



Appeal Decisions

Site visit made on 7 October 2025

by **Mark Harbottle BSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 October 2025

Appeal A Ref: APP/M2270/C/25/3366815

Appeal B Ref: APP/M2270/C/25/3366816

Appeal C Ref: APP/M2270/C/25/3366817

Land between Kilndown Poultry Farm and Evanden Farm, Church Road, Kilndown, Cranbrook, Kent TN5 7PX

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended) (“the Act”) against an enforcement notice (“the notice”) issued by Tunbridge Wells Borough Council.
 - The appeals are made by Mr Keith Jeeves (Appeal A), Ms B Harbour (Appeal B) and Mr J Bigmore (Appeal C).
 - The notice was issued on 16 May 2025.
 - The breach of planning control as alleged in the notice is: Without planning permission the creation of an access, the removal of hedgerow and laying of hardcore.
 - The requirements of the notice are to: (i) Permanently cease the use of the access point (shown in its approximate position marked ‘A’ on the attached plan) for vehicular traffic; (ii) Permanently remove all hardcore, wooden posts and wire fencing from the access point; and (iii) Permanently close the access and reinstate the hedge by planting 3-year old transplanted seedling of 30cm of hazel (10%), hawthorn (70%), field maple (10%), hornbeam (5%), and dog rose (5%) in a double staggered, rows at 600mm centres. The individual plants should be supported using a cane and protected with a spiral guard, with the whole of the new hedge being protected by stock fencing to aid establishment and the hedge shall be retained as such. This must be done during the next planting season. Within 3 years from the date of planting, and in the event of any plants failing, the plants will require replacement until successfully established in accordance with BS8545:2014.
 - The periods for compliance with the requirements are: (i) 1 month; (ii) 3 months; and (iii) end of October 2025 to start of January 2026.
 - The appeals are proceeding on the grounds set out in section 174(2)(b), (c), (e), (f), (g) of the Act.
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Appeal D Ref: APP/M2270/W/25/3366827

Land between Kilndown Poultry Farm and Evanden Farm, Church Road, Kilndown, Kent TN5 7PX

- The appeal is made under section 78 of the Act against a refusal to grant planning permission.
 - The appeal is made by Mr K Jeeves against the decision of Tunbridge Wells Borough Council.
 - The application Ref is 25/00511/FUL.
 - The development proposed is: Construction of new stable building for accommodation of horses together with new highway access crossover and access driveway in connection.
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Appeals A, B and C – Decisions

1. It is directed that the notice is varied in section 6 by the deletion of the words “end of October 2025 to start of January 2026” and the substitution of the words “end of October 2026 to start of January 2027.”
2. Subject to the variation, the appeals are dismissed, and the notice is upheld.

Appeal D – Decision

3. The appeal is dismissed.

Preliminary Matters

4. I am advised that a use of the land as a caravan site, which does not form part of the matters alleged in the notice or the development applied for in Appeal D, began after the notice was issued. Accordingly, it is beyond the scope of these appeals and will not be considered.
5. No representative of the appellants attended the site visit, which was therefore conducted on an access required basis.

Appeals A, B and C – the appeals on ground (e)

6. An appeal on this ground is that copies of the notice were not served as section 172 of the Act requires. The appellants suggest a copy of the notice should also have been served on the owners of adjacent land to the north. In the absence of further explanation, this appears to arise from the fact that there are 2 accesses to Church Road near the point marked A on the plan accompanying the notice.
7. The access to the south of the point marked A is on the land affected by the notice. The access to the north is not, so there was no reason to serve a copy of the notice on anyone who may own or occupy the land it is on. The appeals on ground (e) therefore fail.

Appeals A, B and C – the appeals on ground (b)

8. The appellants' case on this ground also concerns the 2 accesses. They consider it is unclear from the notice which access is alleged to have been formed without planning permission. However, as noted, there is only one access to Church Road on the land affected by the notice, so the facts are clear.
9. In any event, an appeal on this ground is that any matter alleged in the notice has not occurred as a matter of fact and the appellants do not deny that a new access had been formed. The appeals on ground (b) therefore fail.

Appeals A, B and C – the appeals on ground (c)

10. An appeal on this ground is that any matter alleged in the notice is not a breach of planning control. That could be because it is not development or because permission has been granted for it. The appellants do not suggest that the formation of the vehicular access to Church Road (classified as a C road), of which the removal of the hedgerow was part, is not a breach of planning control.
11. However, they consider the laying of the hardcore and the erection of the wooden posts and wire fencing are permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("the Order"). No reasoning for that view has been provided.
12. The matters alleged in the notice do not include the erection of the wooden posts and wire fencing, so this does not fall to be considered in the appeals on this ground. The only identified instance in which the Order permits the laying of hardcore, other than within the curtilage of a dwellinghouse, is by reason of Article 3 and Part 6 of Schedule 2, which relates to agricultural development. No evidence of any agricultural use of the land when the hardcore was laid has been produced, so it has not been demonstrated that it is permitted by the Order.
13. For these reasons the appeals on ground (c) must fail.

Appeal D

14. The main issues in this appeal are:

- The effect of the development on the character and appearance of the area, having regard to the landscape and scenic beauty of the High Weald National Landscape (“the NL”).
- Whether safe vehicular access and egress can be achieved.

Reasons

Character and appearance

15. Paragraph 189 of the National Planning Policy Framework (“the Framework”) requires that great weight is given to conserving and enhancing landscape and scenic beauty in the NL, which has the highest status of protection in relation to these issues.
16. The appeal site is one of a series of small pastures within a relatively flat landscape in which short-range views are framed by surrounding tree cover, and where the absence of significant built form is a defining characteristic. Church Road is an unlit rural lane with no footways, dominated by hedgerows and mature roadside trees that create a sense of enclosure and restrict views from it. Vehicular access points are limited in number and of informal layout and surfacing materials.
17. The stable building would have a gross internal floor space of 73 sqm and be of utilitarian design, faced in box profile metal sheeting painted dark green. Within the context of the pastureland, this would appear as a large and dominant form. The access crossover would be formed with an 8 m stretch of black tarmac leading to a further section of crushed aggregate. Both, especially the tarmac section, would appear as urban features in the rural lane, contrasting negatively with the informal nature of existing accesses.
18. The submitted plans indicate that 2.4 m x 215 m visibility splays would be formed in each direction, although these are only illustrated in drawings submitted in Appeals A, B and C. These purport to show the visibility splays, but they are drawn incorrectly, thereby underestimating the likely extent of hedgerow removal. I saw that this could affect significant lengths that include mature silver birch, ash and beech trees close to the crossover point. It has therefore not been demonstrated that the creation of the splays would not have a significant adverse effect on the character and appearance of the rural lane in the short term. While new planting could be secured by condition, it would take any trees many years to mature and the need to maintain visibility would prevent them being planted where the loss occurred, so it would not be mitigated.

Access and egress

19. Church Road is relatively straight, with clear forward views for drivers at this point. Therefore, while speed surveys have not been produced, it is not unreasonable to expect vehicles to pass the site at or close to the national speed limit. Good driver visibility is therefore important, especially if slow moving vehicles, including those towing horse boxes, use the new access.

20. Setting the likely effect of the proposed visibility splays on character and appearance aside, they have not been correctly drawn on the plans before me. It is therefore not shown that they would be wholly within land owned or controlled by the appellant and thus capable of being secured. It has therefore not been demonstrated that the required driver visibility could be achieved.

Appeal D – Conclusion

21. For the reasons given, the development would have a more than minimal effect that would fail to maintain, conserve or enhance the rural landscape of the NL and the parish and the quality of the countryside. It would not respect the context of the site and would be an unsympathetic change to the character of the rural lane.
22. Additionally, it has not been demonstrated that an unacceptable impact on highway safety can be avoided by the formation of adequate visibility splays. Paragraph 116 of the Framework indicates that development should be refused in these circumstances.
23. Accordingly, the development is contrary to saved policies EN1 and EN25 of the Tunbridge Wells Borough Local Plan 2006 (“the BLP”), Core Policies 4 and 14 of the Tunbridge Wells Borough Local Development Framework Core Strategy Development Plan Document, and policies L1 and L4 of the Goudhurst Neighbourhood Plan. The formation of the new access without achieving the required visibility is contrary to saved policy TP4 of the BLP and Part 9 of the Framework. The development is therefore unacceptable.

Appeals A, B and C – the appeals on ground (f)

24. The notice’s requirements are directed at all aspects of the breach of planning control, so its purpose is to remedy that breach. It was stated in the appeal form that “a number of issues” would be amplified in later submissions, but nothing was forthcoming.
25. The appeal form also stated that the requirements are unreasonable because they seek to cause “exclusion from the land.” Although that point was made in respect of the appeals on ground (g), any criticism of the reasonableness of the requirements must be considered in this ground of appeal. As no further submissions were made it has not been explained what was meant by “exclusion from the land.” However, the notice only attacks operational development, so it cannot affect any lawful use of the land, or any lawful access to it.
26. The precise heights of the posts and wire fencing on the road frontage have not been provided, so they have not been demonstrated to not exceed 1m in height, the maximum that would be permitted by the Order in that position. Accordingly, and as they were erected as part of the works to form the unauthorised access, it is not excessive to require their removal.
27. For these reasons it has not been demonstrated that any of the notice’s requirements exceeds what is necessary to remedy the breach of planning control. Accordingly, the appeals on this ground must fail.

Appeals A, B and C – the appeals on ground (g)

28. The one matter raised by the appellants in their appeals on this ground did not concern the time allowed for compliance with the notice and has been dealt with in the appeals on ground (f).
29. Although the appellants have not raised the point, the time given for compliance with requirement (iii), to close the access and reinstate the hedgerow, is fixed as “during the next planting season” and the notice identified that as “end of October 2025 to start of January 2026,” that being the next planting season after the date the notice was issued.
30. While that planting season is only about to begin, the period given for compliance with requirement (ii), to permanently remove all hardcore, wooden posts and wire fencing from the access point, is 3 months. Closure of the access and reinstatement of the hedgerow could only occur after that period had elapsed.
31. For this reason, it is necessary to vary the notice to specify a planting season that post-dates compliance with requirement (ii). That would not, however, necessarily prevent implementation of the specified planting by the start of January 2026 if the appellants choose to comply with the notice’s requirements swiftly.
32. The appeals on ground (g) therefore succeed to this limited extent and the notice will be varied accordingly.

Appeals A, B and C – Conclusions

33. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with a variation.

Appeal D – Conclusion

34. For the reasons given above the appeal should be dismissed.

Mark Harbottle

INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/M2270/C/25/3366815	Mr Keith Jeeves
Appeal B	APP/M2270/C/25/3366816	Ms B Harbour
Appeal C	APP/M2270/C/25/3366817	Mr J Bigmore
Appeal D	APP/M2270/W/25/3366827	Mr K Jeeves