

**Report to:** Performance Scrutiny Committee

**Date of Meeting:** 5<sup>th</sup> April 2012.

**Lead Member / Officer:** Head of Planning, Regeneration and Regulatory Services

**Report Author:** Development Control and Compliance Manager

**Title:** Planning Appeals Analysis 2011/12

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**1. What is the report about?**

The report provides a detailed analysis of all the planning appeal decisions which have been made from April 2011 to date.

**2. What is the reason for making this report?**

To provide information regarding the performance of the Local Planning Authority in planning appeals so that Members can scrutinise the individual cases.

**3. What are the Recommendations?**

That Members consider the report and comment on any performance related issues.

**4. Report details.**

**Background**

A Planning appeal can be lodged as a result of Denbighshire County Council, as Local Planning Authority, refusing a planning application. Such a refusal decision can be made by Planning Committee/Full Council or by Officers under the provisions of our adopted Scheme of Delegation. The current Scheme of Delegation is attached at **Appendix 1**.

Planning appeals can be heard using one of three methods. These are set out below:-

- **Written Representation** – Exchange of statements between the Council and appellant through the Planning Inspectorate. Usually straightforward and quick with minimal cost involved to either party.
- **Informal Hearing** – Exchange of statements between the Council and appellant with a round table discussion with the Planning Inspector arranged over 1 day. Both sides may apply for costs and involves added Officer/ Member time of attending a day long hearing.

- **Public Inquiry** – Exchange of statements and proofs of evidence between the Council and appellants with a formal Inquiry arranged by the Planning Inspectorate. Legal representation is required for Inquiries as cross-examination of evidence takes place. Can be costly due to legal involvement and the fact the appeals can run into 3 or 4 days.

More recently Denbighshire County Council has been involved in a **Householder Appeal Service**. This pilot process has been set up to speed up the hearing of more simple household extension type appeal cases. There is no exchange of statements in this process but the Inspectorate make a determination based on the submitted planning application and any other relevant documents such as our Committee or Delegated Officer report.

Clearly the Council would seek to defend any refusal decision it gives and hope that the Planning Inspectorate **dismiss** the appellants appeal. Sometimes, however, for a variety of reasons, the Planning Inspectorate **allow** an appeal. It is important, therefore, that we are able to analyse these appeal decisions to see whether there are any lessons to be learnt by Officers, Members and other key parties such as Town and Community Councils in the appeal process.

The Council cannot predict how many planning appeals will be lodged over the course of a year as the decision whether to appeal always lies with the applicant. The following table shows the number of appeal decisions since 2007:-

| <b>Planning Appeals</b> | 2007/08   | 2008/09   | 2009/10   | 2010/11   | 2011/12 to date |
|-------------------------|-----------|-----------|-----------|-----------|-----------------|
| No. of appeal decisions | <b>34</b> | <b>21</b> | <b>25</b> | <b>30</b> | <b>18</b>       |

The overall number of planning applications submitted to the Local Planning Authority has reduced in the last few years. However, the percentage of those applications which have been refused has remained fairly constant at around only 10% of decisions made. The number of refusals should give an indication as to the number of appeals which may be lodged but it is not that simple. Factors such as the type of proposal, planning history, planning policies and whether an application received Officer and community support all have a bearing on whether an appeal may be lodged.

The Council should always try to ensure that any refusal decision it makes on a planning application is robust and evidence based. To this end attempts have been made to minimise the risk for possible perverse decisions being made by the Council. Better Officer/Member communication during the planning application process, planning related training for Members and Town/Community Councils and a co-ordinated Planning Appeals process have served the Council well in avoiding the risks of costs being awarded against the Council. However, within a democratic process there is always

some risk that decisions are made by the Planning Inspectorate contrary to the views of the Council.

## **Appeals Analysis 2011/12**

**Appendix 2** to the document gives a breakdown of all of the 18 no. appeal decisions the Council has had since April 2011 to date. Some key figures from that analysis are bullet pointed below the table.

**Appendix 3** to the document then goes into a more detailed analysis of each specific appeal case, highlighting relevant issues and some lessons learnt. The analysis is not intended to apportion any blame for certain decisions but can be used to highlight key planning Policy areas which may need further examination or to identify training requirements.

### **5. How does the decision contribute to the Corporate Priorities?**

It is considered that the information provided will assist in the on-going drive to ensure planning decisions are made to meet the needs of businesses and communities.

### **6. What will it cost and how will it affect other services?**

The only potential costs associated with the information provided relate to Planning Appeal case no.12 seen in **Appendix 2**. This appeal was allowed and costs were awarded against the Council. The explanation for this is provided in **Appendix 3**. To date the costs have not been confirmed for this appeal but are estimated to be around £12,000.

No other services will be affected by this report.

### **7. What consultations have been carried out?**

No consultations have been carried out as the report is for information only.

### **8. What risks are there and is there anything we can do to reduce them?**

The report is for information only. However, in providing the information and analysis on appeal performance it is considered any future risks of costs being awarded against the Council can be minimised.

### **9. Power to make the Decision**

The power to make decisions on planning applications comes from the Town and Country Planning Act 1990.

#### **Contact Officer:**

Development and Compliance Manager

Tel: (01824) 706712