

West Wiltshire District Council

Planning Committee

3 August 2006

Planning Appeals Decisions

Purpose

This report considers and comments on planning appeal decisions made in the second quarter (April – June) 2006.

Background

Members will recall that since January 2005, a quarterly report of appeal decisions is presented to Committee for information in addition to the regular committee reports. The comparative figures for the previous three quarters are also included, as well as the annualised figures for the past 12 months, 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.

In 2004/05 a performance of 40% was achieved

The performance targets for this indicator have been set in the Performance Plan. These 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 and not those for non-determination, conditions, advertisements, enforcement or certificates of lawfulness. The Planning Inspectorate also counts appeals which result in a split decision as an appeal allowed.

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 which currently stands at 33%. 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]

	Apr –Jun 06	Jan –Mar 06	Oct –Dec 05	July – Sept 05	Total
Total decisions made by PINS	21	15	11	17	64
Appeals Allowed (inc Split Decisions)	7 (33%)	6 (40%)	7 (64%)	8 (47%)	28 (44%)
Appeals Dismissed:	14 (67%)	9 (60%)	4 (36%)	9 (53%)	36 (56%)
Appeals Split	0	0	1	1	2
Appeals Withdrawn:	1	0	3	1	5

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

	Apr – June 06	Jan –Mar 06	Oct –Dec 05	July – Sept 05	Total
Total decisions made by PINS	3	2	1	2	8
Non Determination Allowed Dismissed	1 1 (100%) 0	2 1 (50%) 1 (50%)		2 2 (100%) 0	5 4 (80%) 1 (20%)
Conditions Allowed Dismissed	1 1 (100%)		1 1 (100%) 0		2 1 (50%) 1 (50%)
Advertisements Allowed Dismissed	1 1 (100%)				1 1 (100%)
Trees Allowed Dismissed					
Total Allowed Dismissed	3 1 (33%) 2 (66%)	2 1 (50%) 1 (50%)	1 1 (100%) 0	2 2 (100%) 0	8 5 (62%) 3 (38%)

Analysis of Turnaround Appeal Decisions.

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

	Apr – Jun 06	Jan-Mar 06	Oct –Dec 05	Jul-Sept 05	Total
Total 'Turnaround' appeal decisions made by PINS	8	2	3	4	17
Turnaround Appeals Allowed:	5 (63%)	2 (100%)	3 (100%)	3 (75%)	13 (76%)
Turnaround Appeals Dismissed	3 (37%)	0 (0%)	0 (0%)	1 (25%)	4 (24%)
Turnaround Appeals Split	0	0	0	0	0
Turnaround Appeals Withdrawn	1	0	2	0	3

Awarded Costs: April – June 06

Number of cost applications made: 0

Number of cost application allowed: 0

Number of cost application refused: 0

Comments

The total number of decisions received in this quarter (24) has increased over the past three quarters but remains lower than the same quarter last year (38). On an annualised basis, the total number of decisions for the past 12 months is 74 which is lower than the total for 2005 (111) but remains higher than the 64 in the 2004.

In the report to Committee 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.

Taking the same category of appeals used by the Planning Inspectorate, the percentage of appeals allowed in the last quarter was 33% compared to the 40% in the previous quarter and 64% in the quarter before that. This downward trend is an improvement in performance and more in line with the national average. The annualised figure for the past 12 months remains high, however, at 43%, which is 10% above the national average of 33% set out on the Planning Inspectorate website

On this basis, the annualised appeals performance falls short of the Council's own performance target set for 2005/6. However, if it continues to improve at the same rate over the next few quarters, it could be in line with the Council's own target of 33% set for 2006/7 and may well fall within the Government's target. Members will recall that last year the Government introduced the abatement of the Planning Delivery Grant where

performance on appeals is poor. This Council has in the past fallen just below the threshold and therefore just clear of any abatement of the Planning Delivery Grant.

In summary, the number of appeals decisions received have increased but are still below the high of April – June 2005. The numbers allowed have reduced significantly to a level commensurate with the national average. The high rate of appeals allowed over the previous two quarters still influences the annualised percentage onto the high side..

The number of appeals following decisions made by the Committee against the officers recommendation is also a figure by which the Council's performance is measured. Of the 24 decisions received in this quarter, 8 were committee decisions against the officer recommendation. Of these, 5 (63%) were allowed [i.e. permission granted] and 3 (37%) were dismissed [i.e. permission was refused].

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. Although this reduction in the percentage allowed has fallen this quarter, the annualised figure over the past 12 months represent some 76% (13 out of 17 cases) compared to 65% in 2005. This is still 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 at the end of 2005 for the appeal for 67 dwellings and associated works at Phase 7b, Staverton Marina.

Current Appeal Case Load

The number of appeals received is shown in the table below. In this last quarter the Council have received 13, which is marginally less than the three previous quarters. Over the past 12 months we have received 77 appeals compared with a total of 88 in 2005 as a whole and 119 in 2004. This probably reflects the end of the impact caused by the change from three months to six months 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 number of appeals received in the last quarter against decisions issued under delegated powers has risen to 76%. The number of appeals submitted against committee decisions, both in support of and against officer recommendations, has reduced significantly to 2 decisions (16%), 1 in support of the officers recommendation and 1 against a committee turnaround. For the past 12 months there were 25 appeals against Committee decisions of which 15 (19%) were against turnaround decisions. This is less than the previous 12 month period but the percentage allowed against the turnaround remains about the same.

Again the majority (84%) of the appeals in this quarter are written representation (an exchange of written statements), which is less than the same quarter last year (91%) but shows an increasing trend over the immediate preceding four quarters ((62%, 64% and 74% and 80%). There have, however, in the past quarter been a number of public inquiries and hearings; Land at Southview, land at Furnax Lane, and Trowbridge Lodge Park. There are also 2 public inquiries programmed for August. These are commitments

that have strict timetables for submissions and which the case officers undertake in addition to their normal case work.

The majority (92%) of the appeals were against refusals but in this quarter there was also 1 appeal against non determination..

Number of appeals received

	Apr –Jun 06	Jan – Mar 06	Oct-Dec	July - Sept	Total
Total appeals lodged	13	20	19	25	77
Number of Written representations	11 (84%)	16 (80%)	14 (74%)	16 (64%)	57 (74%)
Number of hearings	1 (8%)	1 (5%)	2 (10%)	4 (16%)	8 (10%)
Number of Inquiries	1 (8%)	3 (15%)	3 (16%)	5 (20%)	12 (16%)
Number of appeals against refusal	12 (92%)	18 (90%)	18 (96%)	21 (84%)	69 (90%)
Number of non determination	1 (8%)	0 (0%)	1 (5%)	2 (8%)	4 (5%)
Number of appeals against conditions	0	0 (0%)	0 (0%)	1 (4%)	1 (1%)
Number against legal Agreements	0	0 (0%)		1 (4%)	1 (1%)
No. of appeals against delegated decisions	10 (76%)	12 (60%)	11 (58%)	12 (48%)	45 (58%)
No. of appeals against Committee decision that support officer recommendation	1 (8%)	0 (0%)	2 (10%)	7 (28%)	10 (13%)
No. against committee turnarounds	1 (8%)	6 (30%)	5 (26%)	3 (12%)	15 (19%)
No. of non determination	1 (8%)	0 (0%)	1 (5%)	2 (8%)	4 (5%)
No applications 'called in' by First Secretary of State	0	2 (10%)	0 (0%)	1 (4%)	3 (4%)

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 external consultants and barristers are used to represent the council. There are also financial implications for the 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.