

## WIRRAL PLANNING PERFORMANCE AGREEMENT (PPA) PROTOCOL

### What is a Planning Performance Agreement?

A planning performance agreement is a project management tool which the Local Planning Authority (LPA) and applicants can use to:

- Agree timescales
- Agree actions and resources for handling major applications
- Cover the pre-application and application stages and may also extend through to the post-application stages.

The aim is to keep PPAs as straightforward as possible and agree them in the spirit of a memorandum of understanding. Wirral have adopted a standardised PPA template for consistency.

There are several benefits of a PPA:

- Identification of key issues and consultees at an early stage setting out an efficient process.
- Sets out procedural arrangements.
- Guarantees Council resources with realistic timescales.
- Ensures better overall project management from pre-application through to post-application stages.
- Establishes processes for accountability, transparency and communication.
- Improves partnership working between the Council, the developer and consultees.
- Ensures continuity and consistency from the Council.
- Can include statutory consultees and other parties.
- Agree approach to community and member engagement

### Pre application Versus PPA

The Council has a paid pre application service to provide developers with advice on development proposals for all sizes. Further guidance on this service can be found on the Councils website.

<https://www.wirral.gov.uk/planning-and-building/planning-permission/applying-planning-permission/pre-application-advice>. This service will provide advice on the acceptability of a proposal and guidance on the issues that need to be addressed and the material that will need to be submitted with an application. Developers may choose to undertake a pre application prior to entering into a PPA to establish the acceptability of their proposal in principle.

## Approach

The Local Planning Authority is committed to providing the best possible service and supporting the Council in securing new investment and achieving community regeneration. We do encourage pre-application engagement but for some major planning applications we strongly encourage a Planning Performance Agreement is in place as a project management tool.

The type of development schemes best suited to a PPA can include major planning applications and especially those of a large scale or that are complex. For example, those that are:

- Proposals requiring an Environmental Impact Assessment (EIA);
- Large site proposals that meet the Council's strategic objectives as set out in the Local Plan;
- Proposals where many constraints need to be resolved before the development can be delivered; and
- Proposals that would have significant impact on communities and need extensive consultation or involvement from many different stakeholders.

When a project is agreed as suitable for a PPA a project team will be established involving the developer's team and officers from the planning service and other Council functions.

The PPA service allows the LPA to bring together different departments within the Council and ensure that input into the planning process is prioritised by respective functions, as and where necessary. These functions include, but are not limited to:

- Development Management
- Planning Policy
- Environmental Specialists (covering such issues as heritage and conservation, historic buildings and trees etc.)
- Economic Development & Regeneration
- Highways
- Environmental Health & Protection
- Building Control
- Strategic Housing
- Property Management
- Education
- Legal
- Leisure & Recreation
- Tourism

In addition to the above disciplines, the Council may also seek to encourage the involvement of external agencies and bodies for specific proposals, as required, and depending on the nature of the proposals being considered.

Planning Performance Agreements are resource intensive to agree and implement. Their use is, therefore, aimed at large, complex development proposals. The Council should only enter into a Planning Performance Agreement and be prepared to commit its resources where:

- Their use is warranted;
- There is mutual agreement to enter into an Agreement between the Council and the applicant;
- The applicant has agreed to provide funding to cover the additional resources necessary to consider the proposal, in exchange for greater certainty on a range of factors including timescales to process the application;
- The proposed development is acceptable in policy terms, unless there would be clear positive outcomes for the community that clearly outweigh the Council's Local Plan.

### **The Process**

The Planning Performance Framework (PPA) is a framework for an agreement between the Council and the developer as to how a development proposal will progress through the planning process. The framework is not prescribed, and the established processes should be tailored to the needs of the particular scheme.

The type of PPA depends on the scale and complexity of the proposed development – from a simple PPA to a comprehensive PPA for the largest and most complex schemes.

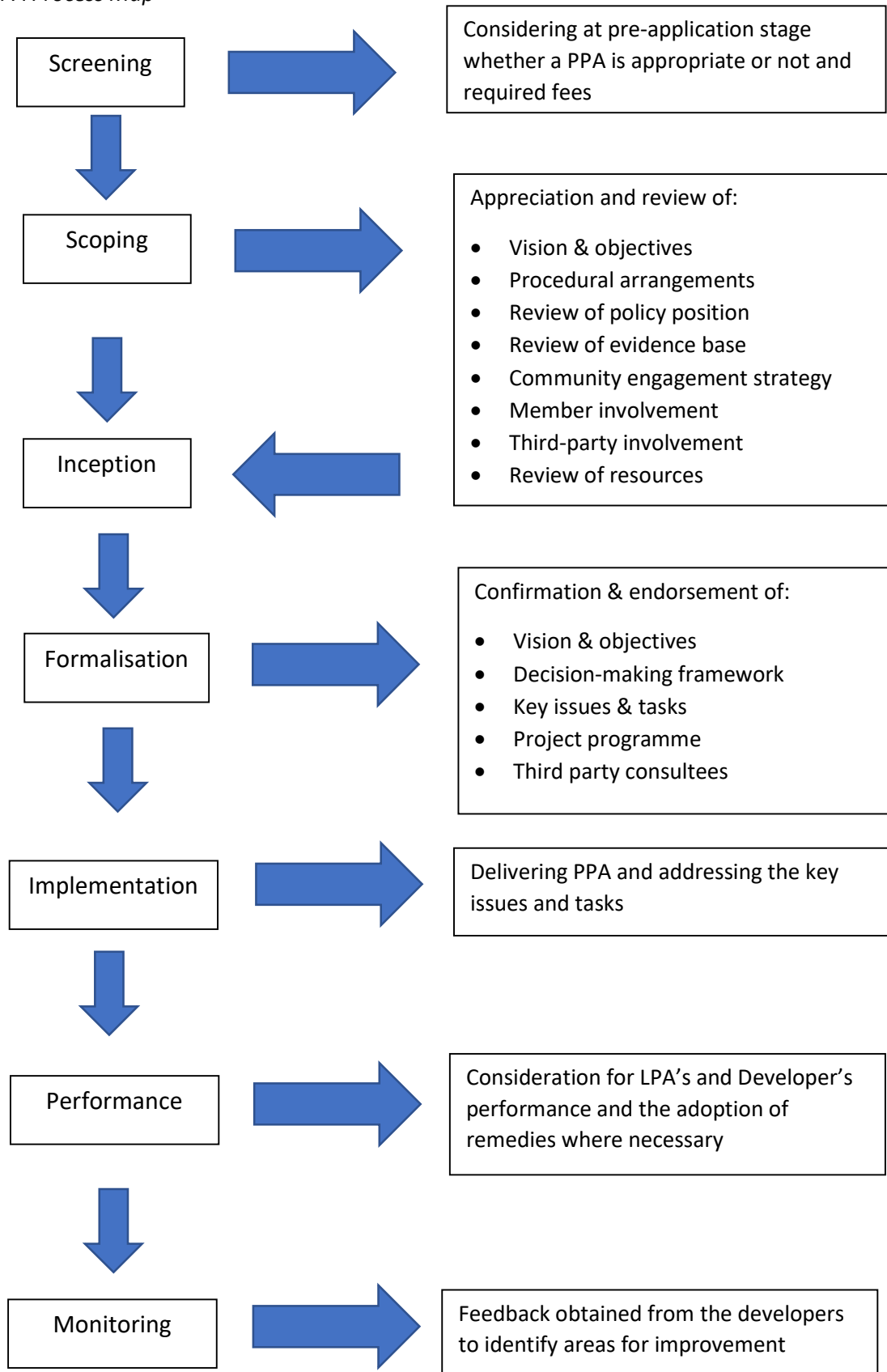
Careful consideration should be given to such proposals in advance of entering into a Planning Performance Agreement to ensure that there is sufficient common ground to enable effective partnership working amongst key stakeholders including Councillors and the local community.

An approach to the Council about a large-scale development project should be made through the Development Management Team. However, it is likely that the process will involve officers from other parts of the Council.

The key stages of the process are as follows:

1. Screening – Following the submission of a formal pre-application enquiry, an initial meeting will take place to determine whether a PPA is appropriate and can be offered by the Council and agreement of fees.
2. Scoping and Inception – Establishing the vision and objectives together with key procedural arrangements such as evidence base, community engagement, member involvement, the involvement of other parties and resources.
3. Formalisation – Confirmation of vision and objectives, decision-making framework, key issues and tasks and project programme.
4. Implementation - Delivering the PPA.
5. Performance – Reviewing performance and implementing remedies were failings
6. Monitoring – Feedback from developers

Fig 1: PPA Process Map



## Stage 1 – Screening and fees

Screening is the initial stage in the process to determine whether a PPA is the most appropriate approach for the development project’s progression through the planning process.

The PPA screening process should be conducted during the closing stages of the first pre-application meeting between the LPA and the applicant, and only once it has been established that development proposals are acceptable in principle; or the LPA without prejudice have a degree of confidence that a departure from the plan may be justifiable.

Where a development proposal is unacceptable in principle, the LPA reserve the right to refuse to enter a PPA with an applicant.

Unless the LPA has an in-principle objection to a development proposal, it is therefore strongly recommended that the following large major planning applications regardless of complexity should all be subject to a PPA agreement:

- **Large Major Planning Applications:** 100 – 249 Dwellings or 10,000sqm – 24,990sqm
- **Very Large Major Planning Applications:** 250 – 750 Dwellings or 24,999sqm or £75,000sqm
- **Strategic Scale Major Planning Applications:** 750+ Dwellings or 75,000sqm+

PPAs for planning applications for Standard Major Planning Applications should be considered and encouraged on a case-by-case basis and dependent on complexity:

- **Standard Major Planning Applications:** 10 – 99 Dwellings or 1,000sqm – 9,999sqm

*Fig 2: Charges for Planning Performance Agreements*

Type of Development	Scale of Development	Fee
Standard Major Planning Application	10 – 99 Dwellings 1,000sqm – 9,999sqm	£8,400
Large Major Planning Application	100sqm – 249 Dwellings 10,000sqm – 24,999sqm	£12,000
Very Large Major Planning Applications	250 – 749 Dwellings 25,000 to 74,999sqm	£22,800
Strategic Scale Planning Applications	750+ Dwellings 75,000sqm+	Price negotiable
<b>VAT</b> These prices include VAT		

The PPA fee can be paid in instalments in line with key milestones. For example:

- 50% on entering the PPA
- 50% on submission of the planning application to the LPA.

For the avoidance of doubt, the above referenced PPA fees do not cover the following third-party costs:

- Pre-application meetings with external statutory and non-statutory consultees (i.e., MEAS, Historic England, Highways Authority, Environmental Agency, or Natural England); and
- Fees to appoint third party consultants to review specialist, technical documents on behalf of the LPA during the determination of a planning application (i.e. Financial Viability Assessments (FVA), Sunlight / Daylight Assessments and Environmental Impact Assessments (EIA)).

The applicant must confirm acceptance of the fees of the preferred third party in writing in advance of any appointment of a third party by the LPA.

The Council uses Merseyside Environmental Advisory Service for advice on EIA, archaeology, ecology (including Habitats Regulations Assessment) and minerals and waste. (MEAS). This advice will be critical for most schemes. It is strongly recommended that at an early stage in the PPA the involvement required from this service is scoped out and costed as part of the standard pre-application process.

### Stage 2 – Scoping

The purpose of this stage is to establish the process and content of the PPA. This will depend on the type and complexity of development proposed. Agreement should be sought on:

- Vision and developer's aspirations
- Procedural matters
- The relevant planning policy
- Specify key issues – such as urban design, flood risk, heritage, transportation, ecology etc.
- Relevant consultees
- Pre-application meetings required with non-statutory and statutory consultees prior to submission (The onus to organise such meetings directly with the third party and associated costs lies with the developer)
- The community engagement strategy – structured approach and Statement of Community Involvement
- Member involvement – such as pre-application and application briefings
- Project team roles and responsibilities
- Resources available

Where a strategic -Scale Major Planning Application is proposed the above scoping process should inform the fee negotiation.

### Stage 3 – Inception

The inception stage produces the structure and content of the PPA. The complexity of the PPA suggested by the Planning Advisory Service from simple, through medium to comprehensive should determine the structure and content. This is a key stage in the PPA process when critical issues should be considered including technical and resource matters and the project plan created.

Agreeing the vision and objectives, recording them for inclusion in the Agreement provides clarity and a reference point when needed during the progression of the project.

Following this a project plan should be produced which identifies key issues and tasks together with the resources to accomplish them. Ownership of each task should be specified together with the frequency/dates of project meetings.

Provision should be included for amendments to the PPA and additional funding in the event of unforeseen work or other issues.

The project manager of the council should have responsibility for the management of the programme and to ensure that the applicant meets their own responsibilities as set out within the PPA. A primary contact of the applicant's team should also be identified. It is strongly advised that the LPA project manager and applicant's primary contact are in weekly dialogue.

#### Stage 4 – Formalisation

The formalisation of the PPA should include:

1. The project vision and development objectives and the sufficient details of the planning proposal to enable proper consideration of the scheme
2. The proposed Project Plan including milestones, issues and tasks together with resources
3. Level of service required
4. Planning project team
5. The overall programme (Terms and target decision date) including indicative:
  - Pre-submission member's briefing (where applicable)
  - Community consultation
  - Planning Submission date
  - Update on the progress of the application (outstanding key issues) post 21-day consultation period.
  - Pre agreed amendments submission window (typically week 6 – 8)
  - Target Planning Committee
  - Target S106 / Decision date
6. Review process
7. Early termination option
8. All party obligations
9. Fees
10. External Consultants
11. Legal Fees
12. Monitoring fees
13. Confidentiality
14. Signatories

#### Stage 5 – Implementation

The project management process is critical to maintain progress in order to:

- Ensure the project timeframe is achieved or renegotiated where required
- Resources are deployed in accordance with the project plan and if unforeseen matters arise that require further funding these are immediately highlighted to the parties.
- Blockages and conflicts are highlighted to the project team for resolution.
- Examine and evaluate the achievement of the project plan at each project meeting.
- Update the risk register.

#### Stage 6 – Performance

A PPA does not bind the developer or the local authority into the agreed process. If the authority fails to determine the application in accordance with the agreed date then the normal statutory provisions apply and the developer may appeal. Likewise, if a developer does not abide by the PPA, the local authority is not obliged to follow the agreed process. To avoid any doubt, the PPA should specify the date from which the right to appeal for non-determination runs.

In cases where dispute arises, in particular where a developer feels the council is not meeting the time scales provided in a PPA, arrangements should be made for the matter to be urgently reviewed by the Planning Development Manager or if required the Head of Planning.

### Stage 7 – Monitoring

As part of the Development Management Service's standard business, those developers entering into PPAs with the authority should be invited to share their experience with the service, once a PPA is completed. This will ensure that any lessons learned, and general feedback can be captured and incorporated into future reviews of the service's PPA procedures

### **Additional costs**

The PPA sets out the project activities and timescale allocating resources against them. In terms of the Council's resources, it is mainly the time of planning staff and other specialist staff – the Council should only seek to recover the cost of their time.

It should be noted there may also be additional charges for the developer for services such as design panel reviews and expert environmental advice.

Statutory consultees external to the council such as the Environment Agency, Historic England, Natural England should not be included within a PPA. Where applicable, developers should therefore be directed to the respective pre-application services of statutory consultees at their own expense.

To assist with a comprehensive response the Council will liaise with MEAS to obtain a quote for the advice. MEAS will then respond to the Council so the advice can be reflected in the PPA response. As stated above the developer will need to agree the costs in advance of the engagement of MEAS.

Where applicants do not organise pre-application meeting with necessary statutory consultees, the LPA has the right to either terminate the PPA; or charge an additional administration fee to the applicant to organise the requisite pre-application meeting with a third party, in addition to any recovery of fees necessary.

### Level of service

The PPA seeks to establish a process and standards to optimise the LPA's level of service for major developments and an enhance applicant's experiences with the Council's services. To achieve this, it is the responsibility of the identified LPA project manager to always:

- Provide acknowledgement emails to the applicant within 2 working days of any correspondence received.
- Share all consultation responses from third parties within 5 working days, unless agreed otherwise
- Provide at least 10 working days for the applicant to submit any requested additional information



- Within 10 days of receipt of any new information a comprehensive response shall be provided, unless alternative timescales for sharing a comprehensive response is agreed with the applicant
- Within 10 working days, unless otherwise agreed, provide a copy of the LPA's minutes, or at least sign off the applicant's minutes of any pre-application meeting undertaken as part of the PPA service
- Within 30 working days of a request to do so from the applicant, provide a comprehensive formal pre-application letter summarising the LPA's current position.

### **Protocol**

The Wirral Borough Council's Planning Performance Agreement Protocol and adoption of planning performance agreements does not fetter the Council's statutory powers to grant or refuse planning permission either. A Planning Performance Agreement is intended to be in the spirit of a 'memorandum of understanding' and not a legally binding document.

**The Local Planning Authority is not required to enter a PPA where a proposal is fundamentally contrary to the Local Plan or direction of travel.**

PPAs should not be published on Council's website, however they may be released if requested under the Freedom of Information Act.