

THE USE OF PLANNING PERFORMANCE AGREEMENTS BY THE PLANNING SERVICE IN DELIVERING DECISIONS ON PLANNING APPLICATIONS

<u>Report of the:</u>	Head of Place Development
<u>Contact:</u>	Adele Castle
Urgent Decision	No
<u>Annexes/Appendices (attached):</u>	Planning Performance Agreement Protocol
<u>Other available papers (not attached):</u>	The Corporate Plan 2016-2020 National Planning Policy Framework 2012 National Planning Policy Guidance 2014 'Implementing Planning Performance Agreements - Guidance Note' produced by the Department for Communities and Local Government and the Advisory Team for Large Applications (April 2008) Planning Performance Agreement Practice Note' produced by the Advisory Team for Large Applications (ATLAS) (December 2010)

REPORT SUMMARY

This report seeks Member approval to the introduction and use of Planning Performance Agreements (PPAs) as a means of dealing with major planning applications. PPAs allow us to move away from standardised timescales to agreed performance targets. The PPA would be negotiated during the pre-application process and encompass all stages of the process up to the decision stage(s). The objective of a PPA is to enhance the quality of the final development and to reach decision within appropriate timescales which reflect the complexity of the issues involved in the development proposal. PPAs provide the opportunity for major schemes to be exempt from the 13 week performance targets.

RECOMMENDATIONS

- (1) That the use of Planning Performance Agreements by the Planning Service is agreed where appropriate and where the applicant is agreeable to their use.**
- (2) That the attached Planning Performance Agreement Protocol be adopted (Appendix A).**

Notes

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

1.1 The use of PPAs would assist in securing developments for the borough which would be in line with the borough council's Key Priorities such as:-

- enabling the delivery of affordable housing and increasing the supply of homes to meet local needs;
- providing high quality/innovative building design and improving the visual appearance of the town/shopping centres; and
- enabling the delivery of sustainable development.

1.2 In particular the Corporate Plan Performance Report Targets 2016/2017 included the following target under Supporting Businesses and our Local Economy:

- Produce proposals to implement Planning Performance Agreements by 31st July 2016 and implement these once agreed by the Planning Committee.

2 Background

2.1 The Council's Core Strategy and Corporate Plan include a commitment and vision to encourage new investment and regeneration. The Planning Service aims to ensure that major planning applications are dealt with in a timely and effective way according to their complexity and scale. It is also recognised that successful delivery of major developments requires better communications with developers, the communities and other agencies.

2.2 Planning Performance Agreements will:-

- Give clarity and transparency to all potential stakeholders;
- establish the commitment of both internal and external parties; and
- help to establish good working relationships both internally across council departments and externally with partners and stakeholders.

- 2.3 PPAs, are a framework agreed between a local planning authority and a planning applicant for the management of complex development proposals within the planning process. A PPA allows both the developer and the local planning authority to sign up to a performance agreement which will include the appropriate resources necessary to determine the planning application to a suitable timetable. The signed agreement between parties also commits all to a genuinely collaborative approach to fulfilling an agreed set of objectives. Adoption of PPAs would provide the resources and timescale to allow the achievement of high-quality sustainable development proposals during the process for the consideration of the Local Planning Authority.
- 2.4 Planning Policy Guidance published by the Government in March 2014 advises that there is no one model to follow, but that a PPA should be proportionate to the scale of the development project and the complexity of the issues to be addressed. It is also advised that a PPA should cover the pre-application and application stages and may also extend through to the post-application stage. The guidance reinforces that PPAs can be a useful focus of pre-application discussions about the issues that will need to be addressed.
- 2.5 The content of planning performance agreements should be as straightforward as possible with the guiding principle 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 should be sufficient. A schedule of appropriate meetings is proposed and set out at Appendix II of the proposed PPA Protocol.
- 2.6 Since their introduction in 2008 most London planning authorities and others in the UK have been successfully using PPAs for a number of years and have developed a regular income stream from them.
- 2.7 Attached at Appendix A is a copy of the Planning Performance Agreement Protocol. This protocol will be a public document detailing how the planning service will create and manage the PPA process.
- 2.8 The protocol outlines the objectives of PPAs and potential benefits which a proposal considered under the planning protocol will deliver the responsibilities of all parties under the protocol and finally, the form of PPAs.

3 Proposals

- 3.1 PPAs build upon our existing pre-application process but cater for major and more strategic applications by agreeing appropriate timescales that can realistically achieve a quality development. At present there are three fixed timescales for the determination of an application: 8 weeks for a minor application, 13 weeks for a major application or 16 weeks if the application is subject to an Environmental Impact Assessment. Currently, major applications have to fit within the timescales of 13 or 16 weeks irrespective of complexity unless a formal extension of time is agreed by both parties. By adopting PPAs the timescale will be agreed by relevant parties to reflect the complexity and significance of the application. A successful PPA also ensures that there is adequate time to undertake collaboration with all relevant stakeholders.
- 3.2 As such, the establishment of a PPA protocol is consistent with the Council's commitment to work in partnership with applicants to deliver major and complex developments that address four of the Council's Key Priorities in the Corporate Plan: (i) to deliver affordable housing and increasing the supply of homes, (ii) improving the visual appearance of the town centres; (iii) enabling the delivery of sustainable development and (iv) to provide customer focused services. The Planning Service also has strategic objectives to improve planning application performance and the quality of development.
- 3.3 The decision to enter into a PPA will not bind officers to final recommendations or elected Members (of the Planning Committee) to a final decision nor override the requirements for a formal planning application to be determined without prejudice and within the statutory requirements of current planning legislations.
- 3.4 As part of the PPA process it is important that members of the council can be appropriately and openly engaged within the development of the project, whilst ensuring that their decision-making function is not compromised and there is no breach of the council's adopted Code of Conduct for Members.
- 3.5 Engagement with ward members will also be undertaken where appropriate. This will allow members to develop an understanding of issues and raise their own issues and concerns that they wish to be addressed. Members will not be permitted to express fixed or pre-determined views about the overall planning merits of any case and will not engage privately with the developer.
- 3.6 Whilst it is not intended to be a legal agreement, its use can assure all parties that they are in agreement as to the manner in which the project is being taken forward.

4 Financial and Manpower Implications

- 4.1 The processing of any application subject to a planning performance agreement will be undertaken by existing planning staff within the development management team. This report and the associated PPA Protocol have been resourced within the normal budgetary considerations. Nonetheless management will have to ensure that sufficient staff time is available to meet our side of the agreement such that the applicant can be satisfied of the agreement's deliverability. Failure to deliver against the terms of the agreement could be counter-productive and undermine the objectives set out above.
- 4.2 A Local Planning Authority has the power to charge for services provided in the pre-application phase of a PPA, under Section 93 of the Local Government Act 2003. The fees for a planning application subject to a PPA will be the same as that for a normal planning application.
- 4.3 The planning service introduced appropriate fees for pre-application advice in May 2011 and offers in most cases a single meeting for a fixed fee. With PPAs the development management team would be able to offer a set of meetings which are undertaken in addition to the standard pre-application process. The fee will be negotiated on a case by case basis dependent on the scale and complexity of the scheme, the number of meetings held and officers in attendance. It should be noted that under Section 93 the above charges are made on a cost recovery only basis.
- 4.4 A scale of charges will be produced for approval by the Environment Committee.
- 4.5 **Chief Finance Officer's comments:** None for the purposes of this report.

5 Legal Implications (including implications for matters relating to equality)

- 5.1 The use of PPAs and adoption of a PPA protocol is in line with the recommendations of 'Implementing Planning Performance Agreements - Guidance Note' produced by the Department for Communities and Local Government and the Advisory Team for Large Applications (April 2008) and the Planning Performance Agreement Practice Note by ATLAS (December 2010).
- 5.2 **Monitoring Officer's comments:** None for the purposes of this report.

- 5.3 PPAs can be entered into pursuant to the council's powers under section 111 of the Local Government Act 1972, section 93 of the Local Government Act 2003 and part 1 of the Localism Act 2011. As stated above, whilst the council can charge fees for a PPA this must only be done on a cost recovery basis and the council cannot make a profit from this work.
- 5.4 PPAs in themselves have little relevance to the equalities legislation. Dependent on the nature of the development schemes proposed, they can give rise to such issues and if so these will be considered as part of the proposal where they form material planning considerations.

6 Sustainability Policy and Community Safety Implications

- 6.1 It is considered that the adoption of PPAs would make a positive contribution to the achievement of sustainable development. Indeed, it is recognised that the process to achieve high-quality sustainable development is complicated and that the potential to achieve a successful outcome can be greatly improved by;
- agreeing to a shared set of objectives with the applicants;
 - committing to a genuinely collaborative approach by all parties;
 - adopting a spatial planning approach underpinned by development management; and,
 - establishing a robust application management process.

There are no community safety implications for the council relevant to the adoption of a PPA protocol.

7 Partnerships

- 7.1 There will be improved collaborative working as a result of entering into a PPA.

8 Risk Assessment

- 8.1 The risks are limited. PPAs will only be entered into by mutual agreement. The Head of Place Development will need to ensure that significant resources are deployed to meet the agreed terms. The number of applicable cases will be quite few and it is anticipated that sufficient staff time can be made available.

9 Conclusion and Recommendations.

- 9.1 That the Head of Place Development be authorised to implement the use of Planning Performance Agreements in accordance with the principles of the Planning Performance Protocol.

WARD(S) AFFECTED: None