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[Home](#) > [Planning, buildings and land](#) > [Planning](#) > [Development Management Planning Enforcement Plan](#)

# Development Management Planning Enforcement Plan

This supplemental Enforcement Plan relates to the service area for Development Management and should be read in conjunction with the [General Statement of Enforcement Policy](#) adopted by Dorset Council which sets out the overarching principles of enforcement for all Council functions and which has been formulated with regard to relevant legislation and codes, including the Legislative and Regulatory Reform Act 2006 and the Regulator's Code.

1. [Introduction](#)
2. [Dealing with notifications of alleged breaches](#)
3. [Steps relating to enforcement investigations and action](#)
4. [Entry onto the land](#)
5. [Expectations of Dorset Council](#)

## 1. Introduction

Local Planning Authorities have a duty to consider investigating all breaches of planning control received. However, the actions to be taken for such investigation and, in particular, the power to take formal enforcement action is discretionary and must be reasonable and proportionate. Formal action should only be taken where the breach causes serious harm or is against adopted Planning Policies. Even then, if action is taken, it must be reasonable in the circumstances, and proportionate to the harm being caused.

1.1 Development Management is a service concerned with the development and use of land; it seeks to ensure that changes to our physical surroundings – buildings and land – are appropriate for their purposes and location and in line with policies and principles set out at national and local level.

1.2 The purpose of this enforcement plan is to provide a framework to ensure that the council works in an equitable, practical and consistent manner. We recognise that prevention is preferable and therefore we will work to encourage people to comply with legal obligations but formal action including prosecution will be taken if it is in the public interest to do so. It must be remembered that formal enforcement action can take many months to conclude in more complex cases or where there is a request to rectify breaches.

1.3 We will seek to prioritise and direct effort using all available information on a particular case, assessing the risks involved in taking or not taking action and give due consideration to the likelihood of compliance and non-compliance and ensure that enforcement action is necessary and proportionate to the matter concerned.

1.4 We will adopt a similar approach to how we investigate matters in respect of similar case circumstances but recognising that in planning matters each case must be considered on its own merits and under appropriate national and local policies.

1.5 We are committed to the open provision of information where this is possible under the GDPR and will provide advice in a format that is accessible and easily understood. Where requested information will be made available in other languages and formats.

1.6 We will be clear in making a distinction between what is required in law and those actions which we recommend as best practice but which are not compulsory. We will also ensure that we work in cooperation with other agencies to provide the best advice possible, though mindful of the sharing of data under the GDPR.

## **2.0 Dealing with notifications of alleged breaches**

2.1 In normal circumstances notifications to the Council of alleged breaches relating to planning matters will be received from the public [via the online reporting process](#). Customers will be encouraged and assisted to use the online submission as much as possible, however, for those unable to get access to the web site notifications can be made in the following way;

- notifications submitted in writing; i.e. letter or email
- notifications made by telephone

2.2 Using the online reporting procedure enables complaints/concerns to be assessed, registered correctly and prioritised, according to the severity of the issue being reported. This might include concerns relating to unauthorised works to listed buildings, works in conservation areas and works affecting trees subject to a tree preservation order. Priorities will be based on the degree of risk from the situation, the seriousness of the contravention, the different means of remedying the situation and the particular circumstances of the case. We will also have regard to any legal guidance for example that given in Government circulars and case law.

2.3 It therefore cannot be assumed that every alleged breach notified to the Council will result in a formal enforcement investigation/action being undertaken. For example, it may be that the issues raised in the breach report do not constitute development or is a minor breach of planning law resulting in no material harm or where there is no public benefit in enforcement action being taken.

2.4 The matter reported may also benefit from being permitted development pursuant to the Town and Country Planning (General Permitted Development) Order (England) 2015 as amended, which grants consent to the development without the requirement to apply to the Local Planning Authority.

2.5 If a person(s) notifying the Council of an alleged breach identifies themselves by name and address and requests to be informed of the outcome, the Council will usually seek to advise that person(s) of the result of any investigation and any actions taken by the Council. Anonymous complaints will be given a low priority or may not be investigated at all, depending on the circumstances of each individual report.

2.6 The Council will treat the details of a person notifying the Council of an alleged breach as confidential. However, there will be circumstances under which it may be necessary to divulge those details, for example if the Council relies on information you have provided to take action through the Courts, at planning appeals or where the Council is required by law or statute to make such disclosure etc. Before this occurred the relevant parties would be informed.

## **3.0 Steps relating to enforcement investigations and action**

3.1 Where appropriate, the Council will normally aim to provide a response to a written notification of alleged breach within 28 working days of being registered by the Council.

3.2 The Council will have regard to the provision of any specific statutory provisions, and requirements, relating to the service of planning enforcement notices.

3.3 Where a breach has been identified that is considered to be compliant with Planning Policy and therefore may have received permission or consent had it been applied for before the development was undertaken, a retrospective planning application may be requested and submitted in an attempt to remedy the situation. Under those circumstances the taking of formal enforcement action may be deferred pending determination of the application. Whether or not such deferment occurs will also depend upon the specific circumstances of the case.

3.4 The Council recognises that most people want to comply with the law. Where a breach of planning control has been identified as having occurred, seeking an informal negotiated solution will be preferred to the taking of immediate formal enforcement action. Again, the appropriate manner of dealing with the matter will vary according to the specific facts relating to the matter.

## 4.0 Entry onto the land

4.1 The Council has various statutory powers which enable it to enter land for the purposes of investigating planning related breaches. Consideration will be given to the use of such powers where necessary.

4.2 Where entry onto land is refused or obstructed by the land or property owner, consideration will be given to seeking a warrant of entry from the Magistrates Court.

In the event of a person wilfully obstructing an authorised officer from effecting entry, prosecution proceedings may also be considered.

4.3 It should be particularly noted that the power to take formal action is discretionary. Where a breach of planning control has been identified further action may not be taken for a number of reasons. In Planning law certain breaches can become immune through the passage of time and in those circumstances action cannot be taken.

Central Government guidelines also advise Local Planning Authorities that where planning permission would be granted, without conditions being imposed, then it must consider the expediency of formal action as this may be unreasonable and disproportionate in the circumstances.

## 5.0 Expectations of Dorset Council

5.1 Staff handling cases will be polite and helpful at all times and seek to give clear and simple advice to both those reporting a breach and those who are subject to further investigation. Where needed advice will be provided in writing with clear guidance on actions and timescales involved.

5.2 Staff will be provided with appropriate training and have access to experts in planning enforcement to enable them to pursue actions that are appropriate and proportionate.

5.3 All enforcement investigations must have due regard to the Human Rights particularly in respect of the right to a fair trial and right to respect for private and family life, home and correspondence.

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