

## **PLANNING COMMITTEE**

**22 NOVEMBER 2023**

### **PERFORMANCE REPORT 1 JULY TO 30 SEPTEMBER 2023**

Portfolio Holder: Councillor Simon Curry, Portfolio Holder for Climate Change and Strategic Regeneration

Report from: Mark Breathwick, Assistant Director, Culture & Community - Regeneration Culture Environment and Transformation

Author: Dave Harris, Chief Planning Officer

#### **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 to 30 September 2023.

#### **1. Recommendation**

- 1.1 The Planning Committee is asked to consider and note the report which is submitted to assist the committee in monitoring planning activity.

#### **2. Budget and policy framework**

- 2.1 There are no budget and policy framework decisions arising directly from this report. This is an information item for the Planning Committee.

#### **3. Background**

- 3.1 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.

#### **4. Performance**

- 4.1 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.

- 4.2 During the period 1 July to 30 September 2023 the Authority received 286 planning applications; this is compared to 296 for the same period in 2022. For the year 2022/23 the Authority received 1,230, this compares to 1,586 in 2022/21 and 1,520 in 2020/21.
- 4.3 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).
- 4.4 During the period 1 July to 30 September 2023 91% of major applications were determined within 13 weeks or within the agreed timeframe. This is against a target of 60%.
- 4.5 Performance for minor applications determined within 8 weeks or within the agreed timeframe during the period is 88%. This is against a target of 70%.
- 4.6 Performance for other applications determined within 8 weeks or within the agreed timeframe during the period is 96%. This is against a target of 70%.
- 4.7 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.
- 4.8 Comparing performance against the latest data available nationally for the period April to June 2023, where applications have been determined within the statutory timeframe, Medway has exceeded the national target for all types of applications and exceeded the national average for major and other applications. Where applications have been determined with an extension of time (PEA), Medway has exceeded the national average for minor and other applications (see Appendix B).
- 4.9 During the period 1 July 2023 to 30 September 2023, 78 applications with Planning Extension Agreements were decided with 97% being determined within the agreed extended timeframe.
- 4.10 During the period, a number of Planning Performance Agreement (PPAs) have been agreed in principle.
- 4.11 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.
- 4.12 Following a period of consultation, a new structure has been implemented for the Planning Service. This has provided opportunities for promotion, which will provide more resilience for the service and assist with recruitment and retention. All existing staff have either been slotted or gained promotion. A number of appointments have been made but some vacant posts are currently on hold due to the moratorium.

- 4.13 The service continues to use a variety of consultants during the interim period, covering consideration of TPO applications, conservation matters and planning applications. Where possible the cost of the use of consultants for planning applications is covered through PPAs.
- 4.14 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 2022, shows the number of decisions overturned at appeal for major applications is 1.6% 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.
- 4.15 The percentage of appeals allowed during the period 1 July to 30 September 2023 is 33%. A total of nine appeal decisions were received. Three of these were allowed, which included 1 Committee decision which overturned the officer recommendation with an award of costs. Six appeals were dismissed. (See Appendix C).
- 4.16 Government stats for applications for prior approvals for permitted developments by local planning authorities are reported in Appendix D.
- 4.17 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 number of TPO applications received and performance against target time is reported in Appendix G.
- 4.18 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.
- 4.19 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.
- 4.20 Following the external ISO assessment in May 23 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.
- 4.21 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 Chief Planning Officer 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 Chief Planning Officer 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. The importance of these measures and support for staff is increasingly important in the current situation regarding the Council office building.

## 5. Advice and analysis

- 5.1 This report is submitted for information and enables Members to monitor performance.

## 6. Risk management

- 6.1 The risk register for the service rates the risk against service vulnerability, triggers, consequence or risk and mitigation.
- 6.2 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.
- 6.3 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.
- 6.4 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.
- 6.5 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.
- 6.6 In negotiating Planning Performance Agreements, the Chief Planning Officer and Principal Planners 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.

## 7. Consultation

- 7.1 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, and a 6 week consultation period commenced on 18 September and ran until 31 October 2023. At the end of the consultation, work will focus on the content of the Regulation 19 draft plan which will be published in Spring 2024 for further representations.
- 7.2 Consultation in relation to the Star Hill to Sun Pier (Chatham Intra) Development Framework and Conservation Area appraisal and Management Plan commenced in October and will run for 6 weeks.
- 7.3 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 and 30 September 2023 £272,982 has been received via S106 contributions and £23,457 has been received for Habitat Regulations Agreements. This makes a total of £296,439.
- 7.4 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.
- 7.5 The annual forum with Major Developers is scheduled to take place on 19 November and will focus on the development projects coming forward, in particular the Chatham Centre area including design codes, Intra development framework, Climate Change and an update on the new Local Plan.
- 7.6 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.
- 7.7 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.

- 7.8 Appendix E shows completions over the last two years against the need and the number of units under construction.
- 7.9 Recognising the important role that Small/Medium Enterprises (SME's) can play in helping Medway meet its housing needs, Medway facilitated the setting up of a North Kent SME Forum, 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. The Chief Planning Officers of Medway and other North Kent LPA's are invited to attend every other meeting.
- 7.10 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. Medway responded to both consultations. An initial update to the NPPF was due in Spring 2023 but has been delayed. The revised NPPF will be an important first step towards the implementation of Levelling Up and Regeneration Bill (LURB).
- 7.11 The Cliffe and Cliffe Woods Neighbourhood Plan went to Referendum in May 2023 and was adopted as part of the Council's development plan in May 2023. Draft neighbourhood Plans for Arches (Chatham) and High Halstow are now at an independent examination stage. Hoo St Werburgh and Chattenden draft neighbourhood plan was published for consultation at 'Regulation 14' from 19 June to 31 July 2023. The council submitted comments.

## 8. Climate change implications

- 8.1 Planning Officers are members of a technical group supported by the Planning Advisory Service considering best practice in planning for climate change.
- 8.2 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.
- 8.3 Planning officers are supporting the commissioning of a heat network study.
- 8.4 Considerations of climate change are being reflected in the draft local plan policies and development allocations.
- 8.5 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.

## 9. Financial implications

- 9.1 Development Management procedures are constantly being reviewed to reflect new ways of working.

- 9.2 Planning fees in England are set nationally by the Government.
- 9.3 Planning income during the period July to September 2023 is £171,690. 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.
- 9.4 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.
- 9.5 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.

## 10. Legal implications

- 10.1 There are no legal implications arising directly from this report.

### Lead officer contact

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### Appendices

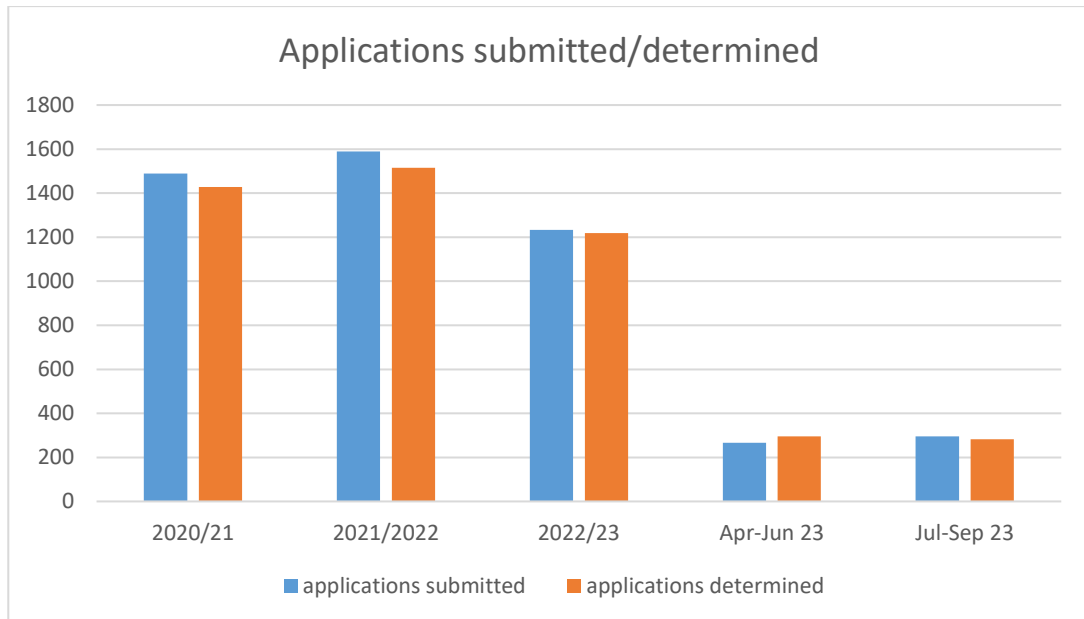
- A) Applications
- B) Benchmarking
- C) Appeals
- D) Applications for Prior Approvals for Permitted Development
- E) Number of Units Under Construction
- F) Enforcement
- G) Tree Preservation Order Applications
- H) Lead Local Flood Authority Consultation Compliance
- I) Complaints and Compliments

### Background papers

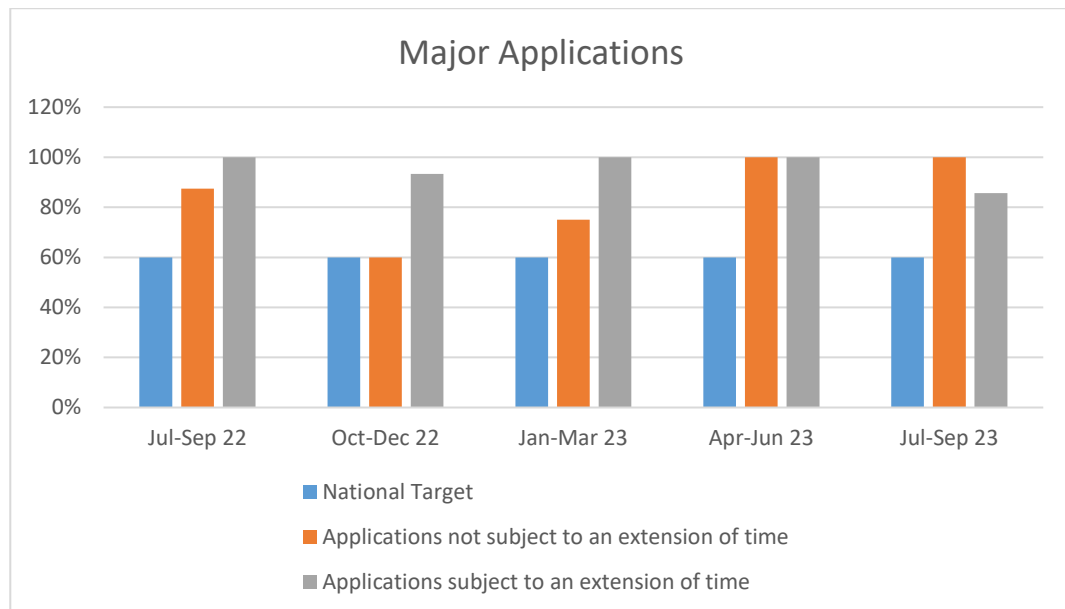
General Development Control Return PS1  
General Development Control Return PS2  
DLUHC Live tables on planning applications statistics

## **Appendix A : Applications**

**Figure 1** *Number of applications received and determined 2020/21 to September 2023*

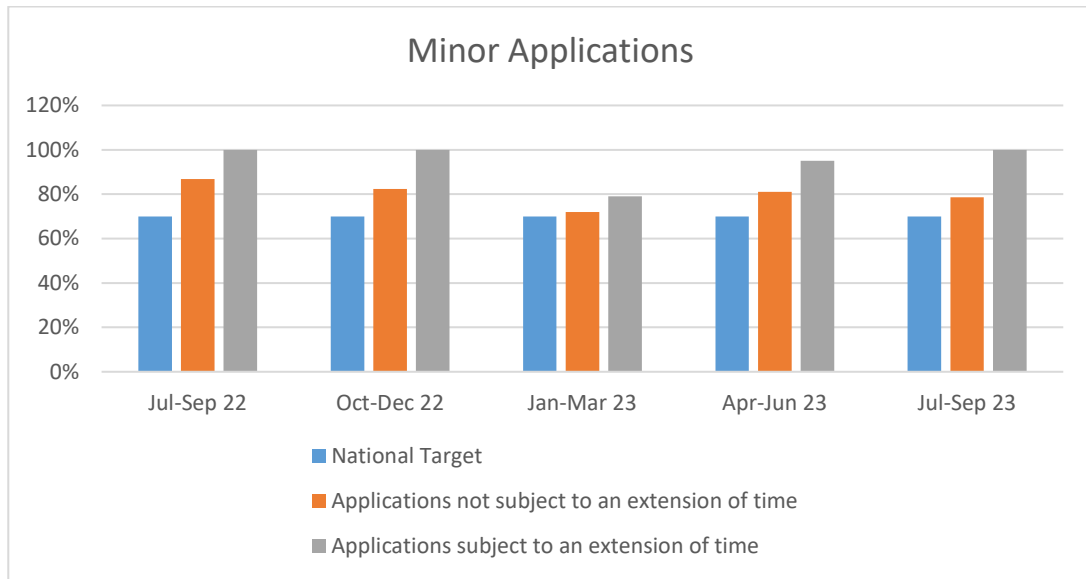


**Figure 2** *Percentage of "Major" applications determined against performance target July 2022 to September 2023*

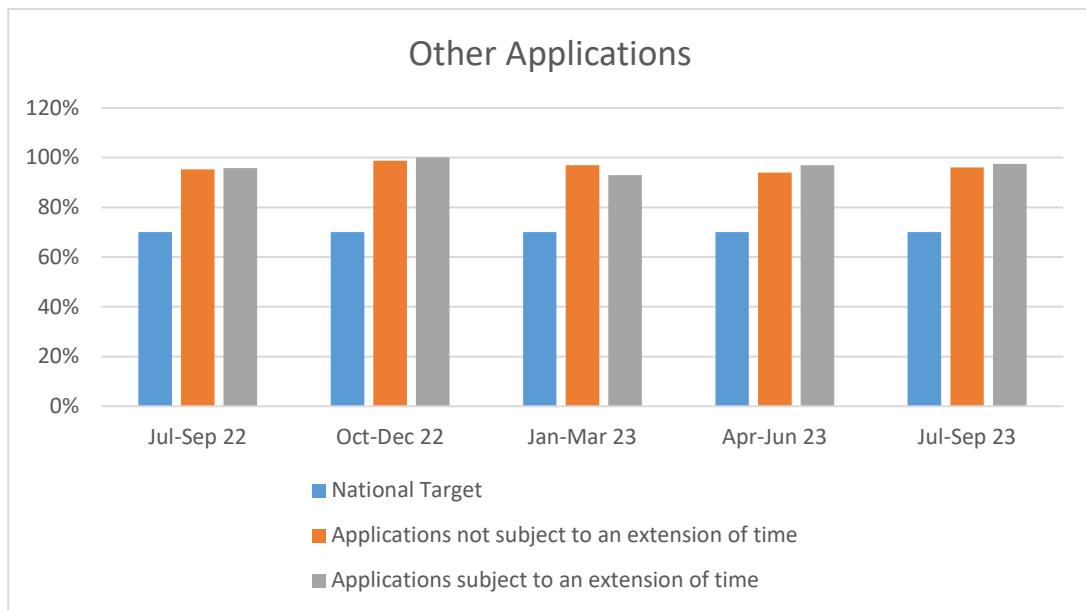




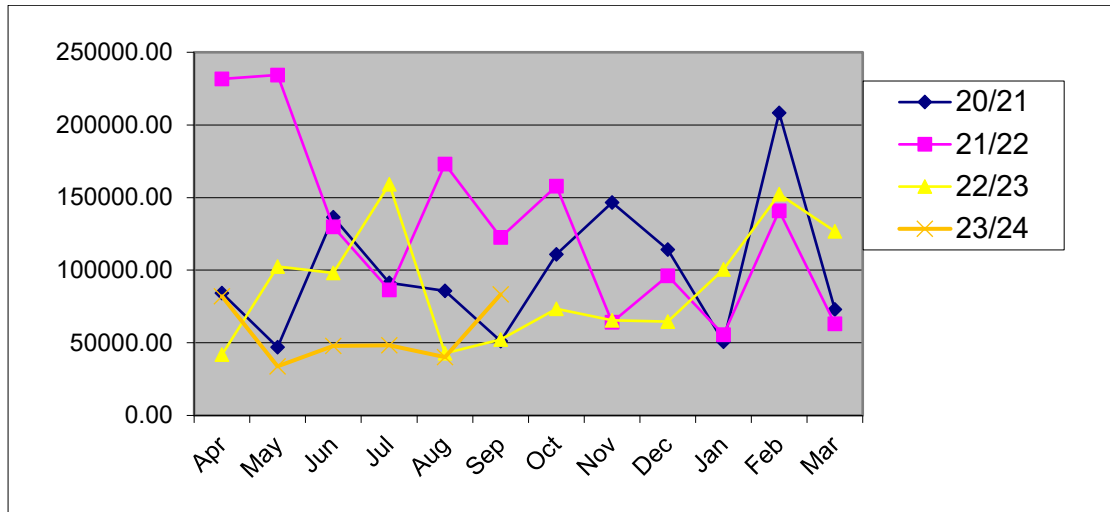
**Figure 3 Percentage of “Minor” applications determined against performance target July 2022 to September 2023**



**Figure 4 Percentage of “Other” applications determined against performance target July 2022 to September 2023**



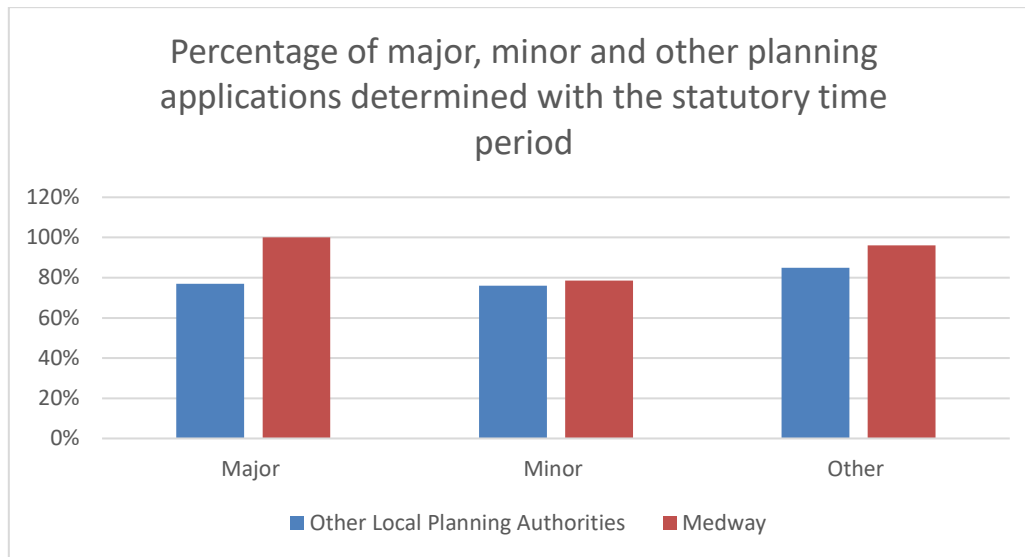
**Figure 5** Planning application fees received for the period April to September 2023, 2020/21, 2021/22 and 2022/23



## **Appendix B : Benchmarking**

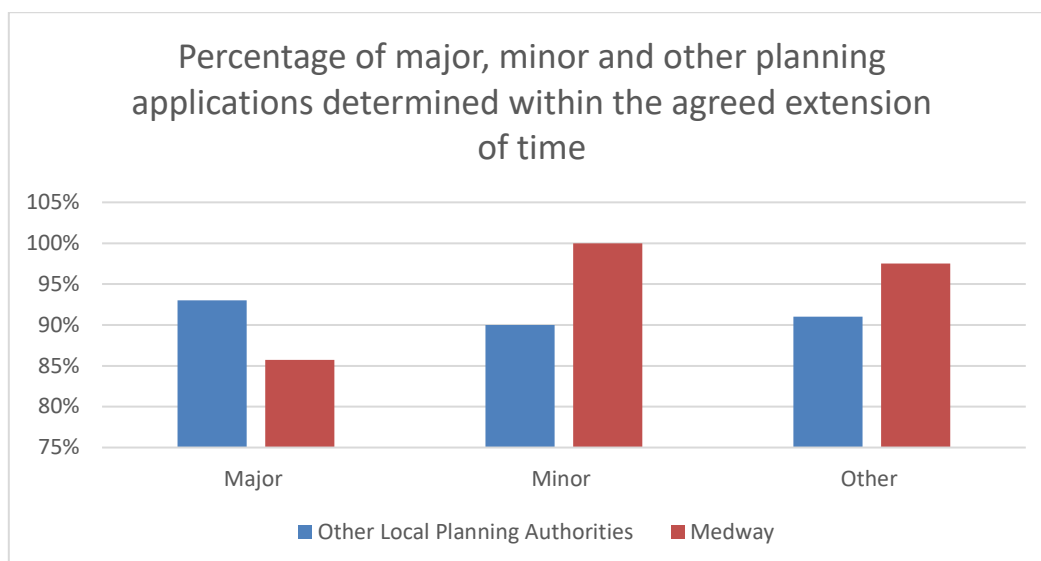
**Figure 1 Planning applications determined within the statutory timeframe**

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 April to 30 June 2023.



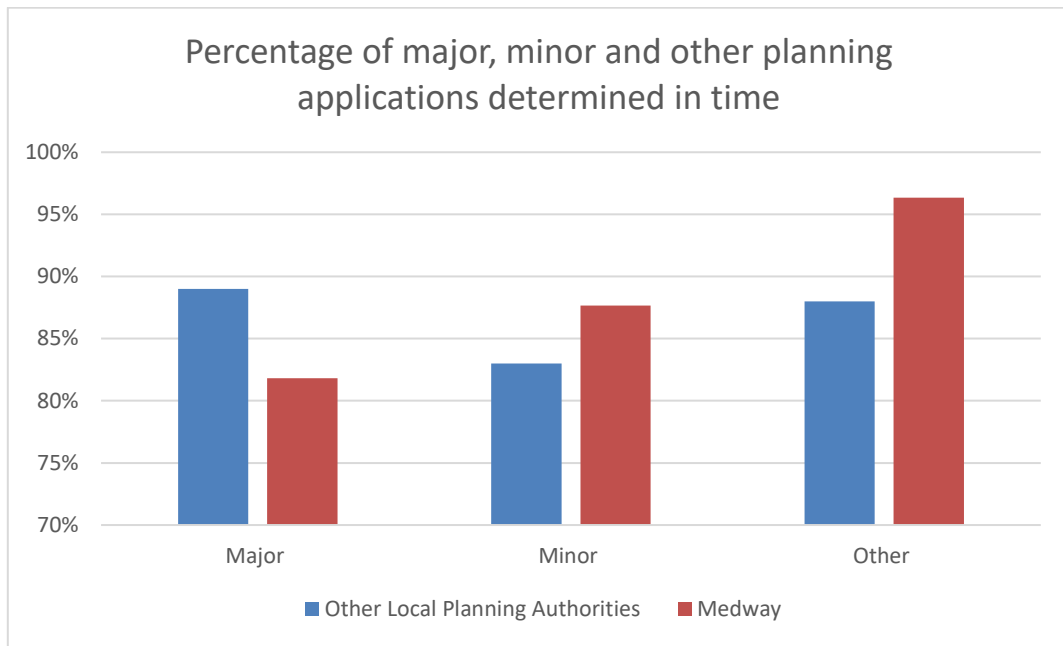
**Figure 2 Applications within the agreed Planning Extension Agreement**

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 April to 30 June 2023



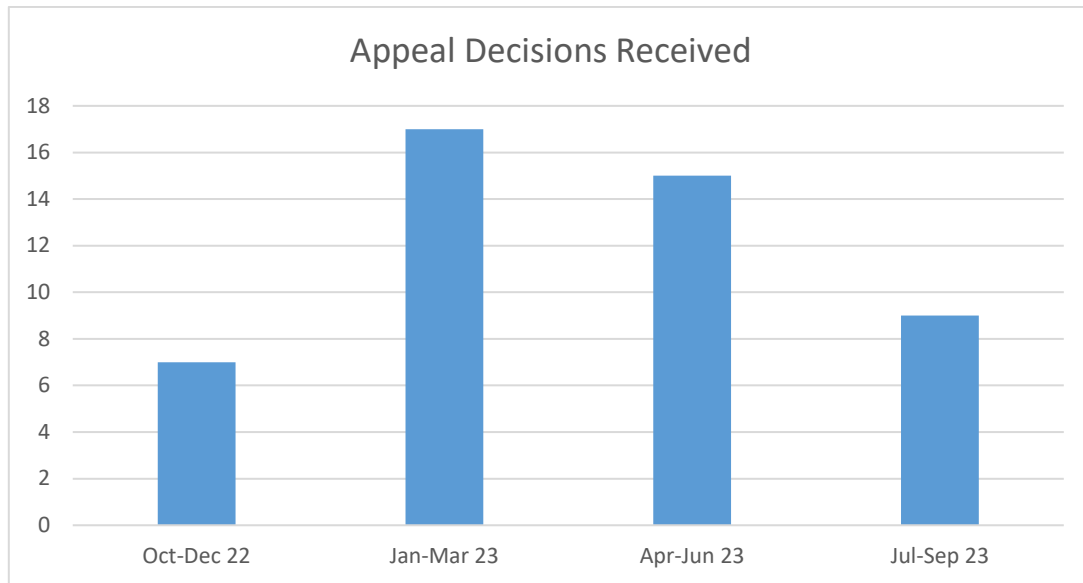
### Figure 3 Total planning applications decided in time

Government produced statistics and league tables compares performance to the national average. The chart below compares performance with the latest data available for other local authorities for the total percentage of applications determined within the statutory timeframe and/or the agreed time for the period 1 April to 30 June 2023.

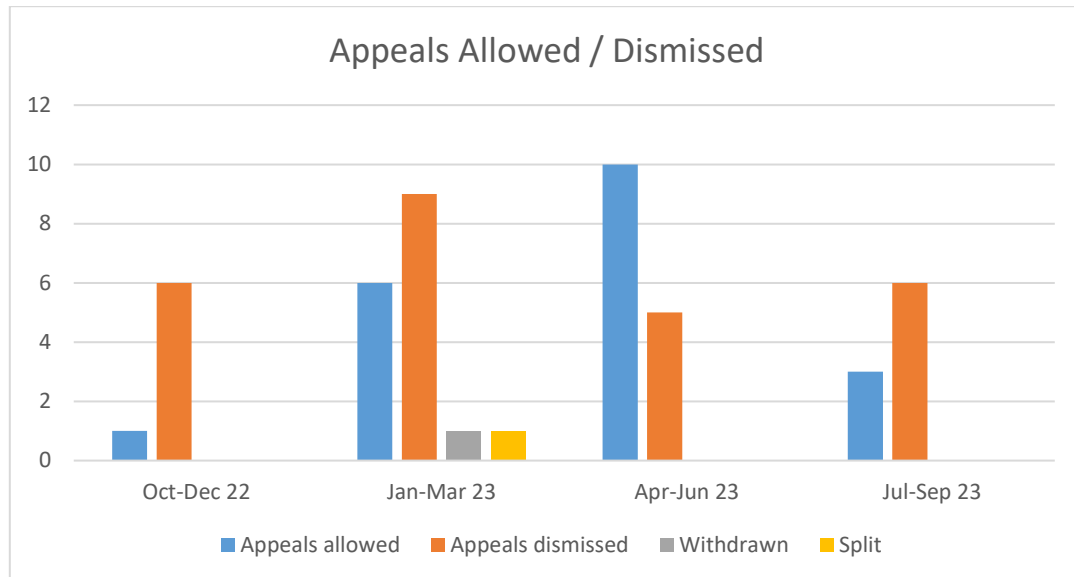


## Appendix C : Appeals

**Figure 1** Number of appeals decisions received from October 2022 to September 2023



**Figure 2** Number of Appeals allowed / dismissed October 22 to September 2023

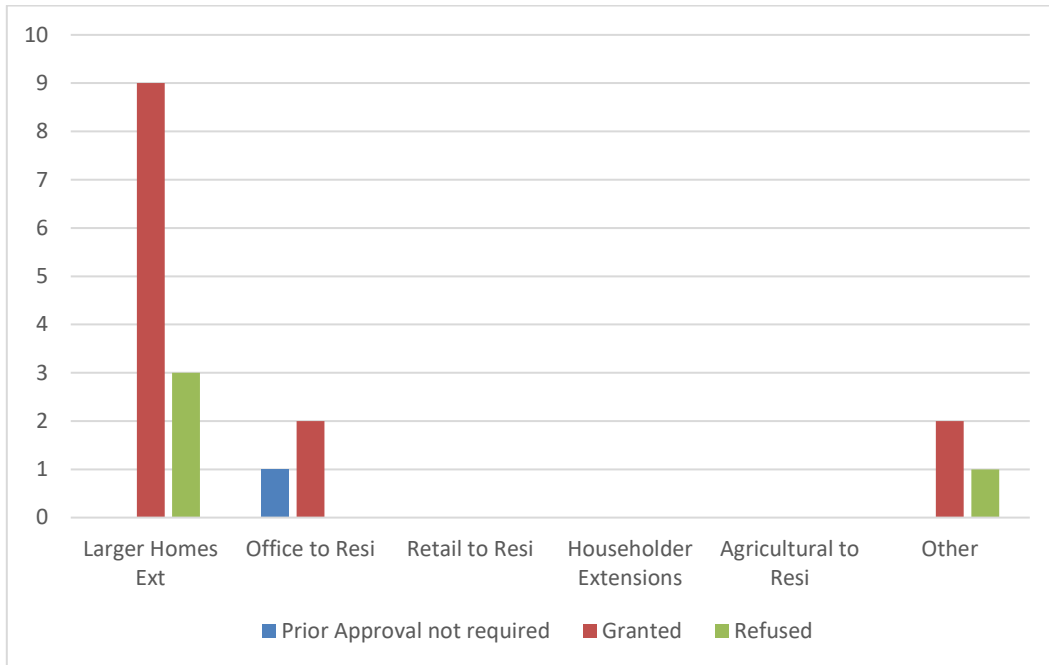


**Figure 3** Percentage of appeals allowed against target of 30%  
October 2022 to September 2023



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

**Figure 1      Number of prior approvals for permitted developments for the period July 2023 to September 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

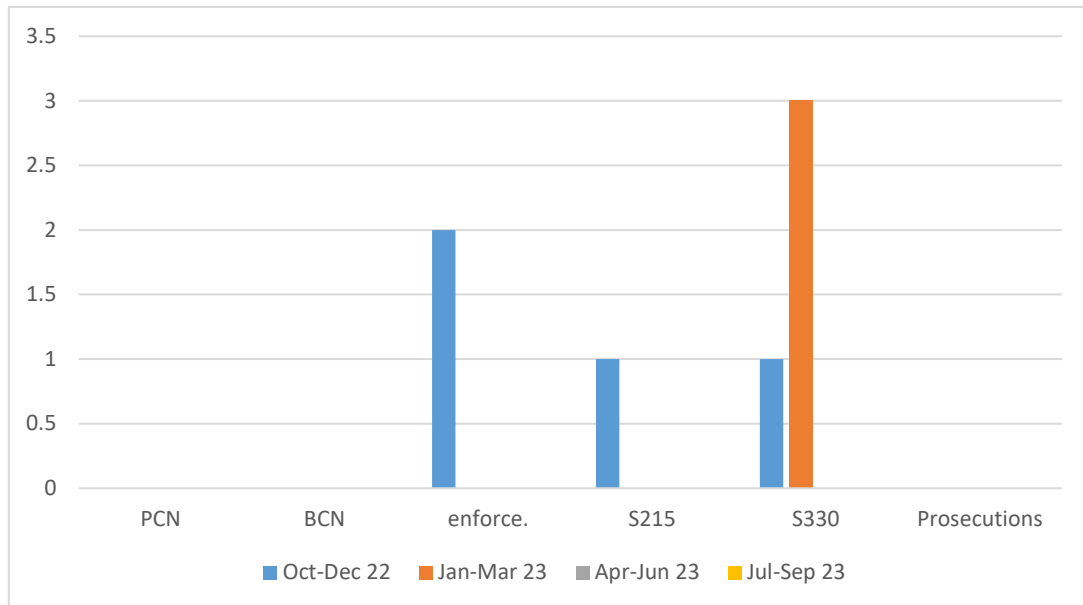
### **Number of units completed**

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

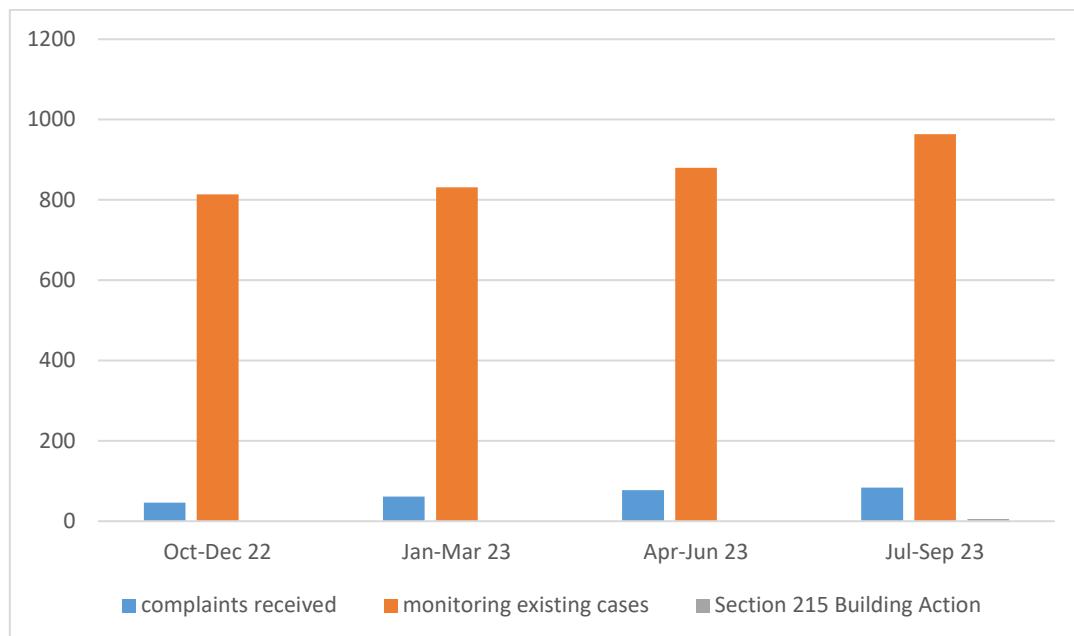


## Appendix F : Enforcement

**Figure 1** Number of enforcement notices served and prosecutions  
October 2022 to September 2023

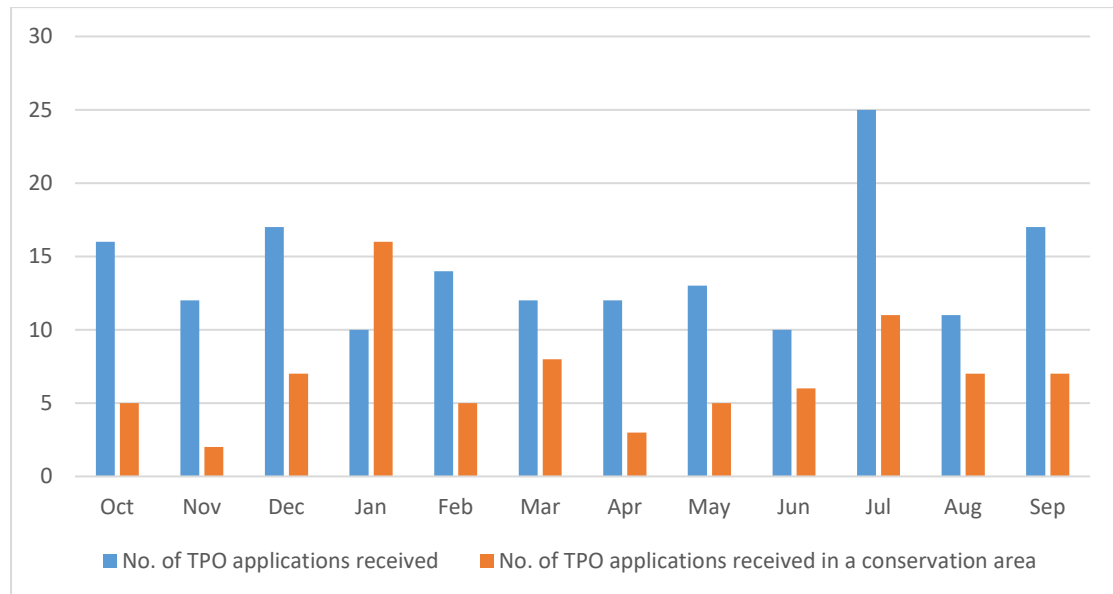


**Figure 2** Number of enforcement related complaints and activities  
October 2022 to September 2023

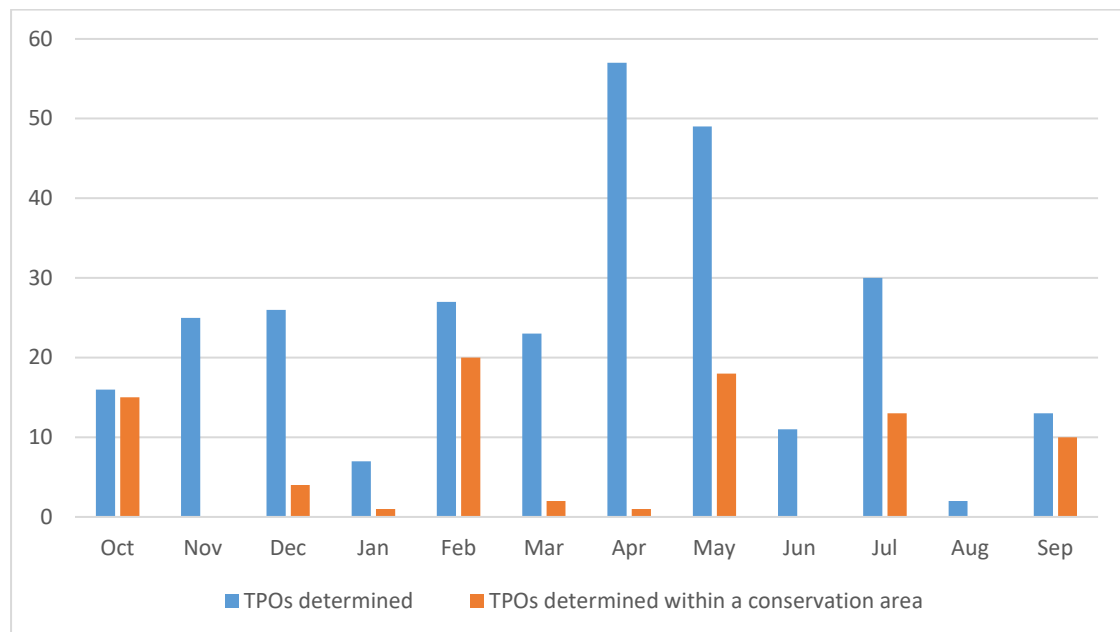


## **Appendix G : Tree Preservation Order Applications**

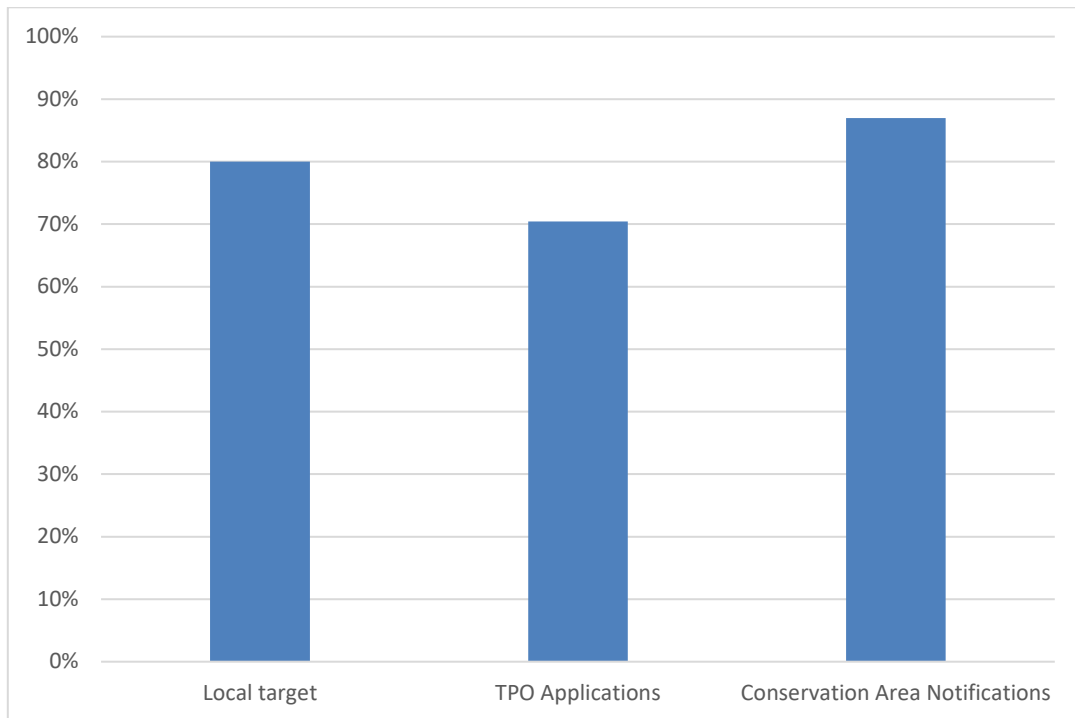
**Figure 1 TPO applications received from October 2022 to September 2023**



**Figure 2 TPO applications determined from October 2022 to September 2023**

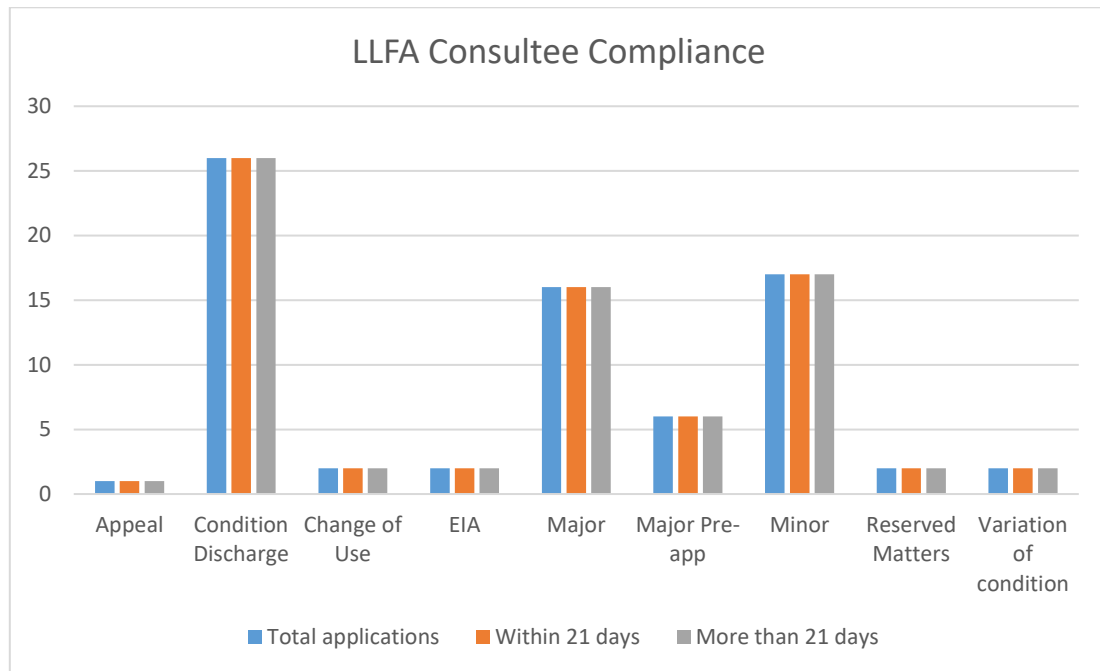


**Figure 3 TPO and Conservation Area Notification applications determined within target time from July 2023 to September 2023**



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

Statutory Consultee compliance results from 1 July to 30 September 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.

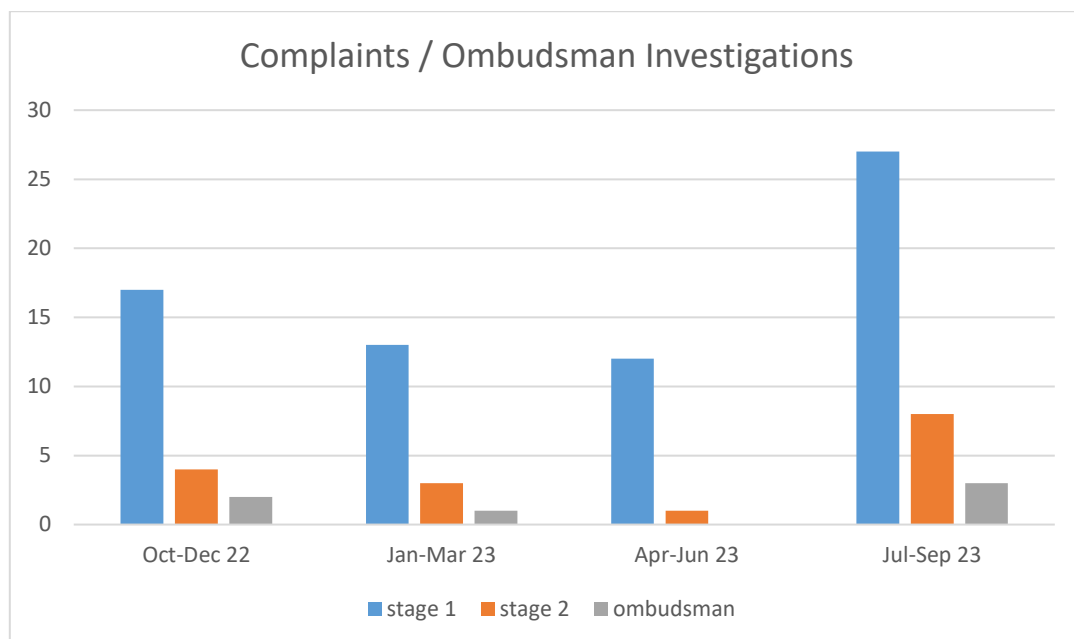
The corporate complaints procedure involves 2 stages :

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 30 September 2023, 35 complaints were responded to, 21 of which were categorised as unhappy with the decision, 2 were due to poor timeliness, 1 where the service did not meet expectations and 7 where communication was not satisfactory, 2 related to inaccurate or inadequate information provided, 1 for poor service quality and 1 where service was not provided.

Of the 35 complaints which were responded to, 71% were answered within the target time of 10 working days, 8 of which had been escalated to Stage 2. 23 complaints were dismissed where no fault was found, 4 were partially upheld and 8 were upheld.



## **Complaints Upheld**

- Lack of response to pre-application request.
- Previous application should have been declined under S70C resulting in the refund of planning fee.
- Works to tree application being withdraw without consent from applicant. Application re-instated.
- Failure to dispatch neighbour notification letters.
- Four complaints regarding lack of response from officers.

## **Complaints Partially Upheld**

- Enforcement investigation delayed but case is ongoing.
- Delay in responding but full response has been provided.
- Enforcement case has progressed but delay in updating complainant.
- Property has been built in accordance with approved plans but description of works approved was not clear.

## **Ombudsman**

There were three decisions issued by the Ombudsman:

- Two closed after initial enquiries with no further action as unlikely to find fault.
- Not upheld with no fault in the way the planning application was determined.

## **Compliments**

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

- Thank you for what you have brought to this process. As you'll know well enough, the license to play isn't often granted to us as designers unless it is required by the gatekeepers of the scheme's delivery. Your response at the programme-driven pre-app established a new agenda for our client and that license to step back and play was then granted. What we are achieving between us as a result of that pre-app is a joy to be a part of, so thank you for your focus on quality and for all the fun that has brought us.
- Just a quick note to say thank you very much for your attention on discharging condition 14. This came as a nice surprise today and very timely. I appreciate everyone is busy and over stretched in their day to day workload, so it is really appreciated.
- Just a quick email from me to say thank you to you and the team. I know it was a bit of a bumpy road/back and forth with the design but we got there in the end. I also have to say though that the committee was certainly excellent and well run – I've seen a few over the years and that was defiantly one of the better ones!

- Many thanks for the very clear presentation yesterday and for your hard work on the project. I consider the decision a really good outcome. These things are really important and it is often hard to get Officers and Councillors at some LPA's to appreciate this. I also believe the Council feedback on design and landscaping has resulted in a scheme that is better than that previously granted.
- Very impressed with Medway Council's pre-application service. It is by far the best pre-application service we have used.
- Superb service received. Officer has done nothing but try to help etc with this planning application.