

## **Committee:** Planning Applications Committee

**Date:** 10<sup>th</sup> February 2022

**Agenda item:**

**Wards:** All

**Subject:** PLANNING ENFORCEMENT - SUMMARY OF CURRENT CASES

**Lead officer:** HEAD OF SUSTAINABLE COMMUNITIES

**Lead member:** CABINET MEMBER FOR REGENERATION, HOUSING AND  
TRANSPORT COUNCILLOR MARTIN WHELTON

**COUNCILLOR DAVE WARD, CHAIR, PLANNING APPLICATIONS COMMITTEE**

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### **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 casework 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>596</b>	<sup>1</sup> (590)	<b>New Appeals:</b>	(0)	(0)
<b>New Complaints</b>	28	(35)	<b>Instructions to Legal</b>	1	(0)
<b>Cases Closed</b>	<b>22</b>		<b>Existing Appeals</b>	2	(2)
No Breach:	17		<hr/>		
Breach Ceased:	5		<b>TREE ISSUES</b>		
NFA <sup>2</sup> (see below):	0		<b>Tree Applications Received</b>	<b>32</b>	<b>(46)</b>
Total	22		<b>% Determined within time limits:</b>	<b>45 %</b>	
<b>New Enforcement Notices Issued</b>			<b>High Hedges Complaint</b>	<b>1</b>	<b>(0)</b>
Breach of Condition Notice:	0		<b>New Tree Preservation Orders (TPO)</b>	<b>(2)</b>	<b>(2)</b>
New Enforcement Notice issued	0	(0)	<b>Tree Replacement Notice</b>	<b>0</b>	
S.215: <sup>3</sup>	0		<b>Tree/High Hedge Appeal</b>	<b>0</b>	<b>(0)</b>
Others (PCN, TSN)	0	(1)			
Total	1	(1)			
<b>Prosecutions:</b> (instructed)	0	(0)			

Note (**figures are for the period from (from 12<sup>th</sup> 2022 to 28<sup>th</sup> January 2022)**). The figure for current enforcement cases was taken directly from M3 crystal report.

<sup>1</sup> Totals in brackets are previous month's figures

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

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

It should be noted that due to the pandemic the Planning Inspectorate have over a years backlog of planning enforcement appeals to determine.

## 2.0 New Enforcement Actions

**Parkside House, 52/54 High Street, Wimbledon, London SW19 5AY. Commercial Unit on Land to the rear.** A Temporary Stop Notice was issued on 31st December 2021 relating to works being undertaken creating an unauthorised rear ground floor extension. The Notice came into immediate effect, the Notice will cease to have an effect after 27th January 2022. Works Stopped, Notice complied with.

**TRUSTFORD, 67 – 71 PLOUGH LANE, TOOTING, SW19 0BW.** On the 14<sup>th</sup> May 2021, 11 trees were removed from the front boundary to the property. This property is located within the Wandle Valley Conservation Area, and the statutory notice of 6 weeks prior to the commencement of tree work was not given to this Authority. This case is currently under investigation with a view to taking enforcement action. Trustford have begun planting new trees on the site. 12 new Silver Birch trees have been planted alongside the boundary with the River Wandle. New trees are proposed to be

planted along the boundary to the front of the site in September, with an additional underplanting of shrubs.

All of the trees have now been replaced with new trees, as requested.

**52B Russell Road, Wimbledon, London, SW19 1QL.** This is regarding the erection of a 2 metre boundary fence, facing the highway, which had a retrospective planning application submitted ref: 20/P2317 and was refused. The applicant appealed the decision to the Planning Inspectorate. The appeal was dismissed on 14th June 2021. An enforcement notice was issued on 13<sup>th</sup> September 2021 to remove the fence. The Notice took effect on 15<sup>th</sup> October 2021 with a one calendar month period of time for compliance. This Notice has now been fully complied with.

**Land to the rear of 42 Tamworth Lane, Mitcham, CR4 1DA.** This is concerning a s215 notice served on untidy land. A s215 notice was issued on 10<sup>th</sup> May 2021. This notice requires compliance at the end of July 2021 requiring the Land to be tidied up / cleared. The Council have now taken Direct Action and cleared the land.

The Land is again being fly tipped a further s215 Notice is to be issued, to include enclosing the Land and clearing the untidy / overgrown Land.

**193 London Road, CR4 2JD.** This is concerning a s215 notice served on untidy land. The Land is actively being cleared.

**31 Edgehill Road, Mitcham, CR4 2HY.** This is concerning a raised platform/garden that has been raised by approximately 90cm. An enforcement notice has been served to remove the raised platform and reduce the garden level by 90cm. The notice would have taken effect on 18/12/19, with a compliance date of 18/03/20, however an appeal has been submitted and is underway.

**208 Bishopsford Road, Morden, SM4 6DA.** This is concerning the erection of a single storey rear extension onto an existing extension on the ground floor. A Planning Enforcement Notice has been issued requiring the demolition of the Extension. The Notice was issued on 4<sup>th</sup> October 2019, the Notice came into effect on 10<sup>th</sup> November 2019 with a compliance period of 3 months, unless an appeal was made before 10<sup>th</sup> November 2019. An appeal was submitted but rejected by the Planning Inspectorate as it was received by The Planning Inspectorate one day late. Compliance date was 10<sup>th</sup> February 2020. Further action is under consideration. A new planning application for a reduced structure has now been recommended for approval. However inaccurate drawings were provided and not corrected, as such there is now a recommendation to refuse this application.

**The former laundry site, 1 Caxton Road, Wimbledon SW19 8SJ.** Planning Permission was granted for 9 flats, with 609 square metres of (Class B1) office units. 22 flats have been created. A Planning Enforcement Notice was issued on 11th

October 2018 requiring either the demolition of the development or building to the approved scheme.

The Notice took effect on 18th November 2018 with a compliance period of 12 calendar months. An appeal was made but subsequently withdrawn the following day. The owner decided to comply with the approved permission and is in the process of returning some the residential units back to their authorised office use. Bath and shower units have been removed; the office units are currently being advertised for let. The garage flat is no longer being used for residential and is in the process of being returned to a garage. Planning Application 19/P1527 for Discharge of Conditions has been submitted and is currently being considered. Revised scheme re-submitted and approved.

Works are underway to expose the depth and boundary of the foundations in order to confirm an alternative landscaping scheme is feasible. A further scheme is under consideration. A finale inspection is to be undertaken as the requested works / Landscaping has now been carried out.

This Planning Enforcement Notice has now been satisfactorily complied with.

### **Some Recent Enforcement Actions**

#### **7 Streatham Road, Mitcham, CR4 2AD**

The Council served two enforcement notices on 6<sup>th</sup> June 2019, requiring the outbuilding to be demolished and to clear debris and all other related materials. The second enforcement notice is for an unauthorised front, side and rear (adjacent to Graham Road) dormer roof extensions. An appeal was lost for the dormers to be considered permitted development, the notice requires the owner to demolish the unauthorised front, side and rear roof dormer extensions (adjacent to Graham Road) and to clear debris and all other related materials. Both Notices came into effect on 8<sup>th</sup> July 2019 unless appeals were made before this date. No appeals were lodged.

The compliance date of the Enforcement Notice relating to the outbuilding to be demolished and to clear debris and all other related materials has now passed without compliance. The second enforcement notice was not complied with and now prosecution proceedings are being undertaken.

The plea hearing has now taken place at Lavender Hill Magistrates Court, where the defendant pleaded not guilty and the second hearing is due on the 14th January 2020.

A second hearing was held on 14<sup>th</sup> January 2020, and adjourned until 4<sup>th</sup> February 2020 in order for the defendant to seek further legal advice.

The defendant again appeared in court and pleaded not guilty, a trial date was set for 21<sup>st</sup> May 2020. Due to the Covid-19 pandemic this has been postponed. The case has been listed for a 'non-effective' hearing on Tuesday 14 July 2020, where a new trial date will be set.

This was postponed until another date yet to be given. The Council has now instructed external Counsel to prosecute in these matters.

The next 'non-effective' hearing date is 2<sup>nd</sup> October 2020. This date has been re-scheduled to 27<sup>th</sup> November 2020. This was again re-scheduled to 4<sup>th</sup> January 2021. Outcome not known at the time of compiling this report.

A trial date has now been set for 28<sup>th</sup> and 29<sup>th</sup> April 2021.

At trial the defendant changed his plea from not guilty to guilty on the two charges of failing to comply with the two Planning Enforcement Notices, however due to the current appeals with the Planning Inspectorate relating to two planning application appeals associated with the two illegal developments, sentencing was deferred until 7<sup>th</sup> October 2021 at Wimbledon Magistrates Court.

The two planning appeals were dismissed by Decision letters dated 5<sup>th</sup> October 2021. Sentencing was again deferred until 16<sup>th</sup> December 2021 at Wimbledon Magistrates Court. The result of the sentencing hearing was:

1. Fine for the outbuilding EN: £6,000, reduced by 10% so £5,400
2. Fine for the dormer EN: £12,000, reduced by 10% so £10,800
3. Surcharge: £181
4. Costs: £14,580
5. Total being £30,961. To be paid over a period of three years in monthly instalments.

Direct action is now under consideration with respect to both Notices.

**183A Streatham Road CR4 2AG.** An Enforcement Notice was issued on 1<sup>st</sup> May 2019 relating to the erection of a rear balcony to the existing rear roof dormer of the property. The Notice requires demolishing the rear balcony to the existing rear roof dormer and restoring the property to that prior to the breach. The Notice would have taken effect on 4<sup>th</sup> June 2019, with a compliance period of 2 months. An Appeal to The Planning Inspectorate has been made. The appeal was determined by Decision letter dated 18<sup>th</sup> March 2020. The appeal was dismissed with a slight variation of the wording of the enforcement Notice. The Enforcement Notice had a 2 months compliance period. A further site inspection found that the Enforcement Notice has been complied with.

**33 HASSOCKS ROAD, LONDON. SW16 5EU:** This was regarding the unauthorised conversion from a single dwelling into 2 x self contained flats against a refusal planning permission. A planning Enforcement Notice was subsequently issued on 10th September 2019 and would have taken effect on 15th October 2019. This Notice has a compliance period of 3 calendar months, unless an appeal is made to the Planning Inspectorate before the Notice takes effect. An Appeal has been submitted, and has started. The appeal site visit was postponed, by The Planning Inspectorate. This Appeal has now been determined by Decision letter dated 17<sup>th</sup> July 2020. The Appeal was dismissed and the Enforcement Notice upheld. The Notice was varied and the time for compliance extended from 3 months to 6 months from the date of the Appeal Decision letter. However, minor costs were awarded to the appellant for extra work and or time that had been spent on the appeal that were not needed. The original case officer left Merton Council so the case has been re-allocated to a new officer to make sure that the steps required in the enforcement notice are complied with.

**76 Shaldon Drive, Morden, SM4 4BH.** An enforcement notice was served on 14th August 2019 relating to an outbuilding being used as a self-contained unit. The notice requires the removal of all kitchen facilities, fixtures, fittings, cooker, worktops, kitchen units. The notice takes effect on 16th September 2019, with a compliance period of 1 month. An Appeal has been electronically submitted, This Appeal has now started. The date of the Planning Inspectors site visit was 20<sup>th</sup> October 2020.

By Decision Letter dated 4<sup>th</sup> November 2020 the appeal was dismissed and the Enforcement Notice was upheld. The compliance date was 4<sup>th</sup> December 2020. The owner claims the requirements of the Notice have been met and an inspection is to be carried out. Further investigations have revealed that the Notice has not been fully complied with and further action is under active consideration.

**6 CARTMEL GARDENS, MORDEN SM4 6QN: (Notice 2)** This is regarding a side extension not built in accordance with approved plans and being used as a self contained unit of accommodation. A planning Enforcement Notice was subsequently issued on 24th September 2019 and took effect on 24th October 2019. The Notice requires the cessation of the use of side extension as separate self-contained unit, and the removal of all those fixtures and fittings that facilitate the unauthorised use of the extension including the permanent removal of the facilities in use for cooking facilities, kitchen unit, sink, worktop, appliances, and food preparation areas. This Notice has a compliance period of 3 calendar months. An appeal was submitted but subsequently withdrawn. A second Notice was subject of an appeal now determined.

The self-contained elements have now been remove. This Notice has now been fully complied with.

**6 CARTMEL GARDENS, MORDEN SM4 6QN: (Notice 1)** This is regarding a side extension not built in accordance with approved plans. A planning Enforcement Notice was subsequently issued on 24th September 2019 and would have taken effect on 24th October 2019. The notice requires the demolition of the rear extension. This Notice has a compliance period of 3 calendar months. An Appeal was electronically submitted. This Appeal has now been determined by Decision letter dated 23<sup>rd</sup> June 2020. The Appeal was dismissed and the Enforcement Notice upheld. The compliance period is 3 months from the date of the Decision letter. Direct action is now under consideration.

The previously approved planning permission has now been implemented, the size of the side extension has been reduced to that of the approved plans. This Notice is now considered to be complied with.

**Existing enforcement appeals**

2

**Appeals determined**

0

**New Enforcement Appeals**

0

**3.4 Requested update from PAC**

None

**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**