

## **PLANNING COMMITTEE**

**8 DECEMBER 2021**

### **PERFORMANCE REPORT: 1 JULY 2021 TO 30 SEPTEMBER 2021**

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 July to 30 September 2021 the authority received 416 planning applications; this is compared to 398 for the same period

in 2020. For the year 20/21 the authority received 1,489 applications, this compares to 1461 in 2019/20 and 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 July to 30 September 2021 94% 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 96%. This is against a target of 70%.

Performance for other applications determined within 8 weeks or within the agreed timeframe during the quarter is 98%. 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 (April to June 2021), 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 above the national average for minor applications but below the national average for major and other 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 COVID-19, annual leave, maternity leave and vacancies, the workload will need to be carefully managed if performance is to continue to be maintained. In this respect an Assistant Planner has been successfully promoted to the vacant Planner Policy post, which now leaves a vacant Assistant Planner Policy post. Senior Planning Officers recruitment has proved to be challenging with only one suitable candidate being appointed despite going out to advert and interviewing twice. The newly appointed Senior Planner is now in post, which leaves 3 vacant Planner DM posts. As a result, a consultant has been appointed for a 4 month period to address the short term capacity/workload pressure and options are being considered in relation to the longer term solution.

A tree consultant has been appointed for a few months to help clear the backlog of outstanding tree applications caused by the restrictions due to the pandemic and an increase of applications.

- 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.
- 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 continues to follow Government guidance and officers are working remotely from home where possible. Processes have been put in place to manage performance whilst at the same time safeguarding officers.
- 3.6 A temporary process increasing delegated powers to the Head of Planning, was approved by Members of the Planning Committee on 1 April 2020. This operated until restrictions were lifted in July 2021 and delegation processes have now returned to how they were pre covid. Following the Government requirement that Council decision making and public meetings must go back to meeting face to face, the Planning Committee had its first 'in room' meeting since 1 April 2020 on 26 May 2021. Meetings are now back up to full complement of Members at meetings
- 3.7 During the quarter 81 applications with Planning Extension Agreements were decided with 96% being determined within the agreed extended timeframe.
- 3.8 A number of Planning Performance Agreements (PPA's) were agreed in principle during the quarter and three were signed.

- 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 period January 2018 to December 2019, shows the number of decisions overturned at appeal for major applications is 0.8% and 1.1% 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 25%. A total of 4 appeal decisions were received. 1 of these was allowed, which was a delegated decision. 3 appeals were dismissed. (See Appendix C). Government statistics indicate that Medway is in the top 20 Authorities in the Country for defending appeals against decisions on Major applications. There are other authorities in Kent that are in the bottom 20 due to not making decisions in accordance with recently adopted Development Plans or not responding appropriately to the presumption in favour of sustainable development – this has also resulted in significant award of costs against those Councils
- 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 Following the remote external assessment in June the service has successfully retained its ISO accreditation.

No non-conformatives were identified and the Assessor thanked all those involved for their professional and passionate approach. The next assessment will take place in November 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 1:1's with individuals. The team has also organised a number of other morale boosting activities such as sharing lock down stories and exercise sessions. It is important to acknowledge that adhering to the restrictions imposed due to the pandemic has had a significant impact on officers, due to 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 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 Development work on the production of the draft new Local Plan continues. It is anticipated that consultation on the Regulation 19 Draft Local Plan will commence towards the end of the year and will run for 8 weeks.
- 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 £605,313.43 has been received via S106 contributions and £91,439.59 has been received for Habitat Regulations Agreements. This makes a total of £696,753.02.
- 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 third Housing Test Delivery Plan (HTDP) was reported and agreed by Cabinet in July 2021 and proposes measures to contribute to increasing the amount and speed of delivery of new housing and sets out measures to continue housing delivery and understanding factors influencing delivery rates.

The NPPF requires all authorities with a delivery of less than 95% to produce an action plan, those with less than 85% delivery to apply a buffer of 20% on the 5 year local housing need figure and those with a delivery of less than 75% have to apply the presumption in favour of sustainable development. As Medway was under 75% based on the HDT last year all 3 penalties apply to Medway.

Appendix E shows completions over the last two years against the need and the number of units under construction.

- 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.

## 7. Climate change implications

- 7.1 Planning Officers are members 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 are being reflected in the draft local plan policies and development allocations.
- 7.5 All planning applications for new development must have a section on Climate Change and Energy efficiency. Validation requirements have been changed so that all applications for new development are required to include information 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 July to September 2021 is £381,892. Total income for the year 2020/21 is £1,199,524. This compares to a total income for the year 2019/20 of £1,602,989 and 2018/19 of £1,426,876. 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

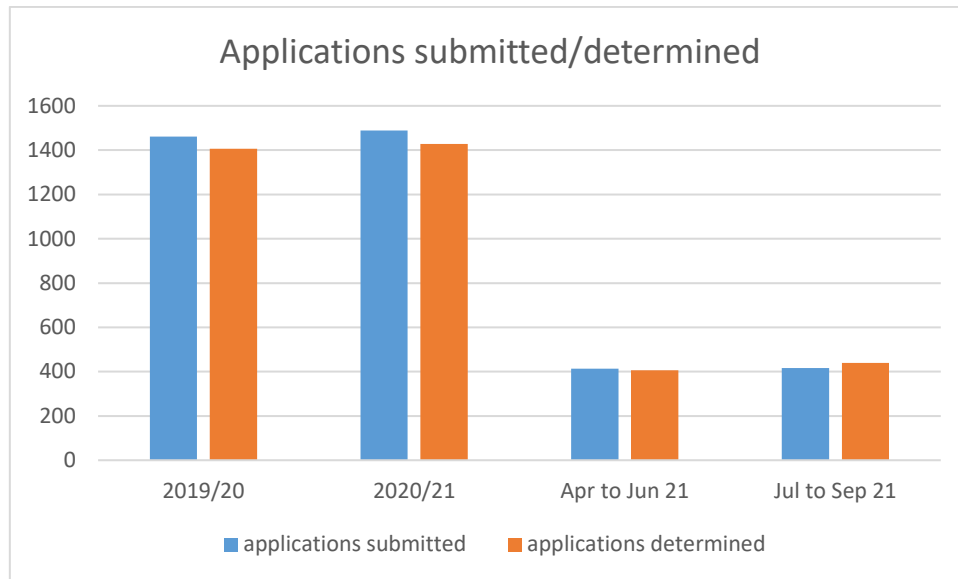
## Background papers

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

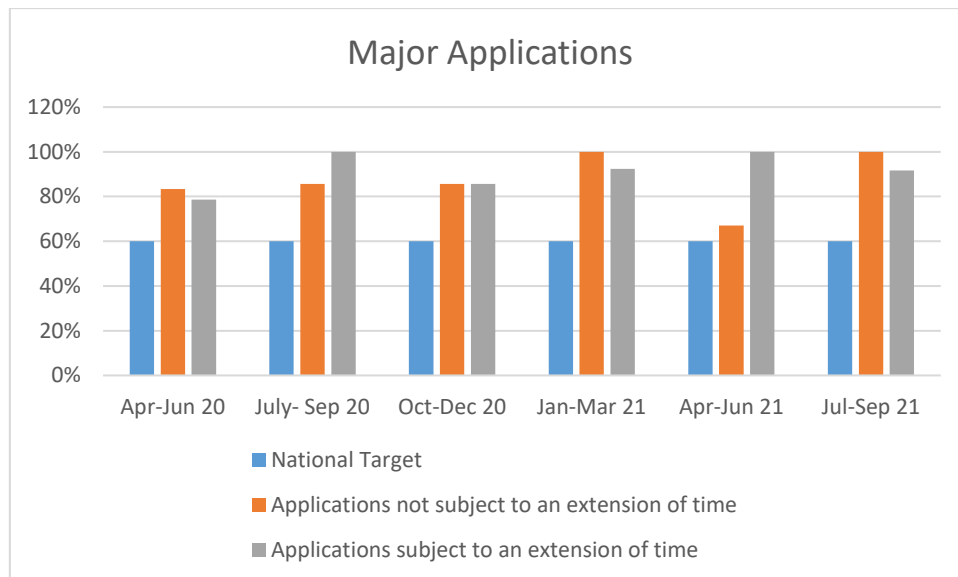


## Appendix A : Applications

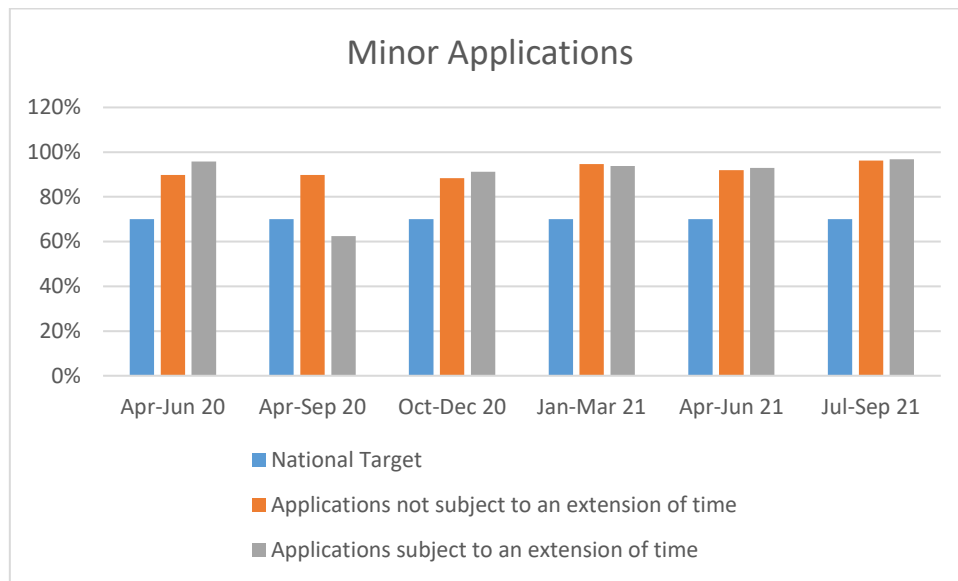
**Figure 1** *Number of applications received and determined 2019/20 to September 2021*



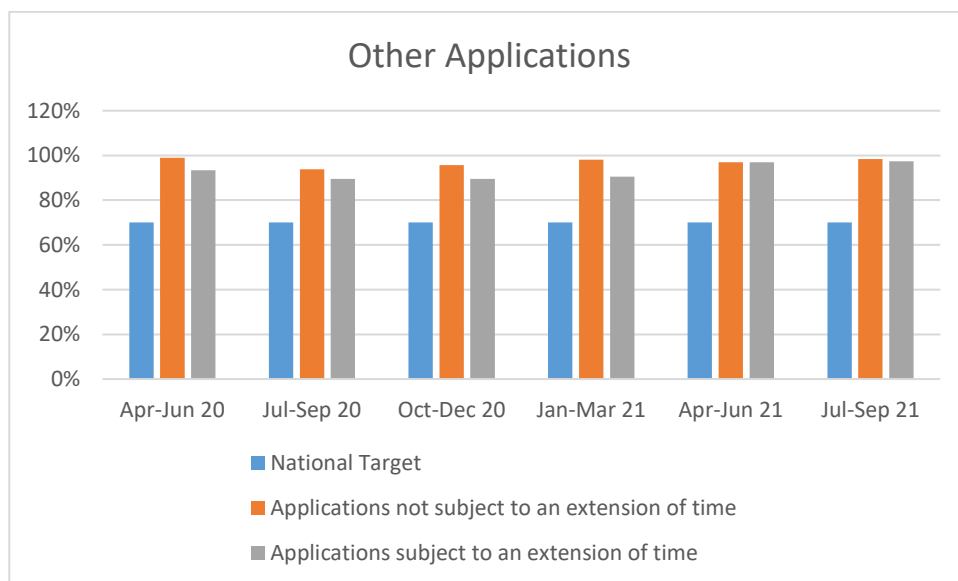
**Figure 2** *Percentage of "Major" applications determined against performance target April 2020 to September 2021*



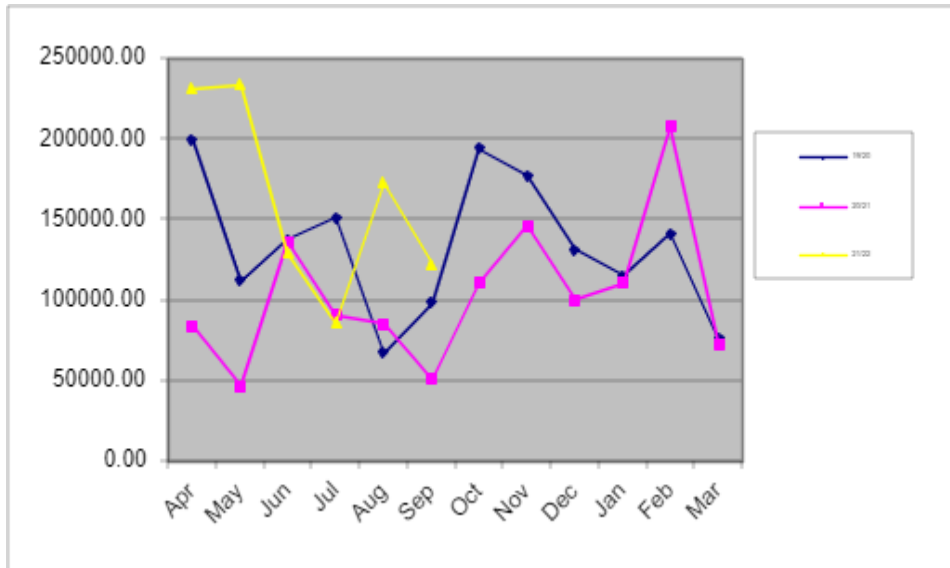
**Figure 3 Percentage of “Minor” applications determined against performance target April 2020 to September 2021**



**Figure 4 Percentage of “Other” applications determined against performance target April 2020 to September 2021**



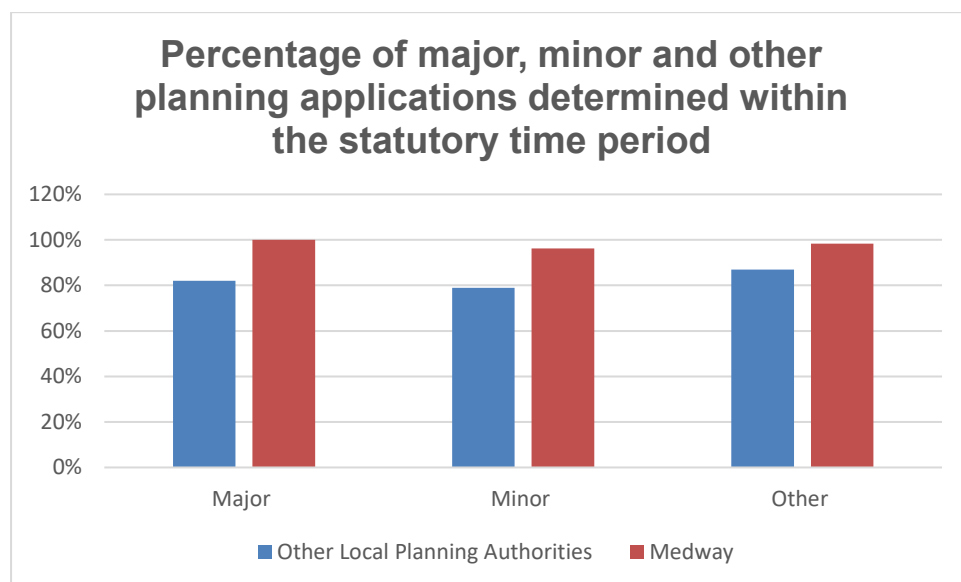
**Figure 5** Planning application fees received 2019/20 and 2020/21 and July to September 2021



## **Appendix B : Benchmarking**

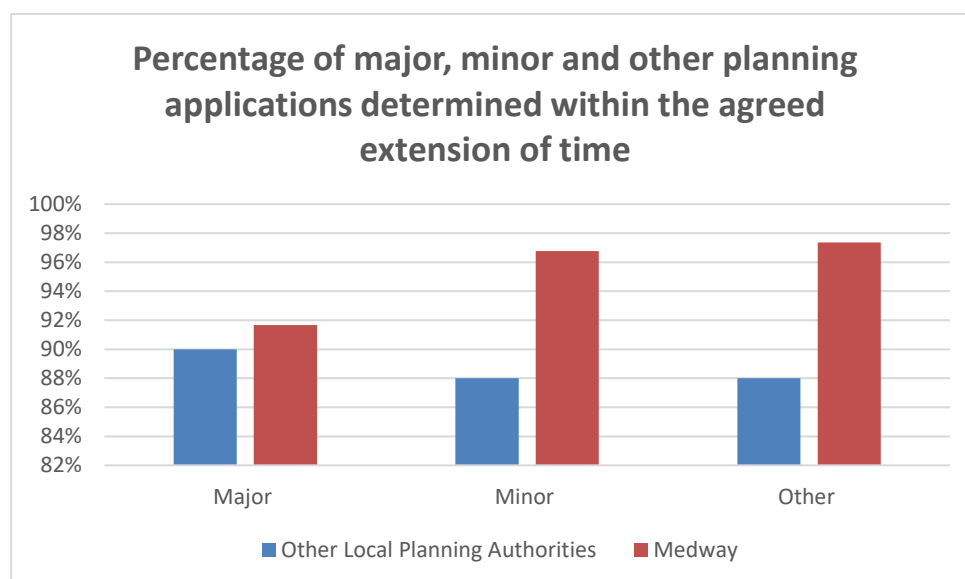
**Figure 1 – Planning applications determined within the statutory timeframe**

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 April to June 2021.



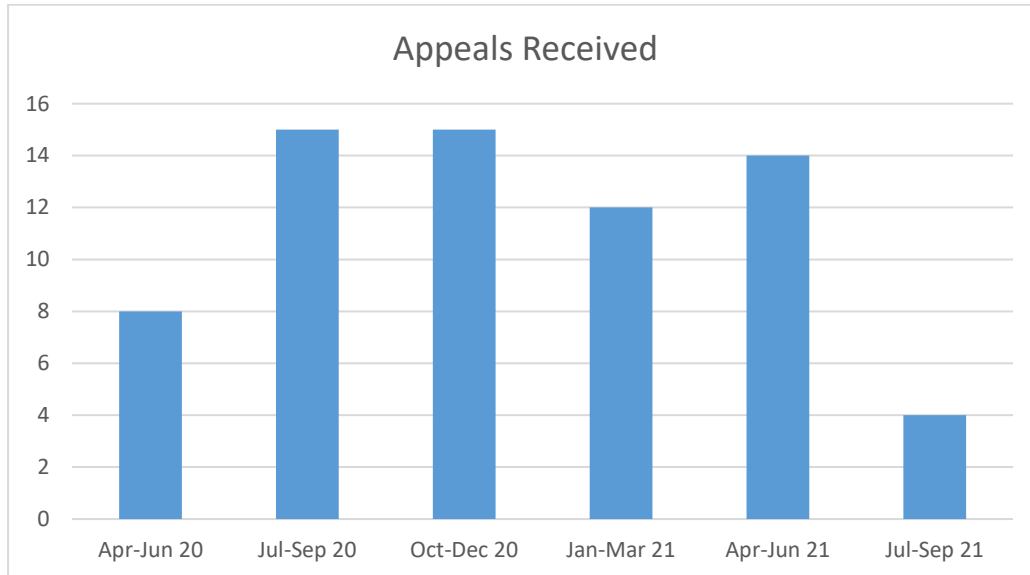
**Figure 2 - Applications with a Planning Extension Agreement**

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 April to June 2021, for applications with a Planning Extension Agreement.

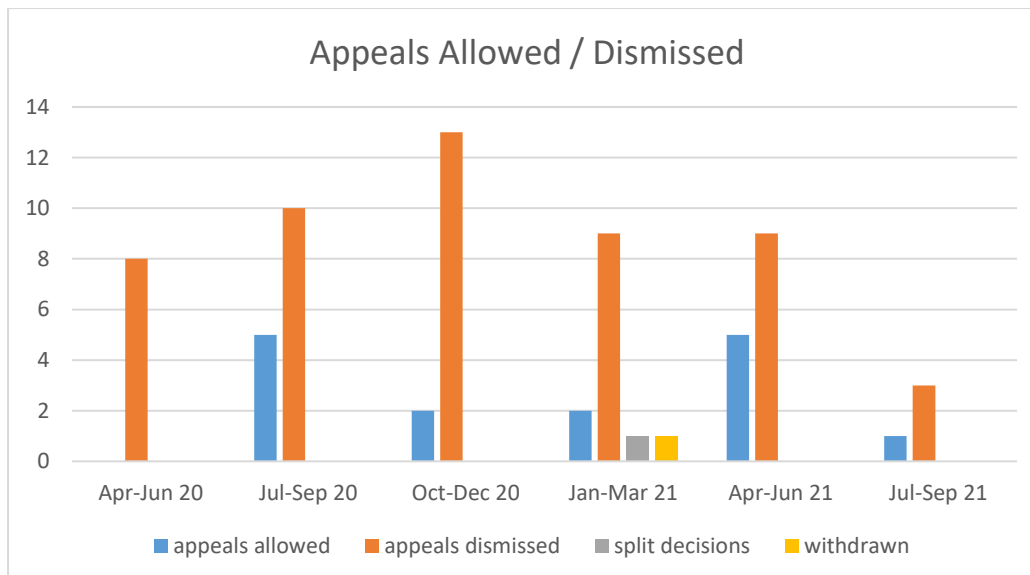


## Appendix C : Appeals

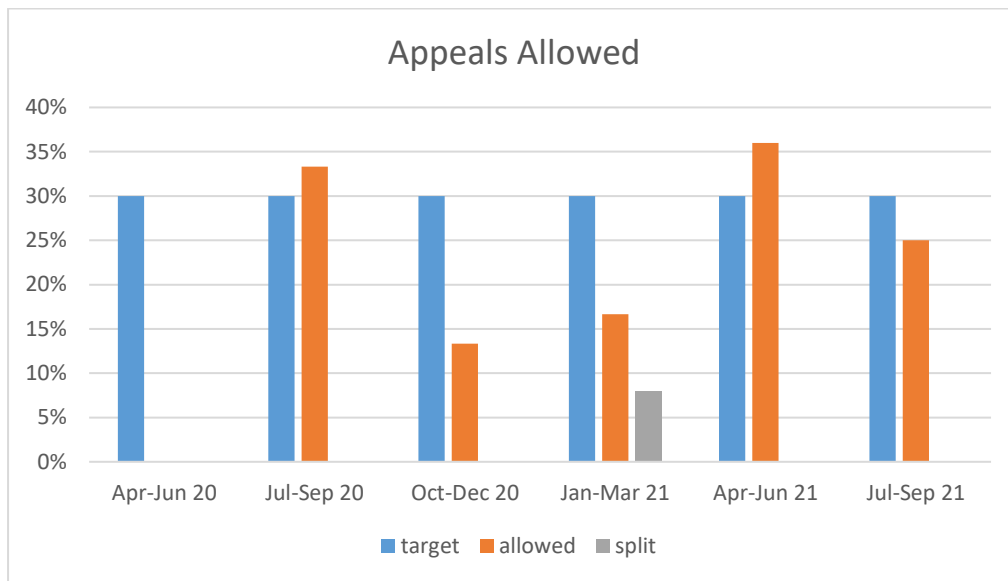
**Figure 1** *Number of appeals decisions received from April 2020 to September 2021*



**Figure 2** *Number of Appeals allowed / dismissed April 2020 to September 2021*

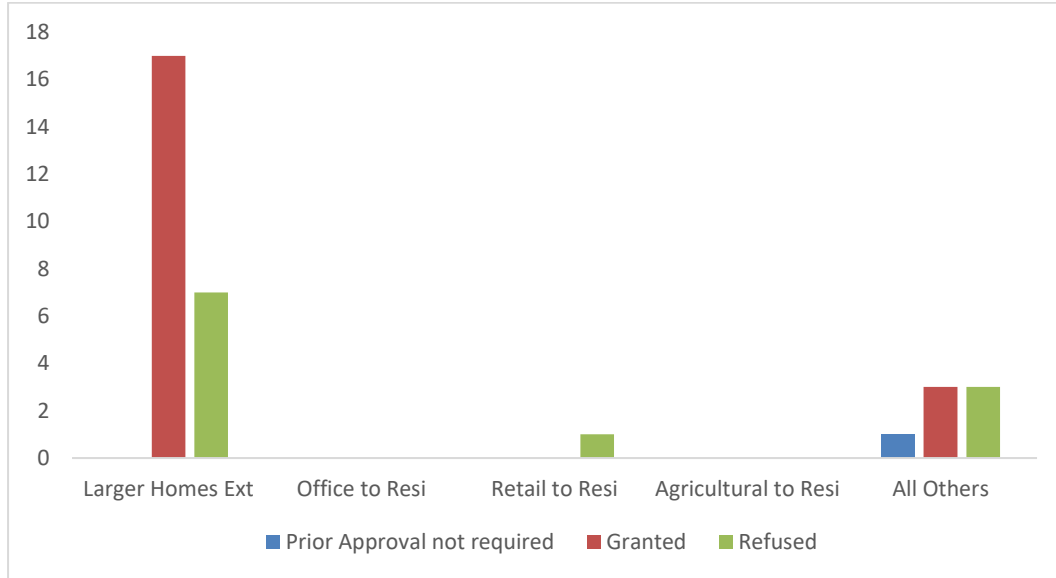


**Figure 3 : Percentage of appeals allowed against target of 30% April 2020 to September 2021**



**Appendix D : Applications for Prior Approvals for Permitted Developments**

**Figure 1: Number of prior approvals for permitted developments for the period July to September 2021**



## **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

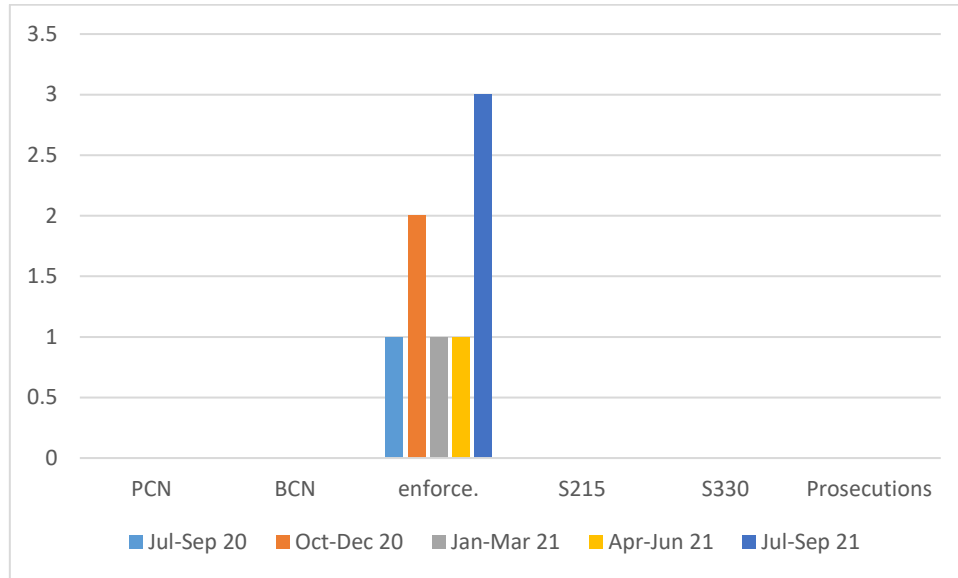
### **Number of units completed**

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

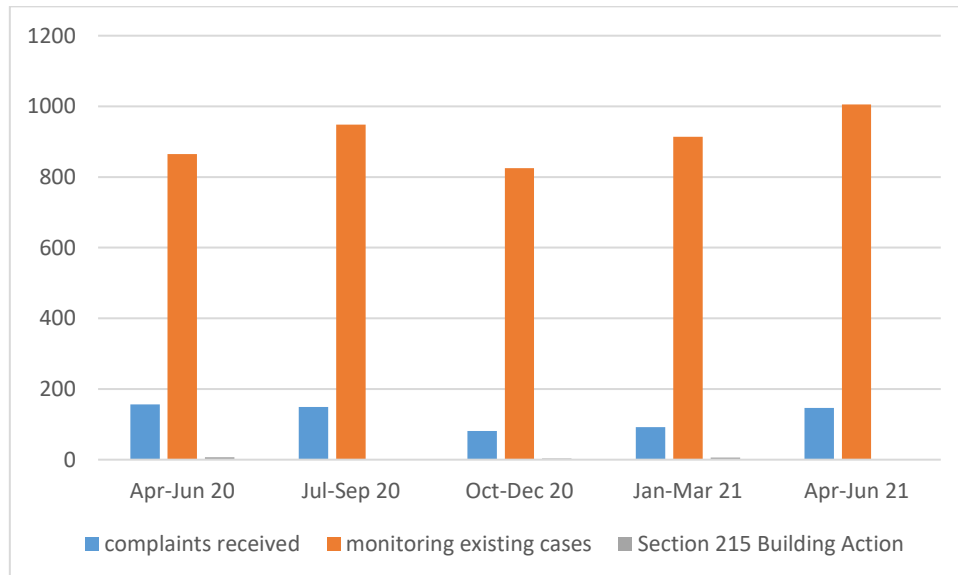


## Appendix F : Enforcement

**Figure 1** Number of enforcement notices served and prosecutions July 2020 to September 2021

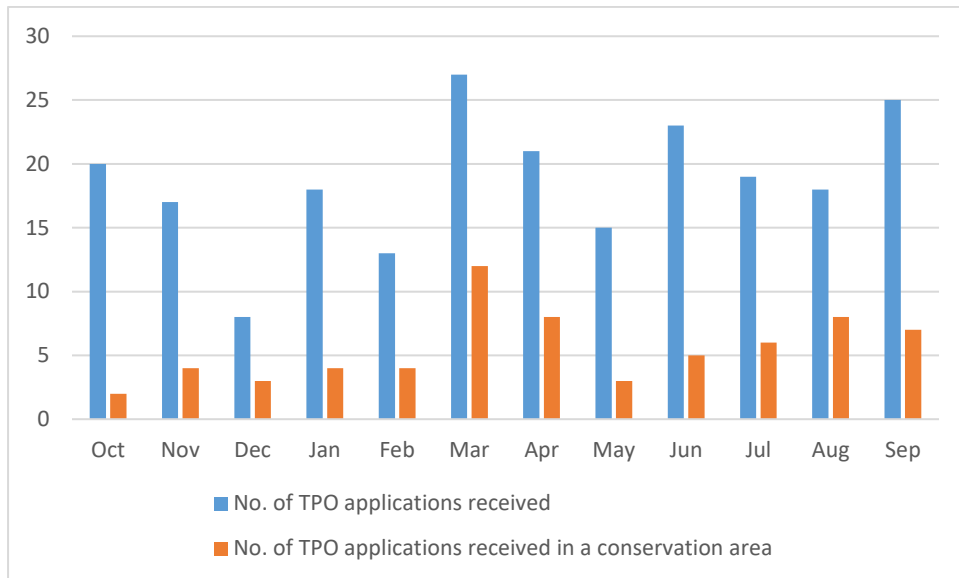


**Figure 2** Number of enforcement related complaints and activities April 2020 to June 2021

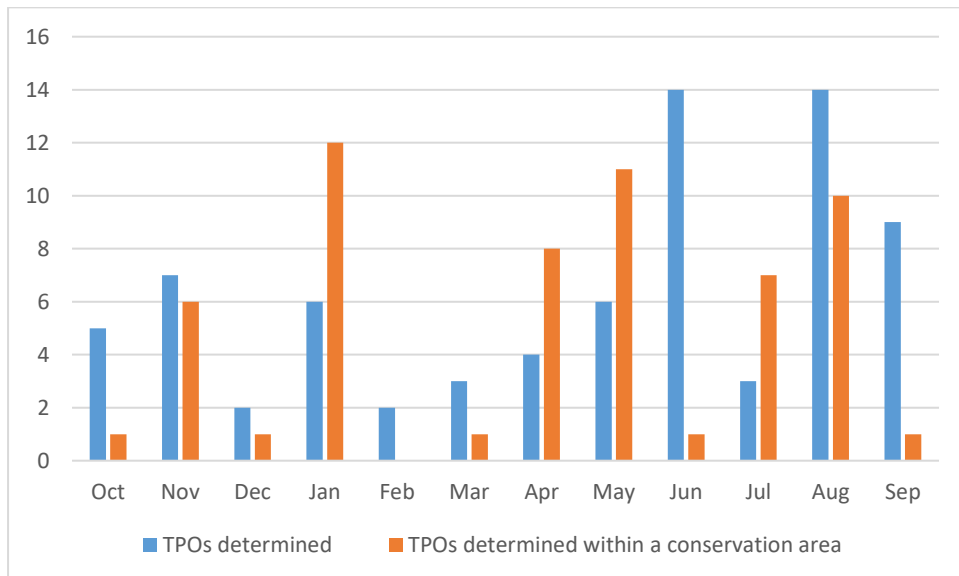


## Appendix G : Tree Preservation Order Applications

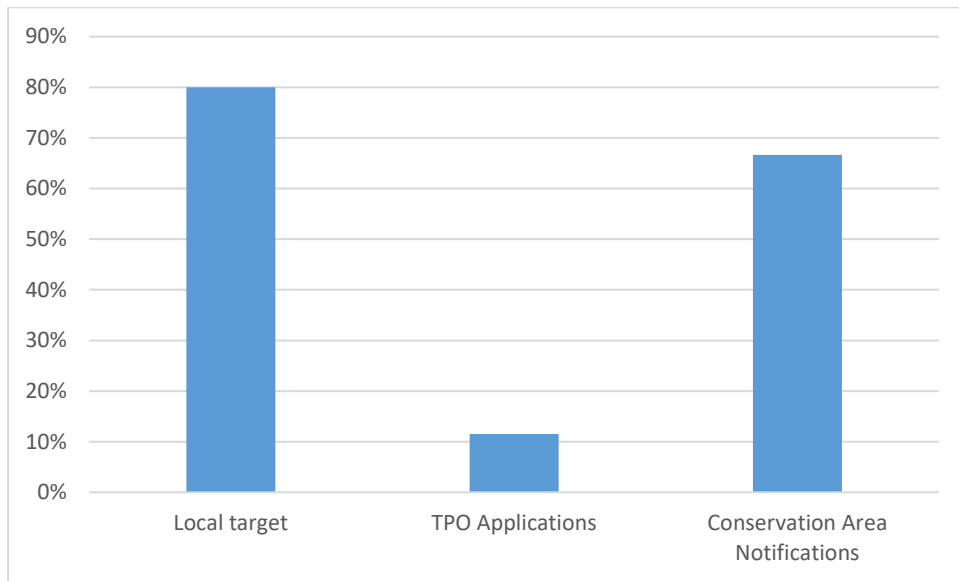
**Figure 1 : TPO applications received from October 2020 to September 2021**



**Figure 2 : TPO applications determined from October 2020 to September 2021**

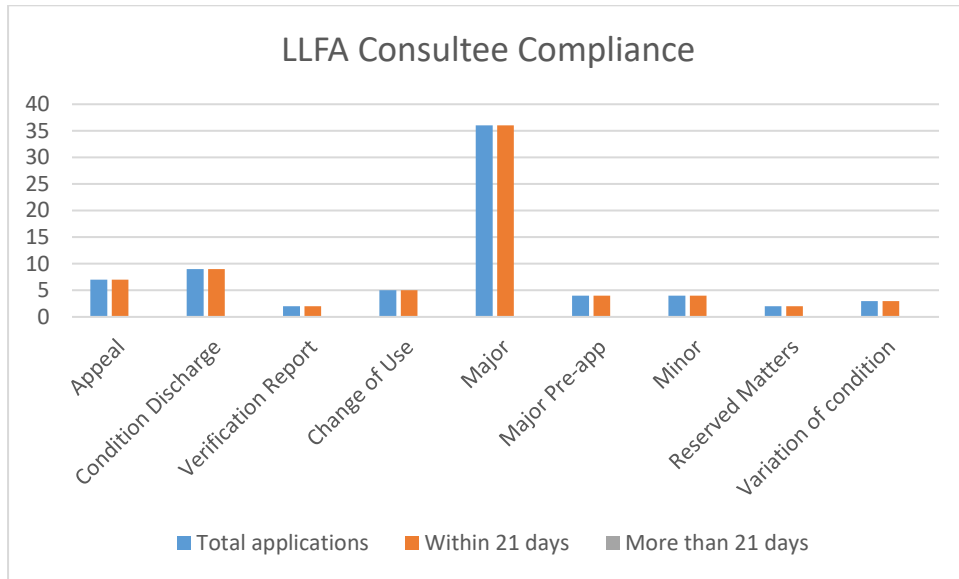


**Figure 3 : TPO and Conservation Area Notification applications determined within target time from July 2021 to September 2021**



## **Appendix H : Lead Local Flood Authority Consultee Compliance**

Statutory Consultee compliance results from 1 July to 30 September 2021



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

## **Appendix I : Complaints and Compliments**

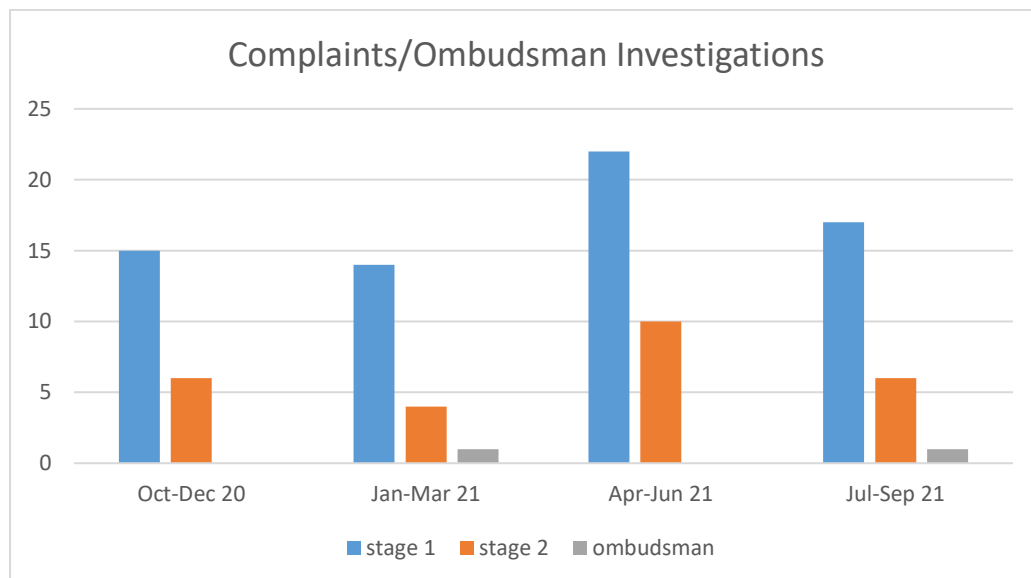
Complaints can be submitted online, in writing, in person at a local community hub and by phone. We aim to reply with a full written response within 10 working days. The chart below shows number of complaints received to.

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 quarter July to September 2021, 23 complaints were responded to, 13 of which were categorised as unhappy with the decision, 1 related to poor service quality, 4 related to poor timeliness and 5 where communication was not satisfactory.



Of the 23 complaints which were responded to, 82.60% were answered within the target time of 10 working days, 6 of which had been escalated to Stage 2. 14 complaints were dismissed where no fault was found, 5 were partially upheld and 4 complaints were upheld.

### **Complaints Upheld**

3 complaints upheld due to the lack of determination of tree applications and the lack of communication.

Minor data breach reported to GDPR team. Decision taken not to report to the Information Commissioner.

### **Complaints Partially Upheld**

2 complaints regarding lack of response to emails. However, enforcement investigation had been logged.

Delay in providing an update on enforcement case. Case reviewed by planning manager and update provided.

Delay in providing written pre-application advice. Request for refund denied as advice was provided verbally then followed up in writing.

Planning representation was not logged but issues were considered and did not affect the outcome of the planning decision.

### **Ombudsman**

The Local Government Ombudsman issued one decision during the quarter where there was no fault found in how the Council considered the planning application and, in the absence of fault, the LGO cannot question the Council's decision to grant planning permission.

### **Compliments**

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

- Really appreciate the swift response. Thank you.
- Thanks for your support and advice. It really helped shape the process and with your guidance we were able to more appropriately navigate suppliers and options as discussed.
- Thank you for your help and assistance in dealing with this in such a timely manner. It is very much appreciated.
- Huge thanks for comments so quickly. It has saved a number of weeks.
- Many thanks for your help and assistance with this. Thank you also for being proactive when there were minor issues that needed to be resolved. It really helped that you were willing to pick up the phone and have a chat in order to help move things forward. This very rarely happens with other authorities.
- Thank you for dealing with the application in a positive, pragmatic and diligent manner, for replying to emails and for speaking to me on the phone. Such a refreshing change and very much appreciated.
- Thank you for your help. You really have just been amazing and made it so easy. I really cannot thank you enough for what you have done to help. I really appreciate it.