

TOWN AND COUNTRY PLANNING ACT 1990 ('the Act')
TEMPORARY STOP NOTICE
IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY
LAND AT 162 - 164 HARTFIELD ROAD LONDON SW19 3TQ ("the Land")

SERVED BY: LONDON BOROUGH OF MERTON ('the Council')

To:

- 1) William Togher, Managing Director, Kidbrook Homes, Frensham House, Farnham Business Park, Weydon Lane, Farnham GU9 8QT
- 2) The Company Secretary, Kidbrook Homes Limited, C/O Gateley Legal, 1 Paternoster Square, London EC4M 7DX
- 3) BRIP 4 (Kidbrook Hartfield Wimbledon) LLP, Grafton House, Pury Hill Business Park, Towcester, Northamptonshire NN12 7LS
- 4) William Togher, Company Secretary and Managing Director, Kidbrook Homes Limited, C/O Gateley Legal, 1 Paternoster Square, London EC4M 7DX
- 5) Amanda Louise Togher, Director, Kidbrook Homes Limited, C/O Gateley Legal, 1 Paternoster Square, London, EC4M 7DX

1 Issue of temporary stop notice

On 8 February 2024, the Council has issued this temporary stop notice alleging that there has been a breach of planning control on the land described in paragraph 4 below.

2 Prohibition of activity

This temporary stop notice is issued by the Council, in exercise of their power under section 171E of the Act, because they think that it is expedient that the activity specified in this notice should cease on the land described in paragraph 4 below. The Council now prohibits the carrying out of the activity specified in this notice. Important additional information is given in the Annex to this notice.

3 The reasons for issuing this notice

- (a) Planning permission (ref. 18/P2224) was granted by the Council, subject to conditions ("the 2018 Permission"). Condition 14 attached to the 2018 Permission provides that:

14 The development shall not commence until details of the provision to accommodate all site workers, visitors' and construction vehicles and loading /unloading arrangements during the construction process have been submitted to and approved in writing by the Local Planning Authority. The approved details must be implemented and complied with for the duration of the construction process.

Further planning permission (ref. 21/P2385) was granted by the Council for approval of Condition 14 of the 2018 Permission ("the 2021 Permission"). The 2021 Permission confirms the acceptability of the Construction Transport Management Plan: August 2021 (the "CTMP").

A breach of planning control has taken place as a result of delivery, loading and unloading of materials and machinery outside agreed hours, contrary to the CTMP. Paragraph b) of the CTMP stipulates that deliveries will not be made during peak times of 07:00 – 09:30 and 16:00 – 19:00. Deliveries during these peak hours cause issues of congestion; causing harm to the enjoyment of the neighbour's leisure time; danger to the public and cyclists who walk or cycle around the delivery vehicles and cannot be seen by on coming drivers; delays to public transport time having a negative impact for those who are travelling to and from school, work and visiting.

- (b) The delivery of building related materials and machinery during peak hours is harmful to the amenity of the surrounding area with the issue of the noise from the building machinery, loading and unloading of building material adjacent to the highway and is contrary to the following policies:

Merton Core Planning Strategy 2011

Policy DM D2 Design considerations in all developments –

xiii. Ensure that traffic and construction activity do not adversely impact or cause in convenience in the day to day live of those living and working nearby, and do not harm road safety or significantly increase traffic congestion.

To protect new and existing development from visual harm, noise, vibrations or pollutions to protect existing and future occupiers.

DM EP2 Reducing and mitigating noise

DM T2 Transport impacts of development

LDF Core Planning Strategy, Adopted July 2011

Policy CS18- Active Transport – prioritising for the access and safety of pedestrian, cycle and other active transport modes.

CS 20 Parking servicing and delivery

London Plan 2021

Policy D3 Optimising site Capacity through the design led approach – encourage and facilitate active travel

D14 noise

T4 Assessing and mitigating transport impacts

- (c) For the reasons above it is considered expedient to serve a Temporary Stop Notice to remedy the breach of planning control identified.

4 The land to which this notice relates

Land at 162 - 164 Hartfield Road London SW19 3TQ, shown edged red on the attached plan.

5 The activity to which this notice relates

Delivery, loading and unloading of materials and machinery outside agreed hours, contrary to the CTMP.

6 What you are required to do

Cease all:

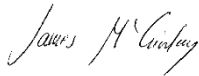
- (a) Loading and unloading of plant machinery on and off site
- (b) Delivery and removal of construction materials and machinery.

7 When this notice takes effect

This notice takes effect on 8 February 2024 when all the activity specified in this notice must cease. This notice will cease to have effect on 6 March 2024.

Dated: 8 February 2024

Signed:



James McGinlay
Head of Regeneration

On behalf of: The London Borough of Merton

Nominated Officer: Luxmi Ghosh

Telephone number of Nominated Officer: 020 8545 3160

ANNEX

WARNING

THIS NOTICE TAKES EFFECT ON THE DATE SPECIFIED IN PARAGRAPH 7.

THERE IS NO RIGHT OF APPEAL TO THE SECRETARY OF STATE AGAINST THIS NOTICE.

It is an offence to contravene a temporary stop notice after a site notice has been displayed or the temporary stop notice has been served on you (Section 171G of the Act). If you then fail to comply with the temporary stop notice you will be at risk of **immediate prosecution** in the Magistrates' Court, for which the maximum penalty is an unlimited fine on summary conviction for a first offence and for any subsequent offence. The fine on conviction on indictment before the Crown Court is unlimited. If you are in any doubt about what this notice requires you to do, you should get in touch **immediately** with Luxmi Ghosh on 020 8545 3160 or Luxmi.Ghosh@merton.gov.uk. If you need independent advice about this notice, you are advised to contact a lawyer, planning consultant or other professional adviser specialising in planning matters urgently. If you wish to contest the validity of the notice, you may only do so by an application to the High Court for judicial review.

Section 171G Temporary stop notice: offences

(1) A person commits an offence if he contravenes a temporary stop notice—

(a) which has been served on him, or

(b) a copy of which has been displayed in accordance with section 171E(5).

(2) Contravention of a temporary stop notice includes causing or permitting the contravention of the notice.

(3) An offence under this section may be charged by reference to a day or a longer period of time.

(4) A person may be convicted of more than one such offence in relation to the same temporary stop notice by reference to different days or periods of time.

(5) A person does not commit an offence under this section if he proves—

(a) that the temporary stop notice was not served on him, and

(b) that he did not know, and could not reasonably have been expected to know, of its existence.

(6) A person convicted of an offence under this section is liable on summary conviction, or on conviction on indictment, to a fine.

(7) In determining the amount of the fine the court must have regard in particular to any financial benefit which has accrued or has appeared to accrue to the person convicted in consequence of the offence.

