



Appeal Decision

Site visit made on 4 February 2026

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2026

Appeal Ref: APP/C1435/C/23/3327926

Land North-east of Brimseth House , Coggins Mill Lane, Mayfield, East Sussex

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Ms Hayley Slade against an enforcement notice issued by Wealden District Council.
 - The notice was issued on 13 July 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission the formation of a vehicular access and track ("the Access") in the approximate position shown coloured green on the attached plan.
 - The requirements of the notice are to:
 - (i) Break up and remove all aggregates and materials imported onto the Land to create Access.
 - (ii) Permanently stop up to vehicular use the vehicular crossover created by the Access on the grass verge by rein-instating the grass verge previously located on the Land, to a depth from the highway of not less than 1.5 metres at any point.
 - (iii) Cover with topsoil and seed with grass seed the areas where the imported materials have been removed and the grass verge has been re-instated, to marry in with the contours of adjacent undisturbed land.
 - (iv) Remove from the Land all materials, rubble, rubbish debris, tools and equipment arising from compliance with the above requirements.
 - (v) Demolish, dismantle and remove the field gate and posts.
 - (vi) Reinststate the hedgerow along the original boundary to the Land by planting at 6 plants per linear metre of approximately:-
 - 45% Hawthorn (*Crataegus monogyna*)
 - 25% Blackthorn (*Prunus spinosa*)
 - 10% Hazel (*Corylus avellana*)
 - 5% Field Maple (*Acer campestre*)
 - 10% Hornbeam (*Carpinus betulus*)
 - 5% Holly (*Ilex Aquifolium*)Using transplants 45-60cm tall or whips 60-90cm tail as appropriate to the species, evenly spaced at a density of double staggered row notch planted 0.33 meter apart at 0.33 metre centres. Provide protection against rabbit and deer damage — individual Tubex tree shelters of an appropriate size, staked and secured or stock fencing around all new trees to incorporate rabbit proof wire at base. All whips to be young trees without feathered growth, 0.6—0.9m high. All transplants to conform to BS 3936: Part 1: 1992 and to be no less than 2 years old.
 - (vii) 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 3 months for steps (i) to (iv) and 9 months for steps (v) to (vii)
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (d) and (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 dismissed, and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The Appeal on ground (b)

2. To succeed on this ground, the onus is upon the appellant to demonstrate on the balance of probabilities that the allegation has not occurred as a matter of fact.
3. The appellant does not dispute the existence of the vehicular access track and confirms that the resurfacing of the track is an engineering operation which requires planning permission. However, the appellant's case is that a new access has not been formed, and that it has been in existence for over 4 years. This is an argument more appropriately considered under ground (d) appeal 'that it was too late to take enforcement action'.
4. The appellant accepts that there is an access track in this location. Therefore, on the balance of probabilities, I consider that the matters as alleged by the notice have occurred as a matter of fact.
5. Accordingly, the appeal on ground (b) must fail.

The Appeal ground (d) appeal

6. The onus is on the appellant under ground (d) to make the case that, at the time the enforcement notice was issued, it was too late to take action against the matters stated in the notice. The enforcement notice is directed at the alleged formation of a vehicular access and track ("the Access") in the approximate position shown coloured green on the attached plan.
7. Consequently, the appellant needs to show that the matters alleged in the notice occurred at least 4 years before it was issued (which was on 13 July 2023). If the Council has no evidence of its own, or from others, to contradict or otherwise make the version of events less than probable, there is no good reason to dismiss the appeal, provided the appellant's evidence alone is, on the balance of probability, sufficiently precise and unambiguous.
8. The appellant's case is that a new access has not been formed, and that it has been in existence for over 4 years. However, the Council maintains that there is insufficient and contradictory evidence to support this claim.
9. I shall focus on the appellant's evidence, the starting point being a letter sent to the Appellant by local Estate Agents Burnetts (Mayfield LLP), dated 17 August 2017, offering the opportunity to purchase land immediately adjoining her property and accessed from Coggins Mill Lane to a point in the north-west corner marked on the attached plan with the turquoise arrow.
10. However, the letter does not refer to an existing access, but a "former" vehicular access to the road in the Northwest corner. The letter confirms that the access is *"currently overgrown and blocked by fallen branches to prevent unauthorized access."* However, there is no clear evidence to demonstrate when this "former" vehicular access existed, or whether the previous owners had any intention to re-instate the former vehicular access.

11. In addition, an unsigned and undated statement has been submitted by Mr Jeremy Reed, the gardener/contractor who carried out the works. The letter states that on pricing the job, he became aware that the track had been in existence for a considerable period of time but had become overgrown through lack of regular use. It is also stated that the track had a pre-existing hard surface, and that in early 2022 he used a 1.5 tonne mini digger to remove the top layer of vegetation and resurface the previously laid layer of stone. He also confirms that he constructed a small length of new track so that it was possible to make a turn into Mrs Hayley's field.
12. Again, this letter further confirms that, if there was indeed a former access, that it was overgrown from lack of use and therefore had become an incapable of being used. The information does not provide clarity on when the access would have been last used or capable of being used as an access. In addition, this statement is unsigned and undated, and therefore I can only attach limited weight to this letter. Furthermore, the invoice provided by Mr Reed for these works dated 23 February 2022 refers to the works carried out as: "*Dig new driveway*". As such, the invoice provided was for a 'new driveway' rather than the upgrade of an existing access.
13. The Council's review of photographic images from Google Streetview, dating back to 2008, show no historical access of this area before the Notice was issued, with the area in question being continuously blocked and overgrown by vegetation. I also note that the Council have reviewed aerial images dating back to 1999 and advise there is no clear evidence of any track dating back to 1999. Indeed, the Officers Report includes an aerial image of the site from 2004 which shows no access or tracks across the field at that time.
14. The Council's Officer's Report for Enforcement Action¹ illustrates photographs taken on 23 February 2022 when works were on going on the site. These show the substantial engineering operations carried out with clearance of vegetation and spoil in the wooded area between the road and the agricultural field. As a matter of fact and degree, if the vehicular access was pre-existing and lawful it would have been unnecessary for the appellant to carry out such substantial engineering operations.
15. Furthermore, the records held by the Highways Authority do not indicate any vehicular access in this location and no license to carryout works within the boundary of the Highway has ever been applied for. As such, the evidence provided by the Planning Enforcement Team and the Highway Authority add further uncertainty to the appellant's case and indeed contradicts it.
16. It is well established in planning law that the onus rests with the appellant to make out his or her case. However, on the evidence before me, I find that burden has not been satisfactorily discharged in this particular case. Therefore, on the balance of probability, I conclude that at the time the notice was issued it was not too late to take enforcement action against the alleged breach of planning control.
17. Consequently, the appeal on ground (d) must fail.

¹ Dated 24 April 2023.

Appeal on ground (a), the deemed planning application (DPA)

Main Issue

18. The main issue is the effect of the development on highway safety.

Reasons

19. The highway at this point is classified as the C14, which links Mayfield, Coggins Mill, Rushers Cross and Best Beech Hill at Wadhurst. The vehicular access serves an agricultural field, which runs parallel with the classified as the C14.
20. ESCC Highways has been consulted and have raised an objection that the access that has been constructed does not meet the highway safety standards. In particular, they advise that for classified roads, where the speed limit is derestricted, visibility splays of 2.4m x 215m are required in both directions. The appropriate gradient needed is 1:25 for the first 9 metres with a suitable landing gradient, which is not evident in this case.
21. Furthermore, the surface would need to be bound for the first 5m to prevent debris being dragged into the highway and warn that loose material and mud is a particular highway hazard to cyclists and motorcyclists particularly but can also affect the skid resistance for motor vehicles. Furthermore, in icy conditions egressing vehicles are a further highway hazard, since they are more susceptible to slide into the carriageway.
22. ESCC further advise that the access for larger and/or slower moving agricultural vehicles would be 6m generally. However, the approach angle to the highway does not permit a safe right turn for vehicles heading Northbound and as such, the use of the access would cause an obstruction to on coming vehicles on the highway. A concern is also raised that the level of excavation required would require a highway structures report, since it is partly highways land.
23. No specific details have been provided by the Appellant to explain how they have addressed all of the safety concerns raised by ESCC Highways above, with regard to visibility splays, vehicles turning onto the highway and debris and mud washing out onto the highway during inclement weather (owing to the steep gradient of the access). They simply consider that the access is long standing and lawful. However, as outlined in the ground d) appeal above, on the balance of probability, this has not been satisfactorily demonstrated.
24. Therefore, on the basis of all the evidence before me, the development is harmful to highway safety, contrary to Policy TR3 of the Wealden Local Plan, 1998. This states that planning applications for new development will be permitted where the following criteria are met: (1) the proposed development does not create or perpetuate unacceptable traffic conditions; 2) a satisfactory means of access (vehicular, cycle and pedestrian) is provided to meet Local Planning and Highway Authority standards, and that the Council will require the on-site provision of vehicle.
25. The development also conflicts with Policy SPO13 of the Wealden District Core Strategy Local Plan, 2013, which seeks to encourage the development of high quality, safe and attractive living environments for communities in both towns and villages

26. The development also conflicts with the National Planning Policy Framework, 2024 (The Framework) which requires that a safe and suitable access to the site can be achieved for all users and that development should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

Other Matters

27. I am required to consider the effects of the development on the High Weald National Landscape (formerly the AONB). In particular, paragraph 189 of the Framework state that great weight should be given to conserving and enhancing landscape and scenic beauty in National Landscapes which have the highest status of protection in relation to these issues.
28. The C14 road is also recognised as a Historic Routeway within the High Weald AONB Management Plan 2019-2024. The access also lies adjacent to the Mayfield Coggins Mill Conservation Area (CA). However, the hard surfacing that was installed in 2022 has been assimilated into the landscape and now has vegetation growing over it. In these respects, the development preserve the area's character and appearance and the setting of the CA.
29. I therefore conclude that the development does not harm the natural beauty of the High Weald National Landscape as it would preserve the rural character of the locality and in turn the natural beauty of the area. It therefore complies with Paragraph 189 of the Framework.

Conclusion on Ground (a) and the DPA

30. The development results in harm to highway safety, contrary to the development plan as a whole. None of the other matters raised by the appellant, including the likely low-key activity of the appeal site overcome these harms. Lack of harm in relation to the High Weald National Landscape and the adjacent CA is a neutral matter which does not weigh in favour of the development. There are no material considerations that would lead me to a decision other than in accordance with the development plan in this case.
31. The appeal on ground (a) must therefore fail and the application for permission deemed to have been made will be refused.

Appeal on ground (f)

32. The appeal on this ground is "that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters (i.e., the matters alleged in the notice) or, as the case may be, to remedy any injury to amenity which has been caused by any such breach".
33. The enforcement notice requires the removal of the unauthorised vehicular access and the replating of vegetation and the restoration of the land to its condition before the breach took place. Therefore, the purpose of the notice is to remedy the breach of planning control.
34. The Appellant considers that a lesser step would be to remove the track's hard surface whilst retaining the vehicular access for the maintenance and pruning of the trees that border the public highway. However, this would not remedy the breach of

planning control, which is the purpose of the Notice, and the access would still result in the harms raised above in relation to Highway Safety.

35. Therefore, as the notice does no more than seek remedy of the breach, it is not excessive. There are no lesser steps drawn to my attention or any obvious alternatives that would remedy the breach of planning control which is the purpose of the notice.

36. On this basis, the ground (f) appeal fails.

Conclusion

37. 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.

R. Satheesan

INSPECTOR