

Cheltenham Borough Council

Council - 20 July 2026

Delegation of Planning Enforcement to Gloucestershire County Council in respect of:

- 1. Golden Valley Development (northern Parcel) planning application 23/01874/OUT, and**
 - 2. Land Off Shelley Road (Monkscroft) planning application 25/00837/FUL**
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Accountable member:

Cabinet Member Planning and Building Control, Councillor Paul Baker

Accountable officer:

Tracey Birkinshaw, Head of Planning

Ward(s) affected:

Benhall, The Reddings and Fiddlers Green, Hesters Way, Springbank, St Peters, St Marks

Key Decision: No

Executive summary:

A local planning authority generally cannot enforce against itself due to a combination of legal, procedural, and constitutional principles. Enforcement powers are designed to be exercised against third parties, not the authority itself. Consequently, a request was made to Gloucestershire County Council by Cheltenham Borough Council to discharge these duties as appropriate in line with provisions of the Local Government Acts 1972 and 2000.

The purpose of the report is therefore to seek formal approval for the delegation of planning enforcement powers to Gloucestershire County Council enabling them to

act on behalf of Cheltenham Borough Council in relation to land owned by this authority to support the delivery of:

- Golden Valley Development (northern parcel), planning application 23/01874/OUT, and
- Land Off Shelley Road (Monkscroft) planning application 25/00837/FUL.

This report is being presented to Council to ensure the Local Planning Authority can deliver its statutory functions effectively in respect of land in the Borough Councils' ownership. Gloucestershire County Council will be required to formally accept the delegation arrangements. The constitutional mechanism for acceptance of the delegated functions, execution of the delegation agreement and authorisation of the exercise of those functions will be determined by Gloucestershire County Council in accordance with its Constitution and Scheme of Delegation.

This report is a procedural item to ensure we meet our constitutional responsibilities in respect of decision making. The delegation sought is not an executive function and therefore requires the approval of Full Council.

Recommendations: That Council:

- 1. approves the delegation of planning enforcement powers to Gloucestershire County Council under Section 101 of the Local Government Act 1972 and Section 9D of the Local Government Act 2000.**
 - 2. authorises the Director of Planning and Building Control, in consultation with the Monitoring Officer, to finalise and enter into a formal delegation agreement with Gloucestershire County Council.**
 - 3. agrees that the arrangement be reviewed annually by the Director of Planning and Building Control in consultation with the Monitoring Officer and Cabinet Member for Planning and Building Control to ensure effectiveness and continued alignment with strategic planning and land management objectives.**
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4. Implications

1.1 Financial, Property and Asset implications

Gloucestershire County Council have advised that the responsibility for enforcement as set out in this report can be absorbed by the Gloucestershire County Council Enforcement Team with provisions in place for Cheltenham Borough Council to compensate Gloucestershire County Council for any 'reasonable' expenses incurred. It is not considered likely that this will place significant resource burden on

Gloucestershire County Council.

Signed off by: Ela Jankowska, Finance Business Partner,
ela.jankowska@cheltenham.gov.uk

1.2 Legal implications

Section 101 of the Local Government Act 1972 makes provision for the delegation of council functions to other authorities.

Pursuant to Section 101 of the Local Government Act 1972 a local authority may arrange for the discharge of any of their functions by a committee, a subcommittee or an officer of the authority or by any other local authority. Section 111 of the Local Government Act 1972 permits a local authority to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions. These powers are considered appropriate to enable Cheltenham Borough Council to delegate its functions as the enforcing local planning authority to Gloucestershire County Council.

Section 9D of the Local Government Act 2000 together with the Local Authorities (Arrangements for the Discharge of Functions) Regulations 2012 govern how local authorities can delegate their responsibilities to other bodies, such as another local authority, an executive of another authority, or joint committees. These regulations allow for arrangements where a local authority can arrange for another authority's executive or committee to perform its functions

The approval of this delegation will facilitate the delivery of the development on this land and the proper enforcement of any future planning breaches in the defined area set out in this report.

The delegation sought is not an executive function and therefore requires the approval of Full Council.

Signed off by: Alison McKane, Interim Deputy Monitoring
Officer, alison.mckane@cheltenham.gov.uk

1.3 Environmental and climate change implications

N/A this report details a process issue.

Signed off by: Maizy McCann, Climate Officer, Maizy.mccann@cheltenham.gov.uk

1.4 Corporate Plan Priorities

This report contributes to the following Corporate Plan Priorities

- Securing our future
- Quality homes, safe and strong communities
- Reducing carbon, achieving council net zero, creating biodiversity

1.5 Equality, Diversity and Inclusion Implications

The delegation as recommended by this report will not adversely affect any protected groups. It is expected to enhance service delivery and responsiveness to community concerns regarding any future planning breaches in the defined area set out in this report.

1.6 Performance management – monitoring and review

Should Council support the delegation as recommended by this report a joint review will be conducted annually by the Director Planning & Building Control (Cheltenham Borough Council) and Director of Growth (Gloucestershire County Council) to assess the effectiveness of the delegation arrangement and identify any necessary adjustments, the Councils Monitoring Officer and Cabinet Member for Planning and Building Control will be engaged in this review.

2 Background

2.1 Cheltenham Borough Council owns land within the strategic allocation of West Cheltenham allocated by the [Gloucester, Cheltenham and Tewkesbury Joint Core Strategy](#). This land ownership is detailed on plan A below.

2.2 In addition, Cheltenham Borough Council owns land off Shelley Road, known as Monkscroft. This land ownership is detailed on plan B below.

Plan A - Golden Valley Development (northern parcel), planning application 23/01874/OUT



Plan B - Land Off Shelley Road (Monkscroft) planning application 25/00837/FUL



2.3 On 23rd April July 2026, Cheltenham Planning Committee permitted application 23/01874/OUT subject to:

- a) the conditions as set out or substantially similar as may be agreed under

delegated authority given to the Head of Planning; and

- b) completion of a S106 obligation and/or other legal document to deliver the infrastructure and other mitigation, as set out in this report at paragraphs 7.265 to 7.278, and for alterations to s106 heads of terms as may be agreed under delegated authority given to the Head of Planning in consultation with the Chairman and Vice Chairman of the Planning Committee.
- c) In the event that the S106 obligation and/or other legal document remains unsigned nine months after this resolution, that the application be reviewed by the Head of Planning in consultation with the Chairman and Vice Chairman of the Planning Committee, and if no progress is being made delegated authority is given to the Head of Planning to refuse the application in the absence of an agreed S106 Agreement.

2.4 On 22nd January 2026, Cheltenham Planning Committee permitted application 25/00837/FUL subject to conditions and s106 agreement. At paragraph 6.12.16 of this report it stated;

“In this case, as the council is both the local planning authority (the decision-maker) and the applicant/landowner, and consequently cannot covenant with itself (required as s106 obligations are entered into as a deed), alternative options would need to be explored. The most likely option would be a two-tier authority approach, whereby it is possible for the planning authority to enter into an agreement with another tier authority (the county council) to make the s106 obligations enforceable”.

2.5 As noted in the extract of the committee report above, a local planning authority generally cannot enforce against itself due to a combination of legal, procedural, and constitutional principles - Enforcement powers are designed to be exercised against third parties, not the authority itself. The purpose of this report is therefore to:

- Ensure impartiality should there be a need for any enforcement decisions in respect of the delivery of the planning consent 23/01874/OUT and any future reserved matters applications and the planning consent 25/00837/FUL.
- Facilitate the conclusion of the S106 Agreement to ensure that the Council has suitable provisions in place to meet its statutory responsibilities in respect of planning enforcement.
- Ensure effective oversight and timely enforcement action on this land—particularly where development, use, or breaches may occur—it is proposed that enforcement powers be delegated to Gloucestershire County Council.

This will allow them to act on our behalf in accordance with planning legislation and local enforcement protocols.

2.6 This arrangement will support the responsible management of our landholdings and ensure that planning control is maintained in line with both authorities' strategic objectives.

3 Summary of Enforcement Responsibilities

3.1 This summary outlines the scope and nature of planning enforcement responsibilities to be delegated to Gloucestershire County Council in relation to land owned by Cheltenham Borough Council as detailed above. The final scope as recommended by this report is delegated to the Director of Planning & Building Control and Monitoring Officer. The following summaries the activities in enforcement. For the avoidance of doubt, Cheltenham Borough Council will continue to undertake any monitoring of the developments, conduct the initial investigation of any alleged breaches and compile evidence. Gloucestershire County Council will act as the independent authority should formal enforcement action ultimately become necessary.

Investigation of Alleged Breaches: Including unauthorised development, change of use, non-compliance with conditions, and breaches of planning control on council-owned land.

Site Inspections and Evidence Gathering: Authority to enter land, take photographs, and collect evidence in accordance with statutory powers under the Town and Country Planning Act 1990.

Issuing Formal Notices: Including Planning Contravention Notices (PCNs), Enforcement Notices, Breach of Condition Notices (BCNs), and Stop Notices where appropriate.

Negotiation and Resolution: Authority to engage with occupiers, developers, and other stakeholders to resolve breaches through informal means where possible.

Prosecution and Legal Action: Initiating legal proceedings for non-compliance, subject to prior consultation with Cheltenham Borough Council and in accordance with agreed protocols.

Monitoring Compliance: Ensuring compliance with enforcement notices and conditions, including follow-up inspections and reporting

3.2 The following responsibilities will remain with Cheltenham Borough Council:

- Strategic decisions regarding land use and future development of council-

owned land.

- Authorisation of enforcement action that may have significant financial, reputational, or legal implications.
- Oversight of enforcement priorities and alignment with corporate land management objectives.

These requirements will be formally documented in a delegation agreement to be entered into between Gloucestershire County Council and Cheltenham Borough Council. The Section 106 Agreement will also include a schedule setting out the delegation of enforcement of any breaches of the obligations owed to Cheltenham Borough Council under the Section 106 Agreement and including an indemnity clause which will indemnify Gloucestershire County Council for any proper and reasonable costs incurred by them in undertaking the above functions on behalf of Cheltenham Borough Council.

Reasons for recommendations

3.3 Delegating planning enforcement powers to Gloucestershire County Council in respect of land owned by Cheltenham Borough Council is a practical and legally sound solution which provides transparency and impartiality. It supports effective land management and ensures planning enforcement is carried out in a timely and coordinated manner.

4 Alternative options considered

4.1 An alternative option would be to request support on this matter from another local authority.

5 Consultation and feedback

5.1 In the preparation of this report consultation has taken place with:

- Team Manager Planning Development – Gloucestershire County Council
- Chief Executive – Cheltenham Borough Council
- Interim Monitoring Officer – Cheltenham Borough Council
- Cabinet Member for Planning & Building Control

6 Key risks

6.1 See Appendix 1.

Report author:

Tracey Birkinshaw, Director Planning & Building Control,
tracey.birkinshaw@cheltenham.gov.uk

Appendices:

- i. Risk Assessment
- ii. Equality Impact Assessment – Screening

*To note a climate impact assessment is not relevant to this report as it details a process issue.

Background information:

N/A

Appendix 1: Risk Assessment

Risk ref	Risk description	Risk owner	Impact score (1-5)	Likelihood score (1-5)	Initial raw risk score (1 - 25)	Risk response	Controls / Mitigating actions	Control / Action owner	Deadline for controls/ actions
01	Should an appropriate solution not be agreed to delegate planning enforcement powers in respect of land holdings in the ownership of Cheltenham Borough Council as detailed in this report then the local planning authority will not have appropriate controls in place to enforce against any future breaches in planning arising related to permitted applications (once S106 signed) and any future reserved matters applications.	Director Planning & Building Control	4	2	8	Active engagement with: - Gloucestershire County Council - Monitoring Officer - Chief Executive Avoid risk by working proactively on a suitable solution for delegation.	Report to Cheltenham Council 20/07/2026 requesting authorisation to delegate enforcement Delegation of Planning Enforcement to Gloucestershire County Council Gloucestershire County Council will be required to formally accept the delegation arrangements. The constitutional mechanism for acceptance of the delegated functions, execution of the delegation agreement and authorisation of the exercise of those functions will be determined by	Director Planning & Building Control – Cheltenham Borough Council Team Manager Planning Development	Report to Council 20/07/2026 GCC constitutional arrangements

Risk ref	Risk description	Risk owner	Impact score (1-5)	Likelihood score (1-5)	Initial raw risk score (1 - 25)	Risk response	Controls / Mitigating actions	Control / Action owner	Deadline for controls/ actions
							Gloucestershire County Council in accordance with its Constitution and Scheme of Delegation		

Appendix 2: Equality Impact Assessment (Screening)

1. Identify the policy, project, function or service change

a. Person responsible for this Equality Impact Assessment

Officer responsible: Tracey Birkinshaw	Service Area: Planning
Title: Director Planning & Building Control	Date of assessment: 17 th June 2026
Signature: Tracey Birkinshaw	

b. Is this a policy, function, strategy, service change or project?

Function

If other, please specify:

c. Name of the policy, function, strategy, service change or project

Planning Enforcement

Is this new or existing?

Other

Please specify reason for change or development of policy, function, strategy, service change or project

This is a specific change given that local planning authorities generally cannot enforce against themselves due to a combination of legal, procedural, and constitutional principles - Enforcement powers are designed to be exercised against third parties, not the authority itself. Given landownership by Cheltenham Borough Council in respect of the sites detailed in this Council report, an appropriate delegation to another local planning authority to undertake any enforcement activities arising is required to ensure communities are supported and there is clear transparency and impartiality.

d. What are the aims, objectives and intended outcomes and who is likely to benefit from it?

Aims:	To fulfil statutory responsibilities of Cheltenham Borough Council in its role as local planning authority
Objectives:	As above.

Outcomes:	To effectively address any future breeches in planning related to permitted applications detailed in this report (once S106 signed)
Benefits:	Supporting local communities by actively addressing any future breeches in planning related to permitted applications (once S106 signed)

e. What are the expected impacts?	
Are there any aspects, including how it is delivered or accessed, that could have an impact on the lives of people, including employees and customers.	Yes
Do you expect the impacts to be positive or negative?	Positive
Please provide an explanation for your answer:	
By delegating defined responsibilities to a neighbouring local planning authority, Cheltenham Borough Council can ensure its statutory responsibilities are fulfilled.	

If your answer to question e identified potential positive or negative impacts, or you are unsure about the impact, then you should carry out a Stage Two Equality Impact Assessment.

f. Identify next steps as appropriate	
Stage Two required	No
Owner of Stage Two assessment	
Completion date for Stage Two assessment	