

Technical Advice Note: Assessing Residential Amenity

June 2016

Introduction

This technical advice note has been prepared to assist applicants in understanding how the Council considers residential amenity when assessing planning applications and planning enforcement investigations. This note has been prepared to support the policies contained in the South Gloucestershire Local Plan: Policies, Sites and Places Plan. This plan, when adopted, will sit alongside the South Gloucestershire Local Plan Core Strategy (Adopted) December 2013 as the Council's up-to-date Local Plan. The combination of these documents may also be referred to as the 'Development Plan' for the District.

In accordance with planning law, applications for planning permission should be determined against the policies of the Development Plan, unless material considerations indicate otherwise. The key policy within the Development Plan for assessing residential amenity is policy CS1 - High Quality Design. This policy requires all development within the District to meet 'the highest possible standards of site planning and design'. When adopted, policies PSP1 - Local Distinctiveness, PSP8 - Residential Amenity, and, PSP43 Private Amenity Space Standards will become part of the Development Plan and can be given full weight when assessing residential amenity. These policies respond to the requirement set by the National Planning Policy Framework for development to always seek a good standard of amenity for all existing and future occupants¹.

This technical advice note has been prepared to provide applicants with some interpretation on how the above policies are applied and what is likely to have unacceptable impacts on living conditions. As a technical advice note, this document does not form part of the Development Plan and does not have the status of a Supplementary Planning Document (SPD). However, given its technical content, this note may be a material consideration in determining planning applications and enforcement investigations. This note has been designed to provide guidance only. The guidance within it will be given appropriate and relevant weight as part of the overall planning balance on a case-by-case basis.

Early engagement with residential amenity considerations in the design process is advised. Pre-application advice is available from the Council which can assist in identifying potential amenity impacts. Details of the services which the Council offer can be found in the further information section at the end of this note and on the Council's website, www.southglos.gov.uk.

The principles of this advice note can be applied to all types of development. Where development is 'permitted development' by virtue of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any Order revoking and re-enacting that Order with or without modification, the guidance contained in this note is still relevant. Applicants are therefore advised to consider the contents of this note in relation to permitted development, including cases where the Council has limited, or indeed no, remit in assessing such proposals.

This note is intended to replace all previously issued policy guidance relating to residential amenity and living conditions.

¹ Department of Communities and Local Government, National Planning Policy Framework, 2012, para.17

What is Residential Amenity?

Residential amenity is not defined in law. In planning terms, 'amenity' is often used to refer to the quality or character of an area and elements that contribute to the overall enjoyment of an area. Residential amenity considers elements that are particularly relevant to the living conditions of a dwelling.

Residential amenity has a significant and valuable impact on the way in which people use their homes. The health and well-being of residents is often directly related to the level of residential amenity occupants can enjoy. It is a duty of the planning system to support sustainable development². Sustainable development incorporates a social role which seeks to secure well designed, strong, vibrant and healthy communities³.

When assessing how a development proposal may impact on the existing amenity of an area and living conditions of nearby occupiers, the following issues would be significant:

1. Privacy
How would the development proposals affect privacy levels?
2. Overbearing effects
Would the scale of development and its proximity to other buildings result in an oppressive environment?
3. Natural light and outlook
Would the development provide existing or proposed properties with sufficient outlook and natural lighting levels thereby avoiding significant overshadowing and enclosure?
4. Environmental effects
Would the development cause or be exposed to any other environmental effects?
5. Other design guidance
How does the design of the proposal promote a good standard of amenity?

² Department of Communities and Local Government, National Planning Policy Framework, 2012, para.6

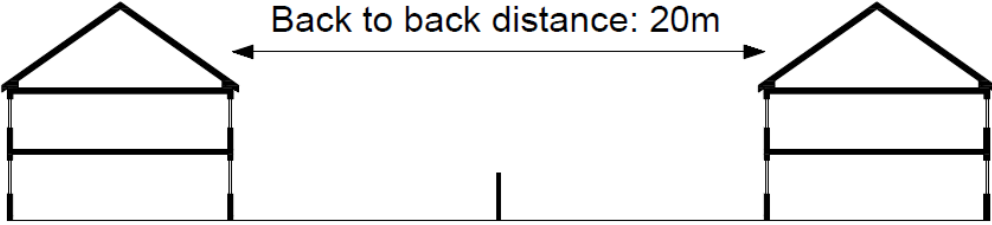
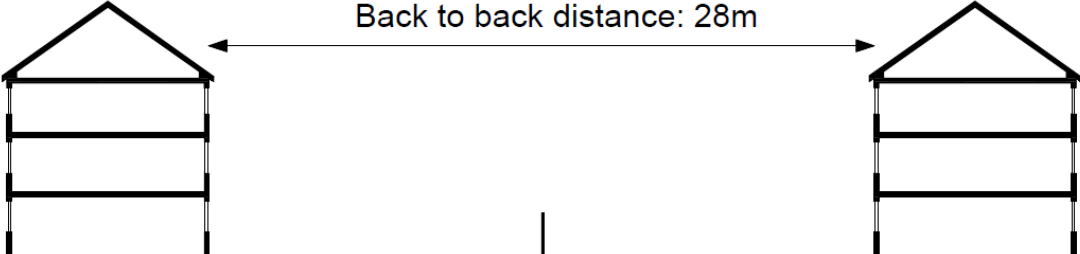
³ Department of Communities and Local Government, National Planning Policy Framework, 2012, para.7

1. Privacy

The best way of ensuring privacy for new and existing housing is to ensure that windows do not look onto private areas. 'Private areas' can be regarded as both rooms within a house and the garden area immediately to the rear of a house, as this part of the curtilage tends to make the biggest contribution to the enjoyment of the property.

Window-to-Window Distances

To ensure levels of privacy are protected, overlooking and inter-visibility between primary living accommodation⁴ should be resisted. This can be achieved through sufficient separation distances which can avoid any unacceptable loss of, or reduction in, levels of privacy.

Window-to-Window Distances
Where windows serving primary living accommodation in the rear of a dwelling face another dwelling, development that demonstrates that the following separation distances to ensure privacy levels are protected, will be considered to reflect the highest possible standards of design.
<ul style="list-style-type: none">2-storey dwellings: back-to-back distance of 20 metres 
<ul style="list-style-type: none">2 or more-storey dwellings: back-to-back distance of 28 metres 

Whilst the window-to-window separation distances stated are sufficient to protect residential amenity, they should only be used as the starting point in any assessment. The characteristics of the site may allow some degree of variation from the window-to-window distances. For example -

⁴ Rooms providing 'primary living accommodation' are the principal rooms of a house, such as the living room, dining room, study, kitchen and bedrooms. Circulation space, such as the hall, stairs or landing, toilet, or utility rooms are unlikely to be considered primary living accommodation.

- Where there is a difference in ground level between buildings:
In these instances, the separation distance may need to be increased in order to mitigate the increase in overlooking caused by the elevation of one building in respect to the other.
- Where houses face each other at an angle:
The more oblique the relationship between dwellings (typically 30° or more), the less likely it is that there would be inter-visibility between rooms. In these instances, the separation distance may be reduced without a detrimental impact on privacy levels.
- Where the impact on privacy levels can be satisfactorily mitigated:
For example, through the use of obscure glazing and restricted openings (for the avoidance of doubt, it would not be acceptable for principal rooms to only have obscure glazed windows).
- Where due regard is given to the character and context of an area:
There are numerous areas in South Gloucestershire where development that fails to meet the separation distances may not result in harm to amenity. This is due to the existing relationship between different elements of the built form. For example, communities in 'inner-urban' areas are often typified by tight-knit, higher-density, housing where different residential units have a successful 'cheek-by-jowl' relationship. In such areas, it may be possible for applicants to demonstrate that shorter separation distances would be acceptable as there would be no harmful impact on amenity.

There are no minimum separation distances where dwellings front one another across the public realm, for example a street, as the land is usually already subject to overlooking. However, consideration will be given to the prevailing separation distances in the locality. Proposals that fail to respect the existing development pattern are unlikely to be considered to meet the highest possible standards of design.

Balconies

Although balconies can help improve the level of residential amenity offered to a dwelling, the provision of a balcony can have a significant impact on privacy levels.

A balcony is defined as a platform with a rail, balustrade or parapet, projecting outside an upper storey of a building. This differs from a Juliet balcony; a Juliet balcony does not usually permit external access⁵. When assessing amenity, Juliet balconies are considered more like a window rather than a traditional balcony that permits external access.

Where proposals include a projecting balcony, it is important that the balcony is sensitively designed. A projecting balcony can increase opportunities for overlooking due to its ability to allow external access. A balcony also has a greater perceived impact on privacy than a window. Where a projecting balcony would allow a direct sideways view over land immediately to the rear of another dwelling, the balcony may be resisted due to its impact on residential amenity.

⁵ Department of Communities and Local Government, Permitted Development for Householders: Technical Guidance, April 2014

In some instances, the relationship with neighbouring properties may enable any overlooking and subsequent loss of privacy to be overcome by the installation of side screens. Any proposed screen would need to be of sufficient height to mitigate the impact of the balcony on residential amenity and meet the highest possible standards of design. Low quality and poorly designed screens are unlikely to be considered acceptable.

Where balconies allow other views, the separation distances suggested for windows (above) should be applied from the rear most section of the balcony. The rear most projecting section of a balcony would be that which is furthest away from the rear wall of the dwelling. In practice, recessed or 'internal' balconies which form part of the shell of the building often have the least impact on residential amenity and may be considered an appropriate alternative.

Best Practice

In reality many amenity issues can be avoided by instigating a high quality approach to design. Where applicants struggle to finalise a design without properly and fully considering its impact on privacy, it is often an indication that the proposal is unsuited to the site and the development should be reconsidered.

Whilst some impacts on privacy are tangible and quantifiable, others are much more opaque and difficult to measure. The perceived loss of privacy, through the presence of windows and balconies (external or otherwise), can have an impact on residential amenity and development proposals should seek to minimise such impacts.

2. Overbearing Effects

'Overbearing' is a term used to describe a dominating impact of development on its surroundings or on a nearby property. Whether a proposed development is considered to be overbearing will differ on a case-by-case basis, and the assessment is dependent on a number of factors.

Overbearing impacts can be caused by:

- the physical 'presence' of a building - its scale and mass;
- an oppressive feeling as a result of the development;
- an intrusive feeling as a result of the development.

Proposals that result in an overbearing impact on the residential amenity of nearby occupiers will not be considered to meet the highest possible standards of design and are therefore more likely to be resisted.

Best Practice

In considering planning applications and enforcement investigations, the relationship between the proposal and the surroundings will be considered. Well designed, high quality schemes are the best way to avoid issues of overbearing. Where applicants struggle to finalise a design without an overbearing impact, it is often an indication that the proposal is unsuitable.

The guidance contained in the following section on natural light and outlook is also particularly relevant to understanding and assessing an overbearing impact. When a development has a prejudicial impact on natural light and outlook it is highly likely that the development would also be considered overbearing. Therefore, advice in relation to natural light and outlook should also be considered in relation to overbearing effects.

3. Natural Light and Outlook

The design solutions to these two issues are often interlinked, so both are considered here. In terms of definitions, neither are defined in law. For the purposes of assessing the impacts of development on residential amenity **'outlook'** is taken to mean what you look out on to, such as the prospect from a window. **'Natural light'** refers to the amount of ambient light that enters a room from all directions during the course of a day.

Rooms of primary living accommodation should have sufficient natural light to allow the room to be comfortably used. Primary living accommodation should not have an unenclosed or oppressive outlook. Areas of garden immediately to the rear of a house offer the highest amenity value. These areas should benefit from sufficient natural light to enable them to be comfortably used.

Natural Light

Natural light is important to residential amenity because it makes a home a pleasant and healthy place in which to live. In the initial design stages, consideration should be given to the orientation of the proposal so that it can benefit from the most natural light. Natural light is also beneficial in reducing energy demand by providing passive heating and lighting. Development should aim to ensure that every house receives the maximum natural light throughout the year. When this is difficult to achieve, for example a single-aspect flat that faces north, all reasonable attempts should be made to increase natural light levels. Examples of possible methods include larger windows and introducing natural light internally.

Is there such a thing as a right to light?

The 'right to light' is related to planning considerations on natural light but it is not distinguished as a consideration in its own right. The right to light is an easement established under common law. It may be acquired by 'anyone who has had uninterrupted use of something over someone else's land for 20 years without consent, openly and without threat, and without interruption for more than a year'⁶.

In general, easements are civil matters and do not come under planning law. The planning system will seek protection, by resisting development with overbearing impacts, but does not grant a right to light⁷. More information regarding the right to light is published by the Royal Institute of Chartered Surveyors and can be found on their website,

⁶ Royal Institute of Chartered Surveyors, Consumer Guide: A clear impartial guide to Right to Light, October 2013

⁷ The Law Commission, Rights to Light, Law Com no.356, December 2014

<http://www.rics.org/uk/>. If you have concerns regarding the right to light and the impact of development, you are advised to seek professional legal advice.

Outlook

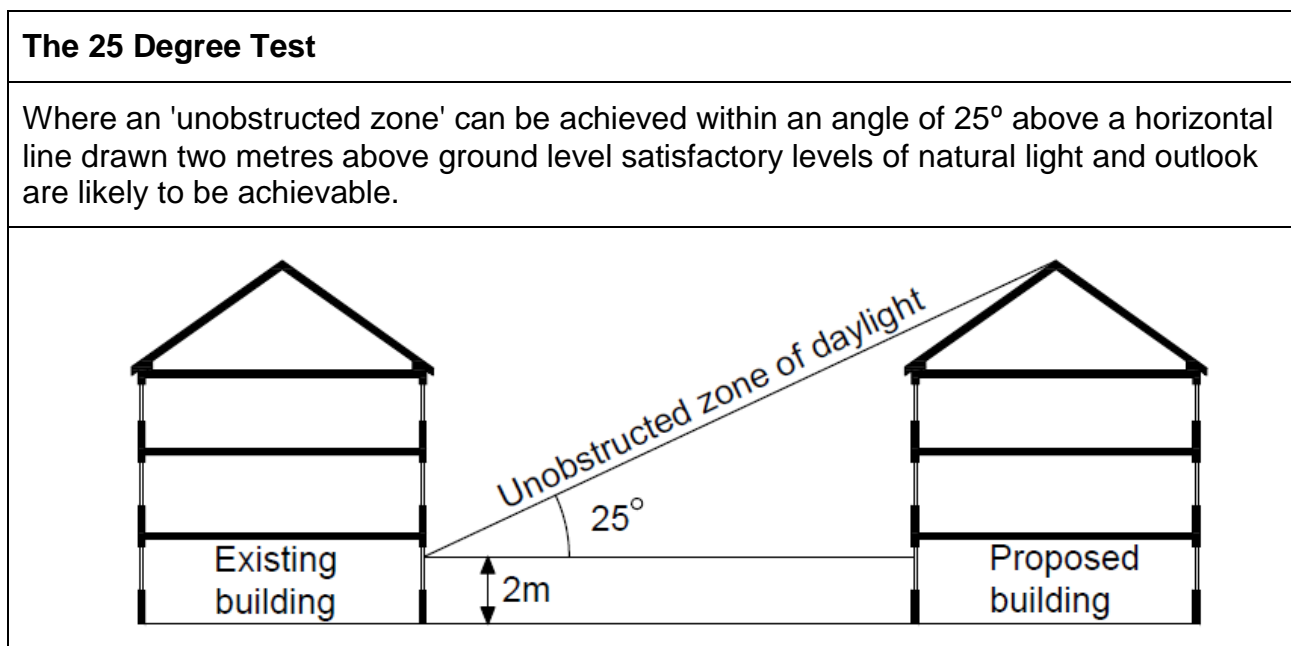
As with natural light, outlook is important as a dwelling without an outlook is an undesirable place to live. The planning system has been established to work in the public interest and therefore it does not afford protection to a specific private view. However, it is reasonable for development to secure high quality and healthy living conditions for occupants by ensuring an acceptable outlook. Important public views that make a significant contribution to the character of an area may be a consideration under policy PSP1 and PSP2 (Landscape) but are unlikely to be a residential amenity consideration. Development which results in prejudicial harm to the outlook of a residential property will not be considered to reach the highest possible standards of design. As a result it is more likely such proposals will be resisted.

Best Practice

There is no hard and fast rule as to how the impact of development on natural light and outlook should be considered. As with the other topics covered in the note, a high quality design often prevents such impacts from occurring. Nevertheless, when assessing planning applications and enforcement investigations, the following tools are available to assist in making a judgement.

25 Degree Test

In order to ensure that development benefits from adequate levels of natural light and outlook, the 25 degree test can be applied. To pass this test, no facing building should break a 25° angle from a horizontal point two metres above ground level when on a level surface. Changes in the ground level over a site would need to be factored in to the assessment separately.



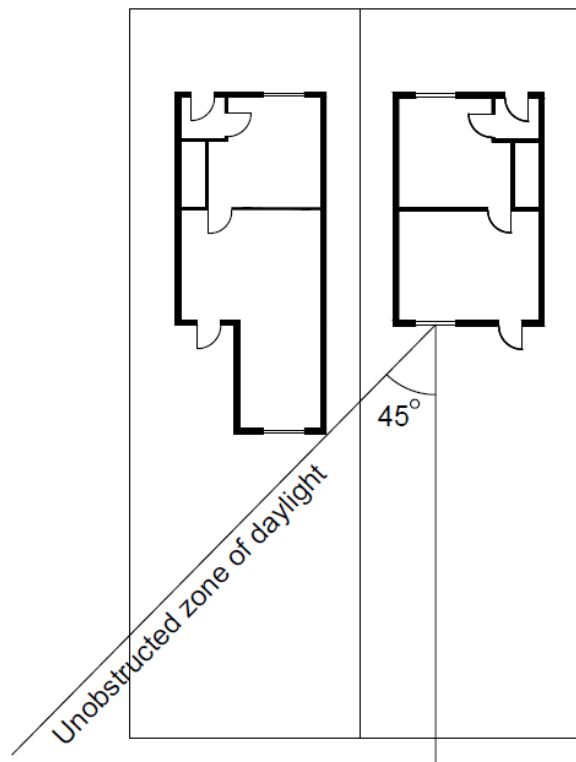
45 Degree Test

The 45 degree test looks at the horizontal rather than the vertical layout to ensure adequate levels of natural light and outlook. Under this test, no part of a building should break an angle of 45° drawn from the centre of a window in a room of primary living accommodation.

The 45 degree test is fairly basic and does not take into account the height of the proposed development. A two-storey extension would have a more significant impact than a single storey extension. Any assessment will also need to take into account the impact of existing buildings and boundary treatments.

The 45 Degree Test

Where an 'unobstructed zone' can be achieved within an angle of 45° drawn from the centre of the affected window satisfactory levels of natural light and outlook are likely to be achievable.



Window-to-Wall Test

Whilst window-to-window distances are aimed at protecting privacy, the window-to-wall test protects natural light and outlook. Where a window to a primary room faces onto the blank elevation of another building, a separation distance of 12 metres should be maintained. Where a separation distance of 12 metres or over is achieved, it is unlikely that development would provide insufficient levels of natural light or outlook. Where a separation distance of this length cannot be achieved, the blank elevation is likely to become a dominant and overbearing feature to the detriment of amenity.

4. Environmental Effects

All development proposals should consider the effect on residential amenity of noise, air quality, odour, and light. The extent to which any of the above factors may be harmful is dependent on the character of the area and the circumstances of the case.

Particular care to the above factors should be given when development proposes primary living accommodation on the ground floor of a building in close proximity to a busy road. In such instances adequate mitigation of any impact would be expected or the development would not be considered to meet the highest possible standards of design and is likely to be resisted.

Considerations which apply to air quality will, in many cases, apply equally to noise. Where there are high levels of pollution from traffic, there will also tend to be high ambient noise levels. Development should be designed to alleviate the impacts of this. Inevitably, mitigation measures that alleviate one will, to a large extent, benefit the other.

High quality design can be used to help provide protection to amenity from environmental effects. When there is concern that residents (both existing and future) would suffer from a harmful environmental impact, the following design solutions should be considered:

- set back upper floors and/or the introduction of recessed balconies
- provide internal courtyards onto which primary living accommodation may face
- plan parking areas on the ground floor and at the front of the building
- include areas of secure and private space to provide amenity space to residents

Excessive or inappropriately placed artificial light can also have an adverse effect on people and wildlife whilst also wasting energy. In designing any larger scale development, the proposed and existing lighting levels should be considered so the impact on the existing and proposed occupiers can be assessed and managed.

5. Other Design Guidance

Living conditions are vastly influenced by design quality. It is not the purpose, nor within the scope, of this note to provide detailed design guidance. However, there are some elements of design that directly relate to residential amenity quality. These include:

- site characteristics and requirements
- internal layout
- outdoor amenity space

Site Characteristics and Requirements

As stated above, this note is not intended to provide detailed design guidance. Instead, this section is included to highlight aspects of development design which have a significant interrelationship with residential amenity. To ensure acceptable living conditions, consideration should be given to the impact of the following aspects of development on residential amenity:

- position, ease of accessibility, and safety of parking spaces (detailed guidance on parking provision is published in the Council's *Residential Parking Standard SPD*, December 2013)
- position, ease of accessibility, and capacity of waste and recycling storage (detailed guidance on this subject is published in the Council's *Waste Collection: Guidance for New Developments SPD*, January 2015)
- provision and position of outbuildings, i.e. garden shed

Internal Layout

The size, shape and layout of a property has a direct effect on how comfortable it is to live in. Internal layout is important as it dictates how the space in a dwelling is used and makes rooms attractive and usable. Layouts which allow as much interconnection between rooms of primary living accommodation as possible often result in higher levels of use of each room, and subsequently better and healthier living conditions for the occupants.

The Government has produced the Nationally Described Space Standard⁸. Housing market conditions in the District have been found to be able to support the National Described Space Standard. Therefore, weight may be attributed to the internal layout as part of wider residential amenity considerations. Development that falls below the Nationally Described Space Standard is unlikely to be considered to meet the highest possible standards of design and may be resisted.

Outdoor Amenity Space

The availability, accessibility, utility and size of outdoor amenity space or gardens has an impact on the living conditions of a property. Policy PSP43 sets a minimum private amenity space standard for all new residential units, including the sub-division of existing residential units. The policy requires outdoor amenity space to:

- take into account context and character
- be private, useable, functional and safe
- be easily accessible from primary living accommodation
- be orientated to maximise sunlight, and
- be of a sufficient size and shape to meet the needs of the occupants

In order to meet the requirements of PSP43, outdoor Private Amenity Space Standards should not blindly meet the minimum size without due consideration of the design and layout. For example, a garden which meets the minimum size standard but which is on steeply sloping land is unlikely to be useable. Therefore, both the size and quality of the proposed outdoor amenity space would be a consideration.

High quality and well-designed outdoor amenity space is fundamental to achieving an acceptable standard of development which offers a good standard of amenity to future occupiers.

⁸ Department for Communities and Local Government, Technical Housing Standards - Nationally Described Space Standard, March 2015: <https://www.gov.uk/government/publications/technical-housing-standards-nationally-described-space-standard>

Use of Planning Conditions

A planning condition may be attached to a planning permission. A condition is usually used to require applicants to submit further information for assessment or to limit, control or direct the manner in which development can be carried out⁹.

Conditions may be used to secure mitigation measures that have been proposed to reduce the impact of development on residential amenity. Examples may include conditions requiring the installation of privacy screens, fences, or which require the use of obscure glazing. Conditions can also be used to place restrictions on window openings, or indeed prevent new windows from being installed.

When a condition is imposed it is not an absolute blanket restricting all future development. In practice, it means a planning application would be required for any development to which the condition relates. In the course of the subsequent planning application, the impact of the proposal on residential amenity will be considered. The fact that something may be contrary to a condition is not sufficient reason to resist that development. The development would only be resisted where it would cause demonstrable harm to residential amenity.

All planning conditions must meet the tests of a condition, as set out in the National Planning Policy Framework¹⁰. These tests require planning conditions to be: necessary; relevant to planning and to the development to be permitted; enforceable; precise; and, reasonable in all other respects. If a condition fails to meet these tests, the Council cannot apply it. This may result in the proposal being considered unacceptable as the impact on residential amenity cannot be satisfactorily mitigated.

The Overall 'Planning Balance'

Determining planning applications and considering enforcement investigations is a process of balancing and mitigating the impacts of development. In order to do this, Planning Officers apply varying degrees of weight to different aspects of the development depending on the level of harm. Therefore, it should not be assumed that a proposal which fails to meet all, some, or even any of the above tests would be refused. An application would only be refused when, on balance and in the public interest, the cumulative impact of the development outweighs the benefits.

Further Information

If you require further information, or a site-specific discussion, you are advised to submit a request for pre-application advice to the Council. Details of how to submit a request and the scale of fees are available on the Council's website www.southglos.gov.uk or by calling the Customer Contact Centre on **01454 868004**.

⁹ Planning Portal, Glossary, www.planningportal.gov.uk

¹⁰ Department of Communities and Local Government, National Planning Policy Framework, 2012, para.206