

Committee: Council

Date:

Title: Update on Appeal Decisions and Associated Costs since 1 May 2019

16 December 2019

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Summary

1. Following a request from Councillor Barker, this report provides an update on the Planning Committee's decisions since 1st May 2019. This report is to update the position and, in particular, highlighting any appeal decisions and any associated costs relating to these appeals incurred by the Council.
2. That Council note the report

Financial Implications

3. None but a subsequent report in February 2020 will include any update on costs incurred as a result of any appeals that have been determined by the Planning Inspectorate.

Background Paper

4. No background papers.

Impact

- 5.

Communication/Consultation	
Community Safety	
Equalities	
Health and Safety	
Human Rights/Legal Implications	The legal framework for planning appeals is set out in the planning acts and related regulations
Sustainability	This is a key factor in determining the weight to be attached to material considerations in an appeal
Ward-specific impacts	All

Workforce/Workplace	Explained in the report
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Situation

6. Planning applications are either determined by officers through delegated powers or else by the Planning Committee. Where an applicant is dissatisfied with the Council's decision to refuse planning permission, they have the right to have their case considered by the Planning Inspectorate (PINS). This is referred to as the planning appeals process.
7. Depending upon the complexity of the planning case, appeals can take the form of written representations, informal hearings or for more complex cases, public inquiries.
8. Most planning appeals are decided by the written representations procedure. With this procedure the Planning Inspector will consider written evidence from the appellant, the local planning authority (LPA) and anyone else who has an interest in the appeal. The written evidence usually takes the form of a statement of case by the main parties (the appellant and the LPA), and there is also the opportunity to comment on each other's statements. Third parties can also submit additional representations, although any original comments made in respect of the planning application will already have been forwarded onto the Planning Inspector. There are strict timeframes for when the various written submissions must be submitted, and these will be set out in a letter from the Planning Inspectorate when the appeal is validated. It should also be noted that in the case of householder appeals there is a slightly different process, and that there are no opportunities to submit further information once the original appeal form has been submitted. The Planning Inspector considers all the written evidence that is made available and will also visit the site, usually accompanied by the main parties. A written decision is usually made several weeks after the site visit.
9. An informal hearing involves the submission of written evidence by the main parties with a similar process and timeframe to that used for written representation appeals. However, the process will also include an informal hearing once all the written submissions have been received. This takes the form of a round-the-table discussion that will be led by the Planning Inspector. It is intended to be an informal process and allows for all parties to respond to any questions that the inspector might have, and to let everyone make their case known. Third parties, such as local residents, councillors and amenity/community groups may also attend and take part in the discussion. The majority of hearings will take no longer than a day and usually conclude with a site visit. Sometimes, more complex proposals may take several days to discuss. A written decision is usually made several weeks after the hearing.
10. A local inquiry is a more formal procedure than the informal hearing route and is usually used for complex cases where legal issues may need to be considered. The main parties will usually have legal representatives to present their case and to cross-examine any witnesses. Prior to the inquiry date, the Planning Inspectorate will expect to have received various documents from all parties that will be taking part in the appeal. These may include statements of case and proofs of evidence from expert witnesses.

Third parties may also take part. The inquiry will be led by the inspector and will follow a formal procedure. All parties will have the opportunity to present their case, and witnesses are likely to be questioned by the inspector and the other parties as to the evidence that they have presented. Much of the evidence may be technical or specialist knowledge that needs to be carefully presented and understood by the inspector. An inquiry may take one or several days, or in some cases weeks. The length of the inquiry will depend on the complexity of the case and the number of witnesses involved. At some point during or on conclusion of the inquiry the inspector and the main parties will undertake a site visit. A written decision is usually made several weeks after the inquiry.

11. Dealing with planning appeals can be a costly and time-consuming activity for the Council, particularly those which go to Hearings and Public Inquiries. Clearly, the most expensive element of any appeal process is where the Council needs to engage expert legal advice or specialist consultants in key topic areas. However, in addition to these costs, all planning appeals require the allocation of officer time away from dealing with other day to day work such as dealing with planning applications. This involves more than just the time of the planning case officer in most instances. Officers from other parts of the Council's planning team, conservation, economic development, environmental health and Essex County Council's highways teams also need to allocate time to assist with appeal statements and public inquiry appearances. It is therefore important that decisions on planning applications are sound and based on robust assessments of the evidence and planning issues.
12. Since 1 May 2019, the Planning Committee has determined 53 planning applications (see Appendix 1). Out of these 53 decisions, 11 were refused by the Planning Committee against the officer's recommendation. 1 application was deferred until after the Felsted Neighbourhood Plan Examination and receipt of the independent examiner's report. So far, the council has received 6 appeals from the Planning Inspectorate and notified of 2 others.
13. The 6 are currently in progress and are to be dealt with by written representations (as opposed to a hearing or public inquiry).
 - 1 appeal is against non-determination (deferred by Committee);
 - 2 appeals are where the decision was against officer recommendation and
 - 3 are against refusal (Committee decision agreed with officer recommendation).
14. In order to ensure that members are informed of the progress of planning appeals and their associated costs, a subsequent report will be presented to Full Council in February incorporating updates on appeal decisions and any costs incurred as a result of these appeal cases.

