

# ENFORCEMENT NOTICE

## TOWN AND COUNTRY PLANNING ACT 1990

(as amended by the Planning and Compensation Act 1991)

### ISSUED BY DARTMOOR NATIONAL PARK AUTHORITY

To: Mr Guy Coxall, Heltor Woods, Near Blackingstone Rock, Bridford, Devon

1. **THIS NOTICE** is issued by the Authority because it appears to it that there has been a breach of planning control, within paragraph (a) of section 171A(1) of the above Act, at the land described below. The Authority considers that it is expedient to issue this Notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the Notice and the enclosures to which it refers contain important additional information.

### 2. THE LAND TO WHICH THE NOTICE RELATES

Land at Heltor Woods, nr Blackingstone Rock, Bridford in the County of Devon ("the Land"), as shown edged red on the attached plan ("the Plan")

### 3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

Without planning permission, the use of the Land for the siting of a caravan used for storage purposes ("the Development") in the approximate location marked 'x' on the Plan.

### 4. REASONS FOR ISSUING THIS NOTICE

It appears to the Authority that the above breach of planning control has occurred within the last ten years. The Development is contrary to policies COR1, COR3, COR4, DMD1b, DMD3, DMD5, and DMD34 in the Development Plan and government advice contained in the National Planning Policy Framework, in particular para 115, and the National Parks Circular 2010.

The Authority considers the Development constitutes an unjustified visual intrusion that adversely affects the character and appearance of this area of the National Park.

### 5. WHAT YOU ARE REQUIRED TO DO

- 5.1 Permanently cease using the Land for the siting of caravans; and
- 5.2 Restore the Land to its former condition

Appeal  
allowed  
Notice  
quashed  
21/2/15

**IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**6. TIME FOR COMPLIANCE**

You must comply with the requirements set out in paragraph 5.1 and paragraph 5.2 within **3 months** of this Notice taking effect

**7. WHEN THIS NOTICE TAKES EFFECT**

This Notice takes effect on 15 September 2014, unless an appeal is made against it before that date.

Dated this 4th<sup>th</sup> day of August 2014



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**DIRECTOR OF PLANNING**

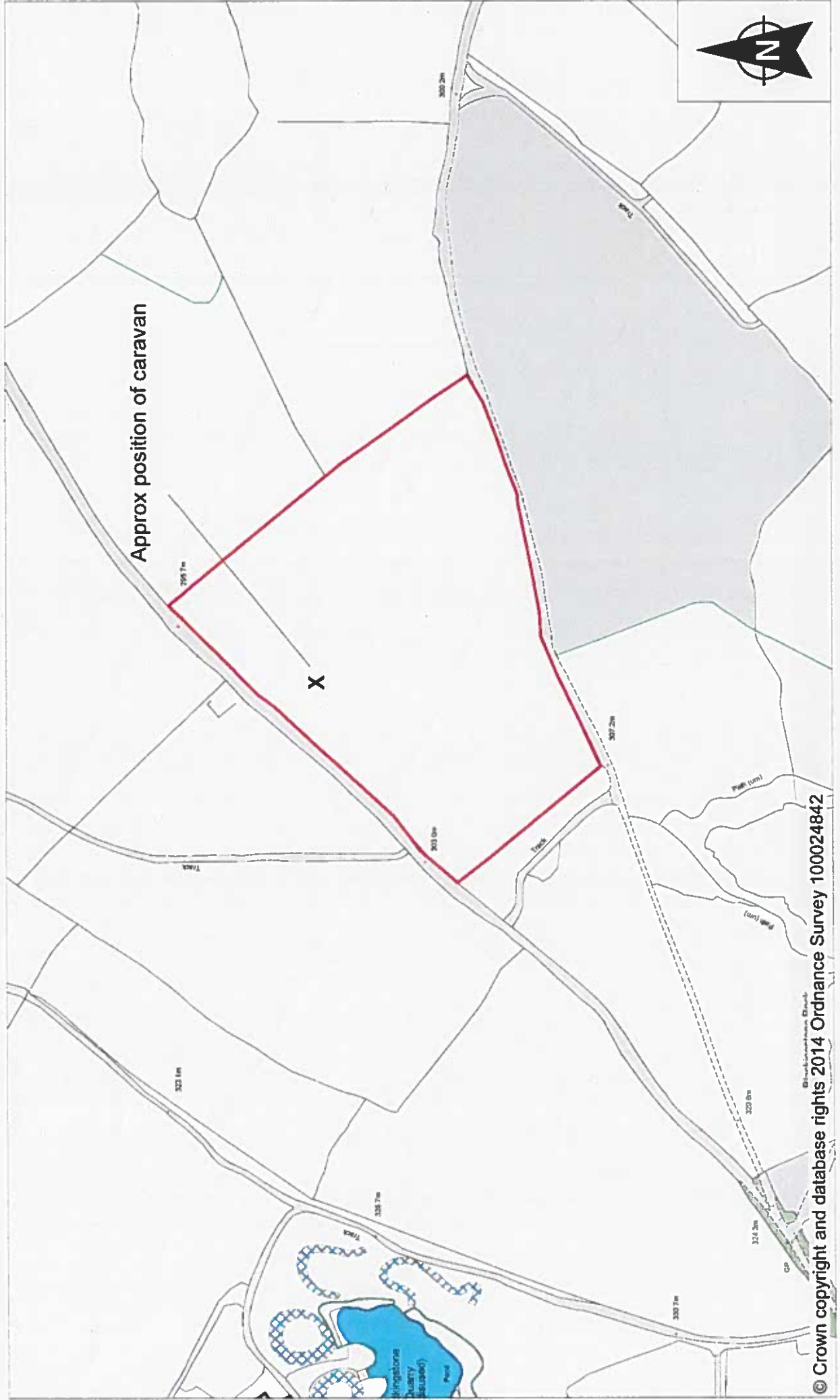
Dartmoor National Park Authority  
Parke, Bovey Tracey,  
Newton Abbot, Devon. TQ13 9JQ

# Dartmoor National Park Authority Land at Heltor Woods, Bridford



Scale 1:2500

Compiled by nsavin on 30 July 2014





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## Appeal Decision

Site visit made on 12 January 2015

**by Gareth Symons BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 21 January 2015**

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**Appeal Ref: APP/J9497/C/14/2225115**

**Land at Heltor Woods, nr Blackingstone Rock, Bridford, Devon**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Guy Coxall against an enforcement notice issued by Dartmoor National Park Authority (DNPA).
- The notice was issued on 4 August 2014.
- The breach of planning control as alleged in the notice is without planning permission the use of the land for the siting of a caravan used for storage purposes ("the Development") in the approximate location marked 'X' on the plan.
- The requirements of the notice are: 1. Permanently cease using the land for the siting of caravans; 2. Restore the land to its former condition.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the ground set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.

**Summary of Decision: The appeal succeeds and the enforcement notice is quashed as set out below in the Formal Decision.**

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### Preliminary Matter

1. As there is no deemed planning application I cannot consider any matters of planning merit such as the impact of the development on the character and appearance of the landscape and whether or not it conflicts with policies from the development plan.

### Reasons

2. For success under s174(2)(c) of the 1990 Act it needs to be shown that the matters alleged in the notice do not constitute a breach of planning control. In this case the enforcement notice is directed at a change of use of the land. Although the notice does not state that there has been a material change of use, for development to have occurred under s55(1) of the 1990 Act there needs to have been "...the making of any material change in the use of any buildings or other land". S55(2)(e) is irrelevant as that relates to the use of a building for agriculture or forestry on land used for such purposes.
3. The land amounting to approximately 2.5 hectares is in forestry use and it is in the same ownership. This establishes the planning unit against which to assess whether there has been a material change of use. Caravans stationed on land are also considered to be a use of land. Inside the caravan at the site visit

there was equipment of all sorts such as tools, spades, a chainsaw and rolls of fencing. There was no evidence of any other uses. I am satisfied that the caravan is being used for the storage of forestry related items.

4. DNPA has questioned the need to store such equipment on the land. In doing so reference has been made to the Court of Appeal judgement of *Harrods Ltd v SSETR [2002]*. The facts of that case involved the landing of a helicopter on the roof of Harrods and that was held not to be ordinarily incidental to the primary use as a retail department store. In this case the amount of storage is relatively limited and unless the equipment is for example being used for other purposes, even forestry activities away from this site elsewhere on a different planning unit, this is largely an operational decision to be made by the land owner. I can also see based on the appellant's itinerant lifestyle that it makes practical sense for his equipment to be stored as it is. There is no evidence that the tools etc in the caravan are being used other than ancillary to the primary forestry use of this land. Therefore, as a matter of fact and degree, there has not been a material change of use of the land. Clearly, if the use of the caravan changed in the future, DNPA would not be precluded from taking further enforcement action if it was considered expedient to do so.
5. In view of the above, having had regard to all other matters raised, it is concluded that no development has taken place and thus there cannot have been a breach of planning control. Schedule 2, Part 7, Class A of the Town and Country Planning (General Permitted Development) Order 1995 has no bearing as that relates to rights where development is involved. Consequently the appeal should succeed and the enforcement notice must be quashed.

#### **Formal Decision**

6. The appeal succeeds. It is directed that the enforcement notice is quashed.

*Gareth Symons*

INSPECTOR