

*Kognite*

**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 AND BUILDINGS AT CAERLAVEROCK FARM, MUTHILL,  
CRIEFF, PERTHSHIRE, PH5 2BD.**

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**THIS NOTICE IS SERVED ON**

**MR I BAYNE, CASTLEMAINS FARM, AUCHTERARDER, PERTHSHIRE, PH3 1DX.**

**THE COMPANY SECRETARY, J. BAYNE & SONS LIMITED, CASTLEMAINS FARM,  
AUCHTERARDER, PERTHSHIRE, PH3 1DX.**

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**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 and farm buildings at Caerlaverock Farm, Muthill, Crieff, Perthshire, PH5 2BD, and is hereafter referred to as 'the site'.

**3) THE BREACH OF PLANNING CONTROL ALLEGED**

I. The unauthorised change of use of the farm buildings and adjacent hardstanding at the site, from agriculture to storage and distribution.

**4) REASONS FOR THIS NOTICE**

I. It appears to the Council that the above breach of planning control has occurred within the last 10 years.

- II. The use of the buildings and associated hard-standing areas for storage and distribution is a change of use from agriculture, which without the benefit of planning permission is considered unauthorised, and a breach of planning control.
- III. The planning application dated 14/11/08 for change of use in retrospect (reference 08/02105/FUL) has been determined, and a refusal notice issued dated 19<sup>th</sup> February 2009. The reasons for refusal are:-
  - The proposed use would be detrimental to the residential amenity of the neighbouring property by reason of noise generation and hours of operation.*
  - The proposal constitutes a threat to road safety in relation to the access and egress to the site, traffic circulation in the inadequacy of the local road network.*
  - The proposal is unsustainable rural development contrary to SPP 15.*
- IV. The planning authority has exercised lenience in taking enforcement action, having first advised the recipients of the Notice, of the breach of planning control in February 2008.
- V. The planning authority has received representations from local residents concerning the operation of the business, and its adverse impact on residential amenity.
- VI. The planning authority has a duty to regulate unauthorised development.

## **5) WHAT YOU ARE REQUIRED TO DO**

1. Cease using the site for the operation of the storage and distribution business.

**TIME FOR COMPLIANCE** – 90 days after this notice takes effect.

## **6) WHEN THIS NOTICE TAKES EFFECT**

This notice takes effect on the 27<sup>th</sup> March 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 27<sup>th</sup> March 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 27<sup>th</sup> March 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: 20<sup>th</sup> February 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 27<sup>th</sup> March 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 £290.00 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**

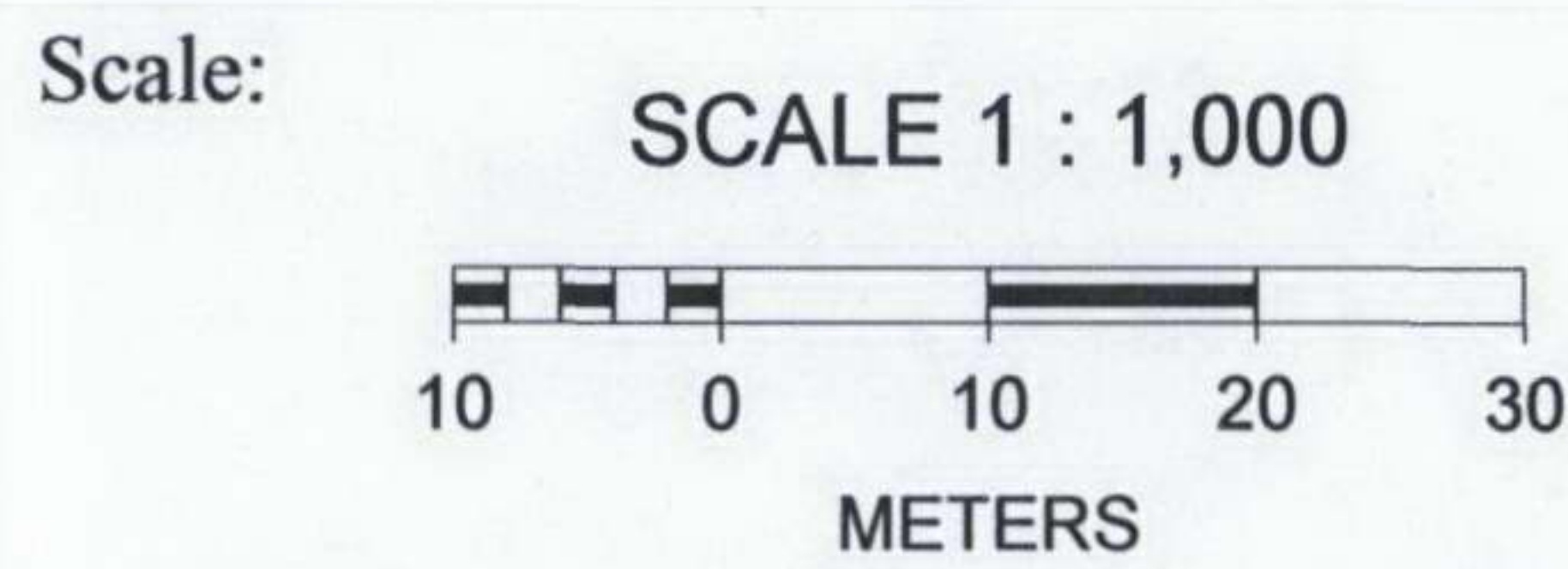
Compliance with the terms of an enforcement notice does not discharge the notice. It will continue in effect and any repetition of the breach of control may incur further penalties or may result in direct action by the Council.



Legend:

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

Title:  
Plan referred to in the foregoing Enforcement Notice.



Date:

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