

TEIGNBRIDGE DISTRICT COUNCIL

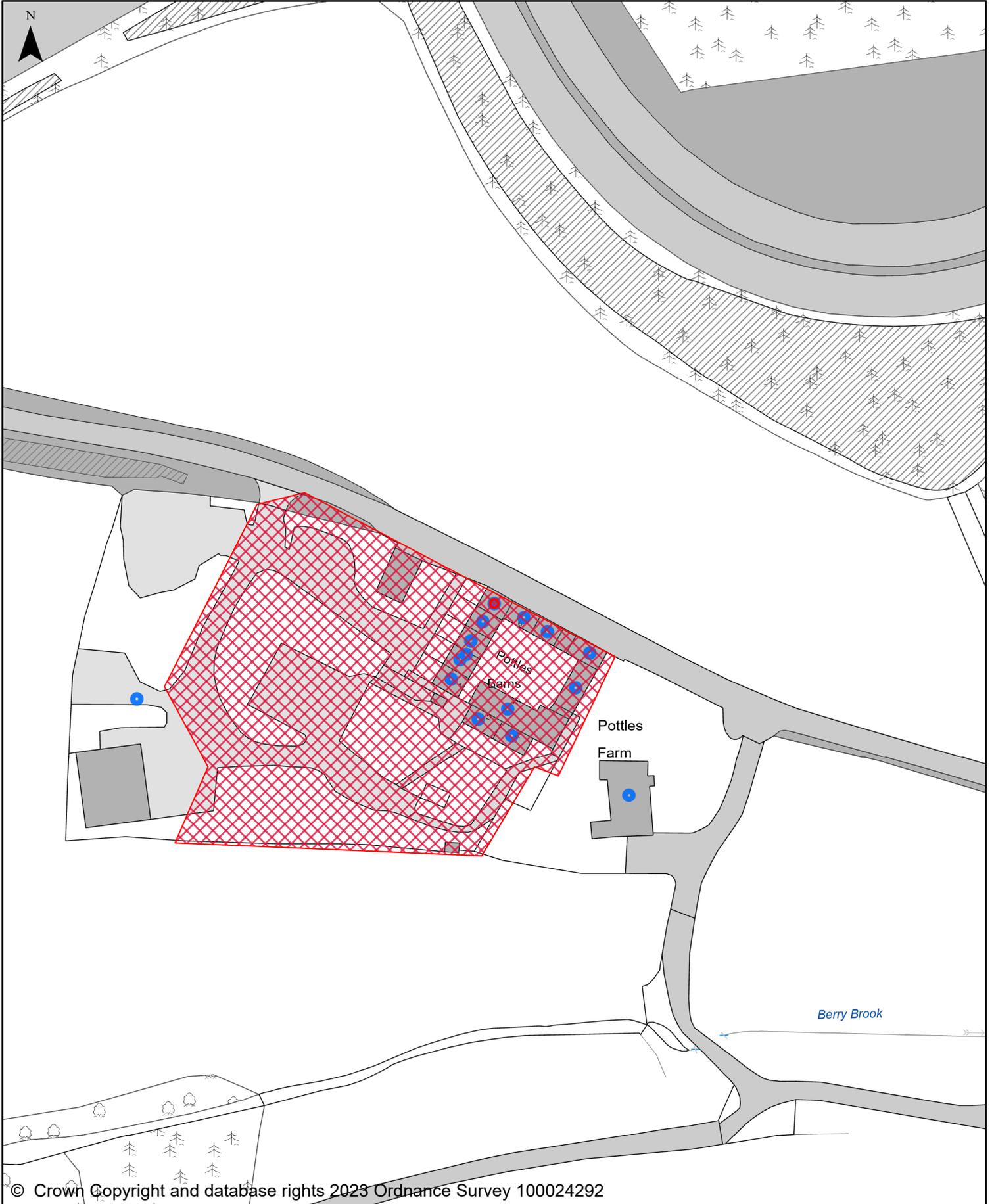
**PLANNING COMMITTEE  
ENFORCEMENT REPORT**

CHAIRMAN: Cllr Colin Parker



<b>DATE:</b>	24 October 2023	
<b>REFERENCE NO:</b>	19/00060/ENF	
<b>SITE:</b>	Pottles Barns, Days pottles lane, Exminster	
<b>ENFORCEMENT ISSUE:</b>	Non-compliance with condition ref: 06/08216/MAJ	
<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) A Breach of Condition Notice be issued;</li> <li>ii) A 12 month compliance period be agreed; and</li> <li>iii) 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 Kevin Lake Cllr Charles Nuttall Cllr John Parrott	Exminster





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Pottles Barns, Days pottles lane, Exminster

1:1,229  
0 0.01 0.01 0.03 mi  
0 0.01 0.02 0.04 km

Map Tile: SX9287NE Full Reference: SX92951 87581

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

1.1 Pottles Barns consists of a number of barns that were granted planning permission to be used for holiday purposes. The site is located along Days Pottles Lane outside any defined settlement limits. Exminster lies to the northeast of the site some distance away. The current enforcement case relates to the use of the properties for a permanent residential use contrary to a planning condition limiting the use to holiday purposes. The key facts in this case are as follows:

- Planning permission (reference 06/08216/MAJ) was granted on 14 March 2007 for the change of use and conversion of existing barns to 12 holiday let units that remain in single ownership. This use was subject to a condition limiting the use of the buildings to holiday occupancy only.
- The 12 units / dwellings were subsequently created and occupied. Whilst these are presumably occupied by numerous separate households, a land registry check has confirmed that the overall site is in a single ownership and as such it is assumed that the units / dwellings are rented out.
- Seven of the units appear to have been occupied for residential purposes contrary to the restrictive condition for more than 10 years. These units will be immune from enforcement action. However, 5 of the units have not been occupied in breach of the condition for the required 10 year period. The planning authority can still take action in relation to these units to enforce the requirement for occupation to be for holiday purposes only.
- As the site lies outside the settlement boundary where Local Plan Policies and National Policies do not generally support the creation of new residential dwellings, prompt enforcement action is required to remedy the planning breach.

## 2. BACKGROUND & CONTEXT

2.1 In March 2007 planning permission reference 06/08216/MAJ) was granted for the change of use and conversion of existing barns to 12 holiday let units at Pottles Farm, Days Pottles Lane, Exminster. This was subject to a condition limiting the use of the buildings to holiday use only. Condition 4 states:

*The buildings shall be occupied for holiday use only and not as a main residence.*

*REASON: The site lies within an unsustainable rural location inappropriate for permanent residential development.*

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- 2.2 The possible unlawful use of the properties was brought to our attention in 2019; the owner was contacted and advised of the planning breach.
- 2.3 In September 2021 a planning application (reference 21/02064/VAR) was submitted for the removal of conditions 4 and 5 on permission 06/08216/MAJ (Change of use and conversion of existing barns to 12 holiday let units), in order to enable permanent residential occupation. However, the proposal was considered to be contrary to policies S1A, S1 and S22 of the Teignbridge Local Plan 2013-2033, and the guidance set out in the National Planning Policy Framework and the National Planning Practice Guidance. The application was refused on 8 November 2021.
- 2.4 Discussions took place with the owner's agent who was understandably keen to overcome the reasons for refusal and identify a way to maintain the status quo.
- 2.5 No appeal was submitted.
- 2.6 As part of the investigation details of each unit's occupation history were requested in early 2023. It was noted that all 12 of the units are being occupied for residential purposes contrary to the planning condition. Evidence indicates 7 of the 12 units have been occupied on this basis for more than 10 years. This has not been confirmed through the granting of a Certificate of Lawfulness but the LPA does not have any evidence to the contrary. However, it was noted that 5 of the units have not been occupied in breach of the planning condition for the necessary 10 year period. The residential use of these 5 units would not be immune from enforcement action being taken.
- 2.7 The original planning permission was granted for the conversion of the barns for holiday purposes - in accordance with Local Plan policy at the time. Unrestricted residential use is still unacceptable in planning policy terms (see the recent refusal). Whilst 7 of the units may be immune from enforcement action this does not mean the remaining units should also be allowed to become lawful permanent residential dwellings.
- 2.8 Enforcement action would require occupants to move out of the properties, and as such could result in a number of occupants becoming homeless.
- 2.9 To resolve the matter it is considered that a Breach of Condition Notice should be served, against which there would be no right of appeal. As the Notice would result in the occupants losing their homes a period of twelve months should be given for the owner to comply with the Notice. This would allow the occupants sufficient time to find alternative accommodation.

### 3. PLANNING CONSIDERATIONS FOR ENFORCEMENT ACTION

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- 3.1 The properties are sited outside any settlement limit and no evidence of any essential need other justification to depart from our local plan policies has been provided. As such the use of the properties as permanent residential dwellings is considered 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. It is considered that in this instance the unauthorised use fails to uphold these principles, particularly those in paragraphs 78 and 80 of the NPPF.
- 3.3 We anticipate receiving a further planning application seeking to regularise the situation and will assess this on its merits in due course. In light of the current position, we do not consider we should await receipt or determination of this currently hypothetical application.
- 3.4 Officers consider enforcement action is necessary and expedient to ensure the unauthorised use ceases. 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 whilst protecting the character and appearance of the area.

## 4 RECOMMENDATION

- 4.1 The Committee is recommended to resolve to serve a Breach of Condition Notice:
  - i) To require the cessation of use of units numbered 1 to 5 Pottles Barns for residential purposes and to only use those units in compliance the Planning Permission granted for the site – including in accordance with condition 4 of planning permission (06/08216/MAJ) granted for the change of use and conversion of existing barns to 12 holiday let units.
  - ii) The compliance period is recommended to be twelve months.
  - iii) 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

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which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.