

Register

IMPORTANT : THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 - SECTION 179

AMENITY NOTICE

SERVED BY PERTH & KINROSS COUNCIL

RELATING TO: LAND AT RIVERSIDE ROAD, BLAIRGOWRIE, PERTHSHIRE.

THIS NOTICE WAS SERVED ON:

THE COMPANY SECRETARY, RATTRAY HOMES LIMITED, CAIRNFIELD, 14 SCHOOL ROAD, ST. ANDREWS, FIFE, KY16 0BD.

THE COMPANY DIRECTOR, RATTRAY HOMES LIMITED, 3 RANKINE COURT, WORMIT, FIFE, DD6 8TA.

1 **THIS IS A FORMAL NOTICE** which is served by the Council as Planning Authority under Section 179 of the above Act because it appears to them that the amenity of part of the Perth and Kinross Council district is being adversely affected by the condition of land in your ownership, or that you occupy at Riverside Road, Rattray, Blairgowrie.
The Council consider it expedient to issue this notice, having regard to the provision of the development plan and to other material planning considerations.

2 **THE LAND AFFECTED BY THIS NOTICE**

The land to which this notice relates (shown edged in red on the attached location plan), is the ground at Riverside Road (due south of No. 1 Riverside Drive), Rattray, Blairgowrie, and is hereafter referred to as 'the site'.

3 **WHAT YOU ARE REQUIRED TO DO**

In order to bring the subjects to an acceptable and maintainable condition the following works should be undertaken in order:

Step 1 Remove all waste, timber, old tree roots, and all waste building materials deposited on the land at the site, to a licensed tip.

Step 2 Remove all excess mixed soil materials deposited at the site.

Step 3 Re-grade the site to achieve uniform levels throughout.

4. TIME FOR COMPLIANCE

Within 30 days of this notice taking effect, for steps 1, 2 & 3.

5. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 13th April 2009, unless an appeal is made against it beforehand.

6. YOUR RIGHT OF APPEAL

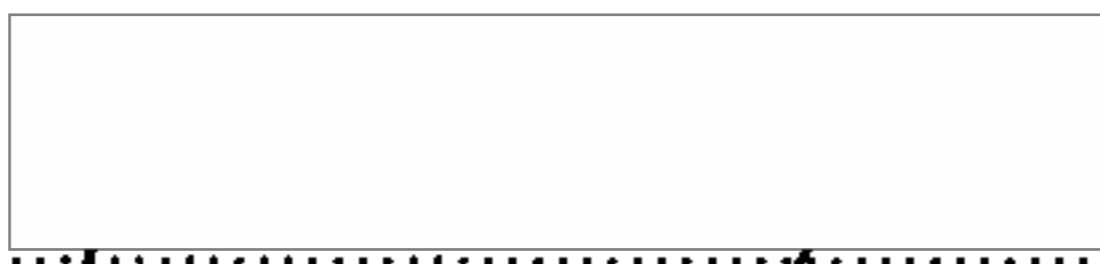
You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Scottish Ministers before 13th April 2009. Schedule 1 to this notice gives information on your rights of appeal. Read it carefully.

7. WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this notice, it will take effect on 13th April 2009 and you must then ensure that the required steps for complying within it, for which you may be held responsible, are taken within the period specified in the notice.

Failure to comply with this notice once it has taken effect can result in remedial action being taken by the Council in terms of Section 135 of the Town and Country Planning (Scotland) Act 1997.

Any person who lawfully obstructs a person acting in the exercise of powers under Section 135(1) of the said Town and Country Planning (Scotland) Act 1997 shall be guilty of an offence and liable in summary conviction to a fine not exceeding level 3 on the standard scale.

Signed.......... Dated 11 March, 2009.....
[Council's Authorised Officer]

On behalf of
Development Management
Perth and Kinross Council
Pullar House
35 Kinnoull Street
Perth
PH1 5GD

Schedule 1

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997.

Explanatory note for those in receipt of an Amenity Notice served under Section 179 of the Town and Country (Scotland) Act 1997

Relevant Legislation

A copy of Sections 179, 180, 130(3), 131(1) & (2) and 132(3) of the 1997 Act is attached. You will wish to note in particular the points referred to below.

Right of Appeal

If you wish to appeal against this notice, you should write to the Directorate for Planning and Environmental Appeals, 4 The Courtyard, Callendar Business Park, Callendar Road, Falkirk, FK1 1XR. The appeal must be received, or posted in time to be received, by him before 13th April 2009. The Scottish Executive has no power to consider an appeal lodged out of time.

The Appeal, which must be in writing, must be based on one or more of the grounds set out in Section 180(1) of the 1997 Act, and you should state the facts on which you propose to rely in support of each of the grounds of the appeal. The grounds of appeal and the statement of facts must be submitted with your appeal or within 14 days of your being required to do so by the Scottish Executive.

(An appeal against an Amenity Notice is deemed an application for planning permission for the development to which the notice relates. In this case a fee of £130.00 is therefore payable to the Scottish Executive and to the Planning Authority and this should accompany the appeal).

The fee will be returned to you in certain circumstances, e.g., if the appeal succeeds on any of the grounds (a) to (e) in Section 180(1) of the 1997 Act, as amended.

If you lodge an appeal, the Amenity Notice is suspended and will not take effect unless the appeal is withdrawn or dismissed.

Direct Action for Non Compliance with an Amenity Notice

If the steps required by an amenity notice are not taken within the specified period(s) the Council may enter the land, take those steps and recover the cost from the owner or lessee of the land.

Further Offences

Compliance with the terms of an amenity notice does not discharge the notice. It will continue in effect and any repetition of the breach of control may incur further penalties or may result in direct action by the Council.

Relevant Sections of the Act

179. - (1) If it appears to a planning authority that the amenity of any part of their district, or an adjoining district, is adversely affected by the condition of any land in their district they may serve on the owner, lessee and occupier of the land a notice under this section requiring such steps for abating the adverse effect as may be specified in the notice to be taken within such period as may be so specified.

(2) Service under subsection (1) shall be effected by the service of a copy of the notice.

(3) Subject to section 180, a notice under this section shall take effect on such date as may be

specified in the notice, being a date not less than 28 days after the latest service thereof under subsection (1).

(4) The planning authority may withdraw a notice under this section (without prejudice to their power to serve another) at any time before it takes effect; and if they so withdraw it, they shall forthwith give notice of the withdrawal to every person on whom the notice was served.

(5) No notice may be served under subsection (1) with reference to any building which is-

(a) a building which is the subject of a scheme or order under the enactments for the time being in force with respect to ancient monuments, or

(b) a building for the time being included in a list of monuments published by the Secretary of State under any such enactment.

(6) The provisions of section 135 shall, subject to any necessary modifications, apply in respect of a notice under this section as they apply in respect of an enforcement notice under section 127.

180. (1) A person on whom a notice under Section 179 is served, or any other person having an interest in the land to which the notice relates, may at any time before the date specified in the notice as the date on which it is to take effect appeal to the Scottish Ministers against the notice, on any of the following grounds—

- (a) that neither the amenity of any part of the planning authority's district nor that of any adjoining district has been adversely affected;
- (b) that the steps required by the notice to be taken exceed what is necessary to remedy any such adverse effect;
- (c) that the period for compliance with the notice falls short of what should be reasonably allowed;
- (d) that the condition of the land is attributable to, and such as results in the ordinary course of events from, a continuing lawful use of the land or from continuing lawful operations carried out thereon; or
- (e) that the notice was served other than in accordance with section 179.

(2) An appeal under this section shall be made by notice in writing to the Scottish Ministers.

(3) The provisions of sections 130(3), 131(1) and (2) and 132(3) shall apply to appeals under this section as they apply to appeals under those sections.

(4) On an appeal under this section the Scottish Ministers—

- (a) may correct any informality, defect or technical error in the notice if he is satisfied that it is not material, and
- (b) may disregard the failure of the planning authority to serve the notice upon a person upon whom it should have been served, if it appears to him that neither that person nor the appellant has been substantially prejudiced by that failure.

(5) Where an appeal is brought under this section, the notice under 179 shall be of no effect pending the final determination, or the withdrawal of the appeal.

(6) In determining an appeal under this section the Scottish Ministers shall give such directions as seem to him appropriate; and these may include directions for quashing the notice or for varying its terms in favour of the appellant.

(7) Schedule 4 applies to appeals under this section.

- 130.(3)** A person who gives notice under subsection (2) shall submit to the Scottish Ministers, either when giving the notice or within the prescribed time, a statement in writing –
- (a) specifying the grounds on which he is appealing against the enforcement notice, and
 - (b) giving such further information as may be prescribed

131. (1) The Scottish Ministers may by regulations prescribe the procedure which is to be followed on appeals under section 130 and, in particular, but without prejudice to the generality of the foregoing provisions of this subsection, in so prescribing may-


- (a) specify the matters on which information is to be given in a statement under section 130(3)
 - (b) require the planning authority to submit, within such time as may be specified, a statement indicating the submissions which they propose to put forward on the appeal;
 - (c) specify the matters to be included in such a statement;
 - (d) require the authority or the appellant to give notice of an appeal as may be specified ;
 - (e) require the authority to send to the Scottish Ministers, within such period from the date of the bringing of the appeal as may be specified, a copy of the enforcement notice and a list of the persons served with copies of it.
- (2) subject to section 132(3), the Scottish Ministers shall, if either the appellant or the planning authority so desire, give each of them an opportunity of appearing before and being heard by a person appointed by the Scottish Ministers for the purpose.

132. (3) The Scottish Ministers may –

- (a) dismiss an appeal if the appellant fails to comply with section 130(3) within the prescribed time, and
- (b) allow an appeal and quash the enforcement notice if the planning authority fail to comply with any requirement imposed by virtue of paragraph (b), (c) or (e) of section 131(1).



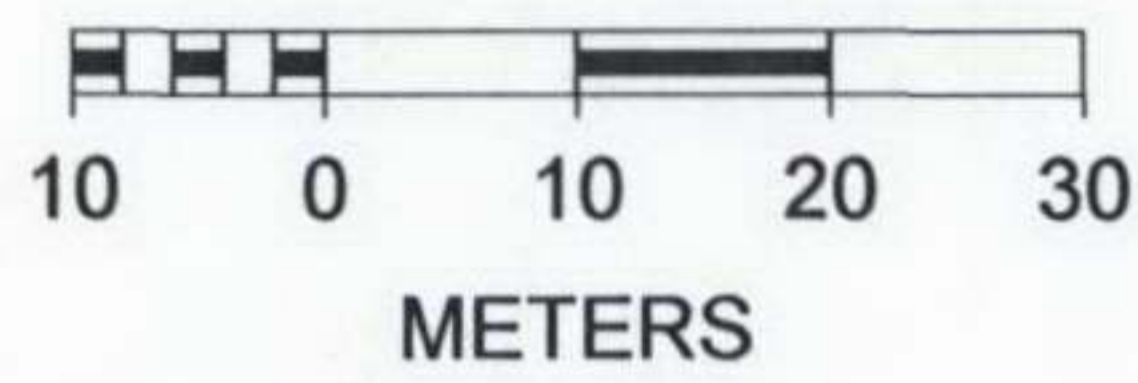
Legend:

-  **Red**
- Admin Boundaries**
- Large Scale Mapping**
- Abc **Mastermap Tex...**
- Abc **Mastermap Tex...**
- **MasterMap (Ou...**
- Building-Divisic
- Building-Outlin
- General Featu
- General Featu
- General Featu
- General Featu

Title:

Scale:

SCALE 1 : 1,250



Date:

Perth & Kinross Council
 Pullar House, 35 Kinnoull Street
 Perth, PH1 5GD
 Telephone (01738) 475000