

## **Committee:** Planning Applications Committee

**Date:** 22nd September 2022

**Agenda item:** Enforcement Report

**Wards:** All

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

**Lead officer:** **HEAD OF SUSTAINABLE COMMUNITIES**

**COUNCILLOR Aidan Mundy, CHAIR of 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>326</b>	<b>New Appeals:</b>	<b>(0)</b>
<b>New Complaints</b>	<b>22</b>	<b>Instructions to Legal</b>	<b>2</b>
<b>Cases Closed</b>	<b>211</b>	<b>Existing Appeals</b>	<b>1</b>
<b>New Enforcement Notices Issued</b>		<b>TREE ISSUES</b>	
Breach of Condition Notice:	1	<b>Tree Applications Received</b>	<b>69</b>
New Enforcement Notice issued	1	<b>% Determined within time limits:</b>	<b>98%</b>
S.215: <sup>3</sup>	0	<b>High Hedges Complaint</b>	<b>0</b>
Others (PCN, TSN)	0	<b>New Tree Preservation Orders (TPO)</b>	<b>0</b>
Total	2	<b>Tree Replacement Notice</b>	<b>0</b>
<b>Prosecutions:</b> (instructed)	<b>0</b>	<b>Tree/High Hedge Appeal</b>	<b>0</b>
		<b>5-Day notice</b>	<b>5</b>

Note (**figures are for the period from (from 8<sup>th</sup> August to 12<sup>th</sup> September 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 year's backlog of planning enforcement appeals to determine.

## **2.0 Recent Enforcement Actions**

### **8 Dahlia Gardens**

On 16<sup>th</sup> August 2022 the Council issued an enforcement notice re unauthorised construction of a upper-floor extension to an existing detached outbuilding without the benefit of planning permission. This came immediately after the refusal of planning application for the same under ref no. 22/P1540.

What was single storey outbuilding was altered into a two storey outbuilding, and by reason of its design and form fails to blend and integrate well with its surroundings, is considered to be unduly dominant and visually intrusive, having a negative impact on the character and appearance of Dahlia Gardens and Hadley Road. It created unacceptable loss of light, privacy and outlook toward the adjoining properties along Dahlia Gardens and Hadley Road.

### **LAND AT 8A-F SOUTH PARK ROAD, WIMBLEDON, LONDON, SW19 8ST**

#### **Temporary Stop Notice**

On 12th July 2022, the Council has issued this temporary stop notice alleging that there has been a breach of planning control on the land described in paragraph 4 below.

This temporary stop notice is issued by the Council, in exercise of their power in section 171E of the Act, because they think that it is expedient that the activity specified in this notice should cease on the land described. The Council now prohibits the carrying out of the activity specified in this notice.

A breach of planning control has taken place as a result of the commencement of development works on the Land carried out prior to the discharge of condition 6 of planning permission granted by the Council bearing reference number 21/P3487 for the erection of an additional floor comprising 3 x self-contained residential flats.

The commencement of development works creates an amenity harm to the neighbouring occupiers with regards to noise, dust and general safety, the pedestrians and traffic flow on the highway, the appearance of the property and adjacent highway is a detriment to the visual appearance of the property and streetscene as a result of the commencement of works

For the reasons above it is considered expedient to serve a Temporary Stop Notice to remedy the breach of planning control identified.

### 310 & 372 Grand Drive SW20 9NQ – Untidy land

Before



After



An unannounced visit was made by the council as shown in the photograph on the left, soon after the investigation by an enforcement officer and making contact to the property owners, the land was cleared soon after.

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

Before



After



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

### Land at 22 Vectis Road London SW17 9RG -Untidy land

A section 215 notice has been served to the above property, the rubbish and vegetation to the front and the rear of the property increases its adverse impact on

the amenity of the area. Section 215 of the Town and Country Planning Act (1990) provides local authorities with an additional discretionary power for requiring landowners to clean up 'land adversely affecting the amenity of the neighbourhood'

This matter concerns the adverse impact that the condition of the land at 22 Vectis Road has on the amenity of the surrounding area. The owner of the land has failed to clear rubbish and vegetation to the front and to the rear. To the front this includes, but is not limited to: large weeds in excess of three metres in height, trees and bushes, abandoned bins, abandoned car parts, household plastics, wooden boards, bricks which have been abandoned, motorcycle helmet, wooden boards, a mattress, a white household appliance. To the rear this includes, but is not limited to: overgrown vegetation, including overgrowth of seedling trees and shoots, household waste and appliances, garden waste and appliances and a derelict outbuilding which is in a state of disrepair.

Enforcement officers will be re-visiting the site soon to see if the notice has been complied with.

**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.

The owner has not complied with the notice following a compliance site visit check. A letter of alleged offence was served at the beginning of August.

**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.

**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 Land is again being fly tipped a further s215 Notice was issued on 28<sup>th</sup> 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 28<sup>th</sup> March 2022, the Notice will take effect on 2<sup>nd</sup> 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.

### **Successful Prosecution case-update**

7 Streatham Road, Mitcham, CR4 2AD

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.

A pre-application discussion has taken place between the agent of the owners with regards mitigate the harm from the outbuilding, this followed a warning letter to the owners threatening direct action 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.

It was understood at the end of the pre-application meeting the owner would mitigate the harm by reducing the outbuilding to permitted development, A certificate of lawfulness was submitted to attempt to obtain the outbuilding as permitted development however it was too high to come under this criteria.

The owner's representative stated that works would be done to comply with the notice by the end of the year, however when officers requested details of the contractor/builder to do this, there was no response.

The council are looking into the next steps which may include going back to prosecution again.

### **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**

1

**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