



London Borough of Enfield

Report Title	Review of Appeal Performance 2022/ 23.
Report to:	Planning Committee.
Date of Meeting:	18 th April 2023
Directors:	Sarah Carey – Executive Director of Housing, Regeneration and Development Brett Leahy – Director of Planning & Growth
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Ward(s) affected:	All
Classification:	Part I Public

Purpose of Report

1. To advise members of the performance on appeals against planning decisions during 2022/2023

Recommendations

- I. To Note

Reasons For Preferred Option

2. To assist members in the assessment and determination of planning applications,

Relevance to Council Plans and Strategies

3. The determination of planning applications supports good growth and sustainable development. Depending on the nature of planning applications, the proposals can deliver new housing including affordable housing, new employment opportunities, improved public realm and can also help strengthen communities

Appeal Decisions on Planning Applications

Appeal Performance

4. Between the 1st April 2022 and 31st March 2023, the Service received 3714 planning applications and made 3658 decisions (an additional 701 applications were withdrawn) of which 565 were decisions to refuse permission. There were 145 appeal decisions on planning applications from the Planning Inspectorate.
5. The table below confirms how many appeals were upheld and how many were dismissed. The figures have also been broken down into appeals against decisions made under delegated authority and those made by Planning Committee. Information on appeals against enforcement notices and non-determination have also been included.
6. Details of appeal decisions can be viewed on the Council's online planning register via the following link:

<https://planningandbuildingcontrol.enfield.gov.uk/online-applications/search.do?action=simple&searchType=Appeal>

- 7 Appeal Performance – 2022/2023

Total Appeal Decisions	Dismissed	Allowed	<i>Withdrawn / Invalid</i>	% Dismissed
145	96	49	8	66%
Delegated				
142	94	48	8	66%
Planning Committee				
3	2	1	0	66%

Appeals against Non Determination				
16	6	6	4	50%
Enforcement				
2	1	1	0	50%

Performance Regime

- 8 The Government recognises the important role planning services play in enabling growth. To ensure efficient and effective planning services, it sets performance thresholds that all Local Planning Authorities (LPAs) are expected achieve for quality of decisions. For appeals, the threshold is:
 - o no more than 10% of appeals allowed on appeal compared to total number of major and non-major applications decided
9. Where these performance thresholds are not met, the LPA may be 'designated' by the Government. Performance is assessed over a rolling 2-year period.
10. For the quality of decisions, on major planning applications, this has been an area of risk in previous periods due to the fewer number of major planning applications the statistics show the overall figure for planning applications determined in the assessment and the consequential effect of a fewer number of decisions can have on overall performance.
11. The current position with reference to the last 24 months to the end of June 2022 (and subsequent appeal decisions to the end of March 2023 - the quality statistics have a 9 month time lag to ensure all appeal data is included) is that the Council determined 85 major planning applications of which 13 were refused. There were 11 appeal decisions and of these, 4 were allowed. This equates to a rolling 2 year figures of 4.7% which is below the 10% threshold for major applications.
12. For non-major applications, the last period for which there are published figures is October 2019 to September 2021. During this period, there were a total of 3396 decisions on non-major planning applications. There were 238 appeal decisions of which 69 were allowed. This represents 2.03% of the total that were allowed and again this is below the threshold for designation.
13. With reference to the performance of Enfield in a national context, the average number of appeals dismissed is 72%. Our performance is 66% which is just below this average position.
14. The Service is currently undertaking a review of appeal decisions to inform how we can improve our appeal performance and gain a better

understanding of the grounds where we are not supported on appeal. The initial conclusions indicate that reasons focusing on design and impact on the character of an area (not conservation areas), in addition to residential extensions where no harm to amenity or living standards can be evidenced notwithstanding the wording of policy, are often areas where we are unsuccessful on defending a decision on appeal.

15. We are looking to improve our performance by through the current Wellbeing & Improvement project and its focus on the work in progress to reduce legacy cases, place more emphasis on pre application and improve determination times. We are also working with officers to support their role and the planning balance they must apply when balancing the issues before making a decision.

Appeal Decisions – Committee

16. During 2022/23, there were 3 appeal decisions received following a decision of Planning Committee.

	No. of Appeals	Dismissed	Allowed	Withdrawn	%
Refusal as per officer recommendation	0	0	0	0	0%
Refusal against officer recommendation	3	2	1	0	66%

17. A summary of these cases is included below

434 Montagu Road, N9	Ref:19/00043/FUL
CMT Date: 22.05.21	
Proposal: Redevelopment of site and erection of part-5, 7 and part-8 storey block of 61 Self-contained flats comprising (10 x 1 bed, 18 x 2 bed, 26 x 3 bed and 7 x 4 bed) involving balconies together with 1 x ground floor commercial unit (A4 use), ground floor parking, new access, landscaping and associated works.	
Officer Recommendation	Approve
Committee Decision	Refuse
Reasons:	
<ol style="list-style-type: none"> 1. Design 2. Inadequate Car Parking / Impact on free flow & safety of traffic 3. Insufficient Affordable housing 4. Lack of landscaping and planting impact on setting of development 	

Appeal Decision	Allowed
Inspector Comments -	
<p><u>The effect of the development on the character and appearance of the area, including landscape character.</u></p> <ul style="list-style-type: none"> - the proposed development would not be excessive for the site and would serve to regenerate the area with a locally notable design. - open space would be adequately provided on site and that any perceived shortfall would be exceeded by local opportunities for sport and recreation within walking distance. - With areas dedicated for open space, parking and circulation around the building, the proposal would not constitute an overdevelopment of the plot. <p><u>The effect of the development upon highway network;</u></p> <ul style="list-style-type: none"> - the proposed parking provision, in tandem with the emphasis on cycle parking, is wholly in accordance with policy T6. - the proposed drinking establishment would be well-situated to support residents to walk or cycle in order to access it. - due to existing parking controls, the development would not increase on-street parking significantly within the vicinity of the appeal site, thus traffic flow would not be impacted. <p><u>Whether or not sufficient affordable housing would be provided</u></p> <ul style="list-style-type: none"> - The appellant seeks to provide 21 affordable units, which would equate to the 35% threshold in the LP, but below the threshold set locally. - Due to the more recent publication of the London Plan, conformity with the LP is key. The appeal development would comply with Policy H5 and the proposed amount of affordable housing. 	

BHP Bowls & Tennis Club	Ref:20/01895/FUL
CMT Date: 03.08.21	
<p>Proposal: Redevelopment of the site including removal of existing tennis courts sub-division of site and erection of two new buildings comprising of 4 self-contained flats in each building, together with parking, refuse storage and associated works.</p>	
Officer Recommendation	Approve
CMT Decision	Refuse
<p>Reasons 1. Lack of detail regarding mitigation to offset loss of sports facilities 2. Scale, massing and external appearance impact on Conservation</p>	

Area	
Appeal Decision	Dismissed
Inspector Comments	
<p><u>Whether the development would preserve or enhance the character and appearance of the Bush Hill Park Conservation Area;</u></p> <ul style="list-style-type: none"> - development would be designed in a traditional style that would replicate some of the architectural features of neighbouring period properties. - design would be sympathetic to the character of the street in terms of its height, style and design and would not appear out of keeping - development (in respect of the introduction of flats) would have the appearance of 2 pairs of semi-detached dwellings when viewed from the road and there would be no harm to the character of the conservation area. 	
<p><u>Whether the development would result in the unjustified loss of sports facilities.</u></p> <ul style="list-style-type: none"> - Without a robust legal agreement, the development would result in the unjustified loss of sports facilities. 	
<p><u>The effect of the development on the living conditions of neighbouring occupiers with regard to outlook.</u></p> <ul style="list-style-type: none"> - a window serving a ground floor kitchen/diner would face onto the development at close quarters. This room is long and narrow although has a separate rear-facing window. - The development would introduce a high brick wall just over 2 metres away that would enclose the outlook from this window an unacceptable 	

1-44 Avalon Close, Enfield	Ref:21/01308/FUL
CMT Date: 22.07.22	
Proposal: Creation of a part third and fourth floor to both blocks to provide a total of 8 self-contained units with associated parking involving electric vehicle charging point	
Officer Recommendation	Approve
CMT Decision	Refuse
<ul style="list-style-type: none"> - a harmful loss of privacy to existing windows and terraces, detrimental to the amenities of the existing occupiers at third floor 	
Appeal Decision	Dismissed

Inspector Comments
<ul style="list-style-type: none">- the proposals would adversely affect the living conditions of existing residents.- this harm is of such magnitude that it significantly and demonstrably outweighs the aforementioned benefits of the development when assessed against the policies in the Framework taken as a whole.

Case Review – Arnos Grove

18. Although the appeal decision for Arnos Grove was dated 31st March 2022 and outside the scope for this report, it was accompanied by a decision on an award of costs against the Council which was resolved in November 2022. It is felt therefore appropriate to include a summary of this case as part of this report.

19. Proposal

Address: Car Park Adjacent to Arnos Grove Station Bowes Road
London N11 1AN

Description: Erection of 4 No buildings between one to seven storeys above ground level, with some elements at lower ground floor level comprising 162 residential units (Class C3) and flexible use ground floor unit (Class A1/A3/A4) together with areas of public realm, hard and soft landscaping, access and servicing arrangements, plant and associated works.

Application ref. – 20/01049/FUL

Officer Recommendation - approval.

Committee Decision: Refused

Appeal Decision – Allowed & full costs awarded

20. Reasons for Refusal and other Key Considerations

Planning Committee resolved to refuse permission for 3 reasons:

- loss of station car parking,
- the setting of the Grade II* listed Arnos Grove Station
- the housing mix.

21. Following legal advice, the Council withdrew all reasons of refusal.

22. *Loss of Station Car Parking*

- The site is in PTAL 6a (excellent) and PTAL 4 (Good) and it was concluded the site was well served by public transport.
- The proposal would prioritise movement by pedestrian and cyclist around the station and would make stations more attractive and
- It was accepted that there would be a reduction in accessibility for persons who currently use the car to access the station whose

mobility is restricted but the improvements would prioritise pedestrian movement and reduce the potential for vehicle pedestrian conflict advancing the 'equality of opportunity' for those with restricted mobility who do not have access to a private vehicle.

- significant weight was given to the submitted transport statement and evidence therein

23. *Setting of the Grade II* Listed Arnos Grove Station*

- Historic England and the Twentieth Century Society did not raise any objections, which supported the conclusion that the buildings would sit comfortably alongside the listed station building.
- The proposal would cause some harm to the ability to view the booking hall from the east, but there would be a beneficial effect on the setting of the listed building
- the proposed public square would represent a significant enhancement to public realm and overall, the enhancement to the setting of the listed building would outweigh any harm.
- A low level of harm to Arnos Park, non-designated asset, would be outweighed by the enhancement to the setting of the Grade II* listed building.

24. *Housing Mix*

- Delivery of market units as Build to Rent (BtR) was considered a planning benefit.
- The level of affordable housing complies with policy and the rental discounts were considered to make the units affordable to a large number of Enfield households who cannot afford to buy on the open market and would not be eligible for social rented housing
- Weight was given to there being no social rent, and the mix of discount was at the maximum level of affordability (with build in viability reviews)).
- The scheme with 91% 1 and 2 bed units would not comply with Development Plan policies CS 5 and DMD 3, however, reference was made to the London Plan policy H10 being more flexible and that the London Plan was the most up to date part of the development plan.
- The scheme would give more choice for those that do not live in large households; and higher density development with higher proportion of 1 and 2 bed units is suitable on a brownfield site well served by public transport.
- There is evidence of need for the mix of units that would be delivered
- There would be increased housing choice in terms of providing smaller units (in an area of predominantly 3 bedroom housing)

Costs

25. The appellant made a cost application on the following grounds: vague, generalised or inaccurate assertions about a proposals impact, which are supported by objective analysis; preventing or delaying development which should clearly be permitted; and failure to substantiate each reason for refusal on appeal.
26. The Council was not able to substantiate its grounds for refusal and did not produce any evidence to substantiate its reasons for refusal. In defending the costs appeal, the Council argued 'key changes in circumstances' hence the withdrawal of reasons for refusal.
27. The Inspector concluded that the decision to refuse the application for decisions that were not substantiated, amounted to unreasonable behaviour, delaying a development that should clearly have been permitted causing the appellant to incur unnecessary expense and awarded full costs.
28. The original claim for costs amounted to £651,261. After negotiation by officers, the final agreed amount was £450,000

Financial Implications

29. None

Legal Implications

30. None

Equalities Implications

31. None

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Appendices

None

Background Papers

None