

**PLANNING COMMITTEE AGENDA – 10 September 2014**

**Enforcement List**

<b><u>Item No.</u></b>	<b>Description</b>
1.	ENF/13/00062/UDRU – Without Planning Permission, the erection of a timber structure on stilts within the flood zone of the River EXE at Holmingham Farm, Bampton, Tiverton.

Case No. ENF/13/00062/UDRU

Grid Ref: 295683 120613

**Address:**

Holmingham Farm, Bampton, Tiverton, Devon

**Alleged Breach:**

Without Planning Permission, the erection of a timber structure on stilts within the flood zone of the River EXE.

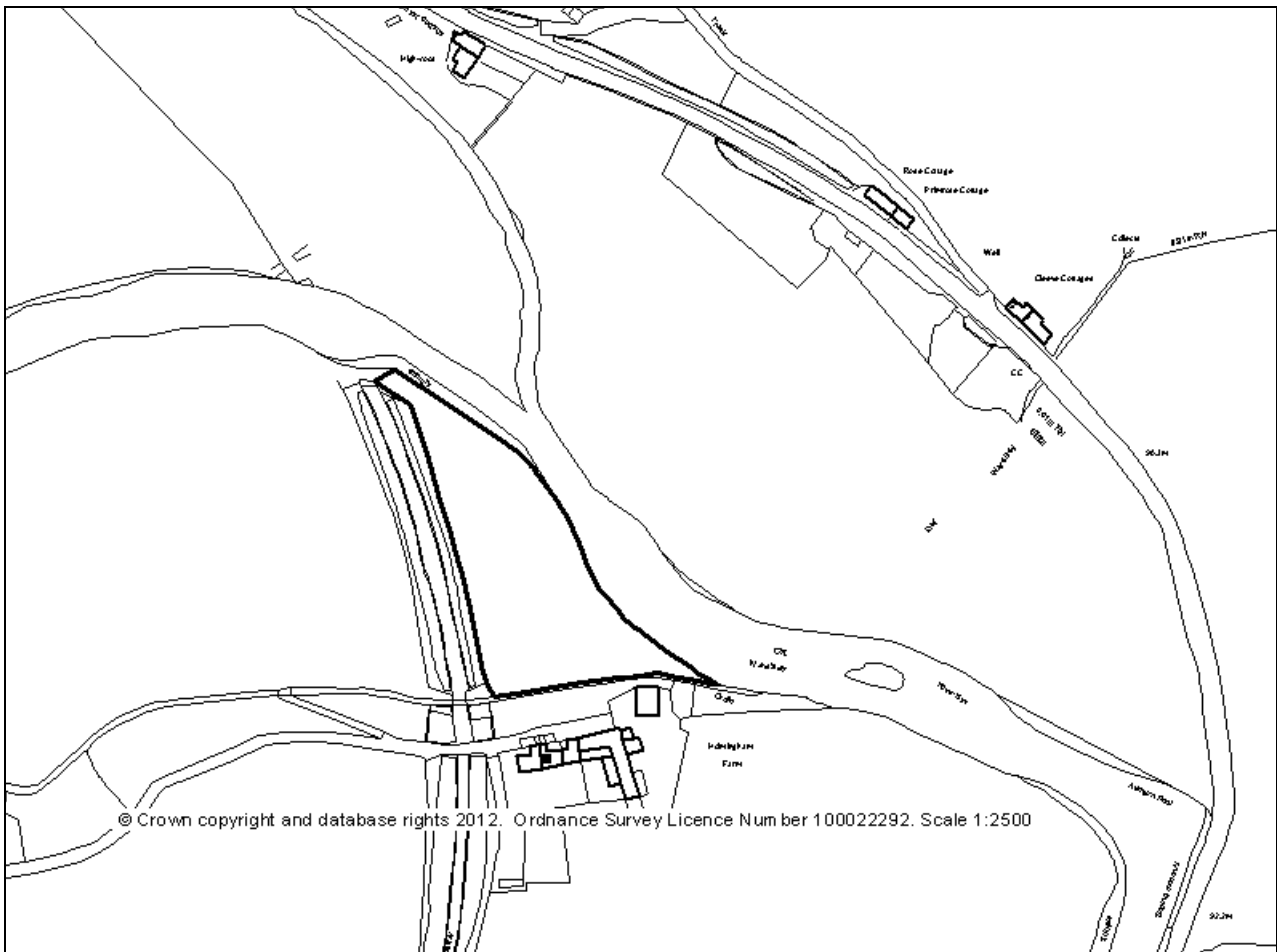
**Recommendation:**

That the Legal Services Manager be authorised to take any appropriate legal action, including the service of a notice or notices, seeking the demolition of the timber stilted structure and the removal from the land of any items following the demolition. In addition, in the event of any failure to comply with any notice served, to authorise prosecution, direct action and/or authorisation to seek a court injunction.

**Site Description:**

Holmingham Farm, Bampton, Tiverton, Devon

**Site Plan:**



### **Site History:**

86/02029/FULL	Erection of extension to dwelling - Granted January 1987	
00/00728/FULL	Conversion of redundant farm building to holiday - exe - HOLIDAY OCCUPANCY CONDITION APPLIES	Granted July 2000
04/02408/FULL	Renewal of planning permission 4/48/2000/728 for conversion of redundant farm building to holiday annexe - HOLIDAY OCCUPANCY CONDITION APPLIES	- Granted February 2005

### **Development Plan Policies:**

National Planning Policy Framework

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

COR18 - Countryside

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

DM1 – Presumption in favour of sustainable development

DM2 – High Quality Design

DM31 – Planning Enforcement

### **Reasons/Material Considerations:**

An Enforcement file was opened on this piece of land on the 17th April 2013 following a complaint received with regard to a structure located in the flood zone of the river Exe near Holmingham Farm.

A site visit was undertaken on the 23rd April 2013.

On the 29th June 2013 a letter was sent to the owner asking for clarification as to what the structure was required for and why planning permission had not been sought. In addition the nature of the building was brought to the attention of the Environment Agency. Who stated that it was unlikely to be able to support such a structure within flood zone 3a of the river.

On the 11th July 2013 the applicant stated that he had instructed an agent to investigate the possibility of submitting a planning application following a flood assessment which was then to be passed to the Environment Agency for their consideration.

It was confirmed by the owners agent that the Environment Agency were unlikely to agree to the siting of the building where it is presently located.

On the 29th October 2013 a Planning Contravention Notice was served on the owner and returned within the 21 day time period.

Within this Planning Contravention Notice reply the owner stated that a planning application would be submitted to move the structure out of the flood zone to an area above the flood area.

A letter of reply (17th February 2014) was sent confirming that if a suitable planning application to resolve the matter was not submitted or that the building was not removed, then a report would seek authorisation from the planning committee to undertake formal enforcement action to seek removal of the structure/building.

To date there has been no planning application to either retain the structure or to move it to a position which may be more acceptable. As such the building/structure is still on site and formal enforcement action by way of an enforcement notice for the removal of the structure/building is required to rectify the breach of Planning Control.

### **Human Rights and Equality Issues:**

Any enforcement action as proposed within this report could be considered to affect the land/property owner/occupiers human rights under the provisions of Article 8 and Article 1 of the First Protocol. However, this Local Planning Authority feels it is pursuing a legitimate aim in seeking compliance with the Town and Country Planning Act 1990, so as to prevent demonstrable harm to interests of acknowledged importance and to protect the environment.

### **Options for action or remedy:**

The list of options available is as follows:

**Take no action:** - This would not be an appropriate course of action as it would allow undesirable development in the open countryside where planning policies exist to strictly control such development. Furthermore, the retention of the structure within the flood zone increases risk of flooding elsewhere.

### **Invite an application to grant consent to regularise the development -**

This again would not be an appropriate course of action as any such application would not be supported by officers, based on policy and Environment Agency concerns relating to flooding.

**Issue Enforcement Notice to seek the removal of the building and any associated items from the land** - This would be your officers' preferred course of action. It would have the effect of restoring the amenity of the land and preventing inappropriate development in the open countryside.

### **Reasons for Decision:**

There has been a breach of planning control in respect of unauthorised development that has occurred within the last four years and this change cannot be suitably controlled by conditions.

### **Steps Required:**

- 1) Remove all aspects/parts of the structure from the land.
- 2) Re-instate the land to its former level and state.

### **Period for Compliance:**

Three Months from the date this Notice takes effect