

EAST HERTS COUNCIL

DEVELOPMENT CONTROL COMMITTEE – 6 MAY 2009

6. REPORT BY HEAD OF PLANNING AND BUILDING CONTROL

PLANNING APPEAL PERFORMANCE AND TRENDS OCTOBER 2008 – MARCH 2009

---

WARD(S) AFFECTED: All

'D' RECOMMENDATION - that the performance of the Council in relation to planning appeal decisions be noted.

---

1.0 Purpose/Summary of Report

1.1 This report presents a summary of the performance of the Council in relation to planning appeals for the six month period October 2008 to March 2009.

2.0 Contribution to the Council's Corporate Objectives

**Fit for purpose, services fit for you**

*Deliver customer focused services by maintaining and developing a well managed and publicly accountable organisation.*

**Caring about what's built and where**

*Care for and improve our natural and built environment.*

**Shaping now, shaping the future**

*Safeguard and enhance our unique mix of rural and urban communities, ensuring sustainable, economic and social opportunities including the continuation of effective development control and other measures.*

3.0 Background

3.1 Performance in relation to planning appeals is used as measure of the development control service. Members will appreciate that, generally, the Council does not have direct influence over the outcome of appeals – they are determined by the Planning Inspectorate. However, by considering past performance, it is

possible to assess whether there should be any broad or general changes to the approach the Council takes to decision making.

- 3.2 As indicated, this report concentrates on the six month period between October 2008 and March 2009. This report, previous ones and further reports at six monthly intervals, will allow an ongoing comparison of the Councils performance.
- 3.3 A further purpose of this report is to ensure that we learn from the decisions that have been made by planning inspectors in the last six month period. A summary of the decisions that have been made therefore, categorised by the type of development is set out in the report and the table in Appendix A on page 174.
- 4.0 Performance
- 4.1 During the six month period 60 planning appeal decisions have been made. In the calculations below I have not included withdrawn appeals or others which are not included in the definition of this performance indicator provided by government. Two appeals were withdrawn during this period.
- 4.2 Of the 60 appeals that have received a decision 21 have been allowed in full or in part. This is a performance figure of 35%. This is a greater percentage than the target set out in the Councils Best Value Performance Plan of 29%. (Note in respect of this indicator a lower percentage outcome is preferable).
- 4.3 There is no national target or performance figure. However performance information for the Unitary and District Councils across England is available. The most recent full year information relates to the 2007/08 year. There is additional information available for the 3 months April – June 2008 and July – Sept 08. The national picture is that for the 2007/08 year, 35.0% of appeals were permitted. For the April to June period the national figure was 33.0% of appeals allowed. For the period July – Sept 08, 34% of appeals were allowed. East Herts performance then, at 35%, is equivalent to national performance for the 07/08 year and is not significantly below national performance for the first two quarters of the 08/09 year.
- 4.4 Of the 60 planning decisions that have been appealed and resulted in a subsequent decision from the planning inspectorate, 13 of these decisions were made by the committee. Four of these decisions were subsequently the subject of upheld (allowed) appeals. The

rate of appeals allowed in relation to committee decisions therefore is 30.8%, that made by the delegated route is 36.2%.

## 5.0 Learning from Appeal Decisions

5.1 The second part of this report sets out to analyse appeal decisions that have been made and determine whether there are any points that can be taken from them to inform our future decisions. The table below gives information in relation to appeals with regard to the type of development proposed.

Type of development	Number of appeal decisions	Percentage allowed
New residential development (minor development – less than 10 new units)	13	38.5%
New residential development (major – 10 or more new units)	6	16.7%
<i>Separating out mixed schemes</i>	<i>4</i>	<i>25.0%</i>
Extensions, outbuildings etc at existing residential units (householder developments)	31	35.5%
Retail	2	100%
Leisure/ Tourism	6	16.7%
Agricultural	1	100%
Commercial	1	nil
TOTAL	60	35.0%

*(Note: the italicised figures above are not included in the total)*

5.2 Considering the detail of the decisions made, there were some high percentage of allowed appeals in relation to retail and agricultural uses. However, the overall number of decisions in these sectors is low so it is difficult to draw any significant conclusions from this. The retail decisions included the change of a unit in Potter Street, Bishop's Stortford to a mixed A1/A3 use and the change of a unit in Stanstead Abbots to a Beauty Salon.

5.3 The bulk of the decisions relate to new residential development or to extensions and outbuildings on existing residential units (householder developments). Performance in relation to new residential units, where they do not represent major schemes, that is less than 10 new units, has been below the overall average. Five appeals were allowed out of a total of 13 made. Historically performance in this sector has been good, but has declined over the

last year. This may represent a desire to increase new build levels and to allow these minor schemes unless they have a considerably harmful impact.

- 5.4 Where major development was proposed (10 or more units) the Council was unsuccessful in five out of six cases. The allowed appeal was made in relation to a site at 19 Cambridge Road, Sawbridgeworth. Appeals were dismissed for proposals at:
- 100 Rye Street, Bishop's Stortford;
  - 87-89a Railway Street, Hertford (mixed scheme with 9 flats and one commercial unit);
  - 26 Ware Road, Hertford (mixed residential and retail scheme);
  - Gravelly Lane, Braughing; and
  - The Sun and Harrow site, Fanhams Road, Ware.
- Clearly, performance in this category has been good.

- 5.3 In relation to householder developments performance has improved over the previous 6 months, with 35.5% of appeals allowed (11 decisions out of the 31 in total). The figures for the previous six months were 44% of appeals allowed.

- 5.4 This is the sixth update report on appeal performance over each of the preceding six month periods. This allows some comparison to be made with past performance and the table setting out the details, and referred to in the commentary above, is included as an appendix to this report.

- 5.8 There are only limited numbers of decisions in the other categories of development. There is little ability to make comparisons therefore.

## 6.0 Consultation

- 6.1 No consultation has been undertaken in the formulation of this report

## 7.0 Legal Implications

- 7.1 None

## 8.0 Financial Implications

- 8.1 Unreasonable actions on the part of the Council in relation to appeals can lead to claims being made for costs against it.

9.0 Human Resource Implications

9.1 None

10.0 Risk Management Implications

10.1 An analysis of performance and decision making trends is appropriate to ensure that any risk that the Council is acting unreasonably or unprofessionally is minimised.

Background Papers

Planning Inspectorate appeal decision letters

National Appeal and planning application determination statistics released by the Planning Inspectorate.

Contact Member: Malcolm Alexander – Executive Member for Community Safety and Protection.

Contact Officer: Kevin Steptoe, Head of Planning and Building Control, Extn: 1407.

Report Author: Kevin Steptoe, Head of Planning and Building Control, Extn: 1407.