



# **Dorset Council**

## **Development Management**

### **Local Enforcement Plan**

**2024**

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Dorset Council Website – [Home - Dorset Council](#)

Information about Enforcement - [Enforcement and post-permission matters - GOV.UK \(www.gov.uk\)](#)

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## Summary

Dorset Council encompasses a diverse range of environments, including historic towns and villages, suburban areas, industrial estates, and picturesque countryside and coastlines. These areas hold significant value for our residents and are often covered by National and International environmental designations. Despite facing high development pressure, the Council remains committed to preserving and enhancing these cherished landscapes

This Local Enforcement Plan document outlines Dorset Council's approach to planning enforcement matters aligning with the **National Planning Policy Framework (NPPF)**. It sets out Dorset Council's priorities for investigation, explains what will be investigated and it outlines the Council's discretionary powers regarding planning enforcement.

This document sets out the policy and procedures that the Council will adopt when investigating and, where applicable, remedying breaches of planning control. In essence, this plan provides a roadmap for how the Council will address and find a resolution to any breaches of planning control within our areas.

## 1. Introduction

- 1.1 **The Town and Country Planning Act 1990 ("Act")** provides the main legislative framework for dealing with breaches of planning control. The Act provides the Council with the necessary powers to deal with breaches of planning control whilst the **National Planning Policy Framework (NPPF)** and **National Planning Practice Guidance (NPPG)**, provide guidance on how the Council should deal with breaches of planning control.
- 1.2 The National Planning Policy Framework ([NPPF](#)) and National Planning Practice Guidance ([NPPG](#)) make it clear that the powers provided by the Act ***are discretionary*** and should only be used when it is absolutely necessary to do so. Any action taken should be proportionate to the seriousness of the breach of planning control and the harm caused or harm that may be caused.
- 1.3 The NPPF states: -  
  
**"Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They 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 monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate."**
- 1.4 This means that the Council is not required to take any Enforcement action, but this is an option open to the Council dependant on the seriousness of the harm, and that any actions taken, must be appropriate to the actual breach in question. Whilst the Council is

not required to take enforcement action, Councils are expected to investigate alleged breaches of planning control. If a breach is identified, then the Council needs to assess whether enforcement action is appropriate.

1.5 Examples of serious harm in planning control breaches include:

- Significant and irreversible unauthorised works to a Listed Building or Scheduled Ancient Monument
- Unauthorised land engineering or waste tipping that causes environmental damage
- Unauthorised felling of a tree covered by a Tree Preservation Order
- Unauthorised demolition of a building in a Conservation Area

1.6 This document sits below, and should be read in conjunction with, the Council's [Dorset Council General Statement of Enforcement Policy - Dorset Council](#) which sets out the general principles the Council will follow in relation to investigations, enforcement and prosecutions as part of its regulatory functions.

1.7 Dorset Council recognises the potential adverse consequences that unauthorised development can have if left unchecked, it can undermine confidence in the planning system. However, as stated above the Council does not have a legal duty to take formal planning enforcement action. Instead, Councils have the option to take enforcement action when it is the practical, fair and balanced action to do so having regard to the "*development plan and any other material planning considerations*".

1.8 This plan is a guide for officers and explains to people who use the planning enforcement service how the Council makes decisions and the powers it may use to ensure compliance with planning control.

## 2. Service Aims

2.1 To operate in accordance with the procedures outlined in this Plan and the overarching [Dorset Council General Statement of Enforcement Policy - Dorset Council](#) published by the Council;

2.2 To provide an efficient and effective planning enforcement service within the resources available, whilst treating all our customers with courtesy, respect and fairness.

2.3 To remedy the undesirable effect of unauthorised development and to strike a balance between protecting amenity/environment and other interests.

2.4 When it is considered appropriate and proportionate to do so, take a robust approach to enforcing against confirmed breaches of planning control.

## 3. What is a breach of planning control

- 3.1 The enforcement of planning law is complicated. This is because Central Government attempts to balance the rights of individuals to use or alter their property against the need to safeguard the character and quality of towns/villages/the countryside, amenity of people and an area, and to uphold local adopted planning policies, as set out in Local and Neighbourhood Plans.
- 3.2 The planning enforcement system operates in such a way that it gives those undertaking any unauthorised development, the opportunity to seek to correct matters before taking formal action. This is set out in the National Planning Policy Guidance para 12 [NPPG](#).
- 3.3 A breach of planning control occurs when one of the following takes place:
- Carrying out of operational development (building or other works) without the required planning permission.
  - Carrying out of material changes of use without planning permission.
  - Failing to comply with a condition or limitation subject to which planning permission was granted.
  - Carrying out of works to a Listed Building without the relevant consent(s).
  - Unauthorised works to a tree protected by a Tree Preservation Order or works carried out to trees within a Conservation Area without giving the Council the required notice.
  - The display of advertisements without advertisement consent.
  - The neglect of land or buildings to an extent which causes harm to the amenity.
  - Failure to comply with Section 106 Agreements/undertakings.
  - Engineering operations such as the raising or lowering of ground levels and formation of earth bunds; carried out without the benefit of planning permission.
  - Not building in accordance with the approved plans (following the granting of planning permission or Listed Building consent).
- 3.4 Most breaches of planning control are not **criminal offences**. Under the current legislation a criminal offence only arises if the requirements of an enforcement notice have not been complied with in the time required within the notice.
- 3.5 However, certain breaches of planning control are criminal offences from the outset. Such breaches include:
- Unauthorised works to a Listed Building, without consent.
  - Unauthorised works to a Protected Tree or a tree within a Conservation Area.
  - The display of advertisements which do not benefit from deemed (automatic) consent.

## 4. Matters which are not breaches of planning control

- 4.1 The following list contains examples of those matters which are not a breach of planning control. This list is not exhaustive:
- Internal alterations to a building which is not a Listed Building.
  - Obstruction of a highway or public right of way.

- Land ownership disputes and boundary disagreements.
- Parking of vehicles on the highway or on grass verges.
- Operating a business from home, where the residential use remains to be the primary use of the property and there is no significant impact on the residential amenity or the character of the area.
- Covenants and restrictions on Deeds and Land Registry enquiries.
- Advertisements which are exempt or benefit from deemed consent.
- Advertisements which are exempt or benefit from deemed consent.
- Any development deemed to be “Permitted Development” by virtue of the Town and Country Planning (General Permitted Development) (England) Order 2015 or in any statutory instrument revoking and re-enacting that Order, i.e. where it does not need the permission of the Council.
- Clearing land of overgrowth, bushes or trees (provided the trees are not subject to a Tree Preservation Order or within a Conservation Area).

## 5. Enforcement action is discretionary.

- 5.1 As mentioned at 3.5 above in most cases it is not a criminal offence to undertake development without first obtaining planning permission or other formal consent.
- 5.2 The Government has made it clear through legislation and guidance that the response to an alleged breach of planning control is a matter for the discretion of the local planning authority (Council) and not every breach of planning control justifies the taking of enforcement action.
- 5.3 The Council must make a judgement having regard to National Planning Policy (including the National Planning Policy Framework), Adopted Local Plans, Made Neighbourhood Plans, case law and any other relevant planning considerations and constraints.
- 5.4 Guidance from Central Government is that councils are expected to give those responsible for a breach of planning control the opportunity to put matters right or to seek to regularise the breach before resorting to formal action such as an Enforcement Notice. Any such service of a formal notice must be proportionate and commensurate with the alleged breach of planning control.
- 5.5 In exercising planning functions, the Council is required to consider whether enforcement action is in the public interest. At the same time, it is also under an obligation to act consistently with the [European Convention on Human Rights \(in particular, Article 8 – the Right to Respect for Home, Privacy and Family Life, Article 14 – Prohibition of Discrimination, and Article 1 of the First Protocol – Right to the Enjoyment of Property\)](#). Regard must also be had to the [Equality Act 2010](#).
- 5.6 Any one or a combination of these factors may mean that the Council will decide not to take formal action in any case where there has been a breach of planning control. It will however act where a breach causes serious planning harm (See point 1.5 above).

## 6. How to report an alleged breach of planning control

- 6.1 If someone believes that a breach of planning control has occurred, they should notify the Council's Planning Enforcement Team using the following options:
  - The primary method for reporting is by using the online reporting form which can be found on Dorset Council website accessed via this link: [Planning enforcement - Dorset Council](#).
  - If you are unable to complete the form online yourself, please call: **(01305) 838336** and an advisor will assist you.
- 6.2 In order for the Council to investigate your complaint you will need to provide the following information:



- The address of the site or details of the precise location. Please follow this link for further assistance. <https://what3words.com>
- What the breach of planning control is and when it first occurred.
- The name and address of the landowner(s) and/or the person responsible for carrying out the works, if known.
- When referring to non-compliance of approved plans or conditions we will require the specific planning application reference number and conditions.
- Any photographs obtained can be uploaded as part of the online form.
- Your name, postal address, email address and telephone number.

6.3 The Planning Enforcement Team will not be able to accept anonymous complaints, as the planning enforcement officers may need the complainant's contact details to provide updates on the investigation and/or actions that have been taken, or to request further information.

6.4 The planning enforcement officers will ensure that the complainant's identity is safeguarded, though in some circumstances it may be necessary for a complainant to give evidence at an appeal or any legal proceedings.

6.5 Should someone not wish to provide their contact details, a Ward Councillor or a Parish Councillor may be able to assist with lodging the complaint. Anonymous complaints will not be investigated unless they relate to a serious breach of planning control involving for example:

- A matter of public health or safety. Such as development causing severe pollution problems.
- The storage and handling of hazardous materials.
- The development of contaminated land.
- Works to protected trees.
- Works affecting heritage assets.
- There is evidence of significant irreversible harm.

## **7. What can you expect if you report an alleged breach of planning control?**

7.1 On receipt of the online report ([Planning enforcement - Dorset Council](#)) an automated acknowledgement will be sent to you by the system, providing a 9 digit reference number beginning with the prefix DFY.

7.2 Following this we will triage the report based upon the information supplied and the level of planning harm. We prioritise our resources for matters which are a breach of planning control where significant harm is being caused.

7.3 If it appears at the outset the reported matter is not a breach of planning:

- We will not set up a case for it.
  - We will tell you the reasons why.
  - If we believe that another team / department within Dorset Council can assist you we will share your details and complaint with them to allow them to make contact with you directly.
  - If we believe that an agency outside of the Council such as Police, Fire, Citizens Advise Bureau could assist you, we will advise you to re-direct your enquiry to them as appropriate.
- 7.4 We will keep your personal details confidential, unless we are required to disclose them during an enforcement appeal or as evidence to help secure a prosecution in the courts.
- 7.5 We aim to register all reported breaches of planning control within **5 working days**, providing you with a formal acknowledgement email/letter containing information such as the enforcement reference number (replacing the DFY reference previously passed) and the contact details of the officer dealing with the matter.
- 7.6 We carry out a desk-top evaluation to confirm the relevant planning/enforcement history and undertake open-source research i.e. social media, websites etc.
- 7.7 Undertake a site visit where appropriate within the requisite time (see priorities below) – planning enforcement officers have powers to enter land at any reasonable hour to investigate alleged breaches of planning control. Should access be required to a dwelling house 24 hours' notice must be given, in accordance with [Section 196A of the Town and Country Planning Act 1990](#).
- 7.8 Establish whether an actual breach of planning control has taken place. In cases where we decide there has not been a breach of planning control, we will close the case and tell you.
- 7.9 In cases where there may be a technical breach of planning control, but the harm caused is insufficient to warrant formal action (non-expedient) we will tell you the reason(s) for not taking formal action and close the case.
- 7.10 Investigations into alleged breaches of planning control may take some time as cases can be complex and raise a variety of issues that need careful consideration.
- 7.11 All contraveners have a right to submit a retrospective application to attempt to gain the relevant permission/consent. The application must be dealt with under the normal application process and is subject to the notifications, consultations and statutory time periods associated with the determination process.
- 7.12 The Council aims to make this decision on any retrospective planning application within the statutory period, which could be take **8, 13 or 16 weeks**, depending on the nature of the application. If an application submitted to regularise a planning breach is refused, the applicant has the right to appeal the planning decision and it is rarely considered

appropriate to commence formal enforcement action until the outcome of the appeal is known. Appeals can take a year or more to be determined.

- 7.13 The Council will negotiate with those responsible for any breach of planning control, allowing them the opportunity to resolve the matters of concern rather than issuing a formal notice in the first instance, unless the breach is so serious it warrants immediate action or where negotiations become protracted with no real likelihood of success, at which point consideration to serving formal notices will be undertaken.
- 7.14 When a breach of planning control is found to have occurred **and** it is causing significant 'harm' the case will be pursued until such a time that the matter is resolved, or the breach is regularised or found to be lawful, or the decision is taken that it is not expedient to pursue any further for sound planning reasons.
- 7.15 If a formal notice is served and not complied with, the Council will consider pursuing the case through the Magistrates' Court or Crown Court where necessary and appropriate. Exceptionally the Council may decide to carry out works required in an Enforcement or other Notice which is not being complied with and will seek to recover the costs of doing so.
- 7.16 We will **not** re-open a case that has been closed unless there is a significant new piece of information or change on site.
- 7.17 On conclusion of the enforcement investigation, a summary of our findings will be provided to the individual(s) who reported the matter. Officers will not as a matter of course provide regular updates on the status of the investigation. However, if an update is requested during the investigation, we can only provide information as to what stage the investigation has reached at that point in time. This will allow officers to focus on the resolving the investigation as quickly as possible.

## 8. How we prioritise complaints

- 8.1 To make the most effective use of resources, complaints regarding suspected breaches of planning control will be assigned a Priority Rating depending on the nature of the breach and the degree of harm caused. Individual cases may be re-prioritised as the investigation progresses.

Priority	Examples of Alleged Breach Of Planning Control
1 <b>Site visit within 1-2 working days of receipt.</b>	<ul style="list-style-type: none"> <li>• Unauthorised development/activity which is causing immediate and irreversible harm in the locality.</li> <li>• Unauthorised works to trees subject of a Tree Preservation Order or to trees in a conservation area.</li> <li>• Unauthorised works to a Listed Building.</li> </ul>

Priority	Examples of Alleged Breach Of Planning Control
	<ul style="list-style-type: none"> <li>• Development which is likely to give rise to a serious risk of harm to public health, public safety or seriously compromise highway safety (including a Breach of Condition).</li> <li>• Development that may adversely affect or destroy a site of nature conservation value.</li> </ul>
<p>2 <b>Site visit within 10 working days from receipt.</b></p>	<ul style="list-style-type: none"> <li>• Stationing a new residential caravan in the countryside (including gypsy sites and travelling show people sites).</li> <li>• Works not in accordance with a planning permission.</li> <li>• Householder development.</li> <li>• Commencement of development (following the grant of planning permission) without discharging 'pre-commencement' conditions – except for issues such as landscaping or means of enclosure, which are unlikely to require immediate action.</li> </ul>
<p>3 <b>Site visit within 15 working days from receipt.</b></p>	<ul style="list-style-type: none"> <li>• All other breaches of conditions.</li> <li>• Changes of use not covered by Priority 1 or 2.</li> <li>• Earthworks and changes to land levels.</li> <li>• Display of advertisements.</li> <li>• Agricultural developments.</li> <li>• Equestrian related developments.</li> <li>• Gates, walls, fences.</li> <li>• Satellite dishes.</li> <li>• Untidy land.</li> </ul> <p><u>(Note: adverts and fence issues may be increased in priority if highway safety issues are identified).</u></p>

## 9. What are the possible outcomes of an investigation?

- 9.1 **No breach established** – Following investigation it may be found that there is no breach of planning control because, for example, the unauthorised use has ceased, or the development is 'permitted development' or no development has taken place.
- 9.2 **There is a breach of planning control but not considered expedient to pursue formal action** – Just because a breach may exist does not automatically mean that formal action should be taken. Enforcement powers are discretionary and should be used proportionately. So, for minor or technical breaches which cause little or no harm it may be considered inexpedient to take enforcement action.
- 9.3 **The development is lawful and immune from enforcement action** –

- within **10 years** of substantial completion for a breach of planning control consisting of operational development where substantial completion took place **on or after 25 April 2024**
- within **10 years** for an unauthorised change of use to a single dwellinghouse where the change of use took place **on or after 25 April 2024**
- within **4 years** of substantial completion for a breach of planning control consisting of operational development where substantial completion took place **before 25 April 2024**;
- within **4 years** for an unauthorised change of use to a single dwellinghouse where the change of use took place **before 25 April 2024**
- within **10 years** for any other breach of planning control (essentially other changes of use)

In any such case, the person responsible for the breach is entitled to immunity from enforcement action. They may be asked to apply for a Certificate of Lawful Use or Development which will enable the Council to make a formal decision on whether the breach has become lawful by the passage of time and is therefore immune from enforcement action. These time limits may be extended where there is evidence that the alleged breach has been deliberately concealed from the Council. This is explained in more detail below under the heading “Deliberate Concealment – Planning Enforcement Orders”.

9.5 **Negotiations take place to find a solution** – In accordance with Government guidance, the priority is to try and resolve any breaches of planning control through negotiation. Only when such negotiations fail to secure a solution should formal action be considered. The Council will not however allow negotiations to become protracted where there is a need to make the development acceptable or where there is a requirement for a particular use to cease.

9.5 **Invitation to submit a retrospective application** – In accordance with Government advice, where a breach of planning control is acceptable in planning terms, the Council may invite the submission of a retrospective planning application for formal consideration by the Council.

A retrospective application will only be invited where we consider that there is a reasonable likelihood that permission or consent may be granted in line with Local and National planning policies or where a development may be made acceptable by way of the imposition of conditions. However, the fact that an application is submitted does not necessarily mean it will be approved.

9.6 **Formal Action** - The Council considers that the harm caused by the unauthorised development is unacceptable and it is therefore necessary to take formal enforcement action to remedy the breach of planning control. The more common forms of enforcement action are listed below:

- The service of an **Enforcement Warning Notice (EWN)** under Section 172ZA of the Town and Country Planning Act 1990. This is a formal notice issued by a local planning authority (LPA) when there is an alleged breach of planning control. It invites the recipient to submit a retrospective planning application to regularise the unauthorised development. The notice will detail the alleged breach and specify a deadline by which the application must be made. If the application is not submitted within the given timeframe, further enforcement action may be taken.
- The service of an **Enforcement Notice (EN)** under Section 172 of the Town and Country Planning Act 1990 that identifies a breach of planning control and requires specific steps to be undertaken to remedy the breach.
- The service of a **Listed Building Enforcement Notice (LBEN)** under Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 that requires specific steps to be undertaken to bring a Listed Building back to its former state or to carry out work to alleviate the effects of unauthorised works or to bring the building into the state it would have been if the terms of any Listed Building consent had been observed.
- **Right of Appeal** - The recipient of an Enforcement/Listed Building Enforcement Notice has the right to lodge an appeal before the date on which the Notice takes effect (which must be at least 28 days from the date when the notice is served). Appeals are decided by an independent Planning Inspector, and it will take several months, or longer in complex cases, before there is a formal decision. If there is an appeal interested parties will have an opportunity to make representations to the Planning Inspectorate.
- The service of a **Breach of Condition Notice (BCN)** under Section 187A of the Town and Country Planning Act 1990 to secure compliance with conditions imposed on a planning permission.
- The service of a **Stop Notice (SN) or a Temporary Stop Notice (TSN)** under Section 183 and Section 171E of the Town and Country Planning Act 1990 requiring the cessation of unauthorised activities.  
A Stop Notice may only be served in conjunction with an Enforcement Notice referred to above. Before issuing a Stop Notice the Council must carry out a cost benefit analysis so that any costs incurred by the developer by having to stop works are fully considered and weighed against the harm being caused and the likelihood of planning permission being granted. A TSN is not issued in conjunction with an Enforcement Notice and will last a period of up to 56 days after it is served. There is no right of appeal against either a Stop Notice or a TSN.
- The service of a Notice under **Section 215** of the Town and Country Planning Act 1990 requiring the proper maintenance of land and buildings.
- In extreme cases where the need arises proceedings for an **Injunction** may be considered. The Council is entitled under s187B of the Town and Country Planning Act 1990 to seek to obtain an injunction in either the High Court or County Court in order to restrain a breach of planning control. Should there be non-compliance with an injunction, the person in breach will be in contempt of Court, and may be liable to financial penalty, or committal to prison.

## 10. Enforcement Register

- 10.1 The Council has a statutory duty to hold and maintain an enforcement register. This records details and basic information about what notices have been issued. The notices contained within the register are:
- Enforcement Notices
  - Breach of Condition Notices
  - Temporary Stop Notices
  - Stop Notices
- 10.2 Enforcement registers are public records and can be viewed at County Hall, Colliton Park, Dorchester, DT1 1XJ by prior arranged appointment only.
- 10.3 To arrange an appointment please email: [planningenforcement@dorsetcouncil.gov.uk](mailto:planningenforcement@dorsetcouncil.gov.uk) or call 01305 838336 selecting option 2 to speak to an advisor.

## 11. Deliberate concealment - Planning Enforcement Orders

- 11.1 In accordance with Sections 171BA, 171BB and 171BC of the Town and Country Planning Act 1990, as amended by the Localism Act 2011, the Council can apply to the Magistrates' Court for a Planning Enforcement Order to be made if it finds that an owner/occupier has deliberately concealed an unauthorised development.
- 11.2 In these circumstances, the Council will need to produce evidence that the owner/occupier has taken positive steps to conceal the unauthorised development, rather than merely refraining from informing the Council about it. An application must be made within 6 months, starting with the date on which sufficient evidence of the apparent breach came to the Council's knowledge.
- 11.3 If a Planning Enforcement Order is made, the Council can take enforcement action in relation to a breach of planning control notwithstanding that the time limits for taking enforcement action may have expired. If an Order is granted the Council has a further 12 months to complete its investigations and take formal action.

## 12. Enforcement in relation to Trees

- 12.1 The Town and Country Planning Act 1990 and the Town and Country (Trees) Regulations 1999 provides the statutory basis for most tree preservation and protection. It allows for Local Planning Authorities to make Tree Preservation Orders (TPO), protects most trees in Conservation Areas and it places a duty, where appropriate, for

Local Planning Authorities to preserve and protect existing and new trees when granting planning permission.

12.3 Unauthorised works to trees that are protected by either a TPO or within a Conservation Area is a criminal offence.

12.4 The offences and penalties, which apply to trees protected by a TPO and those within Conservation Areas are:

- Section 210 of the Act states:

If any person, in contravention of a Tree Preservation Order -

- a) cuts down, uproots or wilfully destroys a tree, or
- b) who lops, tops or wilfully damages it in a way that is likely to destroy it,
- c) causes or permits the carrying out of any of the activities in paragraph (a) or (b)

shall be guilty of an offence and could be liable, if convicted in the Magistrates' Court, to a fine of **up to £20,000**. If the person is committed for trial in the Crown Court, they are liable on conviction to an unlimited fine.

anyone who carries out works on a tree that are not likely to destroy it is liable, if convicted in the Magistrates' Court, to a fine of **up to £2,500**.

- Section 213 of the Act states: in respect to trees within conservation areas if any tree –
  - a) is removed, uprooted or destroyed in contravention of that section; or
  - b) is removed, uprooted or destroyed or dies at a time when it's cutting down

there shall be the duty of the owner of the land to plant another tree of an appropriate size and species at the same place as soon as they reasonably can.

12.5 The Council has a range of possible courses of action available to deal with cases of unauthorised works on trees protected through TPO or Conservation area. These include the following:

- **Seeking a prosecution.**
- **Administer a formal caution.** This is a formal process whereby the perpetrator signs a statement admitting the offence and submitting to the caution. It may be referred to at the sentencing stage if the same person is ever found guilty of a subsequent offence. It may also be taken into consideration when deciding whether to prosecute at a later stage for another similar offence.
- Under section 206 of the Town and Country Planning Act 1990, **require the planting of a replacement tree** for each tree destroyed under section 207 of the same Act, serve a replanting direction. This is a formal procedure to secure



replacement planting, which can be invoked if the landowner does not otherwise comply with a duty to carry out replacement planting.

- **Take no formal action.** This may be accompanied by informal action, such as advising the alleged offender to ensure that the incident is not repeated.

12.6 Consent is not required for the following works to protected trees:

- Works to trees that are dead.
- Works to trees that are urgently necessary to remove an immediate risk of serious harm.
- Works to trees that are necessary to implement a planning permission.
- Works to trees cultivated to produce fruit where such work is in the interests of that trade or business.

12.7 In relation to the first two points above an applicant should contact the [Council's Tree Officers](#) before undertaking such work to ensure that they are satisfied that the tree is dead or that the works are genuinely urgent and necessary.

12.8 Works to trees to implement a planning permission should be undertaken in accordance with the relevant permission and adhere to any conditions required. With regard bullet point 4, pruning of fruit trees would be considered exempt works, but the felling of fruit trees is likely to require a notice or application.

## 13. Listed Buildings

13.1 Unauthorised works to a Listed Building is an offence under Section 9 of the Planning (Listed Building and Conservation Areas) Act 1990. A person who is guilty of such an offence will be:

- Liable on conviction to **imprisonment not exceeding 3 months or a fine not exceeding the statutory maximum or both**; or
- Liable on conviction to **imprisonment for a term not exceeding 12 months or a fine or both.**

13.2 The Council has a range of possible courses of action available to deal with cases of unauthorised works to Listed Buildings. These include the following:

- **Seeking a prosecution**
- **Administer a formal caution.** This is a formal process whereby the perpetrator signs a statement admitting the offence and submitting to the caution. It may be referred to at the sentencing stage if the same person is ever found guilty of a subsequent offence. It may also be taken into consideration when deciding whether to prosecute at a later stage for another similar offence.
- **Serve a breach of condition notice** – note it is a criminal offence to fail to comply with a condition on a listed building application.
- **Serve a temporary stop notice or stop notice;**
- **Negotiate** the reversal of works/works to address the unauthorised works;

- **Serve an [enforcement notice](#) to remedy the works** – note that there are no time limits for issuing Listed Building enforcement notices;
- **Take no formal action.** This may be accompanied by informal action, such as advising the alleged offender to ensure that the incident is not repeated.

13.3 With regard to Listed Buildings, the Council also has the following powers at its disposal: Urgent Works Notices and Repairs Notices and more information on this is available in [Historic England's publication 'Stopping the Rot - A Guide to Enforcement Action to Save Historic Buildings'](#). This document sets out step by step procedures for investigating alleged cases of unauthorised development e.g. drafting and serving notices.

## 14. Breaches of Section 106 Legal Agreements

14.1 When granting planning permission for development, the Council can impose planning obligations on the applicant. These obligations are usually contained within a legal agreement (often called a S.106 Agreement) and require certain works to be carried out or contributions to be paid/complied with at certain times. These agreements sit alongside the planning permission such that the landowner and developer are required to comply with any obligations with the legal agreement as well as any conditions on their planning permission.

14.2 If the Council decides that there is a breach of a planning obligation (e.g. a financial contribution has not been paid or required works have not been carried out within the timescale specified within the legal agreement), the Council will contact the relevant party and discuss and attempt to negotiate an amicable resolution. Legal agreements typically have provisions to impose late payment penalties, and this will be the first course of action if the breach relates to a financial matter.

14.3 Should the council not be able to resolve the matter amicably, there are three further options available:

- The Council could apply to the Court for an injunction to force the obligation(s) to be complied with. Failure to comply with an injunction can lead to an unlimited fine and/or imprisonment.
- The Council could enter the land to complete works if an obligation required works to be carried out by a certain time and this has not been carried out. The Council must give 21 days' notice of the intention. The Council will seek to recover costs incurred in the completion of the works.
- The Council may place a local land charge on the land or property which is binding on successive owners.

## 15. Community Infrastructure Levy (CIL)

15.1 The Council's Community Infrastructure Levy enables it to raise funds from new development to help deliver infrastructure.

15.2 For further information please follow this link: [Community Infrastructure Levy](#)

15.3 The CIL team can be contacted by email: [CIL@dorsetcouncil.gov.uk](mailto:CIL@dorsetcouncil.gov.uk)

## 16. Biodiversity net gain (BNG)

- 16.1 BNG is an approach to development. It makes sure that habitats for wildlife are left in a measurably better state than they were before the development.
- 16.2 In England, BNG is mandatory under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).
- 16.3 Developers must deliver a BNG of 10%. This means a development will result in more or better-quality natural habitat than there was before development.
- 16.4 Planning permission includes a statutory biodiversity gain condition. There is more information on BNG and planning in the [planning practice guidance](#).

## 17. Minerals and Waste

- 17.1 Dorset has a diverse range of important minerals including Portland Stone, Purbeck Stone, ball clay, sand and gravel, oil and gas reserves.
- 17.2 Minerals are essential to society, and it is vital that a sufficient supply is maintained to provide for the needs of communities and the economy both locally and nationally.
- 17.3 Since extraction of minerals is a continuous process of development, there is a requirement for routine monitoring, and if necessary, formal enforcement action to secure compliance with conditions.
- 17.4 Whilst Waste operations are not routinely monitored, if necessary, formal enforcement action to secure compliance with conditions imposed on waste sites. The following is a general, non-exhaustive list of matters which can be considered as waste operations:
- metal recycling sites,
  - energy from waste incineration and other waste incineration,
  - landfill and land raising sites (such as soils to re-profile golf courses),
  - landfill gas generation plant, pyrolysis/gasification,
  - material recovery/recycling facilities,
  - combined mechanical, biological and/or thermal treatment,
  - in-vessel composting,
  - open windrow composting,
  - anaerobic digestion,
  - household civic amenity sites,
  - transfer stations,
  - waste water management,
  - dredging tips,
  - storage of waste,

- recycling facilities for construction,
- demolition and excavation waste

- 17.5 All alleged breaches of planning control relating to any Minerals and Waste sites and operations will be investigated and will follow the processes set out in this Local Enforcement Plan.
- 17.6 Formal action will only be taken where the breach causes serious harm or are against adopted Planning Policies. Even then, if action is taken, it will be reasonable and proportionate to the harm being caused.
- 17.7 When determining whether to pursue any formal enforcement action in respect of Minerals and Waste operations or sites, the following adopted plans and their policies will be considered:

- **Bournemouth, Dorset and Poole Minerals Strategy (2014)**

[Minerals strategy - Dorset Council](#)

- **The Mineral Sites Plan (2019)**

[Mineral Sites Plan - Dorset Council](#)

- **The Bournemouth, Christchurch, Poole and Dorset Waste Plan (2019)**

[2019 Waste Plan - Dorset Council](#)

## 18. Useful Links:

[Planning Enforcement - Dorset Council](#)

[Home - Dorset Council](#)

[Tree preservation orders - Dorset Council](#)

[Trees in conservation areas - Dorset Council](#)

[Hedgerows and high hedges - Dorset Council](#)

[Listed buildings - Dorset Council](#)

[Listed buildings in West Dorset and Weymouth and Portland - Dorset Council](#)

[Listed buildings in North Dorset - Dorset Council](#)

[Listed buildings in East Dorset - Dorset Council](#)

[Listed buildings in Purbeck - Dorset Council](#)

[Conservation areas - overview - Dorset Council](#)

[Conservation areas - Dorset Council](#)

[Dorset Council Community Infrastructure Levy - Dorset Council](#)

<https://www.citizensadvice.org.uk/>

<https://www.planningportal.co.uk/permission/interactive-guidance>







