

**IMPORTANT:— THIS COMMUNICATION AFFECTS YOUR PROPERTY**

(a)

NORTH DEVON DISTRICT

Council

**TOWN AND COUNTRY PLANNING ACT 1971**  
**(as amended)**

**Enforcement Notice**  
**Material Change of Use**

(b) 14 BARBICAN TERRACE, BARNSTAPLE, DEVON

**WHEREAS:**

(1) It appears to the<sup>(a)</sup> North Devon District 172 Council ("the Council"), being the local planning authority for the purposes of section 87 of the Town and Country Planning Act 1971 ("the Act") in this matter, that there has been a breach of planning control after the end of 1963<sup>(c)</sup>

on the land or premises ("the land") described in Schedule 1 below.

(2) The breach of planning control which appears to have taken place consists in the carrying out of development by the making of the material change in the use of the land described in Schedule 2 below, without the grant of planning permission required for that development.

(3) The Council consider it expedient, having regard to the provisions of the development plan and to all other material considerations, to issue this enforcement notice, in exercise of their powers contained in the said section 87, for the reasons set out in [the annex to] this notice.<sup>(d)</sup>

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**NOTICE IS HEREBY GIVEN** that the Council require that the steps specified in Schedule 3 below be taken [in order to remedy the breach] <sup>(e)</sup>

within [the period of six [days] [months] from the date on which this notice takes effect] [the period specified in respect of each step in that schedule].<sup>(f)</sup>

**THIS NOTICE SHALL TAKE EFFECT**, subject to the provisions of section 88<sup>(g)</sup> of the Act, on 21st December 1990.<sup>(g)</sup>

Issued 9th November 1990.

Council's address —

Civic Centre,  
Barnstaple,  
Devon, EX31 1EA

(Signed) 

(Designation) Solicitor  
(The officer appointed for this purpose)

**CONTINUED OVERLEAF — P.T.O.**

**NOTES TO THE LOCAL PLANNING AUTHORITY**

- (a) Insert the name of the Council issuing the notice.
- (b) Insert the address or a description of the land to which the notice relates.
- (c) Where section 87(4)(c) of the Act applies insert "and within the period of 4 years before the date of issue of this notice."
- (d) See paragraph 29 of DOE Circular 38/81 (Welsh Office Circular 57/81).
- (e) Or, as the case may be, having regard to section 87(7)(a) and (b) of the Act. Where steps are required to be taken for more than one of the purposes provided for in section 87, the purpose for which each step is required should be specified in Schedule 3. Steps may be required as alternatives.
- (f) If a single period is to be specified, by which all the required steps must be taken, insert it here. But if a series of steps is required to be taken, with a different compliance period for each step, the appropriate period should be clearly stated against each step (in columns if more suitable) in Schedule 3.
- (g) The date selected must be not less than 28 clear days after all the copies of the notice will have been served (see section 87(5) of the Act).



- (b) may require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
  - (c) may specify the matters to be included in such a statement;
  - (d) may require the authority or the appellant to give such notice of appeal under this section as may be prescribed, being notice which in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated;
  - (e) may require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.
- (6) The Secretary of State—
- (a) may dismiss an appeal if the appellant fails to comply with subsection (4) of this section within the time prescribed by regulations under subsection (5); and
  - (b) may allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (b), (c) or (e) of subsection (5) of this section within the period prescribed by the regulations.
- (7) Subject to subsection (8) below, the Secretary of State shall, if either the appellant or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (8) The Secretary of State shall not be required to afford such an opportunity if he proposes to dismiss an appeal under paragraph (a) of subsection (6) of this section or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection.
- (9) If—
- (a) a statement under subsection (4) of this section specifies more than one ground on which the appellant is appealing against an enforcement notice; but
  - (b) the appellant does not give information required under paragraph (b) of that subsection to each of the specified grounds within the time prescribed by regulations under subsection (5) of this section,
- the Secretary of State may determine the appeal without considering any of the specified grounds as to which the appellant has failed to give such information within that time.
- (10) Where an appeal is brought under this section, the enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.
- (11) Schedule 9 to this Act applies to appeals under this section, including appeals under this section as applied by regulations under any other provision of this Act.
- 88A.**—(1) On the determination of an appeal under section 88 of this Act, the Secretary of State shall give directions for giving effect to the determination, including, where appropriate, directions for quashing the enforcement notice or for varying its terms.
- (2) On such an appeal the Secretary of State may correct any informality, defect or error in the enforcement notice, or give directions for varying its terms, if he is satisfied that the correction or variation can be made without injustice to the appellant or to the local planning authority.
- (3) Where it would otherwise be a ground for determining such an appeal in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.
- 88B.**—(1) On the determination of an appeal under section 88 of this Act, the Secretary of State may—
- (a) grant planning permission for the development to which the enforcement notice relates or for part of that development or for the development of part of the land to which the enforcement notice relates;
  - (b) discharge any condition or limitation subject to which planning permission was granted;
  - (c) determine any purpose for which the land may, in the circumstances obtaining at the time of the determination, be lawfully used having regard to any past use of it and to any planning permission relating to it.
- (2) In considering whether to grant planning permission under subsection (1) of this section, the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations; and any planning permission granted by him under that subsection may—
- (a) include permission to retain or complete any buildings or works on the land, or to do so without complying with some condition attached to a previous planning permission;
  - (b) be granted subject to such conditions as the Secretary of State thinks fit;
- and where under that subsection he discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.
- (3) Where an appeal against an enforcement notice is brought under section 88 of this Act, the appellant shall be deemed to have made an application for planning permission for the development to which the notice relates and, in relation to any exercise by the Secretary of State of his powers under subsection (1) of this section—
- (a) any planning permission granted under that subsection shall be treated as granted on that application;
  - (b) in relation to a grant of planning permission or a determination under that subsection, the Secretary of State's decision shall be final; and
  - (c) for the purposes of section 34 of this Act, the decision shall be treated as having been given by the Secretary of State in dealing with an application for planning permission made to the local planning authority.
- (4) On an appeal under section 88 of this Act against an enforcement notice relating to anything done in contravention of a condition to which section 71 of this Act applies, the Secretary of State shall not be required to entertain the appeal in so far as the appellant claims that planning permission free from that condition ought to be granted.
- Penalties for non-compliance with enforcement notice**
- 89.**—(1) Subject to the provisions of this section, where a copy of an enforcement notice has been served on the person who, at the time when the copy was served on him, was the owner of the land to which the notice relates, then, if any steps required by the notice to be taken (other than the discontinuance of a use of land) have not been taken within the period allowed for compliance with the notice, that person shall be liable on summary conviction to a fine not exceeding £2,000 or on conviction on indictment to a fine.
- (2) If a person against whom proceedings are brought under subsection (1) of this section has, at some time before the end of the period allowed for compliance with the notice, ceased to be the owner of the land, he shall, upon information duly laid by him, and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have the person who then became the owner of the land (in this section referred to as "the subsequent owner") brought before the court in the proceedings.
- (3) If, after it has been proved that any steps required by the enforcement notice have not been taken within the period allowed for compliance with the notice, the original defendant proves that the failure to take those steps were attributable, in whole or in part, to the default of the subsequent owner—
- (a) the subsequent owner may be convicted of the offence; and
  - (b) the original defendant, if he further proves that he took all reasonable steps to secure compliance with the enforcement notice, shall be acquitted of the offence.
- (4) If, after a person has been convicted under the preceding provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the enforcement notice, he shall be guilty of a further offence and liable—
- (a) on summary conviction to a fine not exceeding £200 for each day following his first conviction on which any of the requirements of the enforcement notice (other than the discontinuance of the use of land) remain unfulfilled; or
  - (b) on conviction on indictment to a fine.
- (5) Where, by virtue of an enforcement notice, a use of land is required to be discontinued, or any conditions or limitations are required to be complied with in respect of a use of land or in respect of the carrying out of operations thereon, then if any person uses the land or causes or permits it to be used, or carries out those operations or causes or permits them to be carried out, in contravention of the notice, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding £2,000, or on conviction on indictment to a fine; and if the use is continued after the conviction he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £200 for each day on which the use is so continued, or on conviction on indictment to a fine.
- (6) Any reference to this section to the period allowed for compliance with an enforcement notice is a reference to the period specified in the notice for compliance therewith of such extended period as the local planning authority may allow for compliance with the notice.

**Note.**—Attention is also directed to section 91 relating to the execution and costs of works required by enforcement notice, section 110 which contains supplementary provisions as to appeals to the Secretary of State and section 243 relating to the validity of Enforcement Notices.

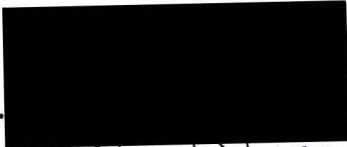


NORTH DEVON DISTRICT COUNCIL

ANNEXE TO AN ENFORCEMENT NOTICE 9th November 1990

1. On the 30th June 1989 information was received by the Local Planning Authority advising them that a breach of planning control has taken place at 14 Barbican Terrace, Barnstaple, Devon ("the premises").
2. An inspection of the premises was undertaken by an Enforcement Officer on the 11th July 1989 when it was observed that there had been a material change of use of the premises from single residential occupation to six separate units of accommodation.
3. Correspondence was entered into with Mr. R. Huxtable informing him that the conversion to the premises was unauthorised and that a planning application should be submitted. Mr. Huxtable indicated that he could establish that the property had been converted before 1964 and therefore would benefit from established use.
4. On 13th November 1989 application 11045 for an established use was submitted on behalf of Goodrich Properties Ltd. of which Mr. Huxtable is a Director. This application was refused on 24th April 1990 due to failure to submit sufficient information and accordingly on 31st May 1990 the Planning (Development Control) Committee authorised enforcement action to be taken.
5. Had a planning application been submitted it would have been refused for the following reasons:-
  - (a) The existing dwellinghouse is most suited to single family occupation and should be retained in such use. The proposed conversion with the consequent multiple occupation would be prejudicial to the amenities of the residential area in which it is situated.
  - (b) The proposal is contrary to the Local Planning Authority's adopted policy for houses in multiple occupation in that insufficient amenity curtilage, off street parking facilities are available to serve the number of units.
  - (c) The proposal would create an undesirable precedent for other properties to be sub-divided to the detrimental of the amenities and quiet enjoyment of the residential locality.
  - (d) The proposal would set a precedent for the conversion of single units of residential accommodation to multiple occupation in an area where the demand for off-street parking is already above capacity with consequent risk of additional danger to all users of the road.
  - (e) The proposed development does not make adequate provision for the parking of vehicles within the site and would therefore be likely to encourage parking on the highway, with consequent risk of additional danger to all users of the road and interference with the free flow of traffic.

6. For the above reasons the District Council consider it expedient to issue this Enforcement Notice.

Signed  .....

Dated 9th November 1990 .....

RF/MJS

RF/ENF/ANNEX

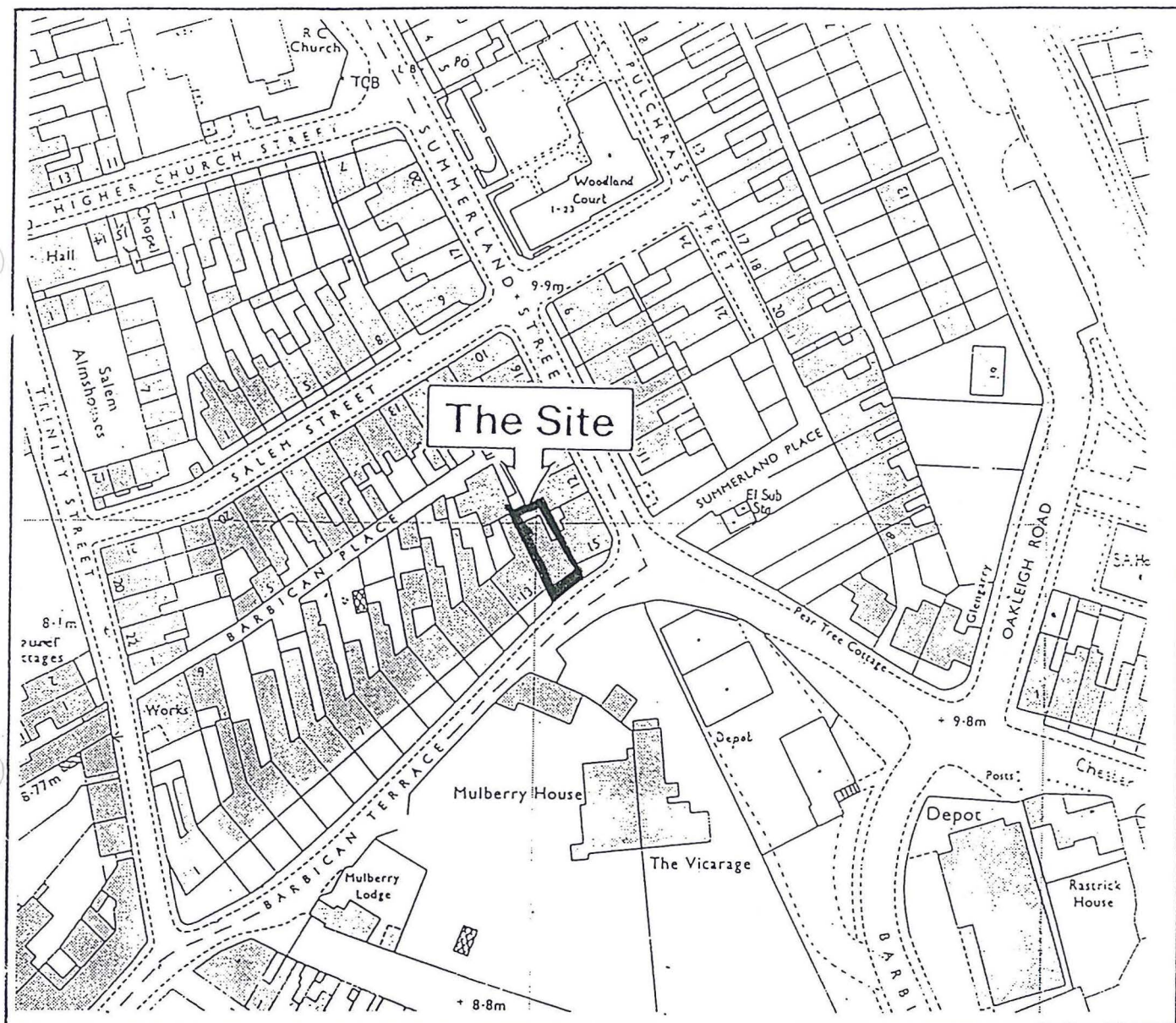




North Devon District Council  
Civic Centre, Barnstaple, Devon EX31 1EA

J. H. Martin Dip.T.P. M.R.T.P.I., Director of Planning.

## ENFORCEMENT NOTICE (PLANNING).



Unauthorised Flats/Bedsits,

**14, Barbican Terrace, Barnstaple.**

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O.S. Plan No: SS. 5632 SW

Drawn: S.M.T.

Scale: 1/1250

Date: June 1990



