



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 at Quiet Waters, High Moor, Atherington, Umberleigh, EX37 9HZ as shown edged red on the enclosed Plans 1 and 2.

("the Land")

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

Unauthorised Change of Use of the Land under Section 171B(2) of the Act consisting of the change of use of an Agricultural Building to a mixed use of agricultural and use as a Single Dwellinghouse within the last 4 years.

4. **REASONS FOR ISSUING THIS NOTICE**

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

The site is within the open countryside where development is strictly controlled in the interest of protecting the intrinsic beauty and character of the landscape and on the grounds of sustainability. The agricultural building constructed in January 2007 has been occupied as a separate permanent residential dwelling since August 2007. This unauthorised creation of a dwellinghouse in this location is contrary to Planning Policy Statement 7: Sustainable Development in Rural Areas, Devon Structure Plan Policies ST1 and ST16 and North Devon Local Plan Policies DVS1A, ENV1, ECN5 and HSG9.

Annex A of Planning Policy Statement 7: Sustainable Development in Rural Areas makes it clear that isolated new dwellings in the countryside requires special justification for planning permission to be granted. Further advice provided in PPS7 and Planning Policy HSG9 of the North Devon Local Plan (relating to permanent dwellings in the countryside) states that planning permission will only be granted if the following criteria has been met:

- i) There is a clear established existing functional need, for example, where it is essential for a full-time agricultural worker to be readily available at most times, day or night.
- ii) The unit and the agricultural activity concerned have been established for at least three years, having been profitable for at least one of them, are currently financially sound and have a clear prospect of remaining so.

The appellant's agricultural enterprise was established in 2007 and therefore does not meet the financial tests of PPS7 and Planning Policy HSG9, to justify a permanent dwellinghouse, in that the agricultural activity has not been established for the minimum time period of three years and has been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so.

Planning permission was refused for permanent agricultural workers dwelling in July 2007. This planning refusal was appealed and a Planning Inquiry was held in July 2008. The Inspector dismissed the appeal and concluded that the agricultural business had been established relatively recently and therefore planning consent should only be considered for a temporary structure and only for a temporary period in line with the requirements of PPS7.

Planning permission was granted for the siting of a temporary agricultural workers mobile home, in March 2009 for a three-year period. At the end of this three period it will be for the Local Planning Authority to re-assess the functional need and economic justification for a permanent agricultural dwelling to serve the farm holding.

As stated above a permanent agricultural dwelling either in the form of a conversion or a new build is contrary to PPS7 and Planning Policy ECN5 and HSG9, in that the financial tests to demonstrate the farming enterprise is economically viable have not been met. Temporary planning permission for the siting of a mobile home was approved 10 months ago, however, the appellant continues to occupy the agricultural building as a permanent residential dwelling. The merit of a permanent residential dwelling, to serve the holding have been previously considered by the Local Planning Authority and the Planning Inspectorate and both parties have concluded any form of permanent development is premature for this agricultural enterprise and is contrary to PPS7 and Planning Policy HSG9 of the North Devon Local Plan.

The building was constructed in 2007 under Part 6 of the Town & Country Planning (General Permitted Development) Order 1995. The pre-requisites of Part 6 of the General Permitted Development Order is that the land must be in use for agricultural for 'Permitted Development' rights to apply and the building itself must be used for agricultural purposes

The majority of the agricultural building is not being used for agricultural purposes. The building is two storeys high, with an integral wooden staircase installed and the floor layout includes internal walls and doors akin to a dwellinghouse. The first floor of the building consists of 3 rooms which has been subdivided by partition walls, in a domestic manner. One of the rooms is being used as a sitting room, dining room and bedroom accommodation. This room contains a log fire, radiators and electric sockets. Another room to the first floor, again subdivided by partition walls, is being used as an office area. The remaining space to the first storey is used to store domestic items. The ground floor contains a kitchen and bathroom facility, this is being used for domestic purposes in connection with the first storey domestic accommodation. The owner has confirmed the kitchen is also being used in conjunction with agricultural purposes, for washing, cleaning and preparing of the produce reared from the farm holding.

The building made up of two storeys with a wooden integral staircase and partitioned walls has a distinctively domestic appearance. The whole of the first storey is being used for domestic accommodation/storage and office accommodation. The appearance of these first storey suggest this building has not been designed or used for agricultural purposes. The functionality of the first storey would be restricted because of its design, in respect to the integral stair case and partitioned walls, and finish to be used for agricultural storage purposes. This building, particularly with regard to the first floor, is not designed to meet its agricultural purposes in a functional manner.

In that the building has never been used for the purposes it was erected for under Part 6 of the Town & Country Planning (General Permitted Development) Order 1995, for agricultural purposes, these rights do not exist and formal planning permission is required for this building.

The Local Planning Authority considers that the unauthorised change of use of the land has occurred within the last 4 years and that the above reasons for issuing this Notice cannot be overcome by the use of Planning Conditions. It is therefore expedient to cease the permanent residential use of this agricultural building.

5. WHEN YOU ARE REQUIRED TO ACT

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

6. WHAT YOU ARE REQUIRED TO DO

1. Cease the residential use of the building edged blue contained within the land edged red on the attached plans numbered 1 and 2.
2. Remove any domestic paraphernalia relating to this residential use not required for an agricultural purpose from the building edged blue contained within the land edged red on the attached plans numbered 1 and 2.

7. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 21 June 2010 ("the effective date") unless an appeal is made against it beforehand.

Dated: 20 May 2010

Signed:
[Redacted Signature]

Legal Services Manager

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

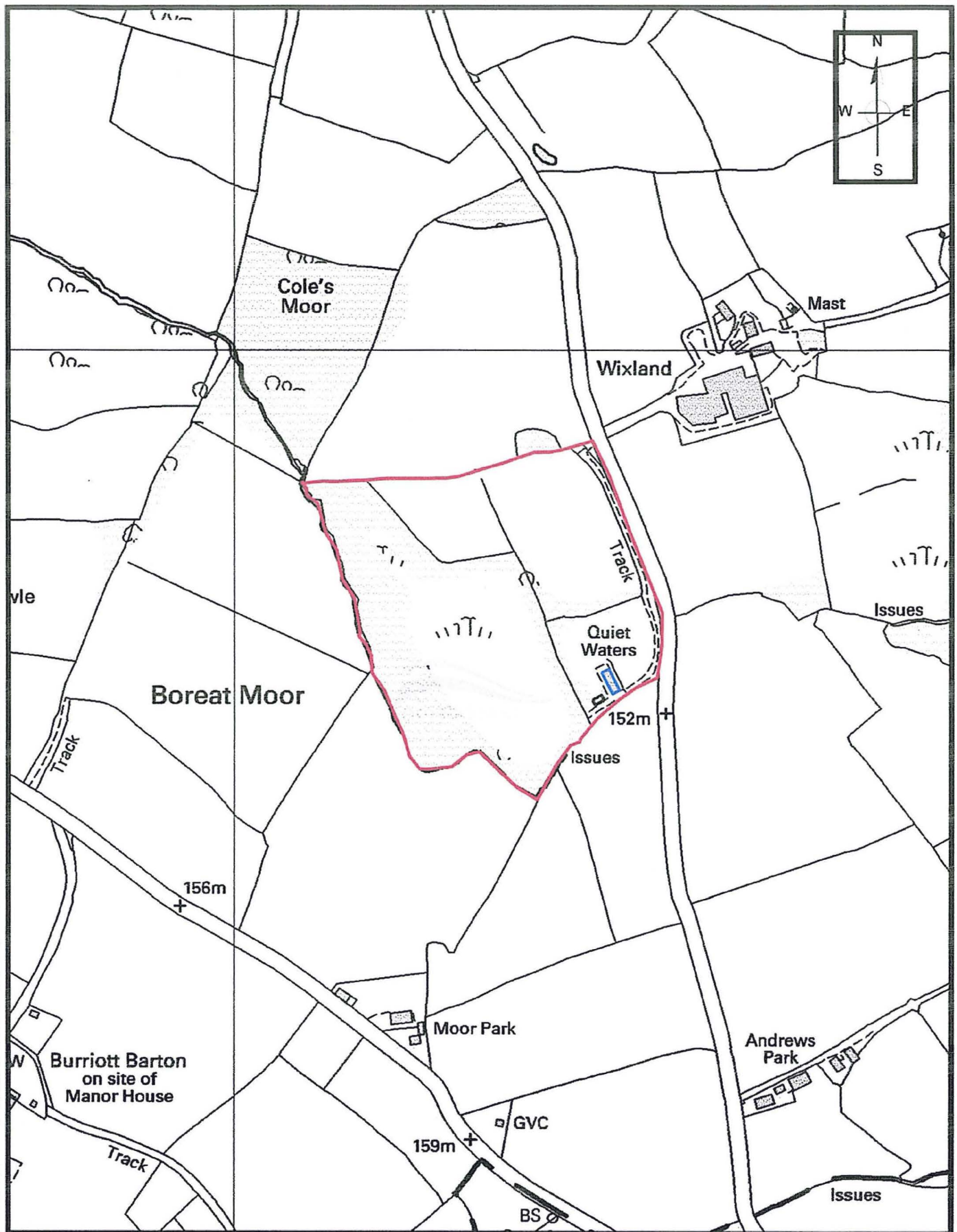
GUIDANCE NOTES FOR YOUR INFORMATION

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 enclosed booklet "Enforcement Appeals - A Guide to Procedure" sets out your rights. Read it carefully. You may use the enclosed appeal forms. One is for you to send to the Secretary of State if you decide to appeal. The other is for you to keep as a duplicate for your own records. You should also send the Secretary of State the spare copy of this Enforcement Notice, which is enclosed.

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.



Plan 1

Quiet Waters, High Moor, Atherington EX37 9HZ Enforcement 6807



Civic Centre, Barnstaple.
EX31 1EA

SCALE: 1:5000

COPY SUPPLIED TO:

Planning & Development Service: DATE 10th March 2010

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Civic Centre, Barnstaple.
EX31 1EA

Plan 2

Quiet Waters Enforcement 6807 showing direction of photographs

SCALE: 1:2500

COPY SUPPLIED TO:

Planning & Development Service DATE 10th March 2010

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