



SOUTH  
KESTEVEN  
DISTRICT  
COUNCIL

# Joint Meeting of the Environment Overview and Scrutiny Committee and Rural and Communities Overview and Scrutiny Committee

Wednesday, 10 December 2025

Report of Councillor Phil Dilks, Cabinet  
Member for Planning

## Update on Planning Performance - Major Planning Appeals

### Report Author

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### Purpose of Report

To provide the committee with an overview of Planning Appeal Performance in relation to Major planning applications.

### Recommendations

#### The Committee is asked to:

1. Note the contents of the report
2. Agree to receive information about lessons learnt from appeal decisions
3. Agree to the scheduling of additional training for the Planning Committee.

### Decision Information

Does the report contain any exempt or confidential information not for publication? No

What are the relevant corporate priorities? Effective council

Which wards are impacted? (All Wards);

## 1. Implications

Taking into consideration implications relating to finance and procurement, legal and governance, risk and mitigation, health and safety, diversity and inclusion, safeguarding, staffing, community safety, mental health and wellbeing and the impact on the Council's declaration of a climate change emergency, the following implications have been identified:

- 1.1 The costs associated with dealing with planning appeals must be absorbed by the Council including any costs awarded by the Inspectorate for "unreasonable behaviour". Special measures designation has a further potential financial consequence for the Council which could result in reduced planning fee income for the Council. It is therefore important that all decisions are robust and justified on planning grounds.

*Completed by: David Scott – Assistant Director of Finance and deputy s151 officer*

### ***Legal and Governance***

- 1.2 The Government monitors the quality of decision making associated with planning applications. Where a Council fails to meet the minimum standards, it may be designated as underperforming with special measures applied. It is therefore important that performance at appeal is monitored, and all decisions are clearly and properly justified on planning grounds.

*Completed by: James Welbourn, Democratic Services Manager*

### ***Risk and Mitigation***

- 1.3 There is both a financial and reputational risk to the Council if it is designated as being in special measures by Government. This needs to be carefully managed and all planning decisions should be clearly justified on planning grounds. There is a further risk to resources including staff retention and morale if the Council is designated.

*Completed by: Tracey Elliott, Governance & Risk Officer*

## 2. Background to the Report

- 2.1 The Planning Service plays a key role in delivering many of the ambitions in the Corporate Plan (2024-2027) including Enabling Economic Opportunity and facilitating the delivery of housing to meet the needs of our residents. The Corporate Plan also sets out our ambition to be an Effective Council and in doing

so we will seek to continuously improve our service delivery and customer experience.

- 2.2. The Council has a statutory duty, as the Local Planning Authority (LPA), to determine planning applications that are submitted to it. The Council will also deal with other planning related applications/consents, and these make up a significant proportion of the workload. Such applications include Certificate of Lawful Development, Prior approval applications, non-material minor amendments, tree works applications, pre-application advice requests and consultations from other organisations.
- 2.3. The Council's decisions on planning applications and other related applications can be appealed to the Planning Inspectorate. This can include appeals against a refusal of planning permission, against a condition imposed by the Council or where the Council has failed to determine an application (non-determination appeals). MHCLG monitors the quality of decision-making by reviewing performance on appeals. This report provides an update on the appeals performance (the quality of decision-making) in relation to Major applications. To allow appeals to progress through the appeals process, there is a lag in reporting periods.
- 2.4. MHCLG has published its criteria for improving planning performance across England and this sets out the four measures of planning performance:
  - The speed of determining applications for major development,
  - The quality of decisions made by the authority on applications for major development,
  - The speed of determining applications for non-major development,
  - The quality of decisions made by the authority on applications for non-major development.
- 2.5. Councils that fail to meet the minimum thresholds for performance can be designated as underperforming and taken into "special measures". Where a Council is in "special measures" the applicant/developer has the option to make an application directly to the Planning Inspectorate, bypassing the Council. In these circumstances, the planning application fee is paid to the Planning Inspectorate however the Council would still be required to provide a substantive response on the application as a consultee.
- 2.6. A Council can be in special measures in relation to major applications and/or non-major applications. If a Council is in special measures for major applications, non-major applications will still be determined by the local authority and vice versa.
- 2.7. The speed of decision making in both major and non-major categories are reported separately through the Council's KPI reports and in both cases the

Council is performing above national minimum thresholds. In relation to the quality of decision-making for non-major applications, the last reported measure is 1.2% which is under the minimum threshold.

2.8. Major planning applications are defined by legislation and include proposals that fall into the following categories:

- Dwellings - 10+ dwellings or cover a site area of 0.5ha+
- Offices/Retail & Distribution/Light Industry -cover over 1,000m<sup>2</sup> or floor space or a site area of 1ha+
- General Retail Distribution and Servicing – 1,000m<sup>2</sup>+ or floor space or site area of 1ha+
- Gypsy and Traveller sites – 10+ pitches
- All other major developments – all other uses, whether in a use class or sui generis uses – 1,000m<sup>2</sup>

2.9. For the quality of decision making, the minimum threshold for performance is currently 10% although MHCLG has consulted on lowering the threshold to 5%.

### Quality of Decision Making

Measure and type of application	Threshold	SKDC performance July 2022 to June 2024	SKDC performance October 2022 to September 2024	SKDC performance January 2022 to December 2024	Indicative SKDC performance April 2023 to March 2025*
Quality of decisions of Major Development	10%	2.6%	4.8%	4.8%	6.8%
Quality of decisions of non-Major Development	10%	0.9%	1.2%	1.0%	

\* Incomplete data as there are still outstanding appeals including two Major appeals where a decision has not been issued

2.10. For period January 2022 to December 2024, 124 Major planning applications have been determined. Eight of these decisions have been appealed with six being allowed and 2 dismissed. The performance measure is therefore 4.8% (6/124). Over the two-year period, 75% of all Major appeals were allowed. Nationally, the average number of applications allowed on appeal is, on average between 28-30%.

2.11. Looking forwards, the data is not complete because there are two major planning application appeals where we are waiting for a decision. However, it is possible to forecast the minimum performance achieved based on the available information. If both of the outstanding appeals are dismissed by the Planning Inspectorate,

then the Council's performance measure would be 6.8%. In the worst-case scenario where both appeals are allowed, the measure would increase to 9%. In both cases, the measure is below the current threshold for special measures. However, if MHCLG lowers the threshold to 5% then the Council would be at risk of being designated as being in special measures.

- 2.12. The details of the performance against each of the appeals is detailed in **Appendix A** to this report.
- 2.13. Whilst the Council is currently performing within the national measure for quality of decision-making, it is necessary to review and reflect on appeal decisions including any lessons learnt.

### **3. Key Considerations**

- 3.1. It is understood that local residents often object to development proposals and will make strong representations to the planning committee. This can place pressure on the Committee to refuse applications that are recommended for approval.
- 3.2. It is important that any decision made by the Council, regardless of decision-maker, is based on the planning merits of the particular proposal. Decisions should be made in accordance with the Development Plan policies unless material considerations indicate otherwise. Where applications are refused, especially against officer recommendations, the Council must be able to robustly defend these decisions should they be appealed. Where there are technical grounds for refusal on for example highways matters, the Council will need to provide evidence to justify its decision.
- 3.3. There are costs associated with defending planning appeals. It is expected that each of the appeal parties will meet their own expenses in respect of any planning appeal. For simple appeals being heard by written representations, this will be officer time. However, for more complex appeals that are held via informal hearings or public inquiries, there can be other associated costs including those for legal representation. Costs can also be awarded by the Inspector against any party for unreasonable behaviour. The Council can be considered to behave unreasonably where reasons for refusal do not stand up to scrutiny causing avoidable delay. It is therefore important that reasons for refusal are justified and where they are based on technical evidence e.g. highways impacts that they are evidence-led.
- 3.4. The Council is still predicted to be under the current designation for special measures in relation to Major planning appeals. However, due to the overall numbers of major planning applications determined by the Council each year, all overturned decisions by the Inspectorate can significantly impact the overall

performance. It should be noted that MHCLG has consulted on lowering the threshold for designation to 5%, in which case the Council would be at risk of being placed in special measures.

- 3.5. Where a Council is underperforming and is formally designated in special measures, applicants are able to apply for both pre-application advice and/or planning permission directly to the Planning Inspectorate. The Council would still have a statutory duty to provide information to the Planning Inspectorate, carry out the statutory notifications and provide a formal response as a statutory consultee itself. Where applications are made directly to the Planning Inspectorate, the Council would not receive the associated planning fee.
- 3.6. In light of the current predicted performance, it is important that the Council takes preventative measures to improve the quality of decision-making and avoid being designated. All planning appeal decisions are circulated to Councillors however it is recommended that these are circulated to the Committee with commentary about key learning points. This will support Councillors in understanding reasons why appeals have been allowed or dismissed by the Planning Inspectorate.
- 3.7. The Council already provides mandatory annual planning committee training however a further programme of bitesized training sessions will be established picking up on some of the necessary learnings from appeals. The Council's performance will continue to be monitored.

#### **4. Other Options Considered**

- 4.1. It is important to continue to monitor performance and to take pre-emptive measures to ensure that the quality of decision making in relation to Major planning applications improves.
- 4.2. No other options were therefore considered.

#### **5. Reasons for the Recommendations**

- 5.1. It is important to monitor the quality of decision-making and to ensure that the quality of decisions made by the Council for Major planning applications improves.

#### **6. Background Papers**

- 6.1. MHCLG (2024) "Improving Planning Performance, Criteria for Designation" - [Criteria Document 2024](#)

