

**LAND AT HAYWARD GREEN FARM/LAKE HOUSE,
WEST WOODHAY, NEWBURY,
WEST BERKSHIRE,
RG20 OBU**

ENFORCEMENT NOTICE APPEAL.

Ground (a) – That planning permission should be granted

1. The surfaced access track to which this notice relates is required to service the pastureland through which it passes and an existing vineyard (which is also an agricultural use). The track abuts the vineyard at points A and B on the plan attached to the Enforcement Notice. This agricultural land, which extends in all to some 19 hectares, is all part of Hayward Green Farm/Lake House and is under the ownership of Mrs Beatrice Lucy Brown (“the Appellant”).
2. At point E on the plan attached to the Enforcement Notice there is an existing field gate (see **Document 1**). This gate is lawful and is not the subject of enforcement action. The Appellant will produce evidence to show that there has been a field gate in this location for many years and that its purpose was, and is, to provide an agricultural access to the afore mentioned and long-established pastureland. The use of this existing field access for agricultural purposes is not in dispute in so far as the Appellant is aware.
3. On this last point, it is interesting to note the Council’s wording under the heading “*what you are required to do*” where, with regard to the access track, the Appellant should “*restore the access track to its previous condition*”. The implication being that there is an acceptance by the Council that there has been a track on this alignment for some time and that the issue is its surface treatment.
4. The agricultural land surrounds a large house (“Lake House”). This house is accessed via a gated access and driveway off West Woodhay Road running east – west to the north of the house. The domestic curtilage extends to some 1.4 hectares (see plan marked **Document 2**).
5. For reasons of safety, operating efficiency and amenity, the Appellant and her family are keen to maintain separate domestic and agricultural accesses with the domestic access being from the north via the existing principal access from West Woodhay Road and the agricultural access being from the south via the track the subject of this appeal.
6. The Council alleges in the Enforcement Notice that “*owing to its length and routing and the visually intrusive materials used, the creation of the surfaced access track has a detrimental impact on the character and appearance of the area, including the North Wessex Downs National Landscape and the landscape designation WH1: Inkpen Woodland and Heathland Mosaic.*”
7. The Appellant refutes this allegation: as evidenced by the photographs at **Document 3**, the materials used to construct the track are commonplace and wholly appropriate in an agricultural setting. Moreover, the alignment of the track through an ear of woodland, and alongside an established row of trees that mark a field boundary, could not be less intrusive and again is commonplace in a rural setting such as the appeal site.
8. For the same reasons, the Appellant will also contend that the track will not cause harm in terms of landscape character and visual amenity, which the Council alleges is contrary to Policies ADPP1, ADPP5, CS14 and CS19 of the adopted West Berkshire Core Strategy 2006-2026, Policy C1 of the Housing Site Allocations DPD 2006-2026, the West Berkshire

Landscape Character Assessment (2029), the North Wessex Downs AONB Management Plan (2019-2024), and paragraphs 180 and 182 of the National Planning Policy Framework.

9. Consistent with the approach of separating out the domestic and agricultural uses, in June 2022, the Appellant's husband, Mr Charles Brown, submitted an application to West Berkshire for Prior Approval for the erection of a building for agricultural use and [the] formation/alteration of a private way. This building is required to support the viticultural use and the rest of the agricultural unit. The proposed building would comprise of floorspace for the intake of and pressing of estate grown grapes and space for the fermentation, preparation, storage and packaging of the wine. The plan that accompanied that application is attached as **Document 4**.
10. The application was refused by notice dated 25 July 2023. Mr Brown lodged an appeal against the Council's decision. That appeal was dealt with by way of the written representations' procedure. The appeal was dismissed on a technicality relating to the track which is the subject of this appeal (see the Appeal decision marked **Document 5** - paragraphs 12. to 15). However, in so far as the merits of the proposed agricultural building were concerned, the Inspector found as follows:

"7. For the purposes of Part 6, Class A, 'agricultural land' is defined as land in use for agriculture and which is so used for the purposes of a trade or business. Agriculture is not defined in the GPDO, but section 336(1) of the Town and Country Planning Act 1990 provides examples of agricultural activities. This includes the use of land for fruit growing, seed growing, grazing and meadow land.

8. The proposed building would support the viticultural use and the rest of the agricultural unit. The proposed building would comprise of floorspace for the intake of and pressing of estate grown grapes and space for the fermentation, preparation, storage and packaging of the wine. The appellant ascertains that 2-3 people are currently employed in relation to agriculture on the site and this number is likely to increase as the vineyard expands and becomes more established.

9. The Council considers that insufficient information has been submitted to demonstrate that the proposed building is 'reasonably necessary' for the purposes of agriculture. On my site visit, I observed a vineyard, clusters of sunflowers and wildflower meadows. While the vineyard is a fairly recent addition, Part 6, Class A only requires the land to be within agricultural use before the works under Part 6, Class A are begun. Whether a building is 'reasonably necessary' for the purposes of agriculture, does not carry with it any connotation of profit or business viability. The test is not whether the development is essential, but rather whether it falls within reasonable bounds. A building to support viticulture on the site and the remainder of the agricultural unit would fall into this category. Consequently, I find that the proposed building would be reasonably necessary for the purposes of agriculture.

10. The proposed building would be sited on gently sloping land and engineering works would be required to provide a level base. The Council considers that the engineering works would require planning permission. However, the proposed engineering works would fall within the scope of paragraph A (b), which permits any excavation or engineering works.

11. The proposal does not fall within the list of circumstances not permitted, as set out at paragraph A.1 of Part 6, Class A and this is not disputed between the parties. Based on the evidence before me and my site visit, I have no reason to

reach a contrary conclusion on this matter.”

11. In light of Inspector’s assessment, Mr & Mrs Brown are preparing a revised Prior Approval Application with an amended agricultural access track on a different alignment. However, the more logical approach would be to use the track the subject of this appeal, especially given its merits as described at paragraph 6 above. The Appellant will argue that this provides further justification for its retention.

Ground (c) – the alleged breach (at least in part) does not constitute a breach of planning control

12. The Appellant will show that there has been a track in place between, at the very least, points A and B on the plan that accompanied the Enforcement Notice for more than four years. This track is part of the access to the Appellant’s gardeners’ workshop and an existing balancing pond.
13. The Appellant will contend also that the removal of trees as alleged does not constitute a breach of planning control.

Ground (f) – the steps required by the notice exceed what is necessary to remedy the breach of planning control

14. Further to point 12 above, the Appellant will contend that there is no planning requirement to replace any trees that the Council alleges have been removed between points A and D on the plan that accompanied the Enforcement Notice.

Ground (g) – the period specified in the notice falls short of what should reasonably be allowed.

15. In the event that the Enforcement Notice is upheld as drafted, 3-months is too short a time to replace any trees that the Council might identify as having been removed – the optimum time to plant new trees is in the Autumn. A period of 3-months is also too short a window in which to “take up the hard standing from the access track and remove it from the land.”