



Appeal Decision

Site visit made on 14 July 2025

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 31 July 2025

Appeal Ref: APP/C1435/C/23/3330411

Land at The Briars, Church Lane, Laughton, East Sussex

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr B Light against an enforcement notice issued by Wealden District Council.
- The notice was issued on 14 September 2023.
- The breach of planning control as alleged in the notice is the widening of an access by removal of a hedgerow and gate, and the laying of a gravel hardstanding.
- The requirements of the notice are to:
 - i. Demolish, dismantle, break up and remove the hardstanding area.
 - ii. Reinstatement the hedgerow along the original boundary to the land by planting 6 plants per linear metre of approximately:-

60% Hawthorn (*Crataegus monogyna*)
15% Blackthorn (*Prunus spinosa*)
5% Hazel (*Corylus avellana*)
5% Field Maple (*Acer campestre*)
5% Hornbeam (*Carpinus betula*)
5% Holly (*Ilex Aquifolium*)

Using transplants 45-60cm tall or whips 60-90cm tall as appropriate to the species, evenly spaced at a density of double staggered row notch planted 0.33 metres apart at 0.33 metre centres, and using individual Tubex tree shelters of an appropriate size, stacked and secured or stock fencing around all new trees, incorporating rabbit proof wire at the base to protect against deer and rabbit damage, and all whips to be young trees with feathered growth, 0.6-1.2m high conforming to BS3936: Part 1: 1992 and to be less than 2 years old and all clearly labelled with botanical name. The resultant access opening must be no more than 4m wide as approved under planning reference WD/1983/3405/F.

- iii. Remove from the Land all materials, rubble, rubbish, debris, tools and equipment arising from compliance with the above requirements.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (d), (f) of the Town and Country Planning Act 1990 (as amended).

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

1. I have noted that paragraph 5(ii) of the Notice requires the reinstatement of the hedgerow along the original boundary to the land. The percentage mix of species required does not add up to 100%, but I have noted that there is some flexibility in the mix because the contribution of each species to the overall mix is approximate. As such no variation is required to the enforcement notice.

Appeal on ground (b)

2. The ground of appeal is that the breach of control alleged in the enforcement notice has not occurred. In order to succeed on this ground it would need to be

demonstrated that the widening of an access by removal of a hedgerow and gate and the laying of gravel hardstanding has not occurred as a matter of fact.

3. The appellant has clearly stated that he cut the hedge back, removed the original gate and supporting posts on either side and relaid hardcore when he purchased the site. There is little evidence that the works carried out have not widened the access and gravel hardstanding has also clearly been laid. Therefore, there is insufficient evidence for me to conclude that the alleged breach of planning control has not occurred as a matter of fact. The appeal on ground (b) cannot succeed.

The appeal on ground (c)

4. The ground of appeal is that the matter alleged does not constitute a breach of planning control. The carrying out of building, engineering or other operations comprises development within the meaning of s55 of the Act for which, s57 indicates, planning permission is required. The development does not comprise permitted development for which planning permission was granted by way of Article 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 because there is insufficient evidence that there is either an intention or an active agricultural or forestry operation served by the access. Indeed, there is no specific contention by the appellant that he wishes to rely on agricultural or forestry permitted development rights.
5. The appeal site benefits from conditional planning permission WD/1983/340/F for the erection of a gate to give access to the field from the road for farm machinery. The evidence before me is that the planning permission was for a gate which had been erected without planning permission. Highways conditions on that permission require a turning space for vehicles to be provided and constructed outside the limits of the highway and to be permanently retained, for parking accommodation to be provided as shown on submitted plans and for a hatched area to be cleared and kept free of obstruction to the visibility of drivers using the access and the adjoining road.
6. There is no evidence that details of the parking/turning area were submitted to the Council for approval and no record that notification of commencement of works was given to the Divisional Highways Engineer to ensure full compliance with the approved works as required by the permission. As such there is insufficient evidence that the requirements of the 1983 planning permission were met or that the permission was complied with.
7. The appellant has not provided evidence that a hardstanding area was laid pursuant to the previous permission and photographic evidence submitted by the Council shows that there has not been a hardstanding on site between at least 1999 and 2020. Imagery also shows that the width of the access onto the highway has materially increased from the approved maximum width.
8. Consequently, I conclude that there is insufficient evidence before me that the matter alleged does not constitute a breach of planning control and the appeal on ground (c) cannot succeed.

The appeal on ground (d)

9. The ground of appeal is that at the date when the notice was issued no enforcement action could be taken. To succeed on this ground, it would be

necessary to show that the widening of an access by removal of a hedgerow and gate and the laying of a gravel hardstanding had been substantially completed four years before the notice was issued. The appellant argues that taking account of the 1983 permission, it is now too late to serve an enforcement notice. The burden of proof is on the appellant and the legal test is the balance of probabilities.

10. The appellant has provided very little evidence to support his case on ground (d). In addition, the Council's photographic evidence shows that the works the subject of the current enforcement notice were not present before 2021. Measurements taken by Council officers also show that the width of the access is materially wider than the approved gate.
11. Therefore, I conclude that the evidence presented by the appellant is insufficient to prove on the balance of probabilities that the widening of an access by removal of a hedgerow and gate and the laying of a gravel hardstanding was substantially completed four years before the date the enforcement notice was issued. The appeal on ground (d) fails.

The appeal on ground (a)

12. The ground of appeal is that planning permission should be granted for what is alleged in the Notice. The main issues are:
 - the effect on the character and appearance of the area; and
 - the effect on the living conditions of the occupants of nearby residential properties and the rural area, generally, with particular reference to increased levels of noise and disturbance.
13. The appellant contends that the access is needed to serve the agricultural land and that it is a normal field access of average width and commonplace for field entrances. He also states that it is only used occasionally and that it is difficult to see how a farm access can disturb rural and residential amenities.
14. The appeal site is in part of an agricultural field, a relatively short distance from Laughton. It lies within the Low Weald Landscape Character Area and outside any defined settlement boundary. The site is somewhat detached from the village where development is currently mainly restricted to the west side of Church Lane. The appeal site and surrounding fields to the east have an open rural character and form an important part of the setting of Laughton, representing the unspoilt agricultural landscape of the Low Weald character area.
15. The hedgerow aligning Church Lane is an important rural feature, providing an attractive linear boundary to the fields. The removal of a section of hedge and the gate to form a widened access has eroded the characteristic field boundary and the agricultural character of the appeal site and its immediate surroundings. Furthermore, the laying of an area of gravel hardstanding introduces an uncharacteristic feature into the agricultural land which is clearly visible from the road as a consequence of the widened access and associated unauthorised works that have taken place.
16. Overall, the physical works carried out are visually intrusive and result in harm to the established character and appearance of the area. Therefore, there is conflict with saved Policies GD2, EN1, EN8 and EN27 of the Wealden Local Plan (1998) (the WLP), Policy WCS14 of the Wealden Core Strategy Local Plan 2013 (the CS)

and the National Planning Policy Framework (the Framework). Among other objectives these seek to restrict development in the countryside, protect the agricultural landscape of the Low Weald and ensure a high standard of design in development that is compatible with its surroundings.

17. The appeal site is close to one residential property, but there is some separation from others in the locality and the village. Concerns with respect to living conditions include potential noise and disturbance from the site. However, given the scale of the development, the purpose of the access to serve the field and the unlikely event of there being significant levels of vehicle movements and activity resulting in noise and disturbance, the development will not give rise to material harm to living conditions. In this respect I find there to be no conflict with Policies GD2 and EN27 of the WLP, Policy SPO13 of the CS and the Framework. These seek to prevent unacceptable adverse impacts on the amenities of adjoining developments and the neighbourhood by reason of noise, among other objectives.
18. Therefore, although I find there to be no harm with respect to living conditions, there is harm to the character and appearance of the area. That is the overriding consideration in this case and as a result of the conflict with the development plan as a whole the appeal on ground (a) does not succeed and planning permission should not be granted.

The appeal on ground (f)

19. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to achieve the purpose. The purposes of an enforcement notice are set out in s173 of the Act and are to remedy the breach of planning control (s173(4)(a)) or to remedy injury to amenity (s173(4)(b)). Since the Notice requires the hardstanding area to be demolished, dismantled, broken up and removed, the reinstatement of the hedgerow along the original boundary to the land and removal from the land all materials, rubble, rubbish, debris, tools and equipment arising from compliance with the requirements, the purpose is clearly to remedy the breach. Leaving any part of it in place would not achieve that purpose. In this respect the appeal on ground (f) fails.
20. Removing the hardstanding is not an unreasonable requirement in this case given it is part and parcel of the alleged breach. As set out above there is little evidence that the hardstanding area was implemented pursuant to the 1983 planning permission and appears to be a relatively recent addition.
21. The appellant has also taken issue with the hedgerow planting requirements, but the reinstatement specification is very clear in the Notice and should be implemented on a proportional basis given the width of the access to be implemented. It would be possible to carry out the planting as required.

Conclusion

22. 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).

A A Phillips INSPECTOR