



Planning Committee

Tuesday 1 July 2014 at 7.00 pm

Board Room 2 - Brent Civic Centre, Engineers Way,
Wembley HA9 0FJ

Membership:

Members

Councillors:

Marquis (Chair)
Colacicco (Vice-Chair)
Agha
S Choudhary
Filson
Hylton
Kansagra
Mahmood

Substitute Members

Councillors:

Chohan, Choudhry, Colwill, Conneely, Duffy,
Daly, Ezeajubdi, Willhelmina Mitchell-Murray and
BM Patel

For further information contact: Joe Kwateng, Democratic Services Officer
020 8937 1354, joe.kwateng@brent.gov.uk

For electronic copies of minutes, reports and agendas, and to be alerted when the minutes of this meeting have been published visit:

democracy.brent.gov.uk

The press and public are welcome to attend this meeting

Members' briefing will take place at 6.30pm in Boardrooms 7 and 8

Training for members including substitutes will start at the end of the meeting which is likely to be 8:00pm

Agenda

Introductions, if appropriate.

Apologies for absence and clarification of alternate members

ITEM	WARD	PAGE
1. Declarations of personal and prejudicial interests Members are invited to declare at this stage of the meeting, any relevant financial or other interest in the items on this agenda. Extract of Planning Code of Practice		
2. Proposed Introduction of Greater Gambling Protections and Controls The Department for Culture Media and Sport (DCMS) is proposing, and consulting upon, the introduction of gambling protections and controls, including the creation of a separate planning use class containing betting shops. This report explains the limitations of the council's current planning and licencing powers to control the spread of betting shops, and the implications of the proposed controls for Brent. It goes on to recommend the council support the DCMS proposal.	All Wards	5 - 10
3. Appeals Monitoring July 2014 This report follows previous monitoring information presented to the Members and provides recent information and analysis of appeal decisions for 2013/2014. This information is also compared and collated with appeal decisions for 2012/2013. The report also evaluates how the council's current policies are being used in determining planning applications.	All Wards	11 - 18
4. Any Other Urgent Business Notice of items to be raised under this heading must be given in writing to the Democratic Services Manager or his representative before the meeting in accordance with Standing Order 64.		

Date of the next meeting: Wednesday 16 July 2014

The site visits for that meeting will take place the preceding Saturday 12 July 2014 at 9.30am when the coach leaves the Civic Centre.



- Please remember to **SWITCH OFF** your mobile phone during the meeting.
- The Conference Hall is accessible by lift and seats will be provided for members of the public on a first come first served principle.

EXTRACT OF THE PLANNING CODE OF PRACTICE

Purpose of this Code

The Planning Code of Practice has been adopted by Brent Council to regulate the performance of its planning function. Its major objectives are to guide Members and officers of the Council in dealing with planning related matters and to inform potential developers and the public generally of the standards adopted by the Council in the exercise of its planning powers. The Planning Code of Practice is in addition to the Brent Members Code of Conduct adopted by the Council under the provisions of the Local Government Act 2000. The provisions of this code are designed to ensure that planning decisions are taken on proper planning grounds, are applied in a consistent and open manner and that Members making such decisions are, and are perceived as being, accountable for those decisions. Extracts from the Code and the Standing Orders are reproduced below as a reminder of their content.

Accountability and Interests

4. If an approach is made to a Member of the Planning Committee from an applicant or agent or other interested party in relation to a particular planning application or any matter which may give rise to a planning application, the Member shall:
 - a) inform the person making such an approach that such matters should be addressed to officers or to Members who are not Members of the Planning Committee;
 - b) disclose the fact and nature of such an approach at any meeting of the Planning Committee where the planning application or matter in question is considered.
7. If the Chair decides to allow a non-member of the Committee to speak, the non-member shall state the reason for wishing to speak. Such a Member shall disclose the fact he/she has been in contact with the applicant, agent or interested party if this be the case.
8. When the circumstances of any elected Member are such that they have
 - (i) a personal interest in any planning application or other matter, then the Member, if present, shall declare a personal interest at any meeting where the particular application or other matter is considered, and if the interest is also a prejudicial interest shall withdraw from the room where the meeting is being held and not take part in the discussion or vote on the application or other matter.
11. If any Member of the Council requests a Site Visit, prior to the debate at Planning Committee, their name shall be recorded. They shall provide and a

record kept of, their reason for the request and whether or not they have been approached concerning the application or other matter and if so, by whom.

Meetings of the Planning Committee

24. If the Planning Committee wishes to grant planning permission contrary to officers' recommendation the application shall be deferred to the next meeting of the Committee for further consideration. Following a resolution of "minded to grant contrary to the officers' recommendation", the Chair shall put to the meeting for approval a statement of why the officers recommendation for refusal should be overturned, which, when approved, shall then be formally recorded in the minutes. When a planning application has been deferred, following a resolution of "minded to grant contrary to the officers' recommendation", then at the subsequent meeting the responsible officer shall have the opportunity to respond both in a further written report and orally to the reasons formulated by the Committee for granting permission. If the Planning Committee is still of the same view, then it shall again consider its reasons for granting permission, and a summary of the planning reasons for that decision shall be given, which reasons shall then be formally recorded in the Minutes of the meeting.

25. When the Planning Committee vote to refuse an application contrary to the recommendation of officers, the Chair shall put to the meeting for approval a statement of the planning reasons for refusal of the application, which if approved shall be entered into the Minutes of that meeting. Where the reason for refusal proposed by the Chair is not approved by the meeting, or where in the Chair's view it is not then possible to formulate planning reasons for refusal, the application shall be deferred for further consideration at the next meeting of the Committee. At the next meeting of the Committee the application shall be accompanied by a further written report from officers, in which the officers shall advise on possible planning reasons for refusal and the evidence that would be available to substantiate those reasons. If the Committee is still of the same view then it shall again consider its reasons for refusing permission which shall be recorded in the Minutes of the Meeting.

29. The Minutes of the Planning Committee shall record the names of those voting in favour, against or abstaining:
 - (i) on any resolution of "Minded to Grant or minded to refuse contrary to Officers Recommendation";
 - (ii) on any approval or refusal of an application referred to a subsequent meeting following such a resolution.

STANDING ORDER 62 SPEAKING RIGHTS OF THE PLANNING COMMITTEE

- (a) At meetings of the Planning Committee when reports are being considered on applications for planning permission any member of the public other than the applicant or his agent or representative who wishes to object to or support the grant of permission or support or oppose the imposition of conditions may do

so for a maximum of 2 minutes. Where more than one person wishes to speak on the same application the Chair shall have the discretion to limit the number of speakers to no more than 2 people and in so doing will seek to give priority to occupiers nearest to the application site or representing a group of people or to one objector and one supporter if there are both. In addition (and after hearing any members of the public who wish to speak) the applicant (or one person on the applicant's behalf) may speak to the Committee for a maximum of 3 minutes. In respect of both members of the public and applicants the Chair and members of the sub-committee may ask them questions after they have spoken.

- (b) Persons wishing to speak to the Committee shall give notice to the Democratic Services Manager or his representatives prior to the commencement of the meeting. Normally such notice shall be given 24 hours before the commencement of the meeting. At the meeting the Chair shall call out the address of the application when it is reached and only if the applicant (or representative) and/or members of the public are present and then signify a desire to speak shall such persons be called to speak.
- (c) In the event that all persons present at the meeting who have indicated that they wish to speak on any matter under consideration indicate that they agree with the officers recommendations and if the members then indicate that they are minded to agree the officers recommendation in full without further debate the Chair may dispense with the calling member of the public to speak on that matter.

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Planning Committee

1 July 2014

Report from the Operational Director, Planning & Regeneration

Wards affected:
All

Proposed Introduction of Greater Gambling Protections and Controls

1.0 Summary

1.1 The Department for Culture Media and Sport (DCMS) is proposing, and consulting upon, the introduction of gambling protections and controls, including the creation of a separate planning use class containing betting shops. This report explains the limitations of the council's current planning and licencing powers to control the spread of betting shops, and the implications of the proposed controls for Brent. It goes on to recommend the council support the DCMS proposal.

2.0 Recommendations

2.1 That the Planning Committee note the proposed draft response to the consultation at Appendix A which supports the proposed creation of a separate use class for betting shops, and highlight to DCMS the need for a separate class for pawnbrokers and pay day loan shops, given that they present similar issues to that of betting shops.

3.0 Detail

3.1 There is increasing evidence that betting shops are overly dominating town centres. In Brent between 2007 and 2013, the number of betting shops in town centres increased by 41%. For town and neighbourhood centres to be successful, it is imperative that they provide a range of uses to encourage a diverse customer base and increased footfall. Also of concern is that research undertaken by the Gambling Commission on the demographics of high-time only gamblers, indicates Brent's residents are particularly at risk from social impact associated with betting shops, such as problem gambling. As such, the council is proposing to take forward a Development Management policy to set a limit on the proportion of betting shops within town and neighbourhood centres and also to prevent clustering. As it stands, however, the council's powers to implement such a policy are limited.

3.2 The Gambling Act 2005, removed the 'demand test' meaning it is no longer necessary for developers to prove there is demand for further betting shops in an

area. Therefore, the council's Licencing Committee can only have regard to a limited number of criteria including impact on crime and anti-social behaviour, and protecting children and other vulnerable persons.

- 3.3 In terms of planning powers, betting shops fall within the A2 use class. This means these businesses can open in units previously used by financial and professional services (A2), restaurants and cafés (A3), drinking establishments (A4) and hot food takeaways (A5) without planning permission being required. Only changes from retail shops (A1) would currently require planning permission. Local authorities do have the power to overrule these permitted changes of use through the introduction of an Article 4 Direction under the Town and Country Planning Act. However, an Article 4 Direction has financial implications such as loss of planning fees and potential compensation claims. It would also not prevent existing premises in A2 use from converting to betting shops without the need for planning permission.
- 3.4 Brent Council, along with other authorities, has been campaigning for greater powers to control the spread of betting shops. In response to growing concerns, DCMS published the report 'Gambling Protection and Controls' (April 2014). The report proposes, as part of the Government's broader planning reform, to create a smaller planning use class containing betting shops. This will mean that in future, where it is proposed to convert a bank, building society or estate agent into a betting shop, a planning application will be required. In addition, the Government will remove the ability for other premises such as restaurants and pubs to change use to a betting shop without planning permission. All changes of use to a betting shop would therefore require planning permission in future.
- 3.5 In addition to planning controls, the DCMC proposal includes the following protections and controls:-
- Licencing - Betting shop operators will be required to set out how they plan to comply with social responsibility codes when applying for a gambling premises licence.
 - Player projection measures – Give players better information, and provide break points and pauses for thought to help people stay in control. As part of this, the Gambling Commission is undertaking a review of its licence conditions and codes of practice.
 - Gambling advertising - A review of the codes governing gambling advertising.
 - Better education – A £2million programme to promote responsible gambling.
- 3.6 The Department for Communities and Local Government will consult on the detail of these proposals as part of a wider consultation on change of use in summer 2014.

Proposed Council Response

- 3.7 The proposal will help the council to better implement policy to prevent an overconcentration of betting shops, and in doing so protect the viability of Brent's town centres and well-being of local residents. It is therefore recommended that the Planning Committee agree that officers respond in a form indicated in the draft in Appendix A in support of the proposed creation of a separate use class for betting shops, as well as highlighting to the DCMS the need for a separate class for

pawnbrokers and payday loan shops, which present similar issues to that of betting shops.

4.0 Financial Implications

4.1 There are no direct, immediate financial implications arising from the consultation. Should the proposal go ahead the council will not have to progress an Article 4 Direction to control betting shops, and therefore will not have the financial risk of loss of planning fees and potential compensation claims.

5.0 Legal Implications

5.1 To implement the proposal the Government will have to take forward amendments to The Town and Country Planning (Use Classes) Order 1987 (as amended).

6.0 Diversity Implications

6.1 The 2010 British Gambling Prevalence Survey undertaken by the Gambling Commission found the profile of high-time only gamblers consisted disproportionately of those with the poorest socio-economic indicators. The study also found an association between problem gambling and being Asian/Asian British, unemployed and being in bad/very bad health. The introduction of greater powers to prevent the overconcentration of betting shops could therefore be of particular benefit to these groups.

7.0 Staffing/Accommodation Implications

7.1 Staff resources will be required to respond to the consultation.

8.0 Environmental Implications

8.1 No significant environmental implications are anticipated.

9.0 Background Papers

9.1 Gambling Protections and Controls (DCLG), April 2014

Contact Officers

Any person wishing to inspect the above papers should contact Claire Jones, Policy and Projects Team, Planning & Regeneration 020 8937 5301


Stephen Weeks
Head of Planning and Regeneration

Appendix A: Proposed Consultation Response

Brent Council strongly support the proposed creation of a separate use class for betting shops. In Brent between 2007 and 2013, the number of betting shops in town centres increased by 41%. For town and neighbourhood centres to be successful, it is imperative that they provide a range of uses to encourage a diverse customer base and increased footfall. The proposal will allow the council to better implement policy to prevent an overconcentration of betting shops, and in doing so protect the viability of Brent's town centres and well-being of local residents.

However, the council feels strongly revisions to the use class order should go further and create a separate use class for payday loan shops and pawnbrokers. These uses present similar issues to betting shops. Between 2007 and 2013, the number of pawnbrokers and payday loan shops in Brent's town centres increased by 171%. In some areas, these uses cluster and dominate the town centre frontage. As with betting shops these uses fall within use class A2, meaning they can open in premises in use class A5, A4, A3 and A2 without the need for planning permission. To protect the viability of town centres Local Planning Authorities require greater planning powers to control the spread of payday loan shops and pawnbrokers.

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 Brent	<p style="text-align: center;">Planning Committee 1 July 2014</p> <p>Report from the Strategic Director of Regeneration & Growth</p>
For Information	Wards affected: ALL
Appeals Decision Monitoring: 2013/2014	

1.0 Summary

1.1 This report follows previous monitoring information presented to the Members and provides recent information and analysis of appeal decisions for 2013/2014. This information is also compared and collated with appeal decisions for 2012/2013.

1.2 The purpose of the analysis is to provide the following outcomes:

- To help evaluate how saved Unitary Development Plan (UDP) policies and Council's supplementary guidance (SPGs and SPDs) are currently being used in determining planning applications and help to ensure that the Council's new development plan documents (DPDs) being developed through the Local Development Framework (LDF) process are usable, effective in terms of development management and can be successfully defended at Appeal;
- To identify areas where Appeal Statements and/or Officer Reports can be strengthened to further justify reasons for refusal;
- To consider whether a revised approach should be taken when assessing applications if it is identified that the Planning Inspectorate consistently allows appeals on a particular ground;
- Consider changing trends in the determination of appeals by the Planning Inspectorate.

2.0 Recommendations

2.1 This report is a summary of appeal monitoring and is for information only.

3.0 Background Information

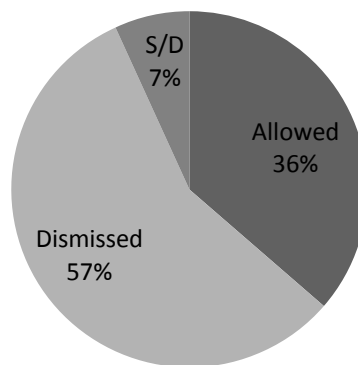
Planning Appeal Decisions

3.1 Between 1 April 2013 and 31 March 2014 (2013/2014 – Q1 to Q4), the Council determined a total of 3676 applications including planning applications, lawful development certificates and prior approvals; of these applications 20% were refused.

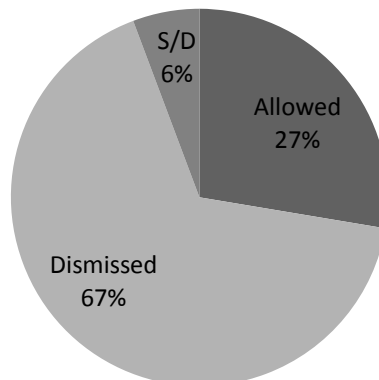
3.2 During this period, 110 appeal decisions were issued by the Planning Inspectorate compared to 105 in 2012/2013. *Figure1: Planning Appeal Decisions 2013/2014* shows the proportion of planning appeals which were 'Allowed', 'Dismissed' or where a 'Split Decision (S/D)' was issued. *Figure2: Planning Appeal Decisions 2012/2013* provides details of the previous year for comparison.

3.3 For information, whilst the Planning Inspectorate has the authority to issue a 'Split Decision' (where part of the proposal is part allowed and part is dismissed) the Council is not able to issue this type of decision. In these cases, whilst the Council may have found part of the scheme acceptable, the entire proposal is refused.

**Figure 1: Planning Appeal Decisions
2013/2014**

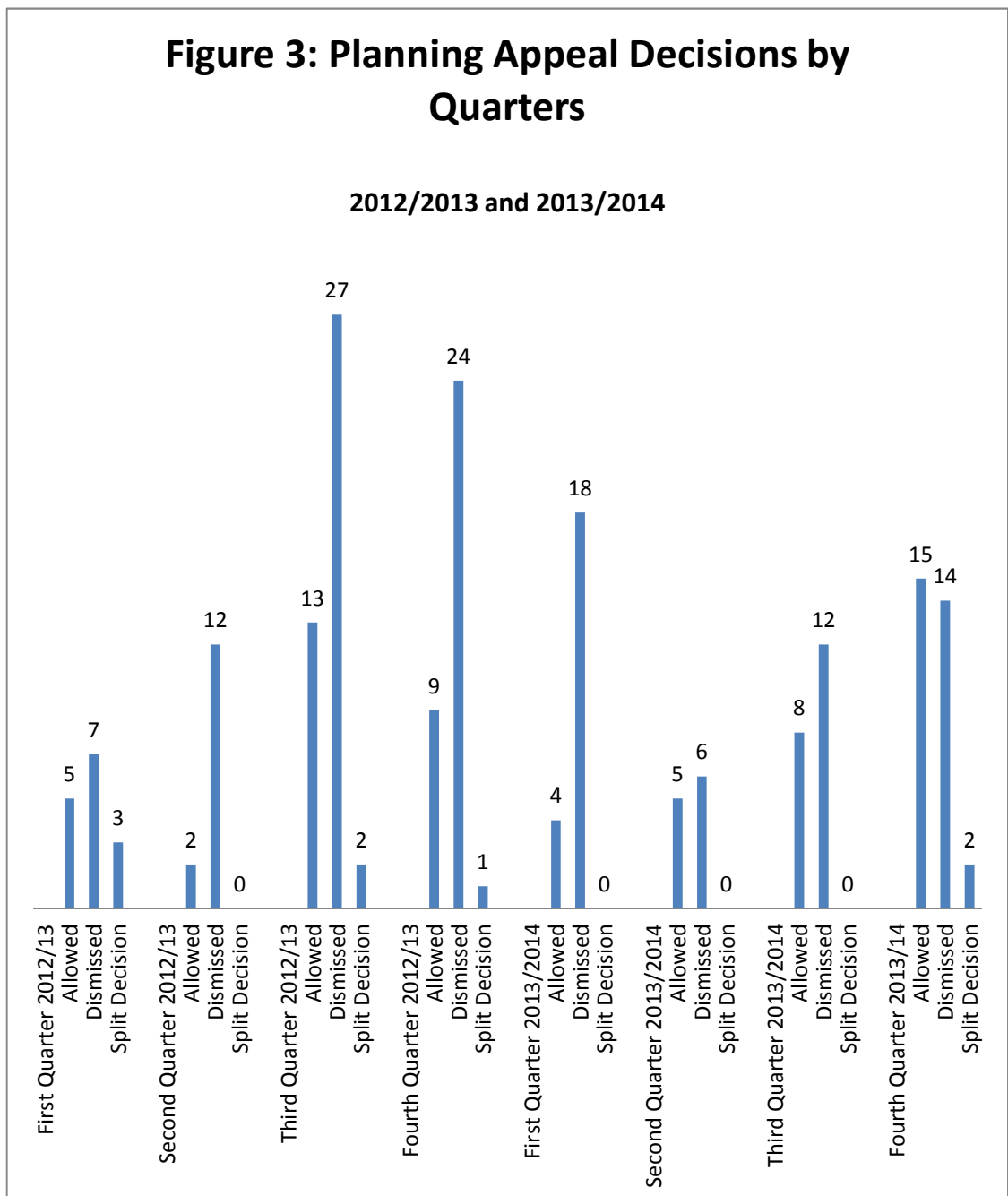


**Figure 2: Planning Appeal Decisions
2012/2013**



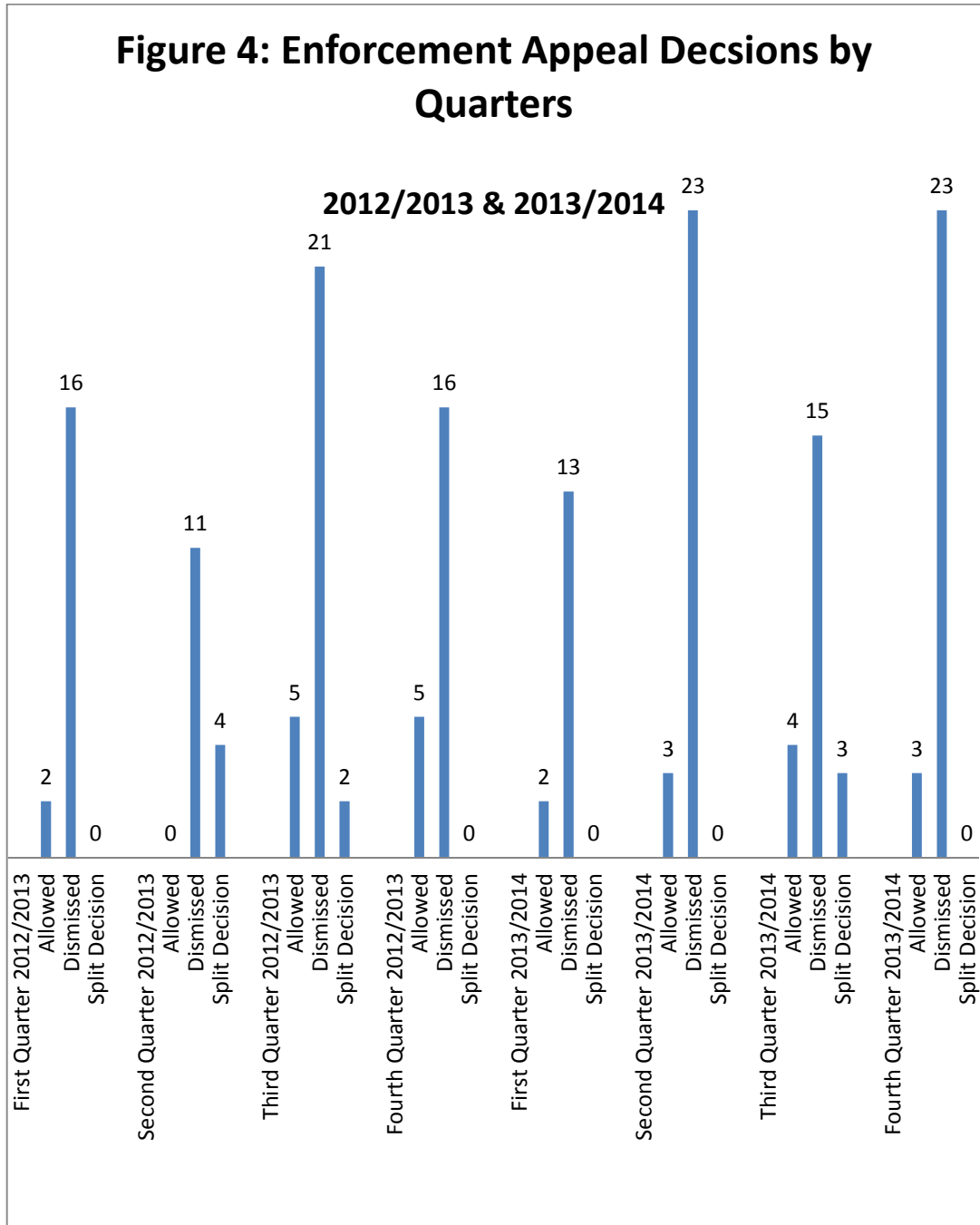
3.4 The information shows that the percentage of appeals dismissed has reduced by 10% in 2013/2014 when compared to the previous year.

3.5 *Figure 3: Planning Appeal Decisions by Quarters* shows that throughout the year, there is a significant variation in the number of appeals determined. It is apparent that over the latter part of 2013/2014, the difference between the proportion of appeals allowed and dismissed is reducing, impacting on the overall performance over the period of analysis.



Enforcement Appeal Decisions

3.6 Between 1 April 2013 and 31 March 2014, the Council issued 190 enforcement notices.



3.7 Figure 4: *Enforcement Appeal Decisions by Quarters* shows that the Council continues to be successful in defending the majority of enforcement appeals across the period of analysis.

4.0 Further Analysis of Planning Appeal Decisions

4.1 Further analysis has been undertaken which involves an assessment of reasons for refusal cited in the decision issued by the Council and recording whether the reasons were either:

‘Agreed’ The Planning Inspectorate agreed with the Council’s refusal reason

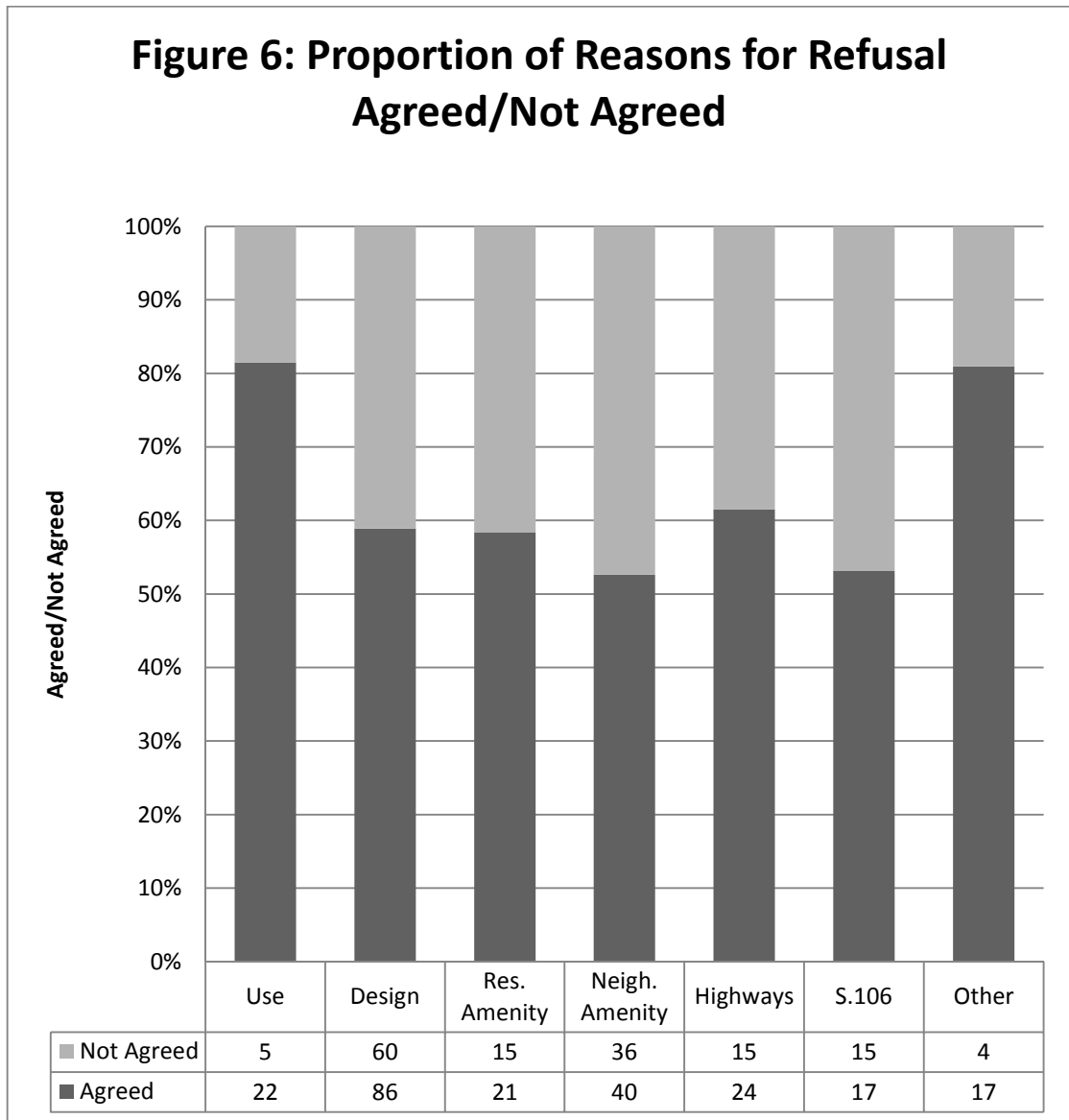
‘Not Agreed’ The Planning Inspectorate did not agree with the Council’s refusal reason

4.2 To enable analysis to be carried out, the reasons for refusal have been grouped into a number of categories. *Figure 5: Categorising Reasons for Refusal* details these categories and the types of reasons for refusal which they include.

Figure 5: Categorising Reasons for Refusal	
Use:	Principle of use proposed i.e. whether the change of use in a Primary Shopping Area complies with our policy to protect A1 retail shopping frontages.
Design:	Consideration of the height, bulk, use of materials etc. and the appropriateness in the local context.
Residential Amenity:	Quality of accommodation provided for future occupiers including provision of external amenity space, internal space standards.
Neighbour Amenity:	Reasons which have cited an impact on neighbouring occupiers. This may include noise nuisance, loss of light etc. from building works and other amenity impacts on neighbouring occupiers.
Highways:	Includes parking, access, servicing and highway safety.
Section 106:	Included in all cases where an obligation would be required; this generally is to accord with the Councils SPD: Planning Obligations.
Other:	Includes reasons that do not fall into the above categories.

4.3 It should be noted that in some cases, whilst the Planning Inspectorate has dismissed an appeal, not all reasons for refusal cited by the Council have been supported by the Planning Inspectorate.

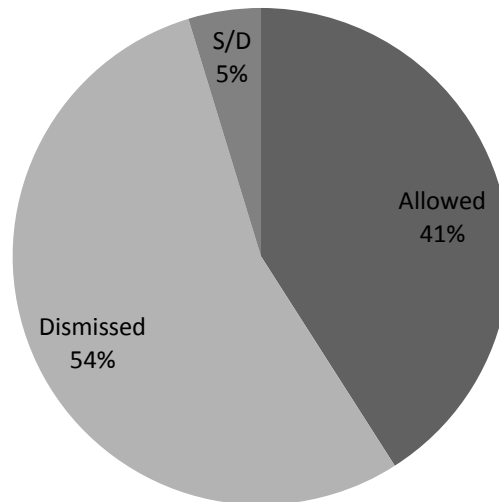
4.4 *Figure 6: Proportion of Reasons for Refusal Agreed/Not Agreed* provides an indication of how successful the Council has been in defending each category of reason for refusal. This information has been collated from all planning appeal decisions in 2012/2013 and 2013/2014. The table indicates the number of times each category of reason has been cited.



4.5 This additional data further supports trends previously identified and the need to focus work on reviewing decisions where ‘design’ and ‘neighbouring amenity’ are a reason for refusal. It is also noted that these categories of reasons for refusal are most frequently cited.

4.6 To focus this work, it is considered appropriate to look at specific types of applications. Householder applications, comprising predominately extensions to residential dwellinghouses, account for 59% of appeal decisions issued in 2012/2013 and 2013/2014. *Figure 7: Householder Applications 2012/2013 & 2013/2014* show that 41% of householder appeals were allowed during this period; a greater proportion than the overall statistics of 36% in 2013/2014 and 27% in 2012/2013.

**Figure 7: Householder Applications
2012/2013 & 2013/2014**



- 4.7 When assessing 'design' and 'neighbouring amenity' impacts of household extensions, the Council's 'Supplementary Planning Guidance 5: Altering and Extending Your Home' (SPG5) is used to guide decision making. This document was adopted in 2002. Given the changes to policy and legislation in the intervening period, this document may be considered out of date which will reduce the weight afforded to it in the decision making process.
- 4.8 It would appear that, in particular with regard to householder applications, the Planning Inspectorate is taking a different view on the general acceptability of development proposals and there has been a marked change in decision making. This change is likely to be influenced by the National Planning Policy Framework adopted in March 2012 which sets out a presumption in favour of sustainable development. Furthermore, in terms of householder extensions, the changes to permitted development legislation to allow larger home extensions mean that the scale and design of extensions being built can differ significantly from the Council's adopted guidance.
- 4.9 Whilst work has started on a replacement guidance document for SPG5, it is recommended that this work is prioritised. A newly adopted document is likely to be afforded greater weight by the Planning Inspectorate and will provide clearer guidelines for residents who are looking to extend their homes.

Notable Issues

- 4.5 On 30 May 2013, the permitted development allowance changed and a new 'Prior Approval' procedure was introduced relating to single storey rear extensions (between 3 metres and 6 metres for an attached house and between 4 metres and 8 metres for detached houses). To date, the Council has received a total of 845 household prior approval applications and determined 689 applications. There

have been 5 appeals against the decision made by the Council – 2 dismissed, 2 allowed and 1 withdrawn. With this type of application, the amenity impacts can only be considered if objection is raised by a neighboring owner/occupier. This will continue to be monitored.

5.0 Conclusions

5.1 Including more recent appeal data has helped to more clearly identify trends. Whilst work has started on a replacement guidance document for SPG5, it is recommended that this work is prioritised to ensure it is afforded weight by the Planning Inspectorate.

6.0 Legal Implications

6.1 It is anticipated that this work will help the Council when defending reasons for refusal at appeal.

7.0 Diversity Implications

7.1 It is not the intention to prevent development but to ensure that the works are appropriate in the local context.

8.0 Staffing/Accommodation Implications

8.1 This work may result in a reduction in planning appeals in the future which will reduce officer workload.

9.0 Environmental Implications

9.1 The aim of these documents is to ensure development is in compliance with the Council's adopted policy

10.0 Background

10.1 Sourced from Brent's IT system - Acolaid

Contact Officers

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020 8937 5223

Stephen Weeks, Head of Planning, Planning and Development

Andy Donald, Strategic Director of Regeneration & Growth