

Case No. ENF/15/00075/BRE

Grid Ref: 317280 116564

Address:

Wiltown Mobile Home, Clayhidon, Cullompton, Devon

Alleged Breach:

Failure to comply with Condition 1 and Condition 4 on Appeal decision in relation to Planning Application 10/00160/FULL.

Recommendations:

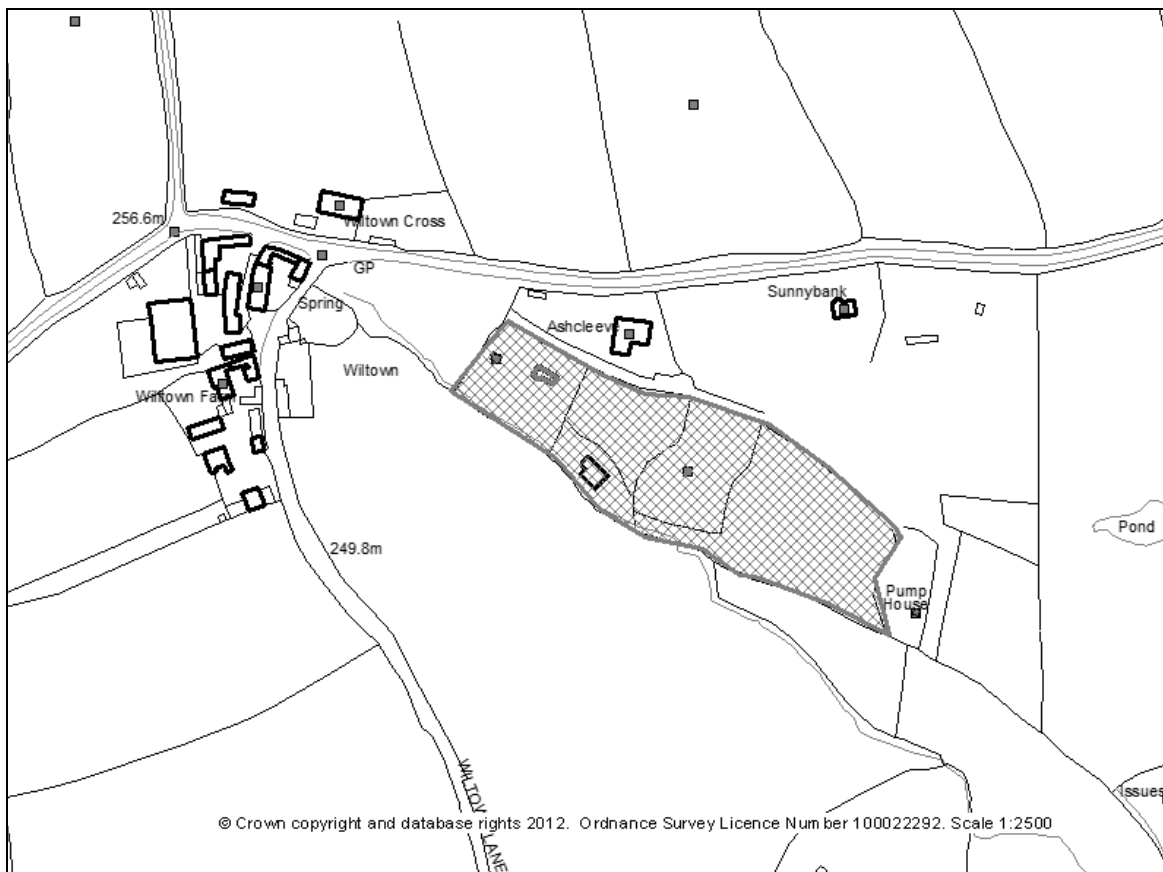
That the Legal Services Manager be authorised to take any appropriate legal action including the service of a Notice or Notices, seeking compliance with a residency condition imposed at appeal following the refusal to grant planning permission by the Local Planning Authority in respect of planning reference 10/00160/FULL. In addition, in the event of a failure to comply with any Notice issued, authority to prosecute, take direct action and/or authority to seek a court injunction.

Site Description:

Wiltown Mobile Home, Clayhidon, Cullompton, Devon

The land at Wiltown Corner, Clayhidon consists of an area of 1.2 ha of agricultural land on a sloping site. It is approached by a single track lane off Wiltown Corner, opposite Wiltown Farm.

Site Plan:



Site History:

09/00749/FULL	Retention of an agricultural workers caravan	REFUSE
10/00160/FULL	Retention of change of use of land to allow siting of an agricultural workers caravan (Revised Scheme) (APPEAL ALLOWED - 20TH MAY 2011	REFUSE
15/01891/FULL	Variation of condition 1 of Planning Permission 10/00160/FULL to allow occupation of the caravan by Mrs G Board	REFUSE

Development Plan Policies:

National Planning Policy Framework

Mid Devon Core Strategy (Local Plan 1)

COR 18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM31 - Enforcement

Reasons/Material Considerations:

The Local Planning Authority first became aware of a breach of planning at Wiltown Corner in March 2005, when it was found that a residential caravan had been placed on site without planning permission and was being occupied by an Adrian Board and a Gail Joseph (now Board). An Enforcement investigation was carried out which resulted in the service of an Enforcement Notice in March 2006. Due to the personal circumstances concerning Mr Board's health, a lengthy compliance period was imposed on the Notice, allowing a period in excess of two years for compliance by 22nd May 2008.

Mr and Mrs Board failed to comply with the Notice and under the threat of prosecution for failing to comply with the Notice, they stated their intention to make a planning application to remain on site.

An application was subsequently submitted under reference 10/00166/FULL and was ultimately refused planning permission. An appeal was lodged and on 20th May 2011 and following an appeal hearing, a Planning Inspector allowed the appeal with conditions.

The first condition, on the schedule of conditions, reads:-

When the premises cease to be occupied by Mr A Board the use hereby permitted shall cease, and all materials and equipment brought on to the premises in connection with the use, including the caravan, associated hardstandings and on site foul drainage disposal facilities, shall be removed, and the site restored to a condition appropriate to its location in the open countryside, in accordance with a timetable to be agreed in writing by the Local Planning Authority.

Mr and Mrs Board resided on the land in compliance with the condition until approximately two years ago when Mr Adrian Board died.

Since that time, Mrs Board has remained on site in the caravan.

In July 2015, a further Enforcement investigation was commenced and Mrs Board was seen and informed of the need to comply with the terms of the condition. at that time, Mrs Board explained that Mr Board had requested prior to his death that he be buried on the site. This had taken place and Mrs Board was now very reluctant to leave the land.

It was explained that the only way she could remain, would be to get a new planning permission allowing her to remain on site.

A planning application was subsequently made to vary the condition made by the Inspector, but has now been refused permission.

Your officers are of the opinion that, under the circumstances, a Breach of Condition Enforcement Notice should be issued, as opposed to a standard Breach of Condition Notice. The reason for this being that there is a right of appeal against the full Enforcement Notice, where there is no such right with a Breach of Condition Notice.

Human Rights and Equality Issues:

Any formal enforcement action could be considered to affect the land/property owner/occupier's human rights under the provisions of Article 8 and Article 1 of the First Protocol of the Human Rights Act 1998. The human rights of Mrs Board must be borne in mind, but it is believed that, having moved onto the land without planning permission more than ten years ago and then achieving a limited planning permission which effectively ended when Mr Board died. Mrs Board has been aware for the past two years that she has remained on site in breach of planning control.

Options for action or remedy:

The list of options available is as follows:

Take no action:

To take no action would not be the appropriate response to this breach. The Local planning Authority has already issued an Enforcement Notice in the past regarding the use of the land and this was only superseded by an appeal decision allowing a restricted occupation for one named person.

Issue a Breach of Condition Notice - This is not considered appropriate as the circumstances of this case are quite complex and should there be a failure to comply, the matter can only go before a Magistrates' Court.

Issue a Breach of Condition Enforcement Notice - This is the course of action recommended by your officers. This would allow Mrs Board to appeal and a Planning Inspector can decide on the merits of the case.

Reasons for Decision:

The breach of planning control has taken place within the last ten years as a breach of condition. In reaching his decision, the Inspector gave great weight to the personal circumstances of Mr Board and imposed the occupancy condition to prevent the caravan becoming a permanent feature. In doing so, he acknowledged the conflict with policy COR 18 of the Core Strategy 2007, but stated the personal circumstance outweighed any conflict with the policy. The site lies within the Blackdown Hills AONB and it is important that the land is restored to a more suitable state, once the caravan and associated equipment is removed.

Steps Required:

1. Remove the caravan from the land.
2. Remove and materials and equipment brought onto the land in connection the the use of the land, including any hardstandings and on site foul drainage disposal facilities.
3. Any areas of bare earth revealed by the removal of any materials or equipment should be raked and sown with a grass seed mix.

Period for Compliance:

Six months from the date the Notice comes into effect.