
Decision Maker: RENEWAL, RECREATION AND HOUSING AND PUBLIC PROTECTION AND ENFORCEMENT PDS COMMITTEES AND DEVELOPMENT CONTROL COMMITTEE

Date: RRH PDS: 6 September 2023
PPE PDS: 12 September 2023
Development Control Cte: 5 October 2023

Decision Type: Non-Urgent Non-Executive Non-Key

Title: PLANNING ENFORCEMENT PROGRESS AND MONITORING REPORT APRIL 2022 TO MARCH 2023

Contact Officer: John Stephenson, Head of Planning and Development Support
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Chief Officer: Tim Horsman, Assistant Director Planning & Building Control
Housing, Planning and Regeneration

Ward: All Wards

1. Reason for report

- 1.1 This report provides an update on the progress of the current cases under investigation / pending consideration, cases which are currently at appeal, cases which are also waiting compliance period, cases where enforcement action has been instigated, cases awaiting prosecution action. Enforcement action authorised, cases that are currently with our legal department awaiting further action, cases where direct action has been authorised, cases which have now been closed together with a full breakdown on the range of current complaints.
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2. RECOMMENDATION(S)

- 2.1---The Renewal, Recreation and Housing and Public Protection and Enforcement PDS Committees and Development Control Committee are requested to consider and note the report.

Impact on Vulnerable Adults and Children

1. Summary of Impact: None directly from this report
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Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Quality Environment:
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Financial

1. Cost of proposal: Not Applicable:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Not Applicable
 4. Total current budget for this head: £Not Applicable
 5. Source of funding: 2022/2023
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Personnel

1. Number of staff (current and additional): 50.4ftes
 2. If from existing staff resources, number of staff hours: Not Applicable
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Legal

1. Legal Requirement: Statutory Requirement:
 2. Call-in: Not Applicable: No Executive decision.
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Procurement

1. Summary of Procurement Implications: None directly from this report
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Not Applicable
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

- 3.1 Planning Enforcement team investigates all allegations of breaches of planning control across the whole of the Borough as set out in the Council's updated Planning Enforcement Policy and plan. This policy was approved by Members, in order to provide some further guidance on any actions the Council may wish to consider when enforcement action could be taken. This includes where building work requiring planning permission is undertaken without such permission (**Operational Development**) and where conditions are attached to an approved scheme and the conditions are not complied with (**Breach of Condition or failing to comply with a Condition**). The team investigates the condition of land (**Section 215 untidy sites**) or property or where the use of a building or land is changed without the benefit of planning permission (**Change of Use**). The team investigates alleged unauthorised advertisements (**Adverts**) which may not have express consent.
- 3.2 Based on the information provided above I can confirm that progress has been achieved in reaching our projected target as set out in our portfolio Plan 2022/2023.
- 3.3 The Planning investigations team are being more proactive in our approach to investigating breaches of planning control. If Officer's see something which may be in breach of planning control then the officer will raise it and an investigation into the alleged breach of planning will be instigated.
- 3.4 The Council has a statutory duty to investigate all planning enforcement enquires, but they are given discretionary powers as to whether/ when to instigate formal enforcement action in each individual case. In each and every individual case an expediency test/assessment is carried out before considering instigating any further formal enforcement action.
- 3.5 We liaise very closely with our legal department within the Council to get clear advice as part of the expediency test, the reason for this is in that we can be satisfied that we are taking the appropriate actions on all enforcement matters at any given time, as we may leave the Council open to an award of costs if at appeal the Planning Inspectorate allows an appeal and if the Council may have been unreasonable.
- 3.6 **Direct action**, however, will always involve a cost and as a result, quotes will be obtained in order for the Council to carry out the works in default of the S215 notice. These cases will be determined under delegated authority. As this type of action may involve some considerable financial cost to the Council. A charge on the property/land can be considered by the Council in order to recover the Council's initial cost together with the appropriate interest rates charged until the bill is paid in full or the legal owner may wish to pay the cost through instalments until the full debt is paid which is arranged through our collections/billing using Liberata. Some cases may take longer to resolve due to probate or legal reasons.
- 3.7 As it currently stands as of 31st March 2023 a total of approximately **974** open enforcement cases are currently under investigation or pending consideration. The increase in cases may be as a direct result of COVID Pandemic, as the planning rules and regulations were relaxed to allow business to continue this significantly affected the service provided and in turn how the team worked by the restrictions of various guidance during lockdowns etc, delays in applicants and contraveners submitting planning applications or applying to remedy breaches of planning control, obtaining architects, builders or building materials , delays in all investigations and prosecution matters in court were inevitable.
- 3.8 A list of all pending cases is attached as Appendix 1 (see the Part 2 -j Exempt agenda). A glossary is added to explain to members the abbreviations in full and this list is broken down by Ward to assist ward members to identify the matters within their wards.

- 3.9 An analysis of the total number of cases received in the last three financial years is reported below. Insert 20/21, 21/22, 22/23.

| Range of enquiries 2022-2023 | No. of enquiries | % of enquiries |
|---------------------------------|------------------|----------------|
| Operational Development | 256 | 33.2 |
| Untidy Sites (S215) | 110 | 14.27 |
| Commercial Activity | 30 | 3.89 |
| Breach of condition | 91 | 11.8 |
| Adverts | 26 | 3.37 |
| Boundary treatment | 25 | 3.24 |
| Plans - not built according to | 110 | 14.27 |
| Commercial vehicle - parking of | 1 | 0.13 |
| Change of Use | 73 | 9.47 |
| Access | 0 | 0 |
| Shop shutters | 4 | 0.52 |
| Satellite Dishes | 3 | 0.39 |
| Trees | 50 | 6.49 |
| General | 70 | 9.08 |
| Total | 771 | 100% |

| Range of enquiries 2021-2022 | No. of enquiries | % of enquiries |
|---------------------------------|------------------|----------------|
| Operational Development | 337 | 34.2 |
| Untidy Sites (S215) | 130 | 13.1 |
| Commercial Activity | 41 | 4.1 |
| Breach of condition | 83 | 8.4 |
| Adverts | 21 | 2.13 |
| Boundary treatment | 47 | 4.77 |
| Plans - not built according to | 100 | 10.1 |
| Commercial vehicle - parking of | 1 | 0.10 |
| Change of Use | 81 | 8.22 |
| Access | 1 | 0.10 |
| Shop shutters | 2 | 0.20 |
| Satellite Dishes | 2 | 0.20 |
| Trees | 48 | 4.87 |
| General | 91 | 9.2 |
| Total | 985 | 100% |

| Range of enquiries 2020-2021 | No. of enquiries | % of enquiries |
|---------------------------------|------------------|----------------|
| Operational Development | 354 | 35.9 |
| Untidy Sites (S215) | 109 | 11 |
| Commercial Activity | 34 | 3.4 |
| Breach of condition | 90 | 9.1 |
| Adverts | 20 | 2 |
| Boundary treatment | 59 | 5.9 |
| Plans - not built according to | 105 | 10.6 |
| Commercial vehicle - parking of | 1 | 0.10 |
| Change of Use | 103 | 10.4 |
| Access | 1 | 0.10 |
| Shop shutters | 1 | 0.10 |
| Satellite Dishes | 0 | 0 |
| Trees | 57 | 5.79 |
| General | 50 | 5.08 |
| Total | 984 | 100% |

3.10 A number of enforcement cases are currently held in abeyance pending the outcome of an appeal with the Planning Inspectorate against the enforcement notices served or are the subject of an appeal against a S78 refused planning decisions. This number also includes cases where a compliance date is pending.

3.11 A total of **50** Enforcement Notices have been served in connection with breaches of planning control in the period April 2022 to March 2023, in other cases, successful negotiation led to matters being resolved before formal enforcement notices were issued. The updated enforcement activity is summarised in the table below.

| Type of Notice | Number of Notices issued between April 2022 and March 2023 |
|-------------------------------|--|
| Operational Development | 15 |
| Change of Use | 6 |
| S215 | 9 |
| Breach of Condition Notice | 5 |
| Planning Contravention Notice | 13 |
| Stop Notice | 0 |
| Failure to comply | 2 |
| TOTAL | 50 |

| Type of Notice | Number of Notices issued between April 2021 and March 2022 |
|-------------------------------|--|
| Operational Development | 25 |
| Change of Use | 12 |
| S215 | 11 |
| Breach of Condition Notice | 6 |
| Planning Contravention Notice | 30 |
| Stop Notice | 0 |
| Failure to comply | 2 |
| TOTAL | 88 |

| Type of Notice | Number of Notices issued between April 2020 and March 2021 |
|-------------------------------|--|
| Operational Development | 0 |
| Change of Use | 7 |
| S215 | 8 |
| Breach of Condition Notice | 5 |
| Planning Contravention Notice | 13 |
| Stop Notice | 0 |
| Failure to comply | 0 |
| TOTAL | 33 |

3.12 A total of **835** Cases which have been closed between April 2022 and March 2023.

3.13 In some cases where an enforcement notice has been effective and has not been complied with, the Council may exercise its powers by taking prosecution action. The council is currently in the process of prosecuting on the following 14 cases:

1. **Property in Dunkery Road, Bromley**
2. **Land at Sunningvale Ave Biggin Hill**
3. **Land at Widmore Road**
4. **Land at Swanley Bypass Sidcup**
5. **Chinese Garage Beckenham**
6. **Land in Skibbs Lane, Orpington**
7. **Land at Sunningvale Avenue, Biggin Hill**
8. **Property in Croydon Road, Keston**
9. **Property in Southlands Avenue**
10. **Property in Norstead Lane, Pratts Bottom**
11. **Land at Bromley Common**
12. **Land at Cator Park**
13. **Property in Hillcrest Road Orpington**
14. **Property in Byne Road SE26**

(See relevant Sections of the Town and Country Planning Act (as amended) 1990)

3.14 Tree Enforcement 38 open tree enforcement cases under investigation. Several approved to prosecute. Next case in court is EN/00314/TREES and this has taken over 200 officer hrs. The small team of two officers receives an average of 50 cases per calendar year.

3.15 Over 100 cases for high hedge enforcement and these cases remain in effect until the hedge is removed, requiring seasonal action and monitoring.

Recent convictions:

| | | | | | | | | | | |
|--------------------|--------------------------------|------------------------|---------------------------|--------------------------|--------|----------|-----|-----|------------|----------|
| 20/00817 /TREES | 5 Cookham Dene | s210(4) | Beech reduction | Owner | Guilty | 290 | 34 | 458 | £782 | 15.6.21 |
| 22/00150 /TREES | 83 Hayes Way | s210(4) | Oak branches removal | neighbour | Guilty | 100 0 | 100 | 458 | £1,55 8 | 18.10.22 |
| 22/00150 /TREES | 83 Hayes Way | s210(4) | Oak branches removal | tree surgeon | Guilty | 100 0 | 100 | 458 | £1,55 8 | 20.9.22 |
| 22/00242 /TREES | 66 St Johns Road | s210(4) | Pine root severance | contractor (driveway) | Guilty | 200 | 34 | 229 | £463 | 18.10.22 |
| 22/00242 /TREES | 66 St Johns Road | s210(4) | Pine root severance | owner | Guilty | 200 | 34 | 229 | £463 | 18.10.22 |
| 22/00290 /TREES | 5 Cookham Dene | s210(4) | Beech reduction | Owner | Guilty | 440 | 44 | 458 | 942 | 15.11.22 |
| HH/0009 4 | 39 Bromley Common | s75(1) ASBA 2003 | non-compliance with RM | Owner (f) | Guilty | 110 | 44 | 200 | 354 | 16.01.23 |
| HH/0009 4 | 39 Bromley Common | s75(1) ASBA 2003 | non compliance with RM | Owner (m) | Guilty | 110 | 44 | 200 | 354 | 16.01.23 |
| HH/0009 4 | 39 Bromley Common | s75(1) ASBA 2003 | non-compliance with RM | Owner (f) | Guilty | 220 | 88 | 282 | 590 | 24.04.23 |
| HH/0009 4 | 39 Bromley Common | s75(1) ASBA 2003 | non-compliance with RM | Owner (m) | Guilty | 220 | 88 | 282 | 590 | 24.04.23 |
| | Little Byfield, Kemnal Road | s210(4) | Cedar branches removed | Owner (m) | Guilty | 280 | 96 | 423 | £799 | 2.5.2023 |

3.16 A list of all cases where delegated authority action has been approved between April 2022 and March 2023 is attached as Appendix 2.

3.17 Since 2019 we have received **3,265** cases broken down as follows in calendar years.

2020 = 913 cases.

2021 =985 cases.

2022 =876 cases.

2023 to date =491 cases.

3.18 Our next annual Planning Enforcement Progress and Monitoring Report is due to be presented to Public Protection and Enforcement Policy Development and Scrutiny Committee and the next available Development Control Committee dates to be confirmed.

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| Non-Applicable Sections: | Policy, Legal and Personnel Implications |
| Background Documents: (Access via Contact Officer) | n/a |