

Appeals Performance and Decision Summaries

Summary

- 1 This report (presented to both Sub Committees and Main Planning Committee) informs Members of the Council's performance in relation to appeals determined by the Planning Inspectorate from 1st January to 31st March 2013, and provides a summary of the salient points from appeals determined in that period. A list of outstanding appeals to date of writing is also included.

Background

- 2 Appeal statistics are collated by the Planning Inspectorate on a quarterly basis. Whilst the percentage of appeals allowed against the Council's decision is no longer a National Performance Indicator, it has in the past been used to abate the amount of Housing and Planning Delivery Grant (HPDG) received by an Authority performing badly against the average appeals performance. For a number of recent years, until the publication of the National Planning Policy Framework in March 2012, appeals performance in York was close to (and usually better than) the national average. The Government announced last year that it will use appeals performance in identifying poor performing planning authorities, with a view to the introduction of special measures and direct intervention in planning matters within the worst performing authorities.
- 3 The table below includes all types of appeals such as those against refusal of planning permission, against conditions of approval, enforcement notices, listed building applications and lawful development certificates. Figure 1 shows performance on appeals decided by the Inspectorate, in each CYC Sub Committee area and in total, for periods of 1st January 2013 to 31st March 2013, for the corresponding period last year, and the full year to 31st March.

Fig 1: CYC Planning Appeals Performance

	1 st Jan to 31 st March 2012			1 st Jan to 31 st March 2013			1 st April 2012 to 31 st March 2013		
	East	West	Total	East	West	Total	East	West	Total
Allowed	2	2	4	4	2	6	19	8	27
Part Allowed	0	0	0	0	0	0	2	0	2
Dismissed	7	6	13	6	4	10	22	11	33
Total Decided	9	8	17	10	6	16	43	19	62
% Allowed	22.22	25.0	23.53	40.0	33.33	37.5	44.19	42.10	43.55
% Part allowed	0	0	0	0	0	0	4.65	0	3.23
Withdrawn	0	0	0	0	0	0	0	0	0

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The Analysis is

table shows that between 1st January and 31st March 2013, a total of 16 appeals relating to CYC decisions were determined by the Inspectorate. Of those, 6 were allowed. At 37.5%, the rate of appeals is higher than the 33% national annual average. By comparison, for the same period last year, 4 out of 17 appeals were allowed, i.e. 23.53%

- 5 For the full year between 1st April 2012 and 31st March 2013, CYC performance was 43.55% allowed, higher than the previously reported 12 month period of 39.60%
- 6 The summaries of appeals determined since 1st January are included at Annex A. Details as to whether the application was dealt with under delegated powers or Committee (and in those cases, the original officer recommendation) are included with each summary. Figure 2 below shows that in the period covered, 2 appeals determined related to applications refused by Committee. Both had been recommended for approval.

Fig 2: Appeals Decided against Refusals by Committee from 1st January 2013

Cttee	Ref No	Site	Proposal	Outcome	Officer Recom.
Centre and West	12/01223/FUL	Vudu Lounge 39 Swinegate	Change of use from restaurant and bar (A3/A4) to bar (A4) retrospective	Allowed with costs	Approve
Centre and West	12/03023/FUL	Bora Bora 5 Swinegate	Extension of opening hours to 02:30 each day	Allowed/ one condition varied	Approve

- 7 The list of current appeals is attached at Annex B. There are 13 appeals lodged with the Planning Inspectorate, 5 in the West and City Centre Sub Committee area and 8 in the East Sub Committee area. 12 are proposed to be dealt with by the Written Representation process (W), and 1 by Public Inquiry (P).
- 8 The much higher percentage of appeals allowed since April 2012 raises certain issues:-
- 9 As previously reported the Council decided a proportion of the related applications prior to the publication of the National Planning Policy Framework. The presumption in favour of sustainable development in

the NPPF development (and the interpretation of sustainable development) appears to have been a significant factor in consideration of appeals. In recent months the appeals performance has improved as the use and interpretation of policy and guidance within the NPPF (by both the Council and the Planning Inspectorate) has become more consistent. The performance at 37.5% is moving back towards the previous benchmark figure of 33% allowed.

- 10 Inspectors have continued to highlight the need for a strong evidence base to demonstrate significant harm will result from a development before it should be refused. The NPPF states refusal is a last resort and that every effort should be made to work with developers to look for solutions to planning problems, and that Councils should look for reasons for approving development rather than reasons for refusal. Where a judgment required, for example in respect of the impact on visual amenity within the street, it appears that a more lenient approach is being adopted.
- 11 The main measures to be continued in response are:-
 - i) Officers have continued to impose high standards of design and visual treatment in the assessment of applications provided it is consistent with Paragraph 56 of the NPPF Draft Local Plan Policy.
 - ii) Officers are ensuring that where significant planning issues are identified with applications, revisions are sought to ensure that they can be recommended for approval, even where some applications then take more than the 8 weeks target timescale to determine. From the applicants' perspective, an approval after 9 or 10 weeks following amendments is preferable to a refusal before 8 weeks and then a resubmission or appeal process. This approach has improved customer satisfaction and speeded up the development process overall, but has affected the Council's performance against the national target. Nevertheless, CYC planning application performance currently remains above the national performance indicators for Major, Minor and Other application categories.
 - ii). Additional scrutiny is being afforded to appeal evidence to ensure arguments are well documented, researched and argued

Consultation

- 12 This is essentially an information report for Members and therefore no consultation has taken place regarding its content.

Council Plan

- 13 The report is most relevant to the “Building Stronger Communities” and “Protecting the Environment” strands of the Council Plan.

Implications

- 14 Financial – There are no financial implications directly arising from the report.
- 15 Human Resources – There are no Human Resources implications directly involved within this report and the recommendations within it other than the need to allocate officer time towards the provision of the information.
- 16 Legal – There are no known legal implications associated with this report or the recommendations within it.
- 17 There are no known Equalities, Property, Crime & Disorder or other implications associated with the recommendations within this report.

Risk Management

- 18 In compliance with the Council’s risk management strategy, there are no known risks associated with the recommendations of this report.

Recommendation

- 19 That Members note the content of this report.

Reason

- 20 To inform Members of the current position in relation to planning appeals against the Council’s decisions as determined by the Planning Inspectorate, over the last 6 months and year.

Contact Details

Author:

Jonathan Carr,
Head of Development
Management,
Directorate of City Strategy

01904 551303

Chief Officer Responsible for the report:

Mike Slater
Assistant Director Planning &
Sustainable Development, Directorate of
City Strategy

**Report
Approved**



Date 2nd April
2013

Specialist Implications Officer(s) None.

Wards Affected:

All Y

For further information please contact the author of the report.

Annexes

**Annex A – Summaries of Appeals Determined between 1st January
and 31st March 2013**

Annex B – Outstanding Appeals