

**South
Derbyshire
District Council**

Planning Services
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**Stuart Batchelor
Head of Community and Planning Services**

Civic Offices, Civic Way,
Swadlincote, Derbyshire DE11 0AH

Please ask for: Gaynor Richards (Mrs)

Tel: 01283 595750

Fax: (01283) 595850

Typetalk - 0870 2409598

DX 23912 Swadlincote

E-mail: gaynor.richards@south-derbys.gov.uk

Our Ref: E/2011/00308

Date: 15 December 2011

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 171E
TEMPORARY STOP NOTICE: UNAUTHORISED PARTIAL ERECTION OF A
DETACHED BUILDING AT BROOKSIDE, HEAGE LANE, ETWALL, DE65 6LS**


I write to inform you that the Council has issued a Temporary Stop Notice relating to the above and accordingly, I now serve on you a copy of that notice, in view of your interest in the land. Copies of the notice are also being served on others, who it is understood have an interest in the land.

There is no right of appeal to the Secretary of State against the notice and if you fail to comply with the notice you will be at risk of immediate prosecution.


If you need independent advice about this notice, you are advised to contact a lawyer urgently.

Should you require any further information please contact me, as above.

Yours sincerely


Gaynor Richards (Mrs)
Senior Enforcement Officer
Development Management

CC: , Brookside, Heage Lane, Etwall, DE65 6LS

 15/12/2011

TEMPORARY STOP NOTICE

IMPORTANT THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990

ISSUED BY: South Derbyshire District Council herein referred to as the "the Council".

To: *[Faint, illegible text]*

1. ISSUE OF TEMPORARY STOP NOTICE

On 15 December 2011 the Council has issued this temporary stop notice alleging that there has been a breach of planning control on the land described in paragraph 3 below.

2. PROHIBITION OF ACTIVITY

This temporary stop notice is issued by the Council in exercise of their power in section 171E of the 1990 Act, because it thinks it is expedient that the activity specified in this notice should cease on the land described in paragraph 3 below. The Council now prohibits the carrying out of the activity specified in this notice. Important additional information is given in the Annex to this notice.

3. THE LAND TO WHICH THIS NOTICE RELATES.

Brookside, Heage Lane, Etwall, Derbyshire, DE65 6LS the land edged red on the attached plan ("the Land").

4. THE ACTIVITY TO WHICH THIS NOTICE RELATES

Unauthorised partial erection of a detached building.

5. REASONS FOR ISSUING THE NOTICE

The operational development to erect a detached building does not have planning permission and is unauthorised development that is not permitted development under the terms of the Town and Country Planning (General Permitted Development) Order 1995, (as amended).

Therefore, the current development is contrary to saved Environment Policies EV1 and EV5; and H8 of the South Derbyshire Local Plan, PPS 7, PPS 25 and PPG 18.

The site occupies a location in the countryside outside the confines of the village of Etwall. The detached building is being erected without the benefit of the prior grant of planning permission that is necessary as no permitted development rights accrue to a smallholding of this size for the erection of a detached agricultural building. Furthermore, the design and bulk of the building give it an appearance of a detached dwelling.

In these circumstances there is a breach of planning control and the Council considers it expedient to issue a temporary stop notice on the basis that the development has not been proven to meet the criteria set out in PPS 7 – Sustainable Development in Rural Areas and the provisions of Environment Policies 1 and 5; and Housing Policy 8, which are saved policies in the adopted South Derbyshire Local Plan. It has not been demonstrated that the

detached building is essential to the rural based activity being undertaken on the holding that can only be achieved via the submission of the necessary planning application. The size and design of the building are such that it is considered to be unsympathetic to its surrounds and does nothing to protect the character of the countryside or the landscape quality in which it is situated. If the building was a dwelling it is not considered to be necessary to the operation of an established, viable, long term rural based activity, given the limited ability of the smallholding to generate sufficient income to justify a new dwelling in this countryside location. The detached building does not relate well to any other development, it represents an unnecessary intrusion into and detracts from the character of the countryside.

The site lies within flood zone 3A. As no planning permission has been sought or granted the Local Planning Authority has not had an opportunity to assess any impact or risk posed by the development in accordance with PPS 25.

This temporary stop notice is served to prevent further development and to enable the landowner or occupiers the opportunity to submit a formal planning application.

There is no certainty that planning permission would be granted for this new development in the countryside.

Under the Human Rights Act 1998, it is necessary for the Authority to have regard to the rights of the owner and occupier of a site under Article 1 of the First Protocol of the European Convention on Human Rights to peaceful enjoyment of possessions and the protection of property and under Article 8 of the European Convention on Human Rights to respect for his private and family life, his home and his correspondence. It is considered that any affects under the Human Rights Act 1998 are proportionate with the breach of planning control.

In considering whether to take enforcement action, the Council has to consider the proportionality of its actions. In other words whether the proposed action would be proportionate to the objective being pursued – here the enforcement of planning control in support of National and Local Planning Policies. It is not considered that issuing an enforcement notice would result in interference with the appellant's rights in this case, as it does not involve any residential occupation of the land. However, it is considered that the issuing of a Temporary Stop Notice requiring work to stop on the unauthorised erection of a detached building would be a proportionate response to the alleged breach of planning control in this case.

It is therefore now considered expedient to serve a temporary 'Stop Notice' to prevent work continuing.

6. WHAT YOU ARE REQUIRED TO DO

1. Cease all the activity specified in this notice.

7. WHEN THIS NOTICE TAKES EFFECT.

This notice takes effect on **15 December 2011** when all the activity specified in this notice shall cease. This notice will cease to have effect on **12 January 2011**.

DATED 15 December 2011

SIGNED..... (MR A P Sylvester)

Development & Building Control Manager
Telephone 01283 595743

COUNCIL'S AUTHORISED OFFICER.

ON BEHALF OF: South Derbyshire District Council, Civic Offices, Civic Way,
Swadlincote, Derbyshire, DE11 0AH.

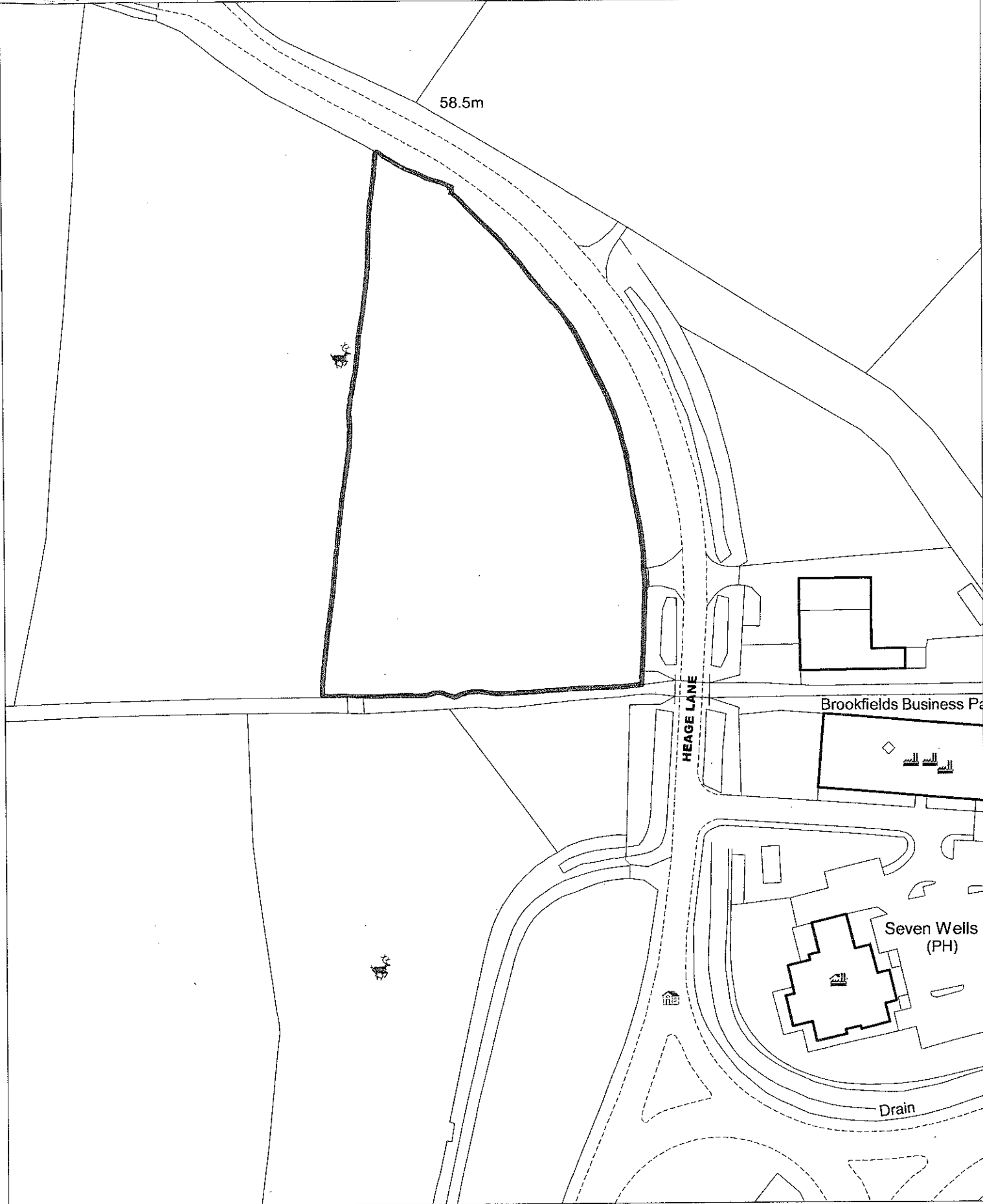
Council nominated Officer for enquiries; Mrs Gaynor Richards - Tel: 01283 595750.

ANNEX WARNING

This Notice takes effect on **15 December 2011**, as specified in paragraph 7. There is no right of appeal to the Secretary of State against this Notice.

It is an offence to contravene a temporary stop notice after a site notice has been displayed or the temporary stop notice has been served on you (section 171G of the Act). If you then fail to comply with the temporary stop notice you will be at risk of immediate prosecution in the magistrates' court, for which the maximum penalty is £20,000 on summary conviction for a first offence and for any subsequent offence. The fine on conviction on indictment is unlimited. If you are in any doubt about what this notice requires you to do, you should get in touch immediately with Gaynor Richards on 01283 595750. If you need independent advice about this notice, you are advised to contact a lawyer, planning consultant or other professional adviser specialising in planning matters urgently. If you wish to contest the validity of the notice, you may only do so by an application to the High Court for judicial review.

Brookside, Heage Lane, Etwall



58.5m

HEAGE LANE

Brookfields Business Pa

Seven Wells (PH)

Drain

