



IMPORTANT

THIS COMMUNICATION AFFECTS YOUR PROPERTY

**LISTED BUILDING
ENFORCEMENT NOTICE**

UNAUTHORISED WORKS

**Coach House extension, Lee House, Middle
Marwood, Barnstaple, Devon EX31 4DZ**

**PLANNING (LISTED BUILDING AND
CONSERVATION AREAS ACT 1990 (AS
AMENDED(("THE ACT"))**

Issued by: North Devon District Council ("The Council")
being the Local Planning Authority for the purposes of part 1 of the Act
in which the listed building described in paragraph one overleaf is
situate.

Enforcement reference number: 11009

1. **THIS IS A FORMAL NOTICE**, which is issued by the Council under Section 38 of the Act in respect of the building because it appears to the Council that there has been a contravention of Section 9(1) of the Act with regard to works that have been executed to the building. The Council consider it expedient to issue this notice, having regard to the effect of the works on the character of the building as one of special architectural or historic interest.

2. **THE LAND AFFECTED**

Coach House extension, Lee House, Middle Marwood, Barnstaple, Devon EX31 4DZ ("the building") being a listed building as defined in Section 1 of the Act as shown edged red on the enclosed location plan.

("The building")

3. **THE ALLEGED CONTRAVENTION**

It appears to the Council that the following works herein referred to as "the works" have been executed to the building:

The installation of a UPVC windows and French doors to the Coach House extension contravenes Section 9(1) of the Act because they alter the building in a manner that affects its character as a building of special architectural or historic interest.

Retrospective listed building consent to retain the UPVC windows and French doors was refused under application 72491 on 26 January 2021. The works contravene Section 8 of the Act because listed building consent has not been granted.

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

The Council require that the steps specified in paragraph 5 below be undertaken in order to bring the building to the state in which it would have been if the works had not been executed within the period of 12 months from the date when this notice takes effect.


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

1. Replace the Coach House extension UPVC windows and French doors with timber framed windows and French doors to match the previously existing design. The position of the building is edged in red on the enclosed location plan.

6. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 07 September 2021 ("the effective date")* unless an appeal is made against it beforehand.

Dated: 28 July 2021

Signed: 
Enforcement Manager

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

THE PLANNING INSPECTORATE APPEAL ADVICE

Agents should note that if ground (a) is not pleaded at the very beginning the Inspectorate will not delay the processing of the appeal.

Appellants should set out all grounds for making their appeal and provide supporting facts for each ground when making the appeal.

It is important that if the appellant wants the planning merits of the development to be considered – known as the “deemed planning application” - they must plead ground (a) and pay the fee for that application to the local planning authority when making their appeal. If this is not done, the planning merits and any subsequent ground (a) appeal (Ground (a) - that planning permission should be granted (or that the condition or limitation referred to in the enforcement notice should be removed) cannot be considered by the Inspector. The appeal will only be determined on the grounds of appeal as submitted on the appeal form.

EXTRACTS FROM THE PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990 (AS AMENDED)

Appeal against listed building enforcement notice

39(1) A person having an interest in the building to which a listed building enforcement notice relates or a occupier may appeal to the Secretary of State against the notice on any of the following grounds-

- (a) That the building is not of special architectural or historical interest;
- (b) that the matters alleged to constitute a contravention of Section 9(1) or (2) have not occurred;
- (c) that those matters (if they occurred) do not constitute such a contravention;
- (d) that works to the building were urgently necessary in the interest of safety or health or for the preservation of the building, that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter, and that the works carried out were limited to the minimum measures immediately necessary;
- (e) that listed building consent ought to be granted for the works, or that any relevant condition or such consent which has been granted ought to be discharged, or different conditions substituted;
- (f) that copies of the notice were not served as required by Section 38(4);
- (g) except in relation to such a requirement as is mentioned in Section 38(2)(b) or (c), that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out;
- (h) that the period specified in the notice as the period within which any step required by the notice is to be taken falls short of what should reasonably be allowed;
- (i) that the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve that purpose;
- (j) that steps required to be taken by a virtue of Section 38(2)(b) exceed what is necessary to alleviate the effect of the works executed to the building;
- (k) that steps required to be taken by virtue of Section 38(2)(c) exceed what is necessary to bring the building to the state in which it would have been if the terms of the conditions of the listed building consent had been complied with.

- (2) An appeal under Section shall be made either-
- (a) by giving written notice of appeal to the Secretary of State before the date specified in the listed building enforcement notice as the date on which it is to take effect; or
 - (b) by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date.
- (3) Where such an appeal is brought the listed building enforcement notice shall [subject to any order under Section 65(3A)] be of no effect pending the final determination or the withdrawal of the appeal.
- (4) A person who gives notice of appeal under this section shall submit to the Secretary of State, either when giving the notice or within such time as may be prescribed, a statement in writing -
- (a) specifying the grounds on which he is appealing against the listed building enforcement notice; and
 - (b) giving such further information as may be prescribed.
- (5) if, where more than one ground is specified in the statement, the appellant does not give information under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering any grounds to which the appellant has failed to give such information within that time.
- (6) Where any person has appealed to the Secretary of State under this Section against a notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.
- (7) In this section "relevant occupier" means a person who -
- (a) on the date on which the listed building enforcement notice is issued occupies the building to which the notice relates by virtue of a licence in writing; and
 - (b) continues so to occupy the building when the appeal is brought.

Execution of works required by listed building enforcement notice

42. (1) If any of the steps specified in the listed building enforcement notice have not been taken within the period for compliance with the notice, the authority may -
- (a) enter the land and take those steps, and
 - (b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.
- (2) Where a listed building enforcement notice has been served in respect of a building -
- (a) any expenses incurred by the owner or occupiers of the building for the purpose of complying with it, and
 - (b) any sums paid by the owner of the building under subsection (1) in respect of expenses incurred by the local planning authority in taking steps required by it, shall be deemed to be incurred or paid for the use and at the request of the person who carried out the works to which the notice relates.

(3) Regulations under this Act may provide that all or any of the following sections of the Public Health Act 1936, namely -

(a) Section 276 (power of local authorities to sell materials removed in executing works under that Act subject to accounting for the proceeds do sale);

(b) Section 289 (power to require the occupier of any premises to permit works to be executed by the owner of the premises);

(c) Section 294 (limit on liabilities of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act), shall apply, subject to such adaptations and modifications as may be specified in the regulations, in relation to any steps required to be taken by a listed building enforcement notice.

(4) Regulations under subsection (3) applying all or any of section 289 of that Act may include adaptations and modifications for the purpose of giving the owner of land to which such a notice relates the right, as against all other persons interested in the land, to comply with the requirements of the notice.

(5) Regulations under section (3) may also provide for the charging on the land on which the building stands of any expenses recoverable by a local planning authority under subsection(1).

(6) Any person who wilfully obstructs a person acting in the exercise of powers under subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Offence where listed building enforcement notice not complied with

43 (1) Where, at any time after the end of the period for compliance with the notice, any step required by a listed building enforcement notice to be taken has not been taken, the person who is then owner of the land is in breach of the notice.

(2) If at any time the owner of the land is in breach of a listed building enforcement notice he shall be guilty of an offence.

(3) An offence under this section may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under this section by reference to any period of time following the preceding conviction for such an offence.

(4) In proceedings against any person for an offence under this section, it shall be a defence for him to show -

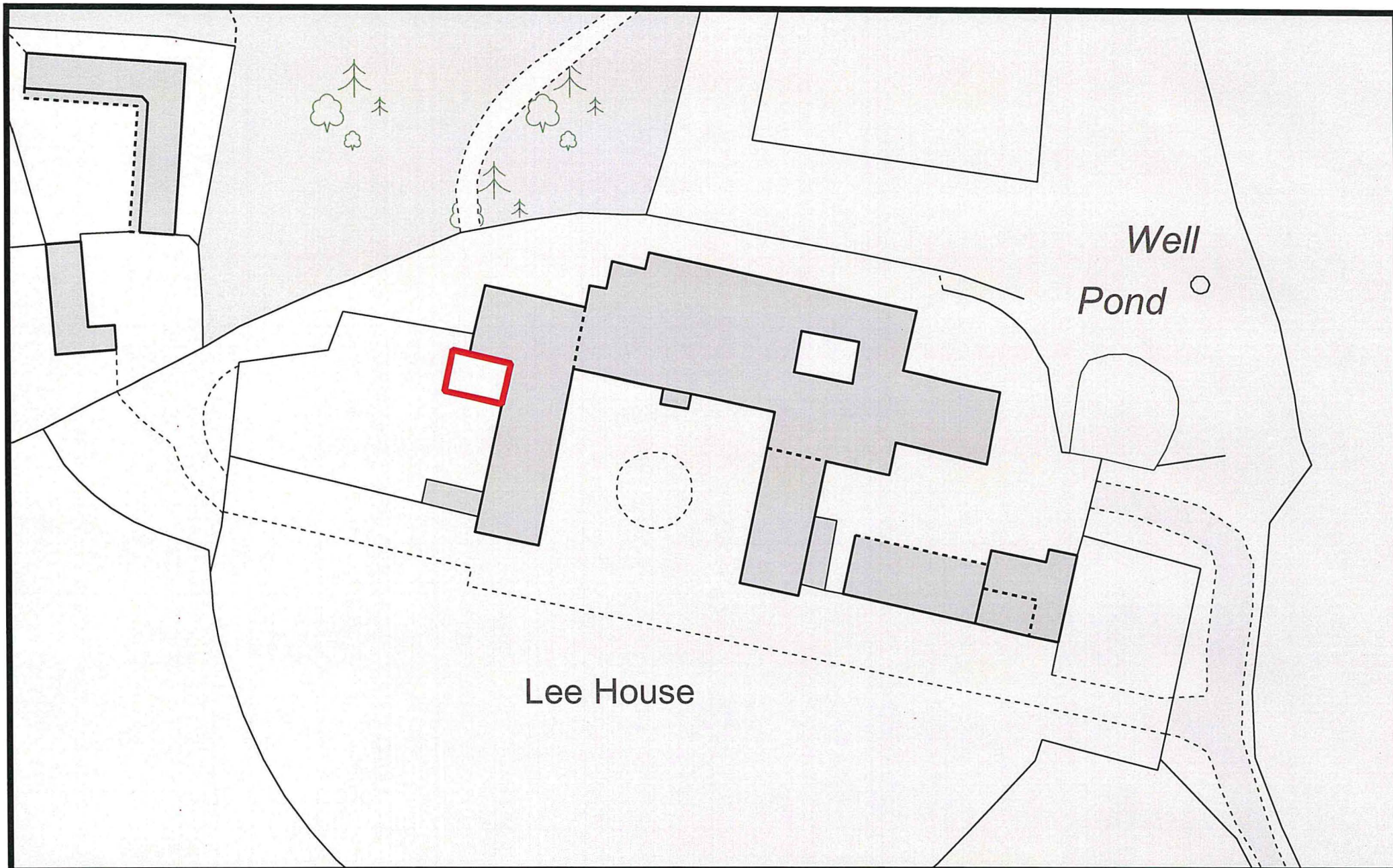
(a) that he did everything he could be expected to do to secure that all the steps required by the notice were taken; or

(b) that he was not served with a copy of the listed building enforcement notice and was not aware of its existence.

(5) A person guilty of an offence under this section shall be liable -

(a) on summary conviction or on convicting on indictment to a fine.

(6) In determining the amount of any fine to be on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.



Planning (Listed Buildings and Conservation Areas) Act 1990

REFUSAL OF LISTED BUILDING CONSENT

Applicant:	N/A	Application No:	72491
Address:	Lee House Marwood Barnstaple EX31 4DZ	Application Type:	Listed Building consent
Agent:	Ms Sarah Darling	Date of Registration:	8 December 2020
Address:	East Wing Lee House Marwood Barnstaple EX31 4DZ	Date of Decision:	26 January 2021
Proposal:	Retrospective Listed Building Consent for the replacement of rotted wooden contemporary windows, sills and doors with UPVC replacements in lean to conservatory		
Location:	Lee House Middle Marwood Barnstaple Devon EX31 4DZ		

The North Devon District Council in pursuance of powers under the above mentioned Act hereby **REFUSES** listed building consent to carry out the proposed works for the following reason:

1. The proposed development for which retrospective planning approval has been sought is the replacement of timber windows and French doors to a flat roof extension to the rear of a grade II listed building with modern white PVCu windows and PVCu French doors. The replacement windows and doors neither resembles the style of the original window nor its materials nor any traditional sash windows on the main dwellinghouse, If the window was beyond repair the replacement should have been similar to existing both in style and material. There are no benefits arising from the proposal to outweigh the harm arising from its replacement. The proposal is therefore contrary to North Devon Local Plan Policies DM04, DM07 and ST15 adopted in October 2018.

INFORMATIVES:

1. **Statement of Engagement**
In accordance with paragraph 38 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. 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.

End of Decision

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

Michael Tichford MRTPI
Head of Place



Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If you want to appeal against the local planning authority's decision then you must do so within 6 months of the date of this notice. However, the following exceptions apply: For applications in respect of consent for the display of an advertisement, if you want to appeal then you must do so within 8 weeks of the date of this notice.

If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, if you want to appeal then you must do so within 28 days of the date of this notice.

If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal then you must do so within:

- 28 days of the date of service of the enforcement notice, or
- within 6 months of the date of this notice

whichever period expires earlier.

If the decision is for a minor commercial application, you must appeal within 12 weeks of the date of this notice.

- Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>
If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on Tel: 0303 444 5000
- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

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

THIS IS IMPORTANT

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

- on-line at the Appeals Casework Portal (<https://acp.planninginspectorate.gov.uk/>); or
- sending us Listed Building 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 Listed Building enforcement notice.

Please read the appeal guidance documents at <https://www.gov.uk/government/publications/listed-building-enforcement-notice-appeals-how-to-complete-your-appeal-form>

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;
- your address; and
- the effective date of the Listed Building enforcement notice.

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