

REPORT OF THE HEAD OF PLANNING, ECONOMY AND REGENERATION

APPEAL DECISIONS AND PERFORMANCE 17/18

Portfolio Holder Cllr R J Chesterton
Responsible Officer Mrs Jenny Clifford, Head of Planning, Economy and Regeneration

Reason for Report: To provide information on the outcome of planning appeals for the financial year 17/18.

RECOMMENDATION: That the report be noted.

Relationship to Corporate Plan: Planning decision making is relevant to achieving corporate priorities of homes, economy, community and environment.

Financial Implications:

Planning appeals can prove expensive to the Council in terms of: Staff resources both within the Planning Service and other sections such as Legal. Financially if specialist consultant assistance, expert witnesses and external legal advocacy are required. This is more likely at public inquiry. There are also financial implications for the Council at appeal if an appellant can prove the Council has acted unreasonably. If so, the Planning Inspectorate can require that the Council pay the appellant's appeal costs.

Legal Implications:

By their nature appeals involve independent assessment by the Planning Inspectorate of the case and the Council's decision. The Council needs to ensure that its planning decision making is robust in order to reduce risk of challenge, maximise appeal success and reduce the impact of appeals on budgets.

Risk Assessment:

Appeal statistics provide a useful check on decision making by comparing appeal outcomes with those nationally, the number of appeals and outcomes with previous years and whether any costs have been awarded against the Council on the basis of unreasonable behaviour.

A risk to the Council are the increasingly tight thresholds that the Government is seeking to apply over appeal performance as an indicator of the quality of planning application decision making, particularly in respect of major applications. The service is currently meeting these threshold requirements for both major and non-major applications. The indicators are as follows:

- Majors: Applications determined over a 2 year period, no more than 10% of decisions to be overturned at appeal. The Mid Devon figure over the 2 year period ending March 2018 was 5%.

- Non-majors: Applications determined over a 2 year period, no more than 10% of decisions to be overturned at appeal. The Mid Devon figure over the 2 year period ending March 2018 was less than 1%.

There is increased risk of designation as underperforming as a result of percentage of major applications overturned at appeal over a 2 year period. This is particularly the case in the current Mid Devon planning environment with the lack of a 5 year housing land supply and accordingly increased major residential application activity on non-allocated sites.

Equality Impact Assessment:

No equality issues identified for this report.

1.0 APPEAL PERFORMANCE AND NATIONAL COMPARISON.

1.1 Attached at **Appendix 1** is a summary of planning appeals determined between 1st April 2017 – 31st March 2018. 28 appeals were determined within that period.

1	(3%)	Withdrawn
8	(29%)	Allowed
19	(68%)	Dismissed

1.2 The total number of appeals is slightly less than the last few years. Planning Inspectorate statistics for the whole of the financial year 2017/18 are not yet available. Those issued to date (quarters 1, 2 and 3) of this financial year indicate the percentage of all planning application appeals allowed nationally (England) to be between 31% - 32%. The figure for all allowed appeals in Mid Devon over the whole of 2017/18 is just below the national average, being at 29%. However it is to be noted that the Mid Devon 68% dismissed appeal percentage for 17/18 this is down on the 78% recorded in 16/17.

1.3 5 appeal decisions between 1st April 2017 and 31st March 2018 related to major applications. Of those, 2 were allowed and 3 were dismissed.

2.0 ALLOWED APPEALS.

2.1 Of the 8 appeals allowed, 6 were decided under delegated powers. The remaining 2 were determined by Planning Committee contrary to officer recommendation:

16/01117/FULL Change of use of agricultural land and buildings to form camping site, 2 shepherds hut pitches, 2 safari tent pitches, 6 bell tent pitches; conversion of stables to shower /toilets, office, meeting room, sensory room for visitor, washing facilities and storage; erection of 2 blocks to serve campsite; formation of equestrian areas for grazing of miniature horses, Ingleton farm, Ashill.

17/00300/MOUT Outline for the erection of 30 dwellings and new vehicular and pedestrian access, Land at Uffculme Road, Uffculme.

3.0 DISMISSED APPEALS.

3.1 Of the 19 dismissed appeals, 3 were determined or considered by Planning Committee:

15/01604/MFUL Erection of 5 poultry units and biomass boiler unit; formation of attenuation pond, access track and hardstanding; landscaping and associated infrastructure, Gibbett Moor Farm, Templeton.

16/00180/FULL Erection of 2 dwellings following demolition of existing dwelling (revised scheme), 19 Exeter Road, Silverton.

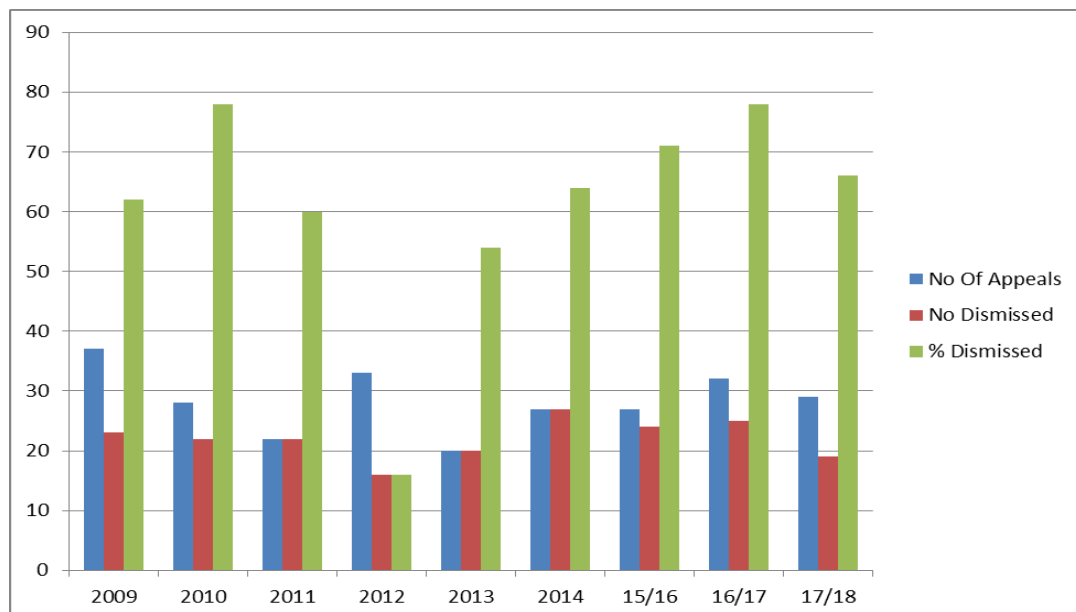
17/00395/FULL Erection of a barn to house flexible generation and energy storage plant with associated infrastructure, access, cable route and landscaping, land and buildings at Woodford Farm, Witheridge.

3.2 15 were considered by officers under delegated powers.

4.0 COMPARISON WITH PREVIOUS PERIODS.

4.1 Comparison with the last reports on this subject giving appeal figures recorded is as follows:

2009 37 appeals, 23 (62%) dismissed.
2010 28 appeals, 22 (78%) dismissed.
2011 37 appeals, 22 (60%) dismissed
2012 33 appeals, 16 (48.5%) dismissed
2013 37 appeals, 20 (54%) dismissed
2014 42 appeals, 27 (64%) dismissed
15/16 34 appeals, 24 (71%) dismissed
16/17 32 appeals, 25 (78%) dismissed
17/18 29 appeals, 19 (66%) dismissed



5.0 GOVERNMENT TARGETS FOR APPEAL PERFORMANCE.

- 5.1 The performance of each authority in terms of speed and quality of decision making is monitored. The measure now used to assess the quality of decision making is the average percentage of decisions on applications for all major and non-major development that have been overturned on appeal. The threshold applied by the Government for inadequate performance by a Local Planning Authority in the quality of decision making is if more than 10% of all application decisions made over the previous two years have been overturned at appeal. This is divided into major and non-major categories. The Government's assessment is over a 2 year period. Over the previous two year period the Council's performance against this measure has met the Government's requirements.
- 5.2 For Members information where a Local Planning Authority is designated as underperforming it is required to produce an action plan to address areas of weakness. Designation also grants applicants for major development a choice over whom to submit their application to. It introduces the ability to apply for planning permission directly to the Planning Inspectorate as an alternative to applying to the Local Planning Authority. Application assessment and decision making is therefore removed from the local level. In these circumstances the Local Planning Authority does not receive an application fee, but is still responsible for certain administration functions associated with the applications.

Contact for Information: David Green, Group Manager for Development
01884 234348
dgreen@middevon.gov.uk
Jenny Clifford, Head of Planning, Economy and
Regeneration
01884 234346
jclifford@middevon.gov.uk

Circulation of the Report: Cllr Richard Chesterton
Members of Planning Committee

List of Background Papers: Planning Committee agendas and minutes
2017/18.
DCLG Improving planning performance – Criteria
for designation November 2016
DCLG Planning performance and the planning
guarantee –Government response to consultation.
June 2013
DCLG Technical consultation on implementation of
planning changes February 2016
Growth and Infrastructure Act 2013
Planning Inspectorate Statistical Report: England
2017/18, Quarters 1, 2 and 3