



**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 consider it expedient to issue this notice, having regard to the provisions of the development plan and to other material considerations.

2.     **THE LAND AFFECTED** (shown edged red on Plan 1 attached)

St Agnes, Quayfield Road, Ilfracombe, North Devon, EX34 9EN

(“the land”)

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

The unauthorised operational development consisting of the erection of steel railings around the roof area without planning permission in the last four years.

4.     **REASONS FOR ISSUING THIS NOTICE**

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

St Agnes was a hotel that has been converted into 2 flats and therefore does not benefit from Permitted Development Rights under the Town and Country Planning (General Permitted Development) Order 1995 by virtue of the definition of Dwellinghouse in Article 1(2) which states that it does not include a building containing one or more flats, or a flat contained within such a building.

The railings are not required or necessary as the roof is not an area designated as a patio or balcony but is a flat roof that has been enclosed by railings. The railings are only needed if the roof is used for amenity use. It is evident that the railings have been installed for safety reasons. This is to enclose the flat roof as the area is being used as an amenity area by the occupants of the ground floor flat. However no planning permission has been granted to use the roof as an outside sitting/amenity area.

The Unauthorised Development consisting of the erection of the steel railings around the roof area is contrary to policies DVS1, DVS3 and ENV16 of the North Devon Local Plan 1995 to 2011 (adopted July 2006).

Policy DVS1: Design, relates to the form, siting and character of development. It is considered by the Local Planning Authority that the railings are alien to the appearance of the overall form and character of the building. Although not a listed building, St Agnes has a distinctive quality with its mansard roof, bay windows and flat-roofed dormer windows. The adjacent building (“Bennicks”) is of a similar form and appearance.

Policy DVS3: Amenity Considerations, is applicable where development could harm the amenities of neighbours. In this respect, it is considered that material overlooking from the roof occurs, resulting in loss of privacy to occupiers of adjacent properties.

Policy ENV16 : Development in Conservation Areas is relevant as the building is within a designated Conservation Area and lies in a particularly prominent and elevated position overlooking the Harbour. It is not considered the railings enhance the character or appearance of this part of the Conservation Area. The elevated position of the building (directly above the Harbour itself) adds to the prominence of St Agnes from most viewpoints.

The Unauthorised Development is also contrary to policies CO6: Quality of New Development and CO7: Historic Settlements and Buildings, of the Devon Structure Plan (2001 to 2016) .

The Local Planning Authority considers that the Unauthorised Operational Development has occurred within the last four years and that the above reasons for issuing the notice cannot be overcome by the use of planning conditions.



**5. WHEN YOU ARE REQUIRED TO ACT**

The Council require that the steps specified in paragraph 6 be undertaken within the period of 3 months from the date when this notice takes effect.

**6. WHAT YOU ARE REQUIRED TO DO**

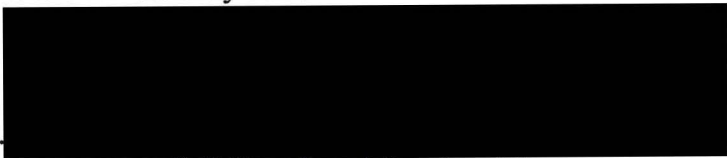
1. Permanently remove the railings from the existing roof wheresoever stored, placed or fixed.
2. Clear away any debris resulting from the actions taken in step 1 above.

**7. WHEN THIS NOTICE TAKES EFFECT**

This Notice takes effect on 15<sup>th</sup> February 2010 ("the effective date")\* unless an appeal is made against it beforehand.

Dated : 14<sup>th</sup> January 2010

Signed :

  
Solicitor, Legal Services Manager

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

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\* specific date, not less than 28 clear days after date of service

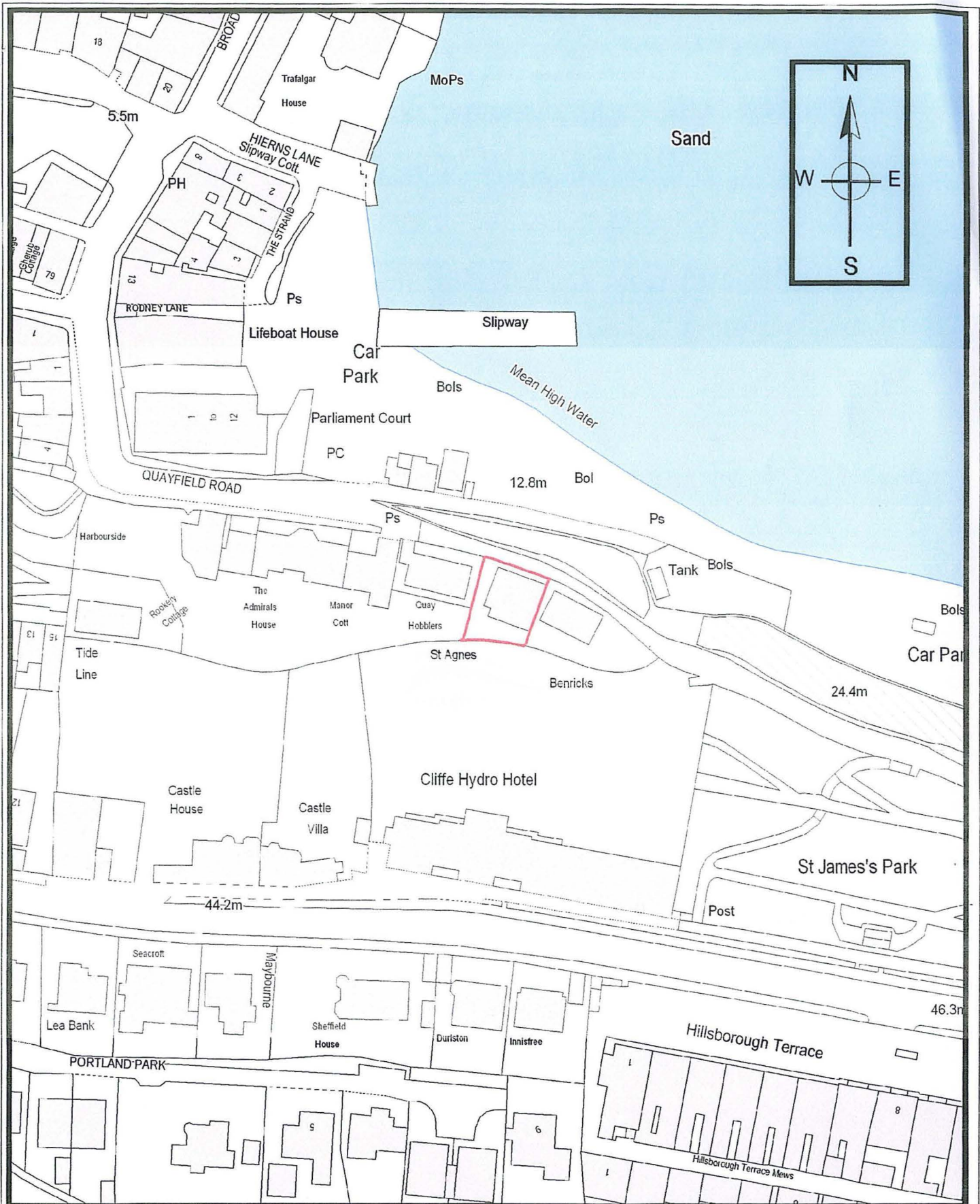
## **GUIDANCE NOTES FOR YOUR INFORMATION**

### **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 sheet provides details of where you obtain further information on the appeal process.**

### **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 ENF 5843



Civic Centre, Barnstaple.  
EX31 1EA

SCALE: 1:1000

COPY SUPPLIED TO:

Planning Unit

DATE 14th September 2009

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