



## North Devon Council

### **Title of Decision Requested: Enforcement Notice for mobile home at Mockham Barton Smallholding, Brayford ref 10721**

Decision requested by decision maker: Agreement to issue Enforcement Notice for storage of mobile home at Mockham Barton Smallholding, Brayford ref 10721

#### **1. BACKGROUND / REASONS FOR THE DECISION REQUEST**

- 1.1. Without planning permission, the material change of use of land to the north of Mockham Barton known as 'Mockham Barton Smallholding', Brayford from agriculture to the storage of a mobile home.
- 1.2. The breach of planning control alleged that is within the last 10 years unauthorised storage of a mobile home.
- 1.3. An Enforcement Notice should be issued to remedy the alleged breach of planning control. The Council considers it expedient to issue this notice for the following reasons:
  - 1.4. This is a steeply sloping site where at the southern end of the site, adjacent to the highway (A399), the land is currently being used for the storage of a mobile home which is not linked to an agricultural use.
  - 1.5. The land is located in the countryside where the North Devon and Torridge Local Plan (NDTLP) and National Planning Policy Framework (NPPF) seeks to restrict certain forms of development in the interests of sustainable development.
  - 1.6. The change of use of land is controlled and limited to that which meets local economic and social needs, rural building reuse and use that is necessarily restricted to a countryside location in accordance with Policy ST01: Principles of Sustainable Development and Policy ST07 (4): Spatial Development Strategy for Northern Devon's Rural Area of the North Devon and Torridge Local Plan.
  - 1.7. The siting of a mobile home which is not linked to an agricultural use in this location in the countryside would not be justified under Policy ST07 of the NDTLP which seeks to restrict new development in the countryside to that



which requires a rural location and provides for local, social or economic needs.

- 1.8. Policy ST14 relates to protecting landscape and biodiversity interests. In terms of the use this does not appear to provide for any of the criteria of Policy ST07 nor does it conserve landscape character or biodiversity interests given it is not development which justifies a remote rural location.
- 1.9. In terms of the wider development management policies, the breach identified would not represent appropriate development in terms of design and location contrary to Policies DM04 and DM08A of the North Devon and Torridge Local Plan. Its location is remote from any settlement. Whilst there is an existing field gate the access does not provide adequate visibility from and of emerging vehicles, with consequent risk of additional danger to all users of the A399 and interference with the free flow of traffic. In addition, users of the site are reliant of private transport to access it, which is contrary to both sustainability aims and safety aims of Policy DM05 of the NDTLP and paragraphs 114(b) and 115 of the National Planning Policy Framework (December 2023).
- 1.10 In terms of the type of use it would not appear to fall within any of the rural economy criteria outline in Policy DM14 given the use does not appear to have any links to agriculture.
- 1.11 The Local Planning Authority consider is necessary to remedy the breach of planning control by removal of the mobile home and that lesser steps cannot deal with the issue. It is also necessary and in the public interest to take enforcement action since otherwise the use could become lawful with the passage of time which as stated above it contrary to long established planning policies seeking to protect the character of the area.

## **2. FINANCIAL IMPLICATIONS**

- 2.1. There are no immediate financial costs involved with this action. Should the owner not comply with the Notice served, there may be cost involved with taking prosecution action for non-compliance with the Notice or direct action, but this is a decision which can be made at a later time and will only occur if the owner does not comply.

### **3. ANY ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

3.1. There are no other actions the Council can take to remedy this breach of planning control. The owner has not willingly complied with requests to remedy the breach.

### **4. ANY CONFLICT OF INTEREST DECLARED?**

4.1. None

### **5. DISPENSATION IF GRANTED**

5.1. Not applicable

### **6. BACKGROUND PAPERS**

The following background papers were used in the preparation of this request (The background papers are available for inspection and kept by the author)

- 6.1. An enforcement case was opened on 8 March 2018. A site visit was carried out and it was found that a shed was in the process of being built on the lower part of the site on the valley floor. There were no animals on site at the time of the visit. This site was also the subject of a previous enforcement investigation in June 2017 (ref 10356) but was closed as no breach was found. At that time a small amount of agricultural activity was found on site; 11 pigs, 2 goats and 12 lambs and the mobile home at that time was used for shelter, storage of animal food and feeding bottles for the lambs. The mobile home was not capable of residential occupation having no furniture crockery or food.
- 6.2. On 13 April 2018 an email was sent to the owner's agent requesting the shed be removed or an application submitted to justify the need for it on the land. The owner's agent responded on 23 April 2018 stating there was a need for the shed on the land. A further email was sent to the agent on 3 May 2018 requesting an application within 28 days. On 11 June 2018 the owner called and stated an application would be submitted by mid July 2018.
- 6.3. On 10 September 2018 planning application ref 65251 was refused by the Council. This application sought retrospective planning permission for the shed on site. On 12th September 2018 an email was sent to the agent requesting the shed be removed from the site within 1 month or they submit an appeal against the refusal of planning permission within the same timeframe. The owner's agent responded on 14 October 2018 to advise they would submit an appeal. No appeal was submitted.
- 6.4. A site visit and photos were taken on 20 August 2019. The large shed was found to still be on the site (subject of the reused planning application ref 65251). A further visit and photos were taken on 19 November 2019 which found the larger shed still on site, smaller sheds, and a touring caravan and

vehicle on the site as well as the second caravan/mobile home. On 25 November 2019 a desktop investigation was completed looking at aerial photos of the site. Both caravans were considered to have been placed on the land between February and May 2017, therefore at that time the Council was within time to remove them. A Land Registry search was completed on 25 November 2019 and a letter was sent to the owner requesting he contact the Council about the ongoing breaches at the site. The owner replied on 26 November 2019 and stated there had been no change to the site. There was no action between November 2019- December 2023 due to staffing and resource issues.

6.5. On 16 December 2023 a case review was completed by the current Planning Enforcement Officer. A site visit was completed and photos taken on 20 December 2023. That visit found a large building at the bottom of the site on the valley floor – the same building subject of the 2018 complaint (and refused planning permission ref 65251) which had now become lawful through the passage of time. A number of smaller sheds also present at the 2019 site visits which had now also become lawful through the passage of time. The touring caravan and vehicle had been removed but a mobile home was still located at the top of the site. This was very overgrown with brambles and weeds and did not look used. It was not occupied. There was no visible signs of agricultural activity on the land.

6.6. A new Land Registry search was completed on 3 January 2024 and a letter was sent to the owner the same date requesting the mobile home be removed from the Land or an application submitted to retain it within 2 months or by 3 March 2024. The owner responded by email on 11 January 2024 and in an email of 13 January 2024 the owner confirmed he would submit an application. The Council chased the owner by email for an update on 28 March 2024, no response was received. The Council chased the owner by email again on 15 April 2024. An email received from the owner on 19 April 2024 asking a series of questions about the mobile home and the uses and questioned why permission was needed. The Council responded the same day and gave a final period for the owner to comply and remove the mobile home, by 1 May 2024.

6.7. A pre-app was submitted at the very end of April 2024 but this was returned as invalid. An email was sent to the owner on 16 May 2024 stating that the Council were now taking more formal action and serving an Enforcement Notice.



**7. CONSULTATION UNDERTAKEN**

7.1 The Planning Officer Sarah May has instructed the Planning Enforcement Officer to serve a Notice and drafted the reasons for doing so.

**8. OFFICER REQUESTING DECISION TO BE TAKEN**

8.1 Stacey Salter, Planning Enforcement Officer

**9. NAME OF DECISION TAKER:** Tracey Blackmore Service Manager (Development Management): Head of Planning, Housing and Health

**10. DATE DECISION TAKEN:** 24<sup>th</sup> June 2024

**11. APPROVED BY DECISION TAKER:** Yes /

**12. DECISION TAKER'S COMMENTS:**