

Site History:

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| 99/02217/FULL | Change of use of existing outbuilding and erection of new buildings to provide joinery and builders workshops and builders yard | PERMIT |
| 15/00784/FULL | Erection of an agricultural building for rearing calves (Building 1) | PERMIT |
| 15/00785/FULL | Erection of a agricultural building for storage of machinery and fodder (Building 2) | PERMIT |

Development Plan Policies:

National Planning Policy Framework

Mid Devon Core Strategy (Local Plan 1)

COR2 - Local Distinctiveness

Mid Devon Local Plan Part 3 (Development Management Policies)

DM2 - High Quality Design

DM22 - Agricultural Development

Reasons/Material Considerations:

Planning permission was granted on 30th June 2015 for the erection of two agricultural buildings under planning references 15/00784/FULL and 15/00785/FULL on land at Fourwinds, Morebath, Tiverton.

Once development had commenced on site, your officers were contacted with regard to the size of the buildings being erected in contrast to those granted permission. A site visit was made and the person responsible for carrying out the development explained that they had needed to change the plans to allow for a more practical use of the sheds. The height of the sheds, as designed were not high enough to allow for access by large machinery to stack fodder to the height allegedly needed. The larger building is shown on the approved plans as being a maximum height of 5.3m, but actually measures approximately 8.3m at its highest point. The smaller building is shown as a maximum height of 4.7m on the plans, but is approximately 7.2m on site. The skeleton sheds were considerably larger in volume than those granted permission, although the northern most shed had been constructed some ten metres shorter in length than permitted. As a result, the larger building is approximately five metres closer to the edge of the adjacent road than shown on the plans. Your enforcement officers advised that work should cease and that any further work carried out would be so at the risk of the developer.

Subsequently a formal officer opinion was sought as to whether a further application, if one were to be submitted to retain the sheds as built, would be supported by your officers. That opinion suggested quite strongly that any applications to retain the sheds was likely to lead to a recommendation for refusal. The reasons likely to be given for refusal would be as follows:-

Your officers consider that the agricultural buildings as constructed cause an unacceptable amount of harm on the character and appearance of the surrounding area, in particular due to the significant height and prominence of the buildings. The buildings are contrary to policies DM2 and DM22 of the Local Plan Part 3 (Development Management Policies) and COR2 of the Mid Devon Core Strategy 2026.

The developers have been advised that they do have the right to make an application, if they so wish, to retain the sheds as built, or to consider another scheme entirely and there have been some negotiations with an agent appointed.

It is your officers' opinion that there is nothing that can be done with the existing buildings to make them acceptable and that they should be removed. The developer does still have the opportunity to implement the permissions granted, as above.

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 developer has made a free choice to construct the buildings without adhering to the plans approved by the Local Planning Authority and that departure from approved plans means the development in its entirety is unauthorised.

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 is not seen as the appropriate reaction to what has taken place. The current buildings by way of their location and mass have a detrimental impact on the locality.

Invite an application to regularise the breach - This is also not considered to be an appropriate course of action. The site has been visited by a Planning Officer who has given the opinion that the development is not acceptable.

Issue an enforcement notice seeking the removal of the unauthorised development - This is considered by your officers to be the most appropriate course of action. The development has been carried out without the benefit of planning permission and officer opinion strongly suggests that it cannot be regularised by way of an application.

Reasons for Decision:

The development has taken place without planning permission and has taken place within the last four years. Officer opinion has declared that the development, as built is not likely to receive support, were an application to be made to retain the buildings as built.

The development is contrary to the National Planning Policy Framework; Policies DM2 and DM22 of the Mid Devon Local Plan Part 3 (Development Management Policies) and Policy COR2 of the Mid Devon Core Strategy 2026.

Steps Required:

1. Demolish both buildings.
2. Remove the materials resulting from the demolition from the land.

Period for Compliance:

1. Three months from the date the notice comes into effect.