



SUPPORTING INFORMATION

**CERTIFICATE OF LAWFULNESS TO CONFIRM
IMPLEMENTATION/COMMENCEMENT OF THE DEVELOPMENT
APPROVED UNDER PA23/10018 AND FULL PLANNING CONSENT**

PA21/01863

AT

**THE ROOK (FORMERLY KNOWN AS DENE COURT), TRENANCE,
MAWGAN PORTH**

TR8 4BZ

ON BEHALF OF MR AND MRS CUNNINGHAM

MARCH 2024

Situ8 Planning Consultancy Ltd

Millham Farm, Lostwithiel, Cornwall PL22 0JA

01726 67591 enquiries@situ8.co.uk www.situ8.co.uk

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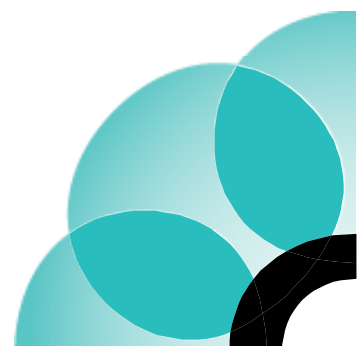
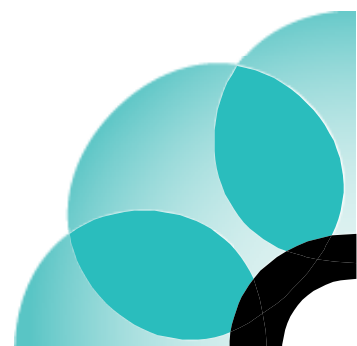


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1. Introduction

Situ8 Ltd have been instructed by Mr and Mrs Cunningham to submit an application for a Certificate of Lawfulness for an existing use for a material commencement of development in respect the proposed replacement dwelling at Dene Court/The Rook, Trenance, Mawgan Porth TR8 4BZ.

The purpose of the application is to confirm that a lawful and material start has been made in advance of the commencement date required within the full application PA21/01863, which granted consent for the replacement dwelling on 10 June 2021 and the subsequent S73 (MMA) application PA23/10018 which granted permission for amended plans on 6 February 2024.

Relevant condition 1 associated with PA21/01863 required development to have begun within three years of the approval date, and condition 1 of PA23/10018 confirmed that development must have begun within by 10th June 2024.

2. Legislation

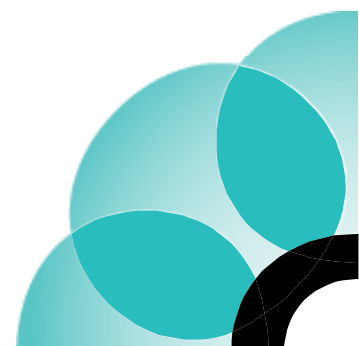
Section 191 of the Town and Country Planning Act 1990 (the Act) provides for anyone (not just a person with a legal interest in the land) to apply to the local planning authority (LPA) for a Lawful Development Certificate (LDC).

This is a statutory document certifying the lawfulness for planning purposes, of existing operations on, or use of land, or some activity being carried out in breach of a planning condition. Lawful development certificate guidance (<https://www.gov.uk/guidance/lawful-development-certificates>), which was introduced on 6th March 2014 states;

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'The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.'

'In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.'

This application relates to the commencement of development on the site granted planning permission under the original 2021 full and subsequent S73 (MMA) applications.

In order to lawfully 'commence' development it is necessary to satisfy the legal requirements in section 56(4) of the Town and Country Planning Act 1990, which says that '*development is taken to be begun on the earliest date on which a material operation is carried out*'.



3.Relevant planning history

Condition 1 of PA21/01863 – Replacement dwelling – Approved 10 June 2021 required;

The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: In accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

Condition 1 of PA23/10018 - Replacement dwelling with variation of condition 2 in respect of decision PA21/01863 dated 10.06.21 – Approved 6 February 2024 required;

The development hereby permitted shall be begun before the 10th June 2024.

Reason: In accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

There were no pre-commencement conditions attached to the S73 (MMA) consent as the single pre-commencement condition attached to PA21/01863 was discharged on 21 September 2021 under PA21/08086 – see Appendix A.

4.Evidence

The evidence within this document sets out that material operational development has taken place within the site area that is directly attributable to the approved development and proves that a material start has been made in respect of the proposed replacement dwelling.

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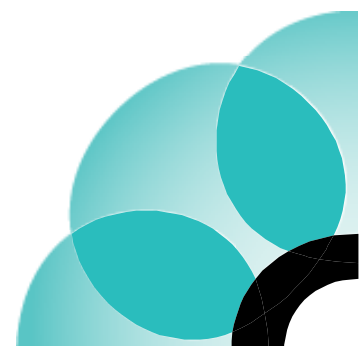
Works to eastern area and demolition of garage

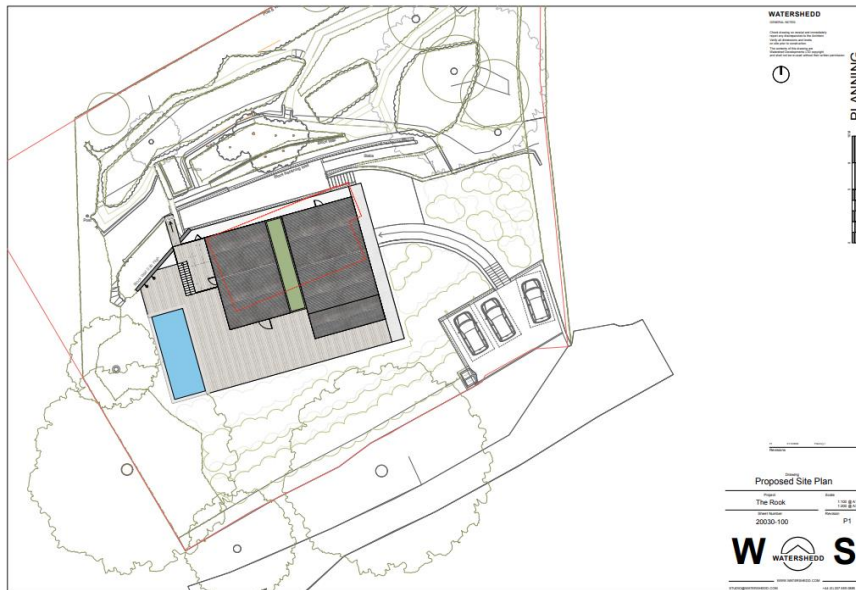
Initial preparatory works in association with the approved PA21/01863 scheme which gave approval for the driveway to be broken up, the land re-contoured and landscaped, took place in January 2024, with the extent of preparatory groundworks limited to those required by the approved scheme. Works in respect of preparing for the demolition of the existing garage was commenced in January 2024 with the removal of the asbestos roof as evidenced by the Lion Park invoice within Appendix B, with the removal ahead of demolition being required for health and safety reasons.

The PA21/01863 plan extracts below show the existing site plan, the demolition plan (which includes the garage for demolition), the approved site plan showing the driveway removal, and the garage replacement with parking spaces.

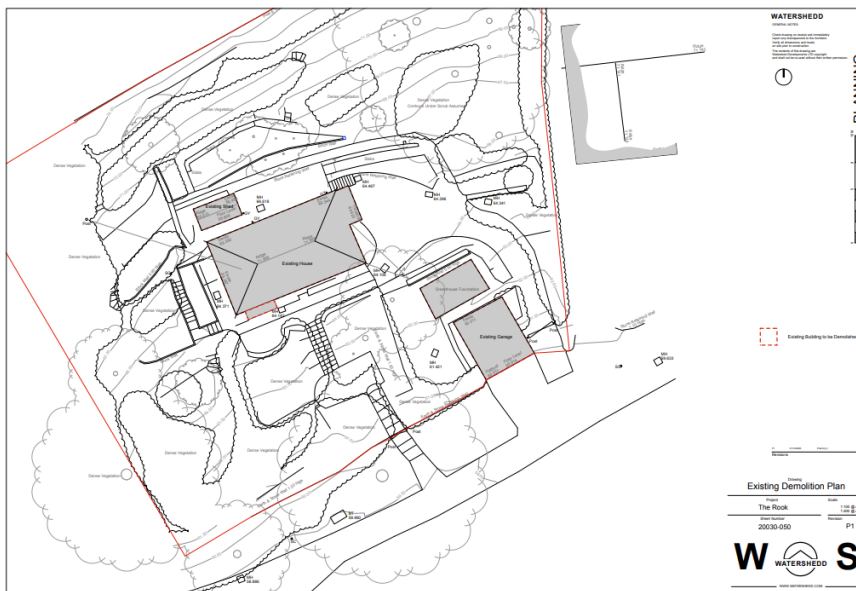


PA21/01863 Existing site plan (showing garage)

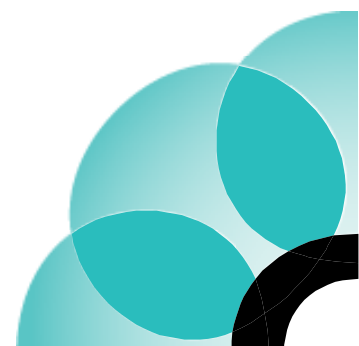




PA21/01863 Approved site plan



PA21/01863 - Demolition plan showing garage to be demolished (all buildings are outlined)



The dated photograph below shows the garage roof removed.



Asbestos roof removed – 17/01/2024

Work associated with the construction of the new approved garage

Work in association with the approval of the new garage took place upon receipt of planning approval PA23/10018, which was granted 6 February 2024.

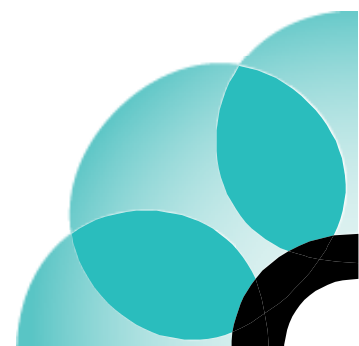
The amendments included a new garage, partially on the same footprint as the original garage but moved westwards and of a higher quality design, construction and materials, as part of the amendments to the plans sought within PA23/10018.

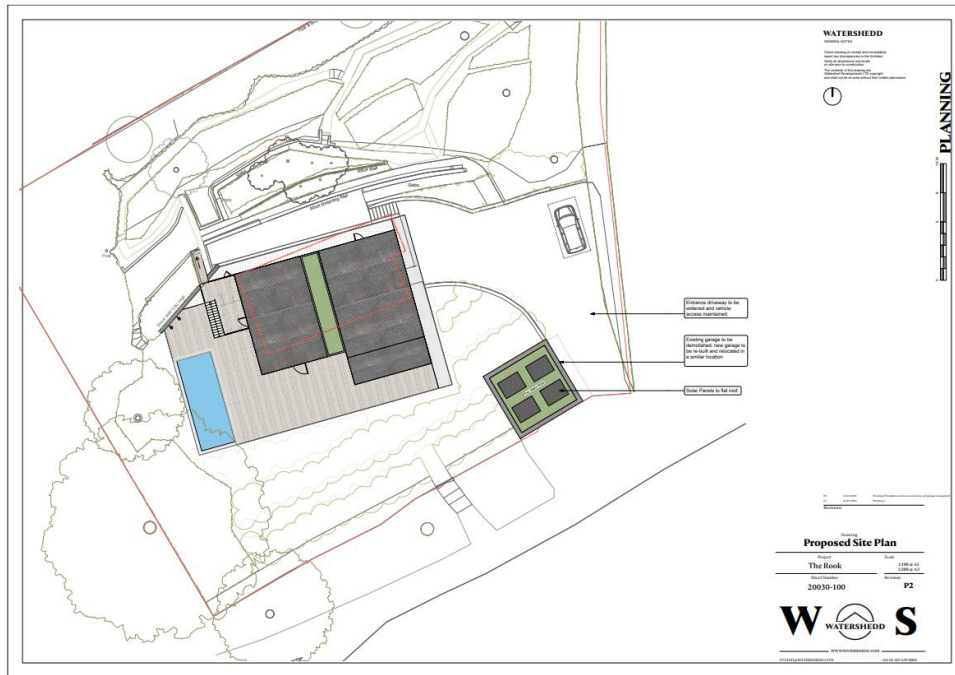
The plans below show the approved site plan and garage floor plans and elevations.

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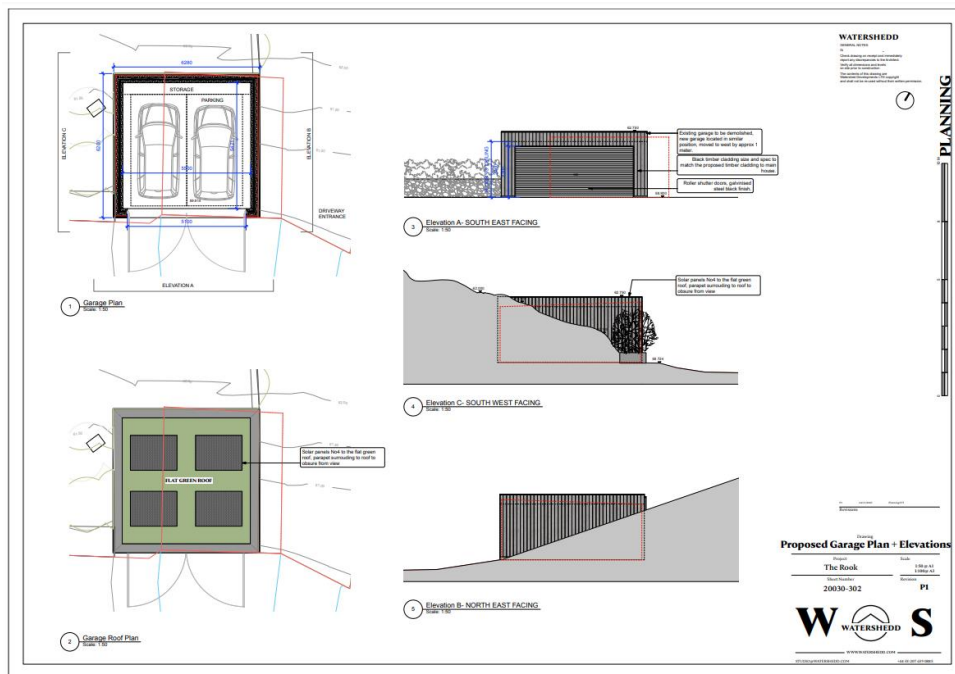
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PA23/10018 Proposed site plan



PA23/10018 Proposed garage plans



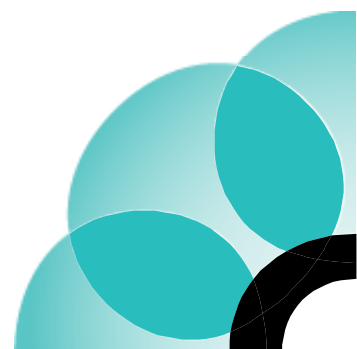
As previously detailed, work in respect of the existing garage comprising the removal of the asbestos roof, required for removal for health and safety reasons, was undertaken in advance of demolition. The demolition of garage walls, removal of the timber roof structure (beams) and the excavation of the ground for the new garage took place on 9 February 2024, after the approval of PA23/10018 on 6 February 2024, with the O’Hagan invoice in Appendix B evidencing these works. The footings were then dug, and are also detailed with the same invoice. Concrete for the footings was undertaken on 21 February 2024, allowing the first blockwork to be commenced on 1 March 2024 with this evidenced within the W.Yabsley invoice within Appendix B. The excavation, footing works, and blockwork commencing is evidenced within the following dated photographs – these works correspond with the invoices for work, equipment and materials within Appendix B.



Excavation for new garage 09/02/2024



Footings for new garage 10/02/2024

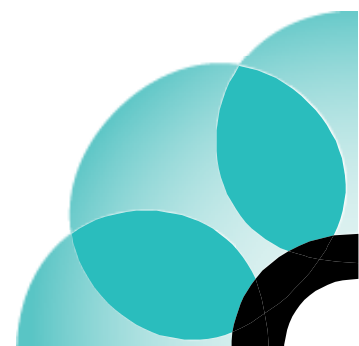




First blockwork for new garage under construction – 01/03/2024



Blockwork for garage as of 14/03/2024



5. Conclusions

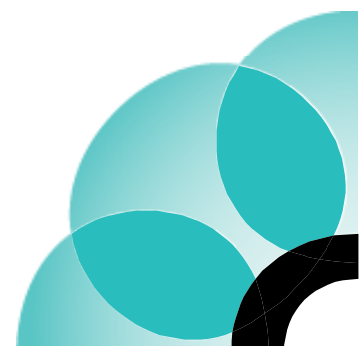
Development as approved has been commenced within three years of the approval of application PA21/01863 and the amendments allowed for by the approval of the S73 (MMA) PA23/10018 with the same commencement date requirement of 10 June 2024.

As evidenced within this document, a material start has been made on site in respect of the replacement dwelling through the demolition of the garage as permitted by PA21/01863, and also in respect of the commencement of development in respect of the construction of a new garage as permitted under S73 (MMA) PA23/10018. These authorised works have occurred ahead of the date set out stipulating that development must commence before 10 June 2024.

There is no set definition of what comprises a material start to a development, however, it has been established that the threshold for commencement of development includes the operations that have been evidenced within this statement, specifically;

- any work of construction in the course of the erection of a building;
- any work of demolition of a building; and
- the digging of a trench which is to contain the foundations, or part of the foundations, of a building.

The works that have been undertaken have not been insubstantial and constitute operations that fall within the listed operations set out within Section 56(4) of the Town and Country Planning Act 1990. While the works detailed that have taken place fit within the criteria set out in Section 56(4), the LPA should also be mindful of *Field v First Secretary of State* [2004] JPL 1286, where the Court held that development may be begun by works which are not material operations in the list given at




Section 56(4) of the 1990 Act. This case held that the definition of "material operation" at 56(4) is not exclusive because some planning permissions would not involve any of these actions and it therefore must be possible to implement any type of planning permission within reasonable parameters.

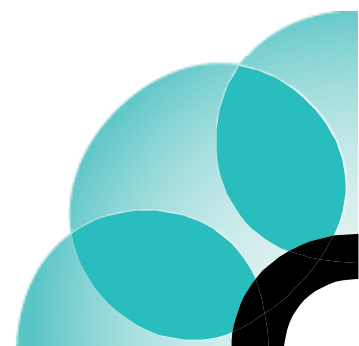
In the case of the works that have been undertaken prior to the required commencement date of 10 June 2024 at Dene Court/The Rook specifically; the demolition of the existing garage and works in association with the driveway and subsequent excavation and trenching for the new garage, and new blockwork as approved by the Local Planning Authority all fall within the material operations listed within the 1990 Act.

We trust that sufficient evidence has been produced within this submission for the LPA to confirm that the works that have taken place pass the standard test of whether, on the balance of probabilities, that a material start of development on the site has been made.



Appendix A – Discharge of pre-commencement Condition 3 of PA21/01863

		 CORNWALL COUNCIL
Situ8 Ltd Situ8 Ltd Oravia House Trevarthian Road St Austell Cornwall PL25 4BH	Your ref: My ref: PA21/08086 Date: 21 September 2021	
Dear Sir/Madam		
Submission of details to discharge condition no. 3 in respect of Decision Notice no. PA21/01863. at Denecourt Access To Trenance Estate Trenance Mawgan Porth TR8 4BZ		
I refer to the details submitted in respect of the above.		
I confirm that the details submitted are acceptable and that you have satisfied the following condition(s):		
Condition Number 3 Discharged on 21 September 2021		
This does not relieve you of your obligation to comply with the Building Regulations or with any condition(s) on the original planning permission.		
Yours faithfully		
Aimee Williams		
Senior Development Officer Planning and Sustainable Development Service Tel: 01208 265702 Mob 07483 361004		
Planning and Sustainable Development Service Cornwall Council Correspondence Address: Cornwall Council Planning, PO Box 676, Threemilestone, Truro, TR1 9EQ planning@cornwall.gov.uk		



Appendix B – Invoices

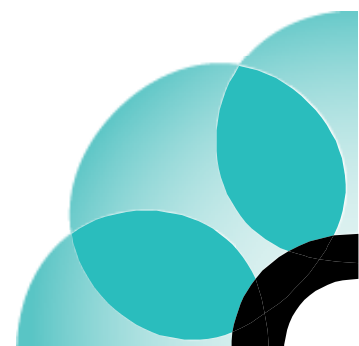
Steve O'Hagan plant hire
 Treceus Farm House
 Padstow
 CW
 PL288RT
 [REDACTED]

VAT Invoice

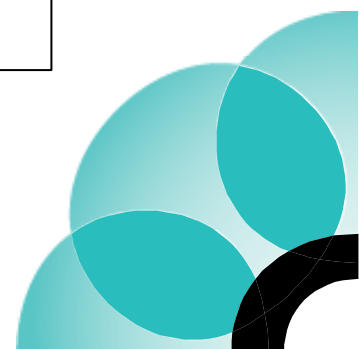
INVOICE TO	INVOICE	1172
Alan Cunningham	DATE	06/03/2024
Dene Court, Trenance	TERMS	Net 15
	DUE DATE	21/03/2024

DATE	ACTIVITY	DESCRIPTION	VAT	QTY	RATE	AMOUNT
08/01/2024	6 ton excavator hire with driver	Start of hillside dig out.	Exempt	7		
10/01/2024	6 ton excavator hire with driver		Exempt	8		
11/01/2024	6 ton excavator hire with driver		Exempt	7		
15/01/2024	6 ton excavator hire with driver		Exempt	7		
16/01/2024	6 ton excavator hire with driver		Exempt	5		
17/01/2024	6 ton excavator hire with driver		Exempt	4		
18/01/2024	6 ton excavator hire with driver		Exempt	8		
19/01/2024	6 ton excavator hire with driver		Exempt	8		
27/01/2024	labour provided	with concrete breaker	Exempt	2		
29/01/2024	Micro digger hire	micro digger hire to divert drain	Exempt	3		
30/01/2024	Micro digger hire		Exempt	7		
31/01/2024	Micro digger hire		Exempt	7		
07/02/2024	6 ton excavator hire with driver	to reduce for new garage expansion	Exempt	7		
09/02/2024	3 ton mini digger hire	to dig new garage foundations	Exempt	8		
12/02/2024	3 ton mini digger hire		Exempt	5		
16/02/2024	transit tipper hire	to carry materials for concrete and building supplies	Exempt	4		
17/02/2024	labour provided	to concrete foundation	Exempt	4		
	3 days self drive 6 ton excavator hire inc fuel used		Exempt	1		
	labour provided		Exempt	4		
	110v cement mixer and generator		Exempt	1		

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6 muckaway grab lorry loads at £260 per load	Exempt	1		
materials provided	Exempt			
Hd manhole lid	Exempt	1		
1 bulk bag agg	Exempt	1		
drain pipes x3	Exempt	1		
manhole risers x3	Exempt	1		
manhole lid	Exempt	1		
manhole base	Exempt	1		
drainage bends	Exempt	1		
clay to plastic couplers	Exempt	1		
sealing ring	Exempt	1		
pipe gel	Exempt	1		
17 bags of cement	Exempt	1		
3 tons of rough sand	Exempt	1		
delivery and pick up of 6 ton machine from site	Exempt	1		
delivery and pick up of 3 ton mini digger from site	Exempt	1		
delivery and pick up of micro digger from site	Exempt	1		
Please make cheque's payable to S J O'Hagan or electronic payment to Acc			SUBTOTAL	
			VAT TOTAL	
			TOTAL	
			BALANCE DUE	



LionPark
Construction

Merbein Barn
Tregurrian
Cornwall
TR8 4AD

www.lionpark.co.uk

Alan Cunningham
Dene Court
Mawgan Porth

INVOICE DATE: 16 Feb 24
INVOICE NO: Invoice 1

Removal of asbestos roof at Dene Court, and plastic fascias.

Net

VAT

Total DUE

New Build VAT zero rate

Many thanks

Bank: Lloyds
Sort Code:
Account:
Name: Lionpark Construction Ltd





TAX INVOICE

Mr.A.Cunningham
Dene Court
Trenance
Mawgan Porth
Newquay
Cornwall
TR8 4BZ
GBR

Invoice Date
8 Mar 2024
Invoice Number
INV-0020
Reference
Dene Court
VAT Number
[REDACTED]

W.Yabsley
4 Treburrick
St.Eval
Wadebridge
Cornwall
PL27 7UR
enquiry.yabsley@gmail.co
m
07870493826

Description	VAT	Amount GBP
Construct new block walls for replacement garage to customers designs set out in plans etc..	No VAT	[REDACTED]
materials 3x sand /15x cement/ starter pack/100mm blocks-340 /feb/etc	No VAT	[REDACTED]
0 rated vat due to new build approved planning applications for Dene Court: PA21/01863 (Replacement dwelling) and PA23/10018 (Replacement dwelling with variation of condition 2 in respect of decision PA21/01863 dated 10.06.21).		
	Subtotal	[REDACTED]
	TOTAL NO VAT	[REDACTED]
	TOTAL GBP	[REDACTED]

Due Date: 12 Mar 2024

Bacs Details
W Yabsley
[REDACTED]

Due upon receipt
Vat Registration
[REDACTED]

All Materials Remain The Property Of The Builder Until Paid For In Full

Registered Office: 4 Treburrick, St Eval, Wadebridge, Cornwall, PL27 7UR, United Kingdom.

Situ8 Planning Consultancy Ltd

Millham Farm, Lostwithiel, Cornwall PL22 0JA

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