



DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/26/0503

Maplehurst Farmhouse , Nuthurst Road, Maplehurst, West Sussex, RH13 6RB

DESCRIPTION:

Application to confirm 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 (Lawful Development Certificate - Existing).

RELEVANT PLANNING HISTORY:

DC/07/2222

Proposed track and feeding areas (Agricultural Prior Notification)

Prior Approval Not Required
25/09/2007

SITE DESCRIPTION

The application site relates to Maplehurst Farmhouse, a detached two-storey dwelling located within the countryside to the south of Maplehurst. The property forms part of the wider Maplehurst Farm holding and is accessed from Maplehurst Road via an existing farm access track running through the agricultural unit.

Maplehurst Farmhouse is a Grade II listed building, listed in 1959. The list description identifies the building as dating from the 17th Century or earlier, comprising a two-storey building constructed of red brick with grey headers at ground floor level and tile hanging above beneath a Horsham slab roof.

EXISTING USE

The application relates to two sections of track serving the dwelling. The first comprises a section of agricultural track extending from Maplehurst Road southwards through the farm holding. The second comprises a spur track leading from the agricultural track directly to Maplehurst Farmhouse. The spur track is constructed partly of grasscrete and partly of gravel.

The agricultural track was originally formed pursuant to Prior Notification reference DC/07/2222 for an agricultural trackway approved in October 2007. The current application seeks to establish the lawfulness of the residential use of part of that agricultural track together with the operational development comprising the formation of the grasscrete/gravel spur track providing direct access to Maplehurst Farmhouse.

PLANNING ASSESSMENT

The application seeks a Lawful Development Certificate (existing) to confirm 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.

Section 191(1) of the Town and Country Planning Act 1990 provides that a Certificate of Lawful Development shall be issued if the local planning authority is satisfied that:

- the use of any land or building;
- any operational development; or
- any activity in breach of a planning condition

is lawful at the time of the application

Section 191(2) of the Town and Country Planning Act 1990 (TCPA) states that uses and operations are lawful if:

- no enforcement action may then be taken in respect of them, whether because planning permission was not required or because the time for taking enforcement action has expired; and
- the use or operations do not contravene any enforcement notice then in force.

Section 191(4) provides that where the local planning authority is provided with information satisfying it that the use or operations described in the application are lawful at the date of the application, it shall issue a certificate to that effect.

The relevant enforcement time limits are set out within Section 171B of the Town and Country Planning Act 1990 (as amended). Following amendments introduced by the Levelling-up and Regeneration Act 2023, the general time limit for enforcement action in England is 10 years.

However, transitional provisions apply. Where operational development was substantially completed before 25 April 2024, the former four-year immunity period remains applicable. Likewise, breaches occurring before that date continue to be assessed under the previous legislative regime where relevant.

Government guidance is contained within the National Planning Practice Guidance (NPPG), specifically the section entitled “Lawful development certificates”. The guidance confirms that the onus rests with the applicant to demonstrate lawfulness and that the local planning authority must determine applications solely on legal grounds rather than on planning merits.

Relevant case law includes *FW Gabbittas v Secretary of State for the Environment and Newham LBC* (1985), which established that evidence submitted by an applicant does not necessarily require independent corroboration provided it is sufficiently precise and unambiguous.

The standard of proof is the balance of probability, not beyond reasonable doubt, and that the evidence provided is sufficiently precise and unambiguous.

TCPA 1990 s191(1) provides that if any person wishes to ascertain whether:

- Any existing use of buildings or other land is lawful;
- Any operations which have been carried out in, over or under land are lawful; or
- Any other matter, constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful;

They may apply to the local planning authority specifying the land and describing the use, operations or other matter.

If on such an application, the local planning authority is satisfied with the lawfulness of the use, operations, or other matters described in the application, or that description as modified or substituted by them, it shall issue a certificate or refuse the application.

The Act provides that in respect of a failure to comply with any condition or limitation subject to which planning permission has been granted, any matter constituting such a failure is lawful at any time if:

- a) The time for taking enforcement action in respect of the failure has expired; and

- b) It does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.

The applicant has submitted the following evidence:

- A Planning Statement prepared in support of the application;
- Submitted drawings identifying:
 - the section of agricultural track subject to residential use; and
 - the spur track formed of grasscrete and gravel;
- Photographs of the track and access arrangements;
- A Statutory Declaration provided by the applicant;
- Copies of Prior Notification approval reference DC/07/2222 relating to the agricultural trackway; and
- Copies of historic enforcement correspondence dating from 2011.

The Statutory Declaration states that:

1. The spur track comprising part grasscrete and part gravel was installed in 2011 following a Council enforcement investigation and has been used continuously since that time to access Maplehurst Farmhouse;
2. The residential use of the section of agricultural track connecting Maplehurst Road to Maplehurst Farmhouse has occurred continuously since 2007;
3. Prior to installation of the grasscrete section in 2011, the spur track was formed of the same construction as the agricultural track.

The Council's own records additionally confirm that an enforcement investigation was undertaken in 2011 concerning the residential use of the track and the formation of the additional spur access, although no Enforcement Notice was ultimately served. The Council's remaining evidence comprises: -

- Planning history
 - Aerial photography of the site dated 2005, 2012, 2013, 2015, 2018, 2020, 2022, 2024 and 2025.
- Representations
- HDC Compliance correspondence

The planning history shows that DC/07/2222 was granted in 25/09/2007 for 'track and feeding areas'. The approved development related to agricultural purposes only and did not authorise residential use of the track serving Maplehurst Farmhouse.

The current application therefore concerns two separate matters:

1. The operational development comprising the creation of the spur track leading from the agricultural track to Maplehurst Farmhouse; and
2. The material change of use of part of the agricultural track from solely agricultural use to a mixed agricultural and residential use.

The applicant states that the residential use of the track commenced in 2007 following construction of the agricultural track and that the spur access arrangement was altered in 2011 following compliance discussions with the Council.

The Council's compliance records corroborate that concerns regarding the residential use of the track and the spur access existed in 2011. Importantly, no Enforcement Notice was served, and no subsequent enforcement action appears to have been taken.

The evidence before the Local Planning Authority indicates that:

- the spur track was physically present by 2011; and
- the residential use of the relevant section of track was occurring at least by 2011 and likely earlier.

The operational development and use therefore substantially pre-date 25 April 2024. Accordingly, even applying the former four-year immunity period, the development and use would now be immune from enforcement action. In any event, the evidence also demonstrates a period substantially in excess of ten years.

Aerial Photography

In addition to the evidence submitted by the applicant, the Local Planning Authority has reviewed historical aerial photography of the site dated 2005, 2012, 2013, 2015, 2018, 2020, 2022, 2024 and 2025 together with historical imagery available from Google Earth Pro.

The historical imagery demonstrates that in January 2005 neither the spur track leading to Maplehurst Farmhouse nor the connecting track to Maplehurst Road were present.

Imagery dated March 2012 shows both the track leading to Maplehurst Farmhouse and the connecting track to Maplehurst Road in existence. Subsequent imagery from June 2012 shows the tracks clearly formed and appearing formalised in their construction.

Later aerial photography and historical imagery from 2013 onwards demonstrate the continued existence of both sections of track through to the present day.

The aerial photography and historical imagery therefore corroborate the applicant's evidence that the tracks were created by at least 2012 and have remained in continuous existence for a period substantially in excess of the relevant immunity period.

Representations

Two representations have been received from two separate neighbouring addresses in support of the application.

The first representation confirms that the track has been used in its current form since approximately 2011 and states that the route is occasionally used by tractors associated with the farm. The representation further confirms that the use of the track has not resulted in any adverse impacts to neighbouring occupiers.

The second representation states that the track has been used to access Maplehurst Farmhouse since approximately 2006 and describes the route as functioning as a private drive serving the dwelling, with occasional agricultural use by the farmer. The representation also confirms that the use of the track has not resulted in any material impacts in terms of noise or traffic.

The neighbour representations therefore provide further independent evidence which corroborates the applicant's submitted information and statutory declaration regarding the long-standing existence and mixed residential/agricultural use of the track.

HDC Enforcement Correspondance

The Local Planning Authority's records include correspondence from the Council Solicitor dated 10 October 2011 relating to the enforcement investigation into the use of the track and associated access arrangements.

The correspondence confirms that, at that time, the Council had been made aware that the applicant intended to undertake works in response to the enforcement concerns raised, with the intention of avoiding the service of an Enforcement Notice.

This correspondence is significant as it further confirms that both the residential use of the track and the associated operational development were already in existence by October 2011. The Council's records therefore provide further corroborative evidence supporting the applicant's account regarding the timing and continued existence of the development and use.

ASSESSMENT OF LAWFULNESS

Prior Notification reference DC/07/2222 authorised the formation of an agricultural trackway associated with Maplehurst Farm. The approved development related solely to agricultural purposes and did not authorise the use of the track for residential access to Maplehurst Farmhouse, nor did it authorise the creation of the spur track leading directly to the dwelling.

The current application therefore seeks to establish the lawfulness of:

1. The operational development comprising the creation of the part grasscrete/part gravel spur track leading from the agricultural track to Maplehurst Farmhouse; and
2. The material change of use of part of the agricultural track from a solely agricultural use to a mixed agricultural and residential use associated with access to Maplehurst Farmhouse.

The applicant's evidence, including the submitted Statutory Declaration, states that the residential use of the agricultural track commenced in 2007 following the construction of the approved agricultural track and that the spur access arrangement was altered in 2011 following discussions with the Local Planning Authority in respect of enforcement concerns.

The Council's own records corroborate this chronology. Enforcement correspondence dated 10 October 2011 from the Council Solicitor confirms that the Council was aware at that time of both the residential use of the track and the associated operational development and further records that the applicant intended to undertake works in response to the enforcement concerns raised in order to avoid the service of an Enforcement Notice. No Enforcement Notice was ultimately served.

In addition, the Local Planning Authority has reviewed historical aerial photography and imagery dated 2005, 2012, 2013, 2015, 2018, 2020, 2022, 2024 and 2025. The imagery demonstrates that neither the spur track nor the connecting track to Maplehurst Road existed in January 2005. However, imagery dated March 2012 clearly shows both sections of track in existence, with imagery from June 2012 indicating that the tracks had become formalised in appearance. Subsequent imagery demonstrates the continued existence of both sections of track through to the present day.

The neighbour representations received further support the applicant's evidence. One representation confirms that the track has been used in its current form since approximately 2011, whilst the second confirms use of the track to access Maplehurst Farmhouse since approximately 2006. Both representations describe the route as operating as a private access serving the dwelling, whilst also accommodating occasional agricultural traffic.

Taken together, the evidence demonstrates that:

- the spur track was physically present and in use by at least 2011;
- the residential use of the relevant section of agricultural track was occurring by at least 2011, and likely earlier;
- both the operational development and the mixed residential/agricultural use have continued uninterrupted since that time; and
- no enforcement action was taken by the Local Planning Authority within the applicable statutory time period.

The operational development and use therefore substantially pre-date 25 April 2024 and would benefit from immunity from enforcement action under the former enforcement provisions. In any event, the evidence demonstrates on the balance of probability a continuous period of use and existence significantly in excess of ten years.

Having regard to the submitted evidence, the Council's own records, the historical aerial imagery and the neighbour representations, and in the absence of any substantive evidence to the contrary, it is considered that, on the balance of probability, the operational development and mixed residential/agricultural use described in the application have subsisted continuously for a period

sufficient to render them lawful under Section 191 of the Town and Country Planning Act 1990 (as amended).

Recommendation: Application Permitted

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- It has been demonstrated on the balance of probability that the access track/spur as shown outlined in blue and labelled "CLE Lawful Application Track Shown Blue" on the approved plan has been substantially completed and used for mixed agricultural and domestic purposes for a period in excess of 10 years from the date of the application.

Plans list for: DC/26/0503

(The approved plans will form Condition 1 on the Decision Notice of all Permitted applications)

Schedule of plans/documents **approved:**

Plan Type	Description	Drawing Number	Received Date
Location plan	Location Plan Cross Section	PL-01	24.03.2026
Block plan	Block Plan	PL-02	24.03.2026
Plans	Plan & Photograph of Installed Track	PL-03	24.03.2026

DELEGATED

Case Officer sign/initial

Daniel Holmes

Date: 28/05/2026

Authorising Officer sign/initial

Tamara Dale

Date: 09/07/2026

PLAN

