

<b>Item No. Appendix 8</b>	<b>Classification: Information Only</b>	<b>Date: 03/11/09</b>	<b>Meeting Name: Camberwell Community Council - 17/12/09</b>
<b>Report title:</b>	<b>PLANNING ENFORCEMENT UPDATE REPORT</b>		
<b>From:</b>	Head of Development Management		

### 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. 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 community council meeting in January please contact Dennis Sangweme in the planning enforcement team.

### Performance Data

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

	<b>Previous Year 08/09</b>	<b>1<sup>st</sup> Quarter 2009</b>	<b>2<sup>nd</sup> Quarter 2009</b>	<b>Total for 2009</b>
Cases Received	64	19	24	43
Cases Resolved	56	14	8	22
Live cases				128
Instructions to Legal		None	5	5
Enforcement Notices Served		1	3	4
Planning Contravention Notices		2	3	5

- 3.2 There has been a slight increase in the number of enquiries over the reporting period compared to the previous 3 quarters. 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.

3.3 However where the breaches of planning control could not be resolved by negotiated resolution, officers considered formal planning enforcement action and **instructed legal services** accordingly as shown below:

- i. **44 Grove Park, SE5** – Instructions sent to legal services to serve a section 215 notice to secure the rebuilding of the front entrance to this house in a conservation area and clearing up the front garden. Direct action will be considered in the event of non-compliance. A claim lodged by the owner of the site is currently proceeding through the Courts. The claim is to do with alleged damage caused by a (Council owned) tree falling onto the front facade of the building resulting in the front entrance being damaged and subsequently being blocked. Unfortunately, until the outcome of the claim is known, legal advice is that it would not be in the Council's best interests to serve the s215 Notice.
- ii. **24 Valmar Road, London, SE5 9NG** – the alleged breach of planning control is without planning permission, and within the past four years, the creation of seven self-contained units of accommodation, and erection of a dormer/roof extension to the rear roof-slope.
- iii. **Flat B, 39 Grove Lane, London SE5 8SP** – the alleged breach of planning control is without planning permission, the erection of railings around roof level terrace, within the Camberwell Grove Conservation Area.
- iv. **51 Vestry Road, London, SE5 8PG** - the alleged breach of planning control is without planning permission, and within the past four years, the creation of five self-contained units of accommodation.
- v. **8a Coldharbour Lane, SE5** – Instructions sent to legal services to prosecute the proprietors of Spice & Nice for the offence of failing to comply with the requirements of a notice in force on the land. The requirements of the notice stated: “Cease the preparation and sale of hot food at the premises.” A retrospective planning application 09-AP-2323 for 'change of use to mixed use A1 to A5 including works to an extractor system has now been received. The applicant seeks to overcome the Planning Inspector's reasons for refusing the deemed application under ground 'a' of the planning enforcement appeal, and reduce the impact of the use in question to adjoining occupiers. Residents and members will be consulted on this planning application for their representations. Officers are mindful that this prosecution might not necessarily achieve the desired outcome and that members and residents are looking for a long term solution to the situation at the above. The lawyers have therefore held prosecution proceedings in abeyance pending a decision on the application which it is understood is seeking to drastically reduce the hours of operation, introduce refuse/waste management measures, extractor system and other measures to reduce the environmental and other adverse impacts of the use. In the interim, Spice & Nice has been requested to post signs on the premises to stop customers from littering the streets and unauthorised parking.

## Enforcement Notices & Appeals

### 3.4 Five enforcement notices were served over the reporting period as shown in the table below:

Address	Alleged Breach & Requirements of Notice	Date Notice expires	Appeals	Further action needed
Land at 10 Denmark Hill London SE5 8RZ	Without planning permission, the installation of (i) a roller shutter to the street facade at ground floor level (ii) a new fascia sign to the street facing facade; and (iii) UPVC windows at the first, second and third floor levels on the street facing elevation. Notice served on the 27 <sup>th</sup> of March 2009 on all interested parties of the abovementioned property. Barring an appeal, the notice would have taken effect on the 1 <sup>st</sup> of May 2009.	Requirements of notice suspended pending appeal decision	Appeal lodged on grounds a & f. Residents and members notified.	Officers waiting for an Inspector's site visit
Land at 21-22 Camberwell Green, London, SE5 7AA	Without planning permission, the installation of an illuminated fascia light box sign above the shop front within the Camberwell Green Conservation Area. Notice served on May the 18 <sup>th</sup> 2009 with a three months compliance period. The notice took effect on June the 22 <sup>nd</sup> .	22/09/2009	No appeal lodged against the notice	Notice not complied with. Officers now considering prosecution
Land comprising residential premises on basement, ground, first, second and third (roof space) floors and rear garden known as 10 Maude Road, London, SE5 8PE	Without planning permission: (i) change of use of a dwelling house to four self contained units of accommodation located at the basement. Ground, first second and third floors and (ii) construction of a basement level extension at the rear of the property. Notice served on the 26 <sup>th</sup> of June 2009 on all interested parties of the property. Barring an appeal that has now been received the notice would have taken effect on the 29 <sup>th</sup> of July 2009.	Requirements of notice suspended pending appeal decision	Appeal lodged on grounds a, b, d, f & g. Residents and members notified.	Officers preparing Council's statement of case in defence of enforcement notice.
Flat B, 39 Grove Lane London SE5 8SP	Without planning permission, the erection of railings around roof level terrace within Camberwell Grove conservation area. Planning permission (08-AP-0799) for the retention of railings to the roof terrace, installation of first and second floor windows in north facing elevation and infilling of the flank wall (eastern elevation) up to existing parapet height was refused in 23 <sup>rd</sup> April 2009. Notice served on 14/08/09 and barring an appeal takes effect on 14/09/09 with a one month compliance period.	14/10/09	Not Lodged	Officers be monitoring site to ensure that requirements of notice are complied with.

Land at 24 Valmar Road, London SE5 9NG	Without planning permission; (i)the change of use of the Land from use as a single residential dwelling house (within use class C3) into seven self contained units of accommodation, located on the ground, first, second and third (the Unauthorised Use) and the erection of a tiled dormer extension to the rear roof-slope. The notice seeking to remedy the unauthorised use and remove the dormer extension was served on 04/09/09 and takes effect on 06/10/09.	06/04/10	Not yet	Officers to monitor if appeal is received
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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 unauthorised 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.** No current cases to report.

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

- i. 272-274 & 294-304 CAMBERWELL ROAD, LONDON, SE5 0DL and 286-292 Camberwell Road. X6 planning contravention notices served and all six faith groups operating from this site responded to the PCNs. Agent representing the churches advised officers that retrospective planning applications will be submitted. However, on the other hand there are extant planning permissions for mixed use schemes to redevelop the site. Conservation area consent 06-AP-0775 was recently granted for the demolition of existing buildings associated with the approved planning permission 06-AP-0774 (Redevelopment of sites to provide two mixed-use buildings (at No's. 272-274, a 4 storey building; at No's. 294-304, a part 4 and part 7 storey building) comprising a total of 800 sq m of commercial floorspace and 60 apartments with associated car and cycle parking).

**the removal of inappropriately located and unsightly satellite dishes within conservation areas, on listed buildings and major thoroughfares/high streets.**

- i. 13, 13a, b & c Camberwell Church Street – x2 satellite dishes resulting in clutter detracting from the appearance of the streetscape. Officers seeking the removal or appropriate relocation of the satellite dishes giving minimum compliance periods.
- ii. 45a Camberwell Church Street – x7 satellite dishes resulting in clutter and detracting from the appearance of the streetscape. Officers seeking the removal or appropriate relocation of the satellite dishes giving minimum compliance periods.
- iii. 100 Grove Park – x1 satellite dish visible from the highway within a conservation area. Officers requested the dish to be removed by 23/09/09.

3.9 Other sites of interest to members:

- i. **3 & 4 CANNING CROSS, LONDON, SE5 8BH.** The issue here is that residents and some members are concerned about the appearance of the site. Planning permission was granted on appeal for the demolition of the pair of 2 storey mixed use terrace buildings at 3 and 4 Canning Cross comprising dwelling and business premises to provide 4 replacement mews houses. The demolition works were undertaken and appears to be uncompleted. Officers are pushing the site owners to clean up and secure the site. Redevelopment scheduled to commence in the summer but nothing is definite under the current economic climate. Officers together with Cllr Veronica Ward and local residents met the owners of the site to discuss a way forward. Although it appears some works have been carried out, the site remains untidy and of concern.

- ii. **former Bricklayers Arms at 121-123 Southampton Way SE5 7EW.** Residents and members are concerned about the erection of hoardings screening the works at this site. The hoardings have been erected on the pavement obstructing pedestrian movement. The works in question are pursuant to the implementation of an extant planning permission (Ref: 08-AP-0726) granted at this site for the demolition of the public house, and erection of a four storey building comprising 8 flats with associated amenity space to the rear and landscaping. The hoardings, as they have been erected in association with works benefiting from planning permission, are permitted development and therefore there is no breach of planning control in this respect. However, the matter has been referred to the Council's road network operations team to investigate the actual sitting of the hoardings as a priority.
- iii. The passageway at **39-43 GROVE LANE, LONDON, SE5 8DB.** The legal status of this matter is that the passageway is in joint ownership of the owner of 39-43 GROVE LANE and the adjacent public house to the rear. It appears the passageway is used informally by the public as a short cut between Grove Lane and Camberwell Grove and members of the public and members are concerned, primarily, about safety of people using passageway. Officers liaised with members and residents, and based on the information provided, arrived at a conclusion that there has, possibly, been a material change of the use of the access way 'from an access used intermittently for servicing the public house to parking associated with the office use at no. 39-45 Grove Lane'. This new use, which commenced after 2004 (around the time 39-45 Grove Lane was acquired by the new owners) is less than ten years old, and is not considered ancillary to the planning unit at 39-45 Grove Lane as the passageway is a separate planning unit in joint ownership of 39-45 Grove Lane and the Public House. An enforcement investigation has therefore been opened.
- iv. **8 BUSHEY HILL ROAD, LONDON, SE5 8QJ** – Retrospective planning application refused for variation of Condition No. 2 to allow the use of part of the flat roof as a roof terrace, and variation of Condition No. 3 to allow rooflight windows to be non semi-opaque - of permission granted under ref. 07-AP-2317 (which permitted: The retention of the conversion of the garage to living accommodation with extension to the roof space over, together with the conversion of the main roof space to living accommodation, creation of dormer extension in the rear roof slope, provision of velux windows in the front, side and rear roof slopes and erection of a single storey extension to rear incorporating railings at first floor level). Temporary obscuring film applied which then came loose. Owner finally applied what appears to be permanent obscuring to the windows in question.
- v. **227 CAMBERWELL NEW ROAD, LONDON, SE5.** The issue here is the installation of UPVc windows to a grade II listed building. Officers have successfully negotiated with the management company to remove the offending UPVc windows and replace with timber sash windows sympathetic to the setting of the listed building and the listed terrace.

- vi. **Former Ivanhoe Public house, 26-28 Ivanhoe Road, SE5 8DH** – Planning permission ref. no. 07-AP-1308 granted on 05/09/2009 for rremodelling of existing public house, manager's, chef's and landlord's flats at the first and second floor to form 4 self contained flats (2 x 2 bed and 2 x 1 bed). 1 storey extension to existing ground floor flat roof to Malfort Road elevation. Complaint received from residents and some members in relation to a parapet having been removed in the Malfort Road elevation. A site visit revealed the parapet had been reinstated and original coping stones reused and marginal reduction in height of the parapet considered de minimis. It was noted on site that a chimney had been removed from the north-west flank elevation and uPVC windows installed at first and second floors. Contact with the architect suggested the chimney had been removed on instructions of an engineer and for structural reasons. The submission of the structural report by the 18/09/09 has been requested to allow further investigation. An application for the removal or variation of condition 3 of the extant permission has been received in an attempt to rationalise the uPVC windows, however this would not apply to all altered windows. Accordingly, officers have requested a full planning application to allow full consideration of all uPVC windows.

#### 4. **Prioritisation**

- 4.1 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.

#### 5. **Conclusion**

- 5.1 We hope members find this report informative and officers welcome your comments to improve the format/content of the report to meet expectations. The next report will be provided in time for the CC meeting in January.

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Community Reports	Council Camberwell Council	Community
Papers held at:	Regeneration & Neighbourhoods	Department, Council Offices, 160 Tooley Street, SE1

## **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](mailto: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.