



North Devon Council

Title of Decision Requested: Enforcement Notices for Plot 44, Plot 8, Plot 15A/B, Plot 19 and Plot 43 & 56 at Winson Farm, Chittlehampton ref 13319

Decision requested by decision maker: Agreement to issue Enforcement Notices for 5 Plots – Plot 8, Plot 44, Plot 15A/B, Plot 19 and Plot 43 & 56 at Winson Farm, Chittlehampton, EX37 9QP

1. BACKGROUND / REASONS FOR THE DECISION REQUEST

1.1. The site does not benefit from agricultural (or other such) Permitted Development (PD) as PD rights have been removed through an Article 4 Direction. No part of the development has any Permitted Development Rights (agricultural or otherwise). Permission would be required to site buildings or fences/gates within or to the boundary of the site. All items are unauthorised development within the countryside.

1.2. The items listed below are not related to operational agricultural functions of the site, or to any other rural based enterprise, and there are no material or functional or economic reasons to continue to site the items in the countryside. The works comprise unacceptable additions to the countryside, contrary to policy ST07 (4) because they are not limited to that which is enabled for economic or social needs and are not necessarily required within the countryside setting. By virtue of the visual prominence of the site from the outskirts of Chittlehampton to the north, and from the locality around the site and the B3227 Road, the works are visually prominent and of scale, mass and appearance that detracts from the countryside setting of the area and are contrary to policies DM04 (a,b and c) (Design) and DM08A (1) (Landscaping). The works are unauthorised, incongruously sited, unattractive in design form, and unnecessary in this countryside location and must be removed.

1.3. Plot 8 - One larger shed, remaining on the land.

Application 78306 was refused on 8 May 2024. No part of the shed or associated water tanks are authorised. The site is subject to the Article 4 Direction. The Shed is unauthorised. The shed is not in use for agricultural purposes, the development is not authorised or reasonably required to be sited for any purpose in the countryside.

1.4. Proceed to Enforcement Notice for Plot 8 (shed). The breach of planning control alleged that is within the last 4 years is unauthorised development consisting of a structure on land. The Council considers it expedient to issue this Notice for the following reasons:

- 1.5. There is no evidence that the building or water tanks sited relate to an agricultural enterprise. The works comprise operational development which are unacceptable in the countryside.
- 1.6. In the absence of any credible business plan or supporting evidence to demonstrate that that the proposed development is reasonably required to support the rural economy for farming, or that there is an existing agricultural use to which the development can be linked, it cannot be demonstrated that there are overriding economic or social benefits such as to outweigh the harm of the siting of the development in the open countryside. In addition, in the absence of any demonstrated need for the development, the siting and scale of the proposed building does not respect the rural character of this agricultural land and is not acceptable within its landscape setting. This development is therefore considered contrary to Policy ST04, ST07(4), and DM04 of the NDTLP, paragraph 83 and part 12 of the National Planning Policy Framework.
- 1.7. By virtue of its prominent visual siting, scale, mass and appearance, the proposed development would result in incongruous features in the local landscape and associated works on a skyline ridge, which would not respect or enhance the visual appearance of the landscape character Type 5D – Estate Wooded Farmland as defined in the Joint North Devon and Torridge Landscape Character Assessment, and would fail to demonstrate enhancement or preservation of the rural character of the area contrary to policies ST14(g), DM04 (b and d), DM08A (1) and part 12 of the National Planning Policy Framework.
- 1.8. Plot 44 – unauthorised structure and fencing remains on the land.** The fencing around the plot is still up. The site is subject to the Article 4 Direction. The structure and fencing are unauthorised developments. An application was refused for the shed, conservatory and the associated works through application 76977 on 10th August 2023. This was not appealed and the decision stands. Notwithstanding that part of the development has been removed, the remaining shed structure and fencing items comprise unauthorised development which are not reasonably required in the countryside, and which comprises incongruous and unattractive development within the countryside.

1.9. Proceed to Enforcement Notice for Plot 44 (structure and fencing)

The breach of planning control alleged that is within the last 10 years (Material change of use to storage use of items) and 4 years for unauthorised development consisting of structures and fencing on the Land. An Enforcement Notice should be issued to remedy the alleged breaches of planning control. The Council considers it expedient to issue this notice for the following reasons:

- 1.10. There is no evidence that the building, water tanks or fencing sited relate to an agricultural enterprise. In the absence of any credible business plan or supporting evidence that the proposed development is reasonably required to support the rural economy for farming, or that there is an existing agricultural use to which the development can be linked, it cannot be demonstrated that there are overriding economic or social benefits such as to outweigh the harm of the siting of the building, items and fencing in the open countryside. In addition, in the absence of any demonstrated need, the siting and scale of the development does not respect the rural character of this agricultural land and is not acceptable within its landscape setting. This proposed development is therefore considered contrary to Policy ST04, ST07(4), and DM04 of the NDTLP, paragraph 83 and part 12 of the National Planning Policy Framework.
- 1.11. By virtue of the prominent visual siting, scale, mass and appearance, the proposed developments would result in incongruous features in the local landscape and associated works, which would not respect or enhance the visual appearance of the landscape character Type 5D – Estate Wooded Farmland as defined in the Joint North Devon and Torridge Landscape Character Assessment, and would fail to demonstrate enhancement or preservation of the rural character of the area contrary to policies ST14(g), DM04 (b and d), DM08A (1) and part 12 of the National Planning Policy Framework.
- 1.12. **Plot 15A/B - fencing around the plot and domestic storage.**
As the site is subject to the Article 4 Direction the fencing is unauthorised development in this countryside location. The domestic items are not required for any purpose incidental to the agricultural use of the land and are not sited under PD rights due to the Article 4 Direction.
- 1.13. **Proceed to Enforcement Notice for Plot 15A/B (fencing and domestic storage)**
The breach of planning control alleged that is within the last 10 years (Material change of use to storage use) and 4 years for unauthorised development consisting of fencing on the Land. An Enforcement Notice

should be issued to remedy the alleged breaches of planning control. The Council considers it expedient to issue this notice for the following reasons:

- 1.14. There is no evidence that the fencing or items sited relate to an agricultural enterprise. In the absence of any credible business plan or supporting evidence that the items are reasonably required to support the rural economy for farming, or that there is an existing agricultural use to which the works can be linked, it cannot be demonstrated that there are overriding economic or social benefits such as to outweigh the harm of the siting of this building in the open countryside. The continued siting of the items is therefore considered contrary to Policy ST04, ST07(4), and DM04 of the NDTLP, paragraph 83 and part 12 of the National Planning Policy Framework.
- 1.15. By virtue of its prominent visual siting, scale, mass and appearance, the works would result in an incongruous feature in the local landscape, which would not respect or enhance the visual appearance of the landscape character Type 5D – Estate Wooded Farmland as defined in the Joint North Devon and Torridge Landscape Character Assessment, and would fail to demonstrate enhancement or preservation of the rural character of the area contrary to policies ST14(g), DM04 (b and d), DM08A (1) and part 12 of the National Planning Policy Framework.
- 1.16. **Plot 19 - the fencing around the plot remains as do access gates. The boarded fence behind the boundary to the right of the gate remains. Timber pallets and domestic items remain stored on the land.**
As the site is subject to the Article 4 Direction and as the fencing and access gates are not sited for apparent agricultural purposes, and are unauthorised developments in this countryside location. Application ref 75991 which sought approval for 'Retrospective application for part removal of hedge to create entranceway with gate together with erection of fence and installation of a double decker bus to be convert into camper van for holiday let purposes' was withdrawn in June 2023. This is relevant as it incorporated the fencing and gates forming this part of the enforcement case. At the time the case Officer considered that no part of the proposal, including the fence or access gate comprised acceptable development in the countryside. The fence and gate and associated paraphernalia are not required for the purposes of agriculture, do not comprise Permitted Development by virtue of the Article 4 Direction.
- 1.17. **Proceed to Enforcement Notice for Plot 19 (fencing, gates, storage use including pallets and domestic items)**
The breach of planning control alleged that is within the last 10 years (Material change of use to storage use) and 4 years for unauthorised

development consisting of fencing and gates on the Land. An Enforcement Notice should be issued to remedy the alleged breaches of planning control. The Council considers it expedient to issue this notice for the following reasons:

- 1.18. There is no evidence that the fencing or gates or any of the items listed relate to an agricultural enterprise. The evidence of the refused planning permission indicates that the site was not in use for agricultural purposes. In the absence of any credible business plan or supporting evidence that the proposed development is reasonably required to support the rural economy for farming, or that there is an existing agricultural use to which the development can be linked, it cannot be demonstrated that there are overriding economic or social benefits such as to outweigh the harm of the siting of this building in the open countryside. In addition, in the absence of any demonstrated need for the building, the siting and scale of the proposed building does not respect the rural character of this agricultural land and is not acceptable within its landscape setting. This proposed development is therefore considered contrary to Policy ST04, ST07(4), and DM04 of the NDTLP, paragraph 83 and part 12 of the National Planning Policy Framework.
- 1.19. By virtue of its prominent visual siting, scale, mass and appearance, the proposed development would result in an incongruous feature in the local landscape and associated works on a skyline ridge, which would not respect or enhance the visual appearance of the landscape character Type 5D – Estate Wooded Farmland as defined in the Joint North Devon and Torridge Landscape Character Assessment, and would fail to demonstrate enhancement or preservation of the rural character of the area contrary to the wording of the Article 4 Direction and policies ST14(g), DM04 (b and d), DM08A (1) and part 12 of the National Planning Policy Framework.
- 1.20. **Plot 43 & 56 – structures on the land and fencing**
The owner wishes to remove the small plastic storage boxes and replace these with one small storage shed. There is a current invalid planning application in with us for this. The Planning team are chasing the missing information. Currently on site two plastic storage boxes and make-shift fencing. The site is subject to the Article 4 Direction and as the items do not appear to be being used for agricultural purposes, the development is not authorised or reasonably required to be sited for any purpose in the countryside.
- 1.21. There is no evidence that the items listed relate to an agricultural enterprise. In the absence of any credible business plan or supporting

evidence that the items are reasonably required to support the rural economy for farming, or that there is an existing agricultural use to which the works can be linked, it cannot be demonstrated that there are overriding economic or social benefits such as to outweigh the harm of the siting of this building in the open countryside. In addition, in the absence of any demonstrated need for the building, the siting and scale of the proposed building does not respect the rural character of this agricultural land and is not acceptable within its landscape setting. This proposed development is therefore considered contrary to Policy ST04, ST07(4), and DM04 of the NDTLP, paragraph 83 and part 12 of the National Planning Policy Framework.

1.22. Proceed to Enforcement Notice for Plot 43 & 56

The breach of planning control alleged that is within the last 4 years for unauthorised development consisting of fencing and structures on the Land. An Enforcement Notice should be issued to remedy the alleged breaches of planning control. The Council considers it expedient to issue this notice for the following reasons:

- 1.23. By virtue of its scale, mass and appearance, the items would result in incongruous features in the local landscape and associated works, which would not respect or enhance the visual appearance of the landscape character Type 5D – Estate Wooded Farmland as defined in the Joint North Devon and Torridge Landscape Character Assessment, and would fail to demonstrate enhancement or preservation of the rural character of the area contrary to the wording of the Article 4 Direction and to policies ST14(g), DM04 (b and d), DM08A (1) and part 12 of the National Planning Policy Framework

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 owners have not willingly complied with requests to remedy the breaches or submitted successful planning applications to retain the unauthorised development.

4. ANY CONFLICT OF INTEREST DECLARED?

4.1. None

5. DISPENSATION IF GRANTED

5.1. Not applicable

6. BACKGROUND PAPERS

6.1. Enforcement case opened 1 April 2022 for alleged ground works and creation of a new access and widening of an existing access.

6.2. A site visit was carried out on 12 April 2022 which found fencing had been constructed on Plot 19. A further site visit on 3 August 2022 found more fencing had been constructed on Plot 19 but the owner confirmed they would submit a planning application on 4 August 2022.

6.3. On 2 February 2023 a further site visit was carried out that found Plot 19 now had a double decker bus sited on the land, gravel laid over part of the site, a trampoline and new fencing around the plot boundaries and gates to the public highway. Other plots had started to develop the land too. Plot 8 had created a new access and constructed a shed; Plot 9 had a large trailer on it; Plot 44 had a shed, conservatory and touring caravan on it and Plot 43 & 56 had a touring caravan on it covered with a green tarpaulin.

6.4. The Planning Officer gave his views on 17 March 2023 and requested the items be removed from the land. On 20 March 2023 letters were sent to the owners of the relevant plots requesting items be removed within 3 months and by 19 June 2023.

6.5. A site visit carried out on 2 August 2023 found no compliance. A further site visit carried out by the current Planning Enforcement Officer on 4 October 2023 found no compliance and items still on all of the plots.

6.6. A Land Registry search was completed on 10 October 2023 and letters sent to the relevant plot owners on 11 October 2023 giving a final 2 months to comply and remove the items from the Land.

6.7. A compliance site visit on 14 December 2023 found partial compliance. Plot 15A/B had removed the stored car but the fencing remained. Plot 17 had blocked up the access and planted hedging plants. Plot 19 had removed some fencing, the bus and trampoline were now gone. Plot 43 & 56 had removed the stored caravan.

6.8. On 2 January 2024 letters were sent to the owners where breaches remained on the land, advising them that the Council were now issuing Enforcement Notices for the outstanding breaches.

6.9. Planning applications have been submitted, although currently invalid for Plot 43 & 56. Application Number 78306 (Plot 8) (to retain a small shed on the land) was refused permission on 8 May 2024.

6.10. A compliance visit was completed on 28 February 2024. This found the following breaches:

Plot 8 - the decking has been removed as had one shed. One larger shed, 2x white plastic water tanks (not development) remain on the land. The owner has submitted an application, it is currently invalid (ref 78306).

Plot 44 - the wooden shed has been removed but remnants of the structure remain as does the conservatory, caravan and fencing which are still on the Land. The owner is in regular contact and intends to remove the remaining items (except the fencing) in the Easter Holiday (by end of March 2024).

Plot 15A/B, the car has been removed, the fencing and a couple of domestic items remain.

Plot 17 - replanting has occurred in the gap and the access is no longer in use- breach resolved. The plants need to be checked in April/May 2024 to ensure they are still alive.

Plot 19, the fencing and gates remain. The boarded fence behind the boundary to the right of the gate remains. There is still a quantity of detritus scattered over the site. Timber pallets and a couple of domestic items remain stored on the land.

Plot 43&56 - The caravan has gone, two small plastic storage structures remain on the land as well as fencing. The owner has submitted a planning application, it is currently invalid (ref 77890).

6.11. A further site visit was carried out on 17 April 2024 which found the following -

Plot 8 - One larger shed, remain on the land. There is a current planning application ref 78306 submitted for one shed. The site notice for this is up on the road/fence boundary. Timber stakes with white flags now in ground marking boundary.

Plot 44 - the caravan, wooden shed and conservatory have been removed but remnants of the structures remain on the land. There are also bits of a timber structure remaining upright on the site. There is a large pile of timber pallets and windows within the plot. The fencing around the plot is still up.

Plot 15A/B, fencing around the plot and a couple of domestic items remain.

Plot 19, the fencing around the plot remains as do access gates. The boarded fence behind the boundary to the right of the gate remains. Timber

pallets and a couple of domestic items (table and chair) remain stored on the land (trampoline gone).

Plot 43&56 - The caravan has gone, the owner wishes to remove the small plastic storage boxes and replace these with one small storage shed. There is a current invalid planning application in with us for this. The Planning team are chasing the missing information. Currently on site two plastic storage boxes and make-shift fencing.

6.12. It is now considered formal Enforcement Notices need to be served on those plots where there is still no compliance. It is considered authorisation be obtained for permission to issue Notices on the remaining Plots should there still be no compliance after current/invalid planning applications are determined or if the currently invalid planning applications do not become valid and/or are refused planning permission.

6.13. Emails and letters were sent out on 24 June 2024 to the Plot owners where there are outstanding breaches of planning control, advising that Enforcement Notices were now being issued

7. CONSULTATION UNDERTAKEN

7.1 The Planning Officer Roger Bagley has instructed the Planning Enforcement Officer to serve Notices and drafted the reasons for doing so.

8. **OFFICER REQUESTING DECISION TO BE TAKEN:** 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:** 24th June 2024

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

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