



Appeal Decision

Site visit made on 24 December 2025

by Grahame J Kean BA (Hons) Solicitor, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th December 2025

Appeal Ref: APP/M1710/C/24/3346355

High Acres, Willis Lane, Four Marks, Alton GU34 5AP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Andrew Oates against an enforcement notice issued by East Hampshire District Council.
 - The notice was issued on 16 May 2024.
 - The breach of planning control as alleged in the notice is: within the last four years and without planning permission, the creation of a vehicular access from the Land onto a classified road (Willis Lane C Class Road).
 - The requirements of the notice are:
 - (i) Cease the use of the access point in the approximate location marked in black between X---X on the attached plan for the purposes of vehicular access and egress from, or to, the classified road (Willis Lane C Class Road).
 - (ii) Remove all development associated with the unauthorised access, including fencing, gates and all hard surfaces, from the Land.
 - (iii) Restore the land to its previous condition prior to the breach of planning control taking place, by re-profiling the ground to the level it was at prior to the breach taking place and re-seeding it with grass seed.
 - The period for compliance with the requirements is: six months from the date this notice takes effect.
 - 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). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the creation of a vehicular access from the Land onto a classified road (Willis Lane C Class Road) as shown on the plan attached to the notice and subject to the following conditions:
 - 1) Hard surface/s shall either be made of porous materials or provision shall be made to direct run-off water from the hard surface/s to a permeable or porous surface within the site.

Reason - To ensure adequate provision for surface water drainage and avoid discharge of water onto the public highway.
 - 2) Within one month of the date of this decision, a fully detailed landscape and planting scheme for the site to mitigate the loss of vegetation shall be submitted for approval in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details and in accordance with the recommendations of the appropriate British Standards or other recognised codes of good practice. These works shall be carried out

in the first planting season after the details have been formally agreed by the Local Planning Authority.

Any trees or plants which, within a period of 5 years after planting, are removed, die or become seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved unless a suitable alternative species are otherwise agreed in writing by the Local Planning Authority.

Reason - In the interests of the visual amenities of the locality.

Ground (b)

2. An appeal on ground (b) is that the breach of control alleged in the enforcement notice has not occurred as a matter of fact. Clearly there was some sort of access in the position which corresponded, more or less to where the alleged access is marked on the plan attached to the notice. However, later photographic images and the written evidence are such that I find on the balance of probability that the access had been effectively removed from the appeal site for a considerable period of time before the creation of a new access as alleged.
3. Whether it was strictly accurate for the Council to refer to the previous access as having been “extinguished”, is a moot point. The appellant criticises the use of this term but both parties, from the evidence, clearly understand that one is not dealing with the extinguishment of a public or private rights of access in that sense.
4. However, in my judgement the breach of planning control has occurred as a matter of fact, ie a gap has been created in the existing hedgerow, access gates erected and hardsurfacing laid. Taken together all these works amount to the formation of a means of access onto the highway. The appeal on ground (b) fails.

Ground (d)

5. An appeal on this ground is that at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice. The burden of proof in a ground (d) appeal falls to the appellant and the test of the evidence is on the balance of probability, using precise and unambiguous evidence. The notice was issued on 16 May 2024, therefore the operational development consisting of the creation of the access must have been substantially completed four years before that date, ie by 16 May 2020.
6. The appellant’s claim that the access has been in situ since 1996 is contradicted by Google Streetview Images dated August 2009, July 2011, March 2021 and August 2021 which, albeit that they are snapshots in time, suggest that there was no access point in the location marked on the enforcement notice, for several years prior to the formation of the current access. Any temporary access in the past which the appellant has referenced cannot be relied on to prove lawfulness, as it was clearly not a continuous use, and was long since removed.
7. For the reasons given, the appeal on ground (d) must fail.

Ground (c)

8. The case presented on this ground (ie that there has not been a breach of planning control, for example because permission has already been granted, or is permitted development), is that any works that were required “to re-open the

9. *access*” did not require planning permission because no development was involved. The works that the appellant refers to are “*(foliage), permitted development (installation/removal of the fence) or works of maintenance (replacing gravel to the surface of the access).*”
10. However, it is the “creation of a vehicular access” that comprises the alleged development. I agree with the Council that these elements were carried out as a single operation and together amount to the formation of an access onto a highway. As such they do not benefit from any permitted development rights that may attach to them individually under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
11. For these reasons the appeal on this ground does not succeed.

Ground (a)

12. The reasons for issuing the notice according to the Council were that the development was an undesirable and visually intrusive engineering operation outside the settlement boundary, that visually erodes the character of the countryside in which it sits, and further that it “impacts upon the highway”.
13. The key development plan policies here are Policies CP1, CP2, CP19, CP20, CP29 and CP31 of the East Hampshire District Local Plan Joint Core Strategy. Their aims are as stated in the Council’s appeal statement.
14. The urbanising effect of the development is minimal having regard to the context of the local area. Despite the Council’s reference to isolated dwellings, there are several residential plots in relatively close proximity along the length of this part of Willis Lane, and although the site is outside relevant settlement boundaries as set out in Policy CP2, there are also several business units to the west of the appeal site, albeit agricultural land at the rear. There are also several commercial vehicles parked in and around the wider site. The main dwellinghouse at High Acres was the appellant’s family home but is now understood to be a house in multiple occupation and the owner resides in the dwelling to the rear that has become a separate unit of accommodation. In my view the immediate surroundings are more semi-rural in character than quintessentially rural.
15. I do not agree that there is no justification for an additional access point if the property is to remain in the same ownership. Policy CP19 would prevent new development unless there were a proven need for a countryside location. The alternative existing access to the property is through the commercial area adjoining the appeal site. In my view it would be unrealistic not to recognise the now separate plots that obtain within the wider site, including High Acres. Although the owner controls the alternative access further down the site from his residential property via the commercial area, then back up and out to Willis Lane, the Council at paragraph 6.23 of its statement does appear to acknowledge the safety issues inherent in using it. In the circumstances of this appeal, I am satisfied that the additional access proposed to be retained would not be contrary to Policy CP19.
16. The proposed new access is said to result in the unjustified loss of an area of vegetation and has an urbanising effect including visual harm from the permeable hardstanding, detrimental to the character of the area. This appraisal slightly over-eggs the position in my view. I do not agree that the access appears within this

semi-rural landscape as an unduly harmful intrusion into its prevailing character, especially given the preponderance of similar accesses formed in the vicinity.

17. It may be that that the vegetative border with the business area contains species that are not native, and this may lessen the degree to which this enhances biodiversity, but I am unpersuaded on the evidence that this has resulted in material harm that would unacceptably undermine the aims of Policy CP20, provided a suitably worded condition ensures approval of a scheme to mitigate the loss of vegetation. The gravel surface does alter the previous appearance of this part of the site, but not significantly so when viewed in conjunction with other development nearby. As a result, Policy CP29 which seeks to ensure that development proposals are of “exemplary standards of design and architecture” is not undermined to a degree that it could be said there is conflict with its aims.
18. When I visited, I saw that the gates were as the Council accepts, similar to those that might be seen in a countryside location, and as to the gravel driveway, as I have said I do not find that the development significantly adds to urbanisation of the area. In fact, I saw that those gates have now been relocated further back into the driveway, in addition to which, what was apparently discovered to be the previous gate in situ before the previous access was extinguished, were installed in their place. As such it presents a more open appearance to the front of the property and if anything, adds a more rustic feature. Be that as it may, my judgement on the compatibility of the above-mentioned policies is based on the situation at the time the notice was issued.
19. Policy CP31 requires that regard is had to any impact on the safety and convenience of the public highway. Willis Lane is a C Class highway covered by a 60mph speed restriction. On the application to retain the access, the highway authority made a holding objection due to lack of sufficient information.
20. I have viewed the site and similar accesses nearby along Willis Lane. The access appears to be reasonably required to facilitate the configuration of the established residential plots. There are clearly three separately occupied units and whilst at one time they may have benefitted from a shared curtilage, this does not represent the current position. As the appellant lives in the converted stable block to the rear, the new access facilitates access to this property without the need to share the driveway with the occupants of High Acres and the converted garage which is clearly within a separate plot.
21. Furthermore, there is a sufficient width of verge in front of the property, and the road itself is straight, which factors combine to enable good visibility for vehicles accessing and egressing the newly formed or re-created access. I am satisfied that the development can be accommodated in a manner that would not cause increased danger and inconvenience to highway users and in that respect would comply with Policy CP31.
22. Policy CP1 states that planning applications that accord with the development plan will be approved without delay, unless material considerations indicate otherwise. This policy and the others discussed above are material to the deemed application and therefore my decision must be taken in accordance with those policies unless material considerations indicate otherwise. I have considered the parties’ representations and submitted documents, including references to the National Planning Policy Framework. However, I find that for the above reasons, the

development complies with the development plan as a whole and that no other considerations indicate a contrary decision should be taken. Therefore, permission will be granted.

Ground (f)

23. In light of success on ground (a), ground (f) does not fall to be considered.

Conditions

24. The Council has proposed certain conditions if permission is to be granted. For reasons I have outlined in relation to highway safety and landscape character, the proposed condition requiring the existing access to High Acres to be closed off in perpetuity is neither necessary for the purpose of highway safety nor needed to protect the character and appearance of the area.
25. It would be reasonable however, to ensure adequate provision for surface water drainage and avoid discharge of water onto the highway, to condition the permission to require the hard surface/s to be of porous materials or provision made to direct run-off water from the hard surface/s to a permeable or porous surface within the site.
26. Additionally, to enable proper consideration to be given to the impact of the proposed development on existing hedging, a condition will be attached to ensure submission and approval of a scheme to mitigate the loss of vegetation.

Conclusion

27. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice. The enforcement notice will be quashed.

Grahame J Kean

INSPECTOR