

LAND AND PREMISES KNOWN AS THE BARN AT HOME FARM, CHISLEHURST, BR7 6LY

**APPEAL AGAINST ENFORCEMENT NOTICE ISSUED BY THE LONDON BOROUGH OF
BROMLEY DATED 13 JANUARY 2020**

PINS Ref: APP/G5180/C/20/3246812

**PROOF OF EVIDENCE OF
MR JOE SELBY**

I, Joe Selby of Home Farm, Chislehurst, Kent, BR7 6LY say as follows:

BACKGROUND

1. I am the son of the Appellant, Mrs Pauline Selby, in this appeal against an enforcement notice issued by the London Borough of Bromley ("**Council**") dated 13 January 2020 ("**Enforcement Notice**").
2. This Enforcement Notice relates to the alleged breach of planning control at the land at Home Farm, Chislehurst, BR7 6LY ("**Home Farm**").
3. The purpose of this statement is to set out the brief history of Home Farm up to the point of the Enforcement Notice and provide details as to the agricultural use of Home Farm and the Barn following the issuing of the Enforcement Notice.
4. The facts and matters set out in this proof of evidence are within my own knowledge unless otherwise stated, and I believe them to be true. Where I refer to information supplied by others, the source of the information is identified; facts and matters derived from other sources are true to the best of my knowledge and belief.

BRIEF HISTORY OF HOME FARM

5. My mother (Mrs Pauline Selby) and father (Mr Alan Selby) purchased Home Farm in November of 1994. I was 8 years old at the time and grew up on the farm, helping my mother with both the stables and the sheep breeding business whenever I was able.
6. After finishing university, I moved away from the farm but have recently moved back with my wife and daughter. Over the last few years, I have taken a greater interest in the future of the farm. The current relatively low key agricultural use provides a single

hay crop annually, with the Barn serving the purposes of hay storage and the storage and maintenance of the agricultural equipment used on the farm.

7. I have also worked with my parents and our agricultural consultant Jonathan Morris FRICS of CLM, to identify other options for the future of the farm. We are now in the process of developing and are examining the feasibility of creating a small vineyard. Initial discussions with Stephen Skelton of English Wine¹ and subsequent feasibility work has confirmed that the topography and soil is suitable for growing vines. Jonathan Morris has examined the assessment and confirms that there is a viable project in the creation of a vineyard of some 2.6 hectares.
8. The Agriculture Act 2020 has now created the opportunity for creating environmental benefits such as planting of pollinators and hedgerows and recreating meadows. While Government policy following Brexit is still emerging, the possible management of the farm as an environmental scheme is emerging as an alternative or complementary approach to the future management of the farm.
9. I discuss both of these options below and Jonathan Morris provides his assessment of the future prospects of the range of options in his proof of evidence.

RECENT AND PRESENT USE OF HOME FARM

10. As further detailed in the proofs of evidence of my parents, Mrs Pauline Selby and Mr Alan Selby, following the severe flooding event in 2013 and the sale of the Rear Land, a prior approval was sought for the erection of the agricultural building that is the subject of the Enforcement Notice. The prior approval was approved on the 9 June 2015 under Council reference DC/15/01995/AGRIC (the "Barn").
11. A planning contravention notice was issued by the Council in respect of the Barn dated 14 March 2019. In response to the planning contravention notice, Mrs Selby provided detailed answers to the Council's further queries on 29 March 2019; including the enclosure of the CLM Agricultural Need Reports of 2015 and 2018 (CD1.2).
12. Mr Stephenson, the Council's planning enforcement officer was invited to visit the farm in order to inspect the use of the Barn, particularly in relation to the assertion made in the PCN that the Barn was being used for the storage of building materials (CD1.2). He did not respond to this invitation. For the avoidance of doubt, the Barn was not and is not being used to store building materials and I can only assume a conclusion of this nature has been drawn by a misunderstanding of the photos taken and appended to the LPA's statement of Case. **Appendix 1** displays an annotated version of these photos, clearly labelling the agricultural machinery, equipment and materials and where relevant

¹ Author of "Wines of England"

explaining its use at Home Farm. This is further supported by the Farm Manager, Tony Clark's witness statement (**Appendix 4 of Mrs Selby's proof**), which provides a detailed inventory of the agricultural machinery in the Barn and further details of its use in connection with agricultural activities.

13. I was extremely disappointed and shocked when I reviewed the Council's delegated report, dated 23 August 2019 (**CD2.1**), which eventually led to the Enforcement Notice being issued on 13 January 2020. Despite Mrs Selby having providing the Council with clear evidence that farming operations were still on-going at Home Farm, with the Barn playing a vital role in its operation (**CD1.2**), the delegated report made no reference to this evidence and it does not appear to have been taken into account at all. Furthermore, in 2019, we grew and harvested c.1,000 bales of hay and provided photos and videos to the LPA (**CD1.3**). Disappointingly we again received no response from the LPA and some 5 months later we received the Enforcement Notice (**CD2.2**).
14. Whilst it is clear from the testimony of both Mr and Mrs Selby that circumstances surrounding the sale of the Rear Land, the flood and my mother's health had led to the removal of sheep from Home Farm for an extended period, and my parents had certainly contemplated giving up farming and selling the farm, our family home and the tenanted properties, it certainly is not the case that agricultural use of the agricultural unit and the Barn have at any time permanently ceased.
15. In fact, throughout this period of uncertainty as to the exact direction in which the farm is heading, my mother has always ensured, through continued investment and the employment of Tony Clark the Farm Manager, that the land continues to be maintained to a high standard, using the agricultural equipment which is stored and maintained in the Barn.
16. As detailed in Mr and Mrs Selby's proofs of evidence, cropping hay is not new to us at Home Farm. When the stables were open, the hay crop was stored in the hay barn and sold, at a profit, to the livery tenants. Therefore, following the refusal of consent for the lambing barn and my parents' change of heart in relation to the future of the farm, it was straightforward for us to re-start our hay cropping activities using the Barn, our equipment and indeed Tony Clark's expertise.
17. **Appendix 2** shows some photographs of the September 2019 harvest in which we yielded in excess of 1,000 bales. The LPA were notified of this by Robinson Escott as confirmed by Mr John Escott MRTPI in his evidence. To the best of my knowledge and belief, this has never been acknowledged by the Council, who appear to have been determined to persist with their enforcement action despite the clear evidence that of the continuing agricultural use of both the farm and the Barn.

18. We do not have any formal business plan for the current hay cropping activities. Given the position with the sheep and the refusal for the additional barn, we are undertaking hay cropping very much as a meanwhile use, although as mentioned it is possible to sell the hay at a good margin to equestrian users, as we used to do with our former livery tenants. We have sold the most recent crop of hay, but are storing it in the barn at present.
19. Equipment stored in the Barn which is directly associated with hay cropping and management and maintenance of the farm comprises:
- 19.1 Both tractors (The more powerful Fordson 5000 multi-purpose and the Fordson 4600 front loader)
 - 19.2 Fertiliser spreader, we typically spread c.1 tonne per hay crop (using the Fordson 4600)
 - 19.3 Roller (using the Fordson 5000)
 - 19.4 Chain harrow (using the Fordson 5000)
 - 19.5 Back-pack sprayer to manage ragwort, docks, buttercups etc.
 - 19.6 Grass topper for tidying up post-harvest
 - 19.7 Trailer for collecting the bales from the field and returning them to the Barn (using the Fordson 5000)
- (Exhibit TC1 of Tony Clark's witness statement includes photographs of Mr Clark using the roller, chain harrow, sprayer and topper the fields)*
20. Whilst we undertake the abovementioned activities, for both the 2019 and 2020 crop and indeed historically, albeit using a different contractor, we contracted the services of Tim Jackson from KH Agri who are based locally in Orpington to cut, turn and bale the hay. KH Agr invoice for these services and an invoice has been included at **Appendix 3**.
21. Unfortunately, the 2019 harvest was damaged due to substantial rain immediately after harvest before the bales could be collected and stored in the Barn.
22. Most recently, in June 2020, we again undertook the cropping of the hay. The land at Home Farm was fertilised and cultivated again and baled on the 22nd July 2020. **Appendix 4** is a statement from the contractor who baled the hay confirming the date and that 561 bales were successfully harvested, although the 2020 yield was extremely disappointing, reflecting the dry weather in the spring.

23. **Appendix 5** shows a photograph of the 2020 harvest. The entire crop has been sold to an owner of a livery yard in Kent and we have agreed that they can store the crop in the Barn and take delivery to order as required through the winter. **Appendix 6** shows an invoice in relation to the sale of 2020 hay crop.

USES OF THE BARN

24. The use of the Barn is provided in the evidence of our Farm Manager, Tony Clark. The Barn is used for the storage of agricultural equipment for use on the agricultural unit and has been at all times since it was substantially completed in December 2015. Photographs of the machinery and equipment stored in the Barn can be found at **Exhibit TC3** of Tony Clark's witness statement.
25. I think it is important to note that some of our equipment you can see in the photographs relate specifically to sheep farming, i.e. the feeders, water troughs and stock fencing. The decision to start cropping hay again was not taken until 2019 following the refusal of the dedicated sheep barn (**CD5.4 – CD5.6**).
26. The dumper and the small excavator are used for maintenance of the farm. As Tony Clark now largely works alone, they provide a great deal of assistance when it comes to things such as digging / clearing ditches, moving materials to different parts of the farm, clearing fallen trees etc. In addition, they were invaluable when it came to implementing the flood defence works as detailed in within Alan Selby's proof of evidence.
27. The barn also contains equipment for feeding and fencing of livestock. Whilst as things stand a return to prize livestock breeding is unlikely in the near future it is quite possible that we will provide short term grazing on an annual rental basis which can assist in the maintenance of the land and may be complementary to crop production such as hay or vines.
28. We have not purchased any new machinery in recent years, but we have certainly maintained our existing agricultural plant and machinery to a high standard; for example, fitting new tyres for the Fordson 4600 last year, new blades for the grass topper and parts for the tools / machinery. These items are reflected in the financial accounts at **Appendix 7 of Mrs Selby's proof**.
29. Furthermore, we have been purchasing agricultural red diesel for the tractors and the above-mentioned fertiliser.

FUTURE USES OF HOME FARM

30. Whilst hay cropping is an agricultural activity which has been undertaken at Home Farm over many years, it does not provide substantial income and, as with the 2019 harvest, it is an operation which is particularly vulnerable to the weather.
31. Furthermore, given the Council's refusal with respect to our application for the sheep barn (application ref: 18/01832/AGRIC) (**CD5.4 – CD5.6**), further detailed in Mrs Selby's proof of evidence, I have been investigating other uses which we can undertake at Home Farm. One of the most viable is to create a vineyard.
32. Stephen Skelton of English Wines was appointed in June 2020 to undertake a feasibility study. Mr Skelton is one of the most experienced and highly regarded viticulturists in Kent. To date, we have engaged his services to undertake the following:
 - 32.1 A desktop study to check the suitability of the location i.e. topography;
 - 32.2 A site visit to confirm the above and measure out the location of vines and plot them on plan;
 - 32.3 Take soil samples, send them for analysis and explain the results;
 - 32.4 Specify the requisite drainage works, along with a budget sum, and suggest suitable contractors to undertake the work; and
 - 32.5 Specify and provide a budget sum for the additional plant and machinery we would require.
33. The soil sampling has confirmed that Home Farm could, subject to significant investment, provide a suitable location to cultivate grapes. **Appendix 7** provides a copy of the results from the soil test which were summarised by Mr Skelton as follows:

"Nothing too remarkable. The pH is low in the larger field and it needs liming, plus a few other additions. The CEC – which is effectively the health of the soil – is good in both fields and shows that there is a good soil structure with good nutrient holding capacity."
34. In its current configuration and with the use of the Barn, Mr Skelton has advised that Home Farm is capable of producing c.20,000 bottles of wine per annum and has created a plan of the most suitable vine growing locations. The planted area would amount to c.6.5 acres, this plan is displayed in **Appendix 8**. Although the Barn would be capable of providing a suitable location to house the winery equipment, we currently think that the size of the vineyard would not justify the investment in equipment, and it is more-

likely we would pursue a form of joint-venture with a larger winery to produce and bottle the product.

35. The initial setup costs, including the drainage works and buying the vines is estimated to be c.£16,000 per acre, i.e. c.£104,000.
36. In addition, Mr Skelton has advised us to allocate funding to update the agricultural equipment. I have been in regular correspondence with Mr Skelton who provided more information about starting the business and most recently we agreed if we did pursue this route then we would appoint him on an on-going basis to oversee the initial infrastructure works, establish the vines, and assist in finding the appropriate routes to market for the product. This, as we now understand, will be the most challenging part of establishing the business.
37. As you will appreciate, whilst we very much like the idea of diversifying the farm into this growing industry, given the importance of the Barn in this venture, we are not in a position to make the up-front investment (vines / drainage / equipment) with the on-going enforcement action. We have therefore paused spending any further money until we have a resolution.
38. As an alternative we are also considering options for environmental management of the land; either complementary to the vineyard use or instead of it. The older equipment and machinery that we keep in the barn would be ideally suited to traditional agricultural methods associated with the kind of activities identified in section 1-3 of the Agriculture Act.

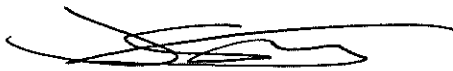
CONCLUSIONS

39. Various factors including the sale of the rear land, the catastrophic flooding event of 2013 and my mother's poor health around that time, led to my mother's decision to cease the successful Romney sheep breeding that she had carried on at the farm for over 15 years.
40. Although, my parents subsequently contemplated selling the farm and the buildings, in fact the Rear Land with the existing barn was sold necessitating the construction of the Barn which was completed by January 2016, now the subject of the current enforcement action.
41. My parents also considered the conversion of the Barn to a dwelling house (CD5.7), but that application has been withdrawn and they do not intend to proceed with it. Although, at that time it seemed possible that the agricultural use would cease, in fact it has not done so.

42. The land has been maintained in a good condition suitable for agricultural production and as Jonathan Morris explains in his evidence, could easily be used for grazing or hay production. In fact, for the last three years it has been used for an annual crop of hay and it is expected that a further crop will be taken in the summer of 2021.
43. Having moved back to Home Farm with my young family, we are taking a hands-on interest in future projects for the farm. My mother's health is much improved, and we are actively taking advice from both Mr Morris and Mr Skelton on the prospects of growing vines and/or an agricultural environment scheme under the new Agriculture Act 2020 which came into force in November 2020. The land would be suitable for both these activities and we need to carefully consider which route to take. The effect of the enforcement notice has been to suspend investment in future agricultural projects on the land.
44. In the meantime the Barn continues to be used for storage of the agricultural machinery and equipment to maintain the farm and to assist with the annual hay crop production.
45. The Council has been supplied with clear evidence of the use of the barn for agricultural storage and the use of the agricultural unit for hay making. In making their decision to take enforcement action, they appear to have paid no regard to the answers provided to the PCN or in the invitation to visit the farm to see the hay making in progress (CD1.2).
46. I am advised that the behaviour of the Council has been unreasonable, in failing to take account of these important material considerations and in deciding to issue the enforcement notice in the face of the clear evidence of the continuing agricultural use of the land and the Barn.
47. In particular, there has been no permanent cessation of the agricultural use of the Barn and it continues to be used to store equipment, machinery, materials and hay essential to serve the agricultural activities and use of the farm.

STATEMENT OF TRUTH

48. I believe that the facts stated within this proof of evidence are true.

Signed 
PRINT NAME JOSEPH SELBY
Date 11/1/2021

Home Farm, Chislehurst

Write a description for your map.

Legend



Field B 1.0485-ha

Field A 1.594-ha

