

Gloucester City Council

Meeting:	PLANNING COMMITTEE - 7th March 2017
Subject:	PLANNING ENFORCEMENT PROGRESS REPORT (JULY to DECEMBER 2016)
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 2017

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 July and December 2016. From 2016 onwards progress reports to committee are half yearly rather than quarterly, as agreed by planning committee
- 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

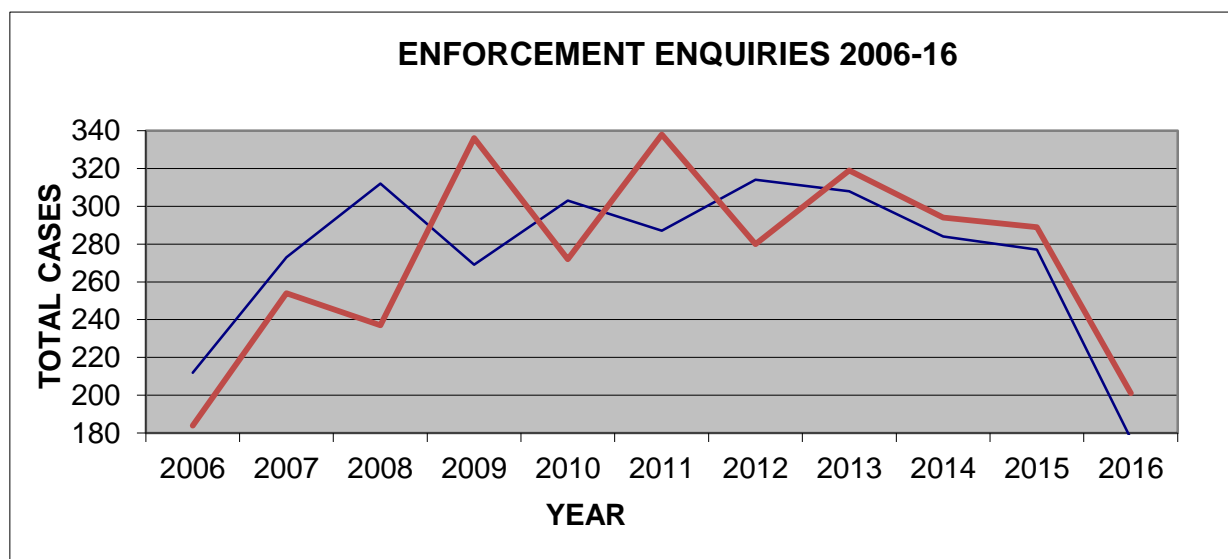
- 3.1 Gloucester City Council's Planning Enforcement function is based in the Private Sector Housing team, and is part of the Council's Public Protection Service. The team is normally made up one full time Enforcement Officer, and a Senior Planning Compliance Officer, and also involves the monitoring of Section 106 legal (planning) agreements.
- 3.2 Up until June 2016 the team operated 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 Since June 2016 the team have been reduced to one member of staff. 'Interim arrangements' have been agreed and in place since that time, pending the outcome of the 'Together Gloucester' review. Operationally this has resulted in a reduction in the number of new investigations taken on (in accordance with the priorities contained within the Planning Enforcement Plan), with a focus on resolving those investigations not concluded by the Enforcement Officer before leaving.

4.0 Caseload and progress

- 4.1 A more detailed breakdown of performance, including types of cases investigated, is provided in Appendix 1.
- 4.2 177 new enforcement enquiries have been investigated in 2016, with 70 cases since June. The team has undertaken an average of around 300 investigations per year since 2007 when staff posts were increased from 1 to 2.
- 4.3 Additionally, the types of investigations undertaken in 2016 vary from other years. In particular no untidy land (s215) or advertisement breaches have been investigated since June. Further, there has been a considerable increase in Breach of Condition investigations which might reflect a more relaxed approach by some developers towards complying with council planning requirements.



- 4.4 The number of cases concluded has also fallen, but is proportionately higher as the focus has been on concluding the Enforcement Officer's outstanding investigations.
- 4.5 While in general the reasons for closing cases remain as for other years, there has been a noticeable reduction in 2016 in investigations where compliance with the Council's requirements have been met, and an increase in cases closed where further action was not 'expedient'.

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 2017, showing progress against the Council's stated requirements. 3 new Notices were served between July and December 2016, with (another) 9 complied with in the same period. 10 Notices are currently awaiting compliance.

5.3 Enforcement appeals have been made against the following Notices, but because of a conflict of interest for the Senior Planning Compliance Officer, these cases have been concluded by officers outside of the current Planning Enforcement team:

- *Land at 7 St Albans Road (Keyway)* – engineering operations to remove bund providing visual and acoustic protection for adjacent residents. Appeal allowed, subject to provision of landscaping scheme to be agreed between developer and Council.
- *Land at Cherry Tree Cottage* – raising of land levels, unauthorised accommodation, enclosure of land. Appeal not considered due to defective Notice – planning officer in discussions with developer, and is reconsidering reissue of Notice.
- *Ferndale Villa, Naas Lane* – Use of static caravan as an independent unit of accommodation. Appealed allowed

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

- 13 Parkwood Crescent - Untidy gardens cleared by Council contractor, with new owner paying for the works.
- 42 Hopewell Street – Overgrown vegetation in untidy rear garden cleared, and weed membrane laid.
- 2 Fairmile Gardens – Untidy front, side and rear gardens cleared.

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

5.5 The owners of the Picturedrome were prosecuted in November 2016 for failure to comply with a Listed Buildings Enforcement Notice requiring the reinstatement of certain heritage features within the building. The owners are also required to ensure the requisite works are undertaken, and discussions continue with the Conservation team.

6.0 Other work

6.1 s106 systems (as operated up to July 2016) were audited and found to be robust and 'fit for purpose', with some improvements suggested.

6.2 As outlined in Section 3, a review of the planning enforcement role has been under way since June 2016, with a view to exploring and adopting different ways of

working across other similar teams as part of the 'Together Gloucester' review. This has involved detailed discussions and significant staff time input as every part of the function has been carefully looked at and considered.

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 Senior Planning Compliance Officer currently has 66 cases under investigation, and will receive further enquiries during the January to June 2017 period, working to try to resolve or meet a satisfactory outcome in as many of these cases as possible.

9.2 In February Cheltenham Magistrates will hear the case against the owner of Severnside Farm for breaches of 2 Enforcement Notices relating to the use of the farm office for accommodation, and two barns for vehicle storage and repairs, as well as failure to provide information required under a Planning Contravention Notice.

9.3 The 'Together Gloucester' restructure will inevitably have implications for the Council's planning enforcement service in terms of resources available, and how things are done, including the monitoring of s106 Agreements. The officer in post will work with other officers to review the service and how it will operate, with a view to revising the Planning Enforcement Plan and Customer Service Standards for member consideration.

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>2012 TOT</i>	<i>2013 TOT</i>	<i>2014 TOT</i>	<i>2015 TOT</i>	<i>2016 TOT</i>
NEW INVESTIGATIONS UNDERTAKEN	314	308	284	277	177
TYPE OF BREACH (New enquiries):					
Operational development	94	98	88	114	67
Breach of Condition	28	31	31	22	35
Unauthorised change of use	60	70	60	67	46
Works affecting a Listed Building	9	9	6	8	4
Unauthorised advertisement	94	40	50	30	5
Section 215 (Untidy land / property)	21	41	43	24	7
General Amenity	2	1	0	1	5
Tree Preservation Order	1	0	0	0	0
Conservation Area	4	16	6	11	6
Not Planning Enforcement	1	2	0	0	0
S106 breach					2
PROGRESS:					
Total cases worked on in period		421	396	384	267
Unresolved at period end	123	112	102	90	66
<i>Total Notices issued</i>	23	23	29	12	16
<i>Total prosecutions</i>	1	3	3	0	1
<i>Total cases closed</i>	280	319	294	289	201
REASON FOR CASE CLOSURE:					
No evidence of breach	82	107	73	105	67
No further action taken	37	59	54	39	54
Complied with	140	116	127	110	57
Retrospective Planning Permission given	21	37	35	35	23
Other Powers Used			5		0

APPENDIX 2 – NOTICES IN EFFECT – 1st JANUARY 2017

ADDRESS	BREACH	TYPE OF NOTICE	STATUS
244 Stroud Road	Raised platform to rear of property, overlooking neighbours	Enforcement Notice	In discussion with owners, Notice compliance period not yet reached
<i>Lock Warehouse</i>	<i>Use of flats for short term lets</i>	<i>Planning Contravention Notice</i>	<i>Notice returned with information required. Short term lets ceased or ceasing by end of February 2017</i>
<i>Papa Johns, 10 Silverdale Parade</i>	<i>Doors and windows are being left open (required by condition to be closed), causing odour issues to local neighbours.</i>	<i>Breach of Condition Notice</i>	<i>Notice is being complied with (since issue on 20th September)</i>
90 Longford Lane	Use of outbuilding as a self-contained unit of living accommodation	Enforcement Notice	Occupant relocated and works carried out as required. No longer being lived in.
255 Stroud Road	Breach of condition – obscure glazed side window removed	Breach of Conditions Notice	New window now obscured.
13 Parkwood Crescent	Untidy front side and rear gardens	S215 Notice	Works undertaken by new owners
42 Hopewell Street	Untidy rear garden	S215 Notice	Works undertaken by Council in default

ADDRESS	BREACH	TYPE OF NOTICE	STATUS
<i>25 Damson Close</i>	<i>Significant amount of public verge land enclosed into private garden</i>	<i>Enforcement Notice</i>	<i>Correct boundary now reinstated by owner, including realignment of fence</i>
<i>2 Fairmile Gardens</i>	<i>Untidy land to front side and rear gardens, consisting of overgrown vegetation and discarded items on land</i>	<i>S215 Notice</i>	<i>Works undertaken by Council in default</i>
<i>122 Eastgate Street</i>	<i>Unauthorised alterations to shopfront within Eastgate and St Michael's Conservation Area</i>	<i>Enforcement Notice</i>	<i>Works to reinstate shopfront now complete</i>
<i>93 Westgate Street</i>	<i>Damage to rear wall of Listed Building, knocked through to insert a door</i>	<i>Listed Buildings Enforcement Notice</i>	<i>Works not undertaken. Conservation team to take direct action to restore features</i>
<i>Cherry Tree Cottage</i>	<i>Unauthorised development to construct house, stationing of mobile home, raised land levels, and unauthorised enclosure, including land not in applicant's ownership</i>	<i>Enforcement Notice</i>	<i>Working with owners to resolve issues, considering re-issue of the Notice</i>
<i>7 St Albans Road (Keyway)</i>	<i>Removal of landscape (visual and acoustic) bund and replacement with unauthorised concrete block wall</i>	<i>Enforcement Notice</i>	<i>Appeal allowed conditional on landscaping strip provided. Owner working with Council's Landscape Architect to agree/provide scheme.</i>

ADDRESS	BREACH	TYPE OF NOTICE	STATUS
Ferndale Villa	Use of static caravan as a unit of independent accommodation	Enforcement Notice	Appeal allowed
Severnside Farm	Further information required relating to various works and operations on the land	Planning Contravention Notice	Notice only part completed, legal action being undertaken
Severnside Farm	Unauthorised use of farm office for accommodation	Enforcement Notice	Notice not complied with, legal action being undertaken
Severnside Farm	Unauthorised use of barns for vehicle repair and storage	Enforcement Notice	Notice not being complied with, legal action being undertaken
Land adjacent to Gospel Hall, Matson	Field not reinstated to previous condition (including levels) following use as a works compound	Enforcement Notice	Scheme of works to be undertaken from April 2017
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 prosecuted for failure to comply with Notice. Further discussions under way seeking compliance with Notice or alternative scheme.

Notices in bold served within July to December 2016 period

Notices in italics have been complied with or otherwise concluded during July to December 2016 period.