

Appeal Decision

Site visit made on 14 April 2026

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 23rd April 2026

Appeal ref: APP/A2335/C/25/3369959

Kellet Bridge Farm, Kellet Lane, Carnforth LA6 1AB

- The appeal is made by Andrew Thompson under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by Lancaster City Council.
- The enforcement notice was issued on 23 June 2025, reference: 2025/34. The appeal was made on 25 July 2025.
- The breach of planning control alleged in the notice is, without planning permission, the engineering operation consisting of the widening of the existing vehicular access from Kellet Lane.
- The requirements of the notice are:
 - (i) Reinstate the previous driveway boundary line shown in Appendix B (for clarity Points A to B the mouth of the exit should be 12.38 metres and Points C to D should be 6.15 metres);
 - (ii) Remove all resultant materials and debris (in particular the excess tarmac) from the Land following the steps set out in (i) and (ii) as above.
- The period for compliance with the above requirements is Seventeen Weeks.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (e), (f) and (g) of the Town and Country Planning Act 1990 (as amended), (the Act).

Summary of decision:

The appeal on ground (a) succeeds. Planning permission is granted on the application deemed to have been made to retain the access widening works.

Costs application

1. The Appellant, Andrew Thompson, made an application for an award of costs against Lancaster City Council. That application is considered in a separate decision.

N.B. As originally drafted, requirement (ii) to the enforcement notice read:

(ii) Reinstate the previous boundary wall (no more than 1m in height);.

That requirement was deleted following representations. Original requirement (iii) was renumbered (ii) without an update.

Appeal property and development enforced against

2. Kellet Bridge Farm is a detached dwelling and its outbuildings just over 100m to the west of the narrow classified public highway, Kellet Lane. The property is accessed by a hard surface driveway to Kellet Lane. Surroundings are mostly attractive farmland and open countryside.
3. The Appellant, Andrew Thompson, had reconstructed the eastern end of his driveway by widening the vehicular access connection to Kellet Lane. The Council viewed the works to be excessive and harmful to the appearance of the surroundings.

The appeal on ground (e)

4. An appeal on ground (e) asserts that copies of the enforcement notice were not served as required by s.172 of the Act.
5. Andrew Thompson said the enforcement notice had not been properly served in accordance with s.172 of the Act. The Council had issued a notice which was subsequently varied, the original step (ii) struck out. The date of the notice was not amended and no extension of time was granted for it coming into effect. Also, the amended notice was not served on Andrew Thompson.
6. Section 176 of the Act is headed 'General provisions relating to determination of appeals.' Section 176(5) states: *Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.* In many cases ground (e) appeals cannot succeed because of the 'substantial prejudice' provisions in s.176(5). If an appellant was not served as required by s.172 but received a correct copy of the enforcement notice and made a valid appeal, it is likely, as here, the conclusion would be they were not substantially prejudiced.
7. The Appellant fairly conceded that he had not necessarily been prejudiced in terms of being aware of the variation. Whilst he thought that was another example of how the Council failed to properly explain and justify and record its actions, I consider that any inconvenience caused did not demonstrate that Andrew Thompson suffered substantial prejudice. The appeal on ground (e) fails.

The appeal on ground (c)

8. An appeal on ground (c) asserts that those matters alleged in the enforcement notice do not constitute a breach of planning control. However, Andrew Thompson's ground (c) appeal was an assertion that the enforcement notice was flawed. He said that was because the alleged breach of 'operational development' and the required remedial works were too vague. He said the notice should be quashed.
9. Government advice in PPG Para: 019 Reference ID: 17b-019-20180222 says enforcement notices are not improved by over-elaborate wording. The alleged use or operations may be described generically, for example, using terms such as 'shop' or 'fence'. The advice says that over-particularisation can defeat the purpose of the enforcement notice, and prosecution may fail if the Court finds the enforcement notice incomprehensible to the lay person.
10. The enforcement notice's description of the alleged breach of planning control said: "... without planning permission, the engineering operation consisting of the widening of the existing vehicular access from Kellet Lane." In my view, that is a perfectly adequate overall description of what has taken place. The requirements of the notice also made it clear where those works had taken place. It could not be misunderstood to apply to the whole length of the driveway.
11. The works to widen the junction of the driveway to Kellet Bridge Farm to the classified Kellet Lane clearly amounted to operational development. The extent of those works was not so trivial as to be of no consequence.
12. It was said that much of the works would have been development permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015, (the Order). That may be for parts of the access widening works. But where development works are in excess of Order limits the scheme is, as a whole, without

planning permission, the case of *Burge v SSE & Chelmsford BC* [1988] JPL 497 is authority for that position. Also, the earlier case of *Garland v MHLG* [1968] 20 P&CR 93 found that if a development exceeds permitted development limits, the whole development is unauthorised.

13. Schedule 2 permitted development rights, Part 1, Class F also does not assist. Class F(a) permitted development rights only apply to *the provision within the curtilage of a dwellinghouse of a hard surface*. The appeal on ground (c) fails.

The appeal made on ground (a)

14. An appeal on ground (a) asserts that planning permission should be granted on the alleged breach of planning control.
15. Andrew Thompson said the drive entrance works had been minimal. The access widening accorded with local and national planning policy. It had been necessary to improve the existing access to Kellet Bridge Farm to aid ingress and egress to and from the dwelling and the agricultural unit, enabling agricultural vehicles to turn in and out easily. The improved access was 14m wide at the edge of Kellet Lane. It narrowed to 5m wide 11m up the drive, (my approx. conversions to metric dimensions). The works had, according Andrew Thompson, consisted of removing a low stone wall, removing the cattle grid and some cobbled surfacing adjacent to the road and tarmacking the surface close to Kellet Lane. Timber post and rail fencing to match the rest of the land had been erected.
16. The Council said that evidence was needed to justify what seemed to be an excessively widened access. They doubted that recommended visibility splays could be achieved. A planning application would have required such information, including the number of vehicles coming and going. There was also a lack of knowledge of the requirements of the agricultural holding. In the absence of information to justify such an apparently excessive widening of the access, the harm caused to the appearance and character of this area of rural open countryside was unacceptably detrimental. It conflicted with relevant policies in Lancaster City Council's Strategic Policies and Land Allocations Development Plan Document (DPD), particularly policy DM46.

Considerations

17. The widening works to the access to Kellet Bridge Farm provide for easier manoeuvring in and out, especially for drivers of large vehicles. The entrance gate has been set well back from the edge of the highway. That allows for vehicles to stand clear of Kellet Lane while the gate is opened and closed. The works enforced against provide for more convenient movements and to a limited degree safer use of the access. The works do little to improve visibility along Kellet Lane. As the Council pointed out, no visibility splays have been provided. However, the standard of splays for an access to a 60mph road of 215m in each direction from 2.4m back from the nearside road edge would be an unnecessarily severe requirement, especially as actual average traffic speeds along this undulating and narrow classified road are likely to be much lower than the official speed limit.
18. The decision turns on an assessment of any harm to the appearance of this part of the attractive open countryside caused by the widened access drive to Kellet Bridge Farm, bearing in mind local policy set out in the Council's Strategic Policies and Land Allocations DPD. Those policies include Policy EN3 which says the Council has designated areas of open countryside that define the rural context of the district. They note that the open and rural character can be easily damaged by the intrusive effects of inappropriate development. Although perhaps more pertinent to larger developments, Policy DM46 requires development to be in scale and keeping with the

landscape character and appropriate to its surroundings including external appearance and landscaping.

19. The Council's concerns seemed to imply they were not convinced that traffic volumes to and from this small agricultural unit justified the scale of the access widening to Kellet Lane. The new manoeuvring splays may seem slightly excessive bearing in mind the apparent small size of Andrew Thompson's agricultural unit. I saw during my visit what looked like a large animal stock carrying HGV on site, the type that would clearly benefit from having an easily traversed access. But whilst I agree with the Council's implication that HGV traffic movements might be infrequent, that consideration does not weigh heavily against allowing retention of the widened access.
20. In my view, the harm to the appearance of this part of the attractive open countryside is acceptably limited, both in extent and bearing in mind the benefit of improving the access to Kellet Bridge Farm. I do not find unacceptable conflict with local planning policy drawn up to safeguard open countryside.

Conclusion

21. For the reasons given above, I conclude that the appeal on ground (a) should succeed. Planning permission is granted on the application deemed to have been made for engineering operations consisting of the widening of the existing vehicular access to Kellet Bridge Farm from Kellet Lane. The appeals made on grounds (f) and (g) do not fall to be considered.

FORMAL DECISION

22. It is directed that the enforcement notice is quashed. The appeal on ground (a) is allowed and planning permission is granted on the application deemed to have been made for the retention of engineering operations consisting of the widening of the existing vehicular access from Kellet Lane to Kellet Bridge Farm, Kellet Lane, Carnforth LA6 1AB.

John Whalley

INSPECTOR