

MEMORANDUM

To: THE MANAGING DIRECTOR, SOUTH LONDON LEGAL PARTNERSHIP,
GIFFORD HOUSE, 67C ST HELIER AVENUE, MORDEN SM4 6HY

Attn: ALLISON LETTS

From: HEAD OF SUSTAINABLE COMMUNITIES

Date: 4-03-22

Subject: 100 Garth Road, Morden, SM4 4LR

Enforcement Notice ref no: 21/E0149

OFFICERS REPORT

1. Alleged Breach

Without planning permission and within the past four years the unauthorised erection of a self-contained residential unit on top of the existing garage ("the Unit").

2. RECOMMENDATION:

The Managing Director of South London Legal Partnership be instructed to issue a Notice under Section 172 of The Town and Country Planning Act 1990 as amended and in the event of non-compliance to take action in default under Section 178 of the above act and/or prosecute under Section 179 of the above act.

3. SITE DESCRIPTION

- 3.1** The unauthorised property is located northeast side of Garth road in Morden adjacent to the main property which is a two-storey semi-detached dwelling. The garden area of 100 Garth Road, London, Morden, SM4 4LR, is located south of the main property and adjacent to the east side of Pyl Brook.

The property is not in a conservation area or a listed building.

4. PLANNING HISTORY

- 4.1** **21/P3029/INVALID**
Erection of a porch to the front elevation.
- 4.2** **17/P2215**
Erection of a single storey side extension.

Granted 22-08-17

4.3

17/P2214

Erection of a single storey detached garage.
Granted 08/01/2018

5

ENFORCEMENT HISTORY

5.1

16th June 2021 enforcement ref: 21/E0149

An external complaint was received by the Council advising that the detached garage was a two storey building with the upper storey used as a self-contained residential unit.

5.2

29th October 2020 enforcement ref : 20/E0362

External complaint received regarding the construction of single storey side extension in use as a self-contained residential unit.

6.

ENFORCEMENT ACTION INVESTIGATION

6.1

11th February 2022

An application was received for a porch ref: 21/P3029/INVALID

An application was not received for the 2 storey outbuilding as requested by the Council.

A further warning letter was then sent to Ms Jagoda, 100 Garth Road, SM4 4LR and an email copy to their agent, to submit a retrospective planning application for the retention of the 2 storey garage/residential unit within 14 days. No response received.

6.2

22nd November 2021

The planning enforcement team received an email from the agent to say they needed extra time to submit an application due to covid. This was granted

6.3

27th October 2021

A 28 day warning letter was sent to the owner Ms Jagoda to 100 Garth Road, SM4 4LR and agent asking them to submit an application for the two storey garage.

6.4

29th September 2021

Joint visits were being carried out on 29th September 2021 with the Council tax officer. Both officers were granted permission to see the internal configuration of the garage.

Confirmation of a separate entrance to the first floor via a staircase. On inspection there was a fully equipped and fully functioning kitchen with cooker, cupboards, bathroom, toilet, washing machine.

6.5 22nd September 2021

A notice of entry letter was sent to the owner Mrs Jagoda, 100 Garth Road, SM4 6HY for 29th September 2021 for 11.15am for an internal site inspection of the out building structure.

6.6 28th August 2021

The Council Tax Department made a request to the Valuation Office Agency (VOA) to value the upper floor of the outbuilding as a residential unit, the owner was notified of this and has not contested the banding.

6.7 9th July 2021

A Site visit was carried out by the council planning enforcement officer under case ref:21/E0149 relating to the garage. The enforcement officer was unable to gain access to view the internal configuration of the garage. It was noted there was a sky lights on the pitched roof, 2 internal doors with a yale lock separating the garage from the upper floor.

6.8 1st February 2021

A further warning letter was sent to the agent via email, requesting the submission of an application for the retention of the two storey garage under a separate enforcement case 20/E0362 no response received.

18th January 2021

The Council's planning enforcement officer sent reminder email to the agent to submit a retrospective planning application for the development as it was not considered ancillary use and the works were not built to approved plans. No application received.

6.9 18th January 2021

An email received from agent confirming a mezzanine floor to be used for storage purposes for spare parts and memorabilia and comfort/office use during covid.

6.10 7th January 2021

An email was sent to the agent to apply for a retrospective planning application for the implementation of the first floor and its use.

6.11 5th January 2021

The planning enforcement team were sent a video confirming that the garage was two storeys and in use as a residential dwelling at the upper level, which contained a bathroom and kitchen.

6.12 9th December 2019
A building control completion notice was issued.

6.13 14th May 2018
An initial notice was received by building control for a single storey side extension and construction of a detached garage.

7. Planning Policy Context

Merton Local Plan (2014) of Adopted Merton's Sites and Policies Plan 2014

DM2 design considerations in all developments
DMD3 Alterations and extension to existing buildings
DMEP2 reducing and mitigating noise

Merton Supplementary Planning Guide design 4.2 Urban design objectives

Merton Core Strategy (2011) Design Policy 14

7.3 London Plan (2021) D4 Delivering Good Design D6 Housing Quality and Standard

Technical housing standards nationally described space standard.

8. Planning Considerations The main planning considerations;

- **Residential Unit**

8.1 The breach concerns a 2 storey detached building without permission, it has previously been granted a single storey garage on this part of the property. The owners have stated that the upper-floor is used as an office, however taken into consideration the above investigation. It would appear that the upper-floor has been converted to a separate self-contained residential unit based on the investigations mentioned above. A joint site visit was conducted with the business rates Council Tax officer on 29th September 2021. The upper floor is additional principle residential unit with a fully functioning kitchen and has an electric cooker, toilet, bathroom, washing machine, a sofa bed. With all the above taken into consideration, on the with balance of probability it

is likely that the upper floor is a self contained residential unit. *Evidenced in figure 1, 2, 3 below.*

- 8.2** The living space does not meet the minimum housing standards of 37 sq m. The officers delegated report shows the area to be 4m x 8m equalling 32sq mt. There are no windows to provide outlook for residential occupier(s).
- 8.3** Council tax office has requested the Valuation Office Agency (VOA) to band the upper floor as a residential unit from 28th August 2021, the owner has been notified and has not contested.
- 8.9** A site visit on 9th July 2021, by the Council's planning officer two internal doors with locks separating the garage and the upper floor. *Figure 4*
- 8.10** Policy DM1 of Merton Local Plan (2014) Urban design and the public realm says the development proposal must impact positively on the character and quality of the public realm, proposals for all development and works to the public realm must be of the highest standard and adhere to the most appropriate policy guidance and best practice. In order to ensure this, all proposals must accord, where relevant, with the following principals of good urban design.

Summary

The development falls short of the living space standard of 37 sq m and does not provide adequate outlook as there are only rooflights providing natural light to the residential unit. The accommodation provides substandard living standards.

- **Design**

- 8.11** Policy DM1 of Merton Local Plan (2014) Urban design and the public realm says the development proposal must impact positively on the character and quality of the public realm, proposals for all development and works to the public realm must be of the highest standard and adhere to the most appropriate policy guidance and best practice. In order to ensure this, all proposals must accord, where relevant, with the following principals of good urban design.
- 8.12** The development is adjacent to the Pyle Brook and the highway it is considered to be bulky and overbearing in design and is contrary to policy:-
- DM1 of the Merton Local Plan (2014) Urban design and the public realm

Policy DM2 of Merton Local Plan (2014) Design considerations in all developments, to achieve high quality design and protection of amenity within the borough. The 2 storey building is a cause of visual intrusion to the neighbouring properties.

8.13 National planning Policy Framework 12. Achieving well-designed places. The design does not sit well within the surrounding area as a residential unit as it is bulky and overbearing and does not meet living space standards.

8.14 The 2 storey structure by the virtue of its size, siting and design is considered visually obtrusive, incongruous and unsympathetic to the character and appearance of the main dwelling, locality, surrounding area and to the character of the area in general. Pyle Brook is in close proximity to the 2 storey building. It is considered that the development conflicts with Policies DM1, DM2 and DM F1 and DMF2 of Merton's sites and Policies Plan 2014; policy CS 14 and CS 16 of the LBM Core strategy 2011. The London Plan policies D4 Delivering Good Design, D6 Housing Quality and Standard. The National Framework Planning policy 12. Achieving well designed places; Policy 14 and Technical housing standards nationally described space standard.

REASONS FOR ISSUING A NOTICE

- 1.** The Unit has been constructed within the last 4 years.
- 2.** The Unit is of a sub-standard that does not meet either the national or London living space standard criteria of 37sq m for one person. There is also a poor level of outlook and light to the new unit leading to poor residential living amenity. The development of the upper floor as a residential unit conflicts with Policies DM D3 and DMEP2 of Merton Council's site and policies plans 2014, Policy CS 14 of the LBM Core strategy 2011 and Policies D4 Delivering Good Design, Housing Quality and Standard of the London Plan 2021 or the government guide of technical housing standards.
- 3.** The Unit by the virtue of its size, siting and design is considered visually obtrusive, incongruous and unsympathetic to the character and appearance of the main dwelling, locality, surrounding area and to the character of the area in general.. It is considered that the development conflicts with Policies DM1, DM2 and DM F1 and DMF2 of Merton's sites and Policies Plan 2014; policy CS 14 and CS 16 of the LBM Core strategy 2011. The London Plan policies;

D4 Delivering Good Design D6 Housing Quality and Standard. The National Framework Planning policy 12. Achieving well designed places; Policy 14.

Requirements of the Notice

1. Permanently cease the use of the Unit
2. Completely demolish the Unit

or

3. Restore that part of the property to its condition prior to the breach of planning control by complying with approved drawing number E-1672-PJ-03A planning permission 17/P2214.
4. Permanently remove from the property all associated materials, fixtures, fittings and debris and take off site.

Compliance Period

Within 3 (Three) months

Who should the notice be served upon?

The current owner(s)

Ms R Blenkinslopp
100 Garth Road
SM4 4LR

Ms R Jagoda
100 Garth Road,
SM4 4LR

Any other person with an interest in the property

Fee Applicable

£412

I have attached a site plan with the property outlined in red and the location of the unauthorised development hatched in red. I hope this is sufficient information to progress this matter but if you require any further information please let me know.



Team Leader
2022

Raymond Yeung Date 2nd March

James McGinlay

James McGinlay

Assistant Director for Sustainable communities

Date: 9 March 2022



Figure 1 studio kitchen



Figure 2 studio bathroom and washing machine



Figure 3 studio sofa bed

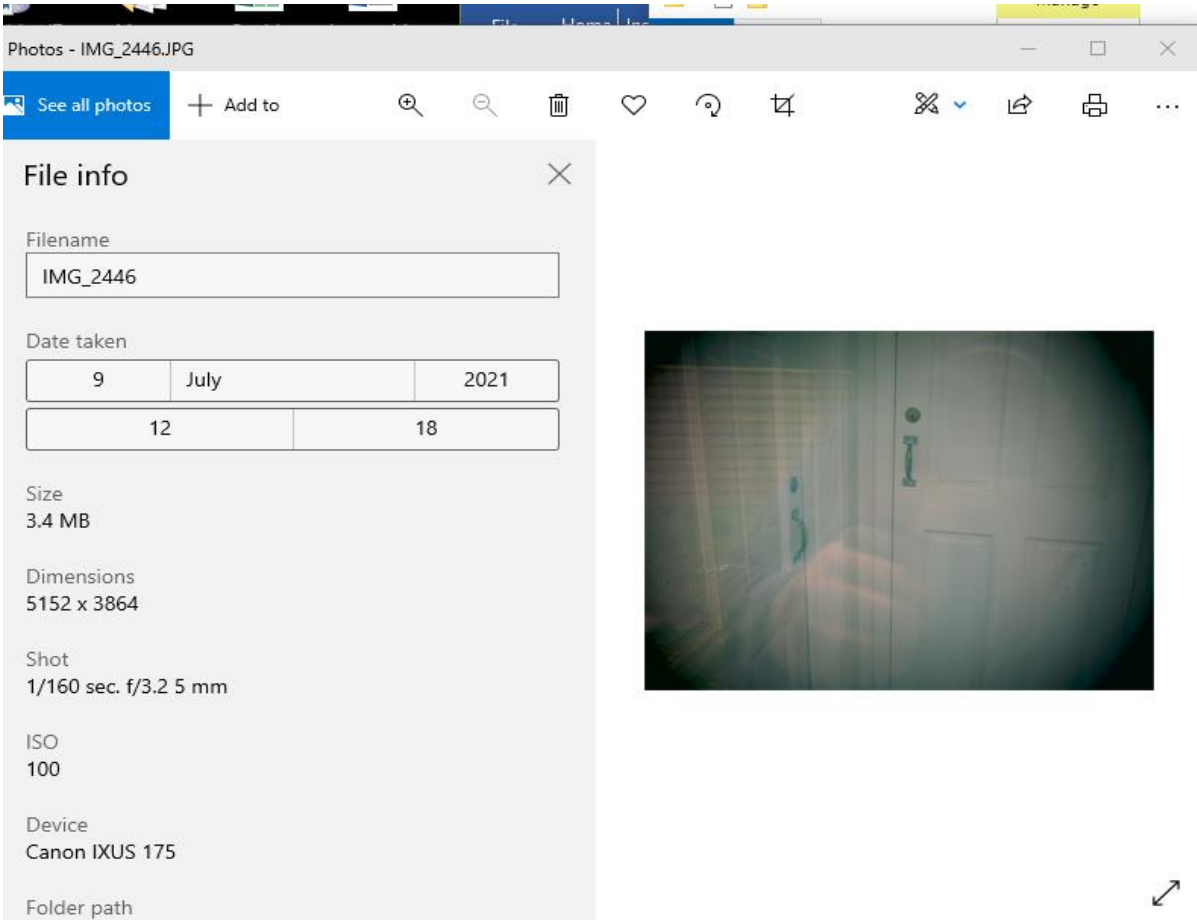


Figure 4 locked doors separating garage and upper floor

