

# **Report to Finance and Performance Management Scrutiny Panel**

**Date of meeting: 21 June 2011**



**Subject: Key Performance Indicator 2011/12 (Target Setting - LPI 45 – Number of Appeals Allowed Against Refusal of Planning Applications)**

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**Committee Secretary: Adrian Hendry, Ext. 4246**

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## **Recommendations/Decisions Required:**

- 1) **That the target of 50% be set for Planning Appeals Allowed against the refusal of planning applications as a result of Committee Reversals – (KPI 55 for 2011-12);**
- 2) **That the target of 25% be set for Planning Appeals Allowed against the refusal of planning applications as a result of Officer Recommendations and Delegated decisions – (KPI 54 for 2011-12); and**
- 3) **That no performance target be set for the level of appeal costs awarded against the Council.**

## **Background:**

1. It was reported at the last meeting of Finance and Performance Management Scrutiny Panel held on 10 March 2011, that performance indicator LPI 45, which measures the number of certain planning appeal types allowed against the refusal of planning applications, is not being achieved. Indeed, it had not been since 2008.

2. 35.8% of appeals were allowed in 2010/11 against a target that no more than 28% should be allowed and therefore it fell short by almost 8%. In the previous 2 years, against a target of 25%, 31% was achieved in 2009/10 and 40.3% in 2008/09. Officers have previously reported that this is primarily because of the higher number of the appeals being allowed by the Planning Inspectorate in those cases where the Director of Planning and Economic Development recommendation was being reversed and refused at planning committees.

3. The Committee agreed, firstly, that the indicator should apply to all planning application appeal types (and therefore include appeals relating to advertisements, listed buildings and against planning conditions etc, which have been previously excluded).

4. Secondly, agreed that LPI 45 in principle should be split into two performances: one for committee reversals, which is effectively where the committee disagrees and overturns the planning officer's recommendation to grant permission and secondly, set a separate target measure for officer recommendations and decisions primarily made under delegated powers. The Committee was concerned that because the planning committee reversal applications were a reflection of how balanced or contentious these types of developments are, the two appeal indicator types should be different.

It was therefore agreed that officer's recommend an option as to how the indicators were to be measured in two parts.

5. Thirdly, the Director of Planning & Economic Development was asked to look at whether to include the levels of costs awarded against the Council at appeal within another definition of LPI 45.

**Report:**

6. In respect of measuring out two target figures for LPI 45, separating appeals allowed out into committee reversals and secondly into officer recommendations and decisions for the previous 3 years reveals the following results:

YEAR	COMMITTEE REVERSALS - APPEALS ALLOWED		OFFICER DECISIONS - APPEALS ALLOWED	
	Percentage	Number	Percentage	Number
2010-11	69	18 out of 26	20	11 out of 55
2009-10	54	15 out of 28	23	17 out of 74
2008-09	72	26 out of 36	30	33 out of 111

For this target, the aim is to achieve a lower percentage figure.

7. Rounding these 3 years totals up, the percentage figure for committee reversals allowed is 66% (59 out of 90) and for officer decisions is 25% (61 out of 240).

8. As a measure of decision making performance, the targets need to be challenging. These 3-year averages are the best indication we have of recent performance and in the case of the officer decision target, 25% was the last known top quartile performance for District Authorities nationally. Members may feel though a slightly lower figure would offer even more of a challenge for officers, but 25% would still be a challenge in itself and be lower than 28% target for the last financial year just gone.

9. A similar 25% target for committee reversals would be in line the Council's desire to be a top quartile performer in respect of appeals, but as there is no known benchmarking data ever produced by the Government specific to committee reversals, and given the actual performance over the last 3 years, this clearly is going to be extremely challenging. As there are fewer applications considered in this category compared with officers, there is likely to be more volatility in actual performance, which in the main is reliant on how policy defensive are the reasons for refusal. Setting this target around 50% would help focus decision making by balancing all relevant material planning issues, not just the volume and intensity of third part objections, which no doubt has an influence, but also national and local planning policies. It is also a good measure that Members would realistically hope that half of their decisions going to appeal would be dismissed by the Planning Inspector.

10. Turning to the issue of measuring the level of costs awarded against the Council as a performance, again there is no national indicator or known performance indicator to compare to. For an award for costs to be considered, it has to be made by one or more party, so costs are not automatically assessed each time by the Planning Inspectorate, only when a claim is made. Costs will only be awarded against a party that has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the

appeal process.

11. The Council has either been generally successful in defending costs or they are infrequently applied for by the appellant. As a quantitative measure, a performance figure will be meaningless because the quantity of claims is low. For example, out of the 81 planning application appeal decisions made in 2010-11, 3 claims were made of which one was allowed.

12. It is recommended therefore that the current 6-monthly assessment of appeal performance reported to Area Plans Sub-Committees, which includes details of any costs awarded, remains the most informative way of reporting to Members and a more preferable qualitative way of assessment.

**Reason for decision:**

That the target of 50% be set for an LPI target in the case of committee reversals and a target of 25% in the case of officer recommendations and decisions.

That no award of costs performance target be included as part of LPI 45

**Options considered and rejected:**

Setting lower targets would potentially be more achievable, but would not be seen as challenging for top quartile performance, certainly in the case of the officer target. The committee reversal target based on the 3 year average is 66%, so a figure closer to this could be an alternative.

Setting a higher target could be deemed as too challenging, despite officers achieving a figure lower than 25% in 2 out of the last 3 years.

**Consultation undertaken:**

Discussion took place at Development Control Management Team Meeting.

**Resource implications:**

Budget provision: As existing  
Personnel: Nil  
Land: Nil

Community Plan/BVPP reference: Current performance indicator LPI 45  
Relevant statutory powers: None

Background papers: None  
Environmental/Human Rights Act/Crime and Disorder Act Implications: None  
Key Decision reference: (if required)