



**IMPORTANT**

**THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**ENFORCEMENT NOTICE**

**OPERATIONAL DEVELOPMENT**

**Land at 1 Bydown Cottages Swimbridge Barnstaple  
Devon EX32 0QD  
HM Land Registry title number DN431284**

**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")**

Enforcement reference number: 10905

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 171(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 1 Bydown Cottages Swimbridge Barnstaple Devon EX32 0QD as shown edged red on the enclosed location plan.

("The Land")

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

Within the last 4 years unauthorised operational development consisting of the erection of a dwelling.

4. **REASONS FOR ISSUING THIS NOTICE**

This Enforcement Notice has been issued to remedy the alleged breach of planning control. The Council considers it expedient to issue this notice for the following reasons:

The level of development required to create this holiday unit goes beyond a conversion or reuse of an existing building as it involves the demolition of an existing domestic garden building and the erection of a larger new build holiday unit in a countryside location. An existing building has not been converted or reused and the development is not directly related to an existing tourism accommodation or leisure attraction. The development includes all the facilities necessary to constitute a dwelling and is contrary to policies ST07 and DM18 (2) of the North Devon and Torridge Local Plan.

The location of the development is unsuitable and contrary to the aims of the National Planning Policy Framework and Planning Policy ST13 of the North Devon and Torridge Local Plan. The Framework aims to guide development to sustainable locations and reduce the need to travel and facilitate sustainable modes of transport. The site is remotely located from cafes, restaurants and shops which tourists may need. The nearest centre to the development with a wide range of tourist facilities is Barnstaple which is three miles away to the east.

The above reasons were supported by The Planning Inspectorate on 26 June 2019 when dismissing the appeal (APP/X1118/W/19/3223133) to refuse to grant planning permission under application 65913.

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

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

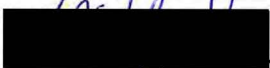
**6. WHAT YOU ARE REQUIRED TO DO**

1. Remove the kitchen (including all units, sink, taps and cooking facilities) from the garden building within the land outlined in red on the attached location plan
2. Remove all washing and toilet facilities (including bath/shower, taps, toilet and foul drainage) from the garden building within the land outlined in red on the attached location plan
3. Cease the use of the garden building within the land outlined in red on the attached location plan as a separate unit of accommodation

**7. WHEN THIS NOTICE TAKES EFFECT**

This Notice takes effect on 29 September 2019 unless an appeal is made against it beforehand.

Dated: 29 August 2019

Signed:  .....  
Head of Place

On behalf of: North Devon District Council  
Lynton House  
Commercial Road  
Barnstaple  
Devon  
EX31 1DG

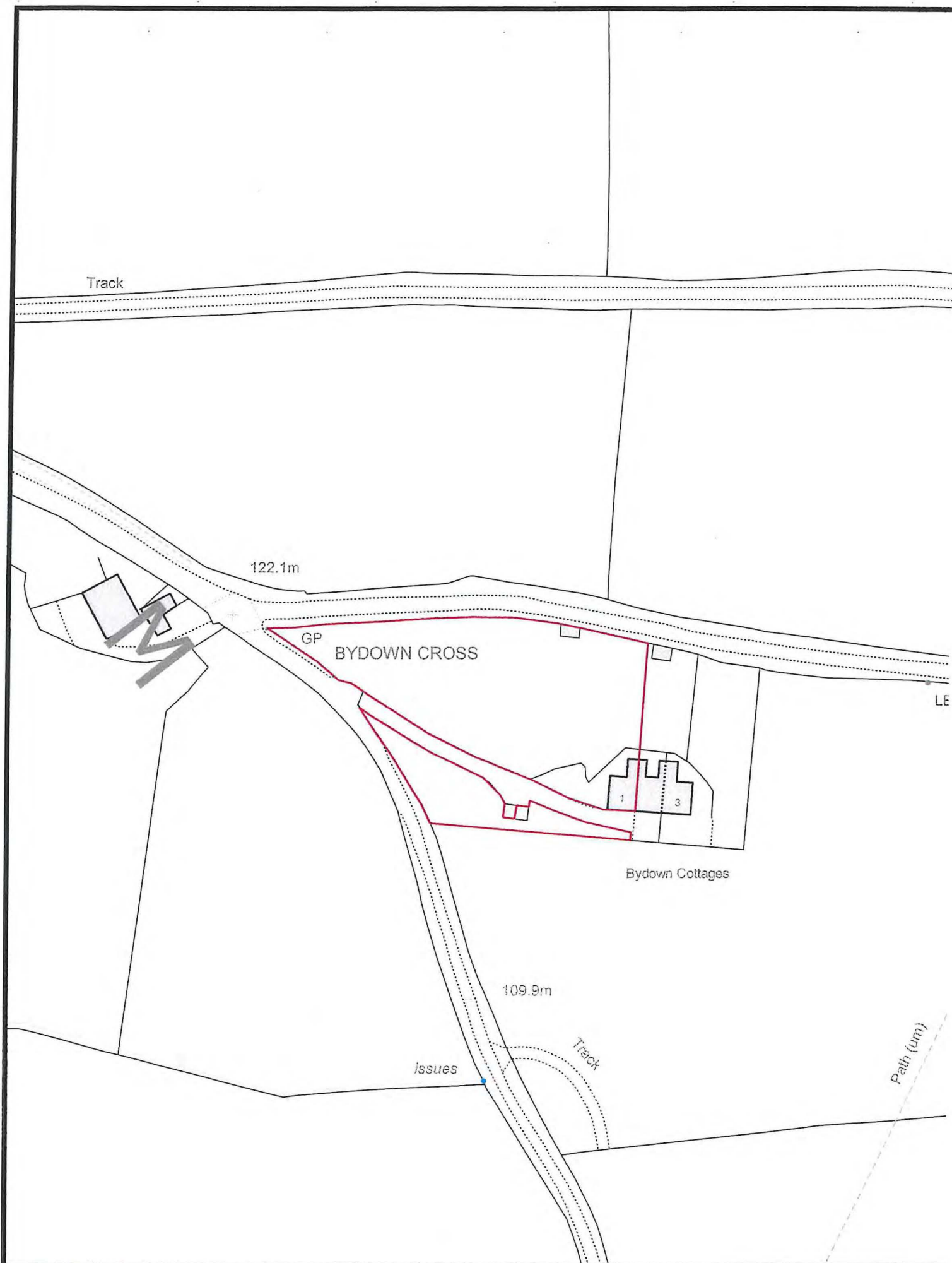
## **GUIDANCE NOTES FOR YOUR INFORMATION**

### **THE 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 can obtain further information on the appeal process. Read it carefully. Please note that the fee payable for a Ground A appeal is £924.00 (2 x £462.00).

### **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.





**TOWN AND COUNTRY PLANNING ACT 1990  
REFUSAL PERMISSION FOR DEVELOPMENT**

EJFP PLANNING LTD  
49 BANNAWELL STREET  
TAVISTOCK  
PL190DP

**APPLICATION No: 65913**

**DATE REGISTERED: 06-DEC-18  
DECISION DATE: 29-JAN-19**

The North Devon District Council in pursuance of powers under the above mentioned Act hereby refuse to grant planning permission for

**RETROSPECTIVE APPLICATION FOR DEMOLITION OF SHED BUILDING &  
ERECTION OF HOLIDAY UNIT, WIDENING OF A VEHICLE ACCESS AND  
INSTALLATION OF A STONE TRACK (AMENDED DESCRIPTION). AT 1 BYDOWN  
COTTAGES SWIMBRIDGE BARNSTAPLE**

For the following reasons:

1. The level of development required to create this new holiday unit goes beyond a conversion or re-use of an existing building as it involves the demolition of an existing domestic shed/summer house and the erection of a larger new build holiday unit in a countryside location. The proposal is therefore contrary to Policies ST07 and DM18 (2) of the North Devon and Torridge Local Plan given its location in the open countryside where it does not convert or reuse an existing building and is not directly related to existing tourism accommodation or leisure attraction.
2. The development does not make adequate provision for parking and segregated turning of vehicles within the site and will be likely to result in vehicles reversing onto or manoeuvring onto the highway, with consequent risk of additional danger to all users of the road and interference with the free flow of traffic. The proposal is therefore contrary to Policies DM05 and DM06 of the North Devon and Torridge Local Plan.
3. The county road providing access to the site, by reason of there inadequate width, gradient and lack of footway/grass verge provision, are unsuitable to accommodate the increase in traffic likely to be generated by this development. The proposed is therefore contrary to Policy DM05 of the North Devon and Torridge Local Plan.
4. The location of the proposed holiday letting accommodation is unsustainable contrary to the aims of the National Planning Policy Framework and Planning Policy ST13 of the North Devon and Torridge Local Plan. The Framework aims to guide

development to sustainable locations and reduce the need to travel and facilitate sustainable modes of transport. The site is remotely located from cafes, restaurants and shops which tourists might need, with the nearest centre with a wide range of tourist facilities being Barnstaple, 3 miles away to the east.

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council works in a positive and pro-active way with Applicants and looks for solutions to enable the grant of planning permission. This has included identifying issues raised through the consultation process. However in this case the proposal is not sustainable development for the reasons set out and the Council was unable to identify a way of securing a development that improves the economic, social and environmental conditions of the area.

INFORMATIVE NOTE: -  
POLICIES AND PROPOSALS RELEVANT TO THE DECISION

Development Plan  
North Devon and Torridge Local Plan 2018: -

ST01: Principles of Sustainable Development;  
ST04: Improving the Quality of Development;  
ST07: Spatial Development Strategy for Northern Devon's Rural Area;  
ST11: Delivering Employment and Economic Development;  
ST13: Sustainable Tourism;  
ST14: Enhancing Environmental Assets;  
DM01: Amenity Considerations;  
DM02: Environmental Protection;  
DM04: Design Principles;  
DM05: Highways;  
DM06: Parking Provision;  
DM08: Biodiversity and Geodiversity;  
DM18: Tourism Accommodation.

End of Decision.

**Please remove any site notice relating to this application from your property as the decision has now been made.**



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## Appeal Decision

Site visit made on 13 May 2019

**by Andrew Tucker BA (Hons) IHBC**

an Inspector appointed by the Secretary of State

**Decision date: 26 June 2019**

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**Appeal Ref: APP/X1118/W/19/3223133**

**1 Bydown Cottages, Road from Bydown Cross to Kerscott, Swimbridge  
EX32 0QD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs N Eveleigh against the decision of North Devon District Council.
  - The application Ref 65913, dated 27 November 2018, was refused by notice dated 29 January 2019.
  - The development proposed is described as 'retrospective application for demolition of shed building & erection of holiday unit, widening of a vehicle access and installation of a stone track'.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The description of development was changed during the course of the application, prior to the Council's determination. I have used the amended description, as it better describes the development than the appellant's initial description.
3. The development has already been carried out.

### Main Issues

4. The main issues are:
  - (a) whether the development provides a suitable location for a holiday unit, with regard to development plan policies, and
  - (b) the effect of the proposal on highway safety.

### Reasons

#### *Location*

5. The holiday unit is located in a rural area, within the large garden of an existing dwelling. Although the nearby settlement of Swimbridge is identified as a Schedule B Village in Policy ST07 of the North Devon and Torridge Local Plan 2011-2031 adopted 2018 (NDTLP), the holiday unit is located in a countryside location beyond the settlement, in an area where development is restricted.



6. Policy ST13 of the NDTLP and paragraph 83 of the National Planning Policy Framework (the Framework) offers in principle support to sustainable tourism. However, in the context of the Spatial Development Strategy set out in Policy ST07, the countryside location of the holiday unit would generally be considered unsustainable. Although it is not far from some services in Swimbridge, and from here access via public transport can be obtained to larger settlements such as Barnstaple, walking or cycling along this route would be unlikely to be an attractive option to most guests as it would involve navigating small lanes that are narrow, steep in places, unlit and without footways or grass verges. The appellants also refer to the site's proximity to the settlement of South Molton, and its range of local services. However, I have no evidence to suggest that this settlement would be easier to access than Barnstaple. As such, I consider it most likely that guests would be reliant on a car to meet their day to day needs.
7. Part (2) of Policy DM18 of the NDTLP states that new tourist accommodation in a rural area would be supported where it satisfies certain criteria. Only one of the first three criteria of the Policy need be satisfied to make the development acceptable, subject to the requirements of subsequent criteria (d) – (h).
8. The principle dwelling at the site is not used for tourism and neither was the former building that the holiday let replaced. Therefore, in terms of (2) (a), the holiday unit is not related to an existing tourism, visitor or leisure attraction.
9. Although I accept that the holiday unit has replaced a building of a similar size in the same location, the replacement building does not constitute the reuse or conversion of an existing building. One was demolished in its entirety before the other was built, which cannot be considered tantamount to a conversion. Alternative scenarios put forward by the appellants are not part of the proposal before me, and I must consider the proposal on its own merits. Therefore, in the context of (2) (b) of Policy DM18 of the NDTLP the proposal would also fail.
10. I note the evidence provided in relation to the need for high quality small holiday accommodation in the area, however part (2) (c) of the same Policy is again worded in a way that relates to existing tourist accommodation. It has already been established that such accommodation did not previously exist at the site, therefore this criterion is also not satisfied.
11. Notwithstanding the above, I am satisfied that the scale and character of the proposal is acceptable in the context of existing built form and landscape character, and that the local road network can accommodate a modest increase in vehicle movements that would arise from the occupation of the small holiday unit without harm to highway safety. However, these matters do not override the failure of the proposal to satisfy any of the principle criteria associated with part (2) of Policy DM18.
12. In support of the proposal the appellants have referred to a range of local services and businesses that would benefit from the holiday unit. I accept that there would be some economic benefit arising from tourists residing at the site and I note that tourism is a significant part of the local economy. However, the unit is small, which would limit the contribution it makes to the local economy, and in any case this matter alone does not carry sufficient weight to override the harm I have found in relation to the proposal's countryside location.

13. Therefore, I conclude that the proposal would not be suitably located for a holiday unit, and would be contrary to Policies ST07, ST13, DM06 and DM18 of the NDTLP, and the Framework, which together seek to ensure that development proposals are suitably located for sustainable tourism.

*Highway safety*

14. A level area has been formed to the west of the holiday unit for car parking. The space is fairly generous but does not easily allow for a vehicle to be manoeuvred and driven off the site in a forward gear. However, I am not convinced that this would be unsafe in this location as the adjacent lane appears to be a modest local access road that is unlikely to carry a significant volume of traffic. Furthermore, the access is reasonably close to a junction where traffic speed would be low.
15. Taking into account the very small size of the 1-bed holiday unit, the parking area would appear to be entirely adequate. Concern has also been raised about a section of hedge that has been removed to facilitate the parking area, however a photo produced by the appellants shows that gates and fences were in this location previously.
16. Additional traffic generated by the holiday unit would need to navigate the local road network to access the site. These roads are narrow and steep in places, however they currently serve a number of properties and do not appear to be so unsafe that the additional vehicle movements associated with a small holiday unit would have an adverse effect on the safe operation of this local road network.
17. Therefore, I am satisfied that the parking area does not harm highway safety, and accords with Policy DM05, which seeks to ensure that development proposals incorporate safe and well designed parking layouts.

**Other Matters**

18. Various comments have been submitted in support of the proposal. I agree that the wider area is well suited for tourism and have noted already that this is a significant part of the local economy. Photos produced by the appellants show that the previous building was of no design merit. I agree that the replacement building is of a high quality and offers some enhancement to the appearance of the site. However, these matters are of limited weight in the context of the proposal's clear conflict with policies relating to the location of new tourist accommodation.

**Conclusion**

19. Although I have found that the proposal would not harm highway safety, this is a neutral matter that is not sufficient to outweigh the conflict I have found with development plan policies in relation to the location of the holiday unit.
20. For the reasons above, the appeal is dismissed.

*Andrew Tucker*

INSPECTOR

Customer Support Team  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

Direct Line 0303-444 5000  
Email [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

## THIS IS IMPORTANT

If you want to appeal against this enforcement notice you can do it:-

- on-line at the Appeals Casework Portal (<https://acp.planninginspectorate.gov.uk/>); or
- sending us enforcement appeal forms, which can be obtained by contacting us on the details above.

**You MUST make sure that we RECEIVE your appeal BEFORE the effective date on the enforcement notice.**

Please read the appeal guidance documents at <https://www.gov.uk/appeal-enforcement-notice/how-to-appeal>.

In exceptional circumstances you may give written notice of appeal by letter or email. You should include the name and contact details of the appellant(s) and either attach a copy of the Enforcement notice that you wish to appeal or state the following:

- the name of the local planning authority;
- the site address; and
- the effective date of the enforcement notice.

We MUST receive this BEFORE the effective date on the enforcement notice. This should immediately be followed by your completed appeal forms.