

## **Nottinghamshire County Council**

### **Planning Performance Agreements Charter**

#### **What is a Planning Performance Agreement?**

A Planning Performance Agreement (PPA) is a project management tool which local planning authorities and applicants can use to agree timescales, actions and resources for handling particular planning applications. PPAs encourage joint working between applicants and local authorities but can also involve other stakeholders, such as consultees and local communities, helping to identify the preferred approach to community engagement, including the identification of the communities to involve, the process of engagement and the best approach to incorporating their views. PPAs are most likely to be used for larger applications with more complex issues but can be used for smaller schemes, based upon the key milestones that need to be adhered to. PPAs are not legally binding but are intended to be agreed in the spirit of a 'memorandum of understanding'.

PPAs can encompass the pre-application phase, the application phase and, should planning permission be granted, the post decision phase of a development. The Council and the applicant will agree the most appropriate process, format and content of the PPA which is proportionate to the scale of the project and the complexity of the issues to be addressed. The PPA will set out the agreed timetable, development objectives and responsibility for the required tasks.

The PPA will have a cost attached, to be borne by the applicant, but this will have no implications for whether the application is granted permission. The fee will cover additional resources relating to the project management work that goes beyond the Council's statutory duty of determining the planning application, in addition to any abnormal costs associated with the processing of the application. This resource will be used by the Council for additional capacity that is genuinely required to ensure a timely and effective service.

The payments agreed by the applicant and the Council will not exceed the cost of the additional work involved but will cover the administrative work involved in agreeing and implementing the PPA itself, to the extent that this goes beyond the authority's statutory function. The PPA fee will be paid by the applicant in addition to the nationally set planning application fee. For larger or more complex PPAs there is likely to be a framework for staggered or phased payment dates.

PPAs are intended to encourage early engagement. Ideally, the PPA will be drawn up, agreed and signed by all parties prior to the submission of the planning application during pre-application discussions. The agreed timetable for the PPA will supersede all statutory determination timeframes and the 26-week planning guarantee. If the Council fails to determine the application by the agreed date, then the applicant may appeal to the Secretary of State for non-determination in the usual way. The parties are encouraged to make the existence and content of the agreement publicly available to maintain the

integrity of the Council in its duty of determining planning applications in an impartial manner.

### **The benefits of Planning Performance Agreements**

There are many recognised benefits of PPAs to all the parties involved including the local planning authority, the applicant and the community. Benefits include:

- Identification of key issues and relevant consultees at an early stage;
- Setting more realistic and predictable timetables, with a structure of deadlines and action points;
- Improved collaborative working between the key stakeholders;
- Better overall management of advice at pre-application and post application stages;
- Greater accountability, transparency and communication;
- Better project management with a guarantee of dedicated Council resources;
- Removal of statutory timescales for the determination of applications;
- Greater commitment from relevant consultees to respond in a timely manner, particularly internal consultees;
- Better commitment to community engagement and consultation, enabling communities to influence planning decisions;
- Ability to recover costs, thereby reducing the financial burden on Council resources.

### **Charging rates for PPAs**

The costs associated with a PPA shall be agreed at the outset and shall be payable upon the signing of the PPA, unless the Council agrees to phased payments. The Council will charge a flat rate of £56 per hour, which includes VAT, for officers to provide services under a PPA. This rate will be charged throughout the process from meetings held at the pre-application stage, for application progress meetings, through to time spent at the post decision stage for discharging conditions or site monitoring. This rate reflects the average cost to the authority for planning officer time and will be reviewed on an annual basis.

Setting up the PPA itself will be subject to a flat fee of £400, based on an estimated six to eight hours of officer time required for this process which will involve completing the PPA template, identifying and agreeing the services to be provided and obtaining signatures from representatives of the Council and the applicant.

## **Services provided through the Planning Performance Agreement**

The range of “enhanced” planning services that will be provided through a PPA are set out below.

### Pre-application meetings/advice

It is anticipated that the Council and the applicant will hold meetings prior to the submission of the application to discuss matters relating to relevant planning policies/site history and specialist matters such as ecology/restoration, archaeology, flood risk etc. At these meetings an indicative timeframe for determining the planning application will also be discussed, in addition to discussing the most appropriate way to engage local communities before an application is submitted. The costs of any planning or other specialist officer involvement in these meetings shall be covered by the applicant through the PPA.

### Pre-application community engagement

One of the key benefits of PPAs is the potential for enhanced engagement with local communities and to make early community engagement a fundamental part of the planning process. To achieve this the applicant will be expected to organise and facilitate community engagement event/s reflecting the communities likely to be affected by the proposed development. These events will provide an opportunity to take on board any comments and concerns raised by local residents or businesses and, where possible, address and incorporate these into the final design of the scheme. Where appropriate, this could include a site visit to the operator’s existing site/facility.

The applicant shall cover the costs of hiring any community facility required for these events. Planning and other appropriate Council officers shall attend such events, and their costs in doing so shall be covered through the PPA. The purpose of their attendance will be to explain the planning application process to the local community, including how to make representations to the Council, speaking at the Council’s Planning and Licensing committee and the likely timescales involved in determining the application, but shall not discuss the merits of the proposal.

### Local Member involvement

Where relevant, planning officers will provide advice to the Local Member(s) about the draft proposals at the pre-application stage or at any other appropriate stage of the application. This would include informing the Local Member(s) of any public meetings or exhibitions to be held with the local community.

### Application progress meetings

When an application is submitted, the applicant will be provided with a Progress Chart detailing an indicative timeframe for the determination of the application, including the target committee date. The PPA will provide for the holding of meetings approximately once a month following the submission of the application to allow for the Council and the applicant to discuss the progress of the application against the timescales set out in the Progress Chart and to amend the Progress Chart accordingly. The costs of any officer involvement in these meetings shall be covered by the applicant through the PPA.

Progress meetings will be used to identify of the need for the provision of additional information to be submitted by the applicant at the validation stage and any specialist information required following responses received from statutory and non-statutory consultees. Requests for additional information made under Regulation 25 of the Environmental Impact Assessment Regulations 2017 are likely to have implications for the determination timescale of the application due to the requirement to undertake additional formal publicity and consultation under these Regulations. The Progress Chart and the indicative determination date will be reviewed to reflect this.

#### Processing significant levels of public representations

Where the Council receives an unusually high number of representations in response to consultation and publicity undertaken on a planning application then the Council will seek to recover “costs” incurred in processing these. Over and above 50 representations is considered to be a reasonable threshold for including this cost within a PPA and is likely to relate to the most significant and controversial applications.

#### Specialist technical input required to address issues relating to the application

Given the complex nature of planning applications that the County Council deals with, the County Council may have to engage specialist technical advice to deal with a particular matter relating to a planning application which the broad range of statutory and non-statutory consultees have not been able respond to. It is considered reasonable for applicants to cover the costs of procuring such advice, including the procurement process itself, through the PPA.

#### Discharge of conditions/Site monitoring

If planning permission is granted for a planning application with an associated PPA, the PPA could also provide for any meetings between the Council and the applicant to discuss matters relating to the discharge of any conditions attached to the permission. The costs of any officer involvement in these meetings would again be covered by the applicant through the PPA.

Where appropriate, it may be necessary to undertake monitoring of sites during the construction phase, as well as once sites become operational, to ensure that conditions imposed to mitigate impacts are properly implemented and monitored. There is already provision for charging fees for monitoring minerals and landfill sites. Fees included within PPAs will relate to sites which fall outside this existing fee regime.

### **Review of this Planning Performance Agreement Charter**

In addition to the charging rates being reviewed on an annual basis, officers will regularly review the overall PPA Charter to assess its use and effectiveness, including identifying any improvements which can be made to it. Further information about PPAs can be found on the County Council website.

**Interested in entering into a Planning Performance Agreement?**

For more information about setting up a Planning Performance Agreement please email the Development Management Team at [development.management@nottsc.gov.uk](mailto:development.management@nottsc.gov.uk)

## Sample template Planning Performance Agreement

<b>Between:</b>	<i>Applicant name</i>
<b>and:</b>	Nottinghamshire County Council (NCC)

<b>Planning reference(s):</b>	
<b>Site location:</b>	
<b>Description of development:</b>	
<b>Applicant team:</b>	
<b>Council team:</b>	

### Objectives and terms of the Planning Performance Agreement (PPA)

The objectives of this PPA are to:

- Secure and facilitate collaborative working between the applicant, the Minerals/Waste/County Planning Authority (M/W/CPA) and other parties on the proposed development to which it relates from the earliest opportunity and on an ongoing basis throughout the planning process;
- Provide clarity in respect of the anticipated timescales, and the County Council's costs, for project managing the application from the pre-application stage through the application stage and post-determination;
- Allow for the early engagement with local communities likely to be affected by the proposed development in order to allow the applicant to address concerns and opportunities through the design of the proposal;
- Provide a framework to allow for the review and renegotiation of timescales associated with this PPA in the event that there are technical matters relating to the application which need to be resolved through a request for additional information (under Regulation 25 of the Environmental Impact Assessment Regulations where the application is an EIA application).

This PPA is subject to the following terms:

- This PPA does not give a guarantee of planning permission being granted. It relates to the collaborative working between the M/W/CPA, the applicant and the local community prior to the submission of, and during the consideration of, the planning application but not the decision itself;
- The attached Progress Chart is intended to set out the necessary steps in submitting and determining the planning application and to provide an indicative timeframe for the carrying out and completion of those steps. The applicant and NCC agree that the timetable will be kept under regular review and acknowledge that it may be subject to change. Specifically, the timetable will be reviewed when the application is submitted in order to identify a target date for the determination of the application at the County Council's Planning and Licensing Committee.
- If, during the progress of this application, either the applicant or NCC becomes aware of circumstances arising that are likely to lead to a delay in the completion of any of the steps in the Progress Chart, that party must inform the other party at the earliest opportunity in writing, providing brief reasons for the delay and an estimated revised time frame for completion of the relevant task. In such circumstances, NCC and the applicant shall work together collaboratively to review the Progress Chart and to agree any necessary revisions to the Progress Chart at the earliest opportunity;
- This agreement is made pursuant to Section 111 of the Local Government Act 1972, Section 93 of the Local Government Act 2003 and Section 1 of the Localism Act 2011;
- The parties to this agreement will endeavor to make available members of the project team to

- facilitate meetings within 7 working days from a formal written request, unless otherwise agreed;
- Confidentiality protocols will be agreed and applied to specific issues and/or information as they emerge.

### **Services to be provided through this Planning Performance Agreement**

The M/W/CPA and the applicant agree that the following services shall be provided through this Planning Performance Agreement and shall be paid for by the applicant.

Setting up the PPA – this is subject to a flat fee of £400.

Pre-application meetings – the M/W/CPA and the applicant agree to hold meetings prior to the submission of the application to discuss matters relating to [insert issue(s) as required, such as ecology/restoration, archaeology, flood risk etc]. The costs of any M/W/CPA officer involvement in these meetings shall be covered by the applicant through this PPA.

Pre-application community engagement – the applicant agrees to organise [a] community engagement event[s] reflecting the communities likely to be affected by the proposed development in order to take on board comments and concerns from local residents and, where possible, address and incorporate these into the final design of the scheme. [This could include a site visit to the operator's existing site/facility.] The applicant shall cover the costs of hiring any community facility required for this/these event[s]. Officers of the M/W/CPA shall attend such events, and their costs in doing so shall be covered through this PPA, in order to explain the application process to the local community, including making representations, speaking at committee and the likely timescales involved in determining the application, but shall not discuss the merits or otherwise of the proposal.

Application progress meetings – this PPA shall provide for the holding of meetings approximately once a month following the submission of the application in order to allow the M/W/CPA and the applicant to discuss the progress of the application against the timescales set out in the attached Progress Chart and to amend the Progress Chart accordingly. The costs of any M/W/CPA officer involvement in these meetings shall be covered by the applicant through this PPA. For applications where further information is sought under Regulation 25 of the Environmental Impact Regulations this will impact upon timescales set out in the Progress Chart and will require a review of the indicative determination date.

Processing significant levels of public representations – if the application is subject to a significant level of public representation, then the applicant shall pay an agreed amount cover the additional officer costs associated with processing these representations.

Specialist technical input required to address issues relating to the application – if the M/W/CPA needs to procure the services of technical specialists to address issues relating to the application which cannot be addressed by statutory and non-statutory consultees, the applicant shall cover the costs of procuring this specialist advice, including the procurement process itself, through this PPA.

Discharge of conditions – in the event that planning permission is granted for the proposal, this PPA shall provide for any meetings between the M/W/CPA and the applicant to discuss matters relating to the discharge of any conditions attached to the permission. The costs of any M/W/CPA officer involvement in these meetings shall be covered by the applicant through this PPA.

Site monitoring – Where appropriate the PPA may include charges for site monitoring during the construction phase or once the site becomes operational. This will only apply to sites for which there is no provision for charging fees under existing Regulations for site monitoring.

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Costs for the services to be provided through this Planning Performance Agreement			
Task	Duration	Officers involved	Cost (inclusive of VAT)
Setting up the PPA	N/A	Team Manager Development Management	£400
Pre-application meetings	X hours per meeting	Case officer, Team Manager Development Management, specialist officers as required	£56 per hour per officer
Pre-application community events	1 day per event	Case officer, any specialist officer identified during pre-application meetings	£56 per hour per officer (including travel time)
Application progress meetings, approximately monthly	X hours per meeting	Case officer, Team Manager Development Management, specialist officers as required	£56 per hour per officer
Processing significant levels of public representation	To be determined based on the number of additional reps	Case officer, Planning Support Officer and other Business Support Officers as required	To be determined
Specialist technical advice (including procurement)	To be determined during procurement	Team Manager Development Management, Procurement Officers	To be determined
Discharge of conditions/ site monitoring	X hours per meeting	Case officer and specialist officers as required	£56 per hour per officer

4 Signatures
<p>I hereby agree to the terms set out above:</p> <p><b>On behalf of NOTTINGHAMSHIRE COUNTY COUNCIL as Minerals/Waste/County Planning Authority</b></p> <p>Name:</p> <p>Position:</p> <p>Authorised Signatory:</p> <p>Date:</p>



I hereby agree to the terms set out above:

**On behalf of the applicant**

Name:

Position:

Authorised Signatory:

Date:

**Freedom of information**

Your enquiry, together with any response made by the Council, will be made available for public inspection unless you confirm in writing to us that the information provided is commercially sensitive. If the Minerals Planning Authority receives a request to disclose information relating to the planning performance agreement under the Freedom of Information Act (FOI) or Environmental Information Regulations (EIR) they are obliged to do so unless the information is deemed exempt under the Act.

**Note.**

We can only withhold information under FOI or EIR if the information falls under one of the exemptions (FOI) or exceptions (EIR) set out in legislation. For certain pre-application issues the applicant would be advised to set out in writing the reasons why, and for how long, they feel any information relating to the case needs to remain confidential. However, whilst we will take account of these views, the final decision on whether the information should be withheld rests with the Council. The Council maintains compliance to the Data Protection Act and we will not release any personal information to third parties. The Council's Privacy Statement, setting out how we will deal with personal data, can be found at <http://www.nottinghamshire.gov.uk/global-content/privacy>