



NPA/DM/25/016

Dartmoor National Park Authority
Development Management Committee

7 November 2025

Applications to be Determined by the Committee

Report of the Director of Spatial Planning

INDEX

<u>Item No.</u>	<u>Description</u>
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1.	0291/25
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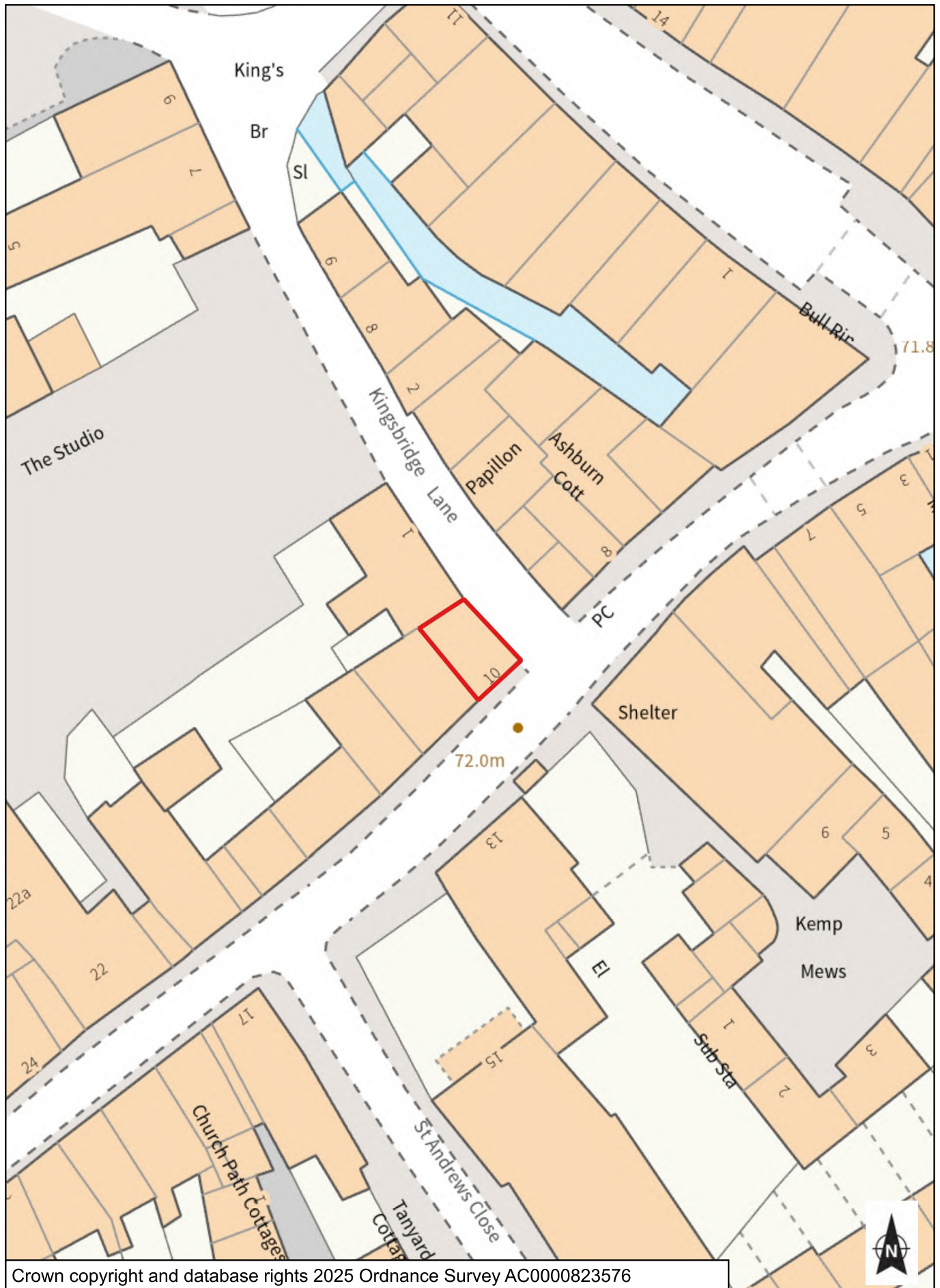
Change of use of ground floor from retail to full residential use

**Oxford House, 10 West Street, Ashburton, Newton Abbot, Devon, TQ13
7DU**

0291/25 Oxford House, TQ13 7DU



Scale 1:500



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Item 1

Application No: 0291/25

District/Borough: Teignbridge

Application Type: Full Planning Permission

Parish: Ashburton

Officer: Jason Skelton

Proposal: Change of use of ground floor from retail to full residential use

Location: Oxford House, 10 West Street, Ashburton, Newton Abbot,
Devon. TQ13 7DU

Applicant: Ms Julie Elias

Recommendation: That subject to the following conditions, planning permission be granted:

Conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town & Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out strictly in accordance with the approved drawing(s):

Site Location plan - received 27-07-2025
Proposed floor plan - numbered P-02-Oxford-house-proposed-floorplan
received 22-08-2025

Reason: In the interests of clarity.

3. The development hereby permitted shall only be used in association with the existing residential use at Oxford House and shall not be used as a separate unit of residential accommodation.

Reason: to define the permission.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any Order revoking and re-enacting that Order with or without modification, no material alterations to the external appearance of the building(s) shall be carried out and no extension in or around the curtilage of the development hereby permitted.

Reason: To protect the character and appearance of the building and its setting and the visual amenity of this part of the Dartmoor National Park in accordance with Strategic Policy 1.2, and Policy 3.7 of the Dartmoor Local Plan.

1 Introduction

- 1.1 Oxford House sits on the junction of West Street and Kingsbridge Lane, Ashburton within the town centre.
- 1.2 The application is for the change of use of part of the ground floor of Oxford House, Ashburton from retail use (Class E) to residential (C3), incorporating it within the wider existing residential unit.
- 1.3 This application is presented to Members as the applicant is related to a member of staff currently employed by the Authority.

2 Planning History

- 0315/11 – Change of use of dwellinghouse to mixed residential and retail use and erection of summerhouse in garden.
- 0242/11 – Internal and external works plus new hanging sign above entrance to shop.
- 0241/11 – Change of use to extend shop and reduce dwelling all within existing footprint and erection of summerhouse / store in garden.
- 0111/10 – Certificate of lawfulness for an existing use in respect of use of the whole premises as a single dwelling house.

3 Consultations

- 3.1 Ashburton Town Council – No response received.
- 3.2 DCC Highways – No comment.
- 3.3 Teignbridge District Council – Did not wish to comment.
- 3.4 Environment Agency – As the site is within flood zone one and is not within a critical drainage area, standing advice applies.

4 Relevant Local Plan Policies

Dartmoor Local Plan 2018-2036

- Strategic Policy 1.1 Delivering National Park purposes and protecting Dartmoor's Special Qualities
- Strategic Policy 1.2 Sustainable development in Dartmoor National Park
- Strategic Policy 1.3 Spatial Strategy
- Strategic Policy 1.5 Delivering good design
- Policy 1.7 Protecting local amenity in Dartmoor National Park
- Strategic Policy 2.1 Protecting the character of Dartmoor's landscape

- Strategic Policy 2.2 Conserving and enhancing Dartmoor's biodiversity and geodiversity
- Strategic Policy 2.3 Biodiversity Net Gain
- Strategic Policy 2.7 Conserving and enhancing heritage assets
- Policy 3.7 Residential alterations, extensions and outbuildings
- Strategic Policy 5.1 Non-residential business and tourism development
- Strategic Policy 5.3 Protecting Active Uses in Dartmoor's Settlements

Other Material Planning Considerations

- The National Park Circular 2010
- National Planning Policy Framework 2024
- Dartmoor National Park Partnership Plan 2021 – 206
- Dartmoor National Park Design Guide Adopted Version November 2011

5 Representations

5.1 None received.

6 Site Description

- 6.1 Oxford House (10 West Street) is located within the Town Centre of Ashburton at the Junction between West Street and Kingsbridge Lane. The site is currently a mixed-use unit comprising retail (Class E) for part of the ground floor and residential (C3) for the remainder of the ground floor and the entirety of the first floor. The property is a Grade II listed attached property that is believed to be dated from the 19th Century. The listing description (Ref: 1201028) outlines that the building was originally a house and shop, and at the time of listing it was operating as a Dentist. The building is located within the Ashburton Conservation Area.
- 6.2 The site is located within an area of predominantly commercial / retail premises at ground floor, as well as several residential properties in the general area. The site sits within an area outlined within the Ashburton Settlement Profile as the main shopping area.
- 6.3 It is noted that the property has been in full residential use previously, with a change of use of dwellinghouse to mixed residential and retail use and erection of summerhouse in garden (Application Ref: 0315/11) approved in 2011. The commercial element of the property has not been leased on a commercial lease or formally occupied since March 2024. It is understood that the residential part of the property is currently occupied.

- 6.4 No on-site parking is provided, but the property is located close to the Kingsbridge Lane public car park.

7 Proposal

- 7.1 The proposal is for the change of use of part of the ground floor of Oxford House from retail use (Class E) to residential use (C3). The change of use is limited to the front and middle adjoined rooms and the adjoining entrance vestibule that front onto West Street, the remaining areas of the ground floor already being in residential use. The proposals will incorporate the current retail use within the wider existing residential unit.
- 7.2 The application proposals do not include any physical changes to the interior or exterior of the building. No changes are proposed to the external grounds of the property. It is proposed to remove the signboard that was approved under application 0315/11 with the change of use, but the supporting sign structure will be retained in its existing position.
- 7.3 The change of use would bring the existing retail element of the building in line with the rest of the building which is currently in residential use (C3) and would not result in the creation of an additional dwelling.

8 Observations

Principle of Development and Loss of Town Centre Use

- 8.1 The application is for the change of use of a ground floor retail unit to full residential use, incorporating within the existing residential use of the property. The proposals would involve the loss of a retail unit in the defined main shopping centre of Ashburton. At approximately 29sqm the retail unit itself is considered relatively small in relation to others on West Street and more generally in Ashburton.
- 8.2 Strategic Policy 5.1 considers non-residential business and tourism development and sets out where such development will be acceptable. Part 4 of the policy goes on to say that existing business and employment sites will be retained for economic uses. Proposals that involve the loss of existing employment sites will be carefully assessed to ensure that the National Park' business and industry needs would not be harmed.
- 8.3 Strategic Policy 5.3, relates more specifically to the protection of active uses within town centres and at part 2 subsection 'a' it sets out that *'permission will not be granted, within town centres, for a proposal that converts main town*

centre uses to other uses, unless evidence submitted demonstrates the property has been offered for sale, rent and/or lease on the open market for the existing use or, in the case of Town Centres, main town centre uses, for a continuous period of at least 12 months, at a realistic price’.

- 8.4 The Local Plan glossary provides clarification on appropriate marketing evidence that should be submitted with an application to demonstrate that there is no demand for the current use.
- 8.5 The Applicant has submitted the following information as evidence in support of compliance with Strategic Policy 5.3:
- A letter from Howard Douglas Estate Agents dated 7th August 2025.
 - A marketing brochure for the property by Howard Douglas, undated.
 - Photo showing a for sale board at the property dated 11th August 2025.
 - An additional letter clarifying matters from Howard Douglas Estate Agents dated 15th September 2025.
 - Rightmove Marketing Report dated 12th September 2025.
 - Agent brochures dated April, May and October 2024 outlining revisions in the price of the property.
 - Photo showing a for sale board at the property dated 4th May 2024.
- 8.6 The submitted information details the marketing information that has been undertaken within 6 months of the application being submitted. The evidence shows that the property has been marketed in excess of 12 months (SP5.3 requires a minimum of 12 months) at an appropriate price. Officers are satisfied that the requirements identified within the Glossary of the Local Plan with regard to appropriate marketing evidence have been supplied and therefore comply with the necessary criteria with policy SP5 of the local plan.

Residential Extension

- 8.7 The existing residential element of the property is considered to be approximately 90sqm consisting of the accommodation at first floor, the separate entrance, staircase, hallway and kitchen at ground floor. The existing retail element of the property is considered to be approximately 29sqm which consists of an entrance vestibule, front and rear sales spaces. The proposals include bringing the existing retail space into the residential accommodation floor space. This would result in an increase in habitable floorspace of approximately 29sqm, which in percentage terms is approximately 33%.

- 8.8 Policy 3.7 considers residential extensions and sets out that these should be limited to no more than a 30% increase in habitable floor area. However, the policy does go on to provide instances where an increase above 30% could be considered acceptable including where the 'increase is necessary to ensure the design conserves and/or enhances the dwelling's special character'.
- 8.9 The minor increase proposed would provide for the property being brought back into residential use in a manner that would limit the requirement for changes to the layout and external appearance of the building. Given the previous use as residential dwelling and the buildings status as a Grade II listed structure within the conservation area, the minor increase in habitable floor space is considered acceptable in this instance under Part 2 (b) of Policy 3.7.
- 8.10 Part 3 of Policy 3.7 outlines that permission that are considered acceptable under other parts of the policy will normally be subject to a condition removing permitted development rights in respect of extensions and an appropriate condition has been suggested.

Heritage Impact

- 8.11 The property was originally built as a house and shop, with uses changing over time. Internally, the property retains a traditional layout that would be expected from a Mid-19th Century residential property. Officers have assessed the impact of the change of use on the Grade II listed building and conservation area. The changes are limited to the use of the internal spaces from retail to residential, with no changes to the physical appearance or structure either internally or externally of the listed building. The use as a single residential dwelling is considered to appropriately conserve the heritage asset and its value to the conservation area.

Local Amenity

- 8.12 The change of use from retail to residential is not considered to result in an increase in activity or loss of privacy that would adversely affect the quality of life of neighbours.

Bio-diversity Enhancement and Net Gain

- 8.13 The proposal is for change of use rather than a conversion and as such does not create an increase in floor area generating a requirement for biodiversity enhancement or biodiversity net gain under Strategic Policy 2.3 or through the requirements of statutory Biodiversity Net Gain.

Other Matters

- 8.14 The property's history of use as a single residential dwelling is material planning consideration providing evidence that the property as a whole is capable of use as a single residential unit.

9 Conclusion

- 9.1 Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 9.2 The proposals contained within this application are for the change of use of part of the ground floor of the building from retail to residential use. This will bring the property into residential use. The proposals do not include any physical alterations to either the exterior or the interior of the listed building. Therefore, there is no harm to the character and appearance of the listed building.
- 9.3 Officers consider that appropriate marketing evidence has been submitted by the applicant in support of the application to adhere to the requirements of Strategic Policy 5.3 of the Local Plan in relation to the loss of a retail unit in a town centre. While the loss of a retail unit is regrettable, sufficient evidence has been submitted to satisfy the requirements of Strategic Policies 5.1 and 5.3 and as such, the proposed change of use is considered acceptable in this instance.
- 9.4 The application proposals are not considered to result in any adverse impacts on the heritage asset, no alterations are proposed, and the proposals are not considered to adversely affect the character and appearance of this part of the National Park. In addition, the historic previous use of the property as a single residential dwelling is a material consideration.
- 9.5 The application proposals are considered to conform to the relevant policies of the adopted Local Plan, including SP1.2, P1.7, SP2.7, P3.7, SP5.1 and SP5.3 and the application is therefore recommended for approval subject to appropriate conditions.

DEAN KINSELLA



NPA/DM/25/017

Dartmoor National Park Authority
Development Management Committee

7 November 2025

Monitoring and Enforcement

Report of the Director of Spatial Planning

INDEX

Item No. **Description**

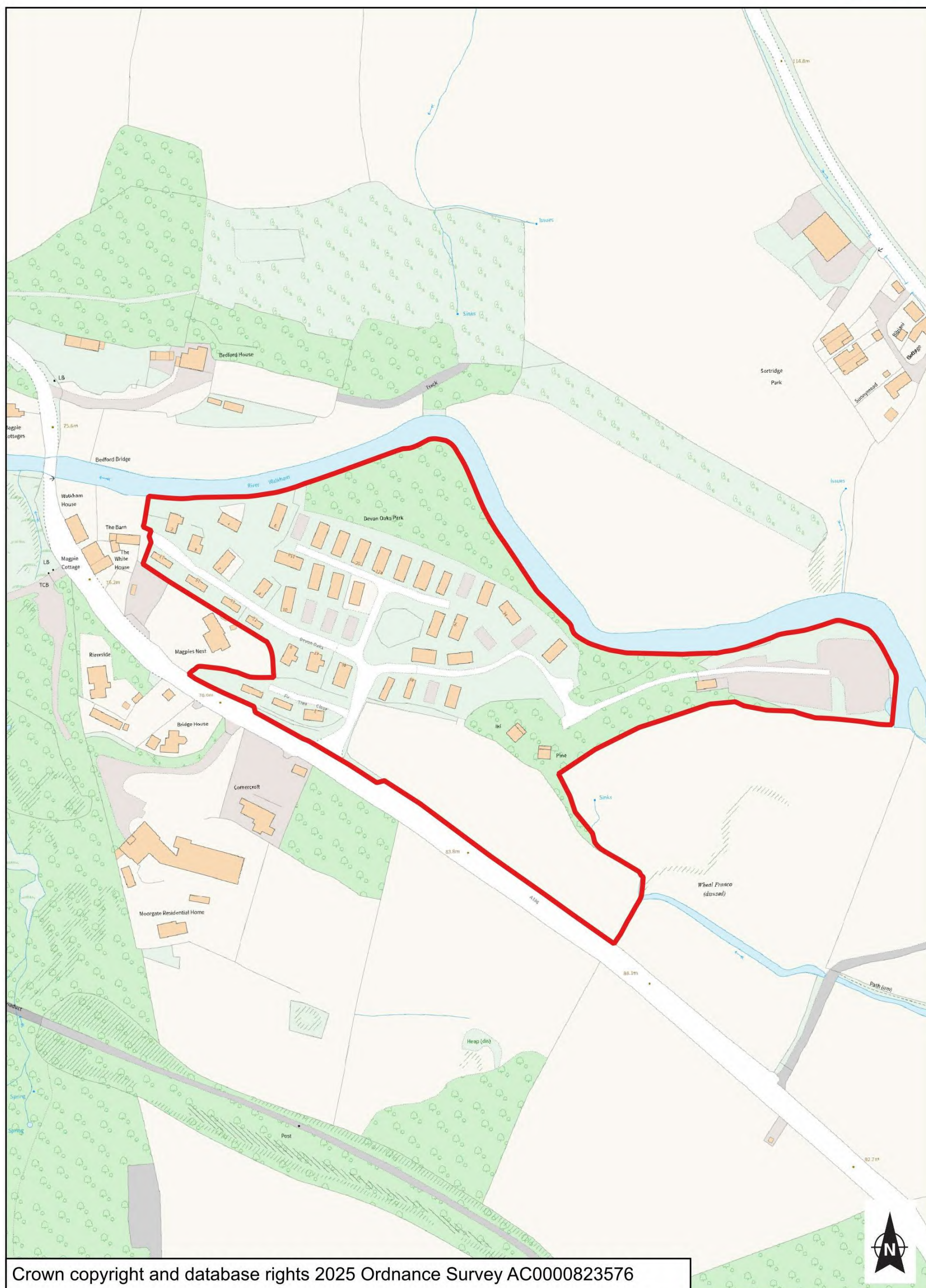
1. **ENF/0105/22**

Unauthorised material change of use of land, building and engineering operations, and failure to comply with conditions

**Devon Oaks Holiday Park, formerly Magpie Leisure Park,
Bedford Bridge, Tavistock, Devon, PL20 7RY**

ENF/0105/22 - Devon Oaks Holiday Park, Bedford Bridge, Magpie, Yelverton, PL20 7RY

Scale 1:4,500



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Item 1

Enforcement No: ENF/0105/22

District/Borough: West Devon

Parish: Horrabridge

Officer: James Aven

Alleged Breach: Unauthorised material change of use of land, building and engineering operations, and failure to comply with conditions

Location: Devon Oaks Holiday Park, formerly Magpie Leisure Park, Bedford Bridge, Tavistock, Devon, PL20 7RY

Recommendation: That, the appropriate legal action be authorised to secure a cessation of the unauthorised change of use of the land, including the removal of the unauthorised caravans, chalet, utilities buildings and engineering operations, and the restoration of the land to its previous condition.

This report is set out in the following sections:

1. Relevant Planning History
2. Site Description, Lawful Use & Alleged Breaches
3. Background
4. Planning Policy
5. Enforcement Considerations
6. Members Site Visit
7. Human Rights Act 1998 & Equality Act 2010
8. Recommendation

1. Relevant Planning History

- 1.1 The site is subject to a number of planning permissions. The earliest on record dates from July 1981, although the land was by then already in use as a caravan site. This use has however, been constrained by the subsequent planning history.

03/35/0895/86 – Planning permission granted **10 August 1987** for a “Proposed site enhancement scheme involving an amendment of existing provision at the site to allow for 9 residential vans, 16 holiday chalets, 18 static vans & 30 touring units”. Six conditions were imposed on that planning permission including condition (e) which provides that “The chalets, static holiday caravans and pitches for touring units shall only be occupied between 15th March and 15th November in each year.”

3/35/149/93/04 – Planning permission granted **29 October 1993** for ‘*Extension of Magpie Leisure Park*’. This extended the area on which touring caravans can be sited, but did not change the total number of touring caravans allowed on site as a whole at any one time (i.e.30), it restricted the number of touring caravans permitted on the extension area to 10 touring units, and restricted the use of this part of the site to 5 months of the year (1 May to 30 September), with no touring units remaining on the extension area for more than 3 weeks in each calendar year. This permission also included a condition that no caravans shall be stored on the extension area at any time.

0294/13 – s73 planning permission granted **29 July 2013** for the variation of condition (e) of the 1987 permission to allow a longer time of holiday use from 8 months per year to 11 months per year (1 March to 31 January). This permission only relates to three central pieces of land within the 1987 permission area. However, this permission was never implemented.

0411/18 - Certificate of Lawfulness for a Proposed Use or Development (CLOPUD) refused **23 November 2018** for the ‘siting of up to 80 caravans for the purposes of human habitation’. The subsequent appeal was dismissed on 29 June 2020 (ref: APP/J9497/X/18/3217988) and this appeal decision was unsuccessfully challenged in the High Court under s.288 of the 1990 Act, with the judgement issued on 12 May 2021. An appeal against the High Court Order was dismissed by the Court of Appeal on 21 June 2022. The Court of Appeal’s legal reasoning is summarised in this report as it is pertinent to the recommendation put forward in this report.

0009/19 - Certificate of Lawfulness for a ‘proposed use of land for the stationing of up to 18 residential vans, 16 holiday chalets, 18 static vans and 30 touring caravans’ on the land the subject of the 1987 permission was refused on **15 May 2019**.

0329/20 - Certificate of Lawfulness for the ‘Use of 27 static caravans for the purposes of human habitation as a person’s sole or main place of residence’ on the land approved in 1987 was refused in **October 2020** and a subsequent appeal dismissed on **9 December 2021** (ref. APP/J9497/X/20/3263410).

0274/22 - Certificate of Lawfulness for a Proposed Use or Development (CLOPUD) for ‘*Alteration to number of caravans from 9 residential, 18 holiday, 30 touring caravans and 16 chalets, to 18 residential, 36 holiday, 30 touring and up to 16 chalets*’ was refused **6 March 2023**. Appeal ref. APP/J9497/X/23/3321953 was dismissed **6 November 2023**. Again, this application relates to the land approved in 1987.

0303/22 - Certificate of Lawfulness for a Proposed Use or Development (CLOPUD) for ‘*Non-compliance with conditions b, c, d, e and f of planning permission ref: 3/35/149/93/04*’ is yet to be determined. This application relates to the extension area permitted in 1993.

0230/23 - Certificate of Lawfulness for a Proposed Use or Development (CLOPUD) for ‘*Alteration to number of caravans from 9 residential, 18 holiday, 30 touring caravans and up to 16 chalets to 10 residential, 18 holiday, 30 touring and up to 16 chalets*’ is yet to be determined. This application relates to the land permitted in 1987, although a small section of the approved amenity land has been omitted.

2. Site Description, Lawful Use & Alleged Breaches

2.1 Site Description

- 2.1.1 Devon Oaks is a caravan site providing both permanent residential accommodation and holiday accommodation for the over 45’s, situated in ‘open countryside’ (in terms of the settlement hierarchy set out in Strategic Policy 1.3 of the Dartmoor

Local Plan) in the Walkham Valley between Horrabridge and Grenofen, and with access from the A386.

- 2.1.2 The site was previously known as Magpie Leisure Park but is now called Devon Oaks Holiday Park. The 'planning unit' for this site was confirmed by the Planning Inspector in the most recent, 2023 appeal decision ref. APP/J9497/X/23/3321953, as being the areas subject to the 1987 permission (including the fields either side of the site entrance) and the 1993 permission, which together comprise the holiday park.
- 2.1.3 Prior to 2018 when the site changed ownership, the site consisted of a mix of touring pitches, camping areas, lodges/chalets, static caravans, residential caravans, plus amenity/woodland and agricultural land. There were nine caravans in unrestricted residential occupation on the western side of the site. At the eastern end of the site there were five holiday chalets. Along the northern side of the site, to the front of protected woodland, there were, until recently, a number of static caravans used as holiday accommodation. The central part of the site was predominantly laid to grass with some trees and areas of hardstanding, which was occasionally used for touring caravans. The remaining parts of the site consisted of two grassed areas either side of the entrance driveway which adjoin the A346 Tavistock to Yelverton road to the south, and an area of woodland to the north that is protected by a Tree Preservation Order (TPO).
- 2.1.4 There was no physical demarcation on the ground between the different uses, but the character and appearance of each part was clearly distinct.
- 2.1.5 Since around 2018, operational development has taken place and additional residential caravans have been sited over many parts of the holiday park, but most noticeably on the grassed 'touring area' at the centre of the site, and on the grassed area to the west of the site entrance. No permission has been granted for this operational development or for the change of use of the land used for siting and residential use of the additional caravans.

2.2 Lawful Use

- 2.2.1 The use of the holiday park is authorised by the 1987 planning permission and the 1993 planning permission (extension area to the east).

2.3 1987 Permission

- 2.3.1 Planning application ref. 03/35/0895/86 was granted permission on 10 August 1987. The brief particulars of the development given in the decision notice were these:

"Proposed site enhancement scheme involving an amendment of existing provision at site to allow for 9 residential vans, 16 holiday chalets, 18 static vans & 30 touring units at Magpie Caravan Park, Bedford Bridge, Horrabridge".

- 2.3.2 The permission was granted subject to 6 conditions. Condition (a) required that the development be begun within five years; condition (b), that improvements to site access be made; condition (c), that the road frontage be landscaped; and condition (d), that a new septic tank and soakaway system be installed "before any of the new

chalets or the new residential caravans are brought into use". Condition (e) stated: "(e) The chalets, static holiday caravans and pitches for touring units shall only be occupied between 15th March and 15th November in each year." Condition (f) stated: "(f) No touring unit shall remain on the site for more than 3 weeks in each year."

- 2.3.3 Notwithstanding that the 1987 permission permits 16 holiday chalets, there are only 3 chalets on the site and, as confirmed in the Inspectors appeal decision dated 6 November 2023 (ref. APP/J9497/X/23/3321953), officers consider that the permission has been spent in respect of the remainder of the chalets.
- 2.3.4 The Inspector considering the certificate of lawfulness appeal ref APP/J9497/X/18/3217988 held that the central and western areas of the site was "governed by the 1987 Permission" (paragraph 28).
- 2.3.5 The Court of Appeal followed the Inspector's approach, so this is considered to be the operative planning permission for the main part of the site.
- 2.3.6 Paragraph 27 of the Court of Appeal decision is especially helpful; here Lindblom LJ finds that planning permission had not been granted simply for a "caravan site" but is a permission explicitly for caravan and chalet accommodation as it is deliberately and precisely defined in the description of development. He states that "though the permission is for what may broadly be called a "caravan site", the grant is specifically for that particular mix of "residential" and "holiday" use. It is for caravans of several types in the numbers it states, which, both in the brief particulars and in the conditions, are carefully denominated and differentiated in functional terms. The fact that they would all come within the general definition of a "caravan" in the 1960 Act does not nullify the distinction made between them in the description of development and, correspondingly, in the conditions. Had the intention been merely to permit the development of a "caravan site", neither the grant nor the conditions would have been framed as they were."
- 2.3.7 In paragraph 28, Lindblom LJ confirms that the absence of a condition specifically restricting the number of residential caravans on the site does not have the effect of altering the description of development in the grant itself. It does not change what the planning permission is actually for. "The permission is for the development described in the brief particulars, restricted by the conditions limiting the occupation and use of that development. It is not for some other proposal, formulated in different terms from the grant."
- 2.3.8 Of the 73 caravans and chalets identified in the brief particulars, only nine are specifically for "residential" use. As per paragraph 29, "... the permission, construed as a whole, plainly does not envisage that all the caravans on the site would ever be used for permanent residential occupation. Use other than for such purposes is predominant in the mix..."
- 2.3.9 On this basis, he concluded that (1) the reasonable reader of the planning permission would not say that it had been granted simply for a "caravan site" but, rather, the combined effect of the description of the development and the conditions was to grant permission for chalets and caravans of several types in the numbers stated; (2) the absence of a condition specifically restricting the number of residential caravans does not have the effect of altering the description of development in the grant itself and; (3) the permission as a whole did not envisage

that all the caravans on the site would ever be used for permanent residential occupation.

- 2.3.10 The combined effect of the description of the development and the conditions attached to it is to grant permission for caravans and chalets that provide both permanent residential accommodation and holiday accommodation in the numbers stated in the description of development or 'brief particulars' of development. That is what is lawful. The 1987 permission does not authorise anything else, be that one additional caravan or 13, or a different mix of uses.

Interpretation of the planning permissions for the central and western areas of the site

2.4 1993 Permission

- 2.4.1 The park site was extended to the east under the planning permission granted in 1993, but this did not change the number, type, mix or other occupancy restrictions applicable to any of the units allowed under the 1987 permission.
- 2.4.2 In respect of the extension area to the east, the 1993 permission imposes the following restrictive planning conditions: (c) the extension area shall only be used for the siting of touring units and no more than 10 touring units shall be stationed in this area at any one time; (d) the extension area shall not at any time be used for the storage of caravans; (e) the extension area shall only be used from 1 May to 30 September in each year; (f) no touring units shall remain on the site for more than three weeks in each calendar year.
- 2.4.3 Furthermore, the 1993 permission is clear that the total number of touring units at the "Magpie Leisure Caravan Park" i.e. the park site as a whole, shall not exceed 30 (planning condition (b)).
- 2.4.4 The principles of legal interpretation set out in the Court of Appeal decision apply equally to the 1993 planning permission.
- 2.4.5 In summary, the 1987 permission and 1993 permission, on their face, permit:
- 9 residential caravans
 - 16 chalets for holiday use
 - 18 static caravans for holiday use
 - 30 touring caravans for holiday use
- 2.4.6 However, there are only 3 chalets on the site (one of which is considered to be an unauthorised replacement) and it is officers' view that it is no longer possible to rely on the 1987 permission to build additional chalets on the site.
- 2.4.7 The extension area authorized in 1993 is permitted to be used for touring caravans only, for 5 months of the year; and the 1993 permission imposes further restrictions, amongst other things, on the number of touring caravans at any one time and how long any such caravan is permitted to remain on the site in any calendar year.

2.5 Alleged Breaches

2.5.1 The breach of planning control identified in this report involves the following which go to the use of land:

- The siting of 14 additional static caravans (in addition to the 18 permitted by the 1987 permission)
- The unauthorised replacement of one chalet
- The use of all static caravans in breach of the 8-month holiday occupancy condition prescribed by the 1987 permission
- The residential use of all static caravans permitted for holiday use only
- The residential use chalets permitted for holiday use only
- The stationing of static caravans on areas restricted to use by touring caravans for holiday use
- The storage of caravans on land covered by the 1993 permission in breach of condition

2.5.2 Further unauthorised developments on the site include engineering and building operations consisting of excavations, the construction of retaining walls, roads and utilities buildings, the laying of services and concrete hardstandings.

2.6 Material Change of Use

2.6.1 Officers are of the view that the unauthorised uses described above are in breach of the description of development in the 1987 permission and 1993 permission and in breach of various conditions attached to these permissions – in short, the uses fall outside of the permitted scope of these permissions and are, as such, unauthorised. Furthermore, officers are of the view that the stationing of 13 additional static caravans and their residential use gives rise to a material change in the use of land.

2.6.2 In his Court of Appeal judgement from June 2022, Lindblom LJ states that “in law, the question of whether a material change of use has occurred in the relevant planning unit is resolved by considering whether there has been a change in the character of the use. This is a matter of fact and degree for the decision-maker.” Lindblom goes on to state that “a proposed use can be of the same “type” as an existing lawful use but still be a material change of use.”

2.6.3 Lindblom LJ agreed with the 2018 Inspector’s finding that the stationing of additional caravans for human habitation would be a change from the use permitted by the 1987 permission.

2.6.4 On the facts of the case, Lindblom LJ found that the Inspector had concluded lawfully that the proposed use would be a change from the permitted use because it “would encompass the use of any and all caravans on the site to provide permanent residential accommodation, with no holiday use at all”. He held that she was entitled to find, as a matter of fact and degree, that the proposed use would be a material change of use since it “would bring about a substantial and fundamental change in the character of the appeal site’s use”. On the facts of the case, this conclusion was predicated on the following findings which were found to be justifiable:

- (1) in place of a seasonal pattern of occupation, there would be unrestricted residential occupation which would generate a steady level of activity throughout the year;
- (2) there would be a year-round presence in presently unoccupied parts of the site;
- (3) the pattern of movement to and from the planning unit would likely change significantly; and
- (4) caravans in year-round occupation adjoining the entrance would have the effect of visually extending the existing caravan site.

2.6.5 The facts of the 2018 certificate of lawfulness appeal/2022 Court of Appeal decision are not exactly the same as the current situation as, amongst other things, the numbers involved differ. However there has been an increase in the number of caravans present and these additional caravans and the 3 chalets on the site are being used otherwise than as holiday accommodation (the evidence collated pursuant to the planning contravention questionnaires suggest most of these caravans/chalets are being used as the occupiers' main residence). The amenity and environmental effects are similar to that described in the paragraph above and in the 'material considerations' section of this report. The Inspector's decision and Court Judgement are therefore considered to be relevant and helpful to articulating the ongoing breach of planning control the subject of this report.

2.6.6 In summary, the way the site is currently used in terms of the number and occupancy of the caravans and chalets is different to that described in the 1987 permission. The changes include the siting of 14 additional static caravans and an unauthorised replacement chalet; the use of static holiday caravans and chalets residentially and in breach of holiday occupancy conditions; in certain cases, in locations previously only used (and authorised to be used) for touring caravans; and the storage of caravans in breach of condition.

2.6.7 Further unauthorised developments on the site include engineering and building operations consisting of excavations, the construction of retaining walls, roads and utility buildings, the laying of services and concrete hardstandings.

2.6.8 The extent and nature of these land use changes and related operational development is considered to amount to a substantial and fundamental change in the character of the site's use, amounting to a material change of use requiring planning permission.

2.6.9 There have also been unauthorised groundworks affecting trees protected by Tree Preservation Orders that are being dealt with separately.

3 Background

3.1 Investigation to date

3.1.1 A number of recent 'Certificate of Lawfulness for a Proposed Use or Development' (CLOPUD) applications, subsequent appeals and court hearings have highlighted the various breaches of condition and unauthorised developments that have and continue to take place at this site.

- 3.1.2 The 1987 Planning Permission permitted: *9 residential caravans, 16 holiday chalets, 18 static vans & 30 touring units.*
- 3.1.3 However, in his November 2023 appeal decision, the Planning Inspector found that the 1987 permission is “spent” with regard the ability to replace or erect further chalets. It is officers’ view therefore, that the authorised use of the site is for 9 permanent residential caravans, 2 holiday chalets, 18 static caravans for holiday use only, and 30 touring caravans for holiday use only.
- 3.1.4 During the last visit to the site, there were found to be 9 permanent residential caravans, 3 chalets, and 32 static ‘holiday’ caravans (incl. 3 unoccupied). There were also 7 vacant pitches on which no caravan was sited at that time. One of the chalets was substantially replaced in 2023/24 without the necessary planning permission and so these findings confirm that there are currently 14 unauthorised caravans and 1 unauthorised chalet on the site; 9 of which are believed to provide rental accommodation.
- 3.1.5 Planning Contravention Notices were issued to the occupiers of each of the static caravans and chalets in March 2025, with the exception of the 9 approved residential units. The responses confirmed an ongoing breach of planning control with too many static caravans on the site, and all being occupied for more than the permitted 8 months of the year. These notices also revealed that all the caravans and chalets, with the exception of one caravan, are being occupied as the main residence of the occupiers.
- 3.1.6 Understandably, receipt of these notices caused quite a lot of concern amongst the residents, many of whom state that they bought or rented their caravan in good faith and on the understanding that they could occupy it for 11 months a year (vacating it for the month of February). Notwithstanding the fact that the holiday caravans and chalets can only be occupied for 8 months of the year, not 11, they also need to be in a bona fide holiday use, not used as a main residence.

3.2 Material Considerations

- 3.2.1 In assessing the material change of use from the 1987 permission, Officers have considered where the unauthorised caravans, chalet and engineering works are located, and the impact on the character of the sites use with these units being in an unrestricted residential use rather than a restricted holiday use.
- 3.2.2 Prior to the change of ownership in 2018, the use of the site involved the provision of nine caravans for unrestricted residential occupation located at the western side of the site, and five holiday chalets which had been constructed within a defined area on the opposite side of the site. There was a central grassed area where touring caravans were occasionally sited, and an area to the rear of this, which backs on to protected woodland, used for the siting of static holiday caravans.
- 3.2.3 Since then, the number of static caravans on the site has increased from the permitted 27 (9 residential and 18 holiday static caravans) to 41, necessitating the use of parts of the site previously limited to occasional, seasonal use by touring caravans, or used as open amenity and agricultural land. Nearly all the static ‘holiday’ caravans are now occupied as someone’s residence for at least 11 months

of the year. Being unauthorised, the additional 14 caravans that have been brought onto site are not subject to any occupancy conditions.

- 3.2.4 There are distinct elements which contribute to the approved character of the site. The 9 caravans in the western part of the site, which are in unrestricted residential occupation, have the air of permanent residences: there are well-kept and clearly delineated gardens with mature planting; private parking spaces; and domestic additions such as porches, fencing, decked areas and letterboxes. The chalets in the eastern part of the site are wooden buildings, set well apart, with pitched roofs and a distinctive “lodge” style; these can only be occupied between 15 March and 15 November each year, and so should be unused during the winter.
- 3.2.5 The central part of the site, in contrast to these two areas, had a more open and communal feel. It was predominantly grass, with some trees and areas of hardstanding, but no obvious permanent delineation of pitches. The remaining part of the site consisted of two grassed areas of open space either side of the entrance driveway, which lie between the A386 and the row of mature trees and hedgebanks along the southern side of the area used for the siting of caravans. These grassed areas were approved as amenity space but had more often been used by a local farmer for grazing.
- 3.2.6 The siting and unrestricted residential use of permanent static caravans on the central ‘touring’ area and ‘amenity area’ to the west of the site entrance has resulted in a considerable and significant change to the character of these parts of the site, with substantial caravans set within private and well-delineated garden spaces; permanent access roads and parking areas to serve each of them; ornamental planting; security lighting and other domestic paraphernalia, where previously the land was open, grassed areas, devoid of artificial light and other human activity during the winter months.
- 3.2.7 The most noticeable visual and landscape change is the stationing of caravans on the open grassed area at the western side of the entrance. From the A386, public views of caravans were previously limited to glimpses through the boundary hedge and along the driveway, with the trees in the southern part of the site providing a considerable degree of screening. It was clear to passers-by that the caravan site is there, but it was largely secluded from public view and well-integrated within the landscape. However, caravans in year-round residential occupation stationed within the grassed space adjoining the entrance are clearly visible from the road and have the effect of visually extending the existing caravan site. Their presence has thoroughly domesticated the former grassed area, at the expense of the rural character of this part of the countryside. More recently, engineering works have taken place at the far end of the field to the east of the site entrance to create a further unauthorised caravan pitch, but this pitch is currently unoccupied.
- 3.2.8 Through the recent planning appeals and related legal challenges, the Planning Inspectorate and the Courts have agreed that changes described above are capable of bringing about a substantial and fundamental change in the character of the appeal site’s use, and in so doing, a material change of use of the land requiring planning permission.

4 Planning Policy

4.1 Relevant Planning Policies and Documents

Dartmoor Local Plan 2018-2036:

SP1.1 National Park purposes and Special Qualities
SP 1.2 Sustainable Development in Dartmoor National Park
SP 1.3 Spatial Strategy
SP 1.4 Major Development
SP 1.5 Design
SP 1.6 Sustainable Construction
SP 1.7 Amenity
SP 2.1 Landscape
SP 2.2 Biodiversity and Geodiversity
SP 2.3 Biodiversity Net Gain
SP 2.4 Dartmoor's moorland, heathland and woodland
P 2.5 The Water Environment
SP 2.6 Tranquility and dark night skies
SP 3.1 Housing Need in Dartmoor National Park
SP 3.2 Different types of housing
SP5.1 Non-residential business and tourism development
P5.5 Tourist Accommodation
P5.7 Camping and Touring Caravan Sites

Dartmoor National Park Design Guide

Affordable Housing SPD

The National Planning Policy Framework (NPPF)

- 4.2 The lawful use of the site is as a caravan park at which both permanent residential accommodation and holiday accommodation is provided. This enforcement case concerns both breaches of condition and the material change of use of the site following the siting of additional caravans and the residential use of all caravans and chalets on the site (otherwise than as holiday accommodation).
- 4.3 The National Planning Policy Framework (NPPF), published in 2024, sets out the purpose of the planning system which is to contribute to the achievement of sustainable development.
- 4.4 Paragraph 189 of the NPPF states that "Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas and should be given great weight in National Parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas."

- 4.5 The NPPF at paragraph 88 supports a prosperous rural economy by stating that, amongst other things, planning policies and decisions should enable:
- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
 - c) sustainable rural tourism and leisure development which respect the character of the countryside.
- 4.6 This site no longer provides any holiday accommodation and instead effectively offers permanent, open-market residential units, albeit with a rarely enforced 11-month occupancy 'licence' issued by the park owners. One caravan is understood to be used tantamount to a 'second home'.
- 4.7 The NPPF considers Rural Housing from paragraph 82, which states that "In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs, including proposals for community-led development for housing. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs."
- 4.8 Paragraph 83 states that "To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services."
- 4.9 Devon Oaks is in a countryside location and until the site changed ownership in 2018, apart from the nine lawful residential units, all of the caravans and chalets at Devon Oaks were occupied for holiday use only. Since then, it is believed that all of the holiday caravans and one of the chalets have been replaced and, together with the additional caravans brought in, have been sold or let as residential park homes for 11-month occupancy.
- 4.10 For reasons mentioned earlier in this report and in the ensuing paragraphs, the developments at Devon Oaks are considered to conflict with the NPPF.

The Dartmoor Local Plan

- 4.11 The strategy for the Local Plan is founded upon delivering development required to meet the needs of the National Park and its communities, sustaining them as vibrant and viable places to live and work, whilst also ensuring Dartmoor's Special Qualities are conserved and enhanced.
- 4.12 Strategic Policy 1.1, 'Delivering National Park purposes and protecting Dartmoor's Special Qualities', sets out that development will be permitted where it does not prejudice the statutory National Park purpose of:
- a) Conserving and enhancing the natural beauty, wildlife and cultural heritage of the area; and
 - b) Promoting opportunities for the understanding and enjoyment of the special qualities of the National Park purposes.

- 4.13 National Park purposes are at the heart of all planning decisions the Authority makes, and those developments that comply with the Local Plan policies will be considered consistent with the National Park purposes. The developments at Devon Oaks however, neither conserve or enhance, nor do they promote the understanding or enjoyment of the special qualities of the National Park.
- 4.14 Strategic Policy 1.2 is an overarching policy that sets out the sustainable development principles for development in the National Park and confirms that the Authority will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.
- 4.15 Strategic Policy 1.3 guides new residential development based upon the established hierarchy of local centres of population and smaller rural settlements. The policy sets the spatial principles for development within Dartmoor National Park, encouraging sustainable development to be focused in classified settlements, and strongly resisting development in the more sensitive open countryside, unless there is a proven need. Devon Oaks is outside of any recognised settlement and therefore falls within the open countryside.
- 4.16 Criterion 4 of Strategic Policy 1.3 provides that in the open countryside, development will be acceptable in principle if; it serves the proven need for rural enterprises; is for the provision of low impact developments which are well related to larger settlements; is for new business development which makes use of redundant buildings; would be householder development; would be necessary to sustain buildings of conservation value; would be for the provision of infrastructure; or is needed for National Park purposes. The unauthorised developments at Devon Oaks do not meet any of these criteria.
- 4.17 Strategic Policy 1.4 deals with Major Development. The NPPF states that within National Parks planning permission should be refused for Major Development other than in exceptional circumstances, and where it can be demonstrated they are in the public interest. The purpose of this policy is to protect the environment of nationally designated areas from the harmful effects of major development.
- 4.18 The definition of 'Major Development' in terms of SP1.4 is not the statutory definition (i.e. 10 dwellings or more, a building with 1,000m² of floorspace, etc.). Nor is the definition rigid or size related. 'Major Development' is development which has the potential to have a significant adverse impact on the Special Qualities of the National Park, such as its dark night skies, landscape character, biodiversity, tranquillity and others.
- 4.19 SP1.4 states that in deciding whether a proposal is 'Major Development' the Authority will consider whether the development, by reason of its nature, scale and setting, has the potential to have a significant adverse impact on the National Park's Special Qualities. The policy further states that planning permission will not be granted for Major Development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest, outweighing National Park purposes.
- 4.20 Policy SP1.4 will be a relevant consideration if a planning application is submitted to regularise the breach of planning control described in this report, or an appeal

inspector is asked to consider whether granting planning permission would be appropriate, in the circumstances.

- 4.21 Strategic Policy 1.5 refers to good design and states that “All development will create a strong sense of place with a clear and distinctive character by reinforcing local character, respecting Dartmoor’s vernacular and maintaining and enhancing townscapes, street patterns and frontages and their relationship with the landscape. Planning applications exhibiting anything less than good design will be refused...”
- 4.22 The Dartmoor National Park Design Guide provides further advice in terms of the design of new housing, and encourages proposals that incorporate sustainable, innovative design which reflects local distinctiveness.
- 4.23 Caravans are not specifically referred to in the Design Guide and are not part of the Dartmoor vernacular; they are not considered to be of an innovative design, and do not maintain or enhance the landscape. The unauthorised developments at Devon Oaks are not considered to comply with Strategic Policy 1.5.
- 4.24 Strategic Policy 2.1, ‘Protecting the character of Dartmoor’s landscape’, expressly states that “All development should conserve and enhance the character of the Dartmoor landscape by:
- a) respecting the Valued Attributes of the Landscape Character Types identified in the Dartmoor National Park Landscape Character Assessment;
 - b) ensuring its location, layout, scale and design conserves and/or enhances what is special or distinctive about landscape character;
 - c) retaining, integrating or enhancing distinctive local natural, semi-natural or cultural features;
 - d) avoiding unsympathetic development that will harm the landscape;
 - e) respecting the tranquility and sense of remoteness of Dartmoor and not introducing or increasing light pollution; and
 - f) seeking opportunities to enhance landscape character.
- 4.25 While it is recognised that landscapes can change, Strategic Policy 2.1 clearly places an emphasis on protecting the character and special qualities of Dartmoor’s landscape. It is essential therefore that to be supported, the developments at Devon Oaks must demonstrate the conservation and enhancement of the character of the area. As mentioned earlier in this report, they do not.
- 4.26 It should be noted that landscape Character is a ‘Special Quality’ of the National Park and thus it is afforded the greatest weight of protection.
- 4.27 Strategic Policy 2.1 also states that all development should respect the tranquility and sense of remoteness of Dartmoor and not introduce or increase light pollution, a principle that is further reflected in Strategic Policy 2.6 which seeks to protect tranquility and dark night skies. This is particularly relevant in terms of assessing the impact of the developments at Devon Oaks, where it is considered that the increase in the number and occupancy of caravans has led to an increase in domestic and street lighting, and also the number of vehicle movements to and from the site, contrary to Strategic Policy 2.1.

- 4.28 Strategic Policies 2.2 and 2.3 relate to the conservation and enhancement of Dartmoor's biodiversity and geodiversity. The conservation and enhancement of the National Park's natural beauty and wildlife forms part of its first purpose and is a key objective of the Local Plan. Dartmoor's unique and varied biodiversity is internationally important, comprising habitats supporting a rich diversity of plant and animal species.
- 4.29 Strategic Policy 2.2 states that development must conserve and enhance all of Dartmoor's biodiversity and geodiversity, and that all development with the potential to have adverse impacts on biodiversity must demonstrate that there is no less harmful option available.
- 4.30 Strategic Policy 2.3 ensures that development with the potential to impact on habitats and biodiversity makes a proportionate contribution to biodiversity enhancement. Development involving 2 homes or more, will be required to compensate for any habitat losses and deliver 10% biodiversity net gain.
- 4.31 Much of the recent unauthorised development at Devon Oaks has occurred in locations previously only used temporarily for touring caravans or on former grazing land not used for the siting of caravans at all. Many of the caravans adjoin areas of protected woodland and have caused damage to the trees by extending their gardens into these areas and undertaking unauthorised engineering works around the roots (this matter is being dealt with separately). The unauthorised developments at Devon Oaks are considered to have had a detrimental impact on both habitats and biodiversity and do not therefore, comply with Strategic Policy 2.2 or 2.3.
- 4.32 Policy 2.5 concerns the Water Environment and Flood Risk, and states at paragraph 2 that development will not be located where it would be at risk of flooding or where it would lead to increased flood risk in other places. The policy goes on to state that in exceptional circumstances, where there are no suitable locations of lower flood risk, development will be permitted in flood risk areas when: a) the development is demonstrated to provide wider benefits which outweigh flood risk; b) there will be appropriate flood protection for the lifetime of the development, taking account of the vulnerability of its users; and c) the development will not increase flood risk elsewhere, and where possible, will reduce flood risk overall.
- 4.33 The flood risk sequential test under this policy steers new development to areas with the lowest risk of flooding, but much of the site at Devon Oaks lies within Flood Zones 2 and 3, which are categorised as medium and high flood risk areas. Furthermore, caravans, mobile homes and park homes in permanent residential use are developments categorised in the NPPF as 'highly vulnerable' to flood risk. It is believed that the period of occupancy was restricted in 1987 to avoid residential use during the winter months when the site is most at risk of flooding.
- 4.34 According to the Governments Guidance note on 'Flood risk and coastal change' that was updated in September 2025, 'highly vulnerable' developments in Flood Zone 2 are required to go through the Exception Test, and in Flood Zone 3 they simply should not be permitted.

- 4.35 The Exception Test requires two elements to be satisfied before allowing development to take place in higher risk areas following application of the sequential test. It should be demonstrated that:
- development that has to be in a flood risk area will provide wider sustainability benefits to the community that outweigh flood risk; and
 - the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
- 4.36 No evidence has been received demonstrating that there are no reasonably available sites available elsewhere in the locality at lower flood risk that could accommodate the development and as such, the sequential test has not been satisfied. Furthermore, the developments at Devon Oaks fail the exception test as the site is located outside a settlement where there is not considered to be a need or any wider benefit that outweighs the flood risk. Moreover, no flood risk assessment has been submitted demonstrating how the site and its residents would be kept safe from flooding.
- 4.37 The developments at Devon Oaks are therefore not considered to comply with Policy 2.5.
- 4.38 Strategic Policy 2.6 addresses the need to protect tranquility and dark night skies, and states that outside classified settlements, development proposals will only be permitted where they conserve and/or enhance tranquility. The policy further states that all development proposals should avoid external lighting. Where external lighting is demonstrated to be absolutely necessary, its design should avoid or mitigate all adverse impacts on tranquility, dark night skies, biodiversity, visual amenity, landscape character and heritage significance.
- 4.39 The tranquility found within Dartmoor National Park is increasingly rare and is cherished by Dartmoor's communities and visitors alike. Threats to tranquility include new light sources from development in the open countryside. In changing parts of the Devon Oaks site to residential use, the use of lighting has increased with both indoor and outdoor lighting and an increase in vehicle movements when dark. The domestic paraphernalia associated with a residential use has also impacted on the character and appearance of the area. This is contrary to Strategic Policy 2.6.
- 4.40 Strategic Policy 3.1 concerns housing need, and reinforces the principles established in SP1.3. The supporting text to this policy states at paragraph 3.1.7 of the Local Plan that, within the open countryside, the broader housing needs of communities may be met through: rural workers' houses; subdivision of existing dwellings and, in locations well related to necessary services and infrastructure, the conversion of suitable redundant historic buildings and small scale development that would have an exceptionally low environmental impact. Again, the unauthorised development at Devon Oaks does not meet any of these criteria and so does not comply with Strategic Policy 3.1.
- 4.41 Policy 5.5 specifically deals with tourist accommodation and relates to the settlement hierarchies that are referred to in SP5.1. Criterion 2 is the most relevant to this site as it states "Within Villages and Hamlets and the open countryside

planning permission will only be granted for new short-stay tourist accommodation where it is:

- a) well related to tourist services; and
- b) provided through conversion of suitable redundant historic buildings in accordance with Strategic Policy 2.7 and/or Strategic Policy 2.8.

- 4.42 Policy 5.5 deals with new holiday accommodation and so will only be relevant to this site if the units are used for holiday accommodation. The evidence however, suggests that the chalets and unauthorised caravans are, in all but one case, the primary residence of the owners/occupiers but for those to whom this policy is relevant, the development is considered to comply with the requirements of subsection a) only, in that the site is located on a busy A-road, along which there is regular bus service to local settlements.
- 4.43 Policy 5.7 relates specifically to new camping and touring caravan sites used as tourist accommodation, and as the developments at Devon Oaks concern the siting and residential use of static caravans/mobile homes and chalets, this policy is of limited relevance to this case. However, it is of some interest that this policy states that within the open countryside, new small scale campsites will be permitted where, amongst other things, the proposal involves the siting of tents only, where they conserve and/or enhance the National Park's Special Qualities, particularly landscape character, biodiversity, and dark night skies; in other words, no caravans of any description shall be approved in these locations.
- 4.44 The pre-amble to this policy is also helpful, in that it states that caravan and motorhome sites can have a far greater impact on landscape character and local traffic movements than campsites. The pre-amble further states that the use of pitches for the long-term storage of caravans has an impact on landscape character without any benefit to the local economy, and to safeguard against this, Policy 5.7 requires that where approved, no tent or caravan should occupy any pitch for more than 28 days per calendar year.
- 4.45 For the reasons set out above, the unauthorised developments that have taken place at Devon Oaks are considered to conflict with the development plan, read as a whole, and it is therefore necessary to consider whether it is expedient and in the public interest to take legal action to remedy the ongoing breaches of planning control.

5 Enforcement Considerations

Options

- 5.1 Paragraph 60 of the NPPF states that "Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control."
- 5.2 There is a range of ways of tackling breaches of planning control, and local planning authorities should act in a proportionate way, that is in the public interest. Local planning authorities have discretion to take enforcement action when they regard it as expedient to do so having regard to the development plan and any other material

considerations. However, enforcement action is important to tackle breaches of planning control which would otherwise have an unacceptable impact on the amenity of the area, to maintain the integrity of the decision-making process, and to help ensure that public acceptance of the decision-making process is maintained.

- 5.3 As with all cases that involve unauthorised development and a breach of planning control, there are a number of options available to the Authority to tackle the breach in a proportionate way:
1. It can resolve to take no action where there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area; where the development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development; or where the local planning authority consider that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed.
 2. The Authority can invite a retrospective planning application where it considers that an application is the appropriate way forward to regularise the situation and when there is a genuine prospect of permission being granted.
 3. Formal legal action can be taken to resolve the breach where the Authority is satisfied that there has been a breach of planning control and that it is expedient to issue a notice, taking into account the provisions of the development plan and any other material considerations.

Expediency

- 5.4 Local planning authorities have a wide discretion in deciding whether to take enforcement action and, if so, how to do so.
- 5.5 Whether enforcement action is “expedient” requires consideration of the advantages and disadvantages of taking or not taking enforcement action. These should be measured against the advantages and disadvantages faced by those who are the subject of the notice and also by the public interest at large.
- 5.6 There is no obligation to take enforcement action in respect of every breach of planning control. The notion of “expediency” in the context of a decision as to what to do, if anything, about a breach, brings with it the issue of whether the gain is worth the cost, i.e. the cost and time of taking enforcement proceedings balanced against the prospects of success and the gain from success.
- 5.7 In summary, the expediency test involves weighing up the pros and cons of a particular course of action, including (but not limited to) considerations of cost and effectiveness, having regard to the public interest.
- 5.8 Following the refusal of the various CLOPUD applications and dismissal of the subsequent appeals and legal challenges, there does not appear to be any plan in place to remedy the ongoing breaches of planning control. For the reasons set out above, any application seeking to regularise the unauthorised use and operational development is unlikely to be supported, and it is now considered expedient to initiate appropriate enforcement action.

Effect of legal action

- 5.9 Any breach of condition notice or enforcement notice will have to be served on the landowner (Barton Park Estates Ltd) and all those with an interest in the land which in the Authority's opinion would be materially affected by the notice. A notice should also be served on any occupier of the land which includes those persons with a licence to occupy the caravans (even though such licence does not constitute an interest in land).

Static Caravans

- 5.10 The 1987 permission does allow for 9 residential caravans and 18 static holiday caravans on the site and so some that are present are lawful and will be able to stay on the land but not occupied residentially. In her appeal decision letter ref. APP/J9497/X/18/3217988, the Inspector confirms at para 55 that the approved layout plan attached to the 1987 permission is not enforceable and so determining which caravans can remain and which need to be removed is not straightforward but does not have to be prescribed in the enforcement notice.

Holiday Chalets

- 5.11 The 1987 permission granted planning permission for the construction of 16 chalets, but only 5 of these were built pursuant to the permission, and 3 have since been demolished or removed, with one having been replaced in the past couple of years. The permission for the erection of the chalets is therefore spent (as confirmed by inspectors' decisions), and the 3 chalets that have been demolished or removed cannot be replaced pursuant to the 1987 permission. The chalet that was substantially replaced in 2023 is therefore considered to be unauthorised.

Conclusion

- 5.12 The siting of the additional caravans and chalet, full residential use of the 'holiday' caravans and chalets, and the engineering operations carried out to facilitate these developments, has taken place on the land without the necessary planning permission within the last 10 years. As set out above, these developments do not accord with local or national policy.
- 5.13 Despite the recent appeal decisions, court judgements, and a number of emails to the owner and his agent seeking informal resolution to the matter, the material change of use that has taken place continues, as does the unregulated residential use of the holiday caravans and chalets. The unauthorised caravans, chalet, utility buildings and engineering operations remain on the land, and there appears to be no prospect of these matters being resolved in the foreseeable future. Officers consider that the expediency test is met.
- 5.14 An enforcement notice (and possibly a separate breach of condition notice) will remedy the ongoing breaches of planning control and will stipulate the minimum steps required to achieve that purpose.
- 5.15 For the reasons set out above, it is considered expedient to take appropriate legal action to secure a cessation of the unauthorised change of use of the land, removal

of the unauthorised caravans, chalet and engineering operations, compliance with the 8-month occupancy condition, and restoration of the land to its former condition.

- 5.16 Such legal action will always allow an appropriate period of time for compliance, and in circumstances that affect a person's home, a period of at least six months would be given to secure the cessation of any unauthorised residential use and the removal of any unauthorised residential units.

6 Members' Site Visit

- 6.1 Members and Officers met at 10.00am near the entrance to Devon Oaks and were joined by two representatives of the Parish Council and one resident of the caravan park.
- 6.2 Members were reminded that as the visit precedes the Development Management Committee meeting, they will not have seen the officers report and so the visit was for familiarisation purposes only, and that there should be no discussion or comment on the merits of the developments at this time.
- 6.3 The case officer presented Members and the PC representatives with some plans and photographs of the site to help explain the reason for the visit, the history of the site and recent developments. Similar and additional documents will be included in the officer's PowerPoint presentation at the Development Management Committee's meeting.
- 6.4 The site visit party walked around the caravan park with the case officer pointing out the fields either side of the site entrance that have been used as amenity space and grazing, the area occupied by the permanent residential caravans, those parts of the site formally used by touring caravans, static holiday caravans and chalets, and the area granted permission as an extension to the site in 1993. The officer also explained the various unauthorised developments that have taken place in some of these areas.
- 6.5 Members sought clarification from the officer with regard the excavations that have taken place to the west of the site entrance and the implications of these on the stability of the adjacent highway, the extent of the unrestricted residential part of the site, the occupancy restrictions on the holiday units, the ownership of the field to the east of the site and the status of the footpath that links up to the PROW to Horrabridge. Where not covered in this report, the officer will advise further on these points in his presentation to the Committee.

7 Human Rights Act 1998 & Equality Act 2010

The Human Rights Act 1998 (HRA)

- 7.1 The HRA makes it unlawful for the Authority to act in a way incompatible with any of the rights protected by the European Convention on Human Rights (ECHR), unless it could not have acted differently under domestic law. In arriving at the recommendation to take enforcement action, careful consideration has been given to the rights set out in the ECHR, including Article 1 of the first protocol (obligation to respect human rights), Article 6 (right to a fair trial), Article 8 (right to respect for

private life, family life, home and correspondence), and Article 14 (prohibition of discrimination).

- 7.2 Most Convention rights are not absolute however, and interference with such rights may be lawful in certain circumstances. Interference with a Convention right may be lawful if a decision pursues a legitimate aim and is proportionate to that aim; and strikes a fair balance between the rights of the individual and the rights of others or the needs of society.
- 7.3 In this case, it is considered that an interference with the rights of the recipients of the recommended enforcement action is proportionate, balanced and necessary for the reasons given in this report, and for the rights and freedoms of others.

Public Sector Equality Duty (PSED):

- 7.4 Under section 149(1) of the Equality Act 2010, the Authority must, in the exercise of its functions, have due regard to the need to:
- (i) eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited by the Act;
 - (ii) advance equality of opportunity between people who share a relevant protected characteristic and those people who do not share it - this may include removing or minimising disadvantages, taking steps to meet the needs of persons who share a relevant protected characteristic, and encouraging participation in public life; and
 - (iii) foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 7.5 The second and third requirements refer to protected characteristics. These are set out in Section 149(7) and are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.6 The duty arises whenever a decision is taken which may have an impact on matters covered by the duty. Regard must be had to all limbs of the duty and compliance involves taking active steps, including obtaining relevant material, to ensure informed decision-making. The potential equality impact of a decision needs to always be considered but does not demand any particular outcome or result (it is a duty of process and not outcome).
- 7.7 The level of consideration required (i.e. due regard) will vary with the decision, including such factors as the importance of the decision and the severity of the impact on the Authority's ability to meet its PSED, the likelihood of a discriminatory effect, or that it could eliminate existing discrimination.
- 7.8 The Authority should give greater consideration to decisions that have a disproportionately adverse impact on a protected characteristic. In appropriate cases, this may involve an understanding of the practical impact on individuals affected by the decision. Regard should also be had to the effect of mitigation taken to reduce any adverse impact.

- 7.9 Compliance with the duty may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited.
- 7.10 Further, the PSED is only one factor that needs to be considered when making a decision and may be balanced against other relevant factors. The Authority is entitled to take into account other relevant factors in respect of the decision, including financial resources and policy considerations. In appropriate cases, such countervailing factors may justify decisions which have an adverse impact on protected groups.

Consideration

- 7.11 Welfare forms were issued to the various holiday caravan and chalet owners/occupiers on the 14 August 2025 and 24 completed forms have since been returned, representing approx. 75% of the occupiers. Many of the questionnaires received refer to the impact this matter is having on the mental health of the caravan owners/occupiers and cite a number of physical and mental health conditions that they are suffering from, including depression, anxiety and stress brought on by this matter.
- 7.12 Many of the occupiers state that they bought their caravans in good faith, having been told by the site owners and their sales agents that they could occupy the units for 11 months of the year. Several have sold their homes and relocated to Devon to enjoy their retirement in a safe and tranquil environment, only to find out later that the units can only be occupied as holiday accommodation, and for only eight months of the year. Few appear to be fully aware of the authorised planning position for the site.
- 7.13 One of the questions on the welfare questionnaire asks if there is anything that would affect the occupier's ability to leave the site and find alternative accommodation. As well as the various health issues described, the occupiers have cited financial problems from having their money tied up at Devon Oaks, the lack of affordable and available suitable housing in the area, family and relationship issues, and having to accommodate pets.
- 7.14 The information provided in the completed welfare forms has been taken into consideration in the drafting of this enforcement report and recommendation.
- 7.15 The PSED is only one of the factors to be considered in making this decision and needs to be balanced against other relevant factors. It is considered that the interests of upholding the integrity of the planning system and other reasons set out in this report outweigh the PSED considerations in this case. These considerations will be revisited at the point of issue of the enforcement notice and may affect the scope of the final enforcement notice.

8 Recommendation

- 8.1 For the reasons set out above, it is now considered expedient to take formal enforcement action to remedy the ongoing breach of planning control and secure a cessation of the unauthorised change of use of the land, the removal of the unauthorised caravans, chalet, utilities buildings and engineering works, secure

compliance with the 8 month occupancy condition and caravan storage condition, and the restoration of the land to its previous condition.

- 8.2 Please note that given the complexities of the breaches of planning control surveyed in this report, the final form of the enforcement notice and/or breach of condition notice will be subject to legal review.

DEAN KINSELLA



NPA/DM/25/018

DARTMOOR NATIONAL PARK AUTHORITY

7 November 2025

Tree Preservation Order: No 228 Of 2025 – Land at Kenwyn, Ashburton, Newton Abbot, TQ13 7ED

Report of the Trees and Landscape Officer

Recommendation: That the Tree Preservation Order at Kenwyn, Ashburton, Newton Abbot, TQ13 7ED, be confirmed without modification.

1. The Authority made a Tree Preservation Order (TPO) under delegated powers on 9th July 2025, to protect all trees at the above property. A plan of the property is attached at Appendix 1 showing the extent of the TPO, while photographs of the property and trees are included at Appendix 2.
2. This new TPO (Reference No 228) was made as the trees are considered to contribute to the amenity and special character of this part of the Dartmoor National Park and are considered at risk of being felled.
3. The Tree Preservation Order was issued as an Area Order, encompassing all trees located within the grounds of the former Kenwyn Nursing Home. The tree stock comprises over twenty mature Western Red Cedars, a linear group of six mature lime trees, a large mature beech, and mature specimens of Scots pine, Sitka spruce, oak, yew, holly, birch, and sycamore. In addition, the site contains numerous groups of younger trees contributing to the overall arboricultural value of the area.
4. The trees are visible from Western Road (B3352), Bowden Hill, and the wider landscape. They contribute to the sylvan character of the area and are considered to enhance the amenity and setting of the surroundings. Their loss would have a detrimental impact on the character of Ashburton.
5. The Authority served the TPO on all parties who have an interest in the land, and the process provides a period of 28 days for anyone to make representations regarding the TPO.
6. An objection has been received from Devonshire Homes, a prospective developer of the property, for the following reasons:

- i) The removal of certain trees is necessary to enable feasible development of the site.
- ii) Their primary concern is that the existing Area Tree Preservation Order (TPO) is overly broad and lacks specificity. They recommend that the current blanket Area TPO be replaced with individual TPOs applied only to trees of genuine merit. They contend that the blanket approach includes trees that do not warrant protection, which could hinder appropriate development.
- iii) The objection concludes by urging the Dartmoor National Park Authority (DNPA) to amend the Order, replacing the Area TPO with targeted individual TPOs to ensure that only trees of demonstrable value are protected.

7. While Devonshire Homes' objection is considered reasonable as the Authority acknowledges that some tree removal will be necessary to facilitate development of the site, it is nonetheless deemed to be in the Authority's interest to protect all trees at this stage. The appropriate time to assess whether any trees can be removed is during the review of development proposals submitted as part of a planning application. At that point, the benefits of the proposed development can be weighed against the potential loss of amenity resulting from tree removal.

8. Forty-six letters supporting the creation of the new Tree Preservation Order (TPO) were received. These were primarily from residents of Ashburton, with additional support from individuals in Moretonhampstead, Modbury, Holne, and Bristol. The reasons for their support include the following:

- i) Aesthetic and cultural assets, forming a significant and visible part of Ashburton's landscape and character, especially for visitors entering the town.
- ii) Historically significant, with some trees forming part of old field boundaries dating back to the 19th century.
- iii) Crucial for public amenity, enhancing the beauty and tranquillity of the area while acting as a buffer against noise and visual intrusion from the A38.
- iv) Important for climate resilience, offering shade, cooling effects, and flood prevention, especially given increasing temperatures and rainfall.
- v) Ecologically vital, providing habitat for a wide range of wildlife including bats, birds, and invertebrates.

Overall, they emphasise that removing these trees would be a loss to biodiversity, climate protection, local heritage, and community wellbeing.

9. If the TPO is confirmed, it will protect the trees in perpetuity. Once a TPO is confirmed, the management of the trees will be controlled by the Authority. However, work to the trees may still be permitted if it is considered to be acceptable tree management. If the TPO is not confirmed, the trees will not be protected, and any future landowner will be able to remove these trees.

10. The TPO has been made under the Town and Country Planning (Tree Preservation) (England) Regulations 2012, which means the trees have immediate, but provisional protection for six months. If the TPO is not confirmed within six months, the

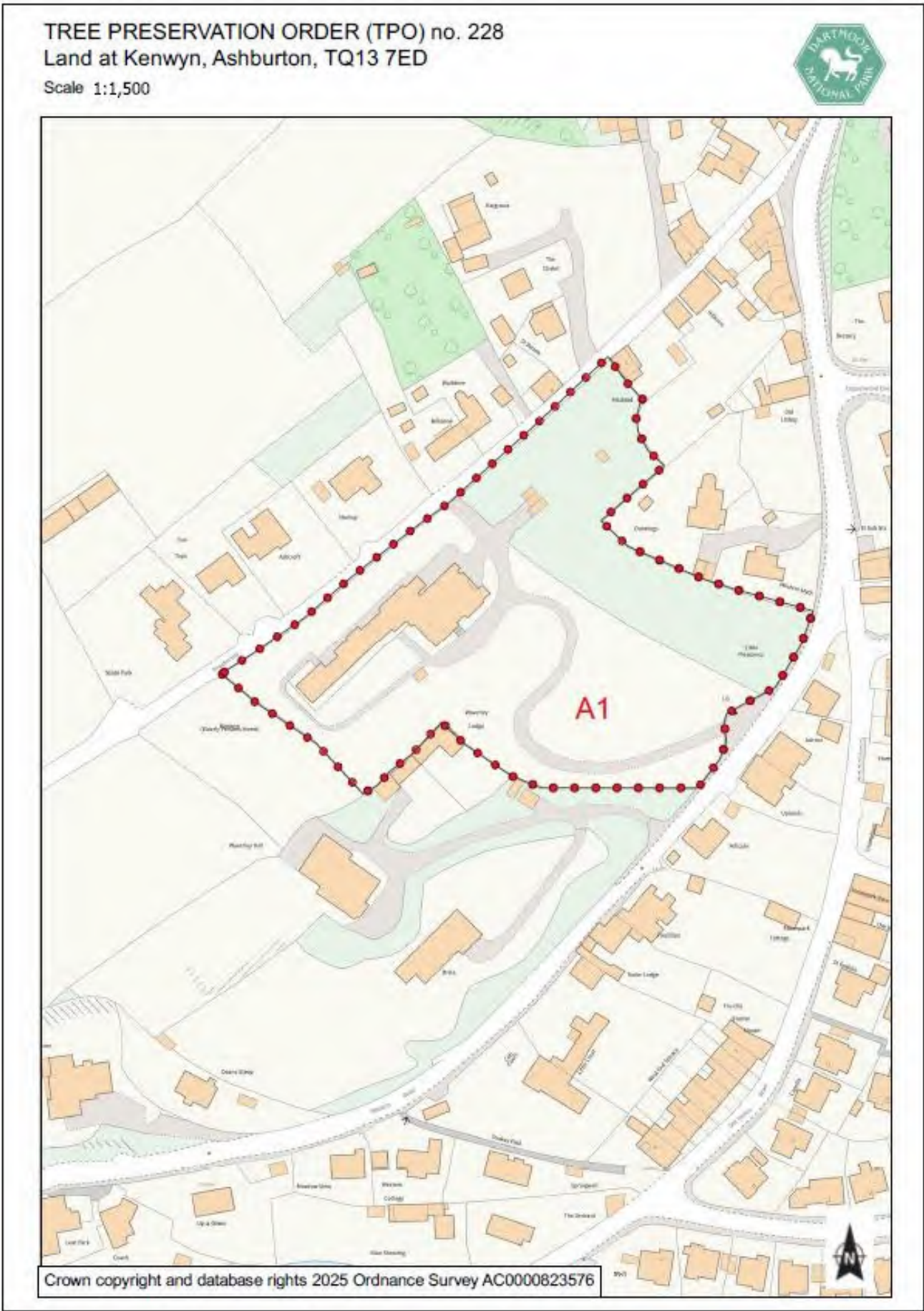
provisional protection comes to an end. Having made a provisional TPO, the DNPA has three options:

- (i) confirm the TPO as made;
- (ii) not confirm the TPO;
- (iii) modify the Order and confirm the modified TPO.

11. Considering the level of visual amenity of the trees and the public interest in this matter, it is recommended that the TPO be confirmed as made.

PAUL BRYAN

Appendix 1 – Tree Preservation Order No 228 – Plan





NPA/DM/25/019

Dartmoor National Park Authority
Development Management Committee

7 November 2025

Tree Preservation Orders and Section 211 Notifications (Works to Trees in Conservation Areas) Determined Under Delegated Powers

Report of the Director of Spatial Planning

Recommendation: **That the decisions be noted.**

Application Reference	Location	Proposal	Decision
25/0094	13 Manor Drive, Chagford, Newton Abbot, Devon, TQ13 8BH	T1 - English Oak, requires crown lifting to 5.5m and deadwooding over the garden and field to improve light ingress & the view for the neighbouring house. T2- English Oak, requires pruning off of the property's gutters and crown lifting to 5.5m over the field and garden to improve light ingress and the view for the applicant.	

Application Reference	Location	Proposal	Decision
25/0090	Gratton House, 3 Willowby Gardens, Meavy Lane , Yelverton, PL20 6HU	T1 Beech - Trim 2/3 metres from the crown to manage the spread of tree growth	
25/0086	1 Mount Pleasant, Moretonhampstead, Newton Abbot, Devon, TQ13 8NY	T1 - Ash - Reduce by 1-2m on the west side to allow more light and reduce leaf fall	
25/0089	19 Higman Close, Mary Tavy, Tavistock, Devon, PL19 9FF	I would like the tree to be trimmed back so it's no longer overhanging my garden. We've been in our property for nearly 5 years and it's become more obvious over the years it's growing. Autumn means more shedding of leaves in our garden which can be an issue to maintain to a healthy garden over the colder months.	Withdrawn
25/0083	Highfield Harwell Lane, South Brent, Devon, TQ10 9DN	Douglas Fir - Removal of some lower limbs - Eventually removal of fir to be replaced as specified in report Beech - Bracing of split trunk	
25/0080	Sunset Cottage Harrowbeer Lane, Yelverton, Devon, PL20 6EA	T1-fraxinus excelsior- Ash, height 15m, DBH 30cm, category 4- severely effected with ash dieback 90% of crown dead- reduce to a 5m monolith structure T2-fraxinus excelsior- Ash, height 12m, DBH 25cm, category 4- severely effected with ash dieback 90% of crown dead- reduce to a 5m monolith structure T3-fraxinus excelsior- Ash, height 10m, DBH 35cm, ivy covered stem	

Application Reference	Location	Proposal	Decision
		unable to visually inspect stem category 3- severely effected with ash dieback 75% of crown dead- reduce to a 5m monolith structure	
25/0078	2 Old Manor Close, Ashburton, Newton Abbot, Devon, TQ13 7JF	T1 - Wellingtonia, crown raise to approximately 4m from ground level around entire tree, measured garden side. Remove deadwood throughout canopy and conduct an aerial check for and remove any broken or hanging branches if necessary. Ivy to be severed at 2m and stripped to ground level	
25/0065	Meldon Viaduct, Granite Way, Meldon, EX20 4LT	In relation to Tree Preservation Order (TPO) No. 143 at Meldon Quarry, fell all trees to achieve a minimum clearance of 3 metres from the viaduct structure.	

Application Reference	Location	Proposal	Decision
25/0093	Chagford House, Chagford, Newton Abbot, Devon, TQ13 8BW	T1 Mature lime tree - Overhanging the highway and roof of Bellacouch Barns. Reduce lateral branches overhanging the property to mitigate risk of branch failure, and crown lift low hanging branches to achieve a minimum of 5.5m over the highway. G1 Small limes and Laurel: Crown lift and coppice to achieve 3m clearance from Bellacouch barns. These works will improve highway clearance and increase light ingress to the property.	
25/0087	Grayscourt, Stapledon Lane, Ashburton, TQ13 7AE	Removal of a large Magnolia tree and replacement with 2 or 3 smaller native trees	

Application Reference	Location	Proposal	Decision
25/0085	Half Moon, Manaton, Newton Abbot, Devon, TQ13 9UJ	Tree group G12 on attached tree location plan. Whilst tree group appears to sit outside of the Manaton Conservation area, an application has been previously submitted for the crown lifting of the tree group to 3m under 25/0018. The applicant now wishes to re-pollard the trees to their previous pollard points of c.4-5m in addition to the consented crown lifting to allow more light into the garden during the latter stages of the day.	Withdrawn
25/0084	Bellacouch Barns, Chagford, Newton Abbot, Devon, TQ13 8BW	The Lime tree in question is directly opposite the property and overhangs the road and roof. It grows on the bank owned by Chagford house. We wish to reduce the lateral branches to reduce the risk of failure over the house. (see photos) This spec would be carried out to bs3998 and need traffic control. There is also some crownlifting and coppicing we would like to do on the bank from some smaller lime trees and Laurel shrubs The low hanging branches of the main Lime tree also need crown lifting or pruning off of the property. The amount of crownlifiting and coppicing would span the around 3 meters past the building itself. The crownlifting and coppicing needs doing as it is below the spec of 5.5 meters over the highway. It would also benefit the property owner with as it would increase the light getting into the property.	Withdrawn

Application Reference	Location	Proposal	Decision
<u>25/0079 V1</u>	Caldey Cottage, 11 Southcombe Street, Chagford, Newton Abbot, Devon, TQ13 8AY	The tree is a young atlas cedar, which we would like to section fell dismantle and remove	
<u>25/0076</u>	The Old Vicarage, Brentor, Tavistock, Devon, PL19 0LX	T1 - Cedar - Crown lift to provide 2-3m vertical and lateral clearance	Tree Grant
<u>25/0074</u>	Townend House, Lydford, Okehampton, Devon, EX20 4AR	Fell one birch, remove one ash stump, and carry out tree works to two beech, two ash, and a fir hedge of three trees.	Tree Grant
<u>25/0069</u>	7 Cranley Gardens, Chagford, Newton Abbot, Devon, TQ13 8UT	Tree works proposed to T1 (Sycamore) and H1 (Mixed species hedgerow, predominantly Hazel)	Tree Grant
<u>25/0068</u>	Weir Park, Horrabridge, PL20 7TG	T1 - Hornbeam - Complete removal	Tree Grant
<u>25/0067</u>	Millennium Green Station Road, Buckfastleigh, Devon,	Fell G1 Sycamores, and carry out tree work to: T1 Tree of Heaven; T2 Apple; T3 Cherry; and G2 group of Ash, Hawthorn, and Sycamore.	Tree Grant
<u>25/0063</u>	The Longhouse, 21 Ford Street, Moretonhampstead, TQ13 8LN	Notification to fell a Western Red Cedar, a Japanese Red Cedar, a Hazel, a Sycamore, a Lawsons Cypress, a Snowy Mespilus and a Wayfaring tree.	Tree Grant

Application Reference	Location	Proposal	Decision
<u>25/0062</u>	Manaton Church Field (manaton Cricket Ground), St Winifreds Church, Manaton, TQ13 9UJ	T1 - Cypress - Fell	Tree Grant

DEAN KINSELLA