

SUPPORTING STATEMENT

for

A CERTIFICATE OF EXISTING LAWFUL DEVELOPMENT FOR:

**Metal framed barn clad with green profile
sheeting, used to store
hay and feed**

at

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

Prepared by

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Date: February 2025

Client: Rilex Ltd

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APPENDIX 7 – Date verified aerial photograph (20/04/2015)

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 a building situated on the Malmsbury Estate where there is a polo facility supporting a high goal polo team.
- 1.3 The building is a metal framed barn (clad with green profile sheeting), which is used to store hay and feed. It was built circa. 2011 / 2012 by a previous owner.



Fig. 1 – The building (May 2024)

- 1.4 It is located on the eastern edge of the Estate near an old agricultural building (the Turkey Shed), within an area generally used for storing estate management and ground maintenance equipment.

- 1.5 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”.
- 1.6 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 subject building was situated within part of 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 is its retention incompatible with the details approved as part of the condition discharge application (170791).

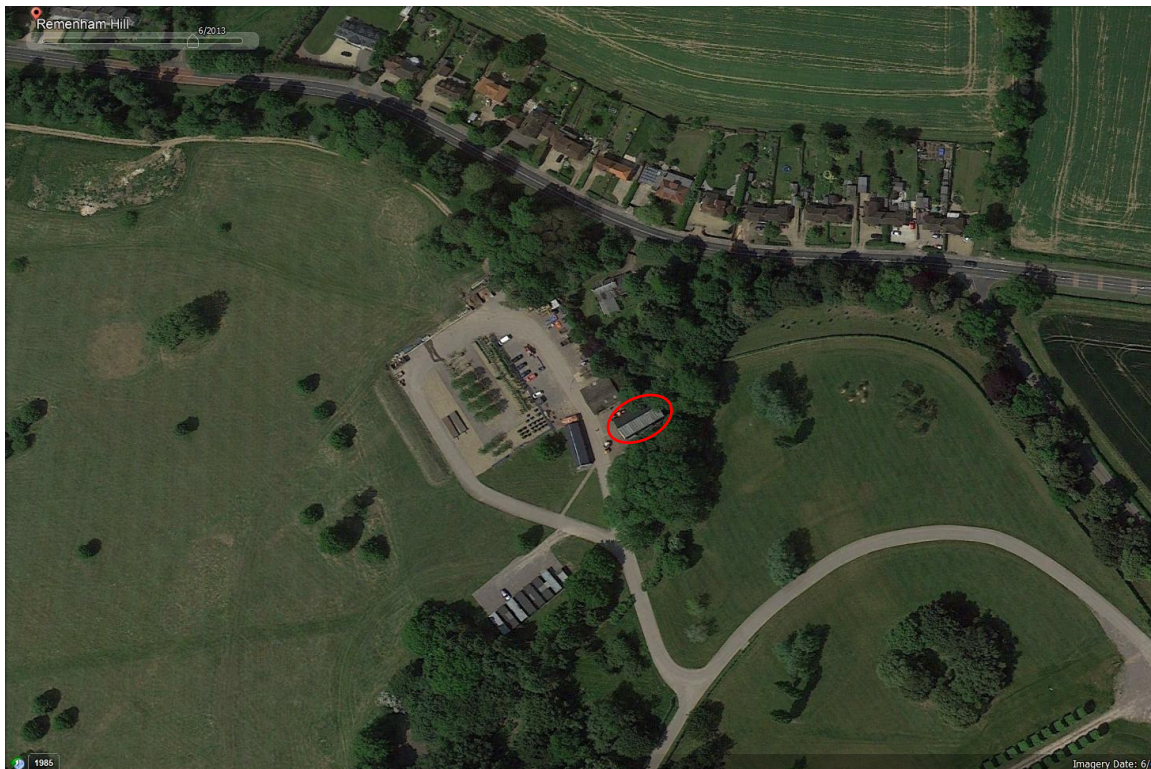


Fig. 2 – Aerial photo (06/2013) showing the building in situ

- 1.7 In 2019, planning permission was refused for the demolition of the adjacent agricultural building and its replacement with grooms accommodation with a players gym (application ref: 182327) and also the erection of a stable (consisting of 24 boxes, tack room, feed room and storage) with outdoor area (182524) on a different part of the Estate. Appeals

were lodged against both decisions, which were subsequently co-joined / dealt with by PINS at the same time. 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. The 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. It is believed that there was an expectation by the LPA that the two pre-existing buildings should have been removed as part of the planning permission granted under I62288. However, it will be demonstrated that this is not the case and that there was no requirement for the subject building to be removed and that it is therefore a lawful existing building that can remain.

I.8 This statement sets out the case and the evidence to support the certificate.

I.9 The following plans have been provided with the application:

- Site location plan
- Block Plan
- Plans and Elevations

I.10 The following supporting documents have been provided with the application:

- LPA's Appeal Statement (APP/X0360/W/19/3224329)
- Copy of decision notice (I62288)
- Approved plans (approved under I62288)
 - I6/I997-20 rev D
 - I6/I997-21 Rev C
 - I6/I997-22 Rev C
 - I6/I997-23 Rev A
 - I6/I997-P40
 - I6/I997-41
 - I6/I997-30 Rev B
 - 8160507/6101

- 502-0012-001
- 028-PI00 Rev F
- Copy of decision notice (170791)
- Copy of approved landscape plans E16-002-001 Rev D1 and E16-002-003 Rev D2
- Date verified aerial photograph (20/04/2015)

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 an old agricultural building (“the Turkey shed”), within an area generally used for storing estate management and ground maintenance equipment.

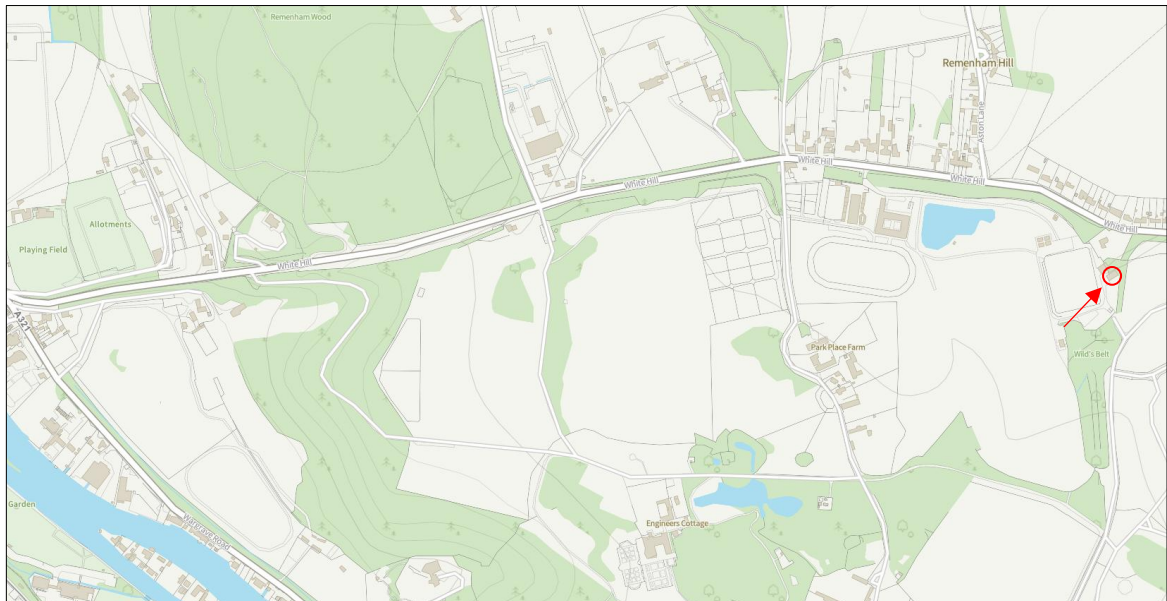


Fig. 3 – Map showing the location of the building

- 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.

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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2.5 A copy of the decision notice for 162288 is attached at **Appendix 2**.



Fig. 4 – I62288 Approved Site Plan (028-PI00 Rev F)

2.6 A copy of the approved Site Plan (028-PI00 Rev F) is attached at **Appendix 3**.

2.7 The remaining approved plans for 162288 are attached at **Appendix 4**.

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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2.6 A copy of the decision notice for 170791 is attached at **Appendix 5**.

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

2.7 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 building was erected in and around 2011, as confirmed by Google Earth. In the aerial photograph dated 2010 the building is not shown (Fig. 5). At this time the surrounding land was being used as a golf course.

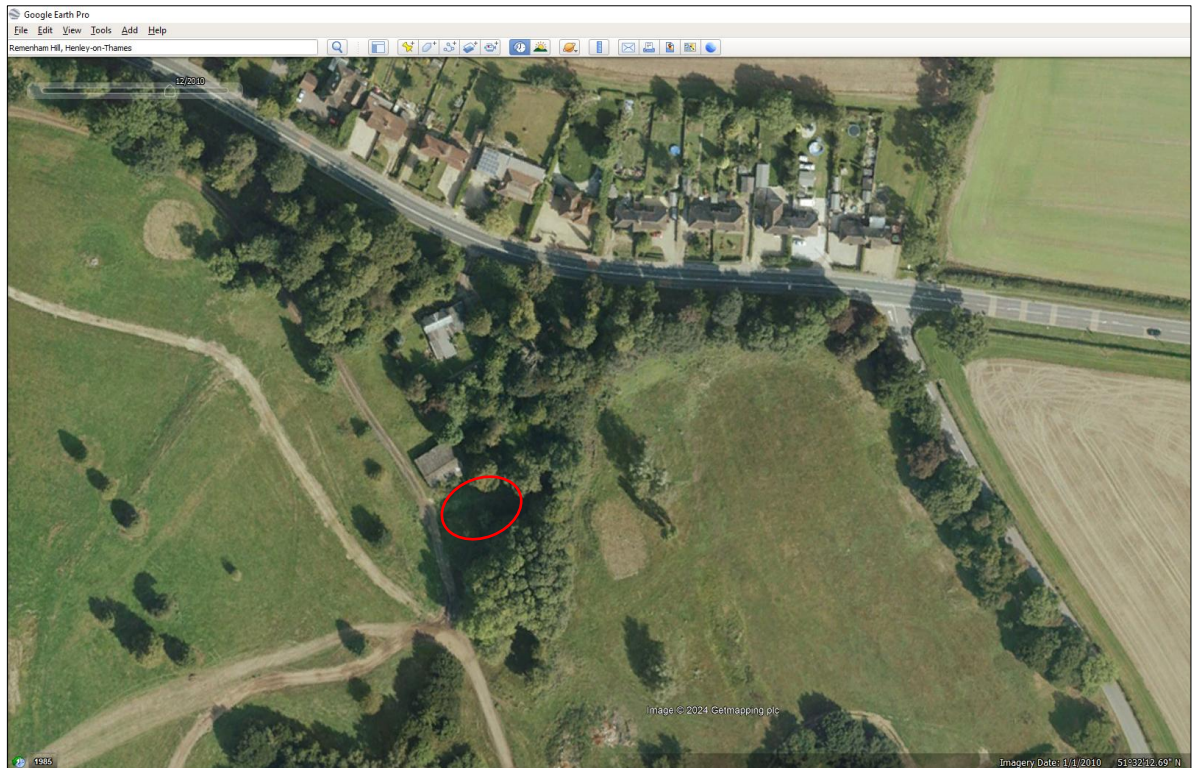


Fig. 5 – Google Earth circa. 2010 – building is not in situ (the building shown is the Turkey Shed)

- 4.2 In the aerial photograph dated March 2012 the subject building is shown in situ (Fig. 6).

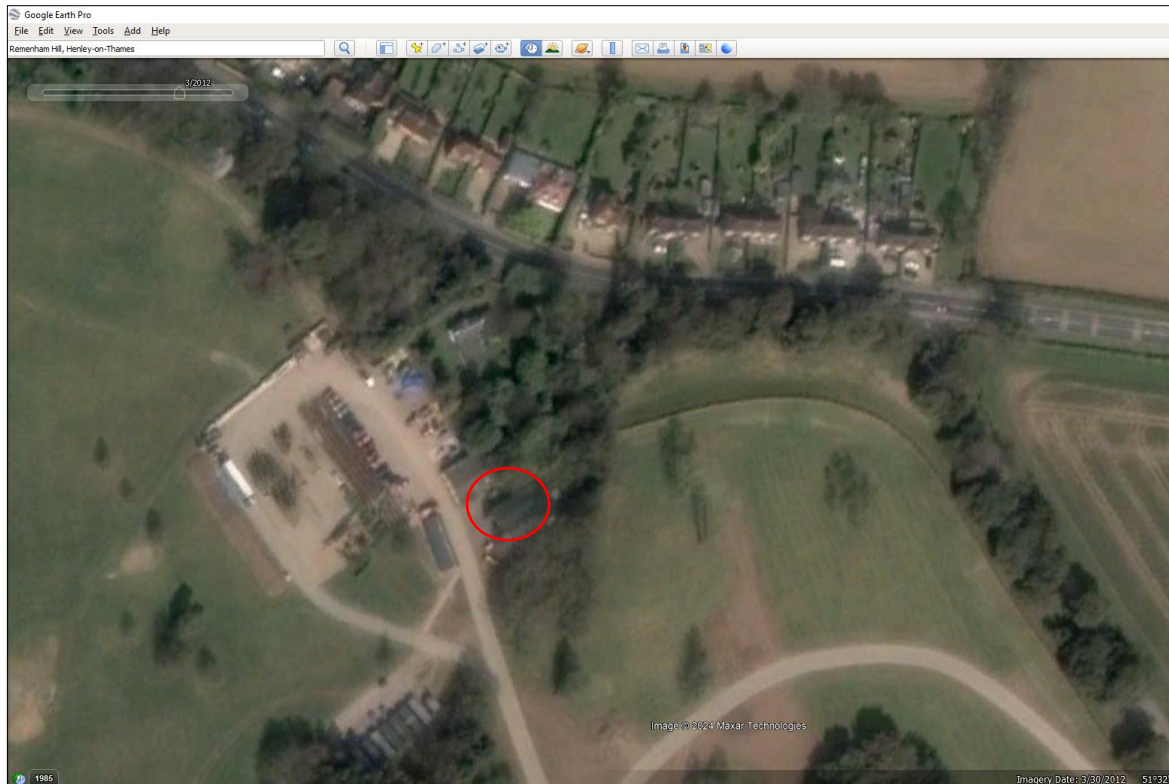


Fig. 6 – Google Earth (March 2012) showing the subject building in situ

- 4.3 The earliest available date verified aerial photograph showing the building in situ is dated 20/04/2015. A copy of the aerial photograph is attached at **Appendix 7**.
- 4.4 The decision notice for 162288 (**Appendix 2**) 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.”*
- 4.5 There is nothing in the description of development to confirm that the proposal included the demolition of any existing buildings.
- 4.6 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-PI00 Rev F. A copy of these plans are attached at **Appendix 4**.

- 4.7 The plan of most relevance is the approved Site Plan (ref: 028-PI00 Rev F) (**Appendix 3**). An enlarged copy of the plan is shown at Fig. 7 below. The subject building is omitted from the plan, although there is nothing on the plan confirming its removal. Nor is does it show anything proposed to be built in its location.

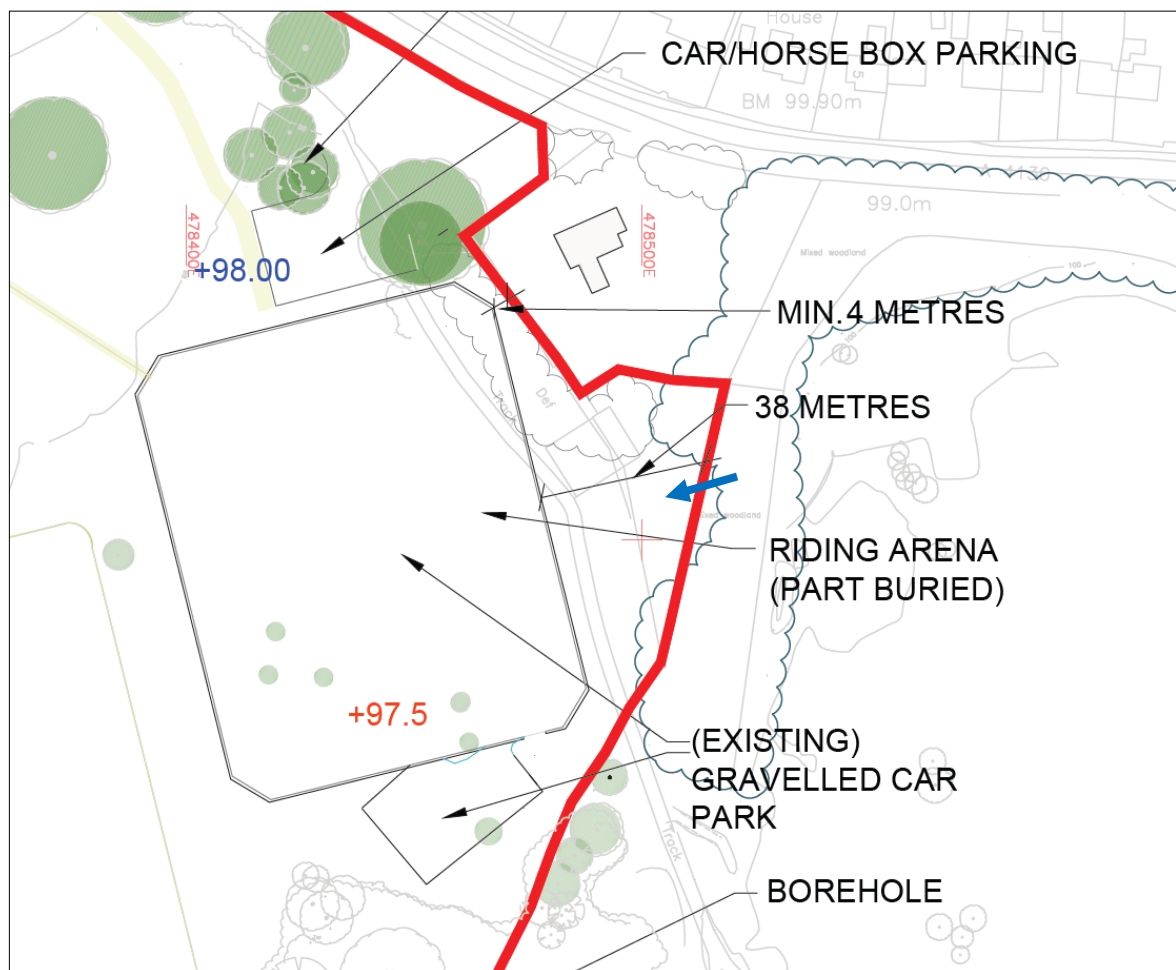


Fig. 7 – Enlarged extract of Approved Site Plan (028-PI00 Rev F). The location of the subject building is denoted by the blue arrow.

- 4.8 None of the remaining approved plans listed in Condition 2 are relevant to the subject building. A summary of the approved plans is 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

4.9 The conditions attached the planning permission granted under 162288 are also set out in the decision notice (**Appendix 2**). 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)

- 4.10 There are no conditions specifically relating to the subject building or crucially, requiring it to be demolished.
- 4.11 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 5**.
- 4.12 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 8. overleaf. Copies of the plans are also attached at **Appendix 6**), which supports the notion that the subject building was to be retained.

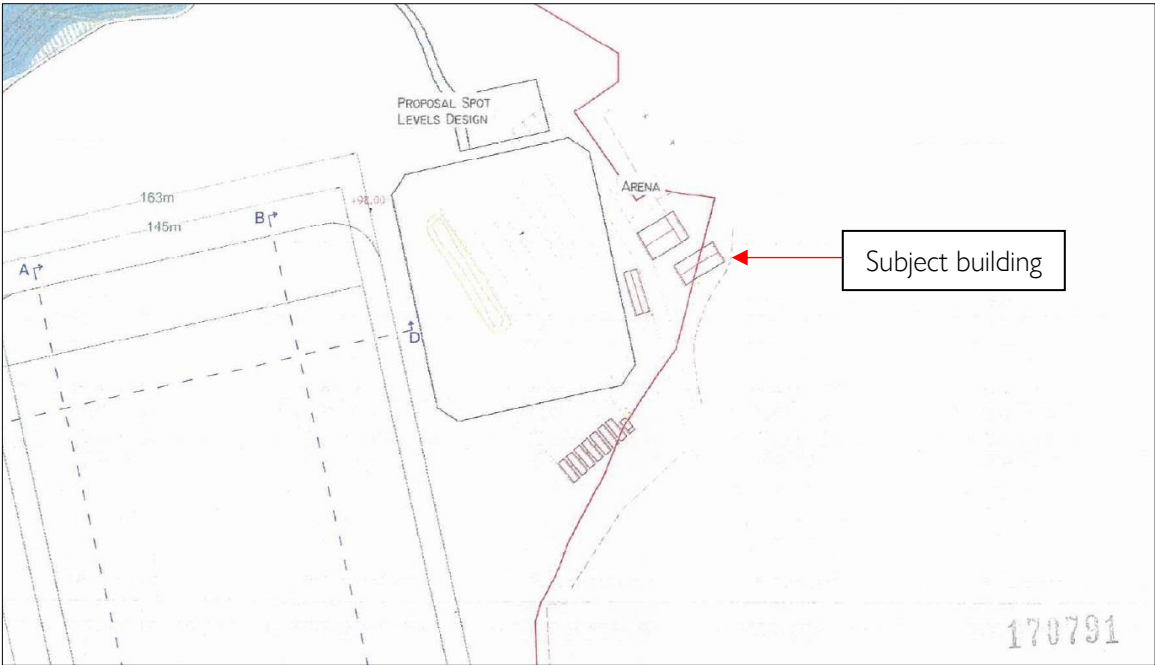


Fig. 8 – Extract of approved drawing ref: E16-002-001 DI showing the subject building in situ

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.