

**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**

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

**ENFORCEMENT NOTICE – STONE ARTHUR, SCHOOL ROAD, KIRKBY-IN-FURNESS,  
LA17 7TF**

**MATERIAL CHANGE OF USE**

**1. ENFORCEMENT NOTICE**

**THIS NOTICE** is issued by Westmorland and Furness 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:**

Stone Arthur, School Road, KIRKBY-IN-FURNESS, LA17 7TF, hereafter referred to as "the Land" shown edged red for identification purposes only on the Plan attached to this Notice.

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

3.1 Without planning permission:

- I. Material change of use of the Land from residential dwelling (Use Class C3) to a holiday let (*sui generis*) 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 Policy DM1 of the South Lakeland Development Management Policies Development Plan Document and Paragraph 130 of the National Planning Policy Framework.

It appears to the Council that the unauthorised change of use, which has occurred within the last 10 years, has had the following impact.

- The development fails to ensure acceptable levels of amenity for neighbouring users with regards to noise and disturbance.

The Council consider that planning permission should not be given, because planning conditions could not overcome these objections to this change of use.

**5. WHAT YOU ARE REQUIRED TO DO:**

The Council requires the specified steps listed below to be taken to remove the effect of the unauthorised change of use at the Land which was carried out without planning permission.

- (A) Permanently cease the use and letting of the premises for commercial gain in association with a holiday let on the land, within the red line boundary on the attached plan.
- (B) Permanently cease the use of outdoor spaces in connection with the holiday let within the area outline red 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 30 May 2023 unless an appeal is made against it beforehand.

Dated: 18 April 2023

Signed: N Howard

Principal Specialist - Place

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

Nominated officer: Joshua Parkinson – Specialist Level 2 (Development Management)

Telephone number: 0300 373 3300

## **ANNEX**

WESTMORLAND AND FURNESS COUNCIL has issued an enforcement notice relating to the Stone Arthur, School Road, KIRKBY-INFURNESS, LA17 7TF 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.

### **GROUNDINGS 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 WESTMORLAND AND FURNESS 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:

Mrs Patricia Kilty  
Lady Cumbria – Director  
2 Barn Mews  
Bardsea  
LA12 9QS

Mr Michael Kilty  
Lady Cumbria – Secretary  
2 Barn Mews  
Bardsea  
LA12 9QS

Castle Trust Capital Plc  
10 Norwich Street  
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