West and City Centre Area Planning Sub Committee	5th December 2012
East Area Planning Sub Committee	6th December 2012
Planning Committee	22nd December 2012

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 April to 31st October 2012, 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. Until recently, appeals performance in York has been close to (and usually better than) the national average for a number of years. More recently the Government has indicated 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 April 2012 to 31st October 2012, for the corresponding period last year , and the full year to 31st October 2012.

	1st April 2012 to 31st Oct 12			1st Nov 2011 to 31st Oct 12			1st April 2011 to 31st Oct 11		
	East	West	Total	East	West	Total	East	West	Total
Allowed	13	7	20	15	10	25	4	4	8
Part Allowed	1	0	1	1	0	1	0	0	0
Dismissed	15	4	19	22	15	37	10	8	18
Total Decided	29	11	40	38	25	63	14	12	26
% Allowed	44.83	63.64	50	39.47	40.00	39.68	28.57	33.33	30.77
% Part allowed	3.45	0	2.5	2.63	0	1.59	0	0	0
Withdrawn	0	0	0	1	2	3	2	1	3

Fig 1: CYC Planning Appeals Performance

Analysis

4 The table shows that between 1st April and 31st October 2012, a total of 40 appeals relating to CYC decisions were determined by the Inspectorate. Of those, 20 were allowed. At 50%, the rate of appeals is significantly higher than the 33% national annual average. By comparison, for the same period last year, 8 out of 26 appeals were allowed, i.e. 30.77%

5 For the full year between 1st November 2011 and 31st October 2012, CYC performance was 39.68% allowed, higher than the previously reported 12 month period of 31.9%.

6 The summaries of appeals determined since 1st April 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, 6 appeals determined related to applications refused by Committee.

Fig 2: Appeals Decided against Refusals by Committee from 1st April 2012

Cttee	Ref No	Site	Proposal	Outcome	Officer Rec.
Main	**11/01468/OUT**	**Arabesque House, Monks Cross Drive**	**Retail warehouse after demolition of existing offices**	**Allowed**	**Ref**
East	**11/02371/FUL**	**93 Newland Park Drive**	**Extensions**	**Allowed**	**App**
East	**11/02371/FUL**	**1 Meam Close**	**First floor extension**	**Dismissed**	**App**
West & City Centre	**11/02318/FULM**	**Plot 6b Great North Way Poppleton**	**Care Home**	**Allowed**	**Ref**
East	**12/01153/FUL**	**29 Sandringham Close**	**Extension**	**Dismissed**	**App**
East	**11/03175/FUL**	**238 Strensall Road**	**Live/work annex (retrospective)**	**Dismissed**	**Ref**

7 The list of current appeals is attached at Annex B. There are 20 appeals lodged with the Planning Inspectorate, 6 in the West and City Centre Sub Committee area and 14 in the East Sub Committee area. 18 are proposed to be dealt with by the Written Representation process (W), 1 by the Householder procedure (H) and 1 by Public Inquiry (P).

8 The much higher percentage of appeals allowed since April raises certain issues:-

9 The Council decided many of the related applications prior to the publication of the National Planning Policy Framework. However the appeals were dealt with following its publication, and so the guidance within the Framework was taken into account by the Inspectorate. Whilst the lack of an adopted local plan could be considered a significant factor, other local authorities with a local plan have found that the 12 months 'period of grace' given for a local plan or LDF to be made NPPF has not counted for much on appeal and that the NPPF has been afforded considerably more weight. The presumption in favour of sustainable development in the NPPF appeared to be a significant factor in consideration of appeals. For decision making the NPPF states that the presumption in favour means: -

"where the development plan is absent, silent or relevant policies are out of date, granting permission unless:
–– any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
– specific policies in this Framework indicate development should be Restricted"

10 Inspectors have highlighted 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 In response to the reduced appeal performance:-

i) Officers will continue 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 wherever appropriate revisions are sought to ensure that an application can be recommended for approval, even where this has led to some applications taking 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 application performance currently remains above the national performance indicators for Major, Minor and Other application categories.

ii). Additional scrutiny shall be given to appeal evidence to ensure arguments are well documented, researched and argued

iv). Focus is being given within the teams to learning from appeal decisions.

v) The current practice of regular reports reviewing appeal decisions to the Planning Committees will continue. This will include monitoring the impact of the NPPF on Inspectors' decision making and reviewing decisions in the light of these.

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: 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:	**Chief Officer Responsible for the report:**
Jonathan Carr, Head of Development Management, Directorate of City Strategy	Mike Slater Assistant Director Planning & Sustainable Development, Directorate of City Strategy
01904 551303	**Report Approved** ✓ **Date** 23rd November 2012

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 April and 31st October 2012

Annex B – Outstanding Appeals to 23rd November 2012