

3rd July 2026

REF: GLEE1008

Wiltshire Council
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

Dear Sir/Madam

LAND AT GATE FARM, HIGH STREET, SUTTON BENDER – CERTIFICATE OF LAWFULNESS

On behalf of our client Gleeson Land, I enclose an application for Certificate of Lawfulness in relation to the above site.

The application is submitted via the planning portal under reference PP – 15055158 and the fee of £400.00 has been duly paid. The application comprises the following documents as listed below:

- Application form
- Statutory Declaration of Neil Blackmore of Thornbury Surfacing Ltd
- Photographs of works undertaken
- General Arrangement Plan of works undertaken (P25-0894 PEG XX XX SK C 0010 P2)
- Approved plans as follows:
 - /PL05
 - /PL20; and
 - /PL25

Planning History

On the 14th of November 2022, Wiltshire Council refused planning permission under the application ref. PL/2022/01518, for the proposed creation of a new agricultural access together with associated ancillary development and ground works.

The applicant appealed Wiltshire Council's decision to refuse planning permission, and on the 22nd September 2023, the Planning Inspectorate allowed the appeal ref. APP/Y3940/W/23/3314906 and granted planning permission for:

“creation of new agricultural access together with associated ancillary development and ground works at Land north of B4069 (E. 394063 N. 178427), Gate Farm, High Street, Sutton Benger SN15 4NW in accordance with the terms of the application, Ref PL/2022/01518, dated 23 February 2022”

Condition 1 of the Appeal Decision states the following:

“The development hereby permitted shall begin not later than 3 years from the date of this decision.”

The Appeal Decision was allowed on the 22nd of September 2023, therefore, development is lawfully required to commence on site by 22nd of September 2026.

It is important to note that there are not any pre-commencement conditions attached to the decision.

Certificate of Lawfulness

This Certificate of Lawfulness seeks confirmation that development of the agricultural access, approved through the planning appeal ref. APP/Y3940/W/23/3314906, has been implemented.

In accordance with section 56(2) of the Town and Country Planning Act 1990, development is taken to have begun on the earliest date on which any material operation comprised in the development begins to be carried out.

For the purposes of that subsection, “material operation” expressly includes “*any operation in the course of laying out or constructing a road or part of a road*”. Following the judgment in *Malvern Hills DC v Secretary of State for the Environment* [1982] J.P.L 439, the courts have consistently held that beginning a material operation does not necessarily require extensive work and that “*very little need be done to satisfy the section*” provided that the work “*must genuinely be done for the purpose of carrying out the development. Section [56] is a benevolent section which aims at avoiding hardship to a developer who is genuinely undertaking the development*”. In that context, the high court found in *R. (Aerlink Leisure Ltd (In Liquidation)) v First Secretary of State* [2004] EWHC 3198 (Admin) that pegging out the area of a road and stripping topsoil from an area of land in the vicinity of an approved access road were both capable of constituting a material operation for the purposes of Section 56.

The application is supported by a Statutory Declaration completed by Neil Blackmore, of Thornbury Surfacing Ltd. This confirms that works to construct the access commenced on site on 27th April 2026, with the access into the site first pegged/set out. Following this on the 13th May 2026, 300mm of topsoil was stripped from the same area creating a shallow trench. Hard-core/screed was then laid within the trench on the same date.

Overall the declaration confirms that the construction of the section of access, which forms part of the approved creation of the agricultural access on the site, commenced in April 2026 – ahead of the 22nd September 2026 deadline for commencement.

I look forward to receiving confirmation that the application has been registered and should you have any queries, please do not hesitate to contact me.

Yours Sincerely

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