



Appeal Decision

Hearing Held on 3 and 4 December 2024

Site visit made on 4 December 2024

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd December 2024

Appeal Ref: APP/W0340/C/24/3350386

Hayward Green Farm (also known as Lake House), West Woodhay, Newbury, West Berkshire RG20 0BU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs B Brown against an enforcement notice issued by West Berkshire Council.
 - The enforcement notice was issued on 22 July 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the creation of a hard-surfaced track to the east and south of the dwelling known as Lake House in the approximate position marked in red between points A and E on the attached plan.
 - The requirements of the notice are:
 1. Take up the hard standing from the access track and remove it from the land;
 2. Restore the access track to its previous condition; and
 3. Replace trees that were removed between points A and D on the appended plan in the process of relocating the previously existing track to the eastern side of the outbuilding.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (c), (f) and (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 enforcement notice be:
 - Varied by deleting the words "Three calendar months after this notice takes effect. The period of compliance ends on 26th November 2024" under section 6 of the enforcement notice (time for compliance) and its replacement with:

"a) You are required to complete these actions within 4 months from the date this notice takes effect for steps 1 and 2 listed above, and 10 months from the date this notice takes effect for step 3 listed above."
2. Subject to this variation, the appeal is dismissed, and 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.

Procedural Matters

3. Prior to the Hearing, the appellant withdrew the appeal on ground (c). Therefore, the appeal is proceeding on the grounds (a), (f) and (g).

Main Issues

4. The main issues are the effect of the development on:
 - i) the character and appearance of the area, having particular regard to its location within the North Wessex Downs National Landscape (formerly the AONB); and
 - ii) highway safety.

Reasons

Character and appearance

5. The appeal site comprises the track outlined in red, marked A to E on the plan attached to the enforcement notice, which forms part of the wider site of Lake House, a detached residential property set in substantial grounds comprising landscaped gardens, hay meadow, vineyards, fields, ponds and a wooded area. The site is located in the open countryside and within the North Wessex Downs National Landscape and the landscape designation WH1: Inkpen Woodland and Heathland Mosaic, a nationally valued landscape which forms part of the North Wessex Downs AONB.
6. The West Berkshire Landscape Character Assessment (LCA) explains that this area is dominated by woodland, interspersed with arable and pasture fields and small areas of heathland. The valued features and qualities of the landscape include the presence of varied field patterns, ancient semi-natural woodland, remnant heathland, small streams and ponds, connecting hedgerows and overhung lanes creating a sense of seclusion. The combination of these distinctive features and qualities create an enclosed, intimate rural landscape of ecological importance.
7. The land associated with Lake House shares many of these features and qualities with wooded areas, small streams, and open fields surrounded by mature vegetation and trees. The rural lane which connects the unauthorised track to the rural road network is narrow and winding and largely enclosed by tall hedgerows and mature trees, thus re-enforcing this typically rural character and the tight network of rural lanes.
8. The landscape strategy within the LCA highlights the need to conserve and enhance the special qualities of the nationally designated landscape of the North Wessex Downs AONB, including its ancient semi-natural woodland, remnant heathland, connecting hedgerows and overhung lanes creating a sense of seclusion. It also seeks to prevent further loss or decline in the quality of boundary hedgerows. The LCA also states that increasing development pressures in the area and incremental changes are also changing the character of the rural villages.
9. Owing to its excessive length, scale and routing through the landscape, the hard surfaced stone track runs for a considerable length, and forms an obtrusive and incongruous feature, visible from public vantage points, which is at odds with the intimate and rural character.
10. Furthermore, the section of the track between parts A to D on the enforcement notice plan, crosses through a wooded area which includes mature vegetation

and trees (including species such as Alders, Hazel and Oak¹). From my observations during the site visit together with the aerial photographs submitted, it is clear that a number of trees, have been removed to accommodate the track. I appreciate that this section of the track is well screened from public vantage points. Nevertheless, cumulatively it increases the amount of development in this rural and woodland setting and has resulted in the loss of trees. In relation to this, the LCA identifies that in some areas of West Berkshire, the landscape has deteriorated as a result of development pressures and the loss of woodland, including semi-natural woodland.

11. In this respect the unauthorised development, whilst reasonably localised in its extent, harms the character and intrinsic beauty of the rural and woodland setting of the countryside. It also fails to conserve or enhance the valued North Wessex Downs National Landscape and the landscape designation WH1: Inkpen Woodland and Heathland Mosaic. A condition has been suggested which attempts to off-set the harm to the amenity of the area by replacement soft landscaping. However, no Arboricultural Report has been submitted, and no proposed planting or tree schedule has been submitted demonstrating that the loss of the trees could be satisfactorily mitigated. In the absence of such details and having particular regard for the need to conserve and enhance the special qualities of the nationally designated landscape of the North Wessex Downs, I am not satisfied that the condition suggested would overcome this harm.
12. I therefore conclude that development harms the character and appearance of the area, having particular regard to its location within the North Wessex Downs National Landscape, in conflict with Policies ADPP1, ADPP5, CS14 and CS19 of the West Berkshire Core Strategy 2006-2026 Development Plan Document, Adopted in 2012 (CS). Together these require the scale and density of development to be related to the site's character and surroundings; that development will respond positively to the local context, and respect identified landscape features and components of natural beauty; demonstrate high quality and sustainable design that respects and enhances the character and appearance of the area; and ensure that the diversity and local distinctiveness of the landscape character of the District is conserved and enhanced.
13. The development also conflicts with the National Planning Policy Framework (The Framework) which states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads, and National Landscapes which have the highest status of protection in relation to these issues.
14. The Council have also referred to Policy C1 of the West Berkshire Housing Site Allocations DPD 2006- 2026, adopted 2017. However, as this policy relates to the location of new homes, I find no conflict against this policy.

Highway Safety

15. There are two pending current prior approval applications submitted to the Council for a new agricultural building, which would be used to support the growing viticulture use and the remainder of the agricultural unit. The proposed agricultural building would provide floorspace for the intake of and pressing of estate grown grapes and space for the fermentation, preparation, storage and packaging of the wine, together with storage of equipment for the remainder of

¹ As noted during the site visit.

the agriculture land. The appellant's intention is to separate the residential access from West Woodhay Road and the agricultural access from the existing lawful field gate from the unnamed rural lane to the South. The appellant explains that the track is also intended to be used for access to this new agricultural building in connection with the viticulture use.

16. The unauthorised track joins North End Road (rural lane) which is a narrow single track, winding, unlit lane enclosed with dense hedgerows and trees and provides limited forward visibility in both directions. I also observed that for large sections the lane is not wide enough to allow two vehicles to pass safely.
17. Furthermore, there is no pavement and so the single track is shared with pedestrians, vehicles and cyclists. The rural lane is also used by pedestrians travelling between two nearby public rights of way (PROW). I also observed walkers using the rural lane and joining the PROW to the east of the gate. Therefore, there is the potential for conflict if the use of this lane were to increase. Indeed, the North Wessex Downs AONB Management Plan, 2019-2024 (Management Plan), particularly highlights that one key issue in the AONB is the increasing volume of HGVs, delivery vans and commuter traffic on rural lanes. It also highlights that "many rural lanes have a rich character of their own. The challenge is to retain that character whilst meeting modern highway safety needs."
18. There is no dispute that the existing field gate and access is lawful and the appellant states that the level of traffic using field gate is no greater or less than that which could arise through activities permissible through permitted development rights. Nevertheless, the track, which connects the lane rural lane to the grounds of Lake House, provides a hard surface capable of accommodating a wider variety of vehicles (both large and small domestic sized) to traverse across the landscape than was previously the case with the simple field gate.
19. In terms of existing use of the track, the appellant's Highways and Transport Statement, states that during the course of a typical day, the field gate accommodates the vehicle trips generated by 4-5 gardeners and 2-3 contractors. This accounts for 12-16 two-way vehicle movements. Indeed, it is questionable whether a gardener or contractor would be likely to use such a field gate to access Lake House if the track were not there providing ease of access across the site. Whilst the field gate is lawful, it would appear it is the track which is resulting in the additional traffic along the rural lane and not the gate itself.
20. A traffic survey from 29 February to 6 March 2024, carried out by Miles White Transport (MWT) on behalf of the owner of Hatch House Farm, indicates that a large proportion of all vehicle trips on the rural lane are already related to the field gate leading to Lake House. The appellant does not recognise this to be a true reflection of the use of the gate over this period. In addition, the appellant considers that this data is unreliable since the video footage used to capture the information is no longer available.
21. Notwithstanding the lack of images to support the findings of the MWT report, the evidence was supported by other local residents who raised similar concerns regarding the increase usage of this field gate access, associated with the authorised track. Residents also raised concerns that vehicles using the track did not appear to be solely agricultural vehicles, but by a range of

- vehicles which included highway maintenance vehicles as well as domestic sized vehicles.
22. However, no substantive evidence has been submitted regarding the expected trip generation associated with the viticulture use, which the appellant seeks to expand, with the proposed new agricultural building. Without further evidence on the viticulture use, it has not been satisfactorily demonstrated that the use of the track would not result in more traffic along the narrow rural lane, a concern raised by third parties during the Hearing and also highlighted within the Management Plan.
 23. Without further evidence on the likely trip generation associated with the viticulture use, I am unable to be certain that of the actual effect of the track and potential highway safety risks it may cause. Therefore, based on all the evidence before me and from what I saw on my site visit, I also have serious concerns about the amount of and nature of the additional traffic generated by the track along this narrow rural lane and the highway safety implications due to the conflict between different highway users (vehicles, cyclists and pedestrians). Additionally, should two vehicles meet, they would need to reverse a considerable distance to find a section of the lane where they could pass each other safely.
 24. With regard to the suitability of the access the required visibility splay to the east is substandard, and any potential increase in traffic along this lane could potentially involve difficult and dangerous manoeuvres for vehicles leaving the site. Similarly, there is also poor visibility further along the lane, at the junction with West Woodhay Road, with poor visibility for vehicles turning right onto West Woodhay Road. As such, any increase in the levels of traffic using North End Road would also increase the potential for accidents and be detrimental to highway safety. Appropriate visibility splays in both situations can only be achieved with the removal of a section of the hedgerow.
 25. Conditions have been suggested in order to provide adequate visibility splays in both locations, and to replace any planting that would be removed. However, the LCA highlights that narrow rural roads are vulnerable to widening and new access splays for new development and identifies one of the detractors for this area is the suburbanisation of the roads, which damages the character of the winding lanes. The landscape strategy within the LCA also highlights the need to conserve the existing character of rural lanes and minimise improvements that may degrade the rural quality of the area.
 26. As highlighted above, the rural lane is narrow and characterised by mature trees and hedges, providing a small-scale intimate and typically rural feel. However, no proposed plans have been submitted to demonstrate that replacements hedging and planting can be achieved without harming this intimate and rural character. With regard to the alterations required at the junction with West Woodhay Road, there is also a mature oak tree positioned close to this junction, and it appears that this may also need to be removed to achieve the necessary visibility splays. Thus, whilst it may be possible to improve the visibility splays, it has not been demonstrated that this can be achieved whilst conserving and enhancing the character of the area.
 27. A condition has been suggested which indicates that the use of the track would be limited for agricultural purposes only for by vehicles and/or trailers not exceeding 7.5 tonnes in weight. However, given the lack of clarity on the likely

trip generation associated with the viticulture use I am not convinced that such a condition would overcome the highway safety harms identified above.

28. I appreciate that the Council's Principal Highways Engineer has confirmed that there have been no recorded incidents in this location for the past 5 years. However, this does not reduce the highway safety risk in the future, especially given that the track is intended to support the agricultural use of the land and the expanding viticulture use, and no substantive evidence has been submitted regarding the likely trip generation resulting from this enterprise. Furthermore, both the Council Officer and Mr Miles confirmed that only personal injury records are recorded, so if accidents occur and are not reported they are not registered. Indeed, Mr Cole stated he had arrived at the junction of West Woodhay Road and North End Road shortly after an accident a few years ago.
29. For these reasons, I consider highway safety would be unacceptably prejudiced as a result of the potential increase in traffic using the track. I therefore conclude that the development results in an unacceptably increased risk to highway safety in the vicinity of the site, in conflict with Policy CS 13 of the CS. Amongst other things, this states that development that generates a transport impact will be required to improve and promote opportunities for healthy and safe travel, minimise the impact of all forms of travel on the environment, and mitigate the impact on the local transport network.
30. The development also conflicts with the Framework, which requires that a safe and suitable access to the site can be achieved for all users and that development should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

Other matters

31. The appellant's intention is to separate the residential access from West Woodhay Road and the agricultural access being from the rural lane to support her family's investment in rural land management and development through the establishment of the wildflower meadow, the vineyard and the proposed new agricultural building. However, no clear and convincing evidence has been submitted to demonstrate that the access from West Woodhay Road, which is a wider road with clear visibility in both directions, could not be adjusted to provide suitable access for both residential agricultural purposes. Furthermore, I have not been provided with any sound reason why the existing field gate access would not be sufficient for agricultural access.

Alternative scheme

32. Section 177(1) of the Act allows me to grant planning permission in respect of the matters stated in the Notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the Notice relates. During the site visit, the appellant suggested an alternative scheme whereby only part of the track should be approved from part A to somewhere between parts D and E to provide access to the southern field. This alternative would require only the southern section of the track to be removed, where it connects to the rural lane.
33. This 'alternative scheme,' which involves the retention of part of the track forms part of the matters alleged, and therefore I can consider it. This section

of the track runs through the wooded section of the site, which has had a number of trees removed to facilitate the track. However, no Arboricultural Report has been submitted, and no proposed planting or tree schedule has been submitted to demonstrate that the loss of the trees could be satisfactorily mitigated. In the absence of further evidence, I am not convinced that the alternative scheme overcome the harms in relation to the character and appearance of the area, having particular regard for the need to conserve and enhance the special qualities of the nationally designated landscape of the North Wessex Downs. In this respect, this alternative scheme would also not accord with the aforementioned relevant policies.

Conclusion on Ground (a) and the Deemed Planning Application

34. The development harms the character and appearance of the area, having particular regard to its location within the North Wessex Downs National Landscape, and results in harm to highway safety, contrary to the development plan as a whole. None of the other matters raised by the appellant, including the 'alternative scheme' proposed during the site visit overcome these harms. There are no material considerations that would lead me to a decision other than in accordance with the development plan in this case.
35. The appeal on ground (a) must therefore fail and the application for permission deemed to have been made will be refused.

Appeal on ground (f)

36. The appeal on this ground is "that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters (i.e. the matters alleged in the notice) or, as the case may be, to remedy any injury to amenity which has been caused by any such breach".
37. The enforcement notice requires the removal of the access track and its replacement to its previous condition and the replacement of trees which were removed between points A and D, in the process of relocating the previously existing track to the eastern side of the outbuilding. Therefore, the purpose of the notice is to remedy the breach of planning control rather than only remedy any injury to amenity.
38. The appellant states that the trees are not the subject of a Tree Preservation Order nor are they within a Conservation Area, and therefore there are no grounds to replace the felled trees. Therefore, the appellant considers that the requirements in the notice to replace the felled trees is excessive in relation to the alleged breach of planning control.
39. It is clear that trees were lost to facilitate the installation of the track, and as outlined under ground (a) appeal, the track runs through a wooded section of the site which contains a number of species which includes Oak, Alder and Hazel trees. It is reasonable to seek similar replacement trees to restore the land to its previous condition before the breach took place.
40. As the notice does no more than seek remedy of the breach, it is not excessive. It is not therefore possible to vary the notice in the ways suggested by the appellant whilst achieving the purpose of the notice. There are no lesser steps drawn to my attention or any obvious alternatives that would remedy the breach of planning control which is the purpose of the notice.

41. On this basis, the Ground (f) appeal fails.

The appeal on ground (g)

42. The appeal on this ground is that any period specified in the notice falls short of what should reasonably be allowed. The appellant asks that the time for compliance is extended from 3 months to plant the replacement trees and to take up the hard standing from the access track, remove it from the land and restore the access track to its previous conditions. It is also stated that the optimum time to plant trees is in the autumn and therefore the current time period would cover only late winter and early spring. Similarly, that would not be the ideal period in which to be taking up hard standing (due to the potential for frosts and precipitation).

43. The time for completing the requirements should be what is reasonably considered necessary to complete the requirements. In my opinion, four months would strike a more reasonable and proportionate balance for steps 1 and 2, as this would fall outside of the winter months for the removal of hard standing. For step 3, ten months would strike a more reasonable and proportionate balance in these circumstances in order to prepare and submit an Arboricultural Report to the Council and to arrange the necessary replacement tree planting and to undertake these works in the autumn period. I shall therefore extend the period for compliance accordingly.

44. To this extent, the ground (g) appeal succeeds, and I will vary the notice accordingly.

Conclusion

45. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice, with a variation, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

R Satheesan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Steven Sensecall MRTPI, Partner, Carter Jonas
Tim Foxall BA (Hons) MCIHT, Managing Director, Glanville
Adam Wojtecki, Project Manager for Lake House

FOR THE LOCAL PLANNING AUTHORITY:

Sarah Marshall, Senior Planning Officer, West Berkshire Council
Catherine Ireland, Planning Officer, West Berkshire Council

INTERESTED PERSONS:

Mary Cook, Barrister and Partner, Town Legal LLP on behalf of Mr Lagrange at Hatch House Farm
Mr A. M Allen MRTPI, Managing Director, Allen Planning Ltd. on behalf of Mr Lagrange at Hatch House Farm
Mr C. D Miles BSc (Hons) C. Eng MICE, MCIHT CMILT, Director of Mile White Transport Ltd on behalf of Mr Lagrange at Hatch House Farm

Harry Henderson, Neighbouring resident
Louisa Miles, Neighbouring resident
Katie Parsloe, Neighbouring resident
Simon Hayes, Neighbouring resident
James Cole, Neighbouring resident

Documents submitted during the Hearing.

1. West Berkshire Core Strategy (2006 - 2026) Development Plan Document, Adopted July 2012.
2. Policy CS 13 of the West Berkshire Council: Adopted 2012 Core Strategy.
3. Lake House list of conditions.
4. Food Standard Agency Vineyard registration form for Lake House Winery Limited dated 1 November 2021.