

REPORT FOR: PLANNING COMMITTEE.

Date of Meeting: 8 December 2010

Subject: INFORMATION REPORT – Planning Appeal Decisions

Responsible Officer: Stephen Kelly - Divisional Director of Planning

Exempt: No

Enclosures: Appendix A - list of appeals determined between 1 April 2010 and 30 September 2010

Section 1 – Summary

This report provides the Committee with an overview of Planning appeal decisions in the first six months of 2010/11.

FOR INFORMATION

Section 2 – Report

2.1 Background

This report provides the Committee with an update and brief commentary on the appeal decisions received by the Council over the last 6 months.

2.2 Overview

The decisions of the Council as Local Planning Authority are subject to a right of appeal. Appeals are made to the Planning Inspectorate, an agency of Government, established independently by the Secretary of State to review and in most cases, determine, planning appeals submitted. Appeals may be determined by written representations – where the appeal is often determined on the written statements/representations submitted by the parties; an informal hearing – where the parties meet to explore the reasons for refusal with a Planning Inspector or by way of a public inquiry, where formal examination of the evidence submitted by the parties takes place under the direction of an appointed inspector.

The majority of planning appeals are heard by way of written representations. Public inquiries, because of their cost and the delay associated with them, are the least common form of appeal in the borough.

In addition to the consideration of the planning merits of a specific application – centered upon the reasons for refusal, in some cases, planning inspectors will determine claims for award of costs by or against the Council arising as a result of the unreasonable behavior of either side to the appeal.

During this financial year, the Council has refused just under 20% of all planning applications submitted. This represents an improvement upon performance last year. Nevertheless, in the 2 quarters to 30 September some 86 appeal decisions have been received (just 1 down on 2009).

2.3 Appeal Decisions by Type

Below is a table that summarises the results of appeal decisions by type in the previous two quarters.

Whilst the success rate of appeals remains slightly below the national average of 32%, of note in the case of enforcement appeals is that none of the enforcement appeals have been dismissed on the basis of legal or procedural deficiency.

Table 1: Appeal Decisions by Type – 1 April 2010 to 30 September 2010

Appeal Decision Type	Number Of Decisions	Number Of Decisions allowed	Percentage Allowed
Enforcement	6	2	33.33
Householder (Householder Appeals Service And Written Representations)	28	11	39.28
Minor Dwellings	27	14	51.85
Minor Development (All Other)	5	1	20
Minor Retail And Distribution and Servicing	3	0	0
Change Of Use	8	4	50
Minor Offices, R&D And Light Industry	1	0	0
Large-scale Major Dwelling Developments	1	0	0
Minor General Industry, Storage & Warehousing	1	0	0
Listed Building Consents To Alter Or Extend	1	0	0
Prior Approvals	1	0	0
Non Material Amendments	1	1	100

The majority of planning appeals relate to planning applications for proposed development. Enforcement appeals and retrospective development planning appeals account for far fewer cases. Based upon historical data and whilst acknowledging the reduction in member overturns of officer recommendations, previous year figures (which provide a better basis for establishing statistical significance) suggest that only 25% of appeals arising in such circumstances are successful for the Council.

Performance in planning appeals is acknowledged to be above national averages, and has been so for some time. Officers have put in place a series of measures to seek to respond to the outcomes of appeals but specific trends in decision making are hard to capture, given that site by site decisions have a range of specific circumstances.

The bulk of appeals being allowed relate to the Minor Dwellings and Change of Use categories. For minor developments there is a trend for inspectors to give little weight to specific amenity standards for the future occupiers of the proposed dwellings. They highlight the absence of adopted guidance in reaching this conclusion, pointing out that the standards referred to in the 2004 Harrow Unitary Development Plan (UDP) (set out in saved policy D5 –

New Residential Development – Amenity Space and Privacy) are general and relate to the established standard of amenity in the area.

In the case of changes of use the appeals allowed appear to have turned on the Council's failure to identify the specific harm arising from the development (in the case of departures from planning policy) using statistical or other quantifiable assessments.

In the case of householder development, alongside the Councils adopted SPG, inspectors give considerable emphasis to site circumstances and have, in a number of cases where there is a clear departure from the Council's SPG, sought to apply greater weight to the site specific considerations than to the policy. A greater focus upon the balancing of both considerations in the assessment of both impacts and policy compliance is accordingly being promoted within the team.

It is important to note that in most cases, appeal decisions relate to historical planning decisions. Investment in the recruitment (and development) of a permanent team, in the development of the process and approach to planning applications and to more explicit examination and review on a team basis of the outcomes of planning appeals are all geared towards improving the assessment and appraisal of planning proposals. Officer report templates are also being refined in the context of the streamlined householder appeals process (whereby there are no additional submissions other than the officer report) in order to help inspectors more fully appreciate the status of SPD and policy considerations within the decision. In parallel, the development of new planning policy (notably the LDF) but significantly, new guidance on residential development, is designed to provide improved advice to applicants to help them to make appropriate applications in the first instance and a clearer policy context for planning decisions to assist inspectors and officers consideration of the Councils policy rationale is being undertaken.

Officers have also sought to open up channels of communication with regular applicants and professionals submitting applications to the Council, to try and understand and improve the quality of new development proposals. Further changes to the planning advice offered to potential applicants, to introduce a more formalized and consistent capture of such advice is also proposed for the future.

2.6 Conclusion

Planning Appeals introduce considerable additional costs to the planning application process for both applicants and the Council. They also prolong the uncertainty surrounding new development for surrounding residents and businesses. The outcome of planning appeals can be uncertain for both applicants and the Council. Wherever possible, the Planning Division is seeking to avoid unnecessary appeals by providing better, earlier and more consistent guidance and by ensuring that planning applications submitted respond to clear policy guidance setting out the expectations of the Council for quality, sustainability and amenity. When an application is refused, work within the team is increasingly focused upon ensuring that sound and clear reasons for refusal are provided, to enable an applicant to understand what

needs to be changed (if possible) to make a proposal acceptable, and to allow the most robust defence of such reasons in the event of an appeal.

Whilst officers will continue to track (and report) performance in respect of planning appeals on a quarterly basis to the committee, the measures identified above will, over time, serve to minimise the Council's need to engage in planning appeals and increase the quality and consistency of the planning process.

Section 3 – Financial Implications

This report, for information, has no direct financial implications.

Section 4 – Corporate Priorities

The delivery of effective defense against appeals has a direct role to play in the achievement of Council Corporate priorities regarding Cleaner Safer Streets and Building Stronger Communities. The objectives of the Council's involvement in appeals, set out in this report will contribute directly to improving the physical environment of the Borough and reinforcing the integrity of the statutory planning process, for the benefit of the Borough and its residents and businesses.

Name: Kanta Hirani	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 5 th November 2010		
Name: Abiodun Kolawole	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 4 November 2010		

Section 5 - Contact Details and Background Papers

Contact: Stephen Kelly – Divisional Director Planning

Background Papers: Planning Inspectorate's Statistics Report for 2009/10