

planning
transport
design
environment
infrastructure
land

Supporting Statement **Lawful Development Certificate**

Moatlands Manor, Waterman's Lane, TN12 6ND

CLIENT: MR & MRS IRVINE

FEBRUARY 2024
DHA/32984



Planning. Inspiring. Delivering.

Maidstone
01622 776226

Gatwick
01293 221320

London
020 3005 9725

www.dhaplanning.co.uk

CONTENTS

1	OVERVIEW	2
1.1	INTRODUCTION	2
1.2	SITE CONTEXT	2
1.3	SITE HISTORY	3
1.4	PROCEDURAL MATTERS	4
1.5	CASE ON BEHALF OF THE APPLICANT	5
1.6	STATUTORY DECLARATIONS	5
1.7	GOOGLE EARTH PHOTOGRAPHIC EVIDENCE	5
1.8	SUMMARY	6
1.9	CONCLUSION	6

1 OVERVIEW

1.1 INTRODUCTION

1.1.1 This Statement is submitted in support of a Lawful Development Certificate Application on behalf of our client Mr & Mrs Irvine. A Lawful Development Certificate is requested to establish the lawfulness of the existing machinery shed and workshop.

1.1.2 The Application is therefore described as such:

"Retrospective householder application for the erection of a one-and-a-half storey ancillary domestic outbuilding".

1.1.3 This Application is accompanied by the following documents and evidence:

DOCUMENT	REFERENCE	AUTHOR
Application Forms	n/a	DHA Planning
Planning Statement	DHA/32984 (this document)	DHA Planning
Site Location Plan	KBC/23/175/01	Kent Building Control
Block Plan	KBC/23/175/02	Kent Building Control
Machinery Shed and Workshop Plans and Elevations	KBC/23/175/04	Kent building Control
Peter Irvine Statutory Declaration	n/a	n/a
Julia Irvine Statutory Declaration	n/a	n/a
Google Earth Photographic Evidence	Google Earth Photographic Evidence.pdf	DHA Planning

TABLE 1.1: SUBMITTED DOCUMENTS

1.2 SITE CONTEXT

1.2.1 The Site comprises the residential dwelling 'Moatlands Manor', a number of ancillary buildings, the machine shed and workshop, and private amenity located within the Borough of Tunbridge Wells. The Site is accessed via Waterman's Lane to the north.

1.2.2 To the north, the Site is bound by woodland and Waterman's Lane beyond this, to the east the Site is bound by the grounds of Moatlands Manor, with further residential development beyond this. To the south and west the Site is bound by the former golf course formerly associated with Moatlands Manor.

1.2.3 This LDC Application is for the existing machinery shed and workshop. Figure 1.1 below shows the location of the ancillary building (edged in red).

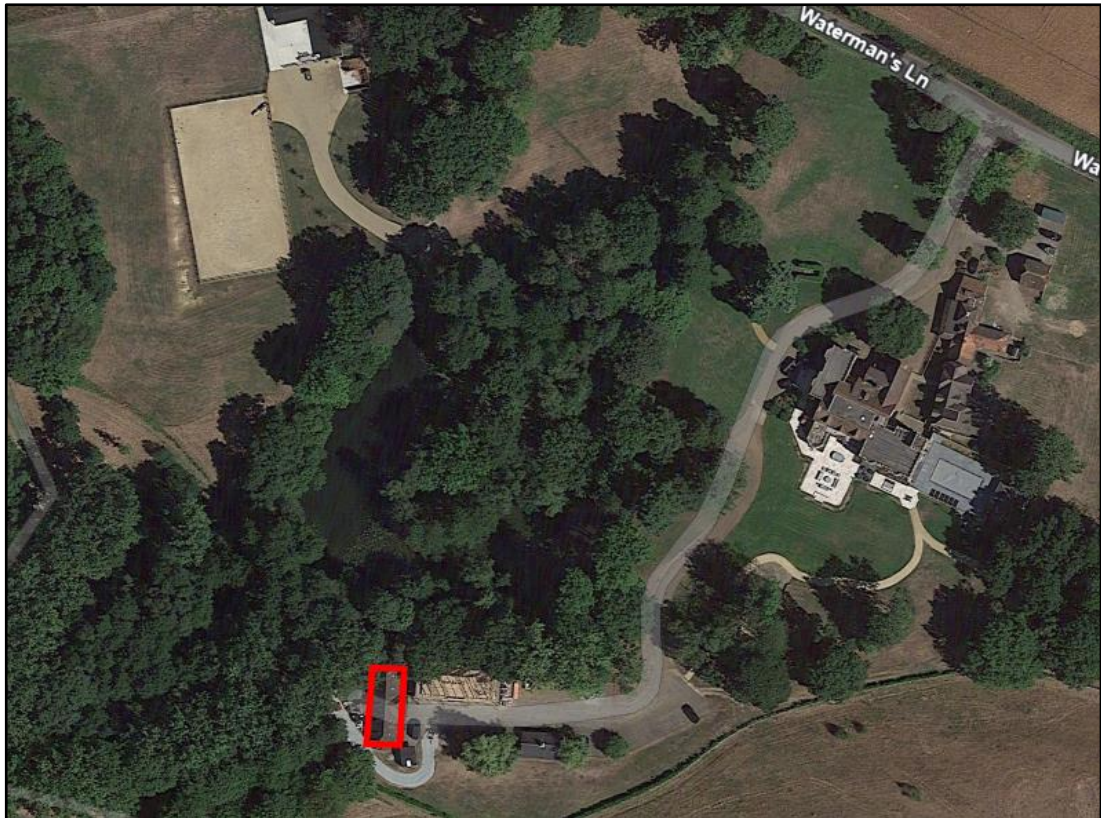


FIGURE 1.1: LOCATION OF EXISTING MACHINERY SHED AND WORKSHOP (COURTESY OF GOOGLE EARTH)

1.3 SITE HISTORY

- 1.3.1 Whilst it is highlighted that the wider Site has been the subject of a number of previous Planning Applications, albeit of limited relevance to the current planning context.
- 1.3.2 For completeness, the Site has been the subject of the following relevant Applications:

REFERENCE	DESCRIPTION	DECISION
19/03651/FULL	Demolition of large outbuilding currently containing a single dwelling and ancillary storage for Moatlands Manor (but with extant planning permission for a total of three dwellings) and erection of three new build detached homes on the site frontage; demolition and replacement of a secondary garage to be retained in connection to Moatlands Manor.	Refused Permission February 2020
21/04073/FULL	Demolition of three dwellings and erection of three replacement homes; Including the demolition and replacement of an existing domestic garage.	Granted Permission March 2022
23/01150/FULL	Demolition of three dwellings and erection of three replacement homes; Including demolition	Granted Permission July 2023

	and replacement of existing domestic garage for Moatlands Manor (Amendment to consented scheme 21/04073/FULL to include a new access and altered site layout arrangements).	
23/02524/FULL	Demolition of modern detached garage, partial demolition of existing outbuilding, the remodelling of the retained part of the outbuilding to provide ancillary supported living accommodation and erection of three new homes and new vehicular access from Watermans Lane as previously consented under 23/01150/FULL (part-retrospective).	Granted Permission November 2023

TABLE 1.2: PLANNING HISTORY (EXTRACTED FROM TUNBRIDGE WELLS COUNCIL'S PLANNING APPLICATION SEARCH)

1.4 PROCEDURAL MATTERS

- 1.4.1 The National Planning Practice Guidance (PPG) confirms that uses and operations are lawful if enforcement action has not been taken against them and they are not in contravention of any enforcement notice that is in force. For uses to be deemed lawful, the time limits are as follows:
- (a) Four years for building, engineering, mining, or other operations in, on, or over or under land, without planning permission. This development becomes immune from enforcement action four years after operations are substantially completed;
 - (b) Four years for the change of use of a building, or part of a building, to use as a single dwelling house. Once the unauthorised use has continued for four years without enforcement action being taken, the development will be immune from any further enforcement action; and
 - (c) Ten years for all other development. The ten year period runs from the date that the breach of planning control was committed.
- 1.4.2 Notwithstanding this, in regard to subparagraphs (a) and (b) as detailed above, it is highlighted that by virtue of the Levelling-up and Regeneration Act 2023 receiving Royal Assent in October 2023, all breaches of planning control as detailed in Section 171B of the Town and Country Planning Act 1990 have been amended from the four years (as detailed above) to **ten years**.
- 1.4.3 Whilst the burden of proof in such Applications lies firmly with the Applicant, it is worth highlighting that the relevant test is the "*balance of probability*" rather than the more onerous "*beyond reasonable doubt*" test under criminal law.
- 1.4.4 As set out within the PPG, a Local Planning Authority will need to consider whether, on the facts of the case and relevant planning law, this specific matter is or would be lawful. We note that the planning merits are not relevant at any stage in this particular Application process.

1.5 CASE ON BEHALF OF THE APPLICANT

1.5.1 The main issue for consideration in relation to this Application is to establish whether the works had taken place in excess of ten years prior to the date of this Application. To demonstrate this, the following evidence is submitted:

- Statutory declaration from Mr. P Irvine;
- Statutory declaration from Mrs J Irvine; and
- Google Earth Photographic Evidence.

1.6 STATUTORY DECLARATIONS

1.6.1 In order to evidence the above, we attach the following affidavits within the submitted evidence:

- (1) Sworn Declaration of Peter Irvine who is the owner of the property and has lived at the Site for the duration (and substantially in excess of) the relevant period; and
- (2) Sworn Declaration of Julia Irvine who is the owner of the property and has lived at the Site for the duration (and substantially in excess of) the relevant period.

1.7 GOOGLE EARTH PHOTOGRAPHIC EVIDENCE

1.7.1 Submitted with this Application is a document containing Google Earth satellite photographs of the Site that covers a period in excess of ten years, confirming the historic existence of the machinery shed and workshop since 2011.

1.7.2 The document provides satellite photographs of the Site for the following dates (dates as published on Google Earth for each image):

- (1) 1st January 2008;
- (2) 7th March 2011;
- (3) 9th July 2013;
- (4) 9th March 2014;
- (5) 26th July 2014;
- (6) 20th April 2015;
- (7) 2nd July 2017;

- (8) 5th May 2018;
- (9) 23rd April 2020;
- (10) 23rd February 2021; and
- (11) 5th August 2022.

- 1.7.3 The submitted images clearly show that in 2008, the building was not erected, but in all other images (i.e., from March 2011 onwards), the building is clearly visible.

The above evidence therefore demonstrates and confirms that the existing machinery shed, and workshop were constructed and have remained in place on Site for a period in excess of ten years.

1.8 SUMMARY

- 1.8.1 The above and submitted evidence clearly sets out that the machinery shed, and workshop have existed in situ and remained in use, incidental to the enjoyment of the principal dwellinghouse for a period in excess of ten years.
- 1.8.2 In planning terms, as this time limit has passed, the development is considered to be lawful.

1.9 CONCLUSION

- 1.9.1 In the circumstances as set out above, and in light of the presented evidence, it is concluded that the development as described above is Lawful, such that it has become immune to enforcement action.