

Date: 25th April 2024

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

Contact Officer Raymond Yeung
Raymond.Yeung@merton.gov.uk

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: 390	New Appeals: 0
New Complaints 7	Existing Appeals 21
Cases Closed 13	<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>
New Enforcement Notices Issued	
Breach of Condition Notices 1	Prosecutions: (instructed) 2
Enforcement Notices 0	New Instructions to Legal 2
S.215: 0	Existing instructions to Legal 6
Others (PCN, TSN) 1	
Total 2	
	TREE ISSUES
	Tree Applications Received 190
	% Determined within time limits: 97%
	High Hedges Complaint 1
	New Tree Preservation Orders (TPO) 0
	Tree Replacement Notice 1
	Tree/High Hedge Appeal 0
	5-Day notice 5

Note (*figures are for the period from (from 1st March 2024 to 15th April 2024).*)

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. Recent Enforcement Actions

24A & B Cottenham Park Road, West Wimbledon- Served Breach of condition notice

A breach of conditions notice was served following the breach of planning permission 22/P3729 condition 12 (Construction Management Plan) and 13 (provision to accommodate all site workers, deliveries and visitors) The site is opposite a roundabout and bus stop on a busy junction, HGV were obstructing the highway posing a danger to highway users and pedestrians.

The developers are subsequently working with highway officers to mitigate the situation.



Latest update Burn Bullock – 315 London Road -Enforcement Notice & Listed Building Repairs Notice

Planning enforcement notice was hand delivered at the site for the unauthorised material change of use of the public house main building and ancillary car parking to a large House of Multiple Occupation (“HMO”), car-repair and cleaning workshop, storage, scrapyards and installation of portacabins. Having tried to get the responsible persons to comply with the notice and arrange another visit, they have appealed against the notice, we are awaiting for the outcome of the appeal from the planning inspectorates.

A letter was sent to the representatives to issue a warning to submit documents for the Listed building consent to be made valid and to comply with the listed building repairs notice, the council has yet to validate the application due lack of detailed heritage information.

The committee were updated in November of 2023 of the status of the land and considering options for the site.

In April 2024, enforcement successfully persuaded the planning inspectorates put forward a decision date for the appeal, however a date is yet to be set for the inspector site visit.

As we await the decision, at the time of print the enforcement team have drafted further notices to legal to cease any commercial operation on site and a section 215 notice to tidy up the building, it is expected to be served by week commencing 29th April 2024.

24 Castleton Road, Mitcham, Surrey CR4 1NY -S215 Notice -DIRECT ACTION

The Council re-issued a S215 untidy land notice to clear all rubbish and debris from the front of the Land, including but not limited to: plastic bags of rubbish, abandoned bins, householder plastics, wooden boards, pieces of furniture and household plastic boxes. The council took direct action to clear the waste.



Before

&



After

174 Haydons Road, South Wimbledon – S215 Notice -DIRECT ACTION

The Council re-issued a S215 untidy land notice, they are required to clear all rubbish and debris from the front of the Land including, but not limited to wooden boards, plastic bags of rubbish, building materials and broken fencing. The council took direct action to clear the waste.



Before



&

After

162 & 164 Hartfield Road, Wimbledon-Temporary Stop Notice and Breach of condition notice issued

A temporary Stop Notice has been issued in addition of the Condition notice has been served, this time condition 11 in addition to condition 14 of the 2018 Permission that requires full compliance with the construction and ancillary works times, in addition to the CTMP for the duration of the construction process and paragraph b) of the CTMP has not been complied with delivery times.

Land at Former La Sporta Community Centre, Church Road, Mitcham - Enforcement Notice

The Council issued an enforcement notice for the a material change of use of the Land from a community centre (Use class F2) to the mixed use of the Land for the siting and use as a hot food takeaway trailer (Use Class Sui-Generis) and; (ii) operational development comprising of the siting of a static hot food take-away trailer. They are required to permanently remove the Trailer from the Land that facilitates the Unauthorised Use. The trailer has ceased trading as a hot food takeaway, but the trailer remains on the grounds.

205 London Road, Morden, SM4 5PT -Enforcement Notice-Appealed

An enforcement has been served for the unauthorised erection of a rear roof extension and a single storey rear/side extension, an appeal has been submitted against the notice.

8 Dahlia Gardens -Potential prosecution for non-compliance of enforcement notice

The Council issued an enforcement notice for the 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.

Officers conducted a Notice of Entry to visit in March to see works are not complied with the notice and a further letter of alleged offence in April 2023, the council will review next steps to potential prosecution for non-compliance of the said notice.

Officers are now reviewing formal legal action.

153A Dorset Road Merton Park London SW19 3EQ- Enforcement Notice issued-Appealed

Notice served against the conversion of the outbuilding on the Land into a self-contained residential unit.

The conversion of the outbuilding to a self-contained unit, by reason of size and layout would fail to provide an acceptable standard of residential accommodation and living space resulting in a cramped and unsatisfactory standard of accommodation to the detriment of the amenities of current and future occupiers. It does not provide sufficient secure, integrated, convenient and accessible cycle parking nor refuse and recycling facilities. It creates a harmful impact to amenity to the host and neighbouring properties by reasons of noise, lack of privacy and disruption and creates limited outdoor amenity space for both the occupiers of the outbuilding and the main dwelling on the site. The requirement is to cease the use of the outbuilding as a self-contained residential unit. The notice has been appealed.

37 Octavia Close, Mitcham –Enforcement Notice issued-Appealed

Unauthorised erection of a front porch, and enforcement notice was issued for its removal. The Porch by the virtue of its size, siting and design is considered visually obtrusive, incongruous and unsympathetic to the character and appearance of the dwelling, locality, and character of the area in general. The applicants have appealed against the notice.

59 Epsom Road, Morden-Enforcement Notice issued-Appealed

Use of the outbuilding at the rear of the Land as a self-contained residential unit. The change of use has a negative effect on the neighbouring properties and local residents in terms of noise as the occupiers would use the alley way on a daily basis; the front of the garage/outbuilding has been fenced off to provide a private amenity space. This would result in further noise issues when in use by any occupiers. The amenity space enjoyed by the occupiers of the host site has been reduced. The gardens abutting the alleyway are open spaces and are open to crime, no preventive design measures have been taken into consideration to combat crime. The applicants have appealed against the notice.

The Beeches -Broken fences and untidy land – Before and after

The council were notified about the state of the fences in this residential area, following contact made by officers, the fence was replaced immediately along with the clear up paving and repairing of patios slabs.



Before



After

Market Square, Upper Green Mitcham –Informal action- remedy

Officers were notified about the stall erected against the trees, following a discussion with those responsible it was removed immediately.



Before



After -1 week later

156 Merton Hall Road - Before and after -Advertisement -Before & After

An advert was placed on the side of a restaurant facing Kingston Road which is a designated **Merton Hall Road conservation area**, the advert had no consent .

Officers visited the property and discussed with the owner and staff of the restaurant, after negotiations, it was moved via informal enforcement action, the results are below.



Before-Advertisement of restaurant



After advertisement removed

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 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 council warned about direct action to the owner and responded back in February that they have not complied with the notice yet and not able to, the council are looking into going ahead with direct action having obtained quotes from a suitable contractor.

An appeal has been dismissed for the certificate of lawfulness for the outbuilding to be permitted development, a site was conducted by officers and the inspectors, the enforcement team are considering direct action for the outbuilding and to instruct legal.

3. 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