

26th September 2022

Agenda Item:

REPORT OF SERVICE DIRECTOR, INVESTMENT AND GROWTH

UPDATE OF THE COUNCIL'S PLANNING PERFORMANCE AGREEMENT CHARTER TO INCLUDE NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECTS

Purpose of the Report

1. To amend the Council's existing Planning Performance Agreement (PPA) Charter to enable developers applying for Nationally Significant Infrastructure Projects (NSIPs) to enter into a PPA with the Council to cover the County Council's costs involved in the Development Consent Order (DCO) process. This is a Key Decision because it will have significant effects on two or more electoral divisions.

Information

2. The introduction of the Council's Planning Performance Agreement Charter was approved by members in January 2019 and can be found on the Council's website at www.nottinghamshire.gov.uk/planning-and-environment/planning-applications/planning-performance-agreements . Since then, the fees for setting up an agreement and the hourly rates have been updated annually in line with advice from officers within Finance. A PPA is a project management tool which allows all parties to agree timescales, actions and resources for handling planning applications. The Charter envisages PPAs being used for applications which are going to be determined by the County Council and are usually agreed at the pre-application stage and relate to the whole development process, from pre-application planning advice and community engagement to application progress meetings right through to the post decision stage, including the discharge of conditions and site monitoring. PPAs can be used for any type of application but are most effective for major and complex planning applications.
3. Whilst these voluntary agreements have only been used for major planning applications submitted for determination by the Council, the current proposed amendment to the PPA Charter involves extending these to NSIPs which are major infrastructure developments that bypass the normal planning decision making process. These include proposals for power plants, large renewable energy projects and major waste and transport development. They require a permission known as "development consent" which are submitted to the Planning Inspectorate and decided by the Secretary of State. However, the Council plays an important

role in the NSIP process at all the various stages, and this involves significant council resources.

4. The Council anticipates that there are going to be a number of NSIPs submitted over the coming years which are located within Nottinghamshire, either wholly or partially. The County Council will expect developers to enter into a PPA to cover the authority's costs involved in this process to ensure we have the necessary resources in place to deal with these complex projects. Whilst many developers currently putting forward NSIP development are happy to enter into PPAs, it is recommended that this requirement is added to the charter with a suggested section on PPAs and NSIPs set out in the Appendix to this report. It should be noted however, that the signing of a PPA will not bind the Authority to a particular decision or outcome relating to its role in the NSIP process which is also the case for PPAs entered into for planning applications to be determined by the County Council.

Link to Nottinghamshire Plan/Annual Delivery Plan

5. The PPA Charter is compatible with the objectives and ambitions of the Nottinghamshire Plan. The proposed amendments to the Charter will ensure that the County Council has the necessary resources in place to deal with any NSIP development which may have an impact on residents and businesses within the County.

Other Options Considered

6. No other options were considered. The existing PPA Charter needs to be amended to include NSIP development for financial reasons.

Reason for Recommendation

7. The proposed change to the PPA Charter will facilitate the mechanism by which the Council is able to recoup costs involved in the Development Consent Order process by providing a framework for PPAs with promoters of NSIP projects.

Statutory and Policy Implications

8. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Financial Implications

9. This proposal will enable the County Council to recoup some, or all, of the financial costs incurred by the Authority in its role in dealing with NSIP development.

RECOMMENDATION

- 1) It is RECOMMENDED that the Council's existing Planning Performance Agreement Charter be amended to enable developers applying for Nationally Significant Infrastructure Projects which affect the county to enter into a PPA with the Council to cover the County Council's costs involved in the Development Consent Order process.

Matthew Neal
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For any enquiries about this report please contact:

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Constitutional Comments (JL 19/08/22)

10. The contents of this report falls within the remit of the Cabinet Member for Economic Development and Asset Management in accordance with the terms of reference set out in the Constitution of Nottinghamshire County Council.

Financial Comments [RWK 22/08/2022]

11. The financial implications are set out in paragraph 9. There are no specific financial implications arising directly from the report.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- None

Electoral Division(s) and Member(s) Affected

- All

Appendix - Proposed wording to be included within the PPA Charter

Planning Performance Agreements (PPAs) and National significant infrastructure projects (NSIPs)

Nationally significant infrastructure projects (NSIPs) are major infrastructure developments that bypass the normal local planning decision making process. These include proposals for power plants, large renewable energy projects and major waste and transport development. These developments require a type of permission known as “Development Consent” which are submitted to the Planning Inspectorate and decided by the Secretary of State. However, local authorities play an important role in the NSIPs planning regime which involves significant resources.

The County Council is involved at all stages of the NSIP process. Some of the areas of involvement include consideration of the applicant’s Statement of Community Consultation, as a statutory consultee commenting on the application (the Development Consent Order (DCO), the preparation of a Local Impact Report at the pre-examination stage, and attendance at the examination. Following the decision, the County Council is then responsible for the discharge of the requirements (like conditions), and the monitoring and enforcement of the development.

The County Council will expect developers to enter into a Planning Performance Agreement (PPA) to cover the County Council’s costs involved in the DCO process for all NSIP development in Nottinghamshire to ensure we have the necessary resources in place to deal with these complex projects. The Council will work with the developer and their legal team to agree the terms and details of the PPA. The PPA will be subject to the set-up fee of £441 and officer time will be charged the hourly rate of £62. If the applicant wishes to see the terms of the PPA confirmed through a legal agreement, the applicant would be expected to cover the County Council’s legal fees in drawing up such an agreement. The PPA will set out the project management arrangements to ensure our commitment to the project is delivered on time. The signing of the PPA will not bind the authority to a particular decision or outcome relating to its role in the DCO process.