Mrs Sinead Hines (Change Gym) against an enforcement notice issued by Ribble Valley Borough Council.
- The enforcement notice was issued on 18 November 2025.
- The breach of planning control as alleged in the notice is failure to comply with a condition imposed on a planning permission reference 3/2019/08211 granted on 29 November 2019.
- The development to which the permission relates is an application for the variation of condition 2 (development shall be carried out in accordance with proposals), 3 (materials), 14 (existing access), 15 (scheme for the construction of the site access and the off-site works of highway improvement), 16 (joint survey between the developer and the planning authority), 17 (Traffic Management Plan), 20 (cycle path), 21 (new estate road/access), 22 (landscaping scheme), 26 (provisions for building dependent species of conservation concern, artificial bird nesting boxes / artificial bat roosting sites), 28 (surface water drainage scheme), 29 (sustainable drainage management and maintenance plan), 30 (design, based on sustainable drainage principles and a surface water sustainable drainage scheme) and 32 (management and maintenance plan for the sustainable drainage system) from planning permission 3/2017/0284.
- The condition in question is no. 10 which states that *"Notwithstanding the provisions The Town and Country Planning (Use Classes) (Amendment) (England) Order 2015 and the Town and Country Planning (Use Classes) Order 1987 (as amended) or any equivalent Order following the revocation and re-enactment thereof (with or without modification), the units hereby approved shall only be used for the purposes of use classes B1 and B8".*
- The notice alleges that the condition has not been complied with in that Class B1 (Business) use was removed by the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (SI 2020 No. 757) and became class E(g). As a result, the condition restricts the units to use classes E(g) and B8 only. It appears to the Council that the condition has not been complied with, because unit 12 is now operating as a gym within use class E(d) which does not fall within other of the permitted use classes.
- The requirements of the notice are to cease the use as a gym.
- The period for compliance with the requirement is 4 months from the date the notice takes effect.
- The appeal is proceeding on the ground set out in section 174(2)(a), (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.

## 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.

## Procedural Matter and Background

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 deemed planning application main issues and the associated policy considerations have not materially changed in respect of the determination of this appeal.

3. Planning permission was approved on 29 November 2019[1] (2019 planning permission) for a business park comprising 18 industrial units. This followed the grant of planning permission on 9 July 2018[2] (2018 planning permission) for the same industrial units. The 2019 planning permission sought to vary several of the conditions which were imposed in respect of the 2018 planning permission. The 2019 planning permission is a stand-alone consent and there is no dispute between the main parties that such a planning permission has been implemented.

4. Condition no. 10 of the 2019 planning permission restricted the use of all the approved units, including the appeal unit, to use classes B1 and B8. This restriction did not permit use of any of the units as a gym. The condition includes the words *"or any equivalent Order following the revocation and re-enactment thereof (with or without modification)"*. Following the grant of planning permission, the Town and Country Planning (Use Classes) Order 1987 (UCO) has been amended. Use class B1 is now class E(g) and class B8 is still in place. Use of the unit as a gym does not fall within class E(g) or B8 of the UCO. The appellant has not appealed on grounds (b) or (c) of section 174(2) of the Act and hence there is no claim that the breach of planning control does not amount to a material change of use of the land, or that the breach of planning control has not occurred.

## Ground (a) appeal and the deemed planning application

*Main Issues*

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 issues are i) the extent to which the breach of planning control accords with the employment land strategy objectives of the development plan for the area; ii) whether the main town centre appeal use is located within a sequentially acceptable location and its effect on the town centre(s); and (iii) whether there is sufficient on-site car parking and, if not, the effect of the breach of planning control on highway and pedestrian safety.

*Loss of employment land*

6. The appeal site falls within land allocated for employment uses. Policy EAL of the adopted Ribble Valley Housing and Economic Development DPD 2019 (DPD) states that employment uses are defined as uses falling within classes B1 to B8 "*to meet employment land requirements in the plan period (2008-2028)"*. Use of the appeal property as a gym has resulted in the loss of a building which could be used for a defined employment use and, in that regard, there is conflict with policy EAL of the DPD.

[1] Planning permission reference number 3/2019/0821
[2] Planning permission reference number 3/2017/0284 for a proposed business park comprising 18 industrial units for B8 (storage and distribution) and B1 (offices and light industry) uses.

7. Policy DMB1 of the adopted Ribble Valley Core Strategy 2008-2028 (CS) states that the redevelopment or conversion of sites for employment generating potential in the plan area for alternative uses, will be assessed against various criteria including *"the economic and social impact caused by loss of employment opportunities to the Borough"* and *"any attempts that have been made to secure an alternative employment generating use for the site (must be supported by evidence (such as property agents details including periods of marketing and response) that the property/business has been marketed for business use for a minimum period of six months or information that demonstrates to the Council's satisfaction that the current use is not viable for employment purposes)".*

8. There is no objective evidence before me to support a claim that attempts were made to market the appeal property for a period of six months for business use in accordance with policy DMB1 of the CS. Moreover, the appellant has not provided any evidence which would support a claim that that the use of the unit for a 'business' use (i.e., a B8 use or a use now falling within Class E(g) of the UCO) is no longer viable. While I acknowledge that the breach of planning control has created some employment, the point is that the development plan for the area has specifically allocated the wider area, which includes the appeal unit, for specified types of employment use. Use of the appeal property as a gym, as distinct from the specified and permissible types of business use, directly conflicts with the employment strategy objectives of the CS and the DPD. This weighs against allowing the appeal.

*Sequential assessment and effect on town centres*

9. The Framework defines health and fitness centres (that would include a gym) in annex B as a main town centre use. National decision-making policy TC3(1) of the Framework states that a sequential test should be applied to proposals for main town centre uses for which planning permission is required, where these are neither in an existing centre, nor in accordance with the allocation for that purpose in an up-to-date development plan.

10. The appeal site is in an out of centre location. The appellant has not submitted a sequential assessment as part of this appeal. The evidence does not sufficiently demonstrate that there are no suitable/available (or expected to become available within a reasonable period) sites to accommodate the gym use within a town centre and, failing that, in an edge of centre location. While the appellant asserts that efforts were made to look for sites in the town centre prior to occupying the appeal property, there is an absence of any details or information to show that this search took place. Even if that did happen, and there were no available sites within a town centre or edge of town centre location at that particular time, it was nonetheless still incumbent on the appellant to have completed an up-to-date sequential assessment in conjunction with ground (a) appeal and the deemed planning application. It remains possible that the availability of sites is now different.

11. Given the above, I am unable to conclude that in terms of the breach of planning control, the sequential test is passed. Hence, the development does not accord with the requirements of national decision-making policy TC3(1) of the Framework. In this context, I am also unable to conclude that the development has not caused harm to the vitality and viability of the town centre(s). It is noteworthy that national

decision-making policy TC3(4) states that where a development proposal fails to satisfy the sequential test, it should be refused.

*Car parking and highway/pedestrian safety*

12. The evidence is that there are three car parking spaces associated with appeal property. The undisputed evidence is that based on adopted car parking standards, use of the appeal property as a gym (based on floorspace) requires more car parking spaces (i.e. 7) than if it were to be used for the permitted uses under condition No. 10 of the 2019 planning permission (i.e., 3 as per the existing provision).

13. The appellant states that for most of the day there are only 3 or 4 people on site and that it is only at peak times (0600-0700 hours and after 18.00 hrs) when there are *"more people"* on the site. The appellant says that the gym operates on an appointment only basis and that it is based on 1 client to 1 personal instructor, or groups of up to 6 per personal instructor. It is not clear from the evidence (i.e., "more people") what is the maximum number of people that could be on the site during gym peak times. While the appellant has commented that a personal planning permission would be acceptable if justified, I nonetheless find that during peak times there would be an absence of a sufficient number of car parking spaces under the control/ownership of the appellant.

14. The appellant makes the point that at peak times, the other units are not occupied. Hence, it is stated that car parking spaces associated with the other units can be utilised by customers and staff alike. The appellant does not dispute the comment made by the Highway Authority that *"there is already evidence of overspill car parking into pedestrian and other non-designated parking areas indicating an existing shortfall in car parking provision"*. I noticed on my site visit that several vehicles were indeed parked on the pavement adjacent to unit No. 2.

15. I do not consider that an appointment only business and controlled by condition would be enforceable from the point of view of monitoring the resultant car parking within the vicinity of the site. Indeed, it would be difficult to determine what unit a parked vehicle was associated with. Moreover, the appellant has not suggested a mechanism for ensuring that the customers/staff at the gym have a lawful shared use of car parking spaces associated with other units. In this regard, it remains possible that the owners of other units would not permit car parking outside of their premises.

16. While the imposition of a condition relating to opening hours for the gym would be possible and enforceable, this would not overcome my concern about peak business times and car parking impacts. In addition, I do not know if the appellant would be content with a condition which say did not allow the business to operate at the same time as the other nearby units. I say this because while the appellant says that after 0700 hours and before 1800 hours only 3 or 4 people are on the site, this level of intensity is not reasonably substantiated. I do not find that restricting occupation of the building in numerical terms would, in any event, be enforceable in this case.

17. For the above reasons, I conclude that the breach of planning control is unacceptable in so far that insufficient on-site car parking is available for staff and customers alike thereby failing to accord with policy DMG1 of the CS. In this case, I do not find that enforceable planning conditions could be imposed to address this

matter. Consequently, I find that it is likely that there would be some overspill car parking into pedestrian and other non-designated parking areas in association with use of the appeal property as a gym, which in turn could lead to conflict between vehicles and pedestrians, as well as to leading to a degree of inconvenience for the occupiers of nearby units in instances where there is likely to be some indiscriminate car parking activity. This is in the context where the evidence indicates, at least in the daytime, that there already car parking overspill issues including the blocking of pavement areas.

18. For the above reasons, I cannot conclude that the breach of planning control does not/would not cause unacceptable harm to highway safety. Therefore, it fails to accord with national decision-making policy TR6(4) of the Framework.

*Other Considerations*

19. The appellant has indicated that I could impose a personal condition if that was necessary. I have considered such a matter above. Even if I had found that car parking was acceptable, or could be made acceptable, and that no unacceptable harm would be caused to highway safety, the imposition of a personal condition would not overcome or alter my conclusions on the above first two main issues. These are matters of overriding concern in any event.

20. The appellant has referred me to an email from the local planning authority (LPA) to the appellant dated 18 January 2022. At this time, it appears that the LPA may have indicated that planning permission would not be needed to change the use of the appeal property to a gym. This is not sufficient on its own to justify granting planning permission. While I do have some sympathy with the position now faced by the appellant, planning advice offered by a LPA is generally without prejudice and, furthermore, it was open to the appellant to have applied for a certificate of lawful development under section 192 of the Act and prior to taking control of the unit. Moreover, and despite the views expressed by the LPA officer, the email correspondence did also state that the appellant *"check the Document called 'Decision Notice' to identify what is allowed".*

21. There are benefits associated with the appeal development. This includes the provision of jobs and of course the health and well being benefits associated with use of the gym. Such health and well being benefits would be available for those that currently work on the wider industrial estate. I afford these benefits positive weight in the overall planning balance.

*Planning balance and conclusion*

22. The breach of planning control does not accord with the strategic employment objectives of policy EAL of the DPD, and policy DMB1 of the CS. Moreover, I find that the breach of planning control is deficient from a car parking provision point of view. There are no enforceable controlling mechanisms in place, or which could be imposed as part of this appeal, which would reasonably address this matter. Hence, I cannot conclude that the development would not cause unacceptable harm to highway safety. Even if I had reached a contrary view on this main issue, I would still have concluded, with reference to national decision-making policy S4 of the Framework, that the benefits associated with the gym would be substantially outweighed by the adverse effects when assessed against the national-decision making policies in the Framework.

23. Moreover, and having regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, the development does not accord with the development plan for the area taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan.

24. Therefore, the ground (a) appeal fails.

**Ground (g) appeal**

25. 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.

26. The appellant asserts that a period of twelve months rather than four months is needed to comply with the requirement of the notice as more time is needed to find alternative accommodation for the business to continue to operate and so that the equipment can be immediately moved into that new accommodation.

27. The appellant's evidence does not suitably support the contention that it would not be possible to find suitably available alternative accommodation within four months. The inclusion of a sequential assessment as part of the ground (a) appeal may have assisted in terms of the appellant's ground (g) appeal.

28. On balance, and given the evidence that is before me, I find that a compliance period of four months strikes a reasonable and proportionate balance between bringing the harmful unauthorised development to an end in the public interest, while at the same time affording the appellant reasonable time to find alternative accommodation for the gym business. It would of course be possible, if it were necessary, for the equipment to be put into storage if it transpires that the circumstances were to mean that the appellant required more time to find or secure alternative accommodation for the gym business.

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

**Overall Conclusion**

30. 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