

Agenda Item 13

Monthly Planning Appeals Performance Update – April 2011

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1. The purpose of this report is three-fold: a) to provide an update on the Council's planning appeal performance; b) to list those appeal cases that were decided and also those received during the specified month; and c) to report on outcome of applications for awards of costs in relation to appeals, both for and against the Council, over the previous financial year.
2. The old Best Value Performance Indicator BV204 relates to appeals arising from planning application refusals. It measures the Council's appeals performance in the form of the percentage of appeals allowed. It is an indication of the quality of the Council's planning decision making. BV204 does not include appeals against non-determination, enforcement action, advertisement consent refusals and some other types. Table A sets out BV204 rolling annual performance for the year ending 30 April 2011, while Table B does the same for the current business plan year, ie. 1 April 2011 to 30 April 2011.

Table A. BV204 Rolling annual performance (to 30 April 2011)

A.	Council performance		Appeals arising from Committee refusal	Appeals arising from delegated refusal
	No.	%	No.	No.
Allowed	17	(35%)	9 (64%)	8 (24%)
Dismissed	31	65%	5 (36%)	26 (76%)
<i>Total BV204 appeals</i>	48		14	34

Table B. BV204: Current Business plan year performance (1 April to 30 April 2011)

B.	Council performance		Appeals arising from Committee refusal	Appeals arising from delegated refusal
	No	%	No.	No.
Allowed	1	(50%)	0(0%)	1 (100%)
Dismissed	1	50%	1(100%)	0 (0%)
<i>Total BV204 appeals</i>	2		1	1

3. A fuller picture of the Council's appeal performance is given by considering the outcome of all types of planning appeals, i.e. including non-determination, enforcement, advertisement appeals etc. Performance on all appeals is shown in Table C.

Table C. All planning appeals (not just BV204 appeals): Rolling year to 30 April 2011

	Appeals	Percentage performance
Allowed	25	(34%)
Dismissed	48	66%
All appeals decided	73	
Withdrawn	8	

4. When an appeal decision is received, the Inspector's decision letter is circulated to all the members of the relevant committee. The case officer also subsequently circulates members with a commentary on the decision if the case is significant. Table E, appended below, shows a breakdown of appeal decisions received during April 2011.
5. When an appeal is received notification letters are sent to interested parties to inform them of the appeal. If the appeal is against a delegated decision the relevant ward members receive a copy of this notification letter. If the appeal is against a committee decision then all members of the committee receive the notification letter. Table F, appended below, is a breakdown of all appeals started during April 2011. Any questions at the Committee meeting on these appeals will be passed back to the case officer for a reply.

Awards of costs

6. Applications can be made by either side for an award of costs on the basis of unreasonable behaviour e.g. failure to provide evidence and / or any necessary statement/s to adequately substantiate case / reasons for refusal; withdrawal of appeal or individual reasons for refusal late on in the process; lack of co-operation with other party, failing to attend proceedings etc. causing undue delays and resulting in wasted expense to the other party.
7. In 2010/11 two applications for awards of costs against the Council were upheld by Inspectors. Two awards of costs were made in favour of the Council. Actual levels of costs in all cases have not been finalised to date. **Table D** sets out in detail all applications for awards costs in 2010/11.

Table D Applications for cost on appeal between April 2010 to March 2011

	Date of cost decision	Appeal address	Planning Application reference	Result of application for cost against Council	Result of application for Costs against applicant
1	2nd June 2010	Kiosk 2, 106 Gloucester Green	09/02060/FUL	Cost claim dismissed	n/a
2	27 May 2010	110-122 Botley Road (former MFI)	09/00845/CPU and 09/00266/CEU	Partial award of costs. Under negotiation	n/a
3	9 th June 2010	Ruskin Hall, Headington	09/00549/FUL	Cost claim dismissed	n/a
4	13 th July 2010	Mallards, 4 Mill Lane, Marston	09/01689/CAC and 09/01688/FUL	Cost claim dismissed	n/a
5	15 th July 2010	26 Lathbury Road	09/02175/FUL	Cost claim dismissed	n/a
6	18 th Aug 2010	180 Marlborough Road	09/00809/ENF	n/a	Partial costs awarded and pursued
7	25 th Aug 2010	9-11 St Clements Street	10/00270/FUL	Cost claim dismissed	n/a
8	22 nd Nov 2010	42 Blandford Avenue	09/02604/FUL	Full award of costs. Under negotiation	n/a
9	23 Dec 2010	4 Cottesmore Road	09/01742/FUL	n/a	Partial costs awarded and pursued
10	27 Jan 2011	102 Walton Street	10/01395/VAR	Cost claim dismissed	n/a

Table F**Appeals Decided Between 1/4/11 And 30/4/11**

DECTYPE KEY: COMM - Area Committee Decision, DEL - Delegated Decision, DELCOM - Called in by Area Committee, STRACM - Strategic Committee; RECM KEY: PER - Approve, REF - Refuse, SPL - Split Decision; NDA - Not Determined; APP DEC KEY: ALC - Allowed with conditions, ALW - Allowed without conditions, AWD - Appeal withdrawn, DIS - Dismissed

DC CASE NO.	AP CASE NO.	DECTYPE:	RECM:	APP DEC	DECIDED	WARD:	ADDRESS	DESCRIPTION
10/02584/VAR	11/00002/REFUSE	DEL	REF	ALC	21/04/2011	HEAD	9 - 9A Gathorne Road Oxford Oxfordshire	Variation of condition 5 of planning permission 08/00769/FUL for 2 dwellings to allow one residents parking permit per property plus visitor parking permits.
09/02658/FUL	10/00066/REFUSE	COMM	PER	DIS	28/04/2011	STCLEM	269 Cowley Road Oxford Oxfordshire OX4 2AJ	Demolition of existing buildings - former Bartlemas Nursery School. Erection of two single storey buildings (with accommodation in roof space) and erection of a two storey building (with accommodation in roof space) to provide student accommodation for Oriel College comprising 31 study bedrooms, bin and cycle storage; including alterations to watercourse. (amended plan). Additional tree information and new layout drawings to different scale. (Amended plans)

Total Decided: 2

TABLE G Appeals Received Between 1/4/11 And 30/4/11

DECTYPE KEY: COMM - Area Committee Decision, DEL - Delegated Decision, DELCOM - Called in by Area Committee, STRACM - Strategic Committee;
 RECMND KEY: PER - Approve, REF - Refuse, SPL - Split Decision, NDA - Not Determined; TYPE KEY: W - Written representation, I - Informal hearing, P - Public Inquiry, H - Householder

DC CASE NO.	AP CASE NO.	DEC TYPE	RECM	TYPE	ADDRESS	WARD:	DESCRIPTION
10/02512/FUL	11/00015/REFUSE	DEL	REF	W	241 Banbury Road Oxford Oxfordshire OX2 7HN	SUMMT	Erection of 1st floor rear extension to form a 2-bed flat.
10/02770/FUL	11/00014/REFUSE	DEL	REF	H	39 Campbell Road Oxford Oxfordshire OX4 3PF	COWLE	Two storey side extension and single storey rear extension.
10/03121/LBC	11/00012/REFUSE	DEL	REF	W	Church Farm House First Turn Oxford Oxfordshire OX2 8AH	WOLVER	Erection of entrance gates and piers.
10/03122/FUL	11/00013/REFUSE	DEL	REF	W	Church Farm House First Turn Oxford Oxfordshire OX2 8AH	WOLVER	Erection of entrance gates and piers.

Total Received: 4

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