

IMPORTANT – THIS IS A NOTICE ISSUED BY ARGYLL AND BUTE COUNCIL WHICH AFFECTS YOUR PROPERTY

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

**PLANNING CONTRAVENTION NOTICE REQUIRING
INFORMATION ABOUT ACTIVITIES ON LAND**

REFERENCE NUMBER: 17/00254/ENFHS

To:

Marion Sayers
1 Crichton Road
Rothesay
Isle of Bute
PA20 9JR

THIS IS A FORMAL NOTICE which is issued by Argyll and Bute Council, as Planning Authority, under Section 125 of the Town and Country Planning (Scotland) Act 1997 ("the Act") because it appears to them that there may have been a breach of planning control in respect of the Land Affected as hereinafter defined.

LAND TO WHICH THIS NOTICE RELATES

The subjects shown delineated in red on the plan attached forming 1 Crichton Road, Rothesay, Isle of Bute, PA20 9JR (hereinafter referred to as 'the Land Affected')

SUSPECTED BREACH OF PLANNING CONTROL

It appears to Argyll and Bute Council that the installation of a replacement dormer of a different style than that previously installed on the side / south west elevation to the rear of the property upon the Land Affected may constitute a breach of planning control (hereinafter referred to as 'the Suspected Breach of Planning Control')

WHY YOU HAVE RECEIVED THIS NOTICE

This notice is served on you as you are the owner or occupier of the Land Affected or have other interest in the Land Affected.

WHAT YOU ARE REQUIRED TO DO

You are required to, so far as you are able, to:-

I State when the Suspected Breach of Planning Control was installed;

In writing to Argyll and Bute Council within 21 days of the date on which you receive this notice

If you wish to make:

- a) An offer to apply for planning permission, or to refrain from carrying out any operations or activities, or to undertake remedial works; or
- b) Any representations on this notice.

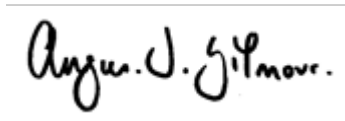
The formal response to this notice should be sent to the relevant Area Team Leader at the following address:-

Mr David Love
Area Team Leader
Development and Infrastructure
Milton House
Milton Avenue
Dunoon
PA23 7DU

CONSEQUENCES OF FAILURE TO COMPLY WITH THIS NOTICE

Schedule 1 to this notice gives details of the likely consequences of failure to comply with this notice
READ IT CAREFULLY

Dated: 15th June 2018



Angus Gilmour
Head of Planning & Regulatory Services
Kilmory
Lochgilphead

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

SCHEDULE 1

EXPLANATORY NOTE FOR THOSE IN RECEIPT OF A PLANNING CONTRAVENTION NOTICE

RELEVANT LEGISLATION

A copy of Sections 125, 126, 127 and 143 of the Town and Country Planning (Scotland) Act 1997 (as amended) are attached. You will wish to note in particular the points referred below.

WARNING

1. It is an offence to fail, without reasonable excuse, to comply with any requirement of this notice within twenty-one days beginning with the day on which it was served on you. The maximum penalty on conviction of this offence is a fine of £1000. Continuing failure to comply following a conviction will constitute a further offence and fine.
2. It is also an offence to knowingly or recklessly give information, in response to this notice, which is false or misleading in a material particular. The maximum penalty on conviction of this offence is a fine of £5000.

ADDITIONAL INFORMATION

3. Argyll and Bute Council may take further action in respect of a Suspected Breach of Planning Control. In particular, they may issue an enforcement notice, under Section 127 of the Town and Country Planning (Scotland) Act 1997, requiring the breach, or any injury to amenity caused by it, to be remedied.
4. If the Council serve a stop notice, under Section 140 of the Town and Country Planning (Scotland) Act 1997, Section 143 of the Act provides that should you otherwise become entitled to compensation for loss or damages attributable to that notice, no such compensation will be payable in respect of any loss or damage which could have been avoided had complied with this notice, or had you otherwise co-operated.

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

SECTIONS 125, 126, 127, and 143

125

(1) Where it appears to the planning authority that there may have been a breach of planning control in respect of any land, they may serve notice to that effect (referred to in this Act as a “planning contravention notice”) on any person who—

- (a) is the owner or occupier of the land or has any other interests in it, or
- (b) is carrying out operations on the land or is using it for any purpose.

(2) A planning contravention notice may require the person on whom it is served to give such information as to—

- (a) any operations being carried out on the land, any use of the land and any other activities being carried out on the land, and
 - (b) any matter relating to the conditions or limitations subject to which any planning permission in respect of the land has been granted,
- as may be specified in the notice.

(3) Without prejudice to the generality of subsection (2), the notice may require the person on whom it is served, so far as he is able—

- (a) to state whether or not the land is being used for any purpose specified in the notice or any operations or activities specified in the notice are being or have been carried out on the land;
- (b) to state when any use, operations or activities began;
- (c) to give the name and postal address of any person known to him to use or have used the land for any purpose or to be carrying out, or have carried out, any operations or activities on the land;
- (d) to give any information he holds as to any planning permission for any use or operations or any reason for planning permission not being required for any use or operation;
- (e) to state the nature of his interest (if any) in the land and the name postal and address of any other person known to him to have an interest in the land.

(4) A planning contravention notice may give notice of a time and place at which—

- (a) any offer which the person on whom the notice is served may wish to make to apply for planning permission, to refrain from carrying out any operations or activities or to undertake remedial works, and
 - (b) any representations which he may wish to make about the notice,
- will be considered by the authority, and the authority shall give him an opportunity to make in person any such offer or representations at that time and place.

(5) A planning contravention notice must inform the person on whom it is served—

- (a) of the likely consequences of his failing to respond to the notice and, in particular, that enforcement action may be taken, and
- (b) of the effect of section 143(6).

(6) Any requirement of a planning contravention notice shall be complied with by giving information in writing to the planning authority.

(7) The service of a planning contravention notice does not affect any other power exercisable in respect of any breach of planning control.

(8) In this section references to operations or activities on land include operations or activities in, under or over the land.

126.

(1) If at any time after the end of the period of 21 days beginning with the day on which a planning contravention notice has been served on any person, he has not complied with any requirement of the notice, he shall be guilty of an offence.

(2) An offence under subsection (1) 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.

(3) It shall be a defence for a person charged with an offence under subsection (1) to prove that he had a reasonable excuse for failing to comply with the requirement.

(4) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) If any person—

(a) makes any statement purporting to comply with a requirement of a planning contravention notice which he knows to be false or misleading in a material particular, or

(b) recklessly makes such a statement which is false or misleading in a material particular,

he shall be guilty of an offence.

(6) A person guilty of an offence under subsection (5) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

127

(1) The planning authority may issue a notice (in this Act referred to as an “enforcement notice”) where it appears to them—

(a) that there has been a breach of planning control, and

(b) that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.

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

(a) on the owner and on the occupier of the land to which it relates, and

(b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.

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

(a) not more than 28 days after its date of issue, and

(b) not less than 28 days before the date specified in it as the date on which it is to take effect.

143

(1) Subject to the provisions of this section, where a stop notice under section 140 ceases to have effect a person who, when the stop notice is first served, has an interest, whether as owner or occupier or otherwise, in the land to which the notice relates shall be entitled to be compensated by the planning authority in respect of any loss or damage directly attributable to the prohibition contained in the notice or, in a case within subsection (1)(b), the prohibition of such of the activities prohibited by the stop notice as cease to be relevant activities.

(2) For the purposes of this section a stop notice ceases to have effect when—

(a) the enforcement notice is quashed,

(b) the enforcement notice is varied so that any activity the carrying out of which is prohibited by the stop notice ceases to be a relevant activity within the meaning of section 140(2),

(c) the enforcement notice is withdrawn by the planning authority otherwise than in consequence of the grant by them of planning permission for the development to which the notice relates, or

(d) the stop notice is withdrawn.

(3) A claim for compensation under this section shall be made to the planning authority within the prescribed time and in the prescribed manner.

(4) The loss or damage in respect of which compensation is payable under this section in respect of a prohibition shall include any sum payable in respect of a breach of contract caused by the taking of action necessary to comply with the prohibition.

(5) No compensation is payable under this section—

(a) in respect of the prohibition in a stop notice of any activity which, at any time when the notice is in force, constitutes or contributes to a breach of planning control, or

(b) in the case of a claimant who was required to provide information under section 125, 126 or 272 in respect of any loss or damage suffered by him which could have been avoided if he had provided the information or had otherwise co-operated with the planning authority when responding to the notice.

(6) Except in so far as may be otherwise provided by any regulations made under this Act, any question of disputed compensation under this Part shall be referred to and determined by the Lands

Tribunal.

(7) In relation to the determination of any such question, the provisions of sections 9 and 11 of the Land Compensation (Scotland) Act 1963 shall apply subject to any necessary modifications and to the provisions of any regulations made under this Act.

