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Committee:	Development Control	Agenda Item
Date:	25 July 2007	11
Title:	Planning Performance Agreements: a new way to manage large scale major planning applications - Consultation	
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Summary

1. This report relates to one of four consultations associated with the White Paper and is entitled:

Planning Performance Agreements: a new way to manage large-scale major planning applications

The consultation paper essentially includes two main proposals. One is to introduce a distinction between applications that are defined as Major applications, based on scale. The second aspect of the proposal is that applications for the largest schemes should be managed by a partnership between the applicant and local planning authority. This process would run from pre application discussions through to the decision and beyond. Schemes run in this way would be subject to timescales determined between the main parties rather than the arbitrary 13 week period.

As well as outlining the proposals the consultation asks eight questions. Suggested answers are included below.

Recommendations

That the views set out in this report, together with other views of Members, are forwarded to DCLG

Background Papers

The document is accessible via the consultations section on the DCLG website (www.communities.gov.uk)

Impact

Communication/Consultation	The Council is a consultee
Community Safety	None
Equalities	Some of the proposals are to make the planning system more accessible to all

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Finance	None
Human Rights	None specific
Legal implications	None at this stage
Ward-specific impacts	All
Workforce/Workplace	None

Background

- 2. The Government is seeking comments on its proposal to introduce Planning Performance Agreements (PPAs), as a means of providing greater certainty with regard to the speed and quality of dealing with proposals for the largest Major developments. This follows a year long trial with 22 local planning authorities after which all participants agreed that PPAs were helpful throughout the planning process (from pre application to decision and beyond).

The proposals

- 3. A PPA is a voluntary agreement between a local planning authority and an applicant to provide a project plan framework through which the local planning authority and applicant manage Major planning proposals. This should improve and speed up the planning process by committing both parties to an agreed timetable containing 'milestones' that make clear what level of resources and community engagement are required, and ensure that all relevant aspects are properly considered. PPA applications would not be subject to the 13 week determination target. However, the consultation document is keen to emphasise that a PPA is not a guarantee, nor an indication that the application will be approved. It relates to the process of considering development proposals and not to the decision itself.
- 4. The Government believes that where the nature of the planning application requires significant input from government and non-government agencies, environmental bodies and specific consultees, the project plan should be used to bring them in early in the process. On occasion the Government would expect the Government Office for the Region (e.g. Go-East) to be one of the parties to the discussion. Early engagement with all such bodies should allow the authority and the applicant to plan their community engagement strategy better, so as to ensure transparency and openness.
- 5. Local planning authorities will be required to develop a 'PPA charter', setting out a generic framework for how PPAs will be project-managed. The Charter should state the pre-agreed commitments of the local planning authority, statutory consultees and service providers. The Advisory Team for Large

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Applications (ATLAS) will publish guidance to assist local authorities in developing their charters.

6. The consultation paper outlines the proposed key principles and components of a PPA. As a minimum, they will consist of the following components (although other components can also be included subject to agreement between the parties):
 - i Project Plan:
 7. This will set out the important milestones for the entire PPA process, namely the pre-application phase, including the inception day (see below) and the application phase. A project plan should give confidence that all parties to the agreement will deliver what is required while, in the event of a change of date, giving a framework for both planner and applicant to discuss amendments and agree on the implications with all parties. Where appropriate, the project plan should schedule the negotiation of a S.106 agreement and compliance by the developer with any imposed condition which is not open-ended.
 - ii List of key issues:
 8. This should set out all the issues the parties expect to encounter throughout the progress of a particular PPA. The authority and the applicant should use the key issues list to forward-plan, by scheduling meetings at key dates and allocating issues to particular team members. It may serve as the agenda for meetings, ensuring that progress is monitored on each issue and that the relevant people are invited to meetings at which a specific issue is to be discussed. This list can be used by the applicant as an indication of the documentation that will be required by the local authority to allow validation of the application.
 - iii Inception day:
 9. This should be held during the pre-application phase of each PPA, attended by teams from the key parties, but chaired by someone independent of both and seen to be impartial. In the pilot, the inception day was found to focus parties' minds on a shared vision and objective and on any gaps in the evidence base. Participants also used it to identify outstanding issues and actions required, while setting out the mechanisms by which differences between parties were to be resolved. The cost of the inception day may be included in the pre-application phase fee charged by the local planning authority.

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Other aspects of the proposal

i Definition of Major developments

10. The Government proposes to split the 'Major' category into 'large-scale major development' and 'small-scale major developments' and only applications which fall into the new 'large-scale major development' category would be removed from the Best Value 109a target (determination within 13 weeks).

A large-scale major application will be defined as:

- Residential: a large-scale residential major is one where the number of residential units to be constructed is 200 or more. Where the number of residential units or floor space to be constructed is not given in the application, a site area of 4 hectares or more should be used as the definition of a large-scale major development.

- Non-residential: for all other uses a large-scale major development is one where the floor space to be built is 10,000m² or more, or where the site area is more than 2 hectares.

(Note: If an application has not been subject to the pre-application phase, but submitted through the normal planning process, it cannot later become a PPA application and would not be exempt from compliance with any relevant Best Value 109 target for determining the application).

A small-scale major application will be defined as:

- Residential: a small-scale residential major application is one where the number of residential units to be constructed is between 10 and 199 inclusive. Where the number of dwellings to be constructed is not given in the application, a site between 0.5 hectares and less than 4 hectares should be used as the definition of small-scale major development.

- Non-residential: for all other uses, a small-scale major development is one where the floor space to be built is between 1,000m² and 9,999m², or where the site area is greater than 1 hectare but less than 2 hectares.

(The PPA process may be applied to small scale major applications but these applications will not be removed from the Best Value 109a target. Information about delivery against the targets for large-scale major applications will be collected via normal statistical returns (known as PS1 and PS2)).

ii Fees for PPAs

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11. The fee for a planning application subject to a PPA is the same as that for a normal planning application. However local authorities have the option under S.93 of the Local Government Act 2003 to charge for 'discretionary' activities - services that an authority has the power, but is not obliged, to provide. In the case of planning, this may apply to areas of activity outside the scope of the existing fees structure, such as pre-application discussion and advice. As with the setting of planning fees, neither central nor local government is empowered to go beyond cost recovery, into profit. The charge could include, for example, the costs of the inception day and of providing pre-application advice. This will allow the local planning authority to recover costs incurred in developing the PPA.
12. Where a local planning authority opts to charge a fee for the pre-application phase of a PPA, this will need to be negotiated with the applicant and agreed early in the process. It can meet the cost of any discussions, the inception day and other relevant expenditure by the authority. Any fee levied for the pre-application phase may be charged at commencement of the PPA by negotiation with the applicant, or else charged in instalments as the PPA progresses. A local planning authority cannot use S.93 to secure additional money once the planning application has been submitted. Generally, local authorities should charge for pre-application discussions only where it will not significantly diminish demand for that service.

Specific questions on which comments are requested

13. Following this consultation, the Communities Secretary will publish more detailed guidance on the proposed mechanisms later in the year. The Secretary of State requests views on the following eight questions and officers have suggested an appropriate response in each case. If Members wish to amend or add to the response they are welcome.

Q1: Do you agree with the principle of having PPAs?

Yes. PPAs offer a structured approach to dealing with very large development proposals with the potential to allow all parties to work together to achieve high quality developments within a timescale suited to the scheme rather than a centrally imposed timescale.

Q2: Are you content with the definition of large-scale major applications?

The proposed definition includes only the very largest of developments. For this authority major applications of this size are few and far between and the proposal is likely to have very little direct impact on Uttlesford. Consequently the proposed definition will not help the determination of Major applications handled by this authority. Officers and Members work very hard to deal with applications with

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statutory timescales only to be frustrated by issues outside of our control. This definition will perpetuate these difficulties.

Q3: Do you think that only PPAs relating to large-scale major planning applications should be taken out of the Best Value 109 target regime?

No. This is a wasted opportunity. Officers and Members are aware that applications for developments of even 'small majors' can be very time consuming particularly where they involve negotiations on legal matters, especially where third parties are involved. On the other hand an application for 200 or more dwellings may not be particularly complex or time consuming particularly where it is in accordance with a Masterplan. It would be better to remove the arbitrary 13 week period on all majors in favour of locally agreed timescales where both major parties are happy with progress.

Q4: Do you think PPAs are the most effective way to ensure that local authorities and applicants/developers devote sufficient resources to the delivery of decisions on significant major planning applications?

It is not clear that authorities that received only occasional PPA applications will be able to use the proposed funding arrangements to create additional resources.

Q5: Do you agree with the optional funding arrangements for PPAs?

PPAs are likely to have an implication for resources and being able to obtain funding from the developer to deal with its development proposal would be helpful.

Q6: Are you content with the basic minimum requirements for a PPA?

They appear to be satisfactory.

Q7: Should PPAs include financial penalties which would be applied to either the applicant or the local authority for failure to deliver the PPA to the agreed timetable?

No. The penalty should be to invoke a guillotine on negotiations if progress stalls moving to determination of the application. Such a refusal can then be taken through the appeal process as normal.

Q8: What are the likely effects of any of the changes on you, or the group or business or local authority you represent? Do you think there will be unintended consequences?

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The arrangements are likely to affect only a small proportion of applications and as such the direct implications on this authority are likely to be slight. However at some point this authority is likely to receive suitable applications and developers who are familiar with the procedure may be at an advantage. Small authorities are likely to find it a considerable challenge to absorb the extra work associated from a PPA particularly if two or more come together. There would be a greater impact on local authorities if the size of schemes subject to PPAs is reduced in the future. However that is currently not the proposal.

Risk Analysis

The risk analysis forms part of the consultation