



REPORT of CHIEF EXECUTIVE

to
PLANNING AND LICENSING COMMITTEE

UPDATE ON APPEAL DECISIONS (JANUARY – MARCH 2017)

1. PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to inform the Committee of planning appeal performance on appeal decisions from January 2017 to March 2017.

2. RECOMMENDATION

That the contents of this report be noted.

3. SUMMARY OF KEY ISSUES

- 3.1 This report is for Members' information only but particular attention is drawn to the Council's current performance of all appeals.
- 3.2 This report provides information by the relevant committee or officer delegated decision, overall performance and performance measured against the Department of Communities and Local Government (DCLG) performance figure for major application appeals.
- 3.3 Appeal results by application decision type: Quarter 4 2016 /17 are as follows:

Application decision type	Allowed by the Planning Inspectorate (PINS) (i.e. the applicant was successful)	Dismissed by PINS (i.e. the Council was successful)
1. Appeals against Officer Delegated decisions	6	10
2a. Appeals against Central Area Planning Committee decisions as per report recommendation	0	0

Application decision type	Allowed by the Planning Inspectorate (PINS) (i.e. the applicant was successful)	Dismissed by PINS (i.e. the Council was successful)
2b. Appeals against Central Area Planning Committee decisions where decision made contrary to the report recommendation i.e. member overturn	2	1
3a. Appeals against South Eastern Area Planning Committee decisions as per report recommendation	2	0
3b. Appeals against South Eastern Area Planning Committee decisions where decision made contrary to the report recommendation i.e. member overturn	0	2
4a. Appeals against North Western Area Planning Committee decisions as per report recommendation	1	2
4b. Appeals against North Western Area Planning Committee decisions where decision made contrary to the report recommendation i.e. member overturn	1	0
5. Appeals against non-determination i.e. where the Council did not make a decision within the statutory time period and the applicant exercised the right of appeal	0	0
6. Appeals against Full Council decisions as per report recommendation	0	0
7. Appeals against Full Council decisions where decision made contrary to the report recommendation i.e. member overturn	1	0
Numbers Total	13	15
Decisions as a %	46.43	53.57

3.4 Appeal by type of appeal

1. Appeal type (Planning applications)	
Householder appeals	5
Written Representation	17
Hearing	6
Public Inquiry	0
Total appeals	28

2. Appeal type (Appeals against Enforcement Notices)	
Written Representation	0
Hearing	0
Public Inquiry	2
Appeals withdrawn	0
Total enforcement appeals	2

3. Appeal type (Appeals against Enforcement Notices)	
Written Representation	1
Hearing	1
Public Inquiry	0
Appeals withdrawn	1
Total enforcement appeals	3

3.5 Costs awarded against the Council in January – March 2017

Site address	Partial or full award allowed of costs	Delegated/Committee decision in accordance with recommendation/Committee decision overturn
32 Wembley Avenue, Mayland, Chelmsford	Full award of costs	Committee decision in accordance with recommendation
Glen Loy, Latchingdon Road, Cold Norton	Partial award of costs	Delegated

3.6 Costs paid out by the Council in July – December 2016

Site address	Date of award of cost	Figure paid out	Delegated/Committee decision in accordance with recommendation/ Committee decision overturn recommendation
Barn Hayes 29 Beacon Hill Wickham Bishops	1/08/2016	£772	Committee decision in accordance with recommendation
Rose Stables Land South of Captains Wood Road, Great Totham	14/12/2016	£24,730	Committee decision overturn
32 Wembley Avenue, Mayland, Chelmsford	9/02/2017	£1,075	Committee decision in accordance with recommendation

3.7 Members will also be aware that since 2012 Councils that do not reach specific performance targets on major applications and major appeals may be considered as a 'designated authority' by the Secretary of State. In terms of major planning appeals this is measured over a two year period and the target threshold was 20%. However, in the Spending Review and Autumn Statement 2015 Government announced the strengthening of the performance regime for major appeals, by lowering the threshold for the quality of decisions to 10% of all major decisions overturned on appeal.

- 3.8 The new criteria for designating local planning authorities for poor performance in determining planning applications came into force on the 19 January 2017.
- 3.9 The Council’s performance against the government target is 8.33%. However, there are four major appeals still in progress so worst case scenario performance would be 11.36% if all these were allowed by the Planning Inspectorate.
- 3.10 There are currently 38 outstanding appeals where decisions are yet to be made by the Planning Inspectorate. However, it must be noted that 12 of these will be dealt with at one public inquiry. These are as follows:

Appeal Type	Number
Public Inquiry	1
Hearing	3
Written Representation	17
Householder Appeal Process	5
	26

4. CONCLUSION

- 4.1 Resourcing appeals will continue to be an issue if the level of the appeals received remain high and/or and nature of appeal type changes, including an expected increase in enforcement appeals and public inquiries.

5. IMPACT ON CORPORATE GOALS

- 5.1 Having an effective and planning service contributes to two Corporate Goals i.e. ‘Protecting and shaping the district’ and, ‘Delivering good quality, cost effective and valued services’.

6. IMPLICATIONS

- (i) **Impacts on Customers** – The Council’s resources are being used effectively within the democratic process.
- (ii) **Impact on Equalities** – None.
- (iii) **Impact on Risk** – In the context of the increasing tendency to challenge Council decisions, it is necessary to maintain flexibility in how the authority responds to planning appeals. The Council is committed to embedding sound operational, financial and legislative internal controls and to ensuring that good corporate governance arrangements are in place to assist the Council with meeting its aims and objectives. In the light of the change in government’s threshold on performance for major planning appeals from 20% allowed to 10% this presents an increased risk to the Council and will be reflected as part corporate risk management particularly as the likelihood of exceeding the 10% is high.

- (iv) **Impact on Resources (financial)** – Decisions with regard to potential awards of costs can incur the Council in extra expenditure and need to be considered carefully. This has been covered in previous reports to Members. The resourcing levels required to manage appeals requires further review.
- (v) **Impact on Resources (human)** – The number of appeals have doubled in the past two years and the resourcing appeals at this level will need reviewing. Temporary arrangements have been made to deal with the increase in appeals, but very recently the number of hearings and public inquiries has increased which has required additional external support being provided. Public Inquiries also require the assistance of barristers which add to the cost of defending appeals. This matter will need monitoring and reviewing. Much will also depend on a final decision from the DCLG on the Councils Local Development Plan.
- (vi) **Impact on the Environment** – None.

Background Papers: None.

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