

IMPORTANT: THIS COMMUNICATION AFFECTS YOUR PROPERTY

**Sneddon Law Community Wind Company Ltd
Caledonia Exchange
19A Canning Street
Edinburgh
EH3 8HE, and**

**Community Windpower Ltd
Godscroft Lane
Frodsham
Warrington
Cheshire
WA6 6XU**

and

**Jacqueline Grant
Raithmuir Farm
Galston
KA4 8PP**

and

**Thomas James Paterson
Alton Muirhouse Farm
Newmilns
KA16 9LJ**

and

**FIM Forest Funds General Partner Limited
Glebe Barn, Great Barrington
Burford, Oxford
OX18 4US**

and

**Royal Bank of Scotland PLC
2nd Floor, Drummond House
1 Redheughs Avenue, Edinburgh
EH12 9LJ**

and

**Natural Power Services Ltd
The Green House Forrest Estate
St John's Town of Dalry
Castle Douglas
DG7 3XS**

ENFORCEMENT NOTICE (NON-COMPLIANCE WITH CONDITION(S))

SERVED BY: EAST AYRSHIRE COUNCIL

- 1. THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to them that there has been a breach of planning control, under Section 123(1)(b) of the above Act, at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations.
- 2. THE LAND AFFECTED BY THE NOTICE** (edged red on the attached plan)

Sneddon Law Windfarm, U41 Hemphill to High Rushaw, Moscow, East Ayrshire
- 3. THE BREACH OF PLANNING CONTROL ALLEGED**

1. Commencement of works specifically excluded by Condition 36 of planning consent 13/0198/PP, namely intrusive site investigation works involving the drilling of proposed turbine locations, prior to demonstration of fulfilment of this condition

2. And in any event commencement of the site investigations works involving the drilling of proposed turbine locations prior to fully operations replacement water supplies being in place for Muirside Farm, Hemphill Farm, Rushaw Farm, Dykescroft Farm, Dykestonend, Cowans Law Trout Fishery, Alton Muirhouse Farm, Alton Lodge, Muirburn and Tayburn. In each case the replacement supply shall either be from the public mains or be derived from a source shown to be at low or negligible risk of contamination or disruption, and which does not prejudice the quantity or quality of water delivered by other existing private water supplies, delivering sufficient quantity and quality of water for the relevant uses (as determined following consultation with the users), and details shall be provided of how the supply will be managed and maintained, and for other properties at significant risk (rated before mitigation as moderate or major in the Consolidated Water Risk Assessment) namely, Airtnoch Farm, Beechknowe, Meadowhead, Hareshaw Lodge, East Collarie, Hareshawmuir Lodge, Hareshawmuir Bunglaow, Hareshawmuir Cottage, West Collarie, Cowans Law and Blackshill farm, either:

(a) a facility for connection to the public water supply which is either already operational or is capable of being made so within 24 hours, or

(b) a holding tank at the property capable of holding at least 24 hours' supply of water which can be immediately connected into existing pipework to provide a pressurised supply for all domestic and/or commercial needs, together with

(c) a contract or contracts with emergency water suppliers to deliver water of suitable quality within 6 hours' notice to each holding tank and to replenish the supply at least once in every 48 hours until further notice, and

(d) access arrangements for each property to ensure that emergency water deliveries can be made without causing damage, and

(e) a scheme for each property, prepared in consultation with the owners/occupiers, describing in detail how an alternative long-term water supply can be provided in the event of prolonged contamination or disruption of the private water supply, such scheme to include all necessary permissions, licences, agreements and wayleaves to enable the scheme to be implemented at short notice if required, and

(f) for domestic properties, a supply of bottled water (already delivered to the property) sufficient to meet household needs for drinking, cooking and personal hygiene until the first delivery under (c) above takes place, together with arrangements to replace the bottled supply before its expiry date.

4. REASONS FOR ISSUING THIS NOTICE

Following the refusal by East Ayrshire Council to discharge Condition 36 of planning consent 13/0198/PP Community Windpower Ltd appealed this refusal to Scottish Ministers Planning and Environmental Appeals Division. This appeal was determined by Reporter Michael Cunliffe on 23 February 2017. The discharge of this condition was itself conditional and contained the following 4 conditions;

"1. Unless otherwise agreed in writing by the planning authority, the following shall be in place before development (including any intrusive ground investigation) begins:

1.1 Fully operational replacement water supplies for -

- (a) those properties served by the Blackshill Spring (Muirside Farm, Hemphill Farm, Rushaw Farm, Dykescroft Farm, Dykestonend and Cowan's Law Trout Fishery),*
- (b) Alton Muirhouse and Alton Lodge, and*
- (c) Muirburn and Tayburn.*

In each case the replacement supply shall either be from the public mains or be derived from a source shown to be at low or negligible risk of contamination or disruption, and which does not prejudice the quantity or quality of water delivered by other existing private water supplies, delivering sufficient quantity and quality of water for the relevant uses (as determined following consultation with the users), and details shall be provided of how the supply will be managed and maintained."

1.2. For other properties at significant risk (rated before mitigation as moderate or major in the Consolidated Water Risk Assessment), either:

- (a) a facility for connection to the public water supply which is either already operational or is capable of being made so within 24 hours, or*
- (b) a holding tank at the property capable of holding at least 24 hours' supply of water which can be immediately connected into existing pipework to provide a pressurised supply for all domestic and/or commercial needs, together with*
- (c) a contract or contracts with emergency water suppliers to deliver water of suitable quality within 6 hours' notice to each holding tank and to replenish the supply at least once in every 48 hours until further notice, and*
- (d) access arrangements for each property to ensure that emergency water deliveries can be made without causing damage, and*
- (e) a scheme for each property, prepared in consultation with the owners/occupiers, describing in detail how an alternative long-term water supply can be provided in the event of prolonged contamination or disruption of the private water supply, such scheme to include all necessary permissions, licences, agreements and wayleaves to enable the scheme to be implemented at short notice if required, and*
- (f) for domestic properties, a supply of bottled water (already delivered to the property) sufficient to meet household needs for drinking, cooking and personal hygiene until the first delivery under (c) above takes place, together with arrangements to replace the bottled supply before its expiry date.*

1.3 The full cost of implementing and maintaining the mitigation measures shall be met by the Operator throughout the lifetime of the planning permission.

1.4 The Operator shall supply the professional credentials of:

- (a) the personnel employed to assess and upgrade existing treatment systems for private water supplies;*
- (b) the Environmental Clerk of Works; and*
- (c) the personnel employed to conduct water sampling and monitoring.*

1.5 The Operator shall provide documentary evidence to the planning authority demonstrating that 1.1-1.4 above have been fulfilled.

2. In the Response for the Appellant to the Procedure Notice dated 20 January 2017:

2.1 Any reference to a new borehole shall be taken to include multiple new boreholes or other sources of supply;

2.2 The entry for Tayburn and Muirburn shall be amended to include a commitment to provide a replacement supply (whether from the public water supply, a new borehole or other source) which shall be constructed and operational before any ground intrusive works commence on site.

3. Within one month of the date of discharge of Condition 36, the Operator shall submit to the planning authority for their information, and to SEPA for their agreement, a Scheme of Monitoring which shall set out details of arrangements for water sampling, analysis and the interpretation of results, prior to commencement of development, during construction and upon completion of construction. The scheme shall include details of the locations for sampling both at the sources of private water supplies and at the points of consumption, the frequency of sampling, methods of sampling and the transport of samples for analysis, the determinands against which samples will be tested, and the arrangements for notification of results, including notification to the users of the private water supplies being monitored. The scheme shall be deemed to form part of the Consolidated Water Risk Assessment and shall supersede Annexes 3 and 4 of that document for the purposes of Condition 36 of the planning permission.

4. In the Consolidated Water Risk Assessment, references to refuelling being restricted to the compound shall be replaced as follows: "Refuelling of vehicles, plant and machinery on the site will be carried out only in designated locations (which will be notified in writing to the planning authority and SEPA and may include, but need not be limited to, the construction compound) and in such a way that any spillage is contained within impermeable surfaces, and any fuel or water from such surfaces will be removed from the site and disposed of at an approved facility".

East Ayrshire Council consider that the developer has failed to demonstrate through their submission of 5 July 2017, East Ayrshire Council ref: 17/0542/AMCPP, that Conditions 1.1 to 1.3 have been fulfilled and that the works undertaken are therefore a breach of Conditions 1.1, 1.2, 1.3 and 1.5

A proportion of the works undertaken to date affect an area which is identified, in the MacArthur Green Technical Report on Private Water Supplies: Consolidated Water Risk Assessment dated 15 November 2016, as being at high risk of potential contamination or pollution from the proposed works (including intrusive ground investigation).

It is therefore considered that the continuation of any works on the site pose an unacceptable risk to public health and safety and as such nothing further should be undertaken on site until such times as it can be demonstrated that the necessary mitigation outlined in Conditions 1.1 to 1.3 has been fulfilled and evidenced to the planning Authority in accordance with Condition 1.5

5. WHAT YOU ARE REQUIRED TO DO

1. Stop all works associated with the windfarm development including intrusive ground investigation works with the exception of any works required to fulfil the requirements of Condition 36 of Planning Permission 13/0198/PP.
2. Supply and evidence;

Fully operational replacement water supplies for -

- (a) those properties served by the Blackshill Spring (Muirside Farm, Hemphill Farm, Rushaw Farm, Dykescroft Farm, Dykestonend and Cowan's Law Trout Fishery),
- (b) Alton Muirhouse and Alton Lodge, and
- (c) Muirburn and Tayburn.

In each case the replacement supply shall either be from the public mains or be derived from a source shown to be at low or negligible risk of contamination or disruption, and which does not prejudice the quantity or quality of water delivered by other existing private water supplies, delivering sufficient quantity and quality of water for the relevant uses (as determined following consultation with the users), and details shall be provided of how the supply will be managed and maintained.

Any submission in this regard must include scientific information that demonstrates the three replacement borehole supplies can consistently deliver the required quantity of water at a quality that is suitable for the intended uses. Both the quantity and the quality of water needs to be demonstrated at the point of use (i.e. at the properties intended to be supplied) inclusive of any provisions for treatment. This will include:

Test pumping data (groundwater level and abstraction data) that shows the boreholes can deliver the required yield consistently. A 24hour constant rate test and 24hour recovery period would be sufficient to assess whether this condition is satisfied.

Water chemistry certificates that show the water at the point of use is of a wholesome quality, as defined by the PWS Regulations. This would be downstream of any treatment systems that may be required.

Given that the submitted information insofar as it relates to the replacement boreholes is silent on any "sanitary seal" being in place a robust treatment system needs to be in place to ensure that wholesome water can be delivered at the point of use and chemical and microbiological testing carried out to demonstrate this.

3. Supply and evidence;

For other properties at significant risk (rated before mitigation as moderate or major in the Consolidated Water Risk Assessment), either:

- (a) a facility for connection to the public water supply which is either already operational or is capable of being made so within 24 hours, or
- (b) a holding tank at the property capable of holding at least 24 hours' supply of water which can be immediately connected into existing pipework to provide a pressurised supply for all domestic and/or commercial needs, together with
- (c) a contract or contracts with emergency water suppliers to deliver water of suitable quality within 6 hours' notice to each holding tank and to replenish the supply at least once in every 48 hours until further notice, and
- (e) a scheme for each property, prepared in consultation with the owners/occupiers, describing in detail how an alternative long-term water supply can be provided in the event of prolonged contamination or disruption of the private water supply, such scheme to include all necessary permissions, licences, agreements and wayleaves to enable the scheme to be implemented at short notice if required, and
- (f) for domestic properties, a supply of bottled water (already delivered to the property) sufficient to meet household needs for drinking, cooking and personal hygiene until the first delivery under (c) above takes place, together with arrangements to replace the bottled supply before its expiry date.

Any submission in this regard must include information to demonstrate how the proposed alternative long term supplies are to be achieved. This must include the necessary permissions, licences, agreements and wayleaves to enable the schemes to be implemented at short notice if required.

Should any scheme propose a connection to the public supply the written confirmation from Scottish Water that they are able to connect properties to the public water main and within what time frame

and also written confirmation from Scottish Water/local landowners that wayleaves could be obtained to connect the properties to the public water main and within what time frame.

4. Evidence;

That the full cost of implementing and maintaining the mitigation measures shall be met by the Operator throughout the lifetime of the planning permission.

Any submission in this regard must include information how the replacement supplies will be managed and maintained. This will take the form of an annual maintenance schedule that states what activities will be carried out and by whom, for example:

Inspection of the condition of the borehole headworks and delivery pipework

Electrical checks on the pump

Measuring water levels in the borehole

Check flow meter is working and collect readings

Check treatment system is operating as required. This may need to be carried out at a higher frequency, depending on the equipment installed.

Collect water samples for lab analysis upstream and downstream of the treatment system to demonstrate the effectiveness of the treatment system and that wholesome water is being supplied at the point of use.

Carry out any remedial actions based on the outcomes of the above, as required.

and

A letter by a Proper Officer, on behalf of the Operator, or documentary evidence of similar effect providing an undertaking that the full cost of the implementation and mitigation measures detailed will be met by Community Windpower Ltd

6. TIME FOR COMPLIANCE

1. Immediately this notice takes effect
2. Within one month of the effective date of this notice
3. Within one month of the effective date of this notice
4. Within one month of the effective date of this notice

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on **8 September 2017**, unless an appeal is made against it beforehand.

8. YOUR RIGHT OF APPEAL

You can appeal against this Notice, but any appeal must be received, or posted in time to be received, by the Scottish Ministers before **8 September 2017**. Schedule 1 to this Notice gives information on your rights of appeal. Read it carefully.

9. WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on **8 September 2017** 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(s) specified in the Notice. Failure to

comply with an enforcement notice which has taken effect can result in prosecution, the service of a Fixed Penalty Notice and/or remedial action by the Council.

Date:

9/8/17

Signed:



On behalf of:

**EAST AYRSHIRE COUNCIL, COUNCIL HEADQUARTERS,
LONDON ROAD, KILMARNOCK, KA3 7DG**

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
as amended by the Planning etc. (Scotland) Act 2006

Part VI, S.123-124, 127-130 & 136A
Development Requiring Planning Permission

Power to Serve Enforcement Notice

123. (1) For the purposes of this Act:-

- (a) carrying out development without the required planning permission, or
- (b) failing to comply with any condition or limitation subject to which planning permission has been granted, constitutes a breach of planning control.

(2) For the purposes of this Act:-

- (a) the issue of an enforcement notice, or
 - (b) the service of a breach of condition notice, under this Part constitutes taking enforcement action.
- (3)** In this part under "planning permission" includes planning permission under Part III of the 1947 Act and Part III of the 1972 Act.

124.(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of 4 years beginning with the date on which the operations were substantially completed.

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of 4 years beginning with the date of the breach.

(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of 10 years beginning with the date of the breach.

(4) Sub-sections (1) to (3) do not prevent:-

- (a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect, or
- (b) taking further enforcement action in respect of any breach of planning control if, during the period of 4 years ending with that action being taken, the planning authority have taken or purported to take enforcement action in respect of that breach.

127. (1) The planning authority may issue a notice (in this Act referred to as an "enforcement notice") where it appears to them:-

- (a) that there has been a breach of planning control, and
- (b) that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.

(2) A copy of an enforcement notice shall be served:-

- (a) on the owner and on the occupier of the land to which it relates, and

- (b) on any other person having interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.
- (3) The service of the notice shall take place:-
 - (a) not more than 28 days after its date of issue, and
 - (b) not less than 28 days before the date specified in it as the date on which it is to take effect.

128.(1) An enforcement notice shall state:-

- (a) the matters which appear to the planning authority to constitute the breach of planning control, and
- (b) the paragraph of Section 123(1) within which, in the opinion of the authority, the breach falls.
- (2) A notice complies with sub-section (1)(a) if it enables any person on whom a copy of it is served to know what those matters are.
- (3) An enforcement notice shall specify the steps which the authority requires to be taken, or the activities which the authority requires to cease, in order to achieve, wholly or partly, any of the following purposes.
- (4) Those purposes are:-
 - (a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or
 - (b) remedying any injury to amenity which has been caused by the breach.
- (5) An enforcement notice may, for example, require:-
 - (a) the alteration or removal of any buildings or works,
 - (b) the carrying out of any building or other operations,
 - (c) any activity on the land not to be carried on except to the extent specified in the notice, or
 - (d) the contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.
- (6) An enforcement notice issued in respect of a breach of planning control consisting of demolition of a building may require the construction of a building (in this section referred to as a "replacement building") which, subject to sub-section (7), is as similar as possible to the demolished building.
- (7) A replacement building:-
 - (a) must comply with any requirement imposed by or under any enactment applicable to the construction of buildings,
 - (b) may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control, and
 - (c) must comply with any regulations made for the purposes of this sub-section (including regulations modifying paragraphs (a) and (b) of this sub-section).
- (8) An enforcement notice shall specify the date on which it is to take effect and, subject to Section 131 (3), shall take effect on that date.
- (9) An enforcement notice shall specify the period for compliance with the notice at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities.

- (10) Where different periods apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.
- (11) An enforcement notice shall specify such additional matters as may be prescribed.
- (12) Regulations may require every copy of an enforcement notice served under Section 127 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under Section 130.
- (13) Where:-
- (a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so, and
 - (b) all the requirements of the notice have been complied with, then, so far as the notice did not so require, planning permission shall be treated as having been granted under Section 33 in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.
- (14) Where:-
- (a) an enforcement notice requires the construction of a replacement building, and
 - (b) all the requirements of the notice with respect to that construction have been complied with, planning permission shall be treated as having been granted under Section 33 in respect of development consisting of that construction.

129.(1) The planning authority may:-

- (a) withdraw an enforcement notice issued by them, or
 - (b) waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with Section 128(9).
- (2) The powers conferred by sub-section (1) may be exercised whether or not the notice has taken effect.
- (3) The planning authority shall, immediately after exercising the powers conferred by sub-section (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.
- (4) The withdrawal of an enforcement notice does not affect the power of the planning authority to issue a further enforcement notice.

130.(1) A person on whom an enforcement notice is served or any other person having an interest in the land may, at any time before the date specified in the notice as the date on which it is to take effect, appeal to the Scottish Ministers against the notice on any of the following grounds:-

- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control;
- (d) that, 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;
- (e) that copies of the enforcement notice were not served as required by Section 127;
- (f) that 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 any such breach; and

- (g) that any period specified in the notice in accordance with Section 128(9) falls short of what should reasonably be allowed.
- (2) An appeal under this section shall be made either:-
 - (a) by giving written notice of the appeal to the Scottish Ministers before the date specified in the enforcement notice as the date on which it is to take effect, or
 - (b) by sending such notice to them in a properly addressed and prepaid letter posted to them at such time that, in the ordinary course of post, it would be delivered to them before that date.
- (3) A person who gives notice under sub-section (2) shall submit to the Scottish Ministers, either when giving the notice or within the prescribed time, a statement in writing:-
 - (a) specifying the grounds on which he is appealing against the enforcement notice, and
 - (b) giving such further information as may be prescribed.

136A Fixed penalty notice where enforcement notice not complied with

- (1) Where a planning authority have reason to believe that, by virtue of subsection (1) of section 136, a person is in breach of an enforcement notice they may, provided that the conditions mentioned in subsection (7) are satisfied, serve on him a fixed penalty notice as respects that breach.
- (2) The fixed penalty notice is to specify—
 - (a) the step specified, under subsection (3) of section 128, in the enforcement notice which has not been taken, or
 - (b) the activity so specified which has not ceased.
- (3) It is not competent to serve more than one fixed penalty notice in relation to a particular step or activity.
- (4) For the purposes of this section, a “fixed penalty notice” is a notice offering the person the opportunity of discharging, by paying to the planning authority, within the period of 30 days which immediately follows the day on which that notice is served, a penalty of an amount (being a prescribed amount) specified in the notice, any liability to conviction for an offence under section 136 as respects the breach of the enforcement notice.
- (5) But if payment is made within the first 15 days of the period mentioned in subsection (4) the amount payable is reduced by 25%.
- (6) The fixed penalty notice is to identify the period mentioned in subsection (4) and is also to state that if payment is made within the first 15 days of that period the amount payable is reduced by 25%.
- (7) The conditions are that the fixed penalty notice—
 - (a) is served within the period of 6 months which immediately follows the compliance period in relation to the enforcement notice, and
 - (b) is not served after the person has been charged with an offence under section 136 as respects the breach of the enforcement notice.
- (8) During the period mentioned in subsection (4) it is not competent to commence proceedings against the person for an offence under section 136 as respects that breach.
- (9) If the amount (or as the case may be the reduced amount) is timeously paid it is not competent to commence proceedings against the person for an offence under section 136 as respects that breach.

- (10) A penalty received by a planning authority by virtue of subsection (4) is to accrue to that authority.
- (11) In prescribing an amount for the purposes of subsection (4), the Scottish Ministers may make different provision for different cases or for different classes of case.

SCHEDULE 1

Explanatory Note to Those in Receipt of an Enforcement Notice

Relevant Legislation

A copy of Sections 123-130 and 136 of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc. (Scotland) Act 2006) is attached. You will wish to note in particular the points referred to below.

Right of Appeal

If you wish to appeal against this notice, you should write to The Scottish Ministers, Department of Planning and Environmental Appeals, Unit, 4 The Courtyard, Callendar Business Park, Callender Road, Falkirk, FK1 1XR. The appeal must be received, or posted in time to be received by them, before **8 September 2017**. The Scottish Ministers have no power to consider an appeal lodged out of time.

The appeal, which must be made in writing, must be based on one or more of the grounds set out in Section 130 of the 1997 Act and should state the facts on which you propose to rely in support of each of the grounds of the appeal. The ground of appeal and the statement of facts must be submitted with your appeal or within 14 days of your being required to do so by the Scottish Ministers.

If you lodge an appeal, the enforcement notice is suspended and will not take effect unless the appeal is withdrawn or dismissed.

Penalties for Non-Compliance with an Enforcement Notice

Where an enforcement notice requires the discontinuance of a use of land or compliance, in respect of a use of land or carrying out of operations, with any conditions or limitations, then any person who, without the grant of planning permission uses the land or causes or permits it to be used, or carries out those operations or causes or permits them to be carried out, is guilty of an offence and liable on summary conviction to a fine not exceeding £20,000, or on conviction on indictment to an unlimited fine. Furthermore, if the use is continued after conviction, the person may be convicted of a second or subsequent offence.

Fixed Penalty Notices

The Council may, after the compliance period for any relevant enforcement notice has expired, serve a fixed penalty notice on the owner, occupier, tenant, any other responsible person or any person who has an interest in the site, requiring the payment of a fixed penalty should the matters requiring to be addressed remain outstanding. This fixed penalty will have the effect of preventing the criminal offence created by this non-compliance from being reported to the Procurator Fiscal for consideration of prosecution. Fixed penalties for non-compliance will be in the sum of £300 for a breach of condition notice and £2000 for an enforcement notice.

Direct Action for Non-Compliance with an Enforcement Notice

If the steps required by an enforcement notice are not taken within the specified period(s), the Council may enter on the land, take those steps and recover the cost from the owner or lessee of the land.

Further Offences

Compliance with the terms of an enforcement notice does not discharge the notice. It will continue in effect and any repetition of the breach of control may incur further penalties or may result in direct action by the Council.