

NOTICE OF MEETING

STRATEGIC PLANNING COMMITTEE

Thursday, 17th October, 2024, 7.00 pm - George Meehan House, 294 High Road, Wood Green, London, N22 8JZ (watch the live meeting [here](#), watch the recording [here](#))

Councillors: Lotte Collett, Lester Buxton, Sean O'Donovan, Barbara Blake (Chair), Reg Rice (Vice-Chair), Nicola Bartlett, John Bevan, Cathy Brennan, Scott Emery, Emine Ibrahim and Alexandra Worrell

Quorum: 3

1. FILMING AT MEETINGS

Please note this meeting may be filmed or recorded by the Council for live or subsequent broadcast via the Council's internet site or by anyone attending the meeting using any communication method. Members of the public participating in the meeting (e.g. making deputations, asking questions, making oral protests) should be aware that they are likely to be filmed, recorded or reported on. By entering the 'meeting room', you are consenting to being filmed and to the possible use of those images and sound recordings.

The Chair of the meeting has the discretion to terminate or suspend filming or recording, if in his or her opinion continuation of the filming, recording or reporting would disrupt or prejudice the proceedings, infringe the rights of any individual, or may lead to the breach of a legal obligation by the Council.

2. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

3. URGENT BUSINESS

The Chair will consider the admission of any late items of urgent business. (Late items will be considered under the agenda item where they appear. New items will be dealt with under item 9 below).

4. DECLARATIONS OF INTEREST

A member with a disclosable pecuniary interest or a prejudicial interest in a matter who attends a meeting of the authority at which the matter is considered:

(i) must disclose the interest at the start of the meeting or when the interest becomes apparent, and

(ii) may not participate in any discussion or vote on the matter and must withdraw from the meeting room.

A member who discloses at a meeting a disclosable pecuniary interest which is not registered in the Register of Members' Interests or the subject of a pending notification must notify the Monitoring Officer of the interest within 28 days of the disclosure.

Disclosable pecuniary interests, personal interests and prejudicial interests are defined at Paragraphs 5-7 and Appendix A of the Members' Code of Conduct

5. DEPUTATIONS / PETITIONS / PRESENTATIONS / QUESTIONS

To consider any requests received in accordance with Part 4, Section B, paragraph 29 of the Council's constitution

6. MINUTES (PAGES 1 - 6)

To confirm and sign the minutes of the Strategic Planning Committee meeting held on 20th June as a correct record.

7. PLANNING AND BUILDING CONTROL 2024/25 Q1-Q2 UPDATE (PAGES 7 - 28)

A report on the work of the Planning and Building Control services from April to September 2024.

8. RESPONSE TO OMBUDSMAN COMPLAINT REFERENCE 23 016 137 (HARINGEY REFERENCE LBH/14192823) IN RELATION TO PLANNING APPLICATION HGY/2022/4537 (PAGES 29 - 42)

Response to Ombudsman Complaint 23 016 137 (Haringey Reference LBH/14192823) in relation to the determination of planning application HGY/2022/4537 in Crouch End Ward.

9. NEW ITEMS OF URGENT BUSINESS

10. DATES OF FUTURE MEETINGS

To note the dates of future meetings:

24th February 2025

Kodi Sprott, Principal Committee Coordinator
Tel – 020 8489 5343
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Email: kodi.sprott@haringey.gov.uk

Fiona Alderman
Head of Legal & Governance (Monitoring Officer)
George Meehan House, 294 High Road, Wood Green, N22 8JZ

Wednesday, 09 October 2024

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MINUTES OF THE STRATEGIC PLANNING COMMITTEE HELD ON THURSDAY 20 JUNE, 2024, 7:00PM – 7:52PM

PRESENT: Councillors Lester Buxton, Sean O'Donovan, Barbara Blake (Chair), Reg Rice (Vice-Chair), Nicola Bartlett, John Bevan, Cathy Brennan and Alexandra Worrell

ALSO ATTENDING:

1. FILMING AT MEETINGS

The Chair referred to the notice of filming at meetings and this information was noted.

2. APOLOGIES FOR ABSENCE

Apologies had been received from Councillor Scott Emery and Councillor Imine Ibrahim.

3. URGENT BUSINESS

There were no items of urgent business.

4. DECLARATIONS OF INTEREST

There were no declarations of interest.

5. DEPUTATIONS / PETITIONS / PRESENTATIONS / QUESTIONS

There were none.

6. MINUTES

RESOLVED

To confirm and sign the minutes of the Strategic Planning Committee held on 19 February 2024 as a correct record.

7. PLANNING AND BUILDING CONTROL 2023-24 UPDATE

Mr Robbie McNaugher Head of Development Management & Enforcement, introduced the report in relation to performance overview.

The meeting heard that:

- Decisions categorised as “excluded” from the figures were things like tree preservation orders and tree works in conservation areas. These were not monitored by the Government. Decisions on enforcement complaints not made within eight weeks were likely to have decisions made outside of the Haringey target, but sometimes it was just a case of data cleansing. Officers would sometimes do these in batches so it did not mean that decisions would be made out of time, but could do so.
- Referring all Houses in Multiple Occupation (HMOs) to planning has become an aspect of the licensing process to ensure planning permission was in place. In the past, cases were only referred where there was a suspicion of no planning permission. All renewals were being submitted which allowed Planning to check the occupancy level. More investigation would be done if significant discrepancies were observed upon initial observation.
- It was generally the case that when somebody applied for a HMO licence, they also had to apply for planning permission. There was an Article 4 Direction which had excluded permitted development rights for HMOs in the east of the borough. This meant that the majority of HMOs needed planning permission. Outside of that area, it would be possible to convert a house to a ‘small HMO’
- Applications at Haringey worked similar to a taxi rank system. Once submitted, they would be allocated to an area where there was capacity within the team to consider them. Applications were taking, on average, 37 days to allocate. This had been reduced to 19. The manager was checking for previous history to make sure that if an officer had previously dealt with an application, the respective officer would be given the second application or whatever other kind of follow-up there was in relation to the application.
- Other councils operated a shorter validation process, but the approach at Haringey was to “front load” things, which may cause a delay at the start for validation, but it would still result in overall targets being hit as screening would be done in detail early in the process.
- A query was raised regarding how some councillors had been made aware that the local plan was moving to change the allocation of new housing which had been set in the past to ensure that more social housing was built in the west and the east and that this was no longer the case. Several councillors were not supportive of or aware that this change had been made. In response, the meeting heard that the current policy sought the same target percentage of affordable housing across the entire borough (40%). In relation to the new local plan, no decision had been taken yet. Based on discussions so far, the Council was not proposing to set a different housing target in different parts of the borough in terms of the target of affordable housing percentage. The current local plan aimed for a different tenure mix of affordable housing within the east of the borough and it was still open to a discussion about whether or not that remained the case, but no decisions had been taken and would not be taken for a number of months.

- In relation to backlog, the Council had started with 230 applications identified as backlog and then later determined the number to be 275. Some new backlog came into scope and this had been determined using the backlog funding.
- There were HMOs in Muswell Hill. This was west of the borough and there were a number of HMOs which were not licensed and needed to be as conditions were not ideal.
- In relation to the spend outlined on paragraph 5.35 of the report, the digital maturity assessment asked a range of questions to really look at how far advanced things were in terms of digital planning on certain issues. The Council had scored well on some things and less on others and was a decision of which of areas where there had been a low score would be where spend would be focused. The Council was only spending this funding on that project.
- The Planning department currently employed 12 agency staff and there was a corporate push to reduce that. It was hoped this would be halved to six in the next few months.
- Caseloads in comparison to other boroughs was probably about average. There was an attempt to run things more dynamically. The Council would sit with a batch of applications and allocate them more when there was a capacity within the team. This kept caseloads per officer slightly lower, but overall, the number was larger in total. Some authorities would have more than 60, but very few less than 60.

Mr Bryce Tudball, Head of Policy Transport and Infrastructure Planning, introduced the report in relation to the new local plan. The meeting heard that:

- A query was raised regarding the balance of social housing in the west and east of the borough, and concern that there were not very many brownfield sites necessarily in the west and it was more important to ensure that as much social housing as possible was built. In response, the meeting heard that the Council's adopted Housing Strategy was not produced by Mr Tudball's team, but did set out a strong preference for the delivery of social housing. This was the Council's adopted position. The starting point in relation to the local plan would be that the Council look to be consistent with this.
- A greyfield site would include, for instance, developed sites within the green belt. A typical example would be a location that fell technically in the green belt, but was a previously developed site. There were sites like that all across the country.
- It was important that the member working group was a good use of everyone's time. Based on previous conversations, there was a lot of consensus in relation to key topics such as housing, affordable housing, the local economy or the climate emergency. In some cases, there may be new evidence that needed to be brought which may help facilitate a more granular conversation. Future discussions would be based around sites where the Council would think very carefully about what it wanted to deliver to neighbourhoods.
- In terms of sites, the starting point was to identify sites that may be available for development in the future. Although Haringey was a small borough, the Council had a relatively good idea of what sites may be available in the future. A second call for sites had been made. The next stage was around site assessment and this involved

thinking carefully about what could be delivered on these sites and if the proposed developments were the best outcomes. Historically, it had been a more manual task. However, explorations were being made to see if technology could help facilitate a quicker process so the £120,000 (outlined in paragraph 5.46 and 5.47 of the report) was principally to cover the licensing of buying in this technology that could do the assessments much quicker. The outlined £60,000 was about backfilling the time involved in people in Mr Tudball's team delivering the project. There was also some specialist support the Council may need around design. The Council would also like the tool or the project to look at whether outcomes on sites were financially viable.

- It would be possible for the Committee to receive a demonstration of the technology in use at the new member working group.
- Efforts would be made to get a Cabinet decision on the local plan by the end of the year. Whether or not it was possible to go out for consultation before the end of the year would depend on a few things, but the aim would be to get the Cabinet decision in November or December 2024.

Mr Denis Ioannou, Head of Building Control Services, introduced the report in relation to building control. The meeting heard that:

- The Council was going through the competency process to ensure that it had competent staff under the new regime to be able to perform the function on the new regulations. The Council was also looking at its Quality Management Systems to enable the Council to report back to the Building Safety Regulator so that it would not be seen as a risk borough which would leave the Council subject to investigation.
- In terms of having registered inspectors, the Council had one 'Class 3' individual already registered as an inspector and three that were awaiting results from exams. The Committee would be advised of the results when available.
- Concerns were raised regarding the job re-evaluation process. Discussions would be held with officers and the Chair regarding the issues. An update would be circulated by email within a few weeks and further updated at the next Strategic Planning Committee meeting.
- Discussions had taken place with the Legal and HR teams to see what support they could offer in terms of the building safety regulator's enforcement.
- An update would also be provided on the phone box removals.

RESOLVED:

That the report be noted.

8. NEW ITEMS OF URGENT BUSINESS

There were no new items of urgent business.

9. DATES OF FUTURE MEETINGS

The next meeting would take place on 17 October 2024.

CHAIR: Councillor Barbara Blake

Signed by Chair

Date

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Report for: Strategic Planning Committee 17 October 2024

Title: Planning and Building Control 2024/25 Q1-Q2 Update

Report authorised by: Rob Krzyszowski, Assistant Director, Planning, Building Standards & Sustainability

Lead Officer: Robbie McNaugher, Head of Development Management & Enforcement

Bryce Tudball, Interim Head of Planning Policy, Transport & Infrastructure

Denis Ioannou, Interim Head of Building Control

Ward(s) affected: N/A

**Report for Key/
Non Key Decision:** For information

- 1. Describe the issue under consideration**
A report on the work of the Planning and Building Control services from April to September 2024.
- 2. Recommendations**
That this report be noted.
- 3. Reasons for decision**
Not applicable.
- 4. Alternative options considered**
This report is for noting and as such no alternative options were considered.
- 5. Planning and Building Control 2024/25 Q1-Q2 Update**

Planning cross-cutting matters

Awards

- 5.1 On 13 June 2024 Haringey Council won **Local Authority Planning Team of the Year Award** at the national **Planning Awards 2024**.
- 5.2 At the same awards ceremony Haringey also shared a win for **Award for Planning to Address Climate Change** with London Councils and Hackney Council for our Carbon Management service's work on the Low Carbon Development Toolkit.
- 5.3 On 27 June 2024 Haringey Council won **Planning Authority of the Year Award** at the **Royal Town Planning Institute London region** awards.
- 5.4 The awards recognise Haringey's journey from being named as the 'worst' planning authority in 2012 to now being one of the best performing. The judges also recognised that Haringey has delivered a "much better quality service at below average cost".

Planning Internal Audit

- 5.5 In September 2024 an **internal audit** has been undertaken of the Planning service as part of the Council's routine audit plan. A final report is expected in October. This will be reported to the appropriate Audit Committee in due course and will also be reported to the next available Strategic Planning Committee.

Planning Reforms

- 5.6 On 30 July 2024 the Government published a **Consultation on 'Proposed reforms to the National Planning Policy Framework (NPPF) and other changes to the planning system'**¹. Consultation closed on 24 September 2024.
- 5.7 Whilst Haringey did not respond directly to the consultation, officers have attended numerous meetings to contribute towards sector-wide consultation responses such as through London Councils and the Royal Town Planning Institute.

¹ www.gov.uk/government/consultations/proposed-reforms-to-the-national-planning-policy-framework-and-other-changes-to-the-planning-system

5.8 Key **highlights** of the proposed reforms include:

- Taking steps to enable “universal coverage of **strategic planning** within this Parliament”
- A new “Standard Method” for assessing **housing needs** and setting targets
- Re-strengthening the **5 Year Housing Land Supply** requirement
- No changes to the **Housing Delivery Test**
- More emphasis on “**social rent**” housing and less emphasis on “affordable home ownership”
- Emphasising that development on **brownfield land** “should be regarded as acceptable in principle”
- Removing most references to “**beauty**” in the NPPF
- Moving away from requiring “district-wide design coding” and instead focusing on “**localised design codes**, masterplans and guides”
- Explicitly supporting **upwards extensions** and “mansard roofs”
- Considering how best to use “**carbon assessments**” and “carbon accounting in plan-making and planning decisions”
- Supporting “**laboratories, gigafactories and data centres**”
- A “vision led approach” to promoting **sustainable transport**
- **Local Plans** “should continue to progress... to adoption under the existing system without delay” and transitional measures i.e. “submitted for examination under the existing 2004 Act system no later than **December 2026**”
- “**Modernising planning committees**” and introducing a “**national scheme of delegation** that focuses planning committees on the applications that really matter, avoids a potential development being reviewed multiple times even where it’s been included in the local plan, and places more trust in skilled professional planners” – this is expected in the forthcoming Planning & Infrastructure Bill

5.9 In particular with regard to **Green Belt**:

- Encouraging **Green Belt reviews** where an authority cannot meet its identified development needs
- New “**golden rules**” for releasing or allowing development on Green Belt:
 - 50% affordable housing
 - Necessary improvements to local or national infrastructure
 - New or improved accessible green space
- A new concept of “**Grey Belt**” which in simple terms is Green Belt which makes only a limited contribution to Green Belt purposes and features:
 - Land containing substantial built development or which is fully enclosed by built form
 - Land which makes no or very little contribution to preventing neighbouring towns from merging into one another
 - Land which is dominated by urban land uses, including physical developments
 - Land which contributes little to preserving the setting and special character of historic towns

5.10 With regard to **planning application fees**:

- Overall funding shortfall for local authority **Development Management** (planning application) services is £262m nationally
- Additional funding shortfall for local authority **Planning Policy, Enforcement, Conservation, Heritage** services is £384m nationally
- 80% of applications account for only 20% of fee income
- Seeking **increased performance** and holding authorities to account
- **Increasing householder fees** from £258 to **£528**
- Considering **increasing other planning fees**, and introducing fees for some types of application which are not currently charged
- Government consulting on whether to keep fees set nationally or allow **local variation**

5.11 Different elements of the reforms will be further consulted on, implemented and take effect at different times. As ever, officers will ensure that reports to Planning Sub Committee refer to the most up-to-date legislation and policy at that time as necessary.

Development Management & Enforcement

Performance overview

5.12 An overview of performance is as follows. **Appendix One** explains the categories of applications.

- Applications received during April to Sept 2024/25: **1,434**
- Applications received during same period 2023/24: **1,492**
- Number of valid cases on-hand end of Sept) 2024: **675**
- Number of valid cases on-hand end of Sept 2023: **833**
- Appeals decided during April to Sept 2024/25: **32**
- Appeals decided during same period 2023/24: **27**
- Appeals dismissed (won) during April to Sept 24/25: **23 (72%)**
- Appeals dismissed (won) during same period 2023/24: **17 (63%)**
- Cumulative performance (applications in time) 2024/25
 - **Majors: 100%**
 - **Minors: 90%**
 - **Others: 92%**
 - **PS1 Only: 97%**
 - **Decisions excluded from statutory figures: 70%**

5.13 As set out above performance is at 100% for 'Majors' applications. Our performance for 'Minor' and 'Other' applications shows a significant improvement on this time last year. Appeal performance has also improved.

	2020/21	2021/22	2022/23	2023/24	2024/25 (end Sept)
Majors	100%	100%	100%	100%	100%
Minors	95%	90%	80%	88%	90%
Others	97%	91%	87%	88%	92%
PS0+ PS1	91%	91%	87%	98% (PS1 only)	97% (PS1 only)
PS Exclude			73%	60%	70%

Cumulative Performance. As of Sept 2022/23 'PS1' and 'PS Exclude' figures are reported separately within the new Arcus system. Prior to that both PS1 and PS Exclude were reported as a single return under 'PS0'

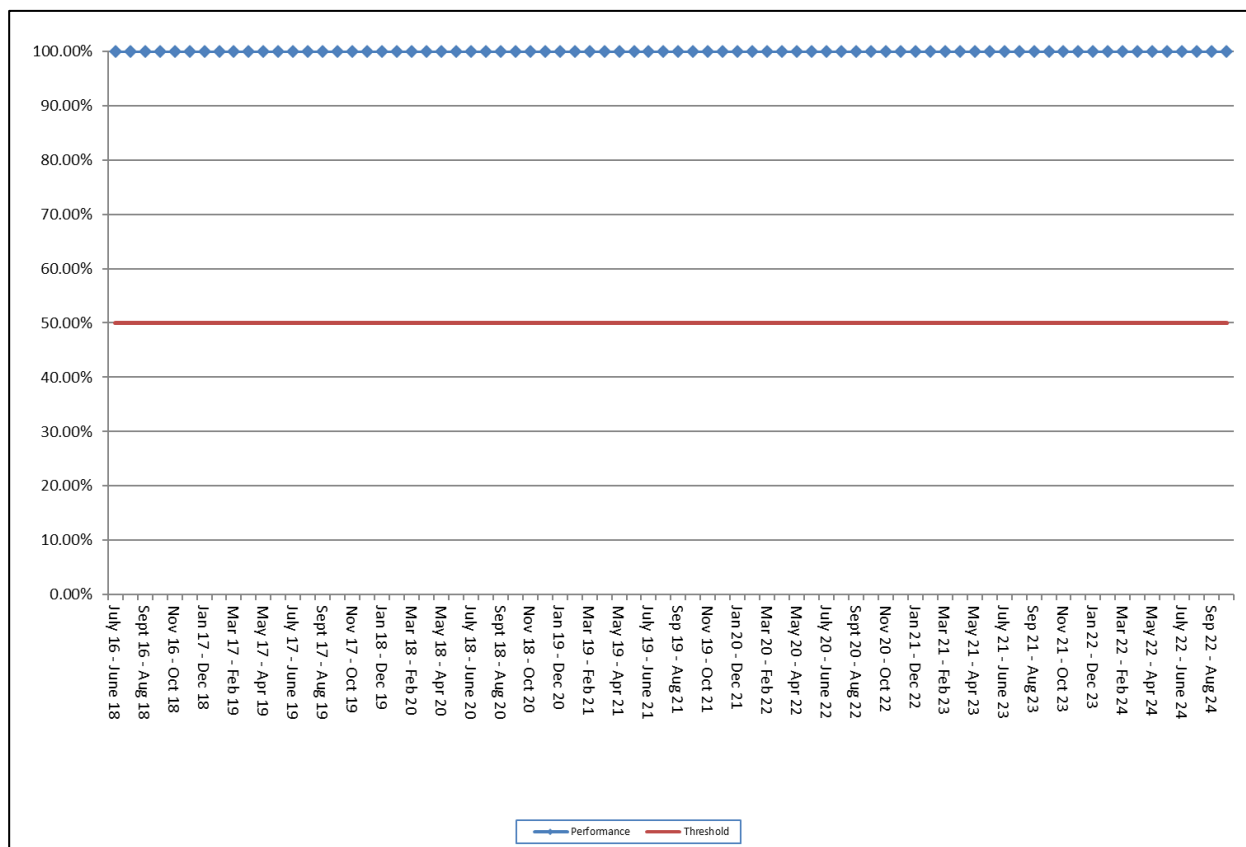
5.14 This table gives a further breakdown on the numbers of appeals:

	2020/21	2021/22	2022/23	2023/24	2024/25 (end Sept)
Appeals received	84	117	103	77	33
Appeals decided	56	106	106	56	32
Appeals allowed	13	23	20	24	9
Appeals dismissed	41	78	86	32	23
Appeals split Decision	2	5	0	0	0
% Appeals won	77%	78%	81%	57%	72%

5.15 The Government has three measures of application performance which the Council must remain within thresholds for. If we breach these thresholds we may be designated as a poorly performing planning authority and developers will then have the option of applying directly to the Planning Inspectorate for planning permission. This would mean that we don't get the fee income for that application but we are still required to undertake the consultation. In addition we lose the democratic right to determine the application. These are (assessed over a two-year rolling period):

- Major applications performance at least 50%
- Minor and Other applications performance at least 70%
- Appeals lost (below 10% in both categories)

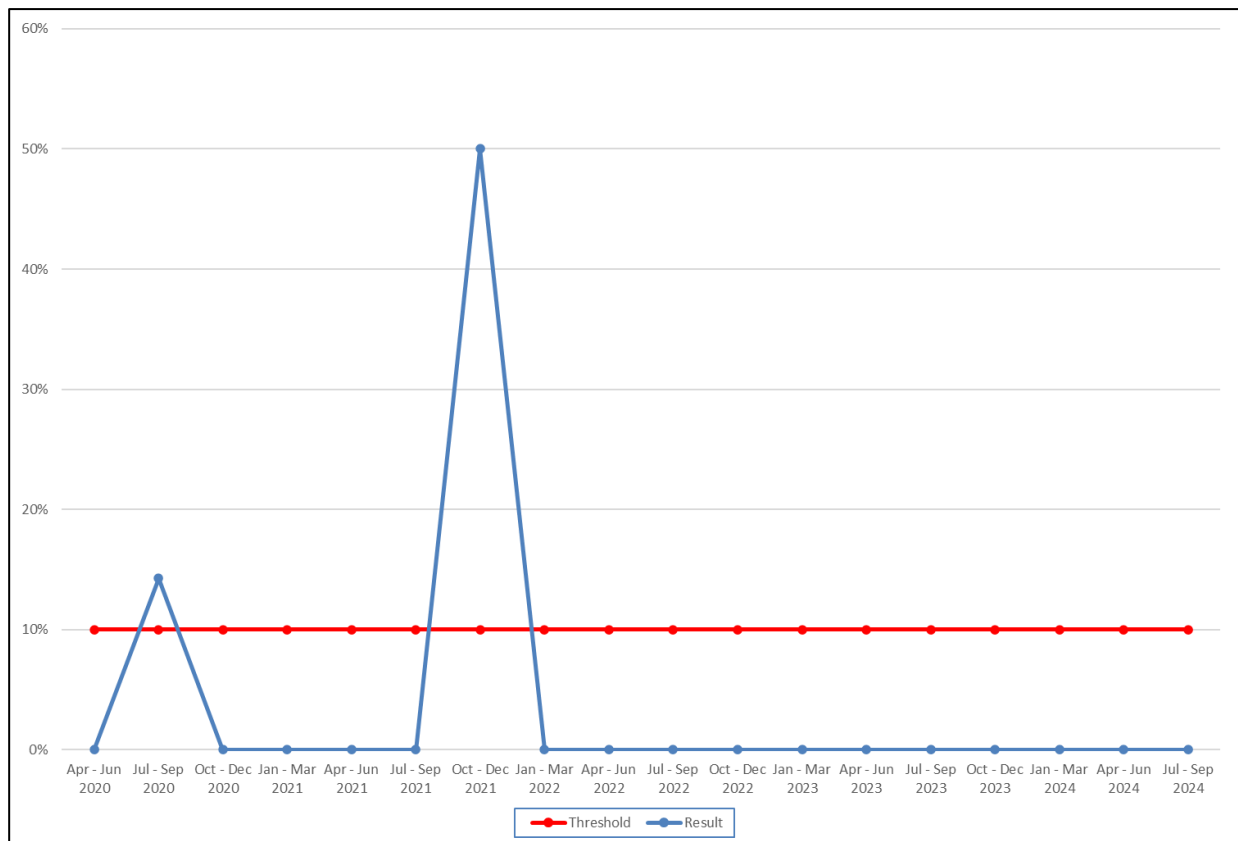
5.16 Major planning applications are assessed within a rolling 2-year period. A major application is deemed as 'within time' if the application is determined within the statutory 13-week deadline, or within the agreed extension of time / Planning Performance (PPA) agreement. We are consistently at 100% performance within this area. Our current rolling figure reflects the period of October 2022 – September 2024 and is at 100% performance based on 43 out of 43 Major applications determined within time:



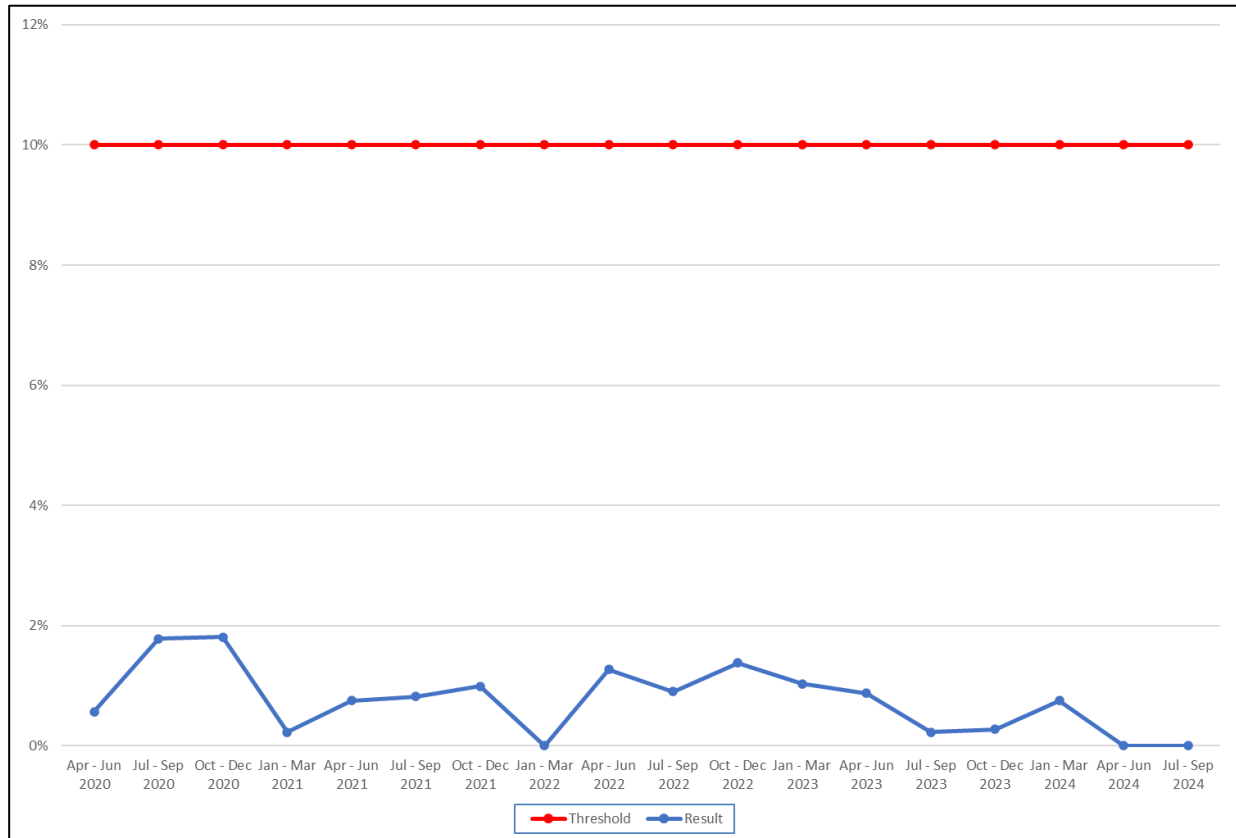
- 5.17 Planning minor / other applications are assessed as a combined decision count within a rolling 2-year period. A planning minor / other application is deemed as 'within time' if the application is determined within the statutory 8-week deadline, or within the agreed extension of time. We are consistently performing well above the 70%. Our current rolling figure reflects the period of October 2022 – September 2024 and is at 87% performance based on 2,596 out of 2,994 minor / other applications determined within time:



5.18 Major planning applications overturned within a 2-year rolling period is currently at 0%, which is below the 10% threshold. The figure is monitored on a quarterly basis. We must also note that the Planning Inspectorate have a lag of 6 – 12 months to when a decision is made on an appeal, and therefore our last 6 – 12 months' worth of data is subject to change. We currently have no Major pending appeals awaiting determination by the Planning Inspectorate, and therefore expect our performance to be maintained at 0%:



5.19 Minor / other planning applications overturned within a 2-year period is currently at 0%, which is below the threshold of 10%. This figure is monitored on a quarterly basis. We must also note that the Planning Inspectorate have a lag of 6 – 12 months to when a decision is made on an appeal, and therefore our last 6 – 12 months' worth of data is subject to change. There are currently approximately 50 minor / other planning appeals pending with the Planning Inspectorate which could potentially increase our result line from January 2024 onwards, however we are well below the 10% threshold and are not expecting these decisions to affect our performance negatively.



5.20 For April to September 2024/25 we decided the following:

- **12 ‘Major’** applications (compared to the **10** last year this time)
- The average time of decision has increased from 433 to 457 days but all have been subject to planning performance agreements or extensions of time due to the need for S106 agreements on applications of this scale.

	20/21	21/22	22/23	23/24	24/25 (end Sept)
Major Apps decided	20	15	16	22	12

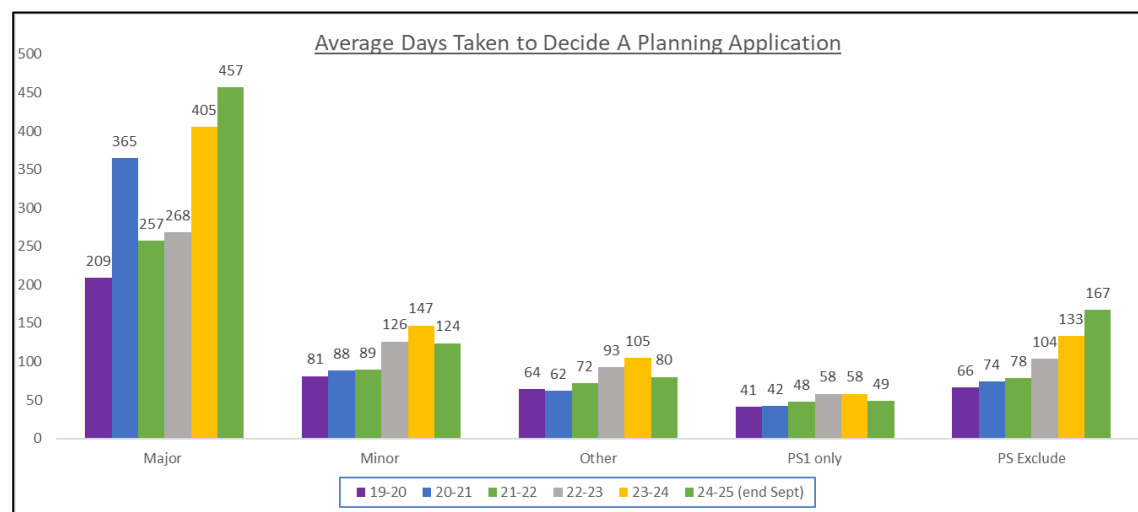
Major applications decided over past five years

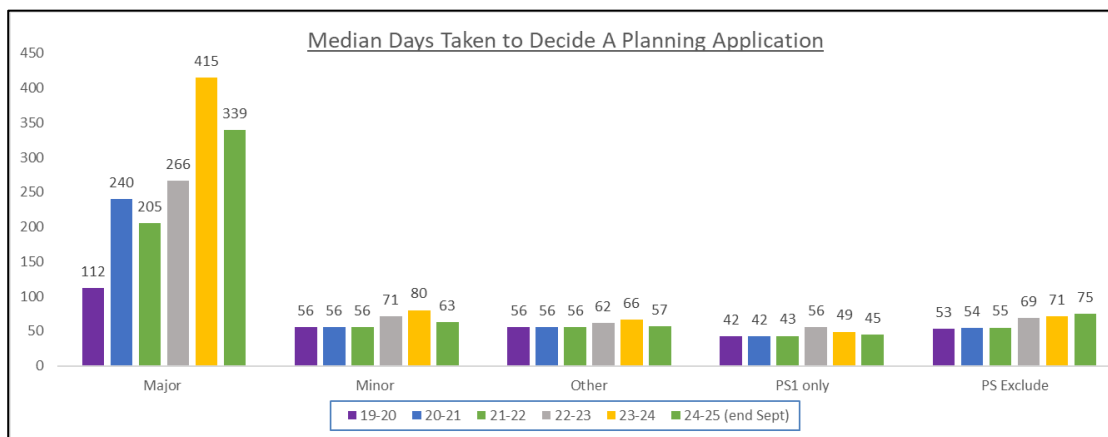
- **283 ‘Minor’** applications (compared to the 361 ‘Minor’ applications last year)
- The average decision time has decreased from 130 days to 124 days
- **441 ‘Other’** applications (compared to the 1203 ‘Other’ applications last year)
- The average decision time has decreased from 99 days to 80 days

5.21 The end to end times for different types of applications are set out below. The average times have largely decreased in the current year but ‘Excluded’ applications average times have increased due to work to clear backlog applications:

Average and Median days to decision 2024/25

	Average Days to Decision	Median Days to Decision
Major	457	339
Minor	124	63
Other	80	57
PS1 only	49	45
Exclude	167	75



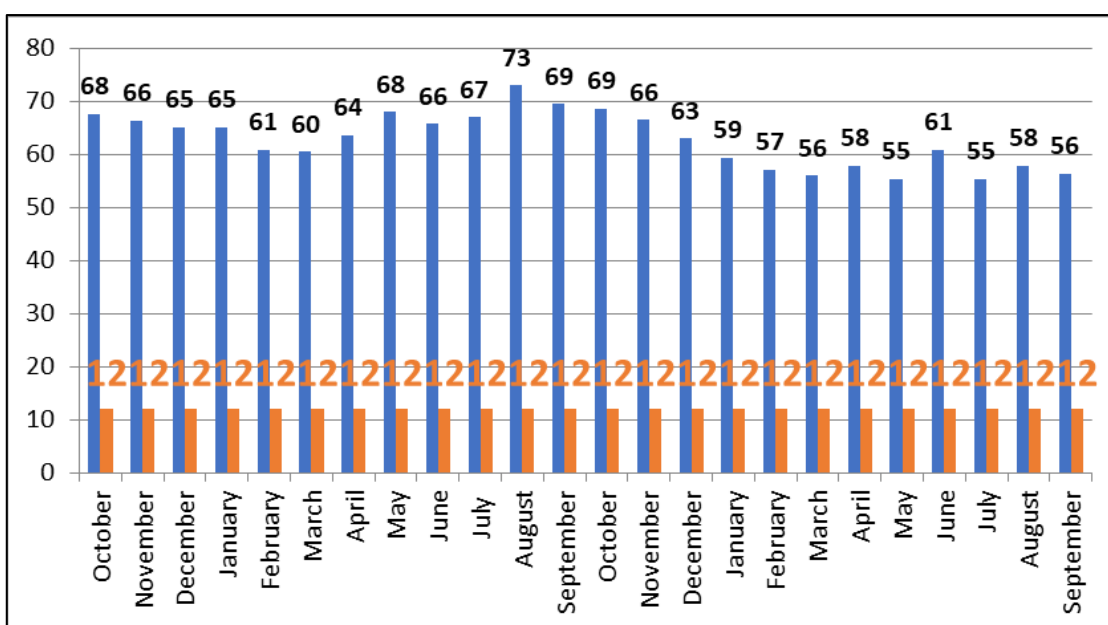


5.22 The overall numbers of applications received, approved, and refused over recent years is set out below:

	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025
Received	3359	3522	3140	2750	1434 (end September)
Approved	2590 (85%)	2535 (84%)	2533 (88%)	2421 (88%)	1192 (88%)
Refused	475 (15%)	499 (16%)	333 (12%)	340 (12%)	159 (12%)
Total decided	3,065	3,034	2866	2761	1351

5.23 The length of time taken to validate an application is at an average of 17 days, decreased from 19 days due to workloads improving.

5.24 Officer caseloads are at around 56 per officer at the end of September 2024, which has decreased from 69 last year due to work to reduce the backlog.



Planning Skills Delivery Fund & Backlog

- 5.25 In July 2023 the Government announced a new 'Planning Skills Delivery Fund' where local planning authorities could bid for up to £100,000 to tackle backlog and skills issues.
- 5.26 The Government announced successful bids on 19 December 2023. Haringey was awarded £75k for tackling the backlog.
- 5.27 The backlog identified 230 planning applications. These consisted of major developments for over 1,000 dwellings, a care home, and over 14,000sqm of commercial floorspace and minor development for just under 100 dwellings and enhancements to over 20 commercial premises.
- 5.28 After some preliminary work in August 2023 the project began in January 2024. Officers have been working additional paid hours to clear the backlog. DLUHC has sought data on progress as of 31 May. The initiative has resulted in over 400 backlog applications being determined to date. This funding has now been exhausted but a backlog still remains and will be addressed through ongoing work. The number of applications beyond their statutory deadline was as low as 317 in May when the backlog project concluded and has since risen slightly due to some illness and leave within the team to 543 applications.
- 5.29 As a result of this backlog work the number of on hand applications has leveled off. As of the end of September 2024, there were 675 pending valid applications (down from 833 on this time last year). The number of applications not yet validated or registered is currently 108 'new' applications, with a further 78 invalid applications awaiting information from applicants. Giving a total of 861 pending planning applications.
- 5.30 The number of applications over 26 weeks at the end of September was 95. This is a decrease from 219 at the end of September last year. The majority of these cases are now approval of details applications for major developments requiring detailed discussions with consultees. The work to reduce the backlog has improved the monitoring of these cases and reduced them significantly.
- 5.31 With the introduction of increased planning fees the government has reduced the Planning Guarantee time from 26 to 16 weeks. This was aligned with new fees which came into effect on 8 December 2023 so applications have begun to reach this threshold and are being closely monitored. Currently 118 applications have reached this threshold rising from 24 at the end of 2023/24 so backlog work is now focusing on addressing this.

Planning Advice Services

- 5.32 In April 2024 the Development Management Service worked with stakeholders to develop a Planning Advice Service Action Plan. This involved a review of the Council's Planning Advice Services internally and with customers to create an action plan for improvement. Several actions were taken including:

- A new portal for the submission of planning advice requests
- Improving monitoring to ensure timely responses
- Providing clarity of processes for fastrack applications
- Improving internal procedures to improve the quality of feedback

5.33 This has so far had a positive impact on pre-application income.

5.34 During April to September 2024 there were:

- 127 pre-application meetings (same period last year: 77) generating a total of £223,087 in income (same period last year: £145,833)
- 38 householder pre-application meetings (same period last year: 39) generating £33,957 in income (same period last year: £17,623)

5.35 The use of Planning Performance Agreements (PPAs) generated £531,216 in income, compared to £271,808 last year.

5.36 For express householder written advice, fast-track certificate of lawfulness and fast-track application services in April to September 2024 we received the following:

- 31 instances of Express Pre-applications (same period last year: 16) generating a total of £18,799 (same period last year: £5,090)
- 8 instances of Fast Track Certificate of Lawfulness application (same period last year: 11) generating a total of £2,348 (same period last year: £8,040).
- 12 instances of Fast Track Householder applications (same period last year: 8) generating a total of £5,238 (same period last year: £6,352).

Planning Decisions

5.37 The final government threshold relates to overturns of refusals (officer and committee) of applications on appeal. We are at 1% on minor / other applications.

5.38 For major applications the measure for quality of planning decisions is the percentage of the total number of decisions made that are then subsequently overturned at appeal, once nine months have elapsed following the end of the assessment period.

5.39 The nine months specified in the measure enables appeals to pass through the system and be decided for the majority of decisions on planning applications made during the assessment period. The assessment period for this measure is the two years up to and including the most recent quarter for which data on planning application decisions are available at the time of designation, once the nine months to be allowed for beyond the end of the assessment period is taken into account. The average percentage figure for the assessment period as a whole is used.

5.40 The threshold for designation on applications for both major and non-major development, is 10% of the total number of decisions on applications made

during the assessment period being overturned at appeal. This is calculated as an average over the assessment period.

5.41 For the 2024 designation period (2022-24) we will not be designated.

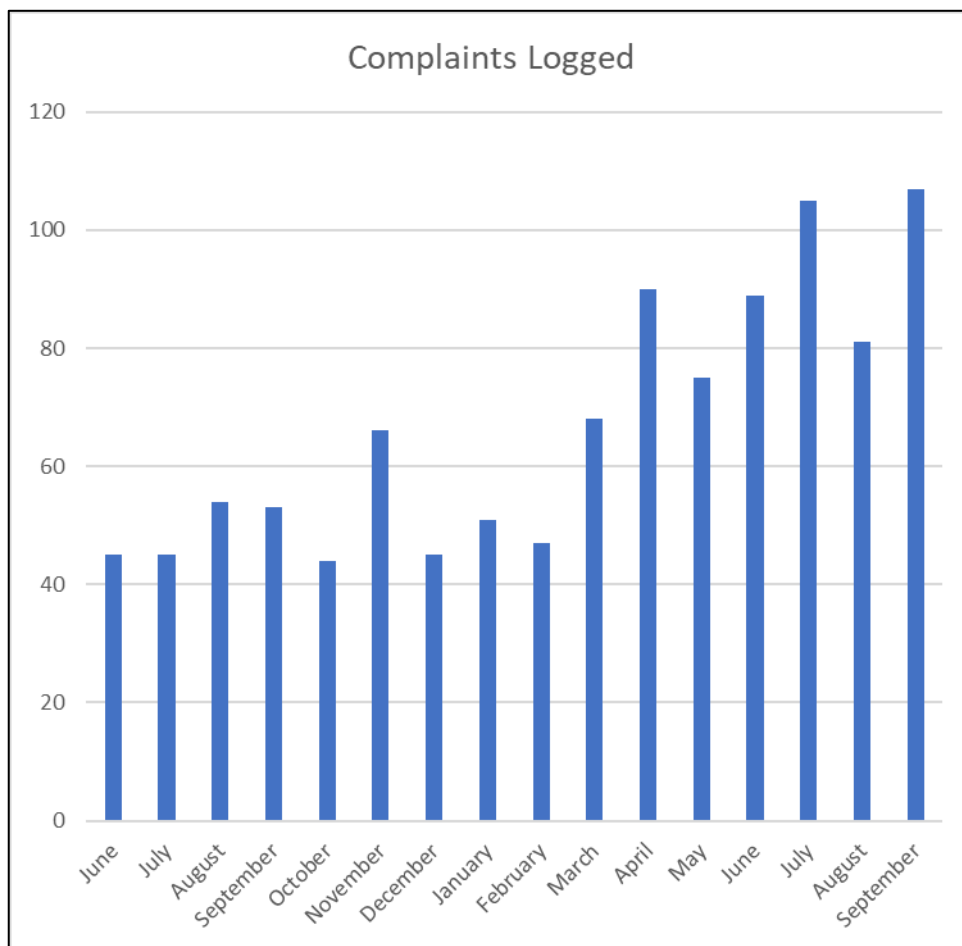
5.42 Haringey's performance is as follows:

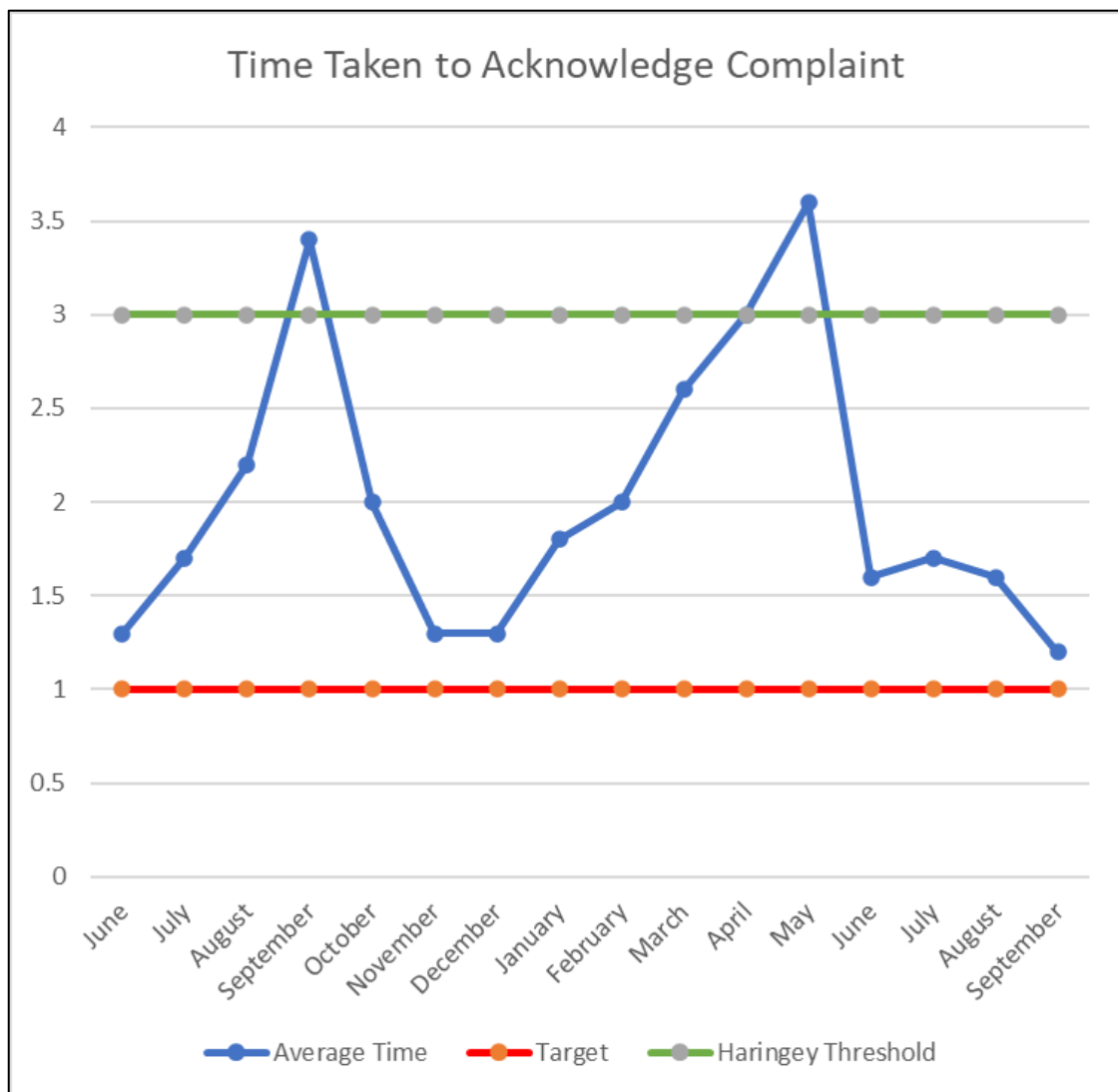
Type of application	Number of apps	Number of overturns	% (Threshold 10%)
Majors 2023/24	43	0	0%

Planning Enforcement

- Enforcement complaints received during April to September 2024: 457 compared to the 292 Enforcement complaints received last year.
- Enforcement notices served during 2024/25: 16 compared to the 20 Enforcement notices served during the same period last year.

5.43 For 2024/25 enforcement complaints were acknowledged within an average of 2.1 days of receipt. The Planning Enforcement Team has a target to make a decision on all enforcement complaints within 8 weeks.





	2022/23	2023/24	2024/25
Cases received	632	605	559
Cases decided within 8 weeks	68/176 (39%)	121/258 (47%)	139/373 (37%)
Cases decided not within 8 weeks	28/176 (16%)	14/258 (5%)	2/373 (1%)
Cases with no decision past 8 week target date	80/176 (45%)	123/258 (48%)	232/373 (62%)

- 5.44 There is an ongoing issue with high caseloads that has been significantly exacerbated by high numbers of HMO referrals. Changes in the Private Sector Housing referrals procedure has meant almost all their applications are now being referred to planning. To put this into context the team received about 54 HMO referrals in 2022/23 for the whole of the year but has received roughly 200 HMO referrals in 2024/25 to date. Officers are working with Private Sector Housing on a process that will help to prioritise HMO cases that should be progressed and to create efficiencies to help reduce officers being overwhelmed by the influx of the cases.

- 5.45 The Planning Enforcement Team continues to seek prosecutions against owners who have failed to comply with existing enforcement notices which can in turn lead to confiscation orders for ill gotten gains under the Proceeds of Crime Act (POCA) 2002.
- 5.46 An ongoing BT phone box project has so far resulted in the successful removal of five boxes and BT have earmarked a further 10 boxes for removal. Officers are looking to engage further with BT and to open a dialogue about voluntarily removing redundant problem boxes.

Member Training & Site Visits

- 5.47 A site visit took place on 5 July to the Tottenham Hotspur Stadium. Any suggestions are welcome for visits and training.

Spatial Planning**New Local Plan**

- 5.48 The Planning Policy Team continues to prepare a New Local Plan consistent with the timetable shared with Strategic Planning Committee in June and copied below:

Document	Regulation	Date
New Local Plan First Steps Engagement consultation	Reg 18	November 2020-February 2021
Draft Local Plan consultation	Reg 18	Winter 2024
Proposed Submission Local Plan consultation	Reg 19	Summer 2025
Submission & Examination	Reg 22-25	Winter 2025
Adoption	Reg 26	Spring 2026

- 5.49 Following recommendation 2 of The Planning Service Peer Challenge that there should be a dedicated officer lead for the local plan, a new Planning Policy, Conservation and Design Manager has been appointed. This position replaces the position of Planning Policy Team Manager which has been unfilled since 2021 and will ensure highest priority is given to the production of the Local Plan.
- 5.50 Following receipt of Government funding to support the process of identifying robust design-led development capacities and carrying out site-specific viability analysis, the Planning Policy Team is in the process of appointing a Public Practice Urban Designer for one year which will provide further support to the timely progress of the New Local Plan.
- 5.51 Four meetings of the New Local Plan Member Working Group have been scheduled during October and November to enable Strategic Planning Committee members to inform emerging neighbourhood-based work including area visions site allocations.

Housing Delivery

- 5.52 In September of each year, London Boroughs are required to report to the Greater London Authority (GLA) the number of new homes which were completed in the previous financial year. Following a comprehensive completions audit by officers in the Planning Policy Team, including both desktop research and site visits, a completions figure of 1,193 (net) was reported to the GLA for 2023/24. Due to slight methodological differences for calculating the contribution of non-conventional housing units (e.g. student accommodation) this figure will equate to 1189 for the purposes of the Government's Housing Delivery Test.
- 5.53 The Government has not published a Housing Delivery Test measurement for 2023 or 2024 but estimated figures are set out in the below table:

	New homes completed (net)	Target for new homes (net)	Derivation of figures
2021/22	1503	1502	Figures from 2022 measurement
2022/23	911	1592	Estimated
2023/24	1189	1592	Estimated
Total	3603	4686	

Building Control

Awards

- 5.54 Haringey has been **nominated** for the **Local Authority Building Control Team of the Year** at the **LABC Building Excellence Awards 2024**. Winners are expected to be announced in January 2025.

Performance Overview

- 5.55 The applications to date this year are slightly below previous years, and market share has fallen, partly as a result of the new Regulatory regime and the uncertainty it has caused. Building Control has received a significant number of new housing schemes and continue to work on the majority of high schemes within the Borough and will be the go-to Building Control advisor for the Building Safety Regulator.

Building Control	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
Applications	1996	2323	1717	2645	2069	1517	668
Fees	604k	600k	561k	766k	698k	584K	230K
Site visits	6817	6278	5603	6243	5674	3800	1222
Market share	54%	62%	53%	57%	40%	40%	30%
Dangerous Structures	190	162	159	225	204	188	62
Demolition Notices	13	29	20	18	22	15	7

2024/25 - from 1 April to 31 August 2024

Dangerous structures

- 5.56 There have been 62 dangerous structure calls to date this year. It should again be noted that where we request the help of our dangerous structure contractor, there is a cost attached to this that initially comes out of Building Control's budget until we can invoice the owner. Additionally, we are part of a consortium with a number of other London Boroughs which improves efficiency and is more cost effective.

Building Control reforms

- 5.57 The Government continues to implement reform of the Building Control regime. The Grenfell Tower Inquiry Phase 2 Report was published on 6 September 2024. Many of the implications for Building Control are already well underway following the Hackett Review which published its final report in May 2018, the subsequent Fire Safety Act 2021, Building Safety Act 2022 and establishment of the Building Safety Regulator. The service will continue to monitor the Government's response to the Inquiry Report and wider reforms to Building Control to ensure Haringey continues to be fully compliant.

- 5.58 The new Building Control regime has now commenced. The deadline to ensure all officers undertaking regulated work were registered with the Building Safety Regulator was on the 6 July 2024. Haringey has been able to continue to undertake regulated work. At the time of writing this report three officers have achieved the Class 3 competency level required to inspect and ensure compliance on all buildings and to provide the required supervision of the officers waiting for their examination/interview results. One is able to benefit from interim measures which mean that whilst they are awaiting their competency result they are able to continue undertaking regulated work.
- 5.59 Updated job profiles have been re-evaluated to reflect the revised roles and responsibilities and these will be subject to staff consultation shortly, in advance of implementation.
- 5.60 We now have a total of two Apprentice building control surveyors in Haringey as part of the Local Authority Building Control (LABC) Academy programme to support the future resilience of the service.

6. Contribution to strategic outcomes

- 6.1 The Planning and Building Control services contribute to the Corporate Delivery Plan's focus on tackling inequality, climate justice and health across all of the various themes.

7. Local Government (Access to Information) Act 1985

Planning Applications are on the Planning Register on the Council's website and the Local Plan documents are also on the Council's website.

Appendices

Appendix One – Definitions of Categories of Development

APPENDIX ONE

Definitions of Categories of Development

Major Development

- 10+ dwellings / over half a hectare / building(s) exceeds 1000m²
- Office / light industrial - 1000+ m² / 1+ hectare
- General industrial - 1000+ m² / 1+ hectare
- Retail - 1000+ m²/ 1+ hectare
- Gypsy/traveller site - 10+ pitches
- Site area exceeds 1 hectare

Minor Development

- 1-9 dwellings (unless floorspace exceeds 1000m² / under half a hectare)
- Office / light industrial - up to 999 m²/ under 1 hectare
- General industrial - up to 999 m²/ under 1 Hectare
- Retail - up to 999 m²/ under 1 hectare
- Gypsy/traveller site - 0-9 pitches

Other Development

- Householder applications
- Change of use (no operational development)
- Adverts
- Listed building extensions / alterations / demolition
- Application for relevant demolition of an unlisted building within a Conservation Area
- Certificates of Lawfulness (191 and 192)
- Prior Notifications
- Permissions in Principle (PiP) and Technical Detail Consent (TDC)

Report for: Strategic Planning Committee 17 October 2024

Title: Response to Ombudsman Complaint Reference 23 016 137 (Haringey Reference LBH/14192823) in relation to planning application HGY/2022/4537

Report authorised by: Rob Krzyszowski, Assistant Director, Planning, Building Standards & Sustainability

Lead Officer: Robbie McNaugher Head of Development Management and Planning Enforcement

Ward(s) affected: Crouch End

**Report for Key/
Non Key Decision:** For information

1. Describe the issue under consideration

Response to Ombudsman Complaint 23 016 137 (Haringey Reference LBH/14192823) in relation to the determination of planning application HGY/2022/4537 in Crouch End Ward.

2. Recommendations

The Committee is asked to note this report.

3. Reasons for decision

One of the Ombudsman's recommendations in relation to this case was to "report the findings of this review to its relevant oversight and scrutiny committee". This report was reported to the Housing, Planning & Development Scrutiny Panel on 26 September 2024. The report is relevant to the terms of reference of the Strategic Planning Committee regarding performance of the service so is being reported to this Committee also.

4. Alternative options considered

N/A

5. Ombudsman Complaint 23 016 137 (Haringey Reference LBH/14192823)

Background

- 5.1 The Council received a 'Section 73' (S.73) planning application on 23/12/2022 (reference HGY/2022/4537) in Crouch End Ward for:

Variation of condition 2 (approved drawings) pursuant to planning permission ref. HGY/2021/0583 granted on 7th May 2021 for the extension by excavation to

existing basement with lightwell in association with existing ground floor flat; namely to excavate a front lightwell and insert windows to the front elevation basement level

- 5.2 The application was approved on 11/04/2023
- 5.3 This application followed two previous decisions on the site one to refuse permission (the proposed front lightwell was unacceptable) and one to approve permission (the revised proposal omitting the front light well was acceptable):

HGY/2019/0035 Excavation of existing cellar to create new basement with light wells to front and rear to create one additional studio flat – Permission refused 07/02/19

HGY/2021/0583 Extension by excavation to existing basement with lightwell in association with existing ground floor flat. Approved 07/05/2021

Relevant Legislation

- 5.4 An application can be made under S.73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission, in the words of the Act “for the development of land without complying with conditions subject to which a previous planning permission was granted”. It has become practice for applicants to utilise a S.73 application to make what are considered minor amendments to an existing permission by varying the condition which sets out the approved plans that the development should accord with. There are, however, limitations and that issue is addressed below.
- 5.5 In the application in question the application sought to vary the approved drawings set out in Condition 2 of the permission to include a front lightwell and insert windows to the front elevation basement level.
- 5.6 The use of S.73 has been subject to a number of court decisions namely *Finney v Welsh Minsters* [2019] EWCA Civ 1868 (the *Finney* case) and more recently *Armstrong v Secretary of State for Levelling Up, Housing and Communities* [2023] EWHC 176 (Admin) (the *Armstrong* case). *Finney* decided that an application under S73 could not change the description of the development, but *Armstrong* determined that there is in fact no requirement in the Planning Acts for amendments sought through S73 to be minor, as long as the principle in *Finney* was respected.

Stage 1 Complaint

- 5.7 On 2/7/2023 the Council received a complaint raising several concerns that the Council had:

1. failed to understand what constituted the proposed 'amendment' to planning due to a fundamental misunderstanding of what planning permission was originally granted for.
 2. failed to acknowledge objections raised by 3 local councillors
 3. failed to address concerns from local residents about the legality of the use of s.73 to apply for an amendment that is changing the nature of the planning permission
 4. failed to address or adhere to Haringey's policy DM18 of the Haringey DM DPD 2017 (Residential Basement Development and Light Wells)
 5. gave inadequate and time poor responses to concerns raised by us following the published decision
- 5.8 The Council provided a Stage 1 complaint response on 17/07/23 which accepted that the assessment of the application did not specifically address two points raised by the complainant and local Councillors. Namely that the proposal included aspects of the proposal previously refused and a failure to address concerns about the legality of the use of S.73 to apply for the changes proposed.
- 5.9 The response accepted that these points should have been included in the decision report's list of points raised and some narrative provided in the report to provide clarity that this was a consideration in the officer's assessment.
- 5.10 The response concluded that despite this, the assessment of the application was correct. The complaint referred to a key piece of case law namely the Finney case, and the Council's response asserted that the decision was consistent with the Finney case, and more recent case law.
- 5.11 These court decisions found that provided a variation to the plans is not inconsistent with the operative part of the original permission then a S.73 application is appropriate.
- 5.12 The Council's response asserted that introducing a front light well under the description for HGY/2021/0583 is not inconsistent with the operative part of the permission which refers to basement excavation and lightwell.
- 5.13 It noted that the more recent Armstrong case found that there was nothing in the wording of section 73 that limited its scope to "minor material amendments".
- 5.14 The response asserted that adequate consideration has been given to Policy DM18 and apologised for delays in responding to emails.

Stage 2 Complaint

5.15 The Council received a Stage 2 complaint on 24/07/23

5.16 Requesting an independent review complaining that the Stage 1 response had not:

- explained an error on the planning officer's report and therefore failed to reassure that this error does not bely a fundamental misunderstanding by the planning officer
- demonstrated or given evidence in his answer that appropriate procedures were followed and council policies adhered to by the planning officer while assessing the amendment

5.17 The Stage 2 response was issued on 15/09/23 and accepted and apologised for the drafting error in the report noting the wording crossed out below should not have been included:

Planning permission was granted under reference: HGY/2021/0583 for the extension by excavation to existing basement with lightwell in association with existing ground floor flat; ~~namely to excavate a front lightwell and insert windows to the front elevation basement level.~~

5.18 It notes that in the same paragraph of the report it is expressly made clear what is applied for and correct as set out below:

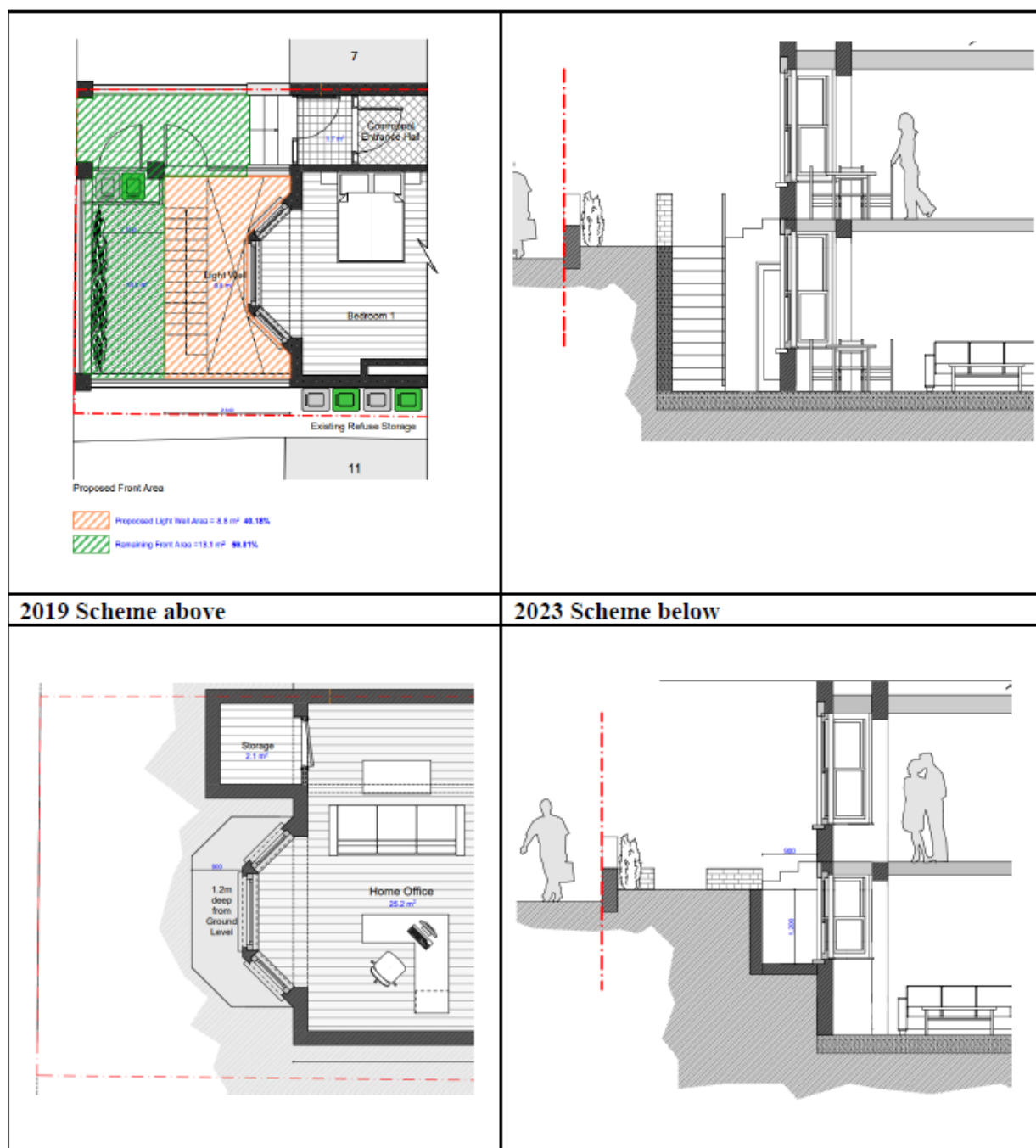
The changes are to amend the approved scheme by adding a front lightwell with the dimensions 0.9m (width) and 1.2m (depth) to the front of the dwelling house to allow natural light into the new basement bedroom.

5.19 The Stage 2 response notes that in this part of the report the position of the proposed lightwell is made clear and its dimensions expressed. It also noted that further on in the officer's report, the reasons why this lightwell was acceptable are clearly set out.

5.20 In this respect the Stage 2 response noted that whilst the complainant argued that officers only assessed the impact of the lightwell and not the window contained within the structure of this lightwell, the drawings submitted clearly show that there is a window. Considering the interpretation of what a lightwell is, namely an architectural feature used to take natural light into the interior space of a building, it must be expected that there would also be a window.

5.21 The Stage 2 response noted that as shown in the extract from the drawings below the lightwell approved (with associated window within) is smaller/ more discrete

than that refused under HG/2019/0035 and is materially different in terms of dimensions and how it would have appeared in the street.



5.22 The Stage 2 response concluded that in the officer's report the relevant planning material considerations were identified and discussed, in the context of the relevant policies and the substance of the objections received, with a planning judgement made to approve permission subject to conditions. The report here was concise and focused on the change in question, which is a proportionate approach.

5.23 With regard to concerns raised that the making of an amendment via the route of S73, the Stage 2 response accepted that the description of the previous approval

(ref: HGY/2021/0583) referred to 'lightwell' in the singular as opposed to the plural form. However, it asserted that this does not preclude the addition of a lightwell to the front and to the rear, specifically as it does not lead to a material change from the operative description of the development permitted. Rather, the description of the permitted development can remain intact, in that there isn't conflict between what was specified in the description and what subsequently shown in the approved drawings.

- 5.24 The Stage 2 response concluded that whilst accepting (and apologising for) the drafting error, due process was followed in considering the application and no fault was found.

Ombudsman Decision

- 5.25 The complaint was escalated to the ombudsman who contacted the Council on 22/02/24. Following discussions with the Council the Ombudsman decision was issued on 28/06/24.

- 5.26 The Ombudsman's Decision was as follows:

X complained about the Council's failure to take account of relevant case law before it granted permission for an application to vary plans it had already approved. We found fault because there was no evidence to show the Council considered an objection about a key planning issue. The Council agreed to remedy the injustice caused by the fault and to carry out a review that might help avoid the same fault happening again.

To remedy the injustice caused by the fault they found and to avoid recurrence, the Council agreed to the following remedy:

- a) apologise to X for the frustration, disappointment and unnecessary time and trouble it has caused within one month of this decision.*
- b) review what has happened and decide whether any changes to practice and procedure or additional training are necessary. The review will include consideration of the Finney case and its application to variation applications within three months of this decision.*
- c) report the findings of this review to its relevant oversight and scrutiny committee. This will happen within one month from date the Council completes the service review agreed in the above paragraph.*

- 5.27 On 24/07/24 the Council issued a formal apology to the complainant which has remedied point a).

- 5.28 With regard to point b) the Council has reviewed the case and found the following errors:

- Omission of 3 Councilors' representations
- Omission of a direct assessment of the proposal in light of the Finney and Armstrong cases
- The body of the report contained a drafting error in the description of the proposal
- The assessment should have directly compared the proposal to the previous refusal as this decision was a key material consideration

5.29 Regarding point c) this report was reported to the Housing, Planning & Development Scrutiny Panel on 26 September 2024.

5.30 The Ombudsman finds fault because of technical issues in the way the application was determined and expressly says that when representations were made over the process (para 36) these were key issues and not referred to in the reasoning behind the decision (para 37). However the Ombudsman also notes that the Ombudsman Service is not an appeal body, so makes no finding as to whether the decision itself was lawful or correct in planning terms.

5.31 A plain reading of the description of development would be that a lightwell means one lightwell rather than two or more. However it is arguable that as a lightwell was already in the description the S73 amendment was not inconsistent with the operative part of the development.

5.32 However it is accepted that the assessment should have considered whether the introduction of a front lightwell did modify the operative part of the development particularly in direct response to the representations raised that were not acknowledged.

5.33 Officers consider that whilst the decision was correct, with regard to the Finney Case, there were clearly errors and omissions in the report and ultimately the Council cannot evidence that the assessment was robust.

Remedy

- 5.34 The Council has taken steps to ensure this is not repeated. Firstly all relevant officers are reminded to ensure all representations are noted and addressed in planning application reports, this took place at a team meeting on 05/09/24. Secondly all officers and managers reviewing reports and issuing decisions under delegated powers were reminded to check all representations were noted and addressed as part of their review. Finally as part of the induction of new staff the importance of noting and addressing all representations will be noted.
- 5.35 Training will be provided by to all relevant officers on recent case law around S73 on 12/09/24 to broaden the understanding within the team on how to consider such applications. This will ensure officers are fully aware of the key legal tests to be considered.
- 5.36 These actions are considered sufficient to remedy the issues that have arisen in this application.

6. Contribution to strategic outcomes

- 6.1 A key element of the Haringey Deal is “Getting the Basics Right”, to ensure everyday interactions with the Council have to be as easy, effective and supportive as possible.

7. Use of Appendices

Appendix 1 - Ombudsman decision

8. Background Documents

None

9. Local Government (Access to Information) Act 1985

N/A

28 June 2024

Complaint reference:
23 016 137

Complaint against:
London Borough of Haringey

The Ombudsman's final decision

Summary: X complained about the Council's failure to take account of relevant case law before it granted permission for an application to vary plans it had already approved. We found fault because there was no evidence to show the Council considered an objection about a key planning issue. The Council agreed to remedy the injustice caused by the fault and to carry out a review that might help avoid the same fault happening again.

The complaint

1. The person that complained to us will be referred to as X.
2. X complained about the Council's decision to vary a planning application it approved for development on land next to X's home.
3. X said the case officer report for variation application was fundamentally flawed and this called the legality of the Council's decision into question.
4. X also complained that objections from local councillors were not taken into account before a decision was made.

The Ombudsman's role and powers

5. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused significant injustice, or that could cause injustice to others in the future we may suggest a remedy. (Local Government Act 1974, sections 26(1) and 26A(1), as amended)
6. If we are satisfied with an organisation's actions or proposed actions, we can complete our investigation and issue a decision statement. (Local Government Act 1974, section 30(1B) and 34H(i), as amended)

How I considered this complaint

7. I read the complaint and discussed it with X. I have also discussed the issues raised in the complaint with a planning officer.
8. I read the Council's response to the complaint and considered documents from its planning files, including the plans and the case officer's report.

9. I read the Court of Appeal case X referred to, which is *Finney v Welsh Ministers* [2019]).
10. I gave the Council and X an opportunity to comment on an earlier draft of this decision and took account of the comments I received.

What I found

Planning law and guidance

11. Councils should approve planning applications that accord with policies in the local development plan, unless other material planning considerations indicate they should not.
12. Planning considerations include things like:
 - access to the highway;
 - protection of ecological and heritage assets; and
 - the impact on neighbouring amenity.
13. Planning considerations do not include things like:
 - views over another's land;
 - the impact of development on property value; and
 - private rights and interests in land.
14. Councils may impose planning conditions to make development acceptable in planning terms. Conditions should be necessary, enforceable and reasonable in all other regards.
15. Most planning approvals relating to development will include a condition requiring compliance with approved plans. If after approval is granted, applicants want to carry out development without complying with planning conditions, they can apply to remove or vary the original condition. The Council will then decide whether to grant permission to change obligations required in the original application.
16. Not all planning decisions are made by council planning committees. Councils may delegate decisions to planning officers to make some decisions, restricted to circumstances set out in delegation schemes. Delegation schemes are found in a council's constitution.
17. Details of how a council considered an application are usually found in planning case officer reports. The purpose of the case officer's report is not merely to facilitate the decision, but to demonstrate the decisions were properly made and due process followed. Without an adequate report, we cannot know whether the council took proper account of the key material planning considerations or whether judgements were affected by irrelevant matters.
18. However, the courts have made it clear that case officer reports:
 - do not need to include every possible planning consideration, but just the principal controversial issues;
 - do not need to be perfect, as their intended audience are the parties to the application (the council and the applicant) who are well versed of the issues; and
 - should not be subject to hypercritical scrutiny, and do not merit challenge unless their overall effect is to significantly mislead the decision maker on the key, material issues.

19. I read the Finney case that X (and it would appear one of the councillors) referred to and sought advice on my understanding of the court's findings from the Ombudsman's lawyers.
20. An application under section 73 of the Town and Country Planning Act 1990 may allow a developer to apply to carry out development without complying with conditions in original the approval. In other words, this section can be used to vary approved plans.
21. The Finney judgement says that applications to vary planning permissions under section 73 may not be used to obtain a permission that would vary the terms of the 'operative' part of the original permission. The operative part of the permission is the description of the development for which the original permission was granted.

What happened

22. Several years ago, X's neighbour applied for planning permission for development on their land. This proposal included development at the front and rear of the property and created a separate dwelling. The Council refused this application.
23. A few years later, the neighbour applied for planning permission for a similar proposal. The proposal was for development at the rear of the property but did not create a separate dwelling. The Council approved this application.
24. More recently, the neighbour applied to vary approved plans by adding development at the front of the property.
25. The planning application to vary plans was considered by a case officer, who wrote a report which included:
 - a description of the proposal and site;
 - a summary of planning history considered relevant;
 - a summary of comments from neighbours;
 - details of planning policy and guidance considered relevant;
 - an appraisal of the main planning considerations, including design and appearance, impact on residential amenity and policy relating to the specific type of development; and
 - the officer's recommendation to approve the application, subject to planning conditions.
26. The planning file shows objections from the public and several councillors. Most of the issues raised by the councillors are addressed in the report, but the following were not. These are:
 - The proposal in the variation application was put forward as a minor amendment but was in fact a fundamental change and a change to the description of the original application, so a full application should have been made.
 - Case law explicitly prohibits this practice.
27. The application was approved by a senior officer using delegated authority.
28. I checked the Council's records to look for evidence to show that the councillors' objections, particularly those set out in paragraph 26 above, were taken into account.

29. There was no mention in the case officer report of the Finney case, or the comment on the councillor's suggestion that the variation application conflicted with its findings.
30. The description for the original development on land next to X's home, included a proposal for a single opening, which plans showed was at the rear of the building. The variation application added an additional opening at the front of the building. The additional opening to the building was not part of the original application or included within the description of that development.

X's complaint and the Council's response

31. X complained to the Council about its decision to approve the variation application. X said:
- the case officer's report contained a fundamental error, because it said the original approval had granted development at the front of the property, when it had granted development at the rear;
 - the variation decision was unlawful because it changed the nature of the development, by adding a feature that was not included in the original approval and had been refused several years ago. In making their complaint, X referred to a case decided by the Court of Appeal, *Finney v Welsh Ministers* [2019];
 - the Council did not take into account objections made by local councillors before it made its decision to approve the application.
32. In response to X's complaint the Council:
- accepted there was an error in the case officer report. When describing the original approval, the case officer referred to development that had been approved at the front of the property, when in fact it was the rear. The proposal to vary the plans related to development at the front;
 - disagreed with X's interpretation of its powers to vary or remove planning conditions and the application of the Court of Appeal's judgment in the *Finney* case.
33. I discussed what had happened with a planning officer, who told me:
- In the officer's view, there was no conflict with the findings in the *Finney* case, because the description for the original application referred to an opening, but it did not say whether it was at the front or rear of the building.
 - There was no evidence to show the law relating to variation of applications as explained in the *Finney* case was considered before a decision was made.
 - In the Council's view, its approval for the variation application has lapsed, so the development cannot proceed without a further application. The officer went on to say that the developer did not agree their approval had lapsed but had agreed to submit a further application.
34. Since my conversation with the planning officer, the neighbour did submit a new planning application for the proposed development. I looked at the application on the Council's planning portal. The description for this application includes openings at the front and the rear of the building. The Council has not yet decided this application.

My findings

35. We are not a planning appeal body. Our role is to review the process by which planning decisions are made. We look for evidence of fault causing a significant injustice to the individual complainant.
36. Before a decision was made, a councillor made an important and specific objection to the Council about the variation application. The councillor suggested a variation application was not appropriate because:
- this was not a minor amendment; and
 - there was case law on this issue and the application conflicted with it.
37. In my view it is clear that this objection was about principle and controversial issues, and so I would expect the case officer report to refer to the objection and provide some analysis of how it affected their judgement and recommendation. This did not happen and the absence of evidence of consideration of a key planning matter is fault.
38. Where we find fault, we must consider whether it caused an injustice we should remedy.
39. The development has not gone ahead and a decision on the new planning application has not been made. Because of this, I cannot say the Council's decision to approve the variation application will have any direct impact on X. However, the way the Council dealt with the case and X's complaint about what has happened will have caused them frustration, disappointment and unnecessary time and trouble in bringing their complaint to our attention. I will recommend an apology for the injustice caused to X by the fault I found.
40. The fault I found could happen again, and the consequences could be costly to the parties, and disruptive to both the planning service and other individuals who could be affected.
41. Because of this, I recommended a remedy to address the injustice caused by the fault I found and to avoid recurrence of similar fault in future. The Council agreed to accept my recommendations. It also said it would seek legal advice before completing the review.

Agreed action

42. To remedy the injustice caused by the fault I have found and to avoid recurrence, the Council has agreed to the following remedy:
- a) It will apologise to X for the frustration, disappointment and unnecessary time and trouble it has caused. This will happen within one month of this decision.
 - b) It will review what has happened and decide whether any changes to practice and procedure or additional training are necessary. The review will include consideration of the Finney case and its application to variation applications. This will happen within three months of this decision.
 - c) It will report the findings of this review to its relevant oversight and scrutiny committee. This will happen within one month from date the Council completes the service review agreed in the above paragraph.
43. The Council will provide us with evidence it has complied with the above actions.

Final decision

44. I found fault that caused an injustice and might happen again. I have completed my investigation because the Council accepted my recommendations.

Investigator's decision on behalf of the Ombudsman