Planning Inspectorate

Appeal Decision

Site visit made on 5 November 2026

by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2026

Appeal Ref: APP/W3520/C/25/3368355
Land at the Planche, Church Road, Thurston, Bury St Edmunds, IP31 3RN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Graham Denny against an enforcement notice issued by Mid Suffolk District Council.
- The notice was issued on 25 April 2025.
- The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised creation of an access to an unclassified road In breach of conditions listed in the General Permitted Development Order 2015 (as amended).
- The requirements of the notice are to: (1) Cease the use as an access to enter the highway; and (2) Remove the gates and permanently stop up the access, returning the land to its condition prior to the development taking place.
- The period for compliance with the requirements is within 3 months of the date the notice takes effect.
- The appeal is proceeding on the ground set out in section 174(2)(a) 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.

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 an access to an unclassified road at land at the Planche, Church Road, Thurston, Bury St Edmunds, IP31 3RN, as shown on the plan attached to the notice.

The Appeal on Ground (a)

2. The appeal was submitted under ground (a) alone. From the stated reasons for issuing the enforcement notice, the main issue in the determination of the appeal is the effect of the access on highway safety.

3. In many circumstances, the creation of a new point of access onto an unclassified road will be permitted under the provisions of Class B, Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the GPDO). However, in order to constitute permitted development any new access must be required “in connection with development permitted by any Class in this Schedule (other than by Class A of this Part)”.

4. The appellant contends that the access is required to allow large horse vehicles to enter the paddocks occasionally and to enable “UK Power Networks” to gain easy access to maintain the four pylons and associated high voltage electricity cables which are located within the site. I have no reason to doubt those intentions. I also recognise that the grazing of horses may constitute agriculture but the continuation

of that use is not an act of "development". In that sense, the creation of the access was not required in connection with any other "development" permitted by Schedule 2 of the GPDO and planning permission is therefore required for its creation.

5. In terms of the impact of the access on highway safety, the evidence suggests it will not be intensively used. In fact, at my unaccompanied site visit, it was apparent that weeds have grown over the compacted surface to the front of the gates, indicating little, if any recent use. I noticed that the other access to the paddocks further along the lane was open and a horse box was evident in the site which indicates that remains the main point of access for day-to-day use.

6. The lane itself is lightly trafficked and the point of access is on the outside curve of a sharp bend in the road. As such, vehicles will inevitably have to slow significantly on the approach to navigate the bend. Moreover, the fact that the access is on the outer curve is such that a reasonable degree of visibility is afforded when exiting the site to both the left and right.

7. Anyone seeking to enter the access from a southerly direction has good forward visibility to see vehicles or other road users approaching from the north. If a large vehicle was entering the site from the north it is possible that the carriageway would temporarily be blocked. However, any oncoming road users turning the corner from the south would be travelling at low speed such that they would be able to stop in ample time.

8. Such situations are not uncommon on rural roads where farm traffic and the like are entering field gates which most often are not constructed to highly engineered design standards.

9. I also note that highway safety was not given as a reason for refusal in the dismissed appeal in relation to a proposal for two new dwellings at the site. Under those plans, access to one of the dwellings and a track to stables at the rear was shown to be in the position of the present access. The level of traffic associated with that proposal was likely to have been greater than the occasional use of the current access.

10. Had that proposal been granted permission a condition may have been imposed to require the proposed access to be constructed to a specified standard. However, that was to serve a residential development as opposed to the present access which is effectively a field gate intended for infrequent use. Thus, the fact that the finish may be slightly less formal, with hardcore crossing the verge is not unsuited to the likely level of use. The hardcore has already compacted and grown over to an extent which would prevent any notable amount of loose material being dragged onto the carriageway.

11. Neighbouring residents may have doubts as to the stated reasons why the access is required. However, there is nothing that would lead me to doubt the appellant's version of events. In any event, planning permission would be required for any future development within the paddock and the fact that the access may be suitable for infrequent use for the stated purpose does not indicate it would necessarily be suitable for a more intensive use, whatever that may be. Consequently, my decision does not set any precedent in relation to the determination of any future planning applications, should any arise.

12. The Council has suggested that some of the access may have been constructed on land that belongs to the Highway Authority. However, that is essentially a private matter in respect of land ownership as opposed to a planning matter. The fact that I am satisfied that the access has not caused any harm in respect of highway safety, in planning terms, does not preclude the Highway Authority from considering any private rights or issues separately. However, that is a matter for them and does not affect my decision.

13. In view of the above, I am satisfied that the creation of the access has caused no harm to highway safety and that it complies with the relevant aims of policy LP29 of the Babergh & Mid Suffolk Joint Local Plan Part 1 (2023), with particular respect of the need to demonstrate safe and suitable access for all.

14. The Council has recommended two conditions in the event that the appeal is allowed. The first to require completion of the access in accordance with details shown on plan number DM0001 which was submitted with the refused planning application. However, as noted above, that plan was for a formal access to serve a proposed residential development. The current access is an infrequently used and informal entrance to provide access to services in the paddock. I am satisfied that the current arrangement is satisfactory in respect of the intended level of use and the requirement to complete the access in line with the stated plan is not necessary to make the development acceptable in planning terms.

15. The second suggested condition states that the access shall not be used until visibility splays have been provided “as required by the Highway Authority”. However, the condition does not state what those required splays would be and is imprecise. In any event, as stated above, I am satisfied that adequate visibility is already available, having regard to the nature of the road and the likely level of use of the access. As such, the condition is unnecessary to make the development acceptable in planning terms.

16. Accordingly, the development complies with the relevant policies of the development plan in respect of highway safety and no other considerations have been put forward to indicate that a decision should be taken other than in accordance with that plan. Therefore, the appeal succeeds on ground (a). I shall grant planning permission for the creation of the access and the enforcement notice will be quashed.

Chris Preston

INSPECTOR