
**TOWN AND COUNTRY PLANNING
ACT 1990 - SECTION 191
(AS AMENDED)**

**STATEMENT IN SUPPORT OF AN
APPLICATION FOR A CERTIFICATE
OF LAWFUL USE**

**CERTIFICATE OF LAWFULNESS TO
DETERMINE WHETHER THE
PLANNING PERMISSION FOR THE
ERECTION OF 3 X DWELLINGS, WITH
GARAGES AND CURTILAGES, WITH
ACCESS ALTERATIONS, PARKING,
LANDSCAPING AND ANCILLARY
WORKS FOLLOWING DEMOLITION
OF EXISTING BUILDINGS AND
HARDSTANDING REMAINS EXTANT
AT
LAND AND BUILDINGS TO REAR OF
OAKLEY GREEN LODGE OAKLEY
GREEN ROAD OAKLEY GREEN
WINDSOR SL4 4PZ**

**Prepared by:
Woolf Bond Planning
On behalf of James and Elizabeth
Bennett**

November 2023



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1. INTRODUCTION

1.1. This statement has been prepared in support of an application by James and Elizabeth Bennett for a Lawful Development Certificate (LDC) under Section 192 of the Town and Country Planning Act 1990 (as amended) relating to the use of land And Buildings To Rear of Oakley Green Lodge Oakley Green Road Oakley Green Windsor SL4 4PZ.

1.2. This application is supported by the following:

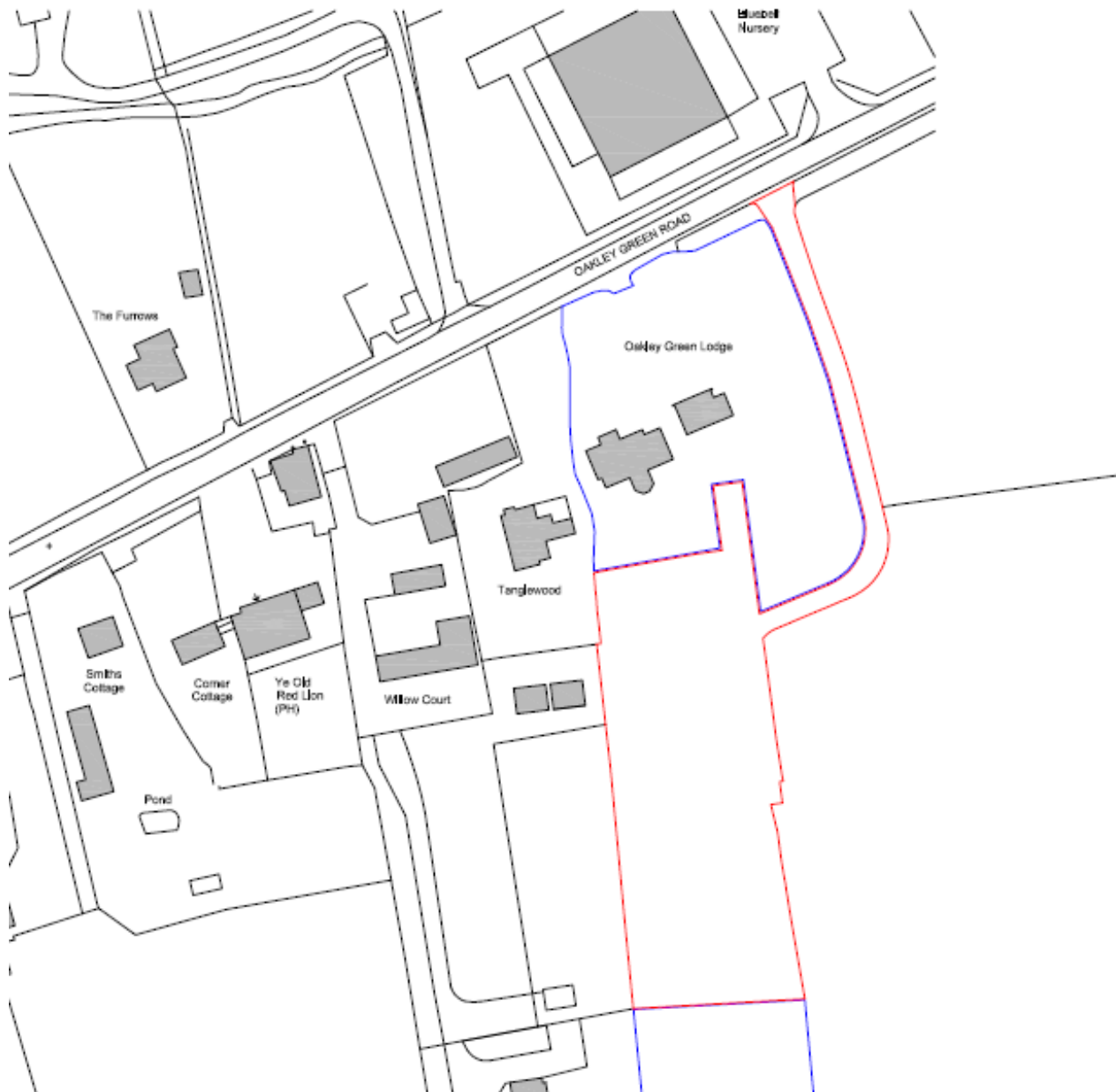
- The planning history and the context for the development applied for in this certificate
- Evidence including plans, photographs and witness statements in support of the certificate.

1.3. It is submitted that following due consideration of the history and operations on the land that a certificate of lawful use be granted to confirm that the planning permission for the erection of 3 x dwellings, with garages and curtilages, with access alterations, parking, landscaping and ancillary works following demolition of existing buildings and hardstanding remains extant.

2. PLANNING HISTORY AND CONTEXT

SITE AND SURROUNDINGS

- 2.1. The application site lies to the south of Oakley Green Road and is shown on the plan below.



Relevant Planning History

2.2. On 9 June 2016, Planning Permission was granted under reference 16/00395/FUL for the erection of 3 x dwellings, with garages and curtilages, with access alterations, parking, landscaping and ancillary works following demolition of existing buildings and hardstanding. A copy of the planning permission is attached to this statement as DOCUMENT 1.

2.3. The planning permission was granted subject to conditions. One of the conditions (No.1) requires:

The development hereby permitted shall be commenced within three years from the date of this permission.

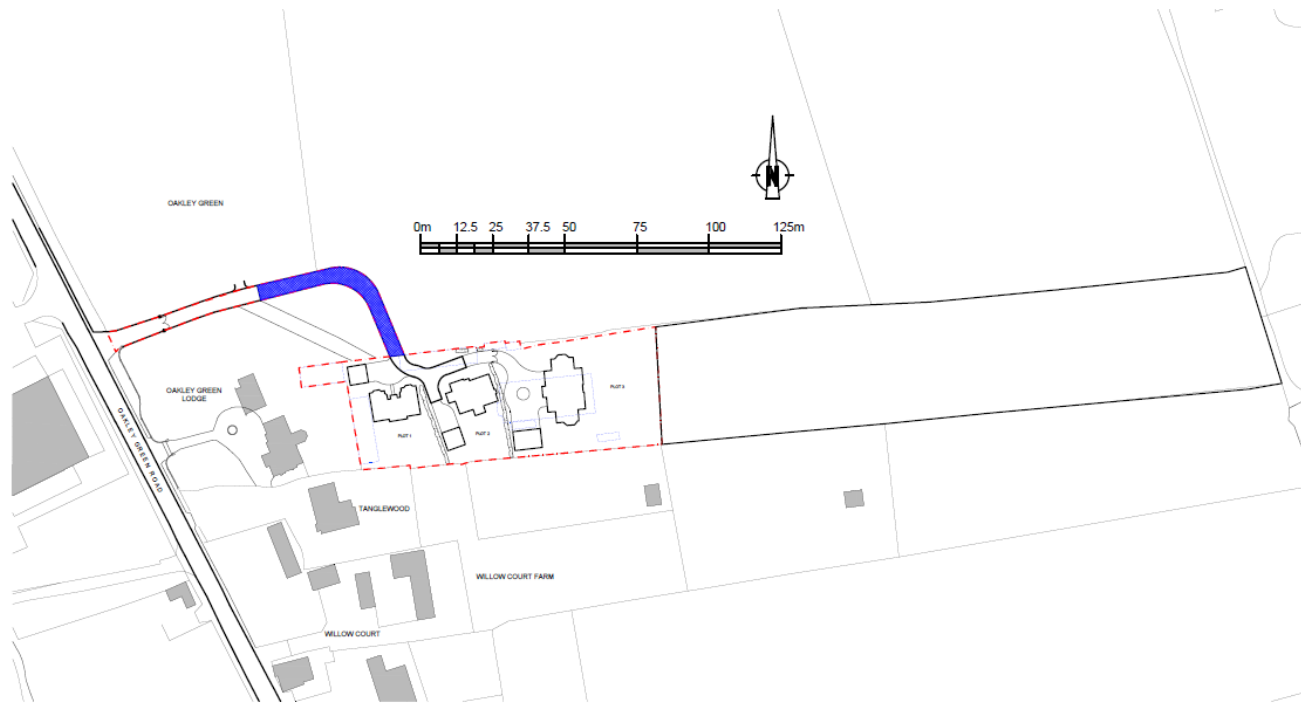
Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

i.e. to commence the development on or before 8 June 2019.

2.4. In order to commence the planning permission lawfully and within the stated three years from the date of the permission, there are pre-commencement conditions attached to the planning permission. On 25th April 2019, the Local Planning Authority gave their approval to the details submitted pursuant to all the pre-commencement conditions. See DOCUMENT 2 which is the Local Planning Authority's approval under reference 19/00425/FUL confirming acceptance of the requisite details for pre-commencement matters.

2.5. With the requisite planning permission and discharge of the pre-commencement conditions in place on 25th April 2019, in May 2019, the planning permission was implemented with the construction of the road depicted in blue on Drawing No. 019-CLD_201. See DOCUMENT 9.

2.6. An extract from Drawing No. 019-CLD_201 is reproduced below. The drawing shows the site granted planning permission under reference 16/00395 outlined in red with the siting of the approved houses shown. The drawing includes a blue section of the approved access road. The blue section denotes where construction of the road took place in May 2019.



- 2.7. The contractor who undertook the works to implement the planning permission, Matthew Dance has submitted a witness statement which confirms he undertook the works in May 2019. In support of his statutory declaration is his company's (Dance Developments Ltd) invoice dated 21 May 2019 which confirms the enabling works at Oakley Green Lodge.
- 2.8. The statutory declarations from James Bennett and Elizabeth Bennett who are the owners of Oakley Green Lodge, and live at the property, confirm that the works to construct the road and implement the planning permission took place in May 2019.
- 2.9. As can be seen in DOCUMENT 2, Dan East of Westbourne Home is the agent for the discharge of conditions application reference 19/00425/FUL. Westbourne Homes at the time were developers promoting the site for development. On 28 May 2019, Dan East of Westbourne Group, wrote to the Council's planning officer, Antonia Liu. This states:

Dear Antonia,

Following my email below and our subsequent phone conversation I can confirm that the official description of planning approval 16/00395 does include a description of ‘access alterations’ and ‘ancillary works’ within the title. We are therefore confident that the above approval has been implemented sufficiently.

Whilst I appreciate that the council are not able to confirm that the above works constitute implementation of the approval with out a Certificate of Lawful Development, it would be very much appreciated if you could put some form of confirmation in writing along the lines that you ‘acknowledge that an access road has been implemented that appears to co-ordinate with the approved plans but a Certificate of lawful development would be required to officially confirm this’.

- 2.10. The email dated 28 May 2019 includes three photographs which show the implementation of the planning permission 16/00395/FUL with the construction of the approved access road. These photographs are included in DOCUMENT 3. Dan East has submitted a statutory declaration dated 25 October 2023 which is evident that he took the photos and that he emailed the planning officer as referenced above in paragraph 2.9.
- 2.11. An extract from Drawing No. 019-CLD_201 is reproduced below. The drawing shows the site granted planning permission under reference 16/00395 outlined in red with the siting of the approved houses shown. The drawing includes a blue section of the approved access road. The blue section denotes where construction of the road took place in May 2019.
- 2.12. The development has been implemented in accordance with the approved plans and prior to the time limitations of the approval. The material operation that took place in May 2019 is considered to comply with the requirements of Section 56 of the Town and Country Planning Act 1990 (Time when development begun). In particular, reference is made to Section 56 (4) (d) of the Town and Country Planning Act 1990 which states:

(4) In subsection (2) “material operation” means—
(a) any work of construction in the course of the erection of a building;
[(aa) any work of demolition of a building;]
(b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building;
(c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in

***paragraph (b);
(d)any operation in the course of laying out or constructing a road or part
of a road;
(e)any change in the use of any land which constitutes material
development.***

(underline is our emphasis)

- 2.13. The evidence shows that part of a road was constructed in May 2019. It is a material operation that took place and complies with the requirements of the time in which to have commenced the development, on or before 8 June 2019.
- 2.14. The application is supported by statutory declarations from:
- Dan East, Planning Director of Westbourne Homes. Westbourne Homes are the developer looking to promote the site.
 - James Bennett, a joint owner of the site at the time when the works took place to implement the planning permission.
 - Elizabeth Bennett, a joint owner of the site at the time when the works took place to implement the planning permission.
 - Ray Emptage, a self-employed driver who is employed by James and Elizabeth Bennett.
- 2.15. The application is also supported by witness statement from:
- Matthew Dance, the contractor that completed the works for the construction of the road.

3. EVIDENCE IN SUPPORT OF CERTIFICATE OF LAWFULNESS

3.1. This application is supported by four Statutory Declarations and one witness statement. These are set out in the table below:

STATUTORY DECLARATIONS		
NAME	ROLE	DOC. REFERENCE
Dan East	Agent for the Discharge of Conditions Details application and approval in 2019	DOCUMENT 3
James Bennett	Owner of the Site	DOCUMENT 4
Elizabeth Bennett	Owner of the Site	DOCUMENT 5
Ray Emptage	Self Employed Driver who regularly visits the site	DOCUMENT 10
WITNESS STATEMENT		
Matthew Dance	Contractor that completed the works	DOCUMENT 6

3.2. Further evidence is also submitted in support of the application with the following images and documents listed below:

DATE	TYPE OF EVIDENCE	DOC. REFERENCE
25 March 2017	Google Earth Image	DOCUMENT 7
4 October 2020	Google Earth Image	DOCUMENT 8
21 May 2019	Invoice from Matthew Dance to Westbourne Group	APPENDED TO DOCUMENT 6
28 May 2019	Email from Dan East Westbourne Group to Antonia Liu (Planning Officer) with photographs attached.	APPENDED TO DOCUMENT 3

- 3.3. A number of supporting documents are appended to this statement which support the evidence that the certificate of lawful use can be granted to confirm that the planning permission for the erection of 3 x dwellings, with garages and curtilages, with access alterations, parking, landscaping and ancillary works following demolition of existing buildings and hardstanding remains extant. These Documents are:

DOCUMENT 1 Copy of the Planning Permission and approved drawings dated 9th June 2016 (Local Planning Authority Reference 16/00395) for the erection of 3 x dwellings, with garages and curtilages, with access alterations, parking, landscaping and ancillary works following demolition of existing buildings and hardstanding remains extant.

DOCUMENT 2 Copy of the Discharge of Conditions letter dated 25th April 2019 (Local Planning Authority Reference 19/00425) for Discharge of Condition. Proposal: Details required by Condition 2 (materials), Condition 3 (slab levels), Condition 5 (details of means of enclosures), Condition 9 (construction management plan), Condition 11 (tree protection measures), Condition 12 (hard and soft landscaping works), Condition 13 (bat mitigation strategy) and Condition 14 (biodiversity enhancements) of planning permission 16/00395 for the erection of 3 x dwellings, with garages and curtilages, with access alterations, parking, landscaping and ancillary works following demolition of existing buildings and hardstanding

DOCUMENT 3	Statutory Declaration dated 25 October 2023 of Dan East of Westbourne Group. Appended to his Statutory Declaration is his email dated 28 May 2019 to Antonia Liu (Planning Officer) with photographs attached.
DOCUMENT 4	Statutory Declaration dated 26 October 2023 of James Bennett
DOCUMENT 5	Statutory Declaration dated 26 October 2023 of Elizabeth Bennett
DOCUMENT 6	Witness Statement dated 23 October 2023 of Matthew Dance and Appended to his Statutory Declaration is an invoice dated 21 May 2019
DOCUMENT 7	Google Earth Image dated 25 th March 2017
DOCUMENT 8	Google Earth Image dated 4 th October 2020
DOCUMENT 9	Drawing No. 019_CLD_201. Site Plan showing the site outlined in red and the extent of the road constructed to implement the planning permission 16/00395 depicted in blue
DOCUMENT 10	Statutory Declaration dated 26 October 2023 of Ray Emptage

- 3.4. The Statutory Declarations and Witness Statement include plans and photographs which support the evidence contained within these documents.

Statutory Declaration by Dan East

3.5. Dan East is the Planning Director of Westbourne Homes. Westbourne Homes are the developer seeking to promote the site. Dan East has been involved with the site since 2018. In his Statutory Declaration, Dan East confirms:

- In 2018, Dan managed and instructed relevant technical experts to enable an application to be made to discharge the pre-commencement conditions attached to the planning permission dated 9 June 2016 (LPA Reference 16/00395).
- In February 2019, an application and supporting plans and reports was submitted to the Royal Borough of Windsor and Maidenhead to obtain approval of the details required by the pre-commencement conditions. On 25 April 2019, the Council approved the details for all the pre-commencement conditions.
- In late April 2019, Dan sought quotes from contractors to lay out part of the road shown on Drawing 13-P895-10. This drawing was refined to reflect the extent of the road to be laid out. This is shown on Drawing 019-CLD_201.
- Dance Developments were appointed by Dan to undertake the works. Dan visited the site on 21st May 2019 and took photographs of the road laid out.
- On 28 May 2019, Dan emailed the planning officer Antonla Lui with his photographs.

Statutory Declaration by James Bennett

3.6. James Bennett has lived at Oakley Green lodge since January 1993. James is also the director of Global Commercial Exports Limited. Global Commercial Exports Limited applied for and obtained the planning permission dated 9 June 2016 for the erection of 3 x dwellings with garages and curtilages, with access, alterations, parking, landscaping and ancillary works following demolition of existing buildings and hardstanding.

3.7. In his Statutory Declaration, James Bennett confirms:

- James witnessed the marking out of the field to demarcate the extent of earth and topsoil to be removed.
- James witnessed the digging out of earth and topsoil in the field which follows the alignment of the road shown on Drawing No. 13-P895-10 and to join the existing concrete hardstanding to the east of the Oakley Green Lodge and the yard to the south.
- James witnessed the laying out of timber edging boards into the ground. In between the timber edging boards, James witnessed the crushed base being laid in between the timber edging boards. This corresponds to the area depicted in blue on Drawing No. 019_CLD_201 and also seen in the aerial image dated 4 October 2020, which shows the curved access in existence as well as the diagonal vehicle access between the hardstanding access to the east of Oakley Green Lodge and the yard to the south.
- James recalls in his statutory declaration the work took 3 days to complete which included the marking out, installation of timber boards, the tipping of the concrete crush and it being rolled to a level finish.

Statutory Declaration by Elizabeth Bennett

3.8. Elizabeth Bennett has lived at Oakley Green lodge since January 1993. Elizabeth is also the company secretary of Global Commercial Exports Limited. Global Commercial Exports Limited applied for and obtained the planning permission dated 9 June 2016 for the erection of 3 x dwellings with garages and curtilages, with access, alterations, parking, landscaping and ancillary works following demolition of existing buildings and hardstanding.

3.9. In her Statutory Declaration, Elizabeth Bennett confirms:

- Elizabeth witnessed the marking out of the field to demarcate the extent of earth and topsoil to be removed.
- Elizabeth witnessed the digging out of earth and topsoil in the field which follows the alignment of the road shown on Drawing No. 13-P895-10 and to join the existing concrete hardstanding to the east of the Oakley Green Lodge and the yard to the south
- Elizabeth witnessed the laying out of timber edging boards into the ground. In between the timber edging boards. Elizabeth witnessed the crushed

base being laid in between the timber edging boards. This corresponds to the area depicted in blue on Drawing No. 019_CLD_201 and also seen in the aerial image dated 4 October 2020, which shows the curved access in existence as well as the diagonal vehicle access between the hardstanding access to the east of Oakley Green Lodge and the yard to the south.

- Elizabeth recalls in her statutory declaration the work took 3 days to complete which included the marking out, installation of timber boards, the tipping of the concrete crush and it being rolled to a level finish.

Statutory Declaration by Ray Emptage

3.10. Ray Emptage's Statutory Declaration confirms he has worked on the site and has known James Bennett and Elizabeth Bennett for more than 40 years. Ray manages the vehicles in the yard to the south of Oakley Green Lodge.

3.11. Ray confirms that in May 2019, mechanical plant came onto the land to excavate some of the field. He also confirms that lorries came to the site with crushed concrete. The lorries tipped the crushed concrete into the excavated area where the excavator machine then spread the concrete around the part of the field. The concrete was then rolled to a finish.

Witness Statement by Matthew Dance

3.12. Matthew Dance's Witness Statement confirms he provided Dan East with his quote to prepare and enable the construction of the access road. He was instructed to construct the road for the length, width and alignment depicted in Blue on Drawing No. 019_CLD_201. This corresponds to the length, width and alignment shown on Drawing No. 13-P895-10 approved as part of the planning permission 16/00395.

3.13. Matthew's statement also confirms:

- Matthew prepared the site with the pegging out of the road, the removal of topsoil and earth.
- Matthew then used an excavator to dig out of earth and topsoil in the field

which follows the alignment of the road shown on Drawing No. 13-P895-10 and to join the existing concrete hardstanding to the east of the Oakley Green Lodge and the yard to the south. The excavated earth and topsoil were transferred into 2 lorries to remove the excavated material off site.

- Matthew then laid timber boarding to the sides of the road.
- Matthew then filled the area for the road with crushed concrete from 6 lorry loads. This was shown on the fee quote provided by Matthew to Westbourne Homes. The lorries tipped the crushed concrete in between the timber edging boards lining the area of road to be laid out. Matthew laid the base as shown in the photographs in Appendix 3 to his Statement.
- This corresponds to the area depicted in blue on Drawing No. 019_CLD_201 and also seen in the aerial image dated 4 October 2020, which shows the curved access in existence as well as the diagonal vehicle access between the hardstanding access to the east of Oakley Green Lodge and the yard to the south.
- Matthew confirms this took 3 days in total with the marking out, stripping out, and infilling with the concrete base and rolling the crushed concrete to have a level finish.

Google Earth Images from 2017 and 2020

- 3.14. As can be seen in the images (DOCUMENTS 7 & 8) , the road depicted in blue on Drawing No. 019_CLD_201 did not exist in 2017. In March 2017, access to the buildings and external storage areas is achieved by a diagonal access to the south of Oakley Green Lodge which runs in a south-westerly direction. This is marked up in red on the extract of the image reproduced below.
- 3.15. The road which was constructed in May 2019 is clearly shown as being place in the google image dated 4 October 2020. It is marked up in blue on the extract of the image reproduced below.



Aerial Image dated 25 March 2017
without coloured depiction



Aerial Image dated 4 October 2020
without coloured depiction



Comparison of the site in March 2017 compared to October 2020 (Source Google Earth)

4. SUMMARY AND CONCLUSION

- 4.1. The applicant has produced evidence with statutory declarations confirming that the development has been implemented in accordance with the planning permission granted.
- 4.2. The evidence shows that part of a road was constructed in May 2019. It is a material operation that took place and complies with the requirements of the time in which to have commenced the development, on or before 8 June 2019.
- 4.3. The significant evidence submitted in this application and referenced throughout this statement, demonstrates that on the 'balance of probabilities' the certificate of lawful use be granted to confirm that the planning permission for the erection of 3 x dwellings, with garages and curtilages, with access alterations, parking, landscaping and ancillary works following demolition of existing buildings and hardstanding remains extant.
