

Statement of Common Ground between the Appellant and Dorset Council

Date

1 Introduction

The Appellant and the Local Planning Authority consider that this document will assist the Inspector in determining the appeal. Text within the document is to be taken as agreed between both parties. Where there is any explicit disagreement on a point, this will be clearly identified.

2 Site Constraints

- The site lies in the hamlet of Holtwood, Holt, a settlement where local policy KS2 does not permit development, unless it is functionally required to be in the rural area.
- Within the Green Belt.
- Within 5km of internationally protected Dorset Heathlands, including the Holt and West Moors SSSI.
- Within the Woodlands Area of Great Landscape Value (AGLV) which is subject to an SPG
- Under Local Plan Policy HE3 development within an AGLV can be permitted where it is sympathetic to the particular landscape quality and character

- Access to site is via Batchelors Lane, an unmade gravel track which is also a public footpath (E45/55).
- Part of the site on which the Tree House is located lies within or very close to the area identified in the Dorset Level 1 Strategic Flood Risk Assessment (SFRA, February 2023) as having high groundwater levels
- NPPF footnote 62 identifies that householder development (annexe) or a change of use is exempt from the need for a sequential test.
- NPPF footnote 63 requires a site specific flood risk assessment for development in Flood Zone 1 (in which the development is located) if it is identified as being in a strategic flood risk assessment as being at increased flood risk in future (but none of the other criteria in footnote 63 apply to the development site).

3 Adopted Development Plan, Relevant Planning Legislation and Other Material Considerations

Adopted Christchurch and East Dorset Local Plan:

3.1 The following policies are considered to be relevant to the development that is the subject of the appeal:

- KS1 - Presumption in favour of sustainable development
 - KS2 – Settlement Hierarchy - see below

- KS3 - Green Belt
- KS12 - Parking Provision
- HE2 - Design of new development
- HE3 - Landscape Quality
- ME1 - Safeguarding biodiversity and geodiversity
- ME2 – Protection of the Dorset Heathlands
- LN1 – Size and type of new dwellings

3.2 Local planning policy KS2 is a settlement hierarchy policy. NPPF paragraph 84 c) allows the reuse of redundant or disused buildings that enhance the building’s immediate surroundings.

Other Local Material Considerations

Emerging Dorset Council Local Plan:

3.3 Paragraph 48 of the NPPF provides that local planning authorities may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant plan policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer the policies in the emerging plan are to the policies of the NPPF, the greater the weight that may be given).

3.4 The Dorset Council Local Plan Options Consultation took place between January and March 2021. Being at a very early stage of preparation, the Draft Dorset Council Local Plan should be accorded very limited weight in decision making.

3.5 On 26 September 2024, Dorset Council received the Planning Inspector’s report on its Annual Position Statement 2024. The Annual Position Statement (October 2024) and Appendices A to G confirm that Dorset Council can demonstrate a housing land supply of 5.02 years. Dorset Council is entitled to rely on the supply stated in the Annual Position Statement until 31 October 2025.

3.6 Supplementary Planning Documents (SPD) / Guidance (SPG):

- East Dorset- Areas of Great Landscape Value SPG
- East Dorset Countryside Design Summary SPG
- Dorset Heathlands Planning Framework 2020-2025 SPD
- Christchurch and East Dorset Housing and Affordable Housing SPD
- Dorset Council Interim Guidance and Position Statement Appendix B: Adopted Local Plan policies and objectives relating to climate change, renewable energy

4 General issues

Matters agreed

- 4.1 Covid was an unusual circumstance that affected everybody nationally and globally.
- 4.2 The availability of professional services and public services were impacted by the pandemic.
- 4.3 Very special circumstances can be cumulative and a number of matters which are individually not very special circumstances, such as personal circumstances, fall backs etc are capable of being taken together to constitute very special circumstances.
- 4.4 The character of the area (the rural part of the former East Dorset District) is rural but with sporadic existing large dwellings with outbuildings and swimming pools (including Anchor Paddock) and a number of Class Q barn conversions and conversions of former agricultural buildings for residential purposes have gained prior approval/planning permission within the former East Dorset area .
- 4.5 Planning permission was recently granted on land owned by the Appellant for the conversion of the former stable block on the land at Oak Tree Paddock in Batchelors Lane, to the north of the site and that another decision may be a material consideration in accordance with the usual principle of consistency in decision making.
- 4.6 The demolition of existing built development, secured by a planning obligation, can in principle be a very special circumstance outweighing the harm to the green belt of new built development. This involves a qualitative judgement of the harm to the green belt of the development to be demolished and the development to be retained as well as considering the actual volumes of the relevant buildings.

Matters not agreed

- 4.7 Whether Covid and the resulting threat to the livelihoods of individual developers/householders involved in the construction of their own homes is a material consideration or a very special circumstance justifying development in the Green Belt,
- 4.8 Whether the baseline for considering the ground (a) appeals should be the state in which the site existed as at the date of the Appellants' purchase.
- 4.9 Whether Policy KS2 applies to all development and because it does not specifically refer to development comprising reuse/replacement/extension/alteration/infill what its application is to such developments.

5 Enforcement Notice Three

Tree house (formerly known as the Cabin)

Matters agreed

Ground a

5.1 That planning permission ought to be granted subject to conditions for the current Tree house building on the basis it is either an extension/alteration of an existing building that had become lawful or the replacement of an existing building which falls within the exceptions in para 154 (c) or (d) of the NPPF on either basis (the Council accept that it is one or the other but does not have sufficient evidence to determine which). The parties agree that the extent by which the current Tree House structure exceeds the size of the original structure (by reason of the higher roof), is not considered to be materially larger.

5.2 Accordingly, the parties agree that the Tree House building is not inappropriate development within the Green Belt. The parties also agree that the building is in accordance with Local Plan policies HE2 and LN1

5.3 If planning permission is granted for use as an independent dwelling, the impacts on the Dorset Heathlands can be mitigated by a financial contribution towards Heathland Infrastructure Projects (HIP) and Strategic Access Management and Maintenance (SAMM) which will be collected through CIL in accordance with the Dorset Heathlands Planning Framework 2020-2025 SPD , so that an adverse effect on the Heathlands is avoided.

Ground d

5.4 Before the works were started (following the Appellants' purchase), there is evidence that the Cabin had a kitchen, bathroom and bedroom and the Tree House has similar facilities.

5.5 The burden of proof is on the Appellants to show that the use of the Treehouse as an independent dwelling has become lawful on the balance of probabilities.]

5.6 Extensive works were done to the property. It is for the Inspector to decide based on Oates whether it is an entirely new building or not. However, this is will be otiose if the Inspector agrees with the parties' position under ground (a).

5.7 Design of the treehouse is appropriate for its surroundings.

5.8 See below for agreed form of condition as to ancillary use and other suggested and agreed conditions.

Ground (f) and Ground (a)

5.9 It is agreed that the Treehouse could be restored to its former condition if required (albeit using similar new materials).

Matters not agreed

Ground (d)

5.10 Whether the use of the Cabin and the Tree House was continuous and as an independent dwellinghouse for more than 10 years so as to be immune from enforcement action.

Ground (a)

5.11 Whether the Treehouse lies within or close to the area identified in the Dorset Level 1 Strategic Flood Risk Assessment (SFRA, February 2023) as having high groundwater levels so is at risk of groundwater emergence flooding. In addition, whether there would be a risk of flooding to elsewhere, in the event that the Tree House is treated as an unlawful new build dwelling (and not a reuse, or replacement, or a residential annex). Subject to the above, whether a site specific flood risk assessment is required.

5.12 Whether the use of the Treehouse as an independent dwelling accords with the Local Plan including policy KS2 and whether it is inappropriate in the Green Belt.

5.13 Whether the Cabin was fully equipped as a dwelling.

5.14 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.

6 Enforcement Notice One

Anchor Paddock

Matters agreed

Ground (a)

6.1 It is agreed that if a ground (a) appeal can be made against Enforcement Notice 1, the parties position is set out in paragraphs 6.2-6.7.

Dormer

6.2 The dormer extension does not fall within any of the exceptions in NPPF para 154 and so is inappropriate development within the Green Belt. The parties agree that because the dormer is in an elevated position and extends beyond the ridge height of the roof, it has a greater impact on the Green Belt than were it a ground level extension.

West Extension

6.3 Anchor Paddock is PDL and currently screened from outside the property

6.4 The parties agree that whilst the extensions to the house are decidedly modern in design, they match the design of Anchor Paddock following its renovation. As a result, the parties agree that these elements accord with Local Plan policy HE2 and with the other relevant Local Plan policies.

It is agreed that if the West Extension is not an infill, that the demolition of both AP1 and AP2 would be a very special circumstance justifying the grant of planning permission for both of the West Extension and the Dormer. It is agreed that the demolition of AP1 alone would be a very special circumstance justifying the grant of planning permission for the Dormer alone, without prejudice to the Appellant's argument that it could also be justified by the demolition of AP2 alone.

Anchor Paddock East

6.5 The extension is currently screened from outside the property.

6.6 The extension is a replacement of a previous extension but is slightly larger. Planning permission ought to be granted for Anchor Paddock East on the basis that planning permission would have been granted for a change of use of the previous structure from the class C1 use certified in the 2017 s191 Certificate to a class C3 use. The parties agree that it is a replacement for the previous structure and is not materially larger. As a result, the east extension falls within NPPF para 154(d) so that it is not inappropriate development in the Green Belt.

6.7 The parties agree that whilst the extensions are decidedly modern in design, they match the design of Anchor Paddock follow its renovation. As a result, the parties agree that these elements accord with Local Plan policy HE2 and with the other relevant Local Plan policies so that planning permission can be granted subject to conditions.

Ground (b)

6.8 The Appellant accepts that the development has occurred and does not pursue the ground b appeals other than to the extent that the Appellant disagrees with the description of the development in the Enforcement Notice

Ground (c)

6.9 It is agreed that permitted development rights do not apply to any elements of the development carried out at Anchor Paddock.

Matters not agreed

Ground (a)

6.10 Whether s174(2A) of the Town and Country Planning Act 1990 precludes consideration of the ground (a) appeal and of so, to what extent.

6.11 Whether there is a potential fall back of an alternative smaller dormer located wholly above the original dwelling (however this ground becomes otiose of the agreed position on Ground (a) is accepted).

6.12 Whether Anchor Paddock West falls within para 154(g) of the NPPF (limited infill not causing substantial harm to the openness of the green belt)

6.13 the amount of existing lawful development which if demolished would be a VSC justifying the development of the Dormer and/or Anchor Paddock West

Ground (d)

6.14 Whether the development was substantially completed before the Enforcement Notice was issued (however this ground becomes otiose of the agreed position on Ground (a) is accepted and planning permission granted).

Ground (f) and Ground (a)

6.15 Whether Anchor Paddock East could be restored to its former condition (albeit using similar new materials)

7 Enforcement Notice Two

White Barn

Matters agreed

Ground (a)

White Barn

7.1 The parties agree that it is a reuse of a previous barn structure and is suitable for residential conversion. The parties also agree that the re-use of the White Barn alone preserves the openness of the Green Belt and does not conflict with the purposes of the green belt. Accordingly the residential conversion of White Barn is not inappropriate development within the Green Belt and that planning permission ought to be granted for it.

7.2 If planning permission is granted for use as an independent dwelling, the impacts on the Dorset Heathlands can be mitigated by a financial contribution towards Heathland Infrastructure Projects (HIP) and Strategic Access Management and Maintenance (SAMM) which will be collected through CIL in accordance with the Dorset Heathlands Planning Framework 2020-2025 SPD , so that there not be an adverse effect on the Heathlands is avoided.

7.3 The parties also agree that the building is in accordance with the relevant Local Plan policies.

White Barn Single End (East of White Barn)

7.4 As the parties have agreed that planning permission ought to be granted for reuse and residential conversion of the White Barn, it is also agreed that the replacement of the White Barn Single (on the east end) and its use for residential purposes is also acceptable and ought to be granted planning permission. The parties agree that the current structure is not materially larger than the previous extension. Accordingly, this development falls within NPPF para 154 (d) and so is not inappropriate development in the Green Belt.

White Barn Side Extension

7.5 Having established that residential conversion of the White Barn ought to be granted, it is considered that the White Barn Side Extension (to the north of the converted part of White Barn and to the north of White Barn Single End) is not a disproportionately large extension to the original dwelling and accordingly that planning permission may be granted on the basis that it falls within para 154(c) of the NPPF. The parties agree that due to the size of this element, it is appropriate to impose a condition removing permitted development rights for further extensions.

Retaining Wall

7.6 The new retaining wall to the north (of White Barn as identified with the blue line on the Enforcement Notice Plan) is an engineering operation requiring planning permission.

7.7 The retaining wall is not visible from outside the property and does not impact on amenity or flood risk.

Foundations, hardstanding and utilities

7.8 To the extent that these serve the residential re-use of White Barn, White Barn Single End Extension and White Barn Side Extension, planning permission can be granted.

Teen Annexe

7.9 The Teen Annexe (excluding the Glazed Link) replaces prior buildings with a similar footprint. Having established that residential conversion of the White Barn ought to be granted, there would also not have been any objection to the ancillary residential use of the prior building, and then having established that ancillary residential use of the prior building was acceptable it is agreed that in principle, a replacement building could have fallen within NPPF para 154(d)

7.10 The Teen Annexe is currently largely screened by boundary hedges.

7.11 Design of the Teen Annexe is appropriate for its immediate surroundings.

7.12 The parties agree that the Teen Annexe is not an independent dwelling and as such, if planning permission is granted a condition should be imposed limiting its use to being ancillary to the White Barn.

Residential curtilage

7.13 It is agreed that the visual impact of residential appurtenances the residential curtilage ought to be limited to an appropriate area around the White Barn and a landscaping scheme should be submitted to and approved by the LPA.

Swimming Pool

7.14 The swimming pool is currently mostly screened from outside the property .

Chicken Coup

7.15 The Chicken Coup is located outside the residential curtilage but has to date been used in connection with the residential use of White Barn.

Greenhouse

7.16 The Greenhouse (brick and glazing) is in a similar location to a previous timber structure

White Barn Outbuilding

7.17 The White Barn Outbuilding is currently mostly screened from outside the property

7.18 The White Barn Outbuilding is subservient to White Barn

7.19 White Barn Outbuilding had not been completed (as of 12/12/2024).

White Barn Home Office

7.20 The White Barn Home Office is currently mostly screened from outside the property

7.21 The White Barn Home Office is subservient to White Barn

White Barn Garage

7.22 The White Barn Garage currently mostly screened from outside the property.

7.23 The White Barn Garage is subservient to White Barn.

Ground (b)

7.24 The Appellant accepts that the development has occurred and does not pursue the ground b appeals other than the way in which the development is described.

Ground (c)

7.25 The Appellant accepts that the White Barn did not, and does not benefit from permitted development rights under Part 4 Class Q.

Matters not agreed

Ground (a)

7.26 Whether the curtilage of White Barn is previously developed land

Teen Annexe

7.27 Whether the Teen Annexe is larger than the building it replaced and if it is larger whether it is materially larger and hence outside para 154(d).

7.28 Whether the land levels within the curtilage of White Barn have changed

7.29 Whether it can be replaced under 154(d) and extended under 154(c) at the same time.

Other elements of development

7.30 Whether the degree to which the Teen Annexe is materially larger can be offset by volumetric equalisation.

7.31 Whether the Glazed Link is a proportionate extension/limited infill/partial redevelopment and whether it is inappropriate development in the green belt.

7.32 Whether the Retaining Wall is inappropriate development in the Green Belt given its connection to the residential use at White Barn.

7.33 Whether the foundations, hardstanding and utilities outwith those at para 7.8 are inappropriate development in the Green Belt

7.34 Whether the swimming pool is inappropriate development in the Green Belt given its connection to the residential use at White Barn.

7.35 What is the appropriate extent of residential curtilage for White Barn and what restrictions should be imposed on the balance of the White Barn planning unit in order to make the residential curtilage of White Barn acceptable.

7.36 Whether the Chicken Coup is inappropriate development in the Green Belt.

7.37 Whether a condition for the Chicken Coup to be used only for agricultural purposes is appropriate.

7.38 Whether the Green House can be replaced under 154(d) and extended under 154(c) at the same time. Whether if it is materially larger and not capable of being extended at the same time, whether the degree to which it is larger can be offset by volumetric equalisation, And if so the amount of volumetric equalisation required.

7.39 Whether if the Greenhouse is found to be acceptable and granted consent, proposals for its demolition, can be considered for volumetric equalisation

7.40 Whether the White Barn Office is a replacement structure for a structure that was demolished prior to the conversion of White Barn and whether it is inappropriate development in the Green Belt.

7.41 Whether the White Barn Office can be consented with volumetric equalisation and if so in what quantum.

7.42 Whether the White Barn Garage is a replacement structure for a structure that was demolished prior to the conversion of White Barn and whether it is inappropriate development in the Green Belt

7.43 Whether White Barn Garage can be consented with volumetric equalisation and if so in what quantum.

Ground (c)

7.44 Whether any or all of the Teen Annexe and the Greenhouse are alterations to existing buildings for which planning permission was not required, as opposed to entirely new structures requiring planning permission.

Ground (d)

7.45 Whether any or all of the development was substantially completed before the Enforcement Notice was issued.

7.46 Whether pre-existing services/hardstanding/parts of structures/foundations etc are liable to enforcement.

Ground (f) and Ground (a)

7.47 Whether any of the structures could be restored to their former condition (albeit using similar new materials)

8 Conditions and planning obligations

8.1 Planning obligation securing:

- demolition of some existing buildings and contingent on the Inspector's decision.
- Financial Contribution re Dorset Heaths for White Barn if the ground a appeal succeeds (taking into account an earlier payment) if the development is not CIL liable.
- Financial contribution re Dorset Heaths for the Treehouse if the ground a appeal succeeds for use as an independent dwelling if the development is not CIL liable.

8.2 *Agreed Suggested Conditions relating to Enforcement Notice 1 (Anchor Paddock)*

1. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 4419:A6 Site and location plan
 - 4419:A3(C) Floor Plans
 - 4419:A2 As built alterations

Reason: For the avoidance of doubt and in the interests of proper planning.

8.3 Agreed Suggested Conditions relating to Enforcement Notice 2 (White Barn)

1. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - **Ground Floor Plan**
 - **First Floor Plan**
 - **Elevations**

Reason: For the avoidance of doubt and in the interests of proper planning.

2. The detached outbuilding identified as '16- White Barn Teen Annexe' on the Buildings Plan and Schedules (appendices 2a and 2b) shall not be occupied at any time other than for purposes ancillary to the residential dwelling known currently as White Barn.

Reason: The development is in an area where a separate dwelling would be contrary to the adopted local plan and would have a likely significant effect on protected Dorset Heathlands

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) (with or without modification) no enlargement(s) of the dwellinghouse hereby approved, permitted by Class A, Class AA and Class B of Schedule 2 Part 1 of the 2015 Order, shall be erected or constructed.

Reason: In the interest of protecting the Green Belt and character of the area.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) (with or without modification) no roof enlargement(s) permitted by Class B of Schedule 2 Part 1 of the 2015 Order, shall be erected or constructed.

Reason: In the interest of protecting the Green Belt and the rural character of the area.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) (with or without modification) no garages, sheds or other outbuildings permitted by Class E of Schedule 2 Part 1 of the 2015 Order shall be erected or constructed.

Reason: To protect amenity and the character of the area and Green Belt openness.

6. Within 3 months of the grant of permission, 1 no. bat box or 1 no. bird box shall be installed within the site and photographic evidence submitted to the Local Planning Authority. The box shall thereafter be retained and maintained for biodiversity.

Reason: In the interests of biodiversity.

7. Within 3 months of the grant of permission, full details of hard landscaping shall be submitted to and approved in writing by the Local Planning Authority. These details shall include where appropriate : proposed finished levels or contours, means of enclosure, car parking layout, other vehicular and pedestrian access and circulation areas, hard surfacing materials, minor artefacts and structures (eg; furniture, play equipment, signs, lighting, refuse or other storage units, proposed and existing functional services above and below ground (eg; drainage, power, communication cables, pipelines, etc, indicating lines, manholes, supports etc), retained historic landscape features and proposals for their restoration where relevant. The development shall be carried out in accordance with the approved details.

Reason: To ensure the provision of amenity afforded by appropriate landscape design and maintenance of existing and/or new landscape features.

8. Within 3 months of the grant of permission, full details of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full during the planting season November - March following commencement of the development or within a timescale to be agreed in writing with the Local Planning Authority. The scheme shall include provision for the maintenance and replacement as necessary of the trees and shrubs for a period of not less than 5 years.

Reason: In the interest of visual amenity.

8.4 Agreed Suggested Conditions relating to Enforcement Notice 3 (Tree House)

1. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 4419-A(6)A Site & Location Plans (dated February 2024)
 - Site, Block, Location Plan (dated July 2024)

Reason: For the avoidance of doubt and in the interests of proper planning.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) (with or without modification) no garages, sheds or other outbuildings permitted by Class E of Schedule 2 Part 1 of the 2015 Order shall be erected or constructed.

Reason: To protect amenity and the character of the area and the openness of the Green Belt

4. Within 3 months of the grant of permission, 1 no. bat box or 1 no. bird box shall be installed within the site and photographic evidence submitted to the Local Planning Authority. The box shall thereafter be retained and maintained.

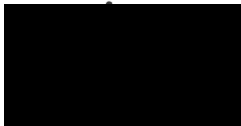
Reason: In the interests of biodiversity.

8.5 Condition in agreed form if required, but not agreed by the Appellant as being required

2. Within 3 months of the grant of permission, the detached outbuilding as shown within Unit 3 on the Enforcement Notice Plan shall not be occupied at any time other than for purposes ancillary to the residential dwelling known currently as Anchor Paddock; and shall not be occupied as a person's sole, or main place of residence.

Reason: The development is in an area where a separate dwelling would be contrary to the adopted local plan and would have a likely significant effect on protected Dorset Heathlands

Signed for and on behalf of the Appellants

A black rectangular redaction box covering the signature of Sebastian Charles.

Sebastian Charles for and on behalf of Aardvark Planning Law 10 January 2025

Signed for and on behalf of Dorset Council

Phillip Crowther, solicitor

10 January 2025