

ENFORCEMENT REGISTER INFORMATION SHEET

E/ 404.

APPEAL yes no

Plan's Ref N/84/1793

ADDRESS

THE PADDOCKS
WINDY HILL
BRINDENWORTH

BREACH of CONTROL

THE CONSTRUCTION OF
A VEHICULAR ACCESS

Issuing Authority

Date Issued 20.7.84

STOP NOTICES

Date Served

Date(s) served

20.7.84

Requiring

Takes effect 31.8.84



404

Compliance by 28.2.85

Dates Extended by
Secretary of State

Date withdrawn

Enforcement Quashed.
20/5/85.

REQUIREMENTS of ENFORCEMENT

SCHEDULE 3 - Steps required to be taken

- (i) The creation and maintenance of visibility sight lines at the junction of the access in accordance with details which shall first have been submitted and approved in writing by the Local Planning Authority.
- (ii) A vehicular turning space being constructed within the site, details of which shall have been previously submitted to and approved in writing by the Local Planning Authority.
- (iii) The vehicular access at the western end of the site being permanently closed, in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority.

67-50

11-1-68

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R. BURTON

IMPORTANT -

THIS COMMUNICATION AFFECTS YOUR PROPERTY

District Secretary's Department
D. F. Lewis
Solicitor to the Council



**North Wiltshire
District Council**
Monkton Park,
Chippenham,
Wiltshire, SN15 1ER.
Tel. Chippenham (0249) 654188.
Ext. 132

Our ref **E** 404 Enquiries to Mr. McDonald

Dear Sir/Madam,

20th July, 1984

NORTH WILTSHIRE DISTRICT COUNCIL TOWN AND COUNTRY PLANNING ACT 1971 (as amended) **ENFORCEMENT NOTICE**

The Paddocks, West End, Brinkworth.

The Council have issued an Enforcement Notice relating to the above land and I now serve on you a copy of that Notice, in view of your interest in the land.

Unless an appeal is made to the Secretary of State, as described below, the Notice will take effect on the date shown in the box below and you must then ensure that the required steps for which you may be held responsible are taken within the period or periods specified in the Notice.

If you wish to appeal against the Notice, you should first read carefully the enclosed booklet entitled "Enforcement Notice Appeals - A Guide to Procedure". Then, you or your agent should complete the enclosed appeal form and send it, together with the extra copy of the Enforcement Notice enclosed herewith and the fee specified in the box below, to the address on the appeal form. Your appeal must be received by the Department of the Environment BEFORE the Notice takes effect.

There is a requirement on the Council to specify the reasons why the local planning authority consider it expedient to issue the Notice and these reasons are set out in the ANNEX overleaf.

Yours faithfully,

Solicitor

DATE ON WHICH NOTICE TAKES EFFECT and BEFORE WHICH ANY APPEAL MUST BE RECEIVED - 31st August, 1984
--

FEE WHICH MUST ACCOMPANY APPEAL -

£24

To: Roger Edward Martin,
The Paddocks,
West End,
Brinkworth,
Chippenham, Wilts.
SN15 5DA

ANNEX (This does not form part of the Enforcement Notice)

Reasons for issue:-

The access works are at a dangerous bend in a busy road and, in the absence of further works, in particular to improve visibility and avoid confusion, the access works amount to an injury to amenity.

NORTH WILTSHIRE DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING ACT 1971 (as amended)
ENFORCEMENT NOTICE

The Paddocks, West End, Brinkworth

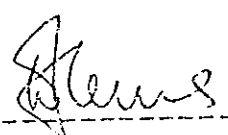
WHEREAS :

- (1) It appears to the North Wiltshire District Council ("the Council") being the local planning authority for the purposes of Section 87 of the Town and Country Planning Act 1971 ("the Act") in this matter, that there has been a breach of planning control within the period of four years before the date of issue of this Notice on the land or premises ("the land") described in Schedule 1 below.
- (2) The breach of planning control which appears to have taken place consists in the carrying out of the building, engineering, mining or other operations described in Schedule 2 below, without the grant of planning permission required for that development.
- (3) The Council consider it expedient, having regard to the provisions of the development plan and to all other material considerations, to issue this enforcement notice, in exercise of their powers contained in the said Section 87, for the reasons set out in the ANNEX to this Notice.

NOTICE IS HEREBY GIVEN that the Council require that the steps specified in Schedule 3 below be taken in order to alleviate injury to amenity which has been caused by the said development within the period of six months from the date on which this Notice takes effect.

THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of Section 88(10) of the Act, on 31st August, 1984

ISSUED 20th July 1984

Signed 

Monkton Park,
Chippenham, SN15 1ER

/ SCHEDULE 1

(over)

SCHEDULE 1 - Land or premises to which this notice relates

The Paddocks, West End, Brinkworth, Chippenham, Wiltshire
shown stipple-edged on the attached plan.

SCHEDULE 2 - Alleged breach of planning control

The construction of a vehicular access.

SCHEDULE 3 - Steps required to be taken

- (i) The creation and maintenance of visibility sight lines at the junction of the access in accordance with details which shall first have been submitted and approved in writing by the Local Planning Authority.
- (ii) A vehicular turning space being constructed within the site, details of which shall have been previously submitted to and approved in writing by the Local Planning Authority.
- (iii) The vehicular access at the western end of the site being permanently closed, in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority.

E404

NORTH WILTSHIRE DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING ACT 1971 (as amended)
ENFORCEMENT NOTICE

the land
referred to:

Approximate position
of access

Scale 1:2500

No 28 WARD

ST

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Deposited here the Enforcement Notice
in pursuance of the provisions of the Town and
Country Planning Act 1971 (Section 171)

8100
3-6-50
9-01

7342
1-46-7ha
8 53

591
1-26-5ha
4 16

4378
1-01-7ha
4 18

8125
3-77-5ha
9 33

852

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1-67-5ha
8 51

413ha
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Department of the Environment and
Department of Transport

Common Services

Room 1408 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct Line 0272-218 936

Switchboard 0272-218811

GTN 2074
Council's Ref N/84/1793 ENF/404

R E Martin Esq
The Paddocks
West End
Brinkworth
CHIPPENHAM
Wiltshire
SN15 5DA

PLANNING
DEPARTMENT
NO

29 MAY 1985

RECEIVED
Your reference

Our reference

T/APP/J3910/C/84/2801/P6

Date

20 MAY 85

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981
LAND AT THE PADDOCKS, WEST END, BRINKWORTH, CHIPPENHAM, WILTSHIRE

1. I have been appointed by the Secretary of State for the Environment to determine your appeal against an enforcement notice dated 20 July 1984 issued by the North Wiltshire District Council concerning land at The Paddocks, West End, Brinkworth, Chippenham, Wiltshire, shown stipple-edged on the plan attached to the notice. The notice alleges a breach of planning control consisting in the carrying out of the building, engineering, mining or other operation by the construction of a vehicular access without the grant of planning permission. The notice requires the following steps to be taken within 6 months:

- i. The creation and maintenance of visibility sight lines at the junction of the access in accordance with details which shall first have been submitted and approved in writing by the Local Planning Authority.
- ii. A vehicular turning space being constructed within the site, details of which shall have been previously submitted to and approved in writing by the Local Planning Authority.
- iii. The vehicular access at the western end of the site being permanently closed, in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority.

Your appeal against the notice was made on grounds set out in section 88(2)(b), (c) and (d) of the Act. At the inquiry into the appeal, which I held at the Town Hall, Malmesbury on 19 March 1985, the evidence was taken on oath.

2. The Paddocks is a house fronting on to the south side of route B 4042 on the inside of a gentle bend about 2 miles west of the centre of the village of Brinkworth and 4 miles east of Malmesbury. To the west of the house is a detached garage. The house has 2 accesses from the road. The access alleged by the notice to have been constructed without the grant of planning permission is from the inside of the apex to the bend in the road directly in front of the house. The other access is off a layby and turning area at the side of the road in front of the garage with one drive leading straight back to the garage and another running in a curve to the front of the house. Along the front of the property is a cupressus hedge planted about 9 ft from the edge of the carriageway.

3. The main points in your case are that there have always been these 2 accesses at the front of your house. When you first moved in in December 1978 the western

access was blocked off with goods deposited there and so you used the central access for your wife's Mini. The plan approved in October 1980 shows this 6 ft wide central access. In 1980 planning permission was given for an extension of the house. In the Spring of 1981 the central access was closed off. It was re-opened in March 1984, which was within 4 years of its closure, so in your opinion the re-opening did not require planning permission.

4. On 13 June 1983 the Council wrote saying that you should within the next 3 weeks trim the conifer trees along the frontage or move them a little further back in order to provide maximum visibility at the western access. When you pointed out that the trees were fast growing conifers that could only be moved in February or March you were advised that you could ignore the requirement that they be moved within 3 weeks. On 11 January 1984 you were reminded of this requirement and so on 6 to 8 March 1984 you moved the trees 6 ft back from their former position. These trees replaced a former large untidy hedge along the frontage in which there was a telegraph pole. That pole is still there and the conifer hedge is 6 ft behind it. By then the conifers were mature trees and consequently many died on being moved. You have further improved visibility by cutting back the hedge of the paddock on the adjoining land to the west. You have thus fully complied with the Council's requirements.

5. The Highway Department agreed that a mirror on the other side of the road would give good visibility of on-coming traffic from the east for vehicles leaving the western access. You obtained permission from the farmer to put up such a mirror. That access has been used for 3 years without an accident but it would be safer with a mirror.

6. Works on the western access were carried out in accordance with Council requirements but have not been completed on account of this enforcement action. The Highway Department agreed that the central access would be safer for emerging vehicles and so you re-opened that access. Because it was an old access you consider that this did not require planning permission. The enforcement notice now requires you to retain and improve that central access but to close the western access, which was the one formerly approved by the Council.

7. In your opinion quite the best arrangement is for both accesses to be retained with the introduction of a one-way system. The western access, with an ample layby for visiting trades' vehicles and easy access to the garage, is best for entry and the central access with very much better visibility of on-coming traffic is better as an exist. This is not a sharp bend and the 9 ft verge at the central access provides room for even a large car, such as your Volvo, to wait there in safety until there is a gap in the traffic. Since the central access was re-opened this in/out system has been used and is understood by your visitors and has proved entirely satisfactory. 'In' and 'out' signs could be put up, as is done on many farms.

8. The Council say that visibility at the central access is 110 ft to the west and 160 ft to the east. This is greater visibility than at many properties in Brinkworth where 90% of the accesses have bad visibility. It is as good as that at a new access recently permitted for 4 new houses. The desired standard quoted of 700 ft in both directions is just not practicable in Brinkworth and it is not understood why this should be necessary when the Highway Code gives the stopping distance at 60 mph as 180 ft.

9. The Council record of 4 accidents in the vicinity over a 3 year period is totally inaccurate. Accidents are frequent opposite this property and often you have had to call for police and ambulances or take people in and provide them with coffee. None of these accidents have been caused by The Paddocks or its accesses. They are caused entirely through excessive speed and have increased dramatically

with the increase in speeds resulting from your improvements to sight lines by removal of the hedge around this corner. Further improvement of sight lines around the corner would lead to further increased speeds and more accidents.

10. In all there are 4 accesses to your property in this vicinity and all have been there for a long time. If the central access is bad it is unreasonable that you should now be required to close the western access, which was improved according to plans approved by the Council. It is unreasonable for you to be required to move the conifers yet again. They were expensive in the first place and half were lost in the first move.

11. The main points in the case for the Council are that the planning permission of 23 October 1979 for a 2 storey extension to your dwelling was subject to a condition requiring approval by the local planning authority of the vehicular access. The plan for the vehicular access was approved on 10 October 1980 and this required removal of the central access. That letter required that the north-east side of the western access be splayed at an angle of 45° from 4.5 m back from the edge of the carriageway. In fact through a typing error the reference to 45° was omitted from the letter. At that time there were no trees on the frontage of a height to obstruct visibility. The planning permission was implemented, use of the central access was abandoned, it was rendered incapable of use and grass grew on either side. Re-opening this access was a work that constituted development for which planning permission was required and these works did not fall within development permitted under the provisions of the General Development Order. Enforcement action was taken within 4 years of the work being carried out.

12. This is a fairly fast road where speeds of 60 mph or more are often reached. A second access at this property could cause confusion for drivers. Every junction is a possible accident point. At the central access there is better visibility in both directions than at the western access and vehicles turning in can be seen in both directions. It was therefore decided that one of the accesses would have to be closed; but that rather than close the central access it was better to improve it and close the western access. This was a reasonable and sensible decision intended to be as helpful as possible.

13. One-way systems are acceptable in towns where the slow traffic and illuminated signs placed within the highway leave motorists in no doubt about which way to turn. Such systems in the country can distract drivers and lead to confusion. It is also difficult to ensure all comply with the system. Nowadays mirrors are not appropriate for use on public highways and can confuse drivers and lead to accidents, particularly on a fast section of road. At this property there should be one good access and the central access is the best, provided it has improved sight lines and a vehicle turning place is provided. The existing turning space would be adequate if it were joined up with the central access.

CONCLUSIONS

14. It seems to me that when the central access to this house was closed off in the Spring of 1981 this was done with the intention that it should be closed permanently. The use of that access was abandoned. When this access on to the main road was re-opened this was an engineering operation within the definition of the Act that constituted development for which planning permission was required. Your appeal under grounds (b) and (c) fails and since these works were carried out in March 1984 the appeal under ground (d) also fails.

Planning considerations

15. Although not pleaded I have considered the planning application deemed to have been made under Section 88 B(3) of the 1981 Act. My site inspection confirmed what was said at the inquiry that the central access is a very much better placed access, particularly for vehicles leaving the property, than the western access. In order to remedy the breach of planning control it would be open to you to close the central access and to continue to use the previously approved western access. From my inspection it appeared to me that the danger to traffic arising from the use of 2 accesses to the property would be much less than a reversion to the use of the western access as the sole access.

16. I accept that in practice a one-way system would be likely to be adopted by the habitual visitors to The Paddocks; but provision must be made to avoid confusion for strangers visiting the premises and space must be provided for vehicles to pull off the carriageway before entering a gateway at the central access and also attention will be necessary to ensure that the fast growing cupressus trees do not obstruct visibility sight lines from that access. If the 2 accesses are retained vehicle turning space is available. I am therefore quashing the notice and granting planning permission for this vehicular access, but subject to a condition requiring that it be laid out and visibility sight lines be maintained in accordance with details approved by the local planning authority.

17. I have considered all the other matters raised at the inquiry but they are insufficient to outweigh those that have led me to this decision.

FORMAL DECISION

18. In exercise of the powers transferred to me, and for the reasons given above, I hereby direct that the notice be quashed and I grant planning permission for retention of the vehicle access at The Paddocks, West End, Brinkworth, at the point indicated on the plan that was attached to the enforcement notice subject to the following condition:

within 3 months of the date of this letter a scheme for the laying out and maintenance of the access shall be submitted to the local Planning Authority and carried out within 3 months of their approval of such a scheme.

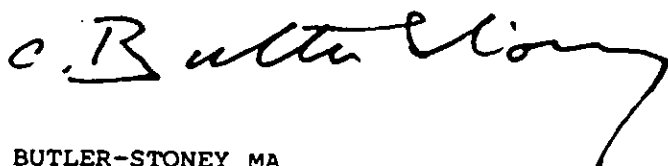
19. This decision does not convey any approval or consent required under any enactment, byelaw, order or regulation other than section 23 of the Town and Country Planning Act 1971.

20. Attention is drawn to the fact that an application for any consent, agreement, or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused, or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

RIGHT OF APPEAL AGAINST DECISION

21. This letter is issued as the determination of the appeal before me. Particulars of the rights of appeal against the decision to the High Court are enclosed.

I am Sir
Your obedient Servant



C BUTLER-STONEY MA
Inspector

APPEARANCES

FOR THE APPELLANT

Mr R E Martin

- Appellant.

FOR THE LOCAL PLANNING AUTHORITY

Mr J F McDonald

- Principal Administrative
Officer, North Wiltshire
District Council.

He called:

Mr R B Williams DipTP MRTPI MIAS

- Principal Planning Officer.

Mr P R F Smith CEng

- Senior Assistant Engineer,
Wiltshire County Council.

DOCUMENTS

Document. 1 - Attendance list.

" 2 - Copy of letter notifying local residents and interested parties of
the inquiry with distribution list.

" 3 - Letter confirming date of replanting conifer trees away from their
original roadside position at The Paddocks, Brinkworth - submitted
by the appellant.

" 4 - Visibility distances from accesses of other properties on the main
road in Brinkworth - submitted by the appellant.

" 5 - Letter signed by John C King with plan concerning entrances at
The Paddocks, Brinkworth - submitted by the appellant.

" 6 - Letter from the District Secretary, North Wiltshire District Council
dated 10 October 1980 - submitted by the appellant.

" 7 - Copy of Planning Permission N791139 dated 23 October 1979 for 2 storey
extension to 'The Paddocks', Brinkworth with accompanying plan -
submitted by the appellant.

PLAN

Plan A - Copy of plan attached to enforcement notice.

IMPORTANT -
THIS COMMUNICATION AFFECTS
YOUR PROPERTY

District Secretary's Department
D. F. Lewis
Solicitor to the Council



North Wiltshire
District Council

Monkton Park,
Chippenham,
Wiltshire, SN15 1ER.
Tel. Chippenham (0249) 654188.
Ext. 132

Our ref **E** 404

Enquiries to Mr. McDonald

Dear Sir/Madam,

20th July, 1984

NORTH WILTSHIRE DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING ACT 1971 (as amended)
ENFORCEMENT NOTICE

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If you wish to appeal against the Notice, you should first read carefully the enclosed booklet entitled "Enforcement Notice Appeals - A Guide to Procedure". Then, you or your agent should complete the enclosed appeal form and send it, together with the extra copy of the Enforcement Notice enclosed herewith and the fee specified in the box below, to the address on the appeal form. Your appeal must be received by the Department of the Environment BEFORE the Notice takes effect.

There is a requirement on the Council to specify the reasons why the local planning authority consider it expedient to issue the Notice and these reasons are set out in the ANNEX overleaf.

Yours faithfully,

Solicitor

DATE ON WHICH NOTICE TAKES EFFECT and
BEFORE WHICH ANY APPEAL MUST BE
RECEIVED - 31st August, 1984

FEE WHICH MUST ACCOMPANY
APPEAL - £24

To: Roger Edward Martin,
The Paddocks,
West End,
Brinkworth,
Chippenham, Wilts.
SN15 5DA

ANNEX (This does not form part of the Enforcement Notice)

Reasons for issue:-

The access works are at a dangerous bend in a busy road and, in the absence of further works, in particular to improve visibility and avoid confusion, the access works amount to an injury to amenity.

NORTH WILTSHIRE DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING ACT 1971 (as amended)
ENFORCEMENT NOTICE

----- The Paddocks, West End, Brinkworth -----

WHEREAS :

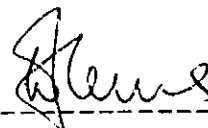
- (1) It appears to the North Wiltshire District Council ("the Council") being the local planning authority for the purposes of Section 87 of the Town and Country Planning Act 1971 ("the Act") in this matter, that there has been a breach of planning control within the period of four years before the date of issue of this Notice on the land or premises ("the land") described in Schedule 1 below.
- (2) The breach of planning control which appears to have taken place consists in the carrying out of the building, engineering, mining or other operations described in Schedule 2 below, without the grant of planning permission required for that development.
- (3) The Council consider it expedient, having regard to the provisions of the development plan and to all other material considerations, to issue this enforcement notice, in exercise of their powers contained in the said Section 87, for the reasons set out in the ANNEX to this Notice.

NOTICE IS HEREBY GIVEN that the Council require that the steps specified in Schedule 3 below be taken in order to alleviate injury to amenity which has been caused by the said development within the period of six months from the date on which this Notice takes effect.

THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of Section 88(10) of the Act, on 31st August, 1984

ISSUED 20th July 1984

Signed



Monkton Park,
Chippenham, SN15 1ER

/ SCHEDULE 1

(over)

SCHEDULE 1 - Land or premises to which this notice relates

The Paddocks, West End, Brinkworth, Chippenham, Wiltshire
shown stipple-edged on the attached plan.

SCHEDULE 2 - Alleged breach of planning control

The construction of a vehicular access.

SCHEDULE 3 - Steps required to be taken

- (i) The creation and maintenance of visibility sight lines at the junction of the access in accordance with details which shall first have been submitted and approved in writing by the Local Planning Authority.
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E404

NORTH WILTSHIRE DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING ACT 1971 (as amended)
ENFORCEMENT NOTICE

*the land
referred to:*

*Approximate position
of access*

Scale 1:2500

No 28 WARD

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Approved Plans for the proposed building
are shown on the plan and elevation
at B 11, Planning Office

8100
3.65ha
9.01

5514
1.02ha
8.91

5810
0.75ha
7.4

6810
0.49ha
1.7

8100
3.65ha
9.01

851

91.1m
1.06ha
1.4

91.1m
1.06ha
1.4

Malthouse
Farm

Malthouse
Cottage

Malthouse
Cottage Farm

4823
1.6ha
8

591
1.26ha
4.1b

8125
1.77ha
9.33

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1.77ha
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8125
1.77ha
9.33

Pond

7142
3.46ha
8.57

8100
3.65ha
9.01

8100
3.65ha
9.01