

Councils three times more likely to successfully defend design refusals

26 April 2022 by Chris Caulfield in PlanningResource

Research shows councils that refused planning applications on grounds of bad design are being backed by changes in 2021 to the National Planning Policy Framework that aimed at giving greater weight to good design.

The report, [Appealing Design, the evidence of planning appeals and the need to reject poor and mediocre housing design](#), was researched and written by Matthew Carmona and Valentina Giordano of the Bartlett School of Planning, at University College London. It cited previous research that indicated a growing reluctance among local planning authorities to refuse poorly designed developments partly due to a perception that this would lead to costly challenges overturning their decisions at appeal.

But, researchers say, evidence suggests changes to the National Planning Policy Framework (NPPF) in July 2021 *[see summary at the end of this article]* shows this fear is unfounded, because planning inspectors are now viewing design as a key consideration when making their decisions.

The report draws on recent planning appeal data from either side of the NPPF revision on 20 July 2021, which stated that “development that is not well designed should be refused”. The research paper studied a “representative sample” of 32 design-related appeals involving major planning applications that were considered on either side of the policy change coming into effect. Twelve of the appeals were considered in the five months before and 20 in the seven months immediately after.

The analysis of cases from before the NPPF change found that appeal decisions supported “anecdotal evidence” that design quality was sometimes prioritised by planning inspectors, “while elsewhere it was considered expendable”. This led to many planning authorities, the report said, understandably “reluctant to reject developments on design grounds”.

When the authors then looked at the 20 appeals considered after the NPPF change, they said it became “apparent that a marked shift in the likelihood of local authorities successfully defending design-based appeals” had taken place. They said this shift is not only clearly apparent in the outcomes, but also in the arguments used by inspectors who regularly referenced the changed NPPF position, as well as guidance in both the National Design Guide and National Model Design Code.

Statistically the odds in favour of local planning authorities winning cases on design grounds have shifted from 5:7 (against) to 13:7 (in favour), the study found.

The report says “In other words, previously there were more losses than wins for local authorities, and now there are close to two times more wins than losses.” When that data is extrapolated to take account of the shorter period covered after the NPPF change - five months rather than seven - the authors say the “success rate for local planning authorities at design related appeals is three times better than before” and “significantly ahead of the national average when the focus is on design”.

Carmona said: “The research clearly demonstrates a sea change in how design related planning appeals are being dealt with by the Planning Inspectorate. This should embolden local planning authorities around the country to demand better design and to simply reject schemes when they do not match those high expectations.”

The report’s foreword states: “On the evidence presented in *Appealing Design*, it is time for all local planning authorities to demand better.

However, the report did caution that there were still regional discrepancies in the reviewed data.

Of the sample of 32 appeals, 26 were in London or the South East, with three in the midlands, three in the north and none in the South West. The document states: "While the numbers of major housing developments nationally are heavily weighted to the South East, this degree of skew in the appeals data seems to reflect a particular reluctance to challenge design outside of London and the Southeast."

Carmona said this imbalance indicated that authorities in London and the South East were more inclined to refuse permission on design grounds, with their stronger financial positions making them more willing to fight appeal challenges.

The report added that this "demonstrated poorer design outcomes outside of these regions and wider reports that planning in these regions has suffered from particularly deep funding and associated service cuts".

The research was supported and endorsed by the Royal Town Planning Institute (RTPI) and the Urban Design Group. Richard Blyth, head of policy at the RTPI, said: "We're pleased to see the Planning Inspectorate backing local authorities in England who refuse applications on the grounds of poor design. This should be an encouragement to local planning authorities across the country."

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Design changes introduced in the July 2021 version of the NPPF

Measures to improve design quality, including a new requirement for councils to produce local design codes or guides

Among the key changes to the NPPF are updated policies aiming to improve the design of new developments, in response to the findings of the government's Building Better, Building Beautiful Commission.

These include:

- changes to the overarching social objective of the planning system (paragraph 8b) to include the fostering of "well-designed, beautiful and safe places". The old version had merely required "a well-designed and safe built environment".
- introducing a new test that development should be well-designed (paragraph 133). This says that "development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes".
- the test goes on to say that "significant weight" should be given to "development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes". Significant weight should also be given to "outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area", the new paragraph 133 says.
- the new paragraph 128 states that in order to "provide maximum clarity about design expectations at an early stage", all local planning authorities "should prepare design guides or codes consistent with the principles set out in the National Design Guide and National Model Design Code, and which reflect local character and design preferences".