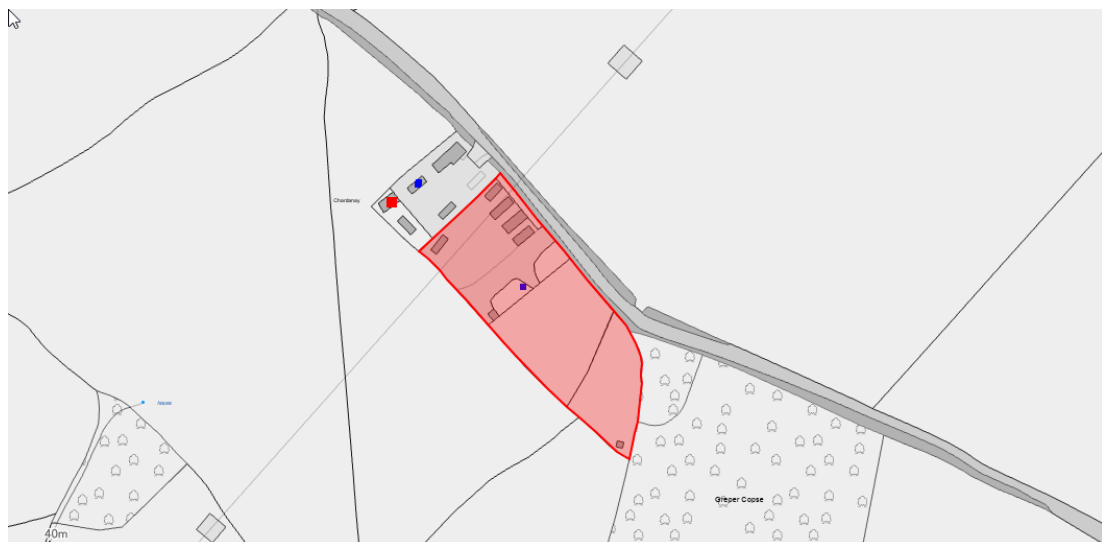


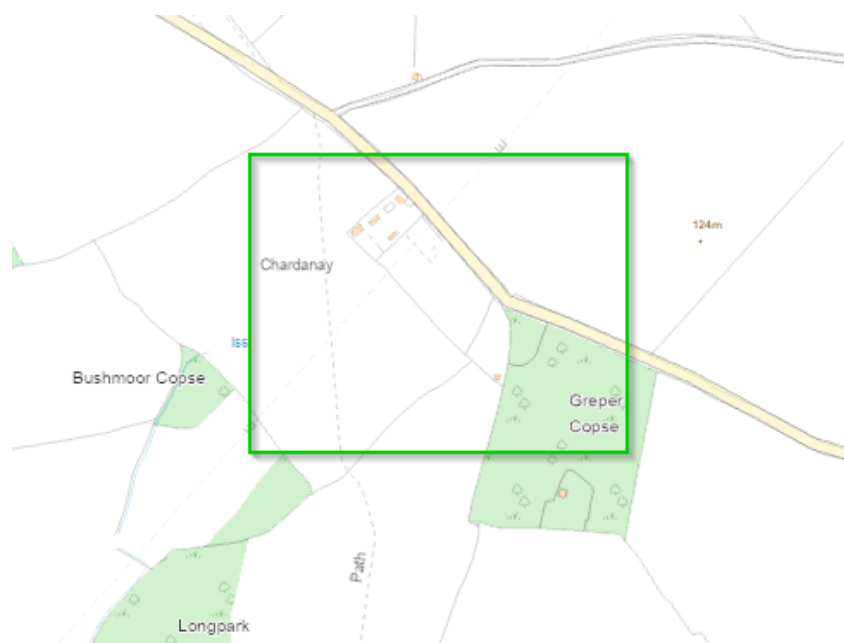
TEIGNBRIDGE DISTRICT COUNCIL

<p>PLANNING COMMITTEE ENFORCEMENT REPORT</p> <p>CHAIRMAN: Cllr Colin Parker</p>	
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DATE:	11 June 2024	
REFERENCE NO:	24/00177/ENF	
SITE:	Land at Chardanay, Woodland	
ENFORCEMENT ISSUE:	Unauthorised siting of a residential mobile home	
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:	<p>It be resolved that:</p> <ul style="list-style-type: none"> i) An ENFORCEMENT NOTICE be issued to cease the unauthorised residential use of the land and remove the unauthorised mobile homes / caravans within 6 months ; 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:	<p>Cllr John Nutley Cllr Stuart Rogers Cllr Jack Major</p>	Ashburton & Buckfastleigh



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

1.1 Chardanay is located within the open countryside, approximately 2.5 kilometres from Ashburton, 3 kilometres from Denbury and 650 metres north of Woodland. The site comprises of a rectangular piece of ground that is split into two parts. One part consists of an authorised gypsy and traveller site which provides three pitches. The other part is a strip of agricultural land that is the subject of other enforcement action. This relates to an unauthorised storage use of mobile homes and caravans and other non-agricultural items, and the unauthorised creation of an area of hardstanding. The key facts in this case are as follows:

- A number of mobile homes had originally been stored on the land without consent which resulted in an enforcement notice being issued on 2 November 2021 for the unauthorised change of use of the land from agricultural land to the storage of mobile homes, caravans, vehicles and various other items.
- Although the land has been used to store mobile homes it appears that the residential use started in 2023 so would not be immune from enforcement action.

The land has been the subject of a number of planning applications to be used for the siting of residential mobile homes / caravans but these have all been refused and two applications were dismissed at appeal.

- There is no lawful reason for the mobile homes to be sited on the land for

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residential purposes and the Council must therefore consider whether enforcement action is expedient to remedy the planning breach.

2. BACKGROUND & CONTEXT

- 2.1 On 2 November 2021 the Council issued two Enforcement Notices relating to the Land at Chardanay, Woodland. The first Enforcement Notice was for the unauthorised change of use of the land from agricultural land to the storage of mobile homes, caravans, vehicles and various other items. The second Enforcement Notice was for the unauthorised formation of an area of hardstanding. Following an appeal that was dismissed on 15 February 2022 to comply with the Notices it was necessary by 15 May 2022 to cease using the land for the storage of mobile homes, caravans, vehicles and any other items not associated with the permitted agricultural use of the land, remove from the land all the mobile homes, caravans, vehicles and any other items not associated with the permitted agricultural use of the land, and remove the area of hardstanding.
- 2.2 Following the period for compliance it was clear that the requirements of the Notices had not been complied with. Despite further correspondence with the owner, it was clear that no steps were being taken to comply with the requirements of the Notices. As such the matter was passed to the Council's Solicitor to take legal proceedings.
- 2.3 Although during previous investigations it was claimed that the mobile homes sited on the land were only being stored, it became apparent during the Court process that they were being used for residential purposes. This has subsequently been confirmed by the landowner. It seems from recent correspondence with the owner that three of the mobile homes are being used for residential purposes. Although it appears that three of the mobile homes are being occupied further information is being sought to clarify this. If the information is submitted in time, then the Planning Committee Members will be updated accordingly. However, as the use of the land for residential purposes results in a change of use of the land, and no planning permission has been granted, a planning breach has occurred.
- 2.4 With regards to the two existing Enforcement Notices that have been served, they do remain in place. However, as it is clear that a new planning breach has occurred it is necessary to pursue this.
- 2.5 In this instance the land in question has been the subject of a number of planning applications to change the use of the land for residential purposes. Applications (references 17/01064/FUL and 17/02827/FUL) were for an extension to the existing authorised gypsy site to provide two additional pitches. However, these were refused, and subsequent appeals dismissed. Further applications (references 20/00353/FUL and 22/01310/FUL) were submitted to extend the existing approved gypsy site, but these were also refused though no appeals submitted. Finally, another planning application (reference 23/02189/FUL) was submitted in 2023 to extend the existing

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gypsy site to add four mobile homes. However, this was also refused and is currently being appealed.

3 PLANNING CONSIDERATIONS FOR ENFORCEMENT ACTION

- 3.1 Although it appears that mobile homes have 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.
- 3.2 In this instance the mobile homes sited on land are outside any settlement limit and no evidence of any essential need to have mobile homes on the land for residential purposes has been provided. As such the stationing of the mobile homes on the land are 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 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 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.

4 RECOMMENDATION

- 4.1 The Committee is recommended to resolve:

To serve an Enforcement Notice to:

- i) cease using the mobile homes for residential purposes, and
- ii) remove the mobile homes 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.

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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.