
Appeal Decision

Site visit made on 29 August 2025

by D A Hainsworth LL.B(Hons) FRSA Solicitor
an Inspector appointed by the Secretary of State

Decision date: 29th September 2025

Appeal Ref: APP/J1915/C/23/3319985

Land at High Trees, Paynes End, Anstey, Buntingford, Hertfordshire SG9 0BE

- The appeal is made by Mr P Menelaou under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: E/19/0350/ENF) issued by East Hertfordshire District Council on 6 March 2023.
 - The breach of planning control as alleged in the notice is "the creation of the vehicular access to Barkway Road and the erection of the access gates, piers and fencing".
 - The requirements of the notice are as follows: -
 - "A. Remove the unauthorised access gates, piers, walls and fencing in their entirety.
 - B. Remove all debris, waste and materials resulting from A."
 - The period for compliance with these requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (d). An application for planning permission is deemed to have been made by section 177(5) in respect of the matters stated in the notice as constituting the breach of planning control.
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Decision

1. It is directed that the enforcement notice be corrected by inserting ", walls" after the word "piers" in paragraph 3.
2. Subject to this direction, the appeal is allowed on ground (a), the enforcement notice is quashed and planning permission is granted on the application deemed to be made by section 177(5) of the Town and Country Planning Act 1990 for the creation of a vehicular access to Barkway Road and the erection of access gates, piers, walls and fencing on land at High Trees, Paynes End, Anstey, Buntingford, Hertfordshire SG9 0BE.

Reasons for the decision

Correction of the enforcement notice

3. The alleged breach of planning control does not mention the walls that are referred to in the requirements of the notice. The walls are an integral part of the works that have been carried out and the appeals on grounds (a) and (d) both relate to development that includes the walls.
 4. I am authorised by section 176(1) to correct any defect, error or misdescription in the notice if I am satisfied that the correction will not cause injustice. No
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injustice would be caused if the walls were included in the allegation and I have directed that the notice should be corrected as set out in paragraph 1 above.

Ground (d)

5. The purpose of the appeal on ground (d) is to demonstrate that at the date when the notice was issued, enforcement action could not be taken because four years had elapsed since the date on which the works were substantially completed. The crucial date is therefore 6 March 2019.
6. The appellant maintains that the works were "completed at the start of 2019". The email from the builders indicates that they were "finished off in 2019". The appellant's photographs are not date stamped and no documentary evidence has been supplied, apart from a statement on a planning application that the works were completed on 1 February 2020, which the appellant maintains is incorrect.
7. The Council have supplied date-stamped photographs taken at visits made by an officer, which indicate that the works had not started on 8 October 2019 and that they were ongoing on 5 December 2019. The builders are adamant that their dates are correct. The appellant has therefore assumed that the date stamps are incorrect, but there is no other evidence that they are and they are consistent with a 1 February 2020 completion date.
8. It is the appellant's responsibility to demonstrate on the balance of probabilities that it was too late to take enforcement action. It is unclear from the builders' evidence whether the works were substantially complete by 6 March 2019 or were completed at a later date. I prefer to rely on the Council's photographs. The appeal on ground (d) has therefore failed.

Ground (a) - introduction

9. The application for planning permission now relates to the corrected description of the development, which includes the walls. The main issues in deciding whether permission should be granted concern the effect of the development on the character and appearance of the land and its surroundings and on the standard of visibility on Barkway Road. The policies in the 2018 East Herts District Plan that are referred to in the notice with regard to these issues are Policies GBR2 (Rural Area Beyond the Green Belt), HOU12 (Change of Use of Land to Residential Garden and Enclosure of Amenity Land), DES4 (Design of Development) and TRA2 (Safe and Suitable Highway Access Arrangements and Mitigation).
10. The works have been carried out in order to provide a vehicular access to the approved replacement dwelling that has been built on the site. They have replaced the previous dwelling's vehicular access, which was a short distance further north and was bounded by horizontal lap timber panel fencing supported by concrete posts.
11. Part of the new access works extend beyond the residential curtilage on to adjoining agricultural land. The notice requires the new gates, piers, walls and fencing to be removed. It does not require the use of the new access to cease.
12. If the notice is upheld, the appellant maintains that he is permitted to reinstate the previous access and to erect gates, fencing and walls there that would have

a similar appearance to those removed, albeit at a slightly lower height in places. This has not been disputed by the Council.

Ground (a) – the policies

13. Policy GBR2 seeks to maintain the Rural Area Beyond the Green Belt “as a valued countryside resource”. The types of development that the policy indicates in principle will be permitted, provided they are compatible with the character and appearance of the rural area, include the replacement of a building and the complete redevelopment of previously developed sites.
14. Policy HOU12 relates to garden use. In so far as it may be applicable to a new residential access, it indicates that permission may be granted if it does not involve a harmful incursion into the countryside.
15. Policy DES4 calls for a high standard of design and layout in all development proposals. In so far as it has a specific application to a new access, it indicates that driveways should be capable of accommodating family-sized vehicles and provision should be made for the storage of bins.
16. Policy TRA2 indicates that the access should be safe and suitable for all users and be acceptable in highway safety terms.

Ground (a) – assessments and conclusions

17. The works are an improvement on the utilitarian appearance of the access and boundary works that previously existed here and can reasonably be regarded as being a part of the comprehensive residential redevelopment of the site. Although part of the works encroach on to agricultural land, it is not reasonable to regard this as a harmful incursion into the countryside or as being incompatible with the rural area, particularly when the notice does not require the access to be closed and the appearance of the site’s frontage has been improved overall, and permitted development rights exist here for the erection of all types of gates, fencing and walls subject only to height limits which have only been marginally exceeded.
18. The access has been safely designed and its position to the south of the previous access improves the standard of visibility towards the bend in the road to the north. Provision has been made for the storage of bins and the layout is capable of accommodating vehicles of all the sizes likely to require access.
19. I have concluded that there are insufficient reasons to withhold planning permission. The appeal has therefore succeeded on ground (a). It is not necessary to impose any conditions on the planning permission.

D.A.Hainsworth

INSPECTOR