

scale appeals or those with complex matters to consider heard by way of either a hearing or an inquiry. A hearing will typically last for one to two days and is a structured discussion led by the Inspector whereas an inquiry may last several days and will include an element of cross examination of professional witnesses by legal advocates.

- 3.4 In all three appeal procedures public participation is allowed, through either written responses or addressing an Inspector at a hearing or an inquiry.
- 3.5 An update on progress with planning appeals is presented to Planning Committee as a standing item on the monthly agenda.

4. Appeals

Appeals update

- 4.1 A list of planning appeals from 2023/24 is set out in Appendix A to this report.
- 4.2 Appendix A shows that 34 appeal decisions were received in 2023/24. Of these 34 appeal decisions, 11 were for major proposals (proposals above 10 dwellings or above 1000sqm) with the remaining 23 for minor proposals. The list of appeals includes two applications where a decision was not made by the Council, with the appeal made against non-determination of the planning application.
- 4.3 Of the 34 appeals in 2023/24, 12 of these (35%) were allowed (granted permission) with the other 22 dismissed. Of these 12 allowed decisions, this includes seven appeals that were for major proposals and allowed at appeal. These six are highlighted in orange in Appendix A.
- 4.4 At the time of writing, 21 appeals have been determined thus far in 2024/25. Of these, five are major appeals with the remaining 14 as minor appeals. Of the 19 appeals, four have been allowed, including one major appeal decision, and the rest dismissed. None of these thus far in 2024/25 have been non-determination appeals.
- 4.5 Of the total appeal decisions received in 2023/24, two of these relate not to planning applications but instead relate to planning enforcement cases, with an appeal received against an enforcement notice served. Of the two planning enforcement appeals, both have been dismissed (Breach Lane Farm, Earl Shilton and The Old Cottage, Shackerstone).
- 4.6 In addition to the appeals listed in Appendix A, Members should be aware that the Council has one major residential appeal awaited (Land east of The Common, Barwell), with a hearing in February 2025. No other major appeals are currently outstanding.

Appeals allowed

- 4.7 Of the appeals allowed in 2023/24 (12 decisions), none of these were against non-determined applications, seven were against decisions taken by Planning Committee against the recommendation of Planning Officers and five were against either delegated Officer decisions or decisions taken by Planning Committee in line with a recommendation for refusal.
- 4.8 Of the seven appeals allowed in 2023/24 for decisions taken by Planning Committee against Officer recommendation, six of the seven were major residential appeals and one was a minor appeal. Of the appeals allowed against delegated Officer decisions, one was a major appeal (Watling Inn), with all others minor appeals.
- 4.9 Of the allowed appeals across 2023/24 the key reasons given by Inspectors in allowing planning appeals are:
- Lack of a national policy requirement of a 5 year housing land supply (at the time);
 - Relevant housing target policies of the Local Plan being out of date;
 - Limited or localised only landscape harm;
 - Limited impact on highway safety; and
 - Allocation within an adopted Neighbourhood Plan.
- 4.10 In all allowed appeals for major developments, the above factors have been balanced against the benefits of the proposed developments, namely the delivery of housing and affordable housing against an identified shortfall of both in the Borough. As the Council was unable to demonstrate a 5 year housing land supply (since updated to demonstrate 5.6yr supply) and the relevant policies with regards to housing supply of the Core Strategy are out of date, all recommendations and decisions make reference to paragraph 11 of the National Planning Policy Framework and the presumption in favour of development. This states that planning applications for development should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 4.11 This test of paragraph 11 of The Framework sets a very high bar for the Council to refuse an application. This high bar has been met with appeals in 2023/24 for:
- Land north of Shenton Lane, Market Bosworth (125 dwellings)
 - Kyngs Golf Club, Market Bosworth (holiday lodges)
 - Land east of Bagworth Road, Barlestone (50 dwellings)
 - Forest Hill Golf Club (hotel)

In determining these appeals, the Inspectors considered that the harm to the landscape (all) and impact on the conservation area and heritage assets (Market Bosworth) significantly and demonstrably outweighed the benefits of the proposals of the delivery of market and affordable dwellings.

Appeal Performance

- 4.12 Planning appeal performance remains a key requirement of government. Under-performance can lead to government intervention by removing decision-making powers from local planning authorities. The government measures performance at appeal against all decisions over a rolling 2 year period. No more than 10% of all decisions should be overturned at appeal. It should be noted that at the end of the 2 year period there is a further 9 months to take account of an applications still in the appeal system.

Application Type	National Indicator	Performance
Major Applications	10%	12.1%
Non Major Applications	10%	0.7%

Table 2: Quality of decision making (1 April 2021 to 31 March 2023)

- 4.13 Performance on Majors of 12.1% (up from 5.7%) was on the basis that of the 91 major applications determined between April 2021 and March 2023, 16 were appealed and of these 11 were allowed on appeal.
- 4.14 Performance on non-majors was 0.7% (down from 1.1%) on the basis that of the 1355 applications determined, 41 were appealed and of these only 9 were allowed. The Council is therefore significantly below the 10% which is the level at which the government would intervene in relation to minor and other applications.
- 4.15 The Council received a letter from DLUHC in February 2024 requesting information as to why performance on quality of decision making for major applications (appeals performance) was above the 10% threshold. The Council responded in March 2024, outlining the reasons for and raising queries for a number of appeals allowed to justify the performance figure being below 10%, proposing that a more accurate figure instead should be 6.6% when taking into account exceptional circumstances around four of the allowed appeals. The Council was not designated at the time.

5. Exemptions in accordance with the Access to Information procedure rules

- 5.1 Open

6. Financial implications - CS

- 6.1 The current budgeted impact of appeals and historic data is summarised below:

	Budget	Actual costs	Overspend/(underspend)
2020/21	£43,000	£147,582	£104,582
2021/22	£43,000	£274,568	£231,568
2022/23	£43,000	£144,896	£101,896
2023/24	£93,000	£217,224	£124,224
2024/25	£145,790	£28,076 actual to date	(£100,000) estimated

**Note: the budget for 2024/25 was increased by £52,790*

- 6.2 The forecast for 2024/25 is based upon written representations appeals covered by officer time only (no additional costs) and hearings that can cost around £15,000 per hearing. There are no inquiries potentially costing around £50,000+ anticipated for 2024/25. The estimated underspend for 2024/25 has already been allowed for in this years forecast outturn.
- 6.3 The MTFs does not include recurring appeals costs at the higher levels being incurred, and to continue to overspend on planning appeals will increase the future pressure on the Council's finances.

7. Legal implications

- 7.1 Set out in the report.

8. Corporate Plan implications

- 8.1 The planning service contributes to all three priorities of the Corporate Plan, helping People stay healthy and reducing crime; improving Places through improved quality of homes, affordable housing, urban design and heritage facilities; and by delivering Prosperity by supporting town centre regeneration, tourism and economic growth.

9. Consultation

- 9.1 None

10. Risk implications

- 10.1 It is the council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.
- 10.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

10.3 The following significant risks associated with these report / decisions were identified from this assessment:

Management of significant (Net Red) risks

Risk description	Mitigating actions	Owner
<p>DLS.19 - Recruitment & retention of staff</p> <p>Failure to recruit & retain staff leads to failure to maintain staffing levels within Development Services to deal with works required and increases use of agency staff with associated higher costs.</p> <p>For appeals this could lead to a greater number of non-determination appeals should resources decrease. Further, the resourcing impact of additional appeals on existing resources, financial and staff time need to be considered.</p>	<p>Appointment of recruitment consultants</p> <p>Supporting Officers Careers through training and modern apprenticeships</p> <p>Benchmarking against surrounding authorities to ensure competitiveness.</p>	Chris Brown
<p>DLS.44 - Five year housing land supply</p> <p>Failure leads to speculative unplanned housing developments plus additional costs incurred due to planning appeal process</p>	<p>The council to maintain a 5YHLS. All Members have received training and further briefing to this effect. SLT and officers are working closely with Members to plan a positive way forward to address this.</p>	Chris Brown
<p>DLS.51 Housing Delivery Test</p>	<p>DLUHC published the Housing Delivery Test results in January 2021 and the Council has delivered 86% of it's housing requirement HBBC will continue to work on delivering new homes to ensure it does not continue to fail the HDT</p>	Chris Brown

11. Knowing your community – equality and rural implications

11.1 The planning services takes account of equality and rural issues as part of all the decisions taken.

12. Climate implications

12.1 The planning service considers the climate impact of all decisions it takes in accordance with the Council's strategy and Government Policy and Guidance.

13. Corporate implications

13.1 By submitting this report, the report author has taken the following into account:

- Community safety implications
- Environmental implications
- ICT implications
- Asset management implications
- Procurement implications
- Human resources implications
- Planning implications
- Data protection implications
- Voluntary sector

Background papers: None

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Executive member: Cllr W Crooks

Appendix A – List of planning appeal decisions 2023/24

Appendix A

No.	Application number	Site Address	Proposal	Appeal decision	Date of Planning Decision	Date of Appeal decision	Major / Minor
1	21/00020/FUL	The Oak Lodges, Kirkby Mallory	1 dwelling	Dismissed	01.07.2022	12.04.23	Minor
2	21/00937/FUL	6A Shakespeare Drive, Hinckley	Demolition of bungalow, erection of 2 dwellings	Dismissed	28.04.22	24.04.23	Minor
3	22/00801/FUL	59 Merrylees Road, Newbold Verdon	1 dwelling	Dismissed	01.11.22	24.04.23	Minor
4	22/00284/HOU	14 The Hawthorns, Markfield	Householder - extensions	Allowed	02.05.23	17.03.22	Other
5	22/00572/OUT	Land North 258 Ashby Road, Hinckley	5 dwellings	Dismissed	N/A	10.05.23	Minor
6	22/00447/FUL	17 Bridge Lane, Witherley	2 dwellings	Dismissed	25.11.22	03.07.23	Minor
7	22/00989/HOU	39 Wykin Road, Hinckley	Retention of fence	Dismissed	28.11.22	17.08.23	Other
8	22/00167/OUT	Land north of Shenton Lane, Market Bosworth	125 dwellings	Dismissed	N/A	17.08.23	Major
9	22/00776/FUL	Spring Hill Farm, Wood Lane, Higham on the Hill	1 dwelling	Dismissed	11.08.22	18.09.23	Minor
10	22/01227/OUT	Ashfield Farm, Kirkby Road, Desford	120 dwellings	Allowed	19.12.22	05.10.23	Major
11	22/00916/FUL	12 Rodney Gardens, Sheepy Magna	Change of use agricultural to curtilage	Allowed	30.11.22	13.10.23	Other
12	20/00080/UNBLDS	Breach Lane Farm, Earl Shilton	Commercial use - vehicles	Dismissed	11.07.22	24.10.23	Enforcement
13	22/00058/OUT	Winter Cottage Stanton Lane, Stanton	1 dwelling	Dismissed	18.02.23	24.10.23	Minor
14	22/00733/FUL	314a Station Road, Bagworth	3 dwellings + 1 HMO	Dismissed	27.07.22	27.10.23	Minor
15	22/00192/OUT	Land at Lychgate Lane, Burbage	85 dwellings	Allowed	24.01.23	30.10.23	Major
16	21/00502/OUT	Land to the Southwest of Lutterworth Road, Burbage	80 dwellings	Allowed	16.08.22	30.10.23	Major
17	21/00195/FUL	Kyngs Golf and Country Club, Market Bosworth	9 holiday cabins	Dismissed	16.12.22	31.10.23	Major
18	23/00457/ADV	Hilltop Works 2 Keats Lane, Earl Shilton	illuminated billboard advert	Dismissed	08.05.23	07.11.23	Other
19	21/00203/UNBLDS	Land at The Old Cottage, Main Street, Shackerstone	unauthorised outbuilding to dwelling	Dismissed	06.07.23	13.11.23	Enforcement
20	22/00302/OUT	Land at Bagworth Road, Nailstone	9 dwellings	Dismissed	24.03.23	24.11.23	Minor
21	22/00772/FUL	84 Leicester Road Hinckley	5 dwellings	Dismissed	20.02.23	07.12.23	Minor
22	22/00021/FUL	Sheepy Parva Farm	Stable block and barn	Allowed	17.03.23	08.12.23	Other
23	22/01056/FUL	7 Dean Road, Hinckley	1 dwelling	Dismissed	24.05.23	18.12.23	Minor
24	21/00460/OUT	Land east of Bagworth Road, Barlestone	50 dwellings	Dismissed	15.09.22	11.12.22	Major
25	22/00394/FUL	Land Adjacent To 78 Queens Road, Hinckley	Extensions to form HMO	Dismissed	16.12.23	13.12.23	Minor
26	22/00752/OUT	Forest Hill Golf and Country Club	New Hotel	Dismissed	13.03.23	21.12.23	Major
27	23/00422/HOU	132 Stanley Road, Hinckley	Rear extension	Dismissed	29.04.23	03.01.24	Other
28	22/00065/FUL	Watling Inn, A5	Extension to hotel	Allowed	14.03.23	16.01.24	Major
29	22/00318/OUT	Land east of Stoke Road and north of Normandy Way (A47) Hinckley	475 dwellings	Allowed	02.05.23	18.01.24	Major
30	22/01203/FUL	2a Clarendon Road, Hinckley	Loft coversion to increase HMO capacity	Dismissed	19.12.23	05.02.24	Other
31	23/00633/HOU	9 Boyslade Road, Burbage	Two storey side and rear extensions	Allowed	27.06.23	07.02.24	Other
32	21/01295/OUT	Land off Desford Lane, Ratby	225 dwellings	Allowed	01.09.23	28.02.24	Major
33	23/00061/OUT	Land adjacent to Lockey Farm, Hunts Lane, Desford	100 dwellings	Allowed	04.09.23	25.03.24	Major
34	21/01305/FUL	Chapel Fields Livery Stables, Chapel Lane, Witherley	5 dwellings	Allowed	22.12.22	27.03.24	Minor