

Decision Maker: **DEVELOPMENT CONTROL COMMITTEE**

Date: **Tuesday 23 July 2019**

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **PLANNING APPEALS MONITORING REPORT - APRIL 2018 TO MARCH 2019**

Contact Officer: John Stephenson, Development Control Manager (Appeals and Planning Investigation)
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Chief Officer: Jim Kehoe, Chief Planner

Ward: (All Wards)

1. Reason for report

The report provides an update on planning appeals received and decided for the year 2018/2019.

2. **RECOMMENDATION(S)**

Members to consider the report

Impact on Vulnerable Adults and Children

1. Summary of Impact:
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Corporate Policy

1. Policy Status: Existing Policy
 2. BBB Priority: Quality Environment
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Financial

1. Cost of proposal: Not Applicable:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Central Contingency
 4. Total current budget for this head: £60k
 5. Source of funding: Central Contingency for 2018/19
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Personnel

1. Number of staff (current and additional): 53.86ftes
 2. If from existing staff resources, number of staff hours: n/a
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Legal

1. Legal Requirement: Statutory Requirement:
 2. Call-in: Not Applicable:
-

Procurement

1. Summary of Procurement Implications: n/a
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): n/a
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: n/a

3. COMMENTARY

- 3.1 This report provides an overview of appeals activity for the period 1 April 2018 to 31 March 2019 which gives Members a comprehensive view of planning appeals, especially those where a recommendation for permission had been overturned by Members and their appeal outcome.
- 3.2 This full listing would comprise of the appeal site location/address and which Ward the appeal was situated in. The report would also have a breakdown of whether the planning applications were refused at Committee or under delegation and if refuse by Committee, whether the item had been recommended for permission or refusal.
- 3.3 The report would provide the final decision/outcome of the Appeal and should also include whether there had been an award of costs granted, together with whether a claim for costs were applied for (and obtained).
- 3.4 This report gives Members a comprehensive view of planning appeals, especially those where a recommendation for permission had been overturned by Members and what was the appeal outcome.
- 3.5 319 appeal decisions were made by the Planning Inspectorate within the actual reporting financial year, of which 180 were dismissed, 132 were allowed and 7 were part allowed/part dismissed.

Table One : Appeal decisions made by PINS in 2018/2019					
	Fastrack	Written	Hearing	Inquiry	Total
No. of appeals allowed	79	49	1	3	132
No. of appeals dismissed	62	116	0	2	180
No. of appeals part allowed/dismissed	2	3	0	2	7
Total appeals decided	143	168	1	7	319
% appeals allowed	55%	29%	100%	43%	41%
National comparison*	38%	29%	42%	47%	39%

*Source: Planning Inspectorate statistical report (figures provisional)

- 3.6 A detailed analysis of the 319 decided cases are shown in the following graph and Table Two. For brevity, references to Planning Sub Committees include Development Control Committee.

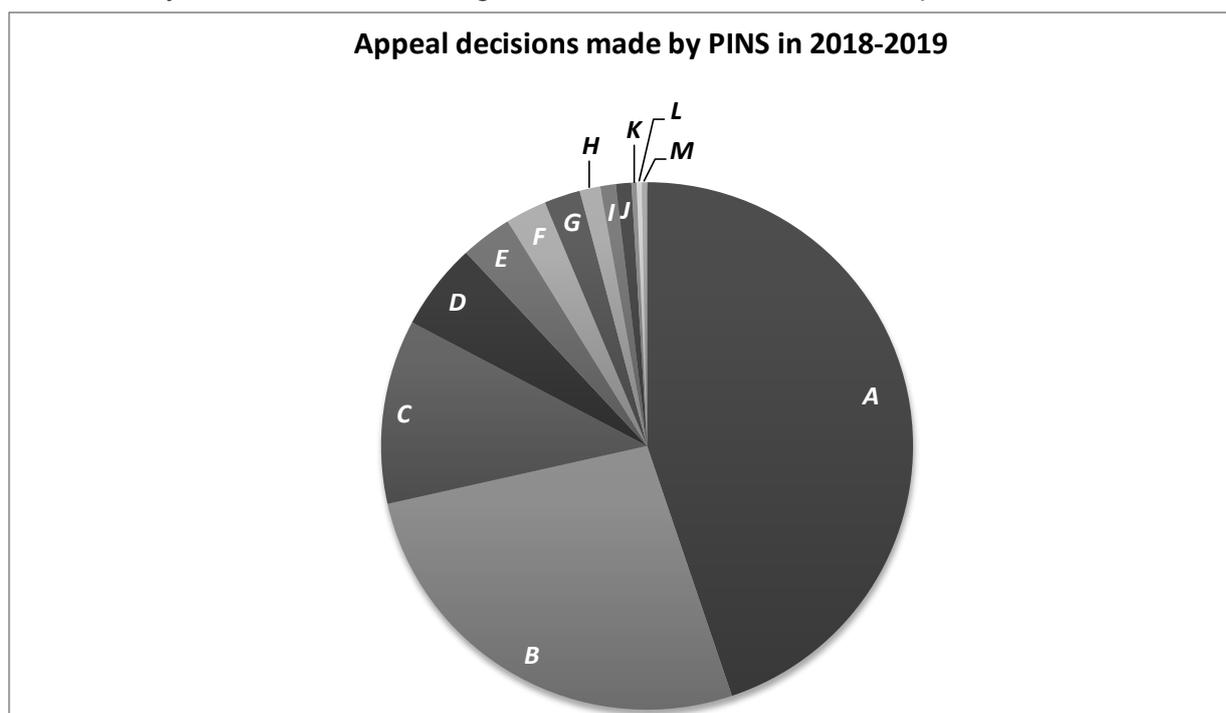
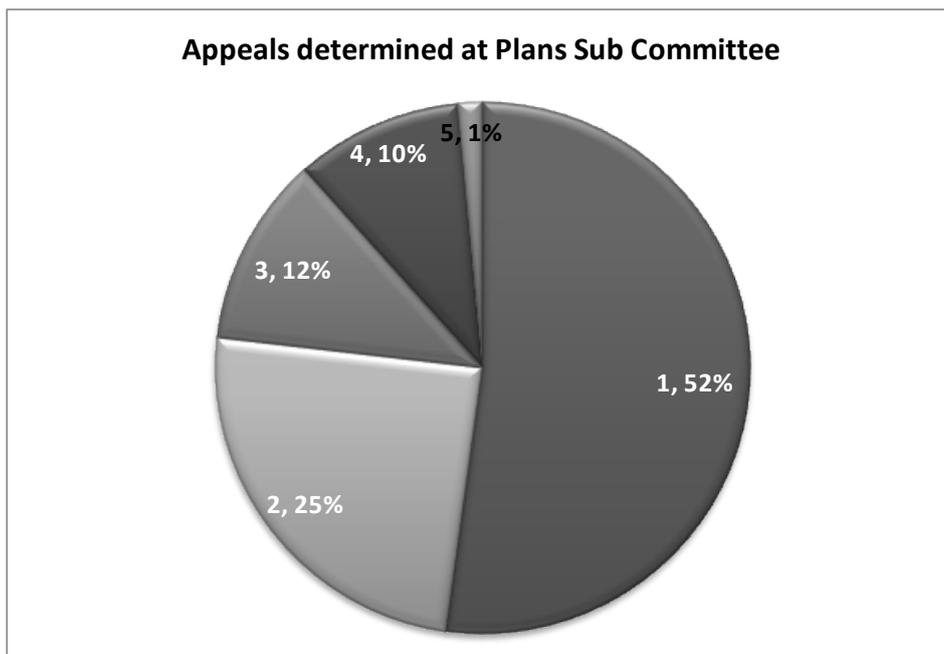


Table two: Appeal decisions made by PINS in 2018/2019 classified by Council Delegated or Committee cases in numerical rank order	Label	%	No. of decisions received
Dele rec. for refusal - appeal dismissed	A	45%	143
Dele rec. for refusal - appeal allowed	B	27%	85
PSC rec. for permission - appeal allowed	C	11%	36
PSC ref. for refusal - appeal dismissed	D	5%	17
ENF - appeal dismissed	E	3%	10
PSC rec. for permission - appeal dismissed	F	3%	8
PSC rec. for refusal - appeal allowed	G	2%	7
non determination	H	1%	4
dele rec for permission - appeal part allowed	I	1%	3
ENF -appeal part allowed	J	1%	3
PSC ref refusal - appeal part allowed	K	0%	1
dele rec. for permission - appeal allowed	L	0%	1
ENF - appeal allowed	M	0%	1
	Total	100%	319

3.7 69 planning appeals relating to applications determined at Plans Sub Committee are detailed in the table and graph below:



Key Breakdown	Label	%	Number of decisions made
PSC P - Plans Sub Committee recommended for permission - appeal allowed	1	52%	36
PSC R - Plans Sub Committee recommended for refusal - appeal dismissed	2	25%	17
PSC P - Plans Sub Committee recommended for permission - appeal dismissed	3	12%	8
PSC R - Plans Sub Committee recommended for refusal - appeal allowed	4	10%	7
PSC R - Plans Sub Committee recommended for refusal - appeal part allowed	5	1%	1
			69

- 3.8 The full breakdown by Ward of the 319 appeal decisions received within the 2018-2019 financial year is shown as Appendix 1 published in the confidential section of the agenda.
- 3.9 Details of planning applications recommended for permission are shown at 2 published in the confidential section of the agenda .
- 3.10 Details of enforcement appeals are shown at Appendix 3 published in the confidential section of the agenda.
- 3.11 Details of cost claims received are shown at Appendix 4 published in the confidential section of the agenda.
- 3.12 For Members information the list of weekly appeals decisions made includes the Ward in which the appeal relates to.
- 3.13 In s78 appeals, members of the Development Control Committee requested to see comparison figures of appeal decisions made by PINS between the periods April 2018 to March 2019 with other London Boroughs. Table Four shows comparison figures with neighbouring Local Planning Authorities.

**Table Four : Decisions by local planning authority - S78 planning appeals
England - April 2018-March 2019**

Local Planning Authority	No. Decided	Number allowed	Split decisions	% allowed
Bexley	29	5	0	17%
Bromley	153	47	1	31%
Croydon	84	23	0	27%
Greenwich	85	21	0	25%
Lewisham	93	18	1	19%
Southwark	56	12	1	21%
London (Total)	2602	776	24	
England (Total)	10175	2939	79	

Implications to consider

- 3.14 In Local Planning Authorities with a high appeals workload such as Bromley, the number of claims against the Council can be significant. Bromley consistently has one of the highest number of planning appeals in the UK. The volume of appeals is reflected in the relatively high number of claims for costs. Cost may be awarded on the grounds of “Unreasonable Behaviour” by any of the parties involved resulting in unnecessary wasted expense.
- 3.15 The number of costs claims against the Council has increased this financial year to 17 compared to 2017/2018 where 12 claims were received. However the amounts claimed can vary

significantly depending on the type of case. It is not sufficient for the appellant to claim costs on the grounds that the Council has made an incorrect decision. It is necessary to demonstrate that the Council has acted unreasonably, for example if it is unable to produce convincing evidence in support of its reasons to refuse permission.

- 3.16 Members have requested to be advised of the some of the main factors which have resulted in the Planning Inspectorate to award costs against the Council in 2018/2019 for unreasonable behaviour. The reasons have included:
1. Lack of evidence to substantiate its reasons for refusal.
 2. Grounds of refusal contrary to technical and or officer advice which includes statutory consultees.
 3. Unnecessary use of side space Policy 8 of the Bromley Local Plan states that the Council will normally require 1 metre side space the word normally adds an element of discretion within the policy to consider the specific circumstances of each proposal.
 4. Previous Planning Inspectors decision the Council failed to take account of the Inspectors recent decision, a significant material consideration.
- 3.17 On all appeal cases the Council will be required to show that there are reasonable planning grounds for the reasons for refusal which stand up to scrutiny, and that the relevant evidence is provided to justify its decision. Previous inspector's decisions needs to be considered to avoid unnecessary cost awards.

4. FINANCIAL IMPLICATIONS

- 4.1 The Planning Appeals Costs 2018-2019 is also being reported to this committee together with Renewal, Recreation and Housing Policy Development and Scrutiny Committee.
- 4.2 A total of **£38.2k** has been paid during 2018/2019 in settlement of planning appeal cost claims received. This includes a previous outstanding claim from 2016/2017. This additional cost has been contained within the overall planning budget.
- 4.3 Two claims against appeal decisions made in 2018/2019 are awaiting submission and one is pending submission.
- 4.4 The latest budget monitoring report for 2019/20 includes an estimated £50k for potential appeal costs, which includes the Westmoreland Road claim.
- 4.5 Other claims of £3.3k have been received in relation to 2018/19 lost appeals and will be paid in 2019/20.
- 4.6 It should be noted that amounts totalling £15.2k were received in 2018/19 in relation to cost claims submitted by the Council.

Non-Applicable Sections:	Policy, Legal and Personnel Implications
Background Documents: (Access via Contact Officer)	National Planning Practice Guidance Planning appeals monitoring report – April 2017 to March 2018 – update DCC 6 November 2018