



Appeal Decisions

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an Inspector appointed by the Secretary of State

Decision date: 10th October 2025

Appeal Refs: APP/A1530/C/23/3328804 and 3328805

Lilacs, Wigborough Road, Peldon, Essex CO5 7RA

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeals are made by Mr Stephen and Mrs Myra Champion against an enforcement notice issued by Colchester Borough Council.
- The notice was issued on 8 August 2023.
- The breach of planning control as alleged in the notice is 'the creation of a vehicular access onto a classified road, namely Peldon Road'.
- The requirements of the notice are: (i) Remove the metal gate and supporting posts from the land; (ii) Permanently close the access point by replanting the hedgerow; and (iii) Leave the land in a clean and tidy condition.
- The period for compliance with the requirements is three calendar months.
- The appeals are proceeding on the grounds set out in section 174(2)(b) of the Town and Country Planning Act 1990 (as amended).

Decision

1. The enforcement notice is corrected by the deletion of 'namely Peldon Road' in section 3 of the notice.
2. The appeals are dismissed and, subject to the correction, the enforcement notice is upheld.

Preliminary Matters

3. The appeals have been made under ground (b). Under this ground the Appellants claim that the breach of planning control alleged in the notice has not occurred as a matter of fact. To determine whether the breach has occurred requires an assessment of written and photographic evidence and nothing would be achieved by visiting the site. The appeals have therefore been determined without undertaking a site visit.
4. The address of the land to which the enforcement notice relates is Lilacs, Wigborough Road, Peldon. Lilacs is a detached dwelling on a plot with a long road frontage to Wigborough Road. The vehicular access alleged in the notice is on this frontage so the allegation is incorrect by referring to 'namely Peldon Road'. This element of the allegation is inaccurate and unnecessary and the enforcement notice has been corrected accordingly.

Reasons

5. Mr and Mrs Champion purchased their home in 1995. At that time there was a vehicular access in the same position as the access that is the subject of the enforcement notice. In 1995 there was a wooden gate across the access but this rotted away and the access "...got covered through the years by growth and bushes that filled the area directly adjacent to the entrance". Photographic evidence provided by the Council indicates that by 2009 there was substantial growth across the access and that

this growth, in photographs taken in 2014 and 2022, filled the former gap between frontage hedgerows to both sides.

6. The principal access into the property off Wigborough Road, a classified road, is in front of the dwelling and leads to a parking area. It is clear from photographic evidence, and from the Appellants' own evidence, that the secondary access, which is a considerable distance away from the dwelling, was not used by them. Use of the secondary access was, in this regard, abandoned. The access that was created in 2023 is in the same position as that which previously existed but its creation was not the reinstatement of a previous access but, rather, the creation of a new access.

7. Mr and Mrs Champion have explained the reasons for creating the access and have commented on the benefits that it brings. But the merits of the access can only be taken into account in determination of a ground (a) appeal, which has not been made, and they cannot influence appeals made under ground (b).

8. The Appellants did not use the secondary access that previously existed and its use was abandoned for about 27 years. The works that have been carried out have resulted in the creation of a vehicular access onto a classified road. The breach of planning control alleged in the enforcement notice has occurred as a matter of fact. The appeals under ground (b) therefore fail.

John Braithwaite

Inspector