

Place and Resources Scrutiny Committee

24 October 2024

Planning Enforcement: review of previous Local Enforcement Plan

For Review and Consultation

Cabinet Member and Portfolio:

Cllr. S Bartlett, Planning and Emergency Planning

Local Councillor(s):

N/A

Executive Director:

Jan Britton, Executive Lead for Place

Report Author: Anna Lee

Job Title: Service Manager for Development Management and Enforcement

Tel: 01929 557339

Email: anna.lee@dorsetcouncil.gov.uk

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

Brief Summary:

This report aims to provide a review of the effectiveness of the Local Enforcement Plan which has been in place up to October 2024, and a review of performance in relation to that plan. The report includes a summary of the outcomes of a recent internal audit of the planning enforcement service and includes updates on key performance statistics for planning enforcement. It also summarises the current budget available for planning enforcement. The aim of the report is to set out the current position, which can then be used as a baseline for any future review of the proposed new Local Enforcement Plan, which is due to be considered by Cabinet on 15 October 2024.

Recommendation:

That Place and Resources Scrutiny Committee note the contents of this report and endorses the continued implementation of the actions arising from the internal audit of the planning enforcement service.

Reason for Recommendation:

The internal audit of the planning enforcement service identified several actions to help improve the efficiency and effectiveness of the service. Implementation of the actions is ongoing, and this requires continued commitment to ensure that the planning enforcement service is delivered in the most effective way possible, within available resources.

1. Context

- 1.1 The National Planning Policy Framework (NPPF, paragraph 59) sets out the following in relation to planning enforcement:

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

- 1.2 Since the formation of Dorset Council in 2019, the work of the planning enforcement service has been guided by the Dorset Council General Statement of Enforcement Policy (**Appendix 1**) and the Development Management Planning Enforcement Plan (in place 2019 to October 2024) (**Appendix 2**).
- 1.3 The Development Management Planning Enforcement Plan (in place 2019 to October 2024) was adopted during the reorganisation of local government across Dorset and now requires updating. A new draft Local Enforcement Plan (2024) has been prepared and is due to be considered for adoption by Cabinet on 15 October 2024.
- 1.4 The Place and Resources Scrutiny Committee has requested a review of the effectiveness of the previous Development Management Planning Enforcement Plan which has been in place up to October 2024, and a review of performance in relation to that plan.
- 1.5 This report sets out a summary of the previous Development Management Planning Enforcement Plan (section 2). It also includes a summary of the outcomes of a recent internal audit of the planning enforcement service (section 3) and includes updates on key performance statistics for

planning enforcement (section 4). This is followed by a summary of the current budget available for planning enforcement (section 5). The aim of the report is to set out the current position, which can then be used as a baseline for any future review of the proposed new Local Enforcement Plan.

2. **Development Management Planning Enforcement Plan (2019 to October 2024)**
 - 2.1 The Development Management Planning Enforcement Plan which has been in place since 2019 is attached as **Appendix 2**. The plan provides a high-level summary of the Council's approach to planning enforcement. It sets out that formal enforcement action is discretionary and must be reasonable and proportionate, and that formal action should only be taken where a breach is causing serious harm. It states that the Council will seek to prioritise cases and assess risks involved, but it does not give any detailed guidance on how that prioritisation will work. The plan is light on detail in terms of how the Council will deal with notifications of alleged breaches.
 - 2.2 Given the lack of detail in the plan, it is difficult to review performance against this plan. The only specific target referred to in the plan is that "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." There is no monitoring system in place to monitor performance against this target.
 - 2.3 The proposed new Local Enforcement Plan 2024, which is due to be considered by Cabinet on 15 October, seeks to address the issues identified with the previous plan. The key changes proposed in the new draft plan include a more detailed guide to the processes involved in an enforcement investigation, clear guidance on how to raise a complaint and the necessary information required, timescales to be expected for registering initial complaints and undertaking site visits, and guidance on how the Council prioritises the complaints it receives.
3. **Audit of the Planning Enforcement Service (January – March 2024)**
 - 3.1 In early 2024 SWAP Internal Audit Services undertook an audit of the planning enforcement service. The audit reviewed the following:
 - (a) How the Planning Enforcement policy is followed and applied.

- (b) The decision-making process for review of complaints/cases, including the amount of formal action taken as a result and efficiency of service response.
 - (c) How performance of the service is monitored and reported, including the review of working practices.
 - (d) The effectiveness of governance arrangements, such as oversight by senior managers, in ensuring consistency across the Enforcement service sub-teams.
 - (e) Benchmarking exercise with other Local Authorities.
- 3.2 The overall outcome of the audit was that the audit team could provide a 'reasonable' level of assurance that the planning enforcement service is following relevant policy and legislation and is proportionately investigating all breaches of planning control received to ensure a consistent approach by the Council. The overall assurance opinion was summarised as follows: "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".
- 3.3 The overall audit outcome is considered to be good. For context, to achieve a higher ('substantial') level of assurance, this would mean that there were no actions raised at all through the audit and no possible areas for improvement or recommendation.
- 3.4 The audit identified eight areas for improvement ('findings') and set out recommended actions to address these. The following paragraphs provide a summary of the findings and recommended actions and include an update on progress to date for each identified action.
- 3.5 **Finding 1: The current KPIs (key performance indicators) do not measure performance metrics aligned with manager requirement.**

Action: Identify key process and end points which are identified as performance metrics relevant to the service. Regular data extraction and reporting should be agreed to support in target and performance management. (Timescale 31 May 2024).

Update: New key performance indicators have been introduced to monitor: (i) the percentage of cases registered within 5 working days; (ii) the percentage of cases resolved within 8 weeks; and (iii) the percentage of

site visits undertaken within target timescales (depending on the priority level of each case). Data is available to monitor (i) and (ii) and is presented later in this report. For (iii), accurate data is not yet available but work is underway to improve data input to the Mastergov planning software system, to enable accurate reporting of this indicator. The new performance indicators have all been added to the corporate performance reporting for planning enforcement and are due to be reported quarterly, once data quality issues have been resolved.

3.6 Finding 2: There is an inconsistent approach between teams for daily tasks and when subsequently updating Mastergov.

Action: The planning enforcement service will introduce updated processes, Mastergov system training, and joint team working to ensure a consistent approach between teams. (Timescale: 31 August 2024).

Update: The enforcement team now operate a single inbox across the team and undertake joint case allocation meetings, which cover all three planning areas. The proposed new Local Enforcement Plan includes flow charts to set out the process for dealing with enforcement enquiries and instigating enforcement action. An updated process for dealing with alleged unauthorised works to protected trees and listed buildings has also been introduced, and Mastergov system training has recently been provided.

3.7 Finding 3: Underutilisation of available data due to limited case recording in Mastergov (rejected cases are not recorded in Mastergov).

Action (a): The planning enforcement team will consider manually inputting rejected cases onto Mastergov before the automation of cases onto the system (timescale 31 August 2024).

Update (a): A trial period of manual inputting of rejected cases was undertaken earlier this year. The team are now reviewing the resource implications of maintaining manual inputting and this will inform a decision as to whether to implement a manual process, or to wait for the implementation of an automated process (action (b) below).

Action (b): The Planning Transformation Team will link the online form to Mastergov so that it automatically populates into the system (timescale 30 April 2025).

Update (b): Work to automate this process is ongoing and is linked to the Our Future Councils work. It is still anticipated that this will be completed by 30 April 2025.

3.8 Finding 4: The Development Management Planning Enforcement Plan requires updating to align with LGSCO (Local Government and Social Care Ombudsman) recommendations and audit findings.

Action: Update the Development Management Planning Enforcement Plan in line with the LGSCO recommendations. Further additions should be incorporated to establish clearer process guidelines for stakeholders. (Timescale: 30 June 2024).

Update: An updated Local Enforcement Plan has been prepared and will be considered by Cabinet on 15 October 2024.

3.9 Finding 5: Outstanding legacy cases have had minimal or no progress for over a year.

Action: Explore ways of reducing legacy cases in a timely manner. (Timescale: 31 August 2024).

Update: This finding has not yet been addressed and will be the next area of focus for the team.

3.10 Finding 6: The Enforcement Register is not readily accessible to all.

Action: The service will continue work to ensure the Enforcement Register is accessible by means of an online version. (Timescale: 31 December 2024).

Update: This action is being taken forward as part of the wider project to prepare a new Online Register for planning. Work is ongoing, and we are still anticipating that the new Online Register (including the Enforcement Register) will be ready to launch by the end of this year.

3.11 Finding 7: Completed training is not routinely recorded on the Road Map function.

Action: Encourage the team to routinely update the Road Map function with completed training and review this during 1-2-1s. (Timescale: 31 August 2024).

Update: Recording of completed training has improved, and work continues to encourage this across the team.

3.12 **Finding 8: Current Mastergov templates are from legacy Councils and require updating.**

Action: The Planning Enforcement service will update all templates and ensure the revisions are added onto Mastergov. (Timescale: 31 December 2024).

Update: Work has started on the review of the templates, and it is anticipated that this will be completed by the end of the year.

3.13 In summary, a number of actions have already been undertaken to improve service delivery based on the findings of the audit. This includes the agreement of new performance indicators (finding 1), the introduction of a single inbox and twice-weekly cross team case allocation meetings, and updated processes (finding 2), a trial period of recording of all 'rejected' cases on MasterGov (finding 3), the preparation of the new Local Enforcement Plan (finding 4), and improved recording of completed training (finding 7). MasterGov system training has recently been provided and should assist in ensuring accurate data is available to monitor the new performance indicators.

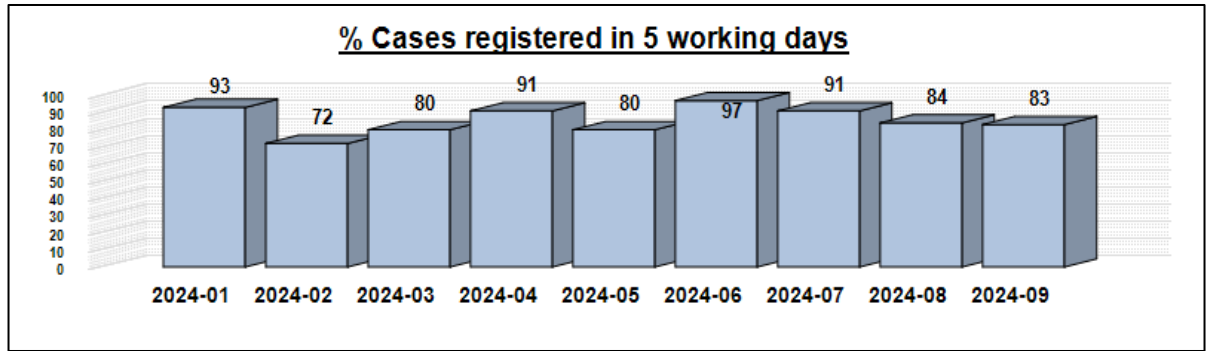
3.14 Work is ongoing to link the online reporting form to MasterGov (so that the system is automatically populated) (finding 3), to make the Enforcement Register available online (finding 6), and to review all templates (finding 8). There is an outstanding action to explore ways to reduce legacy cases in a timely manner (finding 5), and this will be the next area of focus for the team.

4. **Key performance statistics for planning enforcement (setting the baseline)**

4.1 This section of the report sets out key performance statistics for planning enforcement, with the aim that this can then be used as a baseline for any future review of the proposed new Local Enforcement Plan.

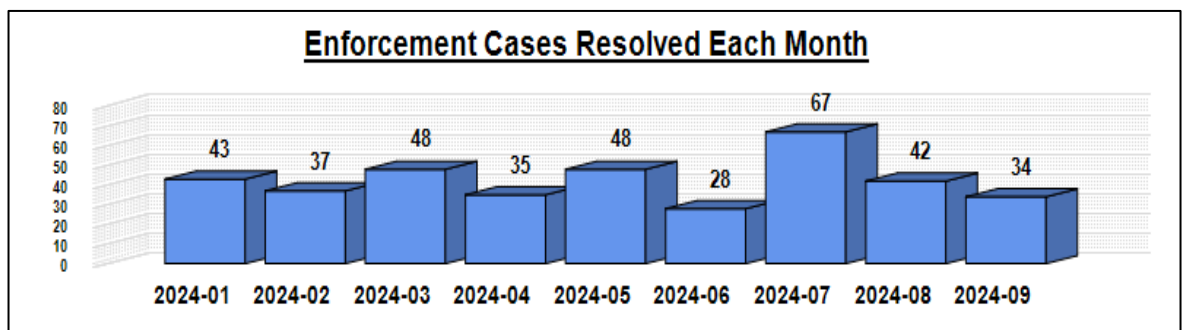
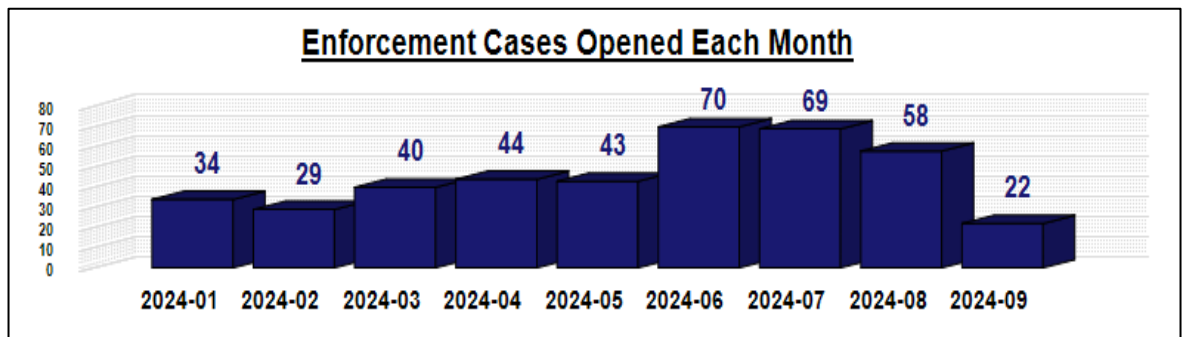
4.2 **Percentage of cases registered within 5 working days**

The graph below shows the percentage of cases registered within 5 working days of receipt (data extracted 25 September 2024). This is a new performance indicator, introduced following the audit. A target of 90% of cases registered within 5 working days is considered reasonable, and the graph below indicates that this should be achievable, with performance exceeding 90% in 4 of the last 9 months.



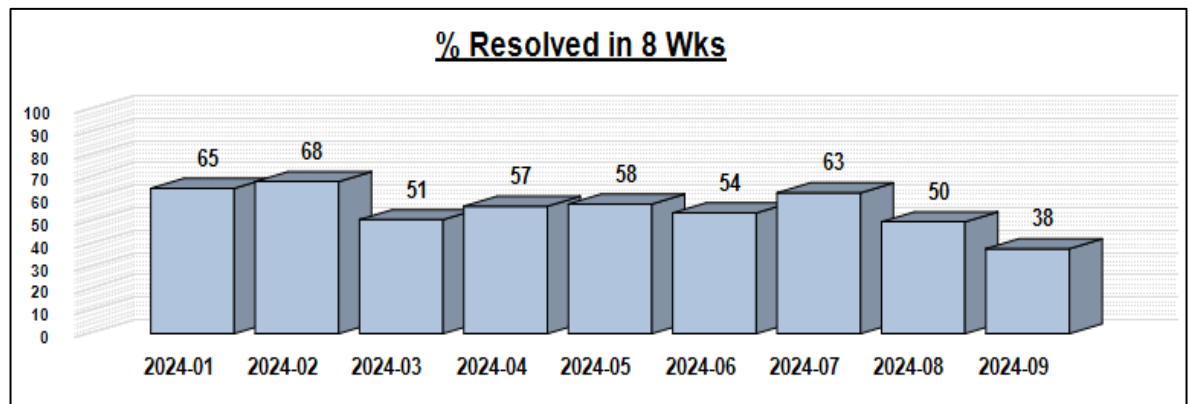
4.3 Enforcement cases opened and resolved each month

The graphs below show cases opened and cases resolved each month since January 2024 (data extracted 25 September 2024). A total of 409 enforcement cases have been opened since January, and 382 cases have been resolved. This indicates that the planning enforcement service has resolved nearly as many cases as have been opened over the past 9 months.



4.4 Percentage of cases resolved within 8 weeks

The graph below shows the percentage of enforcement cases which have been resolved within 8 weeks of being registered (data extracted 25 September 2024). This is a new indicator which was introduced following the planning enforcement audit. The baseline data (as presented below) indicates that the team is consistently resolving more than 50% of cases within 8 weeks, however there is potentially scope to improve this through continued implementation of the actions arising from the audit.

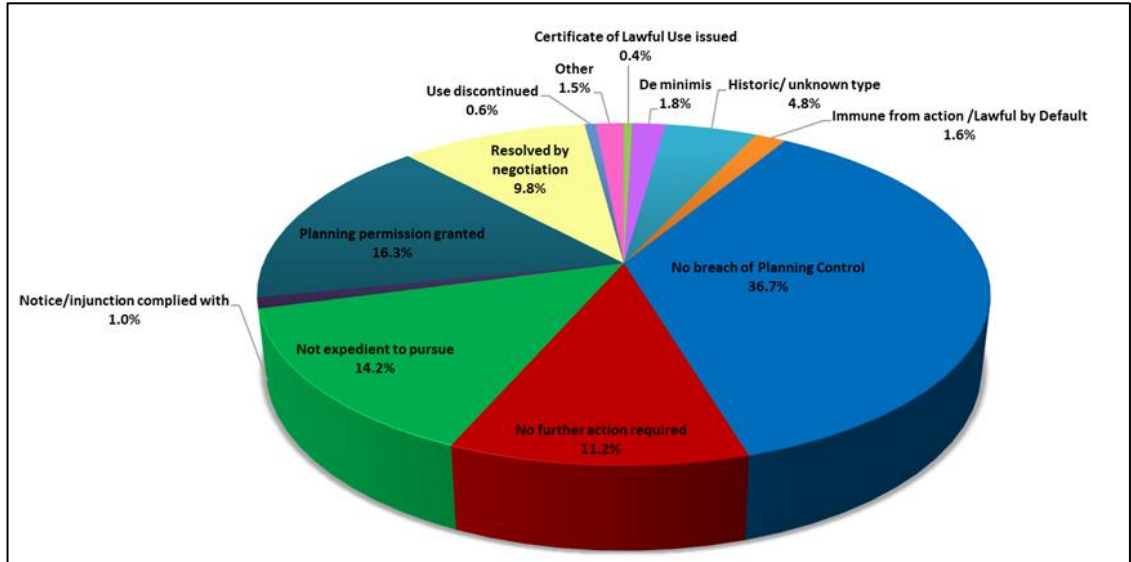


4.5 Reasons for resolution of enforcement cases

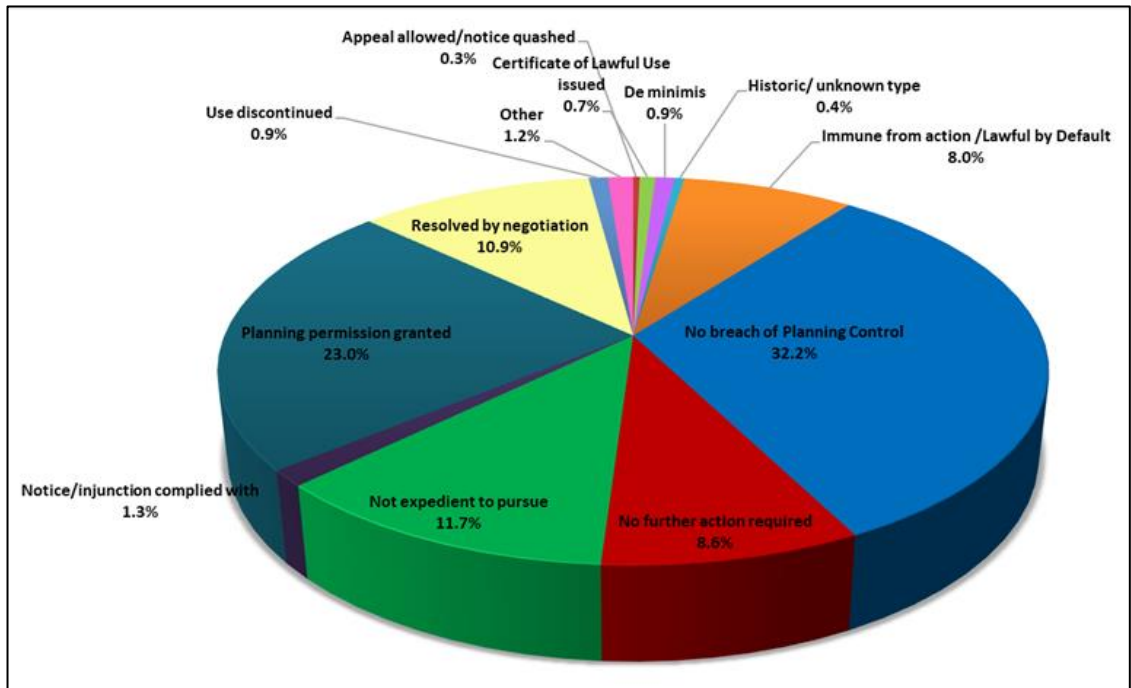
The Dorset Council Development Management Enforcement Plan (2019 to October 2024) sets out that “where a breach of planning control has been identified as having occurred, seeking an informal negotiated solution will be preferred to the taking of immediate formal enforcement action”. The proposed new Local Enforcement Plan (due to be considered by Cabinet on 15 October) continues this approach, stating that “in accordance with Government guidance, the priority is to try and resolve any breaches of planning control through negotiation” (para 9.5).

4.6 The charts below summarise the reasons planning enforcement cases have been resolved for each of the past three financial years (2021/22, 2022/23 and 2023/24). The charts illustrate that in many cases, no breach of planning control is established. Where a breach is established, the matter is often resolved through a retrospective planning application or through negotiation.

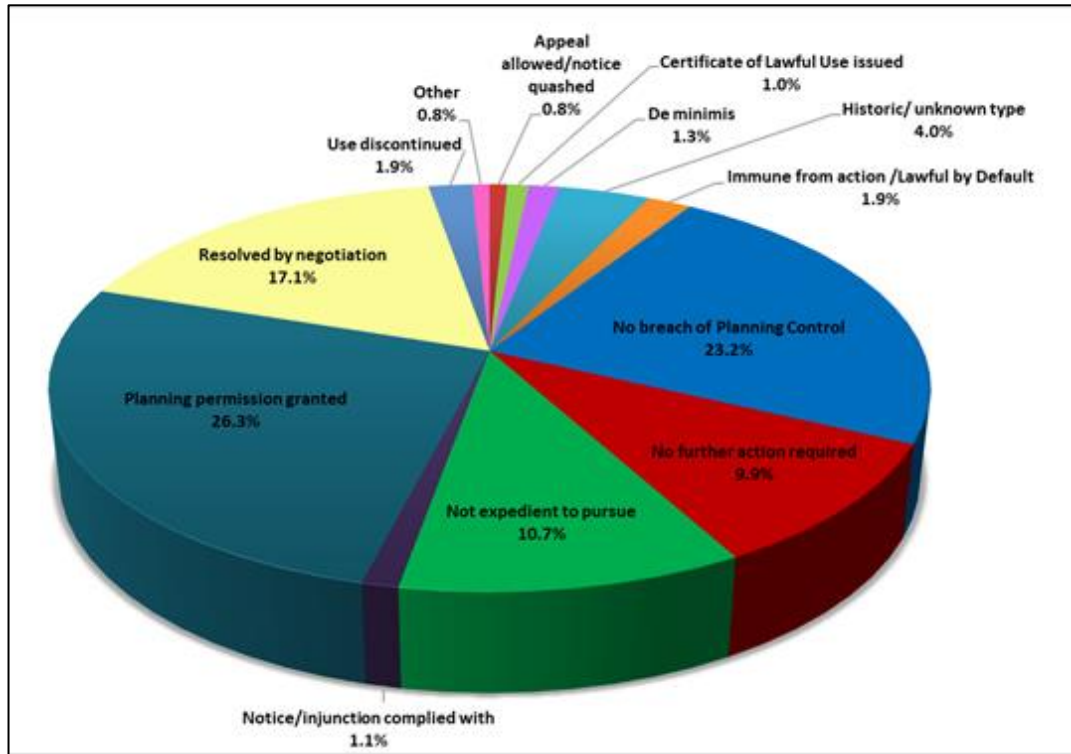
Reasons cases resolved: 2021/22 (total cases resolved: 681)



Reasons cases resolved: 2022/23 (total cases resolved: 670)



Reasons cases resolved: 2023/24 (total cases resolved: 521)



4.7 Number of notices issued

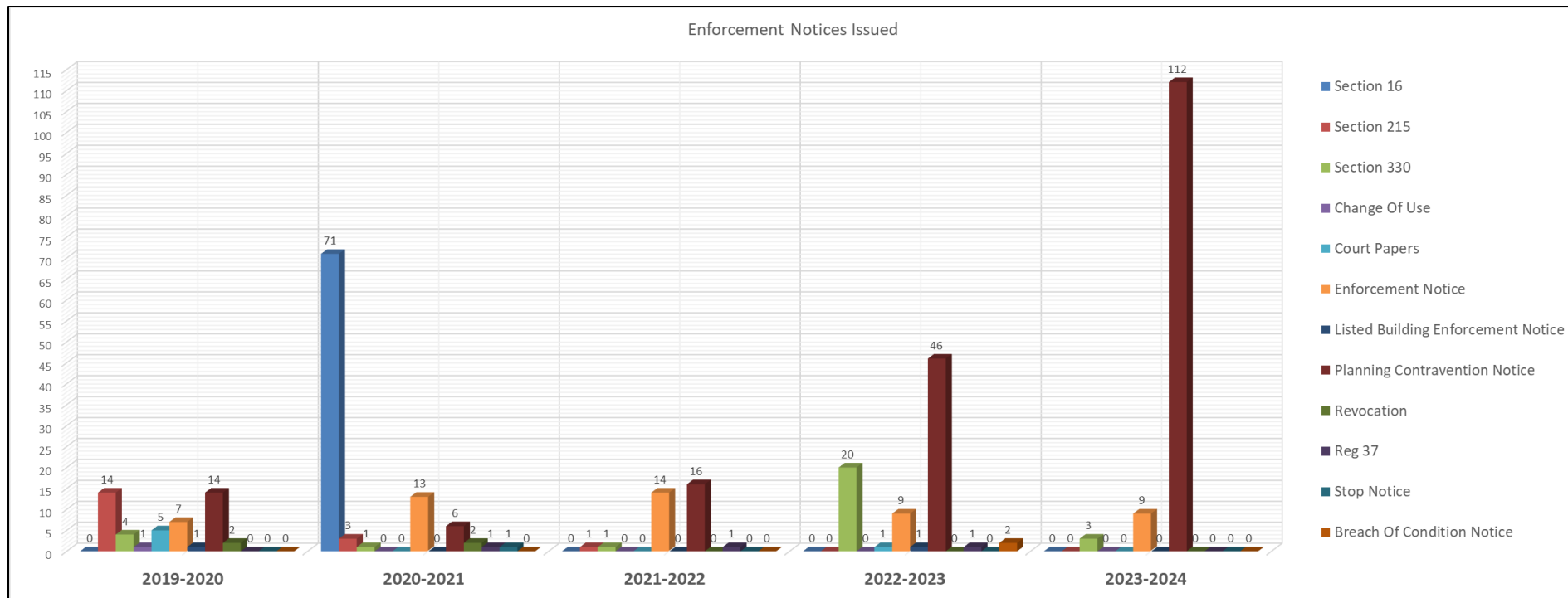
The Council can serve formal notices in relation to enforcement cases where it is expedient to do so. There are various types of formal notice which can be issued, and the graph overleaf shows the number of each type of formal notice issued each year since Dorset Council formed in 2019.

4.8 In summary, the Council has issued the following notices since 2019:

- 71 Section 16 (Requisition for Information) Notices
- 18 Section 215 (Untidy land) Notices
- 29 Section 330 (Requisition for Information) Notices
- 1 Change of Use notice
- 6 Court Papers
- 52 Enforcement Notices
- 2 Listed Building Enforcement Notices

- 194 Planning Contravention Notices (to require information)
- 4 Revocations of planning permission
- 3 Regulation 37 Notices (requiring Environmental Impact Assessment to be carried out)
- 1 Stop Notice
- 2 Breach of Condition Notices.

Notices issued by Dorset Council since 2019



4.9 **Total current enforcement caseload and legacy (pre-2019) cases**

There are currently 899 open planning enforcement cases, as summarised in the table below (data extracted 25 September 2024).

Priority level	Current open cases
Priority 1	107
Priority 2	86
Priority 3	678
Other	28
Total	899

4.10 81 of the current open cases are cases which pre-date Dorset Council (received before April 2019). There is an outstanding action from the audit to review these legacy cases, with the aim of reducing the backlog, and this will be the next area of focus for the team.

5. **Budget for planning enforcement**

5.1 The planning enforcement team currently has a staffing budget for a total of 11.95 FTE (full time equivalent) officers, as set out in the table below.

Roles	Number of posts in budget
Planning Enforcement Manager	1 FTE
Senior Enforcement Officers	3 FTE
Enforcement Officers	4.95 FTE
Enforcement Assistants	3 FTE
Total	11.95 FTE

5.2 In addition to the planning enforcement team, the wider planning budget includes 2 FTE Monitoring and Enforcement Officers in the minerals and waste team. The work of the planning enforcement service is also

supported by specialist officers from other teams, for example the tree and conservation teams.

- 5.3 The planning enforcement budget also includes a legal expenses budget of £40k (24/25 financial year). This budget is used to cover the costs of legal advice where needed, for example in relation to potential injunctions, prosecutions, and enforcement appeals.
- 5.4 The data presented above in relation to cases opened and cases resolved (section 4.3) indicates that the current resourcing levels are broadly appropriate to deal with the incoming caseload. However, the total open planning enforcement caseload is high, and needs to be reduced, including through the identified action to review legacy (pre-April 2019) cases. In addition, some enforcement cases can be complex and resource-intensive to resolve, particularly where formal notices are issued, and when dealing with appeals and prosecutions. This means that capacity available within the team can fluctuate, with less resource available to deal with routine enquiries, when officers are needing to focus on the most complex cases. The continued implementation of the audit recommendations should assist with this, by ensuring that efficient and effective processes are in place, and by taking steps to resolve legacy cases, and therefore reduce the overall caseload.

6. **Summary and recommendation**

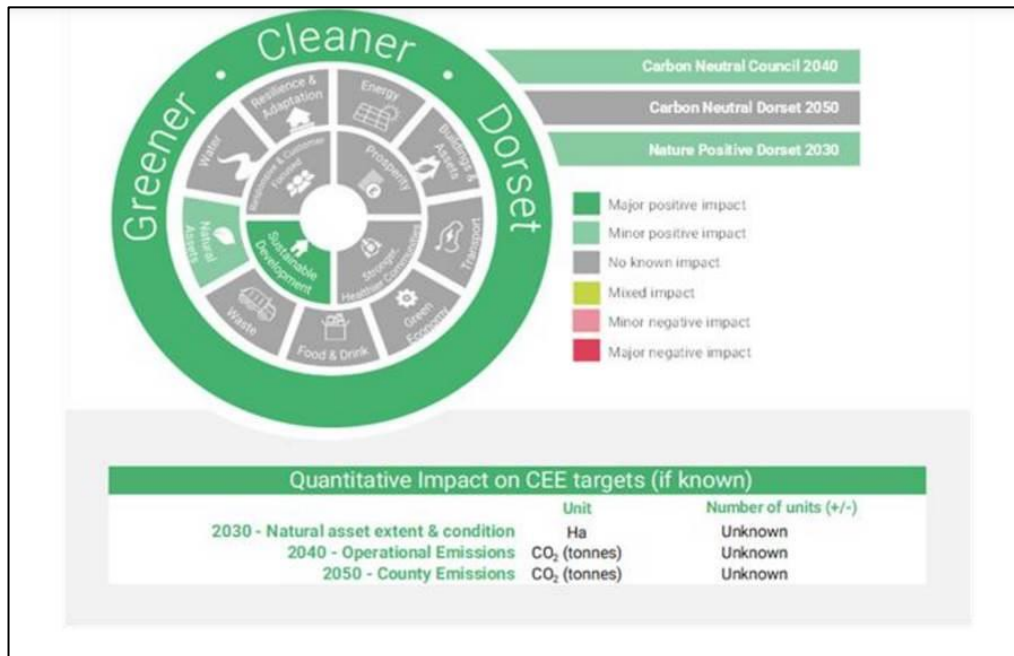
- 6.1 This report has set out a summary of the previous Local Enforcement Plan (in place from 2019 to October 2024) and has provided an update on the work which is underway to improve the efficiency and effectiveness of the planning enforcement service, informed by the findings of the recent audit. Performance statistics indicate that enquiries are registered promptly; numbers of cases resolved are roughly matching numbers of case received; and most cases are resolved informally. There is scope to improve the resolution timescales (a higher proportion of cases could potentially be closed within 8 weeks) and the current open caseload is high, and needs to be reduced.
- 6.2 It is recommended that Place and Resources Scrutiny Committee note the contents of this report and endorses the continued implementation of the actions arising from the internal audit of the planning enforcement service.

7. Financial Implications

- 7.1 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. The costs involved are considered on a case-by-case basis.
- 7.2 The continued implementation of the actions arising from the internal audit will help ensure that the planning enforcement service is delivered in the most effective way possible, within available resources.

8. Natural Environment, Climate & Ecology Implications

- 8.1 Inappropriate and unauthorised development can be counter to the Council’s climate and nature objectives, both in terms of its location and impact. As such, appropriate enforcement action will assist in supporting the objectives of [mission 5 of the Council's Natural Environment, Climate and Ecology Strategy](#).



9. **Well-being and Health Implications**

- 9.1 Inappropriate and unauthorised development can have a harmful impact on health and well-being. The planning enforcement service can have a role in reducing these impacts, through effective resolution of breaches of planning control.

10. **Other Implications**

- 10.1 Crime & Disorder implications: effective enforcement action can help restrict the potential for breaches of planning control to develop into criminal activity.
- 10.2 Formal planning enforcement action must only be conducted following liaison with Legal Services and in accordance with the Scheme of Delegation.

11. **Risk Assessment**

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

Current Risk: Medium

Residual Risk: Low

12. **Equalities Impact Assessment**

- 12.1 This report is not considered to have an impact on any groups protected under the Equalities Act. An Equalities Impact Assessment has been completed for the proposed new Local Enforcement Plan (2024) and identified an overall neutral impact (i.e. no change or no assessed significant impact on protected characteristic groups).
- 12.2 All planning enforcement cases are assessed on their planning merits and matters that might discriminate against people or groups would not carry any weight.

13. **Appendices**

- 13.1 Appendix 1: Dorset Council General Statement of Enforcement Policy
- Appendix 2: Dorset Council Development Management Planning Enforcement Plan (in place 2019 to October 2024)

14. **Background Papers**

14.1 None.

15. **Report Sign Off**

15.1 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)