

DUDLEY METROPOLITAN BOROUGH COUNCIL

DEVELOPMENT CONTROL COMMITTEE – 6TH FEBRUARY 2006

REPORT OF THE DIRECTOR OF THE URBAN ENVIRONMENT – PLANNING APPEALS

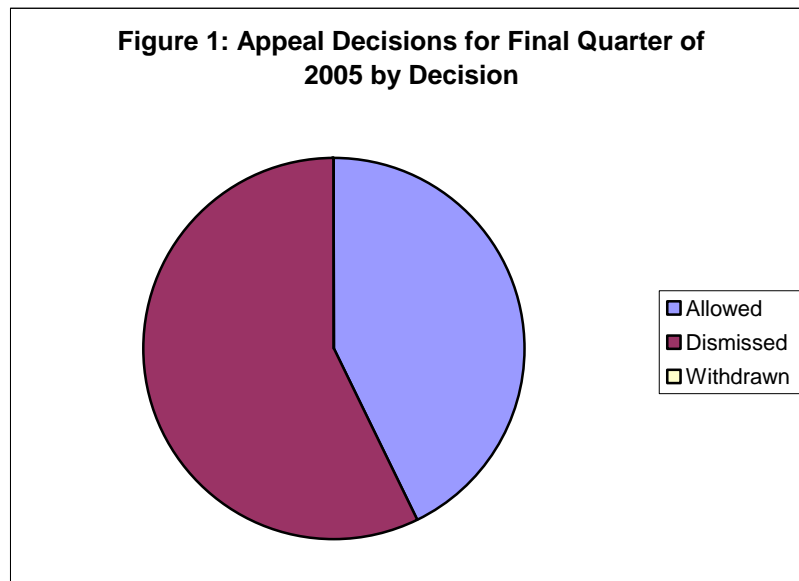
Purpose of report

- 1 To inform Committee of decisions made by the Planning Inspectorate on planning appeals over the period October 2005 – December 2005.

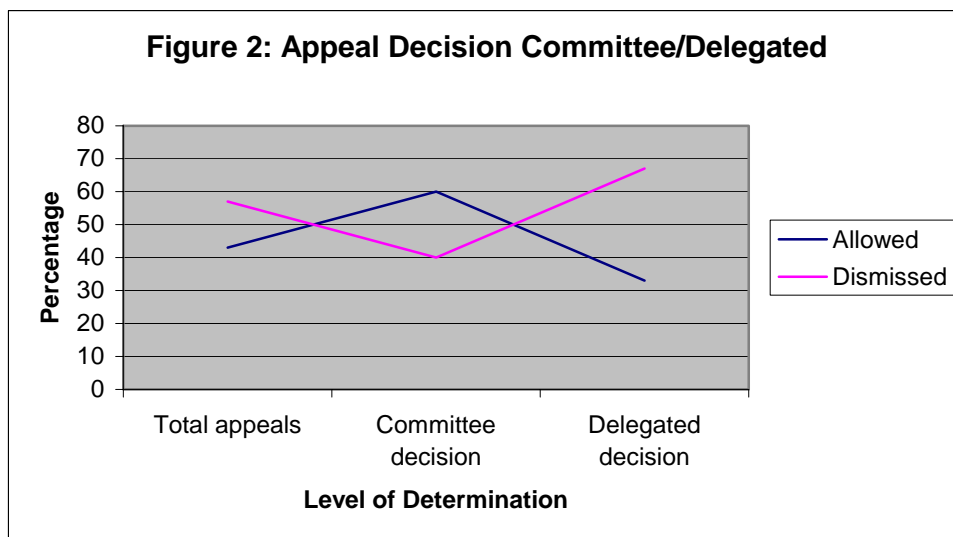
Background

- 2 If a local planning authority has refused an application for planning permission, or imposed certain conditions in granting permission, the applicant can appeal against the decision to the First Secretary of State under section 78 (i) of the Town and Country Planning Act 1990. An applicant can also appeal on the grounds of non-determination if the Local Planning Authority has not decided the application within 8 weeks of it being submitted, or a longer period if agreed by both parties in writing. A right of appeal also exists against Enforcement Notices.
- 3 It has been established practice to report all recent appeal decisions to Committee in order to advise members of how the First Secretary and his Inspectors view the Council's planning decisions. Appeals also help to clarify Government Policy and circular advice, and how the policies of the Council's UDP are interpreted in practice. It is intended that quarterly reports and an annual review will be reported to Members.
- 4 The majority of appeals are determined on the basis of written representations by an Inspector appointed by the Planning Inspectorate (PINS). A smaller number are determined by informal hearings or public inquiries. Nationally in 2003/2004 78% of appeals were determined by written representations.
- 5 Dudley's statistics for the final quarter of the calendar year 2005 are enclosed in Appendix 1 and cover two distinct sets of data. Firstly, appeals received in terms of how the Council decision was made, i.e. at Committee, under delegated powers, and in line with or contrary to officer recommendation. Secondly, appeals received in terms of their categorisation into five types of development, which cover the great majority of cases, i.e. minor residential development or advertisements etc. The individual appeals are summarised in Appendix 2. Because of the large number of these it is not feasible to append copies of the decision letters themselves. However a set is to be placed in the Members' library and copies will be provided on request.

- 6 In the relevant quarter Dudley had 14 appeals determined. This is a considerable decrease in comparison to the 49 determined in the last quarter (July –September 2005). The majority of the appeals (57%) were dismissed as illustrated in the graph below. This is below the national average of 67%.



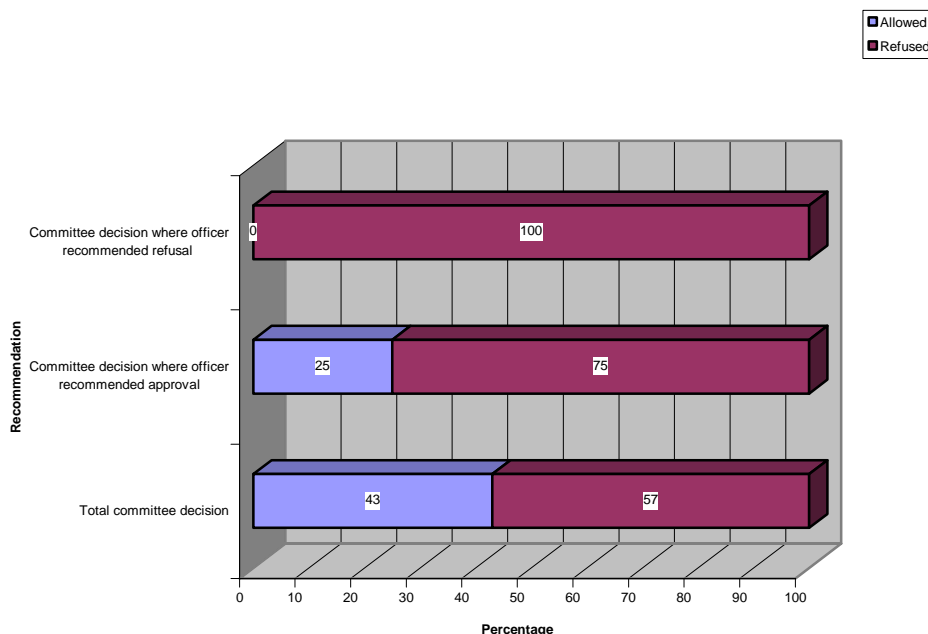
- 7 However, as with the last few quarters when these figures are considered in terms of the split between decisions against appeals determined at Committee and those determined under delegated powers a different picture emerges. See Figure 2 below.



- 8 Of the 5 appeals relating to refusals arising from a Committee decision, 60% were subsequently allowed. By comparison to where the decision to refuse was taken at officer level this figure drops to 33%.
- 9 The higher percentage of appeals allowed against decisions by committee in comparison to appeals allowed against delegated decisions will in part reflect the fact that the latter usually relate to more straightforward and simpler cases than those considered by Committee. The figure has also increased from last

quarter when it was 55%. The differential is large enough to give rise for concern, however it is acknowledged that within this quarter the number of appeal decisions received is relatively low and therefore reflects disproportionately in the performance. There is also a continuing trend of more appeals being lost where officers have recommended approval as shown in Figure 3 below.

Figure 3: Committee decision against recommendation



- 10 In terms of other trends, the Inspectorate continued to be severe on advertisements, where 100% of appeals submitted were refused. However, unlike previous quarters where many such appeals were determined, this quarter only one was received, and therefore the figures cannot in reality be used to extrapolate any trend.
- 11 In terms of residential development 40% were allowed. This is at considerable variance with the national average of 25%, and suggests that we are perhaps interpreting guidance on infill plots and small-scale schemes too stringently. Such proposals have increased in number with the rise in land values accompanying the increase in house prices and this trend may well continue. Further compounding the trend is the drive for higher density development and the use of previously developed land in preference to Greenfield development.
- 12 Householder appeals were dismissed in 60% of cases. This roughly equates to the national performance and suggests that Council policy and guidance is being interpreted accurately.

Finance

- 13 There are no direct financial consequences arising from this report.

- 15 The costs incurred in providing specialist witnesses or in engaging Counsel, where required, are intended to be met from existing budgets retained for such purposes. Additional funds may be required for large-scale public inquiries and often the costs of defending appeals exceeds budgets.
- 16 Costs may be awarded against Local Planning Authorities in public inquiry and hearing cases if in the opinion of an Inspector an authority has acted unreasonably in refusing planning permission. In the last quarter no costs have been awarded against this council.
- 17 Reduced Planning Delivery Grant (PDG) may arise as a result of poor appeal performance in comparison to the national average. If the Council was to exceed the national average appeal performance by 40%, then 10% of PDG would be forfeited, and should the authority exceed the national average by 50% then that figure would rise to a 20% loss.

Law

- 18 Section 79 of the Town and Country Planning Act 1990 states that on appeal under Section 78, the Secretary of State may allow or dismiss the appeal or reverse or vary any part of the decision of the Local Planning Authority (whether the appeal relates to that part or not). Sections 175 and 177 of the Town and Country Planning Act 1990 contain provisions relation to appeals to the Secretary of State against Enforcement Notices.

Equality Impact

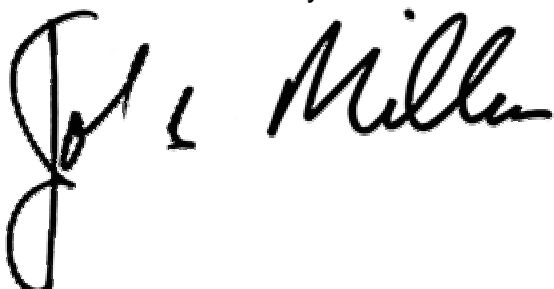
- 19 The proposals take into account the Council's Equal Opportunities Policy.

Recommendation

- 20 That the proposals set out in paragraphs 3.1 of this report are approved.

Background documents

- 21 Appeal decisions as detailed in Appendices and a copy is available in Members library.



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PLANNING APPEAL STATISTICS – October 2005- December 2005.**TOTAL APPEALS LODGED – 14.**

	ALLOWED	DISMISSED	TOTAL	WITHDRAWN	% ALLOWED	% DISMISSED
Appeals determined	6	8	14	0	43	57
Appeals against Committee decision	3	2	5	0	60	40
Appeals against Committee decision where officer recommended approval	1	3	4	0	25	75
Appeals against Committee decision where officer recommended refusal	0	1	1	0	0	100
Appeals against delegated decision	3	6	9	0	33	67
Residential	2	3	5	0	40	60
Commercial (industrial offices/retail/A3)	2	1	3	0	67	33
Telecommunications	0	0	0	0	0	0
Advertisements	0	1	1	0	0	100
Householder	2	3	5	0	40	60

Appeals determined between 1st October – 31st December, 2005

Appl.No.	Description	Location	Officer Rec.	Decision	Appeal Decision
P04/1116	Erection of detached garage with store over.	9 Selbourne Road, Dudley.	Refuse	Refused 07.02.05 (Dele)	Dismissed 11.10.05
P05/0220	48 Sheet advertisement hoarding.	Halesowen Conservative and Unionist Club, 2 Stourbridge Road, Halesowen.	Refuse	Refused 16.05.05 (Cttee)	Dismissed 19.10.05
P05/0330	Lower kerb for new vehicular access.	18 Delph Road, Brierley Hill, DY5 2TN.	Refuse	Refused 12.10.05 (Dele)	Dismissed 24.10.05
P05/1016	Lower kerb for vehicular access.	169 Wolverhampton Road, Dudley.	Refuse	Refused 28.06.05 (Dele)	Allowed 01.11.05
P05/2355	Demolition of nursing home and erection of 16 no. two bedroom apartments.	163 Tipton Road, Woodsetton, Dudley.	Refuse	Refused 03.02.05 (Dele)	Allowed 03.11.05
P04/1038	Erection of 50 no. 2/3 storey houses and apartments, parking and associated access.	Former Rockrippers, Dibdale Road, Dudley.	Approve	Refused 25..04.05 (Cttee)	Allowed 11.11.05
Enforcement	Use of highway for parking of commercial vehicle.	4 Firmstone Street, Wollaston, Stourbridge.	Enforcement	Authorised	Dismissed 23.11.05
P05/0437	Outline application for erection of 1 no. bungalow with detached garage.	Land at 16 Monument Avenue, Wollescote, Stourbridge.	Refuse	Refused 25.05.05 (Dele)	Dismissed 22.11.05
P05/0709	Creation of vehicular access.	134 Cradley Road, Dudley.	Refuse	Refused 25.05.05 (Dele)	Dismissed 29.11.05
P05/1356	Single storey side ext. top create bedrooms with habitable room in loft space.	19 Kingsley Grove, Dudley.	Refuse	Refused 15.07.05 (Dele)	Allowed 29.11.05
P04/2496	Part demolition of existing dwelling and rebuild two storey side ext to create four bedroom dwelling.	281 Hagley Road, Pedmore, Stourbridge.	Approve	Refused 01.07.05 (Cttee)	Dismissed 30.11.05
P02/2574	Outline application for erection of dwelling.	2 Mount Close, Lower Gornal, Dudley.	Refuse	Refused 21.01.05 (Dele)	Dismissed 09.12.05
P05/0336	Erection of brick store room (retrospective).	Charles Fish and Chips, 14 Jews Lane, Upper Gornal.	Approve	Refused 25.04.05 (Cttee)	Allowed and enforcement notice quashed. 20.12.05
P05/0590	Development of mixed use units.	Units 1-2 Castle Street, Coseley.	Approve	Refused 05.09.05 (Cttee)	Allowed 21.12.05