

Appeal Statement

Appeal Against Refusal of Prior Approval for Conversion of Part of an Agricultural Building to a Dwelling at Pemberley Copsale Road, Maplehurst RH136QY.

Appellant and Author: [REDACTED]

Dated: 16 April 2026

1. Introduction

This appeal relates to the refusal of prior approval under Schedule 2, Part 3, Class Q of the GPDO for the conversion of part of an existing agricultural building to residential use at Pemberley, Copsale Road, Maplehurst.

The Local Planning Authority has accepted that the building forms part of an established agricultural unit and has raised no concerns in respect of structural capability, highways, contamination, heritage or drainage. The refusal is therefore limited to matters of interpretation relating to a historic condition and the relationship between the proposed residential use and retained agricultural activity.

2. Background and Site Context

The building forms part of a wider agricultural holding comprising approximately 26 acres of land which is actively managed.

Hay and silage are produced annually across the holding and stored off site to be sold, for practical reasons.

The building itself has historically been used for agricultural storage associated with the management of the land, including fencing, tools and small agricultural equipment.

The site is served by an existing waste treatment plant and surface water is managed via existing guttering and drainage arrangements, as shown in the photos appended below, all of which have been known to the Local Planning Authority for a considerable period and have not given rise to concern.

The Local Planning Authority has accepted the agricultural status of the building and the wider holding, and that they form part of an established agricultural unit for the purposes of Class Q.

3. Established Assessment of the Building and Condition

The building has been considered in detail by the Local Planning Authority across multiple planning processes, including:

- two full planning applications for residential conversion;
- two subsequent appeal decisions;
- the later application for the new stable building (DC/20/1205 - submitted as a supporting document); and

- a number of enforcement investigations relating to the land and buildings, including matters not all publicly recorded on the Local Planning Authority's planning portal.

In each of these instances, the Local Planning Authority had the opportunity to consider the building in the context of its planning history and any applicable conditions.

At no point has the condition now relied upon been mentioned.

This is particularly notable in the officer's report for application DC/20/1205 (the new stable building and sand school), which considered the role of the existing building moving forward following the relocation of stabling, at a point when the use of part of the building was transitioning from equestrian to agricultural storage. The report recorded:

"The existing stable building contains 7 stables and two stores in one half of the building and an agricultural store in the other half."

And:

"It is noted that the existing stables falls outside the red edged application site and there is the potential for additional horses purchased or breed on the site to be kept on the wider site in the future. The Agent has confirmed in writing to the Council that the existing stable building would be retained and remain as a machinery store for the equipment to maintain the land. It should also be noted that the existing stables are subject to a condition attached to consent DC/04/1463 which requires them not to be used for any commercial purposes."

The report therefore expressly identified the building as comprising both stabling and agricultural storage, and confirmed its continued use as a machinery store associated with the land.

Whilst the report referenced the condition relating to the stables preventing commercial use, it did not identify or rely upon the condition now cited in the refusal in respect of the agricultural storage element of the building.

If the condition were intended to operate in the manner now asserted, it would reasonably be expected to have been identified and relied upon in earlier assessments, including those listed above.

The absence of any such reference indicates that the current interpretation represents a departure from the Local Planning Authority's previously established approach.

The weight that can therefore be attributed to the current interpretation is limited, as it is not supported by the Authority's own consistent decision-making history.

In comparable Class Q decisions, the Local Planning Authority does not routinely identify or rely upon the original planning permission or construction date of the building.

4. The Condition and Permitted Development Rights

The Local Planning Authority relies on a condition attached to planning permission DC/04/1463 (submitted as a supporting document) which states:

"The area of the building shown for storage of hay straw and machinery in connection with the land outlined in blue shall be used for that purpose only."

The reason for the condition is given as:

“to ensure the Council retains control over the use of the building.”

This makes clear that the purpose of the condition is to regulate the use of the building, rather than to prohibit a future change of use or remove permitted development rights.

The condition does not refer to permitted development rights, does not prohibit a change of use, and does not contain any wording preventing reliance on Schedule 2, Part 3, Class Q.

It is well established that permitted development rights cannot be removed by implication. In *Dunnett Investments Ltd v Secretary of State for Communities and Local Government*, the High Court confirmed that any restriction on permitted development rights must be clearly and expressly stated.

Further, in *Waveney District Council v Secretary of State for Communities and Local Government*, it was confirmed that the GPDO must be interpreted according to its wording and that restrictions cannot be implied where they are not expressly set out.

The interpretation of planning conditions must also be undertaken objectively and in accordance with their natural meaning. In *Trump International Golf Club Scotland Ltd v Scottish Ministers*, the Supreme Court confirmed that planning conditions are to be interpreted according to their natural and ordinary meaning, rather than by reference to inferred intentions.

Similarly, in *Mansell v Tonbridge and Malling Borough Council*, it was recognised that planning conditions must be interpreted strictly and should not be extended beyond their wording.

Applying these principles, the condition in this case restricts the use of part of the building whilst it remains in that use. The inclusion of the word “only” serves to control that use, but does not amount to an express prohibition on a change of use, nor does it remove permitted development rights.

The interpretation advanced by the Local Planning Authority, which seeks to treat the condition as preventing reliance on Class Q, extends beyond both the wording of the condition and its stated purpose. It relies on implication rather than clear expression, and is therefore inconsistent with established legal principles.

This approach is also inconsistent with recent decision-making. In the case commonly referred to as “Annie’s Baskets”, an agricultural use-only condition was originally imposed under permission DC/06/0520 and subsequently reimposed under DC/18/2357 (submitted as a supporting document), where the Local Planning Authority expressly stated:

“This will restrict the use of the buildings to agricultural use only and would not enable the change of use of the buildings to C3 (dwelling house) under permitted development rights which would result in isolated dwellings within the countryside.”

The Local Planning Authority later relied upon that condition in seeking to resist a Class Q conversion under application DC/25/1240 (submitted as a supporting document). However, in appeal APP/Z3825/W/25/3374401 (submitted as a supporting document), the Inspector did not accept that such a condition operated to prevent reliance on Class Q, and the appeal was allowed, stating:

“The condition attached to permissions DC/06/0520 and DC/18/2357 stated: ‘The buildings hereby permitted shall be used for agricultural purposes only, as defined in Section 336(1) of the Town and Country Planning Act 1990’. It clearly defined the use to which the building could be put and explicitly

limited the use to only this. However, the condition did not explain that express consent needed to be obtained from the local planning authority for uses other than agriculture. As the original permission was granted in 2006, eight years before Class Q permitted development rights were introduced, the condition could not have removed such rights.”

In the present case, the condition contains no reference to permitted development rights and was imposed prior to the introduction of Class Q. There is no indication that it was intended to restrict reliance on such rights, either at the time of its imposition or in subsequent planning decisions relating to the building.

Similarly, in the Local Planning Authority’s own decision at Westlands Farm (DC/25/0747 - submitted as a supporting document along with the original decision AS/28/96), a building subject to an express condition restricting its use to agricultural purposes was considered under Class Q without that condition being interpreted as preventing reliance on permitted development rights. In that case, no interpretation was applied which sought to extend the scope of the condition beyond its natural meaning.

These examples reinforce the established position that conditions controlling use do not, in the absence of clear wording, remove permitted development rights or prevent a lawful change of use under the GPDO.

It is unclear how the Local Planning Authority considers the relevant conditions to apply across the building. The condition now relied upon relates specifically to the storage element of the building as originally permitted, whilst a separate condition applies to the former stabling element restricting commercial use. The Local Planning Authority has not explained whether these conditions are intended to apply independently to their respective parts of the building, or whether the storage restriction is now being applied more broadly across the building as a whole.

This lack of clarity is of particular concern in the context of the site’s planning history. The building and wider holding have been subject to a number of enforcement investigations, both publicly recorded and otherwise. In such circumstances, it is important that any restrictions arising from planning conditions are clearly defined and consistently applied, so that the lawful use of the building can be properly understood.

In the absence of any clear explanation, it is not possible to determine how the Authority considers the conditions to operate in practice. This undermines the reliability of the interpretation now advanced. Accordingly, the existence of the condition does not preclude reliance on Class Q.

5. Living Conditions and Relationship with Agricultural Use

The Local Planning Authority considers that the proximity of retained agricultural use would result in unacceptable living conditions.

This conclusion is not supported.

Class Q specifically anticipates the conversion of agricultural buildings within rural settings where a degree of proximity to agricultural activity is inherent.

By its very nature, Class Q applies to buildings within established agricultural units. As such, a degree of proximity to agricultural activity is not unusual or exceptional, but inherent to the type of development permitted. The presence of agricultural use in close proximity cannot, in itself,

reasonably be regarded as a basis for concluding that residential use would give rise to unacceptable living conditions.

In this case, the retained agricultural use of the building is limited in scale and nature, comprising storage associated with fencing, tools and small equipment as shown in the application and the appended 2026 dated photographs.

No evidence has been provided to demonstrate how this level of activity would give rise to unacceptable living conditions. No site visit was undertaken and no enquiry was made to establish the nature or intensity of the use.

A substantial volume of security camera footage is available which demonstrates the low level of activity associated with the building and wider holding.

There is no evidence that the retained use of the building has given rise to complaints, disturbance or amenity issues.

The conclusion therefore appears to be based on assumption rather than any current site-specific assessment; the Local Planning Authority having not visited the site since 2021.

The Local Planning Authority's approach is also inconsistent when considered against both appeal decisions and its own recent determinations.

In the case of "Annie's Baskets" (APP/Z3825/W/25/3374401 submitted as a supporting document), the Inspector did not identify any unacceptable living conditions arising from the relationship between residential use and retained agricultural activity, notwithstanding the presence of a condition controlling agricultural use.

Similarly, at Westlands Farm (DC/25/0747 submitted as a supporting document), residential conversion was permitted despite the immediate proximity of the building to the Sussex Equine Hospital, a substantial commercial operation which operates on a 24-hour basis and is likely to generate noise, vehicle movements and ongoing activity.

In the case of Jessups Farm (DC/25/0823 submitted as a supporting document), this Local Planning Authority accepted that low-intensity storage uses are compatible with residential occupation, the officer concluded:

"The building immediately to the north now benefits from Prior Approval for a change of use to a storage use which I believe has been implemented. This is considered to result in a use that is compatible with residential uses, due to the low intensity nature of the use, and the lack of industrial noise and disturbance that would be associated with a storage use."

This statement reflects the Authority's own assessment of the characteristics of low-level storage activity. The retained use proposed in this case is of the same limited and low-intensity nature.

In the same case, the Local Planning Authority also accepted that even where there is uncertainty regarding the nature of other nearby uses, this does not preclude residential development.

In the case of Lockyers (DC/25/0720) and Pulborough Stud (DC/25/0783), the Local Planning Authority concluded that, despite the close proximity to equestrian and agricultural activity, the proposals would not be adversely affected by nearby uses and, within an established rural context, would not give rise to unacceptable living conditions.

At Woodhouse Farm (DC/25/0825), the Authority explicitly acknowledged that agricultural activities in close proximity could give rise to noise and disturbance, but nevertheless concluded that there was no justifiable reason to refuse prior approval.

This further demonstrates an inconsistent and unsupported approach to the assessment of residential amenity.

The Local Planning Authority has also raised no concerns in respect of highways, structural capability, contamination or drainage.

The conclusions reached in respect of living conditions are not supported by evidence and are based on assumption and contradict the low level of activity even expressed by objectors.

6. Internal Inconsistency in the Refusal

The refusal reasons are internally inconsistent.

Reason 1 requires the retention of agricultural use within the building, whilst Reason 2 relies on that same retained use as a basis for concluding that the site is unsuitable for residential occupation.

Class Q expressly allows the subdivision of agricultural buildings into separate dwellings. In the absence of any provision within the GPDO requiring the entirety of a building to be converted, it is clear that the legislation does not prohibit partial conversion or the retention of non-residential use within part of the building.

The refusal therefore reflects an inconsistent application of policy rather than a clear or evidence-based assessment of the proposal.

7. Conclusion

The Local Planning Authority has accepted that the building forms part of an agricultural unit and has raised no technical concerns in respect of the conversion.

The refusal relies on an interpretation of a historic condition which is not supported by its wording, its stated purpose, or the Authority's own previous decision-making.

The conclusions reached in respect of living conditions are not supported by evidence and are based on assumption rather than site-specific assessment.

In these circumstances, the Local Planning Authority has not demonstrated that the proposal fails to comply with the requirements of Class Q, nor that there is a clear or substantiated basis for withholding prior approval.

The proposal therefore benefits from permitted development rights under Schedule 2, Part 3, Class Q of the GPDO, and prior approval should be granted.

Appendix – Photographic Evidence

Photos taken 14 April 2026 showing storage items, existing drainage system and waste treatment plant:

