

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

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

BREACH OF CONDITIONS NOTICE

REFERENCE NUMBER: 23/00170/ENBOC2

To: J and A Mitchell and Company
Springbank Distillery
Well close
Campbeltown
Argyll
PA28 6ET

SERVED BY: ARGYLL AND BUTE COUNCIL, KILMORY, LOCHGILPHEAD

1. THIS IS A FORMAL NOTICE which is served by Argyll and Bute Council, as Planning Authority, under Section 145 of the Town and Country Planning (Scotland) Act 1997, as amended ('the Act') because it is considered a condition imposed on the grant of planning permission, relating to the land described below, has not been complied with. It is considered that you are (the person who is carrying out or has carried out the development)(the person having control of the Land Affected) and as such are the person responsible for securing compliance with the conditions specified in this notice

2. THE LAND AFFECTED BY THE NOTICE

That plot or area of ground shown delineated in red on the attached plan which plot or area of ground forms **Glengyle Distillery, Glengyle Road, Campbeltown** (hereinafter referred to as 'the Land Affected')

3. THE RELEVANT PLANNING PERMISSION

The planning permission to which this notice relates is the permission granted by Argyll and Bute Council Reference Number **23/01118/PP** on **12.09.23** for **Demolition of two warehouses, boundary walls and site clearance, erection of bottling hall complete with associated dispatch warehouse, blocking up of existing access and formation of new vehicular access** on the Land Affected (hereinafter referred to as 'the Planning Permission')

4. BREACH OF CONDITION

The following condition(s) of the Planning Permission have not been complied with:

2. No development shall commence until, a Traffic Management Plan has been submitted to for the written approval of the Planning Authority in consultation and agreement with the Roads Authority. The Plan shall detail approved access routes, agreed operational practices (including avoidance of convoy movements, specifying conduct in use of passing places, identification of turning areas, reporting of verge damage) and shall provide for the provision of an appropriate Code of Practice to drivers of construction and delivery vehicles. The development shall be implemented in accordance with the duly approved Traffic Management Plan.

Reason: To address abnormal traffic associated with the development in the interests of road safety.

3. No development shall commence until, a Method Statement has been submitted for the written approval of the Planning Authority in consultation with the Roads Authority. The Statement is in relation to access and transport of materials, plant and equipment in relation to the development. The development shall be implemented in accordance with the duly approved method statement.

Reason: To address abnormal traffic associated with the development in the interests of road safety.

4. Notwithstanding the provisions of Condition 1, no development shall commence until details of an adoptable standard footway (to be provided along the frontage of the site) have been submitted to and approved by the Planning Authority, in consultation with Roads and Infrastructure Services.

The approved adoptable footway shall be constructed in accordance with the approved details and implemented in full prior to the development first being occupied.

Reason: In the interests of road safety.

5. No development shall commence until an assessment of the condition of the land has been undertaken, submitted and approved in writing by the Planning Authority. The assessment shall determine the nature and extent of any contamination on the site and identify any potential risks to human health, the water environment, property or designated ecological sites.

Where contamination is identified, then a detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared and be subject to the approval in writing of the Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Any approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development with the exception of those actions required to carry out remediation unless otherwise agreed in writing by the Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation must be produced, and is subject to the approval in writing of the Planning Authority.

Reason: In order to ensure that contamination issues on the site have been fully investigated and remediated and to ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed

8. Biodiversity Statement

No development shall commence until a biodiversity statement demonstrating how the proposal will contribute to conservation/restoration/enhancement of biodiversity, and how these benefits will be maintained for the lifetime of the development, has been submitted to and approved in writing by the Planning Authority.

The biodiversity statement should refer to [Developing with Nature guidance/Nature Scot](#) as appropriate.

Reason: To comply with the requirements of NPF4 Policy 3

9. PP - Surface Water Drainage - Further detail required

Notwithstanding the provisions of Condition 1, no development shall commence until details of the intended means of surface water drainage to serve the development have been submitted to and approved in writing by the Planning Authority.

The duly approved scheme shall be implemented in full concurrently with the development that it is intended to serve and shall be operational prior to the occupation of the development and maintained as such thereafter.

Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.

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/secure compliance with the stated condition(s) by taking the following steps:

- 1.) Submitting the required information for each of the above conditions.

6. TIME FOR COMPLIANCE

You are required to comply with the requirements of this notice within **28 days** from the date on which you receive this notice by postal delivery.

7. DATE THIS NOTICE TAKES EFFECT

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

Dated: 19th February 2024

A handwritten signature in purple ink, appearing to read 'David Murray', written over a faint, illegible printed name.

Head of Development and Economic Growth
Kilmory
Lochgilphead
On behalf of Argyll and Bute Council, Kilmory, Lochgilphead, PA31 8RT

WARNING - THERE IS NO RIGHT OF APPEAL AGAINST THIS NOTICE

Copies of sections 145 and 145A of the Town and Country Planning (Scotland) Act 1997 (as amended) are attached. You will wish to note in particular the points referred below

It is an offence to contravene the requirements stated in paragraph 5 of this notice after the end of the compliance period. The maximum penalty for such an offence is £5000.00.

If you are in any doubt about what this notice requires you to do, you should get in touch immediately by telephone, followed by written enquiry to:

Planning Services, 1A Manse Brae, Lochgilphead, Argyll PA31 8RD.

Section 145A of The Planning etc. (Scotland) Act 2006 provides the Planning Authority with power to issue a fixed penalty notice for breaching the terms of a breach of condition notice. The issue of a fixed penalty notice is at the discretion of the Planning Authority. There is no right of appeal against a fixed penalty notice. The Town & Country Planning (Amount of Fixed Penalty) (Scotland) Regulations 2008 sets out that the penalty for breach of a breach of condition notice is £300. Payment of the penalty does not discharge the requirement to comply with the terms of the breach of condition notice, while prosecution proceedings can be taken where a fixed penalty notice is unpaid.

If you need independent advice about this notice, you are advised to contact urgently a lawyer, planning consultant or other professional advisor 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 procedure this process involves.

DO NOT LEAVE YOUR RESPONSE TO THE LAST MINUTE

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

SECTIONS 145 AND 145A

145

(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 –

(a) be liable on summary conviction to a fine not exceeding level 5 on the standard scale, or

(b) the court when setting the fine shall have regard to any financial benefit or likely financial benefit that the convicted person may accrue in consequence of the activity which constitutes 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

(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

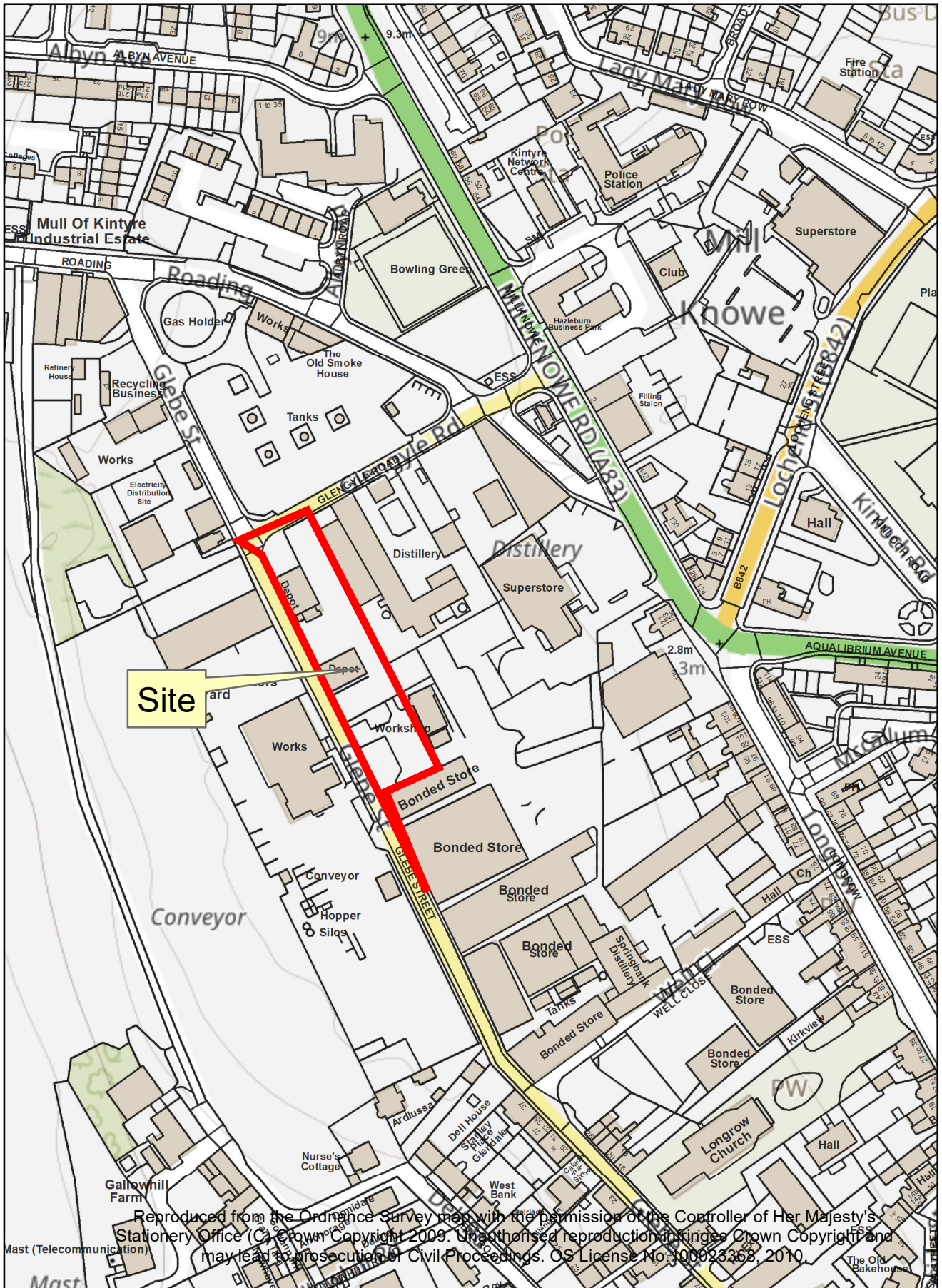
(b) is not served after the person has been charged with an offence under section 145(9) as respects the breach of the breach of condition notice.

(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.



**Location Plan relative to:
Glengyle Distillery, Campbeltown
Enforcement Ref. No.23/00170/ENBOC2**

Date: 19.02.24

Drawn By: kmk

Scale: 1:2,500

