

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

2.1 Land east of 8 Bank Terrace, ULVERSTON, LA12 0JY 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 vacant land to general industrial (Use Class B2) for wood processing and storage 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, CS8.2 and CS8.10 of the South Lakeland Core Strategy, Policies DM1, DM2 and DM4 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 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
- 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 land to wood processing and storage is not considered to be in accordance with the development plan as the site is located in open countryside, it is harmful to the rural landscape and results in harm to the living conditions of neighbouring residents by reason of noise and dust.

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 wood processing machinery and wood used in connection with the unauthorised wood processing and storage use within the red line on the attached plan
- (B) Permanently cease the use of wood processing activity and associated storage from the Land 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 22nd December 22 unless an appeal is made against it beforehand.

Signed: NICK HOWARD

Date: 11th November 22

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 east of 8 Bank Terrace, ULVERSTON, LA12 0JY, 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

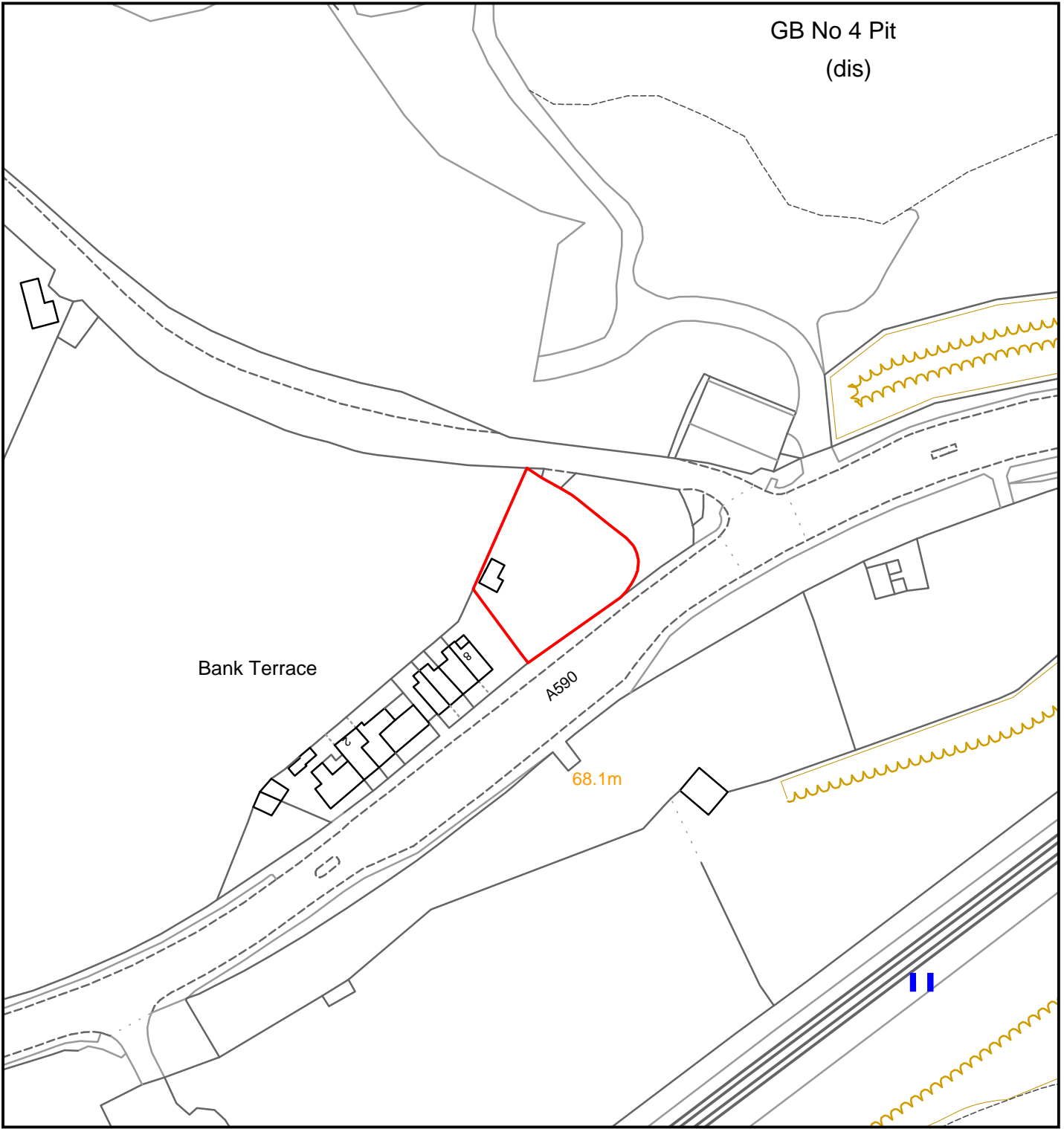
If you do not appeal against this Enforcement Notice, it will take effect on the date specified in paragraph 7 of the Notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in paragraph 6 of the Notice. 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 Daniel Braithwaite
Cumbria Firewood
180 Roose Road
Barrow in Furness
LA13 0EE

GB No 4 Pit
(dis)



Bank Terrace

A590

68.1m

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Plan 1

Land east of 8 Bank Terrace
ULVERSTON
LA12 0JY

Scale: 1:1250