

## **Appendix 1 – Draft Planning Performance Agreement Guidance note.**

### **The purpose of Planning Performance Agreements**

#### **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 applications. A PPA will most often cover the pre-application and application stages but may also extend through to the post-application stage.

PPAs can be particularly useful in setting out an efficient and transparent process for determining large and/or complex planning applications. They encourage proactive working between the applicant and local planning authority (as per paragraph 46 of the National Planning Policy Framework) and can also help to bring together other parties such as statutory consultees.

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.

Importantly, no PPA will fetter the Council in exercising its statutory duties as local planning authority. It will not prejudice the outcome of planning (and related) application(s) or the impartiality of the Council. It is important there is no perception that because an applicant has entered into a PPA the likely recommendation for the proposal will be that it is granted planning permission. Clear wording to this effect would be included in all PPAs that the Council would be a signatory to.

We recognise that the successful delivery of development projects requires good working relationships with developers, communities and other stakeholders. Improved communication and transparency can help reduce delays, provide accurate and timely advice and set realistic time frames for determination. PPAs can deliver such benefits to all the parties involved including the local planning authority, the applicant and the community.

#### **When can a planning performance agreement be used?**

In principle, PPAs can be used for any application, although whether an agreement is the most effective approach will depend on the size and complexity of the proposal.

### **What does a planning performance agreement comprise?**

There is no one model. 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. The general terms of engagement and expectations of the applicant and the local planning authority would however be consistent across all PPAs.

As with all project management approaches, it is always sensible to keep the content of PPAs as straightforward as possible and the guiding principle should be that the parties agree the way forward. As a minimum, a simple approach, such as one built around an agreed timetable, development objectives and responsibility for tasks could be sufficient. There will always need to be a clear and agreed timescale for reaching a decision on the application once it is submitted.

A PPA can extend to matters beyond the formal application process – such as programming the negotiation of any Section 106 agreement and related non-planning consents. For very large or complex schemes the agreement may also provide a basis for any voluntary contributions which the applicant has offered to pay to assist with abnormal costs of processing the application. The parties will want to ensure that such payments do not exceed the cost of the additional work involved, are not seen to have any implications for the decision on the application, and do not deflect resources from processing other cases; any additional resource provided in this way needs to be used for additional capacity that is genuinely required to ensure a timely and effective service.

### **What are the benefits of Planning Performance Agreements?**

PPAs can provide benefits to all the parties involved including the local planning authority, the applicant and the community. PPAs help deliver successful development projects facilitating good working relationships and enhanced transparency, with developers, communities and other stakeholders.

Key benefits include:

- identification of key issues and relevant consultees at an early stage;
- setting more realistic timetables that are specific to the project (as opposed to timetabling only around national determination targets), with a structure of deadlines and action points;
- encourages improved collaborative working between the key stakeholders;
- better overall management of advice at pre-application and post application stages;
- greater accountability, transparency and communication;

- a guarantee of dedicated Council resources;
- 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; and
- ability to recover costs, thereby reducing the financial burden on Council resources.

**How much does a planning performance agreement cost?**

The fee to be paid by the applicant is based solely on the principle of recouping the cost of officer time dealing with (generally) the larger and more complex planning applications received by the Council, as the administrative cost of processing these applications is often greater than the planning application fee. Where PPAs are not in place, the gap between the fee received and the cost of processing the application is borne by the general fund.

## **How Planning Performance Agreements will be managed.**

### **The process for developing a Planning Performance Agreement**

For applicants wishing to enter into a PPA, the process comprises four stages:

1. Agreement with the Planning Manager - Development Management whether a PPA is appropriate to the case;
2. Inception Meeting to develop the structure and content of the PPA, agree project objectives, a work programme setting out key deliverables and responsibilities, and identifying key issues for consideration;
3. The local planning authority will assess the resources required and provide a draft/review a draft PPA produced by the applicant;
4. Any amendments to PPA agreed and both parties sign.

The precise content of the PPA is subject to agreement between the applicant and the Council and will be determined by the complexity of each individual project.

Once implemented it is expected that the work programme and milestones within the performance deadlines section of the PPA will be reviewed at regular intervals to check progress. Where necessary, a PPA could be updated if agreed with both the Council and the applicant.

### **How will North East Derbyshire District Council Manage Planning Performance Agreements?**

Whilst the overall responsibility will lie with the Assistant Director of Planning, the Planning Manager - Development Management will oversee those development proposals that are to be managed via a PPA.

A Lead Planning Officer will be allocated to the proposals. This will normally be a Principal Planning Officer; in some cases, a Senior Planning Officer may be appropriate. As the project evolves towards the PPA process, a Project Team will be created involving relevant officers from the Council departments to ensure a unified and consistent approach.

The responsibilities of the Planning Manager - Development Management are to advise or direct the Project Team on the:

- links with other relevant corporate initiatives of the Council;
- direction of the project to meet corporate objectives;
- most appropriate form of consultation including with Members; and
- timescales to be achieved.

The responsibilities of the Council's Lead Planning Officer include:

- coordination of the project team;

- primary contact with the developer's project team;
- delivery of tasks to agreed timetable;
- liaison with stakeholders including public consultation; and
- regular reporting back to the Planning Manager - Development Management.

As part of the Council's commitment, officers will:

- work on behalf North East Derbyshire District Council in the wider public interest to secure the optimum scheme that delivers the Council's planning objectives and accords with relevant planning policy, including relevant supplementary planning documents;
- express their own professional opinions that will form guidance for the applicant. This guidance will not, however, bind officers to a final recommendation nor override the requirements for a formal planning application to be determined without prejudice and within the statutory requirements of current planning legislation;
- use best endeavours to meet the agreed programme and will respond to requests for information, advice and information in a timely way (timeframes to be agreed);
- facilitate the presentation of proposals to Members at appropriate stages, where required within a PPA;
- identify issues and information that need to be addressed , as well as any likely legal obligations, at an early stage of pre-application discussions; and
- facilitate discussions and negotiations with external consultees where appropriate.

Statutory consultees and other stakeholders will be required to provide appropriate advice at various stages in a timely and proactive manner. The Council Lead Officer will seek to co-ordinate this advice. In some instances certain consultees may form part of the PPA, although this will depend upon those external organisations being signatories to the PPA.

### **What North East Derbyshire District Council expects from applicants**

We expect an applicant to:

- provide sufficient detail and information for consultees to properly assess a proposal and provide substantive responses at pre-application and application stage;
- approach any project in a positive and collaborative manner;
- allow adequate time for the assessment of proposals by the Council and consultees involved;
- appoint the appropriate professional consultants to inform the application, with sufficient experience to reflect the complexity of the project;
- use best endeavours to meet the agreed programme;
- agree to contribute to and participate in public consultation, in accordance with the Council's Statement of Community Involvement;
- respond within the agreed timescales to requests for further information;

- recognise that new/ additional issues may arise from the consultation of negotiation processes which may affect previously agreed timescales; and
- to provide information requested in a timely manner.

### **Community Engagement**

North East Derbyshire District Council is committed to engaging with local communities and organisations in planning for sustainable development in an open and constructive manner, as set out in the Statement of Community Involvement. The applicant will be obliged to ensure that all community consultation is meaningful and the strategy for engagement will vary depending on the scheme. Responsibility for carrying out preapplication consultation (and the costs of doing so) will rest with the applicant and the Council can provide advice on the most appropriate methods.

### **Member engagement**

Officers of North East Derbyshire District Council will ensure that Members are engaged with as appropriate in the PPA process. The strategy for this will be considered by the Planning Manager - Development Management and the Lead Planning Officer on a case by case basis, depending on the complexity and strategic impacts of the proposal. This could involve briefing the:

- Leader of the Council;
- Portfolio Holder for Environment and Place;
- Ward Members;
- Planning Committee Chair and Vice Chair;
- Planning Committee

The purpose of such briefing will be to allow Members to gain a full understanding of the project and other pertinent issues. Members may also attend design review panels for schemes. The role of Members in such briefings is principally to facilitate community involvement in the planning process and to ensure an understanding of the project and other pertinent issues. They may ask questions and raises issues but will not be expected to offer personal opinions on a scheme.

There will be no conflict between this role and the proper conduct of Members who are involved in determining applications as Members of a Planning Committee. Those Members will be expected to adhere to the Code of Conduct for Members on planning matters and must not predetermine their view on an application. Applicants should not engage privately with councillors.

### **Conditions/limitations on Planning Performance Agreements**

No PPA will fetter the Council in exercising its statutory duties as local planning authority. It will not prejudice the outcome of planning (and related) application(s) or the impartiality of the Council.

Unless specified in a PPA, the Council will use its available resources to determine application(s) within 13 weeks of receipt (major applications), 16 weeks (EIA applications) and 8 weeks of receipt (minor and other applications). If an alternative date is specified in the PPA, the planning application will be exempt from the national performance indicator (statutory target determination periods identified above).

No PPA will restrict or inhibit the applicant named in the agreement from exercising the right of appeal under Section 78 of the Town and Country Planning Act 1990 (as amended). If this right is exercised the PPA between the parties will be terminated. The Council reserves the right to renegotiate the PPA fee if the timetable/programme is unreasonably extended Statutory Agency and Service Providers.

The parties entering into a PPA agreement will act with fairness and in good faith in respect of all matters related to the handling of the planning (and related) application(s) and will work jointly in complying with their respective obligations under the PPA.

Nothing contained in a PPA shall be construed to imply a joint venture or partnership relationship between the parties who have entered into such an agreement. The parties shall not have any right, power or authority to act or create any obligations, express or implied, on behalf of the other party, and the applicant and North East Derbyshire District Council shall not be obligated, separately or jointly, to any third party of any agreement.

Any party entering into a PPA will use their reasonable endeavours to adhere to any agreed timetable/schedule which sets out the procedure for handling the relevant planning enquiries, preapplication negotiations, and planning and/or listed building/conservation area consent applications in relation to the site.

Applicants will provide access to the pre-application/application site upon the Council's reasonable request to support the provision of advice and processing of any application.

Either party may by written notice terminate a PPA the event that:

(i) the other commits a material breach of any of the terms of the Agreement and in the event of a breach which is capable of remedy, fails to make good any such breach within 10 days of being required so to do by written notice identifying the breach and steps which must be taken to remedy it; or

(ii) The applicant or Council wishes to terminate the agreement for any other reason. The parties' rights, duties and responsibilities shall continue in full force during any termination notice period.

Failure to pay the fees as set out in the individual PPAs at the stated times will result in the PPA being dissolved.

### **Freedom of Information requests**

Under the Freedom of Information Act 2000 or Environmental Information Regulations 2004 the District Council may receive a request to disclose pre-application advice requests and the advice we have provided. The applicant will need to state in writing why they require a request for pre-application advice to be

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confidential, detailing the reasons valid under the Act for this at the time of your request.

The District Council will not respond at the time of your request but will take it into account when deciding whether to release information.

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