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Ref: IC/2797

VIA PLANNING PORTAL

22nd March, 2024

Head of Planning
Dacorum Borough Council

Dear Sir/Madam,

**OAKLANDS FARM, BRADDEN LANE, GADDESSEN ROW, HEMEL HEMPSTEAD,
HERTFORDSHIRE HP2 6JB**

LDC UNDER SECTION 191, IMPROVEMENTS TO PRE-EXISTING ACCESS ROAD

We are instructed by our client, **Mr A. Morton**, to submit an LDC under Section 191 of The Act for the operational development associated with the improvement to a pre-existing access track on land at Oaklands Farm, Bradden Lane, Gaddesden.

The works are shown on plans NA-23055-2PL, 100 A and B: it is clarified that the S191 LDC is for the works to the roadway only and not the timber fence (which would be permitted development in any event with no need to rely on immunity).

The site lies within the open countryside to the east of Little Gaddesden.

The access road in question extends from Bradden Lane to link to a series of buildings to the rear of the site.

It is the westernmost access of two into the site.

The access road itself has always been on site in one form or another.

It is a separate access which is used for horses stabled on the site and it also facilitates the delivery of hay and keeps the animals away from the main access; see google image below of the site, which also shows the access left of shot:



The works were started on 15th January, 2018 and completed in the week of 5th February 2015, with the exception of the gravel finish was added in May, 2018.

The applicant instructed the installation of a more robust road base in order to prevent vehicles from sinking into the clay and damaging the track further.

The top layer of mud was scraped back by 100mm with a 100mm layer of hardcore added with 50mm of Type 1 and 30mm of gravel.

All of this was compacted with gravel boards in place to keep the structure secure.

We note that this LDC follows the refusal of a conventional planning application under the terms of **24/00299/RET** for development described as follows:

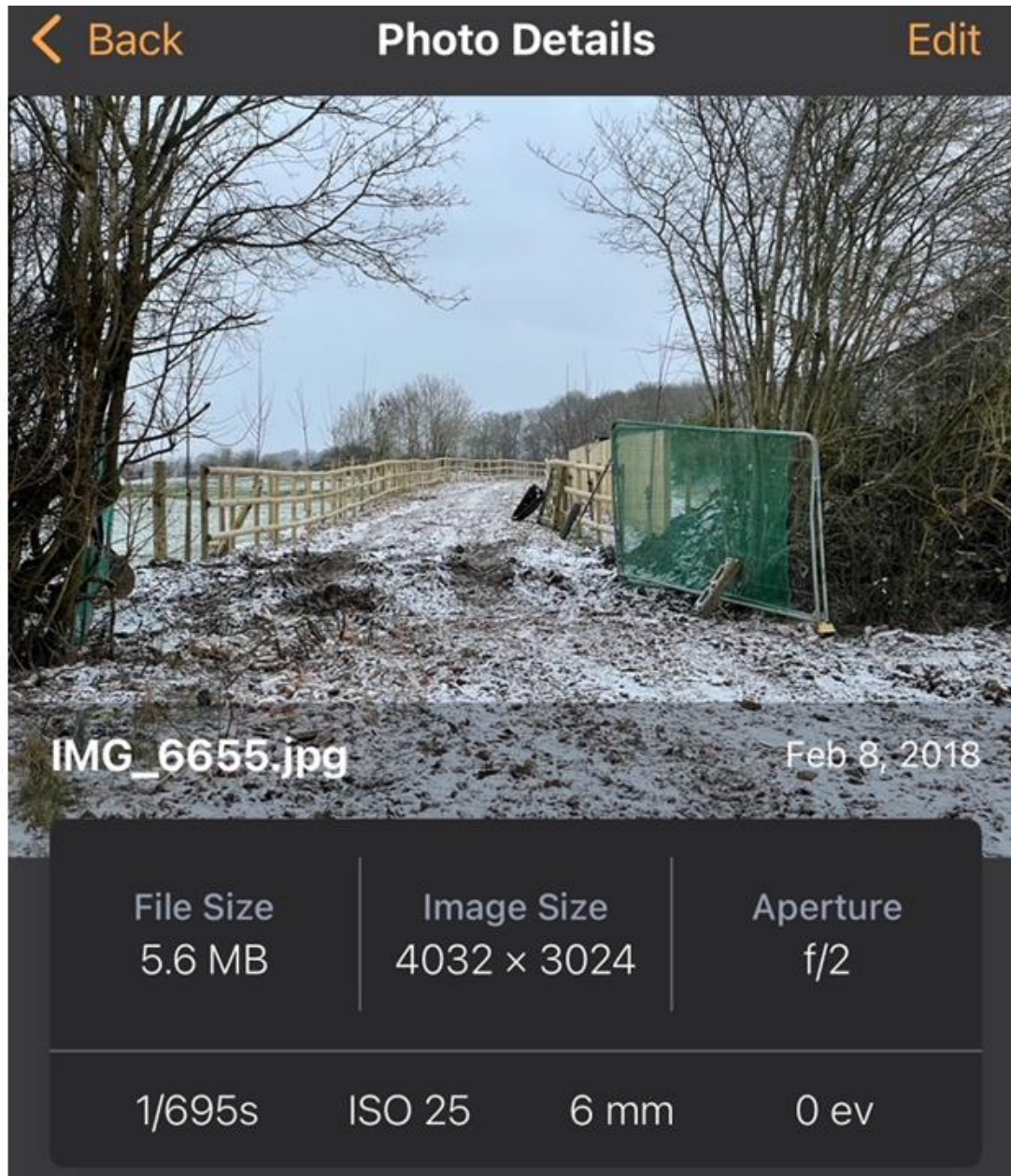
Installation of hardstanding and shingle to create a driveway and erection of fencing each side of the driveway

Images of the works taking place are as follows:

17th January, 2018



And slightly later in the process, namely [8th February 2018](#):



The current gates to the front of the access track were rebuilt pre-2021 under permitted development rights and are not a feature of this lawful development certificate.

The new access road represents a material building operation and so qualifies for four year immunity.

The works were completed in February 2018, with the gravel added in of that year and so the totality became immune from action in May, 2022.

The onus is upon the applicant to prove the immunity case in a clear and unambiguous form to meet the balance of probabilities test.

We submit the following evidence in support of the immunity certificate:

- **Invoice from Adam Irving Ltd. who installed the new road base. This is dated 21st January 2018 in the sum of £24,000;**
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- **Second Invoice from Adam Irving Ltd: this is dated 12 February 2028 and is in the sum of £6,000 with VAT;**
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- **Dated photographs of the works taking place on 17th January 2018 and also on 8th February 2018 (included above);**
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- **Affidavit of Mr Irving, the contractor;**
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- **Affidavit of Mr Andrew Morton, the site owner and applicant;**
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- **Both affidavits contain some form of dated photographic evidence.**

As noted above the test is on the balance of probabilities.

The invoices are clear and states as follows:

INVOICE NO. 1328

DATE 21/01/2018

DUE DATE 21/01/2018

TERMS Due on receipt

DATE SERVICE DESCRIPTION VAT QTY RATE AMOUNT

21/1/2018 Field Access Drive Works 20.0% 1 S 20,000.00

SUBTOTAL 20,000.00

VAT TOTAL 400.00

TOTAL 24,000.00

BALANCE DUE £24,000.00

VAT SUMMARY

RATE VAT NET

VAT @ 20% 800.00 4,000.00

And the residual invoice:

VAT Invoice

INVOICE TO

**A Morton
Oaklands Farm
Gaddesden
HP2 6JB**

INVOICE NO. 1329

DATE 12/02/2018

DUE DATE 12/02/2018

TERMS Due on receipt

DATE	SERVICE DESCRIPTION	VAT	QTY	RATE	AMOUNT
12.2.2018	Access and fencing works	20%	1	S	5,000.00

SUBTOTAL 5,000.00

VAT TOTAL 1,000.00

TOTAL 6,000.00

BALANCE DUE £6,000.00

VAT SUMMARY

RATE VAT NET

VAT @ 20% 1,000.00 5,000.0

We have provided dated photographs of the works taking place and the dates whilst recorded electronically on the camera at the time of the shot being taken are also cross-referenced with the affidavits.

The photographs above were taken by the owner during the works to record the progress. The imbedded Meta Data information of the recorded images includes – file name (image number) date, GPS location, time of day, pixels, ISO and camera used (iPhone X)

In addition we have submitted the invoice for the works undertaken at the time.

There is only so much evidence that can reasonably be submitted in support of such an application and what is submitted covers what one would reasonably expect; namely the invoices, photos and statutory declaration of the main players involved in the construction, namely the contractor and the applicant, who instructed the works.

We submit that what is submitted more than adequately discharges the balance of probabilities test such that a decision to issue a certificate under Section 191 would be well founded.

Ian Coward from these offices is dealing with this matter.

Yours faithfully

**Collins & Coward
encs**