

## Planning Applications Committee

25<sup>th</sup> April 2019

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

**Wards: All**

**Lead officer: HEAD OF SUSTAINABLE COMMUNITIES**

**Lead member: CABINET MEMBER FOR REGENERATION, HOUSING AND TRANSPORT COUNCILLOR MARTIN WHELTON AND COUNCILLOR LINDA KIRBY, CHAIR, PLANNING APPLICATIONS COMMITTEE**

**Contact Officer** Ray Littlefield: 0208 545 3911

Ray.Littlefield@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 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.

<b>Current Enforcement Cases:</b>	<b>901</b>	<sup>1</sup> (889)	<b>New Appeals:</b>	(0)	(1)
<b>New Complaints</b>	43	(41)	<b>Instructions to Legal</b>	<b>0</b>	(0)
<b>Cases Closed</b>	<b>31</b>		<b>Existing Appeals</b>	<b>1</b>	(1)
No Breach:	16		<hr/>		
Breach Ceased:	15		<b>TREE ISSUES</b>		
NFA <sup>2</sup> (see below):	0		<b>Tree Applications Received</b>	<b>57</b>	<b>(69)</b>
<b>Total</b>	<b>31</b>	<b>(29)</b>	<b>% Determined within time limits:</b>	<b>97%</b>	
<b>New Enforcement Notices Issued</b>			<b>High Hedges Complaint</b>	<b>1</b>	<b>(0)</b>
Breach of Condition Notice:	0		<b>New Tree Preservation Orders (TPO)</b>	<b>0</b>	<b>(2)</b>
New Enforcement Notice issued	0	(1)	<b>Tree Replacement Notice</b>	<b>0</b>	
S.215: <sup>3</sup>	0		<b>Tree/High Hedge Appeal</b>	<b>0</b>	<b>(0)</b>
Others (PCN, TSN)	0	(0)			
<b>Total</b>	<b>0</b>	<b>(0)</b>			
<b>Prosecutions: (instructed)</b>	<b>0</b>	<b>(0)</b>			

Note (**figures are for the period from 13<sup>th</sup> March 2019 to 12<sup>th</sup> April 2019**). 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**

**20A Mitcham Park, CR4 4EG.** An Enforcement Notice was issued on 8<sup>th</sup> March 2019 relating to a high fence enclosing the front garden. The Notice requires the reduction of the height of the fence to no higher than 1 metre to any part of the adjacent to the highway. The Notice will take effect on 10<sup>th</sup> April 2019, with a compliance period of 1 month, no appeal was made and the Notice has now been complied with.

**74 Beeleigh Road, Morden, SM4 5JW.** An Enforcement Notice was issued on the property on 17<sup>th</sup> December 2018 for 'Without planning permission the erection of a single story front extension. The notice requires the owner to demolish the front extension; and will take effect on 21<sup>st</sup> January 2019 with a compliance period of four months of this date unless an appeal is made. No appeal has been made to date.

**227 London Road SM4 5PU.** An Enforcement Notice was issued on the property on 20<sup>th</sup> December 2018 for 'Without planning permission, the formation of a hardstanding and the parking of vehicles, on the front garden of the land'. The notice requires the owner to cease use of the front garden for the parking of vehicles and to remove the unauthorised hardstanding; and will take effect on 24<sup>th</sup> January 2019 with a compliance period of three months of this date unless an appeal is made. No appeal has been made to date.

**228 Lynmouth Avenue, SM4 4RP.** The Council issued a S215 notice on 23<sup>rd</sup> 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 came into effect on 23/08/18.

**The former laundry site, 1 Caxton Road, Wimbledon SW19 8SJ.** Planning Permission was granted for 9 flats, with 609 square metres of (Class B1) office units. 22 flats have been created. Instructions have been sent to legal services for the service of a planning enforcement requiring either the demolition of the development or build to the approved scheme. The Planning Enforcement Notice was issued on 11<sup>th</sup> October 2018. The Notice will take effect on 18<sup>th</sup> November 2018 with a compliance period of 12 calendar months, unless an appeal is made to the Planning Inspectorate before 18<sup>th</sup> November 2018. An appeal was made but withdrawn the following day.

**100 The Broadway, Wimbledon SW19 1RH.** This matter concerns a dilapidated shopfront. A s215 Notice was issued and served on 28<sup>th</sup> June 2018, the Notice took effect 28 days after this date with a further compliance period of 28 days requiring the shop front to be restored and tidied up. The shop front has been improved, however not to the satisfaction of Officers.

**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 Notice 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. 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.

**29 Belgrave Walk, Mitcham, CR4 3QQ.** The Council issued a Planning Enforcement Notice on 24<sup>th</sup> August 2018 requiring the removal of a first floor rear extension. The Notice came into effect on 30<sup>th</sup> September 2018 with a 3 months compliance period unless an appeal was made before 30<sup>th</sup> September 2018. The first floor extension has now been removed and the Notice complied with.

**17 Burley Close, Streatham, SW16 4QQ.** The Council issued a Planning Enforcement Notice on 24th August 2018 requiring the removal of a tree house. The Notice came into effect on 30th September 2018 with a 2 months compliance period unless an appeal was made before 30th September 2018.

### Some Recent Enforcement Actions

**33 Sutherland Drive, Colliers Wood, SW19.** This matter concerns abandoned cars and general rubbish in the front, side and rear of the property. A s215 Notice has been authorised and was served on 18th October 2018, the Notice will take effect 28 days after this date unless an appeal is made (to the Local Magistrates Court) with a compliance period of a further 28 days from the date the Notice takes effect. The Notice has now been complied with.

- **39 West Barnes Lanes, SW20 0BL.** The council issued a S215 notice on 23rd July 2018 to requiring the land be cleared of rubbish. The notice came into effect on 23/08/18. The Land has now been cleared and the Notice complied with.
- **117 Haydons Road South Wimbledon SW19.** The Council re-served an Enforcement Notice on 9<sup>th</sup> February 2016 against the unauthorised conversion of the former public house into eight self-contained flats. The notice came into effect on 18<sup>th</sup> 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 27<sup>th</sup> 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 3<sup>rd</sup> 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 29<sup>th</sup> 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. Due to the time that has elapsed since the issuing of the Notice a new Notice was issued and served on 13<sup>th</sup> November 2018 giving 28 days in which to comply with the Notice. To date the Notice has not been complied and direct action is now under consideration.
- **19 Fernlea Road, Mitcham, CR4 2HF.** The council served an enforcement notice on the 19<sup>th</sup> June 2018 to require the following steps; - Cease the use of the Outbuilding as a self-contained residential unit; and remove all those fixtures and fittings that facilitate the unauthorised use of the Outbuilding including the permanent removal of the toilet and bath/shower facilities all cooking facilities, kitchen units, sinks, appliances, fridge, cooking facilities and food preparation areas. Remove from the Property all materials, machinery, apparatus and installations used in connection with or resulting from compliance with steps 5(i) and 5(ii) above. Due to the officer shortage, the compliance visit was delayed. However, this has now taken place and the enforcement notice was complied with. The case has now been closed.

### **3.0 New Enforcement Appeals - 0**

#### **3.1 Existing enforcement appeals - 1**

#### **3.2 Appeals determined - 0**

- **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. The appeal was dismissed by Decision letter date 25<sup>th</sup> August 2018, the enforcement Notice was upheld in its entirety.
- **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 1<sup>st</sup> February 2018 with a three months compliance period from 1<sup>st</sup> 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.

**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.**

**Land, at 93 Rowan Crescent Streatham, SW16 5JA.** The council issued a S215 notice on 29<sup>th</sup> 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 3<sup>rd</sup> 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 21<sup>st</sup> 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. A second prosecution is now underway.

### **3.4 Requested update from PAC - None**

**4. Consultation undertaken or proposed -None**

**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**