

Report to Planning Committee 8 June 2023

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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 January to March 2023 as well as providing an overview of the performance and achievements across the financial year. In order for the latest quarter's performance to be understood in context, in some areas data going back to March 2020 is provided.
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

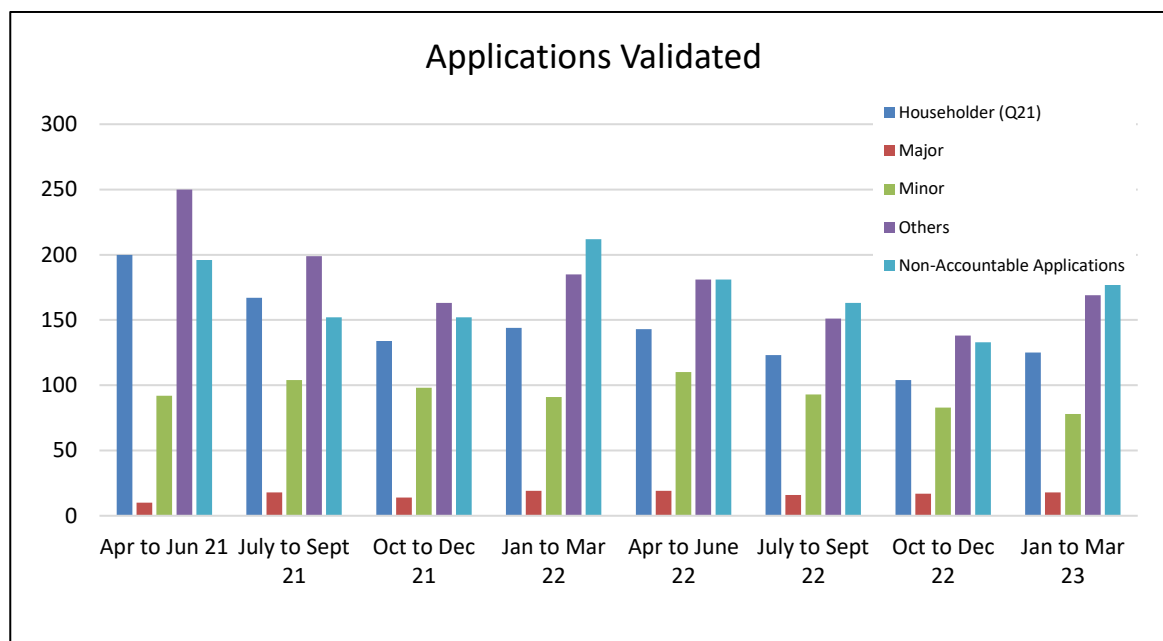
1.0 Background

1.1 The Planning Department undertakes a number of activities including 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 April 2021 up until March 2023. 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 final quarter of 2022/23, a total of 750 applications were received. This, compared to the same quarter in 2021/22 shows a reduction from 873 applications or an approximate 14% decrease in workload. This number is more akin to pre-pandemic numbers, when in 2019/20, 780 applications were received in the same quarter. The previous annual report identified that whilst overall numbers had reduced, major and 'non-countable' applications had increased compared to the year before. Again, major proposals

have increased over the previous 12-months by 15%. All other application types have reduced slightly compared to tree related applications which have remained consistent. Across the financial year, in relation to the receipt of all application types there has been a slight decrease from 3039 (for 2021/22) to 2669 applications. This appears to relate more to a reduction in 'others' under which householders fall. However, the number of major applications has increased and these are likely to have greatest impact in terms of housing numbers and potentially job creation, with 70 applications received this financial year compared to 61 in 2021/22.



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.

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.

Non-countable and others generally comprise the highest numbers quarter on quarter, with householders shortly behind.

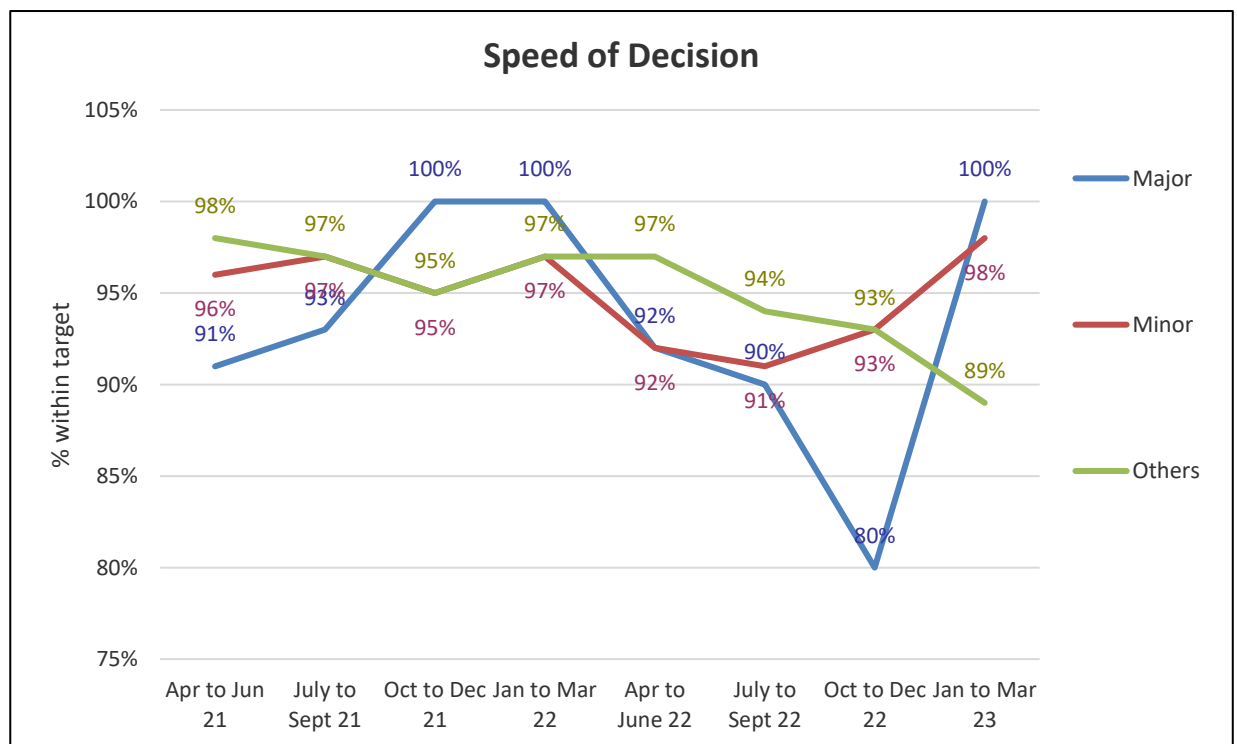
3.0 **Performance**

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 end of September 2022, 95.4% of the 108 major applications have been determined within these

timescales or within a period agreed through an extension of time. Across all of the Nottinghamshire authorities, NSDC is the second best performing authority (Gedling having determined 97.3% comprising 37 applications). NSDC determined the greatest number of the Notts. Authorities. Of the 333 authorities across England and Wales, we are 72nd in terms of overall performance. For non-majors, the target set nationally is 70% over a two-year period. 95.7% of non-major applications over this same time period have been determined within these timescales and NSDC is 50th within the country. Comparing once again to the other Nottinghamshire authorities, we are second best performing, Broxtowe having determined 96.9%. However, the number they have determined is significantly less at 1330 compared to 1984 (or 49% 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. However, it can be seen that performance has significantly exceeded these targets.

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.

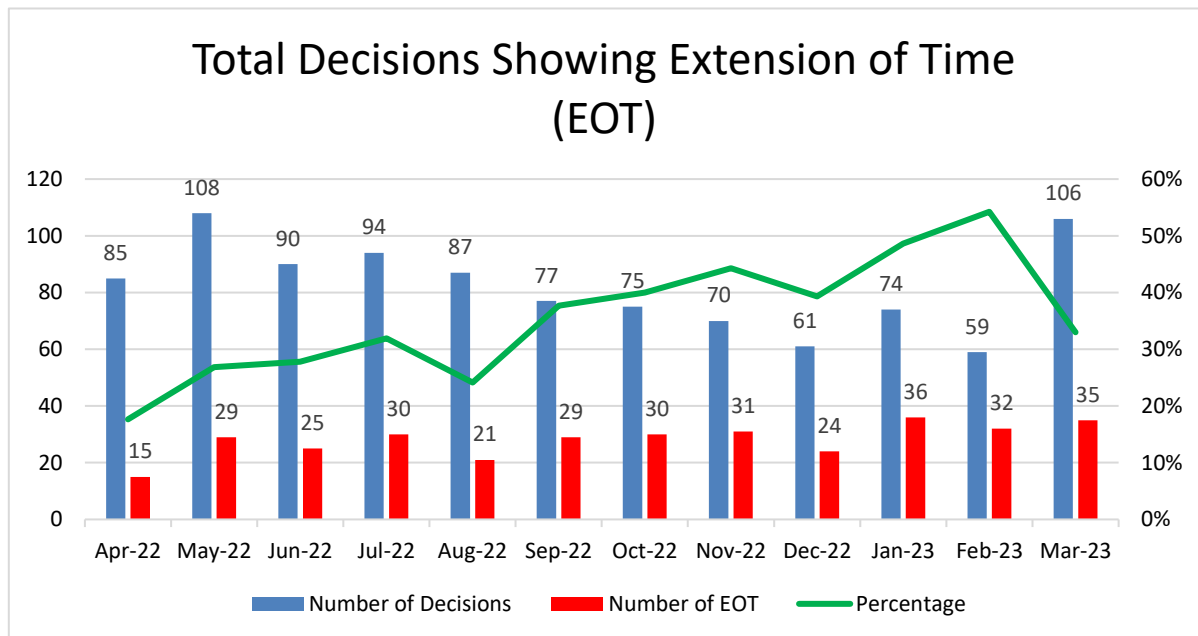


3.4 For major applications, performance over the previous quarter has returned to 100%. Across the 12-month period, the performance averages at 91%, due to the drop in October to December 2022. Minors is at 98%, having dropped slightly during the previous quarter. Overall performance has very slightly dropped compared to the previous 12 months.

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 currently go against the authority in terms of speed of decision making when reporting.

- 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. It is hoped over time, that it might be possible to reduce the number of applications with time extensions and following that also reduce the overall time taken to determine planning applications. New local performance targets have been introduced addressing the speed (in terms of the number of days) of decision making for major and minor planning applications. There has been a slight increase in terms of the percentage of applications that have been subject to an extension of time from 28% in 2021/22 to 35% this financial year.

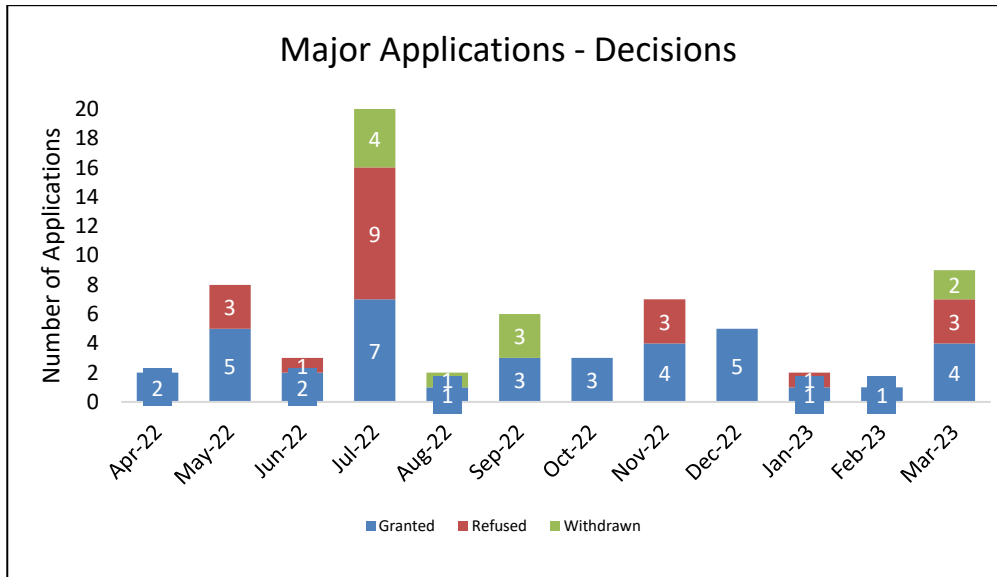


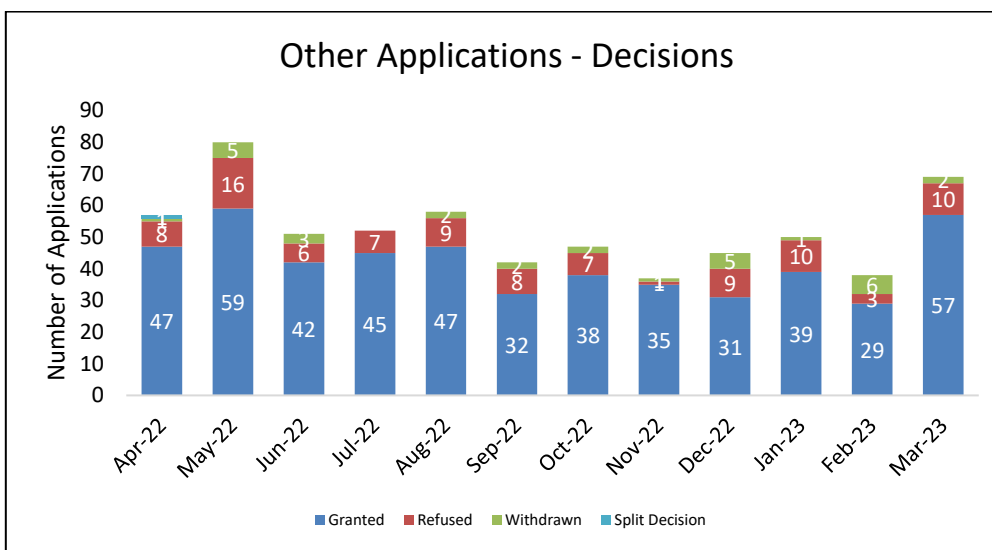
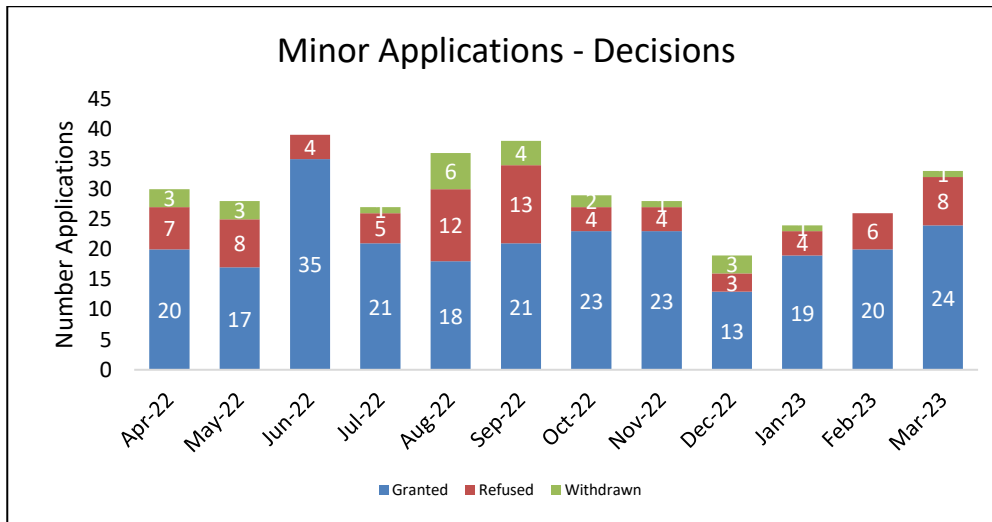
However, a consultation on [‘Increasing planning fees and performance: technical consultation’](#) by the Department for Levelling Up, Housing and Communities may affect how the Council deals with planning applications. The consultation document suggests increasing planning application fees by 35% for major developments and 25% for all others. This is said, alongside other changes set out in the Levelling Up and Regeneration Bill to improve performance. One area the government has criticised planning authorities on, is in relation to extension of time agreements. The consultation proposes to monitor performance on the basis of those applications determined solely within the statutory 8 and 13-week timescales i.e. excluding extension of times and Planning Performance Agreements. This might mean that rather than negotiating with applicants over development proposals in order to achieve an approval as opposed to a refusal, the application is refused. As advised within previous reports, it would be possible to determine all applications within statutory timescales without a request for, or agreement to, a time extension. However, this would potentially lead to complaints, reputational damage and resubmission of applications or defending of appeals. Whilst the resubmission of applications are, in the majority of cases, not subject to a further planning application fee, the consultation document suggests removing the ‘free-go’ route. One of the aims of the changes suggested, as well as improving performance, is

also to encourage developers to seek pre-application advice prior to the submission of an application.

3.7 The consultation document also includes a number of other changes which the Council is responding to, in consultation with the Portfolio Holder Economic Development & Visitors.

3.8 Over the previous financial year, the number of decisions issued quarter on quarter has decreased from 283 in April-June 2022 to 239 in January to March 2023 reflecting the slightly reduced number of applications received. Comparing the total number issued in 2021/22 compared to 2022/23, the numbers have reduced from 1162 to 986 application. 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 78%, 77% and 85% across the major, minor and other categories respectively. For the previous financial year the percentages were 88%, 73% and 86% respectively, so aside from majors the numbers have remained fairly consistent. Withdrawals (65 across the year compared to 103 in 2021/22) 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 currently, no fee is payable. However, the planning fee consultation referred to above may affect the number that are withdrawn by agents and applicants.





4.0 Tree Applications

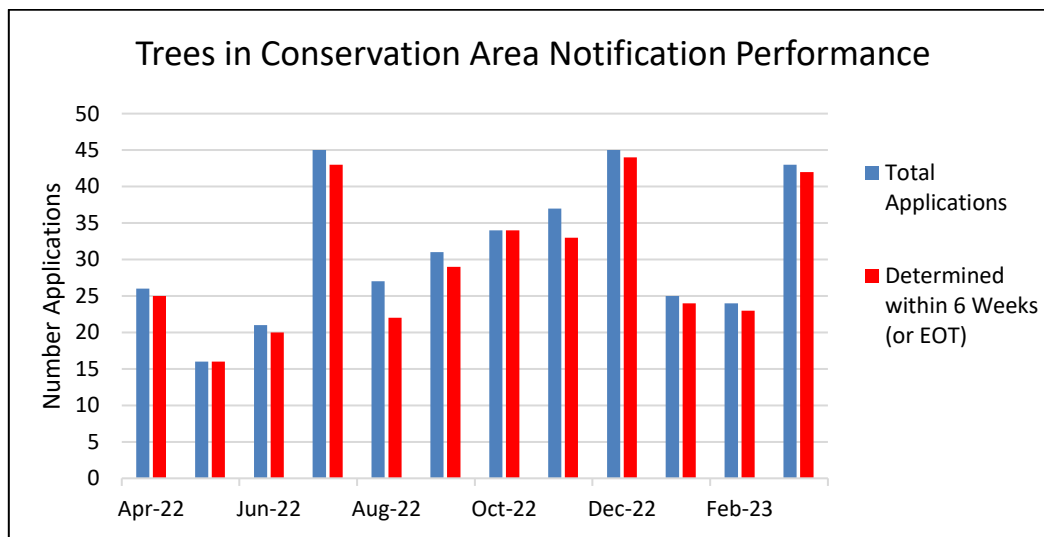
4.1 Trees are a valued amenity contribution to the character of the district. Those that are subject to a Tree Preservation Orders (TPOs) or within a Conservation Areas require consent from the Council before works are commenced. In relation to unprotected trees within a Conservation Area, the consent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

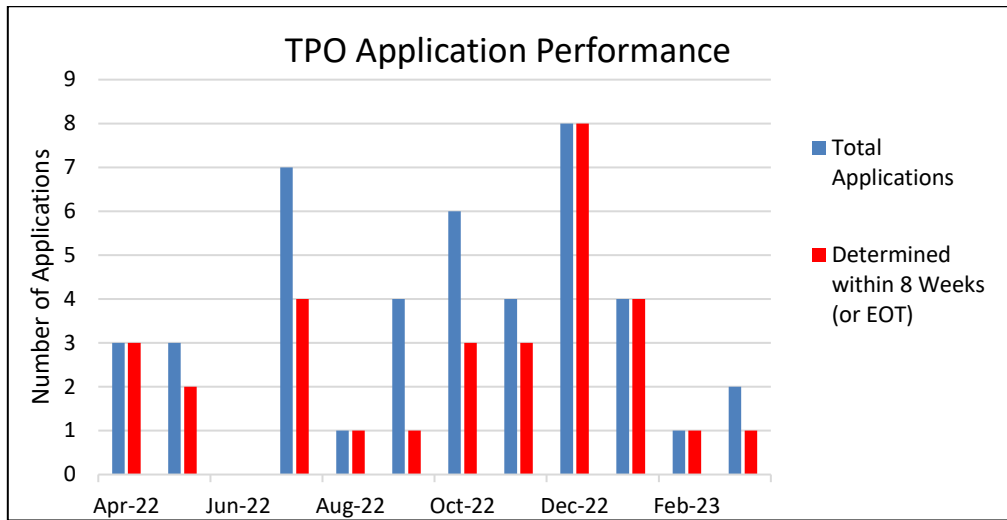
Where it meets these criteria, a TPO will be made. Applications for works to trees in Conservation Areas require the Council to make their determination within 6-weeks and the Order issued within this timescale. If a decision is not made by the first day of the 7th week, the applicant may undertake the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

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.

Overall, performance continues to increase, with 97% of notifications for works to trees in a conservation decided within the statutory 6 weeks period, an increase of 1% compared to the previous quarter. However this is a slight decrease when compared to the corresponding quarter last year. Delays are often contributed to time taken around our proactive approach with negotiations with agent/applicants regarding amendments to proposed works to bring in line with British Standard S3998.2010, as well as vague proposals (detail regarding works). 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.



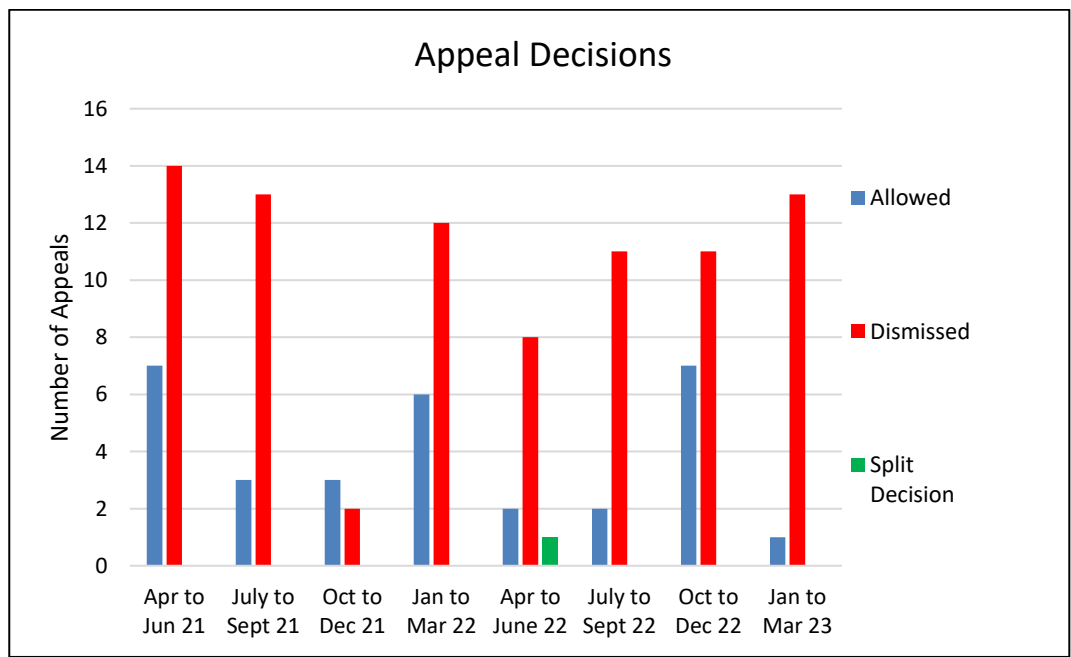
Turning to works to trees protected by Tree Preservation Order (TPO), through negotiations during assessment, there were no refusals of decisions made during the monitoring period. The Planning Technical Support Manager acknowledges negotiations can have an impact on performance regarding speed of decision. 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, compared to the previous quarter, performance has increased by 8%, with 86% of applications being decided within the statutory 8 weeks period (or agreed extension of time). It is important to note, the number of decisions was lower than that of the previous quarter and is representative of seasonal trends. As previously reported, ongoing engagement continues with agents who regularly submit applications for tree works within the district, which we hope provides further understanding of the appropriate approach to tree works which we hope will result in ‘better’ applications submitted in the future.

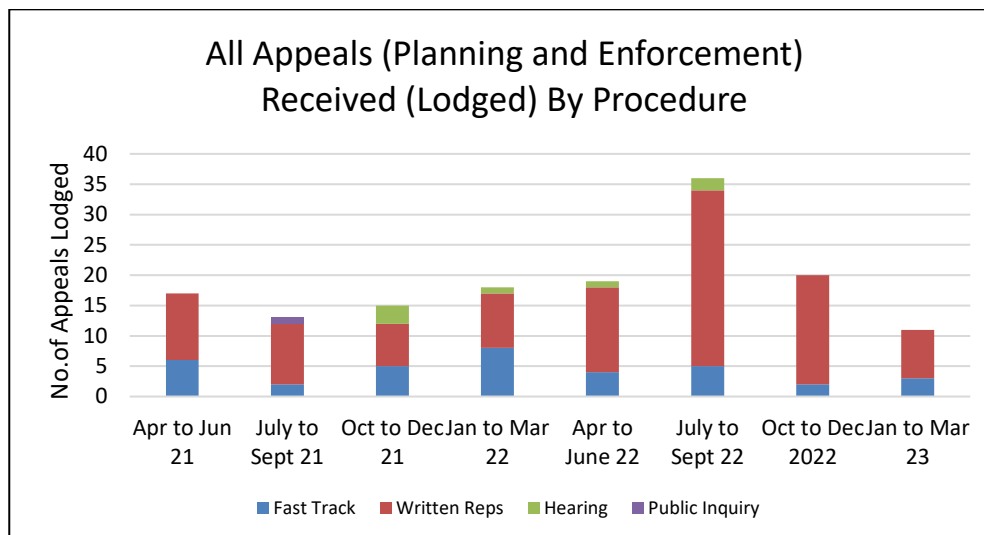


5.0 Appeals

5.1 The 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). The total number of appeals fluctuates quite considerably, and like tree applications 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 in responding accordingly varying from very high to low.

5.2 This quarter has seen a drop in the number of decisions issued by the Inspectorate compared to the previous quarter, from 20 to 11. Compared to the previous financial year, the Inspectorate has issued 86 decision this year compared to 63 for the previous. 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. Across the financial year, 20% have been allowed compared to 36% the previous year.





- 5.3 The vast majority of appeals, as noted within the graph above, are determined via the written representation method followed by fast track appeals. The Council did not have any public inquiries during the financial year, although did have 3 hearings.
- 5.4 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 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.
- 5.5 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.
- 5.6 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.
- 5.7 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 must comprise unreasonable behaviour that has led to unnecessary costs that otherwise would not have been necessary. A number of claims have been made against the Council across the year, all of which have been successfully defended with the exception of Hillcrest, 7 Hoveringham Road, Caythorpe. A further costs application has been successful for application 21/02677/FUL – Land at Main Street for a stable and manege. The Council has been successful in a claim relating to a Lawful Development Certificate appeal that was withdrawn during the appeal process (22/00685/LDC – The Paddocks, Southwell Road, Halloughton).

6.0 Updates

- 6.1 Staffing – Since the previous report was presented, there have been further changes to staffing. Isabel Verheul left in February, her replacement started in early May (Ellie Sillah). Jared Paling and Raheel Pasha both joined as Trainees/Apprentices within Planning and Enforcement respectively. Full Council approved 2 new posts; Biodiversity and Ecology Lead Officer (BEO) and Geographical Information Services Lead Officer with recruitment recently completed. The BEO will be leading on biodiversity net gain (BNG) when that comes into effect later this year. Further information regarding BNG will be provided once the Regulations are published by Government.
- 6.2 Whilst there has recently been a number of consultations on possible amendments to legislation and guidance, the past 12-months has not had any significant changes that have required reporting. Over the coming 12-months, there will be likely be changes such as changes to the National Planning Policy Framework, planning fees as well as the introduction of biodiversity net gain which is due to come into force as a requirement for applications in November 2023. Members will be provided with information and training regarding this in due course. The Regulations for which developments are affected by the need to provide a net gain are still awaited. Any changes that are relevant for the Council will be reported to Committee. Additionally, the Government issued the Levelling Up and Regeneration Bill which is progressing through parliament. When this has gone through all its readings and is published, details will be provided.
- 6.3 Alongside these more ‘planning’ related duties, during the summer of 2022, following the introduction of the Cabinet system, the Planning Committee adopted the Scheme of Delegation to Officers for planning and related applications / work, the Protocol for Members on Dealing with Planning Matters as well as guidance on Development Consultation Forums. In addition, reviews of a number of conservation areas have been completed for Laxton, Ollerton, Southwell and Newark.
- 6.4 This financial year as well as 2024/25 will likely be challenging with the number of changes that are likely to affect planning. In addition to the above, the department is commencing the start of a software procurement project for its planning and environmental software. Whether the Council remains with the existing supplier or a new one, significant changes are needed to make the software more efficient thus enabling officers to have more time in the assessment of applications and assisting residents and businesses in the District.

7.0 Implications

- 7.1 In writing this report and in putting forward a recommendation, Officers have considered the following implications: Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have referred to these implications and added suitable expert comment where appropriate.

8.0 Conclusion

- 8.1 Performance has continued to be met and exceeded. Overall, the department has been able to provide an excellent service, whilst continually looking to make improvements whether large or small. The following 12-months will have many challenges, but the department is set to deal with these.