

**Case No.** ENF/16/00200/UDRU

**Grid Ref:** 283507 98029

**Address:**

Trobridge Farm, Trobridge, Crediton, Devon

**Alleged Breach:**

Unauthorised change of use of agricultural building and land to use for business storage.

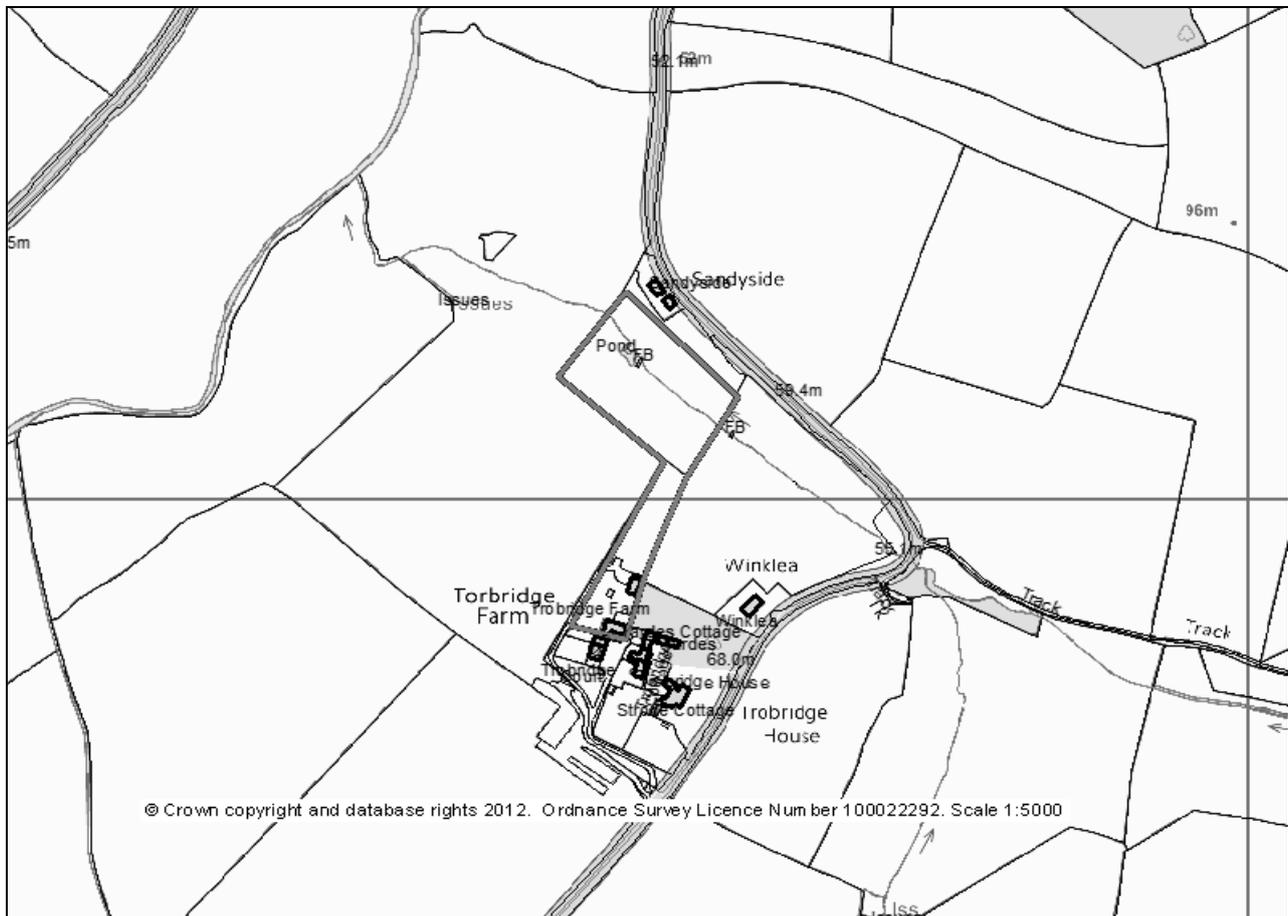
**Recommendations:**

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 change of use enforcement notice, requiring the cessation of use of the agricultural barn and surrounding land for business storage purposes, and the removal of all materials from the land. 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.

**Site Description:**

The site is located within the Crediton Hamlets parish, approximately 1.5 miles south of Crediton. It is accessed via the unclassified road from Trobridge Cross to Oldbridge, and is surrounded by open countryside to the north, west and south, and a small complex of residential properties to the east.

**Site Plan:**



**Site History:**

06/01832/FULL Erection of an agricultural storage building

PERMIT

**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)**

Policy DM2 - High quality design

Policy DM20 - Rural employment development

Policy DM31 - Planning enforcement

**Reasons/Material Considerations:**

Planning permission was granted for the erection of an agricultural storage building at the site in September 2006, under reference number 06/01832/FULL, with condition 3 stating:

'The agricultural storage building hereby approved shall only be used for agricultural purposes reasonably necessary on the holding to which it relates. On its becoming redundant for such purposes, it shall be demolished and all resultant materials removed from site within 3 years of redundancy.'

A complaint was received by the enforcement team regarding the importation of soil to form a bund and the storage of various items on the site in August 2016. An initial site visit was made to the complainant's property, and the matter referred into Devon County Council with regards to the deposit of waste. Devon County Council visited the site, and found that it did not fall within their remit, and the matter was passed back to Mid Devon for further investigation.

A planning contravention notice was served on the owner requesting more information, which has not been returned. An enforcement officer visited the site in late November 2016, and observed that both the agricultural building and the surrounding land was being used for storage in connection with the owner's business, along with vehicles in a poor state of repair. It was agreed at that time that the owner would seek alternative premises, and make efforts to tidy the site in the meantime.

A further complaint was received in February 2017 that there had been no improvement in the condition of the site, which was confirmed by a telephone call to the owner of the land. He has now identified alternative business premises in Crediton, but has stated that it will take several months for the relocation to be completed.

Despite the indications that the use may cease in the future, Officers consider that the storage use in open countryside is not appropriate and is having an adverse impact on the character and appearance of the area, and steps should now be taken to secure its cessation. However, it is recognised that this business activity is the source of income for a family, and therefore a longer compliance period than would normally be given is suggested to allow adequate time for relocation.

### **Human Rights and Equality Issues:**

The expediency of Enforcement action has been assessed with reference to 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) the Proposed Local Plan Review Policies 2013 - 2033.

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'.

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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.

### **Options for action or remedy:**

The list of options available is as follows:

**Take no action:**

For the reasons explained in this report, Officers consider that the use of the agricultural barn and surrounding land for business storage is not appropriate, and therefore it is not appropriate to take no action.

**Invite a planning application:**

It is Officer opinion that planning permission would be unlikely to be granted for this change of use, and therefore it would not be appropriate to invite a planning application to regularise the position.

**Issue an Enforcement Notice:****The requirements of the Notice**

Cease the use of the agricultural building and surrounding land for storage purposes

Remove all materials and equipment being stored on the land

**Reasons for Decision:**

It appears to the Council that this breach of planning control has occurred within the last ten years. Furthermore the change of use for storage is an inappropriate use of the land and is having an unacceptable adverse impact on the character and appearance of the countryside and is therefore contrary to Policy COR18 of the Mid Devon Core Strategy 2026 and Policy DM20 of the Mid Devon Local Plan Part 3 (Development Management Policies).

**Period for Compliance:**

Six (6) months after the notice takes effect