



Report to Planning Committee 11 August 2022

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Report Summary	
<b>Report Title</b>	Development Management Performance Report
<b>Purpose of Report</b>	This report relates to the performance of the Planning Development Business Unit over the three month period April to June 2022. In order for the latest quarter’s performance to be understood in context, in some areas data going back to April 2020 is provided. The performance of the Planning Enforcement team is provided as a separate report.
<b>Recommendations</b>	For noting. The services it assists in the delivery of Community Plan Objectives: <ul style="list-style-type: none"> <li>• Deliver inclusive and sustainable economic growth</li> <li>• Create more and better quality homes through our roles as landlord, developer and planning authority</li> <li>• Enhance and protect the district’s natural environment</li> </ul>

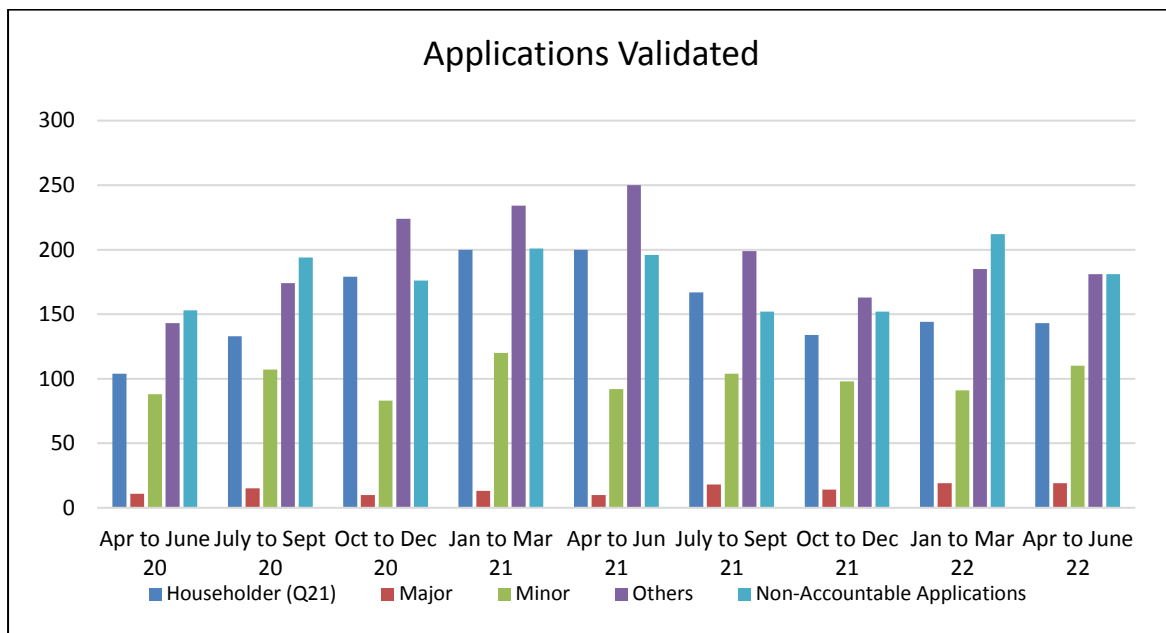
## 1.0 Background

1.1 The Planning Department undertakes a number of activities including process of planning applications and associated appeals, planning enforcement, conservation and listed building advice, pre-application advice as well as other service areas including land charges, street naming and numbering and management of the building control service for the Council. This report relates to the planning related functions of the service area.

## 2.0 Application Numbers

2.1 The graph below shows the number of applications that have been received as valid each quarter from April 2020 up until June 2022. They are presented in line with the Council’s reporting to Government. Definitions of what each application type constitutes is provided below the graph. In the first quarter of 2022/23, a total of 802

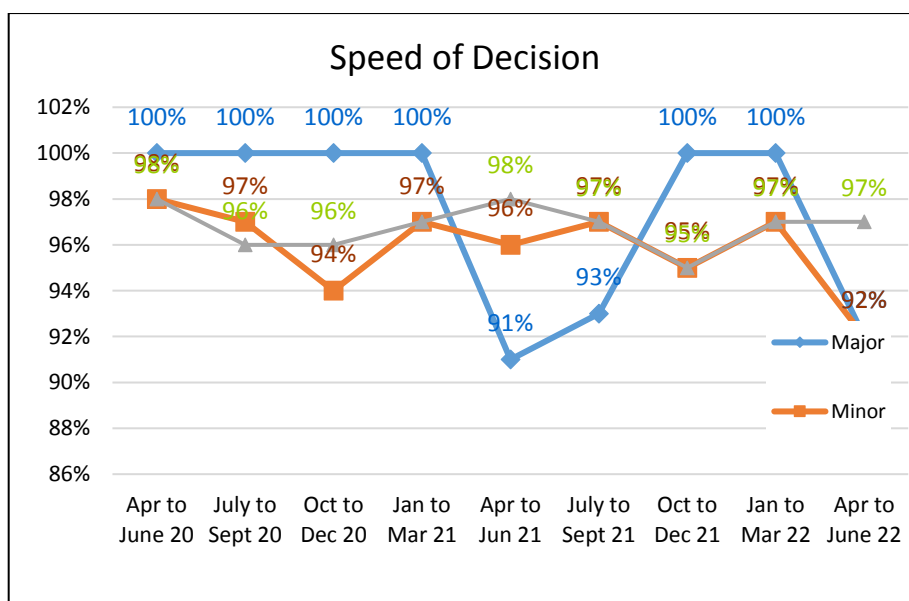
applications were received. This, compared to the same quarter in 2021/22 shows a large reduction from 942 applications or an approximate 17% decrease in application workload. 802 applications is still significantly greater than with the start of the pandemic in 2020/21 when 721 applications were received in the same quarter. The previous report identified the biggest increase in numbers were for householder applications with an 89% increase (200 applications compared to 104). However, this quarter has shown a significant reduction (by 57) for these application types. The number of majors, however, have significantly increased by 90% (from 10 to 19). Minor applications have also increased though by a much lesser amount at 19%. All other application types have reduced to varying degrees. Whilst all applications will have work associated in determining them, major applications generally require more input from Officers in their assessment due to their scale and issues that arise.



- 2.2 Major applications are those with 10 or more dwellings, sites of 1 hectare or more, or provision of 1,000m<sup>2</sup> new floor area or more.  
 Minor applications include (but are not limited to) up to 9 dwellings, gypsy and traveller sites and commercial proposals not falling within the major category.  
 Others include (but are not limited to) householder, advertisements and listed building applications. However, for the benefit of the above graph, householders have been extracted from the others category.
- 2.3 The 'non countable' category are those applications which are not reported to the Department for Levelling Up, Housing and Communities (DLUHC). Such applications include, but are not limited to: prior approvals, discharge of conditions, etc.
- 2.4 Non-countable and others generally comprise the highest numbers quarter on quarter, with householders shortly behind.

### 3.0 Performance

- 3.1 Government (DLUHC) monitor planning authorities on their speed of making decisions in relation to major and non-major applications. The target at national level is to determine 60% of major applications within the statutory period of 13 weeks or subject to the agreement of a time extension over a rolling two-year period. From April 2020 to end of March 2022, 98.1% of major applications have been determined within these timescales (this is the same as previously presented). Across all of the Nottinghamshire authorities, NSDC is the best performing and out of the 333 authorities across England and Wales, we are 48<sup>th</sup> in terms of overall performance, improving its place by 2 compared to last quarter's report. However, in terms of the number of major applications determined for the top 50 authorities, only 1 council has determined a greater number (110 compared to 107). For non-majors, the target set nationally is 70% over a two-year period. 96.4% of non-major applications over this same time period have been determined within these timescales and NSDC is 44<sup>th</sup> within the country (same as the previous quarter). Comparing once again to the other Nottinghamshire authorities, we are again second best performing, Broxtowe having determined 97.6% in agreed timescales. However, the number they have determined is significantly fewer at 1273 compared to 2030 (or 59% fewer) than NSDC. These targets are challenging when taking account, in accordance with the National Planning Policy Framework, to work positively and proactively with applicants in determining applications i.e. trying to find solutions as opposed to refusing a planning application that might be amended.
- 3.2 For authorities who under-perform against their national target, they will be classed as 'poorly performing' and applications for major development may be made by developers directly to the Planning Inspectorate. The Council would not receive the fees for these but would be expected to deal with all of the associated administration.
- 3.3 The following graph relates to the percentage of planning applications determined within set timescales.

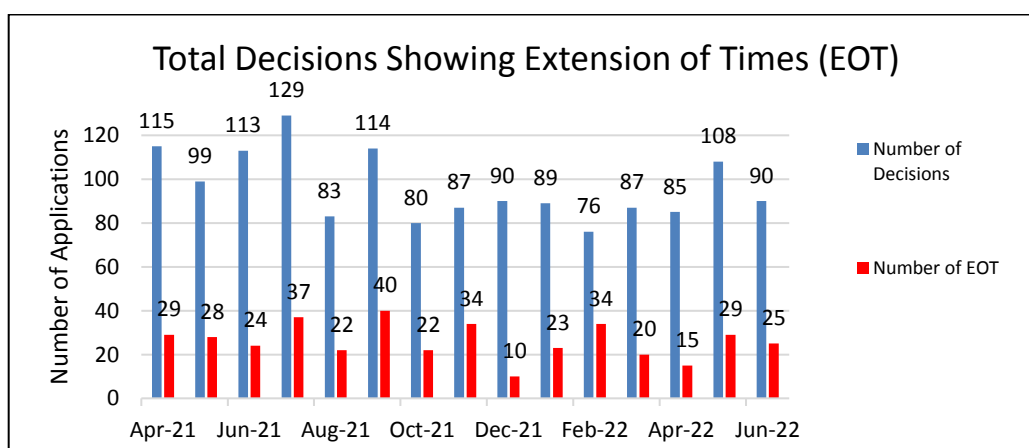


3.4 For major applications, performance over the previous quarter has dropped to 92%. 1 application out of 13 decisions has resulted in this change. Minors is at 92%, also having dropped slightly during the previous quarter. Other applications have remained consistent at 97%. The previous quarter has had some resourcing challenges which are reported later.

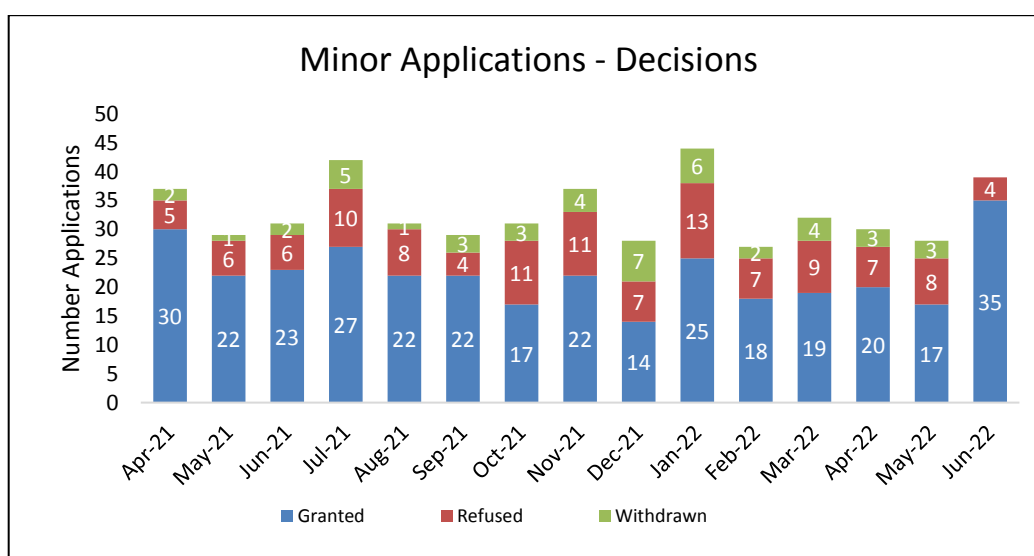
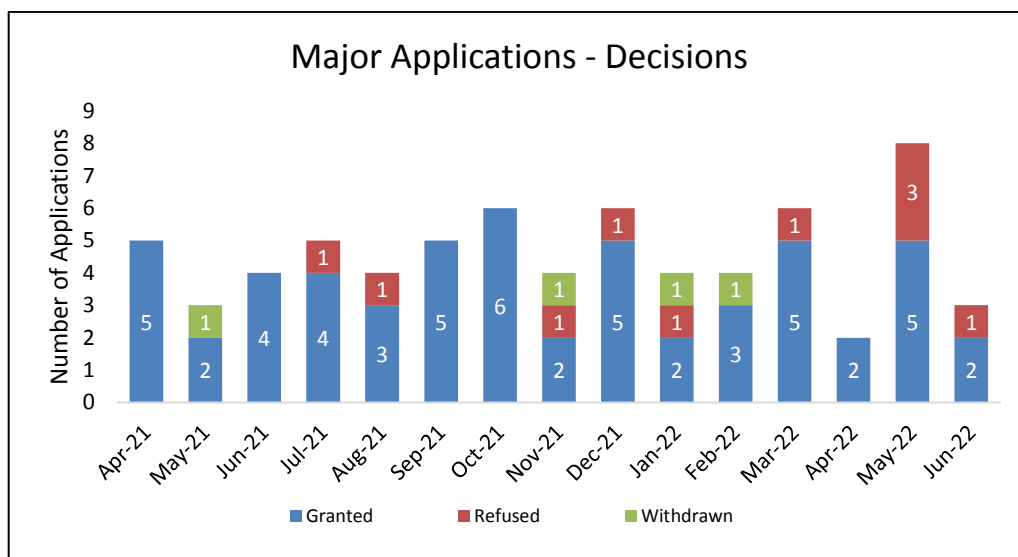
3.5 These targets continue to be achieved due in part to seeking time extensions for dealing with the applications beyond their [original] statutory time period from applicants. Time extensions might be sought by either party (the applicant or the Council) for a variety of reasons but might include seeking negotiations, complex and/or controversial proposals and items presented to Committee. Time extensions do not go against the authority in terms of speed of decision making when reporting. Members will be aware that the White Paper suggested that the determination timescales set out in legislation should be adhered to and were looking to potentially implement this as part of the overall planning changes. However the Levelling Up and Regeneration Bill does not provide detail regarding this. Increased fees are suggested, subject to consultation, but government state that this “... must lead to a better service for applicants.” At this stage it is not known what a ‘better service’ means or entails.

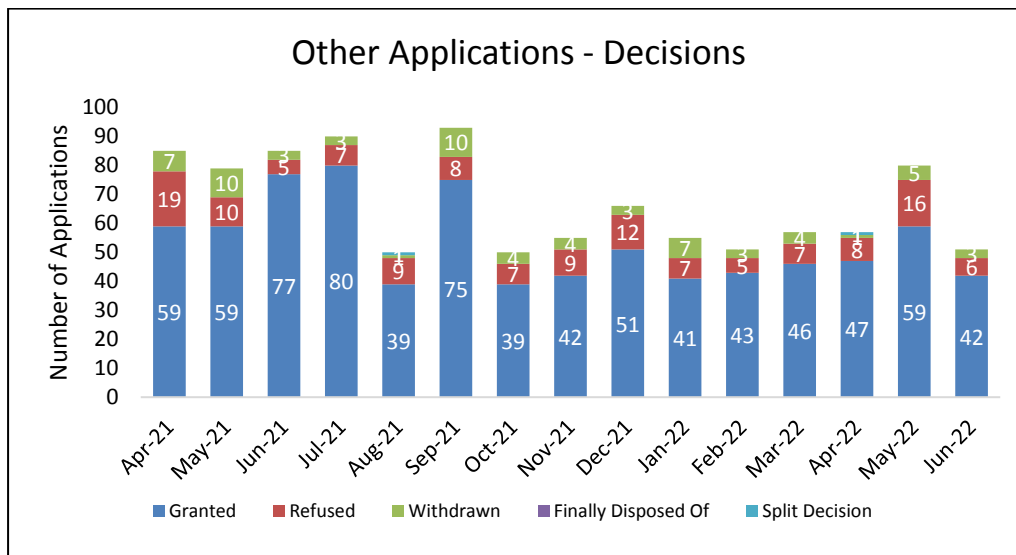
3.6 The graph below shows the total number of applications determined each month in blue and alongside, those in red are the number of applications where time extensions have been sought of those determined. Seeking time extensions means that case officer workloads increase overall which makes dealing with newer applications on time more challenging. The number of applications with extensions of time fluctuate quarter on quarter. However, the previous quarter saw the least number with extensions (at 24%) which corresponds with the above speed of decision making. As is always the case, Officers continually strive to deal with applications in a timely manner. However, this will always be challenging.

3.7 Notwithstanding this local performance target, caution needs to be given in relation to providing a quick decision. For example, it would be theoretically possible to determine all applications within statutory timescales without a request for, or agreement to, a time extension. However, this would likely mean that a significant number of applications would be refused due to the inability to negotiate leading to complaints, reputational damage and resubmission of applications which in the majority of instances would not be subject to a further planning application fee.



3.8 The number of decisions issued this quarter compared to April-June 2021.22 is fairly comparable in terms of majors and minor applications. The number of other decisions made has reduced from 229 to 179. This reflects the slight decrease in applications received over previous quarters. Of these decisions, the following graphs show the number of decisions that were granted, refused, split (i.e. part granted and part refused) and withdrawn across the major, minor and other categories. The only types of applications where a local planning authority is able to issue a split decision are for advertisement and tree applications unlike the Planning Inspectorate who is able to do this for all application types. All three graphs demonstrate that the majority of applications are granted (cumulatively approximately 80%, 67% and 75% across the major, minor and other categories respectively) between April 2021 and June 2022. Withdrawals (15 in the first quarter) are not reported as part of our overall performance to government but will still have involved a significant amount of work by the case officers. These applications are frequently resubmitted, often as a 'free go', whereby no fee is payable.





## 4.0 Tree Applications

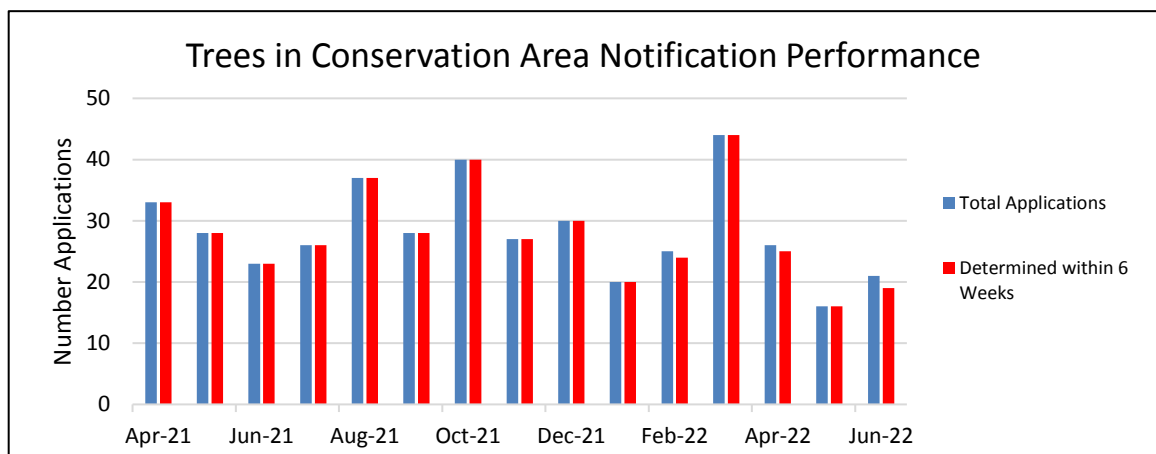
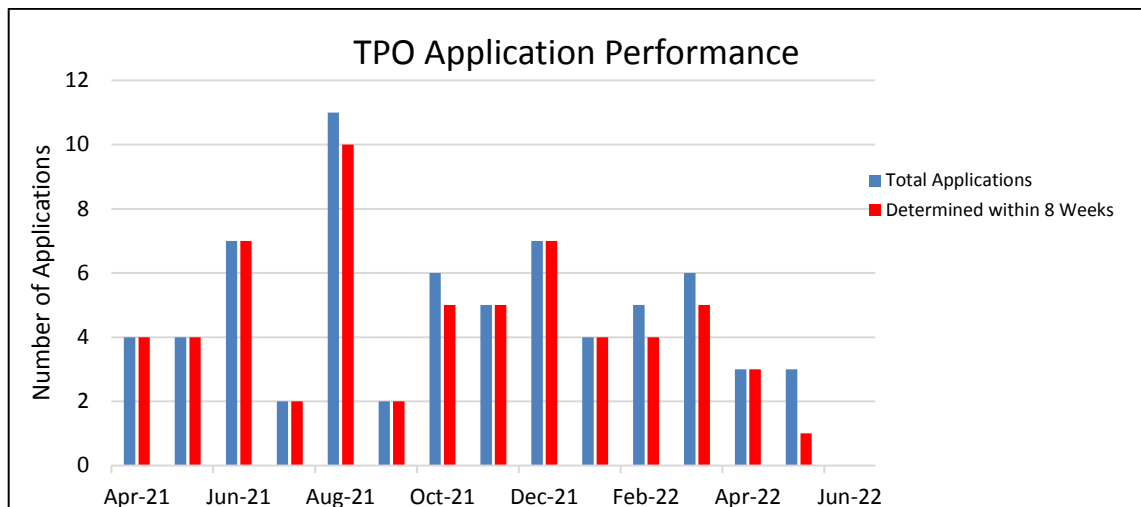
4.1 Trees are a valued amenity contribution to the character of the District. Those that are subject to a Tree Preservation Orders (TPOs) or within a Conservation Areas require consent from the Council before works are commenced. In relation to unprotected trees within a Conservation Area, the consent seeks the Council’s decision as to whether or not the tree has the necessary amenity criteria such that it should be subject to a Preservation Order. These criteria include consideration to:

- Its condition and suitability
- Its remaining longevity (in years) and suitability
- Its relative public visibility and suitability
- Other factors, such as whether it has historical value, its rarity, whether it is part of a group etc.

Where it meets these criteria, a TPO will be made. Applications for works to trees in Conservation Areas require the Council to make their determination within 6-weeks and the Order issued within this timescale. If a decision is not made by the first day of the 7th week, the applicant may undertake the works that they were seeking consent for. These applications are not subject to a planning fee.

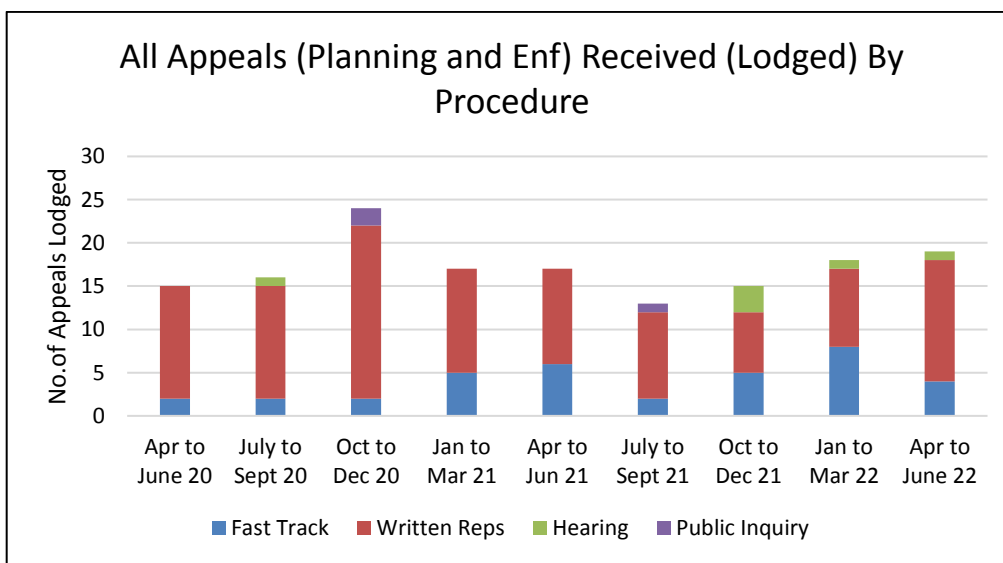
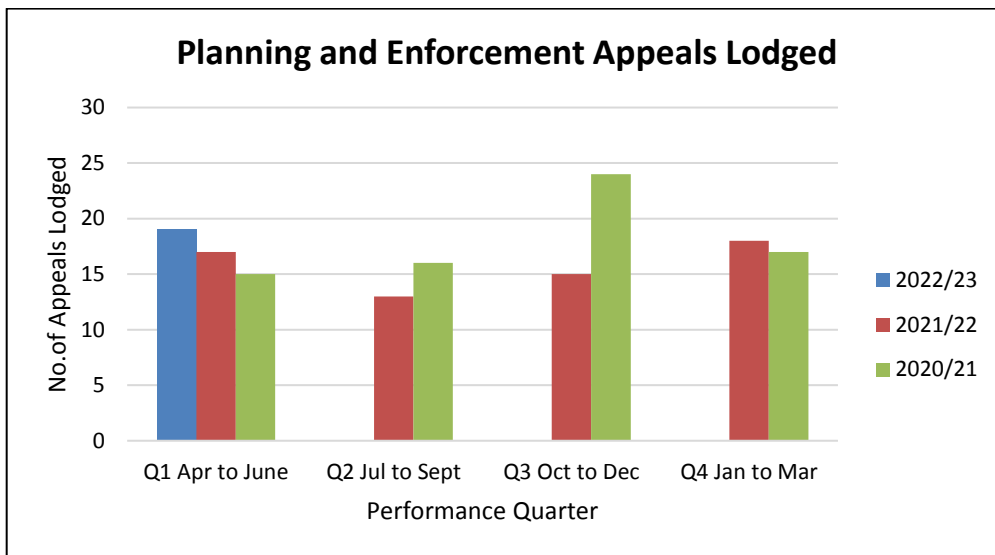
4.2 The following graphs show the number of TPO and Trees within a Conservation Area applications determined each month and whether they were determined within the statutory timescales. The number of applications received each month have no consistency making resourcing more difficult. However, following the appointment of the Tree/Landscape Officer earlier this year, it has eased the pressure on many of the Technical Planning Support staff. It should be noted however that where the Officer identifies a potential risk to a tree of value (for trees within conservation areas applications), these applications are determined within the statutory period in order that further protection for the tree can be put in place. Performance in the previous quarter has dropped compared to previous reports. This is due to one of the applications being submitted by a Senior Member of staff and thus needing to be

determined by Planning Committee. Another application was subject to negotiation with the applicant which took longer than would normally be the case.



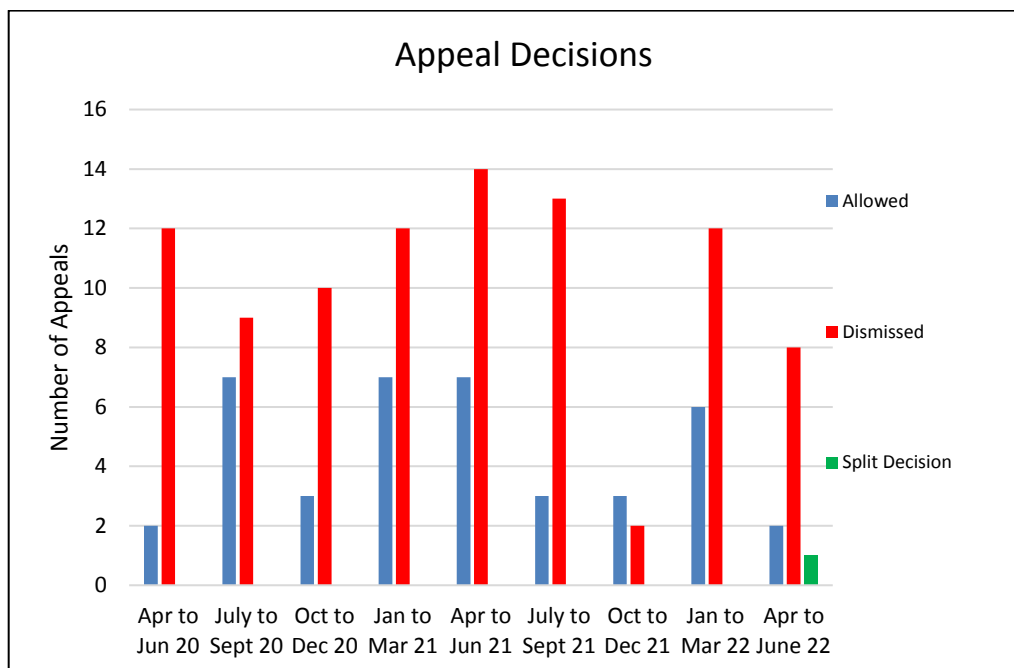
## 5.0 Appeals

5.1 The charts below shows the number of appeals against planning applications and enforcement notices that have been received over the last 3 years, quarter on quarter. It can be seen that the total number of appeals fluctuates, which makes resourcing them challenging, with a need to balance appeal work against the number of applications a case officer is dealing with. Additionally, the type of appeal makes resourcing more challenging. There are 4 types of appeal – inquiry, hearing, written representations and fast track with the amount of resource responding accordingly from very high to low. Members will be aware that there have been a number of appeals in recent months and, although there has not been an inquiry this quarter, work was undertaken in relation to the A17 Big Box, Newark which had been due to be heard by way of a hearing. The majority of appeals are heard via written representations.



5.2 The chart below shows the number of appeals against planning applications and enforcement notices that have been allowed, dismissed and split (part allowed and part refused). This quarter has seen a reduction in the number of decisions issued by the Inspectorate compared to the previous quarter, from 18 to 11. The number dismissed exceeds the number allowed and is line with the Government’s previous target of having no more than 33% being allowed. Where a split decision has been issued, in terms of the Government’s monitoring, this is treated as a dismissal. This quarter has seen 27% of appeals being allowed.





- 5.3 As well as the Government monitoring authorities in relation to performance for determining applications, it also monitors quality in relation to the number of major and non-major applications overturned (i.e. allowed) at appeal. The threshold is for fewer than 10% of major applications overturned at appeal over a rolling two-year period. For authorities who exceed this target, they will be classed as ‘poorly performing’ and applications for major developments may be made by developers directly to the Planning Inspectorate. Members may have seen headlines reporting that one such authority, which has recently been sanctioned against, is Uttlesford District Council.
- 5.4 As of 1 April 2018 DLUHC implemented a threshold for quality of decisions for major and non-major applications at 10%. For clarification, this is 10% of all major decisions and all non-major applications (i.e. minor and others) decisions refused by the Council and subsequently overturned (allowed) at appeal over a rolling two-year period.
- 5.5 Data from government has not been updated since the report was originally presented to Members which showed the Council is significantly below the thresholds set out. However, with the number of appeals allowed compared to the overall number of decisions made for each of the categories, the Council will be significantly within these figures.
- 5.6 Alongside the processing of an appeal, the appellant and Council can both seek costs against the other party. Planning Practice Guidance sets out what might constitute grounds for a claim but this comprises unreasonable behaviour. Whilst claims have been made, the Council has not been found to have acted unreasonably.
- 5.7 In addition to the appeal types referred to earlier. The Council’s decision has been judicially challenged in relation to application 20/00580/FULM at ‘Land at Bowbridge Road, Newark’ for 87 affordable dwellings. The hearing date was July 22<sup>nd</sup>. The claim was dismissed and the claimant instructed to pay the Council’s full costs. In addition, the Inspector’s decision on application 20/2420/S73M at ‘Kilvington Lakes, Newark’

seeking to vary two conditions on the 2014 permission for self-catering holiday lets and inn and 2019 application (also varying conditions) which was allowed on appeal has been challenged by the Appellant. This challenge is at its initial stage whereby the Inspectorate will be assessing whether they wish to defend their decision or not. An update will be provided in due course.

## **6.0 Updates**

- 6.1 Staffing – Since the previous report was presented, there have been further changes to staffing. Danielle Peck has left the authority and a new starter has joined – Steve Cadman. This has had impact on resourcing applications, along with absences for a variety of reasons during the previous quarter, resulting in the slight drop in performance.
- 6.2 Whilst there has been little change in relation to legislation, Members will be aware the Levelling Up and Regeneration Bill was published in May. This will have significant impact across the Council, but in particular for planning. A report will be provided to Members of changes as the Bill progresses through its hearings and there is more certainty.
- 6.3 A customer services survey will shortly be sent to applicants, agents and neighbours submitting and responding to applications. The responses will be used to assist in improving the service for everyone affected. In addition, progress is being made in relation to reviewing the software used to deal with applications. This is a significant project with a 3-year timetable given to this project (starting in April 2022). Again, this project is anticipated will be able to make improvements for everyone’s experience with planning.

## **7.0 Implications**

In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Digital and Cyber Security, Equality and Diversity, Financial, Human Resources, Human Rights, Legal, Safeguarding and Sustainability, and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

## **8.0 Conclusion**

- 8.1 Performance continues to be met. Overall the department has been able to provide an excellent service, whilst continually looking to make improvements whether large or small.

## **Background Papers and Published Documents**

None