

# Gloucester City Council

<b>Meeting:</b>	<b>Council</b>	<b>Date:</b>	<b>12<sup>th</sup> September 2013</b>
<b>Subject:</b>	<b>Gloucester City Planning Enforcement Plan</b>		
<b>Report Of:</b>	<b>Cabinet Member for Regeneration and Culture</b>		
<b>Wards Affected:</b>	<b>All</b>		
<b>Key Decision:</b>	<b>Yes</b>	<b>Budget/Policy Framework:</b>	<b>Yes</b>
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<b>Appendices:</b>	<b>1. Planning Enforcement Plan</b>		
	<b>2. Consultation Report</b>		

FOR GENERAL RELEASE

## **1.0 Purpose of Report**

- 1.1 To present to members for their consideration Gloucester City's revised Planning Enforcement Plan. This report provides background information and further explanation.

## **2.0 Recommendations**

- 2.1 Council is asked to **RESOLVE** :

**2.1.1 that the Planning Enforcement Plan at Appendix 1 be approved; and**

**2.1.2 that the Terms of Reference for Planning Committee be amended to enable the Planning Committee to approve any future amendments to the Planning Enforcement Plan.**

## **3.0 Background**

- 3.1 Planning enforcement controls and monitors development to ensure changes respect and protect the environment. It seeks to ensure that planning decisions made by members and officers are upheld, and any unauthorised development is investigated, and where expedient is acted upon. Public confidence in the development control process is quickly undermined if unauthorised development is allowed to proceed without any apparent attempt to intervene and after certain time periods unauthorised development can become immune from enforcement.
- 3.2 Gloucester City Council's current enforcement policy was approved by members in May 2007. For the last 6 years this policy has determined how the council deal with planning enforcement enquiries and breaches. In that time there have been significant changes made to planning legislation and Government guidance. Additionally the Council has experienced internal organisational changes. Such

changes necessitate a full review of planning enforcement customer service standards along with a review of policy and internal procedures.

- 3.3 The National Planning Policy Framework sets out the government's overarching approach to how local authorities should undertake planning. Section 207 is most relevant for planning enforcement, stating:

*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.*

- 3.4 Gloucester City Council's Plan for 2011-14 – 'Transforming Your City' sets out the Council's key corporate priorities. While incremental planning decisions and actions to address breaches in planning regulations contribute to all of 'place', 'people', and 'prosperity', in particular this Planning Enforcement Plan meets objectives around regeneration and 'creating pride in our City'. In addition this Plan contributes significantly to the Council's Core Principle of considering 'the impact on the environment of everything we do'. Further, under the City Vision 2012-2022, the plan will help to achieve 'A City which improves through regeneration and development', while protecting its historic built heritage.
- 3.5 The planning enforcement plan is supplemented by a detailed 'procedure note', which sets out the day to day running of the planning enforcement function, in line with other relevant guidance and the Council's ways of working. This note is updated regularly, and is available on request.
- 3.6 This Enforcement Plan (and procedure note) has also been informed by extensive consultation. Feedback is regularly received following the conclusion of each investigation. In addition, an eight week consultation period took place in June and July 2013, when partners and the public were asked how we might improve our service. A report outlining this consultation exercise is provided in Appendix 2.
- 3.7 In preparing this Plan the Planning Enforcement team is aware of the organisational restructure – 'Realigning the Management Resource'. Although no final decision has been made on proposals contained within it, this Plan will still be operationally effective should the Planning Enforcement team be relocated.
- 3.8 This proposed Planning Enforcement Plan sets out the following key aspects:
- Duties of the council to investigate any alleged breaches in planning control, to take proportionate action where a breach is evidenced and results in demonstrable harm. Failure to do so may result in Ombudsman complaints and compensation awards made against the council.
  - It identifies what a breach is in terms of planning regulations, and discusses the powers available to the council to address them. This includes considering the powers available elsewhere in the Council and deciding which powers would be most effective.

- It sets out how the Planning Enforcement team work with other teams and external partners.
- Describes in details the approach to planning enforcement taken by Gloucester City Council.
- Customer service standards.
- Resources ie. prioritisation of enquiries, and how the cases are managed alongside competing demands.
- Arrangements for reporting to elected members and members of the public. It also sets out what information is published on the internet and on occasions in the press.

3.9 The Council's current scheme of delegation requires that planning enforcement policy needs to be approved by full council, however as this policy is unlike other planning policies regarding land use as it in relates to the function of the service it is considered more appropriate for planning committee to approve such. Consequently this report recommends the constitution to be amended for future purposes.

#### **4.0 Alternative Options Considered**

4.1 A number of options have been identified:

- Chose not to approve the proposed Planning Enforcement Plan, and rely on the 2007 Planning Enforcement Policy. This is a risk which is discussed within the risk assessment in section 9 of this report.
- Make amendments to the proposed Enforcement Plan. Sections 5.1 - 5.2 explain in detail why officers have recommended it for approval. Individual aspects of the content are considered within the risk assessment in section 9.
- Keep the scheme of delegation as it currently is which requires further changes to be considered by full Council as opposed to the Planning Committee. This is a risk discussed within the risk assessment in section 9.

#### **5.0 Reasons for Recommendations**

5.1 The Planning Enforcement team has spent significant time in reviewing its current policy in light of new legislation, updated guidance and recent re-organisational change. The draft plan has been further tested and revised in light of a rigorous consultation exercise.

5.2 The Planning Enforcement team considers that this Plan meets and responds to the challenges presented by unauthorised and inappropriate development, while maintaining a degree of flexibility that enables the team to respond to changes in resources, priorities and workload as they occur.

#### **6.0 Future Work and Conclusions**

6.1 Planning Enforcement is a key function within the City, upholding planning decisions and protecting the City's environment and built heritage, as well as residential amenity. Consequently it could affect every resident and business in the City.

6.2 This Enforcement Plan provides an up to date policy justification for taking planning enforcement action, and sets out the approach to undertaking this action, making best use of the resources available.

6.3 As well as operating the planning enforcement function on the basis of this Enforcement Plan (subject to approval) and Procedure Note, future actions will include:

- Quarterly progress report to Planning Committee to update members on caseload and progress against this plan.
- A report will be presented to GLT in the near future which seeks a 'Direct Action Budget' to be allocated to planning enforcement. If allocated this would assist the team in achieving more cost effective planning outcomes.
- Specific actions to improve working relationships, as identified by partners as part of the consultation process, to be implemented where appropriate
- Periodic review of the Enforcement Plan and Procedure Note, informed by ongoing public and partner feedback.

## **7.0 Financial Implications**

7.1 The cost to the Council is officer time which includes legal officer's time, in carrying out enforcement duties. Where direct action is taken the costs of any works is derived from recovered court costs and other monies reclaimed through the direct action. As there is no allocated budget for these works, the scope of direct action is limited.

7.2 Financial Services have been consulted in the preparation this report

## **8.0 Legal Implications**

8.1 The Council has a range of powers available to it to enforce breaches of planning legislation. These powers are supplemented by the policies and procedures adopted by the Council, which are followed when dealing with potential breaches. Having adopted policies and procedures for planning enforcement helps to minimize the risk of Judicial Review and maladministration complaints and ensures that appropriate enforcement action is taken. Whilst prosecution is an option open to the Council, it isn't always the most cost effective method of enforcement, and it may not necessarily lead to a planning breach being remedied; it can often only lead to the securing of a conviction. Direct action is a last resort, but is necessary in some circumstances, and often more cost effective.

8.2 Legal Services have been consulted in the preparation this report

## **9.0 Risk & Opportunity Management Implications**

9.1 A number of 'risks' have been identified and are fully assessed in a separate Risk Assessment Form. All but one risk is considered 'low level'.

9.2 There is a high risk that due to the legal support available, it will be difficult to maintain public confidence and continue to take a firm approach against breaches. Regardless of the support available, legal action (ie. prosecution) is not always the

most effective method of removing a breach because in some instances it would be more effective to take direct action than to prosecute. However in the absence of a budget the amount of direct action taken to remove planning breaches is limited. This matter has been discussed with Finance and Legal, and one solution put forward is to request an annual budget to tackle small scale works where it is more cost effective and expedient. Consequently a report is being prepared for GLT to consider soon.

## **10.0 People Impact Assessment (PIA):**

- 10.1 Due to this being a report seeking approval on a process not directly involving people, there is no requirement to complete an impact assessment, as discrimination is unlikely to occur with any particular group of people or individual. A People Impact Assessment may be required at a later stage when exploring actions concerning enforcement against any person or specific group of people.

## **11.0 Other Corporate Implications**

### Community Safety

- 11.1 There are no Community Safety implications.

### Sustainability

- 11.2 Planning enforcement upholds planning policy and development decisions, which themselves are routed in the principle of sustainable development.

### Staffing & Trade Union

- 11.3 There are no Staffing or Trade Union implications.

## **Background Documents:**

1990 Town and Country Planning Act, and subsequent amendments

2011 Localism Act

National Planning Policy framework

Circular 10/97 - 'Enforcing Planning Control'

Enforcement Concordat (Central Government)

NAPE (National Association of Planning Enforcement) Handbook

RTPI (Royal Town Planning Institute) Practice Advice Note 6 – Enforcement of Planning Control

Gloucester City Council Enforcement Policy

2007 Planning Enforcement Policy

Gloucester City Corporate Business Plan 2011-14 - 'Transforming Your City'

Gloucester Vision 2012-22

Development Control Service Plan 2013-14

Planning Enforcement Procedure Note

*All Documents are available on request.*