

Report for: Strategic Planning Committee – 20 October 2022

Title: Planning and Building Control 2022/23 Quarter 2 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, and Bob McIver, Head of Building Control

Ward(s) affected: N/A

**Report for Key/
Non Key Decision:** Non-Key

1. Describe the issue under consideration

A report on the work of the Planning and Building Control services to September 2022.

2. Recommendations

To note the report.

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 2022/23 Quarter 2 Update

Development Management

- Applications received during 2021/22 (1st April – 31st March): **3,375**
- Applications received during same period 2020/21: **3,308**
- Number of cases on-hand end of March 2022: **726**
- Number of cases on-hand end of March 2021: **550**
- Appeals decided during 2021/22 (1st April – 31st March): **91**
- Appeals decided during same period 2020/21: **54**
- Appeals dismissed (won) during 21/22 (1st April – 31st December): **72 (79%)**
- Appeals dismissed (won) during same period 2020/21: **42 (77%)**
- Cumulative performance (applications in time) 2021/22 (1st April – 31st March)
 - **Majors: 100%**
 - **Minors: 90%**
 - **Others: 91%**
 - **PS0: 91%**

Appendix One explains the categories of applications.

Performance overview

5.1 As set out above performance is at 100% for 'Majors' applications. Our performance for 'Minor' applications has remained in high at 91%. There has been a slight decline in performance for 'Other' applications at 98% and PS0 applications at 87%. However given how challenging the last year has been in terms of the number of applications, including a large number of major applications and the turnover of staff the figures are very positive. Appeal performance has also increased which is positive.

	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23 to Aug
Majors	100%	100%	100%	100%	100%	100%	100%
Minors	88%	98%	98%	94%	95%	90%	91%
Others	90%	98%	98%	96%	97%	91%	88%
PS0	86%	89%	90%	91%	91%	91%	87%
A.O.D.	68%	69%	86%	90%	91%	88%	

Cumulative Performance (April-March from 2016/17 onwards)

5.2 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):

- Majors applications performance at least 50%
- Minor and Other applications performance at least 70%

- Appeals lost (below 10% in both categories)

5.3 So far in 2022/23 (1st April to 31st August) we have decided the following:

- **7 ‘Major’** applications (compared to the 6 during the same period last year)
- The average time of decision has increased from 214 to 331 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.

	18/19	19/20	20/21	21/22	22/23 1 April to 31 August
No. of Major Apps decided	27	19	20	15	7

Major applications decided over past five years

- **156 ‘Minor’** applications (compared to the 153 ‘Minor’ applications last year)
- The average decision time has increased from 70 days to 119 days
- **550 ‘Other’** applications (compared to the 579 ‘Other’ applications last year)
- The average decision time has increased from 68 days to 83 days (a result of efforts to clear some backlog applications)

5.4 The length of time taken to validate an application is at an average of 5 days, increased from 3 days.

5.5 The end to end times and the overall numbers of applications received, approved, and refused over previous years is set out below. Reducing the current backlog may continue to increase end to end times:

	2018-2019	2019-2020	2020-2021	2021/2022	2022/23 (April – August)
Received	3574	3094	3308	3375	1320
Approved	2963 (89%)	2576 (89%)	2590 (85%)	2535 (84%)	1106 (88%)
Refused	356 (11%)	314 (11%)	475 (15%)	499 (16%)	151 (12%)
Total decided	3,319	2,890	3,065	3,034	1,257 (100%)

5.6 Officer caseloads are at around 62 per officer in Q2 of 2022/23 financial year, which is an increased from 52 last year.

5.7 The number of on hand applications has increased compared to this time last year. As of the end of August 2022, there were 748 on hand applications (up from 626 on this time last year). This is due to a large number of approvals of detail applications and a backlog of applications accumulated last year. There is a continued effort to address this and reduce this figure.

5.8 The number of applications over 26 weeks is now at around 237. Many of these cases are complex or awaiting section 106 sign off or approval of details application for major developments requiring detailed discussions with consultees but many are due to the current backlog. With new staff in place significant efforts can now be made to reduce this.

Pre-application advice

5.9 During 2022/23 1st April to 31st August there have been:

- 82 pre-application meetings (same period last year: 69) generating a total of £145,000 in income (same period last year: £106,000)
- 51 householder pre-application meetings (same period last year: 63) generating £22,000 in income compared to (same period last year: £21,000)

5.10 The use of Planning Performance Agreements (PPAs) during the period 2022/23 has generated £106,000 in income, compared to £530k last year within the same period. The team is continuing to encourage the use of PPAs for a wider range of work. Several PPAs are expected to be agreed in the coming months so income will be comparable to last financial year.

5.11 Express householder written advice, fast-track certificate of lawfulness and new fast-track application services have been introduced and proved popular with customers whilst increasing income for the service. From 1st April to 31st August 2022/23 we have received:

- 19 instances of Express Pre-applications generating a total of £5,603.00.
- 9 instances of Fast Track Certificate of Lawfulness applications generating a total of £7,069.20.
- 4 instances of Fast Track Householder applications generating a total of £2,824.

Planning Decisions

5.12 The Planning Sub Committee has met 7 times in 2022/23, in May, June, 3 times in July and in September.

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

5.14 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.

5.15 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.

- 5.16 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.
- 5.17 The Department for Levelling Up, Housing and Communities has confirmed that we have avoided designation this period (2018-20) achieving a figure of 10%.
- 5.18 For the period 2019-21 two recent appeal losses (300-306 West Green Road and Guildens, Courtenay Avenue) have taken us over the threshold. 300-306 West Green Road was refused by Planning Sub-Committee with a recommendation for approval. Guildens was allowed following a legal challenge to the original inspector's decision to dismiss the appeal in May 2021. There is one further appeal pending against the refusal of the THFC Goods Yard application but the decision will fall within the 2020/22 period.
- 5.19 Haringey's performance for 2019/21 and 2020/22 is as follows:

Type of application	Number of apps	Number of overturns	% (Threshold 10%)
Majors 19/21	39	6	15.38
Majors 20/22	34	4	11.76

- 5.20 These figures are based on our own assessment of potential performance figures so the final result can differ, but show for the 2 year period 2019-21 we expect to exceed the 10% threshold. For 2020-22 the final figures are determined in December this year but already show the threshold exceeded a further appeal loss would take the percentage figure even higher.
- 5.21 The results of the government's own figures were due to be published in June and the Council is normally given the opportunity to make a case against the need for designation by September, however there has been no update from DLUHC on when they will publish their figures this year. Officers consider it unlikely that the government will seek designation as the other performance measures are very positive, and the Council has a good record of delivery, is proactive in supporting housing delivery through its own Council home building programme and developing its New Local Plan. The service is doing all it can to defend these appeals and process new major applications promptly, the Council's appeal record for non-major applications is exceptionally high.

Planning Enforcement

- Enforcement complaints received during 1st April to 31st August 2022/23: 319 compared to the 353 Enforcement complaints received during the same period last year.
 - Enforcement notices served during 1st April to 31st August: 22 compared to the 35 Enforcement notices served during the same period last year.
- 5.22 Of the complaints 53% were acknowledged within one working day of receipt. This measure is down from 64% last year, as a result of staff shortages within the Customer Services Team. The Planning enforcement team has a target to

make a decision on all enforcement complaints within 8 weeks. Current performance for 1st April to 31st August 2022/23 is 97% compared to 91% last year.

- 5.23 The Planning Enforcement Team continues to seek prosecutions against owners who have failed to comply with existing enforcement notices. In addition to the prosecution proceedings, there has been a concerted effort in securing confiscation sentences under the provisions of the Proceeds of Crime Act (POCA) 2002. There are a number of prosecutions which are still going through the courts (these take a significant length of time) including a recent application with a hearing scheduled for November 2022.
- 5.24 Officers are working with colleagues in other departments to explore bringing Financial Investigation Services in house to increase the proportion of income received from confiscation orders.
- 5.25 The Planning Enforcement Team has recently appointed a permanent Team Manager; Abiola Oloyede who has been acting up to the role since November. Recruitment has commenced to fill her previous role.

Member Training & Site Visits

- 5.26 Member site visits have taken place visiting Clarendon in Wood Green, Tottenham Hale and Woodbury Down and Kings Crescent in LB Hackney. Future training on viability will be provided and officers welcome other training suggestions.

Planning Policy & Infrastructure

New Local Plan

5.27 The timetable for preparing the New Local Plan is set out in the table below.

Document	Regulation	Date
New Local Plan First Steps Engagement consultation	Reg 18	November 2020-February 2021
Draft Local Plan consultation	Reg 18	Early 2023
Proposed Submission Local Plan consultation	Reg 19	Autumn 2023
Submission & Examination	Reg 22-25	Late 2023
Adoption	Reg 26	2024

5.28 In line with national policy and guidance the New Local Plan must be informed and supported by a relevant and up-to-date evidence base that is adequate and proportionate. The Council has commissioned the following evidence in support of the New Local Plan:

Study	Timeline for completion
Strategic Housing Market Assessment	Completed
Archaeological Priority Area Study	Completed
Gypsy and Traveller Accommodation Needs Assessment	Completed
Employment Land Study	Completed
Retail and Town Centre Needs Study	Completed
Sites of Importance for Nature Conservation Study	Completed
Strategic Flood Risk Assessment (Level 1)	Completed
Whole Plan Viability Study	Autumn 2022

5.29 In response to the requirements of the London Plan 2021 and having regard to the draft Characterisation and Growth London Plan guidance an updated Characterisation Study is being prepared by Council officers to inform the capacity for change and growth in the different parts of the borough.

5.30 A Draft Local Plan is currently being prepared and will reflect the Council's latest strategic aspirations. Approval to consult will be sought from Strategic Planning Committee and Cabinet in early 2023. At the same time the key evidence base documents listed above will be published together with a comprehensive Consultation Report setting out the feedback received from the community and other stakeholders as part of the First Steps Engagement.

Other planning policy workstreams

- 5.31 On 1 September 2022 the Council's **Revised Community Infrastructure Levy (CIL) Charging Schedule** took effect. Rate changes principally affect the east of the borough and include an increase in the residential CIL rate in the eastern charging zone from £15 per square metre to £50 per square metre.
- 5.32 On 18 July 2022 the Council adopted the **North London Waste Plan (NLWP)** at which point it became part of the Development Plan. The NLWP is a joint document between seven north London Boroughs and identifies a range of suitable sites (areas of search) for the management of all North London's waste up to 2031 and includes policies and guidelines for determining planning applications for waste developments, The NLWP has been adopted by all seven north London Boroughs.
- 5.33 On 29 June 2022 the Government launched a **call for evidence review into the effect of short-term holiday lets** with a linked proposal to develop a tourist accommodation registration scheme in England. In Greater London there is a legal cap of 90 days per year for short-term letting of a property which helps to mitigate the potential impacts on boroughs. As the Council has limited quantitative evidence on impacts of the holiday letting market it is considering working with a data research organisation to gain further insight. Officers provided information to the call for evidence in mid-September indicating that the development of a registration scheme with light-touch check would appear to be an appropriate response to the issue as opposed to a "do nothing" approach.

Building Control

Building Control	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2020/23 to 20 Sep
Applications	2494	2173	1996	2323	1717	2645	1123
Fees	651k	686k	604k	600k	561k	766k	386k
Site visits	6697	6531	6817	6278	5603	6243	2893
Market share	60%	54%	54%	62%	53%	57%	41%
Dangerous Structures	173	128	190	162	159	225	114
Demolition Notices	24	18	13	29	20	18	9

- 5.34 The applications to date this year are on a par with previous years over the same period, however our market share has decreased as a result of private building control submitting significant applications prior to the new Building Regulations in June, in order to take advantage of the transitional period. Building Control have received a significant number of new housing schemes and continue to work on the majority of high schemes within the Borough.
- 5.35 Dangerous Structures have as always been ever prevalent, with 114 dangerous structures so far this year, including a number of significant out of hours call outs where we had to call out our dangerous structure contractor to remove the danger, one of which involved the demolition of an entire building.
- 5.36 There were a number of changes to the Building Regulations in June this year, where the DLUHC issued 6 new approved documents. The Building Safety Act received Royal assent on 28 April 2022 and represents the most significant change to the building regulation regime since the 1984 Building Act which introduced competition into building control in England and Wales. It establishes a new building control authority – the Building Safety Regulator (BSR) – currently within the Health & Safety Executive. The newly created position of Chief Inspector of Buildings has responsibility to head up the new regulator and deliver the new regulatory regime for high-risk buildings. These are defined as buildings with two or more residential units, over 18m in height (or seven or more storeys). The definition also extends, for hospitals and care homes, for design and construction stages only, where they meet these height thresholds. It is expected the definition will be expanded over time to include a greater range of higher risk buildings.
- 5.37 The Act removes the ability for a person carrying out building work on high-risk buildings to choose their own building control body. The BSR will be the building control body for these buildings. In addition, the BSR is charged with increasing the competence of all professionals working in the sector and will hold a register of all competent local authority and private building control inspectors and building control approvers. The BSR will have the power to direct local authority building control teams to provide support for its activities. The regulator will reimburse local authorities for expenditure incurred in complying with such a direction. The Act also creates new duties on building owners (including local

authority landlords) to manage building safety risks. Many of the powers of the Act will come into force via secondary legislation over the next 18 months

- 5.38 For the first time, the entire building control profession will be registered with the regulator and their competence regularly assessed and validated by the new Building Safety Regulator. The BSR will maintain a register of all practicing Building Inspectors and Building Control Approvers (formerly Approved Inspectors).
- 5.39 Building control teams will face new operational standards, with sanctions from the regulator if they fail to meet them. The BSR may investigate a local authority (or registered Building Control Approver) if they fail to meet these operational standards. The regulator can issue improvement notices to a local authority if, following an investigation or otherwise, they have breached the operational standards. The purpose of an improvement order is to direct the authority in default to remedy the breach specified in the order. The improvement notice must be served with a statement of reasons to explain why it has been served. In England, copies must be provided to the Secretary of State.
- 5.40 Certain activities, to be known as 'restricted activities,' will only be able to be undertaken by appropriately qualified and registered professionals. These include primarily plan appraisals, site inspections and the issuing of decisions. There will also be 'restricted functions' such as issuing completion certificates and to carry these out the local authority must obtain the advice of a suitably competent Registered Building Inspector.
- 5.41 Section 38 of the Building Act is finally brought into force, having laid dormant since 1984. This allows claims by anyone in relation to damage they have suffered arising out of the misapplication or failure to apply the relevant Building Regulations. "Damage" in this case encompasses physical, monetary and even mental damage.
- 5.42 The scope of buildings considered high-risk is likely to be extended in time, affecting many more local authorities that currently do not have buildings in scope of the new regime.
- 5.43 While choice of regulator is being taken away for high-risk buildings there are no plans to remove the choice for all other types of building and local authority building control teams will still be in competition with the private sector for building control work and will need to be resourced appropriately.
- 5.44 All high-risk buildings will have to pass through three gateways during design and construction:
- Gateway 1 will require Dutyholders to provide fire safety information about the proposed building or works at the planning application stage. This came into effect on 1 August 2021.
 - Gateway 2 - the Regulator must be satisfied of compliance before construction or refurbishment works start on higher-risk buildings. Dutyholders must demonstrate how the design and construction will comply with the Building Regulations and there will be a competence, 'golden

thread' of information and mandatory occurrence reporting requirement. The Act also sets out a range of enforcement options.

- Gateway 3 takes place at the end of construction and before occupation begins. Dutyholders must prove to the Regulator that the building as-built complies with Building Regulations and fire safety requirements. Only after the Regulator is satisfied and has issued a completion certificate can the Accountable Person register the building for occupation.

5.45 Both Gateways 2 and 3 are expected to come into effect at the same time as the secondary legislation and transitory arrangements.

5.46 The Act places an obligation on local authorities to support the Building Safety Regulator by working within multi-disciplinary team alongside the HSE and fire and rescue services to regulate high-risk buildings. The local authority must ensure that any of its staff involved in providing assistance to the regulator have appropriate skills, knowledge, experience and behaviours.

5.47 The task for the Building Safety Regulator is huge with over 12,500 existing high-risk buildings in England needing to be assessed and certified, with an expected 500+ new construction projects each year. As an authority with in-scope buildings, the council is working to ensure it has a robust and well resourced building control team to meet these greater responsibilities.

5.48 Challenges going forward which have been the subject of a recent Scrutiny review and actions, include:

- Resourcing and succession planning (business continuity)
- Competency levels and training plans
- Recruitment and retention
- Effective service delivery and accredited ISO quality management system etc.

5.49 The workload of the Building Control team is likely to increase for the following reasons:

- The BSR will require the Building Control team to contribute to supporting the ongoing regulation of existing in-scope buildings.
- The BSR will require local authority building control teams to increase enforcement activity.
- With an increased focus on quality outcomes, and increased liability being placed on both the council and individual Inspectors, construction projects may require more inspections and each inspection is likely to take significantly longer, including new recording procedures to fulfil the requirements.
- More time spent undertaking training, to keep up with a rapidly changing legislative framework, register with the BSR and ensure Inspectors have the validated competence to undertake their role.
- Updated internal procedures to comply with new rules and higher standards set by the BSR. This will be internally and externally audited under the ISO 9001 process.
- Regularly provide performance data to the BSR.

- LABC will undertake onsite audit inspections, to assess the degree to which local building control teams comply with the prescribed technical standards, in the discharge of their regulatory duties.
- Building Control will be required to work within multi disciplinary teams with regard to existing in scope buildings.

5.50 In late August DLUHC issued a circular on Single stair provisions in very tall residential buildings and applicability of the Approved Documents. The contents of the circular are precised below and forms the basis of reviews carried out by Haringey Building Control:

The Department agrees with Building Regulation Advisory Committee (BRAC) and is concerned that some very tall residential buildings are being designed on the incorrect premise that the guidance in the Approved Document is suitable for these types of uncommon building situations without due consideration by the designers on the applicability of the guidance. I am writing to remind you of the need to consider the suitability of the design guidance in Approved Document B and the need for robust, evidence based, design by suitably competent professionals, particularly in relation to fire and structural safety issues of uncommon building situations such as very tall residential buildings proposed with a single stair.

While the legal requirements are contained in the Building Regulations, the approved documents contain guidance on how to meet those legal requirements in common building situations. The Approved Documents may not provide appropriate guidance if the case is unusual in terms of its design, setting, use, scale or technology. The Manual to the Building Regulations already sets out that “Non-standard conditions may include any of the following:

- a. difficult ground conditions*
- b. buildings with unusual occupancies or high levels of complexity*
- c. very large or very tall buildings*
- d. large timber buildings*
- e. some buildings that incorporate modern construction methods.*

Where design proposals are not for common building situations – such as very tall residential buildings – then building control bodies should be clear with the applicant and/or their design teams at the earliest opportunity and emphasise the need for designs supported by robust evidence including where necessary the level of technical analysis required to demonstrate compliance with the building regulations, particularly for fire and structural safety aspects.

Such situations are likely to require a detailed fire engineering analysis.

6. Contribution to strategic outcomes

- 6.1 The Planning and Building Control services contribute to all Priorities of the Borough Plan.

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.

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
- Listed building demolition
- Application for relevant demolition of an unlisted building within a Conservation Area
- Certificates of Lawfulness (191 and 192)
- Notifications
- Permissions in Principle (PiP) and Technical Detail Consent (TDC)

PS0

Approval of details (AOD), discharge of conditions, non-material amendments