

21 December 2017

Committee	Overview and Scrutiny
Date	Tuesday, 9 January 2018
Time of Meeting	4:30 pm
Venue	Committee Room 1

ALL MEMBERS OF THE COMMITTEE ARE REQUESTED TO ATTEND



**for Sara J Freckleton
Borough Solicitor**

Agenda

1. ANNOUNCEMENTS

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the visitors' car park at the front of the building and await further instructions (during office hours staff should proceed to their usual assembly point; outside of office hours proceed to the visitors' car park). Please do not re-enter the building unless instructed to do so.

In the event of a fire any person with a disability should be assisted in leaving the building.

2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

To receive apologies for absence and advise of any substitutions.



Item	Page(s)
3. DECLARATIONS OF INTEREST	
Pursuant to the adoption by the Council on 26 June 2012 of the Tewkesbury Borough Council Code of Conduct, effective from 1 July 2012, as set out in Minute No. CL.34, Members are invited to declare any interest they may have in the business set out on the Agenda to which the approved Code applies.	
4. MINUTES	1 - 12
To approve the Minutes of the meeting held on 28 November 2017.	
5. CONSIDERATION OF THE EXECUTIVE COMMITTEE FORWARD PLAN	13 - 15
To determine whether there are any questions for the relevant Lead Members and what support the Overview and Scrutiny Committee can give to work contained within the Plan.	
6. OVERVIEW AND SCRUTINY COMMITTEE WORK PROGRAMME 2017/18	16 - 20
To consider the forthcoming work of the Overview and Scrutiny Committee.	
7. GLOUCESTERSHIRE FAMILIES FIRST UPDATE	
To receive the annual presentation on Gloucestershire Families First.	
8. ASTON PROJECT AND GREAT EXPECTATIONS	
To receive a presentation on the Aston Project and Gloucestershire Great Expectations.	
9. PLANNING ENFORCEMENT PLAN	21 - 46
To consider the draft Planning Enforcement Plan and recommend it to the Executive Committee for approval for public consultation.	

DATE OF NEXT MEETING
TUESDAY, 6 FEBRUARY 2018
COUNCILLORS CONSTITUTING COMMITTEE

Councillors: R E Allen (Vice-Chair), P W Awford (Chair), G J Bocking, K J Cromwell, J E Day, D T Foyle, P A Godwin, R M Hatton, H C McLain, T A Spencer, Mrs P E Stokes, P D Surman, M G Sztymiak, H A E Turbyfield and M J Williams

Substitution Arrangements

The Council has a substitution procedure and any substitutions will be announced at the beginning of the meeting.

Recording of Meetings

Please be aware that the proceedings of this meeting may be recorded and this may include recording of persons seated in the public gallery or speaking at the meeting. Please notify the Democratic Services Officer if you have any objections to this practice and the Chair will take reasonable steps to ensure that any request not to be recorded is complied with.

Any recording must take place in such a way as to ensure that the view of Councillors, Officers, the public and press is not obstructed. The use of flash photography and/or additional lighting will not be allowed unless this has been discussed and agreed in advance of the meeting.

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Overview and Scrutiny Committee held at the
Council Offices, Gloucester Road, Tewkesbury on Tuesday, 28 November 2017
commencing at 4:30 pm**

Present:

Chair	Councillor P W Awford
Vice Chair	Councillor R E Allen

and Councillors:

G J Bocking, K J Cromwell, D T Foyle, P A Godwin, R M Hatton, T A Spencer, Mrs P E Stokes,
P D Surman, M G Sztymiak, H A E Turbyfield and M J Williams

also present:

Councillors G F Blackwell and R E Garnham

OS.47 ANNOUNCEMENTS

- 47.1 The evacuation procedure, as noted on the Agenda, was advised to those present.
- 47.2 The Chair welcomed Councillor Rob Garnham, the Council's representative on the Gloucestershire Police and Crime Panel, to the meeting and indicated that he would be providing an update at Agenda Item 7. It was noted that Councillor Gill Blackwell, Lead Member for Organisational Development - which included scrutiny - was also present as an observer.

OS.48 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

- 48.1 Apologies for absence were received from Councillor J E Day. There were no substitutions for the meeting.

OS.49 DECLARATIONS OF INTEREST

- 49.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.
- 49.2 There were no declarations made on this occasion.

OS.50 MINUTES

- 50.1 The Minutes of the meeting held on 17 October 2017, copies of which had been circulated, were approved as a correct record and signed by the Chair.

- 50.2 With regard to Minute No. OS.46.5, the Head of Corporate Services advised that the resolution to introduce a standard template for action plans arising from Overview and Scrutiny Committee reviews had been implemented. The new template had been included in Item 10 – Disabled Facilities Grants Review Monitoring Report and would be used across all actions plan which were presented to the Overview and Scrutiny Committee.

OS.51 CONSIDERATION OF THE EXECUTIVE COMMITTEE FORWARD PLAN

- 51.1 Attention was drawn to the Executive Committee Forward Plan, circulated at Pages No. 11-15. Members were asked to determine whether there were any questions for the relevant Lead Members and what support the Overview and Scrutiny Committee could give to the work contained within the plan.
- 51.2 A Member wished to acknowledge the visit to the modular housing factory in Nuneaton which had initially been held for Executive Committee Members and subsequently for Planning Committee Members. He had found it extremely interesting and felt that it had a lot of potential for the future. Another Member expressed a desire to visit the factory and the Head of Development Services indicated that others had also expressed an interest; she was sure that another visit would take place in the future and Members would be informed once any arrangements had been made. A brief discussion ensued around the merits of modular housing and several other Members expressed the view that this was an exciting new concept which should be embraced. The Chief Executive confirmed that the Council, and one or two registered social landlords including Severn Vale Housing Society, were all potentially interested; however, it was important to keep in mind that this was not the only product available. The Council was currently in the process of engaging the former Deputy Chief Executive of the Homes and Communities Agency at a strategic level to take forward the work on Junction 9 of the M5 and to gain advice on the range of products and construction methods for modular homes. There would inevitably be more information to come and Members would be kept up to date as and when there was anything further to report.
- 51.3 A Member noted that a 'Tewkesbury Borough Plan Consultation' report was due to be taken to the Executive Committee meeting on 3 January 2018 and he sought assurance that work had progressed sufficiently to achieve this date. The Head of Development Services advised that a very productive meeting of the Tewkesbury Borough Plan Working Group had taken place earlier that day and, whilst there were a lot of detailed issues to work through, it was still the intention to go out to consultation early in the New Year.
- 51.4 A Member raised concern that the Spring Gardens/Oldbury Road Regeneration item had been removed from the Agenda for the meeting on 22 November 2017 due to the need for additional resources to be brought in; she questioned what additional resources were required and when they would be introduced. In response, the Head of Finance and Asset Management explained that the level of skill required for the detailed and complex transactions to deliver what the Council wanted for the site were not available within the authority so it would be necessary to bring in those skills. One of the main difficulties this year was that multiple projects were being run across the Council so capacity was limited. Discussions had taken place about the aspirations for the site, and therefore the specification that needed to be put together, and it was hoped to bring in the additional resources for the New Year with a view to moving the project forward in the spring.

- 51.5 It was
RESOLVED That the Executive Committee Forward Plan be **NOTED**.

OS.52 OVERVIEW AND SCRUTINY COMMITTEE WORK PROGRAMME 2017/18

- 52.1 Attention was drawn to the Overview and Scrutiny Committee Work Programme 2017/18, circulated at Pages No. 16-20, which Members were asked to consider.
- 52.2 A Member noted that the draft Planning Enforcement Policy was being taken to the next meeting of the Overview and Scrutiny Committee on 9 January 2018 and he hoped that it would give Officers some real powers to take action. The Head of Development Services confirmed that the policy intended to make clear the Council's remit and the legislation behind that. A Senior Enforcement Officer had recently been recruited who would bring a range of skills and expertise to help to deliver the policy and, in terms of the Planning Service review, enforcement was a key part of the work plan. The details of the policy could be discussed more fully when it was brought forward to the next meeting. It was noted that the Committee would also be receiving a presentation on the Aston Project at its meeting in January and a Member sought clarification as to what the project was about. The Head of Community Services advised that it was funded by the Police and Crime Commissioner's Office and had been set up in 2011 in memory of Cheltenham Neighbourhood Officer PC Lynn Aston. It aimed to work with young people aged 9-17 to address crime and anti-social behaviour. He pointed out that Members would also be receiving an update on its sister project 'Great Expectations' as part of the presentation.
- 52.3 With regard to the Ubico Update, due to be considered by the Overview and Scrutiny Committee at its meeting on 20 March 2018, a Member sought assurance that the situation had improved. The Head of Community Services confirmed there had been significant progress, particularly in relation to missed bins, although there was still work to do on grounds maintenance which he hoped could be addressed over the winter period. He would be very happy to update Members further in due course.
- 52.4 A Member suggested that an item be included on the Agenda for the February meeting to review the Joint Core Strategy process. In response, the Chief Executive explained that the adoption of the Joint Core Strategy was a Council decision and it could not be called-in by the Overview and Scrutiny Committee. The Head of Development Services advised that any challenge would be a legal challenge i.e. a judicial review following adoption. The issues in terms of the merits of the strategy had already been dealt with through the examination process and public consultation had been allowed as part of that, as such, a challenge could only be made on a point of law. In response to a query, clarification was provided that, if a challenge was made, it would be a court process.
- 52.5 It was
RESOLVED That the Overview and Scrutiny Committee Work Programme 2017/18 be **NOTED**.

OS.53 GLOUCESTERSHIRE POLICE AND CRIME PANEL UPDATE

- 53.1 Members received an update from Councillor Rob Garnham, the Council's representative on the Gloucestershire Police and Crime Panel, on matters discussed at the last meeting of the Panel held on 8 November 2017.

- 53.2 Councillor Garnham advised that the Chief Executive's report had acknowledged that, whilst crime was rising, Gloucestershire was performing well in comparison with the areas in its "Most Similar Group" of forces – Tewkesbury was fourth out of 15 compared to Cheltenham in tenth position. It was noted that, whilst there was a lot of fear of crime in the Cotswolds, the crime rate in that area was almost 2.5 times lower than the national average. The Police and Crime Commissioner had provided reassurance that regular "holding to account" meetings were held. The report had also covered the issues surrounding Her Majesty's Courts in Cheltenham and Gloucester, in particular the poor state of the buildings and the distressing situation whereby victims and those giving evidence had to be in close proximity to alleged offenders. He advised that work was ongoing to see if land at Waterwells would be a suitable site for a single court to serve the county. Concern had been raised about public transport and assurance had been given that this would be investigated. The shortage of Independent Custody Visitors (ICVs) was highlighted as a concern, particularly as attendance figures had shown that there were no visits when the Police were most under pressure i.e. on Friday and Saturday nights. Chief Constable recruitment was ongoing and the Police and Crime Panel intended to hold its statutory confirmatory meeting on 18 December.
- 53.3 The Panel had received an update on child protection following Gloucestershire's poor report from Her Majesty's Inspectorate of Constabulary (HMIC). ACC Moss had now taken responsibility for child protection and a Public Protection Service Delivery Board had been set-up which included the heads of all departments across the constabulary. HMIC had carried out an effectiveness inspection and the report would be published in February 2018.
- 53.4 Councillor Garnham advised that there had been little comment on the Police and Crime Commissioner's annual report, which had been deferred from the last meeting, and the Panel had also received the quarterly Police and Crime Panel priorities highlight report. Superintendent Rob Priddy had given an update on the restructuring of the force control room which included new recruitment, changes to shift patterns and triaging of calls. It was noted that just under 7,000 999 calls had been received in August 2017; over 23,000 101 calls - 5% of which were actually Grade 1 incidents (999 calls) - and 4,500 emails were received each month. The same number of staff had been engaged in the control room since 2014 but demand had increased significantly. The Police and Crime Commissioner had updated the Panel on "The Compassionate Approach" which set out his expectations in terms of how the Police and partners dealt with environmental matters and included a "root and branch review of the environmental footprint". It was noted that there were now seven electric vehicles in the fleet. On the subject of rural crime, the Police and Crime Commissioner had acknowledged that, whilst the amount of rural crime was low, the impact of such crime was high.
- 53.5 Councillor Garnham went on to indicate that he had recently been asked to chair the annual conference of Police and Crime Panels which had been held at Warwick University Business School and was attended by over 130 delegates. One agenda item had covered the formation of a national body for Police and Crime Panels and that was being explored under the remit of the Local Government Association as a special interest group. The idea of Police force mergers was also mentioned with specific reference to the recent proposal of Devon and Cornwall merging with Dorset. Councillor Garnham also mentioned the fact that, in some forces, a Superintendent could be in charge of over 700 officers, whilst in Gloucestershire there was a Chief Constable, a Deputy Chief Constable and two Assistant Chief Constables in charge of 1,065 officers.

53.6 A Member raised the issue of mounted Police in Gloucestershire and Councillor Garnham confirmed this had been discussed at several Police and Crime Panel meetings where the Police and Crime Commissioner had highlighted the benefits of having a mounted capability in the constabulary. At a recent meeting, the Commissioner had been questioned as to why he had paid £60,000 for a second-hand horsebox from Avon and Somerset Constabulary. Another Member queried whether Independent Custody Visitors were able to claim travel expenses to Waterwells and Councillor Garnham indicated that he thought that would be the case but undertook to confirm this following the meeting.

53.7 The Chair thanked the Council's representative for his presentation and indicated that the update would be circulated to Members via email following the meeting. It was

RESOLVED That the feedback from the last meeting of the Gloucestershire Police and Crime Panel be **NOTED**.

OS.54 GLOUCESTERSHIRE HEALTH AND CARE OVERVIEW AND SCRUTINY COMMITTEE UPDATE

54.1 The Chair indicated that, Councillor Janet Day, the Council's representative on the Gloucestershire Health and Care Overview and Scrutiny Committee had given her apologies for the current meeting and therefore was unable to give her update in person. She had instead prepared a written update on matters discussed at the last meeting of the Gloucestershire Health and Care Overview and Scrutiny Committee held on 14 November 2017 which had been circulated prior to the meeting. Members were asked to consider the information that had been provided.

54.2 It was

RESOLVED That the feedback from the last meeting of the Gloucestershire Health and Care Overview and Scrutiny Committee be **NOTED**.

OS.55 PERFORMANCE REPORT - QUARTER 2 2017/18

55.1 The report of the Head of Corporate Services, circulated at Pages No. 21-64, attached performance management information for quarter 2 of 2017/18. The Overview and Scrutiny Committee was asked to review and scrutinise the performance information and, where appropriate, identify any issues to refer to the Executive Committee for clarification or further action to be taken.

55.2 Members were advised that this was the second quarterly monitoring report for 2017/18 and progress against delivering the objectives and actions for each of the Council Plan priorities were reported through the Performance Tracker, attached at Appendix 1 to the report. Key actions for the quarter were highlighted at Paragraph 2.3 of the report and included the acquisition of two additional properties; receipt of the final Inspector's report for the Joint Core Strategy; and the new missed bin reporting form "going live". Due to the complex nature of the actions being delivered, it was inevitable that some would not progress as smoothly or quickly as envisaged and details were set out at Paragraph 2.4 of the report. In terms of Key Performance Indicators (KPIs), Members were informed that the status of each indicator was set out at Paragraph 3.2 of the report. Of the 15 indicators with targets, 13 indicators were on target and one was unlikely to achieve its target [the other action had some issues or delay but there was no significant slippage in the delivery of the action]. Areas of interest included: KPI 14 in relation to the percentage of minor planning applications determined within eight weeks which was significantly below target; KPI 19 which showed a substantial reduction in reported enviro-crimes; KPI 23 relating to the average number of days for the Benefits Team to process a change in circumstances which had dropped to

3.46 days compared to the national average of nine days; KPI 28 where the average number of sick days per full-time equivalent had increased by 96.49% during the first two quarters; KPI 29 in respect of percentage of waste recycled or composted which was above the 52% target; and KPI 30 which showed a 100 tonne reduction of waste sent to landfill compared to quarter 1.

55.3 During the debate which ensued, the following queries and comments were made in relation to the Performance Tracker:

Priority: Finance and Resources

P32 – Objective 3 – Action a) Deliver the aims and objectives of the commercial property investment strategy – A Member sought clarification as to when the acquisition of the three new commercial properties would be complete. The Head of Finance and Asset Management advised that two of the properties had been acquired and were on the Council's books; the third was currently going through the legal process and it was hoped that outstanding issues would be resolved within the next two or three weeks so that would also be on the books by Christmas.

P32 – Objective 3 – Action b) – Undertake a review of the discretionary trade waste service to ensure that it is operating on a viable commercial level – A Member raised concern that this project had slipped and questioned when it would be properly addressed given that it had potential to generate income for the Council. The Head of Community Services explained that the Association for Public Service Excellence (APSE) report commissioned by the Council was expected to have been completed at a much earlier stage; however, Officers had not been happy with the contents and it had now been revised on a number of occasions. It was hoped that the current draft would be the final draft and Officers would then be in a position to look at the recommendations and see if they would work for Tewkesbury Borough Council, and the particular issues within its commercial service. He provided assurance that the final recommendations would be reported to Council by April 2018.

Key Performance Indicators for Priority: Finance and Resources

P34 – KPI 2 – Outstanding sundry debt in excess of 12 months old – A Member indicated that Officers had reported that the outstanding debt of £10,973 was close to resolution on a number of occasions and he questioned when this would actually be dealt with. Members were advised that the debt related to road repair costs and there was a dispute about who owed what; the terms were being agreed with the partners and it was hoped that the issue would be resolved when the report came back to the Committee in quarter 3.

Priority: Economic Development

P38 – Objective 4 – Action b)
Deliver a programme with partners to progress Healings Mill and other key sites to support the regeneration of Tewkesbury – A Member sought clarification as to the Council’s role; who the partners were; and what would be achieved by the target date of January 2018.

The Head of Development Services explained that the Council acted as a facilitator. There were a number of different partners involved in the planning process including developers, site owners, agents and statutory bodies such as County Highways. Healings Mill was a historic asset and, whilst the building itself was not listed, it was within a Conservation Area so it was necessary to work with Natural England to find an appropriate solution. By January 2018 it was hoped to have a broad outline and brief for the site which could be used, either with the current developers or others.

The Member questioned why other sites in the area, e.g. Quay Street and Back of Avon, which already had planning permission were not coming forward. In response, the Head of Development Services indicated that, whilst the developers would like to sell it as a package if possible, Healings Mill - and its poor condition - was not helping. Once a plan was in place for Healings Mill other sites should move forward as well.

P38 – Objective 4 – Action c)
Explore the potential for the formation of a retail group to support the vitality and regeneration of the town – A Member was pleased to note the formation of a Tewkesbury Town Traders retail group and questioned how it would be reported upon.

The Head of Development Services advised that there was no formal reporting structure; however, the meetings were attended by the Economic Development Officer and she would be able to provide Member Updates when appropriate.

Priority: Housing

P41 – Objective 1 – Action b)
Develop the Tewkesbury Borough Plan – A Member raised concern that the target date had been changed to spring/summer 2019 and he sought assurance that it would be delivered within an acceptable timeframe.

The Head of Development Services reiterated that the Tewkesbury Borough Plan Working Group had met earlier that day and both Officers and Members recognised the importance of putting a plan in place in a sound and compliant document. Even if the dates in respect of consultation changed slightly, there was no reason why the target date for the adoption of the plan would not be achieved.

Key Performance Indicators for Priority: Housing

P47 – KPI 14 – Percentage of ‘minor’ applications determined within 8 weeks or alternative period agreed with the applicant – A Member raised concern there had only been a 2% improvement between quarter 1 and quarter 2 - from 66.04% to 68.29% - which was still some way off the 90% target.

The Head of Development Services indicated that it was inevitable that some applications took longer to determine than others; however, by the New Year a number of improvement plans would be implemented and she was confident that significant improvement would be made on the figures.

Priority: Customer Focused Services

P49 – Objective 1 – Action a) Deliver improvements through a review of the Revenues and Benefits service – A Member noted that the Revenues and Benefits team had been reduced by 1.5 full-time equivalents; however, he assumed that workload would increase dramatically once the Joint Core Strategy had been adopted and he questioned whether there were plans to expand the department.

The Chief Executive advised that a lot of the housing benefit work was expected to be lost over the coming months due to the roll-out of Universal Credit. In revenue terms, it would be necessary to collect from the new properties; however, a lot of processes were being automated e.g. online payments. He stressed that the structure was being kept under review going forward. The Lead Member for Organisational Development provided assurance that this was being closely monitored at her monthly portfolio briefings.

P51 – Objective 3 – Action a) Deliver the Public Services Centre refurbishment project – A Member noted that this project had slipped slightly and he questioned whether this was likely to happen again.

Another Member sought assurance that the pond area at the front of the Council Offices would be tidied up.

The Head of Finance and Asset Management explained that the March 2018 target date had been optimistic and the new target date of June 2018 was based on a much more pragmatic approach to deliver all elements of the project. The update from the contractors following a market tendering exercise was that the project could be delivered for the money available; as soon as it was brought within budget, a programme of delivery could be agreed and timescales firmed up. The second floor was on target and the first tenant would be moving in mid-December. The other two units would be completed in mid-January. Members had made clear that external areas should be part of the project and he confirmed that the entrance and pond areas were both included.

P52 – Objective 4 – Action a)
 Look at collaborative options for the planning and environmental health services – A Member sought further information as to why this had slipped to April 2018.

The Head of Community Services advised that, since he had taken up his role, he had been reviewing all of the services within the department to see how they could be improved. In terms of Environmental Health, whilst it may be easier to collaborate with another authority and absorb the service into theirs, he wanted to ensure that Tewkesbury Borough Council had a fit for purpose service so that it would be in a strong position to lead in any future collaboration. The Chief Executive went on to explain that Officers had been looking at potential options for collaboration with Cheltenham Borough Council, particularly in relation to Environmental Health; however, they had now moved away from that and were considering alternatives. It was a similar situation within Development Services where consideration had been given to a joint planning service, although this was not on the table at the moment. Notwithstanding this, there were a number of options available and these were being considered as part of the Planning Services review. Some collaboration had already taken place with Gloucester City Council on the joint advertising of posts and job descriptions allowing Officers to work across borders if there were particular resource issues at either authority. Whilst opportunities for collaboration could come forward at any time, the Chief Executive recognised that the action needed to be reviewed to make it more definitive and ensure that the target date did not continue to be pushed back.

P54 – Objective 5 – Action c)
 To improve business continuity, migrate to cloud-based Office 365 – A Member raised concern that this action was marked as complete despite Members continuing to have issues with Office 365 e.g. not being able to connect to the intranet when using apps and having to use ‘reply all’ for emails.

The Head of Corporate Services advised that phase one of the project was migrating to cloud-based Office 365 and that was complete. He was not aware that Members had been having any issues and he urged them to contact him directly so he could ensure they were resolved. The second phase of the project would include the roll-out of smartphone apps and training would be provided for Members. The Chief Executive pointed out that this specific action related to business continuity, and the Council being able to operate in the event of system failure. A new action would be included to reflect phase two when the Council Plan was refreshed.

Key Performance Indicators for Priority: Customer Focused Services

P59 – KPI 28 – Average number of sick days per full-time equivalent – A Member questioned whether there was a particular reason for the increase.

The Chief Executive explained that this was largely due to an increase in long term sickness; even one or two Officers being absent due to long term illness could affect the figures quite significantly. In response to Members' concern as to how these absences impacted on other Officers, assurance was provided that the management team did try to backfill and ensure that support was available within the team most directly affected. The Head of Corporate Services indicated that a review of the Absence Management Policy was a pending item in the Overview and Scrutiny Committee Work Programme and he suggested that this could include a workshop to give some information behind the statistics.

P60 – KPI 31 – Food establishment hygiene ratings – A Member queried whether it could be made mandatory for hygiene ratings to be displayed on doors.

The Head of Community Service advised that this was governed by the Food Standards Agency; he would welcome making the display of food hygiene ratings compulsory if and when that came forward.

55.4

Turning to the financial information, the Head of Finance and Asset Management advised that the financial budget summary for quarter 2 showed a £315,331 surplus against the profiled budget; an increase of almost £90,000 compared to quarter 1. A summary of the expenditure position was set out at Paragraph 4.1 of the report. There were two significant overspends: planning income, which had been consistently below target during quarter 2; and garden waste which was below budget as a result of changes to the charging structure whereby customers were making pro-rata payments for the current financial year with a view to moving towards a single renewal date for all customers. Appendix 2 to the report included a summary position for each Head of Service which showed the current variance against their budget and it was noted that this showed an underspend of £115,464 as at the end of September. Particular reference was made to the £88,815 surplus against treasury management activity which was due to access to cheap borrowing rates and the use of more lucrative funds for cash investment, and the income from investment properties following the acquisition of three new commercial properties over recent weeks. Members had been informed of the improved position in retained income from business rates during quarter 1 and this had continued into quarter 2 with a surplus of £187,000 for the first half of the financial year; this was due to increased growth within the borough and fewer successful appeals. Taking into account the positive position on the corporate accounts, the overall position at the end of quarter 2 was a surplus of £315,331. Appendix 3 to the report gave an update on the capital budget which showed an underspend against the profiled budget due to certain projects not starting in the expected timescales, such as the refurbishment of the council offices, and a consistent underspend in respect of Disabled Facilities Grants. Appendix 4 to the report provided a summary of the current usage of available reserves with £308,237 being spent during quarter 2. Whilst there remained a significant balance on the reserves, the expectation was that this would be spent in the future.

- 55.5 In response to a Member query, confirmation was provided that £50,000 had been saved in relation to the housing benefit service. The recovery rate was 99% - there were a number of reasons why the full amount was not received e.g. local authority errors and expenditure for which the Council was not fully reimbursed, such as bed and breakfast accommodation above a certain threshold, but this was likely to total 1% or less which was the reason for the surplus.
- 55.6 Having considered the information provided, it was
RESOLVED That the performance management information for quarter 2 of 2017/18 be **NOTED**.

OS.56 DISABLED FACILITIES GRANTS REVIEW MONITORING REPORT

- 56.1 The report of the Head of Community Services, circulated at Pages No. 65-72, provided an update on progress against recommendations arising from the Disabled Facilities Grants (DFGs) Review. Members were asked to consider the report and whether it would be more appropriate to receive updates on an annual, as opposed to six monthly basis, going forward.
- 56.2 Members were advised that updated progress against the recommendations was set out at Appendix 1 to the report; all outstanding recommendations were intrinsically connected to the funding and delivery of DFGs which was under review by both central government and the Gloucestershire Clinical Commissioning Group.
- 56.3 A Member drew attention to Action 1 - those enquiring who may be eligible for DFGs to be supported to see if a possible move to more suitable accommodation would be a better outcome for them, and to provide suitable assistance and support to make this happen, should the person so wish - a Member questioned whether this meant there were people who could have had their properties adapted. In response, the Head of Community Services advised that Officers worked closely with Severn Vale Housing Society and other registered providers to assist people to have adaptations. The Member sought clarification as to how many people had attended the workshop for builders and agents in May 2017 which had been held as part of Action 2 - Look at methods of procuring work, such as (but not limited to) schedules of rates and preferred contractors, as ways that could reduce the time taken for a contractor to be on site, which had been marked as complete - and how many had registered as a result. The Head of Community Services indicated that he did not have the figures for how many had registered but he had attended the workshop and there had been 10-12 local tradesmen present. He had looked at the website earlier that day and there was a fairly good list of tradesman, both locally and within the Gloucestershire area; he undertook to find out the exact figures and advise Members following the meeting. The Member questioned whether DFGs could be promoted in a better way given that the budget was underspent and he was advised that, whilst the Council could advertise the fact that DFGs were available, applicants needed to be assessed by an Occupational Therapist from Gloucestershire County Council who would then make a referral so eligibility and need was not within the remit of the Borough Council. In terms of promotion, DFGs were advertised on the Council website and a new leaflet had recently been produced which he circulated around the table. The report stated that £167,618.61 had been spent on DFGs up to 30 September 2017; however, he had received updated figures that week which showed that this was now £318,000 so there had been an increase. His best guess was that the final spend would be on par with the previous year.

56.4 A Member noted from Paragraph 2.3 of the report that the contract to deliver the Gloucestershire “Safe at Home” Home Improvement Agency service had ceased at the end of July 2017 and he questioned whether this had impacted on DFGs. He knew Gloucestershire County Council had difficulty recruiting Occupational Therapists in the past, and he doubted that the situation had improved in recent years, so he assumed this would also slow down the process. The Head of Community Services indicated that he was unable to comment on recruitment but, once the referral had been made to the Council, Officers were able to move at pace. The Home Improvement Agency had acted as an agent for those people who wanted to apply for a grant but were unable to do it themselves and Council Officers now provided that level of support. The number of applications made through the Home Improvement Agency had been minimal – less than 20% of total applications – and it was noted that it had also taken a percentage for acting as an agent, effectively reducing the grant. As such, the impact of the cessation of the Safe At Home service had not been significant.

56.5 A brief debate ensued as to whether it would be appropriate for the Committee to receive an annual update on progress against the recommendations arising from the DFGs review in future. A Member expressed the view that he would be more comfortable to continue to receive the report on a six monthly basis until the impact of the Universal Credit roll-out had been established. Another Member indicated that he was aware from another meeting that reducing hospital admissions, where alternative care could be provided, was an issue that was currently being considered and any new procedures could have an impact on DFGs. The Chief Executive explained that the amount which the Council received for DFGs was quite high, given the size of the authority and the population of the borough, and this had been questioned. It was quite possible that the situation with hospital discharges and trying to get people back into their own homes as quickly as possible would have an impact on referrals and it would be prudent to continue to monitor the situation on a six monthly basis in accordance with Members’ wishes. It was subsequently

- RESOLVED**
1. That the progress against the recommendations arising from the Disabled Facilities Grants review be **NOTED**.
 2. That reports continue to be brought to the Committee on a six monthly basis.

The meeting closed at 6:15 pm

EXECUTIVE COMMITTEE FORWARD PLAN 2017/18

REGULAR ITEM:

- **Forward Plan – To note the forthcoming items.**

<p><u>Addition to 3 January 2018</u></p> <ul style="list-style-type: none"> • Twyning Neighbourhood Plan – Examiners Report and Referendum. • Business Rates Relief Update. • Council Tax Reduction Scheme 2018-19.

<p><u>Removal from 3 January 2018</u></p> <ul style="list-style-type: none"> • Tewkesbury Borough Plan Consultation – will go directly to Council in February.
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Committee Date: 31 January 2018			
Agenda Item	Overview of Agenda Item	Lead Officer	Has agenda item previously been deferred? Details and date of deferment required
Budget 2018/19 (Annual) including Treasury Management Strategy.	To recommend a budget for 2018/19 to the Council.	Simon Dix, Head of Finance and Asset Management.	No.
Financial Update – Quarter Three 2017/18 Performance (Annual).	To consider the quarterly budget position.	Simon Dix, Head of Finance and Asset Management.	No.
Data Protection Policy.	To approve the Council's Data Protection Policy.	Shirin Wotherspoon, Principal Solicitor.	No.
Risk Management Strategy.	To approve the Risk Management Strategy.	Graeme Simpson, Head of Corporate Services.	No.
Planning Enforcement Policy.	Following a recommendation from Overview and Scrutiny Committee, to approve the Planning Enforcement Policy.	Annette Roberts, Head of Development Services.	No.

13

Agenda Item 5

Committee Date: 31 January 2018			
Agenda Item	Overview of Agenda Item	Lead Officer	Has agenda item previously been deferred? Details and date of deferment required
Flood and Water Management Supplementary Planning Document Adoption.	To recommend the Flood and Water Management Supplementary Planning Document to Council for adoption.	Annette Roberts, Head of Development Services.	Yes, deferred from 3 January 2018 to allow consideration and further evidence to be collected on one issue relating to climate change allowance to ensure a robust defence.
Workforce Development Strategy.	To approve the Council's Workforce Development Strategy.	Janet Martin, Human Resources Manager.	Yes, deferred from 11 October 2017.
Confidential Item: Disposal of Land at Bishops Cleeve.	To consider the information provided and agree a way forward.	Simon Dix, Head of Finance and Asset Management.	Yes, deferred from 22 November 2017 for further discussion.
(To be considered in private because of the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 – Information relating to the financial or business affairs of any particular person (including the authority holding that information)).			

Committee Date: 14 March 2018			
Agenda Item	Overview of Agenda Item	Lead Officer	Has agenda item previously been deferred? Details and date of deferment required
Equalities Policy.	To approve the Equalities Policy.	Graeme Simpson, Head of Corporate Services.	No.

Committee Date: 25 April 2018

Agenda Item	Overview of Agenda Item	Lead Officer	Has agenda item previously been deferred? Details and date of deferment required
Performance Management Report – Quarter Three 2017/18 (Annual).	To receive and respond to the findings of the Overview and Scrutiny Committee’s review of the quarter three performance management information.	Graeme Simpson, Head of Corporate Services.	No.
Flood Risk Management Group Terms of Reference and Action Plan (Annual).	To undertake an annual review of the Terms of Reference of the Flood Risk Management Group and action plan.	Peter Tonge, Head of Community.	Updated in line with the term of the Council instead.
Council Plan Update 2016/17 – Year Three (Annual).	To consider the Council Plan and make a recommendation to Council.	Graeme Simpson, Head of Corporate Services.	No.
High Level Service Plan Summaries (Annual).	To consider the key activities of each service grouping during 2017/18.	Graeme Simpson, Head of Corporate Services.	No.
ICT Strategy.	To approve the ICT Strategy.	Graeme Simpson, Head of Corporate Services.	No.

15

PENDING ITEMS

Agenda Item	Overview of Agenda Item
Confidential Item: Spring Gardens/Oldbury Road Regeneration	To consider the information provided and agree a way forward.
Confidential Item: MAFF Site.	To consider the way forward for the site.

OVERVIEW AND SCRUTINY COMMITTEE WORK PROGRAMME 2017/18

REGULAR ITEMS:

- **Executive Committee Forward Plan**
- **Overview and Scrutiny Committee Work Programme 2017/18**

<p><u>Additions to 9 January 2017</u></p> <ul style="list-style-type: none"> • <p><u>Deletions from 9 January 2017</u></p> <ul style="list-style-type: none"> •

Committee Date: 6 February 2018			
Agenda Item	Overview of Agenda Item	Lead Officer	Has agenda item previously been deferred? Details and date of deferment required
Community Safety Partnership Update	To receive an update on the Community Safety Partnership.	Peter Tonge, Head of Community Services	No - Agreed by the Overview and Scrutiny Committee at its meeting on 7 February 2017 that updates would be provided as the County Community Safety Partnership progressed.
Annual review of the effectiveness of the Council's involvement in the Gloucestershire Health, Community and Care Overview and Scrutiny Committee	In order to authorise payment of the Council's contribution to the running costs for the forthcoming year.	Graeme Simpson, Head of Corporate Services	No.
Gloucestershire Health and Care Overview and Scrutiny Committee Update	To receive an update from the Council's representative on matters considered at the last meeting (9 January 2018).	N/A	No.

16

Agenda Item 6

NB – Changes from previous work programme highlighted in bold

Committee Date: 6 February 2018			
Agenda Item	Overview of Agenda Item	Lead Officer	Has agenda item previously been deferred? Details and date of deferment required
Gloucestershire Police and Crime Panel Update	To receive an update from the Council's representative on matters considered at the last meeting (5 February 2018).	N/A	No.

Committee Date: 20 March 2018			
Agenda Item	Overview of Agenda Item	Lead Officer	Has agenda item previously been deferred? Details and date of deferment required
Ubico Update	To consider the update in respect of bin collections and grounds maintenance.	Peter Tonge, Head of Community Services	No – agreed at the Overview and Scrutiny Committee meeting on 5 September 2017.
Performance Report – Quarter 3 2017/18.	To review and scrutinise the performance management information and, where appropriate, to require response or action from the Executive Committee.	Graeme Simpson, Head of Corporate Services	No.
Flood Risk Management Group Report	To receive an annual report on the progress against the Flood Risk Management Action Plan.	Peter Tonge, Head of Community Services	No.
Gloucestershire Health and Care Overview and Scrutiny Committee Update	To receive an update from the Council's representative on matters considered at the last meeting (6 March 2018).	N/A	No.
Gloucestershire Police and Crime Panel Update	To receive an update from the Council's representative on matters considered at the last meeting (16 March 2018).	N/A	No.

Committee Date: 1 May 2018			
Agenda Item	Overview of Agenda Item	Lead Officer	Has agenda item previously been deferred? Details and date of deferment required
Overview and Scrutiny Committee Work Programme 2018/19.	To approve the Overview and Scrutiny Committee Work Programme for the forthcoming year.	Graeme Simpson, Head of Corporate Services	No.
Annual Overview and Scrutiny Report 2017/18.	To approve the annual report as required by the Council's Constitution to ensure that the activities of the Overview and Scrutiny Committee are promoted both internally and publicly to reinforce transparency and accountability in the democratic process.	Graeme Simpson, Head of Corporate Services	No.
Housing, Renewal and Homelessness Strategy Review Monitoring Report	To consider – six month update.	Paula Baker, Housing Services Manager	No.
Review of Ubico	To consider – six month update.	Peter Tonge, Head of Community Services	No. Annual report to be taken to the July 2018 meeting, as agreed by the Overview and Scrutiny Committee on 2 May 2017.
Customer Care Strategy	To consider - annual update.	Clare Evans, Communications and Policy Manager	No.
Disabled Facilities Grants Review Monitoring Report	To consider - six monthly update.	Peter Tonge, Head of Community Services	No.
Enviro-Crimes Update	To consider – six monthly update	Pete Tonge, Head of Community Services	No.

PENDING ITEMS

Agenda Item	Overview of Agenda Item
Gloucestershire Joint Waste Committee	<p>Updates to be brought to the Committee in respect of:</p> <ul style="list-style-type: none"> - the future work programme which would be developed with the Gloucestershire Joint Waste Committee in the autumn; and - in the longer term, review of the Gloucestershire Waste Strategy. <p>Agreed by the Overview and Scrutiny Committee at its meeting on 17 October 2017.</p>
Annual Review of Ubico	July 2018 – Agreed by the Overview and Scrutiny Committee at its meeting on 2 May 2017.
Risk Management Strategy Review	Agreed by the Overview and Scrutiny Committee at its meeting on 14 June 2016.
Absence Management Policy Review	Agreed by the Overview and Scrutiny Committee at its meeting on 14 June 2016.
Review of Communications Strategy	June 2018
Economic Development and Tourism Strategy	Annual Review – June 2018
Review of Workforce Development Strategy	Review by O&S Workshop – agreed by Overview and Scrutiny Committee at its meeting on 13 June 2017.
Review of Customer Care Strategy	Review by O&S Workshop – agreed by Overview and Scrutiny Committee at its meeting on 13 June 2017.
Review of Corporate Enforcement Policy	Review by O&S Workshop – agreed by Overview and Scrutiny Committee at its meeting on 13 June 2017.

TEWKESBURY BOROUGH COUNCIL

Report to:	Overview and Scrutiny Committee
Date of Meeting:	9 January 2018
Subject:	Planning Enforcement Plan
Report of:	Annette Roberts, Head of Development Services
Corporate Lead:	Robert Weaver, Deputy Chief Executive
Lead Member:	Cllr E J MacTiernan, Lead Member for Built Environment
Number of Appendices:	1

Executive Summary:

Paragraph 207 of the National Planning Policy Framework states that local planning authorities should consider publishing a Local Enforcement Plan setting 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.

During the past six months, a full review of the Council's Planning Enforcement service has been undertaken and a number of operational changes are now being, or are about to be, implemented. As part of this, a Planning Enforcement Plan has been drafted, setting out the Council's approach to delivering the service. This is a customer facing document providing clear and succinct 'plain English' information about planning enforcement, and setting out the level of service that customers can expect to receive.

Recommendation:

To CONSIDER the draft Planning Enforcement Plan and RECOMMEND TO THE EXECUTIVE COMMITTEE for approval for public consultation.

Reasons for Recommendation:

To agree the Planning Enforcement Plan for public consultation.

Resource Implications:

Resource implications are officer time to conduct the consultation, review responses and make any amendments as appropriate.

Legal Implications:

The preparation and adoption of a Planning Enforcement Plan is not a statutory requirement, but is guidance issued by the government in the National Planning Policy Framework, considered as a material consideration in planning decisions.

Risk Management Implications:

While there is no statutory requirement to prepare a Planning Enforcement Plan it is considered good practice, and provides justification and support for enforcement decisions. These decisions often have significant implications for the subject of enforcement, or those persons or communities affected by it, and therefore are often open to considerable scrutiny. The Planning Enforcement Plan provides a framework to justify decisions made, and defend against challenges against the Council.

Performance Management Follow-up:

Subject to the approval of the Planning Enforcement Plan for public consultation, and following a review of the representations made, a final version of the Planning Enforcement Plan will be reported back to Executive with a view to adoption.

Environmental Implications:

There are no direct environmental implications of this plan, although from an operational viewpoint there will be benefits in moving from a paper based to an electronic document management system.

1.0 INTRODUCTION/BACKGROUND

- 1.1** In May 2017 a newly created Senior Planning and Enforcement Officer post was recruited, to provide additional support to the Planning Enforcement team, beginning with a review of the Council's Planning Enforcement service.
- 1.2** The Planning Enforcement service tends to pick up the position at the end of the development process when expectations can be high, and sometimes achieving desirable outcomes very difficult.
- 1.3** A number of areas for improvement or refinement have been identified, which can be summed up follows:
1. The need for a structured framework within which all decisions are made.
 2. Greater use of accessible IT to enable interested parties to find out more about the service or individual cases.
 3. Need for greater reporting and publicity for the work (and achievements) of the service.
 4. Better record keeping.
 5. Better and more use of formal and legal powers available.
 6. Additional support for Enforcement Officers to achieve all of the above the above.

2.0 DRAFT PLANNING ENFORCEMENT PLAN

- 2.1** These issues have, or are being, addressed by a number of operational changes to the service, which are principally identified within a protocol drawn up by, and for, Planning Enforcement Officers. This acts as a day-to-day procedural manual.

2.2 Where the service relates to the team's interaction with complainants, those the subject of complaints, or other interested parties, these are set out in the draft Planning Enforcement Plan, attached at Appendix 1. As well as being the team's service standard document, the Planning Enforcement Plan also sets out in 'plain English' to the general public the role others can play in helping the team fulfil its service promises.

3.0 OTHER OPTIONS CONSIDERED

3.1 None

4.0 CONSULTATION

4.1 If approved by the Executive Committee, the draft Planning Enforcement Plan would be published for a six week consultation. It would be placed on the Council's planning webpages, publicised through local media, and sent to Parish Councils for consideration. Following the consultation period, a response consultation report will be produced and any appropriate amendments made to the plan. The final draft of the plan would then be reported to the Executive Committee and Council.

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

5.1 Planning Enforcement Protocol

6.0 RELEVANT GOVERNMENT POLICIES

6.1 National Planning Policy Framework – Paragraph 207
National Planning Practice Guidance

7.0 RESOURCE IMPLICATIONS (Human/Property)

7.1 Resource implication on officer time to conduct the consultation, review responses and make an amendments as appropriate.

8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

8.1 There are no direct environmental implications of this plan, although from an operational viewpoint there will be benefits in moving from a paper-based to an electronic document management system.

9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

9.1 The provisions of the Plan promote better value for money by remodelling the service to one that is more responsive, focused and operationally efficient. This also better defends the Council against cost awards by providing a demonstrable justification for its decisions.

9.2 The Plan identifies a commitment to open government, treating all fairly, and making its decisions transparent and accessible through improvements in the use of IT, and better reporting of the work of the service.

10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

10.1 None

Background Papers: None

Contact Officer: Andy Birchley, Senior Planning and Enforcement Officer
01684 272250 andy.birchley@teWKesbury.gov.uk

Appendices: Appendix 1 – Draft Planning Enforcement Plan

Tewkesbury Borough Council

Planning Enforcement Plan (Draft for Consultation)

20th December 2017

Contents

1.0 Introduction

2.0 What is a breach of planning control?

3.0 When is permission required

4.0 How do I report a suspected breach?

5.0 What you can expect from us when you make an enquiry

6.0 What are the Council's priorities for action?

7.0 What you can expect from us when you are the subject of an enquiry

8.0 What does a planning investigation involve?

9.0 Outcome of the investigation

10.0 Formal Enforcement Action and powers

11.0 Information Management

12.0 Fairness and Equality

13.0 Conclusion

1.0 INTRODUCTION

The planning system is designed to regulate development and use of land and buildings in the public interest. Enforcing breaches of planning control is an important and necessary part of the planning system. Without effective enforcement, confidence in the Council's ability to protect public amenity and the built and natural environment is quickly undermined.

This commitment to planning enforcement is set out in the Government's National Planning Policy Framework, by Paragraph 207:

“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.”

The Government has published further advice on planning enforcement within its National Planning Policy Guidance:

<https://www.gov.uk/guidance/ensuring-effective-enforcement>

The Council recognises the importance of planning enforcement within the Borough to protect amenity, safeguard its built and natural environment, and uphold local planning policy in the quickest and most effective way.

In doing so, the Council aims to provide a consistent and comprehensive approach to planning enforcement based on legislative requirements, government guidance, legal judgements and good practice, which through their collective interpretation shape how decisions are made.

This service is provided within the Council's Development Services team, and consists of two Planning Enforcement Officers, with support from the Council's Senior Planning and

Enforcement Officer. The Planning Enforcement team works with a number of other officers within the Council or other public agencies.

As well as responding to unauthorised development, the Planning Enforcement team also enforces against other related breaches under separate controls, including unauthorised advertisements, works affecting listed buildings and other heritage assets, protected trees and untidy land or buildings. Within this document these are collectively referred to as breaches, and unless otherwise stated, this term refers to the wider enforcement role of the team.

The Council has published further guidance on its planning function, including some of the options outlined in this Plan, at the following link:

<https://www.tewkesbury.gov.uk/planning/>

When receiving an enquiry, the Council will have regard to the most effective and timely powers available to investigate and where necessary pursue further actions to achieve its desired outcome. The Council has other powers of enforcement in relation to other services such as environmental health, licensing and building control. Our investigations are often co-ordinated with other services so that enquiries can be referred and action carried out under the most appropriate legislation.

The purpose of this Plan is to explain how the Council carries out its planning enforcement activities. It sets out what those making enquiries, or the subject of these enquiries, should expect and outlines how the Council undertakes planning investigations. However, it is important to remember that this document should be used as a guide only, and may apply differently according to the particular characteristics and location of the development undertaken or proposed. You should always consider seeking independent advice.

Definitions of some of the technical planning terms used in this document are provided in the following glossary:

<https://www.planningportal.co.uk/directory/4/glossary/category/7/categoryInfo/3>

2.0 WHAT IS A BREACH OF PLANNING CONTROL?

Development carried out without planning permission is often referred to as a breach of planning control. A breach of planning control is defined in the Town and Country Planning Act 1990 as *'the carrying out of a development without the required planning permission, or failure to comply with any condition or limitation subject to which planning permission has been granted'*.

Development is defined in the Town and Country Planning Act 1990 as *"the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land"*

The following are examples of breaches that would be investigated by the Planning Enforcement team.

- The unauthorised erection of a building/structure (including outbuildings, fences, satellite dishes)
- A *'material'* change of in the use of a property/land.
- Development not in accordance with the approved plans of planning permissions.
- Failure to comply fully with the conditions attached to a planning permission, which could sometimes render the whole permission invalid and therefore works unauthorised. Carrying out works to a listed building without listed building consent.
- Unauthorised demolition in a conservation area.
- Engineering operations, such as raising ground levels or earth bunds
- Unauthorised works to trees protected by a Tree Preservation Order (TPO) or in a conservation area.
- Failure to properly maintain land or buildings so that it affects the amenity of the area.
- Displaying a sign or advertisement without advertisement consent.

The following are **not** usually breaches that the Planning Enforcement team would investigate or have powers to address:

- Operating a business from home where the residential use remains the primary use and there is no adverse impact on residential amenity.
- Boundary, land ownership or trespass disputes, including those issues relating to party walls.
- Breaches of restrictions imposed by deeds and covenants (civil matter).
- Obstruction of a highway or right of way.
- Clearing land of undergrowth, bushes and trees provided they are not subject to planning protection.
- Parking of a caravan within the curtilage of a residential property as long as it is incidental to the enjoyment of the property, and is not being lived in permanently and separately from the main house.
- Temporary structures/fencing associated with building works
- Where planning permission or other consents are not required (see Section 4 below)

3.0 WHEN IS PERMISSION REQUIRED?

Planning permission and/or other consents are not always required for certain works or uses for reasons including:

- They are not considered to be ‘Development’ - as defined by s55 of the Town and Country Planning Act 1990, as amended
- Some works are considered ‘de minimus’ where they are of insignificant size or scale.
- Some works and uses are ‘Permitted Development’ as defined by the Town and Country Planning (General Permitted Development) Order 2015, as amended. Please note that some permitted development rights may be removed by a condition placed on a planning permission e.g. no fences to the front of the house to retain an open aspect to an estate development.
- Some signs are not considered by advertisements, as defined by the Town and Country Planning (Control of Advertisements) (England) Regulations, as amended.
- General Permitted Development) Order 2015

- Some advertisements have 'Deemed Consent', as defined by the Town and Country Planning (Control of Advertisements) (England) Regulations, as amended.
- General Permitted Development) Order 2015.
- Some changes of use are not considered 'material', having no significant impact on amenity.
- Some breaches are deemed to be lawful if no action is taken after a specified passage of time, being 4 years for substantial completion of building works, 4 years for change of use of a building to a single dwelling house, or 10 years for other breaches. However, if there has been a deliberate attempt to conceal a breach of planning control, the Council may still be able to take enforcement action beyond the specified period by obtaining an order from the Magistrates Court.

Development is lawful where planning permission has been given, but only where the works or use have been undertaken in accordance with that permission, including all conditions attached to that consent. Failure to comply with a condition may render the whole permission invalid.

The above examples depend on a large number of factors including type of operation, size, height and uses and the rules often vary according to the different location and individual circumstances. A number of useful guides are available at through the government's planning portal:

https://www.planningportal.co.uk/info/200130/common_projects

https://www.planningportal.co.uk/info/200130/common_projects/9/change_of_use

However, you are advised to seek independent advice should you require further information relating to your own particular case, in order to avoiding committing a breach of planning or other regulations, and being subject to enforcement action.

Should you wish to have a legal determination as whether any use or operations, actual or proposed, are lawful then you can apply to the Council for a Certificate of Lawfulness

https://www.planningportal.co.uk/info/200126/applications/60/consent_types/9

If works are classed as 'permitted development' or otherwise lawful, and therefore do not need planning permission, the council would always advise that property owners consult with their neighbours and other interested parties to let them know what you are planning to do.

4.0 HOW DO I REPORT A SUSPECTED BREACH?

The assistance of the general public is crucial to planning enforcement. Due to the amount of development, both authorised and unauthorised, it is extremely difficult for the Council to identify all possible breaches of planning control. The council relies on the general public's vigilance in identifying potential breaches of planning control. Many enforcement investigations commence following an enquiry from the general public.

The council will respond to all suspected breaches of planning control, except anonymous reports, unless they are of a particularly serious nature, requiring immediate attention.

Enquiries can be made by completing our on-line "Planning infringement or unauthorised development report form":

https://tewkesbury-self.achieveservice.com/service/Planning_infringement_or_unauthorised_development

The more you can help us the easier it will be for us to respond more quickly. When making an enquiry, please provide us with the following information, so the Council can obtain a full picture of the situation:

- A clear description of the alleged breach
- Why you think this is a breach of planning
- A description of the 'harm' being caused e.g. noise, traffic, smells.
- The date the activity started, is it happening now, is it getting worse?
- A specific site address (if it is a field, describe the surrounding area to help identify the exact site).

- The name and contact details of the site owner/occupier/builder/agent, where known
- Your name and contact details.
- Any other information you think would be helpful

All enquiries are dealt with in the strictest confidence and details of those making enquiries will not be made known without their agreement. However, the substance of the enquiries themselves is not confidential. In some cases it may be necessary to rely on evidence from those making enquiries in order to take action and you will need to consider whether you are willing to actively assist the Council by collecting evidence and acting as a witness at a planning appeal or in court. Please be aware that the Council cannot prevent someone correctly guessing who made the enquiry.

5.0 - WHAT YOU CAN EXPECT FROM US WHEN YOU MAKE AN ENQUIRY

The Council will endeavour to provide the following service to you:

- The Council will assign relative priority to all enquiries, as set out in section 5 of this Enforcement Plan, in order to focus on most urgent matters first, and make best use of resources. The Council aims to investigate, resolve or otherwise conclude all enforcement enquiries as soon as it possibly can.
- Where the enquiry does not relate to planning, either wholly or in part, the Council will refer the matter to the relevant Council department, with your details, and ask them to keep you updated. Where the matter should be dealt with by another organisation than the Council, we will advise you. The Council will retain and investigate any part of the enquiry relating to planning, working together with colleagues as appropriate.
- The Council aims to acknowledge all enquiries within 48 hours of receipt, naming the assigned officer undertaking the investigation, and their contact details.

- Where existing investigations require monitoring outside of normal working hours (e.g. breach of condition relating to weekend construction works), officers will endeavour to work flexible hours.
- Where an allegation involves activities on land, you should not undertake surveillance on the occupier, but might update the Council on any continuing breaches as you notice them.
- The Council will inform all parties of the outcome of any investigation, with reasons.

6.0 WHAT ARE THE COUNCIL'S PRIORITIES FOR ACTION?

It is not possible to investigate every enquiry with equal priority and intensity. Our resource is directed to breaches that cause the greatest harm to the environment or to residential amenity. To allow quicker and more effective focus on the most serious matters, particularly during peak demand on the service, the Council will prioritise its planning enforcement work as follows:

CATEGORY A - *Development causing, or likely to cause, irreparable harm or damage. Investigation to take place as soon as possible, and within 24 hours. This will include:*

- Development causing or likely to cause serious harm to the public, e.g. involving hazardous substances.
- Works to listed buildings (demolition/alteration/disrepair)
- Works affecting sites of (likely) archaeological importance.
- Demolition in a conservation area
- Works causing immediate/irreparable harm to protected ecology, including trees covered by a Tree Preservation Order or in a Conservation Area.

CATEGORY B - *Unless prompt action is taken, there is a material risk of further harm being caused which could be reduced or prevented by early intervention. Investigation to commence within 5 working days. This will include:*

- Allegations of significant and ongoing harm to amenity
- Development which would be immune from enforcement within six months.
- Unreasonable noise and disturbance caused by failure to comply with conditions controlling the operation of development sites
- Unauthorised works under way but not substantially complete
- Breaches of condition or non-compliance with approved plans that are integral to the acceptability of the scheme and permission given

CATEGORY C - *Unless action is taken, there is a risk of material harm to the environment or undue harm to residential amenity. Investigation to commence within 10 working days. This will include:*

- Building works likely to be contrary to that set out in the development plan or other material planning guidance.
- Developments which are contrary to established countryside constraint policies
- Other unauthorised activities and use of land causing harm to residential amenity
- Flyposting

CATEGORY D - *Breaches of planning control causing limited material disturbance to local residents or harm to the environment, which do not come within any of the higher categories, and where a delay would not prejudice the Council's ability to resolve the matter. Investigation to take place as soon as resources allow, but The Council aim to commence within 15 working days. This will include:*

- Small scale structures, including sheds and other outbuildings, fences and satellite dishes
- Unauthorised signs and advertisements

- Untidy land and buildings
- High hedges
- Unauthorised shopfronts
- Breaches of condition/non-compliance with approved plans causing no serious harm to amenity.

7.0 WHAT YOU CAN EXPECT WHEN YOU ARE THE SUBJECT OF AN ENQUIRY

- The Council recognises the anxiety that is caused by finding out someone has made an enquiry about alleged development or activity on your land or property. Accordingly the Council will treat you fairly, not pre-judge any allegation made against you, and give you the opportunity to respond and explain.
- The Council will advise you as soon as possible whether or not it considers a breach has occurred, and if so, what the breach is and what your options are.
- If you dispute that a breach has or is taking place, you have the right to apply for a Lawful Development Certificate to determine the matter.
- Any unauthorised works you undertake are at your own risk, and may be subject to demolition or alteration, including those taken after you have been notified of any breach.
- Where a breach has been identified, The Council will seek to work with you and any other responsible person(s) to negotiate an outcome suitable to all parties. The Council may decide not to require action be taken to remedy the whole of a breach of planning control. This is known as “under enforcement”. The matter will only be deemed concluded once any works or changes to activity agreed as part of negotiations with the Council have been carried out
- Negotiations will not be allowed to delay the consideration of enforcement action where the breach of control causes serious harm to amenity.

- You have the right to make a retrospective planning application to ‘regularise’ the development, however, the Council will advise you if it thinks consent is unlikely to be given. Making you aware of this option is without prejudice to any decision on an application. Please note that, where deliberate or intentional unauthorised development has taken place, including following the Council making the applicant aware of the breach, it may count against the application.
- The Council may decline to determine a planning application where an enforcement notice has already been served and proposals relate to the identified breach.
- Where retrospective applications are made, the Council will keep the enforcement matter under review until a decision has been made, any (where approved) applicable conditions are complied with, or (where refused) any remedial actions are undertaken.
- It is the responsibility of the landowner/developer to ensure all other requisite consents are in place.
- The Council will clearly identify its requirements and give reasonable time and opportunity for them to be undertaken. Should you not respond, decide not to work with the Council, provide us with misleading information, or unreasonably and unnecessarily delay any agreed or requisite actions then the Council will have no option but to consider the use of formal powers.
- The Council will inform all interested parties of the outcome of any investigation, with reasons.

8.0 WHAT DOES A PLANNING INVESTIGATION INVOLVE?

Determining the facts

The priority in any enforcement case is to ascertain the facts of the matter, including the nature and degree of any alleged breach. The Council will investigate enquiries objectively and with an open mind, and all claims will remain unfounded until such time a breach is witnessed and evidenced. The Council has the following powers to seek further information, if necessary:

- Interview under formal caution – Where it is suspected that an offence has taken place
- s330 Notice – to establish ownership and other interests in the land and property
- Planning Contravention Notice – requiring further information about activities and/or works on land or buildings.

There is no right of appeal against these Notices, and failure to respond fully and accurately, or provide misleading information, is a criminal offence.

'Site' visit

Planning Enforcement officers have a legal Right of Entry to land, without the owner's permission, where a breach of planning control is suspected. 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 officer trying to freely enter the land. Visits may be undertaken without prior notice, particularly where the enquiry relates to the use of land.

The Council is committed to ensuring that its officers are able to carry out their work safely and without fear or obstruction. Where appropriate, the Council will take legal action to prevent and respond to abuse, harassment or assaults on its officers, by members of the public, and animals within their control. Officers whereabouts are known at all times and emergency contact arrangements are in place for immediate response should any danger present itself.

Assessment

From the established facts the Council will determine whether or not a breach has occurred, the degree of harm caused, and what outcome the Council seeks as a proportionate response, in the public interest. Each case will be considered on its own merits, and required outcomes or actions may differ in any two cases even if the same breach has occurred.

Where powers other than planning are available and more effective, then the matter may be referred to or approached jointly with other Council departments or agencies.

Expediency

Enforcement action is at the discretion of the Council and will only be taken where it is expedient to do so. There is no right of appeal against a decision not to take planning enforcement action.

The question is whether the breach of control would unacceptably affect amenity or the use of land or buildings, meriting protection in the public interest. To help decide this the Council would consider whether it was likely that planning permission would have been granted for the development had it been the subject of a planning application. If the development is considered to accord with adopted policy, the Council would normally be expected to grant planning permission unless other material considerations, e.g. government policy or other guidance indicate otherwise.

Enforcement action should be commensurate with the breach of control to which it relates. It will normally be inappropriate to take formal enforcement action against a minor or technical breach of control which causes no harm to amenity. This is known as the 'proportionality' test.

9.0 OUTCOME OF THE INVESTIGATION

There are various possible outcomes of a planning enforcement investigation:

No breach of planning control has been identified: The works or use of the land may be demonstrably lawful, or no robust evidence of a planning breach has been established following thorough investigation.

Certificate of Lawfulness issued: Following a successful application to the Council, in respect of the works or use under investigation

Retrospective planning application to regularise the breach: Where the subject of a planning breach has exercised their right to make an application, that application has been approved, and all conditions complied with, the breach is deemed to have been regularised.

There is a breach of control but it is not expedient and proportionate to pursue: Section 8 of this Plan identifies some of the circumstances when the Council might not at that time take enforcement action against an identified breach of control. The Council will, however, make the land owner aware of the breach and give them the opportunity to rectify the matter. Any outstanding breach will be recorded as a 'contravention', and may be viewable on any future land search, including when the land or property is being sold.

Compliance with the Council's requirements: Actions required to remedy the breach of control, or other agreed alternative actions, are carried out in full and to the satisfaction of the Council, including in certain circumstances, by the Council itself.

Formal enforcement action: If the matter cannot be resolved to the Council's satisfaction, or there is a likelihood of further breaches of control, the Council has the powers to take formal enforcement action. The nature of the breach will dictate what enforcement action the council considers expedient and proportionate to pursue.

10.0 FORMAL ENFORCEMENT ACTION AND POWERS

Where a breach is proven, the degree of damage or harm caused is demonstrably unacceptable, and it is expedient and possible to do so, then the Council is committed to taking a firm line to make those responsible accountable for their actions and for 'making good' any damage or harm caused.

Formal powers will also be considered to best avoid a breach taking place, where it is imminently suspected.

Under planning legislation, the Council has the power to issue a number of Notices, usually on all interests in the land, and not just those directly responsible for committing a breach. Failure to comply fully with a Notice or Order could be considered a criminal offence.

Enforcement/Listed Building Notice - An Enforcement Notice will specify the reason(s) why it has been served, the steps required to remedy the breach, and the time period for compliance. The Notice carries a right of appeal. 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. Enforcement Notices will appear on the Council's Planning Enforcement Register, and Local Land Charges Register, until such time as its requirements are met.

Temporary Stop Notice - Where a breach of planning control is causing serious harm to public amenity and/or the built, natural or heritage environment, and where immediate action is required to stop this harm, the Council will issue a Temporary Stop Notice. It will identify what works are to cease, and lasts for 28 days. This Notice will normally be accompanied by an Enforcement Notice, which comes into effect when the Temporary Stop Notice expires. Notices will appear on the Council's Planning Enforcement Register, and Local Land Charges Register, until such time as its requirements are met

Breach of Condition Notice - Where the breach of planning control relates to non-compliance with a condition(s) or limitation(s) on a planning permission, including where permitted development limitations have been exceeded, the Council can issue a Breach of Condition Notice. The Notice will specify the steps required to comply with the condition(s) or limitation(s), and the time period for compliance. There is no right of appeal against this Notice. Notices will appear on the Council's Planning Enforcement Register, and Local Land Charges Register, until such time as its requirements are met.

Section 215 Notice (Untidy Land Notice) - Where the appearance or condition of land and buildings is adversely affecting the amenity of the neighbourhood, the Council can issue a s215 Notice. The Notice will specify the steps required to remedy the condition of the land or buildings and the time period for compliance. The right of appeal against a s215 Notice is directly to the Magistrates Court. The Notice may be revealed on a Land Search.

Enforcement Order - Where the Local Planning Authority believes there has been a 'concealed' breach that would otherwise be immune from enforcement action due to the passage of time, it may apply for an Enforcement Order. The Order will set out the steps required to remedy the breach, and the timescale in which to do so. Orders will appear on the Council's Planning Enforcement Register, and Local Land Charges Register, until such time as its requirements are met.

S225 (Display of advertisement Notices) – The display of posters and placards, including for the purposes of 'flyposting' are deemed a criminal offence and must be removed within 48 hours of the Local Planning Authority requiring you to do so. Other signs and advertisements are addressed by a series of Notices (depending on the nature of the sign/advertisement) collectively known as s225 Notices. Notices will specify the steps required to comply with its requirements and the time period to do so.

Hedgerow Replacement Notice – Where it appears that a protected hedgerow has been removed in contravention of The Hedgerow Regulations 1997, the Council may serve a Hedgerow Replacement Notice including specific instructions for the replanting of a hedgerow, including timescales. The flora specified in the noticed is required to be maintained for a period of up to 30 years after the Notice has been served. Hedgerow Replacement Notices are effective immediately on service, and usually include a compliance date requiring specified actions to be undertaken before the end of the next available planting season. The right of appeal against a Hedgerow Replacement Notice is directly to the Secretary of State.

Tree Replacement Notice – A landowner has a duty to replace a tree which is removed or caused to die, in contravention of a Tree Protection Order (TPO). Where the duty is

not complied with, local authorities have powers under section 207 of the Town and Country Act 1990, to issue Tree Replacement Notices (TRNs). These powers are also exercised in a Conservation Area in contravention of section 211 of the 1990 Act (i.e. without giving the council six weeks' notice) and in circumstances when a condition to plant a replacement tree, on a consent to fell a tree under a TPO, is not complied with. The right of appeal against a Tree Replacement Notice is to The Planning Inspectorate. Serving a TRN does not preclude the Council from taking legal action on those responsible for removing or causing a protected tree to die.

Direct Action (Works in Default) - Where a Notice has not been complied with, the Council has powers to itself undertake the works required by that Notice. The Council also has powers to undertake action in other circumstances, without a Notice being served. The cost of doing so, including a fee for officer and project management time, would be placed as a charge against the land until such time as fully paid. The Council would give the owner of the land an opportunity to undertake works themselves before exercising this option. Removing the breach does not preclude the Council from prosecuting those responsible, where it is appropriate to do so. Further, the Council will consider continuing proceedings even when a matter has been resolved prior to court attendance.

Injunction – The Council may apply to the High or County Court for an injunction to restrain any actual or expected breach of control. This sanction is immediate, and is aimed at avoiding serious breaches before any (further) harm is done, and/or addressing those breaches of control where other powers have not been effective, or where persistent breaches arise. Failure to comply with the requirements of an Injunction will be considered as a Contempt of Court, and may result in a custodial sentence.

Prosecution – Unauthorised development itself is not usually an offence, however the following breaches of control might be considered to be:

- Failure to comply with the requirements of any Notice identified in this Plan
- Damage to Listed Buildings or other heritage assets

- Removal of or damage to Trees covered by a Tree Protection Order, all trees within a Conservation Area, or other protected environmental assets
- The unauthorised display of some signs and advertisements
- Wilful obstruction of, or other offences against, a Council officer or appointed representative in the course of his/her duties.
- False or misleading information provided by the recipient of a s330 Notice or a Planning Contravention Notice

For some offences, the Council may offer a 'simple caution' to the responsible parti(es), however should the caution not be accepted the Council reserves the right to prosecute. Proceedings may continue even if the breach is latterly resolved, although this would be recognised. The Council will apply for costs from the defendant in all successful court proceedings. Where the Council suspects that any information provided to the Court by the defendant is false or misleading, including completed means test forms, it will refer the matter to the County Fraud Investigation team for further consideration.

Proceeds of Crime Act - Where significant financial gain has or is being accrued as a result of a breach of planning regulations, an application may also be made to the Court for recovery of assets, alongside prosecution. The Council would work with a Financial Investigator to identify assets and use powers available to recover these, under the provisions of the Proceeds of Crime Act 2002.

11.0 INFORMATION MANAGEMENT

The Council will request, manage and share its information responsibly, and at all times in line with current and emerging General Data Protection Regulations. Requests for information relating to planning enforcement work will be considered in line with these regulations, including any exemptions laid down under other legislation such as the Data Protection Act.

The Council keeps a register of all Enforcement, Breach of Condition, Stop Notices, and Enforcement Orders, providing basic key details, which can be found at the following link: <https://www.tewkesbury.gov.uk/planning>

A copy of all these Notices can also be found on line through the Planning Portal, at the following link: <http://publicaccess.tewkesbury.gov.uk/online-applications/>. Alternatively, a copy can be made available at the Council Offices, on prior request. The Portal also provides summary details of other enforcement investigations.

The Council will work with appropriate media to publicise its work and positive outcomes, to highlight the consequences of failing to comply with planning regulations, to deter others from knowingly doing so.

A report will be presented to Tewkesbury Borough Council Planning Committee every month identifying those matters where formal enforcement action has been taken, with an update on progress, as well as outlining general performance and raising any other issues of interest. Officers may also from time to time present reports to committee seeking resolution on particular matters where direction is required. These reports can be found within the Planning Committee agenda and papers, at the following link: <http://minutes.tewkesbury.gov.uk/mgCommitteeDetails.aspx?ID=249>

12.0 FAIRNESS AND EQUALITY

The Council is committed to ensuring that:

- All persons are treated equally, regardless of their 'status'
- Communications with all those involved are in a fair, clear and courteous manner.
- Communications will be in plain English or in the appropriate language or method.
- Any special needs of those involved are met as far as possible, (for example by providing translation services where necessary).
- Help, information and advice will be given where needed.
- Where there are rights of appeal against formal action, advice on the appeal mechanism will be provided.

In carrying out its enforcement activity the council will take into account the interests of all customers, including the general public, business owners, employees and will endeavour to support economic development wherever possible, except where there is significant harm to amenity.

13.0 CONCLUSION

The latest version of this Enforcement Plan can be found at the following location - <https://www.tewkesbury.gov.uk/planning> - the Plan will be reviewed as and when necessary, either due to changes in the law or any other circumstances which may affect its contents.

The Plan sets out the standards that the Council aspires to in responding to reports of breaches of planning and other related controls. The time taken to determine each case will vary depending on the site, the type of breach, and any actions necessary to reach the desired outcome. It also relies in some cases on professional advice and support from other colleagues, including outside of the Council. Decisions are made in the context of regularly changing legislation, guidance, and case law. An enforcement investigation can be a lengthy and complex process. However, the Council is committed to reaching a conclusion/outcome as soon as reasonably possible.

The Council welcomes feedback on our performance, and an opportunity to comment is available by contacting andy.birchley@tewkesbury.gov.uk

The Council are committed to providing an effective and efficient planning enforcement service. However, should you not be satisfied with the handling of your enquiry, in the first instance please contact the Council's Development Manager. If you remain dissatisfied, the Council has a formal complaints procedure which can be found on the council's website at: <http://tewkesbury.gov.uk/index.aspx?articleid=1897>