

TOWN AND COUNTRY PLANNING ACT 1990
SECTION 174
APPEAL BY MR & MRS WILLIS
30 EDIES LANE, LEAVENHEATH, SUFFOLK, CO6 4PA.

DRAFT STATEMENT OF COMMON GROUND

Town and Country Planning Act 1990 (as amended)

Appeal by Mr & Mrs Willis

30 Edies Lane, Leavenheath, Suffolk, CO6 4PA

Introduction

1. This Statement of Common Ground ("SoCG") sets out areas of agreement between the Appellant and Babergh District Council ("the LPA").

The Appeal

2. The Appeal is made in response to the decision by the LPA to serve an Enforcement Notice dated 17 November 2025 alleging:

"Without planning permission, the unauthorised operational development involving the erection of a building and shed, in the approximate location marked X on the attached plan.

Without planning permission, the unauthorised material change of use of the land for residential purposes, on the land outlined in red on the attached plan."

3. The Appeal is made on the following grounds:

Ground (a): That in respect of any breaches of planning control which may be constituted by the matter stated in the notice, planning permission ought to be granted.

Ground (c) that those matters (if they occurred) do not constitute a breach of planning control;

Ground (d) that, at the date when the Notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters.

MATTERS AGREED

The Appeal Site and its surroundings

4. The Appeal Site is comprised within registered title number SK1314 with the Appellants' dwelling known as 30 Edies Lane, Leavenheath sited within/up registered title number SK110332 ('the Dwelling'). The Appellants acquired both the Appeal Site and the Dwelling on or around 3 September 2024.
5. Upon the Appeal Site is a single storey building and a shed. Works to construct the building commenced in or around early September 2025. The building has been constructed to just below roof height. Work on the brickwork ceased upon receipt of the enforcement notice. The shed was erected in December 2024. The building is in the northern section/area of the Appeal Site and in the approximate location marked 'x' on the plan to the Enforcement Notice. The shed is positioned adjacent to the building. Photographs of the building and the shed are included at Appendices 1 and 2.
6. The Appeal Site (the area shown edged red on the Enforcement Notice) is located to the rear of the Appellants' dwelling.
7. The Appeal Site is visible from the public footpath which runs along the western boundary of the Appellants' garden.
8. The building is located adjacent to the common boundary with the neighbouring property known as Broadley (30A).
9. The Appeal Site is not within a Conservation Area, Special Landscape Area, National Landscape (AONB) or any other area of special area designation. The heritage asset known as Stonicott which is a grade II listed building located 60m to the North. It is separated from the Appeal Site by other properties and landscape features. It is unlikely that the Appeal Site impacts upon the setting of the listed building.

The use of the Appeal Site

10. That a change of use to use of land as a garden and/or residential amenity land is likely to amount to a material change of use requiring planning permission.

Permitted Development Rights

11. Class E of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("the GPDO") provides planning permission for:

The provision within the curtilage of the dwellinghouse of—

(a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure ("the PDR").

12. The PDR is subject to the exceptions, limitations and conditions outlined at sections E.1, E.2 and E.3 to the PDR/GPDO.

The development plan

13. The development plan consists of the Babergh and Mid Suffolk Joint Local Plan Part 1 (adopted 2023) and the Leavenheath Neighbourhood Plan (adopted 2023). The National Planning Policy Framework (NPPF) is a material consideration.
14. Policy SP03 of the Babergh & Mid Suffolk Joint Local Plan is a 'Strategic' Policy that sets out the Council's overarching policy for the 'sustainable location of new development'.
15. The Appeal building is outside of the settlement boundary and therefore for planning policy purposes it is considered to be in the countryside.

16. The inclusion of the word 'normally' within the final sentence of part 2 of policy SP03, is an acknowledgment that there will, or can or may, be circumstances where development in the countryside is reasonable, necessary and justified.
17. Policy LP02 is concerned with residential annexes, not domestic outbuildings such as garages, home offices or sheds.
18. The use of the land as garden does not affect any statutory designated areas or statutory designated assets.

Other

19. The relevant period for the purpose of assessing immunity from planning enforcement action in respect of the use of the Appeal Site is 10 years (per s171B(3) Town and Country Planning Act 1990).
20. The Appellants have the burden of proof in demonstrating immunity from planning enforcement action (i.e. the date of commencement of the unauthorised use of the Appeal Site and that it has continued thereafter for a period of 10 or more years).
21. If the building does not benefit from the PDR (n.b. such a contention which is not accepted by the Appellants), then it is not/cannot be immune from planning enforcement action having not yet been substantially completed. The effect being that any unauthorised "building operations" cannot have existed/continued for 10 or more years prior to the date of the Enforcement Notice.

MATTERS NOT AGREED/POINTS IN DISPUTE

22. The northern section of the Appeal Site has been used by the Appellants as part of their garden to, and/or residential amenity land associated with, the Dwelling since their

purchase of it in September 2024.

23. The southern section of the Appeal Site has not been used by the Appellants as part of their garden to, and/or residential amenity land associated with, the Dwelling.
24. There is no evidence of the southern section of the Appeal Site having been used by the Appellants predecessor(s) in title as part of the garden to, and/or residential amenity land associated with, the Dwelling.
25. Neither the building nor the Shed does not breach/conflict with any of the provisions of E.1, E.2 and/or E.3 to the PDR.
26. The use of the Shed falls within the scope of the PDR.
27. There are no policies in the Babergh and Mid Suffolk Joint Local Plan nor the Leavenheath Neighbourhood Plan which deal specifically with applications for the construction of domestic outbuildings.

Signed 

Phil Cobbold (on behalf of the Appellants)

Signed 

Simon Bailey (on behalf of the LPA)

Appendix 1 – Photograph of the building.



Appendix 2 – The Shed adjacent to the building.

