



**Stuart Batchelor**  
**Director 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](mailto:gaynor.richards@south-derbys.gov.uk)

Web Site: [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk)

Our Ref: E/2016/00178

Date: 31 August 2017

**BY RECORDED DELIVERY**

Dear

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 172  
ENFORCEMENT NOTICE – OPERATIONAL DEVELOPMENT  
Open grassed area adjacent to No.45 The Potlocks (also known as Public  
Open Space)**

This Council has 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. I also enclose a second copy of the notice and a pre-paid envelope. Please sign and return the second notice to me to acknowledge receipt. Copies of the notice are also being served on others, who it is understood, have an interest in the land.

Unless an appeal is made to the Secretary of State, as described below, the notice will take effect on **2 October 2017**. You must then ensure that the required steps, for which you may be held responsible, are taken **within 30 days of the notice taking effect** (the period specified in paragraph 6 of the notice). If you fail to comply within that time you may be liable to prosecution and, on conviction, to a fine. Continuing contravention after conviction can lead to a further fine for each day the offence continues. The Council may also carry out remedial action.

If you wish to appeal against the notice, you should first read carefully the enclosed information sheet. Then you or your agent should complete the official appeal forms and send one copy, together with a copy of the enforcement notice enclosed with this letter, to the address shown on the appeal form and one copy to the Planning Services Manager, South Derbyshire District Council, Civic Offices, Civic Way, Swadlincote, Derbyshire, DE11 0AH.

You may have to pay a fee for the deemed planning application that arises on an enforcement appeal, which the Council calculate to be two payments each of £195, but the Secretary of State will notify you of the appropriate fee after the appeal has been lodged. To be valid, the Secretary of State must receive your appeal **before 2 October 2017** (the date given in paragraph 7 of the notice), the date when the notice takes effect.

Yours sincerely

Gaynor Richards (Mrs)  
Senior Enforcement Officer  
Development Management & Building Control

## **IMPORTANT: THIS COMMUNICATION AFFECTS YOUR PROPERTY**

### **TOWN AND COUNTRY PLANNING ACT 1990 (“the Act”) (as amended by the Planning and Compensation Act 1991)**

#### **ENFORCEMENT NOTICE – OPERATIONAL DEVELOPMENT**

**Issued by:** South Derbyshire District Council, Civic Offices, Civic Way, Swadlincote, South Derbyshire, DE11 0AH (“the Council”).

**1. This is a formal notice** issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of section 171A (1) of the Act, at the land described below. The Council considers that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of this notice and the enclosures to which it refers contain important additional information.

#### **2. The land to which this notice relates**

The land known as Open grassed area adjacent to No.45 The Potlocks (also known as Public Open Space), Willington, Derby shown edged in red on the attached plan. (“the Land”).

#### **3. The matters, which appear to constitute the breach of planning control**

Without planning permission, the erection of a metal palisade fence that exceeds 1m in height, located adjacent to the highway.

#### **4. Reasons for issuing this notice**

The Council considers it expedient to issue this notice for the following reasons:

- a)** It appears to the Council that the above breach of planning control has occurred within the last four years.
- b)** Since the late 1990’s this land has formed part of the Public Open Space for the development known as “The Potlocks” and as indicated on plans approved under grant of planning permission reference 9/290/1152/F.
- c)** Although it appears to remain in the registered ownership of Younger Homes (Northern) Limited, the grassed area has been maintained by South Derbyshire District Council up until around June/July 2016, when a metal palisade fence that measures in excess of 1m high was erected.
- d)** The industrial design of the metal palisade fence is such that it creates an incongruous feature within the residential development contrary to Policy BNE1 (g) of the adopted South Derbyshire Local Plan.
- e)** The fencing prevents access to the Public Open Space, stopping it being used by the surrounding residents who have historically had unfettered access to the land, contrary to Policy INF9 of the adopted South Derbyshire Local Plan.

- f) Also the land has been roughly broken up, possibly with an excavator, leaving it rutted, unsightly and compounding the adverse effects on the visual attractiveness of the area, as it was previously well maintained green open space contrary to Policy BNE1 (g) of the adopted South Derbyshire Local Plan.
- g) Subsequently, paragraph 207 of the NPPF and the South Derbyshire Local Enforcement Plan, adopted January 2013 are of relevance here.
- h) As part of the enforcement investigation a requisition for information under Section 330 of the Town and Country Planning Act 1990 (as amended) has been served, but a response has not been forthcoming, despite a reminder being sent.
- i) The Council does not consider that planning permission should be given, because planning conditions could not overcome these objections.

## 5. What you are required to do

1. Permanently remove the metal palisade fencing and the resulting materials from the land edged red.

## 6. Time for compliance

The period of compliance for the steps set out in paragraph 5 above is **30 days** beginning with the day on which this notice takes effect.

## 7. When this notice takes effect

This notice takes effect on **2 October 2017**, unless an appeal is made against it beforehand.

Dated: 31 August 2017

Signed:

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Director of Community and Planning Services  
(the Council's authorised officer)

on behalf of: South Derbyshire District Council, Civic Offices, Civic Way,  
Swadlincote, Derbyshire, DE11 0AH.

## Annex

South Derbyshire District Council has issued an enforcement notice relating to the land at *open grassed area adjacent to No.45 The Potlocks (also known as Public Open Space), Willington, Derby* and you are served with a copy of that notice as you have an interest in the land. Copies of the notice have been served on the parties listed at the end of this Annex.

## **YOUR RIGHT OF APPEAL**

You can appeal against this Notice, but any appeal must be received, or posted in time to be received, by the Secretary of State **before 2 October 2017**, the date specified in paragraph 7 of this notice.

## **WHAT HAPPENS IF YOU DO NOT APPEAL**

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 of this notice, **2 October 2017**, and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within **30 days**, the period specified in paragraph 6 of this notice. Failure to comply with an enforcement notice, which has taken effect, can result in prosecution and/or remedial action by the Council.





# The Potlocks



