

Cabinet

15 October 2024

Development Management: Local Enforcement Plan 2024

For Decision

Cabinet Member and Portfolio: Cllr. S Bartlett, Planning and Emergency Planning

Local Councillor(s): All Cllrs

Executive Director: Jan Britton, Executive Lead for Place

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Report Status: Public (the exemption paragraph is N/A)

Summary

Enforcement is defined as any action by an officer which encourages compliance with legislation enforced by the council. A range of actions are available, including informal interventions (e.g., offering advice/negotiation) through to more formal measures such as prosecution in the courts. As outlined in [Dorset Council General Statement of Enforcement Policy - Dorset Council \(Appendix 1\)](#)

The currently adopted Planning Enforcement Plan (**Appendix 2**) was adopted during the reorganising of the local government across Dorset in 2019 and because of new relevant law, guidance and legislation being introduced it now requires updating.

The key changes proposed in the Development Management Local Enforcement Plan 2024 “LEP”, as compared to the existing are as follows:

- The proposed LEP will provide users with clear plain English guide on the processes involved in an Enforcement investigation.

- Provides clear guidance on how to raise a complaint and the necessary information required.
- Provides the timescales to be expected when registering initial complaints.
- Highlights how Dorset Council prioritises the complaints it receives and the timescales to be expected for an initial site visit by an enforcement officer.
- Provides a step-by-step guide showing the process of an enforcement investigation, including a flow chart mapping that process for additional clarity.
- Provides advice on all other aspects of the planning service including, works to trees, Listed Buildings, Section 106, Community Infrastructure Levy (CIL), Biodiversity net gain (BNG) and Minerals and Waste.
- Provides a list of useful links to both internal and external services.

Recommendation

That Cabinet formally adopt the Development Management Local Enforcement Plan 2024 “LEP” document thereby superseding the currently publicised Development Management Planning Enforcement Plan 2019.

Reason for Recommendation

The Development Management Local Enforcement Plan 2024 “LEP” document sets out Dorset Council’s approach to enforcement matters in line with the National Planning Policy Framework (NPPF).

The NPPF explains that effective enforcement is important to maintain public confidence in the planning system, but that enforcement action is discretionary, and LPAs should act proportionately in responding to suspected breaches of planning control.

The NPPF explains that LPAs 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 investigate alleged cases of unauthorised development and take action where it is considered appropriate.

In November 2023 a review of the Local Enforcement Plan was a requirement that arose from an LGSCO action following a complaint raised through them by a resident.

In January 2024 the Council undertook an audit of the planning enforcement service using SWAP internal audit services. The audit reviewed the following:

- **How the Planning Enforcement policy is followed and applied.**
- The decision-making process for review of complaints/cases, including the amount of formal action taken as a result and efficiency of service response.
- How performance of the service is monitored and reported, including the review of working practices.
- The effectiveness of governance arrangements, such as oversight by senior managers, in ensuring consistency across the Enforcement service sub-teams.

The final report was presented to the Council in March 2024, the assurance opinion was that: ***“there is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.”***

There were several findings as listed below, one of which identified the need to review the Local Enforcement Plan to align with LGSCO recommendation.

(Finding 4)

- Finding 1: The current KPI's do not measure performance metrics aligned with manager requirement.
- Finding 2: There is an inconsistent approach between area teams for daily tasks and when subsequently updating MasterGov.
- Finding 3: Underutilisation of available data due to limited case recording in MasterGov.
- **Finding 4: The Development Management Planning Enforcement Plan requires updating to align with LGSCO recommendations and audit findings.**

- Finding 5: Outstanding legacy cases have had minimal or no progress for over a year.
- Finding 6: The Enforcement Register is not readily accessible to all.
- Finding 7: Officers do not routinely update the Road Map function with their completed training.
- Finding 8: Current MasterGov templates are from legacy Councils and require updating.

The attached Development Management Local Enforcement Plan 2024 “**LEP**” document (**Appendix 3**) – explains in plain English, Dorset Council’s approach to enforcement matters in line with the National Planning Policy Framework. It also explains the Council’s priorities for investigation, explains what will be investigated and it outlines the Council’s general discretionary powers regarding planning enforcement. The LEP document sets out the policy and procedures that the Council will adopt when investigating and, where applicable, remedying breaches of planning control.

It provides a common reference point and guidance on a range of options available to achieve compliance.

It is intended for all users and providers of the service, including:

- Town and Parish Councils and Elected Members
- members of the public,
- other interested parties,

1. **Report**

- 1.1 **Appendix 3** attached to this report sets out the Councils Draft Local Enforcement Plan “LEP” document which Cabinet is asked to adopt as a formal plan document.
- 1.2 The LEP should be read in conjunction with, the Council’s [Dorset Council General Statement of Enforcement Policy - Dorset Council](#) (**Appendix 1**) which sets out the general principles the Council will follow in relation to investigations, enforcements and prosecutions as part of its regulatory functions. Further advice and guidance are also available within the [National Planning Practice Guidance](#) published by Central Government.

- 1.3 Following the Place and Resources Overview Committee, which was held on 12 September 2024, an extract of the minutes is attached (**Appendix 4**) a number of points were raised regarding the LEP as such a number of minor amendments have been made to the plan itself. These amendments are highlighted in the body of the plan itself for ease.
- 1.4 To summarise these amendments are to be found at:
- point 1.4 - where there is a plain English explanation of paragraph 59 of the NPPF. This point also goes on to explain some examples of what could be considered as serious harm in planning.
 - Point 1.7 – explanation of the Councils discretion regarding planning enforcement actions.
 - Point 3.3 – Lists have been removed from text boxes and placed as bullet points for ease.
 - Point 7.3 – Changes regarding how the Council deal with complaints that are not breaches of planning control and the signposting and sharing of details with both internal and external agencies.
 - Point 12.3 – Further detail added providing both consequences and penalties regarding offences to unauthorised works to protected trees.

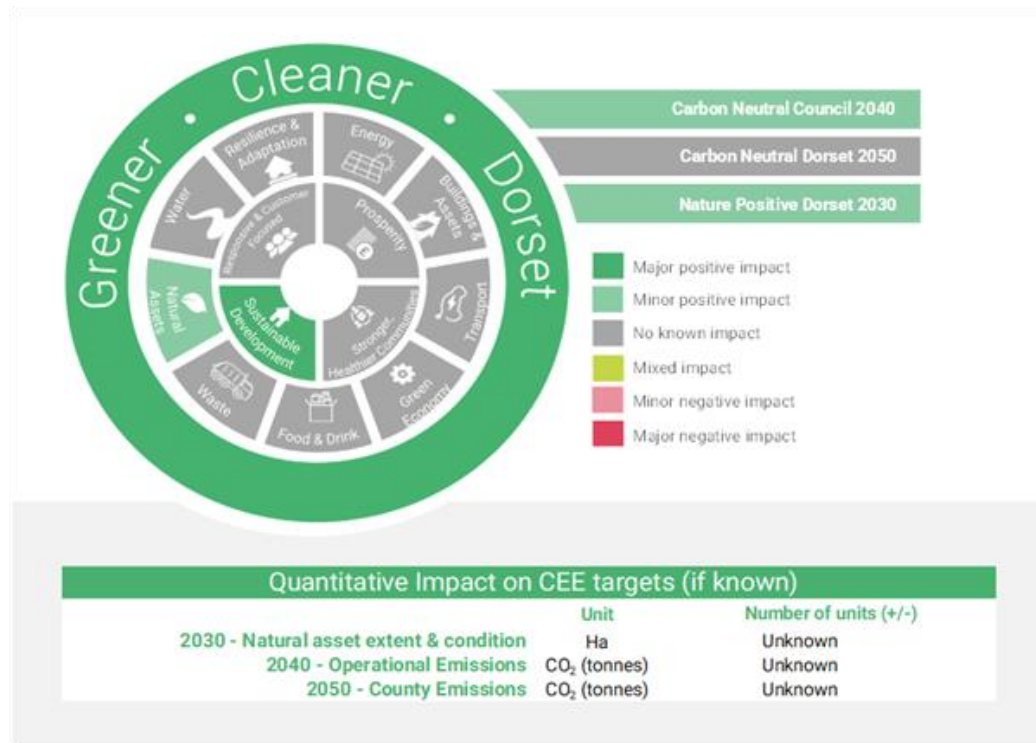
2. **Financial Implications**

- 2.1 The Council has a range of **discretionary** enforcement powers available to it. These include requiring compliance with conditions, issuing an enforcement notice and, usually as a last resort, issuing Court proceedings. Each case is considered on a case-by-case basis where all options are considered including whether to take informal or formal action. Once issued, an enforcement notice can be appealed to the Planning Inspectorate (Secretary of State) and so appeals, along with Court proceedings will have cost implications for the Council.

3. **Natural Environment, Climate & Ecology Implications**

- 3.1 The LEP sets out when it is appropriate to take formal enforcement action. Inappropriate and unauthorised development both in terms of its location and impact can be counter to the council's climate and nature objectives. As such, appropriate enforcement action – and means to strengthen or

clarify our enforcement regime – will assist in supporting the objectives of [mission 5 of the council’s Natural Environment, Climate and Ecology Strategy](#).



4. Well-being and Health Implications

4.1 The LEP sets out when it is appropriate to take formal enforcement action as inappropriate and unauthorised development can have a harmful impact on the well-being and health aspects of people and businesses.

5. Other Implications

5.1 Crime & Disorder implications

5.2 Following the processes set out in the LEP will help to restrict the potential for breaches of planning control to develop into criminal activity.

5.3 Formal planning enforcement action must only be conducted following liaison with Legal Services and in accordance with the Scheme of Delegation.

6. **Risk Assessment**

- 6.1 HAVING CONSIDERED: the risks associated with this decision; the level of risk has been identified as:

Current Risk: Medium

Residual Risk: Low

7. **Equalities Impact Assessment**

- 7.1 EQIA assessments were initially completed as part of the preparation of the Dorset Council Local Plan and for this Enforcement Plan. There was an overall neutral impact, i.e. no change or no assessed significant impact of protected characteristic groups.

- 7.2 The LEP will ensure that matters are dealt with on their planning merits and that matters that might discriminate against people or groups would not carry any weight.

8. **Appendices**

- 8.1 Appendix 1 - Dorset Council General Statement of Enforcement Policy - Dorset Council

Appendix 2 - The current adopted Planning Enforcement Plan.

Appendix 3 - Proposed: Development Management Local Enforcement Plan 2024

Appendix 4 – Minutes extract from Place and Resources Overview Committee held on 12 September 2024

9. **Background Papers**

- 9.1 The National Planning Policy Framework (NPPF) [national-planning-policy-framework](#)

[How to report a Planning Enforcement issue](#)

[Current Development Management Planning Enforcement Plan](#)

[Dorset Council Policy: General In Constitution Statement of Enforcement Policy](#)

10. **Report Sign Off**

This report has been through the internal report clearance process and has been signed off by the Director for Legal and Democratic (Monitoring Officer), the Executive Director for Corporate Development (Section 151 Officer) and the appropriate Portfolio Holder(s)

11. This report was presented to and approved by the Place and Resources Overview Committee to be considered by Cabinet, an extract of the minutes is attached (**Appendix 4**).