

<b>EXPEDIENCY REPORT TO TAKE ENFORCEMENT ACTION Town &amp; Country Planning Act 1990 (as amended)</b>		
<b>Reference Number</b>	<b>ENF/20/0313</b>	<b>Delegated</b>
<b>Land</b>	<b>Anchor Paddock, Batchelors Lane, Holtwood, Holt, BH21 as shown edged in red on the attached plan</b>	
<b>Breach of Planning control alleged:</b>	<b>Without planning permission the subdivision of the land into 3 distinct planning units each in Class C3 use, together with associated development as set out below</b>	
<b>Planning Unit 1</b>	<p>The bungalow known as Anchor Paddock, Holtwood, Holt, BH21 7DS as shown edged purple on the Plan annexed to this report:</p> <ol style="list-style-type: none"> <li><b>1</b> without planning permission, the construction of single storey extension and Dormer Extension (Planning Unit 1)</li> <li><b>2</b> without planning permission, the change of use of land from a Class C1 use to a Class C3 use.</li> </ol>	
<b>Planning Unit 2</b>	<p>The barn conversion known as White Barn, Holtwood, Holt, BH21 7DS as shown edged orange on the Plan annexed to this report:</p> <ol style="list-style-type: none"> <li><b>1 Without planning permission the conversion of a barn outbuilding to a habitable dwelling including, operational development to extend the barn building</b></li> <li><b>2 Without planning permission, the construction of a garage, outbuildings, green house chicken coup, hardstanding and swimming pool</b></li> <li><b>3 Without planning permission the change of use from residential ancillary to a separate C3 dwelling house.</b></li> </ol>	
<b>Planning Unit 3</b>	<p>The dwelling house known as Treehouse, Holtwood, Holt, BH21 7DS as shown edged green on the Plan annexed to this report:</p> <ol style="list-style-type: none"> <li><b>1 Without planning permission construction of a separate C3 dwelling house</b></li> </ol>	

## 1 Introduction

On 16<sup>th</sup> July 2020, the Council received a complaint that building works were being carried out to convert a bungalow at the Land into a two-storey dwelling with planning permission. In investigating this complaint officers have identified multiple breaches of planning control on the Land.

This report sets out the facts of each of breach of planning control and, in the each case considers whether the unlawful development causes serious harm or is contrary to the Development Plan such that formal enforcement action would be a reasonable and proportionate response.

## 2 Background

### The Land and Its Surroundings

- 2.1 The site lies in the hamlet of Holtwood, Holt a settlement where development is not generally permitted under Policy KS2 of the Christchurch and East Dorset Local Plan Part 1, unless that development is functionally required to be in the rural area. The Land also lies within the Green Belt. The implications of this are considered in detail in later sections of the report but any harm arising from development in the Green Belt is to be given substantial weight in the planning balance (see paragraph 153 of Section 13 of the National Planning Policy Framework(NPPF)). The Site is also within the Woodlands Area of Great Landscape Value (AGLV) and is within 5km of internationally protected Dorset Heathlands, including the Holt and West Moors SSSI. The site is accessed from Batchelors Lane, a gravel track, the route of which is shown below. Batchelors Lane is a public footpath but does not carry public vehicular rights. Dorset council has a responsibility to make sure the route is unobstructed and safe for use (by pedestrians) they would only carry out maintenance works on this route if it became impassable to a pedestrian.

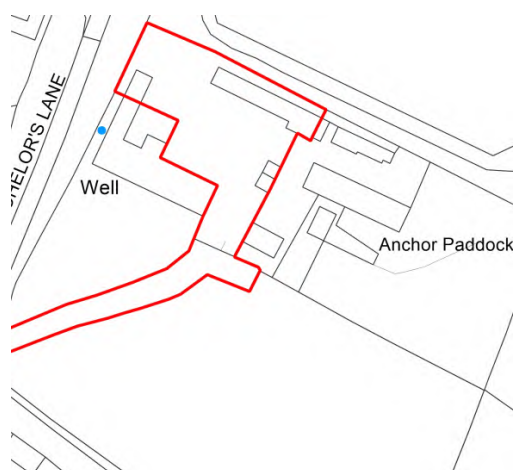
A public right of way runs along the western boundary of the property, the route of which is shown by a pink line on the drawing below:



The Land is presently registered at the Land Registry under a single title number DT129944 (a copy of which is annexed to this report at Appendix 1 and

in the sole name of [REDACTED]. Historical Land Registry documents show that the property was purchased by [REDACTED] in May 2020 before being transferred into [REDACTED] name.

The planning history of the land is set out in greater detail at section 5 of this report, but officers understanding is that in May 2020, the Land, though in single ownership was comprised of two distinct Planning Units. Historically the Land was used as a smallholding, with the bungalow known as Anchors Paddock providing residential accommodation. The previous owners began a bed and breakfast business (Use Class C1) on part of the Land. The holiday accommodation was comprised of 9 self-contained brick and timber chalets located to the north of the site immediately adjacent to the bungalow with a communal swimming pool available for guests use. This change in use and the associated operational development was carried out without planning permission but became lawful due to passage of time with a Certificate of Lawfulness being issued in November 2017 under reference 3/17/2526/CLE. The plan issued with the CLEUD identified the area shown edged red below as a distinct planning unit in C1 use.



Officers understand that circa 2012 a wooden outbuilding was erected within the garden of the existing bungalow Anchors Paddock without planning permission. An application for a Certificate of Lawfulness has been submitted under application reference P/CLE/20240/01225 which claims that the unit was constructed as and has always been used as a distinct unit of residential accommodation. This is considered in greater detail at section 10.0 of this report. This building formerly known as the Cabin appears to have been demolished and replaced or significantly amended to create a C3 dwelling referred to as the Treehouse which is presently used as holiday accommodation, sleeping up to 5 persons. The Treehouse has been physically separated from the remainder of the Land.

The bungalow known as Anchors Paddock has had a first-floor dormer rear extension. These works have been carried out without planning permission and a retrospective application has been made in an attempt to regularise the situation, P/HOU/2024/00739. The majority of the land formerly used for the C1 bed and breakfast business is now used as ancillary land to the bungalow. The

bungalow site is currently offered as holiday accommodation for rental for up to 16 persons.

A barn on the Land has also been converted into a residential accommodation and is currently occupied by [REDACTED]. This property is known as the White Barn. The White Barn has additional new outbuildings including double garage, large green house, swimming pool and chicken coup.

#### **4 The Planning Unit**

As a result of the development outlined above, it is considered that the site is divided into three distinct planning units.

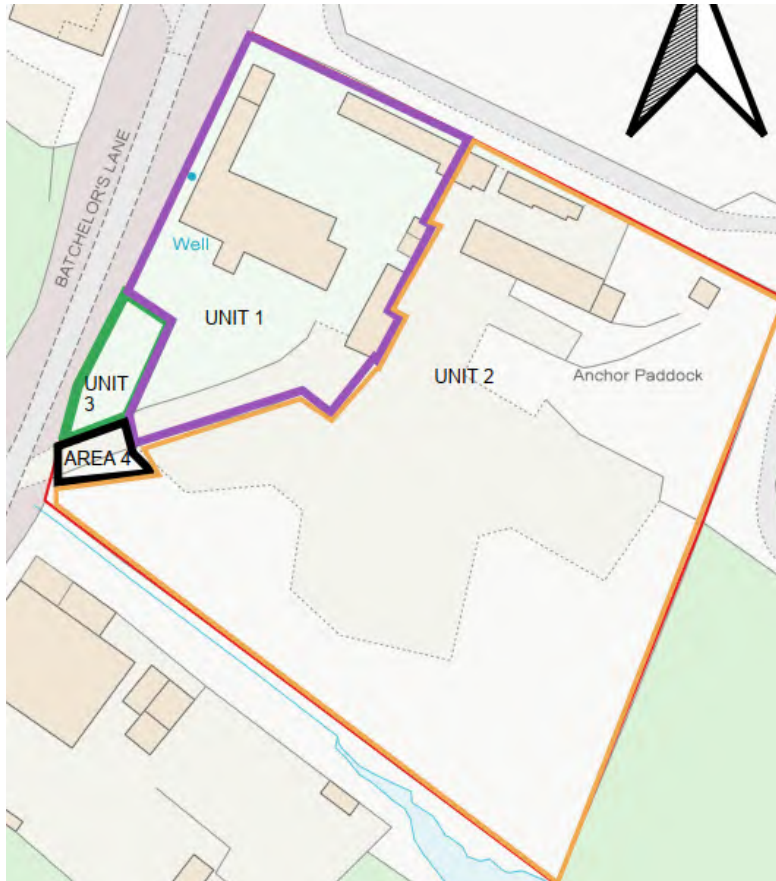
The land is still owned by the same individual at the time of writing. I identified using the principles set out in *Burdle v Secretary of the State for the Environment* [1972] 1 WLR 1207, that there is no longer one whole unit of occupation where there is a “single main purpose of the occupier’s use of his land”. The site has been divided up into three planning units:

Unit 1 (outlined in Purple below) is the original dwelling house and residential curtilage. The property has its own entry gate and is separated on the Eastern Side from fencing and outbuildings. To the South there is fencing to separate it from Planning unit 3. Both Planning Unit 1 and Planning Unit 3 are advertised for holiday accommodation as separate units. This was [REDACTED] and includes the majority of the land previously in C1 use.

Unit 2 (outlined in Orange below) is the class Q Conversion now known as ‘White Barn’. As above to the West the property is separated from Planning Unit 1 by the outbuildings and fencing. The planning unit has its own gateway and drive leading up to the dwelling. At the time of writing the owners are residing in this unit [REDACTED].

Unit 3 (outlined in green) is the dwelling now known as ‘Tree House’. It is fenced on all sides from Planning unit 1 and 2. It is advertised as a separate holiday accommodation.

Area 4 (outlined in black) represents the shared drive for all three units.



## 5 Planning History

**P/CLE/2024/01226 – Retention of Green House** –Deemed not lawful on 12<sup>th</sup> June 2022.

Deemed not lawful for the following reasons:

- 1. The Applicant has not provided the Council with sufficient evidence to establish on the balance of probability that the use of the land (on which a greenhouse is sited) for ancillary residential use has been continuous for more than ten years prior to the date of the application.*
- 2. Insufficient evidence has been provided to demonstrate that the structure shown on plans 4419-BE(4) A and 4419-BE(4) annotated 'as built' was substantially complete more than 4 years ago so as to be immune from enforcement action by reason of time.*

**P/CLE/2024/01225 – Use of Tree House as Self Contained Dwelling** –currently under consideration. The date of the first use claimed in the CLE application is 1/2/2013. See further comment under analysis of evidence. Currently under consideration.

**P/HOU/2024/00739 – Retain first floor dormer extension; demolition of existing**

outbuilding – currently out for consultation. (Planning Unit 1).

**P/CLE/2024/00737** – Retention of single storey rear extension – Deemed not lawful on 11<sup>th</sup> April 2024 (Planning Unit 1).

The reason for deeming it not lawful given as:

1. *The Applicant has not provided the Council with sufficient evidence to establish on the balance of probability that the single storey rear extension to the dwelling known as Anchor Paddock shown on plans 4419:A2 and 4419:A(3C) was substantially completed more than four year prior to the date of the application.*

**P/HOU/2023/02656** - Retain first floor dormer extension – refused 15/9/23

Refuse for the following reasons:

1. The site lies within the Bournemouth Green Belt. The first floor dormer extension, when considered in the context of the other extensions built at the dwelling since the dwelling was first built, results in disproportionate additions over and above the size of the original building. The proposal therefore represents inappropriate development in the Green Belt which is harmful by definition and also results in harm to the openness of the Green Belt. No very special circumstances have been put forward that would outweigh this harm. The proposed development is therefore contrary to the provisions of Section 13 (Protecting Green Belt land) of the National Planning Policy Framework (2023), in particular paragraphs 147 to 150.

2. The box design and massing of the dormer results in a poor form of design that jars with the simple roof form of the dwelling and the dormer window extension is contrary to Policy HE2 (design of new development) of the Christchurch & East Dorset Core Strategy 2014 and Section 12 (achieving well designed places) of the National Planning Policy Framework 2023.

**P/HOU/2022/06621** -First floor dormer extension; rear single storey extension (retrospective) – Withdrawn on 03/03/2023

**P/HOU/2022/04905** - - Create habitable first floor accommodation with roof lights and dormer – Application declared invalid on 1<sup>st</sup> July 2024.

**3/21/1384/CLP** - Convert machinery barn to residential dwelling – withdrawn (Planning Unit 2) when the planning officer indicated it would be refused.

**3/20/2281/PNAGD** – Convert Machinery Barn to residential dwelling. (Planning Unit 2)

A class Q Conversion Prior notification was not determined by the Council within the timeframe set. The reference number for this was 3/20/2281/PNAGD.

The letter to the agent Mr Cain (Planning Agent) was sent on 5<sup>th</sup> March 2021. Within the letter the following paragraphs were outlined:

*Therefore, the proposal benefits from deemed prior consent under Schedule 2, Part 3, Class Q, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).*

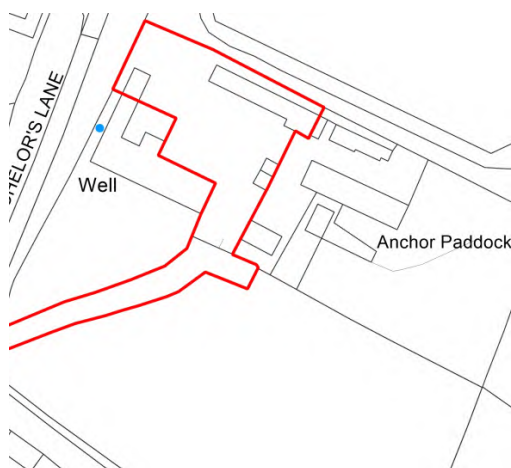
*The prior notification process set out in Schedule 2 Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), is separate to an assessment of whether the proposal does or does not require planning permission. To formally establish whether your proposal accords with the permitted development requirements a Certificate of Lawful Development would be required.*

*The application site is between 400m and 5km of a European protected heathland (Dorset Heathland) and given the proposed residential use, the development should be the subject of appropriate assessment.*

*The matter of appropriate assessment under the Habitats Regulations is a separate issue that must be resolved prior to commencement.*

Within the application to prove this is agricultural land the owners agents states :  
“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”.

**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 on 02/11/2017



Decision Red line plan from  
3/17/2526/CLE

**3/16/1460/CLE** - Use of the land, including 9 self-contained brick and timber chalets, as bed and breakfast holiday accommodation - Refused on 10/10/2016

**03/80/1858/HST** - Erect extension – Granted on 19/09/1980

**03/80/1027/HST** - Erect extension – Refused on 24/06/1980

**03/79/2625/HST** - Anchor Paddock, Batchelors Lane, Holt Wood, Holt – Erect addition to side of dwelling and make alterations – Refused on 18/01/1980

## 6.0 Enforcement History

ENF/20/0313 – Complaint received that a bungalow was being converted into a two storey dwelling. Received 16<sup>th</sup> July 2020. This complaint is the subject of this report.

ENF/16/0408 The site has Chalets which are used for letting business at the site - No business rates have ever been paid on the Chalets - Believed to have no PP –**3/17/2526/CLE** later granted and case closed.

View of Anchor Paddock on the 2017 investigation and from Dorset Explorer dated 2009.



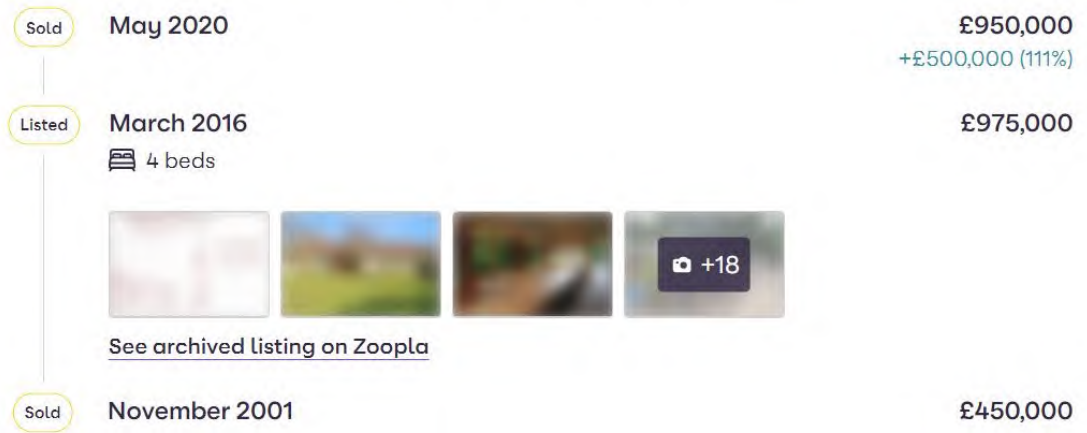
Sales details of the property at this time are attached at Appendix 2 & 3. Both are used as reference when analysing the development of the site. Date for Appendix 2 'Christopher Batten' details believed to be when it was first listed in 2016. See Zoopla extract below. Appendix 3 'Fine and Country' sales details are prior to sale May 2020 and therefore the most recent prior to the current owners purchasing the site.

Zoopla extract for Anchor Paddock



## Property timeline

Sold prices are provided by HM Land Registry and may take up to 3 months to appear.



### 7.0 Planning Unit 1: The Bungalow known as Anchor Paddock

The initial complaint was received on 16<sup>th</sup> July 2020. The complaint being that a bungalow was being converted to a two-storey house without planning permission. A planning enforcement case was opened under reference number ENF/20/0313.

On 29<sup>th</sup> July 2020 Enforcement Officers attended the location and took photographs of the building works that were on going. These photographs, set out below show the ongoing construction works:





*Top of the Dormer Extension is visible above the roof line of the bungalow.*

The landowner was made aware that these works exceeded permitted rights and that planning permission was required. The landowner made several applications for retrospective planning permission (detailed Section 5.0 on page 6), none of which were successful.

Although the Council's records show that a planning officer alerted the Council's enforcement team to suspected additional breaches of planning control at the site in April 2021, these concerns were not added to the open investigation and have only been found during subsequent analysis of the planning history.

On 17<sup>th</sup> August 2022 Enforcement Officer Jane Meadows visited the site and witnessed the extensions substantially complete. Photograph as below:

There is clear evidence that the bungalow known as Anchor Paddock has been extended whilst in [REDACTED]'s ownership/occupation.

The Google Earth imagery below from May 2020 and July 2021, respectively show that works have been carried out to the northern elevation of the property.

Google Earth imagery May 2020



No Dormer Extension visible

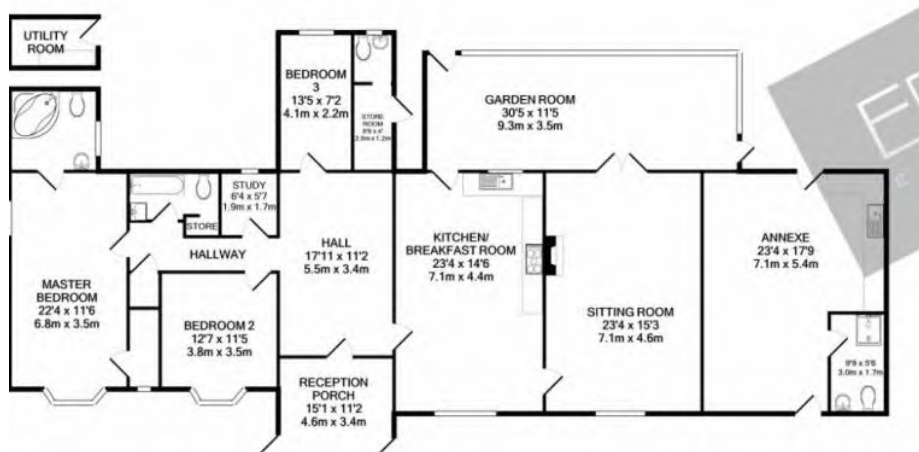
Google Earth imagery July 2021



Completed Dormer Extension

The photographs taken in July 2020 as set out above clearly show the construction works to the northern elevation of the building comprising a dormer and ground floor extensions. These works were completed at the site visit on 17<sup>th</sup> August 2022.

Further evidence of the operational development is provided by comparison of the layout of the bungalow. The layout below is taken from the Sales Literature produced approximately 2020.



Compared with the plan submitted as part of the refused dormer extension application P/FUL/2023/02656:



This shows that the area northwest of the original bedroom 3 is a new extension and the dining/bathroom and utility area has a greater footprint than the wooden garden room previously on this site. Whilst the scale of the floor plan cannot be relied upon, it clearly shows that there was a walkway between bedroom 3 and the garden room and that the garden room had a lesser depth than the rear pitched roof projection.

The photos from the Sales Literature (below) show the bungalow to be of a single storey, with a garden room of wooden construction.



In photographs taken 29/7/20 by Enforcement Officer then extension would appear to be newly built and of breeze blocks (additional photos on Enforcement file).



Aerial photographs submitted with application P/CLE/2024/00739 show the previous garden room. A gap (walkway) can be seen between the bedroom 3 and the garden room on the photograph.



From the same sales details it can be seen that the previous structure was of poor construction and was a simple lean-to extension.



The works subsequently undertaken represent extension which is two storey in part and unauthorised.

### Immunity

In the application to retain the Dormer Extension P/HOU/2023/02656 the applicant claims that the work was started on 1/1/21 and completed 1/7/2021.

Within the subsequent application P/HOU/2022/04905 there is a different date claiming that the works were completed by 1/4/2022. This could potentially be because the application covered a wider range of issues including roof light and making a 1<sup>st</sup> floor habitable, rather than simply a Dormer extension. This application was withdrawn.

P/HOU/2022/06621 for the dormer and single storey rear extension, was also withdrawn. This application identified a completion date of 1/7/21.

A Planning Contravention Notice was served on [REDACTED] on 7th November 2023. Within the reply the completion date was specified as July 2020.

Photographic evidence taken by the Enforcement Officers attending the site visit on 29<sup>th</sup> July 2020 show that the extensions were not substantially complete on this date.

On the basis of this date, the single storey and Dormer extension will potentially become immune on 29<sup>th</sup> July 2020.

### Use:

Whilst part of the original site had a lawful C1 use (bed and breakfast holiday lodges) this did not the majority of the main house Anchor Paddock which was in residential use (Use Class C3). The only area that was part of the C1 use was

the wooden dining area which has since been replaced with the ground floor extension which is the subject of this report.

During the course of writing this report the website Countrysidestays.co.uk showed Anchor Paddock for rent as holiday accommodation for up to 16 people. In the returned PCN 27<sup>th</sup> January 2024 [REDACTED] stated the website was no longer operational. In answer to the questions regarding holiday accommodation use it is clear that the questions asked were not specific enough. [REDACTED] answered regarding the whole site. The website Countrysidestays.co.uk has since been removed from the internet and no evidence that it is still being advertised as holiday accommodation can be found as at 2<sup>nd</sup> May 2024.

On the balance of probabilities it appears that there is no current breach of planning control in relation to the use of the dwelling house.

#### **9.0 Planning Unit 2 – The barn conversion known as White Barn**

On the 7<sup>th</sup> November 2023 site visit by Jane Meadows it was noted that the former barn had been converted into a new dwelling house. There has been further operational development on the surrounding and including the construction of a garage, outbuildings, green house, a chicken coup, an area of hardstanding and a swimming pool.

#### **9.1 Google Earth Imagery November 2023**

As can be seen in these photographs there are a number of areas of development that are not present in the July 2021 aerial photograph when compared to the November 2023 photograph.

November 2023



July 2021



The original barn without L shaped extension can be seen in the 2021 photograph. There is no evidence of a link extension on the northern elevation, double garage, modern outbuildings, no swimming pool, chicken coup. What can be seen in the 2021 photograph are some sheds on the northern elevation and what appear to be evidence of building works, with lorries and supplies on site.

Google Earth Imagery September 2021





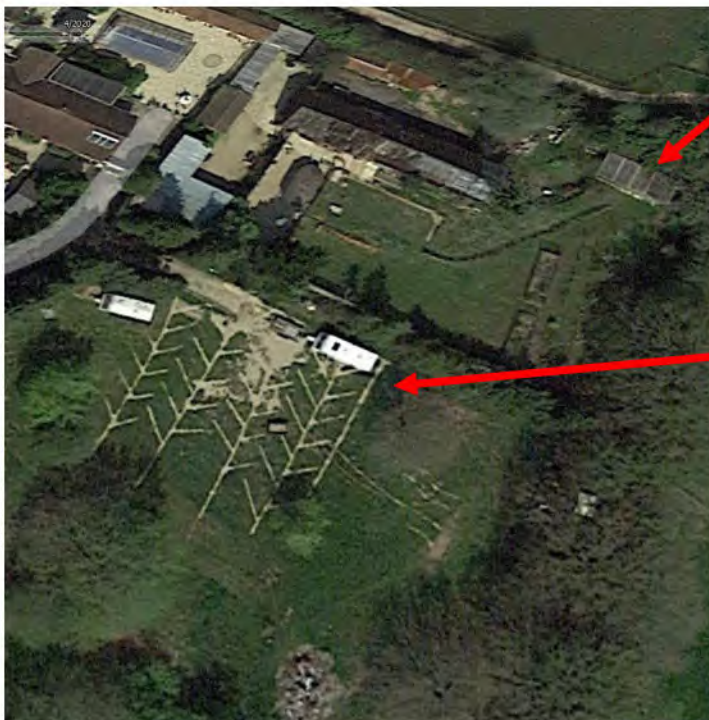
From the above image it would appear that some clearance works have started as the hot tub to the South of the barn have been removed which can be seen in the photograph of May 2020 below.

Google Earth Imagery May 2020



Hot tub cover visible

Google Earth Imagery April 2020



Fruit cages shown in the approximate location of the new green house

Evidence of caravans and the herringbone parking area to the south of the barn.

Google Earth Imagery July 2018



Google Earth Imagery May 2017

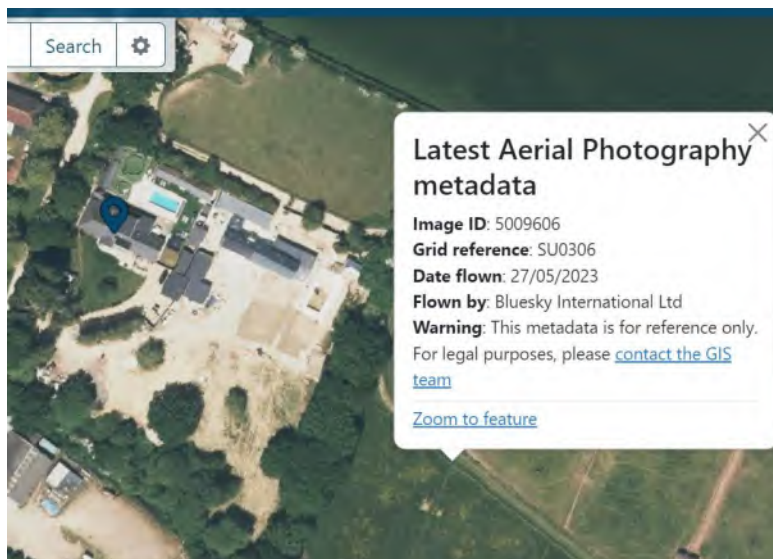


Google Earth Imagery April 2014



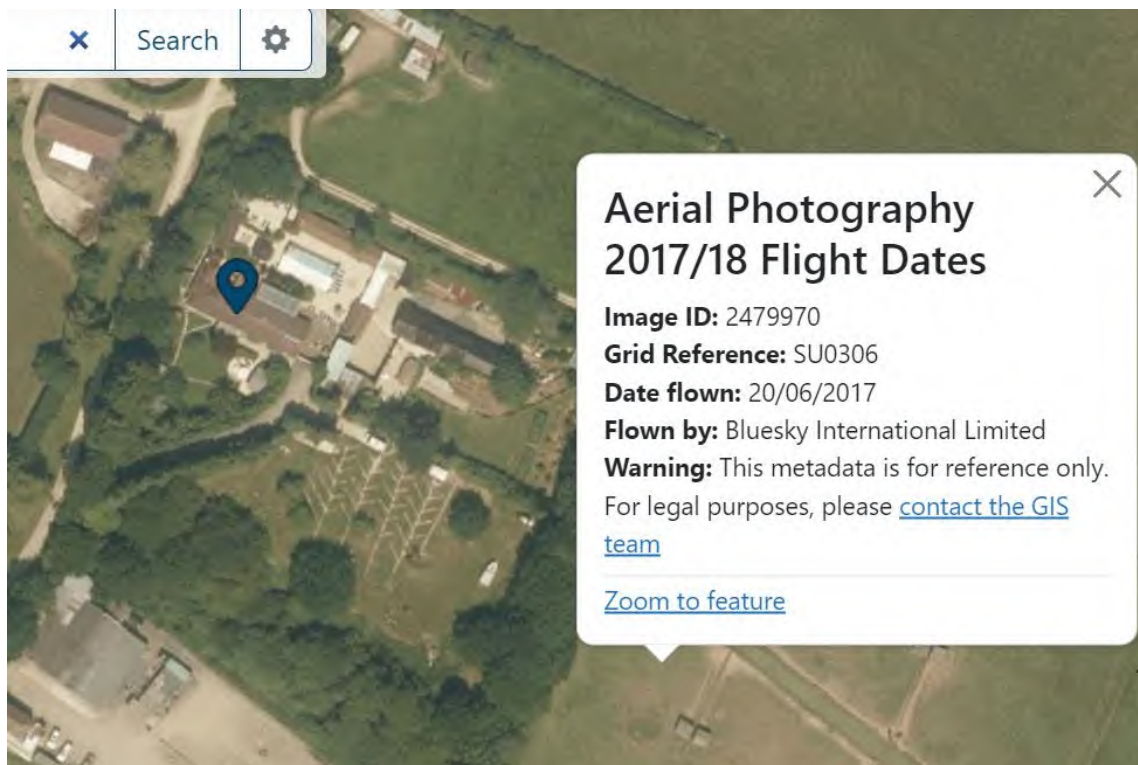
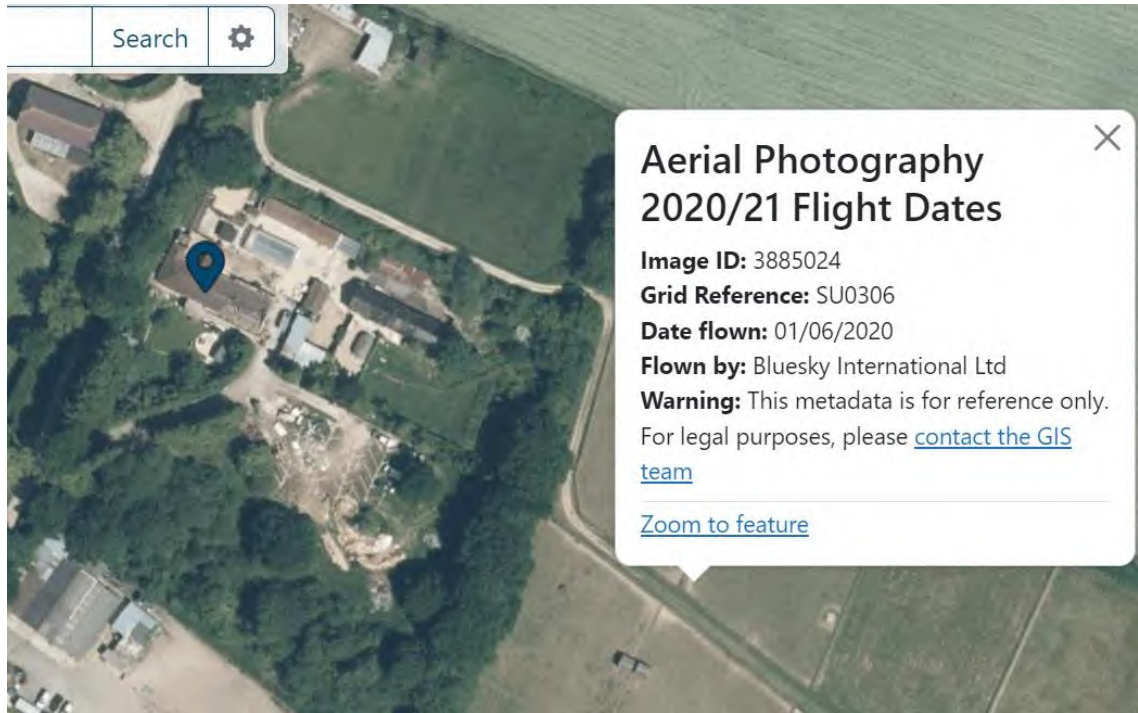
**Dorset Explorer Imagery – subject to copyright**

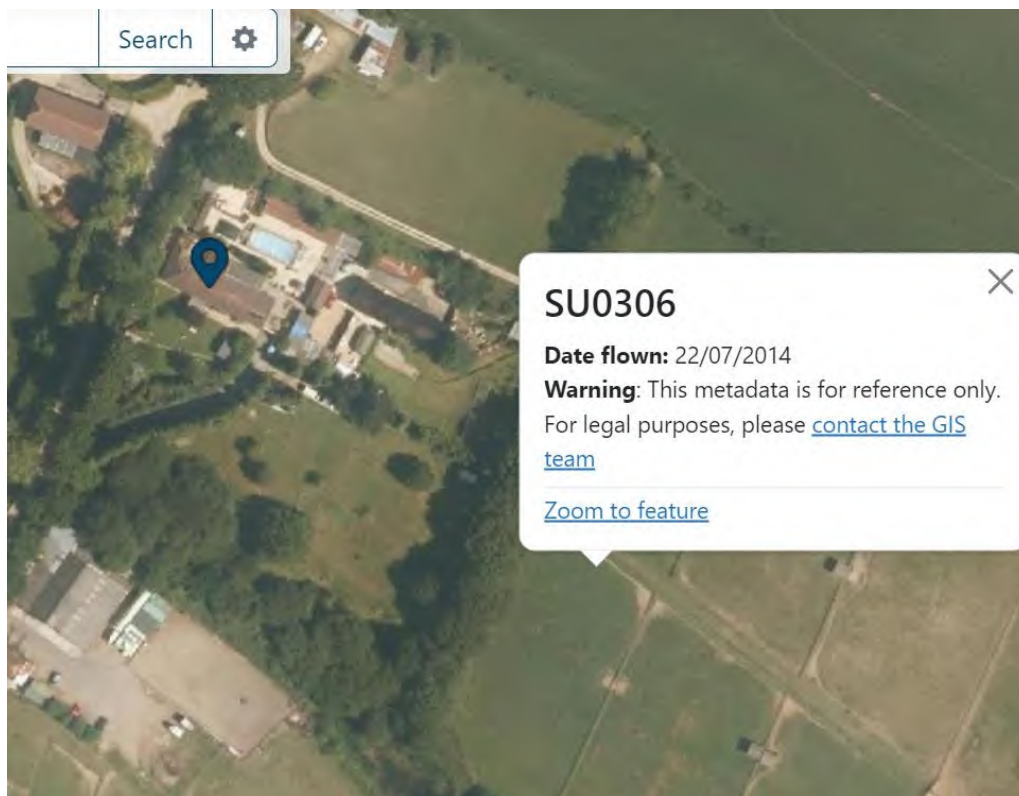
Latest imagery Dorset Explorer



In aerial photography from 27/5/23 the construction of the outbuildings can be seen, the L-shaped extension and a new roof on the barn appears in part new. The swimming pool and green house now present. Work still appears on going and a number of areas incomplete surrounding the barn such as the garden.

Further photography produced below supports the previous analysis of Google Earth imagery with specific dates provided.

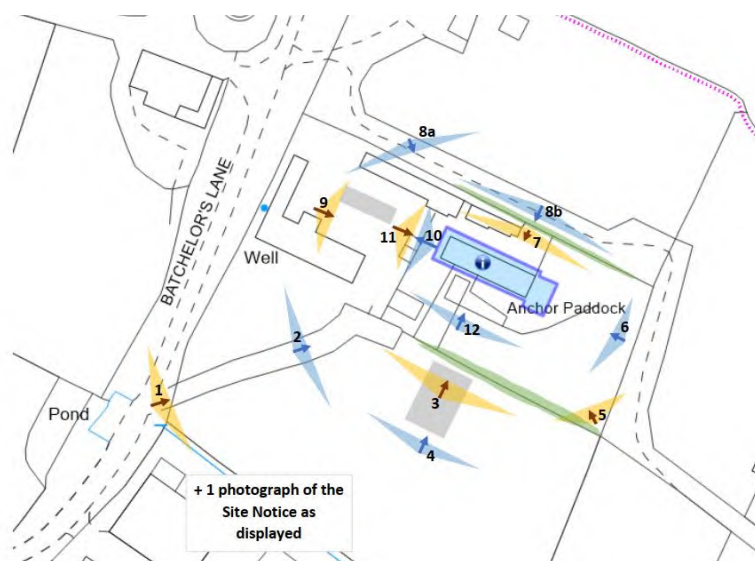




## 9.2 Other photographic evidence for Planning Unit 2

Numerous photographs exist on the file **3/20/2281/PNAGD** for the conversion of the main barn (Planning Unit 2) (taken by the Agent James Cain). This application being submitted 19<sup>th</sup> December 2020.

On 14<sup>th</sup> January 2021 Planning Officer Ellie Lee had requested these photographs from Cain and had asked him to take photographs as per the diagram she provided which covered each angle– see below:



The photographs as below were added to the case file on 19<sup>th</sup> January 2021.



View from the South looking  
North West



North East Elevation



North West Gable behind  
building (Planning unit 1)



North West Gable end behind blue container – looking from Planning unit 1 towards Planning Unit 2

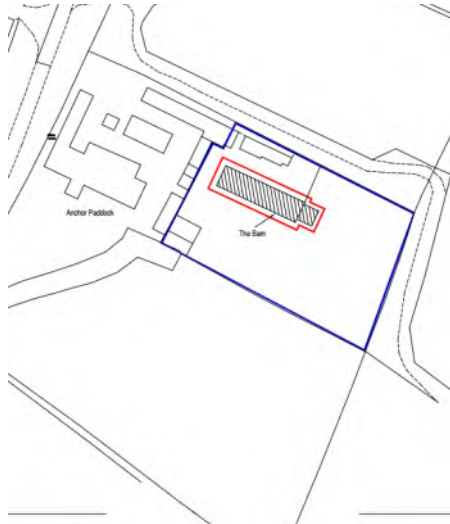


End South East Gable looking North



South West Elevation

Plans submitted via the prior notification for the conversion 3/20/2281/PNAGD:

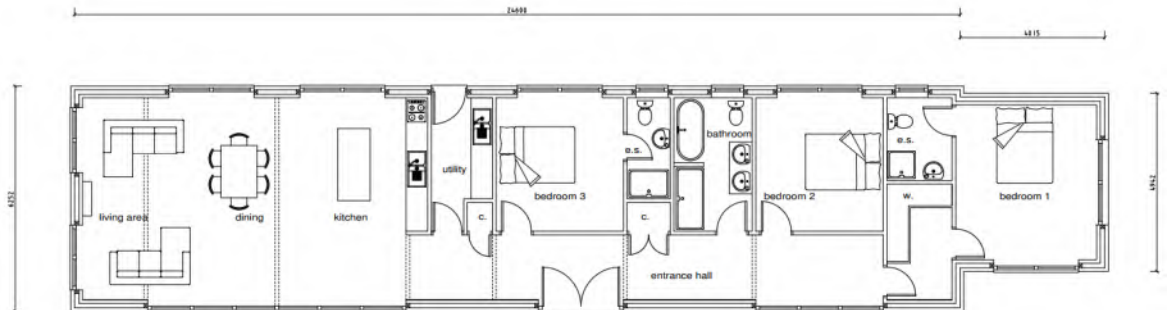


Location and revised red line plan

### Proposed Elevations



### Proposed Floor Plans



Comparing photographs from the site visit conducted 7<sup>th</sup> November 2023 it is clear that the Class Q conversion has not been built to the plan they submitted with application 3/20/2281/PNAGD:



Front Elevation



Rear Elevation



East Elevation



West Elevation



Connecting corridor from the North West Corner to the outbuilding/extension on the North West Corner:



Connecting corridor to the main house on the North West corner of White Barn. Clad extension on the site of previous derelict shed outbuilding. This is all new development and forms part of the extension to the main barn.

Photograph below from the NW End prior to conversion (photograph from Agent on file 3/20/2281/PNAGD) showing the outbuilding that this part of the development has replaced and joined to the former barn building:





Green House

North East view showing old wooden shed in the far east Corner of the plot



Aerial view from 2021 showing what appears to be a wooden shed or possible fruit cages with dual pitch roof



Below photograph from the agent during application for 3/20/2281/PNAGD showing that derelict wood building.



Outbuildings on Western Boundary

2021

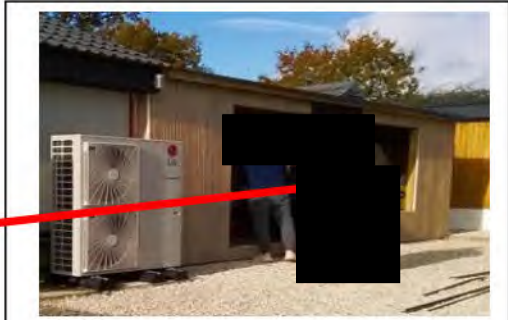


2023



2023





Outbuilding where there was nothing present before (therefore very recent development)



Rear of the outbuilding with air con attached – in photo from agent 3/20/2282/PNAGD shows only a wall where now there are new outbuildings



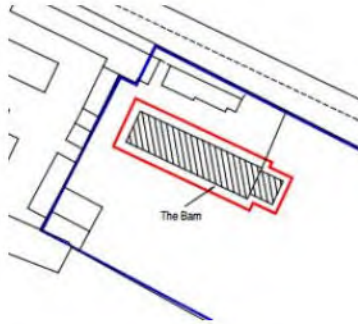


Replacement roof and connection of the previous outbuildings to the main house where no building existed before. The outbuilding footprint being replaced by an extension which links to the main house.

L-shaped extension

3/20/2281/PNAGD

2023



Under Schedule 2, Part 4, Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) states as not permitted:

*(h) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;*

Clearly the building has been extended so that it is larger than the footprint of the barn being converted. Two extensions have been added on. One single storey addition on the North and East elevation joining with the original lower element to wrap around the Eastern end of the barn and one single storey extension on the North West (on site of previous shed outbuildings) with connecting corridor to the house. There is no evidence that these extensions took place as separate building operations to those required to convert the building and on the balance of probability due to the limited timeframe since prior approval was obtained, they are likely to have been integral to the conversion of the building.

Cladding and windows

The prior approval application stated that wooden windows and door frames would be used and the building would be mainly clad in wood. This is clearly not the case. Sections of the walls are clad but a large proportion of them are white render – giving a very modern feel distinct from a rural barn conversion character (see evidence above). Roof lights are in different locations than the submitted plans.

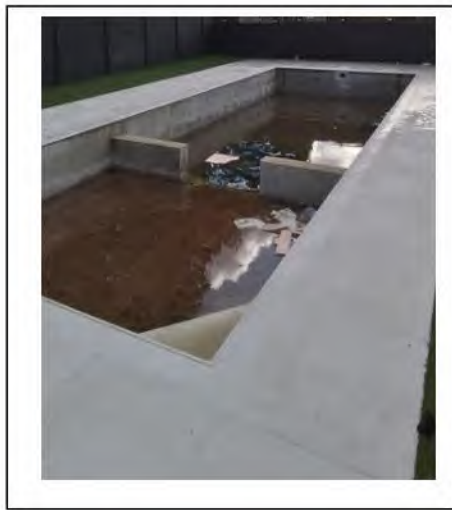
Swimming Pool

2021



Land approximately where the swimming has since been constructed

2023



Is not forward of the front elevation of the original house Planning unit 1.

Aerial photography shows the location of the swimming pool:



Driveway

Photographs from site visit 7/11/23.



In the PCN served 7/11/23 the owner claimed that the driveway was a shared driveway with Anchor Paddock. This is clearly not the case as a separate/new

driveway has been created in addition to the additional stretch of hardstanding that goes to the chicken shed.

2020 Aerial Photography & approximate areas covered by hardstanding.



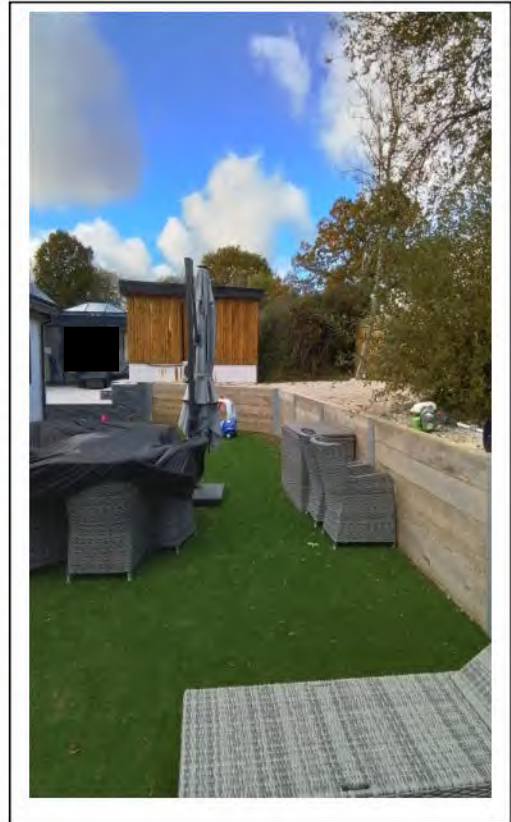
Original driveway of Anchor Paddock



Dorset explorer latest photography two drives can be seen either side of the line of trees – the outline of the additional driveway to the house and chicken coup can also be seen

Retaining walls and land levels

Changes to the land levels as evidenced in photographs taken 7/11/23.



No evidence of retaining walls being present in agent's photograph from 2020.



Location of retaining walls on aerial photography in red below:



## 9.2 Use of the Land

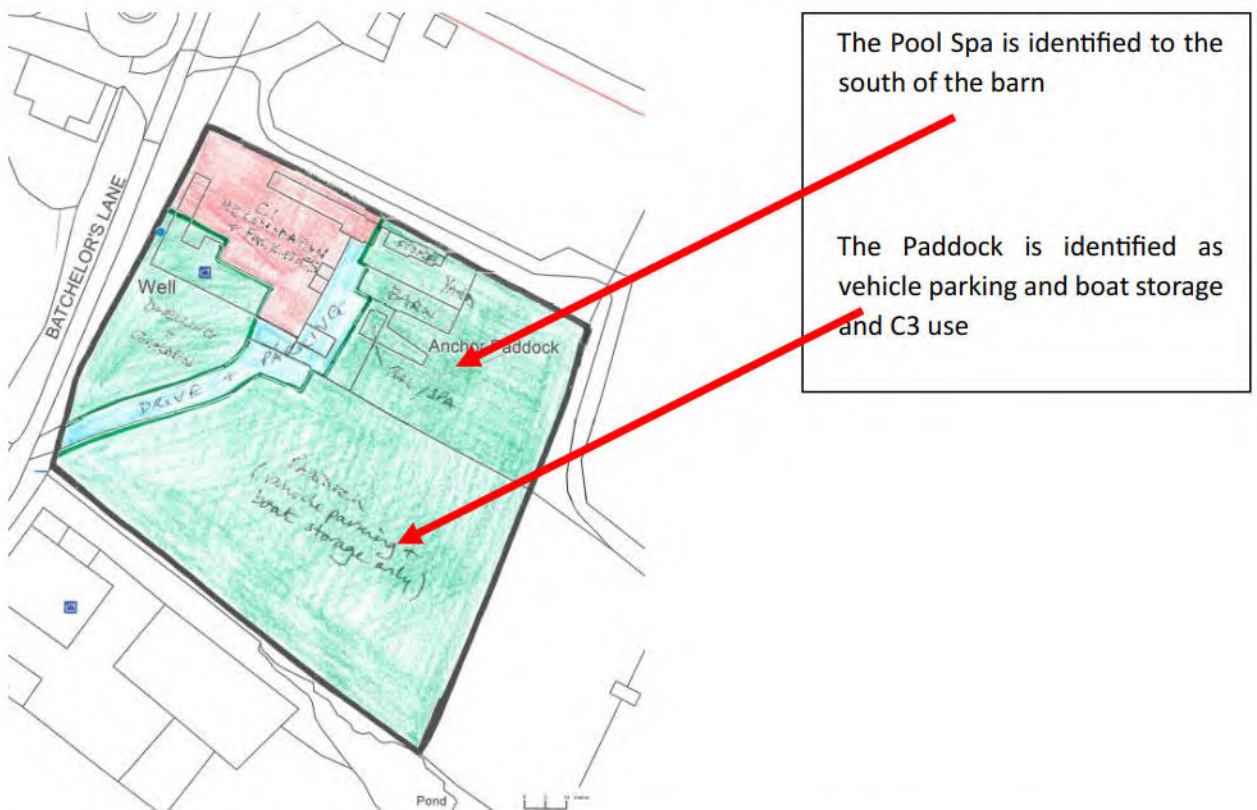
The first consideration that should be made is to whether the reliance of the prior approval application 3/20/2281/PNAGD on the last use of the building being used for agriculture was applicable.

In 3/17/2526/CLE it was accepted that the naturists business had been in operation on this site since 2002-2016 – see Chronology of events in this file.

At this time, an assessment of the planning unit was considered by David Lloyd (author of officer report -3/17/2526/CLE):-

*It is a mixed use site, and the description of development is revised accordingly. See 2.6 above. For the avoidance of doubt, the appended diagram presents a checkpoint for future reference/enquiry/investigation – four distinct parts – C1 (red), shared (blue) drive and parking, a distinct C3 (green) dwelling and garden, with other lands in ownership and appearing incidental to the enjoyment of the dwelling. There is no crossover between the C1 and C3 unless by invitation of the landowners.*

*Claims of immunity for lands in green being C1 are not made at this time.*

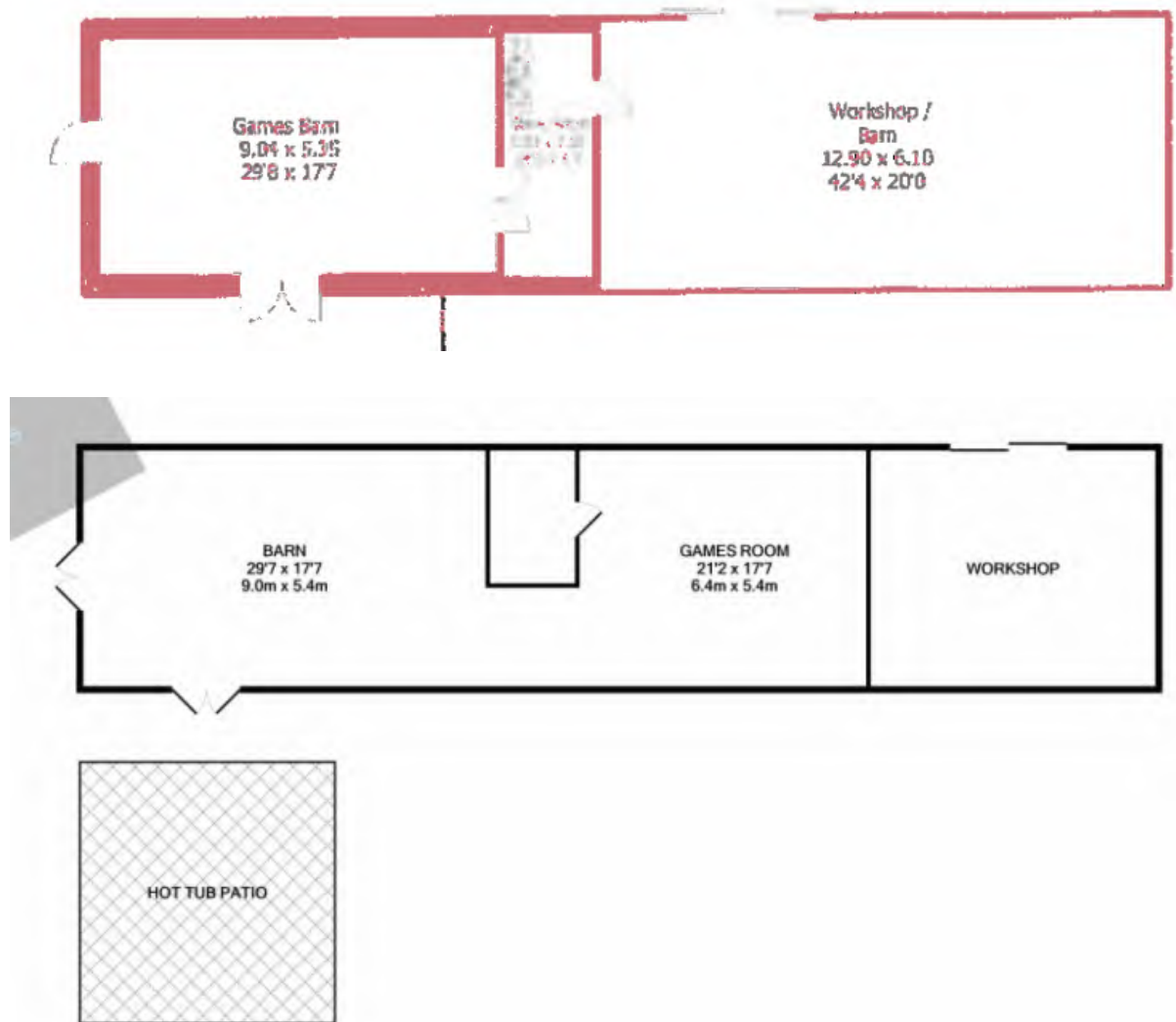


The Spa Pool on the green side was regularly identified in photographs as being part of the facilities of the naturist site and the distinct thatched oval roof can be seen in the review pages (Appendix 4) and in aerial photography (Google Earth imagery above May 2020). The spa pool clearly not agricultural.



It is accepted that the lower paddock is for use as parking and boat storage rather than for agricultural use, but it was accepted that this was for the owner's private use rather than part of the C1 site. Additional photographs both aerial and from sales particulars show this in use as parking. The estate agent's sales details show at least half of the barn as being used for a Games room and not for agriculture. Games Room, parking and overall use of the site being regularly mentioned in the promotional material for the Naturist Site (Appendix 5).

See Appendix 2 & 3 Floor plans (extracts as below):



Additionally, from the 'Fine and Country' Sales details a view of the agricultural land which is clearly being used as parking for campers at this time. Herringbone

patterning on the grass can be see in aerial photographs from 2017-2020.

Google Earth May 2017



The officer report went on to say: *There is parking use of the paddock (south-easterly site); the owners declared that this is for private use – for when they have residential associated visits – therefore any C1 associated use is halted by such a declaration and by this report.*

Therefore, until the site was sold in 2020 prior to that date the lawful use of the site had been as a mixed use C1 & C3 residential dwelling and bed and breakfast accommodation. The land around the Barn had been identified as ancillary to the dwelling house.



Paragraphs 7.3 and 7.4 from 3/17/2526/CLE are reproduced below:

**7.3 Permitted Development Rights (relevant to the subject site only)**

*Part 7 of the GPDO does not apply to C1 use.*

*Notwithstanding Part 3, There are no direct permitted development rights to undertake built development that does not involve a change of use as set out above.*

*Generally planning permission should be sought for further development at the subject land.*

**7.4 Enforcement Monitoring**

- a) Use of the paddock (south-east) of the bungalow should be considered for monitoring of C1 associated use;*
- b) Use of the buildings (store, barn and secondary pool/spa) should also be considered for monitoring of C1 associated use.*

The application for 3/20/2281/PNAGD claims that the barn was in agricultural use at the key date 20<sup>th</sup> March 2013 or last used before that date. Question 4 (Eligibility) asks:

Was the use of the site on 20 March 2013 (or the last use before that date) solely for an agricultural use as part of an established agricultural unit?

This was answered 'yes'.

The Supporting statement from December 2020 states:

- *“The subject barn was part of a registered smallholding (Reference 11/264/0082) on that date.”*
- *The approved red line for 3/17/2526/CLE was determined to be lawful and did not include the barn that is the subject of the current PNAGD application.*
- *The land outside the 3/17/2526/CLE approved red line is considered to only have had an agricultural use as its last lawful use.*
- *The barn relates to a registered smallholding ref: 11/264/0082 that was registered at the time of 20<sup>th</sup> March 2013.*
- *There has not been an intervening lawful use of the subject land other than agricultural.*
- *Aerial photos are provided for the following dates:*
  - 2002
  - 2009
- *Reference to evidence in the 2009 aerial photograph stating that it shows that the east side of the barn was used to house and service agricultural machinery.*
- *The Agent states that: “The applicant submits that the barn was therefore in lawful agricultural use on the relevant date in March 2013.”*

•  
The Planning Officer considered the small holding within 3/17/2526/CLE and enquiries were made at that time with DEFRA. The below is an extract from that report:

2.22 Small Holding listing 11/264/0082

A smallholding number is issued for an agriculture/animal use within a 10 miles radius of a particular point where operations or animal gathering takes place.

11 / - signifies the county

264/ - signifies the parish

0082 – signifies the person

- Enquiries were made with Defra on 20<sup>th</sup> September 2017 and it was confirmed the same day that the smallholding registration relates to person rather than the land. Whilst Defra are unable to trace the complete file for the reference, they suggested that unless there are livestock or animal feeds/product manufacture on the land, the reference to a smallholding appears incorrect and not effective.
- The reference to the land as a smallholding does not appear relevant to the land (edged red) and therefore should be disregarded as a use of the land (agriculture).

At the time of the application for 3/20/2281/PNAGD and 3/21/1384/CLP the Parish Council objected to the fact that the barn had not been in agricultural use and had in fact been a naturists bed and breakfast. They provided details via email of screen shots of the reviews from trip advisor of it as a naturists business called 'Dilly Dally's'. The link to the reviews no longer work. However, screenshots of the reviews were found on 3/21/1384/CLP and are attached at Appendix 4 – reviews ranging in time from July 2011-Aug 2019.

Within the file 3/21/1384/CLP - the objections in an email (Appendix 6) from the planning officer Ellie Lee to the agent James Cain the above objection was also pointed out along with the following

*'there is evidence that the buildings to the north-west/west are related to the tourist accommodation (outside of the blue red line boundary) would you be able to provide Title Deeds for the application site land, within both red & blue line boundaries?'*

On 1<sup>st</sup> April 2022 Lee pointed out to Cain via email (Appendix 6) *The agricultural holding at Anchor Paddock as a whole appears to have been bigger and of a mixed use - before 2013 and after 2013.* Lee additionally pointed out the other reasons she was minded to refuse the application. Later on the same day the application 3/11/1384/CLP was withdrawn.

For the development to be permitted under Class Q, the site must have been used solely for an agricultural use as part of an established agricultural unit on the

relevant date. Paragraph X of Part 3 of the GPDO 2015 states that for the purposes of Class Q an “*established agricultural unit*” is “*agricultural land occupied as a unit for the purposes of agriculture on or before 20<sup>th</sup> March 2013 or for 10 years before the date that development begins*”. The permitted development rights under Class Q are also only applicable to an “*agricultural building*” which Part X of Part 3 of the GPDO 2015 defines as “*a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business*”. Part X also provides that the term “*agricultural use*” refers to such uses.

The landowners application of 19<sup>th</sup> December 2020 for prior notification asked, “*was the use of the site on 20 March 2013 (or the last use before that date) solely for an agricultural use as part of an established agricultural unit?*” to which the applicant responded ‘yes’. The planning statement that accompanied that application states that the agricultural use of the land is evidenced by the fact that the subject barn was part of a registered smallholding (Reference 11/264/0082) and this registration was active at the relevant date. In the statement, the agent notes that a CLEUD was issued in 2017 in respect of the C1 use and that the land on which the barn was located is outside of the C1 planning unit certified as part of that C1 use. The suggestion is that this evidences that the land was not in C1 use and must therefore have remained in Agricultural Use. No evidence is provided as to the contents or use of the barn at the date of the application other than an aerial photograph. The contents and layout of the barn are not described or photographed. The agent claims that there has been no intervening lawful use. The statement does not go so far as to say that there has been no intervening use.

The information available to officers suggests that the barn was not being used for agricultural purposes either on the 20<sup>th</sup> March 2013, nor in December 2020 which the application for prior determination was submitted. That use may or may not have become lawful, through passage of time but officers cannot be definitive on the point, based on the information available. The evidence may be summarised as follows:

- The sales details show that at least half of the barn is used as a Games Room and another area as a workshop.
- The promotional material for the C1 use refers to the availability of the Games Room. (Note I have not viewed this material but not that it is referenced in your report and listed as Appendix 5). It was accepted as part of application 3/17/2526/CLE that the naturist business had been in operation on the site from 2002-2016.

- When the Certificate of Lawfulness for an Existing Use was issued in 2017 for the Class C1 (application ref: 3/17/2526/CLE), the officer made a note of the use of the entire site. This shows the area in which the barn is located as being in C3 use. The officer notes that guests are invited into the C3 area, but that no claim for C1 or mixed use were submitted at that time.
- Customer reviews for the C1 business reference a games area and use of the barn. In particular, I note the following: Review from August 2016 by [REDACTED] "There is also a pool table, dart board and boules court". Review from April 2013 from [REDACTED] reads "There is....a large barn with a pool table which was the venue for an....." Review from January 2013 by [REDACTED] : [REDACTED]  
[REDACTED] "Saturday night is usually a themed party night in the pine clad carpeted barn which is adjacent to the largest hot tub you have ever seen"

On balance the information presented suggests that the barn was not solely used for an agricultural use as part of an established agricultural unit either at the relevant date of 20<sup>th</sup> March 2013 or at the time that the application was made.

The question is therefore whether permitted development rights may be claimed in respect of the last recorded lawful use, even if there has been an intervening and continuing use. Article 3(5) of the GPDO 2015 states that in the case of permissions granted by Schedule 2 for a change of use, the permission does not apply if that use is unlawful. This means that permitted development rights can only be claimed in respect of uses that are lawful, whether that be by the grant of a planning permission, permitted development rights, or the passage of time. It does not however mean that a landowner can take advantage of rights which relate to an established lawful use of the land if the land is not being used for that purpose at the time that the application is claimed. The present use of the building is determinative.

As to the failure of the Council to respond to the application for prior determination, it cannot be argued that this had the effect of permitting development that did not fall under Class Q (see the decision of the Court of Appeal in the case of *Patrick Keenan v Woking Borough Council, Secretary of State for Communities and Local Government [2017] EWCA Civ 438*).

#### Other development within Planning Unit 2

The swimming pool, green house, office, store room, chicken coup and new drive do not benefit from permitted development rights as they are not within the residential curtilage of Anchor Paddock, but on other land in the same ownership.

The garage is additionally built forward of the front elevation of Planning Unit 1 and therefore is in breach of planning control.

### Immunity

The majority of development cannot be seen in aerial photography in January 2022 but appears substantially complete by June 2023.

In the returned PCN the owner claims that the dwelling was substantially complete in December 2020. This is clearly at odds with the aerial photography. Elements of Planning Unit 2 were still not substantially complete on the site visit 7/11/23. The garage did not have a door and the shed area to the west had no door present.

On the basis of the evidence available, the Council believes that the conversion of the main building was substantially complete no earlier than January 2022 and therefore it will not become immune until January 2026.

## **10.0 Planning Unit 3 – New Residential dwelling known as Tree House**

During this investigation a third separate residential dwelling was identified on the site of the former front garden of the main house Anchor Paddock. This dwelling is now known as Treehouse. It is separated from the main house by fencing and has it's own separate garden, together with hot tub and parking area with calor gas tank serving the building.

This is currently subject to an ongoing application for a Certificate of Lawfulness claiming immunity through time for the dwelling, ref: P/CLE/2024/01255.

There is evidence of a shed in the sales particulars for Anchor Paddock that can be compared to the aerial photographs in section 9 above. This unit appears completely different in style and structure to the Tree House as exists today. See Screen Shots from its advertisement at Appendix 7 offering it as holiday accommodation and site visit photographs from enforcement visit 26<sup>th</sup> June 2024.

See below comparison:



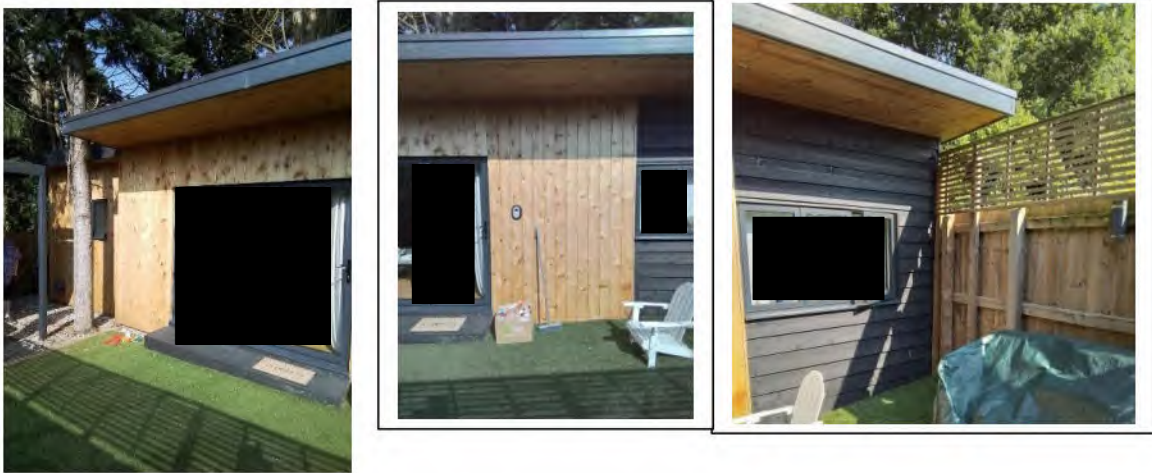
Wooden shed in the south of the residential curtilage of Anchor Paddock Close up (above) from Fine & Country sales details 2020. Aerial photograph from google earth April 2020.

Planning Unit 3 Treehouse is located in the garden curtilage of the original house, but it is understood that it is being lived in as an independent unit of residential accommodation by a tenant. There is no planning permission for the new dwelling that has been constructed.

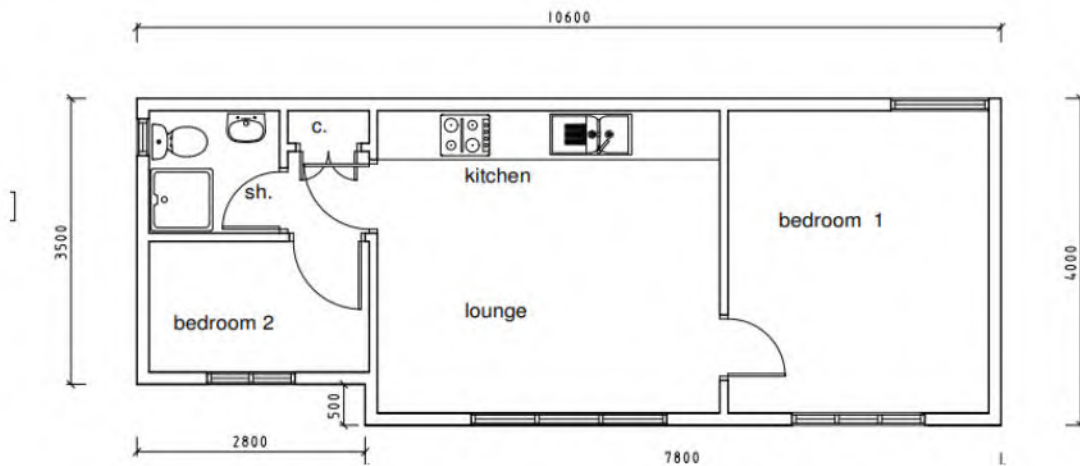
A site visit took place on 26<sup>th</sup> June 2024 and photographs were taken. [REDACTED] advised that there was a tenant currently with a tenancy agreement in place until December 2024. Details were promised but not given of who the tenant was.



External photographs



Floor plan from CLE application



Tree house is separated from the main Anchor Paddock house with a fence approximately 2.5 metres in height.

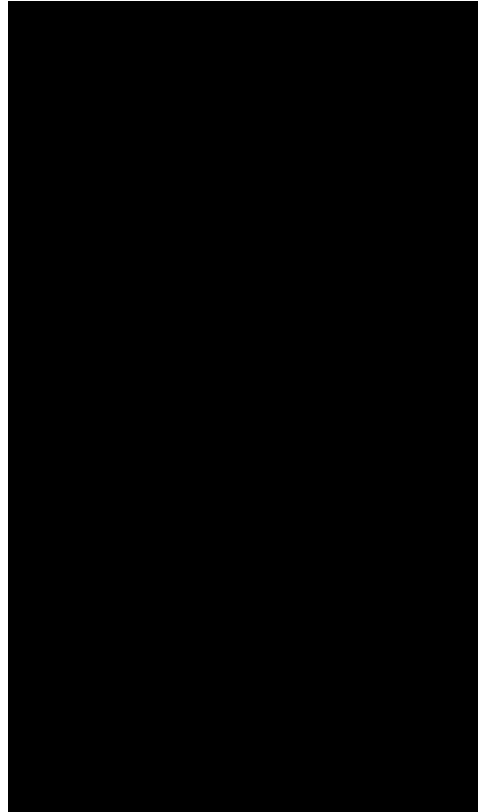
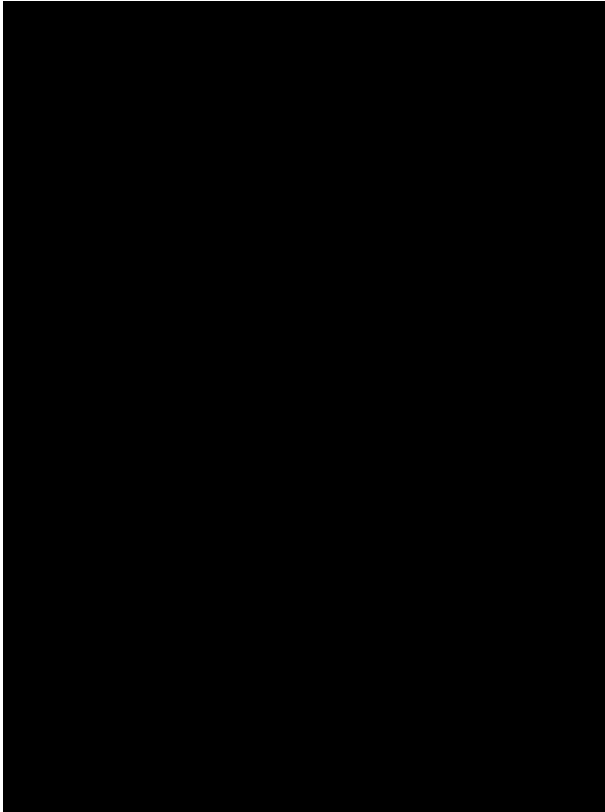


Anchor Paddock can be seen behind the fence line to the North

Access to the accommodation is only via the parking area and not via Anchor Paddock. The building sits on top of concrete foundations and including damp course.



Further internal photographs are on the enforcement file. The building contains two bedrooms, a bathroom and a lounge/kitchen.



CLE that is currently under consideration has provided statutory declaration, historic photographs, tenancy agreement (and associated bank statements) and floor plan.

Statutory Declaration provided by [REDACTED]:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Numerous photographs have been put forward to support the application, but the ones put forward do not relate to the statutory declaration. Of note there are no photographs showing the outside of The Cabin. Further photographs were put forward on 9<sup>th</sup> July 2024 by the agent which were more in line with the statutory declaration. These photographs do not support the fact that this is a conversion of what was already present as claimed, they support the fact that this is an entirely new building. See comparison below looking at the height of the building, flimsy construction of what was present before and the roof line.



It is known that the current owners purchased the site in [REDACTED]. The next evidence provided is for a tenant between Sept 2021 and August 2023. Therefore, there is no continuous use to prove a separate residential dwelling. Claims within the Statutory declaration specify a separate curtilage to that of Anchor Paddock.



Plan put forward with current CLE which claims a division of the front garden

When compared to the photos from the sales details the stepping stones can be seen but do not amount to an enclosure.

The fine and Country sales details from the latest sale state:

The grounds are a notable feature with secure gated access and tarmac driveway. There is ample parking and storage areas/facilities, a neatly landscaped private garden area, decking, fruit cages, barbecue area and a greenhouse. The front garden enjoys a good degree of privacy and has both summer house and timber outbuilding. The paddocks are laid to grass with mature trees.

#### From the Christopher Batten Sales details:

a barbecue area. The front garden is again private, with a summerhouse and a timber outbuilding, and a gently sloping lawn enclosed by a high belt of conifers.

If this were any more than a timber outbuilding it would be completely irresponsible of the estate agents to not mention that there was a completely separate dwelling or even to describe it as a granny annex as this would undoubtedly increase the value of the plot.

When comparing the only photograph submitted by [REDACTED] that has an outside view (looking outwards), it is comparable to the photograph on the sales details.



Comparison of door glass height

The Treehouse has recently been advertised as holiday accommodation for up to 5 people. It is now believed to be occupied by a single tenant with agreement for occupancy until December 2024.

The square footage put forward in the CLE is less than is acceptable in relation to technical housing standards. The recommended minimum is 61sqm but this only measures 40sqm.

Additional photographs of the interior can be found on the enforcement file. On inspection of the building there was no evidence that this was a conversion of a shed as it's appearance is of a high specification new building.

Without further evidence the assumption can only be that the previous shed photographed in the sales particulars has been replaced with the modern high specification building that contains none of the previous structure. This has no permission. Change of use to a separate residential dwelling has occurred.

It is believed the Treehouse has been constructed since the purchase of the site in May 2020, otherwise it would have been referred to as more than a 'timber outbuilding' in the sales details.

### Immunity

Aerial photography is not helpful for this Planning Unit as the development appears underneath the tree line. It is believed that on the balance of probabilities this is an entirely new development, having replaced the previous shed. The previous shed was (if the CLE submission is considered) was converted to annex accommodation for [REDACTED]. On the balance of probabilities I do not believe sufficient evidence has been submitted to prove it's previous use. There are no utility bills, council tax evidence to support this claim.

If the previous use was established that was a use with a familial link. The current development of an entirely separate residential planning unit in the front garden of the original house – so a separate residential unit. The first rental payment put forward as part of the CLE is dated 5<sup>th</sup> October 2021. The development is entirely new and cannot be deemed the previous shed. On the balance of probabilities the new development has occurred since the current owner occupied the site and first rented out 5<sup>th</sup> October 2021. It is therefore not immune as it has occurred within the last 4 years.

## 11.0 The Breach of Planning Control

Within the subject planning unit, and pursuant to s171A (1) (a):

Breach of Planning control alleged:	Without planning permission the subdivision of the land into 3 distinct planning units each in Class C3 use, together with associated development as set out below
Planning Unit 1	The bungalow known as Anchor Paddock, Holtwood, Holt, BH21 7DS as shown edged purple on the Plan annexed to this report:  1 without planning permission, the construction of single storey extension

	<p><b>2</b> without planning permission, the construction of a dormer extension</p>
Planning Unit 2	<p>The barn conversion known as White Barn, Holtwood, Holt, BH21 7DS as shown edged orange on the Plan annexed to this report:</p> <p><b>4</b> Without planning permission the conversion of a barn outbuilding to a habitable dwelling including, operational development to extend the barn building</p> <p><b>5</b> Without planning permission, the construction of a garage, outbuildings, green house chicken coup, hardstanding and swimming pool</p> <p><b>6</b> Without planning permission the change of use from residential ancillary to a separate C3 dwelling house.</p>
Planning Unit 3	<p>The dwelling house known as Treehouse, Holtwood, Holt, BH21 7DS as shown edged green on the Plan annexed to this report:</p> <p><b>7</b> Without planning permission construction of a separate C3 dwelling house</p>

## 12 Legislative Framework

### *Tests for Unauthorised Development*

- Section 55 Town and Country Planning Act 1990 identifies development includes a material change of use and operational development.
  - Scope to benefit from the provisions of Town and Country Planning (General Permitted Development)(England) Order 2015, Schedule 2, Part 1 is limited to is limited the residential curtilage of the original house;
- Scope to benefit from the provisions of GPDO 2015, Schedule 2, Part 3 Class Q, requires compliance with criteria including that the site must have been in use solely for an agricultural use as part of an established agricultural unit on 20th March 2013 or if previously in use but not on that date, when it was last in use.
- By s57 planning permission is required for what is alleged;
- By s171A (1) the development constitutes a breach of planning control;
- By 171B the works do not benefit from immunity from enforcement action.

## 13. Planning Appraisal

The taking of enforcement action must be assessed against development (local) plan, and any other material considerations [ s172 (1) (b) ].

### **Local Plan Policy.**

The relevant policies in respect of the Land and the breach alleged are –

- Christchurch and East Dorset Local Plan - Part 1 (Core Strategy) adopted April 2014 –
- Policy KS1: Presumption in Favour of Sustainable Development
- Policy KS2: Settlement Hierarchy
- Policy KS3: Green Belt
- Policy ME1: Safeguarding Biodiversity and Geodiversity
- Policy ME2: Protection of the Dorset Heathlands
- Policy HE2: Design of New Development
- LN1: Size and type of new dwellings

### ***Other Material Considerations***

- National Planning Policy Framework 2023 [NPPF] – in particular paragraph 11 and chapters 5,9, 12,13 and 15.
- Planning Practice Guidance [PPG] (since 2014 as amended)
- Countryside Design Summary
- Dorset Heathlands Planning Framework 2020-2025
- East Dorset Landscape Character Assessment (Woodlands)

### ***Key Local Constraints***

- Green Belt
- SSSI Impact Risk Zone
- Dorset Heathland 5KM Zone

### **Planning Assessment**

#### Principle of Development

The site is outside any settlement identified in the Christchurch & East Dorset Local Plan, Part 1 Core Strategy 2014 (CS) under Policy KS2.

As the site falls outside of the settlement known as Holt, it falls under the 'Hamlets' category within local policy KS2 where 'development would not be allowed unless it was functionally required to be in the rural area'. None of the unauthorised development is functionally required to be in the rural area.

#### Other considerations

##### *Unit 1 – Anchor Paddock*

- The building has been significantly extended, beyond what would be acceptable as proportionate additions within the Green Belt set out in the exceptions in paragraphs 154-155 of the NPPF.



- The development results in harm to the Green Belt openness and no very special circumstances have been identified which would outweigh the harm by reason of inappropriateness and loss of openness.
- Policy HE2 – requires that development should be compatible with or improve its surroundings in relation to (inter alia) architectural style, scale, bulk and visual impact. The box design and massing of the dormer appears incongruous and overbearing compared to the dwelling. Contrary to Policy HE2 and Section 12 of the NPPF ‘Achieving well designed beautiful places’.
- The extensions to the dwelling are not immune from enforcement action by reason of time (under construction 29 July 2020).

#### *Unit 2 – White Barn*

- The dwelling does not benefit from express or deemed planning permission; works do not comply with permitted development criteria.

The development carried out to convert the barn to a residential dwelling was not permitted development under Schedule 2 Part 3 Class Q of the Town and Country Planning (General Permitted Development)(England) Act 2015 as amended on the basis that:

- The evidence suggests that the site was not used solely for an agricultural use as part of an established agricultural unit on 20th March 2013.
- The barn was not an agricultural building at the date of the application for prior determination or at the date that the development to convert the barn to a C3 dwelling was undertaken.
- The development carried out did not accord with the drawings submitted under the application for prior determination; and
- The development extended beyond the footprint of the existing building contrary to the conditions of Class Q.
- The building forms a new separate residential planning unit, created without permission.
- The conversion of an existing building could benefit from the Green Belt exception at paragraph 155 of NPPF, however, the works undertaken include extensions to the original barn that are disproportionate to the scale of the original building, a wraparound L-shaped extension to the east and an extension to the north. Disproportionate extensions are inappropriate in the Green Belt and impact upon the openness of the Green Belt.

- No very special circumstances have been identified which would outweigh the harm by reason of inappropriateness and loss of openness.
- The dwelling is not immune from enforcement action (The Prior Approval application received complete 19 December 2020, deemed Prior Approval date 13 February 2021).
- Impact upon Protected Heathland

The 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 payments.

Policy ME2 allows new residential development, subject to an appropriate assessment and appropriate mitigation via CIL. In this case a unilateral undertaking to pay financial contributions towards mitigation under the Dorset Heathlands Planning Framework 2020-2025 was received in respect of development under the prior approval deemed consent. Notwithstanding the receipt of financial contributions, these did not apply to the unauthorised development that has since taken place.

### *Unit 3 – Tree House*

- The dwelling has been created without planning permission. Aerial photographs suggest that the land previously formed part of the residential garden of the main dwelling house, front garden.
- New boundary fencing appears to have been installed, separating the Tree House from the Garden of the main house.
- This building now forms a separate residential planning unit with its own garden area.
- The site is in a rural area outside of any settlement. In this location policy KS2 identifies that only development that is functionally required to be in the rural area is appropriate. The site is close to other buildings but is physically isolated from any settlement offering facilities and does not meet any of the special circumstances that justify isolated dwelling set out in paragraph 84 of the NPPF.
- The building would not benefit from any of the exceptions to inappropriate development in the Green Belt within the NPPF at paragraphs 154-155. The development results in harm to the Green Belt by reason of inappropriateness and harm to openness. Furthermore, no very special circumstances have been identified that outweigh the harm arising.

- The dwelling has an internal floor area of 40sqm which is well below the minimum national space standards for a two bedroom property (61/70sqm) and fails to provide adequate amenity for future occupiers contrary to Policy LN2 and para 135 of NPPF.

- Impact on Residential Amenity

The unauthorized development is generally not considered to result in harm to the neighbouring residential amenity, as it is single storey in form and some distance from neighbouring properties.

- Character and design

From the photographs available on the file, the development would appear to generally accord with local policy HE2 and Section 12 of the NPPF.

- Impact upon Protected Heathland

The 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 payments.

Policy ME2 allows new residential development, subject to an appropriate assessment and appropriate mitigation via CIL. In this case no Habitats Regulation application has been made which would usually be required if permitted development rights were being relied upon. CIL has not been paid, 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 Heathlands habitats sites within 5km of the site.

## Conclusion

Given the above considerations the unauthorised works are contrary to national and local planning policies, and unacceptable in planning terms.

It appears to the Council that planning conditions would not overcome the objection to the development.

## **15 Expediency for Enforcement Action**

### **The Principle of Enforcement Action**

Embedded within planning legislation and national planning policy/guidance, the Council is entitled to exercise powers proportionately, and typically as a last resort. This report has carefully considered all facts and submissions relating to the land historically and finds that by the absence of a planning solution, there are well-founded reasons to progress this instance of a breach of planning control pursuant the following:

- S172, service of an enforcement notice to remove all unauthorised development to the land.

Then as proportionate:

- S179, to prosecute for non-compliance
- S178, to execute works to comply with the notice should there be unwillingness.

#### *Risks, Implications and Consequences*

There is a risk the landowners will pursue a s174 appeal.

There is a risk that the Council may be called to prosecute the landowner. The Council must prepare to execute works if after 9 months of the date of compliance the development remains in situ. The costs of doing so should be recovered and a charge placed on the land.

### **16. Opportunity to Regularise the Breach of Planning Control**

The Council considers that there has been a blatant disregard to planning rules by the owner of the land. Planning Unit 1 has been given opportunity to regularise the extensions but these have been judged to amount to an unacceptable cumulative increase compared to the size of the original building. Planning permission has been refused for the dormer extension and that situation is unlikely to change.

The development of White Barn and Tree House has been completed without any significant attempt to obtain formal planning permission. It is recommended that the Council issue a s172 notice as soon as practicable to prevent any development becoming immune from enforcement.

### **17 The Effect of Enforcement Action – Unintended Implications & Consequences**

This report recognises that enforcement action is likely to have some degree of implications and consequences to the landowner and the family, however despite any impact on financial investment, the landowner did not seek planning advice in advance of works. The taking of enforcement action does not prevent the landowner or any other interested person using the land for a lawful planning purpose. Anchor Paddock is a substantial property with a number of options for the owner to reside in even after any remedial works or compliance with enforcement notices are complete.

#### **18.1 Human Rights Act 1998**

The Convention rights that are likely to be most relevant to this decision are:

- Article 1 of the 1<sup>st</sup> Protocol - The Right to Enjoyment of Property and
- Article 8 - The Right to Respect for Home, Privacy and Family Life.

Article 1 of the First Protocol and Article 8 are qualified rights. Interference with these rights can occur where sanctioned by law (The Town and Country Planning legislation) and must be proportionate.

The private interests of the landowner and any interested person must be weighed against the wider public interest and competing private interests. The Council considers that the interference the planning system can have on private land interests pursues a legitimate aim, namely that of preventing unacceptable development in inappropriate locations, in the general public interest, such that the interference is deemed to be justified due to the harm caused by the use of the land.

The planning implications of the use of the land must be balanced against the consequences enforcement action will bring to those that use and occupy the land. Careful consideration being given to the Human Rights Act 1998 and Equalities Act 2010

## 18.2 Public Sector Equalities Duty

Under the Equalities Act 2010 the Council must have due regard for the need to

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

Due consideration has been given and no protected characteristics have been highlighted as relevant to the previous planning applications or in relation to the use of this land.

The proposed action does not impact on the owner's ability and entitlement to frequent the land to use it for residential purposes.

Having regard to the circumstances of this case, it is considered to issue an Enforcement Notice is appropriate and proportionate having regard to the harm caused by the breach of planning control.

## 19.0 Whether any breach of planning control should be allowed to become immune.

There is no justification to allow development in this location to become immune.

## **20. CONCLUSIONS**

### **The Breach of Control in Law**

The breach of planning control is not immune from enforcement action. The Council would be entitled to take enforcement action by way of an issue of an enforcement notice pursuant to s172 of the Act 1990.

### **Presumption in Favour of Development**

The development / use of the land is harmful by virtue of its location in Green Belt as an unacceptable form of development contrary to the Development Plan as a whole, so permission would not be granted.

### **The Effect of Enforcement Action**

This report considers that the taking of enforcement action is proportionate in the public interest, as there is no case brought forward of very special circumstances.

## **21 RECOMMENDATIONS**

That pursuant to s172 an enforcement notice is issued on the subject land and copies provided to all known persons who appear to have interest in the land.

22. **Content for Enforcement Notices to be served on the Land** are attached at Appendix 2.

- 23.0 **Persons Identified to be Served with copy of the Enforcement Notice**

<i>Interest</i>	<i>Name Known</i>	<i>Address</i>
Landowner(s)	(1) [REDACTED]	[REDACTED]
	(2) [REDACTED]	[REDACTED]
	(3) Bassett Estates Ltd	11 Bassett Crescent East, Southampton, SO16 7PF
	(4) Loubella Properties Ltd	82a Bedford Place, Southampton, SO15 2BX
	(5) Kent Reliance Mortgage	27 East Street Chichester PO19 1HS
	(6) [REDACTED]	[REDACTED]
	(7) [REDACTED]	[REDACTED]
	(8) [REDACTED]	[REDACTED]
		The land

**Authorisations:**

Enforcement Manager Darren Hobson

Dated 22<sup>nd</sup> July 2024