



Report to Planning Committee 19<sup>th</sup> January 2023

Director Lead: Matt Lamb, Planning & Growth

Lead Officer: Lisa Hughes, Business Manager – Planning Development, x 5565

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 October to December 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.
<b>Recommendations</b>	<p>For noting. The services it assists in the delivery of Community Plan Objectives:</p> <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>

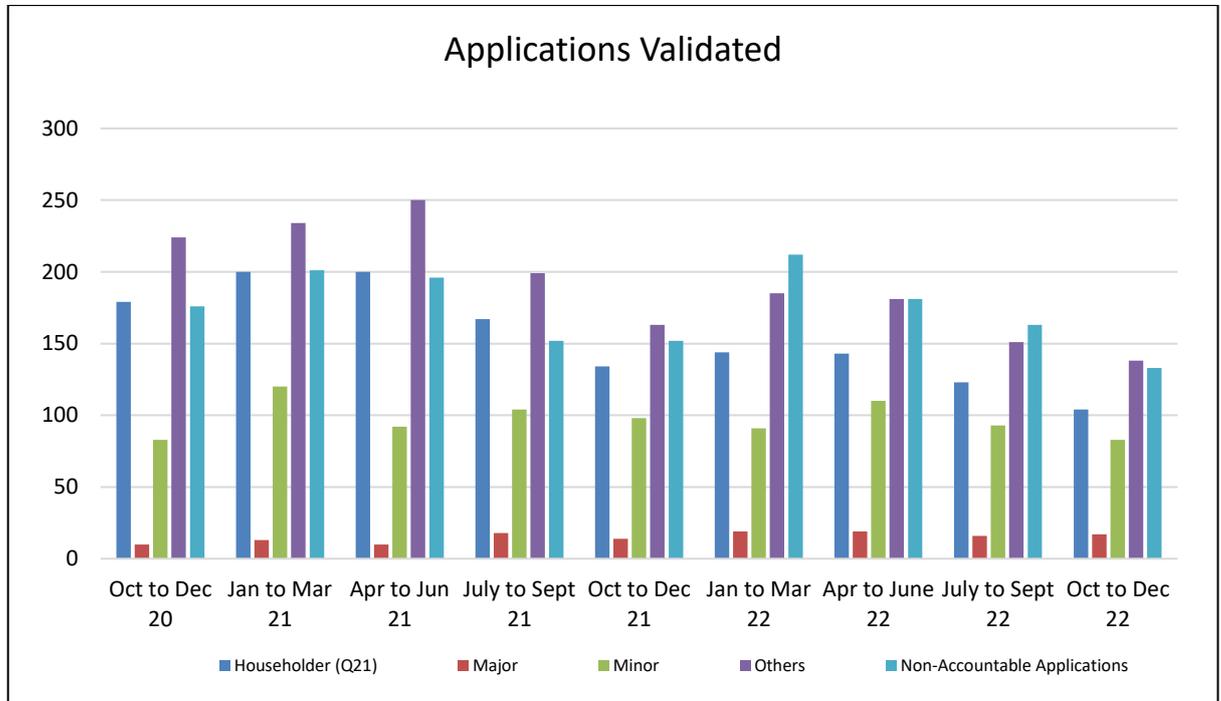
## 1.0 Background

1.1 The Planning Department undertakes a number of activities including the processing of planning applications and associated appeals, planning enforcement, conservation and listed building advice, offering 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 October 2020 up until December 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 third quarter of 2022/23, a total of 670 applications were received. This, compared to the same quarter in 2021/22 shows a reduction from 770 applications or an approximate 13% decrease in application

workload. 670 applications is lower than during the pandemic in 2020/21 when 873 applications were received in the same quarter, however seasonal trends show a reduction in corresponding quarters from previous years. 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 Major category applications.



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

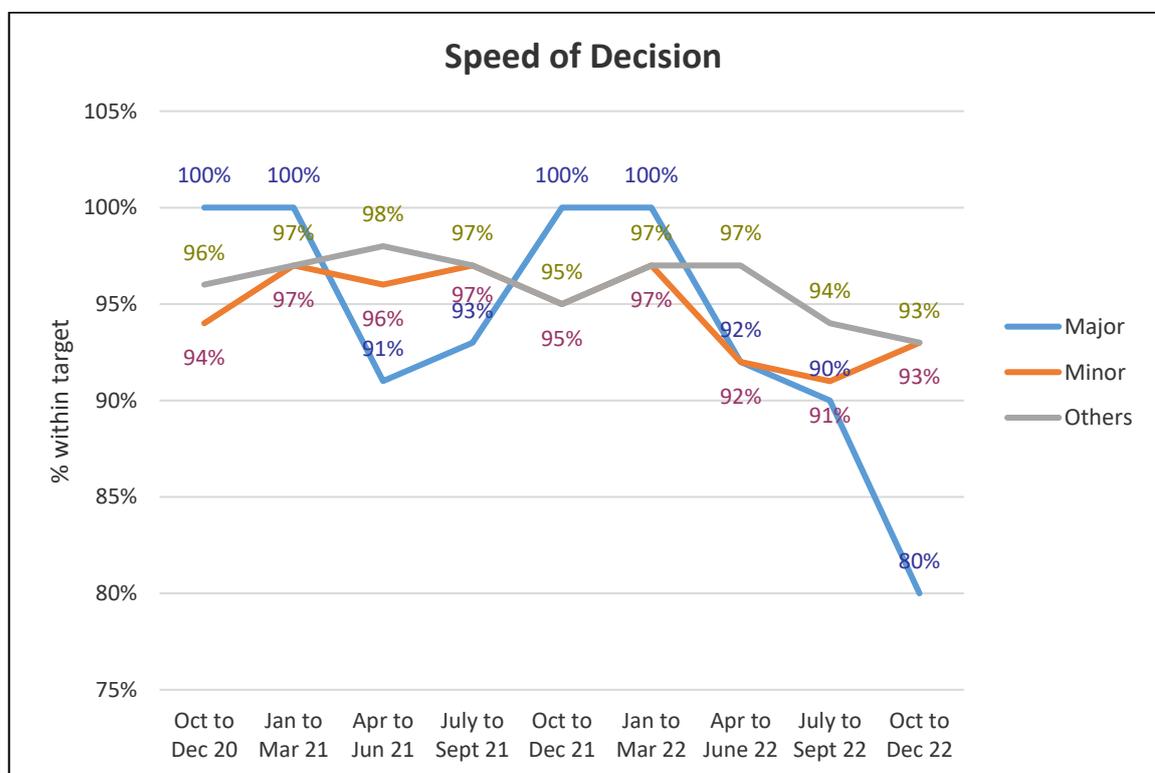
3.1 Government (DLUHC) monitor planning authorities on their speed of making decisions in relation to major and non-major applications. The target at national level is to determine 60% of major applications within the statutory period of 13 weeks or subject to the agreement of a time extension over a rolling two-year period. From October 2020 to December 2022, 94% of major applications have been determined within these timescales (this is the same as previously presented). Overall, 104 majors have been determined during the October 2020 to December 2022 period.

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. Overall, for non-majors, 2140 applications determined (October 2020 to December 2022).

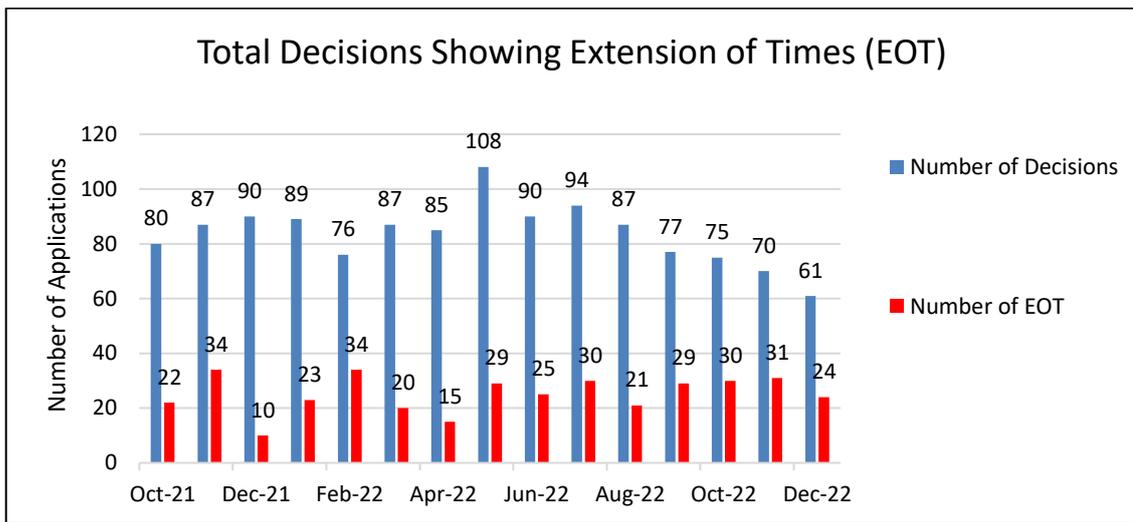
These targets are challenging when taking account, in accordance with the National Planning Policy Framework, to work positively and proactively with applicants in determining applications i.e., trying to find solutions as opposed to refusing a planning application that might be amended.

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 the associated administration.

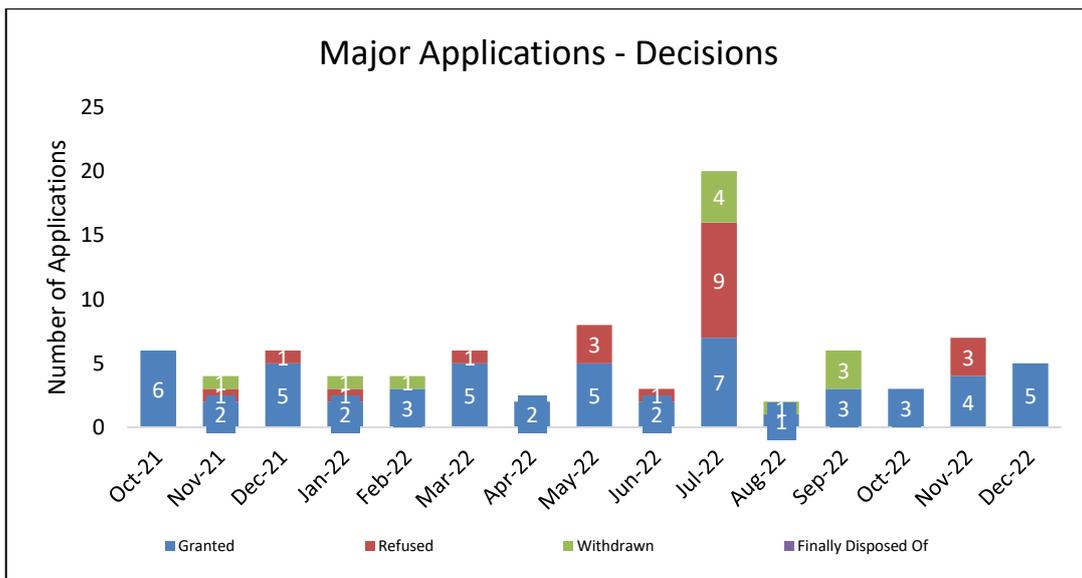
3.3 The following graph relates to the percentage of planning applications determined within set timescales.

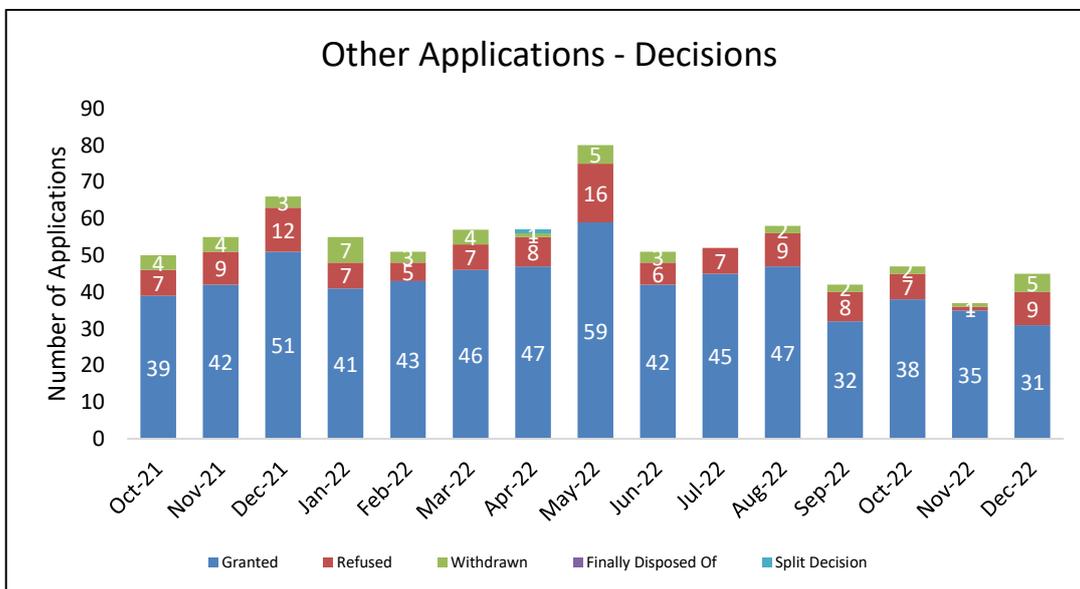
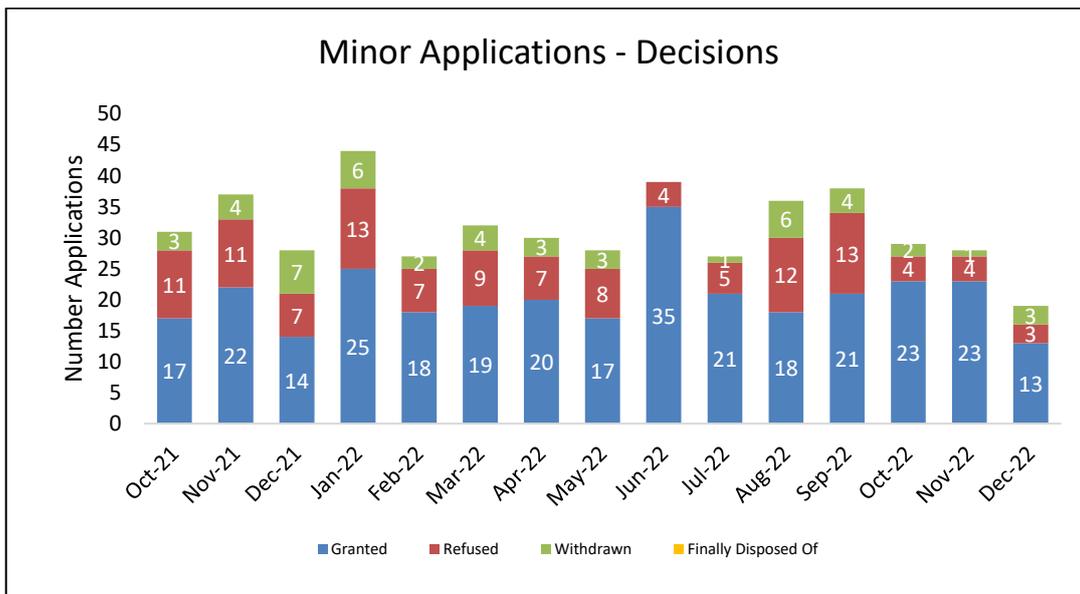


- 3.4 For major applications, performance over the previous quarter has dropped to 80%. 3 applications out of 15 decisions have resulted in this change. Minors is at 93%, an increase of 2 percent compared to the previous quarter. Other applications have also dropped slightly to 93%, from 94%. Performance has dipped in a couple of categories, this is likely due to a vacancy within the team. 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 quarter again represented a 10% increase compared to the previous quarter, from 31% to 41%. 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 October to December 2021 is similar and represents a level of consistency regarding seasonal trends. For minors the numbers represent a 10% reduction from the corresponding period in 2021/22 and as previously reported, other applications continue to reduce, albeit not as significantly as the previous quarter. 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 can 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 (approved) cumulatively across the major (71%), minor (65%) and other (85%) categories respectively between October 2021 and December 2022. Withdrawals (14 in the third 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.





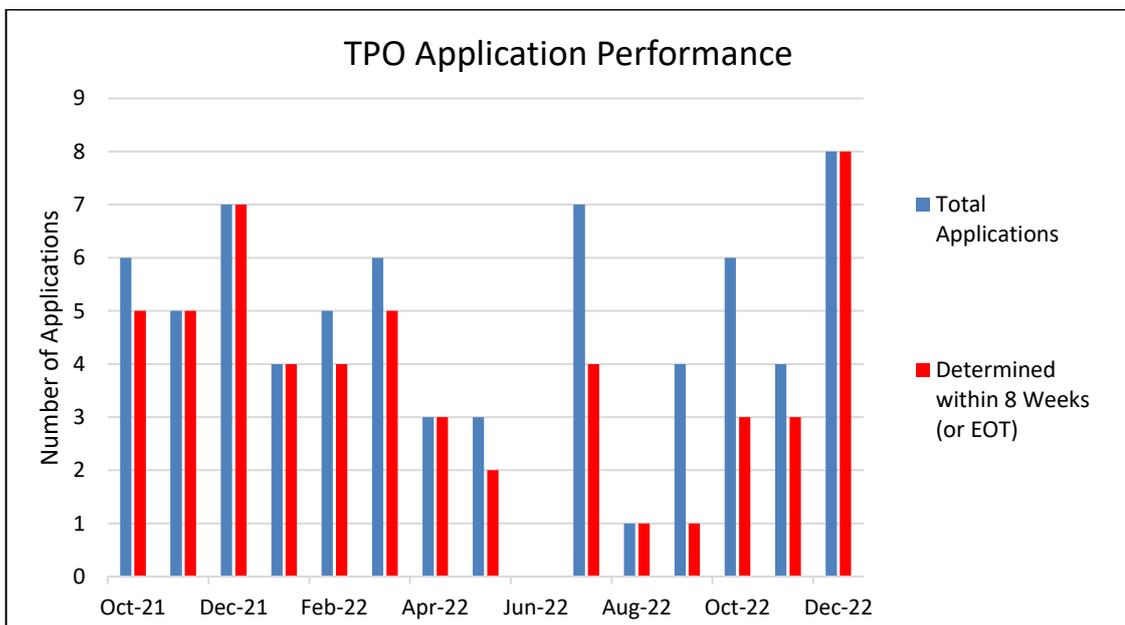
## 4.0 Tree Applications

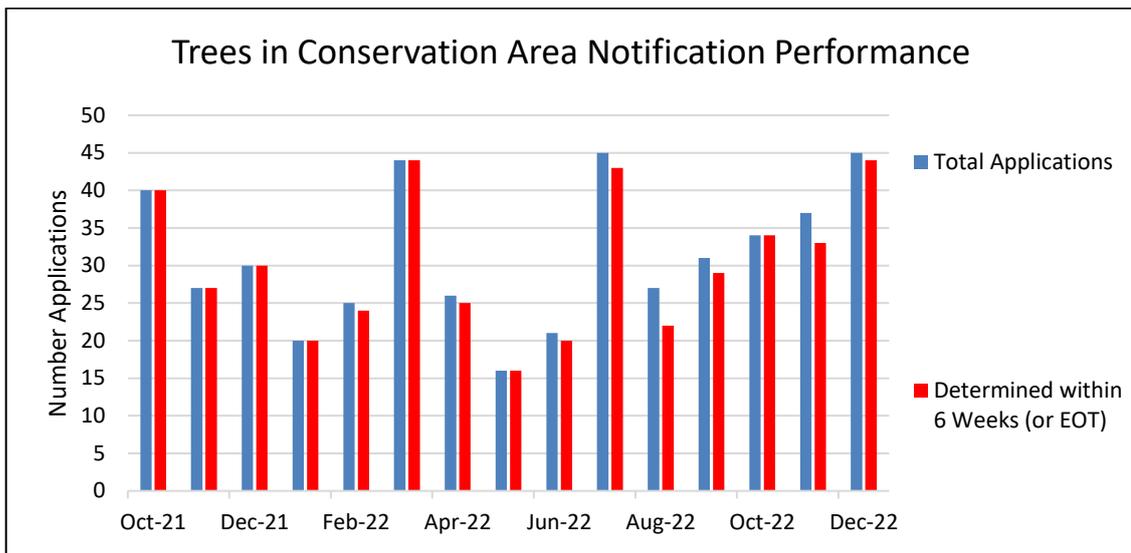
4.1 Trees are a valued amenity contribution to the character of the district. Those that are subject to a Tree Preservation Orders (TPOs) or within a Conservation Areas require consent from the Council before works are commenced. In relation to unprotected trees within a Conservation Area, the consent 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 has seen a slight increase and 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 Technical Support team who validate the applications to seek appropriate descriptions of work from the outset.



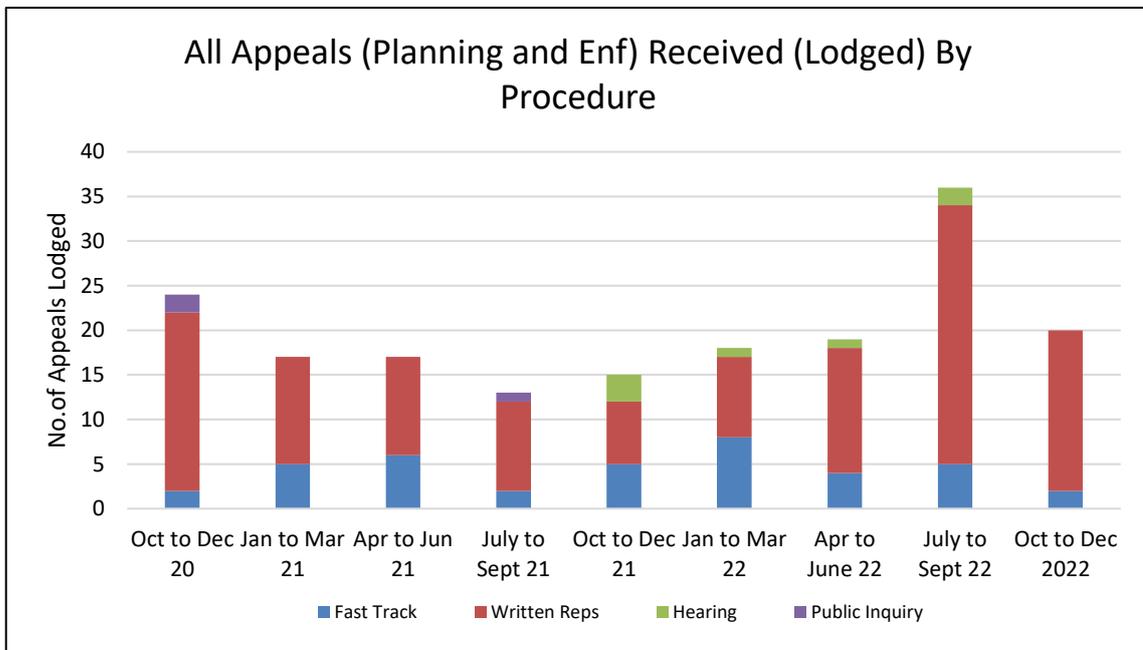
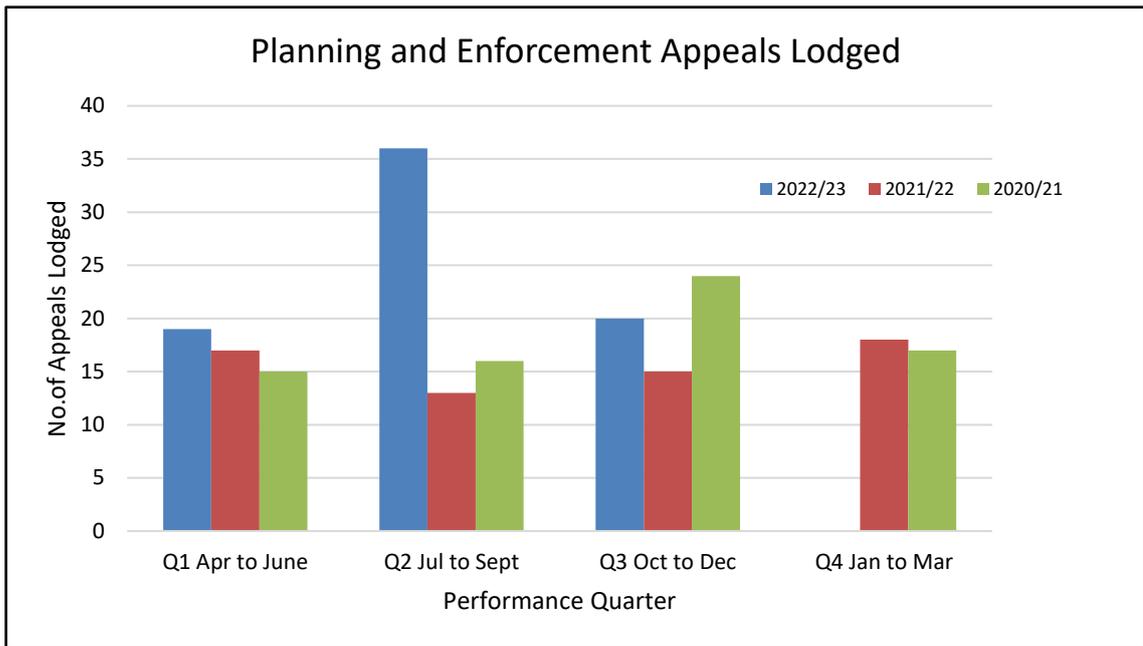


4.3 It is important to note, decisions issued during October to December 2022, regarding works to trees in conservation area represented an 11% increase in numbers compared to the previous quarter. Seasonal trends confirm Q2 and Q3 tend to experience an increase in the number of decisions, often contributed to by the time of year (leaf drop and prior to the appearance of buds). Furthermore, 96% of notifications were decided within the statutory 6 weeks period, an increase of 5% compared to the previous quarter.

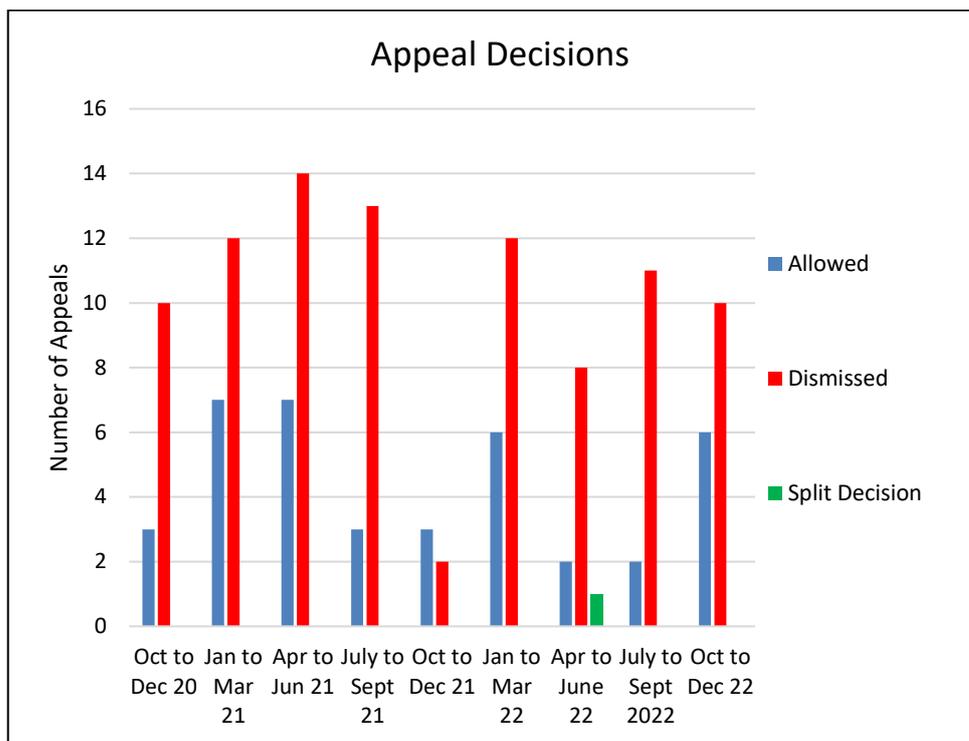
4.4 Turning to works to trees protected by Tree Preservation Order (TPO), through negotiations during assessment, refusals continue to be low and represent only 15% of decisions made during the monitoring period. The Planning Technical Support Manager acknowledges negotiations can have an impact on performance 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. Overall, 78% of applications are decided within the statutory 8 weeks period (or agreed extension of time) and it is also hoped that ongoing engagement with agents who regularly submit applications for tree works within the District gain an understanding of the appropriate approach to tree works which we hope will result in 'better' applications submitted in the future.

## 5.0 Appeals

5.1 The charts below show 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. Numbers continue to be high and to date, the overall number lodged has surpassed the total yearly number of appeals lodged during 2020/21 and 2021/22. 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 13 to 16, continuing the trend from Q1 of 2022/23. The number dismissed continues to exceed the number allowed and for the monitoring period between April to December 2022, number allowed is 25%, in 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 37.5% of all appeals being allowed, however as reported above, the overall figure (25%) for the monitoring period is below the Governments previous target of 33%.



- 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 the thresholds.
- 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.
- 6.0 Updates**
- 6.1 Staffing – Since the previous report was presented, there have been further changes to staffing. Jared Pailing has joined us as Trainee Planner in Development Management.

Isabel Verheul will be leaving the authority and the recruitment process is currently taking place to seek replacement resource on a full-time basis. Additionally, we are in the process of recruiting to the post of Planning Assistant Apprentice. An update on progress will be provided in the next quarters report.

- 6.2 Within Land Charges, Leah Sumner has recently started with us and whilst training is undertaken, the service is being delivered with support from officers within the Support team.
- 6.3 We are currently asking for public comments on our draft Planning Application Local Validation Checklist. The Checklist provides the basis on which we validate all planning applications. Simply, it is a tick list to help individuals make sure they have submitted everything necessary to make a planning application and is intended to make the process of submitting a planning application easier for everyone.
- 6.4 We are required, by Government, to review and consult on our Local Validation Checklist for Planning applications every two years. This will ensure our Checklist is up to date and reflect current planning policies in accordance with Local and National Guidance. Our draft Local Validation Checklist is open to public consultation for eight weeks from 19<sup>th</sup> December 2022 to 13<sup>th</sup> February 2023. The Checklist will then be presented to Planning Committee on 20<sup>th</sup> April 2023 for final approval before coming into effect on 20<sup>th</sup> April 2023.

Further information is available on our website at [www.newark-sherwooddc.gov.uk/validationchecklists](http://www.newark-sherwooddc.gov.uk/validationchecklists)

## **7.0 Implications**

In writing this report 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