

Enforcement List Item 2

Committee Date: 6th April 2016

Case No. ENF/16/00064/UCU

Grid Ref: 268919 106903

Address:

Green Acres, Coldridge, Crediton, Devon

Alleged Breach:

Unauthorised material change of use of land from agriculture to a mixed use of agriculture and use for the siting of a caravan for human habitation

Recommendations:

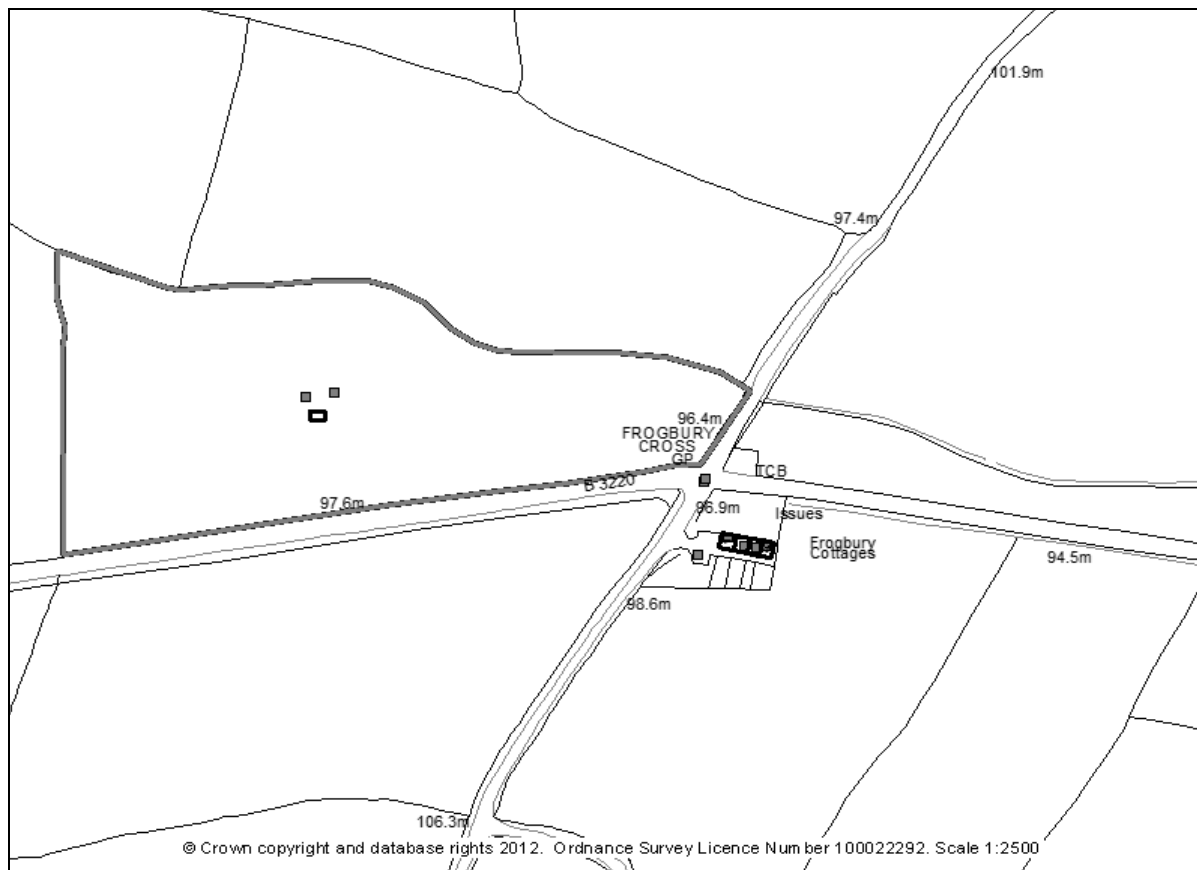
That the Legal Services Manager is authorised to take any appropriate enforcement action including the service of a Notice or Notices seeking the cessation of the use of the land for human habitation, the removal of any caravans and any associated containers used in connection with the human habitation of the land and the restoration of the land to agricultural use. In addition, in the event of any failure to comply with any Notice served, authority to prosecute, take direct action and/or authority to seek a court injunction.

Site Description:

Green Acres, Coldridge, Crediton, Devon

Green Acres consists of a parcel of land measuring some 2.5 ha, which is part of a larger holding, with a majority of the land located further west.

Site Plan:



Site History:

98/01667/FULL Erection of a single storey extension to rear PERMIT
16/00190/OUT Outline planning for the development of a 3 bedroom dwelling (New build)

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)

DM2 - High quality design

DM3 - Sustainable design

DM31 - Planning Enforcement

Reasons/Material Considerations:

In 2014, the owner of a parcel of land at Frogbury Cross, Coldridge, known as Green Acres, submitted an agricultural prior notification in connection with the erection of an agricultural shed on the land.

Shortly afterwards, it was reported that a mobile home had been placed on the site. When first spoken to, the owner was advised that it was permitted development to have the caravan on the land for the purpose of carrying out the development of the shed, but that it would have to be removed again, once the shed was complete.

Since that time there has been little or no progress with the shed. For many months no work was carried out at all, but it was pointed out that the ground had been exceptionally wet and it was virtually impossible to work on the ground, which is naturally wet and shows signs of this with reeds growing in the area where the shed is to be sited.

Your officers have visited the site and spoken to the owner on a number of occasions and warned him that progress would have to improve or he would risk the possibility of formal action being taken to remove the caravan on the grounds that it was being used primarily for human habitation and not for the purpose of building the shed.

The latest site visit took place on Friday 12th February 2016. At this time, the post holes had been dug and concreted and two small sections of the frame of the shed had been erected. This is all there is to show for nearly two years work. It is your officers opinion that the caravan cannot now be said to be on site under Part 5 of the General Permitted Development Order 2015 and is being used almost exclusively for simple residential occupation.

On the land near the caravan is a lorry container that pre-dates the caravan. The owner was advised that it would need planning permission, but to date no application has been made to retain it. By its location and apparent domestic use, it is considered to be associated with the siting of the caravan and your officers are also recommending that the container is removed along with the caravan.

Although the site owner has recently submitted an outline planning application to seek permission to build a new 3 bedroom house on the site, the applicant has not submitted a satisfactory case which demonstrates that a new house on the site, as a replacement for the caravan, would be in accordance with the relevant planning policy. On this basis the application is to be refused planning permission.

Human Rights and Equality Issues:

Any formal enforcement action can be said to impact on 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/occupier of the land has taken advantage of provisions contained in the Town and Country Planning (General Permitted Development) Order to place a caravan on the land, initially for the purpose of carrying out work on an agricultural building, but only making very limited progress to a point where the primary use of the caravan is now for human habitation. The Local planning Authority believes it pursuing a legitimate in seeking compliance with the provisions of the Town and Country Planning Act (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:

To take no action would not be the appropriate course of action in this case. It is your officers' view that the caravan is now unauthorised and as such will become immune from enforcement if allowed to remain.

Invite an application to regularise the situation - This again would not be an appropriate course of action. Planning policy is set to strictly control development in the open countryside, except in limited circumstances. In this case the owner/occupier has not shown that there is an essential need for him to live on the land.

Issue an Enforcement Notice seeking the removal of the caravan and the lorry container, used in association with the caravan - This is the recommended course of action. There is a need to control this type of sporadic development in the countryside.

Reasons for Decision:

The change of use of the land has occurred within the last ten years. Any claims to justify the siting of a caravan for the purpose of carrying out development have now been exhausted by the lack of any real progress on site.

The development is contrary to policies DM2; DM3 and; DM31 of the Mid Devon Local Plan Part 3 and policy COR18 of the Mid Devon Core Strategy.

Steps Required:

1. Cease the use of the land for human habitation.
2. Remove any caravans from the land.
3. Remove the lorry container, used in connection with the caravan from the land.

Period for Compliance:

1. Six months from the date the Notice comes into effect.