

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990

NOTICE REQUIRING PROPER MAINTENANCE OF LAND

ISSUED BY THE LONDON BOROUGH OF MERTON

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 35 Borough Road Mitcham CR4 3DX in the London Borough of Merton shown edged red on the attached plan ('the Land').

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

1. Remove and lawfully dispose of rubbish deposited in the rear garden of the Land including, but not restricted to, rubble, timber, branches, plastic bags and pieces of furniture.
2. Cut down and remove from the Land all overgrown vegetation.
3. Repair the damaged fence around the Land.

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.

Dated: *13 December 2010*

Signed:.....

Principal/Senior Lawyer
London Borough of Merton

Address to which all communication should be sent;
Head of Civic and Legal Services, London Borough of Merton, Merton Civic Centre,
London Road, Morden, Surrey SM4 5DX (Ref: CS/LEG/RO/ERPP255)

Land at 35 Borough Road, Mitcham, Surrey, CR4 3DX



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ANNEX

YOUR RIGHT OF APPEAL: Under Section 217 of the 1990 Act you may appeal to the magistrates' Court against this notice. Copies of this Section and of other relevant Sections of the 1990 Act are attached. **IT IS IMPORTANT THAT YOU READ THEM.**

EXTRACTS FROM THE TOWN AND COUNTRY PLANNING ACT 1990

LAND ADVERSELY AFFECTING AMENITY OF NEIGHBOURHOOD

Penalty for non-compliance with S.215 notice

216

(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 (currently £1,000).

(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) give 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 the 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 £100 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.

Appeal to Magistrates Court against Section 215 Notice

- 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 the 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 form, 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 within which any steps requires by the notice are to be taken falls short of what should reasonably be allowed.
- (2) Any appeal under this section shall be made to a magistrates' court acting for the petty sessions area in which the land in question is situated.
- (3) 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.
- (4) 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.
- (5) On the determination of such an appeal the magistrates' court shall give directions for giving effect of their determination, including where appropriate directions for quashing the notice or for varying the terms of the notice in favour of the appellant.
- (6) Where any person has appealed to the 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.

Further Appeal to the Crown Court

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.

Execution and cost of works required by Section 215 Notice

219. (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.
219. (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.