

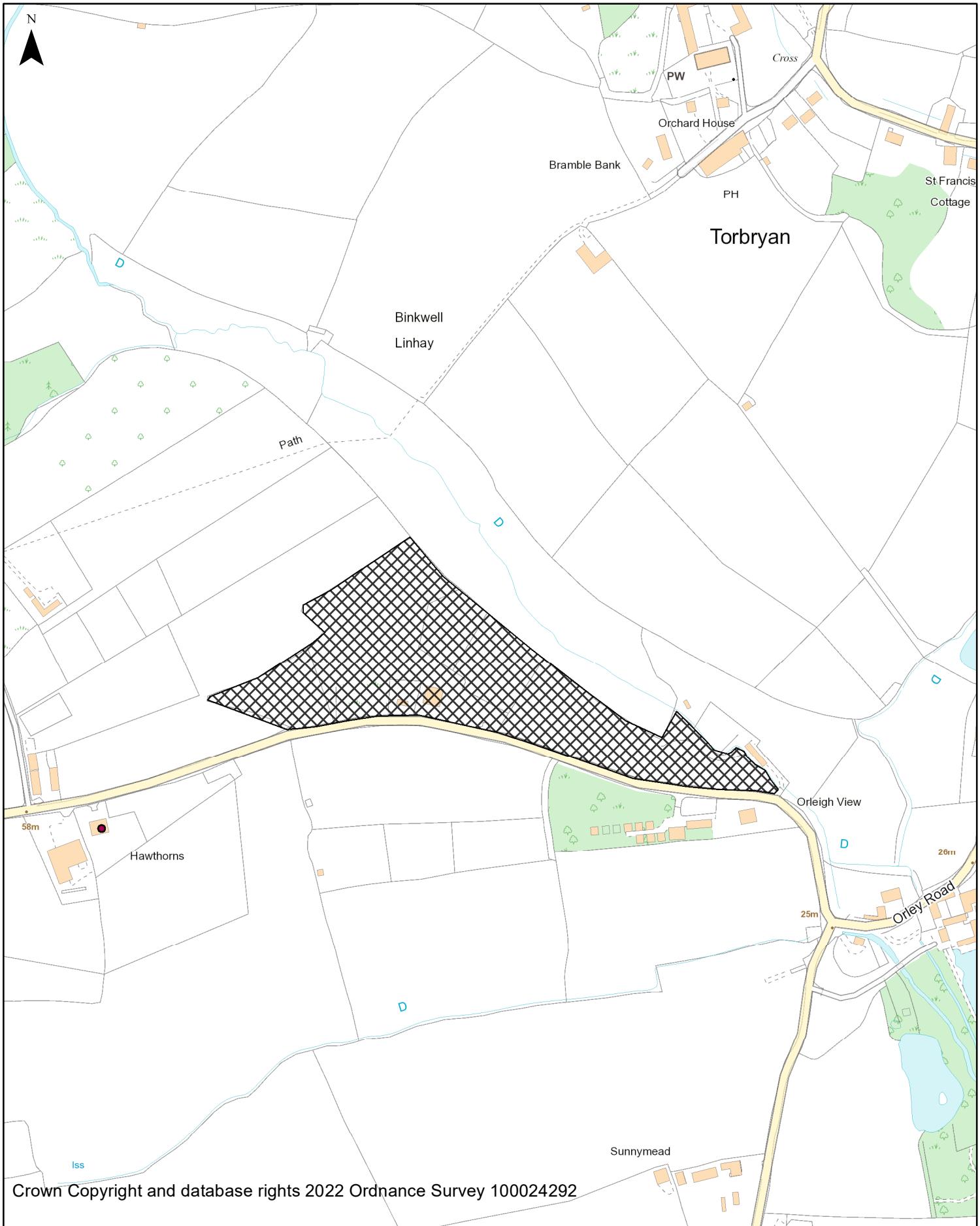
PLANNING COMMITTEE ENFORCEMENT REPORT

CHAIRMAN: Cllr Linda Goodman-Bradbury



DATE:	27 April 2022
REFERENCE NO:	18/00438/ENF
SITE:	Land at Stoneybrook, Broadhempston
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 (see <i>TDC Constitution, Section 6, Schedule 6, paragraph 5.1</i>)
RECOMMENDATION:	<p>It be resolved that:</p> <ul style="list-style-type: none"> 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 Mary Colclough Cllr Richard Daws
	Ambrook





1:3,885

0 0.0225 0.045 0.09 mi
0 0.0375 0.075 0.15 km

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

- 1.1 Stoneybrook is located on land between Ipplepen and Broadhempston and comprises stables used for equine purposes. The current enforcement case relates to the siting of a mobile home. The key facts in this case are as follows:
- A Caravan has been sited on the land for residential purposes without planning permission.
 - A Caravan / mobile home has been on site for a number of years but not fully for residential purposes and would not be immune from enforcement action.
 - To try to remedy the breach, an application for a Certificate of Lawfulness for the siting of mobile home for residential use (reference 20/01354/CLDE) was submitted. 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 The principal evidence underpinning this recommendation comprises of an application for a Certificate of Lawfulness (reference 20/01354/CLDE) which was refused in November 2021. This is discussed later in this report. The paragraphs below describe the background to the current situation in chronological order.
- 2.2 In December 2013 we received a complaint that an existing barn and mobile home were being used for residential purposes. Planning permission (reference 05/02625/FUL) had been granted in February 2006 for six stables, tack room and hay / straw barn.
- 2.3 At that point it was noted that the approved stables had been extended to create a dwelling. A caravan was also sited on the land but this did not appear to be in use for any particular purpose. As no planning permission has been granted for a residential use, a Planning Contravention Notice was served to establish the facts. This revealed that the dwelling had become first occupied in Spring 2012. It also suggested that the caravan was being used ancillary to the equine use of the land.
- 2.4 To determine whether the extension to the barn could be retained as a dwelling, a planning application (reference 14/01824/FUL) was submitted for

TEIGNBRIDGE DISTRICT COUNCIL

the addition to existing stables for residential purposes and refused in August 2014. An Enforcement Notice issued on 3 September 2014 requiring the demolition of the unauthorised extension / dwelling house. After appeals against the planning refusal and the Enforcement Notice were dismissed on 7 July 2015, the requirement was to demolish the dwelling house by 7 January 2016.

- 2.5 Planning permission (reference 15/02920/FUL) was subsequently granted for the retention of part of the unauthorised extension to the existing stable block for use as rest facilities. The residential use ceased. The further requirement of the Enforcement Notice to remove a section of the extension had also been met. At this time no further action was taken in respect of the caravan, as it appeared to be being used ancillary to the equine use.

Further complaint

- 2.6 In November 2018 the Council received a complaint that the caravan sited on the land was being used for residential purposes. Correspondence with the site owners confirmed that no one was living at the site. At this point there was insufficient evidence of an ongoing breach of planning control for any formal action to be taken.

Certificate of Lawfulness

- 2.7 In August 2020 a Certificate of Lawfulness (reference 20/01354/CLDE) was submitted for the existing siting of a mobile home for residential use on land at Stoneybrook. Officer's considered that this application did not adequately demonstrate that the land had been used for the siting of a mobile home for permanent residential use for at least a ten year period.
- 2.8 The site owner has indicated that they had spent "the major part" of the last 12 years living there.
- 2.9 Although the site owner intends to appeal the refusal of the Certificate of Lawfulness, as it seems that an unauthorised use of the caravan for residential purposes is occurring without the necessary planning permission and contrary to planning policies, it is necessary to consider taking enforcement action.

3. PLANNING CONSIDERATIONS FOR ENFORCEMENT ACTION

- 3.1 Although it appears that a mobile home has been sited on the land for a number of years, it does not appear that it has been continuously used for residential purposes for the necessary ten years to be established. It is therefore not considered to be immune from enforcement action at this time.
- 3.2 In this instance the mobile home is sited on land outside any settlement limit and no evidence of any essential need to have a caravan on the land for residential purposes has been provided. As such the stationing of the

TEIGNBRIDGE DISTRICT COUNCIL

mobile home on the land is considered contrary to Policies of 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 Paragraphs 78 and 80 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.

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 six 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.