



Development and Infrastructure Services

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5 July 2013

Mr and Mrs J Daly
3 Kyle View
Kilcreggan
G84 OHD

Dear Mr and Mrs J Daly

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

BREACH DETAILS: Unauthorised building operations

SITE ADDRESS: 3 Kyle View, Kilcreggan G84 OHD

Further to previous correspondence, a revised planning application to resolve the outstanding breach of planning control has yet to be submitted.

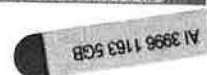
I therefore enclose a notice under s.33A of the above Act requiring you to submit a planning application within 4 weeks. The service of this notice constitutes taking enforcement action under the terms of s.123 of the Act.

If you are in any doubt about the meaning of the Notice, please contact the writer or take independent legal advice at the earliest opportunity.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'D. Hannah'.

Martin Hannah
Planning Officer (Monitoring and Enforcement)
Bute and Cowal



**IMPORTANT – THIS NOTICE AFFECTS THIS PROPERTY AND HAS IMMEDIATE
EFFECT. FAILURE TO COMPLY WITH THE REQUIREMENTS OF THE NOTICE MAY
RESULT IN PROSECUTION.**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 AS AMENDED BY THE
(PLANNING ETC) SCOTLAND ACT 2006**

**NOTICE REQUIRING SUBMISSION OF A PLANNING APPLICATION FOR
DEVELOPMENT ALREADY CARRIED OUT**

REFERENCE NUMBER: 11/00243/ENOTH1

To: Mr J Daly and Mrs A Daly
3 Kyle View
Kilcreggan
Argyll and Bute
G84 OHD

1. **THIS IS A FORMAL NOTICE** which is issued by Argyll and Bute Council because there has been a breach of planning control, under Section 123(1) (a) of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc (Scotland) Act 2006) at the land described below. Argyll and Bute Council consider that it is expedient to issue this notice, having regard to the provisions of the development plan and other material considerations.

2. THE LAND AFFECTED

Land at 3 Kyle View, Kilcreggan, Argyll and Bute G84 OHD

3. THE BREACH OF PLANNING CONTROL

In terms of Section 123(1)(a) of the above Act, the carrying out of development of land without the required planning permission, relative to:

Land engineering operations to grade and platform land
Construction of a dwellinghouse
Formation of a private access and driveway
Siting of a steel shipping container
Construction of a timber deck
Erection of timber boundary fencing and walls

The location of this alleged unauthorised development is in the position/s shown on the attached plan outlined red.

4. REASONS FOR ISSUING THIS NOTICE

- 1) Notice is hereby given that Argyll and Bute Council, in exercise of their power in the terms of section 33A of the Town and Country Planning (Scotland) Act 1997 as amended, formally

require the submission of an application for planning permission to regularise the breach(s) listed in Section 3 of this notice.

5. WHAT YOU ARE REQUIRED TO DO

Submit a planning application and requisite fee to seek authorisation for the development of land that represents the breach of planning control.

Time period for compliance: **4 weeks from the date the notice takes effect.**

7. FAILURE TO COMPLY

Please note that the issue of this notice constitutes enforcement action under section 123(2) of the 1997 Act. Failure to comply with the notice may result in further enforcement action which may include prosecution.

6. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect as it is received by you through recorded postal delivery.

8. YOUR RIGHT OF APPEAL

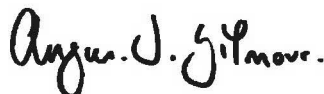
You do not have a right of appeal against this notice.

Dated: 5 July 2013

Ross McLaughlin
Development Manager

Martin Hannah
Planning Officer (Monitoring & Enforcement)
Bute and Cowal

On behalf of



Angus Gilmour
Head of Planning & Regulatory Services
Kilmory
Lochgilphead

Notice requiring submission of a planning application for development already carried out.

What does this notice mean?

You have received this notice because the planning authority believe that you have either built something or are doing something on your property for which you should have obtained planning permission. The planning authority has therefore issued you this notice requiring you to submit a planning application for the work that has been carried out (a retrospective planning application).

What happens next?

You need to either submit a planning application by the date stated in the Notice or reinstate the land by the date stated in the Notice

What happens if I don't submit an application?

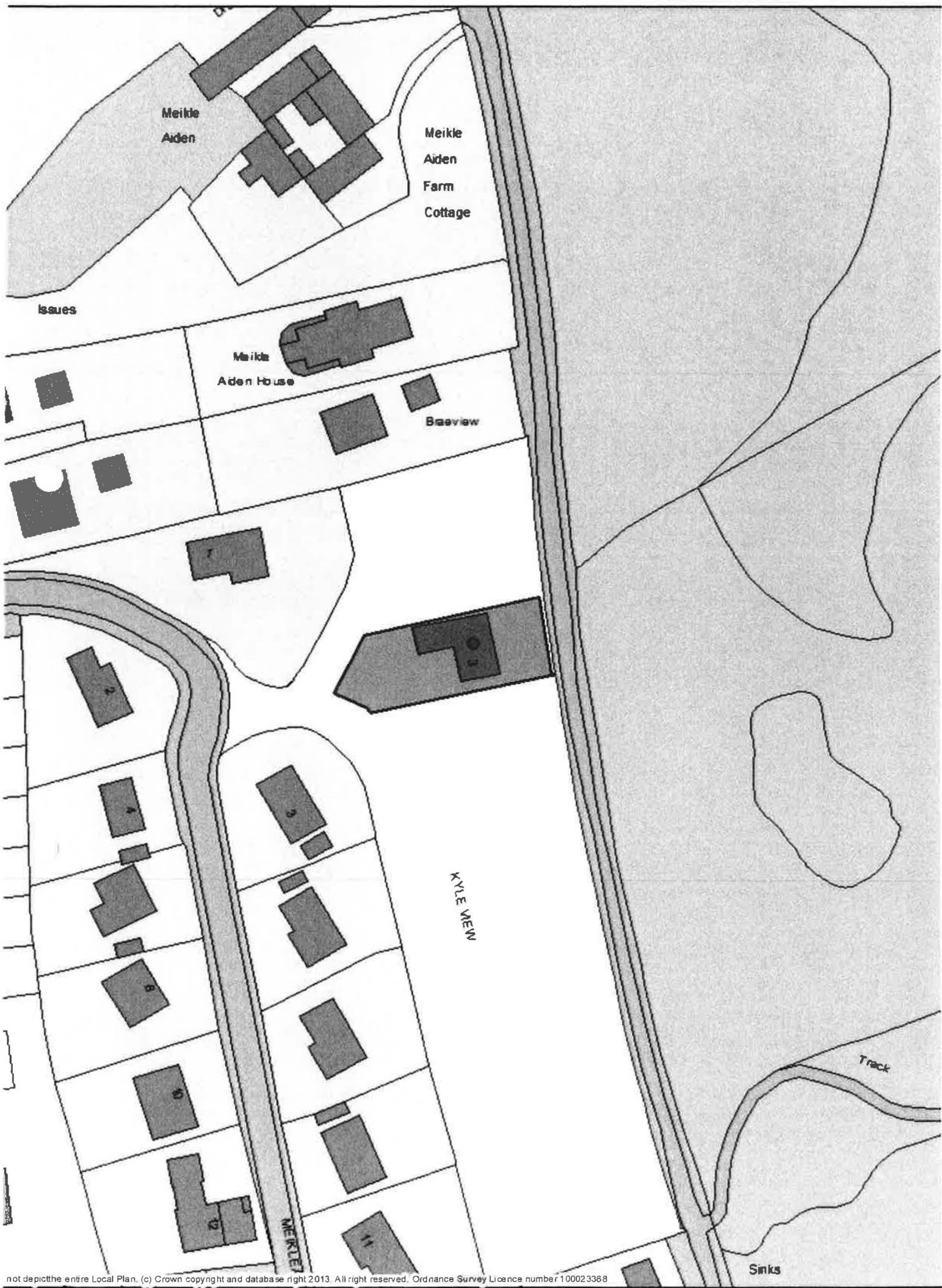
If you don't submit an application the planning authority may take further enforcement action. This can ultimately mean that you would face prosecution, and/or be required to remove the development.

What happens if I think I should not have received the notice?

If you believe that you should not have received this notice; for example, because you have no interest in the land to which it relates, then you should contact the local planning department as soon as possible.

If I submit a retrospective planning application, how will it be dealt with by the planning authority?

Your application will be handled in exactly the same way as any other application. You should be aware that the fact that you have been served this notice does not mean that permission will be granted. If the planning application is unacceptable then the planning authority may refuse it (in which case you may appeal) or may grant it subject to whatever conditions or restrictions are considered necessary to make the application acceptable.



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Status: ☒ Law In Force

Town and Country Planning (Scotland) Act 1997 c. 8

Part VI ENFORCEMENT

Application

This version in force from: **December 12, 2008 to present**

(version 2 of 2)

123.— Expressions used in connection with enforcement.

(1) For the purposes of this Act—

(a) carrying out development without the required planning permission, or

(b) failing to comply with any condition or limitation subject to which planning permission has been granted,¹ or

[(c) initiating development without giving notice in accordance with section 27A(1) of this Act, or

(d) carrying out development without displaying a notice in accordance with section 27C(1) of this Act,

]¹

constitutes a breach of planning control.

(2) For the purposes of this Act—

(a) the issue of an enforcement notice, or

(b) the service of a breach of condition notice,

under this Part constitutes taking enforcement action [as does the issuing of a notice under section 33A]² .

(3) In this Part “planning permission” includes planning permission under Part III of the 1947 Act and Part III of the 1972 Act.

1. Added by Planning etc. (Scotland) Act 2006 asp 17 (Scottish Act) Pt 3 s.6(2) (December 12, 2008 for the purpose of enabling orders or regulations to be made; August 3, 2009 otherwise)

2. Words added by Planning etc. (Scotland) Act 2006 asp 17 (Scottish Act) Pt 3 s.9(2) (December 12, 2008 for the purpose of enabling orders or regulations to be made; August 3, 2009 otherwise)

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Subject: Planning

Keywords: Enforcement; Interpretation; Planning permission; Scotland

Status: ☒ Law In Force

Town and Country Planning (Scotland) Act 1997 c. 8

Part III CONTROL OVER DEVELOPMENT

Variation of application

This version in force from: **December 12, 2008 to present**

(version 1 of 1)

[33A Notice requiring application for planning permission for development already carried out

Where there is a breach of planning control the planning authority may issue a notice—

(a) requiring the owner of the land in, on, over or under which the development has been carried out to make an application to them for planning permission for the development,

(b) describing the development in a way that is sufficient to identify it,

(c) specifying a date by which the application is to be made, and

(d) setting out the terms of section 123(1).

] ¹

1. Added by Planning etc. (Scotland) Act 2006 asp 17 (Scottish Act) Pt 3 s.9(1) (December 12, 2008 for the purpose of enabling orders or regulations to be made; August 3, 2009 otherwise)

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Subject: Planning

Keywords: Breach; Notices; Planning applications; Planning authorities' powers and duties; Planning control; Scotland