

Committee: Planning Applications Committee

Date: 19th June 2014

Agenda item:

Wards: All

Subject: PLANNING ENFORCEMENT - SUMMARY OF CURRENT CASES

Lead officer: HEAD OF SUSTAINABLE COMMUNITIES

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:	707 ¹ (793)	New Appeals:	0 (0)
New Complaints	45 (51)	Instructions to Legal	1
Cases Closed	77 (64)	Existing Appeals	3 (4)
No Breach:	28	<hr/>	
Breach Ceased:	49	TREE ISSUES	
NFA ² (see below):	-	Tree Applications Received	73 (33)
Total	77 (64)	% Determined within time limits:	85%
New Enforcement Notices Issued		High Hedges Complaint	0 (0)
Breach of Condition Notice:	0	New Tree Preservation Orders (TPO)	3 (4)
New Enforcement Notice issued	1	Tree Replacement Notice	0
S.215: ³	2	Tree/High Hedge Appeal	0
Others (PCN, TSN)	0		
Total	3 (2)		
Prosecutions: (instructed)	0 (0)		

Note (*figures are for the period (22nd April – 9th June 2014)*) and the figure for current enforcement cases was taken directly from M3 crystal report.

¹ Totals in brackets are previous month's 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 195 Stanford Road, London SW16 an enforcement notice was issued on 8th May 2014 to require the cessation of an unauthorised change of use of the garage at the rear of the land for the repair of vehicles. The notice comes into effect on 19th June 2014 unless an appeal is made prior to that date. The owner has one month to comply after the effective date.

Some Recent Enforcement Actions

2.02 Land at 52 Cannon Hill Lane, Raynes Park, an enforcement notice was issued on 16th April 2014 against the construction of a brick and block-work wall to the front of the property. The notice comes into effect on 16th June 2014 unless there is an appeal before that date. The requirement is to demolish the structure and clear the resulting debris.

2.03 Land at Flat 2, 43 Richmond Avenue Wimbledon SW an enforcement notice was issued on 7th April 2014 against the erection of a satellite dish on the front façade of the building with a requirement for its removal. The notice comes into effect on 12th May unless there is an appeal before that and the compliance period is three months.

- 2.04 86 Morden Hall Road.** Planning Enforcement Notice issued on 19th February 2014 against the conversion of the property into two flats. The Notice will come into effect on 25th March 2014 (unless a valid appeal is made against the Notice, before this date) with a compliance period of 6 calendar months. Following a meeting with the owner's legal representative, the appeal was withdrawn to allow the appellant to submit an application for an established use. The notice has also been withdrawn.
- 2.05 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 required 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 was 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. However, there has been some delay following the departure of the case officer.
- 2.06 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 3rd December 2013 and requires the unauthorised use to cease within one month of the effective date. The notice came into effect on 14th January 2014 as there was no appeal.
- A subsequent inspection has revealed the Enforcement Notice has not been complied with and a prosecution for the failure to comply with the Notice was being prepared. The case officer has now left and the case will have to be re-allocated.
- 2.07 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 have 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. An informal hearing appeal has been registered and would be heard on 17th June 2014.
- 2.07 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 – an appeal against the refusal of planning permission for the retention of an erected communication aerial has been refused and the owners are required to remove the .

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 had 28 days to comply and operate within the approved hours. The notice was breached and as a result, acted by putting together a case to prosecute the Business for non-compliance. Legal services confirm a provisional hearing date on 1st April 2014 and a second date, if necessary, for 8th April. An initial court date was scheduled for Tuesday 6th May 2014 at 10.00 am at the Lavender Hill Magistrates' Court in Battersea, London. RRM applied to the Court for an adjournment until 6th June 2014, claiming they needed time to prepare their defence.

Their solicitors have now raised a number of legal issues relating to the structure of the business and the correct legal entity responsible for complying with the conditions. In light of these representations, and in accordance with the Code for Prosecutors, Legal Services have advised that it would be unsafe to continue with the current proceedings and the summonses have now been withdrawn.

The monitoring of the site and investigation of complaints will continue in accordance with the enforcement protocol set up by the Council and unannounced site inspections will be carried out to obtain evidence of further breaches of the conditions. This will allow a fresh Breach of Condition Notice to be served and acted on appropriately if it is not complied with. Meanwhile the information gathered in the past would be useful as background information in any future prosecution for any non-compliance issues.

Two compliance visits have been undertaken outside the approved hours and a request would be made to view their cctv for specific dates and times

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. The Council's final statement was sent on 30th January 2014. An inspector site visit has been scheduled for Monday 16th June at 11.00 am. (A previous visit scheduled for Friday 6/6/14 was cancelled due to ill-health)
- **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. And the Council's final statement was sent on 24th December 2013 and we are now waiting for a date for an inspector's site visit.

- **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 have 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. An informal hearing appeal has been registered and would be heard on 17th June 2014.

3.2 Appeals determined -

- **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.

There were two grounds of appeal

Ground 'A' – that planning permission should be granted for the development and

Ground 'B' – that there is no breach of planning.

The inspector allowed the ground 'A' but dismissed the ground 'B' appeal.

The Inspector identified the main issues as the standard of accommodation in the flats, the loss of single family dwelling and the payment of financial contributions for affordable housing. The Inspector acknowledged the Council's concerns about the standard of accommodation with regard to the internal size and layout of the flats as well as the external amenity space available to the first floor family flat.

However the Inspector pointed out that the policy standards relevant to these concerns vary according to the size of the flats. Specifically the London Plan indicates that developers should state the number of bedspaces/occupiers that the flats are designed to accommodate rather than simply the number of bedrooms. Given this he was satisfied with the appellant's description of the flats as a one-bedroom, two-persons ground floor flat and a one-bedroom one-person first floor flat even though the first floor flat includes an additional room described as a study. At the time of the site visit there was a double bed in the bedroom. That being so, the inspector stated that both flats exceed the minimum space standards set out in the London Plan and are acceptable.

3.3 Prosecution case.

Rapid ReadyMix – The prosecution for non-compliance with the Breach of Condition Notice (BCN) has been scheduled for 6th May 2014 at the Lavender Hill Magistrates Court in Battersea has been withdrawn.

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. Arrangements have been confirmed for a contractor to undertake the required works on 25th June under direct action.

Burn Bullock PH, London Road, Mitcham –

Enforcement action to require identify repairs to be carried out has been held in abeyance pending the submission of a full structural report in order to be able to assess the extent of damage and the appropriate level of needed works.

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