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Planning Statement

Application for a Certificate of Existing Lawful Development for the laying of a private access track

Mannings Heath Estate, Hammerpond Road, Mannings Heath, RH13 6PG

DECEMBER 2024

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1 INTRODUCTION

1.1 This Planning Statement accompanies an application for a Certificate of Existing Lawful Development for the laying of a private access track for agricultural purposes on land that forms part of the Mannings Heath Golf & Wine Estate, Hammerpond Road, RH13 6PG.

1.2 This statement will set out the site and surroundings, outline the planning history of the site, outline the legal position and set out the evidence to demonstrate that the works were undertaken and completed over 4 years ago, and prior to the 25th April 2024.

1.3 It is concluded, on the balance of probabilities, that the access track was constructed and completed over 4 years ago, and prior to the 25th April 2024 and thus benefits from the transitional arrangements outlined within The Planning Act 2008 (Commencement No.8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024, such that a Certificate of Lawful Development (Existing), to regularise the works, should be issued by Horsham District Council. This will, in turn, demonstrate that the works are immune from enforcement action.

2 SITE AND SURROUNDINGS

2.1 Mannings Heath Golf Club and Wine Estate, relates to a golfing facility and vineyard, located to the north of the settlement of Mannings Heath. The Estate covers approximately 500 acres and is situated within the High Weald National Landscape (formerly Area of Outstanding Natural Beauty).

2.2 The application site relates to a private track, located within a parcel of land located on the northern side of Hammerpond Road, which forms part of the Golf Club and Wine Estate within the open countryside. The development is outlined in red on the accompanying Location Plan.

2.3 The site is located adjacent to the Millfield Copse Ancient Woodland, which is sited to the west of the track, and to the east are the vineyards associated with the Estate. The track finishes at a barn (referred to as the vineyard barn) with associated hardstanding on the northern edge of the site.

2.4 There is an area of hardstanding adjacent to the track approximately 123m south-east of the vineyard barn which is used for storage purposes associated with viticultural activities on site.

2.5 The site is well enclosed by dense vegetation and woodland, with the main Estate buildings located on the opposite side of Hammerpond Road, approximately 400m to the south-west.

2.6 The site lies entirely within Flood Zone 1 and is not at risk of surface water flooding.

<u>Relevant Planning History</u>

- Application DC/18/0958 – Demolition of existing barn, erection of a replacement barn for ancillary storage use and laying of hardcore for access track – Approved 28/09/2018

- Application DC/19/2583 - Demolition of existing redundant buildings and the construction of winery and tasting venue with associated landscaping, access and parking provision – Awaiting decision

- Application DC/20/0756 – Retrospective application for the demolition of the existing barn, and erection of a replacement barn for agricultural storage use, and laying of hardcore for access track – Approved 13/08/2020

- Application DC/20/2531 - Retention of existing barn currently under construction, to provide a dual-purpose facility for vineyard staff welfare/vineyard storage, and vineyard tours. Associated hard and soft landscaping works – Withdrawn

- Application DC/21/0603 – Retention of barn currently under construction, to provide a dual-purpose facility for vineyard staff welfare/vineyard storage, and vineyard tours. Associated hard and soft landscaping works. Resubmission of planning application reference DC/20/2531 – Refused 04/06/2021. Appeal APP/Z3825/W/21/3277798 dismissed 17/05/2022

- Application DC/23/1791 - The proposed use of the building for viticulture, specifically the production and storage of wine constitutes an agricultural practice (Certificate of Lawful Development Proposed) – Approved 21/11/2023

- DC/22/1027 - Creation of an access track to provide access to vineyard (Retrospective) – Refused 16/01/2024.

- DC/24/1564 - Creation of an access track (Retrospective) – Refused 13/12/2024

3 DEVELOPMENT UNDERTAKEN

3.1 This application seeks to regularise the laying of a private access track, which provides access from the Vineyard Barn (relevant application references DC/20/0756 & DC/23/1791), which is used for associated storage and the production of wine, to vineyards to the south-east. The track runs south, adjacent to the vineyards to the east, and the Millfield Copse Ancient Woodland to the west. The accompanying Location Plan details the extent of the track.

3.2 The track measures approximately 3m in width and consists of 100mm depth of compacted hardcore and is predominantly utilised by agricultural vehicles for maintenance purposes, as well as seasonal workers during harvesting season.

3.3 There is also an area of hardstanding adjacent to the track approximately 123m south-east of the vineyard barn which is used for storage purposes associated with viticultural activities on site.

3.4 The works were undertaken and completed in 2019 and whilst specific dates for completion are not known, there is evidence to show the works were complete at the beginning of 2020.

3.5 The works comprise operational development through the laying of the access track. No change of use of the land has taken place, and it continues to be used for agricultural purposes, as demonstrated through the granting of Lawful Development Certificate reference DC/23/1791, which confirmed that viticulture is an agricultural practice.

4 LEGAL BACKGROUND

4.1 Changes to the planning enforcement legislation came into effect from 25th April 2024, which included the lengthening of time periods for when enforcement action can be taken for a breach of planning control.

4.2 The Town and Country Planning Act now states in paragraph 171B *"Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of:*

> *(a) In the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantially completed."*

4.3 Previously, the time limit for development comprising operational development (which includes building, engineering, mining or other operations in, on, over or under land' was a four-year period.

4.4 However, under the transitional arrangements set out in The Planning Act 2008 (Commencement No.8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024, "*The amendments made to the 1990 Act by Section 115 of the 2023 Act (time limits for enforcement) do not apply where –*

> (a) *In respect of a breach of planning control referred to in section 171B(1) of the 1990 Act (time limits), the operations were substantially completed ….*

Before the day on which that section comes into force."

4.5 Prior to the 25th April 2024, paragraph 171B (1) of The Town and Country Planning Act 1990 stated:

"Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed."

4.6 Therefore, the four-year enforcement period still applies where the operational development was substantially completed before 25 April 2024. Evidence set out within the following section of this report demonstrates this was the case.

4.7 At Paragraph 171B (4) it states that the preceding subsections do not prevent …

"(a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or

(b) taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach".

4.8 Paragraph 171A (2) sets out what constitutes taking enforcement action. This includes:

- The issuing of an enforcement warning notice in relation to land in England;
- The issue of an enforcement notice;
- The issue of an enforcement warning notice in relation to land in Wales; or
- The service of a breach of condition notice.

4.9 No enforcement action has been taken that constitutes any of the above, and as such, paragraph 171B (4) does not apply.

4.10 The PPG states that the applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land.

4.11 It goes onto state that the LPA is entitled to canvass evidence if it wishes before determination an application, but if the LPA do obtain evidence, this needs to be shared with the applicant, who then has the opportunity to comment on it and possibly produce counter evidence.

4.12 The PPG goes onto state that *"In the case of applications for existing use, if a local planning authority has no evidence itself, nor any 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, provided the*

applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability'.

4.13 It is established case law (F W Gabbitas v SSE and Newham LBC [1985] JPL 630) that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. This case also established the relevant test for Lawful use applications with this being the "balance of probabilities".

4.14 The Local Planning Authority must issue a certificate unless it has conflicting evidence which would on the balance of probability demonstrate that to the contrary of evidence provided the works were not substantially complete over four years prior to the date of submission of this application.

5 APPLICANT'S EVIDENCE

5.1 This Planning Statement is submitted alongside evidence demonstrating that the works were carried out in April 2019, and whilst specific dates for completion are not known, evidence shows the development to be substantially complete in early April 2020 at the very latest.

5.2 It is understood that it is the requirement of the applicant to demonstrate that the works were substantially completed over 4 years prior to the submission of this application.

5.3 Appendix 1 includes a number of dated aerial photographs, sourced from Google Earth Pro.

- Figure 1 is dated 26th September 2018 and clearly shows part of the existing track in place. At this time, the Vineyard Barn had not been constructed, and therefore this does not show access to this area.
- Figure 2 is dated 15th April 2020 and clearly shows the entirety of the track that is subject of this application, including access to the Vineyard Barn.
- Figure 3 is dated 9th June 2021, and clearly shows the entirety of the track and storage area.
- Figure 4 is dated 8th March 2022 and clearly shows the entirety of the track and storage area.
- Figure 5 is dated 16th March 2024 and clearly shows the entirety of the track and storage area.

5.4 Appendix 2 comprises two dated photographs:

- Figure 6 is dated 12th April 2019 and shows the track under construction, with the laying of services beneath the hardcore. This shows the vineyard to the east and Millfield Copse to the west.
- Figure 7 is dated 11th April 2019 and is a still from a video taken from a vehicle which is driving along the recently constructed track/track under construction, with the vineyard to the east, and Millfield Copse to the west.

5.5 This evidence provides clear and factual evidence to successfully demonstrate that the works subject of this application for a Lawful Development Certificate were undertaken in 2019 and

substantially complete in April 2020 at the **very latest.** This is 4 years and 8 months before the submission of this application.

6 CONCLUSION

6.1 Overall, on the balance of probabilities, it has been demonstrated that the operational development comprising the laying of an access track and creation of storage area for agricultural purposes, at land forming part of the Mannings Heath Golf & Wine Estate, Hammerpond Road, RH13 6PG, was undertaken and substantially completed prior to the 25th April 2020, and over 4 years prior to the submission of this application.

6.2 As such, it has been demonstrated that these works are now immune from enforcement action, and a Lawful Development Certificate for Existing Development should be granted.

APPENDIX 1 – AERIAL PHOTOGRAPHS



Figure 1 – Aerial photograph dated 26th September 2018 showing the main track in place and storage area. This was prior to the construction of the vineyard barn (Source: Google Earth Pro)

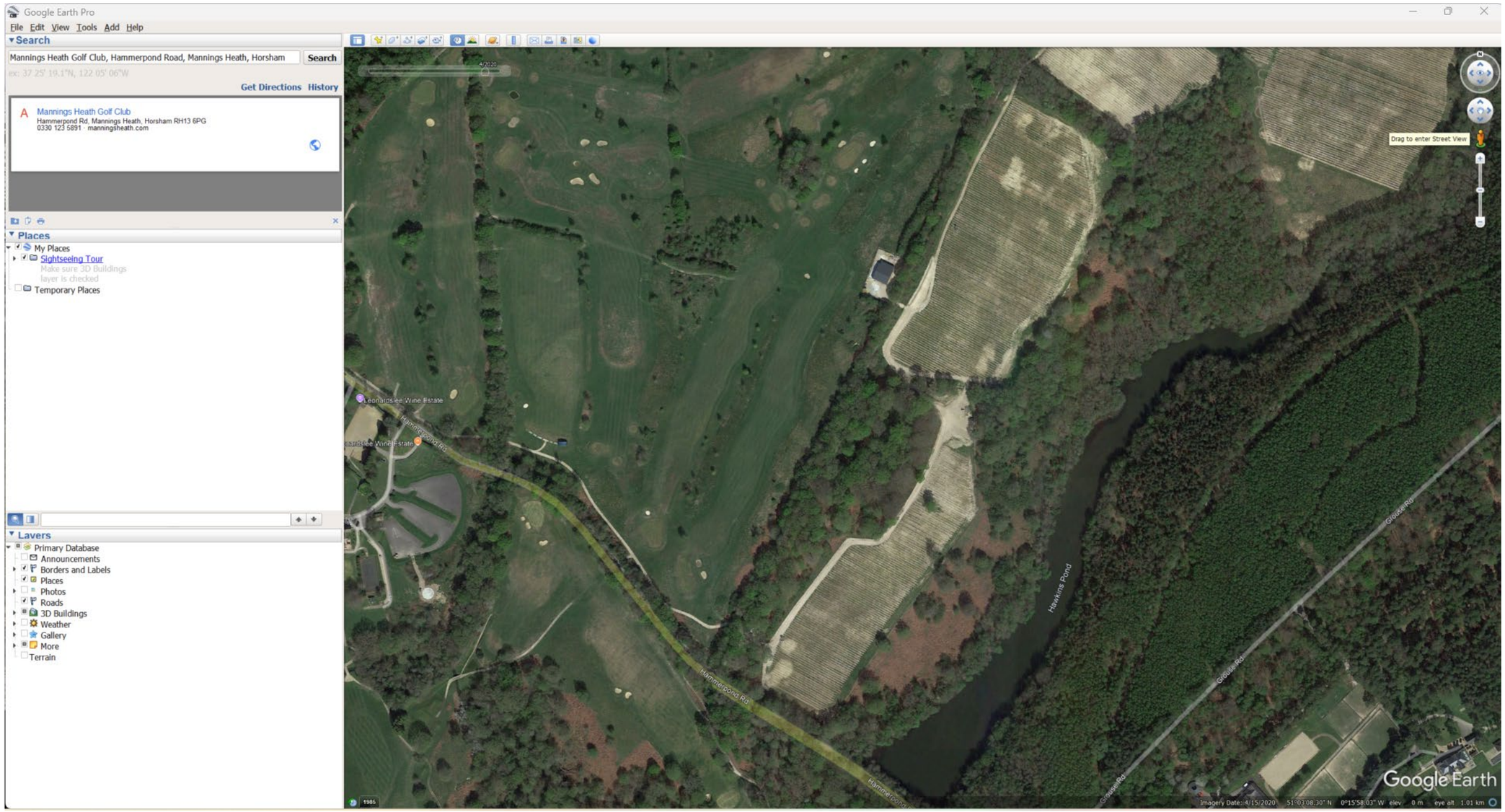


Figure 2 - Aerial photograph dated 15th April 2020 showing entirety of the access track and storage area. This includes access to the vineyard barn which is shown in this photograph (Source: Google Earth Pro)

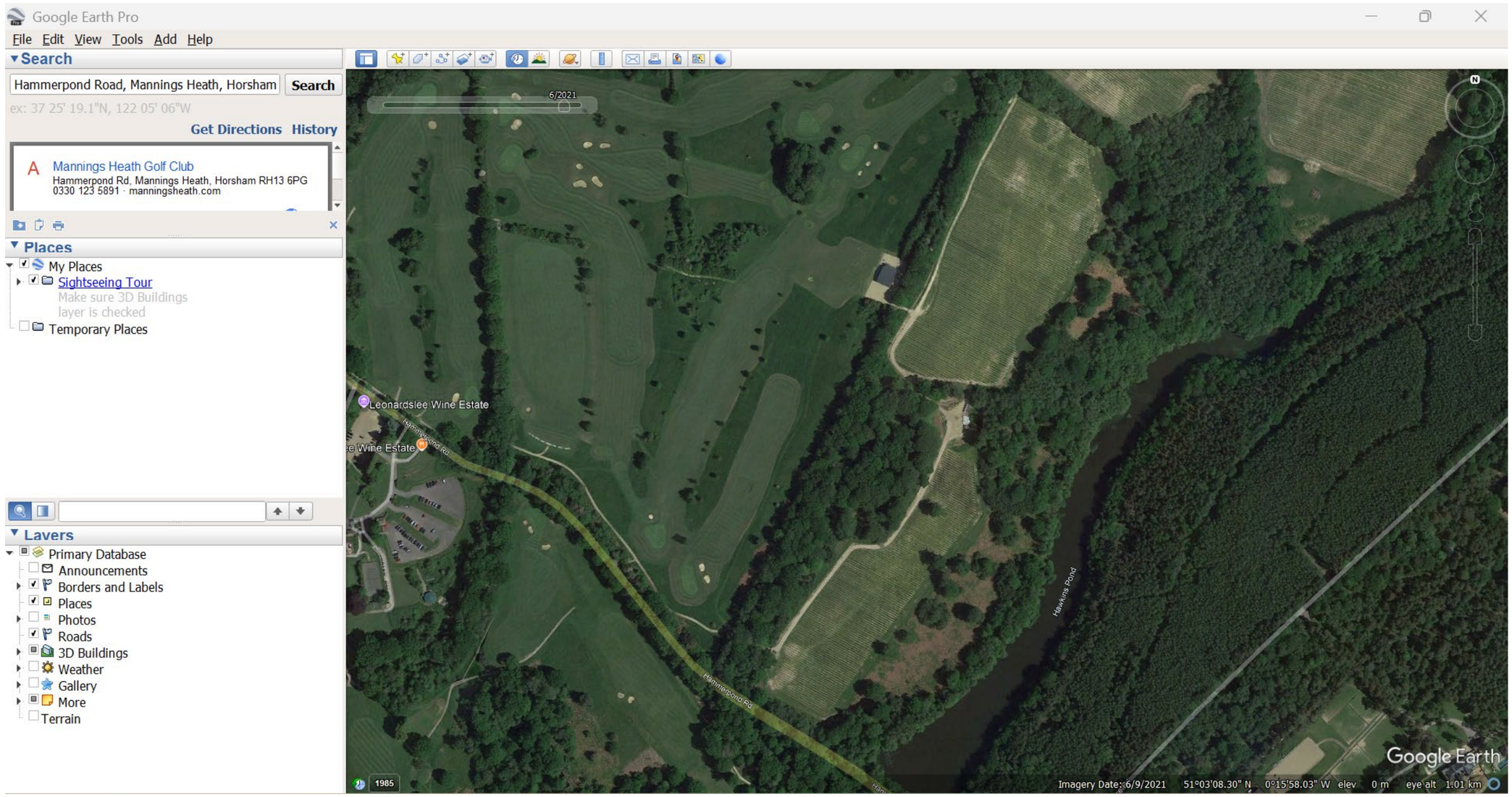


Figure 3 – Aerial photograph dated 6th September 2021 showing the entirety of the access track and storage area (Source: Google Earth Pro)

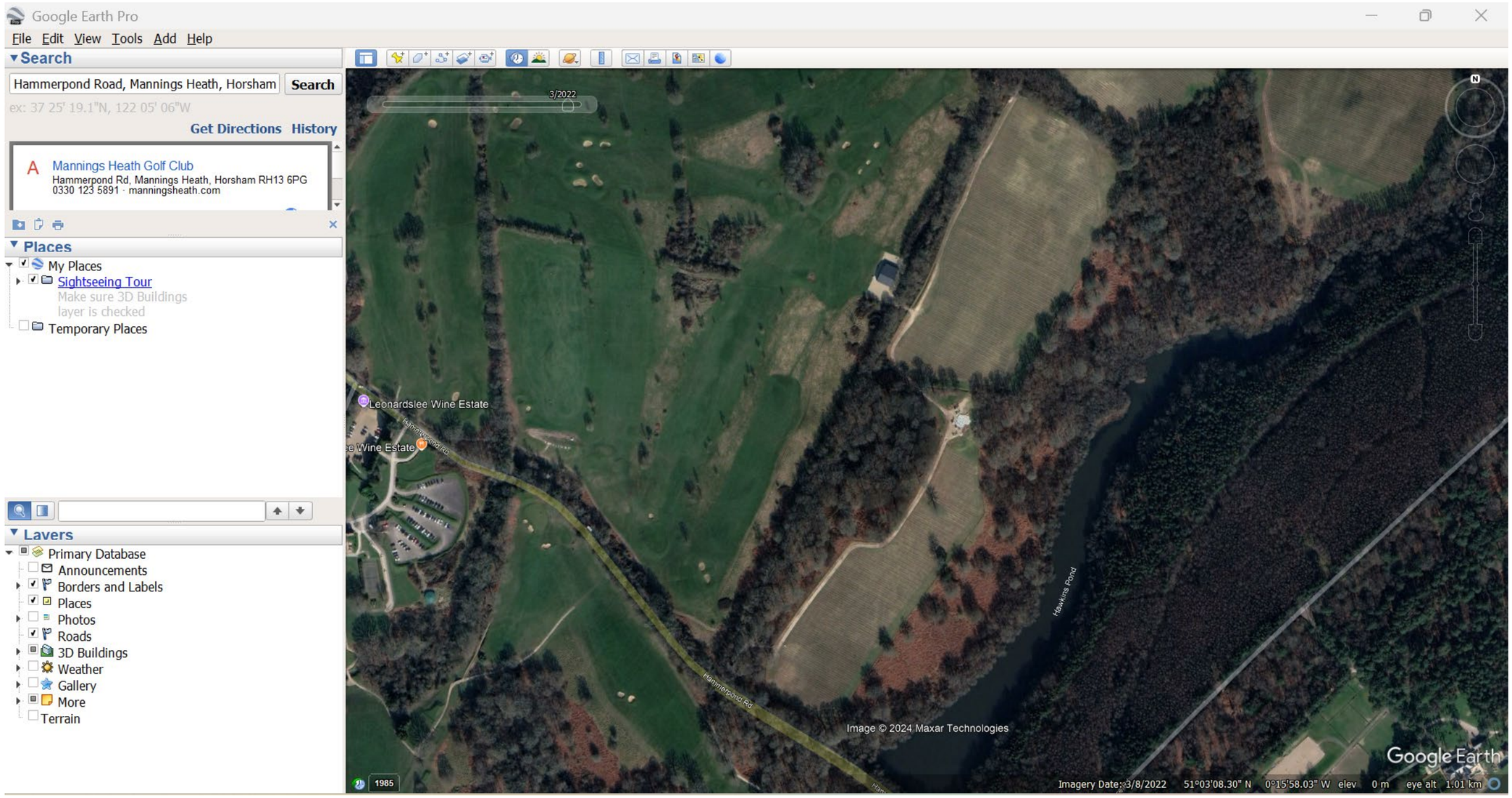


Figure 4 – Aerial photograph dated 8th March 2022 showing the entirety of the access track and storage area (Source: Google Earth Pro)

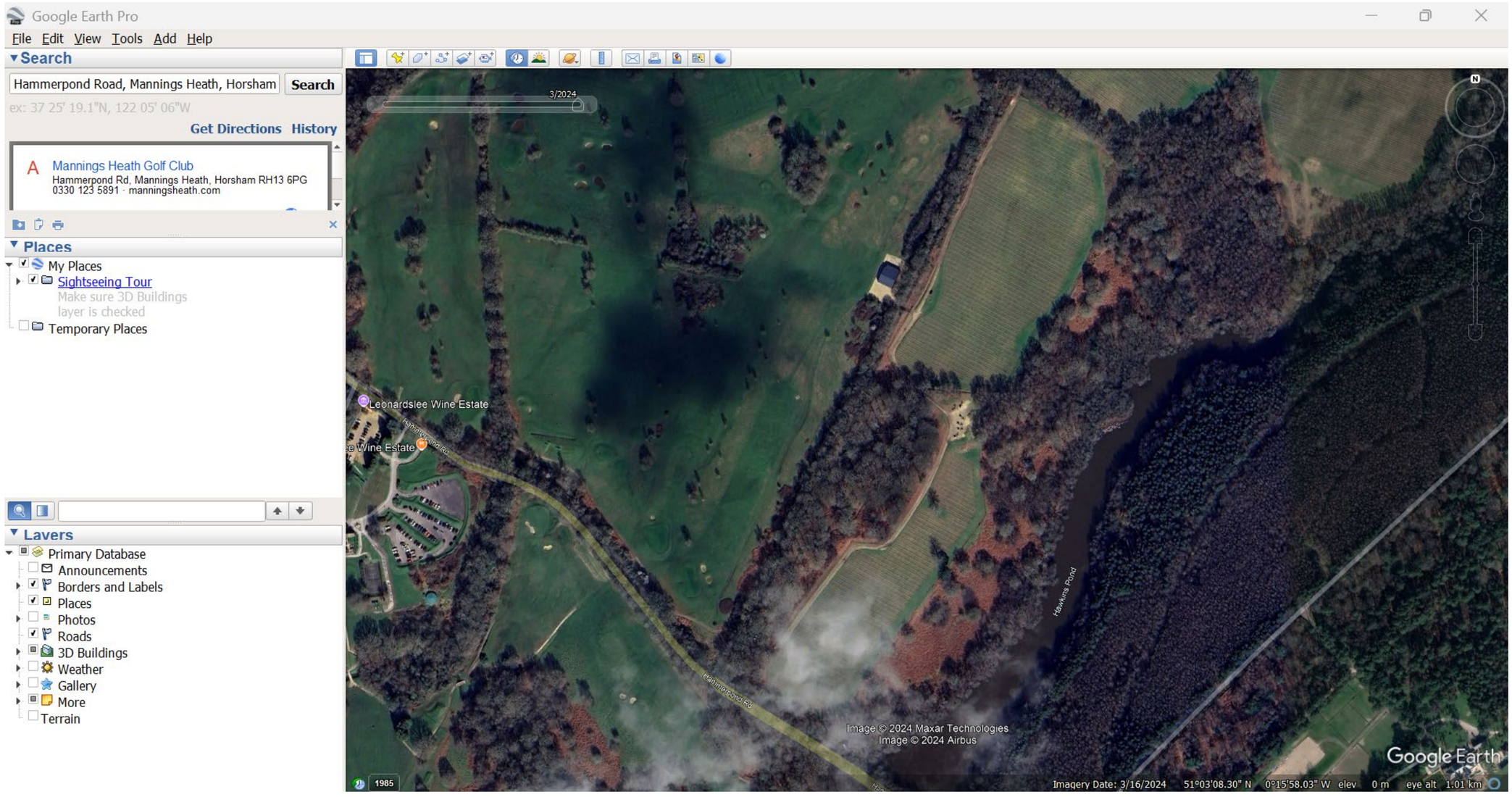


Figure 5 - Aerial photograph dated 16th March 2024 showing the entirety of the access track and storage area (Source: Google Earth Pro)

APPENDIX 2 – DATED PHOTOGRAPHS



Figure 6 – Photograph showing works being undertaken on 12th April 2019

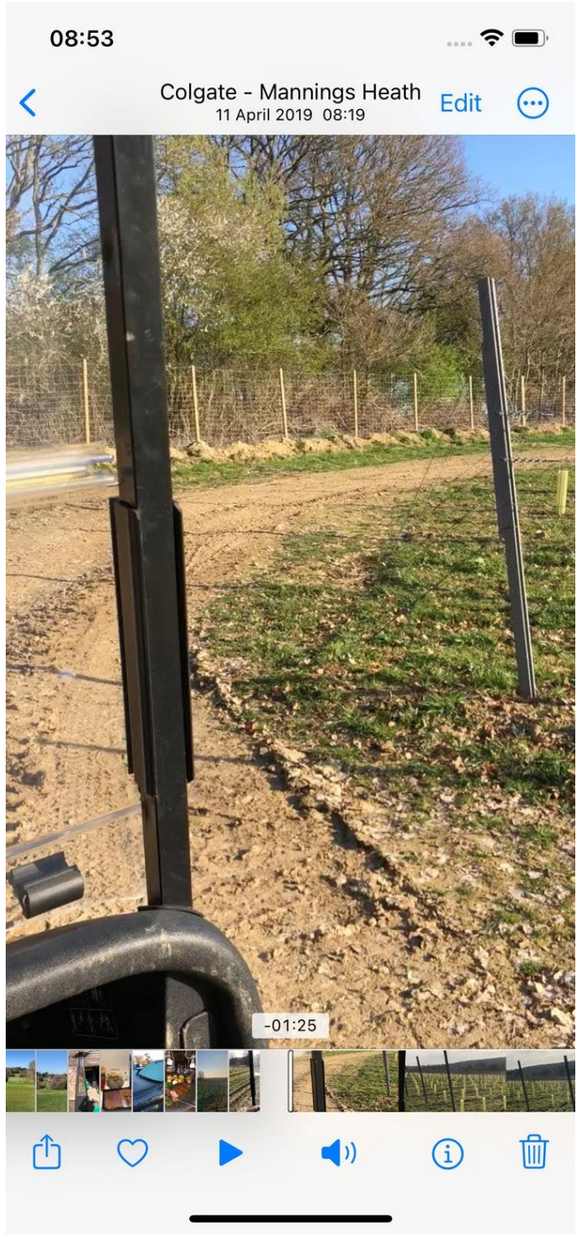


Figure 7 – Still from video showing vehicle using track on 11th April 2019