



**REPORT of
DIRECTOR OF PLANNING AND REGULATORY SERVICES**

**to
PLANNING AND LICENSING COMMITTEE
25 JANUARY 2018**

UPDATE ON APPEAL DECISIONS (APRIL – SEPTEMBER 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 April 2017 to September 2017.

2. RECOMMENDATION

Members are asked to note the content of the report and provide comment on the performance of the Local Planning Authority at appeal.

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 1 and 2 2017/18 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	10	28
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	0	0
3a. Appeals against South Eastern Area Planning Committee decisions as per report recommendation	0	4
3b. Appeals against South Eastern Area Planning Committee decisions where decision made contrary to the report recommendation i.e. member overturn	2	1
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	2	1
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	1	0
7. Appeals against Full Council decisions where decision made contrary to the report recommendation i.e. member overturn	2	0
Numbers Total	18	36
Decisions as a %	33.33%	66.67%

3.4 Appeal by type of appeal

1. Appeal type (Planning applications)	
Fast Track appeals (including Householder appeals)	16 (13)
Written Representation	32
Hearing	5
Public Inquiry	1
Total appeals	54

2. Appeal type (Appeals against Enforcement Notices)	
Written Representation	5
Hearing	0
Public Inquiry	1
Appeals withdrawn/Turned Away	2
Total enforcement appeals	8

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
Land west of Cemetery Chapel, Southminster Road, Burnham-on-Crouch	Partial award of costs	Committee decision in accordance with recommendation
Land to the west of Sunnyside, Stoney Hills	Partial award of costs	Delegated

3.6 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.

3.7 The new criteria for designating local planning authorities for poor performance in determining planning applications came into force on the 19 January 2017.

3.8 The Council’s performance against the government target is 10%. This has increased from the last report, which was 8.33%. The reason for the percentage increase predominately relates to the reduction in major applications determined in the time frame rather than due to an increase in major appeals lost (one appeal) in the same period. However, five of the thirteen appeals that are currently affecting our performance will no longer be part of the assessment period once the 10% threshold comes in to affect. It is not possible to provide a definitive estimation as appeals will be determined between now and the date, but it is considered that performance should be around 8% by the time of the introduction of the 10% threshold.

3.9 There are currently 22 outstanding appeals where decisions are yet to be made by the Planning Inspectorate. However, it must be noted that none of these will be dealt with at one public inquiry; this is a marked reduction when considered against the position the Council has found itself in over the last three years. These are as follows:

Appeal Type	Number
Public Inquiry	0
Hearing	6
Written Representation	12

Householder Appeal Process	4
TOTAL:	22

4. CONCLUSION

- 4.1 The general performance at appeal is relatively consistent over the last 6 months and it is envisaged that the adoption of the LDP should put the Council in a stronger position going forward.
- 4.2 Concern is raised in relation to the Council performance at major appeals. However, it is envisaged that by the time of the introduction of the 10% threshold the Council should be performing at around 8%.

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 has grown in the past three years and the resourcing appeals puts additional strain on the existing resources. Public Inquiries also require the assistance of barristers which add to the cost of defending appeals. This matter will need monitoring and reviewing.
- (vi) **Impact on the Environment** – None.

Background Papers: None.

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