



Planning Committee
17 June 2013

**Report from the Director of
Regeneration & Growth**

Wards affected: All

Appeals Decision Monitoring: 2012/2013

1.0 Summary

1.1 This report follows the previous review titled 'Appeals Decision Monitoring: 1 January 2012 – 31 December 2012' presented to Members on 13 February 2013; the report detailed the proposed structure for a more comprehensive review of appeal decisions. The additional analysis involves categorising reasons for refusal and recording whether the individual reasons were supported by the Planning Inspectorate. The purpose of this 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 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.

1.2 Over time, as more data is collated, it is anticipated that the value of the results produced by this more detailed review of appeal decisions will increase. The more detailed analysis carried out to date relates only to planning appeal decisions however it is the intention to extend this work to include enforcement appeal decisions.

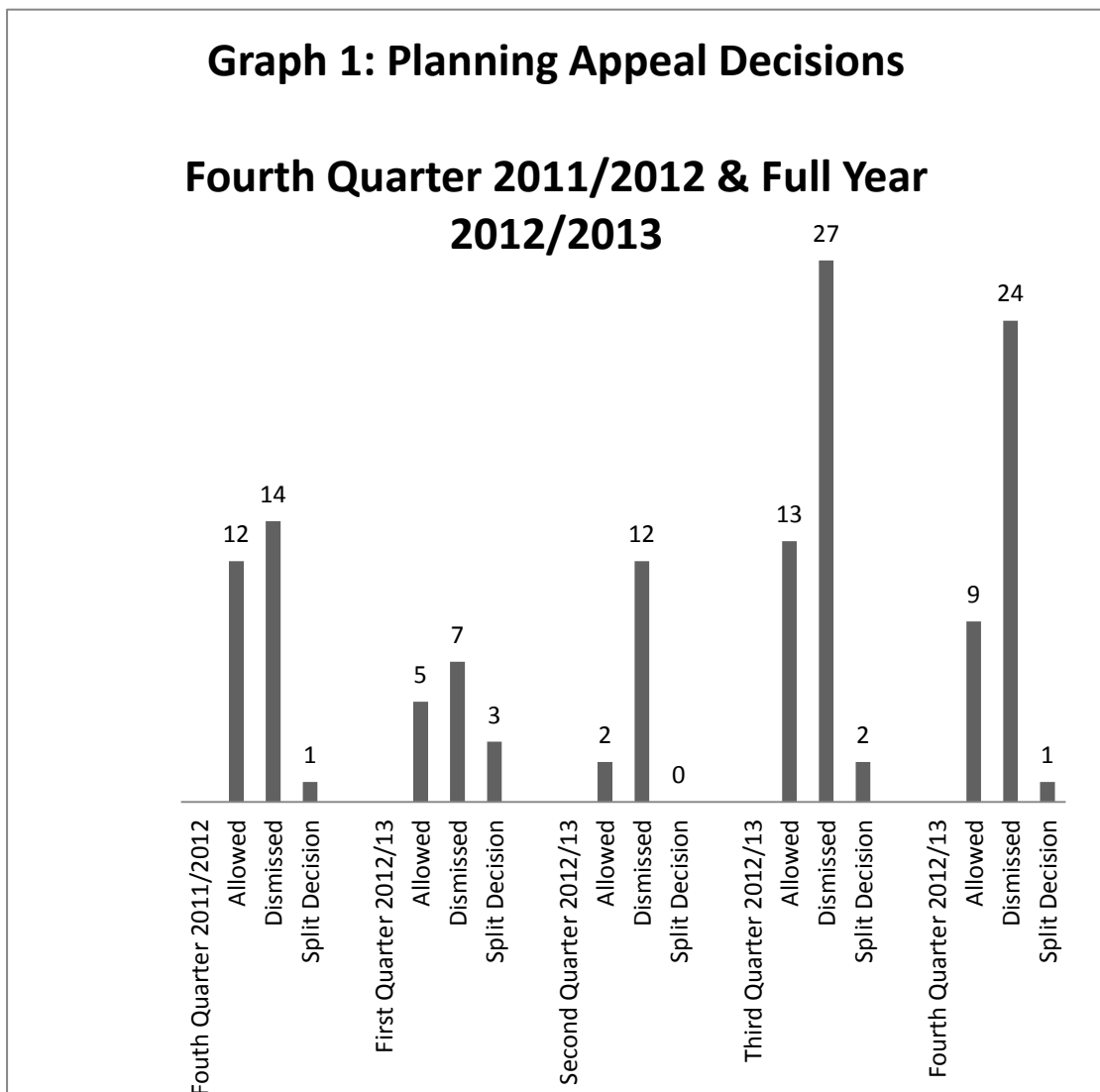
2.0 Recommendations

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 Fourth Quarter 2011/2012 & Full Year 2012/2013

- 3.1 Between 1 April 2012 and 31 March 2013 (full year 2012/2013), the Council determined a total of 3583 planning applications; of these applications, 83% were granted and 17% were refused. In the fourth quarter 2011/2012, a total of 776 planning applications; of these applications, 69% were granted and 31% were refused.
- 3.2 The graph below (Graph 1: Planning Appeal Decisions) shows the proportion of planning 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.



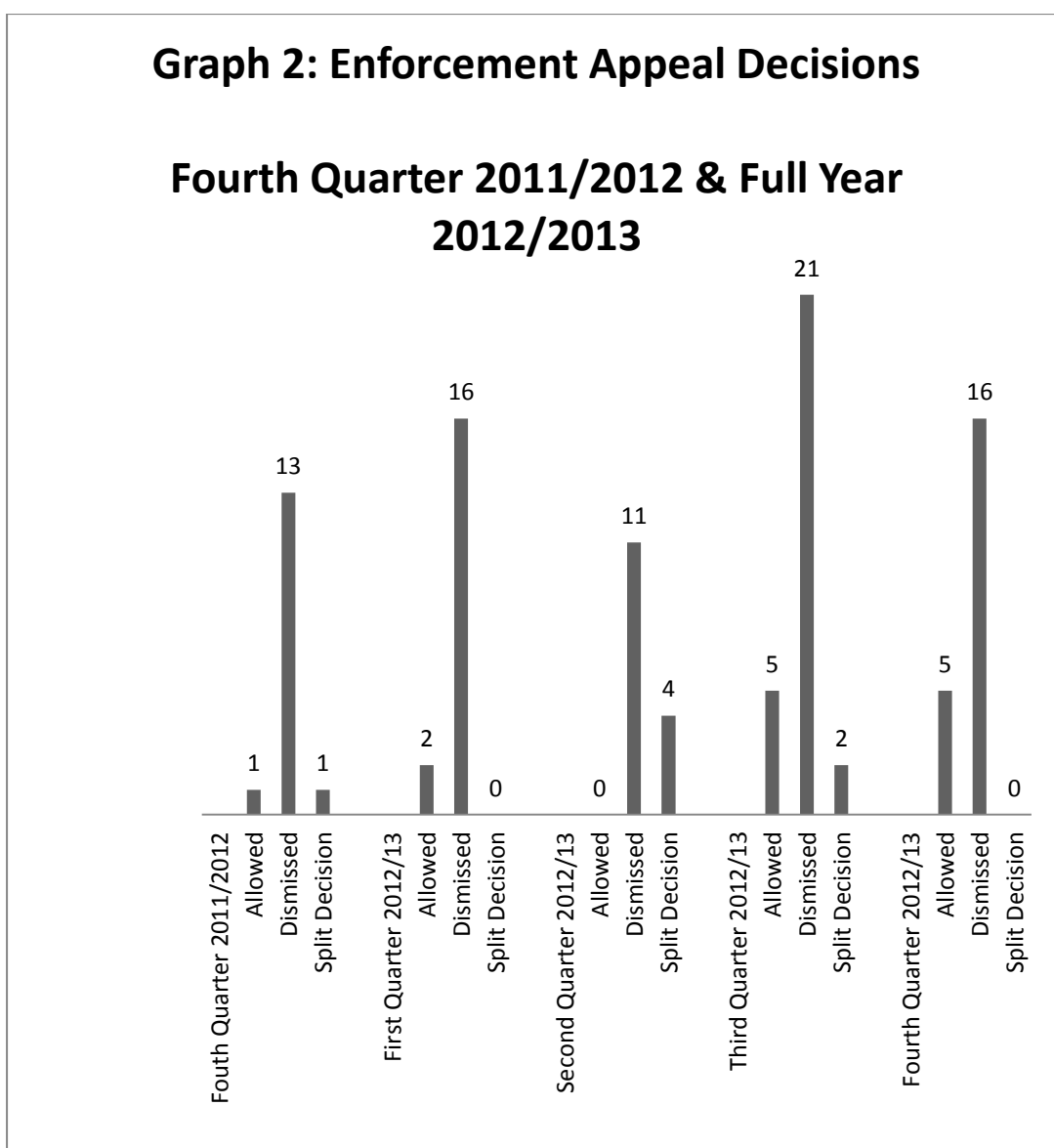
- 3.3 The information shows that the Council was successful in defending the significant majority of appeals across the period of analysis. In addition, the performance has improved over the two

most recent quarters with 64% of appeals dismissed in the third quarter of 2012/2013 and 71% dismissed in the fourth quarter of 2012/2013.

- 3.4 The overall number of appeal decisions in each quarter is likely to follow the general fluctuation in applications submitted throughout the year. As an example, 776 applications were determined in the fourth quarter of 2011/2012 (107 refused) compared to 903 applications determined in the first quarter 2012/2013 (129 refused). Given the timeframe for appeals, it should be noted that the Council's decision may fall in the preceding quarter to the Planning Inspectorate's decision.

General Overview of Enforcement Appeal Decisions in Fourth Quarter 2011/2012 & Full Year 2012/2013

- 3.5 Between 1 April 2012 and 31 March 2013 (full year 2012/2013), the Council issued 164 enforcement notices and 77 in the fourth quarter 2011/2012.



- 3.6 The graph above shows that the Council was successful in defending the majority of enforcement appeals across the period of analysis.

4.0 Further Analysis of Planning Appeal Decisions (Fourth Quarter 2011/2012 & Full Year 2012/2013)

4.1 Further analysis undertaken involves an assessment of reasons for refusal cited in the decision issued by the Council and recording whether the reasons are:

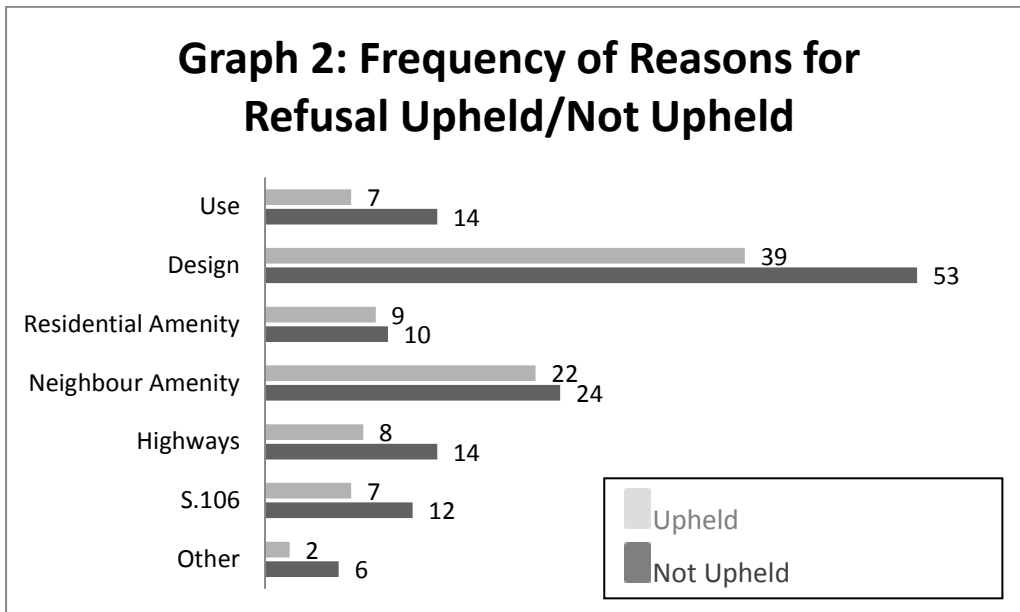
- 'Upheld' the Planning Inspectorate did not agree with the Council's decision
- 'Not Upheld' the Planning Inspectorate agreed with the Council's decision

4.2 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. The reasons for refusal have been categorised as set out in the table below (Table 1: Categorisation of Reasons for Refusal)

Table 1: 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 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 don't fall into the above categories.

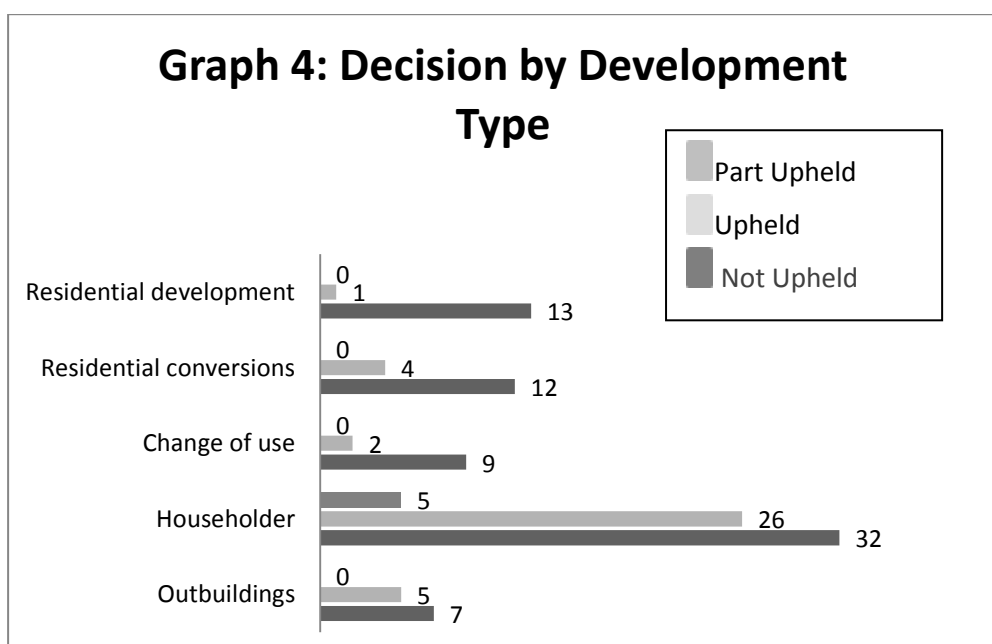
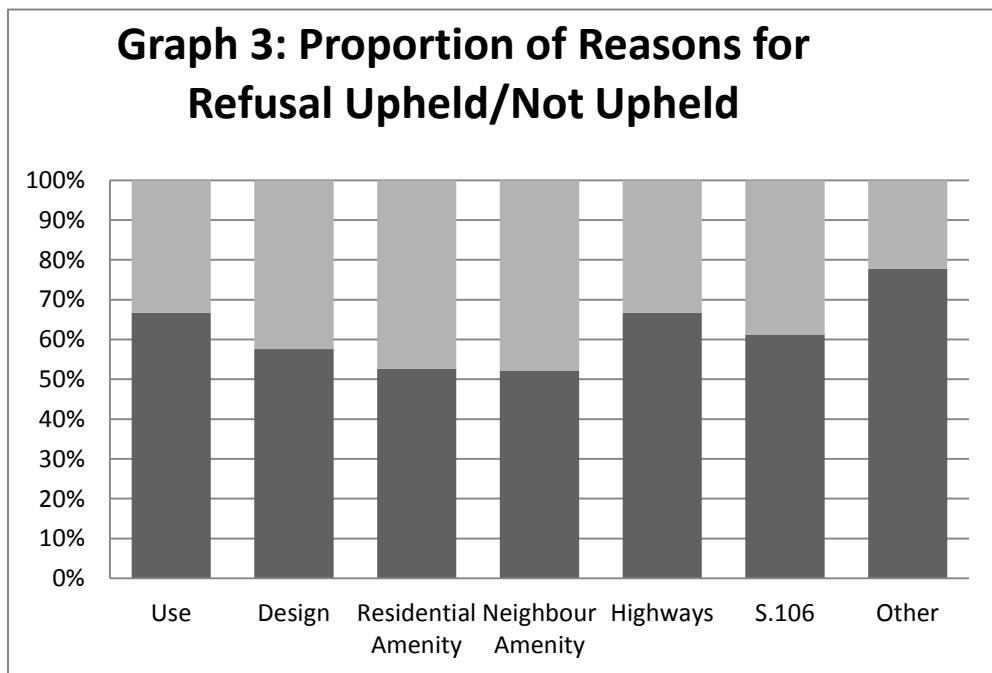
4.3 The frequency that each category of reason for refusal is cited is shown in Graph 2: Frequency Reasons for Refusal Upheld/Not Upheld; this provides an indication of how successful the Council has been in defending each category of reason for refusal at appeal.



4.4 The following key issues/patterns are identified:

- The Council's decision to refuse an application on 'Use' was 'Not Upheld' by the Planning Inspectorate in 67% of cases (Graph 3: Proportion of Reasons for Refusal Upheld/Not Upheld). Many of these applications relate to proposals where there was a clear policy direction to refuse the application. For example, the application was for a non A1 use in a Primary Shopping Frontage.
- A 'Design' reason for refusal was 'Not Upheld' by the Planning Inspectorate in 53 cases and 'Upheld' in 39 cases ('Not Upheld' in 58% of cases). Given that 'Design' reasons are most frequently cited as a reason for refusal than the other categories, it is recommended that further analysis is carried out to help inform the development of new guidance and when producing DPDs.
- 'Residential Amenity' relates to the quality of accommodation being provided in a proposed development. Whilst it is noted that the Council has been successful in defending this reason in 53% of cases, it is anticipated that the new Mayor's Housing Design Guide will provide additional support when refusing an application on these grounds.
- The data indicates that when refusing an application on the grounds of the impact on 'Neighbouring Amenity', the Council was successful in defending this reason in 52% of cases. A similar result was highlighted in the previous report and further work has identified that in some cases, in particular for side infill extensions to terraced properties, different views have been taken by the Planning Inspectorate when assessing residential amenity. Updated guidance will provide greater clarity on these points in addition to a review of the 'Officer Report' to provide further justification/explanation if refusing a proposal on these grounds.

- 'Highways' reasons cover a range of issues. The Council was successful in defending highways reasons for refusal in 64% of cases. In two cases where residential conversion schemes were refused due to the lack of capacity of on-street parking, the appellant provided more recent data which the Planning Inspectorate considered to hold sufficient weight to overcome the Council's concerns. This highlights the importance of keeping information/surveys up to date to support decisions.
- The reasons relating to 'Section 106' will become less frequently used with the introduction of the Council's Community Infrastructure Levy on 1 July 2013. It is suggested that this should be reviewed post introduction of CIL to identify if any new patterns are identified.



4.5 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.

4.6 In terms of where to focus further work, the information on the different types of appeal identifies that 'householder' applications and 'outbuildings' are those where there is the most variation and require further analysis. However, it should be noted that there is not one category of development where the Planning Inspectorate more allows a greater proportion of the appeals.

5.0 Conclusions

5.1 Following the previous report presented to Members, the additional data further supports the need to carry out further work in particular on outbuildings and householder extensions. An important part of the work on outbuildings will be incorporating analysis on Planning Enforcement appeal decisions. It will also be important that this work is extended to include the recent changes to permitted development rights which give the Council authority to refuse 'prior approval' for a residential extension on amenity grounds if there is an objection from a neighbouring property.

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

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