 <p><b>Brent</b></p>	<p><b>Planning Committee</b> 21 August 2013</p> <p><b>Report from the Strategic Director of Regeneration &amp; Growth</b></p>
For Information	Wards affected: ALL
<p><b>Appeals Decision Monitoring: April – June 2013 (Q1)</b></p>	

## 1.0 Summary

- 1.1 This report follows previous monitoring information presented to the Members on 13 February 2013 and 17 June 2013, providing recent information and analysis of appeal decisions for the period of April - June 2013 (First Quarter: 2013/2014).
- 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

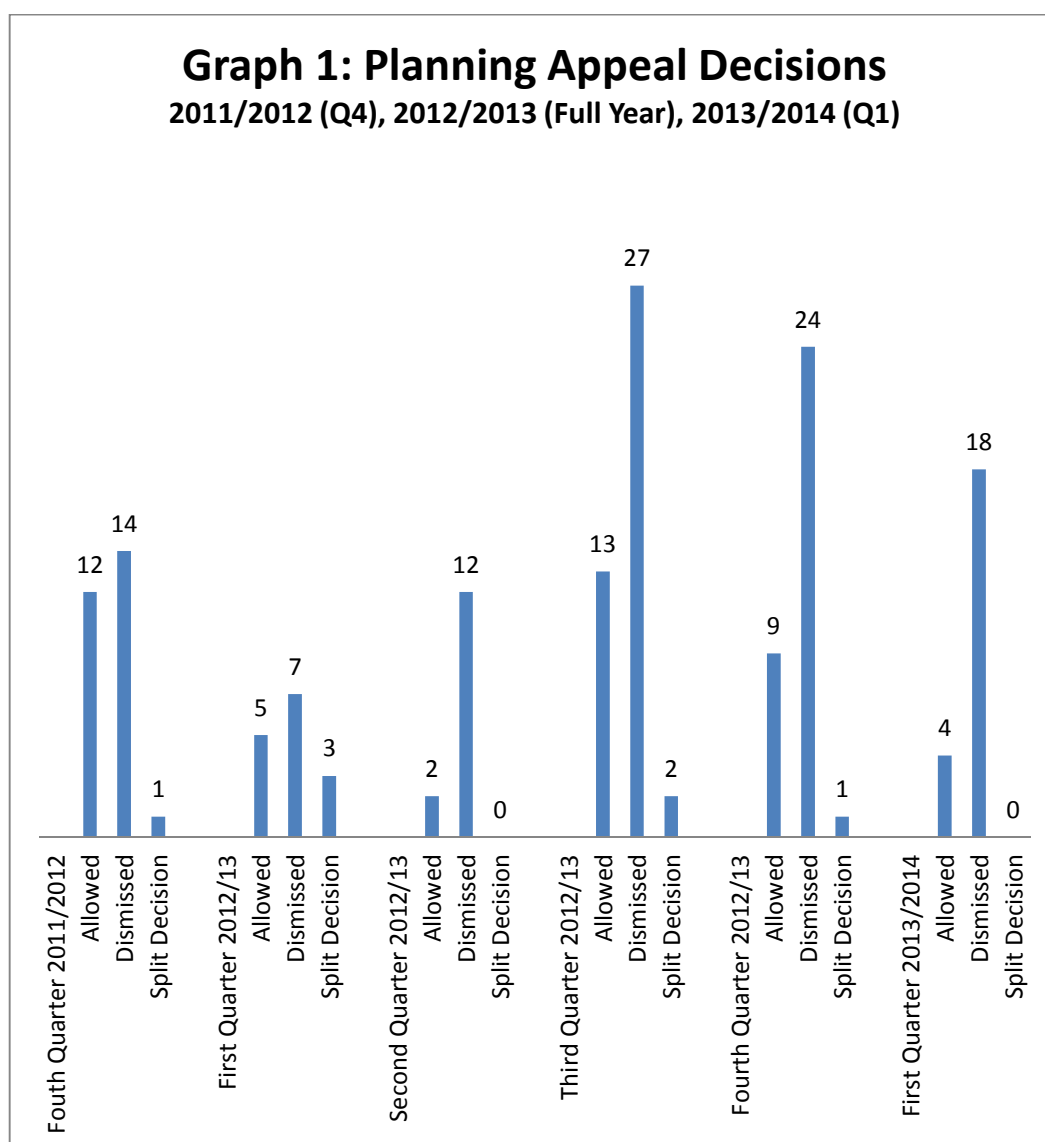
- 2.1 This report is a summary of appeal monitoring and is for information only.

## 3.0 Background Information

### *Planning Appeal Decisions*

- 3.1 Between 1 April 2013 and 30 June 2013 (2013/2014 – Q1), the Council determined a total of 810 planning applications; of these applications 83% were granted and 17% were refused.

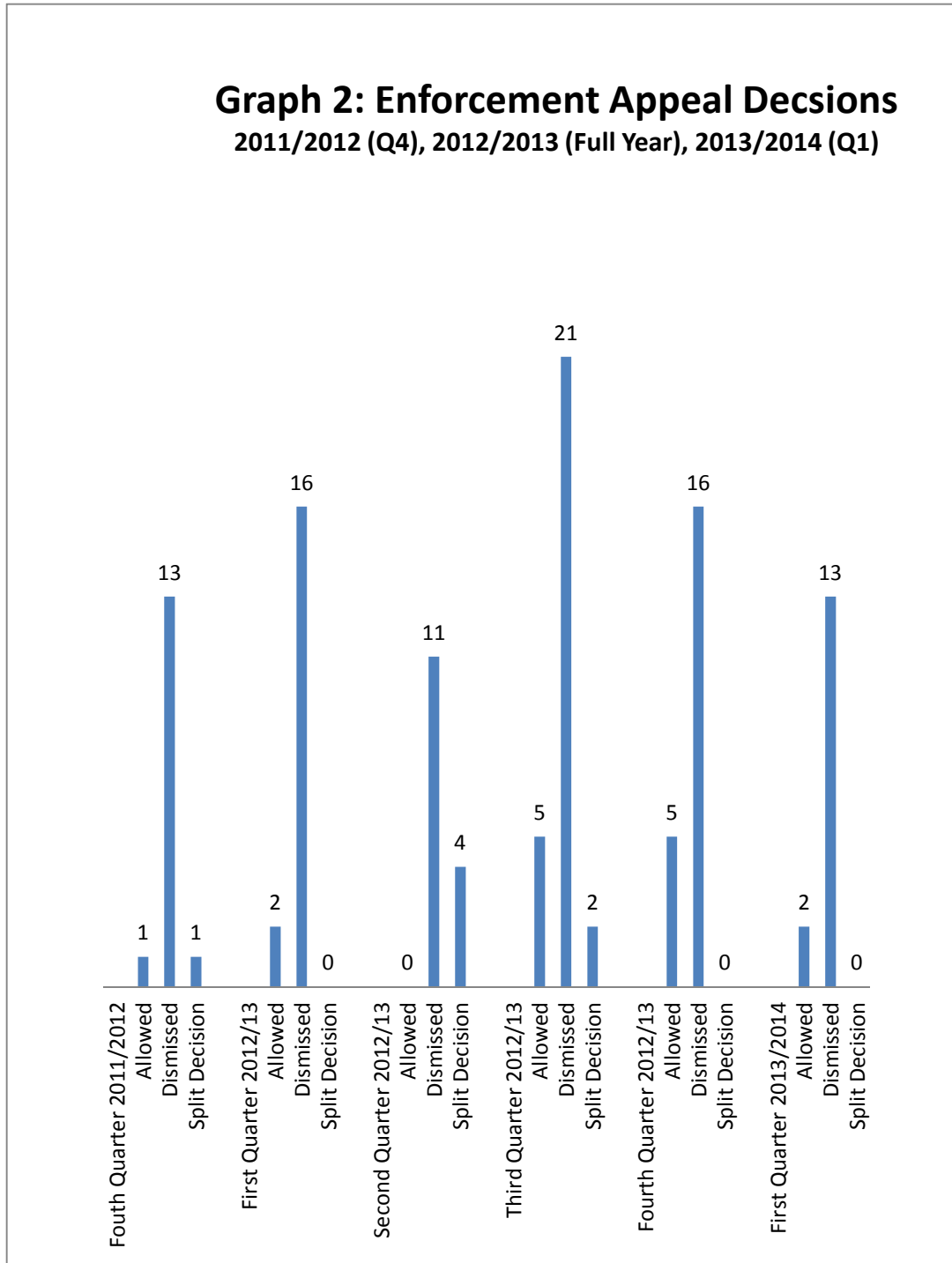
- 3.2 During this period, 22 appeal decisions were issued by the Planning Inspectorate. *Graph 1: Planning Appeal Decisions* shows the proportion of planning appeals which were 'Allowed', 'Dismissed' or where a 'Split Decision' has been issued, comparing the periods 2011/2012 (Q4), 2012/2013 (Full Year) and 2013/2014 (Q1).
- 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.



- 3.4 The graph shows that the Council was successful in defending the majority of appeals across the period of analysis. In addition, performance has improved in the most recent quarter with 82% of appeals dismissed in the first quarter of 2013/2014.

### Enforcement Appeal Decisions

- 3.5 Between 1 April 2013 and 30 June 2013 (2013/2014 – Q1), the Council issued 50 enforcement notices.



- 3.6 *Graph 2: Enforcement Appeal Decisions* 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 Appeal Decisions

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 1: Categorisation of Reasons for Refusal*.

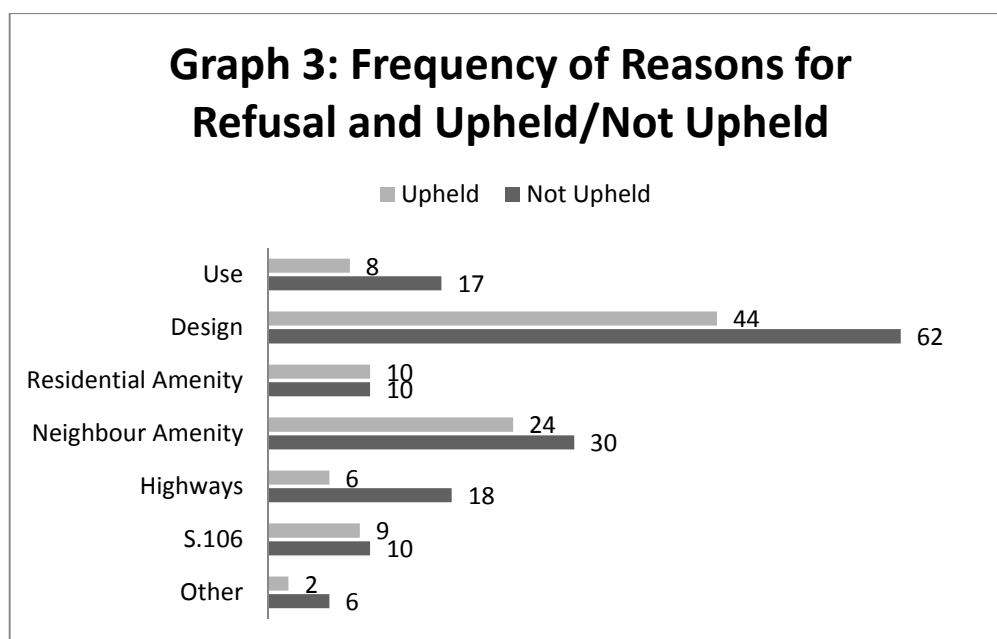
**Table 1: Categorising Reasons for Refusal**

<b>Use:</b>	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.
<b>Design:</b>	consideration of the height, bulk, use of materials etc. and the appropriateness in the local context.
<b>Residential Amenity:</b>	quality of accommodation provided for future occupiers including provision of external amenity space, internal space standards.
<b>Neighbour Amenity:</b>	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.
<b>Highways:</b>	includes parking, access and highway safety.
<b>Section 106:</b>	included in all cases where an obligation would be required; this generally is to accord with the Councils SPD: Planning Obligations.
<b>Other:</b>	includes reasons that don’t fall into the above categories.

4.2 The frequency that each category of reason for refusal is cited is set out 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.

4.3 Collating the recent appeal data with previous analysis will assist in identifying clear patterns. *Graph 3: Frequency of Reasons for Refusal and Upheld/Not Upheld* strengthens previous conclusions drawn that:

- A 'Design' reason for refusal can be quite difficult to defend at appeal. The data shows that in 44 cases over the review period, the Planning Inspectorate did not agree with the Council's determination that the design of a proposal was unacceptable (in 42% of cases where design reason cited). It is recommended that further analysis is carried out to help inform the development of new guidance and when producing DPDs. It is anticipated that guidance documents recently adopted for the Barn Hill Conservation Area and Queens Park Conservation Area, which provide greater clarity on acceptable forms of development, will assist the Council when defending 'design' reasons at appeal. This work is being extending to include other conservation areas.
- 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 55% of cases. A similar result was highlighted in the previous report where it was identified that in some cases, in particular for side infill extensions to terraced properties, different views have been taken by the Planning Inspectorate. Updated guidance will provide greater clarity on these points. Guidance on side infill extensions has been included in the adopted Queens Park Design Guide where this type of extension is often proposed.



#### *Notable Issues*

4.3 There have been a number of decisions within this quarter which have already been quoted in the Officer reports when determining similar types of applications. Of particular relevance is a decision relating to whether an outbuilding could be considered incidental where it contained a shower and toilet.

4.4 The Planning Inspectorate agreed with the Council's decision to refuse a certificate of lawfulness for single storey outbuilding which contained shower

facilities; the building was not considered to be incidental to the enjoyment of the dwellinghouse (LPA Ref:12/2547). In his decision, the Planning Inspectorate states that "...the Appellant has failed to discharge the onus of proof to show that the proposed building would be permitted development because it incorporates primary living accommodation in the form of a shower room and a toilet, which is not an incidental purpose." (Appeal Decision APP/T5150/X/13/2193479)

## **5.0 Conclusions**

- 5.1 Including more recent appeal data helps to clearly identify trends. This will ensure that further work, in particular when updating guidance documents, can focus on these specific issues.
- 5.2 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). The Council has received a total of 146 household prior approval applications and determined 43.
- 5.3 To date only one valid appeal has been made to the Planning Inspectorate where prior approval was refused due to the amenity impacts of the proposed extension on neighboring properties. It will be important to monitor the outcome of appeals decisions for prior approval applications to assist in the assessment of future applications.

## **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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