



Supporting Statement

Certificate of Lawfulness –
Residential Curtilage
AT
23 Rhodes Green,
Middleton M24 4SL

Reference:
23RG-2194

Date:
2 June 2023

1. Assessment

- a. This Supporting Statement has been prepared by Just Planning on behalf of Miss Rebecca Siddall to support an application for a certificate of lawfulness to confirm the extent of the residential curtilage surrounding 23 Rhodes Green.
- b. The applicant bought the property in May 2017. The land that she acquired did not include an area in the centre of the plot, immediately next to the flank wall of the house, as shown in the location plan in figure 1, below.

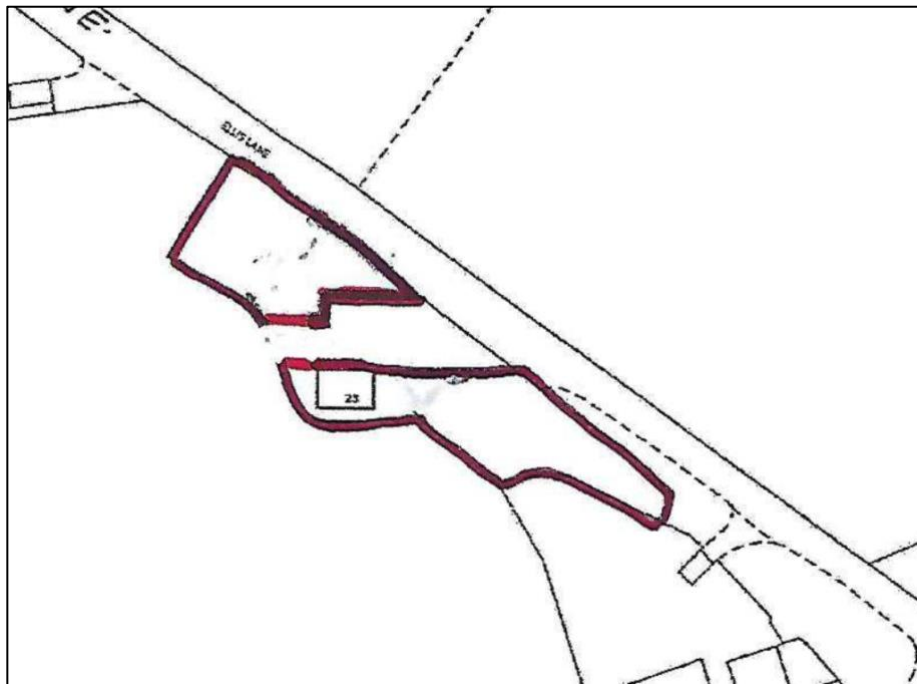


Figure 1: Location plan showing the land acquired in 2017.

- c. She later bought the middle piece of land, creating a combined site as shown in the location plan in figure 2, below.



Figure 2: Location plan showing the combined site.

- d. Although the middle piece of land had a separate legal title, it nevertheless formed part of the established curtilage of the house.
- e. The ownership of land, and whether it forms a single title, is not relevant from a planning point of view – what matters is how the land is used. In this case, the middle piece of land, though under separate ownership, was used and maintained as a fully integrated part of the garden of the house for many decades.
- f. Appendix A is an email from the previous owners from the property, Mrs Gail Clark. She confirms that her parents (Mr James & Mrs Brenda Shaw) lived at 23 Rhodes Green for over 60 years and that they used the middle plot of land as part of their garden for at least 40 years. The email includes a photograph of the house with the garden.
- g. Appendix B is a letter from the Iris Copp, the neighbour at 21 Rhodes Green. She has lived at number 21 for almost 86 years. She reports that there were formerly two other houses (numbered 25 and 27) that were demolished in 1975 and that the gardens were tended by the owner of number 23, Jim Shaw, until he died in 2013.
- h. The Google Streetview image in figure 3, below, shows that middle piece of land was clearly part of the overall garden when that image was taken in

October 2008. There is a path running up the land to the main front door of the house and all of the land is laid to lawn in the same way and was clearly being used and maintained as a single combined entity.



Figure 3: Google Streetview image from October 2008.

- i. The next Google Streetview image available is from July 2012. It too shows the site used as a single entity. The middle piece land that was then technically under separate ownership was clearly fully integrated into the curtilage of the house at number 23.



Figure 4: Google Streetview image from July 2012.

- j. The next available image is from May 2018 and shows the land still as a single entity.



Figure 5: Google Streetview image from May 2018.

- k. The latest image is from May 2020 and shows the new house being constructed. Again, the land to the side of the house is a fully integrated part of the site (both visually and functionally).



Figure 6: Google Streetview image from August 2020.

- l. The applicant acknowledges that the location plan submitted with her planning application for a replacement dwelling under reference 19/00256/FUL did not show the middle piece of land within the red line outline. This was not intended to suggest that the land was not part of the residential curtilage, and simply reflected the fact that she did not own the land at that time.
- m. How an applicant chooses to draw a site location plan does not change the established facts on the ground; in this case that the land has been used as part of the garden of the house for decades.
- n. The applicant notes that the previous applications at this site have described the land as part of the applicant's garden. Application 18/00289/FUL, for example, was withdrawn but the planning statement described the site as a complete entity, and included photographs showing a single curtilage, such as the one in the screenshot in figure 7, below.



North elevation of existing dwelling viewed from the road

Figure 7: Excerpt from the planning statement for 18/00289/FUL.

2. Conclusions

- a. When the applicant bought 23 Rhodes Green, there was an area of land in the middle of the site, right next to the flank wall of the house itself, that was in separate ownership.
- b. The land was nevertheless a fully established part of the garden of the house, used and maintained by the residents. It is therefore part of the curtilage of the dwelling.
- c. That it was in separate legal ownership is not a planning consideration – the only thing that is relevant from a planning point of view is how it was used.
- d. That the planning application to rebuild the house (19/00256/FUL) omitted this piece of land from the red line outline does not change how the land has been used over the past several decades.
- e. The previous owners of the site have written to confirm that they used the land as part of their garden for more than 40 years. A neighbour has confirmed that the land was tended and cared for by the occupiers of number 23 since around 1975. Google Streetview images dating back to 2008 clearly show that the land was part of the garden.
- f. For these reasons, the applicant respectfully requests that a certificate of lawfulness be issued.



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