

IMPORTANT : THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997,
SECTION 127

ENFORCEMENT NOTICE

SERVED BY PERTH & KINROSS COUNCIL

**RELATING TO LAND AT CLAIS AN DEOR, LOGIERAIT, PITLOCHRY, PERTHSHIRE,
PH9 0LH.**

THIS NOTICE IS SERVED ON

**MR. JOHN KARAGOUNIS (IOANNIS KARAGOUNIS), CLAIS AN DEOR COTTAGE,
LOGIERAIT, PITLOCHRY, PH9 0LH.**

**REBECCA CLARE KARAGOUNIS, CLAIS AN DEOR COTTAGE, LOGIERAIT,
PITLOCHRY, PH9 0LH.**

1) THIS IS A FORMAL NOTICE which is served by the Council because it appears to them that there has been a breach of planning control, under Section 123(1)(a) of the above Act, at the land described below. They consider it is expedient to issue this notice, having regard to the provision of the development plan and to other material planning considerations.

2) THE LAND AFFECTED

The site to which this notice relates (shown edged in red on the attached location plan), is the land at Clais an Deor, Logierait, Pitlochry, and is hereafter referred to as 'the site'.

3) THE BREACH OF PLANNING CONTROL ALLEGED

- I. The erection of a timber fence without planning permission.
- II. The construction of a garage without planning permission.
- III. The carrying out of an engineering operation without planning permission.

4) REASONS FOR THIS NOTICE

- I. The erection of the timber vertical slatted fence at the north of the site, at varying heights, but at all points in excess of 1.0m high and within 20m of a road requires planning permission. In the absence of planning permission the fence is unauthorised and a breach of planning control. A planning application submitted in retrospect for the fence is most unlikely to be supported by the planning authority, as the fence is considered unsightly and appears discordant on the amenity.
- II. The construction of a garage is a building operation, and 'development' in planning terms. It is considered that the garage may have been built on land out-with the recognised curtilage of the dwelling-house 'Clais an Deor', and may encroach into the application site boundary for planning permission 07/01205/FUL, and therefore not enjoy permitted development rights. Furthermore the garage building is closer to the adjacent road to the north than the dwelling-house. The planning authority would be unlikely to support a planning application in retrospect for a garage of this type and at this location, as it does not relate well to the existing main dwelling or proposed development.
- III. The recipient of this Notice has built a wall along the edge of the footway at the east end of the site, which does not feature on the approved plans for planning permission 07/01205/FUL. It should be noted that lawful development in association with planning permission 07/01205/FUL has in our opinion not commenced, but the wall could be considered permitted development. However the recipients of this Notice has carried out an engineering operation by infilling with soil materials behind the wall, raising the ground levels at this south eastern part of the site. The carrying out of an engineering operation without planning permission is a breach of planning control, which has resulted in the formation of increased ground levels which are contrary to the approved plans for the site, and are considered unacceptable to the planning authority. A planning application submitted in retrospect for the increased ground levels would not be supported by this planning authority.

5) WHAT YOU ARE REQUIRED TO DO

1. Remove the timber vertical slatted fence situated close to the north boundary of the site, from the site.

TIME FOR COMPLIANCE – Within 30 days of this Notice taking effect.

2. Remove the blue painted garage building from the site, including the garage base.

TIME FOR COMPLIANCE – Within 90 days of this Notice taking effect.

3. Remove the imported soil materials that have been deposited behind the wall at the south east side of the site, and reinstate the ground to its former levels.

TIME FOR COMPLIANCE – Within 60 days of this Notice taking effect.

6) WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on the 15th July 2009 unless an appeal is made against it beforehand.

7) 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 Government before 15th July 2009.

Schedule 1 to this Notice gives information on your rights of appeal. Read it carefully.

8) WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this Enforcement Notice, it will take effect on 15th July 2009 and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in the Notice.

Failure to comply with an Enforcement Notice which has taken effect can result in prosecution and/or remedial action by the Council.

Dated: 10 June 2009

Signed
(Council's Authorised Officer)

On Behalf of: Development Management
 The Environment Service
 Perth & Kinross Council
 Pullar House
 35 Kinnoull Street
 Perth
 PH1 5GD

SCHEDULE 1

Explanatory note for those in receipt of an enforcement notice

Relevant Legislation

A copy of Sections 127 - 129 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, The Scottish Government, 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 15th July 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 130 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 Enforcement Notice is deemed an application for planning permission for the development to which the notice relates. In this case a fee of £145.00 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 (b) to (e) in Section 130(1) of the 1997 Act, as amended, unless the appeal involves stationing residential caravan on land.)

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

(a) PENALTIES FOR NON - COMPLIANCE WITH AN ENFORCEMENT NOTICE

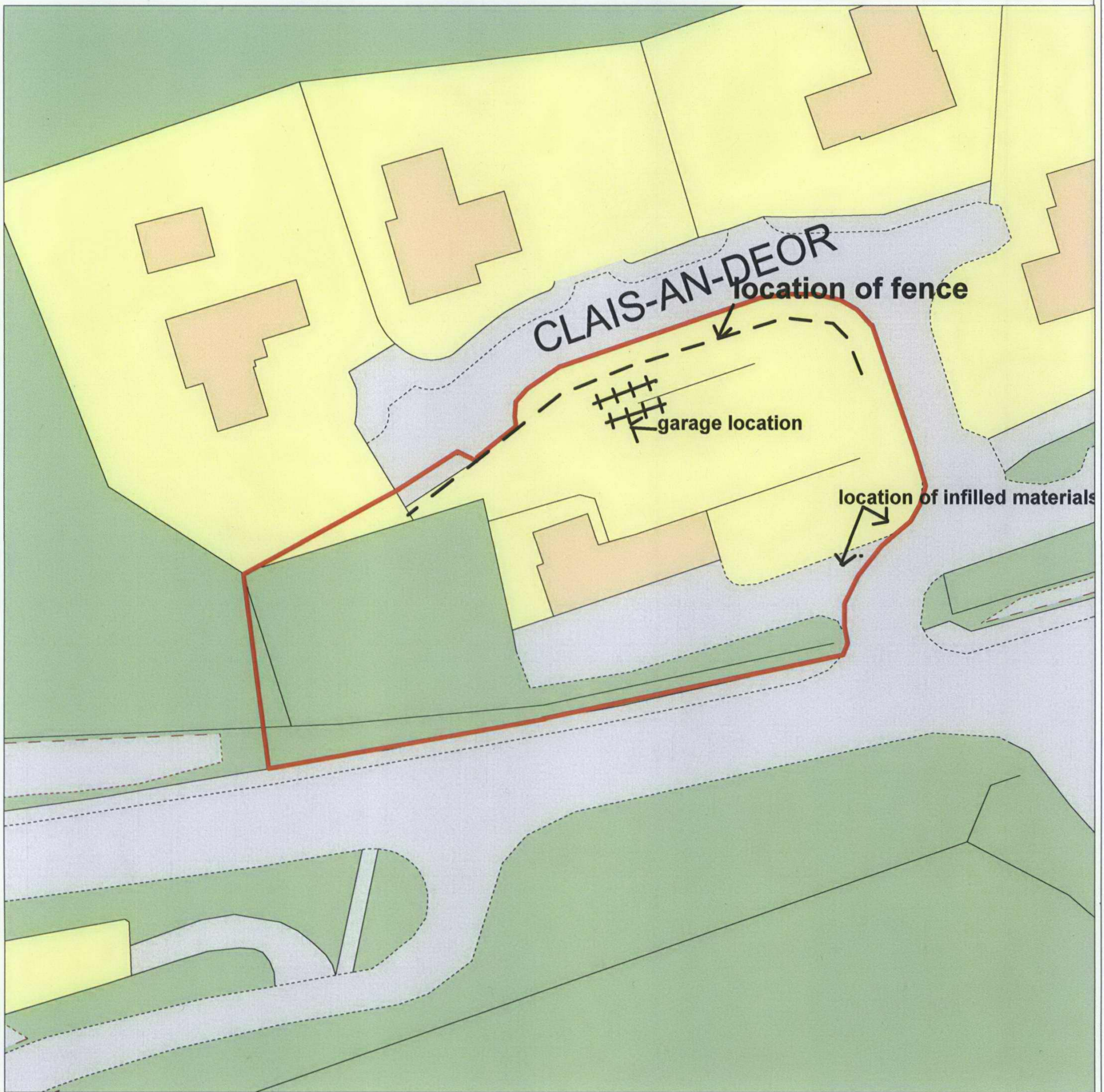
Where an Enforcement Notice requires the discontinuance of a use of land or compliance, in respect of a use of land or the carrying out of operations, with any conditions or limitations, then any person who, without the grant of planning permission uses the land or causes or permits it to be used, or carries out those operations or causes or permits them to be carried out, is guilty of an offence and liable on summary conviction to a fine not exceeding £20,000, or on conviction on indictment to an unlimited fine. Furthermore, if the use is continued after conviction the person may be convicted of a second or subsequent offence.

(b) Direct Action for Non Compliance with an Enforcement Notice







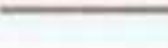
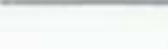
If the steps required by an enforcement notice are not taken within the specified period(s) the Council may enter the land, take those steps and recover the cost from the owner or lessee of the land.

(c) Further Offences

Compliance with the terms of an enforcement 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.

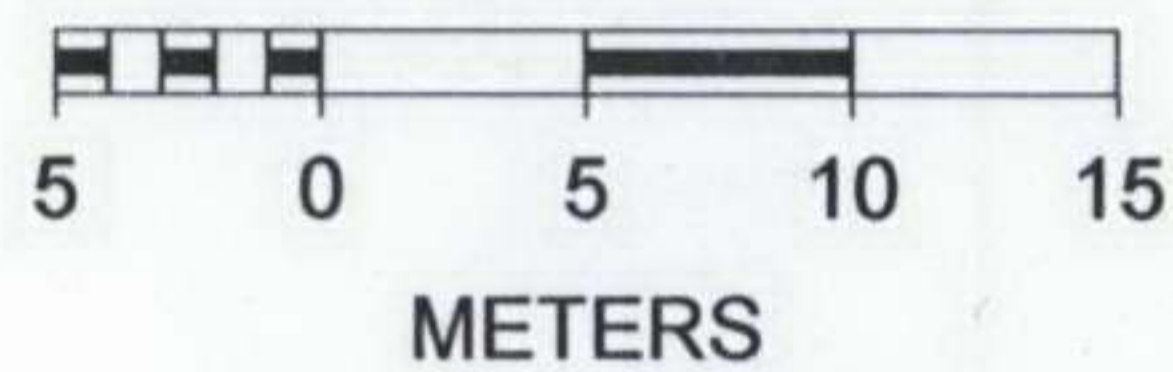


Legend:

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

Title: *Plan referred to in the attached Enforcement Notice.*

Scale: **SCALE 1 : 596**



Date:

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