

West Wiltshire District Council

Planning Committee

1 June 2006

Planning Appeals Decisions

Purpose

This report considers and comments on planning appeal decisions made in the first quarter (Jan – March 2006) 2005

Background

Members will recall the report to the Planning Committee in January last 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 fifth report since the first one in January 2005 . The comparative figures for the previous three quarters are also included for easy reference, in addition to the annualise figures for the past 12 months.

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.

In 2004/05 a performance of 40% was achieved

The performance targets for this indicator have been set in the Performance Plan. The targets have been reviewed in the performance plan for 2006 / 7 as follows–

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

In addition, the basis on which we report these statistics has been altered to bring it in line with the approach taken by the Planning Inspectorate. They include only appeal decisions where the council has refused planning permission. It does not include appeals against conditions or non-determination and also excludes advertisement appeals, enforcement appeals and lawful development certificate appeals. The Planning Inspectorate also counts appeals which result in a split decision as an appeal allowed. Withdrawn appeals are not factored into the calculation. The result of calculating appeal performance on this basis will be that the council’s performance will be reduced.

Previously, it was hoped that incremental improvements could be achieved, so reducing the target to 25% by 2009 /10. Given the changes to the calculations set out in the

previous paragraph and in view of current levels of performance, these targets were considered as unrealistic. The intention now is to bring the performance target in line with the national average for this performance indicator. This will be reviewed in future years against changes in the council's performance and the national average for appeals allowed.

Key Issues

Appeal Decisions for period 1st January 2006 to 31 March, 2005

[The previous three quarters for 2005 / 6 and the annualised total are also included for comparison purposes]

	Jan –Mar 06	Oct –Dec 05	July – Sept 05	April –Jun 05	Total
Total decisions made by PINS	15	11	17	34	77
Appeals Allowed (inc Split Decisions)	6 (40%)	7 (64%)	8 (47%)	12 (35%)	33 (43%)
Appeals Dismissed:	9 (60%)	4 (36%)	9 (53%)	22 (65%)	44 (57%)
Appeals Split	0	1	1	1	3
Appeals Withdrawn:	0	3	1	3	7

In addition the following appeals not against the refusal of planning permission (and therefore not included in the above statistics) were decided :-

	Jan –Mar 06	Oct –Dec 05	July – Sept 05	April –Jun 05	Total
Total decisions made by PINS	2	1	2	4	9
Non Determination	2		2		4
Allowed	1 (50%)		2 (100%)		3 (75%)
Dismissed	1 (50%)		0		1 (25%)
Conditions		1		3	4
Allowed		1 (100%)		1 (33%)	2 (50%)
Dismissed		0		2 (67%)	2 (50%)
Trees				1	1
Allowed				0	0
Dismissed				1 (100%)	1 (100%)
Total	2	1	2	4	9
Allowed	1 (50%)	1 (100%)	2 (100%)	1 (25%)	5 (56%)
Dismissed	1 (50%)	0	0	3 (75%)	4 (44%)

Analysis of Turnaround Appeal Decisions.

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

	Jan-Mar 06	Oct –Dec 05	Jul-Sept 05	April – June 05	Total
Total 'Turnaround' appeal decisions made by PINS	2	3	4	10	19
Turnaround Appeals Allowed:	2 (100%)	3 (60%)	3 (75%)	7 (70%)	15 (79%)
Turnaround Appeals Dismissed	0 (0%)	0 (0%)	1 (25%)	3 (30%)	4 (21%)
Turnaround Appeals Split	0	0	0	0	0
Turnaround Appeals Withdrawn	0	2	0	0	2

Awarded Costs: January – December 06

Number of cost applications made: 0

Number of cost application allowed: 0

Number of cost application refused: 0

Comments

The number of decisions received in this quarter appears to be levelling out after the fall in numbers since the high in April-June 2005. On an annualised basis, the total number of decisions is lower than the total for 2005 but remains higher than the 64 in the 2004.

In the report to Committee last year at the beginning of 2005, 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 in the last quarter was 40% compared to the 64% in the previous quarter. It still, however, remains higher than the 35% recorded in the first quarter of 2005/6. This trend is still a concern. The annualised figure for the past 12 months is 43%, which is 10% above the national average of 33% for the financial year 2003/4 set out on the Planning Inspectorate website

On this basis, the appeals performance falls short of the Council's own performance target set for 2005/6. If it continues this way, it will be well in excess of the Council's own target of 33% set for 2006/7 and may well exceed the Government's target, which will affect the calculation of any Planning Delivery grant for next year.

Members will recall that last year the Government introduced the abatement of the Planning Delivery Grant where performance on appeals is poor. This Council was 1.5% below the threshold and therefore just clear of any abatement of the Planning Delivery Grant. Officers at the Government Office for the South West have already drawn attention to the rising numbers of appeals allowed in this Authority.

In summary, the number of appeals decisions received appears to be levelling out but the number allowed remain similar to previous quarters. This remains to be a concern.

Of the 17 decisions received in this quarter, 2 no. (Haugh Potticks Farmhouse, Winsley and 10 Newtown, Trowbridge) were for decisions made by the Committee against the officers recommendation. This is also a figure by which the Council's performance is measured. Both were allowed (i.e. the Inspector did not support 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. As with the previous quarters, the small number of appeals in this category has a more dramatic effect on the percentage figures. However, over the past 12 months this figure represent some 79% (15 out of 19 cases) compared to 65% in 2005. This is a significant increase in the percentage of turnaround appeals allowed compared to the 50% in 2004.

Applications for costs against the Council can only be made where appeals are considered by Inquiry or Hearing. There were no claims for costs in the last quarter. The Council have not to date received the formal request for the costs awarded in the last quarter for the appeal for 67 dwellings and associated works at Phase 7b, Staverton Marina.

The only other outstanding claim for costs was for the erection of a dwelling at The Paddocks, Whitehead Lane, Bradford on Avon. This has now been agreed and a sum of £5,254.70 has been authorised.

Current Appeal Case Load

The number of appeals received is shown in the table below. In this last quarter the Council have received 20, similar to that of the previous quarter. Over the past 12 months we have received 85 appeals compared with a total of 88 in 2005 as a whole and 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.

Some 60% of the appeals received in the last quarter were against decisions issued under delegated powers . The number of appeals submitted against committee decisions, both in support of and against officer recommendations, has reduced slightly to 30%, but all of them were against committee turnarounds. For the past 12 months the appeals against Committee decisions was 35% of which 22% were against turnaround decisions.

The majority (80%) of the appeals are written representation (an exchange of written statements) in this quarter, which is less than the same quarter last year (91%) but shows an increasing trend over the immediate preceding three quarters to this year ((62%, 64% and 74%).

The majority (90%) of the appeals were against refusals. 2 other applications (Victoria Road, Warminster and Staverton Triangle have been called in this quarter by the Secretary of State. This makes 3 in total over the past 12 months. The first (Southview, Trowbridge) will be heard at a Public Inquiry in May 2006 and the other two later this year in November/December.

Number of appeals received

	Jan – Mar 06	Oct-Dec	July - Sept	Apr – June	Total
Total appeals lodged	20	19	25	21	85
Number of Written representations	16 (80%)	14 (74%)	16 (64%)	13 (62%)	59 (69%)
Number of hearings	1 (5%)	2 (10%)	4 (16%)	5 (23%)	12 (14%)
Number of Inquiries	3 (15%)	3 (16%)	5 (20%)	3 (14%)	14 (16%)
Number of appeals against refusal	18 (90%)	18 (96%)	21 (84%)	18 (86%)	75 (88%)
Number of non determination	0 (0%)	1 (5%)	2 (8%)	1 (5%)	4 (5%)
Number of appeals against conditions	0 (0%)	0 (0%)	1 (4%)	2 (9%)	3 (3%)
Number against legal Agreements	0 (0%)		1 (4%)		1 (1%)
No. of appeals against delegated decisions	12 (60%)	11 (58%)	12 (48%)	13 (62%)	48 (57%)
No. of appeals against Committee decision that support officer recommendation	0 (0%)	2 (10%)	7 (28%)	2 (10%)	11 (13%)
No. against committee turnarounds	6 (30%)	5 (26%)	3 (12%)	5 (23%)	19 (22%)
No. of non determination	0 (0%)	1 (5%)	2 (8%)	1 (5%)	4 (5%)
No applications 'called in' by First Secretary of State	2 (10%)	0 (0%)	1 (4%)		3 (3%)

Future reporting of appeals information to Planning Committee

The information recorded over the past year has been a numeric record of appeals and results only. The results suggests that there are decisions which require further analysis, especially in view of the rising percentage that are being allowed. This work would seek to identify if there any significant common trends or groups of decisions. The results of this work will be included in a future report to the Committee.

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, Planning Delivery Grant and in cases where costs may be awarded against the council. Reference to particular claims for costs have been addressed in the body of the report

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.