

WAVERLEY BOROUGH COUNCIL

Title:

PLANNING ENFORCEMENT UPDATE REPORT FOR EASTERN PLANNING COMMITTEE

[Wards Affected: Alfold; Cranleigh Rural & Ellens Green; Blackheath & Womersley; Bramley, Busbridge & Hascombe; Cranleigh East; Cranleigh West; Ewhurst; Shamley Green & Cranleigh North]

Summary and purpose: The purpose of this report is to;

Provide Members of all the Area Committees with a report on progress of the Planning Enforcement Service for the quarter of October to December 2009.

E-Government implications:

There are no direct e-government implications since the majority of the work is confidential and not open to public scrutiny.

Resource and legal implications:

There are no direct resource implications arising from the report itself.

There are no direct legal implications arising from the report itself but legal resources will be required to progress individual cases reported.

1. Introduction.

This report is intended to bring Members up to date with enforcement performance for the period October to December 2009. The report will also refer to current issues impacting on the Enforcement Service. It will also inform Members to the work already in hand with regard to bringing some long running cases to a head. Please note that when this report refers to a breach of planning control a breach is one individual site irrespective of the number of complaints received about the site.

Sections 1 – 7 of this report refer to Borough-wide development.

2. Staffing Issues.

The team remains fully staffed and, apart from the adverse weather conditions and Christmas break, there have been no factors to affect the team's progress.

3. New Cases.

Between October to December 2009 the Team received 107 reports of alleged breaches of planning control.

4. Notices served

In this quarter 3 Planning Contravention Notices, 7 Enforcement Notices and 1 Stop Notice have been served.

5. Performance Stats to 31 December 2009

A new performance indicator has been introduced since October 2009. This measures the percentage of cases resolved within eight weeks of receipt of complaint. This is a significantly more challenging target than the existing "investigated within eight week "target". A case is considered resolved when it has been closed; or the Council has issued a formal notice requiring that works be carried out to cease the breach or a retrospective planning application has been received for the development.

From May 2009 the method of calculating the percentage of cases investigated within eight weeks changed. The figure now takes account of all cases investigated during the quarter rather than all cases that reached their 'eight week age' during the quarter.

Totals for whole borough

	Jul-Sep 08	Oct-Dec 08	Jan-Mar 09	May-Jun 09	Jul-Sep 09	Oct-Dec 09
Cases Received	138	114	129	110	126	107
Cases closed	208	207	206	134	168	127
Investigations completed	166	155	118	110	118	147
% Investigated within 8 weeks	85%	91%	99%	92%	76%	73%
% resolved within 8 weeks	-	-	-	-	-	43%
Cases on hand	847	754	677	653	611	591
Enforcement notices served	5	5	3	1	6	7
PCNs served	26	18	8	8	9	3
Stop Notices served	0	1	0	0	1	1
Prosecutions	0	0	0	0	0	0
Direct Action	1	0	0	1	0	0

Sector and priority split for October- December 2009

Sector Priority	Central			Eastern			Southern			Western			Totals
	1	2	3	1	2	3	1	2	3	1	2	3	
Cases Received	2	22	2	9	14	1	6	9	1	7	31	3	107
Investigations completed	2	28	3	8	21	1	11	15	2	11	40	5	147
Cases in hand	29	112	32	16	84	53	10	7	29	42	150	27	591
% investigated within 8 weeks	50	89	67	88	76	100	27	60	100	81	75	60	73% overall
Closed – NFA	0	2	6	0	3	0	3	0	0	1	2	0	17
Closed - No Breach	2	15	0	3	13	1	6	15	1	4	20	2	82
Closed – Breach Resolved	0	6	1	1	8	0	1	4	2	1	3	1	28
Enforcement notices served	0	2	1	0	0	0	0	2	0	1	0	1	7
PCNs served	0	1	0	0	0	0	0	2	0	0	0	0	3
Stop Notices served		0			0			0		1			1
Prosecutions being prepared		1			2			0		0			3
Prosecutions completed		0			0			0		0			0
Direct actions in process		0			1			0		0			0
Direct actions completed		0			0			0		0			0

The performance against “investigated in eight weeks” is lower than the target of 80%. Moreover, there has been thus far limited progress in meeting the new “resolved” targets. This is partly due to the inclusion of older cases where date of closed and action have already exceeded the eight week period. However, actions are being put in place to improve up on this for the next quarter.

5. Appeal Performance

On 21 December 2009 the appeal against the refusal of WA/2008/1870 seeking retention of the “annexe” at Tanyard Farm, Woodhill Lane, Shamley Green was dismissed. The “annexe” is the subject of an enforcement notice and direct action is now being instigated to secure its removal.

6. Direct Action Work

Following the dismissal of the above appeal at Tanyard Farm; Direct action is being scheduled to secure full compliance with the three outstanding enforcement notices within the next quarter. Outstanding work includes removal of three large rocks from

the paddock area; reduce the front boundary wall to 1.5 metres in height above ground level and removal of the “annexe”.

7. High Hedges.

There were no new High Hedge enquiries this quarter. However, the Team continues to give advice to members of the public on this subject.

8. Current Update on Previous Enforcement Cases

The following are cases where formal notices have been issued but compliance with the notices has not been met. In most cases the owners of the respective land/property are now co-operating with the Council in addressing their individual breaches thus making them responsible for their actions and avoiding lengthy and costly court procedures.

Updates since the previous report are shown in bold type.

Members are asked that if they require further information on these cases or have questions to please contact the Enforcement Team.

Majorland Rew, Godalming Road, Loxhill, Hascombe

Enforcement Notices served to secure cessation of the use of the land for the stationing of residential caravans and as a contractor’s depot and relating to the barn, mobile home, playhouse and other matters. Appeals dismissed. Notice varied to allow retention of barn. Time for compliance expired 16.07.00 for most things. Subsequently application WA05/0991 for rural industry worker’s dwelling was refused on 29.06.05; appeal dismissed on 4 October 2006. Further application WA/2005/1330 - retention of existing extension to barn and erection of further extension was refused; appeal allowed 4 October 2006. **The outstanding breach is the siting of two mobile homes on the site. Prosecution for failure to comply with the Enforcement Notice is now being urgently considered.**

Enforcement Officer: Darran Eggleton

Planning Officer: Hilary Hobbs

Land to rear of Tanyard Farm, Woodhill Lane, Shamley Green

Court action was successfully pursued in 2006 in respect of non-compliance with enforcement notices issued 11th July 1997 (1st Notice) and 26th June 2001 (3rd Notice). Statements refer to those parts of the Notices that the Committee resolved to pursue at the meeting on 30th July 2003, namely: -

- (1) Restore post and rail fence which existed before February 1997 between the garden to south of “the land” and “the land” the subject of enforcement action (1st Notice). Court found not guilty.

- (2) Cease using the land as part of the curtilage of the dwelling house known as Tanyard Farm. (3rd Notice). Court found guilty.
- (3) Remove lighting and lamp standards and associated electrical cables. (3rd Notice). Court found not guilty.
- (4) Remove seat and any garden ornaments placed on the land. (3rd Notice). Court found guilty.
- (5) Remove any other items associated with use of land as part of curtilage of dwelling house known as Tanyard Farm. (3rd Notice). Court found guilty.

Note: 2nd Notice (Summerhouse) complied with.

A site visit was undertaken in January 2007 to check for compliance; all electrical and other items have been removed from the paddock except for three large rocks. The rocks are still on the land. The Council has authorised direct action to secure compliance with the enforcement notice following the receipt of appeal decisions relating to other development at the site. **It is anticipated that this work will take place within the next quarter.**

Tanyard Farm, Woodhill Lane, Shamley Green

Enforcement Notice served regarding unauthorised building to rear. Appeal dismissed. Date for compliance 20th January 2007. The Notice had not been complied with at the time of the last visit. Another application has been submitted seeking permission for the retention of the building. This has been refused and owner lodged an appeal against the decision on 12th February 2008. The Council has authorised direct action to secure compliance with the enforcement notice following the receipt of appeal decisions. **The appeal was dismissed on 21 December 2009. Direct action has been approved relating to this site. It is anticipated that this work will take place within the next quarter.**

Tanyard Farm, Woodhill Lane, Shamley Green

Enforcement Notice served requiring reduction in height of front boundary wall. Appeal dismissed and Notice upheld. The Notice had not been fully complied with at the time of the last visit. The Council has requested that Surrey County Council take further action in clearing additional works and alterations made by the owner of Tanyard Farm to highway land. An application has been submitted seeking permission for the retention of the wall. This has been refused and the owner appealed against the decision. The appeal was dismissed on 22nd June 2009. Direct Action has been approved following the receipt of appeal decisions relating to other development at the site. **It is anticipated that this work will take place within the next quarter.**

Enforcement Officers: Gina Pink & David Andrews

Lydia Park, Stovold's Hill, Bramley

Injunctive action taken to remedy unauthorised changes of use, unauthorised operational development and non-compliance with a condition. Authority given to include in the action further breaches relating to unauthorised developments on the site. Court injunction was approved requiring removal of all unauthorised structures by 31st July 2001. Appeals against refusal for retrospective permission were dismissed. Not yet complied with injunction. Additional defendants added by approval of Court, and all to achieve compliance. Compliance not yet achieved on all plots. Majority of land is being used as paddock, which is considered acceptable. Two plots have buildings constructed on them. Discussion to be held with owners to seek removal of buildings. Discussions have taken place with appropriate residents on Lydia Park. **Report being prepared for Members to consider expediency of action at the next meeting of the Area Committee.**

Officer: Gina Pink

Finchingfield, Rowly Drive, Cranleigh

Stop and Enforcement Notices served on 8th September 2003. The Enforcement Notice requires that the hard standing, fencing and telegraph pole are removed and the site to be restored to its original condition and all rubble to be removed from the site. Stop Notice complied with. Appeal dismissed. Compliance date 2nd January 2005. Subsequently a planning application for stabling and retention of hard standing and new fencing has been approved. Works involve removal of unauthorised fencing. Site visit taken place. Fencing still in place. After discussions with Legal and Planning Officers, the Enforcement Officer is working with the owner of the site to implement her planning permission for stables on the land. Precedent conditions have been discharged and the stables have been ordered. Stable building to implement the planning permission WA/2005/0092 has not been achieved. **Breach therefore outstanding. Site being monitored against timescale for carrying out approved works; expires 14 April 2010.**

Enforcement Officer: Gina Pink

Crowthorne, Furzen Lane, Ellens Green

Enforcement Notice served requiring the removal of a pitched roof, reinstate a flat roof; remove the entrance porch; remove the utility room extension between the dwelling and the outbuilding; remove five flat roof dormers from the outbuilding; restore the roof of the outbuilding and; remove from the land all resulting materials in connection with the compliance. Notice served 20th June 2007. Compliance time 1 year. Appeal dismissed with one variation, which is the entrance porch can be retained. Compliance date 25th January 2009. Planning permission granted on 23 February 2009 to retain extensions and alterations with proposed dormer windows. Owner advised to implement planning permission immediately and comply with outstanding parts of the Enforcement Notice without any further delay. Prosecution file was prepared

and ready to submit to Legal. Owner of the site was made aware of this action and has now nearly completed the required works in line with the requirements of the Enforcement Notice. **A retrospective planning application was submitted seeking retention of the link between the house and the garage. This was refused on 15 December 2009. No appeal has been lodged at the time this report was written. Prosecution proceedings can now continue.**

Enforcement Officer: Gina Pink

Pollingfold Place, Horsham Road, Ellens Green

Enforcement and Stop Notices issued in relation to the use of the site for the stationing of caravans and mobile homes, formation of hard standing, erection of marquee and sheds. Subsequent appeal dismissed. Inspector's decision challenged. Case heard in the High Court on 24 November 2008. Appeal decision received 21 January 2009. Appeal dismissed. Notices now take effect. Compliance was due on 22 June 2009, Enforcement Officers undertook a site visit on 23 June 2009 and established compliance has not been attempted. Section 330 Notice served on occupier of site. **First prosecution court hearing scheduled for 28 January 2010.**

Enforcement Officer: Gina Pink

The Windmill Inn, Pitch Hill, Ewhurst

Enforcement Notice issued requiring the owner/s to demolish and remove structures and decking from the land. Time for compliance: 7th January 2009. Enforcement Notice has been appealed against. Appeal dismissed; costs awarded to the Council. New owner of the Windmill Inn has now been identified and written to. **Compliance due by January 2010 has not been achieved. New owner is submitting a retrospective planning application seeking retention of the decking in a modified form.**

Enforcement Officer: Gina Pink

Lodkin Hill Barn, Hascombe

Enforcement notice served on 4 December 2009 to secure removal of barn walls. No appeal received. Compliance date 4 July 2010.

Enforcement Officer: Darran Eggleton

Conclusion

That Members note the performance on planning enforcement.

Background Papers ()

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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