

PLANNING APPLICATIONS COMMITTEE

19 JUNE 2014

Item No:

<u>UPRN</u>	<u>APPLICATION NO.</u>	<u>DATE VALID</u>
	14/P0767	07/03/2014

Address/Site	Burn Bullock Public House, 315 London Road, Mitcham, Surrey CR4 4BE
(Ward)	Cricket Green
Proposal:	The use of the car park for the sale of motor cars.
Drawing Nos	OS Site Plan, BB/2014/PP/01and BB/2014/PP/02
Contact Officer:	Sam Amoako-Adofo (0208 545 3111)

RECOMMENDATION

1. Refuse planning Permission.
 2. Authorise enforcement action to require the cessation of the unauthorised use.
-

CHECKLIST INFORMATION

" Heads of agreement: N/A
" Is a screening opinion required: No
" Is an Environmental Statement required: No
" Has an Environmental Impact Assessment been submitted: No
" Design Review Panel consulted - No
" Number of neighbours consulted - 12
" Press notice - No
" Site notice - Yes
" External consultations: Yes
" Density - N/A
" Number of jobs created 2.5

1. **INTRODUCTION**

- 1.1 This application is brought before the Planning Applications Committee in order to satisfy a requirement of the scheme of delegation as enforcement action will follow on from the refusal of planning permission.

2. **SITE AND SURROUNDINGS**

- 2.1 The Burn Bullock Public House is located at 315 London Road, Mitcham CR4 4BE and was formerly listed as the Kings Head Hotel.
- 2.2 The application site comprises a detached public house with a spacious car park to the side and access from Cricket Green. The building is a timber-clad and rendered brick with pitched roof and a frontage onto both London Road and Cricket Green. The surrounding area is made up of a mixture of residential and commercial uses.
- 2.3 The Burn Bullock Public House is located opposite the Cricket Green and has been identified as one of the oldest and most significant buildings in Mitcham's Cricket Green Conservation Area.
- 2.4 The building is Grade II listed. Some of the listed features are:
- The front is early to mid C18, the wing to left return around C16-C17.
 - It has Yellow brick, red dressings and hipped tiled roof. The building has 3 storeys, 5 bays.
 - It has central projecting Doric porch with modillion cornice. Square gauged headed red brick dressed windows; flush framed sashes, glazing bars, blind windows to second and fourth bays of upper floor.
 - There are early C19 segmental bow windows to right hand ground floor bays, timber, small panes, glazing bars. Altered modillion eaves cornice above second floor. Timber framed jettied wing to left return stacks to east and south walls (the latter with exposed polychrome brickwork). Interior of this wing with has panelling of the same period.

3. **CURRENT PROPOSAL**

- 3.1 This application proposes the use of the car park for the sale of vehicles. The size of the proposed car lot is about 1193 sq. metres, using the whole of the car park area. A small room located to the north-eastern corner of the listed building on the ground floor would be used as the office for the business.
- 3.2 As part of the proposal, three floodlights have been installed along the eastern elevation of the listed building. In addition a large metal panel has been attached

to the side towards the front of the building, advertising the car sale business. These developments require Listed Building consent or advertisement consent neither of which has been applied for nor included as part of this application.

- 3.3 The proposal would provide an equivalent of 2.5 full time employment. The applicant states that the additional benefits are that the site will not be open to abuse and trespassing including possible occupation by travellers and others and that recent problems with fly tipping and vandalism would cease as the site would be monitored by 24 hour cctv.
- 3.4 The applicant has stated that the proposal is for a period of one year only, and that there are no proposed modifications or alterations to existing structures or layout of the car park. No signage or hoardings will be erected in the car park.

4. **PLANNING HISTORY**

- 4.1 There have been a number of previous planning applications but none is relevant for this application.

Enforcement History

- 28/11/12 Two enforcement notices were issued against an unauthorised change of use, involving use of the car park as car wash, and the erection of structures including a marquee, a timber and plastic sheeted structure and the placing of a metal shipping container on the land without planning permission.

The notices jointly came into effect on 10th January 2013 as there was no appeal prior to that date. The unauthorised use ceased within the compliance period but the structures remained on site for some time and were only removed under threat of prosecution.

- 27/6/13 A report was received of a number of broken windows and the unoccupied building appears to be falling into decline.
- 5/8/13 A joint site meeting/inspection with Enforcement and Conservation officers and ward councillor was undertaken to request for some essential works to be carried out. The applicant responded on 6/08/13 promising to undertake the required works including clearance of rubbish from the site (front and back), removal of outgrown greenery all around the pub, removal of dead hanging baskets and replacing broken glass in identified windows.
- 15/05/14 Inspection of the building and grounds carried out by officers and a letter sent to the landlord stating that the state of neglect to the Listed Building has increased and the building seems to be deteriorating further. To add to

this, unauthorised signage and fittings have been installed without consent due to the use of the car park for the sale of cars.

Consideration of enforcement action to require some repair works to be carried out is currently put on hold pending a full structural survey of the building to allow a proper assessment of the extent of damage and required works to overcome this.

5. **CONSULTATION**

5.1 The application was advertised by means of site and press notices, and neighbour notification letters.

5.2 Eleven letters of objection have been received from local residents and also the Mitcham Cricket Green Community and Heritage (MCG&H). Concerns raised can be summarised as follows:

- The proposal lies in a conservation area and in the curtilage of a grade II Listed Building.
- The development would be in direct conflict with existing legal covenants and requirements of the development plan as it would be visually intrusive in this prominent location and would detract from the conservation area,
- Makes an over intensive use of the land intended to serve the public house and would affect its future development
- Put the most sensitive and oldest part of the Burn Bullock at greater risk
- Exacerbate congestion at one of the most trafficked road junctions in the area
- Using the car park for a different use would adversely affect the commercial use of the public house
- The owner seems to have no use for the building but only interested in the adjoining land so leaving the building to deteriorate
- The development would detract from the character and history of the immediate surroundings of the site.
- Allowing this development would open the door for the de-listing of the building
- The car sale is unsightly and detracts from the appearance of the area.
- The car sales business has been operating for some time before the application was submitted. This gives no confidence that the business will be shut down, the area cleared and re-instated to its previous use.
- The development is out of character and will attract the wrong type of people to the area.
- The area is residential and not commercial – daily washing and cleaning of cars add to pollution in the area
- There are already two other car sales in the area

Petition - In addition there was a separate petition organised by MCGC&H on Facebook which was signed by 525 names. Given that it was organised on Facebook, not all of the signatories live in the Borough or have direct dealings with the Listed Building.

Conservation officer – strongly objects to the proposal on the grounds of the negative impact it has on the setting of the listed building.

The ancillary signage and clutter has a detrimental impact on the setting. Future Merton are currently in the process of engaging with the community and the Heritage Lottery Fund regarding improvements and a permanent future use as well as redevelopment of the land to the rear. The approval of this proposal would jeopardise the future of the building by restricting the use of the site in the near future. Enforcement action should be taken to remove the inappropriate use.

Transport officer – no objection because the application is for a site that already operates a car park but recommends that the following condition is imposed if permission is granted.

For road safety reasons before operations commence a plan demonstrating that the management of the temporary car lot will not impact on the public highway – that sufficient space is identified that all vehicles using that space can exit onto the highway in forward gear and that any movement required of all or any of the vehicles stored in the parking lot can be contained within the car lot.

Reason – In the interests of the safety of pedestrians and vehicles and to comply with policy CS18 and CS20.

English Heritage - offered no comments and recommended that the application should be determined in accordance with national and local policy guidance and on the basis of the Council's conservation advice.

6. POLICY CONTEXT

London Borough of Merton's UDP (2003)

BE.1: Conservation areas, new development, change of use, alterations and extensions

BE.5: Listed Buildings; Maintenance & Restoration

BE.8: Setting of listed buildings

Core Strategy CS14 Design (July 2011)

Sites and Policies Plan DM D2: Design considerations in all developments

London Plan (2011)

Policy 7.8: Heritage assets and archaeology

7. **PLANNING CONSIDERATIONS**

- 7.1 The main issues for consideration are the impact of the change of use on the character and setting of the listed building, and the impact of the proposal on the viability of the lawful use of the site and effect on the amenities of neighbouring properties.

Impact on the setting of the Listed Building

- 7.2 The proposal lies in a conservation area and in the curtilage of a grade II Listed Building. It is considered that the development would be visually intrusive in this prominent location and would detract from the setting of the listed building.
- 7.3 Currently the Grade II Listed Building is considered to be in a state of disrepair with broken windows, rubbish strewn around and a general lack of maintenance of the whole site. When officers met with the applicant at the beginning of August 2013, he agreed to carry out essential cleaning and repairs to stop the decline of the listed building. Since the building was not occupied at the time, there had been a lot of fly tipping around the building and much rubbish had been dumped in the car park and also in front of the property. The applicant agreed to take steps to ensure that the building does not deteriorate further and subsequently removed the dumped rubbish and installed gates to block access to the car park so there will not be any more fly tipping.
- 7.4 The applicant maintains that on-site presence is required to deal with such recurring problems and that having a business such as the car sale on the site would help to provide a much needed presence and security. It seems that this has not been translated into reality on the site. An inspection of the building and premises on 15th May 2014 revealed an unoccupied building which appeared neglected and abandoned. It was observed that the state of neglect to the Listed Building had increased and the building seems to be deteriorating further. To add to this, the car park is now totally filled with vehicles and unauthorised signage and fittings have been installed without consent. Rubbish is still dumped on the site or not collected regularly. It is considered that the development would be visually intrusive in this prominent location and would detract from the setting of the listed building.
- 7.5 Further given the location of the car park and the main centre of operation of the car sale business, it is considered that the development puts the most sensitive and oldest part of the Burn Bullock at greater risk from potential collision from the increased use of the car park from car movements and associated turning.

Impact on the viability of the lawful use

- 7.6 The development is considered to make an over intensive use of the car park intended to serve the public house and would affect its future development. The total use of the car park reduces the commercial viability of the public house for

any current lawful use including any use such as a restaurant as the lack of any off-street parking in an area with strict parking controls would deter customers from using the facility. Future Merton are currently in the process of engaging with the community and the Heritage Lottery Fund regarding comprehensive improvements in the area with the Burn Bullock as a focal point as well as redevelopment of the land to the rear. It is considered that an approval of this proposal would adversely impact on the viability of the site and jeopardise the future of the building by restricting the future use of the site.

Effect on amenities of neighbouring properties

- 7.7 There have not been any complaints relating to noise and given the location of the application property in relation to the nearest residential flats, it is not considered that the proposal would adversely affect the residential amenity of adjoining occupiers.

Traffic/highways

- 7.8 The Council's Transport Officer has confirmed that there would not be any impact on parking or highway safety as a result of the use of the car park for the sale of cars.

Other Concerns

- 7.9 Other concerns have been raised by residents and from a signed petition regarding potential adverse impact of the proposed use on the long term survival of the Listed Building and its wider impact on the Cricket Green Conservation Area. Most of these concerns have already been addressed above.

It has been suggested that allowing this development would open the door for the de-listing of the building. But this is highly unlikely as the procedure for delisting a listed building has to meet certain stringent.

Another concern was raised that there are two other car sales in the area. However this cannot be considered a reason for refusal as planning is not meant to stifle competition. While the concern that the proposal would exacerbate congestion at one of the most trafficked road junctions in the area could be a possibility, this is not supported by the Council's transport section and an appropriate condition has been suggested to limit this harm if permission were to be granted.

One other concern is that the applicant seems to have no use for the building but is only interested in the adjoining land so leaving the building to deteriorate would be to his benefit. In addition, the car sales business has been operating for some time before the application was submitted and this gives no confidence to residents that the business will be shut down, the area cleared and re-instated to its previous use.

In response to this, it should be stated that although the application is recommended for refusal it is also placed before the Planning Applications Committee for authorisation to take appropriate enforcement action to require the cessation of the unauthorised change of use without delay.

Although not part of this report, further consideration is being given to a separate enforcement action with regard to the preservation of the building itself. Under the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA 1990), a local authority may undertake each or any of the following:

- 1) Execute any works to those parts of the building that are not in use, that it considers urgently necessary for the preservation of a listed building in the local authority's area, and to recover the cost of doing so from the owner (sections 54 and 55, PLBCAA 1990). Section 54 of the PLBCAA 1990 only applies to unoccupied buildings (as is the case here) or, if the building is occupied, to those parts of the building that are not in use. Or
- 2) Serve a repairs notice on the owner of a listed building, specifying what works the local authority considers reasonably necessary for the "proper preservation" of the building (section 48, PLBCAA 1990).

A failure to comply with a repairs notice may lead to compulsory purchase order proceedings under section 47 of the PLBCAA 1990. If the building is not repaired within the given period, the Local Planning Authority may then serve a compulsory purchase order under Section 47 and, if the order is confirmed by the Secretary of State, proceed to acquire the building in accordance with the Acquisition of Land Act 1981.

The procedure is designed to allow a local authority to ensure that a listed building is properly preserved and not allowed to deteriorate by its owner's inactivity whether by accident or design.

If the Council is satisfied that the works required by this notice have been completed within the period of time set out, no further action will be taken with regard to the notice. If the Council is not satisfied that the required steps have been completed within the specified period the Council may make a compulsory purchase order in respect of the Listed Building and may request the Secretary of State to confirm that order.

8.0 OTHER MATTERS – Expediency of Enforcement action.

- 8.1 The refusal of permission for the development would not place any requirement on the applicant to cease the unauthorised use. The applicant can take up to 6 months to appeal while the unauthorised use continues. However, given the adverse impact of the car sales business on the setting of the Listed Building and

the need to secure its cessation without delay, issuing an enforcement notice to require its cessation following the refusal would oblige the applicant to do so or appeal within a much shorter period of no more than 30 days of the date of the decision thus speeding up the appeal process.

- 8.2 At the heart of the National Planning Policy Framework (The Framework), published in March 2012, is a presumption in favour of sustainable development. The Framework confirms that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Paragraph 207 of the Framework states that “Effective Planning Enforcement is important as a means of maintaining public confidence in the planning system”. Given the location and the listing status of the Burn Bullock, and harm that the development would cause to its setting and the appearance of the conservation area, it is considered expedient to take enforcement action to require the cessation of the unauthorised use.

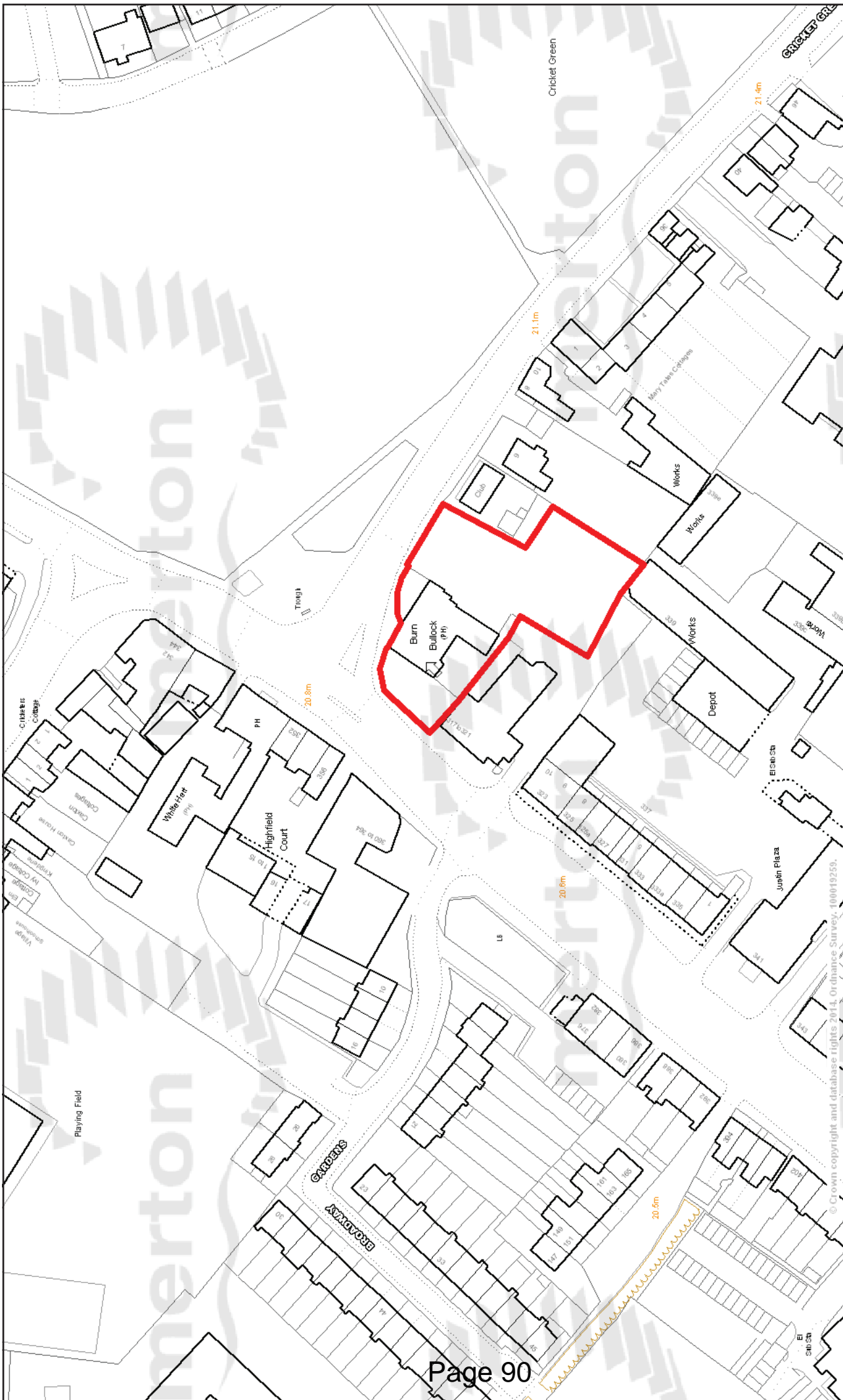
9.0. **CONCLUSION**

- 9.1 With the above in mind, it is considered that the proposal would be unacceptable due to its negative impact on the setting of the Listed Building and on the appearance of the conservation area.

RECOMMENDATION

1. Refuse permission for the following reason.
2. Authorise enforcement action for the following reason

The proposal will have a negative impact on the Conservation Area and will adversely affect the setting of the Grade II Listed Building and the viability of the lawful use to the detriment of the long term preservation and maintenance of the Listed Building contrary to policies BE.1: Conservation areas, new development, change of use, alterations and extensions, BE.5: Listed Buildings; Maintenance & Restoration, BE.8: Setting of listed buildings of the adopted Merton Unitary Development Plan (October 2003) and policy CS14 of the Core Strategy and Sites and Services Policy DM D2, Design Considerations.



London Borough of Merton
 100 London Road
 Morden
 Surrey
 SM4 5DX

Scale 1/1250

Date 3/6/2014

Burn Bullock

315 London Road

This map is based on Ordnance Survey material with the permission of Ordnance Survey on behalf of HMSO. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or Civil proceedings. London Borough of Merton 100019259. 2012.

DEVELOPMENT CONTROL

CRICKET GREEN



BURN BULLOCK PUBLIC HOUSE

TEMPORARY CAR SALES OFFICE AND RECEPTION

MITCHAM CRICKET CLUB HOUSE

TEMPORARY 30NO VEHICLES CAR SALES OPEN FORECOURT

TEMPORARY VALETING AREA

RECEIVED
- 7 MAR 2014

TOTAL SITE AREA TO BE USED FOR CAR SALES = 1193sqm

PLANNING SUBMISSION DRAWINGS

A.QURESHI BA dip(ARCH)
unit 15,
Venus Mews,
Mitcham
Surrey, CR4 3FE
TEL 07717871378
www.aqaconsultants.com



DRAWING No BB/2014/PP/02	DATE FEBRUARY 2014
SCALE 1-500	REVISION

DRAWING TITLE PROPOSED CAR SALES FORECOURT LAYOUT PLAN

JOB TITLE TEMPORARY CAR SALES FORECOURT FOR 30NO VEHICLES AT REAR OF BURN BULLOCK PUB
--

CLIENT PHEONIX LTD

NOTES:

Land Registry
Official copy of
title plan

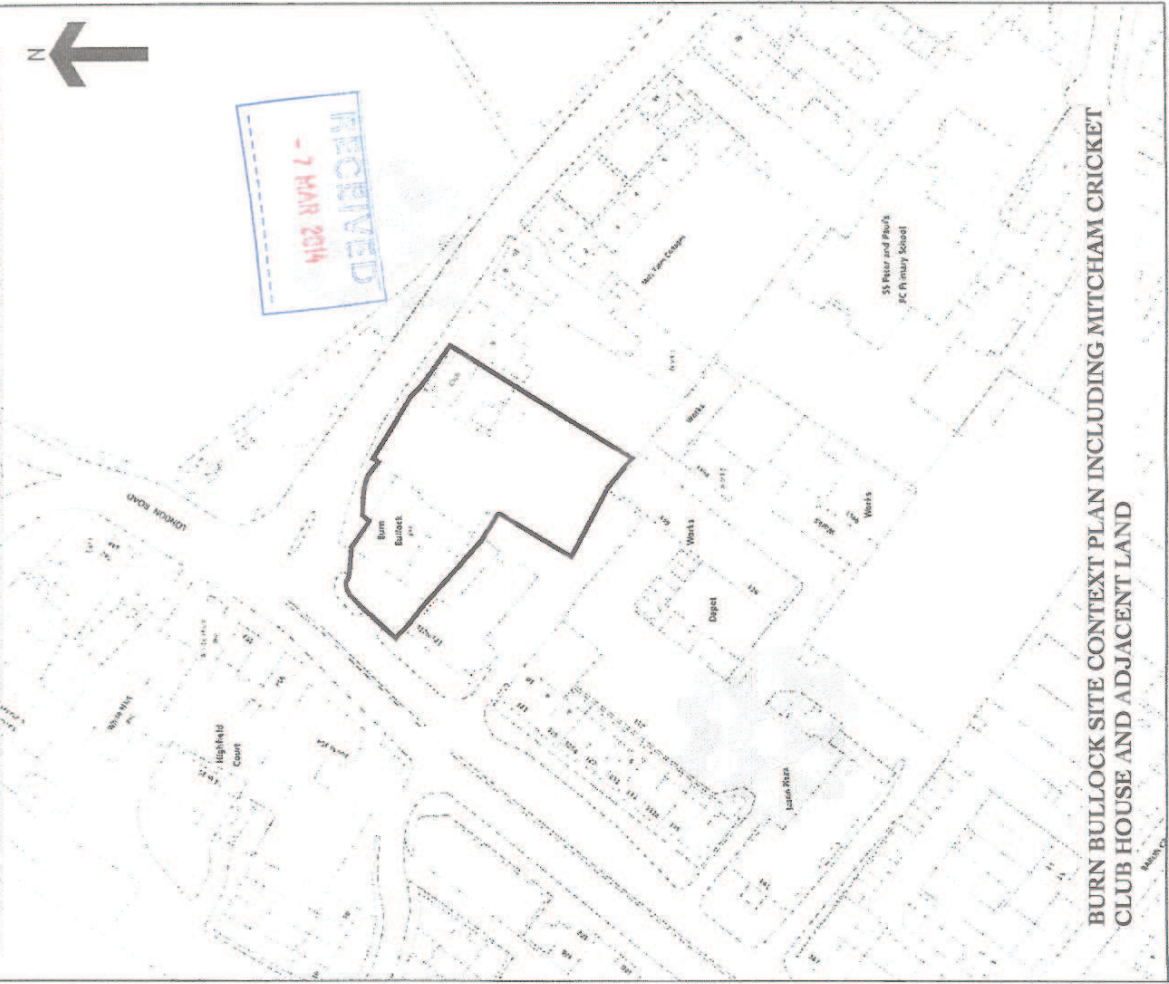
Title number SGL621885
Ordnance Survey map reference TQ27685E
Scale 1:1250
Administrative area MERTON



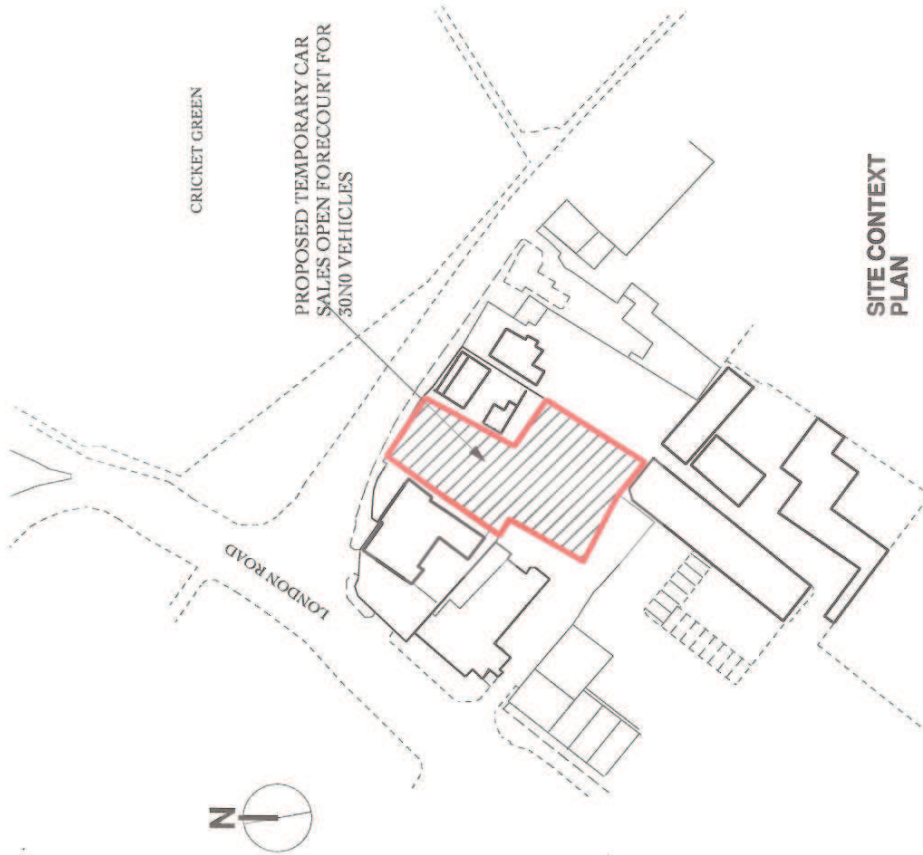
© Crown Copyright. Reproduced by Land Registry. Reproduction in whole or in part is prohibited without the prior written permission of Ordnance Survey. Licence Number 100036315.



RECEIVED
- 7 MAR 2014



BURN BULLOCK SITE CONTEXT PLAN INCLUDING MITCHAM CRICKET CLUB HOUSE AND ADJACENT LAND



CRICKET GREEN

PROPOSED TEMPORARY CAR SALES OPEN FORECOURT FOR 3000 VEHICLES

SITE CONTEXT PLAN
SCALE: 1-1250



PLANNING SUBMISSION DRAWINGS

NOTES:	CLIENT	JOB TITLE TEMPORARY CAR SALES FORECOURT FOR 3000 VEHICLES AT REAR OF BURN BULLOCK PUB	DRAWING TITLE SITE CONTEXT PLANS	DRAWING NO BB/2014/PP/01	DATE FEBRUARY 2014	A. QURESHI BA dip(ARCH) unit 15, Venus Mews, Mitcham Surrey, CR4 3FE TEL 07717871376 abd.qureshi@btinternet.com
			SCALE 1-1250	REVISION	CONSULTANTS AQA	