

IMPORTANT-THIS COMMUNICATION AFFECTS YOUR PROPERTY

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED BY THE PLANNING AND
COMPENSATION ACT 1991)**

ENFORCEMENT NOTICE- OPERATIONAL DEVELOPMENT

1. ENFORCEMENT NOTICE

THIS NOTICE is issued by South Lakeland District Council ("the Council") because it appears to them that there has been a breach of planning control, within the meaning of paragraph (a) of Section 171A(1) of the above Act, at the Land described below. The Council considers that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

2. THE LAND TO WHICH THE NOTICE RELATES:

Land at Land at Firbank Fell, 1.18 KM SW of Hill Top Farm, Firbank, SEDBERGH, LA10 5EG, shown edged red on the attached Plan (the Land).

3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL:

3.1 Without planning permission:

- I. Operational development the formation of a race track by ground excavation works, importing materials and re-profiling of site levels, within the area outlined blue on the attached Plan, which has occurred within the last ten years.

4. REASONS FOR ISSUING THIS NOTICE:

The development is contrary to the provisions of Policies CS1.1, CS1.2, CS8.2, CS8.4, CS8.6 and CS8.10 of the South Lakeland Core Strategy; Policies DM1, DM2, DM3, DM4, DM5 and DM7 of the Local Plan Development Management Policies and Section 2 and 12 of the National Planning Policy Framework.

- South Lakeland Local Development Framework – Core Strategy (2010)
 - CS1.1 – Sustainable Development Principles
 - CS1.2 – The Development Strategy
 - CS8.2 – Protection and Enhancement of Landscape and Settlement Character
 - CS8.4 – Biodiversity and geodiversity
 - CS8.6 – Historic environment
 - CS8.10 – Design
- Local Plan Development Management Policies (March 2019)
 - DM1 – General Requirements for all development
 - DM2 – Achieving Sustainable High Quality Design
 - DM3 – Historic environment
 - DM4 – Green and blue infrastructure, open space, trees and landscaping

- DM5 – Right of way and other routes providing pedestrian, cycle and equestrian access
- DM7 – Addressing pollution, contamination impact, and water quality
- South Lakeland Land Allocations Development Plan Document (LA DPD)
 - LA1.1: Development boundaries
- National Planning Policy Framework
 - Section 2 – Achieving Sustainable Development
 - Section 12 – Achieving well-designed places

It appears to the Council that the unauthorised operational development, has had the following impact:

- The development does not comply with circumstances where new development will be permitted in the open countryside.
- The development is within the Firbank Fell County Wildlife Site and within an area of Upland Heath which is a priority habitat and is therefore detrimental to biodiversity, the non-statutory designated site and the protected species.
- The development causes harm to the landscape character and the setting of the Yorkshire Dales National Park.
- The development creates harm to the setting of the Grade II listed Graveyard to Original Parish Church.

The Council consider that planning permission should not be given, because planning conditions could not overcome these objections to the development.

5. WHAT YOU ARE REQUIRED TO DO:

The Council requires the specified steps listed below to be taken to remove the effect of the development on the Land which were carried out without planning permission.

(A) Permanently remove the land, the imported stone and materials used to re-profile (e.g. tyres) the land and create the track within the blue line on the attached plan.

(B) Permanently remove from the Land all building materials, all rubble and associated materials arising out of compliance with (A).

(C) Restore the Land to its condition before the breach took place by re-profiling the ground to the level it was at prior to the breach taking place and re-seeding it with grass.

6. TIME FOR COMPLIANCE

The periods for compliance with the steps set out in paragraph 5 are:

13 weeks from the date this Notice takes effect.

7. **WHEN THIS NOTICE TAKES EFFECT:**

This Notice takes effect on the 25th August 2022 unless an appeal is made against it beforehand.

Signed: Nick Howard

Principal Specialist - Place

Date: 14/07/2022

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

Nominated officer: Eleanor Rawsthorne (Specialist Enforcement Level 2)

Telephone number: 01539 793476

ANNEX

SOUTH LAKELAND DISTRICT COUNCIL has issued an enforcement notice relating to the Land at Land at Firbank Fell, 1.18 KM SW of Hill Top Farm, Firbank, SEDBERGH, LA10 5EG shown edged red on the attached Plan and you are served with a copy of that Notice as you have an interest in the Land. Copies of the Notice have also been served on the parties listed at the end of this Annex.

YOUR RIGHT OF APPEAL

You can appeal against this Enforcement Notice, but any appeal must be received by the Planning Inspectorate (or be posted or electronically communicated at such time that, in the ordinary course of post or transmission, it would be received by the Planning Inspectorate) before the date specified in paragraph 7 of the Notice.

The enclosed information sheet published by the Planning Inspectorate gives details of how to make an appeal.

GROUND OF APPEAL

The grounds of appeal are set out in section 174 of the TCPA 1990. You may appeal on one or more of the following grounds that:

- In respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged (ground a).
- Those matters have not occurred (ground b).
- Those matters (if they have occurred) do not constitute a breach of planning control (ground c).
- At the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters (ground d).
- Copies of the enforcement notice were not served as required by section 172 of the TCPA 1990 (ground e).
- The steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by such breach (ground f).
- Any period specified in the notice in accordance with section 173(9) of the TCPA 1990

falls short of what should reasonably be allowed (ground g).

Not all of these grounds may be relevant to you.

PLANNING APPLICATION FEE

If you wish to appeal on ground a of section 174(2) of the TCPA 1990 this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay a fee of £2,028 You should pay the fee to SOUTH LAKELAND DISTRICT COUNCIL. If the fee is not paid then that ground of appeal will not be valid.

STATEMENT ON GROUNDS OF APPEAL

If you decide to appeal, you should state in writing the ground(s) on which you are appealing against the Enforcement Notice and you should state briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the Secretary of State will send you a notice requiring you to do so within 14 days.

STATUTORY PROVISIONS

A copy of sections 171A, 171B and 172 to 177 of the TCPA 1990 is attached for your information.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 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 specified in paragraph 6 of the Notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

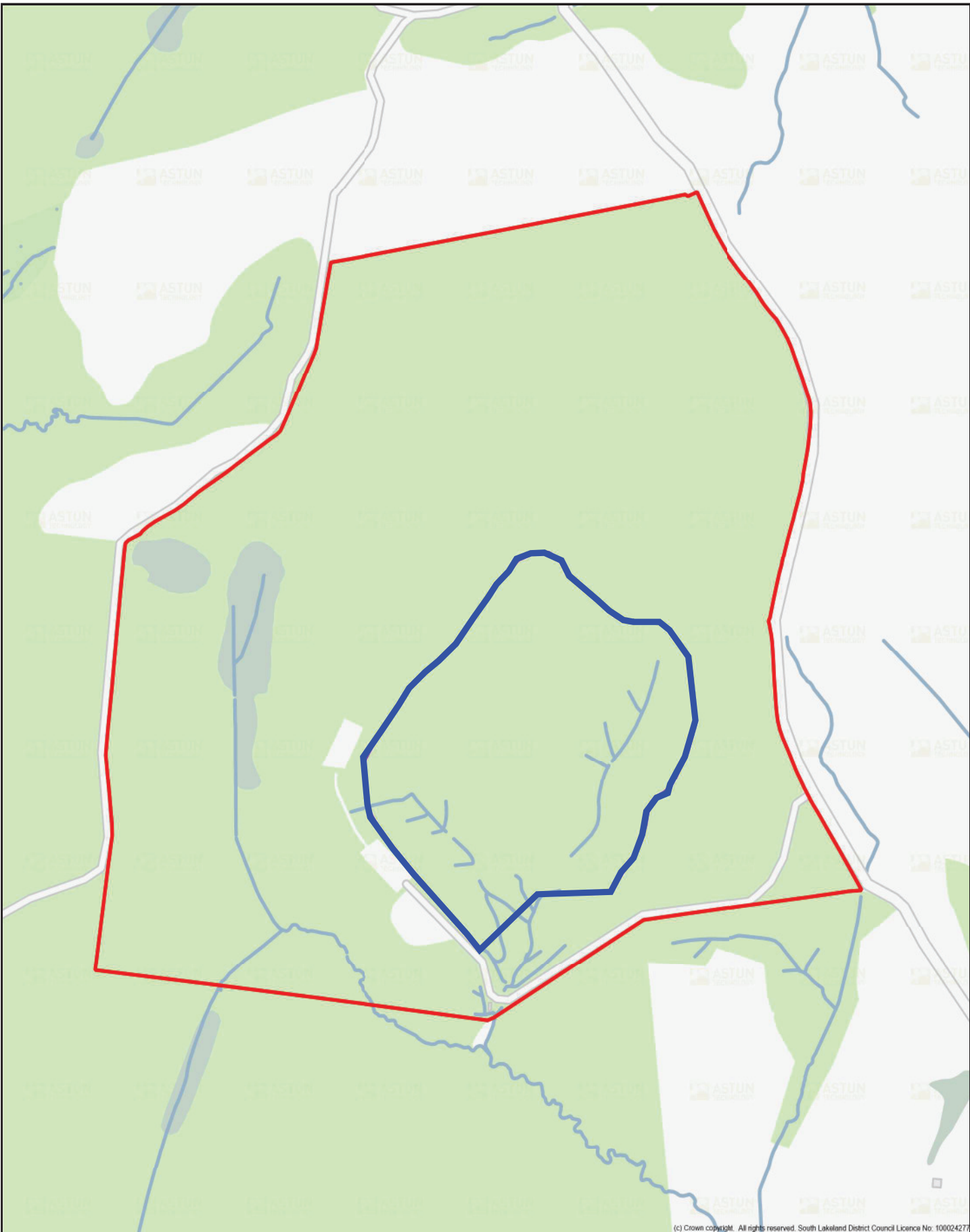
RECIPIENTS OF THE ENFORCEMENT NOTICE:

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

Ms Kimberly Jane Winder (Secretary)
Westmorland Motor Club
42 Mayfield Avenue,
Holme,
LA6 1PT

Mr Stephen Dent (Director)
Westmorland Motor Club
3 Sawmill Close,
Kendal,
LA9 6JE

Mr Brian Gordon Whittaker (Director)
Westmorland Motor Club
Woodland Rise,
Beemire Lane,
Birthwaite Road,
Windermere,
LA23 1DW



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Land at Land at Firbank Fell, 1.18 KM SW of Hill Top Farm, Firbank, SEDBERGH, LA10 5EG



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Printed on: 2022-07-12 16:28:21 by josh.sheridan@SLDC