**SITE HISTORY**

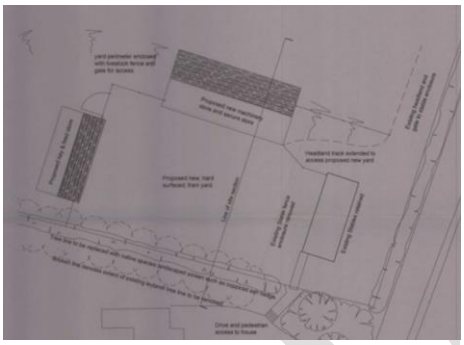
S/2002/0652 ERECTION OF 3 STABLES AND TACK ROOM/FEED STORE AC

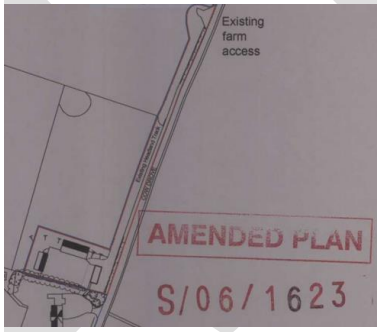
(3) The stable[s] hereby permitted shall be used only for purposes ancillary to the enjoyment of the associated dwelling and not as a riding school, livery stables or for any other business or commercial use. (E07A)

(3) In order that the Local Planning Authority may retain planning control over the use of the premises.




S/2006/1623 CONSTRUCTION OF TWO NEW STORAGE BARNS FOR ARGICULTURAL USE AC


*block plan*



*red line*

18/11684/FUL Replacement dwelling Refused
20/06258/FUL Proposed replacement dwelling AC
PL/2021/04994 Proposed replacement dwelling (revised design) and AC
PL/2022/00888 Proposed replacement dwelling (revised design) and Under consultation
PL/2023/04652 Carry out alterations to Barn to facilitate permitted commercial use W/D
ENQ 2023/00514: Proposed change of use under Part 3 Class R from agricultural to C1 (Hotel), No objection from Wiltshire Council to the notification.

**Enforcement history** – None for this site

**EVIDENCE SUBMITTED**

**i) In Support of the application**

By the applicant:

• CLEUD Application Form;
• Drawing 20219-13A - Location Plan at 1:1250 scale showing the land subject to the application edged red, the adjoining residential curtilage of Bevisfield edged green and other land within the Applicants' control edged blue;
• Drawing PS 21 152 - Site Survey at 1:200 scale showing the yard area and floor plans for the barns and stable.

Statutory Declaration of Charles David Robert Wolseley Brinton 4/12/23

Please refer in full for photograph Appendices

1. In October 2017, my wife and I purchased the property known as Bevisfield comprising a residential bungalow with access and garden, adjacent yard enclosed on 3 sides by 2 'barns' and a stable building along with 14.8 acres of land.

2. On Drawing 20219-13A (attached hereto as APPENDIX A) the house and garden area as it was when we purchased the property is shown edged green. The adjacent yard area and buildings referred to above, subject to a current application for a Certificate of Lawfulness of Existing Use or Development (CLEUD), is shown edged red. The remainder of the land in our ownership is shown edged blue.

3. I am advised that planning permission was granted in 2006 under reference S/2006/1623 for the 'Construction of 2 new storage barns for agricultural use'. These buildings were erected on the northern and western side of the yard area directly above the house to form an enclosed courtyard adjacent to an existing stable framing the western edge of the yard.

4. Prior to our purchase of the property, it was owned by a Mr David Williams. When we submitted a planning application in June 2023 to 'Carry out alterations to barn to facilitate permitted commercial use' Mr Williams wrote to the Local Planning Authority advising as follows: *'Statement regarding use of barn building - 24/7/23 I understand that you need to know what activity was occurring in the buildings at Bevisfield, July 2012, specifically the barn. The barn was used as a workshop and storage space. In the building there was: a work bench and hand tools, plus a compressor and grinder. A towed flail mower which was used to maintain the dog kennels exercise paddock. The quad bike which towed the kennels' mower. Our touring caravan. Our daughter's horse box. A small road trailer used for general transport, mainly garden waste! The 'storage barn' was not involved in any of the agricultural activity at Bevisfield.'*

5. When Mr Williams vacated the premises in October 2017, we moved in immediately. Following him clearing out the buildings framing the yard, we continued, straightaway, to use them for domestic purposes including storage and for purposes incidental to the enjoyment of the dwelling (Bevisfield).

6. We have used the 3 buildings framing the yard for such purposes from the point we owned the property up until the present day and this domestic storage has been continuous and is on-going.

7. In support of our assertion that these buildings have only been used for purposes incidental to the enjoyment of Bevisfield, APPENDIX B includes a series of dated photographs each with their own caption.

... the larger

8. The photographs are separated into three parts relating to the larger (enclosed) barn, the smaller (open) barn and the stables building.

9. These show how the buildings have been utilised for the following purposes throughout the time we have owned Bevisfield:
**Stables** - these have been used exclusively to store our own personal and household effects including (a) school trunks, sporting goods, files; (b) tools and garden equipment; (c) dog kennel, and whelping area for puppies; (d) furniture storage not being used in our house.
**Large enclosed barn** - (a) storage container with excess furniture from the house; (b) gym and general play area for children; (c) surf boards and beech paraphernalia; (d) cars, bikes and lawn mower; (e) workshop.
**Open barn** - (a) hay for donkey; (b) storage of machinery.

10. It is acknowledged that the open barn has been used recently for storing building materials associated with the re-development/re-building of Bevisfield. Such storage is on a temporary basis but is also directly related to the replacement of the existing single residential property and not for any separate commercial purposes.

11. Based on the fact that Mr Williams has stated the buildings were not used for agricultural purposes as of 2012, or thereafter, and that we have continued to use all 3 buildings and yard area solely for our domestic enjoyment and for purposes incidental to Bevisfield, it is my assertion that the yard area and buildings upon it have been used continuously over the past 10 years for non-agricultural purposes.

12. I am advised, under the Town and Country Planning legislation, that where such a use has been undertaken continuously for a 10-year period it becomes lawful as the time period for the Local Planning Authority to take any enforcement action will have expired.

Applicant's Statement:

*A Statutory Declaration is submitted with the application made by Mr Wolseley Brinton. He, along with his wife, own the dwelling 'Bevisfield', the adjacent courtyard of buildings and associated land as shown on drawing 20219-13A. It explains how the land and buildings edged red have been utilised since they purchased the property in October 2017.*

*The Statutory Declaration provides evidence of the use of each of the 3 buildings within the red line, comprising enclosed barn and open barn, erected following planning permission granted in 2006, and an earlier stable building that was already on site when the 2006 planning permission was granted.*

*The evidence supplied demonstrates that all 3 buildings and the associated yard area have been used solely for domestic purposes incidental to the enjoyment of the adjacent dwellinghouse known as Bevisfield for the requisite 10-year period – essentially comprising an extension of the residential curtilage to incorporate this area.*

*The Statutory Declaration also includes a statement made by the previous owner, Mr David Williams, in relation to an application that Mr and Mrs Wolseley Brinton made earlier in 2023. Within the statement he advised that as of 2012 he was not utilising the buildings and yard area for agricultural purposes – rather they were being used in a similar fashion to how they are now - for domestic storage and other purposes incidental to the enjoyment of the property known as Bevisfield, where he lived.*

*Section 171B of the Town and Country Planning Act 1990 (as amended) confirms that where the use of land or buildings has been undertaken continuously for a 10-year period up to the date of an application for a Certificate of Lawfulness being made, such use will be immune from any enforcement action.*

*It has been demonstrated, on the balance of probability, that the buildings and yard have been used solely for such domestic purposes, incidental to the enjoyment of the adjacent dwelling, continuously for in excess of the past 10 years. In such circumstances, under S.191(1)(a) this application for a Certificate of Lawfulness should be granted.*

Other**:** Google Maps Feb 2024




**ii) Against the application**

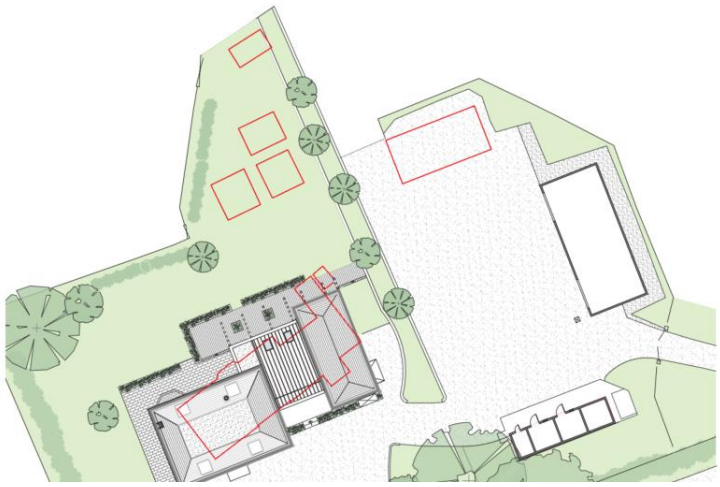
2018 Design and Access Statement for 18/11684/FUL by Richmond Bell Architects Ltd



**2.04 Existing Outbuilding materials and condition**

In the past the property also housed a dog kennel business and so there are a of number barns, stables and outbuildings that served the business.

DRAFT



### 3.01 Design Proposal

Section 7 of the NPPF makes clear that "the government attaches great importance to the design of the built environment" and that "good design is a key aspect of sustainable development". The design of this proposal has therefore been carefully articulated in order to comply with this guidance.

The site lies within the Cranbourne Chase AONB and as such, special attention has been paid to conserving and enhancing the landscape and scenic beauty of the area with a sensitive design approach using natural materials and simple forms.

The proposal seeks to demolish the dilapidated main house, barn to the north of the main house, and dog kennels as outlined on Figure 3.01. The

<u>ENQ from 2023/00514: Proposed change of use under Part 3 Class R from agricultural to C1 (Hotel)</u>

Extracts from Covering email from Brimble Lea dated 29 March 2023:

**From:** Diccon Carpendale <Diccon.Carpendale@brimblelea.com>
**Sent:** 29 March 2023 17:31
**To:** Hughes, Richard <Richard.Hughes@wiltshire.gov.uk>; Developmentmanagement <Developmentmanagement@wiltshire.gov.uk>
**Subject:** Notification of Change of Use of a Building and any Land within its Curtilage from a Use as an Agricultural Building to Use Class C1 (Hotels)-Barn at Bevisfield, Cow Drove, Chilmark, SP3 5AJ

Dear Mr Hughes,

I am instructed to notify the Local Planning Authority (LPA) of a proposed Change of Use from Agriculture to Use Class C1 (Hotels) with respect to the building and associated curtilage as edged red on attached drawing 20219-54.

Schedule 2 Part 3 Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) permits such change of use where the floor space of the building to change does not exceed 150m2 subject to providing the LPA with the following information:

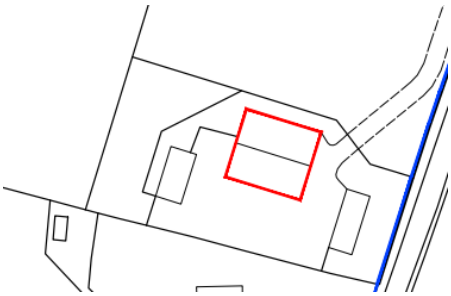
(i) The date the site will begin to be used for this use: 1st June 2024
(ii) The nature of the use: use as hotel (C1)
(iii) A plan indicating the site and which buildings have changed use-this is attached showing the barn and associated curtilage edged red and other land forming the holding edged blue

I do not believe there is an application form to be utilised when notifying the LPA of this process. If there is a form to be completed please let me know.

I would be grateful to receive your confirmation of receipt of this notification. It is understood permitted development granted under Class R relates only to the Change of Use. Should there be any operational development required to bring about the Change of Use which involves a material alteration to the external appearance of the building, the necessary application for planning permission will be made.

<u>Evidence from PL/2023/04652 Carry out alterations to Barn to facilitate permitted commercial use W/D</u>

- Application form dated 9/6/23:



## Existing Use

Please describe the current use of the site

Agriculture

- Extracts from Covering Letter from Brimble Lea ref DC/AC/20219 dated 9th June 2023:

Following notification being given to Wiltshire Council of the proposed change of use under Part 3, Class R from agricultural to C1(hotel) use, the LPA has confirmed such change of use is able to take place by email of 6th April 2023, submitted with this application.

- Email from Brimble Lea stating that Wiltshire Council has accepted Class R (the basis for the pd is agricultural use)

Reply | Reply All | Forward | ...

Thu 22/06/2023 13:1

DC

Diccon Carpendale <Diccon.Carpendale@brimblelea.com>

To Developmentmanagement

Cc Hughes, Richard; Fothergill, Adam

This sender Diccon.Carpendale@brimblelea.com is from outside your organization.

Click here to download pictures. To help protect your privacy, Outlook prevented automatic download of some pictures in this message.

Location Plan.pdf
.pdf File

Hello Jamie,

I had expected/anticipated your email!

Normally, we would show the access arrangements for a proposed development as you have requested. Our plan **does** show other land owned edged blue and a north point, so I am not sure why these are referenced in your letter.

**However,** in this instance the **use** of the building has already been accepted as comprising permitted development by Wiltshire Council. So how the building is used or accessed is **not pertinent** to the consideration of the application. The application **only** deals with some alterations to the barn itself. The red line corresponds with the floor area and curtilage as permitted under Class R of the GPDO.

What I wish to avoid is any attempt by the LPA to consider the access arrangements as being for consideration under this proposal. They are not! As such the Highway Authority should not comment as the use of the building and the access to it are not relevant in this instance.

- Comments from Mr and Mrs Lewis:

We understand that the previous owner of the property have written to the Parish Council stating that in July 2012 and for the remaining duration of their ownership, this building was not being used for agricultural purposes and was instead used in part for the running of their kennel boarding business. We believe the current owners have used the barn for storing building materials in association with their building business. Therefore a change of use in accordance with Class R does not apply in this case.

- Comments from Mr Williams:

Mr Williams, who owned Bevisfield in July 2012, has confirmed that the barn was not in agricultural use at that time but was being used as ‘a workshop and storage space’ with paraphernalia associated with the dog kennel business run by Mr Williams, a horse box, and other items which would be normally found in a shed or outbuilding being used as incidental residential storage. It was Mr Williams himself who obtained planning permission for the subject barn in 2006 under LPA Reference S/06/1623. It is noted from other representations that since the applicants took ownership of the barn that it has been used to store commercial items in association with their building business.

*I understand that you need to know what activity was occurring in the buildings at Bevisfield, July 2012, specifically the barn. The barn was used as a workshop and storage space. In the building there was:*

*A work bench and hand tools, plus a compressor and grinder.*

*A towed flail mower which was used to maintain the dog kennels exercise paddock.*

*The quad bike which towed the kennels mower. Our touring caravan. Our daughter's Horse Box. A small road trailer used for general transport, mainly garden waste!*

*The "storage barn" was not involved in any of the agricultural activity at Bevisfield.*

*Dave Willlams, former Bevisfield owner.*

- Letter from Planning Base

However, it is clear from submissions provided by local residents, that the barn was not in agricultural use at the time of the relevant date (3rd July 2012). Indeed, Mr Williams, who owned Bevisfield in July 2012, has confirmed that the barn was not in agricultural use at that time but was being used as 'a workshop and storage space' with paraphernalia associated with the dog kennel business run by Mr Williams, a horse box, and other items which would be normally found in a shed or outbuilding being used as incidental residential storage. It was Mr Williams himself who obtained planning permission for the subject barn in 2006 under LPA Reference S/06/1623.

It is noted from other representations that since the applicants took ownership of the barn that it has been used to store commercial items in association with their building business.

Indeed, the local planning authority is put to task as to what evidence was provided by the applicants to confirm that the barn was in agricultural use in 2012 when they clearly did not own the barn at that time – this must have been overwhelming evidence for the Officer to arrive at a 'no objection' conclusion? If no (or insufficient) evidence was presented by the applicant or considered by the local planning authority then this application can only be refused as the 'permitted commercial use' as set out in the description of development is not permitted at this moment in time and the local planning authority would be open to a Judicial Review challenge by concerned local residents. Full disclosure of the ENQ/2023/00514 file and correspondence between the applicants and the local planning authority is required as there is no such file available to view online.

The local planning authority are being asked to make a decision upon whether proposed alterations to a *permitted commercial use* are acceptable. Mr & Mrs Goodenough and other local residents contest whether the barn as it stands benefits from a permitted commercial use as an apart hotel as the subject building was not used solely for an agricultural use as part of an established agricultural unit on 3rd July 2012. Evidence has been provided from the owner at that time which confirms that the barn was being used partly in connection with a dog kennel business and partly as an incidental storage use in association with the residential property at Bevisfield. The owner confirms that there was no agricultural use on that date.

## Relevant comments from third parties

Chilmark Parish Council

*The 3 buildings - a stable block built in 2002, and 2 barns were granted planning permission in 2006 to be built for agricultural purposes. Chilmark Parish Council is objecting as the applicant has not been able to clearly demonstrate that the three buildings have been in continuous, uninterrupted use for the last 10 years for the purposes incidental to the enjoyment of the adjacent residential property. Mr David Williams (the previous property owner of Bevisfield) in his comments attached to the application, is very clear that the land and buildings were used for their intended agricultural use, including in the 4 year period prior to the sale to the current owner in October 2017.*

Mr D Williams

*Mr Worsley Brinton states in his Statutory Declaration dated 4 December 2023 paragraph 11 as follows: "Based on the fact that Mr Williams has stated the buildings were not used for agricultural purposes as of 2012, or thereafter, and that we have continued to use all 3 buildings and yard area solely for our domestic enjoyment and for purposes incidental to Bevisfield, it is my assertion that the yard area and buildings upon it have been used continuously over the past 10 years for non-agricultural purposes".*

*For the record I owned and lived at Bevisfield, Cow Drove, Chilmark from February 2006 to October 2017.*

*At the request of the Chilmark Parish Council, I previously made a statement in July 2023 regarding the use of the large storage barn only on a specific date in July 2012. These comments referred to a planning application for alterations to the barn for a proposed Aparthotel. I answered that query to the best of my recollection and have no reason to change what I said.*

*However it is NOT a "fact" that I "stated" that the "buildings" plural "were not used for agricultural purposes as of 2012, or thereafter". This is I am afraid a total misrepresentation of both the question I was asked and the answer I gave.*

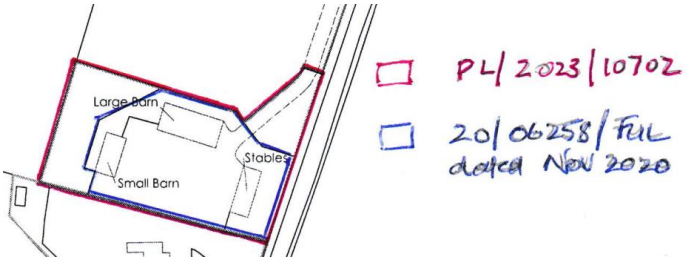
*At Bevisfield Farm we had two flocks of 30 chickens (60 laying birds in total) in a section of the 2 acre field directly west of the house, plus a flock of initially Shetlands, then Wiltshire Horn sheep, grazing that field and the two larger fields to the north, which were only dispersed when we sold Bevisfield Farm in 2017. The feed store was exactly that, a feed store and it doubled as a lambing shed when required. The yard was the parking area for a 75hp Kubota tractor with loader, a four ton tipping trailer, a livestock trailer, a field topper, a 10ft roller, 12ft tine harrows, dung forks, lifting forks, a hydraulic bale squeeze, circa 40 sheep hurdles, a sheep turnover crate, a sheep run and foot bath. This agricultural equipment was sold immediately prior to our vacating Bevisfield Farm in Oct 2017. The farm had a Parish Holding Number (Agricultural holding Number CPH 45/264/0034) a Livestock/Flock number (UK331607) and flock record, as required by DEFRA. Also Bevisfield Farm was part of the Rural Payments scheme throughout our stewardship.*

*In conclusion and to be absolutely clear, the buildings and the land, for the three years prior to the sale of the property in 2017, were not used for a use incidental to the residential use.*

Mr and Mrs A Lewis

*We wish to object to this application for a Lawful Development Certificate for an Existing Use in relation to the area edged in red on Drawing No. 20219-15 comprising yard, 3 buildings and land for a use incidental to the enjoyment of Bevisfield. Firstly, with reference to the Location Plan 20219-13B, at 1:250 scale, showing the yard area and two barns and stable building. We have noticed that the land area in question has expanded beyond the area used by the applicant in previous planning applications. For example, in the planning application Ref No. 20/06258/FUL dated November 2020, the area was smaller as shown edged blue on the attached plan. ( As there is no*

*facility here to submit a plan it will be sent separately by email to the case officer ). It is noted that the revised area edged red extends part of the way north along the agricultural access path. The inference is fairly obvious; the applicant is seeking to extend the size of the plot as well establishing the access from further north along Cow Drove. It is our belief that this additional land is agricultural grazing land which falls within the Cranborne Chase and West Wiltshire AONB.*




*Secondly, the owner of the property, Mr Brinton, has signed a Statutory Declaration dated 4th December 2023 stating that since he purchased the property in October 2017 up to the present day the buildings and yard were used solely for domestic storage which has been continuous and is ongoing.*

*To our knowledge a Lawful Development Certificate for an Existing Use requires that use to have been continuous for 10 years. Mr Brinton purchased the property in October 2017 (6 1/4 years ago). The previous owner Mr D Williams has stated in his objection to this application that "the buildings and land for the three years prior to Mr Brinton's ownership were not used for a use incidental to the residential use".*

*We refer to the Gabbitas v SSE and Newton LBC case, and given the above comments, in our opinion Mr Brinton's Statutory Declaration is ambiguous and contradictory.*

*Prior to Mr Brinton's Statutory Declaration the use of the land and buildings appears to be a moveable feast to suit the circumstances. The previous application (PL/2023/04652) for conversion of the main barn to C1 Hotel under Class R assumed an existing agricultural use.*

*His inclusion of the additional land in his application gives the impression of seeking to establish the boundary for a residential plot with access from the farm gate further north along Cow Drove. Given our comments above, we confirm our objection to this application*

Mr N Goodenough

*We have lived opposite Bevisfield for the last 17 years, and we object to this application for a Lawful Development Certificate based on the following information.*

*2024 PL/2023/10702 Lawful Development Certificate*
*The red marked boundary of the barns in this application is far in excess of the previous block plans published and included in the above long list of applications, which also includes last year's withdrawn 2023 PL/2023/04652 Class R change of use to aparthotel, all showing a smaller area. I also note the inclusion of an extra strip going north adjoining Cow Drove.*

*For the above Lawful Development certificate to be granted the use of barns and outlined curtilage needs to be proved to have been in sole domestic use for the last 10 years apart from minor incidental. It is very clear from Mr Williams comments that up to the applicants purchase in October 2017 6 ¼ years ago this was not the case.*

*As we live opposite Bevisfield , we have been witness to the use of the barns and land adjacent to the property and wish the following to be noted. During the early part of the applicant's ownership a new vehicle access was excavated and formed from the tarmacked drive area at Bevisfield up to the barn courtyard. This has been in constant use to access the office portacabins and the courtyard which were occupied by WB Design and Build Ltd the applicant's company who were constructing Wandle House down at the southern end of Cow Drove.*

*Parked in the courtyard was a large forklift, an excavating machine and a dumper all of which tracked up and down Cow Drove regularly during the commercial Wandle House development, with also from time-to-time building materials. This machinery created a complete mud bath on the road between Bevisfield down to 20m before the junction with the B3089 on several occasions.*

*Commercial building waste and chalk from the Wandle development was also brought up the road, into Bevisfield up the new ramp then finally dumped on the northeast corner of the agricultural holding adjacent Cow Drove and in clear sight from the field entrance. This heap had been left where it had been dumped for the last 3-4 years until sometime during the last few months and appears now to have just been spread out covering the grass rendering quite a large area useless for grazing animals.*

Letter from Planning Base

*1. The application site includes the buildings known as the large barn, the small barn and the stables. It also includes the whole of the red-line area for 'use of land' for the purposes of being incidental to the enjoyment of Bevisfield.*

*2. Due to the fact that the current owners haven't been in situ for the 10 years prior to the submission of the application, they are forced to rely upon third party evidence. Mr Brinton sets out a statutory declaration setting out how the buildings and land have been used since October 2017 (however it is noted that this is disputed in the submission by Mr Goodenough questioning whether the subject land and buildings have been used for partially for purposes in association with the business of the applicant rather than as incidental residential use). Notwithstanding those issues, for the period from December 2013 to October 2017 the applicant is forced to rely upon the evidence provided by Mr Williams. It is noted that Mr Williams has not provided a statutory declaration in support of this application – in fact he has submitted a representation clearly stating that the subject buildings and land were not used by him for an incidental planning use between the dates relevant to the determination of this application. It is therefore evident that the local planning authority can only refuse this application based upon paragraph 006 of the central government guidance on such applications as set out below. The applicant has not provided sufficient information to support the application (zero evidence provided between December 2013 and October 2017 as noted on the cover letter for the application from the agent dated 6th December 2023). Furthermore, there has been evidence from 'others' (ie Mr Williams) which directly contradicts how the applicant purports the land and buildings to have been used between December 2013 and October 2017). The comments provided by Mr Williams in his representation are very clear and precise. Should the local planning authority determine to grant this certificate despite the clear and precise evidence then they would be on unsafe ground with the potential for a judicial review against the local planning authority.*

*3. The agent for the applicant is attempting to salvage the use of the large barn as being in incidental use based upon Mr Williams comments of 24th July 2023 in relation to LPA Reference PL/2023/04652. Mr Williams only confirms the use of the barn at a snapshot in time (July 2012). He offers zero evidence as to how any of the three buildings or the land was used between December 2013 and October 2017 in his 24th July 2023 representation. Again, there is zero evidence provided in that representation which can assist the applicant in the*

*subject case to prove use of the land and buildings for the purposes incidental to the enjoyment of Bevisfield and the local planning authority would be leaving themselves wide open to a legal challenge if they determined to approve this application because of Mr Williams' 24th July 2023 representation.*

*4. The agent references a 2002 permission for the erection of three stables and that they contained a permission for ancillary use – again this has no bearing on the evidence of how the subject land and buildings were used between December 2013 and October 2017.*

*Summary - The applicant can only prove the use of the land from October 2017 to the present (and this is disputed as to whether there has been a commercial use rather than an incidental residential use between 2018 and 2022). The regulations are clear that 10 years of continuous use is required in order for the Certificate to be issued and such evidence has clearly not been provided.*

Applicant's response to third parties

*I wanted to respond to the comments recently posted by Dave Williams, the previous owner. Also, I will take the opportunity to respond to what the PC and others have said.*
*What he says now could be taken as a direct contradiction of his statement from last July when he commented on our application to change the exterior of the large barn (when we were working on the basis it benefitted from Class R rights as had been confirmed earlier by your admin team). Based on what he said previously, we decided to withdraw an application for alterations to one of the barns as he was suggesting it was not in agricultural use at the relevant date.*

*It is interesting to note he makes it clear the PC asked him to say something last year and it does seem remarkably convenient that he stated it wasn't used for agriculture at that precise time (July 2012).*

*HOWEVER, reading his current statement (and presumably to avoid perjuring himself) his comments refer to the yard and feed store (small barn) only. They make no reference to the large barn being in agricultural use as, clearly, based on his comments made in July 2023, he was using it for domestic purposes.*

*Additionally, to assist, I attach the planning permission for the stables from which it is evident the lawful use of this building is 'for purposes ancillary to the enjoyment of the associated dwelling'.*

*On the basis the stables are required to be (and are currently used) ancillary to the enjoyment of Bevisfield, and that his comments do not relate to the large barn I presume you will be content to issue the CLEUD for the stables and large barn? It is within the LPA's gift to amend the description of a CLEUD application - S.191 (4).*

2nd comment from Mr D Williams

*I have just been made aware of Mr. Diccon Carpendale's letter of the 1st Feb, to the planning officer Ms Becky Jones, in which he refers to my statement and comments on the actions of both myself and the Chilmark Parish Council.*

*I find it remarkable that Mr.Carpendale, continues to twist what I say to suit his own purposes In his letter he says…."What he (Dave Williams) says now could be taken as a direct contradiction of his statement from last July"… "when he commented on our application to change the exterior of the large barn."*

DRAFT

*There is no contradiction whatsoever; I was asked a specific question by the Parish Council, I was asked what was in the storage barn in July 2012? I answered this accurately to the best of my recollection.*

*Diccon Carpendale manages to ignore the fact that I was asked a specific question and turns it into an attack on the integrity of the Chilmark Parish Council by suggesting that it's "clear the PC asked him to say something last year" and goes on to infer that "it does seem remarkably convenient that he stated it wasn't used for agriculture at that precise time"*

*My final issue with Diccon Carpendale's letter is his saying that, my not mentioning the barn also being in agricultural use, was "presumably to avoid perjuring myself". I would like to point out that the tractor and the livestock trailer were regularly parked inside the barn for security reasons. In fact on one of the two occasions that his client expressed an interest in purchasing my tractor, it was parked in the barn. Perhaps he should check his facts.*

**CONSIDERATION OF EVIDENCE**

The applicant seeks a Lawful Development Certificate for the use of the land and buildings (site plan submitted) for purposes incidental to the enjoyment of the adjacent residential property known as Bevisfield.

For a certificate of lawfulness to be issued the applicant would have to provide evidence that, on the balance of probabilities, the land had been used for this purpose for a continuous period of ten years (i.e. not less than the time limit for immunity from enforcement action prescribed under Section 171B (3) (Time Limits) of the 1990 Act whereby the time limit for taking enforcement action had expired).

To explain their evidence, the applicant has submitted a statutory declaration (copied above) and the main relevant points in the declaration are:

- 2 agricultural barns constructed under S/2006/1623
- (Stables were constructed under S/2002/0652)
- Mr D Wiliams owned the property previously, who stated in June 2023 that the *storage* barn was used for storage in 2012 and no agricultural activity.
  Land purchased in Oct 2017 by Mr Wolseley Brinton and occupier has used the buildings for domestic purposes including storage and purposes incidental to Bevisfield. Photos relate to this. All 3 buildings and yard area stated to be used continuously for 10 years for non-agricultural purposes.
- Uses stated as follows:
  **Stables** – storage of personal items and household effects since Oct 2017
  **Large enclosed barn** - storage of furniture and personal items, cars, bikes, lawnmower, gym and workshop since Oct 2017
  **Open barn** – donkey hay and machinery since Oct 2017. Also used for building materials storage associated with Bevisfield re development. Stated as temporary

**ANALYSIS OF EVIDENCE**

**All buildings and yard**

The applicant considers that they have provided clear and unambiguous evidence to demonstrate that the three buildings and the land shown within the red line have been used for ancillary domestic/residential purposes since they purchased the site in 2017.

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The photographs supplied provide some evidence of alternative uses and activities that appear to be unrelated to any other business, kennels or agricultural use for the period between 2017 and present.

**Large Open Barn**

However, the LPA has some contrary evidence in the form of the 2018 application by the applicants, where their agents stated that *the barns, stables and outbuildings* served a dog kennel business. The large open barn was proposed for demolition. It would seem to be contrary to the applicant's assertions to have considered demolishing the open barn if it was in use as a domestic outbuilding in 2018.

**Enclosed Barn**

Further contrary evidence is in the form of the applicant's applications for Class R and subsequently amendments to the enclosed barn to create an aparthotel. The enclosed building was categorically stated to be **agricultural** and no objection was raised to a change of use of this building to Class R by Wiltshire Council on this basis, under ENQ 2023/00514.

This evidence is backed up by the statement from Mr Williams, who has stated that:

*In conclusion and to be absolutely clear, the buildings and the land, for the three years prior to the sale of the property in 2017, were not used for a use incidental to the residential use.*

Therefore, this statement undermines the evidence provided in the statutory declaration regarding the years leading up to 2017, namely 2014 to 2017. It is likely, on the balance of probabilities, that these buildings were used by Mr Williams for purposed related to his agricultural holding and the dog kennel business.

**Conclusion for large open and enclosed barns**

On the balance of probabilities, the LPA cannot conclude that clear and unambiguous evidence has been submitted to demonstrate that all three buildings and the land within the red line were used for a continuous 10 year period for purposes incidental to the enjoyment of the adjacent residential property at Bevisfield. Insufficient details have been submitted regarding the kennel use and the extent that this business made use of the site prior to its purchase by the applicant in 2017.

**Conclusion for Stables building**

S/2002/0652 ERECTION OF 3 STABLES AND TACK ROOM/FEED STORE AC

(3) The stable[s] hereby permitted shall be used only for purposes ancillary to the enjoyment of the associated dwelling and not as a riding school, livery stables or for any other business or commercial use. (E07A)

(3) In order that the Local Planning Authority may retain planning control over the use of the premises.

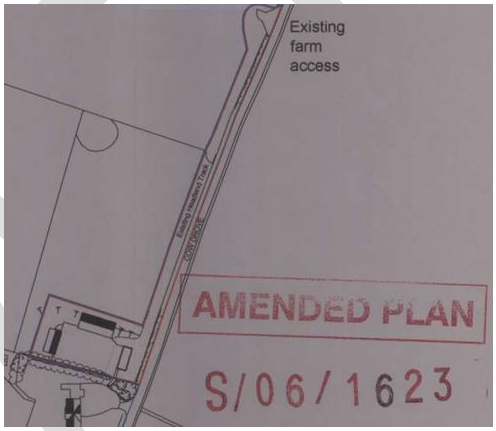
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The LPA is currently satisfied, that on the balance of probabilities, the use of the stables for purposes ancillary to the enjoyment of the dwelling and not as any riding school is sufficient for a certificate of lawfulness to be approved for the building, as shown on the approved site plan above. The evidence to the contrary is unclear and ambiguous regarding any agricultural, business or kennels use of the stables. No evidence has currently been submitted to demonstrate that the use of the stables was in breach of the planning condition imposed by the permission.

**Red line**




The red line submitted for this CLE application exceeds the original red line for the two agricultural buildings. The applicant has given no evidence or explanation for this expansion and therefore, the LPA has no evidence to support the extent of the application for a certificate as submitted.