

DUDLEY METROPOLITAN BOROUGH COUNCIL

DEVELOPMENT CONTROL COMMITTEE – 5TH FEBRUARY 2007

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 1st October - 31st December 2006.

Background

- 2 If the Council has refused an application for planning permission, or imposed certain conditions in granting permission, the applicant can appeal against the decision to the Secretary of State. An applicant can also appeal on the grounds of non-determination if the Council 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 Appeal decisions are reported to Committee in order to advise members of our performance. Appeals also help to clarify Government Policy and circular advice, and how the policies of the Council's UDP are interpreted in practice.
- 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 third quarter of 2006 are enclosed in Appendix 1 and cover two distinct sets of data. Firstly, appeals received in terms of how the Council's 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. Copies of decision letters are available in the Members' Room.

6. In the last quarter Dudley had 16 appeals determined. This is a decrease in comparison to the 24 determined in the previous quarter. The majority of the appeals (62.5%) were allowed. This is a significant deterioration over previous performance when in the previous quarter only 25% of appeals were allowed. The cumulative figure since April 2006 is that 46.7% of all appeals were allowed against a target of 38%.
7. 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.
8. Of the 8 appeals relating to refusals arising from a Committee decision 7 (85.7%) were subsequently allowed. By comparison to where the decision to refuse was taken at officer level this figure drops to 37.5% (3 out of 8 were allowed). This is a concern as performance has reduced.
9. In terms of residential development 8 out of 10 appeals (80%) were allowed compared to 30% in the previous quarter.
10. Two of the three telecommunications appeals were dismissed but in each case the Inspector reminded the Council that health and safety concerns are not relevant to telecommunications apparatus applications as made clear in PPG8.
11. It is anticipated that future appeal determination will reflect the work done by both Officers and Members as part of the Improvement Agenda, and as a consequence the Council's performance in this area will improve.

Finance

12. There are no direct financial consequences arising from this report.
13. 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 cost of defending appeals exceeds budgets.
14. Costs may be awarded against Local Planning Authorities in public inquiry and hearing case if in the opinion of an Inspector an authority has acted unreasonably in refusing planning permission. In the quarter no costs have been awarded against this Council.

Law

15. Section 79 of the Town and County 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 in relation to appeals to the Secretary of State against Enforcement Notices.

Equality Impact

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

Recommendation

17. That the report be noted.

A handwritten signature in black ink, appearing to read 'J. B. Millar'. The signature is written in a cursive style with a large, stylized initial 'J'.

**J. B. MILLAR
DIRECTOR OF THE URBAN ENVIRONMENT**

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List of Background Papers

20. Appeal decisions as detailed in Appendices and a copy is available in the Members' Room.

PLANNING APPEALS DETERMINED – 1st October - 31st December 2006

| | ALLOWED | DISMISSED | TOTAL | % ALLOWED | % DISMISSED |
|---|----------------|------------------|--------------|------------------|--------------------|
| Appeals determined | 10 | 6 | 16 | 62.5 | 37.5 |
| Appeals against Committee decision | 7 | 1 | 8 | 87.5 | 12.5 |
| Appeals against Committee decision where officer recommended approval | 6 | 1 | 7 | 85.7 | 14.3 |
| Appeals against Committee decision where officer recommended refusal | 1 | 0 | 1 | 100 | 0 |
| Appeals against delegated decision | 3 | 5 | 8 | 37.5 | 62.5 |
| Residential | 8 | 2 | 10 | 80 | 20 |
| Commercial (industrial offices/retail/A3) | 0 | 0 | 0 | 0 | 0 |
| Telecommunications | 1 | 2 | 3 | 33.3 | 66.7 |
| Advertisements | 0 | 0 | 0 | 0 | 0 |
| Householder | 1 | 2 | 3 | 33 | 67 |

Notes:

1. During the same period 1st October - 31st December 2006, 20 appeals have been lodged, including appeals against refusals of the proposed Tesco Store in Stourbridge Town Centre and 19 flats/2 shops at 41/42 Hall Street, Dudley.
2. P05/1824 was a split decision where a garage and access allowed and side extension and canopy refused. For the purposes of the above analysis it is included in the “dismissed” column.