

PLANNING COMMITTEE

CHAIRMAN: Cllr Dennis Smith

DATE: 17 April 2018

REPORT OF: Business Manager – Strategic Place

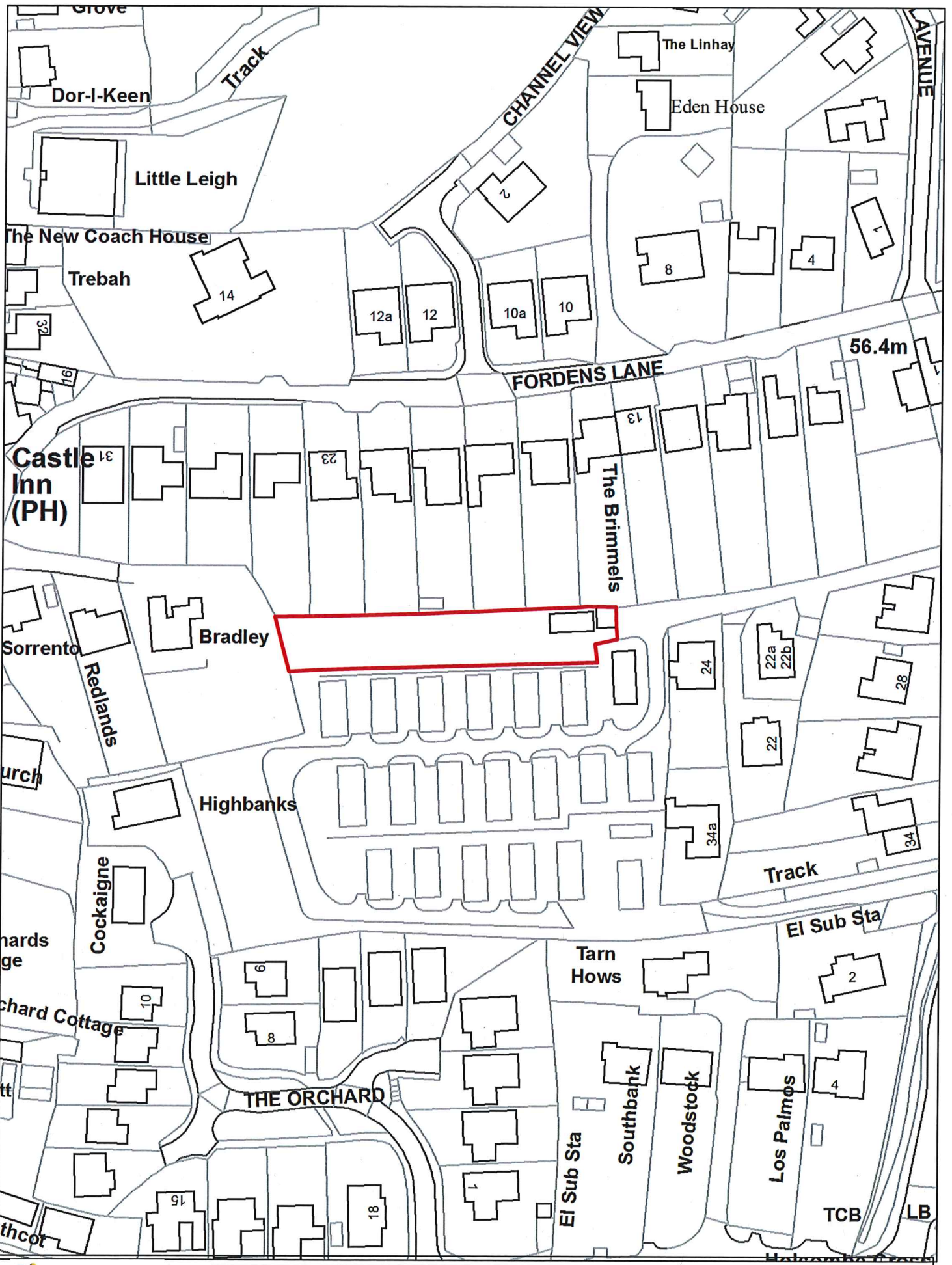
ENFORCEMENT REPORT

REFERENCE NO: 17/00100/ENF

DESCRIPTION OF DEVELOPMENT

DAWLISH: Land formerly known as the Haunt, Teignmouth Road, Holcombe





TEIGNBRIDGE DISTRICT COUNCIL

OBSERVATIONS

1. In March 2017 the Council received a complaint about the works being carried out to refurbish the Smugglers Caravan Park, Teignmouth Road, Holcombe. The complainant alleged that the works were extensive and should have required planning permission.
2. From an investigation at the time it was noted that as the works were ongoing no planning breach had occurred. As well as the works to refurbish the main site the owner acquired the site to the north of Smugglers Caravan Park known as The Haunt. This site consisted of three caravans and the proposals were to replace these with three new larger caravans.
3. In June 2017 the Council received complaints that as part of the works to replace the three units on The Haunt site works were being carried out to raise the ground levels. In such cases where extensive alterations to the ground levels occur they could constitute engineering operations for which planning permission would be required. However, where works are required to comply with the requirements of a Site Licence they may be carried out as 'permitted development' under Schedule 2, Part 5, Class B of the Town and Country Planning (General Permitted Development) Order 2015 and do not therefore require planning permission.
4. In this instance from an initial investigation it was noted that the ground levels were being altered to provide flat areas for three concrete bases to be laid. At the time only the works to provide the base on the western boundary were being carried out. These works involved laying soil on the land to raise the levels to the east. However, the original ground level on the western boundary was still evident and due to the size of the new concrete base this meant the ground has to be raised to create a level surface.
5. Since then works have been carried out to provide the bases for all three units. These works have involved levelling the ground for each unit. As part of the works each unit has been stepped down slightly with the lowest towards the eastern side of the site. However, due to the original ground levels and the size of the concrete bases to cater for the bigger caravans than were previously sited on the land it has meant the ground has been raised by nearly two metres on the eastern boundary.
6. From the investigation it was initially considered that the works to provide the base for the third unit constituted an engineering operation for which planning permission would be required. As such the owner was advised to reduce the ground levels or submit a planning application to determine whether the works were acceptable. In response the owner submitted information claiming the level of the third base started at the original ground level and to comply with the requirements of the Site Licence, which requires a flat concrete base, it has been necessary to raise the levels accordingly. For this reason the owner of the site considers no planning permission is required.

TEIGNBRIDGE DISTRICT COUNCIL

7. Having consulted with Environmental Health, who deal with the Site Licence, they have no concerns about the works carried out. Although there are no Environmental Health issues the matter has also been discussed with the Council's Solicitor and it was still not possible to establish whether a planning breach has occurred. One of the issues to consider is whether there were any controls over the ground levels set out in the original planning permission. However, there are no planning conditions attached to the original planning permission (reference 89/01397/FUL) for the siting of two mobile homes on the land.
8. From the investigation it is clear that extensive works have been carried out towards the eastern boundary, but it appears that this would have been necessary to ensure the required concrete base is laid out in accordance with the requirements of the Site Licence. It has not been possible to establish definitely whether the works would have required planning permission or whether they constitute 'permitted development'.
9. The new caravan positions may partially affect views from the properties to the north but it is not considered that they have any unacceptable impact on residential amenity within the remit of planning considerations. Furthermore, whilst complaints continue to be received, it is not clear that requiring the lowering of the site through enforcement powers would remove the harm perceived by the complainants.
10. Paragraph: 011 Reference ID: 17b-011-20140306 of the National Planning Practice Guidance (NPPG) states that:

“Nothing in this guidance should be taken as condoning a wilful breach of planning law. Enforcement action should, however, be proportionate to the breach of planning control to which it relates and taken when it is expedient to do so. Where the balance of public interest lies will vary from case to case. In deciding, in each case, what is the most appropriate way forward, local planning authorities should usually avoid taking formal enforcement action where:

 - *there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;*
 - *development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;*
 - *in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed”.*
11. Having considered the matter it is agreed that as the new concrete bases are much larger than those previously sited on the land, and they are required by the Site licence which does not stipulate how they should be provided, they would have resulted in alterations to the ground levels. Although it would have been preferable if the land could have been lowered to take into consideration the impact the larger units will have on the nearby residential properties it would be difficult to support the issuing of an Enforcement Notice for unauthorised engineering operations. For the reasons set out above, and

TEIGNBRIDGE DISTRICT COUNCIL

bearing in mind the advice contained in the NPPG, it is recommended that no enforcement action should be taken.

RECOMMENDATION

The Committee is recommended to resolve that no enforcement action is taken.

WARD MEMBERS: Cllrs Clemens & Prowse