

---

**Decision Maker:**        **DEVELOPMENT CONTROL COMMITTEE**

**Date:**                    **Tuesday 18<sup>th</sup> April 2023**

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

**Title:**                    **PLANNING APPEALS UPDATE**

**Contact Officer:**        Tim Horsman, Assistant Director (Planning)  
Tel: 020 8313 4956    E-mail: Tim.Horsman@bromley.gov.uk

**Chief Officer:**            Director of Housing, Planning, Property and Regeneration

**Ward:**                    All Wards

---

1.    Reason for decision/report and options

1.1    To report on the Council's planning appeal performance for FY 2022/2023.

---

**2.    RECOMMENDATION(S)**

**2.1    Members note the report**

## Impact on Vulnerable Adults and Children

1. Summary of Impact: N/A
- 

## Transformation Policy

1. Policy Status: Existing Policy:
  2. Making Bromley Even Better Priority:  
(5) To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.
- 

## Financial

1. Cost of proposal: Not Applicable:
  2. Ongoing costs: Recurring Cost: Further Details
  3. Budget head/performance centre: Planning / Planning Appeals
  4. Total current budget for this head: £
  5. Source of funding: Existing budget
- 

## Personnel

1. Number of staff (current and additional): 5
  2. If from existing staff resources, number of staff hours: N/A
- 

## Legal

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

## Procurement

1. Summary of Procurement Implications: N/A
- 

## Property

1. Summary of Property Implications: N/A
- 

## Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: N/A
- 

## Customer Impact

1. Estimated number of users or customers (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 update on the Council's performance at appeal and appeal costs claims by and against the Council for FY2022/23.

3.2 Summary of appeal decisions by quarter and totals for FY22/33

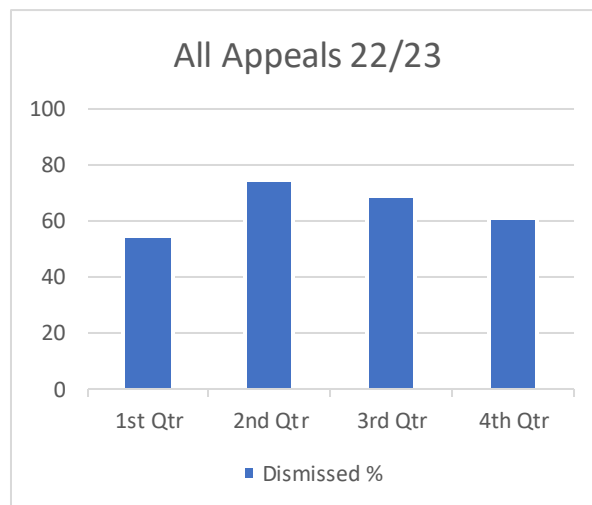
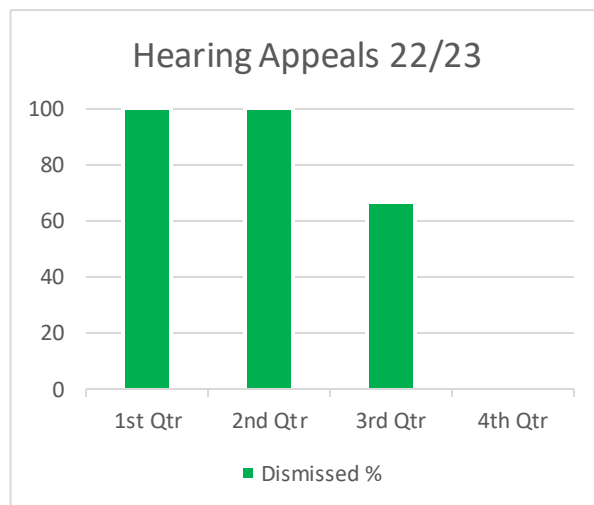
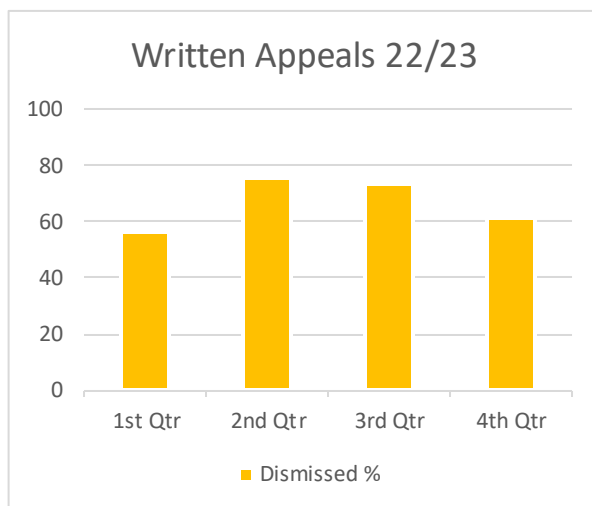
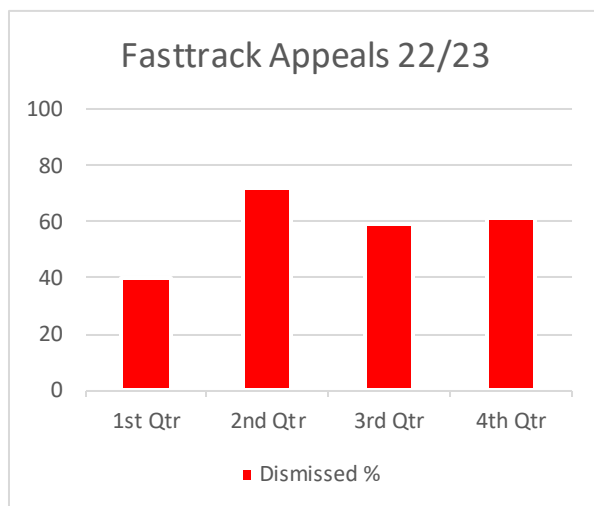
<b>Q1 22/23:</b>	<b>Fasttrack</b>	<b>Written</b>	<b>Hearing</b>	<b>Inquiry</b>	<b>Total</b>
<b>Total Appeal Decisions</b>	5	16	1	0	22
<b>Total Dismissed</b>	2	9	1	0	12
<b>Percentage Dismissed</b>	<b>40.0%</b>	<b>56.3%</b>	<b>100.0%</b>	<b>0.0%</b>	<b>54.5%</b>

<b>Q2 22/23:</b>	<b>Fasttrack</b>	<b>Written</b>	<b>Hearing</b>	<b>Inquiry</b>	<b>Total</b>
<b>Total Appeal Decisions</b>	18	29	1	0	48
<b>Total Dismissed</b>	13	22	1	0	36
<b>Percentage Dismissed</b>	<b>72.2%</b>	<b>75.9%%</b>	<b>100.0%</b>	<b>0.0%</b>	<b>75.0%</b>

<b>Q3 22/23:</b>	<b>Fasttrack</b>	<b>Written</b>	<b>Hearing</b>	<b>Inquiry</b>	<b>Total</b>
<b>Total Appeal Decisions</b>	27	57	3	0	87
<b>Total Dismissed</b>	16	42	2	0	60
<b>Percentage Dismissed</b>	<b>59.3%</b>	<b>73.7%</b>	<b>66.7%</b>	<b>0.0%</b>	<b>69.0%</b>

<b>Q4 22/23:</b>	<b>Fasttrack</b>	<b>Written</b>	<b>Hearing</b>	<b>Inquiry</b>	<b>Total</b>
<b>Total Appeal Decisions</b>	36	44	0	0	80
<b>Total Dismissed</b>	22	27	0	0	49
<b>Percentage Dismissed</b>	<b>61.1%</b>	<b>61.4%</b>	<b>0.0%</b>	<b>0.0%</b>	<b>61.3%</b>

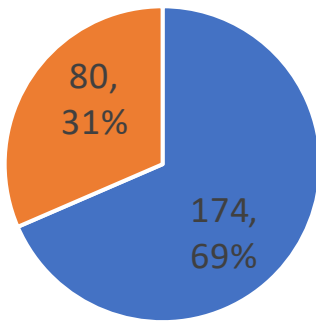
<b>FY22/23:</b>	<b>Fasttrack</b>	<b>Written</b>	<b>Hearing</b>	<b>Inquiry</b>	<b>Total</b>
<b>Total Appeal Decisions</b>	86	146	5	0	237
<b>Total Dismissed</b>	53	100	4	0	157
<b>Percentage Dismissed</b>	<b>62.0%</b>	<b>68.5%</b>	<b>80.0%</b>	<b>0.0%</b>	<b>66.2%</b>



### FY2022/23 Appeal Decision Analysis

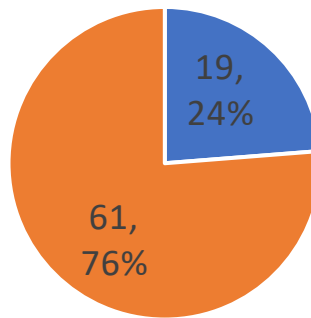
- 3.3 There were 80 appeals allowed (of a total of 254 decided) in FY22/23 and of these 61 were delegated decisions and 19 were committee decisions. 9 of those allowed were cases where the officer recommendation was overturned at committee.

**All Bromley Appeals  
FY2022/23**



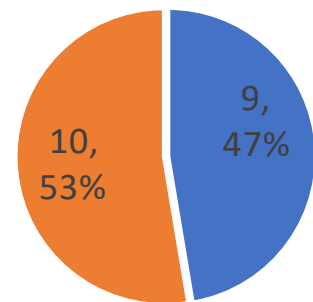
■ Dismissed ■ Allowed

**Decision Route for  
Allowed Appeals  
FY2022/23**



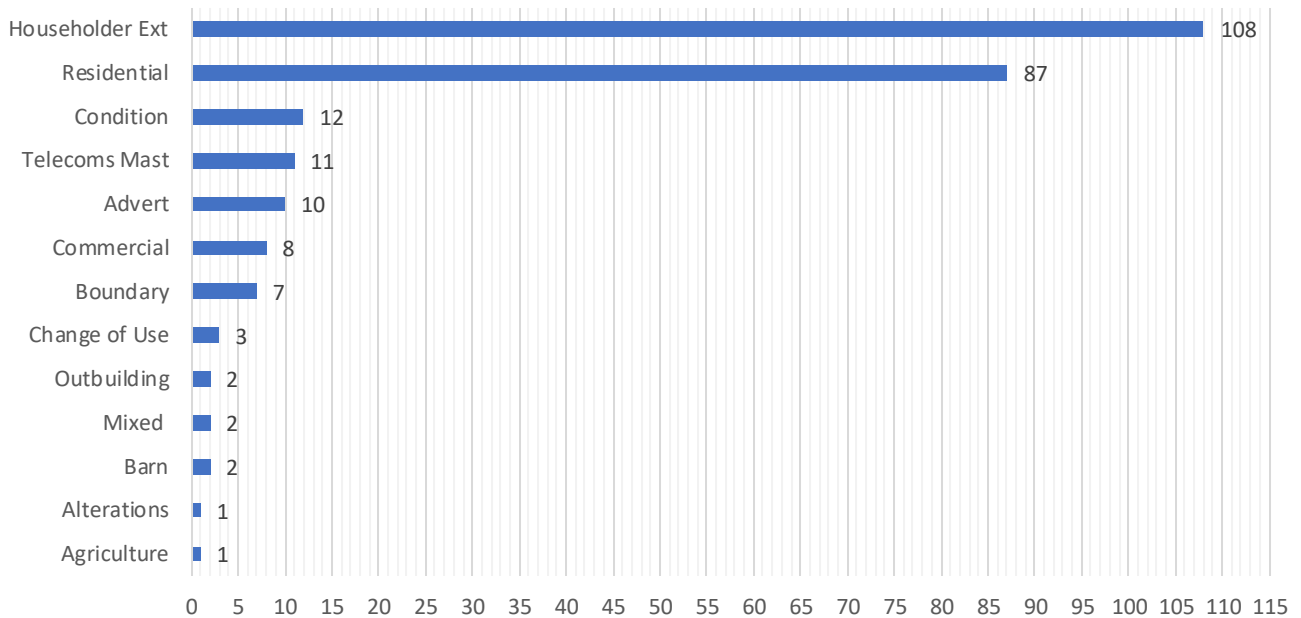
■ Committee ■ Delegated

**Whether Overturned  
Recommendation for Allowed  
Appeals decided by  
Committee**

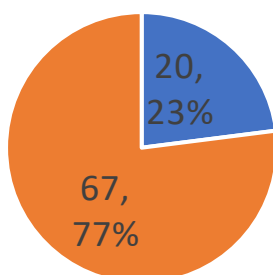


■ Overturned  
■ Recommended for refusal

**Bromley Appeal Decision Categories FY22/23**

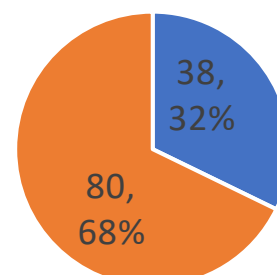


**Residential Appeals Bromley  
FY22/23**



■ Residential Appeals Allowed  
■ Residential Appeals Dismissed

**Householder Extension Appeals  
Bromley FY22/23**



■ Householder Extension Appeals Allowed  
■ Householder Extension Appeals Dismissed

3.4 Of the 254 appeals, the main categories were residential development 87 appeals (20 were allowed) and 108 were for householder extensions (38 were allowed).

3.5 Appeal performance by Ward FY2022/23

Ward	Appeals Allowed	Total Appeal Decisions
Bickley	5	10
Biggin Hill	1	4
Bromley Common & Holwood / Keston	5	14
Bromley Town	4	20
Chelsfield (& Pratts Bottom)	5	7
Chislehurst	4	16
Clock House	0	10
Copers Cope	4	13
Cray Valley East	5	13
Cray Valley West	4	7
Crystal Palace	3	7
Darwin	11	29
Farnborough & Crofton	2	11
Hayes & Coney Hall	4	16
Kelsey & Eden Park	6	11
Orpington	4	7
Penge & Cator	2	16
Petts Wood	13	31
Plaistow & Sundridge	2	6
Shortlands	4	5
St Pauls Cray	1	1
West Wickham	2	5
Total	91	259

3.6 The greatest number of appeals allowed were in Darwin and Petts Wood wards which were both almost double the next nearest wards. It is clear that the interpretation of Green Belt policy

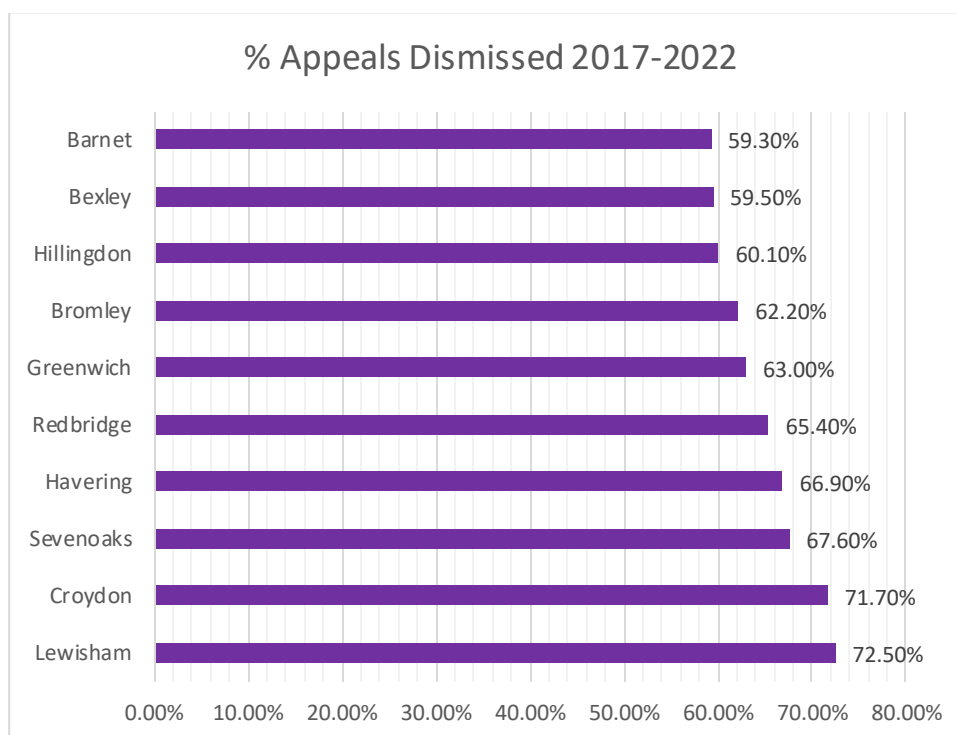
is a factor in Darwin ward relating to proposals for residential extensions. With the decisions in Petts Wood these were also predominantly residential extensions with a trend for Inspectors disagreeing with the level of protection the Council wished to exercise over this type of development.

- 3.7 There is also a clear trend of the Council losing appeals against the imposition of conditions restricting permitted development rights, with these decisions all being in Darwin or Petts Wood.

Longer Term Performance (5 year data):

- 3.8 The Planning Inspectorate publishes rolling 5 year data on appeal decisions (this includes all types of appeals including enforcement appeals) at <https://www.gov.uk/government/publications/planning-inspectorate-appeals-database> - this shows that up to November 2022 across the country 68.1% of appeals were dismissed. Bromley is at 62.2% for that period.
- 3.9 Looking at a sample of neighbouring Boroughs and other London Boroughs with similar characteristics the following appeal outcomes are published over the same 5 year period:

Barnet: 59.3% dismissed (1052 of 1774)  
Bexley: 59.5% dismissed (292 of 421)  
Bromley: 62.2% dismissed (783 of 1258)  
Croydon: 71.7% dismissed (467 of 651)  
Greenwich: 63.0% dismissed (436 of 692)  
Havering: 66.9% dismissed (519 of 776)  
Hillingdon: 60.1% dismissed (856 of 1424)  
Lewisham: 72.5% dismissed (495 of 683)  
Redbridge: 65.4% dismissed (568 of 868)  
Sevenoaks: 67.6% dismissed (238 of 352)

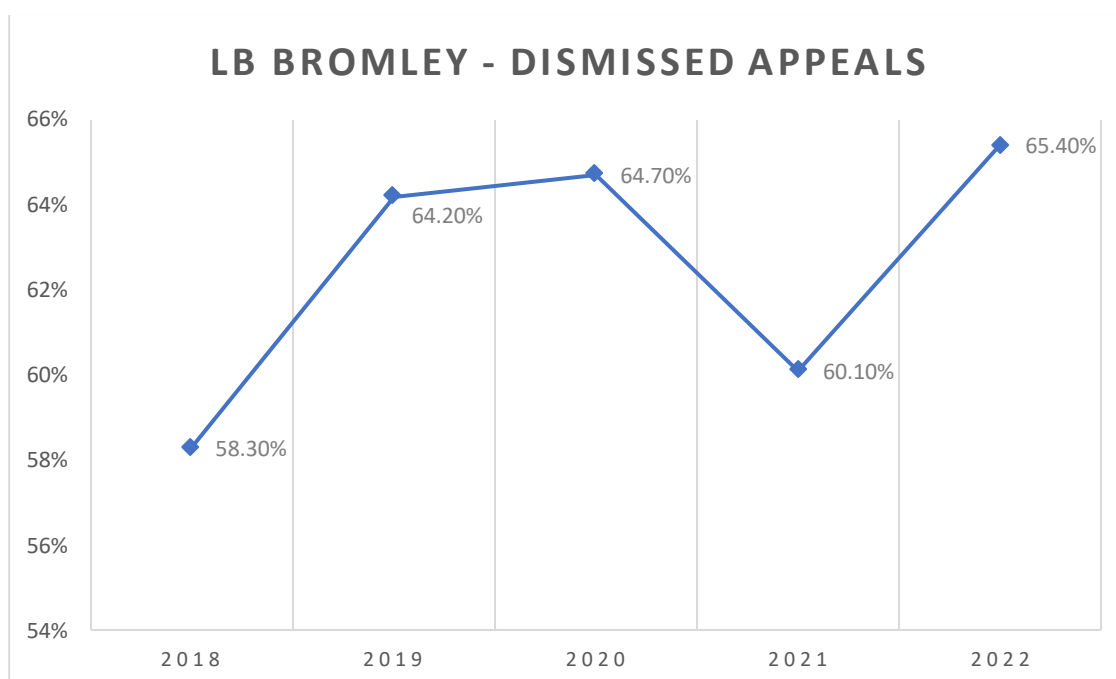


- 3.10 Looking into further detail Bromley had 513 householder appeal decisions in that 5 year period and 284 of these were dismissed which is 55.4%. Nationwide the dismissed rate for householder appeals was 63.2% for the same period.

- 3.11 In 2019 nationwide there were 63.8% dismissed householders compared to Bromley at 54%. In 2020 this figure was 58.8% for Bromley and 64% nationwide. In 2021 this was 63.7% nationwide and 63.3% for Bromley. In 2022 it was 58.7% for Bromley and 64.1% nationwide
- 3.12 For lawful development certificate appeals nationwide 60% are dismissed and for Bromley this is 59.3%
- 3.13 For standard Section 78 planning appeals (eg residential and commercial development that is not householder) Bromley achieved 66.8% compared to a nationwide figure of 71.2%
- 3.14 The graph below shows Bromley's performance overall over recent years:

Appeals Dismissed % by year – London Borough of Bromley

2018	2019	2020	2021	2022
58.3%	64.2%	64.7%	60.1%	65.4%



- 3.15 The Planning team meet regularly to review appeal decisions, in particular those which were allowed, to see if there are areas where we can make improvements to decision making. There was a drop in performance in 2021 which is attributed to the COVID pandemic including an increased number of appeals against the Council's failure to determine applications which have a greater chance of success. Notwithstanding 2021 there has been a gradual improvement in appeal performance for Bromley over the period.

#### Appeal Costs Awards

- 3.16 Normally all parties are expected to meet their own costs for a planning appeal; however it is open to either party to initiate a claim for costs to be paid if they consider that the other party has behaved unreasonably. An Inspector can also award costs without a claim having been made.
- 3.17 With regard to appeal costs claims there have been 23 claims in FY2022/23. 10 of these were allowed with costs or partial costs being awarded against the Council with 13 being refused. Of



the allowed claims to date £1638 has been paid with the remainder awaiting submission or agreement of amounts which is usually settled through both parties negotiating.

- 3.18 Of the 10 claims allowed, 5 of these were in cases of non-determination in relation to unnecessary delays meaning applicants went to appeal as their application went beyond the target date without being determined by the Council. Members will be aware of the workflow difficulties the Development Management team has experienced recently which in some cases has led to applicants appealing against non-determination. Performance is now back on track and we would not expect any further costs claims to be awarded on this basis in future years.
- 3.19 The other main reasons for costs awards against the Council were unsubstantiated or vague refusal grounds.
- 3.20 The Council sought costs against appellants in 8 cases and were successful in 3 of these with amounts not having yet been agreed.

#### 4. FINANCIAL IMPLICATIONS

- 4.1 Planning appeals can be costly to the council, and it should be noted that we have paid approx. £1,638 in claims cost this financial year.
- 4.2 The success rate of planning appeals is an indicator of the effectiveness of the application determination process, Bromley is performing in line with its neighbouring councils in this regard, even though against national statistics we are slightly underperforming.
- 4.3 Time taken to process and deal with appeals is a significant factor that this paper does not cover, we know this can be resource draining and therefore can impact on our ability to effectively run the service but also increase our costs.
- 4.4 Although there are no direct financial implications from this paper as it is to note the performance of the appeals process, there are potential financial implications in the form of costs awards against the Council if decision making does not meet the targets and standards expected.

#### 5. LEGAL IMPLICATIONS

- 5.1 Planning appeals can impact on legal resourcing through the need for formal legal representation in appeal public inquiries and sometimes appeal hearings. The Council also sometimes has to engage costs advocates to help negotiate unrealistic costs claims.

<b>Non-Applicable Headings:</b>	Impact on Vulnerable Adults And Children Transformation/Policy/Personnel/Procurement/Property Implications Carbon Reduction/Social Value Implications Customer Impact Ward Councillor Views
Background Documents: (Access via Contact Officer)	<a href="https://www.gov.uk/government/publications/planning-inspectorate-appeals-database">https://www.gov.uk/government/publications/planning-inspectorate-appeals-database</a>