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A Difference of Opinion?

Assessing the legitimacy of officer recommendations and member decisions.

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Signature:

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Some elements of this work, principally sections 2.2, 2.3 and 4.4.3, may bare some resemblance to other work and the dissertation proposal submitted by the author in fulfilling the requirements of their degree programme at UCL. For the purposes of plagiarism checks, this is the author's own work and any potential replication of this is duly noted and permitted.

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Glossary

Acronyms

BBC – Brentwood Borough Council

CPBC – Castle Point Borough Council

DCC – Development Control Committee

DCLG – Department for Communities and Local Government

EFDC – Epping Forest District Council

FOI – Freedom of Information

HDC – Harlow District Council

LA – Local Authority

LGA – Local Government Association

LPA – Local Planning Authority

MHCLG – Ministry of Housing, Communities and Local Government

PAS – Planning Advisory Service

PINs – Planning Inspectorate

TDC – Tendring District Council

UDC – Uttlesford District Council

Abstract

The paper explores defining legitimacy in the context of the complexities of decision-making in the English planning system, reviewing existing literature on the influences and implications of politics of planning, existing and future monitoring of decision-making as well as examining the relationship between officers and local politicians (members). It is evident from the available literature that few studies have been undertaken in assessing the legitimacy of decision-making of Development Control Committees (DCC) and it is this paucity of information which the research hopes to contribute to. In assessing the legitimacy of decision-making at DCC, a methodology is formulated to determine the legitimacy of decision-making at Local Planning Authorities (LPAs) in Essex, utilising application and appeal outcomes. The broad findings of the aggregate data analyses *inter alia* demonstrate that members are less likely to make legitimate decisions. In-depth case-study analyses carried out for six LPAs provides an increased understanding of the findings, highlighting the implications of the perceived lack of transparency, probity and trust, and the potential impacts on first and third parties involved in the planning system. Potential solutions to resolve the implications of the trends observed in data are offered through improving member-officer relationships, improving member and officer training as well the merits of implementing a third-party right of appeal (TPRA) to secure/restore transparency, probity and trust in the planning system, ultimately improving the legitimacy of decision-making.

1 Introduction

1.1 Context

Undeterred by the increasing influence of central government on planning policy and outcomes in the 90s and 00s, the UK planning system remains primarily a discretionary process whereby Local Planning Authorities' (LPAs) scope of governance is informed and contained within the boundaries expounded by the synthesis of state guidance, legislation and case law in a system of discretionary judgement (Sheppard, et al., 2017; Airey & Doughty, 2020). Such a system allows for discretion on a case-by-case basis, adaptation to changing circumstances and the consideration of other relevant material interests as opposed to the strictures that may be imposed by an inflexible and unreflexive regulatory system (Sheppard, et al., 2017; Westcott, 2019).

Leading sociological theorist Max Weber opined a formal, transparent, fact-based rationality, where planners seek to achieve an identified end through rational consideration, systematic analysis and objective evaluation of the facts, with the technical knowledge of officers securing the legitimacy of decisions (Darke, 1985; Wood & Becker, 2005). The formal rationality opined by Weber and use of discretionary judgement as a decision-making tool can be queried, as the justification behind and legitimacy of decisions taken under a framework that is not set in stone are open to critique (Kennedy, 2004).

There will always be winners and losers when it comes to the outcomes of planning applications (Gill, 2005). This is often never more prevalent than with large or contentious applications which are likely to be presented to a Development Control Committee (DCC) for consideration rather than being determined under schemes of delegated authority (Trevor Roberts Associates, 2013; DCLG, 2015). Section 38 of the Planning and Compulsory Purchase Act 2004 outlines that unless there are clear material considerations justifying otherwise, decisions should be taken in accordance with the adopted development plan (MHCLG, 2019a). Officers seek to make such judgements in an apolitical fashion, based on a professional grounding of experience, knowledge and skill. Such officer recommendations only form part of the considerations when members determine applications as they take into account potentially differing opinions and political allegiances, with the prerogative to apply alternative weighting to material considerations (Tewdwr-Jones, 1995). However, they should provide robust reasoning if a decision is considered to be contrary to the development plan.

The question of legitimacy enters the analytical frame when it is considered to be or is in actuality missing or deficient (Zhenglai & Guo, 2011). The potential for differences of opinion and the conflict that can arise between professionals and politicians can question the legitimacy of decision-making in the more balanced approach to planning that has been opined in the years following the Thatcherite market-dominance period of the 1980s (Healey, 1992; Tewdwr-Jones, 1999).

In a system of governance where stakeholders can stand to make significant gains or losses, differences between officer recommendations and member decisions can lead to the questioning of the legitimacy of such decision-making. Who is right or wrong? Or is such a black and white distinction inappropriate, where the truth is more nuanced and subtle?

1.2 Defining Legitimacy

Legitimacy

Etymology | *legitimus* | Latin

(*n.*) Conformity to the law, to rules; sanctioned or authorised by law of right principles; lawful; proper.

(Oxford English Dictionary, 2020a; 2020b)

Before delving into the complexities and nuances of the English planning process, it is of utmost concern that the use of the term 'legitimate' be correctly defined and understood.

Peters (2017) considered that political legitimacy represents permissible exercising of coercive power by the state. Hershovitz (2003) contended that the essence of democratic legitimacy is the outcome of either the intrinsic implementation of procedures or the tendency for procedures to produce specific outcomes, summarising that legitimacy is both procedural and non-procedural. This understanding conforms to sociologist Max Weber's 'rational-legal' skew which considers legitimacy to be a derivation of impersonal and profane institutional state involvement, to enforce the law in the public interest (Bunzel, 2007; Guzmán, 2018). Dahl (1973) considered legitimacy and the right

to govern to be a metaphorical reservoir: provided the levels are sufficient, it can be maintained, but if the levels fall excessively there is a risk that all will be lost.

Decrypting the political science explanation, the legitimacy in decision-making, not just in planning, is the adherence to a procedure to uphold the law in the public's best interests.

Defining legitimacy in the context of planning decision-making more specifically relates to the process of determining planning applications, taking into account all material planning considerations and policies whilst applying appropriate weight to arrive at the correct and lawful outcome. Such decisions and outcomes are often subjective and due to the probability of the outcome generating both winners and losers are often debated and questioned (Gilg, 2005).

1.3 Research objectives

This thesis undertakes a review of pertinent literature examining the planning process, political aspects of planning, existing and future monitoring of decision-making as well as reflecting on the relationships between officers and members, to inform discussions on the legitimacy of decision-making. Following this the outcomes of officer recommendations and councillor decision-making at DCC are explored to analyse the legitimacy and therefore soundness of such decisions in accordance with the planning framework (MHCLG, 2019a; 2019b) to address the following research objectives:

1. To devise a suitable methodology to assess and analyse the legitimacy of planning decisions at DCC
2. To examine the legitimacy of officer recommendations to members
3. To examine the legitimacy of member decision-making
4. To expand on the analysis of decision-making legitimacy in order to identify possible solutions to improve the legitimacy of decision-making

An appropriate methodology will be established to assess the legitimacy of officer and member decisions before utilising several case studies to illustrate and provide further insight into the minutiae of decision-making. This will be followed by a discussion of the implications observed of decision-making legitimacy or potential lack thereof before offering potential solutions and concluding thoughts regarding the legitimacy of decision-making in planning.

2 Literature Review

2.1 The English planning system

English planning is a governance system characterised by two halves – plan-making, and development management and control. Local Authorities (LAs) must adopt a local plan which sets out the long term development strategy of the area, reconciling the interests of all stakeholders in the plan (CPRE, 2020). Figure 1 demonstrates the conflicts within planning, which a local plan seeks to address, striking an acceptable balance between the development, property and resource conflicts to fit within the centre and promote 'sustainable' development.

Local plans are usually drawn up by policy professionals for an area involving consultations to garner the opinions of the public and stakeholders within the borough. Local politicians are heavily involved throughout the conception of the plan which must achieve a majority before it can be submitted for examination (LGA, 2020). This results in local politicians having a firm hold over the content of any plan. Once submitted for examination, an Inspector from The Planning Inspectorate (PINs) carries out an independent examination. This examination scrutinises the soundness of the plan against four criteria ensuring it has been positively prepared, its contents are justified and effective, and that it is consistent with national policy (MHCLG, 2019b). The utilisation of national guidance from Whitehall demonstrably shows the planning system as a central construct of the state which currently favours a neoliberal market-led approach to regulation (MHCLG, 2019b; Tait, et al., 2020). Following the assessment a report detailing whether or not an LA should adopt a plan is authored and it is not uncommon for the inspector to recommend some changes are made prior to adoption (MHCLG, 2020). If adopted, S38 of the Planning and Compulsory Purchase Act 2004 (2018) outlines that decisions should be taken in accordance with the development plan unless substantive material considerations justify otherwise. However, interpretations of what constitutes a material consideration are oft nebulous and open for debate.

The English planning system is unique insofar that there is a high level of involvement within the system by stakeholders, particularly politicians. Examining the fields of law or environmental legislation demonstrates that typically, new legislation is informed by professionals before a debate and being voted upon by a central state body, followed by professionals enforcing adherence to this legislation with limited further involvement, if any, from politicians (Farber, 1992). The closest the

English planning system has to this is perhaps the General Permitted Development Order (2015)(GPDO) in which MHCLG defines set criteria of what can and cannot be done without obtaining express planning consent. The GPDO can conflict with the local plan led system due to its separation, resulting in developments which might be permitted under the GPDO but which are not considered acceptable otherwise (Fullbrook, 2020). Recent changes to the GPDO allowing a wider range of permitted developments will likely further exacerbate the contrasts between the two systems (Woodfield, 2020).

In the plan-led system the majority of applications are determined by professional officers akin to similar actors in law and environmental legislation, in line with current guidance, granting or refusing consent accordingly (DCLG, 2015). However, atypically it would seem, further involvement from politicians is present in the form of DCCs. This allows politicians to 'call-in' applications (LGA & PAS, 2013) to discuss and determine whether they consider the applications to be in line with adopted guidance, permitting a second 'crack of the whip' in influencing development.

It would appear that there is a double-duality in the English planning system and levels of state control not observable in other systems of governance insofar that stakeholders can influence the creation of the local plan and then again are afforded the opportunity to influence the outcome of an application in 'accordance' with said plan through lobbying of politicians, as well as there being both the plan-led and GPDO systems (Airey & Doughty, 2020). These multiple routes and facets of the planning system can be conflicting in nature and discernibly add additional layers of complexity, bureaucracy and ethical considerations (Tait, et al., 2020), but which ultimately illustrates the ostensibly political nature of planning.

2.2 The politics of planning

Planning at all levels is an inherently political process, be it national policy voted on by members of parliament or local policy and planning applications by local politicians (Michael, 1968; Bishop & Williams, 2016). Professionals aid the production of policy and determination of planning consents throughout the system. Both parties are under pressure during plan- and decision-making, being influenced by external actors seeking to ensure outcomes suit their own developmental stances as the requirement for decisions to accord with the provisions of local and national policy persists, focusing attention on decisions that do not (Tewdwr-Jones, 1999). The opportunity for idiosyncratic

decisions has been reduced since the introduction of the Planning and Compensation Act 1991 through the 'presumption in favour of development which accords with the development plan'. This replaced previous regulations which suggested 'They [development plans] should not be regarded as overriding other material considerations' (Tewdwr-Jones, 1994).

Under schemes of delegated authority where the majority of planning applications are determined by officers rather than local politicians (DCLG, 2015), there are two potential outcomes; refusal or approval, ignoring split decisions and non-determination. Refusals can be appealed by the first-party and the legitimacy of such a decision ratified by PINs. Approvals however cannot in the ordinary sense outside of judicial reviews be appealed (The Planning Inspectorate, 2020) and so third-parties opposed to developments granted consent may question the legitimacy of such decisions. Far more scrutiny of decisions may be had when considering conflicting officer recommendations and member decisions. Such conflicting values may probe the legitimacy of such decisions, especially when applications put before DCC are more likely to be larger or more contentious in nature with greater levels of public interest (Trevor Roberts Associates, 2013; DCLG, 2015).

The majority of both academic literature and government monitoring of the planning system to date has focused largely in the effectiveness and efficiency of the planning system through performance monitoring reports (Audit Commission, 1992; Tewdwr-Jones, 1995). Such assessments primarily focus on policy and organisational contexts paying little attention to the roles and influence of key actors in the decision-making process. Tewdwr-Jones (1995) examines the development control process whilst paying close attention to professional officers and local politicians (councillors/members) and scrutinises the relationship between officers and members in light of then recent investigations into alleged cases of decision-making malpractice (Wainwright, 2002; Cream Teas and Concrete, 1991; Nolan, 1995). Such accusations of malpractice still permeate the public perception of the planning service to date, with modern technology, analogous with the easier transmission of potentially unsubstantiated accusations of poor decision-making, occurring much more rapidly whilst reaching a wider audience (Berrington, 1995; Lewandowsky, et al., 2012). It seems a natural response to these accusations that the legitimacy of decision-making and those making those decisions be questioned where officer advice and the outcome differs (RTPI, 1989). Tewdwr-Jones (1995) examined the potential for differing value judgements and material considerations' weighting in the process. Tewdwr-Jones identified such differences in judgements as

a key factor influencing the relationship between officers and members as each party questions the other's decision-making legitimacy.

There are arguments that the decision-making process should be depoliticised where a development is in accordance with the plan voted upon as part of a democratic process in a legislative system (Felli, 2015; Diamond, 2016). In undertaking an assessment of a planning application, a comparison process occurs which forms the material considerations. The weight each consideration is given and how this relates to the outcome is a matter of keen insight and analysis (Purdue, 1989; Layfield, 1990). Of primary concern to establishing the legitimacy of decisions is questioning the weight attached by the actor (Moore & Purdue, 2012; Sheppard, et al., 2017). In undertaking many comparisons, it is reasonable to expect that officers may themselves feel best placed to make such judgement calls as opposed to members who are less likely to be abreast of current best practices. Indeed, in determining the majority of planning applications, officers are able to ensure a more consistent approach to decision-making within an LA due to the sheer volume of applications opposed to the lower volume (10%) determined by members (DCLG, 2015). As such, the impact of lobbying or politics should have a nil or negligible impact upon officers' weighting of material considerations (RTPI, 2017).

Questioning whether the determination of applications is in accordance with the development plan will largely be dependent on both the actors' political outlook and their experiences with the planning system (Gatenby & Williams, 1992; Tewdwr-Jones, 2002). Staunch supporters of democratic procedure may argue that the planning system is politically driven and political involvement is a necessity to ensure fair and just decisions (Lichfield, 1996; Tewdwr-Jones, 2002). Others may question the rationale behind members' decision-making were they to contradict the 'expert' opinion when members may lack relevant training and knowledge. Arguments have also been put forward that decision-making is governed by political cycles and vocal actors rather than by adherence to policy, due process and public perception of members (Airey & Doughty, 2020).

Officers and members are entitled to make such different decisions through alternate weighting of material considerations. The British courts have concluded that provided there is clear justification, then the weight applied to the decision is legally not challengeable (Moore, 1991; Purdue, 1994).

2.3 Planning and the public interest

It is important to note that whilst the field of planning represents a regulatory framework ultimately decisions are or should be being taken in the best interests of the public (Alexander, 2002). There are many conflicting discourses regarding theories of public interest which seek to shape its meaning and by doing so to predicate its function which has been hampered by its 'ambiguous' nature (Johnston, 2016, p. 3). Adopting a utilitarian stance, Campbell and Marshall offer a consensus of both the issues that face planning and also what planning regulation and those actors who work within it should be seeking to achieve through legitimate decision-making:

"Modernist planning emerged as a state activity precisely because of recognition that there are important goods which are manifestly in everyone's interest... but in no ones interest to provide" (Campbell & Marshall, 2002, p. 182).

Regulation within theories of public interest is assumed to benefit society as a whole as opposed to individuals or groups with vested interest through rational deliberation and governance (Deegan & Unerman, 2011). This applies directly to the legitimacy of decision-making whereby the regulatory framework is there to ensure development on balance benefits rather than disbenefits society. However, critiques of such approaches claim frameworks can be exploited and ensconced to further interested parties' agendas (Stigler, 1971; Posner, 1972; 1974), leading to the potential proliferation of idiosyncratic decision-making. Critics also question how and who is best suited to determine the 'best interest' as decision framing, based on individuals' political, environmental, social and economic considerations, will differ from stakeholder to stakeholder (Rein & Schön, 1993; 1996).

Officers, whilst assumed to be representing the public interest through assuring compliance to frameworks of governance designed to benefit society, may be seen as overly technocratic and bureaucratic in a system with little room for flexibility in their decision-making (Ricketts & Field, 2012; Airey & Doughty, 2020; Donnelly, 2020). However, it may be viewed that members have the ability to account for broader variables and public attitudes, applying differing weight to account for such actions. However, whose interests officers and members are acting in is often difficult to attain and obfuscated behind a veil of planning policy, appeals and case law which can be offered to support or refute decision-making.

2.4 Existing monitoring of decision-making

In order to best serve the public interest, it is of utmost importance that legitimate decision-making that concurs with current regulations takes place. Monitoring decision-making and in particular decision-making at DCC, where there is the potential for alternate weighting to be applied resulting in deviation from adopted policy, is therefore very important as such decisions can have far reaching effects. With DCC decision-making being more publicly visible it, in particular, can alter the public perception of planning (Association of Democratic Services Officers, 2014).

Monitoring DCC decisions is a complex task to undertake. How individuals weigh up material considerations can vary and is influenced by decision framing factors (Gray, 1996; Rein & Schön, 1996). To date, studies have focused on interpreting the decision-making process of officers (Gilg & Kelly, 1996), examining refusals of consent in general (Brotherton, 2007a) and interpreting planning appeals and their function (Wood, 2000; Brotherton, 2007b). Assessments of the planning system undertaken by central government and external actors focus on determining the effectiveness and efficiency of the planning system (Morrison & Pearce, 2000; MHCLG, 2018; RTPI, 2020) or delivering certain aspects within this such as affordable housing (Whitehead, 2005). In undertaking such efficiency research, the government neglects analysing key performance indicators, notably the quality of decision-making and by extension the legitimacy of such decisions.

Many indicators of a local planning authorities' effectiveness or 'quality' are centred on authorities determining applications promptly within the relevant statutory timeframes (DCLG, 2011; MHCLG, 2018; 2020b). Whilst a valuable tool to monitor the progression of applications and identify 'problem' authorities (Geoghegan, 2019), it does not provide an indication of the quality of decisions.

With time, as technology has advanced and enabled the wider spread of information, increased pressure is being placed on LAs as the legitimacy of their decision-making is more widely scrutinised (Berrington, 1995; Nolan, 1995; Lewandowsky, et al., 2012). Any disagreements between officers and councillors will be utilised by actors for appeals or to criticise a perceived lack of consistency in the decision-making process (CPBC, 2019). Tewdwr-Jones highlights the importance of relationships between officers and councillors as he examines the concept of decision-making legitimacy (1995). Highlighted in this article are a number of high-profile cases of malpractice within the decision-

making process including the much-lauded Channel Four documentary 'Cream Teas and Concrete' (1991) which considered malpractice and irregularities in planning decisions of the North Cornwall District Council DC committee. The Lees Report (DOE, 1993) identified that since the 1980s, councillors had given priority to certain types of applicant rather than discriminating on land-use as should have been the case. Furthermore, it was discovered that councillors granted fellow colleagues a high number of consents, which Lees contended were some of the worst examples of development (DOE, 1993). The report found no evidence of corruption or that officers were incompetent in their role, and instead focused on criticising the actions of councillors in ignoring established policy.

Allegations of malpractice are not just limited to councillors; officers can be subject to malpractice claims as well. In 1993, an officer was charged with corruption following a malpractice investigation (Tewdwr-Jones, 1995; Tait, et al., 2020).

Tewdwr-Jones suggests that the increasing numbers of malpractice cases are due to a greater accountability of public services and the publicity received exacerbated the scale of the issue, rather than a marked increase in cases of malpractice (1995). Tewdwr-Jones discusses the ethics and rationale behind decision-making of officers and councillors in a frame-reflective approach before announcing a decision-reflective programme, the aim of which is to reduce conflict and tensions between actors and thereby aid securing legitimate decision-making.

Allmendinger (1996) contends firstly, that politicians are being increasingly marginalised, secondly that planners have a much more powerful role than Tewdwr-Jones suggests and thirdly that it is assumed that planners are 'good' people. Allmendinger highlights the stark differences between officer and councillor decision-framing at both institutional and personal levels where he concurs that politicisation is occurring but not necessarily as described by Tewdwr-Jones (1995) and that elected members, on the whole, follow advice and central guidance.

2.5 The relationship between Officers and Members in decision-making

What does not aid the reputation of the decision-making process is when accusations of malpractice are made regarding top-level government officials. Recently the actions of the Secretary of State for Housing, Communities and Local Government, the Rt Hon Robert Jenrick MP in determining the

Westferry Printworks application have been questioned. The decision when to grant permission avoided £30million of contributions, and was opposed by the LPA, Greater London Authority and PINs and has subsequently been quashed at appeal with the minister himself admitting that his own decision was unlawful (BBC, 2020; Ing, 2020; Stewart & Syal, 2020; Tower Hamlets, 2020). The large-scale media coverage seems to emphasise Tewdwr-Jones' assertion that there is an increased prominence of the accountability of decision-making (1995).

First and foremost, aside from being indicative of corruption, the Westferry Printworks case displays a clear, demonstrable breakdown in the relationship between officers and politicians, a relationship which Tait and Campbell (2000) concur is central to the decision-making process. Tait and Campbell note that whilst members and officers work within the same legislative framework, they experience differing pressures and obligations (2000). Councillors have to consider political interests and the needs of their ward against the needs of the wider borough, whilst officers must reflect their obligations to serving the public interest.

Members' confidence in, and working relationship with, officers is pivotal to the decision-making process (Tait & Campbell, 2000). Where members' confidence in officers is high and they have a good working relationship, this aids productive discourse to address conflicts of opinion. It is these clashes of opinion, consideration of non-material planning concerns and lack of productive discourse that calls into question the legitimacy of such judgements as there is a perceived need for decisions to be conclusive (Tewdwr-Jones, 1995). No legislative system would ever fully remove these variables, however, Tewdwr-Jones concludes the best way to ensure continual legitimacy of decision-making is to constantly question opinions and judgements (1995).

2.6 Future monitoring of decision-making

Point 10 of Tewdwr-Jones' decision-reflective programme discusses the necessity of monitoring decision-making, stating:

“Monitoring necessity: A recognition of the need for continual monitoring. Officers and members must regularly monitor their decision-making processes and abilities as development controllers... and these will require constant refinement to ensure quality and effectiveness” (1995, p. 178)

Research would indicate that with the exception of the odd theoretical paper analysing the relationships between officers and councillors (Tewdwr-Jones, 1995; Tait & Campbell, 2000), a comparison of officer recommendations and councillor decisions querying the legitimacy of both parties has not been undertaken. Lichfields has undertaken some research into the differences between officer recommendations and DCC decisions (Lichfields, 2018) but academic literature, as well as central and local government reporting, draws a blank concerning such topics. Indeed, this paucity of information is supported in a response from The Planning Inspectorate (PINs) which confirms that they do not hold specific data on officer recommendation and committee decisions (Appendix 2). Examining the requisite data provided by the statutory PS1 and PS2 returns alongside other government planning decision statistics (MHCLG, 2020b; 2020c; 2020d), such information is not collected and therefore it would appear that central government would be unable to easily monitor differences in officer recommendations and member decisions. This is data that Lichfields recommends should be collected to inform the quality of LPA decision-making (2018).

2.7 Literature reflections

The literature highlights that planning is an inherently political process that will ultimately create winners and losers within society (Gill, 2005). This is in spite the aim of the planning system to act in the best interests of the wider public as there are some goods which are in everyone's interest to have, but nobody's interest to provide (Campbell & Marshall, 2002). Ultimately plan and decision-making occurs through central state control with local-level control either through delegated authority by officers or through local politicians within a unique system of duality. Deliberation of applications at DCC by members where material planning concerns are considered alongside the proposal's acceptability in line with adopted guidance can sometimes be questioned, especially when differences of opinions exist between officers and members as decisions are expected for the most part to be conclusive.

It is through the politics of planning and the relationships between and actions of officers and members that there is a declining trust in the planning system (Tait, 2012). There will always be tensions within the planning system, contributed to in part by the liberalistic increase of central control and auditing, a perceived lack of transparency, probity and complexity crucially undermines the public interest values of the planning system (Swain & Tait, 2007) (Figure 1). Public perceptions elicit developers solely caring about profit and a lack of understanding of LPAs' purpose stems

directly from a trust deficit (McWilliam, 2019), resulting in complex implications and general public discontent with the system. Greater personal trust due to the localisation of decision-making as well as system trust due to the complexity of the system needs to be sought to aid the public perception of planning, and a leap of faith is required by the public in this regard to trust the legitimacy of decision-making (Curry, 2010).

To date, government monitoring of the decision-making process has focused on the effectiveness and efficiency of the process, suppositioning the idea of good quality decision-making with complying with statutory timeframes (Morrison & Pearce, 2000; MHCLG, 2018; RTPi, 2020). Further expansive academic research has occurred, examining aspects of the decision-making process in greater detail over the course of many years, identifying clear areas of concern such as conflicts within the decision-making process between officers and members (Gilg & Kelly, 1996; Gray, 1996; Rein & Schön, 1996; Brotherton, 2007a; 2007b; Wood, 2000). Tewdwr-Jones (1995) authors perhaps the most relevant and encompassing paper discussing the legitimacy of decision-making, covering the ethics and rationales taken by officers and councillors in framing decisions.

The paucity of information and empirical analysis on the legitimacy of decision-making in itself identifies a void within a highly important aspect of the planning process. Tewdwr-Jones (1995) highlights the need for continual monitoring of officers' and DCC decision-making to ensure the quality of decisions which, thus far, seems to be lacking both in academic research as well as in governmental monitoring. It is therefore important to investigate the legitimacy of decision-making to attempt to bridge the knowledge gap to better understand the legitimacy of decision-making.

3 Methodology

3.1 Research Objectives

It would certainly be possible to assess of the legitimacy of decisions by independently assessing application outcomes against policy documents. This however would be highly resource intensive, requiring in-depth knowledge of local policies and would due to time constraints yield a low sample size within a specific area. To attain a broader understanding of the legitimacy of decision-making, an alternative method is sought. To the author's knowledge, such a broad assessment of decision-making legitimacy has not been attempted, with the only examples bearing similarity being theoretical or smaller case-study analyses (Brotherton, 1992; 2007a; 2007b; Tewdwr-Jones, 1995; Allmendinger, 1996; Wood, 2000; Cambridge Centre for Housing and Planning Research, 2014). What is sought is an empirical and statistical methodology which can be undertaken on a large scale to produce a dataset of sufficient quality and depth to make informed comments on decision-making legitimacy, answering the research objectives:

1. To devise a suitable methodology to assess and analyse the legitimacy of planning decisions at DCC
2. To examine the legitimacy of officer recommendations to members
3. To examine the legitimacy of member decision-making
4. To expand on the analysis to identify possible solutions to improve the legitimacy of decision-making

3.2 Analytical Framework

To answer such questions on the legitimacy of decision-making a broad understanding of the structure of decision-making is required (Figure 2). The original fails to address the additional layers of complexity introduced by DCC decision-making. An attempt has been made to add this additional layer to the model in order to better understand the process and determine how to proceed.

In order to assess the legitimacy of decision-making, there needs to be a baseline that the legitimacy of such decisions can be assessed against. For refused application legitimacy, it seems apparent to analyse appeal outcomes which would provide an insight into both delegated and DCC decision-making. To answer whether a decision is 'legitimate', this analysis would work on the assumption

that decisions taken by PINs are legitimate (explored further in section 3.5.2 Methodology Limitations). The output of this assessment would function largely on the basic assumption that the more applications that are dismissed at appeal, the more 'legitimate' the LPAs decision-making process can be considered.

Where a recommendation for refusal is overturned, there is no conventional method to appeal, therefore determining their legitimacy is somewhat more difficult. Following this investigation, it may then be possible to utilise the output to act as a proxy dataset in order to infer whether or not the decision to approve an application may be considered legitimate. Further insight can be had when analysing DCC overturns to compare and analyse officer and DCC decision-making legitimacy.

Utilising the appeal statistics for DCC decisions, this can be compared to delegated decision-making providing a useful comparison between officer and member decision-making legitimacy.

3.3 Data Identification

When presenting an application to DCC, officers usually author a report which contains a recommendation based on their professional assessment of the material considerations of the proposal (Association of Democratic Services Officers, 2014). Members debate the application in a public forum and choose whether to accept or reject the recommendation but can also opt to defer, vary or take a split decision and finally can also choose not to determine an application (Planning Portal, 2020). Delegated decision-making is much the same with the exception that officers make the final decision.

To assess the legitimacy of officer and member decisions it is evident that both officer recommendations and member decisions for applications will need to be collected alongside other supporting data as can be examined in Table 1. This data will allow for officer recommendations, decisions and DCC decisions to be compared to appeal data to examine the number of appeals allowed and dismissed to infer the legitimacy of decision-making. The data referenced in Table 1 was all available from LA and PINs websites and was obtained either through manual data collection or Freedom of Information (FOI) requests (Table 2).

3.4 Data Collection

3.4.1 Primary Research

Primary research is research that is collected by the researcher 'first-hand' and can include surveys, observations and investigations as well as data collection (Driscoll, 2010). Leavitt (2004) notes that primary research is particularly useful for solving new problems or answering questions that do not have a wealth of peer-reviewed research. A key advantage to primary data collection is being able to specify and devise the data collection methodology in order to directly answer specific research objectives, rather than relying on other secondary datasets (Hox & Boeijie, 2005). It also has the potential to eliminate/reduce bias through collection of known factual information (Harrell & Bradley, 2009). However, primary data can be resource intensive to collect (Kelly & Richard, 2000).

3.4.2 Secondary Data Analysis

Secondary data is characterised as primary research that has been undertaken by another party for some other purpose (Johnston, 2017). It is important to distinguish between raw secondary data whereby there has been little if any processing and compiled secondary data where there has been some form of summarisation or selection (Benfield & Szlemko, 2006; Allen, 2017). It is important to ensure secondary data sources are relevant and valid (Saunders, et al., 2009; Stewart & Manins, 2012).

3.4.3 Extent of Data Collection

Having determined the primary data that needs to be collected it is important to consider the extent of the data collection (Drew, et al., 2008). It was decided to focus on applications that are categorised by PINs as 'planning' or 'householder' applications (MHCLG, 2014a). Certificate of Lawfulness applications will not be considered as these should be considered on the basis of law, under the GPDO (MHCLG, 2014b). On a similar basis, enforcement decision/appeals will not be considered either as whilst linked to planning decision-making can be very different and oft even more complex in nature.

It was also necessary due to resourcing and time constraints to limit the scope of the study both spatially and temporally (Kothari, 2004). It was decided to focus on LPAs in Essex for a number of

reasons: it would provide a reasonably sized sample group, encompassing a broad overview of multiple DCCs; it would allow for comparison between LPAs; as well as an overall assessment of the data at a county level; in addition to the author working within and having knowledge of the county (Figure 3 – Essex LPA map).

The temporal element of the data was also considered as appeals by their nature can be a lengthy process due to the delays between decision, appeal submission and determination (MHCLG, 2014a). Therefore, due to the potentially significant time delay, it is imperative that a sufficient period of time be examined in order to collect adequate data to undertake a comparison of recommendations, decisions and appeal outcomes. Utilising LPA DCC online records it was decided to collect data for applications presented to DCC committees that were held between 2014 and 2019 to allow a significant time period for appeals to be determined, whilst providing breadth to the data which could potentially average out any anomalous or erroneous data (Table 2).

3.5 Study Limitations

3.5.1 Data Collection Limitations

The evaluation and analysis will draw on data collected within the spatial, temporal and extent parameters set. By collecting only the select data, it is possible that some aspect could have been missed (Bernstein & Mellon, 1978). However, the data and parameters were chosen to represent an appropriate balance factoring in time and resource constraints. This study also in no way accounts for application quality. Were time and resources not a constraint, it would certainly be interesting to expand the temporal and spatial bounds of this project as well as integrating application quality.

Due to the aforementioned time delay for appeals (MHCLG, 2014a; 2014b)(Figure 4), with a seemingly increasing trend in average appeal determination lengths, it is evident that using the PINs dataset which only extended to the end of March 2020 (Planning Inspectorate, 2020a), would result in some records being incomplete for at least 2019.

3.5.2 Methodology Limitations

A principal limitation or flaw with the chosen methodology is that it relies on the assumption that PINs make legitimate decisions. It is evident from numerous cases appealed at the high court (Pinsent Masons, 2019a; 2019b; Planning Resource, 2019; Smulian, 2019), that PINs are not infallible in their decision-making.

Without looking at every case individually, it would not be possible to categorically ascertain the legitimacy of such decisions and even then the output may be subject to bias. However, providing the limitations are considered and recognised, the data does provide an overall picture of the legitimacy of decision-making.

The study focused on online data collection in favour of hosting remote interviews in the wake of Covid-19 due to the difficulties of building rapport with participants remotely whilst discussing a controversial topic (Deakin & Wakefield, 2013). This meant that without interviewing or surveying members, it would be difficult to provide greater clarity, and even with in-person interviews, studies have found participants/respondents to 'spin the truth' in order to portray themselves in a socially desirable manner resulting in a degree of bias and inaccuracy in the reliability and quality of responses (McNeeley, 2012; Oltmann, 2016; Research Methods for the Social Sciences, 2020).

Further in-depth data, data analyses and interviews with officers and members as well as an assessment of application quality would likely provide further detailed insight into the unique and shared problems experienced by each LPA but were largely outside of the scope of this study due to resource constraints.

3.6 Statement of Research Ethics

The data collected is collated from publicly accessible data obtained from local and central government websites and organisations (Table 2). In carrying out this work, data has not been collected which would identify a specific group or individual that is not already done so in publicly accessible data. Evidence of a completed and signed off research ethics statement can be found in Appendix 4 and 5.

4 Findings and Analysis

4.1 Summary Data Analysis

The raw summary data (Appendix) provides some interesting insights into LA decision-making. As Figure 5 demonstrates with the exception of 2016, the remainder of the study timeframe shows more notable differences between delegated decision success at appeal. For ease of interpretation moving forwards, it will generally be considered that the average rate of appeals allowed resides at approximately one third. Interestingly there is a stark difference exhibited between delegated and committee decisions at appeal, and a notable variance in the rate of DCC decisions being dismissed.

Figure 6 clearly demonstrates the significant correlation (R^2 values of over 0.5) between the number of appeals allowed and dismissed (Moksony, 1990; Duke, 2020). From Figure 6 it is possible to conclude that for appeals in Essex:

- Refusals unaltered by DCC, for every 10.0 appeals allowed, 26.0 are dismissed.
- Approval overturned by DCC, for every 10.0 appeals allowed, 8.3 are dismissed.
- Delegated refusals, for every 10.0 appeals allowed, 22.5 are dismissed.

With the majority of planning decisions being determined under delegated authority (DCLG, 2015), the rate of dismissals at appeal, greater than the national average (Figure 5), *prima facie* supports the notion that officers across Essex have a strong track record of legitimate decision-making. Inter alia, Figure 5 and 6 clearly show that irrelevant of initial officer recommendations, DCC decisions are significantly less likely to be dismissed when challenged at appeal and therefore the conclusion could be drawn that DCC decision-making is less likely to be legitimate.

It is important to note from this initial summarisation of the observable trends, the nature of the aggregate data itself. Aggregate data can provide a useful but broad summary of the data, but glosses over key individual and case-by-case specifics (Sellgren, 1990; Punter & Bell, 2000; Kelly & Gilg, 2010). This is demonstrated in Figure 7 which exhibit a high degree of variance. Therefore it is necessary to augment any analyses with case studies that further interrogate the data at a deeper level, which Punter and Bell (2000) note is absent from previous works (Punter & Bell, 1997a; 1997b; 1997c). In light of this, what follows will be the analyses of a number of case studies which

will analyse specific patterns and observations within the data, bringing in additional extrinsic information to aid the analysis and examine the nuances of decision-making legitimacy.

4.2 Case Studies

4.2.1 Case Study 1 – Castle Point Borough Council (CPBC)

The CPBC analyses *prima facie* appears to despite variance indicate that the number of DCC and delegated decisions allowed on appeal are falling (Figure 10 and 11). However, closer inspection notes delegated refusals allowed on appeal between 2014 and 2017 were above the national average. Following this, delegated success at appeals has increased significantly. This could be attributed to a departmental reorganisation which took place in 2016 (CPBC, 2017). In recent years delegated and DCC decision-making success at appeal has improved, however, closer inspection of DCC appeals highlights some interesting information.

Applications 19/0617/FUL and 19/0618/FUL were overturned to refusal and dismissed at appeal, but for different reasons identified by the inspector (Appendix 7). Although the 'right' decision may have ultimately been reached, it questions the competency of those making the decision and its legitimacy.

Doubt can be cast on decisions if the legitimacy for the reasons behind DCC decision-making is questionable (Tewdwr-Jones, 1995) as CPBC is one of four boroughs who overturn the most refusals to approvals (Figure 12). Given the success of delegated decision-making at appeal (Figure 6, Figure 9, Figure 11 and Figure 13), it questions the legitimacy of DCC decision-making where there is no conventional appeal method to qualify decision legitimacy. Such concerns over the actions of the CPBC DCC are voiced in the Planning Improvement Peer Challenge report (2019) which highlighted significant weaknesses in the DCC, regarding consistency, probity and weighting of appropriate planning considerations, calling DCC decision-making into disrepute. The same report also discusses the professionalism and strength of the planning officers. Indeed, political members of CPBC seem acutely aware of the disrepute this foists on DCC decision-making, taking eight months to publish the findings of the report and highlighting drastic changes to future DCC member behaviours (PAS, 2019; CPBC, 2020).

4.2.2 Case Study 2 – Uttlesford District Council (UDC)

UDC stands out from the other boroughs as experiencing a dramatic increase in appeals being allowed (Figure 11). Were this rate to continue increasing it may result in officers' decision-making being questioned. As professionals making recommendations to the DCC, if their professional judgement is questioned, members may not be inclined to accept their interpretation of the application. Indeed, this might appear to be the case as 74 approvals were overturned and only 22 were allowed at appeal (Figure 14 **Error! Reference source not found.**). Whilst this reflects negatively on officers' recommendations, it is worth noting that only 39 out of 74 applications in this instance were appealed. Indeed Figure 14 shows there is a 56.4% chance of an appeal being allowed under these circumstances, raising the question of why more appeals are not lodged?

It is especially confusing when Figure 10 demonstrates an increasing trend of appeals being allowed. DCC success at appeal was relatively high at the start of the study and it has dropped below the national average. It doesn't seem that this increase in appeals allowed 2014-2019 is tied to political changes within the LA and membership of the DCC (UDC, 2019). However, the downshift in appeals allowed during 2019 might be due to the change in political majority, supporting the notion that planning moves in political cycles (Airey & Doughty, 2020), although future analysis would be required to lend this theory further credence.

Of applications overturned that weren't appealed (35), 16 either submitted amended proposals that were granted consent or had already gained consent for a similar form of development. Without further studies contacting the applicants of such applications, it would not be possible to categorically say why applications were not appealed, however, there are two possibilities. Where only minor amendments to a scheme were required to overcome a reason(s) for refusal it may be quicker to submit an amended scheme than appealing the decision. As Figure 4 shows, Essex appeals generally take longer to determine than the national average. Given only 22 out of 74 approval overturns are allowed on appeal, it may give DCC members a false sense of confidence and encourage them to overturn more decisions, the legitimacy of such decisions being questionable due to their rate of success at appeal. Indeed this appears to be the case where the minutes of the UDC DCC meeting of 2nd August 2017 which highlight a councillor questioning what the purpose of having planning policy was if they were not expected to follow it (UDC, 2017). This indicates a

breakdown in the relationship between officers and members as well as a lack of trust in officers (Tait & Campbell, 2000).

4.2.3 Case Study 3 – Harlow District Council (HDC)

The data collected for HDC shows a clear divide between the outcomes of officer and member decision-making at appeal. The data is highly varied when addressing DCC refusals (Figure 10) which is well above the national average (Figure 5) (Planning Inspectorate, 2020a). Further concern is registered when analysing unaltered refusals which have a 100% appeal dismissal rate. Based on this preliminary analysis of the data it is evident that a deeper secondary analysis may be required in order to interpret these findings.

It is first important to note that there are a low number of applications that have been overturned to refusal (Figure 12) and as a result one or two entities can dramatically skew the data as 2015 and 2017 (Figure 10) only had one such application. Inspecting the 13 overturned to refusal applications, six were allowed, one was dismissed and two are currently in progress. The remaining four were not appealed.

HW/HSE/15/00457 was refused but had already gained consent for a similar scheme under a lawful development certificate (HW/LDCP/15/00400) which suggests why it was not appealed. Similarly, HW/FUL/16/00063 was also granted consent under a lawful development certificate (HW/LDCP/16/00500) highlighting the duality of the English planning system. HW/HSE/16/00292 a DCC application was submitted after HW/HSE/16/00191 which were both refused consent for substantially the same development, no appeals were lodged. HW/FUL/18/00333 was refused consent by the DCC on 16th November 2018 and a revised and subsequently approved application (HW/FUL/18/00525) was received with minor amendments on the 23rd November, suggesting the applicant prioritised speed of consent.

Figure 18 depicts the determination period for appeal, which might have shaped these applications not being appealed, demonstrating an 8 week (56 day) application period could be up to four times faster than appealing. Alternatively, the lack of appeals could simply be that only minor amendments were required to secure consent.

An element that would otherwise have been missed if not for incorrect information provided in the FOI data from HDC, was application HW/FUL/16/00291. The data provided by HDC stated HW/FUL/16/00291 to have been overturned to refusal with no appeal. It was thus examined with the four previous cases where it was discovered that this application was allowed on appeal. Whilst the overall and aforementioned data was updated to reflect this discovery, it highlights a shortcoming of not being true primary data (Hox & Boeijie, 2005; Harrell & Bradley, 2009). The appeal decision notice revealed that the LPA had granted consent for the same two-dwelling scheme under permission HW/FUL/16/00518 but with larger rear gardens, which as the inspector critiqued was not related to the original reason for refusal in allowing the appeal (Dowling, 2017). Such a move might suggest that members of the DCC were not trained sufficiently.

Considering only one out of 13 overturns to refusal were dismissed at appeal (Figure 14), and the track records of unaltered DCC and delegated refusals at appeal (Figure 11 and 13), one of the few conclusions that can be drawn is that the legitimacy of HDC member overturns is questionable. Where there is no recourse to ensure legitimacy in items that are overturned to approval, with such a track record it would be very concerning indeed. As it is, in the study period, no applications were overturned to approval by HDC DCC, so whilst not a concern for historic decision-making, the legitimacy of future DCC overturns could be highly questionable and merits further investigation, highlighting the need for further DCC training.

4.2.4 Case Study 4 – Tendring District Council (TDC)

TDC has steadily been improving its success at appeals in recent years. Figure 10 show that after 2015 and 2016 for delegated and DCC decisions respectively, the number of appeals allowed has fallen significantly. This is despite a rate of over 60% of appeals being allowed during the study period (Figure 15). This indicates a severe reduction in the number of appeals allowed in the later years of the study (Figure 10 and Appendix). A change in political leadership in 2015 could be the root cause of this phenomena, to one with no single party majority, holding members more accountable supporting the notion that planning moves in political cycles (Airey & Doughty, 2020; SP Broadway, 2020)(

Table 3).

4.2.5 Case Study 5 – Brentwood Borough Council (BBC)

Prima facie BBC has a good level of success at appeal, for delegated and DCC decision-making (Figure 10). However, of all LAs, BBC members overturn on average more than any other borough (Figure 17). The rate of committee refusals allowed on appeal is very low highlighting either good recommendations and or good decision-making (Figure 10). Observing the appeal statistics, DCC has a 100% dismissal rate for unaltered refusals (Figure 15), but also DCC member overturns are being well supported on appeal (Figure 16) appears conflictory at first glance but may suggest a problem with officer recommendations.

This may indicate that officers may not be applying appropriate weight to considerations or enforcing policy requirements strictly enough. This appears to be supported in Table 4 whereby DCC members overall overturned decisions were supported. Analysis of the cases in Table 4 indicates that whilst not all reasons for refusal are being supported and indeed in one instance the Inspector criticises DCC members for their lack of clarity, the crux of refusals are acceptable. This suggests DCC members have a set level of knowledge which may enable them to make an overarching decision, but that they fail to grasp the intricacies of reasons for refusal. What this does result in is questioning the legitimacy of DCC overturned refusals (Figure 17) and delegated approvals which cannot be appealed. It also draws parallels to observations at CPBC and UDC DCCs where it is questionable whether a decision can be considered legitimate if the reasons are fundamentally flawed.

4.2.6 Case Study 6 – Epping Forest District Council (EFDC)

EFDC overturn a lot of approvals (237) (Figure 12). Of those overturns appealed, 44.6% were allowed on appeal which is above the national average (Planning Inspectorate, 2020a)(Figure 5). However, DCC refusals allowed on appeal are falling (Figure 10). Figure 15 shows that more unaltered refusals were allowed at appeal than dismissed which may not inspire confidence in following EFDC officers' recommendations. In such instances, it may occur that if DCC members do

not consider that they can trust officer recommendations, it may encourage them to continue such behaviours despite having a disputable track record at appeal when compared to other authorities when purely the number of applications are considered. Such behaviour encourages deviation from professional recommendations where approximately 75% of delegated refusals are dismissed (Figure 11). Such actions seem to mimic the patterns observed at UDC and BBC where conflict between officers and members could lead the public to question the legitimacy of such decisions.

4.3 Implications and recommendations to identified trends

The case studies elicit a number of key failings which contribute to the trust deficit within the planning system (McWilliam, 2019):

- Reduced legitimacy of members compared to officer's decision-making (CPBC, HDC)
- Lack of member consistency, transparency and probity (CPBC)
- Poor relationships and trust between members and officers (UDC, EFDC)
- Lack of member and officer training (Members – CPBC, HDC, BBC, EFDC) (Officers – UDC, BBC, EFDC)

It is clear from the findings and in particular the case study analyses that there seems to be a difference of opinion between officers and members at different boroughs, which at its heart can represent the core differences between the professional and political roles that they undertake (Tewdwr-Jones, 1995). However, these differences of opinion and the discovery that DCC members are more likely to make a perverse or idiosyncratic decision than officers has far reaching implications on trust in the planning process.

Clear patterns of authorities' DCCs overturning officer recommendations, despite lack of reasoning, knowledge and success at appeals pervades the case study authorities, providing supporting reasons for a lack of trust within the system. The obvious implications of these failings to ensure the legitimacy of decision-making is that the first and/or third parties feel the system or actors within are prejudiced against them. These prejudices are nebulous in nature and without interviews or surveys, from the data alone are difficult to identify. However, parties are likely to feel prejudged by members or officers with regard to decision-making legitimacy and will likely feel aggrieved with a system which is meant to represent the best interests of all parties involved.

Continual lack of or questionable behaviours, transparency and probity within the system, questioning its legitimacy over time, erodes levels of trust within the system and would appear to be the root cause of the planning system trust deficit in which we currently reside (Swain & Tait, 2007). Such local matters of trust are not aided by mass media coverage of high-level political malpractice by the Rt Hon Robert Jenrick (BBC, 2020; Ing, 2020; Stewart & Syal, 2020; Tower Hamlets, 2020).

In order to improve levels of trust within the system and ensure legitimate decision-making in the best interests of the public, it is necessary to consider potential interventions which may alleviate specific concerns or patterns identified in order to help improve the public perception and experience of the planning system (McWilliam, 2019).

4.4 Recommendations

4.4.1 Improved Relationships

As noted by Harrison (1972), DCC members having a good working relationship with officers is pivotal to the decision-making process. Where officers' decisions are not being so successfully supported at appeal, be they delegated refusals or recommendations to DCC, this may encourage members to overturn more decisions, potentially without being educated on the consequences of their decisions. This is especially important where refusals are overturned and cannot be appealed.

Furthermore, when there is a poor working relationship between the two, highlighted at EFDC and UDC, it does not so easily allow for productive discourse to take place, resulting in conflict between the two parties. In a system where the public often view that decisions should be conclusive judgements and not open for debate (Tewdwr-Jones, 1995), any conflict between officers and members will lead to the public questioning the legitimacy of the decision-making.

It is inevitable that people will disagree, and it is DCC members' right to consider matters differently to officers (Moore, 1991; Purdue, 1994). However, what is essential in ensuring the continued legitimacy of decision-making and its external appearance to the public is presenting a united front. A good working relationship should allow members to be adequately briefed with all the background information and knowledge they require to make a decision whilst enabling a productive discourse and they should clearly articulate the reasons why they either do or do not agree with a decision.

This would appear not to be the case in EFDC and UDC where a large number of overturns may suggest a lack of trust in officer recommendations.

4.4.2 Training

Training is a key aspect of both officers' and members' roles in the decision-making process. Without adequate training, neither party is adequately positioned to make legitimate decisions and would therefore fail in their respective roles. Both parties should ensure adequate training is undertaken. It is clear from the data (Figure 10), that DCC members, on the whole, require more training than officers to ensure a legitimate decision-making process.

4.4.2.1 Members

It is apparent from the data that DCC members at BBC, CPBC, EFDC and HDC require increased levels of training due to the lack of support at appeal, as well as the findings of the independent review conducted at CPBC (PAS, 2019). The reasons behind application refusals are equally important as the final outcome. UDC members also require increased levels of training as their rates of dismissals at appeal are falling dramatically and are now well below the national average. Education of members at UDC would also provide increased clarity on the exact purpose and existence of planning policy (UDC, 2017).

4.4.2.2 Officers

Increased officer training may be required at UDC as the rates of appeals being dismissed has fallen significantly over the period of this study. BBC officers may also benefit from increased training as DCC overturns are well supported on appeal, suggesting they may not be enforcing policy stringently enough.

4.4.3 Third Party Right of Appeal

An alternative solution to ensuring the legitimacy of decision-making may be to introduce a Third-Party Right of Appeal (TPRA) which would give some power back to third parties. Supporters of TPRA consider that its introduction would represent greater equality transparency and probity within the planning system (Clinch, 2007) whilst its opponents argue that it would add further delay

and costs to an already slow and struggling system (Gallent, et al., 2010). Whilst undoubtedly there are merits to both arguments, something needs to be done to ensure decision-making legitimacy, especially at DCC, is improved and to garner improved public trust within the planning system (McWilliam, 2019).

This would not only act as a method to assess the legitimacy of delegated decisions but also to assess DCC decision-making. Such a method of appeal and the outcomes of such appeals may be particularly interesting regarding the cases of DCCs that overturn a high number of applications to approval (Figure 12).

However, as discussed in the study limitations, the introduction of a TPRA would also rely on the fundamental assumption that PINs are correct in their decision-making, which has its own identified flaws.

There are many papers which discuss TPRA and its potential merits in a UK context (Ellis, 2004; 2006; Willey, 2007; Clinch, 2007; Gallent, et al., 2010). However, whilst it is found that members may make less legitimate decisions than officers (Figure 5) and by proxy, it could be assumed that their approvals contrary to officers recommendations are questionable, substantial further research and evidence would have to be analysed to make a conclusive statement in this vein.

5 Conclusion

The raw summary data (Appendix) provides some insights into decision-making at each LPA as well as Essex as a whole in comparison to national statistics. As can be seen from Figure 5 with the exception of 2016 where an average of 66.6% of Essex appeals were dismissed compared to 66.5% of national appeals, the remainder of the study timeframe shows more notable differences between delegated decisions being dismissed at appeal and the national average. Interestingly there is a stark difference exhibited between delegated and committee decisions at appeal, with the rate of committee appeals being dismissed being much lower, with a difference of up to 24.5% points than both national and Essex delegated rates. There is a notable improvement in the rate of committee decisions being dismissed.

With the majority of planning decisions being made under delegated authority (DCLG, 2015), the rate of dismissals at appeal, indeed more than the national average *prima facie* supports the notion that officers broadly know what they are doing across Essex, since they have a relatively strong track record of making legitimate decisions. Inter alia, Figure 5 clearly shows that, irrelevant to initial officer recommendations, DCC decisions are significantly less likely to be dismissed when challenged at appeal compared to delegated items in Essex and in England in general.

5.1 Summary of Research

Research Objectives

1. To devise a suitable methodology to assess and analyse the legitimacy of planning decisions at DCC
2. To examine the legitimacy of officer recommendations to members
3. To examine the legitimacy of member decision-making
4. To expand on the analysis to identify possible solutions to improve the legitimacy of decision-making

Answering the overarching research objectives of determining the legitimacy of decision-making at DCC has been a difficult and arduous task. Due to the paucity of work in this specific field, the study required the development of a suitable methodology to begin to assess the legitimacy of decision-

making. A methodology was formulated to collect and utilise an extensive dataset to assess the decision-making legitimacy of LPAs in Essex between 2014 and 2019, specifically focusing on the decision-making of DCC. Whilst there are shortcomings of this methodology and the data collection the methodology provided sufficient aggregate data to begin to analyse decision-making legitimacy at a broad level rather than on a case-by-case basis.

Examination of this data demonstrates a clear difference between the success of delegated officer and, DCC unaltered and altered officer recommendations at appeal (Figure 6). There is a significant correlation between the aggregate data which demonstrates that officers have more decisions upheld (dismissed) at appeal than when DCC members overturn a recommendation. With the majority of planning decisions being determined under delegated authority (DCLG, 2015), the rate of dismissals at appeal, indeed more than the national average *prima facie* indicates that officers' decision-making is more likely to be legitimate than that of DCC members. Inter alia, Figure 5 clearly demonstrate that irrelevant of initial officer recommendations, DCC decisions are significantly less likely to be dismissed when challenged at appeal.

Through the analyses, it is obvious that no two authorities are the same, which is insightful for providing a comparison, but equally frustrating when attempting to answer the objectives of this research. In exploring this, multiple case study authorities were examined, and specific trends observed and explored which highlight the implications of numerous extrinsic factors and the uniqueness of determining decision-making legitimacy. It is possible to inference the impact this may have on parties involved, stakeholders and the function of the planning system, generating a lack of transparency, trust and probity in the planning system. From these implications, recommendations were made to resolve the potential implications, warranting further investigations.

5.2 Reflections on the study

It was thought in the initial conception of this project that it would be possible to statistically analyse and determine whether an application was legitimately determined or not. However, applications should be considered on a case-by-case basis, as no two applications are identical, making direct comparison almost impossible at all but the broad levels undertaken in this study (Punter & Bell, 1997a; 1997b; 1997c; 2000). Whilst this represents a failing in the author's initial aim for the study, it was however possible from the aggregate data assembled and the devised

methodology to broadly assess delegated and DCC decision-making legitimacy on a yearly, per borough or within Essex context and provide an indicative assessment of the legitimacy of such decisions.

Additionally, significant trends were explored in relation to the implications of a lack of trust and poor perception of the planning system, which opened an unintended but interesting direction to discuss and contribute to the field of research. Whilst not forming part of the original focus of the project, these patterns provided a rich view into the implications and impact of decision-making outcomes and legitimacy, offering the opportunity to comment generally and in relation to specific LAs, recommending actions to improve the legitimacy of and trust in the planning system.

5.3 Looking to the future

The paucity of information and studies beyond the theoretical and small-scale analysis on the legitimacy of decision-making represents a void within a highly important and oft contentious aspect of planning. Further work would valuably build upon the methodology and means of legitimacy assessment set out within this study to meet the need set out by Tewdwr-Jones (1995) to continually monitor officer and DCC decision-making to ensure the quality of decisions. Such further works would be likely to improve our understanding of the factors that impact decision-framing and decision-making, as well as better understand the wider implications of the findings, to the benefit of those who govern, frequent or utilise the English planning system.

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7 Appendices

Appendix 1: Figures

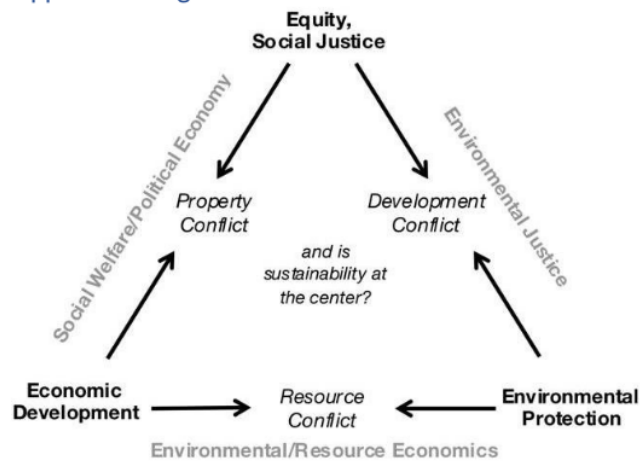


Figure 1 – The 'Planners' Triangle' (Campbell, 2016)

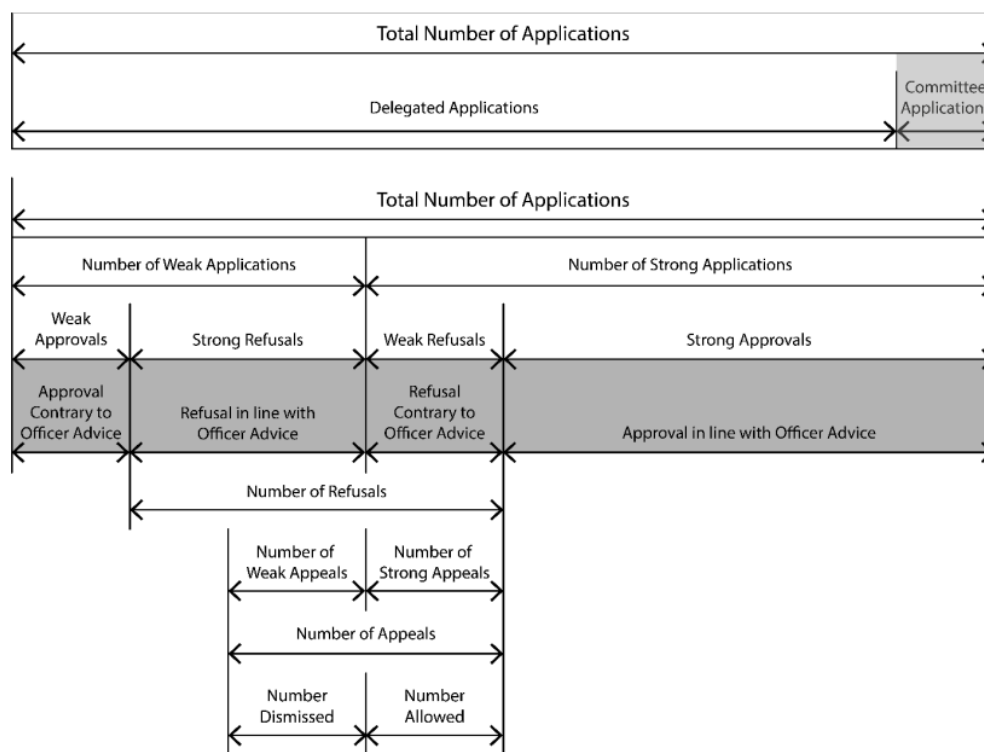


Figure 2 – The structure of planning control adapted from (Brotherton, 1992) to more explicitly illustrate the additional layer of DCC involvement (highlighted grey).

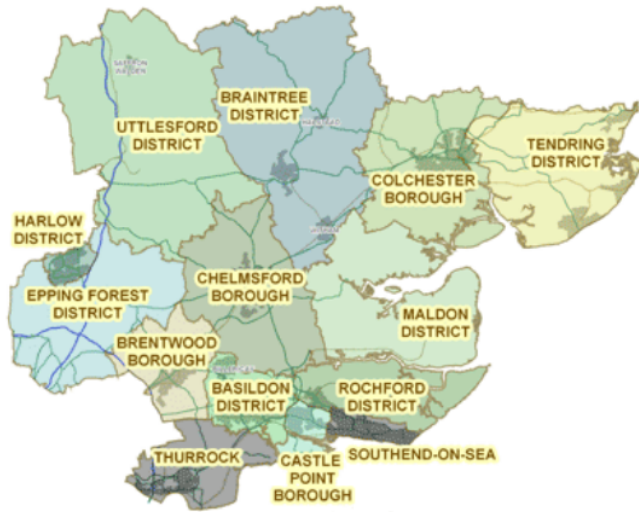


Figure 3 – Essex LPA map (Essex County Council, 2020)

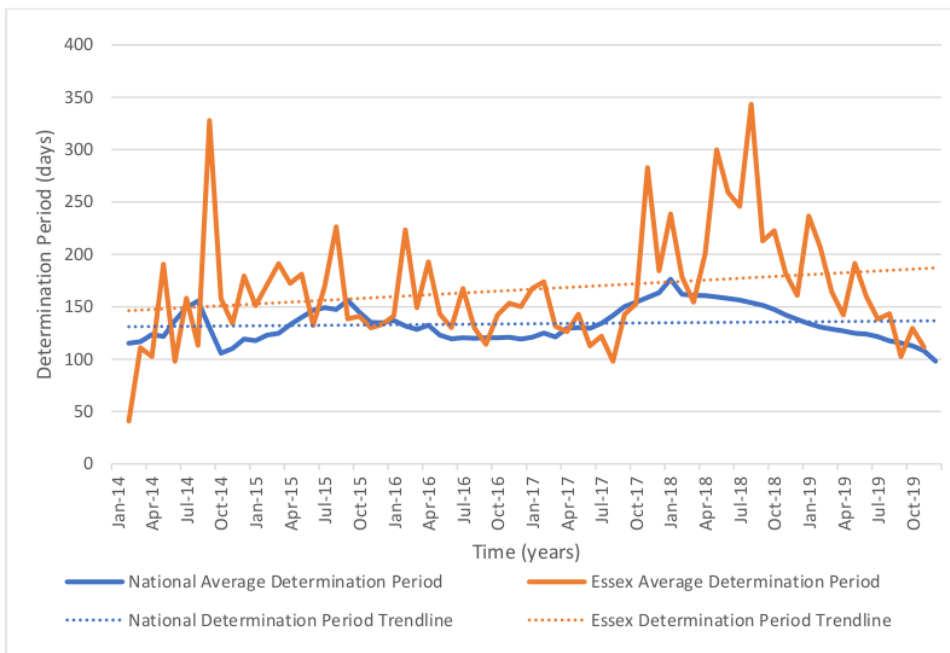


Figure 4 – Time taken from valid appeal submission to determination of the appeal for England and Essex between January 2014 and December 2019

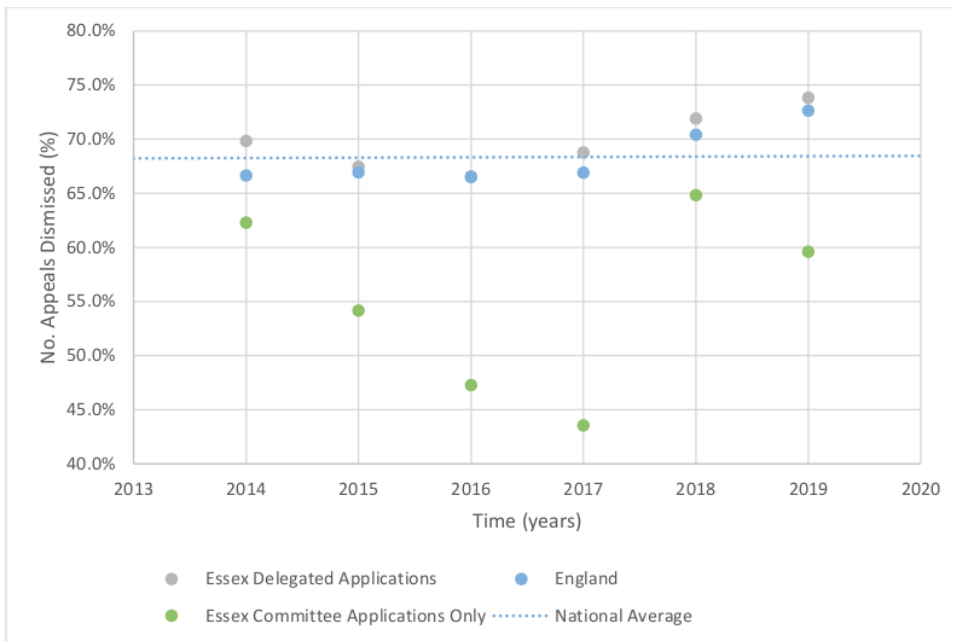


Figure 5 – Number of appeals dismissed by year for England as a whole, DCC and delegated appeals in Essex as well as an indicative national average. Note that the 2016 Essex Delegated Applications and England data points are practically identical and overlap.

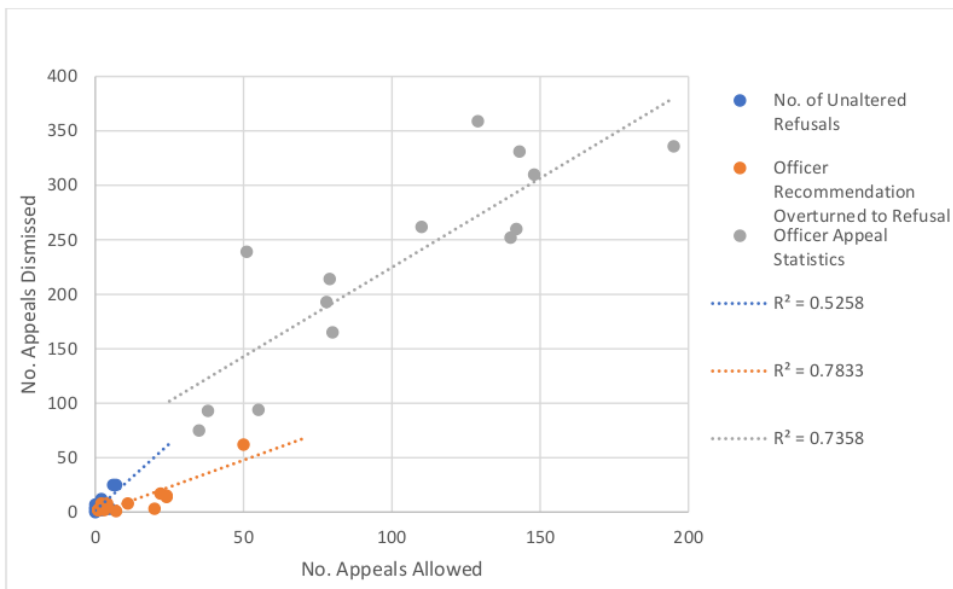


Figure 6 – Relationship between the number of applications allowed and dismissed at appeal for unaltered and altered refusals at DCC as well as for delegated decisions.

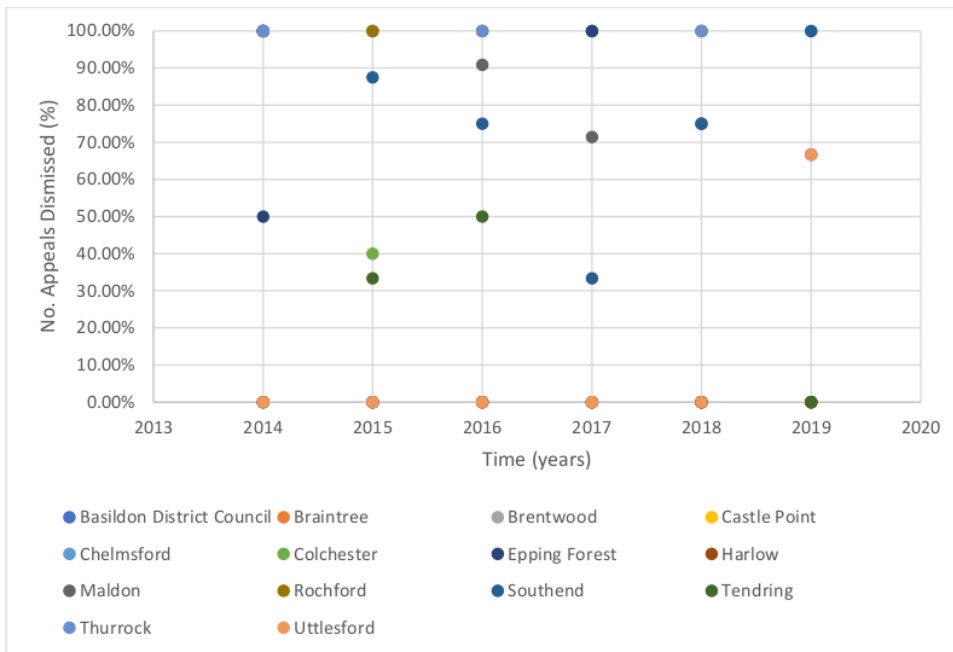


Figure 7 – Officer recommendation of refusal unaltered by DCC, number of appeals dismissed.

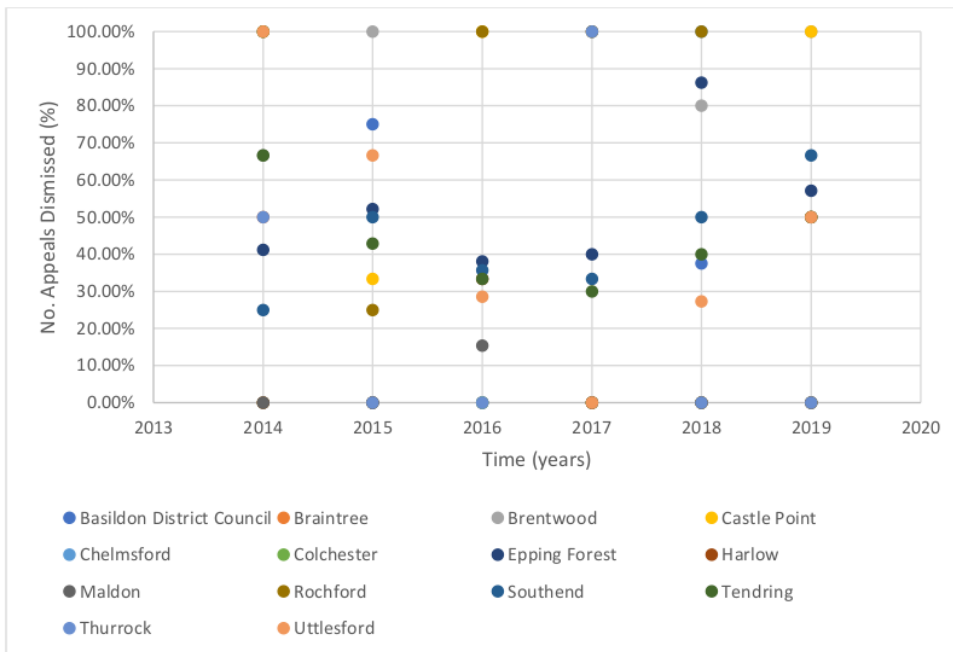


Figure 8 – Officer recommendation of approval overturned to refusal by DCC, number of appeals dismissed.

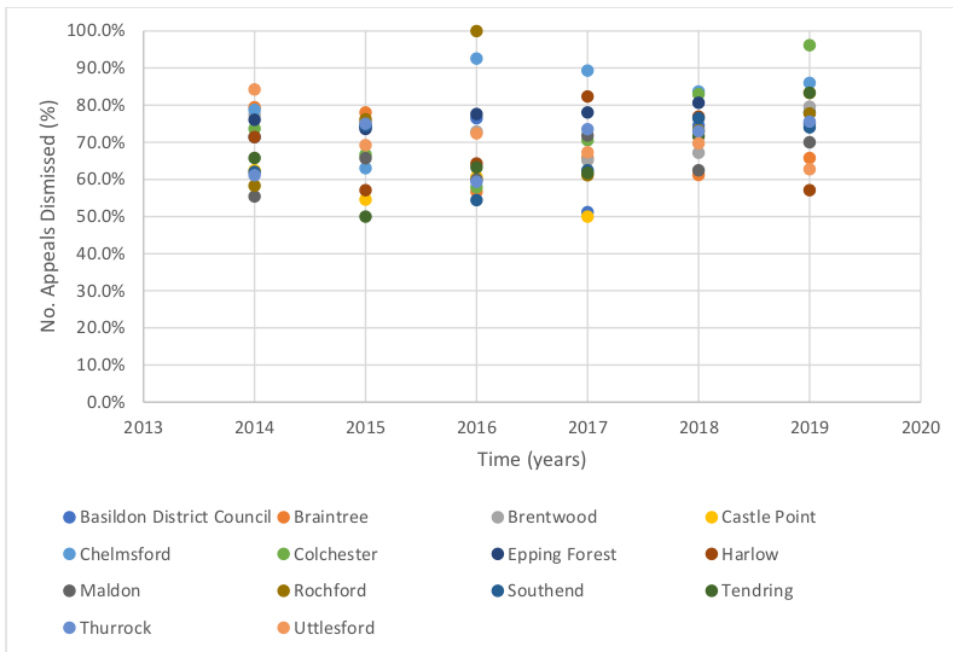


Figure 9 – Delegated applications refused and number of appeals dismissed

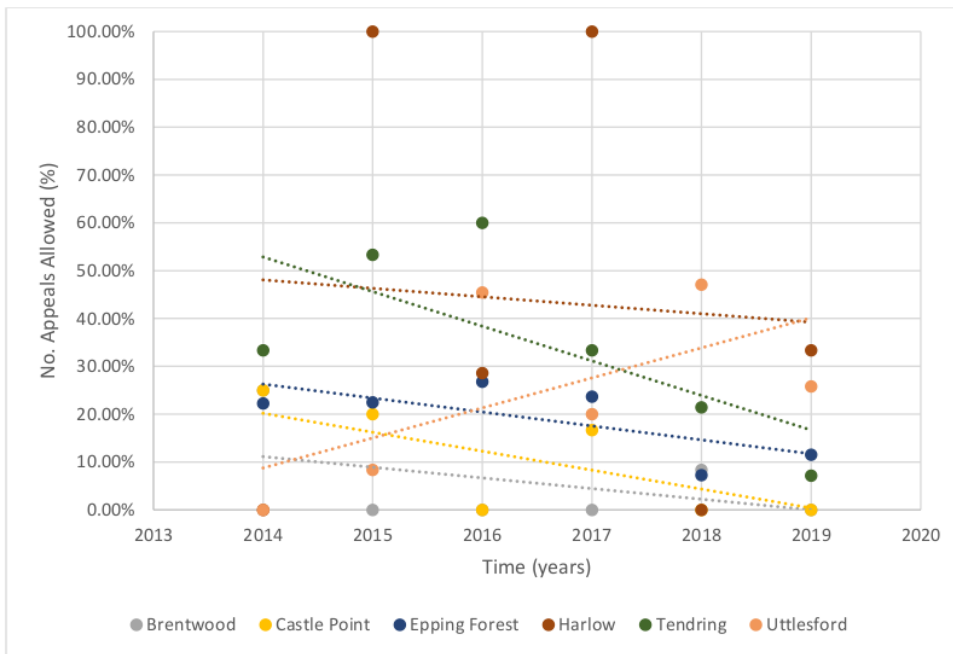


Figure 10 – Percentage of case study DCC refusals allowed on appeal, including trendlines indicating appeal track records

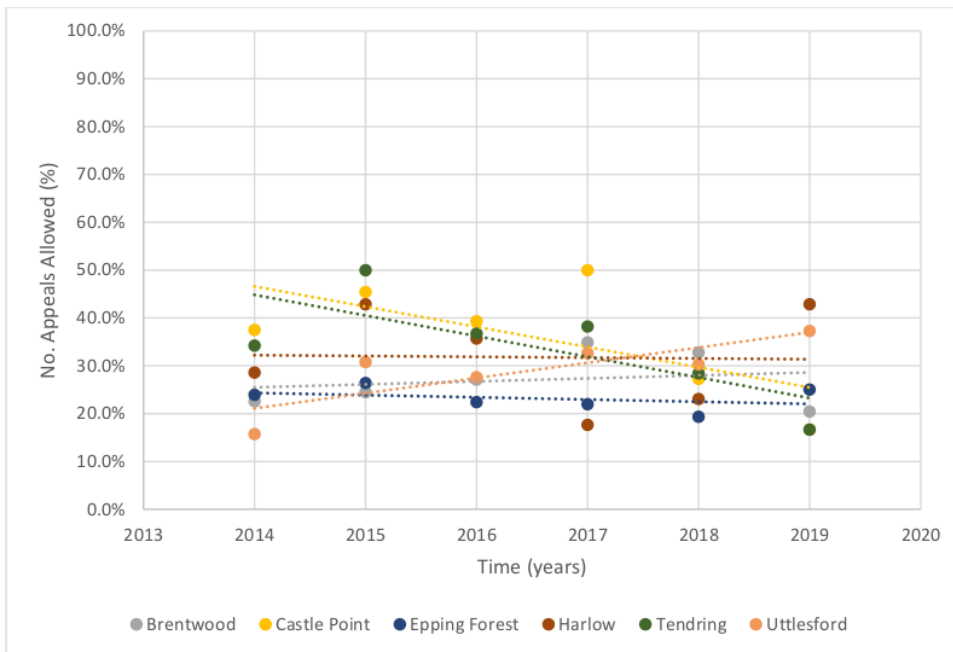


Figure 11 – Percentage of case study delegated refusals allowed on appeal, including trendlines indicating appeal track records

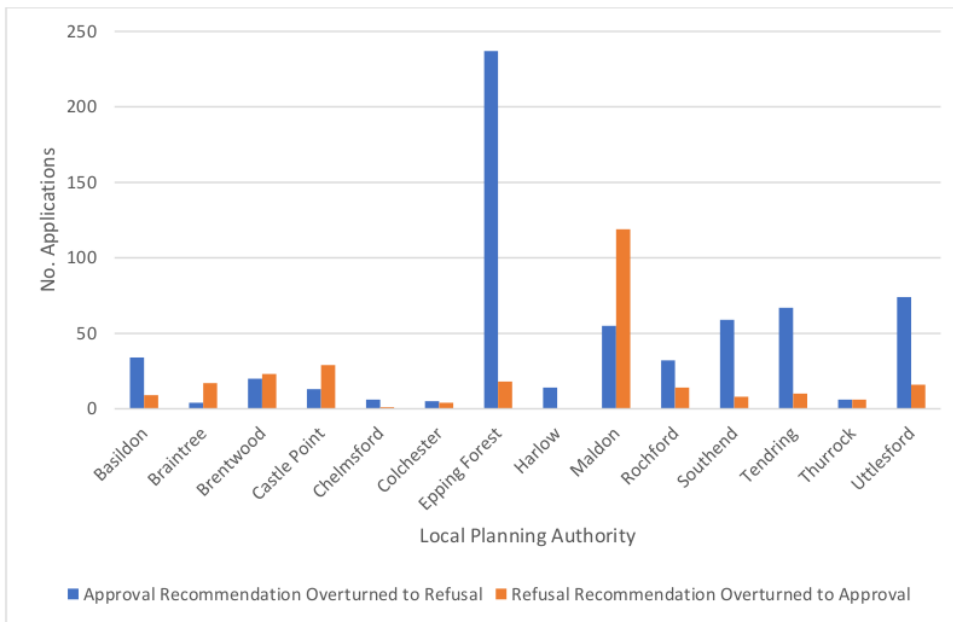


Figure 12 – Number of DCC applications where officer recommendations are overturned to refusal

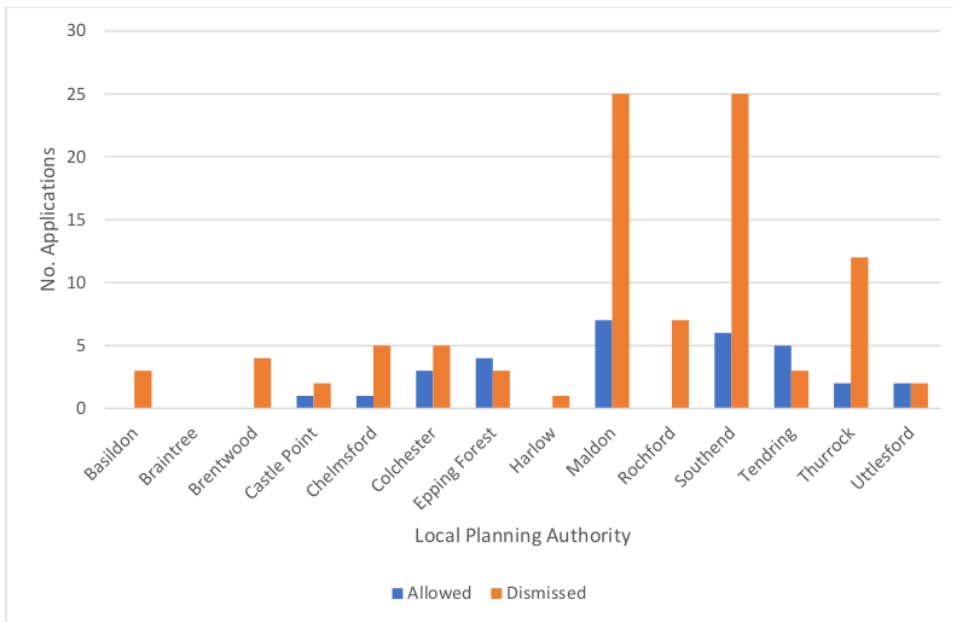


Figure 13 – Number of DCC applications where the officer recommendation of refusal was accepted and the subsequent success at appeal

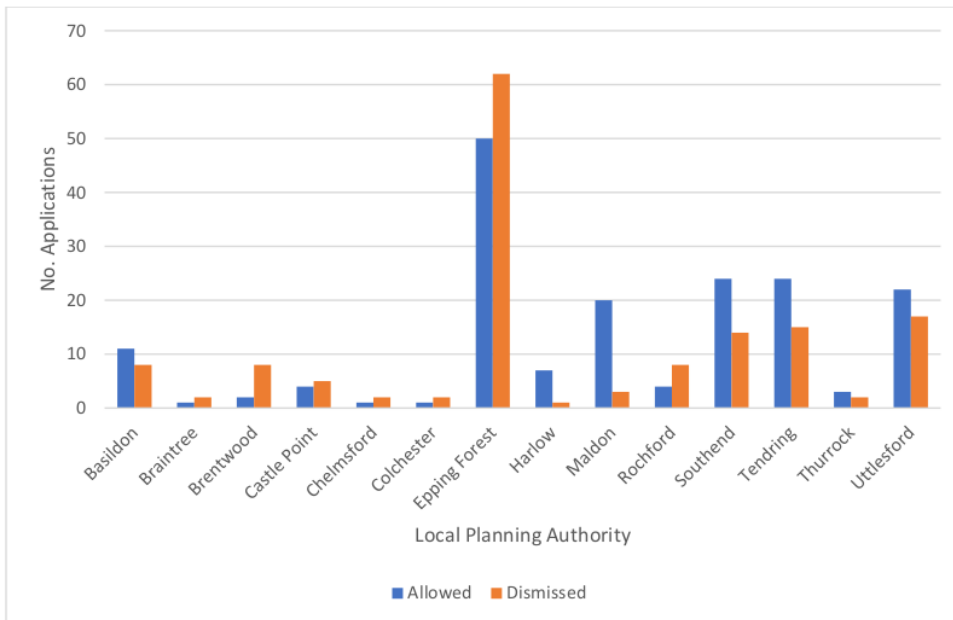


Figure 14 – Number of DCC applications where the officer recommendation of approval was overturned to refusal and the subsequent success at appeal

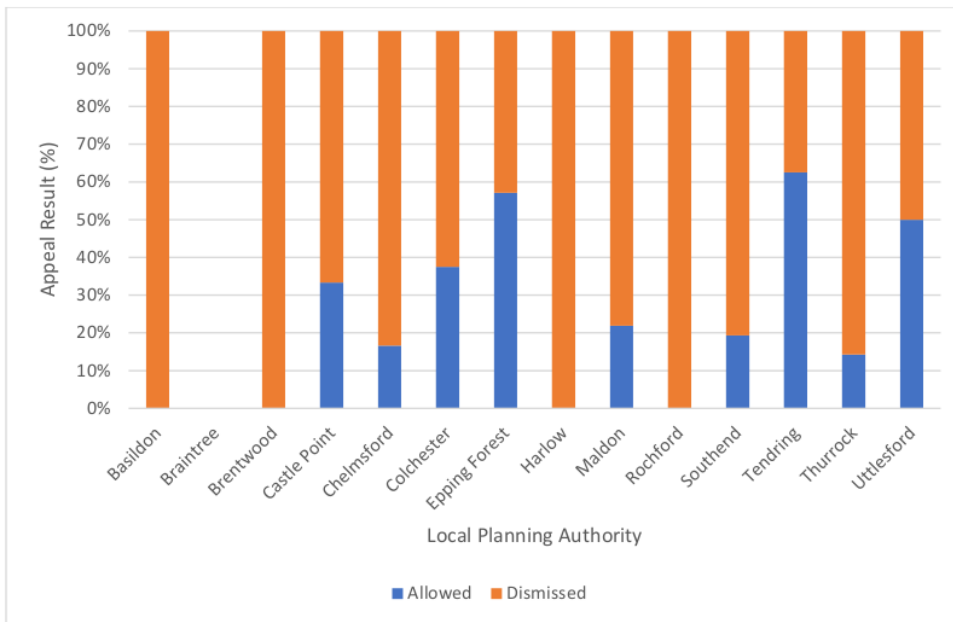


Figure 15 – Out come of appeals where DCC agreed with officers' recommendations

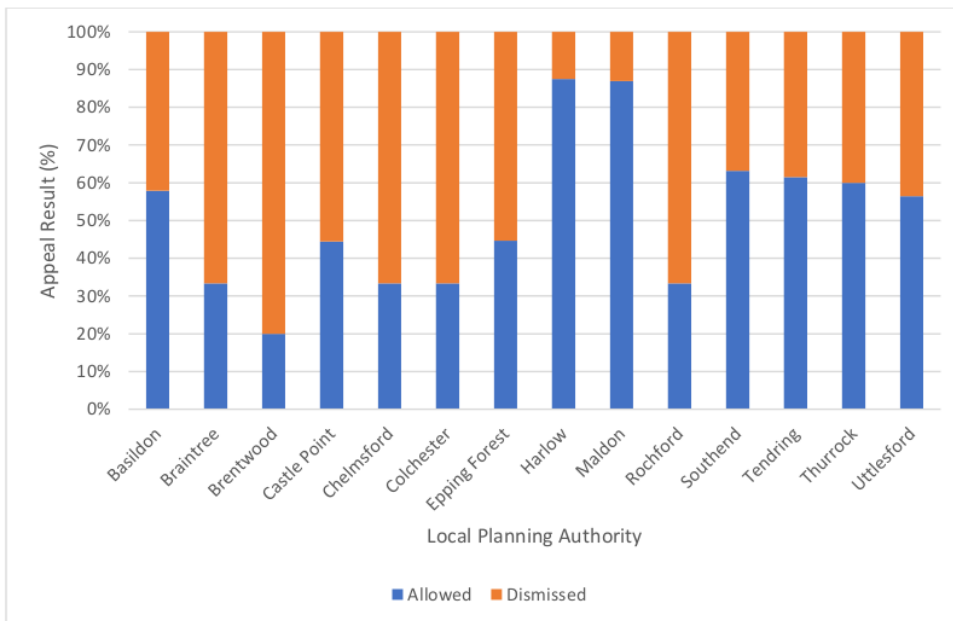
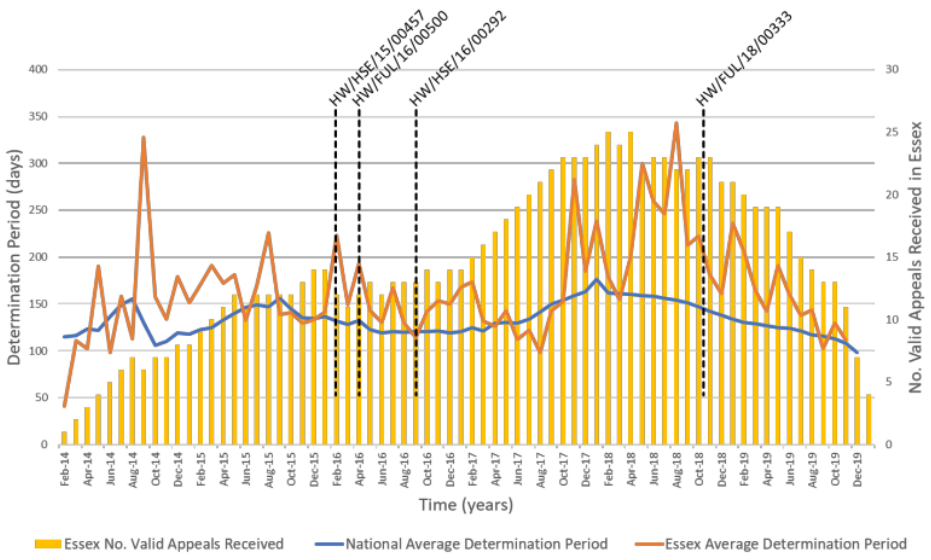
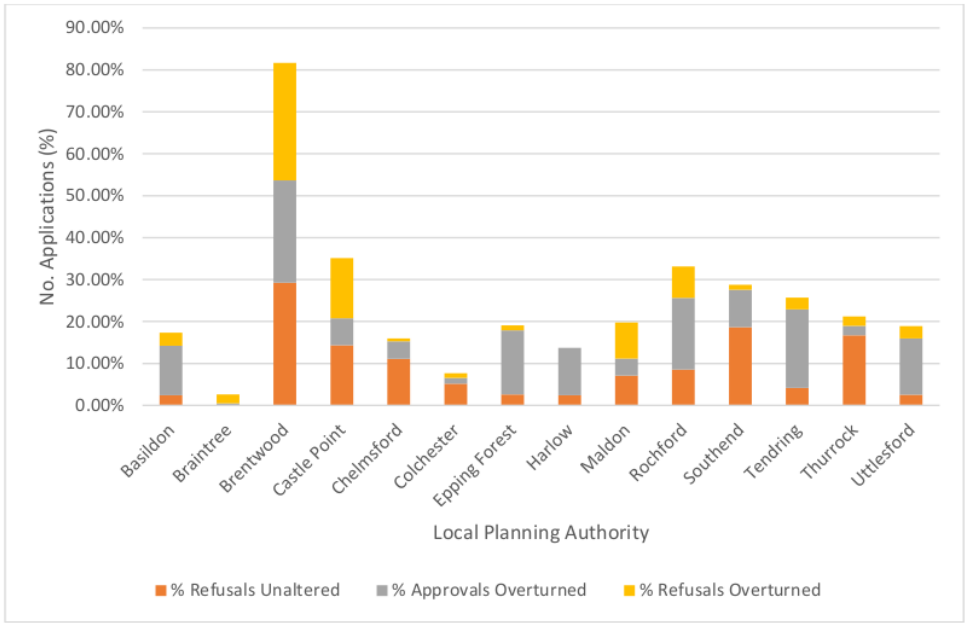


Figure 16 – Outcome of appeals where DCC overturned officers' recommendations



Appendix 2: PINs FOI Request Response

RE: FOI Request - Application Decision Level

PINS FOI Requests <FOIRequests@planninginspectorate.gov.uk>

Mon 13/01/2020 16:49

To: Garner, Stephen 

Cc: PINS FOI Requests <FOIRequests@planninginspectorate.gov.uk>

 1 attachments (65 KB)

foi review procedures.pdf;

Dear Mr Garner

Thank you for your email requesting information from the Planning Inspectorate. Your request has been considered under the provisions of the Freedom of Information Act\Environmental Information Regulations 2004 (EIR).

The Inspectorate does not systematically record information regarding the original decision level (ie delegated, DC committee) such that we could include this level of detail in an automated query. Instead, we would need to manually review all of the recorded information that we hold to extract this level of detail (eg researching refusal notices, delegated reports and other documents within each individual appeal file). Given that we determine 15,000+ planning appeals each year, the size of such a task is clearly above the appropriate limit of £600 (24 hours work @£25 per hour) set in the FOI Act. Similarly, if the request is considered under the EIR then the diversion of resources would also be manifestly unreasonable as per Regulation 12(4)(b).

Separately. And although I imagine it would be equally challenging for you, noting the intention of your research you may already be aware that local planning are required to make information about planning applications publicly available and you could research this in order to answer your own query using the local planning authority's reference code.

I am sorry that we are unable to help you further with your request, but I enclose details of our review procedures should you consider that we have breached any provisions the FOI Act\EIR.

Yours sincerely



Planning Inspectorate

(Planning Inspectorate, 2020)

Appendix 3: Data Tables

Table 1 – Composite dataset data fields

Data Field	Data Field Example 1	Data Field Example 2
LPA Name	Basildon Borough Council	Castle Point Borough Council
LPA Reference	17/01450/FULL	17/0825/FUL
Committee Date	23/01/18	05/12/17
Development Type	Major	Minor
Officer Recommendation	Refuse	Grant
Committee Decision	Grant	Refuse
Appeal Decision Date	No Appeal Possible	06/11/18
Appeal Decision Outcome	No Appeal Possible	Allowed

Table 2 – Data sources and miscellaneous notes concerning the data. Manual collection refers to the reading of DCC reports online and manual entry of the data into the dataset.

Authority/Area	Data Collection	Data Comments/Constraints	
Basildon Borough Council	Manual	Committee reports only available after May 2014	
Braintree District Council	Author Contact		
Brentwood Borough Council	FOI		
Castle Point Borough Council	Author		
Chelmsford Borough Council	FOI		
Colchester Borough Council	FOI		
Epping Forest District Council	Manual		
Harlow District Council	FOI		
Maldon District Council	Manual		Committee minutes only available after 2015
Rochford District Council	Manual		
Southend-on-Sea Borough Council	Manual		
Tendring District Council	FOI		
Thurrock District Council	Manual	Committee reports only available after April 2014	
Uttlesford District Council	Manual	Committee reports only available after April 2014	
Planning Inspectorate (Appeal Statistics for England)	Website and FOI		

Table 3 – Results of the 2015 TDC ward elections and parties political stance towards planning

Political Party	No. Ward Seats	Party Stance on Planning
Conservative	23	Relax planning laws to let the economy prosper
Independent	6	Varied
Labour	4	Build more homes
Liberal Democrats	1	Prevent urban sprawl
Tendring First	1	Prevent urban sprawl
Holland-on-Sea Residents Association	3	Encourage creation of parish plan and design guide to control planning
UKIP	22	Do not build new housing

Sources: (Ashworth, 2010; Tendring District Council, 2010; 2015; Barker, 2019; Labour Party, 2019; Liberal Democrats, 2019; Holland Residents, 2020; UKIP, 2020)

Table 4 – DCC applications overturned to refusal and key observations from the appeals which were dismissed

Application No.	Key Observations
19/00134/FUL	Of two reasons for refusal, one was supported by the inspector holding it would be out of character
18/00272/FUL	The Inspector agreed with DDC members that the development would result in an unacceptable disturbance to neighbours which officers considered was outweighed by the benefit to the community
18/00099/FUL	The LA confirmed they did not wish to support one of the three reasons for refusal, the other two were upheld
17/01528/FUL	One out of three reasons for refusal supported by the Inspector
17/01533/FUL	Inspector criticises DCC members for not specifying what their concerns are and specifies their own when dismissing the appeal
15/00426/FUL	Inspector agreed with both reasons
13/01164/FUL	Cannot access appeal decision report
13/01101/FUL	Cannot access appeal decision report

Appendix 4: Ethical Clearance Assessment

Submitted to UCL Moodle 28th May 2020

The nature of discretionary decision-making is that such decisions can be contentious and will ultimately create winners and losers (Gilg, 2005). Maintaining objectivity throughout the project and analysis will be key and require conscious effort on the authors part to not allow past experience to influence the research, in order to complete a fair and neutral assessment of the matters on hand.

The data collected is collated from publicly accessible data obtained from local and central government websites and organisations (Table 2). In carrying out this work, data has not been collected which would identify a specific group of individuals that is not already done so in publicly accessible data. An example of this is referring to a planning/appeal reference which will relate to and identify an address and individual(s), but which is information freely available on local and central government websites. Evidence of a completed and signed off research ethics statement can be found in Appendix .

1 * Please select your programme of study.

Spatial Planning : Spatial Planning

2 * Please provide your current working dissertation title.

A difference of opinion? The legitimacy of officer recommendations and member decisions.

3 * Please select your supervisor from the drop-down list.

Skippers, Ann : Skippers, Ann

Research Details

4 * Please indicate here which data collection methods you expect to use. Tick all that apply.

Interviews
 Focus Groups
 Questionnaires (including oral questions)
 Action research
 Observation / participant observation
 Documentary analysis (including use of personal records)
 Audio-visual recordings (including photographs)
 Collection/use of sensor or locational data
 Controlled trial
 Intervention study (including changing environments)
 Systematic review
 Secondary data analysis
 Advisory/consultation groups

5 * Please indicate where your research will take place.

UK only : UK only

6 * Does your project involve the recruitment of participants?

'Participants' means human participants and their data (including sensor/locational data and observational notes/images.)

Yes No

Appropriate Safeguard, Data Storage and Security

7 * Will your research involve the collection and/or use of personal data?

Personal data is data which relates to a living individual who can be identified from that data or from the data and other information that is either currently held, or will be held by the data controller (you, as the researcher).

This includes:

- Any expression of opinion about the individual and any intentions of the data controller or any other person toward the individual.
- Sensor, location or visual data which may reveal information that enables the identification of a face, address etc. (some postcodes cover only one property).
- Combinations of data which may reveal identifiable data, such as names, email/postal addresses, date of birth, ethnicity, descriptions of health diagnosis or conditions, computer IP address (of relating to a device with a single user).

Yes No

8 * Is your research using or collecting:

- special category data as defined by the General Data Protection Regulation*, and/or
- data which might be considered sensitive in some countries, cultures or contexts?

*Examples of special category data are data:

- which reveals racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership;
- concerning health (the physical or mental health of a person, including the provision of health care services);
- concerning sex life or sexual orientation;
- genetic or biometric data processed to uniquely identify a natural person.

Yes No

9 * Do you confirm that all personal data will be stored and processed in compliance with the General Data Protection Regulation (GDPR 2018)?

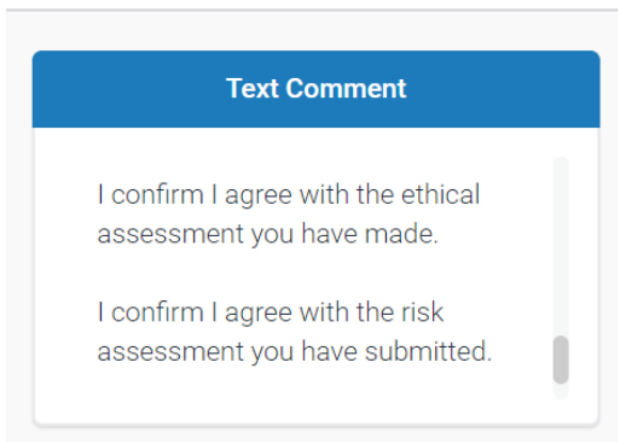
Yes
 No
 I will not be working with any personal data

10 * I confirm that:

The information in this form is accurate to the best of my knowledge.
 I will continue to reflect on, and update these ethical considerations in consultation with my dissertation supervisor.

Appendix 5: Confirmation of Acceptable Ethical Clearance Assessment and Risk Assessment

Confirmation published to UCL Moodle 3rd June 2020.



Appendix 6: Raw Data

	Basildon	Braintree	Brentwood	Castle Point	Chelmsford	Colchester	Epping Forest	Harlow	Maldon	Rochford	Southeast	Tendring	Thurrock	Uttlesford
Total No Committee Applications	288	813	82	202	144	366	1552	124	1374	187	664	358	269	551
No of Applications Collected	51	22	67	197	135	325	298	121	327	62	197	331	57	104
Officer Recommendations	35	5	20	139	118	302	238	118	56	32	65	297	6	74
Grant	16	17	47	58	17	239	297	3	271	30	132	33	51	30
Refuse	51	22	67	197	135	325	239	121	327	62	197	330	57	104
DC Committee Recommendations	9	17	23	155	113	300	18	104	119	14	14	14	6	16
Grant	41	4	44	42	22	24	278	17	207	48	183	82	51	88
Refuse	1 Deferred	1 DC Split	1 DC Split	1 DC Split	1 DC Split	1 DC Split	1 DC Split	1 DC Split	1 DC Split	1 DC Split	1 DC Split	13 NO + 1 Split	6	74
Reason for values not matching	34	4	20	13	6	5	237	14	55	32	59	67	6	16
Refusal Overturned	9	17	23	29	1	4	18	0	119	14	8	10	6	16
No. Overturns	43	21	43	14	7	9	255	174	174	46	67	77	12	90
No. Recommendations Unaltered	8	1	24	155	128	316	42	107	153	16	130	253	45	14
Total Number Unaltered	0	0	0	126	112	296	0	104	0	0	6	224	0	0
Grant	7	0	24	29	16	19	41	3	98	16	124	15	45	14
Refuse														

	DC Committee Appeals Data													
No. of Unaltered Refusals	0	0	0	1	1	3	4	0	7	0	6	5	2	2
Dismissed	3	0	4	2	5	5	3	1	25	7	25	3	12	2
Total	3	0	4	3	6	8	7	1	32	7	31	8	14	4
Officer Recommendation Overturned to Refusal	11	1	2	4	1	1	50	7	20	4	24	24	3	22
Dismissed	8	2	8	5	2	2	62	1	3	8	14	15	2	17
Total	19	3	10	9	3	3	112	8	23	12	38	39	5	39
Officer Recommendation Overturned to Approval - No Appeal Possible	9	17	23	29	0	5	18	0	117	14	8	10	6	16

No. of Unaltered Refusals	0.00%	0.00%	0.00%	33.33%	16.67%	37.50%	57.14%	0.00%	21.88%	0.00%	19.35%	62.50%	14.29%	50.00%
% Allowed	100.00%	100.00%	100.00%	66.67%	83.33%	62.50%	42.86%	100.00%	78.13%	100.00%	80.65%	37.50%	85.71%	50.00%
% Dismissed	57.89%	33.33%	20.00%	44.44%	33.33%	33.33%	44.64%	87.50%	86.66%	33.33%	63.16%	61.54%	60.00%	56.41%
Officer Recommendation Overturned to Refusal	42.11%	66.67%	80.00%	55.56%	66.67%	66.67%	55.36%	12.50%	13.04%	66.67%	36.84%	38.46%	40.00%	43.59%
% Officer Recommendation Overturned to Approval - No Appeal Possible of Total Altered Decisions	32.14%	85.00%	69.70%	76.32%	0.00%	62.50%	13.85%	0.00%	83.57%	53.85%	17.39%	20.41%	54.55%	29.09%

	Of All Committee Applications													
% Approvals Unaltered	82.29%	97.29%	18.29%	64.85%	84.03%	92.08%	80.86%	86.29%	76.20%	66.84%	71.23%	70.39%	78.81%	81.13%
% Refusals Unaltered	2.43%	0.00%	29.27%	14.36%	11.11%	5.19%	2.64%	2.42%	7.13%	8.56%	18.67%	4.19%	16.73%	2.94%
% Approvals Overturned	11.81%	0.49%	24.39%	6.44%	4.17%	1.37%	15.27%	11.29%	4.00%	17.11%	8.89%	18.72%	2.23%	13.43%
% Refusals Overturned	3.13%	2.09%	28.05%	14.36%	0.69%	1.09%	1.16%	0.00%	6.66%	7.49%	1.20%	2.79%	2.23%	2.90%
% Of Overturns	34.93%	2.58%	52.44%	20.79%	4.86%	2.46%	16.43%	11.29%	32.66%	24.60%	10.99%	21.51%	4.46%	16.53%

	Of All Committee Decisions That Can Be Appealed													
% Appeals Unaltered	53.66%	75.00%	31.82%	28.57%	40.91%	45.83%	42.81%	52.94%	26.57%	39.58%	37.70%	57.32%	37.25%	48.86%
% Refusals Unaltered	26.83%	25.00%	4.55%	11.90%	9.09%	16.67%	19.42%	41.18%	13.04%	8.33%	16.39%	35.37%	9.80%	27.77%
% Approvals Overturned	26.83%	50.00%	27.27%	16.67%	31.82%	29.17%	23.38%	11.76%	13.53%	31.25%	21.31%	21.95%	27.45%	21.59%

	Officer Appeal Statistics													
Allowed	78	148	110	55	51	79	129	35	195	38	142	140	80	143
Dismissed	193	310	262	94	239	214	359	75	336	93	360	252	165	331
% Allowed	28.8%	32.3%	29.6%	36.9%	17.6%	27.0%	26.4%	31.8%	36.7%	29.0%	35.3%	32.7%	30.2%	30.2%
% Dismissed	71.2%	67.7%	70.4%	63.1%	82.4%	73.0%	73.6%	68.2%	63.3%	71.0%	64.7%	67.3%	69.8%	69.8%

Appendix 7: Specific applications and application documents referred to in the body of the text

Authority	Application Reference	Document	Reference
Castle Point Borough Council	19/0617/FUL	Officer Report	Zammit, 2019a
		Committee Decision	Butt, 2019a
		Appeal Decision	Heron, 2020
	19/0618/FUL	Officer Report	Zammit, 2019b
		Committee Decision	Butt, 2019b
		Appeal Decision	Woodwards, 2020
Harlow District Council	HW/HSE/15/00457	Officer Report	Reynolds, 2016a
		Committee Decision	Jarratt, 2016a
	HW/LDCP/15/00400	Decision	Jarratt, 2015
	HW/FUL/16/00063	Officer Report	Reynolds, 2016b
		Committee Decision	Jarratt, 2016b
	HW/LDCP/16/00500	Decision	Philpott, 2017a
	HW/HSE/16/00292	Officer Report	Philpott, 2016a
		Committee Decision	Jarratt, 2016c
	HW/HSE/16/00191	Decision	Jarratt, 2016d
	HW/FUL/18/00333	Officer Report	Harrison, 2018
		Committee Decision	Philpott, 2018
	HW/FUL/18/00525	Decision	Philpott, 2019
	HW/FUL/16/00291	Officer Report	Philpot, 2016b
		Committee Decision	Jarratt, 2016e
		Appeal Decision	Dowling, 2017
	HW/FUL/16/00518	Officer Report	Wallis, 2016
Committee Decision		Philpott, 2017b	
	13/01101/FUL	Committee Decision	Peirce, 2014a
	13/01164/FUL	Committee Decision	Peirce, 2014b
	15/00426/FUL	Officer Report	Matthews, 2015
		Committee Decision	Glenday, 2015
		Appeal Decision	Radcliffe, 2016
	17/01528/FUL	Officer Report	Howard, 2018a
		Committee Decision	Ruck, 2018a
		Appeal Decision	Selby, 2019
	17/01533/FUL	Officer Report	Howard, 2018b
		Committee Decision	Ruck, 2018b
		Appeal Decision	Forrett, 2019
	18/00099/FUL	Officer Report	Howard, 2018c
		Committee Decision	Ruck, 2018c
		Appeal Decision	Dyer, 2019

	19/00134/FUL	Officer Report	Dawney, 2019
		Committee Decision	Summers, 2019
		Appeal Decision	Bowyer, 2020

Appendix 8: Uttlesford application recommended for approval that were overturned to refusal that were not appealed

DCC Ref App No.	Comments	Related App No.	DCC App Decision Reference	Related App Decision/Appeal Reference
UTT/19/1527/FUL	Alternative scheme approved	UTT/19/2912/FUL	Glenday, 2019a	Glenday, 2020a
UTT/19/1411/FUL	Alternative scheme approved	UTT/20/0438/FUL	Glenday, 2019b	Glenday, 2020b
UTT/19/0761/FUL			Glenday, 2019c	
UTT/16/3565/OP			Glenday, 2019d	
UTT/19/0391/FUL			Glenday, 2019e	
UTT/18/3293/FUL	Alternative Application Submitted	UTT/18/1305/FUL	Glenday, 2019f	Glenday, 2018a
UTT/18/2899/FUL	Previous Scheme Allowed on Appeal	UTT/17/1967/FUL	Glenday, 2019g	Glenday, 2018b; Chamberlain, 2019
UTT/18/2400/OP	Alternative scheme approved	UTT/19/2118/OP	Glenday, 2018c	Glenday, 2020c
UTT/18/1004/FUL			Glenday, 2018d	
UTT/17/2607/OP			Glenday, 2018e	
UTT/17/2387/FUL			Glenday, 2018f	
UTT/17/3197/FUL			Glenday, 2018g	
UTT/17/2822/FUL	Alternative scheme approved		Glenday, 2018h	Glenday, 2018i
UTT/17/2624/FUL			Glenday, 2017a	
UTT/17/2334/FUL	Alternative scheme approved		Glenday, 2017b	Glenday, 2018j
UTT/17/1191/HHF			Glenday, 2017c	
UTT/17/0522/OP	Previous Scheme Allowed on Appeal	UTT/16/2210/OP	Glenday, 2017d	Glenday, 2016a; Hughes, 2017

UTT/16/2607/HHF	Alternative schemes approved	UTT/17/0170/CLP UTT/17/0921/CLP	Glenday, 2017e	Glenday, 2017f; Glenday, 2017g
UTT/16/1596/OP	Alternative scheme approved	UTT/17/3540/FUL	Glenday, 2016b	Glenday, 2018k
UTT/16/0287/OP			Glenday, 2016c	
UTT/15/2460/OP	Alternative scheme approved	UTT/16/2538/FUL	Taylor, 2015a	Glenday, 2017h
UTT/15/2446/HHF			Taylor, 2015b	
UTT/15/1665/OP			Taylor, 2015c	
UTT/15/0377/FUL	Alternative scheme approved	UTT/15/2694/FUL	Taylor, 2015d	Taylor, 2015e
UTT/14/3675/DFO	Alternative scheme approved	UTT/15/1615/DFO	Taylor, 2015f	Taylor, 2015g
UTT/14/2234/DFO	Alternative scheme approved	UTT/14/3506/DFO	Taylor, 2014a	Taylor, 2015h
UTT/14/1108/FUL			Taylor, 2014b	
UTT/14/0243/FUL	Alternative scheme approved	UTT/14/1887/FUL	Taylor, 2014c	Taylor, 2014d
UTT/14/0634/FUL			Taylor, 2014e	
UTT/19/1463/FUL			Glenday, 2019h	
UTT/18/1027/FUL			Glenday, 2019i	
UTT/18/2268/FUL	Previous scheme approved	UTT/16/2755/FUL	Glenday, 2019j	Glenday, 2016d
UTT/17/2179/HHF			Glenday, 2017i	
UTT/17/1124/FUL			Glenday, 2017j	
UTT/17/1163/FUL			Glenday, 2017k	

RISK ASSESSMENT FORM



FIELD / LOCATION WORK

The Approved Code of Practice - Management of Fieldwork should be referred to when completing this form

<http://www.ucl.ac.uk/estates/safetynet/guidance/fieldwork/acop.pdf>

DEPARTMENT/SECTION – THE BARTLETT SCHOOL OF PLANNING

LOCATION(S) – ENGLAND

PERSONS COVERED BY THE RISK ASSESSMENT – Stephen Garner

BRIEF DESCRIPTION OF FIELDWORK

Desk based data collection and analysis. As the data collection is desk based utilising computers and information available on the internet, the environment where the research will be taking place will either be at my home or at my place of work. The following identified risks, risk levels and control measures apply to both locations.

Consider, in turn, each hazard (white on black). If **NO** hazard exists select **NO** and move to next hazard section. If a hazard does exist select **YES** and assess the risks that could arise from that hazard in the risk assessment box.

Where risks are identified that are not adequately controlled they must be brought to the attention of your Departmental Management who should put temporary control measures in place or stop the work. Detail such risks in the final section.

ENVIRONMENT

The environment always represents a safety hazard. Use space below to identify and assess any risks associated with this hazard

e.g. location, climate, terrain, neighbourhood, in outside organizations, pollution, animals.

Poor Lighting - Low
Adverse Climate - Low

CONTROL MEASURES

Indicate which procedures are in place to control the identified risk

work abroad incorporates Foreign Office advice

- participants have been trained and given all necessary information
- only accredited centres are used for rural field work
- participants will wear appropriate clothing and footwear for the specified environment
- trained leaders accompany the trip
- refuge is available
- work in outside organisations is subject to their having satisfactory H&S procedures in place
- OTHER CONTROL MEASURES: please specify any other control measures you have implemented:

I will ensure in both locations that there is adequate lighting to enable to safe and efficient use of my workspace whilst ensuring that appropriate clothing is worn or heating systems used to control any adverse impacts of the climate (cold) on myself.

EMERGENCIES

Where emergencies may arise use space below to identify and assess any risks

e.g. fire, accidents

Fire – low
Health Emergency - low

CONTROL MEASURES

Indicate which procedures are in place to control the identified risk

- participants have registered with LOCATE at <http://www.fco.gov.uk/en/travel-and-living-abroad/>
- fire fighting equipment is carried on the trip and participants know how to use it
- contact numbers for emergency services are known to all participants
- participants have means of contacting emergency services
- participants have been trained and given all necessary information
- a plan for rescue has been formulated, all parties understand the procedure
- the plan for rescue /emergency has a reciprocal element
- OTHER CONTROL MEASURES: please specify any other control measures you have implemented:

At both home and office locations the chance of a fire occurring is relatively low. Both locations have fully working and functioning smoke alarms. Should a fire occur at home I will evacuate the building to a safe distance away and then call the emergency services on my mobile. Should a fire occur at my office, I will follow all office fire alarm procedures and evacuate the building, travel to the nearest fire assembly point and follow instructions by our building fire marshal. At no point would I return to either building without being given permission to by the correct authority (fire marshal or emergency personnel).

I do not have any allergies or take any medication for other conditions. Should I feel unwell and it is more serious than a common cold and the symptoms do not match those of Covid-19 then I shall contact my local GP for their advice and consultation. Should my symptoms correspond to those of Covid-19 then I shall follow up to date government guidance regarding testing and self-isolation. Currently living on my own and isolating/social distancing,

the risk of contracting Covid-19 is hopefully low/minimal. Should I become ill and be required to self-isolate for a period of time, I have a support network of family members and friends, alongside the potential for online deliveries who would enable me live in such a manner safely for a period of time.

EQUIPMENT

Is equipment used?



If 'No' move to next hazard
If 'Yes' use space below to identify and assess any risks

e.g. clothing, outboard motors.

Use of computer equipment with the potential for RSI or eye strain to occur – Low

CONTROL MEASURES

Indicate which procedures are in place to control the identified risk

- the departmental written Arrangement for equipment is followed
- participants have been provided with any necessary equipment appropriate for the work
- all equipment has been inspected, before issue, by a competent person
- all users have been advised of correct use
- special equipment is only issued to persons trained in its use by a competent person
- OTHER CONTROL MEASURES: please specify any other control measures you have implemented:

Follow guidelines on posture and workstation set-up to provide the optimal environment to avoid injury whilst taking regular breaks away from the screen and good quality lighting to prevent eye strain.

LONE WORKING

Is lone working a possibility?



If 'No' move to next hazard
If 'Yes' use space below to identify and assess any risks

e.g. alone or in isolation lone interviews.

Risks associate with Display Screen Equipment (DSE) use – Low

CONTROL MEASURES

Indicate which procedures are in place to control the identified risk

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>

the departmental written Arrangement for lone/out of hours working for field work is followed
lone or isolated working is not allowed
location, route and expected time of return of lone workers is logged daily before work commences
all workers have the means of raising an alarm in the event of an emergency, e.g. phone, flare, whistle
all workers are fully familiar with emergency procedures
OTHER CONTROL MEASURES: please specify any other control measures you have implemented:

I sometimes work in the office on my own under usual circumstances and as I live on my own, lone home working is not a new concept/issue. I always have my mobile phone on me so in the event that something were to happen to me, I would be able to contact someone for assistance.

ILL HEALTH**The possibility of ill health always represents a safety hazard. Use space below to identify and assess any risks associated with this Hazard.**

e.g. *accident, illness, personal attack, special personal considerations or vulnerabilities.*

Tripping Hazards - low
Slippery or Wet Floors - Low

CONTROL MEASURES**Indicate which procedures are in place to control the identified risk**

- an appropriate number of trained first-aiders and first aid kits are present on the field trip
- all participants have had the necessary inoculations/ carry appropriate prophylactics
- participants have been advised of the physical demands of the trip and are deemed to be physically suited
- participants have been adequate advice on harmful plants, animals and substances they may encounter
- participants who require medication have advised the leader of this and carry sufficient medication for their needs
- OTHER CONTROL MEASURES:** please specify any other control measures you have implemented:

Good housekeeping shall be maintained to ensure the potential for slips, trips of accidents is kept to a minimum.

TRANSPORT**Will transport be required****NO****YES****Move to next hazard****Use space below to identify and assess any risks**

e.g. *hired vehicles*

Although a desk-based research undertaking should the need to travel somewhere arise such as to my employers offices, I will be utilising my private car.
Car Accident - low

CONTROL MEASURES**Indicate which procedures are in place to control the identified risk**

- only public transport will be used
- the vehicle will be hired from a reputable supplier
- transport must be properly maintained in compliance with relevant national regulations
- drivers comply with UCL Policy on Drivers http://www.ucl.ac.uk/hr/docs/college_drivers.php
- drivers have been trained and hold the appropriate licence
- there will be more than one driver to prevent driver/operator fatigue, and there will be adequate rest periods
- sufficient spare parts carried to meet foreseeable emergencies
- OTHER CONTROL MEASURES:** please specify any other control measures you have implemented:

DEALING WITH THE PUBLIC

Will people be dealing with public

MAYBE

If 'No' move to next hazard

If 'Yes' use space below to identify and assess any risks

e.g. interviews, observing

Personal Attack – low
Causing offence/being misinterpreted – low

CONTROL MEASURES

Indicate which procedures are in place to control the identified risk

- all participants are trained in interviewing techniques
- interviews are contracted out to a third party
- advice and support from local groups has been sought
- participants do not wear clothes that might cause offence or attract unwanted attention
- interviews are conducted at neutral locations or where neither party could be at risk
- OTHER CONTROL MEASURES: please specify any other control measures you have implemented:

My work may or may not involve discussing my research findings with councillors or members of council staff. It is not currently planned to do this, however in the unlikely case it does involve this, current UCL guidance will be followed where face to face meetings are avoided and discussions are held remotely by email, phone or video conferencing means due to Covid-19. Anything said in discussions will be carefully considered and worded so to not cause offence to the contributing party and UCL guidelines on interviewing procedure, confidentiality and data protection will be followed. No individual or group would be made identifiable as a result of such discussions as all information would be kept and referred to anonymously.

FIELDWORK 3

May 2010

WORKING ON OR NEAR WATER

Will people work on or near water?

NO

If 'No' move to next hazard

If 'Yes' use space below to identify and assess any risks

e.g. rivers, marshland, sea.

Examples of risk: drowning, malaria, hepatitis A, parasites. Is the risk high / medium / low?

CONTROL MEASURES

Indicate which procedures are in place to control the identified risk

- lone working on or near water will not be allowed
- coastguard information is understood; all work takes place outside those times when tides could prove a threat
- all participants are competent swimmers
- participants always wear adequate protective equipment, e.g. buoyancy aids, wellingtons
- boat is operated by a competent person
- all boats are equipped with an alternative means of propulsion e.g. oars
- participants have received any appropriate inoculations
- OTHER CONTROL MEASURES: please specify any other control measures you have implemented:

MANUAL HANDLING (MH)

Do MH activities take place?

NO

If 'No' move to next hazard

If 'Yes' use space below to identify and assess any risks

e.g. lifting, carrying, moving large or heavy equipment, physical unsuitability for the task.

Examples of risk: strain, cuts, broken bones. Is the risk high / medium / low?

CONTROL MEASURES

Indicate which procedures are in place to control the identified risk

- the departmental written Arrangement for MH is followed
- the supervisor has attended a MH risk assessment course
- all tasks are within reasonable limits, persons physically unsuited to the MH task are prohibited from such activities
- all persons performing MH tasks are adequately trained
- equipment components will be assembled on site
- any MH task outside the competence of staff will be done by contractors

OTHER CONTROL MEASURES: please specify any other control measures you have implemented:

SUBSTANCES

Will participants work with

NO

If 'No' move to next hazard
 If 'Yes' use space below to identify and assess any risks

e.g. plants, chemical, biohazard, waste

Examples of risk: ill health - poisoning, infection, illness, burns, cuts. Is the risk high / medium / low?

CONTROL MEASURES

Indicate which procedures are in place to control the identified risk

- the departmental written Arrangements for dealing with hazardous substances and waste are followed
- all participants are given information, training and protective equipment for hazardous substances they may encounter
- participants who have allergies have advised the leader of this and carry sufficient medication for their needs
- waste is disposed of in a responsible manner
- suitable containers are provided for hazardous waste
- OTHER CONTROL MEASURES: please specify any other control measures you have implemented:

OTHER HAZARDS

Have you identified any other hazards?

NO

If 'No' move to next section
 If 'Yes' use space below to identify and assess any risks

i.e. any other hazards must be noted and assessed here.

Hazard:

Risk: is the risk

CONTROL MEASURES

Give details of control measures in place to control the identified risks

Have you identified any risks that are not adequately controlled?

NO

Move to Declaration

YES

Use space below to identify the risk and what action was taken

Is this project subject to the UCL requirements on the ethics of Non-NHS Human Research?

NO

If yes, please state your Project ID Number

For more information, please refer to: <http://ethics.grad.ucl.ac.uk/>

DECLARATION

The work will be reassessed whenever there is a significant change and at least annually. Those participating in the work have read the assessment.

Select the appropriate statement:

- I the undersigned have assessed the activity and associated risks and declare that there is no significant residual risk
- I the undersigned have assessed the activity and associated risks and declare that the risk will be controlled by the method(s) listed above



Stephen Garner
04/09/2020

NAME OF SUPERVISOR – Ann Skippers

Dissertation - Final

GRADEMARK REPORT

FINAL GRADE

GENERAL COMMENTS

/100

Instructor

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