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7 April 2025

## PLANNING COMMITTEE

A meeting of the **Planning Committee** will held on **Tuesday, 15th April, 2025** in the Council Chamber, Forde House, Brunel Road, Newton Abbot, TQ12 4XX at **10.00 am**

PHIL SHEARS  
Managing Director

Membership: Councillors C Parker (Chair), Cox (Vice-Chair), Bradford, Bullivant, Hall, MacGregor, Nuttall, Palethorpe, Sanders, J Taylor and Williams

Substitutes: Councillors Clarence, Ryan, P Parker, Hook, Parrott, Nutley, Atkins, Thorne and Smith

**Please Note:** The public can view the live streaming of the meeting at [Teignbridge District Council Webcasting \(public-i.tv\)](#) with the exception where there are confidential or exempt items, which may need to be considered in the absence of the press and public.

**Please Note:** Filming is permitted during Committee meeting with the exception where there are confidential or exempt items, which may need to be considered in the absence of the press and public. This meeting will be livestreamed on Public-i. By entering the meeting's venue you are consenting to being filmed.

## **Public Access Statement**

### **Information for the Public**

There is an opportunity for members of the public to speak on planning applications at this meeting. Full details are available online at [www.teignbridge.gov.uk/planningcommittee](http://www.teignbridge.gov.uk/planningcommittee).

Please email [democraticservicestdc@teignbridge.gov.uk](mailto:democraticservicestdc@teignbridge.gov.uk) or phone 01626 215112 to request to speak by **12 Noon** two clear working days before the meeting. This will be on a Thursday before the meeting if the meeting is on a Tuesday.

This agenda is available online at [www.teignbridge.gov.uk/agendas](http://www.teignbridge.gov.uk/agendas) five clear working days prior to the meeting. If you would like to receive an e-mail which contains a link to the website for all forthcoming meetings, please e-mail [democraticservicestdc@teignbridge.gov.uk](mailto:democraticservicestdc@teignbridge.gov.uk)

General information about Planning Committee, delegated decisions, dates of future committees, public participation in committees as well as links to agendas and minutes are available at [www.teignbridge.gov.uk/planningcommittee](http://www.teignbridge.gov.uk/planningcommittee)

The Local Plan 2014-2033 is available at <https://www.teignbridge.gov.uk/media/1669/local-plan-2013-33.pdf>

## **A G E N D A**

### **PART I**

#### **(Open to the Public)**

1. Apologies for absence.
2. Minutes (Pages 5 - 8)  
To confirm the minutes of the last meeting.
3. Declarations of Interest.  
If Councillors have any questions relating to predetermination or interests in items on this Agenda, please contact the Monitoring Officer in advance of the meeting.
4. Public Participation  
The Chairman to advise the Committee on any requests received from members of the public to address the Committee.
5. Chairs' Announcements
6. Planning applications for consideration - to consider applications for planning permission as set out below.

- a) 24/01348/FUL - Tracey House Retirement Home, Bovey Tracey (Pages 9 - 26)
- 7. Tree Preservation Orders
  - a) E2/28/70 - Westbrook House, Teignmouth (Pages 27 - 32)
  - b) E2.25.04 - Combe Hill Cross, Kingsteignton (Pages 33 - 56)
- 8. Enforcement Cases
  - a) 24/00045/ENF - Haldon Site, Kennford (Pages 57 - 66)
  - b) 20/00104/ENF - Bovey Heath, Bovey Tracey (Pages 67 - 78)
- 9. Appeal Decisions - to note appeal decisions made by the Planning Inspectorate. (Pages 79 - 80)
- 10. S73 Major Decisions Summary (Pages 81 - 82)

**For Information - Upcoming Site Visit Dates**

21 May, 19 June, 17 July

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**PLANNING COMMITTEE****21 JANUARY 2025**Present:

Councillors Atkins, Bradford, Bullivant, Cox (Vice-Chair), Goodman-Bradbury, Hall, Nutley, Nuttall, Palethorpe, C Parker (Chair), Sanders, J Taylor and Williams

Members in Attendance:

Councillor Parrot

Apologies:

None

Officers in Attendance:

Ian Perry, Interim Head of Development Management

Natalia Anderson, Solicitor

Graham Davey, Housing Enabling and Development Manager

Steven Hobbs, Senior Planning Enforcement Officer

Christopher Morgan, Trainee Democratic Services Officer

**80. MINUTES**

During apologies, changes to the committee membership were noted.

It was proposed by Councillor C Parker and seconded by Councillor Nutley that the minutes of the previous meeting be agreed as a correct record and signed by the Chair.

Democratic Services would review the final total for the vote on item 6c of the previous meeting.

**81. DECLARATIONS OF INTEREST.**

None.

**82. CHAIRS' ANNOUNCEMENTS**

The Chair gave a statement regarding a previous site visit to the Red Lion Inn and his comments at the following committee meeting. He apologised that he may have given an incorrect impression and regretted any confusion that was caused. He stated it was not his intention to dismiss any acknowledgement of the attendance of the ineligible attendee being present and this was his mistake

if that impression had been given. He asked the committee to accept his regret regarding this matter.

a) **24/00045/ENF - Land North of Haldon Racecourse, Kenn Valley**

The Enforcement Officer presented the item to the Committee.

Comments from Councillors during the debate included:

- Impact on the surrounding area including visual impact.
- The Council has a legal obligation to provide sites for Travellers and that obligation has already been met.
- Close enough to the road to be seen.
- Use of the site is unauthorised and planning permission has not been granted.
- Concerns were raised about the lack of alternative sites for members of the Gypsy and Traveller community.
- Concerns around the occupants becoming homeless as a result.
- The site has ecological sensitivity and the occupancy of the site impacts this.

In response, Officers clarified the following:

- Whilst there may not be space currently at the other Traveller site, the use of the current site is still unauthorised and not the correct location.
- Other appropriate sites may come forward in the future but the enforcement notice must be decided based on the current location and information.

It was proposed by Councillor Hall and seconded by Councillor P Parker that decision be deferred until another site with enough space becomes available.

A vote was taken. The result was 3 for, 11 against, and 0 abstentions and so the vote was lost.

It was proposed by Councillor Bullivant and seconded by Councillor Cox that enforcement action be taken with a 6-month compliance period.

A vote was taken. The result was 11 for, 3 against, and 0 abstentions.

Resolved

That an Enforcement Notice be issued under Section 172 of the Town and Country Planning Act 1990 with a 6 month compliance period to:

- i. Cease using the land for the siting of caravans for residential purposes, and
- ii. Remove the caravans and any other items associated with the unauthorised residential use from the land.

**83. APPEAL DECISIONS - TO NOTE APPEAL DECISIONS MADE BY THE PLANNING INSPECTORATE.**

The Interim Head of Development Management informed the Committee that he would review the applications that were allowed at appeal and consider the reasons for the Inspector doing so.

The Committee noted the appeals decisions made by the Planning Inspectorate.

**84. S73 MAJOR DECISIONS SUMMARY**

The Committee noted the Major Decisions Summary Sheet.

The meeting started at 10.00 am and finished at 10.30 am.

Chair  
Cllr Colin Parker

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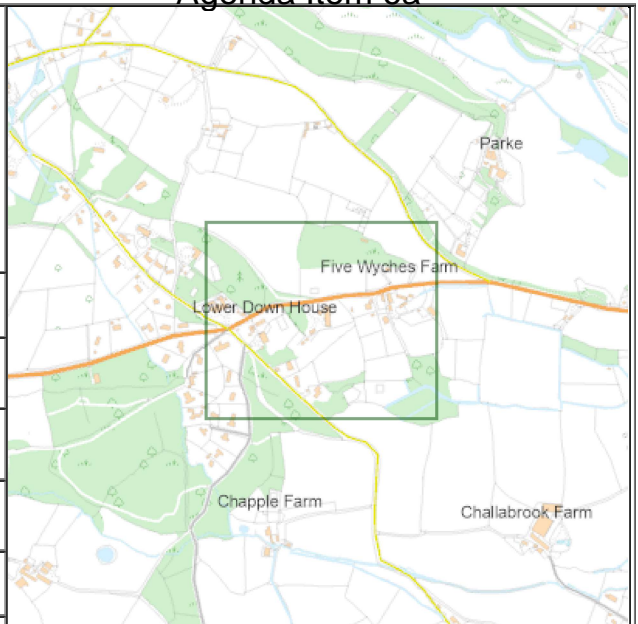




**Planning Committee Report**

**Chairman: Cllr Colin Parker**

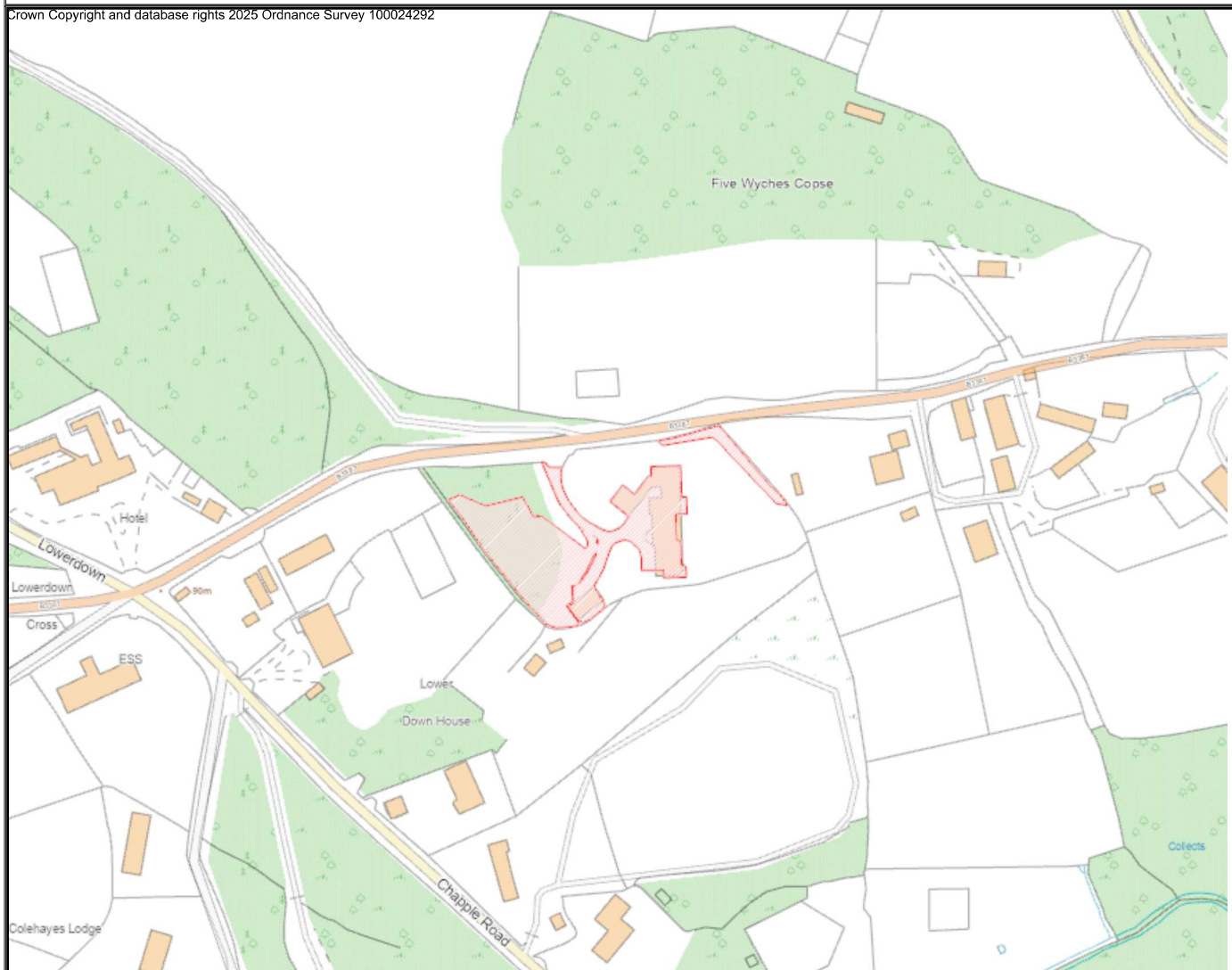
<b>Date</b>	15 April 2025
<b>Case Officer</b>	Lisa Rasch
<b>Location</b>	Tracey House Retirement Home Bovey Tracey Devon TQ13 9LE
<b>Proposal</b>	Change of Use from Residential Institution (Class C2) to 6 holiday lets
<b>Applicant</b>	Mr & Mrs Zakrzewski
<b>Ward</b>	Bovey
<b>Member(s)</b>	Cllr Stuart Webster, Cllr Martin Smith, Cllr Sally Morgan
<b>Reference</b>	24/01348/FUL



[Online Details and Documents](#)

**RECOMMENDATION: PERMISSION GRANTED**

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## 1. REASON FOR REPORT

This application has been called in by Bovey Tracey Town Parish Council for the following reasons:

*Members do not wish to see the loss of important residential housing. The current application does not accord with Neighbourhood Development Plan Objectives:*

*H01 (To make the parish a place where people of all ages who are unable to buy or rent on the open market and who have a local connection have priority access to affordable housing).*

*H02 (To make the parish a place where elderly people with a strong local connection have priority access to housing that is suited to their needs).*

## 2. RECOMMENDATION

PERMISSION BE GRANTED subject to the following conditions:

1. The development hereby permitted shall begin before the expiry of three years from the date of this permission.

REASON: In accordance with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the application form and the following approved plans/documents:

Date Received	Drawing/reference number	Description
15 Aug 2024	100047474	Location plan
15 Aug 2024	P02.A	Proposed elevations
15 Aug 2024	P02.A	Proposed floor plans
15 Aug 2024	2305/AIA	Arboricultural impact assessment (Tree survey)
15 Aug 2024	P05.C	Proposed block plan
28 Aug 2024	P0234.A	Existing and proposed elevations bungalow

REASON: In order to ensure compliance with the approved drawings.

3. No works shall be undertaken to any roof, tiles, ridge tiles, loft, roof dividing walls, dormers, valleys, chimneys, eaves, gables, barge boards, wall tops, wall cladding or other

building element which might support roosting bats or provide bats access to roosting areas, in any of the buildings (except the green house and garden shed) unless and until an updated Bat Mitigation Strategy has been submitted to and approved by the Local Planning Authority. All mitigation measures in the Bat Mitigation Strategy shall be implemented at the appropriate stage of the development. A European Species Licence may be required from Natural England prior to commencement.

REASON: In the interest of legally protected bats, bat roosts and bat accesses to their roosts.

4. As a result of the use of presence of protected species, including nesting birds, and the possibility of other legally protected and priority species on site the works shall proceed in strict accordance with the precautions, measures and enhancements described in the protected species survey report (by Western Ecology, dated October 2024, see especially section 5), subject to any variation required by Natural England under any license issued. For the sake of clarity, the necessary mitigation measures listed in the report include the following:

- Retention of as many existing trees and hedges as possible and protection during works.
  - If any trees/hedges are removed, replacement planting of the same or greater amount of native species trees/hedges. Realignment of native species hedges in preference to removal and replanting.
  - If any amphibian habitat is lost, it must be replaced like for like or better.
  - Any log or rubble piles to be removed should be removed in the period late March to October or in the presence of an ecologist.
  - Cut vegetation to be removed from site or placed away from construction/ working areas.
  - Hazardous materials to be stored off the ground or in a secure container.
  - Measure to prevent animals becoming trapped in excavations or pipes.
  - Any amphibian or reptile found to be carefully removed to same habitat.
  - Gaps to be provided in fences to allow badgers, hedgehogs, etc to pass through.
  - One or more replacement bird box(es) to be provided for each bird nest lost. The replacement must be of an appropriate type, to in an appropriate location for the species impacted.
  - Any removal of potential bird-nesting vegetation should be undertaken in the period September to February, or after a check for nesting birds by an ecologist. If found, works shall be delayed until chicks have fledged.
  - Any areas of scrub to be removed, must be removed during October. If a dormouse is found the ecologist should be contacted immediately.
  - Lighting controls.
  - Control of invasive, non-native plant species.
- The mitigation measures shall be retained and maintained thereafter.

REASON: In the interest of ensuring protection of legally protected species and providing biodiversity enhancements.

5. Prior to the commencement of development, including any site clearance, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the local planning authority. The plan shall provide details of:

- Clear maps of trees, shrubs and hedges to be retained, moved or removed.
- Clear maps showing replacement planting to be provided for any trees, shrubs and hedges to be lost.

- Detail of protective fencing to be erected to protected tree, shrub and hedge roots. These fences shall be erected prior to commencement and retained until works are complete.
- Details of all tree, shrub/scrub and hedge planting to be undertaken including numbers, spacing, size at planting, planting method, and protection for new plants, including tree guards mulching and any staking.
- Establishment and aftercare of planting including weekly watering, weeding, fertilizing and any formative pruning;
- Details of measures to be undertaken to enhance grassland areas for biodiversity net gain, including species mix, sowing rate, time of sowing, timing and height of initial cuts and watering;
- Ongoing management of Biodiversity Net Gain scrub and enhanced grassland for at least 30 years.

Once approved, the development shall not be carried out otherwise than in strict accordance with the approved LEMP details. All planting/creation to be undertaken prior to first occupancy of the holiday units.

REASON: to create and maintain biodiversity compensation and net gain. A pre-commencement condition is required, as site clearance may result in harm to hedge/tree roots, or other damage to habitats.

6.The Biodiversity Gain Plan (the BGP) shall be prepared in accordance with the biodiversity gain plan (Map 1 BNG Plan dated 13/07/2024) & ecological information (Preliminary Ecological Assessment dated October 2024) submitted with the application and prepared by Western Ecology. The development hereby permitted shall be carried out strictly in accordance with the approved Biodiversity Gain Plan.

REASON: To ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990, policy EN8 'Biodiversity Protection and Enhancement' of Teignbridge Local Plan 2013-2033, and emerging policy EN10 'Biodiversity and Geodiversity' of the Teignbridge Local Plan 2020-2040.

7.Works shall commence at least 30 minutes after sunrise and cease at least 30 minutes before sunset each day during the active season of bats (i.e., from April to October inclusive). No lighting shall be left on over-night during the construction phase.

REASON: To permit continued use of the site by light-averse bats.

8.Notwithstanding Section 55(2) of the Town and Country Planning Act 1990 and/or the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), no external lighting shall be installed on, or in association with, the converted buildings, except for low-lumen, LED, PIR motion-activated lights on a short timer (maximum 1 minute), sensitive to large objects only (to avoid triggering by bats or other wildlife). Any such lights shall be mounted in association with main doors only, at a height no greater than 1.9m from ground level, directed and shielded downward and away from hedges, trees and bat roost entrances. The lights shall produce only narrow spectrum, low-intensity light output, UV-free, with a warm colour-temperature (2,700K or less) and a wavelength of 550nm or more.

REASON: For the benefit of legally protected light-averse bats.

9. Any vegetation at the access into the site from the B3387 shall be managed to a maximum height of 600mm at all times.

REASON: In order to ensure that sufficient visibility is maintained at the access to allow vehicles to emerge from the site safely.

10. The holiday units hereby approved shall be occupied for holiday purposes only and shall not be occupied as a main or sole place of residence. The owner shall maintain an up to date register of the details of all occupiers, including their names and main home addresses, of the holiday units on the site and shall make it available for inspection at all reasonable times by the Local Planning Authority.

REASON: To ensure the holiday accommodation is not used for permanent residential accommodation in the interests of highways safety, to protect the character and appearance of the area, and in the interests of residential amenity.

11. Notwithstanding the provisions of Article 3 of the Town & Country Planning (General permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that order with or without modification), no development of the types described in Classes A, AA, B, C, D, E and G of Part 1 and Classes A and C of Part 2 of Schedule 2 (which includes enlargement, improvement or other alteration, porches, sheds, greenhouses, huts, oil storage tanks, fences and walls) shall be undertaken on the premises, other than hereby permitted, or unless the prior written approval of the Local Planning Authority has been obtained.

REASON: To protect the amenities of the area in general and the character and appearance of the nearby buildings and to ensure the units remain suitable for holiday purposes only and not unacceptably enlarged or altered in any way.

12. Before they are brought into use, sustainable drainage shall be provided on site for the permeable parking areas, in accordance with the requirements of BRE Digest 365. Infiltration testing shall first be carried out for these areas, the findings of which shall be submitted to and approved in writing by the Local Planning Authority before installation of the drainage. Should the tests indicate infiltration is not possible, drainage shall be provided in accordance with details which shall have first been submitted to and agreed in writing by the Local Planning Authority, prior to the occupation of the units.

REASON: To ensure a satisfactory and sustainable permeable parking area is provided.

13. Before the development is brought into use, parking facilities shall be provided and thereafter permanently retained for the parking of vehicles in association with the holiday use only, in accordance with plan 'Proposed Block Plan P05 C'. They shall not be used for any storage.

REASON: To ensure adequate parking facilities are provided to serve the development.

14. Before the development is brought into use, bike storage facilities shall be provided and thereafter permanently retained, for the storage of bikes in accordance with plan 'Proposed Block Plan P05 C' prior to occupation of the buildings.

REASON: To ensure adequate bike storage facilities are provided to serve the development.

15. Before the development is brought into use, bin storage facilities shall be provided and thereafter permanently retained for the storage of bikes in accordance with plan 'Proposed Block Plan P05 C'.

REASON: To ensure adequate bin storage facilities are provided to serve the development.

16. No trees, shrubs or hedges within the site which are shown as being retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased with five years from the completion of the development hereby permitted shall be replaced with trees, shrubs or hedge plants of similar size and species.

REASON: To ensure the continued well-being of the trees in the interests of the amenity and environmental quality of the locality.

17. Prior to the first use of the development, a management scheme for the site shall be submitted and approved in writing by the Local planning Authority. The management scheme shall include that the burning of any fire pits and BBQs should cease at 11pm. The development shall be operated in accordance with the approved details.

REASON: In the interest of residential amenity.

18. Prior to the first use of the development, a Sustainable Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall demonstrate measures taken to increase travel by sustainable means and reduce reliance on the motor car. The development shall be operated in accordance with the approved details which shall include a mechanism for yearly review if its aims are not reached.

REASON: In the interests of sustainability and encouraging non-motor car visits.

### **3. DESCRIPTION**

- 3.1. Tracey House is a two storey reconstituted stone and painted render former residential care home. The House has been added to over time with extensions and conservatories.
- 3.2. The site is accessed from Haytor Road (B3387) and sits outside of the settlement boundary for Bovey Tracey and is therefore located in an area defined as countryside.
- 3.3. The site includes grounds and gardens surrounding the house, and a detached garage building to the west of the former care home.

#### **Principle of development**

- 3.4. The proposal is for the conversion of Tracey House to 6 no. holiday lets. The conversion includes the removal of conservatories as these are in poor condition.

- 3.5. Clearly there is a need for elderly accommodation, and Local Plan Policy WE12 seeks to prevent the loss of such facilities unless it meets at least 1 of 4 criteria, as follows:
- a) *there will continue to be a sufficient choice of that type of provision within the local area;*
  - b) *the existing use is causing a significant problem which can only be resolved with relocation and which outweighs the loss of that type of provision;*
  - c) *the proposed replacement use has significant benefits which outweigh the loss of that type of provision; or*
  - d) *it can be demonstrated that the use is no longer necessary or viable in the long term.”*
- 3.6. Paragraph 4.30 (the subtext of this Policy) clarifies that “Proposals involving the loss of local facilities will need to be carefully justified.”
- 3.7. Local Plan Policy EC2 relates to loss of employment; however, this seeks to preserve offices, (former B1 Use), B2 and B8 business uses rather than C2 Use or other smaller scale employment generating uses. Nevertheless, the loss of any employment should be taken as a material planning consideration, in-line with the NPPF, and assessed accordingly.
- 3.8. The agent provided information relating to how the Care Home was marketed for sale. It was on the market with DC Care, a national care home sales agent. The marketing started in 2019, at a price of £3 million and was reduced over time to £2.2 million by April 2023, taking into consideration the market change resulting from the COVID Pandemic. Therefore, the Care Home was marketed nationally for 4 years with price reductions, and this resulted in no sale.
- 3.9. The Care Home officially closed in April 2023 with the owners being unable to continue for health reasons.
- 3.10. The above reasoning and information was acknowledged and accepted, and thus considered to meet the requirements of Local Plan Policy WE12 (d) in addition to justifying the loss of a minor level of employment. There is no other policy mechanism in which to refuse loss of care homes/elderly accommodation if a criterion of WE12 is clearly met.
- 3.11. Policy EC11 relates to tourism accommodation and supports the appropriate conversion or change of use of a permanent and soundly constructed building which sensitively retain any historic interest and character.
- 3.12. Policy EC6 of the emerging Teignbridge Local Plan 2020-2040 mirrors the above and requires *“the appropriate conversion or change of use of a permanent and soundly constructed building which sensitively retain any historic interest and character.”*
- 3.13. The proposed residential use and the loss of existing C2 use and employment is therefore considered to be acceptable in principle.

### **Residential Amenity**

- 3.14. Policy S1 (d & e) of the Teignbridge Local Plan 2013-2033 requires proposals to perform well against health, safety and environmental effects of noise, smell, dust, light, vibration, fumes or other forms of pollution or nuisance arising from the proposed development, and the impact on the residential amenity of existing and committed dwellings, particularly privacy, security, outlook and natural light.
- 3.15. Policy H12 of the emerging Teignbridge Local Plan 2020-2040 permits developments where it *“does not have an unacceptable impact on the living conditions of nearby residential occupants. Unacceptable impacts will be judged in relation to the level of amenity enjoyed by current and future occupiers within the area and could result from:*
- a. loss of privacy and overlooking*
  - b. overbearing or dominant impact on outlook*
  - c. overshadowing or loss of natural light*
  - d. noise and disturbance from increased activity, including vehicular activity*
  - e. odours or fumes.”*
- 3.16. The east elevation is approx. 84m from the elevation of the closest neighbour to the east, the west elevation is approximately 93m to the closest neighbour to the west. The site is bordered by mature hedgerows and trees which will remain untouched by the change of use and conversion.
- 3.17. Concerns have been raised by interested parties regarding noise that may occur from the use as holiday lets
- 3.18. There is a significant distance from the closest dwellings and adequate tree/hedgerow cover to absorb noise. A condition is recommended to ensure that adequate screening will remain in perpetuity.
- 3.19. A site management plan is to be submitted prior to the first use of the units.
- 3.20. It is considered that the proposal will not cause an unacceptable level of impact to residential amenity.

### **Highways**

- 3.21. The B3387 is a national speed limit (60mph) road, but given the width and geometry of the road, lower actual speeds are likely.
- 3.22. DCC Highways noted in their response that there had been two “slight” personal injury collisions, to the east between the site and Five Wyches Cross, reported to/by the police between 01/01/2019 and 31/12/2023.
- 3.23. The previous use of the site as a care home would have generated several vehicle movements to and from the site by staff and visitors. DCC Highways have been consulted on the proposal and have stated that the holiday let use is likely to generate less vehicle movements than it did when operating as a care home and therefore is unlikely to have a severe impact on the existing Highway Network.



- 3.24. A condition will be added to ensure the visibility splay onto Haytor Road will stay under 600mm in height. This means that vegetation will need to be managed and cut back regularly.

### **Biodiversity**

- 3.25. The site lies within the Sustenance Zone of the South Hams SAC which is designated for light averse Greater Horseshoe bats, who navigate the landscape by following linear features such as hedgerows.
- 3.26. The application is appended by a Preliminary Ecology Appraisal (PEA) which found a bat day roost and nesting birds in the main building and the building in the south west corner of the site. An emergence survey was then carried out in July and August 2023. Concerns were raised regarding the surveys not being in date. Western Ecology carried out an update to the previous surveys and the updated report has been submitted dated October 2024.
- 3.27. The updated survey report stated that no works to the roof will impact the day roost area and no works to the building in the south west corner of the site will impact any species within that building.
- 3.28. Recommendations and mitigation measures have been recommended within the submitted emergence survey. Conditions are recommended in line with the findings.

## **4. BIODIVERSITY NET GAIN (BNG)**

Biodiversity net gain is a legal requirement for planning permissions. Planning applications are required to either provide detailed information proving there will be a biodiversity increase of 10% or explain why they are exempt from doing so. Unless exempt, planning permission is subject to the general Biodiversity Gain Condition (as set out in Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended)).

This development is subject to the general Biodiversity Gain Condition and prior to commencement of the development the Biodiversity Gain Plan will need to be submitted to and approved by the Local Planning Authority.

The submitted Biodiversity Gain Plan will demonstrate at least 10% BNG above the baseline conditions (as set out within the submitted Statutory Biodiversity Metric / Small Sites Metric) to be delivered in accordance with the biodiversity gain hierarchy.

This development is expected to deliver at least 10% BNG via the following:

- Non-significant on-site delivery by creating and enhancing on-site habitats, see in particular proposed planning conditions 5 and 6.

## **5. TREES**

- 5.1. The site has mature trees and hedgerows within and bordering the site. The proposal is appended with an Arboricultural report, carried out by Doug Pratt Tree Consultancy dated July 2023.
- 5.2. The report states that 'no dig' methodology will be used for permeable parking areas so that trees and their roots are not impacted by the proposal.

- 5.3. One tree will be reduced/crown lifted by a small degree.
- 5.4. Tree root protection fencing is proposed during the construction phase to protect the trees and roots on site. A condition is recommended to ensure the TRP fencing is carried out in accordance with the tree report.

### **Other Matters**

- 5.5. The reasoning provided to call the application to committee references Objective HO1 in the Bovey Tracey Neighbourhood Plan. BPNP Policy H1 relates to the allocation of affordable housing for people with a local connection and does not reference care home bed spaces.
- 5.6. The reasoning further states that Objective HO2 is to “make the parish a place where elderly people with a strong local connection have priority to housing that is suited to their needs.” This is to enable residents to remain in the community as they age. BNP Policy H2 – Housing for Elderly Residents relates to new developments and does not relate to the loss of care homes for the elderly.
- 5.7. Therefore, there is no other policy mechanism in which to refuse loss of care homes/elderly accommodation if a criterion of WE12 is clearly met. In this case: the viability, care home ceasing operations, lack of alternative buyers/operators, and sufficient marketing undertaken is considered to meet the relevant policy. Within the emerging draft Local Plan 2020-2040, there is a new policy to support creation of new elderly accommodation (Policy H4). However, this doesn’t seek to protect existing stock (except for the criteria outlined in a mirror policy of WE12 – [DW22]).
- 5.8. Officer responses to the representations received from interested parties are summarised and responded to below (officer response in italics).
  - Ecology survey submitted is out of date  
*An update was submitted dated October 2024 - this is in date*
  - Bats may be affected by the development and further survey work should be carried out in summer  
*Suitable conditions for the protection of bats can be added to any permission granted, in line with recommendations from the TDC Biodiversity Officer and Western Ecology.*
  - Holiday accommodation does not benefit the community  
*Holiday accommodation supports the tourism industry in the locality*
  - More affordable housing is required  
*Noted. This application is not for affordable housing*
  - More bed spaces for elderly and disabled people are required  
*Noted. However as established above, the care home has been closed for some time and bed spaces have already been lost.*
  - There is already camping, a hotel and holiday lets in close proximity  
*It is not considered that there is too much competition/too many holiday accommodations in the locality.*
  - Haytor Road is already busy and narrow and walking along the road is dangerous and there are pot holes.  
*DCC Highways have not raised any objections in terms of highway safety*
  - The traffic in central Bovey is an issue and this will add extra traffic to it and cause accidents, damage to property and monuments.

- DCC Highways have not raised any objections in terms of highway safety*
- Site is at risk of being over developed as it would look to add more chalets  
*Additional chalets are not part of this application. The current proposal is not considered to be overdevelopment*
  - No management plan or company mentioned who will run the site, some structure will be required to run the site  
*A management plan has been conditioned to ensure no late night noise and to ensure the site is adequately managed. Conditions for the proposed landscaping/BNG conditions will manage the landscaping.*
  - There is a risk one person will rent it and have stag/hen parties or milestone events and be less considerate to the neighbours with no curfew in place for noise and loud music.  
*This is an assumption, if noise occurs and regularly causes a statutory nuisance, then TDC Environmental Health Team can use their powers to assess the situation.*
  - Impact on privacy and peace of neighbours  
*There will be no development any closer to neighbours than there is currently, in fact as some of the conservatories are being taken down, the development will be further from neighbours than existing.*
  - There is a problem with sewerage and drainage which has not been addressed from the previous application  
*The existing foul drainage will be utilised as it was when the site was in use as a care home. Clarification of capacity has been sought from South West Water and an update will be given at the committee meeting.*
  - Residential dwellings would be preferable  
*Holiday lets are considered to fall under a 'C' residential use in planning terms.*
  - Having holiday lets rather than residential houses does not help the Teignbridge Plan for new homes.  
*Noted.*
  - It does not tie in with Dartmoor National Park who want to reduce the development of tourism on the boundary of the National Park, the site is close to the park boundary.  
*Dartmoor National Park commented with no objection to the proposal.*
  - Only positive is it will improve the aesthetics of the site.  
*Noted.*
  - If further development takes place following the approval for holiday lets, there will be more impact on the highway.  
*The proposal can only be considered as submitted.*
  - If the intention is to sell the units to individuals as second homes, that does seem to be at variance with the council's own policy to introduce a 100% council tax premium for second homes from 2025, presumably to discourage such usage.  
*It is not considered necessary to control who purchases the holiday lets.*
  - Tracey House is not isolated as it is adjacent to other residential properties.  
*Noted. Tracey House is considered to be in the 'open Countryside' in relation to the Local Plan.*
  - Not convinced the length of time the care home was for sale – due to covid it is likely to be advertised for 18 months.  
*The applicant/agent has stated that the home was advertised from 2019. COVID did not stop the sale of property as viewings were allowed when the restrictions were lifted.*

- It appears certain fundamental principles and established legal standards may not have been fully adhered to, raising questions about the legitimacy of the outcome.  
*It is considered that all necessary process have been followed to make this a valid planning application.*
- Inaccuracies in flood risk assessment  
*TDC Drainage have commented and recommended a condition to ensure the ground conditions are suitable for a permeable surface.*
- doubt as to whether a section of land on which the property stands is included within the submitted plans.  
*All land within the red line of the submitted location plan is subject to this application.*
- There are purpose built holiday lets for sale within the vicinity.  
*Noted. It is not considered that this means these holiday lets cannot be approved.*
- There is a reduction of tourism in Devon and as such there is no requirement for more holiday lets.  
*The proposal is supported in principle by TDC Local Plan policy EC11 and emerging plan policy EC6 for tourism/tourist accommodation*
- There is a risk that these will sit empty for long periods of time.  
*This is arguably a risk for any building. It is considered that on balance, this is unlikely given the popularity of Devon as a tourist location.*
- Application form states 6 holiday units and planning statement states 7 holiday units.  
*This is noted and is a typo. The description that will be on any decision notice will be for 6 holiday lets as per the description and the submitted plans.*
- Site is not empty as there are bins left out for collection, lights on in the premises and vehicles parked at the site.  
*Clarification has been sought from the agent and an update will be given at committee.*
- There is a limited bus service, and no pavement or street lighting for pedestrians.  
*It is considered that the bus service is acceptable to support the tourism use and no objection has been received from DCC Highways in terms of highway safety.*
- Reduction in employment from loss of care home.  
*The residential home ceased trading as stated above and so the loss has already occurred.*
- Barns close by have been converted into dwellings, therefore the previous pre-app response is questionable.  
*The conversion of barns are considered under different policies. The barns at Five Wyches Cross were converted under Class Q permitted development.*

## Conclusion

- 5.9. Whilst it is acknowledged that care home spaces are in need in the district, there has been clear justification for the loss of this accommodation. The marketing carried out was nationwide and for several years, including price reductions. The fact that the property did not sell is a clear indication that there is no one willing to

take on the property as a care home and as such the proposed use is considered a suitable alternative.

- 5.10. The conversion of existing buildings to holiday lets is supported by Policy EC11 of the Teignbridge Local plan 2013-2033 and Policy EC6 of the emerging Teignbridge Local Plan 2020-2040.
- 5.11. The proposal is compliant with both national and local policy and does not conflict with policies within the Bovey Tracey Neighbourhood Plan and is therefore recommended for approval.

## **6. POLICY DOCUMENTS**

S1A Presumption in favour of Sustainable Development

S1 Sustainable Development Criteria

S2 Quality Development

S6 Resilience

S7 Carbon Emission Targets

S9 Sustainable Transport

S12 Tourism

S21A Settlement Limits

EC2 Loss of Employment Sites

EC11 Tourist Accommodation

WE12 Loss of Local Facilities

EN2A Landscape Protection and Enhancement

EN3 Carbon Reduction Plans

EN4 Flood Risk

EN8 Biodiversity Protection and Enhancement

EN11 Legally Protected and Priority Species

EN12 Woodlands, Trees and Hedgerows

HT1 Heart of Teignbridge – Movement

### T L P Policies - Proposed Submission 2020 – 2040

Teignbridge Local Plan 2020-2040 was published on 14 March 2024 and has been submitted for public examination. The National Planning Policy Framework sets out that decision-makers may give weight to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies, and their degree of consistency with policies in the National Planning Policy Framework.

The following emerging policies are considered relevant to the proposed development:

GP1: Sustainable Development

GP2: Development in Teignbridge

GP3: Settlement Limits and the Countryside

GP5: Neighbourhood Plans

CC1: Resilience

CC4: Sustainable Transport

DW2: Development Principles  
DW3: Design Standards  
EC1: Business Development  
EC3: Loss of Employment Sites  
EC6: New Tourist Accommodation and Attractions  
H12: Residential Amenity  
H14: Re-use and Conversion of Disused Buildings in the Countryside  
EN1: Setting of Settlements  
EN6: Flood Risk and Water Quality  
EN8: Light Pollution  
EN10: Biodiversity and Geodiversity  
EN12: Legally Protected and Priority Species  
EN15: South Hams SAC  
EN17: Heritage Assets

### **Bovey Tracey Neighbourhood Plan**

BPNP Policy H1

BPNP Policy H2

### **National Planning Policy Framework**

### **National Planning Guidance**

## **7. CONSULTEES**

- 7.1. **The following** consultation responses have been received (summarized below and can be read in full on the file):

**DCC Waste:** No Comments

**TDC Drainage Officer:** The majority of the application relates to the modification of the existing buildings and removal of existing impermeable areas for which we have no objection. Further detail to be conditioned to demonstrate that the underlying ground conditions are suitable for permeable parking and an appropriate design is provided taking this into consideration.

**Dartmoor National Park:** No Objection

Given the siting and nature of the proposed development, the character and appearance of the immediate landscape and views to, and from, Dartmoor, it is considered that the proposed holiday units would not be harmful to the setting of Dartmoor National Park. Request officer considers the cumulative effect of tourist accommodation on the moor.

**DCC Highways:** No Objection

The proposal makes use of an existing access from the B3387, which is subject to the national speed limit, for a single carriageway, of 60 mph. In reality, the width and geometry of the road are such that lower actual speeds are likely.

The visibility to the east of the access could benefit from some vegetation being cut back. There have been two “slight” personal injury collisions, to the east

between the site and Five Wyches Cross, reported to/by the police between 01/01/2019 and 31/12/2023.

The site previously operated as a residential home, which ceased trading in late 2022, and two private accommodations. The vehicle movements associated with this proposal are likely to be less than that of its extant use.

**TDC Biodiversity:** The site is within the Sustenance Zone of the South Hams SAC. The PEA found roosting bats and nesting birds used the main building and the building in the SW corner of the site. There was potential for other protected and priority species to be present on site and habitats of some biodiversity value were present. The report recommends a suite of measures to avoid/mitigate/compensate for harm to the habitats and present / potentially present species. Add conditions in line with the PEA, lighting conditions, and LEMP for BNG enhancements.

## **8. REPRESENTATIONS**

### **8.1. A site notice was erected at the site on 11.09.2024 and 47 neighbour notifications were sent out. 18 objections have been received, summarised as:**

- Ecology survey submitted is out of date
- Bats may be effected by the development and further survey work should be carried out in summer
- Holiday accommodation does not benefit the community
- More affordable housing is required
- More bed spaces for elderly and disabled people are required
- There is already camping, a hotel and holiday lets in close proximity
- Haytor Road is already busy and narrow and walking along the road is dangerous and there are pot holes
- The traffic in central Bovey is an issue and this will add extra traffic to it and cause accidents, damage to property and monuments.
- Site is at risk of being over developed as it would look to add more chalets.
- No management plan or company mentioned who will run the site, some structure will be required to run the site.
- There is a risk one person will rent it and have stag/hen parties or milestone events and be less considerate to the neighbours with no curfew in place for noise and loud music.
- Impact on privacy and peace of neighbours
- There is a problem with sewerage and drainage which has not been addressed from the previous application
- Residential dwellings would be preferable
- Having holiday lets rather than residential houses does not help the Teignbridge Plan for new homes.
- It does not tie in with Dartmoor National Park who want to reduce the development of tourism on the boundary of the National Park, the site is close to the park boundary.
- Only positive is it will improve the aesthetics of the site.
- If further development takes place following the approval for holiday lets, there will be more impact on the highway.

- If the intention is to sell the units to individuals as second homes, that does seem to be at variance with the council's own policy to introduce a 100%.
- Council tax premium for second homes from 2025, presumably to discourage such usage.
- Tracey House is not isolated as it is adjacent to other residential properties.
- Not convinced the length of time the care home was for sale – due to covid it is likely to be advertised for 18 months.
- Concerned they will be sold as second homes
- It appears certain fundamental principles and established legal standards may not have been fully adhered to, raising questions about the legitimacy of the outcome.
- Inaccuracies in flood risk assessment
- Doubt as to whether a section of land on which the property stands is included within the submitted plans
- There are purpose built holiday lets for sale within the vicinity
- There is a reduction of tourism in Devon and as such there is no requirement for more holiday lets
- There is a risk that these will sit empty for long periods of time
- Application form states 6 holiday units and planning statement states 7 holiday units
- Site is not empty as there are bins left out for collection, lights on in the premises and vehicles parked at the site.
- There are in excess of 100 holiday cottages of various styles/sizes within a few miles of this location
- There is a limited bus service, and no pavement or street lighting for pedestrians.
- Reduction in employment from loss of care home
- Barns close by have been converted into dwellings, therefore the previous pre-app response is questionable

## **9. BOVEY TRACEY TOWN COUNCIL'S COMMENTS**

- 9.1. To object to the application in accordance with Neighbourhood Development Plan objectives H01 and H02 as members did not wish to see the loss of key residential accommodation. The current application does not accord with Neighbourhood
- 9.2. Development Plan Objectives:
- 9.3. H01 (To make the parish a place where people of all ages who are unable to buy or rent on the open market and who have a local connection have priority access to affordable housing).
- 9.4. H02 To make the parish a place where elderly people with a strong local connection have priority access to housing that is suited to their needs).
- 9.5. After discussion (and further information from Teignbridge Planning Department), members agreed to expand on the previous objection. To object to the application in accordance with Neighbourhood Development Plan objectives H01 and H02.



- 9.6. The committee believe that permanent residential accommodation, rather than holiday accommodation would be more appropriate. Further, paragraph H14 of the emerging Teignbridge Local Plan supports the continuation of residential use of disused building in the countryside.
- 9.7. BPNP - H01 To make the parish a place where people of all ages who are unable to buy or rent on the open market and who have a local connection have priority access to affordable housing.
- 9.8. BPNP - H02 To make the parish a place where elderly people with a strong local connection have priority access to housing that is suited to their needs.
- 9.9. TDC Emerging LP – H14 Re-use and conversion of disused buildings in the countryside.

## **10. COMMUNITY INFRASTRUCTURE LEVY**

The proposed gross internal area is the same as the existing gross internal area in lawful use for a continuous period of at least six months within the three years immediately preceding this grant of planning permission. The CIL liability for this development is therefore zero.

## **11. ENVIRONMENTAL IMPACT ASSESSMENT**

Due to its scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA Development.

## **12. CARBON/CLIMATE IMPACT**

The proposal is for the reuse of an existing building and as such has less impact on the climate than a new build. A Sustainable Travel Plan will be conditioned in order to encourage holiday guests to arrive or travel around in means other than private motor cars; this should include Bike and car EV charging points.

## **13. HUMAN RIGHTS ACT**

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests/the Development Plan and Central Government Guidance.

## **Head of Development Management**

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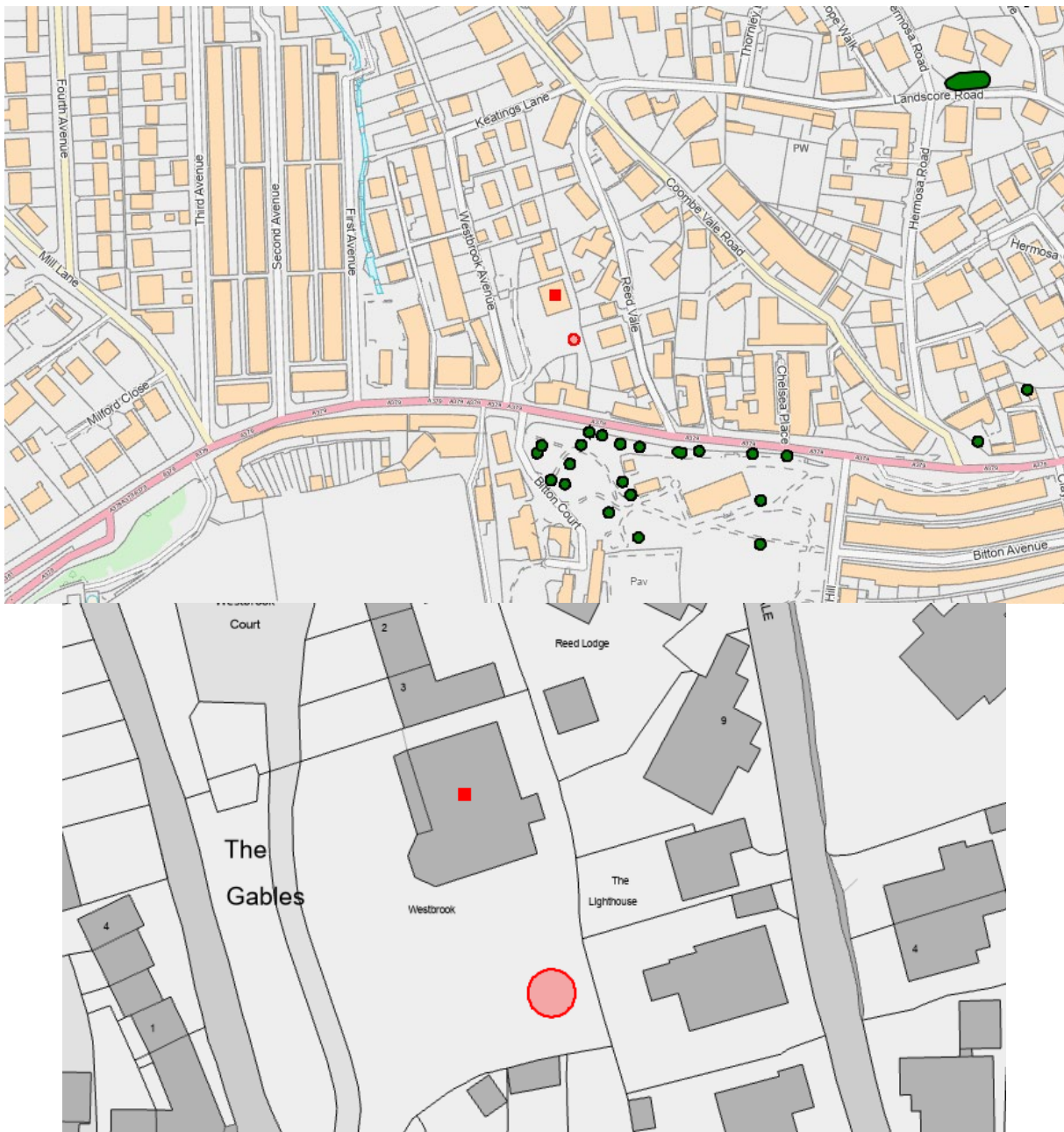
# PLANNING COMMITTEE REPORT

CHAIRMAN: Cllr Colin Parker



**SUBJECT:** The District of Teignbridge (Westbrook House, Westbrook Avenue, Teignmouth, TQ14 9EL) Tree Preservation Order 2024  
E2/28/70

**CASE OFFICER:**  
**WARD COUNCILLORS** Cllr Andy Henderson Teignmouth West



## RECOMMENDATION

### The Planning Committee is recommended to resolve that:

The District of Teignbridge (Westbrook House, Westbrook Avenue, Teignmouth, TQ14 9EL) Tree Preservation Order 2024 is confirmed unmodified.

#### 1. PURPOSE

The District of Teignbridge (Westbrook House, Westbrook Avenue, Teignmouth, TQ14 9EL) Tree Preservation Order 2024 protects a Cedar tree located within the garden of Westbrook House, Westbrook Avenue, Teignmouth, TQ14 9EL.

The provisional tree preservation order (TPO) was served on 13 November 2024 following advice that it was potentially under threat. The provisional protection will cease on 13 May 2025, if it is not confirmed.

#### 2. BACKGROUND

The Cedar is an individual tree which stands alone and is a prominent feature within the wider and immediate visual area. Westbrook House is a Listed Building, and the Cedar is a tie to its heritage and past.



Local Planning Authorities (LPAs) have a duty under Part VIII Section 197 of the Town and Country Planning Act 1990 (TCPA) to ensure the protection of trees by making TPOs where it is considered necessary. Section 198 of the TCPA states LPAs may make a TPO if it appears to them to be “expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area”.

Further guidance may be found in National Planning Policy Guidance “Tree Preservation Orders and trees in conservation areas”

### 3. REASON

The tree is highly visible and contributes to the visual amenity of the area. The loss of the tree would have a detrimental impact upon the visual amenity of the area. It is a medium sized tree of good form with a life expectancy of 40 – 100 years.

The tree has an amenity rating of 19. The suitable benchmark rating for inclusion within a tree preservation order is 15. See Appendix I

Due to the importance of the tree within the local landscape The District of Teignbridge (Westbrook House, Westbrook Avenue, Teignmouth, TQ14 9EL) Tree Preservation Order 2024 was made and served on 13 November 2024.

The owner of the tree supports the Tree Protection Order:

- The tree is a local landmark and a magnificent sight on the highest point overlooking the surrounding houses and partners the grand Bitton House and Park.
- There is a serious threat of the tree being damaged and branches removed.

One letter of objection has been received from a neighbouring property.

- The tree should be trimmed back to the boundary of Westbrook House and made safe before the order is passed permanently.
- Our requests to trim the branches on our side have been ignored.
- The tree is dangerous in its present condition, the huge branches violently sway, it is only a matter of time until they break and fall.
- Feel that they are prisoners in their own home and unable to use their garden.

### 4. SUSTAINABILITY IMPLICATIONS

Trees in urban areas are a vital component of a sustainable future, serving to absorb CO<sup>2</sup>, create oxygen and filter pollutants that exacerbate conditions such as eczema and asthma, as well as providing shade and screening and a softening of the built environment. Trees provide a sense of place, habitat for fauna and flora, as well as uplifting the spirits of many people.

### 5. FINANCIAL IMPLICATIONS

None

### 6. OPTIONS

The Planning Committee can decide to:

- Confirm the Tree Preservation Order unmodified
- Confirm the Tree Preservation Order in a modified form

## **TEIGNBRIDGE DISTRICT COUNCIL**

- Not to confirm the Tree Preservation Order

**Head of Development Management**

# TEIGNBRIDGE DISTRICT COUNCIL

## APPENDIX I

### AMENITY EVALUATION RATING FOR TPOs

TPO No:	E2/28/70	Site Visit Date:	6 November 2024
TPO Name:	The District of Teignbridge (Westbrook House, Westbrook Avenue, Teignmouth, TQ14 9EL) Tree Preservation Order 2024	Effective Date:	13 November 2024
Address	Westbrook House, Westbrook Avenue, Teignmouth, TQ14 9EL,	TPO Designation	Individual tree
Rating		Surveyed by:	Devon Tree Services
Reason for TPO	Under threat		

<b>1. <u>Size – height x spread</u></b> 1 very small 2-5m <sup>2</sup> 2 small 5-10m <sup>2</sup> 3 small 10-25 <sup>2</sup> 4 medium 25-50m <sup>2</sup> 5 medium 50-100m <sup>2</sup> 6 large 100-200m <sup>2</sup> 7 very large 200m <sup>2</sup> +	Score       6	<b>6. <u>Suitability to area</u></b> 1 Just suitable 2 Fairly suitable 3 Very suitable 4 Particularly suitable	Score       3
<b>2. <u>Life expectancy</u></b> 1 5-15 yrs 2 15-40 yrs 3 40-100yrs 4 100yrs +	Score    3	<b>7. <u>Future amenity value</u></b> 0 Potential already recognised 1 Some potential 2 Medium potential 3 High potential	Score    0
<b>3. <u>Form</u></b> -1 Trees which are of poor form 0 Trees of not very good form 1 Trees of average form 2 Trees of good form 3 Trees of especially good form	Score    2	<b>8. <u>Tree influence</u></b> -1 Significant 0 Slight 1 Insignificant	Score    0
<b>4. <u>Visibility</u></b> 1 Trees only seen with difficulty or by a very small number of people 2 Back garden trees, or trees slightly blocked by other features 3 Prominent trees in well frequented places	Score    2	<b>9. <u>Added factors</u></b> <i>If more than one factor relevant maximum score can still only be 2</i> 1 Screening unpleasant view 1 Relevant to the Local Plan 1 Historical association 1 Considerably good for wildlife 1 Veteran tree status	Score    1
<b>5. <u>Other trees in the area</u></b> 0.5 Wooded surrounding 1 Many 2 Some 3 Few 4 None	Score    2	<b>10. <u>Notes and total score</u></b> Reasonable for inclusion within the TPO The Cedar tree is a stand alone feature which is prominent within the wider and immediate visual area. Westbrook House is a listed building and the Cedar is a tie to its heritage and past. There are	

## TEIGNBRIDGE DISTRICT COUNCIL

		other trees on site which are also key visual features at the front of the property at the entrance.	
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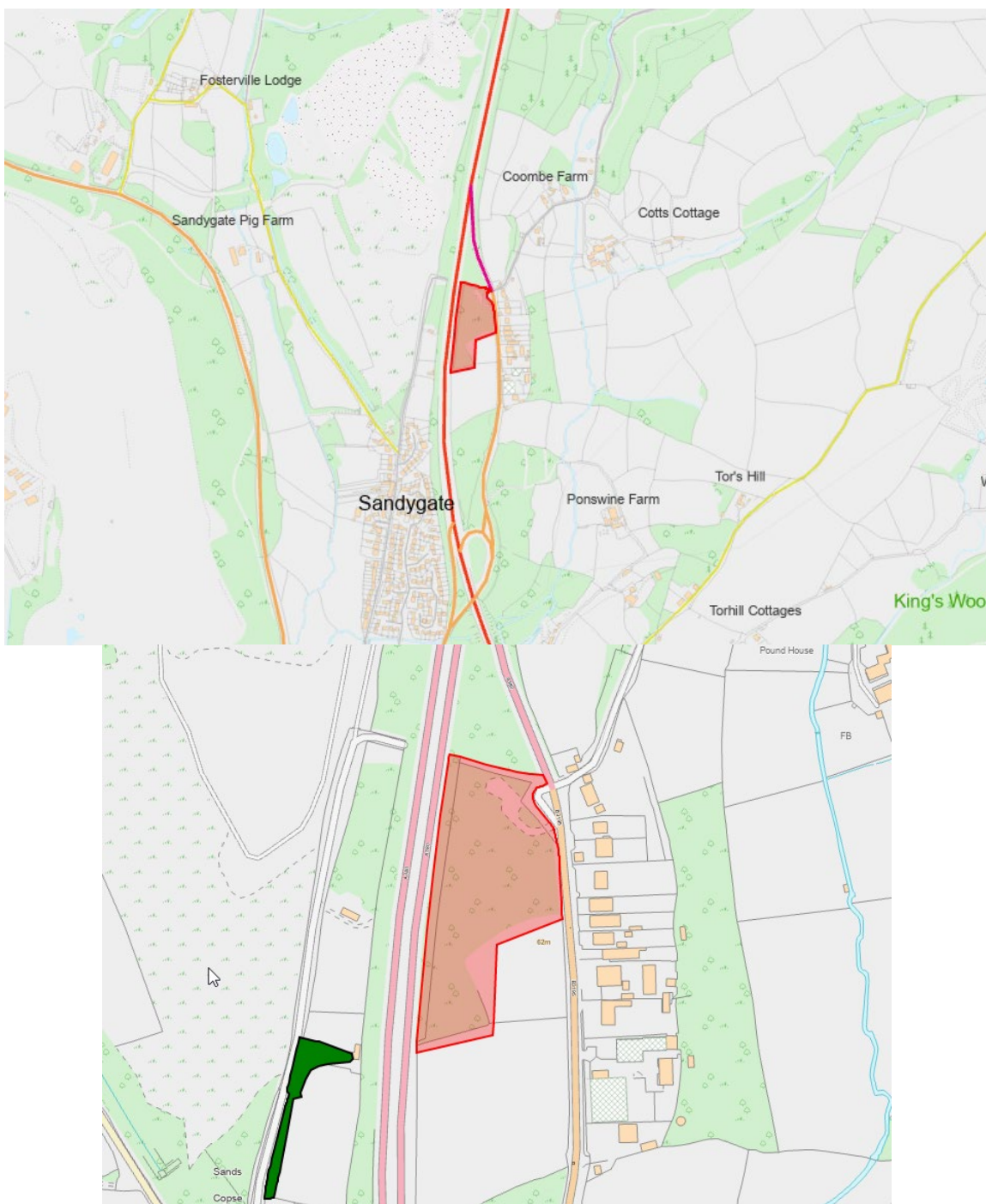
# PLANNING COMMITTEE REPORT

CHAIRMAN: Cllr Colin Parker



**SUBJECT:** The District of Teignbridge (Land at Combe Hill Cross, Ideford Combe) Tree Preservation Order 2025 E2/25/04

**CASE OFFICER:**  
**WARD COUNCILLORS** Cllr Keeley Gearon Kingsteignton East  
Cllr Ron Peart



## RECOMMENDATION

**The Planning Committee is recommended to resolve that:**

The District of Teignbridge (Land at Combe Hill Cross, Ideford Combe) Tree Preservation Order 2025 is confirmed unmodified.

### 1. PURPOSE

The District of Teignbridge (Land at Combe Hill Cross, Ideford Combe) Tree Preservation Order 2025 protects a woodland of trees located within Land at Combe Hill Cross, Ideford Combe.

The provisional tree preservation order (TPO) was served on 30 January 2025. The provisional protection will cease on 30 July 2025, if it is not confirmed.

### 2. BACKGROUND AND REASONS

A Planning Application was received for five store/workshop units reference 23/02120/FUL to be erected in a clearing which has been created in the woodland over a number of years.

The provisional TPO was made to protect trees potentially under threat of felling from development, and as one of the mitigation measures required by the Habitats Regulations Assessment (HRA) of the works proposed under the planning application.



### AMENITY

The trees contribute to the visual amenity of the area as viewed from the A380 and from Ideford Coombe. The trees alongside the clearing form a thin screen which will be more effective when they are in leaf. The woodland and tree/shrub lines here form foraging habitat and flyways for greater horseshoe bats of the South Hams SAC and provides habitat for other wildlife.

The trees have an amenity rating of 20.5. The suitable benchmark rating for inclusion within a tree preservation order is 15. See Appendix 1

Owing to the importance of the trees within the local landscape, The District of Teignbridge (Land at Combe Hill Cross, Ideford Combe) Tree Preservation Order 2025 was made and served on 30 January 2025.

Local Planning Authorities (LPAs) have a duty under Part VIII Section 197 of the Town and Country Planning Act 1990 (TCPA) to ensure the protection of trees by making TPOs where it is considered necessary. Section 198 of the TCPA states LPAs may make a TPO if it appears to them to be “expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area”.

Further guidance may be found in National Planning Policy Guidance “Tree Preservation Orders and trees in conservation areas.”

## **HABITAT MITIGATION**

A Habitat Regulations Assessment (HRA) was undertaken of the current development proposal because of potential impacts on greater horseshoe bats of the South Hams Special Area of Conservation (SAC); the application site is in the Sustenance Zone. A radio-tracking survey of bats from the Chudleigh SAC roost found that GH bats were foraging across this and adjacent woodland and using the site as part of a flyway to one of their few crossing points over the A380. Bat activity surveys submitted by the applicant showed that small numbers of GH bats (and other bats) are still using the site.

Section 16 of the HRA concluded that the proposal would be permissible, providing that various mitigation measures were secured. These included retention of the remaining woodland and tree strips around the site to avoid any continuing gradual loss of the bats’ woodland foraging habitat, and of the tree lines/woodland edges the bats follow to navigate the landscape to reach their A380 crossing point. See Appendix 2

The Tree Preservation Order was requested by the Biodiversity Officer and necessary to secure this and the HRA has identified that the TPO forms part of the mitigation measures required to make the development proposed under planning application 23/02120/FUL acceptable. Natural England have confirmed that they concur with the findings of the HRA.

Therefore, if the TPO is not confirmed, planning permission MUST be refused to comply with Section 63 of the Conservation of Habitats and Species Regulations 2017 (as amended).

## **4. OBJECTIONS**

16 letters of objection have been received; some are multiple letters from the same people.

**The objections are summarised as follows:**

- TPO is unnecessary. The owners of the land have sympathetically managed the woodland for many years ensuring the trees remain healthy and safe. Trees that have come to the end of their life are used as a source of firewood or stacked in habitat piles.
- The owners retirement plan includes using the woodland as their firewood source and there is no intention to clear the woodland.
- The habitat will deteriorate over time as a TPO will stop the management that currently takes place.
- The land was once an old quarry, with trees planted and felled with no care. It has naturally regenerated and the current owners now maintain it in a professional way.
- A Tree Preservation Order will hinder and restrict the management of the woodland.
- The land is flanked on one side by the A380 dual carriageway, therefore claiming changes to the woodland would affect the visual amenity of the area is absurd.
- The land has naturally regenerated with a mixture of self-seeded trees, primarily Oak, Silver Birch and Holly. Many remaining root bases of the felled trees have sprouted into multi-stemmed trees.
- There are overhead high voltage lines that cross the land which results in trees underneath them being removed to protect the lines. TPO would make this maintenance more difficult.
- An ecological survey with specific focus on bats and a belief that the woodland formed part of the Chudleigh Woods and Caves SAC and flightpath concluded that the woodland is not part of the flyway for the horseshoe bats. Based on the frequency of passes, it is concluded that the site is likely used by individual or very low numbers of each horseshoe species, of which their point of origin cannot be ascertained.
- The woodland is actively managed for the benefit of wildlife.
- The ecology report has made recommendations for future management, suggesting removal of Holly and other multi-stemmed trees to allow remaining trees more room to grow stronger.
- Natural England and Teignbridge Biodiversity Officer have no objection to the proposed building because of the strength of the proposed mitigation plan.
- The planning application has a Biodiversity Net Gain plan which includes the trees so they are already protected. A root protection plan will be in force during the build.

**Officer Comment:**

- As part of the planning application, the applicant submitted a tree report which proposed works to or removal of a number of identified trees around the clearing. Following confirmation of the TPO the applicant can apply for any necessary tree management works by submitting a works to protected trees application. A TPO does not mean that no works can be carried out.

- Natural England and the Biodiversity Officer are only “not objecting” to the planning application on the basis of a TPO being secured, as set out in the HRA. The Tree Preservation Order forms part of the mitigation plan (along with restricted lighting, operational hours and so on) and without it, the planning application would have to be refused because the HRA would conclude “there would be an adverse effect on the integrity of the South Hams SAC.

#### **4. SUSTAINABILITY IMPLICATIONS**

Trees in urban areas are a vital component of a sustainable future, serving to absorb CO<sup>2</sup>, create oxygen and filter pollutants that exacerbate conditions such as eczema and asthma, as well as providing shade and screening and a softening of the built environment. Trees provide a sense of place, habitat for fauna and flora, as well as uplifting the spirits of many people.

#### **5. FINANCIAL IMPLICATIONS**

None

#### **6. OPTIONS**

The Planning Committee can decide to:

- Confirm the Tree Preservation Order unmodified
- Confirm the Tree Preservation Order in a modified form
- Not to confirm the Tree Preservation Order

**Head of Development Management**

## APPENDIX 1

### AMENITY EVALUATION RATING FOR TPOs

TPO No:	E5/25/04	Site Visit Date:	23 January 2025
TPO Name:	The District of Teignbridge (Land at Coombe Hill Cross, Ideford Combe) Tree Preservation Area 2025	TPO Designation	Woodland – W1
Rating	20.5	Surveyed by:	Devon Tree Services as consultant for Teignbridge District Council
Reason for TPO	The trees contribute to the visual amenity of the area and form an important part of the South Hams Special Area of Conservation Bat Habitat. A planning application has been received which may result in the loss of the trees.		

<b>1. <u>Size – height x spread</u></b> 1 very small 2-5m <sup>2</sup> 2 small 5-10m <sup>2</sup> 3 small 10-25 <sup>2</sup> 4 medium 25-50m <sup>2</sup> 5 medium 50-100m <sup>2</sup> 6 large 100-200m <sup>2</sup> 7 very large 200m <sup>2</sup> +	score       7	<b>6. <u>Suitability to area</u></b> 1 Just suitable 2 Fairly suitable 3 Very suitable 4 Particularly suitable	score       3
<b>2. <u>Life expectancy</u></b> 1 5-15 yrs 2 15-40 yrs 3 40-100yrs 4 100yrs +	3	<b>7. <u>Future amenity value</u></b> 0 Potential already recognised 1 Some potential 2 Medium potential 3 High potential	0
<b>3. <u>Form</u></b> -1 Trees which are of poor form 0 Trees of not very good form 1 Trees of average form 2 Trees of good form 3 Trees of especially good form	2	<b>8. <u>Tree influence</u></b> -1 Significant 0 Slight 1 Insignificant	0
<b>4. <u>Visibility</u></b> 1 Trees only seen with difficulty or by a very small number of people 2 Back garden trees, or trees slightly blocked by other features 3 Prominent trees in well frequented places	3	<b>9. <u>Added factors</u></b> <i>If more than one factor relevant maximum score can still only be 2</i> <b>1 Screening unpleasant view</b> 1 Relevant to the Local Plan 1 Historical association <b>1 Considerably good for wildlife</b> 1 Veteran tree status	2
<b>5. <u>Other trees in the area</u></b> 0.5 Wooded surrounding 1 Many 2 Some 3 Few 4 None	.5	<b>10. <u>Notes and total score</u></b> Reasonable for inclusion within the TPO	<b>20.5</b>

## APPENDIX 2



# The Conservation of Habitats and Species Regulations 2017 (as amended)

## Stage 1: Habitats Regulations Assessment - Screening for Likely Significant Effect on a European site



### Part A: The proposal

1. Type of permission/activity:	Full planning application
2. Application reference no:	23/02120/FUL
3. Site address: Grid reference:	Combe Hill Cross, Ideford Combe, Devon, TQ12 3GR SX 87078 75687
4. Brief description of proposal:	<ul style="list-style-type: none"> <li>Type of development: Erection of 5 store/workshop units</li> <li>Distance/relation to European site: 3km from Chudleigh Caves and Woods roost, in the Sustenance Zone. In an area where, in 2002, SAC bats were radio-tracked foraging and commuting, including to access one of very few crossing points over the A380.</li> <li>Size - 3600m<sup>2</sup> building within a 0.37ha site.</li> <li>See Appendix 1 for Location Plan, Appendix 2 for Proposed Elevations and Appendix 3 for Location in Relation to SAC Features.</li> <li>Current land use – yard used by landscaping and tree works company.</li> <li>In 2010, the area was woodland. Since then, it has gradually been cleared to create the works yard and a building has been added (17/02278/FUL). See Appendix 4 for a series of aerial photographs. Since the most recent aerial photo, further tree clearance and land levelling has taken place and shipping containers have been added.</li> </ul>
5. European site name(s); component roost(s) affected.	South Hams SAC site code UK0012650, comprising: Berry Head SSSI Buckfastleigh Caves SSSI Bulkamore Iron Mine SSSI <b>Chudleigh Caves and Woods SSSI</b> Haytor and Smallacombe Iron Mines SSSI Higher Marks Barn SSSI
6. Qualifying Features and Conservation Objectives:  Ecological characteristics associated with the features (including those associated with the site, and information on general trends, issues or sensitivities associated with the features if available). Feature of concern highlighted.	H1230. Vegetated sea cliffs of the Atlantic and Baltic coasts H4030. European dry heaths H6210. Semi-natural dry grasslands and scrubland facies: on calcareous substrates ( <i>Festuco-Brometalia</i> ) H8310. Caves not open to the public H9180. <i>Tilio-Acerion</i> forests of slopes, screes and ravines; mixed woodland on base-rich soils associated with rocky slopes <b>S1304. <i>Rhinolophus ferrumequinum</i> Greater horseshoe bat</b>  <b>Conservation Objectives</b> (Natural England 30 June 2014): With regard to the SAC and the natural habitats and/or species for which the site has been designated (the 'Qualifying Features' listed below), and subject to natural change;  Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring; <ul style="list-style-type: none"> <li>The extent and distribution of qualifying natural habitats and habitats of qualifying species</li> <li>The structure and function (including typical species) of qualifying natural habitats</li> </ul>



- The structure and function of the habitats of qualifying species
- The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

These Conservation Objectives should be read in conjunction with the accompanying *Supplementary Advice* document (where available), which provides more detailed advice and information to enable the application and achievement of the Objectives set out above.

#### 7. Ecological survey Summary of effort and findings

Preliminary Ecological Appraisal and Roost Assessment, by Arbtech, dated 4 April 2024

Bat Static Monitoring Survey (incl 3 transects) June to September 2024, by Arbtech

#### **PEA April 2024**

The existing building is unsuitable for roosting bats, being a large, modern, industrial-style building of sheet metal construction. The shipping containers are also unsuitable as bat roosts. Only one tree with potential roost features were found and this is to be retained.

#### **Summer 2024**

Four static detectors were deployed, each for five consecutive nights in June, August and September.



Figure 1. Static detector deployment locations.

#### June 2024

Static 1 Northern treeline: 3 GHS calls over 2 nights

Static 2 Western treeline: 4 GHS calls over 1 night

Static 3 South Woodland entrance: no GHS calls

Static 4 East track by site entrance: 1 GHS call

#### August 2024

Static 1 Northern treeline: 1 GHS (greater horse shoe) calls

Static 2 Western treeline: 6 GHS calls over 3 nights

Static 3 South Woodland entrance: 2 GHS calls over 1 night

Static 4 East track by site entrance: no GHS calls

#### September 2024

Static 1 Northern treeline: 1 GHS call

Static 2 Western treeline: 1 GHS call

Static 3 South Woodland entrance: 3 GHS calls over 2 nights

Static 4 East track by site entrance: 1 GHS call

Three transects were undertaken, by 2 surveyors (for H & SW reasons), two vantage points were surveyed, night vision aids were deployed, (plus on two occasions a harp trap). The results were:

8 May 2024: One GHS call detected from Vantage Point 1 (eastern VP) “commuting west towards the northern edge of the site”.

23 July 2024: No GHS recorded

11 September 2024: No GHS recorded



Figure 2. Night-time bat walkover survey plan; showing transect route, stopping stations and vantage points.

In all a total of 10 species were recorded, including greater horseshoe, lesser horseshoe and barbastelle. Overall bat abundance was concluded to be ‘low’ from transects and ‘moderate’ from statics.

The Bat Survey Report Concludes:

“With regards to the Chudleigh Woods and Caves SAC and known flightpath, the survey data does not support the conclusion that the site currently forms part of a well-used flyway for horseshoe bats. Although some pipistrelle bats were observed coming into the site from the northeast, no bats were seen to use the dark lane [east of Vantage Point 1] as a commuting route. The one greater horseshoe call detected from the vantage point on survey one was picked up at the very end of the survey when the surveyor was heading back into the site from the east. As the bat was not observed, only detected, it cannot be concluded this horseshoe bat came from the northeast.

“With the limited amount of data and the infrequent and sporadic use of the site by horseshoe bats, activity patterns are difficult to quantify. Based purely on the frequency of passes, it is concluded that the site is likely used by individual or very low numbers of each horseshoe species, of which their point of origin cannot be ascertained. A large proportion of the calls were distant, indicating the bats were on the periphery of the static detector range, likely foraging or commuting within the wider surrounding woodland. No bats were observed using the island of trees in the centre of the site. All observed bat activity was around the woodland edges.

“Based on the data from the surveys the proposed development is not anticipated to have an impact on bats using the site or the surrounding woodland parcels. The site has been a working yard for many years with no external nighttime lighting. The location of the proposed unit does not conflict with any bat activity observed during the walkover surveys.”

**Part B: Screening assessment for Likely Significant Effect**

8. Is this application necessary to the management of the site for nature conservation?	<b>No</b>  If 'Yes' then go directly to the end of the form: permission may be granted.
9. Is the proposal considered 'minor development' as described in the South Hams SAC planning guidance?	<b>Yes</b>  To qualify as a 'minor development' the following (quoted from the 2019 South Hams SAC planning guidance) must apply: <b>4.2.5</b> In some circumstances it may be possible for the LPA and Natural England to agree to mitigation requirements without the need for a survey / full survey. Note that HRA will still be required. Circumstances may include: <ul style="list-style-type: none"> <li>• A minor development proposal where there is certainty (as evidenced by a competent ecological consultant) that impacts on greater horseshoe habitat can be avoided or are negligible.</li> <li>• A situation in which survey (or further survey) would not contribute further to the identification of impacts and avoidance/mitigation requirements.</li> <li>• A situation in which the LPA and Natural England agree that there is sufficient existing survey information for the site (see British Standard for Biodiversity BS2020 for more information).</li> </ul>
10. Are mitigation measures required?	<b>Yes</b> – in light of ruling April 2018 by the Court of Justice of the European Union on the interpretation of the Habitats Directive in the case of People Over Wind and Sweetman vs Coillte Teoranta, full Appropriate Assessment is required.

**Part C: Conclusion of Screening**

11. Is the proposal likely to have a significant effect 'alone' or 'in-combination' on a European site?	Teignbridge District Council concludes that there could be Likely Significant Effects, alone and/or in-combination with other plans or projects, on features associated with the South Hams SAC, <u>in the absence of mitigation.</u>  An Appropriate Assessment of the plan or proposal <b>IS</b> necessary.
Local Authority Officer: Date:	Mary Rush, Biodiversity Officer 23 December 2024

## Stage 2: Habitats Regulations Assessment – Appropriate Assessment



### Part D: Assessment of Impacts with and without Mitigation Measures

**NB:** In undertaking the appropriate assessment, the LPA must ascertain whether the project would adversely affect the integrity of the European site. The Precautionary Principle applies, so to be certain, the authority should be convinced that no reasonable scientific doubt remains as to the absence of such effects.

12. The identified ways in which the Qualifying Features of the European site could be affected by the proposal. Those considered relevant / those for which mitigation might be needed are highlighted.	i – Direct impact to a SAC/SSSI roost, or to another significant roost(s) ii – Loss or change in quality, structure or composition of foraging habitat <b>iii – Severance or disturbance of linear features used for navigating or commuting</b> <b>iv – Disturbance from new illumination causing bats to change their use of an area</b> v – Disturbance, loss or other impacts on mitigation land or features for SAC bats secured under a previous application <b>vi – Disturbance to and / or further constriction of an identified pinch point</b> vii – Other – e.g. physical injury by wind turbines or vehicle collision viii – In combination impacts
--	--

### 13. Consideration of Mitigating Factors / Mitigation Measure Offered

Consider construction and operational stages

i) Avoiding the risk of impact to a SAC/SSSI roost, or to another significant roost(s):

a) Area affected is far from a designated roost or other known significant roost.

ii) Avoiding the risk of loss or change in quality, structure or composition of foraging habitat:

a) Radio-tracking of Chudleigh Caves GH bats recorded GH bats foraging across the site in 2002 as shown by the brown overlay below (see also Appendix 3). As GH bats are very long-lived and learn foraging areas and flyways from their mothers, this data is not considered out of date where the habitat and connectivity remain.



b) An area of around 0.37ha has been cleared of woodland over several years since 2010 (ie subsequent to the radio-tracking). No planning permission was requested/required and the felling could have been undertaken under quarterly felling allowances. The trees appear to have all been felled right up to the northern and western ownership boundaries, in the vicinity of the proposed building.

c) The area is now mostly bare ground plus a building and shipping containers and offers minimal prey-generation/ foraging potential for GH Bats.

d) However, the site is still surrounded by broadleaved woodland, so foraging along woodland edges and tracks would be possible, feeding on prey generated within the woodland.



- e) No further felling of woodland/habitat removal is proposed under the current application. However, the applicant may continue to fell trees within the other woodland they own, in the blue line area to the south of the application site, or to the east up to the B3195.
- f) To retain the remaining woodland as foraging habitat (and flyway features), a woodland Tree Preservation Order (TPO) should be made covering all the remaining trees, shrubs, saplings, etc, within the red and blue line land, except under the power line.

iii) Avoiding the risk of severance or disturbance of linear features used for navigating or commuting:

- a) Radio-tracking of Chudleigh Caves GH bats recorded a flyway across the northern end of the site, via which GH bats were crossing the A380 between the 'dark lane' to the NE of the site and foraging habitat to the SW, on the west side of the dual carriageway (see brown shading on aerial phot above and Appendix 3). The nearest alternative crossing points recorded were 450m to the north and 870m to the south.
- b) The 2024 on-site bat static surveys recorded:
  - o 5 GHB passes over 15 nights recording on the northern static (average 1 every 3 nights),
  - o 11 GHB passes over 15 nights recording on the western static (average nearly 1 per night),
  - o 5 GHB passes over 15 nights recording on the southern static (average 1 every 3 nights),
  - o 2 GHB passes over 15 nights recording on the eastern static (average less than 1 every 7 nights),
- c) The 2024 data indicate that the western boundary is the best used by GH bats, with the eastern location the least used.
- d) As concluded by the bat surveyors this is not a high level of use, but shows that GH bats are still using the site to some extent. The radio-tracking did not quantify numbers of GH bats or bat passes using the site, so it is not known how these numbers compare with 2002 before the clearing was created.
- e) To maintain the current levels of GH (and other) bat use, the current levels of tree cover (flyway features) along the site boundaries should be retained.
- f) The 15 March version of the Tree Report says "Trees that have been removed along the bank of the western boundary adjacent to the A380 and include 6 holly <6 inches, 4 Hazel stools. 6 Silver birches <8 inches two of which appeared to have been dead and 2 oak <8 inches." The 5 April version of the Tree Report indicates that few if any trees/shrubs now remain along the western boundary in the vicinity of the proposed units (currently 3 shipping containers on an area of recently raised ground).



- g) N ←
- h) A photo in the 5 April version of the Tree Report (see below) shows that only a very thin line of small trees remains between one corner of a shipping container and the A380. This leaves little in the way of a light screen between the western bat flyway and car headlights. However, planting up of the gap to create a thicker light screen would narrow the width of the flyway corridor.



- i)
- j) The 5 April Tree Report also includes the following map and associated tree condition assessment, of trees on the A380 verge, which are outside the application red line boundary and the blue line ownership boundary (see Appendix 1). Presumably these trees belong to the Highways Authority (HA). One of these trees, T58, is recommended for removal, and others are recommended for monitoring. It is not clear whether the applicant provided this information for the Local Planning Authority's information, the HA's information, or because he intends to undertake the removal/monitoring or whether there is confusion over the ownership boundary.



W←

- k) The Preliminary Ecological Appraisal (PEA) says:
- "The installation of a replacement steel fence behind the proposed building will prevent encroachment into the vegetation along highway verge from construction." (page 13);
  - "Best practice measures to minimise the possibility of pollution affecting the nearby deciduous woodland must be implemented during construction. A Construction Environment Management Plan (CEMP) may be required for this." (page 13); and

<ul style="list-style-type: none"> <li>o "The woodland habitat on the north and south boundaries and the island of oaks in the centre of the site will be retained. The existing wooded area at the entrance to the east from the B3195 will not be impacted. The trees along the highway verge to the west are not under the management of the site and will be retained. Given there will be no reduction in woodland habitat from the proposed development, the impact on foraging and commuting bats is considered to be low." (page 20).</li> <li>l) These measures should all be secured, by making the PEA an approved document and/or by condition.</li> <li>m) A condition or informative should also be applied to prevent any [further] tree/shrub removal between the red line boundary and the A380 carriageway.</li> <li>n) To ensure that the woodland cover is secured into the future, a woodland TPO should be applied to all the remaining woodland, except under the power line.</li> </ul>
<p>iv) Avoiding the risk of disturbance from <u>new illumination</u> causing bats to change their use of an area:</p> <ul style="list-style-type: none"> <li>a) Light levels above 0.5 lux shining on or near flyways will discourage greater horseshoe bats from using them. GHBs tend to fly within 5m of the landscape feature they are following and up to a height of about 2m. They find light around the blue end of the spectrum particularly off-putting, preferring colour temperatures of 2,700 Kelvin or lower.</li> <li>b) It is not known what, if any lighting is currently used on site.</li> <li>c) PEA (page 13) says: "The business is operational during daytime hours only with the site closed at 5pm. As such, there is no impact on the use of the site by nocturnal fauna species."</li> <li>d) The PEA page 20 says: "The proposed industrial unit has no windows on the north, west or south elevations which face areas of woodland habitat which may be used by bats. As such, the dark corridor to the west of the new building will be retained. The east elevation has a total of 5 windows. The use of the site will be limited to daytime hours only. As such, the site will be left dark during activity periods for bats. The height of the proposed building falls in-line with the existing building within the site. The plans of the proposed industrial unit do not show any external lighting scheme at present. The addition of external security lighting may deter bats from using the site."</li> <li>e) There are skylights on the existing building. No skylights are shown on the proposed elevations or block plan.</li> <li>f) The limiting of windows to the eastern elevation only is welcomed. A condition should be applied to prevent future installation of larger or additional skylights/windows on any elevation, without LPA approval.</li> <li>g) A condition should be applied to limit use of the units to 'normal' working hours.</li> <li>h) Conditions should be applied to control lighting during construction and external lighting during the operational period.</li> </ul>
<p>v) Avoiding the risk of disturbance to or loss of land or features as have been secured as <u>mitigation measures</u> for South Hams SAC bats under any previous planning applications or projects:</p> <ul style="list-style-type: none"> <li>a) Previously identified mitigation land and / or features are <u>not</u> affected by this plan or project.</li> </ul>
<p>vi) Avoiding the risk of compromising or further constricting identified <u>pinch points</u>:</p> <ul style="list-style-type: none"> <li>a) The site could be regarded as a pinch point, which feeds into/out of the radio-tracked crossing point over the A380 dual carriageway.</li> <li>b) The mitigation measures identified above will serve to protect the pinch point.</li> </ul>
<p>vii) <u>Other</u> - physical injury by wind turbines or vehicle collision, etc.:</p> <ul style="list-style-type: none"> <li>a) No wind turbine is proposed.</li> <li>b) As the site is small, vehicles are unlikely to be moving at high speed within the site</li> <li>c) No other potential impacts were identified.</li> </ul>
<p><b>Part E. In-combination impacts</b></p>
<p>14. Is the proposal likely to have adverse impacts on the integrity of the South Hams SAC 'in combination' with other plans or projects?</p>



Unmitigated, this proposal could have in combination impacts with other plans and projects, for instance, industrial development currently underway at 22/02325/MAJ (KS1 Sands Copse). However, mitigation measures required for this application and 22/02325/MAJ should avoid in-combination issues.

## Part F. Conclusion

Teignbridge District Council concludes that there would **not** be an adverse effect on the integrity of the South Hams SAC, either 'alone' or 'in-combination', provided the proposal is delivered in accordance with the proposed mitigation measures listed in 16 below.

### 16. List of mitigation measures and safeguards to be covered by planning obligations (conditions or S106)

The Preliminary Ecological Appraisal (PEA) to be named as an Approved Document

To retain the remaining woodland as foraging habitat (and flyway features), and to ensure that woodland cover is secured into the future, a Woodland Tree Preservation Order (TPO) should be made covering all the remaining trees, shrubs, saplings, etc, within the red and blue line land, except under the power line.

Conditions required:

Prior to commencement of works, details including a location map, shall be submitted to and approved by the LPA, showing permanent fences to be erected:

- along the western red line site boundary, to protect the trees and shrubs of the A380 road verge, together with their root zone, both during works and for the duration of use of the site;
- along the northern boundary, either at the top of the slope, along the red line site boundary, or at the base of the slope;
- along the northern edge of the southern area of woodland; and
- along the inner edge of the eastern trees.

The fences shall be standard stock fences or similar, except for the western fence which may be stock fence, palisade or security mesh.

The fences shall be retained and maintained thereafter.

REASON: to protect habitat used as flyways and other habitat by SAC bats and other species and to protect the landscape/light screen function of the eastern trees.

No development shall be carried out unless a Construction Management Plan has been first submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall specify details of:

- Additional Tree and Hedge Root Protection Zone fencing to be established before commencement, including any further site clearance. The fencing shall be in accordance with Figure 2 of BS 5837 2012, or of a permanent construction agreed with the LPA. The fences shall be maintained until all development has been completed.
- best practice measures to be implemented during construction to minimise the possibility of pollution affecting the nearby deciduous woodland;
- measures to be undertaken to avoid harm to protected species during works;
- measures to prevent animals becoming trapped in excavations or pipes during works;
- the hours of demolition/construction works (including hours of site deliveries, parking of vehicles of site operatives and visitors);
- loading and unloading of plant and machinery;
- facilities for the storage of plant, machinery and materials used in the construction of the development;
- the erection and maintenance of security hoardings;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction;
- a scheme for the recycling/disposal of waste resulting from the [demolition/construction works]

The development shall be carried out in strict accordance with the approved details.

REASON: For the benefit of legally protected and priority species and priority habitats and in the interests of local amenity.



No skylights, windows or glazed doors shall be installed on the south, west or north elevations now or at any time in the future. No additional or enlarged skylights, windows or glazed doors shall be installed on the eastern elevation, without the written approval of the LPA.

REASON: For the benefit of light-averse SAC bats.

Use of the units shall not take place other than between the following hours of 08:00 to 18:00 Mondays to Fridays, 08:00 to 16:00 Saturdays and not at all on Sundays or Bank Holidays.

REASON: For the benefit of light-averse SAC bats.

Works shall commence at least 30 minutes after sunrise and cease at least 30 minutes before sunset each day during the active season of bats (i.e., from April to October inclusive). No lighting shall be left on over-night during the construction phase. Any works compounds lighting to be PIR activated security lighting only, on short timers (1 minute maximum), directed away from hedges, trees and other dark corridors.

REASON: To permit continued use of the site by light-averse SAC bats.

Notwithstanding Section 55(2) of the Town and Country Planning Act 1990 and/or the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), no external lighting shall be installed on, or in association with, the new building, except for low-lumen, LED, PIR motion-activated lights on a short timer (maximum 1 minute), sensitive to large objects only (to avoid triggering by bats or other wildlife). Any such lights shall be mounted in association with main doors only, at a height no greater than 1.9m from ground level, directed and shielded downward and away from woodland edged, hedges, trees, shrubs and any bat roosts. The lights shall produce only narrow spectrum, low-intensity light output, UV-free, with a warm colour-temperature (2,700K or less) and a wavelength of 550nm or more.

REASON: For the benefit of light-averse SAC bats.

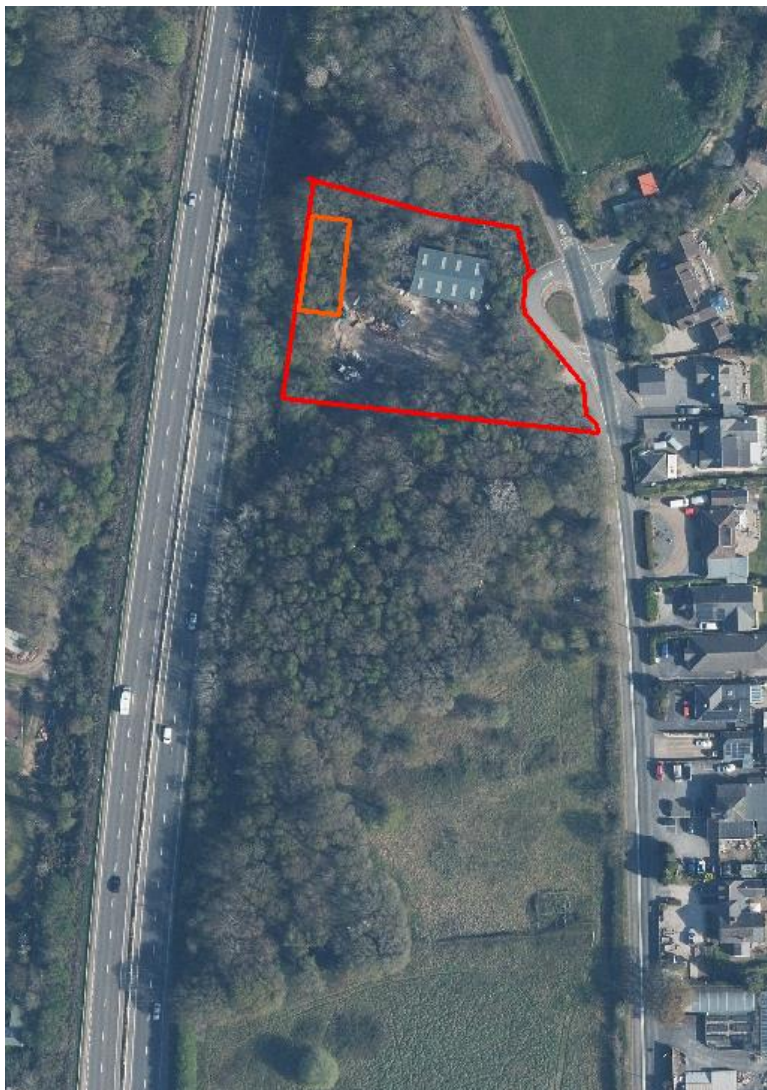
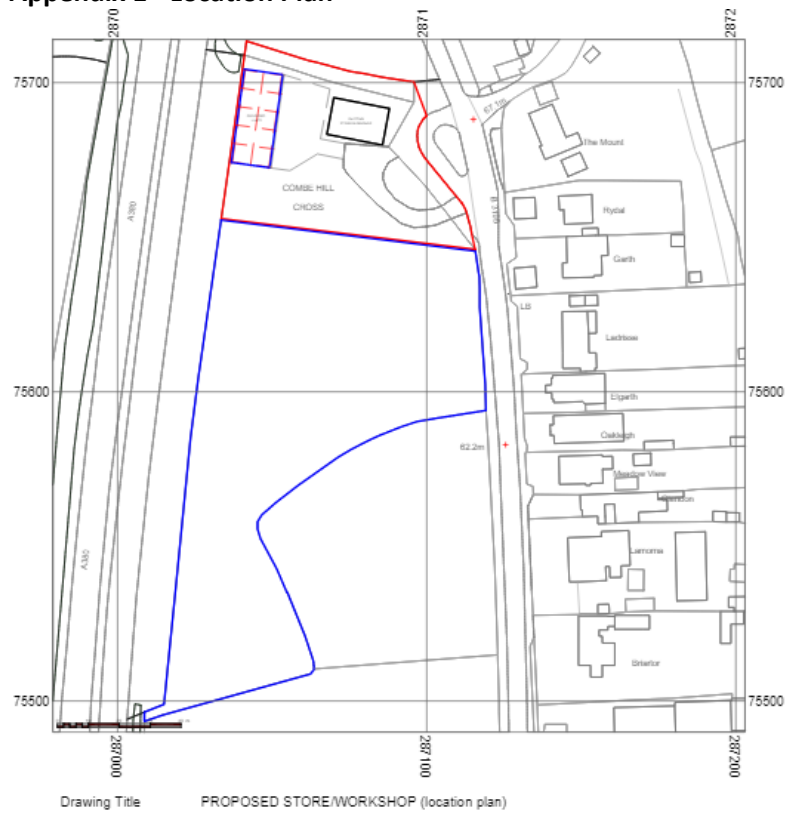
A condition or informative should also be applied to prevent any [further] tree/shrub removal between the red line boundary and the A380 carriageway.

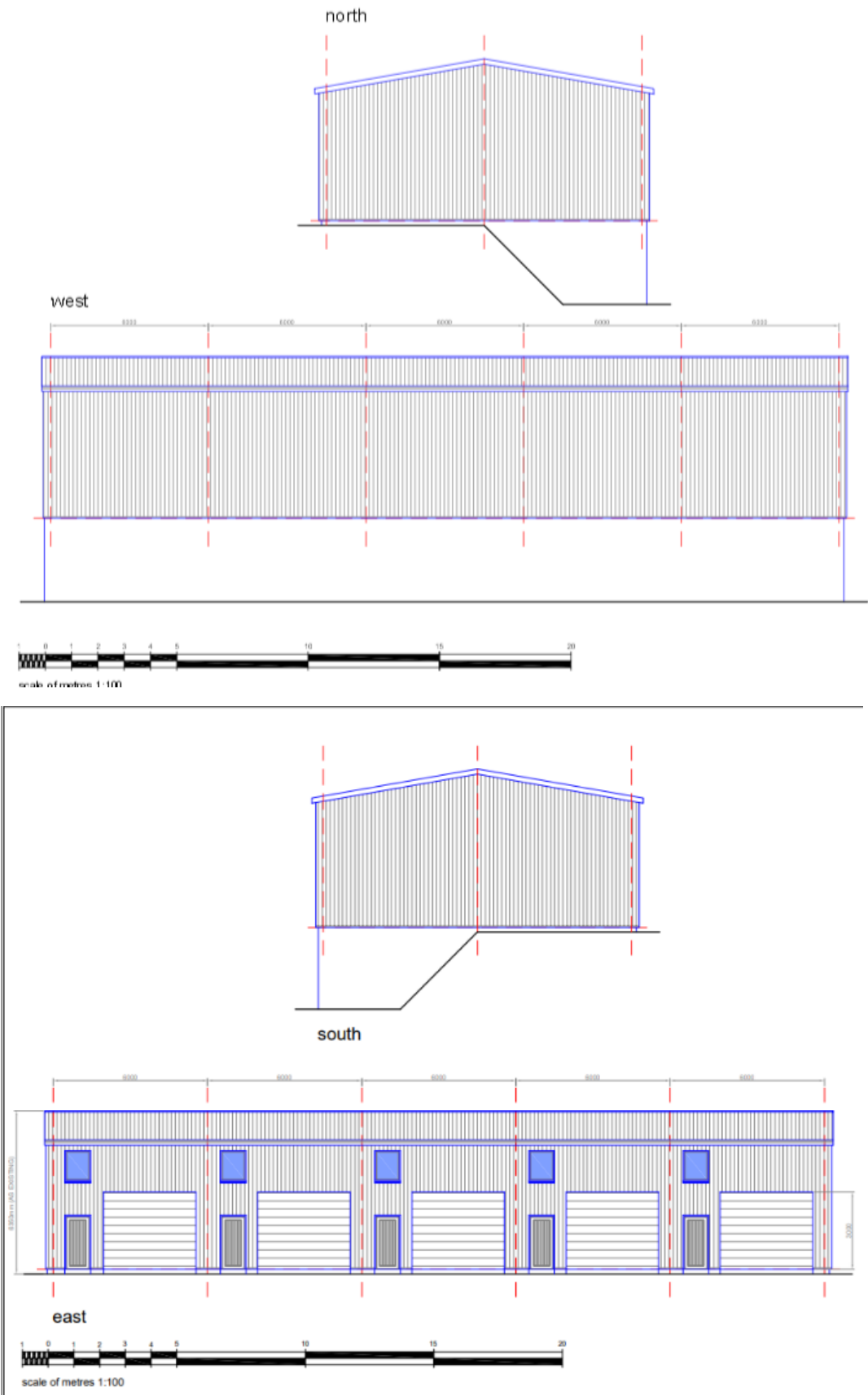
Local Authority Officer:	Mary Rush, Biodiversity Officer
Date:	23 December 2024

#### Appendices

Appendix 1 - Location Plan  
 Appendix 2 – Proposed Elevations  
 Appendix 3 - Location in Relation to South Hams SAC Features  
 Appendix 4 – Aerial Photos  
 Appendix 5 – Habitat Survey Map

**Appendix 1 - Location Plan**





### Appendix 3 - Location in Relation to South Hams SAC Features

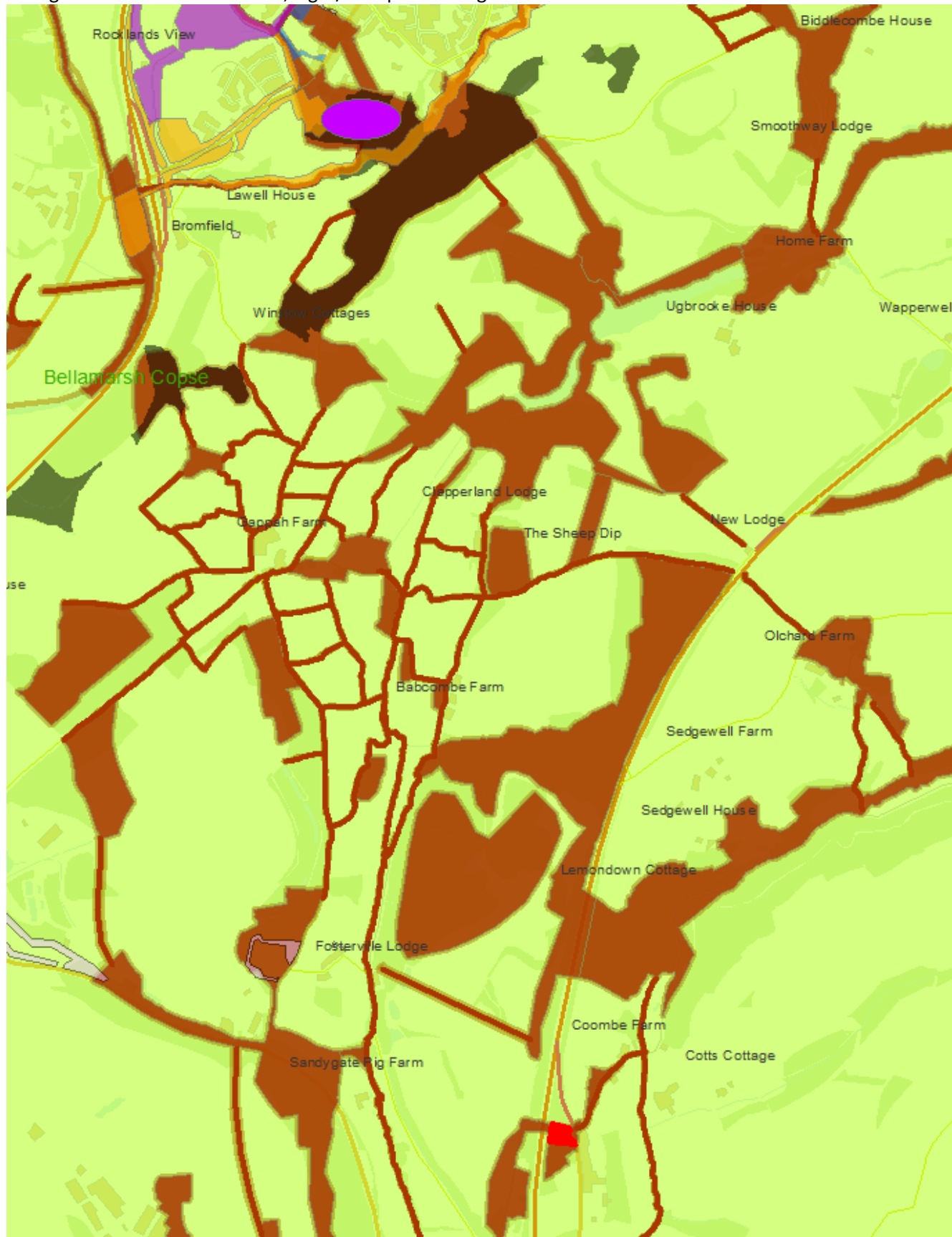
Red = site

Dark brown/dark green = SAC (Chudleigh Caves and Woods SSSI component)

Purple oval = location of SAC roost caves

Light brown = radio-tracked flyways and foraging areas

Orange and blue = 'Pinch Points', light/dark pink = mitigation measures



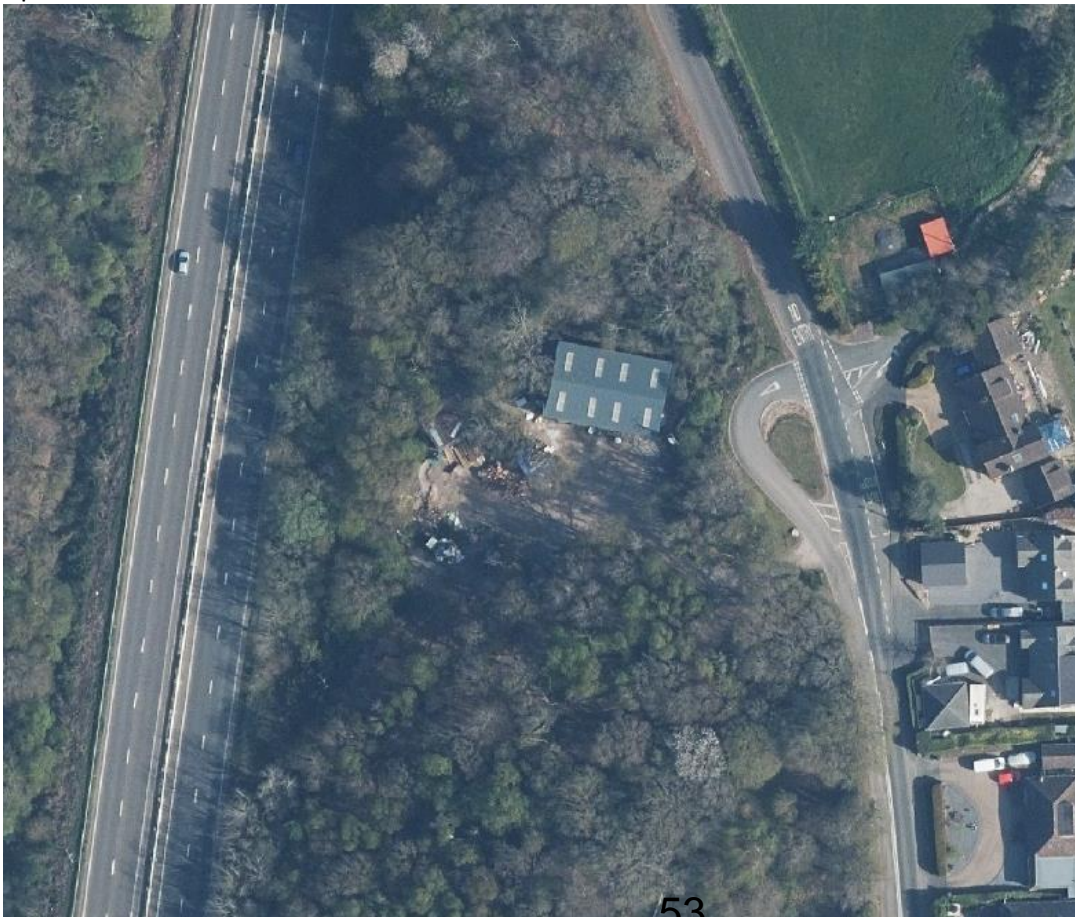


#### Appendix 4 – Aerial Photos

Recent Google Maps (Image dated 2025)



April 2021





2018



2014-15



2010





## Appendix 5 – Habitat Survey Map



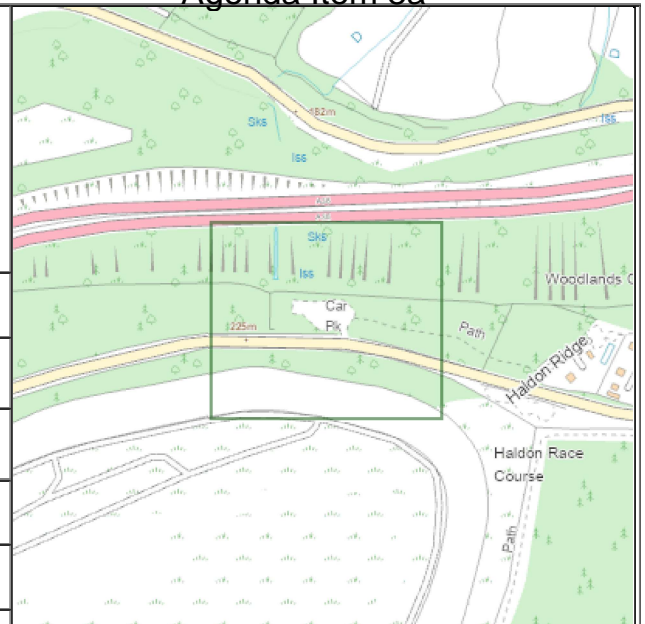
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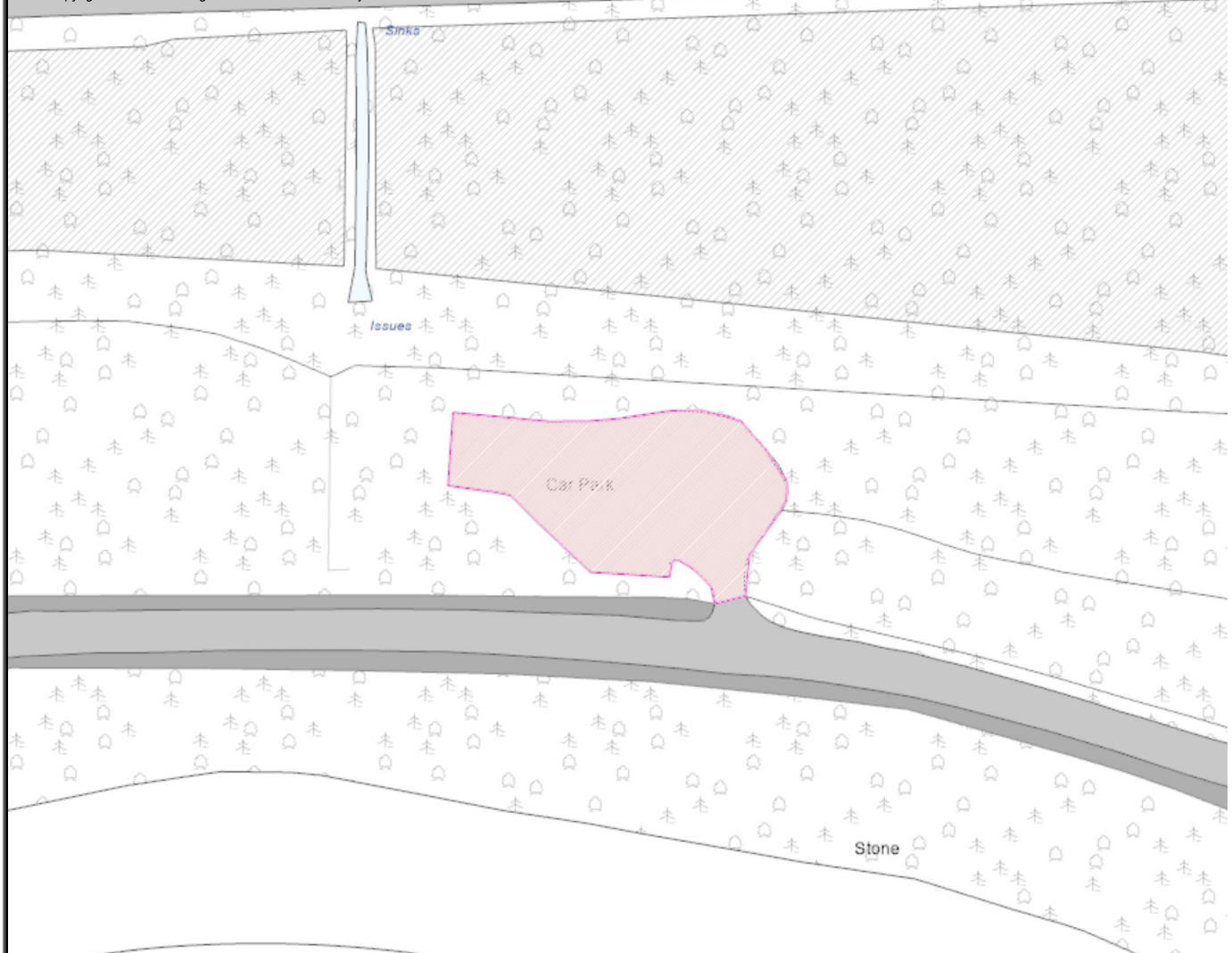
**Planning Committee Enforcement Report**

**Cllr Colin Parker**

<b>Date</b>	15 April 2025
<b>Case Officer</b>	Steven Hobbs
<b>Location</b>	Land North Of Haldon Race Course NGR 290438 83916 Kennford
<b>Nature</b>	Unauthorised residential use of land
<b>Ward</b>	Kenn Valley
<b>Member(s)</b>	Cllr Kevin Lake, Cllr Charles Nuttall, Cllr John Parrott
<b>Reference</b>	24/00045/ENF



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**1. REASON FOR COMMITTEE CONSIDERATION**

Unauthorised change of use of the land from a forestry use to a mixed use of forestry and the siting of residential mobile homes.

**2. THE ALLEGED BREACH OF PLANNING CONTROL AND ENFORCEMENT INVESTIGATION FINDINGS**

- 2.1 The land is part of Haldon Forest and is situated between Exeter Racecourse and the A38 Devon Expressway. The site was formerly used as a car park. The key facts in this case are as follows:

Approximately 15 caravans were sited on the land when viewed on 17 December 2024. The caravans appear to be in residential use.

No planning permission has been granted for the change of use of the land to site residential caravans and/or any associated residential or other activities and uses associated with the residential use of the land.

In order to remedy the planning breach formal enforcement action is required.

**3. BACKGROUND AND CONTEXT**

- 3.1 In January 2025 an enforcement Report was placed before the Planning Committee relating to the unauthorised change of use of the land from a forestry use to a mixed use of forestry and the siting of residential mobile homes. A copy of the report is set out at the end of this report.
- 3.2 The report set out the reasons for taking enforcement action which were due to the untidiness of the site which has a detrimental impact on the surrounding area and at the time it had not been proven that various ecological issues had been addressed. At the time there was also reference to a revised planning application (reference 24/01962/FUL) had been submitted for the change of use of land to traveller site for a temporary period of 3 years.
- 3.3 At the Committee it was resolved to take enforcement action to cease using the land for the siting of caravans for residential purposes and remove the caravans and any other items associated with the unauthorised residential use from the land.
- 3.4 Since the Committee the planning application (reference 24/01962/FUL) for the change of use of land to traveller site for a temporary period of 3 years has been refused. The application was refused on 14 February 2025 for the following reason:

1. *It has not been demonstrated that the proposal would be served by an adequate foul drainage system, contrary to Policy EN4 of the Teignbridge Local Plan 2013 – 2033, Policy EN6 of the emerging Teignbridge Local Plan and National Planning Practice Guidance.*

## TEIGNBRIDGE DISTRICT COUNCIL

- 3.5 Although it has been proven the ecological issues have been addressed it is still noted that the site remains untidy and there are drainage issues that need to be resolved. Drainage did not form part of the reasons for authorisation of enforcement action previously but given this formed a reason for refusal of the recent planning application Members need to be aware and still allow for action to be taken but for the amended reasons.
- 3.6 As explained in the original report the appearance of the site is very untidy and there is little (if any) visual indication that the current use is as an organised residential caravan site. In addition, the site is quite open and noticeable from the public highway and this has been increased due to the removal of some trees near the site entrance. As such it is a lot more visible and has a detrimental impact on the surrounding area. This is because, due to the location of the site within designated open countryside, the change of use of the land for the siting of residential caravan is inappropriate for the area and fails to conserve and enhance the qualities, character and distinctiveness of the locality. This is due to the number of caravans that are set out in an unorganised layout within such a small area of land, together with various piles of scrap metal, sheets of tarpaulin and other items and paraphernalia scattered across the land to create a generally untidy site.
- 3.8 As such the current set up is still contrary to Policies of both the adopted Local Plan and the emerging Local Plan that aim to ensure development is of a good design and respects the character and appearance of the surrounding area. Clarification of said adopted and emerging Local Plan Policies are set out below.

## 4. PLANNING CONSIDERATIONS FOR ENFORCEMENT ACTION

- 4.1 Although the caravans have been sited on the land for approximately two years, there is no evidence provided that suggests they have been sited on the land, and said land used for residential purposes, for the necessary ten years to become established.
- 4.2 In this instance the current appearance of the site is still considered to have a detrimental impact on the area for the reasons set out in the original report, and it has not been demonstrated that the proposal would be served by an adequate foul drainage system. As such, the stationing of the caravans on the land are considered contrary to Policies S1, S2, S22, and EN4 of the Teignbridge Local Plan 2013 – 2033 and Policies EN4 and EN6 of the emerging Teignbridge Local Plan 2020-2040
- 4.4 The Policies of this District Council's Local Plan reflect the Core Principles as set out under the Government's National Planning Policy Framework (NPPF) and the National Planning Practise Guidance which has an emphasis on sustainable development and focusing new residential development into settlements and other sustainable locations. It is considered that in this instance the unauthorised use fails to uphold these principles, particularly those in paragraph 135 of the NPPF for the reasons as set out above.

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- 4.5 Officers consider enforcement action is necessary, expedient and in the public interest to secure cessation of the unauthorised use and the removal from the land of the unauthorised caravans and any other items associated with the residential use of the land, including storage of materials and other paraphernalia in order to support and maintain the delivery of the Strategy of the District Council's Local Plan to avoid the inappropriate siting of residential uses in the countryside without good reason and to maintain wider principles of sustainability and good design whilst protecting the character and appearance of the area.

## **5. RECOMMENDATIONS**

The Committee is recommended to resolve that an Enforcement Notice be issued under Section 172 of the Town and Country Planning Act 1990 to:

- i) Cease using the land for the siting of caravans for residential purposes, and,
- ii) Remove the caravans and any other items associated with the unauthorised residential use from the land.

The compliance period is recommended to be six months.

In the event of the Notice not being complied with, the Solicitor be authorised to take further action as necessary under Section 179 of the Act.

## **6. HUMAN RIGHTS ACT**

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

## APPENDIX

### Copy of Enforcement Report placed before the Planning Committee on 21 January 2025.

#### 1. REASON FOR COMMITTEE CONSIDERATION

Unauthorised change of use of the land from a forestry use to a mixed use of forestry and the siting of residential mobile homes.

#### 2. THE ALLEGED BREACH OF PLANNING CONTROL AND ENFORCEMENT INVESTIGATION FINDINGS

- 2.1 The land is part of Haldon Forest and is situated between Exeter Racecourse and the A38 Devon Expressway. The site was formerly used as a car park. The key facts in this case are as follows:

Approximately 15 caravans were sited on the land when viewed on 17 December 2024. The caravans appear to be in residential use.

No planning permission has been granted for the change of use of the land to site residential caravans and/or any associated residential or other activities and uses associated with the residential use of the land.

In order to remedy the planning breach formal enforcement action is required.

#### 3. BACKGROUND AND CONTEXT

- 3.1 In January 2023 a planning application (reference 22/02044/FUL) was validated for the change of use of land north of Haldon Racecourse to a traveller site comprising of 5 pitches. The application was subsequently refused on 17 April 2023 for the following reasons:
2. *The application fails to provide sufficient information in terms of availability of alternative accommodation for the applicant or any personal circumstances. The conflict with Development Plan policies and material considerations is therefore not outweighed, as per the allowances of Policy H of the Planning Policy for Traveller Sites.*
  3. *The use of the land for a Traveller site would result in the loss of a community facility, but the loss is not justified. The proposal is therefore in conflict with Local Plan policy WE12, as well as paragraph 93 of the NPPF.*
  4. *The site is located within a sensitive ecological setting. This includes being within the Landscape Connectivity Zone of the South Hams SAC (designated for greater horseshoe bats); Haldon Forest SSSI is nearby; it is within Haldon Forest Important Bird Area; Haldon Racecourse heathland County Wildlife Site is nearby; and a Regionally Important Geological Site is to the north.*

*The application is not accompanied by an Ecological Impact Assessment. This makes it impossible for the Local Planning Authority to understand the baseline position and any impacts arising from the proposal, nor how avoidance, mitigation, compensation and enhancement measures could be secured.*

*The application site is located within 10km of the Exe Estuary SPA and Dawlish Warren SAC and is therefore subject to the requirements of the 2017 Conservation of Habitat and Species Regulations. To mitigate the impacts arising from the net gain in overnight accommodation that would arise from the proposed development, a financial contribution is required. No contribution has been provided and the applicant has not provided a legal agreement committing to any contribution, such that adverse impacts on features necessary to maintain the integrity of the Exe Estuary SPA and Ramsar site and the Dawlish Warren SAC cannot be ruled out.*

*The proposal therefore conflicted with Local Plan policies WE6 (part f), EN8, EN9, EN10 and EN11, as well as paragraph 174(a) and 180 of the NPPF.*

- 3.2 In July 2024 a further planning application (reference 24/01182/FUL) for the change of use of land to traveller site comprising 5 pitches was refused on 16 September 2024 for the following reason:

*The site is located within a sensitive ecological setting. This includes being within the Landscape Connectivity Zone of the South Hams SAC (designated for greater horseshoe bats); Haldon Forest SSSI is nearby; it is within Haldon Forest Important Bird Area; Haldon Racecourse heathland County Wildlife Site is nearby; and a Regionally Important Geological Site is to the north.*

*The application is not accompanied by an Ecological Impact Assessment. This makes it impossible for the Local Planning Authority to understand the baseline position and any impacts arising from the proposal, nor how avoidance, mitigation, compensation and enhancement measures could be secured.*

*The application site is located within 10km of the Exe Estuary SPA and Dawlish Warren SAC and is therefore subject to the requirements of the 2017 Conservation of Habitat and Species Regulations. To mitigate the impacts arising from the net gain in overnight accommodation that would arise from the proposed development, a financial contribution is required. No contribution has been provided and the applicant has not provided a legal agreement committing to any contribution, such that adverse impacts on features necessary to maintain the integrity of the Exe Estuary SPA and Ramsar site and the Dawlish Warren SAC cannot be ruled out.*

*The proposal is therefore in conflict with Policies S22 (part i), WE6 (part f), EN8, EN9, EN10 and EN11 of the Teignbridge Local Plan 2013-2033 and Policies GP3 (part 3.f), H10 (part 4.f), EN8, EN10, EN11, EN12, EN13, EN14 and EN15 of the emerging Teignbridge Local Plan 2020-2040, as well as*

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*paragraphs 180(a) and 186 of the NPPF and the Conservation of Habitat and Species Regulations.*

- 3.3 Following the refusal of the above planning applications the Council contacted the applicant's agent, and Devon County Council in its capacity as the landowner, to advise them that, as no planning permission exists for the siting of the residential caravans, it was necessary to cease the use. If not, the District Council, in its role as the Local Planning Authority, would consider the expediency of taking enforcement action to secure cessation of the unauthorised use.
- 3.4 In response, the agent confirmed that he would liaise with the applicant to decide on whether to appeal the planning refusal or resubmit a further planning application addressing the reasons for refusal. It was subsequently confirmed that a revised application would be submitted that would include the necessary ecological information which was being prepared.
- 3.5 To determine whether the use is acceptable, a further planning application (reference 24/01962/FUL) has been submitted for the change of use of land to traveller site for a temporary period of 3 years. This is currently being considered.
- 3.6 Even though a planning application has been submitted, it is noted that this is for five touring pitches. This shows a layout that may be acceptable to comply with the appropriate site standards. However, from a visit to the area on 17 December 2024, viewed from the public highway, there were approximately 15 caravans sited on the land which is a greater number of caravans than being applied for and proposed in the current planning application. It was noted that the caravans that were sited on the land were in close proximity to each other. In addition, surrounding the caravans were piles of rubbish, scrap metal, gas bottles and various other paraphernalia associated with the current unauthorised use of land for residential purposes that have been collected since the said unauthorised use started.
- 3.7 Overall, the appearance of the site is very untidy and there is little (if any) visual indication that the current use is as an organised residential caravan site. In addition, the site is quite open and noticeable from the public highway and this has been increased due to the removal of some trees near the site entrance. As such it is a lot more visible and has a detrimental impact on the surrounding area. This is because, due to the location of the site within designated open countryside, the change of use of the land for the siting of residential caravan is inappropriate for the area and fails to conserve and enhance the qualities, character and distinctiveness of the locality. This is due to the number of caravans that are set out in an unorganised layout within such a small area of land, together with various piles of scrap metal, sheets of tarpaulin and other items and paraphernalia scattered across the land to create a generally untidy site.
- 3.8 As such the current set up is contrary to Policies of both the adopted Local Plan and the emerging Local Plan that aim to ensure development is of a good

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design and respects the character and appearance of the surrounding area. Clarification of said adopted and emerging Local Plan Policies are set out below.

- 3.9 Mindful that any enforcement action taken by the Local Planning Authority could lead to the occupants being made homeless, a full assessment of any health or personal circumstances associated with the persons occupying the land should be taken into consideration. Details have been requested from both the applicant's agent and Devon County Council. However, at the time of compiling this report, the requested information has not been received. Should such details be received, these will be reported to Members nearer the time of the Committee meeting by means of a written update or verbally at the Committee meeting itself.
- 3.10 In addition to no planning permission having been granted for the change of use of the land, there are various other concerns that have been raised regarding the use of the land as an unauthorised residential site. These include, but are not limited to, absence of a site licence and management costs. However, these are matters which are not deemed to be material planning considerations and would need to be pursued under other relevant legislation.
- 3.11 In this case there does not appear to be any evidence that steps are being taken by Devon County Council, as the landowner, to regularise the unauthorised use of the land. Although the current occupiers of the land have submitted a planning application to determine whether the use is acceptable there is no guarantee this would be allowed to be implemented even if approved. In addition, as referred to above, there is a discrepancy regarding the numbers of caravans being applied for as part of the current application and the number of caravans that have actually been allowed to be sited by the landowner of the land. However, as it is considered the use of the land for residential purposes is not acceptable, enforcement action is recommended as being both expedient and appropriate to cease the said unauthorised use, clear the site of caravans and associated paraphernalia and restore the land to its former condition.

## **4. PLANNING CONSIDERATIONS FOR ENFORCEMENT ACTION**

- 4.1 Although the caravans have been sited on the land for approximately two years, there is no evidence provided that suggests they have been sited on the land, and said land used for residential purposes, for the necessary ten years to become established.
- 4.2 In this instance the current appearance of the site is considered to have a detrimental impact on the area for the reasons set out above, and it has not been proven that various ecological issues have been addressed. These ecological issues are relevant as the site is within the Landscape Connectivity Zone of the South Hams SAC (designated for greater horseshoe bats) and Haldon Forest SSSI is nearby. It is also within the Haldon Forest Important



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Bird Area and Haldon Racecourse Heathland County Wildlife Site is nearby. In addition, a Regionally Important Geological Site (RIGS) is to the north. Whilst ecological details have been submitted as part of the current planning application submission, these details have not yet been assessed in terms of any impact from the current unauthorised use.

- 4.3 As such, the stationing of the caravans on the land are considered contrary to Policies S1, S2, S22, WE6, EN2A, EN8, EN9, EN10 and EN11 of the Teignbridge Local Plan 2013 – 2033 and Policies GP3 (part 3.f), H10 (part 4.f), EN4, EN8, EN10, EN11, EN12, EN13, EN14 and EN15 of the emerging Teignbridge Local Plan 2020-2040
- 4.4 The Policies of this District Council's Local Plan reflect the Core Principles as set out under the Government's National Planning Policy Framework (NPPF) and the National Planning Practise Guidance which has an emphasis on sustainable development and focusing new residential development into settlements and other sustainable locations. It is considered that in this instance the unauthorised use fails to uphold these principles, particularly those in paragraphs 135, 187(a), 187 (d) and 193 of the NPPF for the reasons as set out above.
- 4.5 Officers consider enforcement action is necessary, expedient and in the public interest to secure cessation of the unauthorised use and the removal from the land of the unauthorised caravans and any other items associated with the residential use of the land, including storage of materials and other paraphernalia in order to support and maintain the delivery of the Strategy of the District Council's Local Plan to avoid the inappropriate siting of residential uses in the countryside without good reason and to maintain wider principles of sustainability and good design whilst protecting the character and appearance of the area.

## 5. RECOMMENDATIONS

The Committee is recommended to resolve that an Enforcement Notice be issued under Section 172 of the Town and Country Planning Act 1990 to:

- iii) Cease using the land for the siting of caravans for residential purposes, and
- iv) Remove the caravans and any other items associated with the unauthorised residential use from the land.

The compliance period is recommended to be six months.

In the event of the Notice not being complied with, the Solicitor be authorised to take further action as necessary under Section 179 of the Act.

## 6. HUMAN RIGHTS ACT

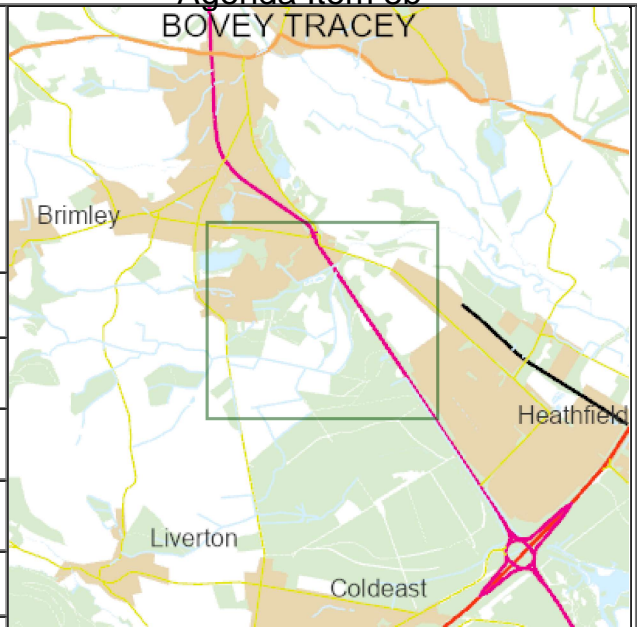
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The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

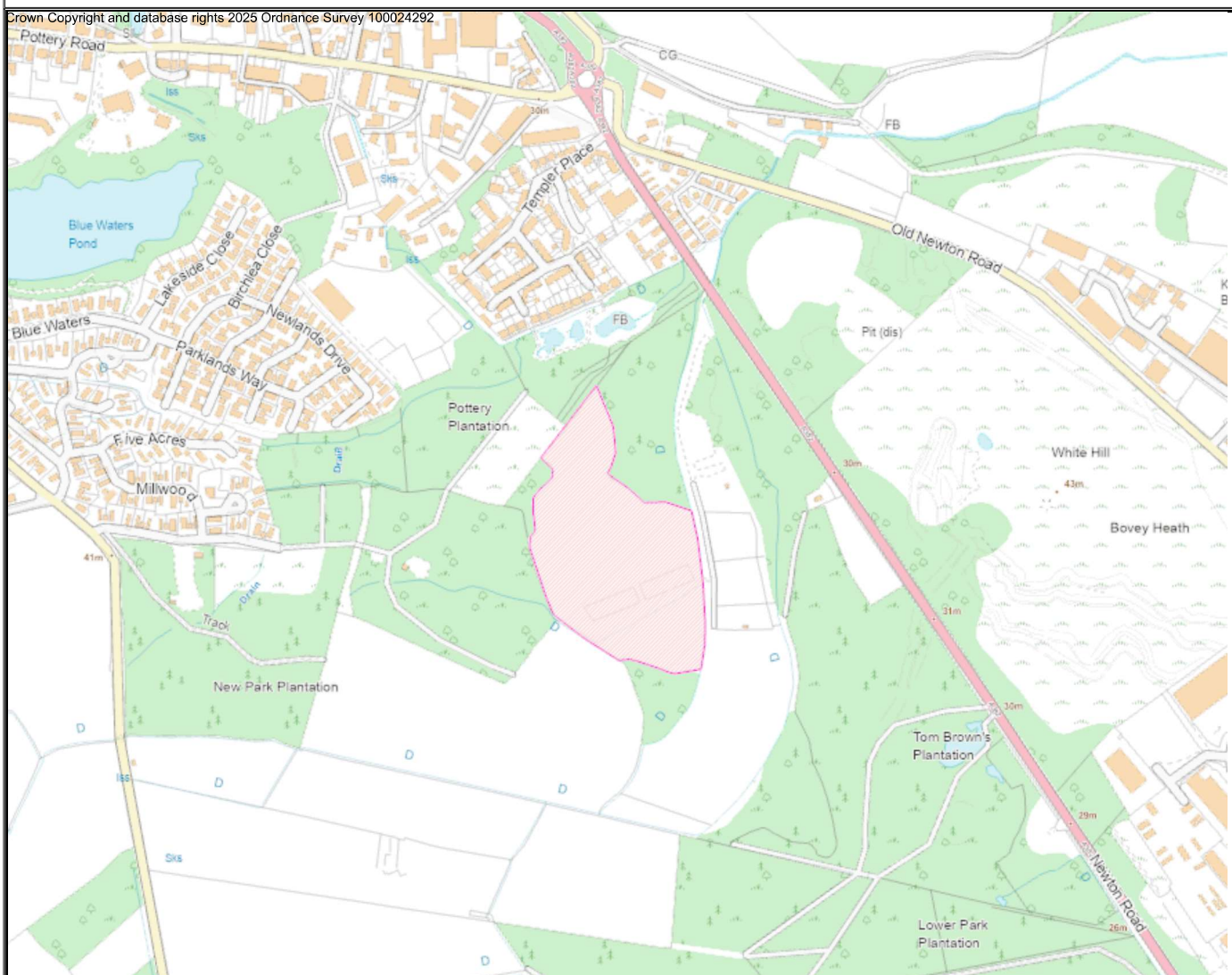
**Planning Committee Enforcement Report**

**Cllr Colin Parker**

<b>Date</b>	15 April 2025
<b>Case Officer</b>	Steven Hobbs
<b>Location</b>	Land Known As Bovey Heath Farm Newton Road Bovey Tracey Devon
<b>Nature</b>	Siting of mobile homes and construction of various buildings and structures
<b>Ward</b>	Bovey
<b>Member(s)</b>	Cllr Stuart Webster, Cllr Martin Smith, Cllr Sally Morgan
<b>Reference</b>	20/00104/ENF



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**1. REASON FOR COMMITTEE CONSIDERATION**

The proposed enforcement action has the potential to render a person homeless (*see TDC Constitution, Section 6, Schedule 6, paragraph 5.1*)

**2. THE ALLEGED BREACH OF PLANNING CONTROL & ENFORCEMENT INVESTIGATION FINDINGS**

2.1 Bovey Heath Farm is located to the southwest of Bovey Tracey and is accessed via a private track off Newton Road. The land is agricultural and is situated in-between a number of surrounding plantations. The key facts in this case are as follows:

- Three static caravans have been sited on the land along with two timber extensions to the caravans. In addition, a timber building and an agricultural barn have been built on the land near the caravans.
- No planning permission has been granted for the extensions to the static caravans or the additional buildings. In addition, there is no lawful reason for the static caravans to be sited on the land for residential purposes.
- In order to remedy the planning breaches formal enforcement action is therefore required.

**3. BACKGROUND & CONTEXT**

3.1 In April 2020 the Council received complaints about mobile homes being sited on land known as Bovey Heath Farm, Bovey Tracey.

3.2 From an investigation it was noted that three static caravans had been brought onto the land. Following correspondence with the owner and their agent a planning application (reference 20/01679/FUL) was submitted for the erection of a temporary rural workers dwelling, an agricultural barn and two poly tunnels with associated works.

3.3 Unfortunately, there was a delay in determining the application. The application was subsequently withdrawn in February 2024. In the meantime from more recent visits to the site it was noted that works had been carried out to provide decking around the caravans and two of these had timber structures constructed built on the sides of them. In addition, it was noted that a timber building has been built next to the caravans which is used to keep rabbits and guinea pigs. From the investigation it is claimed that one of the extensions was built in January 2020 and the other was added in July 2021. It is also claimed that the timber building situated near the caravans was built in July 2021. However, with regards to the extension completed in January 2020 this did not appear to be in place when a site visit was carried out in July 2020.

- 3.4 As the planning application had been withdrawn the Council were looking at taking action to remedy the breaches. However, in March 2024 a Certificate of Lawfulness (reference 24/00540/CLDE) was submitted for an existing single dwelling (Class C3). This covered the use of the three static caravans as a single dwelling. This was refused on 4 June 2024 for the following reasons:

*The existing 3 mobile homes are each compliant with the definition of a caravan as set out in Section 13 of the Caravan Sites Act 1968 due to meeting the size criteria, the movability test and being designed for human habitation. Consequently, the caravans form 3 separate units capable of independent occupation, and as a result the development is considered to constitute the use of land rather than operational development as a single dwelling. The decking and more recent timber-clad structures adjoining the caravans are considered to have insufficient permanence, and remain separate from the caravans themselves, such that they do not remove the caravans from the legal definition, and do not allow the three to be considered as one residential unit. Therefore, in accordance with Section 171B (3) of the Act, the 10-year enforcement immunity period (relevant period) applies where there is insufficient evidence to demonstrate that the breach has occurred in excess of the relevant period.*

- 3.5 From more recent correspondence and a subsequent site visit it is noted that the three mobile homes are being occupied by a single family. This consists of the owners and their three grown up children along with the partner of one of the children. From the site visit it was noted that all three caravans provide sleeping areas for the various occupants. However, it was clear that the cooking occurs in one of the caravans, whilst another is used to provide a lounge that is used by everyone. In addition, it appears that many of the occupants do have health issues but it is not considered that these would justify the need to reside on the land.
- 3.6 Although it is the Council's opinion that the mobile homes are still mobile this has been disputed by the owner. Details to support this have been submitted which set out the works required to separate the mobile homes from the structures and decking surrounding them. However, for the reasons set out in the refusal to grant the Certificate of Lawfulness the Council does not agree with this. If the Owner does not agree with the Council's opinion, then an appeal can still be submitted against the Certificate of Lawfulness or the proposed Enforcement Notice. For additional information of why the Certificate of Lawfulness was refused the observations from the Case Officer in the Officers Report have been added to the end of this report
- 3.7 As part of determining the Certificate of Lawfulness application a site visit was carried out and it was noted that a new agricultural building had been built on the land. As no permission had been granted for the building the owner was advised accordingly. To determine whether the building could be retained a retrospective planning application (reference 24/00885/FUL) was submitted for the erection of an agricultural building. However, this was refused on 25 July 2024 for the following reasons:

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*1. In the absence of appropriate measures in form of manure management plan and due to proximity to residential properties, the proposed development through its use for the purposes of housing livestock would result in unacceptable odour impact to the detriment of residential amenity of the occupiers of dwellings at Templer Place. Therefore, the development would be contrary to the provisions of Policy S1 (d) of the Teignbridge Local Plan 2013-2033.*

*2. The proposed development would result in unjustified loss of an area of species- rich grassland habitat failing to provide without appropriate and adequate compensation, and mitigation. Therefore, the development would be contrary to the provisions of Policies S22, EN8 and EN9 of the Teignbridge Local Plan 2013-2033 and LE4 of the Neighbourhood Plan.*

*3. In the absence of detailed information in respect of the design, location and viability of the proposed soakaway, and due to lack of information in respect of safe access and egress to and from the site during a potential future flood event, it has not been demonstrated that flood risk on the site and elsewhere would be managed appropriately through the life of the development to the contrary of the provisions set out in Policy EN4 of the Teignbridge Local Plan 2013-2033 and paragraphs 165 and 173 of the NPPF.*

*4. In the absence of any arboricultural impact assessment of the trees protected under TPO reference E2/08/46 located to the northwest of the proposed building, it has not been sufficiently demonstrated that the carrying out of the proposed development would not result in loss or damage to the root protection areas of the identified trees. On that basis, the proposed development is contrary to the provisions of Policy EN12 of the Teignbridge Local Plan 2013-2033.*

- 3.8 In this instance, given that the matter has been ongoing for a considerable time and it is considered the use of the land for residential purposes is not acceptable, enforcement action is necessary to cease the unauthorised use. In addition, as no planning permission has been granted for the timber structures and buildings, and there is no justification to retain them, enforcement action is required to ensure they are removed.

## 4. PLANNING CONSIDERATIONS FOR ENFORCEMENT ACTION

- 4.1 Although the static caravans have been sited on the land for a few years, it does not appear that they have been sited and used for residential purposes for the necessary ten years to be established, ten years being the length of time a use of land must be carried out to become immune from enforcement action. In addition, for the reasons set out above it is not considered that the works that have been carried out to provide the decking and extensions have stopped them being considered moveable units.
- 4.2 In this instance the static caravans sited on land are outside any settlement limit and no evidence of any essential need to have caravans on the land for



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residential purposes has been provided. As such the stationing of the caravans on the land are considered contrary to Policies S1A, S1, S22 and WE9 of the Teignbridge Local Plan 2013 – 2033.

- 4.3 With regards to the agricultural building and the other structures that have been built, although they are being used mainly for agricultural purposes it has not been demonstrated that they do not have an impact on the surrounding area through possible odour impact and unjustified loss of an area of species-rich grassland habitat. In addition, it is not clear whether appropriate drainage has been provided and it has not been sufficiently demonstrated that the carrying out of the development has not resulted in loss or damage to the root protection areas of the protected trees. Furthermore, apart from the larger building the others do not appear to be appropriately designed for agricultural purposes. They appear to be more associated with the residential use of the land. As such it is considered that the buildings and structures that have been built are contrary to Policies S1, S22, EN4, EN8, EN9 and EN12 of the Teignbridge Local Plan 2013 – 2033.
- 4.4 The Policies of our Local Plan reflect the Core Principles as set out under the Government's National Planning Policy Framework (NPPF) and the National Planning Policy Guidance which has an emphasis on sustainable development and focusing new residential development into settlements and other sustainable locations. It is considered that in this instance the unauthorised residential use fails to uphold these principles, particularly those in Paragraph 82 of the NPPF, which requires policies and decisions to be responsive to local circumstances and local housing needs, for the reasons as set out above. It is also considered that the unauthorised buildings and structures that have been built are contrary to the Framework and Guidance.
- 4.5 Officers consider enforcement action is necessary and expedient to ensure the unauthorised residential use ceases and the unauthorised mobile homes are removed from the land. This is considered to be expedient and in the public interest in order to support and maintain the delivery of the Strategy of our Local Plan to avoid the inappropriate siting of residential uses in the countryside without good reason and to maintain wider principles of sustainability and good design whilst protecting the character and appearance of the area. It is also considered enforcement action is necessary and expedient to ensure the unauthorised structures and buildings are removed from the land for the reasons set out above.

## 5. RECOMMENDATION

- 5.1 The Committee is recommended to resolve:

To serve an Enforcement Notice to:

- i) Cease using the land for the siting of static caravans for residential purposes,
- ii) Remove the mobile homes from the land,

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- iii) Demolish the unauthorised buildings and structures and remove the resulting debris from the land.

The compliance period for (i) and (ii) is recommended to be six months and the compliance period for (iii) is recommended to be three months.

In the event of the Notice not being complied with, authorisation is given to take action as necessary including proceeding to prosecution.

### **6. HUMAN RIGHTS ACT**

- 6.1 The recommendation has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.



## APPENDIX 1

### **Officers Report relating to Certificate of Lawfulness existing in respect of a single dwelling (Class C3) (reference 24/00540/CLDE)**

#### Legislative framework

The usual material planning considerations relating to matters such as policy, principle of development/sustainability, design/landscape, neighbour amenity and highways/access are not to be considered under an application for a Certificate of Lawfulness of existing use or development.

The decision is based on 'the balance of probabilities' and rests on the evidence submitted, the facts of the case and any relevant planning law and takes into account the facts presented and any contrary evidence if available, but is not assessed in relation to the usual planning considerations referred to above.

Section 191 of the Town & Country Planning Act 1990 (as amended) [hereafter referred to as The Act] allows for any person who wishes to ascertain whether any existing use of buildings or other land is lawful; any operations which have been carried out in, on, over or under land are lawful; or any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful, may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

The application seeks to certify that the 3 caravans with associated decking have been used as a single dwellinghouse and are now immune from enforcement action. There are three main issues to consider in the determination of this application as set out below:

- a) Whether the 4-year or 10-year enforcement immunity rule should apply;
- b) Whether the breach has occurred for sufficient time in order to be considered immune, and;
- c) Whether the 3 mobile homes can be considered as a single dwelling.

#### Summary of evidence in support of the case

The applicant has submitted the following evidence which is summarised as below:

- Planning Statement
- Photographs showing the site as it stands currently.
- Statutory Declarations from M.Collett, A.Collett and J. Macclean.
- Letters from A.Collett, C.Collett and A.Holman.
- Supporting documents submitted for application 20/01679/FUL.
- Invoice showing purchase of the mobile home dated 13th September.
- Receipts for purchase of diesel.
- Receipts for purchase of gas.

The Planning Statement claims that the 3 mobile homes have been occupied as a single unit of accommodation to be looked at in its entirety with the decking included.

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It is claimed that the evidence demonstrates that the mobile homes collectively with the decking do not meet the definition of a caravan as set out in Section 13 of the Caravan Sites Act 1968 due to exceeding the permitted dimensions and not being able to be moved.

The submitted evidence supported by the Statutory Declarations claims that the applicant has used the 3 caravans together as a single dwelling since January 2020 at which time the decking linking the 3 units was also complete. It is claimed that one of applicant's daughters has been residing on site since January 2021 up until now. The applicant's second daughter and his son-in-law have resided in the claimed dwelling between January 2020 and December 2021. The applicant does state that for the period between January 2021 and April 2021 he did not reside on the site however the family members as mentioned above did reside on site during this period therefore continuous residential occupation has taken place.

### Summary of evidence against the case

The LPA is in possession of Enforcement Officer site visit photos dated 9th July 2020. The photographs show the three mobile homes on site with no extensions. Evidence of the decking being in place is inconclusive. The LPA notes that the presence of the extensions is not strictly used by the applicant to support the claim in this application.

Other than the above, the LPA does not hold any other specific evidence to contradict the applicants claims; however, the full assessment of the evidence in respect of the three main issues identified above is undertaken below.

### Assessment of the evidence and conclusions

Each of the three main issues is assessed in turn as below.

#### **Whether the 4-year or 10-year enforcement immunity rule should apply.**

Mobile homes which meet the definition of a caravan are not considered development in their own right – their use is assessed in the context of fact and degree to determine whether a material change of use of the land has occurred (namely from agricultural to residential in this case). Given the evidence submitted, it is clear that a form of residential use of land has taken place on the site however it is key to establish which enforcement immunity period should apply.

In this case, in order to establish whether the 4- or 10-year rule applies, it is necessary to determine if the breach concerns operational development (4-year rule as claimed by the applicant) or whether the breach concerns a change of use of land (10-year rule). In the circumstances of the application site such assessment takes place in the form of establishing whether the mobile home units comply with the definition of a caravan as set out in Section 13 of the Caravan Sites Act 1968 and whether the units still remain mobile.

The applicant claims that the decking erected around the units has consolidated them into a single permanent structure which exceeds the dimensions set out in the definition. Following assessment of the decking on site, the LPA questions the claim

made by the applicant. As set out in the detailed description of each unit it is evident that the caravans are not fixed to the ground. The decking has been erected around the units and is also not attached to them in any meaningful way. The caravans and the decking are rested on a timber frame with some metal uprights raised on stacked breeze blocks which are not anchored or attached to the ground. Some of the uprights do not appear to be fixed to the frame.

Mobile home no.1 clearly remains movable given the lack of permanent attachment to the ground and the decking, as well as the lack of presence of the decking on two of each of its sides. The unit could be simply pulled away from the decking causing minimal damage.

In respect of mobile homes no.2 and 3, whilst fully enclosed by the decking, due to the lack of attachment to the ground or to the decking itself, it is considered that the units remain movable. It is important to note that the units do not have to be towed on wheels in order to be considered mobile under the definition. Bearing in mind the level of attachment to the decking (or lack of it) the units could be lifted out from in-between the decking and its framing. Furthermore, it can be reasonably expected that due to the simple nature of the decking, its frame, and lack of attachment to the ground, smaller parts of the decking could be dismantled by hand in a relatively short amount of time allowing the units to be pulled out.

It is clear from the photographs and evidence on site that each unit on its own would meet the definition of a caravan as set out in Section 13 of the Caravan Sites Act 1968 in respect of the dimensions. On that basis, it is concluded that each mobile home unit remains movable and meets the definition, thus the breach should be subject to the 10-year rule enforcement immunity rule as it concerns the use of land and not operational development as a single dwellinghouse. Consequently, the evidence submitted by the applicant fails to demonstrate the presence and use of the caravans for residential purposes in excess of 10-years as the applicant only claims to have been living on the site since January 2020.

Given that, the LPA considers the breach to be subject to the 10-year rule the amended time periods for immunity as set out in Section 115 of the Levelling-Up and Regeneration Act 2023 have no implications to this case.

It is also noted that, as described earlier in the report, two of the units now feature separate extensions. Given that these do not form part of the evidence of the claim by the applicant, an in-depth assessment of the implications of the structures is not made. In any case it is clear from photographs made by the Enforcement Officer on 9th July 2020 that the extensions were not present, thus at this time the structures remain unauthorised as the 4/10-year immunity time periods have not passed.

### **Whether the 3 mobile homes can be considered as a single dwelling.**

The applicant's claim that the 3 units are now considered a single dwelling is contested by the LPA. The main evidence in support of the single dwelling use is that the caravans have been connected by the decking and that the applicant has resided on the site with family members. The submitted evidence is unclear on how other than by virtue of being connected by the decking each unit operated collectively as a single dwelling. One would expect that in order for the 3 units to be considered as a

single dwelling the applicant and his relatives would share the basic domestic facilities across the units collectively. Whilst there was no ability to inspect each of the units and without evidence from the applicant it is expected that each unit contains the basic residential amenities to operate as a self-contained unit (this would include bedroom/s, bathroom, kitchen and living room). As such, in light of the lack of detailed evidence on how the 3 units were used as a single dwelling, it is considered that each unit, due to its nature, could easily be used independently from each other. In theory, the occupiers of each unit could live and enjoy the residential amenities (eg. for hygiene, eating meals or enjoyment purposes) from inside of each unit without the need for use of the other units. It is accepted that the connecting decking and the curtilage around the 3 units is not strictly demarcated for each mobile home however such shared/communal arrangement does not prevent the units being used independently.

Consequently, it is deemed that the 3-units, by virtue of simply being connected by the decking, would not constitute use as a single dwelling.

**Whether the breach has occurred for sufficient time in order to be considered immune.**

Finally, given that it is considered that the 3 units do not constitute a single dwellinghouse, the periods of time for which the applicant and his relatives resided on the site would not be sufficient to render the development immune from enforcement action. This is because each unit should be assessed separately. Whilst it is considered that the 10-year rule should apply, it is not contested that the applicant has resided on the site in excess of 4-years. However, it is clear from the evidence that his relatives (two daughters and son-in-law) have only resided on the site since December 2020 and January 2021 which currently does not exceed the 4- or 10-year rule. There is no evidence (other than the claimed connection of the caravans via decking) to demonstrate how the applicant when residing on site on his own used the 3 separate units as a single dwellinghouse.

On that basis, in addition to the earlier assessment of the evidence on the other main issues, in a hypothetical scenario where the 3 units were to be considered as a single dwelling, there would remain a lack of evidence to demonstrate how the independent units formed a single dwelling house providing that for a period of time the site was occupied by only one person.

**Other matters**

It is noted that the supplied site location plan is inaccurate in respect of orientation of the caravans and not showing the decking around them however, given that the application is being refused a revision to the location plans has not been sought.

**Conclusion**

In conclusion, the three main issues have been considered as above in sequence with the conclusion on one having implications to the consideration of the next. Bringing all of the issues together, as per the above assessment of the evidence, on

the balance of probabilities the application is recommended for refusal for the following reasons.

The existing 3 mobile homes are each compliant with the definition of a caravan as set out in Section 13 of the Caravan Sites Act 1968 due to meeting the size criteria, the movability test and being designed for human habitation. Consequently, the caravans form 3 separate units capable of independent occupation, and as a result the development is considered to constitute the use of land rather than operational development as a single dwelling. The decking and more recent timber-clad structures adjoining the caravans are considered to have insufficient permanence, and remain separate from the caravans themselves, such that they do not remove the caravans from the legal definition, and do not allow the three to be considered as one residential unit. Therefore, in accordance with Section 171B (3) of the Act, the 10-year enforcement immunity period (relevant period) applies where there is insufficient evidence to demonstrate that the breach has occurred in excess of the relevant period.

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## TEIGNBRIDGE COUNCIL DISTRICT

<h2 style="margin: 0;">PLANNING COMMITTEE</h2> <p style="margin: 5px 0;"><b>CHAIRMAN: Cllr Colin Parker</b></p>
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<b>DATE:</b>	<b>15 April 2025</b>
<b>REPORT OF:</b>	<b>Head of Development Management</b>
<b>SUBJECT:</b>	<b>Appeal Decisions received since 1 January 2025</b>

**24/00021/REF****SHALDON** - 28A Fore Street Shaldon

Appeal against the refusal of planning application 23/00820/FUL -  
Change of use from commercial use to dwelling

Appeal Allowed. Delegated Decision

**24/00022/REF****SHALDON** - 28A Fore Street Shaldon

Appeal against the refusal of planning application 24/00430/NPA  
- Application for Prior Approval under Part 3 Class MA and  
paragraph W of the GPDO for change of use of Estate Agents  
office to dwelling

Appeal Allowed. Delegated Decision

**24/00041/REF****BISHOPSTEIGNTON** - Iona Teignmouth Road

Appeal against the refusal of planning application 23/02216/OUT  
Outline application for new dwelling (all matters reserved)

Appeal Dismissed. Delegated Decision

**24/00044/FAST****ASHTON** - Embercombe Cottage Higher Ashton

Appeal against the refusal of planning application 24/00796/HOU  
Timber shed and workshop

Appeal Dismissed. Delegated Decision

<b>24/00055/REF</b>	<b>BOVEY TRACEY</b> - Thorn Cross Holly Court Appeal against the refusal of planning application 23/01550/FUL Dwelling house  Appeal Dismissed. Delegated Decision
<b>24/00063/FAST</b>	<b>TEIGNMOUTH</b> - 9 Foresters Terrace Teignmouth Appeal against the refusal of planning application 24/00491/HOU First floor extension with terrace and first floor bay window with alterations  Turned Away. Delegated Decision
<b>24/00066/FAST</b>	<b>CHUDLEIGH</b> - Higher Upcott Chudleigh Appeal against the refusal of planning application 24/01695/FUL Installation of gate, walls and pillars  Appeal Dismissed. Delegated Decision
<b>25/00009/CERT</b>	<b>DAWLISH</b> - F3 Lee Cliff Park Appeal against the refusal of 24/01620/CLDE - Certificate of Lawfulness for existing use of a holiday home as permanent dwelling  Appeal Withdrawn. Delegated Decision
<b>25/00013/CERT</b>	<b>DAWLISH</b> - G4 Lee Cliff Park Appeal against the refusal of planning application 24/01790/CLDE Certificate of Lawfulness for existing use of a holiday home as permanent dwelling  Appeal Withdrawn. Delegated Decision

**PLEASE NOTE THAT THE FULL TEXT OF THESE APPEAL DECISIONS IS AVAILABLE ON THE COUNCIL'S WEBSITE**



## TEIGNBRIDGE COUNCIL DISTRICT

<h2 style="margin: 0;">PLANNING COMMITTEE</h2> <p style="margin: 5px 0;"><b>CHAIRMAN: Cllr Colin Parker</b></p>
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<b>DATE:</b>	<b>15 April 2025</b>
<b>REPORT OF:</b>	<b>Head of Development Management</b>
<b>SUBJECT:</b>	<b>Major variation applications approved since 1 January 2025</b>

23/01961/MAJ	KINGSTEIGNTON - Land At Ngr 285403 76278 Kingsteignton
	Variation of condition 2 on planning permission 21/02590/MAJ (development of a sustainable, off-site manufacturing facility (Class B2) and business park comprising a range of flexible light industrial and warehouse units (Class B8 and E(g)(ii) and (iii)) and small studio, office, R&D and workshop units (Class E(g), E(c) and B8), a farm cafe (Class E(b)) and associated access, parking, servicing, drainage, landscaping, tree and nature conservation planting, wetland and meadow) to amend site layout and unit mix
	VARY CONDITION APPROVAL

24/01936/MAJ	DAWLISH - Langdon Hospital Langdon
	Variation of condition 2 on planning permission 23/01420/MAJ (construction of new 10-bed mental healthcare inpatient facility, associated access road, servicing facilities and landscaping) to vary the size of the new playing field
	VARY CONDITION APPROVAL

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