

Committee: Planning Applications Committee

Date: 5th September 2013

Agenda item: 19

Wards: All

Subject: PLANNING ENFORCEMENT - SUMMARY OF CURRENT CASES

Lead officer: HEAD OF PUBLIC PROTECTION AND DEVELOPMENT

Lead member: COUNCILLOR PHILIP JONES, CHAIR, PLANNING APPLICATIONS COMMITTEE

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Recommendation:

That Members note the contents of the report.

1. Purpose of report and executive summary

This report details a summary of case work being dealt with by the Planning Enforcement Team and contains figures of the number of different types of cases being progressed, with brief summaries of all new enforcement notices and the progress of all enforcement appeals.

Current Enforcement Cases:	753 ¹ (776)	New Appeals:	3 (0)
New Complaints	8 (71)	Instructions to Legal	2
Cases Closed	30 (64)	Existing Appeals	0 (0)
No Breach:	11	<hr/>	
Breach Ceased:	19	TREE ISSUES	
NFA ² (see below):	0	Tree Applications Received	19 (53)
Total	30 (64)	% Determined within time limits:	75%
New Enforcement Notices Issued		High Hedges Complaint	1 (0)
Breach of Condition Notice:	0	New Tree Preservation Orders (TPO)	2 (2)
New Enforcement Notice issued	1	Tree Replacement Notice	-
S.215: ³	1	Tree/High Hedge Appeal	2
Others (PCN, TSN)	0		
Total	2 (5)		
Prosecutions: (instructed)	0 (0)		

Note (*figures are for the period (06/08/13- 26th August 2013*) and the figure for current enforcement cases was taken directly from M3 crystal report.

¹ Totals in brackets are previous months figures

² confirmed breach but not expedient to take further action.

³ S215 Notice: Land Adversely Affecting Amenity of Neighbourhood.

2.0 New Enforcement Actions

- 2.01 Land at 120 Gorringe Park Avenue, Mitcham,** An enforcement notice was issued on 8th August 2013 against the unauthorised erection of single storey rear extension. The notice would become effective on 8th January 2014 unless an appeal is made prior to that date or the notice complied with, in which case the notice will be withdrawn. The reason for this is that planning permission has been granted for the retention of part of the L-shaped structure with a replacement roof which means some part the existing structure will have to be demolished at some stage. The enforcement action is required to ensure this happens on time. Once effective, the notice would require the demolition of the structure within 2 months.
- 2.02 The Cricketers Public House, 340 London Road, Mitcham,** A section 215 Amenity land Notice was issued on 27th August 2013 to require the owners to remove all advertisement banners, fly posting and graffiti from the land, cut back overgrown bushes and vegetation and remove weeds from the front and rear of the building and land, and tidy up the building and land. The notice takes effect in 28 days unless there is an appeal to the Magistrate Court.

Some Recent Enforcement Actions

- 2.03 Land at 7 Morden Gardens CR4.** An enforcement notice was issued on 9/7/13 against the erection of a corrugated plastic and timber lean-to rear extension. The notice would become effective on 20th August 2013 unless an appeal is made prior to that date. The notice requires the removal of the unauthorised structure within 3 months of the effective date.
- 2.04 68 Bond Road CR4.** An enforcement notice was issued on 18th July 2013 against the unauthorised erection of single storey rear extension and conservatory addition and an outbuilding. The notice would become effective on 20th August 2013 unless an appeal is made prior to that date and would require the demolition of the structures within 2 months.
- 2.05 2 Lyndhurst Avenue SW16** An enforcement notice was issued on 18/7/13 against the unauthorised conversion of the property into 2 self-contained flats. The notice would come into effect on 20th August 2013 unless an appeal is made prior to that date. The notice requires the property to be returned to single dwelling use within 6 months.
- 2.06 15 Sunnymead Avenue CR4.** An enforcement notice was issued on 24th July 2013 against the use of the rear garage for car breaking, car repairs and storage of car parts. The notice would become effective on 29th August 2013 unless an appeal is made prior to that date. The notice requires the unauthorised use to cease within a month of the effective date
- 2.07 Flat 3, 28 Lingfield Road, SW19** Enforcement notice was issued on 14/3/13 against an unauthorised uPVC window replacement. The notice would come into effect on 25/4/13 unless there is an appeal prior to that date. The requirement is to remove the unauthorised windows replacements within 5 months. There is some progress on this and the windows are to be replaced in compliance with the enforcement notice.
- 2.08 Land at Burn bullock Public House, 315 London Road, Mitcham, CR4 4BE.** Two enforcement notices were issued on 28/11/12 against an unauthorised change of use, involving the 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. Although the compliance period was 28 days, the use has now ceased but the structures are still on-site so the file would remain open to allow the site to be monitored for a while.

3.0 New Enforcement Appeals

- **2 Lyndhurst Avenue SW16 – an appeal has been registered on 13/8/13 against** an enforcement notice issued on 18/7/13 against the unauthorised conversion of the property into 2 self-contained flats. The appeal is proceeding by written representation and consultation letters were sent out on 27/8/13.
- **68 Bond Road CR4.** The council has received a notification of an intended appeal but no start date letter yet.

- **Land at 7 Morden Gardens CR4.** The council has received a notification of an intended appeal but no start date letter yet.

3.1 Existing enforcement appeals

None

3.2 Appeals determined -

None

3.3 Prosecution case.

- **35 Marian Road** Enforcement notice against the erection of a 2 storey house which was not built in accordance with a planning permission was issued on 07/09/09 with a requirement to demolish the building. An appeal against the notice was dismissed on 26/01/10 and the landlord was prosecuted for not complying with the requirements of the notice. .

First prosecution - on 23/3/11 at Wimbledon Crown Court, the landlord pleaded guilty to the offence of not complying with the enforcement notice. He was fined £2,000 and ordered to pay the Council's full costs of £1,197.50 plus the £15 victim's surcharge, being a total of £3,212.50.

Second prosecution – was required for failure to comply with the requirements of the enforcement notice. It took place on 8/1/13 at Richmond Magistrate Court after several postponements on the part of the defendant. The owner pleaded guilty. However, the case was referred to the Crown court for sentencing as the magistrate felt they are restricted to only £20,000 on the amount of fines they can impose.

Crown Court Sentencing – At Kingston Crown Court on 11/2/13 sentencing was deferred until after September 2013 this was because an application was made and agreed by the court that investigations should be carried out on the defendant, under the terms of the Proceeds of Crime Act 2002 (POCA) and these investigations are progressing accordingly. The Council has sent a statement indicating the amount of money the defendant is expected to respond as part of the POCA procedure.

No further update on this.

3.4 Requested updates from PAC

(b) Burn Bullock PH, London Road, Mitcham – Removal of unauthorised structures – Update for Cllr Gregory Udeh

Officers met the owner on site on Monday 5th August for some discussion and to check the state of the property. He showed officers the recent work he had carried out to the roof to ensure the building is watertight.

The owner explained that he is currently talking to potential tenants with a view to getting the building opened up as soon as possible. However, the restoration work that

is required is making it hard to find anyone. He is also looking at development options for the site and has been talking to Travelodge regarding a new build at the back and restoration of the pub. He is trying to find a wider use for the site that will ensure the long term sustainability of the listed building.

In the short term he agrees that he needs to ensure that the building does not deteriorate further. Following the meeting, a schedule of urgent works has been received which include:

- Clearance of rubbish on the site (front and back).
- Removing outgrown greenery all around the pub.
- Removal of dead hanging baskets
- Dismantling scaffolding at the carwash.
- Cracks to be cemented at the rear of the building
- Plastering and painting in hallway
- Replace broken glass in windows.
- Paint ceilings of kitchen and adjacent room
- Front and back guttering to be looked at.

(An update has been requested on this)

On 27th August 2013, the owner was informed of the urgency to remove rubbish within the next 48 hours, otherwise further enforcement action will unfortunately commence seeing as there has been such a delay and complaints have escalated.

The owner had therefore agreed to meet Richard our commercial waste officer on Thursday at 12.30 pm at the Burnt Bullock pub, where he has now finally promised to pay cash for the removal of the waste that day.

Street cleansing will hopefully be on stand by to clear the waste straight away once paid. I was advised that the owner had been giving our commercial waste officer the run around and enforcement action would proceed if the rubbish is not cleared by Thursday.

4. Consultation undertaken or proposed

None required for the purposes of this report

5 Timetable

N/A

6. Financial, resource and property implications

N/A

- 7. Legal and statutory implications**
N/A
- 8. Human rights, equalities and community cohesion implications**
N/A
- 9. Crime and disorder implications**
N/A
- 10. Risk Management and Health and Safety implications.**
N/A
- 11. Appendices – the following documents are to be published with this report and form part of the report Background Papers**
N/A
- 12. Background Papers**