



**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

**NOTICE REQUIRING PROPER  
MAINTENANCE OF LAND  
(AMENITY NOTICE)**

**REFERENCE NUMBER: ED2022/0041/ENF**

**SERVED BY: East Dunbartonshire Council**

**SERVED TO: Owner of the Land: Mr Gerard Maher,  
3 Nethermains Road,  
Milngavie,  
East Dunbartonshire,  
G62 6NR**

**SERVED TO: Owner of the Land: Mr Christopher Maher,  
57 Crossveggate,  
Milngavie,  
East Dunbartonshire,  
G62 6RA**

- 1. THIS IS A FORMAL NOTICE** issued under the provisions of Section 179 of the Town and Country Planning (Scotland) Act 1997 by East Dunbartonshire Council (hereinafter referred to as “the Council”) as Planning Authority because it appears to the Council that the condition of the land specified below is adversely affecting the amenity of the district.
- 2. THE LAND AFFECTED BY THIS NOTICE**  
The site (hereinafter referred to as “the Site”) to which this Notice relates is a semi-detached dwellinghouse and associated garden ground known as **3 Nethermains Road, Milngavie, East Dunbartonshire, G62 6NR** all as identified and delineated in red and coloured pink on the Location Plan annexed to this Notice.

### 3. THE REASONS FOR ISSUING THIS NOTICE

The Council considers that:

- (1) Storage of a number of pallets of wood, discarded waste materials including and not limited to furniture, building materials and plastic within the front and rear garden of the site as described in **Schedule 1** annexed to this Notice, is adversely affecting the amenity of the neighbouring properties, in particular, the adjoining semi-detached property.
- (2) The front boundary wall of the property is badly painted with little care and attention. The white paint is thinly applied unevenly with patches and drips. The wall is damaged in parts as described in **Schedule 2** attached to this Notice, is adversely affecting the amenity of the neighbouring properties, in particular, the adjoining semi-detached property.

### 4. WHAT YOU ARE REQUIRED TO DO

To abate the adverse effect on the amenity you shall take the following steps:

**Step 1** Restore the front and rear garden to an acceptable condition. Remove the various piles of wood and other building materials and store in a suitable location and remove waste materials as described in **Schedule 1**.

**Time Period for Compliance:** 28 days from the date this notice takes effect - **26 May 2023**

**Step 2** Repaint the front boundary wall in such a manner as to ensure it has a general tidy appearance in keeping with the character of the wider street scene as described in **Schedule 2**.

**Time Period for Compliance:** 28 days from the date this notice takes effect - **26 May 2023**

### 5. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on **18 April 2023**, unless an appeal is made to the Scottish Ministers before the date this Notice takes effect.

### 6. YOUR RIGHT OF APPEAL

You can appeal against this Notice. Your appeal must be received, or posted in time for receipt, by the Scottish Ministers before this Notice takes effect.

**Schedule 3** attached to this Notice contains explanatory notes for those in receipt of an "Enforcement Notice". The Schedule contains information on your right of appeal.

**Schedule 4** attached to this Notice contains extracts of relevant legislation. It is reproduced to assist you. It is your responsibility to check the legislation that you consider to be relevant to this Notice.

**PLEASE READ THEM CAREFULLY.**

### 7. WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this notice, it will take effect on **18 April 2023**, and you must then ensure that the required steps for complying with it, for which you are held responsible, are taken within the time periods, as specified in the notice. Failure to comply with the requirements of an “Amenity Notice” which has taken effect can result in the Council taking the necessary steps by means of Direct Action in accordance with Section 135 of The Town and Country Planning (Scotland) Act 1997 to enter the land and carry out the unfulfilled requirements of the Notice itself, and recovering its expenses reasonably incurred from the person(s) who is the owner, or lessee of the land at that time.

Signed: *Heather Holland*

Dated: 7 March 2023

Heather Holland  
**Executive Officer – Land Planning & Development**

On behalf of: **East Dunbartonshire Council**  
Place, Neighbourhood and Corporate Assets  
Southbank House  
Strathkelvin Place  
Kirkintilloch  
G66 1XQ

# LOCATION PLAN



This is the Location Plan referred to in the foregoing **Notice Requiring Proper Maintenance of Land (Amenity Notice)** in accordance with the terms of Section 179 of the Town and Country Planning (Scotland) Act 1997, relating to the land and associated dwellinghouse as shown outlined in red at **3 Nethermains Road, Bearsden, East Dunbartonshire, G66 6NR**.

Signed: *Heather Holland*

Dated: 7 March 2023

Heather Holland, **Executive Officer – Land Planning & Development**, on behalf of **East Dunbartonshire Council**, Place, Neighbourhood and Corporate Assets, Southbank House, Strathkelvin Place, Kirkintilloch, G66 1XQ.

## **SCHEDULE 1**

### **DESCRIPTION OF DISCARDED REFUSE AND WASTE MATERIALS IN THE GARDEN GROUND**

Storage of a number of pallets of wood, and a range of discarded materials have been placed within the curtilage of the garden ground of the semi-detached residential property at 3 Nethermains Road Milngavie. The pallets and discarded materials are more particularly identified in the photographs 1 and 2 below.



**Photograph 1** – Pallets and waste materials in the front garden ground



**Photograph 2** - Discarded materials in the rear garden ground

**AMENITY NOTICE UNDER REFERENCE ED2022/0041/ENF**

**SCHEDULE 2**

**DESCRIPTION OF THE FRONT BOUNDARY WALL**

The front surface of the front boundary wall of the dwellinghouse at 3 Nethermains Road Milngavie comprises of a thin white coating of paint haphazardly applied to the wall. Blocks of various colours have been applied to the coping stones and pillars. The painting to the wall is more particularly identified in the photograph 3 below.



**Photograph 3** – Painted front surface of front boundary wall.

## AMENITY NOTICE UNDER REFERENCE ED2022/0041/ENF

### SCHEDULE 3

#### EXPLANATORY NOTE FOR THOSE IN RECEIPT OF AN AMENITY NOTICE

##### **Right of Appeal**

If you wish to appeal against this Amenity Notice, you should write to the Planning and Environmental Appeals Division, 4 The Courtyard, Callendar Business Park, Callendar Road, Falkirk, FK1 1XR. Alternatively, you may submit your appeal online at <https://www.eplanning.scot/ePlanningClient/>. The appeal must be received, or posted in time for receipt, by the Planning and Environmental Appeals Division before **DATE**. The Planning and Environmental Appeals Division acts on behalf of Scottish Ministers and has no power to consider an appeal that is not submitted on time.

The appeal, which must be made in writing, must be based on one or more of the grounds set out in Section 180(1) of the Act. You should state the facts in support of each of the grounds of appeal you intend to rely upon. The statement of facts and the grounds of appeal must be submitted with your appeal.

If you lodge an appeal, the Amenity Notice will be suspended and will not take effect until such time as the appeal is withdrawn or dismissed.

##### **Measures that can be taken by the Council following failure to comply with this Notice**

If the steps required by this Notice are not taken within the Time Period for Compliance, the Council can, under section 135 of the Act, enter the land and take those steps. The Council can also recover all reasonable costs incurred, including administration costs from the owner, or lessee of the land. It is an offence for any person to wilfully obstruct a person acting in the exercise of the aforementioned measures that can be taken by the Council.





## **SCHEDULE 4**

### **EXTRACTS OF RELEVANT LEGISLATION FOR THOSE IN RECEIPT OF AN AMENITY NOTICE**

#### **Relevant Legislation**

A copy of Sections 179, 180 and 135 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006 and Regulations 14, 15 and 16 of The Town and Country Planning (Appeals) (Scotland) Regulations 2013 is below.

#### **The Town and Country Planning (Scotland) Act 1997**

##### **179 Notice requiring proper maintenance of land**

- (1) If it appears to a planning authority that the amenity of any part of their district, or an adjoining district, is adversely affected by the condition of any land in their district they may serve on the owner, lessee and occupier of the land a notice under this section requiring such steps for abating the adverse effect as may be specified in the notice to be taken within such period as may be so specified.
- (2) Service under subsection (1) shall be effected by the service of a copy of the notice.
- (3) Subject to section 180, a notice under this section shall take effect on such date as may be specified in the notice, being a date not less than 28 days after the latest service thereof under subsection (1).
- (4) The planning authority may withdraw a notice under this section (without prejudice to their power to serve another) at any time before it takes effect; and if they so withdraw it, they shall forthwith give notice of the withdrawal to every person on whom the notice was served.
- (5) No notice may be served under subsection (1) with reference to any building which is—
  - (a) a building which is the subject of a scheme or order under the enactments for the time being in force with respect to ancient monuments, or
  - (b) a building for the time being included in a list of monuments published by the Secretary of State under any such enactment.
- (6) The provisions of section 135 shall, subject to any necessary modifications, apply in respect of a notice under this section as they apply in respect of an enforcement notice under section 127.

##### **180 Appeal against notice under section 179**

- (1) A person on whom a notice under section 179 is served, or any other person having an interest in the land to which the notice relates, may at any time before the date specified in the notice as the date on which it is to take effect appeal to the Secretary of State against the notice, on any of the following grounds—
  - (a) that neither the amenity of any part of the planning authority's district nor that of any adjoining district has been adversely affected;

- b) that the steps required by the notice to be taken exceed what is necessary to remedy any such adverse effect;
  - (c) that the specified period for compliance with the notice falls short of what should reasonably be allowed;
  - (d) that the condition of the land is attributable to, and such as results in the ordinary course of events from, a continuing lawful use of the land or from continuing lawful operations carried out thereon; or
  - (e) that the notice was served other than in accordance with section 179.
- (2) An appeal under this section shall be made by notice in writing to the Secretary of State.
  - (3) The provisions of sections 130(3), 131(1) and 132(3) shall apply to appeals under this section as they apply to appeals under those sections.
  - (4) On an appeal under this section the Secretary of State—
    - (a) may correct any informality, defect or technical error in the notice if he is satisfied that it is not material, and
    - (b) may disregard the failure of the planning authority to serve the notice upon a person upon whom it should have been served, if it appears to him that neither that person nor the appellant has been substantially prejudiced by that failure.
  - (5) Where an appeal is brought under this section, the notice under section 179 shall be of no effect pending the final determination, or the withdrawal, of the appeal.
  - (6) In determining an appeal under this section the Secretary of State shall give such directions as seem to him appropriate; and these may include directions for quashing the notice or for varying its terms in favour of the appellant.
  - (7) Schedule 4 applies to appeals under this section.

### **135 Execution and cost of works required by enforcement notice**

- (1) If any steps which are required by an enforcement notice to be taken have not been taken within the compliance period, the planning authority may—
  - (a) enter the land and take those steps, and
  - (b) recover from the person who is then the owner or lessee of the land any expenses reasonably incurred by them in doing so.
- (2) If that person did not appeal to the Secretary of State although entitled to do so, he shall not be entitled to dispute the validity of the action taken by the planning authority under subsection (1) in accordance with the enforcement notice.
- (3) In computing the amount of the expenses which may be recovered by them under subsection (1), a planning authority may include in that amount such proportion of their administrative expenses as seems to them to be appropriate.
- (4) Where a copy of an enforcement notice has been served in respect of any breach of planning control—
  - (a) any expenses incurred by the owner, lessee or occupier of any land for the purpose of complying with the notice, and
  - (b) any sums paid by the owner or lessee of any land under subsection (1) in respect of expenses incurred by the planning authority in taking steps required by such a notice to be taken,

shall be recoverable from the person by whom the breach of planning control was committed.

- (5) If on a complaint by the owner of any land it appears to the sheriff that the occupier of the land is preventing the owner from carrying out work required to be carried out by an enforcement notice, the sheriff may by warrant authorise the owner to go on to the land and carry out that work.
- (6) A planning authority taking steps under subsection (1) may sell any materials removed by them from the land unless those materials are claimed by the owner within 3 days of their removal.
- (7) After any such sale the planning authority shall pay the proceeds to the owner less the expenses recoverable by them from him.
- (8) Where a planning authority seek, under subsection (1), to recover any expenses from a person on the basis that he is the owner of any land, and such person proves that—
  - (a) he is receiving the rent in respect of that land merely as trustee, tutor, curator, factor or agent of some other person, and
  - (b) he has not, and since the date of the service on him of the demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority,his liability shall be limited to the total amount of the money which he has or has had in his hands on behalf of that other person.
- (9) A planning authority who by reason of subsection (8) have not recovered the whole of any such expenses from a trustee, tutor, curator, factor or agent may recover any unpaid balance from the person on whose behalf the rent is received.
- (10) Any person who willfully obstructs a person acting in the exercise of powers under subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (11) In this section and in sections 136, 136A, 140 and 141 any reference to the compliance period, in relation to an enforcement notice, is a reference to the period specified in the notice for compliance with it or such extended period as the planning authority may allow for compliance with it.

### **The Town and Country Planning (Appeals) (Scotland) Regulations 2013**

Appeals under sections 130(2), 169(1) and 180(2) of the Act and section 35(2) of the Listed Buildings Act

#### **14. Statement of appeal**

- (1) The appellant must at the same time as giving notice of appeal to the Scottish Ministers under section 130(2), 169(2) or 180(2) of the Act or section 35(2) of the Listed Buildings Act, as the case may be, submit a statement (“statement of appeal”) on a form obtained from the Scottish Ministers.
- (2) The statement of appeal, in addition to specifying the grounds of appeal as required by section 130(3)(a) (and as applied by section 180(3)) or 169(3) of the Act or section 35(4)(a) of the Listed Buildings Act, as the case may be, is to give the information specified in paragraph (3).

- (3) The information is—
- (a) all matters which the appellant intends to raise in the appeal;
  - (b) the name and address of the appellant;
  - (c) a copy of the notice against which the appeal is made;
  - (d) the name and address of the representative of the appellant (if any) and whether any notice or other correspondence which is required by these Regulations to be sent to the appellant should be sent to the representative instead of the appellant; and
  - (e) a note of the matters which the appellant considers require determination and by what, if any, procedure (or combination of procedures) mentioned in regulation 9(4) the appellant considers the appeal should be determined.
- (4) The statement of appeal is to be accompanied by copies of all documents, materials and evidence which the appellant intends to rely on in the appeal.
- (5) In addition to matters set out in the statement of appeal and the documents accompanying the statement of appeal, the appellant may raise matters only in accordance with and to the extent permitted by regulations 11 and 15, the Hearing Session Rules and the Inquiry Session Rules.
- (6) The following provisions apply in relation to appeals under sections 130, 169 and 180 of the Act and an appeal under section 35 of the Listed Buildings Act—
- (a) this Part and Parts 1, 3, 9 (other than regulation 29) and 10; and
  - (b) the Hearing Session Rules and the Inquiry Session Rules.
- (7) These Regulations apply to an appeal under section 130 as applied by regulation 25 of the 1984 Regulations as they apply to an appeal under section 130 of the Act as if references to an enforcement notice were references to an enforcement notice served under regulation 24 of the 1984 Regulations.

#### **15. Intimation of appeal to planning authority and planning authority's response**

- (1) The appellant must at the same time as giving the notice of appeal to the Scottish Ministers send to the planning authority a copy of—
- (a) the notice of appeal;
  - (b) the statement of appeal; and
  - (c) all documents, materials and evidence which the appellant intends to rely on in the appeal and which accompanied the statement of appeal in accordance with regulation 14(4).
- (2) The planning authority must, not later than 21 days beginning with the date of receipt of notification of an appeal under paragraph (1), send to the Scottish Ministers and the appellant—
- (a) a statement (“the planning authority's response”) incorporating a response to each ground of appeal and stating the matters which the planning authority consider require determination and by what, if any, procedure (or combination of procedures) mentioned in regulation 9(4) the planning authority wish the appeal to be conducted; and
  - (b) copies of documents which were before the planning authority and which were taken into account in reaching its decision to issue the notice which is the subject of the appeal.

- (3) The appellant may, within 14 days beginning with the date of receipt of the planning authority's response, send to the Scottish Ministers and the planning authority comments on any matters raised in the planning authority's response.
- (4) The planning authority must until such time as the appeal is determined make copies of—
- (a) the notice of appeal;
  - (b) the statement of appeal;
  - (c) the planning authority's response and any comments made under paragraph (3); and
  - (d) documents which accompanied the statement of appeal or which were sent with the planning authority's response

available for inspection at an office of the planning authority and to afford any interested party who so requests an opportunity to inspect and, where practicable, to take copies of any such documents (or any part thereof).

#### **16. Notification to other parties**

- (1) The planning authority must not later than 14 days following notification of the appeal under regulation 14 give notice of the appeal to each person (other than the appellant) on whom the enforcement notice, listed building enforcement notice or the notice under section 168 or 179 of the Act, as the case may be, was served.
- (2) Notice under paragraph (1) is to—
- (a) state the name of the appellant and the address of the land to which the appeal relates;
  - (b) describe the steps required by the notice to which the appeal relates;
  - (c) state that representations may be made to the Scottish Ministers and provide information as to how and by when such representations may be made;
  - (d) state where a copy of the notice of appeal, the statement of appeal and the planning authority's response may be inspected.
- (3) The period allowed for making representations is to be no less than 14 days from the date on which notice is given under paragraph (1).