

**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**

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

**NOTICE REQUIRING PROPER MAINTENANCE OF LAND**

**ISSUED BY THE LONDON BOROUGH OF MERTON**

To:

Herbert Frederick Charles Miles, 24 Castleton Road, Mitcham, Surrey CR4 1NY

Patricia Audrey Miles, 24 Castleton Road, Mitcham, Surrey CR4 1NY

The Owner/Occupier, 24 Castleton Road, Mitcham, Surrey CR4 1NY

1. **THIS IS A FORMAL NOTICE** issued by the Council under Section 215 of the above Act because it appears that the amenity of part of its area is adversely affected by the condition of the land described below. The Council considers that you should be required to remedy the condition of the land.

2. **THE LAND AFFECTED**

Land at the front of 24 Castleton Road, Mitcham, Surrey CR4 1NY in the London Borough of Merton shown edged red on the attached plan ('the Land').

3. **WHAT YOU ARE REQUIRED TO DO**

- 3.1 Clear all rubbish and debris from the front of the Land, including but not limited to: plastic bags of rubbish, abandoned bins, householder plastics, wooden boards, pieces of furniture and household plastic boxes.
- 3.2 Reinstall or rebuild the wooden fence to the front boundary of the property to the height and materials to match that of the pre-existing condition.
- 3.3 Remove from the Land all materials and debris resulting from compliance with paragraphs 3.1 and 3.2 above.

4. **WHEN YOU MUST COMPLY**

You must comply with this notice within 28 days after the notice takes effect.

5. **WHEN THIS NOTICE TAKES EFFECT**

This notice takes effect 28 days from the day it is served on you unless an appeal is made against it beforehand.

*John Scarborough*

Dated: 3 January 2024

Signed:.....

Managing Director of South London Legal Partnership  
on behalf of the London Borough of Merton

Address to which all communication should be sent:  
Head of Legal Services, South London Legal Partnership, 67c St Helier Avenue, Morden,  
SM4 6HY (Ref: CS/LEG/RO/511/1499)

## **ANNEX**

### **RIGHT OF APPEAL AGAINST SECTION 215 NOTICE SECTIONS 217-218 OF THE TOWN AND COUNTRY PLANNING ACT 1990**

217—(1) A person on whom a notice under Section 215 is served, or any other person having an interest in the land to which the notice relates, may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal against the notice on any of the following grounds:

- (a) that the condition of the land to which the notice relates does not adversely affect the amenity of any part of the area of the local planning authority who served the notice, or of any adjoining area;
  - (b) that the condition of the land to which the notice relates is attributable to, and such as results in the ordinary course of events from the carrying on of operations or a use of land which is not in contravention of Part III;
  - (c) that the requirements of the notice exceed what is necessary for preventing the condition of the land from adversely affecting the amenity of any part of the area of the local planning authority, who served the notice, or of any adjoining area;
  - (d) that the period specified in the notice as the period in which any steps required by the notice are to be taken falls short of what should reasonably be allowed.
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- (1) Any appeal under this section shall be made to the Magistrates Court acting for the petty sessions in which the land in question is situated.
  - (2) Where such an appeal is brought, the notice to which it relates shall be of no effect pending the final determination or withdrawal of the appeal.
  - (3) On such an appeal the Magistrates Court may correct any informality, defect or error in the notice if satisfied that the informality, defect or error is not material.
  - (4) On the determination of such an appeal the Magistrates Court shall give directions for giving effect to their determination, including, where appropriate, directions for quashing the notice or for varying the terms of the notice in favour of the appellant.
  - (5) Where any person has appealed to a Magistrates Court under this section against a notice, neither that person nor any other shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

**Regulation 14(3) of the Town and Country Planning General Regulations 1992 (SI 1992/1492), as inserted by the Town and Country Planning General (Amendment) Regulations 1997 (SI 1997/3006), provides—**

***“(3) Where a notice is served under section 215 of the 1990 Act, any expenses recoverable by a local planning authority under section 219(1) of that Act are, until recovered, a charge that is binding on successive owners of the land to which the notice relates, and the charge shall take effect as from the date of the completion by that authority of the steps required to be taken by the notice”.***

218 —Where an appeal has been brought under section 217, an appeal against the decision of the Magistrates Court on that appeal may be brought to the Crown Court by the appellant or by the local planning authority who served the notice in question under section 215

**Your attention is also drawn to Section 216 & 219 of the Town and Country Planning Act should you fail to comply with the s.215 Notice**

**216 Penalty for non-compliance with s. 215 notice.**

(1)The provisions of this section shall have effect where a notice has been served under section 215.

(2)If any owner or occupier of the land on whom the notice was served fails to take steps required by the notice within the period specified in it for compliance with it, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3)Where proceedings have been brought under subsection (2) against a person as the owner of the land and he has, at some time before the end of the compliance period, ceased to be the owner of the land, if he—

(a)duly lays information to that effect, and

(b)gives the prosecution not less than three clear days' notice of his intention, he shall be entitled to have the person who then became the owner of the land brought before the court in the proceedings.

(4)Where proceedings have been brought under subsection (2) against a person as the occupier of the land and he has, at some time before the end of the compliance period, ceased to be the occupier of the land, if he—

(a)duly lays information to that effect, and

(b)gives the prosecution not less than three clear days' notice of his intention, he shall be entitled to have brought before the court in the proceedings the person who then became the occupier of the land or, if nobody then became the occupier, the person who is the owner at the date of the notice.

(5)Where in such proceedings—

(a)it has been proved that any steps required by the notice under section 215 have not been taken within the compliance period, and

(b)the original defendant proves that the failure to take those steps was attributable, in whole or in part, to the default of a person specified in a notice under subsection (3) or (4), then—

(i)that person may be convicted of the offence; and

(ii)if the original defendant also proves that he took all reasonable steps to ensure compliance with the notice, he shall be acquitted of the offence.

(6)If, after a person has been convicted under the previous provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the

notice, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding [one-tenth of level 3 on the standard scale] for each day following his first conviction on which any of the requirements of the notice remain unfulfilled.

(7) Any reference in this section to the compliance period, in relation to a notice, is a reference to the period specified in the notice for compliance with it or such extended period as the local planning authority who served the notice may allow for compliance.

### **219 Execution and cost of works required by s. 215 notice.**

(1) If, within the period specified in a notice under section 215 in accordance with subsection (2) of that section, or within such extended period as the local planning authority who served the notice may allow, any steps required by the notice to be taken have not been taken, the local planning authority who served the notice may—

(a) enter the land and take those steps, and

(b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

(2) Where a notice has been served under section 215—

(a) any expenses incurred by the owner or occupier of any land for the purpose of complying with the notice, and

(b) any sums paid by the owner of any land under subsection (1) in respect of expenses incurred by the local planning authority in taking steps required by such a notice, shall be deemed to be incurred or paid for the use and at the request of the person who caused or permitted the land to come to be in the condition in which it was when the notice was served.

(3) Regulations made under this Act may provide that—

(a) section 276 of the M1Public Health Act 1936 (power of local authorities to sell materials removed in executing works under that Act subject to accounting for the proceeds of sale);

(b) section 289 of that Act (power to require the occupier of any premises to permit works to be executed by the owner of the premises); or

(c) section 294 of that Act (limit on liability of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act), shall apply, subject to such adaptations and modifications as may be specified in the regulations, in relation to any steps required to be taken by a notice under section 215.

(4) Regulations under subsection (3) applying section 289 of the Public Health Act 1936 may include adaptations and modifications for the purpose of giving the owner of land to which a notice under section 215 relates the right, as against all other persons interested in the land, to comply with the requirements of the enforcement notice.

(5) Regulations under subsection (3) may also provide for the charging on the land of any expenses recoverable by a local authority under subsection (1).

### **NOTE:**

Attention is also directed to Section 219 which contains supplementary provisions as to notices under section 215 And to section 285 which relates to the right to question the validity of such a notice.

