

West Wiltshire District Council

Planning Committee

26 October 2006

Planning Appeals Decisions

Purpose

This report considers and comments on planning appeal decisions made in the third quarter (July – September) 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 for the Development Control Service is the percentage of appeals allowed against the Council's decision to refuse planning applications.

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 and this is now reflected in the figures below.

The intention 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 and the annualised total are also included for comparison purposes]

	July – Sept 05	Apr –Jun 06	Jan –Mar 06	Oct –Dec 05	Total
Total decisions made by PINS	17	21	15	11	64
Appeals Allowed (inc Split Decisions)	5 (29%)	7 (33%)	6 (40%)	7 (64%)	25 (39%)
Appeals Dismissed:	12 (71%)	14 (67%)	9 (60%)	4 (36%)	39 (61%)
Appeals Split	2	0	0	1	3
Appeals Withdrawn:	0	1	0	3	4

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

	July – Sept 06	Apr – June 06	Jan –Mar 06	Oct –Dec 05	Total
Total decisions made by PINS	2	3	2	1	8
Call in appeals Allowed Dismissed	1 (100%)				1 (12.5%)
Non Determination Allowed Dismissed		1 (100%)	1(50%) 1(50%)		2 (25%) 1 (12.5%)
Conditions Allowed Dismissed		1 (100%)		1 (100%)	1 (12.5%) 1 (12.5%)
Advertisements Allowed Dismissed	1(100%)	1 (100%)			2 (25%)
Trees Allowed Dismissed					
Total Allowed Dismissed	2 1 (50%) 1 (50%)	3 1 (33%) 2 (66%)	2 1 (50%) 1 (50%)	1 1 (100%) 0	8 4 (50%) 4 (50%)

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Turnaround Appeals Withdrawn	0	1	0	2	3

Awarded Costs: July - September 06

Number of cost applications made: 3

Number of cost application allowed: 1

Number of cost application refused: 2

Comments

The total number of decisions received in this quarter (17) has dropped compared to the previous quarter and is now more in line with the average number. On an annualised basis, the total number of decisions for the past 12 months is 64, which is lower than the total for 2005 (111).

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 29% compared to the 33% in the previous quarter and 40% or 64% in the two prior quarters. This still reflects a continuing downward trend during the past three quarters and is reflected in the annualised figure for the last year. This quarter's figure is now below the national average and the annualised figure is only 6% above the national average of 33% set out on the Planning Inspectorate website.

If this rate of improvement continues the Council will have exceeded its performance target, not only for this year 2006/7 but also for the succeeding years. 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. With

the same continued level of improvement, officers are optimistic that the Council will avoid any such abatement this year.

In summary, the number of appeals decisions received is the same as this time last year. The numbers allowed continue to fall on a quarterly basis, which, in turn, is helping to reduce the annualised figure.

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 17 decisions taken for performance data received in this quarter, only 4 were committee decisions against the officer recommendation. Of these, 3 (75%) were allowed [i.e. permission granted], although 1 of these was a split decision. 1 (25%) was 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. This is the case for this quarter but it means that the annualised figure over the past 12 months remains at 76% (13 out of 17 cases) compared to 65% in 2005 and 50% in 2004.

Applications for costs against the Council can only be made where appeals are considered by Inquiry or Hearing. There were 3 claims for costs in the last quarter. Two were dismissed by the respective Inspectors and 1 was granted in full against the Council. The Council have not to date received the formal request for the costs awarded at this appeal nor have we received the claim for the costs awarded at the end of 2005. Both awards were for sites with the same developer.

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 the same as last quarter and less than the three previous quarters. Over the past 12 months we have received 65 appeals compared with a total of 88 in 2005 as a whole and 119 in 2004. This probably reflects the end of the time when there was only three months to lodge an appeal, which has now reverted to 6 months, and the associated backlog experienced by the Planning Inspectorate. Such periods allow for negotiated solutions to be sought to planning refusals before the applicant has to resort to an appeal. This, coupled with improved monitoring, tightening of office procedures and better qualitative arguments, appears to have had a cumulative impact on the performance in appeals.

The number of appeals received in the last quarter against decisions issued under delegated powers has dropped to 46% compared to 76% in the last quarter. The number of appeals submitted against committee decisions has increase significantly from 2% last quarter to 56% this quarter and all are against committee turnarounds. Over the past 12 months, 22 appeals have been submitted against Committee decisions which is about a third of the total.

Again the majority (85%) of the appeals in this quarter are written representation (an exchange of written statements), which is more than the same quarter last year (64%). This probably reflects an end to a trend over the past couple of years for applicants to opt for hearings or inquiries to circumvent the backlog at the Inspectorate following the change to 3 month for lodging an appeal.

During August and September there were 2 Public Inquiries and 5 hearings. These are commitments that have strict timetables for submissions and which the case officers undertake in addition to their normal case work.

All the appeals this quarter were against planning refusals.

Number of appeals received

	July - Sept	Apr –Jun 06	Jan – Mar 06	Oct-Dec	Total
Total appeals lodged	13	13	20	19	65
Number of Written representations	11 (85%)	11 (84%)	16 (80%)	14 (74%)	52 (80%)
Number of hearings	1 (8%)	1 (8%)	1 (5%)	2 (10%)	5 (8%)
Number of Inquiries	1 (8%)	1 (8%)	3 (15%)	3 (16%)	8 (12%)
Number of appeals against refusal	13 (100%)	12 (92%)	18 (90%)	18 (96%)	61 (94%)
Number of non determination	0	1 (8%)	0 (0%)	1 (5%)	2 (3%)
Number of appeals against conditions	0	0	0 (0%)	0 (0%)	0
Number against legal Agreements	0	0	0 (0%)		0
No. of appeals against delegated decisions	6 (46%)	10 (76%)	12 (60%)	11 (58%)	39 (60%)
No. of appeals against Committee decision that support officer recommendation	0	1 (8%)	0 (0%)	2 (10%)	3 (5%)
No. against committee turnarounds	7 (56%)	1 (8%)	6 (30%)	5 (26%)	19 (29%)
No. of non determination	0	1 (8%)	0 (0%)	1 (5%)	2 (3%)
No applications 'called in' by First Secretary of State	0	0	2 (10%)	0 (0%)	2 (3%)

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.