

Case No. ENF/14/00124/UDRU

Grid Ref: 290854 112568

Address:

Rowey Bungalow, Withleigh, Tiverton, Devon

Alleged Breach:

Unauthorised material change of use of land from agricultural use to use as domestic garden.

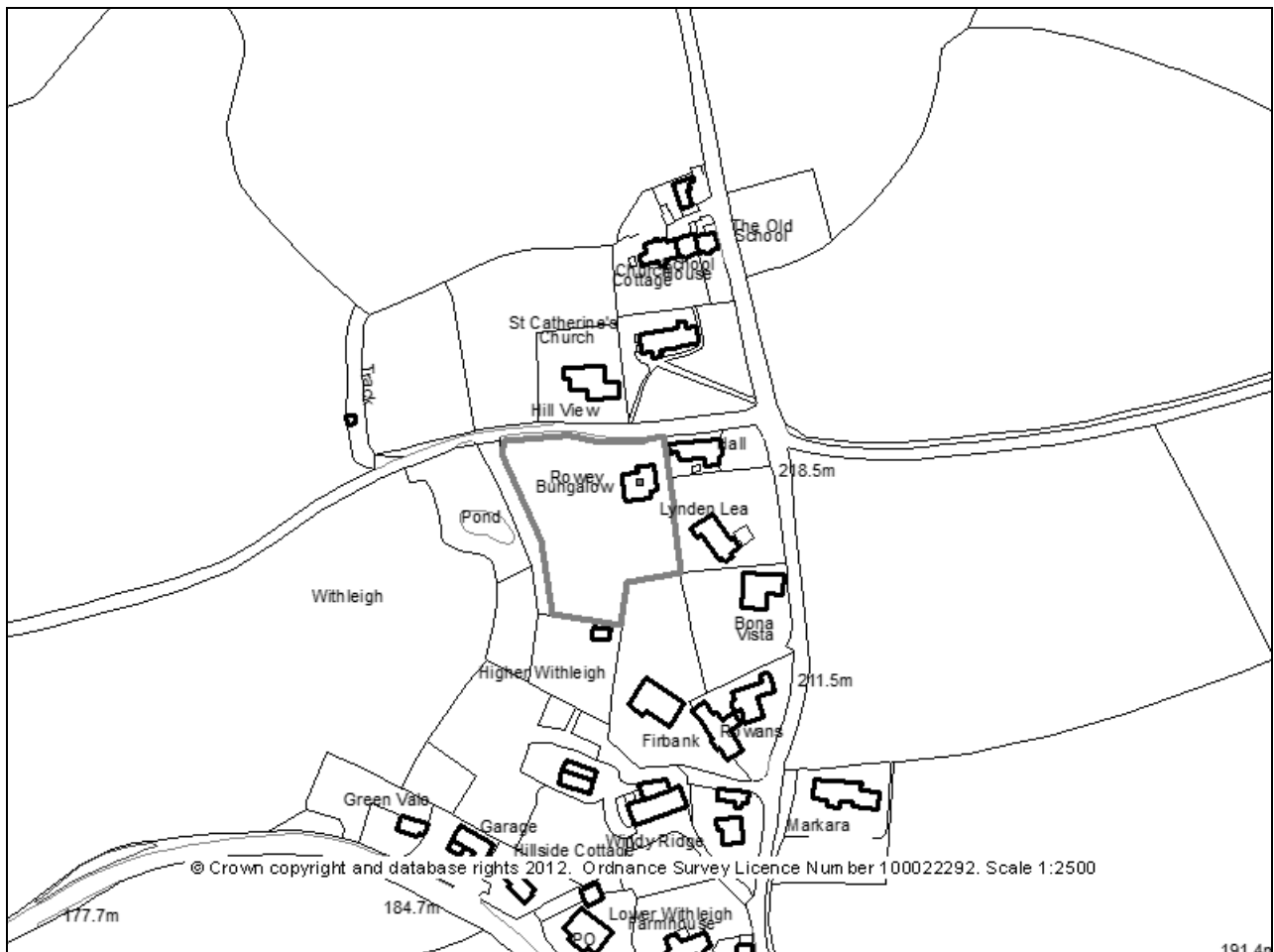
Recommendations:

That the Legal Services Manager be authorised to take no further action in respect of the alleged change of use of land in this case

Site Description:

Rowey Bungalow, Plainfield Lane, Withleigh, Tiverton. This is a detached bungalow to the west of Withleigh Village Hall, originally built as an agricultural workers dwelling, which benefits from a small area of meadow to the west of the bungalow, the subject of this report.

Site Plan:



Site History:

96/00360/FULL	Conversion of garage to additional bedroom, extension of existing bedroom and provision of pitched roof over existing garage/utility area	PERMIT
11/00895/CLU	Certificate of Lawfulness for non-compliance with agricultural tie of planning permission E13135 and the existing use of agricultural land as domestic garden for a period of over 10 years.	PERMIT

Development Plan Policies:

National Planning Policy Framework

Mid Devon Core Strategy (Local Plan 1)

Not applicable

Mid Devon Local Plan Part 3 (Development Management Policies)

Not applicable

Reasons/Material Considerations:

In March 2015 a report was presented to the Planning Committee by the, then, Head of Planning, regarding a long standing complaint over the use of an area of land to the west of the bungalow at Rowey Bungalow.

The original complaint arose in 2005 when a fence that divided the land to the west of the bungalow from the domestic lawn area was removed. That situation was investigated and resulted in a decision by Officers that no breach of planning control had occurred, as there was no evidence of any material change of use of the land and the removal of the fence was not a breach in any event.

Since then, further complaints have been made that the area of land to the west of the bungalow has been used for domestic purposes due to the maintenance regime followed by the owner in regularly cutting the grass on that section of land.

A Planning Contravention Notice, served on the owner of the land in 2014, was returned stating that the land was in agricultural use. Following further enquiries, it was stated the land was used for the keeping of chickens and ducks.

There was no evidence of any other domestic use beyond the grass cutting.

The March report recommended no further action at that time and it was suggested that a further report be brought to the Planning Committee in September 2015 to confirm the situation. The site was visited in August. Photographs taken on 19th August 2015 show quite clearly that the land to the west is not being treated as domestic land and the grass is not be mown in the same way as the adjoining domestic lawn.

Your officers are of the belief that there is no breach of planning control and that no formal enforcement action can be taken at this time.

Should further complaints be reported in the future, those complaints can be investigated and appropriate action taken, if necessary.

Human Rights and Equality Issues:

Any formal enforcement action 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. The human rights of others have to be taken onto consideration. In this particular case, it is felt that there would be no breach of the human rights legislation if no action were taken with regard to the unauthorised development. Should Members resolve to take enforcement action, such action could impact upon the land owner.

Options for action or remedy:

The list of options available is as follows:

Take no action:

This is the recommended action at this time.

Reasons for Decision:

There is no evidence at this time to justify the taking of formal action as no breach of planning control has been identified.

Steps Required:

None