



JUDITH DOUGLAS TOWN PLANNING LIMITED

## Dairy Farm and Dairy House, Goose Lane, Chipping, Lancs. PR3 2QB



Application for a lawful use certificate for use of land as a gardens and domestic curtilage and buildings for domestic purposes.

### Supporting Planning Statement

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**STATEMENT IN SUPPORT OF AN APPLICATION FOR A LAWFUL USE CERTIFICATE FOR THE USE OF LAND AS A GARDEN AND DOMESTIC CURTILAGE AND BUILDINGS FOR DOMESTIC PURPOSES AT DAIRY FARM AND DAIRY HOUSE, GOOSE LANE CHIPPING PR3 2QB**

**1 INTRODUCTION**

- 1.1 This application is made under section 191(1) (a) of the Town and Country Planning Act 1990 as amended on the basis that the land has been used and is still in use as domestic gardens as part of the domestic curtilages for a period in excess of 10 years and that it has been used continually as such without any break within this period.
- 1.2 This application is made on behalf of Mr Kevin Naylor and Mr Stuart Kay. This statement should be read in connection with the statutory declaration and plan dated 9<sup>th</sup> August 2016<sup>1</sup>.

**2 HISTORY OF USE OF LAND AS A GARDENS AND DOMESTIC CURTILAGE AND BUILDING FOR DOMESTIC PURPOSES**

- 2.1 In order to determine of all of the land edge red on plan PL1 is lawfully being used as garden and domestic curtilage it is necessary to look at the planning history of the site and how the land has been used for the last 10 years.

Relevant planning history of the site

- 2.2 88/0035 Conversion of existing barn and use of existing dwelling as bed and breakfast accommodation. Approved.
- 2.3 3/2002/0987 Dairy Farm, Goose Lane, Chipping. Proposed division of house with bed and breakfast accommodation to two dwellings. Approved 11/02/2003
- 2.3 3/2008/0012 Dairy Farm Goose Lane Chipping. Removal of condition 3 of consent 3/02/0987P to allow retention and improvement of existing site access. Approved 27/02/2008.
- 2.4 2008/0889 Dairy Farm, Goose Lane, Chipping. Proposed sun room to rear approved 11/12/2008
- 2.5 Dairy Farm and Dairy House were created through the division of the former house and bed and breakfast establishment at Dairy Farm. The dwelling Dairy House is the property on the west side closest to the road and is occupied by Mr and Mrs Kay and their family. Mrs Kay is Mr Naylor's daughter. Dairy Farm is on the east side and is occupied by Mr and Mrs Naylor. Each property is owned separately. The garden area to the rear has no physical demarcation dividing the garden of Dairy House from Dairy Farm. The garden areas, outbuildings and parking areas have been used jointly by both families.
- 2.6 Like many former farmsteads the buildings and curtilage of the farm that were formerly in agricultural use have been converted to residential accommodation, and the former agricultural outbuildings and curtilage have found new uses as domestic outbuildings gardens and parking areas. In this case the change from a working farm to residential use began in the late 1980's and early 1990's with the conversion of the main detached stone barn to a separate dwelling and the conversion of the barn attached to the farmhouse to bed and

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<sup>1</sup> Appendix 1 Statutory Declaration.



breakfast accommodation. When the property was sold in 2003 and converted into two dwellings the former agricultural outbuildings gardens and parking area and curtilage continued to be used for domestic purposes.

- 2.7 The sales particulars produced by Reed Rains Estate Agents describe the building before Mr Naylor purchased the property<sup>2</sup>. The Estate Agents were not aware at that time of the intention to subdivide the property into two so it was being marketed as one large property. The photographs on the back of the brochure show the gardens as they were then in 2003. The photograph shows that the garden extended up to the leylandii hedge to the north. In centre of the photograph is an island bed with shrubs surrounded by lawn. Behind this is a line of flowers and shrubs and behind this another lawn as far and the leylandii hedge. Within the lawned area appears to be timber hut and a bench. This lawn area between the line of flowers and shrubs and the leylandii hedge is the area marked yellow on the submitted plan PL1. This photograph provides evidence that the area marked yellow on the plan PL1 was in use as a garden as one with the rest of the garden before Mr Naylor and Mr Kay owned the property.



1. Rear view of the garden from Reed Rains Brochure 2003

- 2.8 The sales particulars described the 'exterior'. *"The property is screened from the roadside via a variety of evergreen trees and access to the driveway can be gained by double wrought iron gates leading to a sweeping gravelled driveway. To the front is a landscaped garden area which is well stocked with a large Koi carp pond and water feature and gives gated access to the rear of the property where there is an enclosed landscaped garden which has been laid to lawn with a variety of flower and herbaceous borders. Two 40ft Nissen huts providing ample storage area and five bar gate leading through to a paddock. Two stables"* The description of the exterior does not indicate that the outbuildings are at all separate from the dwelling.

<sup>2</sup> Appendix 2 Reed Rains Sales Brochure

- 2.8 The location plan submitted with planning application 3/2002/0987 for the sub-division into two dwellings indicates the 'red edge' which denotes the curtilage of the dwellings as approved<sup>3</sup>. The red edge covers all the area in front of both dwellings to the extent it is today and an area to the rear of the dwellings. However, the red edge does not include does not include all the land which is currently used as garden and domestic curtilage. The area granted planning permission as domestic curtilage under planning permission 3/2002/0987 corresponds with the area on plan PL1 which is not shaded yellow. This area having been granted planning permission is therefore lawfully in use as garden and domestic curtilage to Dairy House and Dairy Farm.
- 2.8 In 2008 Mr Kay submitted a planning application to retain and improve the vehicle access reference 3/2008/0012. The plans<sup>4</sup> submitted with the application submission documents published on the Council's website. It includes a location plan at 1:1000 which appears to show that then domestic curtilage of Dairy House extends to the full extent that it does today including the area shaded yellow which relates to Dairy House. The 1:500 Existing Layout plan suggests that all of the outbuildings are served by the existing access and does not indicate any sub-divisions of the curtilage within the area edged red on PL1.
- 2.9 Mr Kay submitted a planning application to the council and received permission to extend Dairy Farm (now know and Dairy House) in 2008. The location plan submitted with that application included all the land at the rear of his property including that section which is shaded yellow on plan PL1. The Planning Officer dealing with the application in the DIFR does not raise any concern regarding the extent of the curtilage to Dairy House or Dairy Farm. His description of the site is "*The property is a farmhouse attached to another residential property converted from a barn first into B&B accommodation, and then into a separate dwelling in 2002*"<sup>5</sup>. This confirms that the properties have been occupied as separate dwellings since 2002 and at the time of the visit in 2008 and that no concern was raised regarding the use of the whole of the area on the north side of the dwelling including that area shaded yellow as a garden.
- 2.10 A wedding reception was held in to garden of Dairy House and Dairy Farm in 2009. Mahood Marquees site plan 02/12/08<sup>6</sup> shows that two large marquees erected side by side were accommodated within the garden mostly within the area shade yellow on PL1 and incorporating the island shrub and flower bed within the layout. This demonstrates that the garden was well enough kept to host the wedding reception. Photographs of the marquees are provided at appendix 7<sup>7</sup>.Crucially the plan and photographs show that there were no barriers between the area shade yellow on PL1 and the rest of the garden to prevent the erection of the marquees and the area being used as one space to in which to hold the reception.

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<sup>3</sup> Appendix 3 Location plan to 3/2002/0987

<sup>4</sup> Appendix 4 3/2008/0012 plan 1:1000 and 1:500

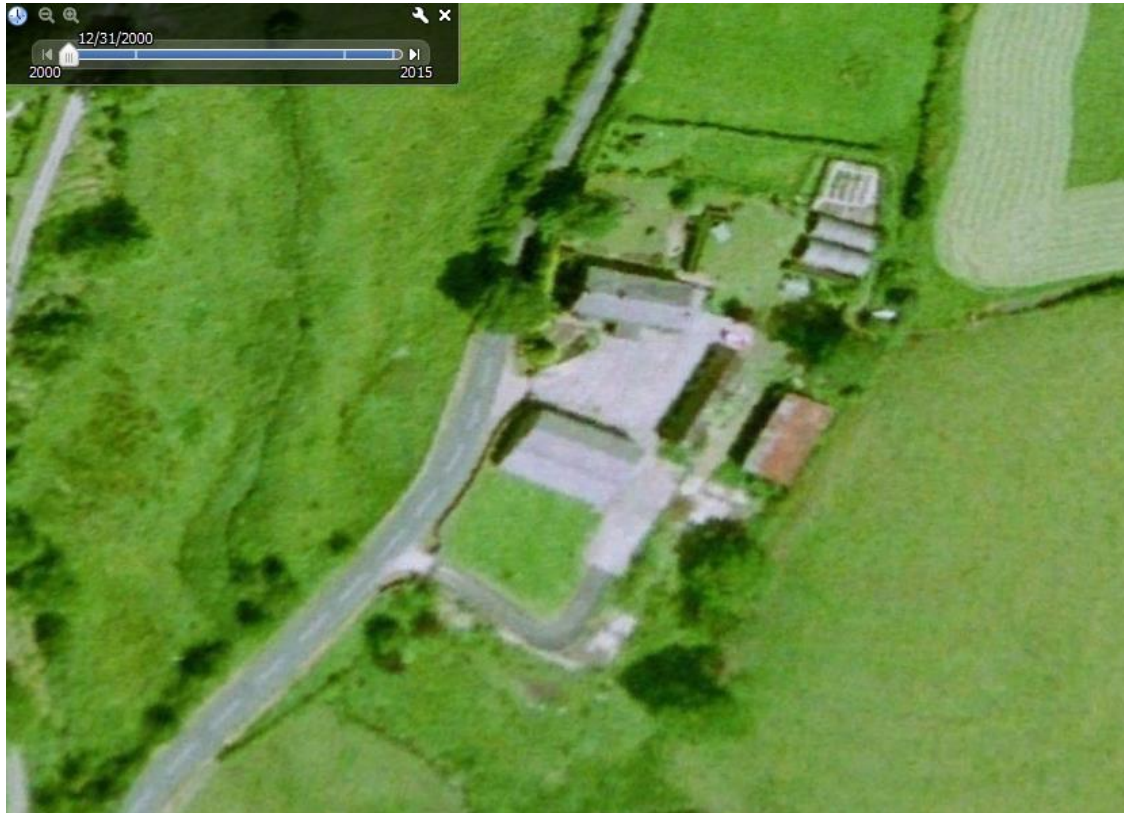
<sup>5</sup> Appendix 5 Delegated Item File Report 3/2008/0889P

<sup>6</sup> Appendix 6 Marquee plan 02/12/08

<sup>7</sup> Appendix 7 Marquee photographs



Aerial photographic evidence



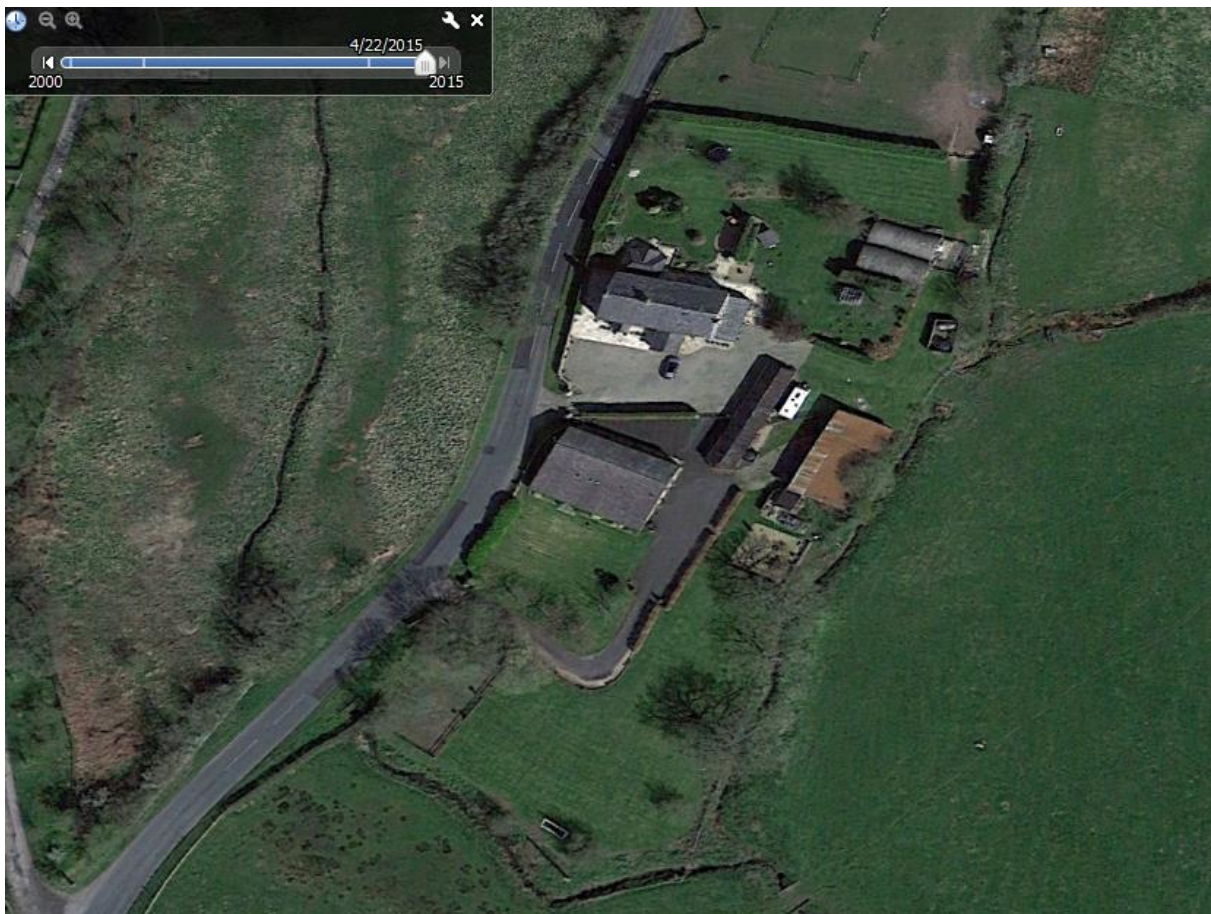
Google Earth image 31/12/2000

Google Earth Image 31/12/2003





- 2.11 The image produced on google earth for 2000 indicates that the leylandii had been planted to the north of Dairy Farm at that time but was quite young, considering the lack of shadow it creates. The planting of the leylandii hedge may have coincided with the conversion of the barn and the creation of the bed and breakfast business. There are some shrubs and trees in the garden two Nissen huts and a vegetable patch to the north of the Nissen Huts.
- 2.12 The 2003 image on this photograph is clearer than the 2000 image. The buildings and boundaries are unchanged. The leylandii hedge still separates the garden from the field to the north and there is a clear boundary on the east side of the Nissen huts dividing the garden from the field to the east.
- 2.13 This more recent 2015 aerial image shows the boundaries in the same positions as before. The leylandii hedge is in place the vegetable patch has become part of the lawn. These images indicate that the land edge red including that which is shaded yellow has for at least the last 10 years been separate from the fields to the north and to the east. The precise dates of the images are uncertain since the photograph dated 31/12/2000 is clearly incorrect as the trees are in full leaf and the field is being cut for hay. What the aerial images do clarify are the outermost boundaries of the land edge to the north and east are definitely separate from the surrounding fields.



Google earth image 22/4/2015

Evidence for use of the land as domestic curtilage and garden

Third party evidence

- 2.14 The applicant has provided letters from Ian and Linda Tennant and Anne Stevenson which have confirm that the garden area is to the extent shown on plan PL1. The Tennants confirm that the garden has been its current size for at least the last 13 years. Anne Stevenson confirms that the garden has been at its current size since 2003<sup>8</sup>.

Statutory Declaration

- 2.15 Mr Naylor has signed a statutory declaration to confirm that all of the land edged red on plan PL1 has been in use as domestic curtilage and garden area by himself and his neighbour since 2003. He also confirms that he has used the two Nissen huts for stabling and the block and timber outbuilding for a domestic workshop and for domestic storage.

### 3 CONCLUSION

- 3.1 The information submitted with this application including a sworn affidavit demonstrates that the land within the read edge ion PL1 has either been granted planning permission for use as garden when the building was made into two dwellings or has been in use as domestic curtilage and garden for more than 10 years. It is likely that the use of the area edge red for domestic purposes began when the bed and breakfast establishment was created. Mr Naylor has verified that the whole area edged red was in use as domestic curtilage when he purchased the property in 2003. The uncertainty regarding the lawful use of the land arises from the location plan which accompanies the planning application. Whilst that plan describes the application as it was made in 2002 it does not describe the actual use of the land at that time or since. The planting of the leylandii hedge on the northern boundary was a definite act by the previous owners to enclose the land at the rear of Dairy Farm for domestic purposes. Mr Naylor and third parties have confirmed the use of the land and buildings for domestic use for more than 10 years. The use of the land and buildings are now lawful.

### APPENDICES

Appendix 1 Statutory Declaration.

Appendix 2 Reed Rains Sales Brochure

Appendix 3 Location plan to 3/2002/0987

Appendix 4 3/2008/0012 plan 1:1000 and 1:500

Appendix 5 Delegated Item File Report 3/2008/0889P

Appendix 6 Marquee plan 02/12/08

Appendix 7 Letter from I and L Tennant and A Stevenson

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<sup>8</sup> Appendix 8 Letter from I and L Tennant and A Stevenson