

Committee: Planning Applications Committee

Date: 16th January 2014

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

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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:	834 ¹ (821)	New Appeals:	0 (3)
New Complaints	42 (80)	Instructions to Legal	0
Cases Closed	29 (25)	Existing Appeals	5 (5)
No Breach:	17	<hr/>	
Breach Ceased:	12	TREE ISSUES	
NFA ² (see below):	0	Tree Applications Received	48 (64)
Total	29 (25)	% Determined within time limits:	75%
New Enforcement Notices Issued		High Hedges Complaint	0 (0)
Breach of Condition Notice:	0	New Tree Preservation Orders (TPO)	2 (2)
New Enforcement Notice issued	2	Tree Replacement Notice	-
S.215: ³	0	Tree/High Hedge Appeal	1
Others (PCN, TSN)	1		
Total	3 (6)		
Prosecutions: (instructed)	0 (0)		

Note (*figures are for the period (3rd December 2013 – 6th January 2014)*) 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 Land at 39 West Barnes Lane, Raynes Park SW20** An enforcement notice was issued against the erection of a metal shed type structure, capable of accommodating two vehicles for painting and drying, metal fencing panel and the placing of floodlights atop existing fence posts. The notice was issued on 3rd December 2013 and requires the removal of the unauthorised structures, including the large metal shed and fencing with floodlights and would come into effect by 14th January 2014 with a month's compliance period unless there is an appeal before that date.
- 2.02 39 West Barnes Lane, Raynes Park SW20** An enforcement notice was issued against a material change of use of the land to a hand car wash/repair and car breaking yard and paint shop. The notice was issued on 3rd December 2013 and requires the unauthorised use to cease within one month of the effective date. The notice comes into effect by 14th January 2014 unless there is an appeal before that date.
- 2.03 5 Homefield Gardens, Mitcham CR4** A Planning Contravention Notice was served on 3rd December request information regarding an alleged use of the rear domestic garage for unauthorised commercial car repair. The owner has 21 days to respond and provide the requested information.

Some Recent Enforcement Actions

- 2.04 2A Crown Road, Morden SM4** An enforcement notice was issued on 30th October 2013 against an unauthorised conversion of an Islamic prayer meeting room (D1 community use) into three self-contained residential units comprising two 1-bedroom apartments and a 2-bedroom flat. The notice would come into effect on 12th December 2013 unless an appeal is made prior to that date and would require the cessation of the unauthorised use within 6 months. Two enforcement notices were issued – one for the material change of use, and the other for the operational development involved in the creation of the residential units.
- 2.05 2 Crowland Walk, Morden SM4** An enforcement notice was issued against the material change of use of part of the land from a single family dwellinghouse into a self-contained residential unit on 30th October 2013. The notice would come into effect 12th December unless there is an appeal prior to that date and the requirement would be for the unauthorised use to cease within three months. A second notice was issued against the operational development in carrying out the conversion works.
- 2.06 16 – 20 Kingston Road, Wimbledon SW19** A breach of Condition Notice (BCN) was issued on 6th November 2013 against Grenfell Housing Association for breaching a planning condition requiring an identified vehicle parking area to be kept for parking. The notice came into effect immediately as there is no right of appeal and the business has 39 days to comply. (NB – there is an on-going appeal against the refusal of planning permission for the retention of an erected communication aerial.
- 2.07 41 Leamington Avenue, Morden SM4** An enforcement notice was issued on 13th November against the material change of use of a domestic garage at the rear of the land into commercial use involving car repairs. The notice would come into effect on 1st January 2014 unless there is an appeal prior to that date and the requirement would be for the unauthorised use to cease within one month.
- 2.08 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 which are from 9.00 am to 6.00 pm from Monday to Friday and up to 3.00 pm on Saturdays. Nothing is permitted on Sundays, bank holidays and Public Holidays. 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. There have been a number of allegations of the business breaching the approved working hours. Following this, officers have now started unscheduled early morning and evening site visits to monitor and check compliance with this condition.

Three visits have been carried out so far, two evenings and one in the morning. The company was found to be using mechanical equipment from 8.29 am on one occasion. The company has been sent a letter seeking clarification as to whether the use of the drill relates to the building works for the canopy or if it is a separate on site process which would be a clear breach of the relevant condition.

2.09 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 came into effect on 25th September as there was no appeal.

2.10 Land at 120 Gorrington 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 is 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.

There has not been any notification that an appeal has been made and therefore the enforcement notice is now effective with a two-month compliance date.

2.11 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. A letter has been sent to the landlord advising that they would be prosecuted for non-compliance unless the required works are completed within 28 days.

The compliance period has expired and prosecution is being considered.

3.0 New Enforcement Appeals **None**

3.1 Existing 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 enforcement appeal and two planning appeals have been registered but are co-joined to be dealt together.
- **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. An enforcement appeal is now under way.
- **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. An Inspector site visit originally scheduled for 14th January 2014 has been cancelled and a new date is expected.

- **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. An inspector site visit took place on Thursday 28th November 2013, now awaiting a decision.
- **84 Sherwood Park Avenue** – An appeal against the section 215 Notice was made at Croydon Magistrate Court, officers met on 26th November and a date was set for a hearing on 3rd March 2014.

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.

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. The court insisted that the case will have to be heard in January 2014.

3.4 Requested updates from PAC

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. Direct action is being considered and if approved, the remedial works could be carried out by the Council and a charge would be put on the property.

Legal Services wrote to the owner on 18/12/13 asking for her agreement for the Council to carry out the required works in default and was given up Monday 13th January 2014 to respond, failing which the Council would prosecute for non-compliance.

Burn Bullock PH, London Road, Mitcham –

The landlord is aware of the lead that has been stolen from the top of the toilets which were on the side of the building but not on the oldest part of the building. He has promised to get it fixed and repaired.

A new complaint regarding the unauthorised sale of cars from the site is under investigation.

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

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