

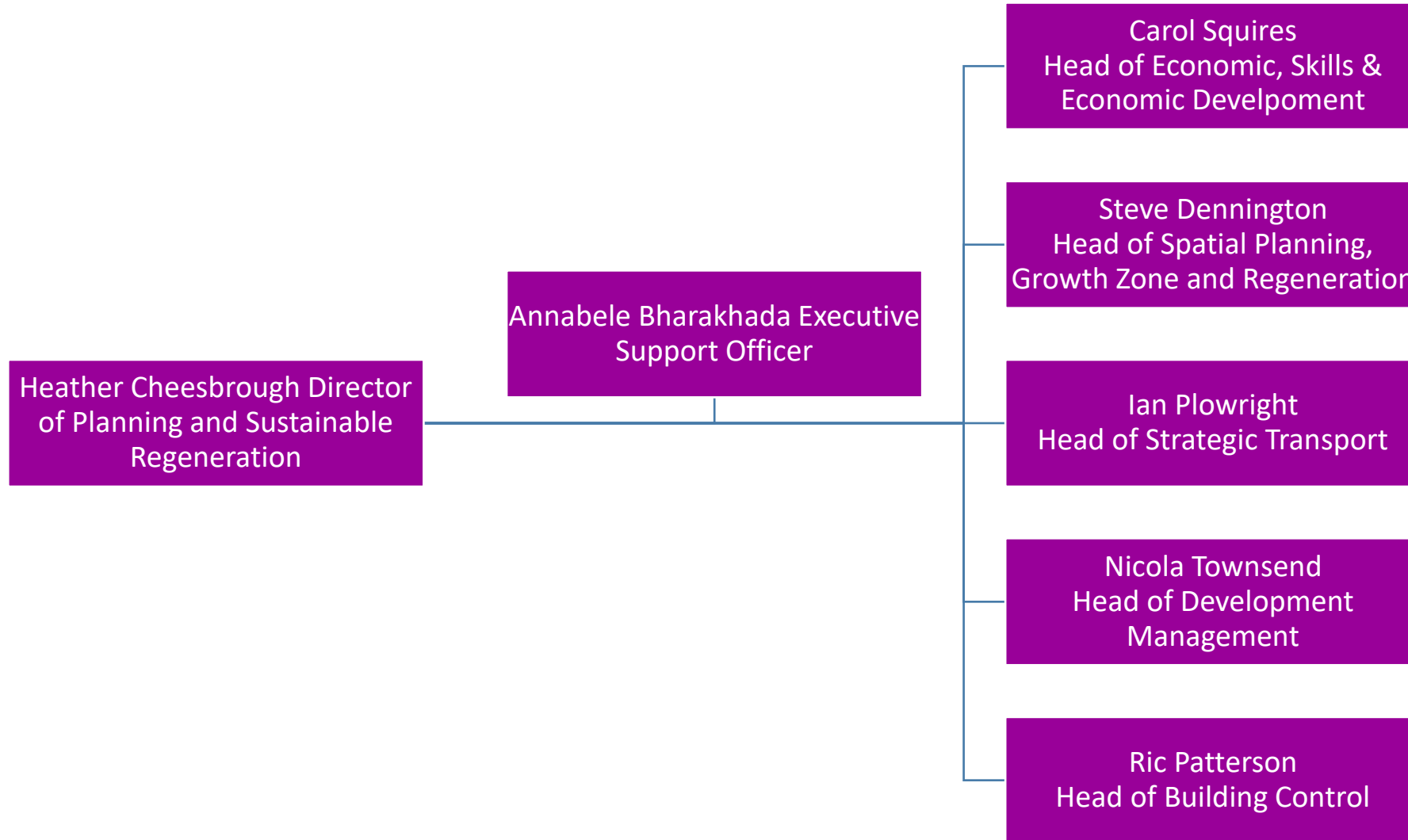
# Croydon Planning Service

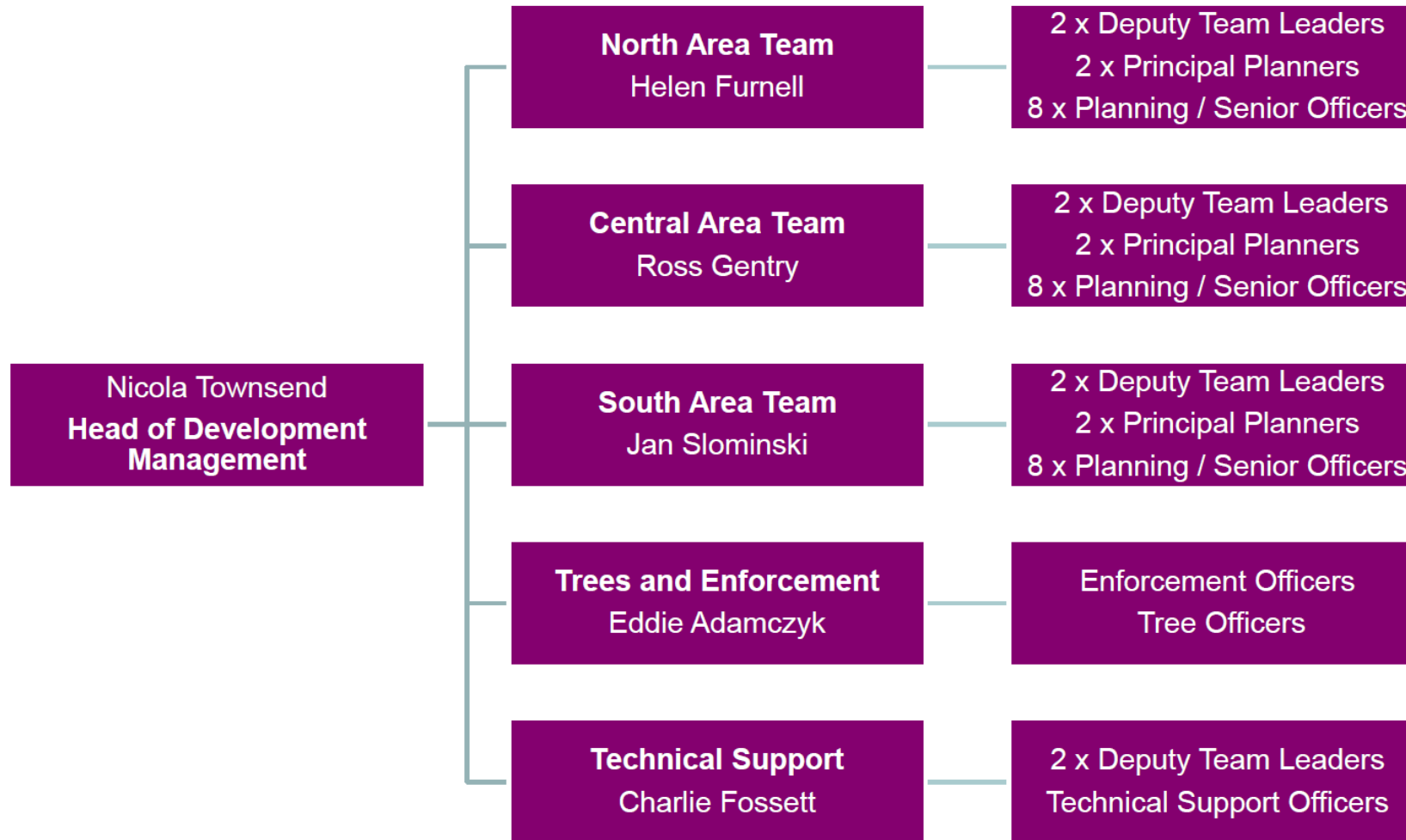
## Residents Association Meeting July 2023

# Planning Service

## Introduction & Team Structure







# Introduction

# Today's Session:

## 1. Planning Enforcement and Transformation

- Residents' Experience (Mira Armour, H.O.M.E Residents' Association)
- Planning Enforcement
  - How Enforcement works
  - Service transformation plans
  - Enforcement successes and outcomes

## 2. Planning Service Updates

- Team Performance and transformation plans
- Appeal Successes and Citiscape
- Judicial Reviews

# Planning Enforcement: Mira Armour H.O.M.E Residents' Association

# Importance of Enforcement [and Planning Control]

## ... we are in this together

Planning is important, it brings people together. Most RAs were born because of some planning application. The illegal building work can cause a lot of anxiety - Whilst we were told that something is being done, the unapproved building work seems to carry on. The residents are feeling that Enforcement "has no teeth".

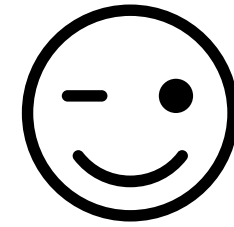
- Exploring means of communication and understanding of the process can remove frustration
- Looking at what we can do as residents to aid the Enforcement Department's work



# How residents perceive enforcement now

- Not clear whether site visit was undertaken
- Lack of communication
- **Lack of proof or concerted evidence gathering**
- **Onus and burden of proof**
- Professional standards
- Professional integrity
- Lack of resourcing and perceived lack of desirability of enforcement case work
- Turnover in staff?
- Lack of open and frank means of challenging 'poor professional' decisions or mechanism by which decisions can be reviewed outside of Judicial review etc ?
- **Missed opportunity to engage with the community**
- **Officers' anonymity and perceived unaccountability**

Residents' vigilance + Council's action = Result



# Case study 2

12:31 4G 45%



## Details pursuant to the discharge or condition 4 (landscaping) from planning permission 20/01633/FUL for 'Conversion of the house into three flats with associated alterations'

2. DECISION  
**Not approved**  
1 No details of soft landscaping to the front garden area have been submitted

Officer Report:  
BACKGROUND  
(a) Proposal  
Details pursuant to the discharge of condition 4 (landscaping) from planning permission 20/01633/FUL for 'Conversion of the house into three flats with associated alterations'

ASSESSMENT  
Summary  
The details are unsatisfactory and the details cannot be approved.

Condition 2 reads as:  
Prior to occupation full details of the following shall be submitted to and approved in writing by the Local Planning Authority:

- (1) boundary treatment and gates including details of how the rear garden is to be subdivided
- (2) **details of planting including numbers and species to the front and rear garden areas**
- (3) bin storage (structures and location)
- (4) cycle storage for a total of 4 cycles (structures and location)

The approved **soft landscaping shall be completed on site by the end of the first planting season following completion of the development.**

All planting shall be maintained for a period of five years from the date of planting; any planting which dies or is severely damaged or becomes seriously diseased or is removed within that

This could be straight forward, why is there such a delay?

## Planning – Application Summary

22/03746/DISC | Details pursuant to the discharge of condition 4 (land permission 20/01633/FUL for 'Conversion of the house into three flats alterations' | Bhima Court 37 Havelock Road Croydon CR0 6QQ



13:16 4G 40%



Fwd: Re: 37 Havelock Road planning breach Inbox

**R** Robert Porter 12:11  
to me

And this is what i had sent to Planning:

----- Original Message -----  
From: Robert Porter <rporter@talktalk.net>  
To: [planningenforcement@croydon.gov.uk](mailto:planningenforcement@croydon.gov.uk)  
Date: 25 February 2022 at 21:40  
Subject: Re: 37 Havelock Road planning breach

37 Havelock Rd has been converted into 3 flats (20/01633/FUL) and is now occupied but no planting works to the front garden have been carried out (as required in para 4 of the Decision Notice) and probably other items in para 4 will also need attention.

Robert Porter (on behalf of H.O.M.E. Residents Association)

Bob



## Case study 3

2021 - report by the next door neighbour / 8 boiler vents installed to the side, no plan. Appl.

21/00456/COU | Alleged change of use. Investigate the use of no.16 to judge whether a breach of planning control is taking place? Construction of an extension without PP.? | 16 Elgin Road Croydon CR0 6XA

March 2023 / Enforcement Notice to reinstate to 2 flats / within 6 months

Since March 2023 / 3 planning application



- Outline planning permission (scale only) for alterations, change of use to form 4x self-contained flats, excavation of basement and formation of lightwells at front and rear, erection of rear dormer extension, single storey side/rear extension, and single storey rear extension.  
Ref. No: 23/00996/OUT | Status: Pending Consideration
- Alterations, change of use from 2x maisonettes to a 7-bedroom 7-person HMO (Sui Generis)  
Ref. No: 23/02074/FUL | Status: Pending Consideration
- Outline planning permission (layout only) for alterations, conversion from 2x maisonettes to form 3x 1-bedroom flats (C3).  
Ref. No: 23/02082/OUT | Status: Pending Consideration

### Planning Appeals (1)

- Appeal against  
Ref. No: 23/00096/ENF | Status: ZZZ

### Planning Enforcements (1)

- Enforcement Enquiry  
Ref. No: 21/00456/COU | Status: Notice Issued

### Properties (0)

### Building Control Applications (5)

Neighbours are feeling:  
Exasperated & worried  
What are the timelines?  
Who to ask?  
What to watch for?

Other concerns:  
-Property occupied by unsupervised youth  
-Drugs  
--Bins not used properly



Case Study 4 – change of use



# Onus and burden of proof?

HOME RESIDENTS ASSOCIATION

mail.google.com

in:sent planningenforcement

Thank you and I hope you are recovering. If you look at Google maps from Oct 2020 52 Ashburton Rd ... has been ad...

**Robert Porter**  
Hi all To add to Deidre's email, there seems to be one freeholder ... or an employee/tenant carries on some ...

**Penn, John** <John.Penn@croydon.gov.uk>  
to Robert, Deirdre, Cllr, me

Dear Mr Porter

Thank you for your information. From my visits many of the vehicles have not moved at all.

To prove an allegation about business use I need evidence. From the people that have spoken to yourselves (I appreciate that they are reluctant to speak to me), do you have a name of an individual, a company or trading name, a mobile telephone or email that I can do further research. None of the cars displayed advertisements, but if a business is being conducted they are almost certainly being advertised somewhere (eg Auto Trader, ebay etc). Any further information would be appreciated as my enquiries to trace an individual or the flat/address so far have been unsuccessful.

Kind regards,

*Destruction of the areas continues a pace.  
No action by Council who appear not to care.*

Nov 4, 2017

look like something

lar to when I visited twice last year, in  
vity and hence no apparent change  
o contact details for the complainant

ing.

suggest some sort of commercial

# Outcome:

Perception that the issue was not investigated and no evidence/findings/argument was put forward to the complainant to outline Council's reasoning as why the issue was immune from planning enforcement action or not expedient for instance

Us and Them Attitude and inherent Toxicity i.e., you're making it up!

or ... they are ignoring us!

# Possibility?

Non-expediency report required or non-expedient decisions to be referred to Committee or an appropriate/suitable sub-committee?

- Note: lack of resourcing or time is not justification for lack of poor service and particularly poor planning outcomes.

# Case study 5

## 2 enforcement notices, no feedback to RA

Our ref: 21/00446/NBI  
Date: 2nd September 2021

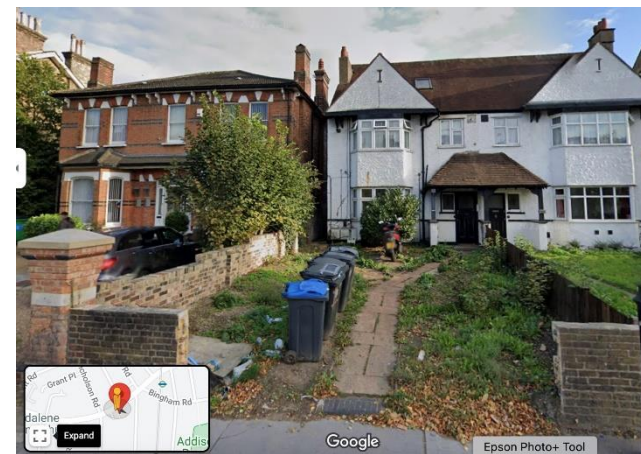
### Serial offenders?

Our ref: 21/00128/UTP  
Date: 7th April 2021

Alleged unauthorised removal of trees situated within a designated conservation area. Trees cut down and removed.



Alleged not built in accordance with PP. Investigate whether the structure being built is in accordance with application no. 20/05839/FUL. [ a double garage ]





# Importance of Enforcement [and Planning Control]

... and how it affects the wellbeing of residents

- Performance
- Live cases
- Determined cases
- Case status i.e., enforcement notice, appeal, compliance, informal action, direct action, etc
- Clear case notes and updates
- Proactive communication with residents

# Planning Enforcement and Transformation



# Planning Enforcement

“Effective enforcement is important to **maintain public confidence** in the planning system. Enforcement action is **discretionary**, and local planning authorities should act **proportionately** in responding to suspected breaches of planning control.’

Effective enforcement is important to:

- **tackle breaches of planning control which have an unacceptable impact on the amenity of the area or are otherwise seriously contrary to planning policy;**
- **maintain the integrity of the decision-making process;**
- **help ensure that public acceptance of the decision-making process is maintained.**



# Outcomes of Transformation

- A better **resourced and skilled** team to be able to deliver for member's and resident's expectations.
- A more **focused approach** that allows us to prioritise cases and take more effective enforcement action
- An increased number of **enforcement notices** served - to bring us more in line with the activity of other London boroughs
- An increased number of **prosecutions** - to bring us more in line with the activity of other boroughs
- A high profile and **proactive communications policy** that ensures we are communicating enforcement successes to act as a deterrent to others

# Successful Planning and Placemaking

visionary plan-  
making which  
sets out the  
policies and  
proposals for  
the area

effective  
enforcement  
undertaken  
within the  
public interest

efficient and  
effective  
development  
management which  
applies local and  
national policies  
when determining  
planning  
applications

Enforcement action is **discretionary**, however a LPA's duty to investigate an alleged breach of planning control is not

Enforcement action is intended to be **remedial rather than punitive** and should always be commensurate with the breach of planning control to which it relates

# Guiding Principles of Planning Enforcement

- The planning enforcement service is concerned with **resolving serious breaches of planning control**. Must be harm to public amenity, safety or the environment for enforcement action to be justified.
- **The Council cannot and should not take enforcement action, simply to remedy a breach of planning control, if that breach is considered acceptable in planning terms**

# Guiding Principles of Planning Enforcement

Enforcement action must **balance** protecting the local area and enabling acceptable development to take place.

- Is it development?
- Is permitted development?
- Is there a Planning breach?
- Can it be negotiated?
- Is the breach causing harm?
- Is enforcement expedient?
- Risks or dangers to the public
- Effect upon neighbours
- Effect upon local amenity
- Any other relevant factors.



# What is a Breach of Planning Control?

- Carrying out of development **without the required planning permission** or
- Failing to comply with any **condition or limitation** subject to which planning permission has been granted

## Common examples of planning breaches include:

- Unauthorised works to a listed building
- Removing or lopping protected trees (TPO or Conservation Area)
- Breach of conditions attached to a planning permission
- Unauthorised demolition in a Conservation Area
- Not building in accordance with approved planning permission or permitted development
- Failure to properly maintain land so that it affects the amenity of the area – Sec 215 notices.
- Unauthorised engineering works, e.g. changes to ground levels

# Matters that are not Planning breaches

- Internal works to a non-listed building
- Obstruction of a highway or public right of way, e.g. parking on grass verge
- Parking a caravan on a driveway/garden (but not lived in)
- Clearing land of vegetation, unless it is subject to planning protection.
- Operating a business from home with no “change of use” or serious amenity impact.
- Boundary disputes and party wall matters
- Deeds and covenants
- Health and safety issues, including on construction sites
- Structural issues with buildings.

# Expedient or Not?

- Applies equally to decisions not to take enforcement action or to under enforce
- De minimis ?
- Is there harm?
- Role of Enforcement Plan –priorities and resource
- Is it in the public interest ?
- A Planning decision

# Immunity from Enforcement

Unauthorised works and activities can become immune from enforcement action after;

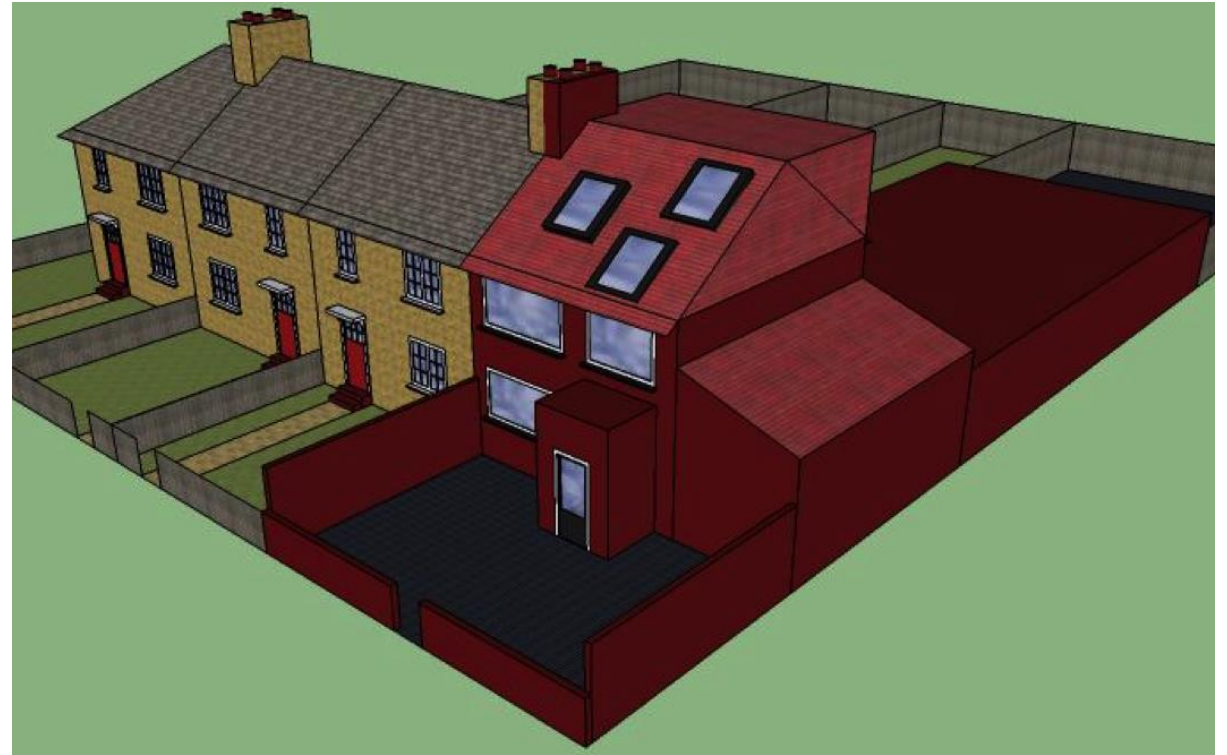
- 4 years for development or residential use
- 10 years for a change of use/breach of condition in place



# Permitted Development

Not all development needs planning permission.

Permitted development regulations allow quite significant alterations and extensions, along with certain changes of use.



# Enforcement Transformation

- Recruiting a permanent Team Leader
- Recruited permanent staff and additional resource
- Identified training and development needs
- Addressing inadequate IT
- Enhanced monitoring and case management
- Targeting backlog

# Resource

- 1 Team Leader
- 6 Enforcement Officers
- 1 Part-time Admin Officer
- 2 Tree Officers
- 8-900 complaints per year





# Workload

- Currently 1030 open cases
- Case officers have > 200-250 cases
- Manageable LPA total caseload is 350-400 cases
- 5 officers with max of 80 cases each
- New Officer to target backlog
- Tree officers c 35 cases with other responsibilities

# Local Enforcement Plan Review

- 2017 Local Enforcement Plan timescales/commitments currently unachievable
- PAS Review recognises need for additional resource to tackle backlog
- With current resources, need to be realistic as to what we can achieve.
- Timescales, Prioritisation and needs a greater amount of nuance.
- De minimis expanded, clarified and No further action
- Quicker Decisions and Cases closed much quicker
- The establishment of manageable case loads

# 2017 Local Enforcement Plan

Priority	Type of breach of planning control	Deadline for 1 <sup>st</sup> Site inspection
1	<ul style="list-style-type: none"><li>• Unauthorised works to a listed building</li><li>• Unauthorised works to trees protected by a Tree Preservation Order (TPO)</li><li>• Works that are irreversible or irreplaceable and constitute a very serious breach of control</li><li>• Activities that cause significant harm to residential amenity or to the environment</li></ul>	Within 48 hours
2	All other breaches of planning control, such as: <ul style="list-style-type: none"><li>• Not adhering to planning conditions</li><li>• Not adhering to approved drawings</li><li>• Building works in excess of permitted development allowances</li><li>• Unauthorised changes of use</li><li>• Untidy land, and</li><li>• Unauthorised advertisements</li></ul>	Within 10 working days

## 7.2 The standards are:

- All enquiries will be acknowledged within a maximum of 5 working days following receipt.
- The acknowledgement will include a reference number for that particular enquiry and set out when you can expect to hear from us again.
- The enquirer will be informed of key milestones in the investigation.
- The enquirer will be informed of the outcome of the investigation.
- If at the end of the process no further action is to be taken, the reason for this will be explained.

# Managing with finite resources

<b>400 cases on hand</b>	<b>Review Period</b>
<b>Ongoing court or appeal proceedings.</b>	Weekly
<b>New complaints of serious irreparable harm</b>	Triaged
<b>Ongoing breach of an enforcement notice which has come into effect and is causing serious planning harm</b>	Weekly
<b>Identified breach causing serious harm</b>	Weekly
<b>New complaints of serious harm to the amenities of an area</b>	Triaged
<b>New complaints where the time limit for taking action expires imminently</b>	Triaged
<b>Systematic breaches of planning control which may set a precedent giving rise to more widespread harm</b>	Weekly
<b>Investigations where no harm has been identified or minor harm is reparable</b>	Close File
<b>All other new complaints</b>	Triaged
<b>Ongoing investigations</b>	Monthly

# Review and reprioritisation

- Advertisements
- Noise and Light complaints
- Changes of windows to UPVC
- Small sheds in blocks of flats
- Mobile telephone masts
- Amazon and E-bay post boxes
- Badger setts (e.g. where referred to Police)
- Breach of Conditions on Car Free developments and Nurseries
- Anonymous complaints
- Complaints about S80 demolition
- Unprotected trees
- Minor infringements of Permitted Development
- Minor regularisations

# Negotiated Enforcement

Alterations to roof, within a Local Heritage Area. Party wall replaced with concrete upstand.

Complaints received from:

- Resident Association
- 2 Local residents
- 2 Ward Councillors

Works did not constitute permitted development as the materials did not match.



# Works Undertaken



# Breach Resolved



Response from complainant following resolution:

“Hi John, Thank you for your update. I went past the building work the other day and the reinstated work looks great. I really appreciate your intervention and as a result protecting the character of the building and street”.



# Formal Enforcement Activity

Only possible to undertake a limited number of enforcement prosecutions per year. Prioritisation is given to cases that are causing the **most significant ongoing planning harm**, and to **long running cases** where compliance has not been achieved

With current resources we can pursue a maximum of:

- 20 notices and
- 2/3 Prosecutions per year

if we reduce current caseloads

# Formal Enforcement Activity

- 2 preceding years: 5 Notices issued
- 20 Notices in all from the start of the new Administration:
  - 5 Breach of Condition Notices,
  - 14 Enforcement Notices
  - 1 Planning Contravention Notices
- Also Prepared 2 prosecutions

# Recap on slides from H.O.M.E ...

- Performance
- Live cases
- Determined cases
- Case status i.e., enforcement notice, appeal, compliance, informal action, direct action, etc.
- Clear case notes and updates
- Proactive communication with residents

# Planning Service Performance and Updates



# Planning Service Performance:

## On-hand caseloads :

- 1627 (Mid 2022) / 814 live cases (Current)

## Planning Guarantee (26+ week old cases):

- 467 (Jan 22) / 180 (July 23)

## “Non Major” Applications rolling 2y in-time (Target: 70%):

- 70.75 (Jan 22) / 77.92% (July 23)

## “Major” Applications rolling 2y in-time (Target: 60%):

- 75% (Jan 22) / 82.61 (July 23)

# Planning Transformation:

1. PAS Report
2. Recruitment
3. Initial focus on “Quick wins”
4. Key Workstreams:
  - Communications
  - Workplace, skills, recruitment and retention
  - Digital Transformation
  - Local Plan
  - Service Transformation
  - Enforcement

# Resident Engagement

- We listened: New pre-app meeting service for Householders £300 (plus VAT).
- Residents Associations Meetings on Local Plan
- Consultation on Webb Estate CAMMP
- Future meet the Planners sessions proposed:  
Residents Associations, Cllrs and Area Planning Teams
- Additional suggestions welcome!

# Appeal: 2 and 4 Kenley Lane

Demolition of two residential dwellings and erection of a development comprising a new Doctor's surgery with 25 flats with associated access and parking

Delegated Refusal reasons:

- Over development and out of character due to height, scale and massing
- Parking, serving and deliveries
- Insufficient cycle parking
- Absence of a legal agreement (Affordable Housing, Local employment and training, car club, travel plan, carbon offsetting, air quality, public realm and sustainable transport contributions)



# Appeal: 2 and 4 Kenley Lane

Overall, the Inspector weighed the planning balance with the scheme delivering new homes and affordable units and a new community facility (doctors). He concluded the harm identified was worthy of substantial weight such that the benefits of the scheme would not outweigh them.



# Appeal: 103 – 111 High Street

Demolition of existing buildings and erection 29-storey building to provide:

- 121 residential units
- Flexible commercial floorspace at ground, mezzanine, first and second floors (comprising flexible A1/A2/D1/D2 at ground/mezzanine floors; flexible A1/A2/B1/D1/D2 at ground floor, flexible B1/D1/D2 at first and second floors)
- Wheelchair accessible vehicle parking, Cycle parking, landscaping, play areas and associated works



# Appeals 103 – 111 High Street - Dismissed

Reason for Refusal	
<p>Overdevelopment due to location, height, mass, scale and impact on adjoining occupiers in term of light and outlook.</p>	<p>The Inspector concluded that there would be <b>substantial harm through loss of daylight</b> – which was given significant weight in the planning balance</p>
<p>Overdevelopment by virtue of its height, mass and scale, would have an unacceptable relationship with the surrounding context and would cause harm to the setting of heritage assets,.</p>	<p>The Inspector did not conclude that there was harm to the character and appearance of the area.</p> <p>He concluded that the was less than substantial harm to Wrencote House and the Central Croydon Conservation Area.</p>

# Recent Resolution to Grant - Citiscape

- Demolition of existing building – 95 flats
- Erection of 2 buildings – 144 flats
- 16% AH (LAR and SO) & review mechanisms
- Public realm delivery and upgrade (pavement width increase, resurface around site, £180,000)
- Transport (TfL contribution, CPZ permit free, car club membership, travel plan, ATZ improvements)
- Playspace contribution
- Environmental (air quality, carbon off-set, 'be-seen')
- Employment and training strategy and contribution



# Judicial Review Cases - Update

- Background – What is a judicial review?
- 3 cases – 1 recent decision; 2 cases ongoing
- Case 1 – 158 Purley Downs Road, South Croydon
- Case 2 – O/S 173 Upper Selsdon Road, South Croydon
- Case 3 – 158 Purley Downs Road, South Croydon –  
Discharge of condition

# Thank you for listening ...

## Any questions?

