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## **STRATEGIC PLANNING BOARD**

**Date of Meeting:** 27 February 2019

**Report Title:** Planning Appeals Report

**Portfolio Holder:** Cllr Ainsley Arnold

**Senior Officer:** David Malcolm, Head of Planning (Regulation)

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### **1. Report Summary**

- 1.1. To summarise the outcome of Planning Appeals that have been decided between 1st July 2018 and 31st December 2018. The report provides information that should help measure and improve the Council's quality of decision making in respect of planning applications.

### **2. Recommendation/s**

- 2.1. That the report be noted.

### **3. Reasons for Recommendation/s**

- 3.1. To learn from outcomes and to continue to improve the Council's quality of decision making on planning applications.

### **4. Other Options Considered**

- 4.1. Not applicable.

### **5. Background**

- 5.1. All of the Council's decisions made on planning applications are subject to the right of appeal under section 78 of the Town and Country Planning Act 1990. Most appeals are determined by Planning Inspectors on behalf of the Secretary of State. However, the Secretary of State has the power to make the decision on an appeal rather than it being made by a Planning Inspector - this is referred to as a 'recovered appeal'.
- 5.2. Appeals can be dealt with through several different procedures: written representations; informal hearing; or public inquiry. There is also a fast-

track procedure for householder and small scale commercial developments.

- 5.3. All of the Appeal Decisions referred to in this report can be viewed in full online on the planning application file using the relevant planning reference number.
- 5.4. This report relates to planning appeals and does not include appeals against Enforcement Notices or Listed Building Notices.

## **6. Commentary on Appeal Statistics**

- 6.1. The statistics on planning appeals for the year to date are set out in Appendix 1. A full list of the appeals decided between 1st July 2018 and 31st December 2018 are set out in Appendix 2 and 3.
- 6.2. The statistics are set into different components to enable key trends to be identified:
  - Overall performance;
  - Performance by type of appeal procedure;
  - Performance on delegated decisions;
  - Performance on committee decisions;
  - Overall numbers of appeals lodged;
  - Benchmarking nationally.
- 6.3. The overall number of appeals lodged has remained consistent and averages out at approximately 120 - 140 planning appeals annually. At present, approximately 30% of decisions to refuse planning permission will result in a planning appeal.
- 6.4. In terms of the outcomes of the appeals decided, the performance is close to the national average; 33.7% of appeals have been allowed in the year to date against a national average of 30%.
- 6.5. The reduction in the number of appeals held through public inquiry has continued, which is a reflection of the adoption of the Local Plan Strategy and the subsequent reduction in major housing appeals.
- 6.6. When analysed by type of appeal, the trends also follow national average, with 40% of appeal hearings allowed and 30% of written representation appeals allowed.

- 6.7. The performance of appeals against planning decisions made under delegated powers also reflects a national picture, with 29.4% of appeals allowed.
- 6.8. The year to date has seen 12 appeals determined following decisions by planning committee. 58% of those appeals (7) have been allowed. *Note this figure includes 3 applications with a recommendation of refusal by officers.* In the year to date 9 appeals have been decided following a committee decision contrary to officer recommendation. Of those 9 decisions, 7 have proceeded to be allowed at appeal (78%) and 2 decisions have been successfully defended by the Council.
- 6.9. In the previous year (2017/18) there were 29 appeals decided following decisions contrary to officer recommendation. Despite the proportion of appeals allowed this year to date, the reduction of such appeals to 9 (in the year to date) is a potential indicator of improved decision making by the Council as a whole.
- 6.10. It should be noted that, due to the timescales of the appeals process, these figures will reflect decisions made 6 months ago and earlier.

## **7. Commentary on Appeal Decisions**

- 7.1. Two appeal decisions have been highlighted to help with future decision making.
- 7.2. Application ref. 17/5999C was for the retrospective change of use from garage services to a hand car wash and associated development. Members disagreed with the assessment of officers and considered that the use was significantly harmful to the residential amenity of the adjoining property as a result of noise and disturbance. The appeal was successfully defended and it was dismissed due to the impact on adjoining residents.
- 7.3. Application ref. 17/2854M was for the erection of 32 residential dwellings and associated engineering works. The site formed part of a wider site allocated for housing in the Local Plan. Members resolved to refuse planning permission due to concerns over highway safety, contrary to the advice of officers. The appeal was allowed and full costs were awarded against the Council.
- 7.4. In respect of the application for the hand car wash, this serves to highlight the importance of Members challenging officer recommendations and applying well reasoned planning judgement based on good evidence. In this case the impact on the adjoining residents' amenity was clearly the

central issue with the application and it was a matter of judgment for the decision maker as to the level of significance. Whilst officers considered that the impacts could be controlled adequately by conditions there was evidence of frequent and unacceptable noise impact that was able to be used at the appeal to defend the decision.

- 7.5. In respect of the application for 32 dwellings, this serves to illustrate that the reasonable challenge to the officer recommendation can spill over into being unreasonable behaviour by the Council. The site was allocated for housing and the Council's own highways officers confirmed that the access arrangements complied with the required standards. The appellant was able to provide clear technical evidence at the appeal to demonstrate this. Despite best efforts to defend the decision, the Inspector awarded full costs against the Council stating that the reason for refusal was based on "*vague and generalised points*" and stating that "*development which should clearly have been permitted, having regard to the development plan, national policy and adopted highway standards, was delayed*".

## **8. Implications of the Recommendations**

### **8.1. Legal Implications**

- 8.1.1. None.

### **8.2. Finance Implications**

- 8.2.1. None.

### **8.3. Policy Implications**

- 8.3.1. None.

### **8.4. Equality Implications**

- 8.4.1. None.

### **8.5. Human Resources Implications**

- 8.5.1. None.

### **8.6. Risk Management Implications**

- 8.6.1. None.

### **8.7. Rural Communities Implications**

- 8.7.1. None.

### **8.8. Implications for Children & Young People**

8.8.1. None.

## **8.9. Public Health Implications**

8.9.1. None.

## **9. Ward Members Affected**

9.1. All Wards – implications are Borough Wide

## **10. Consultation & Engagement**

10.1. Not applicable.

## **11. Access to Information**

11.1. Details of all of the cases referenced can be found on the Council's website.

## **12. Contact Information**

12.1. Any questions relating to this report should be directed to the following officer:

Name: Peter Hooley

Job Title: Planning & Enforcement Manager

Email: [peter.hooley@cheshireeast.gov.uk](mailto:peter.hooley@cheshireeast.gov.uk)

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Date	Version	Author	Meeting report presented to	Consultees		Summary of amendments made
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10.01.19	1	DM				