



Appeal Decision

Site visit made on 28 October 2025

by Thomas Shields DipURP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 December 2025

Appeal Ref: APP/V2255/C/23/3323156

Broad oak Farm, Broad oak Road, Milstead, Sittingbourne, ME9 0RS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Matthew Brown against an enforcement notice issued by Swale Borough Council.
 - The notice was issued on 25 April 2023.
 - The breach of planning control as alleged in the notice is Without planning permission, the erection of walls and gates at the entrance of the land.
 - The requirements of the notice are:
 - (i) Demolish and remove from the Land the walls and gates shown in their approximate position by 4 black crosses (XXXX) on the attached plan.
 - (ii) Remove from the Land all resultant materials and debris arising from compliance with step (i) above.
 - The period for compliance with the requirements is 4 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f), (g) 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. It is directed that the compliance period in Section 6 of the enforcement notice be varied by substituting 6 months for 4 months. Subject to the variation the appeal is dismissed, 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.

Appeal on ground (a)/deemed application for planning permission

2. Boundary walls and gates have been erected as set out in the enforcement notice and attached plan at the entrance to Broad oak Farm, a residential dwelling house. The house is set well back from the road behind flat open land which has been planted with trees.

Main Issue

3. Having regard to the Council's reasons for issuing the notice, the main issue is the effect of the development on the character and appearance of the area.

Reasons

4. The site is located within the countryside, outside of any defined built up area. It also lies within the setting of the Kent Downs National Landscape¹ and within the *Tunstall Farmlands Dry Valley and Downs Landscape Area* as defined within the Swale Landscape Character and Biodiversity Appraisal (2011), an area of high

¹ National Landscapes formerly known as Areas of Outstanding Natural Beauty

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landscape value (Kent level) with a high sensitivity to change. As such, Policy DM24 of the Local Plan² (LP) applies in respect of conserving and enhancing valued landscapes.

5. Additionally, LP Policies CP4 and DM14, taken together, seek to ensure that development is of a high quality design appropriate to its surroundings, reflects the positive characteristics and features of the locality, have an appearance and height that are appropriate and sympathetic to the location, and promote and reinforce local distinctiveness.
6. Although the gates subject of this appeal are located in a previously approved³ position, the details of the gates were not approved. The as-built curved walls extending outwards from the gates to the road edge, and along part of the field boundaries either side of the entrance, were also not approved.
7. When taken purely in isolation I acknowledge the development as carried out is of a high standard of construction and utilises high quality materials. However, the context of the surroundings is key in this case. In this regard the characteristics of the Tunstall Farmlands character area notes the relatively open rural landscape with limited interrupting built form with hedgerow boundaries, also noting the undesirable loss of some hedgerows along lanes.
8. Contrary to the appellant's case I consider the development as carried out appears in the landscape as a substantial and overly dominant urbanising and intrusive feature, incongruous with the prevailing landscape characteristics of the Tunstall Farmlands area. This includes the extent of the 1m high walls adjacent the highway boundary which are inappropriately urbanising. As such, the development conflicts with LP Policy DM24 requirements to conserve and enhance the landscape. For the same reason it also has an adverse impact upon the setting of the National Landscape. There is also conflict with paragraph 187 of the Framework⁴ which sets out that development proposals should contribute to and enhance the natural and local environment, including by protecting and enhancing valued landscapes, and recognising the intrinsic character and beauty of the countryside.
9. I note that the appellant has restored hedgerow and planted trees on the land which is commendable and consistent with the objectives of the Tunstall Farmlands character area appraisal of restoring and improving its key characteristics. However, that does not overcome the harm I have identified resulting from the appeal development which is urbanising, out of scale, and highly visible and prominent in the landscape.
10. I note the examples of gates and boundary treatments at other locations referred to by the appellant. However, these are relatively few in number and do not fundamentally change or undermine the overall distinct rural character of the area previously described. Moreover, they are not identical comparisons to the development in this appeal which results in significant harm. As such, they do not provide any significant weight in support of allowing the appeal which, as required, I have considered on its own merits. I also acknowledge the potential for an alternative scheme to be erected via the planning permission (PD "permitted development") available under the GPDO⁵. However, I do not have a detailed PD

² Bearing Fruits 2031: The Swale Borough Local Plan (2017)

³ Approved plan allowed under appeal Ref: APP/V2255/W/19/3221986 showing position of gates and visibility splays

⁴ National Planning Policy Framework (2024)

⁵ Town and Country Planning (General Permitted Development) (England) Order 2015

alternative scheme before me for comparison. Moreover, I am not convinced that a PD alternative would result in the same or greater level of harm as results from the as-built development subject of the appeal. Consequently, I attach very little weight to the appellant's PD 'fall-back' argument.

11. Consequently, for these reasons, I find that the development results in significant harm to the character and appearance of the area in conflict with LP Policies CP4, DM14 and DM24.
12. For these reasons the appeal on ground (a) fails.

Ground (f)

13. Section 173(4)(a) and (b) of the Act states the two purposes the requirements of an enforcement notice can seek to achieve. The first (a) is to remedy the breach of planning control which has occurred. The second (b) is to remedy any injury to amenity which has been caused by the breach. Hence, an appeal on ground (f) seeks to argue that the notice requirements exceed what is necessary to remedy the breach of planning control, or, as the case may be, to remedy any harm to amenity resulting from the breach.
14. It is clear from the notice requirements in Section 5 that its purpose is to restore the land to its former condition before the breach occurred. Hence, the purpose of the notice falls within s173(4)(a) to remedy the breach of planning control.
15. The appellant suggests an alternative of reducing the height of the walls to no more than 1 metre consistent with PD limitations. However, for reasons set out earlier under ground (a), including the linear extent to which the walls run along the highway, I have found the boundary walls to be unacceptable. Moreover, such a requirement would not fully remedy the breach.
16. Since the requirements of the notice go no further than securing the removal of the unauthorised development they cannot be excessive requirements.
17. The appeal on ground (f) fails.

Ground (g)

18. The ground of appeal is that the period of time for compliance with the notice requirements falls short of what should reasonably be allowed. The notice requires full compliance within 4 months. The appellant seeks a period of 6 months.
19. While I am mindful that the breach should be remedied and the notice complied with without any undue delay, the appellant is likely to know better the local time constraints in terms of availability of contractors and scheduling of works. In this regard the difference between 4 months and 6 months for compliance is not significant. On balance therefore I consider a period of 6 months would be reasonable.
20. The appeal on ground (g) therefore succeeds and the notice is varied accordingly.

Thomas Shields

INSPECTOR