

# **ARGYLL & BUTE COUNCIL**

## **Internal Audit Section**

### **INTERNAL AUDIT REPORT**

<b>CUSTOMER DEPARTMENT</b>	<b>DEVELOPMENT AND INFRASTRUCTURE SERVICES</b>
<b>AUDIT DESCRIPTION</b>	<b>SYSTEM BASED AUDIT</b>
<b>AUDIT TITLE</b>	<b>PLANNING ENFORCEMENT AND APPLICATION PROCESSING</b>
<b>AUDIT DATE</b>	<b>AUGUST 2015</b>

**2015/2016**



## **1. BACKGROUND**

A review of Planning Enforcement and Application Processing relating to retrospective works/enforcements within Development and Infrastructure has been planned as part of the 2015/16 Internal Audit programme.

Planning permission is required for most development that takes place in Scotland, with the exception of some minor works which is deemed to be permitted under regulations applied by Scottish Government. However, developers or householders sometimes undertake work without planning permission or fail to comply with the terms of planning permissions.

The purpose of planning enforcement is to resolve a problem rather than to punish a mistake. Any action taken has to be appropriate and proportionate to the scale of the breach.

Councils have discretionary powers to enforce planning controls in such cases, if they consider it is in the public interest and expedient to do so having regard to a deemed assessment against the Local Development Plan and material planning considerations. Councils also monitor certain developments to ensure planning controls are being followed. Additionally, the public often alert the council to problems they become aware of.

Following the provisions of Scottish Government Circular 10/2009 – Planning Enforcement ensures that actions taken are in line with national practices and current Scottish Government guidance. The Council's Enforcement Service contributes to delivery of the Single Outcome Agreement objectives, the Council's Corporate Plan objectives and the Planning Service Plan objectives.

The Council has prepared a Planning Enforcement and Monitoring Charter to ensure that adopted procedures are fair and reasonable, and that interested parties are kept informed and are made aware of what is required.

## **2. AUDIT SCOPE AND OBJECTIVES**

- A review of the Enforcement and Monitoring charter in terms of retrospective planning permissions
- Sample of retrospective planning permissions to ensure compliance with legislation/charter

## **3. RISKS CONSIDERED**

- Failure to comply with legislation
- Detrimental impact on Council reputation

## **4. AUDIT OPINION**

The level of assurance given for this report is Substantial

Level of Assurance	Reason for the level of Assurance given
<b>High</b>	Internal Control, Governance and the Management of Risk are at a high standard with only marginal elements of residual risk, which are either being accepted or dealt with.
<b>Substantial</b>	Internal Control, Governance and the Management of Risk have displayed a mixture of little residual risk, but other elements of residual risk that are slightly above an acceptable level and need to be addressed within a reasonable timescale.
<b>Limited</b>	Internal Control, Governance and the Management of Risk are displaying a general trend of unacceptable residual risk and weaknesses must be addressed within a reasonable timescale, with management allocating appropriate resource to the issues.
<b>Very Limited</b>	Internal Control, Governance and the Management of Risk are displaying key weaknesses and extensive residual risk above an acceptable level which must be addressed urgently, with management allocating appropriate resource to the issues.

This framework for internal audit ratings has been developed and agreed with Council management for prioritising internal audit findings according to their relative significance depending on their impact to the process. The individual internal audit findings contained in this report have been discussed and rated with management.

A system of grading audit findings, which have resulted in an action, has been adopted in order that the significance of the findings can be ascertained. Each finding is classified as High, Medium or Low. The definitions of each classification are set out below:-

**High** - major observations on high level controls and other important internal controls. Significant matters relating to factors critical to the success of the objectives of the system. The weakness may therefore give rise to loss or error;

**Medium** - observations on less important internal controls, improvements to the efficiency and effectiveness of controls which will assist in meeting the objectives of the system and items which could be significant in the future. The weakness is not necessarily great, but the risk of error would be significantly reduced if it were rectified;

**Low** - minor recommendations to improve the efficiency and effectiveness of controls, one-off items subsequently corrected. The weakness does not appear to affect the ability of the system to meet its objectives in any significant way.

## 5. FINDINGS

The following findings were generated by the audit:

Review of Planning and Enforcement Charter

- Argyll and Bute Council planning department have prepared an Enforcement and Monitoring Charter that outlines the procedures and standards of service that customers can expect when they make enquiries to Argyll and Bute Council about developments that may not be permitted under the relevant laws. The charter was agreed by the Licensing Committee and is shown on a page on the council website at - <http://www.argyll-bute.gov.uk/planning>
- A review of the charter was carried out to ensure that it complied with the guide prepared by the Scottish Government which sets out the key points that all Council charters should include, namely:
  - Explains how the enforcement process works
  - The role of the Council and the service standard it sets itself
  - Explains what happens at each stage of the process
  - States the planning laws which are applicable under the charter
- The review evidenced that the charter includes all of the points included within the guidelines specified by the Scottish Government
- A review of other charters prepared by Councils showed that they have included separate website links for the various headings included within the charter and this should be considered by the Planning Department.

Sample of retrospective planning permissions to ensure compliance with legislation/charter

- During the year 2014/15 Argyll and Bute planning department dealt with 131 retrospective planning applications. To put this into context the table below summarises the total number of planning applications for the last 3 years and the total number of retrospective planning applications for each of those years and the number of successful appeals against council decisions.

Year	Total number of planning applications	Total number of retrospective	Total number of applications
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		applications	approved
2014/15	1876	131	112
2013/14	1891	150	129
2012/13	1802	111	99

- A random sample of the 131 retrospective applications made in 2014/15 was taken and a review of that sample was carried out in order to evidence that planning officers have met the requirements stipulated as outlined in the Councils charter. The review involved reviewing the “Report of Handling” which details all relevant documents associated with the retrospective application and the reasoning behind why an application was accepted or rejected. The report has the following headings namely:
  - Summary outlining the action
  - Recommendation
  - History of action (if applicable)
  - Consultation carried out with appropriate bodies
  - Publicity involving application
  - Representation correspondence from interested bodies/persons
  - Supporting information e.g. environmental assessment report ,design/access statements
  - Legislative planning obligations
  - Development plans considered , e.g. Argyll and Bute local plan
  - A check list of points that the planning officer should consider (not detailed here)
  - Reasons given if permission contrary to development plan
  - A summary of the determining issues that led to the decision.
  - Name of planning officer and reviewing officer.
  
- It was evidenced from reviewing the “Report of handling” that all sections of the report as outlined above had been properly populated and that a logical flow of information was outlined in the report that explained the planning officers decision in accepting or rejecting the application.
  
- It was evidenced that where letters of objection against a development have been received, objections have been summarised within the report and a comment has been inserted against each objection explaining whether or not there is merit to the objection.

- It was evidenced that consideration was given to Argyll and Bute Councils development plan policies such as the local development plan and the structure plan 2002 where this was applicable to the application.
- It was evidenced that a cohesive summary explaining all the determining issues and considerations taken into account in arriving at the decision has been included in each of the reports reviewed.
- It was evidenced where planning permission has been refused that a detailed explanation has been given including referencing relevant provisions included in documents such as the local development plan 2009, Argyll and Bute structure plan 2002 or relevant environmental policies.
- It was noted that one of the 10 applications reviewed did not detail whether the application had been reviewed by another planning officer as required. A further 10 applications were therefore checked to evidence that this was not an endemic problem. All of the additional 10 applications were evidenced as having been reviewed by a planning officer.
- It was noted that 6 of the 20 applications checked showed a signature of the reviewing officer, the other 13 had the reviewing officer's name typed in the relevant box.

## **6. CONCLUSION**

This audit has provided a Substantial level of assurance. There were a number of low recommendations for improvement identified as part of the audit and these are set out in Appendix 1. There were no high or medium recommendations. There were 2 low recommendations which are not reported to the Audit Committee. Appendix 1 sets out the action management have agreed to take as a result of the recommendations, the persons responsible for the action and the target date for completion of the action. Progress with implementation of actions will be monitored by Internal Audit and reported to management and the Audit Committee.

Thanks are due to the Planning staff and management for their co-operation and assistance during the Audit and the preparation of the report and action plan.



## Contact Details

Name David Sullivan

Address Whitegates, Lochgilphead, Argyll, PA31 8RT

Telephone 01546 604125

Email david.sullivan@argyll-bute.gov.uk

[www.argyll-bute.gov.uk](http://www.argyll-bute.gov.uk)

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