

West Wiltshire District Council

Planning Committee

17 November 2005

Quarterly Planning Appeals Decisions

Purpose

This report considers and comments on planning appeal decisions made in the third quarter (July - September) 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. This is the third report for this year and the comparative figures for the first and second quarters are included for easy reference.

The section of the corporate plan covering 'Improving Development Control' has an 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 1st July 2005 to 31 September, 2005

	July - Sept 20	[April – June] 41	[Jan – March] 35
Total decisions made by PINS:			
Appeals Allowed:	8 = 40%	12 (29%)	12 (34%)
Appeals Dismissed:	10 = 50%	25 (61%)	20 (57%)
Appeals Withdrawn:	1 = 5%	3 (7%)	1 (3%)
Appeals Split:	1 = 5%	1 (3%)	2 (6%)

Analysis of Turnaround Appeal Decisions.

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

	Jul-Sept	[April – June]	[Jan – Mar]
Total 'Turnaround appeals':	4	10	12
Turnaround Appeals Allowed:	3 (75%)	7 (70%)	7 (58%)
Turnaround Appeals Dismissed:	1 (25%)	3 (30%)	5 (42%)
Turnaround Appeals Withdrawn	0 (0%)	0 (0%)	0 (0%)
Turnaround Appeals Split	0 (0%)	0 (0%)	0 (0%)

Awarded Costs July - September

Number of cost applications made: 4

Number of cost application allowed: 1 (25%)

Number of cost application refused: 3 (75%)

Comments

The number of decisions received appear to be reducing compared to the high in the last quarter at 41. They do however remain high, at 96 in total for the first three quarters of this year, compared to 64 in the whole of 2004. This is probably because of the influx of appeals during the 3 month time limit working its way through the system and the Inspectorate taking measures to reduce the backlog.

In the last report to Committee the figures for 2004 were set as the baseline for future comparison. The number of appeals allowed (i.e. won by the appellant) in 2004 was 33% and for the financial year 2004/5 was 40%. The Council set a target for 35% for 2004/5, falling to 33% for the year 2005/6. The percentage of appeals allowed has risen to 40% in this last quarter. This equates to a 33% for the first three quarters in 2005 (32/96 appeals). The national average figure is 33% for the financial year 2003/4 set out on the Planning Inspectorate website. This quarter's figure shows an alarming rise in the percentage terms but appears to be on target for the year as a whole.

Of the 20 decisions received, 4 were for decisions made by the Committee against the officers recommendation. Of these 3, (75%) were allowed (i.e. the Inspector did not support the committee's decision) and 1 was dismissed, where the Inspector supported the committee's decision. In many cases the issues considered in a planning decision maybe close on balance and the appeals can go either way. In this quarter the small number of appeals in this category has had a more dramatic effect on the percentage figure. However, over the past three quarters, these figures represent some 65% (17/26), an increase in the percentage of turnaround appeals allowed from 50% in the whole of 2004.

Applications for costs against the Council can only be made where appeals are considered by Inquiry or Hearing. There were 4 claims for costs in the last quarter of which 1 was granted against the Council. This was for the appeal for the erection of a dwelling at The Paddocks, Whitehead Lane, Bradford on Avon. The appellants have claimed £ 6182.12 in costs and officers are seeking to negotiate a settlement. The remainder of the claims

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

Planning Appeal Decisions and Planning Delivery Grant

Planning appeal performance, measured as a percentage of appeals allowed, is an important figure for the Council because the Government has introduced the abatement of the Planning Delivery Grant where performance on appeals is poor.

The measures used is based on the percentage of appeals against refusal and non determination of applications which are allowed against the Local Planning Authorities decision to refuse (i.e. not including appeals about conditions, planning obligations, trees and the outcome of inquiries where applications are 'called in'). Where this is 40% greater than the national average, 10% of the Planning Delivery Grant for development control is abated. This figure rises to 20% where more than 50% of the appeals are upheld.

The Planning Delivery Grant for the next financial year (2006/7), on which the assessment for abatement is calculated, has been based on the period 1st October, 2004 to 30th June, 2005. The Planning Inspectorate has confirmed that during this period 44.2% of appeals against refusal by this council have been allowed. Members should note that the Inspectorate treats split decisions as being allowed only. The national performance level for this period is 32.65 % of appeals allowed against refusal. 40% above this figure is 45.71%. The Council is, therefore, 1.5% below this number and just clear of any abatement of the Planning Delivery Grant.

Current Appeal Case Load

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

	July - Sept	[Apr – June]	[Jan–Mar]
Total appeals lodged	25	21	23
Number of Written representations	16 (64%)	13 (62%)	21 (91%)
Number of hearings	4 (16%)	5 (23%)	1 (4%)
Number of Inquiries	5 (20%)	3 (14%)	1 (4%)
Number of appeals against refusal	21 (84%)	18 (86%)	21 (91%)
Number of non determination	2 (8%)	1 (5%)	1 (4%)
Number of appeals against conditions	1 (4%)	2 (9%)	1 (4%)
Number against legal Agreements	1 (4%)		
No. of appeals against delegated decisions	12 (48%)	13 (62%)	15 (65%)
No. of appeals against Committee decision that support officer recommendation	7 (28%)	2 (10%)	
No. against committee turnarounds	3 (12%)	5 (23%)	8 (35%)
No. of non determination	2 (8%)	1 (5%)	
No applications 'called in' by First Secretary of State	1 (4%)		

During this quarter the number of appeals received has increased slightly from the 23 and 21 in the first two quarters respectively. On this basis, it is likely that there will be some

90 appeals during 2005 compared with 119 in 2004. This trend probably reflects the change back from three months to six 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.

The majority of these appeals are against refusals issued under delegated powers and most will be dealt with by written representation (an exchange of written statements). The numbers being submitted for hearings or public inquiries is similar to past quarters. Those appeals following committee turnarounds (at variance to officers recommendations) appear to be falling. However these numbers are relatively small and care should be taken in reading anything into them at this stage.

Although not expressed in the figures there are still a number of hearings and public inquiries programmed over the next few months. These reflects the time scale taken for the Inspectorate to arrange the dates for appeals submitted some 12 months ago. This time scale for the hearings and inquiries still appears to be running at about 12 months. Members will have noted that there are 3 Inquiries and 3 hearing programmed in the 6 weeks following this meeting. A further 2 are set for February 2006 and another 12 have yet to allocated dates.

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 Delivery grant and 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

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