

APPEALS ANALYSIS REPORT

Planning and Enforcement Appeals Analysis:
September 2016 – November 2017

Analysis of Planning Appeals and Enforcement Appeals - September 2016 to November 2017

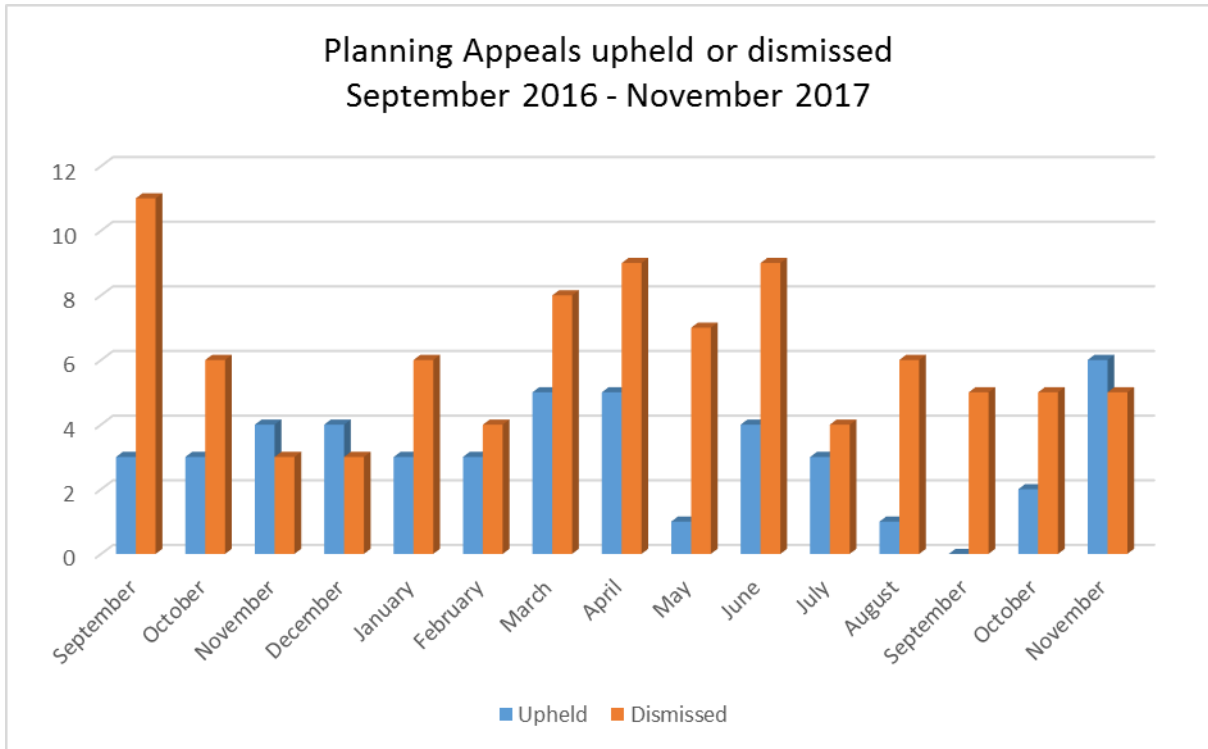
Introduction

- 1.1 This report highlights the key findings from the analysis undertaken on planning appeal decisions and appeals on enforcement notices issued by the Council between September 2016 and November 2017.
- 1.2 This report illustrates the number of Planning and Enforcement Appeals that were determined during this period, how many were upheld or dismissed and analyses the individual policies that were cited by Inspector when deciding appeal cases. The full report which contains a more detailed analysis of appeal cases is outlined in Appendix 1.
- 1.3 This information will help evaluate the effectiveness of the existing policy framework (the Core Strategy and Development Management Local Plan) in decision making and help inform both new and revised policies emerging in the new Local Plan (LP33) and emerging policies in the Area Action Plans for Stamford Hill and Shoreditch.

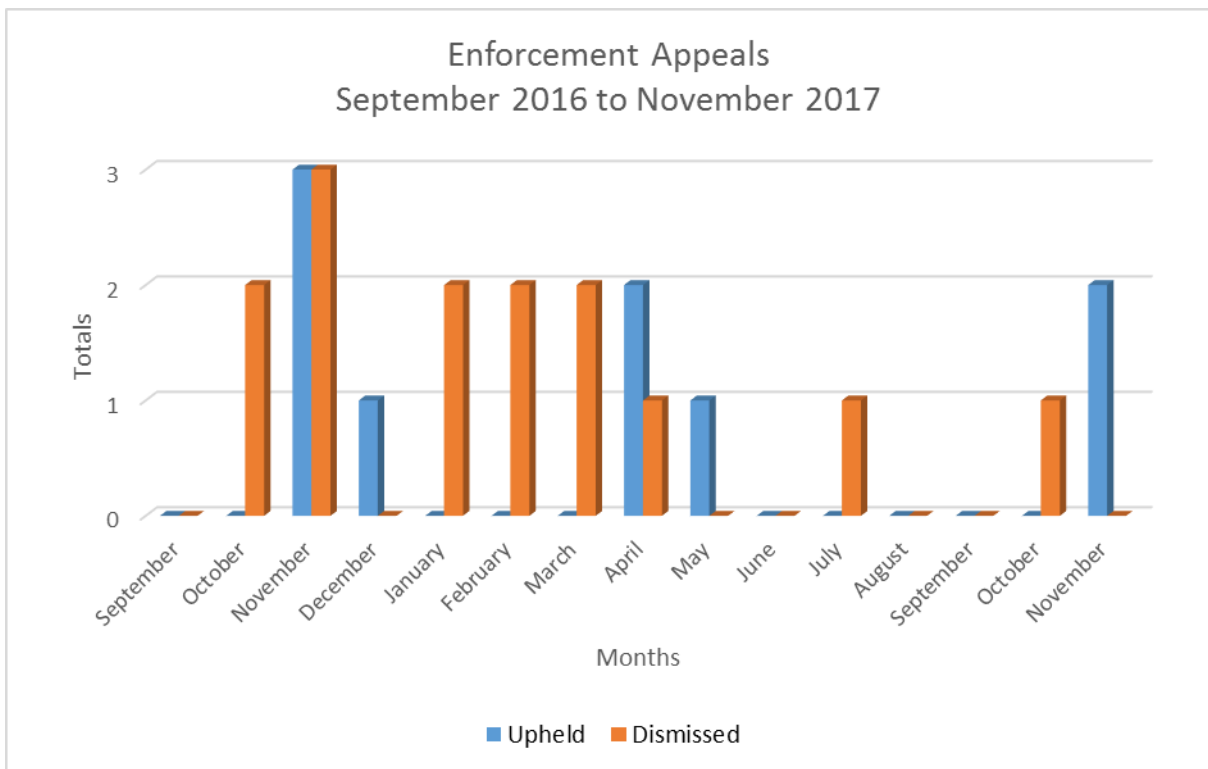
Key Findings

Overview

- 1.4 A total of 138 Planning Appeals in Hackney were determined between September 2016 and November 2017. Of these 91 (66%) were dismissed and 47 (34%) were upheld by the Planning Inspector. These figures demonstrate that the Council was successful in defending almost two thirds of planning appeals during this period.



A total of 23 appeals were made against enforcement notices issued by the Council between September 2016 and November 2017. Of these 14 (61%) were dismissed and 9 (39%) were upheld by the Planning Inspector. Like the results for planning appeals, this analysis also demonstrates that the Council has successfully defended the majority of appeals against enforcement notices over the past 15 months.



Policy Analysis

In examining planning appeal decisions for this 15 month period, the most frequently cited policies by the Inspectors were CS24 (Design), CS25 (Historical Environment), DM1 (High Quality Design), DM2 (Development and Amenity), and DM28 (Managing the Historic Environment).

For appeal decisions concerning enforcement notices, it is evident that CS24 (Design), DM1 (High Quality Design) and DM2 (Development and Amenity) were the policies most often cited by the planning inspectors.

These findings indicate that it is the more subjective policies which are more open to interpretation that are most often referred to in the inspectors' decisions. A more detailed policy analysis is contained in the accompanying Appeals Report included as Appendix 1.

Conclusion and Recommendations

The analysis shows that overall the Council is successful in defending the majority of appeal cases relating to planning decisions and enforcement notices issued by the Council.

In examining these appeal cases relating to both planning applications and enforcement notices, it is evident that the more subjective policies relating to design, particularly Core Strategy policy 24 (Design), DM1 (High Quality Design), DM2 (Design and Amenity) were the most often cited by Planning Inspectors when determining these cases. However, further analysis will be undertaken to determine whether these policies were often cited because they are more open to different interpretations or whether it is due to them being relevant to all developments.

It also evident that; where DM8 (Small and Independent Shops), DM22 (Homes of Different Size) and DM23 (Residential Conversions) have been cited by the Inspector in dismissing appeals cases, the same policies have not been cited by the Inspector in allowing these cases. Further work will undertake to analyse this relationship.

The Planning Service will continue to monitor the outcomes of planning appeal decisions going forward. This information will help the Council evaluate the effectiveness of the policies forming the Council's policy framework (the Core Strategy and Development Management Local Plan), in the decision making process and to help to ensure that the Council's new and revised planning policies being developed through the Local Plan review process will be usable, effective in terms of development control and can be successfully defended at Appeal.

APPENDIX 1: APPEALS ANALYSIS

**Analysis for Planning Appeals between
September 2016 and November 2017**

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Introduction

This report provides an analysis of planning appeal decisions and appeals on enforcement notices issued by the Council between September 2016 and November 2017.

The report examines the number of both Planning and Enforcement Appeals that were determined during this period, how many were upheld or dismissed and analyses the individual policies that were cited by Inspector when deciding appeal cases.

This information will help evaluate the effectiveness of the existing policy framework (the Core Strategy and Development Management Local Plan) in decision making and help inform both new and revised policies emerging in the new Local Plan (LP33).

1. Analysis for Planning Appeals between September 2016 and November 2017

1.1 Planning Appeals Dismissed or upheld between September 2016 and November 2017

Table 1 and Figure 1 below present the number of planning appeals that were decided each month between September 2016 and November 2017. Throughout the period between September 2016 and November 2017, the Inspectorate determined a total of 138 applications and out of these applications 91 (66%) were dismissed whereas 47 (34%) applications were upheld by the Inspector.

On average, 9 planning appeal cases were determined by the Planning Inspectorate every month. The highest number of planning appeals were determined in September 2016 (14 cases) and April 2017 (14 cases), however almost all of these appeal cases were dismissed (79% in September and 64% in April).

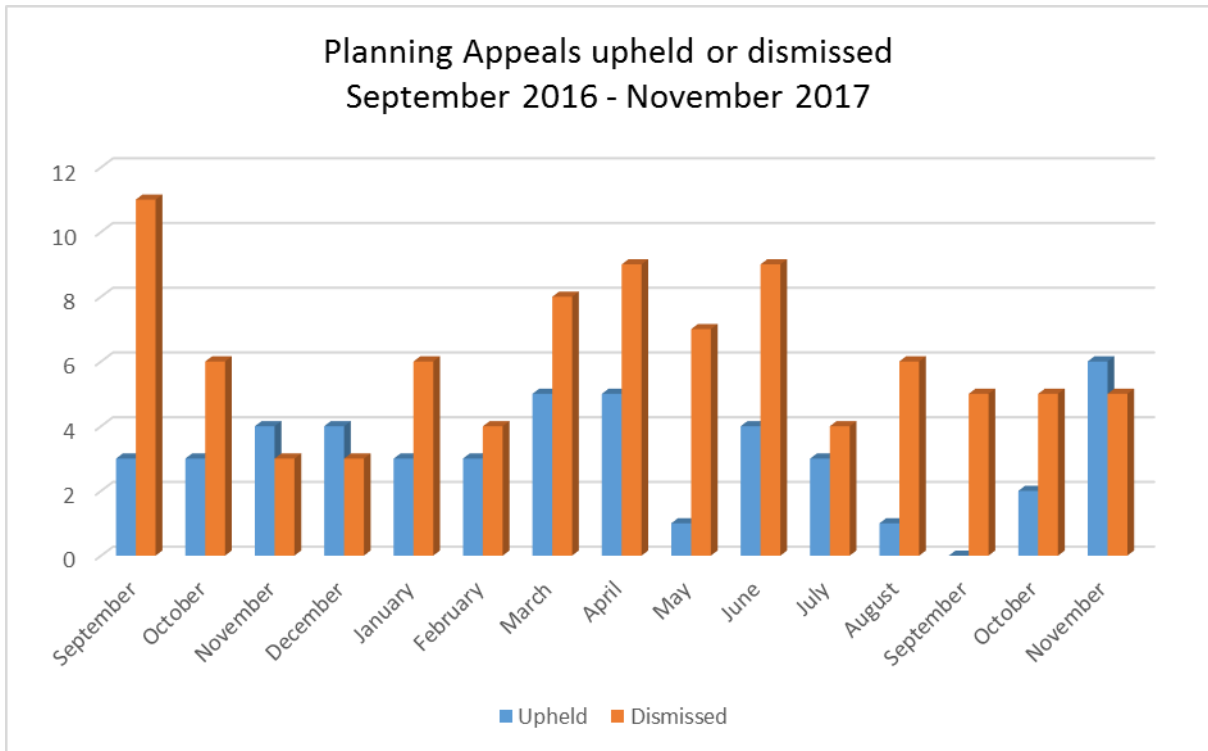
It is evident from the figures below outlined in Table 1 that the majority (66%) of the planning appeals determined by the Inspectorate were dismissed, indicating that overall the Council has been successful in defending planning appeals.

Table 1: Planning Appeals Dismissed or Upheld between September 2016 and November 2017

Planning Appeals Summary Analysis			
Month	Upheld	Dismissed	Total
September	3	11	14
October	3	6	9
November	4	3	7
December	4	3	7

January	3	6	9
February	3	4	7
March	5	8	13
April	5	9	14
May	1	7	8
June	4	9	13
July	3	4	7
August	1	6	7
September	0	5	5
October	2	5	7
November	6	5	11
Total	47	91	138
%	34	66	100%

Figure 1: Planning Appeals Dismissed or Upheld between September 2016 and November 2017



1.2 Policies cited by planning inspectors in Planning Appeal Decisions

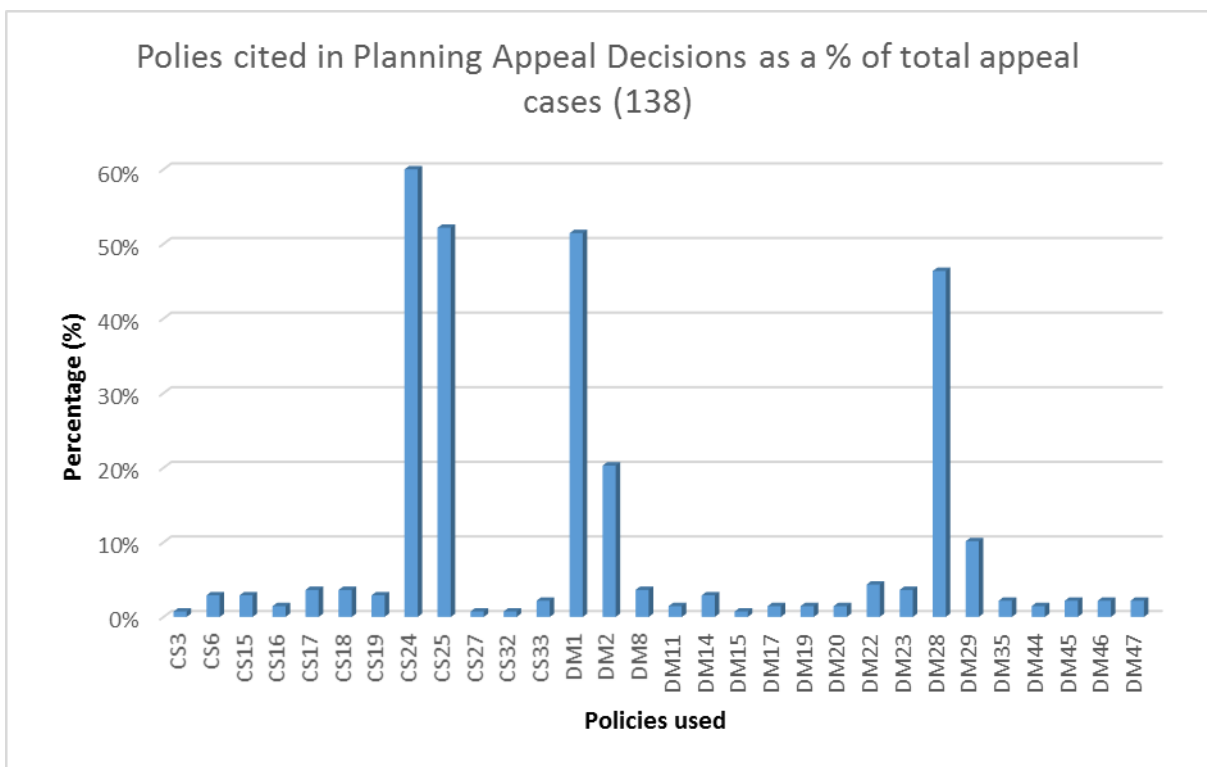
Table 2 and Figure 2 below examine the Hackney Core Strategy (2010) and the Development Management Local Plan (2015) policies cited by planning inspectors in all planning appeal decisions that were dismissed and upheld between September 2016 and November 2017. It is evident that CS24 (Design), CS25 (Historical Environment), DM1 (High Quality Design), DM2 (Development and Amenity), and DM28 (Managing the Historic Environment) were the most referred to by inspectors.

Table 2: Planning Policies cited by the Inspectors while dismissing or upholding Planning Appeals between September 2016 and November 2017

Planning Policies	Upheld Appeal Decisions	Dismissed Appeal Decisions	Totals (frequency Cited)
CS3	0	1	1
CS6	1	3	4
CS15	2	2	4
CS16	1	1	2
CS17	1	4	5
CS18	1	4	5
CS19	1	3	4
CS24	33	71	104
CS25	20	52	72
CS27	0	1	1
CS32	0	1	1
CS33	0	3	3
DM1	34	37	71
DM2	13	15	28
DM8	0	5	5
DM11	2	0	2
DM14	1	3	4
DM15	0	1	1

DM17	1	1	2
DM19	0	2	2
DM20	0	2	2
DM22	0	6	6
DM23	0	5	5
DM28	17	47	64
DM29	4	10	14
DM35	1	2	3
DM44	0	2	2
DM45	1	2	3
DM46	1	2	3
DM47	1	2	3

Figure 2: Planning Policies cited by inspectors in Planning Appeal Decisions between September 2016 and November 2017 (as a percentage of total appeal cases)



1.3 Policies referred to in Planning Appeal decisions dismissed by the Inspector

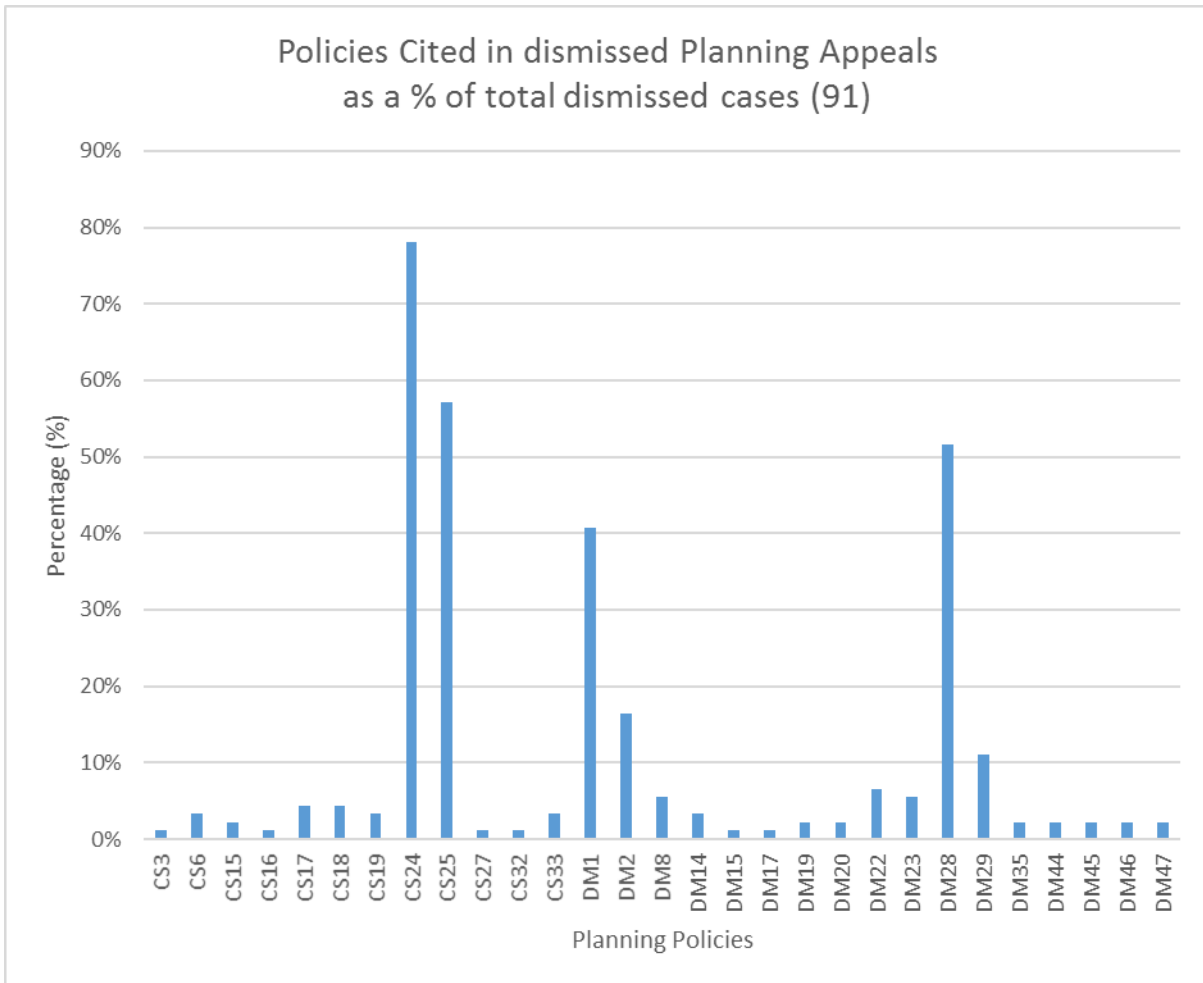
Table 3 and Figure 3 below presents Hackney Core Strategy (2010) and the Development Management Local Plan (2015) policies cited by the inspectors in dismissing planning appeals. Policies CS24 (Design), CS25 (Historical Environment), DM1 (High Quality Design), DM2 (Development and Amenity) and DM28 (Managing the Historic Environment) were the most often cited policies by the Inspectors. The focus of these policies is on securing high quality design, enhancing and protecting Hackney's built and historic environment and minimising potentially harmful impacts of development on amenity.

Table 3: Planning Policies cited by the Inspectors in dismissing Planning Appeals

Policies	Frequency Cited	As a % of total appeals dismissed (91)
CS3	1	1%
CS6	3	3%
CS15	2	2%
CS16	1	1%
CS17	4	4%
CS18	4	4%
CS19	3	3%
CS24	71	78%
CS25	52	57%
CS27	1	1%
CS32	1	1%
CS33	3	3%
DM1	37	41%
DM2	15	16%
DM8	5	5%
DM14	3	3%
DM15	1	1%
DM17	1	1%
DM19	2	2%

DM20	2	2%
DM22	6	7%
DM23	5	5%
DM28	47	52%
DM29	10	11%
DM35	2	2%
DM44	2	2%
DM45	2	2%
DM46	2	2%
DM47	2	2%

Figure 3: Policies Cited in Dismissing Planning Appeals (as a % of the total dismissed cases)



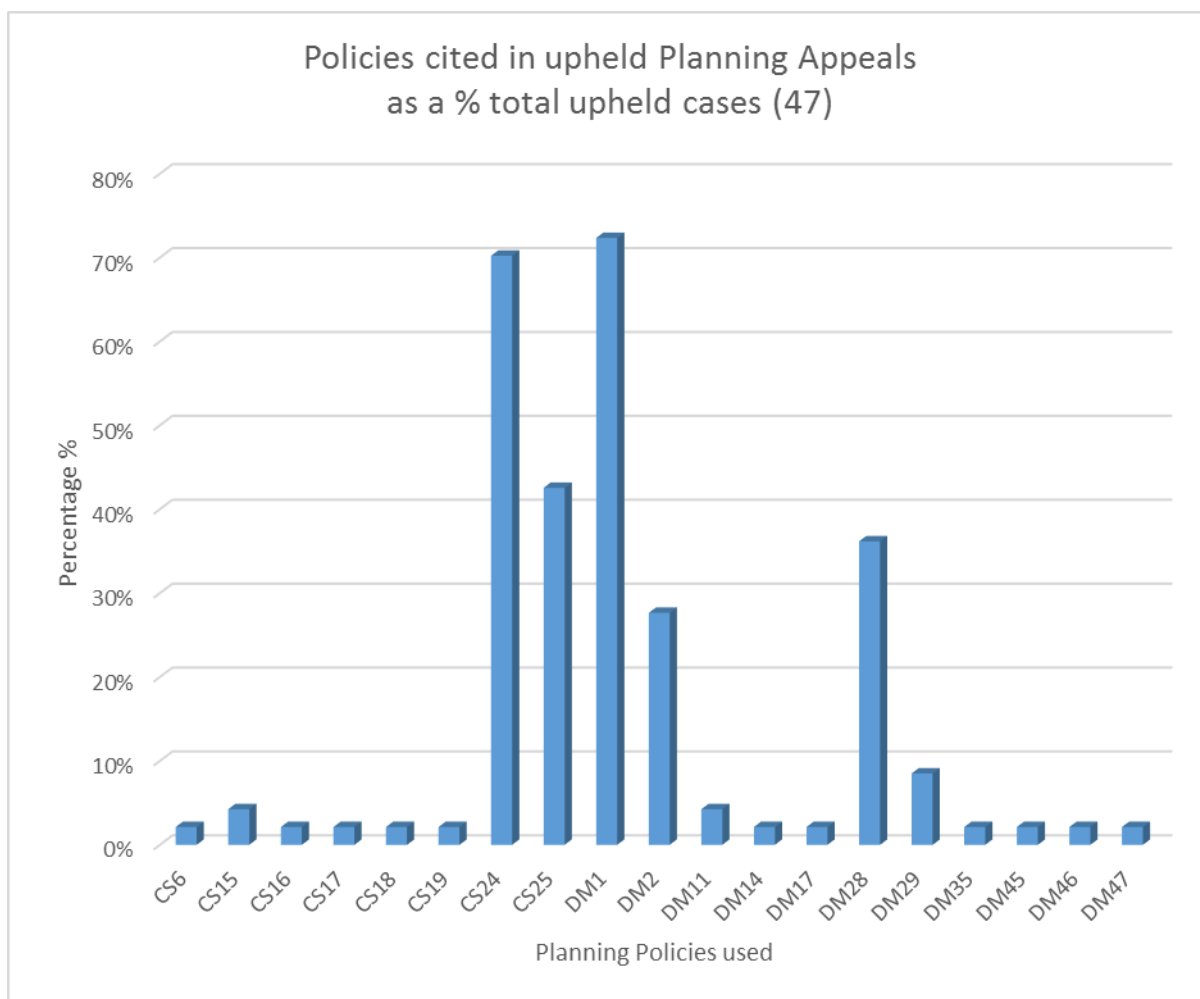
1.4 Planning Policies cited by the Inspectors while upholding Planning Appeals

Table 4 and Figure 4 below highlight the policies that were referred to by Planning Inspectors in their decision to uphold planning appeals and grant planning consent. As with decisions dismissed, Core Strategy policy CS24 (Design), CS25 (Historical Environment), DM1 (High Quality Design) and DM28 (Managing Historical Environment) were the most cited policies by the Inspectors.

Table 4: Planning Policies cited by the Inspectors in upholding Planning Appeals

Policies	Upheld	As a % of total appeals upheld (47)
CS6	1	2%
CS15	2	4%
CS16	1	2%
CS17	1	2%
CS18	1	2%
CS19	1	2%
CS24	33	70%
CS25	20	43%
DM1	34	72%
DM2	13	28%
DM11	2	4%
DM14	1	2%
DM17	1	2%
DM28	17	36%
DM29	4	9%
DM35	1	2%
DM45	1	2%
DM46	1	2%
DM47	1	2%

Figure 4: Planning Policies cited by the Inspectors while upholding Planning Appeals between September 2016 and November 2017 (as a % of total upheld cases – 47%)



1.5 Application of the Core Strategy and DMLP policies in the Inspectors' reports.

In all the planning appeals dismissed between September 2016 and November 2017, policies CS24, CS25, DM1, DM2 and DM28 were cited in the Inspector's reasoning for the decision with the main remark made being that the proposed developments conflict with London Borough of Hackney Core Strategy and DMLP policies mentioned above; however the application of and reference to these policies were specific to each individual planning appeal.

Take for example planning appeal reference: APP/U5360/W/17/3167063 on 346 Queensbridge Road, London, E8 3AR, while dismissing this appeal, the Inspector said that the development would not preserve the character and appearance of the Queensbridge Road Conservation Area or the setting of the Graham Road and Mapledene Conservation Area. Consequently, it would fail to comply with Policies CS24, CS25, DM1, DM2 and DM28. But while dismissing Planning Appeal APP/U5360/Y/16/3150818 on Former Skinners Company School for Girls, 117 Stamford Hill, London N16 5RS, the Inspector used similar policies but noted that the proposal would not preserve the listed building, but would be materially harmful to its special interest and setting and would conflict with CS24, CS25, DM1 & DM28.

In the same way, while deciding to uphold Planning Appeals, the Inspectors' general remark was that the proposals were in harmony with CS24, CS25, DM1, DM2 and DM28. Though the same policies were used in either cases, the Inspector sought relevancy in referring to each policies on case by case basis.

For example; while upholding the following appeal APP/U5360/W/17/3178672 on 96a-98a Curtain Road, the Inspector said that the proposal would not harm the character and appearance of the existing building, those adjacent to it or the South Shoreditch Conservation Area (SSCA). Further, that as the proposal would not cause harm, it would preserve the SSCA and would accord with CS24, CS25, DM1 & DM28. But in upholding Planning Appeal: APP/U5360/W/17/3176875 on 1-21 Kingsland Green, London, E8 2JZ, the Inspector remarked that the proposed additions would have a neutral effect on the character, appearance and setting of the Conservation Area and so would preserve it. Therefore the proposal would not conflict with policies CS24, CS25, DM1, DM2 & DM28.

2. Analysis of Appeals on Enforcement Notices between September 2016 and November 2017

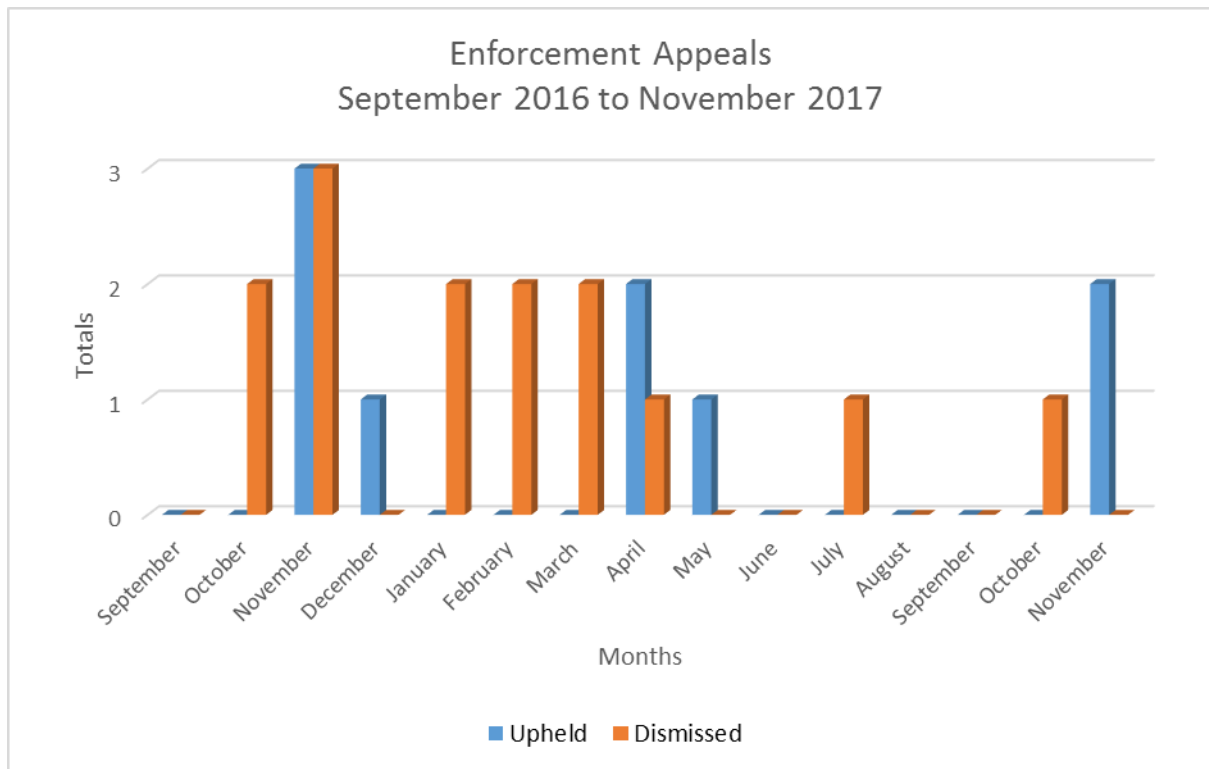
2.1 Appeals on Enforcement Notices between September 2016 and November 2017

Table 5 and Figure 5 below present the number of appeals to enforcement notices that were dismissed or upheld each month between September 2016 and November 2017. During this period, the Inspectorate determined 23 enforcement appeals altogether, 14 were dismissed and 9 were upheld by the relevant Inspectors.

Table 5: Appeals decisions on Enforcement Notices that were Dismissed or Upheld between September 2016 and November 2017

Enforcement Appeals Summary Analysis: Sep. 2016 - Nov. 2017			
Month	Upheld	Dismissed	Total
September	0	0	0
October	0	2	2
November	3	3	6
December	1	0	1
January	0	2	2
February	0	2	2
March	0	2	2
April	2	1	3
May	1	0	1
June	0	0	0
July	0	1	1
August	0	0	0
September	0	0	0
October	0	1	1
November	2	0	2
Total	9	14	23
%	39	61	100%

Figure 5: Appeals to Enforcement Notices that were dismissed or upheld between September 2016 and November 2017



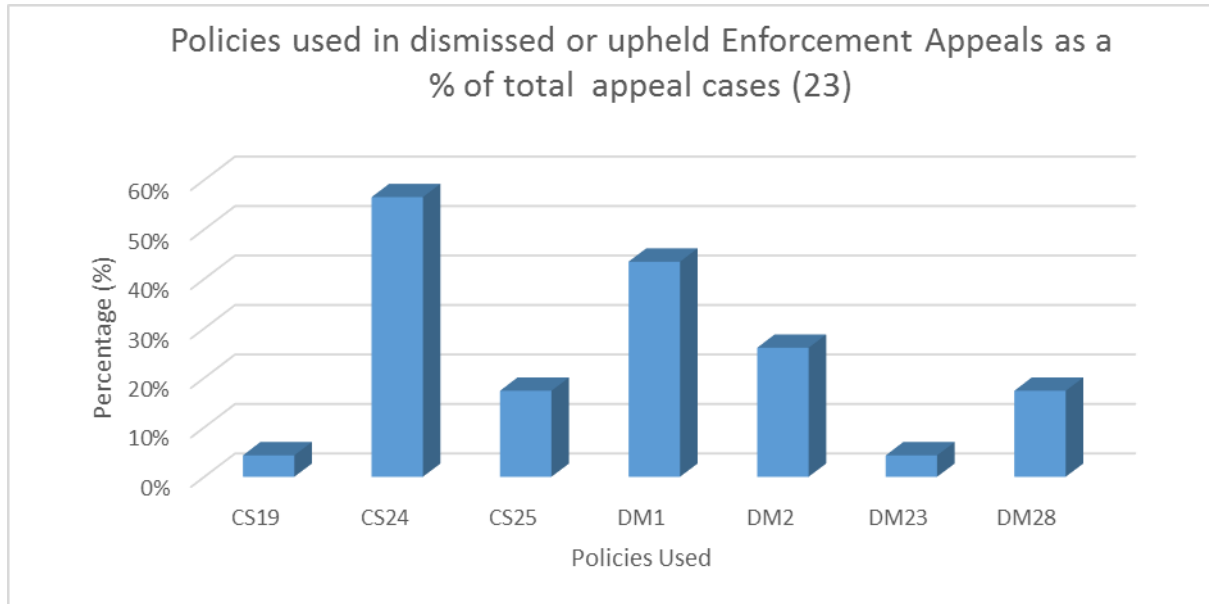
2.2 Policies Cited in Enforcement Notice Appeal Decisions

Table 6 and Figure 6 below examine the number of times each policy was referred to in the Inspector’s report for both upheld and dismissed enforcement appeals. It is evident that CS24 (Design), DM1 (High Quality Design) and DM2 (Development and Amenity) were the policies most referred to by the Inspector.

Table 6: Policies referred to by the inspectors while dismissing or upholding Enforcement Notice Appeals between September 2016 and November 2017

Planning Policies	Upheld Appeal decisions	Dismissed appeal decisions	Totals (frequency cited)
CS19	0	1	1
CS24	5	8	13
CS25	0	4	4
DM1	2	8	10
DM2	1	5	6
DM23	1	0	1
DM28	0	4	4

Figure 6: Policies referred to by the Inspectors while dismissing or upholding Appeals on Enforcement Notices between September 2016 and November 2017 (as a % of total appeal cases)



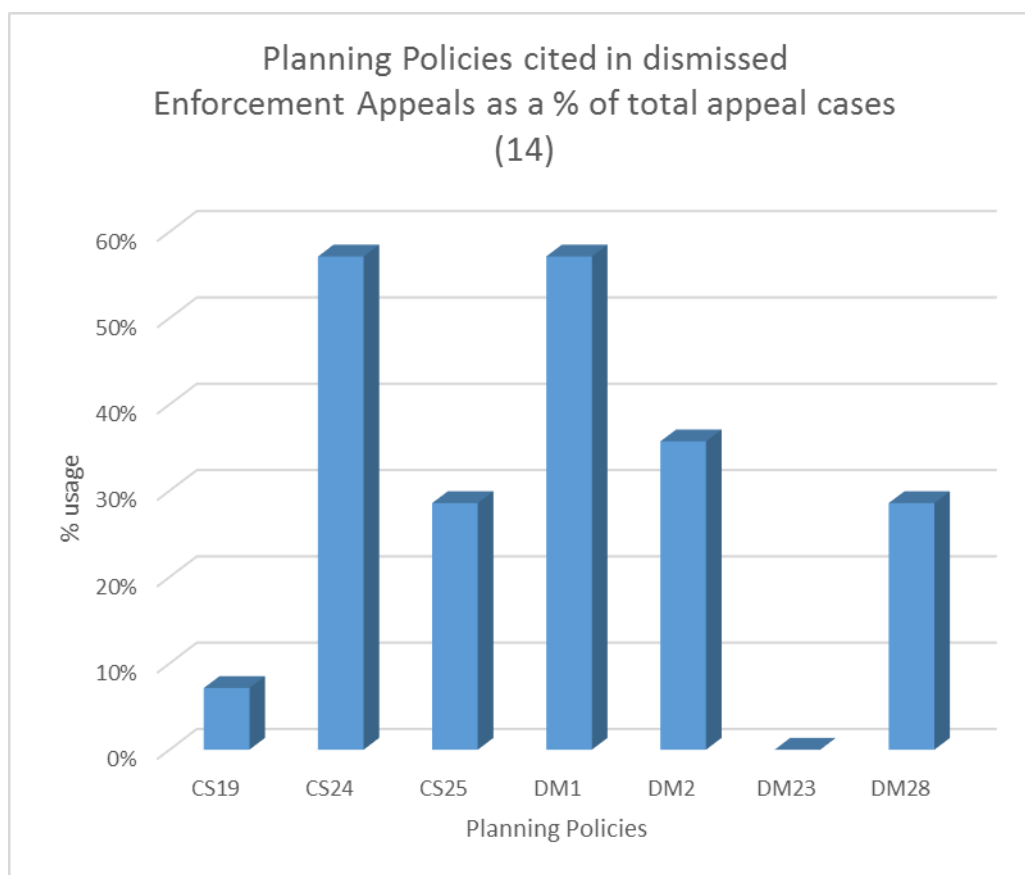
2.3 Policies cited in dismissing appeals on Enforcement Notices

Table 7 and Figure 7 below presents Hackney Core Strategy (2010) and the Development Management Local Plan (2015) policies used by the inspectors in their decisions while dismissing Enforcement Appeals. Policies CS24 (Design), DM1 (high quality design) and DM2 (Development and amenity) were the most often cited policies by the Inspector.

Table 7: Planning Policies cited by the Inspectors while dismissing Enforcement Notice Appeals

Policies	Frequency cited	As a % total appeals dismissed (14)
CS19	1	7%
CS24	8	57%
CS25	4	29%
DM1	8	57%
DM2	5	36%
DM23	0	0%
DM28	4	29%

Figure 7: Planning Policies cited by the Inspectors while dismissing Appeals on Enforcement Notices (as a % of total cases dismissed)



2.4 Policies cited in upholding Appeals on Enforcement Notices

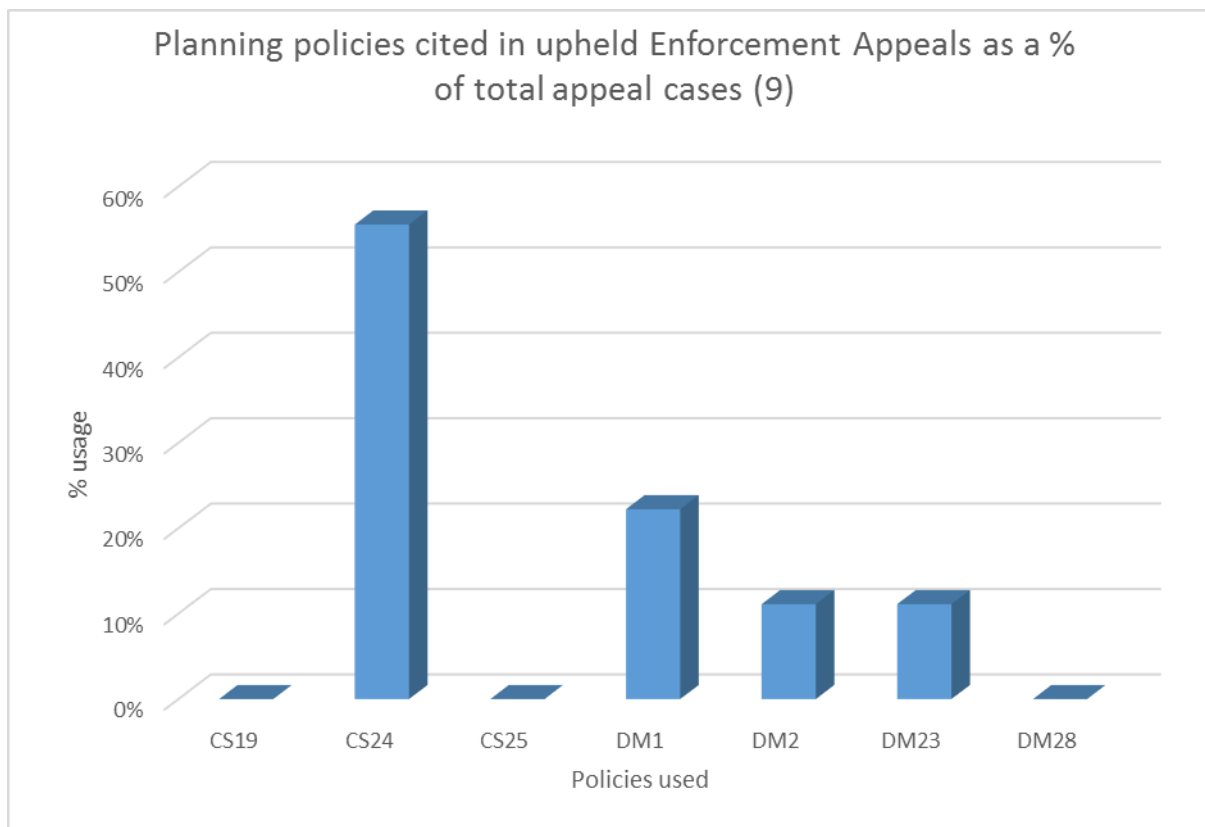
Table 8 and Figure 8 below highlight the policies that were referred to by the Inspectors while upholding enforcement appeals. As with cases that were dismissed, Core Strategy Policies CS24 (Design) and Development Management Local Plan policies DM1 (High quality design) were also the most cited by the Inspectors in their decisions.

Table 8: Planning Policies referred to by the Inspectors while upholding Appeals on Enforcement Notices

Policies	Frequency cited	As a % total appeals upheld (9)
CS19	0	0%
CS24	5	56%
CS25	0	0%
DM1	2	22%

DM2	1	11%
DM23	1	11%
DM28	0	0%

Figure 8: Planning Policies referred to by the Inspectors while upholding appeals on Enforcement Notices (as a % of total cases upheld)



Conclusion and Recommendations:

The analysis shows that overall the Council is successful in defending the majority of appeal cases relating to planning decisions and also enforcement notices issued by the Council between September 2016 and November 2017.

In examining these appeal cases relating to both planning applications and enforcement notices, it is evident that policies relating to design, particularly Core Strategy policy 24 (Design), DM1 (High Quality Design), DM2 (Design and Amenity) were the most often cited by Planning Inspectors when determining these cases. However, further analysis will be undertaken to determine whether these policies were often cited because they are more open to different interpretations or whether it is due to them being relevant to all developments.

It also evident that; where DM8 (Small and Independent Shops), DM22 (Homes of Different Size) and DM23 (Residential Conversions) have been cited by the Inspector in dismissing appeals cases, the same policies have not been cited by the Inspector in allowing these cases. Further work will undertake to analyse this relationship.

The Planning Service will continue to monitor the outcomes of planning appeal decisions going forward. This information will help the Council evaluate the effectiveness of the policies forming the Council's policy framework (the Core Strategy and Development Management Local Plan), in the decision making process and to help to ensure that the Council's new and revised planning policies being developed through the Local Plan review process will be usable, effective in terms of development control and can be successfully defended at Appeal.

The new Local Plan (LP33), Stamford Hill Area Action Plan and Future Shoreditch Area Action Plan will be informed by a borough wide Characterisation Study which examines the character of neighbourhoods and buildings in the Borough. This study forms part of the evidence base for developing more specific design and development policies/ guidance and facilitate appropriate context based development proposals. This study along with the Conservation Area Review working being undertaken by CUDAS will assist officers in their interpretation of design policies in the new Local Plan, the two Area Action Plans.