

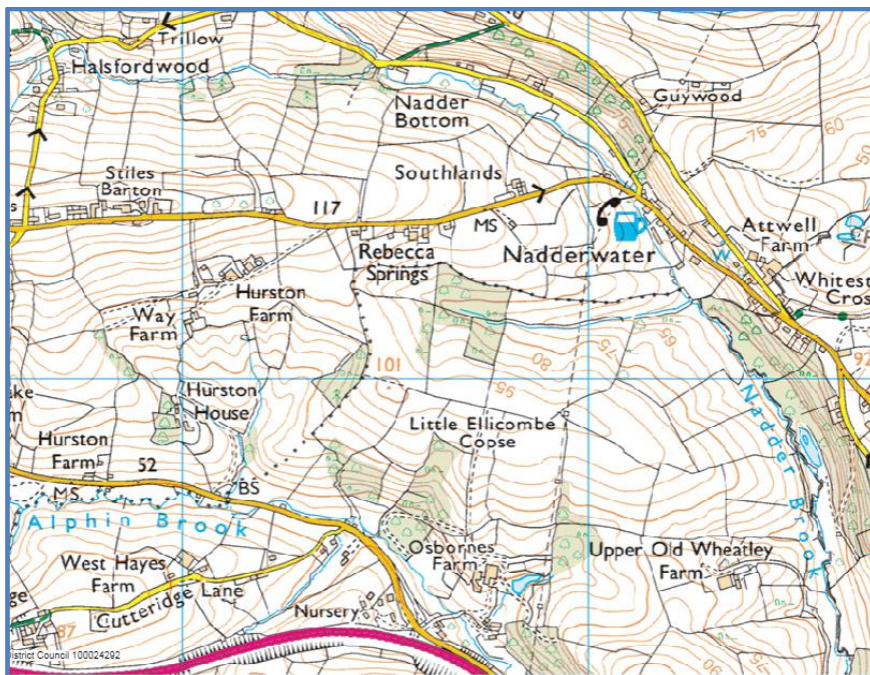
TEIGNBRIDGE DISTRICT COUNCIL

**PLANNING COMMITTEE
ENFORCEMENT REPORT**

CHAIRMAN: Cllr Mike Haines



DATE:	13 April 2021	
REFERENCE NO:	19/00425/ENF	
SITE:	Land at Rebecca Springs, Nadderwater	
ENFORCEMENT ISSUE:	Alleged unauthorised siting of a residential caravan	
REASON FOR COMMITTEE CONSIDERATION:	The proposed enforcement action has the potential to render a person homeless (<i>see TDC Constitution, Section 6, Schedule 6, paragraph 5.1</i>)	
RECOMMENDATION:	It be resolved that: i) An ENFORCEMENT NOTICE be issued; and ii) In the event of the notice not being complied with, authorisation be given to take further action as necessary including proceeding to prosecution.	
WARD MEMBERS:	Cllr Alison Foden Cllr Andrew Swain Cllr Charles Nuttall	Kenn Valley



1. THE ALLEGED BREACH OF PLANNING CONTROL & ENFORCEMENT INVESTIGATION FINDINGS

- 1.1 Rebecca Springs is located in Nadderwater and comprises a collection of farm and former farm buildings in a mix of other uses in a yard complex, sharing an access onto the highway. The current enforcement case relates to only a part of the site, to its north east on land outside the main yard area. The key facts in this case are as follows:
- A Caravan has been sited on the land for residential purposes without planning permission.
 - The Caravan has been on site for around 3 years and would not be immune from enforcement action.
 - Enforcement action was not pursued whilst a planning application for the conversion of a nearby storage building to residential use was considered. This has recently been refused.
 - There is no lawful reason for the caravan to be sited on the land for residential purposes and the Council must therefore consider whether enforcement action is expedient to remedy the planning breach.

2. BACKGROUND & CONTEXT

- 2.1 On 1 August 2016 Prior Approval (reference 16/01548/NPA) was granted under Schedule 2, Part 3 Class P of the Town and Country Planning (General Permitted Development) Order (GPDO) for the change of use of a storage or distribution building (Class B8) to two dwellings at Unit 2, Rebecca Springs, Nadderwater. Unlike a full planning application, this type of application is essentially a notification procedure with a strong presumption in favour of approval. Approval was given despite the fact that residential use of the site would not benefit from the support of the Local Plan. Unlike other parts of the GPDO, this Right does not also include operational (built) development to facilitate the change of use – it is implicit in the Order that the building should either be capable of a straight change of use or that separate planning permission for any necessary operational development would be required.
- 2.2 It was a further condition of the legislation that the change of use must have been completed within three years of the date of the decision. As the works were not completed by 1 August 2019, the approval expired. On 7 August 2019 planning permission (reference 19/01109/FUL) was granted for external changes to the existing B8 building including new external wall, new windows and a change to external materials.
- 2.3 Since this time, there have been changes to the GPDO. It no longer allows storage and distribution buildings to be changed to residential use without needing planning permission.
- 2.4 A planning application was submitted to seek permission for the change of use of Unit 2 at Rebecca Springs (see below), but this has recently been refused due to the fact that it is not supported by the Local Plan and would not

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constitute sustainable development. The Local Plan would though support the continued use of the building for storage purposes – a working countryside is generally considered a more sustainable place.

3 PLANNING CONSIDERATIONS FOR ENFORCEMENT ACTION

- 3.1 The Officer's Report that supported the recent refusal of planning permission for the development of Unit 2 adjacent to the caravan can be read on our online planning file. It can be accessed [through this hyperlink](#). The caravan is used for residential purposes in the countryside, where such development is not supported unless it is required for agricultural or forestry purposes.

Whitestone PC did not support the application, and it was refused for the following reason:

"The proposed development would provide a new dwelling in the Countryside, outside any defined settlement limit, with no overriding agricultural or forestry justification, and does not provide an affordable housing unit to meet an identified local need. The proposal is therefore contrary to Policy S22 (Countryside) of the Teignbridge Local Plan 2013-2033 and the National Planning Policy Framework."

- 3.2 No evidence of any essential need to have a caravan on the land for residential purposes has been provided and its stationing is considered contrary to the Teignbridge Local Plan 2013 – 2033.
- 3.3 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 use fails to uphold these principles, particularly those in Paragraph 78 of the NPPF for the reasons as set out above.
- 3.4 Officers consider enforcement action is necessary and expedient to ensure the unauthorised use ceases and the unauthorised caravan is 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.
- 3.5 The personal circumstances of the occupants are acknowledged and in consideration of this, an extended time period for complying with our proposed enforcement notice is recommended.
- 3.6 The occupant has the right to appeal against the Local Planning Authority's recent refusal of their planning application, and will have a similar right of appeal against any enforcement notice. If the appeals are made within a short period of one another, the Planning Inspectorate is likely to consider the

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appeals together. Officers consider that this would be beneficial and this approach to “twin tracking” the planning and enforcement processes is set out in our Enforcement Policy. In the event that the enforcement notice is appealed, the period for compliance will be from the date of the Planning Inspector’s decision.

4 RECOMMENDATION

4.1 The Committee is recommended to resolve:

To serve an Enforcement Notice to:

- i) cease using the caravan for residential purposes, and
- ii) remove the caravan from the land.

The compliance period for both is recommended to be twelve months.

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

5 HUMAN RIGHTS ACT

5.1 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.