

ENFORCEMENT REGISTER INFORMATION SHEET

E/ 405

APPEAL

yes

no

Plan's Ref N/84/1140/ENF

ADDRESS

9 BENTHAM LANE
PURTON STONE
PURTON

BREACH of CONTROL

BUILDING OPERATIONS IN
CONNECTION WITH THE
CONSTRUCTION OF A DWELLING.

Issuing Authority N W D C.

Date Issued 27. 4. 84

STOP NOTICES

Date Served 27. 4. 84.

Requiring

THE CESSATION OF ALL
ACTIVITIES COMPRISED IN
CONNECTION WITH THE
CONSTRUCTION OF A DWELLING

Date withdrawn

Date(s) served

27. 4. 84.

Takes effect 30.5.84

Compliance by 1.6.84

Dates Extended by
Secretary of State

28 days.

REQUIREMENTS of ENFORCEMENT

- 1 TO ENSURE OR SECURE THE CESSATION OF
BUILDING OPERATIONS IN CONNECTION WITH THE
CONSTRUCTION OF A DWELLING
- 2 TO REMOVE OR SECURE THE REMOVAL OF THE
BLOCK WORK WALLS CONSTRUCTED ON THE LAND

EXTENT to WHICH NOTICE COMPLIED WITH (dates)



405

E

405

TO WHOM IT MAY CONCERN This is to give notice that a Stop Notice in the form reproduced below has been served on the date hereof. Any person contravening that Stop Notice may be prosecuted (Fine on Summary Conviction up to £1,000) 27th April 1984

Shen

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

9 Bentham Lane, Purton Stoke, PURTON, Swindon, Wilts.

TO : Mrs. Susan Wheeler, 9 Purton Stoke, Swindon, Wilts SN5 9JG

WHEREAS :

1. The North Wiltshire District Council (hereinafter referred to as "the Council") being the Local Planning Authority for the purposes of Section 90 of the Town and Country Planning Act 1971 in this matter have served copies of an Enforcement Notice as described in the Schedule hereto and requiring a breach of planning control to be remedied.
2. The Council considers it expedient to prevent before the expiry of the period allowed for compliance with the said Enforcement Notice the carrying out of any activity comprised in the alleged breach of planning control described in the said Enforcement Notice.

NOW THEREFORE the Council in pursuance of its powers under the said Section 90 and all other powers it enabling HEREBY PROHIBITS and requires the cessation of all activities comprised in the said alleged breach of planning control on and after the date when this Stop Notice becomes effective which date shall be 1st May 1984

DATED this 27th day of April 1984

Shen

Solicitor

Monkton Park,
Chippenham, SN15 1ER.

SCHEDULE

The Enforcement Notice issued on 27th April 1984 alleging building operations in connection with the construction of a dwelling at 9 Bentham Lane, Purton Stoke, Purton, Swindon, Wilts.

A T T E N T I O N is drawn to the copy of the Enforcement Notice which is attached hereto and to Section 90 of the Act which is reproduced overleaf.

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

9 Bentham Lane, Purton Stoke, PURTON, Swindon, Wilts.

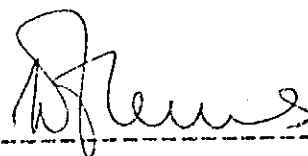
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DATED this 27th day of April 1984



Solicitor

Monkton Park,
Chippenham, SN15 1ER.

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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** 405

Enquiries to Mr. McDonald

27th April 1984

Dear Sir/Madam,

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

9 Bentham Lane, Purton Stoke, PURTON, Swindon, Wilts.

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 -- 30th May 1984

FEE WHICH MUST ACCOMPANY
APPEAL -
£47

To: Mrs. Susan Wheeler,
9, Purton Stoke,
Swindon,
Wilts. SN5 9JG

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

Reasons for issue :

1. The construction of a dwelling in this location constitutes isolated and sporadic development in open countryside to the detriment of this locality in particular and rural amenity in general.
2. The construction of a dwelling in this location conflicts with the approved Structure Plan policy, to wit :-

H20. The replacement of an existing dwelling in the countryside will be generally acceptable where there is little change proposed to the size or appearance of the building and such replacement does not perpetuate a serious traffic hazard or form an isolated development away from public services, or adversely affect the rural scene. Where proposals for replacement involve substantial or other types of change they will be treated as new dwellings. The consideration of replacement dwellings in the countryside will not extend to the replacement of redundant buildings.

North East Wiltshire Structure Plan
10th December 1981

3. The construction of a dwelling in this location and in these circumstances would set a precedent for further similar undesirable proposals.

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

9 Bentham Lane, Purton Stoke, PURTON, Swindon, Wilts.

WHEREAS :

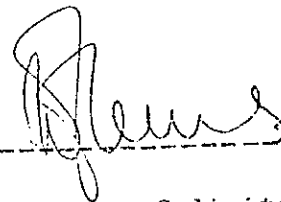
- (1) It appears to the North Wiltshire District Council ("the Council") being the local planning authority for the purposes of Section 87 of the Town and Country Planning Act 1971 ("the Act") in this matter, that there has been a breach of planning control within the period of four years before the 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 remedy the breach within the period of two days 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 30th May, 1984

ISSUED 27th April, 1984

Signed



Solicitor

Monkton Park,
Chippenham, SN15 1ER.

/ SCHEDULE 1

(over)

SCHEDULE 1 - Land or premises to which this Notice relates

Land known as 9 Bentham Lane, Purton Stoke, Purton, Swindon, Wilts.

SCHEDULE 2 - Alleged breach of planning control

Building operations in connection with the construction of a dwelling.

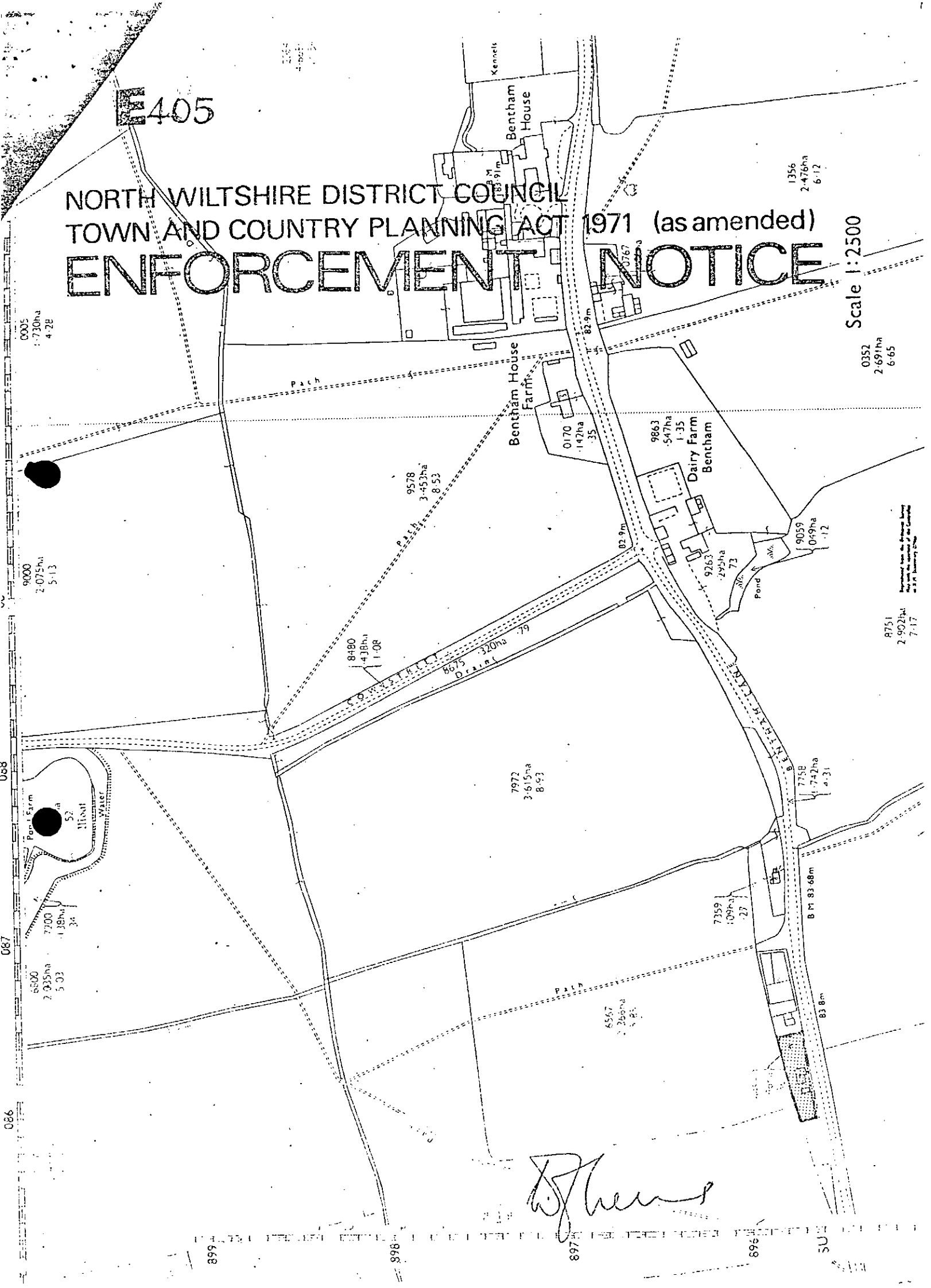
SCHEDULE 3 - Steps required to be taken

- (1) To cease or secure the cessation of building operations in connection with the construction of a dwelling;
- (2) To remove or secure the removal of the blockwork walls constructed on the land.

E405

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

Scale 1:2500



[Handwritten signature]



Department of the Environment and
Department of Transport

Common Services

Room 1408

Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct line 0272-218 938

Switchboard 0272-218811

MRS. J. DART

E 405

N/84/1140/ENF

PLANNING DEPARTMENT NO	RECEIVED TO RECEIVED	DATE 15 FEB 1985
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GTN 2074

Council Ref: AD/DA/631

Messrs Lemon & Co
Solicitors
34 Regent Circus
SWINDON
Wiltshire
SN1 1PY

Your reference

C/CB/89

Our reference

T/APP/J3910/C/84/1561/P6

Date 11 FEB 85

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981

APPEAL BY MRS SUSAN WHEELER

LAND AT NO 9 BENTHAM LANE, PURTON STOKE, PURTON, SWINDON, WILTSHIRE

1. I have been appointed by the Secretary of State for the Environment to determine the above-mentioned appeal. This appeal is against an enforcement notice issued by the North Wiltshire District Council concerning the above-mentioned land. I held an inquiry into the appeal on 27 November 1984.
2.
 - a. The notice was issued on 27 April 1984.
 - b. The breach of planning control alleged in the notice is the carrying out of building operations in connection with the construction of a dwelling on the land shown edged red on the plan attached to the notice, without the grant of planning permission required in that behalf.
 - c. The requirements of the notice are:
 1. to cease or secure the cessation of building operations in connection with the construction of a dwelling;
 2. to remove or secure the removal of the blockwork walls constructed on the land.
 - d. The period for compliance with the notice is 2 days.
 - e. The appeal was made on grounds 88(2)(a)(b)(c) and (f), but at the inquiry grounds 88(2)(b), (c) and (f) were withdrawn.

THE APPEAL SITE AND ITS SURROUNDINGS

3. The appeal site, about 0.07 ha in extent, lies on the northern side of the unclassified road, Bentham Lane. Near the centre of the site are the remains of a building which generally corresponds in plan to that which is shown on Plan C/3. The remains are consistent with the building having been of 2 sections. The western section would have been about 3.6 m wide and about 6.1 m deep. The eastern section, set forward about 0.6 m, would have been about 5.6 m wide and about 6.7 m deep. At the time of my inspection the remains of the western section largely comprised the southern wall and much of the western wall; both walls were about 2.5 m high.

At the time of my inspection the walls of the eastern section were represented by brick footings only. I noted at my inspection evidence of what appeared to be recent building work. That included blockwork walls partially enclosing the area of the eastern section. A building with its external limits defined by those blockwork walls would be set forward about 1.16 m and would be about 5.9 m wide and about 7.65 m deep. The maximum height of the blockwork walls was at the south-east corner where 4 courses had been laid above damp-proof course level. There are 2 derelict outbuildings to the west of the remains. The interior of the site is screened by hedges.

4. The site is away from the built-up area of any settlement with a range of community facilities. Its surroundings consist predominantly of open agricultural land. There is a scatter of dwellings within the immediate surroundings; those that are nearest are respectively about 200 m and about 300 m distant. The road serving the site is a cul-de-sac and at my inspection gave the impression of normally carrying little traffic.

THE APPEAL ON GROUND (a)

5. From my inspection of the site and its surroundings and from the representations made at the inquiry, I consider that the main issues in this case are whether the operational development that has taken place relates to the construction of a new dwelling or the replacement of an existing dwelling and, if it relates to the former, whether there are sufficiently exceptional circumstances to justify a new dwelling in the countryside.

6. For your client it was said that she had invested all her available capital in the purchase of the appeal site and was living with her 3-year old child in council accommodation. The date of the purchase was 4 October 1983. At that time the building, now represented by remains, comprised a single-storey, 2-bedroomed dwelling. It was intact, partially dated from the 1930s and had been occupied continuously until early 1983. The walls of the eastern section consisted of timber framing and asbestolux cladding. Your client took advice and submitted an application for the erection of a new dwelling on the site (Plan C/2). Permission was refused on 30 January 1984 (Document 6/4). Your client took further advice, and a scheme was put in hand for what was described on the plan accompanying an application for building regulations approval as "proposed loft conversion and improvements" (Plan B). It was the intention within the eastern section to remove one wall at a time, not to alter the internal floorspace and to retain the roof. However, circumstances were such that by 6 March 1984 3 walls of that section and much of its roof had been removed (Document 6/6). The blockwork walls, referred to in Schedule 3 of the notice, generally corresponded in position to those shown on Plan B. Any discrepancies were slight, ought not to be regarded as material and were capable of being corrected.

7. It was accepted that the site lay within an area to which the approved North East Wiltshire Structure Plan applied. Policy H20 of that Plan read:

"The replacement of an existing dwelling in the countryside will be generally acceptable where there is little change proposed to the size or appearance of the building and such replacement does not perpetuate a serious traffic hazard or form an isolated development away from public services, or adversely affect the rural scene. Where proposals for replacement involve substantial or other types of change they will be treated as new dwellings. The consideration of replacement dwellings in the countryside will not extend to the replacement of redundant buildings."

Policy H20 created a presumption in favour of granting permission for replacement dwellings in the countryside so long as certain criteria were satisfied. They

were satisfied in this case. The size and appearance of the building would not be materially altered except in ways that would constitute an improvement. There was no suggestion of a traffic hazard being perpetuated. The relative isolation had not deterred previous residential use and was not a strong enough objection to stand on its own. The site was likely to be little seen by the general public, and the rural scene would not be adversely affected. The dwelling being replaced was not a redundant dwelling or a redundant building of any other kind.

8. For the council it was said that the former dwelling on the appeal site was the subject of a Demolition Order issued on 3 February 1983. Under the Order proposals could be submitted for the reconstruction, enlargement or improvement of the dwelling so as to make it fit for human habitation. No such proposal was, however, ever submitted. The deemed planning application was tantamount to one for a completely new dwelling. Policy H19 of the approved Structure Plan which indicated that new dwellings in the countryside would not normally be permitted was therefore applicable. Even if the dwelling were regarded merely as a replacement, the criteria set out in Policy H20 would not be satisfied. A dwelling on the site would constitute isolated development. The final sentence of Policy H20 admitted of a single interpretation. Any consideration of replacement dwellings could not embrace the replacement of redundant buildings other than redundant dwellings. It was said on behalf of the council that the dwelling on the site had become redundant in the sense of having come to the end of its useful life. To allow the appeal would be directly opposed to long-established national and local policies.

9. In my consideration of this case I attach importance to the nature and extent of the remains of a building on the site. Even if all the surviving work were incorporated and even if the original form were perpetuated, any dwelling on the site would now have to be very largely of new construction. That is quite apart from different materials and different design that might or would be imposed by the need to comply with building regulations requirements. If there were an existing dwelling to be replaced the change involved would, in my view, be substantial enough to justify treatment of the implicit proposal as one for a new dwelling. As it is, when the remains were by the time of my inspection virtually limited to 2 walls of a smaller section, I do not consider that there can any longer reasonably be said to be an existing dwelling on the site. The first conclusion I reach is that the operational development that has taken place relates to the construction of a new dwelling.

10. Because there is no existing dwelling to be replaced I take the view that Policy H19 applies to your client's implicit proposal. That policy recognises the benefits of preserving the countryside and making the most of community facilities, by which I mean more than just mains services. At the same time I have noted that the policy does contain the word "normally" and have therefore directed my attention to the individual merits of your client's case. It seems to me that a dwelling on the site would have many of the ill-effects that Policy H19 is designed to prevent. The building itself might be unobtrusive, but there would still be the impact of the residential use, including activity generated and economic demands imposed. The harm inflicted by a new dwelling need not be greater at any one moment than that inflicted by its predecessor. However, I see in planning control and the obsolescence of buildings an opportunity to improve upon the situation inherited from the days before the Town and Country Planning Act 1947. Otherwise an undesirable pattern of development is merely going to be perpetuated and consolidated. The second conclusion I reach is that there are not sufficiently exceptional circumstances to justify a new dwelling in the countryside. I am not therefore disposed to allow your client's appeal on ground (a).

11. I recognise that the deemed planning application is for permission to carry out building operations in connection with the construction of a dwelling. In the

course of the inquiry it was agreed by you and the council that what your client was in fact seeking was planning permission for the erection of a dwelling on the site. That is why I am treating such erection as your client's implicit proposal. The objections to the operations carried out are primarily objections to a dwelling, of which the blockwork walls are potentially a part. I have noted your client's personal circumstances and, although I have sympathy with her in her predicament, I cannot regard this as a case where issues are so nicely balanced that pleas based on hardship should prevail. The likelihood that the development would persist long after those circumstances have ceased to be material has to be borne in mind. I have taken into account Policy H21 of the approved County Structure Plan and the possibility that the dwelling on the site might have been improved without the need for planning permission and in a way that satisfied the requirements of the Demolition Order. Those and all other matters raised at the inquiry are not, however, of sufficient substance to outweigh the considerations that have led me to my decision.

THE PERIOD FOR COMPLIANCE

12. Your client has not appealed on ground (h). Nevertheless I have directed my attention to the possibility that 2 days as the period for compliance is too short. I recognise that the removal of the blockwork walls does not amount to a formidable building operation, but your client ought to have a reasonable length of time in which to arrange for such removal. She will also need to find somewhere to receive the materials from the walls. I am therefore extending the period for compliance to 28 days.

FORMAL DECISION

13. For the above reasons, and in exercise of the powers transferred to me, I hereby direct that the period for compliance with the notice be varied by the deletion of the words "two days" and the substitution therefor of the words "twenty-eight days". Subject to this variation of the notice, I hereby dismiss your client's appeal, uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under Section 88B(3) of the Town and Country Planning Act 1971, as amended.

RIGHT OF APPEAL AGAINST DECISION

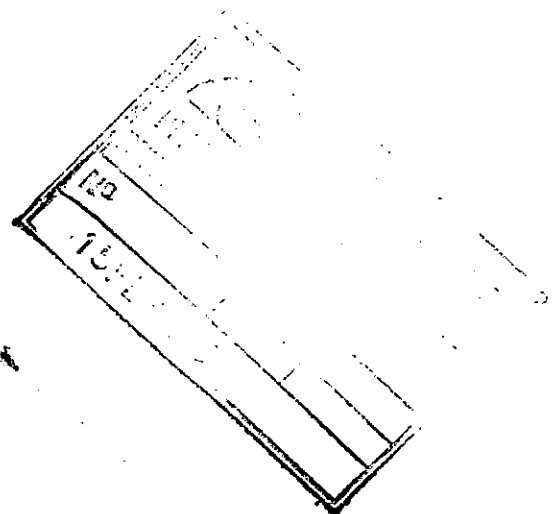
14. This letter is issued as the determination of the appeal before me. Particulars of the rights of appeal against the decision to the High Court are enclosed for those concerned.

I am Gentlemen
Your obedient Servant

Robert Sherlock.

ROBERT SHERLOCK BA DipTP MRTPI FSA
Inspector

ENC



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** 405

Enquiries to Mr. McDonald

27th April 1984

Dear Sir/Madam,

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

9 Benthams Lane, Purton Stoke, PURTON, Swindon, Wilts.

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.

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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 - 30th May 1984

FEE WHICH MUST ACCOMPANY
APPEAL -
£47

To: Mrs. Susan Wheeler,
9, Purton Stoke,
Swindon,
Wilts. SN5 9JG

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

Reasons for issue :

1. The construction of a dwelling in this location constitutes isolated and sporadic development in open countryside to the detriment of this locality in particular and rural amenity in general.
2. The construction of a dwelling in this location conflicts with the approved Structure Plan policy, to wit :-

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North East Wiltshire Structure Plan
10th December 1981

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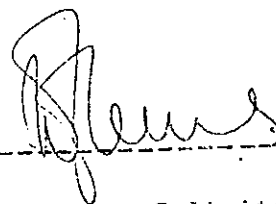
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NOTICE IS HEREBY GIVEN that the Council require that the steps specified in Schedule 3 below be taken in order to remedy the breach within the period of two days from the date on which this Notice takes effect.

THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of Section 88(10) of the Act, on 30th May, 1984

ISSUED 27th April, 1984

Signed



Solicitor

Monkton Park,
Chippenham, SN15 1ER.

/ SCHEDULE 1

(over)

SCHEDULE 1 - Land or premises to which this Notice relates

Land known as 9 Bentham Lane, Purton Stoke, Purton, Swindon, Wilts.

SCHEDULE 2 - Alleged breach of planning control

Building operations in connection with the construction of a dwelling.

SCHEDULE 3 - Steps required to be taken

- (1) To cease or secure the cessation of building operations in connection with the construction of a dwelling;
- (2) To remove or secure the removal of the blockwork walls constructed on the land.

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

Scale 1:2500

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6-65

separated from the defendant being
the only one present at the Commission

9751
2.9324
3.17

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TOWN AND COUNTRY PLANNING ACT 1971 (as amended)
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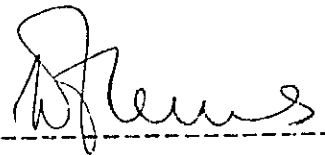
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2. The Council considers it expedient to prevent before the expiry of the period allowed for compliance with the said Enforcement Notice the carrying out of any activity comprised in the alleged breach of planning control described in the said Enforcement Notice.

NOW THEREFORE the Council in pursuance of its powers under the said Section 90 and all other powers it enabling HEREBY PROHIBITS and requires the cessation of all activities comprised in the said alleged breach of planning control on and after the date when this Stop Notice becomes effective which date shall be 1st May 1984

DATED this 27th day of April 1984



Solicitor

Monkton Park,
Chippenham, SN15 1ER.

S C H E D U L E

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