



**Brick Barns, Remenham Hill
Wokingham, RG9 3HN**

Planning Statement

November 2024

Planning Statement

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Planning Statement

1.0 Introduction

- 1.1 This statement is provided on behalf of John [REDACTED] Bateman (the 'Applicants') in support of development proposals on land to the south of Brick Barns, Remenham Hill, Wokingham. This statement encompasses the requirements for a Design and Access Statement and a Heritage Statement.
- 1.2 This application is intended to represent the closing chapter in a period covering approximately 8 years, that concerns land to south of Brick Barns, which was acquired by the Applicants as part of an overall vision of restoring the landscape value and character of the land in keeping with the historic park within which it is located, and to also enhance the land's biodiversity. That vision, and the works undertaken to achieve it, were done honourably and with good intent, and were considered at the time, to be entirely acceptable given various permissions for development and landscaping works that had been issued for properties in the immediate vicinity of Brick Barns and within the wider park.
- 1.3 The serving of an Enforcement Notice by Wokingham District Council (the 'Council') in June 2023, rapidly followed the refusal of an application that sought to regularise the development undertaken. There was no attempt by the Council to positively engage with the Applicants to seek an amicable solution or even the offer of a discussion to understand why the works had been undertaken. Following the serving of the notice, it was necessary for the Applicants to almost immediately lodge an appeal to ensure that the matter could have some form of public scrutiny. The short timetable for the lodging of an appeal and the subsequent need to prepare evidence for a public inquiry, which took place less than 6 months after the serving of the notice, did not allow for any open engagement with the Council. It was apparent from the officers behaviour that there was no room or the willingness for negotiating an amical outcome.
- 1.4 The outcome of the appeal was the upholding of the notice, with significant alterations to its requirements. The Applicants started undertaking steps and actions shortly after the receipt of the appeal decision to address the notice's requirements. This has included the Applicants:
 - i. obtaining a Certificate of Lawfulness for Proposed Operational Development on 20 May 2024 for a new vehicular access off Dairy Lane (WDC Ref:240734), in order to replace the access road which the notice requires removal;
 - ii. carrying out various physical works to comply with the requirements of the notice, as amended by the Inspector:
 - a. commencement of a new drive pursuant to the granting of the above certificate, as an alternative to the previous unauthorised drive;
 - b. removal of the metal edging to the unauthorised drive and paths;
 - c. removal of lamp posts and lamps along the driveway;
 - d. removal of all, but one, of the wooden block seats and benches;
 - e. removal of outbuildings No.1 and 5; and
 - f. completion of soft stripping of the two main ancillary buildings (Nos.2 and 3) with demolition of structures held in abeyance due to discovery of nesting bats.

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- iii. submission of a pre-application proposal to the Council on 30 August 2024, which sought to engage with officers to clarify the amended requirements of the notice and to obtain the Council's views on proposals that the Applicants wished to explore, in order to remedy serious issues that have arisen from the outcome of the appeal. That pre-application was withdrawn prior its registration following the receipt of legal advice;
- iv. submission of a formal request under Section 173 of the Act to the Council on 17 September 2024 to seek modifications to the red line of the land identified with the notice in order that the requirements of the notice did not conflict with the lawful use of part of the land, the lawfulness of which had already been established by the Council's own evidence before and during the appeal; and
- v. submission of a formal request to the Council on 4 October 2024, seeking a dialogue with officers as to the meaning of the Inspector's amendments to the requirements of the notice. That request was denied, resulting in unnecessary and uncaring elevation of anxiety for the Applicants as the compliance date for the notice approaches.

1.5 Following the refusal by Officers to discuss and agree the requirements of the amended notice, the Applicants have decided to submit this planning application as a pre-active step to avoid non-compliance with the notice and the associated worry and anxiety that such a situation will bring. If this application is granted, it would allow the Applicants to meet the requirements of the notice, whilst enabling Brick Barns to be capable of continued use as a dwellinghouse, and for the land, the subject this application, to be suitably managed and maintained so that it can continue to benefit the landscape character and biodiversity of the area. The application seeks planning permission for the following:

- a) retention of part of the unauthorised drive in a modified form, to enable the delivery of goods required for the maintenance of the land and to allow a vehicle to empty the cess pit without preventing closure of the lane to other traffic and neighbours during the required servicing;
- b) retention of Building 4 for use in connection with the maintenance of the land and for a bat roost to replace that in Building 2; and
- c) retention of one and a half raised, timber flower beds within the cottage garden, that fall outside of the residential curtilage to Brick Barns.

1.6 The proposals do not involve or require a material change of use of the land. The use of the land will remain that which existed since before the purchase of the land by the Applicants.

2.0 Background

2.1 John Bateman first became involved with the Park Place Estate in 2007, when he was appointed Managing Director of Development for Spink Property, the property company that saved the historic interest of this historic estate. Between 2007 and 2017, John oversaw the restoration of the estate and implementation of the company's objective to bring the principal house back to life after years of under-investment and lack of attention, and to restore as much of the rest of the estate as possible. The estate had witnessed significant harmful interventions during the 20th century, including the formation of a golf course and numerous inappropriate alterations and extensions to dwellings, and then in the 21st century, the creation of a large

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polo centre, which contains polo pitches, stabling and pavilions. The former main house had become a school in the early 20th century, operated by the London Borough of Hillingdon. After it closed in the late 1980's, a series of absentee landlords and property speculation led to the estate falling into a derelict condition. This situation was turned around from 2007 by Spink Property who restored and refurbished the then "at risk" estate.

- 2.2 During the latter period of his work at the estate, the opportunity arose for the Applicants to purchase Noble Barn and Brick Barns, as well as an area of land attached to them. At the time, Noble Barn was a vacant agricultural building, which had formed part of the Park Place Farm and which was listed Grade II in 2010. The listing of Noble Barn recognised its architectural and historic interest and increased the need for it to be put to a new viable use, to ensure its long-term conservation. At that time, Brick Barns was known as the Bungalow and had been used as a dwelling since the 1940s. A certificate of lawfulness to confirm that the Bungalow (now Brick Barns) is a lawful dwelling was issued on 12 January 2023 (WBC Ref: 223387).
- 2.3 At this time, use of the golf course had ceased and the land adjoining the two barns appeared to be part and parcel of the same unit, with previous tenants of the Bungalow advising that they used this land as part of their enjoyment of living there. The Applicants, not unreasonably, assumed that continuation of such a use would not be inappropriate. At the same time, the polo club was being implemented, resulting in the erection of new buildings and the formation of an immaculately level new polo pitch, "dropped" into the landscape. The polo consent included planting hundreds of screening trees along the western boundary to re-establish the former trees that had been lost. Various works at the polo club are now the subject of applications for lawful development certificates.
- 2.4 Prior to his acquisition of Brick Barns, Spink Property obtained permission to convert the adjacent barn, Noble Barns to a dwelling house, including the laying out, planting and moulding of the grounds across the plots, as can be seen today. From their acquisition of the property in 2016, the Applicants implemented the conversion of Noble Barn, restoring the building to its current good condition and then sold it to the current owners. At the same time, they started to address their own intentions for the use of the land adjoining Brick Barns. On the basis of the consent for Noble Barn, which included extensive new landscaping as part of its residential curtilage, they implemented a similar landscape proposal, which had been designed in concert with the scheme for Noble Barn, and which is shown on the plans that accompany the Noble Barn permission.
- 2.5 The Council served the enforcement notice on 14 June 2023. The notice alleged that there had been an unauthorised change of use of the land to residential garden including the erection of five buildings, changes to ground levels and formation of a hardstanding. An appeal against the notice was considered at a planning public inquiry in November 2023. The Inspector's decision, issued on 9 February 2024, dismissed the appeal and upheld the notice with corrections and variations. The plan attached to the notice was also deleted and substituted with a new plan. The Inspector's changes to the notice included a number of amendments to its requirements. The amended requirements are as follows:
 - i. cease the residential use of the land;
 - ii. remove all vehicles and residential paraphernalia associated with the residential use from the land;
 - iii. return the ground levels to those prior to the unauthorised use including the removal of the retaining wall marked by a black line A-B on the attached plan;

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- iv. demolish building 1 shown in the approximate position outlined on the attached plan including breaking up all foundations;
- v. demolish building 2 shown in the approximate position outlined on the attached plan including breaking up all foundations;
- vi. demolish building 3 shown in the approximate position outlined on the attached plan including breaking up all foundations;
- vii. demolish building 4 shown in the approximate position outlined on the attached plan including breaking up all foundations;
- viii. demolish building 5 shown in the approximate position outlined on the attached plan including breaking up all foundations;
- ix. disconnect and excavate all services associated with the unauthorised buildings referred to in iv-viii above;
- x. excavate the hardstanding, remove the metal edging, brick and stone setts and flint stones shown in the approximate location shaded in pink on the attached plan and stop up the access;
- xi. remove the post and rail fence “estate railings”, posts and gates from between points ‘C’ and ‘D’ also shown by the green line, annotated on the attached plan (Fig 1);
- xii. remove all external lighting including any associated lampposts, including disconnecting and excavating the services from the land;
- xiii. return the land to its former condition prior to the breach; and
- xiv. remove the resultant materials from carrying out steps (ii to xii) from the land.

2.6 The decision by the Inspector was a devastating surprise to the Applicants. Rather than clarifying matters and provide a clear route to address any enforcement issues, the appeal decision has created substantial uncertainty about what is required by the notice. Furthermore, the notice includes elements that appear erroneous and compliance to which, would be unreasonable and unjust.

2.7 As can be seen from paragraph 1.4 above, rather than seek to contest the appeal decision and prolong any perceived harm that the Council allege, the Applicants sought to comply with the amended requirements of the notice straight away. They have, with advice from their Planning Advisors, had to decide how to interpret the Inspector’s amendments to the notice and the modifications to its requirements. The Council’s officers have refused to discuss how best to interpret the amended notice until the deadline for implementation has passed, which puts the Applicants’ in a very stressful and exposed position.

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3.0 The Proposed Works

- 3.1 This statement is provided in support of a planning application to undertake or retain the following:
- (a) retention of part of the unauthorised drive in a modified form, to enable the delivery of goods required for the maintenance of the land and to provide access for the emptying of the cess pit to Brick Barns;
 - (b) retention of Building 4 (as identified on the application plans) for use in connection with the maintenance of the land, and modified to provide replacement bat roosts; and
 - (c) retention of the timber plant beds within that part of the cottage garden that lie outside of the residential curtilage of Brick Barns.
- 3.2 The proposed works need to be considered in the context of what is the lawful use of the land. This matter was not extensively or definitively addressed during the course of the appeal. A ground (d) case was presented by the Appellants, but this related to the erection of buildings, not to the use of the land. The Appellants argued that the majority of the site, the subject of the notice, had an established use associated with the informal recreation typical of a country estate and historic park. The Council set out clearly within their evidence, that the majority, but not all, of the land fell outside of the residential curtilage, as defined by the physical features that are shown in aerial photographs included within the Officers' planning reports. The Inspector considered that the land, the subject of the notice, formed part of the same planning unit for Brick Barns, but that the planning unit contained two different uses; one being residential and the other not. In issuing the amended enforcement notice, she failed to amend the boundary of the land subject to the notice on the associated plan, which was required in order to take into account the Council's evidence on residential curtilage. A formal request was made to the Council on 17th September 2024 to amend the plan accordingly, under Section 173A of the Act. At the time of submitting this application a considered response is yet to be received.
- 3.3 Provided at **Appendix 1** is a cartographic exercise that seeks to establish the line of the residential curtilage of Brick Barns on an Ordnance Survey map, using the evidence provided by the Council in its planning application reports and evidence to the inquiry. It does this by simply overlaying the images, separately, on top of an Ordnance Survey Plan, using the footprint of the dwelling and other land features to achieve a consistent scale. The specific OS plan chosen is that of 1991 as it is sufficiently historic to likely reflect the established use of the land prior to the conversion of Noble Barn and the works undertaken by the Applicants. The exercise demonstrates that the markings shown on the OS plan to the south and east of Brick Barns are a fair demarcation of the extent of the property's residential curtilage (**Fig.1**).

Proposal (a): Retention of part of unauthorised drive in a modified form

- 3.4 The appeal decision has resulted in two serious problems that are risk the future use and condition of the dwelling and the land that is the subject of the notice. The first issue is that the unauthorised drive, which the notice requires the complete removal of, provides access for the vehicles used by the company that empties and services the cess pit for Brick Barns.
- 3.5 The vehicles used are too large to be manoeuvred onto the hardstand to the north of the house, via the

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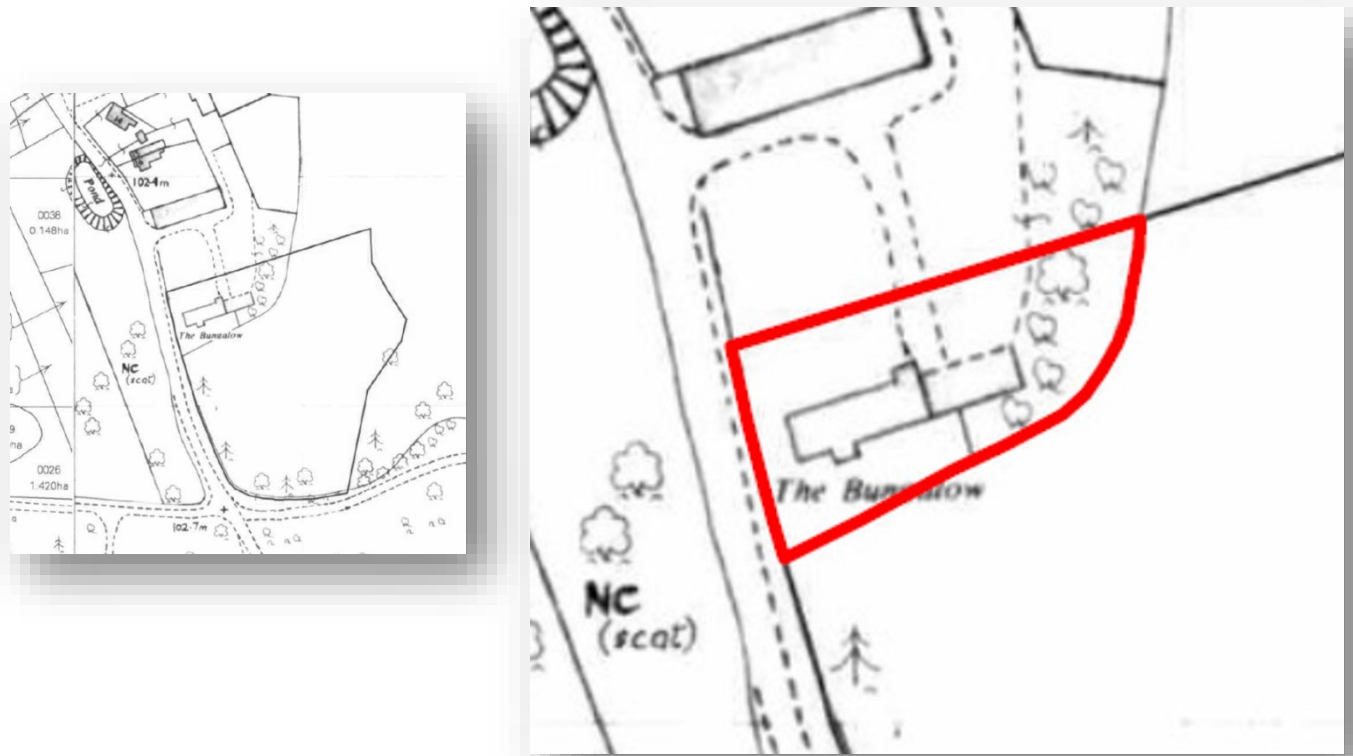


Fig. 1: The 1991 OS Plan (left: existing map demarcations; right enlarged plan with curtilage shown in red, as defined by Council's evidence)

new access. Without the existing drive, the only option is for the servicing lorry to stand in Dairy Lane during the process of emptying the pit. This can take on average 20 to 30 minutes to complete. During this time, the vehicle would completely block Dairy Lane, thereby preventing access to the residents of the Dairy Lane that lie to the south. This amounts to a considerable and unacceptable inconvenience to those residents and, in any event, the Applicants are bound by a restrictive covenant that prevents any blocking of the road.

- 3.6 The Inspector (para.107) did not explore whether the cess pit could be suitably serviced following the removal of the unauthorised drive and merely acknowledged that the Council had no objections in principle to a new means of access being formed to the property, off Dairy Lane, to the north of the dwelling. The actual practicality of this new access in terms of servicing the cess pit was not addressed in the appeal decision. The new access will not allow access to the servicing vehicle as the entry into it is too restrictive. The width of the road at the point of access is fixed by estate fencing on its western side and established hedging and fencing on the eastern side. These matters were not before the Inspector and were not taken into account when she was considering the issue of the driveway. This is clear from paragraph 88 where the Inspector states:

'As stated below, in other considerations, a replacement vehicular means of access appears to be possible, and Brick Barns is in residential use. Therefore, the residential use of Brick Barns does not appear to be dependant on retaining the development.'

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- 3.7 The proposal is to reduce the width of the existing driveway to the minimum necessary to facilitate access for service lorry to the cess pit. It should be noted that the bell mouth of the existing access lies outside of the notice and is not required to be removed. This access has been proven to be acceptable for allowing the service lorry to access the site and leave the highway. An agricultural farm gate has been hung at the access.
- 3.8 The Applicants have already sought to comply with the requirements of the notice, as they relate to the access drive, and have removed the wide strip of flints, the metal edging, fencing and lighting columns and fittings. The laurel hedging, which exists for a short distance at the entrance of the drive, is in the process of being removed.
- 3.9 The surface of the retained gravel drive will be seeded with grass. The overall effect of these works will be to radically alter its appearance, from a domestic, almost suburban-looking driveway to a simple countryside track, that is typical of access roads in the area (**Fig.2**). The works already undertaken have significantly changed its appearance and the low intensity level of usage is likely to result in it largely disappearing, as the embedded grass establishes itself in the gravel and earth surface.

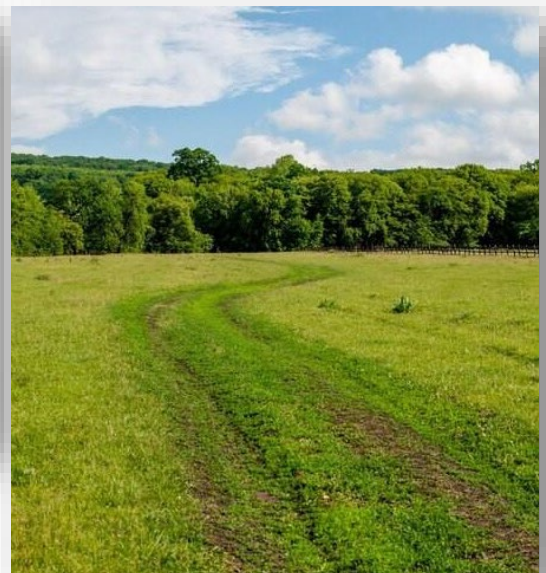


Fig. 2: The appearance of the driveway as before (above) and an image that reflects the character of the track as proposed (right)

Proposal (b): Retention and alteration of Building 4

- 3.10 The second issue that the Inspector did not give sufficient consideration to, is how the land, the subject of the notice, will be maintained in the future. All of the land within the estate is managed by its respective landowners. There is no collective management company that ensures that the overall estate is maintained in its current condition. As such, it is incumbent upon each owner to undertake what is required to maintain their land.
- 3.11 Since the Applicants acquired the land they have actively managed it, which has increased its biodiversity and enhanced its landscape value by maintaining it in a manner consistent with the rest of the park. Because of the size of land, maintaining it as parkland will either require grazing or a tractor drawn mower, plus trailer etc. Both options require a farm track access.

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- 3.12 Building No.4 was always intended to house the machinery, equipment and materials needed for the maintenance of the land. As such its design reflects that purpose, being agricultural in appearance and consistent with the type of maintenance buildings that would be expected for this location, without attempting to simulate any historic building style, which would confuse the historical interest of the park.
- 3.13 It is proposed to modify Building 4, as shown in the application plans, to provide bat roosts. This will provide an alternative location for the bats that have been roosting in one of the buildings that are to be removed. A licence is currently being sought to enable the remainder of the buildings to be demolished, the final removal of which has been delayed following the discovery of roosting bats.
- 3.14 The purpose of this building is for the maintenance of land within the countryside and the historic park. It is not intended to be used for any domestic purpose, which is prevented by the considerable separation distance between it and Brick Barns, and its lightweight agricultural design and construction.

Proposal (c): Retention of the remaining landscape structures of the cottage garden

- 3.15 The third element of this application seeks permission to retain the timber planters that exists within that part of the land that forms part of the planted 'cottage garden' area but which lies outside of the residential curtilage of the dwelling.
- 3.16 There have never been any concerns or objections raised by the Berkshire Gardens Trust, or any other landscape organisation or specialist, to the area that lies immediately to the south of Brick Barns, which has the appearance of a cottage garden. The reason by this area of land has the appearance of a traditional cottage garden, is the Applicants' intention that it contain a rich biodiversity of plants, which in turn, has resulted in an increase in the number and variety of wildlife species present in the area.
- 3.17 This cottage garden area consists of several raised planting beds, that are simple structures made from timber railway sleepers, and other ground level planting beds. The majority of this 'cottage garden' area lies inside the residential curtilage. The cottage garden is not dissimilar to a garden allotment in terms of the plants that are grown there and reflects how farm workers' gardens were used historically, with the land around their homes used to supplement food and also to raise some additional income.
- 3.18 The Council's Landscape witness at the appeal, Mr Ryder, did not raise any concerns with regard to the cottage garden area either, which he identified in his evidence as the 'Original Garden'. He assessed that the immediate setting to the rear of Brick Barns had been enhanced with the first phase of garden planting contained in the rectangular raised beds, which he acknowledged had helped to achieve Objective W22 of the Estate Wide Conservation Plan.
- 3.19 The photographs below (**Fig.3**) show how the area of land that comprises the cottage garden appeared shortly after the Applicants moved into Brick Barns and how it appears today. The area has been planted with a wide range of indigenous plants, which produces a wealth of benefits to the local ecology. The quality of this environment has been recognised by garden interest groups and journalists, and it is intended that, if it is possible to retain this area, that the Applicants will join the Blue Garden Scheme, which means that it will be open to the general public for a minimum number of days per year.

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Fig 3: The cottage garden over time

- 3.20 Retention of the structures and plants would enable the cohesive area of cottage garden to remain, thereby maintaining its overall contrition to landscape character and biodiversity. Retention of the raised beds outside of the residential curtilage will not convey any change of use of the land and would not extend the residential curtilage of Brick Barns. It would however, allow the continuation of a beautiful traditional garden, that has been recognised as a positive addition to the estate.

4.0 Planning Balance

- 4.1 The Council and the Inspector have only considered the merits of retaining all of the works the subject of the Notice and not the considerably reduced proposals presented in this application.
- 4.2 The principal planning considerations are:
- i) the effect of the proposals on the openness of the Green Belt;
 - ii) the effect of the proposals on the significance of the RPG and the listed Noble Barn; and
 - iii) the effect of the proposals on the biodiversity.

Green Belt Considerations

- 4.3 The focus of the Inspector's concerns regarding the development the subject of the appeal was the effect of the five outbuildings on the openness of the Green Belt, on the basis that they were ancillary domestic buildings to Brick Barns. With the exception of Building 4, all of those buildings have now been removed or are in the process of being removed (due to restrictions relating to the discovery of a bat roost).
- 4.4 Paragraph 154 (b) of the NPPF identifies the following as appropriate development in the Green Belt:

"the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the

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facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it."

- 4.5 The purpose of retaining the hidden from view Building 4 is to allow the existing park land use to be continued and maintained, for the enjoyment of those who live and visit the estate. Without this building, the land could not be suitably maintained, which would adversely affect the amenities of the area and the character and appearance of the historic estate, which is recognised to be of national importance, as a Registered Park and Garden.
- 4.6 The retention of part of the driveway, in its much-reduced form and appearance will have no impact on the openness of the Green Belt. It will appear as a grassed rural track, with very limited and intermittent use.

Heritage Considerations

- 4.7 The significance of the RPG, in terms of the NPPF definition and using the work contained in the Conservation Plan, is as follows:
 - 1) **Archaeological interest.** Apart from the post-medieval landscaped park with its associated features, the only other known archaeologically significant site is an Iron Age settlement located east of Park Place Farm. Details regarding the extent and nature of this settlement site have not yet been ascertained. There is moderate potential for other sites to survive within the Estate.
 - 2) **Architectural and artistic interest.** The development of the site is closely associated with the 18th century trend of building houses and laying out landscapes to take advantage of sublime or beautiful natural landscapes. Although one room at garden level in the present house retains early 18th-century fittings, the interior and the exterior of Park Place House were almost completely remodelled in subsequent work. However, a painting of the house from the 1740s indicates that it was a sophisticated. The grounds include a significant number of structures, such as Conway's Bridge, which gives direct access from the Estate to the River Thames he created a picturesque riverside grouping that allowed both views of the riverine landscape and an important arrival point which gave a foretaste to visitors of the picturesque beauty of the walk up through Happy Valley and the Estate. The remodelling of the house by Thomas Cundy in the 1870s is of importance as an early example of the adoption of a French style for a country house rather than for a town house in London. Today the essentially 18th designed landscape surrounds the intact complex of 19th century mansion, stable block and architectural garden terraces, the two periods of development combining to create a significant composition. The late 19th century landscape improvements which took place in the pleasure grounds at the core of the Estate comprising formal flower gardens and almost certainly planting of many of the surviving exotic trees and shrubs is significant as the work of the major landscape designer Robert Marnock.
 - 3) **Historical interest.** This was not a large Estate with farmland that was an investment to provide income (there was neither a home farm nor even a kitchen garden) but was to be used for riding, promenading, admiring the views and probably hunting. It is significant that in the 18th-century the gardens and park were called the Pleasure Grounds. Park Place was somewhere to visit for short periods to get away from the pressures of London and the Court. There are a number of nationally

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and internationally significant people that have owned or lived here, including the Prince of Wales. Later in the 19th century the development of water borne sports as a leisure pursuit, and growth of the annual regattas locally, lead to the growing significance of the river frontage to the Thames.

- 4.8 The overall significance of the RPG is largely based on the transition that it shows from one period of landscape design into another period. The area in which the site is located is dominated by the 19th century landscaping and planting. However, this was considerably eroded by the golf course, with its wide, uninteresting fairway and the alien landforms that it created. The Applicants have utilised the resulting drainage works to create a natural pond.
- 4.9 The Applicants have undertaken a substantial programme of new planting, using native species. The planting of trees will re-create the woodland belt that existed before the golf course and which is visible on the historic maps. The work undertaken by the Applicants is dominated by the quality of landscape that has been created and has included the effect replanting of a woodland, which has historical precedence.
- 4.10 The Conservation Plan that was prepared by Spink Property as part of their proposals to restore the estate states at paragraph 5.228 that “much of the current character of this area is defined by its use as a golf course. The historic landscape character has been greatly diminished by inappropriate planting and the poor introduction of golf features into the landscape”. By reversing the effect of the golf course, the tree planting has resulted in significant heritage benefit to the RPG.
- 4.11 The significantly reduced driveway and retention of Building 4 will not adversely affect the character and appearance of the site or the contribution that it makes to the significance of the RPG, as identified above. Furthermore, the works completely comply with the relevant policies of the Development Plan.

Biodiversity

- 4.12 The inquiry was shown evidence, from both sides, of the importance of the area within which the site is located. In terms of ecological value and interest, it contains a Great Crested Newt Impact Risk Zone, SSSI Impact Risk Zones, a Bat Roost Habitat Suitability Model and the Park Place School Local Wildlife Site. The ecological value of the site itself is illustrated by a short submission made to the inquiry which is a record of the various forms of wildlife that have been recorded at Brick Barns by the Applicants (**Appendix 2**). This record firstly, clearly demonstrates how much concern for wildlife and habitats the Applicants have, and secondly, it helps to illustrate how enhancements in planting and maintenance of the site has benefited ecological diversity and growth.
- 4.13 One of the main thrusts of the masterplan for the 2008 consent was the enhancement of ecology and habitats on the estate. The Integrated Estate Management Plan (‘IEMP’) was presented in June 2008 as a means by which the ecological, historic and landscape value of the Estate could be maintained and enhanced. Brick Barns and all land owned by Spink is within the IEMP. The amended notice simply requires the land to be returned to its former condition prior to the breach. A reasonable interpretation of that requirement is that any structures and ground works that took place after the date of the breach should be removed and the ground made good. However, there is no system in place that will ensure maintenance of the land in the future. The Applicants propose that they enter into an appropriate undertaking to manage the land in accordance with the IEMP.

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- 4.14 The site forms part of an estate that has seen considerable change over the past 200 years, from agriculture, to grassed parkland, to golf course, and then managed by the Applicants with the intention of enhancing its ecological and habitat value. It should not be forgotten that the Applicants have received specialist, professional advice from the best ecologists and landscape architects available. They did not undertake the planting of trees and other vegetation in a naive way, but with professional advice, ensuring that the landscape that has been created is appropriate to its location and has full regard to the historic, landscape and ecological value of the park.
- 4.15 The land the subject of the notice was characterised at the inquiry to be woodland pasture. The Woodland Trust define this as land that has been managed by grazing. Some started as medieval hunting forests or wooded commons, and others – as at Park Place – designed landscapes from large estates. This type of landscape doesn't simply happen by accident; it requires careful planning and continual management. The Applicants continue to invest time and care into restoring and maintaining the land back to its pre-golf course appearance, with woodland extensions and woodland pasture. These proposals do not facilitate any increase in the residential curtilage of the property. There is no intention to change the use of the land within the site. The original enforcement notice required the removal of all ornamental non-native tree and hedge planting, including but not limited to the laurel hedging. The Inspector decided to omit this requirement from the amended notice.
- 4.16 A draft, site specific LEMP for the land at Brick Barns will be submitted to the Council as soon as its drafting has been completed, so that it can form part of the determination of this application, which will help to guarantee the landscape and ecological benefits that it will maintain and enhance over time. An indication of its content is provided at **Appendix 3**.
- 4.17 These proposals are very limited in their form and nature and they endeavour to address the requirements of the notice and the expectations of the Inspector. They will not result in any harm to any interests of acknowledged importance, but they provide an opportunity to maintain and enhance the biodiversity of the site and the contribution that it makes to the landscape and heritage value of the Park Place Estate.

Appendix 1 – Analysis of the Residential Curtilage of Brick Barns

December 2018, 5 January 2019, 19 January 2019 and does not specify what works took place.

He states that JB8 is an invoices from Heritage Tree Services Limited for tree planting and other soft landscaping. The invoice is dated 29 November 2017 and is for various landscaping works.

He states that JB9 are photographs taken from the south of Brick Barns showing the garden. These photographs are not dated.

He states that JB10 is a site plan showing the works completed by December 2018.

The LPA's Evidence

The planning history is outlined above.

Committee Reports for 220359; 220321; 220332

1. Three full planning applications were submitted on 7 February 2022. These were all withdrawn prior to Planning Committee on 9 September 2022.
2. 220359: Full application for the proposed (retrospective) erection of six ancillary residential outbuildings and conversion of the existing Brick Barn.
3. 220321: Full application for the proposed Use of Land as Garden (Retrospective)
4. 220332: Full application for the proposed access drive to single dwelling, with associated water permeable gravel parking areas, and paths within garden (Retrospective)

Application 1 included the Annex; Application 3 included the driveway/hardstanding and fencing.

These Committee reports considered the lawful residential garden of Brick Barns and the use of the annex. This is copied below for ease of reference.

Established residential curtilage and garden:

1. It is noted that an application reference 220321 for "the proposed Use of Land as Garden (Retrospective)" has been submitted alongside this application 220321 indicates that the property currently does not have any residential garden and that the change of use of Land is for the same red line as the application subject of this report. The application subject of this report does not include any change of use of Land.
2. Notwithstanding the use of the building as a dwellinghouse, the garden of the dwelling is clearly disputed. The Applicant confirms by way of application 220321 they consider there is no garden associated with the building.
3. The curtilage and lawful "garden" of the building is indicated by the hedgerow in the below images, although it is acknowledged that this hedgerow has since been removed:

Google Earth Pro (2012)

Google Earth Pro (2014)



Google Earth Pro (2014)

Google Earth Pro (2017)



Residential curtilage of property using WBC 2015 Aerial Photograph.

Google Earth Pro (2022) Outbuildings 2, 3, 4, 6 and 7 outside the curtilage of the 'dwelling'



4. As can be seen from the above, the lawful residential curtilage and garden of Brick Barns does not include any additional garden to the south and east of the property. Consequently, it is considered that the proposed outbuildings (with the exception of

outbuilding 5), subject of this retrospective application are located outside the residential curtilage of Brick Barns and therefore cannot be considered either incidental or ancillary to the main residential use.

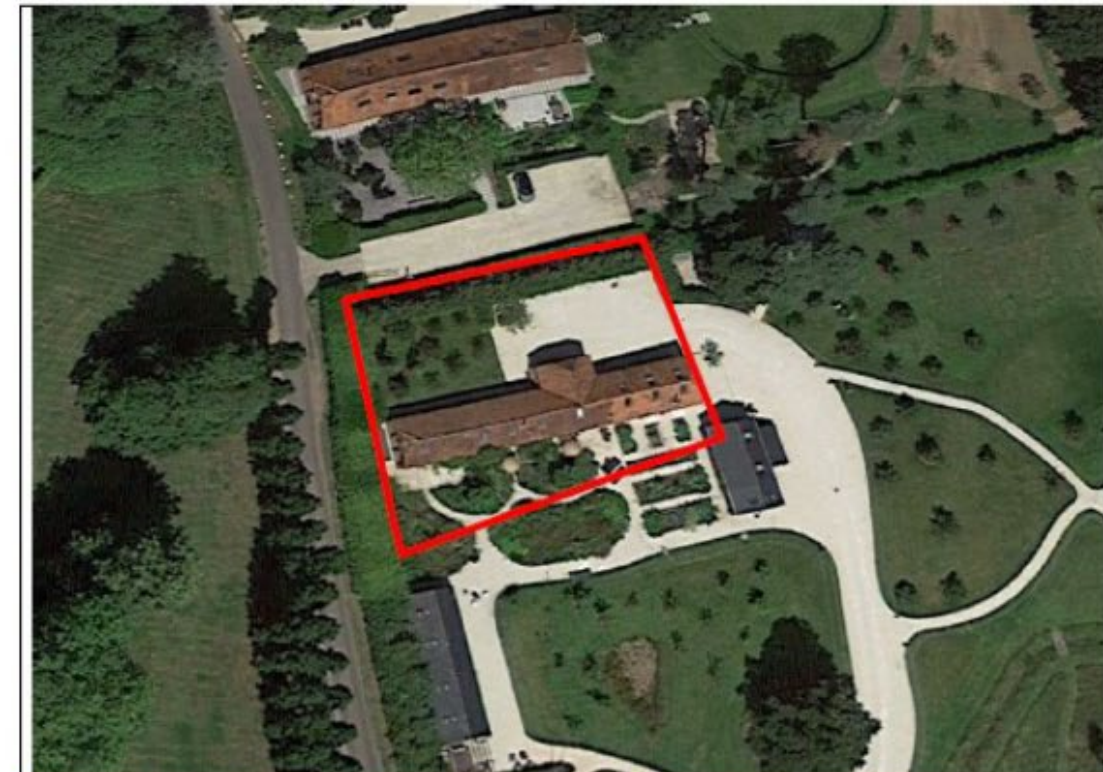
5. The residential use of the site is clearly demarcated by the high hedgerow to the west and south, manicured lawn to the west and driveway to the north. The red line submitted with the current application includes a much large area and no planning history can establish any extension to the residential garden into established countryside land. Consequently, the application also represents a change of use of land from agricultural to residential which has not been included in the description of development.

Incidental or Ancillary:

6. The description of development refers to ancillary buildings however the Planning Statement submitted with the Application states that the buildings are for purposes incidental to the dwellinghouse. It further states that they consider the development to falls within Schedule 2 Part 1 Class E of the Town and Country Planning (General Permitted Development Order)(England) 2015 (as amended). However no Certificate of Proposed Use application supports this.
7. There is significant case law examining ancillary and incidental buildings in relation to dwellinghouse in basic terms, ancillary requires planning permission and generally relates to anything a person can do in a standard house e.g. eat, sleep shower etc. and incidental would be permitted development and would include uses such as storage, gym or swimming pool.
8. It is not clear which of these the Applicant wishes to apply for. Primary living accommodation such as that provided in Outbuildings 2 and 3 would not normally be expected to be incidental to the enjoyment of a dwellinghouse.
9. Each building proposed clearly has a different intended use and given the nature of some of these buildings they may not all be considered as ancillary.
10. It must also be noted that none of the buildings benefit from the abovementioned permitted development right as they are located outside the residential curtilage of the dwellinghouse.
11. The application is assessed on the basis of the description of development provided by the Applicant. The full assessment is set out in the forthcoming report.

James v Secretary of State for the Environment (1990) 61 P&CR 234 that there are three criteria for determining whether land is within a curtilage of a building: physical layout, ownership, past and present, use of function, past and present.

It is noted that part of the land considered to be the original residential curtilage was sold to Noble Barns in 2019 (see Land Registry Documents) and as such the current residential curtilage (a matter of fact and degree) can more accurately be depicted as:



The land beyond this residential curtilage/garden is lawful agricultural land associated with the Grade II* Listed Park and Garden.

The term curtilage does not describe a use of land but rather is a physical concept originally derived from property conveyancing procedures. In planning context the term curtilage is usually applied in respect of permitted development rights for householders or in respect of a curtilage to a listed building.

Curtilage is usually defined as an area of land within which the house site, or to which it is attached, such as the garden. In Dyer v Dorset County Council [1988] QB 346 the Court of Appeal held that the Oxford English Dictionary definition is adequate for most purposes.

The series of photographs below show how development on site has progressed from 2012 until 2022.

Aerial Photographs/Google Streetview

Google Earth Pro (2012)	Google Earth Pro (2014)
	

Google Earth Pro (2014) 	Google Earth Pro (2017) 
WBC (2015) 	Google Earth 2018 
Google Earth 2019 	Google Earth 2020 
Google Earth Pro 2021 	Google Earth Pro 2022

Methodology: Step 1: This analysis is a simple comparison of images, overlaying the various plans onto an OS baseplan (1991 1:2500). The figures shown on each of the following pages is the composite of the two respective images. A different coloured line shows the location of the boundary for each set of images.

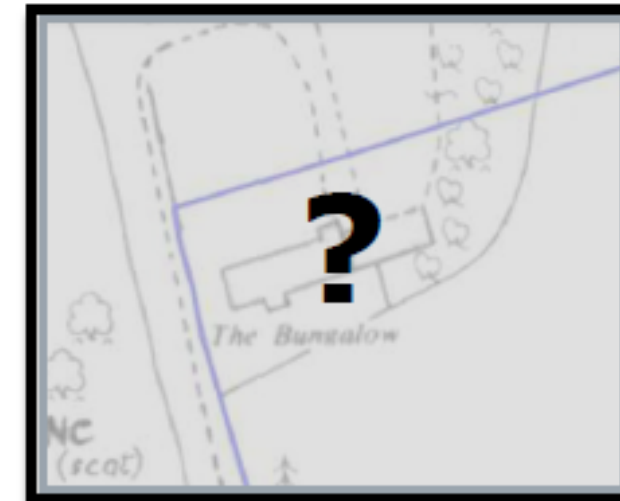


A: OS Plan

+

?

=



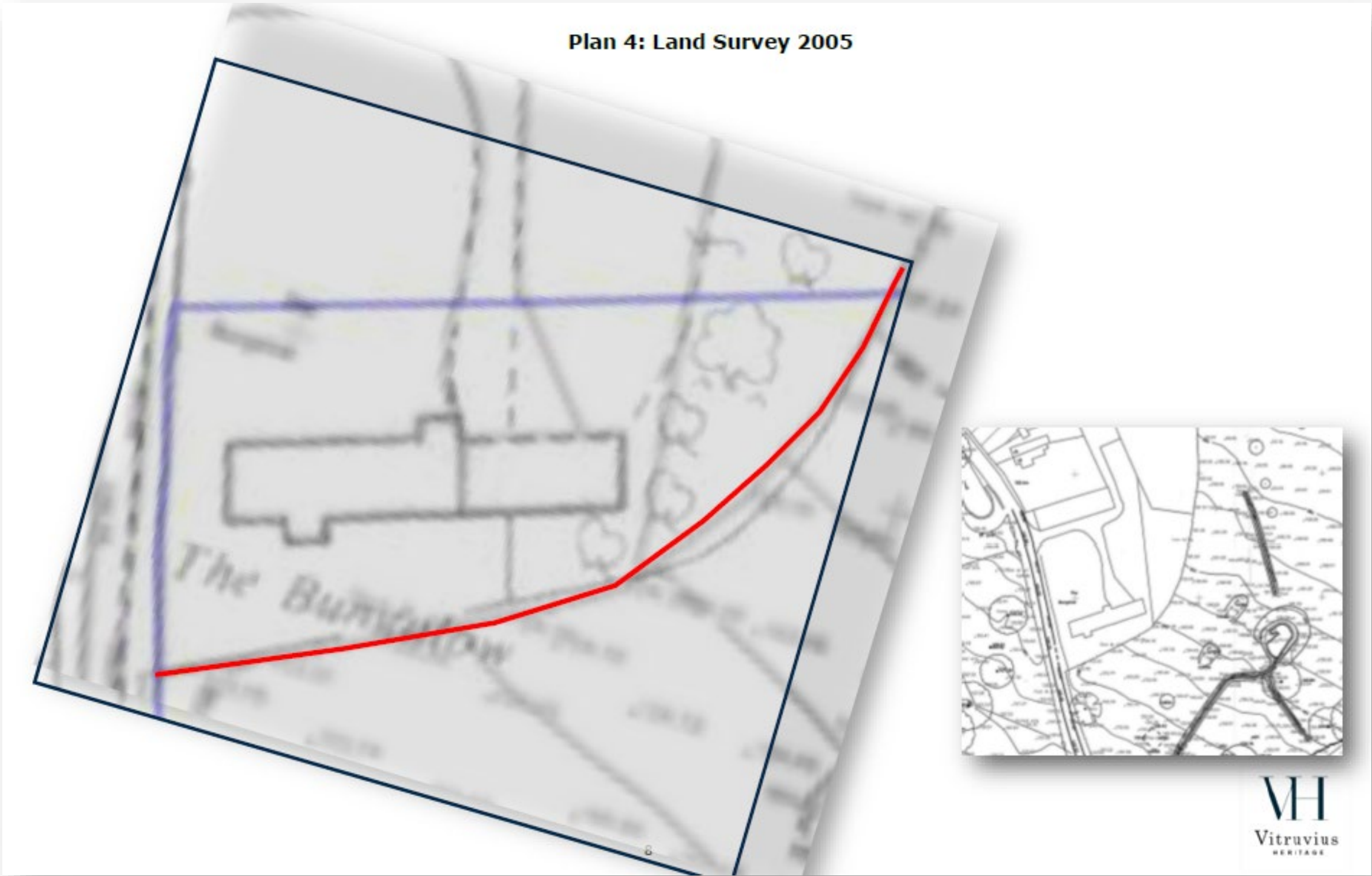
B overlaid onto A



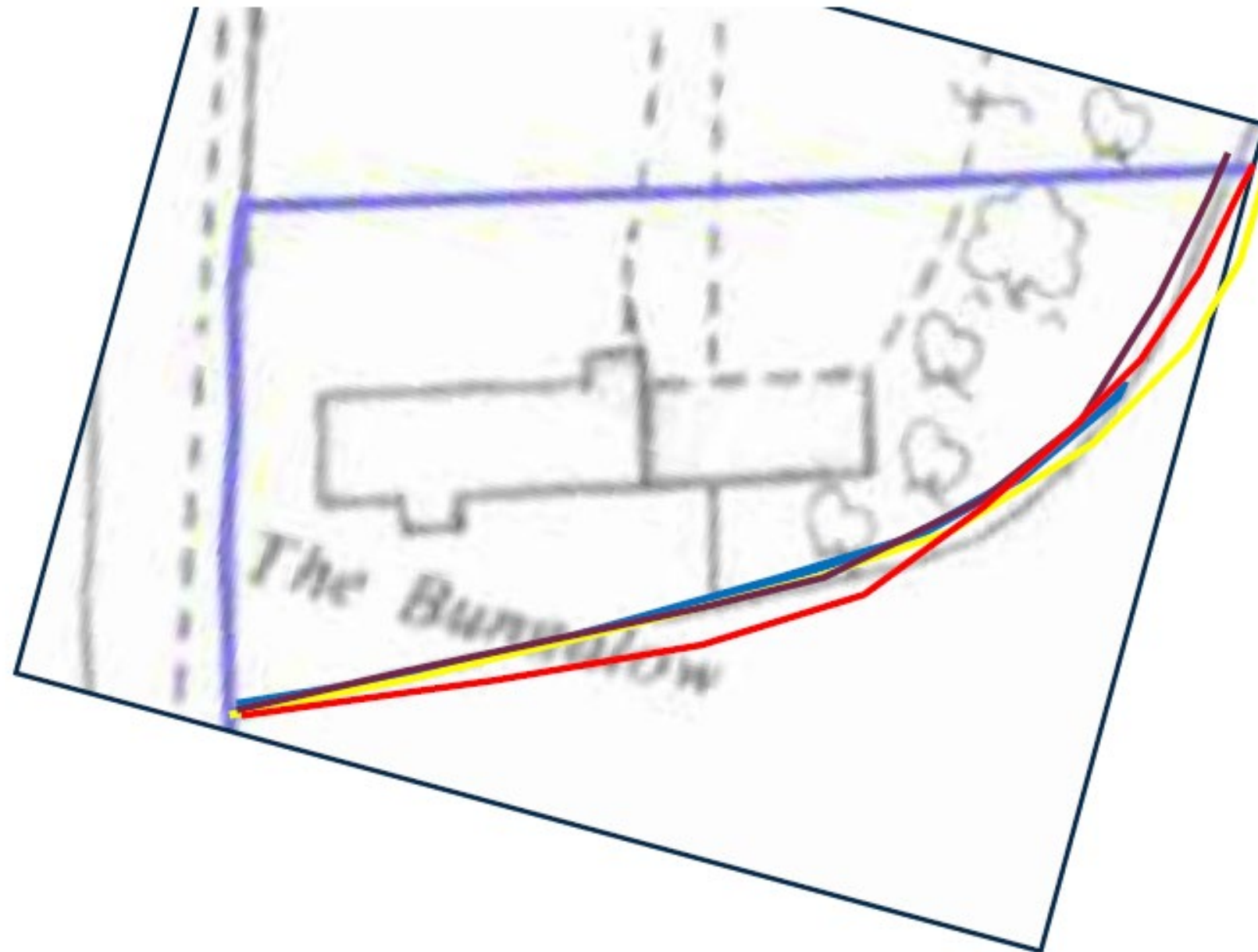
Plan 2: Google Earth Pro (2014) - Officers Report & Arb Report (2014)







Methodology: Step 2: The separate coloured boundary lines are then all overlaid onto the OS plan. They show that the OS plan closely reflects the residential curtilage of Brick Barns





The cartographic and photographic evidence establishes the Ordnance Survey map as identifying the curtilage to the property.

Appendix 2 – Record of Wildlife at Brick Barns

Record of Biodiversity

Biodiversity is hugely important to us at Brick Barn - we have spent the last six years introducing as many different trees, hedging, plants, grasses, vegetables and perennials to encourage the widest range of wildlife possible. Listed below gives some idea of the biodiversity we have introduced and the subsequent wildlife:

BIRDS (some of the regular visitors to our garden, many of which produce young, making their nests hidden in the hedgerows or using boxes) We are both amateur bird watches and use the Merlin app to help us identify which bird is in our garden. We also have many bird feeders which feed a very wide range of birds throughout the seasons. This is what we have experienced:

Sparrow Hawk (they often sit in the plane trees by the house awaiting a chance to catch a small bird from the bird feeder)

Kestrel Red Kite Buzzard Tawny Owl (most nights)

Little Owl Barn

Owl (was a regular visitor one year perching in an oak tree)

Duncock + babies & nest found close to the ground in the garden near the house.

Wren + babies (which actually flew into us!) nest found in the outdoor part of the shed near the neighbouring boundary.

Blackbird + babies and nests often found low in the various hedgerows.

Fieldfare

Redwing

Song Thrush

Mistle Thrush

Swallow (boxes up on outbuilding, no nest so far)

House Martin

Swift Nightingale (each year we are lucky enough to hear the

Nightingales sing, usually from the roof above our bedroom)

Robin + babies. Once found a nest inside a hose in the shed.

Pied Wagtail (regular visitor seen on the roof of outbuilding nearest to the house.

Pheasant (1 Male and 2 females each year feeding under bird feeder)

Mallard (from early spring to autumn 3/4 resident ducks feed under the bird feeders)

~~Mandrian~~ Duck (group have visited the pond on a couple of occasions)

Red Legged Partridge (there were initially 2 and now we have seen as many as 7 feeding in the)

Goldfinch (large flocks visit each year and feed their young on the bird feeders)

Greenfinch + babies on bird feeder

Chaffinch + babies on bird feeder Chiffchaff

Coal Tit + babies on bird feeder Longtail Tit + babies and nest found in the mixed hedge near to the gate.

Blue Tit + babies on bird feeder

Great Tit + babies on bird feeder

Kingfisher (couple of sightings on the pond and flying over the garden)

Goldcrest + babies and nest in the yew hedge by the gate.

Heron (regular visitor to the pond)

Canadian Geese (a large group seen descended on the pond)

Egyptian Goose (often seen in our garden and also flying over)

Swans (on the pond)

Rook (Rookery in the large oak trees at the back of the plot- a late evening spectacle)

Crows

Raven

Magpie + babies on bird feeder

Jays + babies on bird feeder

Starlings (large groups every year descend on the bird feeders and now we have baby starlings)

Ring-necked Parakeets (sometimes as many as a dozen at a time)

Pigeon (this year two nests, 1 in a plane tree and the other in the beech hedge by the road.

Doves

BUTTERFLY (each year we do a butterfly count and this is what we recorded in 2023)

Peacock
Red Admiral
Marble White
Meadow Brown
Large White + Caterpillar
Small White
Speckled Wood
Gatekeeper
Painted Lady
Common Blue
Tortoiseshell + Caterpillar
Small Copper
Six-Spot Burnet
Brimstone
Cinnabar Moth Caterpillar
ANIMALS

Foxes
Fox Cubs (picture inc)
Rats
Mice
Voles
Weasel
Red Deer
Roe Deer
Muntjac
Rabbits
Slow worm (long grass by the orchid)

Bats (often flying over the pond at dusk) Also, in the outbuilding nearest the house we have encountered 3 Pipistrelle bats which were roosting in the lean to (picture enclosed).

POND (we lined an abandoned pond and planted as many different native and appropriate plants to create a secluded area for all to thrive - here is what we have identified so far):

Bats
Swallows
House Martins
Kingfishers
Herons
Mandarin Ducks
Mallards
Canadian Geese
Damselflies
Dragonflies
Water boatman
Stag beetle
Mayfly
Broad-Bodied Chaser
Smooth Newts
Frogs
Toads

TREES/HEDGES (most of the trees are native locally and common across the Park):

We are both very interested in all wildlife and on numerous occasions we done some wildlife safaris at the rewilding project on the Knepp estate. The most interesting Safari this year was that of the Purple Emperor Butterfly. The expert guide from BBONT, was very excited to learn that we too had large Oak trees and self seeded Sallows near a pond and subsequently thinks there is a good chance that this majestic Butterfly will be here on our plot.

Salix Alba
Wild dog rose
Honeysuckle
Ivy
Sallows
Buddleia
Silver Birch
Beech Tree
Hornbeam
Elm
Oak
Yew
Lime
Pine Trees
Cherry Laurel
London Plane
Varieties of fruit trees in a rough orchard:
Apple, pear , cherry.





VEGETABLES - Raised Beds (It has always been a dream to grow my own vegetables and cut flowers - apart from the nutritional value, it was a God send back in lockdown. It also is wonderful for Biodiversity and hosts, not that I'm very knowledgeable on insects, a plethora of different bees, hornets, wasps, flies, beetles, caterpillars, aphids, ladybirds, lacewing, hoverflies, spiders and centipedes. What I grow:

Runner Beans
Green Beans
Potatoes
Onions
Garlic
Cavolo Nero
Broccoli
Beetroot
Tomatoes (unsuccessfully!)
Aubergine
Courgette
Herbs (mint, bay leaf, marjoram, chives, rosemary, oregano, tarragon, parsley, thyme, sage)
Fennel
Mixed Salad leaves
Leeks
Chard
Spinach
Artichoke
Parsnip
Kohl Rabi
Radish
Sorrel
Spring Onion
Dahlias
Sun Flowers
Tagetes
Sweet Pea
Viola
Nasturtiums
Marigold
Nigella
Nicotiana
Phacelia
Cerinthe

MY GARDEN (we have always been interested in gardening and back at the beginning of improving the biodiversity at Brick Barn, we made a trip to Piet Oudolf's garden at Hauser and Wirth in Bruton, took a note pad and pen and wrote down as many different perennials and grasses that we could recognise, put in an order at the wonderful Orchard Dene Nursery (sadly no longer exists) and here our beautiful garden was formed.

We were also inspired by a garden we saw on holiday in France because of the incredible range of insects, bees and butterflies.

As the list of plants is incredibly long, I have enclosed a picture of Piet Oudolf's garden, the garden in France and a picture of my garden in the summer looking at its best.



Appendix 3 – Indicative structure of proposed IEMP

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