

APPEAL UNDER SECTION 174 OF THE TOWN AND COUNTRY PLANNING ACT 1990
STATEMENT ON BEHALF OF LOCAL PLANNING AUTHORITY
DORSET COUNCIL

Appeal references:

APP/D1265/C/24/3351182 & APP/D1265/C/24/3351183

APP/D1265/C/24/3351184 & APP/D1265/C/24/3351185

APP/D1265/C/24/3351186 & APP/D1265/C/24/3351187

Local Planning

Authority Reference: ENF/20/0313

Appellant: Mr Michael White and Mrs Michelle White

Site Address: Anchor Paddock, Batchelors Lane, Holtwood, Holt, Dorset, BH21 7DR

CONTENTS

1.	INTRODUCTION.....	6
2.	THE APPEAL SITE AND CONSTRAINTS.....	7
3.	PLANNING HISTORY	8
4.	SITE HISTORY AND BACKGROUND	11
5.	PLANNING POLICY	15
6.	ANCHOR PADDOCK BUNGALOW (PLANNING UNIT 1).....	17
7.	WHITE BARN (PLANNING UNIT 2)	24
8.	THE TREEHOUSE (PLANNING UNIT 3).....	32

LIST OF ATTACHMENTS

1. Enforcement Notices
 - a. Enforcement Notice Plan
2. Expediency Report and Appendices 1-7
3. Land Registry title DT129944
4. Land Registry title DT476843
5. OS Map 1888 to 1913
6. Aerial Photography 1947
7. Sales Particulars produced:
 - a. Christopher Batten 2015/2016
 - b. Edwards/Fine and Country 2019/2020
8. Planning permission 3/80/1858
 - a. Decision
 - b. Plans
 - i. Floor and elevation plans
 - ii. Location plan
 - c. Application Form
9. Historic copy of Land Registry title DT129944 dated 30 October 2007.
10. Sundial Magazine Issue 141 (extract).
11. Certificate of Lawfulness (Existing) 3/16/1460/CLE.
 - a. Decision letter
 - b. Plans
 - i. Location Plan
 - ii. Illustrative floor plan
 - c. Application form
 - i. Revised application form
 - d. Supporting Statement
12. Certificate of Lawfulness (Existing) 3/17/2526/CLE.
 - a. Decision letter
 - b. Plans
 - i. Location Plan
 - ii. Illustrative floor plan
 - c. Application form
 - d. Supporting Statement
13. HE Naturist Article – Special of Dilly Dallys dated 2008 (Redacted).
14. HE Naturist Article -November 2002 Edition (Redacted).
15. HE Naturist Article -April 2008 Edition (Redacted).
16. (16a-16h) Trip Advisor Reviews for Dilly Dallys
17. Aerial Photography 2017/2018
18. Aerial Photography 2020/21
19. Statutory Declaration of Stuart Coles
20. Photographs from site visit on 28th July 2020
21. PCN response dated 26th November 2023
22. Class A1-A4 of Part 1, Schedule 2 to the GDPO as in effect between 25th May 2019 to 31st July 2020)
23. Proposed planning conditions for Anchor Paddock.
24. Documents relating to application 3/20/2281/PNAGD
 - a. Decision letter
 - b. Plans

- i. Location Plan
 - ii. Proposed Elevations
 - iii. Proposed Floor plans
 - iv. Existing elevations
 - v. Existing plan section
- c. Application form
- d. Photographs submitted by agent
- e. Supporting Statement
- 25. Documents relating to application 3/21/1384/CLP
 - a. Decision letter
 - b. Plans
 - i. Location Plan
 - ii. Proposed Elevations
 - iii. Proposed Floor plans
 - iv. Existing elevations
 - v. Existing plan section
 - c. Application form
 - d. Structural report
 - e. Same document as 24e above
- 26. Aerial Photography 2022
- 27. Aerial Photography 2023
- 28. Photographs from site visit on 7th November 2023.
- 29. Photographs from site visit on 8th January 2024.
- 30. Documents relating to P/CLE/2024/01226
 - a. Decision letter
 - b. Plans
 - i. Site and location Plan
 - ii. Elevation plan
 - c. Application form
 - d. Aerial photographs
 - e. Statutory Declaration (as at attachment 19 above)
- 31. Proposed Planning Conditions for the White Barn.
- 32. Documents relating to application P/CLE/2024/01225
 - a. Decision letter
 - b. Plans
 - i. Site and location Plan
 - ii. Elevation plan
 - iii. Revised site and location plan
 - c. Application form
 - d. Statutory Declaration (as at attachment 19 above)
 - e. Officers report
- 33. Documents relating to P/FUL/2024/04000
 - a. Decision letter
 - b. Plans
 - i. Site and location Plan
 - ii. Site and block plan
 - c. Application form
- 34. Aerial Photography dated 22nd July 2014.
- 35. Site visit photographs from 26th June 2024.
- 36. Proposed Planning Conditions for the Treehouse
- 37. Documents relating to application P/CLE/2024/00737

- a. Decision letter
 - b. Plans
 - i. Site and location Plan
 - ii. Elevation plan
 - iii. Revised site and location plan
 - c. Application form
 - d. Historic photographs
 - e. Statutory Declaration (as at attachment 19 above)
 - f. Officers report
38. Documents relating to application P/HOU/2024/00739
- a. Decision letter
 - b. Plans
 - i. Elevation plans prior to alteration
 - ii. Dormer floor plan
 - iii. Outbuilding plan
 - iv. Elevations as built
 - v. Site and location plan
 - vi. Amended Right to rise elevation plan
 - vii. Right to rise floor plan
 - c. Application form
 - d. Bat Roost reports
 - i. Preliminary report
 - ii. Preliminary report final
 - e. Officers report
39. Documents relating to application P/HOU/2023/02656
- a. Decision letter
 - b. Plans
 - i. Location and block plan
 - ii. Existing elevations
 - iii. Existing and proposed floor plans
 - iv. Proposed elevations
 - c. Application form
40. Islington LBC v SSHCLG [2019] EWHC 2691 (Admin)

1. INTRODUCTION

- 1.1 This enforcement appeal statement is prepared by Jane Meadows, Planning Enforcement Officer and Ellie Lee, Planning Officer for Dorset Council, in relation to the three enforcement notices served under reference ENF/20/0313. The three notices were served on Mr Michael White and Mrs Michelle White on the 24th of July 2024 and alleged breaches of planning control have occurred on the land known as Anchor Paddock, Bachelor's Lane, Holtwood, Holt, BH21 7DS.
- 1.2 The notices allege breaches of planning control in relation to distinct parts of the site as identified in the said notices (**Attachment 1**). Each of these identified areas is considered to be used as a distinct planning unit.

APP/D1265/C/24/3351182 & APP/D1265/C/24/3351183

Notice One: within the subject planning unit edged purple (herein referred to as Anchor Paddock Bungalow) (1) without planning permission, the construction of single storey rear extensions (2) without planning permission, the construction of a dormer extension.

APP/D1265/C/24/3351184 & APP/D1265/C/24/3351185

Notice Two: within the subject planning unit edged orange (herein referred to as The White Barn) (1) without planning permission, the conversion of a barn/ outbuilding to a habitable dwelling including operational development to extend the barn building (2) without planning permission, the construction of a garage, outbuildings, greenhouse, swimming pool, chicken coop, and associated hard standing.

APP/D1265/C/24/3351186 & APP/D1265/C/24/3351187

Notice Three: within the subject planning unit edged in green (herein referred to as The Treehouse) of a separate C3 dwelling house.

- 1.3 The location of each breach is identified on the plan attached to the enforcement notices (**Attachment 1a**).
- 1.4 The enforcement notices were served after several visits to the site which indicated that operational development and changes in use had occurred without the benefit of planning permission.
- 1.5 During the investigation it was necessary to obtain a Magistrates Warrant under section 196B of the Town and Country Planning Act 1990 ("the 1990 Act") as access to the White Barn and the Treehouse was repeatedly denied. Only once the warrant was obtained, entry to the Treehouse was permitted. No entry to either Anchor Paddock or White Barn was ever granted during the investigation.
- 1.6 The Expediency Report was provided to the appellants' solicitors on the 9th of October 2024 (**Attachment 2**).

2. THE APPEAL SITE AND CONSTRAINTS

- 2.1 The site lies in the hamlet of Holtwood, Holt, a settlement where development is not 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.
- 2.2 The site is within the Green Belt and within the Woodlands Area of Great Landscape Value (AGLV). The site is situated within 5km of the internationally protected Dorset Heathlands, including the Holt and West Moors SSSI. Paragraph 1.1 of the appellant's statement sets out that the property does not fall within an Area of Great Landscape Value, but this claim is incorrect.
- 2.3 The site is accessed via Batchelors Lane, an unmade gravel track. Batchelors Lane is a public footpath (E45/55) but does not carry public vehicular rights. It is understood that maintenance responsibilities for Batchelors Lane is shared between the owners of the properties accessed via the lane, including Linen Hill Farm, Anchor Paddock, The Dell, Oak Apple, Oak Cottage, and Forest Cottage.
- 2.4 The land where the structure known as the Treehouse is located, is identified within the Dorset Level 1 Strategic Flood Risk Assessment (SFRA, dated February 2023) as having high groundwater levels, with some risk of surface water flooding (1 in 1000) also overlapping this area of the site.
- 2.5 There are no other constraints which apply to the appeal site.

3. PLANNING HISTORY

- 3.1 **03/79/2625/HST** - Anchor Paddock, Batchelors Lane, Holt Wood, Holt – Erect addition to side of dwelling and make alterations – Refused on 18/01/1980.
- 3.2 **03/80/1027/HST** - Erect extension – Refused on 24/06/1980
- 3.3 **03/80/1858/HST** - Erect extension – Granted on 19/09/1980 (**Attachment 8**).
- 3.4 **3/16/1460/CLE** - Use of the land, including 9 self-contained brick and timber chalets, as bed and breakfast holiday accommodation - Refused on 10/10/2016 (**Attachment 11**).

Reasons for refusal given as:

It is considered that this application for a Certificate of Lawfulness should be refused because there is insufficient evidence to show that the use of the land and buildings, as described, has continued for a period of 10 years or more.

- 3.5 **3/17/2526/CLE C1** (Bed and Breakfast). Use of land, including 9no self-contained brick and timber chalets, as bed and breakfast holiday accommodation – Lawful on 02/11/2017. (Red line plan boundary does not include the whole of the Anchor Paddock site. See para 4.10 below. The red line excludes the structures known as ‘White Barn,’ Treehouse’ and the majority of the main dwelling building. See Decision Plan ref: 3/17/2526/CLE dated November 2017). (**Attachment 12**)
- 3.6 **3/20/2281/PNAGD** – Convert Machinery Barn to residential dwelling. (Planning Unit 2) (**Attachment 24**). This Class Q Conversion Prior Notification was not determined by the Council within the timeframe set.
- 3.7 **3/21/1384/CLP** - Convert machinery barn to residential dwelling – Withdrawn (Planning Unit 2) the same day that the planning officer indicated it would be refused by the Council based on the information submitted. (**Attachment 25**).
- 3.8 **P/HOU/2022/02602** - Retain rear extension (Planning Unit 1) – determined as Invalid on 01/07/2024.
- 3.9 **P/HOU/2022/04905** - Create habitable first floor accommodation with roof lights and dormer – Application Invalid. (Planning Unit 1)
- 3.10 **P/HOU/2022/06621** -First floor dormer extension; rear single storey extension (retrospective) – Withdrawn on 03/03/2023. (Planning Unit 1)
- 3.11 **P/HOU/2023/02656** - Retain first floor dormer extension – refused 15/09/2023 (**Attachment 39**) (Planning Unit 1)
 - 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.

3.12 **P/CLE/2024/00737** – Retention of single storey rear extension – Deemed not lawful on 11th April 2024 (Planning Unit 1). (**Attachment 37**)

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 years prior to the date of the application.

3.13 **P/HOU/2024/00739** – Retain first floor dormer extension: demolition of existing outbuilding (Planning Unit 1). Refused on 11th October 2024. (**Attachment 38**).

Refused for the following reasons:

1. The proposal lies within the Green Belt where new development is inappropriate unless it meets certain exceptions. The proposed dormer extension does not benefit from any of the exceptions at paragraphs 154 and 155 of the National Planning Policy Framework and would result in harm to the openness of the Green Belt. No very special circumstances have been identified which would outweigh the harm to the Green Belt as a result of inappropriateness and loss of openness. The proposal fails to comply with policy KS3 of the Christchurch & East Dorset Core Strategy 2014 and paragraphs 142-143 and 152-155 of the National Planning Policy Framework (2023).
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 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.
3. The application is accompanied by two contradictory preliminary bat roost assessments. Insufficient evidence has been provided to demonstrate that harm to protected bats will be avoided or appropriately mitigated. No Biodiversity Plan certified by the Natural Environment Team has been submitted so the proposed development is contrary to Policy ME1 (Safeguarding biodiversity and geodiversity) of the Local Plan.

3.14 **P/CLE/2024/01225** – Use of Treehouse as Self-Contained Dwelling –The Certificate of Lawfulness Application was refused by Dorset Council on 27/09/2024. The date of the first use claimed as set out in the CLE application form is 01/02/2013. See further comment under analysis of evidence. (**Attachment 32**). (Planning Unit 3).

Refused for the following reasons:

1. The applicant has failed to provide adequate clear and unambiguous evidence to demonstrate on the balance of probability that the use of the structure as a separate dwellinghouse independent of Anchor Paddock has taken place for a continuous period of 10 years prior to the date of the submission of the application, so the development is not immune from enforcement action.

2. Insufficient evidence has been provided to demonstrate on the balance of probability that the structure known as the Treehouse was constructed more than 4 years prior to the date of the submission of the application. Nor is there sufficient evidence to demonstrate on the balance of probabilities that the Treehouse was created from alternations to a pre-existing lawful structure and that the alterations took place more than 4 years prior to the date of the submission of the application.

3.15 **P/CLE/2024/01226** – Retention of Green House. Determined not lawful on 12th June 2022 (**Attachment 30**). (Planning Unit 2)

Determined 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 to be immune from enforcement action by reason of time.

3.16 **P/FUL/2024/04000** – Retention of works to dwelling (see P/CLE/2024/01225) including removal/resizing of windows; replacement cladding; alter pitch of roof. (**Attachment 33**). (Planning Unit 3).

Since Enforcement Notice ENF/20/0313 was issued on the building known as Treehouse on 24 July 2024 before planning application P/FUL/2024/04000 was received complete on 23 August 2024, Dorset Council declined to determine this planning application on 4 October 2024 in accordance with the discretion provided by s70C of the 1990 Act.

4. SITE HISTORY AND BACKGROUND

- 4.1 The site was acquired by the Appellants in May 2020 and was initially registered in the names of Mr and Mrs White. It was subsequently transferred into Michelle White's sole name. Since the enforcement notices have been served the site has been divided into two Land Registry Titles. Anchor Paddock (Planning Unit 1) and The Treehouse (Planning Unit 3) are registered under title number DT129944 (**Attachment 3**) in the name of Michelle White with a registered charge in favour of One Savings Bank PLC. The remaining portion of the site, White Barn (Planning Unit 2) being registered in the sole name of Michelle White under title number DT476843 (**Attachment 4**).
- 4.2 The site history set out below is a summary of the documentary evidence available to the Council being the planning history, Ordnance Survey mapping, aerial photography, and sales particulars for the site.
- 4.3 The OS 6 inch to the mile map (1888 to 1913) (**Attachment 5**) shows no buildings on the land that is now known as Anchor Paddock. The aerial photography from 1947 (**Attachment 6**) shows a building situated in the same position to the original part of Anchor Paddock bungalow. It appears to have a pitched roof and so the Council considers that this is the original bungalow.
- 4.4 The Sales Particulars that were produced for the sale of Anchor Paddock in 2019/2020 (**Attachment 7b**) state that the bungalow was initially constructed in the 1930s and later extended and modernised in the 1970s. This is consistent with the 1947 aerial photography and broadly in accordance with the information available to the Council, though the planning history confirms that the extensions were carried out in the early 1980s.
- 4.5 Planning permission was granted on the 20th of August 1980 under reference 3/80/1858 for an extension to the original bungalow building (**Attachment 8**). It appears to be common ground that the plans attached to this planning permission show the extent of the original dwelling (see paragraph 1.2 and 9.4 of the Appellants Appeal Statement (AAS)).
- 4.6 Officers understanding is that at the time that planning permission 3/80/1858 was granted, the land was used as a smallholding. There is a County Parish Holding (CPH) number associated with the site (11/264/0082). Officers understand that CPH numbers are a legal requirement for owners of certain types and quantities of livestock, whether hobbyists or full-scale industrial farmers. The CPH Registration is unique to the individual farmer/ hobbyist and not the land. The Council considers a smallholding to be a sui generis mixed residential and agricultural use.
- 4.7 The site was purchased by [REDACTED] and [REDACTED] on 3rd February 2003. A historic copy of the Land Registry title DT129944 dated the 30th of October 2007 is attached (**Attachment 9**). It is understood that [REDACTED] initiated a change in the use of the site by operating a naturist camp from circa 2002 (see reference to "Dilly Dallys" in an extract from Sundial Magazine Issue 141) (**Attachment 10**). The bed and breakfast business developed overtime in a piecemeal fashion with holiday accommodation provided in nine self-contained brick and timber chalets located to the north of the site, immediately adjacent to the residential bungalow.
- 4.8 In 2016, an application was made for a Certificate of Lawfulness (Existing) in respect of "*the use of land, including nine self-contained brick and timber chalets as bed and breakfast*

holiday accommodation". The application (reference 3/16/1460/CLE) (**Attachment 11**) was made in respect of the whole of the Anchor Paddock site. This application was refused - see paragraph 3.4 above.

- 4.9 A second Certificate of Lawfulness (Existing) application was made in 2017 for a smaller area of the site under the reference 3/17/2526/CLE. This certificate covers part of the site only and the plan attached to the decision notice (**Attachment 12**) shows that the certificate included the lean-to dining area of the bungalow as being part of the C1 business use.
- 4.10 There is some evidence to suggest that the bungalow and other areas of the site were used in connection with the C1 use, even if this use could not be demonstrated over a 10-year period at the time of the 2016 Certificate of Lawfulness (Existing) application. This possibility appears to be accepted by the Appellants (see AAS paragraph 17.5). Meals were prepared for guests staying at Dilly Dallys in the kitchen of Anchor Paddock bungalow. An article from April 2008 HE Nourist Special on Dilly Dallys (**Attachment 13**) reads: "as there was a pre-Valentine's Day feel in the air, the Saturday evening meal was rounded off in sumptuous style when [redacted] emerged from their kitchen with champagne and a chocolate fountain accompanied by a tray of profiteroles, cherries, strawberries and marshmallows". A further article from the same publication in November 2002 (**Attachment 14**) states "meanwhile another two more rooms of a similar design were added by late September bringing guest capacity up to 14. This is the limit as [redacted] has to cope with cooking meals which are already varied and to a high standard. It is further noted that there were no other cooking facilities on the site. An article from the HE Nourist UK Special dated 2008 (**Attachment 15**) reads "Having spent the day lazing on relaxing around the complex, guests drifted to the huge and comfortable main lounge, adjacent to the conservatory's refractory" suggesting that guests also had access to the lounge in the bungalow.
- 4.11 There is also evidence that the barn erected by the previous owners in connection with the previous smallholding use was being used in connection with the C1 business. The Sales Particulars produced in 2019/2020 for the sale of Anchor Paddock from Edwards Estate Agents (**Attachment 7b**) show the interior of the barn (now White Barn) as being divided into a barn, a games room, and a workshop. Sales particulars produced by Christopher Batten (**Attachment 7a**) show a pine clad carpeted games room with pool table. It is noted that the door configuration shown in the first photo of the games room (7a) is the same as that shown in the barn, rather than the other smaller games room shown on the sales particulars which only has one doorway.

Attachment 7b



Attachment 7a



- 4.12 There is also evidence that the workshop situated within the barn may have been used by the [REDACTED] in relation to the improvement, maintenance, and upkeep of the bed and breakfast business as it appears that [REDACTED] carried out most, if not all, of this work himself. The November 2002 article from H&E Naturist magazine (**Attachment 14**) reads *“The sheer energy that [REDACTED] are putting into developing the site is impressive. While we were there work on the steam room was progressing fast and we watch [REDACTED] take measurements for a substantial Conservatory to provide a communal gathering place for visitors - and to defeat the vagaries of the weather. Further plans include laying a larger car parking area, more fencing and tree planting to open more parts of the site for increased nude roaming.” “Finishing the steam room is next and, as we witnessed [REDACTED] take one of his rare breaks, he contemplated awhile and then announced his intention to build an all-weather cover over the swimming pool.”*
- 4.13 Customer reviews for Dilly Dallys from Trip Advisor (**Attachment 16**) also reference a games area and use of the barn. The Council notes the following: review from August 2016 from Miranda M *“there is also a pool table, dartboard and boules court”*. Review from April 2013 from MR2VFR reads *“There is ... a large barn with a pool table which was the venue for an....”*. Review from January 2013 by John T: *“we have been going to dilly dallys for five years now and [REDACTED], [REDACTED] and the family are perfect hosts”. “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.”* The Council understands that this reference is to the hot tub located to the southwest of the barn as shown on the sales particulars. The description of a pine clad carpeted barn matches what can be seen in the photos at paragraph 4.11 above.
- 4.14 There is also evidence that the use of the wider site had changed under [REDACTED] ownership. Aerial photography from 2017/ 2018 shows the area to the South of the barn as being set out for parking/ caravans (**Attachment 17**), aerial photography from 2020/ 21 (**Attachment 18**) shows the same area being used for parking and storage. There is no apparent agricultural use.
- 4.15 It appears that the area to the front of Anchor Paddock bungalow was kept as a private front garden distinct from the C1 business and any other uses. The statutory declaration of Stuart Coles (**Attachment 19**) states that in 2012 a small wooden building was constructed in this area. The building, then known as ‘The Cabin’ was occupied by Stuart Coles (who is believed to be [REDACTED] son from a previous marriage) and later his wife and two children. The statutory declaration states that the family vacated the Cabin at some point in 2019.
- 4.16 The Appellants purchased the Dilly Dallys site on the 21st of May 2020, and immediately began works to enlarge and renovate Anchor Paddock bungalow. The Dormer and Single Storey Extension East and Single Storey Extension West (using the descriptions in the AAS) were all under construction, but far from complete, in July 2020 when Local Planning Authority officers first visited the Site. Photographs of this site visit can be found at **Attachment 20**.
- 4.17 The Appellants converted the Games Room/Workshop/Barn building into a C3 dwelling that is now known as The White Barn. Paragraph 1.8 of the AAS indicates that the works to convert the White Barn were commenced in July 2022 and that the Appellants moved into the dwelling in December 2022. However, the Appellants have provided the Local Planning

Authority with conflicting dates as to when these works were commenced. The answers to the PCN dated 26th November 2023 (**Attachment 21**) state that the conversion was complete by December 2020. The Appellants submit that this development was in accordance with plans submitted under a Class Q Prior Approval application reference 3/20/2281/PNAGD and that at a later date the White Barn Side Extension was added. The Appellants also submit that an outbuilding at the rear was then rebuilt as the Teen Annexe and connected to the White Barn via the White Barn Glazed Link. A number of outbuildings have also been constructed around the White Barn including a double garage, an office, shed, chicken coup and swimming pool.

- 4.18 During the investigation of the alleged breaches of planning control at the Anchor Paddock site, officers noted that a distinct dwellinghouse known as 'The Treehouse' had been erected and was separately let and occupied. The Treehouse appears to be in a similar position to the Cabin and has been separated from the main bungalow by fencing. The Treehouse has its own separate garden, together with a hot tub and parking area and is served by a Calor Gas Tank.

5. PLANNING POLICY

Development Plan Policies

Adopted Christchurch and East Dorset Local Plan:

The following policies are considered to be relevant to this enforcement:

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

Made and Emerging Neighbourhood Plans

- N/A

Other Material Considerations

Emerging Dorset Council Local Plan:

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).

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.

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.

National Planning Policy Framework:

Paragraph 11 sets out the presumption in favour of sustainable development. Development plan proposals that accord with the development plan should be approved without delay.

Where the development plan is absent, silent, or relevant policies are out-of-date then permission should be granted unless any adverse impacts of approval would significantly and demonstrably outweigh the benefits when assessed against the NPPF or specific policies in the NPPF indicate development should be restricted.

Other relevant NPPF sections include:

- Section 4. Decision taking: Para 38 - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available...and work proactively with applicants to secure

developments that will improve the economic, social, and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

- Section 5 'Delivering a sufficient supply of homes' outlines the government's objective in respect of land supply with subsection 'Rural housing' at paragraphs 82-84 reflecting the requirement for development in rural areas.
- Section 11 'Making effective use of land'
- Section 12 'Achieving well designed places indicates that all development to be of a high quality in design, and the relationship and visual impact of it to be compatible with the surroundings. In particular, and amongst other things, Paragraphs 126 – 136 advise that:
 - The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
 - It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces, and wider area development schemes.
 - Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.
- Section 13 'Protecting Green Belt land' states that 'Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. (Paragraph 152). Paragraphs 154 – 155 of the NPPF set out exceptions to inappropriate development within the Green Belt.
- Section 14 'Meeting the challenges of climate change, flooding and coastal change'.
- Section 15 'Conserving and Enhancing the Natural Environment'- In Areas of Outstanding Natural Beauty great weight should be given to conserving and enhancing the landscape and scenic beauty (para 176). Decisions in Heritage Coast areas should be consistent with the special character of the area and the importance of its conservation (para 173). Paragraphs 179-182 set out how biodiversity is to be protected and encourage net gains for biodiversity.

National Planning Practice Guidance (NPPG)

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

6. ANCHOR PADDOCK BUNGALOW (PLANNING UNIT 1)

The enforcement notice for Anchor Paddock Bungalow may be found at Attachment 1.

- 6.1 The Appellants have broken down the works at Anchor Paddock bungalow into the following three elements: The Dormer Extension (marked 8 on the plan at AAS Appendix 2), The Anchor Paddock Single Storey Extension East (marked 9 on the plan at AAS Appendix 2), Anchor Paddock Single Storey Extension West (marked 10 on the plan at AAS Appendix 2). Each element has been treated individually in the AAS with some grounds claimed in respect of one element of the works only. The Council understands that the works were carried out simultaneously and submits that the Single Storey Extension East and the Dormer Extension could be treated as a single unit of work or independently.

Ground C – Single Storey Extension East

- 6.2 The Appellants have appealed under Ground C in relation to the Anchor Paddock Single Storey Extension West only. Their position is that these works benefitted from permitted development rights under Part 1 Class A Schedule 2 of the General Permitted Development Order (GPDO) as it applied at the time that the works were constructed. The provisions of Class A1-A4 as they applied from 25th May 2019 to 31st July 2020 are attached (**Attachment 22**).
- 6.3 Without prejudice to its position below, the Council submit that Anchor Paddock bungalow did not benefit from permitted development rights at the time that the works were undertaken as the building had not been used exclusively as a dwelling house (C3) but have rather been in a mixed C1/C3 use. As detailed in the site history above, meals were prepared for guests in the bungalow kitchen, guests dined in the Conservatory/Garden Room and also appeared to have use of the lounge (**Attachments 12-16**).
- 6.4 Notwithstanding this, if the bungalow remained in C3 use, the Anchor Paddock Single Storey Extension West does not fall within the requirements of Part 1, Class A. The appellants have conceded that the extension exceeds 4m in depth from the original rear wall of the dwelling so conflicts with A.1(f). Any original single storey projection has no relevance to this measurement. Additionally, development is not permitted under paragraph A.1(ja) if the total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) would exceed the limits in sub paragraphs e-j. The Single Storey Extension West is joined to the extension granted by 3/80/1858. Sub paragraph j states that development is not permitted under Class A if the enlarged dwelling would extend beyond a side wall of the existing dwelling and have a width of more than half the original dwelling.
- 6.5 “Original” is defined in Article 2(1) of the GPDO as meaning the building that existed prior to the 1st of July 1948 (if then built) or if built after that date, as built. For Anchor Paddock, this means the bungalow was as built before the 1980 extension. The aerial photography from 1947 (**Attachment 6**) shows the building in the same position as the original bungalow and which appears to have a pitched roof which ties in with the information given in the sales particulars.
- 6.6 It is understood that the extent of this building is shown on the plans for the extension granted planning permission in 1980 under the reference 3/80/1858 (**Attachment 8**). The 1980 extension is clearly greater than half the width of the original dwelling. Since the west

single storey extension joins to it, sub paragraph ja applies and the works do not benefit from permitted development rights.

- 6.7 As the appellant has only submitted a Ground C appeal for part of the extension, they have already conceded that that if the development took place as one building operation then permitted development rights cannot be relied upon.

Ground D

- 6.8 At AAS paragraph 11.1, the Appellants suggest that all three elements of the work were substantially complete on the 24th of July 2020, being the date four years prior to the date of the service of the enforcement notice. It is clear from the photographs taken at the Council's site visit on the 28th of July 2020 (**Attachment 20**) that the works to the bungalow were far from substantially complete - scaffolding can be seen in place around the entire building which appears to be in the process of being reroofed and has no windows or doors (see also Sage v SSETR [2003] UKHL 22). The Council has previously refused a lawful development certificate for the single storey rear extension (**Attachment 37**).

Ground A

- 6.9 The Appellants have indicated their intention to submit a planning obligation in the form of the draft obligation appended to the AAS. As this is put forward as being a Very Special Circumstance (VSC) in relation to all of the developments subject to the enforcement notices, and for the reasons which follow, the Council considers it appropriate to set out its position before considering the ground A appeals for each notice.
- 6.10 The draft obligation is founded on the assumption that Schedule 2, Part 1, Class AA permitted development rights are available to the Appellants. Development under Class AA is not permitted if the dwelling was built before the 1st of July 1948. Accordingly, class AA rights are not available in this case and as such the premise of the obligation falls.
- 6.11 Even if Class AA permitted development rights are available, the obligation requires the Inspector to engage in a "flight of fancy" as to what development could be carried out under permitted development rights which would be wholly inappropriate. Further, in order to be a fallback position, there must be a realistic prospect of the fallback development being carried out. There is no evidence that having already undertaken extensive works to the bungalow, which were undertaken in July 2020, that the Appellant would carry out further work to extend it, much less that they would carry out an extension of height exceeding the Dormer Extension. As a result, there is no proper fallback.
- 6.12 The suggestion of an unspecified volume equalisation oversimplifies the assessment of harm to the Green Belt. Openness has spatial and visual characteristics. It is an impossible task to first speculate on the size of hypothetical development allowed by permitted development rights, then to consider the form of that development and then to consider whether demolition of any of the existing buildings would compensate for the harm to the Green Belt. Further the draft section 106 obligation leaves the choice of building to be demolished entirely to the Appellant further highlighting the oversimplification of the proper approach to considering harm to the Green Belt. This uncertainty also raises issues relating to the protection of bats, as the Appellants Preliminary Roost and Net Assessments have considered only one building on the site and one of the reports has identified that further surveys are required to inform mitigation prior to any permission being granted for that

building's demolition (**Attachment 38d**). In addition, the Council considers it unlikely that Class AA rights would be exercised even if available due to the extensive redevelopment of Anchor Paddock that has already taken place. If the Appellants had intended to add a further story they would have done so at this time.

- 6.13 The decision in the Wareham Farmhouse case (AAS Appendix 30) highlights the difficulties with the Appellant's proposed approach. There the obligation was to demolish a specific stable block and not to construct a replacement stable block which benefitted from an extant planning permission. There the Inspector was able to compare the development subject to the appeal against the existing stables and replacement stables (which had extant planning permission). The Inspector was not considering hypothetical development against at least partly uncertain existing development.
- 6.14 As a result, the proposed s106 obligation fails to comply with regulation 122 of the CIL Regulations and cannot be given weight in the planning balance. It is therefore not a, nor capable of contributing towards, VSC.

Inappropriate development within the Green Belt:

- 6.15 The site lies within the Green Belt, so it is necessary to consider whether the works undertaken at Anchor Paddock in relation to Enforcement Notice 1 would benefit from any of the exceptions to inappropriate development within the Green Belt set out in section 13 of the National Planning Policy Framework (NPPF).
- 6.16 The breach of planning control alleged in this case includes the construction of a single storey extension and dormer extension, and also the change of use of land from use Class C1 to use Class C3, without planning permission.
- 6.17 The relevant exception to inappropriate development in the Green Belt in this case would be NPPF paragraph 154 c): *'154 c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;'*

The following table sets out the changes proposed:

All measurements approximate	Original dwelling	Extensions to date 03/80/1858	Front porch	Proposed ground floor extension	Proposed dormer	Total increase
Floor area	75m ²	162m ²	13.5m ²	59.5m ²	15m ²	238.5m ² 318% increase
Total Volume	292m ³	(667m ³ approved but rear projection removed so	25.5m ³	225m ³	40m ³	882.5m ³ 302% increase

		currently) 592m ³				
Roof volume	98m ³	196m ³	-	-	40m ³	236m ³ 240% increase

6.18 The works that have been carried out to date (including previous extensions) result in a total volume that is approximately 300% increase on the floor area and volume of the 'original building'. When the ground floor extension and dormer are considered separately or cumulatively their scale, in combination with previous extensions, is disproportionate to the size of the original dwelling. As such, the works carried out to date to the house would represent disproportionate additions over and above the size of the original building, so would not benefit from the NPPF exception at NPPF paragraph 154 c. The works are therefore inappropriate development in the Green Belt.

6.19 In principle the Council does not consider that the change of use of the land from use class C1 to C3 would result in harm to the openness of the Green Belt since permitted development rights for dwellinghouse extensions cannot be relied upon (for the reasons set out at paragraph 6.8), but as the extension for which the change of use is sought is inappropriate development this point can only be theoretical.

6.20 When considering planning applications, paragraph 153 of the NPPF sets out that local authorities should ensure that substantial weight is given to any harm to the Green Belt, and also that '*very special circumstances*' will not exist, unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Whether there are any very special circumstances (VSCs) is assessed below.

Impact upon Character of the Area:

6.21 The appeal site lies within a countryside setting in the Woodlands Area of Great Landscape Value which is characterised by areas of pasture land demarcated by hedgerows and tracts of woodland. Policy HE3 requires that in Areas of Great Landscape Value the siting, design, materials, scale, and landscaping should be sympathetic to the particular landscape quality.

6.22 Policy HE2 (design of new development) of the Local Plan requires that development should be compatible with or improve its surroundings in relation to 11 criteria including architectural style, scale, bulk, and visual impact. NPPF paragraph 135 requires development to (amongst other things) add to the overall quality of the area and be visually attractive.

6.23 Development along Batchelor's Lane comprises sporadic bungalows and houses in a sylvan setting. Anchor Paddock is well screened from the lane and Oak Tree Paddock to the north by vegetation so the extensions would not harm the landscape quality and accords with policy HE3.

6.24 The original modest double fronted bungalow has previously been granted permission for a large extension of limited architectural merit, albeit that it maintained the original modest span of the property. The proposed rear single storey extension has a low profile so appears

subordinate to the extended building. The dormer represents an incongruous addition to the roof, due to its bulk and height which rises above the ridge line so it contrary to policy HE2. Nevertheless, as the dwelling is well screened from neighbouring properties and not apparent from the public right of way up Batchelor's Lane, the degree of harm here is not sufficient to refuse planning permission on this basis alone.

Neighbouring Amenity

- 6.25 It is considered that the works carried out without planning permission would not result in significant harm to neighbouring amenity.
- 6.26 Therefore, it is considered that the scheme is acceptable in respect of neighbouring amenity, in terms of overlooking and privacy impacts. The development complies with Local Plan Policy HE2 in so far as it relates to relationship with nearby properties.

Biodiversity

- 6.27 Planning application P/HOU/2024/00739 was accompanied by a Preliminary Roost & Nest Assessment by Ecological Surveys Ltd (ESL) (dated April 2024) and subsequently a Preliminary Roost Assessment Report and Daytime Bat Walkover Report, by ROAVR Group (dated 17 June 2024). Only the latter has been referred to in the AAPS.
- 6.28 It is noted that paragraph 1.23 of the appellants statement refers to bat surveys which would appear to relate the above.
- 6.29 The Bat Reports received to date focus on the proposed demolition of an existing outbuilding which formed part of application P/HOU/2024/00739 (**Attachment 38**). The ESL report identified that the outbuilding had moderate potential for bat roosting and that further surveys during the active season (April- September) would be required to inform mitigation measures to avoid harm to protected species (**Attachment 38d**).
- 6.30 Although the report by ROAVR Group identified that the building had negligible potential, the Council's Natural Environment Team has advised that the ESL PRA should be given weight as it identified potential roost features and provided photographic evidence which should not be discounted without further surveys to disprove the presence of bats.
- 6.31 No evidence has been provided that the dwelling was surveyed for its potential to act as a bat roost prior to the works that are the subject of the enforcement notice. It has not been possible to conclude that the proposal was undertaken in accordance with Local Plan policy ME1 which requires that priority species including bats should be protected and any harm appropriately mitigated. Since permission is sought retrospectively for the extensions, any harm will have already taken place. If permission was to be granted, then it would be reasonable and necessary to secure biodiversity enhancement in the form of a bat and bird box on the extended property as encouraged by policy ME1 and NPPF paragraph 195(b).

Whether there are any Very Special Circumstances:

- 6.32 Following the decision in *Basildon DC v FSS* [2004] EWHC 2759 (Admin), it is clear that a number of matters, each of which may not necessarily be a very special circumstance on its own, may together constitute very special circumstances.
- 6.33 The Council's position is that these matters must nevertheless be material planning considerations. Whilst in an appropriate case, personal circumstances may be constitute (part of or all of) a very special circumstance, the matters set out in section 1 (including the Covid pandemic, [REDACTED] of the Appellant's Appeal Statement are not capable of being material planning considerations, much less very special circumstances. In addition, even if the Appellants were [REDACTED] and needed somewhere to live, there is no explanation of why they needed to carry out such extensive development in order to live at Anchor Paddock which was already a large and substantial dwelling at the time they purchased it.
- 6.34 At AAS paragraph 1.34, a Class AA permitted development fallback position is put forward. However, for the reasons set out at paragraph 6.9 above, Class AA is not available here, and as such there is no fallback that could be a VSC.
- 6.35 The appellant seeks to 'salami slice' the development that has taken place and says that the Anchor Paddock West extension is of such a small scale that the small scale itself constitutes a VSC. However, it is clear from the photographs of the development at **Attachment 20** that the works to Anchor Paddock were extensive, and the rear extensions cannot be viewed as separate acts of development. The extensions are so extensive that they cannot be characterised as small. Even if the 'West extension' could be viewed in isolation its modest scale is simply not sufficient to demonstrate a very special circumstance.
- 6.36 AAS Paragraph 13.3 asserts that if planning permission had been sought for a change of use for parts of the site (including outbuildings) to a residential use, and then permission sought for replacement buildings, permission would have been granted. That is pure conjecture; the Council does not accept that planning permission would have been granted to replace the covered seating area which appears to have been a 'lean to' construction and it is inappropriate to speculate on whether planning permission for a hypothetical application would have been granted. This cannot be a very special circumstance.
- 6.37 In addition to the above, the points made at AAS paragraphs 1.25 and 1.26 do not provide circumstances that outweigh the harm to the Green Belt.
- 6.38 Therefore, it is considered that the circumstances put forward by the appellant cumulatively would not amount to very special circumstances that would clearly outweigh the harm to the Green Belt by reason of inappropriate development and the harm caused by the conflict with policy HE2.
- 6.39 Therefore, the works carried out to the house identified within Enforcement Notice 1 are judged to be contrary to Green Belt policies within section 13 (Protecting Green Belt land) of the National Planning Policy Framework.

Conclusions (Ground A)

- 6.40 For the reasons set out in paragraphs 6.8-6.40, the Council considers that planning permission should not be granted for the Dormer Extension or the Anchor Paddock Single Storey Extension East or West. If despite this, the Inspector considers that planning permission should be granted, the Council asks that it is granted subject to the conditions set out at **Attachment 23**.

Ground F

- 6.41 Ground F is claimed in respect of the Dormer Extension only. The appellant submits that rather than total removal, an appropriate alternative requirement would be to reduce the height and refinish it to a level that complies with permitted development rights. The appellants accept that the Dormer Extension is not permitted development under Class B because it is higher than the ridgeline of the existing roof but claim that there is a potential fallback that if a Class AA upward extension of the original dwelling was carried out it would raise the roof line, and because the requirements for class B roof extensions refer to the existing roof and not to the original dwelling, it would then be possible to rebuild the dormer exactly as it is under permitted development rights.
- 6.42 This is a contrived and misconceived fallback position for the reasons set out above in paragraphs 6.9 to 6.10 above. Even if the original dwelling was built after the 1st of July 1948, development under Class B is not permitted where development has already been carried out under Class AA (see paragraph B1(h)).
- 6.43 Further no dormer would be permitted development because the volume of the original dwelling is relevant and has already been exceeded by more than 50m³ (paragraph B1(d)(ii) (see table at paragraph 6.16 above)).

Ground G

- 6.44 The Council believes that the time given for compliance in the enforcement notice is reasonable however if the Inspector disagrees the Council is happy for this to be amended to whatever timeframe the Inspector should consider reasonable in the circumstances.

7 WHITE BARN (PLANNING UNIT 2)

The enforcement notice for the White Barn can be found at Attachment 1.

Ground C

- 7.9 The appellant's case is that the residential conversion of the White Barn does not constitute a breach of planning control because the works and the change of use were carried out under Class Q permitted development rights. The appellants applied for prior approval for a Class Q conversion of the barn on the 19th of December 2020 (**Attachment 24**). The Council did not respond within the 56 days allowed by statute and so it was confirmed, by way of a letter dated the 5th of March 2021, that the submitted proposal benefited from deemed prior consent. The letter advised that the prior approval process is separate to an assessment of whether the proposal does or does not require planning permission and that to formally establish whether the proposal accords with the permitted development requirements a Certificate of Lawful Development (Proposed) would be required.
- 7.10 The applicants duly applied for a Certificate of Lawful Development (Proposed) under reference 3/21/138/CLP on the 11th of July 2021 (**Attachment 25**). On the 31st of March 2022, the case officer requested further information and provided the agent the opportunity to submit a Supporting Planning Statement for the application. In response the agent requested that the Supporting Planning Statement from the previous application (3/20/2281PNAGD) be carried across to the Certificate of Lawful Development (Proposed) application. Subsequently on the 1st of April 2022 the case officer, Ellie Lee, raised doubts as to whether the barn had been in agricultural use on the relevant date of the 20th of March 2013 and requested confirmation that the provisions of Q1 of Class Q have been complied with. This was in response to evidence submitted by Holt Parish Council that the barn had been used in connection with Dilly Dallys and was not in use for agricultural purposes. Application 3/21/138/CLP was formally withdrawn on the 6th of April 2022 and so was withdrawn before the Council could make a determination.
- 7.11 The Planning Statement dated December 2020 accompanying the Class Q prior approval application suggested that subject barn was in agricultural use on the relevant date of the 20th of March 2013. This was based on the CPH smallholding reference associated with the land and the fact that the area of land on which the barn is situated had not been included in the redline boundary for the C1 bed and breakfast accommodation certified as being lawful in 2017 and application reference 3/17/2526/CLE. (**Attachment 12**). In addition, photographs attached to the structural survey and the AAS purport to show the barn being used by the appellants for the storage of hay and agricultural machinery in connection with the farming operations at The White Barn and agricultural land holdings nearby.
- 7.12 Class Q permits (a) the change of use of the building and any land within its curtilage from use as an agricultural building to a use falling within class C3 (dwellinghouses) of the schedule to the Use Classes Order; and (b) development referred to in paragraph (a) together with the building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within class C3 (dwellinghouses) of that Schedule.
- 7.13 At the time of the appellants' prior approval application, development was not permitted under Class Q if the site was not used solely for an agricultural use as part of an established agricultural unit:
- On the 20th of March 2013, or

- In the case of a building which was last in use before that date, but was not in use on that date, when it was last in use, or
- In the case of a building which was brought into use after 20th of March 2013, for a period of at least 10 years before the date development under class Q begins.

- 7.14 Class Q therefore only authorises the change of use of an agricultural building to a use falling under class C3. An agricultural building is defined as meaning a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business. The building must also be used as part of an “established agricultural unit” which is defined as agricultural land occupied as a unit for the purposes of agriculture on or before the 20th of March 2013 or for 10 years before the date the development begins.
- 7.15 As set out in Section 4 of this statement, the Council understand that Anchor Paddock was originally used as a smallholding. This is based on references in the planning history to an agricultural use and the CPH number (through this is understood to be associated with the previous owner and not the land). As set out in the Site History and Background, any agricultural use associated with the Anchor Paddock site appears to have subsided during the [REDACTED] ownership. The sales particulars produced in 2015/2016 & 2019/2020 both show that the barn has been divided into a barn, a workshop and a games room (**Attachment 7**). The evidence at **Attachments 13 to 16** shows that the games room in the barn was used by guests at Dilly Dallys and that the workshop was used in the connection with the maintenance and improvement of the business which was undertaken by Mr [REDACTED] himself. The applicant has not been able to produce any evidence that the barn was being used for agriculture or for the purposes of a trade or business. Any agricultural use of the land, historically or under the [REDACTED] ownership may have fallen under the definition of agriculture at section 336 of the TCPA 1990 but was most likely hobby farming rather than for trade or for business purposes.
- 7.16 Based on the information presently available, the Council submits that the barn was not solely in agricultural use as part of an established agricultural unit on the relevant date of the 20th of March 2013 or at any time after that date. Even if the appellants did use the barn in whole or in part for agricultural purposes following their acquisition in May 2020, this is not a sufficient period of use to benefit from Class Q permitted development rights and there is no evidence that such use was in connection with a trade or business as part of an established agricultural unit. The conversion of the barn into a C3 dwelling would therefore not benefit from permitted development rights under Class Q and would require an express planning permission.
- 7.17 The original barn (as submitted for application 3/20/2281/PNAGD) had a gross internal floor area (GIA) of approximately 166m², and the GIA of the proposed conversion measures at approximately 156m². However, the building as built known as The White Barn, when measured from available aerial mapping (as no further applications have been submitted for consideration) has a much greater GIA than the proposed conversion under Class Q in the event it was permitted. From an approximate measurement of the footprint only from aerial mapping, the footprint alone is approximately 350m². This approximate footprint measurement excludes any new first floor GIA at The White Barn, so the GIA as built is likely to be much greater (than the footprint area). The works to convert the barn into a dwelling have therefore exceeded what is permitted under Class Q by extending beyond the footprint of the original structure and resulting in a gross floor area that is nearly double that of the original barn.

Ground D

- 7.18 The appellants have only claimed ground D in respect of The Greenhouse, the White Barn Single End, and the Teen Annexe. If express planning permission was, as the Council believes, required for these works, then the appellants would need to demonstrate that 4-years have expired since the date of substantial completion of the operational development. The application for prior approval to convert the barn (**Attachment 24**) is dated the 19th of December 2020. The application for the Certificate of Lawfulness (Proposed) (**Attachment 25**) is dated the 11th of July 2021 and claims that the works have not started yet.
- 7.19 In the returned Planning Contravention Notice 1, received the 26th of November 2023 (**Attachment 21**) the appellant claims that the dwelling was substantially complete in December 2020. This is clearly at odds with the aerial photography and prior approval application. The Council's position is that the works were substantially complete at some point between January 2022 and June 2023. This is based on aerial photography which is appended at **Attachments 26 and 27**. The works cannot be seen in January 2022 but appears substantially complete from the aerial view by June 2023. Even if the earliest date provided by the appellant is relied upon this still means less than four years expired before the notice was served and the development is not immune from enforcement action.
- 7.20 The appellants are not arguing that The Greenhouse, The White Barn Single End, and the Teen Annexe were completed four years ago, only that the foundations and parts of the buildings (being parts of pre-existing buildings) were lawfully on the site and should not therefore be removed.

The Council agrees with the appellant (AAS paragraph 1.29) that the Court of Appeal confirmed in Oates that the question of whether a building is a new building or not is a question of fact and degree for (in this case) the Inspector. However, the Council does not agree that the Inspector, whose decision was under challenge, in that case found any aspect of the works crucial. The Inspector's findings are set out at paragraphs 27-29 of her decision (quoted in full at paragraph 17 of Oates). She expressly based her decision that the building was new by 'taking all of the above matters into account' i.e. all of the works undertaken and did not give one element of the works more weight than others much less describe one element as 'crucial' as the appellant suggests.

- 7.21 From the information available at present the Council considers that all three of these buildings are entirely new structures as can be seen from the photos at **Attachment 28**. The appellant has failed to provide any substantive evidence to show what parts of the buildings were incorporated or whether there were pre-existing foundations that have been retained.

Ground A

Principle of Development

- 7.22 Policy KS2 directs development to settlements as these provide the best access to service, facilities and employment. In this case the application site lies in the countryside 1km by road from the village of Gaunts Common to the south (St James' First School is 2km along roads without pavements) and 2km by road north to Horton (2.5km to the village hall). The nearest settlement with shopping facilities is Wimborne (approx. 7km) and future occupiers would be reliant on private vehicle. There is no functional need for the proposed residential use in this location, so the proposal is contrary to policy KS2.

- 7.23 On 26 September, the Council received confirmation from the Planning Inspectorate that it was satisfied that the Council's Annual Position Statement (APS) for the Dorset Council area can demonstrate a 5-year housing land supply. The Council can rely on a housing land supply of 5.02 years until 31 October 2025.
- 7.24 Whilst policy KS2 can be given full weight, it is silent on the issue of building conversions, so it is necessary to consider the policy direction provided by the more recent National Planning Policy Framework. This identifies at paragraph 84 that decisions should avoid the development of isolated homes in the countryside but lists exceptions which include at 84 c) where *'the development would re-use redundant or disused buildings and enhance its immediate setting'*.
- 7.25 The Council has photographs of the barn prior to its conversion which show it to be a simple barn with an apex roof and modest single storey side element. The green corrugated wall cladding has a functional appearance associated with agricultural use which is characteristic of the countryside. Although not of any architectural quality, the green and grey/brown cladding enabled the building to blend appropriately into the rural setting. At the time of the submission of a Lawful Development Certificate Proposed (3/21/1384/CLP) in July 2021 the appellant's agent identified that the land on which the barn was sited had a lawful agricultural use. Photographs provided at that time by James Cain are contained in **Attachment 24d**.
- 7.26 Subsequently the works to the barn to create a dwelling have changed the character of the site from rural to semi-urban. Notable features include the white render as the predominant external material and contrasting feature cladding in wood and stone, the introduction of a statement front door and significant areas of glazing associated with light spill, a balcony with a glazed rail and formal landscaping including hard surfacing, combine to create a statement property. Photographs from site visit 8th January 2024 (**Attachment 29**). Whilst the result is neat and tidy and the materials are good quality, the development appears brash and incongruous within its rural setting. It fails to reflect and contribute to the rural character of the locality and so fails to enhance its immediate setting. The dwelling is isolated and cannot benefit from the exception at paragraph 184c) and it is not in a sustainable location contrary to Local Plan policy KS2.

Inappropriate development within the Green Belt:

- 7.27 The site lies within the Green Belt, so it is necessary to consider whether the works to the original barn on the site and associated works relating to Enforcement Notice 2 would benefit from any of the exceptions to inappropriate development within the Green Belt set out in section 13 of the NPPF.
- 7.28 The breach of planning control alleged in this case includes the conversion of a barn outbuilding to a habitable dwelling, including operational development to extend the barn building, construction of a garage, outbuildings, greenhouse, chicken coup, hardstanding and swimming pool, and also the change of use to a separate use Class C3 dwelling house, without planning permission.
- 7.29 Certificate of Lawfulness Application P/CLE/2024/01226 (**Attachment 30**) for the retention of the green house was refused due for the reasons set out within this statement and in the Decision Notice. No other applications have been received for works relating to White Barn

(since applications 3/21/1384/CLP which was withdrawn and 3/20/2281/PNAGD which was not determined).

- 7.30 Relevant exceptions to development being inappropriate in the Green Belt include: NPPF 155 exception b) '*engineering operations*', exception d) '*the re-use of buildings provided that the buildings are of permanent and substantial construction*', and exception e) '*material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds)*'; but these are only appropriate where they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
- 7.31 Also relevant are NPPF 154 exceptions c) '*the extension of alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building*' and d) '*the replacement of an existing building provided that the new building is in the same use and not materially larger than the one it replaces*'.
- 7.32 Application 3/20/2281/PNAGD was accompanied by a letter from Michael Saunders of Skill Build Dorset which appears to have accompanied a quote for work (**Attachment 24e**). In the letter Mr Saunders explains that he is an experienced builder of 35 years, specialising in Part Q conversions. He identifies that the solid timber frame exterior of the barn would not need reinforcement, and the oak roof trusses were structurally sound and could support lightweight Euroclad Vieo Zinc sheets. The barn had a sound concrete base and, overall, Mr Saunders considered it suitable for conversion. The details provided in the letter are sufficient to conclude that the building was of permanent and substantial construction so as to be able to benefit from paragraph 155 exception d, although it is not clear how much of the original building was retained in the new dwelling to be certain that the works were a conversion rather than re-build. For instance, it is noted that the roof material used in the conversion is not Euroclad Vieo Zinc sheets but heavier slate effect tiles.
- 7.33 The Council has no evidence to confirm that the original buildings to the north of the barn and the building to the southwest of the barn were capable of conversion. The change in siting and shape of the buildings to the north suggest that these were replaced with the extension to White Barn. The 'greenhouse' to the northeast has also been replaced. As the original buildings are understood to have had a lawful use for agriculture their replacements cannot benefit from the exception at NPPF paragraph 154 d as the new buildings are in residential and ancillary residential use.
- 7.34 The building to the southwest of White Barn appears to have been demolished and a new, much larger buildings constructed. No building was evident in a photograph of the boundary wall in 2021 (**Attachment 2, page 31**). Additionally, not present, in photographs provided by the agent associated with the prior approval application (**Attachment 24d**). The new building might be judged to represent a physical adjunct to White Barn but, in combination with other extensions to the barn, the scale is judged disproportionate to the size of the original White Barn so cannot benefit from the exception at NPPF paragraph 154 e.
- 7.35 The original barn has been extended as part of the conversion project. The modest single storey element has been replaced with a wrap-around extension and the building has been extended north joining to a new linear element along the northern boundary that has replaced previous structures.
- 7.36 Without the benefit of plans it has not been possible for officers to fully assess the building volumes. From the available photographic evidence, it is judged that the changes which

have enlarged the barn and joined it to existing buildings are disproportionate to the size of the original building; they significantly extend the footprint of the building and its projection northwest. This impact is exacerbated when the new building(s) to the southwest are included.

All measurements are approximate	Original barn	Original buildings	Proposed dwelling
Floor area	176m ² (from prior approval plan)	308m ² (from site plan accompanying prior approval)	No plans provided to enable assessment
Volume	731m ³ (from prior approval plan)	unknown	No plans provided to enable assessment

- 7.37 Additionally, the new dwelling is served by a generous garden area requiring the change of use of land, previously identified as being in agricultural use, to residential use. The change of use has been associated with engineering operations to terrace the land and the introduction of hard surfacing, a swimming pool, and various outbuildings together with residential paraphernalia including in January 2024 loungers, other seating, a parasol, and a kennel (**Attachment 29**). Whilst some agricultural storage and paraphernalia may previously have been present on the site, the change of use represents encroachment into the countryside which is contrary to one of the purposes of the Green Belt which also seeks to check urban sprawl.
- 7.38 The extensions to the barn building, additional outbuildings, and engineering operations together with the change of use of land to residential represents inappropriate development within the Green Belt, that does not benefit from any of the relevant exceptions set out within the NPPF.
- 7.39 The spread of development across the site and introduction of residential paraphernalia has resulted in a loss of openness of the Green Belt and encroachment into the countryside contrary to the purposes of the Green Belt.
- 7.40 When considering planning applications, paragraph 153 of the NPPF sets out that local authorities should ensure that substantial weight is given to any harm to the Green Belt, and also that ‘*very special circumstances*’ will not exist, unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Whether there are any very special circumstances (VSCs) is assessed below.

Impact upon Character of the Area:

- 7.41 The character of the area is as described at paragraphs 6.21 and 6.23.
- 7.42 The extent of the development and its suburban appearance fails to enhance the character and appearance of the rural area, but the site is well screened from public viewpoints, so the harm arising is mitigated in wider views by soft landscaping. Some artificial light pollution is anticipated from the new fenestration during hours of darkness, but this would be

limited in extent and not sufficient to materially change the character of the area. Additional vehicle movements would likewise not be significant so would not affect the rural character of the lane serving the property. For these reasons, the degree of harm here is not sufficient to refuse planning permission on the basis of conflict with policies HE2 and HE3 alone.

Neighbouring Amenity

- 7.43 Due to the distances to neighbouring properties, it is considered that the works carried out without planning permission would not result in any significant harm to neighbouring amenity from overlooking or noise and disturbance. The proposal accords with policy HE2 in so far as it is compatible with nearby properties.

Habitats Sites and Biodiversity

- 7.44 The site lies beyond 400m but within 5km of the internationally protected Dorset Heathland. Policy ME2 (Protection of Dorset Heathlands) identifies that any new residential development in this area should provide mitigation to avoid harm arising to the integrity of the Dorset Heathlands Special Protection Area and Ramsar and the Dorset Heaths Special Area of Conservation.
- 7.45 It has been possible to positively conclude a Habitats Regulations appropriate assessment because the harmful impact arising from the additional residential unit in combination with other plans and projects can be effectively mitigated via Heathland Infrastructure Projects and Strategic access maintenance and management identified in the Dorset Heathlands Planning Framework SPD 2020-2025.
- 7.46 If granted at appeal, mitigation will be secured via the Community Infrastructure Levy (CIL).

Whether there are any Very Special Circumstances:

- 7.47 The Council's position on the approach to assessing VSC is set out at paragraphs 6.9-6.14 above.
- 7.48 The appellant has put forward circumstances that they consider to be VSC, including volumetric equalisation of buildings on the site, personal circumstances and living conditions (Appellants statement Para 1.4 & 21.10-15). For the reasons set out above, the Council does not consider that either the proposed volumetric equalisation or the personal circumstances of the Appellants can be considered to be VSC.
- 7.49 In addition to the above, the points made at paragraphs 1.25, 1.26 and 21.1 of the appellants statement do not provide circumstances that outweigh the harm to the Green Belt.
- 7.50 The Council considers that the matters put forward by the appellant do not individually or cumulatively come close to being very special circumstances that would outweigh the harm to the Green Belt, by reason of inappropriate development and the harm caused by the conflict with the Local Plan Policies KS2, HE2 and HE3.

Conclusions (Ground A)

- 7.51 For the reasons set out in paragraphs 7.14-7.42, the Council considers that planning permission should not be granted for the conversion of the extended Barn to a dwelling and associated outbuildings. If despite this, the Inspector considers that planning permission should be granted, the Council asks that it is granted subject to the conditions set out at **Attachment 31**.

Ground F

- 7.52 As set out above the Council considers that the previous use of the barn was in connection with the bed and breakfast business known as Dilly Dallys. The Council therefore invites the Inspector to amend the notice to require that the residential use of the land and building ceases. If that amendment is made, it is reasonable to require the removal of the kitchen and bathroom fittings and fixtures. For the reasons stated under Ground D it is also considered reasonable to require the removal of the foundations and the total removal of The Greenhouse, The Teen Annexe, and the White Barn Single End.

Ground G

- 7.53 The Council believes that the time given for compliance in the enforcement notice is reasonable, however, if the Inspector disagrees the Council is happy this to be amended to whatever timeframe the Inspector should consider reasonable in the circumstances.

8 THE TREEHOUSE (PLANNING UNIT 3)

The enforcement notice for the Treehouse can be found at Attachment 1.

Grounds B, C and D

8.9 As grounds B, C & D are not individually particularised in the AAS, it is difficult to understand the appellant's position on each ground of appeal. The Council has responded to each ground of appeal as best as it can on this basis.

Ground B

8.10 It is clear that a building has been constructed at some point and is now being used as a separate dwelling. The Appellant's ground b appeal must fail.

Ground C

8.11 The Appellant has not put forward any case for why planning permission for the Treehouse was not required. The ground c appeal must fail.

Ground D

8.12 At AAS paragraph 3.1, the appellants submit that no new dwelling has been constructed within the last four years and that the Treehouse is a renovation of the building previously known as the Cabin. Given the history of the Treehouse, the Council considers that the use of, and the building works for, the Treehouse need to be considered separately. At the time that the enforcement notices were issued, the appellants had applied for a Certificate of Lawfulness (Existing) under reference P/CLE/2024/01225 (**Attachment 32**) in respect of the use of the Treehouse as a self-contained dwelling and subsequently applied for retrospective planning permission for the works that have been carried out to the cabin under reference P/FUL/2024/04000 (**Attachment 33**).

8.13 The Certificate of Lawfulness (Existing) application has since been refused and a copy of the decision notice and the officers report is included in **Attachment 32**. The reasons for refusal are:

- that the applicant has failed to provide adequate, clear and unambiguous evidence to demonstrate on the balance of probabilities that the use of the structure as a separate dwelling house independent of Anchor Paddock has taken place for a continuous period of 10 years prior to the date of the submission of the application, so that the development is not immune from enforcement action.
- Insufficient evidence has been provided to demonstrate on the balance of probability that the structure known as the Treehouse was constructed more than four years prior to the date of the submission of the application. Nor is there sufficient evidence to demonstrate on the balance of probabilities that the alterations took place more than four years prior to the date of the submission of the application.

Use

8.14 The appellants position appears to be based on the Cabin being constructed and used as a separate dwelling by the Coles and then renovated (as opposed to rebuilt) into the Treehouse. However, the appellant's statement is silent on the period required for the use

to become lawful. In respect of a new dwelling a 10-year period of continuous use as a distinct dwelling house is required (as confirmed in Welwyn Hatfield at paragraph 17).

- 8.15 The Council's analysis of the Coles use of the cabin and the subsequent use of the Treehouse is set out in detail in the officer report for the Certificate of Lawfulness (Existing) (**Attachment 32**). Further to this the Council notes that while Mr Coles' statutory declaration confirms that the Cabin had all the facilities required for day-to-day living and states that the family indulged hobbies such as cooking and reading in the Cabin, it does not say that the Cabin was in fact used as an independent dwelling distinct from Anchor Paddock bungalow.
- 8.16 The statutory declaration references a stepping stone path that allegedly demarcated the curtilage of Anchor Paddock bungalow. The stepping stone path can first be seen on the aerial photography for 2014/ 2015 dated the 22nd of July 2014 (**Attachment 34**). The aerial photography from 2017/ 2018 dated the 20th of June 2017 (**Attachment 17**) shows that a further stepping stone path has been added, providing access between Anchor Paddock bungalow and the Cabin further suggesting a degree of interconnectivity and interdependence between the buildings.
- 8.17 The evidence demonstrates that the Cabin was erected as a residential unit for Mr Coles with all the facilities to provide independent living accommodation but there is a lack of information to demonstrate the degree of independence from Anchor Paddock (occupied by Mr Coles's mother and her partner). There is no evidence as to the financial and rental arrangements that were in place during the Coles' occupation of the Cabin and the premises was not registered separately for Council Tax until 2023. The shared garden space with stepping stone paths to a shared seating area and to and from the main house weigh in favour of the cabin being ancillary to Anchor Paddock bungalow. The Sales Particulars produced in 2019/2020 (**Attachment 7b**) mention that the front garden of Anchor Paddock contains a summer house and a wooden outbuilding. There is no mention of an annexe or independent dwelling which would have been a marketable feature. This undermines the contention that the Cabin was an independent unit of accommodation separate to Anchor Paddock bungalow at that time.
- 8.18 The caselaw cited in the AAS, including at paragraph 3.1, do not assist the appellant in relation to the characterisation of the use. These judgements were considering the time at which a breach of planning control began under s171B. They were not considering, due to the facts of those cases, the particular type of residential use that was taking place. In a case such as this where the question is whether the initial use was an ancillary residential use or an independent residential, the actual use is key and to suggestion otherwise is plainly wrong.
- 8.19 Should the Inspector consider that the evidence shows that the Cabin was occupied by Mr Coles and his family independently of Anchor Paddock bungalow, this use can only be demonstrated for a period of less than seven years. There is then a significant intervening period until The Treehouse is let in September 2021.
- 8.20 Photograph submitted as part of the statutory declaration of Mr Coles, do not show much detail of the interior or exterior of the Cabin but from the information available, which includes a video, it was a simple structure of wooden construction. The size of the Cabin cannot be determined by aerial photography since any structures are screened by tree canopy. The photograph at AAS Appendix 35 shows the extent of the works being

undertaken to the Treehouse. The Cabin/Treehouse was clearly not capable of any form of residential occupation during the period of 'renovation'.

- 8.21 This all means, taking the appellant's position that the Cabin/Treehouse was always an independent dwelling, that there has not been a continuous period of use of the Treehouse for over ten years (see for example *LB of Islington v SSHCLG* [2019] EWHC 2691 (Admin) **Attachment 40**).
- 8.22 If the Cabin was used as ancillary residential accommodation during Mr Coles' (and later his family's) occupation, then it appears there was a material change of use of the Treehouse to an independent residential dwelling in September 2021. In that case, the required period for the use to become lawful is 4 years and so the use had not become lawful on the date the Enforcement Notice was served.

Building works

- 8.23 As detailed in the officer's report for the refusal of the Certificate of Lawfulness (Existing) application at paragraphs 1.19 to 1.26, the Council submit that the evidence submitted to date demonstrates that the Treehouse is a new structure with different exterior walls/cladding and fenestration, alternative internal layout and roof form including an overhang, increased eaves and ridge height and the insertion of a large rooflight (**Attachment 32**). The Council accepts that this is a question of fact and degree as per the decision in 'Oates' (subject to the point at paragraph 7.13 above) but considers that the extent of these works mean that a new building was created as a result of these works.
- 8.24 The statutory declaration of Mr Coles indicates that the original building, known as the Cabin, was erected in 2012, and first occupied in autumn 2012. Mr Coles also states that the Cabin was erected for the sole purpose of providing him with independent living accommodation, there was not a pre-existing building that was converted to create the Cabin. The Council considers that the operational development associated with the Cabin would have become immune from planning enforcement action within a period of four years of substantial completion of those works. On the basis of the information submitted by Mr Coles in his statutory declaration, this period would have expired in 2019. However, the change of use of this land, to use as an independent dwelling would require a 10-year period of continuous user before becoming immune from enforcement action. As is stated above, the Council submit that insufficient evidence has been provided to demonstrate that the Cabin was so used and, in any event, the Coles can only demonstrate a period of less than seven years. This would mean that the Cabin could not lawfully be used as a dwellinghouse and could not therefore take advantage of permitted development rights benefiting C3 dwelling houses. The works to convert or rebuild the Cabin as the Treehouse would therefore have required express planning permission.
- 8.25 The appellant has provided few details as to the works that were undertaken to the Cabin and as explained in the Officer's Report (paragraphs 1.17-1.24 of **Attachment 32(e)**) for the Certificate of Lawfulness (Existing) Application, there is doubt over the veracity of the "existing plans" submitted by the Applicant when compared against photographs of the Cabin. The appellants submit that the works did not materially affect the appearance of the building. The Council submit that the combination of the works detailed in paragraph 8.15 above is at least a material change in appearance as evidence in site visit photographs taken on 26th June 2024 and is in the Council's opinion a new building. (**Attachment 35**).

Ground A

Principle of Development:

- 8.26 On 26 September, the Council received confirmation from the Planning Inspectorate that it was satisfied that the Council's Annual Position Statement (APS) for the Dorset Council area can demonstrate a 5-year housing land supply. The Council can rely on a housing land supply of 5.02 years until 31 October 2025 so full weight can be given to policy KS2 which directs development to settlements.
- 8.27 As explained in paragraph 7.14 the appeal site is not in a sustainable location. There is no functional need for the proposed residential dwelling in this location, so the Treehouse is contrary to policy KS2. It is additionally contrary to paragraph 84 of the NPPF which sets out that planning decisions should avoid the development of isolated homes in the countryside unless they meet one of the relevant circumstances.
- 8.28 The appellants claim that the Treehouse was created by alterations made to a pre-existing building that had already been in use as a dwelling. It is the Council's contention that the evidence suggests that the building has been substantially rebuilt so as to represent a new building. If evidence is provided to demonstrate that this is not the case then, since the appellants contention in their certificate application P/CLE/2024/01225 was that the original building had been constructed for independent living, it is judged that the Treehouse cannot benefit from any of the exceptions set out at paragraph 84 of the NPPF which directs that isolated dwellings in the countryside should be avoided.
- 8.29 When considering the relationship with settlements and services the Treehouse is an isolated dwelling in the countryside so contrary to Local Plan policy KS2 and NPPF paragraph 84.

Inappropriate development within the Green Belt:

- 8.30 The site lies within the Green Belt, so it is necessary to consider whether the structure known as Treehouse would benefit from any of the exceptions to inappropriate development within the Green Belt set out in section 13 of the NPPF.
- 8.31 The breach of planning control alleged in this case includes the construction of a separate use Class C3 dwelling house, without planning permission. It is the Council's contention that there is no relevant exception to inappropriate development in this case.
- 8.32 It is recognised that if, as the appellants claim, the Treehouse has been created by extending a pre-existing building known as The Cabin then there is the opportunity to consider the proposal under the exception at NPPF paragraph 154 c) but the evidence available to the Council (considered when determining P/CLE/2024/01225 which was refused) suggests significant reconstruction that exceeds that which could be judged to be an extension.
- 8.33 Under paragraph 154 d) a building can be replaced by one that is not materially larger, but the use needs to be the same. The Council is not persuaded by the evidence provided alongside application P/CLE/2024/01225 to support the contention that the Cabin was used as an independent dwelling; the familial relationship between the occupant of the Cabin and of Anchor Paddock and the lack of reference to a dwelling in sales details supports officers conclusion that the Cabin was an outbuilding so exception d cannot be relied upon.

- 8.34 The construction of The Treehouse with its associated boundary demarcation, vehicle parking and intensification of domestic paraphernalia is inappropriate development that has resulted in a loss of Green Belt openness.
- 8.35 When considering planning applications, paragraph 153 of the NPPF sets out that local authorities should ensure that substantial weight is given to any harm to the Green Belt, and also that 'very special circumstances' will not exist, unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Where there are any very special circumstances (VSCs) is assessed below.

Impact upon Character of the Area:

- 8.36 The character of the area has been identified at paragraphs 6.21 and 6.23.
- 8.37 The development of a new dwelling has intensified the use of the appeal site, but the building is of modest proportions and is well screened. Limited trip rates are anticipated. Overall, no harm to the character of the area is identified in respect of policies HE2 and HE3 of the Christchurch and East Dorset Local Plan 2014.

Amenity

- 8.38 It is considered that the works carried out without planning permission would not result in significant harm to neighbouring amenity as the single storey dwelling now benefits from additional screening from Anchor Paddock in addition to the landscape screening that limits any views to other nearby properties.
- 8.39 The 2-bedroom dwelling has a gross internal floor area (GIA) of 36.45m². Policy LN1 requires that all new dwellings are built to meet minimum living space standards for both internal and external areas. The dwelling fails to comply with the Christchurch and East Dorset Housing and Affordable Housing Supplementary Planning Document which identifies that a 2-bed space dwelling should have a minimum GIA of 45m². The Council considers that the dwelling would provide substandard accommodation for any future occupiers contrary to Local Plan policy LN1.

Habitats Sites and Biodiversity

- 8.40 The site lies within 5km of the internationally protected Dorset Heathland. It has been possible to positively conclude a Habitats Regulations appropriate assessment because the harmful impact arising from the additional residential unit in combination with other plans and projects can be effectively mitigated via Heathland Infrastructure Projects and Strategic access maintenance and management identified in the Dorset Heathlands Planning Framework SPD 2020-2025.
- 8.41 If granted at appeal, mitigation will be secured via the Community Infrastructure Levy (CIL).

Whether there are any Very Special Circumstances:

- 8.42 Again, the Council's position on the approach to VSC is set out in paragraphs 6.9-6.14 above.

- 8.43 With reference to paragraph 5.1 of the appellants statement, it is noted that improved environmental performance and living conditions, along with other personal circumstances are put forward.
- 8.44 Paragraph 8.1 of the appellant's statement sets out that the change of use and construction of a dwelling, along with works more recently carried out, are not material and is of the view that this did not require planning permission. Volumetric equalisation on the site is also put forward as a very special circumstance.
- 8.45 The Council's position on the personal circumstances of the Appellants and the proposed volumetric equalisation are set out above. Similarly, occupation by the tenants plainly cannot be a VSC because if that were the case, it would allow Green Belt policy to be circumvented by condoning unauthorised residential development in Green Belt.
- 8.46 The appellant asserts that the living conditions are now better than before the work was undertaken without setting out how the living conditions prior to the work were materially worse than they are now. If the Council is correct that the change of use is a new building, then self-evidently living conditions should be of a sufficient standard for a dwelling and so this cannot be or contribute towards VSC. If the Council is wrong and it is only a change of use that has taken place, the only real difference appears to be that the standard of decor and appliances/sanitary is more contemporary which is a matter of personal taste and cannot count towards a VSC.
- 8.47 The Appellant has failed to set out how, or to what degree, the building has better environmental or thermal performance. At the very least the building should meet current Building Regulations and compliance with a statutory requirement is the bare minimum which cannot be a VSC.
- 8.48 The Council considers that the circumstances put forward by the appellant do not individually or cumulatively amount to very special circumstances that would outweigh the harm to the Green Belt, by reason of inappropriate development and the conflict with the Local Plan.

Conclusions (Ground A)

- 8.49 The Council submit that there is insufficient, clear, and unambiguous evidence to demonstrate that the Cabin was used by Mr S Coles and his family as a separate dwellinghouse independent of Anchor Paddock bungalow. Mr S Coles can, in any event, only evidence a period of less than 7 years occupation. There is then a significant period during which the Cabin was unoccupied between the Coles vacating in 2019 until the Treehouse was let in September 2021. The Council submit that the evidence demonstrates that significant works were undertaken to rebuild the Cabin to form the Treehouse, and that this should be treated as a new chapter in the planning history of the site. The Cabin, not being a lawful dwellinghouse, did not benefit from permitted development rights and express planning permission would have been required for the rebuilding works. The applicants made no attempt to seek planning permission or pre-application advice for these works. and the proposal for a new dwellinghouse is contrary to the Development Plan. The Council do not accept the applicant's position that there were very special circumstances in this case.
- 8.50 Should the Inspector find that planning permission should be granted for the construction and use of the Treehouse as a separate dwellinghouse the Council submits that permission should be granted submit to the conditions set out in **Attachment 36**.

Grounds F

- 8.51 If the Inspector finds that the Treehouse is a new dwelling, and that planning permission ought not to be granted planning permission then the Council submit that the requirements of the notice are reasonable. If the Inspector finds that the Treehouse has been in place for over 4 years, then the notice can be amended without prejudice to allow the option of converting the building back to its previous form and requiring the use as an independent dwelling to cease.

Grounds G

- 8.44 Should the Inspector find that the construction of the Treehouse and its use as a distinct dwellinghouse is unlawful and should not be granted planning permission, then the Inspector may amend the Enforcement Notice to allow a further period for the required steps to be taken.