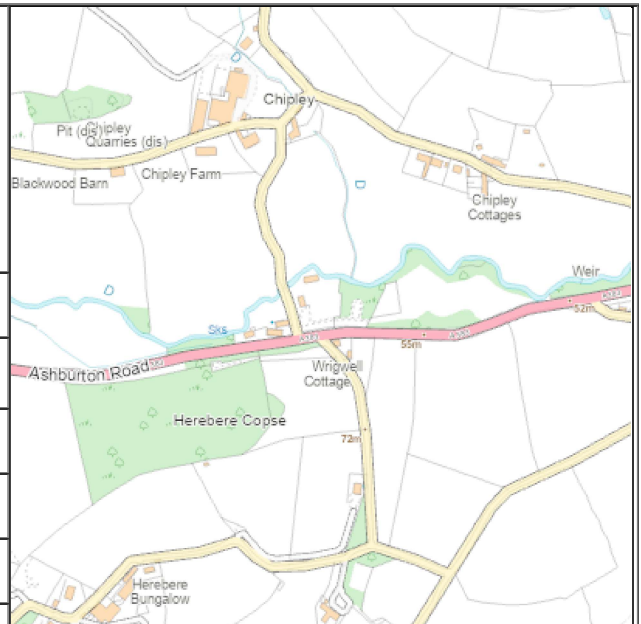


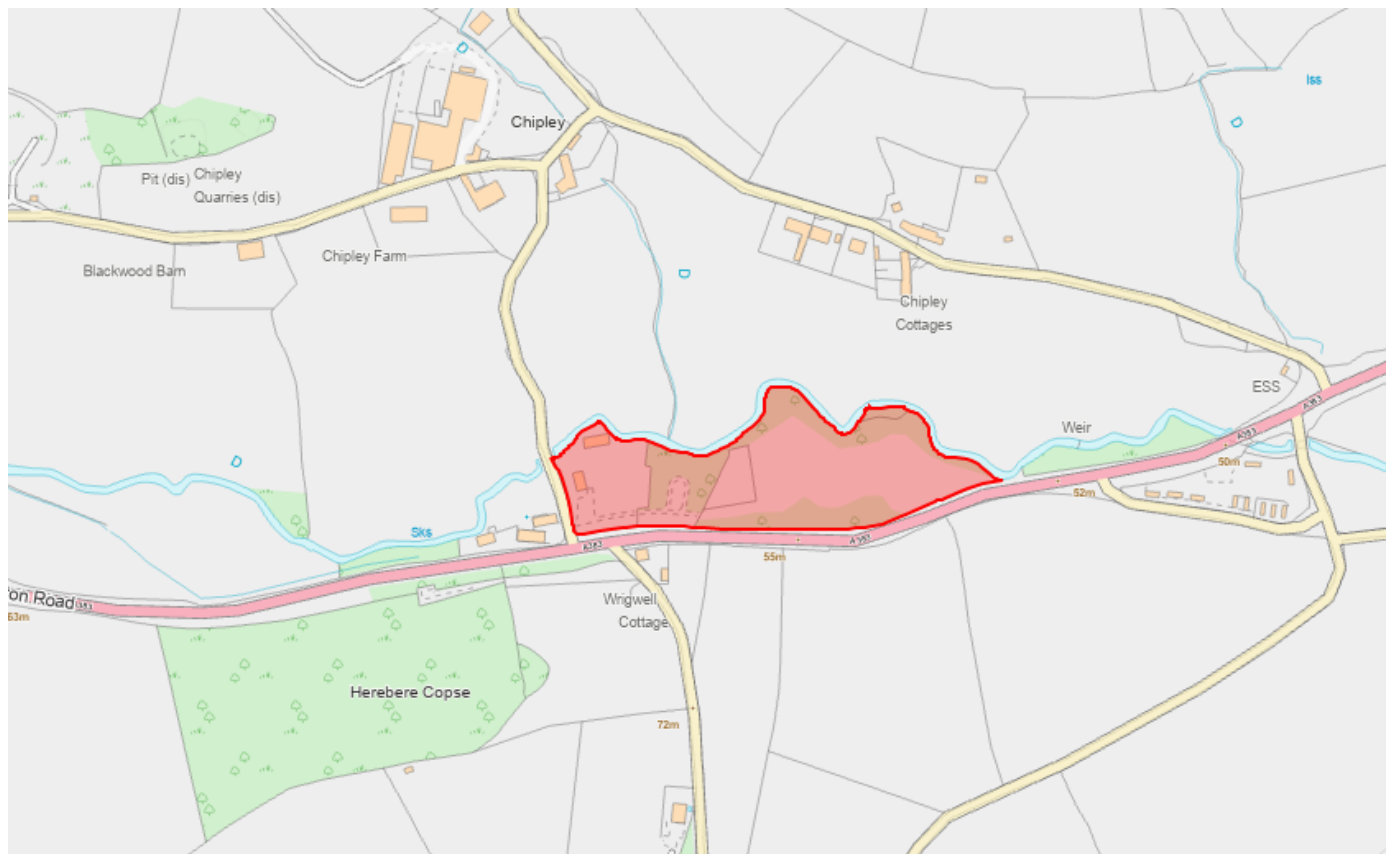
Planning Committee Enforcement Report

Chair: Cllr Suzanne Sanders

Date	18 November 2025
Case Officer	Steven Hobbs
Location	Land at Chipley Mill, Bickington, Devon, TQ12 6JW
Nature	Unauthorised change of use of agricultural land to education use (Class F1)
Ward	Ashburton and Buckfastleigh
Member(s)	Cllr John Nutley, Cllr Stuart Rogers, Cllr Jack Major
Reference	20/00182/ENF



Crown Copyright and database rights 2025 Ordnance Survey 100024292



1. REASON FOR COMMITTEE CONSIDERATION

Unauthorised change of use of the land from an agricultural use to an education use (Class F1).

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

- 2.1 Chipley Mill is situated close to Newton Abbot on a large site surrounded by trees. The site is flanked by the River Lemon to the north and the A383 road to the south, and comprises woodland areas and pasture. It is located within the open countryside.
- 2.2 The land is currently being used for educational purposes in association with Greater Horseshoe School. This is an unauthorised change of use of the land. A planning application was submitted for the change of use of the land but this was refused and an appeal was dismissed.
- 2.3 In order to remedy the ongoing planning breach formal enforcement action is required.

3. BACKGROUND AND CONTEXT

- 3.1 In June 2020 the Council received a complaint about the siting of caravans and a yurt on land at Chipley Mill, Bickington. From an initial investigation, including a visit to the area, it was apparent that there was a yurt and large tent along with some caravans sited on the land, but it was not clear what they were being used for. As such the owner was contacted to arrange a site meeting to fully assess the use of the land.
- 3.2 Although the owner contacted the Council following receipt of a letter it was not possible to carry out a site meeting at that time due to Covid-19 restrictions. A site visit was carried out in February 2022. From the visit it was noted that since 2018 the land had been used as a type of Forest School in association with a school in Heathfield. As part of the use a number of sheds, structures and polytunnels had been placed on the land.
- 3.3 As the use for educational purposes represented a change of use of the land the owners were advised to apply for planning permission to determine if the use could continue.
- 3.4 In July 2022 a planning application (reference 22/01348/FUL) was submitted for the continuation / change of use of agricultural land to education use (Class F1) in association with Greater Horseshoe School; and retention of associated ancillary buildings and structures. However, this was refused on 2 August 2024 for the following reasons.

The submitted flood risk assessment (FRA) predicts flood depths during the design flood (with an allowance for climate change) of between 0.8 to 1.5m represent a significant to extreme hazard (i.e. 'Danger for Most' to 'Danger to

All – Risk to Life’) however there has been no assessment made with regard to this hazard nor as to whether the proposal can be made safe in line with the guidance contained within the NPPG. This deficiency within the submitted FRA has prohibited the effective assessment of this scheme and the proposal is therefore considered as running contrary to policy EN4 of the Local Plan, emerging policy EN6 of the Teignbridge Local Plan 2020 – 2040 and paragraphs 167 and 173 of the NPPF.

- 3.5 Following the refusal an appeal was submitted. The appeal was dismissed on 22 April 2025 as it was considered that the issue of the flood risk could not be overcome. The Inspector was specific in their concerns about the flood risk, as set out in the appeal decision:

7. The site is within Flood Zone 3 and classified as High Risk of flooding from the River and Medium Risk of flooding from Surface water runoff. The Environment Agency (EA) have objected to the application on the basis that the Flood Risk Assessment (FRA) is not appropriate in accordance with 171 (previously paragraph 167) of the Framework. The EA consider that the FRA has not adequately assessed the flood risks associated with the proposal or demonstrated that the site is safe.

16. The information submitted with the appeal provides details of flood warning systems and emergency plans. However, given the in principle objection to the development I have not considered the suitability of these proposals. Furthermore, although suggested conditions have been provided relating to restrictions on to the educational use and a Flood Warning and Emergency plan these would not overcome the in principle objection to the scheme.

17. The proposal is for a ‘more vulnerable’ development in an area at high risk of flooding. As a result, it would be contrary to Policy EN4 of the Teignbridge Local Plan (2014) which guides development to areas at lower risk of flooding along with the Framework including paragraphs 172 (previously 167) and 181 (previously 173) and the PPG which requires a risk-based approach to flooding so as to avoid risk to people and property.

- 3.6 A site meeting was held on 24 June 2025 to assess the current situation. From the visit it was clear that the land is continuing to be used for educational purposes with various temporary structures sited across the site.
- 3.7 Officers consider that the use is unacceptable. There does not appear to be any way to overcome the concerns with flooding such that the Council considered proceeding with enforcement action to ensure the unauthorised use ceases.
- 3.8 Following standard procedure, Ward Councillors were advised and a request has been made for the matter to be placed before the Planning Committee for consideration.

4. PLANNING CONSIDERATIONS FOR ENFORCEMENT ACTION

- 4.1 Although the land has been used for educational purposes for a number of years without any flooding occurring this does not overcome concerns that the site is situated within a high risk flood zone.
- 4.2 Annex 3 (flood risk vulnerability classification) of the NPPF classifies education establishments as 'more vulnerable', not 'recreational land' as suggested, Table 2 (flood risk vulnerability and flood zone 'incompatibility') in the flood risk and coastal change section of the Planning Practice Guidance is clear that more vulnerable uses should not be permitted in flood zone 3b (Functional Floodplain) and in flood zone 3a must pass both the sequential and exception tests. This is confirmed with the Inspectors report, paragraph 17.
- 4.3 The site is just upstream of the Holbeam flood storage area and, taking into account the impacts of climate change, any required changes to the Holbeam dam crest level to protect Newton Abbot may mean that the future flood storage area will extend towards this site. In this event the potential exists to further increase the flood risk at this site. Currently the site will see depths of between 0.8 to 1.5m, representing a significant to extreme hazard and this is particularly important for 'more vulnerable' use.
- 4.4 In this instance although the land has been used for educational purposes for a number of years without any flooding occurring this does not overcome concerns that the site is situated within a high risk flood zone. It is considered the current use is contrary to Policies EN4 of the Teignbridge Local Plan 2013 – 2033 and Policy EN6 of the emerging Teignbridge Local Plan 2020-2040
- 4.5 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 167 and 173 of the NPPF for the reasons as set out above.
- 4.6 Officers consider enforcement action is necessary, expedient and in the public interest to secure cessation of the unauthorised educational use and the removal from the land of the temporary tents and structures associated with the educational use of the land, in order to support and maintain the delivery of the Strategy of the District Council's Local Plan.

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 educational purposes; and
- ii) Remove from the land all the temporary tents and structures used in connection with the unauthorised educational use of 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 community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.