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| Meeting: | PLANNING COMMITTEE - 2nd February 2016 | |
| Subject: | PLANNING ENFORCEMENT PROGRESS REPORT (OCTOBER to DECEMBER 2015) | |
| Report Of: | ANDY BIRCHLEY, SENIOR PLANNING COMPLIANCE OFFICER | |
| Wards Affected: | ALL | |
| Key Decision: | No | Budget/Policy Framework: No |
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| Appendices: | 1. SUMMARY OF ENFORCEMENT ACTIVITY 2. NOTICES IN EFFECT AT 1st JANUARY 2016 | |

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 October and December 2015, and for 2015 as a whole
- 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 planning enforcement performance be noted.

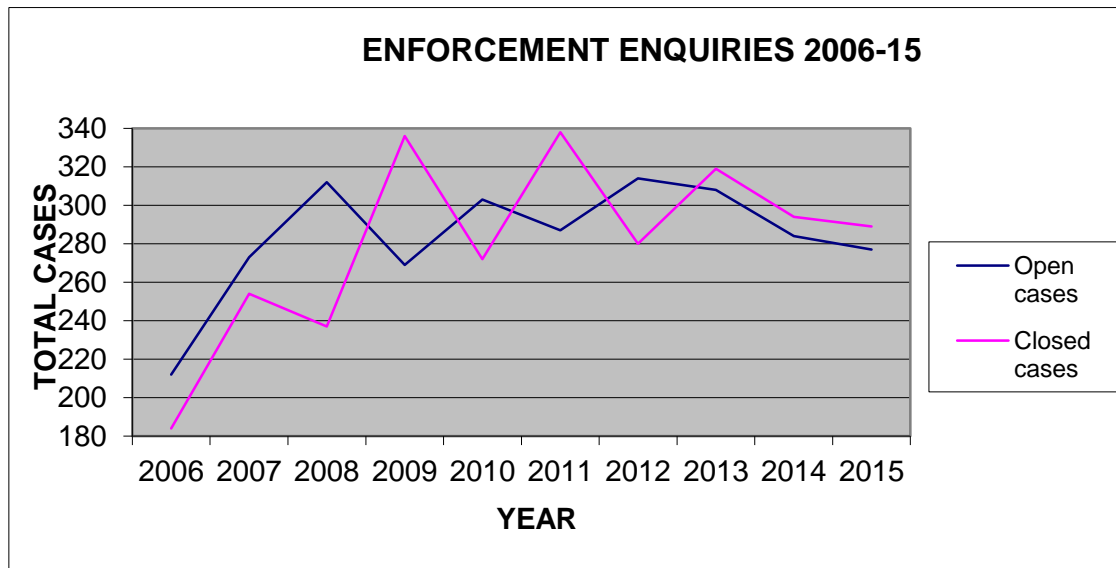
3.0 Background and Key Issues

- 3.1 Gloucester City Council's Planning Enforcement function is based in the Private Sector Housing team, and is part of the Council's Public Protection Service. The team is made up one full time Enforcement Officer, and a Senior Planning Compliance Officer, and also involves the monitoring of Section 106 legal (planning) agreements.
- 3.2 The team operates according to the provisions of the Planning Enforcement Plan, approved by members in September 2013, and revised (with member approval) in November 2015. This policy is supported by a set of customer service standards, priorities for action, and is supplemented by agreed office procedures.

3.3 From 2016 onwards progress reports to committee will be half yearly rather than each quarter, as agreed by planning committee.

4.0 Caseload and progress

4.1 277 new enforcement enquiries were investigated during 2015, with a total of 289 concluded. In all, a total of 384 different planning investigations were worked on during the year, and 90 cases remain under investigation. A more detailed breakdown of performance, including types of cases investigated, and reasons for closure, is provided in Appendix 1.



4.2 From a high point of 314 investigations in 2012, each subsequent year has seen a small reduction in new enforcement investigations undertaken. This is mainly due to the team operating a better 'triage' system to identify issues that can be immediately resolved, referred or identified as no breach without the need to open and undertake full investigations. In turn this has allowed the team to focus more on other areas, such as supporting other teams on joint projects (e.g. Rugby World Cup), or reviewing and improving working practices (e.g. new enforcement plan and subsequent review) that are not reflected above.

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 merit action in the public interest, then formal action will be pursued 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 1st January 2016, showing progress against the Council's stated requirements. 3 new Notices were served between October and December 2015, with another 3 complied with in the same period. 11 Notices are currently awaiting compliance.

5.3 Enforcement appeals:

90 Longford Lane – Unauthorised conversion of an outbuilding to a unit of self-contained accommodation, independent from the main dwellinghouse.

A planning application was made in 2013 to seek permission for this change of use, refused by Planning Committee, and dismissed on appeal. The owners have nevertheless converted the building into self-contained accommodation, are using as such, and have appealed the enforcement notice on the grounds that there is no breach of planning regulations. Following the submission of witness statements, a planning inspector has now made a site visit and a decision is pending

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

- 94 Barnwood Road – to clear untidy garden to front of property
- Land adjacent to Barnwood Bowling club – to clear untidy land and install fence to screen views of land from adjacent residential properties
- Removal of a number of unauthorised signs and advertisements around the City Centre and Docks area during the Rugby World Cup

The costs incurred in undertaking direct action are usually charged to the owner, but in all cases will remain as a charge (with interest) against the property until such time as it is paid.

5.5 An initial hearing against the owner and business occupier of 35 London Road, for failure to comply with an enforcement notice to reinstate the previous shopfront, has been adjourned to January 2016, at the court's request.

6.0 Other work

6.1 Agreement is now in place with AMEY to remove highways signage, freeing up planning enforcement from doing so and allowing officers to focus on other issues.

6.2 Following Full Council agreement, the owner of 71 Nine Elms Road is being pursued through legal process for debts incurred over a number of years totalling more than £6,000, as a result of direct action to clear and tidy his land.

7.0 Alternative Options Considered

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

8.0 Reasons for Recommendations

- 8.1 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.

9.0 Future Work and Conclusions

- 9.1 The Planning Enforcement team currently has 90 cases under investigation, and will receive further enquiries during the January to June 2016 period, working to try to resolve or meet a satisfactory outcome in as many of these cases as possible.
- 9.2 The Planning Enforcement team is working closely with the Council's Conservation, Licensing and Asset Management teams to address a significant increase in unauthorised A Board advertisements, other signage, and outside tables and chairs within the Docks and Quays areas which are causing issues to some users, as well as impacting on the character of the area.
- 9.3 The annual review of all s106 agreements and outstanding obligations therein will commence in March and a report on progress presented to committee along with the next Enforcement Progress Report. This exercise best ensures all due payments are made to the Council, all other public infrastructure or facilities are provided by the developer, and that the Council discharges its own obligations signed up to within the s106 agreements.
- 9.4 An initial hearing is to be held at Cheltenham Magistrates Court in January 2016 in respect of 35 London Road, as set out in section 5.5, above.

10.0 Financial Implications

- 10.1 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 sought from those responsible for the breach, and remains as a charge against the land until such time as it is paid. Financial Services have been consulted in the preparation this report.

11.0 Legal Implications

- 11.1 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.

12.0 Risk & Opportunity Management Implications

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

13.0 People Impact Assessment (PIA):

13.1 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

14.0 Other Corporate Implications

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

Background Documents: None

APPENDIX 1 –ENFORCEMENT ACTIVITY

| | <i>2011 TOT</i> | <i>2012 TOT</i> | <i>2013 TOT</i> | <i>2014 TOT</i> | <i>2015 TOT</i> |
|---|-----------------|-----------------|-----------------|-----------------|-----------------|
| NEW INVESTIGATIONS UNDERTAKEN | 287 | 314 | 308 | 284 | 277 |
| TYPE OF BREACH (New enquiries): | | | | | |
| Operational development | 95 | 94 | 98 | 88 | 114 |
| Breach of Condition | 27 | 28 | 31 | 31 | 22 |
| Unauthorised change of use | 68 | 60 | 70 | 60 | 67 |
| Works affecting a Listed Building | 5 | 9 | 9 | 6 | 8 |
| Unauthorised advertisement | 62 | 94 | 40 | 50 | 30 |
| Section 215 (Untidy land / property) | 24 | 21 | 41 | 43 | 24 |
| General Amenity | 4 | 2 | 1 | 0 | 1 |
| Tree Preservation Order | 0 | 1 | 0 | 0 | 0 |
| Conservation Area | 2 | 4 | 16 | 6 | 11 |
| Not Planning Enforcement | 0 | 1 | 2 | 0 | 0 |
| PROGRESS: | | | | | |
| Total cases worked on in period | | | 421 | 396 | 384 |
| Unresolved at period end | 88 | 123 | 112 | 102 | 90 |
| | 17 | 23 | 23 | 29 | 12 |
| <i>Total Notices issued</i> | 5 | 1 | 3 | 3 | 0 |
| <i>Total prosecutions</i> | 338 | 280 | 319 | 294 | 289 |
| <i>Total cases closed</i> | | | | | |
| REASON FOR CASE CLOSURE: | | | | | |
| No evidence of breach | 100 | 82 | 107 | 73 | 105 |
| No further action taken | 68 | 37 | 59 | 54 | 39 |
| Complied with | 153 | 140 | 116 | 127 | 110 |
| Retrospective Planning Permission given | 17 | 21 | 37 | 35 | 35 |
| Other Powers Used | | | | 5 | |

APPENDIX 2 – NOTICES IN EFFECT – 1st JANUARY 2016

| ADDRESS | BREACH | TYPE OF NOTICE | STATUS |
|---|---|-------------------------------|--|
| 61 Redwell Road | Untidy land | S215 | Compliance period not yet reached |
| 25 Vetch Close | Untidy land | S215 | Compliance period not yet reached |
| Sevenside Farm | Further information required relating to various works and operations on the land | Planning Contravention Notice | Deadline for return of information not yet reached |
| <i>Land to rear of Barnwood Bowling Club</i> | <i>Untidy land</i> | <i>S215 Notice</i> | <i>Works undertaken in default, costs charged back to the owner</i> |
| <i>Former 26 Worcester Street (demolished building)</i> | <i>Demolition (on a prominent City Centre junction within a Conservation Area) was granted subject to landscape/screening that had not been implemented, leaving this highly visible area looking untidy.</i> | <i>S215 Notice</i> | <i>Site boarded, painted black, and heritage images added to improve its appearance.</i> |
| <i>94 Barnwood Road</i> | <i>Untidy front garden (at prominent location)</i> | <i>S215 Notice</i> | <i>Works undertaken in default, costs charged back to the owner</i> |
| 106 Eastgate Street | Untidy building | S215 Notice | Direct action to be undertaken to improve the appearance of the facade |

| ADDRESS | BREACH | TYPE OF NOTICE | STATUS |
|--------------------------------------|---|------------------------------------|---|
| 90 Longford Lane | Use of outbuilding as a self contained unit of living accommodation | Enforcement Notice | Notice appealed – awaiting decision from Planning Inspectorate |
| Land adjacent to Gospel Hall, Matson | Field not reinstated to previous condition (including levels) following use as a works compound | Enforcement Notice | Further action pending the outcome of a planning application received, proposing sports pitches on the land |
| Land to rear of 72 Forest View Road | Failure to comply with landscape, boundary and drainage requirements | Enforcement Notice | Notice not complied with – matter to be referred to Legal for prosecution. |
| 55 Worcester Street | Unauthorised changes to shopfront including installation of roller shutters (within the Worcester Street Conservation Area) | Enforcement Notice | Works complete, awaiting render to be painted. Some signage issues remain. |
| 35 London Road | Unauthorised changes to shopfront | Enforcement Notice | Notice not complied with – some works undertaken but not completed. Prosecution pending. |
| 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 | Owners given six months to undertake required works or legal action considered |
| 122 Eastgate Street | Unauthorised alterations to shopfront within Eastgate and St Michael's Conservation | Enforcement Notice | Works almost complete |

| ADDRESS | BREACH | TYPE OF NOTICE | STATUS |
|----------------|---------------|-----------------------|---------------|
| | Area | | |

Notices in bold served within October to December 2015 quarter

Notices in italics have been complied with or otherwise concluded during October to December quarter.