

# **Report to District Development Control Committee**



**Epping Forest  
District Council**

## ***Date of meeting:***

**Subject: Assessment of Planning Appeals Allowed By The Planning Inspectorate**

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## **Recommendation(s):**

That the assessment of the planning appeal decisions allowed for 2008/09 and the comparison and assessment of appeal performance from 2005/06 to 2008/09 be noted.

## **Report Detail**

1. As Members are aware, a range of Key Performance Indicators (KPIs) have been adopted for 2009/10, one of which is LPI 45 – “Number of appeals allowed against the refusal of planning applications, as a percentage of the total number of appeals against the refusal of planning applications”. The Indicator is a measure designed to address quality of decision-making and a low percentage is therefore sought. As with other KPI's, LPI 45 has an Improvement Plan for 2009/10, the target of 25% of which have been reviewed with reference to performance in 2008/09. The performance in terms of the percentage of appeals allowed on planning applications was disappointingly 40.3, which was well above the target of 25%.
2. Members of Area Plans Sub-Committee's South, East and West already receive regular 6-monthly reports of appeal performance, but as part of the action needed to achieve the top quartile performance of 25%, the improvement plan for LPI 45 stated that the Assistant Director (Development) would report to this committee and the Corporate Executive Forum (CEF) of its findings in two areas.
3. The first area would be a scrutiny of the 54 planning application appeal decisions allowed against refusals of planning permissions for 2008/09 to see if there are any common themes and lessons to be learned. Appended to this report at appendix 1 there is a table of the 54 allowed appeal decisions, with a brief summary of why the appeals were allowed.
4. The second area would be a comparison of the appeals allowed under Officer delegation powers against those allowed as a result of officer recommendations reversed by Members at Planning Committees since 2005. At appendix 2 there is a shorter table of these results.
5. Beginning with the first area (appendix 1), the 54 allowed appeals in 2008/09 were generally spread across a broad area of planning application types, but what can be revealed, as we have suspected, making the “best” use of urban land appear to be leading to decisions being made by the Planning

Inspectorate that perhaps would not have been met in the past. The Committee reversals were not particularly successful and perhaps there needs to be a reminder for Members the planning decisions are in the main a judgement backed up by relevant planning policies, both nationally, regionally and locally, unless there are other material considerations that outweigh policy.

6. The most common planning issues appear to be concerns with impact on the street scene (“appearance”) and living conditions of occupants of neighbouring residential property (“amenity”). On larger developments, there are often a number of objectors who wish the planning application be refused because of street scene, character and amenity harm. Again, this is a judgement, but Officers do have the advantage of visiting the sites before writing their reports and weighing up all the factors, which isn’t so easy for Members, though it is acknowledged that some Members do try and view sites in their local area prior to a meeting. Officers also have the policy experience, though it is accepted Members and the local council’s may have a greater local knowledge. The Planning Inspector will be policy lead, so it is really down to an interpretation of the policies and material planning issues and therefore Members need to carefully weigh up the objections received from third parties and try not to be so influenced by say, the volume of objections, particularly where they turn up in numbers at meetings, as to whether it really is contrary to policy and consider whether it is defensible at appeal.
  
7. In the case of a few of the delegated conditions, the time restrictions measure of performance for Development Control in the case of speed of deciding planning applications, may have focused Officers in making a decision just as the deadline date is approaching. Erring on the side of caution resulting in the application being refused, when a small change to the plans may have overcome concerns, could have prevented an appeal, but these are often the case where there have been neighbour or local council objections that have swayed the officers recommendation. For the same reason as Committee cases, Officers need to try and get the balance of issues right. It is interesting to note that only a few developments in the Green Belt succeed on appeal both in Committee and Delegated cases, showing the strength of a long established national policy.
  
8. Turning to appendix 2, the tables reveal that the number of appeals allowed since 2005 have been rising, most noticeably in 2008/09. This coincides with the number of appeals made and up to 2008, the number being dismissed was also rising. However, 2008/09 saw a slight fall in appeals dismissed but a greater proportion and number being allowed. Again, it is difficult to draw on why this has happened other than clearly too many planning applications are being refused. The success rate of delegated decisions is greater than those that go to Committee and whilst the delegated decisions allowed has not varied too much, those allowed on appeal from Committee reversals shows a higher trend. It is noticeable that where, in 2005, a good target of total appeals allowed was at its lowest, the number of Committee reversals was also at its lowest. Conversely, where the total allowed figure is at its highest, in 2009, so were Committee reversals.

## **Conclusion**

9. It is difficult to draw on lessons learned here than the inevitable fact that perhaps the number of planning application refused should be reduced. But each case has to be viewed on its own merits and perhaps Officers need to be careful of making too cautious a decision when refusing planning permission under delegated powers. Likewise, as borne out by the 73% of appeals allowed as a result of Committee reversals in 2008/09, Members need to be sure that the decisions are robust in themselves and carefully look at why Officers consider the proposed development is being recommended for approval, because the appeal decision implies that the Officer recommendation is predominantly the view of the Planning Inspector in this cases, despite every effort being made by Officers (including employing outside consultants) and in a few cases now, with support from individual Members, to defend these decisions at appeal.