



Planning Committee
11 December 2013

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

For Information

Wards affected:
ALL

Appeals Decision Monitoring: April – September 2013 (Q1 & Q2)

1.0 Summary

1.1 This report follows previous monitoring information presented to the Members on 21 August 2013 and provides recent information and analysis of appeal decisions for the period of 1 April – 30 September 2013 (First & Second 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

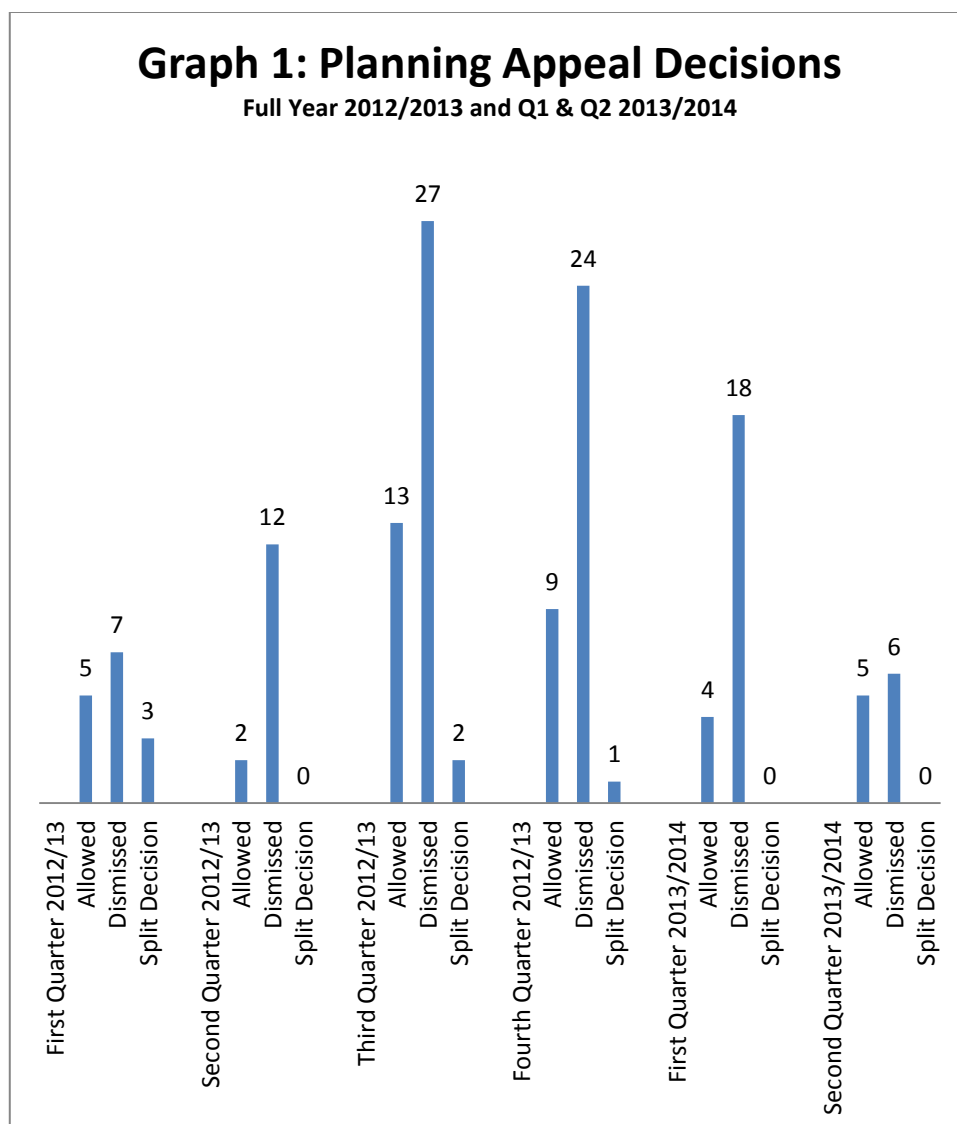
2.1 This report is a summary of appeal monitoring and is for information only.

3.0 Background Information

Planning Appeal Decisions

3.1 Between 1 April 2013 and 30 September 2013 (2013/2014 – Q1 & Q2), the Council determined a total of 1921 planning applications (1439 granted); of these applications 75% were granted and 25% were refused.

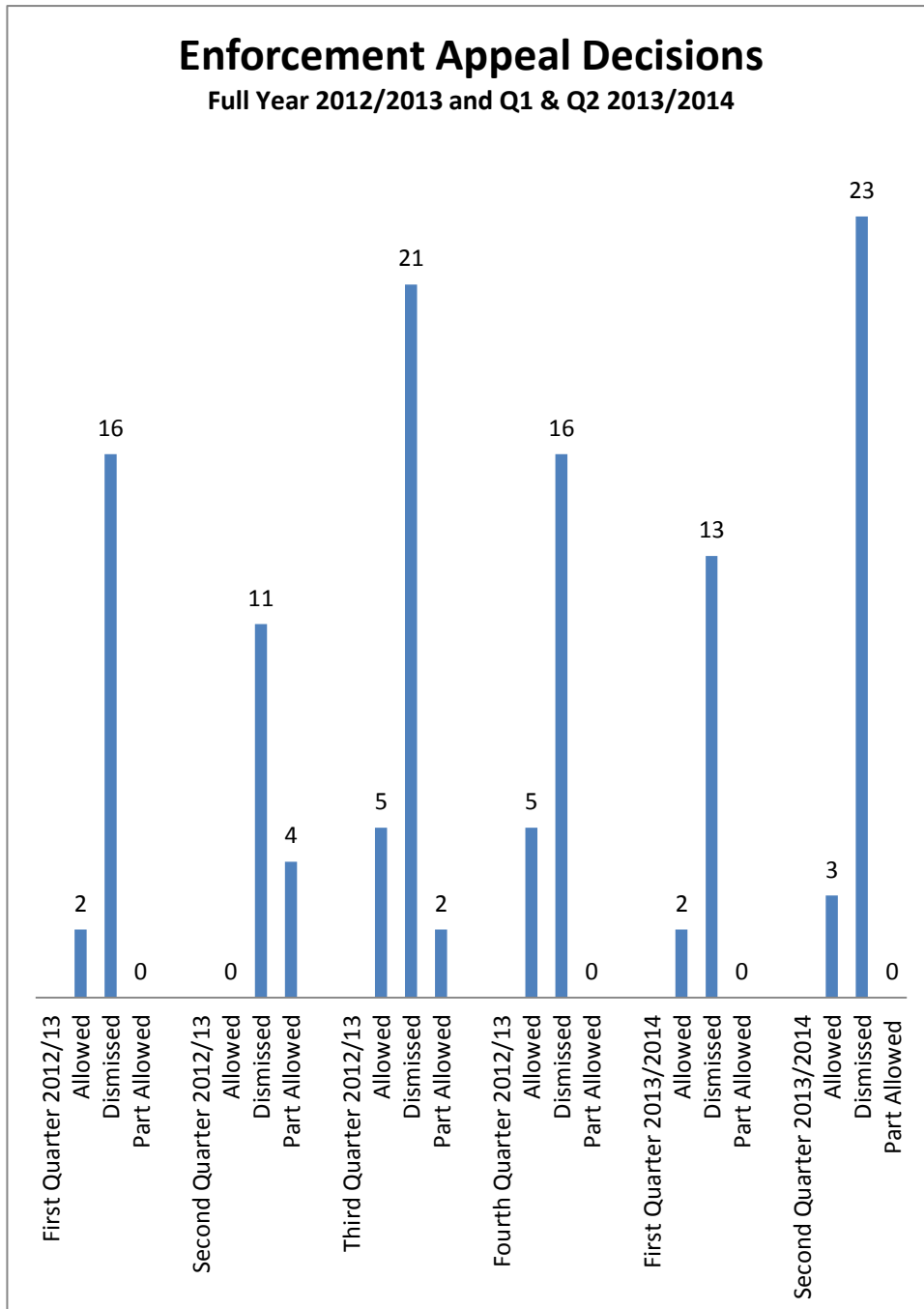
- 3.2 During this period, 33 appeal decisions were issued by the Planning Inspectorate. *Graph 1: Planning Appeal Decisions* shows the proportion of planning appeals which were 'Allowed', 'Dismissed' or where a 'Split Decision' has been issued, comparing the periods 2012/2013 (Full Year) and 2013/2014 (Q1 & Q2).
- 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 Graph 1 shows that the Council was successful in defending the majority of planning appeals across the period of analysis. Overall, the number of appeal decision issued is less than the same period for last year. As more data is being collated, seasonal fluctuations in the number of appeal decisions is becoming apparent. It is noted that there is significant variation in the number of appeals determined between the First Quarter 2013/2014 and Second Quarter 2013/2014.

Enforcement Appeal Decisions

3.5 Graph 2 shows the number of enforcement appeal decision (Full Year 2012/2013 and Q1 & Q2 2013/2014). In the Second Quarter of 2013/2014, a total of 87% were dismissed which is an improvement on the same period last year when 73% were dismissed.



3.6 A brief summary of the 5 cases which were allowed by the Planning Inspectorate in the Second Quarter of 2013/2014 are set out below:

(1) *31A-C Dyne Road, London NW6 7XG (E/08/0464)*

Breach: The formation of a hard surface and the erection of a boundary wall to side of front garden at the premises.

The Enforcement Notice was quashed as it was determined that the requirements of the notice exceeded works which needed to be carried out to remedy the breach.

(2) *10 Oakleigh Court, Edgware, HA8 5JB (E/12/0219)*

Breach: Without planning permission, the erection of a building to the rear of the premises.

The outbuilding measures approximately 9m x 4m and the maximum height being 3.5m. The Planning Inspectorate concluded that the building would not have an unacceptably harmful effect on the character and appearance of the area.

(3) *57 Berkhamstead Avenue, HA9 (E/12/0382)*

Breach: Without planning permission, the erection of a building to the rear of the premises

The outbuilding measures approximately 6.5m x 5.2m and the maximum height being 3.56m. The Planning Inspectorate concluded that the building would not have an unacceptably harmful effect on the character and appearance of the area.

(4) *23B Bryan Avenue, NW10 (E/09/0536)*

Breach: The erection of a building in rear garden of the premises.

The outbuilding measures approximately 6.5m x 5.2m and the maximum height being 3.56m. The Planning Inspectorate concluded that the building would not have an unacceptably harmful effect on the character and appearance of the area & amenity of neighbouring occupiers.

(5) *19 Watford Road, HA0 (E/12/0773)*

Breach: The construction of an unauthorised building at the rear of the premises.

The outbuilding measures approximately 7.6m x 5.7m and the maximum height being 2.9m. The Planning Inspectorate concluded that the building would not have an unacceptably harmful effect on the character and appearance of the area & amenity of neighbouring occupiers.

4.0 Further Analysis of Planning 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

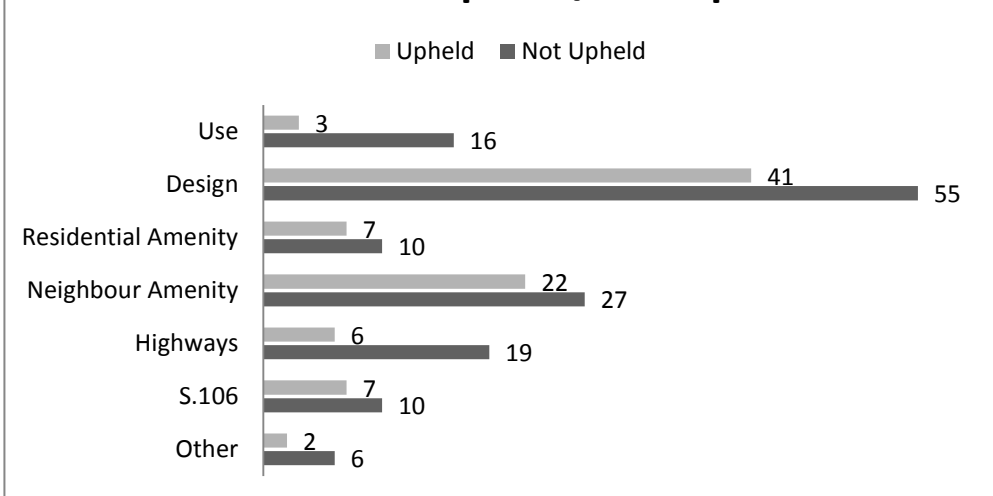
4.2 It should be noted that in some cases, whilst the Planning Inspectorate has dismissed the appeal, not all reasons for refusal cited by the Council have been supported by the Planning Inspectorate. The reasons for refusal have been categorised as set out in the *Table 1: Categorisation of Reasons for Refusal*.

Table 1: Categorising Reasons for Refusal	
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 set out in *Graph 3: 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 This additional data further supports trends previously identified and the need to focus work on reviewing decisions where ‘design’ and ‘neighbouring amenity’ have been cited as reasons for refusal.

Graph 3: Frequency of Reasons for Refusal and Upheld/Not Upheld



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 400 household prior approval applications and determined 294 applications.

4.6 One valid appeal has been made to the Planning Inspectorate relating to a prior approval application refused due to the amenity impacts of the proposed extension on neighboring properties. The application site is at 94 Ravenscroft Avenue, HA9 (LPA Ref: 13/1443); a 7.1m deep extension was refused due to the amenity impacts on the neighboring properties. It was also noted in the decision that the proposal did not comply with the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) [“GPDO”]. The Planning Inspectorate dismissed the appeal but did not make a determination on the amenity impacts given the failure to comply with the GPDO.

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. A more detailed review will be carried out at the end of the period 2013/2014.

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 Councils adopted policy

10.0 Background

- 10.1 Sourced from Brent's IT system - Acolaid

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