



SUPPORTING PLANNING STATEMENT

**CERTIFICATE OF LAWFULNESS (EXISTING) FOR THE CREATION
OF PART GRASSCRETE/PART GRAVEL TRACK TO ACCESS
MAPLEHURST FARMHOUSE TOGETHER WITH THE USE OF A
SECTION OF AGRICULTURAL TRACK FOR RESIDENTIAL
PURPOSES**

AT

**MAPLEHURST FARMHOUSE, NUTHURST ROAD, MAPLEHURST,
HORSHAM, RH13 6RB**



MARCH 2026

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APPENDICES

NJA/1– Prior Notification DC/07/2222

NJA/2 – HDC track enforcement correspondence 2011

1.0 INTRODUCTION

- 1.1 Section 191 (1) of the Town and Country Planning Act 1990 (as amended) allows for any person to apply to determine whether a specified use, operation, or other matter constituting a failure to comply with any condition or limitation subject to which a planning application has been granted is lawful.
- 1.2 For the purposes of the act, Section 191 (2) sets out that uses and operations are lawful at any time if no enforcement action may be taken in respect of them (whether because they did not involve operational development or require planning permission or because the time for enforcement action has expired or for any other reason) and they did not constitute a contravention of any of the requirements or any enforcement notice then in force.
- 1.3 This Certificate of Lawfulness application for an existing development and use (CLEUD) is submitted under the provisions of Section 191 to regularise the following:
 - 1) Installation of a part grasscrete, part gravel track (shown in blue on the submitted plans) used residentially to provide access Maplehurst Farmhouse.
 - 2) Residential use of a section of agricultural track from Maplehurst Road to Maplehurst Farmhouse (shown in red until it reaches the blue track on the submitted plans).
- 1.4 In respect of 2), please note that the residential use of the track the subject of this application applies to the section of agricultural track from Maplehurst Road to where it meets the part grasscrete, part gravel track (shown in blue). This section has a dual use for agricultural and residential purposes (providing a link to Maplehurst Farmhouse via the track shown in blue). The entire track shown in red on the submitted plans is also still in use for agricultural purposes in association with Maplehurst Farm.
- 1.5 In this case, it is demonstrated by sufficient evidence (on the balance of probability) that the operational development and use of part of the agricultural track for residential purposes was undertaken/has been carried out for more than 10 years. As such, the development as described is lawful and exempt from enforcement action in accordance with Section 171B of the Act (time limits).

2.0 SITE DESCRIPTION AND PLANNING HISTORY

2.1 Maplehurst Farmhouse is a detached, two storey dwelling located within the countryside to the south of Maplehurst. The dwelling is accessed via a shared driveway that leads from Maplehurst Road through Maplehurst Farm and via a track which spurs off from an agricultural track to the south of the dwelling. These tracks to the south of Maplehurst Farmhouse are the subject of this Certificate of Lawfulness (existing use and development) application and which are shown in red and blue on submitted drawings PL-01 and PL-02.

2.2 Maplehurst Farmhouse is a grade II listed building. The property was listed in 1959 with the following description:

2. C17 or earlier. Two Storeys. Three windows. Now faced with red brick and grey headers on ground floor and tile-hung above. Horsham slab roof. Casement windows. Doorway with rectangular hood and flat roof only.

2.3 Photographs of the operational development the subject of this CLUED application and the track in question are included at drawing PL-03.

2.4 The most relevant planning history for Maplehurst Farmhouse is set out below:

- DC/20/2553 – Erection of detached oak framed garage with store. Planning permission granted 28 May 2021.

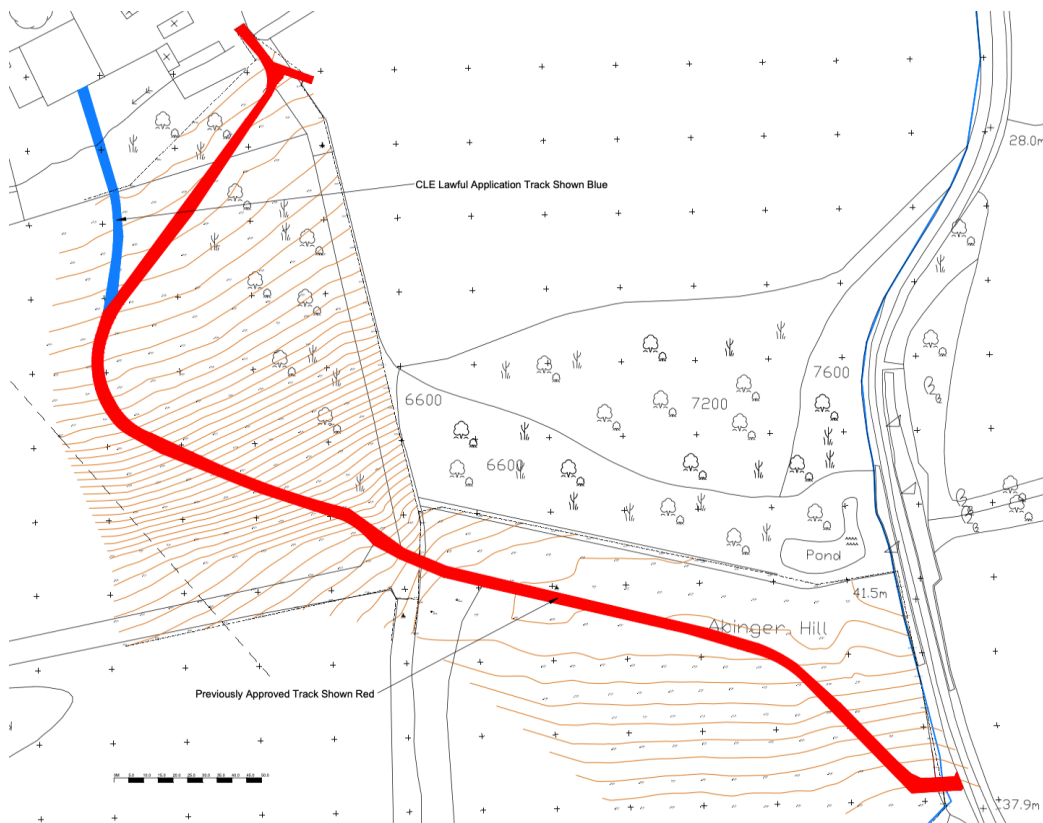
2.5 The agricultural track to the south of Maplehurst Farmhouse (shown in red on drawings PL-01 and PL-02) was created after the submission of a Prior Notification to the Council under reference DC/07/2222, approved on 25 October 2007 (Prior Notification for a trackway at Maplehurst Farm). The relevant details are included at Appendix NJA/1.

2.6 The Council authorised enforcement action in relation to the track in 2011 but no formal Enforcement Notice was served. It is understood that the enforcement matter related to the residential use of the track and the additional section of track created. The relevant details are included at Appendix NJA/2.

3.0 DEVELOPMENT AND USE CARRIED OUT

- 3.1 The operational development the subject of this CLUED application includes the creation of a track (shown in blue) which spurs of a permitted agricultural track (shown in red) to the south of Maplehurst Farmhouse. The first section of the blue track comprises grasscrete to the cattlegrid and gates and the section of track beyond this is gravel.
- 3.2 This CLUED application also includes the use of part of the permitted agricultural track (shown in red) for residential purposes, linking Maplehurst Farmhouse to Maplehurst Road via the shorter section of track (shown in blue). As set out, the section of agricultural track which forms part of this application is the section from the main road to where it meets the track shown in blue. The entire section of track shown in red is still also used for agricultural purposes in association with Maplehurst Farm.

Figure 1: Extract of drawing PL-02



4.0 PLANNING LEGISLATION AND EVIDENCE

- 4.1 The Levelling-up and Regeneration Act 2023 introduced changes to enforcement legislation including increasing the length of time for when enforcement action may be taken where there has been a breach of planning control. This included changing the time limit for planning enforcement action to 10 years in all cases in England (replacing the previous four-year time limit for building works and changes of use to a single dwelling). Consequently, section 171B of the Town and Country Planning Act 1990 (as amended) which relates to time limits now states:

171B Time limits

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of –

(a) In the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantially completed, and

(b) In the case of a breach of planning control in Wales, four years beginning with the date on which the operations were substantially completed.

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of –

(a) In the case of a breach of planning control in England, ten years beginning with the date of the breach, and

(b) In the case of a breach of planning control in Wales, four years beginning with the date of the breach.

(2A) There is no restriction on when enforcement action may be taken in relation to a breach of planning control in respect of relevant demolition (within the meaning of section 196D).

(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

(4) The preceding subsections do not prevent –

(a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of any breach of planning control is in effect; or

(b) taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.

4.2 It is important to note that under the transitional arrangements of the Leveling-up and Regeneration Act, the new ten-year rule in England applies to any breach of planning control occurring on or after 25 April 2024. Therefore, the four-year enforcement period still applies where operational development was substantially completed before 25 April 2024, or in relation to the change of use to a single dwelling, where the breach occurred prior to 25 April 2024 (development under Section 171B (1) and (2)).

4.3 Section 191 (4) of the Town and Country Planning Act (as amended) confirms that where the local planning authority is provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter, it shall issue a certificate to that effect. The Courts have held that the relevant test of evidence submitted with a Certificate of Lawfulness application is ‘the balance of probability’. Therefore, Applicants are not required to discharge the stricter, criminal burden of proof namely ‘beyond reasonable doubt’. The Courts have also held (see *FW Gabbittas v SSE and Newham LBC* 1985 JPL 630) that the Applicant’s own evidence does not need to be corroborated by other evidence to be accepted.

4.4 As such, if the Local Planning Authority has no evidence of its own, or from others, to contradict or otherwise make the Applicant’s version of events less probable, there is no good reason to refuse to issue a Certificate of Lawfulness. This is provided that the Applicant’s evidence alone is sufficiently precise and unambiguous to justify the

grant of a Certificate ‘*on the balance of probabilities*’. Furthermore, the planning merits of the operation, use or activity are not relevant to the purely legal issues which are involved in determining a Certificate of Lawfulness application.

- 4.5 The Government’s Planning Practice Guidance (NPPG) states that ‘***the applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning statutes of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence***’ (Paragraph: 006 Reference ID:17c-006-20140306).
- 4.6 The evidence provided with this Certificate of Lawfulness comprises a Statutory Declaration from the Applicant which confirms the following:
- 1) That the operational development comprising the installation of a part grasscrete, part gravel track (shown in blue on the submitted plans) to provide access Maplehurst Farmhouse was installed in 2011 following the Council’s Enforcement investigation. Therefore, this section of track has been in place for more than ten years and used residentially since its construction as a means of access to the dwelling.
 - 2) That the residential use of a section of agricultural track from Maplehurst Road to Maplehurst Farmhouse (shown in red and blue on the submitted plans) has been carried out for a continuous period since 2007 when it was constructed and therefore for more than ten years.
 - 3) In 2007 the track in blue was made of the same construction as the rest of the track but after the Council’s Enforcement investigation in 2011 this was removed and the grasscrete was installed.
- 4.7 In addition, the Council holds its own evidence from 2011 in relation to the residential use of the agricultural track and the part of the additional section (see details included at Appendix NJA/2).

5.0 CONCLUSIONS

- 5.1 It is demonstrated that notwithstanding the transitional arrangements of the Levelling-Up and Regeneration Act 2023, it is sufficiently and precisely demonstrated (on the balance of probabilities) that both the operational development and use described at paragraphs 1.3 and 4.6 of this Statement comply with the ten-year time limit of Section 171B (1) and (3) of the Town and Country Planning Act 1990 (as amended). Therefore, as stipulated by Section 191 (2) of the Act, no enforcement action may be taken because the time for taking such action has expired and because the operations do not constitute a contravention of any of the requirements of any enforcement notice then in force.