



IMPORTANT

THIS COMMUNICATION AFFECTS YOUR PROPERTY

ENFORCEMENT NOTICE

MATERIAL CHANGE OF USE

**TOWN AND COUNTRY PLANNING ACT 1990
(As amended by the Planning and Compensation Act
1991)
("The Act")**

**ISSUED BY: North Devon District Council ("the
Council")**

1. **THIS IS A FORMAL NOTICE**, which is issued by the Council because it appears to it that there has been a breach of planning control, under Section 171A(1)(a) of the Act, at the land described below. The Council considers it expedient to issue this notice, having regard to the provisions of the development plan and to other material considerations.

2. **THE LAND AFFECTED**

Land on the North Side of Lower Tidderson Barn, Rackenford, Tiverton, Devon (HM Land Registry Number DN568301) as shown edged red on the enclosed Location Plan.

("the Land")

3. **THE BREACH OF PLANNING CONTROL ALLEGED**

Unauthorised Change of Use of the Land under Section 171B(3) from agricultural use to residential use by virtue of the siting and residential occupation of a mobile home, whose approximate position is shown edged blue on the enclosed Location Plan, together with the domestic use of the agricultural building, whose approximate position is shown edged green on the enclosed Location Plan, within the last 10 years without planning permission.

4. **REASONS FOR ISSUING THIS NOTICE**

The Council considers it expedient to issue this notice for the following reasons:

There is currently one unauthorised mobile home on the land, which is being used for domestic purposes, that has not been on site and occupied for a continuous period of ten years. Planning Permission has also not been granted for its siting and use. The mobile home is sited within the open countryside where development is strictly controlled in the interests of protecting the intrinsic beauty and character of the landscape and on the grounds of sustainability. The agricultural building contains foodstuffs and white goods and is being used ancillary to the mobile home for domestic purposes. As such the mobile home represents unsupported development in the open countryside and is therefore contrary to Planning Policy Statement 7: Sustainable Development in Rural Areas, Devon Structure Plan Policies ST1 and ST16 and North Devon Local Plan Policies ENV1, HSG9A and HSG10.

Annex A of Planning Policy Statement 7: Sustainable Development in Rural Areas makes it clear that isolated new homes in the countryside require special justification for planning permission to be granted. Further advice provided in PPS7 states planning permission for a new dwelling in the countryside will only be acceptable where it is required in association with agriculture or a rural based industry. Such a dwelling must relate to an enterprise which is permitted in that rural location and should satisfy the same 'functional' and 'financial' tests that apply to an application for an agricultural workers dwellings.

Notwithstanding these tests, PPS7 and saved policy HSG10 of the North Devon Local Plan state that planning permission will only be granted for temporary accommodation in the open countryside where there is clear evidence of a functional need. For example, where it is essential for the proper functioning of the enterprise for a worker to be readily available at most times, day and night. Additionally, a financial test has to be met whereby the enterprise has to be planned on a sound financial basis and there is a firm intention and ability to develop the business.

PPS7 advises a dwelling in the open countryside is only justified where it has been proven there is essential care needed, for example, to animals at short notice or to deal with emergencies that otherwise could cause serious loss of crops or products. It is not considered that there any site security issues that would warrant full time residential supervision.

The mobile home is located where it is remote from adequate services, employment, education, public transport etc., and residential occupation would therefore increase the need for journeys to be made by private vehicles, which is non-sustainable and in conflict with the advice given in PPG 13.

The site is approximately 12km from Tiverton and 17km from South Molton, which are the main urban areas providing opportunities for shopping, leisure and employment. The village of Rackenford, which has a Primary School, small shop and church is approximately 3km from the site. There is no regular bus service in the vicinity of the site. Annex A of RPG (10) provides guidance on maximum walking distances within which facilities are considered to be within reasonable walking distance of a development. The guidance also states that "All walking routes must be safe, i.e. provided with footways and crossing facilities where necessary and lit at night." For residential development the maximum distance to a food shop and primary school is 600m and to a bus stop 400m. The mobile home is beyond the maximum recommended walking distance to these facilities and most of the route between the site and these facilities is along unlit roads that due to their nature are unsuitable for walking and cycling.

Policies TR2 and TR5 of the Devon Structure Plan seek to reduce the need to travel and optimise the most sustainable forms of travel. The site of is divorced from the facilities that permanent residential occupants of the mobile home are likely to require. For example, Schools, Health Facilities, Shops, and Leisure facilities. It is not considered to be highly accessible by Walking, Cycling or by Public Transport contrary to Policies TR2 and TR5 of the Devon Structure Plan. Accordingly a dependency on the private motor car is likely to ensue, contrary to the advice contained within PPG13.

The Local Planning Authority considers that the unauthorised change of use of the land has occurred within the last 10 years and that the above reasons for issuing this Notice cannot be overcome by the use of Planning Conditions.

5. WHEN YOU ARE REQUIRED TO ACT

The Council requires that the steps specified in paragraph 6 below be undertaken within six months from the date when this notices takes effect.

6. WHAT YOU ARE REQUIRED TO DO

1. Cease the residential occupation of the land edged red on the attached Location Plan.
2. Remove the mobile home edged blue from the land edged red on the attached Location Plan.
3. Remove all personal belongings and other property not required for agricultural purposes contained in the agricultural building edged green from the land edged red on the attached Location Plan.
4. Remove all rubbish resulting from taking steps 1, 2 and 3 above from the land edged red on the attached Location Plan.

7. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 28 February 2011 ("the effective date") unless an appeal is made against it beforehand.

Dated: 27 January 2011

Signed:
Legal Services Manager

On behalf of: North Devon District Council,
Civic Centre,
Barnstaple, Devon,
EX31 1EA.

GUIDANCE NOTES FOR YOUR INFORMATION

YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Secretary of State before the effective date. The attached Planning Inspectorate Guidance Sheet provides details of where you obtain further information on the appeal process. Read it carefully.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this Enforcement Notice, it will take effect on the effective date and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period[s] specified in the notice. Failure to comply with an Enforcement Notice, which has taken effect, can result in prosecution and/or remedial action by the Council.



Civic Centre, Barnstaple.
EX31 1EA

Location Plan

ENF 6983 - Land at New Building, Tidderson Lane, Rackenford, EX16 8DN

SCALE: 1:1250

COPY SUPPLIED TO:

Planning & Development Services DATE 10th September 2010

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