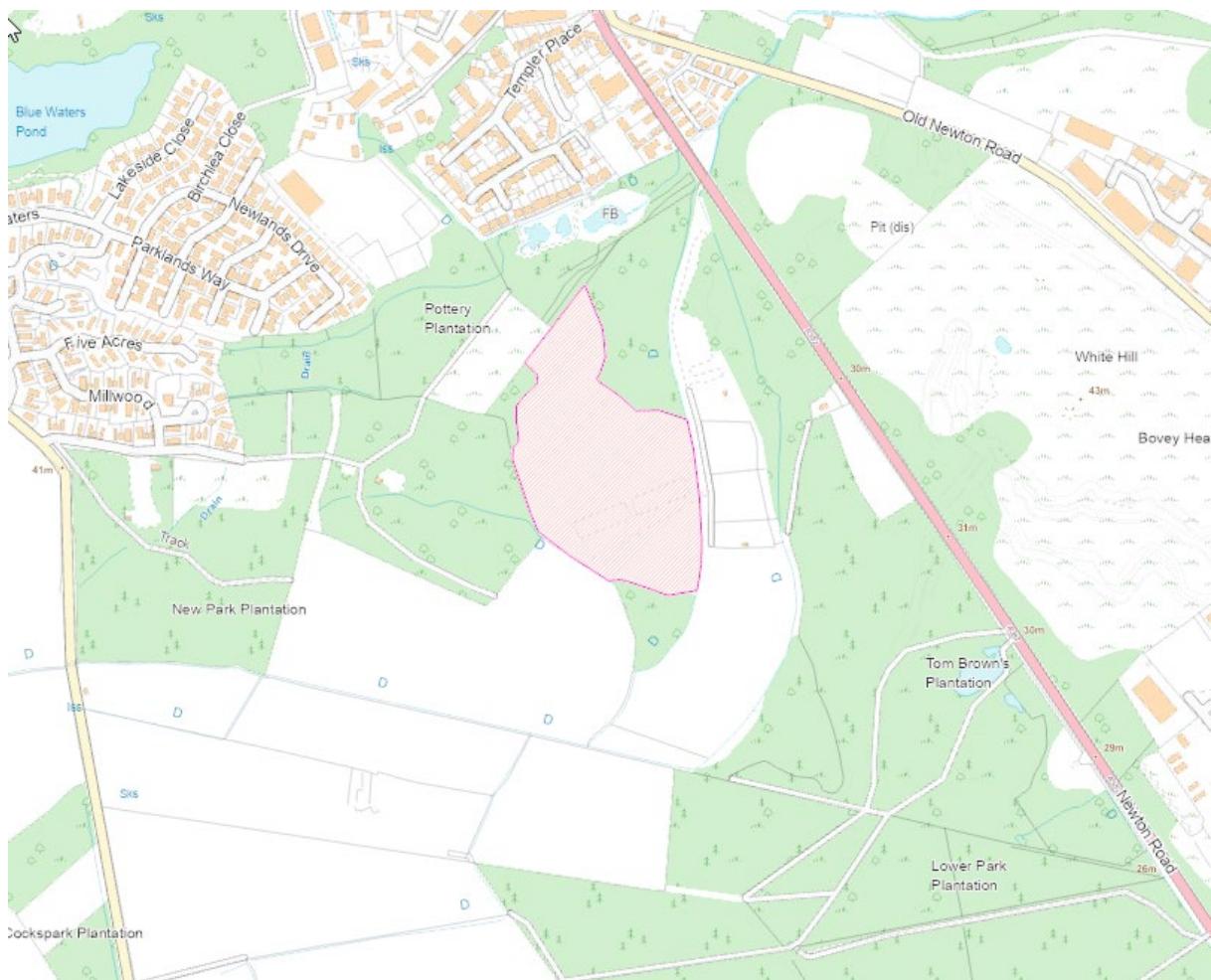


PLANNING COMMITTEE ENFORCEMENT REPORT

CHAIRMAN: Cllr Colin Parker



DATE:	20 August 2024	
REFERENCE NO:	20/00104/ENF	
SITE:	Land at Bovey Heath Farm, Newton Road, Bovey Tracey	
ENFORCEMENT ISSUE:	i) Unauthorised change of use of the land from an agricultural use to a mixed use of agriculture and the siting of residential mobile homes, and, ii) The unauthorised construction of three timber structures and an agricultural building.	
REASON FOR COMMITTEE CONSIDERATION:	The proposed enforcement action has the potential to render a person homeless (see <i>TDC Constitution, Section 6, Schedule 6, paragraph 5.1</i>)	
RECOMMENDATION:	It be resolved that: i) An ENFORCEMENT NOTICE be issued to cease the unauthorised residential use of the land and remove the unauthorised mobile homes within six months ; and ii) An ENFORCEMENT NOTICE be issued to secure the removal of the unauthorised agricultural building and timber structures within three months; and iii) In the event of the notices not being complied with, authorisation be given to take further action as necessary including proceeding to prosecution.	
WARD MEMBERS:	Cllr Sally Morgan Cllr Martin Smith Cllr Stuart Webster	Bovey Ward



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

1.1 Bovey Heath Farm is located to the southwest of Bovey Tracey and is accessed via a private track off Newton Road. The land is agricultural and is situated in-between a number of surrounding plantations. The key facts in this case are as follows:

- Three static caravans have been sited on the land along with two timber extensions to the caravans. In addition a timber building and an agricultural barn have been built on the land near the caravans.
- No planning permission has been granted for the extensions to the static caravans or the additional buildings. In addition there is no lawful reason for the static caravans to be sited on the land for residential purposes.

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

2. BACKGROUND & CONTEXT

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2.1 In April 2020 the Council received complaints about mobile homes being sited on land known as Bovey Heath Farm, Bovey Tracey.

2.2 From an investigation it was noted that three static caravans had been brought onto the land. Following correspondence with the owner and their agent a planning application (reference 20/01679/FUL) was submitted for the erection of a temporary rural workers dwelling, an agricultural barn and two poly tunnels with associated works.

2.3 Unfortunately, there was a delay in determining the application. The application was subsequently withdrawn in February 2024. In the meantime from more recent visits to the site it was noted that works had been carried out to provide decking around the caravans and two of these had timber structures constructed built on the sides of them. In addition, it was noted that a timber building has been built next to the caravans. From the investigation it is claimed that one of the extensions was built in January 2020 and the other was added in July 2021. It is also claimed that the timber building situated near the caravans was built in July 2021. However, with regards to the extension completed in January 2020 this did not appear to be in place when a site visit was carried out in July 2020.

2.4 As the planning application had been withdrawn the Council were looking at taking action to remedy the breaches. However, in March 2024 a Certificate of Lawfulness (reference 24/00540/CLDE) was submitted for an existing single dwelling (Class C3). This covered the use of the three static caravans as a single dwelling. However, this was refused on 4 June 2024.

2.5 From recent correspondence it is noted that the three mobile homes are being occupied by a single family. This consists of the owners and their three grown up children along with the partner of one of the children. It appears that many of the occupants do have health issues but it is not considered that these would justify the need to reside on the land.

2.6 As part of determining the Certificate of Lawfulness application a site visit was carried out and it was noted that a new agricultural building had been built on the land. As no permission had been granted for the building the owner was advised accordingly. To determine whether the building could be retained a retrospective planning application (reference 24/00885/FUL) was submitted for the erection of an agricultural building. However, this was refused on 25 July 2024 for the following reasons:

- 1. In the absence of appropriate measures in form of manure management plan and due to proximity to residential properties, the proposed development through its use for the purposes of housing livestock would result in unacceptable odour impact to the detriment of residential amenity of the occupiers of dwellings at Templer Place. Therefore, the development would be contrary to the provisions of Policy S1 (d) of the Teignbridge Local Plan 2013-2033.*

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2. *The proposed development would result in unjustified loss of an area of species-rich grassland habitat failing to provide without appropriate and adequate compensation, and mitigation. Therefore, the development would be contrary to the provisions of Policies S22, EN8 and EN9 of the Teignbridge Local Plan 2013-2033 and LE4 of the Neighbourhood Plan.*
3. *In the absence of detailed information in respect of the design, location and viability of the proposed soakaway, and due to lack of information in respect of safe access and egress to and from the site during a potential future flood event, it has not been demonstrated that flood risk on the site and elsewhere would be managed appropriately through the life of the development to the contrary of the provisions set out in Policy EN4 of the Teignbridge Local Plan 2013-2033 and paragraphs 165 and 173 of the NPPF.*
4. *In the absence of any arboricultural impact assessment of the trees protected under TPO reference E2/08/46 located to the northwest of the proposed building, it has not been sufficiently demonstrated that the carrying out of the proposed development would not result in loss or damage to the root protection areas of the identified trees. On that basis, the proposed development is contrary to the provisions of Policy EN12 of the Teignbridge Local Plan 2013-2033.*

2.7 In this instance given that the matter has been ongoing for a considerable time and it is considered the use of the land for residential purposes is not acceptable, enforcement action is necessary to cease the unauthorised use. In addition, as no planning permission has been granted for the timber structures and buildings, and there is no justification to retain them, enforcement action is required to ensure they are removed.

3. PLANNING CONSIDERATIONS FOR ENFORCEMENT ACTION

- 3.1 Although the static caravans have been sited on the land for a few years, it does not appear that they have been sited and used for residential purposes for the necessary ten years to be established, ten years being the length of time a use of land must be carried out to become immune from enforcement action. In addition, it is not considered that the works that have been carried out to provide the decking and extensions have stopped them being considered moveable units.
- 3.2 In this instance the static caravans sited on land are outside any settlement limit and no evidence of any essential need to have caravans on the land for residential purposes has been provided. As such the stationing of the caravans on the land are considered contrary to Policies of the Teignbridge Local Plan 2013 – 2033.
- 3.3 With regards to the agricultural building and the other structures that have been built, although they are being used mainly for agricultural purposes it has not been demonstrated that this is the case. In addition, apart from the larger

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building the others do not appear to be appropriately designed for agricultural purposes. They appear to be more associated with the residential use of the land. As such it is considered that the buildings and structures that have been built are contrary to Policies of the Teignbridge Local Plan 2013 – 2033.

- 3.4 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 82 of the NPPF, which requires policies and decisions to be responsive to local circumstances and local housing needs, for the reasons as set out above. It is also considered that the unauthorised buildings and structures that have been built are contrary to the Framework and Guidance.
- 3.5 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. It is also considered enforcement action is necessary and expedient to ensure the unauthorised structures and buildings are removed from the land for the reasons set out above.

4 RECOMMENDATION

- 4.1 The Committee is recommended to resolve:

To serve an Enforcement Notice to:

- i) cease using the land for the siting of static caravans for residential purposes,
- ii) remove the mobile homes from the land,
- iii) demolish the unauthorised buildings and structures and remove the resulting debris from the land.

The compliance period for (i) and (ii) is recommended to be six months and the compliance period for (iii) is recommended to be three months.

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

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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.