

**STRATEGIC PLANNING,
SUSTAINABILITY &
TRANSPORT COMMITTEE**

7 November 2017

Planning Performance Agreements (PPAs)

Final Decision-Maker	Strategic Planning, Sustainability and Transport Committee
Lead Head of Service/Lead Director	Rob Jarman, Head of planning and Development
Lead Officer and Report Author	Tim Chapman, Major Projects Manager
Classification	Public
Wards affected	All

Executive Summary

This report provides the background and purpose of Planning Performance Agreements (PPAs) at national level, and outlines an updated PPA fee schedule which incorporates both Member and Developer feedback following the pilot and workshop. It requests that Committee approve the use of PPAs in Maidstone in the manner proposed.

This report makes the following recommendations to this Committee:

1. That the PPA fees within this report are adopted.

Timetable

Meeting	Date
Strategic Planning, Sustainability and Transport Committee	7 November

Planning Performance Agreements (PPAs)

1. INTRODUCTION AND BACKGROUND

1.1 Planning Performance Agreements (PPAs) were introduced into the Planning System on 6 April 2008 and paragraph 195 of the National Planning Policy Framework (2012) states:-

“195. Applicants and local planning authorities should consider the potential of entering into planning performance agreements, where this might achieve a faster and more effective application process”. (my underlining)

1.2 Therefore, both local planning authorities and applicants are encouraged to enter into a contract where greater speed and effectiveness can be achieved and these are pertinent objectives.

- a) Speed: one of the principles behind PPAs is, prior to submission, for the local planning authority to identify and agree with the applicant the content of the planning application. It may be agreed prior to submission that the complexity of the proposal is so great that the consideration and determination will take longer than the prescribed time frame. Secondly, it can be the case that unforeseen circumstances can occur, for example, the level and type of contamination and mitigation were not fully appraised prior to submission but there is inbuilt flexibility within a PPA. As part of any PPA it is incumbent on the local planning authority to update the applicant at particular junctures in the consideration of the planning application. Therefore, for example, a statutory consultee raises concern over contamination then there would be the flexibility to extend the time period to accommodate the unforeseen additional work stream.

In effect, the PPA provides certainty with regard to time frames which, in turn, are essential to project management.

- b) Effectiveness

PPAs can be effective for both the applicant and the local planning authority in that:-

- i) Applicant: by specifying information required and the quality required, the applicant can then accurately apportion costs and timescales and this is then agreed with the local planning authority and wrapped up in the detail of the actual PPA.

ii) Local Planning Authority: clearly at the pre-submission stage then this is where there is the greatest degree of flexibility in the content of a scheme. This is where the local planning authority can set its 'benchmarks' in terms of quality standards. At this stage it is important for the local planning authority to set out the justification for the planning obligations it seeks so that this, in turn, is reflected in the agreement between the landowner and the developer and, in turn, negating the need for any viability assessment as the costs are known at an early stage (the exception to this is if any genuine 'abnormal' costs are found).

In paragraphs 1.1 and 1.2 above I have set out what PPAs amount to. Clearly, this involves significant extra work for the local planning authority which is not accounted for in the planning application fee therefore it is important to set a reasonable charging schedule that reflects the quantity and quality of resources afforded to PPAs.

1.3 Maidstone's planning department commenced a pilot in November 2016 with a draft fee structure. A report was brought to this on 14th March 2017. The committee recommended:

- Continue the pilot use of PPAs to a maximum of 8 agreements
- Request the arrangement of a Member workshop

1.4 The Member workshop took place on 19th June. Its purpose was to discuss the wider national context of PPAs, how they differ from pre-applications; alongside presentations from external speakers to provide feedback on the success of PPAs elsewhere. This included Dave Harris, Head of Planning at Medway Council. The feedback from members on PPAs was broadly positive at the workshop and the key points have been captured as Appendix B.

1.5 PPAs have been in operation for many years and are a common mechanism used by Local Planning Authorities. They bring together the Local Planning Authority (LPA), developer and key stakeholders, at an early stage, to work together in partnership throughout the planning process. The Planning Performance Agreement process is a project plan framework through which the local planning authority and applicant manage suitable planning proposals. For a PPA to be successful, it is essential that the local planning authority and the applicant establish a collaborative relationship based on trust, with good communication and regular exchange of information. However, it is important to emphasise that a PPA is not a guarantee, nor an indication of likelihood that the application will be approved. It relates to the process of considering development proposals and not to the decision itself.

1.6 The PPA framework will speed up the planning process through a project management approach which commits both parties to an agreed timetable containing "milestones" that make clear what level of resources and actions are required and the costs associated with these. It also ensures that all key planning issues are properly considered and resolved in a timely fashion. This agreed timescale also moves the department away from using extensions of time as applications with a PPA in place the statutory time limits for determining the application is overtaken by the new determination date agreed in the PPA. The PPA must be signed prior to the submission of the

application. The determination date can be updated if required and both parties feel it is necessary.

2. Fees and fee structure

2.1 The fee for a planning application subject to a PPA is identical to an application without one. The LPA has the power to charge for services provided in the pre-application phase of a PPA. It can also charge for the costs associated with delivering the PPA. Under Section 93 any charge must be on a not-for-profit basis (year-by-year) and, taking one year with another, the income from charges for such services must not exceed the cost for providing them. The parties will need 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.

2.2 PPA fees create additionality in that there is more income for extra resources, including additional staff, to deal with the extra largely bespoke work in the form of the specific proposal. Therefore, the fee is often more of a quote than a standard tariff charge although there is the need for baselines. Due to PPAs being based on additionality then there should be no 'two tier system'. Extra resources accompany any PPA.

2.3 The project management framework that is integral to PPAs will require a centralised approach to delivery. It is proposed that this support, for both the management and associated administration is provided by the Planning Technical Officers. Their knowledge of the planning department and centralised role is vital to ensuring that PPAs are well organised and that any additional charges to the PPA standard formula are included.

2.4

The proposed new fee structure is outlined below. The fee covers both the pre-application process (varying depending on the size and complexity of the site) as well as any internal and external costs associated with the PPA process, including negotiating the content of the PPA. A breakdown of how these fees have been calculated is outlined in the section below.

A) Extra Large PPA (250 units +/-10,000 sqm commercial) 4 plus pre-app meetings plus 2 Member briefings to be charged at £10000. We recommend for schemes of this size a formal design review process forms part of the PPA which would increase the fee by £4000 to £14000 to cover the associated costs

B) Large PPA (100 units +/-5000 sqm commercial) Up to 4 pre-app meetings plus Member briefing to be charged at £7500.

C) Medium PPA (50 units +/-2500 sqm commercial) Up to 3 pre-app meetings plus Member briefing to be charged at £5000.

D) Small PPA (under 50 units, 2500 sqm commercial or other minor application) Up to 2 pre-app meetings to be charged at £3500.

2.5As PPAs can only cover costs, rather than to generate income some broad fee-setting principles were used.

Each fee per PPA will cover:

- The negotiation and administrative processes of setting up the PPA process itself
- The cost of the pre-application meetings and officer time to deliver PPA

Small - an additional £1,500 to cover the equivalent of 1 week of officer (37 hours) work at £40 ph for the likely work required.

Medium - an additional £3,000 to cover the equivalent of 2 weeks (72 hours) work at £40ph for the likely work required.

Large - an additional £5,500 to cover the equivalent of 3.5 weeks (137 hours) work at £40ph for the likely work required.

Extra Large – an additional £8,000 to cover the equivalent of 6 weeks (200 hours) work at £40ph for the likely work required.

2.6These fees exclude Planning fees (as set by government) and other charges that will be negotiated as part of the PPA. For very large or complex schemes the agreement may also provide a basis for any contributions which have been negotiated to assist with abnormal costs of processing the application. Additional charges may be included where additional pre-application meetings are requested by the developer to ensure a quality application, or the use of specialist consultants for viability assessments of other technical assessments not normally covered by a planning application fee. The above fees schedule suggests an additional fee for Extra large PPA schemes to cover the review of the application via a mechanism such as Design South East's Design Review Process. This would have the benefit of reviewing and improving design quality of such schemes without additional cost to the Council.

3. Pilot

3.1The Pilot commenced in November 2016 and currently consists of five PPAs. The total income associated with these PPAs is £24,270. This excludes planning application fees. The following schemes are subject to a PPA:

- Springfield Park – 310 residential units
- Springfield Mill – residential development
- Hen and Duckhurst – reserved matters on a residential development
- Wares Farm, Redwall Lane – commercial development
- Ulcombe Road and Mill Bank, Headcorn – residential development

Negotiations for PPAs on other sites have commenced but are not yet signed.

3.2 Based on the lead officer's experience, and developer feedback, the following observations can be made:

- The process of carrying out PPAs is beginning to improve project management practice;

- The evidence is that the PPA fee level is not putting off customers from seeking PPAs. The firming up of the decision deadlines is seen by participating developers as a positive outcome;
- Developers have shown a high level of interest in PPAs being available for a number of smaller applications, where there is a level of complexity. It is recommended that the scope of PPAs should also encompass include such applications.

3.3As PPAs are likely to be mainly focussed on Major applications only, the administration associated will be the responsibility of the Major Projects Team.

4. AVAILABLE OPTIONS

4.1**Option 1:** That the Committee approves the further investigation of PPAs and a continuation of the pilot. The final fee structure would need to be approved by committee at a later date. This would delay the full implantation of the process and would make it less likely that the department could cover the additional costs of processing major applications efficiently

4.2**Option 2:** That the Committee approves the introduction of PPAs and the associated proposed fees proposed in the report. This would enable the service to cover the additional costs associated with determining the planning applications

4.3**Option 3:** That the Committee decides to not proceed with the introduction of funded PPAs. This would impact on the services ability to deal with complex applications and cover additional costs associated with them

5. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

5.1 Option 2 is the recommended option. The increased focus on the pre-application stage links with the objective of 'front loading' the planning application process so that quality of submissions is improved and a clear timetable is established. This will result in a more efficient service and increased capacity. It also puts in place a format for charging for abnormal costs for processing applications. The Committee have the opportunity to review the fee levels annually alongside the wider departmental ones.

6. RISK

6.1The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy. The financial risk of not agreeing to planning performance agreements is that there will be greater pressure on other income streams in order to maintain adequate resources to deal with planning applications.

7. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

7.1 No specific consultation has been completed for Planning Performance agreements however feedback from Developers was sought from Maidstone Developers Forum. Subsequent feedback and the discussion at the Member workshop have been considered in informing this report.

8. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

8.1 Should committee approve the fees contained within this report, the fee structure will be publicised on the Council’s website and promoted via relevant groups such as the Developers Forum.

9. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. However, they will support the Council’s overall achievement of its aims.	Rob Jarman Head of planning and Development
Risk Management	The financial risk of not agreeing to planning performance agreements is that there will be greater pressure on other income streams in order to maintain adequate resources to deal with planning applications.	Rob Jarman Head of Planning and Development
Financial	The proposals set out in the recommendation are all within approved budgetary headings and so no new funding is needed for implementation.	Paul Holland, Senior Finance Manager (Client)
Staffing	We will deliver the recommendations with our current staffing.	Rob Jarman Head of Planning and Development
Legal	The Legal Team will need to be kept apprised of developments in the use of PPAs and in individual cases where legal agreements are required to secure planning obligations	[Legal Team]

	including the bespoke timetabling.	
Privacy and Data Protection	<ul style="list-style-type: none"> • Accepting the recommendations will increase the volume of data held by the Council. We will hold that data in line with [policy]. • We recognise the recommendations will impact what information the Council holds on [its residents] and so have completed a separate privacy impact assessment [at reference]. 	[Legal Team]
Equalities	<ul style="list-style-type: none"> • The recommendations do not propose a change in service therefore will not require an equalities impact assessment 	[Policy & Information Manager]
Crime and Disorder	<ul style="list-style-type: none"> • No specific issues have been identified. 	Rob Jarman Head of Planning and Development
Procurement	<ul style="list-style-type: none"> • No specific issues have been identified. 	[Head of Service & Section 151 Officer]

10. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix 1: PPA template
- Appendix 2: Member workshop comments

11. BACKGROUND PAPERS

None