

Meeting: [Planning Committee](#)

Date: [14 October 2024](#)

Wards affected: [All](#)

Report Title: [Appeal Monitoring Report](#)

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1. Purpose of Report

- 1.1 The report provides Members with information on the latest appeal decisions received. The constitution requires:

20. Reviews of Decisions

20.1 The Planning Committee will review, at least annually, a sample of the implemented decisions made by that committee to assess the quality of those decisions. Visits will be incorporated into the schedule of site visits arranged for that committee. The purpose is to improve the quality and consistency of decision making and will assist in reviews of planning policy and monitoring the quality of decisions as required by Best Value Performance Indicators. Members and officers will undertake reviews together and include consideration of whether there is a need to initiate a review of any policies or practices.

20.2 At quarterly meetings of the Planning Committee, the results of recent Planning Inspectorate decisions will be reported. A short report will be provided to identify whether the decision was a delegated officer decision, or one taken by the committee and briefly outlining the main issues.

2. Introduction

2.1 This report provides information on recent appeal decisions. Although all Councillors receive appeal decisions by email, the purpose of this report is to monitor and inform future decision-making. This will help ensure that future decisions benefit Torbay and its communities by allowing good quality development in the right locations and resisting inappropriate or poor quality development in the wrong locations.

2.2 Cost

It is sometimes necessary to employ a Barrister to act on the Council's behalf in defending decisions at planning appeals. This cost is met by existing budgets. Where an application is refused against Officer advice, during this interim arrangement, the Divisional Director - Planning, Housing & Climate Emergency Place along with the Chair/Deputy Chair of Planning Committee will be required to assist in defending their decision at appeal. Where applicable as planning considerations, specific issues relating to sustainability and environmental issues, equalities impact and crime prevention impact of each proposed development are addressed in the relevant report in the attached schedule.

2.3 Financial Summary

The cost of defending decisions at appeal is met by existing budgets. Costs can be awarded against the Council at an appeal if the Council has acted unreasonably and/or cannot defend its decisions. Similarly, costs can be awarded in the Council's favour if an appellant has acted unreasonably and/or cannot substantiate their grounds of appeal.

2.4 Risks

The key risk relating to appeal decisions relates to awards of costs against the Council. An appeal can be lodged by the applicant if planning permission is refused, or if planning permission is granted but conditions are imposed, or against the Council's decision to take formal enforcement action. Costs can be awarded against the Council if decisions cannot be defended as reasonable, or if it behaves unreasonably during the appeal process, for example by not submitting required documents within required timescales. Conversely, costs can be awarded in the Council's favour if the appellant cannot defend their argument or behaves unreasonably.

An appeal can also be lodged by the applicant if the application is not determined within the statutory time period. However, with major developments, which often require a Section 106 agreement, it is unlikely that the application will be determined within the statutory time period. Appeals against non-determination are rare due to the further delay in receiving an appeal decision: it is generally quicker for applicants to wait for the Planning Authority to determine the application. Costs could only be awarded against the Council if it is found to have acted unreasonably. Determination of an application would only be delayed for good reason, such as resolving an objection or negotiating improvements or Section 106 contributions, and so the risk of a costs award is low. Mitigation measures to reduce risk are detailed in the table below. The probability of these risks occurring is considered to be low due to the mitigation measures, however the costs associated with a public inquiry can be very significant. These are infrequent, so the impact is considered to be medium.

3. Recommendation(s) / Proposed Decision

- 3.1. That Members note the report and Appendix 1 which includes the planning appeal decisions issued between 31 March and 30 September 2024.

4. List of Appeal Decisions

4.1: Application reference: P/2023/0849

Address: 36 Laura Grove, Paignton TQ3 2LR

Description of development: Side and rear extensions, and alteration to convert 36 and 36a to single dwelling.

Planning Inspectorate decision issued: 30 September 2024

Appeal reference: APP/X1165/W/24/3339167

Delegated decision

Main issues:

- Planning permission Ref P/2022/0359 was granted for side and rear extensions, and alteration to convert 36 and 36a to a single dwelling. It was subject to a number of conditions, including No 4 that required external finishes to match those of the existing building.
- A subsequent permission Ref P/2023/0849 was granted to vary the plans. This permission also contains a condition that deals with external finishes (No 4). However, it adds more by saying the cladding at the second floor of the east-facing gable end shall be removed and replaced with render to match the remainder of the house within 3 months of the date of this planning permission.
- The appeal is made directly against the imposition of condition 4 of P/2023/0849, as the appellant wished to retain the cladding. The Council contended that a planning condition is necessary to replace this cladding with a material of a colour to match the roof tiles (reddish brown), rather than render, as set out in the condition above.
- The main issue was the effect that varying condition 4 would have on the character and appearance of the area.

Decision: Allowed

4.2: Application reference: P/2024/0115

Address: 6 Horseshoe Bend, Paignton, Torbay, TQ4 6NH

Description of development: Extensions to front, side, and rear, and general re-ordering.

Planning Inspectorate decision issued: 30 August 2024

Appeal reference: APP/X1165/D/24/3345235

Delegated decision

Main issues:

The main issues were the effects of the proposal upon the character and appearance of the host property and wider street scene, and upon the living conditions at 8 Horseshoe Bend, with particular regard to visual impact and privacy.

Decision: Allowed

4.3: Application reference: P/2023/0835

Address: 53 Bolton Street, Brixham, Torbay, TQ5 9BZ

Description of development: Proposed is a rear dormer loft conversion.

Planning Inspectorate decision issued: 30 August 2024

Appeal reference: APP/X1165/D/24/3344162

Delegated decision

Main issues:

The main issue was the effect of the proposal upon the character and appearance of 53 Bolton Street and the Brixham Town Conservation Area, including also the setting of nearby listed buildings.

Decision: Dismissed

4.4: Application reference: P/2023/0835

Address: 63 Smallcombe Road, Paignton, Torbay, TQ3 3TJ

Description of development: Conversion of garage, and erection of a rear extension.

Planning Inspectorate decision issued: 30 August 2024

Appeal reference: APP/X1165/D/24/3344162

Delegated decision

Main issues:

The main issue was whether the proposal would result in a net loss of parking provision having specific regard to the Council's car parking requirements for dwelling houses.

Decision: Allowed.

4.5: Application reference: P/2023/0845

Address: Hatley, 20 Collingwood Close, Torquay, TQ1 2DN

Description of development: 'proposed alterations & extensions + garage to form bedrms to roof area extension ground floor bed rm/en-suite/utility/tv lounge & porch rear of existing kitchen WC/lobby'

Planning Inspectorate decision issued: 29 August 2024

Appeal reference: APP/X1165/D/24/3346659

Delegated decision

Main issues:

The main issue is the effects of the proposal upon the character and appearance of the area, including the Lincombes Conservation Area.

Decision: Split decision.

The appeal was dismissed insofar as it relates to removal of second vehicular access to the front garden and the erection of a new double garage.

The appeal was allowed insofar as it relates to the demolition of part store/garage, the erection of a single-storey side extension, a rear porch extension and roof extensions to front and rear to form bedroom/hobby room to loft area, with balcony and planning permission is granted for the demolition of part store/garage, the erection of a single-storey side extension, a rear porch extension and roof extensions.

4.6: Application reference: P/2023/0789

Address: 5 Princes Road East, Torquay, Torbay, TQ1 1PF

Description of development: The development proposed is described as a 'First floor extension to form specialist bathroom'

Planning Inspectorate decision issued: 30 August 2024

Appeal reference: APP/X1165/D/24/3343505

Delegated decision

Main issues:

The main issues were the effects of the proposal upon the character and appearance of the area, and upon the living conditions at 3 Princes Road East in terms of visual impact and light.

Decision: Dismissed

4.7: Application reference: P/2024/0192

Address: Edwinstowe, Middle Warberry Road, Torquay, TQ1 1RN

Description of development: Temporary retention of 1.7m front boundary fence, associated planting and permanent retention of front 2m security gate.

Planning Inspectorate decision issued: 27 August 2024

Appeal reference: APP/X1165/D/24/3347977

Delegated decision

Main issues:

The effect of the proposal on the character and appearance of the street scene and Warberries Conservation Area (WCA).

Decision: Dismissed

4.8: Application reference: P/2023/0455

Address: 29 Western Road, Torquay TQ1 4RJ

Description of development: Alterations to form two dwelling units

Planning Inspectorate decision issued: 19 August 2024

Appeal reference: APP/X1165/W/24/3341749

Delegated decision

Main issues:

The effect of the proposal on:

- the living conditions of future occupiers, with specific regard to internal space standards, outlook and light.
- the character and appearance of the St Marychurch Conservation Area.

Decision: Dismissed

4.9: Application reference: P/2023/0704

Address: 2 Clifton Road, Paignton TQ3 3LN

Description of development: Proposed change of use from vacant shop premises to bedsit.

Planning Inspectorate decision issued: 15 August 2024

Appeal reference: APP/X1165/W/24/3339134

Delegated decision

Main issues:

The living conditions of the future occupants of 2 Clifton Road, with specific regard to internal space standards, and access to outdoor garden space.

Decision: Dismissed

4.10 Application reference: P/2023/0808

Address: 480 Babbacombe Road, Torquay

Description of development: Change of use from cafe to residential accommodation. Replacement of glazed frontage with composite door and UPVC windows.

Planning Inspectorate decision issued: 12 August 2024

Reference: APP/X1165/W/24/3337736

Delegated decision

Main issues:

- the effect of the proposal on the character and appearance of the area having regard to the Lincombes Conservation Area (LCA); and,
- whether the living conditions of future occupiers of the proposed development would be acceptable, with particular regard to outlook, and daylight.

Decision: Dismissed

4.11 Application reference: P/2023/0422

Address: Westerlands, Flat 3, Underhill Road, Torbay, Torquay

Description of development: Change of use from cafe to residential accommodation. Replacement of glazed frontage with composite door and UPVC windows.

Planning Inspectorate decision issued: 26 July 2025

Reference: APP/X1165/W/24/3340925

Delegated decision

Main issues:

- whether the proposal would comply with local and national policies that seek to steer new development away from areas at the highest risk from flooding; and
- the effect of the proposal on the character and appearance of the area.

Decision: Dismissed

4.12 Application reference: P/2022/1357

Address: Land to the north of Totnes Road, Collaton St Mary, Paignton TQ4 7PY

Description of development: Planning permission for up to 73 dwellings (including market and affordable housing) with all matters reserved except access arrangements to be provided directly onto Totnes Road via an access junction without complying with conditions attached to the approval of reserved matters on 20 March 2023 pursuant to planning permission Ref P/2019/0604, dated 25 November 2020.

Planning Inspectorate decision issued: 23 July 2024

Reference: APP/X1165/W/23/3323427

Delegated decision

Background and main issues:

- Planning Committee decision.
- Outline planning permission was granted at the site in 2020 for up to 73 dwellings. The Council approved a subsequent reserved matters application. The appellant submitted a further application to seek to vary some of the conditions that the Council imposed. This appeal follows the Council's refusal of that application.
- The main issue is therefore whether the disputed conditions are necessary in the interests of the character and appearance of the area, living conditions, ecology, and highway safety.

Decision: Allowed with split decision

Costs: application refused. No unnecessary or wasted expense has been incurred and an award of costs is not warranted.

4.13 Application reference: P/2023/0278

Address: 22 Roundham House, Flat 8, Belle Vue Road, Torbay, Paignton

Description of development: Replace existing windows with matching uPVC vertically sliding windows.

Planning Inspectorate decision issued: 22 July 2024

Reference: APP/X1165/W/23/3327895

Delegated decision

Main issues:

The effect of the proposal on the character and appearance of the host building and Roundham and Paignton Harbour Conservation Area (CA).

Decision: Dismissed.

4.14 Application reference: P/2023/0874

Address: 1 Broad Reach, Paignton TQ4 6JZ

Description of development: First floor extension; ground floor extensions; creation of a first floor balcony; changes to windows and materials and associated landscaping works.

Planning Inspectorate decision issued: 15 July 2024

Reference: APP/X1165/D/24/3342294

Delegated decision

Main issues:

The main issues are the effects of the development on the character and appearance of the area and upon the living conditions of existing and future occupiers of neighbouring properties, having particular regard to the effects upon No. 2 Broad Reach.

Decision: Dismissed.

4.15 Application ref: P/2023/1064

Address: 1B Hillrise, Galmpton, Brixham TQ5 0PR

Description of development: Proposed is a proposed two storey side extension to provide additional accommodation.

Planning Inspectorate decision issued: 11 July 2024

Decision: Dismissed.

Reference: APP/X1165/D/24/3342941

Delegated decision

Main issues:

The main issue is the effects of the development on the character and appearance of the area.

Decision: Dismissed.

4.16 Application reference: P/2023/0597

Address: Building Plot, North of 9 - 17 Greenswood Road, Brixham TQ5 9HN

Description of development: Proposed bungalow

Reference: APP/X1165/W/24/3336614

Delegated decision

Main issues:

- Noting the matters raised by interested parties, the Inspector considered the main issue to be the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to overlooking, and disruption during the construction phase, and future occupiers with particular regard to parking provision and accessibility.
- The appeal concluded that the proposal would not result in any significantly harmful effects on the living conditions of neighbouring occupiers with particular regard to overlooking, and disruption during the construction phase, and future occupiers with particular regard to parking provision and accessibility.

Decision: Allowed.

4.17: Application reference: P/2023/0597

Address: Building Plot, North of 9 - 17 Greenwood Road, Brixham TQ5 9HN

Description of development: The development proposed is a bungalow

Planning Inspectorate decision issued: 8 July 2024

Appeal reference: APP/X1165/W/24/3336614

Delegated decision

The main issue was the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to overlooking, and disruption during the construction phase, and future occupiers with particular regard to parking provision and accessibility.

Decision: Allowed

Appendices

Appendix 1:

Planning appeal decisions issued between 31 March and 30 September 2024

Total	31	
Allowed	11	35.48%
Dismissed	18	58.06%
Withdrawn	1	3.23%
Split	1	3.23%