

<b>Report to:</b>	Planning and Transport Scrutiny Committee 21st March, 2023
<b>Lead Cabinet Member:</b>	Cllr Katie Thornburrow
<b>Lead Officer:</b>	Stephen Kelly

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# Greater Cambridge Shared Planning Service Compliance Policy

## Executive Summary

1. Members will be aware that a review of planning enforcement activities of the Greater Cambridge Shared Planning Service (GCSPS) has been undertaken.

The aim is to create a unified approach to handling planning enforcement by both partner Councils with an emphasis on early intervention and compliance.

The objectives are to create an effective and efficient planning compliance service which is valued by Members, communities and the public, with clear performance indicators for responses and resolution of issues.

The review included combining the enforcement policies of both Cambridge City Council and South Cambridgeshire District Council into one united Compliance Policy for GCSP.

## Key Decision

2. Yes

## Recommendations

3. It is recommended that Cambridge City Council adopt the unified Greater Cambridge Shared Planning Compliance Policy.

## **Reasons for Recommendations**

4. To provide an updated policy for planning compliance matters within the Greater Cambridge Shared Planning Service.

## **Details**

5. Members will be aware that a review of planning enforcement of Greater Cambridge Shared Planning Service (GCSPS) has been undertaken. This has included a review of processes, use of IT to improve workflow and an update of the website, including updated guidance and a video, along with a unified GCSP Compliance Policy.

Enforcement is discretionary and National Guidance provides that Councils should enforce planning law in a proportionate manner and where it is expedient to do so.

## **Activities**

### **IT**

The Uniform IT system has been introduced for GCSP for a number of years and in the last 12 months the team have adopted the enforcement module. The use of this module enables improved reporting mechanisms for all stakeholders, including the use of automated replies, update reminders and related features. The team are also trialling mobile access to the system.

### **Website**

The aim has been to improve access to planning compliance information, alongside the general review of the “customer journey” seeking to ensure the public are more easily able to navigate and find the information they require. The target is to enable 80% of interactions to be self-service.

Cambridge City residents and South Cambridgeshire residents previously used different methods to submit complaints about planning issues, these have now been aligned with an online form. Planning Compliance information and advice sits within the GCSPS website which enables complaints to be submitted via an e-form, including the ability to upload multiple documents and photographs.

Providing clarity on the issues that can be dealt with by the compliance team, will also help other services, history indicates complaints are often initially directed to the wrong service, e.g., environmental health and vice versa. An explanatory video has been included on the website for further information and to be more accessible, using other forms of communication. The e-form used for complaints links directly into the back-office system and prevents matters being lost or misdirected, thereby improving efficiency.

## **Internal processes and procedures**

Accompanying the website and IT improvements there has been a review of internal processes and procedures to become more effective. This will include the use of case studies for training and dissemination and monthly reports to the respective Planning Committees. The GCSP aims to adopt a Quality Management System (QMS) in 2023 and discussions are now underway to include Compliance as inscope.

## **Enforcement Register**

Councils are obliged to provide a register of Enforcement Action and keep this up to date. Previously separate registers were published on the respective websites of each Council in different formats. This information is now published via the Public Access system, which is automated.

## **Compliance Policy**

Government guidance is also that Councils should consider publishing a local compliance policy to manage enforcement proactively, in a way that is appropriate to their area.

This sets out how we will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development, and act where appropriate. Previously each Council had its own compliance plan, these have now been amalgamated into a single document.

The new document sets out:

- what is and what is not a breach of planning control,
- the responsibilities of the owner, occupier and users of a development in the event of a breach of control,
- the priorities and response times in dealing with complaints and breaches,
- possible outcomes in terms of investigations,
- the powers available to the Councils to take action where required.

Attention is drawn to the targets included within the policy.

A formal consultation process was followed, as outlined in section 8.

The Compliance Policy has been reported to the Planning Committee of each Council following the agreement of the relevant Cabinet/Portfolio Holder.

## **Options**

6. There are two options.

- To remain with the status quo of different enforcement/compliance policies for each Council.

- To adopt a single unified compliance policy for the Greater Cambridge Shared Planning Service

### **Retain Existing Planning Enforcement Manual**

The Council could retain and operate under its existing planning enforcement manual. However, this was last published in 2001, over 20 years ago. Whilst the fundamentals of planning enforcement have remained broadly similar under the Planning Acts, the service has moved on significantly since this time, particularly given it is now operating as a shared service.

### **Unified Planning Compliance Policy for the GCSPS**

This provides an opportunity to align the compliance service across both Councils. This will enable the service to operate under a consistent set of parameters in terms of investigating breaches of planning control. As a result, it provides clarity for staff, residents and Members across both Councils as to how the shared planning service manages compliance investigations. In terms of public perception, there is also an opportunity to promote a “compliance” approach, with enforcement action often being the last resort to resolve breaches of planning control.

## **Implications**

7. In the writing of this report, taking into account financial, legal, staffing, risk, equality and diversity, climate change, and any other key issues, the following implications have been considered:-

There are no significant implications.

## **Consultation responses**

8. A public consultation process was held for 6 weeks starting 9 December 2022 until 20 January 2023. This was published on the website and circulated to all members and other interested parties.

A total of 9 responses were received, 5 online and 4 via email, and these are summarised below:

<b>Code</b>	<b>Representation Theme</b>	<b>Comment</b>
200001	There should be a paragraph stating that any works should not remove any disabled access feature or make disabled	Noted and comment as follows. The compliance team deals with breaches of planning control. Where it is determined that a breach is not expedient to pursue, the compliance

	access worse. Part M of the Building Regulations explains this.	team will consider the impact of that development and any effects it may have on the points raised, however when determining expediency, the team are considering if development would likely be acceptable if an application were made, and these considerations would take into account such matters.
200002	<p>- In general, the paper reads as if there is a desire to mitigate and work with applicants where there are breaches</p> <p>(a) It would be helpful to discourage retrospective applications for planning breaches if possible</p> <p>(b) 6.1 &amp; 6.2 - could these paragraphs state that although complainants should be identifiable, their identity will not be disclosed to third parties without their explicit consent. This is stated in 10.2 but readers of the policy may be put off by the statements in 6.1 &amp; 6.2.</p> <p>(c) 6.13 - The list of criminal offences is helpful</p>	<p>Noted and comments as follows.</p> <p>(a) Any person or interested party has the right to make a retrospective planning application to attempt to regularise a breach of planning control. Some breaches of planning control may well be acceptable on its planning merits when tested against local and national planning policies. In these instances, the Council will invite a retrospective planning application to regularise the breach of planning control. Where development is deemed to be unacceptable then the compliance team do not usually invite retrospective applications in these instances. The Council cannot stop retrospective applications being submitted and has to determine such applications accordingly.</p> <p>(b) Section 6.1 updated to include reference to section 10.2</p> <p>(c) Noted and thank you.</p>
200003	<p>This document doesn't give Northstowe TC confidence that developers will stick to, and be held accountable for, their planning obligations.</p> <p>(a) 'High priority cases' processes (s5.2): this suggests that such cases are to be investigated 'immediately', but in practice five working days could pass before any action is instigated. This would not provide for</p>	<p>Noted and comments as follows.</p> <p>(a) High priority cases will be investigated within the five working days as advised. This involves the setting up of a case and visiting a site. In practice such reports will be looked at and the investigation started the same day as the report is made, however there may be instances where prescribing a shorter timeframe could result in the Council being unable to meet its own targets and therefore a realistic target must be set in the policy as a result.</p>

	<p>effective planning enforcement.</p> <p>(b) The procedures for breach of planning control (s3.1-3.3) include '[...] Any action taken against a breach is at the discretion of the LPA, there is no duty to act.', showing insufficient willingness to act on breaches and provides insufficient 'teeth' for effective planning enforcement</p>	<p>(b) The investigation of breaches of planning control is a discretionary matter for Local Planning Authorities to determine what they will do when a breach is identified. The Council must determine the seriousness of a reported breach of planning control and act accordingly. The Council should not take formal enforcement action as a default approach to breaches of planning control and expediency of taking any action must be determined using local and national planning policy frameworks. Formal action is the last resort for any LPA when all other options to resolve a breach of planning control that is not acceptable have been exhausted. There is a right of appeal against any formal enforcement action the Council takes against unauthorised development and as such the Council must be able to demonstrate that it was correct in making the decision to act. Effective planning enforcement is determined on the success of formal enforcement action and not on acting on every breach that is reported.</p>
200004	<p>Please add a section to the compliance policy to explain how the Council will control development when the discretion in 6.9 has been applied and has created a precedent. Chesterton Fen: sites with no planning permission, apparently no controls on safe spacing between caravans, and apparently no standards for sewage arrangements or approved SCDC bin provision. This appears to have been considered too difficult to enforce against in the past,</p>	<p>Noted and comment as follows. Each breach of planning control is investigated and considered on its own merits. Other breaches of planning control on adjacent sites or areas within the district do not necessarily mean that no action will be taken, and it will be a matter of fact and degree in each individual case for the Council to consider. There are other matters in the comment which are not wholly planning matters and relate to other Council services such as Waste Services, Building Control, and Licencing. The compliance team works closely with these other departments when considering</p>

	and the result is what appears to be a free-for-all. Enforcement has concentrated on 'easy targets', rather than the most unsanitary sites or most flagrant offenders.	breaches of planning control and what action the Council will take in relation to those breaches taking on board the comments from those teams. Some breaches of planning control can take disproportionate amounts of time to resolve to conclusion and as a result easy and simple cases appear to be dealt with in quick timeframes which may give the appearance of 'easy targets' being the only action the Council takes; however, some breaches are much easier to resolve than others.
200005	Wanting to know about any regulations for directional signage along the river.	N/A This is a service request and has been referred on to the appropriate section.
Email 1	Is this regarding Mill Road Bridge or Congestion Charge. Could you please send details of how to comment and who to comment to in each case?	N/A This is a service request and has been referred on to the appropriate section.
Email 2	Sawston Parish Council discussed this at our meeting last night and have asked me to let you know they support the draft policy as it is.	Noted and thank you.
Email 3	<p>We have three issues to raise:</p> <p>(a) Section 6.7 – “Even where a breach of planning control has taken place, the Council is not automatically required to act”.</p> <ul style="list-style-type: none"> <li>• Would the council be required to justify non-action?</li> <li>• Could the council’s decision to take no action be questioned?</li> </ul> <p>(b) Section 6.8 – “The</p>	<p>Noted and comments as follows.</p> <p>(a) If the Council determines that it is not expedient to take enforcement action against a breach of planning control then as per paragraph 3.3 of the Compliance Policy the Council will explain its decision to not act as a result, providing clear reasons why the decision has been made.</p> <p>(b) There is no appeals process against the Councils decision not to take action against a breach of planning control. Decisions are made based on a Compliance Officer recommendation to the</p>

	<p>objective of the Councils compliance team is to resolve the harm that arises”.</p> <ul style="list-style-type: none"> <li>• Can “harm” be defined for the purposes of this draft policy?</li> </ul> <p>(c) Sections 6.11 &amp; 6.12</p> <ul style="list-style-type: none"> <li>• Could the breach (ie, building works, etc) continue during the appeal period. Furthermore, could any use or enjoyment of the allegedly contravening works continue in that period?</li> </ul>	<p>Principal Compliance Manager who considers the reasons that have been provided. Justification for not taking action will include the planning merits of the development undertaken and include specialist advice where needed such as matters relating to Listed Buildings, Conservation Areas, or works to trees. If someone is not satisfied with the outcome of an investigation then there is a Council complaints procedure where a complaint can be made, and that complaint will be considered by a senior officer who will review the matter. Following that a complaint can be made to the Local Government Ombudsman (LGO) for consideration, however it should be noted the LGO will only consider matters relating to process or maladministration, and they are unable to change or override any Council decision not to take enforcement action as it is a discretionary power for the Council to make such decisions.</p> <p>(c) The submission of an appeal stops the effect of an enforcement notice and its requirements until the appeal has been determined. If an appeal is dismissed, then the requirements of the enforcement notice and any timeframes for compliance within the notice start from the date the appeal is determined. Any development taking place, or any uses can continue until the appeal is determined, and any additional work carried out is at the risk of the developer. Harm in respect of planning enforcement action would normally occur when the breach in question results in an unacceptable departure from relevant planning policies that would have justified refusing planning permission if it had been the subject of a planning application. If there is no harm</p>
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		caused by the failure to comply with planning control or it is insignificant, enforcement action is generally not justified.
Email 4	I just clicked on the link, and it took me to what I presume is the existing policy. Can I find a comparison of the existing, versus proposed compliance policy?	This was noted after the consultation period closed.

## Background Papers

N/A

## Appendices

Appendix A: Greater Cambridge Shared Planning Compliance Policy Feb 2023 V1.2a

Appendix B EqlA form template 210607 CCC Compliance Feb 2023 v1.1

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