

Appellant Final Comments on Appeal Against Refusal of Prior Approval for Conversion of Part of an Agricultural Building to a Dwelling at Pemberley, Copsale Road, Maplehurst RH13 6QY

Appellant and author: [REDACTED]

Dated: 4 June 2026

The Appellant wishes to respond to the Local Planning Authority's appeal statement and the representations submitted by third parties.

The appeal concerns a Class Q prior approval application. As Planning Practice Guidance makes clear:

"When considering whether it is appropriate for the change of use to take place in a particular location, a local planning authority should start from the premise that the permitted development right grants planning permission..."

The issue before the Inspector is therefore not whether residential development would ordinarily be supported in the countryside, but whether the specific prior approval matters under Class Q justify withholding that permission.

A number of representations rely substantially upon matters associated with previous full planning applications and broader countryside policy considerations, including housing land supply, sustainability, isolated homes policy, design policy and the general principle of residential development within the countryside. Those matters fall outside the limited scope of assessment under Class Q and do not directly address the reasons for refusal.

RESPONSE TO INTERESTED PARTY REPRESENTATIONS

Interested Party 1 asserts that the site is occupied primarily for residential purposes, citing the presence of a caravan and suggesting the Appellant resides on site. This assertion is without foundation. In 2025 HDC investigated an enforcement allegation (EN/25/0073) that the building was being used for residential purposes without planning permission. The case was closed with the finding of No Breach. HDC's own Council Tax visiting officer attended the site and confirmed it was not being used for residential purposes. The Appellant is able to demonstrate by reference to CCTV footage that she attends the site daily and does not reside there. Furthermore, HDC's Chief Executive wrote to the Appellant in April 2025 confirming that complaints relating to the site were in the Council's view being made in a vexatious manner. The enforcement record is publicly available on HDC's planning portal. The correspondence referenced above can be provided by either party on request.

The remaining points raised by the interested parties — rural character, flood risk, highways, biodiversity, housing policy — fall entirely outside the scope of the prior approval assessment under Class Q and are not matters the Inspector is required to consider.

Interested Party 2 asserts that the cumulative floor space exceeds the Class Q limit. This is incorrect. The applicable limit under the current GPDO is 150sqm per dwelling and 1,000sqm cumulative. The proposed dwelling measures 145.18sqm. HDC

accepted this without qualification. The assertion that the Appellant is not an agricultural worker is irrelevant — Class Q contains no such requirement.

REFUSAL REASON 1 – CONDITION 8

The Local Planning Authority relies upon the appeal decisions at Windacres Farm (APP/Z3825/W/25/3369471) and Waterland Chalet (APP/Z3825/W/25/3367156). Neither condition is comparable to the present case.

The Windacres and Waterland conditions

The condition considered by Inspector Gardner at Windacres Farm expressly provided that the premises were permitted to be used for agricultural purposes only, and for no other purposes whatsoever without express planning consent from the Council first being obtained. That language, requiring active LPA consent before any other use, is the operative basis upon which Inspector Gardner applied Article 3(4). The Inspector found that the building “cannot change use through Class Q” precisely because the condition required express planning consent before any change.

The Waterland Chalet condition likewise restricted the building to agricultural use. Inspector Walker’s Article 3(4) finding at paragraph 12 of that decision was in any event expressly conditional: “If it was [lawfully implemented], given the condition imposed on the original permission restricted its use to agricultural, the proposal could not then benefit from the provisions of Class Q, unless the condition was varied or removed.” That finding was secondary to the primary basis for dismissal, which was that the building had already been converted to residential use and had not demonstrably been in agricultural use on 24 July 2023. The Article 3(4) point was obiter.

Condition 8 is materially different

Condition 8 of DC/04/1463 provides:

“The area of the building shown for storage for hay straw and machinery in connection with the land outlined in blue shall be used for that purpose only. Reason: To accord with the terms of the application and to ensure the Council retains control over the use of the building.”

Condition 8 differs from the Windacres and Waterland conditions in three fundamental respects.

First, it contains no requirement to obtain express planning consent before any change of use can occur. The operative words are “shall be used for that purpose only”. There is no equivalent to the Windacres formulation “and for no other purposes whatsoever without express planning consent from the Council first being obtained.” It is a use-control condition, not a consent-requiring condition. A condition that merely restricts a use, without expressly prohibiting reliance on the GPDO or requiring LPA consent before any departure, cannot properly be read as removing statutory permitted development rights subsequently granted by Parliament.

Second, Condition 8 applies only to part of the building: the storage area shown on the approved plans. The Windacres and Waterland conditions applied to the whole building. A partial use-control condition is a materially weaker foundation for an Article 3(4) argument than a whole-building prohibition.

Third, the reason given for Condition 8 is to accord with the terms of the application and to retain control over use, not to prevent future residential development, not to exclude the operation of the GPDO, and not to anticipate or override statutory rights Parliament had not yet enacted. The stated reason for a condition is a legitimate interpretive aid. Nothing in the reason for Condition 8 supports the inference that it was intended to bar a permitted development right introduced ten years later.

Inspector Heppell in *Annie's Baskets* (APP/Z3825/W/25/3374401, January 2026) rejected an identical Article 3(4) argument advanced by this Council on a condition reading "shall be used for agricultural purposes only", finding that the condition did not expressly require LPA consent and therefore could not remove Class Q rights. Condition 8 at Pemberley is weaker still: it restricts only part of the building, it names a specific use rather than "agricultural purposes" broadly, and its reason makes no reference to the GPDO or to any intention to exclude future statutory rights.

Nash Manor – HDC's own practice

The Local Planning Authority's own recent decision at Nash Manor, Nutbourne Lane (DC/24/1681, permitted 23 December 2024, authorised by Tamara Dale) is instructive.

The plans associated with DC/24/1681 appear to show the same building on the same lane as that which was the subject of planning permission PL/70/92 (Lower Nash Farm, Nutbourne Lane, permitted 24 December 1992). If that is correct, PL/70/92 was granted subject to Condition 03, which provided:

"The building hereby approved shall only be used for agricultural purposes as defined by Section 336(1) of the Town and Country Planning Act 1990 and for no other purposes, unless permission is granted by the Local Planning Authority on an application in that behalf."

That condition expressly required LPA permission before any change of use, language directly comparable to the Windacres condition which HDC now relies upon, and wholly absent from Condition 8 at Pemberley.

PL/70/92 does not appear in the planning history recorded in the DC/24/1681 delegated report. No Article 3(4) point was raised. No question was asked about whether any condition restricted the building's use or removed permitted development rights. Prior approval was granted without objection. If the connection between DC/24/1681 and PL/70/92 is correct, the Council approved an equivalent Class Q application without raising any Article 3(4) argument, notwithstanding the existence of a materially stronger condition than Condition 8. The Nash Manor delegated report (DC/24/1681) and original planning permission PL/70/92 are appended to this statement.

This illustrates a broader point. Historic agricultural use-control conditions are not generally treated as continuing impediments to Class Q development unless they are specifically identified and relied upon during determination. The Council's own recent decision-making demonstrates that Class Q proposals have been approved notwithstanding the existence of agricultural-use conditions. That approach is inconsistent with the interpretation now advanced in this appeal. A condition that is weaker, older and more limited in scope than conditions that were not relied upon in comparable decisions cannot reasonably be interpreted as an absolute bar to Class Q rights at Pemberley. That is precisely why a condition of the type and age of

Condition 8, drafted in 2004, a decade before Class Q existed, with no reference to the GPDO and no requirement to obtain express planning permission before any change of use, should not be interpreted as permanently removing statutory rights Parliament subsequently granted.

Westlands Farm

The Local Planning Authority seeks to distinguish the Westlands Farm decision (DC/25/0747, previously supplied) by asserting that the planning history relied upon in that application's planning statement was incorrect, specifically, that AS/28/96 (previously supplied) does not relate to the original permission and that the building predates 1970.

This retrospective explanation deserves limited weight for two reasons.

First, the planning statement submitted with DC/25/0747 expressly cited AS/28/96 as the permission under which the barn was erected. The officer's report positively adopted that planning history, quoting from the previous DC/19/1421 assessment that the barn "has been used solely for agricultural purposes and have specifically been used for the keeping of livestock, storage of hay, feed and agricultural plant, with reference made to relevant applications AS/5/66 Extension of existing dutch barn (Permitted) and AS/28/96 Erection of a barn (Permitted)", and concluded there was "no reason to take a different view." The application was approved, authorised by Tamara Dale on 30 June 2025, the same officer who co-signed the Pemberley refusal less than nine months later. No suggestion was made at the time of determination that AS/28/96 was the wrong reference or that any Article 3(4) issue arose. HDC's attempt to explain away that approval on grounds never identified during its determination deserves limited weight. The Westlands location plan and planning statement are appended to this statement, the delegated reports have been supplied previously.

Second, HDC's own explanation, taken at face value, only reinforces the point. If the building predates 1970 and there are no conditions associated with it, HDC approved Class Q at Westlands on the basis that no restrictive conditions applied, whether because the planning history was as submitted, or because the building was unconstrained by any earlier permission. Either way, the Council approved Westlands without raising any Article 3(4) argument. That approval stands as evidence of the Council's own practice and the weight attributed to it should not be reduced by a retrospective explanation advanced in these proceedings.

If the Council's position is that historic permissions and their conditions are routinely relevant to Class Q assessments, one would expect them to be consistently identified and considered in every determination, no matter the age. The Council's own decisions demonstrate that this does not occur in practice. At Westlands Farm the officer adopted the planning history as submitted without question. It is only in this appeal, and not in the Westlands delegated report itself, that the Council now asserts the referenced permission related to a different building. At Nash Manor no investigation was undertaken into whether any historic permission and associated conditions applied to the building. In neither case was any Article 3(4) point raised. If the Council cannot demonstrate that it consistently identifies and considers historic conditions in its own decision-making, it cannot credibly rely on one selectively when it suits its case in a particular appeal.

REFUSAL REASON 2 – UNDESIRABLE LOCATION

The Local Planning Authority's appeal statement significantly weakens the basis of the second reason for refusal.

The Council expressly acknowledges that:

"the current agricultural use of the building and wider site [is] limited in scale and nature."

The Council's concerns therefore do not arise from any identified existing or previous harm. Instead, they are based upon speculation regarding possible future changes in activity.

No evidence has been produced demonstrating that the retained storage area has generated noise, odour, disturbance or other impacts capable of creating unacceptable living conditions. Nor has any site-specific assessment been undertaken regarding the actual intensity, frequency or operational characteristics of the retained agricultural activity.

The Planning Practice Guidance explains that the undesirable location test relates to situations where residential occupation would result in unacceptable living conditions, giving examples such as intensive poultry farming, silage storage or buildings containing dangerous machinery or chemicals. The retained storage area at Pemberley does not remotely approach any of those examples. The retained storage area occupies only a modest area, with very limited manoeuvring space for machinery and a building characterised by low eaves and restricted access. It is not a building that readily lends itself to intensive agricultural operations, as supported by its history.

If the retained agricultural activity were genuinely of such an undesirable or intensive nature as to create an inherent incompatibility with residential occupation, one would reasonably expect to see some evidential basis for that conclusion within the officer assessment, consultation responses, site observations, photographs or wider enforcement history. No such evidence has been identified.

No concerns were raised by Environmental Health in relation to noise, disturbance or living conditions. The Compliance Team Leader responded with "No comments". No concerns were raised regarding use of the building, agricultural activity, noise, disturbance or amenity impacts. This is particularly notable given the level of scrutiny the site has been subject to over a number of years. If agricultural activity associated with the building were genuinely of the intensity now suggested by the Council, one would reasonably expect some evidence of this to have arisen through consultation responses, enforcement records, complaints or compliance concerns. None has.

The Council's conclusion sits uneasily with the evidence before it. The delegated report summarises objections claiming there has been no agricultural use of the site for many years and that the land is used solely for private equestrian purposes. However, supporting representations confirm that the fields remain in agricultural use for hay and silage production, that the barn is used for the storage of fencing, tools and machinery associated with management of the holding, and that no adverse impacts arise from the site. Neither position describes intensive farming operations.

Furthermore, the Local Planning Authority's assessment was undertaken without a site visit and without any meaningful site-specific assessment. The Council's own delegated report incorrectly describes the building as a "precast concrete panel frame barn", when it is in fact a timber-framed agricultural building. This further illustrates the

absence of any detailed site-specific assessment of the building's physical characteristics or actual operation.

The Appellant has supplied photographs, CCTV imagery and supporting evidence demonstrating years of agricultural use associated with hay and silage production, land management and storage. The evidence shows that the barn is primarily used for the storage of gates, fencing, tools and small machinery. Hay and silage are stored and sold off-site. Machinery and contractors predominantly access the holding via the eastern access and hay and silage operations occur only a limited number of times per year.

Furthermore, the physical characteristics of the retained area make meaningful intensification highly unlikely. The eaves height is insufficient to permit entry by most tractors of the size used for hay/silage making and/or with implements attached. The Appellant has been unable to use the retained area for tractor-based operations because the building's physical characteristics prevent it. Any future use of the retained area would be subject to the same physical constraints unless further planning permission were obtained to alter the building, permission which would itself be subject to planning control.

In these circumstances, the conclusion that the retained agricultural use creates an inherent incompatibility with residential occupation is unsupported not only by the evidence before the Inspector, but also by the physical characteristics of the site itself.

Westlands Farm

The Council's own approval at Westlands Farm (DC/25/0747, permitted 30 June 2025, authorised by Tamara Dale) is also directly relevant to Reason 2. In that case the officer acknowledged that agricultural activities undertaken in close proximity to the buildings, and resulting residential units, could potentially impact upon the amenities of future occupants by reason of noise and odour disturbance. The nearest non-associated neighbouring property was the Sussex Equine Hospital, a 24-hour operating veterinary facility, whose entrance was 10 metres from the application site entrance, with one building's rear elevation sitting directly on the shared boundary. Notwithstanding that proximity, prior approval was granted on the basis that there was no justifiable reason to reach a different conclusion from the previous approval. If immediate adjacency to a 24-hour equine hospital does not make a Class Q conversion undesirable under Q.2(1)(e), the low-intensity storage of fencing, gates and small equipment in the retained portion of the same building at Pemberley should not.

White House Farm is not comparable

The Local Planning Authority relies upon White House Farm (APP/U2370/W/23/3319409) for the proposition that retained adjacent agricultural buildings can make a Class Q conversion undesirable. That decision is factually distinguishable in material respects.

At White House Farm, the appeal building formed part of a closely knit group of agricultural buildings, all predominantly open-fronted, fronting a central yard and shared access route through the site. The proposed living spaces and curtilages were arranged directly facing the remaining open agricultural buildings across that shared yard. Inspector Martinson's finding at paragraph 10 was that "given the very close

proximity of the proposed living spaces and curtilages to the large number of remaining agricultural buildings and the access, the appeal proposal has potential to lead to significant disturbance.” The Inspector also noted at paragraph 9 that decisions in which agricultural buildings were not in close proximity to the conversion building were not directly comparable.

The physical situation at Pemberley is entirely different. The retained area is the storage portion of the same building, a structure characterised by low eaves, restricted internal access and limited manoeuvring space for large machinery. There is no open-fronted complex of agricultural buildings surrounding a shared yard. There is no agricultural access route passing the proposed living spaces. The physical form of the retained area itself constrains the nature and intensity of any future activity in a way that was wholly absent at White House Farm.

The Council argues that the current low-intensity use provides no guarantee of future activity levels. By that logic, however, no partial Class Q conversion could ever succeed. The retained part could always theoretically be intensified. Parliament explicitly contemplated partial conversions within the Class Q framework. The question is whether the actual and reasonably foreseeable use of the retained area creates unacceptable living conditions, assessed on the basis of the evidence. The evidence here, accepted by the Council to show use limited in scale and nature, confirmed by zero technical consultee objections on amenity grounds, does not support that conclusion.

White House Farm is a Wyre Borough Council decision in Lancashire, not an HDC decision, and predates the May 2024 amendments to the GPDO. Since that appeal was dismissed in 2023, Wyre Borough Council have granted both full planning permission for dwellings on the same buildings (ref: 24/00472/FUL) and Class Q prior approval on those same buildings (ref: 25/00100/COUQ). Limited weight should be attributed to a decision that the determining LPA itself has since twice superseded on the same buildings.

The Council’s reliance on Environmental Health’s observation about contaminative materials is also misplaced. No herbicides, pesticides, fuels or oils are or have been stored in the retained area. That concern is capable of being addressed by condition, as the Council itself implicitly acknowledges by including a suggested condition in its appeal statement. The existence of a resolvable concern addressed by condition does not constitute grounds for refusal under Q.2(1)(e).

It is also difficult to understand the basis upon which the Local Planning Authority concluded that the relationship between the proposed dwelling and retained agricultural use is not capable of resolution through condition, given that two separate conditions already regulate activities within different parts of the same building.

Class Q expressly anticipates the conversion of agricultural buildings within working rural settings. A degree of proximity between residential occupation and retained agricultural activity is therefore inherent within the legislation itself and cannot, without clear evidence of actual harm, reasonably justify refusal on grounds of undesirable location.

The refusal reasons are internally inconsistent

The two reasons for refusal are irreconcilable. Reason 1 asserts that Condition 8 is so operative and binding that it removes Class Q permitted development rights entirely. Reason 2 asserts that the retained area, the very area subject to Condition 8, could be intensified into something incompatible with residential occupation, generating noise, disturbance, dangerous machinery or other harmful impacts.

These positions cannot both be correct. If Condition 8 is as powerful as HDC contend for the purposes of Reason 1, it restricts the retained area to the storage of hay, straw and machinery only. Any intensification of the kind speculated upon in Reason 2: livestock, intensive operations, dangerous chemicals, would itself constitute a breach of that condition. The Council cannot simultaneously rely on Condition 8 as an absolute bar to Class Q whilst ignoring its constraining effect on the very activity it uses to justify Reason 2. The speculative future harm underpinning Reason 2 is not a lawful use of the retained area on HDC's own case.

Further, should any future use of the retained area intensify beyond the scope of Condition 8, that use would be subject to planning enforcement. The Council retains full enforcement powers in respect of any breach. The suggestion that future occupiers would have no recourse against intensified agricultural activity ignores the fact that such intensification would itself be unlawful and susceptible to enforcement action. This is not a situation where harmful activity could occur without any planning control. The very condition HDC relies upon for Reason 1 provides precisely the mechanism by which any unacceptable future use could be restrained.

CONCLUSION

The Local Planning Authority's case on Refusal Reason 1 rests on conditions, Windacres and Waterland, that expressly required LPA consent before any change of use, language wholly absent from Condition 8. The Council's own recent approval at Nash Manor, where a materially stronger condition existed without any Article 3(4) consideration being raised, directly contradicts its position. Inspector Heppell rejected the same argument on a stronger condition in January 2026. Condition 8 cannot properly be interpreted as removing Class Q rights.

The Local Planning Authority's case on Refusal Reason 2 rests upon speculation regarding what might occur in the future rather than evidence of actual harm arising from the long-established and continuous low-intensity use of the barn and of the holding. The current agricultural activity is accepted by the Council to be limited in scale and nature. No technical consultee identified concerns regarding noise, smells, disturbance or incompatibility. No site-specific assessment has been undertaken. The physical characteristics of the retained area make meaningful intensification unlikely in practical terms. White House Farm, a Wyre Borough Council decision from 2023 which the determining LPA has since twice superseded on the same buildings, is not comparable. Furthermore, the two reasons for refusal are in direct conflict. The Council cannot simultaneously rely on Condition 8 as an absolute bar to Class Q and assert that the same retained area could be intensified unlawfully without consequence. The retained storage area at Pemberley does not create unacceptable living conditions for future occupiers.

For the reasons set out within the main appeal statement and these final comments, the Appellant respectfully requests that the appeal be allowed.

Subject: FW: Planning Application Consultation - DC/26/0279

From: Planning.Compliance
Sent: 27 February 2026 13:02
To: Planning
Subject: RE: Planning Application Consultation - DC/26/0279

No comments

Madeleine Hartley
Planning Compliance Team Leader

Telephone:
Email:



Horsham District Council, Albery House, Springfield Road, Horsham, West Sussex RH12 2GB
Telephone: 01403 215100 (calls may be recorded) www.horsham.gov.uk Chief Executive: Jane Eaton

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Please contact us in advance if your email, including any attachments, is going to exceed 30MB.

From: Planning
Sent: 24 February 2026 10:18
To: Planning.Compliance
Subject: Planning Application Consultation - DC/26/0279

Please see the attached consultation letter from Horsham District Council Re:DC/26/0279

Telephone:
Email: planning@horsham.gov.uk



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Telephone: 01403 215100 (calls may be recorded) www.horsham.gov.uk Chief Executive: Jane Eaton



DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/24/1681
Nash Manor Lower Nash, Nutbourne Lane, Nutbourne, West Sussex, RH20 2HS

DESCRIPTION:

Prior Notification for Change of Use from an Agricultural Building to 2no dwellinghouse (C3 Use Class).

RELEVANT PLANNING HISTORY:

DC/21/0870	Erection of single-storey front, side and rear extensions, creation of balcony with associated alterations.	Application Permitted on 17.09.2021.
DC/21/2854	Prior Notification for the change of use of an agricultural building to residential (Class C3) to form 1no. dwellinghouse.	Prior Approval Required and REFUSED on 14.02.2022.
DC/24/0883	Installation of Swimming Pool and associated plant room (Part Retrospective)	Application Permitted on 11.09.2024.
DISC/24/0237	Application for Approval of Details Reserved by Condition 3 and 4 to approved application DC/24/0883	Application Permitted on 11.11.2024.

SITE AND SURROUNDINGS:

The application site is located 0.4 miles northwest of the Nutbourne village and conservation area, outside of a built-up boundary area and within a countryside location in terms of planning policy. The residential property of Nash Manor is to the southern boundary of the site, whilst to the north, east and west there are agricultural fields. The nearest listed building is 180 metres to the northeast. Access to the site is along the southern boundary which connects to Nutbourne Lane.

A Public Right of Way (PROW- 2336) crosses agricultural land north of the site, in a northeast to southwest direction. Trees and hedges to the east along the public highway prevent any views from the highway. To the front (south) of the barn the subject of this application, are large areas of hand standing used to provide parking for both the agricultural barn and the surrounding farmland.

The existing building is stated as used as ancillary storage for Nash Manor, as well as informal storage for cars and building materials. The building is not part of any agricultural, forestry or equestrian land holding. Land to the east of the site is privately owned by the client. The site is Flood Zone 1 (low proportion of flooding).

DETAILED DESCRIPTION:

This notification seeks prior approval under Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 to form 2no dwellinghouses.

The proposal seeks to redevelop the existing barn at Nash Manor, Nutbourne Lane to form 2no. 2 bedroomed dwellings. Part of the existing barn will be demolished as it was a later addition and postdates the Class Q requirements. In terms of vehicle access, the existing vehicle access via Nutbourne Lane will be retained.

In response to the previous reasons for refusal (reference: DC/21/2854), the barn's design has been revised to reduce its floorspace. Each unit now measures 150 square meters. Additionally, the amount of glazing has been minimized, and the number of windows and openings, particularly on the western elevation, has been significantly reduced.

RELEVANT PLANNING POLICIES

National Planning Policy Framework

Horsham District Planning Framework (HDPF 2015):

Policy 1 - Strategic Policy: Sustainable Development

Policy 24 - Strategic Policy: Environmental Protection

Policy 26 - Strategic Policy: Countryside Protection

Policy 33 - Development Principles

Policy 38 - Strategic Policy: Flooding

Policy 41 - Parking

REPRESENTATIONS AND CONSULTATIONS RESPONSES

Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at www.horsham.gov.uk.

Consultations:

HDC Environmental Health: Comment

Commercial or agricultural buildings can be subject to significant contamination risks arising from their use, construction and storage of machinery equipment fuels or other chemicals. Potentially hazardous materials may also be incorporated in made ground, yards, and hard standings.

In accordance with the recommendations of the Planning Practice Guidance, information is required on these matters and a preliminary risk assessment should be provided to ensure the site can be made safe and suitable for the development. properly determined.

No information on water neutrality has been provided.

WSCC Highways: Comment

The LHA previously provided consultation advice for this site for application DC/21/2854, raising no highway safety concerns. This Local Planning Authority (LPA) refused the application on grounds unrelated to highways.

Under the current General Permitted Development Order (GPDO), it is permitted development to change use from agricultural to residential (Class C3) subject first to prior approval being granted. As part of the prior approval process, there are a number of matters to be considered. This includes matters relating to highways and transport. However, the GPDO is quite clear as to what highway matters can be considered, namely whether the proposal is likely to result in a material increase or a material change in the character of traffic in the vicinity of the site.

No alterations are proposed to the existing vehicular access arrangement. An inspection of collision data supplied to WSCC by Sussex Police over a period the past five years reveals there have been no recorded injury accidents within the vicinity of the existing access point onto Nutbourne Lane. Therefore, there is no evidence to suggest the existing access is operating unsafely or that the proposal would exacerbate an existing safety concern.

Generally, the change of use from agricultural to residential would generate a reduction in material use at the site. The existing use would create a certain number of movements throughout the day, whereas

the movements associated with residential use would be anticipated within network peaks. Therefore, although the nature of trips would change, the frequency would likely not exceed that of current use.

The applicant proposes four car parking spaces for this development. The WSCC Car Parking Demand Calculator indicates that a dwelling of this size in this location would require at least five car parking spaces. However, there does appear to be space within the site to accommodate an additional car parking space to meet the parking demand.

From inspection of the plans, the proposed parking bays are suitably sized and on-site turning appears achievable. The LPA may wish to secure cycle parking provision if they feel it is appropriate to do so. In summary, the movements associated with agriculture have done so safely with no known safety highways concerns, and C3 residential uses are considered less intensive. West Sussex County Council in its role as LHA has therefore considered the proposal on that basis. In principle, the current GPDO gives limited ability to consider wider highway and transport impacts beyond those set out. The prior approval is therefore considered acceptable in highway terms.

Representations:

A total of 6 representation were received for this notification.

- Not agricultural
- Impact on dark skies and light pollution
- Impact on public right of way
- Fencing
- Overdevelopment
- Proximity to neighbours
- Out of keeping with rural area
- Does not conform to size restrictions

HUMAN RIGHTS AND EQUALITY:

The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a person's rights to the peaceful enjoyment of property and Article 8 of the same Act, which sets out their rights in respect to private and family life and for the home. Officers consider that the proposal would not be contrary to the provisions of the above Articles.

The application has also been considered in accordance with Horsham District Council's public sector equality duty, which seeks to prevent unlawful discrimination, to promote equality of opportunity and to foster good relations between people in a diverse community, in accordance with Section 149 of the Equality Act 2010. In this case, the proposal is not anticipated to have any potential impact from an equality perspective.

PLANNING ASSESSMENT

The main issue is whether prior approval is required for the proposed change of use and conversion of the existing agricultural building to provide a single dwelling under Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Permitted development:

Q. Development consisting of—

(a) a change of use –

- (i) a building that is part of an established agricultural unit and any land within that building's curtilage, or**
- (ii) a former agricultural building that was (but no longer) part of an established agricultural unit and any land within that building's curtilage**

to a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order,

- (b) development referred to in sub-paragraph (a) together with the extension of the building referred to in sub-paragraph (a), or**
- (c) development referred to in sub-paragraph (a) together with building operations reasonably necessary to convert the building referred to in sub-paragraph (a) to a use falling within Class C3 (dwellinghouses) of the Schedule or to extend that building.**

Prior approval consent is sought to convert the existing agricultural building into 2no. dwellings under Q(a) as above.

Development not permitted:

Q.1 Development is not permitted by Class Q if—

- (a) in the case of a site that is part of an established residential agricultural unit—**
 - (i) on 24th July 2023**
 - (ii) where the site became part of an established agricultural unit after 24th July 2023, for a period of at least 10 years before the date development under Class Q begins,**

Paragraph X of Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 ('interpretation of Part 3') states that 'agricultural building' means a building used for agriculture and which is so used for the purposes of a trade or business, and excludes any dwellinghouses, and 'agriculture use' refers to such uses.'

Section 336(1) of the Town and Country Planning Act 1990 states that 'agriculture' includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where the use is ancillary to the farming of land for other agricultural purposes, and 'agricultural' shall be construed accordingly.

It is noted that a previous Class Q prior approval was refused in 2021 as it had not been demonstrated that the site had been in sole agricultural use on or before 20th July 2013. The Planning Statement states that the barn has been in use as agricultural storage for Nash Manor. The newest extension to the east of the main barn will be demolished as part of the proposals, with the original barn converted to form two new dwellings. Evidence provided demonstrates that the agricultural building, while itself no longer in use, remains part of an established agricultural unit.

- (b) in the case of a building that was (but is no longer) part of an agricultural unit —**
 - (i) the site was part of an established agricultural unit on 24th July 2023,**
 - (ii) where the site ceased to be part of an established agricultural unit after 24th July 2023, the site has not been part of the established agricultural unit for a period of at least 10 years before the date development under Class Q begins, or**
 - (iii) since ceasing to be part of an established agricultural unit, the site has been used for any non-agricultural purpose.**

The Class Q permitted development right was updated in May 2024, with the ten-year clock reset to 24th July 2024. This application has been assessed under the amended planning guidance. The application building was part of an established agricultural unit on 24th July 2023. The planning Statement states that the barn has been in use as agricultural storage for Nash Manor. In 2012, consent was granted for the rationalisation/demolition of 5 existing agricultural buildings to allow a new larger barn for agricultural purposes (DC/12/1852). The agent confirms that this permission was not implemented but shows that the barns were accepted as functioning in association with the agricultural

operations at Nash Manor. The farmland adjacent to the buildings has been used for grazing both sheep and rearing cattle, and the building subject to the prior approval has been utilised for facilitating such operations as the storage of food, equipment, and machinery necessary for the welfare of animals. The building, while no longer in use, remains part of an established agricultural unit, and has been used as agricultural storage for Nash Manor.

(c) the floor space of any dwellinghouse under Class Q having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeds 150 square metres,

Two dwellinghouses are being developed under Class Q:

Unit 1: 150sqm

Unit 2: 150sqm

The proposed floor space for each proposed unit would not exceed 150 sqm, as above. The existing extension on the agricultural building would be removed. The proposal is considered to meet the requirements of (c).

(d) the development under Class Q, together with any previous development under Class Q, within the original limits of an established agricultural unit (see Paragraph Q.3(2) of this Part) would result in –

- (i) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 10, or**
- (ii) the cumulative floor space of dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 1,000 square metres.**

The total number of dwellings provided within the agricultural unit would be two. The cumulative floor space of the dwellinghouses would be 300 sqm which would not exceed the 1,000 sqm allowed under Class Q. The total number of dwellinghouses in the proposal development will remain below 10. The proposal would therefore be in accordance with the requirements of (d).

(e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;

The proposal is considered to meet the requirements of (e).

(f) less than 1 year before the date development begins—

- (i) an agricultural tenancy over the site has been terminated, and**
 - (ii) the termination was for the purpose of carrying out development under Class Q,**
- unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural use;**

The proposal is considered to meet the requirements of (f).

(g) development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) has been carried out on the established agricultural unit during the period which is 10 years before the date development under Class Q begins,

The part of the building subject to this application has been in situ in their current form for many years. No development under Class A(a) or Class B(a) of Part 6 of the Schedule has been undertaken.

(h) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point, other than—

- (i) extension of the building allowed by paragraph Q.1(i);
- (ii) protrusions of up to 0.2 metres to accommodate building operations allowed by paragraph Q.1(j)(i),

Not applicable.

- (i) the development under Class Q(b) would result in an extension that—
 - (i) has more than one storey,
 - (ii) is sited anywhere other than to the rear of the existing building,
 - (iii) extends beyond the rear wall of the existing building by more than 4 metres,
 - (iv) has eaves the height of which exceed the height of the eaves of the existing building,
 - (v) is higher than whichever is the lower of—
 - (aa) the highest part of the roof of the existing building, or
 - (bb) a height of 4 metres above the ground,
 - (vi) extends beyond a wall that forms a side or principal elevation of the existing building, or
 - (vii) would be sited on land that, before the development under Class Q(b), is not covered by a hard surface that was provided on the land by virtue of any development, and—
 - (aa) the hard surface was not provided on the land on or before 24th July 2023, or
 - (bb) where the hard surface was provided on the land after 24th July 2023, the hard surface has not been situated on the land for a period of at least 10 years before the date development under Class Q(b) begins,

The proposal does not propose any extension to the existing building, it is proposed to remove part of the existing building, reducing the footprint and GIA. All the subsequent works will be confined within the new reduced footprint.

- (j) the development under Class Q(b) would consist of building operations other than—
 - (i) the installation or replacement of—
 - (aa) windows, doors, roofs, or exterior walls, or
 - (bb) water, drainage, electricity, gas, or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and
 - (ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i);

Paragraph 105 of the Planning Practice Guidance in relation to building operations states the following:

'Building works are allowed under the change to residential use. The permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. However, it recognises that for the building to function as a dwelling some building operations which would affect the external appearance of the building, which would otherwise require planning permission, should be permitted. The right allows for the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas, or other services to the extent reasonably necessary for the building to function as a dwelling house; and partial demolition to the extent reasonably necessary to carry out these building operations. It is not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore, it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right.'

The application was accompanied by a structural survey. The structure of the building was also assessed during a site visit. The report concluded that the precast concrete barn and associated lean-to timber / steel framed additions are generally structurally sound and suitable for conversion. The foundations would be sufficient for the conversion given the sand subsoil, and a new internal floor would be required along with new external cladding. Windows are proposed on each elevation, with rooflights proposed. Doors are proposed on the south and north elevations. The external dimensions would remain the same dimensions as the existing, minus the removal of the extension, and there is no evidence to suggest that the building is unsuitable for conversion in its current state.

The subject building would therefore appear capable of conversion in its own right. The measures are not considered to be of such a degree to amount to a rebuild, and the required works are therefore considered to be reasonably necessary to convert the building.

(k) the site is on article 2(3) land;

The site is not on article 2(3) land.

(l) the site is, or forms part of—

- (i) a site of special scientific interest;**
- (ii) a safety hazard area;**
- (iii) a military explosives storage area;**

The site is not within any of these areas.

(m) the site is, or contains, a scheduled monument; or

The site is not and does not contain a scheduled monument.

(n) the building is a listed building

This building is not a listed building.

(o) the existing building, excluding any proposed extension under Class Q(b) but including any proposed building operations under Class Q(c), would not be capable of complying with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015 as read with the notes dated 19th May 2016 which apply to it, or

The building measures 150sqm, which would meet the nationally described space standards for 2-bedroom dwellings, with the appropriate number of bed spaces (persons) and additional provision of built-in storage. The dwellings would therefore provide adequate living and storage space in accordance with national space standards.

(p) the building does not have suitable existing access to a public highway.

The site is accessed off Nutbourne Lane, and the existing access is suitable to serve additional dwellings. The access has facilitated agricultural use for several years.

Conditions

Q.2— (1) Where the development proposed is development under Class Q(a) together with development under Class Q(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

(a) transport and highways impact of the development

The proposal would utilise an existing access to the public highway. Following consultation with WSCC Highways as the Highways Authority, no objection to the proposal has been raised. The parking demand calculator indicates that a dwelling of this size, in this location, would require at least five car parking spaces, however, there does appear to be space within the site to accommodate an additional car parking space to meet the parking demand. The proposal is therefore not considered to result in harm to the function or safety of the public highway network.

(b) noise impacts of the development

Paragraph 187 of the National Planning Policy Framework (NPPF) requires development to prevent both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.

Paragraph 198 of the NPPF states that planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development; mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions; recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

The subject buildings are located in close proximity to other residential buildings. The Planning Statement states that there are no noise issues associated with the development which would represent an adverse impact upon any existing residential amenity within the area. There are no intensive or noisy agricultural uses in proximity to the site. There are nearby residential properties on Nutbourne Lane. Given this context, it is not considered that the proposed development itself would result in demonstrable harm to the amenities of the surrounding residential properties.

(c) Contamination risks on the site

Commercial and agricultural buildings and land can be subject to significant contamination risks arising from their use, previous land uses, construction and storage of machinery, equipment, fuels, or other chemicals. Potentially hazardous materials may also be incorporated in made ground, yards, and hard standings. Risks arising from the use therefore require evaluation by the applicant.

No contamination reports have been submitted to support this application. The Planning Statement states that historically the site has been utilised for agricultural use and there are no known contamination concerns or issues as a result of former agricultural use of the site. While this information is required, it is considered that the additional information can be secured by way of condition which would be considered sufficient to render the development acceptable in relation to Q.2(1)(c).

(d) flooding risks on the site

The site lies outside any area subject to flood risk. No concerns in respect of flooding are therefore raised.

(e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order

The subject building is located in close proximity to the existing farmhouse building and other residential dwellings, which are domestic in character. There would be limited impact on neighbouring amenity, as the closest neighbouring dwellings would be located approximately 51.6m away from the proposed dwellinghouse. Given this context, the residential conversion is generally considered commensurate to the surrounding uses and acceptable in this regard.

The site is not affected by any statutory or non-statutory landscape, biodiversity, or heritage designation. The location of the site, near to existing residential buildings, would be suitable and would have limited impact on neighbouring occupiers in relation to Q.2(1)(e) given the separation to dwellings within the surrounding area.

(f) the design or external appearance of the building, and the provisions of paragraph W (prior approval) of this Part apply in relation to that application

In response to the previous reasons for refusal (ref: DC/21/2854), the barn's design has been revised to reduce its floorspace. The amount of glazing has been minimized, and the number of windows and openings, particularly on the western elevation, has been significantly reduced. The proposed elevations illustrate that the external appearance of the building would be maintained as far as possible. The proposed material palette is deemed appropriate to a rural setting and would reflect the existing utilitarian character and its surrounding. No objections are therefore raised in this regard.

(g) the provision of adequate natural light in all habitable rooms of the dwellinghouses.

Each habitable room will be served by a window to provide natural daylight and ventilation into the dwelling. The proposal is therefore considered to meet the requirements of (g).

Other Matters

Water Neutrality

Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended states that:

'Subject to the provisions of this of this Order and regulations 73 to 76 of the Conservation of Habitats and Species Regulations 2010 (general development orders), planning permission is hereby granted for the classes of development described as permitted development in Schedule 2.'

Section 75 of the Conservation of Habitats and Species Regulations 2017 states that *'it is a condition of any planning permission granted by a general development order made on or after 30th November 2017, that development which –*

- (a) Is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and*
- (b) Is not directly connected with or necessary to the management of the site, must not be begun until the developer has received written notification of the approval of the local planning authority under regulation 77 (approval of local planning authority).'*

The application site falls within the Sussex North Water Supply Zone as defined by Natural England which draws its water supply from groundwater abstraction at Hardham. Natural England has issued a Position Statement for applications within the Sussex North Water Supply Zone which states that it cannot be concluded with the required degree of certainty that new development in this zone would not have an adverse effect on the integrity of the Arun Valley SAC, SPA and Ramsar sites.

On this basis, an application under Section 77 of the Conservation of Habitats and Species Regulations 2017 would be required to be submitted, and development subject of this Prior Approval application cannot be carried out until a decision of such application has been made.

Conclusion

The proposal has been considered in relation to all relevant conditions, limitations, and restrictions of Class Q in Part 3. As reasoned in detailed above, it is considered that the proposal would comply with all relevant limitations of Class Q, with no individual considerations that would warrant the refusal of prior approval, subject to the conditions listed below.

COMMUNITY INFRASTRUCTURE LEVY (CIL)

Horsham District Council has adopted a Community Infrastructure Levy (CIL) Charging Schedule which took effect on 1st October 2017.

It is considered that this development constitutes CIL liable development.

Use Description	Proposed	Existing	Net Gain
District Wide Zone 1	313.6		313.6
		Total Gain	
		Total Demolition	192.17

Please note that the above figures will be reviewed by the CIL Team prior to issuing a CIL Liability Notice and may therefore change.

Exemptions and/or reliefs may be applied for up until the commencement of a chargeable development.

In the event that planning permission is granted, a CIL Liability Notice will be issued thereafter. CIL payments are payable on commencement of development.

Recommendation: Prior Approval Required and PERMITTED

Conditions:

2 **Pre-Commencement Condition:** No development shall commence until the following components of a scheme to deal with the risks associated with contamination, (including asbestos contamination), of the site be submitted to and approved, in writing, by the local planning authority:

- a) A preliminary risk assessment which has identified:
 - a. all previous uses
 - b. potential contaminants associated with those uses
 - c. a conceptual model of the site indicating sources, pathways, and receptors
 - d. Potentially unacceptable risks arising from contamination at the site.

The following aspects (b) - (d) shall be dependent on the outcome of the above preliminary risk assessment (a) and may not necessarily be required.

- a) An intrusive site investigation scheme, based on (a) to provide information for a detailed risk assessment to the degree and nature of the risk posed by any contamination to all receptors that may be affected, including those off site.
- b) Full details of the remediation measures required and how they are to be undertaken based on the results of the intrusive site investigation (b) and an options appraisal.
- c) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action where required.

The scheme shall be implemented as approved. Any changes to these components require the consent of the local planning authority.

Reason: As this matter is fundamental to ensure that no unacceptable risks are caused to humans, controlled waters, or the wider environment during and following the development works and to ensure that any pollution is dealt with in accordance with Policies 24 and 33 of the Horsham District Planning Framework (2015).

NOTE TO APPLICANT

Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended states that:

"Subject to the provisions of this Order and regulations 73 to 76 of the Conservation of Habitats and Species Regulations 2010 (general development orders), planning permission is hereby granted for the classes of development described as permitted development in Schedule 2."

Section 75 of the Conservation of Habitats and Species Regulations 2017 states that "it is a condition of any planning permission granted by a general development order made on or after 30th November 2017, that development which -

(a) Is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and

(b) Is not directly connected with or necessary to the management of the site, must not be begun until the developer has received written notification of the approval of the local planning authority under regulation 77 (approval of local planning authority)."

The application site falls within the Sussex North Water Supply Zone as defined by Natural England which draws its water supply from groundwater abstraction at Hardham. Natural England has issued a Position Statement for applications within the Sussex North Water Supply Zone which states that it cannot be concluded with the required degree of certainty that new development in this zone would not have an adverse effect on the integrity of the Arun Valley SAC, SPA and Ramsar sites.

POSITIVE AND PROACTIVE STATEMENT

Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, in order to be able to, where possible, grant permission.

Plans list for: DC/24/1681

(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
Elevation & Floor plan	Plans & Elevations As Existing	2021/PL1 REV A	29.10.2024
Elevation & Floor plan	Plans & Elevations As Proposed - Option 1	2021/PL2 REV E	29.10.2024
Location & Block plan	Site Location & Block Plans As Existing & As Proposed	2021/PL4 REV G	29.10.2024

DELEGATED

Case Officer sign/initial Bethan Tinning Date: 18.12.2024

Authorising Officer sign/initial Tamara Dale Date: 23.12.2024



Horsham District Council

Park House
North Street
Horsham
West Sussex
RH12 1RL
Telephone
(0403) 64191

APPLICATION NO. PL/70/92

TOWN AND COUNTRY PLANNING ACT, 1990
TOWN AND COUNTRY PLANNING GENERAL DEVELOPMENT ORDER, 1988.

T Payne P'ship (J C Brown)
11 Church St
Storrington
W Sussex

On behalf of: Mr W Ford

In pursuance of their powers under the above-mentioned Act and Order the Council hereby notify you that they PERMIT the following development, that is to say:-

ERECTION OF AGRICULTURAL BUILDING

LOWER NASH FARM NUTBOURNE LA NUTBOURNE

to be carried out in accordance with your application and plan No. PL/70/92 (as modified by the undermentioned conditions, if any) submitted to the Council on 07/10/92 and subject to compliance with the conditions specified hereunder.

DIRECTOR OF PLANNING AND LAW.

DATE 24/12/92

01 The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

02 No development shall be carried out unless and until a schedule of materials and finishes and, where so required by the Local Planning Authority, samples of such materials and finishes to be used for external walls and roofs of the proposed building(s) have been submitted to and approved by the Local Planning Authority.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity, by endeavouring to achieve a building of visual quality.

03 The building hereby approved shall only be used for agricultural purposes as defined by Section 336(1) of the Town & Country Planning Act 1990 and for no other purposes, unless permission is granted by the Local Planning Authority on an application in that behalf.



Horsham District Council

Park House
North Street
Horsham
West Sussex
RH12 1RL
Telephone
(0403) 64191

APPLICATION NO. PL/70/92

Reason: To control the development in detail.

NOTE TO APPLICANT:

The applicant is reminded that the existing public right of way across the site should remain undisturbed unless and until legally stopped-up or diverted prior to the commencement of any of the development hereby permitted.

N.B. IT IS IMPORTANT THAT YOU SHOULD READ THE NOTES ENCLOSED WITH THIS FORM. Your copy of the application determined as above is returned herewith for your records.