

# IMPORTANT

## THIS COMMUNICATION AFFECTS YOUR PROPERTY PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990

# LISTED BUILDING ENFORCEMENT NOTICE

1. **WILTSHIRE COUNCIL** ("the Council") is the local planning authority for the purposes of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Act") in relation to the building at **61 The Pippin, Calne, Wiltshire SN11 8JG** ("the Building") shown edged red on the attached plan ("the Plan").
2. The Building is a listed building as defined in section 1 of the Act
3. It appears to the Council that the works specified at Schedule 1 have been or are being executed to the Building and are such as to constitute a contravention of section 9 (1) of the Act.
4. **REASON FOR ISSUING THE NOTICE**
  - 4.1 The Council considers it expedient to issue this notice having regard to the effect of the Works on the character of the Building as a building of special architectural or historic interest and the said works are not authorised under part 1 of the Act, no Listed Building Consent having been granted.
  - 4.2 The loss of part of the historic fabric of the Building has detracted from the character of the building as one of special architectural or historic interest and is contrary to Policies C3 (Development Control Core Policy), HE1 (Development in Conservation Areas), HE2 (Demolition in Conservation Areas) and HE4 (Listed Buildings) of the North Wiltshire Local Plan 2011. The unauthorised works to the Building are also contrary to Policy CP57 (Ensuring high quality design and place shaping) and Policy CP58 (Ensuring conservation of the historic environment) of the emerging Wiltshire Council Core Strategy (February 2012) and paragraphs 131, 132, 134 and 137 of the National Planning Policy Framework.
5. **THE COUNCIL GIVE NOTICE** that pursuant to the provisions under section 38 of the Act, it requires the steps specified in Schedule 2 to be taken within the time limits specified to :
  - (a) restore the Building to its former state.

## **Schedule 1**

### **BREACH OF LISTED BUILDING CONTROL**

Unauthorised works to the Building consisting of the removal of part of a section of boundary wall near the pedestrian gate and abutting the pavement, the approximate extent of which is shown between points A and B on the attached Plan ("the Works").

## **Schedule 2**

### **STEPS REQUIRED**

1. Rebuild the section of removed wall using squared coursed rubble natural stone of sizes and coursing to match the existing wall and finished with a cock and hen coping. A 1:3 mortar mix using one part NHL 3.5 and three parts aggregate (of which 20% shall be coarse – 4-5mm down) shall be used for the bedding, jointing and pointing of the wall. The height of the rebuilt section of wall shall match the connecting height of wall at point B shown on the Plan and then must sweep up to meet the top of the ashlar pier at point A shown on the Plan. The line of the rebuilt wall must curve into the front of the pier as per the photograph of the partly demolished wall attached at Appendix A; and
2. Install a pyramidal coping stone on top of both gate piers using natural stone of type and colour to match the wall.

### **TIME FOR COMPLIANCE**

Step 1 above - Three months from the date this Notice takes effect.

Step 2 above - Three months from the date this Notice takes effect.

### **WHEN THIS NOTICE TAKES EFFECT**

This Notice will take effect on 16<sup>th</sup> October 2013 unless an appeal is made against it beforehand.

Signed:



Date: 4<sup>th</sup> September 2013

Stephen Hawkins  
Council's Authorised Officer

Development Control Services North  
Wiltshire Council  
Monkton Park  
Chippenham  
Wilts  
SN15 1ER  
On behalf of Wiltshire Council

## ANNEX

### THIS IS IMPORTANT

### YOUR RIGHT OF APPEAL

You can appeal against this notice to the Planning Inspectorate on-line at the Planning Casework Service area of the Planning Portal ([www.planningportal.gov.uk/pcs](http://www.planningportal.gov.uk/pcs)). An appeal can also be made via a hard copy after getting enforcement appeal forms either by phoning the Planning Portal on 0117 372 6372 or by emailing them at [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk).

**You MUST make sure that the Planning Inspectorate receive your appeal before the effective date on the enforcement notice.** In exceptional circumstances you may give notice of appeal by fax at 0117-372 8782

or letter sent to The Planning Inspectorate, CST Room 3/05, Temple Quay House, The Square, Temple Quay, Bristol BS1 6PN.

. You should include:-

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

They must receive this before the effective date on the enforcement notice. This should **immediately** be followed by your completed appeal forms.

Under section 39(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), you may appeal on one or more of the following grounds:-

(a) For a listed building - that the building is not of special or architectural or historic interest;

For a building within a conservation area – that retention of the building is not necessary in the interests of preserving or enhancing the character or appearance of the conservation area in which it is situated;

(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 the works to the building were urgently necessary in the interests 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 of 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; (Note: It should be noted that its condition before the works were carried out refers to its former authorised condition, which is its condition when listed, subject to any listed building consents subsequently granted. It does not refer to its physical condition, for example in terms of repair.)

(h) that the period specified in the notice as the period within which any steps 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 the purpose. (Note: this ground cannot be pleaded at the same time as grounds (j) and/or (k) -see note below.

(j) that the steps required to be taken by virtue of section 38(2)(b) exceed what is necessary to alleviate the effect of the works executed to the building. (Note: This ground is concerned with alleviation, not with restoration and cannot be pleaded at the same time as grounds (j) and/or(k)- see note below)

(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 and conditions of the listed building consent had been complied with(Note:This ground cannot be pleaded at the same time as grounds (i) and/or(j) –see note below.

Note: Not all of these grounds may be relevant to you.

Please also note that grounds (i), (j) and (k) are mutually exclusive and cannot be pleaded simultaneously although any one of them can be pleaded at the same as ground (g).

Ground (i) should be pleaded if the notice has been issued under Section 38(2)(a) and relates only to restoration

Ground (j) should be pleaded if the notice requires alleviation of the works and it has been issued under Section 38(2)(b).

Ground (k) should be pleaded if the notice has been issued under Section 38(2)(c) and requires bringing the building to the state it would have been in if the terms and conditions of any Listed Building Consent had been complied with.

If you decide to appeal, when you submit it, you should state in writing the ground(s) on which you are appealing against the enforcement notice and you should state briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the Secretary of State will send you a notice requiring you to do so within 14 days.

### **WHAT HAPPENS IF YOU DO NOT APPEAL**

If you do not appeal against this enforcement notice, it will take effect on the date specified in the Notice as the date on which it is to take effect and you must ensure that the steps required in the Schedule to the Notice are taken within the period specified.

Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

### **EXECUTION OF WORKS REQUIRED BY LISTED BUILDING ENFORCEMENT NOTICE**

Section 42 of the 1990 Act provides that if any of the steps specified by an enforcement notice have not been taken within the compliance period (and no appeal is pending) the local planning authority may enter the premises and take those steps and recover their reasonable expenses in doing so from the owner.

### **PENALTIES FOR NON-COMPLIANCE WITH LISTED BUILDING ENFORCEMENT NOTICE**

Section 43 of the 1990 Act (as amended) provides that if an owner fails, within the specified time for compliance, to take any step required by an enforcement notice (and no appeal is pending) he or she is in breach of the enforcement notice and is guilty of an offence. A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding £20,000 or on conviction on indictment to an unlimited fine.

Copies of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Planning and Compensation Act 1991, which amends it, are available from HMSO bookshops. Alternatively, you may be able to see them at your local Council Offices or public library.

The Secretary of State has also made regulations entitled the Town and Country Planning (Enforcement Notices and Appeals) Regulations 2002 (SI 2002 No. 2682). Copies of these regulations may be obtained in a similar way.

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Parties on whom the enforcement notice has been served:-

Timothy Haemy Reinardy,  
51 Glazebrook Close,  
London,  
SE21 8RR

Lorraine Caroline Hart  
51 Glazebrook Close,  
London,  
SE21 8RR

Timothy Haemy Reinardy,  
61 The Pippin,  
Calne,  
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SN11 8JG

Lorraine Caroline Hart  
61 The Pippin,  
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Nationwide Building Society,  
Nationwide House,  
Pipers Way,  
Swindon,  
SN38 1NW

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