

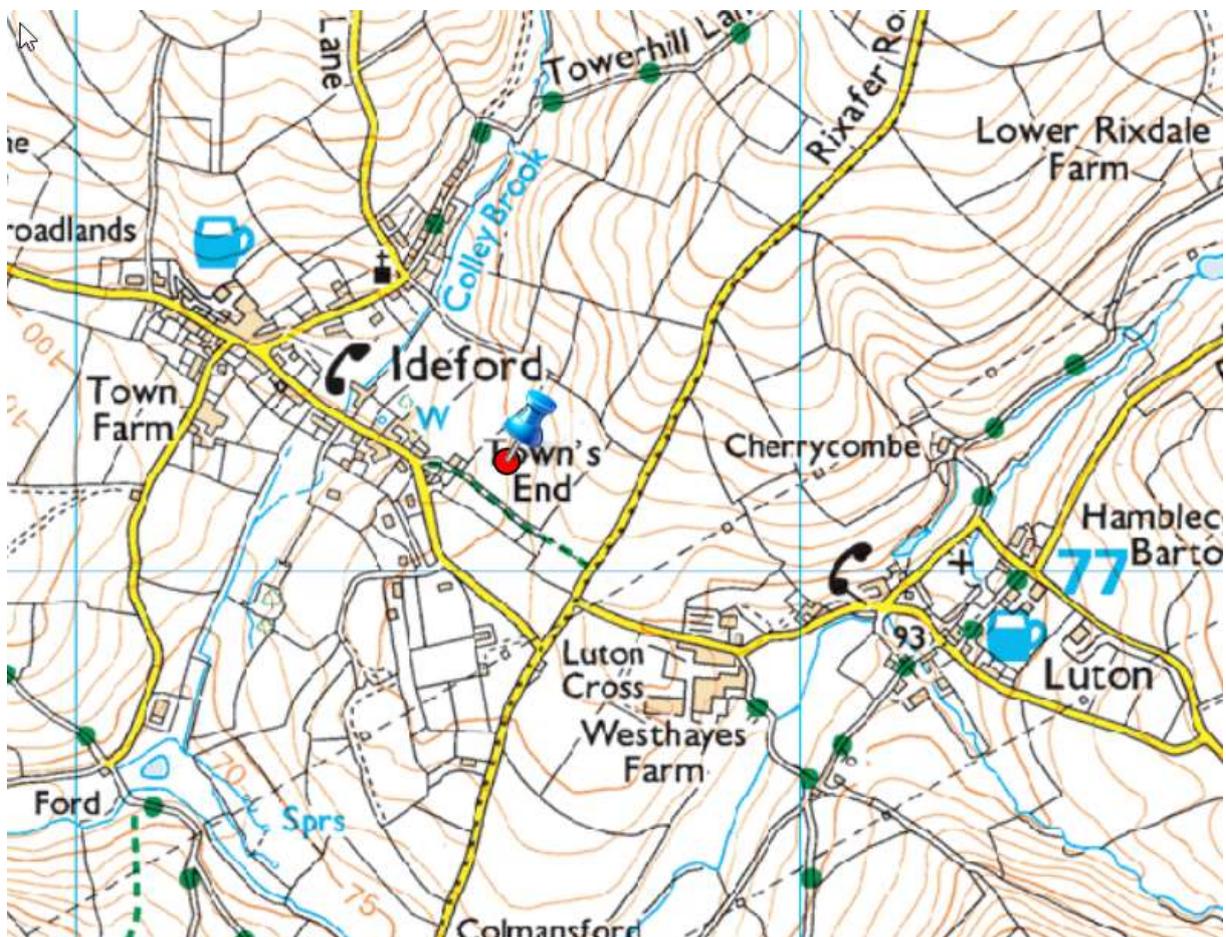
TEIGNBRIDGE DISTRICT COUNCIL

**PLANNING COMMITTEE
ENFORCEMENT REPORT**

CHAIRMAN: Cllr Linda Goodman-Bradley



DATE:	27 September 2022	
REFERENCE NO:	20/00296/ENF	
SITE:	Land at Higher Colleybrook Farm, Ideford	
ENFORCEMENT ISSUE:	Unauthorised removal of a 3m section of hedgerow	
REASON FOR COMMITTEE CONSIDERATION:	The matter has been requested to be placed before the planning committee by the Ward Councillor	
RECOMMENDATION:	It be resolved that no further action is taken	
WARD MEMBERS:	Cllr Beryl Austin Cllr Ron Peart	Kingsteignton East



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

- 1.1 Higher Colleybrook Farm is situated off the main road going through Ideford. It consists of a recently built new dwelling house with agricultural land to the north and east of the property. There is also a Public Footpath adjacent to the south of the site.
- 1.2 The key facts in this case are as follows:
- A new access has been created off the existing Public Footpath onto a field to the rear of Higher Colleybrook Farm.
 - The access is approximately 3 m wide.
The works that have been carried out would have been subject to the Hedgerow Regulations 1997, which set out restrictions for removing sections of hedgerow.
 - Officers do not consider the hedgerow to be “important” under the terms of the regulations
 - Officers do not consider further action to be expedient in this case.

2. BACKGROUND & CONTEXT

- 2.1 In March 2021 the Council received a complaint that works had been carried out to remove a section of hedgerow to create a new access onto land to the rear of Higher Colleybrook Farm. From a subsequent site visit it was noted that a section of hedgerow had been removed to create a new access off the Public Right of Way onto a field to the rear of the site. This appears to have consisted of a Devon bank with planting on top.
- 2.2 Although under the planning legislation you can create a new access onto land, as the works involved removing a section of hedgerow, under the Hedgerow Regulations 1997 contact should have firstly been made with the LPA to determine whether such works were acceptable. Under the Regulations you can remove a section of hedgerow to create a new opening, but this usually includes a requirement to close off an existing access by planting a new section of hedgerow. In this instance as the original access, closer to the main house, had not been closed off with replacement planting it was considered that a breach of the Regulations had occurred.
- 2.3 As it was considered a breach has occurred the owner was contacted and advised to close one of the accesses to bring the proposal in line with the stipulations in the Regulations.

Current situation

- 2.4 To date no works to close the access have been carried out.

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- 2.5 The landowner / occupier suggests that the purpose of the works was to create an opening to improve access to their land and highlights that only a small opening has been created. It is claimed that as part of the maintenance of the lane it is helpful to have the second entrance as the truck they have can go up the lane and not have to reverse back down. The access is also used by alpacas who are walked up the lane and then into the top part of the land.
- 2.6 Although it was clear that a breach of the Hedgerow Regulations has occurred it is necessary to determine whether further action should be taken to reinstate the hedgerow or replanting undertaken through closure of an alternative access.
- 2.7 Having reviewed the matter against the regulations and likely outcomes had they been followed, it was considered by Officers that in this instance it would not be expedient to pursue any further action. The case was closed and interested parties notified of this.
- 2.8 This resulted in a number of objections from local residents. There is reference to the impact on:
- the use of the Public Footpath,
 - the hedgerow, and
 - the ecological impact.
- 2.9 There are also concerns that unless action is taken this will encourage others to do similar works. Furthermore, concerns were raised that as no application was made to the Local Planning Authority to remove the section of hedgerow no one was consulted about the works and therefore concerns of the local residents have not been able to be taken into account.
- 2.10 For these reasons a request has been made by the Ward Councillor to place the matter before the Planning Committee for consideration.

3. PLANNING CONSIDERATIONS FOR ENFORCEMENT ACTION

- 3.1 In this instance to determine whether a Hedgerow Replacement Notice should be served the Council's Tree Officer was consulted and visited the site. They considered that the hedgerow is in a poor condition, with large gaps between vegetation which was mainly outgrown hazel. They agreed the hedgerow would not be classified as important under the Regulations due to the lack of species mix.
- 3.2 In addition, it was considered that the gateway is in the corner of the field between two hazel clumps adjacent to the footpath gate and another gateway on the other side of the field hedgerow and therefore does not appear out of place.

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- 3.3 With regards to any wildlife issues, it is accepted that in general hedgerows can be good for wildlife. In this instance following consultation with the Council's Biodiversity Officer it was accepted that the removal of the section of hedgerow will likely have had some level of impact. However, given the size of the opening and the fact that the works have already been carried out, the impact is unlikely to have been significant and will not be worsened over time. Furthermore, as any reinstatement would only provide a minimal benefit to the wildlife in this instance the Biodiversity Officer sees no reason to take any formal action to remedy the breach.
- 3.4 Although it appears that a breach of the Hedgerow Regulations 1997 has occurred in this instance Officers consider that as the opening is fairly small and the condition of the hedgerow was poor it would not be expedient to take any further action to have the section of hedgerow reinstated.
- 3.5 It is considered that had the Council been notified of the proposed works it is highly likely that approval would have been given due to the make up of the hedgerow and the scale of the works. There would have been unlikely to have been any conditions placed on such an approval regarding hedgerow replacement elsewhere.

4 RECOMMENDATION

- 4.1 The Committee is recommended to resolve that no further action is taken.

Business Manager – Strategic Place