FROM: Audit and Risk Manager   **SUBJECT:** Development Management

TO: Head of Development Services   **DATE:** 15 February 2021

C.C.   Chief Executive (CE)
Deputy Chief Executive (BH)
Head of Finance (MS)
Development Manager (GF)
Team Leaders (SS, RR)
Portfolio Holder – Cllr Cooke

1   Introduction

1.1   In accordance with the Audit Plan for 2020/21, an examination of the above subject area has been undertaken and this report presents the findings and conclusions drawn from the audit for information and action where appropriate. The review was undertaken by Nathan Leng, Internal Auditor. This topic was last audited in January 2018.

1.2   Wherever possible, findings have been discussed with the staff involved in the procedures examined and their views are incorporated, where appropriate, into the report. My thanks are extended to all concerned for the help and cooperation received during the audit.

2   Background

2.1   The Development Management service promotes and delivers safe, sustainable and attractive development. Its primary function is to ensure that all development within the District accords with local and national rules and regulations.

2.2   This is achieved by the submission and determination of planning applications. There is also a dedicated planning enforcement team that investigates alleged breaches of planning control and works to remedy unauthorised development.

3   Scope and Objectives of the Audit

3.1   The audit was undertaken to test the management and financial controls in place.

3.2   In terms of scope, the audit covered the following areas:

- Planning applications
- Fees
- Performance monitoring
- Risk management
- Enforcement

3.3   The control objectives examined were:

- Planning applications are decided by the appropriate officers or Members upon receipt of valid reports which allows for informed decisions to be reached.
- Planning applicants are correctly charged.
- The council receives all planning monies due.
- Pre-application fees are set at appropriate levels.
- Team member performance is accurately monitored.
- Service performance is accurately monitored.
- Management and Members are aware of how the service is performing against agreed objectives.
- Management are aware of the risks associated with the provision of services.
- Staff understand the rules and regulations that govern enforcement activities.
- Workloads are managed to ensure effective and efficient enforcement practices.
- Early intervention minimises the threat of planning breaches and unauthorised developments.
- The public perception of Council enforcement action is largely positive.

4   Findings

4.1   Recommendations from Previous Report

4.1.1   The current position in respect of the recommendations from the audit reported in January 2018 is as follows:

Recommendation	Management Response	Current Status
All members of the team should be reminded to save all necessary documentation in Idox.	This report and action plan will be discussed with all members of the team during the next team meeting. The message to staff will be to ensure that all relevant documentation is retained and filed in Idox.	It was evident that not all relevant documentation is saved in Idox. This recommendation was also made in the 2014 audit report and is made again in the latest report (2020).

4.2   Planning Applications

4.2.1   There is a formal scheme of delegation in place which is set out within the Council's constitution. Section DS (70) outlines a system of delegation whereby the Head of Development Services has the power to determine all applications submitted to Warwick District Council (WDC) as required by relevant planning laws.

4.2.2   There is also a 'local' scheme of delegation which outlines powers that the Head of Development Services has devolved to other officers.

4.2.3   Under section DS (70), the Development Manager, the Development Management Team Leaders and the Planning Enforcement Manager are authorised to review the work of the planning officers and to sign off delegated reports and decision notices once the applications have been decided.

4.2.4   To check that applications were being processed correctly, a sample of 55 planning applications decided in 2020 was randomly selected to check the following:

- Decisions as to whether planning applications were dealt with under delegated powers or passed to the Planning Committee were sound and based on the scheme of delegation.
- Relevant site visit reports were being completed and held.
- Evidence that site notices were being retained.
- Consultation responses were included in the relevant reports.
- Delegated decision worksheets were held and signed by appropriate officers.
- Committee reports were appropriately detailed.
- Decision notices were available.

4.2.5   In general, the testing proved satisfactory with the following key points noted:

- Decisions as to whether planning applications were dealt with under delegated powers or passed to the Planning Committee was sound for all 55 cases based on the scheme of delegation.
- Only nine cases had a site visit report held on Idox. The Development Management Team Leader (DMTL) confirmed that site visits had taken place but reports were saved locally rather than on Idox. Information contained in the nine available site visit reports was considered appropriate.
- There was no photographic evidence held on Idox to confirm that site notices had been placed appropriately in 54 out of the 55 cases sampled. One case was exempt from needing a site notice due to not meeting certain criteria. The DMTL confirmed that photographic evidence is currently saved in a secure folder for future reference.
- 47 of the 55 cases sampled were found to have all appropriate consultation details checked to the report. In seven cases, the report was not found and therefore could not be assessed. One case did not have all the relevant consultation details checked to the report. The DMTL confirmed that this was likely an oversight error.
- The delegated decision worksheet was held for 45 of the 55 cases and signed by an appropriate officer. In seven cases, there was no delegated decision worksheet held. Three cases were Planning Committee reports and therefore exempt from this test.
- The three Planning Committee reports were held and appropriately detailed.
- Decisions notices were available in all 55 cases sampled.

4.2.6 It is acknowledged that human error may occur due to the nature of the planning application process. However, for transparency and reputational purposes, all evidence should be available in Idox.

Risk

Relevant documentation relating to an application may not be publicly available.

Recommendation

Planning staff should be reminded to save all necessary documentation in Idox.

4.3 **Fees**

4.3.1 Planning applications require a fee to be paid before an application is accepted for assessment. These fees are set externally and publicised on the Planning Portal website.

4.3.2 A 20% increase in fees came into effect in January 2018. The Employment Committee agreed to follow central government guidance to use the additional funds arising from this increase to support the delivery of an effective planning system.

4.3.3 All received fees are verified by the Administration team who save evidence of payment on the Idox document management system (DMS).

4.3.4 A sample of 55 applications was selected to ensure that fees are calculated and charged correctly. The test proved satisfactory in that the majority of fees were correct and had been received.

4.3.5 There were only two cases where incorrect fee information was found on Acolaid. The DMTL confirmed that these were manual input errors. Two additional cases were found to have no receipt of payment on Acolaid.

4.3.6 While the rate of error is low, it is important that officers correctly input fee information and ensure fee-related evidence is stored in the appropriate DMS.

4.3.7 Evidence from fee calculation forms held on Idox revealed that the planning fees for all 55 cases was completed correctly in line with the Planning Portal guidelines.

4.3.8 Potential applicants are able to pay a small fee to receive pre-application advice from a member of the Development Services team. This affords potential applicants with the opportunity to discuss an application, any relevant legislation and receive assurance as to whether an application is likely to be successful.

4.3.9 The Development Services Manager (DSM) sets the pre-application advice fees. The DSM periodically conducts a benchmarking exercise comparing the fees charged by other local authorities to ensure fair and competitive pricing. However, no evidence of this has been provided.

4.4 **Performance Monitoring**

4.4.1 Individual officer performance is monitored in real-time by the Development Management Team Leader (DMTL) who is able to track how many cases each officer is dealing with and how many of those are nearing the deadline date so that appropriate action can be taken.

4.4.2 The Enforcement Manager (EM) monitors the Enforcement team caseload of to ensure it is appropriate and manageable. This is achieved through the production of Ripplestone reports which extract caseload information from Acolaid.

4.4.3 The EM noted that there is currently an issue with Ripplestone whereby the report for tracking the number of closed cases has been malfunctioning for at least twelve months. As a result, it has become more difficult to monitor team performance.

Risk

Caseload monitoring may be made more difficult and time-intensive.

Recommendation

The issues with Ripplestone should be identified and resolved.

4.4.4 The overall performance of the planning process is monitored by the central government. PS1 and PS2 forms are to be completed by each district planning authority in England and submitted on a quarterly basis.

4.4.5 The PS1 and PS2 reports present information about the range of district matter applications that local planning authorities handle when exercising their development management functions. These reports are generated within the Acolaid system.

4.4.6 The PS1 report outlines the number of planning applications received and outstanding while the PS2 report details the time taken to process various types of application. The PS1 report also contains information on the number of different types of enforcement action taken.

4.4.7 The Council are required to make planning decisions within a statutory determination period. The national targets are 60% of major applications to be decided within 13 weeks of application or by any extended date agreed and 70% of non-major applications within eight weeks or by any extended date agreed. The Council can lose the authority to determine planning applications if they do not meet these targets.

4.4.8 Development Management has performed consistently well against these targets with 90% of all planning decisions made within the statutory time limits over the last three years.

4.4.9 However, the percentage of the planning applications with performance agreements (PA) has increased each year (see table, overleaf):

Financial Year	Planning Applications *With* Performance Agreements	Planning Applications *Without* Performance Agreements
2017-18	1244 (81%)	296 (19%)
2018-19	981 (70%)	420 (30%)
2019-20	774 (62%)	480 (38%)
2020-21	322 (59%)	223 (41%)

4.4.10 The DMTL and DSM advised that the increased use of extensions is likely to be the consequence of staffing issues. During the course of this audit it was noted that there are two outstanding vacancies for Planning Administration Officers. Approval for the recruitment of an Assistant Planning Officer and a Senior Planning Officer has recently been granted. It is envisaged that the fulfillment of these positions will increase capacity.

4.4.11 Although Development Management consistently meets their statutory obligations and the use of extensions to the statutory period is legitimate, the trend of requiring a substantially higher percentage of performance agreements each year is unsustainable and should be monitored.

Risk

Use of performance agreements to achieve statutory obligations may become unsustainable.

Recommendation

The percentage of applications with performance agreements should be included in the quarterly SAP figures.

4.4.12 The Planning Enforcement Policy provides guidance on enforcement procedure and best practice. The overall aim is to reinforce the standards of the local and neighbourhood plans while avoiding taking formal action where possible.

4.4.13 A sample of 36 enforcement cases was selected for testing to ensure that decisions were made in line with local and neighbourhood plans.

4.4.14 The test proved satisfactory in that, in every case sampled, the appropriate decision route was taken. All decisions were sound, made in line with local and neighbourhood plans with reference to appropriate planning legislation to support their case.

4.4.15 While some decisions were viewed as contentious by the notifier, it is acknowledged that the Council has some discretion as to how it may approach enforcement actions. In these instances, the justifications provided by the Enforcement team appear wholly legitimate.

4.4.16 The service area plan (SAP) quarterly figures for Development Services are shared on the Business Intelligence portal (BIP). These are available to the Senior Management Team (SMT) to provide performance oversight of various

Development Services activities, including Development Management & Enforcement.

4.4.17 The Development Service Manager (DSM) acknowledged that the measures of performance included in the SAP quarterly figures are not comprehensive and could be improved.

4.4.18 The SAP quarterly figures do not contain information on local and national targets which the performance figures are measured against. It would be beneficial to managers and Members if they were provided with the performance targets with the quarterly figures so that they can easily assess performance against set targets.

4.4.19 The Systems and Business Improvement Officer (SBIO) produces monthly reports on planning application measures which are reported to the DSM. However, The SBIO confirmed that there is no monthly reporting of enforcement performance.

4.4.20 Regular reporting of enforcement performance would be a very useful addition to the compendium of reports that the DSM receives. For this purpose, Ripplestone provides a multitude of reports for different aspects of enforcement performance monitoring.

Advisory

The Development Manager should receive monthly reports of enforcement performance against set targets.

4.5 **Risk management**

4.5.1 There are many risks relating to Development Services including health and safety, IT failures, resource limitations, inadequate training, legislation changes and staff availability. For Development Management specifically, the risks can be summarised as failing to deal with applications properly and within the required timescales.

4.5.2 These risks have been identified and allocated in the Development Services risk register which was last reviewed by the Finance and Audit Scrutiny Committee in April 2019.

4.5.3 The service-specific risk register should be viewed as a 'live document' and therefore reviewed and updated on an ongoing basis. Despite considerable changes in work processes over the last eight months, the risk register has not been updated since April 2019.

4.5.4 In response to changing conditions brought about due to the COVID-19 pandemic, a risk assessment was carried out by the Enforcement Manager. The assessment focused on the health and safety implications of site inspections during the pandemic. The findings do not feature on the risk register.

Risk

Risks may not be identified or updated in the risk register.

Recommendation

The Development Services risk register should be reviewed and updated on an ongoing basis.

4.6   **Enforcement**

4.6.1   Changes to planning and enforcement legislation are published by the central government. When changes in legislation are enacted, the Enforcement Manager (EM) receives an email notification and forwards it to the Enforcement team.

4.6.2   The EM arranges regular team meetings to discuss legislation changes. However, due to various factors including resource limitations, the volume of enforcement cases and changing working practices during the COVID-19 pandemic, enforcement staff have met less frequently despite the increase in legislative changes within the last eight months.

4.6.3   It is understood that enforcement officers have an individual responsibility to keep up-to-date with legislation changes. All staff members have access to a range of WDC documents that outline enforcement processes and procedures in line with local and national rules and regulations.

4.6.4   Staff have access to legal advice through the Shared Legal Service Agreement (SLSA) with Warwickshire County Council (WCC). Contact is usually made via email. Supervisors at WCC will then delegate the task to an appropriate appointee.

4.6.5   Due to the reactive nature of enforcement-related legal enquires, it can be difficult to anticipate the level of support needed. However, the level of legal support is generally considered appropriate.

4.6.6   The weekly in-person legal workshops provided by the Legal Service has stopped due to the COVID-19 pandemic. The EM has arranged fortnightly virtual meetings with a planning legal advisor to discuss issues and seek advice during this period of remote working.

4.6.7   The Enforcement team currently consists of one Enforcement Manager, one full-time Enforcement Officer (37 hours) and two part-time Enforcement Officers (30 and 20 hours). There is also a vacancy for a Senior Enforcement Officer.

4.6.8   There are approximately 2000 enforcement cases presented to the Council each year. The EM allocates cases on a pro-rata basis and calculates the number of cases each officer can have based on the number of hours each officer is contracted per week.

4.6.9   There is currently a backlog of 149 cases yet to be allocated, with the earliest dating back to April 2020. At the time of writing this report, the Enforcement

Manager has been allocated seven cases to help clear the backlog. Due to the backlog, the Enforcement team are only dealing with high-priority enforcement cases.

4.6.10   The EM raised concerns that staffing issues have contributed to a reduction in the efficiency of the team. There is also some anecdotal evidence that an increased workload and associated pressures have contributed to work-related stress and absences.

4.6.11   The EM confirmed that the Enforcement team do not attend local Parish and Town Council meetings to proactively identify and respond to potential emerging development issues. This is due to time constraints brought about by resource limitations and the high-volume of cases.

4.6.12   However, the EM carries out training sessions with local Members to ensure that they have the skills and knowledge to identify legitimate development issues within their constituencies. The aim is to add a layer of expertise at a local level to filter potential cases so that only those which constitute a legitimate breach of local and national development rules are presented to the Enforcement team.

4.6.13   The training was scheduled for April 2020 but cancelled due to the COVID-19 pandemic. The EM intends to arrange virtual training in the future. When the training is re-arranged there may benefits from extending the training to include local parish and town representatives.

Advisory

Consideration should be given to extending the training to include local parish and town representatives.

4.6.14   Local residents were consulted during the drafting of the Council's Local Plan and neighbourhood plans and amendments were made in light of the public examination. Enforcement action, carried out in accordance with these plans, is therefore informed by local interests.

4.6.15   The Planning Enforcement Policy states that the Council should publicise the outcome of enforcement cases in the local media and by other means in the interest of raising public awareness of the risks associated with undertaking unauthorised development. It is hoped that this will deter unauthorised development and thereby reduce the incidence of such development occurring.

4.6.16   The EM and DSM aim to publicise the outcome of cases whenever possible; they acknowledged, however, that more could be done and conceded that there is not a specific plan in place currently to facilitate this.

4.6.17   The risks associated with not publicising enforcement actions are small. However, advantages may include increased public awareness of local enforcement activity, the education of residents and developers on proper development practices and promotion of Council services.

Risk

The public may be unaware of the risks associated with undertaking unauthorised development.

Recommendation

Enforcement activity should be publicised in local media and on social media.

5 Conclusions

5.1 Following our review, in overall terms we are able to give a SUBSTANTIAL degree of assurance that the systems and controls in place in respect of the Development Management are appropriate and are working effectively.

5.2 The assurance bands are shown below:

Level of Assurance	Definition
Substantial Assurance	There is a sound system of control in place and compliance with the key controls.
Moderate Assurance	Whilst the system of control is broadly satisfactory, some controls are weak or non-existent and there is non-compliance with several controls.
Limited Assurance	The system of control is generally weak and there is non-compliance with controls that do exist.

5.3 A number of minor issues were, however, identified:

- Manual input errors were found in Acolaid (although this issue was not widespread).
- The SAP quarterly figures are not comprehensive and could be improved.
- The SAP quarterly figures do not contain information on local and national targets which the performance figures are measured against.
- Enforcement virtual team meetings to discuss legislation changes were not taking place sufficiently frequently during remote working.

5.4 Further 'issues' were also identified where advisory notes have been reported. In these instances, no formal recommendations are thought to be warranted as there is no risk if the actions are not taken. If the changes are made, however, the existing control framework will be enhanced:

- The Development Manager should receive monthly reports of enforcement performance against set targets.
- Consideration should be given to extending the training to include local parish and town representatives.

6   **Management Action**

6.1   The recommendations arising above are reproduced in the attached Action
         Plan (Appendix A) for management attention.

Richard Barr
Audit and Risk Manager

Action Plan

Internal Audit of Development Management – February 2021

Report Ref.	Recommendation	Risk	Risk Rating*	Responsible Officers	Management Response	Target Date
4.2.6	Planning staff should be reminded to save all necessary documentation in Idox.	Relevant documentation relating to an application may not be publicly available.	Low	Manager - Development Services / Business Manager - Development Management	Agreed.	End of Feb 21
4.4.3	The issues with Ripplestone should be identified and resolved.	Caseload monitoring may be made more difficult and time-intensive.	Low	Systems and Business Improvement Officer	Agreed.	End of April 21
4.4.11	The percentage of applications with performance agreements should be included in the quarterly SAP figures.	Use of performance agreements to achieve statutory obligations may become unsustainable.	Low	Manager - Development Services / Systems and Business Improvement Officer	Agreed subject to discussion with the Head of Service and Development Portfolio Holder.	Discussion by end of March 21
4.5.4	The Development Services risk register should be reviewed and updated on an ongoing basis.	Risks may not be identified or updated in the risk register.	Low	Manager - Development Services / Enforcement Manager	Agreed.	This is already the case.

Report Ref.	Recommendation	Risk	Risk Rating*	Responsible Officers	Management Response	Target Date
4.6.17	Enforcement activity should be regularly publicised in local media and on social media.	The public may be unaware of the risks associated with undertaking unauthorised development.	Low	Manager - Development Services / Enforcement Manager	Agreed. Consideration is already given to this on a regular basis.	This is already the case.

* Risk Ratings are defined as follows:

High Risk: Issue of significant importance requiring urgent attention.
Medium Risk: Issue of moderate importance requiring prompt attention.
Low Risk: Issue of minor importance requiring attention.