



**IMPORTANT**

**THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**ENFORCEMENT NOTICE**

**unauthorised change of use**

**Deer Haven, Green Lane, Swimbridge,  
Barnstaple, Devon EX32 0FF  
HM Land Registry title number DN387223**

**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: 6827

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**

Deer Haven, Green Lane, Swimbridge, Barnstaple Devon EX32 0FF  
as shown edged red on the enclosed location plan.

(“The Land”)

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

Within the last 10 years unauthorised change of use consisting of the use of an agricultural building as a workshop for a marine engineering business (Use Class B2).

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:

On 06 August 2019 an appointed Inspector determined an appeal against the refusal of a planning application 65497 for the use of this building for a live work unit.

The Inspector dismissed the appeal on the grounds that the increase in traffic movements including trailers and large vehicles that arises from the unauthorised use results in the disruption of the free flow of traffic through the network of lanes which has an adverse impact on the functionality of the local highway network.

The use is therefore considered contrary to Policy DM14 of the adopted North Devon and Torridge Local Plan and Paragraph 110(d) of the NPPF. There are no other material considerations to outweigh this identified harm.

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

The Council requires that the steps specified in paragraph 6 below be undertaken within 8 months from the date when this notices takes effect.


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

1. Cease the use of the agricultural building shown edged blue on the attached location plan as a workshop/store and office.
2. Remove all non-agricultural items from the agricultural building shown edged blue on the attached location plan.
3. Cease the use of the land edged red on the attached location plan for the storage of non-agricultural items.

**7. WHEN THIS NOTICE TAKES EFFECT**

This Notice takes effect on 31 October 2019 unless an appeal is made against it beforehand.

Dated: 30 September 2019

Signed:  .....  
Head of Place

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

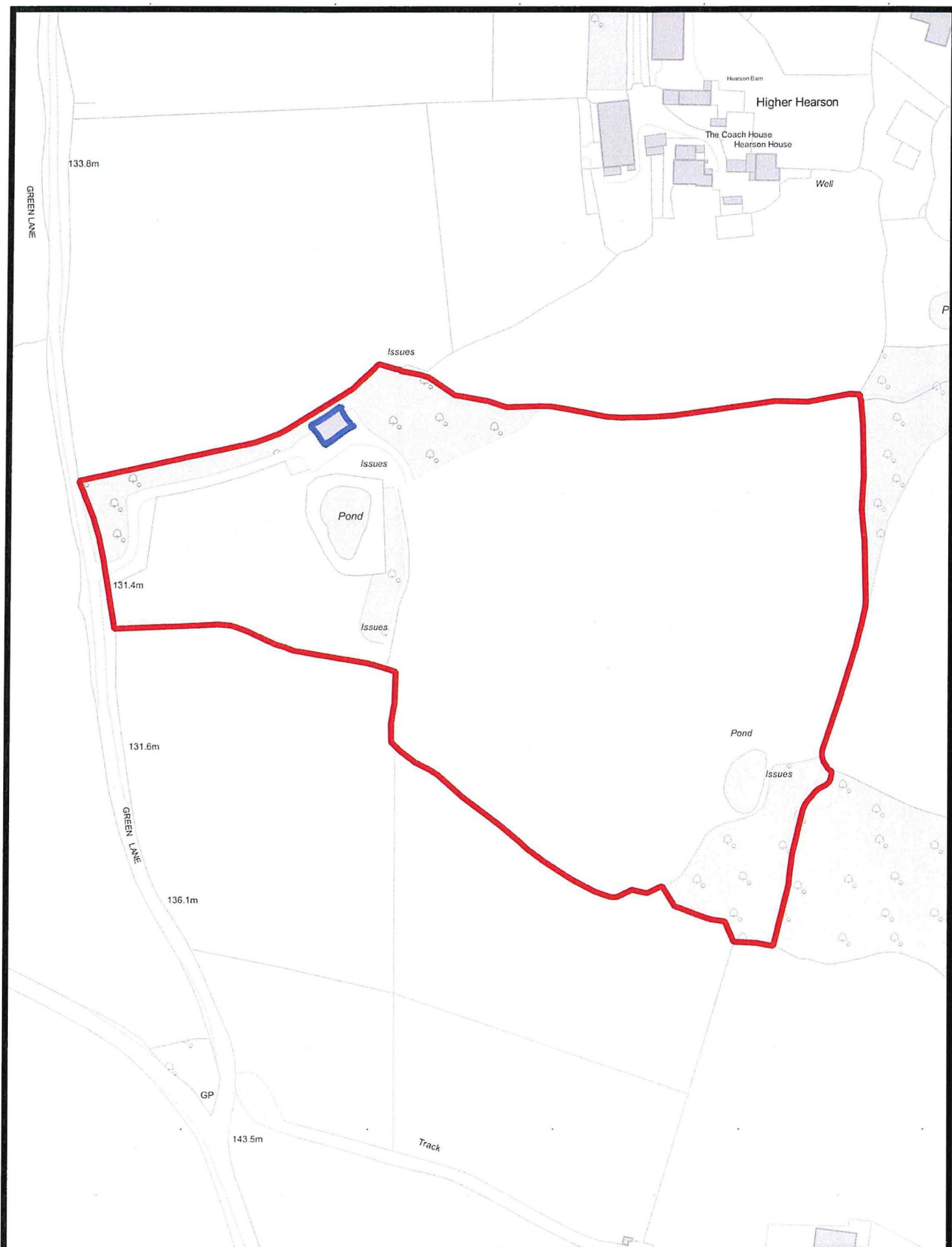
## **GUIDANCE NOTES FOR YOUR INFORMATION**

### **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.



Lynton House, Commercial Road,  
Barnstaple, EX31 1EA

## 6827 - Deer Haven, Green Lane, Swimbridge, Barnstaple, Devon, EX32 0FF

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Copy Supplied to:  
Enforcement

Scale: 1:2000 at A4  
Date: September 2019



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

CLAYEWATER PLANNING GROUP LTD  
FAO MRS MARIA BAILEY  
LOWER ROLLESTON  
HARRACOTT  
BARNSTAPLE  
EX31 3JF

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**APPLICATION No.: 65497**

**DATE REGISTERED: 04-SEP-18  
DECISION DATE: 12-DEC-18**

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

**CONVERSION OF AGRICULTURAL BUILDING TO FORM LIVE / WORK UNIT (PART RETROSPECTIVE) AT DEER HAVEN GREEN LANE SWIMBRIDGE BARNSTAPLE**

For the following reasons:

(1) The conversion of the agricultural building to a live/work unit in a rural location where policies of rural restraint state that development will not be permitted unless it has a strong functional link to a local, agricultural, forestry or other existing rural activity, essentially demands a rural location and the scale of employment is appropriate to the accessibility of the site and standard of the local highway network. The proposal would introduce an unsustainable, unjustified and unnecessary commercial development (marine engineering business) within an isolated rural location that is considered to be unsustainable due to its remoteness from customers and substandard local highway network. The proposal is therefore considered to be contrary to Policies ST11, DM05, DM27 and DM14 of the Joint North Devon & Torridge Local Plan and does not meet the sustainable development aims of Paragraphs 10 and 11 of the National Planning Policy Framework which run throughout this document.

(2) The site is in the open countryside where there is a presumption against new residential development unless in the interest of agriculture or where special justification exists. Although the application has been proposed as a live-work unit no justification has been submitted to prove there is a functional need for this accommodation at this site in the open countryside. In such circumstance the proposal is considered contrary to Policies ST07, DM27 and DM28 of the Joint North Devon and Torridge Local Plan and Paragraph 79 of the National Planning Policy Framework which states to Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances.

Michael Tichford MRTPI  
Head of Place

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  
ST14: Enhancing Environmental Assets.  
DM01: Amenity Considerations  
DM02: Environmental Protection  
DM04: Design Principles  
DM05: Highways  
DM08: Biodiversity and Geodiversity  
DM14: Rural Economy  
DM27: Re-use of Rural Buildings  
DM28: Rural Worker 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: 06 August 2019**

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**Appeal Ref: APP/X1118/W/19/3223710**

**Deer Haven, Green Lane, Swimbridge, Barnstaple EX32 0FF**

- 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 Bird of ARB Marine against the decision of North Devon District Council.
  - The application Ref 65497, dated 4 September 2018, was refused by notice dated 12 December 2018.
  - The development proposed is described as 'resubmission of previously withdrawn application 64831 to convert an existing rural building to form a live/work unit'.
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### Decision

1. The appeal is dismissed.

### Application for Costs

2. An application for costs was made by Mr Bird of ARB Marine against North Devon District Council. This application is the subject of a separate decision.

### Main Issue

3. Whether the site is suitably located for the proposed live/work use.

### Reasons

4. The existing building is understood to have been constructed in the early 2000s for the purpose of agricultural storage. The building is currently being used by the appellant to run his marine engineering business, although it does not benefit from an express grant of planning permission for such a use. The appeal proposal is to continue this use in part of the building and to convert part of the building into a dwelling, so that the whole building would function as a live/work unit.
5. The building stands in a rural area remote from any other buildings. It is positioned against a line of mature trees and is not prominent to view. Access to the building is derived via a track from the road to the west, which is at a higher level.
6. In countryside locations such as this Policy ST07 of the North Devon and Torridge Local Plan 2011-2031 adopted 2018 (NDTLP) establishes that development will be limited to that which is enabled to meet local economic and social needs, rural building re-use and development which is necessarily restricted to a countryside location. Policy DM14 of the NDTLP establishes that new small-scale economic development in countryside locations will be



supported where it relates to the change of use or conversion of a permanent and soundly constructed building. I am satisfied that the appeal proposal accords with this requirement as the building is of permanent construction and appears to be soundly constructed. However, parts (d) – (f) of the Policy also need to be satisfied. In terms of part (d), the existing building is distant from other buildings and residents. Therefore, no adverse impact on the living conditions of neighbouring occupiers would arise as a result of the proposal.

7. Part (e) relates to the accessibility of the site. I accept that the existing access is sufficient in terms of visibility, and that the site is equipped with adequate areas for the parking and manoeuvring of vehicles; however, the site is remote from main roads and is accessed via a network of small country lanes. Some of these lanes are wider than others and benefit from passing places, and for some lengths are wide enough for vehicles to pass in most areas with care. Furthermore, I note that the appellant suggests that customer visits and vehicle movements associated with the site would be low, and that the appellant would no longer need to commute between his home and work were the appeal to succeed.
8. However, vehicle movements associated with the proposal would include deliveries and some would involve accessing the site with a boat trailer. The network of small lanes, particularly the narrow lane immediately associated with the site and the lanes to the north that would provide the most direct access to the A361, are not suited to vehicle movements of this nature. Although no traffic problems have been reported to date, I consider it likely that the increase in movement of trailers and larger vehicles that would arise from the proposal would disrupt the free flow of traffic throughout this network of lanes, which would have an adverse impact on the functionality of the local highway network. In relation to this the appellant suggests that the lanes are already used by large diggers and agricultural vehicles. However, it would appear to be the case that such movements are essential to access existing land uses, whereas the proposal before me is essentially a new use in a remote countryside location.
9. Part (f) of Policy DM14 of the NDTLP states that such proposals will only be accepted where they respect the character and qualities of the landscape. The proposal would reuse an existing building. Some changes are proposed, in association with the introduction of a residential use into part of the building. These include the installation of large areas of glazing to the south and east elevations. Although the building is not prominent to view, the installation of large areas of glazing and the introduction of domestic paraphernalia that would potentially spread across the large curtilage area would draw attention to the building and make it more noticeable in the wider landscape. I consider this to be more harmful than if the building was still in its original use, because an agricultural building with associated vehicles and equipment would not appear out of place in such a location.
10. The part of the building that would be given over to residential use would be for the occupation of the appellant and his family. The parties disagree over the extent of this, although the submitted plans show that the residential element would be set over two floors in an area that would occupy two thirds of the existing building, leaving a single storey workshop space in the remaining third of the building. The residential use would therefore occupy a significant portion of the existing building. Policy DM28 of the NDTLP establishes that

accommodation in the countryside for a rural worker will be supported where there is an essential operational need for a full-time worker to be resident at or near the place of work.

11. I accept that there is no definition of essential operational need within the NDTLP, however, taking an ordinary meaning of the phrase into account, there appears to be no essential need for the business to be established in this remote countryside location. The use that the appellant has established at the site has utilised an existing building but in all other respects the use has no functional association with the land holding or the immediate area. Indeed, it is clear from the evidence provided that the appellant's business supports customers over a wide area of North Devon. I note that the appellant does not intend to use the land associated with the building for storage, and I can therefore see no special characteristics in the existing building or location that would be of benefit to the business that could not be found in a similar building in a more accessible location.
12. Furthermore, I am not convinced that the particular use at the site and business model that has been developed by the appellant requires the appellant to live at the site. Opening hours are fairly standard, and call out visits are unlikely to result from an emergency arising at the workshop, but rather would require the appellant to travel to another location. Such visits would be most likely to involve travel to the coast, initially via the network of small rural lanes associated with the site. The appellant suggests that such journeys are to be expected in a rural area like North Devon. However, Policy ST07 of the NDTLP establishes a clear preference for locating new rural development in the context of existing settlements. Supporting paragraph 4.10 of the Policy clarifies that the existing dispersed settlement pattern of the area should not be exacerbated by further development, that landscape quality should not be compromised and that the principles of sustainable development should be adhered to.
13. In summary the proposal would not be suitably located for the proposed live/work use, and would conflict with Policies ST07, ST11, DM14 and DM28 of the NDTLP and the National Planning Policy Framework, which together seek to ensure that development proposals are suitably located in terms of their proximity to existing settlements and accessibility to the existing highway network; relate to an essential need for the type of accommodation proposed; and are designed in a manner that does not harm the character of the landscape.
14. The Council refers to Policy DM05 of the NDTLP in its first reason for refusal. However, as detailed above, I am satisfied that the proposal would not conflict with this Policy as it would ensure safe and well-designed vehicular access and egress at the site. However, this is not sufficient to outweigh the harm that I have found in relation to the overall location and relationship between the site and the surrounding highway network.
15. The Council also refers to Policy DM27 of the NDTLP in its second reason for refusal. However, this Policy has not been determinative as it relates to the reuse of disused and redundant rural buildings and I have no evidence before me to suggest that prior to the appellant establishing his business at the site the building was redundant and disused.

### **Other Matters**

16. In support of the proposal the appellant suggests that the cost of relocating would be significant, and the reuse of the existing building is better than constructing a new building at the site. However, using the existing building for an engineering use has not been lawfully established, so I cannot therefore give any significant weight to the existing operation of the business at the site.
17. The appellant also highlights the bespoke nature of the business, and that he is the only dealer in the area for a particular make of outboard motors and that the business creates local employment. He suggests that existing customers with these motors would have to travel further to have their motors serviced. He also suggests that many of his customers live inland and therefore already travel some distance to access the coast. Although I give some weight to the modest creation of employment, these matters are not sufficient to justify locating the business in a remote countryside location with poor accessibility.
18. A letter from a local estate agent advises that there is a local shortage of suitable premises, and comparable businesses put forward by the Council would appear to operate differently or be of a different scale or business model to the business subject of this appeal. However, the workshop area retained as part of the proposal would be small, and no external storage space is now proposed. The appellant suggests that the reduced space would be sufficient for his business. I therefore find it difficult to accept that equivalent space is not available locally in a more appropriate location, and note that there is no evidence submitted to support the estate agent's advice. I therefore give little weight to these matters.

### **Conclusion**

19. 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.