

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)
Section 215 Notice (As varied on Appeal)

ISSUED BY THE ROYAL BOROUGH OF KINGSTON UPON THAMES (“the Council”)

TO: CASCINA LIMITED (incorporated in Isle of Man)(UK Regn. No. 005143V) of Unit 5, 19-21 Crawford Street, London W1H 1PJ

1. **THIS IS A FORMAL NOTICE** issued by the Council (being the Local Planning authority for the purposes of the above Act) 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.

2. **THE LAND AFFECTED**

Land formerly known as The Pinnacle Club, Simpson Way, Surbiton (KT6 4ER), also known as The Filter Beds and/or Surbiton Water Works, Portsmouth Road, Surbiton shown edged red on the attached plan in the Royal Borough of Kingston upon Thames shown edged red on the attached plan (“the Land”).

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

~~The Council requires the following steps to be taken in order to remedy the condition of the Land:~~

~~(a.) Remove all waste, debris and detritus from the land.~~

~~(b.) Remove all vegetation growth from every part of the boundary wall and railings, including roots within the structure~~

~~(c.) Prior to repainting the railings and gates, clean and prepare all metalwork, removing in the process any rust and flaking paint, ensuring that:~~

~~(c1.) All paint that is loose, perished or flaking is removed using methylene chloride or equivalent. Any residue must be removed by white spirit or water.~~

~~(c2.) Any paint that is sound, hard and firmly bonded to the metal is rubbed down and re-finished with one or two coats of paint as specified at (c).~~

~~(c3.) Surface rust is removed using abrasive action and then treated with a chemical rust converter.~~

~~(c4.) Deeper areas of rust are repaired with metal filler Diamant Liquid Metal Iron #0077 or equivalent.~~

~~(c5.) Metal fillers are used to make good any area of superficial corrosion where the metal is in sound condition. The use of fillers to fill larger gaps or as a metal substitute for missing parts is not acceptable.~~

~~(c6.) Where the ends of existing ironwork have come loose from the piers, they are cleaned thoroughly of any existing rust and treated with epoxy paint against further corrosion before being reset into the masonry, correctly aligned to their original position.~~

~~(c7.) Any fractures in the metalwork are repaired using a cold 'stitching' system by a qualified practitioner and the current bracing removed.~~

~~(d.) — Repaint the railings with a minimum of two coats of exterior metal paint in Rust-oleum CombiColour Original in RAL 6009 — Fir Green, or an equivalent direct to metal paint. If a direct to metal paint is not used then a paint system must be used which includes a primer and base coat prior to the application of the finishing layer, which must match in colour the specification listed above.~~

~~(e.) — Manually rake out all defective pointing on all sections of the boundary wall using hooked tools or masonry chisels to a depth of at least twice the height of the joint, ensuring that mortar is removed from the top and bottom of the joint leaving a square cavity.~~

~~(f.) — Remove all dust and debris from the joints using brushes or a vacuum cleaner, until no loose dry material is left.~~

~~(g.) — Remove any cement infill from the mortar areas.~~

~~(h.) — Re-point all localised areas of defective pointing in lime mortar, colour and texture to match the original with a flush finish.~~

~~(i.) — Ensure that the replacement mortar is adequately protected while it cures.~~

~~(j.) — Finish semi-hard mortar with a stiff-bristled brush to compact the surface and expose the aggregate.~~

~~(k.) — Replace any lost bricks with Imperial Handmade Bricks Dark Weathered Original London Stock or equivalent, including any chamfered bricks, and point as per the requirements above.~~

~~(l.) — Replace lost cap stones to the piers with Concrete Utility Pier Caps, size and colour to match existing.~~

~~(m.) — Replace any lost finials to the railings like-for-like.~~

~~(n.) — Repair any damaged or missing brick steps with Wienerberger K209 Class B Blue 65mm Perforated Wirecut Engineering Brick or equivalent and repointing as per the above specification.~~

The Council requires the following steps to be taken in order to remedy the condition of the Land in accordance with Section 215 of the above Act:

(a.) Remove all waste, debris and detritus from the land.

(b.) Remove all vegetation growth from every part of the boundary wall and railings, including roots within the structure.

(c.) Pointing

- i. Establish the style of the pointing originally used, ie weatherstruck, bucket handle, flush etc, including the colour/shade of the existing mortar in situ.

- ii. Rake out all areas of damaged, loose or missing pointing and repair with sand and cement mortar.
- iii. Repoint the areas covered by ii. above, blending all the new pointing with existing pointing found immediately adjacent to the area in question in terms of colour, texture and style as far as reasonably practicable.

(d.) Specification of works

- i. Manually prepare the existing railings to Surface Preparation Standard ST2.
- ii. Degrease the prepared surface.
- iii. Apply one coat of Rustoleum High Build Metal Primer to a recommended wet film thickness of 105 microns.
- iv. Apply a minimum one finishing coat of Rustoleum Alkythane 7500 in RAL 6009 Fir Green colour to a gloss finish with a wet film thickness of 95 microns.
- v. Replace any lost bricks with Imperial Handmade Bricks Dark Weathered Original London Stock or equivalent, including any chamfered bricks, and point as per the requirements above.
- vi. Replace lost cap stones to the piers with Concrete Utility Pier Caps, size and colour to match existing.
- vii. Replace any lost finials to the railings with replicas to match those remaining in situ on the railings.

4. WHEN YOU MUST COMPLY

~~The steps above (paragraph 3) are to be complied with in full within six (6) months of the date on which this Notice takes effect.~~

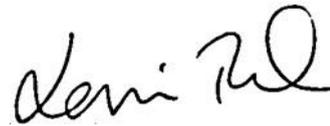
- (a.) All the steps detailed in paragraph 3 above, except for steps i. to iv inclusive in sub-paragraph (d.) Specification of works, shall be complied within six (6) months of the date on which this Notice takes effect; and
- (b.) All the remaining steps i. to iv inclusive of sub-paragraph (d.) Specification of works of paragraph 3 above shall be complied within twelve (12) months of the date on which this Notice takes effect.

5. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on **14 January 2022** unless an appeal is made against it beforehand. *

[* The Notice was subject to an appeal which was determined on 14/10/2022 from which date this Notice now takes effect.]

Dated: **13 December 2021**



Signed.....

Assistant Director of Corporate Governance,
South London Legal Partnership on behalf of the
Council of the ~~London~~ **Royal** Borough of
~~Richmond~~ **Kingston** upon Thames

Address to which all communication should be sent: -
Louise Round, Managing Director, South London Legal Partnership, Gifford House, 67c St Helier Avenue, Morden, Surrey, SM4 5DX (Ref: CS/LEG/KC/1743-506)

Your attention is drawn to the attached notes which explain your right of appeal.

RIGHT OF APPEAL AGAINST SECTION 215 NOTICE SECTIONS 217-218 OF THE TOWN AND COUNTRY PLANNING ACT 1990

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

Regulation 14(3) of the Town and Country Planning General Regulations 1992 (SI 1992/1492), as inserted by the Town and Country Planning General (Amendment) Regulations 1997 (SI 1997/3006), provides—

“(3) Where a notice is served under section 215 of the 1990 Act, any expenses recoverable by a local planning authority under section 219(1) of that Act are, until recovered, a charge that is binding on successive owners of the land to which the notice relates, and the charge shall take effect as from the date of the completion by that authority of the steps required to be taken by the notice”.

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

Your attention is also drawn to Section 216 & 219 of the Town and Country Planning Act should you fail to comply with the s.215 Notice

216 Penalty for non-compliance with s. 215 notice.

- (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.

(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) gives 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 that 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 [one-tenth of level 3 on the standard scale] 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.

219 Execution and cost of works required by s. 215 notice.

- (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.

(2) Where a notice has been served under section 215—

(a) any expenses incurred by the owner or occupier of any land for the purpose of complying with the notice, and

(b) any sums paid by the owner of any land under subsection (1) in respect of expenses incurred by the local planning authority in taking steps required by such a notice, shall be deemed to be incurred or paid for the use and at the request of the person who caused or permitted the land to come to be in the condition in which it was when the notice was served.

(3) Regulations made under this Act may provide that—

(a) section 276 of the Public Health Act 1936 (power of local authorities to sell materials removed in executing works under that Act subject to accounting for the proceeds of sale);

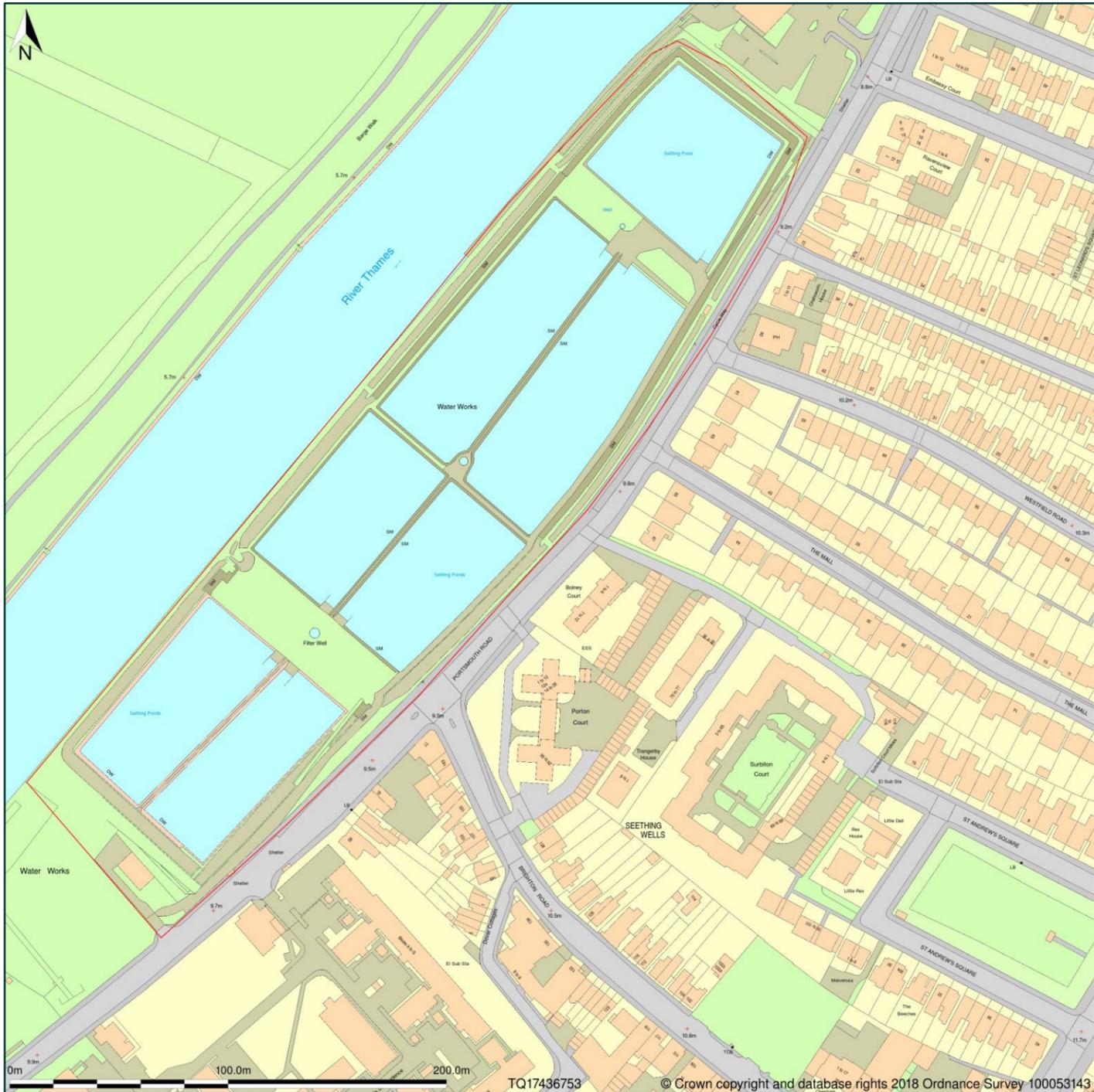
(b) section 289 of that Act (power to require the occupier of any premises to permit works to be executed by the owner of the premises); or

(c) section 294 of that Act (limit on liability of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act), shall apply, subject to such adaptations and modifications as may be specified in the regulations, in relation to any steps required to be taken by a notice under section 215.

(4) Regulations under subsection (3) applying section 289 of the Public Health Act 1936 may include adaptations and modifications for the purpose of giving the owner of land to which a notice under section 215 relates the right, as against all other persons interested in the land, to comply with the requirements of the enforcement notice.

(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).

Seething Wells Filter Beds



Site Plan A shows area bounded by: 517181.64, 167288.09 517681.64, 167788.09 (at a scale of 1:2500), OSGridRef: TQ17436753. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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