



Supporting Statement

**Megitta House
Kenyon Lane
Langho
Blackburn
BB6 8AN**

***Certificates of Lawfulness
Existing and Proposed Development
Various Residential Permitted Development***

January 2026

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1. INTRODUCTION

1.1. This supporting statement has been prepared by Emma Jones MRTPI of Acer Town Planning. It accompanies two applications by Ivan Rawlins for:

1. A lawful development certificate for existing householder permitted development for:
 - An outbuilding store (to the rear of the garage);
 - Extension to an existing pond;
 - New access to highway; and
 - Areas of hardstanding including a driveway.
2. A lawful development certificate for proposed householder permitted development for:
 - Access track for septic tank

1.2. This application includes assessment of the extent of the residential curtilage. Following the establishing of the curtilage, a separate planning application will be made for other development undertaken within this area requiring planning permission. This includes a double garage, 2 no. summerhouses and the front boundary wall.

1.3. The following documents are submitted with the applications:

- Supporting Statement, Acer Town Planning – this document
- Application Forms
- Application plans

2. SITE DETAILS AND PLANNING HISTORY

Site Details

- 2.1 Megitta House is residential property set within large grounds on Kenyon Lane, Dinckley. The property and surrounds can be seen in Figure 1. The property was built in the mid-1990s in place of an earlier bungalow named Redwalls. The property appears to have used the name Megitta House since its construction in the 1990s.
- 2.2 The property and grounds form part of a larger single title which also includes the area of land to the south of Megitta House. The land to the south is separated from the residential curtilage of Megitta House by landscaping at the eastern end closest to the property but is open towards the western boundary.
- 2.3 Since its purchase by the applicant in 2024 the property has been undergoing extensions and alterations. These were initially all believed to be permitted development. However, following concerns raised by Officers, a householder planning application was submitted for the alterations to the property which required planning permission (ref: 3/2025/0049). Planning permission was granted for these in October 2025.
- 2.4 During the determination of that application, questions were raised by Officers regarding the extent of the residential curtilage and whether various other development on the site constituted permitted development or required planning permission.
- 2.5 As the site has been subject to recent alteration, historic images have been consulted to illustrate the site prior to the current construction. Figures 1 to 14 below show the site.



Figure 1: Megitta House: Google Maps Satellite View Accessed October 2025 (date of image unstated)



Figure 2: Site Location Plan, Megitta House



Figure 3: Google Earth Historic Imagery Dated June 2023.

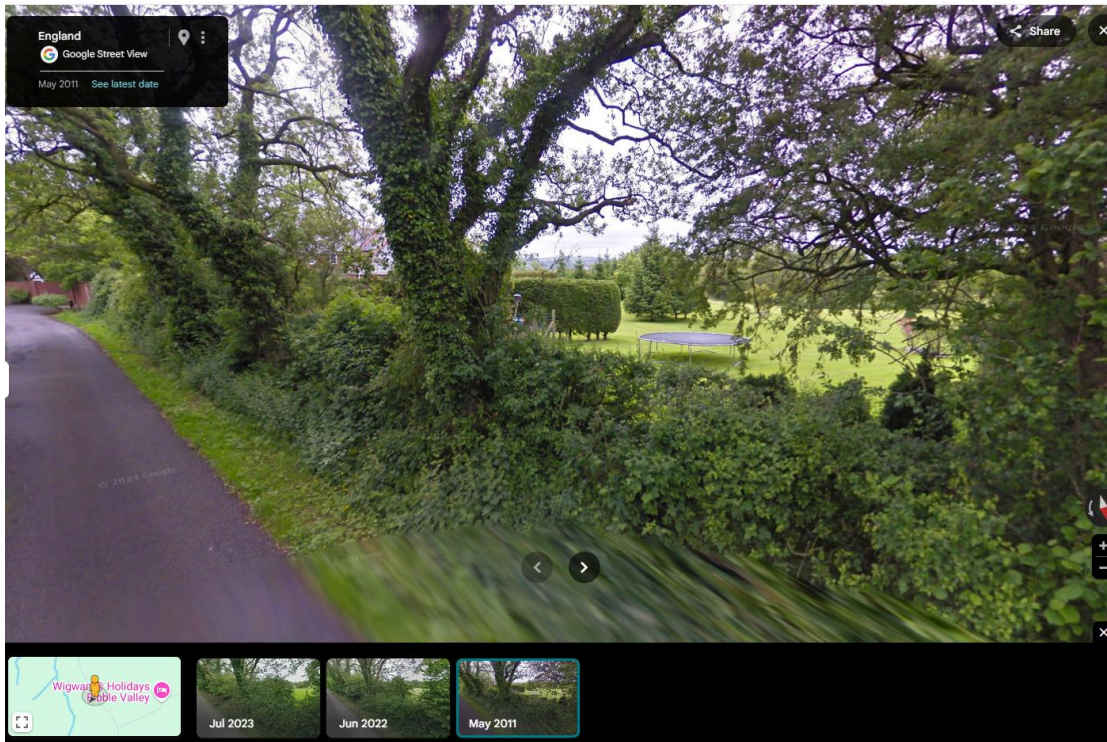


Figure 4: Google Street View Imagery Dated May 2011.



Figure 5: Estate Agents Images Circa 2024.



Figure 6: Estate Agents Images Circa 2024.



Figure 7: Estate Agents Images Circa 2024.



Figure 8: Estate Agents Images Circa 2024.



Figure 9: Estate Agents Images Circa 2024.



Figure 10: Estate Agents Images Circa 2024.



Figure 11: Estate Agents Images Circa 2024.



Figure 12: Estate Agents Images Circa 2024.



Figure 13: Estate Agents Images Circa 2024.



Figure 14: Estate Agents Images Circa 2024.

PLANNING HISTORY

2.6 The following applications are considered relevant.

Redwalls, Kenyon Lane, Dinckley, Blackburn

- 3/1993/0012 GROUND & FIRST FLOOR ALTERATIONS AND EXTENSIONS WITH INTEGRAL THREE CAR GARAGE TO EXISTING DWELLING – Approved 16/02/1993
- 3/1993/0227 DEMOLISH EXISTING DORMER BUNGALOW AND CONSTRUCT A NEW FOUR BEDROOM DETACHED DWELLING WITH INTEGRAL THREE CAR GARAGE – Approved 27/05/1993
- 3/1993/0784 ALTERATIONS TO SOUTHERN & EASTERN ELEVATIONS INC. AN INCREASED ROOF HEIGHT - AMENDMENTS TO PREVIOUS APPROVAL 3/93/0227 – Approved 08/02/1994

Land adjoining Megitta House, Kenyon Lane, Dinckley

- 3/1995/0192 ERECTION OF GARAGE FOR COMMERCIAL VEHICLE AND ATTACHED STABLES – Withdrawn 05/06/1995
- 3/1996/0465 CHANGE OF USE OF LAND AND ERECTION OF STABLES AND GARAGE – Refused 03/12/1996
- 3/2020/0462 CHANGE OF USE OF LAND TO PUBLIC CAR PARK – Refused 12/08/2020

Megitta House, Kenyon Lane, Dinckley

- 3/2025/0049 ERECTION OF TWO STOREY REAR AND SIDE EXTENSION WITH SINGLE STOREY REAR (WEST) EXTENSION INCLUDING BALCONIES TO SIDE AND REAR; SINGLE STOREY EXTENSIONS TO THE FRONT ELEVATION (EAST) AND PORCH – Approved 16/10/2025

3. LEGAL CONTEXT

- 3.1 Section 191 of the Town and Country Planning Act 1990 provides the ability to apply to the local planning authority (LPA) for a lawful development certificate (LDC) – a statutory document certifying the lawfulness of an existing use, development or operation.
- 3.2 Section 191 provides that, if the LPA are supplied with information satisfying them that the use or operations described in the application is lawful they shall issue a certificate to that effect; and, in any other case, they shall refuse the application.
- 3.3 This application requires the LPA to determine the extent of the residential curtilage relating to the property known as Megitta House and whether various development within the area is 'Permitted Development'. Issues such as the policies contained in the Local Development Plan cannot be taken into consideration as the decision is based on fact and not on policy grounds.
- 3.4 The Act does not define the term 'curtilage'. The permitted development rights for householders: Permitted Development Rights for Householders Technical Guidance 2019 advises 'curtilage' is land which forms part and parcel with the house. Usually, it is the area of land within which the house sits, or to which it is attached, such as the garden, but for some houses, especially in the case of properties with large grounds, it may be a smaller area.
- 3.5 The Oxford English Dictionary defines a garden as 'a piece of ground adjoining a building (esp. a private property), often with grass, flowers, trees etc and generally used for recreation'.
- 3.6 In *Burdle & Williams v SSE & New Forest DC* [1972] 1 WLR 1207, it was held that the planning unit is usually the unit of occupation, unless a smaller area can be identified which, as a matter of fact and degree, is physically separate and distinct and occupied for different and unrelated purposes.
- 3.7 There are three broad categories of distinction suggested in *Burdle*:
1. As single planning unit where the unit of occupation is used for one main purpose and any secondary activities are incidental or ancillary;
 2. A single planning unit that is in a mixed use because the land is put to two or more activities, and it is not possible to say that one is incidental to the other; and

3. The unit of occupation comprises two or more physically separate areas that are occupied for different and unrelated purposes. In this scenario, each area ought to be considered as a separate planning unit.

3.8 In *Sinclair-Lockhart's Trustees v Central Land Board* (1950) 1 P&CR 195 it was held that the ground used for the comfortable enjoyment of a house or other building may be regarded as being within the curtilage of the house or building. It is enough that it serves the purpose of the house or building in some necessary or reasonably useful way.

3.9 Within appeal decision reference APP/R0660/X/24/3339764, the Inspector noted the following in relation to whether or not a piece of land should be considered as curtilage or not:

*"Curtilage is not defined within the GPDO. However, it is not a use of land but an area delineated through its physical association with a building. I have been referred to various case law on the matter of curtilage. In the case of Burford the three tests laid down by Stephenson LJ2 were affirmed and applied. The judge identified relevant factors to be '(i) the physical layout of the building and structure; (ii) the ownership past and present and (iii) the use or function of the land or buildings, past and present'. In *Lowe3 v SoS* [2003] EWHC 537 Admin curtilage 'connotes a building or piece of land attached to a dwellinghouse and forming one enclosure with it. It is not restricted in size, but it must fairly be described as being part of the enclosure of the house to which it refers'. The test is whether the land is so intimately associated with a building that the land forms part and parcel of the building.*

The appeal site comprises a large, two-storey dwelling with a large, detached garage and smaller outbuilding set within extensive grounds. In 2023, an LDC was granted for the northern area of the site for use as a domestic garden ancillary to the main dwellinghouse at Penn House⁴. Therefore, there is no dispute that the lawful use of the land within which the buildings sit, including the area to the north of the buildings, is domestic garden associated with Penn House.

The Council correctly identify that curtilage is not a use of land; it is a legal concept. However, they misdirect themselves by saying 'If a planning application does not confirm the increase in curtilage, then the curtilage remains the same as the original.' This is not the case, as evidenced in the extensive caselaw on the matter. Curtilage can change over time and is not reliant upon planning permission defining it. As it is not a use of land, there is no period of immunity for curtilage.

The Council's case on the matter of whether or not the northern area of the appeal site forms part of the curtilage of Penn House is based on the historical maps for the property. The Tithe Map and 1910 map clearly show the area of land in question separated from the southern part of the site by a black line. The 1971-73 aerial photograph appears to show some sort of physical boundary, perhaps a hedge, separating the two areas of land. The 1999-2003 aerial photograph is less clear as to whether they are physically separate.

The details of the LDC for the use of the land as domestic garden associated with Penn House are not before me. However, by reason that the Council granted the certificate, they must have been satisfied that the land was in use as a domestic garden associated with Penn House for at least 10 years prior to the date of the application of the LDC. Therefore, for the lawful use of the land to be domestic garden associated with Penn House there is evidently a functional link between the two.

During my site visit, I observed the land in question was contiguous with the remaining garden of Penn House. It was mainly lawned and there was no physical boundary with the southern area of land. They were clearly read as one area of land. The land is located directly to the rear of Penn House and is now clearly read as part of its garden and forming one single enclosure with it, despite it historically being separate.

Overall, I find the use or function of the land has been associated with the dwellinghouse for many years. The two areas of land have fallen within the same ownership for a significant period. Although large in size, this is not indicative that the land falls outside of the curtilage in this instance.

Therefore, I am satisfied that, as a matter of fact and degree, the land is within the curtilage of the dwellinghouse for Class E, Part 1 purposes".

- 3.10 Householder permitted development rights are set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 ("the Order") as amended. Part 1 of Schedule 2 to the Order sets out the permitted development rules concerning what enlargements, improvements, alterations and other additions a householder may make to their house and the area around it without the need for an application for planning permission.
- 3.11 Class E provides permitted development rights within the curtilage of a house for:
- (a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure; or**
- (b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas**
- 3.12 Development is not permitted by Class E if—
- (a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class G, M, MA, N, P, PA or Q of Part 3 of this Schedule (changes of use);
- (b) the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage(excluding the ground area of the original dwellinghouse);
- (c) any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse;
- (d) the building would have more than a single storey;

- (e) the height of the building, enclosure or container would exceed—
 - (i) 4 metres in the case of a building with a dual-pitched roof,
 - (ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse, or
 - (iii) 3 metres in any other case;
- (f) the height of the eaves of the building would exceed 2.5 metres;
- (g) the building, enclosure, pool or container would be situated within the curtilage of a listed building;
- (h) it would include the construction or provision of a verandah, balcony or raised platform;
- (i) it relates to a dwelling or a microwave antenna;
- (j) the capacity of the container would exceed 3,500 litres.; or
- (k) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses)

3.13 Class F provides permitted development rights within the curtilage of a house for:

- (a) the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such; or**
- (b) the replacement in whole or in part of such a surface.**

3.14 Development is permitted by Class F subject to the condition that where—

- (a) the hard surface would be situated on land between a wall forming the principal elevation of the dwellinghouse and a highway, and
- (b) the area of ground covered by the hard surface, or the area of hard surface replaced, would exceed 5 square metres, either the hard surface is made of porous materials, or provision is made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse.

4. ASSESSMENT

- 4.1 The Council has identified the area shown pink in Figure 15 as being residential curtilage. This is based on an old OS map showing the previous property, Redwalls and taken from planning application 3/2020/0462. Note that the pink shading was not part of the submission, but the darker lines were and showed a clear delineation at that time between the two parcels of land in the applicant's ownership (see Figure 16).

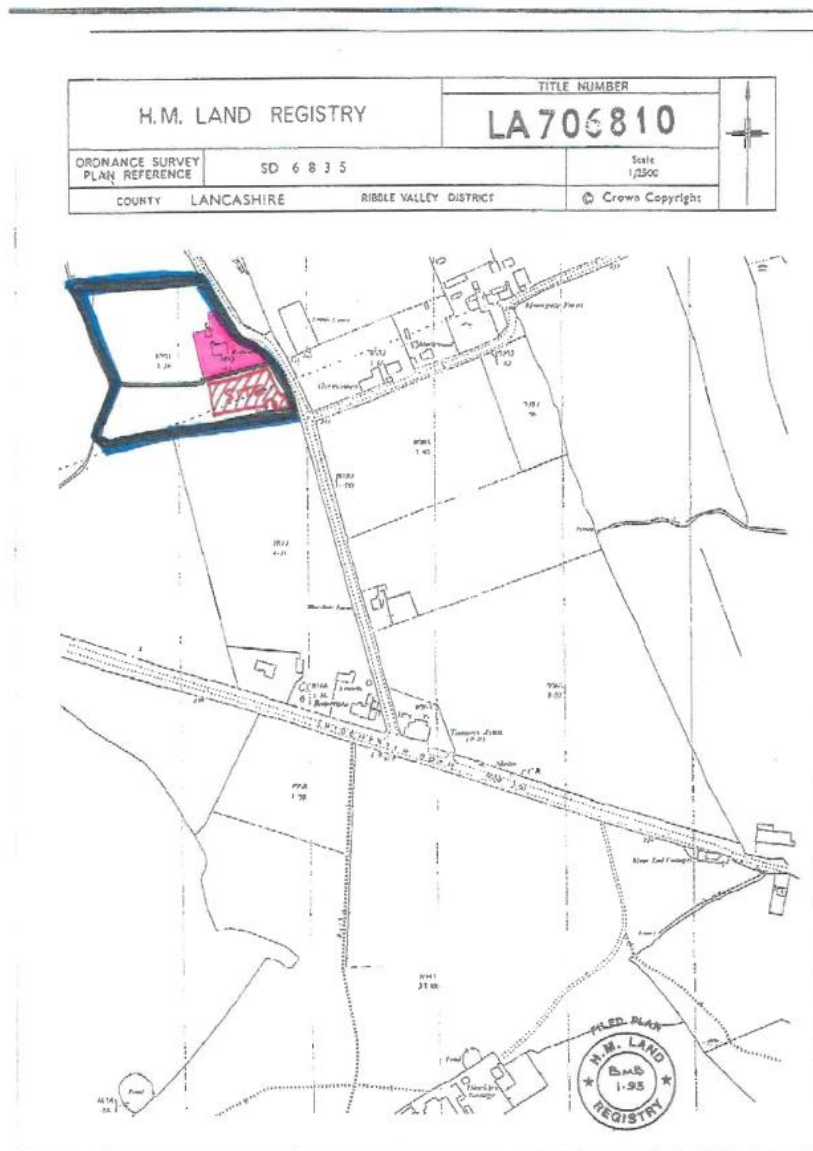


Figure 15: Map annotated by Officers provided by email dated 8th August 2025.

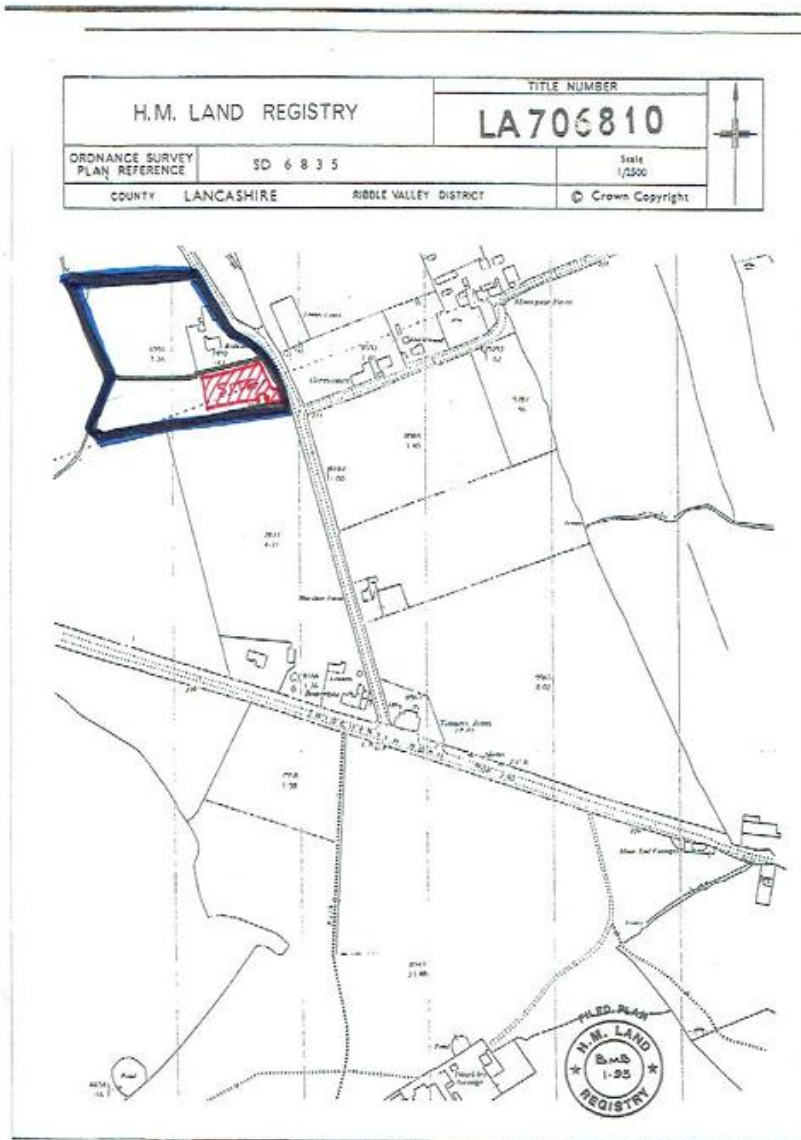


Figure 16: Plan submitted with planning application 3/2020/0462.



Figure 17: Historic OS Map published 1969

- 4.2 Figure 17 shows the 1969 OS map in better detail. It is important to note that the lines that appear on the map do not relate at all to the present-day physical situation on the ground in terms of either the actual property, physical features or curtilage. OS state that boundaries on OS plans only show features on the ground at the time of the survey which was 1969. These features are not always indicative of residential curtilages and OS also state that although some property boundaries may be coincident with surveyed map features, such as a hedge or fence, no assumptions should be made.
- 4.3 Satellite imagery and estate agents pictures in Figures 1-14 show that the extent of the garden of Megitta House 'on the ground' does not relate to the area highlighted pink by the Council. The small area highlighted pink does not appear to relate to any current physical features on the ground.
- 4.4 It is considered that the garden land delineated by the red line in Figure 2 is not separated from the main dwelling and forms part and parcel of the land associated with the host building. The images show that it is not distinctly separate, is open to and has clearly been in use in association with the enjoyment of the dwelling. The area is distinctly separate to the parcel of land to the south in the same ownership which the images show has not enjoyed the same relationship with Megitta House and would not

be considered curtilage. The land edged red therefore meets the definition within the Technical Guidance and should be considered curtilage.

- 4.5 The following development has been undertaken within the area outlined red and, as shown on the submitted plans for the certificate of lawfulness for existing development, meets the various conditions and limitations set out in the relevant classes in Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 ("the Order") as amended:
- An outbuilding store (to the rear of the garage);
 - Extended pond; and
 - Areas of hardstanding including a driveway.
- 4.6 Also, a new access point has been provided to the highway under Class B of Schedule 2 Part 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 ("the Order") as amended.
- 4.7 A new access track to the septic tank is also proposed within the residential curtilage. As shown on the plans this would be permitted development as it meets the various conditions and limitations set out in the relevant classes in Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 ("the Order") as amended.