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IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (as amended)

BREACH OF CONDITIONS NOTICE

REFERENCE NUMBER: 20/00168/ENBOC2

To: Mr Malcolm Kerr
An Gleannan
North Connel
Oban
PA37 1RW

SERVED BY: ARGYLL AND BUTE COUNCIL, KILMORY, LOCHGILPHEAD

1. **THIS IS A FORMAL NOTICE** which is served by Argyll and Bute Council, under Section 145 of the Town and Country Planning (Scotland) Act 1997 as amended, because it is considered that 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 as are the person responsible for securing compliance with the conditions specified in this notice).

2. THE LAND AFFECTED BY THE NOTICE

The site to which this notice relates (shown edged in red on the attached plan) forms an area of land known as **Former An Gleannan North Connel Argyll And Bute** (hereinafter referred to as “the Land Affected”)

3. THE RELEVANT PLANNING PERMISSION

The relevant planning permission to which this notice relates is the permission granted by Argyll and Bute Council (Reference Number 19/01560/PP on the 28th of January 2020 for Erection of replacement dwellinghouse and siting of temporary residential caravan on the Land Affected (hereinafter referred to as “the Planning permission”)

4. BREACH OF CONDITION

The following condition of the Planning Permission has not been complied with:

Condition 2

Notwithstanding Condition 1 above, the proposed access to the site and its junction with the C78 public ‘Observer Corps Post Road’ shall be improved and formed in accordance with the following details:

- Within 3 months of the date of this permission (or unless otherwise agreed in writing by the Planning Authority), the access at its junction with the public 'Observer Corps Post Road' to be improved surfaced in a bituminous material, to the satisfaction of the Roads Authority, for a minimum of 5 metres from the channel line of the public road. The final wearing surface of the access shall be completed prior to the dwellinghouse first being occupied.
- Visibility splays measuring 2.4 metres to Point X by 25 metres to Point Y from the centre line of the proposed access shall be formed and maintained clear of obstructions thereafter in perpetuity. The visibility splays shall be cleared of all obstructions within 1 month of the granting of this permission, such that nothing shall disrupt visibility from a point 1.05 metres above the access at point X to a point 0.6 metres above the public road carriageway at point Y.
- Within 2 months of the date of this permission (or unless otherwise agreed in writing by the Planning Authority), full details of the layout and surfacing of a parking and turning area to accommodate 2 vehicles within the application site shall be submitted to and approved in writing by the Planning Authority in consultation with the Council's Roads Engineers. The duly approved scheme shall be implemented in full prior to the development first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interests of road safety and in order that the development accords with the provisions of Local Development Plan policies LDP 11, SG LDP TRAN 4 and SG LDP TRAN 6.

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 by taking the following steps:

1. Submit full details of the layout and surfacing of a parking and turning area to accommodate 2 vehicles within the application site to the consideration of the Planning Authority in consultation with the Council's Roads Engineers.
2. The approved parking and turning area will be required to be formed in accordance with the approved details.

6. TIME FOR COMPLIANCE

You are required to comply with the requirements of part 5 (1) of this notice within 2 months from the date on which you receive this notice by postal delivery.

You are required to comply with the requirements of part 5 (2) of this notice within 6 months from the date on which you receive this notice by postal delivery.

7. DATE THIS NOTICE TAKES EFFECT

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

Dated: 7^h of February 2025

A handwritten signature in dark ink, appearing to read 'Fergus Murray', with a large, sweeping flourish at the end.

Fergus Murray
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

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

Area Team Leader, Planning Services, Oban, Lorn and the Isles

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, and

(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.



Plan to accompany Breach of Conditions Notice 20/00168/ENBOC2

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (as amended)

BREACH OF CONDITIONS NOTICE

REFERENCE NUMBER: 20/00168/ENBOC2

To: Mr Malcolm Kerr
An Gleannan
North Connel
Oban
PA37 1RW

SERVED BY: ARGYLL AND BUTE COUNCIL, KILMORY, LOCHGILPHEAD

- 1. THIS IS A FORMAL NOTICE** which is served by Argyll and Bute Council, under Section 145 of the Town and Country Planning (Scotland) Act 1997 as amended, because it is considered that 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 as are the person responsible for securing compliance with the conditions specified in this notice).

2. THE LAND AFFECTED BY THE NOTICE

The site to which this notice relates (shown edged in red on the attached plan) forms an area of land known as **Former An Gleannan North Connel Argyll And Bute** (hereinafter referred to as “the Land Affected”)

3. THE RELEVANT PLANNING PERMISSION

The relevant planning permission to which this notice relates is the permission granted by Argyll and Bute Council (Reference Number 19/01560/PP on the 28th of January 2020 for Erection of replacement dwellinghouse and siting of temporary residential caravan on the Land Affected (hereinafter referred to as “the Planning permission”)

4. BREACH OF CONDITION

The following condition of the Planning Permission has not been complied with:

Condition 3

Within 3 months of the date of this permission (or unless otherwise agreed in writing by the Planning Authority), a scheme of boundary treatment, surface treatment and landscaping shall be submitted to and approved in writing by the Planning Authority. The scheme shall include details of:

- i) Location, design and materials of proposed walls, fences and gates;
- ii) Surface treatment of proposed means of access and hardstanding areas;
- iii) Any proposed re-contouring of the site by means of existing and proposed ground levels.
- iv) Proposed hard and soft landscape works, including proposals for the landscaping and restoration of those areas of the site referred to in Conditions 6, 7 and 8 below.

The development shall not be occupied until such time as the boundary treatment, surface treatment and any re-contouring works have been completed in accordance with the duly approved scheme.

All of the hard and soft landscaping works, including the landscaping and restoration works referred to in iv) above, shall be carried out in accordance with the approved scheme during the first planting season following the first occupation of the dwellinghouse, unless otherwise agreed in writing by the Planning Authority.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity.

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 by taking the following steps:

1. Submit a scheme of boundary treatment, surface treatment and landscaping for the consideration and written approval of the Planning Authority. The required content of this scheme is detailed above in Section 4 and is detailed in condition 3.
2. The approved scheme of boundary treatment, surface treatment and landscaping scheme will be required to be carried out during the next available planting season following the approval of the details specified in 1. above
- 3.

6. TIME FOR COMPLIANCE

You are required to comply with the requirements of this notice within 8 months from the date on which you receive this notice by postal delivery.

7. DATE THIS NOTICE TAKES EFFECT

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

Dated: 7th of February 2025

A handwritten signature in dark ink, appearing to read 'Fergus Murray', with a large, sweeping flourish at the end.

Fergus Murray
Head of Development and Economic Growth
Kilmory
Lochgilphead

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

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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

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Area Team Leader, Planning Services, Oban, Lorn and the Isles

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, and

(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.

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Plan to accompany Breach of Conditions Notice 20/00168/ENBOC2

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TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (as amended)

BREACH OF CONDITIONS NOTICE

REFERENCE NUMBER: 20/00168/ENBOC2

To: Mr Malcolm Kerr
An Gleannan
North Connel
Oban
PA37 1RW

SERVED BY: ARGYLL AND BUTE COUNCIL, KILMORY, LOCHGILPHEAD

1. **THIS IS A FORMAL NOTICE** which is served by Argyll and Bute Council, under Section 145 of the Town and Country Planning (Scotland) Act 1997 as amended, because it is considered that 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 as are the person responsible for securing compliance with the conditions specified in this notice).

2. THE LAND AFFECTED BY THE NOTICE

The site to which this notice relates (shown edged in red on the attached plan) forms an area of land known as **Former An Gleannan North Connel Argyll And Bute** (hereinafter referred to as “the Land Affected”)

3. THE RELEVANT PLANNING PERMISSION

The relevant planning permission to which this notice relates is the permission granted by Argyll and Bute Council (Reference Number 19/01560/PP on the 28th of January 2020 for Erection of replacement dwellinghouse and siting of temporary residential caravan on the Land Affected (hereinafter referred to as “the Planning permission”)

4. BREACH OF CONDITION

The following condition of the Planning Permission has not been complied with:

Condition 4

Notwithstanding Condition 1 above and within 2 months of the granting of this permission (or unless otherwise agreed in writing by the Planning Authority), the existing close boarded timber fence and gateway(s) positioned adjacent to and parallel with the C78 public ‘Observer Corps Post Road’ must be

reduced in height to no more than 2.0 metres above existing ground level, as measured from the inside of the fence.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity and to ensure that the development is delivered in accordance with the approved plans.

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 by taking the following step:

1. Reduce the height of the existing close boarded timber fence and gateway(s) positioned adjacent to and parallel with the C78 public 'Observer Corps Post Road' to no more than 2.0 metres above existing ground level, as measured from the inside of the fence.

6. TIME FOR COMPLIANCE

You are required to comply with the requirements of this notice within 3 months from the date on which you receive this notice by postal delivery.

7. DATE THIS NOTICE TAKES EFFECT

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

Dated: 7th of February 2025

A handwritten signature in purple ink, appearing to read 'Fergus Murray', with a large, stylized flourish at the end.

Fergus Murray
Head of Development and Economic Growth
Kilmory
Lochgilphead

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

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SECTIONS 145 AND 145A

145

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(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, and

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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.

**Plan to accompany Breach of Conditions Notice 20/00168/ENBOC2**

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To: Mr Malcolm Kerr
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SERVED BY: ARGYLL AND BUTE COUNCIL, KILMORY, LOCHGILPHEAD

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2. THE LAND AFFECTED BY THE NOTICE

The site to which this notice relates (shown edged in red on the attached plan) forms an area of land known as **Former An Gleannan North Connel Argyll And Bute** (hereinafter referred to as “the Land Affected”)

3. THE RELEVANT PLANNING PERMISSION

The relevant planning permission to which this notice relates is the permission granted by Argyll and Bute Council (Reference Number 19/01560/PP on the 28th of January 2020 for Erection of replacement dwellinghouse and siting of temporary residential caravan on the Land Affected (hereinafter referred to as “the Planning permission”)

4. BREACH OF CONDITION

The following condition of the Planning Permission has not been complied with:

Condition 6

Notwithstanding Condition 1 above and within 1 month of the date of this permission, (or unless otherwise agreed in writing by the Planning Authority) the applicant/developer shall submit a detailed and scaled plan of the site which shall clearly show an area specified for the temporary storage/siting of building materials, plant and equipment to be used during the construction/implementation of the development hereby

approved. The required plan shall be accompanied by details of the proposed means of demarcation of this temporary 'compound' area together with the proposed maximum height of any materials, plant and/or equipment being stored within it. The temporary compound area subsequently approved shall be brought into use no later than 3 months from the date of this permission and shall be dismantled and cleared within 1 month of the first occupation of the dwellinghouse. Thereafter, and within 6 months of the first occupation of the dwellinghouse, the area of ground previously utilised as a temporary storage compound shall be landscaped and restored in accordance with those details to be submitted and approved under Condition 3 above.

All storage of on-site building materials, plant and/or equipment shall be strictly limited to within the temporary storage compound area referred to above. There shall be no on-site storage of any materials, plant, equipment or other goods, waste, scrap or other goods and chattels outwith the temporary storage compound area referred to above, unless otherwise agreed in writing by the Planning Authority.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity and to ensure that the development is delivered in accordance with the approved plans.

Note to Applicant:

- The 'site' shall, for the purposes of this planning condition, mean those areas of land as falling within both the 'red line' and the 'blue line' boundaries as indicated on the approved drawings.

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 by taking the following steps:

1. Submit a detailed and scaled plan of the site which shall clearly show an area specified for the temporary storage/siting of building materials, plant and equipment to be used during the construction/implementation of the development hereby approved. The required plan shall be accompanied by details of the proposed means of demarcation of this temporary 'compound' area together with the proposed maximum height of any materials, plant and/or equipment being stored within it.
2. The temporary compound area subsequently approved will be required to be dismantled and cleared. The area of ground previously utilised as a temporary storage compound shall be landscaped and restored in accordance with those details to be submitted and approved under Condition 3 of planning permission ref 19/01560/PP.

6. TIME FOR COMPLIANCE

You are required to comply with the requirements of part 5 (1) of this notice within 1 month from the date on which you receive this notice by postal delivery.

You are required to comply with the requirements of part 5 (2) of this notice within 6 months from the date on which you receive this notice by postal delivery.

7. DATE THIS NOTICE TAKES EFFECT

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

Dated: 7th of February 2025

A handwritten signature in purple ink, appearing to read 'Fergus Murray', is written over a faint, light purple rectangular stamp.

Fergus Murray
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

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

.
Area Team Leader, Planning Services, Oban, Lorn and the Isles

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, and

(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.



Plan to accompany Breach of Conditions Notice 20/00168/ENBOC2

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (as amended)

BREACH OF CONDITIONS NOTICE

REFERENCE NUMBER: 20/00168/ENBOC2

To: Mr Malcolm Kerr
An Gleannan
North Connel
Oban
PA37 1RW

SERVED BY: ARGYLL AND BUTE COUNCIL, KILMORY, LOCHGILPHEAD

1. **THIS IS A FORMAL NOTICE** which is served by Argyll and Bute Council, under Section 145 of the Town and Country Planning (Scotland) Act 1997 as amended, because it is considered that 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 as are the person responsible for securing compliance with the conditions specified in this notice).

2. THE LAND AFFECTED BY THE NOTICE

The site to which this notice relates (shown edged in red on the attached plan) forms an area of land known as **Former An Gleannan North Connel Argyll And Bute** (hereinafter referred to as “the Land Affected”)

3. THE RELEVANT PLANNING PERMISSION

The relevant planning permission to which this notice relates is the permission granted by Argyll and Bute Council (Reference Number 19/01560/PP on the 28th of January 2020 for Erection of replacement dwellinghouse and siting of temporary residential caravan on the Land Affected (hereinafter referred to as “the Planning permission”)

4. BREACH OF CONDITION

The following condition of the Planning Permission has not been complied with:

Condition 8

Notwithstanding Condition 1 above, the existing mobile home / chalet annotated ‘temporary residential building (caravan)’ as demarked upon the approved site plan drawing numbered 1 of 5 shall be occupied solely by a person or persons engaged in and/or site managing the development hereby approved. This mobile home / chalet shall be removed from the site within two years from the date of this permission or

two months from the date upon which the approved dwellinghouse is first occupied (whichever comes soonest). Thereafter, and within 6 months of the first occupation of the dwellinghouse, the area of ground previously occupied by the temporary mobile home / chalet shall be landscaped and restored in accordance with those details to be submitted and approved under Condition 3 above.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity, to ensure that the development is delivered in accordance with the approved plans and to appropriately address this unlawful use of the site

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 by taking the following steps:

1. The existing mobile home/chalet annotated 'temporary residential building (caravan)' as demarked upon the approved site plan drawing numbered 1 of 5 shall be removed from the site.
2. The area of ground previously occupied by the temporary mobile home/chalet shall be landscaped and restored in accordance with the details to be submitted and approved under condition 3.

6. TIME FOR COMPLIANCE

You are required to comply with the requirements of this notice within 8 months from the date on which you receive this notice by postal delivery.

7. DATE THIS NOTICE TAKES EFFECT

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

Dated: 7th of February 2025



Fergus Murray
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

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

.
Area Team Leader, Planning Services, Oban, Lorn and the Isles

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, and

(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.



Plan to accompany Breach of Conditions Notice 20/00168/ENBOC2

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (as amended)

BREACH OF CONDITIONS NOTICE

REFERENCE NUMBER: 20/00168/ENBOC2

To: Mr Malcolm Kerr
An Gleannan
North Connel
Oban
PA37 1RW

SERVED BY: ARGYLL AND BUTE COUNCIL, KILMORY, LOCHGILPHEAD

1. **THIS IS A FORMAL NOTICE** which is served by Argyll and Bute Council, under Section 145 of the Town and Country Planning (Scotland) Act 1997 as amended, because it is considered that 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 as are the person responsible for securing compliance with the conditions specified in this notice).

2. THE LAND AFFECTED BY THE NOTICE

The site to which this notice relates (shown edged in red on the attached plan) forms an area of land known as **Former An Gleannan North Connel Argyll And Bute** (hereinafter referred to as “the Land Affected”)

3. THE RELEVANT PLANNING PERMISSION

The relevant planning permission to which this notice relates is the permission granted by Argyll and Bute Council (Reference Number 19/01560/PP on the 28th of January 2020 for Erection of replacement dwellinghouse and siting of temporary residential caravan on the Land Affected (hereinafter referred to as “the Planning permission”)

4. BREACH OF CONDITION

The following condition of the Planning Permission has not been complied with:

Condition 9

This planning permission does not purport to grant any consent or otherwise authorise the retention of the existing and unlawful building outlined in yellow on ‘Supplementary Information Drawing 2’ and occupying the south east corner of the site. The applicant/developer must either demolish this building and remove

the resulting materials from the site within 3 months of the date of this permission or else submit, within the same 3 month time period, a valid and competent planning application seeking its retention.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity, to ensure that the development is delivered in accordance with the approved plans and to appropriately address this unlawful use of the site.

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 by taking the following steps:

1. The existing and unlawful building outlined in yellow on 'Supplementary Information Drawing 2' and occupying the south east corner of the site shall either be demolished with the resulting materials being removed from the site: or else -
2. A valid and competent planning application will be required to be submitted for the retention of the existing and unlawful building outlined in yellow on 'Supplementary Information Drawing 2' and occupying the south east corner of the site.

6. TIME FOR COMPLIANCE

You are required to comply with either requirement of this notice within 3 months from the date on which you receive this notice by postal delivery.

7. DATE THIS NOTICE TAKES EFFECT

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

Dated: 7th of February 2025



Fergus Murray
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

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

.
Area Team Leader, Planning Services, Oban, Lorn and the Isles

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, and

(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.



Plan to accompany Breach of Conditions Notice 20/00168/ENBOC2