

EAST HERTS COUNCIL

DEVELOPMENT CONTROL COMMITTEE - 21 OCTOBER 2009

REPORT BY HEAD OF PLANNING AND BUILDING CONTROL

6. PLANNING APPEAL PERFORMANCE AND TRENDS APRIL 09 –
SEPTEMBER 2009

WARD(S) AFFECTED: None specific

Purpose/Summary of Report

- This report presents a summary of the performance of the Council in relation to planning appeals for the six month period April to September 2009.

<u>RECOMMENDATION:</u>	
(A)	that the performance of the Council in relation to planning appeal decisions be noted.

1.0 Background

1.1 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.

1.2 As indicated, this report concentrates on the six month period between April and September 2009. This report, previous ones and further reports at six monthly intervals, will allow an ongoing comparison of the Councils performance.

1.3 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 **Essential Reference Paper B** on page 89.

2.0 Performance

- 2.1 During the six month period 53 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 In the calculations below I have not included withdrawn appeals or others which are not included in the definition of this indicator when performance was measured by the government. Five appeals were withdrawn during this period.
- 2.2 Of the 53 appeals that have received a decision 20 have been allowed in full or in part. This is a performance figure of 37.7%. This is a greater percentage than the Council's target of 29%. (Note in respect of this indicator a lower percentage outcome is preferable).
- 2.3 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 2008/09 year. There is additional information available for the 3 months April – June 2009. The national picture is that for the 2008/09 year, 34% of appeals were permitted. For the April to June period the national figure increased to 35% of appeals allowed. East Herts performance then, at 37.7%, is poorer than national performance when compared to last years figures and the first quarter of this year.
- 2.4 Of the 53 planning decisions that have been appealed and resulted in a subsequent decision from the planning inspectorate, 11 of these decisions were taken by the committee. Six of these decisions were subsequently the subject of upheld (allowed) appeals. The rate of appeals allowed in relation to committee decisions therefore is 54.5%, that made by the delegated route is 33.3%.

3.0 Learning from Appeal Decisions

- 3.1 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	Percentage allowed
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	decisions	
New residential development (minor development – less than 10 new units)	14	21.4%
New residential development (major – 10 or more new units)	2	nil
Mixed – new residential (major) and commercial	1	100%
Mixed – new residential (minor) and shop front	1	100%
Extensions, outbuildings etc at existing residential units (householder developments)	26	38.5%
HIMO – House in multiple occupancy	1	nil
Retail – change of use to mixed A1 and A3 use	1	100%
Leisure/ Tourism	1	100%
Commercial	5	40.0%
Gypsy and traveller sites	1	100%
TOTAL	53	35.0%

- 3.2 Considering the detail of the decisions made, there were some high percentage of allowed appeals in relation to retail, leisure/tourism and gypsy/traveller site 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 decision was the change of a unit in Bircherley Court, Hertford to a mixed A1/A3 use. The leisure/tourism was comprised the site at Cromwell Road Allotments, Hertford. The Gypsy/traveller site was The Stables, Bayford site.
- 3.3 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. Three appeals were allowed out of a total of 14 made. Historically performance in this sector has been good, and that has been the case in the last six months where the performance has improved from 42% to 27% (when mixed use schemes which also comprise minor residential development are grouped together).
- 3.4 Where major development was proposed (10 or more units) the Council was unsuccessful in only one out of three cases. The

allowed appeal was the mixed use scheme made in relation to the former Coachworks and Depot site at Widbury Hill, Ware. Permission has been granted on that site for a mixed use comprising 76 residential units and 1880sqm of commercial floorspace. Appeals were dismissed for proposals at:

- The Northern Maltings, New Road, Ware (for conversion to residential use);
- An outline application for residential development on land to the rear of 37 – 57 Haymeads Lane, Bishop's Stortford.

3.5 In relation to householder developments performance has stayed much the same over the last six months. The percentage of cases permitted has risen from 35.5% to 38.5% but this is still an improvement on performance over six month periods in last year and the year before where over 40% of cases were allowed.

3.6 This is the seventh 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 in **Essential Reference Paper B** on page 89.

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

4.0 Costs

4.1 Members will be aware that, if the Council is found to have been unreasonable in relation to any appeal, it can be held liable to meet the costs of the other party(ies). Since April of this year it has been possible for appellants to submit cost claims for all appeal types – that is, for written representations, as well as informal hearing and public inquiry claims only that were previously permitted.

4.2 A number of claims for costs have been made. In some cases the Inspectorate have reached a decision that the Council is required to meet these claims. In others the decision remains outstanding. The claims are as follows:

Successful:

Primrose Cottage, High Wych – enforcement action

North Road, Hertford – application of conditions
Haymeads Lane, Bishop’s Stortford – refusal reason
The Stables, Bayford – refusal reason

No decision yet:

53 Parnel Road, Ware – lawful development certificate

4.3 The Council has also submitted a number of claims. Of 4 in total one has been determined in the Councils favour. The other three remain outstanding.

5.0 Implications/Consultations

5.1 Information on any corporate issues and consultation associated with this report can be found within Essential Reference Paper A on page 88.

Background Papers

Planning Inspectorate appeal decision letters

National Appeal and planning application determination statistics released.

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ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives	<p>Fit for purpose, services fit for you <i>Deliver customer focused services by maintaining and developing a well managed and publicly accountable organisation.</i></p> <p>Caring about what's built and where <i>Care for and improve our natural and built environment.</i></p> <p>Shaping now, shaping the future <i>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.</i></p>
Consultation:	None
Legal:	None specific
Financial:	Appeals which are dealt with via the public inquiry route have particular cost implications for the Council in terms of legal and expert witness costs. The liability for other parties costs is referred to above.
Human Resource:	None specific
Risk Management:	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.