

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990

ENFORCEMENT NOTICE – MATERIAL CHANGE OF USE & OPERATIONAL DEVELOPMENT

ISSUED BY THE LONDON BOROUGH OF MERTON

Enforcement reference: 23/E0085

1. **THIS IS A FORMAL NOTICE** issued by the Council because it appears that there has been a breach of planning control under Section 171A(1)(a) of the above Act, at the land described below. The Council considers it expedient to issue this notice, having regard to the provisions of the development plan and to other material considerations.

2. **THE LAND AFFECTED**

Land at Former La Sporta Community Centre, Church Road, Mitcham, London CR4 3BU in the London Borough of Merton shown edged red on the attached plan and is registered under Land Registry Title Number TGL88228 ('the Land').

3. **THE BREACH OF PLANNING CONTROL ALLEGED**

Without planning permission:

- (i) a material change of use of the Land from a community centre (Use class F2) to the mixed use of the Land for the siting and use as a hot food takeaway trailer (Use Class Sui-Generis) ("the Unauthorised Use") and;
- (ii) operational development comprising of the siting of a static hot food take-away trailer ("the Trailer")

4. **REASONS FOR ISSUING THIS NOTICE**

- (a) It appears to the Council that the above breach of planning control:
 - (i) referred to in paragraph 3(i) has occurred within the last ten years; and
 - (ii) referred to in paragraph 3(ii) has occurred within the last four years.
- (b) The unauthorised material change of use of the community facility (Use class F2) to hot food take-away (sui-generis) has been no justification submitted to the council for the loss of the community facility, and the unauthorised material change of use has a negative impact on the setting of the Conservation Area and the viability of the lawful use to the detriment of the long term preservation and enhancement of the host property within the setting of Mitcham Cricket Green conservation area contrary to policies DM C1, D1 Urban Design, D2 Design considerations in all developments, and D4 Managing Heritage assets of Merton's sites and Policies Plan 2014 and policy CS14 of the Core Strategy.

- (c) The Trailer and relating paraphernalia such as the BBQ cooker, canopy, signs and other matters related to the business are a negative visual impact on the streetscene and public realm, the design of the fences/walls are bulky and out of character to the surrounding area, which is the setting of Mitcham Cricket Green conservation area. It is considered that the development conflicts with Policies: DM D1, DM D2, of Merton's sites and Policies Plan 2014; CS14 of Merton's Core Strategy 2011; D4 and HC1 of the London Plan 2021; and Chapter 12 and 16 of the National Planning Policy Framework 2021.
- (d) There is insufficient supporting information regarding noise and odour mitigation or specification including noise and odour assessments, to demonstrate the hot food take-away use would not have a materially harmful adverse impact on the residential amenities of adjoining occupiers, contrary to Policy DM D2, DM R5 and DM EP2 of the Sites and Policies Plan 2014.

5. WHAT YOU ARE REQUIRED TO DO

- (a) To cease the use of the Land as a hot food takeaway
- (b) Permanently remove the Trailer from the Land that facilitates the Unauthorised Use.
- (c) Remove from Land all fixtures and fitting including paraphernalia such as the BBQ cooker, canopy, signs and other matters that facilitate the Unauthorised Use.

Time for Compliance: within **1 calendar month** from the date this notice takes effect.

6. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 1st October 2023 unless an appeal is made against it beforehand.

Dated: **30th August 2023**

Signed 

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

Address to which all communication should be sent:-

Head of Legal Services, South London Legal Partnership, Gifford House, 67c St Helier Avenue, Morden, Surrey SM4 6HY (Ref: M/HB/511-1460)

YOUR RIGHT OF APPEAL

You can appeal against this notice in writing to the Secretary of State, but any appeal must be received, or posted in time to be received, by the Planning Inspectorate before the notice takes effect. The enclosed Explanatory Note and Information Sheet set out the procedure to be followed if you wish to appeal.

FEE PAYABLE FOR THE DEEMED APPLICATION

If your ground of appeal is or includes ground (a) that planning permission should be granted, an appeal fee is payable, which is double that payable for a normal planning application. The total fee payable is **£412**.

Please email planenf@merton.gov.uk requesting instructions to pay or call 020 8545 3777 to make payment.

Joint appellants need only pay one set of fees.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date indicated above and you must then ensure that the notice is complied with. Failure to comply with an enforcement notice that has taken effect, is a criminal offence and can result in legal proceedings and/or remedial action by the Council.

PERSONS SERVED WITH A COPY OF THIS ENFORCEMENT NOTICE

1. Tahir Mirza of 82 Fishponds Road, London SW17 7LF
2. Owner/Occupier of the land at Former La Sporta Community Centre, Church Road, Mitcham, London CR4 3BU
3. Owner/Occupier Ditch's Jerk, The land at Former La Sporta Community Centre, Church Road, Mitcham, London CR4 3BU

