

## **Committee:** Planning Applications Committee

**Date:** 9<sup>th</sup> February 2023

**Agenda item:** Enforcement Report

**Wards:** All

**Subject:** **PLANNING ENFORCEMENT - SUMMARY OF RECENT WORK**

**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>347</b>	<b>New Appeals:</b>	<b>10</b>
<b>New Complaints</b>	<b>20</b>	<b>Existing Appeals</b>	<b>4</b>
<b>Cases Closed</b>	<b>27</b>	<i>There is a high volume of backlog at the Planning Inspectorates to determine appeals, the waiting time with them is several months, the existing appeals have not progressed with the inspectors.</i>	
<b>New Enforcement Notices Issued</b>			
Breach of Condition Notices	0	Prosecutions: (instructed)	0
Enforcement Notices	1	<b>New Instructions to Legal</b>	<b>3</b>
S.215: <sup>3</sup>	0	<b>Existing instructions to Legal</b>	<b>6</b>
Others (PCN, TSN)	1	<hr/>	
Total	2	<b>TREE ISSUES</b>	
		<b>Tree Applications Received</b>	<b>80</b>
		<b>% Determined within time limits:</b>	<b>98%</b>
		<b>High Hedges Complaint</b>	<b>1</b>
		<b>New Tree Preservation Orders (TPO)</b>	<b>1</b>
		<b>Tree Replacement Notice</b>	<b>0</b>
		<b>Tree/High Hedge Appeal</b>	<b>0</b>
		<b>5-Day notice</b>	<b>3</b>

Note (*figures are for the period from (from 6<sup>th</sup> January 2022 to 30<sup>th</sup> January 2023).*)

<sup>1</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. The Planning Inspectorate have recently stated that they are concentrating on the larger complexed schemes which take priority over householder and smaller cases.

## 2.0 **Recent Enforcement Actions**

### **52-54 High Street, Wimbledon, London SW19 5AY**

A notice was served for the installation of roller shutters on the shopfront

The Subject site, is located on the east side of High Street, Wimbledon, SW19 in the Wimbledon Village Conservation. The property comprises of 5 storey buildings with commercial premises on the ground floor and residential accommodation above. The surrounding area comprises of commercial and residential mix of properties.

The case was served on the back of planning application ref: 21/P3884 for the retention of the shop front and the roller shutter was refused, it was considered harmful in the Wimbledon conservation area and to the street scene.

### **Requirements of the Notice**

1. Permanently remove the roller shutters.
2. Remove all materials, fixtures, fittings and debris associated in compliance with the works (1) above and permanently take off site.

### **Land at 129 Pelham Road Wimbledon London SW19 1NZ**

A notice was served for the unauthorised material change of use of the Land from ancillary car parking for use class E to commercial car park (sui generis).

The breach relates to the change of use of the land from B1 storage and ancillary use car parking to offices and working of motor vehicles and garages to the current use as a commercial car park in a residential area.

The land rear of 129 Pelham Road, is in South Wimbledon within a residential area. The site is within walking distance to Central Wimbledon, where there are good transport links and access by train, bus, tubes and multi-storey car parking facilities.

As mentioned above, the land was used through various uses such as ancillary staff car parking for the surrounding offices or parking of cars relating to a workshop/garage car repairs and ancillary cars to those businesses. They are restricted to either staff users or customers relating to the local business.

The land is currently being used as an unattended commercial car park open to the all of the public, operating from 7am -7pm. The running of engines of vehicles entering and leaving the site results in noise disturbance and the increase of air pollution to those who reside, work, visit and go to school in the area.

The commercial car park is sited within a residential area, walking distance to central Wimbledon where there are good connections to public transport and car parks. The car park has changed from class B1 storage and light industrial with ancillary staff car park (restricting car park access to staff only during office hours) to a unrestricted and unattended commercial car park operating 7 days a week outside working hours of

8am to 6pm Monday to Friday This has an adverse impact in terms of noise, air pollution, road and crime safety on local residents, those who work, visit and go to school.

The land is left unattended and abuts residential units which are easily accessed from the car park and is open to crime and anti-social behavior.

By the virtue of the siting of the land within a residential area being used in a commercial capacity is unsympathetic to the locality.

The commercial car park (sui generis) by reason of opening hours, unrestricted and unattended vehicle movements, noise, disturbance and increased opportunities for potential anti-social behaviour and crime fails to protect the amenity of nearby residential occupiers.

The unattended new car park use leads to unrestricted vehicle movements, and limited visibility splay entering/leaving the site on Pelham Road compromises highway safety for pedestrians and road users.

#### Requirements of the Notice

- To permanently cease the use of the land as a commercial car park (sui-generis).
- Permanently remove all paraphernalia relating to the new car park such as (but not limited to) advertising boards and directional signs.
- Permanently remove all materials, fixtures, fittings and debris associated in compliance with the works (1) above and permanently take off site.

#### **Broken telecoms cabinets Middleton Road/ Lilleshall Road Muchelney Road**

A report was made with regards to Middleton Road/ Lilleshall Road Muchelney Road junction with regards to broken cabinets with a potential issue of s215 untidy land. Our officers went out on site to inspect to find the contact details to the telecommunications company Virgin Media who are responsible. The officer negotiated to fix these boxes without requiring any formal action. The matter resolved 2 months later as shown below and is a visual improvement to the streetscene and health and safety of the public.

## Before



## After



### **391 Cannon Hill Lane Raynes Park London SW20 9HH**

An enforcement notice was served the unauthorised installation of solar panels raised above the ridgeline of the roof of the property on the Land. The requirements are to Completely remove the solar panels from the roof; Or (b) Reconfigure the solar panels to lay flat on the roof below the ridgeline And (c) Remove from the Land all materials, fixtures, fittings and debris associated with compliance with the works in (a) or (b) above.

### **Land to the rear of 42 Tamworth Lane, Mitcham, CR4 1DA.**

The council will be re-serving a notice but to reinstate the garage and rear boundary adjacent to Acacia Road.

The planning enforcement team have been working with the police and anti-social behaviour team to find a solution to board up the site, the process is ongoing.

To summarise:

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.

### **31 Dundonald Road, Wimbledon, London, SW19 3QH**

An enforcement notice has been served to remove the front, ground floor single storey extension from the front of the shop unit. This came after 2 retrospective planning applications and 2 refusals.

The unauthorised ground floor single storey extension from the front of the shop unit would fail to relate positively and appropriately to the rhythm, siting and scale of the building and existing pattern of development along the street to the detriment of the character and appearance of the building, street and surrounding area.

The requirement is to return the ground floor shop front to its former unaltered state before the unauthorised front, ground floor single storey extension.

### **28 Oakleigh Way, Mitcham, CR4 1AL**

This notice is intended to resolve the breach of planning control relating to the unauthorised conversion of the rear extension into a self-contained unit and rear canopy.

The conversion of rear extension to a self-contained unit would deliver one additional residential unit within the borough, which is a strategic objection of the Council. However, the local development framework also requires that development have a high quality design and form that responds to the local area, parking provisions should maintain the safe and efficient operation of the highway, and proposals should not adversely impact adjoining neighbours. Weighing up the merits of the scheme the proposal is considered unacceptable due to the standard of accommodation, impact on the local highway and absence of cycle and refuse storage.

The rear canopy is not be sympathetic in terms of massing, form or overall design. Although it is at the rear, it is assessed not to be sympathetic to its surroundings. It is inappropriate in terms of scale and design. Therefore it is considered expedient to issue the notice. The notice requires to cease the self-contained residential unit and to remove the canopy.

### **8 Dahlia Gardens**

On 16<sup>th</sup> August 2022 the Council issued an enforcement notice he unauthorised construction of an 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**

### **Breach of condition notice following 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 (Construction management plan) 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.

Following the temporary stop notice, the construction management plan, was approved and works commenced.

However works were continuing but were contrary of conditions 4 and 6;

Condition 4- No demolition or construction work or ancillary activities such as deliveries shall take place before 8am or after 6pm Mondays - Fridays inclusive, before 8am or after 1pm on Saturdays or at any time on Sundays or Bank Holidays.

Condition 6-The development shall not commence until details of the provision to accommodate all site workers', visitors' and construction vehicles and loading /unloading arrangements during the construction process have been submitted to and approved in writing by the Local Planning Authority. The approved details must be implemented and complied with for the duration of the construction process. The details shall include how any adverse impact of noise, dust, vibration and traffic on occupiers of the building and adjoining owners or occupiers will be mitigated.

A site visit/meeting with the planning officer, residents, councillor and MP on 8th July 2022, confirmed that works had commenced prior to the discharge of condition 6 ref:22/P1840 and safety measures to mitigate dust had not been put in place. Dust mitigation had not been implemented - polythene dust sheets around the scaffolding had not been put on, and therefore there is no dust barrier between the site and surrounding properties. Debris from the construction works are not confined, posing a danger to the public and residents. Site Access and Hoarding



requirement – hoarding to be constructed and all works are to be within the hoarding line. Hoarding around the building was not been erected.

As of December 2022- The notice was complied with and works are complete.

### 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 and potentially re-serving the notice 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.

**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- Summary of the prosecution:**

The Council served two enforcement notices on 6th June 2019 for the unauthorised outbuilding and roof extension, the enforcement notice required the outbuilding to be demolished and to clear debris and all other related materials. Following the non-compliance of said notices, this is a criminal offence which lead to prosecution proceedings.

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.

### **Latest**

Enforcement officers have written to the landowner to state that The Council is minded to take direct action 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 them directly.

To date the notice still has not been complied with, in October 2022, a meeting was taken place with a contractor to get quotes for the removal of both outbuilding and roof extension and rebuilding of the roof.

Quotes were received in November 2022 and discussions were had internally in view to accept one of the tasks involved to do it in stages due to budget reasons (removal of outbuilding first and then dormer and rebuild later), it is understood that any agreement of such works needs approval by the council.

The owner has made contact with the council in January 2023 in view of complying with the notice, however no further contact was made and the council are looking into going ahead with direct action.

### **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