

REPORT OF MRS JENNY CLIFFORD, THE HEAD OF PLANNING AND REGENERATION

APPEAL DECISIONS AND PERFORMANCE 16/17

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

Reason for Report: To provide information on the outcome of planning appeals for the financial year 16/17.

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. Whilst such threshold requirements are currently being met, having been be tightened, 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 a current Mid Devon planning environment with lack of a 5 year housing land supply and accordingly increased major residential application activity on non-allocated sites.

Consultation carried out with:

None.

1.0 APPEAL PERFORMANCE AND NATIONAL COMPARISON.

1.1 Attached at **Appendix 1** is a summary of planning appeals determined between 1st April 2016 – 31st March 2017. 32 appeals were determined within that period.

0		Withdrawn
6	(19%)	Allowed
1	(3%)	Allowed in part
25	(78%)	Dismissed

1.2 The total number of appeals is similar with the last few years. Planning Inspectorate statistics for the whole of the financial year 201/17 are not yet available. Those issued to date (quarters 1, 2 and 3) of this financial year indicate the percentage of all appeals allowed nationally (England) at an average of between 32% - 34%. The figure for all allowed appeals in Mid Devon over the whole of 2016/17 was 22%. This indicates the appeal performance of this Council was stronger than that for England as a whole over this period with a higher success rate.

1.3 3 appeal decisions between 1st April 2016 and 31st March 2017 related to major applications. Of those 1 was allowed and 2 were dismissed.

2.0 ALLOWED APPEALS.

2.1 Of the 6 appeals allowed, 2 of these were refused by Planning Committee contrary to officer recommendation:

15/01622/FULL Erection of agricultural work's dwelling and an agricultural livestock building, land at Ten Oaks Farm, Clayhidon.

16/01074/FULL Retention of an agricultural farm office, Thorne Farm, Stoodleigh, Tiverton.

2.2.1 The other allowed appeals were either dealt with under delegated powers or related to enforcement cases. One notable appeal decision was for 60 dwellings west of Harvesters, Uffculme. Members will recall this raised 5 year housing land supply issues. Details of all are given in the attached appendix.

3.0 DISMISSED APPEALS.

3.1 Of the 25 dismissed appeals, 3 were determined or considered by Planning Committee:

13/00654/FULL Erection of 50kW wind turbine with a maximum blade tip height of 34.2m and hub height of 24.6m and associated infrastructure (revised scheme), land at Philham Farm, Chawleigh.

15/01108/MFUL Installation of ground mounted photovoltaic solar farm to generate up to 6MW of power with associated infrastructure, land at Wiseburrow Farm, Burlescombe.

15/01632/FULL Erection of a dwelling, Jersey Cottage, Sampford Peverell.

3.2 20 were considered by officers under delegated powers.

4.0 COMPARISON WITH PREVIOUS PERIODS.

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

1st January - 31st December 2009 37 appeals, 23 (62%) dismissed.

1st January - 31st December 2010 28 appeals, 22 (78%) dismissed.

1st January – 31st December 2011 37 appeals, 22 (60%) dismissed

1st January – 31st December 2012 33 appeals, 16 (48.5%) dismissed

1st January – 31st December 2013 37 appeals, 20 (54%) dismissed

1st January – 31st December 2014 42 appeals, 27 (64%) dismissed

1st April 2015 – 31 March 2016 34 appeals, 24 (71%) dismissed

1st April 2016 – 31 March 2017 32 appeals, 25 (78%) dismissed

The percentage of appeals dismissed has strengthened in comparison with recent years.

5.0 GOVERNMENT TARGETS FOR APPEAL PERFORMANCE.

5.1 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 as underperforming and special measures applied. The performance of each authority in terms of speed and quality of decision making is monitored. The measures now used to assess the quality of decision making is the average percentage of decisions on applications for all major development that have been overturned on appeal. The threshold for inadequate performance by a Local Planning Authority over major applications is if more than 10% of all major application decisions made over the previous two years have been overturned at appeal. This target has been tightened by the Government from 20% to 10%. The Government's assessment period is over a 2 year period from the April 2015 to March 2017.

5.2 The Government has also introduced a second measure of the quality of decision making: no more than 10% of all non-major application decisions made over the previous two years being overturned at appeal. The Government's assessment period also from the April 2015 to March 2017. This tightening in the performance regime reinforces the need for robust decision making that can be successfully defended. Update information on performance against both these appeal performance indicators will be given verbally at the meeting.

5.3 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. It 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.

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

List of Background Papers: Planning Committee agendas and minutes 2016/17.
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 2016/17, Quarters 1, 2 and 3