IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 As Amended

BREACH OF CONDITIONS NOTICE

REFERENCE NUMBER: 24/00154/ENBOC2

To: Mr Karl Hughes
Sunset Campsite
Balevullin
Isle of Tiree
PA77 6XD

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 **Land North Of Sunset Cottage Balevullin Isle Of Tiree Argyll And Bute PA77 6XD** (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 17/00468/PP on the 26th of February 2018 for the change of use of land for the formation of camping site, including erection of toilet/shower facilities and installation of replacement septic tank on the Land Affected (hereinafter referred to as "the Planning permission")

4. **BREACH OF CONDITION**

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

1.) The proposed development shall be carried out in accordance with the details specified in the application form dated 21st June 2017 and the approved drawings numbered 1 of 3 to 3 of 3 and stamped approved by Argyll and Bute Council.

2.) Notwithstanding the provisions of Condition 1, prior to the commencement of development the proposed access shall be formed in accordance with the Council's Roads Standard Detail Drawing SD 08/004a with the service lay-by located to the left side of the entrance; and visibility splays of 2.4 metres to point X by 53 metres to point Y from the centre line of the proposed access. The access shall be surfaced with a bound material in accordance with the stated Standard Detail Drawing.

3.) Prior to the operation of the development hereby approved, vehicle parking of 1 space per pitch shall be provided and shall be maintained as such thereafter in perpetuity.

4.) No development shall commence on site until authorisation has been given by Scottish Water for connection to the public water supply. Confirmation of authorisation to connect shall be provided in writing to the Planning Authority before commencement of development.

5.) The site shall be occupied as a tourist site solely by motorhomes and/or touring caravans (up to a maximum of 10) and tents (up to a maximum of 10) used for the purposes of overnight stays, with stances/pitches distributed as per the approved details, other than in the event of any subsequently approved layout having been approved in writing. This planning permission does not permit the use of the site by static caravans for any purpose.

6.) Notwithstanding the provisions of Condition 1, prior to development commencing full details of the intended landscaping of the site shall be submitted for the written approval of the Planning Authority. These details shall include:

a) The location, species, number, size and planting distances of trees to be planted (all tree planting to be native species);
b) The location, species, number, size, and planting distances of shrubs to be planted (all shrubs to be native species):
c) Proposed measures to secure establishment, including soil preparation, control of weeds and means of excluding grazing animals;
d) Intended monitoring and maintenance for the first 5 years following planting.

The duly approved mounding shall be completed prior to the use being first commenced, and the landscaping shall be completed in the first planting season following the commencement of the use. Any planting which fails to become established, which is removed, is grazed by animals or becomes diseased or dies, within five years of being planted shall be replaced in the following planting season by equivalent sizes and species as those originally required to be planted.

7.) Notwithstanding the details shown on the approved plans, the Toilet/shower block shall be finished externally in vertically boarded timber cladding with a grey/blue rounded profile corrugated sheet roof, unless any variation thereof is agreed in advance in wring by the Planning Authority.

8.) Prior to the development first being brought into use, a site management plan shall be submitted to and approved in writing by the planning authority. Such management plan shall detail how the site is intended to be operated including noise mitigation measures. Thereafter the development shall be implemented in accordance with the duly approved site management plan.

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.) Ensure that the development is in full compliance with the details specified in the application form dated 21st June 2017 and the approved drawings numbered 1 of 3 to 3 of 3 and stamped approved by Argyll and Bute Council. Any material amendments which have occurred i.e use of alternative new access and amended layout of site will require the benefit of planning permission and a planning application will be required to be submitted for any material amendments which have occurred at the site.

2.) Submit details on a site plan at a suitable scale which demonstrates vehicle parking of 1 space per pitch which shall be maintained as such thereafter in perpetuity.

3.) Submit details of Confirmation of authorisation to connect to the public water supply from Scottish Water. The use of a private water supply would constitute a material amendment which will require the benefit of planning permission.

4.) Ensure that the site is occupied as a tourist site solely by motorhomes and/or touring caravans (up to a maximum of 10) and tents (up to a maximum of 10) used for the purposes of overnight stays, with stances/pitches distributed as per the approved details. Any use the site which is not in accordance with this condition will require the benefit of planning permission.

5.) The submission of full details of the intended landscaping of the site shall be submitted for the written approval of the Planning Authority. These details shall include:

a) The location, species, number, size and planting distances of trees to be planted (all tree planting to be native species);
b) The location, species, number, size, and planting distances of shrubs to be planted (all shrubs to be native species):
c) Proposed measures to secure establishment, including soil preparation, control of weeds and means of excluding grazing animals;
d) Intended monitoring and maintenance for the first 5 years following planting.

The duly approved mounding shall be completed prior to the use being first commenced, and the landscaping shall be completed in the first planting season following the commencement of the use. Any planting which fails to become established, which is removed, is grazed by animals or becomes diseased or dies, within five years of being planted shall be replaced in the following planting season by equivalent sizes and species as those originally required to be planted.

6.) Ensure that the toilet/shower block shall be finished externally in vertically boarded timber cladding with a grey/blue rounded profile corrugated sheet roof, unless any variation thereof is agreed in advance in wring by the Planning Authority. Any proposed amendments to the finishing materials and form of the approved toilet/shower block will also require the benefit of planning permission.

7.) The submission of a site management plan for the approval in writing by the planning authority. Such management plan shall detail how the site is intended to be operated including noise mitigation measures. Thereafter the development shall be implemented in accordance with the duly approved site management plan.

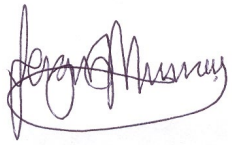
5. TIME FOR COMPLIANCE

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.

6. DATE THIS NOTICE TAKES EFFECT

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

Dated: 6th of September 2024



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

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

It is an offence to contravene the requirements stated in paragraph 5 of this notice after the end of the compliance period. The maximum penalty for such an offence is £1000.00.

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

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

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

If you need independent advice about this notice, you are advised to contact urgently a lawyer, planning consultant or other professional advisor specialising in planning matters. If you wish to contest the validity of the notice, you may only do so by an application to the Court of Session for judicial review. A lawyer will advise you on what procedure this process involves.

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.

Abhainn Bhàn