

UPDATE ON APPEAL DECISIONS

Planning Committee – 21 June 2017

Report Author ***Iain Livingstone, Planning Applications Manager***

Portfolio Holder ***Cllr Lin Fairbrass, Community Services***

Classification: Unrestricted

Executive Summary:

This report advises Members on the planning appeals that were decided during the period from April 2016 to March 2017 (inclusive), including the decision of each appeal.

Recommendation:

Members note the report.

CORPORATE IMPLICATIONS

Financial and Value for Money	<p>Appeals are generally dealt with by Planning Officers and the cost absorbed within the cost of the service. In the case of Public Inquiries and occasionally hearings legal assistance will be necessary and this incurs additional costs. Furthermore, the Council can be liable to claims for costs at appeal. The advice from Government within the National Planning Practice Guidance sets out the circumstances in which costs may be awarded against either party in planning appeals. Costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Costs may be awarded following an application by the appellant or unilaterally by the Inspector. An authority is considered to have behaved unreasonably if it does not produce evidence to substantiate each reason for refusal.</p> <p>The advice outlines is that if officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority.</p> <p>There are no funds allocated for any potential fines meaning cost awards will result in spend that is outside of the budgetary framework.</p>
Legal	None
Corporate	The Corporate target for appeals is for <u>no more than</u> 30% to be allowed. The current position for the period referred to in this report is 50% of appeals have been allowed and as such we have fallen short of the target.
Equalities Act 2010 & Public	Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to

Sector Equality Duty	<p>the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.</p> <p>In the opinion of the author of this report the Public Sector equality duty is not engaged or affected by this report.</p>
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1.0 Introduction and Background

1.1 Applicants for planning permission have the right of appeal when the council refuses planning permission or when the council has failed to decide an application within the statutory time period which, in most cases, is 8 weeks or in the case of major applications 13 weeks.

2.0 The Current Situation

2.1 The annex to this report lists each of the applications that were decided at appeal between the months of April 2016 and March 2017 (inclusive). The annex identifies the site, proposal as well as the outcome of the appeal (ALC – Allowed subject to conditions, DIS – Appeal dismissed) and who took the decision to refuse the application (DPO – Delegated to planning officers, CTE – Planning Committee).

2.2 The number of appeals decided over the period was **24**.

2.3 The Council has been successful in defending over half of the appeals for the period.

2.4 The figure for the appeals that were allowed was 46% which falls short of the 30% target that we aim to achieve.

2.5 One cost appeal in the same period in relation to a planning appeal was successful against the refusal of planning permission for the change of use of the Derby Arms Public House on Margate Road, Ramsgate, into a House in Multiple Occupation. The final settlement for this was £10,981.15.

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Annex List

<i>Annex 1</i>	Appeals Decided between 1 April 2016 and 31 March 2017
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Corporate Consultation

Finance	Matthew Sanham, Corporate Finance Manager, 2.06.17
Legal	Tim Howes, Director of Corporate Governance, 2.06.17