

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 (as amended by the Planning and Compensation Act 1991) ('the Act')

SECTION 215 NOTICE

SERVED BY: South Lakeland District Council ('the Council')

To: Mr David Charles Rigg of High Laverock House, Mealbank, Kendal, LA8 9DJ

1. THE NOTICE

This Notice is served by the Council under Section 215 of the above Act because it appears to us that the amenity of part of its area is adversely affected by the condition of the Land. The Annexes at the end of the notice contains important additional information.

2. THE LAND TO WHICH THE NOTICE RELATES

Land at 13a Haliburton Road, Kendal, LA9 7HJ, which for the avoidance of doubt does include the partially completed building in addition to the grounds to the front, rear and sides of the building, the area as being shown as shaded in blue on the attached plan('the Land').

3. MATTERS WHICH APPEAR TO HAVE AN ADVERSE EFFECT ON AMENITY

It appears to the Council that the amenity of part of its area is adversely affected by the untidy condition of the Land. The untidy condition of the Land, including the abandoned building materials, and the partially completed building is detrimental to not only the adjacent properties but also to the appearance of the wider area. The Land has an unwelcome, prominent and intrusive presence on the area which is detrimental to the amenity and the neighbouring properties.

4. WHAT YOU ARE REQUIRED TO DO

The Council requires you to take the following steps to remedy the condition of the Land:

- (i) Permanently remove all boarding from the front of the building on the Land, replacing any broken glazing with new glass to the appropriate specifications.
- (ii) Insert window frames and glazing to the front and side elevations, including the front dormer and doors to the building on the Land.
- (iii) Apply a finish coat render to the two side elevations to the building on the Land.
- (iv) Cut back all overgrown vegetation on the Land.
- (v) Permanently remove all builders' materials, equipment and waste from the Land, to an authorised place of disposal.
- (vi) Reconstruct the boundary walls to the front and left side garden boundary of the Land, using stone to match the existing stone and construction
- (vii) Permanently remove all rubble, rubbish and associated materials arising out of compliance with (i), (ii), (iii), (iv), (v) and (vi) from the Land to an authorised place of disposal.

5. TIME FOR COMPLIANCE

Steps 4. (i) to (vii) above to be complied with in full within three months of the date on which this Notice takes effect.

6. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 27 May 2022 (28 days from service), unless an appeal is made against it beforehand

Date of notice: 26 April 2022

Signed: Nick Howard

Principal Specialist (Development Management)

On behalf of:- South Lakeland District Council
South Lakeland House
Lowther Street
KENDAL
Cumbria
LA9 4UQ

Nominated officer: Eleanor Rawsthorne (Enforcement Officer)

Telephone number: 01539 793476

RECIPIENTS OF THE SECTION 215 NOTICE:

The names and addresses of all persons who were served with the Notice:

Mr David Charles Rigg
High Laverock House,
Mealbank,
Kendal,
Cumbria,
LA8 9DJ

YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES WHICH EXPLAIN YOUR RIGHT OF APPEAL AGAINST THIS NOTICE.

YOUR RIGHT OF APPEAL

Note: *Your right of appeal*

You can appeal against this notice to the Magistrates' Court provided you do so before the notice takes effect on 27 May 2022.

Section 217 of the TCPA 1990 sets out the grounds on which you can appeal. If you wish to appeal you should do so in writing addressed to the Clerk to the Magistrates' Court at Furness and District Magistrates Court. A fee may be payable.

If you do not appeal against this notice it will take effect on 27 May 2022 and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in the notice.

Failure to comply with the notice can result in prosecution or remedial action by the Council to give effect to its requirements, in which case the Council may recover their costs from you as the owner of the land.

DO NOT LEAVE YOUR RESPONSE TO THE LAST MINUTE

ANNEX 1

Your right of appeal

You can appeal against this notice, but any appeal must be made before the date on which this notice becomes effective, which is specified in paragraph 6 above, namely 27 May 2022. The legal provisions regarding your right to appeal against this notice are contained in the Town & Country Planning Act 1990, s 217. Sections 215–219 of the Act are set out in Annex 2 attached.

What happens if you do not appeal

If you do not appeal against this Section 215 notice, it will take effect on the date specified in paragraph 6 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period(s) specified in paragraph 4 of the notice. Failure to comply with this notice once it has taken effect can result in prosecution and/or remedial action by the Council.

ANNEX 2

Chapter II

Land Adversely Affecting Amenity of Neighbourhood

215 Power to require proper maintenance of land

- (1) If it appears to the local planning authority that the amenity of a part of their area, or of an adjoining area, is adversely affected by the condition of land in their area, they may serve on the owner and occupier of the land a notice under this section.
- (2) The notice shall require such steps for remedying the condition of the land as may be specified in the notice to be taken within such period as may be so specified.
- (3) Subject to the following provisions of this Chapter, the notice shall take effect at the end of such period as may be specified in the notice.
- (4) That period shall not be less than 28 days after the service of the notice.

216 Penalty for non-compliance with s 215 notice

- (1) The provisions of this section shall have effect where a notice has been served under section 215.
- (2) If any owner or occupier of the land on whom the notice was served fails to take steps required by the notice within the period specified in it for compliance with it, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) Where proceedings have been brought under subsection (2) against a person as the owner of the land and he has, at some time before the end of the compliance period, ceased to be the owner of the land, if he—
 - (a) duly lays information to that effect, and
 - (b) gives the prosecution not less than three clear days' notice of his intention,
 he shall be entitled to have the person who then became the owner of the land brought before the court in the proceedings.

- (4) Where proceedings have been brought under subsection (2) against a person as the occupier of the land and he has, at some time before the end of the compliance period, ceased to be the occupier of the land, if he—
- (a) duly lays information to that effect, and
 - (b) gives the prosecution not less than three clear days' notice of his intention,
- he shall be entitled to have brought before the court in the proceedings the person who then became the occupier of the land or, if nobody then became the occupier, the person who is the owner at the date of the notice.
- (5) Where in such proceedings—
- (a) it has been proved that any steps required by the notice under section 215 have not been taken within the compliance period, and
 - (b) the original defendant proves that the failure to take those steps was attributable, in whole or in part, to the default of a person specified in a notice under subsection (3) or (4)—
- then—
- (i) that person may be convicted of the offence; and
 - (ii) if the original defendant also proves that he took all reasonable steps to ensure compliance with the notice, he shall be acquitted of the offence.
- (6) If, after a person has been convicted under the previous provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the notice, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding [one-tenth of level 3 on the standard scale] for each day following his first conviction on which any of the requirements of the notice remain unfulfilled.
- (7) Any reference in this section to the compliance period, in relation to a notice, is a reference to the period specified in the notice for compliance with it or such extended period as the local planning authority who served the notice may allow for compliance.

RIGHT OF APPEAL AGAINST SECTION 215 NOTICE

217 Appeal to magistrates' court against s 215 notice [217 Appeal against a section 215 notice]

- (1) A person on whom a notice under section 215 is served, or any other person having an interest in the land to which the notice relates, may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal against the notice on any of the following grounds—
- (a) that the condition of the land to which the notice relates does not adversely affect the amenity of any part of the area of the local planning authority who served the notice, or of any adjoining area;

- (b) that the condition of the land to which the notice relates is attributable to, and such as results in the ordinary course of events from, the carrying on of operations or a use of land which is not in contravention of Part III;
 - (c) that the requirements of the notice exceed what is necessary for preventing the condition of the land from adversely affecting the amenity of any part of the area of the local planning authority who served the notice, or of any adjoining area;
 - (d) that the period specified in the notice as the period within which any steps required by the notice are to be taken falls short of what should reasonably be allowed.
- (2) Any appeal under this section shall be made[—
- (a) in the case of a notice relating to land in Wales, to the Welsh Ministers;
 - (b) in the case of a notice relating to land in England,]
to a magistrates' court . . .
- (3) Where such an appeal is brought, the notice to which it relates shall be of no effect pending the final determination or withdrawal of the appeal.
- (4) On such an appeal [the Welsh Ministers or (as the case may be)] the magistrates' court may correct any informality, defect or error in the notice if satisfied that the informality, defect or error is not material.
- (5) On the determination of such an appeal [the Welsh Ministers or (as the case may be)] the magistrates' court shall give directions for giving effect to their determination, including, where appropriate, directions for quashing the notice or for varying the terms of the notice in favour of the appellant.
- (6) Where any person has appealed *to a magistrates' court* under this section against a notice, neither that person nor any other shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.
- (7) The Welsh Ministers may by regulations make provision, in respect of appeals made to them under this section—
- (a) as to steps to be taken in connection with bringing an appeal (including as to the form and content of any notice required to be given, and persons to whom copies of it are to be provided);
 - (b) about information to be provided to the Welsh Ministers in connection with an appeal;
 - (c) as to the procedure by which an appeal under this section is to be considered (including provision about circumstances in which the appellant or the local planning authority must be given the opportunity of appearing before and being heard by a person appointed by the Welsh Ministers for the purpose).]

218 Further appeal to the Crown Court [218 Further appeal to the Crown Court: England]

Where an appeal has been brought [to a magistrates' court] under section 217, an appeal against the decision of the magistrates' court on that appeal may be brought to the Crown Court by the appellant or by the local planning authority who served the notice in question under section 215.

219 Execution and cost of works required by s 215 notice

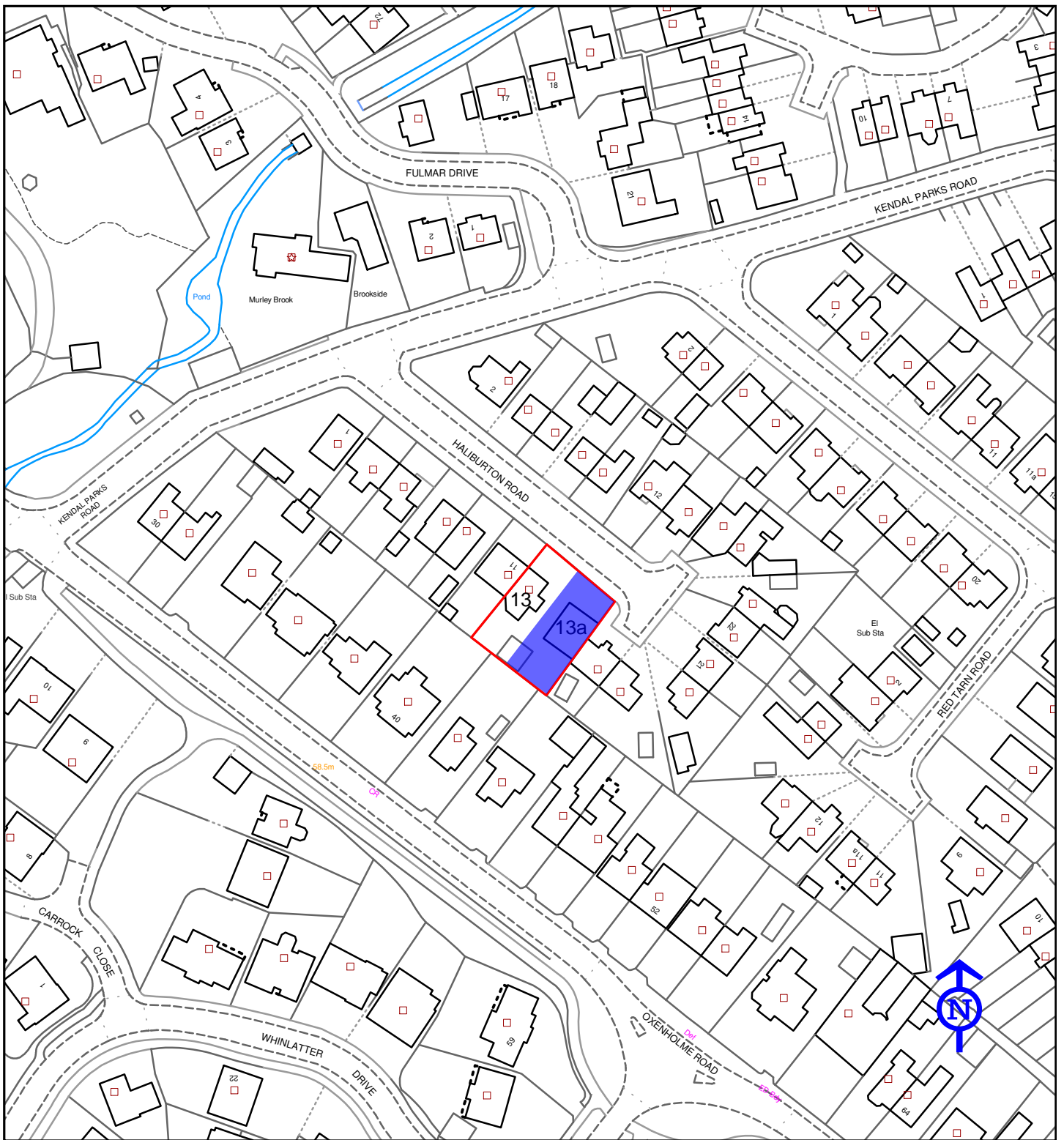
- (1) If, within the period specified in a notice under section 215 in accordance with subsection (2) of that section, or within such extended period as the local planning authority who served the notice may allow, any steps required by the notice to be taken have not been taken, the local planning authority who served the notice may—
 - (a) enter the land and take those steps, and
 - (b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

- (2) Where a notice has been served under section 215—
 - (a) any expenses incurred by the owner or occupier of any land for the purpose of complying with the notice, and
 - (b) any sums paid by the owner of any land under subsection (1) in respect of expenses incurred by the local planning authority in taking steps required by such a notice, shall be deemed to be incurred or paid for the use and at the request of the person who caused or permitted the land to come to be in the condition in which it was when the notice was served.

- (3) Regulations made under this Act may provide that—
 - (a) section 276 of the Public Health Act 1936 (power of local authorities to sell materials removed in executing works under that Act subject to accounting for the proceeds of sale);
 - (b) section 289 of that Act (power to require the occupier of any premises to permit works to be executed by the owner of the premises); or
 - (c) section 294 of that Act (limit on liability of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act), shall apply, subject to such adaptations and modifications as may be specified in the regulations, in relation to any steps required to be taken by a notice under section 215.

- (4) Regulations under subsection (3) applying section 289 of the Public Health Act 1936 may include adaptations and modifications for the purpose of giving the owner of land to which a notice under section 215 relates the right, as against all other persons interested in the land, to comply with the requirements of the enforcement notice.

- (5) Regulations under subsection (3) may also provide for the charging on the land of any expenses recoverable by a local authority under subsection.



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Scale 1:1250

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**13a Haliburton Road
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LA9 7HJ**

**16028
February 2020**