

Item No.	Classification: Information Only	Date: 17/09/09	Meeting Name: Walworth Community Council 08th October 2009
Report title:	PLANNING ENFORCEMENT UPDATE REPORT		
From:	01/04/09 -/09/09		

Summary and purpose

1. This report is intended to provide members with a brief and informative insight into the performance of the planning enforcement service and the progress of some key cases over the period April to September 2009 within Walworth Community Council area. It is the intention of the planning enforcement team to provide these quarterly performance reports to all community councils.
2. Please note that this report is for information purposes only. The determination of planning enforcement investigations and conduct of enforcement appeals is delegated to officers under the Southwark Constitution 2008. Part 3F Note (a). Members are advised that they do not have a decision making function in relation to Enforcement Cases. If there are any specific enforcement cases that members would like to be updated on at the next community council meeting please contact Dennis Sangweme and David Lane in the planning enforcement team by 01/12/09.

Performance Data

- 3.1 The table below shows performance in dealing with investigations and overall performance on cases received within the Walworth Community Council area over the period April to September 2009.

	Previous Year 08/09	1st Quarter 2009	2nd Quarter 2009	Total for Year
Cases Received	54	13	9	22
Cases Resolved	57	3	5	8
Live cases/Total Outstanding				114
Instructions to Legal		None	None	None
Enforcement Notices Served		1	None	1
Planning Contravention Notices		0	1	1
Appeal Decisions		1	none	1

- 3.2 Members might be aware that the planning enforcement team has recently adopted an area based officer approach to planning enforcement within the borough. This has helped to streamline the way the team work and to provide members and residents with a fixed point of contact within the team. The officer responsible for Walworth is David Lane who joined the team at the end of June 2009 and also covers Camberwell Community Council. There would be a marked increase in the number of actions to report at the December meeting as David picks up on the outstanding issues in Walworth.

3.3 The statistics show a slight increase in the number of cases received compared to the same period over the past financial year. Cases resolved above includes: enquiries where no breach was found, where it was found not to be expedient to take enforcement action, where the breach ceased and where retrospective planning permission was received. Approximately 80% of the breaches of planning control were dealt with without resorting to formal enforcement action and this is largely attributable to the negotiating skills of the planning enforcement officers involved. Officers in the team have developed good engagement/negotiating skills to achieve agreed compliance without the need of often expensive and protracted enforcement action.

Enforcement Notices & Appeals

3.4 One enforcement notice was issued over the reporting period as shown in the table below:

Address	Requirements of Notice	Date Notice expired	Appeals	Further action needed
Land at ground floor, 343-345 Walworth Road, London SE17 2AL shown edged red on the attached plan ("the Land").	Notice issued on 15/12/08 for the following breach 'without planning permission, the installation of, roller box shutters to the shop front, shop entrance and shop windows and doorway in Liverpool Grove ("the Unauthorised Development"). The notice required the removal of the box shutters from the shop front.	Appeal lodged against enforcement notice	Appeal dismissed on 25/04/09. Appellant now liaising with officers for suitable replacement shutters.	Keep case under review and report back at December CC meeting
Grade II listed building at 305 Walworth Road, London SE17 2TG (former Kennedys)	Listed building enforcement notice issued on 15/04/09 for 'without Listed Building Consent, the installation of a roller shutter and canopy to the facade of the Grade II Listed Building and also the tiling over the original floor of the Grade II Listed Building'. It is considered that the installation of the roller shutter and canopy to the facade of the building does not preserve or enhance the special interest or historic character and appearance of the this former Kennedy's shop whilst the tiling over of the original flooring is not in keeping with the original architectural style of the building and fails to preserve or enhance the historic character of the listed building contrary to Council development plan policies.	Appeal lodged against enforcement notice and requirements of notice suspended pending appeal decision	The appellant has appealed on grounds (c), (d), (e), (h) and (i) of Section 39 of The Planning (Listed Buildings and Conservation Areas) Act 1990 Offices. The facts in support of each chosen ground of appeal are contained in the appeal documents at the Council Offices.	Council's statement of case prepared and now awaiting Inspector's site visit date. *Planning application 09-AP-1996 & 09-AP-1997 submitted seeking full planning permission & listed building consent for 'Change of use from retail to restaurant and an extension to rear to accommodate kitchen and modernised sanitary facilities'. Apps currently invalid*.

3.5 As members might be aware, failure to comply with the requirements of an enforcement notice is an offence and a person guilty of the offence is liable, on conviction at the Magistrate's Court, to a fine not exceeding £20,000 or an

unlimited fine if convicted at Crown Court. Members might be aware that in order to secure compliance with an enforcement notice, the Town and Country Planning Act, 1990 and the extended provisions in the Planning and Compensation Act, 1991, empowers local planning authorities to take direct action in default by the owner or occupier of the land. This means that where any steps required by an enforcement notice to be taken are not taken within the period for compliance with the notice, the Council as the Local Planning Authority may carry out the works in default and recover the costs from the owners of the premises.

3.6 Officers will seek to utilise all the available enforcement powers as the effectiveness of the development management system largely depends on the willingness of the Council to take effective enforcement action.

Pro-Active Projects

3.7 Members might be aware that the planning enforcement team is running three pro-active initiatives aimed at (i) the removal of inappropriately located and unsightly advertisement hoardings in the Borough. The main area of focus for this initiative has been conservation areas, displays close to and attached to listed buildings and major thoroughfares (ii) cessation of the authorised use of buildings as places of worship by various faith groups and (iii) the removal of inappropriately located and unsightly satellite dishes within conservation areas, on listed buildings and along Southwark's main thoroughfares and high streets. The planning enforcement team is also coordinating with other business units to pilot an initiative to proactively identify and remediate breaches of planning control affecting Southwark's thoroughfare and high streets in order to improve the character and appearance of these highly visible main roads.

3.8 Below is the progress under each project:

the removal of inappropriately located and unsightly advertisement hoardings in the Borough.



Too many signs causing visual clutter notices

Up to 9 signs removed using s11 & s225

Unauthorised use of buildings as places of worship by various faith groups ceases.

This initiative has been concentrate in employment areas where the unauthorised use of buildings has resulted in loss of employment floor space. However, within the Walworth area the team has in the past dealt with cases of shops being converted into churches providing unsuitable venues with risk to life and limb. These cases have been resolved.

Unsightly Satellite Dishes

The satellite dish pro-active project resulted from the general proliferation of unauthorised satellite dishes on residential properties throughout the borough. Of priority concern are dishes located on listed buildings and in the conservation areas. The matter is often complicated by the fact that some of the properties concerned are Council owned. Tenants and occupiers of Council owned properties require permission from the Council (separate from the planning process) to install satellite dishes on Council owned buildings. The priority has been to secure the removal of unauthorised satellite dishes from listed buildings and from conservation areas where they are visible from a highway in order to (i) improve the setting, heritage, visual and architectural interest of listed buildings within the borough; and (ii) improve the character and appearance of designated conservation areas within the borough. Over the period 08/09 a pilot satellite dish removal project was initiated in Sutherland Square Conservation area, and a number of satellite dishes were removed. The Team has liaised with the Councils' area housing teams and the Council's Digital Switchover Project which requires the Council to achieve Digital Switchover by 2012 to ensure coordinated action on this matter especially with Council owned properties.

3.10 Key Cases to Report On

(i) R/O 304 WALWORTH ROAD, LONDON, SE17 2TE

- The breach of planning control under investigation here is the installation of a shop front without planning permission. It is considered that the shop front detracts from the residential character of the area and is not sympathetic to the building and the adjoining area including the Sutherland Square Conservation Area in terms of design and material contrary to Council Development Plan policies.

The shop front in question:



- An enforcement notice was served on 28/10/07 requiring the removal of the above shop front. The notice was subsequently deemed a nullity and withdrawn from the register by a letter dated 15/05/08.
- The owner who is based in Spain indicated that the shop front was substantially completed by 15/03/04 at the latest and therefore now immune from enforcement action by virtue of the statutory time limits.
- However following legal advice on the matter, the owner was advised that the shop front is in fact not immune from further enforcement action. Section 17IB(4)(b) of the Town and Country Planning Act 1990 provides for the taking of "further" enforcement action in respect of any breach of planning control within four years of previous enforcement action (or purported action) in respect of the same breach. This mainly deals with the situation where earlier enforcement action has been taken, within the relevant time-limit, but has later proved to be defective, so that a further notice may be issued even though the normal time-limit for such action has since expired. In practice the council now has until October 2011 to take further enforcement action.
- As such, further action can be taken under the above provision and the Council intends to proceed to do so with all due care to proper service.
- Officers are in the process of instructing legal services to issue a new enforcement notice.

(ii)WM MORRISON 264-276 WALWORTH ROAD, LONDON, SE17 2TE

There are two alleged breaches of planning control under investigation at the Morrisons site (a) the unauthorised trolley railing and (ii) the illuminated signage causing loss of amenity to residents at Penrose House.

- In August Cllr Caroline Pidgeon requested the council's planning department to investigate the planning status of the railings outside of Morrisons on the Walworth Rd, which had narrowed the pavement and did not appear to have planning permission.

Unauthorised railings



- Planning enforcement officers investigated the status of the railings in question and confirmed that there was no record of planning permission being sought or granted for the railings outside of Morrisons at 264-276 Walworth Road.
- Three applications were submitted for the site this year, two were for advert consent and the third for alterations to the rear of the premises, and the railings do not form part of any of the schemes.
- The trolley railings are located within the Morrisons site and not on the public footpath, but the introduction of the railings and the parking of trolleys increases clutter and creates a pinch point with the existing phone-boxes. WM Morrisons have now submitted a application for a new trolley bay adjacent store entrance. The planning application reference no. is 09-AP-1962.
- Planning enforcement action has dully been held in abeyance pending a decision on the planning application.

Illuminated Signage:

- Planning permission(09-AP-0505) granted with conditions earlier on this year for '5 no. Internally illuminated signs and one non-illuminated sign, comprising: internally illuminated letters to the shopfront at fascia level and a high level internally illuminated sign on east elevation along Walworth Road; high level non-illuminated letters sign on west elevation to rear; high level internally illuminated sign at rear facing north; and 2 internally illuminated signs at the rear of the building facing west and south'.
- Condition 1 stated that notwithstanding the plan indicating internally-illuminated letters at high level (Sign 2), this has been superseded by email

dated 13/05/09 from the applicant's agent and accordingly the consented high level sign shall be non-illuminated at all times. The reason for imposing the condition was in order that the illumination of the proposed signs would not cause a nuisance for nearby residential occupiers, in the interests of amenity.



- Officers inspected the site and confirmed that the signs were indeed illuminated as shown in the photograph above and causing light pollution to adjoining occupiers.
 - A letter was sent to WM Morrisons requiring them to switch off the illumination by Friday 02/10/09; failure to do this will result in the commencement of formal planning enforcement action.
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- (iii) 292 WALWORTH ROAD, LONDON, SE17 2TE (former Carter Place Police Station)**
- The Council approved planning application ref. no. 02-AP-1092 for 'change of use from place of worship and conversion to form 24 self-contained flats (13, one bed, 9, two bed and 2 studio flats) with 10 parking spaces' subject to a s106 legal agreement. The legal agreement is pending. This has been delayed due to changes in the development plan and the implication of s106 contributions.
 - Without the legal agreement, there is no formal planning permission at the above site and in principle, the whole development is therefore unauthorised. The developer is, however, currently negotiating the affordable housing contribution at the site with Officers in order to finalise the legal agreement.
 - Building Control officers have indicated that no final inspection has been carried out by the Council's Building Control section. Officers have been reviewing possible enforcement action to be taken at the above site in the

event that a formal decision is not issued on the development. It appears that the structure was substantially completed at the end of 2005 and therefore would not gain immunity from possible enforcement action until the end of 2009. As the building has recently been occupied, for the use to be immune from enforcement action, the building has to be occupied continually for four years. As such, there is sufficient time to carefully consider appropriate enforcement action.

- It appears the building is now occupied and in view of that, officers are now entering into final negotiations with the developer before considering and commencing appropriate formal enforcement action.

4. Success Stories

- (i) 311-317 Walworth Road
Unightly railings on the rooftop of Marks & Spencer along Walworth Road removed following enforcement action.



Metal fence detracting from street scene



Metal fence removed to the benefit of street scene

- (ii) 101 Newington Butts
An unauthorised air conditioning unit located on a roof-terrace and disturbing local residents has been relocated to the rear elevation away from residential properties following enforcement action.



5. Prioritisation

5.1 As members might appreciate, planning investigations are often lengthy and complex, and staff resources limited. Investigations, especially formal enforcement action, can take time because of the strict procedures that the council was obliged to follow. It is therefore necessary for the Council to prioritise its workload. The initial prioritisation of a complaint is based on the perceived effect of the breach of planning control. The highest priority is therefore accorded to cases that represent the greatest degree of harm to the environment/heritage/amenity. The council aims to investigate and decide within eight weeks if there has been a breach of planning control and what further action to take.

6 Conclusion

We hope members find this report informative and officers welcome your comments to improve format and content of the report to meet expectations. The next report will be provided at the community council of 01/12/09.

Appendix I - How to report a possible breach of planning control

The planning enforcement team has often been requested by residents on how members of the public can report possible breaches of planning control. Below is a brief guide:

i) What is a planning breach?

A planning breach usually occurs when:

- a development that requires planning permission is undertaken without the permission being granted - either because the planning application was refused or was never applied for
- a development that has been given permission subject to conditions breaks one or more of those conditions

A planning breach in itself is not illegal and the council can permit a retrospective application where planning permission has not been sought. In considering any enforcement action, the main issue for the Council as the local planning authority is whether the breach of control would unacceptably affect public amenity

ii) How to report a possible breach of planning control

Residents can report a possible breach of planning control by:

- Calling, emailing or writing to the Planning Enforcement Team – see the contact details below.

To help officers investigate the possible breach it would help if you could give as much detail as possible, including:

- The location of the site
- The exact nature of the alleged breach
- When the breach started
- How it affects you, or what problems it is causing.

Please also include your contact details. Anonymous complaints can be difficult to fully investigate as it means we are unable to get additional information to assist our inquiries. Such anonymous or obviously malicious complaints or allegations of a breach of planning control will not normally be investigated.

- [Email Planning Enforcement Team](mailto:planning.enforcement@southwark.gov.uk) at planning.enforcement@southwark.gov.uk
- Tel: 0207 525 5403
- Planning Enforcement, Development Management, Planning & Transport, PO Box 64539, London, SE1P 5LX

iii) The Planning Enforcement Team aims to:

- Acknowledge enforcement related enquiries within three working days either by telephone or letter
- Investigate the enquiries and visit the site in all instances within 10 working days
- Provide an interim response to enquiries within five working days of the site visit
- Notify the enquirer of any decision to take formal enforcement action within three working days of the decision.

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