

Report to: Planning Committee



Date of Meeting 13 May 2025

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Planning Appeals Status Report

Report summary:

The report is provided as an update on the current situation regarding planning appeal decisions and gives an overview of the results of planning appeals for the year from 1st April 2024 to 31st March 2025. It seeks to provide some analysis of the appeal decisions received over that period and picks up on any trends and learning points from those decisions that can help the Council to improve in terms of its decision making and record on defending its decisions at appeal.

Is the proposed decision in accordance with:

Budget Yes ☒ No ☐

Policy Framework Yes ☒ No ☐

Recommendation:

That Members note the report and the Council's planning appeals performance during the 2024 – 2025 monitoring period.

Reason for recommendation:

To ensure that Members are appraised of the Council's current performance in respect of planning appeal decisions.

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Portfolio(s) (check which apply):

- ☐ Climate Action and Emergencies
- ☐ Coast, Country and Environment
- ☐ Council and Corporate Co-ordination
- ☐ Culture, Tourism, Leisure and Sport
- ☐ Democracy and Transparency
- ☒ Economy and Assets
- ☐ Finance
- ☒ Strategic Planning
- ☐ Sustainable Homes and Communities

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk;

Links to background information [Planning Inspectorate statistical release 23 January 2025 - GOV.UK](#)

Link to [Council Plan 2024-28](#)

Priorities (check which apply)

- ☒ A supported and engaged community
 - ☒ Carbon neutrality and ecological recovery
 - ☒ Resilient economy that supports local business
 - ☒ Financially secure and improving quality services
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Report in full

1.0 Background

- 1.1 This report is the latest in a series of annual reports on the Council's performance on planning appeals. It measures performance using the Planning Inspectorate's statistics and performance indicator. The performance indicator includes only those appeals against the Council's decision to refuse planning permission. It does not include planning appeals against conditions or non-determinations. The calculation also excludes all other types of appeal e.g. advertisement appeals, enforcement appeals, lawful development certificate appeals, appeals in respect of prior approval applications and works to protected trees. A partially allowed appeal or a split decision is counted as an appeal allowed.
- 1.2 The calculation includes those decisions where the date of decision falls within the year in question, regardless of when the appeal was lodged.
- 1.3 The Council has received 59 appeal decisions from 1 April 2024 to 31 March 2025 which are subject to the performance indicator. This is not the total number of appeal decisions received, which includes all other types of appeal as stated above.

National appeal statistics

Section 78 planning appeals

Year	Decided	Allowed	% Allowed
2022-2023	9162	2629	28.7
2023-2024	9674	2728	28.2
2024-2025*	7594	2172	28.6

. The above figures have been taken from Planning Inspectorate statistical release dated 23 January 2025. At the time of writing this report the figures for the last quarter January – March 2025 were not available.*

East Devon appeal statistics

Section 78 planning appeals

Year	Decided	Allowed	% Allowed
2021 - 2022	43	18	41.9
2022 - 2023	47	11	23.4
2023 - 2024	32	9	28.1
2024 - 2025	59	17	28.8

2.0 Analysis

- 2.1 The Planning Inspectorate no longer include the statistics relating to appeals decided by the householder appeals procedure and those decisions are not included in the National appeal statistics above.
- 2.2 For the purposes of this report and to give a true comparison with the National statistics, householder appeals which followed the expedited householder appeals procedure have been excluded from the Council's appeal decisions in the table above for the 2024-2025 time period. The householder appeals which did not follow this procedure have been included in the figures.
- 2.3 The householder appeal process is a streamlined process whereby the Inspector utilises the report previously produced by the local planning authority together with all of the related background information as part of its own decision process rather than requiring a further statement to be produced. No further comments can be submitted by the local planning authority or third parties at the appeal stage. Appeals in respect of householder applications do not always follow this procedure; for example, where there is a linked Listed Building Consent appeal.
- 2.4 The decisions in respect of appeals that were considered under the householder appeals procedure are included in the summary of other appeal decisions below.
- 2.5 The majority of the appeals were dealt with by means of written representations, with 55 having been determined on that basis. Hearings were held for 4 of the appeals and there were no appeals which were the subject of an Inquiry.
- 2.6 From the 59 decisions received, 17 of the appeals were allowed which equates to 71.2% of appeals against the Council's decision to refuse planning permission being dismissed.
- 2.7 The success rate is close to the current National average and above the Council's imposed performance indicator of 70% for dismissed appeals.
- 2.8 The figures need to be studied in more detail to establish whether there has been any significant change in the decision-making process or if there is any particular trend which can be attributed to those decisions of the Council which were overturned.
- 2.9 Of the 17 appeals which were allowed, 7 resulted from applications decided by the Planning Committee, 4 of which were refused contrary to officer recommendation. The other 10 appeals which were allowed resulted from delegated decisions. Of those delegated decisions, 1 recommendation to refuse was agreed at the Chair's delegation meeting.

- 2.10 Of the 42 appeals which were dismissed, 6 resulted from applications decided by the Planning Committee and 36 resulted from delegated decisions. Of those delegated decisions, 4 recommendations to refuse were agreed at the Chair's delegation meeting.
- 2.11 The following tables provide some further analysis of the appeal decisions by procedure and by application type:

Appeal Procedure	Dismissed	Allowed	% Dismissed
Written Representations	41	14	74.5
Hearing	1	3	25.0

Application Type	Dismissed	Allowed	% Dismissed
Minor dwellings	21	4	84.0
All other minor developments	14	7	66.6
All major developments	1	3	25.0
Householder	3	2	60.0
All other application types	3	1	75.0

- 2.12 The largest sample of 25 decisions in respect of minor dwellings, produced a high success rate of 84% of appeals dismissed.
- 2.13 The performance for appeals in respect of all other minor developments is slightly below the mean average with a success rate of 66.6% dismissed from 21 decisions.
- 2.14 The performance in respect of major applications is low with 3 out of 4 appeals allowed, although this is a relatively small sample. All four of the major applications were considered by the Planning Committee and two of the appeals allowed stemmed from decisions which were contrary to officer advice.
- 2.15 The Council has performed well against appeals in respect of minor dwellings which has offset some of the lower performance figures for other application types in achieving an overall success rate close to the National average.
- 2.16 There are no particular trends which can be established from the decisions based on the application type to account for those appeals which were allowed.
- 2.17 Appeals allowed -

17 Decisions, including:-

- 10 Delegated decisions
- 7 Committee decisions
- 4 Committee decisions contrary to officer recommendation
- 3 Major applications
- 3 Hearings

- 2.15 Appeals Dismissed -

42 Decisions, including:-

- 36 Delegated decisions
- 6 Committee decisions
- 4 Decided at Chair's delegation

- 21 Minor dwellings
- 1 Hearing

3.0 Costs Applications

- 3.1 There can be financial implications in relation to cases where an application for costs is made.
- 3.2 Applications for an award of costs can be made by either party in respect of all appeals. An award of costs will only succeed in the event that the Inspector determining the appeal had considered that a party had acted unreasonably.
- 3.3 If a planning application is refused, the reasons given have to be both justified and defensible. It is most likely that an application for an award of costs against the Council would be successful, in cases where an appeal is lodged and the reasons for refusal cannot be substantiated.
- 3.4 The Inspector determining an appeal can award costs against either party, with or without an application for costs having been made, if it is considered that unreasonable behaviour has occurred.
- 3.5 There has been four applications for a full award of costs and one application for a partial award of costs against the Council between 1 April 2024 and 31 March 2025. Three of the applications for a full award of costs were dismissed and one allowed. The application for a partial award of costs was refused.
- 3.6 The application for a full award of costs which was allowed relates to an appeal against an enforcement notice served in respect of the material change of use of the land from agricultural use to a mixed use of agricultural and Use Class B2 (General Industrial) use by virtue of the use of a former agricultural barn as a steel fabrication workshop.
- 3.7 The Inspector considered that the enforcement notice did not specify with sufficient clarity the alleged breach of planning control, the steps required for compliance, or the land where the breach of planning control is alleged to have taken place.
- 3.8 The Inspector concluded that unreasonable behaviour resulting in unnecessary or wasted expense had occurred and a full award of costs was therefore warranted in favour of the appellant. To date, these costs have not been submitted to the Council for payment.
- 3.9 The Council spent £14,399.17 on external legal advice (barrister fees) relating to appeals in 2024 - 2025, primarily in respect of the hearings that took place and including the enforcement case referred to above. There were no planning inquiries in this period.

4.0 Summary of other appeal decisions

- 4.1 There has been 34 other appeal decisions which are not included in those appeals subject of the performance indicator.
- 4.2 Eighteen appeals considered under the householder appeals procedure, eleven dismissed and seven allowed.
- 4.3 One appeal in respect of an enforcement notice, enforcement notice quashed.
- 4.4 Five appeals against the refusal to grant listed building consent, three dismissed and two allowed.

- 4.5 One appeal against the refusal to grant prior approval allowed.
- 4.6 Five appeals against non-determination of planning applications within the statutory time limit, two dismissed and three allowed.
- 4.7 Two appeals against conditions imposed on the grant of planning permission, one dismissed and one allowed.
- 4.8 Two appeals against the Council's decision to refuse to grant a certificate of lawful use or development, one dismissed and one allowed.

5.0 Conclusions

- 5.1 The Council success rate is around the current National average and higher than the Council's own target figure of 70% appeals dismissed. This represents a good indicator of consistency in the decision-making process.
- 5.2 When a decision is made to refuse an application, the reasons have to be well substantiated, robustly supported by adopted policies and in accordance with Government advice. It is evident that in cases where the above advice is not adhered to, an appeal is most likely to be allowed.
- 5.3 On analysis of the decisions, there does not appear to be any particular trend or reason to support those appeals which were allowed. In cases where the Council is minded to refuse an application, similar proposals which have been the subject of recent appeals are constantly being analysed to ensure consistency in the decision making process.
- 5.4 Appeal decisions are monitored to ensure that any changes in accordance with National Planning Policy are implemented and that decisions on planning applications are made in accordance with current Government Advice.
- 5.5 Measures are in place to monitor performance throughout the year with Planning Committee receiving a monthly update report including a summary of any appeals determined that month as well as those received. This enables the committee to quickly understand new decisions and learn from them, similarly all appeal decisions are circulated around officers. The appeals performance is also one of the key performance indicators that is reported to Members. Regular training is provided to Members of Planning Committee to ensure that their knowledge remains up to date, however it is acknowledged that further training would always be beneficial and should be provided when officers' capacity allows.

Financial implications:

The report highlights the need to have consistency in the decision-making process with well substantiated reasons when applications are refused. This will reduce the likelihood of appeal. Defending appeals are costly to the Council, especially those taken to hearing and if costs are awarded against us. (AB/02/05/2025)

Legal implications:

The are no legal implications identified within the report which require comment (000026/02 May 2025/DH).