

Title of Report:	Upheld planning appeals
Report to be considered by:	Overview and Scrutiny Management Commission
Date of Meeting:	3 August 2010

Purpose of Report: To provide Members with the information requested at previous meetings on the upheld planning appeals performance indicator.

Recommended Action: To note the contents of the report.

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Executive Report

1. Introduction

Inspectorate Planning Appeal Decisions 2009 -2010: Total No. = 82

Total Dismissed	54
Total Allowed	28

- 1.1 Planning aims to win all appeals but obviously that is very unlikely ever to happen. Nationally there is an acceptance that it is reasonable to expect that 35% of appeal decisions will be made in favour of the developer.
- 1.2 For the current year there have been 82 appeal decisions. A number of other appeals were withdrawn (by the Appellant) during the process.
- 1.3 Of those decided, 54 appeals were dismissed and 28 have been allowed; giving a total of 34% allowed. This is slightly better than the target of 35%
- 1.4 Very occasionally there are split decisions and an appeal is allowed but only in a limited respect compared to the original extent of the application or appeal. When the performance standard was set at National level, and adopted locally as our target, there was no guidance with regard to how to report the split decisions or how to compare them to fully dismissed or allowed appeals. Therefore, in these split decision cases, Officers have reported those as an allowed appeal in favour of the developer. This presents the worse case scenario in terms of performance as it doesn't reflect the Authorities success in part of the appeal. Notwithstanding this, the target level is generally achieved over the monitoring year. It is the intention of Officers to report more detail with regard to split decisions in future years so that Members can be aware of these and the impact they have on the reported performance.
- 1.5 Of those allowed planning appeals, 8 were as a result of Members deciding against an officer recommendation. Without those refusals/appeals in the system, the percentage allowed would have been 29%.
- 1.6 It must be stressed that there is nothing wrong in principle with Members overturning Officers' recommendations when Members see the balance of the considerations differently. There were two cases where the Inspectors agreed that Members were right in their conclusion to overturn Officer recommendation.
- 1.7 Member overturns do have a bearing on appeal performance and it is right to take them into account, but the impact is currently minimal because of the general performance hitting the national guideline and local performance target.
- 1.8 Of the decisions referred to above, a number are specifically appeals against Enforcement cases. Decisions on those 13 cases have included 4 dismissed and 4 allowed, (therefore a 50% success rate at the first stage). Amongst the allowed cases it is likely that new Notices will be served in some instances having taken on board the Inspectors comments about the specifics of the case. Within the 13, we have also had one decided as a nullity (so effectively no formal decision made on the case) and that Notice will be served again. The remaining 4 cases were

withdrawn by the Appellants. Those withdrawal cases must be seen as enforcement successes because the only reason that we would accept for agreeing to withdraw from the action is that the contravention has been ended and the original Notice has been complied with. This is not uncommon with Enforcement appeals because the time available for the Appellant to make the appeal is much shorter, so appeals are often submitted to reserve a position whilst negotiations about conforming with the action continue. It is however a good tool for the Authority because it can often bring to a close cases that have become deadlocked.

- 1.9 Although the percentages fluctuate throughout the year, and therefore in the quarterly reports, there is nothing that can be done to avoid this because we cannot control the timing of appeal submissions or the nature of the appeal itself. For the year as a whole however, it does not appear that there is anything unusual in the way that current appeal decisions are going and that the success rate is meeting the target.

Appendices

There are no Appendices to this report.