

PLANNING COMMITTEE

3 FEBRUARY 2021

PERFORMANCE REPORT: 1 OCTOBER 2020 TO 31 DECEMBER 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 and number completed, Tree Preservation Order applications, a breakdown of complaints and compliments received and Lead Local Flood Authority Consultee Compliance.

3.2 During the period 1 October to 31 December 2020 the authority received 401 planning applications; this is compared to 352 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 quarter 1 October to 31 December 86% 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 quarter is 89%. This is against a target of 70%.

Performance for other applications determined within 8 weeks or within the agreed timeframe during the quarter is 95%. 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 (July to September 2020), where applications have been determined within the statutory timeframe, Medway has exceeded the national target and the national average for all types of application. Where applications have been determined with an extension of time (PEA), Medway has performed significantly above the national average for major applications but slightly below the national average for other applications but more significantly below other authorities in relation to minor 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 COVID-19, 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 Regulations contain 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. It also allows an extension to construction hours for developers to operate up until 9pm 6 days a week for a temporary period (April 2021) but subject to written agreement with the LPA.

- 3.4 There have been a number of other changes to the Order to deal with extensions to some of the temporary relaxations in planning due to COVID-19:
- The temporary PD right allowing restaurants and pubs to provide takeaway food services has been extended for a further 12 months and will now expire on 23 March 2022.
 - The temporary ability to use land for any purpose for an additional 28 days (in addition to the 28 days originally allowed) has been extended for a further year and now expire on 31 December 2021.
 - The temporary PD rights to hold outdoor markets by or on behalf of local authority have also been extended to 23 March 2022.
 - Emergency development by a local authority or health service body extended to 31st December 2021.
 - the Crown may authorise development of any buildings on Crown land for up to 12 months for the purposes of preventing, reducing or controlling a pandemic (COVID-19).
- 3.5 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.
- 3.6 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.
- 3.7 During the quarter 49 applications with Planning Extension Agreements were decided with 90% being determined within the agreed extended timeframe.
- 3.8 A number of Planning Performance Agreements (PPA's) were agreed in principle during the quarter but none were signed. These will be pursued in the New Year.
- 3.9 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 March 2019, shows the number of decisions overturned at appeal for major applications is 0.8% and 1.3% for non-major applications.

- 3.10 Government stats for applications for prior approvals for permitted developments by local planning authorities are reported in Appendix D.
- 3.11 The percentage of appeals allowed during the quarter is 13.33%. A total of 15 appeal decisions were received. 2 of these were allowed. 13 were dismissed. (See Appendix C).
- 3.12 The validation of tree preservation order 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.
- 3.13 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.
- 3.14 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.
- 3.15 The service successfully undertook its second remote external assessment under ISO 9001:2015 in early January 2021. This was postponed from December due to COVID 19.

The Assessor found the service has a clear direction for growth in order to realise its aspiration to meet with housing and development targets. She felt the service was impressive in the way it has responded in a robust manner to the pandemic, swiftly deploying effective work from home initiatives where possible and adjusting working processes and practices as required under COVID-19 secure measures. No nonconformities or opportunities for improvement were identified during the audit. The next assessment will take place remotely in June 2021.

- 3.16 Since remote working was encouraged in March 2020 due to COVID-19 the Head of Planning has held weekly Teams meetings with Team Leaders to help support managers with well-being issues as well as to continue providing a high quality service. The Head of Service has also sent regular emails to the whole service providing support to

officers in relation to both work and well-being. Individual team leaders are having weekly team meetings to support staff as well as 121's with individuals. The team has also organised a number of a number of other morale boosting activities such as sharing lock down stories, exercise sessions, quizzes, and Christmas team building engagement. It is important to acknowledge that adhering to the restrictions imposed due to the pandemic has had a significant impact on officers, due to home schooling young children whilst continuing to work, personal experience of COVID or mental health issues and isolation.

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 Councils 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, Habitat Regulations Assessment, Sustainability Appraisal, Infrastructure Delivery Plan, Viability Assessment, Waste Needs Assessment and Green and Blue Infrastructure Strategy.

The Infrastructure Funding Statement and the Annual Monitoring Report (AMR) were approved by Cabinet in December 2020. The AMR has been published on the Council's website.

Stakeholder consultation is planned by March 2021 on work linked to Biodiversity Net Gain and HIF Strategic Environmental Management Scheme.

Public consultation on the Upnor Conservation Area Appraisal is likely to take place in February 2021.

- 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 quarter £745,143.40 has been received via S106 contributions and £136,102.00 has been received for Habitat Regulations Agreements. This makes a total of £881,245.40.
- 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 next Housing Delivery test results are likely to be published in February 2021. The results will 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 North Kent SME Forum has been set up, which is chaired by an SME (Esquire Developments) with Medway assisting with administration. This should help to build stronger partnership working and support SME's to compliment the delivery of homes from the volume house builders.

Esquire Developments scooped the Gold award for the Best Small Housebuilder in the national WhatHouse 2020 awards, in a large part reflecting the quality of developments they have and are undertaking in Medway.

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.
- 7.2 Representatives of the Planning team attend the Climate Change Board meetings and are on the Officer Climate Change Steering Group to bring forward an action plan to deal with climate change.
- 7.3 Planning officers are supporting the commissioning of a heat network study.
- 7.4 Considerations of climate change in the draft local plan policies and development allocations.
- 7.5 All planning applications which are reported to Planning Committee must have a section on Climate Change and Energy efficiency.

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.
- 8.3 Planning income during the period October to December 2020 is £358,367. 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 December 2020*

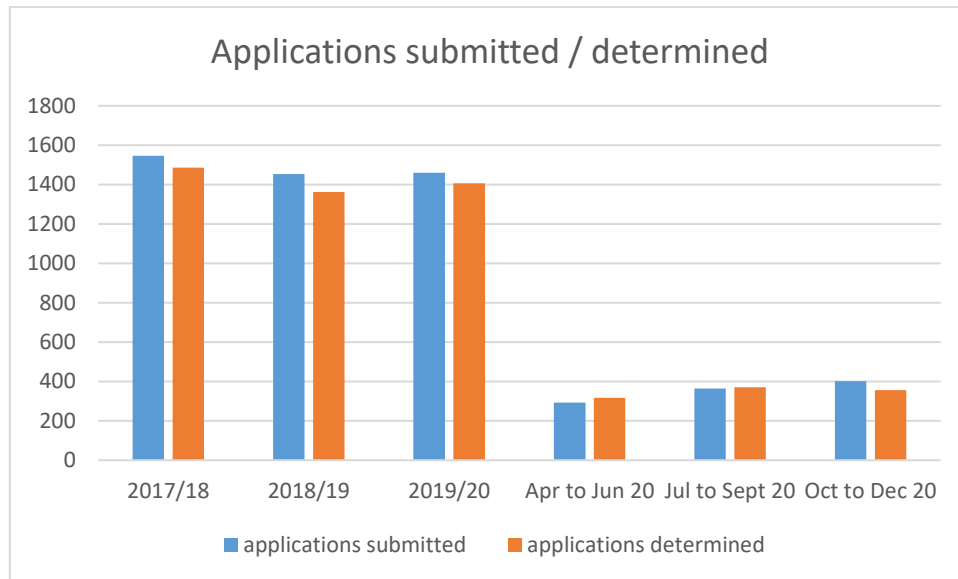


Figure 2 *Percentage of "Major" applications determined against performance target July 2019 to December 2020*

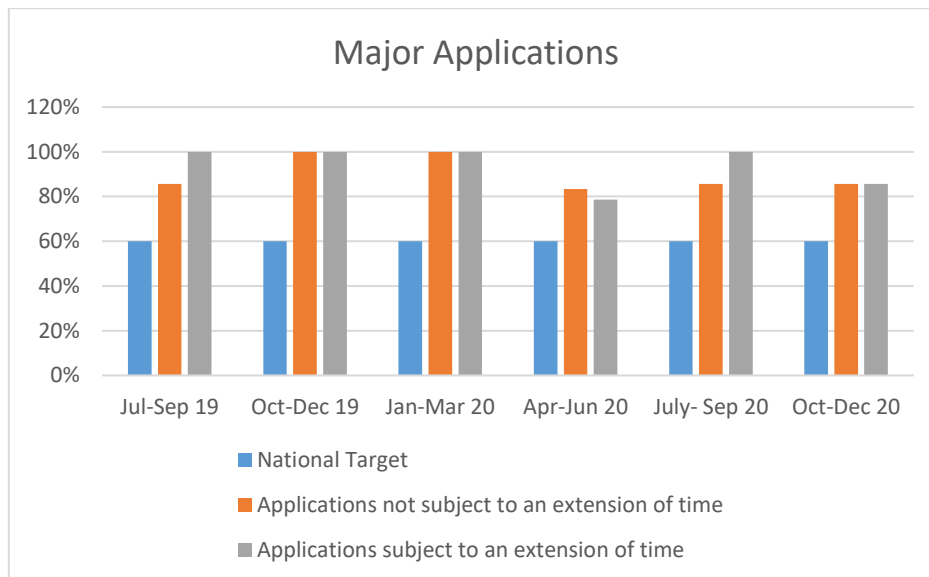


Figure 3 Percentage of “Minor” applications determined against performance target July 2019 to December 2020

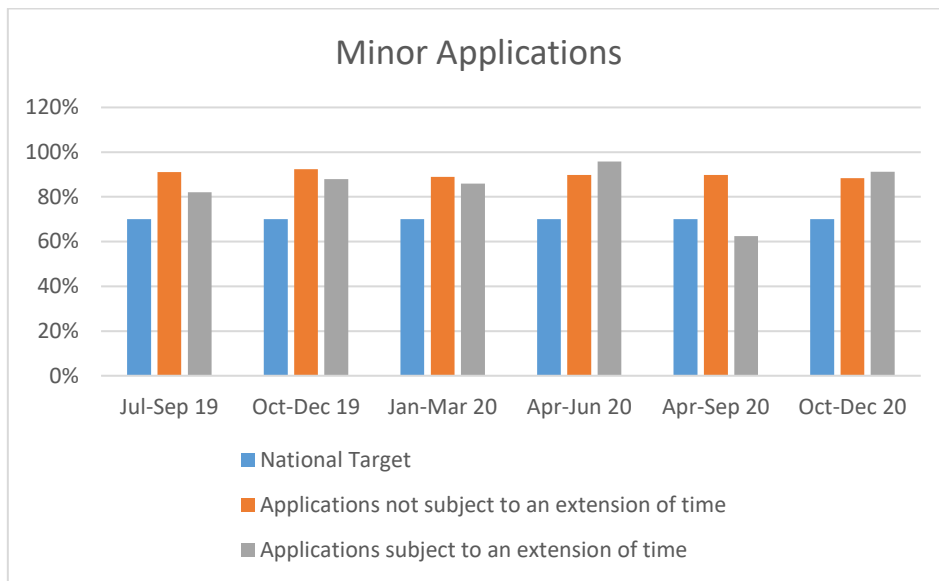


Figure 4 Percentage of “Other” applications determined against performance target July 2019 to December 2020

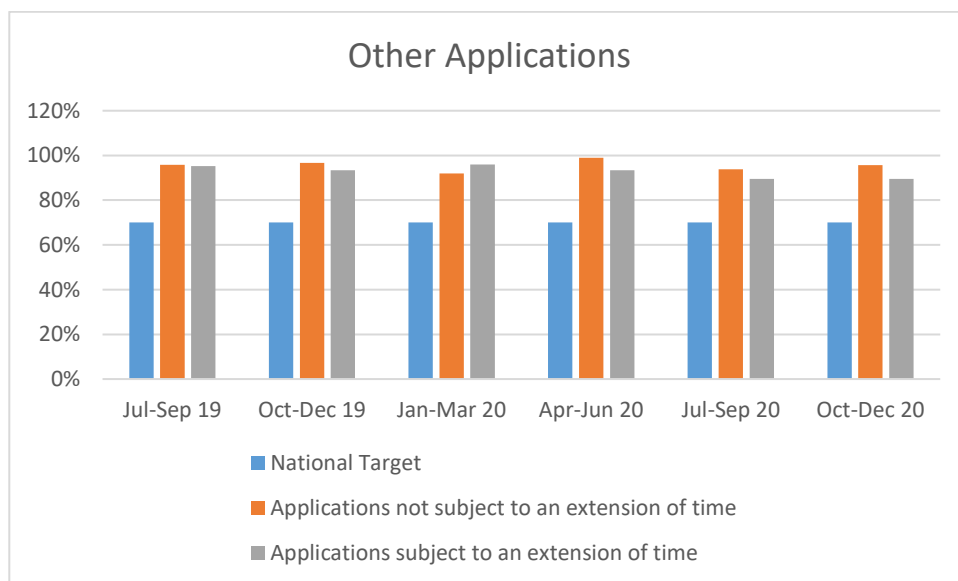
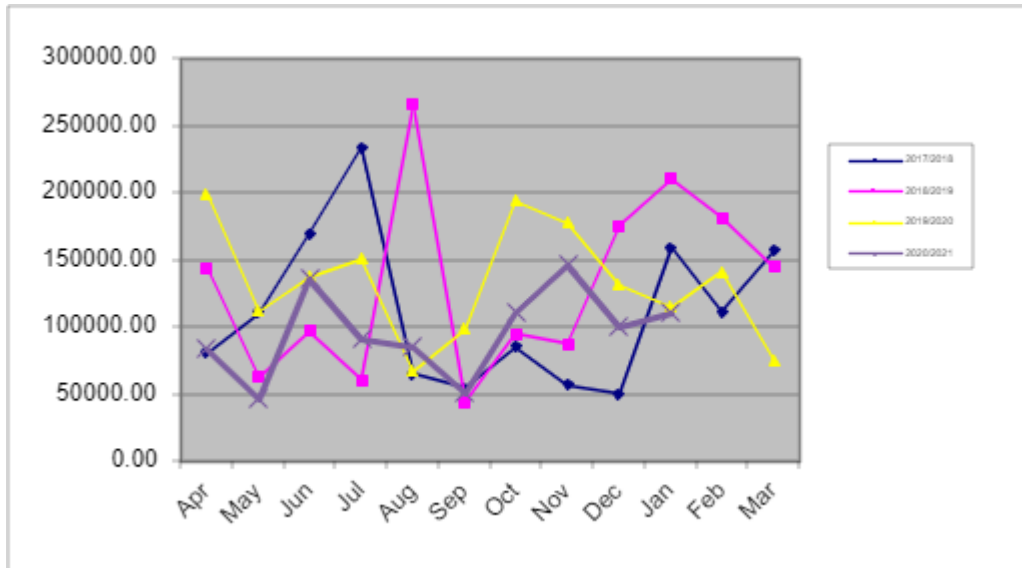


Figure 5 Planning application fees received 2017/18, 2018/19, 2019/20 and April to December 2020



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 local planning authorities, which is July to September 2020.

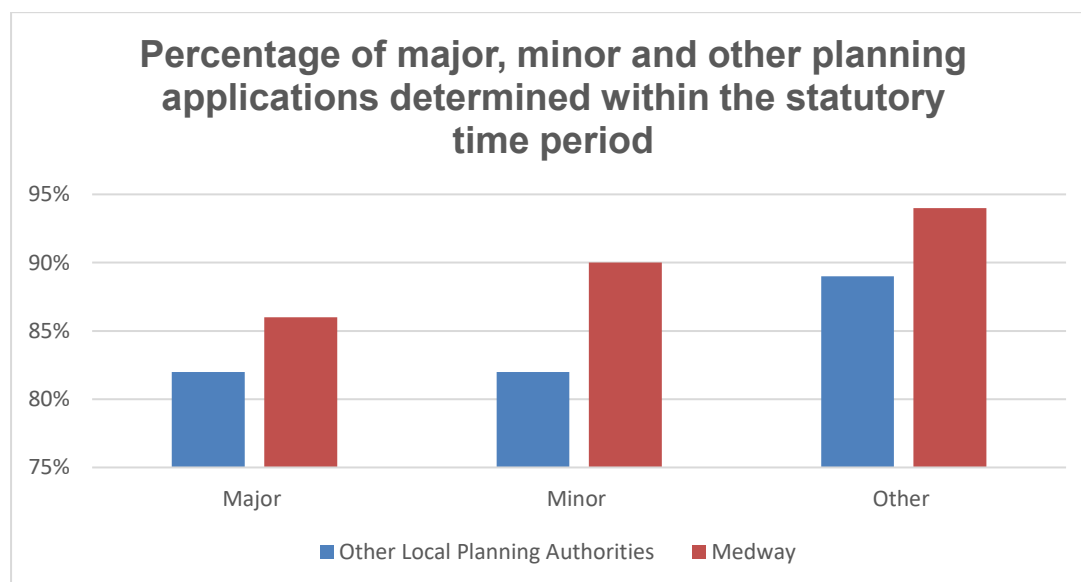
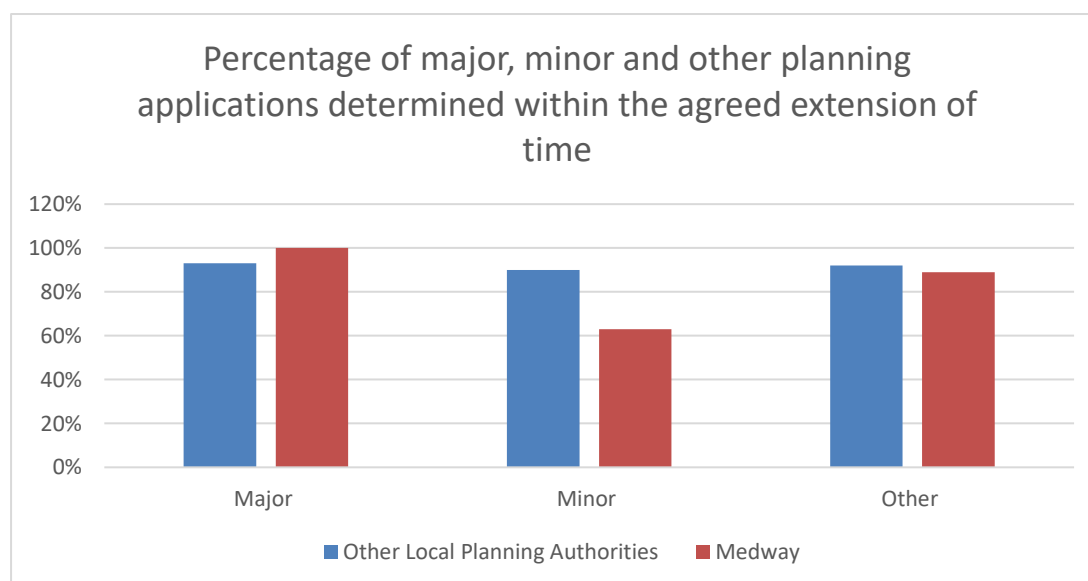


Figure 2 - Applications with a Planning Extension Agreement

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 local authorities, which is July to September 2020, for applications with a Planning Extension Agreement.



Appendix C : Appeals

Figure 1 *Number of appeals decisions received from July 2019 to December 2020*

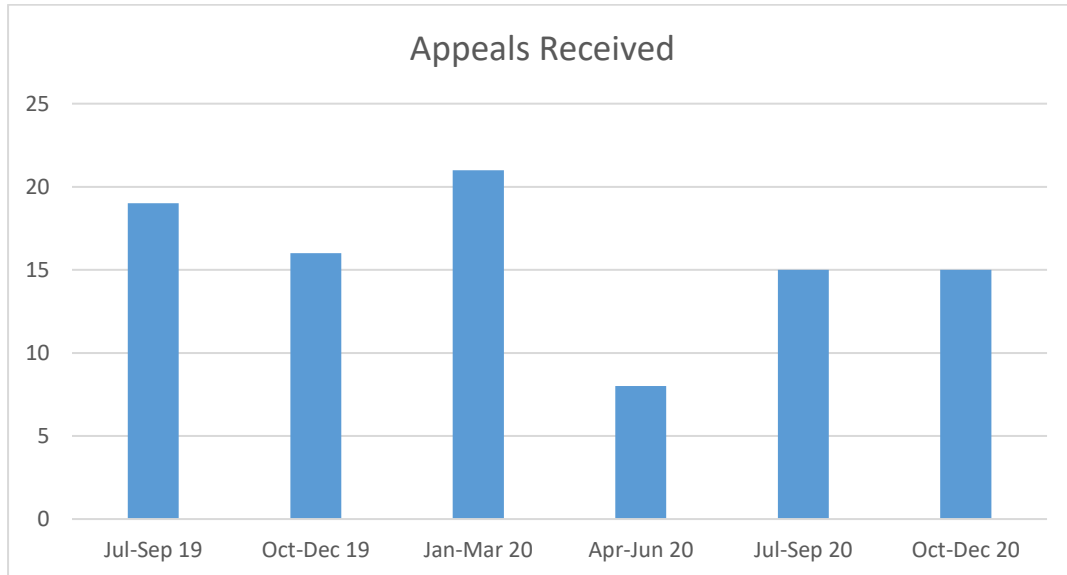
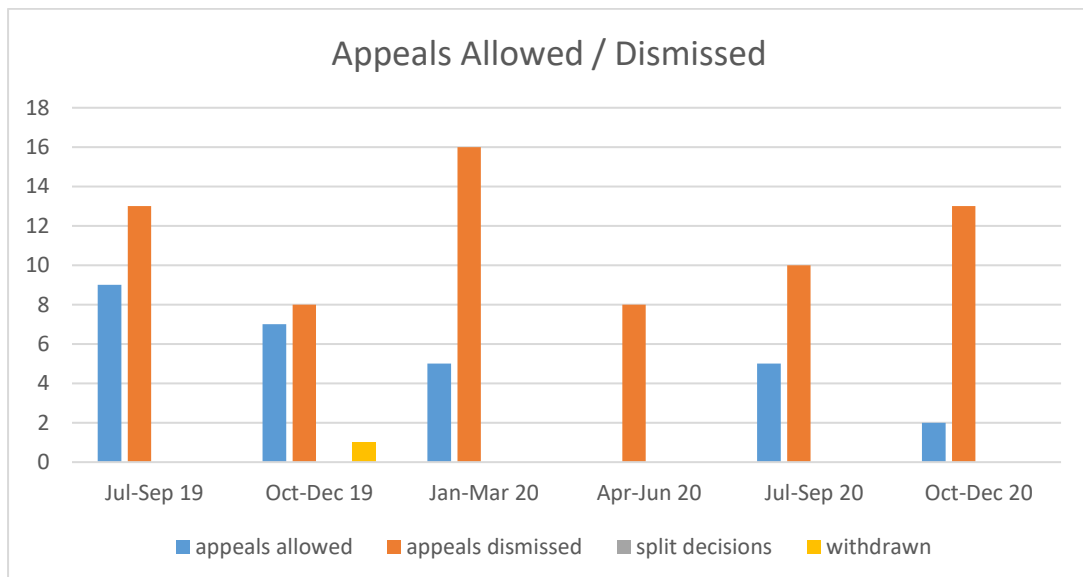
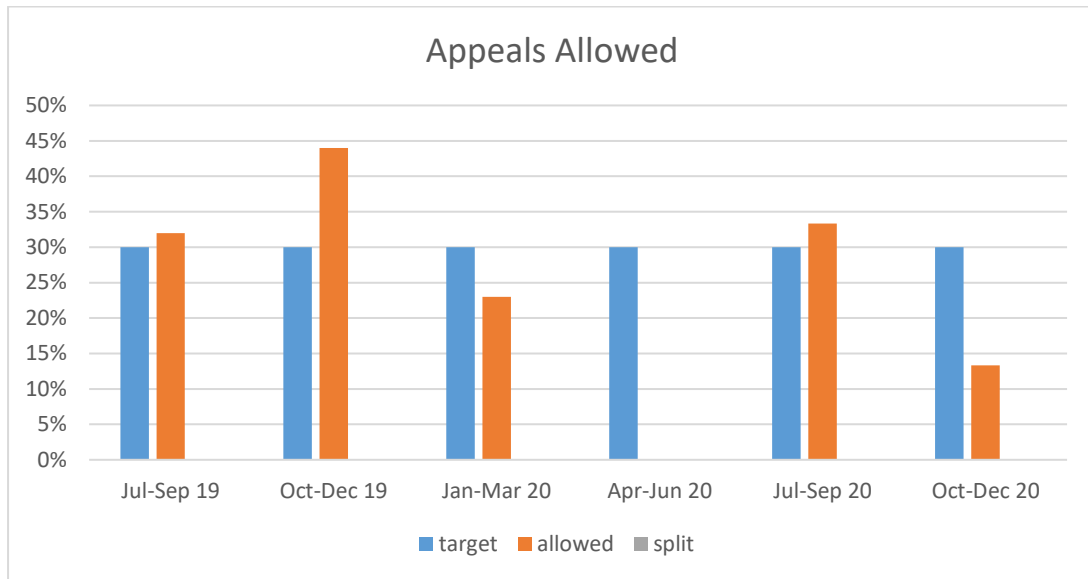


Figure 2 *Number of Appeals allowed / dismissed July 2019 to December 2020*

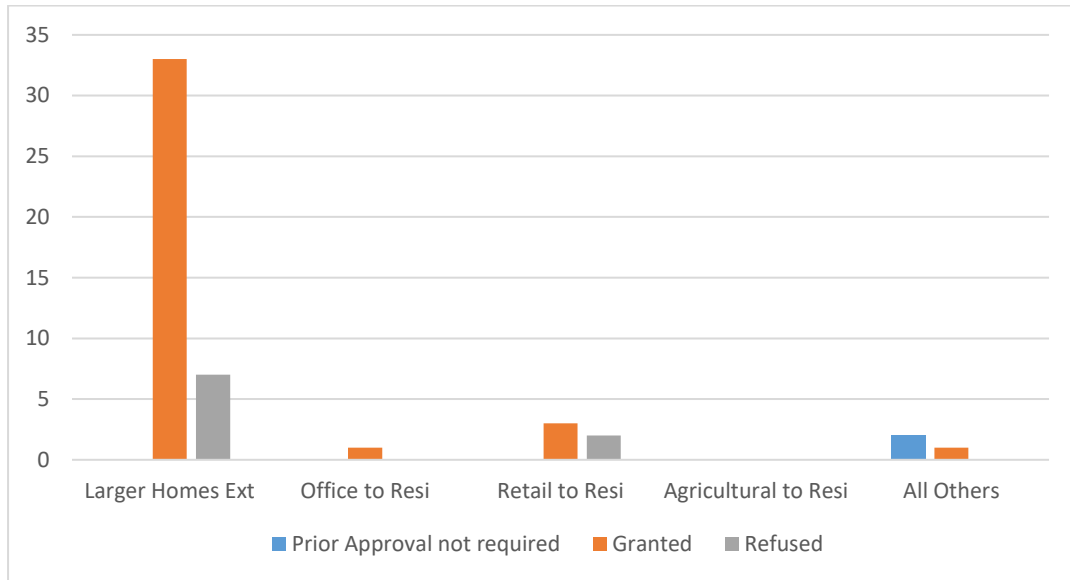


**Figure 3 : Percentage of appeals allowed against target of 30%
July 2019 to December 2020**



Appendix D : Applications for Prior Approvals for Permitted Developments

Figure 1: Number of prior approvals for permitted developments for the period October to December 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
2020	1629

Number of units completed

	Year 2018/19	Year 2019/20
Completions	647	1130
Requirement	1683	1662
Surplus/Deficit	1036	-532

Appendix F : Enforcement

Figure 1 Number of enforcement notices served and prosecutions
October 2019 to December 2020

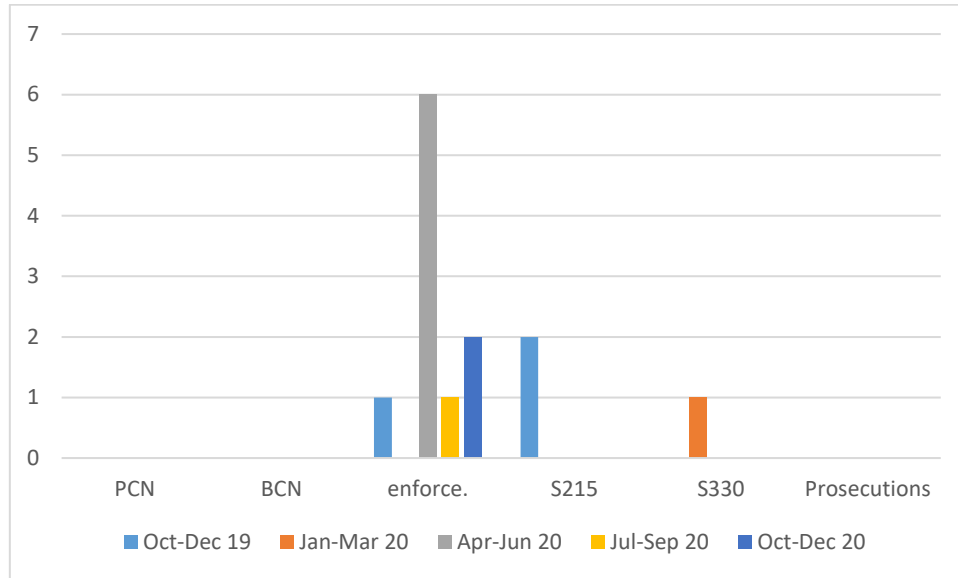


Figure 2 Number of enforcement related complaints and activities
October 2019 to December 2020



Appendix G : Tree Preservation Order Applications

Figure 1 : TPO applications received from January 2020 to December 2020

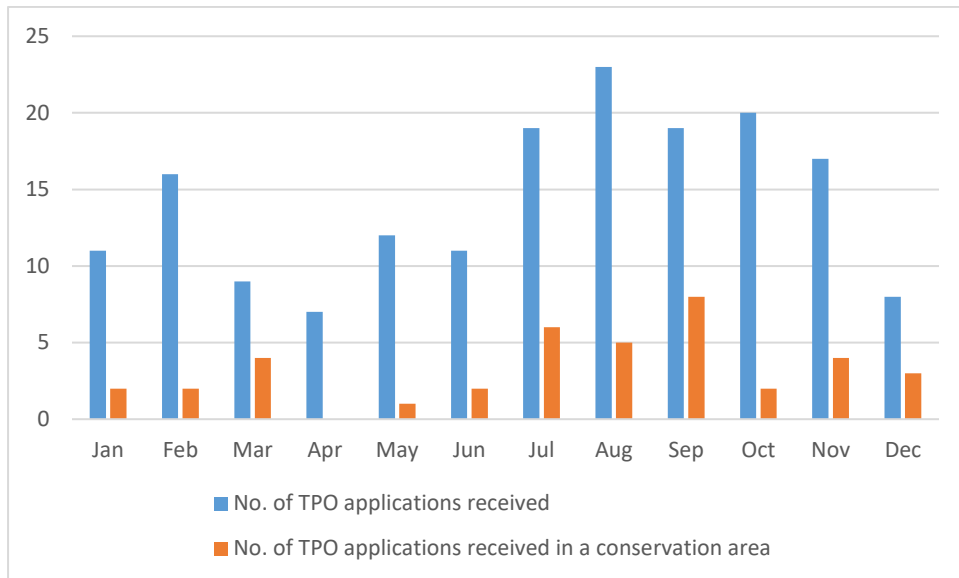


Figure 2 : TPO applications determined from January 2020 to December 2020

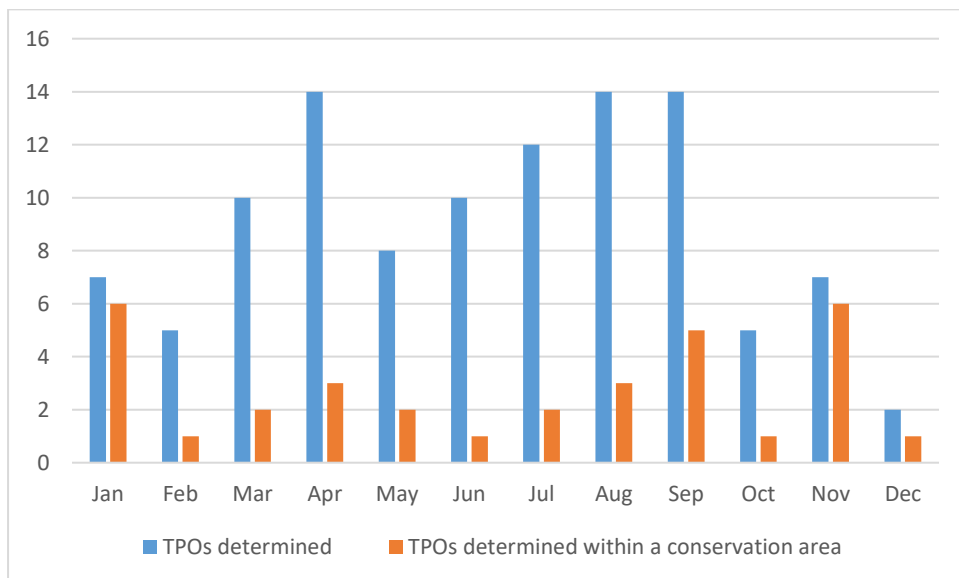
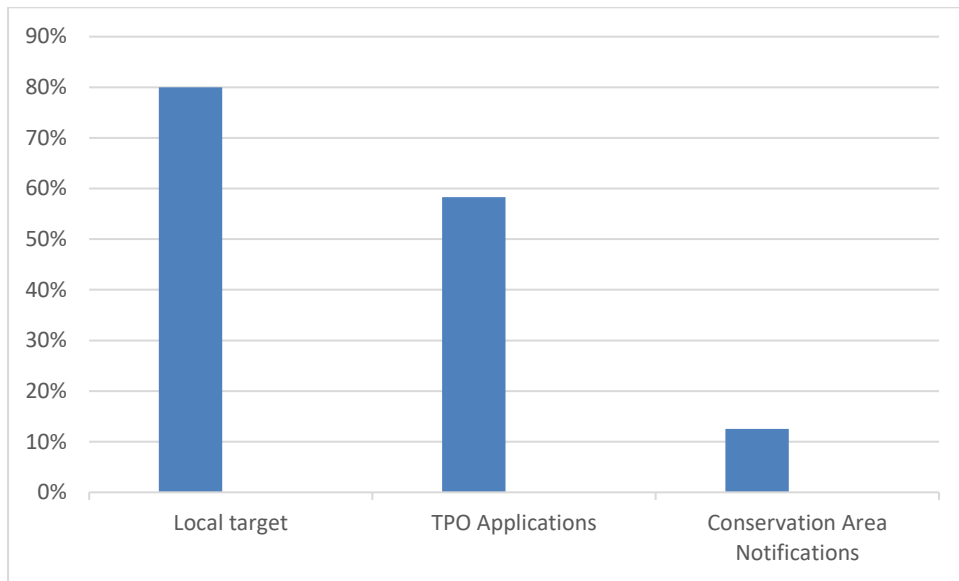
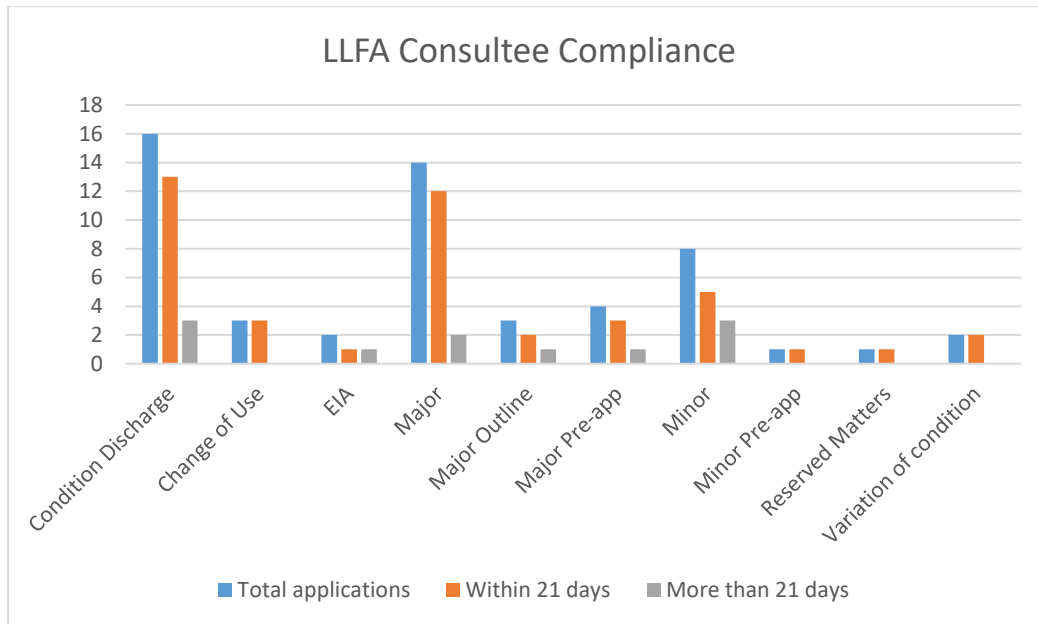


Figure 3 : TPO and Conservation Area Notification applications determined within target time from October 2020 to December 2020



Appendix H : Lead Local Flood Authority Consultee Compliance

Statutory Consultee compliance results from 1 October 2020 to 31 December 2020



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

Appendix I : Complaints and Compliments

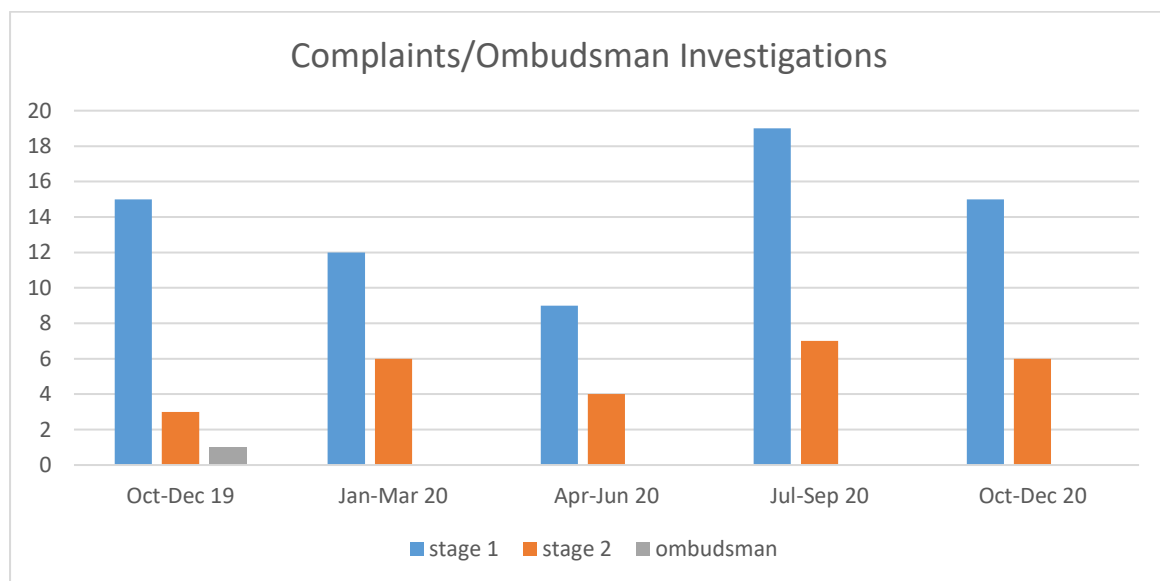
Complaints can be submitted online, in writing, in person at a local community hub and by phone. We aim to reply with a full written response within 10 working days. The chart below shows number of complaints received to.

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 quarter October to December 2020 21 complaints were responded to, 14 of which were categorised as unhappy with the decision, 3 related to poor timeliness, 1 did not meet expectations, 1 where communication was not satisfactory and 2 where the service requested was not provided.



Of the 21 complaints which were responded to, 90% were answered within the target time of 10 working days, 6 of which had been escalated to Stage 2. 16 complaints were dismissed where no fault was found, 3 were partially upheld and 2 were upheld.

Complaints Upheld

Service not provided. Failure to determine application. Apology given and officer being supported.

Service not provided. Delay in determining application. Apology given and officer being supported.

Complaints Partially Upheld

Voicemail not updated. Apology given.

Confusion over advice provided but right process was followed.

Lack of response to email. Apology provided.

Ombudsman

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

Compliments

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

- Most helpful and a good service from you. I look forward to dealing with you on another application in the future.
- My applications were validated quickly, efficiently and without any fuss. I have submitted similar applications to other authorities which have taken weeks.
- Your validation team are providing a great service. On the rare occasions there is a problem they are willing to communicate.
- Thank you for all your hard work. You have kept us up to date, which has allowed residents to understand and know what was happening at each stage of the application process.
- Following the timely receipt of three positive decisions we would like to express our gratitude to our case officer. She was co-operative, friendly and professional throughout the determination of all three applications.
- Resident had lots of praise for Medway planning services. Officer who carried out the site visit was very professional and came out to see what was needed. He gave helpful advice and seemed really interested in our needs.