

IMPORTANT-THIS COMMUNICATION AFFECTS YOUR PROPERTY

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

ENFORCEMENT NOTICE- OPERATIONAL DEVELOPMENT

Issued by: SOUTH LAKELAND DISTRICT COUNCIL (the Council)

1. ENFORCEMENT NOTICE

This is a formal **Notice** issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of section 171A(1) of the TCPA 1990, at the Land described below. It is considered expedient to issue this Notice, having regard to the provisions of the development plan and to all 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 off A595, School Road, Kirkby-In-Furness, LA17 7TL 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 including the formation of a site access track on to the A595 within the area outlined red on the attached Plan which has occurred within the last four years.
- ii. Operational development including the formation of earth bunds, excavation works and changes to the site levels within the area outline in red on the attached plan which has occurred within the last four years.

4. REASONS FOR ISSUING THIS NOTICE

The development is contrary to the provisions of Policies CS1 .1, CS1 .2, CS3.1, CS8.2 and CS8.10 of the South Lakeland Core Strategy, Policies DM1, DM2, DM4, DM7 and DM25 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
 - CS3.1 - Ulverston and Furness
 - CS8.2 – Protection and enhancement of landscape and settle character
 - CS8.10 – Design
- Local Plan Development Management Policies (March 2019)
 - Policy DM1 – General Requirements for all development
 - Policy DM2 – Achieving Sustainable High Quality Design
 - Policy DM4 – Green and blue infrastructure, open space, trees and landscaping

- Policy DM7 - Addressing Pollution, Contamination Impact, and Water Quality
- Policy DM25 – Agricultural Buildings
- 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, which has occurred within the last four years, has had the following impact:

- The positioning and location of the new access, which creates a visually harsh and discordant feature which does not maintain or enhance the appearance of the wider area nor does it reflect the prevailing local built settlement character and therefore, causing harm to the character of the existing street scene and of the locality.
- The excavation works, creation of earth bunds and changes to the site levels does not comply with circumstances where development will be permitted and does not respond to the local context, landscape and built and natural environment within close proximity of the Duddon Estuary SSSI and Morecombe Bay SAC resulting in an incongruous form of development.

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 from the Land, the area of access situated within the red line boundary on the attached plan.
- (B) Permanently remove from the Land, the earth bunds and materials excavated within the red line of the attached plan.
- (C) Permanently remove from the Land all building materials, all rubble and associated materials arising out of compliance with (A & B).
- (D) 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 5th October 2022 unless an appeal is made against it beforehand.

Signed: Nick Howard

Principal Specialist – Place

Date: 24th August 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 Land off A595, School Road, Kirkby-In-Furness, LA17 7TL, 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

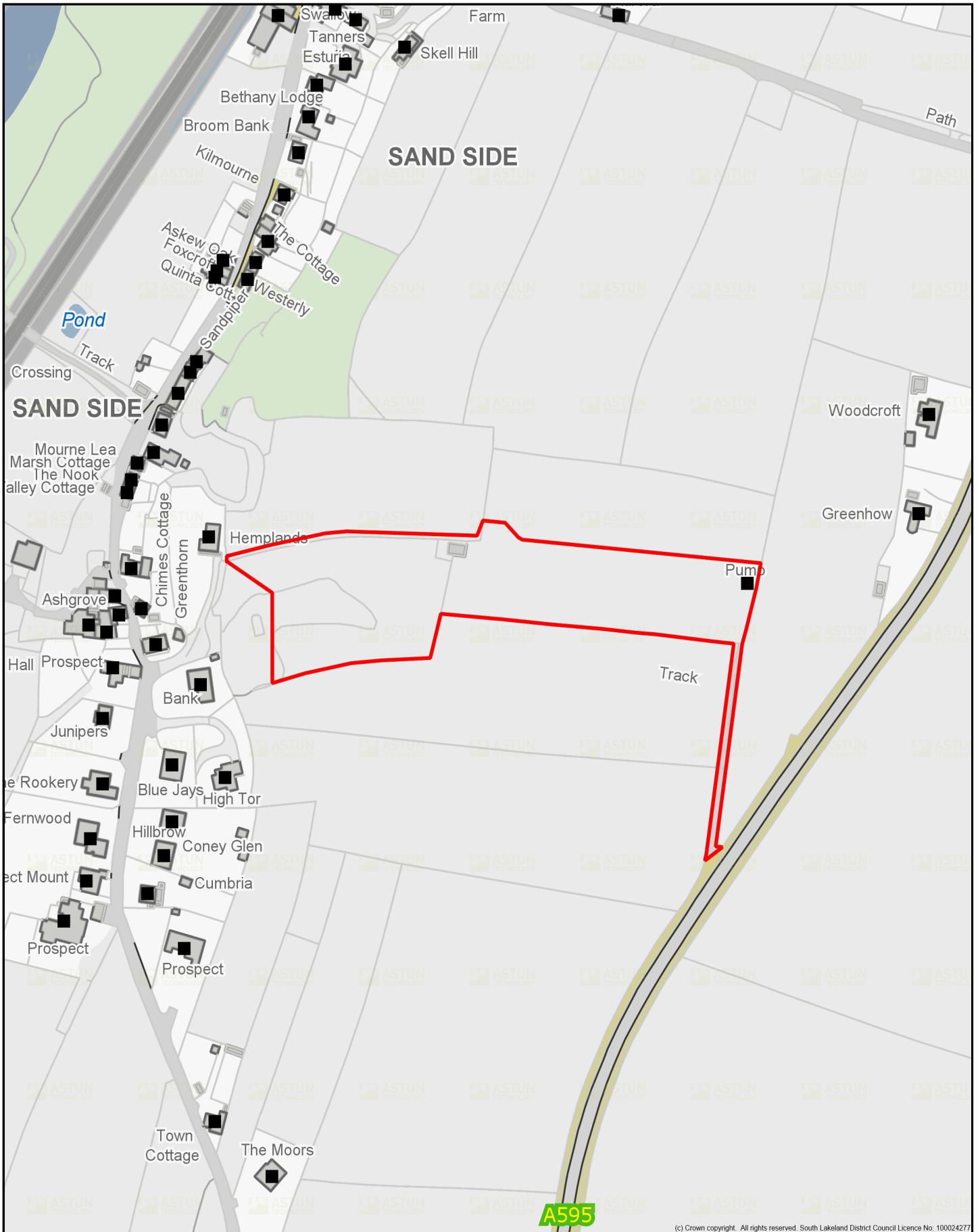
If you do not appeal against this Enforcement Notice, it will take effect on the date specified in paragraph 7 of the Notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in paragraph 6 of the Notice. 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:

Mr Marc Charnley
Charnleys Home & Garden
Crooklands Brow
Dalton-in-Furness
Cumbria
LA15 8JH

Mr Marc Charnley
Dale Garth
Mascelles
Ulverston
Cumbria
LA12 0TQ




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Plan 1

Land off A595, School Road, Kirkby-In-Furness, LA17 7TL





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Printed on: 2022-08-19 09:11:39 by josh.sheridan@SLDC