

## **Committee:** Planning Applications Committee

**Date:** 23<sup>rd</sup> August 2018

**Wards:** All

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

**Lead officer:** HEAD OF SUSTAINABLE COMMUNITIES

**Lead member:** COUNCILLOR LINDA KIRBY, 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 case work 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 staffing levels in the Planning Enforcement Section.**

It should be noted that this section currently comprises of:

The Deputy Planning Enforcement Manager (full time).

Two Planning Enforcement Officers (full time) Two Tree Officers (one full time one part time).

The Planning Enforcement Manager resigned in February 2017 and this position is not being filled as the team has been reduced from four to three Planning Enforcement Officers in the recent round of savings.

<b>Current Enforcement Cases:</b>	<b>793</b>	<sup>1</sup> (785)	<b>New Appeals:</b>	(1)	(0)
<b>New Complaints</b>	<b>33</b>	(38)	<b>Instructions to Legal</b>	<b>0</b>	(0)
<b>Cases Closed</b>	<b>25</b>		<b>Existing Appeals</b>	<b>1</b>	(1)
No Breach:	13		<hr/>		
Breach Ceased:	7		<b>TREE ISSUES</b>		
NFA <sup>2</sup> (see below):	10		<b>Tree Applications Received</b>	<b>33</b>	<b>(32)</b>
Total	25	(22)	<b>% Determined within time limits:</b>	<b>94%</b>	
<b>New Enforcement Notices Issued</b>			<b>High Hedges Complaint</b>	<b>0</b>	<b>(1)</b>
Breach of Condition Notice:	0		<b>New Tree Preservation Orders (TPO)</b>	<b>1</b>	<b>(1)</b>
New Enforcement Notice issued	1	(1)	<b>Tree Replacement Notice</b>	<b>0</b>	
S.215: <sup>3</sup>	2		<b>Tree/High Hedge Appeal</b>	<b>0</b>	<b>(1)</b>
Others (PCN, TSN)	1	(1)			
Total	1	(0)			
<b>Prosecutions:</b> (instructed)	<b>0</b>	<b>(1)</b>			

Note (*figures are for the period 12<sup>th</sup> July 2018 to 13<sup>th</sup> August 2018*). 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.

## 2.0 New Enforcement Actions

- **39 West Barnes Lanes, SW20 0BL.** The council issued a S215 notice on 23rd July 2018 to require the following steps "to trim and cut back overgrown bushes from the front and rear gardens, tidy the site, clean, repair and paint the front windows and repaint the front of the property". The notice will come into effect on 23/08/18.
- **228 Lynmouth Avenue, SM4 4RP.** The Council issued a S215 notice on 23rd July 2018 to require the following steps to "trim and cut back overgrown bushes from the front and rear gardens, tidy the site, clean, repair and paint the front windows and repaint the front of the property". The notice will come into effect on 23/08/18.
- **100 The Broadway, Wimbledon SW19 1RH.** This matter concerns a dilapidated shopfront. A s215 Notice has been authorised and will be issued requiring the shop front to be restored and tidied up.
- **118 Central Road, Morden SM4 5RL.** A planning Enforcement Notice has been authorised relating to the covering of the rear yard of this commercial garage. The Councils Legal services are in the process of issuing the Notice.

- **37 Montgomery Close, Mitcham, CR4 1XT.** This concerns unauthorised extra single storey wooden extension with a height of approx. 2.7m a depth of 2.4m. Extending the width of the whole rear of the property. A Planning Enforcement was issued on 16<sup>th</sup> March 2018 requiring the demolition of the single story wooden extension, with a one month compliance period. The Notice has not been complied with and to date no notification of an appeal has been received.
- **22 St George's Road, Mitcham, CR4 1EB.** The council issued an Enforcement Notice on the 7 May 2018 for 'erection of high fence and patio at the property. The notice requires removal of the fencing and decking from the Property and will take effect on 14th June 2018 with a compliance period of one month of this date unless an appeal is made. No appeal has been made. The notice has taken effect however; the legal team has been informed that the ownership details have changed. The new owners' details are pending and therefore we have to wait for the full detail update before we can enforce the notice. An appeal has been received on grounds (c) only (that planning permission is not required). The Council will submit its statement in due course.
- **19 Fernlea Road, Mitcham, CR4 2HF.** The Council issued an Enforcement Notice on 14th May 2018 for 'Change of use of outbuilding to a residential unit'. The notice requires the cease of the outbuilding as residential unit and will take effect on 28th July 2018 with a compliance period of one month of this date unless an appeal is made. No appeal has been made. The owner has complied, no further action.
- **1 Castleton Road, Mitcham CR4 1NZ.** The Council issued an Enforcement Notice on 13th June 2018 for 'Change of use of outbuilding to a residential unit'. The Notice requires the cease of the outbuilding as residential unit and will take effect on 28th July 2018 with a compliance period of one month of this date unless an appeal is made. No appeal has been made. The owner has complied, no further action.

### Some Recent Enforcement Actions

- **9 Albert Road, Mitcham.** The property has been converted into 2 self-contained flats without planning permission. A Planning Enforcement Notice requiring the reversion of the property back to a single-family dwelling house was issued on 30<sup>th</sup> October 2017. The Notice came into effect on 4<sup>th</sup> December 2017 with a compliance period of 3 calendar months from 4<sup>th</sup> December 2017. No appeal was made against this Notice, however there was a planning appeal against the refusal of planning permission for the retention of the two flats. An appeal was made against the refusal of planning permission.  
Appeal allowed under development control. No further action
- **117 Haydons Road South Wimbledon SW19.** The Council re-served an Enforcement Notice on 9th February 2016 against the unauthorised conversion of the former public house into eight self-contained flats. The notice came into effect on 18th March 2016 as there was no appeal prior to that date and the requirement is to cease using the building as eight self-contained flats within 6 months. Six of the flats are vacant and the owners have instructed builders to remove all kitchens units. Court action is currently on-going to re-possess the remaining two flats.

- **Burn Bullock, 315 London Road, Mitcham CR4.** A Listed Buildings Repair Notice (LBRN) was issued on 27th August 2014 to require a schedule of works to be carried out for the preservation of the Building which is listed.

Listed Building Consent was granted on 3rd March 2015 to cover the required works which include the roof, rainwater goods, masonry, chimney render repairs, woodwork, and glazing. An inspection of the building on Friday 29th April 2016 concluded that the required works have mostly been carried out to an acceptable standard.

The Council has now been provided with a copy of the archaeological survey report officers will be reviewing and making their recommendations. Case to be re-allocated to a new officer but kept under re-view.

A pre-app has been submitted which covered converting the upper floors to residential and proposal for new development at the rear and at the side. Proposals included improvements to the cricket pavilion. A pre-app report has been made.

At the site visit it was observed that there is a new ingress of water from the roof. This was pointed out to the owner asking for immediate action.

- **13 Fairway, Raynes Park SW20.** On 2nd December 2016, the Council issued an amenity land notice against the untidy front and rear gardens of the property to require the owner to trim, cut back and maintain the overgrown bushes, weeds and trees. The compliance period is within one month of the effective date. No action has been taken by the owner. The Next step is to either take direct action or prosecution. This case is now to proceed to prosecution.
- **14 Tudor Drive SM4.** An Enforcement Notice was issued on the 9th February 2017 to cease the use of the land (outbuilding and garden) from residential (Class C3) to storage (Class B8). The Notice took effect on the 15th February 2017, no appeal was made. Compliance with the Notice was expected at the end of March 2017. Site visit to be undertaken to check for compliance.
- **242 – 244 LONDON ROAD, MITCHAM, LONDON, CR4 3HD.** The council issued an Enforcement Notice on the 12th January 2018 for 'erection of 3 air conditioning units at the side of the ground floor of the Land. The notice requires the removal of the 3 air conditioning units on the side of the ground floor; and will take effect on 12th February 2018 with a compliance period of one month of this date unless an appeal is made. No appeal has been made. The Notice has now been complied with. The owner has complied, no further action.
- **1 Cambridge Road, Mitcham, CR4 1DW.** The council issued a S215 notice on 21st August 2017 to require the following steps to trim and cut back overgrown bushes from the front and rear gardens, tidy the site, clean, repair and paint the front windows and repaint the front of the proper. The notice took effect on the 21st September 2017. Prosecution proceedings are now being considered. The Notice has been reissued and the Council has to consider Mental health issues in this matter.

### 3.00 New Enforcement Appeals

**22 St George's Road, Mitcham, CR4 1EB.** The Council issued an Enforcement Notice on the 7 May 2018 for 'erection of high fence and patio at the property. The notice requires removal of the fencing and decking from the Property and will take effect on 14th June 2018 with a compliance period of one month of this date unless an appeal is made. No appeal has been made to date.

### 3.1 Existing enforcement appeals

#### Appeals determined

- **58 Central Road Morden SM4.** An Enforcement Notice was issued on 10th January 2017 for the demolition of an outbuilding. The Notice would have taken effect on the 15th February 2017, requiring the demolition of the outbuilding to be carried out within 2 months. An appeal was lodged, and started. An appeal statement in support of the demolition of the outbuilding has been submitted. Waiting for the inspectorate decision. The appeal has been dismissed
- **218 Morden Road SW19.** An Enforcement Notice was issued on 23rd January 2017 for the demolition of the current roof to its original condition prior to the breach in planning control or construct the roof pursuant to the approved plans associated with planning permission granted by the Council bearing reference number 05/P3056. The Notice would have taken effect on the 28th February 2017, giving two months for one of the options to be carried out. An appeal against this Notice was submitted. The appeal site visit was held on 29th January 2018. The appeal was dismissed and the Notice upheld by Decision Letter dated 1st February 2018. The Notice was varied extending the compliance period from two calendar months to ten calendar months from 1st February 2018. Awaits for compliance
- **18 Morton Road Morden SM4** the council issued an enforcement notice on 3rd October 2016 against the unauthorised change of use of an outbuilding to self-contained residential use. The notice would have taken effect on 10/11/16 but the Council was notified of an appeal. The compliance period is two calendar months. The appeal site visit was held on 29th January 2018. The appeal was dismissed and the Notice upheld by Decision Letter dated 1st February 2018 with a three months compliance period from 1st February 2018.
- **3 Aberconway Road Morden SM4** - The Council served an enforcement notice on 4th February 2016 against the erection of a single storey side extension to the property following a refusal of retrospective planning permission to retain the structure. The owner is required to remove the extension and associated debris within one month of the effective date. The appeal was dismissed on 1/12/16 and the owners have to demolish the extension by 1/1/17. The Structure is still present. No compliance, awaiting prosecution.

- **Land at Wyke Road, Raynes Park SW20.** The Council issued an enforcement notice on 4th July 2016 against the unauthorised material change in the use of the land for car parking. The notice would have come into effect on 10/08/16 but an appeal was submitted. 11<sup>th</sup> April 2017 Appeal dismissed and Notice upheld. The compliance date was 12<sup>th</sup> May 2017, however an acceptable scheme has now been approved.
- **2 and 2A Elms Gardens, Mitcham.** An enforcement notice was issued on 12th January 2017 against the erection of a single storey bungalow at the rear of the property. The notice would have come into effect on the 18th February 2017 but an appeal has been submitted. The Appeal start date was 19th March 2017 and a statement has been sent. The planning appeal site visit is to be held on 1st September 2017. It was found on the appeal site visit that the building had been altered and could no longer be considered by the inspector to be a “bungalow” and as such the enforcement Notice referring to a “bungalow” was quashed by Decision letter dated 27th September 2017. The Council is now going to issue a new enforcement Notice referring to the building as 3 garages. New Officer’s report has been rafted for further enforcement notice to be served on the three garages
- **18 Warminster Way, Mitcham, CR4 1AD.** The council issued an Enforcement Notice on the 20th March 2017 for ‘erection of a single storey rear extension on the Land. The notice requires the structure to be demolished and would have taken effective on 27th April 2017. An appeal site visit took place 28<sup>th</sup> February 2018. The appeal was dismissed by Decision Letter dated 7<sup>th</sup> March 2018. The period of time for compliance with the Enforcement Notice was extended from three months to six months from 7<sup>th</sup> March 2018. Awaiting prosecution proceedings.

### **3.3 Prosecution cases.**

- **170 Elm Walk Raynes Park** The council issued a S215 notice on 4th August 2016 to require the owner to repair and paint or replace windows and doors to the property as well as clear the weeds and cut back on overgrown bushes in the front and rear gardens. The notice came into effect on 1/9/16 as there was no appeal and the compliance period is one month. A site visit on 4th October 2016 confirmed that the notice has not been complied with and prosecution documents have been forwarded to Legal Services for further action. This case is to be re-allocated to a new officer. The rear window has been addressed and resolved. No further action under section 215 notice is required.
- **Land, at 93 Rowan Crescent Streatham, SW16 5JA.** The council issued a S215 notice on 29th July 2016 to require the following steps to trim and cut back overgrown bushes from the front and rear gardens, tidy the site, clean, repair and paint the front windows and repaint the front of the proper. The notice came into effect on 28/08/16 and the compliance period expired on 23/09/16. As the notice has not been complied with, a prosecution document has been forwarded to Legal Services for legal

proceedings to be instigated. The front garden has been cleared, however the bulk of the requirements of the Notice have not been complied with. Direct action is now under consideration.

- **55-61 Manor Road, Mitcham.** An enforcement notice was issued on 3rd August 2016 against the unauthorised change of use of the land from a builder's yard to use as a scrap yard and for the storage of waste and scrap metals, scrap motor vehicles and waste transfer. The notice came into effect on 2/9/16 no notification of an appeal was received. The requirement is to cease the unauthorised use and remove any waste and scrap materials including scrap and non-scrap vehicles from the site by 8/10/16. Following a site inspection, the occupier was reminded of the enforcement action and advised that as he failed to comply with the notice, the Council was progressing prosecution proceedings. However, the owner stated that the Notice would be complied with by 21st April 2017. However the Notice was not complied with and prosecution proceedings have now been instigated. A prosecution statement in consultation with the legal services is now in progress.

The people involved have been summoned to attend Lavender Hill Magistrates' Court on 10<sup>th</sup> July 2018. The defendants are required to attend the court and enter a plea to the offence of failing to comply with the requirements of a Planning Enforcement notice.

The defendant's appeared at Lavender Hill Magistrates Court. But the case was deferred and sent to the Crown Court as the penalties available to the Magistrates Court were considered by the court, to be insufficient, should the defendants be found to be guilty. It is likely that this case will be heard at the Crown Court in August 2018. The Court has imposed a £1,000 fine plus costs of £1,500. The occupier was instructed to comply with the notice within one week by 15/08/2018. Officer's will visit and check for compliance.

#### **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**