

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

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

**AMENITY NOTICE**

**REFERENCE NUMBER: 09/00525/ENAMEN**

To:

Mr Neil MacArthur  
The Garden Shop  
6 Union Street  
Campbeltown  
Argyll  
PA28 6HX

**ISSUED BY: ARGYLL AND BUTE COUNCIL, KILMORY LOCHGILPHEAD**

1. **THIS IS A FORMAL NOTICE** issued under the provisions of Section 179 of the above Act by Argyll and Bute Council (hereinafter called the 'the Council') because it appears to them that the appearance of the land specified below adversely affects the amenity of the area. It is considered expedient so to do having regard to the provisions of the development plan(s) and to other material considerations.

**2. THE LAND AFFECTED**

The Garden Shop, 6 Union Street PA28 6HX (*shown edged red on the attached plan*).

**3. REASONS FOR ISSUING THIS NOTICE**

It is considered that it is expedient for the Council to take the stated action in respect of the deteriorating condition of the building for the following reasons:

1. It is considered that the deteriorating condition of the building has a significant detrimental impact on Campbeltown Conservation Area and, as such, is contrary to policies:
  1. STRAT S1 of the Argyll and Bute Structure Plan 2002 which seeks sustainable development by;
    - h) conserving the natural built environment and avoid significant adverse impacts on biodiversity, natural and built heritage resources;

2. STRAT DC 9 of the Argyll and Bute Structure Plan 2002 which seeks to promote the protection, conservation, enhancement and positive management of the historic environment including the settings of listed buildings and conservation areas.
3. LP ENV 14 of the 'Argyll and Bute Local Plan' Adopted 2009 which seeks to maintain or when possible enhance the character and amenity of existing and proposed conservation areas.
4. LP ENV 13(a) and Appendix A of the 'Argyll and Bute Local Plan' Adopted 2009, seek to ensure that inappropriate or unsympathetic development do not damage the architectural or special features of Listed Buildings or their setting.
5. NPPG 18 (Planning and the Historic Environment) clearly states that Planning Authorities are strongly encouraged to use their powers where historic buildings are at risk from neglect and where all other means of conserving the building have been exhausted. Also, early intervention is vitally important if irreversible damage is to be avoided and the cost of repair and rehabilitation is to be minimised.

#### **4. WHAT YOU ARE REQUIRED TO DO**

Time period for compliance: **two months from the date the notice takes effect.**

- (i) The restoration of the front elevation of the building by the removal of the existing paint and the application of fresh paint (the same colour as previously applied) to the satisfaction of the Council as Planning Authority; or
- (ii) Implement planning consent (ref. no.09/00900/DET) granted on 09.09.09 and listed building consent (ref. 09/01032/LIB) granted 09.10.09 for the alteration to the existing shop front as per your stamped approved plans

#### **5. WHEN THIS NOTICE TAKES EFFECT**

This notice takes effect on **21<sup>st</sup> July 2010** unless an appeal is made to the Scottish Government before the date the notice takes effect.

#### **6. YOUR RIGHT OF APPEAL**

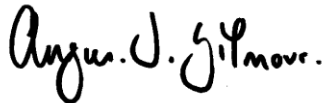
You can appeal against this notice; however your appeal must be received, or posted in time to be received by the Scottish Government before the **21<sup>st</sup> July 2010**.

Attached in Schedule 1 are explanatory notes for those in receipt of an Amenity Notice. This contains important information on your rights of appeal. **PLEASE READ THEM CAREFULLY.**

## 7. WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this notice it will take effect on the **21<sup>st</sup> July 2010**, and you must then ensure that its requirements are complied with within the specified period for compliance. Failure to comply with the requirements of an Amenity Notice which has taken effect may result in the Council taking the necessary steps by means of Direct Action and recovering their expenses from the person(s) who is the owner, occupier or lessee of the land at that time.

Dated: 21<sup>st</sup> June 2010

A handwritten signature in black ink, reading "Angus J. Gilmore". The signature is written in a cursive style with a large initial 'A'.

Head of Planning & Regulatory Services  
Kilmory  
Lochgilphead

On behalf of Argyll and Bute Council, Kilmory, Lochgilphead, PA31 8RT

<b>AMENITY NOTICE</b>
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**SCHEDULE 1**

<b>EXPLANATORY NOTE FOR THOSE IN RECEIPT OF AN AMENITY NOTICE</b>
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**Relevant Legislation**

A copy of sections 179 and 180 of the Town and Country Planning (Scotland) Act 1997 is attached. You will wish to note in particular the points referred 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 by the Unit before the date on which the notice takes effect. The Scottish Government has no power to consider an appeal lodged out of time.

The appeal, which must be made in writing, must be based on one or more of the grounds set out in section 180 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 Government.

If you lodge an appeal, the Amenity Notice will be suspended and will not take effect until such point as the appeal is withdrawn or dismissed.

**Penalties 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 and take Direct Action under section 135 of the Town and Country Planning (Scotland) Act 1997 to meet those requirements. Please note that it is an offence for any person to wilfully obstruct a person acting in the exercise of such Direct Action.

Furthermore, all reasonable costs incurred by the Council during this process, including administration expenses, will be recovered from the owner, occupier or lessee of the land.

Failure to reimburse the Council when required may lead to prosecution through the courts.

## **TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

### **SECTIONS 179 AND 180**

#### **179 – Notice Requiring the Proper Maintenance of Land**

- (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 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 provision 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 – Appeal against Notice under Section 179**

- (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 Secretary of State 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 specified period for compliance with the notice falls short of what should reasonably be 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 Secretary of State.
- (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 Secretary of State -
  - (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 section 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 Secretary of State 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.

