

## **UPDATE ON APPEAL DECISIONS**

**Planning Committee – 16 May 2018**

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

Portfolio Holder ***Cllr Jason Savage, Planning (Development Control)***

Classification: Unrestricted

### **Executive Summary:**

This report advises Members on the planning appeals that were decided during the period from April 2017 to March 2018 (inclusive), including the decision of each appeal.

### **Recommendation:**

Members note the report.

### **CORPORATE IMPLICATIONS**

<b>Financial and Value for Money</b>	<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>
<b>Legal</b>	None

<b>Corporate</b>	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 33% of appeals have been allowed and as such we have fallen short of the target.
<b>Equalities Act 2010 &amp; Public Sector Equality Duty</b>	<p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to 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 &amp; maternity. Only aim (i) of the Duty applies to Marriage &amp; civil partnership.</p> <p>the opinion of the author of this report the Public Sector equality duty is not engaged or affected by this report.</p>

## 1.0 Introduction and Background

- 1.1 Applicants for planning permission have the right of appeal if 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 Annex 1 to this report lists each of the applications that were decided at appeal between the months of April 2017 and March 2018 (inclusive). The annex identifies the site, proposal as well as the outcome of the appeal (ALC – Allowed subject to conditions, DIS – Appeal dismissed, NPW – not proceeded with) 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 **46**.
- 2.3 The Council has been successful in defending 67% of appeals for the period.
- 2.4 The figure for the appeals that were allowed was 33% which falls short of the 30% target that we aim to achieve.

## 3.0 Cost awards

- 3.1 Two cost appeals by applicant in the same period were successful against the Council's refusal of planning permission. These were from the refusal of a proposal to change the use of a property into a House in Multiple Occupation at 14 Wyndham Avenue Margate, and from the refusal of the proposal to erect 36 dwellings at the land adjacent to 66 Monkton Road Minster. The final settlement for these cost appeals were £6297 and £7355.06. Both costs appeal decisions are found at Annex 2 and 3.

Contact Officer:	Iain Livingstone, Planning Applications Manager
Reporting to:	Bob Porter, Head of Housing and Planning

### **Annex List**

Annex 1	Appeals Decided between 1 April 2017 and 31 March 2018
Annex 2	Successful Cost Appeal Decision for 66 Monkton Road, Minster.
Annex 3	Successful Cost Appeal Decision for 14 Wyndham Avenue, Margate

### **Corporate Consultation**

Finance	Matthew Sanham, Corporate Finance Manager, 02/05/2018
Legal	Tim Howes, Director of Corporate Governance, 01/05/2018