

**TOWN AND COUNTRY PLANNING ACT 1990 SECTION 174**  
**APPEAL AGAINST ENFORCEMENT NOTICE (DATED 3 APRIL 2025)**

**LAND AT 4A WISWELL LANE, WHALLEY, CLITHEROE BB71HF**

**GROUND OF APPEAL**

**2 May 2025**



## 1. Introduction

1.1 Following the issuance of an Enforcement Notice by Ribble Valley Borough Council ('the LPA') relating to the above site on 3<sup>rd</sup> April 2024, PWA Planning has been appointed by Mr. John Atherton to lodge an appeal under grounds (d) and (g)<sup>1</sup>. The Enforcement Notice alleges:

*(a) Without planning permission, carried out the erection of an unauthorised dwellinghouse and decking*

*(b) Without planning permission, a material change in the use of the land consisting in the unauthorised use of the building as a dwellinghouse and the use of other parts of the land for incidental purposes*

1.2 The Appellant (Mr John Atherton) intends to expand substantially on these Grounds at the six-week stage within a detailed Statement of Case. However, an overview of each is provided below.

1.3 It is submitted that the appropriate order for consideration is grounds (d) and (g).

## 2. Appeal Under Ground (d) – 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

2.1 The Appellant's Statement of Case shall demonstrate that the dwelling and associated works were substantially complete before the Enforcement Notice date of issue (3<sup>rd</sup> April 2025). Therefore, the development is lawful as per Section 191 of the Town and Country Planning Act 1990 ('the Act'). As the works were substantially complete by 25<sup>th</sup> April 2024, the lawful time limit for the development is based on the 4 year rule, as set out with the transitional provision of the Section 115 amendments to Section 171B(1) and (2) the Act.

2.2 The above will demonstrate that the LPA's first alleged breach (a) is therefore not a breach due to the lawful passing of time, and therefore no enforcement action should have been taken.

2.3 The Statement of Case will also assess why there has not been a material change of use of the land resulting from the unauthorised use of the building as a dwellinghouse and the use of other parts of the land for incidental purposes. This is due to the land already having a lawful residential use, and the development not resulting in a significant adverse impact on the character and visual amenities of the area. This also means that the 10-year lawful rule ('as set out within the reasons for issuing this notice section of the enforcement notice') is not relevant to this case.

---

<sup>1</sup> ss.174(2)(c), (d) and (g) of the TCPA 1990.



2.4 Overall, the development does not represent works which would result in the alleged breach (b) of planning control, and therefore no enforcement action should have been taken.

**3. Appeal Under Ground (g) - that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed**

3.1 Within the time for compliance section of the Enforcement Notice, it states “4 months from the date this notice takes effect”.

3.2 Given this is the Appellants only residence, it is considered that should the appeal be dismissed, the time limit for compliance with the Enforcement Notice should be extended to 1 year. This will allow suitable arrangements to be made for future accommodation.

3.3 For completeness, and allowance of the development to be considered for full planning permission, a separate appeal will also be made regarding refused planning application 3/2024/0851. This will be submitted before the Enforcement Notice takes effect. The works within this planning application are identical to those being enforced against within this appeal.

3.4 On the above basis, a case will be presented that invites the Inspector to allow the appeal and quash the Enforcement Notice.

**Edward James** AssocRTPI

Senior Planner