Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/25/0009
Land Which Forms Part of Mannings Heath Golf Club & Wine Estate, Hammerpond Road, Mannings Heath

DESCRIPTION:
Application to confirm the laying of a private access track and associated storage area on a date four years previous (Lawful Development Certificate - Existing).

RELEVANT PLANNING HISTORY:

DC/24/1564	Creation of an access track (Retrospective).	Application Refused on 13.12.2024
DC/22/1027	Creation of an access track to provide access to vineyard (Retrospective).	Application Refused on 16.01.2024

REPRESENTATIONS
Two (2) representations have been received, raising the following: -

- Design.
- Highways access and parking.
- Privacy, light and noise.
- Trees and landscaping.
- Concerns the applicant has been deliberately concealing the works.
- Loss of general amenity.
- Overdevelopment.

PLANNING ASSESSMENT
The application seeks a lawful development certificate to confirm that an access track was constructed and completed 4-years prior to the 25th April 2024. On the basis of the submitted details the access track works are considered to amount to development for which planning permission would have been required.

S.191(2) of the Town and Country Planning Act 1990 (TCPA 1990) provides that "for the purposes of this Act uses and operations are lawful at any time if-

a.) no enforcement action may be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and

b.) they do not constitute a contravention of any of the requirements of any of the requirements of any enforcement notice then in force."

The operations subject of this submission are not subject of an enforcement notice, accordingly this application stands to be considered against S.191(2)(a).

Paragraph 005 to the Planning Practice Guidance confirms that an application for a Lawful Development Certificate must describe precisely what is being applied for and the land to which the application relates, and that without sufficient or precise information, a Local Planning Authority may be justified in refusing a certificate.

Paragraph 006 to the Planning Practice Guidance confirms that the applicant is responsible for providing sufficient information to support an application, though, that an Authority may canvass evidence if it wishes and must share any relevant evidence held by the Authority in advance of a determination. In relation to a S.191 application if an Authority has no evidence itself, or from others, to otherwise contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicants evidence is sufficiently precise and unambiguous to justify the grant of a certificate on a balance of probabilities.

The submitted evidence consists of a location plan, covering an area of track and hardstanding shown across the site and a Planning Statement. The Planning Statement asserts the works were carried out in April 2019 and were substantially complete by April 2020. Dated aerial photos from Google Earth Pro have been provided, the dates of those are: 26/09/2018, 15/04/2020, 09/06/2022, 08/03/2022 and 16/03/2024. Appendix 2 of the submission also includes photos dated 12/04/2019 and 11/04/2019.

The Councils evidence includes the previous planning history of the site, along with the publicly available aerial photos. Site visits have also been carried out by Council Officers. There have also been a number of representations made by members of the public and submitted to the application. The representations state there has been a breach of planning since August 2021 in relation to the access track and vehicular access at Hammerpond Road. Concerns have been raised in the questionnaires about the safety of the access and the impact on ancient woodland. Reference has also been made to the two previous refusals at the site.

The applicant's case is that the access track and storage area were substantially completed by early April 2020. The aerial images indicate that there has been a track with elements of formalisation since 2018; however, the images are not of sufficient detail to demonstrate the materials of the track. The track varies in layout with the storage area and extended area opposite the barn varying overtime, demonstrating the blurred boundary between areas used for vehicles/storage and bare land. Photos from the officer's site visit demonstrate the track as built with compacted hardcore is a very similar colour to that unsurfaced.

The imagery provided is not detailed enough to be sufficient to demonstrate that a change from the unsurfaced to surfaced path has taken place. If it were evident, it would be expected that the applicant provide clarification on the imagery provided as to where the compacted hardcore has been laid and then met the bare ground.

Turning to the history that has been provided for the site, the LPA has received very varied information from the applicant as to when works started at the site. The application form for DC/22/1027 which was received on 30.05.2022 stated that the work to the track started on 06.01.2019 and the application form states that the work to the track was completed on 07.03.2022. The application form for DC/24/1564 which was received on 08.10.2024 stated that the work to the track started on 01.01.2017 and the application form states that the work to the track was completed on 31.08.2017. None of these dates match with that now proposed for completion under this current application and no rationale has been provided as to the reason(s) for these apparent discrepancies. As such the LPA do not consider that on balance of probability the compacted hardcore tracks and storage area have been present and completed in excess of 4 years (prior to April 2024).

<u>Other Matters:</u>

It is noted that representations have raised objections on the grounds that the works have been deliberately concealed. While the applicant did not apply for planning permission prior to commencing works this is not always tantamount to deliberate concealment. The site is visible to the public from a number of vantage point and the applicant has responded to communication from the LPA. The applicant is therefore not considered to have actively concealed the works.

Representations also raise concerns about the track and storage areas impact on other material planning matters such as design amenity and trees. These matters do not though form part of the considerations of a Lawful Development Certificate such as this.

Conclusion:

It has not been demonstrated on the balance of probability that the laying of a private access track and associated storage area was constructed and completed in excess of 4 years prior to submission of the application (and prior to 25 April 2024).

Recommendation: Application Refused

Reason:

1. It has not been demonstrated on the balance of probability that the laying of a private access track and associated storage area was constructed and completed in excess of 4 years prior to submission of the application (and prior to 25 April 2024).

Plans list for: DC/25/0009
(The approved plans will form Condition 1 on the Decision Notice of all Permitted applications)

Schedule of plans/documents **not approved**:

Plan Type	Description	Drawing Number	Received Date
Supporting Statement	Planning	NONE	06.01.2025
Location plan		NONE	06.01.2025

DELEGATED

Authorising Officer sign/initial Guy Everest Date: 19.03.2025