

Performance Agreement Protocol

1.0 – Overview

2.0 – PPAs

3.0 – PAAs

4.0 – Key contacts

1.0 Overview

- 1.1 This protocol document sets out the approach of Cheshire West and Chester Council (“the Council”) to the development and delivery of Planning Performance Agreements (PPA). It is produced in response to the Department for Communities and Local Government (DCLG) consultation publication: ‘Planning Performance Agreements: a new way to manage large-scale major planning applications’ (May 2007). This defines a PPA as an ‘agreement between a local planning authority and an applicant to provide a project management framework for handing a major planning application’. It also follows further guidance published by the Advisory Team for Large Applications (ATLAS), which recommends that if PPAs are to be used regularly, a Local Planning Authority is encouraged to establish a formal process document (such as this protocol) to set out their broad methodology for dealing with large complex development projects.
- 1.2 The objective of this Protocol is to clarify the Development Planning Service’s intentions and the expectations of participants in the PPA process, as summarised in the five principles below:
- (i) **Commitment:** The Council will strive to actively deliver the actions, behaviour and co-operation to which they commit in adopting the PPA. The Development Planning Service will, through the PPA, agree turn round times for providing comment on submitted material. Similarly, applicants will be expected to seek early engagement with the Council for pre-application discussions in an open and honest fashion and likewise strive to actively deliver the actions, behaviour and co-operation to which they commit in signing the PPA.
 - (ii) **Engagement:** The Council expects that its own officers, and external partners as well as collaborating developers and their agents/advisors will proactively engage with each other and

embrace the principle of community involvement in shaping the outcome of Major proposals.

- (iii) **Fees:** The cost of the PPA for small-scale Major planning applications will be covered by the standard pre-application fee. The Council will expect the developer entering into a PPA with respect to a large-scale Major planning application to agree to pay a sum that will cover the Service's reasonable fees incurred through the consideration of the subsequent application, over and above the normal costs incurred through the consideration of a small-scale Major application. The sum will take into account factors such as travelling to meetings, any additional administration, the use of dedicated temporary or agency staff and/or consultants or legal practitioners and will be subject to negotiation on a case-by-case basis. The agreed fee could be subject to re-negotiation post-submission should unexpected costs arise through the application process.
- (iv) **Resources:** The Council's Development Planning Service will identify, for the developer signing a PPA, the resources that it is committing to the delivery of that PPA. It is likely that such resources will include allocated staff and a number of pre-arranged liaison and action meetings.
- (v) **Process:** The complexity and scope of the PPA will depend on the nature and scale of the development proposal. As such, a PPA for a small-scale Major proposal will not be as complex as a PPA for a large-scale Major proposal. Depending on the type of agreement made, the Development Planning Service will commit to arranging a series of liaison and action monitoring meetings in line with a project-managed approach. The Council will, after each such meeting, produce or amend an agreed action plan. The aim will be to follow an agreed timetable from pre-application negotiation, through a series of agreed milestones, to the submission and determination of a planning application. The process will include a mechanism for any party signed up to the PPA to challenge a lack of progress and seek rapid resolution of any unjustified delay.

2.0 Planning Performance Agreements (PPAs)

- 2.1 The minimum threshold for the PPA process will be a Major development proposal, in accordance with current DCLG definitions. This will be reviewed should DCLG definitions change. There will be two levels of PPA depending on the nature and scale of the development proposal, with large-scale Majors being subject to full-scale detailed agreements and small-scale Majors being subject to a much simpler version. Inclusion within either PPA process will be determined at the pre-application stage and will depend largely on the likely complexity of the consideration process, although it is envisaged that the use of full-scale agreements for small-scale Majors will be very limited unless there are very unusual circumstances. The opportunity to engage in a PPA agreement will be available for other types of application if the applicant so requests, but it will not form an essential part of the pre-application process and would not exempt the application from DCLG performance indicators (see 2.2 below) As such, the opportunity to engage with the Council and agree a Post Application Agreement (see below) will not be compromised. Nevertheless, all potential applicants for Major schemes will be advised that an unwillingness to engage with the Council at pre-application stage could significantly reduce the opportunities available to engage with the Council and influence the process once the application has been validated and is under consideration.
- 2.2 Any planning application for which a PPA is in place at the pre-application stage will be exempted from the Best Value performance indicator N157a (formerly 109a) (13-weeks determination period) if the agreed PPA timescale is subsequently met, to allow applicants and the Local Authority to negotiate a flexible timescale that reflects the complexity and requirements of the individual application. Should such an agreement not be in place, the Council will strive to determine applications within the statutory time period as part of a desire to achieve an efficient and effective Development Planning service.
- 2.3 Negotiation on the type of PPA deemed as appropriate for the development proposal will be subject to early negotiation. The full-scale PPA, which will be subject to a negotiated fee reflecting the

specific issues and complexity of the development proposal, will allow for enhanced resources to be available to enable the subsequent application to be considered and processed without unnecessary delay. An example may be a proposal potentially causing significant environmental impact, where in-house resources may be limited or lacking and therefore the use of external consultants may be essential to allow for impacts to be properly considered in a more efficient and comprehensive manner.

- 2.4 Once signed and the application submitted, the agreement will be subject to scheduled audits and re-negotiation will be possible if it transpires that any aspect of the agreement cannot be met due to unforeseen circumstances. Whilst there is no compulsion to enter into any agreement or re-negotiate, it is expected that applicants will engage with the Council in accordance with key principle (ii) above to achieve the best possible outcome in the shortest time achievable.
- 2.5 In any event, applicants will be provided as soon as practically possible with a written explanation should the Council consider that any element will not be achievable following the submission of the application and will be invited to discuss amendments to the agreement. Any failure to engage in such a process or agree to revised details may result in the application being determined in accordance with the agreed timescale irrespective of whether any unforeseen issues brought to the attention of the applicant have been resolved.
- 2.6 One of the main reasons for applications being delayed post Planning Committee is the completion of s106 agreements. Discussions on possible s106 requirements and the provision of draft Heads of Terms will be a part of the pre-application process and timescales for finalizing s106 agreements post Committee will be included in the agreement.
- 2.7 The PPA will take the form of a standard document, with two versions depending on the nature and scale of the proposal, which will be signed by all involved parties prior to the submission of the planning application.

3.0 Post Application Agreements (PAAs) – time extension agreements

3.1 Such agreements entered into after an application has been submitted remove the right of an applicant to appeal against non-determination within normal statutory time periods and exempt Major applications from statutory determination targets. Such agreements are considered to represent a simple form of PPA, which deals only with the final determination period. The preference is always to agree to a formal PPA prior to the submission of the planning application.

3.2 All developers will be expected to engage with the Council in pre-application discussions, thereby reducing the potential for any particular issue to delay the application process. As such, if the applicant has chosen not to engage in pre-application discussions, it should not be assumed that a Post Application Agreement will be offered. If there are issues that are deemed as insurmountable within the context of the current application, then it is likely that the application will be refused within the statutory time limit with no opportunity for negotiation available during the consideration process. In such an instance, discussions will only be offered on the basis that the application will either be withdrawn by the applicant or on the understanding that the current application will be refused. Any amended proposal will then have to be the subject of a fresh planning application.

3.3 Such agreements will normally take the form of a standard letter or email signed by both parties. There will be no fee payable by the applicant for a PAA.

4.0 Key contacts

Email – planning@cheshirewestandchester.gov.uk

Phone – 0300 123 7027

Web -

http://www.cheshirewestandchester.gov.uk/residents/planning_and_building_control.aspx