



<b>Development Control Committee</b>	<b>Thursday, 24 May 2018</b>	<b>Matter for Information</b>
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**Report Title:** **Planning Appeals Update (2015-2017)**

**Report Author(s):** **Richard Redford (Planning Control Team Leader)**

<b>Purpose of Report:</b>	To provide a yearly summary of those planning applications (including consent based submissions) and planning enforcement related notices which have been challenged at appeal.
<b>Report Summary:</b>	The Council's breakdown for appeals dismissed / allowed for the last 3 years is as follows: 2015 - 57.2% dismissed / 42.8% allowed; 2016 - 76.9% dismissed / 23.1% allowed; and 2017 - 60% dismissed / 40% allowed. From these figures, the Council is above the 10% Government target for appeals being allowed.
<b>Recommendation(s):</b>	<b>1. The contents of the report and appendices be noted.</b>
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<b>Corporate Priorities:</b>	Effective Service Provision (CP2) Balanced Economic Development (CP3)
<b>Vision and Values:</b>	Accountability (V1) Customer Focus (V5)
<b>Report Implications:-</b>	
Legal:	The failure to provide robust decisions for planning refusals exposes the LPA to the risk of appeals and adverse costs orders on appeal to the PI, as well as of being put into Special Measures.
Financial:	Cost implications would exist where costs are awarded against the Council by the PI for unreasonably refusing an application.
Corporate Risk Management:	Decreasing Financial Resources (CR1) Reputation Damage (CR4) Regulatory Governance (CR6)
Equalities Assessment (EA):	Not applicable.
Human Rights:	There are no implications directly arising from this report.

<b>Statutory Officers' Comments:-</b>	
Head of Paid Service:	The report is satisfactory.
Chief Finance Officer:	The report is satisfactory.
Monitoring Officer:	The report is satisfactory.
<b>Consultees:</b>	Not applicable.
<b>Background Papers:</b>	None.
<b>Appendices:</b>	<b>A.</b> 2015 Appeals List <b>B.</b> 2016 Appeals List <b>C.</b> 2017 Appeals List

## **1. Introduction**

- 1.1 This report relates to appeal decisions made by the Planning Inspectorate (PI) in relation to various planning related development control decisions comprising formal submissions and planning enforcement.
- 1.2 As Members are aware, the Council as Local Planning Authority (LPA) is monitored on its performance in the determination of planning submissions on a quarterly-basis with the expectation that the Council exceeds targets set by Central Government.
- 1.3 The same applies to planning appeals where the Council is expected to successfully defend 90% or more of planning appeals against its decisions. Failure to successfully defend its decisions at appeal has a high potential for the Council to be made a 'Standards Authority' and put into Special Measures where the ability to make decisions on planning applications is 'removed' from the Council.
- 1.4 Due to the low numbers of planning applications handled by the Council in its role as LPA, there is a need to ensure that refusals of planning permission can be robustly defended at appeal to ensure less than 10% are allowed thus avoiding the risk of the Council being placed in Special Measures.
- 1.5 The purpose of this report is to provide a yearly summary of those planning applications (including consent based submissions) and planning enforcement related notices which have been challenged at appeal.
- 1.6 It provides details of site address, development, Local Planning Authority's (LPA) decision and the level at which the decision was made, the Planning Inspectorate's (PI) decision and, where applicable, any costs that were awarded on the appeal for or against the LPA.

## **2. Information**

- 2.1 As set out in paragraph 1.3 above, the failure of the Council as LPA to defend 10% or more of the planning and planning related appeals it receives can result in it being put into Special Measures where its ability to determine planning applications is taken out of its hands. It is therefore important that as a Council monitors its appeal decisions and are aware of how its appeal figures could influence its future ability to make planning decisions. This report details for the last 3 calendar years the appeals received and determined by the PI with other relevant information.
- 2.2 There are decreasing financial resource implications where costs are awarded against the

Council on an appeal allowed by PI, and potentially falling income through lost planning application fees should the Council be placed in Special Measures and lose the ability to both handle and determine planning and related submissions.

- 2.3 The Council being placed in Special Measures would also affect its ability to deliver effective service provision as it wouldn't be able to determine planning and related applications, together with the Council's ability being hindered to provide balanced economic development.
- 2.4 The Council being placed in Special Measures would impact on its accountability as it wouldn't be determining the planning, and related, applications it currently determines and, as such, would be unable to take account of both applicants and residents representations should the planning function be removed, thus removing customer focus.

### **3. Planning Appeals in 2015**

3.1 **Appendix A** to this report provides details in respect of relevant planning-related appeals in 2015. A total of 8 appeals were submitted to the PI as follows:

- 2 related to Enforcement Notices with 1 being withdrawn prior to determination of the appeal by the PI while the other appeal was allowed; and
- Of the 6 appeals relating to planning applications, 4 were dismissed and 2 were allowed. 4 of these 6 were refused under delegated powers with all 4 being dismissed.
- The 2 that were allowed were both Committee decisions, 1 of which the Committee agreed with the Officer recommendation to refuse while the other was refused against Officer recommendation.

3.2 2 applications for award of costs were submitted against the Council on these 8 appeals. 1 was dismissed totally while in the second, a partial award was granted against the Council.

### **4. Planning Appeals in 2016**

4.1 **Appendix B** to this report provides details in respect of relevant planning-related appeals in 2016. A total of 13 appeals were submitted to the PI as follows:

- 3 of these related to Enforcement Notices with all 3 being dismissed and the Enforcement Notices upheld without amendment; and
- Of the 10 appeals against planning decisions, 3 were allowed with the remaining 7 being dismissed. All of the planning-related appeals followed decisions made under delegated powers.

4.2 No applications for costs were made by or against the Council in 2016.

### **5. Planning Appeals in 2017**

5.1 **Appendix C** to this report provides details in respect of relevant planning-related appeals in 2017. A total of 10 appeals were submitted to the PI as follows:

- 1 related to an Enforcement Notice which was dismissed with the notice upheld. A costs application by the Council, as LPA, was dismissed on this appeal; and
- Of the 9 planning decisions appealed, 4 were allowed and 5 were dismissed. 5 of the 9 were determined under delegated powers, with the remaining 4 determined by Committee of which all 4 were against Officer recommendation.

5.2 A total of 4 applications for costs were determined by the PI on these 10 appeals. 2 of these 4, including 1 in respect of the Enforcement Notice made by the Council as LPA, were

dismissed with the other 2 allowed against the Council as LPA. Collectively, the costs awarded against the Council in these 2 appeals totalled £4,740.

## **6. Conclusion**

- 6.1 Taking account of the Government target of less than 10% of appeals being allowed the Council's breakdown for the last 3 years is as follows:
- 2015 - 57.2% dismissed and 42.8% allowed (excludes the 1 withdrawn);
  - 2016 - 76.9% dismissed and 23.1% allowed; and
  - 2017 - 60% dismissed and 40% allowed.
- 6.2 It can be seen from these figures that the Council is above the 10% Government target for appeals being allowed.
- 6.3 There is a continual on-going need for careful consideration including the use of professional advice by Officers and consultees at both delegated and Committee levels in the determination of planning and related submissions to ensure that where a submission is refused, it can be successfully defended at appeal.
- 6.4 Furthermore, where costs are awarded against the Council on an appeal allowed by the PI and potentially falling income through lost planning application fees should the Council be placed in Special Measures and lose the ability to both handle and determine planning and related submissions.