



IMPORTANT

THIS COMMUNICATION AFFECTS YOUR PROPERTY

ENFORCEMENT NOTICE

OPERATIONAL DEVELOPMENT

**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**

1 -2 Shipping Chambers, The Quay, Ilfracombe, EX34 9EQ (HM Land Registry Number DN380078) as shown edged red on the enclosed Location Plan.

("The Land")

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

Unauthorised Development under Section 171B(1) of the Act consisting of the erection of fencing to facilitate the use of the flat roof of the property as a roof garden within the last 4 years without planning permission.

4. **REASONS FOR ISSUING THIS NOTICE**

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

The Local Planning Authority is of the opinion that planning permission is required for the erection of fencing to facilitate the use of the flat roof of the property as a roof garden. There are two main concerns: -

1. The impact of overlooking (and loss of privacy) from the roof garden.
2. The impact of the fencing enclosing the roof garden.

It is recognised that in an urban environment properties seldom enjoy complete privacy. There is however a material difference in the angle and degree of overlooking that occurs from the flat roof of the building when used as a roof garden than would occur when the roof was not so used.

The General Permitted Development (Amendment) (No.2) 2008 came into effect on 1st October 2008. Permission is specifically excluded in Class A of the Order "if the development consists of or includes the construction or provision of a veranda, balcony or raised platform". It is understood that (in formulating the revised Order) "the terraces/decking and balconies with clear lines of sight into neighbours' gardens and habitable rooms can also affect privacy". Hence, the specific exclusion from the being permitted development.

In this instance, the roof overlooks neighbouring properties to the north of the property and has an impact on the amenities of the area. In the opinion of the Local Planning Authority, the erection of fencing to facilitate the use of the flat roof of the property as a roof garden is not accordance with Policy DVS1 and DVS3 of the adopted North Devon Local Plan and Policy CO6 of the Devon Structure Plan by reason of visual impact, overlooking and the quality of the development.

In addition, as the site lies a Conservation Area, Policy ENV16 of the Local Plan and Policy CO7 of the Structure Plan are also applicable.

It is recognised that the erection of fencing to facilitate the use of the flat roof of the property as a roof garden is not fully visible from the road below. However, it is required that Local Planning Authorities give due consideration to development proposals within Conservation Areas. In the absence of a planning application, the Local Planning Authority is unable to impose planning conditions (i.e. should it be considered the height; position of terrace structures and plants is appropriate). In addition, there remains the overlooking issue.

In the opinion of the Local Planning Authority, the erection of fencing to facilitate the use of the flat roof of the property as a roof garden is contrary to the development plan by reason of overlooking and loss of privacy from the roof garden and the impact of the screen fencing that encloses the roof garden.

The Local Planning Authority considers that the Operational Development 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.

5. WHEN YOU ARE REQUIRED TO ACT

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

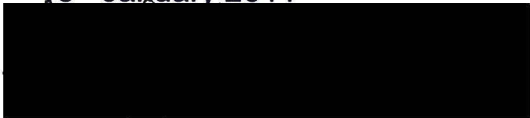
6. WHAT YOU ARE REQUIRED TO DO

1. Remove the fence from the flat roof of the building where so ever placed or fixed.

7. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 14th February 2011 ("the effective date") unless an appeal is made against it beforehand.

Dated: 13th January 2011

Signed:


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

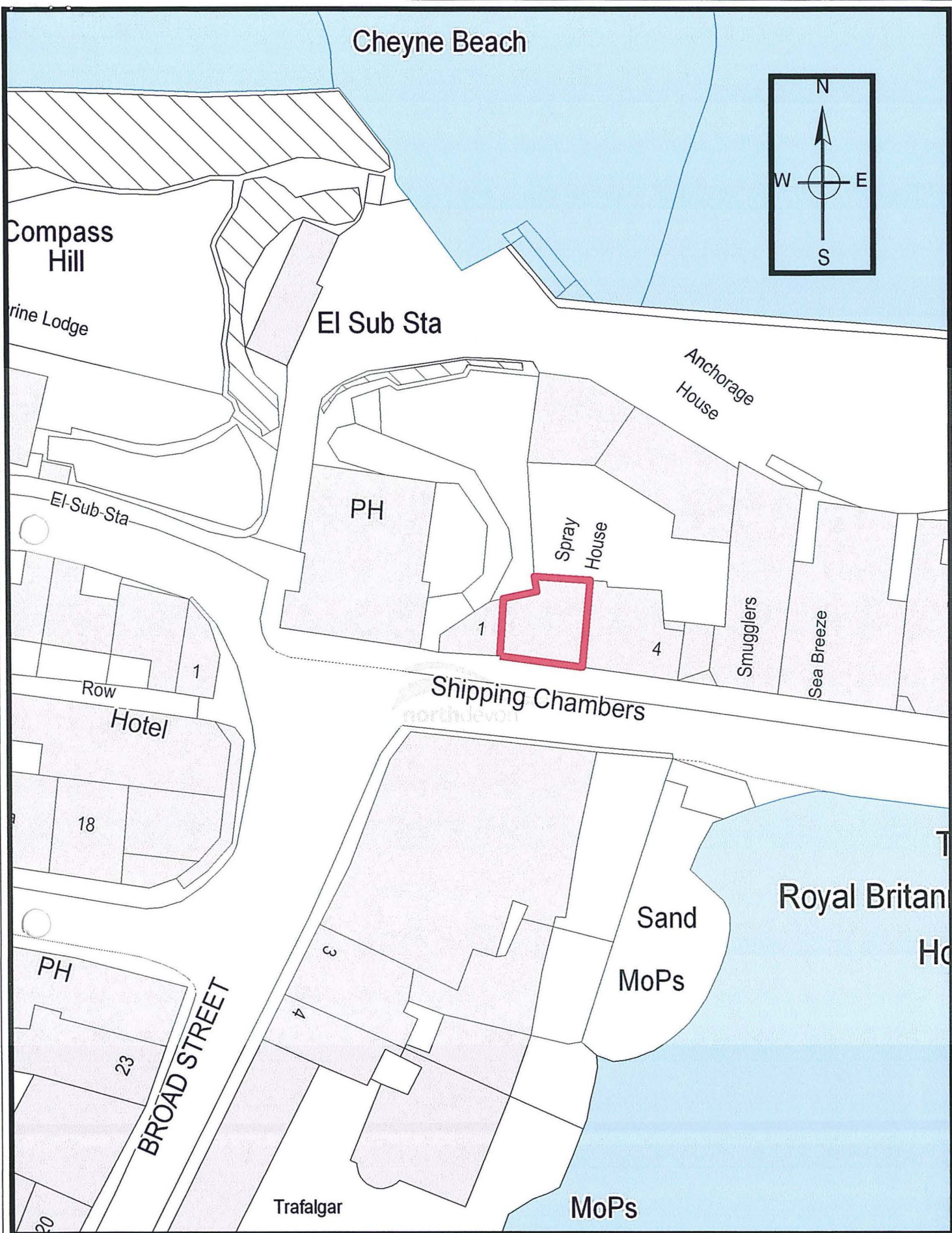
GUIDANCE NOTES FOR YOUR INFORMATION

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.



Location Plan

Plan to accompany Enforcement Notice 6863



Civic Centre, Barnstaple.
EX31 1EA

SCALE: 1:500

COPY SUPPLIED TO:

Planning Unit

DATE 13th April 2010

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