

Committee: Planning Applications Committee

Date: 28th April 2022

Agenda item:

Wards: All

Subject: PLANNING ENFORCEMENT - SUMMARY OF CASES

Lead officer: HEAD OF SUSTAINABLE COMMUNITIES

Lead member: CABINET MEMBER FOR REGENERATION, HOUSING AND
TRANSPORT COUNCILLOR MARTIN WHELTON

COUNCILLOR DAVE WARD, CHAIR, PLANNING APPLICATIONS COMMITTEE

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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:	580	¹ (600)	New Appeals:	(0)	(0)
New Complaints	39	(34)	Instructions to Legal	1	(1)
Cases Closed	305	(26)	Existing Appeals	2	(2)
New Enforcement Notices Issued			TREE ISSUES		
Breach of Condition Notice:	0		Tree Applications Received	62	(79)
New Enforcement Notice issued	1	(0)	% Determined within time limits:	100%	
S.215: ³	1		High Hedges Complaint	0	(1)
Others (PCN, TSN)	0	(0)	New Tree Preservation Orders (TPO)	4	(3)
Total	2	(1)	Tree Replacement Notice	0	
Prosecutions: (instructed)	0	(0)	Tree/High Hedge Appeal	0	(0)

Note (**figures are for the period from (from 19th March 2022 to 19th April 2022)**). The figure for current enforcement cases was taken directly from M3 crystal report.

¹ Totals in brackets are previous month's figures

² confirmed breach but not expedient to take further action.

³ 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

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

1st site visit: 30.11.21 – Before



Site visit: 19.1.22 – AFTER photo



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 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 10th May 2021. This notice requires compliance at the end of July 2021 requiring the Land to be tidied up / cleared. The Council have now taken Direct Action and cleared the land.

The Land is again being fly tipped a further s215 Notice is to be issued, to include enclosing the Land and clearing the untidy / overgrown Land.

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 28th March 2022, the Notice will take effect on 2nd 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.

Land at 225-231 Streatham Road, SW16.

A Temporary Stop Notice was issued on 2nd February 2022 requiring the immediate cessation of use of the Land as a car wash. The notice took immediate effect, and the unauthorised use was ceased, and the Notice fully complied with.

Parkside House, 52/54 High Street, Wimbledon, London SW19 5AY. Commercial Unit on Land to the rear. A Temporary Stop Notice was issued on 31st December 2021 relating to works being undertaken creating an unauthorised rear ground floor extension. The Notice came into immediate effect, the Notice will cease to have an effect after 27th January 2022. Works Stopped, Notice complied with.

52B Russell Road, Wimbledon, London, SW19 1QL. This is regarding the erection of a 2 metre boundary fence, facing the highway, which had a retrospective planning application submitted ref: 20/P2317 and was refused. The applicant appealed the decision to the Planning Inspectorate. The appeal was dismissed on 14th June 2021. An enforcement notice was issued on 13th September 2021 to remove the fence. The Notice took effect on 15th October 2021 with a one calendar month period of time for compliance. This Notice has now been fully complied with.

193 London Road, CR4 2JD. This is concerning a s215 notice served on untidy land. The Land is actively being cleared.

31 Edgehill Road, Mitcham, CR4 2HY. This is concerning a raised platform/garden that has been raised by approximately 90cm. An enforcement notice has been served to remove the raised platform and reduce the garden level by 90cm. The notice would have taken effect on 18/12/19, with a compliance date of 18/03/20, however an appeal has been submitted and is underway.

Successful Prosecution case

7 Streatham Road, Mitcham, CR4 2AD

Direct action is being in process 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.

The second enforcement notice is for an unauthorised front, side and rear (adjacent to Graham Road) dormer roof extensions. An appeal was lost for the dormers to be considered permitted development, the notice requires the owner to demolish the unauthorised front, side and rear roof dormer extensions (adjacent to Graham Road) and to clear debris and all other related materials. Both Notices came into effect on 8th July 2019 unless appeals were made before this date. No appeals were lodged.

The compliance date of the Enforcement Notice relating to the outbuilding to be demolished and to clear debris and all other related materials has now passed without compliance. The second enforcement notice was not complied with and now prosecution proceedings are being undertaken.

The plea hearing has now taken 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

2

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