

Record of decision taken under delegated authority by a Council officer

Title:	Authorisation to undertake direct action works pursuant to section 178 of the Town and Country Planning Act 1990 in respect of property known as 142 London Road, Hackbridge, SM6 7HF
Wards Affected:	Wandle Valley
Decision taken under delegated authority by virtue of:	Section 3, Part 1 of the Constitution - Overview and Scheme of Delegations of Authority to Officers

Summary

The owner of the property known as 142 London Road, Hackbridge, SM6 7HF, has failed to comply with the requirements of two enforcement notices, issued under section 172 of the Town and Country Planning Act 1990 (the 1990 Act), despite being prosecuted on three separate occasions within the past 10 years.

There is an extant prohibition order, issued pursuant to Section 21 of the Housing Act 2004 (the Order), and that compliance with one of the enforcement notices will secure compliance with the Order.

All avenues of appeal against the enforcement notices have been exhausted and, as such, they are valid and binding on the owner of the property. The owners continue to fail to comply with the requirements of both enforcement notices, and show no indication, or willingness, to comply with them.

In the light of the facts and considerations set out in more detail in the planning enforcement report (ref EC08/0015) dated 27 July 2018, it is recommended, pursuant to the powers delegated to the Strategic Director for Environment, Housing and Regeneration, by the Constitution of Sutton, that it is authorised that the council exercise its default work powers pursuant to section 178 of the 1990 Act to secure compliance with the requirements of the enforcement notices which are:-

EC08/0015 - requires the removal of the rear dormer (second floor flat), including raised parapet walls, and reinstate the roof design and form to its original condition.

EC08/0073 - requires:-

- (a) The removal of the door from the first floor kitchen onto the roof terrace, the partial bricking up of the opening and the installation of a window; and
- (b) The complete removal of the roof terrace.

Decision

That: the exercise by the Council of its default work powers be authorised pursuant to section 178 of the 1990 Act to secure compliance with the requirements of the enforcement notices.

Reasons for Decision:

To remedy continued harm to public amenity from the visual impact of the said unauthorised works.

Options, if any, considered and rejected

Following several convictions, the last of which was on 10 January 2017, Counsel's advice was sought to assess options to secure compliance with the notices, as it was evident that the owner had no intention of complying voluntarily. Advice was sought on either obtaining an injunction to secure compliance with planning law, further criminal prosecutions or Direct Action.

In summary, options were considered in the context of the owners disregard for the Courts and Planning Enforcement, and noting the failure to comply with a prohibition notice served under the Housing Act 2004, which prohibits the human occupation of the second floor where there is an ongoing tenancy by a family with young children. Environmental Health support Direct Action to address the imminent threat to the safety of the occupiers of this flat.

Taking the test of expediency and need for a resolution, heightened by the concerns for the existing tenants, and having regard to Counsel's advice, it was agreed that undertaking Direct Action would be the most cost effective method of securing compliance.

The alternative of further protracted legal proceedings would not remove the offending works, nor would it resolve at the earliest the concerns for the safety of the tenants. Further legal proceedings would not therefore guarantee compliance.

The council has written to the owner several times and considers that it has exhausted all reasonable means of seeking compliance.

Decision taken by:	 Strategic Director, Environment, Housing & Regeneration Directorate
Decision taken on:	4 October 2018
To be implemented on:	With immediate effect

Declarations of conflicts of interest

None

Background Documents

Exempt:

Enforcement report EC08/0015 - 142 London Road (27 July 2018)	Yes
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