

PLANNING COMMITTEE

18 JULY 2023

REPORT TITLE:	Planning Appeal Performance Statistics (2022/23)
REPORT OF:	Phil Drane, Director of Place

REPORT SUMMARY

This report reproduces data extracted from nationally published appeal performance figures for planning authorities in Essex for the twelve months up to March 2023. This data is provided in a table extract from the Planning Inspectorate (Appendix A). This supplements regular appeal updates provided to the committee.

RECOMMENDATIONS

That the committee notes Brentwood Borough Council's planning appeals performance during 2022/23 (Appendix A).

SUPPORTING INFORMATION

1.0 REASONS FOR RECOMMENDATIONS

1.1 The committee has on a number of occasions requested comparative data on the performance of Brentwood and other Essex authorities regarding planning appeals. The data provided in Appendix A provides this information.

2.0 OTHER OPTIONS CONSIDERED

2.1 Other forms of data have been presented to the committee, but there has been difficulties obtaining comparable data across authorities and different methods of displaying the data can change its apparent meaning. Using the annual data published by the Planning Inspectorate in its raw form avoids both pitfalls, but is only available on an annual basis.

3.0 BACKGROUND INFORMATION

3.1 In interpreting the data provided Appendix A, the committee should bear in mind that in addition to the merits of any individual case, appeal performance

is affected by the planning circumstances that relate to that individual local planning authority. For example, factors such as whether the local planning authority has an up to date development plan, has a five year land supply, achieves appropriate levels of housing delivery and whether it has green belt. They all affect the weight given to its development plan including whether the 'tilted balance' is invoked in planning decisions.

- 3.2 Across the county, there are authorities that have up to date development plans, some that have plans that are considered out of date, some authorities are predominantly green belt, others have none, with others in between. The figures show that Brentwood is better than the average (mean) of other Essex authorities in all measures except for split decisions (where an Inspector part dismisses, and part allows an appeal), a power local planning authorities don't have, although there is a single householder appeal and a single enforcement case where that has occurred. Split decisions are rare. They tend to involve an inspector 'agreeing with the local planning authority' by preventing the objectionable part of the development and allowing the non-contentious element. Brentwood performs well regarding both having a lower than average number of appeals and winning slightly more than the overall number of appeals, than other Essex authorities.
- 3.3 However, as is regularly reported to the committee, a local planning authority's record of success for defending appeals is the measure taken by the Department for Levelling up, Housing and Communities (DLUHC) to assess the quality of decision making. It is not a simple majority calculation. It is measured separately for Majors and Non-Majors, with a maximum allowable 'loss rate' of ten percent of the total number of applications of that type determined. The measure relating to Major appeals is challenging due to the low number of such applications that smaller authorities tend to receive in contrast to the measure for Non-Majors. However, there is currently no basis for concern regarding either measure in Brentwood borough, though this is reviewed regularly. Brentwood has lost a single major appeal, giving a 2.2% figure.
- 3.4 Local authorities that lose more than ten percent are liable to being put into special measures which can involve losing part of their planning function, for example where applicants can apply direct to the Planning Inspectorate rather than to the local planning authority. Nationally five district authorities are at risk of be placed into special measures through poor major appeal performance (having a loss rate of between 12.2% and 20%) in the two years to March 2022. None of those currently at risk are in Essex, although Uttlesford is currently in special measures. Nationally no local authority is near the ten percent loss rate for non-majors.

4.0 FINANCIAL IMPLICATIONS

Name & Title: Tim Willis, Director – Resources (and Section 151 Officer)
Tel & Email: 01277 312500 / tim.willis@brentwood.rochford.gov.uk

- 4.1 There are no financial implications arising from this report. The cost of defending appeals is covered by the Development Management budget. Lost appeals can result in additional financial implications if costs are awarded, for instance. This is projected and considered when setting the budget.

5.0 LEGAL IMPLICATIONS

Name & Title: Claire Mayhew, Acting Joint Director – People & Governance (and Monitoring Officer)
Tel & Email: 01277 312500 / claire.mayhew@brentwood.rochford.gov.uk

- 5.1 There are no legal implications arising from this report.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 6.1 Defending appeals and monitoring performance is undertaken by the Planning Development Management team, resourced by people and relevant support systems.

7.0 RELEVANT RISKS

- 7.1 Monthly performance indicator monitoring is undertaken to measure the number of lost appeals. Annually the council's target is to be below 31% of all appeals lost. As set out in this report, the Government use different measures to determine appeals performance, and these are also monitored by the council. The council's performance is generally good, resulting in levels at or below the target for recent years. The risk of exceeding this target is that the Government may choose to intervene, although it is likely that persistent poor performance would need to be demonstrated for such an outcome.
- 7.2 Annual measurement provides a more rounded view. As is often reported in updates to the Planning Committee, reporting on shorter timeframes can provide more regular detailed information, but often presents large fluctuations in the overall number of appeals and decision outcome.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 Individual applications include statutory consultation periods.

9.0 EQUALITY & HEALTH IMPLICATIONS

Name & Title: Kim Anderson, Corporate Manager - Communities, Leisure and Health

Tel & Email: 01277 312500 / kim.anderson@brentwood.gov.uk

9.1 There are no equality and diversity implications arising from this report.

10.0 ECONOMIC IMPLICATIONS

Name & Title: Phil Drane, Director - Place

Tel & Email: 01277 312500 / phil.drane@brentwood.rochford.gov.uk

10.1 There are no direct economic implications arising from the report. Individual development schemes subject to the appeals process may deliver local economic benefits.

REPORT AUTHOR:

Name: Mike Ovenden

Title: Associate Consultant Planner

Phone: 01277 312500

Email: mike.ovenden@brentwood.gov.uk

APPENDICES

- Appendix A: Extract from Table 5.1a and 5.1d, Source: Planning Inspectorate annual statistics (2022/23)

BACKGROUND PAPERS

- None

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Planning Committee, Item 435, 'Planning Appeals Update (December 2022 – February 2023)'	14/03/2023
Planning Committee, Item 319, 'Planning Appeals Update (September – December 2022)'	17/01/2023
Planning Committee, Item 164, 'Planning Appeals Update (June – August 2022)'	29/09/2022

Planning Committee, Item 60, 'Planning Appeals Update (February – May 2022)'	28/06/2022
Planning and Licensing Committee, Item 294, 'Planning Appeals Update (December 2021 – January 2022)'	22/02/2022
Planning and Licensing Committee, Item 253, 'Planning Appeals Update (July – November 2021)'	15/12/2021
Planning and Licensing Committee, Item 90, 'Planning Appeals Update (February – July 2021)'	27/07/2021