DEVELOPMENT
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SUPPORTING PLANNING STATEMENT

TOWN AND COUNTRY PLANNING ACT 1990

S.191 APPLICATION FOR CERTIFICATE OF LAWFULNESS OF EXISTING USE OR DEVELOPMENT – LAND TO THE REAR OF THE ORCHARD, MAIN STREET, BOTCHESTON, LEICESTER, LE9 9FF

1. Introduction

1.1 This Planning Statement is submitted in support of a planning application for a Certificate of Lawfulness of existing use or development in respect of land to the rear of The Orchard, Main Street, Botcheston.

2. The Application Site and its Planning History

2.1 The application site comprises an area of land extending to some 0.188 hectares. The application site comprises an area of land forming part of the residential curtilage of the property known as "The Orchard" located on the south side of Main Street, Botcheston.

2.2 The application site, together with land to the north on which the building known as "The Orchard" is sited, was purchased by Mr D W Beaumont, the applicant, in 1976 together with further land lying immediately to the south.

2.3 At the time the application site together with the adjacent land was purchased by Mr D W Beaumont in 1976, the land comprised three separate components as shown on plan 001:

i) Plot A: the residential property and its immediate garden known as "The Orchard";

ii) Plot B: – the current application site - a small area of paddock, located to the south of Plot A, which was fenced off from Plot A and Plot C and on which stood an outbuilding; and

iii) Plot C: an area of agricultural land lying to the south of Plot B.

2.4 Following his purchase of the land comprising Plots A, B and C, Mr D W Beaumont sought planning permission to use the outbuilding located on Plot B as a storage building to accommodate milk, refrigeration plant and a milk van allied to his milk round business. Planning permission for the use of the outbuilding for this purpose was granted on 23rd November 1976 (permission reference no: 76/1505/4)

on a temporary basis, expiring on 25th December 1978.

2.5 The temporary planning permission for the use of the outbuilding allied to the milk distribution business was periodically renewed on a personal basis for the applicant, with the last planning permission for this use being granted on 8th January 1996 (application reference no: 95/00901/CAU).

2.6 From 1976 onwards the outbuilding located on the application site (Plot B on Plan 001) was used by Mr D W Beaumont in association with his milk distribution business. Access to the milk storage unit was taken from the driveway access to "The Orchard" from Main Street along a metalled driveway leading from Main Street along the boundary of "The Orchard" to the application site.

2.7 Throughout the period since 1976 while the storage building has been used in association with Mr D W Beaumont's milk distribution business, the land on which it was located – Plot B, the current application site – has been used as part of the garden of "The Orchard" and has formed part of the residential curtilage of that property.

3. Use of the Application Site as a Garden as Part of the Residential Curtilage of "The Orchard"

3.1 At Appendix 1 a number of historic photographs of the application site are reproduced, together with a plan showing the position from where the photographs have been taken.

3.2 Photograph 1 shows a view of the application site from towards its western boundary. It shows the milk storage unit in the background with a view across the application site in the foreground, including a goalpost in front of the milk storage shed used by Mr D W Beaumont's children allied to their use of the area as garden play space.

3.3 In 1980 a significant volume of material was imported from the CAT development site at Desford to "level off" the application site to make it more suitable as a garden. Photographs 2 and 3 show this material

deposited on the application site in 1980.

3.4 An aerial photograph (Photograph 7) - which can be dated to circa 1994 as it shows the development of land at the rear of numbers 8 – 10 Main Street permitted in June 1993 (permission ref: 93/003/03/4) - shows the application site in use as a garden, including the goalposts present 14 years previously on Photograph 1 (albeit the goalposts themselves have been either repainted or replaced in the intervening period).

3.5 Photographs 4, 5, and 6 show the application site in use as a garden area for the purposes of a family wedding in 2003.

3.6 Photographs 4 and 5 clearly show the perimeter fencing enclosing the southern side of the application site, whilst Photograph 6 shows the milk storage shed together with the chimney of number 67 Main Street and existing trees on the rear boundary of number 67 Main Street.

3.7 At Appendix 2 four letters are reproduced which confirm the use of the application site as an area of garden.

(i) Letter from Mr and Mrs J Follows

3.8 The letter from Mr and Mrs Follows confirms that they have known Mr and Mrs D W Beaumont for 45 years and have personal knowledge of the application site since 1976. The letter confirms that their children spent many weekends and holidays playing with the applicant's children at "The Orchard": the applicants children are now adults and no longer live at "The Orchard", this reference to childhood years therefore dates from some 20 – 25 years ago.

3.9 The letter confirms that the application site has changed over the years from an area of unkempt ground to a vegetable plot to a football pitch and garden space, as specific use of the garden area has changed over time .

3.10 The letter confirms that "since approximately 1991" a new timber

fence – to replace the former fence - has enclosed the land to the south (Plot C), which has been used for a variety of agricultural purposes, including use as arable land, pasture land and for the growing of Christmas trees.

Letter from J B Smith

3.11 The letter from Mr Smith confirms that between 1975 and 1979 he was the owner of the adjoining former garage, now 67-69 Main Street, the property adjoining the "The Orchard". He confirms the history of the use of the application site following the acquisition of the property by Mr D W Beaumont in 1976.

3.12 He confirms that the application site was initially cleared of dilapidated sheds, which occupied land on the western side of the site which was then used as a vegetable plot.

3.13 He then goes on to confirm the importation of material to the site from Desford as part of the CAT development, resulting in this part of the garden being put down to grass and used for the playing of football and associated games by the family's children with the vegetable plot being moved to the eastern side of the site. The letter confirms that the use of this part of the land as a vegetable plot ceased in 1990 and the land was returned to grass.

3.14 The letter confirms that since 1976 the application site has always been used as a garden.

(ii) Letter from Neil Cooper

3.15 The letter from Mr Cooper confirms that he can attest that the application site has been used as a garden for the last 23 years, ie the period of time which he has known the Beaumont family.

3.16 He confirms that the application site has not been used for agricultural purposes, as is the case with Plot C, but has been in residential garden

use throughout the period he has had knowledge of the site.

(iii) Letter from Michael Allen

3.17 Mr Allen writes as a resident of Botcheston and in his capacity as a retired police officer and confirms his knowledge of the application site as part of the garden of "The Orchard" during the period of time from 2002 until 2006 when he lived directly opposite "The Orchard" and in the period since July 2006 when he moved to another property in Botcheston.

3.18 Mr Allen confirms that throughout the period when he had personal knowledge of the site, since April 2002, the application site has been in garden use.

4. Conclusions

4.1 The photographic and documentary evidence produced as part of this application clearly demonstrates that the application site has been in garden uses, as part of the residential cartilage of "The Orchard" since 1976.

4.2 The photographs show the application site in garden use throughout the period.

4.3 The supporting letters from reputable, independent persons corroborate the photographic record and the site's planning history. The letter from Mr. and Mrs Follows confirms that the site has been part of "The Orchards" garden since 1976; it documents a replacement of the boundary fence in 1991 and notes that this fence separated the residential garden from the adjacent agricultural land letter.

4.4 The letter from from Mr. Smith, a immediate neighbour, confirms the use of the application site as a garden since 1976 and its continued use thereafter.

4.5 More recently, the letter from Mr. Cooper confirms the use of the land

as a garden "for the last 23 years" i.e. since 1986, while the letter from Mr. Allen, confirms personal use of the garden at parties and other functions, as a guest of the applicant, since 2001 ("approximately eight years").

4.6 In the light of the above it is considered that the evidence unequivocally demonstrates that the application site has been in use as a garden forming part of the residential curtilage of "The Orchard" since 1976. This use of the site has therefore existed uninterrupted for in excess of 10 years and the application of the Certificate of Lawfulness of Existing Use should be granted.

Appendix 1



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1



2



3



(4)



(5)



(6)



Appendix 2

27 Hassop Road
Reddish
Stockport
Cheshire
SK5 6ST

10 August 2009

Tracey Darke
Development Control
Hinckley & Bosworth Borough Council
Council Offices
Argents Mead
Hinckley
Leicestershire
BE10 1BZ

Dear Ms Darke,

I am writing with regards to Mr Robert Beaumont's planning application for Main Street, Botcheston, Leciester.

I can confirm that I have known the Beaumont family for the past 23 years and lived in Desford for 11 years.
In that time I have know the section of land at the bottom of the driveway (outlined in red) to be garden. We have used it over the last 23 years for football, camping, various parties and more recently the wedding of Mr Robert Beaumont..

This land has always been seen as Garden and not Agricultural land as the field beyond the fence would be classed.

Should you need any more information please do not hesitate to contact me at the address above.

Yours Sincerely,

N Cooper

Neil Cooper



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Mr. M. Allen
1 Forest View
Botcleston
Leicester
LE9-9QH

13th August 2009

Dear Mrs Darke

Re :- The Orchard Main Street Botcleston

My name is Michael Allen and I live at the above address with my partner Cynthia May Jones.
We are both retired Police Officers having completed some thirty years of service with the Leicestershire Constabulary.
In April 2002 we purchased Sunnybank House Main Street Botcleston which is opposite the Orchard on Main Street and lived there until July 2006 before moving to the above address.
We have been good friends of Mr & Mrs David Beaumont for approximately eight years, enjoying countless social events at their property including Robert and Kates Beaumonts wedding

christines 50th birthday party and many other memorable events.
All these parties and events took place in their garden as marked in red on the attached plan.

During the time we have been friends with the Beamont family we have always recognised that the area marked in red to be an integral part of the garden of The Orchard.

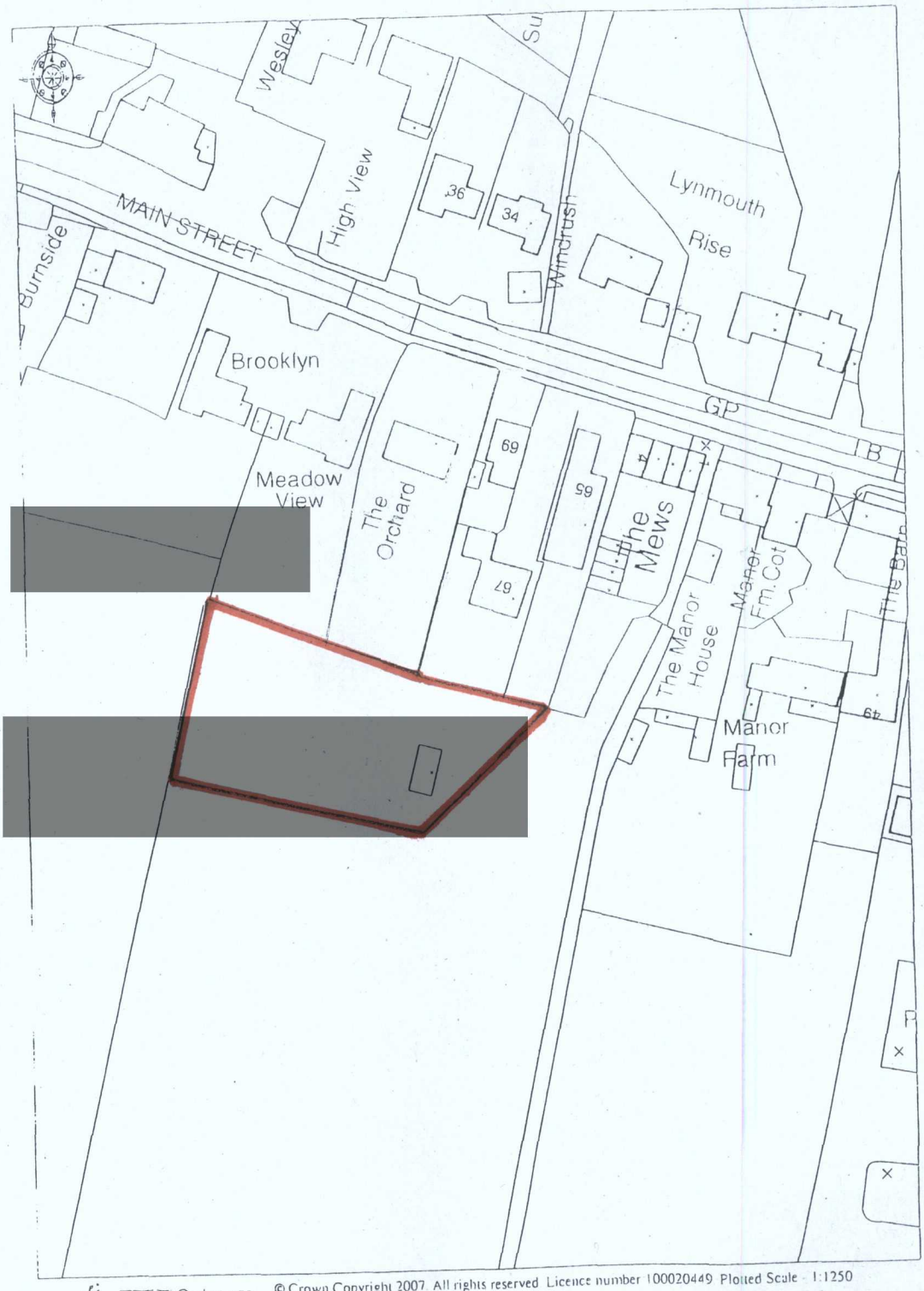
Yours sincerely

M. Allen

MICHAEL ALLEN

Cynthia Jones.

CYNTHIA JONES.



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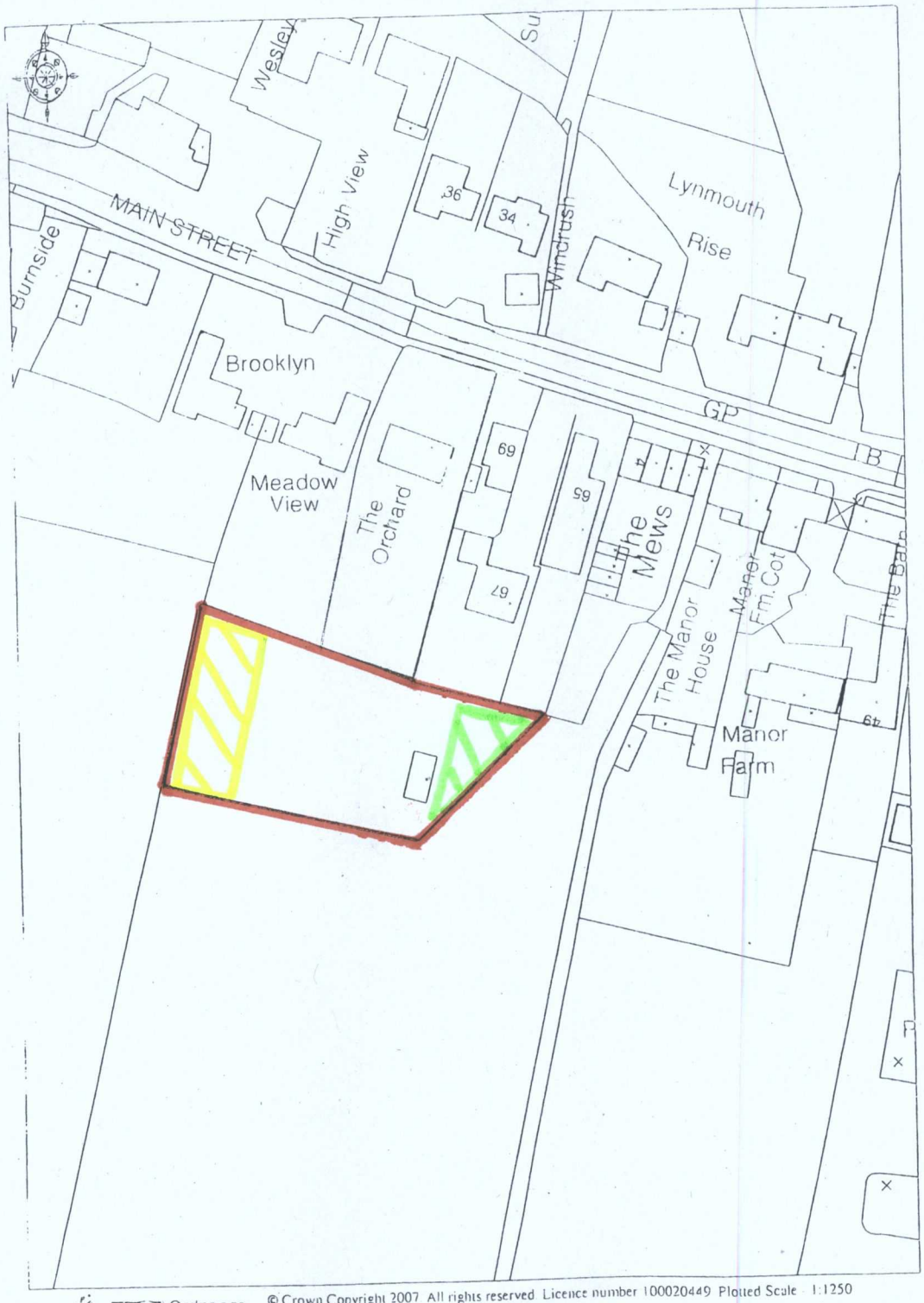
Mrs. T. Darke
Head of Development
Hinckley & Bosworth Borough Council
Argents Mead
Hinckley
Leicester
LE10 1BZ

Mr. J.B. Smith
1 Oak Road.
Desford.
Leicester
LE9 9GU
12/08/09

Dear Mrs. Darke,

Reference The Orchard, Main Street, Botcheston LE9 9FF
I write to confirm that the land outlined in red on the attached plan has been used as garden since 1976. Between 1975 and 1979 I owned the then ajoining Garage trading as Botcheston Service Station (now 67 & 69 main St. Botcheston). David & Christine Beaumont purchased The Orchard in 1976 and removed the delapadated sheds, area shown in Yellow on the attached map, and immediately prepared the ground and used it as a vegetable plot. This area was then turned to grass during the early '80's following soil being imported from Desford, during the 'Cat' development a football goal erected for David and Christines Children to play. During weekends and school holidays friends of the Beaumont Children would play football and other games in the garden area, outlined in red. The vegetable plot was moved from the area marked in yellow to the area marked in green until 1990 when the area was returned to grass garden.
I can therefore swear that since David & Christine Beaumont moved into the property in 1976 the area outlined in red has always been used as garden.

Yours Sincerely.
J B Smith.



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[redacted]

Mrs T Darke
Head of Development Control
Hinckley & Bosworth Borough Council
Argents Mead
Hinckley
Leics.
LE10 1BZ.

Mr/Mrs J Follows
7 Copedale Close
Barlestone
Nr. Nuneaton
W.Mids
CV13 0HF
01455 292558
10 August 2009.

Dear Mrs Darke.

THE ORCHARD. MAIN ST. BOTCHESTON. LEICESTER LE9 9FF.

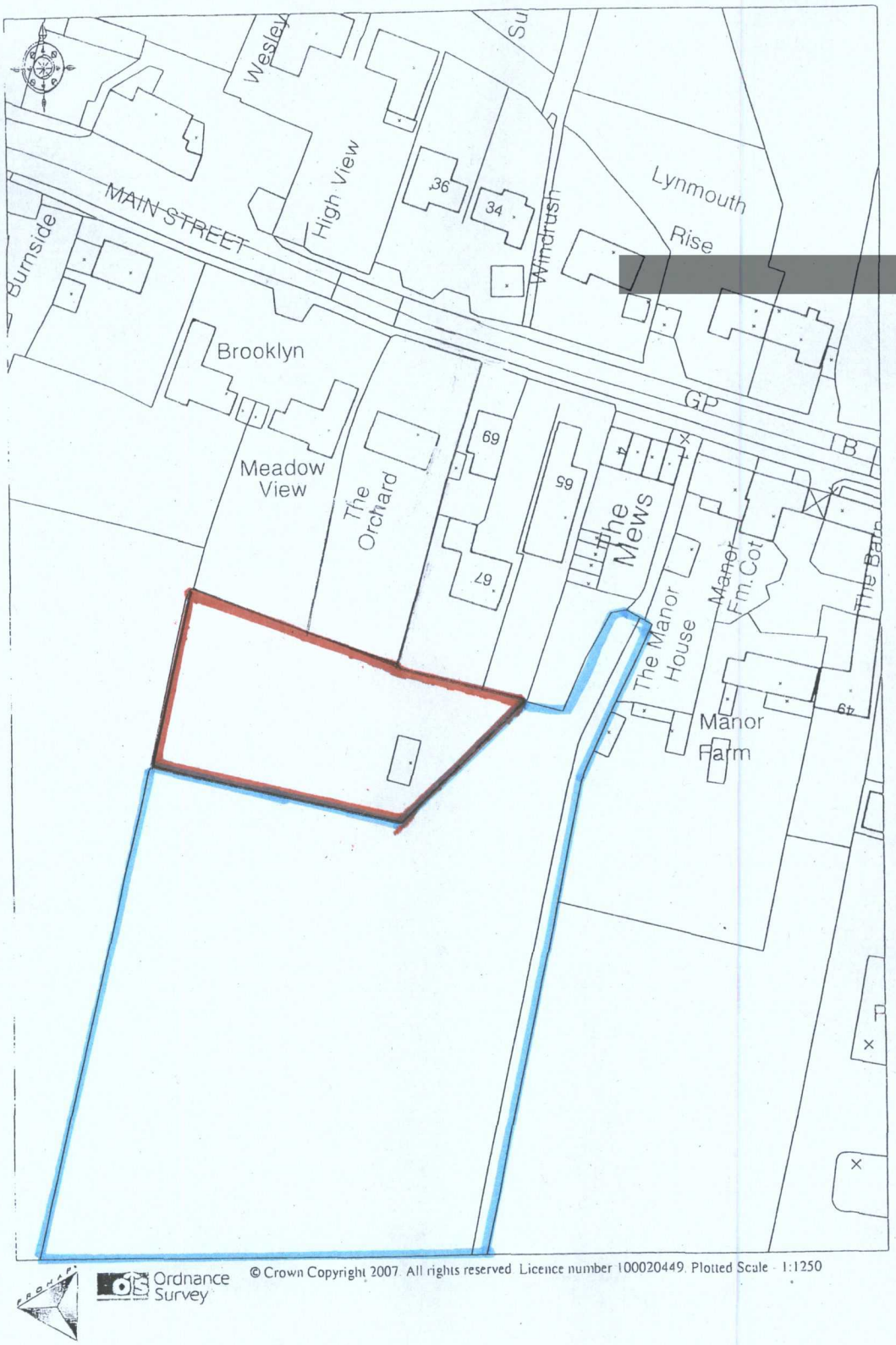
We have known Mr. Mrs Beaumont for 45 years. For which they have lived at the above address since 1976.

Our children have grown up toyther and spent many weekends and school holidays playing at the Orchard.

Since the time we have known Mr Mrs Beaumont, the area outlined in red has changed over the years from mounds of mud, to vegetable plots to football pitch and garden space.

Since approximately 1991 a new timber fence has been erected to replace the existing posts and wire fencing where Mr Mrs Beaumont have harvested, kept sheep to graze the paddock and grow christmas trees (area outlined in blue).

Yours Sincerely
Mr Mrs J Follows



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