

Planning Committee

14 February 2024

Performance Report 1 October 2023 to 31 December 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 October to 31 December 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.

3.2 The National Planning Policy Framework (NPPF) was revised on 19 December 2023 as part of the Levelling-up and Regeneration Bill and sets out the Government's planning policies and how these are expected to be applied.

- 3.3 The Government is going to publish a Local Planning Authority performance dashboard in 2024. The aim of the dashboard will be to clearly show which LPA's are underperforming and not meeting their targets. It is expected that speed and quality of decision making will be the crux of the assessment.
- 3.4 The use of Extension of Time Agreements will be stripped back and a consultation will take place on limiting when in the process they can apply, prohibiting repeat agreements and banning their use entirely for householder applications. There is concern that this could lead to more refusal of planning permission. The loss of the 'free go' means that the ability for developers and officers to discuss the merits of a scheme post submission could be diminished and will need to be managed through the pre-application process.

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 October to 31 December 2023 the Authority received 274 planning applications; this is compared to 289 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 October to 31 December 2023 100% 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 95%. 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 95%. 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 July to September 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 other types of applications. Where applications have been determined with an extension of time (PEA), Medway has exceeded the national average for major and other types of applications (see Appendix B).

- 4.9 During the period 1 October 2023 to 31 December 2023, 81 applications with Planning Extension Agreements were decided with 99% being determined within the agreed extended timeframe.
- 4.10 During the period, 5 Planning Performance Agreement (PPAs) have been completed and a number 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 A number of appointments have been made to vacant posts but the service still carries some vacancies, which 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 As part of the reform of the planning system, the Government are focusing on planning committee decisions, with the Planning Inspectorate being asked to start reporting to Government about cases where a successful appeal is made against a planning committee decision, and the final decision is the same as the original officer's recommendation. The overturning of a recommendation made by a professional officer should be rare and infrequent. The Government have reminded the Inspectorate that where it cannot find reasonable grounds for the committee having overturned the officer's recommendation, it should consider awarding costs to the appellant.
- 4.15 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.
- 4.16 The percentage of appeals allowed during the period 1 October to 31 December 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. Six appeals were dismissed. (See Appendix C).
- 4.17 Government stats for applications for prior approvals for permitted developments by local planning authorities are reported in Appendix D.
- 4.18 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.

- 4.19 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.
- 4.20 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.
- 4.21 Following the external ISO assessment in November 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. No non-conformities or opportunities to improve were identified during the assessment.
- 4.22 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 following the discovery of RAAC in the building at Gun Wharf and only staff with a business critical need being able to access the safe zones within the 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 As set out in the approved Local Development Scheme agreed at Cabinet in October 2022 the Council arranged a further period of consultation at 'Regulation 18'. The consultation ran from 18 September to 31 October 2023 and focused on refreshing the vision and strategic objectives for the plan, and considered options as to how growth needs could be met across the borough. There were over 10,000 visits to the Local Plan webpages during this time and around 300 written responses were submitted to the consultation. Officers are now reviewing the comments to inform further work on the plan.
- 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 ran 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 October to 31 December 2023 £677,381.89 has been received via S106 contributions and £82,918.62 has been received for Habitat Regulations Agreements. This makes a total of £760,300.51. The Infrastructure Funding Statement (IFS) was published in December 2023, which covers the financial year 2021 to 2022. The IFS includes details of all Section 106 contributions received, expenditure of contributions and proposals for future infrastructure provision to be funded by Section 106 contributions.

- 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 took place on 19 November 2023 and focused 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.
- 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 Housing Delivery Test (HDT) last year all 3 penalties apply to Medway. The Government has recently released the 2021/22 (5th) Housing Delivery Test figures which actually show that delivery in Medway has improved yet again and that we are now at 79%, taking us out of the presumption in favour of sustainable development as it relates to the Housing Delivery Test. Members need to note that the presumption still applies due to the fact that we cannot demonstrate a 5 year housing land supply – to a large degree due to the 20% buffer!
- 7.8 The Authority Monitoring Report (AMR) was published in December 2023.
- In 2022/23, Medway Council granted 86 permissions for new sites, providing a total of 643 dwellings (page 69 of Vol 2 of the AMR).
 - The pipeline shows that there are 7,911 permitted dwellings, with 2,061 under construction as at 31/3/2023. 7,583 dwellings are expected to be delivered within the next 15 years, and of these, 6,063 are expected to be delivered within the next 5 years (page 146 of Vol 2 of the AMR). The remaining 328 dwellings are not expected to be delivered within the next 15 years.

- For years 4-15 Medway have also allowed for 250 dwellings per year to come forward via windfalls.
- These pipeline numbers are summarised in a table on page 65 of Volume 2 of the AMR.
- 172 affordable dwellings (gross) were delivered during 2022/23, with 17 of these being the very first 'First Homes' delivered by the Homes England project to kickstart delivery. 18% of all gross completions were affordable. (This data is shown on page 37 of Vol 1 of the AMR).

Details of housing completions are detailed in Appendix E.

- 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 The Cliffe and Cliffe Woods Neighbourhood Plan (NP) went to Referendum in May 2023 and was adopted as part of the Council's Development Plan in May 2023. A member presentation was held in October. The Examiner's report for the Arches Chatham NP was received in November. He recommended that the plan be sent to referendum, subject to some modifications. Cabinet gave approval at its meeting on 19 December 2023 to send the plan to referendum in 2024. Following initial discussions and correspondence with the Examiner, High Halstow withdrew its draft plan from Examination to carry out some amendments. Hoo St Werburgh and Chattenden Parish Council submitted its draft (Reg 16) plan to Medway Council in October 2023. Cabinet also gave approval to publish the draft NP for representations in early 2024.

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 and were increased on 6 December 2023. Planning fees have increased by 35% for major applications and 25% for other applications.
- 9.3 Planning income during the period October to December 2023 is £314,538.50. 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

Dave Harris, Chief Planning Officer
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

<https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics>

<https://www.gov.uk/government/statistical-data-sets/live-tables-on-dwelling-stock-including-vacants>

Appendix A : Applications

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

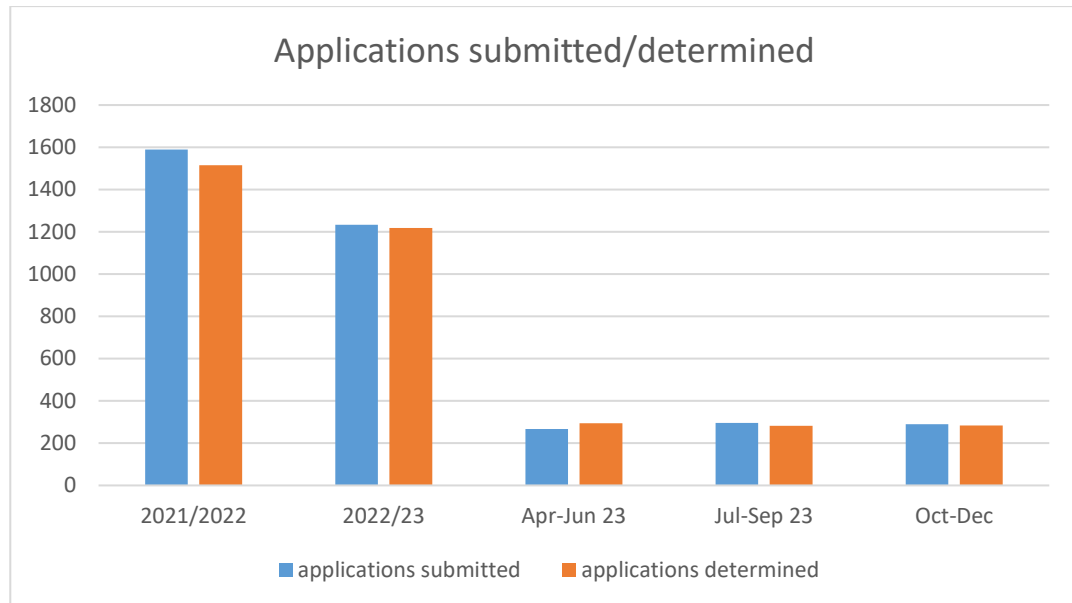


Figure 2 *Percentage of "Major" applications determined against performance target October 2022 to December 2023*

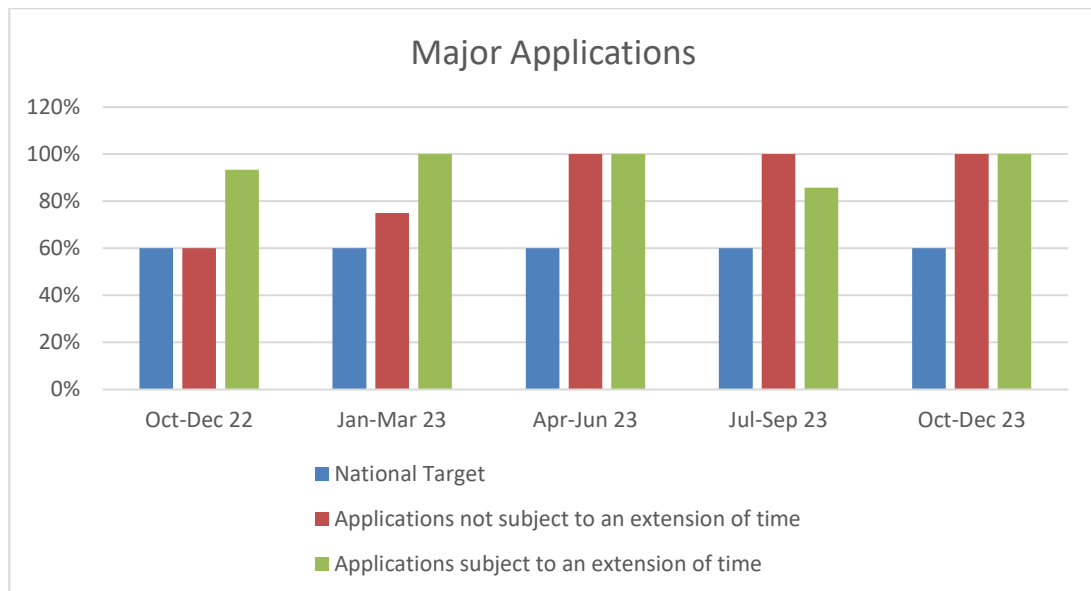


Figure 3 Percentage of “Minor” applications determined against performance target October 2022 to December 2023

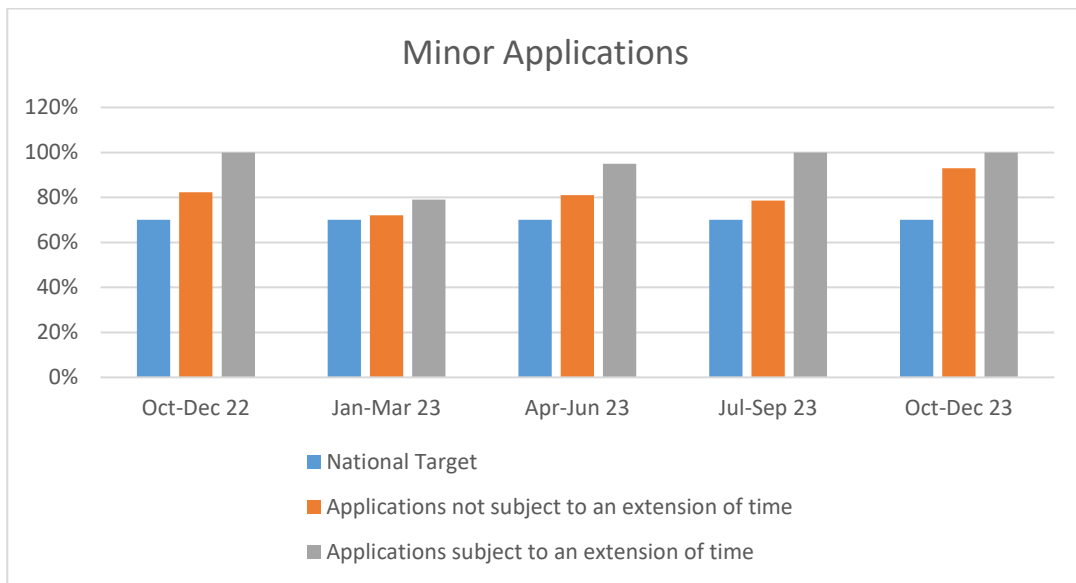


Figure 4 Percentage of “Other” applications determined against performance target October 2022 to December 2023

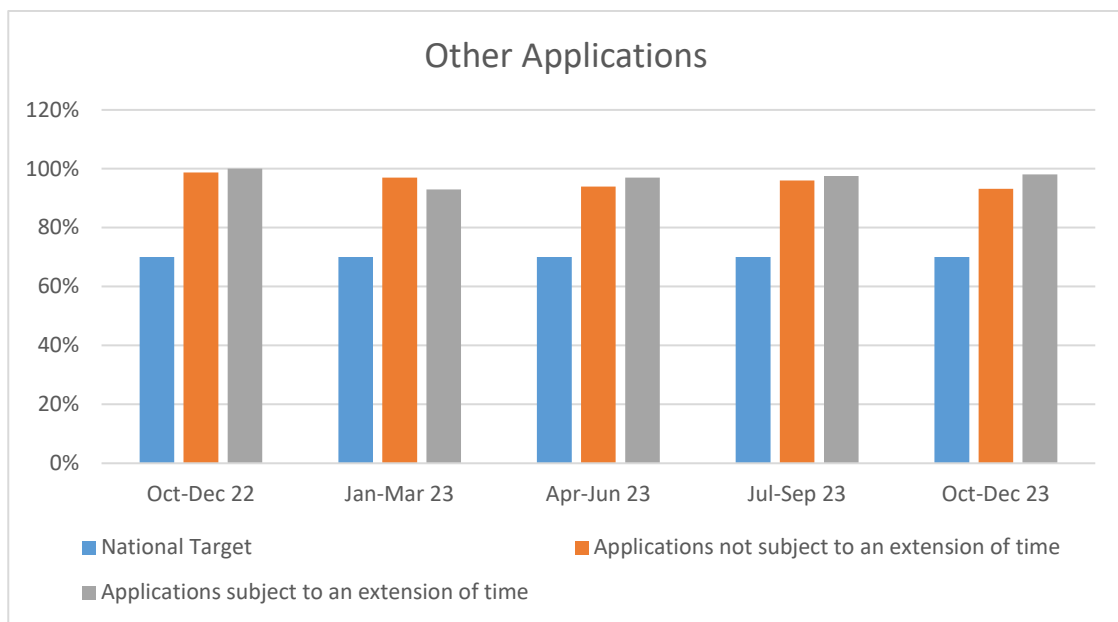
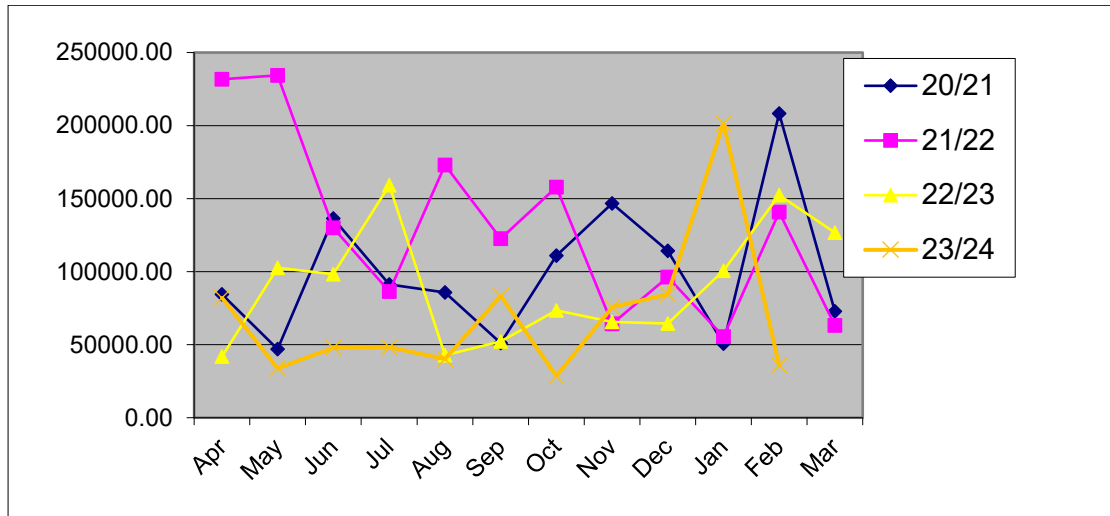


Figure 5 Planning application fees received for the period April to December 2023, 2020/21, 2021/22 and 2022/23



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 July to September 2023.

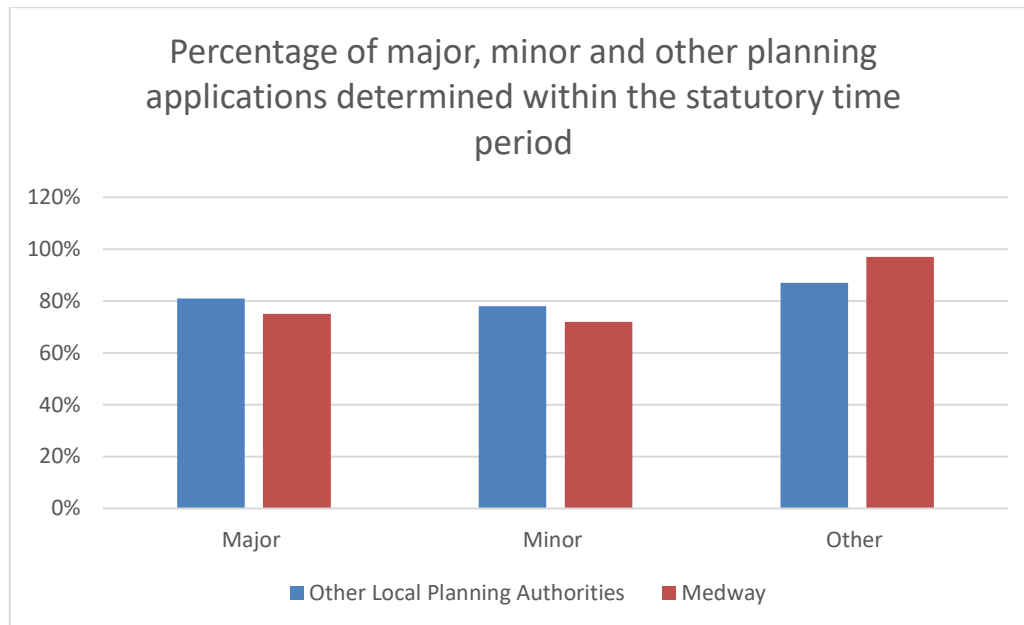


Figure 2 Applications within the agreed Planning Extension Agreement

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 July to September 2023

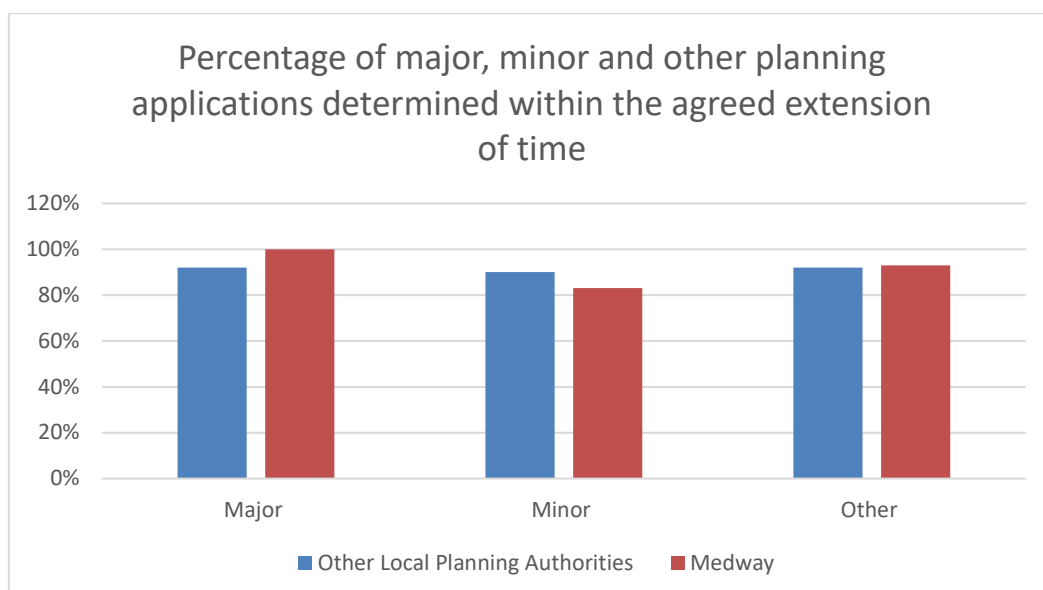
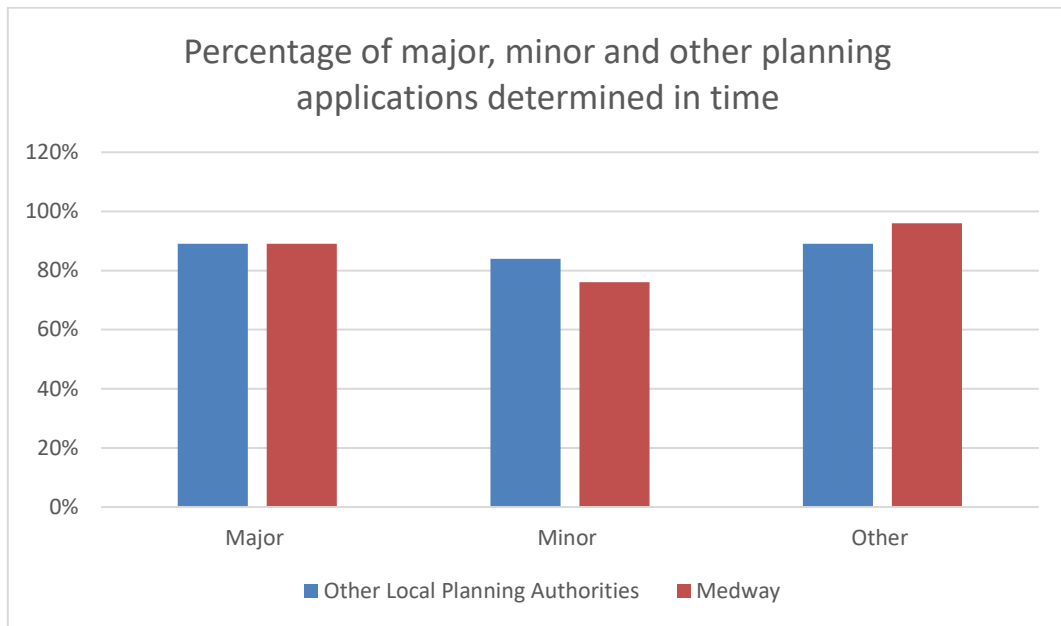


Figure 3 Total planning applications decided in time

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 July to 30 September 2023.



Appendix C : Appeals

Figure 1 Number of appeals decisions received from January 2023 to December 2023

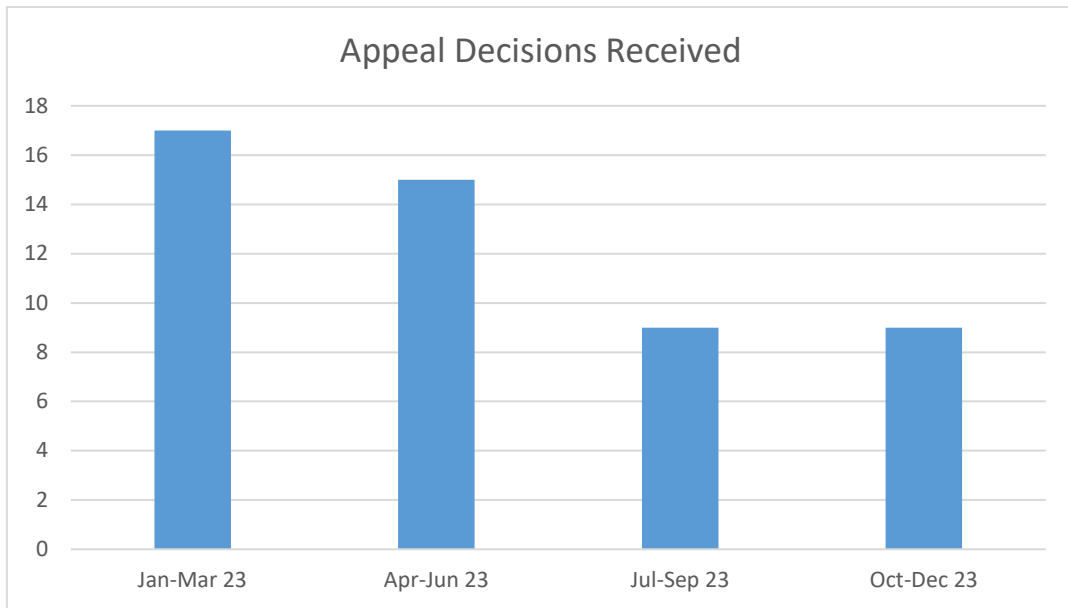


Figure 2 Number of Appeals allowed / dismissed January 2023 to December 2023

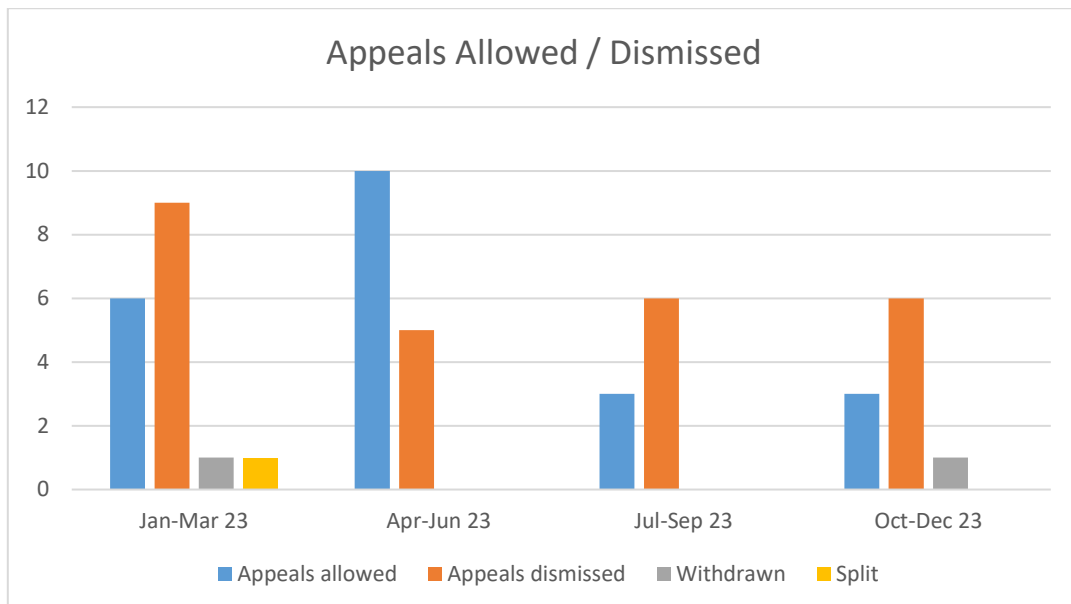
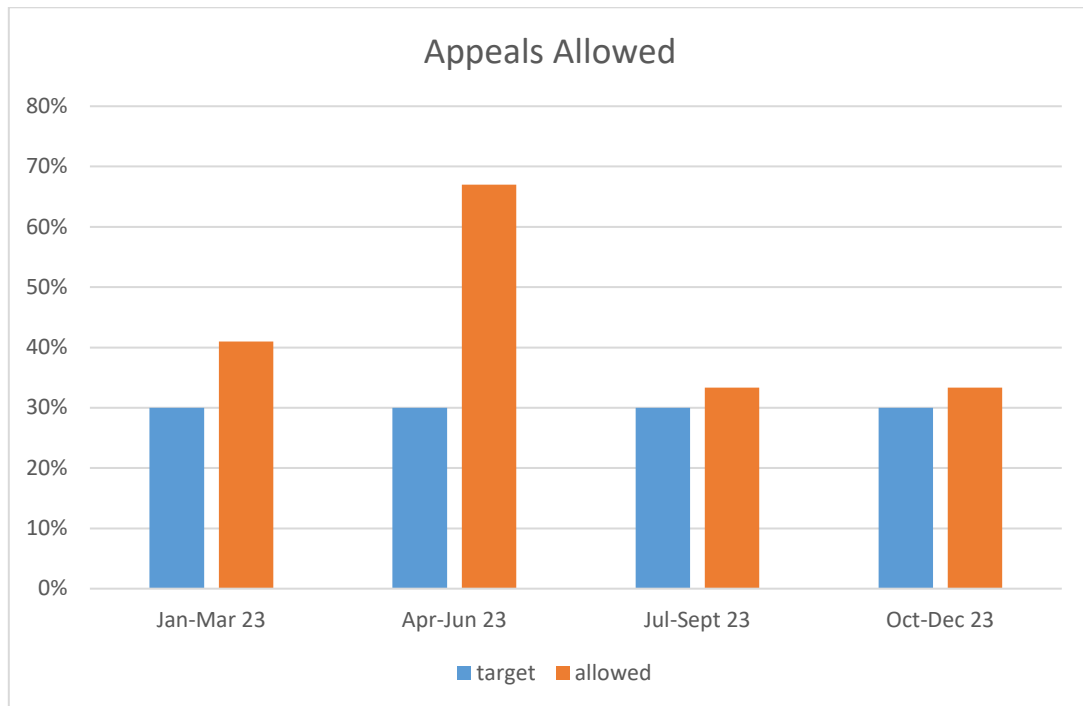
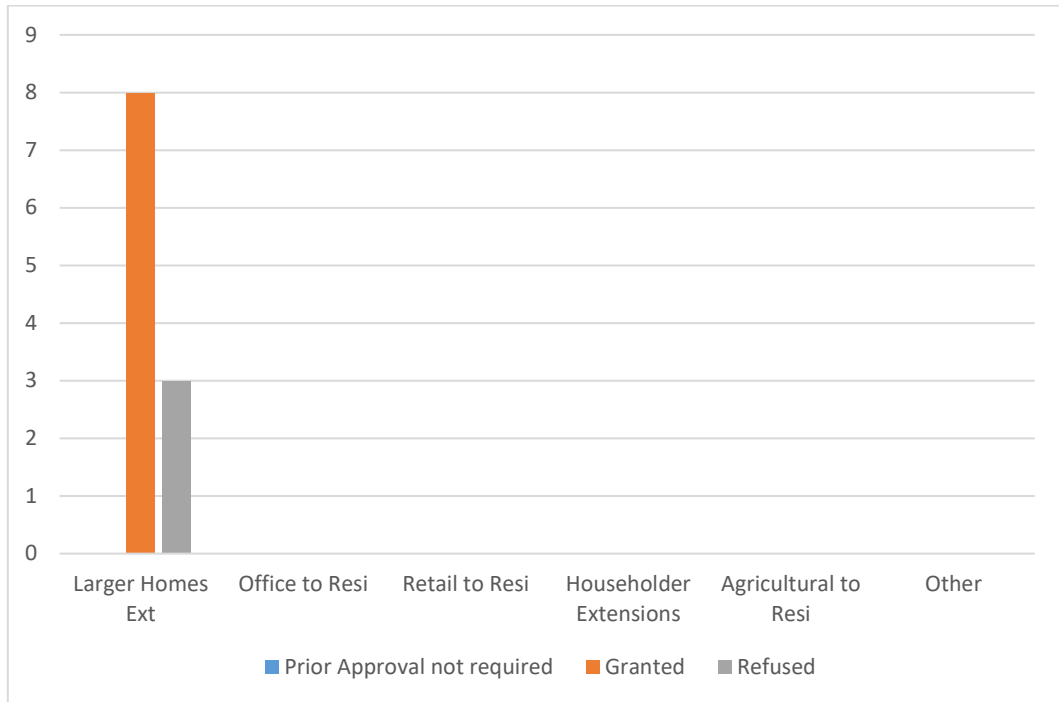


Figure 3 Percentage of appeals allowed against target of 30%
January 2023 to December 2023



Appendix D : Applications for Prior Approvals for Permitted Developments

Figure 1 Number of prior approvals for permitted developments for the period October 2023 to December 2023



Appendix E

Figure 1

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
2023	2,061

Figure 2

Number of units completed

	Year 2018/19	Year 2019/20	Year 2020/21	Year 2021/22	Year 2022/23
Completions	647	1130	1082	1102	950
Requirement	1683	1662	1586	1675	1667
Surplus/Deficit	-1036	-532	-504	-573	-717

Figure 3

Housing completions comparison with other authorities in Kent

This data includes mobile and temporary dwellings (such as houseboats) so varies from the data published in the AMR

Authority	2018/19	2019/20	2020/21	2021/22	2022/23
Ashford	923	753	1,144	627	1,001
Canterbury	311	417	319	692	644
Dartford	960	487	553	540	738
Dover	374	370	411	625	543
Gravesham	302	174	250	421	419
Maidstone	1,215	1,424	1,446	1,627	1,064
Medway	657	1,142	1,087	1,103	958
Sevenoaks	299	477	260	267	261
Folkestone and Hythe	435	451	478	454	454
Swale	956	1,065	892	989	818
Thanet	352	427	596	548	617
Tonbridge and Malling	361	410	380	467	492
Tunbridge Wells	396	317	533	518	636

Figure 4

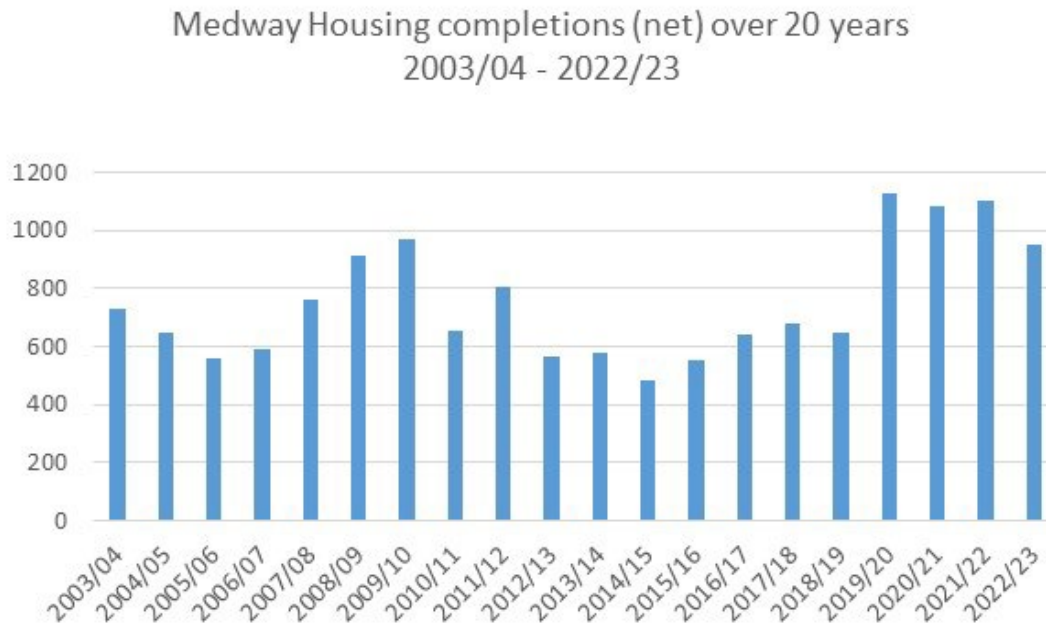
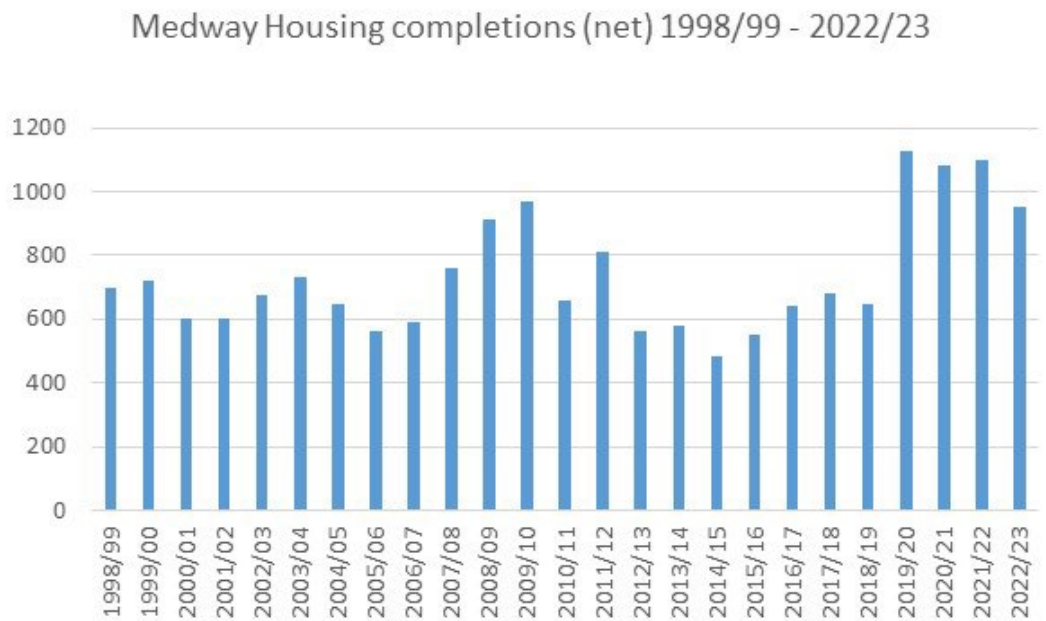


Figure 5



Appendix F : Enforcement

Figure 1 Number of enforcement notices served and prosecutions January 2023 to December 2023

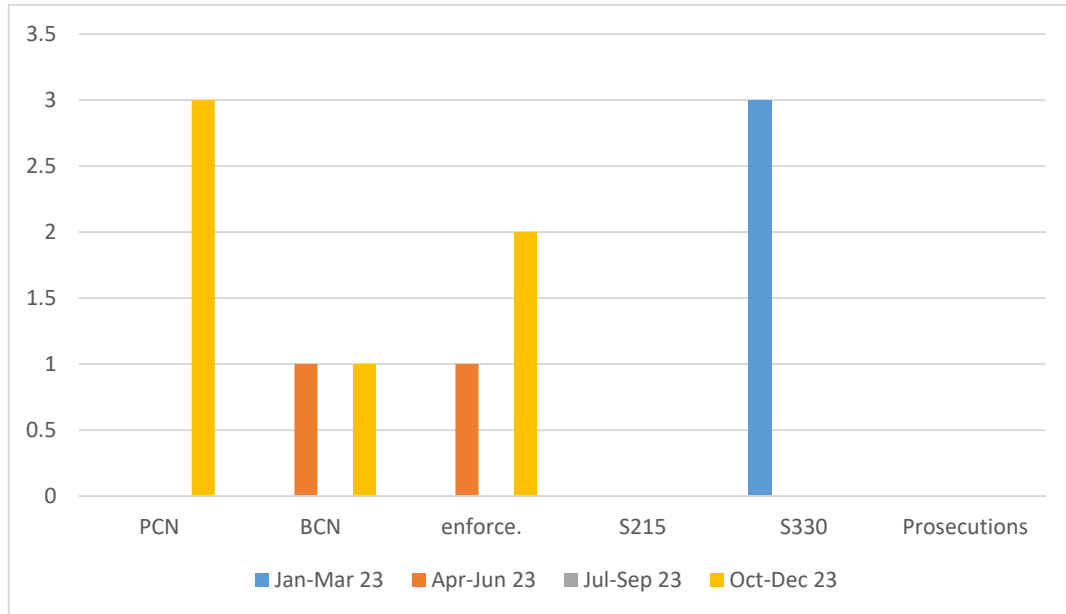


Figure 2 Number of enforcement related complaints and activities January 2023 to December 2023



Appendix G : Tree Preservation Order Applications

Figure 1 TPO applications received from January 2023 to December 2023

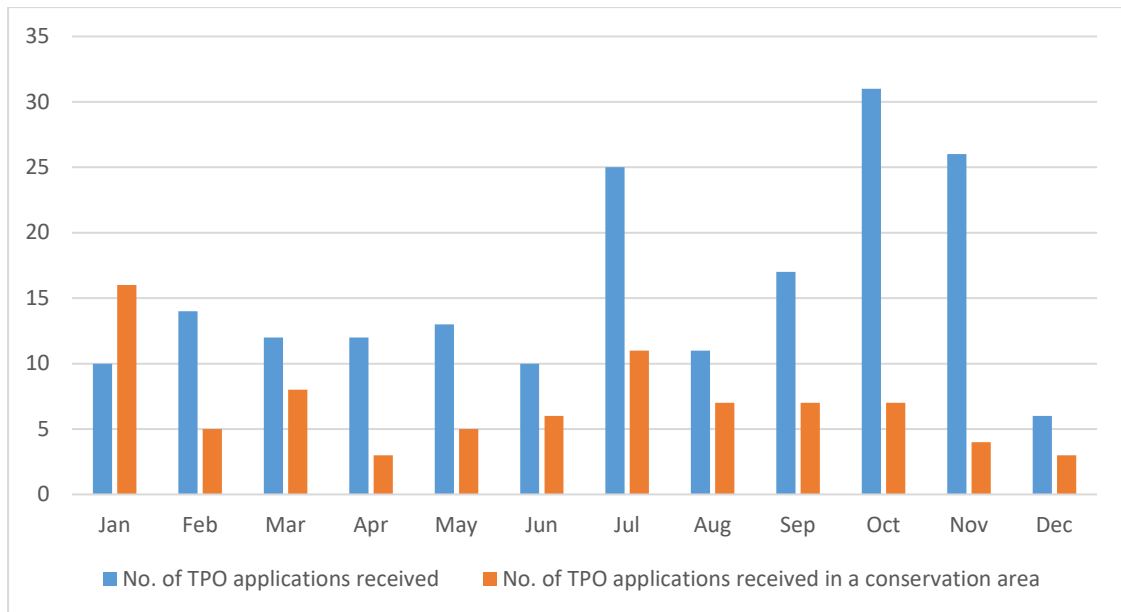


Figure 2 TPO applications determined from January 2023 to December 2023

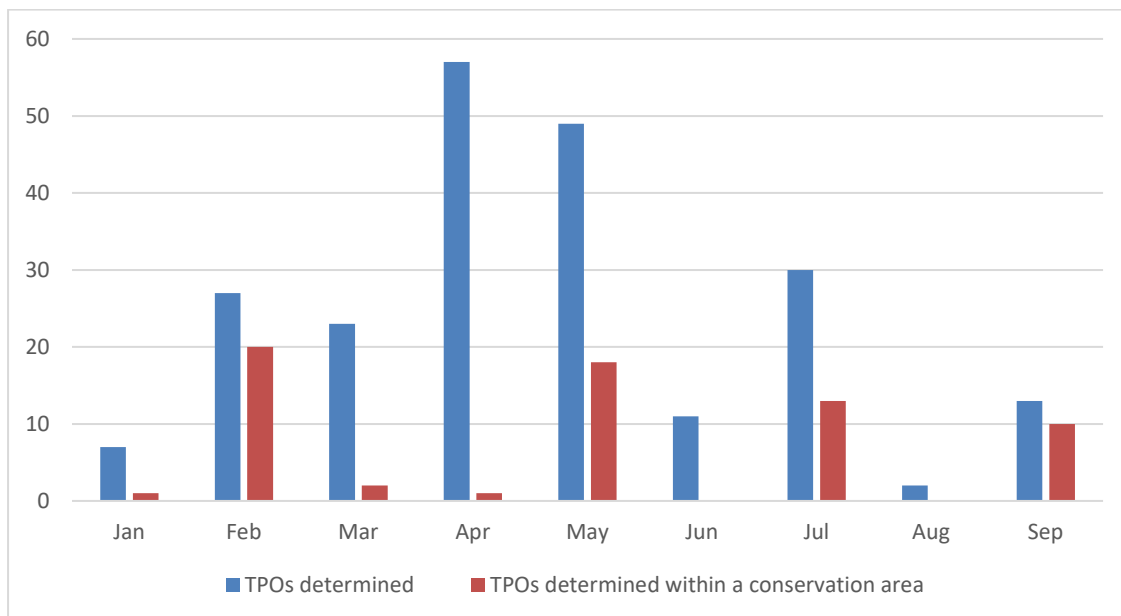
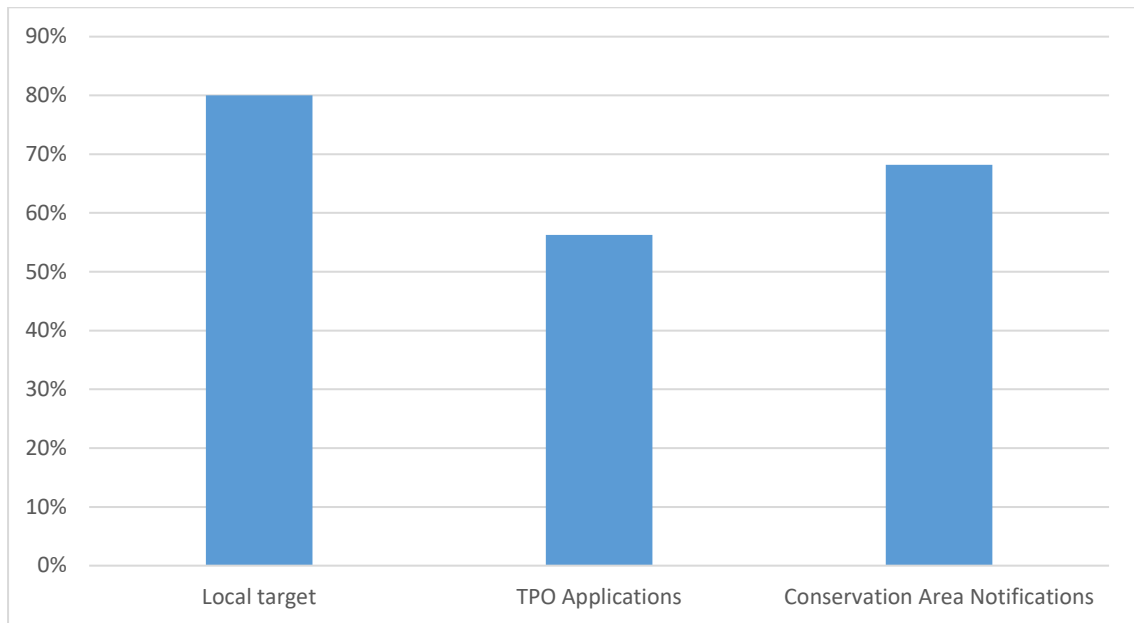
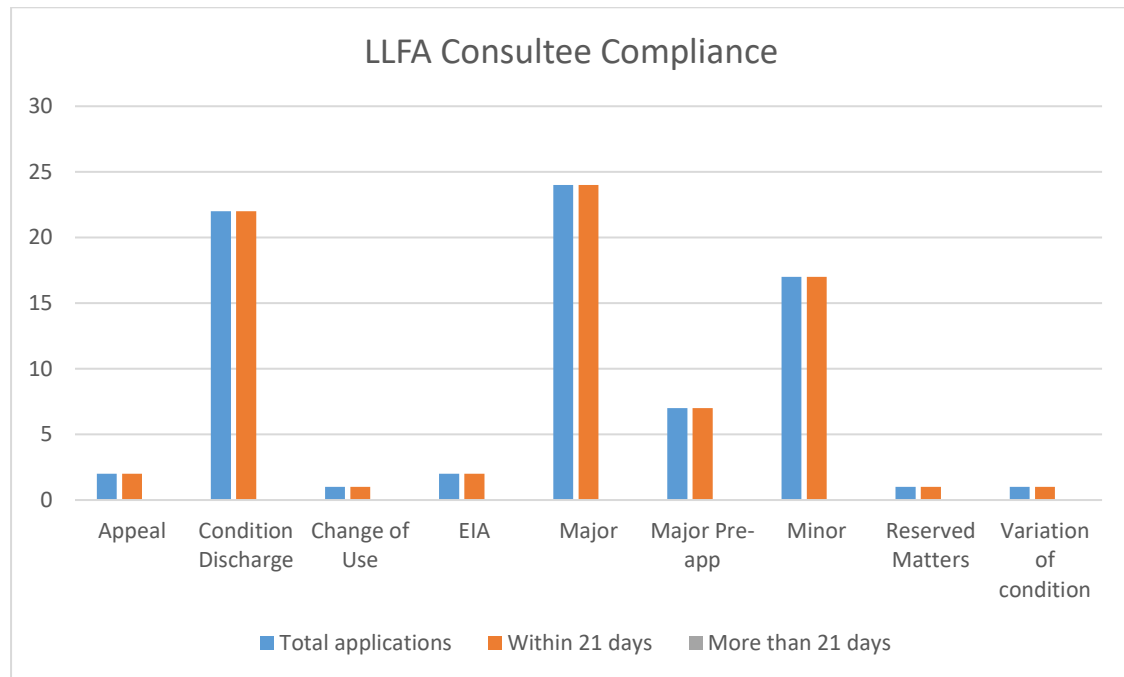


Figure 3 TPO and Conservation Area Notification applications determined within target time from October 2023 to December 2023



Appendix H : Lead Local Flood Authority Consultee Compliance

Statutory Consultee compliance results from 1 October to 31 December 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.

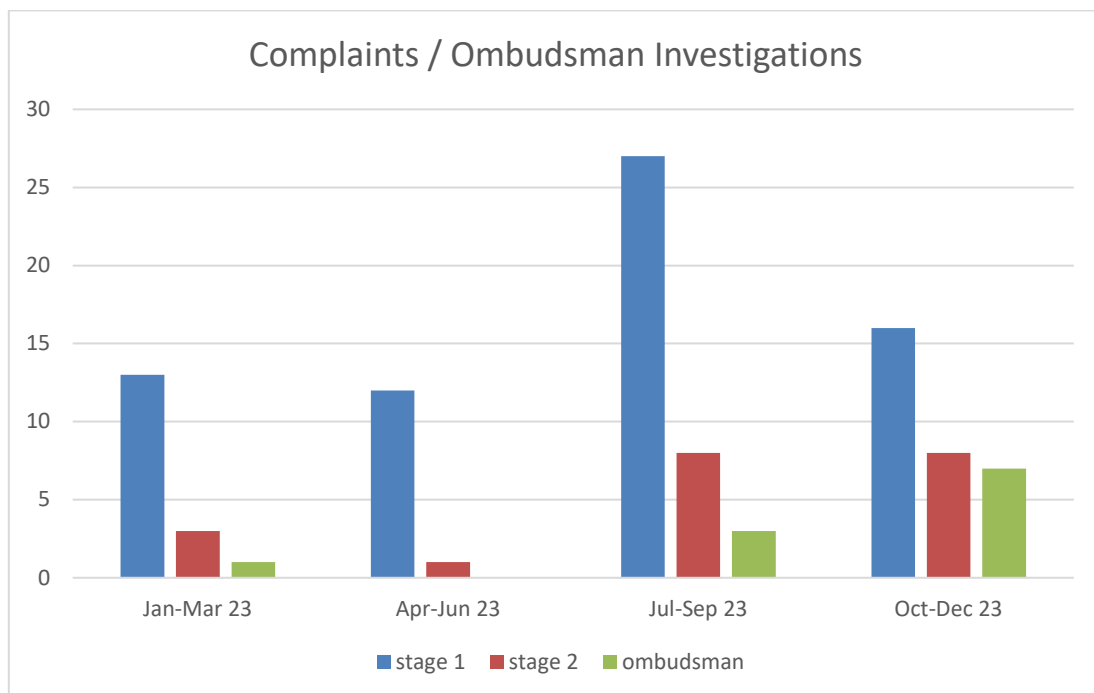
The corporate complaints procedure involves 2 stages :

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 October to 31 December 2023, 24 complaints were responded to, 17 of which were categorised as unhappy with the decision, 2 were due to poor timeliness, 2 where the service did not meet expectations and 2 where service was not provided.

Of the 24 complaints which were responded to, 75% were answered within the target time of 10 working days, 7 of which had been escalated to Stage 2. 16 complaints were dismissed where no fault was found, 3 were partially upheld and 5 were upheld.



Complaints Upheld

- Lack of response to pre-application request.
- Customer had been treated differently by two different planning officers in relation to the requirement for additional information.
- Was not consulted as a safeguarding consultee in relation to HS1 Safeguarding zone.
- Lack of enforcement action in relation to a breach of conditional regarding a restaurant using a fast food delivery service.
- Tree was incorrectly identified as covered by a TPO.

Complaints Partially Upheld

- Should not have accepted the word 'remodelling' in description of application. Did not affect the decision.
- Consultation period extended due to requirement to consult with neighbouring property. Applicant taken decision to order materials prior to decision being issued, which incurred a cost.
- Error in case officer report. Did not effect the decision.

Ombudsman

There were seven decisions issued by the Ombudsman:

- Five closed after initial enquiries as insufficient evidence of injustice caused or fault found.
- Will not investigate as the issues raised are non-material matters, which the Council could not take into account.
- Will not investigate further as no fault found in the way the planning application was determined.

The Local Government and Social Care Ombudsman and Housing Ombudsman have consulted on the introduction of a Joint Complaint Handling Code. Medway responded to the consultation and it is likely that the Code will be implemented from 1 April 2024.

Compliments

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

- We were very lucky to meet you as you obviously have excellent detailed knowledge of the area and all the various preceding plans, and great to meet someone so positively engaged in helping bring together a coherent local plan.
- Great work validation team. I currently have applications awaiting validation with a number of London Boroughs that were submitted weeks ago.

- Thank you for the local plan consultation. All venues I have attended have been accessible. Your team are impressive too very knowledgeable, helpful and engaging.
- I know planning departments are under a lot of pressure so thank you especially for the clear communication and courtesy you have given us through the process.
- I am very grateful for your consistent support and professional guidance with respect to planning application matters.
- Your amazing, thank you.
- What a true pleasure it has been working with you over the last year. You have been beyond helpful.
- I wanted to express my gratitude for your swift response to my recent email. Your efficiency in addressing the matter is truly commendable, and I appreciate the prompt attention given to my enquiry.
- Thanks for your help and support on this scheme. It really does make a big difference on a contract like this to have the feedback and communication you have given us.