

NPA/DM/21/004

DARTMOOR NATIONAL PARK AUTHORITY  
DEVELOPMENT MANAGEMENT COMMITTEE

09 April 2021

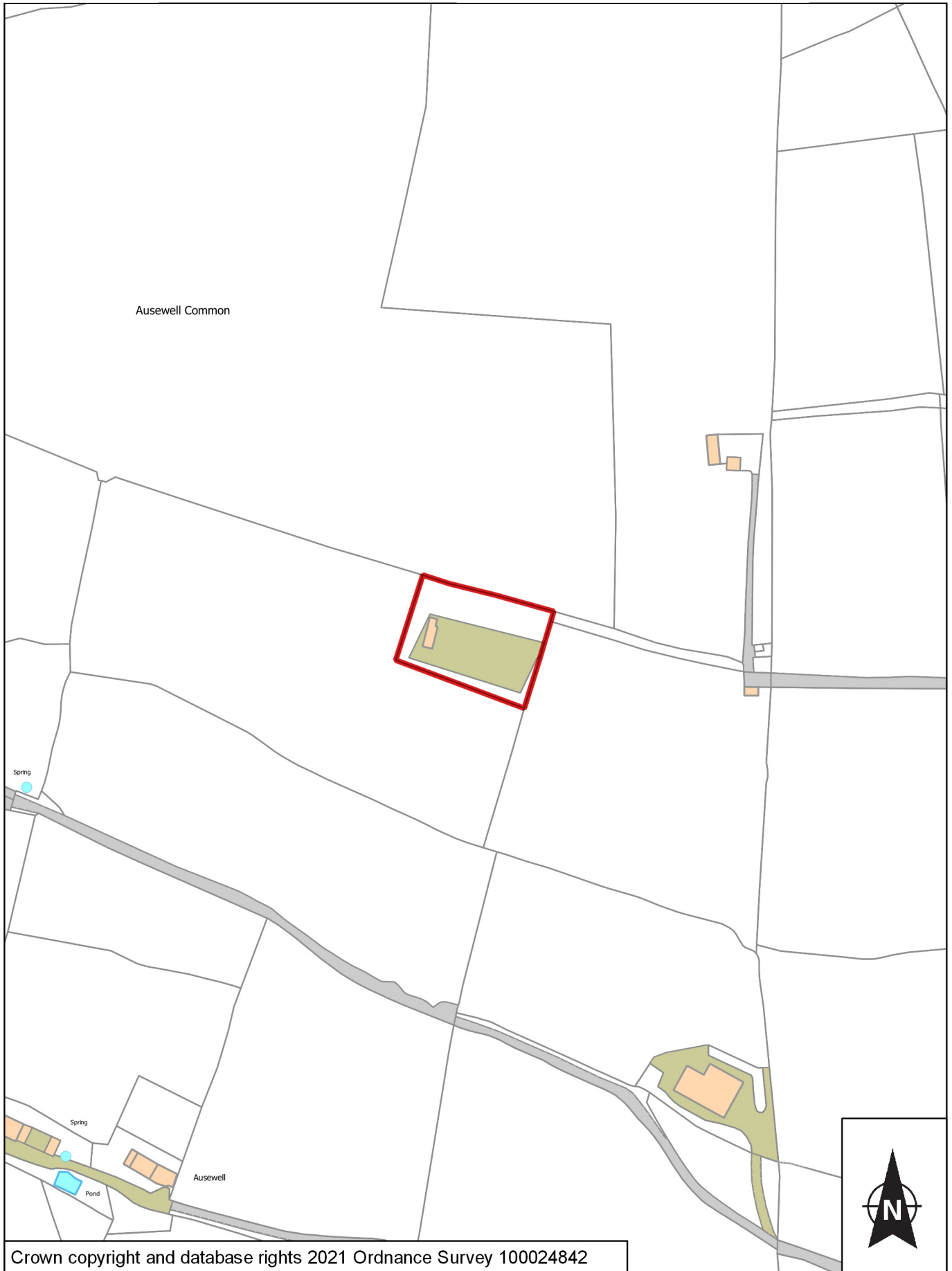
**MONITORING AND ENFORCEMENT**

Report of the Head of Development Management

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**Item No.** **Description**

1. ENF/0083/20 - Unauthorised siting and residential use of caravan, Land at Higher Ausewell, Ashburton



1 Enforcement Code: **ENF/0083/20** District/Borough: **Teignbridge District**  
Grid Ref: **SX736711** Parish: **Ashburton**  
Officer: **Nick Savin**

Description: **Unauthorised siting and residential use of caravan**

Location: **Land at Higher Ausewell, Ashburton**

Recommendation: **That the appropriate legal action be authorised to;**  
**1. Secure the cessation of the residential use of the land, and**  
**2. Secure the removal of the caravan from the land.**

### **Relevant Development Plan Policies**

COR1 - Sustainable Development  
COR3 - Landscape Character  
COR4 - Design Principles  
COR15 - Residential Development

DMD1b - National Park Purposes  
DMD3 - Sustaining the quality of places  
DMD5 - Landscape Character  
DMD23 - Residential Development  
DMD28 - Residential Caravans

### **Representations & Parish/Town Council Comments**

None received

### **Observations**

#### **THE SITE**

The land where the caravan is sited is located approximately 500m due west of Higher Ausewell, which in turn lies approximately 2km north of the centre of Ashburton.

The caravan sits in the middle of an equestrian sand school in open countryside. It should be noted that the sand school did not have the benefit of planning permission, however it is now lawful through the passage of time.

#### **PLANNING HISTORY**

Concerns were raised with the Authority by a member of the public in June 2020 in respect of the siting and residential use of this caravan. A site visit confirmed that the owner and her partner had moved the caravan onto the land earlier that month and were living there.

It should be noted that the caravan had previously been sited on the same land and used for residential purposes from May 2018 to September 2018 and that prior to that, from October 2017 to May 2018, the caravan was subject to an enforcement investigation on land at Lower Headborough Farm, Ashburton (ENF/250/17).

The owner of the land has claimed that she has no alternative at the moment other than to live on the land at Ausewell and has stated that this is not meant to be a permanent arrangement.

An enforcement notice requiring the removal of an unauthorised building on the same sand school has recently been complied with (ENF/0265/16).

## POLICY CONSIDERATIONS

Development Plan Policy COR1 seeks to ensure that all development in the National Park is undertaken in a sustainable manner with consideration given to, amongst other things, the need to make efficient use of land and respect for and enhancement of the character, quality and tranquillity of local landscapes and the wider countryside. The development is contrary to policy COR1 as the caravan is not of a high quality design nor does it respect or enhance the character, quality and tranquillity of local landscapes and the wider countryside.

Policy COR4 states that proposals should conform to a number of design principles, which include the need to demonstrate a scale and layout appropriate to the site and its surroundings. Development must also use external materials appropriate to the local environment. The caravan is not appropriate to the local environment, and has a detrimental visual impact on this site and its surroundings and does not therefore accord with this policy.

Policy DMD1b seeks to protect the special qualities of the National Park. The development does not accord with this policy as the use of the agricultural land at Higher Ausewell to site a caravan fails to protect the special qualities of the National Park and is therefore contrary to that policy.

Policy DMD3 states that development proposals should help to sustain good quality places in the National Park by reflecting the principles set out in the Design Guide. Furthermore the development should conserve and enhance the character and special qualities of the Dartmoor landscape by ensuring that location, site layout, scale and design conserves and enhances what is special or locally distinctive about landscape character. The development is considered contrary to this policy.

Policies COR3 and DMD5 seeks to conserve and/or enhance the character and special landscape and qualities that contribute to Dartmoor's distinctiveness. The visual impact of the caravan is considered detrimental to the characteristic landscape features that contribute to Dartmoor's special qualities.

Policies COR15 and DMD23 seek to restrict the provision of new dwellings outside Local Centres or Rural Settlements, except where a proven need for an essential rural worker has been established. There is no functional requirement for a new dwelling on this land.

Policy DMD28 considers residential caravans in circumstances where a rural business is in the embryonic stage and endeavouring to establish the functional and financial test criteria for the construction of an agricultural workers dwelling, or were it is to be sited on land during the construction of a new dwellinghouse. There is no rural business operating on the land or dwellinghouse under construction therefore, the siting of the caravan is contrary to this policy.

## The HUMAN RIGHTS ACT 1998

The landowner has confirmed that the development is currently her and her partner's home. As such, the courts will view any decision to take enforcement action as engaging the occupiers' rights under Article 8 ECHR (right to respect for private and family life and home) and Protocol 1 Article 1 (peaceful enjoyment of possessions). The service of an Enforcement Notice requiring the unauthorised residential use to cease would represent a serious interference with these rights. However, it is permissible to do so "insofar as is in accordance with the law and necessary in a

democratic society for the protection of rights and freedoms of others".

The courts have held that provided a balanced and proportionate approach is taken, having regard to all relevant considerations and not giving irrational weight to any particular matter, the UK planning system (including the enforcement process) is not incompatible with the Human Rights Act.

Tackling breaches of planning control and upholding Local Plan policies is clearly in accordance with the law, protects the National Park from inappropriate development and enshrines the rights and freedoms of everyone to enjoy the natural beauty and special qualities of the National Park.

Officers have issued welfare forms which have been completed and returned. There are not believed to be any overriding welfare considerations at this time:

- The personal circumstances of the occupiers have been checked and fully taken into account.
- There are not understood to be any current education issues
- There are not understood to be any physical health or welfare concerns.
- \* There is no current social services involvement

Members are therefore advised that enforcement action would be:

- (i) in accordance with law – s.178(1) T&CPA 1990
- (ii) in pursuance of a legitimate aim – the upholding of planning law and in particular the Development Plan policies restricting development in the open countryside of the National Park
- (iii) proportionate to the harm and therefore not incompatible with the Human Rights Act.

## CONCLUSION

In view of the history of the unauthorised residential use of this land and the ongoing concern that if left unchallenged it would become permanently occupied, it is considered appropriate to take enforcement action requiring the unauthorised use of the land to cease while allowing for a reasonable time period to comply with any notice issued.

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**CHRISTOPHER HART**