



Planning Committee
1 July 2014

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

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

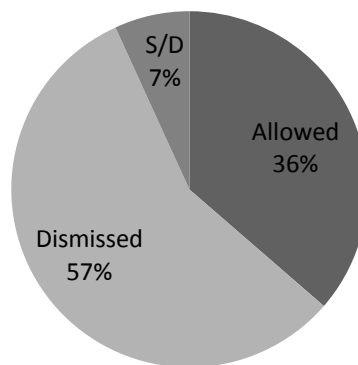
Planning Appeal Decisions

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.

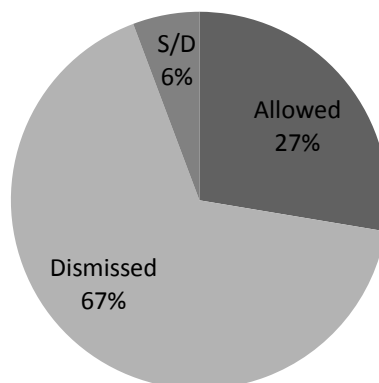
3.2 During this period, 110 appeal decisions were issued by the Planning Inspectorate compared to 105 in 2012/2013. *Figure1: Planning Appeal Decisions 2013/2014* shows the proportion of planning appeals which were 'Allowed', 'Dismissed' or where a 'Split Decision (S/D)' was issued. *Figure2: Planning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

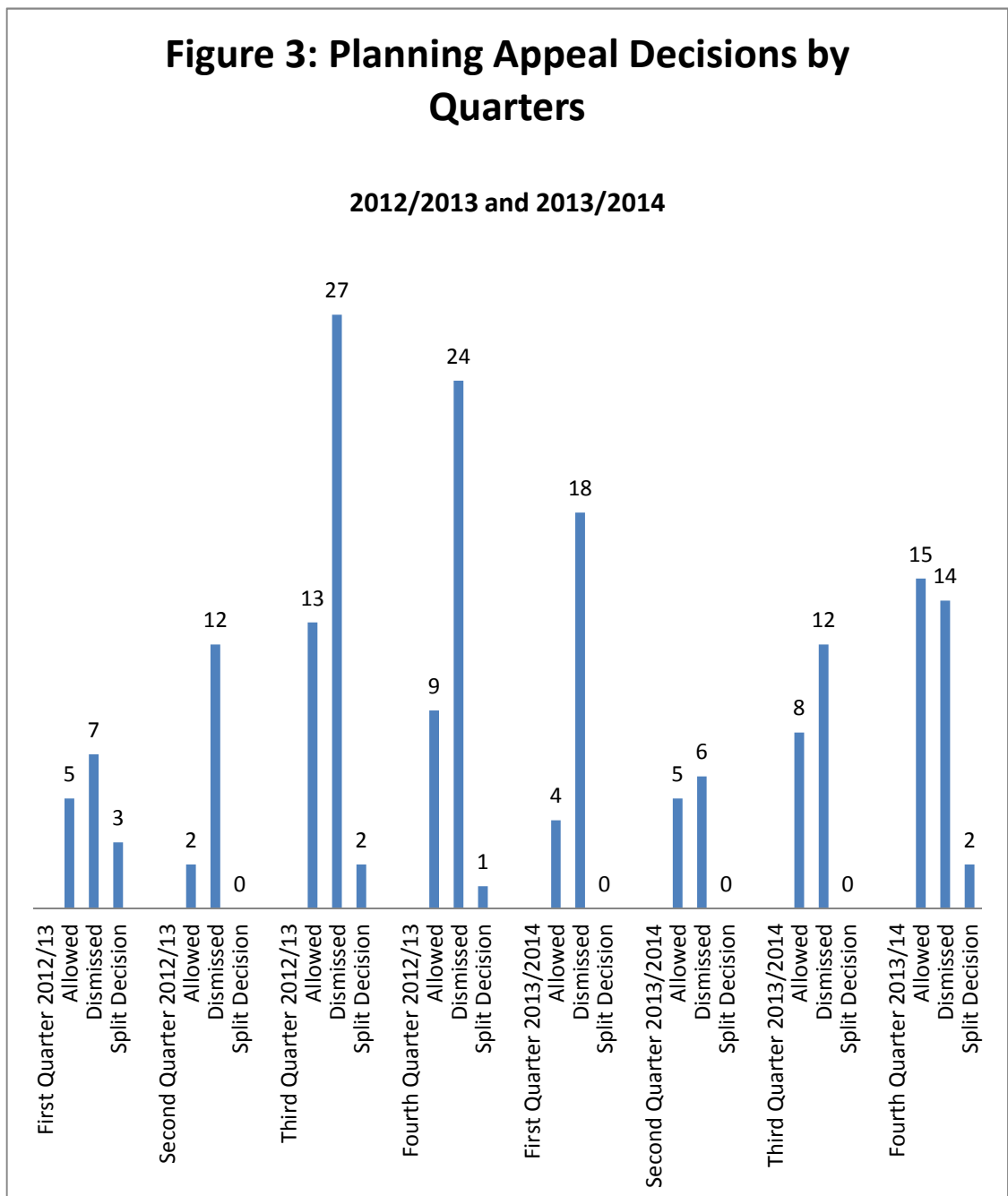


**Figure 2: Planning Appeal Decisions
2012/2013**



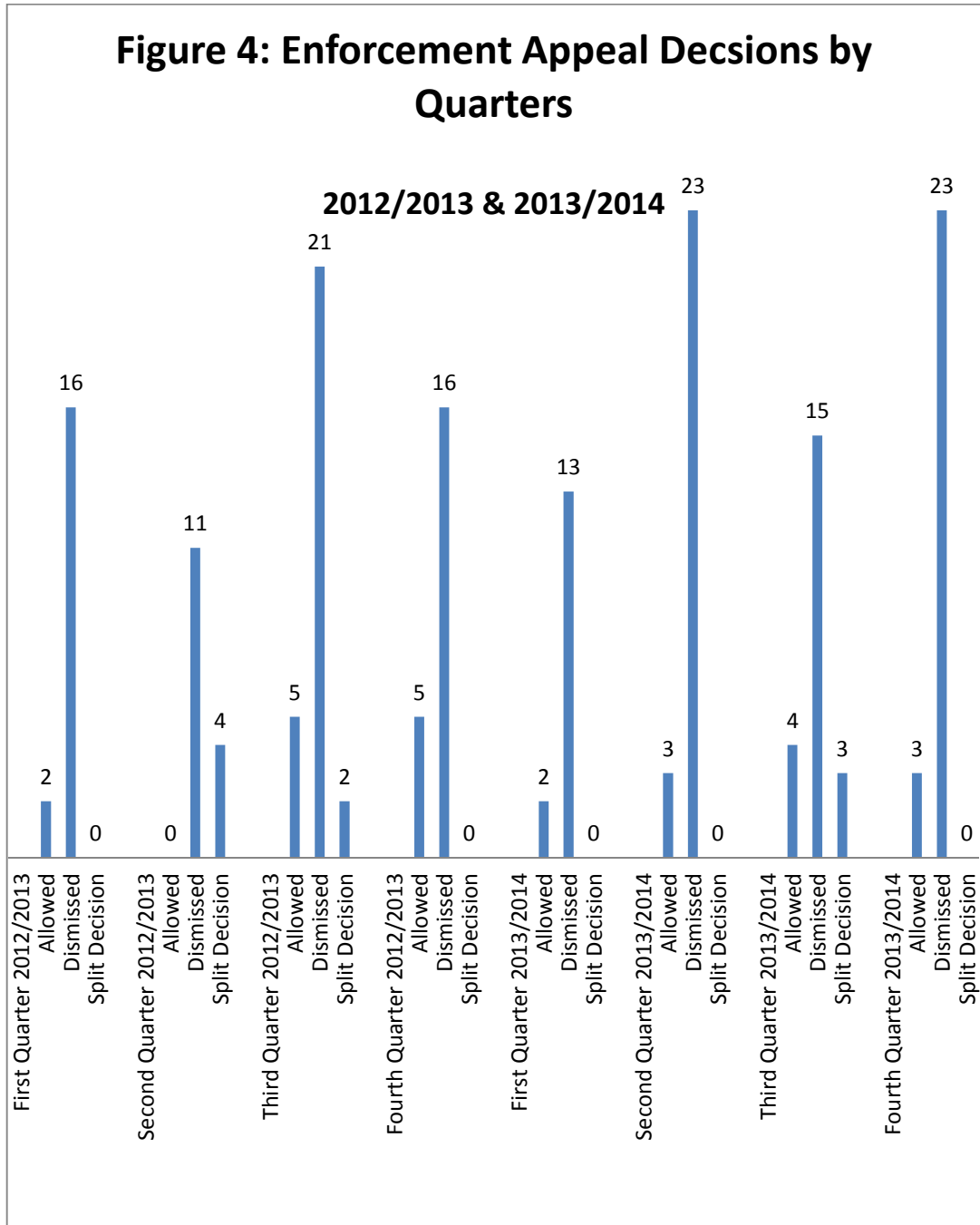
3.4 The information shows that the percentage of appeals dismissed has reduced by 10% in 2013/2014 when compared to the previous year.

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

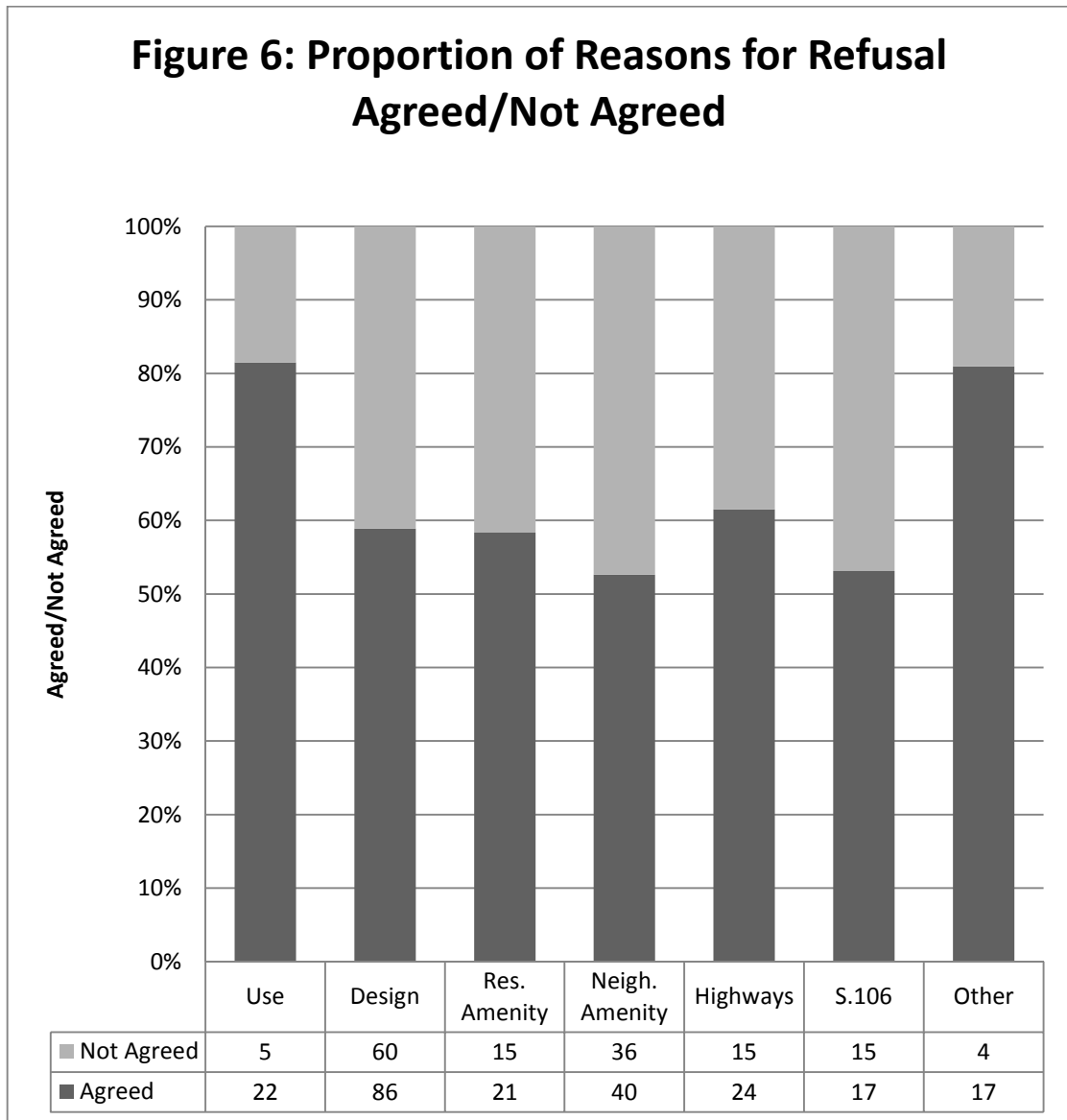
‘Not Agreed’ The Planning Inspectorate did not agree with the Council’s refusal reason

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.

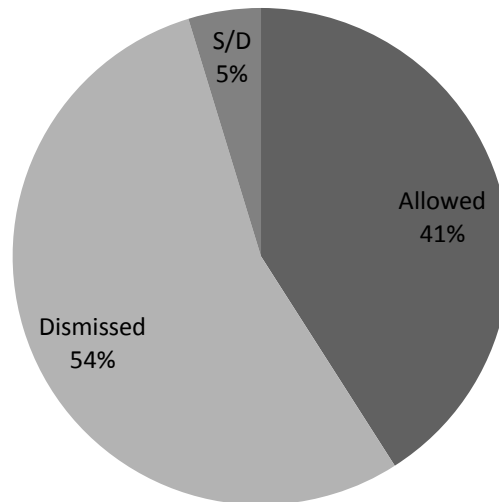
4.4 *Figure 6: Proportion of Reasons for Refusal Agreed/Not Agreed* provides an indication of how successful the Council has been in defending each category of reason for refusal. This information has been collated from all planning appeal decisions in 2012/2013 and 2013/2014. The table indicates the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

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