

Case No. ENF/11/00034/UCU

Grid Ref: 290195 97265

Address:

Langford Park Ltd, Langford Road, Langford, Newton St Cyres

Alleged Breach:

Unauthorised material change of use of land from use as Care Home (Use Class C2) to a mixed use comprising Care Home and use as a caravan site.

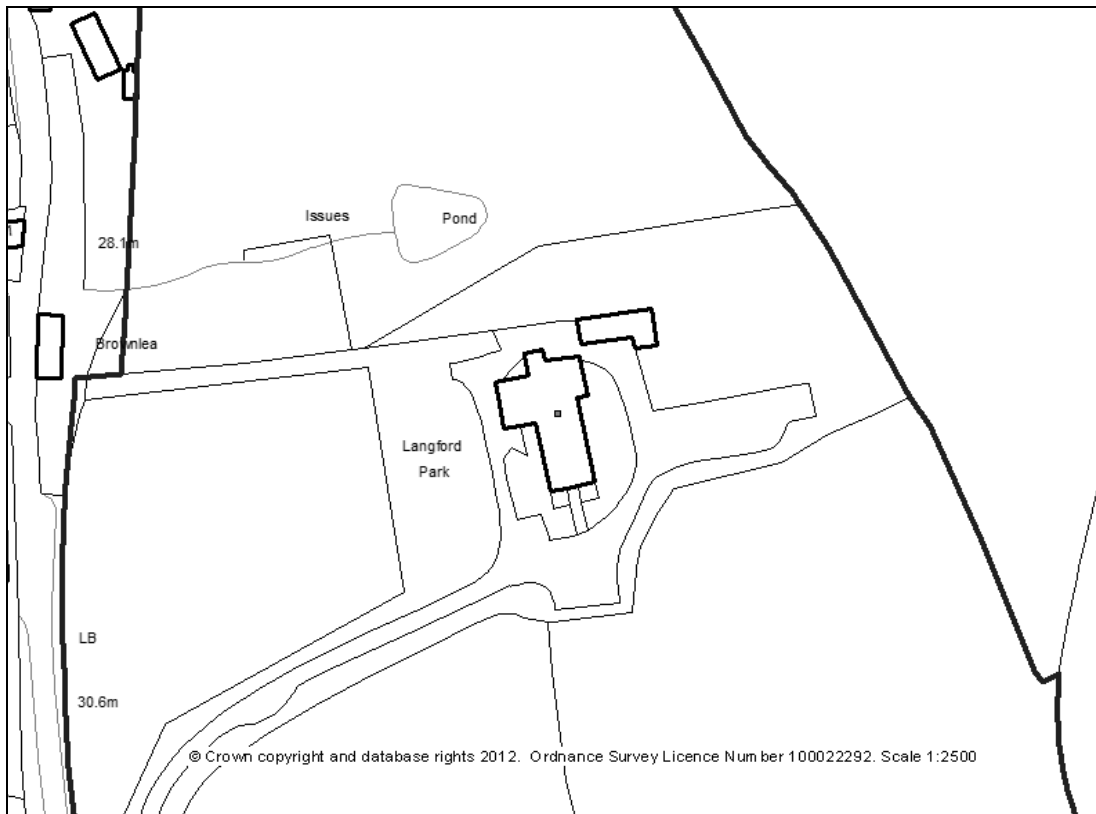
Recommendations:

That Members, having regard to the provisions of the Mid Devon Development Plan comprising the Core Strategy 2026 (July 2007), the Allocations and Infrastructure Development Plan Policies (January 2011) the Local Plan Part 3 Development Management Policies (October 2013) and all other material planning considerations in accordance with Section 172, Town and Country Planning Act 1990, (as amended) ("the Act"), should grant authority to the Legal Services Manager to take any appropriate legal action, including the issuing of a change of use enforcement notice, requiring the cessation of the use of the land as a caravan site and for the removal from the land of x 4 caravans, shed(s), decking/veranda, roads and domestic paraphernalia associated with the use of the land as a caravan site.

Site Description:

Langford Park Nursing Home, operated by Langford Park Limited, is a detached brick and stone former farm house comprising 33 rooms. The building stands in extensive landscaped grounds of approximately 2.6 hectares off the A377 Exeter to Crediton road, just outside the village of Newton St Cyres.

Site Plan:



Site History:

86/00665/FULL	Erection of extensions and conversion of existing building to form an additional ten units of accommodation for nursing home	PERMIT
86/01483/FULL	Change of use of second floor flat and staff quarters into nursing home accommodation and formation of dormer windows	PERMIT
87/01484/FULL	Erection of extension to provide two bedrooms and w.cs	PERMIT
88/00780/FULL	Erection of extension to form staff room and office	PERMIT
89/02188/OUT	Outline for the erection of twenty units for homes for the aged	REFUSE
90/01311/FULL	Erection of extension	PERMIT
91/01702/FULL	Erection of boiler house extension	PERMIT
92/01689/FULL	Erection of a conservatory	PERMIT
92/01993/FULL	Erection of four bedroom extension	PERMIT
92/02009/FULL	Erection of porch to north elevation	PERMIT
93/00702/FULL	Erection of extension to form laundry	PERMIT
97/00172/FULL	Alterations to outbuilding (Revised Scheme)	PERMIT
99/02257/FULL	Retention of slate-clad roof extension	REFUSE
99/02959/FULL	Formation of roof extension (Revised Scheme)	PERMIT
04/02526/FULL	Erection of covered access way	PERMIT
77/01677/FULL	Outline application for change of use from store to two units of holiday farmhouse accommodation	PERMIT
78/00449/FULL	Conversion of barn into four holiday flats and provision of new access	PERMIT
80/00800/FULL	Conversion of outbuilding into residential unit	PERMIT
80/01194/FULL	Conversion of existing cider barn into 5 private residential units; construction of garage court and access to Langford Road.	PERMIT
81/02102/FULL	Conversion of outbuilding into 2 units	PERMIT
82/01956/FULL	Conversion of existing house and redundant barn into a registered nursing home, construction of new access drive, car parks and landscaping.	PERMIT

07/00010/FULL	Erection of extension to residents lounge	PERMIT
09/01540/FULL	Erection of a two-storey extension	PERMIT
10/01907/FULL	Conversion of annexe to provide 5 additional bedrooms and retain common room	REFUSE
11/01355/FULL	Conversion and extension of existing outbuilding to provide 6 additional bedrooms for nursing home (Revised Scheme)	PERMIT
12/00398/FULL	Erection of extension	PERMIT
14/01852/FULL	Variation of condition (2) of planning permission 11/01355/FULL to allow the substitution of previously approved plans	PERMIT

Development Plan Policies:

National Planning Policy Framework

The NPPF, Chapter 7, paragraph 55 advises that to promote sustainable development in rural areas, LPA's should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside. This aim is reflected in Mid Devon Local Development Framework policies.

NPPF, Decision-taking - "Effective enforcement is important as a means of maintaining confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.

Mid Devon Core Strategy 2026

COR 17 - Villages

COR 18 - Countryside

Allocations and Infrastructure Development Plan

COR18 - Core Strategy Policy on Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

Policy DM2 - High quality design

Policy DM10 - Rural workers dwellings

Policy DM31 - Planning enforcement

Reasons/Material Considerations:

The matter was originally brought to the attention of Planning Committee Members on 10 February 2016, when authorisation was granted for the issue of an enforcement notice requiring the removal of four caravans. A recent review of the case highlighted the fact that structures and domestic paraphernalia, not included in the original report, but requiring removal from the land requires your additional authorisation. Consequently, the matter is has been brought to your attention for the additional necessary measures to be considered.

Langford Park Nursing Home was established approximately 31 years ago and now provides accommodation, care and support for up to 34 clients.

As members will note, since 1983, when consent was granted for a change of use of the farmhouse and barn to a 'nursing' home, outbuildings have been upgraded and the former farmhouse building has been extended. These various permissions have enabled the company to provide additional bedrooms or to improve the facilities offered to their clients. However, the very nature of the business in providing 24 hour nursing and support means that care staff need to be available 24/7. To facilitate the opportunity to provide 24 hour care, four caravans (single unit mobile homes) have been sited within the grounds of the nursing home to provide residential accommodation for care workers.

Since 2011, officers have endeavoured to persuade the company to remove the caravans voluntarily. However, the company argued that in order to retain suitable staff, the company was obliged to provide staff accommodation. And that because accommodation for staff is not available in the main building, the company felt obliged to provide accommodation by way of caravans sited on the car park.

Being sympathetic to the companies dilemma, officers suggested that the company provide staff accommodation by way of an extension and recommended they submit an application for the extension and another application seeking to temporarily retain the caravans, until such times as the built accommodation was provided.

Whilst the residential use of a single caravan, by an employee at the care home, may be considered ancillary to primary use of the land, officers are of the opinion that additional residential caravans are unreasonable and constitute a change of use of the land to residential caravan site.

Unfortunately, the discussions, primarily via a planning agent, have not led to the submission of applications. To ensure the use of the land as a residential caravan site does not become immune from enforcement action through passage of time, and following consideration of matters at this since February, Members are requested to authorise enforcement action requiring the removal of the caravans together with the sheds, decking / veranda, footpath routes and domestic paraphernalia associated with the use of the land as a caravan site.

Human Rights and Equality Issues:

The expediency of Enforcement action has been assessed with reference to guidance contained in the National Planning Policy Framework (NPPF). Expediency has also been assessed with regard to the statutory Development Plan, comprising the Core Strategy 2026 (July 2007), the Allocations and Infrastructure Development Plan Policies (January 2011) the Local Plan Part 3 Development Management Policies (October 2013).

When making their decision, Members must have regard to all relevant planning legislation, regulations, guidance, circulars and Council policies.

In addition, Members should note that the Human Rights Act 1998 (HRA 1998) makes it unlawful for the Council to act incompatibly with Convention rights. Decisions by the Committee must take account of the HRA 1998. Therefore, Members need to be aware of the fact that the HRA 1998 makes the European Convention on Human Rights (the Convention) directly applicable to the actions of public bodies in England and Wales. The specific parts of the Convention relevant to planning matters are Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

Article 6 deals with procedural fairness. If normal committee procedures are followed, it is unlikely that this article will be breached.

Article 1 of the First Protocol and Article 8 are not absolute rights and infringements of these rights protected under these are allowed in certain defined circumstances, for example where required by law. However any infringement must be proportionate, which means it must achieve a fair balance between the public interest and the private interest infringed and must not go beyond what is needed to achieve its objective.

Article 14 states that the rights under the Convention shall be secured without discrimination on grounds of 'sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status'.

The power to issue an Enforcement Notice is discretionary and should only be used where the Local Planning Authority are satisfied that there has been a breach or breaches of planning control. It must also be satisfied that it is expedient to issue the Notice having regard to the provisions of the Development Plan and to any other material considerations. Consequently the Council must decide based on the particular circumstances of each individual case the question of expediency. The decision to take enforcement action must be reasonable and not based on irrational factors or taken without proper consideration of the relevant facts and planning issues or based on non-planning grounds. Enforcement action should not be taken purely to regularise the situation.

Options for action or remedy:

The list of options available is as follows:

Take no action: - This would not be appropriate as it would allow the unauthorised and unacceptable development to remain in situ.

Invite an application to grant consent to regularise the change of use - This again would not be appropriate for the reasons outlined in the body of the report.

Recommendation: Issue an enforcement notice

That Members, having regard to the provisions of the Mid Devon Development Plan and all other material planning considerations in accordance with Section 172, Town and Country Planning Act 1990, (as amended) ("the Act") should grant authority to the Legal Services Manager to issue a material change of use enforcement notice, requiring the cessation of the use the land as a caravan site and for the removal from the land of 4x caravans, shed(s), decking/veranda, footpath routes and domestic paraphernalia associated with the use of the land as a caravan site. In addition, that authority be given to the Legal Services Manager to take any legal action deemed appropriate including prosecution or Direct Action in the event on non-compliance with the notice.

The Requirement of the Notice:

Remove from the land all residential caravans, shed(s), decking/veranda and footpath routes together with all domestic paraphernalia associated with the use of the land as a caravan site.

Reasons for Issuing the Notice:

It appears to the Council that the breach has occurred within the last ten years.

The use of the land as a residential caravan site constitutes unsustainable development in a rural area, where isolated homes are restricted for use by essential rural workers. That need has not been proven. Consequently, the development is contrary to the advice given in the NPPF and reflected in the Mid Devon Development Plan.

The Council do not consider that planning permission should be given, because planning conditions could not overcome these objections to the development.

Period for Compliance:

Six (6) months after the notice takes effect.