

PLANNING COMMITTEE

22 JULY 2020

PERFORMANCE REPORT: 1 JANUARY 2020 TO 30 JUNE 2020

Report from: Richard Hicks, Director of Place and Deputy Chief
Executive
Author: Dave Harris, Head of Planning

Summary

This report is presented quarterly to planning committee informing members on current planning performance and the Local Plan.

1. Budget and policy framework

1.1. There are no budget and policy framework decisions arising directly from this report. This is an information item for the planning committee.

2. Background

2.1. Performance relating to the processing of planning applications is collected as National Indication 157. The NI157 targets are:

Major developments: to determine 60% of applications within 13 weeks.

Minor Developments: to determine 70% of applications within 8 weeks.

Other Developments: to determine 70% of applications within 8 weeks.

3. Performance

3.1 See attached charts in Appendices A to I for performance concerning the processing of planning applications, benchmarking, appeals, enforcement activity, applications for Prior Approvals for Permitted Development, number of units under construction, Tree Preservation Order applications, a breakdown of complaints and compliments received and Lead Local Flood Authority Consultee Compliance.

3.2 During the period 1 January to 30 June 2020 the authority received 646 planning applications; this is compared to 755 for the same period

in 2019. For the year 2019/20 the authority received 1461 applications, this compares to 1456 in 2018/19.

Performance for applications is split between those subject to an extension of time and those not. An extension of time can be in the form of a Planning Performance Agreement (PPA) or a Planning Extension Agreement (PEA).

During the first six months of the year 88% of major applications were determined within 13 weeks or within the agreed timeframe. This is against a target of 60%.

Performance for minor applications determined within 8 weeks or within the agreed timeframe during the first six months of the year is 96%. This is against a target of 70%.

Performance for other applications determined within 8 weeks or within the agreed timeframe during the first six months of the year is 97%. This is against a target of 70%.

Appendix A, figure 2, 3 and 4 shows performance against target (including those not subject and those subject to an extension of time) for majors, minor and other applications for the year.

Comparing performance against the latest data available nationally (October to December 2019), Medway performed above the national average for all types of applications (see Appendix B).

Pressure on officer resources has been carefully managed in order to meet national performance targets. This pressure continues and with the added pressure of annual leave, maternity leave and vacancies, the workload will need to be carefully managed if performance is to continue to be maintained.

- 3.3 The Town and Country Planning (Permitted Development and Miscellaneous Amendments)(England) (Coronavirus) Regulations 2020 were laid before Parliament on 24 June 2020, and have passed into Law. In summary, the Bill contains temporary provisions to facilitate the extension of the duration of certain planning permissions and listed building consents. This ensures that relevant permissions and consents will remain extant, enabling development to commence following delays caused by COVID-19.
- 3.4 Due to COVID-19 the Planning Service are following Government guidance and working remotely from home where possible. Processes have been put in place to manage performance whilst at the same time safeguarding officers. Additional monitoring is taking place to ensure Planning is in a strong position when business returns to normal.
- 3.5 A temporary new process increasing delegated powers to the Head of Planning, was approved by Members of the Planning Committee on 1 April 2020. At the draft agenda stage the Head of Planning will provide the Planning Spokes with a copy of the draft agenda and all the

associated reports. The Head of Planning will also send a copy of the list of the items on the draft agenda to all councillors. After 3 days the Head of Planning will meet virtually with the Planning Spokes to agree what items need to remain on the agenda for Committee consideration and what items can be determined under delegated powers. The extended delegated powers will only remain in place during this period of social distancing.

- 3.6 During the first six months of the year 111 applications with Planning Extension Agreements were decided. Comparing performance against national data for the period October to December 2019, 90% of applications were determined within the agreed extended timeframe nationally compared to 93% by Medway.
- 3.7 A number of PPA's have been agreed in principle during the first six months of the year and 6 Planning Performance Agreements (PPA's) were entered into. These related to:
- Damhead Creek II
 - Hillcrest
 - Upnor Road
 - Isle of Grain
 - Halling Lakes
 - Sharnal Street
- 3.8 The quality of decisions is reviewed by Government and the threshold for designation on applications for both major and non-major development is 10% of an authority's total number of decisions being allowed on appeal. The most up-to-date Government data, which is for the 24 months to the end of September 2018, shows the number of decisions overturned at appeal for major applications is 2.5% and 1.0% for non-major applications.
- 3.9 Government are producing stats for applications for prior approvals for permitted developments by local planning authorities (See Appendix D).
- 3.10 The percentage of appeals allowed during the first six months of the year is 17%. A total of 29 appeal decisions were received, including 4 relating to enforcement. 5 were allowed, 1 of which was for enforcement, and 24 were dismissed. All appeals allowed comprise delegated decisions and no Committee decisions. (See Appendix C).
- 3.11 The validation of tree preservation orders applications is undertaken by the planning service, but the administration of tree enquiries and the making of new TPO's is undertaken by the Administration Hub. The post of Senior Tree Officer remains within Planning. The number of TPO applications received and performance against target time is reported in Appendix G.
- 3.12 Medway Council in its remit as Lead Local Flood Authority was made a statutory consultee in respect of surface water for major development

on 15 April 2015. Statutory consultees have a duty to respond to statutory consultations within 21 days in accordance with Article 22 of the Development Management Order. The 21 day period does not begin until the statutory consultee in question has such information to enable a substantive response.

- 3.13 The Lead Local Flood Authority also receive consultations where relevant for some minor developments, change of use applications, Environmental Impact Assessment (EIA) Scoping and Screening, pre-application consultations, and variation of condition applications. An internal target of 80% responses within the timeframes has been set for all consultations. There are no nationally set applicable external targets. Statutory Consultee compliance results are reported in Appendix H.
- 3.14 The service successfully undertook its first ever remote external assessment under ISO 9001:2015 in June 2020.

The Assessor thanked all those involved for their professional approach and strengths were noted for overall performance and the management of the service during these unprecedented times due to COVID-19. It was also noted that the strategic direction of the organisation continues to be identified through the commitments and objectives shown in the Planning Service Plan. The next assessment will take place in December 2020.

4. Advice and analysis

- 4.1 This report is submitted for information and enables members to monitor performance.

5. Risk management

- 5.1 The risk register for the service rates the risk against service vulnerability, triggers, consequence or risk and mitigation.
- 5.2 Performance is regularly monitored to ensure that the Council's Development Management function meets its monthly, quarterly and annual targets. In addition comparisons are undertaken with all other authorities to assess performance against the national average.
- 5.3 Monitoring of all appeal decisions is undertaken to ensure that the Council's decisions are being defended thoroughly and that appropriate and defensible decisions are being made by Committee and under delegated powers. The lack of any monitoring could lead to more decisions going contrary to the Council decisions resulting in poorer quality development and also costs being awarded against the Council.
- 5.4 Within the Enforcement team measures and procedures are in place to ensure that appropriate enforcement action will be taken where necessary and that decisions taken are defensible to challenge.

- 5.5 The service has achieved accreditation to ISO 9001:2015 for its processes, which ensures a quality and consistency of decision making that enables the majority of challenges/complaints against decisions not to be upheld. Where complaints are justified then the reasons for that are reviewed and appropriate action/changes are made.
- 5.6 In negotiating Planning Performance Agreements, the Head of Planning and Planning Managers will try to negotiate backfilling payments with developers, which enable the developer to get an enhanced service and also enable Medway Council to use the payments to bring in additional staff/consultants to deal with the greater workload demands.

6. Consultation

- 6.1 Work is progressing on the evidence base for the Local Plan, including a Strategic Transport Assessment, Viability Assessment, Infrastructure Delivery Plan, Habitat Regulations Assessment, Sustainability Appraisal and Cumulative Ecological Impact Assessment. The updated Local Development Scheme will be reported to Cabinet in August.

Some consultation with stakeholders has taken place on the production of the draft Hoo Development Framework to provide planning guidance and masterplan for growth of rural town. Planning for growth on the Hoo Peninsula consultation was extended to May 2020 due to COVID-19.

Stakeholder consultation planned by September 2020 on work linked to Biodiversity Net Gain and HIF Strategic Environmental Management Scheme.

- 6.2 Liaison with major house builders within Medway and the Planning Service continues to assist them to meet commitments. This has resulted in the negotiation of payment plans to assist developers to meet their S106 developer contributions. During the first six months of the year £1,647,648.77 has been received via S106 contributions and £134,852.64 has been received for Habitat Regulations Agreements. This makes a total of £1,782,501.41.
- 6.3 Medway Council continues to meet with developers to work with them to ensure developments with planning permission start on site and developments continue. This includes considering appropriate amendments to developments and viability assessments.

The second Housing Delivery Test results were published by MHCLG in February 2020, again later than anticipated, and Medway achieved 46% delivery against housing need. This is a slight dip from the previous result of 47% and means we need to produce a Housing Delivery Test Action Plan (HDTAP) and a 20% buffer will be applied to our housing need figure. The HDTAP has to be published within six months of the results so it will be reported to Cabinet in August for publishing later that month.

The next Housing Delivery test results could be published as early as November 2020 but considering the late publication of the last two sets and the current situation regarding Covid and implications for housing delivery, it is likely it will be February 2021. The results reflect delivery over a three year period.

The NPPF requires all authorities with a delivery of less than 95% to produce an action plan and those with less than 85% delivery to apply a buffer of 20% on the 5 year local housing need figure. In addition to this, there has been a transitional arrangement to apply presumption in favour of sustainable development if housing delivery falls below 25% in year 1 of the results, 45% in year 2 and 75% in year 3 and beyond. This will apply to Medway from the next results until the rate of delivery is increased to more than 75%.

Although the housing completion figures do not show an increase, the work being undertaken on sites does show an increase in the units under construction. See Appendix E.

- 6.4 Recognising the important role that Small/Medium Enterprises (SME's) can play in helping Medway meet its housing needs, a forum was organised with SME's and key members of the planning service in November. This should help to build stronger partnership working and support SME's to complement the delivery of homes from the volume house builders. SME's found the forum useful and agreed that the forum should meet regularly and be chaired by an SME. The next forum is scheduled to take place remotely on 21 July 2020.

7. Climate change implications

- 7.1 Planning Officers are involved in the setting up of a technical group supported by the Planning Advisory Service considering best practice in planning for climate change.

8. Financial implications

- 8.1 Development Management procedures are constantly being reviewed to reflect new ways of working.
- 8.2 Planning fees in England are set nationally by the government. From 17 January 2018, Local Authorities were able to increase their fees by 20%.

Increasing the planning fees by 20% provides an opportunity to make improvements to resourcing, leading to better services, improved performance and greater capacity to deliver growth as set out in the Housing White Paper 'Fixing our broken housing market'. The proposals set out in the White Paper has enabled the Council to take steps to secure the financial sustainability of the Planning Service to ensure that the planning system has the skilled professionals it needs to deliver growth.

- 8.3 Planning income during the first quarter period for 2020/21 is £267,721. Total income for the year 2019/20 is £1,602,989. This compares to a total income for the year 2018/19 of £1,572,162 and 2017/18 of £1,335,857. See Appendix A, Figure 5.
- 8.4 If the Local Planning Authority is designated as non-performing then applicants would have the choice of submitting applications to the Planning Inspectorate, which would include the fee. This would not only take control away from the LPA but would reduce income.
- 8.5 Changing legislative context, and signals of further reforms and flexibilities, may impact on ability to manage development and place additional demands on Planning Service resources. All changes and their implications are reviewed by the service with appropriate action taken.
9. Legal implications
- 9.1 There are no legal implications arising directly from this report.
10. Recommendations
- 10.1 This report is submitted for information to assist the committee in monitoring Development Management activity and therefore there are no recommendations for the committee to consider.

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Appendices

- A) Applications
- B) Benchmarking
- C) Appeals
- D) Applications for Prior Approvals for Permitted Development
- E) Number of Units Under Construction
- F) Enforcement
- G) Tree Preservation Order Applications
- H) Lead Local Flood Authority Consultation Compliance
- I) Complaints and Compliments

Background papers

General Development Control Return PS1
General Development Control Return PS2
HCLG Live tables on planning applications statistics

Appendix A : Applications

Figure 1 *Number of applications received and determined 2017/18 to June 2020*

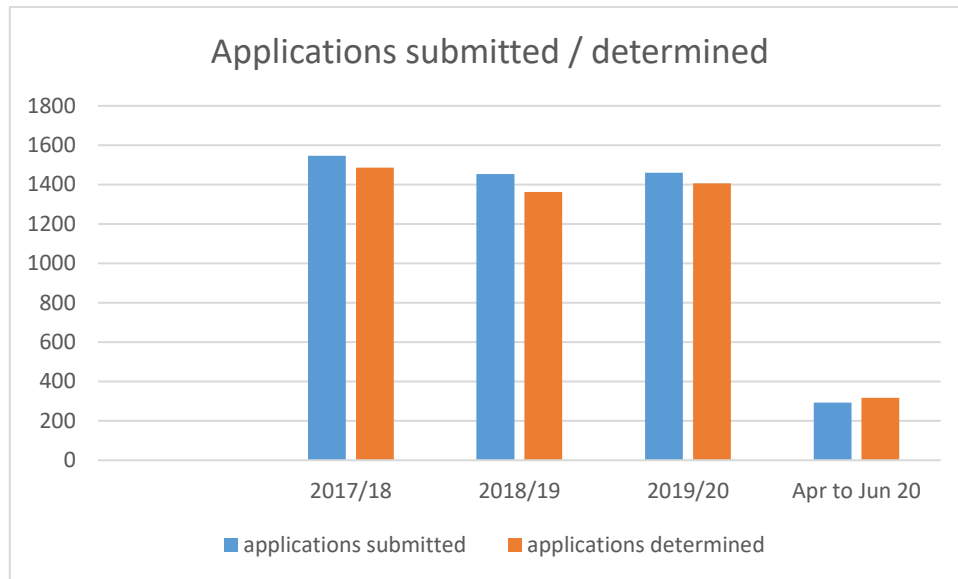


Figure 2 *Percentage of “Major” applications determined against performance target January 2019 to April 2020*

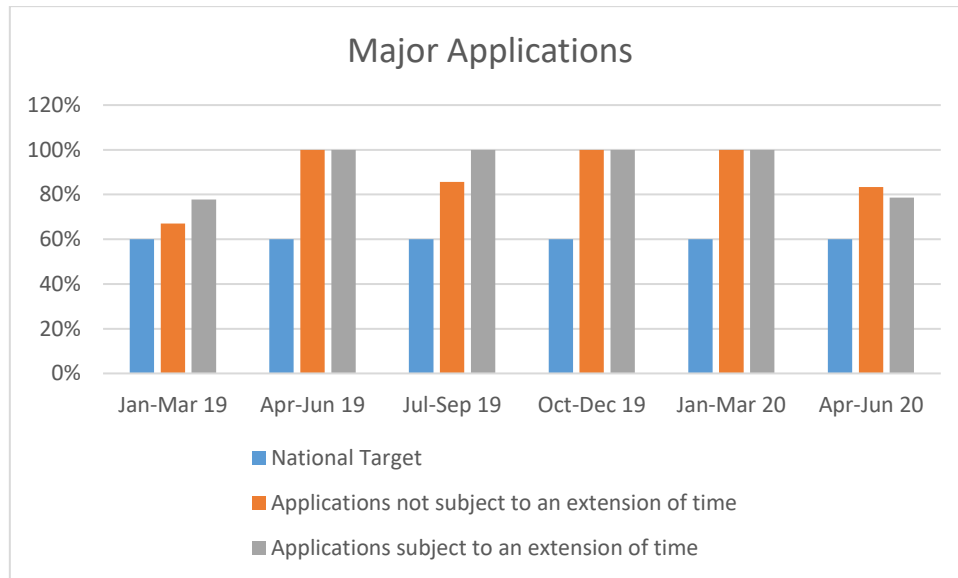


Figure 3 Percentage of “Minor” applications determined against performance target January 2019 to June 2020

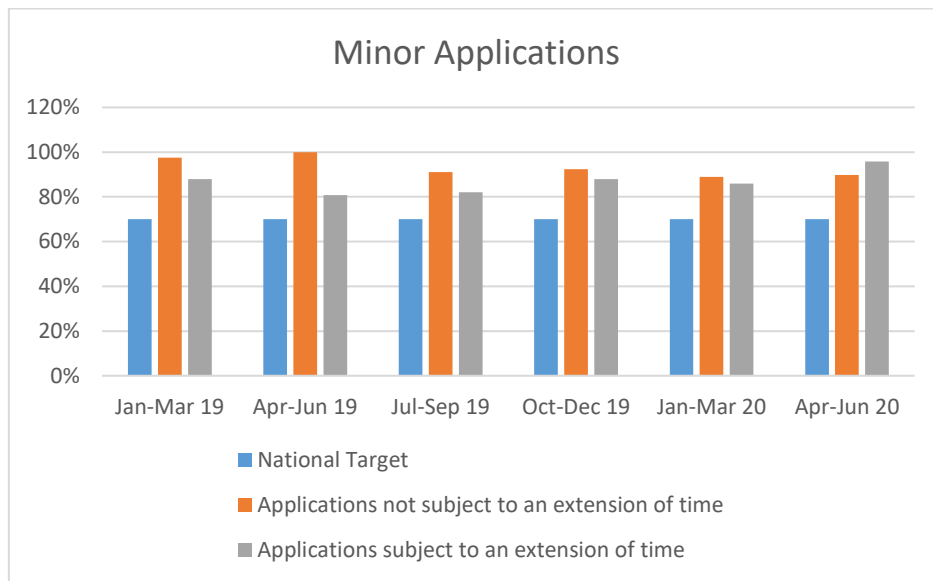


Figure 4 Percentage of “Other” applications determined against performance target January 2019 to June 2020

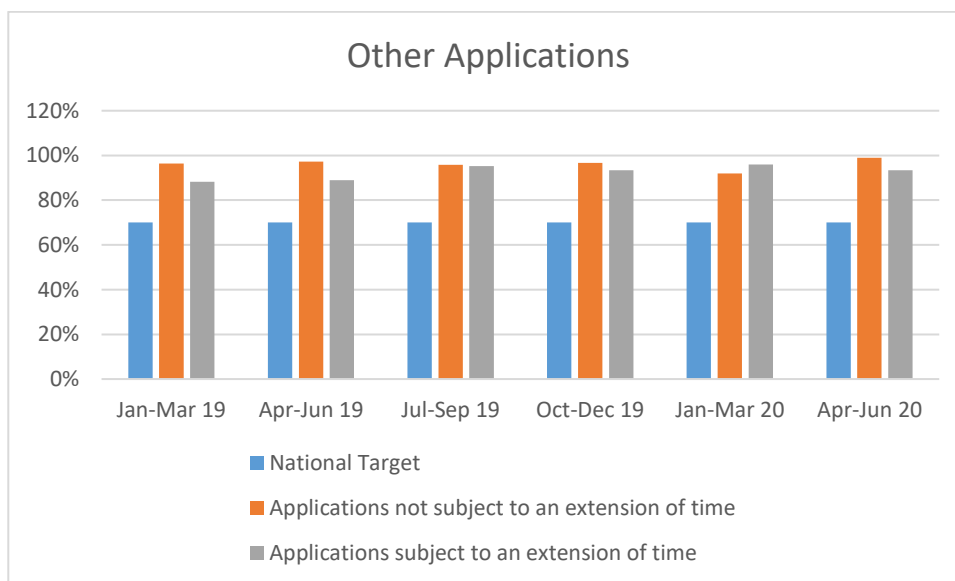
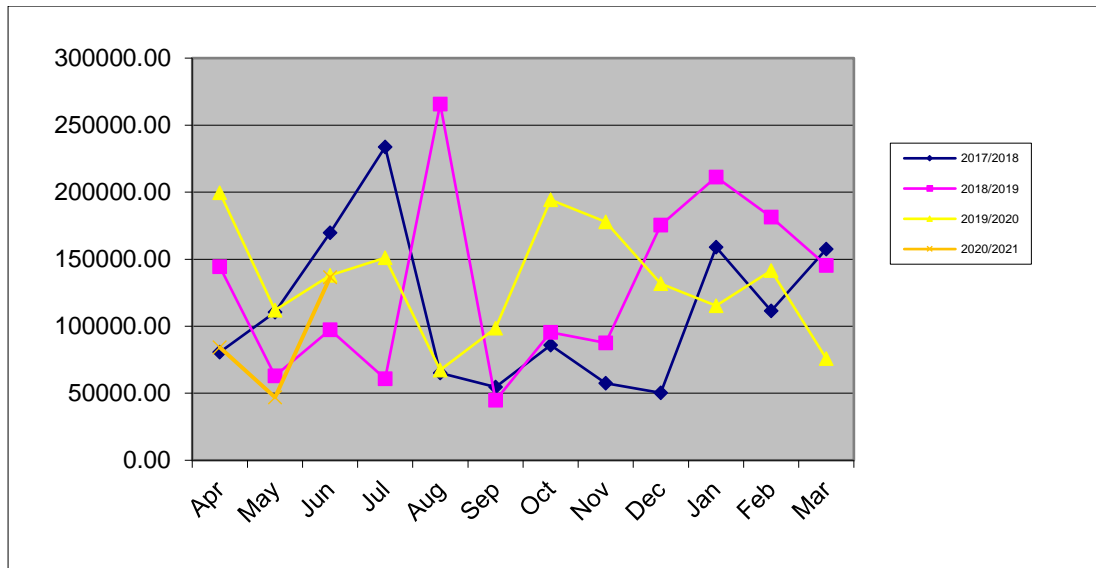


Figure 5 Planning application fees received 2017/18, 2018/19, 2019/20 and April to June 2020



Appendix B : Benchmarking

Figure 1 – Planning applications determined within the statutory timeframe

Government produced statistics and league tables compares performance to the national average. The chart below compares Medway's performance with the latest data available for other unitary planning authorities, which is October to December 2019.

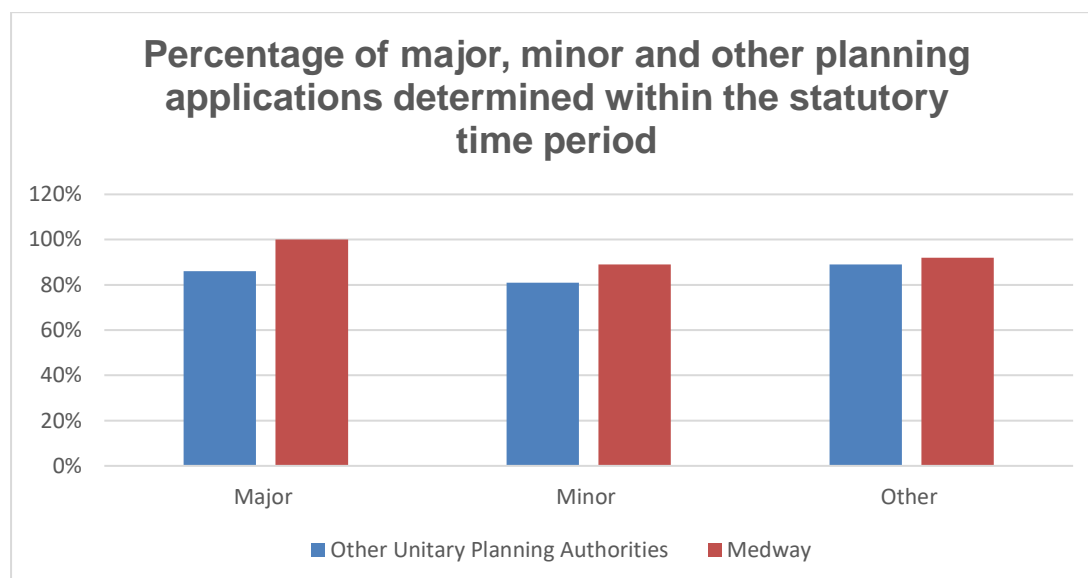
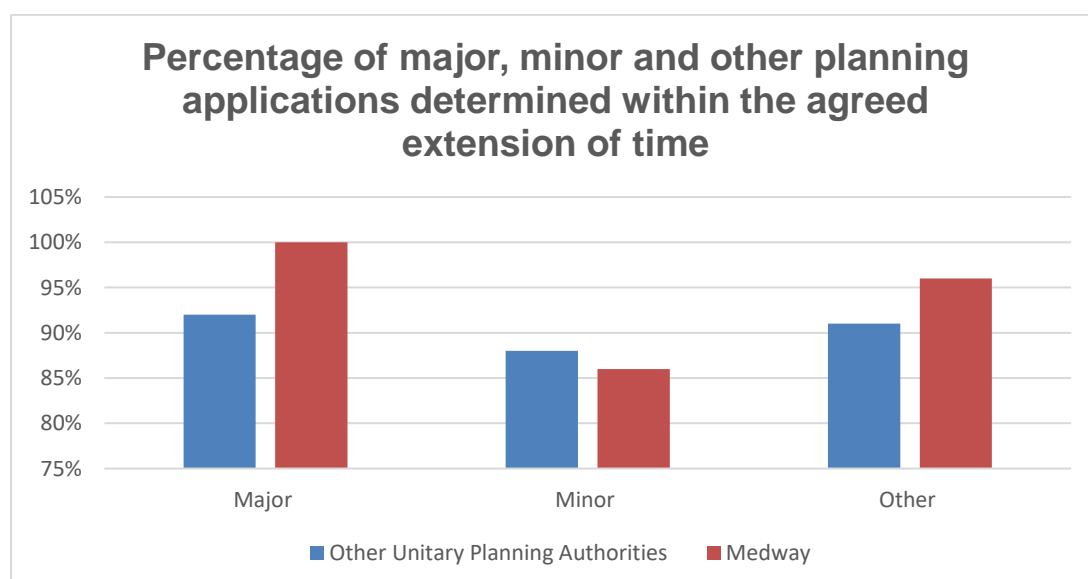


Figure 2 - Applications with a Planning Extension Agreement

Government produced statistics and league tables compares performance to the national average. The chart below compares the performance with the latest data available for other unitary authorities, which is October to December 2019, for applications with a Planning Extension Agreement.



Appendix C : Appeals

Figure 1 *Number of appeals decisions received from January 2019 to June 2020*

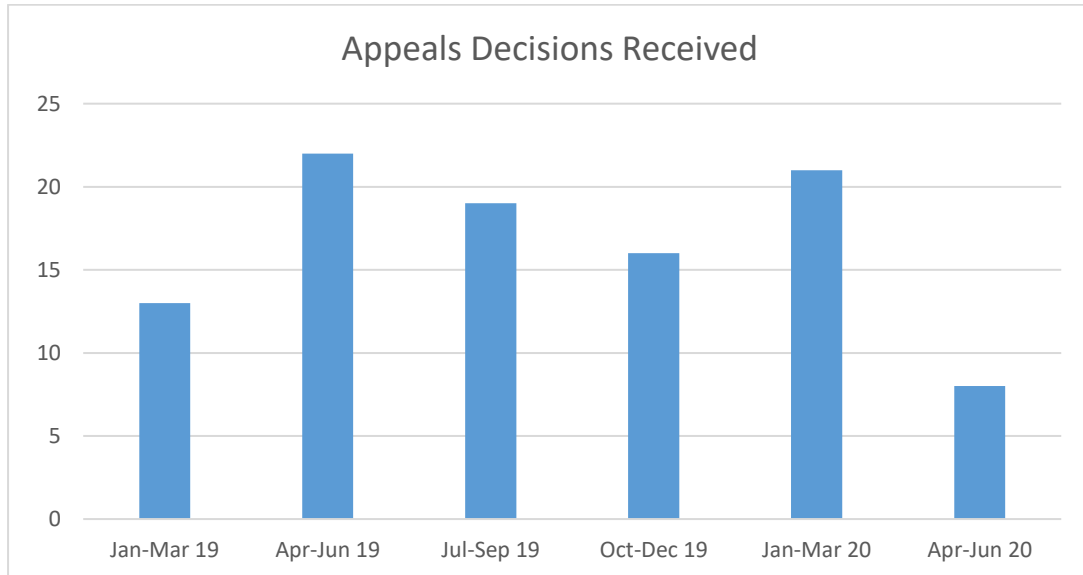
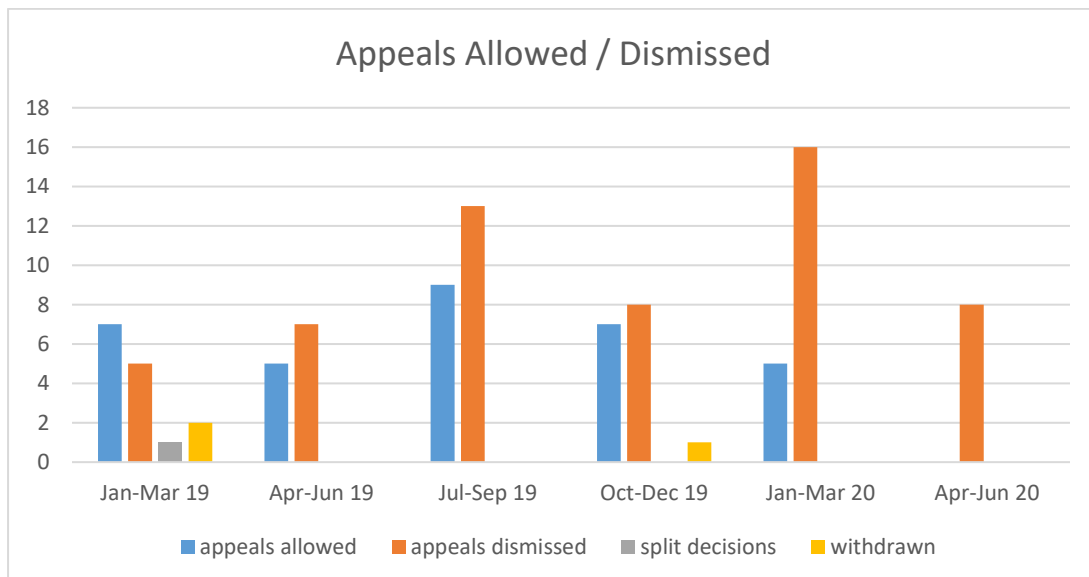
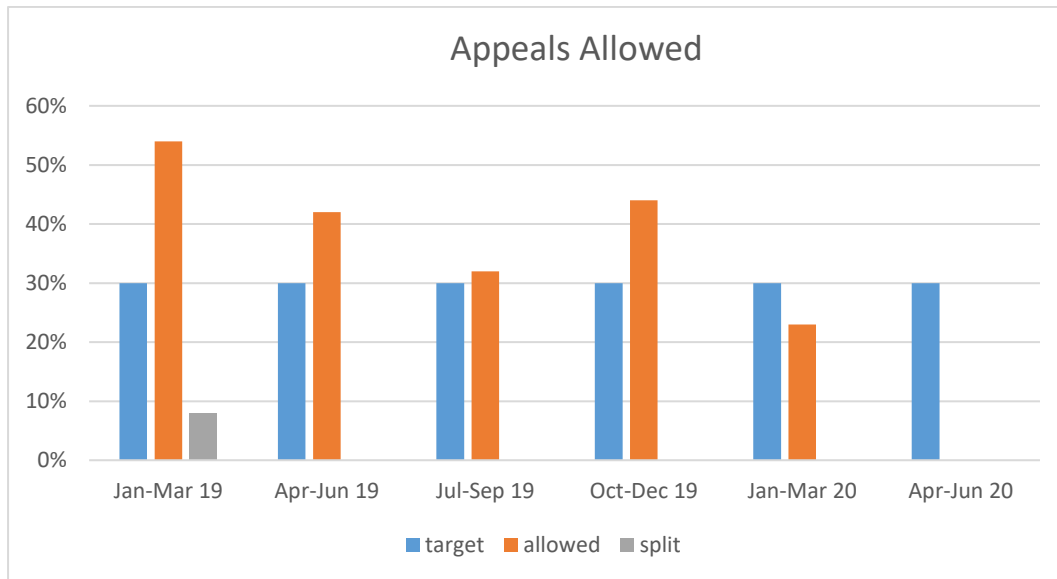


Figure 2 *Number of Appeals allowed / dismissed January 2019 to June 2020*

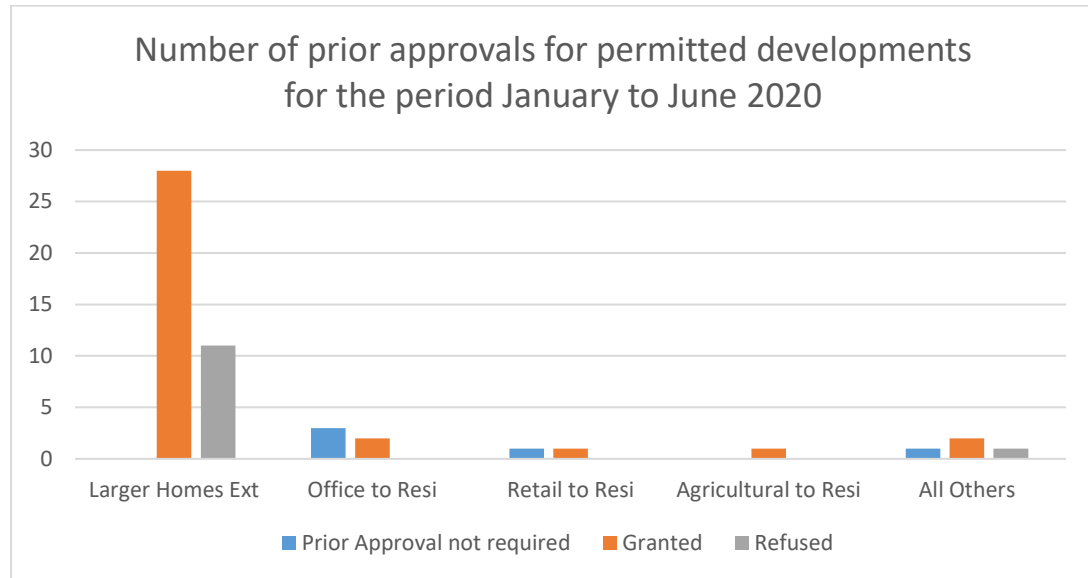


**Figure 3 : Percentage of appeals allowed against target of 30%
January 2019 to June 2020**



Appendix D : Applications for Prior Approvals for Permitted Developments

Figure 1: Number of prior approvals for permitted developments for the period January to June 2020



Appendix E: Number of units under construction

Year	No of units under construction as at 31 March (net)
2015	857
2016	760
2017	805
2018	1202
2019	1486

Appendix F : Enforcement

Figure 1 Number of enforcement notices served and prosecutions January 2019 to June 2020

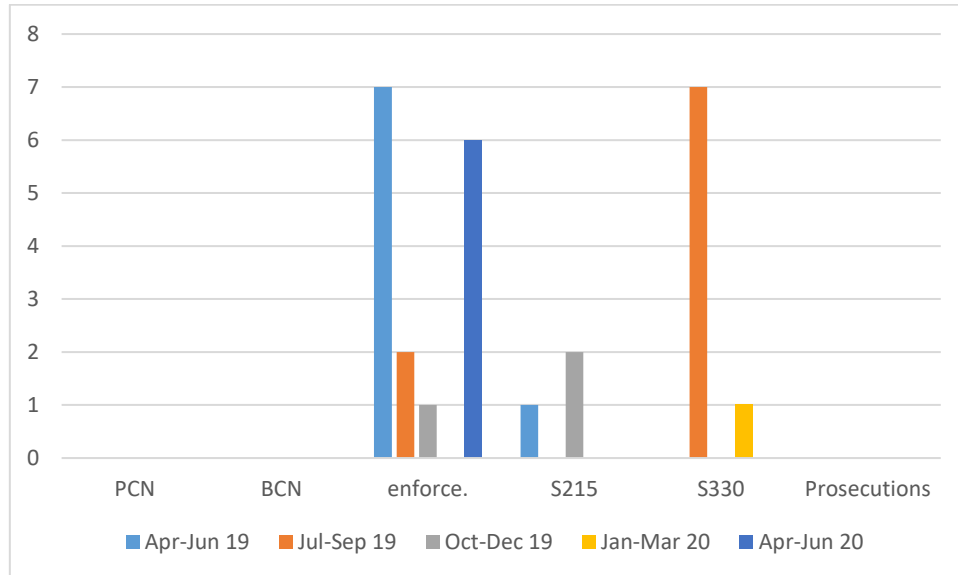
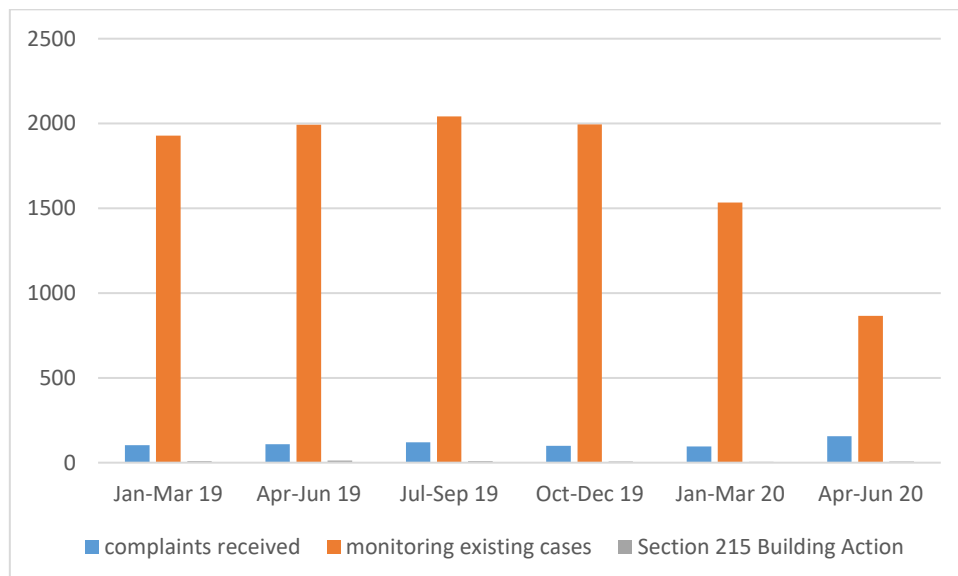


Figure 2 Number of enforcement related complaints and activities January 2019 to June 2020



Appendix G : Tree Preservation Order Applications

Figure 1 : TPO applications received/determined from July 2019 to June 2020

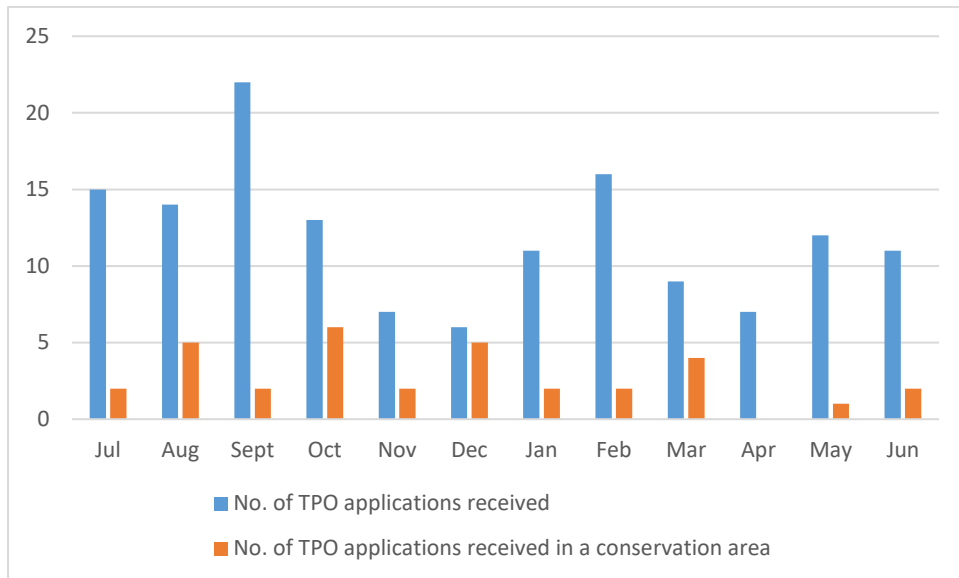


Figure 2 : TPO applications received/determined within a conservation area from July 2019 to June 2020

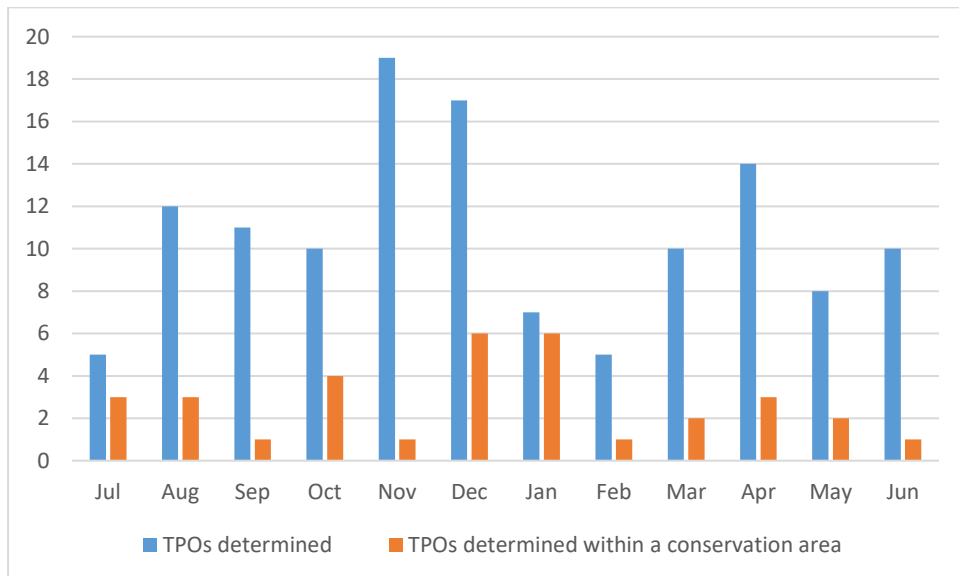
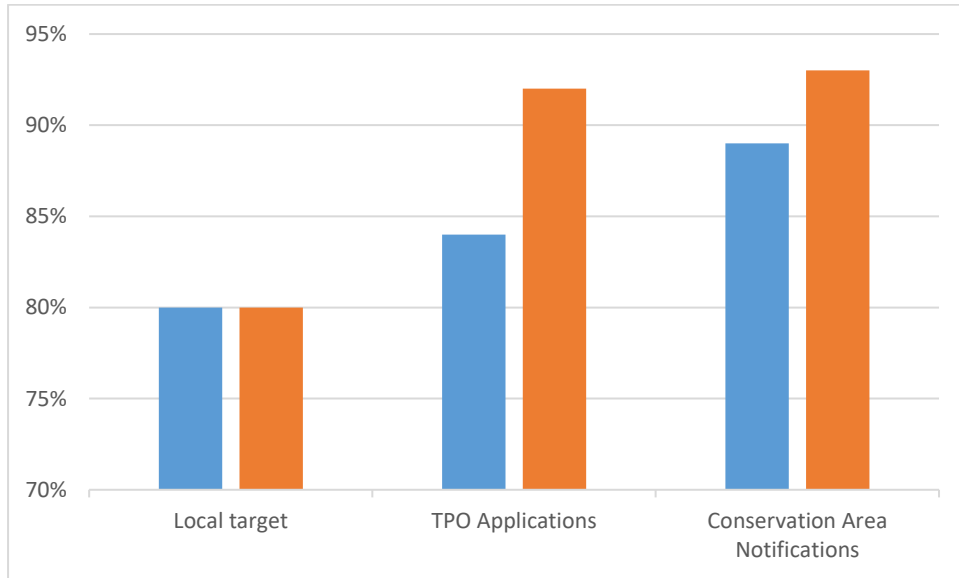
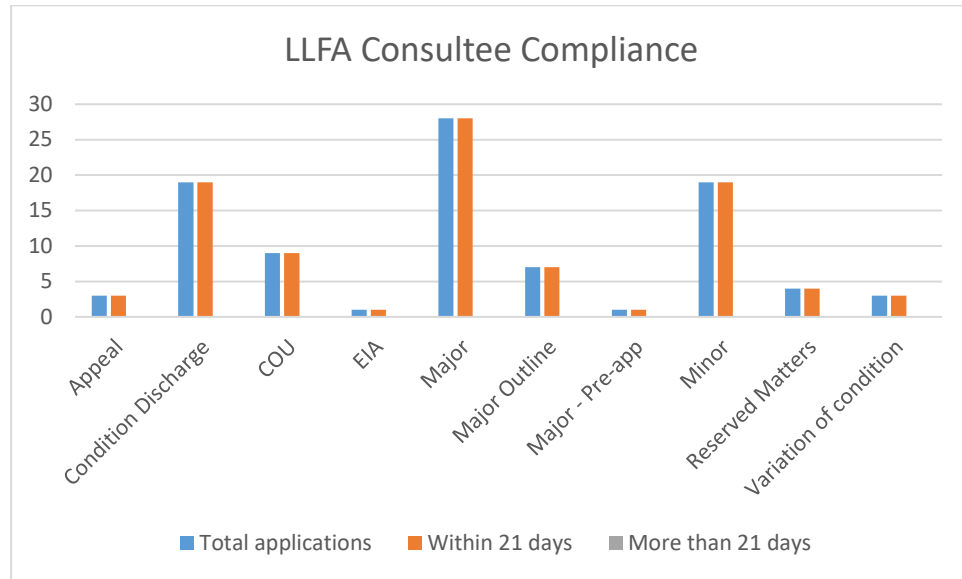


Figure 3 : TPO and Conservation Area Notification applications determined within target time from January 2020 to June 2020



Appendix H : Lead Local Flood Authority Consultee Compliance

Statutory Consultee compliance results from 1 January to 30 June 2020



Overall compliance for all types of consultations received is 100%, The internally set target is 80%.

Appendix I : Complaints and Compliments

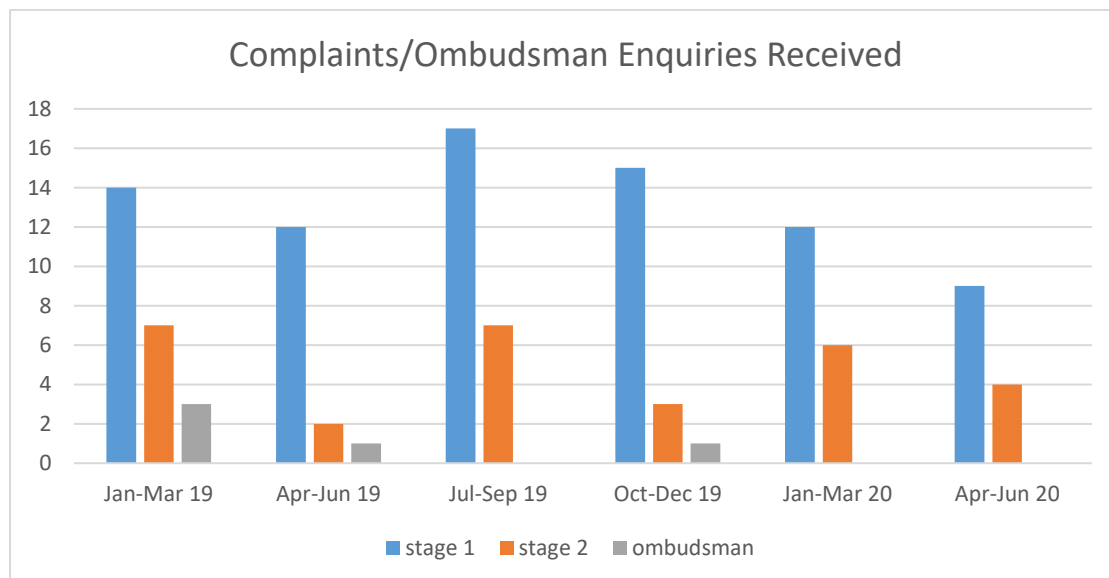
Complaints can be submitted online, in writing, in person at a local community hub and by phone. We aim to reply with a full written response within 10 working days. The chart below shows number of complaints received to.

The corporate complaints procedure involves 2 stages :

Stage 1 : The complaint is investigated within service and a draft response is provided to the Customer Relations Team who then writes to the complainant. The response letter also includes a final paragraph providing information on how to take the matter further if the complainant remains dissatisfied.

Stage 2: the complainant receives a response from the Chief Executive's Complaints officer giving details on how to contact the Ombudsman should the complainant remain dissatisfied.

Stage 1 corporate complaints are now categorised into generic and service specific categories. Complaints for planning are expected to fall mainly into the category whereby customers disagree or are unhappy with the Council's decision. For the first six months of the year 34 complaints were responded to, 22 of which were categorised as unhappy with the decision, 6 related to poor timeliness, 2 did not meet expectations, 4 where communication was not satisfactory.



Of the 34 complaints which were responded to, 97% were answered within the target time of 10 working days, 12 of which had been escalated to Stage 2. 28 complaints were dismissed where no fault was found, 4 were partially upheld and 2 was upheld.

Complaint Upheld

Unreasonable delay in issuing decision. Officer being supported to determine the application.

Service standards within the PPA were not met. Two instalments of the PPA have been waived.

Complaints Partially Upheld

Complainant did not receive a written response as requested but did receive a verbal response.

Two related to a slow response to enforcement complaint.

Lack of consultation on original application but revised plans did not require re-consultation as will not impact amenity.

Ombudsman

There were no new investigations raised by the Local Government Ombudsman during the quarter.

The Ombudsman closed 5 complaints during the quarter. One was submitted late and the LGO could find no good reason to exercise its discretion to investigate and the LGO found no evidence of fault in the other 4 cases.

Compliments

The Planning Service has received a number of compliments during the quarter from both internal and external customers. Comments include:

- Thank you for quickly putting in place the procedures to enable planning decisions in Medway to continue to be made during the COVID-19 lockdown.
- Thank you for being very helpful and constructive during the COVID-19 lockdown. Keeping a positive attitude is a sign of professionalism and care.
- Thank you for your help in getting the application determined in difficult times during the COVID-19 lockdown. A piece of good news to cheer us all up.
- A massive thank you to you and your team for all the work you are doing to help solve flooding issues.
- Universities advised that using Medway's remote operation of planning committee as a positive case study
- Really appreciate and respect your advice. You are one of the most 'can do' planners I know.
- I commend the seamlessness of the 'virtual' committee.