



North Devon Council

Title of Decision Requested: Enforcement Notice for Honey Hill 13696

Decision requested by decision maker: Agreement to issue Enforcement Notice for Honey Hill, Snapper, Barnstaple, Devon, EX32 7YJ

1. BACKGROUND / REASONS FOR THE DECISION REQUEST

1.1. THE BREACH OF PLANNING CONTROL ALLEGED

Without Planning Permission, within the last 4 years, unauthorised operational development consisting of the following works:

Operational development consisting of the construction of a subterranean dwelling in residential use;

Engineering operations for earthworks and excavation.

1.2. An Enforcement Notice should be issued to remedy the alleged breach of planning control. It is expedient to issue this Notice for the following reasons:

The site is within the countryside where development is strictly controlled in the interest of protecting the intrinsic beauty and character of the area and on the grounds of sustainability.

The operational development which has taken place in forming a building for residential use constitutes isolated development in the countryside where the Local Planning Authority would only permit development which is necessary in the interests of agriculture or another established rural enterprise.

One of the overarching aims of the National Planning Policy Framework is the presumption in favour of sustainable development set out in Paragraph 11. In addition to this Paragraph 84 states that Local Planning Authorities should avoid new isolated homes in the open countryside unless there are exceptional circumstances, such as an essential need for a rural worker to live permanently at or near their place of work. This is further bolstered by settlement hierarchy provisions in Policy ST07 of the North Devon and Torridge Local Plan and rural workers dwelling Policy DM28.

In this instance the residential use of the land, including the occupation of the

subterranean dwelling is considered to be a continuous breach under Enforcement Notice served under reference 9754, whereby the Planning Inspector, in upholding the notice supported the above policy context.

As such, the above principles therefore establish that the operational development which has taken place to form the subterranean development has no justification in relation to the North Devon and Torridge Local Plan policies.

Policy ST07 of the North Devon and Torridge Local Plan is clear in (4) that development in the countryside is limited to that which serves a local social or economic need, constitutes building re-use or is necessarily restricted to a countryside location. The provision of a structure and engineering operations to facilitate residential use would not meet any of the above requirements and is therefore unjustified sporadic development in the countryside.

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 breaches. There is a current planning appeal ongoing related to the outstanding breaches on the site but the appeal process is likely to take us beyond the period in which the Council can legally take enforcement action which is why a formal Notice is required now.

4. ANY CONFLICT OF INTEREST DECLARED?

4.1. None.

5. DISPENSATION IF GRANTED

5.1. N/A

6. BACKGROUND PAPERS

6.1. There is an existing enforcement notice (9754) for this site. For breaches of operational development and unpermitted change of use.

6.2. Subsequent site inspections to this case uncovered an underground two room dwelling.

6.3. 4 April 2023 a warrant to enter premises - permitted to access the ground for the purpose of ascertaining whether there is or has been a breach of planning control on the land, or to ascertain whether there has been compliance with Order of Barnstaple County Court dated 27.10.21.

6.4. 27 April 2023 a site visit by enforcement officer and police escorts entered the property and again observed the underground dwelling. Photo and video bodycam evidence

6.5. 12 July 2024 a warrant to enter premises was permitted to access the ground for the purpose of ascertaining whether there is or has been a breach of planning control on the land, or to ascertain when there has been compliance with Order of Barnstaple County Court dated 27.10.21.

6.6. On 9 August 2024 a site visit conducted by regulatory compliance officer and police escorts to ascertain compliance with existing enforcement notice and investigate any further breaches of non-compliance.

The site visit confirmed engineering operations, earthworks and operational development consisting the formation of a structure of a subterranean residential dwelling which the contraveners are residing in. During the site visit owner confirmed “there are breaches of planning and yes, were are living here.”

The dwelling is covered by branches and camouflage netting. This is considered that the works intended to be deliberately concealed to avoid detection.

6.7. The Council needs to consider pursuing outstanding breaches of planning control on site by way of a formal Enforcement Notice. The Council also needs to consider the expediency of taking formal action over some technical breaches but where there appears to be an agricultural use.

7. CONSULTATION UNDERTAKEN

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



8. OFFICER REQUESTING DECISION TO BE TAKEN: Jack Clifford, Senior Planning Officer (Enforcement)

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

10. DATE DECISION TAKEN: 23/09/2024

11. APPROVED BY DECISION TAKER: Yes /

12. DECISION TAKER'S COMMENTS: