

**IN THE MATTER OF AN APPEAL UNDER SECTION 174 TOWN AND COUNTRY
PLANNING ACT**

APPEAL REF: APP/D1265/C/24/3351182 & APP/D1265/C/24/3351183
APP/D1265/C/24/3351184 & APP/D1265/C/24/3351185
APP/D1265/C/24/3351186 & APP/D1265/C/24/3351187

LOCAL PLANNING AUTHORITY REF: ENF/20/0313

LAND at Anchor Paddock, Batchelors Lane, Holtwood, Holt, Dorset, BH21 7DR

PROOF OF EVIDENCE OF Ellie Lee

CALLED ON BEHALF OF THE LOCAL PLANNING AUTHORITY

[14 January 2025]

CONTENTS

Proof of Evidence

<i>Section no.</i>	<i>Title</i>	<i>Page no.</i>
1	Introduction	3
2	Site Description	5
3	Relevant Planning History	6
4	Assessment of the Planning Units	8
5	Assessment Of Planning Unit 1 (Anchor Paddock Bungalow)	9
6	Assessment Of Planning Unit 2 (White Barn)	14
7	Assessment Of Planning Unit 3 (Tree House)	27
8	Very Special Circumstances - Assessment	31
9	Conclusion	37

Appendices

<i>Appendix no.</i>	<i>Description</i>
A	Strategic Green Belt Assessment (Stage 1 Study) December 2020
B	Appeal Decision APP/U1240/C/19/3222991 (6 Uppington Close, Hinton Martell)
C	Site Measurements from site visit 12/12/2024
D	Appropriate Curtilage, in the event that the Inspector grants permission for the residential use of White Barn
E	Legal Submissions

1. INTRODUCTION

1.1. I, Ellie Lee am a Planning Officer with Dorset Council covering the Eastern part of the Dorset area in the Development Management Team. I joined the Local Planning Authority in June 2018 when it was known as East Dorset District Council, then continued my role when Dorset Council was created in April 2019. Prior to my role in Development Management, I have worked as in architecture and urban design.

1.2. I hold a BA (Hons) degree in Architecture from the University of Kent (2010), an MArch in Architecture from the University of Portsmouth (2016), and an MSc in Spatial Planning (2020) from Oxford Brooks University. I have been a Licentiate member of the Royal Town Planning Institute since February 2021.

1.3. I have prepared this Proof of Evidence for the public inquiry which is to be held on the dates 4 February 2025 to 6 February 2025. My evidence addresses the Appellant's ground A appeals against three enforcement notices.

(a) Enforcement Notice 1 relates to –

- Without planning permission, the construction of single storey rear extension
- Without planning permission, the construction of a dormer extension

(b) Enforcement Notice 2 relates to –

- Without planning permission, the conversion of a barn/outbuilding to a habitable dwelling including operational development to extend the barn building;
- Without planning permission, the construction of a garage, outbuildings, green house, swimming pool, chicken coop and associated hardstanding

(c) Enforcement Notice 3 relates to –

- Without planning permission, the construction of a separate C3 dwellinghouse.

1.4. My evidence put forward is based on my own experience of the site, which I first became involved with on 12 January 2021 after the prior notification application ref: 3/20/2281/PNAGD was allocated to me as the Case Officer, and also from consulting the Council's planning and planning enforcement files, including the evidence provided to support the Appellant's application for prior approval to '*Convert machinery barn to residential dwelling*' (ref: 3/20/2281/PNAG), the Appellant's application to '*Convert machinery barn to*

residential dwelling' (ref: 3/21/1384/CLP), the Appellants application for a certificate of lawfulness of existing *'Use of treehouse as self-contained dwelling*' (ref: P/CLE/2024/01225), and the Appellant's planning application for the *'Retention of works to dwelling (see P/CLE/2024/01225) including removal/resizing of windows; replacement cladding; alter pitch of roof*' (ref: P/FUL/2024/04000).

- 1.5. As my first visit to the site was on 12/12/2024, prior to this date I have relied on sources of information other than my own personal experience, I state that source and where appropriate or necessary, provide a copy of that source in an Appendix to this Proof.
- 1.6. The evidence which I have prepared and provide for this Appeal in this Proof of Evidence is to the best of my knowledge and belief true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.
- 1.7. I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.
- 1.8. References to appendices in my proof relate back to those provided with the Council's Statement of Case with any new appendices following the same sequential naming convention.

2. SITE DESCRIPTION

- 2.1 The original property 'Anchor Paddock' has been subdivided to create three dwellings known as 'Anchor Paddock' (Enforcement Notice One), 'White Barn' (Enforcement Notice Two) and 'Tree House' (Enforcement Notice Three).
- 2.2 The site is accessed via Batchelors Lane, an unmade gravel track. The site lies in the hamlet of Holtwood, a settlement where development is not permitted under local policy KS2, as set out within the Statement of Common Ground.
- 2.3 The appeal site lies within the designated Green Belt where there is sporadic residential development. Ancient replanted woodland is located less than 200m to the east of the site, and there are fields beyond some of the adjacent site boundaries.
- 2.4 The site is screened on approach by front boundaries and vegetation of the neighbouring properties. Views of Horton Tower can be seen on the approach to the site from within Batchelors Lane.
- 2.5 The main front entrance to the overall site is bounded by metal gates, and from this you can see part of the Anchor Paddock bungalow beyond further gates and some outbuildings.
- 2.6 As you enter the property, the gravelled vehicular and pedestrian entrances are shared, and then the accesses split between the south of Tree House, the south of Anchor Paddock bungalow and the south-west of White Barn. Each property has generous gravelled space for parking vehicles.
- 2.7 The application site falls within the 5km Dorset Heathlands buffer which includes Holt and West Moors Heaths SSSI. These areas of lowland heath are protected by international designations; they form part of Dorset Heathlands Special Protection Area (SPA), Dorset Heaths Special Area of Conservation (SAC) and Dorset Heathlands RAMSAR.
- 2.8 The cumulative effect of a net increase of residential development up to 5km from protected heathland in Dorset would have a significant adverse effect on the integrity of protected heathland as a result of increased pressures arising from the new occupants of those developments. The Dorset Heathlands Planning Framework 2020 - 2025 was adopted by the Council as a Supplementary Planning Document (SPD) which sets out an approach for how harm to the heathland can be avoided. For minor development this is achieved via financial contributions towards Heathland Infrastructure Projects and Strategic Access, Maintenance and Management usually via the Community Infrastructure Framework so funds are secured prior to occupation. The framework has been in place since December 2006 but was amended in April 2020.
- 2.9 The access track serving the Anchor Paddock site is private and it is understood that the appellants have the right of access to use the track.

3. RELEVANT PLANNING HISTORY

- 3.1. **03/79/2625/HST** - Anchor Paddock, Batchelors Lane, Holt Wood, Holt – ‘*Erect addition to side of dwelling and make alterations*’ – Refused 18/01/1980.
- 3.2. **03/80/1027/HST** – ‘*Erect extension*’ – Refused 24/06/1980).
- 3.3. **03/80/1858/HST** – ‘*Erect extension*’ – Granted 19/09/1980. (CD2.006a – CD2.006d).
- 3.4. **3/16/1460/CLE** – ‘*Use of the land, including 9 self-contained brick and timber chalets, as bed and breakfast holiday accommodation*’ - Refused 10/10/2016 (CD1.011a - CD1.011b).
- 3.5. **3/17/2526/CLE** – ‘*C1 (Bed and Breakfast). Use of land, including 9no self-contained brick and timber chalets, as bed and breakfast holiday accommodation*’ – Lawful 02/11/2017. (Red line plan boundary does not include the whole of the Anchor Paddock site. The red line on the approved decision excludes the structures known as ‘White Barn,’ Treehouse’ and the majority of the main dwelling building. (CD2.010a and 010b).
- 3.6. **3/20/2281/PNAGD** – ‘*Convert Machinery Barn to residential dwelling*’ (**Planning Unit 2**) (CD1.024). This Class Q Conversion Prior Notification was not determined by the Council within the set Government timeframe. (CD2.013a – CD2.013p).
- 3.7. **3/21/1384/CLP** – ‘*Convert machinery barn to residential dwelling*’ – Withdrawn 06/04/2022 (**Planning Unit 2**) following an email from the Planning Officer (earlier that day) indicating to the Agent that the application would be refused by the Council based on the information submitted. (CD2.014a – CD2.013k).
- 3.8. **P/HOU/2022/02602** – ‘*Retain rear extension*’ (**Planning Unit 1**) – Invalid so closed on 01/07/2024.
- 3.9. **P/HOU/2022/04905** – ‘*Create habitable first floor accommodation with roof lights and dormer*’ – Application Invalid so closed on 30/08/2022. (**Planning Unit 1**).
- 3.10. **P/HOU/2022/06621** – ‘*First floor dormer extension; rear single storey extension (retrospective)*’ – Withdrawn 03/03/2023. (**Planning Unit 1**). (CD2.016a – 16e)
- 3.11. **P/HOU/2023/02656** – ‘*Retain first floor dormer extension*’ – Refused 15/09/2023 (CD2.017a – CD2.017g) (**Planning Unit 1**)
- 3.12. **P/CLE/2024/00737** – ‘*Retention of single storey rear extension*’ – Not Lawful 11/04/2024 (**Planning Unit 1**). (CD2.018a – CD2.018i).
- 3.13. **P/CLE/2024/01225** – ‘*Use of Treehouse as Self-Contained Dwelling*’ – Refused 27/09/2024. (**Planning Unit 3**). (CD2.021a – CD2.021f)

- 3.14. **P/CLE/2024/01226** – *‘Retention of Green House’* – Not Lawful 12/06/2024. (**Planning Unit 2**) (CD2.20a - CD2.20g).
- 3.15. **P/FUL/2024/04000** – *‘Retention of works to dwelling (see P/CLE/2024/01225) including removal/resizing of windows; replacement cladding; alter pitch of roof’* (CD1.033). (**Planning Unit 3**). Enforcement Notice ENF/20/0313 was issued on the building known as Treehouse on 24/07/2024 before application P/FUL/2024/04000 was received complete on 23/08/2024. As such, Dorset Council declined to determine the planning application on 04/10/2024 in accordance with the discretion provided by s70C of the 1990 Act. (CD2.22a – CD2.22h).

4. ASSESSMENT OF PLANNING UNITS

Planning Units 1, 2 and 3

4.1. The three Notices allege a material change of use. Accordingly, the first question is the identification of the planning units.

Enforcement Notice 1 (Anchor Paddock dwellinghouse) relates to –

- Without planning permission, the construction of single storey rear extension
- Without planning permission, the construction of a dormer extension

Enforcement Notice 2 (Barn conversion) relates to –

- Without planning permission, the conversion of a barn/outbuilding to a habitable dwelling including operational development to extend the barn building;
- Without planning permission, the construction of a garage, outbuildings, green house, swimming pool, chicken coup and associated hardstanding

Enforcement Notice 3 (structure known as Treehouse) relates to –

- Without planning permission, the construction of a separate C3 dwellinghouse.

4.2. The three Enforcement Notices allege a material change of use. Accordingly, the first question is the identification of the planning units.

4.3. Paragraphs 4.1 to 4.6 of the Statement of Common Ground includes the general matters that are agreed by both parties, and paragraphs 4.7 to 4.9 are the matters that are not agreed.

4.4. My professional opinion is that Covid is not a very special circumstance justifying the development in the Green Belt. Further elaboration of this point is set out below in relation to very special circumstances (VSCs).

4.5. The position on local policy KS2 is covered below within this Proof of Evidence.

5. ASSESSMENT OF PLANNING UNIT 1 (Anchor Paddock Bungalow)

Background and History

- 5.1. The original building known as Anchor Paddock was a small bungalow, with a modest single storey rear protection, as shown on the 1947 aerial photograph which provides a clearer photographic view of the site in 1947 than the photograph in Core Document ref: CD2.042.



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Figure 1 - Aerial Mapping - 1947 (above)

- 5.2. The volume of the 'original building' as per the National Planning Policy Framework (NPPF) definition is approximately 286m³ (also set out in the Officer Report for refused application P/HOU/2024/00739 ref: CD1.038e).
- 5.3. Over time, the building has evolved with substantial extensions to the east, including expansion of the roof, and also to the rear (north).
- 5.4. Extensions were allowed under planning permission ref: 03/80/1858 to the east of the building, including a large expansion of the roof, which created an overall volume of approximately 610m³, more than doubling the size of the dwelling. Given these additions to the 'original building,' very limited opportunities exist for further development under Permitted Development (PD) rights.
- 5.5. The development that is the subject of the Enforcement Notice comprises two single storey rear extensions and a rear dormer. The volume of the rear northern dormer at first floor level comprises of a further addition of approximately 40.4m³, so cannot benefit from PD rights.
- 5.6. The current volume of the bungalow at Anchor Paddock is understood to be approximately 700m³, which would mean that additions of approximately +414m³ have taken place to the volume of the 'original building' (+145% addition to the 'original building').
- 5.7. The Photographs available to the Council, including aerial photographs from Dorset Explorer, and photography from David Lloyd's site visit of 02.10.2017, demonstrate that prior to the erection of the eastern-most rear extension, there was a lean-to wooden extension to the property. This was assessed as part of the Certificate of Lawfulness application (for: '*C1 B&B use of land within 9no. self-contained brick and timber chalets*') ref: 3/17/2526 which was granted a Lawful Development Certificate for use of part of a site for C1 (bed and breakfast) use. The site area included the garden room extension, which was judged to benefit from the lawful C1 use.
- 5.8. Subsequently, the appellant demolished the lawful 'garden room' extension, and has since erected a larger replacement extension for residential C3 use. This replacement extension is referred to as the single storey east extension.
- 5.9. Applications were submitted to regularise the development in conjunction with the dormer addition to the bungalow roof, including planning applications P/HOU/2023/02656 (Retain first floor dormer extension) and P/HOU/2024/00739 (Retention of first floor dormer extension; demolition of existing outbuilding), which were both refused by the Council.
- 5.10. I viewed the extensions when I visited the appeal site on 12/12/2024 with my colleague Mark Hitchcott from the Council's Enforcement team, to measure the outbuildings associated with Anchor Paddock bungalow.

Inappropriate development within the Green Belt

Dormer:

- 5.11. In light of the above and evidence available, my professional opinion is that the extensions to the bungalow, in particular the dormer (in combination with other extensions and alterations to the original building) cannot benefit from any of the exceptions to development being appropriate within the Green Belt as set out within section 13 of the NPPF.
- 5.12. The dormer's impact upon the openness of the Green Belt is greater than if it were a ground floor extension, with the impact exacerbated by its elevated position above the ridge height of the dwellinghouse.
- 5.13. The scale of previous extensions to the dwelling (since the original building) means that no further expansion to the dwelling roof can be achieved under Part 1, Class B of Schedule 2 of the Order, so there is no fallback for the dormer extension and Class AA cannot be relied upon, due to the age of the dwelling.

Anchor Paddock East:

- 5.14. In light of the above and evidence available, my professional opinion is that the extensions to the bungalow, the eastern replacement extension (previously the garden room, in combination with other extensions and alterations to the original building), cannot benefit from any of the exceptions to development being inappropriate within the Green Belt as set out within section 13 of the NPPF.
- 5.15. Under NPPF paragraph 154 d), the replacement of a building is not inappropriate where it is in the same use and not materially larger than the one it replaces. The eastern-most single storey rear extension replaced a previous extension to the dwelling which was lawful by reason of time and the new structure, although larger (extending further west) is not materially larger. Nevertheless, the previous lawful extension had a lawful C1 use as identified by Lawful Development Certificate (ref: 3/17/2526/CLE) and the extension which is the subject of the enforcement notice is in C3 use, so exception 154 d) cannot be relied upon.
- 5.16. It is accepted that as an individual component, the single storey east extension is wider but is not materially larger than the garden room it replaced, so it could have been achieved under the NPPF exceptions to inappropriate development in the Green Belt if the appellant had sought a change of use prior to undertaking the operational development; I consider that the C3 use of the garden room as part of the dwelling known as Anchor Paddock would not have a greater impact on the Green Belt than the lawful C1 use, so it could have benefited from the exception at paragraph 154 h) iv.
- 5.17. I do not consider that the extensions to the dwelling (including the east extension) can benefit from the exception at paragraph 154 g) because that

relates to 'limited infilling', whereas these are extensions, expressly covered by 154 c).

- 5.18. The 'single storey east extension' cannot benefit from permitted development rights under Class A, Part 1 of Schedule 2 of the Order because, again, it is extending only off a previous extension which itself exceeds permitted development criteria. (The single storey east extension is not physically attached to the 'original building.')

Anchor Paddock West:

- 5.19. In light of the above and evidence available, my professional opinion is that the the rear single storey extension (not attached to the 'original building,' in combination with other extensions and alterations to the original building) cannot benefit from any of the exceptions to development being inappropriate within the Green Belt as set out within section 13 of the NPPF, including exception 154 g). This is because the Anchor Paddock West extension is expressly covered by NPPF paragraph 154 c).
- 5.20. When considering whether fall-back is available to the appellants, the Council's position is that the single storey west extension (also known as building 9) would not benefit from permitted development rights under Part 1, Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('The Order') as it exceeds 4m in depth and is not attached to the original building. Furthermore, the single storey west extension is attached to a subsequent extension to the original building which itself fails to accord with permitted development rights (so fails paragraph A.1(ja)).
- 5.21. I do not consider that the extensions to the dwelling (including the west extension) can benefit from the exception at NPPF paragraph 154 g) because that relates to 'limited infilling', whereas these are extensions, expressly covered by 154 c).

Dormer, Anchor Paddock East, and Anchor Paddock West:

- 5.22. The extensions carried out to date (including previous extensions) result in a total volume of 245% of the 'original building' volume.' These cumulative additions would clearly to be disproportionate additions over and above the size of the 'original building.' Therefore, the additions to the dwelling do not benefit from NPPF exceptions 154 c).
- 5.23. I do not consider that the extensions to the dwelling can benefit from the exception at NPPF paragraph 154 g) because that relates to 'limited infilling', whereas these are extensions, expressly covered by 154 c).
- 5.24. Whether there are any alternative 'very special circumstances' with regards to NPPF paragraph 153, is assessed later at the paragraphs within Section 8 (Very Special Circumstances – Assessment) of this Proof of Evidence.

Impact upon the Character of the Area

Anchor Paddock Dormer:

5.25. The Council has previously refused permission for the dormer extension on the basis that its bulk, height (rising above the dwelling ridge height) and visual appearance are contrary to design and landscape policies of the Local Plan. However, it is acknowledged that it is currently screened from outside of the property.

Anchor Paddock East:

5.26. As set out within paragraphs 6.6 in the Statement of Common Ground, the eastern (rear) extension is currently screened from outside of the property.

Anchor Paddock West:

5.27. As set out within paragraphs 6.3 in the Statement of Common Ground, the west (rear) extension is currently screened from outside of the property.

Dormer, Anchor Paddock East, and Anchor Paddock West:

5.28. It is my opinion that as the extensions to the dwellinghouse are well screened from Batchelors Lane by vegetation, they would not have any harmful impact upon the Woodlands Area of Great Landscape Value, and the degree of visual harm from the scheme would not be sufficient to refuse planning permission on this ground alone, in terms of local policies HE2 and HE3.

Legal Submissions

5.29. Notwithstanding the professional opinion I have provided for Enforcement Notice 1 (EN1) set out above, I am advised that the ability of the Appellant to appeal on ground (a) may be affected by the provisions of section 174(2A) TCPA 1990. As this is a matter of law, it is addressed in legal submissions appended to this proof of evidence at Appendix E.

Biodiversity

5.30. As set out within paragraphs 6.27 to 6.31 of the LPA's Appeal Statement, it has not been possible to conclude that the proposal was undertaken in accordance with Local Planning Policy ME1, NPPF paragraphs 192 b) and 193 a) and the Dorset Biodiversity Appraisal Protocol because there is no evidence that the dwelling was surveyed for bats prior to work being undertaken.

6. ASSESSMENT OF PLANNING UNIT 2 (White Barn)

Background and History

6.1. The original building on the land to the south-east of the Anchor Paddock bungalow comprised of a barn which had an approximate volume of 795m³ and a gross external area (GEA) of approximately 161m². Aerial photographs have not allowed me to establish whether the barn originally included the lower, eastern element, but without evidence to the contrary I have assumed that this was part of the original structure.

6.2. An application for prior approval (for the conversion of a machinery barn to a residential annexe) ref: 3/20/2281/PNAGD was received complete by the Council in December 2020. The submitted application form stated that the use of the site on 20 March 2013 (or the last use before that date) was solely for an agricultural use as part of an established agricultural unit. The accompanying supporting statement stated the following:

“The extant use of the land at Anchor Paddock that is outside of the red-line shown above can therefore only be agricultural as that was the last lawful use and this is proven by the smallholding registration.

There has been no intervening lawful use on the subject land upon which the barn sits other than agricultural.”

6.3. During the course of the application Holt Parish Council provided the following consultation response on 21/01/2021:

“It has been brought to members attention that this barn’s former use has not been for agricultural purposes.”

6.4. The Parish Council’s view was supported by similar comments from third parties regarding the use and other matters.

6.5. However, prior approval application 3/20/2281/PNAGD was not determined by the Council within the 56 days allowed by statute. This was confirmed in the Council’s letter of 05/03/2021.

6.6. Permitted development rights for changes of use under Part 3, Class Q of Schedule 2 of the Order permits the change of use of a building and any land within its curtilage from use as an agricultural building, to a use falling within class C3 (dwellinghouse), together with building operations that are reasonably necessary to convert the building as per the Schedule. Following their prior approval application, the appellant applied for a Lawful Development Certificate (LDC) for proposed barn to dwelling conversion (ref: 3/21/1384/CLP).

6.7. Holt Parish Council provided the following consultation response in relation to the LDC application on 16/08/2021:

“We note the above Certificate of Lawfulness Application for the above property and would like to reiterate our previous objection (as per

evidence below) as this barn's former use has not been for agricultural purposes and therefore does not make it eligible for development under Part Q."

- 6.8. In 2022, officers judged that the LDC proposals did not fall within the realms of works permitted under Class Q. I explained in an email to the Agent on 01/04/2022 that, as Case Officer, I was minded to recommend refusal of the application on the basis of the concerns raised by the Parish Council that the site at Anchor Paddock was used other than for agricultural purposes (I provided a related appeal decision to support my position that permitted development rights could not be relied upon). The Agent was provided with the opportunity to submit further information in support of the application but chose not to do so. The agent requested by email on 01/04/2022 that the application be withdrawn. A formal notification letter confirming that application 3/21/1384/CLP had been withdrawn was emailed to the Agent on 06/04/2024.
- 6.9. Notwithstanding the concerns that I expressed, the appellant submitted a unilateral undertaking in relation to a SAMM payment associated with the prior approval works in November 2023. They were advised by email on 23/11/2023 that a Conservation of Habitats and Species Regulations Appropriate Assessment application should be submitted prior to commencement. None was received.
- 6.10. The works to convert the barn to a residential dwellinghouse have taken place without permission, and substantial extensions have also been added to the rear of the building.
- 6.11. As set out within the Council's Expediency Report, the development at White Barn was not considered to be substantially complete when Jane Meadows undertook a site visit on 07/11/2023. As such, the conversion was not immune from enforcement action at the time that the Enforcement Notices were served.
- 6.12. I visited the appeal site on 12/12/2024 with my colleague Mark Hitchcott from the Council's Enforcement team to take measurements of White Barn, its extensions, and outbuildings. As previously warned by the appellant's agent by email, we were not granted permission by the appellant to go inside the White Barn, Teen Annexe or any of the outbuildings related to the White Barn on the day of the site visit.

Principle of Development – Location

- 6.13. The appeal site lies outside of the settlement boundary of Holt, so falls under the category of 'Hamlets' within local policy KS2 of the Christchurch & East Dorset Local Plan, Part 1 – Core Strategy 2014 (CS). Policy KS2 is covered within the Statement of Common Ground in section 3. Dorset Council can demonstrate a 5 year housing land supply in accordance with paragraph 233 of the National Planning Policy Framework so local planning policy KS2 can be given weight, however, policy KS2 is silent in relation to reuse of existing buildings so it is relevant to consider paragraph 84 of the National Planning

Policy Framework. Further details are provided within the Statement of Common Ground within section 3 in relation to NPPF paragraph 84.

- 6.14. Paragraph 84 advises that isolated dwellings within the countryside should be avoided unless one of the exceptions applies. I have considered whether the proposal would benefit from paragraph 84 c). The prior approval application suggested that the barn was not redundant since it was part of a smallholding and that the only use was agricultural (within the supporting statement by James Cain, dated December 2020).
- 6.15. The criteria within paragraph 84 of the NPPF also requires that the development should enhance its immediate setting. In this case, I consider that the replacement dwelling has an urban appearance which is out of character its rural setting and location, so would not enhance the immediate setting.

Inappropriate development within the Green Belt

White Barn and White Barn Single End (East of White Barn):

- 6.16. Notwithstanding permitted development rights, as set out within the Statement of Common Ground, I consider that the original barn was suitable for residential conversion.
- 6.17. The original barn as submitted with the 3/20/2281/PNAGD application had a gross internal area (GIA) of approximately 166m². However, the as-built dwelling known as White Barn includes a replacement east extension to the end of the barn, a single storey northern extension (which also extends to the rear of the replacement east extension), the glazed link and the Teen Annexe, which in combination represent disproportionate extensions to the original building so result in development that does not benefit from the NPPF exception to inappropriate development within the Green Belt at 154 c).
- 6.18. It is also considered that the land levels within the curtilage of White Barn have been altered to assist with development.
- 6.19. Although I do not consider that the curtilage of White Barn can fall into the category of previously developed land (PDL), the re-use and conversion of the original barn alone, preserves the openness of the Green Belt and does not conflict with the purposes of the Green Belt in accordance with NPPF paragraph 154 h) iv.
- 6.20. White Barn Single End (the single storey eastern end structure to White Barn) benefits from exception 154 d) and 154 h) v. to inappropriate development within the Green Belt.
- 6.21. Further to the above, if the Inspector is minded to grant permission, then it would be reasonable to impose conditions that remove permitted development rights for further extensions to White Barn to avoid future disproportionate additions to the size of the original building.

White Barn Side Extension (north extension):

- 6.22. The White Barn Side Extension (which is the northern extension to the north of the original barn and to the north of White Barn Single End), is considered to be a proportionate extension to the size of the original building, so benefits from NPPF exception 154 c) to inappropriate development within the Green Belt. However, to limit future extensions, it is considered that in the event that permission is granted that permitted development rights (that might allow any further extension) should be removed via condition.

Retaining Wall

- 6.23. It is accepted that the retaining wall to the north of White Barn (as identified with the blue line on the Enforcement Notice Plan) falls into the category of engineering operations which requires planning permission. It is also accepted that these engineering works are not visible from outside the property and do not have a material spatial impact on openness, which means that if considered alone they would benefit from NPPF exception 154 h) ii. to inappropriate development within the Green Belt.
- 6.24. However, given that the retaining wall works have been carried out in combination with the residential use at White Barn and other inappropriate development, the retaining wall in combination with the other works are considered to be inappropriate development within the Green Belt.

Foundations, Hardstanding and Utilities

- 6.25. In the event that the Inspector grants permission for the conversion of the barn to the residential use of White Barn, White Barn Single End (east end extension) and White Barn Side Extension (northern extension to north of barn and east extension), then the foundations, hardstanding and utilities would be acceptable in terms of Green Belt.
- 6.26. However, in the event that the Inspector does not grant permission for the conversion of the barn (to White Barn) and the associated works, then the foundations, hardstanding and utilities would be unacceptable works within the Green Belt.

Teen Annexe:

- 6.27. The appellants claim that the Teen Annexe building can benefit from NPPF exception 154 d) as it replaces a previous set of outbuildings to the north of the original barn. However, the Teen Annexe structure as built is materially larger than the previous buildings due to its height and the greater bulk of its flat roof form. It is also in a different use (residential rather than agricultural) so it would therefore not benefit from NPPF exception 154 d). As with the east rear extension at Anchor Paddock, if permission had been sought to convert the buildings to ancillary residential use prior to their replacement, then the issue of use may have been overcome, but the matter of the scale of the replacement would remain unresolved.

- 6.28. Within the Statement of Common Ground at paragraph 7.29, it has not been agreed *'Whether it can be replaced under 154(d) and extended under 154(c) at the same time.'* My professional opinion is that in order for the Teen Annexe to be considered under NPPF paragraph 154 d), the Teen Annexe would first need to have been replaced by a building that is not materially larger than the buildings it replaced, before it could subsequently be extended. As such, my view is that it could not benefit from both NPPF paragraphs 154 d) and 154 c) at the same time.
- 6.29. Furthermore, the Teen Annexe has been incorporated into the White Barn dwelling by its being physically attached to the glazed link, where the glazed link provides an internal usable space between White Barn and the Teen Annexe, so the nature of the development is now primarily as an extension to the dwelling.
- 6.30. As discussed above, the Teen Annexe structure as built is materially larger than the previous buildings and this is exacerbated by the change to land levels from the land levels prior to works being carried out. This is evidenced in the photograph comparison below:



Figure 2 - Photograph (submitted on 19/01/2021 to support application 3/20/2281/PNGAD) above left, and Photograph taken during officer site visit on 12/12/2024 (above right)

- 6.31. The photograph above on the left hand side of Figure 2 was provided by the agent (James Cain) for application 3/20/2281/PNAGD by email on 19/01/2021 (also found in Core Document CD1.024d). In the photograph of the left, the buildings standing where the Teen Annexe has been erected, was of a considerably smaller scale than the original barn building (now White Barn). In this photograph, the buildings that were replaced by the Teen Annexe building are also visibly smaller than the Teen Annexe.
- 6.32. There has been a lack of clear evidence provided by the appellant, that demonstrates the exact volumes of the original buildings that were replaced by the Teen Annexe building. Although we have been provided estimates of the original floorspace, we do not have clear evidence of the original ridge heights, eaves heights and hence the volumes of the original buildings.

Glazed Link:

- 6.33. The glazed link results in implications upon the Green Belt which are greater than just the physical volume of this element, as the glazed link closes the gap between and visually amalgamates two substantial structures (White Barn and the Teen Annexe). The joining of these two large structures via the glazed link intensifies the impact of the extensions on the openness of the Green Belt. As such, the glazed link would not be a proportionate extension to the residential use of White Barn, given the substantial works and extensions that have been carried out in connection with White Barn.
- 6.34. Therefore, the Glazed Link is inappropriate development within the Green Belt which would not benefit from any of the exceptions within section 13 of the NPPF including paragraph 154 c).
- 6.35. I do not consider that the Glazed Link extension can benefit from the exception at paragraph 154 g) because that relates to 'limited infilling', whereas this extension (along with the other extensions), are expressly covered by 154 c).

Residential Curtilage:

- 6.36. In the event the Inspector grants permission to the residential use of White Barn following the barn conversion, it is considered that the residential curtilage serving White Barn should be limited as indicated at Appendix D, and that a landscaping scheme should be secured via condition, along with conditions that restrict permitted development rights. In this scenario, it is considered that the residential curtilage should be limited, in order to restrict the extent of residential paraphernalia into the countryside and to ensure that the scope of future development is appropriate and proportionate to the footprint of the barn conversion, to safeguard the Green Belt from future encroachment into the countryside, in accordance with paragraph 143 of the NPPF.

Swimming Pool:

- 6.37. It is accepted that the swimming pool is currently mostly screened from outside the property.
- 6.38. The swimming pool, together with other residential paraphernalia including outside seating and tables, umbrella, a BBQ, children's play equipment, fencing around the swimming pool) and also vehicles on the appeal site, when considered cumulatively are inappropriate development within the Green Belt. The pool is an engineering operation and a material change in use of the land, and together with the related paraphernalia does not preserve openness, in particular its spatial aspect. It does not fall within any of the NPPF exceptions.
- 6.39. Therefore, the swimming pool when considered together with the other residential paraphernalia listed above, would be inappropriate development within the Green Belt by definition so would not benefit from any of the NPPF exceptions. As such, it would be harmful to the Green Belt. Further, for completeness, I do not consider the swimming pool to fall within the exception at NPPF paragraph 154 b) as an appropriate facility for outdoor sport or

recreation. My view is supported by the appeal decision ref.3222991 “Land adjacent to premises at 6 Uppington Close”, in particular paragraphs 57 to 62.

Chicken Coop

- 6.40. The chicken coop is of a domestic/residential scale (it is far too small to be agricultural), is clearly used in connection with the residential holding at White Barn, but is located outside the residential curtilage in connection with the residential use of White Barn.
- 6.41. As the chicken coop lies within land which has a lawful agricultural use and is in any event forward of the principal elevation of White Barn, it is considered to be inappropriate development within the Green Belt which does not benefit from any of the NPPF exceptions.
- 6.42. Furthermore, given the other operational development that has also taken place in association with the change of use of White Barn to a residential dwelling which has resulted in a loss of openness and encroachment into Green Belt, the Chicken Coop and other works cumulative are contrary to paragraph 154 h) of the NPPF, as it does not preserve openness.

Green House

- 6.43. The Green House has been built using materials including brick and glazing.
- 6.44. It is claimed by the appellant that the Green House was a replacement building for a previous structure. The Appellant has not provided clear evidence of the precise details of sizing, materiality and location of the previous structure. Photographs provided by the agent relating to application 3/20/2281/PNAGD showing the original building (prior to the erection of the Green House) can be found on pages 1, 3, 8 and 12 and 14 of Core Document CD1.024d.



Figure 3 – Photograph above left (submitted by agent on 19/01/2021 for application 3/20/2281/PNAGD above left, and the Photograph to the right taken during officer site visit on 12/12/2024 (above right)

- 6.45. The left hand photograph above (Figure 3) can also be found at page 8 of Core Document CD1.024d which shows the original structure (prior to the construction of the new Green House) as being much lower and on a lower ground level than the new building. The photograph to the right above was

taken on 12/12/2024 by myself during the site visit. These comparison photographs identify that the Green House building that has been built (photo on the right) is materially larger than the building it replaced and the Green House is in an elevated position when compared to the building it replaced.



Figure 4 - Enlarged photograph (dated 12/12/2024) showing Green House in relation to White Barn

- 6.46. Therefore, the Green House would not benefit from NPPF paragraph 154 d) to inappropriate development within the Green Belt.
- 6.47. As the Green House is not a lawful building and is a new building, it cannot be considered for demolition to be put forward for volumetric equalisation to justify other development on the site at White Barn.

White Barn Outbuilding

- 6.48. It is accepted that White Barn Outbuilding (to the west of the west elevation of White Barn) is currently mostly screened from outside the property.
- 6.49. When I visited the appeal site on 12/12/2024, I noticed that this single storey outbuilding had not been completed.
- 6.50. In the event the Inspector grants permission to the residential use of White Barn, then White Barn Outbuilding would fall under Class E, Part 1, Schedule 2 of the General Permitted Development Order (as amended) as the outbuilding is not forward of the principal elevation of White Barn and does not exceed a height of 2.5 metres, so in that case it would be acceptable development in the Green Belt.

White Barn Home Office

6.51. In is accepted that White Barn Home Office is currently mostly screened from outside the property and that it is subservient to White Barn.



Figure 5 - Aerial Map dated 01/06/2020 from Dorset Explorer (above)



Figure 6 – Aerial Photograph dated July 2020 from Google Earth Pro (above)

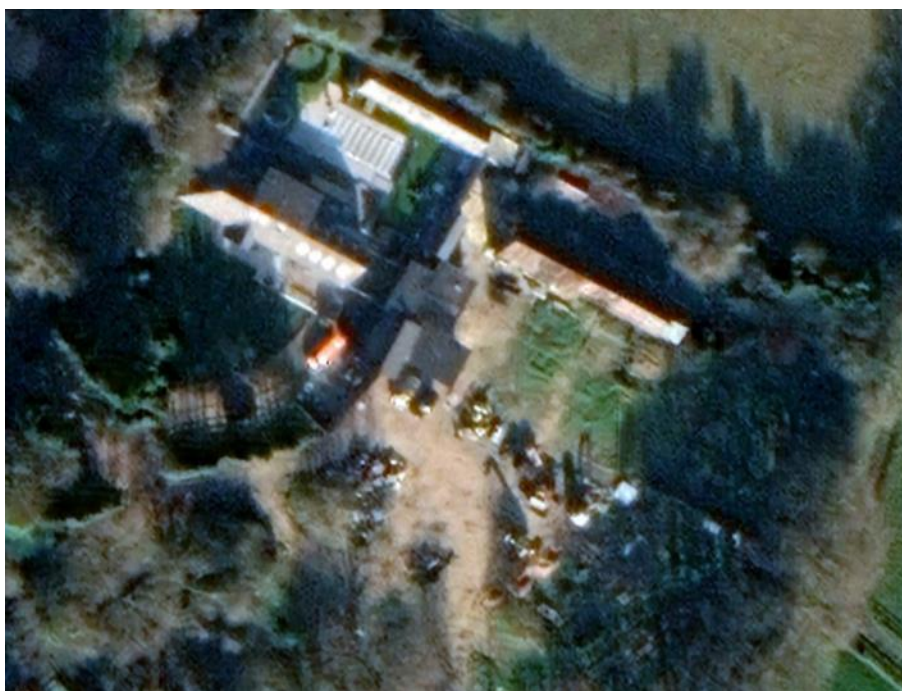


Figure 7 - Aerial Photograph dated January 2022 from Google Earth Pro (above)

- 6.52. The aerial photographs included above are dated 01/06/2020 (Dorset Explorer), July 2020 (Google Earth Pro) and January 2022 (Google Earth Pro). The aerial photograph of 01/06/2020 can also be found at Core Document ref: CD1.018 but has been included above and scaled to compare with relevant subsequent aerial photographs.
- 6.53. The aerial photographs above evidence that in July 2020, the previous building had been demolished, and a vehicle can be seen (Figure 6). The later photographs of January 2022 (Figure 7 above) and 27 May 2023 (Figure 8 below) show the White Barn Garage (and also White Home Office).
- 6.54. However, as the White Barn Home Office appears to be a new building and is attached to the White Barn Garage, it is materially larger than the previous building that stood in the position where the garage now stands (although the previous building was smaller than the current garage).
- 6.55. Therefore, the White Barn Home Office along with its attachment to White Barn Garage would not benefit from NPPF exception 154 d) to inappropriate development within the Green Belt.

White Barn Garage

- 6.56. It is accepted that White Barn Garage is currently mostly screened from outside the property and that it is subservient to White Barn.
- 6.57. However, as the White Barn Garage appears to be a new building and is attached to the White Barn Home Office (which is to the north of White Barn Garage), it is materially larger than the previous building. Therefore, the White Barn Garage along with its physical connection to White Barn Garage would not

benefit from NPPF exception 154 d) to inappropriate development within the Green Belt.

- 6.58. There is also the issue that there was a time lapse between when the previous building existing, when it was removed and then when the new White Barn Garage structure was built, which are evidenced at Figures 5 to 7 above. These aerial photographs above evidence that in July 2020, the previous building had been demolished, and a vehicle can be seen (Figure 6). The later photographs of January 2022 (Figure 7 above) and 27 May 2023 (Figure 8 below) show the White Barn Garage (and also White Home Office).



Figure 8 - Aerial Map dated 27/05/2023 from Dorset Explorer (above)

- 6.59. As such, there is doubt that White Barn Garage is a replacement building, due to the time between the demolition of the previous building and the construction of White Barn.
- 6.60. As the White Barn Home Office is a new building, it not considered to be a replacement building, and as it is materially larger than the building that was previously in this location, it cannot be considered for demolition to be put forward for volumetric equalisation to justify other development on the site at White Barn.

Summary - White Barn, White Barn Single End (East of White Barn) and White Barn Side Extension (north extension):

- 6.61. Doubt has previously been raised over whether the use of White Barn was agricultural which means that it is difficult to conclude whether White Barn alone would have been previously developed land (PDL).

- 6.62. It is considered that any land part of the residential curtilage of White Barn should be limited, so any land beyond such a limited curtilage would have a lawful agricultural use.
- 6.63. The additions to White Barn, including the rear single storey long extension, the glazed link and the attached Teen Annexe, would not benefit from any of the exceptions to inappropriate development in the Green Belt.
- 6.64. As discussed above, other operational development has also taken place in association with the change of use of White Barn to a residential dwelling which have resulted in loss of openness and encroachment into the Green Belt contrary to paragraph 154 h) v. of the NPPF. These elements include:
- Swimming Pool
 - Green House
 - Chicken Coop and its attached single storey extensions – do not appear to be associated with any agricultural operation and due to the scale, the structure has a domestic appearance.
 - Engineering operations including retaining walls (to the rear north of White Barn, and between White Barn & the Teen Annexe), which have facilitated residential use of the site.
- 6.65. The Green Belt Study carried out in December 2020 at Appendix A sets out that the site lies within Green Belt land where the role of this area of land within the Green Belt has an important role, to safeguard the countryside from encroachment from the conurbation and market towns, which clearly relates to NPPF paragraph 143 d) which states the Green Belt's five purposes. The strong contribution that the appeal land has with regards to safeguarding the countryside from encroachment further emphasises that the curtilage of White Barn should be limited.
- 6.66. This additional operational development has taken place to facilitate unauthorised residential use of the land. Prior to the works, aerial and site photographs show that the land around the barn was mostly open with only limited areas of hardstanding and boundary enclosure. The only structures were a growing shed and a cage for fruit trees. The change of use from agricultural to residential has resulted in a loss of openness with the introduction of new structures and is associated with the introduction of residential paraphernalia including vehicles, outside seating and tables, an umbrella, a BBQ, children's play equipment along with fencing around the swimming pool, which in combination results in harm to openness. The change of use of land beyond the immediate curtilage associated with the barn is judged to represent inappropriate development within the Green Belt that does not benefit from any of the NPPF exceptions at paragraph 154 and 155.

6.67. Whether any alternative 'very special circumstances' exist with regards to NPPF paragraph 153, is assessed later at paragraphs 8.1 onwards within this Proof of Evidence within section 8.

Impact upon the Character of the Area

6.68. There is a mix of residential, agricultural and some equestrian development in the area, but it is sporadic; buildings are interspersed with fields, resulting in an overall rural character within the countryside location.

6.69. NPPF paragraph 84 sets out that development of isolated homes in the countryside should be avoided unless they meet one of the circumstances set out at paragraphs 84 a) to 84 e).

6.70. The appeal site is not located within a settlement boundary. Although the proposed development is contiguous with existing development at Anchor Paddock, the design, scale and wall cladding materials (render, timber cladding and stone effect) together with the extent of hard surfacing, detract from the rural character of the countryside and its surroundings. In conjunction with the extensions and outbuildings, the conversion of the barn (to a residential use) has resulted in development which has an urban appearance which is uncharacteristic within the rural area. As such, my judgement on this matter is neutral in terms of the planning balance over whether the development enhances the immediate setting.

Impact upon Biodiversity

6.71. As set out within paragraphs 6.27 to 6.31 of the LPA's Appeal Statement, it has not been possible to conclude that the proposal was undertaken in accordance with Local Planning Policy ME1, NPPF paragraph 195 b) and the Dorset Biodiversity Appraisal Protocol as no ecological survey information has been provided.

Flooding Risk

Retaining Wall:

6.72. As set out within the Statement of Common Ground in the matters agreed (at paragraph 7.7), the new retaining wall would not result in the worsening of flooding to elsewhere.

Impact upon the Protected Heathland

White Barn and White Barn Single End (East of White Barn):

- 6.73. The appeal site lies within 5km of internationally designated heathland. The Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document sets out that harm to protect Dorset Heathlands is likely to arise from the residential development. This document also identifies opportunities to mitigate that harm which is usually secured via the Community Infrastructure Levy (CIL) payments.
- 6.74. Local planning policy ME2 allows new residential development, subject to an appropriate assessment and appropriate mitigation via CIL. CIL has not been paid to date nor would it have been necessary if the size of the dwelling did not exceed the size of the barn, so no mitigation has been secured for the new dwelling which is likely to result in significant harm to the conservation objectives of the Dorset Heath lands habitats sites within 5km of the site. There is an opportunity to secure mitigation retrospectively via a CIL committing the appellant to contributing to Heathland Infrastructure Projects (HIP) and Strategic Access, Management and Maintenance (SAMM) in accordance with the Dorset Heathlands Planning Framework. The Council has already received a unilateral undertaking and payment of a contribution towards Strategic Access Management and Maintenance (SAMM) in November 2023 on the basis that a dwelling was being created under permitted development rights, but no Habitats Regulation application was made which is a condition of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) where development would have a likely significant effect on protected habitats as in this case. Having undertaken an appropriate assessment of the proposal, officers have identified that a further Heathland Infrastructure Project (HIP) contribution is required.

7. ASSESSMENT OF PLANNING UNIT 3 (Tree House)

Background and History

- 7.1. The relevant appeal history for this part of the appeal site includes refused Certificate of Lawfulness (Use) application P/CLE/2024/01225 for the structure of the unit as a self-contained dwelling. (CD2.021d, CD2.021e & CD2.021zm).
- 7.2. The existing building known as Tree House lies approximately 15 metres to the south-west of the lawful dwelling at Anchor Paddock.

- 7.3. The background on the planning history for the Tree House (formerly The Cabin) including the refused Certificate of Lawfulness application ref: P/CLE/2024/01225, is set out within Jane Meadow's Appeal Proof.
- 7.4. I visited the appeal site on 12/12/2024 with my colleague Mark Hitchcott from the Council's Enforcement team and we carried out measurements of the Tree House but did not enter.

Principle of Development – Location

- 7.5. The appeal site lies outside of the settlement boundary of Holt, so falls under the category of 'Hamlets' within local policy KS2 which is included and covered within the Statement of Common Ground. The building if considered as a separate residential planning unit, would be contrary to local planning policy KS2 as it would not be development that is functionally required to be in the rural area.
- 7.6. The Tree House building forms a separate residential planning unit which has been separated from the main dwellinghouse (Anchor Paddock bungalow) by new boundary fencing.
- 7.7. Paragraph 84 of the NPPF sets out that the development of isolated dwellings in the countryside should be avoided unless they meet the circumstances within paragraphs 84 a) to e). It is considered that the construction of Tree House as a dwelling would not meet any of these special circumstances, so such an isolated dwelling is not justified.
- 7.8. If, as claimed, the Tree House was achieved by extensions and alterations to the Cabin structure, then it could benefit from paragraph 84 c) if it was a redundant building and the reuse enhanced its immediate setting. I have not identified any enhancement to the setting, as the change of use has been associated with the erection of close board boundary fencing which has introduced a harsh, fortress like appearance to the appeal site.
- 7.9. 'Whether a condition is required to be imposed to limit the use of the Tree House to ancillary accommodation in connection with the use of Anchor Paddock' is one of the matters not agreed within the Statement of Common Ground (paragraph 5.14). In the event that the Inspector grants permission for the Tree House, then it would be appropriate for a condition to imposed that secures the use of the building so that it can only be used for purposes ancillary to the residential dwelling known currently as Anchor Paddock. Such a condition would also need to state that the Tree House could not be occupied as a person's sole or main place of residence.

Inappropriate development within the Green Belt

- 7.10. If Tree House is a new building, then it would not benefit from any of the exceptions to inappropriate development in the Green Belt within the NPPF at paragraphs 154 – 155.
- 7.11. If, as claimed, the Tree House has been achieved by extensions and alterations to the Cabin (as shown on the submitted plans for application P/CLE/2024/01225 at Core Document ref: CD1.032b), then these would appear to be proportionate to the size of the 'original building' so benefit from the exception at NPPF paragraph 154 c). The conversion of the building from an outbuilding to a residential dwelling represents a material change of use. The original building appears to have been of permanent and substantial construction as required by NPPF paragraph 154 h) iv. but the conversion to a dwelling fails to preserve the openness of the Green Belt as it is associated with intensification of use of the site and physical demarcation from Anchor Paddock in the form of close board fencing which has reduced openness.
- 7.12. The development results in harm to the Green Belt by reason of inappropriateness and harm to openness.
- 7.13. Within the Statement of Common Ground at paragraph 5.9, it has been agreed that the Tree House could be restored to its former condition if required (albeit using similar new materials) as a fall back position. This is put forward by the appellant as fallback position within the Appellant's Appeal Statement at paragraph 1.32.
- 7.14. In light of the above, if the Inspector grants permission on the basis that the Tree House is either an extension or alteration of an existing building that had become lawful by reason of time, then I consider that although the Tree House exceeds the size of the original structure, it is not considered to be materially larger and would benefit from NPPF paragraph 154 c), but the restoration of the Tree House to the former condition (when it was The Cabin) could represent a fall back position.
- 7.15. Whether very special circumstances existing is considered paragraphs 8.0 onwards in section 8 of my proof.

Flood Risk

- 7.16. The Tree House building lies within an area identified in the Dorset Level 1 Strategic Flood Risk Assessment (SFRA, February 2023) as having high groundwater levels (as shown in the extract below to the left hatched light purple), so the building is at risk of groundwater emergence flooding. To the right below, is the SFRA mapping showing surface water risk hatched blue.



Figure 9 - High ground water levels hatched purple (above left) & surface water risk (above right)

- 7.17. Footnote 63 of the National Planning Policy Framework sets out that development in Flood Zone 1 should be accompanied by an assessment which should include other sources of flooding.
- 7.18. In the event that the Tree House is treated by the Inspector as an unlawful new build dwelling (and not a re-use or replacement or residential annexe), a site-specific flood risk assessment has not been provided that clearly demonstrates that there is no risk of flooding to elsewhere from the development.
- 7.19. However, in the event that the Inspector considers the Tree House to be a conversion of a previous outbuilding, then no site-specific flood risk assessment would be necessary.
- 7.20. Should the Inspector grant permission to the Tree House, it is requested that the use of the building and surrounding land is limited so it can only be used for ancillary purposes in connection with the main dwellinghouse (known as Anchor Paddock).

Impact upon the Protected Heathland

- 7.21. The appeal site lies within 5km of internationally designated heathland. The Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document sets out that harm to protect Dorset Heathlands is likely to arise from the residential development. This document also identifies opportunities to mitigate that harm which is usually secured via the Community Infrastructure Levy (CIL) payments.
- 7.22. Local planning policy ME2 allows new residential development, subject to an appropriate assessment and appropriate mitigation via CIL or via legal agreement. There is an opportunity to secure mitigation retrospectively via a CIL or a legal agreement, committing the appellant to contributing to Heathland Infrastructure Projects (HIP) and Strategic Access, Management and Maintenance (SAMM) in accordance with the Dorset Heathlands Planning Framework.

8. VERY SPECIAL CIRCUMSTANCES - ASSESSMENT

- 8.1. The appellant claims that very special circumstances can outweigh the harm arising to the Green Belt as a result of inappropriateness and loss of openness.
- 8.2. The appellants statement of 3 September 2024 considers that the following are very special circumstances (VSCs):

Relating to all works (Enforcement Notices 1, 2 and 3):

- 8.3. Paragraph 1.4 of the appellant's appeal statement suggests that Covid is a very special circumstance and refers to a backlog in the planning system. I have obtained data of the number of applications received and number of applications determined by Dorset Council, set out in the table below:

<i>Applications</i>	No. of Applications Received (includes withdrawn and invalid applications)	No. of Applications Determined (includes withdrawn and invalid applications)
January 2020	401	395
February 2020	430	348
March 2020	443	397
April 2020	355	386
May 2020	336	324
June 2020	396	403
July 2020	478	428
August 2020	373	306
September 2020	475	338
October 2020	508	359
November 2020	500	332
December 2020	462	348
January 2021	403	296
February 2021	497	337
March 2021	620	533

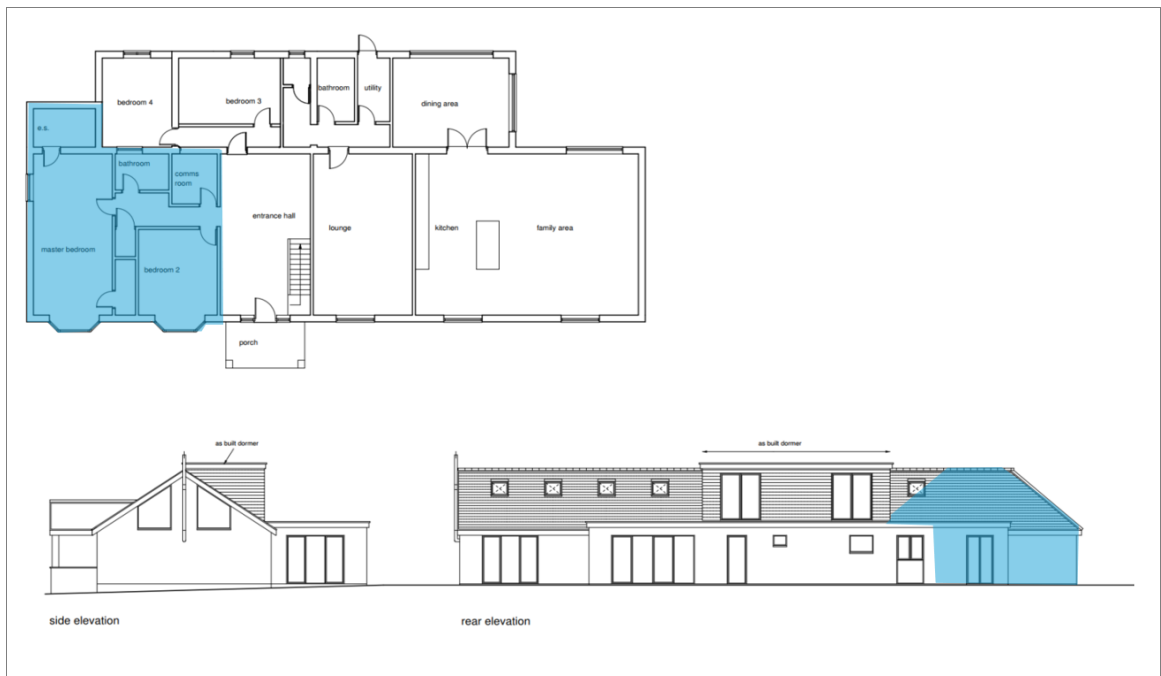
- 8.4. A further table has been provided below, which sets out the number of Pre-Applications received by Dorset Council.

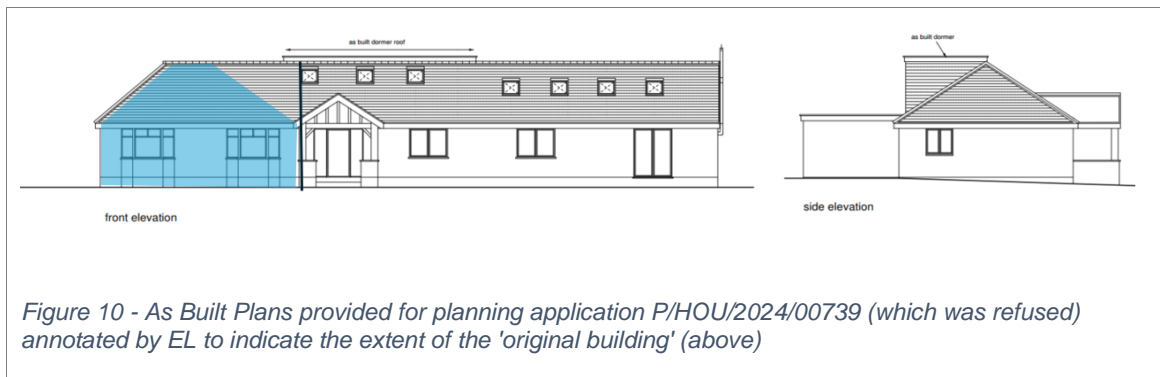
<i>Pre-Applications</i>	No. of Pre-Applications Received
January 2020	60
February 2020	77
March 2020	46
April 2020	33
May 2020	44
June 2020	56
July 2020	71
August 2020	64
September 2020	76
October 2020	63
November 2020	59
December 2020	51
January 2021	47
February 2021	70
March 2021	68

- 8.5. A further table has been provided above, which sets out the number of Pre-Applications received by Dorset Council.
- 8.6. The statistics in the above table confirm that Dorset Council was receiving applications and determining applications during Covid lockdowns, so the Council's position is that Covid is not a very special circumstance. This was one of the reasons cited by the appellant, as to why they could not seek the regularisation of the development, why it was not sought/progressed.
- 8.7. The tables above evidence that the Council was still receiving, determining and responding to applications during Covid lockdowns, so provided that the applicant submitted valid applications, these would have been considered by Dorset Council during this period.
- 8.8. At Paragraph 1.5 of the appellant's appeal statement, the appellant puts forward other matters in addition to Covid that they consider to be very special circumstances, a new baby, the death of Mr White's father, financial ruin, access to proper advice, and that they were unable to engage with the Council. The appellant therefore considers that these matters should be considered cumulatively as very special circumstances (VSCs). Further to this the appellant cites how much money they have spent trying to resolve issues prior to the serving of the enforcement notices.

Anchor Paddock Bungalow (Enforcement Notice 1):

- 8.9. The appellant states that some shared responsibility on the part of the Council should be accepted within paragraph 1.5 of the statement, as to the reason why they did not seek permission or advice (from the Council).
- 8.10. At paragraph 1.34 of the appellant’s statement, it is that that *“the final fall back is a very special circumstances.”* (However, in the further statement provided by the appellant on 13 November 2024, paragraph 3.2 accepts that there is no Class AA fallback position available to the appellant).
- 8.11. Also within paragraph 1.34 of the appellant’s statement, it is stated that *“To the extent that there are any residual built volume that needs to justified by very special circumstances the Appellants propose to offset that (wherever it arises across matter covered by the three enforcement notices), either by demolition of existing lawful outbuildings (of which there are many on the Anchor Paddock) or by agreeing not to implement a Class AA upwards extension of the original dwelling on Anchor Paddock. A draft planning obligation is included in this appeal).”*
- 8.12. With regards to Anchor Paddock bungalow, the appellant states that they have a fall-back position of a slightly lower dormer that would meet permitted development rights at paragraph 13.5.





- 8.13. The above figure is an extract from the submitted drawings for planning application P/HOU/2024/00739 (which was refused by Dorset Council on 11/10/2024). I have highlighted the 'original building' with a blue hatch, which clearly evidences that the dormer does not fall within the footprint of the 'original building.' The majority of the dormer is not above the 'original building' and the volume of the dormer in combination with other roof extensions to the original building, would exceed the limited of Class B, Part 1, Schedule 2 of the General Permitted Development Order (as amended). The Government's 'Permitted development rights for householders: Technical Guidance' sets out on page 34 that *"For the purposes of Class B "resulting roof space" means the roof space as enlarged, taking into account any enlargement to the original roof space, whether permitted by this Class or not."* Therefore, even if the dormer (as built) could be reduced (so that its ridge would be lower than the ridge height of the dwelling), such a reduced dormer would still not benefit from permitted development rights.
- 8.14. Whether the Anchor Paddock East extension could be restored to its former condition, has not been agreed within the Statement of Common Ground at paragraph 6.15. This alone could be a very special circumstance.
- 8.15. Volumetric equalisation has also been put forward by the appellant as a very special circumstance for works carried out at Anchor Paddock bungalow.
- 8.16. In the paragraph below 6.4 of the Statement of Common Ground (but the paragraph above 6.5), in the event that the demolition of Anchor Paddock Outbuilding 1 and Anchor Paddock Outbuilding 2 combined could be found to be equivalent to both the dormer and the west extension, in terms of volumetric equalisation.

White Barn (Enforcement Notice 2):

- 8.17. *White Barn:*

8.18. At paragraph 21.4 of the appellant's statement, volumetric equalisation has also been put forward by the appellant as a very special circumstance for the erection of the Green House (carried out in relation to White Barn). Within the same paragraph, the appellant states that the Green House "*is intended to be used in the future as part of an agricultural enterprise on the Adjacent Farmland owned by the Appellants.*"

Teen Annexe:

8.19. At paragraph 21.10 of the appellant's statement, they reference the generic very special circumstances set out earlier in the appellant's statement including Covid, which I have refuted at paragraph 8.4 c) within this Proof.

8.20. At paragraph 21.11 of the appellants statement, the relevant very special circumstances to the wrap-around extension to the north of the original barn (which includes Bedroom 3, wardrobes and an en-suite on the appellant's submitted ground floor plan), are the appellant's claimed very special circumstances (also set out above at paragraph 8.4 c) within this Proof).

8.21. As set out within the Statement of Common Ground, although the appellant claims that the Teen Annexe building can benefit from exception 154 d) of the NPPF as it replaces a series of outbuildings (to the north of the original barn), I consider that the Teen Annexe structure (as built) is materially larger than the previous building, due to its height, greater bulk of its flat form, which is exacerbated by the changes in land levels carried out to facilitate the development in combination with the works at White Barn. The appellant did not seek permission for the construction of the Teen Annexe prior to starting the works, and the matter of scale (in that the Teen Annexe is materially larger) remains unresolved.

8.22. Therefore, it is considered that the Teen Annexe building would not benefit from NPPF exception 154 d) to inappropriate development within the Green Belt.

8.23. The circumstances put forward by the appellant for the Teen Annexe, do not comprise very special circumstances.

Glazed Link:

8.24. With regards to the Glazed Link extension to White Barn, the appellant states at paragraph 21.12 of the appellant's statement that the very special circumstances are those set out earlier in the appellant's statement (including Covid) and volumetric equalisation.

8.25. The circumstances put forward by the appellant for the Glazed Link, do not comprise very special circumstances.

White Barn Outbuilding:

8.26. With regards to White Barn Outbuilding (which is a smaller outbuilding to the west of White Barn and to the south of the Teen Annexe), paragraph 21.13 of

the appellant's statement sets out that the very special circumstances are those set out earlier in the appellant's statement (including Covid).

- 8.27. The circumstances put forward by the appellant for the White Barn Outbuilding, do not comprise very special circumstances.

White Barn Home Office:

- 8.28. With regards to White Barn Home Office (which is attached to the White Barn Garage), paragraph 21.14 of the appellant's statement sets out that the very special circumstances put forward by the appellant are those set out earlier in the appellant's statement (including Covid and family circumstances) and volumetric equalisation.
- 8.29. The circumstances put forward by the appellant for the White Barn Home Office, do not comprise very special circumstances.

White Barn Garage

- 8.30. With regards to White Barn Garage (which is attached to the White Barn Home Office), paragraph 21.15 of the appellant's statement sets out that the very special circumstances put forward by the appellant are those set out earlier in the appellant's statement (including Covid and family circumstances) and volumetric equalisation.
- 8.31. The circumstances put forward by the appellant for the White Barn Garage, do not comprise very special circumstances.

Tree House (Enforcement Notice 3):

- 8.32. With regards to Tree House, the appellant (at paragraph 5.1 of their statement) suggests that they would "*submit that the improved environmental performance and improved living conditions ought to be sufficient together with the other factors quoted at para 1.4 above relating to Covid etc.*"
- 8.33. Volumetric equalisation has also been put forward by the appellant as a very special circumstance for works carried out at Anchor Paddock bungalow.
- 8.34. The appellant sets out that the development would be acceptable if it was carried out in a different sequence, is a material consideration and a very special circumstance.
- 8.35. The appellant's further statement of 13/11/2024 considers that the following are very special circumstances:

Relating to all works (Enforcement Notices 1, 2 and 3):

- 8.36. As noted above, at paragraphs 3.2 and 5.10 within the further statement provided by the appellant on 13/11/2024, the appellant accepts that there is no Class AA fallback position available to the appellant) in relation to the dormer.
- 8.37. Within paragraph 3.4 of the appellant's further appeal statement, the appellant considers that volumetric equalisation which was found to be a very special circumstance in the Warehams Farmhouse appal decision, is relevant.
- 8.38. The principle of volumetric equalisation is accepted, but whether a building is capable of being demolished to represent equivalence to the retention of an unlawful building, would need to be fully considered by the Decision Maker in terms of both qualitative and quantitative measures combined.
- 8.39. At paragraph 5.11 of the appellant's further appeal statement, the appellant states that the Covid pandemic forms the basis of the very special circumstances coupled with the individual circumstances of the appellants.
- 8.40. Within the appellant's further appeal statement at paragraph 5.3, the appellant considers that the reconfiguration of the structure, the raising of the ceiling height and the environmental performance are capable of being very special circumstances when weighed against the environmental impact and waste associated with reversing the works.
- 8.41. I do not consider that the appellants have put forward any reasonable justification for their failure to seek planning permission based on restrictions imposed by Covid. Dorset Council was in full operation as the Local Planning Authority during 2020 and 2021, and backlogs associated with Local Government Reorganisation and sickness absence do not justify failure to seek permission or to seek pre-application advice. The appellants have experience in the building trade and an associated knowledge of the planning system.
- 8.42. The appellants have offered to remove existing buildings to achieve volumetric equalisation. Whilst volume is one measure of the spatial impact on openness, the form, height and siting of buildings also has an impact. For instance, whilst the glazed link joining White Barn to Teen Annexe is not particularly large, it has a significant impact on openness because it encloses the gap between them, amalgamating the two structures into one.
- 8.43. From my on-site measurements of volume and on the understanding that limited outbuildings are being offered for volumetric equalisation by the appellant, I do not consider that this measure could be relied upon to overcome the harm to the Green Belt by reason of inappropriateness and any other harm from the scale of development that has occurred on the appeal sites.

9. CONCLUSION

9.1. The Inspector is respectfully asked to dismiss the appeals.

Enforcement Notice 1:

9.2. In relation to extensions to the dwelling known as Anchor Paddock, I consider that as set out in the statement of common ground, Anchor Paddock East can be granted planning permission and, with appropriate volume equalisation secured and permitted development rights for outbuildings removed, Anchor Paddock West and the dormer extensions could also be judged acceptable. Without appropriate volumetric equalisation there are no very special circumstances to outweigh the harm arising so the appeal should be dismissed subject to amendments to the notice.

Enforcement Notice 2:

9.3. White Barn had a lawful agricultural use but was in unauthorised use associated with C1 use of land to the west which prevented the appellant from relying upon permitted development rights.

9.4. The re-use and conversion of the original barn at White Barn (Enforcement Notice 2), would preserve the openness of the Green Belt and does not conflict with the Green Belt purposes, in accordance with NPPF paragraph 154 h) iv but the works that have been undertaken in providing a large residential curtilage fail to preserve Green Belt openness and represents encroachment into the Green Belt contrary to the purposes of the Green Belt.

9.5. Save for the White Barn Single End (eastern end) and White Barn Side Extension (which is to the rear of the original barn and to the rear of White Barn Single End), extensions to and outbuildings associated with White Barn cannot benefit from the exceptions to development being inappropriate in the Green Belt, result in harm to the Green Belt and conflict with the purposes of the Green Belt.

9.6. Notwithstanding opportunities for the appellant to provide volume equalisation for some of the additional built form, I conclude that the circumstances that they have put forward for consideration fail to outweigh the harm arising and therefore cannot be judged to be very special circumstances.

9.7. The Inspector is respectfully asked to dismiss the ground A appeal other than for the White Barn, the White Barn Single End and the White Barn Side Extension.

Enforcement Notice 3:

- 9.8. As set out in the Statement of Common Ground, I am satisfied that the works to the Tree House structure are acceptable under Green Belt exceptions (either replacement or proportionate extensions), but the unauthorised use as a dwelling is in an unsustainable location and fails to preserve the openness of the Green Belt as a result of the intensified residential use of the land and curtilage demarcation. If the structure is a replacement, then insufficient information has been provided to demonstrate that it meets policy in relation to flood risk.
- 9.9. The Inspector is respectfully asked to dismiss the ground A appeal.

Pursuant to Deemed Planning Permission Ground (a): Conditions

- 9.10. Were the Inspector minded to grant planning permission, the Council suggests the conditions that are set out within the Statement of Common Ground are imposed.

[14 January 2025]