



**Planning Committee**  
13 February 2013

**Report from the Director of  
Regeneration & Major Projects**

Wards affected: All

**Appeals Decision Monitoring: 1 January 2012 – 31 December 2012**

**1.0 Summary**

1.1 Work is currently being carried out on a more comprehensive review of how appeal decisions are monitored. The analysis carried out to date relates solely to planning appeal decisions however it is the intention to extend this work to include enforcement appeal decisions.

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.

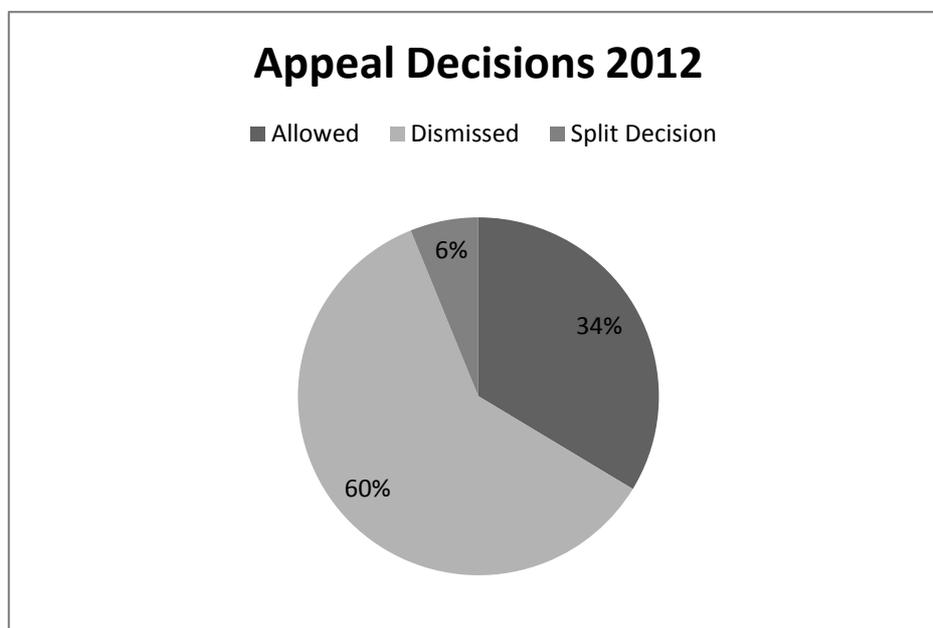
**2.0 Recommendations**

2.1 This report is a summary of appeals monitoring being undertaken and is for information only.

### 3.0 Background Information

#### General Overview of Planning Appeal Decisions in 2012

- 3.1 Between 1 January 2012 and 31 December 2012, the Council determined a total of 3069 planning applications. Of these applications, 78% were granted and 22% were refused.
- 3.2 During this period, a total of 98 appeal decisions were issued by the Planning Inspectorate. 'Figure 1: Appeal Decisions 2012' below sets out the proportion of appeals which were 'Allowed', 'Dismissed' or where a 'Split Decision' has been issued. It should be noted that 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: Appeal Decisions 2012**

- 3.3 The graph above shows that the Council was successful in defending 66% of appeals (Percentage of cases where appeal dismissed or where split decision issued) in 2012.

### 4.0 More Detailed Analysis of Planning Appeal Decisions in 2012

#### Categorising Reasons for Refusal

- 4.1 All appeal decisions during 2012 have been reviewed to enable further assessment of whether the reasons for refusal cited by the Council are 'Upheld' (where the Planning Inspectorate agrees with the Council's

assessment) or 'Not Upheld' (where the Planning Inspectorate does not agree with the Council's assessment). It should be noted that in some cases, whilst the Planning Inspectorate has dismissed the appeal, not all reasons for refusal cited by the Council have been supported by the Planning Inspectorate.

- 4.2 The reasons for refusal for all applications have been grouped into the following categories:

Use: This relates to the principle of use proposed, for example whether the change of use in a Primary Shopping Area complies with our policy to protect A1 retail shopping frontages.

Design: This considers whether the design of the proposal is appropriate in the locality. It may include consideration of the height, bulk, use of materials etc. and the appropriateness in the local context.

Residential Amenity: This relates to the quality of accommodation provided for future occupiers including provision of external amenity space, internal space standards.

Neighbour Amenity: This relates to all 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.

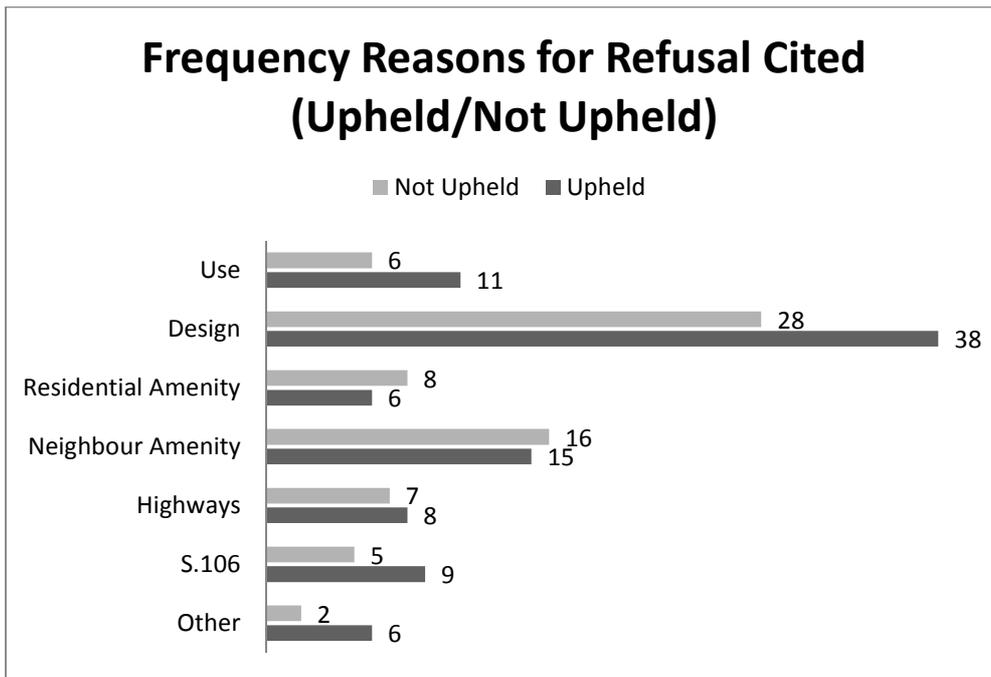
Highways: Highways impacts can be quite wide ranging and include parking, access and highway safety.

Section 106: A reason relating to Section 106 agreement is included in all cases where an obligation would be required; this generally is to accord with the Councils SPD: Planning Obligations.

Other: This includes reasons that don't fall into the above categories.

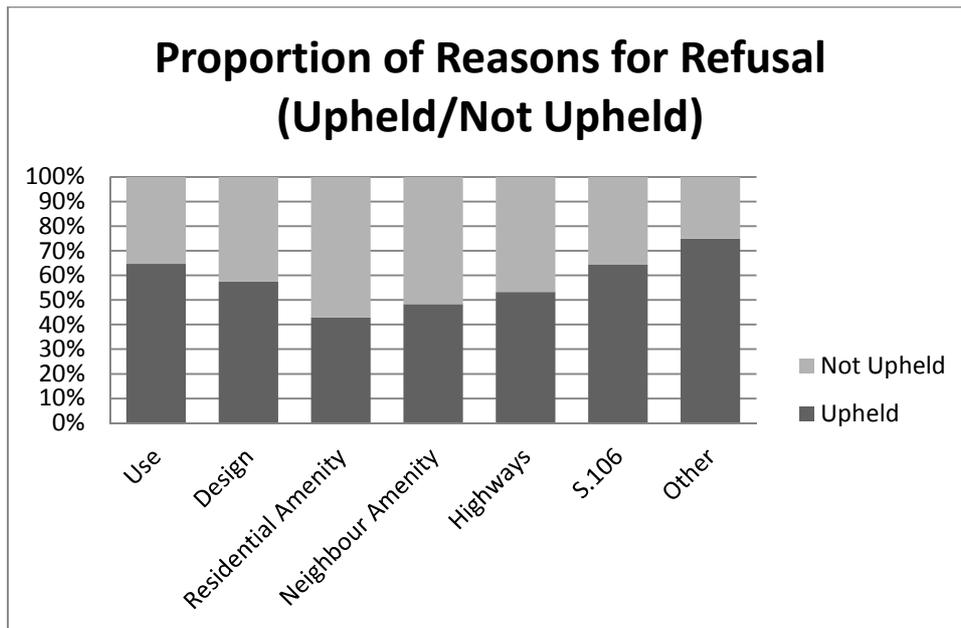
#### Comparative Analysis

- 4.3 The frequency that each category of reason for refusal is cited is set out in 'Figure 2: Frequency Reasons for Refusal Cited –Upheld/Not Upheld'; this provides an indication of how successful the Council has been in defending each category of reason for refusal at appeal.



**Figure 2: Frequency of Reasons for Refusal (Upheld/Not Upheld)**

- 4.4 The bar chart shows that a 'Design' reason for refusal was cited in 67% of appeals in 2012 and was 'Upheld' by the Planning Inspectorate in 38 cases and 'Not Upheld' in 28 cases. Given that 'Design' reasons are more frequently cited as a reason for refusal than other categories, it is recommended that further analysis is carried out to help inform the development of new guidance and when producing DPDs.
- 4.5 'Figure 3: Proportion of Reasons for Refusal (Upheld/Not Upheld)' shows which reasons for refusal the Council are more successful in defending and those where further analysis is required. The data indicates that where reasons relating to 'Residential Amenity' and 'Neighbour Amenity' have been cited, the Council has been successful in less than 50% of cases when defending these reasons for refusal at appeal.



**Figure 3: Proportion of Reasons for Refusal (Upheld/Not Upheld)**

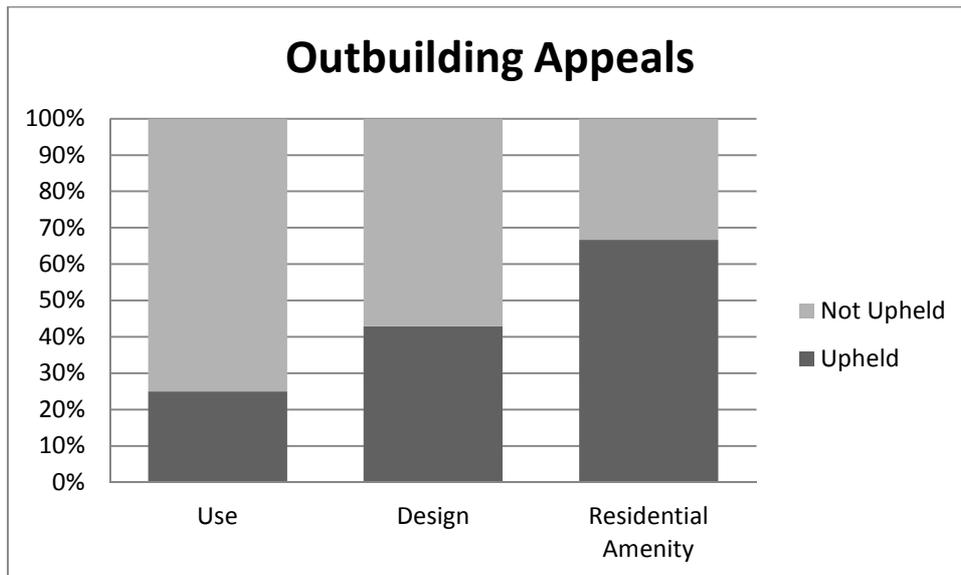
- 4.6 The general trends identified from the above analysis leads onto a need for more detailed work, including a further review of individual appeal decisions, to establish whether Appeal Statements and/or Officer Reports can be strengthened, policies should be reviewed and/or a revised approach should be taken when assessing applications.

Further Analysis of Specific Cases- Outbuildings

- 4.7 With the work currently being undertaken by Planning Enforcement to tackle 'beds in sheds', further analysis of appeal decisions relating outbuildings is of particular relevance. The types of applications relating to outbuildings that the appeal data encompasses are Certificate of Lawfulness Applications (where an assessment is made as to whether an outbuilding complies with Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 1995 as amended) and Householder Planning Applications.
- 4.8 'Figure 4: Outbuilding Appeals' shows that WHERE applications for outbuildings refused, it is for the following reasons:
1. Use – In this case it principally relates to Certificate of Lawfulness Applications where the Council has determined that the use of the building is not considered incidental to the main dwellinghouse;
  2. Design – This is a consideration for Planning Applications where consideration is given to whether the design (scale, height, materials etc.) is appropriate;

3. Residential Amenity - This is a consideration for Planning Applications and generally relates to the relationship of the building to neighbouring residents.

4.9 The graph shows that that in 75% of appeals, the Council's assessment on the incidental nature of the use of an outbuilding has not been supported. This has already led to a change in the approach adopted by the officers when assessing Certificate of Lawfulness applications; whilst consideration is still given to the size of the building, greater weight is now given to information provided by the applicant regarding the intended use.



**Figure 4: Outbuilding Appeals**

5.10 The analysis on outbuildings indicates that in 57% of cases, 'Design' reasons for refusal were not upheld by the Planning Inspectorate. A more detailed review needs to be carried out however an initial assessment would appear to show that the Planning Inspectorate is placing greater weight on the existence of other outbuildings in the locality often constructed as permitted development. As such, consideration needs to be given to whether more detailed guidance is required on outbuildings (n.b. current SPG20 relates only to Buildings in Gardens in Conservation Areas) and/or whether revised approach should be taken when assessing applications.

## 5.0 Conclusions

5.1 The ranges of applications received are fairly broad therefore being able to simplify the information into categories to enable meaningful comparisons to be made has been challenging. However, now that the general format for the analysis has been established, it enables key issues to be identified where

further work and assessment can be carried out to better inform the decision making process. It is the intention that further work will be carried out and feedback provided periodically. This will include a review of Enforcement Appeals.

## **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**

Rachel McConnell, North Team Area Manager, Planning & Development 020 8937 5223

**Andy Donald, Director of Regeneration & Major Projects**