

Planning Performance Agreement (PPA) pro-forma

Planning Policy Committee – 21st September 2023

Report of: Chief Planning Officer

Purpose: For decision

Publication status: Open

Wards affected: All

Executive summary:

Many councils and applicants use a project management tool known as Planning Performance Agreements (PPA).

PPAs are useful in helping to establish efficient and transparent process for determining applications. Overall they aim to help improve the quality of applications and the speed of determination.

The Council wants to be able to offer the benefits of PPAs to potential developers and ensure the process is adequately resourced. A PPA pro-forma has been prepared to guide negotiations with developers and agents in setting up PPAs.

This report supports the Council's priority of:

Creating the quality homes, infrastructure and environment we need but prudently managing financial resources.

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Recommendation to Committee:

That:

- A. the Planning Performance Agreement (PPAs) pro-forma, as attached in Appendix A, be agreed in principle as the basis for negotiating performance agreements with developers on major and largescale applications; and
- B. subject to A above, authority be delegated to the Chief Planning Officer, in consultation with the Chairs of the Planning Committee and Planning Policy Committee, to set the appropriate scale of charges.

Reason for recommendations:

Planning Performance Agreements ('PPAs') are made pursuant to Section 111 of the Local Government Act 1972, Section 2 of the Local Government Act 2000 and Section 93 of the Local Government Act 2003. A standard pro-forma to help guide the preparation of a PPA is set out in Appendix 1.

Introduction, background and issues

Planning Performance Agreements (PPAs)

1. Pre-application engagement offers significant potential to improve the efficiency and effectiveness of the planning application system and improve the quality of planning applications.
2. A PPA is a project management tool which the local planning authorities and applicants can use to agree timescales, actions and resources for handling particular applications. It should cover the pre-application and application stages but may also extend through to the post-application stage.
3. PPAs can be particularly useful in setting out an efficient and transparent process for determining large and/or complex planning applications. They encourage joint working between the applicant and local planning authority, and can also help to bring together other parties such as statutory consultees.
4. A PPA is agreed voluntarily between the applicant and the local planning authority prior to the application being submitted, and can be a useful focus of pre-application discussions about the issues that will need to be addressed.
5. In principle PPA can be used for any application but they are more likely to be used on large or complex applications.
6. There is no one model for a PPA and agreements will vary depending on the focus of the applicant and needs of the site and application. It is for the local planning authority and the applicant to discuss and agree a suitable process, format and content which is proportionate to the scale of the project and the complexity of the issues to be addressed.
7. To help guide the process of agreeing a PPA the Council has prepared a PPA proforma (Appendix 1). A simple and straightforward approach based on programme, required skills and tasks, costs and performance standards has been used. This base PPA proforma can be adapted to the bespoke requirements of a particular applicant and scheme.

8. A PPA is not a means of obtaining a planning consent or circumventing the normal planning process. Notwithstanding any agreement on the use of a PPA for any particular planning application, it is a requirement under planning law for each planning application to be considered on its merit, taking into account all material considerations including national and local land use policy.
9. A PPA would be a means of contributing to the fixed costs of the Development Management Service whilst ensuring that the standard of service is maintained and enhanced at less cost to the Council. As noted above, this would normally cover the pre-application and planning application phase of a development proposal and can extend to matters beyond the formal application process for example to allow programming of the negotiation of any section 106 agreement as well as related non planning consents (which could perhaps include consents such as highway agreements under section 278 of the Highways Act 1980). They might also provide a basis for voluntary contributions offered by a developer to assist with abnormal costs of processing the application (so long as such payments do not exceed the cost of the additional work, do not have implications for the decision on the application and do not deflect resources from other cases).
10. The draft PPA pro-forma for Tandridge PPAs (attached at Appendix 1) does not include any fee proposal as these will be bespoke for each agreement. However, the fees will largely be based on external charge out rates for officers. If the PPA principle is agreed, the Chief Planning Officer will work with the Council's Director of Finance to ensure that the charges are proportionate and will enable full cost recovery. A benchmarking exercise on charge out rates will also be undertaken amongst relevant Local authorities. It is proposed that in consultation with the Chairs of the Planning Committee and Planning Policy Committee, they will agree the appropriate scale of charges.
11. The introduction of the PPA for services falls outside of Officers' delegation.

Principles

12. In setting a proposed charge, several key principles will need to be applied to ensure that the costs of service provision to the Council are recovered, that the fees and charges are reasonable and comply with the applicable legislation and regulation.
13. Determining the appropriate charging level is critical to minimising the use of costly resources later in the planning process. In setting the chargeable rates to support the planning application process, it needs to be recognised that whilst there are considerable benefits to a developer in seeking pre application advice, it is not compulsory. Where a developer chooses not to use the service, then poorer quality development proposals may follow. This leads to greater resource being spent at the formal planning application stages or at costly planning appeals and brings potential delays to development.

14. Equally important in the current financial climate is to ensure that income is maximised and that the public purse is not subsidising development promoted by the private sector.
15. The proposed charging scheme will accord with the following key principles:
 - It is incumbent on the Planning Service Team to charge for activities that are discretionary, or where permitted by regulation, given the pressures on the Council finances;
 - Charges will be costed, reasonable and comply with all applicable legislation, regulation and guidance;
 - Charges will be reviewed annually and on the enactment of any amending legislation, regulation or the issuing of guidance;
 - Charges will reflect the direct and indirect cost of service provision. The calculation of indirect costs will include Service overheads. This will reflect corporate best practice in relation to overhead recovery which is currently being developed;
 - Where the Council is required to source external support, i.e. highway modelling advice to respond to pre-application advice, then the costs incurred by the Council will be recharged;
 - Charges will be transparent and provide a consistent rate that represents good value; Officer charge out rates will be non-negotiable.
 - Charges will be bench marked against other local authorities across the country.
 - Charges will be easy to administer and simple to understand.
 - Charges will be kept under regular review and confirmed/updated at the end of each financial year

Key implications

Comments of the Chief Finance Officer

As with all new income areas, there are no guarantees of the amount of income we will actually receive. The income that will be generated will be used in the first instance to contribute to challenging income budgets in the Committee, subject to review as PPAs bed in and activity levels become clear. The financial pressures on Development Management are such that it is appropriate to introduce charges to contribute to the fixed costs of the service and ensure that the costs of development are fully recovered from the developer.

Comments of the Head of Legal Services

The Local Government Act 2003 allows local authorities to recover the costs of providing services or improvements to services that they might not otherwise have been able to justify providing or been in a position to provide. Given the financial climate, it is essential that where a service may recover its costs it does so.

Equality

Duty under the Equalities Act 2010

In assessing this proposal, the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation):

The proposal would have a neutral impact on the protected characteristics.

Climate change

There are no significant environmental / sustainability implications associated with this report.

Background papers

Localism Act 2011

Appendices

Appendix 1 – Planning Performance Agreement (i.e. the Pro-forma).