

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 As Amended

BREACH OF CONDITIONS NOTICE

REFERENCE NUMBER: 26/00128/ENBOC2

Mr Billy McPhee

Auchengower Caravan Park

Auchengower Park

Cove

Argyll And Bute

G84 0NX

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 conditions imposed on the grant of planning permission, relating to the land described below, have 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 **Auchengower Caravan Park Auchengower Park Cove Argyll And Bute G84 0NX** (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 **25/00516/PP** on the **02.02.26** for the Repositioning of 3 chalets (retrospective) 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:

Condition 4: Wildlife Surveys

Notwithstanding the provisions of Condition 1, within 1 month from the date of this decision, a detailed habitat and species survey shall be undertaken and the results, together with a scheme of enhancement measures, shall be submitted to and approved in writing by the Planning Authority. The survey methodology shall be submitted to and approved in writing by the Planning Authority before the survey commences. The scheme of measures shall be implemented in full accordance with a timescale to be agreed in writing with the Planning Authority or no later than 12 months from the date of this decision.

Reason: To safeguard protected species and nature conservation interests and ensure the proposed biodiversity enhancement and landscape proposals are suitable.

Condition 5: Biodiversity Enhancement

Notwithstanding the provisions of Condition 1, within 3 months from the date of this decision, a final biodiversity statement, based on the findings of the species survey as per Condition 4, shall be submitted to and approved in writing by the Planning Authority. The statement shall demonstrate how the proposal will contribute to conservation/restoration/enhancement of biodiversity, and how these benefits will be implemented and maintained for the lifetime of the development.

All physical biodiversity enhancement measures (e.g. bird nesting boxes, 'swift bricks', wildlife ponds, bat and insect boxes, hedgehog homes, etc) shall be implemented in full no later than 12 months from the date of this decision.

All biodiversity enhancement measures consisting of new or enhanced planting shall be undertaken either in accordance with the approved scheme of implementation or within the next available planting season or no later than 12 months from the date of this decision.

The biodiversity statement should refer to Developing with Nature guidance | NatureScot and Scottish Government Planning Guidance: Biodiversity as appropriate.

Reason: In order to comply with the requirements of NPF4 Policy 3.

Condition 6: Non-Native Species Removal Plan

Within 3 months of the date of this permission, a long-term Invasive Non-Native Species (INNS) Flora Management and Removal Plan, including a timetable for the maintenance works, shall be submitted to, and approved in writing by, the Local Planning Authority in consultation with the Council's Biodiversity Officer. The approved plan shall have been prepared by a suitably-qualified person. Thereafter, the plan shall be fully adhered to, and any removal shall be implemented in accordance with the plan and the timetable.

Reason: In the interests of biodiversity

Condition 7: Landscaping Scheme

Notwithstanding the provisions of Condition 1, within 3 months from the date of this decision, a final scheme of landscape plan (based on the draft plan, received 20.01.2026) shall be submitted to and approved in

writing by the Planning Authority. The scheme shall comprise a final planting plan and schedule which shall include details of:

- i. Proposed soft landscaping including the final location, species and size of every tree/shrub to be planted alongside the road edge with no gaps (based on any recommendations from the protected species survey);
- ii. Final paint colours for the decking.
- iii. Details of any soils to be brought on to site, including the source. Note: it should be sourced from a nearby site with compatible soil type to reduce impact.
- iv. A programme for ongoing maintenance.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme unless otherwise approved in writing by the Planning Authority within 6 months of the decision hereby issued.

Any trees/shrubs which within a period of five years from the completion of the approved landscaping scheme fail to become established, die, become seriously diseased, or are removed or damaged shall be replaced in the following planting season with equivalent numbers, sizes and species as those originally required to be planted unless otherwise approved 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(s) by taking the following steps:

1. Submit a detailed habitat and species survey together with a scheme of enhancement measures to the planning authority, in accordance with the specific requirements of Condition 4.
2. Submit a final biodiversity statement following the findings of the habitat and species survey to the planning authority, in accordance with the specific requirements of Condition 5.
3. Submit a long-term invasive non-native species flora management and removal plan to the planning authority, in accordance with the specific requirements of Condition 6.
4. Submit a final landscape plan (based on the draft plan received 20.1.26 which includes the details outlined in i, ii, iii, and iv of Condition 7.

6. TIME FOR COMPLIANCE

You are required to comply with the requirements of this notice within **2 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: **03rd August 2026**

A handwritten signature in dark ink, appearing to read 'Fergus Murray', with a large, sweeping underline.

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
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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
The Helensburgh and Lomond Civic Centre
38 East Clyde Street
Helensburgh
Argyll and Bute
G84 7PG**

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
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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.



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