

<b>Meeting:</b>	<b>PLANNING COMMITTEE – 6<sup>th</sup> MAY 2014</b>		
<b>Subject:</b>	<b>PLANNING ENFORCEMENT QUARTERLY PROGRESS REPORT (JANUARY TO MARCH 2014)</b>		
<b>Report Of:</b>	<b>ANDY BIRCHLEY, SENIOR PLANNING COMPLIANCE OFFICER</b>		
<b>Wards Affected:</b>	<b>ALL</b>		
<b>Key Decision:</b>	<b>No</b>	<b>Budget/Policy Framework:</b>	<b>No</b>
<b>Contact Officer:</b>	<b>ANDY BIRCHLEY, SENIOR PLANNING COMPLIANCE OFFICER</b>		
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<b>Appendices:</b>	<b>1. SUMMARY OF ENFORCEMENT ACTIVITY JANUARY TO MARCH 2014</b>		
	<b>2. NOTICES IN EFFECT AT 1<sup>st</sup> APRIL 2014</b>		

## **FOR GENERAL RELEASE**

### **1.0 Purpose of Report**

- 1.1 To identify the level and nature of enforcement activity undertaken by the Planning Enforcement team between January and March 2014.
- 1.2 To provide an update on formal action being taken against more serious planning breaches, including the results of legal actions undertaken.

### **2.0 Recommendations**

- 2.1 Planning Committee is asked to RESOLVE, subject to any questions or issues arising, that progress be noted.

### **3.0 Background and Key Issues**

- 3.1 Gloucester City Council's Planning Enforcement function is now based in the Private Sector Housing team, within the Council's Public Protection Service. The function is made up one full time Enforcement Officer, and a Senior Planning Compliance Officer, who also monitor Section 106 legal (planning) agreements.
- 3.2 Following the departure of Heidi Clarke, the Council's Planning Enforcement Officer, since 14<sup>th</sup> February only one officer has been in post to cover all planning enforcement and s106 monitoring functions. A new officer – Andy Powick - has been appointed, and will join the City Council on 12<sup>th</sup> May.
- 3.3 The team operates according to the provisions of the Planning Enforcement Plan,

approved in September 2013 by both Planning Committee and Full Council. This policy is supported by a set of customer service standards, priorities for action, and is supplemented by agreed office procedures.

#### **4.0 Caseload and progress**

- 4.1 45 new enforcement enquiries were investigated between January and March 2014, which is significantly lower than for most quarters. This is partly due to the time of year - fewer enquiries are received between January and March of any year, as less development tends to take place and gardens are not so overgrown. Also a number of investigations into less urgent matters have been deferred, in accordance with the approved priority system. These matters will be picked up following completion of the annual s106 monitoring cycle, in April.
- 4.2 A total of 85 cases were concluded in the quarter, of which almost 60% resulted in compliance with the Council's requirements, and over 20% were closed as a result of no breach in planning regulations taking place or being proven.
- 4.3 In all, a total of 160 different planning investigations were worked on between January and March 2014. 72 cases remain under investigation.
- 4.4 The planning enforcement team closely monitors its workload to ensure it remains as effective as possible in resolving the issues presented. While each enforcement investigation has different resource demands, the team aims to keep total investigations between 100 and 140 'live' cases at any one time between two officers. At 1<sup>st</sup> April 2014 the number of 'open' investigations stood at 72 which, pro-rata, is above this 'efficiency level', and with a number of investigations deferred. However, once the team is back to two officers this workload should become more manageable.
- 4.5 The following identifies some of the areas of work undertaken during the quarter, excluding specific cases identified in Appendix 2, or in section 5.0 below:
- Serious concerns were raised following the commencement of development at the Greyfriars site in Brunswick Road, without essential conditions relating to archaeology, ecology, and environmental protection measures having been discharged. In particular this resulted in the threat of irreversible damage to the City's history and archaeology (the City wall runs through the site), as well as environmental health issues arising. Subsequently site operatives were cautioned and ground-works ceased immediately, under the threat of legal action. This matter is now being progressed by the developers and relevant council officers and no further works should commence until conditions details have been agreed and required actions undertaken by the developer, to the Council's satisfaction.
  - A number of complaints have been received concerning unauthorised advertisements at the Lock Warehouse, which are considered out of keeping with the Docks Conservation Area. Agreement has been reached with the occupiers of the ground floor commercial premises, and the Council is awaiting removal or alterations to signage, as agreed.
  - 141 Southgate Street (a Grade II Listed Building) has now been purchased, and the owners are working with the Council to make sure that the requirements of the

Listed Building Notice served in 2012 are complied with. This relates to the damage and removal of listed architectural features which must be restored.

- The team have been monitoring land to the rear of Awebridge Way (Paget/Springfield Cottage site). Although there is planning permission for development, it is subject to pre-commencement conditions, some of which relate to the protection of important on-site ecology.
- The inclement weather from December to February resulted in a large number of fences being blown down, some of which have been referred as complaints to the team due to the detrimental appearance of land in prominent locations. Fences have now been reinstated at Hampden Way, while at Gloucester Quays some fences have been replaced, with the remaining due to take place over the coming weeks.
- In contrast, the boundary fence required as part of development at the former Gas Works (Bristol Road), to act as screening for residents of Podsmead, was built but far too close to their properties, causing overshadowing. This fence has now been removed and reinstated in the correct position, according to the approved plans.
- There have been a large number of enquiries this quarter relating to mobile hot food vans, as well as enquiries alleging car repairs taking place from residential properties.

## **5.0 Formal action**

5.1 When the Council's requirements are not met, following a reasonable time period to comply, and where the breach is considered to be serious, then formal action will be taken to remedy a planning breach. This usually involves some or all of the following:

- Service of a Notice
- Prosecution
- Works undertaken and re-charged to the landowner (works in default)

5.2 Appendix 2 identifies those cases where a Notice has been served or was in force at 1<sup>st</sup> April 2014, showing progress against stated requirements. 8 new Notices were served between January and March 2014, with 6 Notices complied with. 11 Notices are awaiting compliance, with the following 2 the subject of enforcement appeals:

- Unit 4, 151 Bristol Road - Unauthorised change of use from storage unit to car repairs
- IntoPlay, 24 Llanthony Road - Failure to comply with planning condition requiring 'stopping up' of access and reinstatement of grass verge

5.3 On March 24<sup>th</sup>, Mr. Saqib Rasul was prosecuted at Cheltenham Magistrates Court for the following offences:

- 14 offences of displaying unauthorised advertisements (on Vauxhall Mart, Grade II Listed Building), with a fine of £3,500. The advertisements have now been removed.
- One offence relating to unauthorised works to the interior of the Picturedrome (Former New Olympus Theatre - a Grade II Listed building), with a fine of £1,000.

Works to reinstate these features are required by a Listed Building Enforcement Notice, and will be monitored.

- The Council were awarded costs of over £2,500, reflecting the amount of time and effort over the past 3 years in trying to resolve these issues.

5.4 Direct action was undertaken during the quarter in respect of the following:

- Clearance of the side and rear gardens at 119 Cheltenham Road, following non compliance with s215 Notice.
- Clearance of land at Bybrook Gardens, including new boundary fence and laying down of weed suppression, overlaid with bark chippings.

The costs of these works will remain as a charge against the property until such time as it is paid.

## **6.0 Alternative Options Considered**

6.1 This report is for information only, and therefore the consideration of other options is not relevant.

## **7.0 Reasons for Recommendations**

7.1 To give Members the opportunity to scrutinise the work of the planning enforcement team, be aware of individual cases, and have the opportunity to ask any questions or raise any other matters of interest.

## **8.0 Future Work and Conclusions**

8.1 The Planning Enforcement team currently has 85 cases under investigation, and will receive further enquiries during the April to June 2014 quarter, working to try to resolve or meet a satisfactory outcome on as many of these cases as possible.

8.2 Andy Powick takes up post as the new Enforcement Officer on 12<sup>th</sup> May

8.3 Works will take place to repair and improve the exterior of 130 Barton Street, within the Barton Street Conservation Area, following failure by the owner to comply with a s215 Notice.

8.4 Following the planning enforcement team's move into Public Protection Housing, a review of working practices will begin to see what areas for improvement or efficiencies exist.

## **9.0 Financial Implications**

9.1 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. Financial Services have been consulted in the preparation this report.

## **10.0 Legal Implications**

10.1 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. Legal Services have been consulted in the preparation this report.

## **11.0 Risk & Opportunity Management Implications**

11.1 There is no risk to the authority connected with this report, as it is for information only

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

12.1 There are no risks for customers and staff, in the areas of gender, disability, age, ethnicity, religion, sexual orientation and community cohesion in this report

## **13.0 Other Corporate Implications**

13.1 It is considered that there are no other corporate implications not already covered within the report

**Background Documents:** None

## APPENDIX 1 – ENFORCEMENT ACTIVITY

	<b>2010 TOT</b>	<b>2011 TOT</b>	<b>2012 TOT</b>	<b>2013 TOT</b>	<b>JAN- MAR 2014</b>	<b>APR- JUNE 2014</b>	<b>JULY- SEPT 2014</b>	<b>OCT- DEC 2014</b>	<b>2014 TOT</b>
<b>NEW ENQUIRIES RECEIVED</b>	<b>303</b>	<b>287</b>	<b>314</b>	<b>308</b>	45				<b>45</b>
<b>TYPE OF BREACH (New enquiries):</b>									
Operational development	<b>57</b>	<b>95</b>	<b>94</b>	<b>98</b>	14				<b>14</b>
Breach of Condition	<b>33</b>	<b>27</b>	<b>28</b>	<b>31</b>	4				<b>4</b>
Unauthorised change of use	<b>66</b>	<b>68</b>	<b>60</b>	<b>70</b>	14				<b>14</b>
Works affecting a Listed Building	<b>2</b>	<b>5</b>	<b>9</b>	<b>9</b>	3				<b>3</b>
Unauthorised advertisement	<b>92</b>	<b>62</b>	<b>94</b>	<b>40</b>	4				<b>4</b>
Section 215 (Untidy land / property)	<b>45</b>	<b>24</b>	<b>21</b>	<b>41</b>	4				<b>4</b>
General Amenity Tree Preservation Order	<b>0</b>	<b>4</b>	<b>2</b>	<b>1</b>	0				<b>0</b>
Conservation Area	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	0				<b>0</b>
Not Planning Enforcement	<b>7</b>	<b>2</b>	<b>4</b>	<b>16</b>	2				<b>2</b>
	<b>0</b>	<b>0</b>	<b>1</b>	<b>2</b>	0				<b>0</b>
<b>PROGRESS:</b>									
Total cases worked on in qtr				<b>421</b>	160				<b>421</b>
Unresolved at qtr end	<b>140</b>	<b>88</b>	<b>123</b>	<b>112</b>	72				<b>72</b>
<i>Total Notices issued</i>	<b>19</b>	<b>17</b>	<b>23</b>	<b>23</b>	8				<b>8</b>
<i>Total prosecutions</i>	<b>7</b>	<b>5</b>	<b>1</b>	<b>3</b>	3				<b>3</b>
<i>Total cases closed</i>	<b>272</b>	<b>338</b>	<b>280</b>	<b>319</b>	85				<b>85</b>
<b>REASON FOR CASE CLOSURE:</b>									
No evidence of breach	<b>80</b>	<b>100</b>	<b>82</b>	<b>107</b>	18				
No further action taken	<b>47</b>	<b>68</b>	<b>37</b>	<b>59</b>	16				
Complied with Retrospective Planning Permission given	<b>126</b>	<b>153</b>	<b>140</b>	<b>116</b>	37				
Other Powers Used	<b>17</b>	<b>17</b>	<b>21</b>	<b>37</b>	11				
					3				



## APPENDIX 2 – NOTICES IN EFFECT – 1<sup>st</sup> APRIL 2014

ADDRESS	BREACH	TYPE OF NOTICE	STATUS
151 Bristol Road	Unauthorised change of use from storage unit to car repairs	Enforcement Notice	Appeal against Notice currently under way
IntoPlay, 24 Llanthony Road	Failure to comply with planning condition requiring 'stopping up' of access and reinstatement of grass verge	Enforcement Notice	Appeal against Notice currently under way
4 Glencairn Avenue	Overgrown garden	S215 Notice	Compliance period not yet reached (10 <sup>th</sup> April)
87 Ryecroft Street	Untidy land, works required to complete building and enclose land	S215 Notice	Compliance period not yet reached (10 <sup>th</sup> April), although some works have already been undertaken
Manor Farm, Kingsway	Change of use from barns to offices, unauthorised enclosures (Scheduled Ancient Monument)	Enforcement Notice	Planning agent working on behalf of owners to prepare an acceptable scheme for planning approval.
35 London Road	Unauthorised changes to shopfront	Enforcement Notice	Compliance period not yet reached (13 <sup>th</sup> June). Retrospective planning application refused and being appealed against
2 Hanman Road	<i>Unauthorised satellite dish</i>	<i>Enforcement Notice</i>	<i>Removed – notice complied with</i>



<b>ADDRESS</b>	<b>BREACH</b>	<b>TYPE OF NOTICE</b>	<b>STATUS</b>
<b>24 St Michael's Square</b>	<b>Unauthorised satellite dish (in Article 4 area)</b>	<b>Enforcement Notice</b>	<b>Removed – notice complied with</b>
119 Cheltenham Road	Overgrown garden affecting immediate neighbours	S215 Notice	Garden cleared (by Council, in default)
Land at Bybrook Gardens	Untidy land adjacent to public footpath	S215 Notice	Works undertaken and cleared by Council. Charge against property.
194 Stroud Road	Unauthorised creation of an access onto Stroud Road	Enforcement Notice	Notice complied with, highways issues (parking on public footpath) referred to County Highways
124 Eastgate Street	Replacement of timber framed shopfront with aluminium alternative, installation of roller shutters and removal of historic mosaic floor at entrance	Enforcement Notice	New shopfront installed, and Notice complied with.
138 Stroud Road	Unauthorised changes to shopfront works	Enforcement Notice	Retrospective planning application refused, works not undertaken, legal action pending
55 Worcester Street	Unauthorised changes to shopfront, creation of new floor, installation of roller shutters (within the Worcester Street Conservation Area)	Enforcement Notice	Compliance period not yet reached. Application approved for new shopfront, awaiting implementation

<b>ADDRESS</b>	<b>BREACH</b>	<b>TYPE OF NOTICE</b>	<b>STATUS</b>
130 Barton Street	Building boarded up and in (external) state of disrepair within Barton Street Conservation Area	S215 Notice	Notice not complied with, works to be undertaken by council and charged to property owner.
PictureDrome, 162-170 Barton Street	Removal of historic features, including raked floor, theatre seating, heating system and box room. (Grade II Listed Building)	Listed Building Enforcement Notice	Notice not yet complied with. Lessee prosecuted for criminal damage.
21 Stroud Road (Hay House)	Works undertaken not in compliance with permission and in breach of a number of conditions – relating to design features, materials and finishings	Enforcement Notice	Works schedule and timetable agreed with owner and City Council's Urban Design, Conservation and Planning teams. These works have now commenced.
97 Eastgate Street	Unauthorised alterations to shopfront within Eastgate and St Michael's Conservation Area	Enforcement Notice	Alternative scheme submitted for planning approval.
122 Eastgate Street	Unauthorised alterations to shopfront within Eastgate and St Michael's Conservation Area	Enforcement Notice	Alternative scheme submitted for planning approval.

**Notices in bold served within January to March 2014 quarter -**

*Notices in italics have been complied with or otherwise concluded during January to March 2014 quarter*