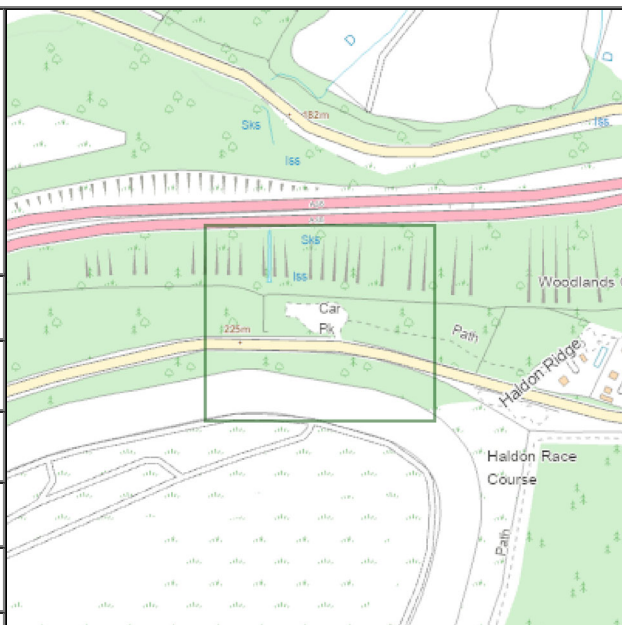


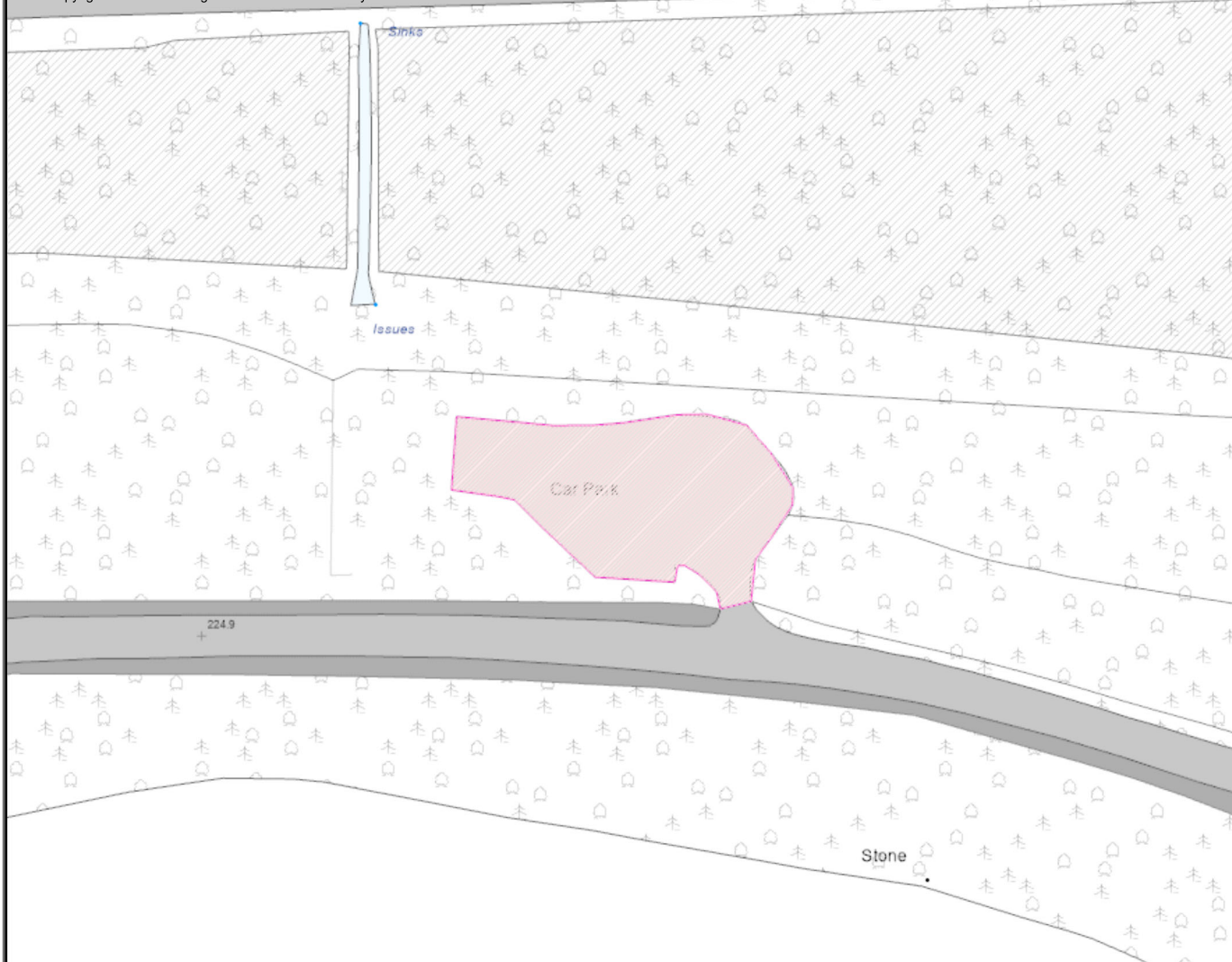
Planning Committee Enforcement Report

Cllr Colin Parker

Date	21 January 2025
Case Officer	Steven Hobbs
Location	Land North Of Haldon Race Course NGR 290438 83916 Kennford
Nature	Unauthorised residential use of land
Ward	Kenn Valley
Member(s)	Cllr Kevin Lake, Cllr Charles Nuttall, Cllr John Parrott
Reference	24/00045/ENF



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1. REASON FOR COMMITTEE CONSIDERATION

Unauthorised change of use of the land from a forestry use to a mixed use of forestry and the siting of residential mobile homes.

2. THE ALLEGED BREACH OF PLANNING CONTROL AND ENFORCEMENT INVESTIGATION FINDINGS

- 2.1 The land is part of Haldon Forest and is situated between Exeter Racecourse and the A38 Devon Expressway. The site was formerly used as a car park. The key facts in this case are as follows:

Approximately 15 caravans were sited on the land when viewed on 17 December 2024. The caravans appear to be in residential use.

No planning permission has been granted for the change of use of the land to site residential caravans and/or any associated residential or other activities and uses associated with the residential use of the land.

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

3. BACKGROUND AND CONTEXT

- 3.1 In January 2023 a planning application (reference 22/02044/FUL) was validated for the change of use of land north of Haldon Racecourse to a traveller site comprising of 5 pitches. The application was subsequently refused on 17 April 2023 for the following reasons:

1. *The application fails to provide sufficient information in terms of availability of alternative accommodation for the applicant or any personal circumstances. The conflict with Development Plan policies and material considerations is therefore not outweighed, as per the allowances of Policy H of the Planning Policy for Traveller Sites.*
2. *The use of the land for a Traveller site would result in the loss of a community facility, but the loss is not justified. The proposal is therefore in conflict with Local Plan policy WE12, as well as paragraph 93 of the NPPF.*
3. *The site is located within a sensitive ecological setting. This includes being within the Landscape Connectivity Zone of the South Hams SAC (designated for greater horseshoe bats); Haldon Forest SSSI is nearby; it is within Haldon Forest Important Bird Area; Haldon Racecourse heathland County Wildlife Site is nearby; and a Regionally Important Geological Site is to the north.*

The application is not accompanied by an Ecological Impact Assessment. This makes it impossible for the Local Planning Authority to understand the baseline position and any impacts arising from the proposal, nor how avoidance, mitigation, compensation and enhancement measures could be secured.

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The application site is located within 10km of the Exe Estuary SPA and Dawlish Warren SAC and is therefore subject to the requirements of the 2017 Conservation of Habitat and Species Regulations. To mitigate the impacts arising from the net gain in overnight accommodation that would arise from the proposed development, a financial contribution is required. No contribution has been provided and the applicant has not provided a legal agreement committing to any contribution, such that adverse impacts on features necessary to maintain the integrity of the Exe Estuary SPA and Ramsar site and the Dawlish Warren SAC cannot be ruled out.

The proposal therefore conflicted with Local Plan policies WE6 (part f), EN8, EN9, EN10 and EN11, as well as paragraph 174(a) and 180 of the NPPF.

- 3.2 In July 2024 a further planning application (reference 24/01182/FUL) for the change of use of land to traveller site comprising 5 pitches was refused on 16 September 2024 for the following reason:

The site is located within a sensitive ecological setting. This includes being within the Landscape Connectivity Zone of the South Hams SAC (designated for greater horseshoe bats); Haldon Forest SSSI is nearby; it is within Haldon Forest Important Bird Area; Haldon Racecourse heathland County Wildlife Site is nearby; and a Regionally Important Geological Site is to the north.

The application is not accompanied by an Ecological Impact Assessment. This makes it impossible for the Local Planning Authority to understand the baseline position and any impacts arising from the proposal, nor how avoidance, mitigation, compensation and enhancement measures could be secured.

The application site is located within 10km of the Exe Estuary SPA and Dawlish Warren SAC and is therefore subject to the requirements of the 2017 Conservation of Habitat and Species Regulations. To mitigate the impacts arising from the net gain in overnight accommodation that would arise from the proposed development, a financial contribution is required. No contribution has been provided and the applicant has not provided a legal agreement committing to any contribution, such that adverse impacts on features necessary to maintain the integrity of the Exe Estuary SPA and Ramsar site and the Dawlish Warren SAC cannot be ruled out.

The proposal is therefore in conflict with Policies S22 (part i), WE6 (part f), EN8, EN9, EN10 and EN11 of the Teignbridge Local Plan 2013-2033 and Policies GP3 (part 3.f), H10 (part 4.f), EN8, EN10, EN11, EN12, EN13, EN14 and EN15 of the emerging Teignbridge Local Plan 2020-2040, as well as paragraphs 180(a) and 186 of the NPPF and the Conservation of Habitat and Species Regulations.

- 3.3 Following the refusal of the above planning applications the Council contacted the applicant's agent, and Devon County Council in its capacity as the landowner, to advise them that, as no planning permission exists for the siting of the residential caravans, it was necessary to cease the use. If not, the

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District Council, in its role as the Local Planning Authority, would consider the expediency of taking enforcement action to secure cessation of the unauthorised use.

- 3.4 In response, the agent confirmed that he would liaise with the applicant to decide on whether to appeal the planning refusal or resubmit a further planning application addressing the reasons for refusal. It was subsequently confirmed that a revised application would be submitted that would include the necessary ecological information which was being prepared.
- 3.5 To determine whether the use is acceptable, a further planning application (reference 24/01962/FUL) has been submitted for the change of use of land to traveller site for a temporary period of 3 years. This is currently being considered.
- 3.6 Even though a planning application has been submitted, it is noted that this is for five touring pitches. This shows a layout that may be acceptable to comply with the appropriate site standards. However, from a visit to the area on 17 December 2024, viewed from the public highway, there were approximately 15 caravans sited on the land which is a greater number of caravans than being applied for and proposed in the current planning application. It was noted that the caravans that were sited on the land were in close proximity to each other. In addition, surrounding the caravans were piles of rubbish, scrap metal, gas bottles and various other paraphernalia associated with the current unauthorised use of land for residential purposes that have been collected since the said unauthorised use started.
- 3.7 Overall, the appearance of the site is very untidy and there is little (if any) visual indication that the current use is as an organised residential caravan site. In addition, the site is quite open and noticeable from the public highway and this has been increased due to the removal of some trees near the site entrance. As such it is a lot more visible and has a detrimental impact on the surrounding area. This is because, due to the location of the site within designated open countryside, the change of use of the land for the siting of residential caravan is inappropriate for the area and fails to conserve and enhance the qualities, character and distinctiveness of the locality. This is due to the number of caravans that are set out in an unorganised layout within such a small area of land, together with various piles of scrap metal, sheets of tarpaulin and other items and paraphernalia scattered across the land to create a generally untidy site.
- 3.8 As such the current set up is contrary to Policies of both the adopted Local Plan and the emerging Local Plan that aim to ensure development is of a good design and respects the character and appearance of the surrounding area. Clarification of said adopted and emerging Local Plan Policies are set out below.
- 3.9 Mindful that any enforcement action taken by the Local Planning Authority could lead to the occupants being made homeless, a full assessment of any health or personal circumstances associated with the persons occupying the

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land should be taken into consideration. Details have been requested from both the applicant's agent and Devon County Council. However, at the time of compiling this report, the requested information has not been received. Should such details be received, these will be reported to Members nearer the time of the Committee meeting by means of a written update or verbally at the Committee meeting itself.

- 3.10 In addition to no planning permission having been granted for the change of use of the land, there are various other concerns that have been raised regarding the use of the land as an unauthorised residential site. These include, but are not limited to, absence of a site licence and management costs. However, these are matters which are not deemed to be material planning considerations and would need to be pursued under other relevant legislation.
- 3.11 In this case there does not appear to be any evidence that steps are being taken by Devon County Council, as the landowner, to regularise the unauthorised use of the land. Although the current occupiers of the land have submitted a planning application to determine whether the use is acceptable there is no guarantee this would be allowed to be implemented even if approved. In addition, as referred to above, there is a discrepancy regarding the numbers of caravans being applied for as part of the current application and the number of caravans that have actually been allowed to be sited by the landowner of the land. However, as it is considered the use of the land for residential purposes is not acceptable, enforcement action is recommended as being both expedient and appropriate to cease the said unauthorised use, clear the site of caravans and associated paraphernalia and restore the land to its former condition.

4. PLANNING CONSIDERATIONS FOR ENFORCEMENT ACTION

- 4.1 Although the caravans have been sited on the land for approximately two years, there is no evidence provided that suggests they have been sited on the land, and said land used for residential purposes, for the necessary ten years to become established.
- 4.2 In this instance the current appearance of the site is considered to have a detrimental impact on the area for the reasons set out above, and it has not been proven that various ecological issues have been addressed. These ecological issues are relevant as the site is within the Landscape Connectivity Zone of the South Hams SAC (designated for greater horseshoe bats) and Haldon Forest SSSI is nearby. It is also within the Haldon Forest Important Bird Area and Haldon Racecourse Heathland County Wildlife Site is nearby. In addition, a Regionally Important Geological Site (RIGS) is to the north. Whilst ecological details have been submitted as part of the current planning application submission, these details have not yet been assessed in terms of any impact from the current unauthorised use.

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- 4.3 As such, the stationing of the caravans on the land are considered contrary to Policies S1, S2, S22, WE6, EN2A, EN8, EN9, EN10 and EN11 of the Teignbridge Local Plan 2013 – 2033 and Policies GP3 (part 3.f), H10 (part 4.f), EN4, EN8, EN10, EN11, EN12, EN13, EN14 and EN15 of the emerging Teignbridge Local Plan 2020-2040
- 4.4 The Policies of this District Council's Local Plan reflect the Core Principles as set out under the Government's National Planning Policy Framework (NPPF) and the National Planning Practise 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 135, 187(a), 187 (d) and 193 of the NPPF for the reasons as set out above.
- 4.5 Officers consider enforcement action is necessary, expedient and in the public interest to secure cessation of the unauthorised use and the removal from the land of the unauthorised caravans and any other items associated with the residential use of the land, including storage of materials and other paraphernalia in order to support and maintain the delivery of the Strategy of the District Council's 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.

5. RECOMMENDATIONS

The Committee is recommended to resolve that an Enforcement Notice be issued under Section 172 of the Town and Country Planning Act 1990 to:

- i) Cease using the land for the siting of caravans for residential purposes, and
- ii) Remove the caravans and any other items associated with the unauthorised residential use from the land.

The compliance period is recommended to be six months.

In the event of the Notice not being complied with, the Solicitor be authorised to take further action as necessary under Section 179 of the Act.

6. HUMAN RIGHTS ACT

The development 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 development rights and expectations which have been balanced and weighed against the wider

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community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.