

RE: 29 Lessington Avenue Romford

**IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**TOWN AND COUNTRY PLANNING ACT 1990**  
**(as amended by the Planning and Compensation Act 1991)**

**ENFORCEMENT NOTICE**

- TO:**
1. The Owner of the said land
  2. The Occupier of the said land
  3. Nahid Bano Siddiqui of 29 Lessington Avenue Romford
  4. Barclays Bank PLC of Meridian House ,Anchor Boulevard, Crossways Business Park, Dartford DA2 6QU, trading as The Woolwich.

**ISSUED BY:** London Borough of Havering

1. **THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to the Council that there has been a breach of planning control, under Section 171A(1)(a) of the above Act, at the land described below. They consider that it is expedient to issue this Notice, having regard to the provisions of the development plan and to other material planning considerations.

2. **THE LAND AFFECTED**

The premises and associated land at 29 Lessington Avenue Romford shown edged red on the attached plan ( hereinafter called " the land " )

3. **THE BREACH OF PLANNING CONTROL ALLEGED**

Without planning permission change of use of a mixed residential premises with after school/holiday club use to a place of worship with associated unauthorised parking on the land

4. **REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the above breach of planning control has occurred within the last ten years. The use of the premises as a place of worship is an intensive use of the relatively small property and results in noise and disturbance to surrounding occupiers over and above that which may be expected from the lawful use of the property. The property and location is not suited to large numbers arriving/departing and has a negative impact upon the

amenity of the area. The use of the premises as a place of worship results in increased competition for limited parking spaces causing inconvenience for existing nearby occupiers. This mainly residential premises was granted planning permission for mixed residential and after school club use for up to 12 children between 3pm and 6:30pm Monday to Friday, 8am to 6:30pm Monday to Friday during school holidays, with no more than 4 children being allowed in the rear garden at any one time.

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

- (i) Stop using the land as a place of worship

Time for compliance : 2 months from the effective date of this notice

- (ii) Stop the unauthorised parking associated with the unauthorised use specified in ( i ) above

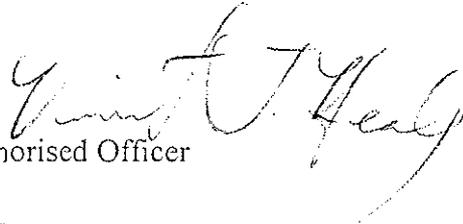
Time for compliance : 2 months from the effective date of this notice

**6. WHEN THIS NOTICE TAKES EFFECT**

This Notice takes effect on 21<sup>st</sup> December 2007, unless an appeal is made against it beforehand

Dated: *21 November* 2007

Signed:

  
Authorised Officer

on behalf of London Borough of Havering  
Town Hall  
Main Road  
Romford RM1 3BD

**YOUR RIGHT OF APPEAL**

You can appeal against this Notice, but any appeal must be received, or posted in time to be received, by the Secretary of State before 21<sup>st</sup> December 2007. The enclosed booklet "Enforcement Appeals - A guide to Procedure" sets out your rights. Read it carefully. You may use the enclosed appeal forms. One is for you to send to the Secretary of State if you decide to appeal. The other is for you to keep as a duplicate for your own records. You should also send the Secretary of State the spare copy of this Enforcement Notice which is enclosed.

**WHAT HAPPENS IF YOU DO NOT APPEAL**

If you do not appeal against this Enforcement Notice, it will take effect on 21<sup>st</sup> December 2007 and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in the Notice.

**FAILURE TO COMPLY WITH AN ENFORCEMENT NOTICE WHICH HAS TAKEN EFFECT CAN RESULT IN PROSECUTION AND/OR REMEDIAL ACTION BY THE COUNCIL.**

•

## EXPLANATORY NOTES

### **STATUTORY PROVISIONS**

A summary of Sections 171A, 171B and 172 to 177 of the Town and Country Planning Act 1990 (as amended) is enclosed with this Notice.

### **YOUR RIGHT OF APPEAL**

You can appeal against this Notice, but any appeal must be in writing and received, or posted (with the postage paid and properly addressed) in time to be received in the ordinary course of the post, by the Secretary of State before 21<sup>st</sup> December 2007. The enclosed booklet "Enforcement Appeals - A guide to Procedure" sets out your rights. Read it carefully. If you appeal you should use the enclosed appeal forms. Two copies are for you to send to the Secretary of State if you decide to appeal. The other is for you to keep as a duplicate for your own records. You should also send the Secretary of State a copy of the Enforcement Notice.

### **GROUND OF APPEAL**

The grounds of appeal are set out in Section 174 of the Town and Country Planning Act 1990 and are also set out on pages 2--5 of the enclosed appeal forms.

### **PLANNING APPLICATION FEE**

Should wish to appeal on ground (a) - that planning permission should be granted for the unauthorised development - then a fee of £ 265.00 is payable both to the Secretary of State and to the Council. If the fees are not paid then that ground of appeal will not be valid.

### **STATEMENT ON GROUNDS OF APPEAL**

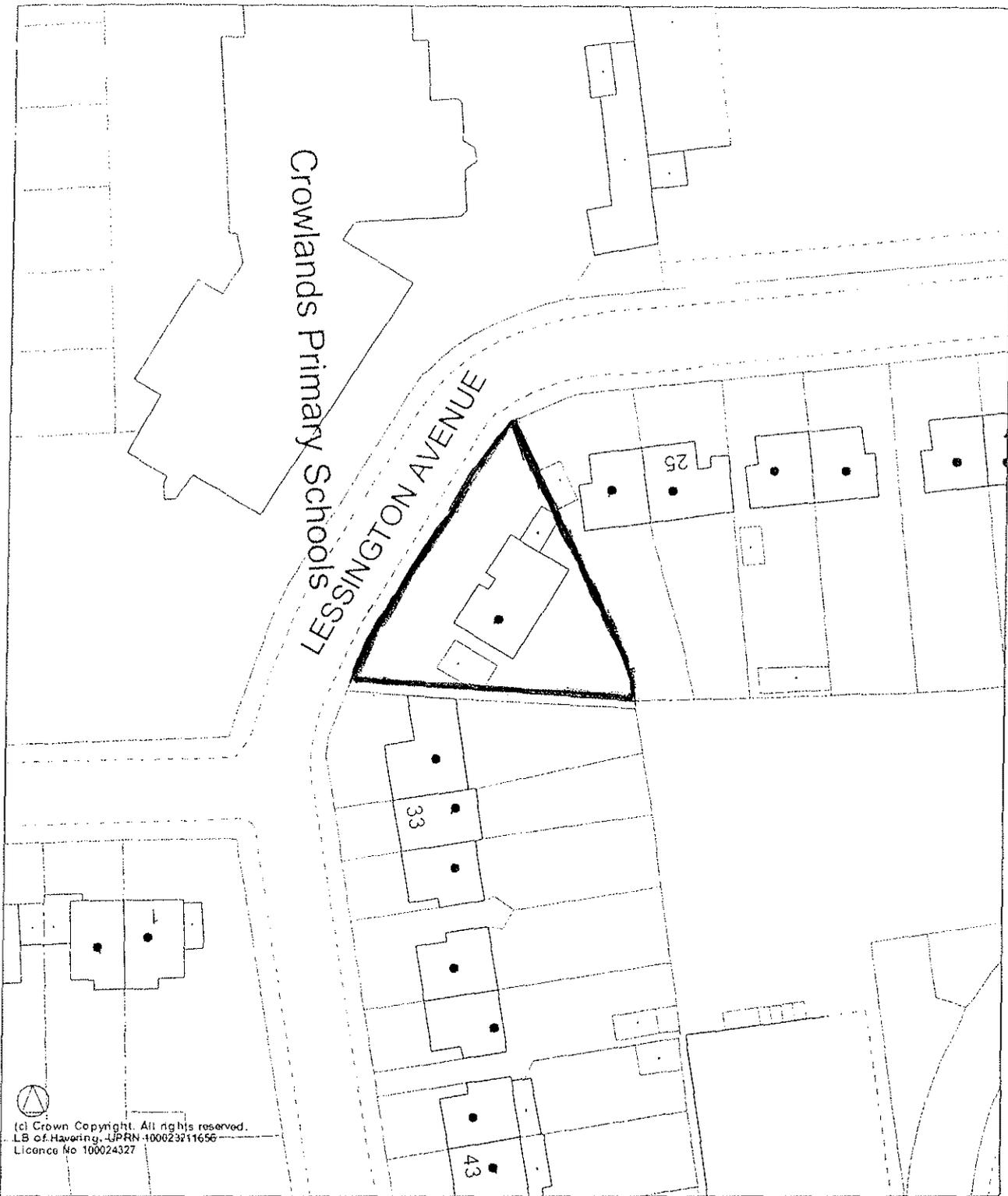
You must submit to the Secretary of State, either when giving notice of appeal or within 14 days from the date on which the Secretary of State sends him a notice so requiring him, a statement in writing specifying the grounds on which you are appealing against the enforcement notice and stating briefly the facts on which you propose to rely in support of each of those grounds.

### **RECIPIENTS OF THE ENFORCEMENT NOTICE**

The names and addresses of all the persons on whom the Enforcement Notice has been served are:

- TO:**
1. The Owner of the said land
  2. The Occupier of the said land
  3. Nahid Bano Siddiqui of 29 Lessington Avenue Romford

4. Barclays Bank PLC of Meridian House ,Anchor Boulevard, Crossways Business Park, Dartford DA2 6QU, trading as The Woolwich.



(c) Crown Copyright. All rights reserved.  
 LB of Havering - UPRN 100023211656  
 Licence No 100024327

29 Lessington Avenue



London Borough of Havering  
 Town Hall, Main Road  
 Romford, RM11 3BD  
 Tel: 01708 434343

Based upon Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office (c) Crown copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings  
 London Borough of Havering 100024327



---

# Appeal Decision

Inquiry held on 10 September and 7 November 2008

Site visit made on 7 November 2008

by **Katie Peerless** Dip Arch RIBA

an Inspector appointed by the Secretary of State  
for Communities and Local Government

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

**Decision date:**  
**18 November 2008**

---

**Appeal Ref: APP/B5480/C/07/2062442**

**29 Lessington Avenue, Romford, Essex RM7 9EB**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Kamal Siddiqui against an enforcement notice issued by the Council of the London Borough of Havering.
- The Council's reference is ENF59306B2 1707.
- The notice was issued on 8 November 2007.
- The breach of planning control as alleged in the notice is the change of use of a mixed residential premises with after school/holiday club use to use as a place of worship with associated unauthorised parking on the land.
- The requirements of the notice are:
  - (i) Stop using the land as a place of worship
  - (ii) Stop the unauthorised parking associated with the unauthorised use specified in (i) above.
- The period for compliance with the requirements is two months.
- The appeal is proceeding on the grounds set out in section 174(2)(d) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.
- The evidence of the appellant, Mr H Saddiqui, Mr Patel and Ms Southwood was given under oath

**Summary of Decision: The appeal is allowed following correction of the enforcement notice in the terms set out below in the Formal Decision.**

---

## Main issues

1. I consider that the main issues in this case are: in respect of the appeal on ground (d), whether the alleged use is immune from enforcement action by reason of having continued for at least ten years before the date of the issue of the enforcement notice and if not, in respect of the appeal on ground (g), whether the time given for compliance with the enforcement notice is reasonable.

## Site description and planning history

2. The appeal property is a bungalow in an area that is predominantly residential but also includes a school, directly opposite the site, and the Romford Stadium, where dog racing takes place, behind it. The building has planning permission for use as an after school and holiday club for children in addition to its residential use. The relevant permission restricts the numbers of children and the hours during which the activities can operate.
-

3. For some time the appellant has also used the building as a venue for a prayer meeting for fellow Sunni Muslims between 1300 hours and 1400 hours on Fridays. I am told that, during Ramadan, prayer meetings are also held for an hour or so in the evenings and that on the festivals of Eid and Haj there are other gatherings. The number of attendees varies but can be up to 40 for Friday prayers and up to 50 on festival occasions.
4. In 1997, the appellant applied for planning permission for the after school and holiday club (ref: P1334.97), which was granted for a temporary period in 1998. A permanent permission for this use was granted following a further application in 1999 (ref: P0024.99). In 2006 the appellant applied for planning permission to use the property for prayer meetings for one hour on Fridays (ref: P2440.06) and following refusal of that application, applied for a Certificate of Lawful Use (CLU) in 2007 (ref: E0006.07), which was also refused.
5. At the site visit, I saw that in the bungalow there are three rooms which all contained folded prayer mats. There is a main living room, measuring about 7.6m x 4.3m that contained a table and chairs, a room measuring about 4m x 3.7m ft with a desk, computer and television and a small room with a fold up bed and a wardrobe within it. There is also a bathroom and a kitchen.

#### **The appeal on ground (d)**

6. The premises were bought in 1996 by the appellant's wife and, it is claimed, with her agreement the appellant began to use it almost immediately for the prayer meetings. He states that he had been organising such meetings for persons of his faith since 1988, in other locations in Romford. The attendees have generally been the parents of children at after school and holiday clubs, which he also organised, friends and neighbours of the appellant and people of similar faith who have been told about the meetings.
7. The Council maintains that information received from the appellant prior to the application for the CLU for the prayer meetings indicated that the activity commenced in about 1998, at about the time that the first, temporary, planning permission for the after school club at the appeal site was granted. The appellant explains that this was a mistake and it was not until he checked his records in connection with the application that he realised that the property was in fact purchased in 1996. He is in no doubt that the use for prayers began shortly after the purchase was completed.
8. The appellant records that he was originally told that he did not need planning permission for the meetings, as their scale was considered to be ancillary to the other uses of the building. He has no written confirmation of his discussions with the planning officer at that time but has produced an extract from a Council publication that he was given which notes that some minor changes of use can be carried out without planning permission.
9. At the Inquiry, I heard evidence from a number of attendees of the meetings. Some had joined the group within the last year or so and could not, therefore, confirm that it had been operating at the same scale since 1996. Others, however, remembered the move from the previous premises and confirmed that they attended prayers at 29 Lessington Avenue soon after it was purchased by Mrs Siddiqui.

10. The Land Registry records show that the property was in the ownership of Mrs Siddiqui by March 1997 and had been registered as the base for the Essex Islamic Trust Youth Group since January 1997. The Council has not challenged the appellant's statement that he had been organising the youth group and prayer meetings prior to this date at Century House, Albert Road, Romford, premises that were rented from the London Borough of Havering, or that the group vacated them due to a rent increase in 1996.
11. The appellant was therefore looking for an alternative venue for the youth group and Friday prayers and his account of seeking agreement from his wife to use the recently purchased 29 Lessington Avenue for these purposes seems credible. A number of worshippers have supported this version of events, backed up by reference to the timing of other happenings in their lives that enabled them to be reasonably specific about the dates. The Council questioned whether the use could be shown to have been continuous throughout the relevant period and I acknowledge that the appellant confirms that there was a period when the bungalow was being refurbished, in late 1997. However, he and other witnesses claim that, even though there was no residential occupancy at that time, the regular prayer meetings continued to take place.
12. The appellant and his wife have denied in the past that the premises was in use as a place of worship but, as noted in preceding paragraphs, they have explained that they believed that the limited times that the prayer meetings occurred were not significant in planning terms. The appellant has stated that, in his view, the premises cannot be categorised as a mosque, as there is no resident Imam and daily prayers are not held there. I note also that the application for the CLU was confined to the one hours' use for Friday prayers.
13. One of the Council's witnesses agreed at the Inquiry that he accepted that some form of gathering for prayers has been taking place at the appeal site since 1997. A number of letters from local residents dating from 2007 do say that they have no previous knowledge of the use for Friday prayers, but these are in response to the application for the CLU, when the fact that the appellant was claiming ten years previous use had been disclosed and the writers were all objecting to the certificate being granted, fearing parking problems and noise and disturbance. However, letters in connection with the 1997 application for the after school club note that, at that time, the property was being used for occasional prayer meetings and a letter dated January 1999, in response to the second application for the club refers to regular Friday meetings, of about ten men.
14. In the absence of first hand evidence from the Council to contradict the evidence of the appellant and his witnesses, on the balance of probabilities I conclude that the meetings for prayers on Friday, and each day of Ramadan, Eid and Haj, for an hour at most, have been continuing on a regular basis since late 1996/early 1997. This has established a material change of use to a mixed use as place of worship, in addition to the residential and after school/holiday club use, at those particular times.
15. However, the Council also considers that the level of usage for prayer meetings intensified in about 2006, resulting in complaints from neighbours and turning the meetings from being ancillary to the authorised activities at the premises to a material change of use, for which planning permission would be needed and which has not been granted.

16. It seems, therefore, that it is not the occasional use of the building for prayer meetings, which is generally confined to an hour once a week and occasional meetings at other religiously significant times, that has caused the Council to take enforcement action, but rather the numbers of people attending on those occasions.
17. It may well be that the numbers of worshippers has increased over the years, although the appellant's witnesses consistently reported that attendance was between twenty and forty people, averaging at thirty or so. Nevertheless, the courts have held that intensification of an activity that is authorised, or has gained immunity from enforcement action, will only bring about a material change of use if there is a fundamental change in the function and character of that use. In my judgement, the use of the building as a place of worship on the limited number of occasions set out above, would not be fundamentally altered by an increase in the numbers of worshippers attending at these restricted times, to the extent that a further material change of use had occurred.
18. Although I have found that a mixed use was established ten years before the enforcement notice was issued, the element that relates to use as a place of worship takes place only for a short time on the Friday of each week and for an hour a day during Ramadan, Eid and Haj. The enforcement notice is, however, much wider in its allegation and does not make clear that the change of use is limited to these restricted times, which is a critical part of the appellant's case. I shall therefore correct the notice to accurately describe the extent of the activities that have been established as lawful through the appellant's evidence.

### **Conclusions**

19. From the evidence at the inquiry, and for the reasons given above and having regard to all other matters raised, I conclude that the allegation in the notice of is incorrect, in that it does not refer to the specific times at which the use as a place of worship takes place. I shall correct the allegation in the notice to reflect this.
20. As to the appeal on ground (d) I am satisfied on the evidence that the alleged use had continued for at least ten years prior to the issue of the enforcement notice and the appeal on this ground should succeed in respect of those matters which, following the correction of the enforcement notice, are stated in it as constituting the breach of planning control. In view of the success on legal grounds, the appeal under ground (g) as set out in section 174(2) of the 1990 Act as amended does not fall to be considered.

### **Formal Decision**

#### **Appeal Ref: APP/B5480/C/07/2062442**

21. I direct that the enforcement notice be corrected by the inclusion of the words '*on Fridays between 1300 and 1400 hours and for one hour on each day during the times of Ramadan, Eid and Haj*' after '*...use as a place of worship...*' in the allegations of the notice. Subject to these corrections I allow the appeal, and direct that the enforcement notice be quashed.

*Katie Peerless*

**Inspector**

APPEARANCES

FOR THE APPELLANT:

Philip Williams	Of Counsel, No 5 Chambers
He called	
Mr K Siddiqui	67 Essex Road, Romford RM7 8BB
Mr H Siddiqui	67 Essex Road, Romford RM7 8BB
M A Shah Siddiqi	383 Green Lane, Ilford IG3 9TG
Mamad Iqubai Patel	49 Felbrigge Road, Seven Kings
Kunle Tehcks	183 Church Road, Harold Wood RM3 0SB

FOR THE LOCAL PLANNING AUTHORITY:

Christopher Buttler	Of Counsel, 4-5 Grays Inn Square, London WC1 R 5HH instructed by the Solicitor to London Borough of Havering
He called	
Simon Thelwell	Planning Control Manager, London Borough of Havering
Ann Southwood	Planning Enforcement Officer, London Borough of Havering

INTERESTED PERSONS:

Cllr Barry Tebbutt	178 Crow Lane, Romford Essex RM7 0ES
Cllr Jeffrey Tucker	London Borough of Havering 6 Upminster Road South Rainham Essex RM13 9YX
Karl Mirza	21 Jutsums Lane, Romford RM7 9HH
Ammer Iqubal	66 Gelsthorpe Road, Romford RM5 2LX
A Shehzad	66 Gelsthorpe Road, Romford RM5 2LX
A Alique	1 Warley Avenue
M Majid	Meadway, Romford RM2 5NU
A Khan	9 Rosslyn Avenue, Dagenham RM8 1JR
Mohammed Qureshi	233 Crow Lane Romford RM7 0HA
Emaod Zaman	383 Green Lane, Ilford Essex
Mohammed Hannan	7 Tye Common Road, Billericay, Essex CM12 9ND
Cllr Fred Osborne	London Borough of Havering
Cllr Robert Benham	London Borough of Havering

DOCUMENTS

- 1 Letters of notification
- 2 Representations from interested parties
- 3 Appeal decision T/APP/C/01/D4635/680063
- 4 Legal authorities: *Belmont Riding Centre v FSS& LB Barnet*,  
*Wallington V SoS for Wales & Montgomeryshire DC*
- 5 Application form P1334.97

- 6 Application form P0024.99
- 7 Letter from appellant to Mr M Day
- 8 Planning Enforcement Investigation Sheet dated 10/10/06
- 9 Officer report for application P2440.06
- 10 Notes of statement from Cllr Tucker
- 11 Ms Southwood's file note of visit to 29 Lessington Avenue on 18  
May 2007
- 12 Notes of Mr Buttler's closing submissions
- 13 Notes of Mr Williams' closing submissions