



Enforcement Closure Report

Case No. 15/00006/ENOTH2

Date: 01.03.17

Case Officer: Kim MacKay

Report:

Unauthorised siting of caravans, sheds and storage containers
Craobh Watersports, Buidhe Island, Craobh Haven

Enforcement Notice was served and subsequently an appeal was submitted to Scottish Government – the appeal was upheld and the Enforcement Notice quashed.

Case Officer

Date

Area Team Leader

Date



Decision by John H Martin, a Reporter appointed by the Scottish Ministers

- Enforcement notice appeal reference: ENA-130-2027
- Site address: Craobh Watersports, Buidhe Island, Craobh Haven, Lochgilhead PA31 8UA
- Appeal by Mark Hampton against the enforcement notice dated 18 October 2016 served by Argyll and Bute Council
- The alleged breach of planning control: unauthorised siting of a container (no.1 on the attached plan); a container (no.2 on the plan); a caravan and chalet extension (no.5 on the plan) and a timber shed (No.6 on the plan)
- Date of site visit by Reporter: 16 January 2017

Date of appeal decision: 1 March 2017

Decision

I allow the appeal and direct that the enforcement notice dated 18 October 2016 be quashed.

Reasoning

1. The appeal against the enforcement notice was made on the following grounds as provided for by section 130(1) of the Town and Country Planning (Scotland) Act 1997: (b) the matters alleged in the notice to involve a breach of planning control have not occurred; (c) the matters stated in the notice (if they occurred) do not constitute a breach of planning control; (e) copies of the enforcement notice were not served as required by section 127 of the Town and Country Planning (Scotland) Act 1997; (f) the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control stated in the notice, or to remedy any injury to amenity caused by that breach and; (g) the period specified in the notice (to comply with the steps to be taken) falls short of what should reasonably be allowed.

2. The appeal site lies on the south-east side of Eilean Buidhe, a small, tree covered island to the north of Craobh Haven that is linked to the mainland by a private access road along a causeway. The island forms a natural harbour which has been developed as a marina, together with fish farming activities, while there are a number of adjacent dwellings, including Buidhe Lodge, a former bed & breakfast guesthouse, that lies close to the northern boundary. The site has been operating as a watersports centre for many years with a previous clubhouse and boat racking (destroyed by fire), a slipway, jetty, pontoon and boat storage. Planning permission (10/00950/PP) was granted, subject to 11



conditions, on 6 July 2011 for the redevelopment of the watersports site, including the demolition of the existing clubhouse and erection of a new clubhouse, bunkhouse and dwelling-house, together with the completion of a section 75 agreement tying the occupancy of the dwelling-house to the approved development.

3. The site falls steeply from the private access road down to the shingle shoreline, and is partly screened from the water by a rocky outcrop, behind which the proposed dwelling-house is to be sited. The appellant has excavated the bedrock to form reduced levels for the three new buildings, although this has been partly back filled by the chalet extension to retain a terraced area. At the site inspection the appellant indicated the location of the installed septic tank and manholes on the foul water drain, and the location and route of the proposed surface water drain, both eventually discharging into the sea. The alleged unauthorised containers are sited next to the access road, while the caravan and chalet extension are at the northern end on the excavated level for the proposed clubhouse. The sheds marked (3) & (4) on the notice plan (Drg.No.AR/125/A/02/A) were removed before the notice was served and, although disputed by the council, I noted that timber shed (6) covered by the notice, has since been removed from the site.

4. In a letter to the appellant dated 3 February 2012, the planning authority confirmed that a meaningful start had been made on site and that the caravan and sheds could remain on the site throughout the duration of the works under permitted development as a tea hut and workers accommodation. The letter also warned that, upon completion of the works, the caravan and sheds have to be removed from the site. The excavation work carried out required the caravan and buildings to be re-sited to their present locations.

The appeal on ground (e)

5. As this ground of appeal concerns how the enforcement notice was served, I shall deal with it first. There is no suggestion that the enforcement notice was not correctly served on the owner and/or occupier of the land to which it relates, so it accords with section 127(2)(a) of the Act. The notice rightly draws attention to the appellant's right of appeal and, in Schedule 1, to whom the appeal should be submitted. The fact that the appeal was made on form ENA, whether electronically or by hard copy, indicates that the appellant exercised his right of appeal, so the manner of its service has not affected the validity of the notice. For those reasons, I conclude that the appeal on ground (e) fails.

The appeal on ground (b)

6. There is no dispute that there has been a history of siting temporary buildings on this site in connection with the watersports business. The appellant admits that these have not always been sited in the same places but all have been connected with the activities on the land. Although the caravan and chalet extension and sheds have been relocated, this appears to have been to facilitate the excavation of the land to accommodate the new buildings but, with the containers, they continue to fulfil an ancillary function to the activities on the land. I therefore conclude that containers (1) and (2), the caravan and chalet extension (5) and shed (6) have been sited on the land, so the matters alleged in the notice to involve a breach of planning control have occurred. The appeal under ground (b) must also fail.

The appeal on Ground (c)

7. At the site inspection I noted that the buildings the subject of this appeal are primarily being used for the storage of boating gear, tools and other equipment essential to the watersports business, as accommodation for workers and participants and to provide relaxation facilities. To clarify the situation, on 31 January 2017, I issued a procedure notice to determine the extent of the planning unit, its lawful use and how long the subject buildings had been on the site. From the responses, submitted photographs and accounts, I am satisfied that a seasonal watersports business has been continuously operating on the site for more than 30 years and that, for most of that time, a static caravan, a range of timber buildings, sheds, storage lockers and boat racks have served the business. Clearly, although the caravan has been replaced at least twice and that the 1985 wooden clubhouse and storage racks were destroyed by fire in 2004, the current caravan, buildings and containers have all been on site for less than 10 years and individually may not be immune from enforcement action under section 124(3) of the Act.

8. However, even if they do not benefit from a specific planning permission or any Certificates of Lawful Use or Development, the watersports business has been continuously operational for in excess of 10 years and has had a caravan, storage sheds and racks on the land ancillary to the business for most of that period, like many similar businesses nearby. These have been replaced or re-sited within the same planning unit to serve the lawful use of the land and the council has not taken enforcement action against them over the years, which suggests that, while serving the watersports business, the council was content that they formed part of the lawful use of the land. Since the former clubhouse was destroyed, the business has had to rely on these temporary buildings in order to operate and, while some materials and tools were in evidence at the time of the inspection, the use of these buildings was still primarily for watersports activities rather than specifically in connection with the building operations.

9. Therefore, notwithstanding the appellant's claim that, since planning permission for the redevelopment was granted on 6 July 2011, the buildings have become "temporary" buildings in connection with the development operations under Class 14 Part 4 of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992, there was little evidence of the storage of building materials and tools to show that the buildings and containers are actually serving that purpose as claimed by the council.

10. Nevertheless, since a planning permission has been granted and work has materially commenced on site, the appellant is now relying on the permitted development rights in Class 14 to allow them to be retained while the building operations continue. While Class 14(3)(a) requires such temporary buildings to be removed when the operations have been carried out, there is no time limit imposed by the conditions. Although I accept that a delay of some 5 years from the "meaningful" start indicates a significant lack of activity on the project, the appellant has clearly stated his intention to complete the development as soon as he has the funding in place.

11. I therefore conclude, on the balance of probability, that while these temporary buildings continue to be used primarily for the operation of the watersports business containers (1) and (2), the caravan and chalet extension (5) and shed (6) have not yet been used as Class 14 permitted development temporary buildings in connection with the

building operations as the reasons for issuing the notice suggest. Therefore, although the matters stated in the notice have occurred, they do not constitute a breach of planning control, so the appeal on ground (c) succeeds and the notice must be quashed. There is therefore no need to consider the appeals under grounds (f) and (g).

Other matters

12. I have taken account of the submissions from the owners of Buidhe Lodge next door and noted their concerns, which essentially reflect the council's view that the building operations have ceased and that the watersports activities have been reduced to a minimum. However, the appellant has commenced work on the redevelopment, as confirmed in writing by the council, so the planning permission remains extant in perpetuity. The excavation works have seriously disrupted the use of the land which could explain why the watersports centre has been operating at a reduced level but, from the submitted accounts, it has not ceased and I have seen no evidence of any significant breaks in its continuous operation over the last 10 years to justify enforcement action against the use, nor has the council sought to take any.

13. I have also noted condition 4 on the original permission (10/00950/PP) that requires the re-siting of the temporary structure during the redevelopment and its removal on completion, with which the appellant has partially complied. The appellant refers to the letter from the Chief Planner, dated 4 November 2011, which states that the Scottish Government believes that occupancy restrictions are rarely appropriate and should generally be avoided. However, this post dates planning permission 10/00950/PP dated 6 July 2011, so the section 75 agreement tying the occupancy of the dwelling-house to the development was not inappropriate at the time. Nevertheless, I appreciate that such obligations can make financing for the redevelopment more difficult, and the appellant points out that this has contributed to the delay in construction while he sought funding. Even so, all these matters, together with the impact of the containers and buildings on the landscape character of the area, and the expiry of the building warrant, are not before me in this enforcement notice appeal.

Conclusions

14. My overall conclusions are that, while the siting of the containers, caravan and chalet extension and sheds has occurred, as they continue to serve the needs of the lawful watersports facility rather than acting as Class 14 permitted development temporary buildings, they do not constitute a breach of planning control.

John H Martin

Reporter

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

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

ENFORCEMENT NOTICE

REFERENCE NUMBER: 15/00006/ENOTH2

To: Mark Hampton
No.5 Broomhill Cottages
East End
Lymington
SO41 5SX

ISSUED BY: ARGYLL AND BUTE COUNCIL, KILMORY, LOCHGILPHEAD

1. **THIS IS A FORMAL NOTICE** which is issued by Argyll and Bute Council, as Planning Authority, because it appears to them that there has been a breach of planning control, under Section 127 of the Town and Country Planning (Scotland) Act 1997 ('the Act') , at the Land Affected hereinafter defined. Argyll and Bute Council consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material considerations.

2. THE LAND AFFECTED

That plot or area of ground shown edged red on the attached plan **Craobh Watersports, Buidhe Island, Craobh Haven, Lochgilphead, PA31 8UAS** (hereinafter referred to as 'The Land Affected')

3. THE BREACH OF PLANNING CONTROL ALLEGED

In terms of Section 123 (1)(a) of the Act the carrying out of development upon the Land Affected without the required planning permission relative to:

The unauthorised siting of the following (which are identified as per the attached plan submitted by you on 04.04.16 :

- i. Container (identified as no.1 on attached plan)
- ii. Container (identified as no.2 on attached plan)
- iii. Caravan and chalet extension (identified as no. 5 on attached plan)

- iv. Timber shed (identified as no.6 on attached plan)

4. REASONS FOR ISSUING THIS NOTICE

The development has been carried out without the benefit of planning permission and as work has ceased on site permitted development rights under Part 4 Temporary buildings and uses Class 14 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 no longer apply and as such the siting of the developments under part 3 above are unauthorised.

The unauthorised developments are considered, by virtue of their design and general appearance, to be a prominent and incongruous features which are substantially out of character and as such gives rise to a significant adverse effect upon the character of the existing built environment, the amenity of the locale, detracts from a valued wider landscape setting and is therefore considered to be contrary to the Argyll and Bute Local Development Plan Adopted March 2015 policy LDP 9.

There has been a breach of planning control and it is expedient to issue this notice having regard to the provisions of the Local Development Plan and other material considerations.

5. WHAT YOU ARE REQUIRED TO DO

You are required to;

- i. Remove the container (as identified as 1 on the attached plan)
- ii. Remove the container (as identified as 2 on the attached plan)
- iii. Remove the caravan and chalet extension (as identified as 5 on the attached plan)
- iv. Remove the shed (as identified as 6 on the attached plan)

Time period for compliance: **6 months from the date this notice takes effect.**

6. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on **18th November 2016** subject to section 131(3) of the Act which provides that where an appeal is made to the Scottish Government before the date this notice takes effect that this notice shall be of no effect pending the final determination or the withdrawal of the appeal

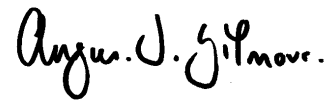
7. YOUR RIGHT OF APPEAL

You can appeal against this notice, but your appeal must be received or posted in time to be received by the Scottish Government before **18th November 2016** . 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 notice, it will take effect on 18th October 2016 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(s) 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: 18th October 2016

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

Head of Planning and Regulatory Services
Kilmory
Lochgilphead

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

<p style="text-align: center;">SCHEDULE 1 EXPLANATORY NOTE FOR THOSE IN RECEIPT OF AN ENFORCEMENT NOTICE</p>

RELEVANT LEGISLATION

RELEVANT LEGISLATION

A summary of Sections 127 to 134 of the Town and Country Planning (Scotland) Act 1997 (as amended) are 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, or posted in time to be received, by the Scottish Government before **18th November 2016**. 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 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 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 enforcement notice is suspended and will not take effect unless the appeal is withdrawn or dismissed.

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 Twenty Thousand Pounds 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.

FIXED PENALTY NOTICE

Section 136A of the 2006 Act amended the 1997 Act to introduce a new planning enforcement power enabling planning authorities to issue a fixed penalty notice (FPN) as an alternative to prosecution where a person fails to comply with the terms of an enforcement notice.

Failure to comply with this notice may result in a fixed penalty notice being issued, with a fine of £2000 in respect of a breach of an enforcement notice. Please note that while payment of this fine prevents future prosecution this does not remove your responsibility to comply with the terms of this notice and may, as a result, instigate the undertaking of further planning enforcement proceedings.

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 on the land, take those steps and recover the cost from the owner or lessee of the land.

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.

Enforcement Sections of the Town & Country Planning (Scotland) Act 1997

Issue of enforcement notice.

127. - (1) The planning authority may issue a notice (in this Act referred to as an "enforcement notice") where it appears to them-

- (a) that there has been a breach of planning control, and
- (b) that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.

(2) A copy of an enforcement notice shall be served-

- (a) on the owner and on the occupier of the land to which it relates, and
- (b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.

(3) The service of the notice shall take place-

- (a) not more than 28 days after its date of issue, and
- (b) not less than 28 days before the date specified in it as the date on which it is to take effect.

Contents and effect of notice.

128. - (1) An enforcement notice shall state-

- (a) the matters which appear to the planning authority to constitute the breach of planning control, and
- (b) the paragraph of section 123(1) within which, in the opinion of the authority, the breach falls.

(2) A notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are.

(3) An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.

(4) Those purposes are-

- (a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or
- (b) remedying any injury to amenity which has been caused by the breach.

(5) An enforcement notice may, for example, require-

- (a) the alteration or removal of any buildings or works,
- (b) the carrying out of any building or other operations,
- (c) any activity on the land not to be carried on except to the extent specified in the notice, or

(d) the contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.

(6) An enforcement notice issued in respect of a breach of planning control consisting of demolition of a building may require the construction of a building (in this section referred to as a "replacement building") which, subject to subsection (7), is as similar as possible to the demolished building.

(7) A replacement building-

(a) must comply with any requirement imposed by or under any enactment applicable to the construction of buildings,

(b) may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control, and

(c) must comply with any regulations made for the purposes of this subsection (including regulations modifying paragraphs (a) and (b) of this subsection).

(8) An enforcement notice shall specify the date on which it is to take effect and, subject to section 131(3), shall take effect on that date.

(9) An enforcement notice shall specify the period for compliance with the notice at the end of which any steps are required to have been taken or any activities are required to have ceased, and may specify different periods for different steps or activities.

(10) Where different periods apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.

(11) An enforcement notice shall specify such additional matters as may be prescribed.

(12) Regulations may require every copy of an enforcement notice served under section 127 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under section 130.

(13) Where-

(a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so, and

(b) all the requirements of the notice have been complied with,
then, so far as the notice did not so require, planning permission shall be treated as having been granted under section 33 in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.

(14) Where-

- (a) an enforcement notice requires the construction of a replacement building, and
 - (b) all the requirements of the notice with respect to that construction have been complied with,
- planning permission shall be treated as having been granted under section 33 in respect of development consisting of that construction.

Variation and withdrawal of enforcement notice. **129.** - (1) The planning authority may-

- (a) withdraw an enforcement notice issued by them, or
- (b) waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 128(9).

(2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.

(3) The planning authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were reissued, be served with a copy of it.

(4) The withdrawal of an enforcement notice does not affect the power of the planning authority to issue a further enforcement notice.

Appeal against enforcement notice.

130. - (1) A person on whom an enforcement notice is served or any other person having an interest in the land 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-

- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control;
- (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- (e) that copies of the enforcement notice were not served as required by section 127;
- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
- (g) that any period specified in the notice in accordance with section 128(9) falls short of what should reasonably be

allowed.

(2) An appeal under this section shall be made either-

(a) by giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect, or

(b) by sending such notice to him in a properly addressed and prepaid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date.

(3) A person who gives notice under subsection (2) shall submit to the Secretary of State, either when giving the notice or within the prescribed time, a statement in writing-

(a) specifying the grounds on which he is appealing against the enforcement notice, and

(b) giving such further information as may be prescribed.

Appeals: supplementary provisions.

131. - (1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 130 and, in particular, but without prejudice to the generality of the foregoing provisions of this subsection, in so prescribing may-

(a) specify the matters on which information is to be given in a statement under section 130(3);

(b) require the planning authority to submit, within such time as may be specified, a statement indicating the submissions which they propose to put forward on the appeal;

(c) specify the matters to be included in such a statement;

(d) require the authority or the appellant to give such notice of an appeal as may be specified to such persons as may be specified;

(e) require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be specified, a copy of the enforcement notice and a list of the persons served with copies of it.

(2) Subject to section 132(3), the Secretary of State shall, if either the appellant or the planning authority so desire, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(3) Where an appeal is brought under section 130 the enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.

(4) Schedule 4 applies to appeals under section 130, including appeals under that section as applied by

regulations under any other provisions of this Act.

General provisions relating to determination of appeals.

132. - (1) On the determination of an appeal under section 130, the Secretary of State shall give directions for giving effect to the determination, including, where appropriate, directions for quashing the enforcement notice.

(2) On such an appeal the Secretary of State may-

(a) correct any defect, error or misdescription in the enforcement notice, or

(b) vary the terms of the enforcement notice,

if he is satisfied that the correction or variation will not cause injustice to the appellant or the planning authority.

(3) The Secretary of State may-

(a) dismiss an appeal if the appellant fails to comply with section 130(3) within the prescribed time, and

(b) allow an appeal and quash the enforcement notice if the planning authority fail to comply with any requirement imposed by virtue of paragraph (b), (c) or (e) of section 131(1).

(4) Where it would otherwise be a ground for determining an appeal in favour of the appellant that a person required by section 127(2) to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

Grant or modification of planning permission on appeal against enforcement notice.

133. - (1) On the determination of an appeal under section 130, the Secretary of State may-

(a) grant planning permission in respect of any of the matters stated in the enforcement notice as constituting a breach of planning control or any of those matters so far as relating to part of the land to which the notice relates,

(b) discharge any condition or limitation subject to which planning permission was granted,

(c) grant planning permission for such other development on the land to which the enforcement notice relates as appears to him to be appropriate, and

(d) determine whether on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which the permission was granted was lawful and, if so, issue a

certificate under section 150.

(2) The provisions of sections 150 to 153 mentioned in subsection (3) shall apply for the purposes of subsection (1)(d) as they apply for the purposes of section 150, but as if-

(a) any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made, and

(b) references to the planning authority were references to the Secretary of State.

(3) Those provisions are sections 150(5) to (7), 152(4) (so far as it relates to the form of the certificate), (6) and (7) and 153.

(4) In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.

(5) The planning permission which may be granted under subsection (1) is any planning permission which might be granted on an application under Part III.

(6) Where the Secretary of State discharges a condition or limitation under subsection (1), he may substitute for it any other condition or limitation.

(7) Where an appeal against an enforcement notice is brought under section 130, the appellant shall be deemed to have made an application for planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control.

(8) Where-

(a) the statement under section 130(3) specifies the ground mentioned in subsection (1)(a) of that section,

(b) any fee is payable under regulations made by virtue of section 252 in respect of the application deemed to be made by virtue of the appeal, and

(c) the Secretary of State gives notice in writing to the appellant specifying the period within which the fee must be paid,

then, if that fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.

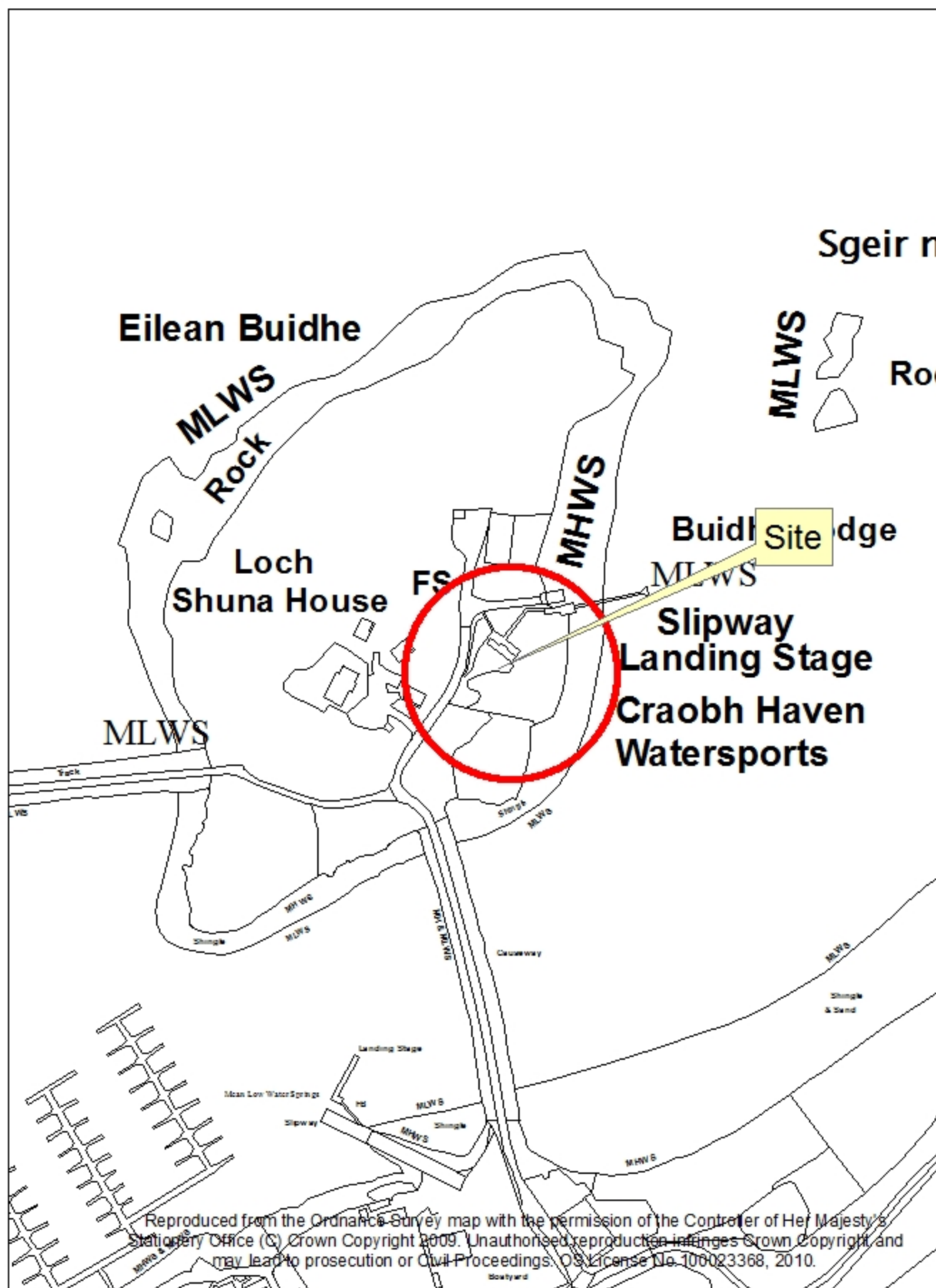
(9) Any planning permission granted under subsection (1) on an appeal shall be treated as granted on the application deemed to have been made by the appellant.

(10) In relation to a grant of planning permission or a determination under subsection (1) the Secretary of State's decision shall be final.

(11) For the purposes of section 36 the decision shall be treated as having been given by the Secretary of State in dealing with an application for planning permission made to the planning authority.

Validity of enforcement notices.

134. The validity of an enforcement notice shall not be questioned in any proceedings whatsoever on any of the grounds specified in section 130(1)(b) to (e) except by appeal under that section



• SITE BANDWIDTH
AS PROVIDED
BY CLIENT
NO EXCESSIVE
BANDWIDTH
WASTES
APPROX
(GIGABIT
MINIMUMS)

Reference No.	1900950/YP
Date Received	16/11/10

- BURKE LODGE

FOR NOTES & DETAILS
OF SEPTIC TANK
E E SODAWAY
SEWER SPECIALIST
BIRMINGHAM

PROPOSED
WATER SPROUTS CENTRE
HAMILTON MIDDLE LA

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DATE	01-10	TIME	1:200
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Эксперимент

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EXTD OF US-20
DRINK WATER

ARTERIAL
PULSE:

Bapt
YESTERDAY
W. B.

PRODSED BANKRUPTCY
(B)

consider of existing
a warehouse
to be removed

offer leave
costs
(as per
& promised)

18 dom

~~STEP PLAN~~

Application Ref no: 10/000780/PC
Date Received: 16/11/10
Plan no: 20511
PO number: 04

205
D.H.

EXTENT OF LAND WITHIN

PC/125/2/03

Section A

PC/115/12/02

Section 5

APR 125/A/03

Section C

AE/125/4/03

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