

Register Copy

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 101 DUNDEE ROAD, PERTH, PH2 7BB.

THIS NOTICE IS SERVED ON

MR. GRAHAM OGILVIE, 38 DAVID DOUGLAS AVENUE, SCONE, PERTHSHIRE, PH2 6QQ.

MR. ALEX BLUES, BUDDON LIMITED, 67 DALKEITH ROAD, DUNDEE, DD4 7JH.

THE COMPANY SECRETARY, BUDDON LIMITED, 67 DALKEITH ROAD, DUNDEE, DD4 7JH.

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 the development site at 101 Dundee Road, Perth, and is hereafter referred to as 'the site'.

3) THE BREACH OF PLANNING CONTROL ALLEGED

- I. The unauthorised construction of a gabion retaining structure (engineering operation) adjacent to the north boundary of the site, and the unauthorised importation, deposition, and spreading of soil materials to form increased ground levels, at the site.
- II. The failure to carry out development in accordance with planning permission 07/00484/FUL, granted by Perth and Kinross Council on 18th July 2007.

4) REASONS FOR THIS NOTICE

- I. The construction of the gabion retaining structure at the site is considered an engineering operation and development in planning terms, which without the benefit of planning permission is considered unauthorised, and a breach of planning control.
- II. The importation, deposition and spreading of soil materials is considered an engineering operation, and development in planning terms, which without the benefit of planning permission is considered unauthorised, and a breach of planning control.
- III. The construction of the gabion retaining structure and the associated ground levels is contrary to the approved plans of the planning permission 07/00484/FUL, and planning condition 11, relative to garden ground levels.
- IV. The planning authority considers the construction of the gabion structure to be materially different from the approved plans of the planning permission 0700484/FUL.
- V. The planning authority having inspected the site considers the appearance of the structure to be incongruous with its surroundings and disaffecting the residential amenity of the area, with the result that it is causing planning harm.
- VI. A planning application submitted in retrospect for the retaining structure is unlikely to be supported by the planning authority.
- VII. The planning authority has a duty to regulate unauthorised development.

5) WHAT YOU ARE REQUIRED TO DO

1. Remove the unauthorised gabion retaining structure constructed adjacent to the north boundary of the site, from the site.

TIME FOR COMPLIANCE – 30 days after this notice takes effect.

2. Remove all unauthorised deposited soil materials within the garden ground area north and west of the dwelling house (see areas highlighted on plan 2).

TIME FOR COMPLIANCE – 30 days after this notice takes effect.

6) WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on the 06th 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 06th March 2009.

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

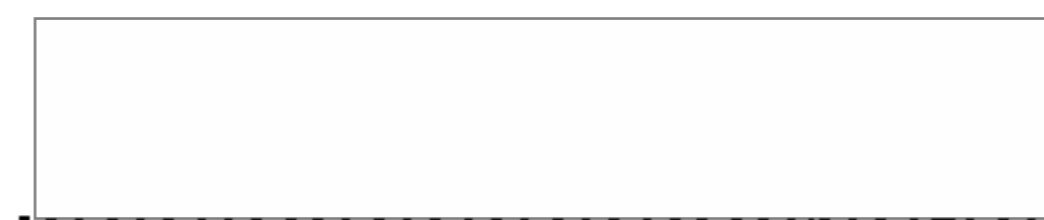
8) WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this Enforcement Notice, it will take effect on 06th 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: 30th January 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 06th 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 reply 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

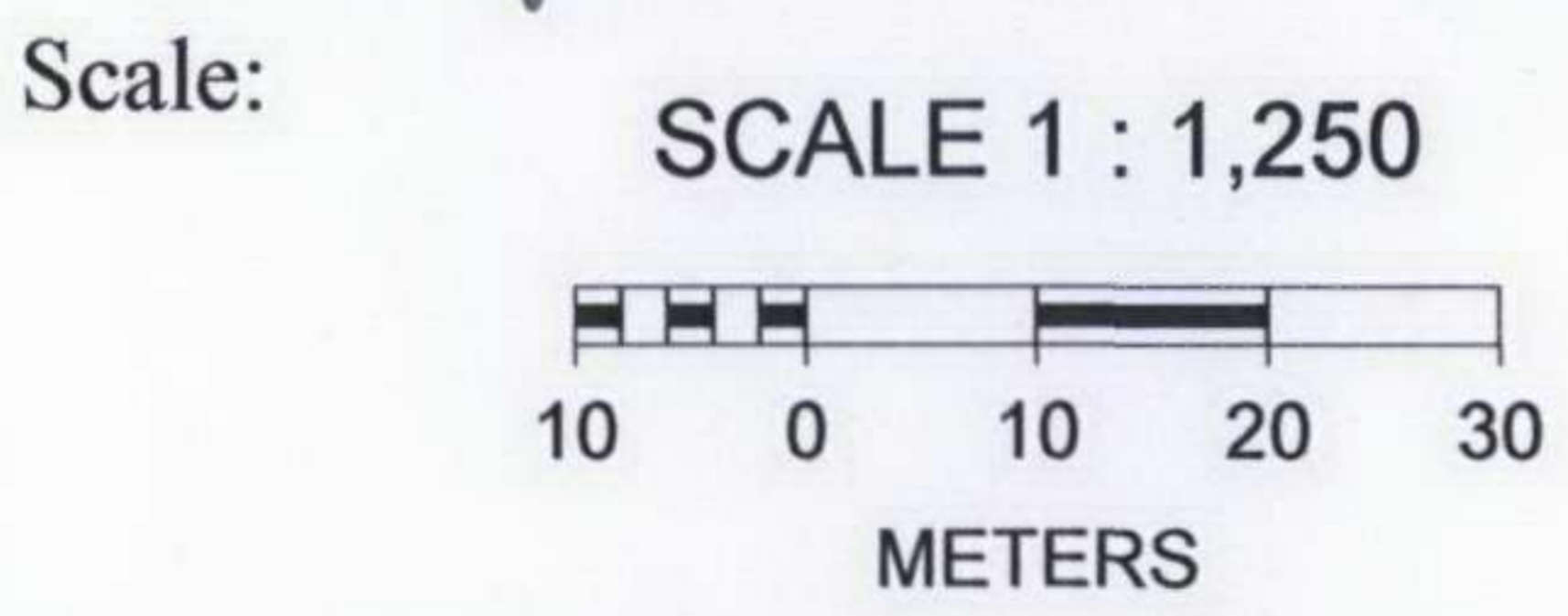
Compliance with the terms of an enforcement notice does not discharge the notice. It will continue in effect and any repetition of the breach of control may incur further penalties or may result in direct action by the Council.



Legend:

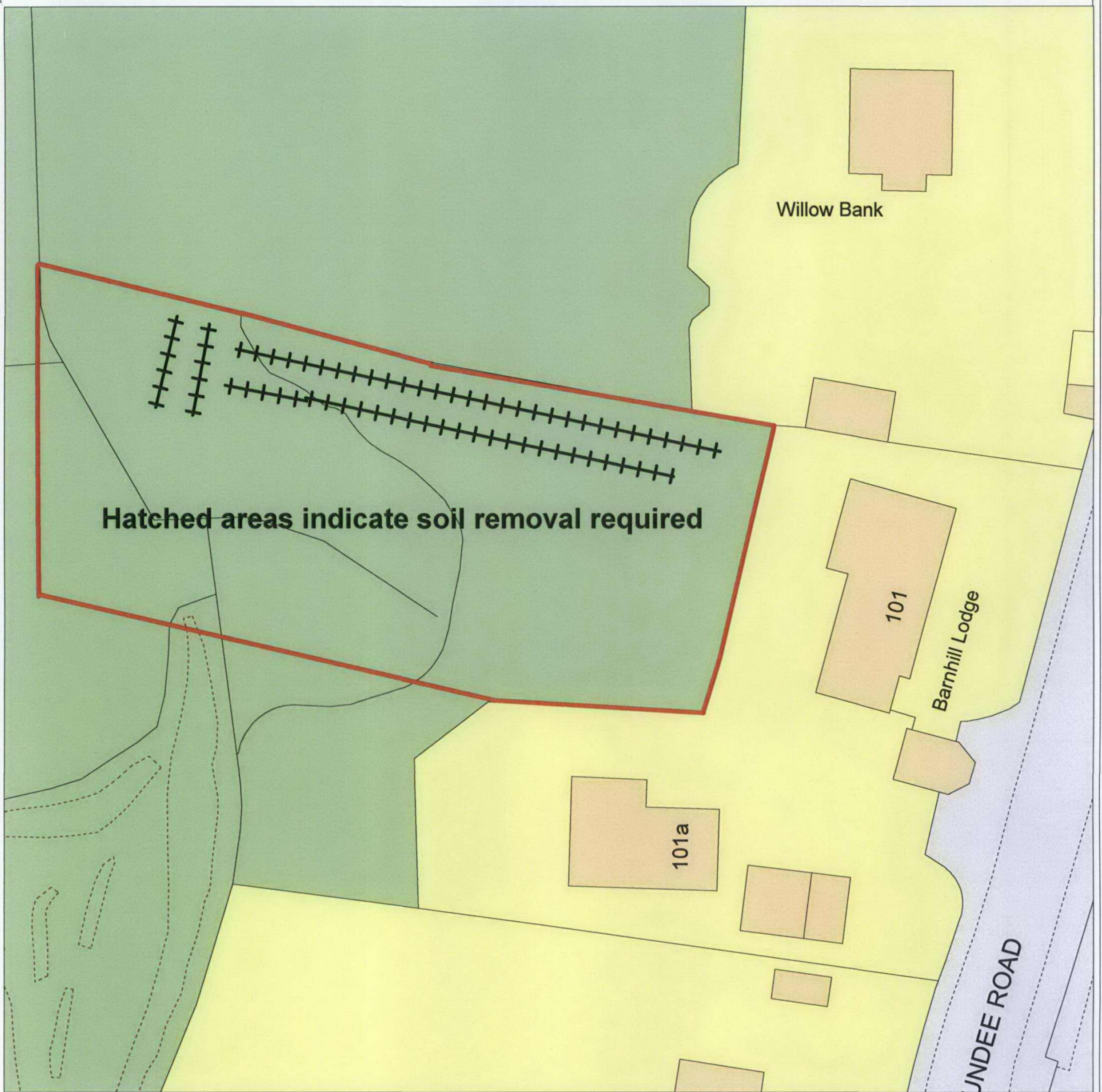
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- Large Scale Mapping**
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Title: *Location Plan - As referred to in attached Enforcement Notice.*



Date:

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

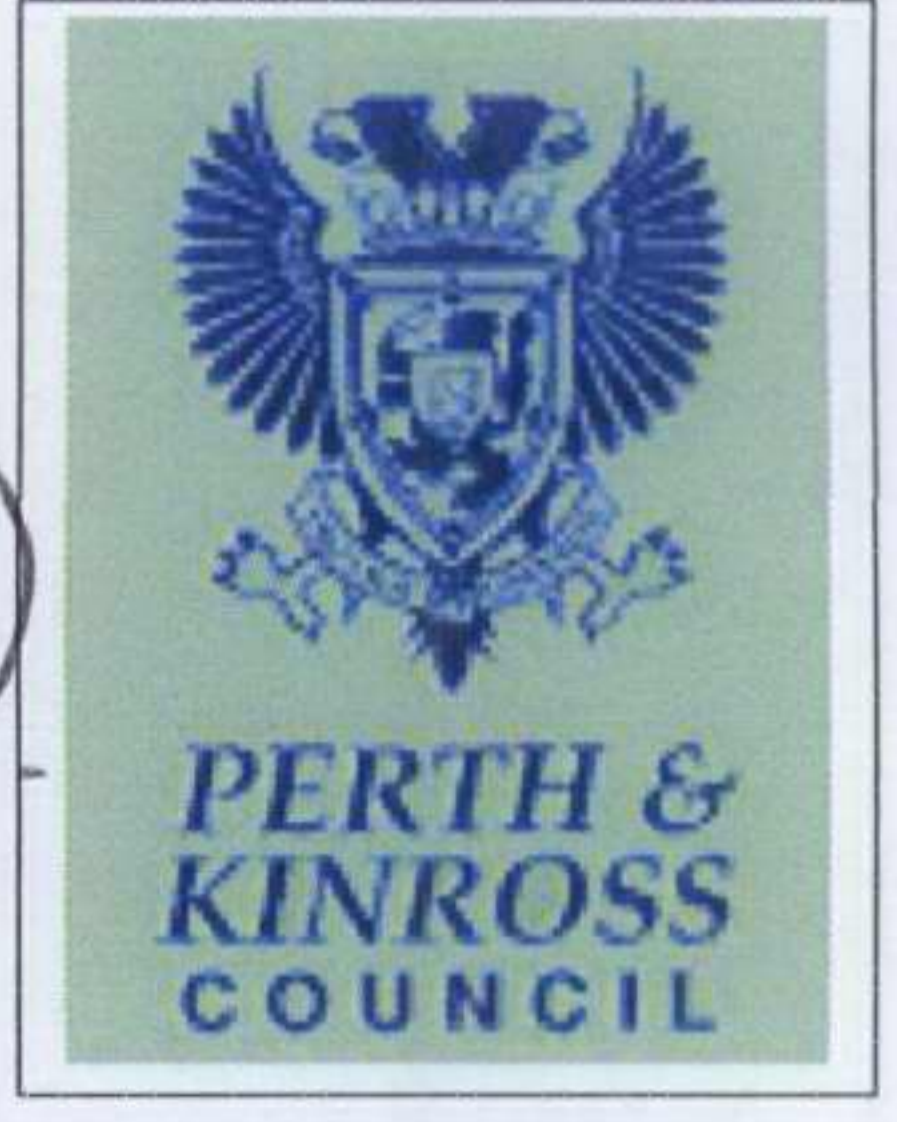
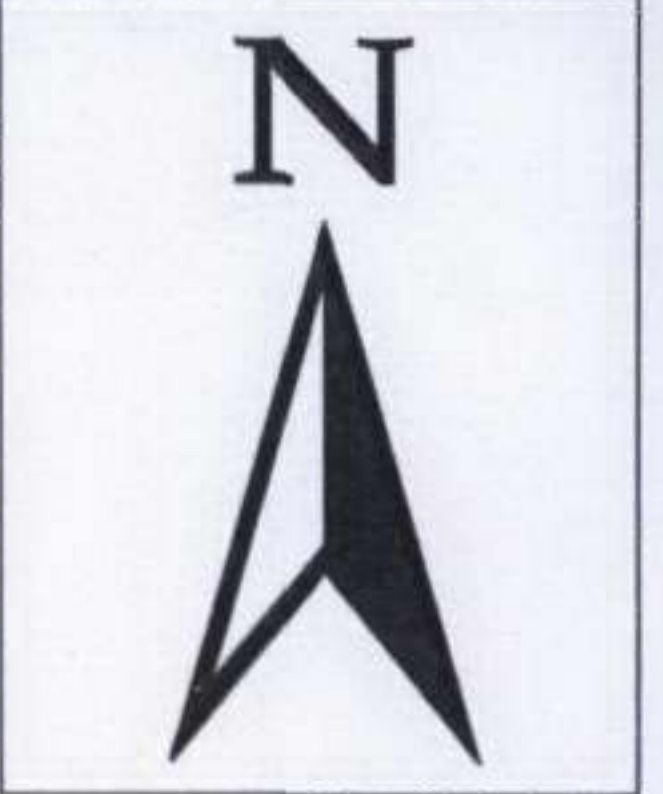
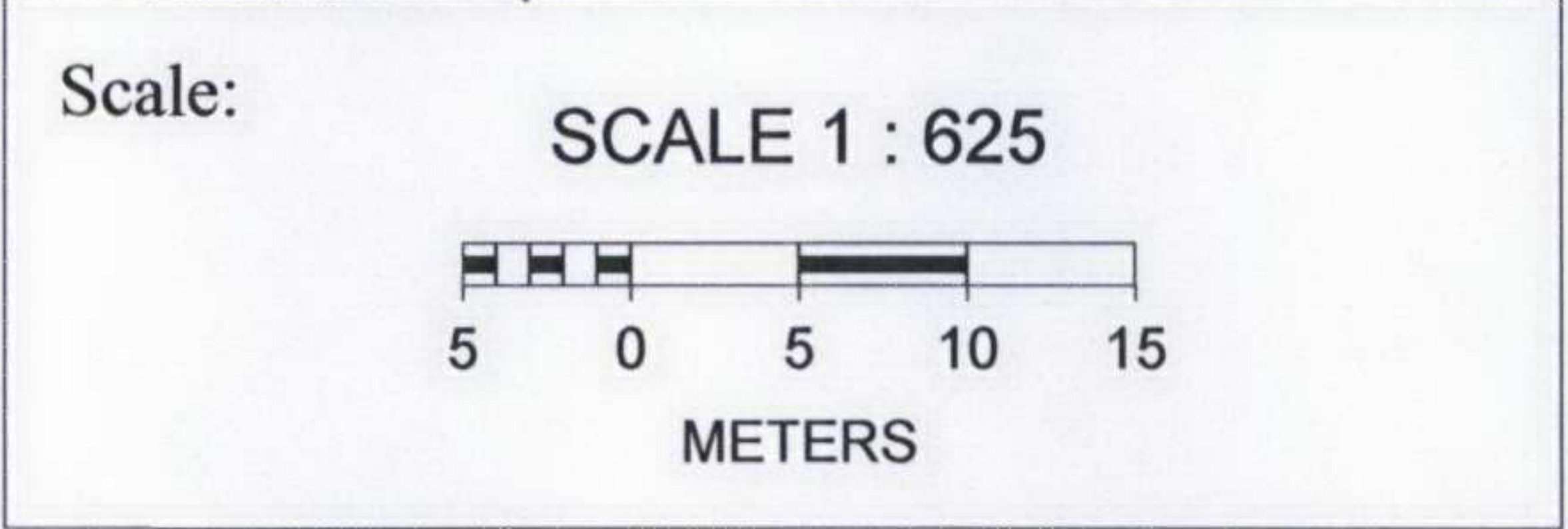


Hatched areas indicate soil removal required

Legend:

	Red
	Admin Boundaries
	Large Scale Mapping
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	Building-Outlin
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Title: Plan 2 - As referred to in the attached Enforcement Notice (Para 5(2))



Date:

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