

# WEST NORTHAMPTONSHIRE COUNCIL PLANNING POLICY COMMITTEE

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**Rebecca Breese, Strategic Planning, Built Environment & Rural Affairs**

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**Report Title**                      **Planning Performance Agreements**

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## **Contributors/Checkers/Approvers**

<b>Deputy Monitoring Officer</b>	Sarah Hall	Approved 15/04/24
<b>Chief Finance officer (S151)</b>	Martin Henry	Approved 15/04/24
<b>Director</b>	Stuart Timmiss	Approved 15/04/24
<b>Interim Assistant Director</b>	James Rodger	N/A (Report author)
<b>Head of Communications</b>	Bethany Longhurst	Approved 15/04/24
<b>Legal</b>	Katherine Hall	Approved 15/04/24

## **List of Appendices**

### **Appendix 1 – Model PPA Agreement (Planning Advisory Service)**

#### **1. Purpose of Report**

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1.1 For members to agree the introduction of Planning Performance Agreements as a project management tool by the Planning Service.

#### **2. Executive Summary**

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2.1 The report proposes that the Planning Service introduce Planning Performance Agreements on appropriate planning cases. It explains the benefits of Planning Performance Agreements as a project management tool that will both benefit the Councils

Planning service at pre-application and application determination. That PPA's can also provide additional discretionary income which will assist in covering the costs of both pre-application advice and application determination of complex planning applications.

### **3. Recommendations**

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- 3.1 It is recommended that Planning Policy Committee:
- (a) Agrees that the Planning Service should agree to use Planning Performance Agreements (subject to them being authorised by the Assistant Director of Planning or Head of Development Management only).
  - (b) Agrees that fees be agreed with WNC finance team and set on a cost recovery basis.

### **4. Reason for Recommendations**

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- 4.1 This report sets out the benefits of PPA's. PPA's involve a non-binding agreement between two parties, known as a Planning Performance Agreement. It is recommended that only the Assistant Director of Planning or Head of Development Management be authorised to agree such agreements.
- 4.2 It is considered that further work will be required with WNC finance team to agree charges that should be applied, such fees will often be applied on a case by case basis (it is envisaged that for complex applications this will exceed £15k per a PPA) and linked to predicted officer time/resource and set on a cost recovery basis.

### **5. Report Background**

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- 5.1 West Northamptonshire Council recognises, and agrees with the Government, that it is essential to operate a consistently high performing development management service and that this is one of the most important drivers of local development and economic growth which can deliver the homes and jobs that are needed locally. As such it is important that the Councils planning team use the right tools to deliver its development management service.
- 5.2 Pre-application advice is a key component of a good planning service, but in recent years for many Council Planning teams this has involved more than simply meeting applicants, giving them planning pre-application advice and determining applications; it has involved use of PPA's.
- 5.3 The Councils Planning pre-application advice service has recently been fully re-introduced to include all categories of planning application. Until recently a restricted pre-application advice service had been offered (large strategic sites only); this was because of staffing issues. Following the implementation of the planning staff restructure in summer 2023 a large number of vacant posts across the Councils Planning service were advertised. By March 2024 the majority of the vacant posts had been filled and so a decision was made

to re-introduce a full pre-application advice service by mid April 2024 (It was re-launched on 15 April 2024).

- 5.4 The re-introduced, complete, pre-application advice service does not presently offer any new or additional services to those previously offered. Nonetheless a common practice of forward-thinking Planning Authorities is to offer PPAs both in addition to and complimentary to their pre-application advice service.
- 5.5 PPAs are now used by many councils as an opportunity for the applicant to engage in more detailed discussions with a council and to enable both sides to commit resources and timescales to the delivery of key development proposals. The Planning Advisory Service consider there are 4 key benefits of PPAs:
- (1) PPAs can significantly improve the quality of development and places by ensuring there is a team approach to delivering development that meets the aspirations of all parties, not just the developer's brief.
  - (2) PPAs enable stronger working relationships to be built up between all the parties involved in delivering a development.
  - (3) PPAs ensure that applicants have a dedicated resource throughout the planning process to help it to be delivered effectively.
  - (4) PPAs are much more than just a project management tool, they can also help build relationships and allow for a better quality of development. They can be used as a comprehensive way of delivering a development proposal by ensuring there is a positive partnership between the applicant and the LPA from the conception of a development through to its construction.

### **Fees for PPAs**

- 5.6 PPAs sit outside of normal Council Planning Service funding arrangements, where planning application fees are set Nationally. PPAs are also slightly different from normal pre-application advice requests, which are linked to tariffs based on the scale of development proposed. All PPAs are made pursuant to the Localism Act 2011 and the Local Government Acts 1972, 2000, and 2003. Section 93 of the Local Government Act 2003 allows local planning authorities to charge for providing discretionary services and legislation is clear that, where charges are made, they must not exceed the cost of providing the service. The Chartered Institute of Public Finance & Accountancy (CIPFA) identify PPA/developer contributions as a revenue stream that should be maximised by planning authorities.

### **What is a planning performance agreement?**

- 5.7 A planning performance agreement is a project management tool which the local planning authorities and applicants can use to agree timescales, actions and resources for handling

particular applications. It should cover the pre-application and application stages but may also extend through to the post-application stage. Planning performance agreements can be particularly useful in setting out an efficient and transparent process for determining large and/or complex planning applications. They encourage joint working between the applicant and local planning authority; and can also help to bring together other parties such as statutory consultees. A planning performance agreement 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.

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

- 5.8 There is no one size fits all 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. A planning performance agreement 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. It is important 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.
- 5.9 As a general principle Government Guidance is that such agreements should be as simple as possible, consistent with a proportionate approach to the scale of the proposal and complexity of the issues raised. It will usually be agreed in the spirit of a memorandum of understanding (listing target timeframes) rather than as a legally binding contract.
- 5.10 The common elements of a PPA are:
- that the agreement is drawn up prior to the submission of a planning application
  - that the LPA and the prospective applicant are signatories to this voluntary agreement
  - the agreement includes one or more agreed milestones to define the process of considering the development proposed, including an agreed date by which an application will be determined by the LPA.
  - the agreed determination date supersedes the 13 or 16 week statutory time limit
  - the agreed determination date also supercedes the 26 week planning guarantee.

- 5.11 A PPA should give greater certainty to the planning process and help foster a collaborative approach to designing better development. PPAs have a particularly useful role in large developments when the scale and value are high, and where impacts on the community are most significant. In these cases, third parties, such as statutory consultees, gain from the transparent process set out in the PPA and can understand their opportunities to engage and influence the proposal.

### **Application Timescale / Government Recognition**

- 5.12 The use of PPA's is recognised by Government as part of the monitoring process of Council Planning Department performance. Councils are able to separately code PPA cases and is able to take longer to determine applications than the statutory timeframe. It should be noted though that the use of PPA's does in reality speed up the determination of applications (by applying robust performance management through the PPA agreement).

## **6. Issues and Choices**

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- 6.1 The purpose of this report is to suggest that PPA agreements be implemented by WNC Planning on complex planning cases. The experience from other LPA's is universally positive. They are welcomed by many large developers and supported by both the Planning Advisory Service and Central Government. They will also increase income to the Council. As an alternative the Council could decide not to introduce PPA's.

## **7. Implications (including financial implications)**

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### **7.1 Resources and Financial**

- 7.1.1 The proposed use of PPA's will increase income for the council.

### **7.2 Legal**

- 7.2.1 PPAs are made pursuant to the Localism Act 2011 and the Local Government Acts 1972, 2000, and 2003. Section 93 of the Local Government Act 2003 allows local planning authorities to charge for providing discretionary services.

- 7.2.2 Paragraph 46 of the National Planning Policy Framework (December 2023) 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.

- 7.2.3 The Planning Practice Guidance supports the use of PPAs as a project management tool under which the LPA and applicant can agree timescales, actions and resources for handling particular applications (Paragraph: 016 Reference ID: 20-016-20150326, Revision date: 20 03 2015).

### 7.3 Risk

7.3.1 There is a potential financial and reputational risk, insofar as a PPA is entered into and if for whatever reason the application does not substantively progress - the applicant could assert that the Council has taken the PPA fees and not delivered on the PPA. However the volume of PPA's will be modest (it is estimated 0-3 a month); and the Planning Service would ensure that sufficient resource, management and monitoring occurs to mitigate any risk. Evidence from other Local Planning Authorities is that PPA's are low risk in this regard (almost certainly because they are small in volume and their use is closely monitored by senior planning management).

### 7.4 Consultation

7.4.1 Not applicable.

### 7.5 Consideration by Overview and Scrutiny

7.5.1 Not applicable

### 7.6 Climate Impact

7.6.1 There are no climate change impacts arising specifically from this report.

### 7.7 Community Impact

7.7.1 There are no negative community impacts arising specifically from this report. Planning performance agreements provide an ideal opportunity for identifying 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. In this way they may benefit community engagement in planning.

### 7.8 Communications

7.8.1 None directly arising from this report.

## 8. Background Papers

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8.1 None