

Committee: Planning Applications Committee

Date: 16th June 2022

Agenda item:

Wards: All

Subject: PLANNING ENFORCEMENT - SUMMARY OF CASES

Lead officer: HEAD OF SUSTAINABLE COMMUNITIES

Lead member: CABINET MEMBER FOR REGENERATION, HOUSING AND
TRANSPORT COUNCILLOR MARTIN WHELTON (at time of
enforcement action)

COUNCILLOR DAVE WARD, CHAIR, PLANNING APPLICATIONS COMMITTEE
(At time of enforcement action)

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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 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.

Current Enforcement Cases:	532	New Appeals:	(2)
New Complaints	34	Instructions to Legal	0
Cases Closed	60	Existing Appeals	2
New Enforcement Notices Issued		TREE ISSUES	
Breach of Condition Notice:	1	Tree Applications Received	69
New Enforcement Notice issued	1	% Determined within time limits:	98%
S.215: ³	0	High Hedges Complaint	0
Others (PCN, TSN)	2	New Tree Preservation Orders (TPO)	0
Total	4	Tree Replacement Notice	0
Prosecutions: (instructed)	0	Tree/High Hedge Appeal	0

Note (**figures are for the period from (from 20th April to 7th June 2022**). 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.

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

2.0 Recent Enforcement Actions

310 & 372 Grand Drive SW20 9NQ – Untidy land

Before



After



An unannounced visit was made by the council in April 2022, soon after the investigation by an enforcement officer and making contact to the property owners, the land was cleared in May 2022.

70 Linkway, SW20 9AZ. Unauthorised hardsurfacing of front garden.

Before



After



The breach has now been rectified the hardsurfacing or cement has been removed and the front garden has been reinstated with a grassed area and a wooden boundary fence.

12A Deer Park Road, South Wimbledon, London SW19 3TL.

An enforcement notice was served from a change of industrial/office unit into a 16 unit House In Multiple Occupation (HMO), it did not receive planning permission and is expedient due to the creation of the poor residential accommodation in a commercial area. The notice requires the cessation of the HMO use requiring to remove kitchen and toilets from the units.

61a WORPLE ROAD LONDON SW19 4LB. A Breach of Condition Notice was served. The developers failed to provide screening required by condition on a planning permission for a new residential development, no screening leads to an overlooking and loss of privacy issue towards existing neighbouring adjoining residents.

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 10th May 2021. This notice requires compliance at the end of July 2021 requiring the Land to be tidied up / cleared.

The Land is again being fly tipped a further s215 Notice was issued on 28th February 2022 including enclosing and clearing the untidy / overgrown Land.

The council is in process of taking direction action to clear the land again.

100 Garth Road, Morden, SM4 4LR. Relates to the unauthorised erection of a self-contained residential unit on top of an existing garage. An enforcement notice has been served dated 28th March 2022, the Notice will take effect on 2nd May 2022 with a 3 months compliance period unless an appeal is submitted. The notice requires: Completely demolish the Unit or Restore that part of the property to its condition prior to the breach of planning control by complying with approved drawing number E-1672-PJ-03A planning permission 17/P2214.

Land at 225-231 Streatham Road, SW16.

A Temporary Stop Notice was issued on 2nd February 2022 requiring the immediate cessation of use of the Land as a car wash. The notice took immediate effect, and the unauthorised use was ceased, and the Notice fully complied with.

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. Further investigation was taken on the shopfront, this has since received planning permission. Also investigation is in process to the rear air-conditioning units.

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

Successful Prosecution case-update

7 Streatham Road, Mitcham, CR4 2AD

Direct action is being in process for the remedial works following non-compliance to enforcement notices. As previously mentioned, The Council served two enforcement notices on 6th June 2019, requiring the outbuilding to be demolished and to clear debris and all other related materials.

A letter has been written to the land owner to state that The Council is minded to take direct action by engaging a building contractor to undertake the works to secure compliance with the enforcement notices, pursuant to section 178, Town and Country Planning Act 1990 (as amended). This would result in further costs that would be recoverable from you directly. Before embarking on this course of action we wish to allow you a further opportunity to voluntarily comply with the enforcement notices.

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.

A brief summary;

The plea hearing took 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 14th January 2020, and adjourned until 4th 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 21st 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 2nd October 2020. This date has been re-scheduled to 27th November 2020. This was again re-scheduled to 4th January 2021. Outcome not known at the time of compiling this report.

A trial date has now been set for 28th and 29th 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 7th October 2021 at Wimbledon Magistrates Court.

The two planning appeals were dismissed dated 5th October 2021.

Sentencing was again deferred until 16th 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.

The defendant was fined for the outbuilding and the dormer extensions due to non-compliance with two enforcement notices.

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

N/A

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