

I hereby certify that this is a true copy of the original.

Signed ...

K. B. WILSON
SOLICITOR

NORTH DEVON DISTRICT COUNCIL

DATED 3.1.95

IMPORTANT
THIS COMMUNICATION EFFECTS YOUR PROPERTY

LISTED BUILDING ENFORCEMENT NOTICE

UNAUTHORISED WORKS

**PLANNING (LISTED BUILDINGS 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.

1. THE BUILDING AFFECTED (shown edged red on the plan attached)

Gate pillars including two sculptured stone dogs situated thereon (forming part of Tawstock Court), Tawstock, Devon.

("the building") being a listed building as defined in Section 1 of the Act.

2. THIS IS A FORMAL NOTICE which is issued by the Council 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 work(s) that [have been] ~~are being~~ 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.

3. THE ALLEGED CONTRAVENTION

It appears to the Council that the following works, namely

The removal of two (2) sculptured stone dogs, one from each gate pillar.

("the works") ^{have been} ~~are being~~ executed to the building and the works involve a contravention of Section 9(1) of the Act in that they are for the ~~demolition~~ ~~[alteration]~~ ~~[extension]~~ of the building [in a manner which would affect its character as a building of historic architectural or historic interest] and have not been authorised pursuant to Section 8 of the Act as no listed building consent has been granted in respect thereof.

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 its former state within [the periods specified in respect of each step in paragraph 5]

5. WHAT YOU ARE REQUIRED TO DO

1. Within 21 days of the effective date submit to the Council proposals to strengthen the gate pillars sufficient for them to bear the weight of the sculptured stone dogs, or otherwise produce sufficient evidence to satisfy the Council that no strengthening works are required.
2. Within 28 days of the Council approving any proposals to strengthen the gate pillars carry out and complete the necessary works in accordance with the approved proposals to strengthen the gate pillars.
3. Within 7 days of either completing the works necessary to strengthen the gate pillars, or producing evidence sufficient to satisfy the Council that no strengthening is required, reinstate and affix the sculptured stone dogs onto the gate pillars in positions as close as possible to where they were situated prior to their removal.
4. Without prejudice to the specific requirements of steps 1 to 3 above within 3 months of the effective date reinstate onto the gate pillars the sculptured stone dogs as close as possible to their positions prior to their removal, ensuring that the gate pillars are of sufficient strength to hold the stone dogs and if works are necessary to strengthen the same then carry out such works in accordance with proposals previously submitted to and approved by the Council.

6. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 10th February 1995 19 ("the effective date")
it beforehand. *(b) unless an appeal is made against

Dated : 23rd December 1994

Signed :
 Services Manager

On behalf of:
North Devon District Council
Civic Centre, Barnstaple,
Devon. EX31 1EA

* (a) delete if whole of building is being demolished.

***(b) Specific date, not less than 28 clear days after date of service**

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 relevant 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 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;
- (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 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 the 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 as 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 of 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 subsection (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 -

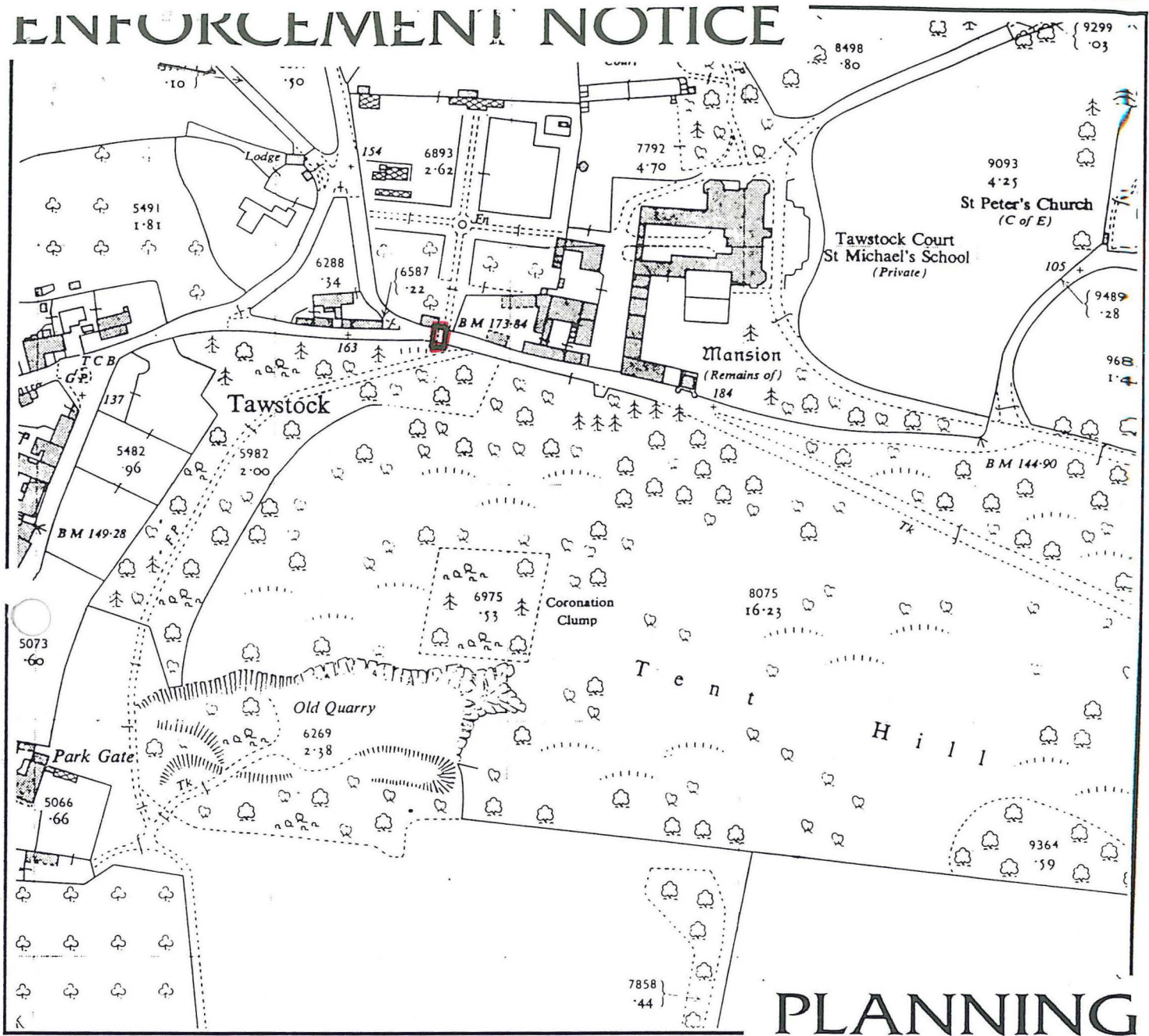
 - (a) that he did everything he could be expected to do to secure that all the steps required by the notice were taken; or
 - (b) that he was not served with a copy of the listed building enforcement notice and was not aware of its existence.

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

 - (a) on summary conviction, to a fine not exceeding £20,000; and
 - (b) on conviction on indictment, to a fine.

- (6) In determining the amount of any fine to be imposed 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.

ENFORCEMENT NOTICE



PLANNING

The Breach of Planning Control Which has Occurred:-

Unauthorised alterations to listed building,

Site:-

Tawstock.

O.S. Plan No.	SS 5529
Scale	1:2500
Drawn	Sue Thomas
Date	November 1994

NOTATION



The Site



M.J.Easton Dip.T.P. M.R.T.P.I.,
Principal Planning Officer

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Civic Centre, Barnstaple, Devon, EX31 1EA