

TEIGNBRIDGE DISTRICT COUNCIL

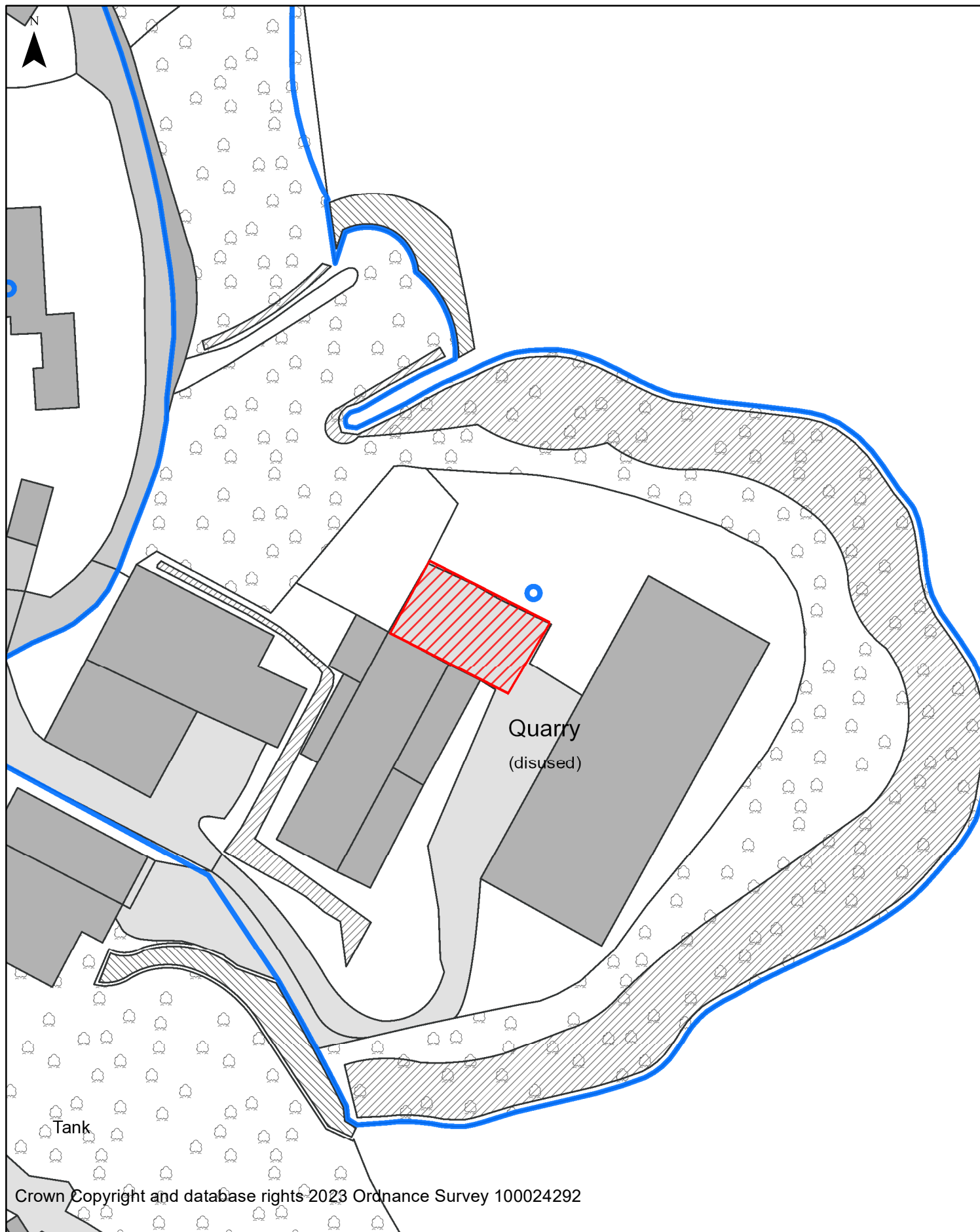
**PLANNING COMMITTEE  
ENFORCEMENT REPORT**

CHAIRMAN: Cllr Linda Goodman-Bradbury



<b>DATE:</b>	22 March 2023	
<b>REFERENCE NO:</b>	22/00116/ENF	
<b>SITE:</b>	LAND AT NGR 288636 80491, CHUDLEIGH	
<b>ENFORCEMENT ISSUE:</b>	Alleged unauthorised siting of two residential caravans	
<b>REASON FOR COMMITTEE CONSIDERATION:</b>	The proposed enforcement action has the potential to render a person homeless ( <i>see TDC Constitution, Section 6, Schedule 6, paragraph 5.1</i> )	
<b>RECOMMENDATION:</b>	<p>It be resolved that:</p> <ul style="list-style-type: none"> <li>i) An ENFORCEMENT NOTICE be issued; and</li> <li>ii) In the event of the notice not being complied with, authorisation be given to take further action as necessary including proceeding to prosecution.</li> </ul>	
<b>WARD MEMBERS:</b>	Cllr Lorraine Evans Cllr Richard Keeling	Chudleigh





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

1.1 Stancott Farm is located to the southeast of Chudleigh in the open countryside on agricultural land. The site has been the subject of a number of planning and other applications to develop the land for residential purposes. The current enforcement case relates to the siting of two static caravans on the land. The key facts in this case are as follows:

- Two static caravans have been sited on the land and are being occupied for residential purposes without planning permission.
- There is no lawful reason for the caravans to be sited on the land for residential purposes.
  - Although the owner advised some time ago that they intended to cease occupation and remove the caravans from the site by the end of March, occupation continues.

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

## 2. BACKGROUND & CONTEXT

2.1 In April 2022 the Council received a complaint about the siting of two static caravans on land at Stancott Farm, Chudleigh that were being used for residential purposes.

2.2 To determine what had occurred the owner was contacted and they confirmed that two static caravans had been sited on the land for residential purposes. It was claimed that they were being sited on the land for temporary purposes whilst building works were to be carried out to convert existing agricultural buildings to offices and dwellings. It was noted that they are being occupied by one of the site owners and their teenage son.

2.3 The caravans were seen by planning / enforcement officers at the site on 24 June 2022 and 7 February 2023 and appeared to be in residential use.

2.4 Under Schedule 2, Part 5 (Caravan sites and recreational campsites), Class A (use of land as caravan site) of the Town and Country Planning (General Permitted Development) Order 2015 provision is given to allow land to be used to station residential mobile homes on the land without requiring planning permission whilst the occupiers are carrying out building works. This is set out in Schedule 1 of the Caravan Sites and Control of Development Act 1960 which sets out a list of cases where a site licence is not required.

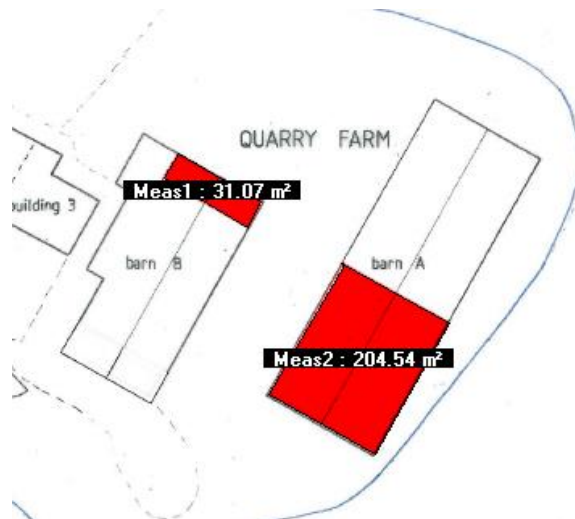
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2.5 The owner has secured 'Prior Approval' for residential conversion of some barns, and commercial (office) use of parts of other barns at the site. The following 'Prior Approvals' have previously been granted:

- Prior Approval 22/00980/NPA (Application for Prior Approval under Part 3 Class Q (a) and (b) paragraph W of the GDPO change of use of an agricultural building to 5 dwelling houses (two larger and three smaller)) was given on 06 July 2022 for the barns within the red line below:



- Prior Approval 19/02539/NPA – (Application for Prior Approval under Part 3 Class R paragraph W of the GPDO change of use of agricultural buildings to a flexible use falling within Class B1 (business)) was given on 10 February 2020. However, as the GPDO required the change of use to be commenced within 3 years (before 10 February 2023) and this cannot have lawfully occurred, then officers do not consider that this development could take place lawfully without the giving of a further prior approval.



2.6 The issuing of a Prior Approval is a secondary stage approval as planning permission is granted in advance by the Town and Country Planning (General Permitted Development) Order 2015 ('the GPDO').

2.7 The GPDO requires that the developer must apply to the local planning authority for a determination as to whether the prior approval of the

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authority will be required as to a limited number of matters. Unlike in cases where planning permission is explicitly granted by the Local Planning Authority, caselaw has established that the responsibility for ensuring that all the requirements of the GPDO are met rests with the developer of the land.

- 2.8 In this instance although the owner has secured the 'Prior Approval' necessary to take advantage of the planning permission granted by the GPDO, the permission cannot be lawfully implemented until 'the Habitat Regulations' have been satisfied. This is because the GPDO grants planning permission only 'Subject to the provisions of... regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 (general development orders)'. Natural England has previously confirmed that these regulations apply to the development proposed due to the importance of the site to the South Hams Special Area of Conservation which is protected as habitat for the Greater Horseshoe Bat as well as its location with 10km of the Exe Estuary / Dawlish Warren area.
- 2.9 Whilst the GPDO itself requires compliance with the regulations, a planning condition to this effect is also attached to each relevant prior approval for the avoidance of doubt. The condition attached to 22/00980/NPA is worded as follows:
- No development shall take place until an application has been submitted to and approved in writing by the Local Planning Authority under Regulation 77 of the Conservation of Habitats and Species Regulations 2017 and any mitigation has been carried out in accordance with that approval to ensure that the development will not adversely affect the integrity of the South Hams Special Area of Conservation, the roost sustenance zone of Chudleigh Caves and Woods Site of Special Scientific Interest (SSSI) or have any adverse effects on the integrity of the Exe Estuary Special Protection Area (SPA) and RAMSAR site / Dawlish Warren Special Area of Conservation (SAC).
- 2.10 Until the habitat regulations have been satisfied, officers are of the view that no Planning Permission is in place. Details have been submitted to consider compliance with Regulation 77 but to date these have not been fully assessed. As such there is still no planning permission in place to carry out the proposed development.
- 2.11 In the absence of a planning permission for the development of the site, it follows that the planning permission to station and occupy a caravan on the land (which can be granted by Schedule 2, Part 5 (Caravan sites and recreational campsites), Class A (use of land as caravan site) of the GPDO), is also not in place.
- 2.12 Consequently, officers do not consider that that the caravans can lawfully be sited on the land or occupied as 'permitted development'. As such the owner has been advised to cease the residential use and remove the

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caravans or submit a formal planning application to determine whether they can be retained.

- 2.13 The site owner has indicated that they are looking at vacating the site, but it is not clear when / whether this will occur and the we are continuing to receive complaints about the unauthorised use of the land.
- 2.14 The caravans do not benefit from planning permission. As habitat regulations matters have not been resolved, we need to pursue further action to resolve the planning breach.

### 3. PLANNING CONSIDERATIONS FOR ENFORCEMENT ACTION

- 3.1 The two static caravans are sited on land outside any settlement limit and no evidence of any essential need to have the caravans on the land for residential purposes has been provided. The stationing of the caravans on the land and their residential use is contrary to Policies of the Teignbridge Local Plan 2013 – 2033.
- 3.2 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. 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.
- 3.3 Officers consider enforcement action is necessary and expedient to ensure the unauthorised use ceases and the unauthorised caravans are removed from the land. This will 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 that if the unauthorised residential use has not ceased and the caravans removed from the land by the end of March 2023:

To serve an Enforcement Notice to:

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

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

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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.