

# GLOUCESTER CITY LOCAL ENFORCEMENT PLAN

## **1.0 PURPOSE, AIMS AND CONTEXT**

1.1 The aim of the planning enforcement function is to discourage unauthorised development and where planning breaches are evidenced, to take proportionate action to remedy any harm to amenity, and the built or natural environment.

1.2 These aims mirror current government policy for planning enforcement, which are set out in Paragraph 207 of the National Planning Policy Framework, and state:

***“Effective enforcement is important as a means of maintaining 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. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so”***

1.3 The planning enforcement function works within a legislative framework. However there is also policy, guidance and case law which through their collective interpretation further shape how decisions are made. These include, but are not exclusive of the following:

- Legislative requirements (eg Planning Acts, Police and Criminal Evidence Act 1984)
- National Planning Policy Framework and other government guidance, material in any planning (enforcement) decisions
- Gloucester City Local Plan (Second Stage Deposit – 2002), the Local Development Framework, including the emerging ‘Joint Core Strategy’, and any other material planning considerations
- Gloucester City Council Corporate Enforcement Policy

1.4 This Plan supersedes the Council’s Planning Enforcement Policy, approved by Members in May 2007.

1.5 This policy is supplemented by a ‘Procedure Note’ that sets out in more detail the ‘day to day’ approach to planning enforcement by this Council.

## **2.0 RESOURCES**

2.1 This Plan has been drawn up with regard to the availability of resources and the demands on the service.

- 2.2 The team investigates an average of over 300 enquiries every year, and monitors all legal agreements signed under s106 of the Town and Country Planning Act, as well as undertaking other areas of work outlined in this Plan.
- 2.3 The City Council employs one full time Planning Enforcement Officer, and one full time Senior Planning Compliance Officer, based in the Development Control Team, within the City Council's Regeneration Directorate. Officers report directly to the Development Control Manager.
- 2.4 Due to the complex nature of enforcement and the potential legal implications it may have, cases can often take many months to fully investigate and resolve. It is therefore important that a smaller number of investigations are undertaken thoroughly, as opposed to spreading the service too thinly and as a result risk compromising desired outcomes. With this in mind, the team aims to have no more than 140 cases under investigation at any one time. This means that on occasions the investigation of some alleged planning breaches may not get first priority and may be postponed. This decision will be made in accordance with the priority system set out in Appendix 1.
- 2.5 The Planning Enforcement team currently has no allocated budget to undertake direct works to remove breaches, where necessary. The team instead relies on using limited costs awards eg through prosecutions. Therefore the amount of direct action that can be funded is limited, and commensurate with the budget available. This is likely to result in the team having a greater reliance on Legal support to undertake prosecutions and still may not ultimately achieve compliance with council requirements. This process is punitive rather restorative.
- 2.6 There is no 'out of hours service' to investigate planning breaches that are alleged to be taking place, and require investigation, outside of normal working hours. Notwithstanding the above, officers will make best efforts to be flexible, according to the requirements of an investigation. The planning enforcement team will also seek support from other parts of the council who more regularly work out of hours, to assist as far as possible.
- 2.7 The Council is committed to ensuring that its officers are able to carry out their work safely and without fear and intimidation. Where appropriate, the Council will use legal action and any other means available to prevent or respond to abuse, harassment or assault on its officers.

### **3.0 BREACHES OF PLANNING CONTROL**

- 3.1 The Planning Enforcement team will investigate and where necessary enforce against any breaches of the 1990 Town and Country Planning Act (as amended) (hereafter referred to as 'the Act'). The main breaches investigated have been listed in 3.4 accompanied with a brief description what it is and how the breach is addressed.
- 3.2 Before discussing what a breach of planning legislation is, it is valuable to know what a breach **is not**. The following is a list of activities which is commonly mistaken by the public as being breaches:

- Operating a business from home where the residential use remains the primary use and there is no significant and adverse impact on residential amenity
- Parking of a caravan within the curtilage of a residential property, providing it is not lived in
- Obstruction of a highway or Public Right of Way
- Boundary disputes (civil matter)
- Adverts which have deemed consent in accordance with the Town and Country Planning (Control of Advertisement) Regulations 2007 (as amended)
- Breaches of restrictions imposed by deeds and covenants (civil matter)
- Where development is 'permitted development', as identified in the Town and Country Planning (General Permitted Development) Order 1995, and any subsequent amendments

### 3.3 Breaches of planning legislation:

- ***Damage or inappropriate alterations to Listed Buildings, Scheduled Ancient Monuments and Protected trees*** – Investigation and further action will be undertaken with the support of Conservation Officers, City Archaeologist and Tree Officer.
- ***Operational Development*** – Any unauthorised works are at the developer's risk, and may require demolition, reversal, or alteration.
- ***Unauthorised uses*** – If, after investigation a use constitutes a material change of use we will either invite a planning application or in instances where it is causing harm, we will seek to cease the use.
- ***Breach of condition(s)*** – Failure to comply with a condition attached to a planning permission, or where development exceeds a condition or an allowance under 'permitted development rights' are considered a breach making a development unlawful. We will seek compliance with conditions where they have been identified and/or referred to the Planning Enforcement team.
- ***Untidy land/buildings*** – Enforcement investigations (under s215 of the Act) will only be considered on private land when a significantly detrimental impact on neighbouring properties or visual amenity can be demonstrated.
- ***Unauthorised advertisements on privately owned land*** - The Council will remove unauthorised posters or placards after giving a minimum 48 hours notice (and 22 days for any other advertising 'display structure') to those responsible, owning the land, or benefiting from the advertisement. Advertising materials will be kept for one month, and will be available to be collected on receipt of a fee. This fee would cover the cost of securing their removal eg officer time and hiring of contractors.
- ***Unauthorised advertisements on public land*** - will be removed and disposed of without prior warning, including on Highways land where delegated authority has been given by Gloucestershire Highways under s132 of the 1980 Highways Act (as amended). Where signage is widespread or persistent, the Council will approach the beneficiaries of this 'flyposting' and seek removal within 48 hours, failing which the matter will be referred to Legal Services for prosecution.

- 3.4 **Referrals** - When receiving a complaint or enquiry, officers will have regard to the most effective and timely powers available to investigate and where necessary pursue further actions to achieve the Council's desired outcome. This will sometimes result in matters being referred to other departments and organisations, either wholly or as part of a joint approach, where needed. Similarly, the planning enforcement team will accept referrals from other departments and organisations in accordance with the areas of work identified above.
- 3.5 The Planning Enforcement service will work on specific areas or subject based projects, such as Conservation Area improvements commensurate with resources available.

#### **4.0 APPROACHES TO DEALING WITH A PLANNING ENFORCEMENT ENQUIRY**

- 4.1 Unless an allegation is particularly serious anonymous complaints will not be investigated. Furthermore, enquires will only normally be investigated if received in writing. Complainant details will remain anonymous and will not be made known without their agreement.
- 4.2 Where an alleged breach has been investigated and concluded, any enquiry relating to the same site, which is not materially different to the previous allegation or does not raise any new issues, will not be investigated. In addition, regular unfounded complaints from the same source may be considered vexatious and not investigated.
- 4.3 Where an officer has a conflict of interest regarding any particular enquiry, the matter will be assigned to another officer to investigate.
- 4.4 The Council will acknowledge the complainant, keep them updated and inform them of the outcome of the investigation, in line with Planning Enforcement Customer Charter – see Appendix 2. Anyone not satisfied with the service should initially discuss any concerns with the Development Control Manager or relevant manager. If still dissatisfied, the Council has a formal complaints procedure which can be found on the Council's website.
- 4.5 Where a serious breach is alleged, officers will investigate immediately, having regard to PACE (Police and Criminal Evidence Act) requirements as necessary. Covert surveillance, where necessary, will only be undertaken following the necessary RIPA (Regulatory Investigatory Powers Act) authorisation, and in line with the Council's own RIPA authority.
- 4.6 Before action can be considered, the Council must be able to evidence what the breach is, demonstrate its 'harm', and identify what 'remedial' action(s) are required, and be satisfied that these actions are reasonable and proportionate. Each case will be considered on its own merits, and similar breaches in different locations may require different outcomes.
- 4.7 The Council will give those responsible for a breach in planning regulations the opportunity to undertake required actions, or attempt to reach a negotiated solution that suits all parties.

- 4.8 Where a breach has taken place and a retrospective planning application submitted, this will be treated in the same manner as a prospective planning application. For matters requiring immediate attention a planning application should not hold up any urgent action. The Council may decline to determine an application in relation to any part of an application on which an enforcement notice has been served and relates to the identified breach, as long as the Notice is served before the application is received.
- 4.9 Alternatively where the person (subject) of an investigation disputes that a breach has or is taking place, they have the opportunity to apply for a Lawful Development Certificate to determine the matter.
- 4.10 **Expediency** - Gloucester City Council is committed to taking a firm line to make those responsible accountable for their actions and for making good any unacceptable harm caused. However the Council will only take enforcement action when it is considered 'expedient' to do so. In considering this, the decisive issue should be whether the breach of control is unacceptably affecting public amenity or the existing use of land and buildings meriting protection is in the public interest. For example, where development would receive planning permission, but no application is made, it would not usually be expedient to take further action. Any requirements or action must be 'proportionate'. While the Council is solely responsible for assessing whether or not it is expedient to pursue further action, the failure to take appropriate planning enforcement action where it is clearly necessary may result in investigation by the Ombudsman, and an award of costs could be made against the Council. Enforcement notices should only be served on a breach that is not acceptable in planning terms, otherwise the person (subject) of the Notice could appeal on ground (a) that planning permission should be granted. This could also result in an award of costs against the council.
- 4.11 Formal action will only be taken with the prior authorisation of the Development Control Manager or the relevant line manager, in line with the Council's Scheme of Delegation. In a similar manner, cases will only be closed with the prior and recorded authorisation of the Development Control Manager, following recommendation of the case officer, who should be able to evidence and justify their reasons for doing so.

## **5.0 POWERS**

- 5.1 Where further information is required to determine the facts, the Council has the following **investigative powers**:
- **Rights of Entry** – are available to enter land where a breach of planning control is suspected, without the owner's permission or prior arrangement. The exception is for the inside of domestic properties, where 24 hours prior notice must be given. It will be considered an offence if anyone wilfully obstructs any person in entering land. If immediate access is required permission may be given by court injunction
  - **S16 Notice** (of Local Government Act 1992) and **s330 Notice** (of Town and Country Planning Act 1990, as amended) – requires details of ownership and other interests in property

- **Planning Contravention Notice** – requires further information concerning development undertaken or activities alleged to be taking place on land
- **PACE interview** – for serious allegations, where an offence has or is suspected to have taken place, an interview under formal caution will normally be undertaken

5.2 Where **immediate action** is required, the Council has the following powers:

- **Stop / Temporary Stop Notice** – requiring an immediate cessation of development or any use of land or a building, to remove serious threat or harm. The maximum length of time that a Temporary Stop Notice will have effect is for a period of 28 days. During this period the Local Planning Authority must decide whether or not it is appropriate to take other enforcement action.
- An **Injunction** may be sought in the County or High Court for extremely serious planning breaches (actual or expected).

5.3 In many cases action is required to remove a breach, or otherwise make it acceptable in planning terms. Where required actions have not been undertaken, the Council may serve any of the following **Notices**, where it is expedient to do so. The type of notice served will depend on the nature of the breach:

- **Enforcement Notice** – the most commonly used notice, to address unauthorised operational development or an unauthorised material change of use.
- **Listed Building Enforcement Notice** – Served when there has been unauthorised and inappropriate alterations to a Listed Building or structure.
- **Breach of Conditions Notice**
- **s215 Notice** - Land/buildings adversely affecting the amenity of a neighbourhood
- **s225 Notices** - requiring removal of posters, placards and 'advertisement displays' from private land
- **Planning Enforcement Order** – where the Council believes there has been a 'concealed' breach that would otherwise be immune from enforcement action due to the passage of time.

5.4 **Consequences of non compliance with a Notice** – Where the requirements of a Notice have not been fully complied with, in the timescales given, (and unless successfully appealed against) those responsible for the breach will be considered to be committing an offence.

5.5 Compliance with an Enforcement Notice will not discharge it; its provisions will remain in force and will be valid should the unauthorised use or specified development re-occur. Notices will be registered against the land, and will be identified as part of any 'land search'.

5.6 The Council has powers to take **direct action** to address a breach in planning control, in the following circumstances:

- For serious breaches requiring *immediate action*, where the landowner or other relevant party refuses to undertake emergency works (eg works to preserve a listed building)
- Direct action to remove unauthorised *advertisements and signage* will be undertaken as set out in Section 3 above.
- Where the requirements of a Notice have not been complied with and action is appropriate and necessary.

Taking direct action does not preclude the City Council from prosecuting those responsible, where it is appropriate to do so.

5.7 Works may be undertaken by officers or specialised contractors, according to the nature of the works, and commensurate with the budget available. Those responsible for the breach will be invoiced and recovery proceedings undertaken where necessary. Officer time will be included within any costs calculation, based on a 'charge out rate' provided by Finance. Until paid, the costs will be placed as a charge on the land and will be subject to inflation.

5.8 The Council's Legal Services team will lead on planning prosecutions:

- Where an offence is considered to have been committed, the Council will decide whether to pursue prosecution of those responsible. This decision will be based on the 'evidential' and 'public interest' test.
- Prosecution should be considered even when the requisite works or the breach is removed prior to court action.
- Costs will be sought where successful prosecutions are brought, or where the Council considers unnecessary appeals have been made.
- Where a breach in planning control results in significant financial or material gain, the Council will consider recovery action under the Proceeds of Crime Act, in conjunction with the planning prosecution.

5.9 In some instances planning enforcement action may not be taken because, due to the passage of time, the breach of planning has become immune from enforcement action. The time for breaches to be immune from enforcement action will often be 4 years. This includes operational development (the carrying out of unauthorised building, engineering, mining or other operations), or change of use to use as a single dwellinghouse, or breach of a condition preventing change in use of any building to use as a single dwellinghouse. For all other breaches it must have taken place more than 10 years ago for it to be immune from enforcement action.

## **6.0 MONITORING**

6.1 ***Planning Conditions*** – The Council does not have a Conditions Monitoring Officer, however discharge of conditions will be overseen by the assigned planning officer as part of a 'total case management' approach. Non compliance of conditions will only be referred to the enforcement team if developers or owners are not responding to approaches made by the planning officer, or the breach occurs following the completion of the development and it has been brought to our attention.

- 6.2 **Legal Agreements** - Where obligations are not being met legal action will be taken if negotiations or identified dispute procedures do not result in agreement. Where a financial contribution is not paid then the Council's debtor system will be used to recover funds owed.

## **7.0 INFORMATION, REPORTING AND PUBLICITY**

- 7.1 The enforcement team will keep full and up to date records of all investigations undertaken, to inform and justify any future action, and to compile evidence as necessary eg for prosecutions.
- 7.2 Further information on the planning enforcement function is provided on the Council's website, and is updated regularly. This will include an electronic Planning Register, displaying details of all Notices. Copies of all notices served after December 2011 are also available to view on public access, and any served before this date can be provided on request. As a public document, completed s106 Agreements are also available to the public, on request.
- 7.3 Good publicity is important in deterring others from committing serious planning breaches, and reassuring members of the public of the Council's commitment to enforcing against serious breaches in planning regulations. The Council will work with appropriate media to publicise the team's work and positive outcomes, including details of impending court cases and their outcome.
- 7.4 Every three months (financial quarters) officers will report to Planning Committee on the general performance of the service, including details of all Notices pending or in effect, and any other specific cases that are of interest.



## **APPENDIX A - Priorities for Action**

The use of a priority system allows officers to recognise and react to the most serious cases as they are received. The priority rating should be reviewed following assessment of the case, and this will allow officers to maintain focus in the right areas during especially busy periods. The Senior Planning Compliance Officer will review with the enforcement officer the priority rating as part of regular enforcement case reviews.

Cases will be prioritised as follows:

### Level 1 - High Priority

Breaches that may result in irreversible damage or loss, or where works are under way and an immediate approach will bring a halt to works, preventing unnecessary cost and wasted time to the developer. A site visit and investigations will be commenced as soon as possible:-

- Breaches of Listed Building control where demolition or alterations are taking place.
- Unauthorised works to or works affecting Scheduled Monuments.
- Breaches of planning control in a Conservation Area where immediate, irreparable damage would be caused.
- Works to trees protected by a Tree Preservation Order and works to trees in Conservation Areas where trees are likely to be lost or seriously injured.
- Breaches of control or conditions causing serious irreversible damage to the environment e.g. protected species are on site.
- Breaches of planning control or conditions that may damage a site in an area of archaeological interest
- Breaches where development is currently taking place and an immediate approach could avoid unnecessary works being carried out
- Unauthorised changes of use, likely to result in serious loss of amenity to local residents.
- Flyposting and any other highly visible advertisement breaches where a delay in action would be seriously detrimental to highway safety or visual amenity.

### Level 2 - Medium Priority

A site visit and investigations will usually be commenced within 5 working days for:-

- Breaches of planning control that involve building works likely to be contrary to that set out in the development plan or other material planning guidance.
- Breaches of planning control or conditions that result in harm or loss of amenity, or nuisance to a neighbourhood.
- Other unauthorised uses
- New breaches that undermine initiatives undertaken (eg Eastgate Street improvements scheme)

### Level 3 - Lower Priority

A site visit and investigations will be commenced within 10 working days for:-

- Development involving small domestic structures such as sheds or fences.
- Other breaches of advertisement control.
- Other breaches in planning regulations where the impact is not likely to significantly affect others, and a delay would not prejudice the council's ability to resolve the matter
- Land or properties left in such a poor state (e.g. through fly tipping / overgrown vegetation) where they result in loss of amenity, or nuisance to a neighbourhood.
- 'Pro-active' project work

## **APPENDIX B – Planning Enforcement Customer Service Standards**

1. We will investigate all complaints, as long as they are not anonymous or vexatious, and they have been received in writing, by email, FOCUS enquiry or via the Planning Enforcement webpage. Other complaints will be investigated at the discretion of the Senior Planning Compliance Officer. Complainants should provide contact details in order that we can keep them updated, or so that we may seek further clarification where needed.
2. Where the complaint does not relate to planning, either wholly or in part, we will refer the matter to the relevant department with your details, asking them to keep you updated. We will retain and investigate any part of the enquiry relating to planning.
3. We will acknowledge all complaints within 5 days of receipt, naming the assigned officer undertaking the investigation, and their contact details.
4. We will ensure that complainant details remain anonymous.
5. We will keep complainants up to date with progress, when there is anything significant to report, or otherwise periodically to reassure them that the matter remains under investigation and advise what we are doing.
6. We will only seek or take action where a breach is proven, demonstrable harm is caused, and where it is expedient and legally possible to do so.
7. Any actions sought or taken will be reasonable and proportionate to the proven breach, in accordance with government advice.
8. We will seek the co-operation of responsible persons through negotiation. We will, however, take a firm line where co-operation is not forthcoming, and the nature of the breach merits it, including where necessary prosecution.
9. We will inform complainants of the outcome of any investigation, and with reasons. We will also ask for feedback on our service, through a short questionnaire.
10. Where the subject of any complaint is aware of the investigation, we will inform them of the outcome, with reasons.
11. We welcome feedback on our performance, and an opportunity to comment on-line is available through the City Council's planning enforcement website.
12. Should you not be satisfied with the handling of your complaint, in the first instance please contact the City Council's Development Control Manager. If you remain dissatisfied, the City Council's complaints procedure is accessible on the Council's website.

## Consultation Report

### Service wide review and consultation on Enforcement Plan and Procedure Note

#### 1. Introduction

- 1.1. In preparation of writing a new Planning Enforcement Plan and Procedure Note Planning Enforcement commissioned an overall service review. In doing so the review sought customer feedback to identify areas for improvement. Section 2 sets the scene and provides the background to this review.
- 1.2. Sections 3 and 4 evaluate and summarises the feedback received from members of the public, colleagues and other service users. This report identifies improvements to be made to the service which are discussed in Section 5. These changes are echoed in the Enforcement Plan and Procedure Note.
- 1.3. Sections 6 and 7 outlines the consultation exercise undertaken and responses received for the draft Enforcement Plan and Procedure Note.

#### 2. Background

- 2.1. The term Planning Enforcement creates an image of a service that will always enforce and take action against perpetrators who have not operated within an established system. However such an approach is not advocated by planning legislation because it does not promote enforcement action just because someone has not operated within the law. Instead the legislation only supports action when there is significant harm being caused (to people and to the physical realm) and needs to justify that any formal action would be in the public interest. In the context of reviewing customer feedback it is important to acknowledge that the general public along with some professionals are not always aware of the guidelines and limitations of enforcement powers. Consequently in some instances the expectations of the general public and partners who use the service do not match the capabilities, resources available and the remit of the service.
- 2.2. Business Support has sent out Enforcement surveys since March 2010 until June 2013 when we changed the procedure. It was sent 2-7 days after the case was closed and the officer had sent out a conclusion letter advising the complainant of the reasons for closure. The results from returned forms were logged into a database which have been analysed below. The results have been reviewed collectively with an aim of using it to steer changes or improvements to the service.

#### 3. Public feedback

- 3.1. This section of the report will summarise the findings of 65 questionnaires returned between 01 March 2010 and 31 January 2013. Table 1 displays the responses to each question as a percentage.

<b>Table 1. Results of customer feedback survey (%)</b>					
	Strongly agree	Agree	Neither agree or disagree	Disagree	Strongly disagree
Satisfied with quality of service	48	34	3	9	6
Given the advice and help I needed	35	37	15	9	3
Kept me informed about the progress of the case	38	37	11	6	8
Dealt with my query promptly	41.5	37.5	5	11	5
I understand the reasons for the final decision on the matter	26	31	25	9	9
I was treated fairly and my viewpoint was listened to	29	42	12	11	6

- 3.2. According to the responses received, the service has performed extremely well with 82% of customers satisfied with the quality of service. It is important to note that this is an opportunity for people to be open and honest and they can submit the questionnaire anonymously. By its very nature planning enforcement is not likely to receive a high level of satisfaction from complainants. In other cases there may be no breach in planning regulations and no action possible. Therefore expectations are often out of line with what can actually be done. This makes it especially important to keep complainants updated and explain decisions made.
- 3.3. The questionnaire was very simple for someone to complete, however due to their format they did not provide space for people to give reason for their answer. Consequently the depth of analysis is limited. Furthermore because they were submitted anonymously we are unable to identify which officer/case it relates to. The second half of the form was a number of personal questions relating to a person's gender, age, ethnic group, disability, religion and sexual orientation. This is unnecessary for the purposes of evaluating feedback on planning enforcement and may have prevented people from completing the form.
- 3.4. Consequently the questionnaire has been revised taking into consideration all of the points made above.

#### 4. Internal feedback

4.1. Another method of assessing our performance was to collect feedback from others who use the planning enforcement service such as internal council departments and external organisations. We consulted colleagues in Environmental Protection, Economic Regeneration, Tree Officer, Business Support, Conservation, Building Control, Legal services, Gloucestershire Highways, Private sector housing, Neighbourhood Management, Licensing, Council Tax and Development Control officers.

4.2. The list below is a summary of the feedback received from colleagues when asked generally what they feel enforcement do well:

- Quick, responsive, organised, keep good records.
- Willing to get involved in other initiatives when resources allow for it.
- Good at giving a timescale as to when cases will be looked at.
- Provide answers and solutions to issues.
- We are perceived to have a good working relationship with legal service through flexible approachable, incremental approach to enforcement
- Where cases are obvious contraventions of the law, we worked really well together to get long term solutions.

4.3. There was a basic understanding of what issues planning enforcement can and cannot tackle, however it was identified by a number of departments that a crib sheet or quick reference sheet outlining the remit of planning enforcement powers would be extremely useful. A crib sheet/ quick reference document has been prepared and will be circulated.

4.4. Planning Enforcement undertake joint site visits with teams when there is any overlap with Private Sector Housing, Highways, Neighbourhood Management, Environmental Protection and Building Control. This has worked very well in the last 12 months as it prevents a duplication of work. It also provides an opportunity to first discuss the most effective legislation for taking action when necessary. It would be useful to meet with Environmental Protection, Private Sector Housing, Licensing and Neighbourhood Management to discuss the various legislation and powers available to each team so that in future cases we are aware of each other's powers and limitations. We will arrange these meetings as and when if there are a few cases to discuss.

#### 5. Actions to bring improvement

5.1. There is a general consensus from the positive feedback that the service is operating very effectively. However the following is a number of proposals which will further improve relationships with other teams and in general improve the service to the public:

- Ensure constant communication with the complainant throughout the process of a complaint.
- Closure letters will clearly explain why the case was closed and how it has been thoroughly investigated.
- The case officer will send out questionnaire along with their closure letter.
- Business support will continue to record the feedback from returned customer questionnaires into an access database. We will review the database containing feedback results from customers annually unless a particular form requires more immediate attention.
- A crib sheet/ quick reference guide for all colleagues and external partners to use has been prepared and will be circulated within in August 2013.
- A joint strategy has been agreed with Gloucestershire Highways for the removal of unauthorised highway signs. This has also been circulated to Neighbourhood Management.
- We will aim to undertake another survey to assess how colleagues feel things have changed/improved in October 2014.
- Regular meetings will be set up with Environmental Protection to answer general enforcement questions along with discussing particular cases which require a joint approach. These meetings would be open to building control, private sector housing and anyone else involved in the joint case.

## 6. Planning Enforcement Plan Consultation exercise

6.1. In order to consult as widely as necessary, a Public Notice was posted in the Council's reception area, an article was published in the Citizen, a notice was posted on our website, a notice was included in the all staff email, and an email was sent to all Councillors. The persons/organizations below were also informed by email and invited to comment as well as members of the public on the e-citizen panel who have an interest in planning matters:

- Quedgeley Parish Council
- Quedgeley urban village Limited
- Gloucester Civic Trust
- Environment Agency
- Natural England
- Gloucestershire County Council Enforcement
- Gloucestershire Highways-
- Enterprise
- Gloucestershire Fire Service

6.2. The period of Consultation was 9 May 2013 – 18 July 2013. A total of 7 responses were received which have been summarised below.

- Paragraph 3.1 and Paragraph 4.13 have been amended as a result of a response from the public
- Environment Agency generally advocates giving priority to planning enforcement matters that exacerbate flood risk; relate to pollution incidents or detrimentally impact on biodiversity and wish for such issues to be given high priority.
- Natural England has no comments to make.
- Other than those specific comments general support was received.

## 7. Planning Enforcement Procedure Note consultation exercise

7.1. An email was sent 23 May 2013 to service managers in departments listed below inviting comments on the working practices of planning enforcement ie the Procedure Note. The period of Consultation was 23 May 2013 – 21 June 2013. In addition we also consulted Gloucestershire Highways and Enterprise.

- Development Control
- Building Control
- Environmental Protection
- Private Sector Housing
- Spatial Planning and Environment
- Conservation
- Neighbourhood Management
- Revenues, Customer Services
- Business Support
- Legal Services
- Economic Development
- Communications and Marketing
- Markets and Shopmobility
- Corporate property
- Asset Management

7.2. A total of 4 responses were received which have been summarised below.

- Paragraph 3.0, Paragraph 3.1 and the Priorities for Action in Appendix1 have been amended to reflect comments from the City's Archaeologist.
- Environmental Health wanted assurance that in instances of returning empty properties back into use which can require action under s215 there would be flexibility in our priority system (which currently puts S215 as low priority). In response, yes there is flexibility and there are instances recently where we have worked closely with Private Sector housing to support an enforced sale and in another instance we have worked together to improve the appearance of untidy land.
- Conservation considered the document comprehensive and agreed with its content.
- Legal Services made suggested some corrections which have been made.



## 8. Conclusion

- 8.1 Gloucester City Council's Planning Enforcement Plan and associated Procedure Note are key foundations in terms of how the service is delivered, and actions given weight in policy.
- 8.2 In order that our service best responds to our customers' expectations, and reflects the needs of our partners, an extensive consultation exercise has been undertaken.
- 8.3 The results of this consultation are mostly positive, and where changes are required these have been suggested in a constructive and helpful manner, and have mostly been adopted through changes or will be in future actions.
- 8.4 The Planning Enforcement team will continue to monitor and review its performance, and adjust the service provided accordingly.

## RISK ANALYSIS SHEET

Ref	Risk Identification and Risk Category – see PRINCE2 Reference Manual Appendix C	Risk Evaluation			Risk Result (16 = Very High 8 - 12 = High Risk <8 = Low Risk)	Nominated Risk Owner	Type of Risk Response (Prevention, Reduction, Acceptance, Contingency, Transference)
		(1 - 4) 1 = Low 4 = High	(c) Impact	(d) Likelihood			
(a)	(b)	(c) Impact	(d) Likelihood	(e) Score (c) x (d)	(f) Statement of Risk Result	(g)	(h)
1	Chose not to approve the proposed Enforcement Plan	3	1	4	Low risk		Use currently adopted 2007 Planning Enforcement Policy.
<p><i>The current 2007 Planning Enforcement Policy will apply if the proposed Plan is not adopted. The policy position in terms of taking enforcement action will be weaker, and the council at greater risk of losing appeals (resulting with inappropriate development), ombudsman complaints being upheld, and costs made against the Council. This risk is not greatly elevated as the current policy provides safeguards and planning enforcement action is also taken using the provisions set out in legislation and national policy.</i></p>							
2	Ability to implement Plan affected by a) reduction in staff b) significant increase in complaints or c) increase in more major and time consuming issues	4	1	4	Low risk		The flexibility offered within the Planning Enforcement Plan to deal with

- (a) While it is difficult to predict whether a reduction in planning enforcement staff will take place, there are no explicit proposals to do so in the current reorganisation. Further, the need for 2 posts has been recently re-evaluated as part of the recruitment of a new enforcement officer
- (b) Since 2007 the number of complaints received are consistently around 300 per annum, although there are troughs and peaks throughout the year
- (c) This is more likely as planning regulations are relaxed and developers 'test the market' either through speculative applications, or by more risk taking and building without consent, or ignoring conditions.

One of the key aspects of the Planning Enforcement Policy is the use of a number of techniques to help 'proof' against these risks. The Plan introduces a priority system working that allows some flexibility to focus on more important or immediate issues should there be a peak in workload or a reduction in staff. Further flexibility will also depend on availability of colleagues within the wider team to assist at peak times

3	Changes in legislation, planning guidance and organisation changes making the Plan ineffective or redundant	2	2	4	Low level		Ability of Plan to be amended and brought back before committee
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The Plan has been written as a delivery tool to implement higher level legislation / planning guidance, and changes to this are unlikely to have significant impact on the Plan. Where it does then the Plan will be amended and a revised Plan brought before members for consideration and approval. Other changes will impact more on the teams working 'procedural note'.

4	Where required, support from other teams not forthcoming where a joint approach to an issue is required	2	2	4	Low risk		Mostly works well, some areas are being addressed
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*The Planning Enforcement team has good working relationships with most of its partners, but recognises some areas need improvement in terms of joint working, or even more fundamentally ownership and responsibility for some (part of) enquiries received. This work is ongoing and some of these issues have been brought before senior management and in some cases will be the subject of discussion at GLT.*

5	Amendment to Scheme of delegation to enable Planning Committee to approve future planning enforcement policy is not approved	1	?	Unknown by no higher than 4	Low Level		Full committee retain delegation for future Planning Enforcement Plan amendments.
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*Ultimately the Planning Committee deal with day to day planning decisions and can measure planning enforcement performance against the aspirations set out in this Plan. They would also be best placed to assess any future changes and suggest changes to the way the team works. But it is certainly not essential that this decision is made by Planning Committee alone.*

6	Ability to pursue firm line is reduced by a) no other applicable powers available or used b) limits to legal support available, and therefore number of prosecutions or c) no direct action budget	3	3	9	High risk		Separate paper to be taken to GLT to bid for a Direct Action Budget
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*For breaches where serious harm has been identified and evidenced a firm line can only be taken if any of the following can be applied*

- a) Other powers used*
- b) Legal support available for prosecutions*
- c) Budget available to undertake works and reverse breach.*

*Further work is required on*

- a) to identify gaps/weaknesses in service provision relating to enforcement or other support to address planning enforcement breaches. Where done and agreed these are already set out in the team 'Procedure Note' and all parties are clear and happy with roles.*
- b) With the best will in the world there is only a limited amount of cases that Legal can bring to court, and this is a punitive measure that does not necessarily get the breach removed. We feel prosecution it is not the most cost effective way to achieve our aims in all but the most serious of cases and will be looking for greater reliance on using (c) instead*
- c) Currently the team does not have a direct action budget but will be making representation to GLT in order to secure an annual allocation*