



North Devon Council

Report Date: 27th January 2023

Topic: Planning and Enforcement Appeal Decisions received since last report to Planning Committee. See Agenda for Planning Committee held on 11th January 2023.

Report by: Sue Thomas – Senior Planning Support Officer (Appeals)

1. INTRODUCTION

1.1. This report is to inform Planning Committee Members of the Planning and Enforcement Appeal Decisions received from the Planning Inspectorate.

2. RECOMMENDATIONS

2.1. That Members and other interested parties note the appeal decisions reported.

3. REASONS FOR RECOMMENDATIONS

3.1. The Appeal Decisions are reported for general information and to enable consideration of any implications they may have on future cases.

4. REPORT

4.1 Appeals and Appeals Costs Awards as at January 27th 2023

4.1.1 In the summer of 2022 officers were asked to provide a breakdown of the number of planning appeal decisions made over the past 3 years and the associated outcomes of those appeals. Additionally, officers were asked to report on the proportion of appeals where appellants had made an Application for Appeal Costs and how many of those Appeal Costs Applications were successful.

I understand that the following information was reported verbally at the meeting of the Planning Committee held in June of 2022.

Appeal decisions received 28/05/2019 – 30/05/2022

Total appeal decisions received – 132

Of those:

Total Dismissed – 73 (55%)

Total Allowed – 42 (32%)

Total “split” decision – 5 (4%)

Total Withdrawn before determination by PINS – 12 (9%)

Appeal Costs Applications

Total costs applications made by appellant against the LPA – 28 (21% of total appeal decisions received)

Number of costs applications made by the appellant that were allowed in their favour – 12 (43% of costs applications made)*

Number of costs applications made by the appellant that were unsuccessful – 16 (57% of costs applications made)

NB. This total includes the 5 cases re Oakland Poultry Farm (64059 – 64063) where a partial award of costs was given in the appellant's favour but we have never received the claim!*

***NB. As far as I am aware no claim has been received to date. (Sue Thomas – 27th January 2023)*

4.1.2 I have been asked to update the information to reflect the Appeal Decisions received from 1st June 2022 until 27th January 2023. Please note the following:

Total appeal decisions received – 29

Of those:

Total Dismissed – 25 (86%)

Total Allowed – 3 (10%)

Total Withdrawn before determination by PINS – 1 (3%)

Appeal Costs Applications

Total costs applications made by the appellant against the LPA – 10 (34% of total appeal decisions received)

Total costs applications made by the LPA against the appellant – 1 (counter claim re 70713)

Number of costs applications made by the appellant that were allowed in their favour - 1 (10% of costs applications made by appellant) (NB. this successful costs application was in respect of the site at Yelland – 60823)

Number of costs applications that were unsuccessful – Appellant - 9 (82% of costs applications made by appellant) / LPA – 1 (100% of total costs applications made by LPA)

- 4.2 **Appendix A** - Planning Appeal Decision re 72698 – Outline application for erection of 3 dwellings with some matters reserved (appearance) at Land adjacent to The Stables, Patchole, Kentisbury EX31 4NB - Appeal Dismissed on 21st December 2022.
- 4.3 **Appendix B** – Planning Appeal Decision re 74239 – Demolition of equestrian buildings and construction of a self-build, local need dwelling and garage at Land south of Bottoms Lane, Darracott, Georgeham EX33 1JY – Appeal Dismissed on 4th January 2023
- 4.4 **Appendix C** – Planning Appeal Decision re 74661 – Outline application for erection of 2 dwellings with all matters reserved at Land at Eastacombe Rise, Heanton Punchardon – Appeal Dismissed 11th January 2023
- 4.5 **Appendix D** – Planning Appeal Decisions re 74667, 74668, 74675 and 75662 Erection of one residential dwelling on Plot 3, on Plot 4 and on Plot 5 and erection of dwelling and access track on Plot 4, The Stables, Saunton Road, Braunton EX33 1HG – Appeals Dismissed on 23rd January 2023. Appellants Applications for Costs on all four appeals – Refused on 23rd January 2023.
- 4.6 **Appendix E** – Planning Appeal Decision re 74903 – Part retrospective application for the erection of outbuildings & temporary live/work dwelling at Barcombe Edge, North Molton EX36 3LW – Appeal Dismissed on 26th January 2023. Appellants Application for Costs – Refused on 26th January 2023.
5. RESOURCE IMPLICATIONS
- 5.1. Where an application by the appellant for an award of Appeal Costs is successful it is expected that this will be paid from the Planning budget (financial resource implication)
- 5.2. Where an application by the LPA for an award of Appeal Costs from the appellant is successful it is expected that this will be paid into the Planning budget (financial resource implication)
- 5.3. There may be a financial implication if Consultants are employed to confirm that any claim for Appeal Costs is reasonable/acceptable (financial resource implication)
- 5.4. There may be a call on NDC staff (Planning/Legal) to confirm that any claim for Appeal Costs is reasonable/acceptable (staffing resource implication)
6. EQUALITIES ASSESSMENT
- 6.1. There are not any equalities implications anticipated as a result of this report.

7. ENVIRONMENTAL ASSESSMENT

7.1. It is considered by the Author that, as this report is simply to advise Planning Committee Members and other interested parties of recent Planning and Enforcement Appeal decisions, there are no Environmental implications arising from its contents.

8. CORPORATE PRIORITIES

8.1. What impact, positive or negative, does the subject of this report have on:

8.1.1. The commercialisation agenda: - Positive as will learn lessons to reduce potential costs awards against the Council

8.1.2. Improving customer focus and/or – Positive as will learn lessons for future consideration

8.1.3. Regeneration or economic development – Positive as will learn lessons for future consideration

9. CONSTITUTIONAL CONTEXT

9.1. Article of Part 3 Annexe 1 paragraph: - Not applicable

9.2. Referred or delegated power? – Not applicable

10. STATEMENT OF CONFIDENTIALITY

This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

11. BACKGROUND PAPERS

The following background papers were used in the preparation of this report: (The background papers are available for inspection and kept by the author of the report).

11.1 Information extracted from MasterGov Appeals Records (Appendix A), Planning Inspector's Appeal decisions re 72698 (Appendix B), 74239 (Appendix C), 74661 (Appendix D) and 74667, 74668, 74675 and 75662 (Appendix E)

12. STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and Officers:

Sue Thomas – Senior Planning Support Officer (Appeals) - Planning, Housing & Health