

Planning Appeals Protocol

Planning Policy Decisions Team (PPDT) and Growth Boroughs

Introduction

This protocol outlines the objectives, principles and programme for the transition of PPDT development management powers to the Borough Local Planning Authorities, in so far as they relate to planning appeals, and concerns such matters up to August 2024. A 'Last 3 Months Protocol' will be agreed between PPDT and the Boroughs in 2024 covering, amongst other things, planning appeals.

The aim is to ensure a smooth transfer of responsibilities and maintain effective development management processes for each of the Borough areas with respect to planning appeals.

The numbers of applications LLDC have received over the past full 5 years (plus 2023 to mid-May) is set out below. See table 1.

YEAR	2018	2019	2020	2021	2022	2023 (to mid-May)
No. of appns	579	602	491	588	533	202
No. of majors	22	22	10	19	8	3

Table 1: number of applications received by year (all types)

45-50% of planning applications received are details applications, which are all approved.

PPDT refuse an extremely low number of planning applications per year (c.1-2%).

In the past 5 year there has been one major appeal per year. See table 2.

2018	2019	2020	2021	2022
2-12 Stratford High Street (affordable housing)	Swan Wharf	Marshgate	Bow River Village	Rothbury Road
Hearing – appeal withdrawn	Inquiry	Inquiry	Inquiry	Hearing
NEWHAM	TOWER HAMLETS	NEWHAM	TOWER HAMLETS	TOWER HAMLETS

Table 2: number and type of major appeals by year, and borough

Task

PPDT prepared a draft appeals protocol circulated to the Boroughs in advance of discussion at the DM Transition Working Group on 7 June 2023, where agreement was reached on the way forward. PPDT were open to receive any further comment on the protocol until June 21, 2023, extended to July 17 2023. The protocol was agreed by officers at the 27 July meeting, and will be adopted from August 2023.

Protocol Objectives

- a. Provide clarity and certainty to all stakeholders that arrangements are in place to ensure 'business as usual' with regard to planning appeals up to August 2024, in the context of the upcoming transfer of powers
- b. Allow effective stakeholder engagement in planning appeals
- c. Agree a method for Borough involvement in appeals cases
- d. Enable Boroughs to undertake, where required, continuing successful appeals work on cases inherited from PPDT
- e. Enhance Borough decision-making
- f. Streamline planning procedures and improve efficiency
- g. Strengthen accountability and transparency

Principles and Process

- LLDC retains control over all types of appeals
- PPDT will share a list of appeals cases monthly, and discuss the cases at regular catch-up meetings with the Boroughs, as necessary
- Boroughs may choose to become involved in a case of importance to them, identified from the list
- Major cases the subject of appeal will have a PDC decision in the case of refusal, or (as expected) a PDC decision to endorse officers' recommendation to refuse in the case of non-determination appeals ('would have been empowered to decide' scenario) to support an appeal (inquiry/hearing)
- The aim is, as is reasonable, to present a jointly supported (Borough/PPDT) case/evidence
- Boroughs may choose to brief appeals to their committees
- For any case the borough has an interest in, written communications to the appellant and documents to be submitted to PINS (statement of case, SOCG etc) to be prepared by the Lead Authority (PPDT) and drafts and final versions shared in advance with the Boroughs for joint agreement
- For any case the borough has an interest in, any meetings with appellants, including concerning SOCG, S106, conditions etc will involve both the LLDC and the boroughs and will involve officer pre-meets to try and ensure a consistent message
- The agreed resolution mechanism for any fundamental differences on approach to appeals is for the Borough to make 3rd party representations to PINS
- Commitment to resource and to reviews to ensure working effectively
- Offer to fund retention of Pinsents Masons' legal service for a period of up to 3 months post handback of powers to assist the Boroughs, also Arup (environmentals) and Jacobs (transport)

- Boroughs use of LLDC consultants will need to be organised via direct award by the boroughs, with boroughs managing the contracts; Boroughs to send funding requests
- For a planning inquiry/hearing case that a borough will inherit the anticipated (quoted) cost of any legal, or other representation, to support the inquiry/hearing to be agreed in advance with the borough
- PPDT to resolve/close as many cases as practicable, with minimum handover of live appeals cases.

Programme

- PPDT will share the list of on-hand appeals cases monthly from August 2023
- Joint Publicity for handover of powers will include reference to planning appeals
- The Statutory Instrument (SI) for the transfer of powers confirms that costs received post-transfer of powers will be picked up by the Boroughs, and costs granted by the courts, for example, following successful prosecution post-transfer, will be granted to the Boroughs. The scope of the SI has been agreed with DLUHC in April 2023. This is also consistent with the LLDC Planning Functions Order and the transitional arrangements set out in that SI.

Conclusion:

This protocol provides a process for Borough involvement with respect to planning appeals until August 2024, towards a smooth transition/handback of PPDT's development management powers. By following this protocol, clarity and certainty can be provided to all stakeholders that effective arrangements are in place to provide advice and to make decisions.

Agreement

Borough agreement on the protocol (dated [to be completed following Borough cabinet])