

## **PLANNING COMMITTEE**

**9 MARCH 2022**

### **PERFORMANCE REPORT: 1 OCTOBER 2021 TO 31 DECEMBER 2022**

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 2022 the authority received 368 planning applications; this is compared to 400 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 October to 31 December 2021 95% 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 93%. This is against a target of 70%.

Performance for other applications determined within 8 weeks or within the agreed timeframe during the quarter is 96%. 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, 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 major and other applications but slightly below the national average for 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, 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. Following the retirement of 3 experienced Senior Planning Officers in January 2021, recruitment has proved to be challenging but one senior planner took up post in November 2021 and two Planners took up post mid-January 2022 (but within Senior Planner posts down graded to career grade planner and thus we did not recruit to the same level of expertise). 2 further Senior planners have recently left the Authority and we are currently out to advert but are competing with several other LPA's and private sector who are also out to advert. In addition, we have to fill the vacant Assistant Planner Policy post following promotion and an Urban Design Officers post. As a result, a variety of consultants have been appointed for a short-term period to address the capacity/workload pressure in Development Management 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 During the quarter 56 applications with Planning Extension Agreements were decided with 89% being determined within the agreed extended timeframe.
- 3.4 A number of Planning Performance Agreements (PPA's) were agreed in principle during the quarter.
- 3.5 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 April 2018 to March 2020, shows the number of decisions overturned at appeal for major applications is 0.8% and 1.1% for non-major applications. Government have demonstrated the importance of this target by taking action against Uttlesford and removing their planning powers for losing too many appeals
- 3.6 Government stats for applications for prior approvals for permitted developments by local planning authorities are reported in Appendix D.
- 3.7 The percentage of appeals allowed during the quarter is 42%. A total of 26 appeal decisions were received. 11 of these were allowed, which included 5 Committee decisions which overturned the officer recommendation. 15 appeals were dismissed, including one relating to enforcement. (See Appendix C). Government statistics indicate that Medway was in the top 20 Authorities in the Country for defending appeals against decisions on Major applications (figures provided for 2021). 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
- 3.8 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.
- 3.9 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.

3.10 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.

3.11 Following the remote external assessment in November 2021 the service has successfully retained its ISO accreditation and obtained re-certification for a further 3 years.

No non-conformatives were identified and the Assessor thanked all those involved and reported that officers have a great awareness of the management systems. The Assessor also found the systems are effective and the outputs are impressive, particularly recognising what has happened over the last 18 months in relation to the pandemic. The next assessment will take place in June 2021.

3.12 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. 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. Once the evidence base work has been completed the regulation 19 draft Local Plan will be finalised and then following the necessary authority will be published for consultation. Once the consultation period is complete, all the responses will be considered and modifications made, if appropriate, and then the Plan will be submitted back to Full Council for authority to formally submit the Plan to the Inspectorate to hold an examination in public.
- 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 £254,780.70 has been received via S106 contributions and £34,240.49 has been received for Habitat Regulations Agreements. This makes a total of £289,021.19.
- 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 outcome of the 4th year of the Housing Delivery Test has recently been announced and delivery of housing in Medway has increased to 67% of housing need

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.
- 6.5 Work has commenced on the Medway Design and Regeneration Awards planned to take place in September 2022. The entry period will be open on 1 February 2022 and run until 31 March 2022. Full details can be viewed on the Council's website.

## 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 October to December 2021 is £318,131. 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.

## Lead officer contact

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## Appendices

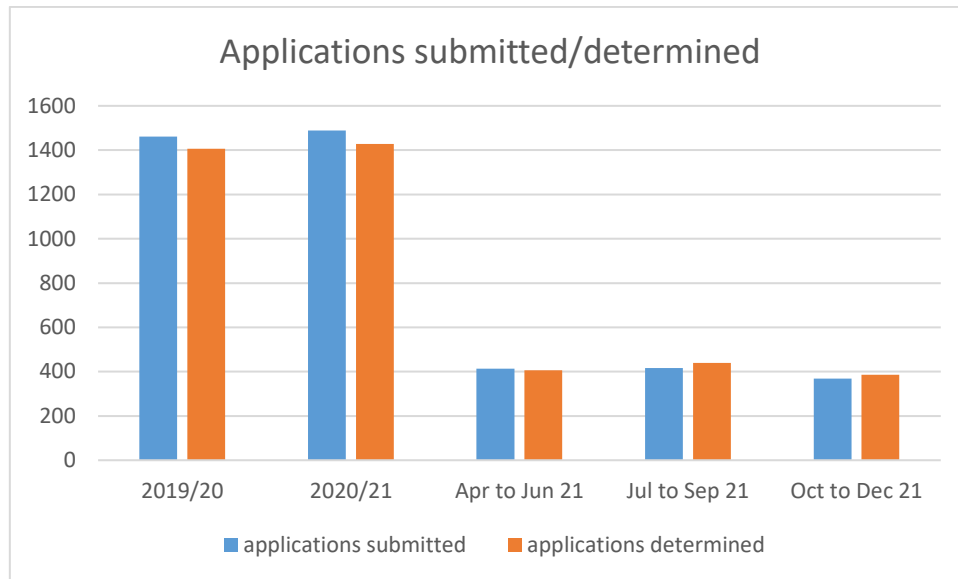
- A) Applications
- B) Benchmarking
- C) Appeals
- D) Applications for Prior Approvals for Permitted Development
- E) Number of Units Under Construction
- F) Enforcement
- G) Tree Preservation Order Applications
- H) Lead Local Flood Authority Consultation Compliance
- I) Complaints and Compliments

## Background papers

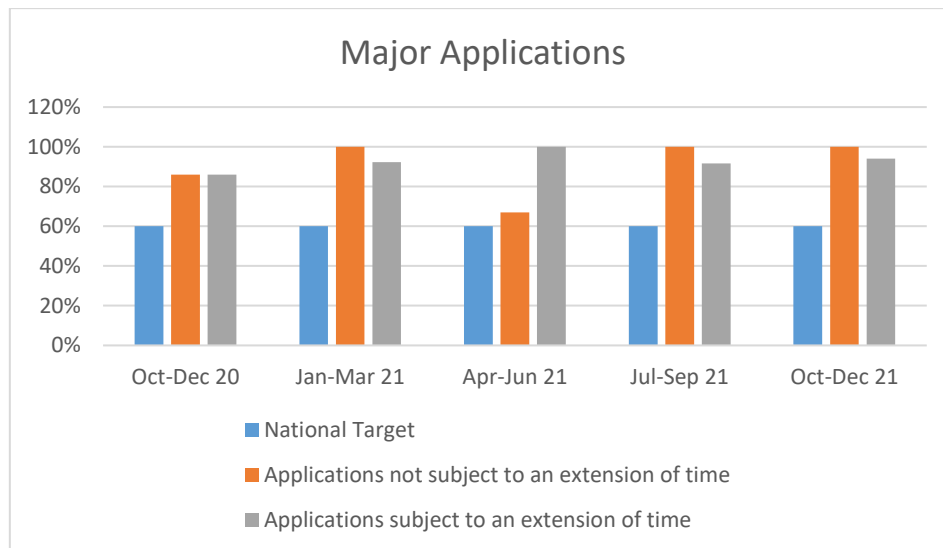
General Development Control Return PS1  
General Development Control Return PS2  
HCLG Live tables on planning applications statistics

## Appendix A : Applications

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

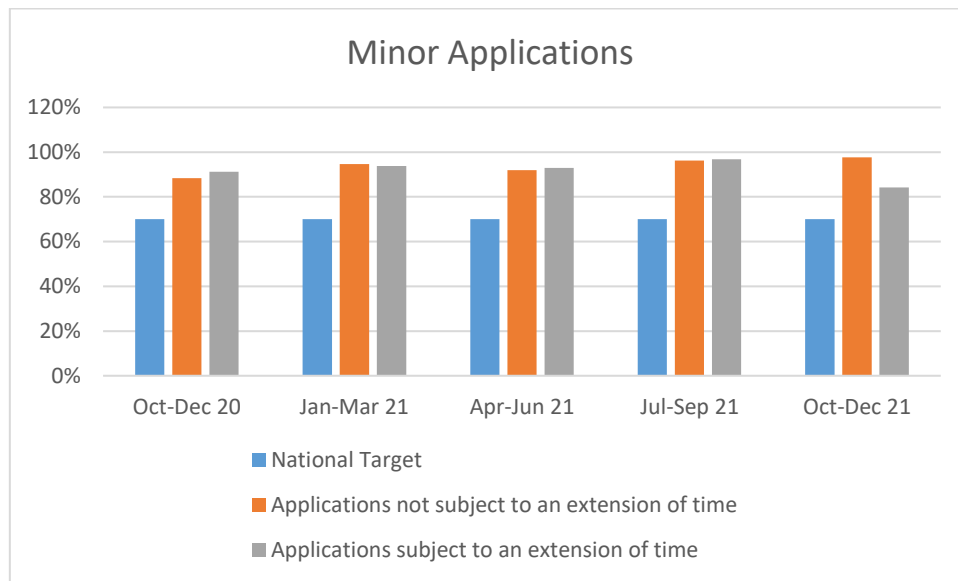


**Figure 2** *Percentage of "Major" applications determined against performance target Oct 2020 to December 2021*

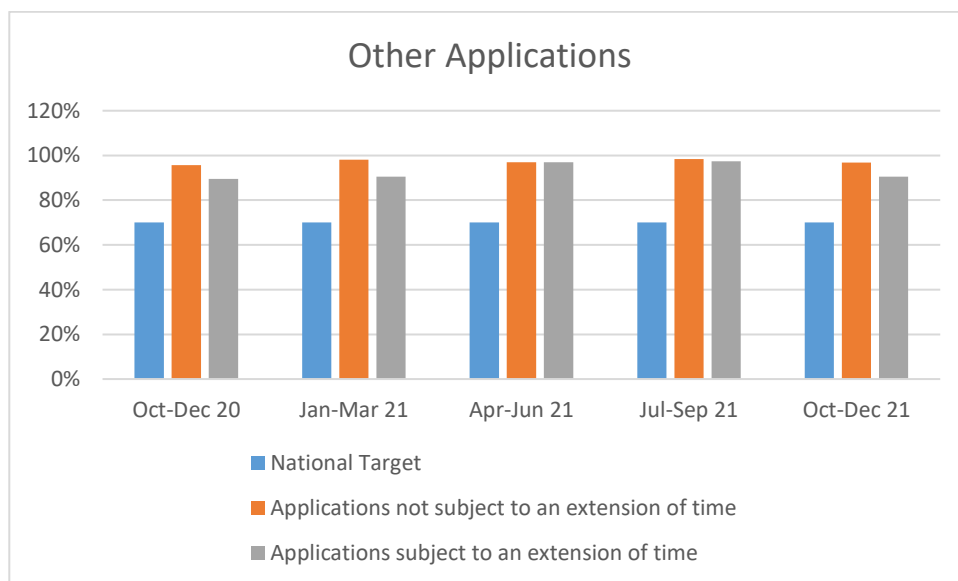




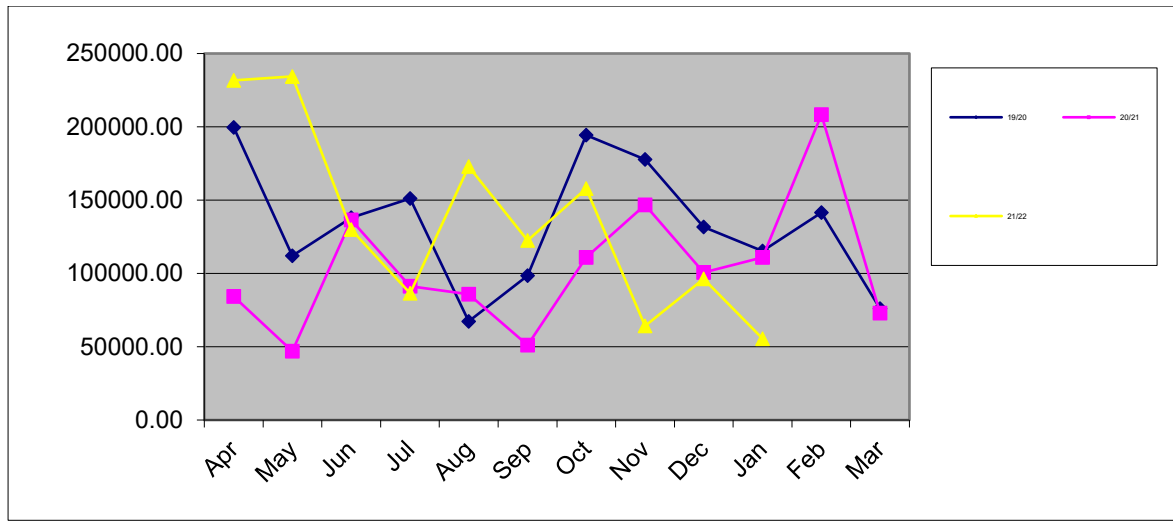
**Figure 3 Percentage of “Minor” applications determined against performance target October 2020 to December 2021**



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



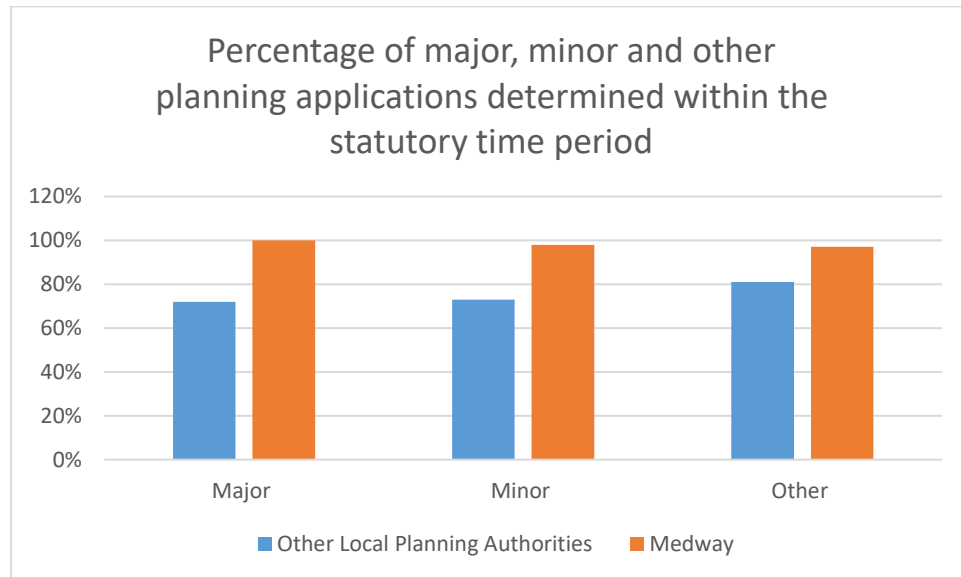
**Figure 5 Planning application fees received 2019/20 and 2020/21 and April to December 2021**



## **Appendix B : Benchmarking**

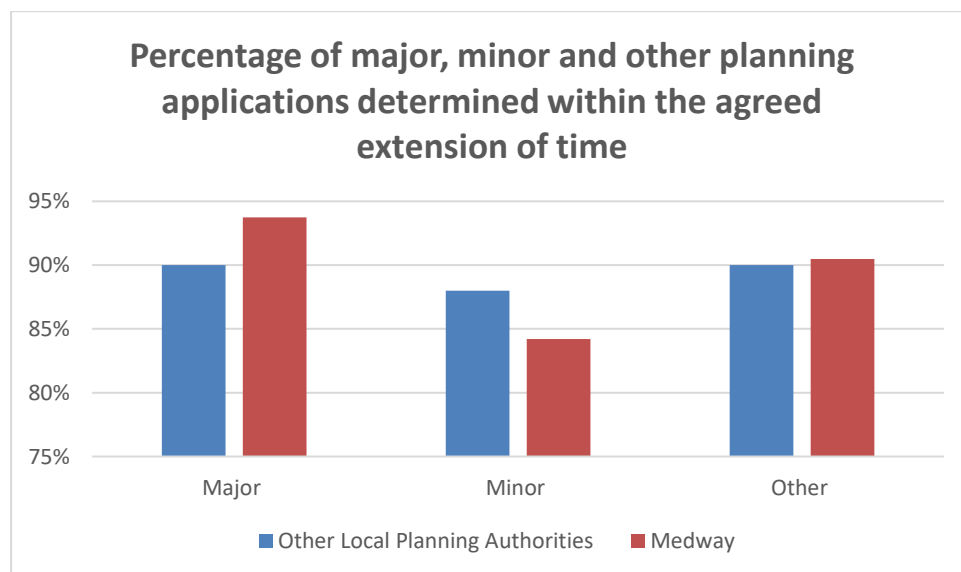
**Figure 1 – Planning applications determined within the statutory timeframe**

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.



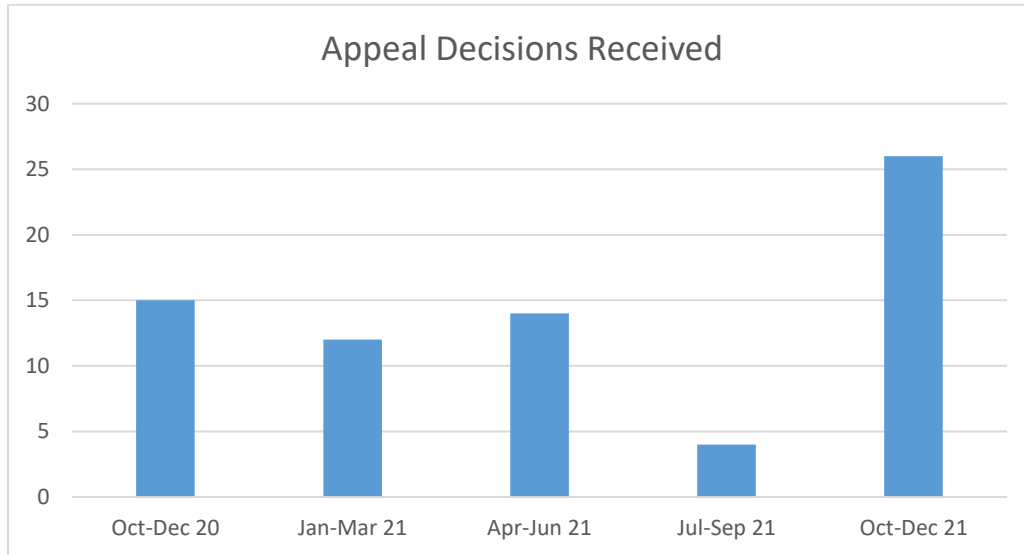
**Figure 2 - Applications with a Planning Extension Agreement**

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 for applications with a Planning Extension Agreement.

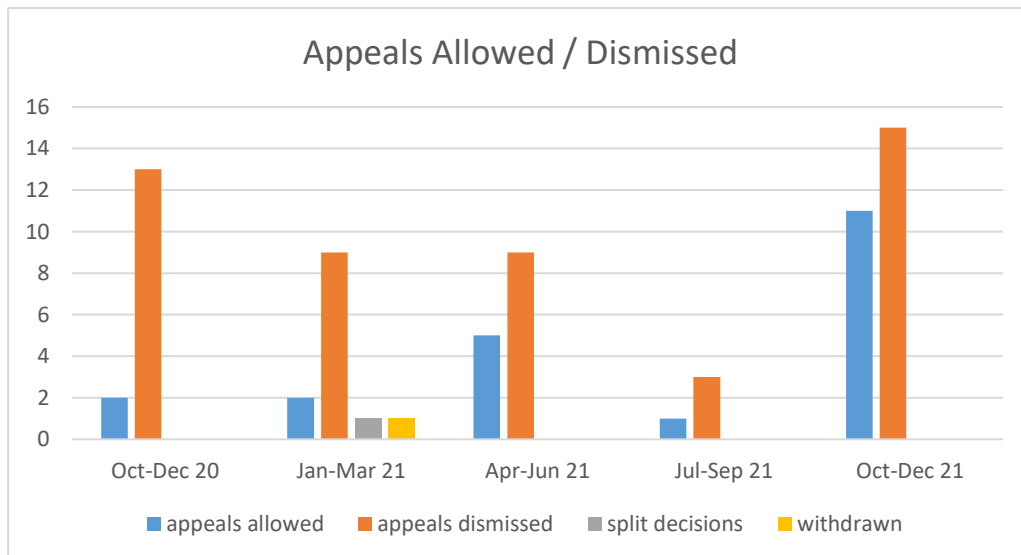


## Appendix C : Appeals

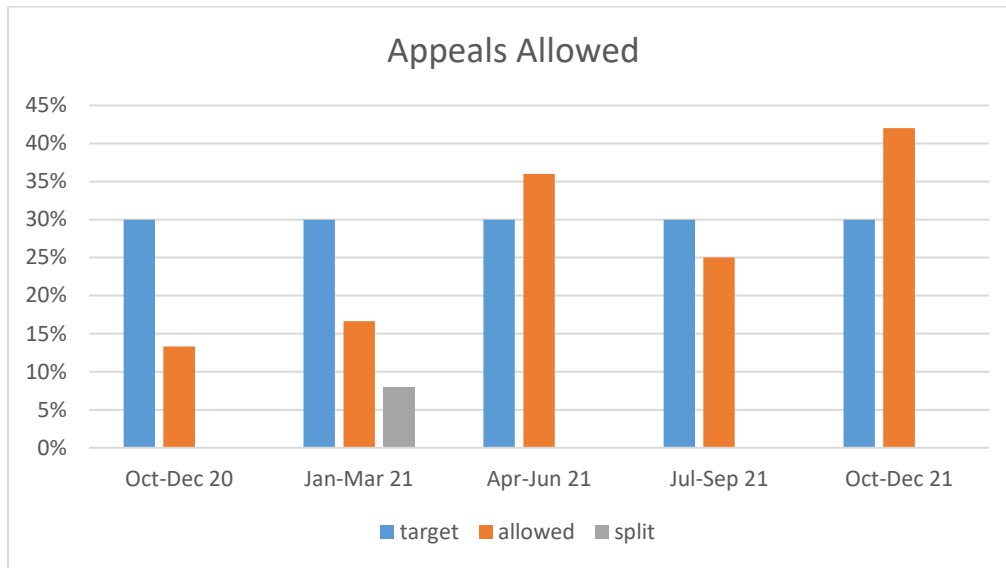
**Figure 1** *Number of appeals decisions received from October 2020 to December 2021*



**Figure 2** *Number of Appeals allowed / dismissed October 2020 to December 2021*

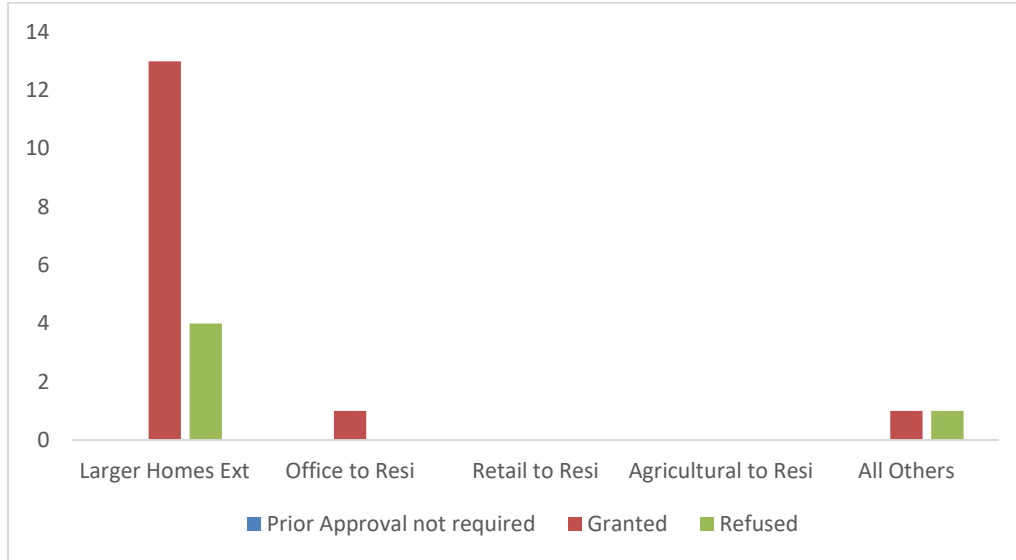


**Figure 3 : Percentage of appeals allowed against target of 30%  
October 2020 to December 2021**



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

**Figure 1: Number of prior approvals for permitted developments for the period October to December 2021**



## **Appendix E**

### **Number of units under construction**

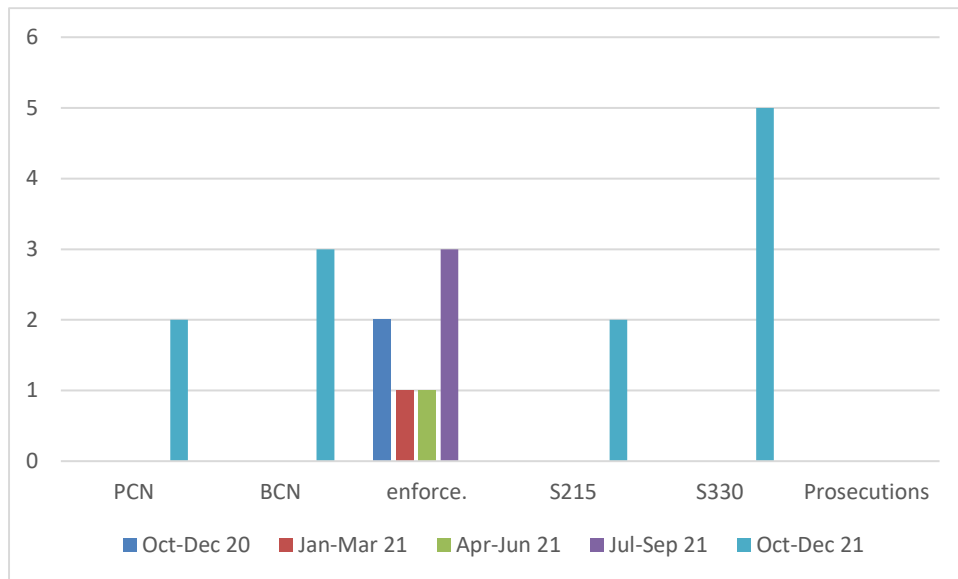
Year	No of units under construction as at 31 March (net)
2015	857
2016	760
2017	805
2018	1202
2019	1486
2020	1629
2021	1925

### **Number of units completed**

	Year 2018/19	Year 2019/20	Year 2020/21
Completions	647	1130	1082
Requirement	1683	1662	1586
Surplus/Deficit	-1036	-532	-504

## Appendix F : Enforcement

**Figure 1** Number of enforcement notices served and prosecutions October 2020 to December 2021



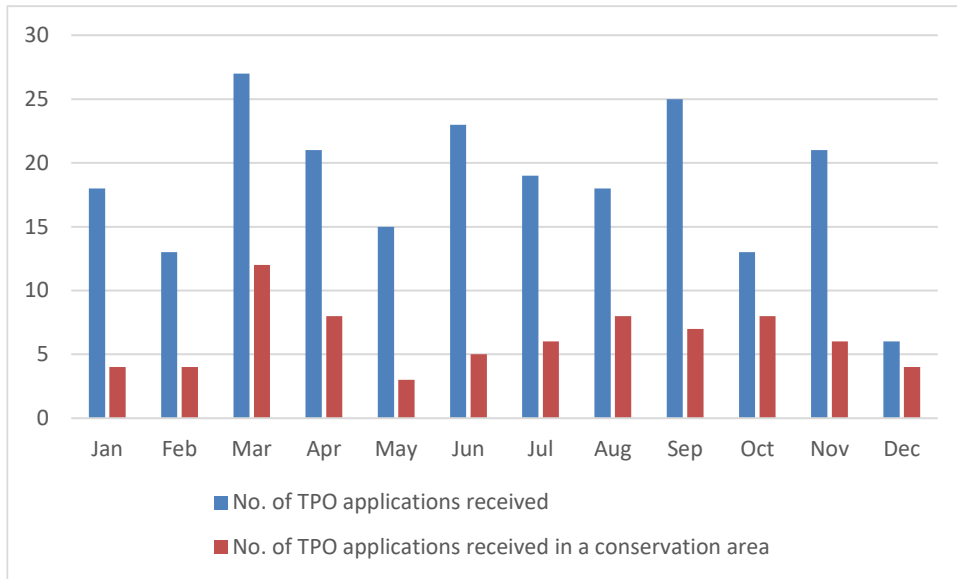
**Figure 2** Number of enforcement related complaints and activities October 2020 to December 2021



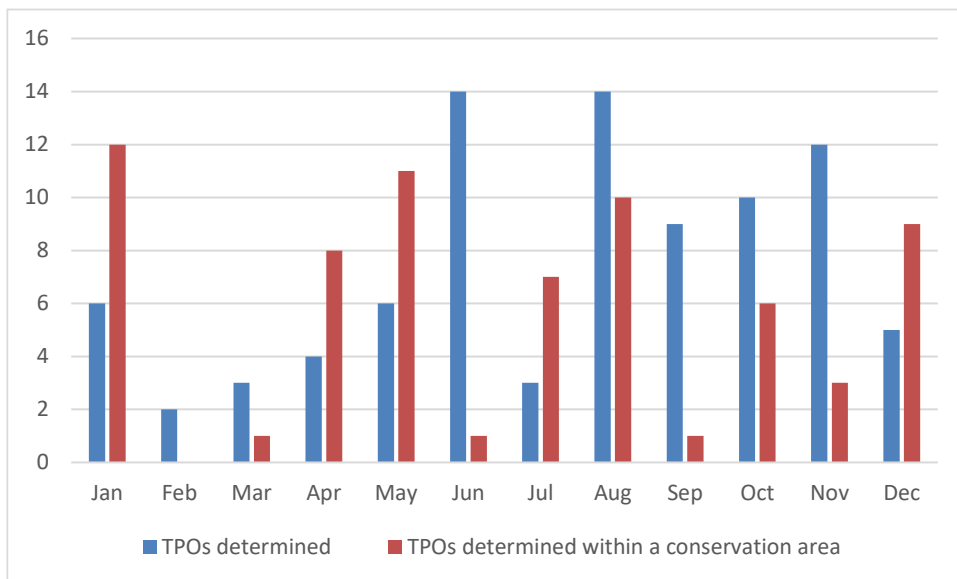


## Appendix G : Tree Preservation Order Applications

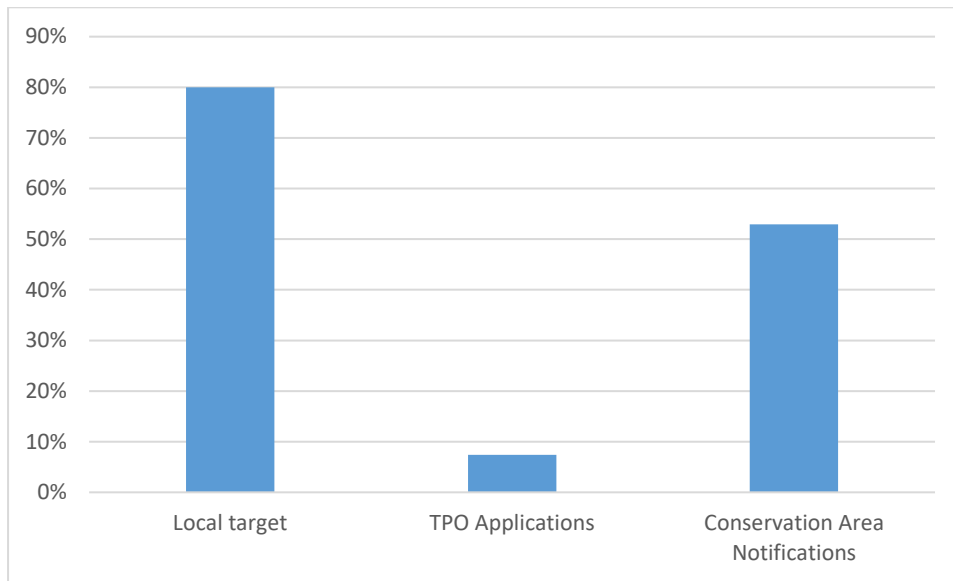
**Figure 1 : TPO applications received from January 2021 to December 2021**



**Figure 2 : TPO applications determined from January 2021 to December 2021**

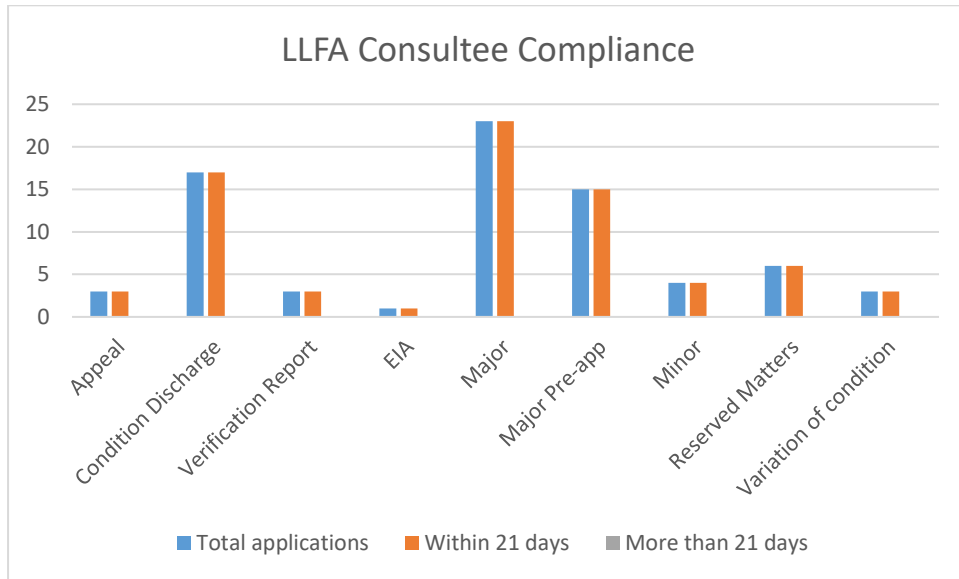


**Figure 3 : TPO and Conservation Area Notification applications determined within target time from October 2021 to December 2021**



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

Statutory Consultee compliance results from 1 October to 31 December 2021



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

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

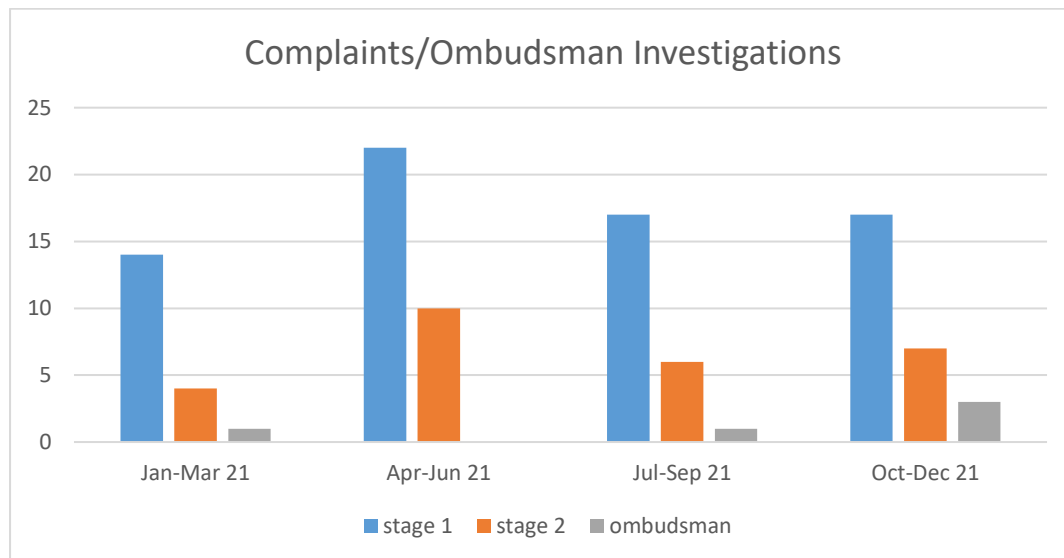
Complaints can be submitted online, in writing, in person at a local community hub and by phone. We aim to reply with a full written response within 10 working days. The chart below shows number of complaints received to.

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 October to December 2021, 24 complaints were responded to, 17 of which were categorised as unhappy with the decision, 1 was where the service was not provided, 1 related to poor timeliness and 5 where communication was not satisfactory.



Of the 24 complaints which were responded to, 91.66% were answered within the target time of 10 working days, 7 of which had been escalated to Stage 2. 17 complaints were dismissed where no fault was found, 6 were partially upheld and 1 complaints were upheld.

### **Complaints Upheld**

Lack of response to emails and telephone calls.

## Complaints Partially Upheld

3 complaints regarding lack of response to emails. However, enforcement investigation had been logged in the case of 2 complaints and correct planning advice had been given regarding a further complaint.

3 complaints received in relation to Public Access being off-line for a couple of days due to ICT problem. However, residents were given enough time to comment on an application.

## Ombudsman

The Local Government Ombudsman issued three decisions during the quarter. Two were closed after initial enquires as the complaint was considered out of the jurisdiction of the LGO. A further complaint was closed after initial enquiries as no evidence of fault was found.

## Compliments

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

- Thanks for getting back so quickly. Dad said you are extremely helpful 😊
- If we had to work at a Council, it would be Medway
- You have been a pleasure to deal with, your professionalism is clear but you also bring a smiling face and a good attitude to your job
- Thank you for your help and hard work. It is very much appreciated by myself and other residents
- It has been a pleasure working with you. Your consistent communication makes the process so much easier. Thank you
- Thank you for your diligence, proactivity and hard work
- Appreciate your help and speedy responses
- Thank you for producing such a detailed and comprehensive report, for the very high quality presentation to Committee. It was very impressive and I am sure was very much appreciated by all parties involved. We were of course disappointed not to secure approval of the application
- Thank you to Medway officers for helping to shape a scheme to a point where it was approved. That made all the hard work from everyone very worthwhile
- I really appreciate the swift response, thank you
- Thanks for your support and advice on our home. With your guidance we were able to submit the proposal