

## **Committee:** Planning Applications Committee

**Date:** 27<sup>th</sup> March 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

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

### **Recommendation:**

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That Members note the contents of the report.

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#### **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.

<b>Current Enforcement Cases:</b>	<b>800</b> <sup>1</sup> (811)	<b>New Appeals:</b>	<b>0</b> (0)
<b>New Complaints</b>	<b>33</b> (21)	<b>Instructions to Legal</b>	<b>1</b>
<b>Cases Closed</b>	<b>45</b> (44)	<b>Existing Appeals</b>	<b>4</b> (4)
No Breach:	<b>28</b>	<hr/>	
Breach Ceased:	<b>17</b>	<b>TREE ISSUES</b>	
NFA <sup>2</sup> (see below):	<b>0</b>	<b>Tree Applications Received</b>	<b>89</b> (50)
Total	<b>45</b> (44)	<b>% Determined within time limits:</b>	<b>75%</b>
<b>New Enforcement Notices Issued</b>		<b>High Hedges Complaint</b>	<b>2</b> (0)
Breach of Condition Notice:	0	<b>New Tree Preservation Orders (TPO)</b>	<b>1</b> (1)
New Enforcement Notice issued	1	<b>Tree Replacement Notice</b>	<b>1</b>
S.215: <sup>3</sup>	0	<b>Tree/High Hedge Appeal</b>	<b>1</b>
Others (PCN, TSN)	0		
Total	1 (3)		
<b>Prosecutions:</b> (instructed)	0 (0)		

Note (*figures are for the period ( 3<sup>rd</sup> February- 18<sup>th</sup> March 2014)*) and the figure for current enforcement cases was taken directly from M3 crystal report.

<sup>1</sup> Totals in brackets are previous months figures

<sup>2</sup> confirmed breach but not expedient to take further action.

<sup>3</sup> S215 Notice: Land Adversely Affecting Amenity of Neighbourhood.

## 2.00 New Enforcement Actions

**86 Morden Hall Road.** Unauthorised conversion of property into two flats. Planning Enforcement Notice issued on 19<sup>th</sup> February 2014. The Notice will come into effect on 25<sup>th</sup> March 2014 (unless a valid appeal is made against the Notice, before this date) with a compliance period of 6 calendar months.

### **Burn Bullock Public House, 315 London Road, Mitcham.**

A planning application for the sale of motor vehicles in the rear car park of the Burn Bullock Public House has been submitted ref. No. 14/P0767.

A multi agency, unannounced visit / inspection, of the premises was conducted on the morning of Friday 14<sup>th</sup> March 2014. Present were Officers from the Border Agency, Police, Merton Council Social Services, MASH Team, Safer Merton Team, Environmental Health, Planning Enforcement, Environmental Enforcement Officer and a Romanian translator. The inspection revealed that the upper floors were in use as an unauthorised House in Multiple Occupation (HMO). The legal status of the occupants of the HMO are currently being investigated by the Border Agency.

### Some Recent 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 3<sup>rd</sup> 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 14<sup>th</sup> January 2014 with a month's compliance period unless there is an appeal before that date. The notice is now effective as the Council has not been notified that an appeal has been received. Compliance period expired on 14/2/14. A subsequent inspection has revealed the Enforcement Notice has not been complied with and a prosecution for the failure to comply with the Notice is being prepared.

**2.02 39 West Barnes Lane, Raynes Park SW20 (second Notice)** 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 3<sup>rd</sup> December 2013 and requires the unauthorised use to cease within one month of the effective date. The notice came into effect on 14<sup>th</sup> January 2014 unless there is an appeal before that date. A subsequent inspection has revealed the Enforcement Notice has not been complied with and a prosecution for the failure to comply with the Notice is being prepared.

**2.03 5 Homefield Gardens, Mitcham CR4** A Planning Contravention Notice (PCN) was served on 3<sup>rd</sup> December request information regarding an alleged use of the rear domestic garage for unauthorised commercial car repairs. The owner has 21 days to respond and provide the requested information. The PCN response suggests that no commercial repairs are carried out using the garage. The case has now been closed.

**2.04 2A Crown Road, Morden SM4** An enforcement notice was issued on 30<sup>th</sup> 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 have come into effect on 12<sup>th</sup> 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. An informal hearing appeal has been registered and would be heard in June 2014.

**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 30<sup>th</sup> October 2013. The notice would come into effect 12<sup>th</sup> 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. The Enforcement Notice has now been fully complied with and the case has been closed.

**2.05 16 – 20 Kingston Road, Wimbledon SW19** A breach of Condition Notice (BCN) was issued on 6<sup>th</sup> 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).

**41 Leamington Avenue, Morden SM4** An enforcement notice was issued on 13<sup>th</sup> 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 1<sup>st</sup> 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. The Enforcement Notice has now been fully complied with and the case has been closed.

**2.06 Rapid Ready Mix, Alpha Place, Garth Road SM4** a breach of Condition Notice was issued on 9<sup>th</sup> 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 was a separate on site process which would be a clear breach of the relevant condition. No further breaches have been witnessed by officers nor reported residents.

Further breaches of the Notice have now been witnessed and prosecution proceedings are being taken. It is anticipated that the first hearing will be in April 2014. .

**2.07 23A Bruce Road, Mitcham,** The Council issued a section 215 Amenity Land Notice on 27<sup>th</sup> 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 25<sup>th</sup> September as there was no appeal. A site visit carried out in November confirmed that the notice had not been complied with. A prosecution for non-compliance was being considered, but due to the owners circumstances direct action is now being arranged.

**2.08 Land at 120 Gorrington Park Avenue, Mitcham,** An enforcement notice was issued on 8<sup>th</sup> August 2013 against the unauthorised erection of single storey rear extension. The notice would become effective on 8<sup>th</sup> 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.

The Enforcement Notice has now been fully complied with and the case has been closed.

- 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 9<sup>th</sup> 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 a prosecution witness statement was being drafted, however a recent site inspection confirmed that the majority of the lean-to extension has now been removed and full compliance is expected imminently

### **3.0 New Enforcement Appeals** **None**

#### **3.1 Existing enforcement appeals**

- **150-152 Haydons Park Road, SW19** An enforcement notice was issued on 21<sup>st</sup> 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. The Council's final statement was sent on 30<sup>th</sup> January 2014.
- **27 Pitcairn Road, Mitcham CR4** An enforcement notice was issued on 10<sup>th</sup> October 2013 against an unauthorised change of use of a garage/outbuilding into residential accommodation. The notice would come into effect on 21<sup>st</sup> 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. And the Council's final statement was sent on 24<sup>th</sup> December 2013 and we are now waiting for a date for an inspector's site visit.
- **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 17<sup>th</sup> October 2013. An Inspector site visit originally scheduled for 14<sup>th</sup> January 2014 has been cancelled and a new date is expected.
- **84 Sherwood Park Road** – An appeal against the section 215 Notice was made at Croydon Magistrate Court, officers met on 26<sup>th</sup> November and a date was set for a hearing on 3<sup>rd</sup> March 2014. The appeal was heard at Croydon Magistrates Court where the court upheld the Notice, but varied the requirements of the Notice, requiring a boundary fence or wall to be erected

within 60 days, to screen off the rear garden from public view thereby preventing the loss of amenity.

### **3.2 Appeals determined -**

- **68 Bond Road CR4.** An enforcement notice was issued on 18<sup>th</sup> July 2013 against the unauthorised erection of single storey rear extension and conservatory addition and an outbuilding. The appeal was dismissed and the enforcement notice upheld on 22<sup>nd</sup> January 2014. The requirements are for the owner to remove the unauthorised single storey rear extension with the conservatory addition and also remove the outbuilding in the rear garden.

### **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 – and Crown Court Sentencing** – On 17 January 2014 at Kingston Crown Court, Mr. Adeel Saleem Beg of Woodfield Avenue, Streatham was fined £25,000, given a Confiscation Order of £32,000 and ordered to pay the council's legal costs of £10,000, totaling £67,000 for continuing to breach the terms of the Council's planning enforcement notice.

The Judge cited Mr. Beg's continual refusal to engage with the proceedings, his persistent defiance and very obvious and deliberate breaches as reasons for the level of the sentence. The Judge specifically observed that it is unfair on developers/builders that lawfully develop property without breaching their planning permission for a minority to be non-compliant. The Council expects planning permissions to be followed and hope the result of this case deters other who feel they can flagrantly breach enforcement notices.

### **3.4 Requested updates from PAC**

**23A Bruce Road, Mitcham,** The Council issued a section 215 Amenity Land Notice on 27<sup>th</sup> 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 13<sup>th</sup> January 2014 to respond, failing which the Council would prosecute for non-compliance.

**Burn Bullock PH, London Road, Mitcham –**

Due to the failure by the landlord to carry out the essential repairs, enforcement action is under way and would involve the issuing of a Listed Building Repairs Notice.

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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