

PLANNING (LISTED BUILDING AND CONSERVATION AREAS) ACT 1990

S.38 (2) APPEAL STATEMENT ON BEHALF OF Mr SAM WILSON

FOR

Retention of single storey rear element to Grade II Listed Building on the land

AT

ANTRIMS BARN ST. PETERS ROAD HAYLING ISLAND HAMPSHIRE
PO11 0RT

LPA ref - 19/00056/CMP/UNBW

ACHIEVE ref – SRL.015.23

Contents

Section 1 – Background, context and site characteristics

Section 2 – Relevant policy, the significance of the heritage asset and the harm
alleged by the local planning authority

Section 3 – Grounds of Appeal, '*public benefit*' and the Planning balance

Section 4 - Conclusions



1.0 Background, context and Appeal site characteristics

- 1.1 I am Steve Lawrence MRTPI, Director of ACHIEVE. I have over 37 years' experience as a chartered town planner, including 27 in local government and have dealt with many applications concerning Listed Buildings during my career, so am aware of the advice set out in the NPPF and ID18a of the NPPG in relation to such matters and their assessment.
- 1.2 Following the issuing of a Listed Building Enforcement Notice (LBEN) on 6 March 2023, I met with the Appellant to discuss the LBEN and to review the work he had undertaken. From observation of the Council's reference on its Enforcement report (given above and reproduced as **Document 1**), it would seem it has taken the Council over 3 years to serve the LBEN. Notwithstanding the Covid pandemic, that is a considerable period of time and a measure perhaps of the very limited degree of 'harm' perceived by the Council to the Listed barn.
- 1.3 I am advised of the following timeline of events from my client –

2007 – Planning Permission and Listed Building Consent obtained for alterations and conversion of agricultural barn to a dwelling under Council references 07/62510/001 & 07/62510/002;

2015 – APP/15/00002 - Retrospective Listed Building Consent for various amendments to consent reference 07/62510/001 (validated 28 January 2015, granted 3 June 2019 (decision made 4 years, 5 months and 25 days after validation date);

Winter 2018: owner suffering driving rainwater penetration and cold draughts from prevailing south-westerly winds, through the original barn (stable-style) door in west elevation, also causing this wood to swell and the door to stick. This, coupled with a need to create storage space for farm tools, an occasional requirement to bring sickly lambs indoors and a desire for a space to change out of muddy boots when returning from farm duties, led to the concept of building the current rear element. This was fabricated by using an old farm vehicle chassis as a base, upon which a wooden framework was bolted and clad the shell for stability, using timber weather-boarding and natural slate, topped with a terracotta ridge tile to match materials on the barn as closely as possible. The existing metal frame chassis provided the floor base formed of fully self supporting with a sandwich of 3mm steel plate 100mm box section and 18mm plywood flooring. The whole structure was then slid into its current position, abutting the barn. To weatherproof the abutment of the roof, lead flashing was used, knitted into the barn weather boarding and overlapping the new structure's roof. Internally, plaster boarding edging to the underside of the roof was cut to match the profile of the barn's weather-boarding. For some additional draught-proofing, the abutment of the structure's walls to

the barn was filled with some foam sealant. In short, the rear element closely abuts the barn, but apart from the few pieces of lead flashing is not physically attached to the barn. Two rooflights were installed in the south-facing roof surface to naturally light the internal space. A bat box was affixed to the west elevation gable end. Photographs of the structure's placement in relation to the barn, taken 14/3/2023 by myself are reproduced as **Document 2** to this Appeal statement.

Unknown date not recorded on the Council webpages - Havant Borough Council receives complaint regarding the single storey structure at the rear of Antrims Barn. The Appellant has asked the what the thrust of the complaint was in relation to the single-storey structure rear of Antrims Barn. Once a response is received, the Appellant reserves the right to comment further in rebuttal.

March 2019 – Council's Planning Enforcement Officer inspects the site. One item discussed was the single storey structure at the rear of Antrims Barn, now subject of this Appeal.

7 March 2019 - Mr Wilson telephones the Council, followed up with an email, which amongst other matters concerning how the investigation had so far been carried out, pointed out that the structure in question was completely mobile. It was built on a lorry chassis with metal skids and not attached to the barn. The structure's purpose was described as storing both agricultural and domestic items. Mr Wilson suggested the dialogue on the matter be started again, indicating work on the structure was about to be concluded that weekend.

14 March 2019 - A Senior Planning Officer responded to Mr Wilson's email requesting a site visit/meeting on 3 April 2019, with a Conservation Officer also in attendance, so as to continue the enforcement investigation.

18 March 2019 – Mr Wilson accepts the 3 April 2019 date and timing for Council Officers to visit the site and discuss the matter. Mr Wilson again states that the barn is not directly attached to Antrims Barn.

Between 18 March and 3 April 2019 – Council's Senior Planning Officer confirms upcoming meeting and stresses any further work Mr Wilson carries out in relation to the rear structure will be entirely at his own risk.

3 April 2019 – Site meeting, with Mr Wilson present. Mr Wilson offers to remove the lead flashing between Antrims Barn and the rear structure.

Between 3 April 2019 and 23 May 2019, Mr Wilson hand delivers a 7 point letter to the Council offices. Unfortunately he has currently mislaid a copy of that letter, but the Council will have it in their records. Amongst other things, I have assumed it continued to maintain that the structure was not attached to the Listed Building, was mobile and not located in the Curtilage of the Listed Building. It is clear Mr Wilson also queried why the decision notice for case APP/15/00002 had not yet been issued.

23 May 2019 – Council's Senior Planning Officer asserts that it is the Council's opinion that the rear structure is attached to Antrims Barn by the lead flashing installed. Direct access to the barn via the structure is also cited. It is concluded that because of the lead flashing attachment, the structure erected is not a moveable structure. An offer was made to come to site and witness the structure being moved about the site. The Council states that it considers the structure to be within the curtilage of the Listed Building, but that if Mr Wilson wanted a definite legal determination on this point a Certificate of Lawfulness could be applied for. The (then) non-determination of APP/15/00002, was referred to the relevant case officer to provide a written answer to Mr Wilson as to why it has taken so long for the Council to reach a decision.

28 May 2019 – Mr Wilson responds to the Council asking – *“If I was to demonstrate the building being fully mobile would this quash all your concerns about the shed?”*

18 July 2019 – Council's Senior Planning Officer responds to the above question – *“The mobility of the extension would have to be demonstrated and thereafter moved on a regular basis for the Council to be satisfied on this point. From my current observations, this is not the case, as it is clearly attached to the host dwelling, with a door from the extension to the host dwelling.”*

18 July 2019 – Mr Wilson responds offering to remove the lead flashing and construct a wall between the barn within the structure, such that it can no longer said to be attached. It was offered to undertake this work in September 2019, after busy harvesting duties had been completed on the farm. Mr Wilson was clear that he was happy to meet to discuss the matter further.

28 August 2019 – Mr Wilson receives an answer to his Fol request to understand the nature of the complaint that had been made about the structure at the rear of Antrims Barn. The Council appears to have misconstrued this as wishing to understand the details of who had complained and where they lived. The Council

naturally declined to reveal that particular information under Reg12(5)(d) of the Environmental Information Regulations 2004.

28 August 2019 – Mr Wilson responds to the Fol answer, explaining he was not wishing to understand who complained and where they lived, but the nature of the complain that had been made.

September 2022 – Council Enforcement Officer re-visits Antrims Barn. Mr Wilson says no further written response was received from the Council to the current date in respect of the structure at the rear of Antrims Barn, until the receipt of the Enforcement Notice, subject of this Appeal.

That LBEN served **6 March 2023** AND THE ASSOCIATED Officer report are reproduced as **Document 2** to this Appeal statement.

9 March 2023 – Mr Wilson writes to the Council asking the person who signed the LBEN, asking them to review the situation and withdraw it. Mr Wilson again maintained his position that the structure rear of Antrims Barn was not attached to it and could be moved/was mobile.

13 March 2023 - Person who signed the LBEN responds to Mr Wilson. The Council maintains its position as to the degree of connectivity and permanence of the structure rear of Antrims Barn, stating that connection to the barn is considered harmful to the Listed Building.

13 March 2023 – Mr Wilson responds to the person who signed the LBEN, saying he will now lodge an Appeal and expressing disappointment that 3 years have elapsed and he would have preferred to have resolved the matter amicably.

- 1.4 Historic England's List Description of Antrims Barn is reproduced as **Document 3** to this Appeal. The structure rear of Antrims Barn closely abuts the boundary of the St. Peters Conservation Area, but is not within it. Open farmland exists to the rear of Antrims Barn.
- 1.5 **Document 4** to this Appeal statement shows public rights of way in proximity to the Antrims Barn, with No. 116 passing the northern edge of the barn and the structure that has been placed at the rear.
- 1.6 **Document 5** illustrates the marked improvement made to the Antrims Barn, which had prior to the 2007 consents been in a dilapidated and overgrown state.

- 2.0 Relevant policy, the significance of the heritage asset and the harm alleged by the local planning authority**
- 2.1 The relevant adopted development plan policies cited in the Council's LBEN are CS11 and CS16. The wording of those policies is set out in **Document 6** to this Appeal statement.
- 2.2 Antrims Barn is Grade II Listed and afforded the requisite level of significance as a designated heritage asset. Seen in context, the structure at the rear of the barn has covered over only a small part of that elevation containing a pedestrian, stable-style doorway. Aside from the lead flashing, no other intervention into the asset's fabric has been undertaken and those non-material works can easily be undone, as the Appellant has offered to the Council.
- 2.3 Having regard to the Officer's Enforcement Report the harm caused by the placing of the single storey structure at the rear of Antrims Barn relate to the Conservation Officer's assertion that the structure has compromised the "*simple form*" of the barn, yet they acknowledge that the appreciation of the symmetry of the rear façade "*still dominates*". The Officer goes on to assert that the structure is prominent from the street.
- 2.4 Having regard to the Enforcement Officer comments preceding those of the Conservation Officer, it is claimed that the structure to the rear of Antrims Barn serves to – "*conceal and disturb the historic layout of the barn and part of its history...its proportions and appearance are crude and at odds with the remainder of the building's exterior*".
- 2.5 The Council has been asked in writing if it can reveal the nature of the complaint made about the structure and what was considered harmful about it. No doubt publicity will be given to the Appeal and those notified may write to the Planning Inspectorate. The Appellant reserves the right to offer rebuttal to any further allegations of 'harm' which are cited.

- 3.0 **Grounds of Appeal, ‘public benefit’ and the Planning balance**
- 3.1 The Appeal is made out under grounds (c), (e) and (g).
- 3.2 The Council’s justification for serving the LBEN centres around the issue and test of impact to ‘significance’ set out in paragraph 199 of the National Planning Policy Framework (NPPF, July 2021). It is the Appellant’s position that the impact to significance is extremely limited and overplayed and that the Enforcement Report was flawed because the structure, subject of the LBEN is not within the Conservation Area. The Appellant considers the works would preserve the setting of (mixed land use) character of the adjacent/abutting Conservation Area (and thus its area heritage asset ‘significance’).
- 3.3 The final slide to **Document 2**, clearly illustrates that the rear structure cannot be seen from St. Peters Road, contrary to the Conservation Officer’s assertion.
- 3.4 The structure placed to the rear of Antrims Barn is wholly sub-ordinate to the rear (west) elevation and mirrors the cart shed when viewed from the north from public footpath 116. The Council has not outlined what it is about the proportions of the structure that are considered harmful. The word ‘crude’ has also been used to design the structure, yet the Council does not outline what it means by this term.
- 3.5 When viewed from any of the public footpaths close to Antrims Barn a person could still easily appreciate that this is a former agricultural barn, especially with the more modern barn in close proximity to it to the south-west and understand its significance and relationship to the farmland immediately west of Antrims Barn. As previously stated, the structure placed to the rear of Antrims Barn is not within the St. Peters Conservation Area, whose boundary is close drawn against the rear wall of Antrims Barn. The structure subject of the LBEN is wholly respectful of the materials to the barn and does not compromise the setting of the Conservaiton Area.
- 3.6 A description of the term ‘significance’ is given in the NPPF’s glossary on p.71-72, namely –
- “Significance (for heritage policy): The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset’s physical presence, but also from its setting. For World Heritage Sites, the cultural value described within each site’s Statement of Outstanding Universal Value forms part of its significance.”*
- 3.7 The basis for assessing impact to significance.

- 3.7.1 **Planning (Listed Buildings and Conservation Areas) Act 1990:** This ‘Act’ (as amended) outlines the provisions for designation, control of works and enforcement measures relating to Listed Buildings and Conservation Areas. Of relevance to the proposed development are the following:
- Section 66(1) states that special regard shall be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses in considering whether to grant planning permission that affects a listed building or its setting;
- Section 72(1) states that in considering planning application for sites within a Conservation Area special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- 3.7.2 With regards to the requirements set out at S.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the special attention to be paid to the desirability of preserving with regards to the requirements set out at S.72, the special attention to be paid to the desirability of preserving or enhancing a conservation area has been confirmed through case-law as requiring “considerable importance and weight”, although it has been further clarified that ‘considerable importance and weight’ is not synonymous with ‘overriding importance and weight’. In addition, the term “preserve” has been consistently recognised through the Courts as “causing no harm”, whilst “enhancing” is self-explanatory.
- 3.7.3 The Court of Appeal Judgment of *Williams v Powys County Council* ([2017] EWCA Civ 427), in considering concerns about impacts on setting of heritage assets arising from consultation responses, states that sometimes a consultee or an objector may have raised concern about the effect the development will have on the setting of a listed building but the decision-maker (or Appellant in this case) can properly take the view that there will be no such effect, or at least no harm.
- 3.7.4 In addition, the High Court Judgment of *Safe Rottingdean Ltd and Brighton and Hove City Council* [2019] EWHC 2632 (Admin) Sir Duncan Ousley stated that:
- “I do not think that giving considerable weight to the desirability of achieving the statutory duty requires separate views to be reached on each part, and then the beneficial parts to be put to one side where there is some harm, however relatively unimportant. It would be an irrational thought process, not sanctioned by statutory wording, to require significant weight to be given to the benefit, and significant weight to the*

harm, without the two being brought into a single balance under the statute, and then requiring only significant weight to be given to the harm... That is not to say that the harm becomes irrelevant; it is simply that the statutory duty can be complied with, in line with the jurisprudence, even if there is some harm to a setting, if it is not as significant as the benefit to the building and its setting, as was obviously the case here. Quite the reverse; considerable weight has to be given to the overall benefits”.

3.7.5 Overall, the Council state that the proposed development would result in ‘less than substantial harm’ to Antrims Barn as a Listed Building.

3.7.6 Paragraph 002 of ID18a sets out –

“002 - In the case of buildings, generally the risks of neglect and decay of heritage assets are best addressed through ensuring that they remain in active use that is consistent with their conservation. Ensuring such heritage assets remain used and valued is likely to require sympathetic changes to be made from time to time.... in a manner that is consistent with their significance and thereby achieving sustainable development.

Part of the public value of heritage assets is the contribution that they can make to understanding and interpreting our past. So where the complete or partial loss of a heritage asset is justified (noting that the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted), the aim then is to:

capture and record the evidence of the asset’s significance which is to be lost

interpret its contribution to the understanding of our past; and make that publicly available (NPPF paragraph 199)”

A common sense decision to make the west elevation doorway weather-tight was taken. The door was swelling in times of heavy rainfall and its wooden framework - (as a small part of the overall significance of the building) - becoming rotten. It is not considered unreasonable that the Appellant and his family, farming the land and not wishing to take in mud from their boots into their home, should not seek to remedy that. Rightly or wrongly, the Appellant took a pragmatic decision to safeguard the integrity of the Listed Building – considered to be a matter of overarching public benefit – and took care to not physically intervene in the barn’s historic fabric, beyond the modest few pieces of lead flashing, which can be removed, leaving no trace of intervention. The Council, as Local Planning Authority might have offered better advice as to a design solution it could have supported. Instead, a 3 year delay occurred in its involvement in the site – notwithstanding the Covid lockdown.

3.7.7 Paragraph 03 of ID18a sets out –

“In line with the National Planning Policy Framework paragraph 185, plans should set out a positive strategy for the conservation and enjoyment of the historic environment. In developing their strategy, plan-making bodies should identify specific opportunities within their area for the conservation and enhancement of heritage assets, including their setting. This could include, where appropriate, the delivery of development that will make a positive contribution to, or better reveal the significance of, the heritage asset, or reflect and enhance local character and distinctiveness with particular regard given to the prevailing styles of design and use of materials in a local area.” (my underlining).

3.7.8 The Appellant has taken the lead in restoring the integrity of this Listed Building.

3.7.9 In this context, paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The Appellant considers no harm has occurred to the ‘significance’ as a Listed Building, nor to the setting of the St. Peters Conservation Area. If the Inspector takes a contrary view, the Appellant has set out the general public benefit of safeguarding the integrity and fabric condition of the Listed Building, set out above.

3.7.10 Paragraph 020 of NPPG ID 18a sets out that -

*“They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit. **However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits,** for example, works to a listed private dwelling which secure its future as a designated heritage asset could be a public benefit.” (my emphasis)*

3.7.11 The NPPF definition of significance lists 4 sub-headings - *archaeological, architectural, artistic or historic*. Looking at each in relation to Antrims Barn, the following observations are made –

Archaeological significance: the Council’s Conservation Officer advice is flawed in that the structure in question cannot be seen from the street and the Enforcement Officer has placed the structure in the ST. Peters Conservation Area, when it is not.

Architectural: The Barn’s significance has not been harmed. People are still able to appreciate its original function and relationship to the farmland to the west.

Artistic: there is no special cultural associations/importance to the barn, nor are there any special or famous people associated with the building.

Historic: It's use as an agricultural barn, was consented for adaptation and use as a dwelling in 2007, being its optimum viable use to ensure its repair and longevity, with further internal alterations sanctioned (eventually in June 2019).

- 3.7.12 Taking all the above into account, and even if the Inspector considers the structure rear of Antrims Barn to have harmed the 'significance' of the Listed Building, even to the conclusion of less than substantial harm, the wider public benefit set out above still needs consideration.

3.8 Carbon reduction and climate change

- 3.8.1 It is everyone's responsibility on this planet to reduce their carbon footprint and as this has been much in the news of late and discussed at the international COP26 talks in Glasgow. This is something that is so obviously contributing to a public benefit that the Council was unreasonable to not afford it significant weight when deciding to serve the LBEN. In applying the Development Plan and NPPF to this assessment, the Council should have had better regard to Policy CS14 (strands 3 and 4) of its own Core Strategy (reproduced as **Document 7** to this Appeal Statement.

- 3.8.2 The Appellant considered shielding this door opening from prevailing south-westerly winds would immediately improve the thermal efficiency of the building, to reduce his heating bills and reduce the carbon footprint of the dwelling, also according with Policy CS16, strand 7 .

3.9 Reducing the fear of crime in the community

- 3.9.1 The structure provides a further barrier to any criminal seeking to gain entry to the dwelling. Being so open at the rear, the Appellant already employs CCTV as a precaution, but CCTV can only do so much, especially if a perpetrator wears a hoodie or similar. Complicating entry to the dwelling serves as a better deterrent and thus reduces calls on the Hampshire Constabulary to investigate such matters.

- 3.9.2 It was only natural that a home-owner would wish to improve the security of their dwelling and in so doing, lessen the potential for crime in the area and pressure on community policing resources.

- 3.9.3 The Inspector is asked to consider this potential public benefit when determining the Appeal and take account of this duty under Section 17 of the Crime and Disorder Act 1998, according with Policy CS16 Strand 2 (a).

- 3.10 Concluding comments about Council policies CS11 and CS16 and their relevance
- 3.10.1 Policy CS11 is comprised of 11 strands. The reason for issuing the LBEN does not state which of these strands the structure offends. The appellant asserts only strand 4 is relevant to the Council's reasoning and that by incorporating a bat box to the structure, the Appellant has enhanced biodiversity under strand 7.
- 3.10.2 Policy CS16 is comprised of 7 strands, some having sub-strands of their own. The reason for issuing the LBEN does not state which of these strands the structure offends. The appellant asserts only strand 1 (a)/(c) being relevant to the Council's reasoning. The structure does respond positively by matching the facing and roofing materials and fenestration and doorways of Antrims Barn and the structure's massing is wholly subordinate and respectful to the scale of Antrims Barn, recognised by the Council's Conservation Officer and seen in **Document 8** and the photograph below.



4.0 Conclusions

- 4.1 Under ground (c), the Appellant still argues that the lead flashing attachment assertion by the Council is weak as a matter of fact and degree and the use of the connectivity argument also weak and not a measure of attachment. The Appellant offered to move the structure away from the barn but has never had a proper written response from the Council in all this time as to the acceptability of that or why it would require consent from the Council.
- 4.2 Under Ground (e), arguments have been made above, such that if the Appeal on Ground (c) fails, Listed Building Consent ought to be granted.
- 4.3 Lastly, under Ground (g), it is considered that a more proactive approach ought to have been taken by the Council to secure a beneficial outcome for the Appellant in securing his home and making it more weather-tight. Lesser steps may have included moving the structure, which is mobile, away a certain distance from the barn and perhaps inviting an application or applications for a glass box-like transition between the Listed barn and the mobile structure, where the glass could allow appreciation of the pedestrian doorway within the west elevation and still secure the outcomes to improve his home that the Appellant desired.
- 4.4 As such, the Inspector is respectfully requested to allow these Ground (c)/(e)/(g) Appeals. If the Council has any suggested planning conditions, the Appellant would appreciate the right to comment on these when they are available.

LIST OF DOCUMENTS

- 1** – Enforcement report reference 19/00056/CMP/UNBW and related Listed Building Enforcement Notice dated 6 March 2023, subject of this Appeal
- 2** – Site photographs by Steve Lawrence MRTPI, taken 14 March 2023.
- 3** – Historic England's official list description for Antrims Barn.
- 4** – Public rights of way in the vicinity of Antrims Barn
- 5** – Improvements made to the appearance and integrity of Antrims Barn as a Grade II Listed Building since 2007
- 6** – Relevant Development Plan policies cited by the Council in its LBEN
- 7** – Policy CS14 from the Development Plan.

Steve Lawrence, BSc (Hons.) Dip TP Dip UD MRTPI

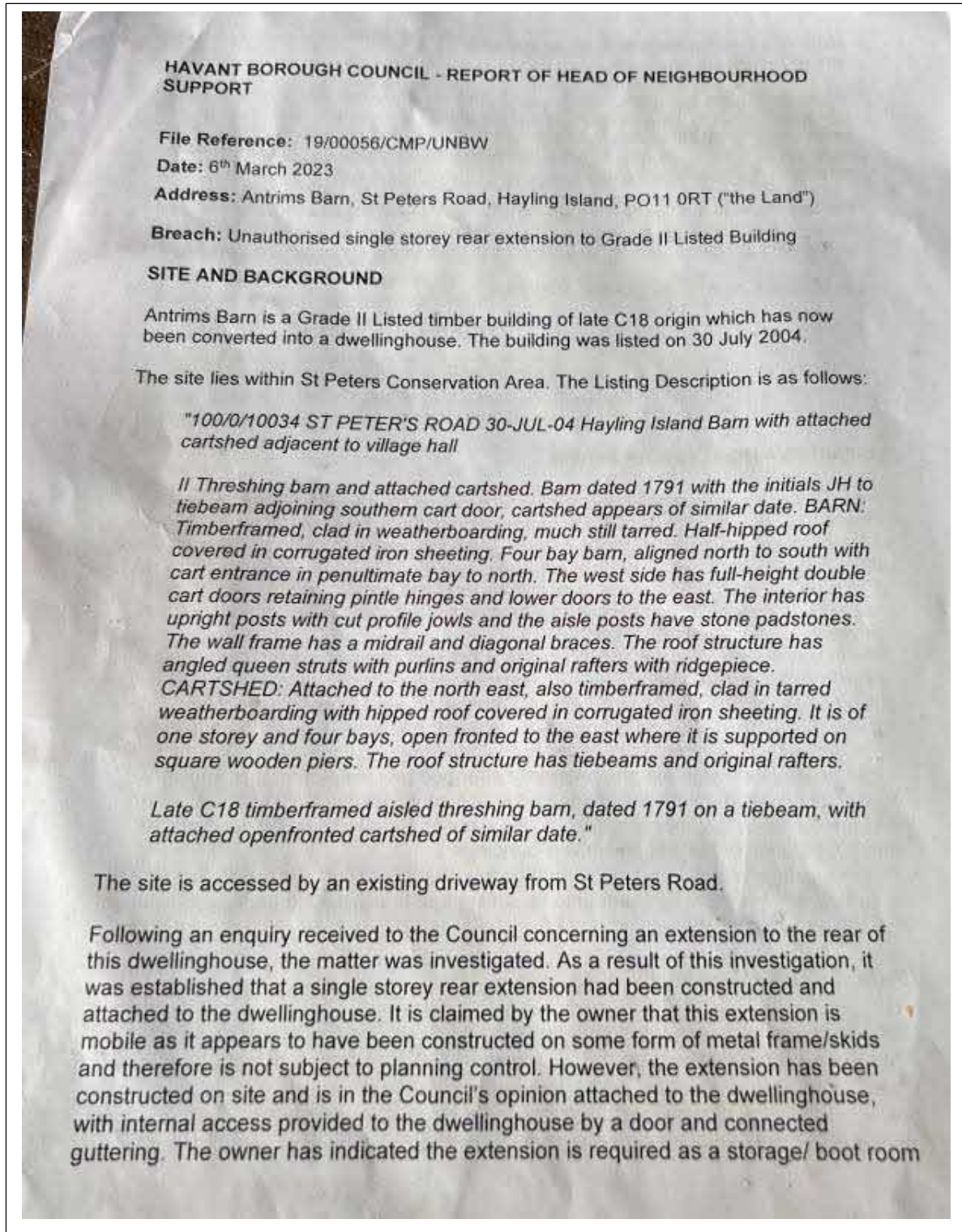
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ENFORCEMENT REPORT & LISTED BUILDING ENFORCEMENT NOTICE,
DATED 6 MARCH 2023, SUBJECT OF THIS APPEAL



so that dirt from the farm would not be taken into the main part of the dwelling house and as a shelter for lambs etc.

Whilst every effort has been made to match the materials of this C21 rear extension with that of the host, the extension, breaks the simple form of the original building whilst also serving to conceal and disturb the historic layout of the barn and part of its history. Therefore, its proportions and appearance are crude and at odds with the remainder of the building's exterior.

The alterations to this Grade II are unlawful, as Listed Building Consent has not been obtained. Planning permission is also required for this development, which has not been obtained, nor has the owner attempted to seek to regularise the position.

LISTED BUILDING & PLANNING HISTORY

EVIDENCE DEVELOPMENT SUBJECT TO PLANNING CONTROL

As this single storey rear extension is an alteration to the Listed building, immunity from control cannot be obtained for these works. Therefore, the development is subject to Listed Building Consent and requires planning permission.

CONSERVATION OFFICER NOTES

While the extension generally has a harmful effect on the significance of the Listed Building, this does not extend to the appreciation of the symmetry of the rear façade or its interaction with the enclosed garden. The scale and form of the original building therefore still dominates in this context.

The significance of the barn lies in its architectural and historic interest, as an early example of vernacular architecture to a modest scale. Its interest goes hand on glove with its simple form.

The definition of 'setting' in the Framework is the surroundings in which a heritage asset is experienced. The undeveloped qualities of the land to the rear of the cottage transition to the agricultural field beyond. Coupled with the general absence of nearby built form, it is a prominent within the street and make a positive contribution to its setting, which in turn contributes to its understanding and significance.

Other nearby dwellings are predominantly arranged to a street frontage. The features of the site, particularly its spacious and contained backdrop and its open and undeveloped qualities, therefore make a positive contribution to the character and appearance of the site and its surroundings.

The reduction of space around the cottage and the presence of built development to its rear would therefore be harmful to its setting and the character and appearance of the site and its surroundings.

PUBLIC BENEFITS AND CONCLUSIONS

The site is located within the defined urban area within the St Peters Conservation Area. As such regard must be paid to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which states that in the exercise of its planning powers with respect to any buildings or other land in the conservation area, the local planning authority shall pay special attention to the desirability of preserving or

enhancing the character or appearance of that area.

The statutory duty in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) is a matter of considerable importance. The Framework states that the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation should be considered in determining applications. The Framework also advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation.

The unauthorised development is harmful to the appearance and setting of the Grade II listed building, having a negative effect on its significance as a designated heritage asset. The harm identified would equate to less than substantial harm. In such circumstances, the Framework identifies that this harm should be weighed against the public benefits of proposals.

It has not been demonstrated that any such public benefits exist that would justify development that would be harmful to the setting of the listed building or its appearance. Hence, the unauthorised development fails to satisfy the requirements of the Act, the Framework and conflicts with the design and heritage aims of local planning policy.

FALL BACK POSITION

It is considered there is no 'fall back' position, because Listed Building Consent and planning permission is required for the alterations to the building.

THE HUMAN RIGHTS ACT 1998

The Human Rights Act confers several rights, of which the following are relevant in this case.

First Protocol, Article 1: the right to peaceful enjoyment of possessions. It is necessary to balance the right to use this land as the owner wishes, against the need to protect the character and appearance of this important listed building. The development is contrary to the Council's adopted policies and Government advice in Planning Policy Guidance Notes. The requirements of the notice are proportionate to the intended objective of local and national planning policy that expect the highest quality of design.

Article 6. Right to a fair trial: If the recipients of the notice are aggrieved by the Local Planning Authority's (LPA) decision there is the right of appeal to the Planning Inspectorate, which is an independent body. Accordingly, the decision-making process falls within the requirements of Article 6.

Article 14: Prohibition of discrimination. Prohibits discrimination on grounds such as sex, race, colour, language, religion, political opinion, national or social origins, property birth or other status. By taking enforcement action the LPA would be treating the occupiers no differently from any other member of society. Conversely, by not taking formal action this would be an act of positive discrimination.

EQUALITY ACT

The Equality Act 2010, which came into effect on 1st October, includes a new public Sector Equality Duty, replacing the separate public sector equality duties relating to race, disability and sex, and also covering age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment.

Part 11, Section 149 provides the following 'Public sector equality duty' on authorities:

"(1) – A public authority must, in the exercise of its functions, have due regard to the need to: (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it." It is therefore necessary for the authority, in consideration of this report, as with the consideration of any other proposal, to ensure that the above requirements have been met. There are no equality issues arising from taking the recommended action.

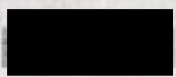
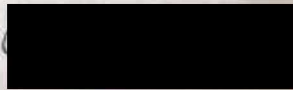
The breaches of planning control and action to resolve the breaches have been assessed in the context of the Human Rights Act and Equalities Act, and action to resolve the breach is considered proportionate and in the public interest in order to uphold the planning laws of the land and harm caused to the public amenity values.

RECOMMENDATION

In consultation with the Head of Neighbourhood Support it is recommended that a Listed Building Enforcement Notice is issued, pursuant to Section 171 of the Town and Country Planning Act 1990 in accordance with the reasons and requirements as shown on the draft notice attached to this report.

And.

Commence legal proceedings and/or direct action for failure to comply with any notices issued by the Council.

Signed Officer	 Sophie Bebee	Dated	06/03/2023
Signed Head of Regeneration and Communities		Dated	06/03/2023

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY
PLANNING (LISTED BUILDING AND CONSERVATION AREAS) ACT 1990,
SECTION 38

LISTED BUILDING ENFORCEMENT NOTICE

ISSUED BY: HAVANT BOROUGH COUNCIL

1. THIS NOTICE issued by Havant Borough Council ("the Authority") as the local planning authority for the purposes of the Planning (Listed Building and Conservation Areas) Act 1990 ("the Act") in relation to the building described in the First Schedule. It appears to The Council that there has been a breach of planning control, which constitutes a contravention of Section 9(1) or (2) of the Act. The Authority consider it expedient to issue this Notice having regard to the effect of the works on the character of the building as one of special architectural or historic interest.

The Annex at the end of the Notice and the enclosures to which it refers contain important additional information.

2. **THE LAND TO WHICH THE NOTICE RELATES**

Antrims Barn, St Peters Road, Hayling Island, PO11 0RT ("the Land")

3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**

Unauthorised single storey rear extension to Grade II Listed Building on the Land

4. **REASONS FOR ISSUING THIS NOTICE**

The unauthorised development is harmful to the setting and appearance of the Grade II listed building, having a negative effect on its significance as a designated heritage asset. The harm identified equates to less than substantial harm. In these circumstances, the National Planning Policy Framework (the Framework) identifies that such harm should be weighed against the public benefits of proposals.

It has not been demonstrated that any public benefit exists sufficient to justify the unauthorised development and overcome the identified harm. The unauthorised development fails to satisfy the requirements of the Town & Country Planning Act 1990, the Framework and design and heritage aims of Havant Council's Core strategy in policy CS11 & CS16 and the Borough Design Guide.

5. WHAT YOU ARE REQUIRED TO DO

- (i) Remove the unauthorised single storey rear extension (as shown in the approximate position 'A' on the plan and in the attached photographs at Appendix A) from the Land including all fixtures, fittings, debris, and resultant debris therefrom.
- (ii) No works as required in (i) shall begin before a method statement, detailing how the unauthorised extension shall be removed and the building made good, has been submitted to and approved by the Local Planning Authority
- (iii) Ensure the building is returned to its former state prior to the addition of the unauthorised rear extension.

6. TIME FOR COMPLIANCE:

Nine (9) Months after this notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 10th April 2023 unless an appeal is made against it beforehand.

Dated: 06 March 2023

Signed: Claire Hughes

Claire Hughes - Interim Executive Head of Regeneration & Community (Head of Neighbourhood Support)

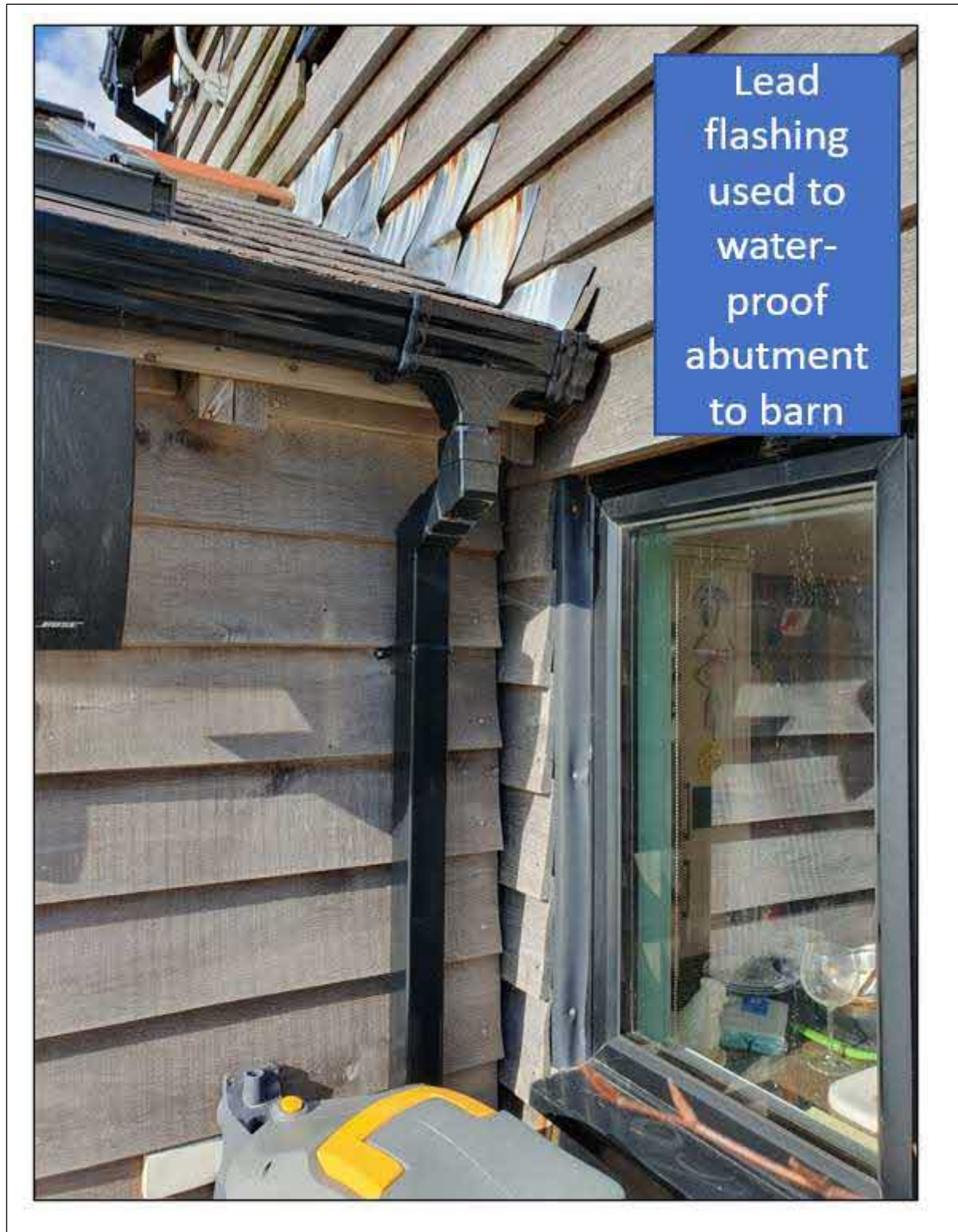
On behalf of:
Havant Borough Council
Civic Centre Road
Havant
Hants
PO9 2AX

Photographs taken 14/3/2023 by Steve Lawrence MRTPI, showing the placement of the rear element to Anrims Barn, St.Peters Road, Hayling Island, Hampshire, PO11 0RT











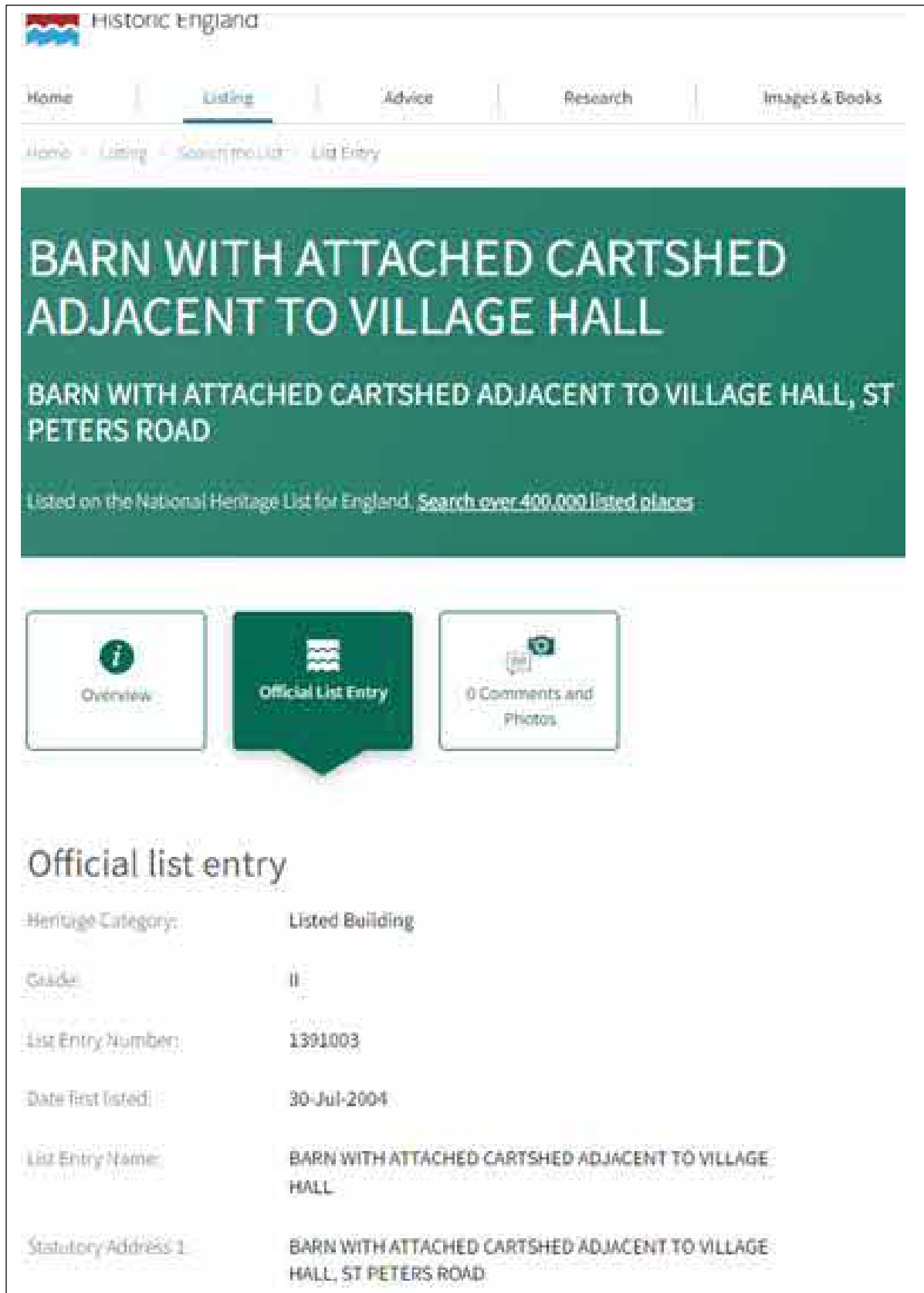


Internal detail of abutment to barn



Rear element not visible looking west

Historic England List Entry



The screenshot shows the Historic England website interface. At the top is the Historic England logo and a navigation bar with links: Home, Listing (active), Advice, Research, and Images & Books. Below the navigation bar is a breadcrumb trail: Home > Listing > Search the List > List Entry. The main content area has a dark green header with the title 'BARN WITH ATTACHED CARTSHED ADJACENT TO VILLAGE HALL' in large white letters, followed by 'BARN WITH ATTACHED CARTSHED ADJACENT TO VILLAGE HALL, ST PETERS ROAD' in smaller white letters. Below this, it says 'Listed on the National Heritage List for England. [Search over 400,000 listed places](#)'. There are three buttons: 'Overview' (with an 'i' icon), 'Official List Entry' (with a list icon and highlighted in dark green), and '0 Comments and Photos' (with a comment icon). Below the buttons is the section 'Official list entry'. It contains a table with the following information:

Heritage Category:	Listed Building
Grade:	II
List Entry Number:	1391003
Date first listed:	30-Jul-2004
List Entry Name:	BARN WITH ATTACHED CARTSHED ADJACENT TO VILLAGE HALL
Statutory Address 1:	BARN WITH ATTACHED CARTSHED ADJACENT TO VILLAGE HALL, ST PETERS ROAD

List Entry Number: 1391003

Date first listed: 30-Jul-2004

List Entry Name: BARN WITH ATTACHED CARTSHED ADJACENT TO VILLAGE HALL

Statutory Address 1: BARN WITH ATTACHED CARTSHED ADJACENT TO VILLAGE HALL, ST PETERS ROAD

Location

Statutory Address: BARN WITH ATTACHED CARTSHED ADJACENT TO VILLAGE HALL, ST PETERS ROAD

The building or site itself may lie within the boundary of more than one authority.

County: Hampshire

District: Havant (District Authority)

Parish: Non Civil Parish

National Grid Reference: SU 73092 03075

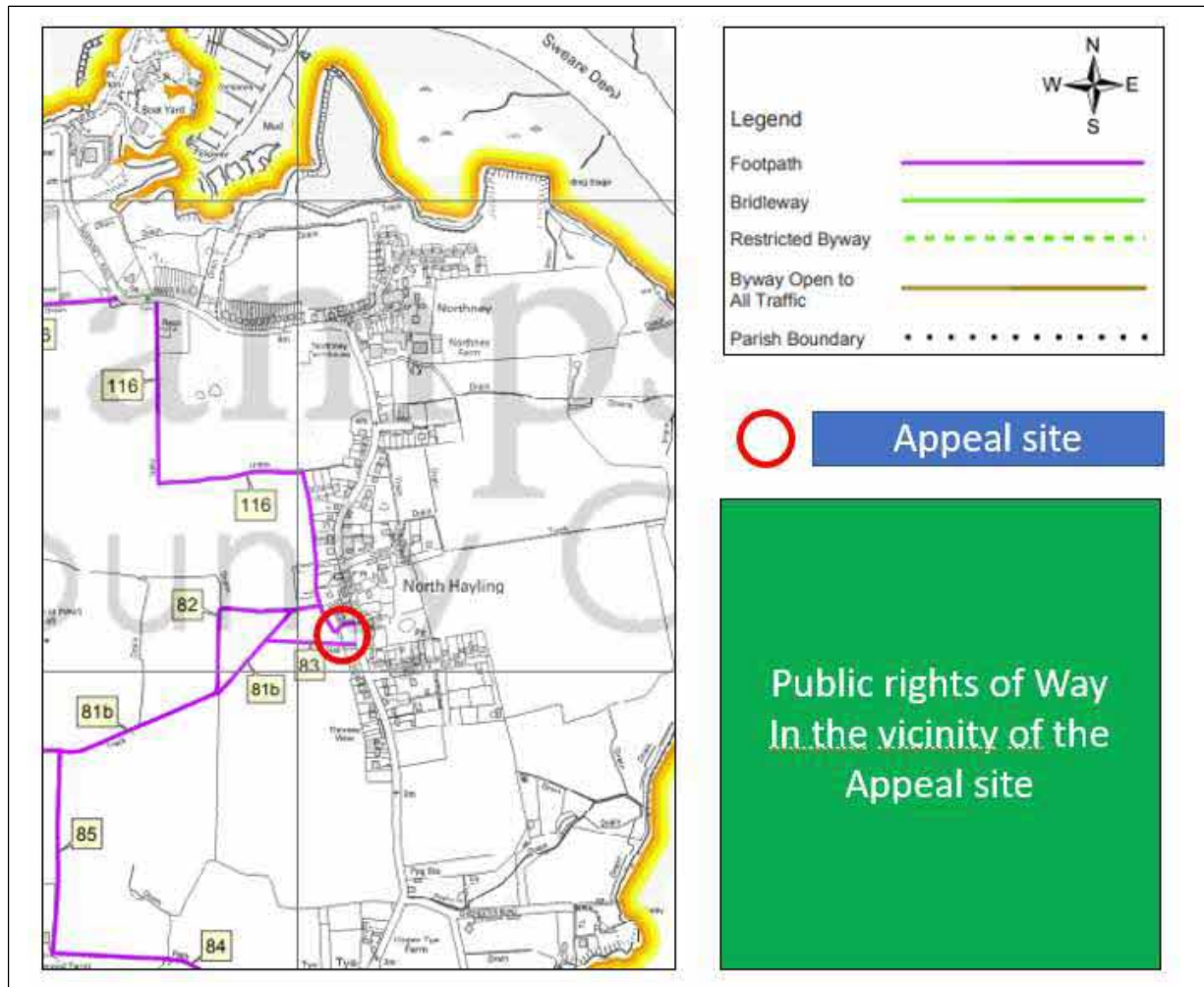
Details

100/0/10034 ST PETER'S ROAD 30-JUL-04 Hayling Island Barn with attached cartshed adjacent to village hall

II Threshing barn and attached cartshed. Barn dated 1791 with the initials JH to tiebeam adjoining southern cart door, cartshed appears of similar date. BARN: Timberframed, clad in weatherboarding, much still tarred. Half-hipped roof covered in corrugated iron sheeting. Four bay barn, aligned north to south with cart entrance in penultimate bay to north. The west side has full-height double cart doors retaining pintle hinges and lower doors to the east. The interior has upright posts with cut profile jowls and the aisle posts have stone padstones. The wall frame has a midrail and diagonal braces. The roof structure has angled queen struts with purlins and original rafters with ridgepiece. CARTSHED: Attached to the north east, also timberframed, clad in tarred weatherboarding with hipped roof covered in corrugated iron sheeting. It is of one storey and four bays, open fronted to the east where it is supported on square wooden piers. The roof structure has tiebeams and original rafters.

Late C18 timberframed aisled threshing barn, dated 1791 on a tiebeam, with attached openfronted cartshed of similar date.

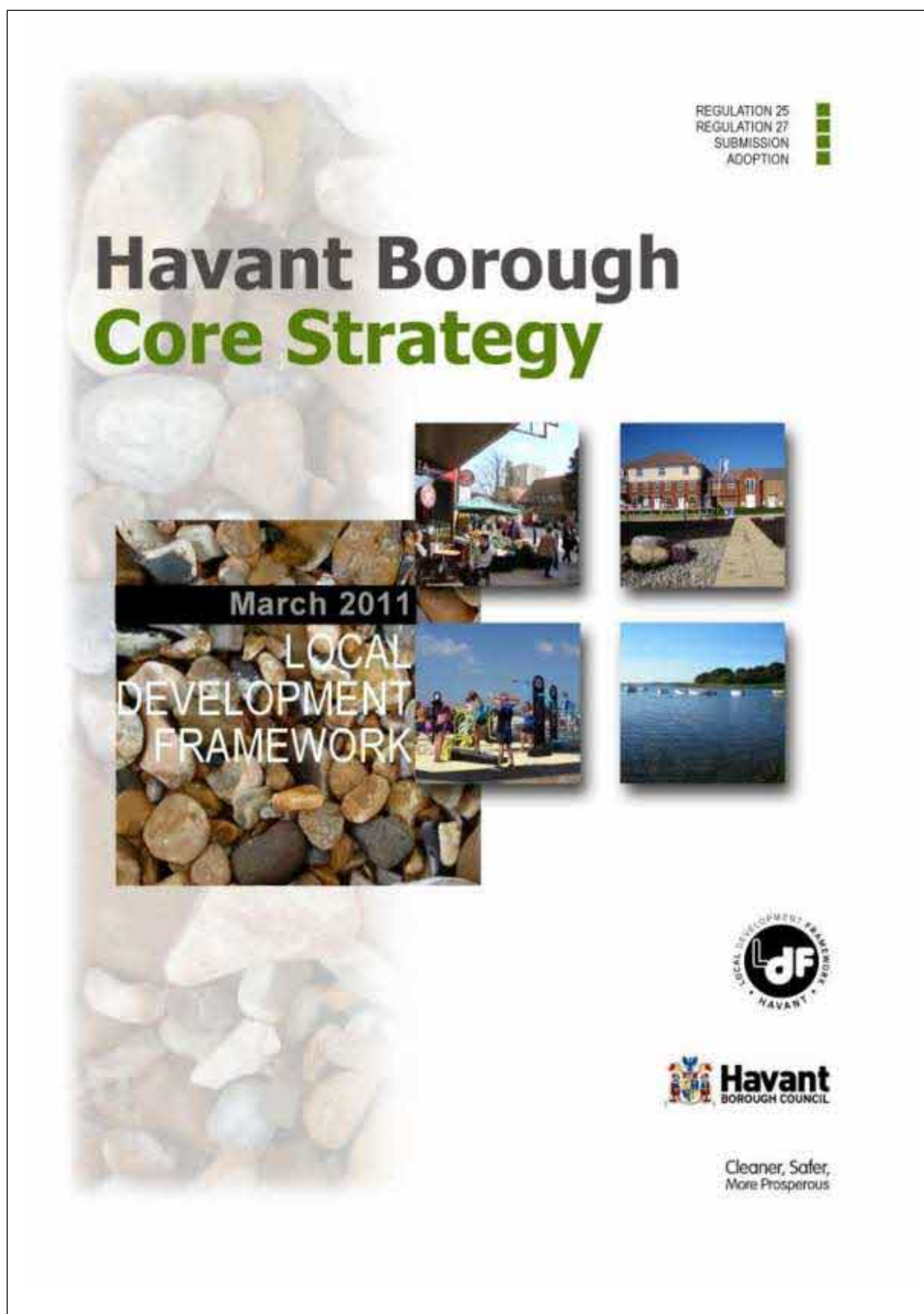
Public rights of way close to Antrims Barn



Marked improvement made to the appearance and integrity of Antrims Barn post 2007 consents



Relevant adopted (March 2011) Development Plan policies cited in the LBEN



The Natural Environment and Our Heritage

Policy CS11 Protecting and Enhancing the Special Environment and Heritage of Havant Borough

Planning permission will be granted for development that:

1. Ensures the key landscape and built form principles set out in the Havant Borough Townscape, Landscape and Seascape Character Assessment are protected and where possible enhanced by partnership working with developers, groups and the wider community.
2. Protects and where possible enhances the borough's statutory and non-statutory designated landscape, habitats and features of biological, hydrological or geological interest. Protection and enhancement will be achieved by appropriate adaptation and mitigation measures including wardening, education and information and the creation of new habitats, water bodies/courses planting of new trees and woodland.
3. Has particular regard to the following hierarchy of nature conservation designations within the borough (as identified on the Proposals Map):
 - (i) Special Protection Areas (SPA), Special Areas of Conservation (SAC) and Ramsar [International].
 - (ii) Sites of Special Scientific Interest (SSSI) and National Nature Reserves [National].
 - (iii) Sites of Importance for Nature Conservation (SINC), Local Nature Reserves (LNR), other Ancient Woodland not identified in (ii) above [Local].
4. Protects and where appropriate enhances the borough's statutory and non-statutory heritage designations by appropriately managing development in or adjacent to conservation areas, listed buildings, scheduled ancient monuments, historic parks and gardens, archaeological sites, buildings of local historic or architectural interest.
5. Supports an ongoing programme of survey of habitats and species and designation of Sites of Importance for Nature Conservation.
6. Incorporates partnership working with conservation organisations to improve public understanding of biodiversity and to manage public access to designated sites, particularly on the coast, to reduce harm to nature conservation interests.
7. Incorporates partnership working with landowners and developers to ensure land management practices restore, enhance and where appropriate create new valued landscapes, habitats and their soil structure, particularly the ancient woodland remnants of the Forest of Bere and coastal salt marsh.
8. Protects wildlife habitats and wildlife corridors to prevent the fragmentation of existing habitats and to allow species, for example Brent Geese, to respond to the impacts of climate change by making provision for habitat adaptation e.g. coastal managed realignment and species migration.
9. Maintains undeveloped gaps between the settlements of Emsworth/Havant; Havant/Waterlooville; Havant/Portsmouth; Emsworth/Westbourne and Leigh Park/Rowlands Castle as shown on the Proposals Map.
10. Protects the best and most versatile agricultural land that has the greatest potential for local food security.
11. Responds to the emerging evidence from the Solent Disturbance and Mitigation Project, the published recommendations, and future related research.

Design

Policy CS16 High Quality Design

Planning permission will be granted for development that is designed to a high standard, which helps to create places where people want to live, work and relax. All development should demonstrate that its design:

1. Responds to, draws inspiration from and respects local context and:
 - a) Identifies and responds positively to existing features of natural, historic or local character within or close to the proposed development site;
 - b) Integrates with existing local landscape features, promotes wildlife and biodiversity and/or applies characteristics of the local area into the design of a scheme wherever possible to create variety and interest;
 - c) Uses the characteristics of the locality to help inform the design of the new development including heights, massing, existing buildings lines, plot widths and depths, materials and proportions of windows and doors;
 - d) Is well connected to and integrates with the immediate local area and the wider area by linking to existing pedestrian and cycle routes and encouraging people to use public transport where possible; and
 - e) The development does not cause unacceptable harm to the amenity of neighbours through smell, the loss of privacy, outlook, noise and overlooking.
2. Produces a positive relationship between buildings, street and spaces both existing and proposed, where:
 - a) The layout of the development reduces opportunities for crime and antisocial behaviour; contributes to improving community safety; and makes provision for the management and maintenance of the development;
 - b) New streets are not dominated by vehicular traffic;
 - c) The layout of the development is legible, meaning it is easy to orientate oneself and move through.
3. Contributes to the improvement of the public realm close to the development, particularly sites close to town, district and local centres and other priority regeneration areas by using high quality hard and soft landscape material and street furniture; and where development is of a significant scale or prominence makes provision for public art.
4. Is inclusive by considering the needs of those with disabilities, ensuring safe and convenient access for all; and integrating affordable and supported housing with market housing through tenure blind design to minimise social exclusion and promote social integration.
5. Maximises opportunities for mixed use developments, particularly in town and district centres; and encourage higher densities (50+ dwellings per hectare) where appropriate.
6. Mitigates negative environmental impacts through sustainable design and construction methods, resource efficiencies, particularly water and the provision of facilities for waste recycling.
7. Adapts to the changing needs of the users and the changing climate over the lifespan of the building.

Policy CS14 from the Council's March 2011 Core Strategy

Policy CS14 Efficient Use of Resources

Planning permission will be granted for development that:

- 1. Provides adequate land or funding for waste management infrastructure.**
- 2. Locally contributes to the delivery of the PUSH target of 100MW of renewable energy by 2020 for the whole of the PUSH area. Major areas of development must ensure that their on-site renewable energy production is maximised and resource efficiency is maximised.**
- 3. On completion, unless proven to be financially or technically unviable, meets the following standards:**

Residential development – Level 3 of the Code for Sustainable Homes;

Multi occupation homes and non-residential development over 500sqm - BREEAM standard 'very good'.

Improvements to these standards throughout the plan period will be encouraged.

Particular attention should be paid to water efficiency measures.

- 4. Allowable Solutions' may be used to achieve higher levels of carbon reduction where on-site proposals are not feasible or viable.**

The structure, its dimensions and context of Antrims Barn

