

**ANNUAL APPEAL DECISIONS: 2014**

**Portfolio Holder** Cllr R J Chesterton  
**Responsible Officer** Head of Planning and Regeneration

**Reason for Report:** To provide information on the outcome of planning appeals for 2014.

**RECOMMENDATION:** That the report be noted.

**Relationship to Corporate Plan:** Planning decision making is relevant to achieving corporate priorities: thriving economy, better homes, empowering our communities and caring for our 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.

**Consultation carried out with:**

None.

1.0 Attached is a summary of all planning appeals determined between 1<sup>st</sup> January - 31<sup>st</sup> December 2014. 42 appeals were determined or withdrawn within that period.

3	(7.1%)	Withdrawn
11	(26.2%)	Allowed
1	(2.4%)	Allowed in part
27	(64.3%)	Dismissed

2.0 The total number of appeals is slightly higher than the last few years, but not significantly so. Planning Inspectorate statistics for the whole of 2014 are not yet available. Those issued to date indicate the percentage of appeals allowed nationally (England) at an average of between 32% - 41% depending on the appeal type. The figure for all appeals in Mid Devon in 2014 is 26% with a further 2.4% allowed in part. This indicates overall that a robust approach being taken to decision making.

3.0 Of the 11 appeals allowed, 4 of these were refused by Planning Committee contrary to officer recommendation:

- Nether Mill Farm, Willand – solar scheme
- Edgeworthy Farm, Nomansland – AD scheme
- Duvale Barton, Bampton – function hall
- Littleborough Cross, Black Dog – wind turbine

Costs were awarded to the appellant against the Council by the Planning Inspectorate on the basis of unreasonable behaviour in 2 of these cases. This is likely to cost the Council in the order of £21,677.

It is also to be noted that 7 of the cases where appeals were allowed were refused by Officers under delegated powers.

In addition, of the appeals dismissed, 3 were where Planning Committee had overturned an officer recommendation of approval:

- Hornbeam Gardens, Bradninch – 2 dwellings
- Durban works, Willand – 36 dwellings
- Rifton Barton, Stoodleigh – wind turbine

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

- Period 1<sup>st</sup> January - 31<sup>st</sup> December 2009 37 appeals, 23 (62%) dismissed.
- Period 1<sup>st</sup> January - 31<sup>st</sup> December 2010 28 appeals, 22 (78%) dismissed.
- Period 1<sup>st</sup> January – 31<sup>st</sup> December 2011 37 appeals, 22 (60%) dismissed
- Period 1<sup>st</sup> January – 31<sup>st</sup> December 2012 33 appeals, 16 (48.5%) dismissed
- Period 1<sup>st</sup> January – 31<sup>st</sup> December 2013 37 appeals, 20 (54%) dismissed
- Period 1<sup>st</sup> January – 31<sup>st</sup> December 2014 42 appeals, 27 (64%) dismissed

The percentage of appeals dismissed has returned to levels a couple of years ago having dipped in 2012 and 2013.

5.0 The Government seeks to improve the speed and quality of planning decision making. In the event that the Secretary of State views that a Local Planning Authority is not adequately performing its function of determining applications it will be designated for special measures. The performance of each authority in terms of speed and quality of decision making is monitored. The measure to be used to assess the quality of decision making is the average percentage of decisions on applications for major development that have been overturned on appeal. The threshold for inadequate performance by a Local Planning Authority

is currently 20% or more major application decisions made over the previous two years being overturned at appeal.

6 out of 10 major application appeals during the period 1st January 2012 – 31st December 2014 were allowed and were as follows:

12/01625/MFUL Scotts Business Park, Woodland close, Bampton – Erection of 18 new dwellings and 6 industrial units.

11/02007/MFUL, 12/00045/MFUL and 12/00107/MFUL Greenham Reach, Holcombe Rogus – Use of land for siting of temporary agricultural worker's dwelling for a period of 5 years.

12/01659/MFUL Menchine Farm, Nomansland - Erection of anaerobic digestion facility

12/01518/MFUL Nether Mill Farm, Willand – Change of use from agriculture to solar farm with agriculture to generate up to 3.08MW of power.

3 of these related to the same scheme at Greenham Reach.

6.0(Special measures include granting applicants 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.)

7.0The attached report at **Appendix 1** provides a brief summary of the appeal decisions in 2014.

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

**List of Background Papers:** Planning Committee agendas and minutes 2013.  
DCLG Improving planning performance – Criteria for designation. June 2014  
DCLG Planning performance and the planning guarantee –Government response to consultation. June 2013  
Growth and Infrastructure Act 2013  
Planning Inspectorate Statistical Report: England 2014/15, Quarters 1, 2 and 3