

Planning Committee 4 February 2015

Case No. ENF/12/00122/UDRU

Grid Ref: 295856 122116

Address:

Autumn Cottage, 46A Brook Street, Bampton, Tiverton

Alleged Breach:

Without planning permission, an unauthorised development has been undertaken to the area of land to the south east of Autumn Cottage. Namely the construction of an incomplete block built structure measuring 15m x 5m as shown on the attached plan and photographs.

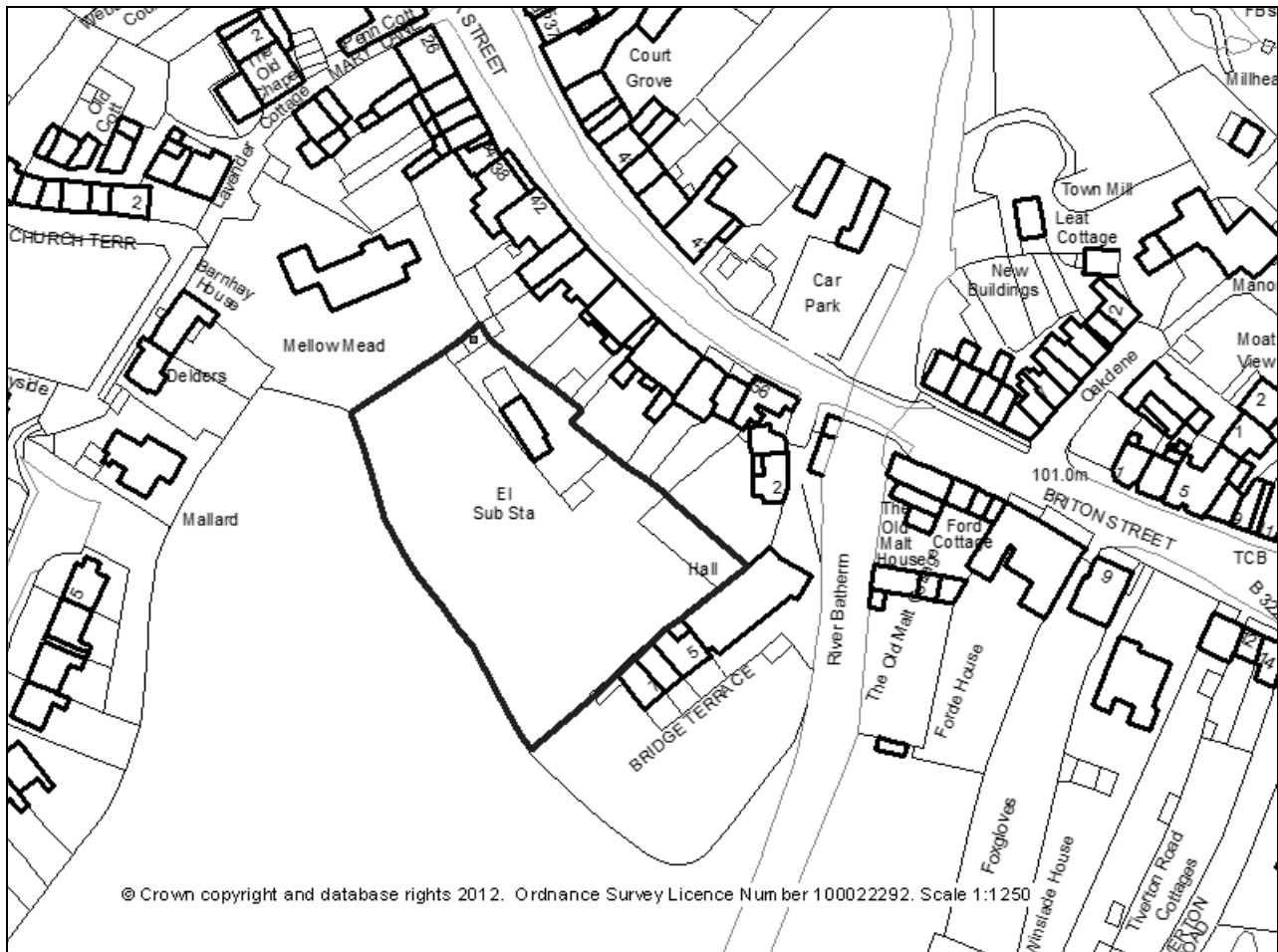
Recommendation:

That the Legal Services Manager be authorised to take any appropriate legal action including the service of a notice or notices, seeking the removal of the structure from the land. 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:

Autumn Cottage, 46A Brook Street, Bampton, Tiverton

Site Plan:



Site History:

86/02238/FULL	Relaxation of condition (b) imposed under 4/01/74/234/BR relating to occupation as an annexe only	PERMIT
93/01706/OUT	Outline for the erection of a dwelling	WD
94/01435/OUT	Outline for the erection of a bungalow with double garage and formation of new vehicular access	REFUSE
98/00232/FULL	Erection of two storey extension, to include provision of garaging facilities, to replace existing	PERMIT
12/01507/CLU	Certificate of Lawfulness for existing use of land as a garden	PERMIT
13/01189/FULL	Retention and completion of storage/workshop	WDN
13/01400/FULL	Conversion of former hay barn into self contained annexe	DELETE
14/00296/FULL	Retention and completion of storage/workshop (Revised Scheme)	WDN
14/01016/CAT	Notification of intention to fell 1 Fir tree, 3 Ash trees and 1 Sycamore and to carry out works to 1 Willow tree within a Conservation Area	NOBJ

Development Plan Policies:

National Planning Policy Framework

Mid Devon Core Strategy (Local Plan 1)

COR2 – Local Distinctiveness

COR16 – Noise Pollution

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 – Presumption in favour of sustainable development

DM2 – High Quality design

DM3 – Sustainable design

DM13 – Residential extension and ancillary development

DM31 – Planning Enforcement

Reasons/Material Considerations:

The attention of officers was drawn to this site in January 2012. Meetings have been arranged to discuss the works undertaken. The main issue was to consider the impact the proposed would have on neighbouring properties and the location of the building within the flood zone of the river.

It was made clear to the owner that Planning Permission would be required for the proposed structure/building. The owner was also informed that it would be unlikely that such consent would be granted for such a large structure due to issues with flooding within the immediate area.

Further site visits and communication have been undertaken with the owner, along with the Environment Agency. The last meeting indicated that the owner is intending to submit a planning application for a substantially reduced structure/building and remove the rest. No planning application has been received to date.

It is considered that adequate time has elapsed for the owner to resolve the issues at Autumn Cottage 46A Brook Street Bampton Tiverton EX16 9LY by either removing the unauthorised structures or submitting an appropriate planning application which may resolve the concerns of the Environment Agency.

Human Rights and Equality Issues:

The taking of any enforcement action could be said to affect the land/property owner/occupiers human rights under the provision of Article 8 and Article 1 of the First protocol to the Human Rights Act 1998.

In this case, the owner has made a free choice to construct the structure/building without any prior approval or discussion as to the merits of building the structure/building and although has subsequently attempted to gain planning permission for the unauthorised structure/building by way of two applications both have been withdrawn before a decision has been made.

The Local Planning Authority believes it is pursuing a legitimate aim in seeking compliance with the provisions of the Town and Country Planning Act 1990 as amended so as to prevent demonstrable harm to the 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 appropriate as it could lead to the setting of a precedent allowing the construction of structures without planning consent.

Invite an application to grant consent to regularise the Development - It would be in appropriate to invite a planning application for the retention of the structure/building considering the likely refusal of such an application.

Issue Enforcement Notice to seek removal of the structure from the land - This is the recommended course of action.

Reasons for Decision:

The Unauthorised development has been undertaken within the last four years and is not substantially complete. The development is contrary to policy COR2 and COR16 of the Mid Devon Core Strategy (Local Plan Part1), Policies DM1, DM2, DM3, DM13, of the Mid Devon Local Plan Part 3 (Development Management Policies) and in line with policy DM31 of the same document.

Steps Required:

1. Remove the unauthorised structure/building from the land.

Period for Compliance:

Six months from the date the notice comes into effect.