

Report to	Audit Committee
Date	27 September 2011
By	Head of Planning
Title of Report	Planning Risk Issues
Purpose of Report	To advise the Committee of the approach to dealing with risks arising from providing the planning service

Recommendation: The Committee is recommended to note the approach to handling planning risks for the Authority

1. Introduction

- 1.1 This report sets out the risks associated with providing a planning service for the South Downs National Park Authority (SDNPA), and reviews the way risks have been handled to date. It also looks forward to risks identified for the short/medium term, and confirms the approach to ensuring that the risks are effectively managed to mitigate/minimise the risk consequences to the SDNPA

2. Background

- 2.1 Planning risks are particularly significant for the SDNPA in view of the prominence of the planning role for the SDNPA. Planning is a high profile role for the organisation, as its only statutory regulatory role, and because of the relatively high proportion of the budget devoted to it. In most Local Planning Authorities, while the planning role has a high profile, it comprises a much smaller proportion of the budget, so the financial risks to them are proportionately less.
- 2.2 The risks to the SDNPA are also complicated and potentially exacerbated by the agency arrangements for providing the development management service, due to:
- The administrative complexity of providing a service through an agency arrangement with fifteen partners
 - Achieving satisfactory standards of service
 - Performance management
 - IT complexities
 - Controlling (and auditing) costs
- 2.3 The subjective and sensitive nature of planning adds to the difficulties – the SDNPA needs to ensure that the service being provided is as good as it would be if it was providing the service itself. To achieve this standard of consistency across a large number of service providers is particularly challenging.
- 2.4 The planning policy service is also being provided in partnership with some of the constituent councils. While this also carries some risk, this is lessened by the role of the Authority effectively being able to 'veto' joint planning policy work that is not satisfactory. The issues to do with the sensitive nature of planning, and how it is handled on behalf of the SDNPA do still arise, however
- 2.5 Planning risks are amongst the top risks for the SDNPA in the corporate risk register, as reported elsewhere on this agenda. This report reviews how key risks have been handled to date, and comments on anticipated risks, and how it is proposed to manage them.

3. Key risks to date

- 3.1 When the Authority was considering delegating the planning service to the councils, the key risk was being able to provide a satisfactory and continuous service from 1 April 2011. A number of risks were associated with this, most significantly the legality of the service being provided, but also the administrative issues of service continuity, and the IT difficulties.
- 3.2 The legal risks were mitigated by securing a multilateral agreement with all authorities (referred to in shorthand as the 'agreement to agree'), which provided a failsafe for service continuity on 1 April 2011. Effectively, by default, if detailed arrangements were not in place, this agreement legitimised the councils to provide the service on behalf of the SDNPA until such time as the detailed provisions were in place.
- 3.3 It was decided to mitigate the risks associated with IT by deferring implementation of an IT system for the Authority until April 2012, reducing the risks of implementing a complex IT system in a short period of time. The disadvantage of this approach is that for the period until the SDNPA's IT system (Idox) goes live, planning administration is being run on 15 different IT systems. This provides problems of consistency, data analysis, performance management and, for SDNPA officers, the difficulties of working with a variety of IT systems to provide a professional service. However, the benefit is that it also mitigated the risk of introducing new administrative procedures, and so achieved the objective of securing administrative continuity from 1 April 2011.
- 3.4 The next key risk was ensuring continuity of service beyond the security provided by the agreement to agree, namely 31 March 2012. This necessitated firstly agreeing a core agency (section 101) agreement with all fifteen authorities, and then negotiating individual variations of this agreement tailored to the circumstances of each authority. While ideally these agreements were to be in place by April 2011, the complexities and logistics of these negotiations caused this period to be more protracted. Most agreements were completed in July/August, and at the time of drafting this report only 3 agreements are outstanding. In all cases the issues yet to be resolved are more technical than substantive. In any case, because the majority of agreements have been completed, including the agreements with the four councils which together account for about 75% of the caseload, the substantive risk posed by this has been overcome, and it has been removed from the risk register.
- 3.5 With regard to handling risks associated with IT, the disadvantage of not implementing a comprehensive IT system for the current year has, as anticipated, been challenging. The performance information for the first quarter of this year is only now being put together. On the other hand, users of the system have been provided with continuity, and apart from some shortcomings in information on the SDNPA's website, IT shortcomings for this year have mainly been internal.
- 3.6 Implementation of the IDOX project has also been challenging. There have been a number of technical issues that have taken longer than anticipated to resolve, but in recent weeks progress has been more promising. The importance of and the priority given to the project has been escalated within both the SDNPA and IDOX and this has helped considerably with its development. It is still proposed to implement the system on 1 April 2012, but this will be kept under review as critical stages of the project are reached.
- 3.7 If there is any slippage beyond this date, discussions have already taken place with our partner authorities to ensure that they continue to use their systems to administer SDNPA planning until the SDNPA system becomes operational.
- 3.8 With regard to planning policy, joint working has been agreed with Wealden District Council, Winchester City Council, Lewes District Council and East Hants District Council, as well as Hampshire County Council, West Sussex County Council and East Sussex County Council/Brighton and Hove City Council. A joint core strategy is on the point of adoption with Worthing Borough Council. In all cases, the decision to commit to joint working was made after assessments of the benefits and practicability of joint working. The key benefit is securing early statutory policy for significant areas of the National Park, and

the main practicability issue is the requirement for a convergent view about the role and policies for the National Park.

4. Key risks for the short/medium term

4.1 The key risks identified in the risk report on this agenda are:

25- Inability to provide satisfactory delegated planning function from 1 April 2012 because IT solution is not implemented. (likely/moderate-significant)

44 Failure to produce Local Development Framework (LDF) or Core Strategy (possible/major – significant)

Lower order risks include:

48 Lack of capacity within SDNPA to support the implementation of the IDOX system to support development management function (likely/moderate – significant)

41 Increase in numbers of Planning Applications or reduction in fee income affects SDNPA spending (possible/moderate - significant)

45 Lack of capacity to manage Development Management function effectively, especially around enforcement issues (possible/moderate – significant)

4.2 There are a number of risks associated with implementing the IDOX system for the National Park by April 2012. While IDOX is a tried and tested IT system, it has not been used to provide a service of this complexity. Some councils (Eastbourne, Arun, Wealden) have already decided to withdraw from the delegation arrangements, and not to implement the IDOX system, but that still leaves eleven different IT systems to work with. Initial testing has established viable links to all the systems, but setting the system up to enable it to upload information from all eleven councils is a major challenge. The IDOX system also requires a number of templates to be developed, and these in turn depend on process-mapping all development management systems, and this is a major, resource-intensive exercise. Resources have been identified to enable the work to be undertaken, and the project is being carefully project-managed to ensure critical deadlines are achieved.

4.3 A particular risk for the system is the possibility of moving to a new IT supplier from next April. This risk is again being carefully managed, to ensure that reasonable assumptions are made about the feasibility of the April 2012 deadline. A similar risk applies to the procurement of a new GIS contract on the same timescale.

4.4 The staff resources currently committed to the Idox project are all currently fixed term, on the assumption that there will be a peak in workload over the next year, following which the need for continuing staffing can be reviewed.

4.5 The risk relating to the LDF/Core Strategy scores highly because of the critical reliance on this for providing a sound development management service, particularly in view of the government's intention to introduce a presumption in favour of sustainable development from next year. While the meaning of sustainable development will be subject to interpretation, this does pose a risk to the development management function. It is, in any case, desirable for the SDNPA's own policies to be in place to provide a framework for the development management service as soon as possible.

4.6 The early stages of community engagement and evidence gathering for the Core Strategy draw extensively on the equivalent stages of the management plan programme, and as such are well in hand. Additional studies, such as a housing needs study, have been commissioned. The main risk to keeping to the timetable for this work is team capacity. New staff are currently being recruited to help mitigate this risk.

4.7 A number of financial risks are also being addressed. All local authorities are expected to provide quarterly returns with information on the levels of income and S106 receipts received. This information needs to be reconciled for all local authorities to ensure that the returns are accurate and a sound basis for the payments. Due to a shortage in staff resources the reconciliations are proceeding on a risk basis commencing with those with a greater potential financial impact.

4.8 In addition this information from the local authorities is used to assess the current level of

planning activity and any changes to activity levels outside of agreed levels may result in a change to the cost of the service provision.

- 4.9 Currently eleven of the fifteen returns have been received for the first quarter and officers are chasing for the final 4 which relate to smaller authorities. Although the returns completed to date show that planning applications are forecast to increase by 18% (excluding those administered by the National Park Authority), the actual fees and income projections have significantly reduced. If these projections are accurate then this will result in an overspending for the Authority. Therefore it is essential for officers to review these returns including verifying actual income received and confirming income projections to inform the Authority's Budget Monitoring 2011/12 Quarter 2 forecast. Procedures will be reviewed to identify process improvements to ensure that future returns are improved.
- 4.10 Planning costs are notoriously vulnerable to fluctuation, both because fee income is outside our control (until fees are set locally, but even then fluctuations in workload and fee income will be a continuing risk). There are also risks of extraordinary costs associated with planning, such as awards of costs at appeal, costs of legal action, and in exceptional cases, compensation costs etc. Again, the vulnerability of the SDNPA's budget to these fluctuations is greater than for ordinary Local Planning Authorities because planning costs are a much higher proportion of the SDNPA budget than for ordinary councils, and for this reason there is an earmarked reserve of £400,000, specifically for planning delivery in relation to the agency agreements. In addition there is a separate earmarked reserve of £600,000 to cover extraordinary costs such as potential planning inquiries.
- 4.11 The risk register identifies capacity in the development management team, and particularly enforcement, as a risk. The development management team is small and vulnerable to fluctuations in workload – for instance, the current appeal against refusals for development at the King Edward VII hospital will significantly affect the capacity of the team. This is being managed by retaining interim staff at present and will be kept under review over the year.
- 4.12 To mitigate the risk of the development management service not meeting the standards required by the SDNPA, routine meetings are held with all the Link Officers to share casework analysis to ensure consistency across the National Park. The s101 agreements provide for quarterly/annual reviews to assess the quality of the service and in particular, to assess how the services are meeting National Park purposes. The format of these reviews is under discussion and a comprehensive set of reviews is expected for the second quarter of this year.
- 4.13 There are 2 more potential risks for the development management service. Firstly, it is now necessary to conclude agreements with all the authorities continuing to provide a development management service on the standards of service and payments for the year commencing April 2012. This is a complex process requiring performance management information on the service performance for the current year to be assessed, then for the SDNPA to take a preliminary view on service standards and costs. These then need to be negotiated in accordance with the timescales set down in the s101 agreements, which requires them to be finalised by 31 January 2012.
- 4.14 The final issue for development management is establishing a way of providing a service for the authorities not continuing with a delegation arrangement from next April. This is likely to involve service analysis, process mapping, recruitment and implementation, which must all be concluded by next April, and will necessarily compete with both IDOX development/implementation work, and the pressures of the development management service itself. Preliminary discussions have already commenced.

5. Resources

- 5.1 There are no additional resource requirements arising from this report.

6. Risk management

- 6.1 The report outlines the current planning risks facing the SDNPA and how they will be mitigated.

7. Human Rights, Equalities, Health and Safety

7.1 There are no implications arising from this report.

8. External Consultees

8.1 None.

**JIM REDWOOD
Head of Planning**

Contact Officer:	Jim Redwood – Head of Planning
Tel:	0300 303 1053
email:	jim.redwood@southdowns.gov.uk
Appendices	None
SDNPA Consultees	Chief Executive Officer, Director of Corporate Services, Head of Planning, Director of Strategy and Partnerships, Head of Operations, Chief Finance Officer, Deputy Chief Finance Officer, Monitoring Officer & Senior Solicitor.
Background Documents	Report to Audit Committee 27/September 2011- Corporate Risk Register Report to Audit Committee 10 June 2011 Item AC 18/11 Report to Audit Committee 5 April 2011 Item 10 AC 08/11