

**West Wiltshire District Council**

**Planning Committee**

**14<sup>th</sup> July 2005**

**Planning Appeals Decisions**

**Purpose**

This report considers and comments on planning appeal decisions made in the second quarter (April - June) 2005

**Background**

Members will recall the report to the Planning Committee in January this year in which it was agreed that a quarterly report of appeal decisions would be presented to Committee for information in addition to the regular committee reports.

The section of the corporate plan covering 'Improving Development Control' has as objective 'to ensure high quality planning decisions based on up to date planning policy.' One of the key performance targets is the percentage of appeals allowed against the council's decision to refuse planning applications. The percentage of appeals allowed against the Council's decision is a key performance indicator of the Development Control Service. The following performance targets have been set in the Performance Plan –

2004 / 5 – 35%  
2005 / 6 – 33%  
2006 / 7 – 31%  
2007 / 8 – 29%  
2008 / 9 – 27%  
2009 / 10 – 25%

In 2004 / 05 a performance of 40% was achieved.

**Key Issues**

**Appeal Decisions for period 1<sup>st</sup> January, 2005 to 31<sup>st</sup> March, 2005**

Total Decisions made (1 Jan – 31 March) 41

Appeals Allowed	-	12	(29%)
Appeals Dismissed	-	25	(61%)
Appeals Withdrawn	-	3	( 7%)
Appeals Split	-	1	( 3%)

### Analysis of Turnaround Appeal Decisions.

(i.e. where Planning Committee resolved to refuse applications where the officer recommendation was to grant permission / approval / consent)

Total decisions made for 'turnaround appeals' = 10 (34%)

Turnaround Appeals Allowed	- 7	(70%)
Turnaround Appeals Dismissed	- 3	(30%)
Turnaround Appeals Withdrawn	- 0	( 0%)
Turnaround Appeals Split	- 0	( 0%)

### Awarded Costs

Number of applications for costs made = 0

### Comments

The number of decisions received remains high in this quarter at 41 compared to 64 in the whole of 2004. This is probably because the Inspectorate have concentrated site visits for written representations on batches within a local area in order to reduce the backlog built up over last year. They previously timed site visits in the order in which the appeal was received.

In the last report to committee the figures for 2004 were set as the baseline for future comparison. The Council's appeal record has improved with 29.3% allowed (i.e. won by the appellant) compared with 34% in the previous quarter and 33% for the whole of 2004. The national average figure is 33% for the financial year 2003 / 4 set out on the Planning Inspectorate website. This quarter's figure meets the revised performance target for the current financial year.

This is an important statistic for the Council because the Government propose to abate the Planning Delivery Grant for 2005/6 where performance on appeals is poor. Where the number of appeals upheld (allowed) against the Local Planning Authorities decision to refuse is 40% greater than the national average, 10% of the Planning Delivery Grant for development control will be abated. This figure rises to 20% where 50% of the appeals are upheld. The improved performance figure for this quarter brings the percentage of appeals allowed in the period for calculating Planning Delivery Grant to 36% which should put the council below the threshold for any abatement .

Of the 41 decisions received 10 were for decisions made by Committee against the officers recommendation. Of these 7 were allowed (i.e. the Inspector did not support the committee's decision) and 3 dismissed, where the Inspector supported the committee's decision, although not necessarily on all issues. In many cases the issues considered in a planning decision maybe close on balance and the appeals can go either way. However, these figures do represent an increase in the percentage of turnaround appeals allowed from 57%in the previous quarter to 70% in this quarter

Applications for costs against the council can only be made where appeals are considered by Inquiry or Hearing). There were no costs awarded in this quarter which indicates that

decisions have been made on sound planning grounds which could be substantiated and properly defended on appeal.

### **Current Appeal Case Load**

In the same period the Council have received notification of the following numbers of appeals lodged.

Total appeals lodged            21

Number of Written representations	13 (62%)
Number of hearings	5 (23%)
Number of Inquiries	3 (14%)

Number of appeals against refusal	18 (86%)
Number of non determination	1 (5% )
Number of appeals against conditions	2 (9%)

No. of appeals against delegated decisions	13 (62%)
No of appeals against Committee decision in line with officer recommendation	2 (10%)
No against committee turnarounds	5 (23%)
Number of non determination	1 (5% )

During this quarter the number of appeals received has reduced slightly from 23 to 21 and continues a trend towards fewer appeals being lodged. Pro rata we are looking at 88 appeals in 2005 as compared with 119 in 2004. This trend probably reflects the change back to six months from three months in the period in which an appeal can be lodged. Greater opportunity now exists for negotiated solutions to be sought to planning refusals before the applicant has to resort to an appeal.

While the majority of these (62% as compared with 91% in the previous quarter) remain written representation (an exchange of written statements) which are dealt with primarily by the planning officers there is an increase in this quarter in the number to be dealt with by hearing or public inquiry. These are more time consuming and expensive processes and carry the right for costs to be awarded if a case can not be supported by sound planning reasons which can be substantiated and properly defended

The Planning Inspectorate are making every effort to reduce the time taken for decisions especially with written representations. There is no clear pattern to the time this type of appeal is taking with some now coming through reasonably quickly while others are taking a considerable period of time. There still appears to be a 12 month wait for hearing and inquiries.

### **Financial Implications**

There are no financial implications relating directly to this report. There are financial implications to the council in the appeal process, particularly where consultants are used to represent the council, performance and also in cases where costs may be awarded against the council.

### **Legal Issues**

There are no legal implications relating directly to this report. Planning appeals are part of the council's statutory duties under planning legislation most notably section 78 of the Town and Country Planning act 1990.

### **Human Rights**

There are no human rights implications relating directly to this report.

### **Recommendation**

1 The Committee notes the analysis of planning decisions and the current appeal caseload.