

This Report will be made public on 12 October 2020

Report Number

**DC/20/25**

**To:** Planning and Licensing Committee  
**Date:** 20<sup>th</sup> October 2020  
**Status:** Non key Decision  
**Responsible Officer:** Llywelyn Lloyd, Chief Planning Officer

**SUBJECT:** Unauthorised change of use of land from agricultural to use for the siting of residential caravans and mobile homes; the storage of caravans and mobile homes; the storage of vehicles, plant and other equipment; and the erection of two viewing platforms.

#### **SUMMARY:**

This report considers the appropriate action to be taken regarding the unauthorised change of use of the land from agricultural to use for the siting of residential caravans and mobile homes, the storage of caravans and mobile homes, the storage of vehicles, plant and other equipment; and the erection of two viewing platforms. No planning permission has been granted for these developments. The development is detrimental to the visual amenity of the Area of Outstanding Natural Beauty and Special Landscape Area and the residential uses result in unsustainable development in an isolated location outside of a settlement boundary, where new residential development would not normally be permitted. This report recommends that Enforcement Notices be served requiring the removal all the mobile homes and caravans, the cessation of the residential use of the land, the removal of all equipment and paraphernalia, including garden furniture, associated with the residential use from the land, the removal of all stored vehicles, plant and other equipment, and removal of the viewing platforms from the land.

#### **REASONS FOR RECOMMENDATIONS:**

The Committee is asked to agree the recommendations set out below because:

1. The caravans, mobile homes, open storage and viewing platforms are visually intrusive development, which together with the unattractive appearance of the open storage and viewing platforms, detract from the scenic beauty and visual amenity of the countryside location and cause harm to the visual amenity and landscape character of the Kent Downs Area of Outstanding Natural Beauty and the Special Landscape Area. No special justification has been provided for these uses in this rural location and therefore it is considered that the development is contrary to policy CSD4 of

the Core Strategy (CS) and Core Strategy Review (CSR), policy NE3 of the Places and Policies Local Plan (PPLP) and paragraph 172 of the National Planning Policy Framework (NPPF).

2. The site lies in an isolated countryside location, outside any of any settlement boundary. As such the residential use of the land results in dwellings in an unsustainable location in the countryside without sufficient policy justification in terms of essential need for a rural worker or any overriding social or economic benefits to the rural area. As such this is unsustainable development contrary policies SS1, SS3 and CSD3 of the Core Strategy and emerging Core Strategy Review; as well as the aims and objectives of the (NPPF) in particular paragraphs 7, 8, 11 and 79.
3. The changes of use of the land have taken place within the last 10 years and the viewing platforms erected with the last four years. As such they are not immune from enforcement action and it is considered in the public interest and expedient to issue Enforcement Notices.

### **RECOMMENDATIONS:**

1. To receive and note the report
2. That delegated authority be given to the Chief Planning Officer to serve Enforcement Notices requiring the use of the land for residential purposes to cease, the use of the land for the storage of vehicles, plant and other equipment to cease; the removal of all mobile homes, caravans, vehicles, plant, equipment and paraphernalia, including garden furniture and paraphernalia associated with the residential uses from the land; and the removal of the two viewing platforms from the land.
3. That the Chief Planning Officer be given delegated authority to determine the exact wording of the Notices.
4. That the period of compliance with the Notices be (six) months.
5. That the Assistant Director - Governance, Law & Regulatory Services be authorised to take such steps as are necessary including legal proceedings to secure compliance with the Notice.

### **1. LOCATION AND DESCRIPTION OF SITE**

- 1.1 The land is located at Paddlesworth Court Farm, in Paddlesworth near Hawkinge. The site is in a rural area and the overall site of Paddlesworth Court Farm is made up of woodland and farmland and is approximately 11.5 acres

in area. It is located outside of any settlement boundary and is within the Kent Downs Area of Outstanding Natural Beauty and Special Landscape Area.

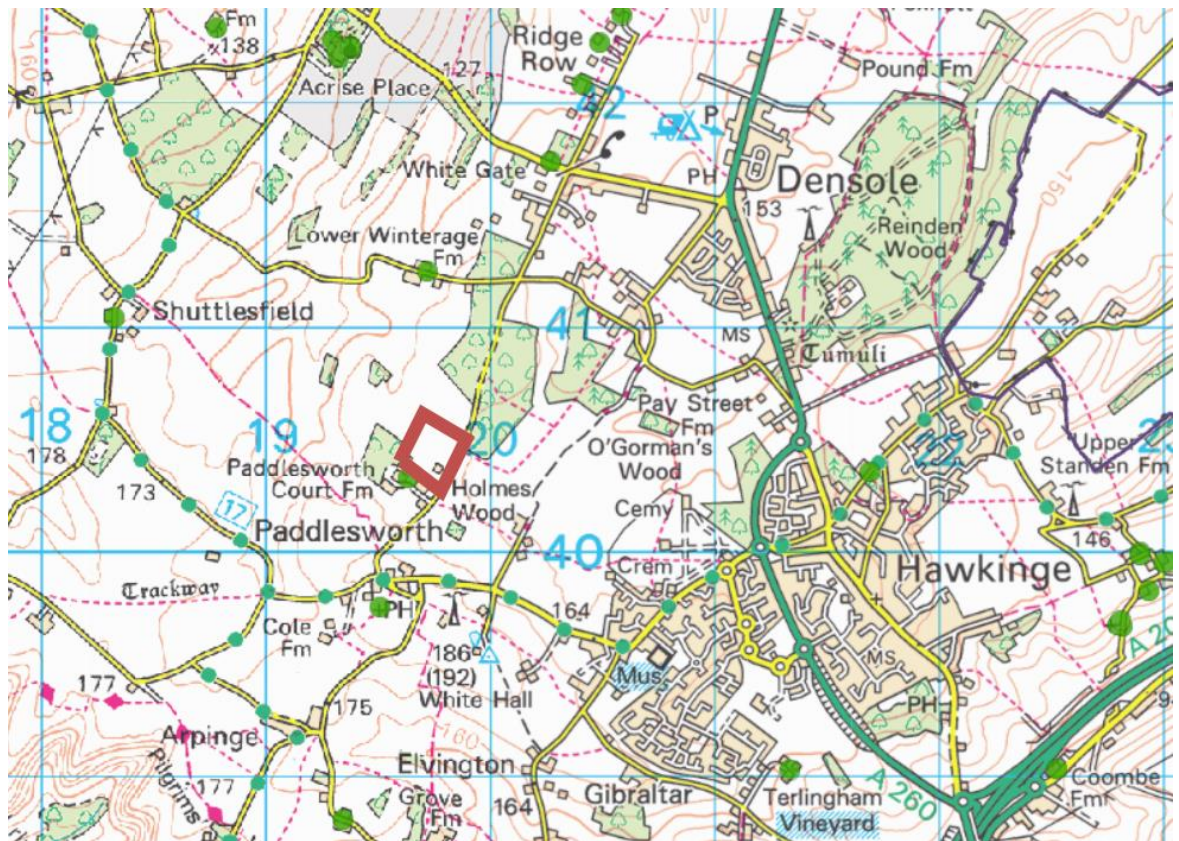


Fig 1. The site of the property is highlighted in red on the above plan.

- 1.2 The lawful use of the land that is the subject of this report is that of agriculture and the site includes a 'square' of buildings which were previously used as barns. An aerial photograph of the site from 2015 is included at Fig 2 below. It is accessed by a single track country lane.



Fig 2

## **2. RELEVANT PLANNING HISTORY**

- 2.1 Y12/0257/SH Retrospective application for the use of agricultural land for the stationing of 2 static caravans for residential use. Refused 6 June 2012

## **3. THE BREACHES OF PLANNING CONTROL**

- 3.1 The breaches of planning control which are the subject of this report concern the installation of two viewing platforms, the change of use of the land to use for the siting of residential caravans and mobile homes, the storage of vehicles, plant and other equipment and the storage of caravans and mobile homes.
- 3.2 A number of music events take place on the land, which have been the subject of complaints made to the Council regarding a noise nuisance. The music events are currently under investigation by the Council's Environmental Protection Team. However, due to the number of days in a year that we understand these events take place, this use is permitted development under Schedule 2, Part 4, Class B of the Town and Country Planning (General Permitted Development Order), which allows temporary uses of land for 28 days per calendar year and Class BA which allows a further 28 days between 1<sup>st</sup> July 2020 and 31<sup>st</sup> December 2020.
- 3.3 An area of the site, by the entrance in the southern corner of the site is also used as a campsite for touring caravans, tents and campers. However, this use is also considered permitted development under Schedule 2, Part 4, Class B of the Town and Country Planning (General Permitted Development Order).

### **Site Visit undertaken on the 14<sup>th</sup> March 2018**

- 3.4 The complaint that prompted this investigation and this report was raised in March 2018, at which time a Planning Enforcement Officer visited the land and noted a number of breaches of planning control. An aerial photograph of the site taken in 2018 is at Fig 3 below and shows racing tracks, viewing platforms, caravans, mobile homes and vehicles.



Fig 3.

3.5 Below are a series of photographs taken by the Enforcement Officer on the 14th March 2018 showing these breaches of planning control.

The photograph below (Fig 4) shows the storage of equipment including a food trailer, for which planning permission has not been granted.



Fig 4.

Below at Fig 5 is a mobile home which the Enforcement Officer considered was likely being used for residential purposes. Planning permission has not been granted for the use of this land for residential mobile homes.



Fig 5.

A number of vehicles are being stored at the property (below Fig 6). Planning permission has not been granted for the use of the land for storage.



Fig 6.

Below at Fig. 7 is a caravan which the Enforcement Officer considered was being used for residential purposes.



Fig 7.

The caravan below (Fig 8) appears to be being stored at the site.



Fig 8.

The caravan in the foreground in the photograph below (Fig 9) remains on site whilst the caravan in the background has since been removed from the land.



Fig 9.

A viewing platform, installed for the remote control car racing was also noted (Fig 10 below).





Fig 10.

Despite correspondence with the owner of the land and requests for the breaches detailed above to be rectified and to cease, a visit to the site on the 21<sup>st</sup> September 2018 revealed that the breaches of planning control had not been resolved.

### **Site Visit undertaken on the 13<sup>th</sup> June 2019**

- 3.6 A further visit to the site was undertaken by an Enforcement Officer on the 13<sup>th</sup> June 2019. During that visit the following photographs were taken and it was noted that the unauthorised development referred to above had not been removed.

That visit established that a second viewing platform had been installed on the site, one of which is photographed below at Fig 11.



Fig 11.

Plant was also noted on the land – Fig 12 below.



Fig 12.

Cars were continuing to be stored on the land, some of which are pictured at Fig 13 below.



Fig 13.

- 3.7 In August and November 2019 Planning Contravention Notices (PCN's) were served on the co-owner of the property, for the purpose of gathering information and in preparation for further formal enforcement action. The letter accompanying the PCN served in November 2019 advised the co-owner to ensure that, should he wish to retain the viewing platforms, he should make a planning application for them by 1<sup>st</sup> February 2020. However, no such application has been received by the Council.
- 3.8 The letter accompanying the PCN served in November 2019 also advised that the stored cars, caravans, plant and equipment were in breach of planning control and must be removed from the land by the 1<sup>st</sup> March 2020.
- 3.9 Despite the serving of the PCN's and the advice given on how to resolve these matters they were not and the Council continued to receive complaints.

#### **Site Visit on the 22<sup>nd</sup> May 2020.**

- 3.10 In light of the continued complaints a visit to property was undertaken by an Enforcement Officer on the 22<sup>nd</sup> May 2020. This revealed that that the owner had not taken the steps necessary to remove the unauthorised development or cease the unauthorised uses. At least one additional mobile home had been installed and appeared to being used for residential purposes. The viewing platforms were also still in place.

#### **4. RELEVANT POLICY GUIDANCE**

- 4.1 The following policy of the Places and Policies Local Plan 2020 applies:  
Policy NE3 - Protecting the District's Landscapes and Countryside
- 4.2 The following policies of the Core Strategy apply:  
Policy DSD - Delivering Sustainable Development  
Policy SS1 - District Spatial Strategy  
Policy SS3 - Place-Shaping and Sustainable Settlements Strategy

Policy CSD3 - Rural and Tourism Development of Shepway'  
Policy CSD4 - Green Infrastructure of Natural Networks, Open Spaces and Recreation

- 4.3 The Submission draft of the Core Strategy Review was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019. Accordingly, it is a material consideration in the assessment of planning applications in accordance with the NPPF, which confirms that weight may be given to policies in emerging plans following publication (paragraph 48). Based on the current stage of preparation, the policies within the Core Strategy Review Submission Draft may be afforded weight where there has not been significant objection.

The following policies of the Core Strategy Review Submission Draft 2019 apply:

Policy SS1 - District Spatial Strategy

Policy SS3 - Place-Shaping and Sustainable Settlements Strategy

Policy CSD3 - Rural and Tourism Development of Shepway'

Policy CSD4 - Green Infrastructure of Natural Networks, Open Spaces and Recreation

- 4.4 The following paragraphs of the National Planning Policy Framework 2019 apply in particular:

7 and 8 – Achieving sustainable development.

11 – The presumption in favour of sustainable development.

79 – Rural Housing.

172 – Areas of Outstanding Natural Beauty given highest status of protection.

## **5. APPRAISAL**

### **Relevant Material Planning Considerations.**

- 5.1 When deciding whether or not it is expedient to serve an enforcement notice it is necessary to consider whether planning permission would be granted for the unauthorised development were an application to be submitted. The relevant main material planning considerations in this case are the principle of the development having regard to planning policy, visual impact and landscape conservation.

### **Residential Use**

- 5.2 Both local and national planning policies seek to direct new residential development to existing settlements, both on the grounds of sustainability and in order to safeguard the character and appearance of the countryside. Any new development must be appropriate in scale and appearance to its surroundings, having particular regard to the District's Local Plans' environmental policies and; preserve, and as far as possible enhance, the character and amenity and functioning of settlements and the countryside.

- 5.3 Paragraph 79 of the NPPF seeks to avoid isolated homes in the countryside unless there is an essential need for a rural worker; the development would represent the optimal viable use of a heritage asset; the development would re-use redundant or disused buildings and enhance its immediate setting; the development would involve the subdivision of an existing residential dwelling; or the design is of exceptional quality. None of these criteria apply to the residential caravans and mobile homes.
- 5.4 The site is located outside of any settlement boundary and in an isolated countryside location with poor public transport links. The closest shops and doctors' surgery are in Hawkinge centre, approximately 2 miles away via narrow country lanes. Therefore occupants of the residential caravans will be dependent on the car to access shops and other services. As there is no obvious agricultural or forestry need for the residential uses in this location the current use of the land for the siting of residential caravans and mobile homes results in an unjustified residential use in the countryside. Due to the isolated location of the site in relation to the fairly limited facilities in Hawkinge and the lack of easy accessibility to those and other facilities, the residential use of the site constitutes unsustainable development in the countryside and as such is contrary to national and Core Strategy policies DSD, SS1, SS3 and CSD3 and paragraphs 7, 8, 11 and 79 of the NPPF which seek to ensure development is sustainable.

## **Visual Impact and Landscape Conservation**

- 5.5 Both the NPPF and Core Strategy and Core Strategy Review policies give priority to the conservation and enhancement of the natural beauty of the AONB over other planning considerations. The proliferation of caravans, mobile homes, vehicles and the other open storage taking place cumulatively detracts from the landscape quality of the site within the overall setting of the natural landscape. This is made worse by the amount of storage, the mixture of items being stored and the sporadic way it is spread around different parts of the site. The two viewing platforms, although of wooden construction are not attractive structures and have been placed in the middle of fields where there is no natural screening to reduce their prominence. Although there are limited views of the items within the site from the public highway this in itself is not sufficient to make the development acceptable given the location of the site within the sensitive AONB landscape and the alien nature of the storage etc taking place within an otherwise unspoilt natural landscape. Therefore it is contrary to the aims of local plan policy CSD4 and paragraph 172 of the NPPF which seek to protect such valuable landscapes and it is unlikely that planning permission would be granted for the viewing platforms and uses.

## **6. CONCLUSION**

- 6.1 Neither the unauthorised storage and residential uses taking place on the site nor the viewing platforms have become immune from enforcement action due to the passage of time and all of them are development requiring planning permission. The residential use of the caravans and mobile homes are considered to result in isolated residential development in an unsustainable location without any policy justification. The residential caravans and mobile homes, the vehicles and items being stored on the site

and the viewing platforms are considered to significantly detract from the natural beauty of the protected landscape of the AONB. For these reasons the unauthorised developments are contrary to national and local planning policy

- 6.2 It is therefore recommended that an enforcement notice be served to require the uses to cease and the items to be removed.

## 7. HUMAN RIGHTS

- 7.1 In reaching a decision on a planning matter the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

## 8. PUBLIC SECTOR EQUALITY DUTY

- 8.1 In assessing this planning enforcement matter regard has been had to the Public Sector particular with regard to the need to:
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
  - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

It is considered that the proposed enforcement action would not conflict with objectives of the Duty.

## 9. RISK MANAGEMENT ISSUES

A summary of the perceived risks follows:

Perceived risk	Seriousness	Likelihood	Preventative action
The unauthorised developments at the site becomes immune from enforcement action	High	High	Serve enforcement notices

## 10. LEGAL/FINANCIAL AND OTHER CONTROL/POLICY ISSUES

### Legal Officer Comments (TH)

- 10.1 There are no legal implications arising directly out of this report which are not already stated therein. For the information of the Committee, section 171B of the Town and Country Planning Act 1990 (as amended) states that;

Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwelling house, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

The Council is working within those statutory time limits and therefore can take appropriate enforcement action.

Where there is a breach of planning control, failure to take enforcement action within the statutory time limits will result in the unauthorised use becoming immune from enforcement action

## 10.2 **Finance Officer Comments (LK)**

The financial implications regarding the issuing of the Enforcement Notice are contained within the Council's budget. However if further enforcement action is required then there may be additional legal costs which may require additional resource.

## 10.3 **Equalities & Diversity Officer Comments (GE)**

There are no equalities implications directly arising from this report

## **CONTACT OFFICER AND BACKGROUND DOCUMENTS**

Councillors with any questions arising from this report should contact the following officer prior to the meeting.

Clive Satchell, Planning Enforcement Officer  
Telephone: 01303 853414  
Email: [Clive.Satchell@folkestone-hythe.gov.uk](mailto:Clive.Satchell@folkestone-hythe.gov.uk)

The following background documents have been used in the preparation of this report:  
None.