**Planning decisions**

District level planning authorities determined 116,000 planning applications in the December quarter 2008, 22 per cent lower than in the December quarter last year. However, for the second consecutive quarter, the number of applications determined exceeded the number of applications received. All regions, including National Park authorities, saw a decrease in the proportion of applications determined, the largest decrease was in the North East (28 per cent). Other large decreases were in the East of England (25 per cent), Yorkshire and the Humber and the North West (both 24 per cent). The lowest decrease was in London (19 per cent), National Parks also saw a decrease of 17 per cent. In the year ending December 2008, 523 applications were determined, a decrease of 13 per cent compared with the corresponding period a year ago.

**Applications granted**

82 per cent of all decisions in the December quarter 2008 were granted, unchanged when compared with the December quarter 2007. Approval rates across the region ranged from 76 per cent in London to 90 per cent in the North East. (Table 2). These percentages represent a 1 percentage point increase in the approval rate for authorities in the North East and no change in the approval rate for authorities in London when compared with the same quarter a year ago.

**Residential and household decisions**

Decisions made on applications from householders were down by 27 per cent from 72,000 in the December quarter 2007 to 52,500 in the December quarter 2008 and

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**Planning decisions on Major and Minor residential development**

**Year ending 31 December 2008, September-December 2008**

<table>
<thead>
<tr>
<th>London borough</th>
<th>major residential decisions</th>
<th>% granted</th>
<th>% within 12 weeks</th>
<th>minor residential decisions</th>
<th>% granted</th>
<th>% within 12 weeks</th>
<th>Total</th>
<th>% granted</th>
<th>% within 12 weeks</th>
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<tbody>
<tr>
<td>London</td>
<td>828</td>
<td>56%</td>
<td>72%</td>
<td>9,868</td>
<td>56%</td>
<td>74%</td>
<td>154</td>
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<td>79%</td>
</tr>
<tr>
<td>Barking &amp; D</td>
<td>4</td>
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<td>50%</td>
<td>109</td>
<td>36%</td>
<td>82%</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Barnet</td>
<td>31</td>
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<td>84%</td>
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<td>75%</td>
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<tr>
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<tr>
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<td>71%</td>
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<td>421</td>
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<td>3</td>
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<td>76%</td>
</tr>
<tr>
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<td>77%</td>
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<tr>
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<td>100%</td>
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<tr>
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<td>33%</td>
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<td>29%</td>
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<tr>
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<tr>
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<tr>
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<td>129</td>
<td>34%</td>
<td>79%</td>
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<tr>
<td>Richmond</td>
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<td>343</td>
<td>57%</td>
<td>73%</td>
<td>12</td>
<td>50%</td>
<td>67%</td>
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<tr>
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<td>34</td>
<td>41%</td>
<td>65%</td>
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<td>46%</td>
</tr>
<tr>
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<td>17%</td>
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<td>82%</td>
<td>70%</td>
<td>3</td>
<td>100%</td>
<td>67%</td>
</tr>
</tbody>
</table>

Source: Source: DCLG (www.communities.gov.uk) * incomplete data
In the year ending December 2008, the percentage of authorities meeting the target on major applications was 78 (285 authorities) and for minors 84 (309 authorities). These represent a decrease of 5 per cent points on major applications and 9 percentage points on minor applications when compared with the year ending December 2007 fig.

The percentage of authorities meeting the target for other applications was 83 (304 authorities), a decrease of 7 percentage points when compared with the corresponding period a year ago. The chart below shows the number of applications types as a percentage of total planning applications.

Applications decided under delegation Agreements

The final column in Table 7 shows the percentage of applications decided by planning officers under a scheme of delegation and without referral to committee or councillors on such decisions. 360 authorities (out of 367) provided information on delegated decisions in this quarter. On average, authorities delegated 90 per cent of decisions to planning officers.

Planning authorities

The December quarter 2008 saw 265 authorities (72 per cent of all authorities) make at least 60 per cent of their decisions on major applications within the 13 week period; 323 authorities (88 per cent) made at least 65 per cent of their decisions on minor applications within the statutory 8 week period; and 322 authorities (88 per cent) made at least 80 per cent of their decisions on other applications within the 13 week period. Also 65 per cent of decisions on minor residential applications were granted and 72 per cent determined within 8 weeks.

Local Authority performance

National Indicator 157 a, b and c reports on the speed at which major, minor and other planning applications are processed by district level planning authorities.

In the year ending December 2008, 49 per cent of all applications were classified as ‘new’ and 51 per cent as ‘extension’.

Twins Tracking: not the real deal?

There has been considerable attention recently in the press concerning section 43 of the Planning and Compulsory Purchase Act, which is finally due to be implemented on 6 April. The intention is that ‘twin-tracking’, which has been used as a way of continuing to negotiate with a planning authority after making an appeal at the end of the statutory 8/13 week determination period (or indeed after the expiry of the six-month deadline for making a deemed refusal appeal), will be outlawed.

What is missing from this commentary is the effect of section 50, which has been overlooked and will not come into force at the same time – although it certainly should. Section 50 would allow as (what is intended in a July 2002 consultation paper; and in the customary cumbersome way that planning law works) for the insertion of section 78A into the original 1990 Act. This provides for what is described in the Planning Encyclopaedia as a “crossover period”, allowing negotiations to continue after an appeal has been made, for an additional length of time to be prescribed by development order.

It says that if the local planning authority makes a decision to refuse the appealed application during this limited extra period, then the appeal Inspector must take that decision into account – and the appellant is granted the right to amend the Grounds of Appeal accordingly.

What follows is an attempt to formulate the conditions under which the crossover period would be permitted; the practicality of allowing both parties to prepare for twin-tracking; the implications for the appeal process; and what steps if any are being taken to either allow or discourage twin-tracking.

BREIFING | PLANNING PERFORMANCE: DCGL

Twin Tracking: not the real deal?

Planning officials are to be asked to confirm whether they have received applications for twin-tracking by the end of June. The department will then issue guidance to local authorities on whether twin-tracking should be allowed in any circumstances.

The Government’s response to the Killian Pretty Review has been published.

It includes:

- The need for action is urgent and we have already:
  - established a pro-active office within Communities and Local Government to take forward a wide range of actions
  - created a stakeholder Board to develop and test emerging proposals with representatives of key players in the planning process
  - discussed with stakeholders how they propose to help take forward some of the recommendations, for example the Local Government Association propose to issue updated guidance which will help clarify council involvement in the planning application process, and the British Property Federation are working on guidance to encourage developers to use Planning Performance Agreements
  - worked with PAS to identify a number of actions to support implementation, including:
    - commissioning a project to help raise the use of Local Development Orders by local authorities
    - ten regional events on integrating a development management approach into the planning service
    - developing guidance on development management
    - commissioned research to look at how we might streamline the process for minor changes to planning permissions
    - delivered the e-Consultation Service (HaLi).
  - The Planning Portal is now working with local planning authorities and consultees to show how it works
  - strengthened the arrangements for co-ordination between the bodies who help build skills and capacity in the planning sector.

In addition, by Summer 2009 we propose to:

- consult on:
  - draft proposals to extend permitted development rights for businesses and public services – which will make it easier for them to make some small scale alterations or extensions to buildings
  - a possible simplified process for some minor commercial development, such as new shop fronts
  - draft proposals to streamline information requirements for applicants – possible changes to give local authorities greater flexibility to determine how best to notify the public about planning applications
  - identify options for an improved approach to minor amendments to planning permission

- publish an action plan to develop new national policy on Development Management, together with a staged programme to deliver simplified and consolidate secondary legislation
- report on progress in developing proposals to take forward the other agreed recommendations, in particular in relation to changing the performance framework, engaging planning authorities and improving the use and discharge of planning conditions, with consultation on the latter two issues in the Autumn.

In Winter 2009 we will provide a further update on our progress in taking forward the agreed recommendations, for example the milestones set in the progress report published in Summer 2009.


* Planning and Compulsory Purchase Act 2004 section 43 Power to decline to determine applications, which substitutes sections 70A, 70B, 81A and 81B for section 70 of the Town and Country Planning Act 1990.
A 21st Century appeals system

PINS leads the planning system in achieving a change in culture. Leonora Rozee explains how it aims to provide the highest possible service in terms of both the administration of the appeal and the quality of the decision.

The Planning Act 2000, along with new secondary legislation and general guidance, allow the Planning Inspectorate to offer a modern 21st century appeals service that is focused on the principles of proportionality, customer focus and efficiency. The changes that are being implemented were consulted on in 2007 by Communities and Local Government in the Planning White Paper “Planning for a Sustainable Future” and the associated document “Improving the Appeal Process in the Planning System”. The Government listened carefully to the views expressed by stakeholders in response to the consultation exercise, and these views helped focus efforts in bringing forward the policy changes the Planning Inspectorate believes will have the greatest impact in terms of delivering real improvements to the appeal service.

The following changes come into force on 6 April:

• The Planning Inspectorate will use a new power under s.319A of the Town and Country Planning Act 1990 to determine the appeal procedure to be followed for all planning and enforcement cases.
• A new, expedited process for householder appeals which are suitable for written representations, to be known as the “Householder Appeals Service”.
• The extension of the Costs regime to planning appeals and other planning proceedings dealt with by written representations.
• Amendments to the Hearings and Inquiries Rules to remove the 9 week written comment stage. Parties will still have the opportunity at the hearing or inquiry event itself to make comments.
• Amendments to the Inquiries Rules to require the submission of Statements of Common Ground 6 weeks after the appeal’s start date, rather than 4 weeks before the inquiry event itself (as now).
• New Guidance which will explain the changes and the procedures to be followed at appeal.

Regulatory and policy framework

The regulatory framework supporting the appeal process is set out in the Town and Country Planning Act 1990 and the following Statutory Instruments:
• The Town and Country Planning (General Development Procedure) Order 1995 (SI 1995/419)
• The Town and Country Planning (Determination of Appeal Procedure) Order 1995 (SI 1995/419)
• The Town and Country Planning (Appeals) Regulations 2000 (SI 2000/1620)

A Written Ministerial Statement relating to the appeals process was made in Parliament on 11 March 2009. This Statement sets out the Government’s policies on how the appeals regime should operate. It will be taken fully into account by the Secretary of State and Inspectors when dealing with appeals.

The Planning Inspectorate is publishing procedural guidance on its website on the detailed operation of the changes being made to the system. The overarching guidance entitled “The Appeal Process – proportionality, customer focused and efficient” is due to be published by 6 April. This reiterates that the basis for awards of costs in the planning system is that of unreasonable behaviour leading to unnecessary expense being incurred. The Circular sets out a range of examples of what can constitute unreasonable behaviour and the circumstances in which awards or partial awards of costs can be made.

Appellants and local planning authorities will be invited to identify which appeal procedure they consider to be the most appropriate for each appeal, by reference to the published criteria. The appellant will do this on the appeal form and the local planning authority will do so on their questionnaire. The Planning Inspectorate will ensure that the most appropriate and proportionate appeal procedure is selected through the application of the criteria, careful consideration of any representations and appropriate expert involvement. Reasons will be given where the procedure chosen differs from that identified by either of the main parties. The Independent Advisory Panel on Standards for the Planning Inspectorate (APSO) will monitor the way in which the Planning Inspectorate exercises this power.

Effective use of such statements should lead to an improvement in the quality of the evidence and a reduction in the quantity of material which needs to be considered at the inquiry, leading to more efficient inquiries. So from 6 April the statement of common ground will be required to be submitted 6 weeks after the appeal has started. It should be used to identify both the areas of agreement and disagreement. Early dialogue between the appellant and the local planning authority will be essential to ensure the statements are jointly prepared within the 6 week timetable.

Challenging the culture

The following core principles underpin the operation of a well functioning appeal system. These are:

• The importance of regular dialogue at application stage to ensure clarity of the issues between them and that there are no surprises before the appeal can be processed efficiently.
• The duty to enable us to seek to explain to the appellant what changes might lead to a successful application prior to making a decision.
• The right of appellants to have their reasons for refusal explained clearly, precisely and comprehensively.

The Planning Inspectorate is committed to continuing to provide the highest possible service in terms of both the administration of the appeal and the quality of the decision. The changes being made set out how we have been able to enable us to do this. Having regard to the above core principles, we need the support of those who use the service to change the way they engage in the planning system so that the benefits of these changes are noticed by the planning system.

Household Appeals Service (HAS)

This is a new expedited appeals service designed for household applications on which it is intended to issue a decision within 8 weeks of the appeal. A key feature of the HAS is that the appeal will be based on the material before the local planning authority when it made its decision, which will include any representations made by interested people such as neighbours, and the grounds of appeal by the appellant. No further representations will normally be permitted from any party including interested persons. The appeal period for household applications will be 12 weeks rather than the 6 months available for all other appeals. An article by my colleague Ben Linscott (which appeared in issue 66) sets out the main principles of proportionality, customer focus and efficiency.

Countryside and urban development by the Planning Inspectorate should lead to an improvement in the quality of the evidence and a reduction in the quantity of material which needs to be considered at the inquiry, leading to more efficient inquiries. So from 6 April the statement of common ground will be required to be submitted 6 weeks after the appeal has started. It should be used to identify both the areas of agreement and disagreement. Early dialogue between the appellant and the local planning authority will be essential to ensure the statements are jointly prepared within the 6 week timetable.

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