

**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY  
OR PROPERTY THAT YOU HAVE AN INTEREST IICE**

**PLANNING (LISTED BUILDINGS & CONSERVATION AREAS)  
(SCOTLAND)  
Act 1997**

**LISTED BUILDING ENFORCEMENT NOTICE**

**REFERENCE NUMBER: 14/00268/ENFLB**

**To:**

The Executors of the Late Mr Charles Thompson Moodie  
C/O Frettens LLP  
The Saxon Centre  
11 Bargates  
Christchurch  
BH23 1PZ

1. **THIS IS A FORMAL NOTICE** which is issued by Argyll and Bute Council in terms of Section 34 of the Planning (Listed Buildings & Conservation Areas) (Scotland) Act 1997 because it appears to them that there has been a breach of listed building control, in that works have been, or are being, executed to a listed building in Argyll and Bute in contravention of Section 6, 7 and 8 (1) or (2) of the Act at the land/building described below. Argyll and Bute Council consider that it is expedient to issue this Notice, having regard to effect of the works on the character of the listed building as one of special architectural or historic interest, having regard to the Development Plan and to other material considerations.

2. **THE LAND/BUILDING AFFECTED**

The southern / rear aspect of flat 2/3 of the category B listed building forming Glenfaulds, Mount Stuart Road, Rothesay. The affected land is delineated in red on the attached plan and registered in the Land Register of Scotland under Title Number BUT2133 (hereinafter referred to as 'flat 2/3, Glenfaulds').

3. **THE BREACH OF LISTED BUILDING CONTROL ALLEGED**

In terms of Section 6 of the above Act:

The execution of works to flat 2/3 Glenfaulds in a manner which affects its character as a building of special architectural or historic interest in contravention of the requirement to obtain listed building consent, relative to;

The unauthorised removal of five traditional timber sash and case windows frames and single glazing and replacement of the same with uPVC tilt and turn window frames and double glazing at flat 2/3, Glenfaulds ('the Development').

#### **4. REASONS FOR ISSUING THIS NOTICE**

The unauthorised Development is a noticeably discordant feature and fails to preserve the historic character of flat 2/3, Glenfaulds and has the same effect on the wider character of Glenfaulds.

The installed uPVC windows have non-traditional frames, which by virtue of their inappropriate uPVC material and opening mechanism have an unacceptable impact upon the appearance and the architectural and historic interest of this Category B Listed Building. Notwithstanding the presence of other unauthorised uPVC framed replacement windows on the building, their retention would harm the building's special architectural and historic interest. They would fail to preserve the Listed Building and the architectural features it possesses contrary to the policy position expressed in Scottish Planning Policy and Scottish Historic Environment Policy.

The development is also contrary to Policy LDP 3(C) of the Local Development Plan and Policies ENV 16(a) which presumes against development which does not respect the original structure in terms of setting, scale, design and materials and SG LDP ENV 16(a) and SG LDP ENV 17 of the Supplementary Guidance which presumes against development which does not preserve or enhance the character or appearance of a conservation area. The council's Technical Working Note Rothesay Windows specifically identifies Glenfaulds as a prime listed building having regard to its category B listed status and its prominence within the conservation area. Windows in such a building should be 'like for like' replacement and / or timber framed with traditional sliding sash and case opening mechanism.

#### **5. WHAT YOU ARE REQUIRED TO DO**

You are required to:

Remove the unauthorised uPVC window frames and double glazing from flat 2/3, Glenfaulds and thereafter immediately replace the same with timber sash and case windows to an appearance faithful to the original timber sash and case windows of flat 2/3 Glenfaulds in accordance with the specification contained in Appendix A of this notice.

Time period for compliance: **15 months from the date this notice takes effect.**

#### **6. WHEN THIS NOTICE TAKES EFFECT**

This notice takes effect on: 12<sup>th</sup> January 2018 subject to Section 35 of the Act which provides that where an appeal is made to the Scottish Government before the date this notice takes effect that this notice shall be of no effect pending the final determination or the withdrawal of the appeal.

#### **7. YOUR RIGHT OF APPEAL**

You can appeal against this notice, but your appeal must be received or posted in time to be received by the Scottish Executive before **12<sup>th</sup> January 2018**. Schedule 1 to this notice gives information on your rights of appeal

**READ IT CAREFULLY.**

**8. WHAT HAPPENS IF YOU DO NOT APPEAL**

If you do not appeal against this notice, it will take effect on the date specified in the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken with the period(s) specified in the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

Dated: 14<sup>th</sup> December 2017

Signed:

On behalf of Argyll and Bute Council, Milton House, Milton Avenue, Dunoon

## **APPENDIX A TO ENFORCEMENT NOTICE 14/00268/ENFLB**

### **TIMBER SASH AND CASE WINDOWS TO FLAT 2/3, GLENFAULDS, ROTHESAY**

#### **REPLICATION OF EXISTING WINDOWS**

Non-original windows to be removed and replaced with traditional timber sash and case windows on a like for like basis. The component parts for replication should be templated from existing timber framed windows elsewhere in Glenfaulds, including the following:

1. Sash box – Frame depth, material thicknesses and profiles to be replicated. Inside and outside linings to be sized to provide an offset from the window ingoe to match existing. Frame to have removable pocket piece for access to weights. Timber species to be preservative treated select grade.
2. Beads – Parting bead, inside bead and batten rods to be replicated to match the existing windows. Timber species of external beads to be preservative treated selected grade.
3. Window sill - Profile to be replicated to match existing. Timber to be hardwood suitable for external conditions.
4. Sashes –Top sash and bottom sash profiles to match existing, including meeting rails (plus any counter check), mouldings, moulded horns and drips.
5. Weights – Each sash to be weighted with new lead weights, individually sized to suit weight of sash after installation of glazing to ensure full operation. Ropes or chains to be used, depending on individual weight of sash.
6. Glazing – single or double clear float glass. Glazing to be restrained by pins and putty, not timber beading.
7. Ironmongery – Sash lifts, axle pulley, sash fasteners, sash hooks, batten screw fixings, batten rod hinges, sash hooks and simplex hinges. All to match existing.

New sash and case windows to be fabricated to ensure that they are effected relative to wind and rain.

Fabrication to be carried out by operatives experienced in the replication and conservation of sash and case windows.

Existing pointing to be fully renewed in burnt sand and boiled linseed oil mastic. Mastic is to be mixed on site with a sand colour to closely match the existing sandstone colour. Alternatively, use suppliers known to provide a colour matching service. New mastic pointing to be commenced after external paintwork is complete. Mastic is NOT to be painted as this accelerates the drying of the mastic and subsequent failure.

#### **APPROVAL OF PROFILES AND FINISHES**

Windows replication inclusive of proposed finishes to be recorded and drawings submitted for verification by Argyll and Bute Council prior to fabrication.

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| <b>LISTED BUILDING ENFORCEMENT NOTICE</b> |
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**SCHEDULE 1**

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| <b>EXPLANATORY NOTE FOR THOSE IN RECEIPT OF<br/>A LISTED BUILDING ENFORCEMENT NOTICE</b> |
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**RELEVANT LEGISLATION**

A copy of (a summary of) Sections 35 to 37 of the Planning (Listed Buildings & Conservation Areas) (Scotland) Act 1997 is attached. You will wish to note in particular the points referred below.

**Right of Appeal**

If you wish to appeal against this notice, you should write to the Scottish Executive Inquiry Reporters Unit, 2 Greenside Lane, Edinburgh. The appeal must be received, or posted in time to be received, by him before the 21<sup>st</sup> November 2016. The Scottish Executive has no power to consider an appeal lodged out of time.

The appeal, which must be made in writing, must be based on one or more of the grounds set out in Section 35 of the 1997 Act, and you should state the facts on which you propose to rely in support of each of the grounds of appeal. The grounds of appeal and statement of facts must be submitted with your appeal or within 14 days of your being required to do so by the Scottish Executive.

**Penalties of No-Compliance with an Enforcement Notice**

Where an enforcement notice requires the discontinuance of a use of land or compliance, in respect of a use of land or the carrying out of operations, with any conditions or limitations, then any person who, without the grant of planning permission uses the land or causes or permits it to be used, or carries out those operations or causes or permits them to be carried out, is guilty of an offence and liable on summary conviction to a fine not **exceeding Twenty Thousand Pounds or on conviction on indication to an unlimited fine**. Furthermore, if the use is continued after conviction the person may be convicted of a second or subsequent offence.

### **Direct Action for Non Compliance with an Enforcement Notice**

If the steps required by an enforcement notice are not taken within the specified period(s) the Council may enter on the land, take those steps and recover the cost from the owner or lessee of the land.

### **Further Offences**

Compliance with the terms of an enforcement notice does not discharge the notice. It will continue in effect and any repetition of the breach of control may incur further penalties or may result in direct action by the Council.

