

This report is Public.

Appeals Progress Report

Committee	Planning Committee
Date of Committee	3 October 2024
Portfolio Holder	Portfolio Holder for Planning and Development, Councillor Jean Conway.
Date Portfolio Holder agreed report.	24 September 2024
Report of	Assistant Director Planning and Development, David Peckford

Purpose of report

To keep Members informed about planning appeal progress including decisions received and the scheduling of public inquiries and hearings for new and current appeals.

1. Recommendations

The Planning Committee resolves:

- 1.1 To note the position on planning appeals as set out in the report.

2. Executive Summary

- 2.1 This report provides a monthly update regarding planning appeals, including new appeals, status reports on those in progress, and determined appeals.
- 2.2 The report sets out the main issues of the appeal and, where determined, the decision is summarised.

Implications & Impact Assessments

Implications	Commentary
Finance	Whilst there are no direct implications arising from this report it should be noted that the cost of defending appeals can be costly, with additional risk of significant costs when exceeding the 10% Quality threshold. The spend to date on appeals is £0.313m against a budget provision of £0.100m. This has meant that alternative sources of funding to defend further appeals will need to be identified including the call on the appeals reserve will be necessary for mitigation.

	Kelly Wheeler, Finance Business Partner, 24 September 2024			
Legal	<p>This report is for information purposes only, however, it should be noted that there is a trend in the number of public inquiries and appeals allowed increasing in comparison to previous years which Legal are mindful of. Indirect legal implications arising from this report are therefore significantly higher Legal costs in defending the appeals as noted by Finance. Additionally, Legal is concerned about the potential for s62A of the Town and Country Planning Act 1990 to be enacted if the Secretary of State places us into special measures due to low performance, enabling applicants to go direct to the Secretary of State for their applications to be determined.</p> <p>Shiraz Sheikh, Assistant Director Law and Governance, Monitoring Officer. 25 September 2024.</p>			
Risk Management	<p>This is an information report where no recommended action is proposed. As such there are no risks arising from accepting the recommendation. Any arising risk will be managed through the service operational risk and escalated to the Leadership Risk Register as and when necessary.</p> <p>Celia Prado-Teeling, Performance Team Leader.</p>			
Impact Assessments	Positive	Neutral	Negative	Commentary
Equality Impact				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		Not applicable. This is an information report where no recommended action is proposed. As such there are no equality implications arising from accepting the recommendation. Celia Prado-Teeling, Performance Team Leader.
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		Not applicable
Climate & Environmental Impact				Not applicable
ICT & Digital Impact				Not applicable
Data Impact				Not applicable

Procurement & subsidy				Not applicable
Council Priorities	Not applicable			
Human Resources	Not applicable			
Property	Not applicable			
Consultation & Engagement	Not applicable in respect of this report			

Supporting Information

3. Background

- 3.1. When a planning application is refused, the applicant has the right to appeal within six months of the date of decision for non-householder appeals. For householder applications the time limit to appeal is 12 weeks. Appeals can also be lodged against conditions imposed on a planning approval and against the non-determination of an application that has passed the statutory time period for determination.
- 3.2. Where the Council has taken enforcement action, the applicant can lodge an appeal in relation to the served Enforcement Notice. An appeal cannot be lodged though in relation to a breach of condition notice. This is on the basis that if the individual did not agree with the condition, then they could have appealed against the condition at the time it was originally imposed.
- 3.3. Appeals are determined by Inspectors appointed by the Secretary of State and administered independently by the Planning Inspectorate.
- 3.4. Monitoring of all appeal decisions is undertaken to ensure that the Council's decisions are thoroughly defended, and that appropriate and defensible decisions are being made under delegated powers and by Planning Committee.

4. Details

Written Representations

4.1. New Appeals

Application Number	Location	Description (summary)	LPA Decision:	Start Date
24/00466/F	15A South Street, Banbury	Alterations and extension to existing house and outbuildings.	Delegated Refusal	20.08.2024

24/00342/F	141 Bismore Road, Banbury	Erection of Single Storey Garage	Delegated Refusal	21.08.2024
24/01225/F	14 Bismore Road, Banbury	Erection of a single-storey flat roof garage at end of driveway into rear garden	Delegated Refusal	21.08.2024
23/02780/F	Land to West of Griffin Gate, Station Road, Blackthorn	Detached dwelling/holiday let and associated works.	Delegated Refusal	27.08.2024
24/01017/F	Vine Cottage, Main Street, Hethe	Replace existing driveway gate with a clad electric hardwood gate.	Delegated Refusal	02.09.2024
21/02028/F	The Coach House, Hanwell Castle, Hanwell	Free-standing garden room in the grounds, to serve existing household	Delegated Refusal	03.09.2024
24/00633/F	14 Sandford Green, Banbury	Demolition of outbuilding and erection of single storey rear extension with sliding door to the rear and 2no roof windows; external walls to be insulated and rendered	Delegated Refusal	03.09.2024
24/00779/F	6 Railway Cottages, Shipton on Cherwell	1m extension to existing ground floor with new first floor extension over - re-submission of 23/03177/F.	Delegated Refusal	06.09.2024
24/00753/F	40 Ardley Road, Fewcott	Removal of existing 1m height 'close boarded' timber fencing and replacement with 1.8m height, including gated vehicular entrance (Retrospective).	Delegated Refusal	09.09.2024
24/01391/F	82 High Street, Banbury	Change of use for the ground floor existing charity shop (Class E1)	Delegated Refusal	17.09.2024

		to a tanning salon (sui generis).		
24/00298/Q56	Malthouse Farm, North Aston Road, Duns Tew	Change of Use of two agricultural buildings to form five dwellinghouses	Delegated Refusal	19.09.2024

4.2. In Progress/Awaiting Decision

Application Number	Location	Description (summary)	LPA Decision:	Start Date
23/00150/CLUE	Unit 22 Beaumont Close, Banbury	Certificate of Lawfulness for the Existing Development: Implementation of planning permission 18/01366/F subsequent to 20/00046/DISC. Erection of 10 small commercial units (B2/B8) with associated car parking and landscaping - (resubmission of 22/00193/CLUE)	Delegated Refusal	15.06.2023.
22/03245/F	Apollo Office Park, Ironstone Lane, Wroxton	Provision of 10 employment units (Office, Research and Development and Light Industry), associated car parking, landscaping/biodiversity enhancements/works and provision of foul water treatment plant - re-submission of 22/00928/F.	Committee Refusal (Officer recommended refusal)	16.04.2024
23/03078/CLUP	Manor Cottage, Middleton Park, Middleton Stoney	Certificate of Lawfulness of Proposed Development: Repositioning of existing "tarmac" driveway with a gravel driveway.	Delegated Refusal	23.04.2024.
23/02346/F	Birdhouse, 43 Lapsley	Demolish conservatory. Single storey rear extension on footprint	Delegated Refusal	15.05.2024

	Drive, Banbury	of existing conservatory. New door to existing side elevation (revised scheme of 23/00257/F)		
23/01960/PIP	Barn Farm Plants Garden Centre, Thorpe Road, Wardington	To develop the site for 7-9 dwellings with associated access, parking and amenity space.	Delegated Refusal	06/06/2024.
24/00698/PIP	81 North Street, Fritwell	Permission in Principle - proposed 7-9 dwellings	Delegated Refusal	27.06.2024
21/02058/FUL	Shelswell Inn, Buckingham Road, Newton Purcell	Erection of Barns	Delegated Refusal	02.07.2024
23/02772/PIP	Land Adj And To The West Of Number 42 Green Lane, Upper Arcott	Permission in Principle application for the erection of up to 2 No dwellings	Delegated Refusal	
24/00628/Q56	Quarry Farm, Rattlecombe Road, Shenington	Change of Use and associated building operations to convert existing agricultural building to single dwellinghouse.	Delegated Refusal	09/07/2024.
24/00379/TPO	Rectory Farm, Mill Lane, Upper Heyford	T1 Walnut - overall crown reduction of approximately 1m back from branch tips. Lateral branch spread beyond boundary and into Glebe House curtilage shall not exceed 1.8m; T2 - Beech - overall crown reduction of approximately 1m back from branch tips Lateral branch spread beyond	Delegated Refusal	06.07.2024.

		boundary and into Glebe House curtilage shall not exceed 1m. - subject to TPO 13/2019.		
23/03376/F	5 Mill Lane, Adderbury, Banbury	Natural ironstone rear extension with natural slate roof incorporating 1 No conservation rooflight, internal alterations, removal of timber shed and replacement with timber garden studio (revised scheme of 16/01819/F).	Delegated Refusal	17.07.2024.
24/00620/F	7 Launton Road, Bicester	Demolition of existing detached garage and erection of new 2-bedroom dwelling. Existing 3-bedroom dwelling to be retained.	Delegated Refusal	19.07.2024
24/00792/F	10 Chestnut Close, Chesterton, Bicester	Single storey side and rear extensions to create a 1 no. new dwelling	Delegated Refusal	30.07.2024.
23/02071/F	Land to Rear of Wheelright Cottage, Main Street, North Newington	New Build Dwelling.	Delegated Refusal	31.07.2024.
23/03109/F	Land Adj to 20 Almond Road, Bicester	Subdivision of land at 20 Almond Road to form site for 2 no. new detached dwellings with associated parking and gardens.	Committee Refusal (Overturn)	31.07.2024.
23/02865/F	Slatters Barn, Epwell Road, Shutford	RETROSPECTIVE - Installation of two shepherd's huts for use as holiday lets and construction of a driveway to the shepherd's huts - re-submission of 22/02411/F.	Delegated Refusal	01.08.2024.

24/005421/F	1 St Peters Crescent, Bicester	Proposed detached two storey dwelling and two number car spaces	Delegated Refusal	07.08.2024.

Informal Hearings

4.3. New Appeals

Application Number	Location	Description (summary)	LPA Decision:	Start Date
23/02355/F	Waverley House, Registrar, Queens Street, Bicester	Demolition of existing building and construction of 33 No apartments together with landscaping, car parking, bin stores, secure cycle parking and associated infrastructure	Committee Refusal (Overturn)	20.08.2024

4.4. In Progress/Awaiting Decision

Application Number	Location	Description (summary)	LPA Decision:	Start Date
19/02553/DISC & 19/02554/DISC	The Unicorn, 20 Market Place	Discharge of Conditions 3 (external materials), 4 (doors/windows/rooflights) and 5 (external staircase) of 16/01661/F and 16/01662/LB	Committee Refusal (Overturn)	07.12.2023 Hearing Start Date: 20/08/2024 (1 day)

Public Inquiries

4.5. New Appeals

None

4.6. In Progress/Awaiting Decision

Application Number	Location	Description (summary)	LPA Decision:	Start Date
23/01265/OUT	OS Parcel 0078 North West of Quarry Close, Bloxham	Outline planning application for the erection of up to 60 dwellings with public open space, landscaping, sustainable drainage system (SuDS)	Committee Refusal (Officer recommended refusal)	07.12.2023 Inquiry Start Date: 08/10/2024 (4 days)

		and vehicular access point. All matters reserved except for means of access.		
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Enforcement Appeals

4.7. **New Appeals**

None

4.8. **In Progress/Awaiting Decision**

Application Number	Location	Description (summary)	LPA Decision:	Start Date
21/00078/ENF	Bagnalls Haulage Ltd, Bagnalls Coal Yard, Station Road, Enslow	Without planning permission, the material change of use of the land to a concrete batching plant and the erection of associated apparatus including a conveyor, corrugated enclosure, hoppers and storage tanks.	Enforcement Notice	09.02.2023 Written Reps
21/00333/ENF	Fairway Cottage, Main Road, Swalcliffe	Without planning permission, the construction of a timber outbuilding and associated engineering operations, including the raising of land levels and the construction of a retaining wall, as shown edged in blue on the attached plan titled 'Location Plan'.	Enforcement Notice	10.11.2023 Written Reps
23/00001/ENF	Ashberry Cottage, Duns Tew, Bicester	Without the benefit of planning permission, the unauthorised erection of a single-storey porch, finished with timber cladding, to the principal elevation of a mid-terrace dwelling attached to a curtilage listed grade II building Owl Barn (Historic England reference 1046304)	Enforcement Notice	28.11.2023 Written Reps

20/00295/ENF	16 Almond Avenue, Kidlington	Garage/Garden building converted to residential premises	Enforcement Notice.	13.03.2024 Written Reps
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Forthcoming Public Inquiries and Hearings between 3 October 2024 and 3 November 2024.

4.9. 23/01265/OUT – OS Parcel 0078 North West of Quarry Close, Bloxham, Banbury.

Outline planning application for the erection of up to 60 dwellings with public open space, landscaping, sustainable drainage system (SuDS) and vehicular access point. All matters reserved except for means of access.

Officers Recommendation: Refusal (Committee)
Method of Determination: Public Inquiry.
Hearing Date: 08.10.2024. 4 Days.
Appeal Reference: 24/0005/REF.
Start Date: 07.03.2024.

Appeals Results

4.10. 23/02470/F - Offside, The Green, Barford St Michael, Banbury, Oxon, OX15 0RN.

The Inspector **ALLOWED** the appeal by Mr A Murray for the erection of a 2-bedroom bungalow

The main issues considered by the inspector were:

- Whether the principle of the development accords with the strategy in the development plan;
- The effect on the character and appearance of the area;
- Whether the living conditions of the future occupiers would be reasonable; and
- The effect on highway safety through a lack of on-site parking.

Principle

The inspector considered that the appeal site comprises land which lies in a back land position to the rear of frontage properties in the village of Barford St Michael.

The inspectors confirmed that the appeal site lies within the village boundary, the site does not comprise infilling, as defined by Cherwell Local Plan because of the back land nature of the land. The inspector considered at the site visit that there were few opportunities for infilling within established frontages because of the tight knit form of the older properties.

The inspector considered that the Council submitting that Barford St. Michael is not a sustainable location as the village has few facilities and public transport links does not rule out the principle of some limited development as the potential for infilling has been accepted in Policy Village 1.

Overall, on the issue of according with development strategy, the inspector found that the proposal does not accord with the development strategy set out in the CLP as it does not constitute 'infilling' as defined in the plan.

Design

On the issue of design of the dwelling proposed, the inspector considered that the proposed siting of the bungalow well back into the site means that it would not be prominent in the street scene as only a short glimpse of the end gable would be seen up the access drive alongside "Offside", the form and scale of the building would not be dissimilar to that of the existing stone and timber barn nor is it unusual for an outbuilding to be sited at an angle rather than always be parallel with properties on the street frontage.

The inspector considered in terms of the design of the building itself it has a simple form and the variation in fenestration, does not detract from the overall quality of the building. The siting, design and form of the proposed single storey building was considered appropriate for the area. In addition, the proposal would have a neutral effect on the character and the appearance of the Conservation Area, and these aspects would be preserved, and the proposal would not conflict with Policy ESD15 of the CLP or saved Policies C28 and C30 of the CLP 1996.

Residential Amenity

The inspector outlined consideration for the Council's Residential Design Guide SPD but saw no policy or guidance which suggests that 5m outlook from a bedroom window would be below any recognised standard. And in considering the dwelling as a whole the inspector was satisfied that it would have reasonable light and outlook and that the living conditions of future occupiers would not be harmed, and the proposal reasonably accords with the provisions of Policies ESD15 and C30 about standards of amenity.

Highway Safety

The inspector considers that the appellant submitted an additional plan (drawing 433:13-101B) which shows two spaces allocated for both the proposed bungalow and for Offside and on the basis of this plan was satisfied that off-street parking can be provided for all of the components of the site and such parking provision can be required to be implemented and retained by condition.

Inspector's Conclusions

The inspector considered on the main issues that while the principle of limited infilling in the village is acceptable, the proposal would not meet the terms of Policy Villages 1 as the site does not comprise a gap in a continually built-up frontage. The inspector assessed that the proposal would complement and respect the character and appearance of the area, have a neutral effect on the conservation area, would also provide the future occupiers with reasonable living conditions and the overall site can accommodate sufficient parking provision. In addition, the proposal meets the other relevant local plan policies.

The inspector confirmed that the conflict with Policy Villages 1 needs to be balanced with other considerations, in particular the Framework sets out that the Government seeks to significantly boost the supply of homes and Section 11 indicates that planning decisions should promote an effective use of land in meeting the need for homes while safeguarding the environment and ensuring safe and healthy living conditions.

The inspector considers the appeal site contains sufficient land for the development proposed which would not result in any environmental or social harm. Its development would make effective use of land which lies in the heart of the village. In the circumstances of this case this outweighs the objection over the proposal not being infilling in a built-up frontage and the appeal should therefore be allowed.

- 4.11. 22/02455/OUT – Land West of Church Ley Field, Adj to Blackthorn Road, Ambrosden, OX25 2DH.

Erection of up to 55 new dwellings including affordable homes; formation of new pedestrian access; formation of new vehicular access from Blackthorn Road; landscaping and associated works.

Officers Recommendation: Refusal (Committee)

Method of Determination: Public Hearing.

Hearing Date: 26.06.2024

Appeal Reference: 24/00010/REF

Start Date: 19.03.2024.

APPEAL WITHDRAWN BY APPELLANT.

- 4.12. 23/00020/F – Part OS Parcels 0700 and 2800, NE of Godlington Hall, Street Through Godlington, Godlington, Bicester, Oxon, OX27 9AE.

The Inspector **ALLOWED** the appeal by Mr J and Mrs Kevill for the change of use of an agricultural building to car storage falling within Use Class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended) at Godington Hall Farm, Godington, Bicester, OX27 9AE.

The Inspector identified the main issues as the suitability of the location for the proposed use, with particular regard to local and national policy, and the safe and efficient operation of the highway network, with particular regard to the rural character of the area.

The Inspector found that the evidence suggested that the growth and expansion of the business Silverstone Auctions Limited (now Iconic Auctioneers) needs a suitable building, price and location close to its headquarters, auction venues and places where motor show events are held. As such, the Inspector found the location of the appeal site, and the benefits of being close to these locations, relatively compelling because of the unique nature of the business and cluster of markets, businesses and locations involved. Whilst not small scale, employees would not be based at the appeal site. It was considered that there was no evidence that the development would harm the character or appearance of the surrounding area or landscape. There were no concerns regarding detriment to residential amenity. The

Inspector considered that the evidence presented of the search of alternative commercial sites within a 15 mile radius of Bicester demonstrated that the proposal would not achieve the commercial requirements in a different location. Furthermore, the Inspector considered that the rental income would provide improved financial security for Godington Farm following the loss of the tenant, supporting two specific businesses, and would align with the provision of paragraph 88 of the Framework, weighing in favour of the proposed development.

With regard to the impact on the highway network, the Inspector recognised that compliance with Local Plan Policies SLE1 and ESD 1 is also dependant on whether the development can be carried out without undue detriment to the highway network, and wherever possible, contribute to the general aim of reducing the need to travel by private car. This was considered to be a different matter from highway safety, being the effect on the peaceful rural surroundings as a result of excessive or inappropriate traffic. The Inspector considered that the operation of the business, and the use of the building for storing vehicles, would not involve a significant number of employees driving to the site on a daily basis, and vehicle movements associated with the auctions and other exhibitions would not be excessive on a daily basis, and would be staggered. The Inspector considered that the character, rural lanes and highway network would be able to accommodate the development traffic, and that the development would not result in inappropriate traffic on the surrounding rural roads. Whilst the site would not be accessible by sustainable modes of transport, the Inspector was mindful of advice in the Framework that identifies that sustainable transport options do vary between urban and rural locations. The Inspector considered the proposal to meet the requirements of paragraph 89 of the Framework in being sensitive to its surroundings and not having an unacceptable impact on local roads.

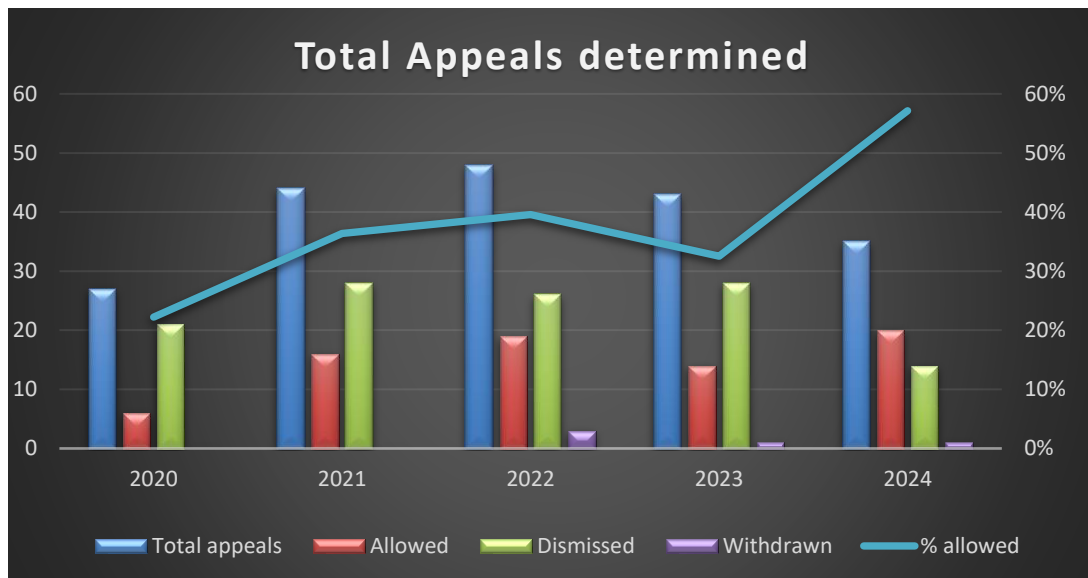
The Inspector concluded that sufficient justification had been provided to demonstrate why the development should be located at the appeal site and considered the appeal site is a suitable location for the proposed use with particular regard to local and national policy, and the safe and efficient operation of the highway with particular regard to the rural character of the area. Thus, the development was considered compliant with Policies SLE 1 and ESD 1 of the Cherwell Local Plan 2011-2031 Part 1.

Appeals Performance

4.13. Overview of Appeal Performance

4.14. The table and graph below show all the appeal decisions from the last 5 years. Note for 2024 this is only up to September

Year	Total appeals	Allowed	Dismissed	Withdrawn	% allowed
2020	27	6	21	0	22%
2021	44	16	28	0	36%
2022	48	19	26	3	40%
2023	43	14	28	1	33%
2024	35	20	14	1	57%



4.15. Performance of Delegated Decisions at Appeal

4.16. The table below shows the appeal results from delegated decisions from the last 5 years. Note for 2024 this is only up to September

Year	Delegated		
	Decisions	Allowed	% allowed
2020	25	4	16%
2021	39	12	31%
2022	43	16	37%
2023	34	10	29%
2024	24	12	50%
Total	196	54	33%

4.17. Performance of Committee Decisions at Appeal

4.18. The table below shows the appeal results from committee decisions from the last 5 years. Note for 2024 this is only up to September

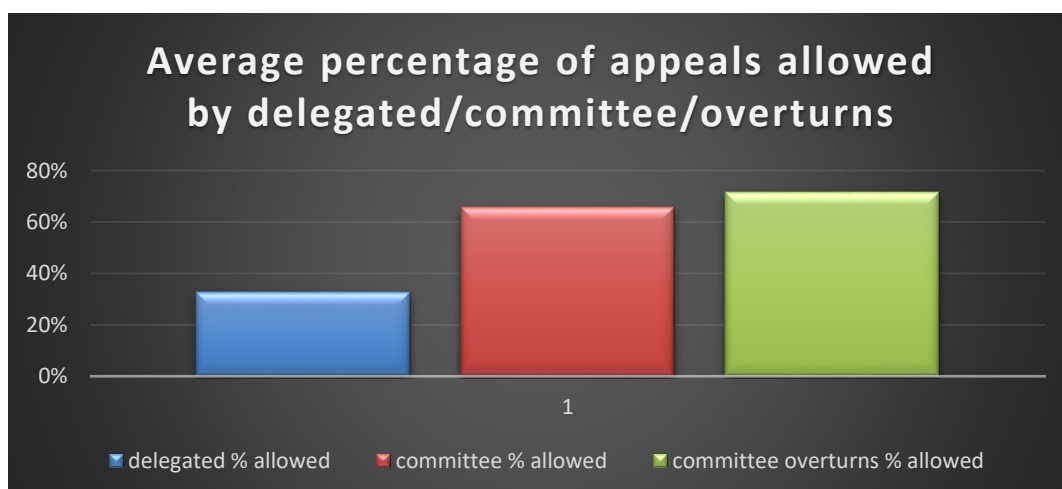
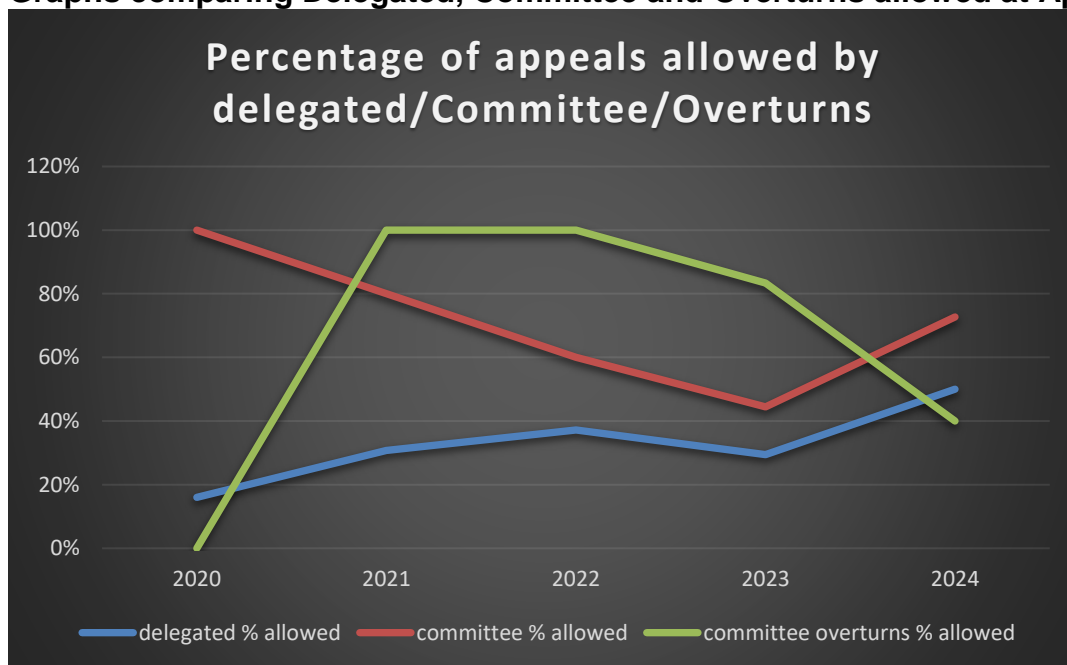
Year	Committee		
	Decisions	Allowed	% allowed
2020	2	2	100%
2021	5	4	80%
2022	5	3	60%
2023	9	4	44%
2024	11	8	73%
Total	32	21	66%

4.19. Performance of Committee Overturns at Appeal

4.20. The table below shows the appeal results from committee decisions that resulted from an overturn of an officer recommendation from the last 5 years. Note for 2024 this is only up to September

Year	Committee Overturns		
	Decisions	Allowed	% allowed
2020	0	0	0%
2021	1	1	100%
2022	2	2	100%
2023	6	5	83%
2024	5	2	40%
Total	14	10	71%

4.21. Graphs comparing Delegated, Committee and Overturns allowed at Appeal



4.22. Types of Appeal Method

4.23. Table showing appeal method over the last 5 years. Note the number of public inquiries so far this year is equal to the total number of inquiries in the previous 4 years combined

Year	Public inquiries	Hearings	Written Reps
2020	0	2	25
2021	2	3	39
2022	2	4	42
2023	2	8	33
2024	6	4	25

5. Alternative Options and Reasons for Rejection

5.1 None. This report is submitted for information.

6 Conclusion and Reasons for Recommendations

6.1 The report provides the current position on planning appeals for information for Members.

Decision Information

Key Decision	Not applicable
Subject to Call in	Not applicable
If not, why not subject to call in	Not applicable
Ward(s) Affected.	Appeal dependent

Document Information

Appendices	
Appendix 1	None
Background Papers	None
Reference Papers	All documents in respect of the planning appeal
Report Author	Sarah Gevaux, Appeals Administrator Paul Seckington, Development Manager
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