

Decision Maker: **Development Control Committee**

Date: **13 January 2011**

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

Title: **PLANNING APPEALS - MONITORING REPORT 2010**

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Chief Officer: Chief Planner

Ward: All

1. Reason for report

1.1 This report follows the previous appeals monitoring report to DCC on 23 November 2010 which related to the period January – September 2010. This report provides an update for the period October - December 2010 and gives an overview of planning appeals activity for the whole year. The report also addresses concerns about the operation of the Householder Appeals Service ('fast track' appeals) and provides a summary of the various methods for determining appeals.

2. RECOMMENDATION

2.1 For information.

Corporate Policy

1. Policy Status: N/A. UDP2006
 2. BBB Priority: Quality Environment.
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Financial

1. Cost of proposal: No cost
 2. Ongoing costs: N/A.
 3. Budget head/performance centre: Planning Division
 4. Total current budget for this head: £3.8
 5. Source of funding: Existing revenue budget
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Staff

1. Number of staff (current and additional): 4
 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: Call-in is not applicable.
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments:

3. COMMENTARY

- 3.1 In the period October to December 2010 70 new planning appeals were lodged. 250 appeals were lodged in 2010 compared with 300 in 2009. Over the same period 265 appeal decisions were received of which 145 were dismissed and 113 allowed, with 4 part allowed/part dismissed.
- 3.2 The proportion of appeals dismissed varied from 38% in January to 71% in June 2010. However, the statistics for individual months are not reliable indicators of performance and the over the year as a whole almost 60% of all appeals were dismissed.
- 3.3 With regard to appeal procedure, the written representations method accounted for 55% of all appeals in 2010. The number of informal hearings fell to 10% while the proportion of appeals dealt with by local inquiries was only 1%. This very low figure may be a reflection of the longer timescales for inquiries, as well as the significantly higher costs involved due to legal representation and attendance by expert witnesses and it would appear that this trend is likely to continue until the economic climate improves.

'Fast Track' Appeals (FTA)

- 3.4 The previous report to DCC on 23 November 2010 summarised the 'fast track' or Householder Appeals System (HAS) procedure which was introduced by the Planning Inspectorate in April 2009 in an effort to streamline householder appeals. The has significantly reduced the timescale for smaller scale, more straightforward householder appeals. In 2010 the proportion of appeals dealt with by the FTA method accounted 35% of all new appeals in Bromley.
- 3.5 The average timescale for a FTA is currently about 8 weeks compared with 16 -18 weeks for a written representations appeal. This represents a significant reduction in timescale and has assisted in relieving some of the pressures on an overburdened appeals system. Appeals determined by hearing take longer, on average about 22 weeks.
- 3.6 In the period January – December 2010 Bromley received 86 FTAs. Of the fast track decisions received 40 were allowed and 39 dismissed. Experience over the first 18 months of operation indicates that the significantly shorter timescale has not had a significant effect on performance levels in that the proportion of householder appeals allowed and dismissed is largely unchanged since the new procedures were introduced.
- 3.7 The main concerns about the fairness and openness of the FTA procedure relate to the lack of opportunities to make representations on individual cases. In FTA cases the Council is no longer required to submit a written statement and the delegated or committee report forms the basis of the Council's case. Where an application is recommended for permission by officers but is subsequently refused at committee there is no opportunity for the Council to make further representations in support of the reasons for refusal or to respond to the grounds of appeal if the appeal is determined by the FTA method.
- 3.8 Most FTA appeal site visits are carried out unaccompanied by Inspectors without any participation by the Council. This denies the Council of the opportunity to point out specific features on the appeal site in support of the Council's case. There has also been some negative feedback from local residents regarding lack of opportunity to comment on an appeal or not being notified when the site visit takes place. Although the Council may make representations on the type of appeal procedure to be followed the final decision rests with the Inspectorate and there is concern that local views are not being given sufficient weight.

- 3.9 Further to the resolution by DCC on 23 November a letter has been sent to the Planning Inspectorate setting out the Council's concerns about the FTA procedure. A response is awaited and a verbal update will be given if a response is received by the date of this committee

Methods of Appeal

- 3.10 At the previous committee Members requested a further report outlining the various methods of appeal and whether those appeals had arisen from a refusal under delegated powers.

In 2010 the breakdown by appeal procedure was as follows:

1. Written representations	137	(55%)
2. 'Fast Track'	86	(35%)
3. Informal hearing	25	(10%)
4. Local inquiry	2	(1%)
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Total	250	

- 3.11 In summary, the written representation method involves completion of a questionnaire and exchange of written statements followed by an accompanied site visit. FTAs apply only to small scale householder appeals and involve completion of a questionnaire but no requirement for a statement followed by an unaccompanied site visit by the Inspector. An informal hearing involves submission of a written statement of case followed by a public hearing chaired by an Inspector, attended by the appellant and the Council's planning witness without any legal representation. A local inquiry is held where the planning issues are more complex requiring cross examination of witnesses or giving evidence on oath where the main parties have legal representation.
- 3.12 The overall figures for 2010 confirm that approx. 60% of all appeals were dismissed and 40% allowed which generally reflects the national average. A brief analysis of appeal decisions received in 2010 shows that 155 (70%) were determined under delegated authority and 63 (30%) were determined at committee. Of the cases which were determined by committee 25% were dismissed on appeal whereas 63% of the cases determined under delegated authority were dismissed.