



IMPORTANT

THIS COMMUNICATION AFFECTS 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 LAND/BUILDING AFFECTED (shown edged red on Plan 1 attached)

Walled area adjacent highway near White Lodge Westleigh near Bideford
North Devon EX39 4NR.

("the building") being a listed building as defined in Section 1(5) 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 executed to the building. The Council considers 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 part of a Listed wall and erection of wooden fence and gates into resulting space without the required Listed Building Consent. The approximate location of which is shown coloured blue on Plan 1 attached mentioned above.

"the works" have been executed to the building and the works involve a contravention of Section 9(1) of the Act in that they are works for the alteration of the building in a manner which 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 the state in which it would have been if the works had not been executed within a period of three months from the date when this notice takes effect.

5. WHAT YOU ARE REQUIRED TO DO

- 1, Remove the wooden fence and gates and dispose of the resulting debris/materials away from the site.
- 2, Rebuild the wall in accordance with the schedule of works provided and remove from the site any resulting debris/materials.

6. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on Tuesday 05 April 2011 unless an appeal is made against it beforehand.

Dated : Friday 04 March 2011

Signed :
Solicitor, Joint Acting Legal Services Manager

on behalf of the Council,

**EXTRACTS FROM THE PLANNING (LISTED BUILDINGS AND
CONSERVATION AREAS) ACT 1990 (AS AMENDED)**

1.— Listing of buildings of special architectural or historic interest.

(5) In this Act “listed building” means a building which is for the time being included in a list compiled or approved by the Secretary of State under this section; and for the purposes of this Act—

- (a) any object or structure fixed to the building;
- (b) any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948, shall be treated as part of the building.

39.— Appeal against listed building enforcement notice.

(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 historic 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 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;

(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 and conditions of the listed building consent had been complied with.

(2) An appeal under this section shall be made

(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 prepaid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date; or

(c) by sending such notice to him using electronic communications at such time that, in the ordinary course of transmission, it would be delivered to him before that date.

(3) Where such an appeal is brought the listed building enforcement notice [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 required 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 ground 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; and

(b) continues so to occupy the building when the appeal is brought.

42.— Execution of works required by listed building enforcement notice.

(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 occupier 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 liability 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.

43.— Offence where listed building enforcement notice not complied with.

(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

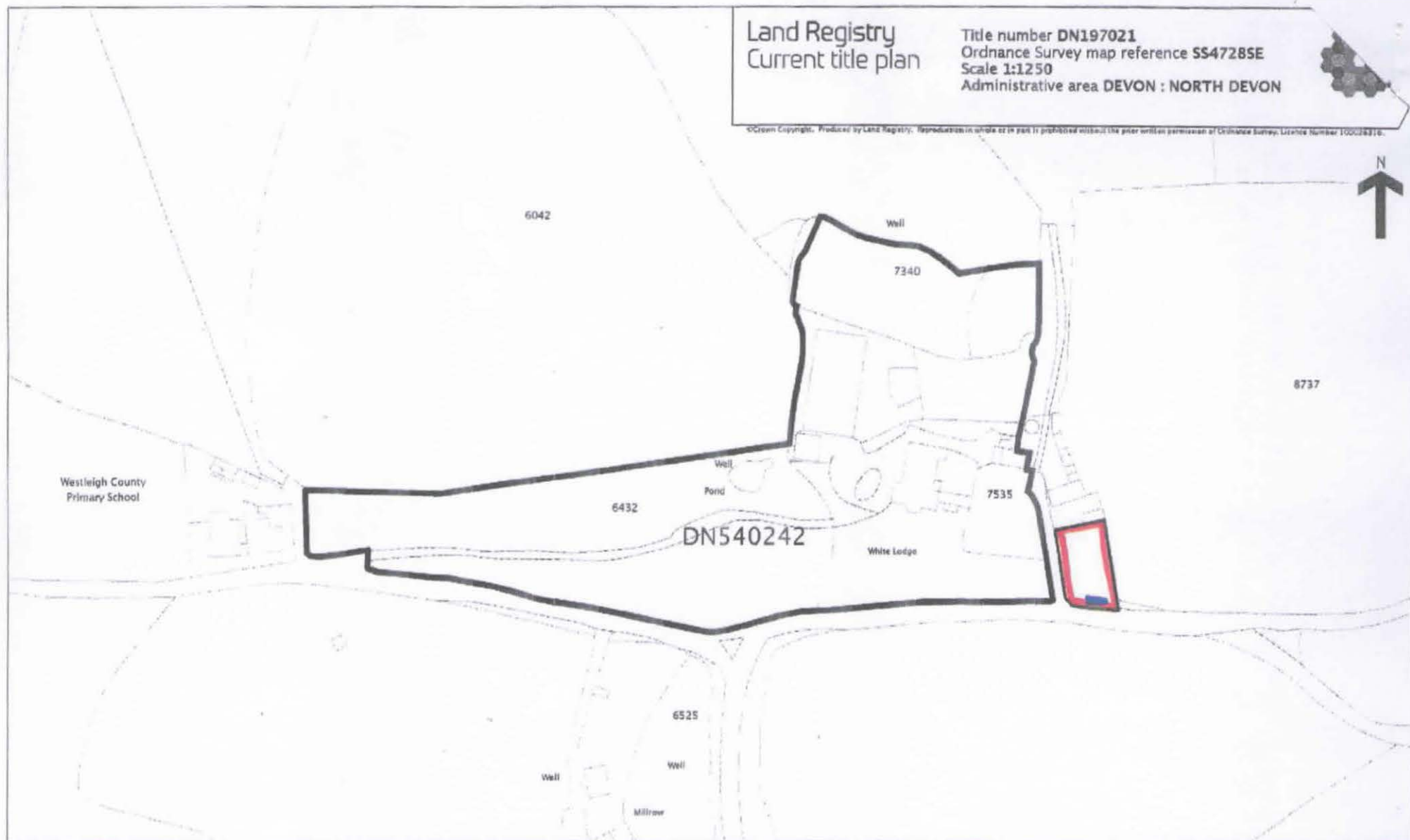
(b) on conviction on indictment, to a fine.

(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.

Land Registry
Current title plan

Title number DN197021
Ordnance Survey map reference SS47285E
Scale 1:1250
Administrative area DEVON : NORTH DEVON

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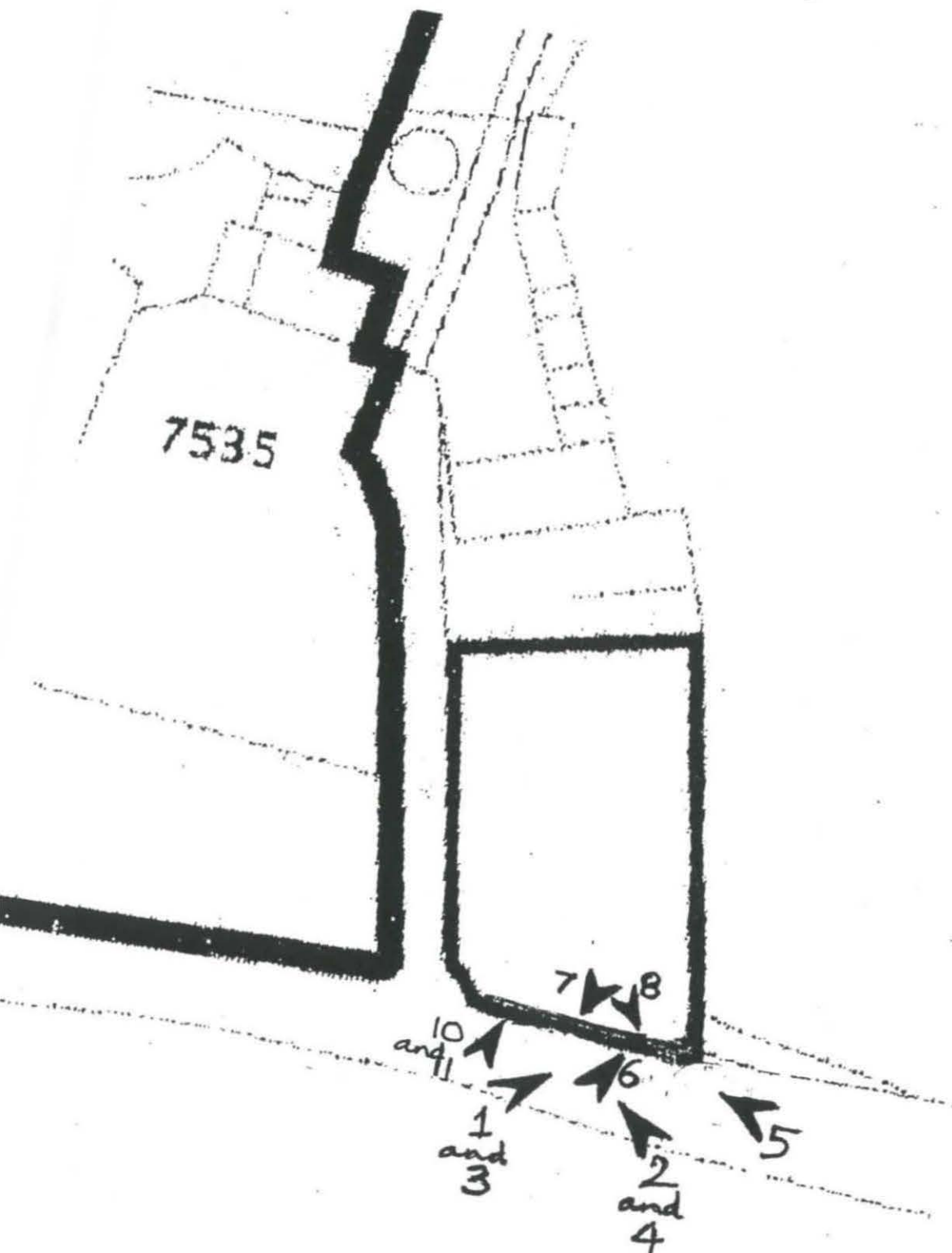


This is a print of the view of the title plan obtained from Land Registry showing the state of the title plan on 20 October 2010 at 11:56:25. This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. See Land Registry Public Guide 7 - Title Plans.

This title is dealt with by Land Registry, Plymouth Office.

PLAN 1

PLAN 2 DIRECTION OF PHOTOGRAPHS



SCHEDULE OF WORKS TO ACCOMPANY ENFORCEMENT NOTICE (1 to 9)

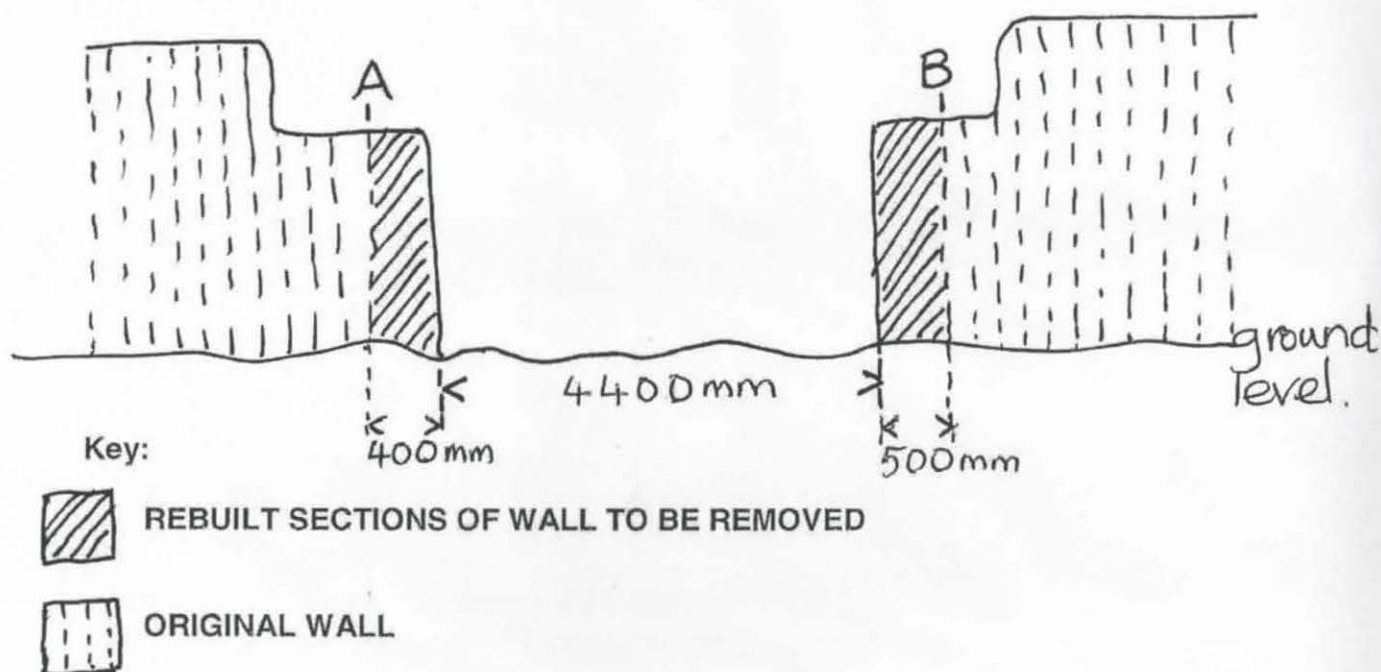
1. Comply with all relevant Health and Safety requirements and with all requirements of the Highway Authority (Devon County Council).
2. Carefully dismantle and remove the wooden fences and gates that have been erected in place of the missing section of the Listed wall. Dispose of resulting debris away from the site.
3. Dismantle unauthorised recently constructed sections of wall at each side of missing section, from point A to point B see attached Appendix 1 (drawing no.'s 1 and 3). Clean mortar from stones and set aside for re-use. See elevation plan provided in attached Appendix 1 drawing no.1 showing approximate measurements of the part of the wall to be removed. Only the recently constructed parts of the wall should be taken away in the first instance. Then, in order to tie in the stones to be used in re-instating the wall, any individual stones should be removed from the end of the old wall as necessary to create a staggered bond.
4. Either retrieve remaining stones from missing section of wall (if available), or obtain local stone to match the original wall in an appropriate range of colour and size of individual stones. Stones to be free of mortar and/or other bedding material.
5. Excavate along line of dismantled wall and prepare foundations to original width and depth down to a firm base. Construct suitable foundations to ensure a sound and stable wall on completion.
6. Using the width of the original wall as a guide to the width of the new stonework (approximately 400mm decreasing to 350mm at top of wall as shown in attached Appendix 1 drawing no.2), tie in the new stones to the original sections of the wall on both sides. Fill in the entire missing section to the height of existing original wall (approximately 2250mm to 2355mm) from point A to point B shown in the attached Appendix 1 (drawing no.1).
7. Reconstruct wall to the same height and width as the remaining parts on either side of the gap (approximately 2250mm to 2355mm) using original stones from dismantled wall or replacement matching stones (as in 3 above). See attached Appendix 1 (drawing no.1). The mortar should comprise a mix as set out in Appendix 2 provided.

8. The wall should be constructed in two skins of stone work, stone-faced on both sides. The space between these two skins to be filled with rubble and hard waste bedded using the construction mortar. The facing stones should be well bedded down on the mortar to match the random coursing of the original wall. Stones should be knocked down so that high points are in contact with each other in the stonemasonry style, not placed on a bed of mortar that separates adjacent stones in the style of bricklaying.
9. The top of the wall should have half-round capping of the construction mortar to match remaining original wall.

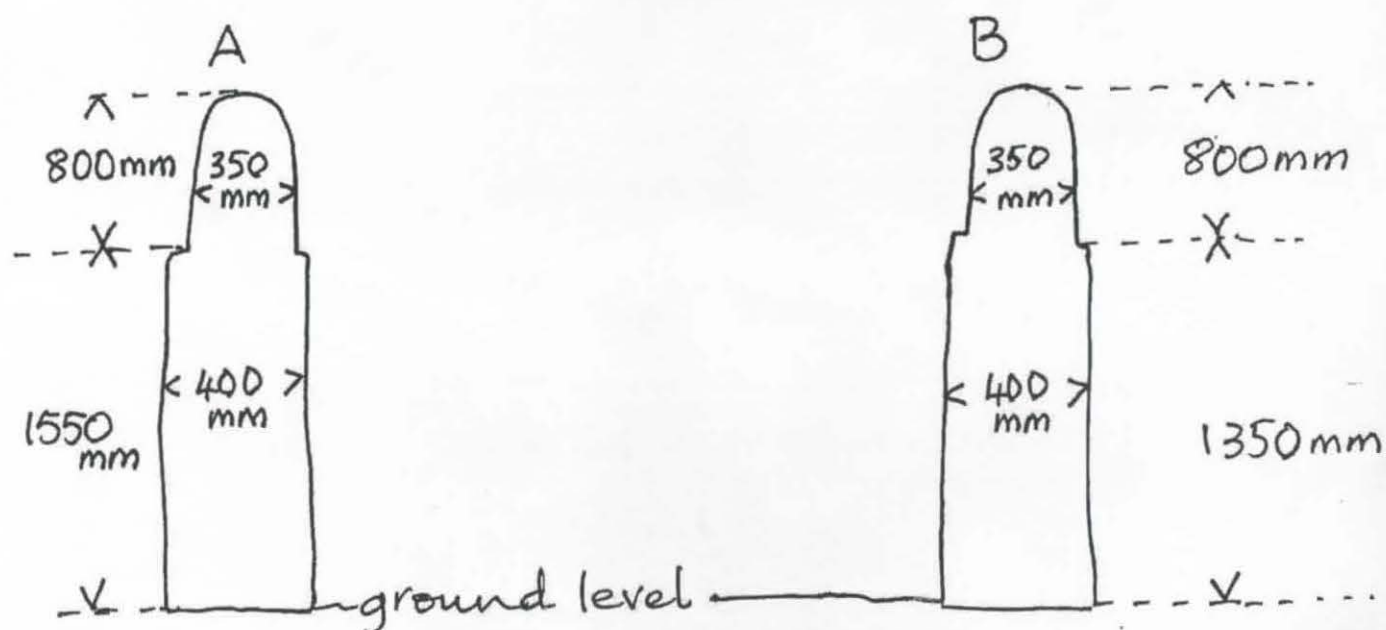
Appendix 1

Elevation plans of walls. Measurements are approximate and intended as a guide only.

1. South elevation as viewed from highway R4825



2. End on view of each side of missing section of wall



Appendix 2

Mortar mixes utilising Naturally Hydraulic Limes (NHLs) supplied in dry powder form to be mixed roughly in proportions of 2:1 (2 parts of washed and well-graded sharp sand with max. particulate size of c. 3mm, to 1 part NHL 3.5).

NOTE: If powdered NHL is to be worked up into a putty-like state through adding water and working, usually in a cement or concrete mixer, prior to addition of aggregates the ratio will be closer to 3:1 with 3 parts sand and 1 part NHL 'putty'). Stones should be knocked down so that high points are in contact with each other in the stonemasonry style, not placed on a bed of mortar that separates adjacent stones in the style of bricklaying.

Mortar mixes should contain the minimum quantity of water, addition of extra water may well improve workability but will also lead to failure through excessive shrinkage upon de-watering and should thus be avoided. Similarly the addition of Portland Cement, white cement or gypsum into the mix will alter the characteristics of the mortar making it more prone to failure – such additions are not to be made to the mortar mix under any circumstances.

Appendix 3. Block plan of site

