



North Devon Council

Title of Decision Requested: Breach of Condition Notice for Land at Fern Way, Ilfracombe (also known as The Shields, Ilfracombe) 14076

Decision requested by decision maker: Agreement to issue Breach of Condition Notice for Land at Fern Way, Ilfracombe (also known as The Shields Ilfracombe)

1. BACKGROUND / REASONS FOR THE DECISION REQUEST

- 1.1.** The development has not been carried out in accordance with the approved plans.
- 1.2.** The agreed scheme has not been wholly completed to adoptable standard within 4 weeks of the issue date of the planning permission 78131, 5 December 2024.
- 1.3.** Condition 17: The development shall be carried out in accordance with the approved surface water drainage scheme listed in condition 2 above. The agreed scheme shall thereafter be constructed and wholly completed to adoptable standard within 4 weeks of the issue date of this planning permission.
- 1.4.** The condition has been imposed to ensure the construction of an adoptable drainage system to mitigate flood risk from surface water.
- 1.5.** It is therefore expedient to proceed to issue the BCN on the basis of the following. The relevant planning permission to which this Notice relates is the planning permission reference ref 78131 granted by the Council on 5 December 2025.
- 1.6.** The requirements of this condition have not been met as the agreed scheme has not been constructed and wholly completed to adoptable standard within 4 weeks of the issue date of the planning permission 78131.
- 1.7.** The requirements of this Notice will be to construct and wholly complete the approved surface water drainage scheme to adoptable standard within a period of 30 days.

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 which is why a formal Notice is required now.

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. 57699 Planning application required:

(17) Prior to commencement of the development hereby permitted, full details of the surface water drainage system, to include the attenuation tanks and pumping station, to be provided to adoptable standards, shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall thereafter be constructed and wholly completed to adoptable standard prior to occupation of the first dwelling. Reason: To ensure the construction of an adoptable drainage system to mitigate flood risk from surface water.

6.2. The enforcement case was opened on 23 October 2024 following complaints received regarding water damage to properties as a consequence of works associated at the Land at Fern Way, Ilfracombe.

6.3. A site visit was carried out 30 October which confirmed that the drainage scheme was not completed and that multiple homes were occupied

6.4. On 31 October 2024 A final warning was sent to the Project Manager:

"..However, we must address the risk posed by the occupied homes in the development. Specifically, there are concerns regarding potential impacts on the drainage system affecting neighbouring properties, as well as the effects



of both the construction site and occupied homes to South West Water's existing sewers....

Required Actions and Timeline:

*To mitigate these concerns, you are required to fully implement the attenuation tank scheme within **two months** from the date of this email. If the system is not in place within this period, we will be obliged to issue a Breach of Condition (BOC) notice.*

Per Condition 17:

"Prior to commencement of the development hereby permitted, full details of the surface water drainage system, to include the attenuation tanks and pumping station, to be provided to adoptable standards, shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall thereafter be constructed and wholly completed to adoptable standard prior to occupation of the first dwelling."

Requirements to Avoid Immediate Action:

- During this two-month period, active and effective management of the surface water being generated by the site is required to prevent any adverse impacts. I would request an update of the immediate measures proposed with 14 days of the date of this email.*
- If any breach results in overflow into neighbouring properties or if the public system is damaged due to this development, a BOC notice will be served immediately, regardless of the two-month allowance.*

Please prioritise the necessary measures to ensure compliance and prevent escalation."

6.5. On the 5 December 2024 Planning application 78131 with amendment to drainage scheme was approved:

Condition 17. The development shall be carried out in accordance with the approved surface water drainage scheme listed in condition 2 above. The agreed scheme shall thereafter be constructed and wholly completed to adoptable standard within 4 weeks of the issue date of this planning permission.

Reason: To ensure the construction of an adoptable drainage system to mitigate flood risk from surface water.

6.6. A site visit was carried out 23 January 2025 that established that approved surface water drainage scheme has not been wholly completed to adoptable



standard within 4 weeks of the issue date of the planning permission 78131.

6.7. The Council needs to consider pursuing outstanding breaches of planning control on site by way of a formal Breach of Condition Notice.

7. CONSULTATION UNDERTAKEN:

7.1 Planning Officer Jenni Meakins has instructed the Planning Enforcement Officer to serve a Breach of Condition 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, (Development Management): Head of Planning, Housing and Health

10. DATE DECISION TAKEN: 30/01/2025

11. APPROVED BY DECISION TAKER: Yes

12. DECISION TAKER'S COMMENTS: