

SUPPORTING STATEMENT

for

A CERTIFICATE OF EXISTING LAWFUL DEVELOPMENT FOR:

Agricultural Building

at

**Malmsbury Estate, Remenham Hill
Henley, RG9 3HN**

Prepared by

Neil March
BSc (Hons) DiP TP MRTPI



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Client: Rilex Ltd

Southern Planning Practice Ltd

Registered Office: Youngs Yard, Churchfields, Twyford, Winchester SO21 1NN
Tel: 01962 715770 E-mail: info@southernplanning.co.uk Website: www.southernplanning.co.uk
Registered in England and Wales No. 3862030

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1.0 INTRODUCTION

- 1.1 This supporting statement is prepared by Southern Planning Practice Ltd in support of an application for Lawful Development Certificate on behalf of the landowner, Rilex Ltd.
- 1.2 The application seeks to certify the lawfulness of an agricultural building situated on the Malmsbury Estate where there is a polo facility supporting a high goal polo team.
- 1.3 The agricultural building is a legacy building, which has been on the land for 50+ years. It was originally used to rear turkeys and is therefore often referred to as the “Turkey Shed”. It is located on the eastern edge of the Estate near a hay barn, within an area generally used for storing estate management and ground maintenance equipment.



Fig. 1 – The Turkey Shed (May 2024)

- 1.4 The purpose of this application is to seek confirmation that the building is lawful and therefore can continue to remain in situ. It will be herewith referred to as the “subject building”.
- 1.5 In December 2016, planning permission was granted for the creation of a polo facility for private use, comprising of a polo field, exercise track, stable block, all weather practice area, summer pavilion and widening of existing access onto A4130 (application ref: 162288). The application included the subject building within the red line area. However,

there was nothing in that application requiring the subject building to be removed – either in the description or in any conditions. Nor was it required to be removed, or its retention incompatible with the details approved as part of the condition discharge application under 170791.



Fig. 2 – Most recent aerial photo (04/06/2023) showing the location of the building

- 1.6 In 2019, planning permission was refused for the demolition of the subject building (described as “an outbuilding”) and its replacement with grooms accommodation with a players gym (application ref: 182327). An appeal was lodged, along with another appeal following the refusal of planning permission for a stable (consisting of 24 boxes, tack room, feed room and storage) with outdoor area (application ref: 182524) on another part of the Estate. The appeals were co-joined. In the LPA’s appeal statements, a list of items were detailed which the LPA deemed to be non-compliant and against which enforcement action was being considered. This list included reference to “Two existing agricultural sheds ...”, which include the subject building (**Appendix I**). The LPA therefore expressed the view, at that time, that this building was unauthorised. They may

have been an expectation by the LPA that it should have been removed as part of the planning permission granted under 162288. However, it will be demonstrated that this is not the case and that there is no requirement for the subject building to be removed and that it is a lawful existing building that can remain.

1.7 This statement sets out the case and the evidence to support the certificate.

1.8 The following plans have been provided with the application:

- Site location plan
- Block Plan
- Plans and Elevations

1.9 The following supporting documents have been provided with the application:

- LPA's Appeal Statement (APP/X0360/W/19/3224329)
- Date verified aerial photograph (04/09/1999)
- Copy of decision notice (162288)
- Approved plans (approved under 162288)
 - 16/1997-20 rev D
 - 16/1997-21 Rev C
 - 16/1997-22 Rev C
 - 16/1997-23 Rev A
 - 16/1997-P40
 - 16/1997-41
 - 16/1997-30 Rev B
 - 8160507/6101
 - 502-0012-001
 - 028-P100 Rev F
- Copy of decision notice (170791)
- Copy of approved landscape plans E16-002-001 Rev D1 and E16-002-003 Rev D2

2.0 **THE SITE**

- 2.1 The site is part of the Malmsbury Estate, situated on the south side of the A4130 at Remenham Hill, approximately 1 mile to the west of Henley-on-Thames.
- 2.2 The Estate includes a polo facility supporting a high goal polo team, comprising a stable block, polo field, exercise track and arena.
- 2.3 The subject building is located on the eastern edge of the Estate (to the east of the Polo arena) near a hay barn, within an area generally used for storing estate management and ground maintenance equipment.

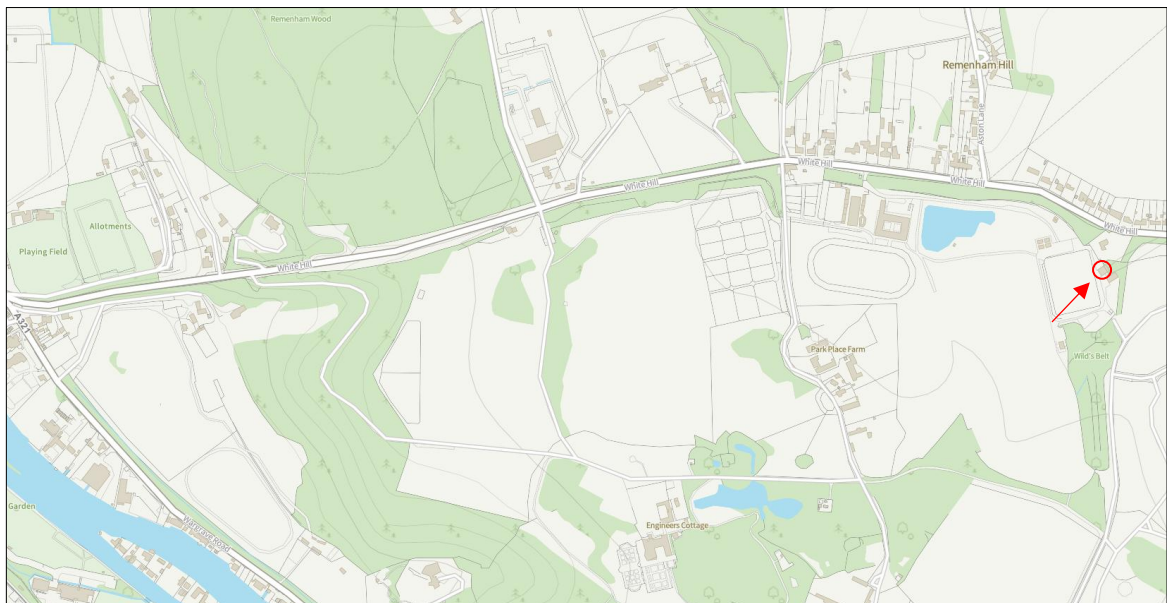


Fig. 3 – Map showing the location of the building

- 2.4 The site is accessed via a gated entrance off the A4130, a short distance to the east of Dairy Lane which runs into the estate land and serves a small number of private dwellings. An asphalt drive runs from the entrance along the northern edge of the Estate and around the western and southern edges of the Polo arena, arriving at the subject building.
- 2.5 The building recently had its roof removed as it was identified as containing asbestos. It is therefore currently empty.

Relevant Planning History

162288	Full application for the proposed creation of a polo facility for private use, comprising of a polo field, exercise track, stable block, all weather practice area, summer pavilion and widening of existing access onto A4130.	Granted; 8 Dec 2016
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2.6 A copy of the decision notice for 162288 is attached at **Appendix 3**.

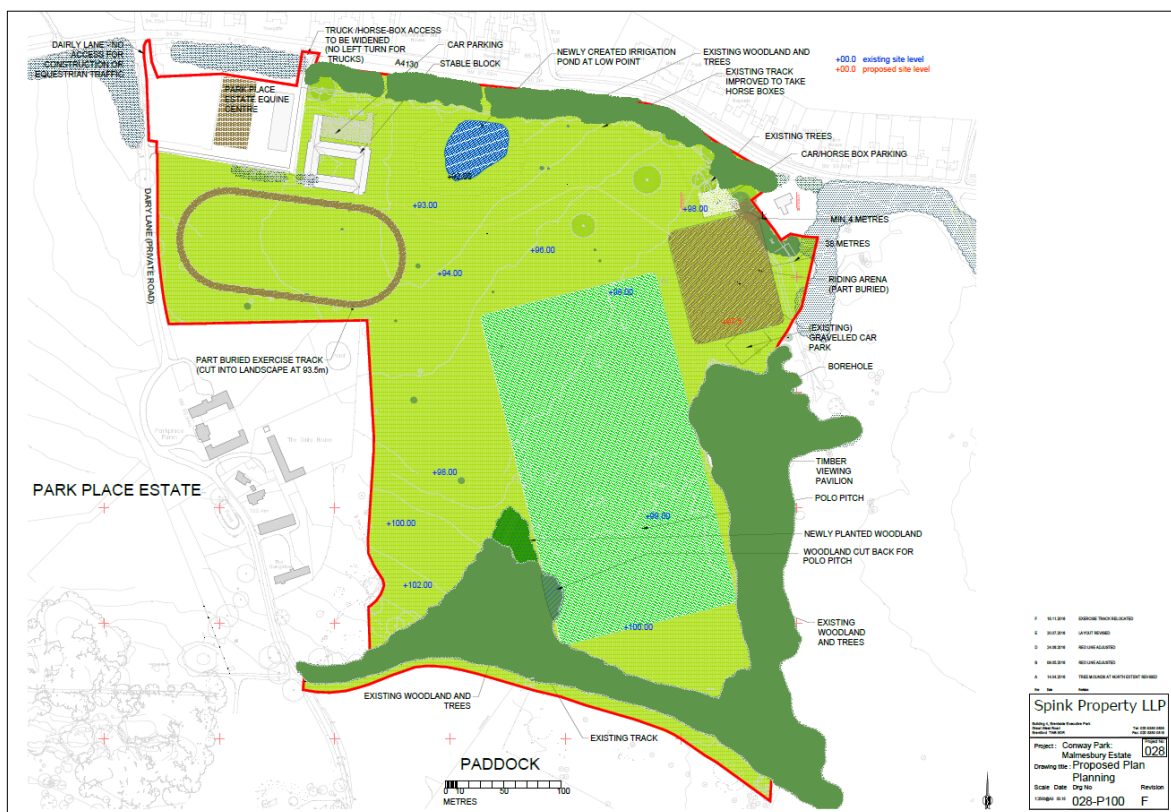


Fig. 4 – 162288 Approved Site Plan (028-P100 Rev F)

2.7 A copy of the approved Site Plan (028-P100 Rev F) is attached at **Appendix 4**.

2.8 The remaining approved plans for 162288 are attached at **Appendix 5**.

170791	Application for submission of details to comply with the following conditions of planning consent 162288 (8/12/2016). 3. Ground and building levels. 4. External materials. 5. Details of boundary walls and fences. 6. Landscaping. 7. Lighting Scheme. 8. Programme of Archaeological work. 9. Parking details. 14. Construction Method statement. 15. Accommodation of construction vehicles and deliveries. 20. Site specific Great Crested Newt method statement. 21. Landscape and ecological management plan (LEMP).	Approved; 14 Sept 2017
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2.9 A copy of the decision notice for 170791 is attached at **Appendix 6**.

182327	Demolition of an existing outbuilding and replacement with grooms accommodation with a players gym Appeal ref: APP/X0360/W/19/3224323	Refused; 16 Nov 2018 Appeal dismissed; 11 March 2020
182524	Full planning permission for the erection of a stable (consisting of 24 boxes, tack room, feed room and storage) with outdoor area Appeal ref: APP/X0360/W/19/3224329	Refused; 19 Dec 2018 Appeal dismissed; 11 March 2020

2.10 An extract of the LPA's Appeal Statement for APP/X0360/W/19/3224329 is attached at **Appendix 1**.

3.0 **GENERAL PRINCIPLES AND GROUNDS UNDER WHICH A CERTIFICATE IS SOUGHT**

3.1 This application is made under Section 191 of the Town & Country Planning Act 1990 (as amended) “the Act”, which enables anyone to apply to the local planning authority for a decision whether a specified existing use, operation, or failure to comply with a planning condition or limitation, which has already been carried out on land, is lawful for planning purposes.

3.2 Section 191(2) of the Act states that:

For the purposes of this Act uses and operations are lawful at any time if—

- (a) No enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired **or for any other reason**); and*
- (b) They do not constitute a contravention of any of the requirements of any enforcement notice then in force.*

Note: There is no enforcement notice in force.

3.3 Section 191(4) of the Act provides that:- *if, on an application under the section, the LPA are provided with information satisfying them of the lawfulness, at the time of the application, of the use, operations or other matters described in the application, they shall issue a certificate to that effect.*

3.4 In the case of *F W Grabbitts v SSE and Newham LBC [1985]* it was held that the applicant’s own evidence does not have to be corroborated by ‘independent’ evidence in order to be accepted. If the LPA has no evidence of their own, or 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

3.5 The burden of proof in an LDC application lies with the applicant.

3.6 The relevant test is the “balance of probabilities”.

4.0 **EXAMINATION OF EVIDENCE**

- 4.1 The subject building has been in situ for 50+ years and was formerly used for agricultural purposes.
- 4.2 The earliest available verified aerial photograph (04/09/1999) shows the subject building in situ. At that time the surrounding land was in use as a golf course. A copy of the aerial photograph is attached at **Appendix 2**.
- 4.3 The decision notice for 162288 (**Appendix 3**) confirms that the description of the development was:
- “Full application for the proposed creation of a polo facility for private use, comprising of a polo field, exercise track, stable block, all weather practice area, summer pavilion and widening of existing access onto A4130.”*
- 4.4 There is nothing in the description of development to confirm that the proposal included the demolition of any existing buildings.
- 4.5 The approved plans on which 162288 was decided are listed in condition 2 of the decision notice. These are: 16/1997-20 rev D, 16/1997-21 Rev C, 16/1997-22 Rev C, 16/1997-23 Rev A, 16/1997-P40, 16/1997-41, 16/1997-30 Rev B, 8160507/6101, 502-0012-001 and 028-P100 Rev F. A copy of these plans are attached at **Appendix 5**.
- 4.6 The plan of most relevance is the approved Site Plan (ref: 028-P100 Rev F) (**Appendix 4**). An enlarged copy of the plan is shown at Fig. 5 below. This shows the agricultural building as a faint outline, denoting its presence. There is nothing on the plan to confirm its removal and nothing is proposed to be built in its location.

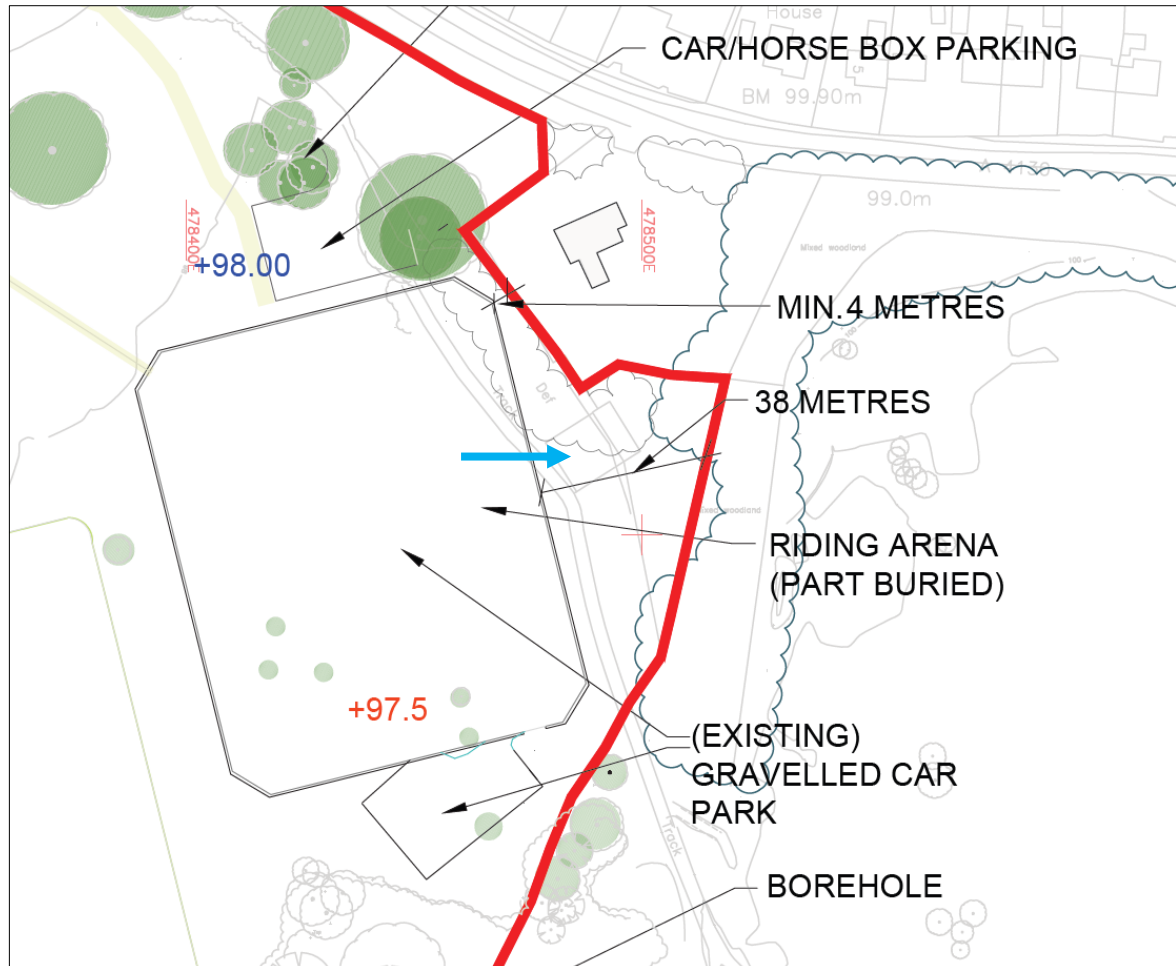


Fig. 5 – Enlarged extract of Approved Site Plan (028-PI00 Rev F) showing the location of the subject building (as denoted by the blue arrow)

4.7 None of the remaining approved plans listed in Condition 2 are relevant to the subject building. A summary of the approved plans are set out below:

Drawing ref:	Description	Comment
16/1997-20 rev D	Stable Block floor plan	Not relevant to subject building
16/1997-21 Rev C	Stable Block – Proposed amenity block layout	Not relevant to subject building
16/1997-22 Rev C	Proposed stable block – Proposed elevations	Not relevant to subject building
16/1997-23 Rev A	Stable Block – Proposed roof layout	Not relevant to subject building
16/1997-P40	Riding arena - fence detail	Not relevant to subject building
16/1997-41	Riding arena - sections	Not relevant to subject building

16/1997-30 Rev B	Proposed private pavilion	Not relevant to subject building
8160507/6101	Site Access Visibility Splays	Not relevant to subject building
502-0012-001	Proposed Access Alterations	Not relevant to subject building

4.8 The conditions attached to the planning permission granted under 162288 are also set out in the decision notice (**Appendix 3**). The condition summary headings are as follows:

1.	Development to be begun within 3 years
2.	Approved details – development shall be carried out in accordance with
3.	Ground and building levels
4.	External materials
5.	Details of boundary walls and fences etc
6.	Landscaping
7.	Details of a lighting scheme
8.	Archaeology
9.	Details of off-street parking for 10 spaces to be submitted
10.	Visibility splay provision
11.	Access surfacing
12.	Access to be provided before development
13.	Gates
14.	Construction method statement
15.	Accommodation of construction vehicles and deliveries, etc
16.	Traffic associated with development not to use Dairy Lane as a means of access
17.	Development permitted shall only be used a private facility (for friends / guests of Park Place
18.	Number of polo matches (on polo pitch permitted) shall be limited to 40 per annum.
19.	No public address system or amplification on the polo field at any time
20.	Great Crested Newt method statement
21.	Landscape and Ecological Management Plan (LEMP)

- 4.9 There are no conditions specifically relating to the subject building or crucially, requiring it to be demolished.
- 4.10 Following the grant of planning permission 162288, an application was submitted to discharge a number of conditions attached to that permission. This was application ref: 170791, which is titled: "Application for submission of details to comply with the following conditions of planning consent 162288 (8/12/2016). 3. Ground and building levels. 4. External materials. 5. Details of boundary walls and fences. 6. Landscaping. 7. Lighting Scheme. 8. Programme of Archaeological work. 9. Parking details. 14. Construction Method statement. 15. Accommodation of construction vehicles and deliveries. 20. Site specific Great Crested Newt method statement. 21. Landscape and ecological management plan (LEMP).". A copy of decision notice 170791 is attached at **Appendix 6**.
- 4.11 None of the details approved under 170791 require the removal of the subject building or are incompatible with its retention. On the approved landscape plans E16-002-001 Rev D1 and E16-002-003 Rev D2, the subject building is clearly shown (see Fig 6 below and copies of the plans are also attached at **Appendix 7**), which supports the notion that the subject building was to be retained.

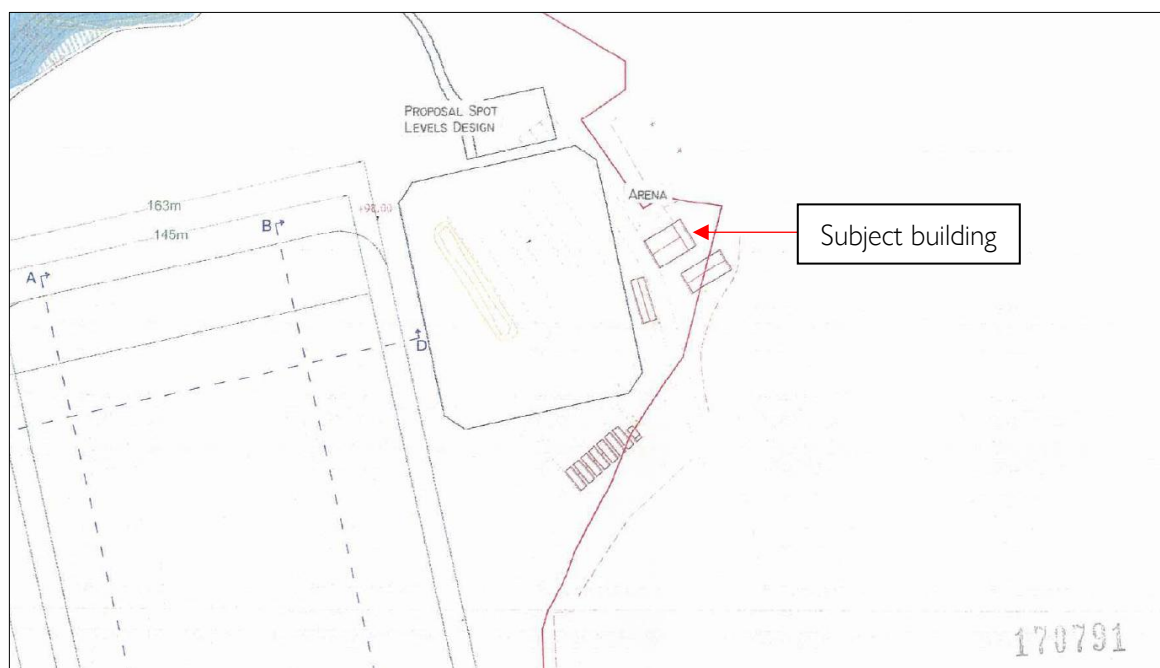


Fig. 6 – Extract of approved drawing ref: E16-002-001 D1 showing the subject building in situ

5.0 CONCLUSION

- 5.1 It has been demonstrated that the subject building is an existing building and was in situ at the time that application ref: I62288 was determined and remains in situ.
- 5.2 There is nothing in the description of the development permitted under I62288, or the approved plans, or the conditions attached to that permission, requiring the building to be demolished.
- 5.3 Nor was the building required to be removed or is its retention incompatible with the details approved under I70791. On the contrary, the building appears on plans approved as part of the condition discharge application.
- 5.4 As such, it has been demonstrated that the subject building is lawful as it was pre-existing prior to the grant of I62288 and there was no requirement for it to be removed under the terms of that permission granted.
- 5.5 A certificate of existing lawful development should therefore be granted.