



Report to Planning Committee 10 November 2022

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

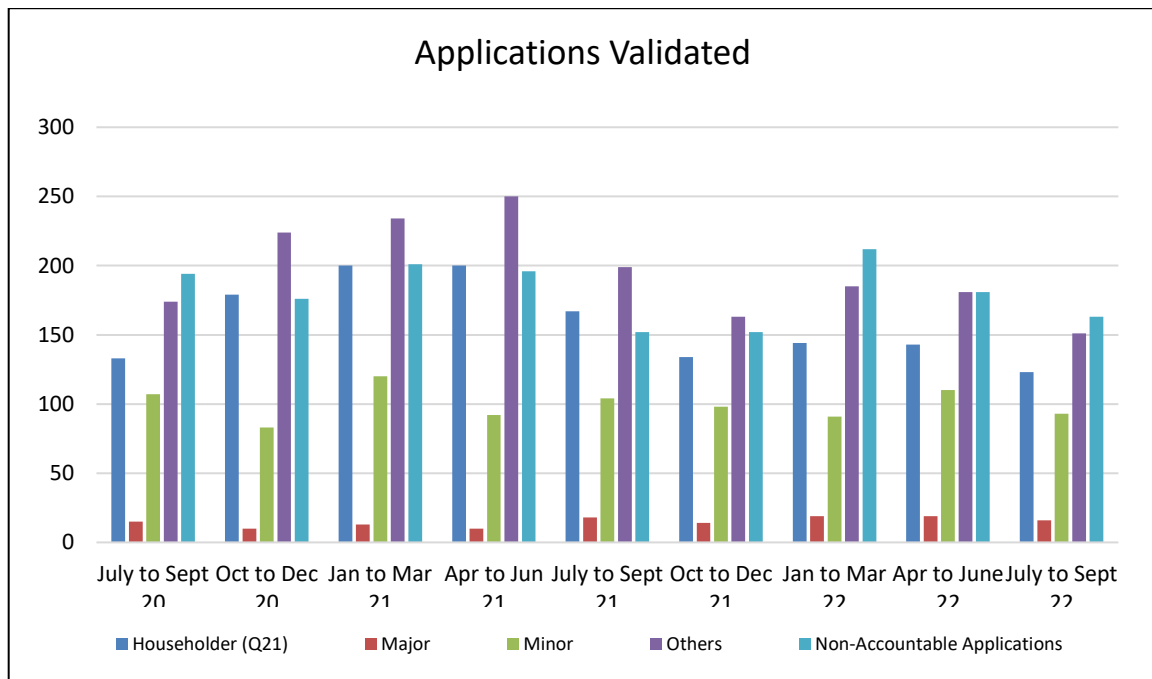
1.0 Background

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 July 2020 up until September 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 second quarter of 2022/23, a total of

746 applications were received. This, compared to the same quarter in 2021/22 shows a large reduction from 845 applications or an approximate 12% decrease in application workload. 802 applications is lower than during the pandemic in 2020/21 when 894 applications were received in the same quarter. This reduction in application numbers is comparable with reductions reported across the country. Compared to the previous quarter, all application numbers have decreased with the exception of works to trees and pre-application enquiries.



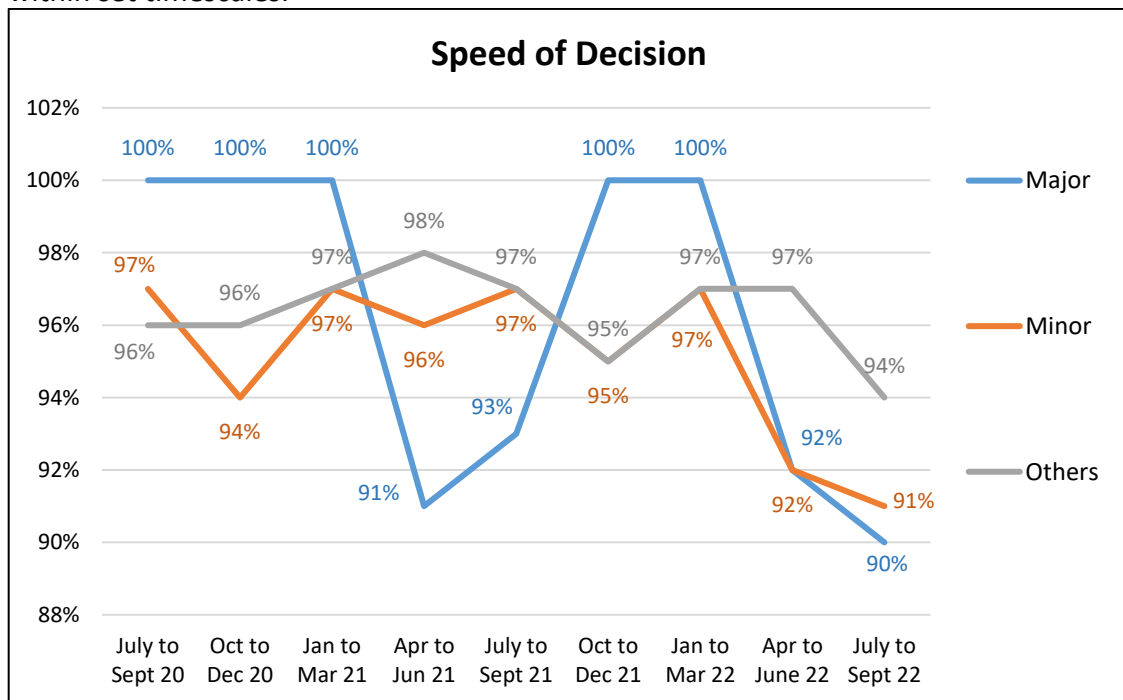
- 2.2 Major applications are those with 10 or more dwellings, sites of 1 hectare or more, or provision of 1,000m² new floor area or more.
 Minor applications include (but are not limited to) up to 9 dwellings, gypsy and traveller sites and commercial proposals not falling within the major category.
 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

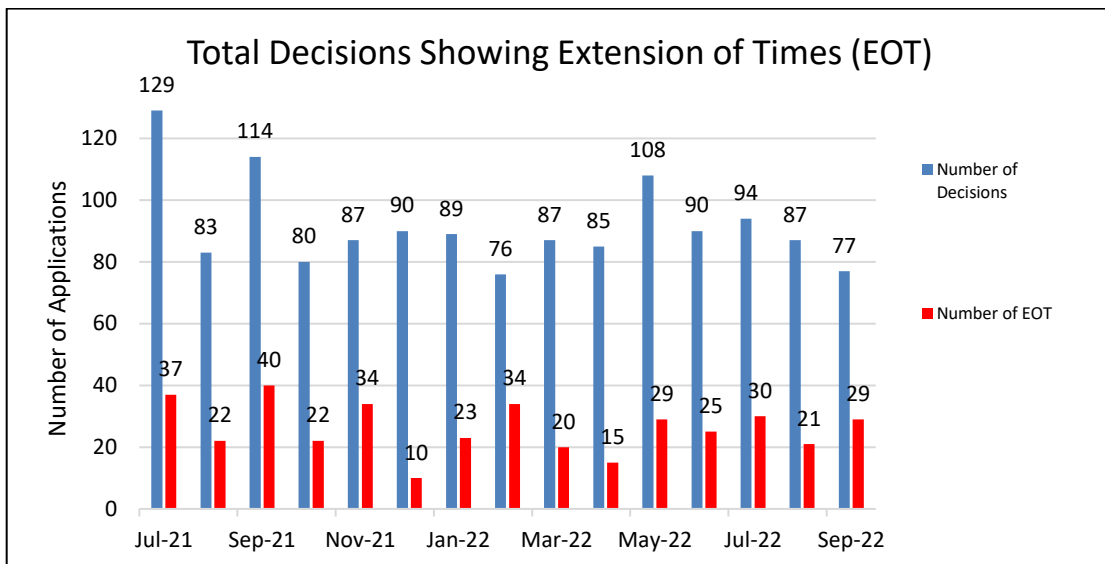
3.1 Government (DLUHC) monitor planning authorities on their speed of making decisions in relation to major and non-major applications. The target at national level is to determine 60% of major applications within the statutory period of 13 weeks or subject to the agreement of a time extension over a rolling two-year period. From July 2020 to end of June 2022, 97.1% 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 65th out of the 333 authorities across England and Wales and now 11 behind Gedling (Gedling now being the best Nottinghamshire authority). However, across this 2-year time period we have determined 103 major applications compared to their 41. For non-majors, the target set nationally is 70% over a two-year period. 96% of non-major applications over this same time period have been determined within these timescales and NSDC is 47th within the country (3 down compared to the previous quarter). Comparing once again to the other Nottinghamshire authorities, we are again second best performing, Broxtowe having determined 97.4% in agreed timescales. However, the number they have determined is significantly fewer at 1291 compared to 1997 (or 35% 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.

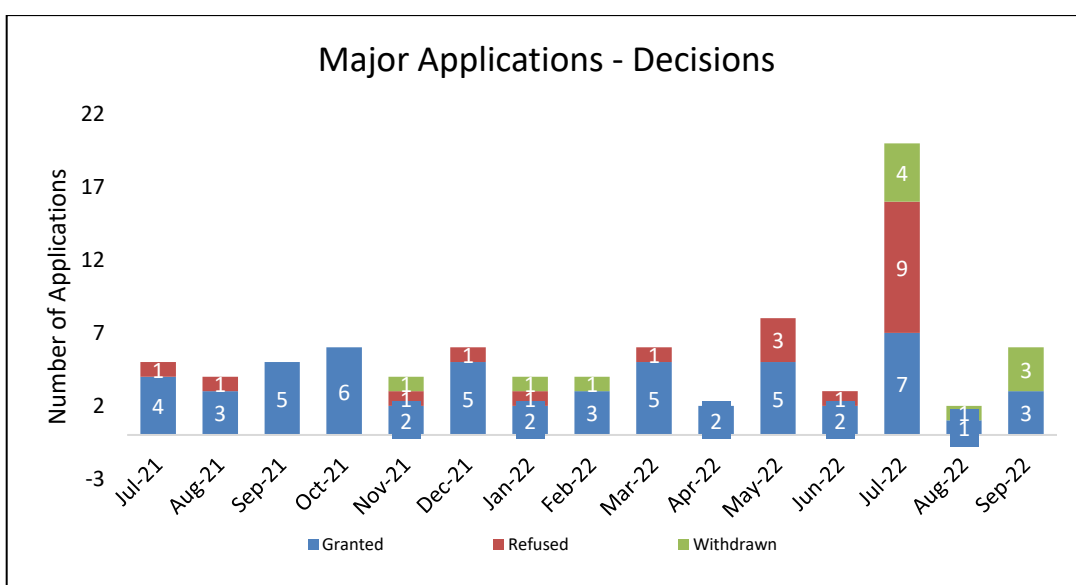
3.3 The following graph relates to the percentage of planning applications determined within set timescales.

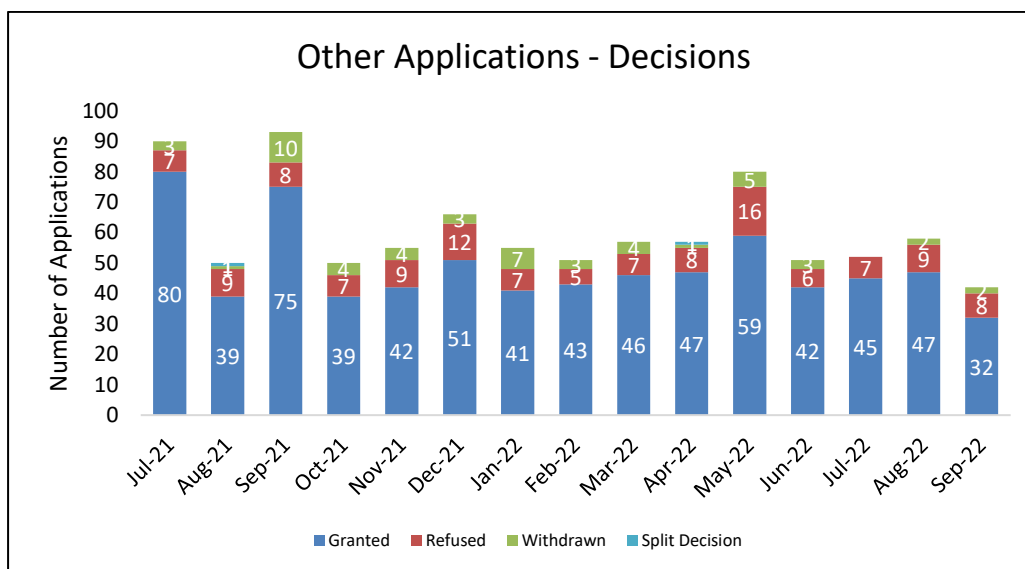
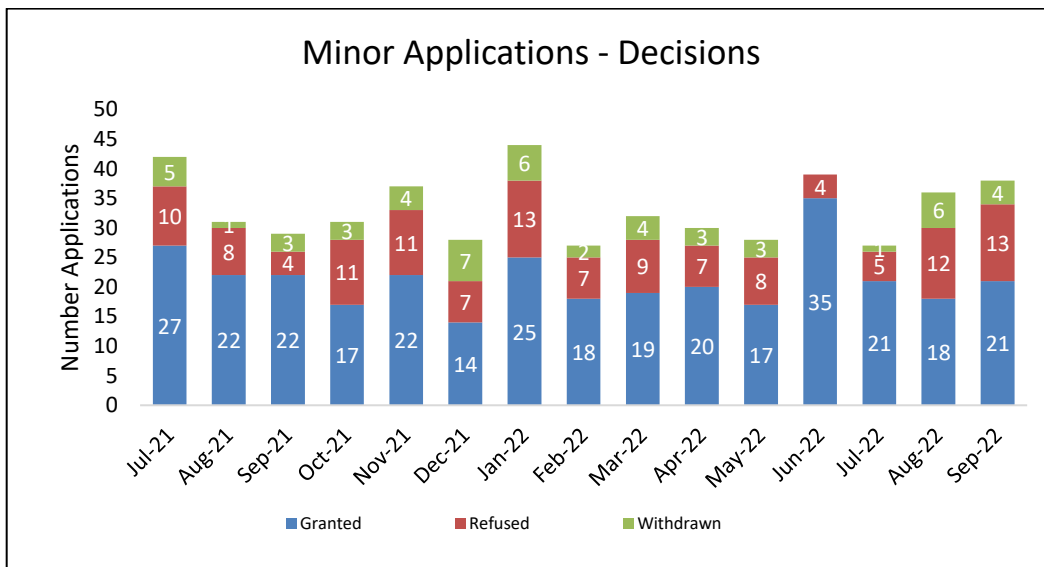


- 3.4 For major applications, performance over the previous quarter has dropped to 90%. 2 applications out of 20 decisions has resulted in this change. Minors is at 91%, also having dropped by 1 percent compared to the previous quarter. Other applications have also dropped slightly to 94%. Whilst performance has dipped, this is due to a combination of factor including a number of staff taking annual leave and slightly increased sickness levels. However, all applications meet and/or exceed both national and local performance targets.
- 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. The previous quarter saw a slight increase compared to the first quarters from 24% to 31% but is comparable with the same quarter in 2021/22. 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 July-August 2021.22 is significantly higher for major applications – 28 compared to 14. For minors the numbers are comparable, but for other applications, the numbers have significantly reduced from 219 to 124 largely reflecting the reduction in householder applications received. 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 81%, 67% and 83% across the major, minor and other categories respectively) between April 2021 and June 2022. Withdrawals (23 in the second 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

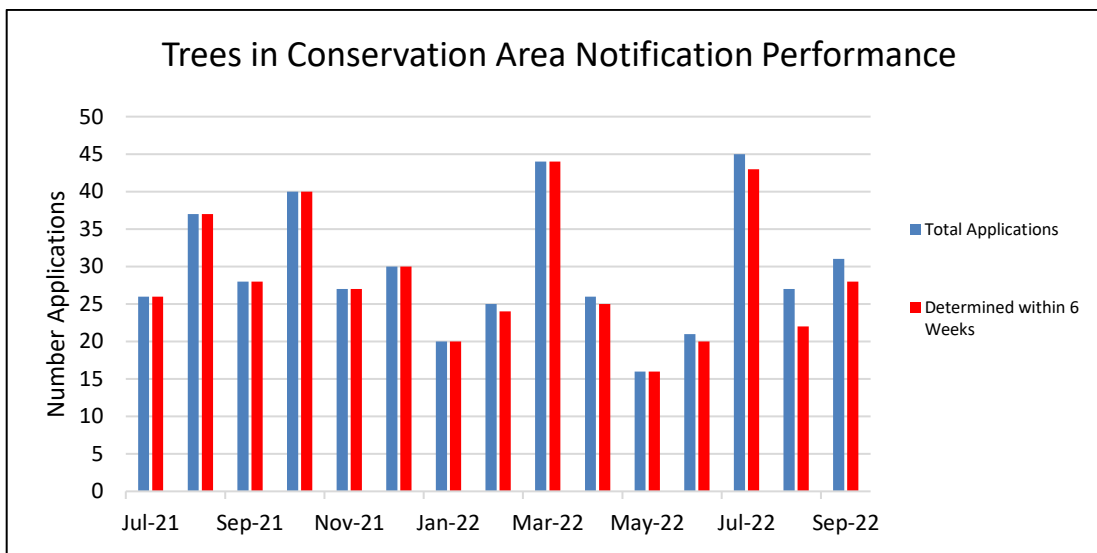
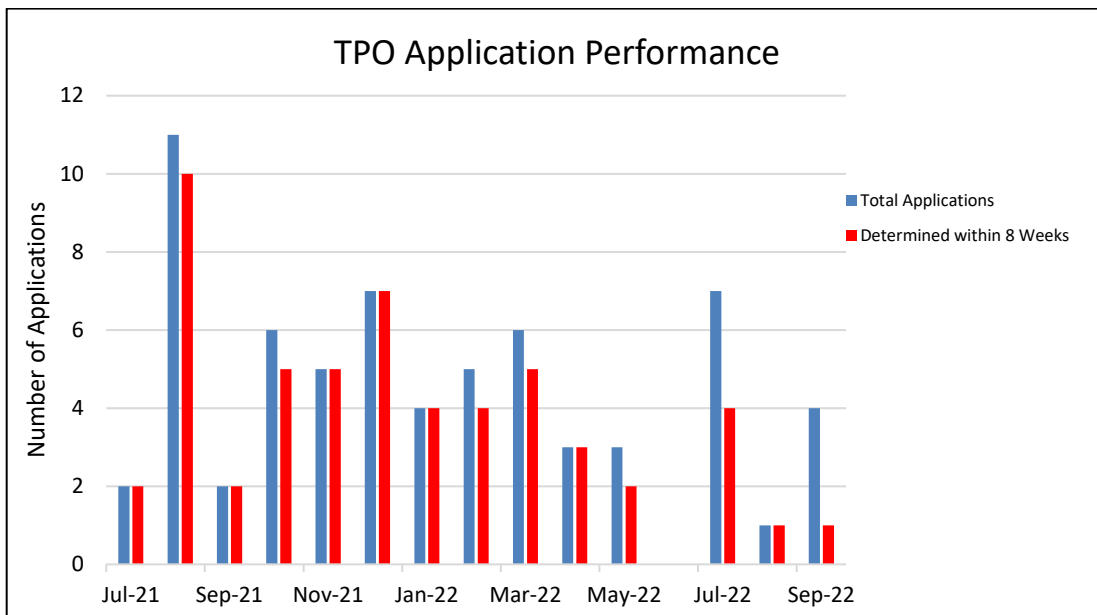
4.1 Trees are a valued amenity contribution to the character of the District. Those that are subject to a Tree Preservation Orders (TPOs) or within a Conservation Areas require consent from the Council before works are commenced. In relation to unprotected trees within a Conservation Area, the consent 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

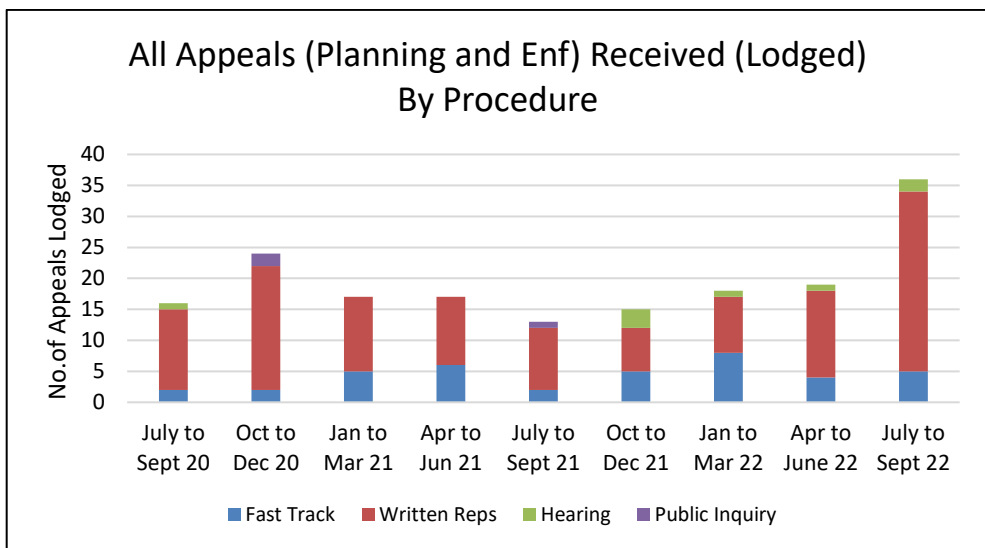
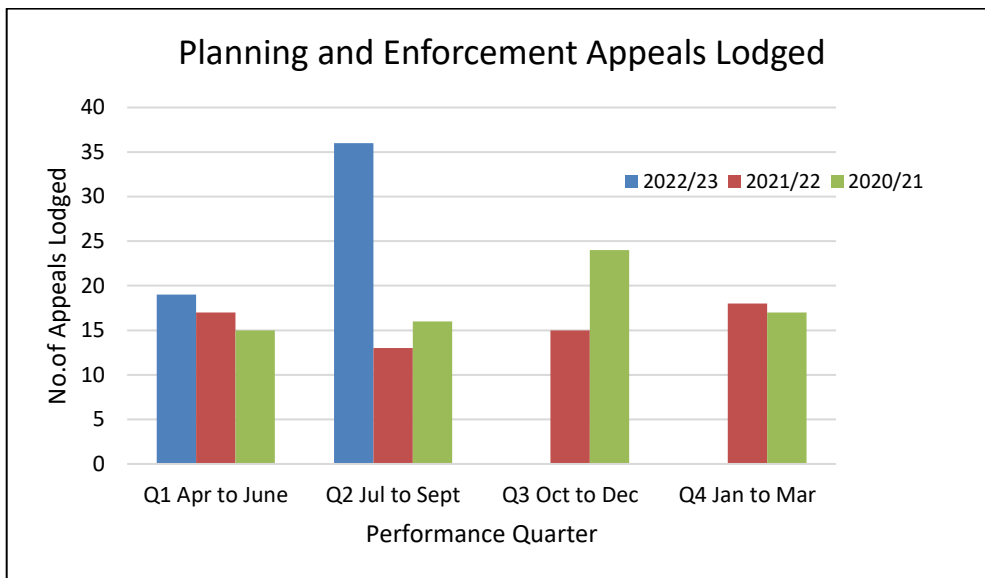
the Order issued within this timescale. If a decision is not made by the first day of the 7th week, the applicant may undertake the works that they were seeking consent for. These applications are not subject to a planning fee.

- 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. 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 a number of factors, including time taken around our proactive approach with negotiations between ourselves and agent/applicants regarding amendments to proposed works to bring in line with BS3998:2010. This British Standard gives general recommendations for tree work as well as guidance on management options for established trees. This has consequentially seen delays regarding time taken to reply and the agent/applicant's availability to meet on site. Additionally, further engagement has been required to seek clarity of proposals due to vague description of works. Training is being undertaken with the Support team who validate the applications to seek appropriate descriptions of work from the outset.
- 4.3 It is important to note, decisions issued during July to Sept 2022, regarding works to trees in conservation area represents a 39% increase in numbers compared to the previous quarter. Seasonal trends confirm Q2 and Q3 tend to experience an increase in the number of decisions, often contributed to by the time of year (leaf drop and prior to the appearance of buds). Furthermore, compared against the corresponding quarter in 2021, figures for 2022 represent a further 11.5% increase in numbers decided.
- 4.4 Turning to works to trees protected by Tree Preservation Order (TPO), through negotiations during assessment, a decrease in the number of refusals resulted during the monitoring period. The Planning Technical Support Manager acknowledges (as mentioned above) negotiations are having an impact on performance regarding speed of decision. However, it is anticipated through working with customers and agreeing appropriate works (rather than refusal), will lessen any possible impact on the team owing to possible submission of appeals due to a decision of refusal. It is also hope that engagement with agents who regularly submit applications for tree works within the District than an understanding of the appropriate approach to tree works will result which will consequently mean 'better' applications are submitted in the future.

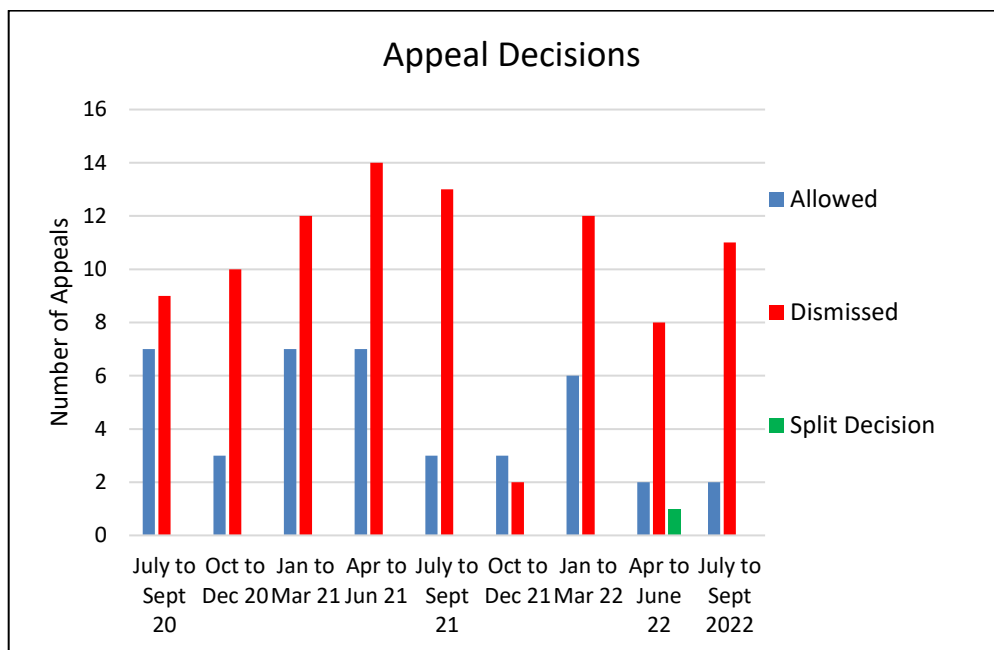


5.0 Appeals

5.1 The charts below shows the number of appeals against planning applications and enforcement notices that have been submitted 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. However, it will be noted the significant increase in appeals submitted during quarter 2 compared to previous quarters, increasing by over 100%. The majority of these, fortunately are written representation appeals.



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 slight increase in the number of decisions issued by the Inspectorate compared to the previous quarter, from 11 to 13. The number dismissed continues to exceed 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 15% 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.
- 5.7 In addition to the appeal types referred to earlier. The decision of the Planning Inspectorate for application 20/02420/S73M at 'Kilvington, Newark On Trent, NG13 9PD' seeking to remove conditions 19 and 20 attached to planning permission 14/02023/FULM and conditions 17 and 18 attached to planning permission 19/01097/FULM (Ref: APP/B3030/W/19/32 was dismissed with the main issues being whether it was possible in law to alter the use. These conditions restricted the occupancy of the units to holiday accommodation. The Inspector concluded the effect

of the proposal would not be consistent with the description of the development of the original application and therefore dismissed the appeal. The appellant sought leave to the court to challenge the Inspector's decision which has been agreed. Both the Planning Inspectorate and Council are looking to defend this position.

6.0 Updates

- 6.1 Staffing – Since the previous report was presented, there have been further changes to staffing. Emma Fawcett has left the authority and recruitment is underway for her replacement. This is the second round of recruitment for this post as the first round was not successful. Due to the vacancy, this is having impacts in terms of resourcing applications. However, due to the drop in application numbers, this vacancy is not having such a significant impact.
- 6.2 In addition, most Members will be aware that Chris Briggs is now part time, doing 3 days per week. Recruitment is underway to fill the 2 days vacancy. In the interim, resource has been procured with an experienced planning enforcement officer undertaking up to 15 hours per week until this post is filled.
- 6.3 Within Land Charges, Sophie Cleaver has recently left. The post is currently vacant although we have successfully appointed someone to the post who, it is hoped, will be able to join us shortly. In the interim, the service is being delivered with support from a number of officers within the Support team.
- 6.4 Members will be aware that Planning Practice Guidance (PPG) has been amended in relation to flood risk and the application of the sequential test and need to consider whether development will have benefit for the community. Further information regarding this may be found on the [PPG website](#).
- 6.5 A soft marketing exercise is currently underway in relation to the planning and public protection software. This exercise is seeking information from software suppliers on a number of aspects including whether they are able to meet our specification, likely cost as well as any matter that they consider we need to include or have regard to in our procurement. Once the responses have been analysed, report(s) will be prepared for respective committees / portfolio holders, as appropriate.

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