



**IMPORTANT: THIS COMMUNICATION AFFECTS YOUR PROPERTY
OR A PROPERTY IN WHICH YOU HAVE AN INTEREST**

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)

BREACH OF CONDITION NOTICE

REFERENCE NUMBER: 19/00392/PLACON

RELATING TO:

**Land at Adam Neilson Ltd (also known as Old Mill), South Street, Milnathort,
Kinross KY13 9XB**

THIS NOTICE IS SERVED ON:

- **Radway Continental Limited (trading as Caledonia Play), Drumbog House,
Drum, Kinross, Scotland, KY13 0UN**

**SERVED BY: Perth & Kinross Council ('the Council') as Planning Authority for
the purposes of Section 145 of the Town and Country Planning (Scotland) Act
1997 (as amended) ("the Act").**

1. THIS IS A FORMAL NOTICE that is served by the Council because it considers that a condition imposed on a grant of planning permission relating to the land described below has not been complied with. You are required to comply with the condition specified in this notice.

2. THE LAND AFFECTED

The site to which this notice relates (shown edged in red on the attached plan) is Land at Adam Neilson Ltd (also known as Old Mill), South Street, Milnathort, Kinross KY13 9XB.

3. THE RELEVANT PLANNING PERMISSION

The relevant planning permission to which this notice relates is the permission granted by Perth & Kinross Council on 25 March 2019 for Siting of modular office building and formation of car parking area (in part retrospect) (ref: 19/00058/FLL).

4. THE BREACH OF CONDITION

Condition 6 of the relevant planning permission has been breached:

A detailed landscaping and planting scheme for the site shall be submitted for the further written agreement of the Council as Planning Authority by 30 July 2019. The scheme shall include details of the height and slopes of any mounding or recontouring of the site, full details of all hard landscaping proposals including materials and installation methods and, species, height, size and density of trees and shrubs to be planted. The scheme as subsequently approved shall be carried out and completed within the first available planting season (October to March) after the completion or bringing into use of the development, whichever is the earlier, and the date of Practical Completion of the landscaping scheme shall be supplied in writing to the Council as Planning Authority within 7 days of that date. The scheme as agreed and implemented shall thereafter be maintained to the satisfaction of the Council as Planning Authority.

Reason - To ensure a satisfactory standard of development and environmental quality and to reserve the rights of the Planning Authority.

5. WHAT YOU ARE REQUIRED TO DO

As the person responsible for the breach of condition specified in paragraph 4 of this Notice, you are required to comply with the stated condition by doing the following:

STEP 1: Submit a detailed landscaping and planting scheme for the site to the Council as Planning Authority. The scheme shall include details of the height and slopes of any mounding or recontouring of the site, full details of all hard landscaping proposals including materials and installation methods and, species, height, size and density of trees and shrubs to be planted.

TIME FOR COMPLIANCE: Within 21 days of this Notice taking effect.

6. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect immediately it is served on you or you receive it by postal delivery.

Signed:



(Council's Authorised Officer)

Dated: 04/02/2020

On Behalf of: Development Management
Planning & Development
Perth & Kinross Council
Pullar House
35 Kinnoull Street
Perth, PH1 5GD

Email: PlanningEnforcement@pkc.gov.uk

Phone: 01738 475300

WARNING: THERE IS NO RIGHT OF APPEAL AGAINST THIS NOTICE

It is an offence to contravene any requirement stated in paragraph 5 of this notice after the end of the compliance period. The maximum penalty for such an offence is £5,000.

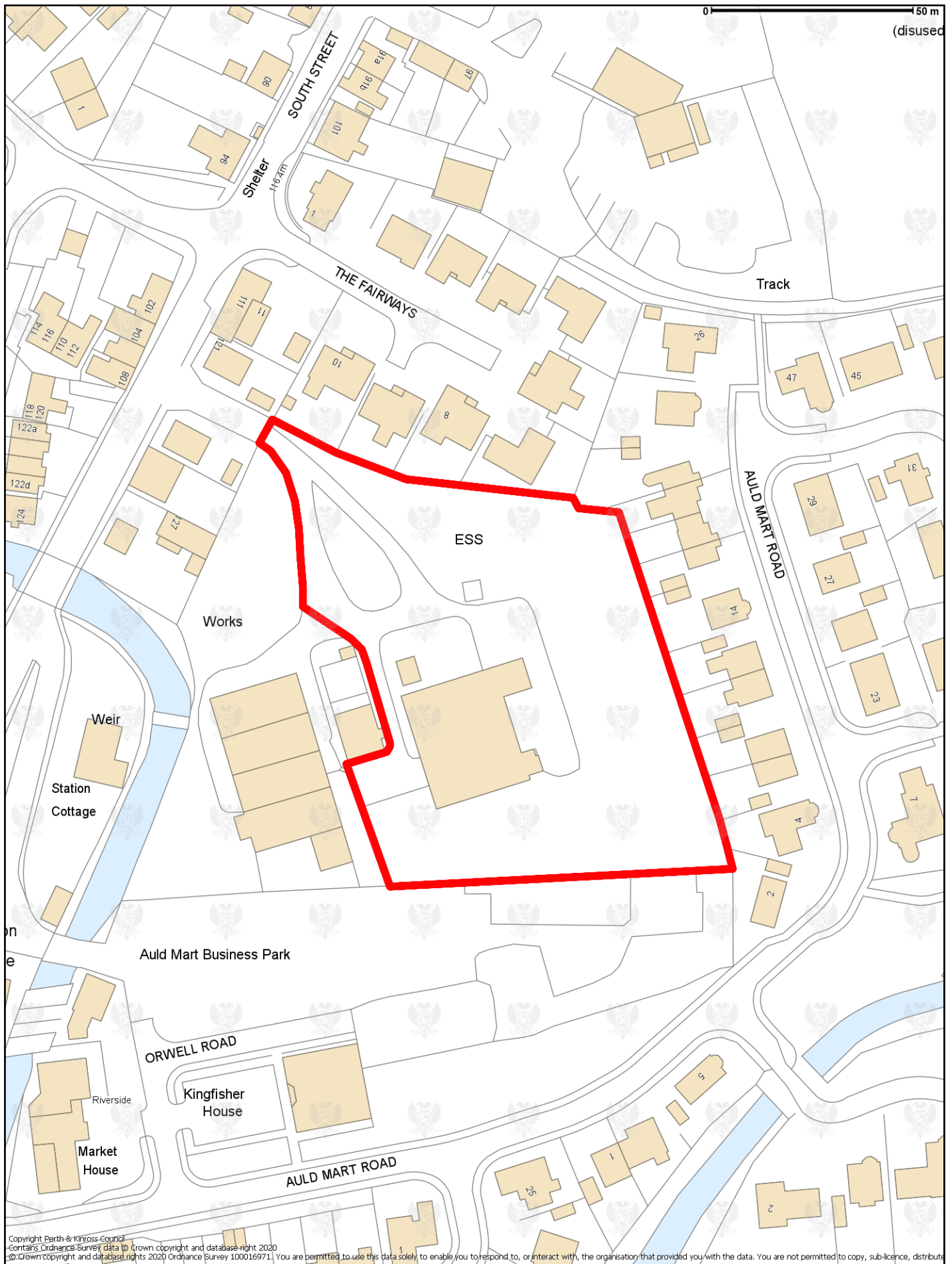
If you are in any doubt about what this Notice requires you to do you should get in touch immediately:



Planning Enforcement
Planning & Development
Perth & Kinross Council
Pullar House
35 Kinnoull Street
Perth, PH1 5GD

01738 475300

PlanningEnforcement@pkc.gov.uk

If you need independent advice about this notice, you are advised to contact urgently a lawyer, planning consultant or another professional adviser specialising in planning matters. If you wish to contest the validity of the notice, you may only do so by an application to the Court of Session for judicial review. A lawyer will advise you on what this procedure involves.



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RELEVANT SECTIONS OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)

Breach of condition notices

145 Enforcement of conditions

(1) This section applies where planning permission for carrying out any development has been granted subject to conditions.

(2) The planning authority may, if any of the conditions is not complied with, serve a notice (in this Act referred to as a “breach of condition notice”) on—

- (a) any person who is carrying out or has carried out the development, or
- (b) any person having control of the land,

requiring him to secure compliance with such of the conditions as are specified in the notice.

(3) References in this section to the person responsible are to the person on whom the breach of condition notice has been served.

(4) The conditions which may be specified in a notice served by virtue of subsection (2)(b) are any of the conditions regulating the use of the land.

(5) A breach of condition notice shall specify the steps which the authority consider ought to be taken, or the activities which the authority consider ought to cease, to secure compliance with the conditions specified in the notice.

(6) The authority may by notice served on the person responsible withdraw the breach of condition notice, but its withdrawal shall not affect the power to serve on him a further breach of condition notice in respect of the conditions specified in the earlier notice or any other conditions.

(7) The period allowed for compliance with the notice is—

- (a) such period of not less than 28 days beginning with the date of service of the notice as may be specified in the notice, or
- (b) that period as extended by a further notice served by the planning authority on the person responsible.

(8) If, at any time after the end of the period allowed for compliance with the notice—

- (a) any of the conditions specified in the notice is not complied with, and
- (b) the steps specified in the notice have not been taken or, as the case may be, the activities specified in the notice have not ceased,

the person responsible is in breach of the notice.

(9) If the person responsible is in breach of the notice he shall be guilty of an offence.

(10) An offence under subsection (9) may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under that subsection by reference to any period of time following the preceding conviction for such an offence.

(11) It shall be a defence for a person charged with an offence under subsection (9) to prove—

- (a) that he took all reasonable measures to secure compliance with the conditions specified in the notice, or
- (b) where the notice was served on him by virtue of subsection (2)(b), that he no longer had control of the land.

(12) A person who is guilty of an offence under subsection (9) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(12A) In determining the amount of the fine to be imposed under subsection (12), the court is in particular to have regard to any financial benefit which has accrued or appears likely to accrue to the convicted person in consequence of the activity which constituted the offence.”.

(13) In this section—

- (a) “conditions” includes limitations; and

(b) references to carrying out any development include causing or permitting another to do so.

145A Fixed penalty notice where breach of condition notice not complied with

(1) Where a planning authority have reason to believe that, by virtue of subsection (8) of section 145, a person is in breach of a breach of condition notice they may, provided that the conditions mentioned in subsection (7) are satisfied, serve on him a fixed penalty notice as respects that breach.

(2) The fixed penalty notice is to specify—

(a) the step specified, under subsection (5) of section 145, in the breach of condition notice which has not been taken, or

(b) the activity so specified which has not ceased.

(3) It is not competent to serve more than one fixed penalty notice in relation to a particular step or activity.

(4) For the purposes of this section, a “fixed penalty notice” is a notice offering the person the opportunity of discharging, by paying to the planning authority, within the period of 30 days which immediately follows the day on which that notice is served, a penalty of an amount (being a prescribed amount) specified in that notice, any liability to conviction for an offence under section 145(9) as respects the breach of the breach of condition notice.

(5) But if payment is made within the first 15 days of the period mentioned in subsection (4) the amount payable is reduced by 25%.

(6) The fixed penalty notice is to identify the period mentioned in subsection (4) and is also to state that if payment is made within the first 15 days of that period the amount payable is reduced by 25%.

(7) The conditions are that the fixed penalty notice—

(a) is served within the period of 6 months which immediately follows the period allowed by section 145(7) for compliance with the breach of condition notice, and

(b) is not served after the person has been charged with an offence under section 145(9) as respects the breach of the breach of condition notice.

(8) During the period mentioned in subsection (4) it is not competent to commence proceedings against the person for an offence under section 145(9) as respects that breach.

(9) If the amount (or as the case may be the reduced amount) is timeously paid it is not competent to commence proceedings against the person for an offence under section 145(9) as respects that breach.

(10) A penalty received by a planning authority by virtue of subsection (4) is to accrue to that authority.

(11) In prescribing an amount for the purposes of subsection (4), the Scottish Ministers may make different provision for different cases or for different classes of case.