

Committee: Planning Applications Committee

Date: 7th November 2013

Agenda item:

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

Contact officer Sam Amoako-Adofo: 0208 545 3111
sam.amoako-adofo@merton.gov.uk

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:	766	¹ (774)	New Appeals:	0	(1)
New Complaints	68	(8)	Instructions to Legal	2	
Cases Closed	50	(47)	Existing Appeals	2	(2)
No Breach:	21		<hr/>		
Breach Ceased:	29		TREE ISSUES		
NFA ² (see below):	0		Tree Applications Received	72	(55)
Total	50	(47)	% Determined within time limits:	85%	
New Enforcement Notices Issued			High Hedges Complaint	0	(1)
Breach of Condition Notice:	1		New Tree Preservation Orders (TPO)	1	(1)
New Enforcement Notice issued	1		Tree Replacement Notice	-	
S.215: ³	0		Tree/High Hedge Appeal	0	
Others (PCN, TSN)	0				
Total	2	(4)			
Prosecutions: (instructed)	1	(0)			

Note (*figures are for the period (1st October – 28th October 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.

2.00 New Enforcement Actions

2.01 Rapid Ready Mix, Alpha Place, Garth Road SM4 a breach of Condition Notice was issued on 9th October against the business for breaching a planning condition relating to the hours of working. The notice came into effect immediately as there is right of appeal and the business has 28 days to comply and operate within the approved hours.

2.02 27 Pitcairn Road, Mitcham CR4 An enforcement notice was issued on 10th October 2013 against an unauthorised change of use of a garage/outbuilding into residential accommodation. The notice would come into effect on 21st November 2013 unless an appeal is made prior to that date and would require the cessation of the unauthorised use within 4 months.

Some Recent Enforcement Actions

2.03 84 Sherwood Park Road Mitcham CR4 A section 215 Amenity land Notice was issued on 19th September 2013 to require the owners to repair broken fence after clearing overgrown bushes and tidy up the rear garden. The notice comes into effect in 28 days unless there is an appeal to the Magistrate Court.

2.04 Rear of 140 Manor Park, Mitcham, An enforcement notice was issued on 4th September 2013 against an unauthorised use of a rear garage for vehicle repair, breakage and storage. The notice would become effective on 16th October 2013 unless an appeal is made prior to that date and would require the

cessation of the unauthorised use within 28 days. Case now **recommended for closure** as the notice has been complied with and the unauthorised use has ceased.

- 2.05 23A Bruce Road, Mitcham,** The Council issued a section 215 Amenity Land Notice on 27th August 2013 to require the owners to prune an overgrown tree near the property, cut back overgrown bushes, vegetation and remove weeds in the rear garden. The notice comes into effect in 28 days unless there is an appeal to the Magistrate.
- 2.06 150-152 Haydons Park Road, SW19** An enforcement notice was issued on 21st August 2013 against the unauthorised erection of a four storey building with lower and upper basement floors providing nine residential units (5 flats and 2 studio flats), office space and storage in the sub-basement level and office space in the upper basement level. The notice requires the demolition of the building within 4 months of the effective date. An appeal has been registered.
- 2.07 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.
- 2.08 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.
- 2.09 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 became effective as the owners run out of time in making an appeal. The notice therefore came into effect on 9th September and requires the removal of the unauthorised structure within 3 months of the effective date.
- 2.10 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.

3.0 New Enforcement Appeals

- **150-152 Haydons Park Road, SW19** An enforcement notice was issued on 21st August 2013 against the unauthorised erection of a four storey building with lower and upper basement floors providing nine residential units (5 flats and 2

studio flats), office space and storage in the sub-basement level and office space in the upper basement level. The notice requires the demolition of the building within 4 months of the effective date. An appeal is still to be registered so a start date letter can be issued to the relevant parties including the Council. The owners have also submitted two planning appeals an

3.1 Existing 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. The Council's final comment was sent on 17th October 2013.
- **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. An appeal is proceeding by written representations under ground 'F' only. The Council's statement was sent on 1/10/13.

3.2 Appeals determined -

Garages adjacent to 46 & 48 Blenheim Road, SW20 – A tree works appeal (application ref 13/T0727) against the Council's decision to refuse consent for the removal of an Oak tree located adjacent to the garages has been dismissed. The Planning Inspector considered that the evidence presented does not clearly indicate that the subsidence to the garages is vegetation related. The Inspector considers the Oak tree contributes to the landscape character, visual amenity and bio-diversity potential of the area.

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.

4/10/13 – case was deferred to 17/1/14 as the defendant claimed to have changed legal representation and therefore did not receive the council's notifications. The Judge was upset but had to grant the adjournment but the court insists that the case will have to be heard in January 2014.

3.4 Requested updates from PAC

Burn Bullock PH, London Road, Mitcham –

Officers from Conservation and planning enforcement with Councillor Munn met the owner on site on Monday 21/10/13 and observed that most of the external works and repairs had not been carried out. The owner was given a week to do so and a site visit has been scheduled to check for compliance. Further update will be provided.

The following are some of the urgent works still to be carried out:

- Removing outgrown greenery all around the pub.
- Removal of dead hanging baskets
- 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 and cleared.

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