

PLANNING APPEALS REPORT

A Review of Appeal Decisions Received April 2015 – December 2015

1.0 Purpose of Report

- 1.1 This report examines how planning decisions made by the Council at both a delegated and committee level stand up against appeals and identifies what lessons can be learnt. A planning decision may be overturned via an appeal which is usually decided by the Planning Inspectorate, (the executive agency of the Department for Communities and Local Government). Both delegated and committee decisions can be overturned via this process. A very small percentage are also decided by the Secretary of State, these tend to be the very large or contentious proposals.
- 1.2 This report examined appeal decisions received between April 2015 and December 2015. Whilst the appeal decisions were received during this period, some of the applications were submitted to the council for consideration from 2013 onwards.

2.0 Types of Appeals

- 2.1 There are 3 procedures that an appeal can follow, written representations, a hearing or an inquiry. Nearly all appeals are decided by the Planning Inspectorate via the written representations procedure. A very small percentage are decided by the Secretary of State, these tend to be the very large or contentious proposals. When refusing an application, the local planning authority should consider carefully whether it has a sufficiently strong case, capable of being argued at appeal, on the basis of the material before it.

Written Representations

- 2.2 With this procedure the Inspector considers written evidence from the appellant, the Local Planning Authority and anyone else who has an interest in the appeal. The planning issues associated with this type of appeal are usually less complex. Householder appeal are heard through a specific written representation procedure and there is no option to submit further information by either the Council or third parties.

Hearing

- 2.3 Planning hearings are an effective way of presenting planning arguments to an Inspector in person, without the more formal atmosphere of an Inquiry. They also allow the inspector to examine important issues in depth by asking questions of the parties involved. Hearings are usually completed in one day or less, so they are suitable for relatively straightforward appeals and those where there is little or no public interest. However, local residents may go to the hearing and give their views to the inspector.

Inquiry

2.4 Around 5% of the planning appeal & other casework the Planning Inspectorate deals with is conducted through a Public Inquiry. An Inquiry is open to the public and provides for the investigation into, and formal testing of, evidence, usually through the questioning ("cross examination) of expert witnesses and other witnesses. Parties may be formally represented by advocates. The site may be visited before, during or after the inquiry. Statutory parties are entitled to participate in an inquiry. Interested parties can attend and may participate in an inquiry at the discretion of the Inspector.

3.0 The Awarding of Costs

3.1 Where the council is considered to have behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.

3.2 The aim of the costs regime is to:

- encourage all those involved in the appeal process to behave in a reasonable way and follow good practice, both in terms of timeliness and in the presentation of full and detailed evidence to support their case
- encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to development costs through avoidable delay,
- discourage unnecessary appeals by encouraging all parties to consider a revised planning application which meets reasonable local objections.

3.3 Partial costs have been awarded against the Council in the Hollybank Appeal in relation to the transport reason for refusal. The developer has submitted a costs schedule of £12,000 which the Council is currently considering.

4.0 Making Decisions - Reasons for Refusal

4.1 All reasons for refusal should be clear and comprehensive and if the elected members' decision differs from that recommended by their planning officers it is essential that their reasons for doing so are similarly clear and comprehensive. Clear reasons for refusal will help continued discussions and may mean that an agreement can be made without the need for an appeal. However, should an applicant appeal the reason for refusal will need to be clear and strong enough to stand up to the scrutiny of the planning inspector.

5.0 Haringey's Performance in relation to Appeals

- 5.1 Between April 2015 and December 2015, 114 planning appeals were decided. Of these, 29 Appeals were allowed (25.4 % of total) and the council's decision overturned. Of these decisions 5 were Committee Decisions, with the remainder decided under delegated powers. The majority of these applications were either minor or householder applications.

Table 1: Planning Appeals April 2015 to December 2015 by decision

Total Dismissed	% of Total	Total Allowed	% of Total	Total Split	% of Total
76	66.6666667	29	25.438596	4	3.50877193

Total Not Determined	% of Total	Total Withdrawn	% of Total	Total Deferred	% of Total
1	0.877193	3	2.631578947	1	0.87719298

- 5.2 The tables above illustrate that of the appeals made to the Planning Inspectorate 79 (67%) were dismissed and the Council's decision upheld. Approximately 5 cases 4.4% were either withdrawn, not determined or deferred. An Addition 4 (3.5%) were split decisions where aspects of the appeal were decided in the council's favour and others in the appellants.

6.0 Committee Decisions

- 6.1 Of the 29 decisions overturned by the Planning Inspectorate 4 were decisions taken by the Planning Committee against the recommendation of Planning Officers. These sites are as follows:
- 2 Wakefield Road, N15 (HGY/2014/1173) Demolition of existing building providing a 6 bedroom HMO (house in multiple occupation) and erection of a new building to provide 7 flats 3x1, 3x2 and 1x3 bed with amenity space, communal amenity space and covered cycle storage and refuse storage. Reason for refusal- overdevelopment, substandard accommodation sizes and level of amenity space
 - The Alexandra, 98, Fortis Green, N2 (HGY/2014/1543) Conversion of Public House with ancillary accommodation above to provide 2 x 3 bed single family dwellings. Reason for refusal- damaging to the value and significance of this heritage asset, and would cause harm to the character, identity and distinctiveness of Fortis Green Conservation Area.
 - Holly Bank Cottage, Holly Bank, N10 (HGY/2013/2606) Demolition of 32 garages and Holly Bank Cottage and construction of 6 x 2 storey dwellings comprising 1 x 4 bed and 5 x 3 bed units, car parking and associated

landscaping. Reason for refusal- impact on conservation area, highway safety, substandard room size and lack of affordable housing contribution.

- The Nightingale, 40, Nightingale Lane, N8 (HGY/2014/0091) Variation of condition 2 (plans) attached to planning permission HGY/2012/1258 to increase the number of units from 7 to 9. Reason for refusal- overlooking, density, traffic.

6.2 Examination of the cases reveals a number of themes which are consistent across many of the appeals allowed. With regard to conservation areas, the inspector concluded that the proposed developments at 2 Wakefield Road, and Hollybank Cottage would 'harmonise' and 'assimilate' with their respective surroundings. The interventions were seen as less than significant and as such preserved the character and appearance of the conservation areas.

6.3 In relation to the Alexandra Public House, whilst recognising the buildings contribution to the conservation area, the inspector gave significant weight to the fact that the building was neither listed nor locally listed and that a request to English Heritage for its inclusion on the register had been denied. The inspector also noted that the site was not formally designated as an 'Asset of Community Value' and no clear evidence was submitted to demonstrate how the development would negatively impact the local community. As such, limited weight was given to this objection.

6.4 In terms of living space and the quality of accommodation, the inspector clearly noted that slight shortfalls in minimum space standards are not enough to warrant a refusal, particularly where this is offset in other areas of the proposal. The provision and access to communal space was considered, for example, to offset the lack of private balconies for two units within the proposed development at No 2 Wakefield Road.

6.5 In the case of Holly Bank Cottage, a condition requiring compliance with Level 4 of the Code for Sustainable Homes was considered unreasonable since a Written Ministerial Statement has confirmed the code is no longer mandatory. Within the same decision, the inspector also clarified that due to the West Berkshire Judgement, contributions for off-site affordable housing from smaller developments can be sought.

7.0 Delegated Decisions.

7.1 A number of similarities have been identified across the allowed appeals. In terms of the impact of developments on the amenity of neighbouring properties, in several cases inspectors acknowledged some harm to neighbours but considered this not 'significant' enough warrant a refusal. Specifically, in terms of overlooking, the inspector clarifies that a degree of

inter-visibility between properties is common and acceptable within an urban context. Screening options including boundary fencing and planting were recognised as acceptable mitigation methods. The inspector also asked for specific properties to be named where harm caused would be significant.

- 7.2 In terms of conservation areas, high quality, contemporary design was recognised as justification for the loss of an original property at No18 Stormont Road. Inspectors have stated the importance of assessing the impact on the conservation area as a whole and not just the immediate locality. The architectural diversity of the surroundings was also given weight with the overall impact of a development given weight as opposed to specific details.
- 7.3 In terms of the impact of additional parking pressures inspectors have dismissed decisions given a lack of specific evidence given to back up objections from the council. In addition, the remote operation of taxis was given considerable weight within an appeal to the rear of Nos734-744 Lordship Lane for the operation of a min cab office. Conditions imposed regarding a limit to vehicles permitted on the site were seen as sufficient to warrant approval of this application.
- 7.4 The lack of up-to-date surveys of Town Centre A1 (retail) occupancy levels was identified within an appeal at No224 Muswell Hill Broadway where the inspector was presented with an alternative survey to the council's 2012 figures. Thus, an update of statistics is required in order to implement saved UDP Policy TCR3 which states that 'proposals to change the use from existing Class A1 retail will be allowed provided that, where appropriate as a general guideline, the resulting proportion of A1 units does not fall below 65% in the primary frontage'
- 7.5 Two major applications have been subject to appeal. Land at Plevna Crescent & Ermine Road N15, was refused under delegated powers and a split decision was awarded at appeal. No42 residential units at Plevna Crescent were allowed. The inspector states that this aspect of the proposal would enhance the site and SINC overall and would improve access to nature for local residents. The significant benefits of affordable housing were also recognised. No53 dwellings at Ermine Road were dismissed with the inspector recognising the harm the development would cause to the implementation of Crossrail 2.

8.0 Summary

- 8.1 Between April 2015 and December 2015, the council received the decisions of 114 planning appeals. Of these, 29 Appeals were allowed (25.4 % of total)

and the council's decision overturned. Of these decisions 5 were Committee Decisions, with the remainder decided under delegated powers. The majority of these applications were either minor or householder applications. Of the remaining applications 79 (67%) were dismissed and the Council's decision upheld. Approximately 5 cases 4.4% were either withdrawn, not determined or deferred. An additional 4 (3.5%) were split decisions where aspects of the appeal were decided in the council's favour and others in the appellants.

Gareth Prosser, Deputy Team Leader December 2015

APPENDIX

The results of appeals for this period are laid out below by application type.

Table 1: Major Applications

Majors (2)			
Allowed	Dismissed	Withdrawn	Split
1	0	0	1

Table 2: Minor Applications

Minors 43					
Allowed	Dismissed	Withdrawn	Split	Not Determined	Deferred
11	28	0	2	1	1

Table 3: Other Applications

Others 13			
Allowed	Dismissed	Withdrawn	Split
5	6	2	0

Table 4: PS0 Applications

PS0 13			
Allowed	Dismissed	Withdrawn	Split
2	10	1	0

Table 5: Householders

Householders 43			
Allowed	Dismissed	Withdrawn	Split
10	32	0	1