

**IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY**  
**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED BY THE**  
**PLANNING AND COMPENSATION ACT 1991)**  
**OPERATIONAL DEVELOPMENT**  
**ENFORCEMENT NOTICE**

**ISSUED BY: THE LONDON BOROUGH OF MERTON ('the 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 171A(1)(a) 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**  


The land and property known as land to the rear of 2 Cavendish Road, Colliers Wood, SW19 2EU as shown edged red on the plan attached hereto ("the Land")
3. **THE BREACH OF PLANNING CONTROL ALLEGED**  

Without planning permission the erection of an additional storey to an existing single storey building on the Land ("the Unauthorised First Floor Storey")
4. **REASONS FOR ISSUING THIS NOTICE**
  - i. The Unauthorised First Floor Storey would impact adversely on the amenity of the occupier of nearby properties in terms of overlooking, loss of privacy and potential noise disturbance and is therefore contrary to Policies DM D2 and DM D3 of the Merton Sites and Policies Plan 2014, CS14 of Merton Local Plan 2011 and contrary to the principles of Policy 7.6 of The London Plan 2014.
  - ii. The Unauthorised First Floor Storey by reason of its size and siting is considered an unneighbourly form of development which is visually intrusive, overly dominant and harmful to the amenity of neighbours due to overshadowing and the loss of sunlight and daylight contrary to the principles of policy 7.6 of the London Plan 2011 and policy DMD2 of the Merton Sites and Policies Plan 2014.
  - iii. The Unauthorised First Floor Storey by reason of its design, bulk and siting fails to respect the appearance, materials, scale, bulk, proportions and character of the original building and its surroundings, contrary to the principles of policy CS14 of the Merton Core Strategy 2011 and policy DMD3 of the Merton Sites and Policies Plan 2014
5. **WHAT YOU ARE REQUIRED TO DO**
  - i. Demolish the Unauthorised First Floor Storey; and
  - ii. Remove from the Land all materials and debris resulting from compliance with 5i above
6. **TIME FOR COMPLIANCE** - One calendar month after this notice takes effect

## 7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on **30<sup>th</sup> September 2015**, unless an appeal is made against it beforehand.

Dated: **18th August 2015**



Signed.....

Assistant Director of Corporate Governance South  
London Legal Partnership on behalf of the Council  
of the London Borough of Merton

Address to which all communication should be sent:-

Paul Evans, Head of Legal Services, South London Legal Partnership, Gifford House, 67c St Helier Avenue, Morden, Surrey, SM4 5DX (Ref: CS/LEG/HB/511-550)

## ANNEX

### 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, you must include with your appeal a fee, which is double that payable for a normal planning application. The total fee payable is **£344** that must be paid by way of a cheque made out to the London Borough of Merton  
The fee can be sent with your appeal form.

### 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 resulting in unlimited fines and/or remedial action by the Council.

### PERSONS SERVED WITH A COPY OF THIS ENFORCEMENT NOTICE

1. The Occupier, 2 Cavendish Road, London, SW19 2EU
2. Simply Letting London.Com Ltd, 2 Cavendish Road, London, SW19 2EU
3. Simply Letting London.Com Ltd, 139 East Hill, Wandsworth, London, SW18 2QB
4. Mr Jackie Crainey, Director, Simply Letting London.Com Ltd, 14 Ravensbury Avenue, Morden, Surrey, SM4 6ET
5. HSBC BANK PLC, 8 Canada Square, London, E14 5HQ

If you believe that there is someone else who should be served with a copy of the enforcement notice/s please let that person and the Council know as soon as possible.

# NORTHGATE SE GIS Print Template



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# The Planning Inspectorate

Temple Quay House  
2 The Square  
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BS1 6PN

Direct Line:  
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0303 444 5000

Email:  
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[www.planningportal.gov.uk/planninginspectorate](http://www.planningportal.gov.uk/planninginspectorate)

Stuart Humphryes  
London Borough of Merton  
Merton Civic Centre  
London Rd  
Morden  
Surrey  
SM4 5DX

Your Ref:

Our Ref: APP/T5720/C/15/3135207

29 February 2016

Dear Sam Amoako-Adofo,

Town and Country Planning Act 1990  
Appeal by Simply Letting London.Com Ltd  
Site Address: Flat 1 2 Cavendish Road, LONDON, SW19 2EU

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at <http://www.planningportal.gov.uk/planning/planninginspectorate/customerfeedback/feedback>.

If you do not have internet access please write to the Customer Quality Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

Yours sincerely,

***Bradley Cole***  
Bradley Cole

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through the Planning Portal. The address of our search page is - [www.planningportal.gov.uk/planning/appeals/online/search](http://www.planningportal.gov.uk/planning/appeals/online/search)

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# Appeal Decision

Site visit made on 18 February 2016

**by Kenneth Taylor BSc (Hons) PGDIP MRTPI**

**a person appointed by the Secretary of State for Communities and Local Government**

**Decision date: 29 February 2016**

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**Appeal Ref: APP/T5720/C/15/3135207**

**The land and property known as land to the rear of 2 Cavendish Road, Colliers Wood SW19 2EU**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr Jackie Crainey against an enforcement notice issued by the Council of the London Borough of Merton.
  - The notice was issued on 18 August 2015.
  - The breach of planning control as alleged in the notice is without planning permission the erection of an additional storey to an existing single storey building on the land ("the unauthorised first floor storey").
  - The requirements of the notice are:
    - 5.i Demolish the unauthorised first floor storey; and
    - 5.ii Remove from the land all materials and debris resulting from compliance with 5i above.
  - The period for compliance with the requirements is one calendar month after the notice takes effect.
  - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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## Decision

1. The appeal is dismissed and the enforcement notice upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

## Preliminary matters

2. The development consists of a timber frame structure attached to the roof of a single storey outbuilding located at the rear of 2 Cavendish Road. At the time of my site visit there was no wall or roof covering on the frame and no access from inside the building to the roof. A number of drawings were submitted with the appeal showing the structure as the appellant proposes to finish it. The drawings show the frame clad on the sides and top, with the appellant stating that grey slate would be used; no windows or other openings are shown and access would be provided by stairs from the ground floor of the building. Alterations at the northern end of the structure are shown, creating a greater area of pitched roof to the current form.
3. Where there is an appeal following the issuing of an enforcement notice, having regard to sections 174(2)(a) and 177(1)(a) of the 1990 Act, planning permission could only be granted for development that is cited as the breach of planning control or part of that breach. The proposed alterations to the structure and adding external materials do not form the development that consists of the breach of planning control in the notice; and they cannot

reasonably be considered to be a part of the breach. The deemed planning application relates to what had been built at the date the notice was issued.

4. The drawings were submitted with the appeal and as such those notified have had the opportunity to consider these. I therefore consider that no party would be prejudiced if I consider whether planning permission could be granted, subject to a condition that a scheme of works for completing the development is approved by the Council. The scheme of works could be in general accordance with the submitted drawings; I will therefore take the drawings into account.

### **Main issues**

5. The main issues in this appeal are the effect of the development on (a) the character and appearance of the host building and area and (b) the living conditions of occupiers of neighbouring properties with regard to visual impact, privacy and noise.

### **Character and appearance**

6. Number 2 Cavendish Road is a three storey building with a significant extension to its roof. In the area the majority of buildings are terrace or semidetached houses. To the west there is a building site, where works are currently taking place. In the vicinity of the site there are a number of buildings in a commercial use. A single storey, flat roofed, outbuilding is located to the rear of number 2; it has a garage door and an additional door way.
7. This building has been extended upwards with a timber frame structure. The frame is vertical on the sides, and then pitches in towards the centre of the building where there is a flat section. If finished in accordance with the drawings and information submitted by the appellant, it would have a flat roof at the top with the vertical and pitched sides clad in grey slate.
8. The frame, in particular the vertical wall sections, add significant bulk to the building and appears out of keeping with its simple character. It no longer has the appearance of a modest ancillary building located to the rear of a residential property. Even if finished as envisaged by the appellant this harmful impact would remain. The character of the surrounding area is mixed, and I am aware that a development of a significant scale is taking place next to the site. However the overriding consideration is the effect of the development on the character of the building. It appears as a discordant addition to the building which in turn has a harmful effect on the character and appearance of the area.
9. The building can only be viewed from a limited number of locations and there is some screening in the form of trees, however this does not overcome the harmful effect of the development from all vantage points. The development is contrary to Policies CS 14 of the Council's Core Planning Strategy and DM D3 of the Council's Sites and Policies Plan (SPP) which requires that development reinforce and enhance the local character of the area by respecting the design, form, scale and bulk of the original building.

### **Living conditions**

10. To the west and south the building is adjacent to a development site, I have not been provided with details of the approved scheme for that site and so I cannot consider the effect of the appeal development on it. To the east there is

a garden for a neighbouring property; however this garden is separated from the building by an access drive. With this degree of separation the structure does not appear overly dominant.

11. Number 2 Cavendish Road is located to the immediate north of the building, it has been separated into a number of flats and some of the principle rooms have an outlook towards the building. In its current form, with a vertical side wall to the north, significant bulk is added and this does have a dominant effect from the windows at the rear of the flats and from the garden area. This harm would be exacerbated if the building were finished with the addition of solid sides. The development is contrary to Policy 7.6 of the London Plan (LP) and Policies DM D2 and DM D3 of the SPP which require that the living conditions of occupiers of neighbouring land and buildings is not unduly diminished.
12. However in a revised form, with a sloping roof on this section of the development, as shown in the submitted drawings, the visual impact would be reduced, such that it would not appear as a dominant structure. In this revised form there would be no breach of the relevant policies.
13. I saw a number of gaps in the framing that may have been provided to allow for the installation of windows. However if the structure were finished without any openings, there would be no overlooking to neighbouring properties. If used solely for additional storage space no significant impact from noise would arise. There would be no conflict with Policy 7.6 of the LP and Policies DM D2 and DM D3 of the SPP in this respect.

### **Conclusion**

14. For the reasons given above the development has a harmful effect on the character and appearance of the host building and area. I am aware that the additional storey to the building would bring about benefits to the appellant in terms of increased storage for the flats; however these benefits, and the lack of harm to the living conditions of neighbouring occupiers, do not outweigh the impact on the character of the building and area. I have had regard to all other matters raised, and conclude that the appeal on ground (a) will fail and planning permission will not be granted.

*Kenneth Taylor*

Appointed Person