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Our ref: ENA-110-2013
14 September 2017

Dear Mr Mckie

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
ENFORCEMENT NOTICE APPEAL: ALLEGED UNAUTHORISED CHANGE IN THE USE
OF THE LAND FROM AGRICULTURAL GRAZING LAND TO A CARAVAN SITE
WITHOUT THE BENEFIT OF PLANNING PERMISSION AT LAND NORTH ESK PARK
(SOUTHWEST OF ESK VIEW FARM), ST CYRUS, MONTROSE (COMP/2014/0250)**

1. This letter contains Scottish Ministers' decision in respect of your client's appeal against the enforcement notice in respect of the above. It has been decided to uphold the enforcement notice, subject to modification to give a longer period for compliance.
2. Under the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) (Scotland) Regulations 1987, as amended, the appeal came into a class to be determined by a person appointed by Scottish Ministers, rather than by Scottish Ministers themselves. However, in exercise of the powers under paragraph 3(1) of Schedule 4 to the Town and Country Planning (Scotland) Act 1997, Scottish Ministers directed, on 26 August 2016, that they would determine the appeal. The appointed reporter, Mr Rob Huntley, BSc DipTP MRTPI, considered the case and I enclose a copy of his report for your information.

Consideration by the Reporter

3. The reporter considers the enforcement notice at Chapter 7 of the report. The reporter's conclusions and recommendations are set out in Chapters 8 and 9.

Scottish Ministers' Decision

4. Scottish Ministers have carefully considered all the evidence presented by the reporter in his report. They agree with the reporter that the enforcement notice should be upheld but do not agree with the time period specified in his recommendation. Scottish Ministers have, therefore, decided that, given the current school year commenced in August 2017, the period of time for compliance should be varied.

5. Accordingly, Scottish Ministers hereby uphold the enforcement notice, subject to the modification by deleting the words "6 months after this notice takes effect" given as the time for compliance and replacing them with the date "before 31 July 2018". Ministers consider that this allows sufficient time for orderly arrangements to be made to avoid undue disruption to the schooling of pupils resident at the site. This period strikes an appropriate balance between remedying the breach of planning control in a timely way and minimising educational and community disruption.

6. The foregoing decision of Scottish Ministers is final, subject to the right conferred by Sections 237 and 239 of the Town and Country Planning (Scotland) Act 1997 of any person aggrieved by the decision to apply to the Court of Session within 6 weeks of the date hereof. On any such application the Court may quash the decision if satisfied that it is not within the powers of the Act, or that the appellant's interests have been substantially prejudiced by a failure to comply with any requirements of the Act, or of the Tribunals and Inquiries Act 1992, or any orders, regulations or rules made under these Acts.

7. Subject to any such application to the Court of Session, the enforcement notices take effect on the date of this decision, which constitutes the determination of the appeal for the purpose of Section 131 (3) of the Town and Country Planning (Scotland) Act 1997.

8. For the avoidance of doubt the first site inspection took place on 26 November 2015 and not the date indicated at the summary part of the report.

9. A copy of this letter and the report has been sent to Aberdeenshire Council and SEPA. All the other parties will receive a copy of this letter.

Yours sincerely

JOHN McNAIRNEY
CHIEF PLANNER