

Meeting: [Planning Committee](#)

Date: [3 February 2025](#)

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 1 October 2024 – 23 January 2025.

4. List of Appeal Decisions

4.1: Application reference: P/2024/0040

Address: 36 Lucius Street, Torquay

Description of development: The development proposed is proposed alterations and change of use from Class E to Class C.

Planning Inspectorate decision issued: 20 January 2025

Appeal reference: APP/X1165/W/24/3344516

Delegated decision

Main issues:

- the effect of the proposal on the character and appearance of the area having regard to whether the proposal would preserve or enhance the character or appearance of the Belgravia Conservation Area (CA);
- the effect of the proposal on the provision of employment space;
- whether the living conditions of future occupiers of the proposed development would be acceptable with particular regard to the provision of natural light and refuse storage; and,
- whether the proposal would help to close the gap between the most and least disadvantaged people and neighbourhoods.

Decision: Dismissed.

4.2: Application reference: P/2024/0121

Address: 8 Nut Tree Orchard, Brixham

Description of development: The development proposed is single storey extension to rear of property, flat roof with lantern, 3.2 m deep 4.9 m long.

Planning Inspectorate decision issued: 15th January 2025

Appeal reference: APP/X1165/W/24/3344286

Delegated decision

Main issues: The main issue is the effect of the development on flood risk.

Decision: Allowed.

4.3: Application reference: P/2024/0475

Address: Fosseyway West, St Agnes Lane, Torquay

Description of development: The development proposed is demolition of uPVC porch and replacement with one storey extension with terrace.

Planning Inspectorate decision issued: 23 December 2024

Appeal reference: APP/X1165/D/24/3353165

Delegated decision

Main issues: The effect of the proposed development on: (a) the character and appearance of the area, with particular regard to symmetry and the streetscene; and (b) the character and appearance of the area, with particular regard to designated and non-designated heritage assets.

Decision: Allowed. Costs refused.

4.4: Application reference: P/2024/0150

Address: 9 Thurlow Road, Torquay

Description of development: Removal of part of the existing boundary wall to allow improved access to the property.

Planning Inspectorate decision issued: 13 December 2024

Appeal reference: APP/X1165/D/24/3347211

Delegated decision

Main issues: The main issue is the effect of the proposed development on the character and appearance of the area with particular regard to the appeal sites location within the Upton Conservation Area.

Decision: Dismissed.

4.5: Application reference: P/2023/1062

Address: 13 Eugene Road, Preston, Paignton

Description of development: The development permitted is construction of detached ancillary annexe to rear of property (description of development changed on 9 January 2024 to reflect proposed development).

Planning Inspectorate decision issued: 13 December 2024

Appeal reference: APP/X1165/W/24/3349405

Delegated decision

Main issues: Planning permission Ref P/2023/1062 was granted for the construction of a detached ancillary annexe to the rear of the host property. It was subject to a number of conditions, including No 1 that required external materials to match those of the existing building. This appeal is made directly against the imposition of this condition. The appellant considers the proposed materials would be sympathetic and that the condition has been unreasonably applied. Conversely, the Council relies on its officer report which says that a composite cladding material would not be in keeping with the host dwelling.

Decision: Allowed.

4.6: Application reference: P/2023/1074

Address: 6 Laywell Close, Brixham

Description of development: Proposed garage and hardstanding in front garden.

Planning Inspectorate decision issued: 11 December 2024

Appeal reference: APP/X1165/W/24/3346839

Delegated decision

Main issues: The main issues are the effect of the proposed development on (i) the character and appearance of the area; and (ii) parking provision.

Decision: Allowed.

4.7: Application reference: P/2024/0150

Address: 9 Thurlow Road, Torquay

Description of development: The development proposed is removal of part of the existing boundary wall to allow improved access to the property.

Planning Inspectorate decision issued: 13 December 2024

Appeal reference: APP/X1165/D/24/3347211

Delegated decision

Main issues: The main issue is the effect of the proposed development on the character and appearance of the area with particular regard to the appeal sites location within the Upton Conservation Area.

Decision: Dismissed.

4.8: Application reference: P/2024/0318

Address: 4 Alison Road, Preston, Paignton

Description of development: The development proposed is formation of box dormer to south elevation.

Planning Inspectorate decision issued: 11 December 2024

Appeal reference: APP/X1165/D/24/3352341

Delegated decision

Main issues: The main issue is the effect of the proposed development on the character and appearance of the host property and surrounding area.

Decision: Dismissed

4.9: Application reference: P/2023/0524

Address: Former Korean Martial Arts, 37 Tor Hill Road, Torquay

Planning Inspectorate decision issued: 10 December 2024

Appeal reference: APP/X1165/W/23/3333004

Delegated decision

Main issues: The appellant applied to the Council to vary the approved plans as the height of the building and the dimensions of the first floor windows differ from the details shown on the plans.

The Council refused the application on 25 August 2023. The reason given for the refusal is that the proposed variation would result in development that is detrimental to the character and appearance of the host building and the Tormohun Conservation Area (the CA).

The main issue in this appeal is whether disputed condition P1 is reasonable and necessary in the interests of the character and appearance of the area, with special regard to the CA.

Decision: Dismissed.

4.10: Application reference: P/2024/0168

Address: 38 Church Street, Paignton

Description of development: Change of use from shop / restaurant to dwelling.

Planning Inspectorate decision issued: 28 November 2024

Appeal reference: APP/X1165/W/24/3345200

Delegated decision

Main issues: The main issues are the effect of the proposed development on:

- (i) The living conditions of future occupiers, having particular regard to outlook, natural light, privacy, noise and disturbance, and outdoor amenity space;
- (ii) The character and appearance of the Old Paignton Conservation Area; and
- (iii) Refuse storage.

Decision: Allowed.

4.11: Application reference: P/2023/0687

Address: 83 North View Road, Brixham

Description of development: The development proposed is the formation of an extension to rear with other external alterations.

Planning Inspectorate decision issued: 26 November 2024

Appeal reference: APP/X1165/D/24/3350973

Delegated decision

Main issues: The main issues are the effect of the proposal on a) the character and appearance of the host property and the locality and b) energy consumption and carbon emissions.

Decision: Allowed. Awards of costs refused.

4.12: Application reference: P/2023/0488.

Address: 35 Polsham Park, Paignton

Description of development: The development is a proposed detached garage with work/store area.

Planning Inspectorate decision issued: 27 November 2024

Reference: APP/X1165/W/24/3346362

Delegated decision

Main issues: The main issue is whether the proposed garage would preserve or enhance the character or appearance of the Polsham Conservation Area.

Decision: Dismissed.

4.13: Application reference: P/2023/0777 and P/2023/0778

Address: 18 Teignmouth Road, Torquay

Description of development:

The development proposed is a solar panel system to be added on to roof with associated electrical works and battery storage in loft-space.

The works proposed are a solar panel system to be added on to roof with associated electrical works and battery storage in loft space.

Planning Inspectorate decision issued: 20 November 2024

References: APP/X1165/W/24/3347465 and APP/X1165/Y/24/3347251

Delegated decision

Main issues: The main issue in both appeals is whether any harm to the heritage interest (significance) of 18 Teignmouth Road would be outweighed by the benefits of providing energy from a renewable resource.

Decision: Both dismissed.

4.14: Application reference: P/2023/1030

Address: 135 Grenville Avenue, Torquay

Description of development: The decision notice describes the development as erection of a single storey extension to outbuilding (retrospective).

Planning Inspectorate decision issued: 14th November 2024

Reference: APP/X1165/W/24/3344353

Delegated decision

Background and main issues:

- The effect of the proposed development the character and appearance of the area;
- The effect of the proposed development on the living conditions of the occupiers of 133 Grenville Avenue (No 133) with regards to outlook and overshadowing; and
- Whether the proposed development adequately deals with surface water run-off.

Decision: Dismissed.

4.15: Application reference: P/2022/1186

Address: Singleton Gardens, Meadfoot Sea Road, Torquay

Description of development: The development proposed is the erection of 7 apartments, 2 attached dwellings and extensions/refurbishments to an existing dwelling plus associated landscaping and access work.

Planning Inspectorate decision issued: 12 November 2024

Reference: APP/X1165/W/23/3333967

Committee decision

Main issues: The two main issues are: firstly, whether any harm to the significance of heritage assets would be outweighed by the public benefits of the proposed development and; secondly, whether, having regard to the information submitted in respect of the financial viability of the development, the proposal includes an adequate mechanism for securing any financial contribution towards the costs of providing affordable housing elsewhere within Torbay.

Decision: Dismissed. Costs allowed.

4.16: Application reference: P/2023/0584

Address: 9 Ilsham Road, Torquay

Description of development: The development is proposed new accommodation at rear of property.

Planning Inspectorate decision issued: 6 November 2024

Reference: APP/X1165/W/24/3340579

Delegated decision

Main issues:

- The effect of the development on the living conditions of future occupiers with regard to parking, amenity space, light levels and outlook, and the living conditions of occupiers of Bellair Cottage with regard to outlook, visual intrusion and overlooking; and
- Whether the development provides an adequate level of parking and affects highway safety

Decision: Dismissed.

4.17: Application ref: P/2024/0192

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

Description of development: The development proposed is described as temporary retention of 1.7m front boundary fence, associated planting and permanent retention of front 2m security gate.

Planning Inspectorate decision issued: 4 November 2024

Reference: APP/X1165/D/24/3347977

Main issues: The main issue is the effect of the proposal on the character and appearance of the street scene and Warberries Conservation Area (WCA).

Decision: Dismissed.

4.18: Application ref: P/2023/0806

Address: Flat 10 Park Hall, Parkhill Road, Torquay

Description of development: The development is for the formation of decked area on roof terrace including external steps and shed.

Planning Inspectorate decision issued: 4 November 2024

Reference: APP/X1165/W/24/3343885

Delegated decision

Main issues: The main issues are the effect of the proposed development in respect of (i) the character and appearance of the area including the St Johns Wood, Park Hill Urban Landscape Protection Area, (ii) the living conditions of neighbouring properties, (iii) biodiversity, and (iv) trees.

Decision: Dismissed.

4.19: Application reference: P/2023/0978

Address: Palm Tree Court, Palm Tree View, Paignton, Torbay TQ4 7FD

Description of development: The development proposed is removal of Juliette balconies and construction of balconies to Apartments 5, 6, 7 & 8.

Planning Inspectorate decision issued: 1 October 2024

Appeal reference: APP/X1165/W/24/3342682

Delegated decision

Main issues: The main issue is the effect of the proposed development on the living conditions of nearby residents at Daveys Elm View, with particular regard to privacy.

Decision: Dismissed.

Enforcement appeals

Address: 80 Windsor Road, Torquay, TQ1 1SU

Breach of planning control alleged:

The demolition of the boundary wall and associated gate piers along the south-western boundary of the site, to create a means of access onto a Classified Highway.

Planning Inspectorate decision issued: 5 December 2024

Reference:

Appeal A Ref: APP/X1165/C/24/3340755

Appeal B Ref: APP/X1165/C/24/3340756

Decision:

The appeal is dismissed, and the enforcement notice is upheld, with the Inspector concluding that the alleged breach has happened as a matter of fact and would be a breach of the planning legislation; and that the requirements of the Notice are not excessive.

Address: 3 Manor Road, Paignton TQ3 2HT

Breach of planning control alleged:

- The demolition of the boundary wall and metal railings along the north-eastern boundary of the site, to create a means of access onto a classified highway.
- The erection of an outbuilding on the eastern boundary of the above land in excess of 2.5 metres in height within 2.0m of the boundary.

Planning Inspectorate decision issued: 5 December 2024

Reference: APP/X1165/C/24/3341395

Decision:

The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Address: 78 Spencer Road, Paignton TQ3 3SY

Breach of planning control alleged:

- The breach of planning control as alleged is: Without planning permission the carrying out of building and engineering operations in the front garden fronting on to Spencer Road, to erect retaining walls raising the land and the laying of a hardstanding and perimeter wall for the formation of off-road parking.

Planning Inspectorate decision issued: 5 December 2024

References:

Appeal A Ref: APP/X1165/C/24/3343570

Appeal B Ref: APP/X1165/C/24/3343571

Decision:

The appeals are dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appendices

Appendix 1:

Planning appeal decisions issued between 1 October 2024 – 23 January 2025

Total	21	
Allowed	7	33
Dismissed	13	62
Withdrawn	1	5
Split	0	0