

PLANNING COMMITTEE

19 APRIL 2023

PERFORMANCE REPORT: 1 JULY 2022 TO 31 MARCH 2023

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

Summary

This report is presented to the Planning Committee informing Members on current planning performance and the Local Plan. The report covers the period from 1 July 2022 to 31 March 2023.

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 2022 to 31 March 2023 the Authority received 910 planning applications; this is compared to 1,173 for the same period in 2021/22. For the year 2022/23 the Authority received 1,230, this compares to 1,586 in 2022/21 and 1,520 in 2020/21.

- 3.3 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).
- 3.4 During the period 1 July 2022 to 31 March 2023 90% of major applications were determined within 13 weeks or within the agreed timeframe. This is against a target of 60%.
- 3.5 Performance for minor applications determined within 8 weeks or within the agreed timeframe during the period is 84%. This is against a target of 70%.
- 3.6 Performance for other applications determined within 8 weeks or within the agreed timeframe during the period is 97%. This is against a target of 70%.
- 3.7 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.
- 3.8 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 also exceeded the national target and the national average for all types of application (see Appendix B).
- 3.9 During the period 1 July 2022 to 31 March 2023 174 applications with Planning Extension Agreements were decided with 95% being determined within the agreed extended timeframe.
- 3.10 During the period, 7 Planning Performance Agreements (PPA's) were completed and a number agreed in principle.
- 3.11 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 and vacancies, the workload will need to be carefully managed if performance is to continue to be maintained.

Recruitment has proved to be challenging and the 2 DM Managers have recently left the Council. A consultant has been appointed as an interim DM manager for a six month period as the service is about to commence a two week consultation period for a proposed restructure. The Planning Service is currently carrying a number of vacancies - 1 Planner post, 1 Senior Planner post, an Enforcement Officer post, an Assistant Enforcement Officer post, a Tree Officer post, an Assistant Policy Planner post, 2 Senior Policy Planner posts and a Flood Drainage and Special Projects Officer 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. This situation may change as a result of the proposed restructure.

- 3.12 A Tree Consultant continues to make good progress in clearing the backlog of outstanding tree applications caused by the restrictions due to the pandemic and an increase of applications.

- 3.13 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 October 2019 to September 2021, 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.
- 3.14 The percentage of appeals allowed during the period 1 July 2022 to 31 March 2023 is 31%. A total of 45 appeal decisions were received. Twelve of these were allowed, which included 3 Committee decisions which overturned the officer recommendation plus 1 relating to enforcement. One spilt decision was made in relation to the non-determination of a tree application. 31 appeals were dismissed. (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.
- 3.15 Government stats for applications for prior approvals for permitted developments by local planning authorities are reported in Appendix D.
- 3.16 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.
- 3.17 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.
- 3.18 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.
- 3.19 Following the external ISO assessment in November 2022 the service has successfully retained its ISO 9001:2015 accreditation. The Assessor found that the management system demonstrated a well established system in line with the scope for ISO 9001:2015.

3.20 The Planning Service has embraced the need for accelerated change following the pandemic and has reviewed and updated its working policies accordingly, adopting the Council's 'Our Ways of Working Policy'. The policy focuses on the different ways of working which may suit different roles and individual circumstances and also looks at the unintended consequences which change can bring such as impact on mental and physical health, inclusion and equality issues. The service has now adopted a hybrid approach to working where staff can work from home and the office in a manner which works for the service and for the staff. Since hybrid working has been adopted 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 also sends 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.

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. The service currently only has one enforcement officer in post, which has led to only high priority cases being progressed.

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 or cases of a specialist nature.

6. Consultation

- 6.1 Development work on the production of the draft new Local Plan continues. Following a decision to move back from Regulation 19, work is ongoing towards Regulation 18 with consultation planned in 2023. A new call for sites was held between November 2022 and February 2023, this will inform the site assessment work in the Reg 18 consultation.
- 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 period 1 July to 31 March 2023 £4,992,852 has been received via S106 contributions and £191,536 has been received for Habitat Regulations Agreements. This makes a total of £5,184,388.
- 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.
- 6.4 The annual forum with Major Developers took place in November and focused on the development projects coming forward in the Chatham Centre area including design codes and neighbourhood planning at Chatham Arches, Climate Change and an update on the new Local Plan.
- 6.5 The fourth Housing Test Delivery Plan (HTDP) was reported and agreed by Cabinet in July 2022. As required, the HTDP sets out the factors influencing house building in Medway and proposes measures within the control of the Council, to contribute to increasing the amount and speed of delivery of new housing. The rates of housebuilding in Medway in the last few years have been the highest in over 20 years. However, they still fall below the high levels of housing needed as calculated by the government's standard methodology. The action plan sets out the council's proactive approach to helping to boost investment in housing in Medway. The Government has not yet published the 2022 measure results. Changes are anticipated in the revision of the NPPF.
- 6.6 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.
- 6.7 Appendix E shows completions over the last two years against the need and the number of units under construction.
- 6.8 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 (at present Paul Henry of Esquire Developments). This should help to build stronger partnership working and support SME's to compliment the delivery of homes from the volume house builders.

- 6.9 Esquire Developments took the top prize in the 'boutique development' category for its Manor Farm development of luxury farmstead homes near Cliffe at this year's Evening Standard New Homes Awards.
- 6.10 The second Medway Design and Regeneration Awards were successfully held in September 2022. The awards celebrated Medway's most innovative and exciting building projects, changes of use and conservation/heritage schemes which have played an important part in the area's regeneration in the last five years.
- 6.11 In December 2022, the Government published a consultation on reforms to national planning policy and has also consulted on the proposed approach to updating the National Planning Policy Framework. An initial update to the NPPF, due in Spring 2023 and based on proposals in the consultation, will be an important first step towards the implementation of Levelling Up and Regeneration Bill (LURB).
- 6.12 The draft Cliffe and Cliffe Woods neighbourhood Plan completed its examination stage in March and will go to referendum in May 2023. The Arches (Chatham) and High Halstow Neighbourhood Plans have been published for representations at Regulation 16. The consultation period runs from 17 March to 30 April 2023. Hoo St Werburgh and Chattenden neighbourhood planning group is preparing to consult on its draft plan at Regulation 14 in early summer 2023.
- 6.13 The Government are out to consultation on proposals to increase planning fees and to improve capacity, capability and performance within local planning authorities. Medway will be responding within the deadline of 26 April 2023.

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 2022 to March 2023 is £814,826. Total income for the year 2022/23 is £1,075,818. This compares to a total income for the year 2021/22 of £1,555,439 and 2020/21 of £1,199,524. 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. Recommendation

- 10.1 The Committee is asked to consider and note the report which is submitted to assist the committee is monitoring Development Management activity.

Lead officer contact

Dave Harris, Head of Planning
Telephone: 01634 331575
Email: dave.harris@medway.gov.uk

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

DLUHC Live tables on planning applications statistics

Appendix A : Applications

Figure 1 *Number of applications received and determined 2020/21 to 2022/23*

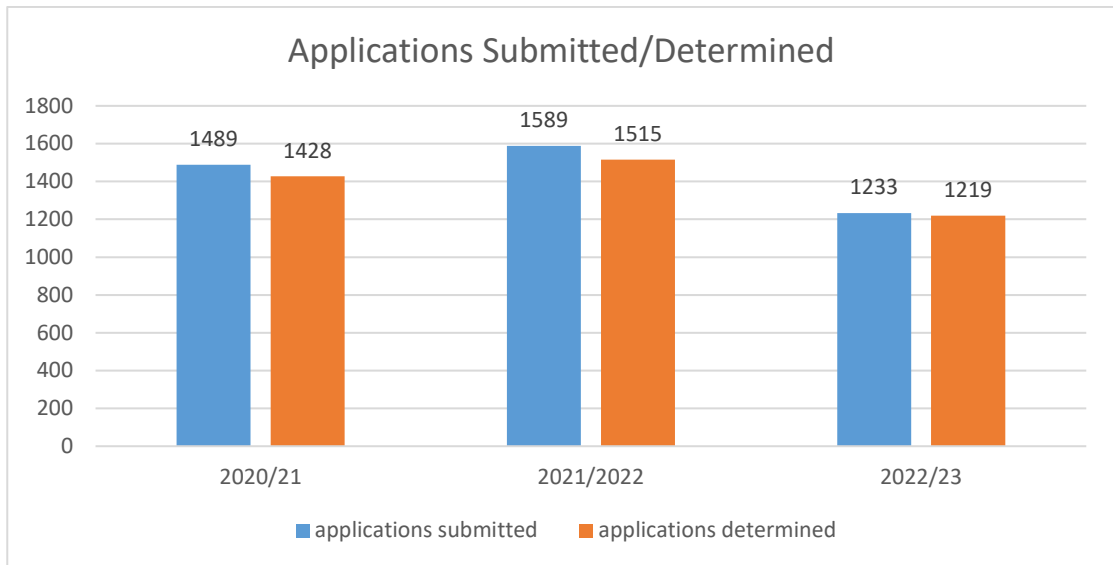


Figure 2 *Percentage of “Major” applications determined against performance target January 2022 to March 2023*

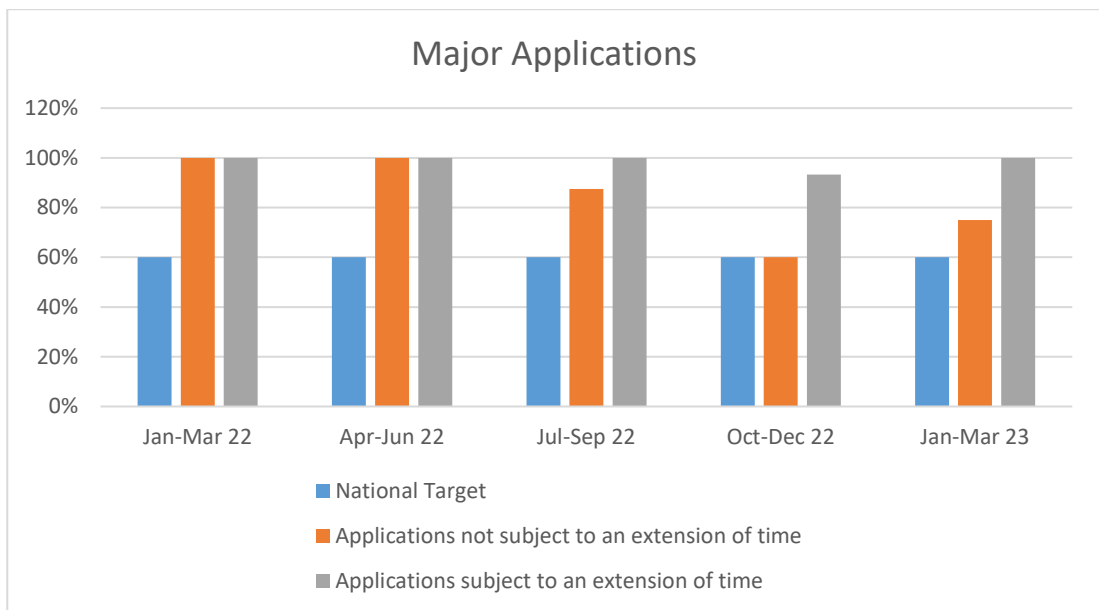


Figure 3 Percentage of “Minor” applications determined against performance target January 2022 to March 2023

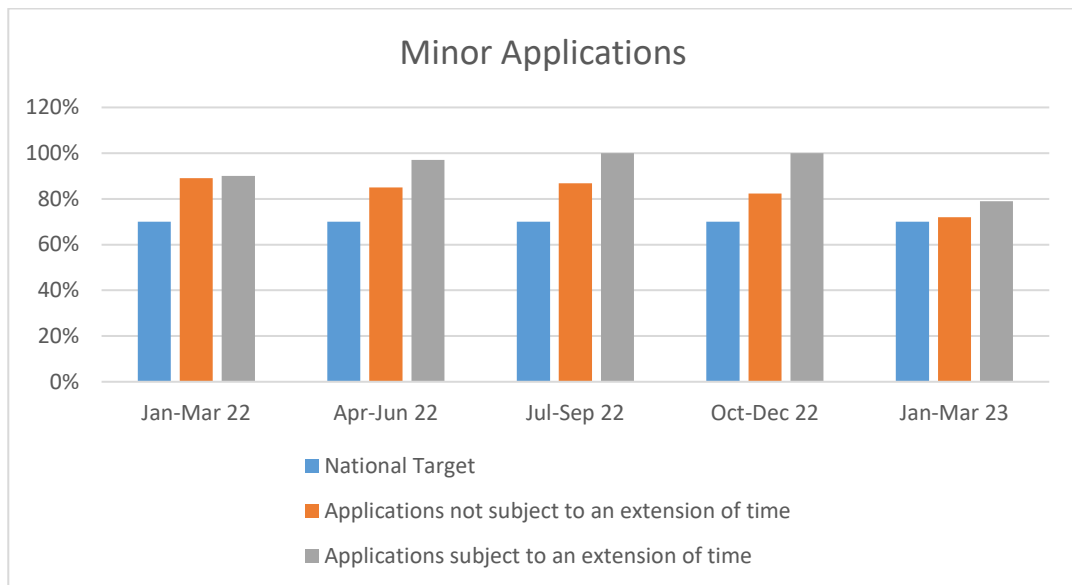


Figure 4 Percentage of “Other” applications determined against performance target January 2022 to March 2023

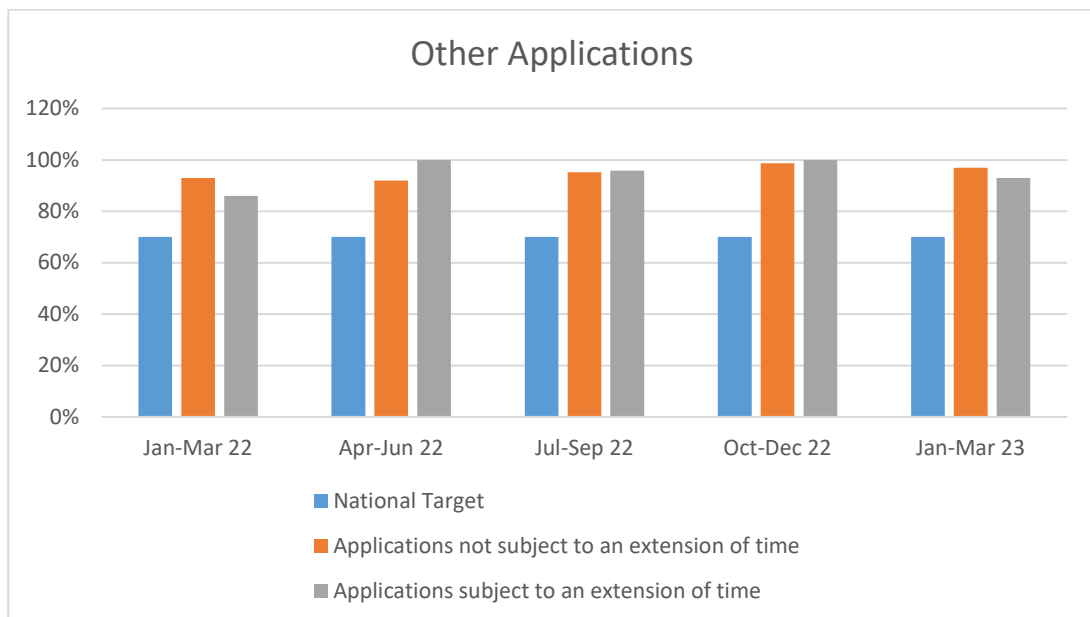
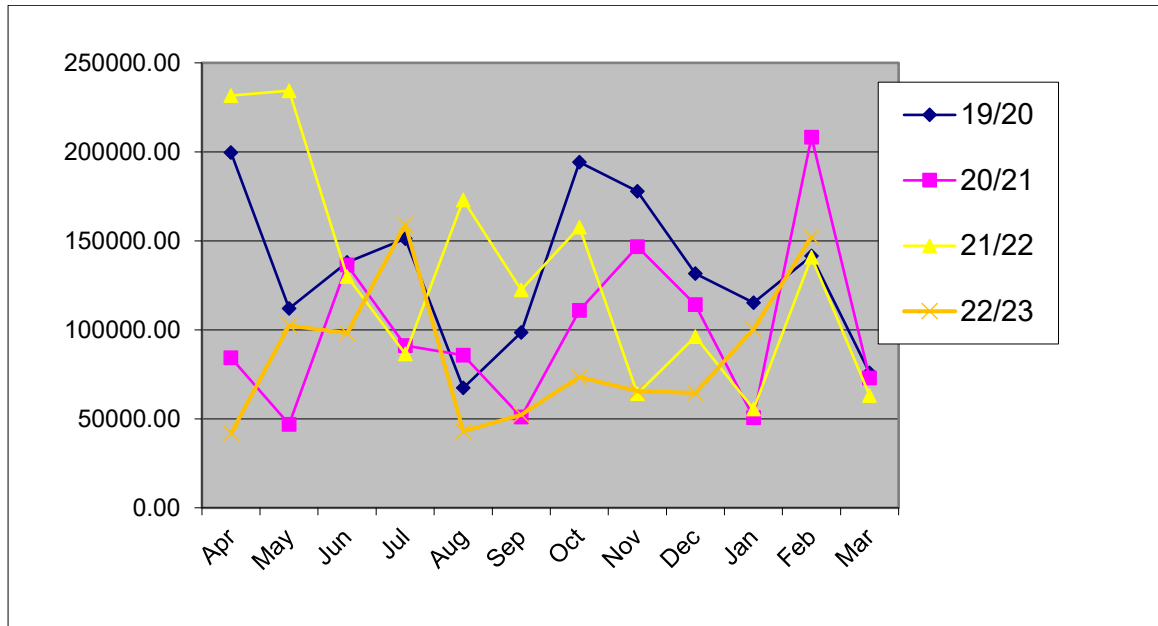


Figure 5 Planning application fees received 2019/20 and 2020/21, 2021/22 and 2022/23



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 for the period 1 July 2022 to 31 March 2023.

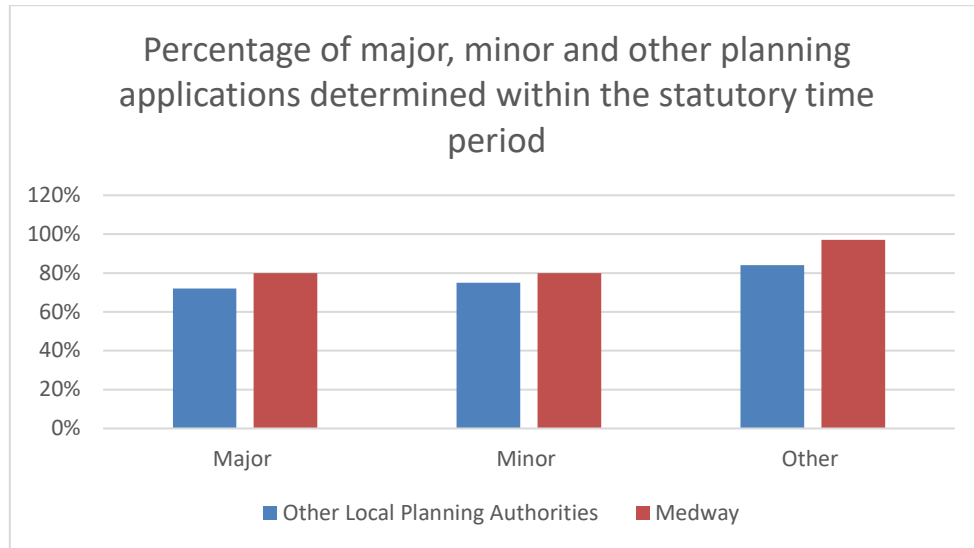
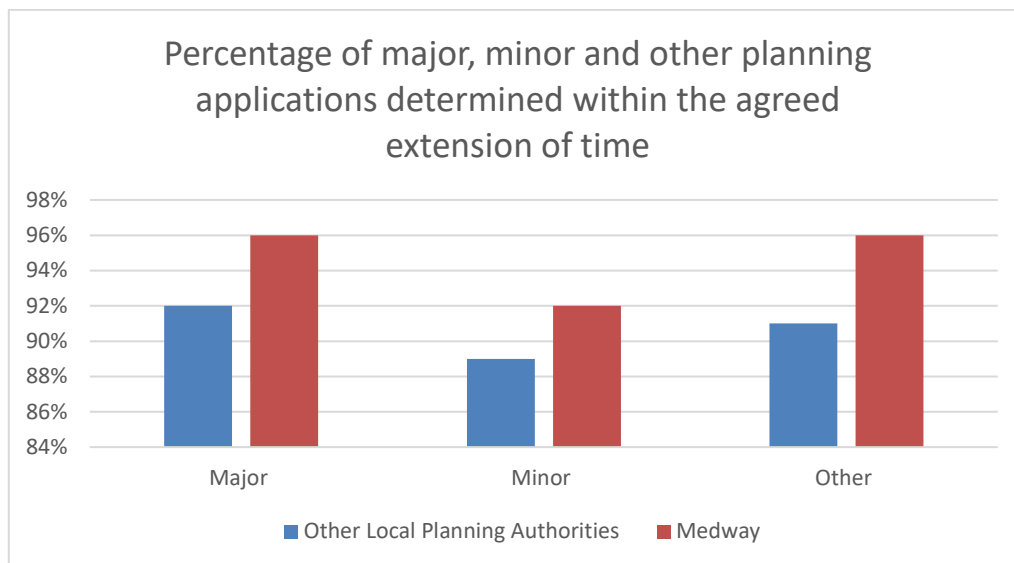


Figure 2 - Applications with a Planning Extension Agreement

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 for the period 1 July 2022 to 31 March 2023



Appendix C : Appeals

Figure 1 *Number of appeals decisions received from April 2022 to March 2023*

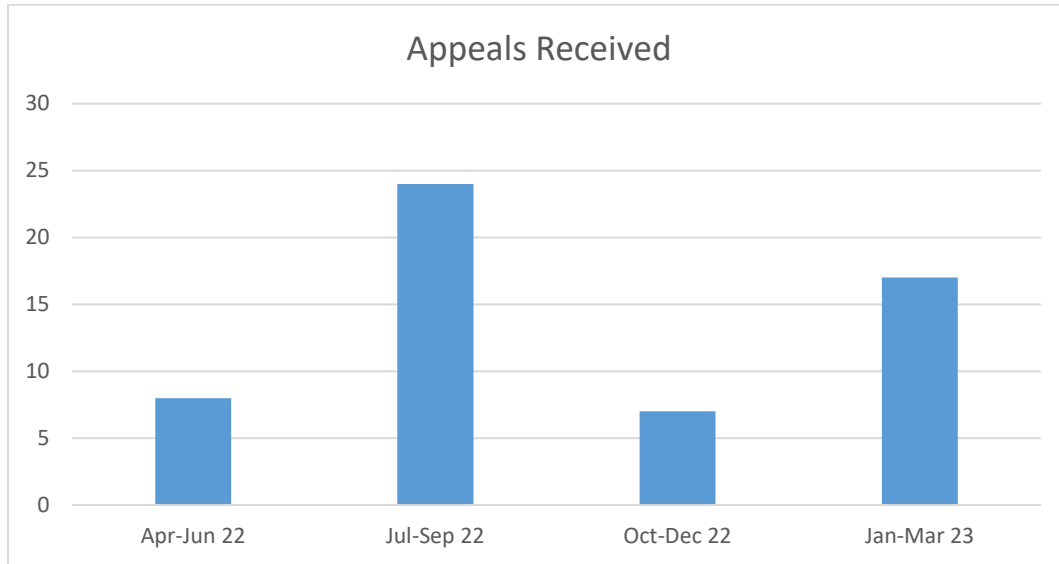
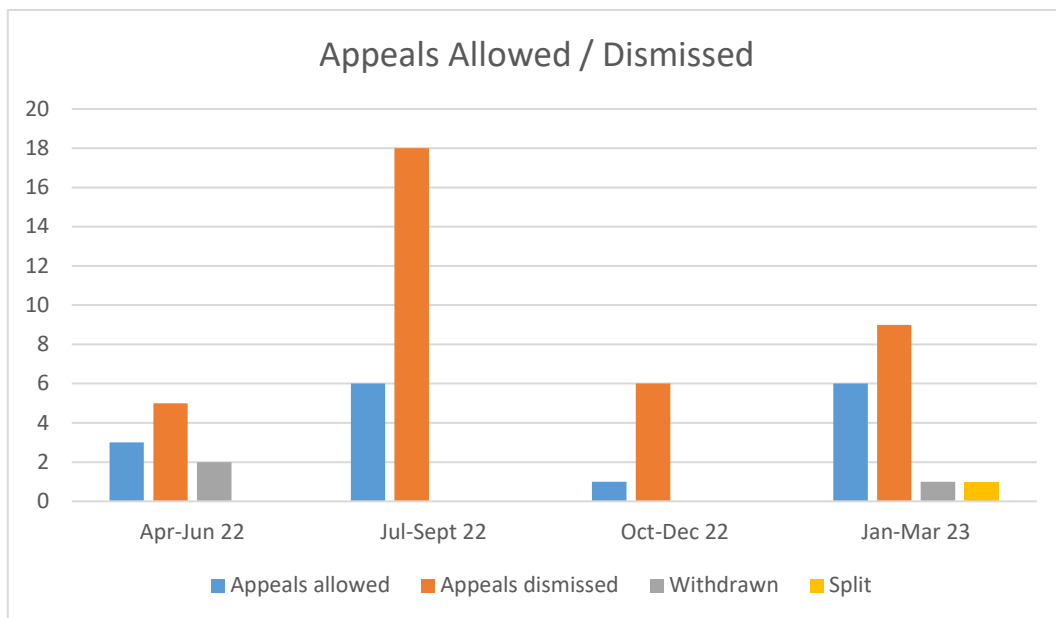
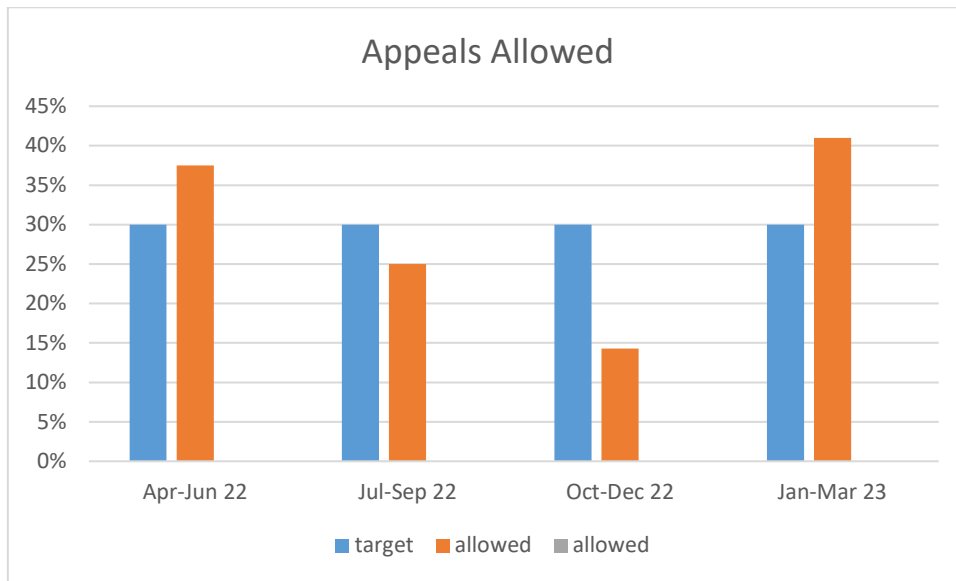


Figure 2 *Number of Appeals allowed / dismissed April 22 to March 2023*

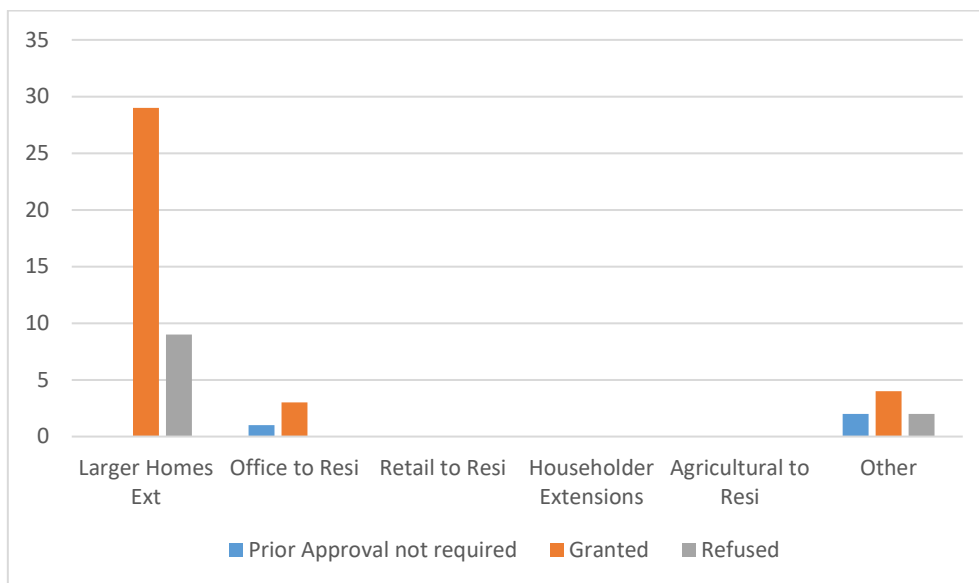


**Figure 3 : Percentage of appeals allowed against target of 30%
April 2022 to March 2023**



Appendix D : Applications for Prior Approvals for Permitted Developments

Figure 1: Number of prior approvals for permitted developments for the period July 2022 to March 2023



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
2022	1752

Number of units completed

	Year 2018/19	Year 2019/20	Year 2020/21	Year 2021/22
Completions	647	1130	1082	1102
Requirement	1683	1662	1586	1675
Surplus/Deficit	-1036	-532	-504	-573

Appendix F : Enforcement

Figure 1 Number of enforcement notices served and prosecutions April 2022 to March 2023

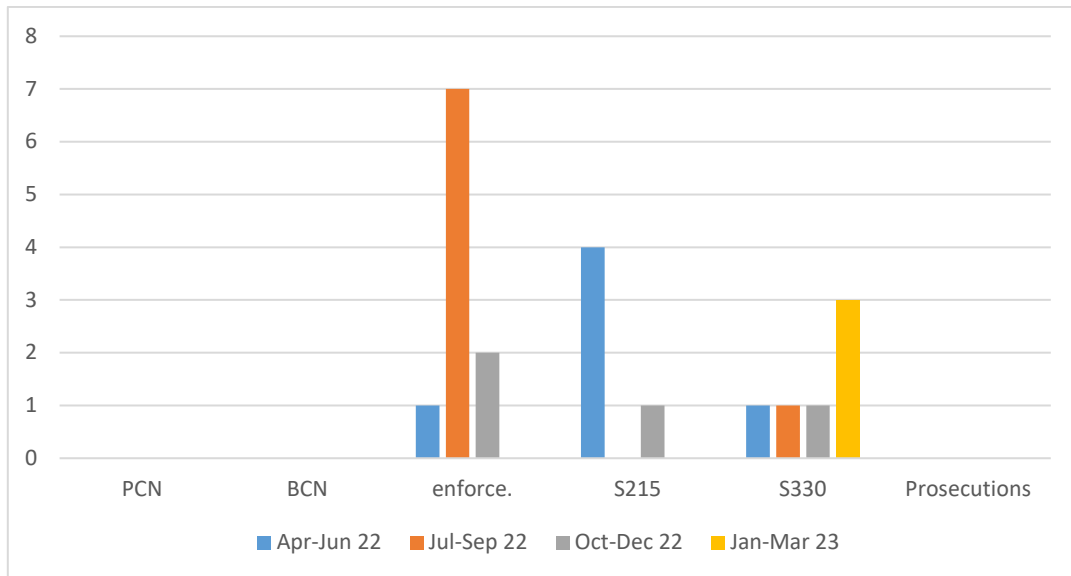
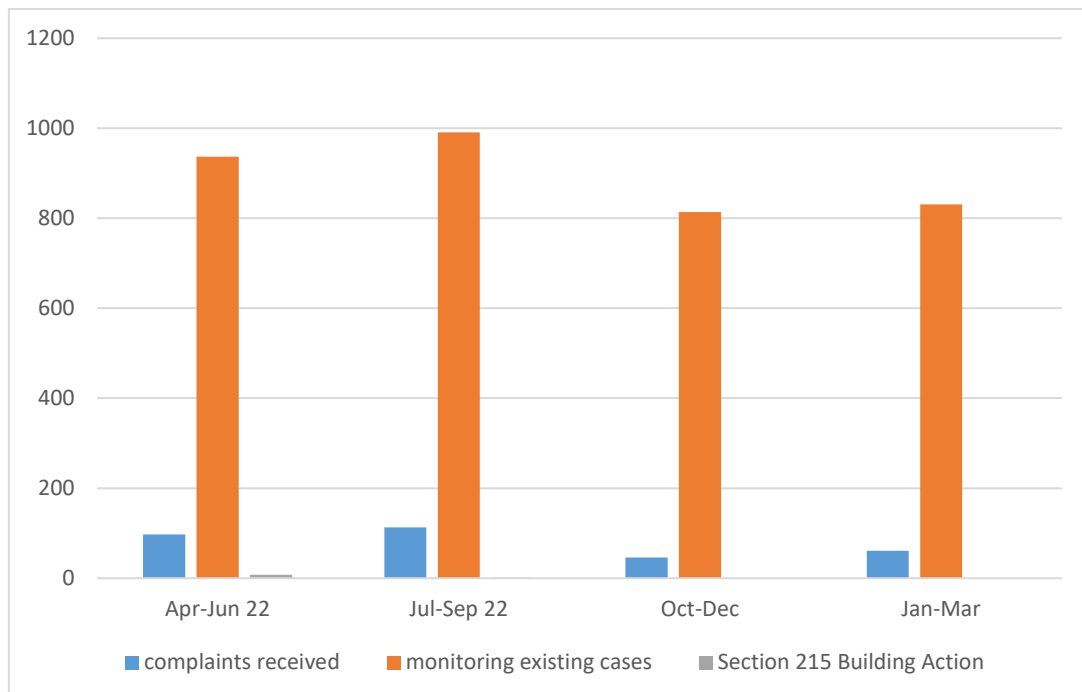


Figure 2 Number of enforcement related complaints and activities April 2022 to March 2023



Appendix G : Tree Preservation Order Applications

Figure 1 : TPO applications received from April 2022 to March 2023

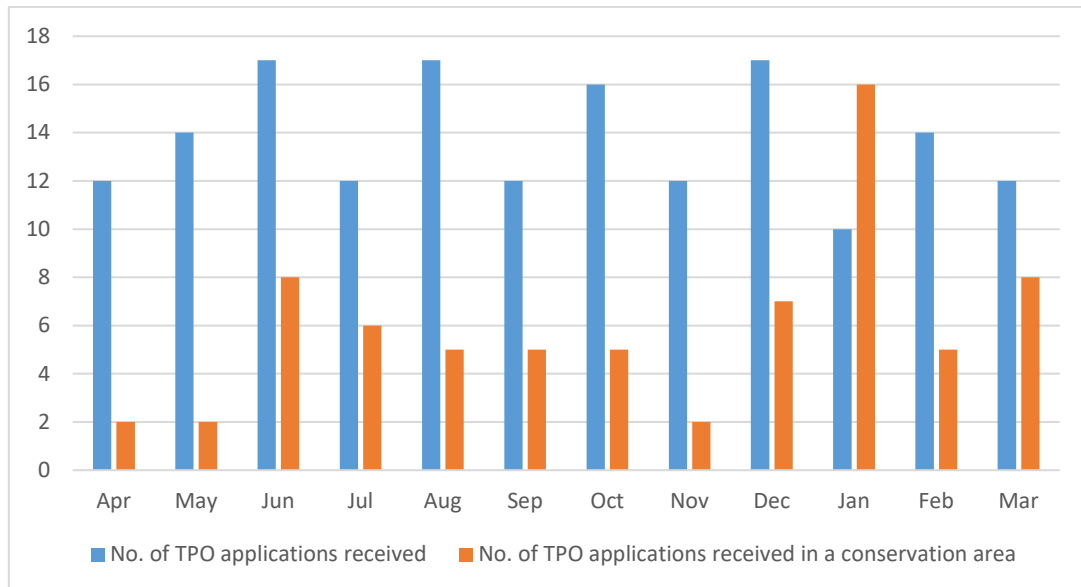


Figure 2 : TPO applications determined from April 2022 to March 2023

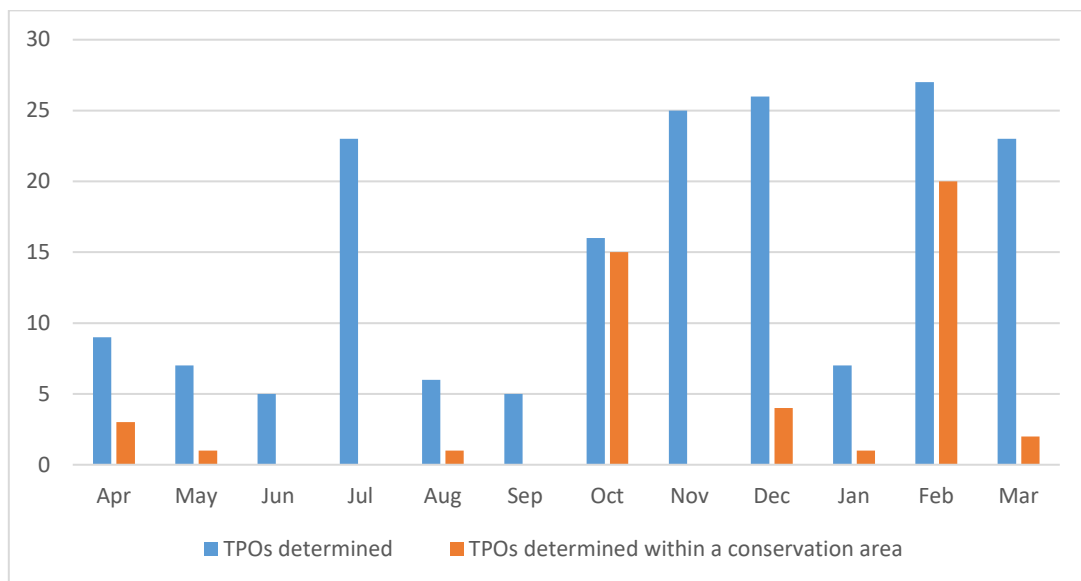
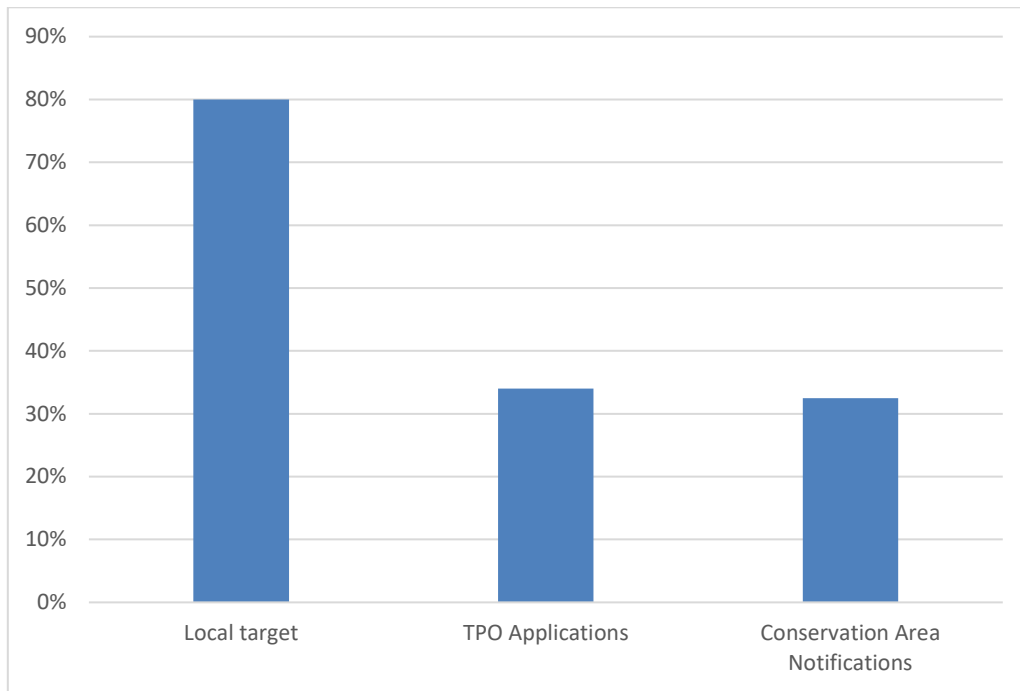
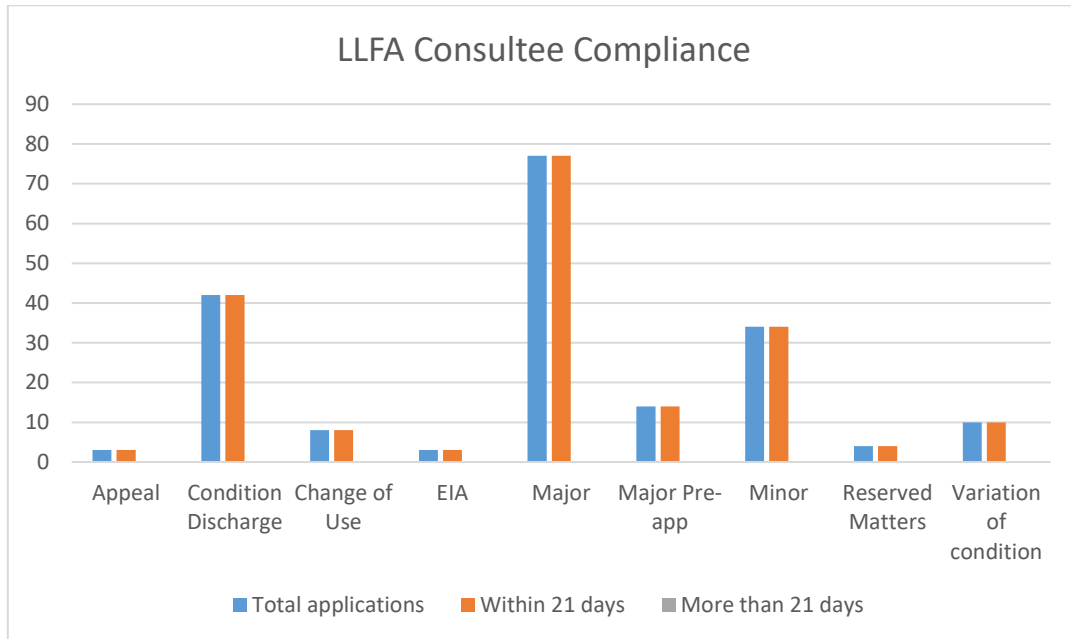


Figure 3 : TPO and Conservation Area Notification applications determined within target time from July 2022 to March 2023



Appendix H : Lead Local Flood Authority Consultee Compliance

Statutory Consultee compliance results from 1 July to 31 March 2023



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

Appendix I : Complaints and Compliments

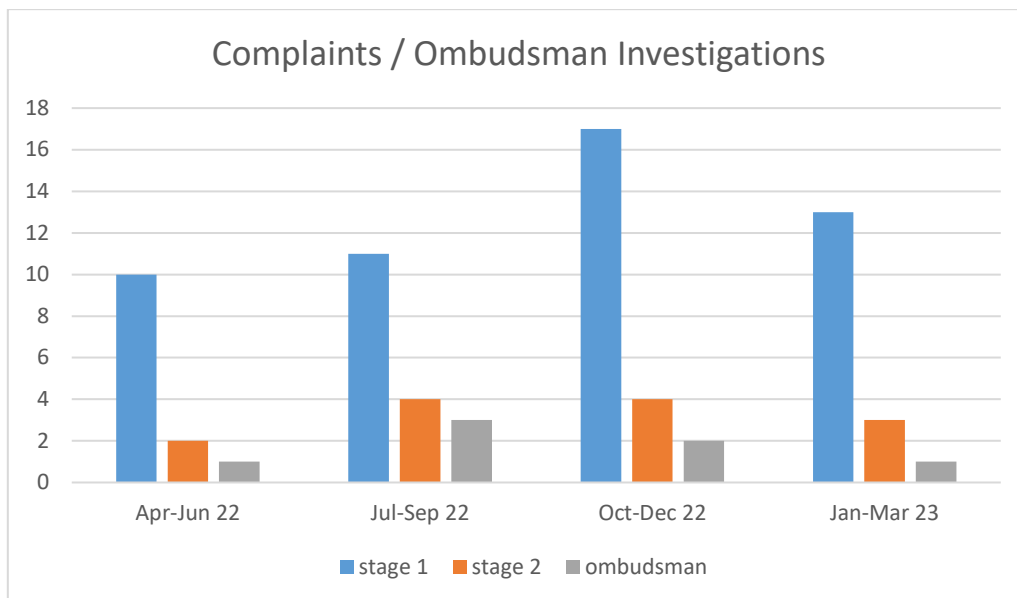
Complaints can be submitted online, in writing, in person at a local community hub and by phone. We aim to reply with a full written response within 10 working days. The chart below shows number of complaints received to.

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 period 1 July to 31 March 2023, 52 complaints were responded to, 21 of which were categorised as unhappy with the decision, 5 was where the service did not meet expectations, 11 were due to poor timeliness, 2 resulting from online issues, 10 where communication was not satisfactory, 1 was due to poor service quality and 2 where inaccurate or inadequate information was provided.



Of the 52 complaints which were responded to, 73% were answered within the target time of 10 working days, 11 of which had been escalated to Stage 2. 29 complaints were dismissed where no fault was found, 9 were partially upheld and 14 complaints were upheld.

Complaints Upheld

- 2 due to lack of consultation. Payment of £200 paid to each complainant for distressed caused.
- 2 escalated to Stage 2. Apology reiterated but offer of £200 payment is considered sufficient.
- 1 due to consultation period not being extended. Apology provided.
- 6 due to delay in response. Apology provided.
- 3 due to significant delay in determining application. Apology provided.

Complaints Partially Upheld

- 4 complaints due to delay determining tree applications. Site meetings organised and allocated to tree consultant as a priority. Delay in processing tree work applications is explained on the Planning website pages.
- 2 complaints related to a delay in response to an enforcement investigation. The customer was advised that an update would be provided when significant progress is made in relation to the enforcement case.
- 1 complaint resulted in planning application being withdrawn from committee agenda due to further consultation undertaken in light of additional information submitted.
- Was not consulted on an application but was able to submit comments. Was also partially upheld at Stage 2.

Ombudsman

The Local Government Ombudsman issued six decisions during the period.

- 1 was closed as the LGO felt it was not possible to say if the complainant had suffered any significant injustice due to any alleged fault with the enforcement investigation.
- 1 was closed after initial enquiries as no evidence of fault was found.
- 1 was closed as the LGO was satisfied that agreed actions had been carried out.
- 1 was closed as there is insufficient evidence of fault to warrant the LGO's involvement.
- 1 was closed as the complainant has not suffered a significant personal injustice in relation to the way the Council processed a planning application.

- 1 was closed after initial enquiries as it is out of the LGO's jurisdiction.

Compliments

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

- As specialist designers of sports buildings our projects are usually for the local community and therefore tend to be supported both by the public and the planning authorities, but the planning officer was very helpful (as was the validation Officer) in providing guidance to ensure the correct information was provided to allow him to consider the proposals, write his report and help the members determine the application; happily, for the local community, approving the application.
- A big and sincere thanks to you and all the I respect Medway for continuing their efforts when some still seem to be using the excuse of Covid.
- I wanted to just thank you both very much for all your effort and support in seeing this through. You have both been truly amazing and your help has been greatly appreciated. Through joint effort and perseverance you have made a real difference for us and helped massively in making sure that our project will ultimately deliver an output that is fully compliant whilst still meeting our needs.
- We wanted to drop you an email to thank you for your engagement throughout our planning application. You have both been a pleasure to work with.
- I can't appreciate you enough for your support all through the difficult times when I didn't know what to do.
- Really appreciate your efforts to get this very important proposal through the process and hopefully we can continue the engagement and dialogue.
- I think this might be the quickest I've ever submitted a discharge of condition app following a decision notice, and then received confirmation of the discharge of condition back!! Fantastic.
- He was very pleased with your dedication to your job and wanted to thank you for going out of your way to assist him.
- Being honest, dealing with you has been a breath of fresh air, and I am honest when I say you're head and shoulders above officers in other authorities.
- Such high quality service really helps SME's.
- The PPA really does seem to be adding value to the process, your active involvement is to be commended and we appreciate your help and input.
- Congratulations to Dave Harris and his team on a very informative and if I am being honest rather inspiring forum with major developers. The scope of the ambition and focus on quality really is an exemplar for all involved in planning and development.