

**PLANNING COMMITTEE AGENDA - 8th October 2014**

**Enforcement List**

<b><u>Item No.</u></b>	<b>Description</b>
1.	14/00041/BRE - Breach of conditions p.p. 11/00226/FULL - Tanyard Farm , Premier Luxury Loos, Willand.
2.	14/00047/UCU - Unauthorised change of use agricultural land to car sales - West Country Car Sales, Willand Road, Cullompton.
3.	14/00141/UCU - Unauthorised material change of land to temporary coach park & associated operational development at Land at NGR 304319 114213, Tiverton Parkway Railway Station, Temporary Coach Park, Sampford Peverell

**Case No.** ENF/14/00041/BRE

**Grid Ref:** 303218 109794

**Address:**

Tanyard Farm , Willand, Cullompton, EX15 2PE (as outlined in black on the attached site plan)

**Alleged Breach:**

1. Breach of condition 4, planning permission 11/00226/FULL, toilet trailers stored on site in excess of number 20.
2. Unauthorised material change of use, the siting of a portable office building.  
Contrary to Town & Country Planning Act 1990 (as amended)

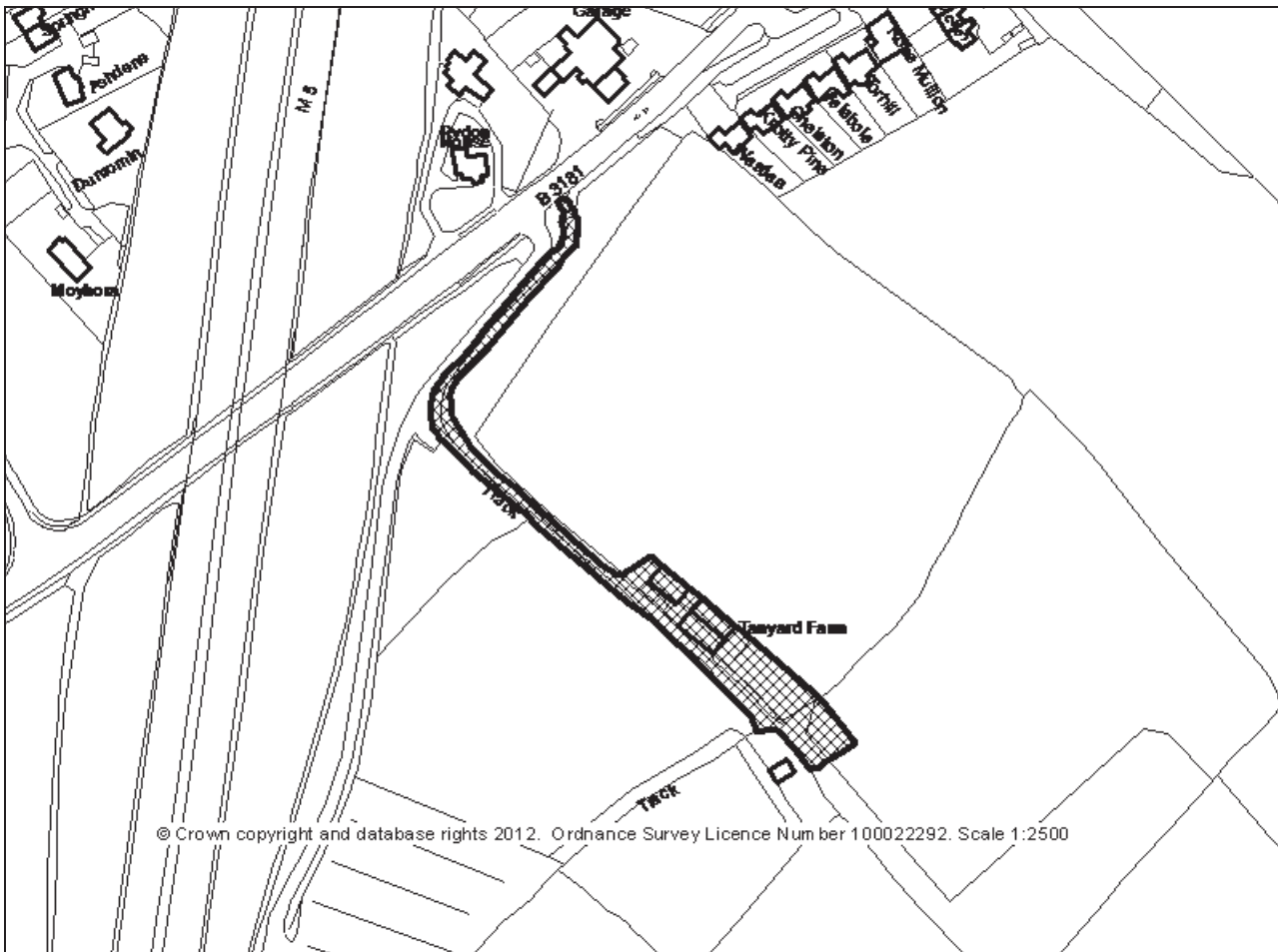
**Recommendations:**

1. In relation to the breach of condition (Breach 1 ), no further action (NFA)
2. In relation to the office building (Breach 2) no further action, planning (NFA)

**Site Description:**

The site in question is on the western extremity of Willand to the south east of the motorway bridge and located on an approved site for B8 Storage (storage of mobile toilet trailers).

**Site Plan:**



## Site History:

11/00226/FULL	Change of use of agricultural land to B8 storage (storage of mobile toilet trailers)	Approved 03/06/11
14/01279/FULL	Retention of pre-fabricated office building	Approved 03/09/14

## Development Plan Policies:

### Mid Devon Core Strategy (Local Plan Part 1)

COR1 - Sustainable Communities  
COR4 - Meeting Employment Needs  
COR8 – Infrastructure Provision  
COR9 - Access  
COR18 - Countryside

### Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development  
DM2 - High quality design  
DM8 - Parking  
DM20 - Rural employment development  
DM32 – Planning enforcement

## Reasons/Material Considerations:

This report is presented to members for their information, and by way of an up-date to the current situation in relation to this site. On the 3<sup>rd</sup> June 2011 planning permission was granted for the change of use of agricultural land to B8 storage (storage of mobile toilet trailers) on land subject to this report, that permission received the planning permission reference 11/00226/FULL. Condition 4 was imposed which states:

‘This permission is restricted to the storage of up to 20 toilet trailers only (each measuring no more than 6.7m x 2.4m externally) on site at any one time, and does not provide any further consent for storage or any other uses under Class B1 or B8 of the Use Classes Order’.

During March 2014 an enquiry/complaint was received regarding the number of toilet trailers that were stored on the site in breach of condition 4. On the 23<sup>rd</sup> April 2014 a site visit revealed that the number of trailers counted on site at that time was 19 and therefore there was no breach identified. However, also on site was a 40 foot green portable office container that was used, by the employees in relation to the lawful use of the site. However no planning permission existed for the change of use of the land for the siting of the portable office container and this fact was pointed out to the business owner and operator.

On the 29<sup>th</sup> July 2014 a planning application was received reference 14/01279/FULL for the retention of the pre-fabricated office building. This planning application was ‘approved’ on the 3<sup>rd</sup> September 2014 and therefore the breach was resolved.

As a result of the above no breach was identified in relation to the breach of condition 4 on planning permission 11/00226/FULL, and no further action is recommended.

In addition the placement/siting of an unauthorised office building has now been regularised by the grant of planning permission reference 14/01279/FULL, that breach is remedied and no further action is recommended.

**Human Rights and Equality Issues:**

Any of the enforcement action taken as proposed or having been considered in relation to this report could affect the land/property and the owner's rights under the provisions of Article 8 and Article 1 of The First Protocol of the Human Rights Act 1998. However, the Local Planning Authority feels it was pursuing a legitimate aim in seeking compliance with The Town and Country Planning Act 1990 so as to prevent demonstrable harm in the interests of acknowledged importance and to protect the environment. In this particular case the alleged breach of condition was not identified and no further action is recommended, in addition the unauthorised material change of use (office/container) has been addressed and planning permission granted.

**Options for action or remedy:**

The list of options available as follows:

**Take no action**

No further action (NFA) is recommended by your officers.

**Formal enforcement action:**

No breach has been identified or currently exists as far as your officers are aware, therefore no formal enforcement action is recommended. In addition if action were to be proposed the Local Planning Authority (LPA) would not be able to refer to any identified breach of the Town & Country Planning Act 1990.

**Reason for Decision:**

Your officers recommend that no further action (NFA) is appropriate in this case.

**Steps Required:**

Not applicable.

**Period for compliance:**

Not applicable.

Case No. 14/00047/UCU

Grid Ref: 302759 109620

**Address:**

Land south west of Willand occupied by West Country Car Sales

**Alleged Breach:**

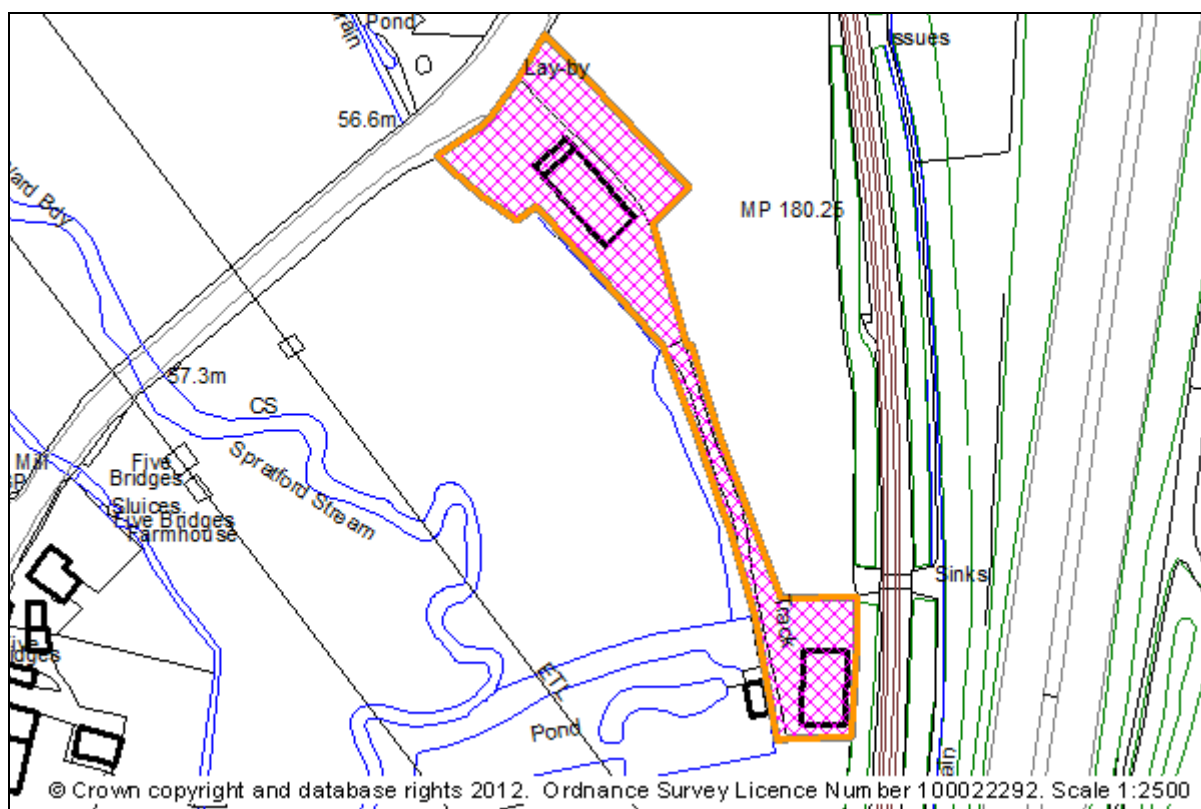
**Use of land for the display and sale of motor vehicles, the use of an agricultural building for the valeting of vehicles ready for sale, the use of the customer parking area for the display and sale of motor vehicles, the display of bunting, the installation of security cameras and lighting**

**Recommendation:**

That the Legal Services Manager be authorised to take any appropriate legal action including the service of an enforcement notice or notices if voluntary compliance or retrospective applications are not submitted within the timescales set out below. In the event of any failure to comply with the notice served, the additional authority to prosecute, take direct action and/or seek a court injunction.

**Site Description:**

The site is located south west of the village of Willand and a significant part was granted planning permission for car sales in 2013. This followed its long term previous use as a shop for which a certificate of lawful use was granted earlier in 2013. The site consists of a portal framed building used as showroom and office (the former shop) together with an area for the display of vehicles for sale. Since the grant of planning permission a small area of additional land is now used for vehicle display and a former agricultural building to the rear of the site is now used for valeting in association with the business without the grant of permission. The customer parking area has also been used for the display of vehicles for sale. Some security lighting has been added to the existing structures on the site together with some security cameras. Two small areas of bunting are also displayed on the site.

**Site Plan:**

## Site History:

96/01590/FULL Retention of two 7.9 metre (26ft) lengths of roadside boundary wall, varying in height from 1.5 metres (5ft) to 1.8 metres (6ft) – GRANTED

01/01650/FULL Alterations to front elevation to install shopfront – GRANTED

13/00608/CLU Certificate of Lawfulness for use as shop – GRANTED

13/00813/FULL Change of use from A1 shop to building and farm supplies merchant – WITHDRAWN

13/01425/FULL Change of use from shop to car sales – GRANTED

14/00772/FULL Extension to car sales area. – Item on this planning agenda. (08/10/14)

## Development Plan Policies:

### Adopted Mid Devon Local Plan (LDF)

DM1, DM2, DM19

### Mid Devon Core Strategy 2007

COR11, COR18

## Reasons/Material Considerations:

Planning permission was granted for the use of the former farm shop site for use for car sales in November 2013. In spring this year the current operator moved on to the site and commenced his car sales operation.

Since the business commenced a number of issues have been raised questioning whether the operation is compliant with the permission granted.

The principle areas of concern are:

1. The extent of the permitted site area and the area actually in use.
2. The use of an additional building outside of the approved site for the valeting and preparation of cars for sale.
3. The installation of lighting and security cameras.
4. The display of advertisements and bunting.
5. The use of the site for the parking and storage of boats, caravans and mobile homes.

### 1. The extent of the permitted site area and the area actually in use.

At the time of the grant of planning permission for car sales a plan was submitted which identified the area of the site in red. A more detailed site layout accompanied the application which also identified an area for customer parking. A plan will be provided at Committee which identifies the approved site area and the site currently in use for vehicle sales. The additional land used for vehicle sales will be identified in cross hatching on the plan. This is a small area of land which tapers to nothing just beyond the rear of the existing building. It was previously largely a stoned track. The use of this additional land for car sales is unauthorised. However the impact on the visual amenities of the area by the addition of this area is not in your officer's view significant having regard to the fact that the remainder of the permitted site is available for car sale display and parking. It would be difficult to frame a defensible reason for refusal based on visual impact of this small additional area having regard to the appearance of the site as a whole. The additional area was largely a surfaced track so little in the way of operational development has taken place although its use has permitted a slightly increased area for car sale display. There is a water course along the boundary of the site which clearly forms a natural boundary to the extent of the permitted and unauthorised car sales area.

Additionally, also on this agenda is an application to amend the sales area on the north east side of the site. If that application is permitted the applicant has indicated he does not need both additional areas. Consideration will be need to given to the outcome of that current application in considering what action, if any, the Committee wish to take in relation to this alleged breach relating to the use of the additional land.

## **2. The use of an additional building outside of the approved site for the valeting and preparation of cars for sale.**

Some distance from the car sales site but on land within the ownership is a small building which was, until the car sales operation commenced, in agricultural use. This building is not currently being used as a valeting workshop. The use of this building for car valeting and sales preparation was unauthorised and has currently ceased. However, as the Committee will be aware recent changes to the General Permitted Development Order which permit changes from agricultural buildings to Class B1 business use without the grant of planning permission subject to certain requirements being met. One of those provisions is a prior notification determination to seek whether prior approval of the authority will be required as to transport impacts, noise impacts, contamination and flood risk. A prior determination application has been submitted and at the time of writing this report is awaiting determination. Committee will be advised of the decision on that application at the Committee meeting. The owner has submitted a prior notification determination as the building was in lawful agricultural use on the required date in 2013 to regularise the situation.

A recommendation in respect of this building will be provided at Committee depending on the determination of the prior notification application.

## **3. The installation of lighting and security cameras.**

These have been installed mainly on the existing building or existing poles within the site. They do not constitute development which requires planning permission. There are two security lights on poles above the roof plain on the front of the building which would require planning approval. These have been drawn to the operator's attention and he has been requested to lower them to roof height or make an application for their retention.

## **4. The display of advertisements and bunting.**

The display of bunting on business premises has been deemed to be a form of advertisement as it draws attention to the premises concerned. The bunting on site consists of the familiar red, white and blue triangles and small chequered flags above the showroom. The bunting requires advertisement consent which has not been obtained. The signs on the road side wall have been removed. There is a fascia sign on the front of the building which requires consent because of its size and height. Additionally there are two flagpoles either side of the building with flags

Officers have requested the removal of the bunting from the front wall adjacent to the highway but have suggested an application be made to retain the limited amount of bunting on the showroom itself. Discussions are taking place on the fascia sign and either an application will be made for its retention or the sign repositioned to comply with the provisions of Class 5 of the Advertisement regulations, to have letters no larger than 0.3 metres, have its highest part no more than 3.6 metres above ground level, not exceed 10% of the external face of the building measured up to 3.6 metres in height.

In addition the premises as a business premises has provisions under Class 6 to display advertisements on the forecourt not exceeding 4.6 square metres in total including the wall adjacent to the highway.

The two flag advertisements have almost certainly been on site for more than ten years, there is photographic evidence of their presence in October 2005, and if they have been there for more than ten years they are exempt by virtue of Class 13 of the Advertisement Regulations.

## **5. The use of the site for the parking and storage of boats, caravans and mobile homes**

While the storage of such items has occurred on land at and adjoining the site earlier this year these unauthorised activities appear to have ceased. At the time of the most recent site inspection on 23<sup>rd</sup> July 2014 no such items were being stored on the land.

**Options for action or remedy:**

The list of options available is as follows:

Your officers are having further discussions with the site operator regarding the bunting and his advertisement deemed consent allowances. And update on those negotiations will be provided at the Committee. **(item 4)**

**Take no action** –. Officers recommend no action in respect of **(item 5)** the storage of boats, caravans, and mobile homes as no such breach is currently identified.

No action be taken in respect of most of the lighting and cameras as it is considered they are not development requiring planning permission. However it has been suggested to the operator he lower the two lights on poles on the front of the premises to exempt them from development or makes an application for their retention. **(item 3)**

**Invite an application to grant consent to regularise the Development.**

An application is on this agenda to extend the sales area of the site to the north east. If approved the operator has indicated he would not require both the area subject to the application and the unauthorised area to the south west. **(Item 1)**.

Having taken account of the General Permitted Development Order provisions a prior notification application has been submitted to change the use of the former agricultural building to car valeting and preparation prior to sale **(Item 2)**.

**Reasons for decision:**

Reasons for the decisions are set out in the report.

**Steps required:**

The unauthorised advertisements be resolved either by re-siting, removal or application as set out in the report. **Two months for compliance.**

The security lighting on poles on the front of the building should either be lowered and placed on the building to exempt them from the definition of development or an application be submitted for their retention. **Two months for compliance**



Case No. 14/00141/UCU

Grid Ref: 304319 114213

**Address:**

Land at NGR 304319 114213, Sampford Peverell, Devon

**Alleged Breach:**

Without planning permission, the change of use of land to a temporary coach and car park and associated operational development to create the parking area, access and installation of lighting.

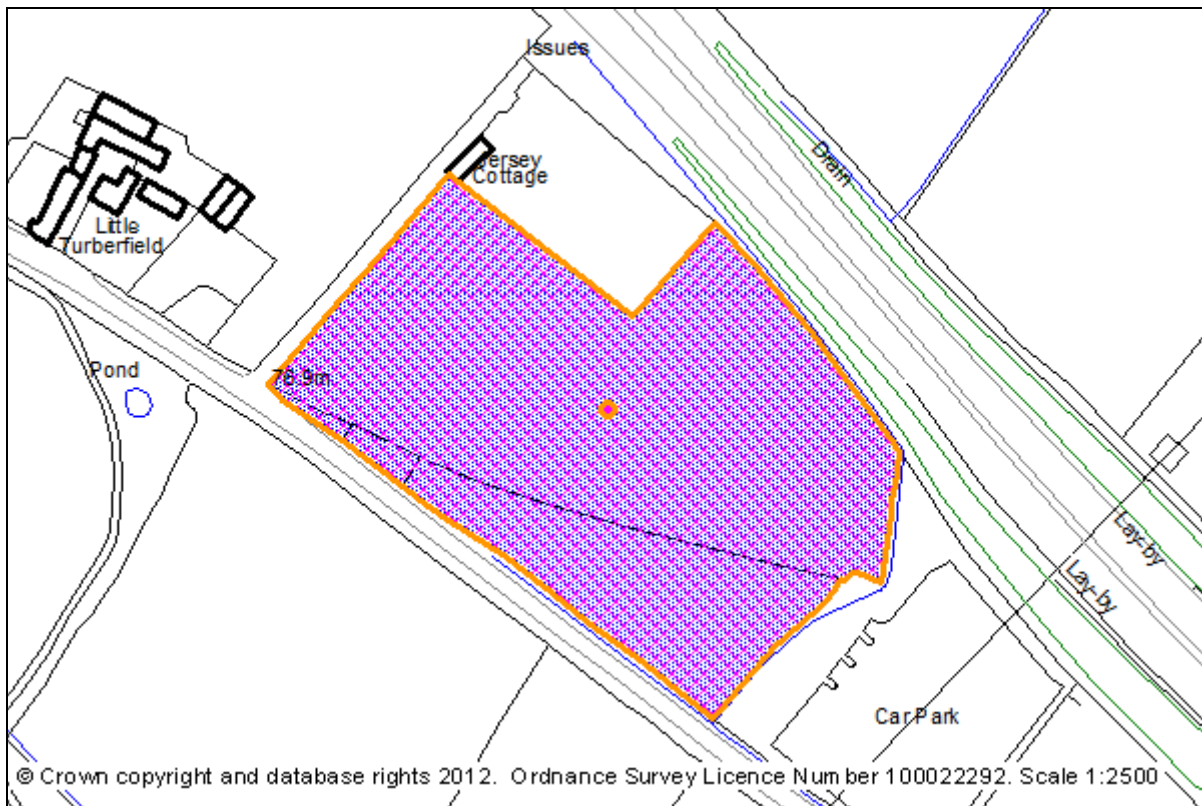
**Recommendation:**

That the Legal Services Manager be authorised to take any appropriate legal action including the service of an enforcement notice. In the event of any failure to comply with the notice served, the additional authority to prosecute, take direct action and/or seek a court injunction.

**Site Description:**

The site lies on the north side of the approach road to Tiverton Parkway railway station adjacent to the existing permanent overflow car park. The site was until the change of use and operational development took place an agricultural field used for grazing. The site has been made suitable for the temporary use of coaches and cars using compacted hardcore to provide the parking surface with boundary fencing and security lighting provided.

**Site Plan:**



**Site History:**

None.

**Development Plan Policies:****Adopted Mid Devon Local Plan (LDF)**

DM2, DM6, DM7, DM8, DM31,

**Mid Devon Core Strategy 2007**

COR2, COR18

**Reasons/Material Considerations:**

Members will recall the severe winter weather in the South West of England in the early part of this year and the damage to the main London to Penzance railway line resulting in it being washed away at Dawlish. This together with other flooding incidents elsewhere on the mainline network presented significant problems for the rail operators and users.

Following the damage to the rail network, particularly the loss of the line at Dawlish, First Great Western sought the assistance of Mid Devon District Council in providing a temporary coach/ car park at Tiverton Parkway to facilitate the transfer of passengers from rail to road for the period of time the line was out of action at Dawlish. They wished to use an agricultural field on the north side of the approach road to Tiverton Parkway for the coach/car park. Clearly such a change of use and the associated operational development to facilitate that change would normally require the grant of planning permission. However, having regard to the emergency requirement for this facility, Mid Devon District Council provided the following advice to First Great Western on the 14<sup>th</sup> February this year.

*I write to confirm the position of Mid Devon District Council as Local Planning Authority in light of your proposal to provide a temporary coach/car park to enable the transfer of rail passengers to/from rail replacement coaches given the current problems with the mainline railway into the South West. I understand that works on this coach/car park are proposed to begin on Monday 17th February with the intention of becoming operational on 24th February. With such an urgent need to ensure travel is still possible into the region and the short time scale for implementation you do not have time to apply for planning permission, which would normally be required for such development.*

*On the basis that the works carried out are in line with the drawing received (ref. Tiverton Parkway 11 Coach car park rev. 1A) and additional details provided, the Local Planning Authority do not propose to enforce against the works as they are necessary in light of the current problems with the main line railway network in the South West and in particular at Dawlish. Once the main line is operational at Dawlish we expect the works to be removed and the land reinstated to its previous agricultural use. This includes the reinstatement of existing ground levels, the blocking up of the temporary access and reinstatement of the bank where the pedestrian footbridge is proposed. Should such full reinstatement not occur within one calendar month of the railway line being opened at Dawlish then we will begin enforcement proceedings to ensure the reinstatement works are carried out.*

*At this stage we are not of the opinion that there is a necessity for additional car and coach parking facilities to serve Tiverton Parkway station and so would not support a planning application for its permanent retention. If the case were proven for additional parking then all alternative locations for this would have to be considered.*

Officers were also concerned about the impact of the emergency works on neighbours and offered the following advice to First Great Western.

*The neighbour ..... has been shown the proposed drawing and is concerned regarding the stockpiling of earth along his southern boundary. If the height of this earth were to be more than 2 metres above existing ground level then this could impact upon his current amenity and when no coaches are using the land he understandably would rather look at a fence than a large pile of earth. I would suggest that more earth is stockpiled along the length of the western boundary to ensure earth does not go above this 2m height ..... I would encourage you to continue to liaise with neighbouring properties to ensure that they are kept up-to-date with the works proposed and that they are given the opportunity to comment.*

However despite the assurances from the landowner and First Great Western that the coach park would be removed and the land reinstated to its former use and condition, as soon as the mainline was operational at Dawlish, the temporary coach park remains in place although not currently in use. The main Penzance to London line was reopened at Dawlish before Easter 2014.

It is considered ample time has been provided for the land owner and First Great Western to remove the coach park voluntarily as advised, unfortunately that has not taken place. As voluntary compliance has not resulted in the reinstatement of the land your officers have no alternative but to recommend that formal enforcement proceedings be commenced

**Options for action or remedy:**

The list of options available is as follows:

**Take no action** – This would not be appropriate as the case for additional parking provision has not been demonstrated and if a case for such was provided this may not be the most appropriate site. The site has not been operational for a number of months so the need for its retention is not demonstrated. The provision was made to deal with an emergency and that emergency was resolved before Easter 2014.

**Invite an application to grant consent to regularise the Development** – – This would not be appropriate as the case for additional parking provision has not been demonstrated and if a case for such was provided this may not be the most appropriate site..

**Issue Enforcement Notice to cease certain activities and make others subject to actions being undertaken.**

THIS IS THE RECOMMENDED OPTION, the notice proposed will require the removal of the temporary coach park and lighting and the reinstatement of the land

**Reasons for decision:**

The unauthorised development has been undertaken within the last four years.  
The use of the land as coach park is unacceptable on a permanent basis.  
The use has adverse impacts on the neighbouring property.

**Steps required:**

- 1. Cease using the site for a coach and car park. Remove all materials imported to create the coach and car park and all installed security lighting. Close the temporary access.**
- 2 Re-grade and re-seed the land to provide pasture for grazing.**

**Period for compliance:**

Step 1 : Within one month of the notice taking effect.

Step 2 : Within four months of the notice taking effect.