

REPORT OF THE CHAIR OF COMMUNITIES AND PLACE COMMITTEE**INTRODUCTION OF A PLANNING PERFORMANCE AGREEMENT CHARTER
FOR THE COUNTY COUNCIL****Purpose of Report**

1. To seek Members approval for the introduction of a Planning Performance Agreement Charter to be used by the Development Management Team in connection with planning applications determined by the County Council.

Information

2. At its meeting on 10th January 2019 Communities and Place Committee endorsed the introduction of the Council's Planning Performance Agreement Charter and recommended it to Policy Committee for adoption as Council policy.
3. Planning performance agreements (PPAs) were originally introduced in 2008 by the Government with the objective of improving the quality of major and complex planning applications and the decision-making process.
4. PPAs remain a voluntary agreement between local planning authorities and applicants. The National Planning Policy Framework states:

"Applicants and local planning authorities should consider the potential for voluntary planning performance agreements, where this might achieve a faster and more effective application process. Planning performance agreements are likely to be needed for applications that are particularly large or complex to determine". Planning performance agreements are becoming increasingly used by local planning authorities nationally.

5. Section 93 of the Local Government Act 2003 gives local authorities the legal power to charge for discretionary services which they have no obligation to provide to enable them to recover the costs incurred in providing the service. Introducing a Planning Performance Agreement Charter is considered to be timely and will enable the County Council to recover reasonable costs from the applicant which would otherwise be borne by the taxpayer and/or the Council. The PPA service, along with the paid-for Pre-application Advice service already offered by the County Council, will together reflect an "enhanced" planning service available to applicants.

The Benefits of Planning Performance Agreements

6. 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 various parties;
- 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 determining 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.

Use of PPAs in the Future

7. In the future it is anticipated the PPAs will be suggested to applicants, at the pre-application stage for appropriate applications including major and complex minerals, waste and County Council development applications. The Government has indicated that PPAs should also be used for shale gas applications. They could also be used for Section 73 applications or for the discharge of conditions when complex issues are likely to arise. In these instances, it will be suggested to applicants that they may wish enter into a voluntary agreement through a PPA with the Authority which will provide an indicative timescale for determination and guaranteed staff resources. These will take the form of the content set out below.

Charging Rates for Officer Time associated with PPAs

8. It is proposed that a flat rate of £56 per hour, which includes VAT, be charged for officers to provide services under a PPA which are detailed below. 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 reflects the average cost to the authority for planning officer time and will be reviewed on an annual basis.

Services that the PPA Fee will Cover

9. As referred to in paragraph 5 above local planning authorities have legal powers to charge for “discretionary services”. Most planning applications are subject to a nationally set planning application fee and, as such, the Council is not able to charge for the determination of a planning application through the PPA process. However, local planning authorities can charge for the administration work involved in agreeing and implementing a PPA to the extent that this goes beyond an authority’s statutory responsibilities. Officers have also identified a range of “enhanced” planning services that will be provided through a PPA at the applicant’s expense and these are summarised below and detailed in the draft Charter set out as an appendix to this report. It is anticipated that PPAs would cover some or all of the services and staged payments would be made by the applicant to cover these costs. It should be noted that any officer time required as part of a PPA would be subject to VAT. Services will include;
 - Setting up the Planning Performance Agreement
 - Pre-application meetings/advice

- Pre-application community engagement
- Local Member involvement
- Application progress meetings
- Processing significant levels of public representations
- Specialist technical input required to address issues
- Discharge of conditions/site monitoring

Planning and Licensing Committee Code of Best Practice

10. Should Members approve the proposed PPA Charter, officers consider it appropriate to make a minor revision to the Council's Planning and Licensing Committee's current Code of Best Practice. This amendment would require that all planning applications which have a PPA are reported to Planning and Licensing Committee for a decision. It is proposed that Section 2A.2 (d) of the Code be amended (as shown below in ***bold italics***) to read as follows: "Applications which have S106 agreements/Planning obligations ***or a Planning Performance Agreement*** and those which have other financial implications for the County Council".
11. This amendment is considered to be in the spirit of transparency and impartiality of the County Council and provides reassurance that the existence of a PPA has no bearing on the ultimate outcome of the application. A report will be taken to Planning and Licensing Committee recommending this revision should Members approve the introduction of PPAs.

Publicity of the Planning Performance Agreement Charter

12. Should Members approve this proposed PPA Charter for the Council, officers will undertake appropriate publicity of the new service. The PPA Charter, based on the draft text set out in the appendix to this report, will be publicised on the County Council's website setting out full details of the Charter, including the services that the PPA will cover, fee levels and the template. Additionally, it is intended to directly contact major minerals and waste operators/agents, together with developers and agents involved in the County Council's own development, to make them aware of this service. All relevant information will be available as a brochure/leaflet which can be downloaded from the Council's website.

Review of the Planning Performance Agreement Charter

13. In addition to the charging rates being reviewed on an annual basis to reflect any pay awards, officers will regularly review the overall PPA Charter to assess its use and effectiveness, including identifying any improvements which can be made to it. Should substantial changes to the Charter be required, a report would be brought back for Members' consideration.

Financial Implications

14. Members should note that PPAs are a voluntary agreement and, as such, the Council has no control over which applicants will engage with the process. Officers intend to encourage their use for appropriate applications, however it is not possible to estimate how many PPAs will be entered into and therefore no estimate can be given as to how much income they will generate.

Statutory and Policy Implications

15. 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.

Human Rights Implications

16. Relevant issues arising out of consideration of the Human Rights Act have been assessed. Rights under Article 8 (Right to Respect for Private and Family Life), Article 1 of the First Protocol (Protection of Property) and Article 6 (Right to a Fair Trial) are those to be considered. In this case, however, there are no impacts of any substance on individuals and therefore no interference with rights safeguarded under these articles.

RECOMMENDATIONS

It is recommended that:

- 1) This Committee approves the introduction of the Planning Performance Agreement Charter set out in the appendix to this report.
- 2) A report be taken to Planning and Licensing Committee recommending approval of an amendment to Section 2A.2 (d) to that Committee's Code of Best Practice to read as follows (amendment shown below in ***bold italics***):

"Applications which have S106 agreements/Planning obligations ***or a Planning Performance Agreement*** and those which have other financial implications for the County Council".

Councillor John Cottee
Chair of Communities and Place Committee

For any enquiries about this report, please contact the report author: Jane Marsden-Dale, Senior Project Officer, Tel: 0115 9932576

Constitutional Comments [RHC 19/12/2018]

17. Policy Committee is the appropriate body to consider the contents of this report by virtue of its terms of reference.

Financial Comments [SES 28/12/2018]

18. The financial implications are set out in paragraph 14.

Background Papers Available for Inspection

The application file available for public inspection by virtue of the Local Government (Access to Information) Act 1985.

Electoral Divisions and Members Affected

All