



Planning Committee
22 May 2012

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

Wards affected: All

Planning and Enforcement Appeal Monitoring

1.0 Summary

- 1.1 This report expands on the routine monthly reporting of appeals submitted and decisions received where the Inspector's decisions letters for those appeals that are allowed are included in full for Member's information. This report is intended to provide clearer information on performance as well as highlighting some issues that may be raised by the number of appeals received and their outcomes.
- 1.2 It is also important that appeal decisions are monitored as this can influence the future direction of policy and decision making, particularly in terms of future LDF development management policies. Appeal decisions also represent an important external scrutiny of the content and application of Brent's planning policies.

2.0 Recommendations

- 2.1 That the Planning Committee notes the information and issues set out in the report and indicate any particular issues that could be examined in more detail in future monitoring.

3.0 Background

- 3.1 Brent's planning appeal performance has historically compared well with other authorities in terms of the number that are dismissed (overall approx 80% compared with a national figure of approx 66%). However, Brent has also had a slightly higher appeal rate than other authorities (6+% compared to <5%) which may have been a reflection of both a generally lower planning approval rate in the past of some (approx 70% of applications submitted compared with a nation figure of approx 80%).

Previous analysis has linked this to Brent's detailed planning guidance as well as the desire by owners of generally higher value properties to seek to maximise the scope for development.

- 3.2 The number of appeals against Enforcement Notices remains much higher than most authorities as a direct result of the level of activity that Brent undertakes. However, the appeal outcomes have also remained high (80+% dismissed).
- 3.3 In previous years over 50% of all Notices are appealed and there has been a very direct link between the number of notices served and the number of appeals that this has generated. However, more recent analysis may be suggesting that this causal relationship is changing with a lower proportion of appeals being generated.

Current Overview

- 3.4 The number of planning appeals in Brent which are upheld by the Inspectorate has increased over the past year, despite Brent now approving a higher number of planning applications at the outset (approx 80%). While national figures are not available yet to give a clear comparison with other authorities, this may suggest a number of issues;

- The need to update Brent's development management policies

Brent's UDP was adopted in 2004 and the publication of the National Planning Policy Framework highlights the need to urgently progress the updating of planning policies.

- A trend towards Planning Inspectors being more permissive

This appears to predate the general thrust of the NPPF and has led to authorities, including Brent, increasingly having to log formal concerns about some decisions under the Inspectorate's Quality Assurance scheme. It has even led to authorities having to consider formally challenging some of the odder decisions.

- The need to look at staff training and processes

Staff are generally increasing in their experience but there have been changes to the handling of some types of appeals (eg Fast Track householder electronic appeals) which can add to other performance pressures within this largely demand led area of work.

2011/12 Appeal Statistics

Planning Appeals

	Upheld	%	Dismissed	%
April-June	11	34	21	66
July-Sept	14	39	22	61
Oct-Dec	11	33	22	67
Jan-March	12	44	15	56

Enforcement Appeals

	Upheld	%	Dismissed	%
April-June	16	16	84	84
July-Sept	13	16	66	84
Oct-Dec	10	18	45	82
Jan-March	2	8	23	92

Planning Appeal Types by Outcome

- 3.6 Brent is more successful with the more frequent types of appeals received eg extensions to houses or flats (approx 50% of appeals received and 70% dismissed), converting houses or subdividing flats (approx 15% rec'd/85% dismissed) and the creation of individual new infill houses (10% rec'd/90% dismissed).
- 3.7 The next appeal type by volume are news blocks of flats (10% rec'd/60% dismissed), works to front gardens (10% rec'd/30% dismissed) and extensions to business premises (6% rec'd/80% dismissed)
- 3.8 A new issue that has arisen relates to outbuildings where Brent has been trying to contain the problems associated with the impact and use of large buildings in rear gardens. 4 of the 6 appeals received we upheld and all 3 of the CLUD appeals we granted too. This represents one of the more significant factors in the change in the overall performance on appeals over previous years. It also indicates both a change in Inspectorate decision making and the continued strong demand for very large structures to be built in rear gardens.
- 3.9 Commercial changes of use represent less than 10% of appeals received but the only statistically significant figure is that all 4 appeals for changes of use to A3/A5 were dismissed.

Conclusions

- 3.5 We need to continue to monitor overall trends and performance but, in the short term, the priority seems to be to review the approach to outbuildings and works to front gardens. However, both these areas reflect issues which have given rise to concern for local residents and Councillors. Indeed, in terms of outbuildings, there is currently a

Government initiative in response to growing alarm about illegal residential use. This situation is also reflected in the high proportion of Enforcement Notices and appeals which relate to this issue and in which we tend to be successful. The implied policy of a soft initial approach to outbuildings and then a harder response to later proven misuse demonstrates how difficult it can be to use planning controls in a preventative way.

6.0 Diversity Implications

- 6.1 The use of the planning service in terms of planning applications and enforcement is monitored and appears to broadly reflect the Borough's demographics.

7.0 Staffing/Accommodation Implications

- 7.1 There are no staffing or accommodation implications arising directly from this report.

8.0 Environmental Implications

- 8.1 Many of the issues discussed above have a range of potential environmental implications. These would need to be further assessed in the production of LDF Development Management Policies.

9.0 Background Papers

Brent Core Strategy July 2010
Unitary Development Plan 2004 – Saved Policies

Contact Officers

Any person wishing to inspect the above papers should contact;
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