

## **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 - MATERIAL CHANGE OF USE**

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. Material change of use from agricultural to use for storage purposes of glass, fencing, scaffolding, palettes, metal, stones and equipment within the area outlined in red 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, 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 (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 change of use, which has occurred within the last ten years, has had the following impact:

- The change of use of the building to storing building materials is not considered to be essential to the operational needs of an existing farm.

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 all glass, fencing, scaffolding, palettes, metal, stones and equipment used in connection with the unauthorised storage use within the red line on the attached plan.

## **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 5<sup>th</sup> October 2022 unless an appeal is made against it beforehand.

Signed: Nick Howard (Principal Specialist – Place)

Date: 24<sup>th</sup> 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 £462. 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**

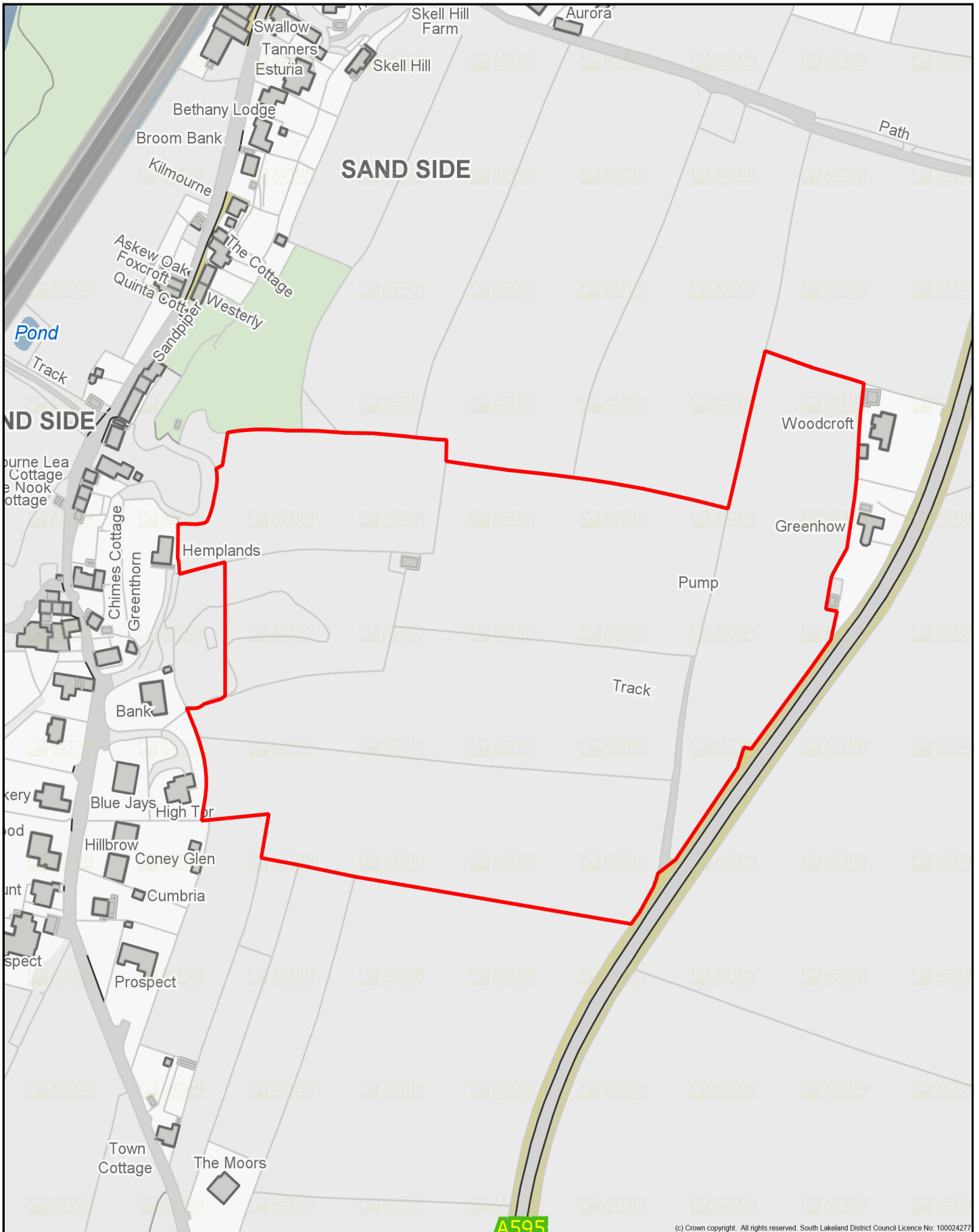
If you do not appeal against this Enforcement Notice, it will take effect on the date specified in paragraph 7 of the Notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in paragraph 6 of the Notice.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



**Plan 1**  
 Land off A595, School Road, Kirkby-In-Furness, LA17 7TL




 Scale: 1:2500  
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