

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. It can cover the pre-application and application stages but may also extend through to the post-application stage, such as the discharge of planning conditions.

They 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 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.

They allow for both the developer and the local planning authority to agree a project plan and programme which will include the appropriate resources necessary to determine the planning application or pre-application master planning within a defined timetable.

The parties entering into a PPA look to act with fairness and in good faith in respect of all matters related to the handling of the planning application(s) and will work jointly in complying with their respective obligations under the PPA. The Council and developer will use reasonable endeavours to adhere to any agreed timetable/schedule to reach a positive outcome.

A PPA and the process of PPAs is in no way prejudicing or pre-judging the outcome of the application or the Council's impartiality or its discretion as Local Planning Authority. To be clear a PPA does not fetter the Council's statutory powers to grant or refuse planning permission either.

The context

We recognise the importance of making timely, high-quality decisions to deliver development to support the social, environmental and economic wellbeing of the district. PPAs are a useful project management tool that can achieve these positive outcomes by encouraging joint working, setting actions and providing additional dedicated resources for specific applications.

PPAs can be used on any complex projects/application but with specific focus on our strategic allocations identified in the adopted and draft local plans.

They should include pre-application advice through the application stage to determination. There is also the opportunity to include post application management to include discharge of conditions including any pre-commencement information.

If required and as far as is practically possible, such issues that would normally be required via conditions could possibly be agreed prior to determination of the application to avoid delays and pre-commencement conditions.

All PPAs are made pursuant to Section 111 of the Local Government Act 1972, Section 2 of the Local Government Act 2000, Section 93 of the Local Government Act 2003 and Part 1 of Chapter 1 of the Localism Act 2011. Section 93 of the Local Government Act 2003 allows local planning authorities to charge for providing discretionary services.

Nothing in the PPA will restrict or inhibit the Council from exercising its statutory functions and views about the development and nothing in a PPA shall predetermine the outcome of any planning application.

The NPPF encourages the use of PPAs

'46. 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.'

National Planning Policy Guidance (NPPG) (Paragraph: 016-026) defines a PPA as a project management tool can be used by Local Planning Authorities and Applicants to encourage joint working, sets timescales, actions and address resourcing for handling particular applications.

The Planning Advisory Service (PAS) also encouragement their use.

When is a PPA appropriate?

PPAs can be used for any application, although whether an agreement is justified will depend on the size and complexity of the proposal. However, developments that are likely to qualify for this approach would generally fall within the following categories:

- Large-scale major applications such as those of strategic importance
- Major applications of significant developments,
- Other unique scheme which are either of a complex nature or require extensive input and advice

Officers will advise developers at the pre-application stage if a scheme is considered appropriate for progression via a PPA. In the event that this opportunity is not taken up (i.e. an application is subsequently submitted without engagement concerning such an agreement), it will be handled as a routine application within the existing work load of the team, without dedicated resource or priority, regardless of its particular nature.

PPAs will not normally be entered into if the scheme put forward is considered to not be in accordance with the development plan or have the potential to be acceptable in principle, unless there are sound resourcing reasons and justification to do so.

The process for developing a PPA

For an applicant wishing to enter into a PPA, the process comprises five key stages:

1. **Screening** - A discussion with the Majors and Environment Team Manager and/or other Senior Officers to assess whether a PPA is appropriate.
2. **Inception** - Once agreed, attendance at an 'inception meeting' to develop the vision and development objectives for high level content of the PPA.
3. **Content formalisations** - a work programme which sets out key dates, timescales, milestones and responsible parties will then be drafted.
4. **Resourcing** - The LPA will make an assessment of the resources required for the project and provide a draft PPA for review.
5. **Agreed** - Any amendments to the PPA agreed and both parties sign.

The PPA will set out the core elements of the project management with regard to the meetings to be held during the pre application and application stages and who shall attend, consultation and liaison arrangements and any other meetings including Legal representatives. Site meetings and attendees during this process will seek to be agreed as far as possible and costed accordingly.

A timetable for the process which is considered reasonable and achievable by both parties will be agreed in line with national timescales, as far as possible.

All other matters relating to the practical execution of the PPA will be sought to be clarified as far as possible prior to formal agreement.

What/who is involved?

PPAs will involve Senior Officers from the Development Management team within the Council. Other specialists can also be part of the development team approach including the Council's Heritage, Ecology and Trees Officers.

Officers from across the Council may also be involved include Environmental Health, Housing and Community Services colleagues.

Other partners and stakeholders outside the Council where appropriate and willing could also be included in the PPA. This can include parties like County Council, Highways and PROW, Environment Agency, LLFA etc

The PPA is signed by the Head of Development Management or Majors and Environment Team Manager and a suitably senior representative of the client.

What does it cost?

The assessment of the resources needed may result in a need to bring in additional expertise.

The cost of a PPA can therefore cover:
A dedicated independent planning consultant/contractor

The cost of additional specialist consultants required to respond to the proposal/application such as landscape, noise and viability consultants.

The fees do not include VAT which will be applied at the appropriate level at the time of invoicing.

Any fees paid will not be refunded if it is decided advice is no longer required, even if we have not yet provided it.

It is expected that any developer entering into a PPA with the Council will pay the agreed PPA fee at the required time. This can be phased or in key stages. Failure to pay the fees as set out in the PPA at the stated times will result in the PPA being dissolved.

Freedom of Information/transparency

Under the Freedom of Information Act 2000 or Environmental Information Regulations 2004 we may receive a request to disclose pre-application advice requests including supporting documents and the advice we have provided. This can also include a copy of the PPA.

If you require your request to be confidential please advise us in writing of the reasons valid under the Act for this at the time of your request. We 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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Engagement regarding possible planning obligations should begin as soon as possible during the pre-application or application phase. This can include discussion of Heads of Terms and viability assessments. However, full details may not be available and collaborative working to agree an appropriate and timely consideration and instruction of solicitors or other specialists can be agreed as part of the PPA.

Termination of PPA

Either party may by written notice terminate a PPA giving 10 working days notice in writing and the reason for termination. The parties' rights, duties and responsibilities shall continue in full force during any termination notice period.

No PPA will restrict or inhibit the applicant from exercising the right of appeal under Section 78 of the Town and Country Planning Act 1990 until after the agreed target date.