

# **Planning Performance Agreement Charter 2021**

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This Charter sets out Tunbridge Wells Borough Council's (TWBC) approach to Planning Performance Agreements (PPA).

## **What is a Planning Performance Agreement?**

A PPA provides a framework which brings together parties to agree how a development proposal will be taken forward through the planning process. It is a project management tool which local planning authorities and applicants can use to agree timescales, actions and resources for handling particular applications.

PPAs are a voluntarily agreement between the applicant and a local planning authority. Their purpose is to deliver high quality sustainable development that is based on a clear vision and development objectives. They provide a structured way for giving advice to applicants before applications are made, developing supplementary planning documents and processing planning applications, to an agreed project plan and work programme. They provide a framework for the involvement of relevant partner organisations and community and councillor consultation. More information is provided on the Government's Planning Practice Guidance [webpages](#) (paragraphs 006, and 016 to 026).

Importantly, no PPA will fetter the Council in exercising its statutory duties as local planning authority. It will not prejudice the outcome of planning (and related) application(s) or the impartiality of the Council. It is important that there is no perception that because an applicant has entered a PPA that the likely recommendation for that proposal will be that it is granted.

To be effective they should be considered and introduced at the early stage of seeking planning advice from the Council. PPAs do not guarantee a planning permission. The aim is to encourage joint working in a more efficient, and transparent manner.

# The Purpose of this Charter

This Charter sets out how the Council will work with applicants, statutory consultees, the community and other stakeholders to ensure that strategic and complex development schemes are carefully considered in a collaborative, transparent and proactive matter. It establishes TWBC's commitment to the use of PPAs, suggests when it might be appropriate for their use, clarifies the responsibility of key parties and provides guidance on the process of developing a PPA.

This collaborative approach will ensure the Council delivers major developments to meet the Council's strategic objectives as set out in the adopted and emerging development plans. The draft Local Plan objectives are:

1. To ensure sustainable development that contributes to both meeting housing, economic, and social needs and to conserving and enhancing the highly valued environmental qualities and amenities of the borough;
2. To significantly boost the supply of affordable housing and ensure suitable housing for all sections of the population; Tunbridge Wells Borough Local Plan 31 Pre-Submission Local Plan Regulation 19 Consultation;
3. To establish the role that garden settlements can make to the future delivery of development in the borough and to ensure such proposals create very high-quality living environments;
4. To promote high-quality and well-designed development
5. To achieve the timely delivery of all forms of infrastructure that meets the needs of development and supports the vitality of communities;
6. To ensure good, safe access to jobs and services, with priority to active travel and public transport, as well as embracing new technology;
7. To ensure that the borough is vibrant, culturally rich, and economically buoyant;
8. To conserve and enhance the valued historic, built, and natural environments of the borough, including the High Weald Area of Outstanding Natural Beauty, and to achieve net gains for nature;
9. To ensure that the Green Belt continues to meet its purposes, only releasing land where strict tests are met;
10. To support the goal to make the borough carbon neutral by 2030, and minimise the impact of climate change on communities, the economy, and the environment;
11. To work with local communities to secure sustainable development to meet local needs, with due regard to neighbourhood plans where appropriate.

All parties involved in a PPA with TWBC are expected to adhere to the Planning Performance Agreement Charter 2021.

# When is a PPA appropriate?

Initially, it is expected that PPAs will apply to planning applications which are strategic in nature (i.e. those applications within the Strategic Sites as set out in the Draft Local Plan: Land at east Capel and Paddock Wood; and Tudeley Village; and complex major applications in Royal Tunbridge Wells of 100 dwellings/10,000 sq metres floorspace or more). In due course PPAs may be rolled out more widely for other major applications.

An initial approach regarding any large-scale development project should be directed towards either the Development Manager or Strategic Sites and Delivery Team Leader, depending on the location of the proposals (contact details below).

Where a sufficiently complex major development proposal has the potential to accord with the provisions of the relevant Development Plan, or in the case of a departure from the Plan, to meet any of TWBC's broader strategic objectives, the management of the application through the PPA process will be promoted. PPAs will not be entered into if the scheme put forward is not considered to be acceptable in principle and could not be amended to be acceptable in principle.

If it is agreed that a PPA would be an appropriate management tool for the progression of a planning application, an inception meeting will be held to discuss and agree the key parameters of the Agreement. In some cases, the PPA might include preparing a Supplementary Planning document to guide the development of the site.

A PPA can be tailored to suit the needs of the proposal and could include the delivery of the scheme through the stages of planning advice, determining the application, approving details required by conditions and any potential alterations to a scheme.

TWBC will expect any applicant engaged in the PPA process to sign a PPA document to which the Council will also commit.

# What are the benefits of a PPA?

PPAs can provide benefits to all the parties involved including the local planning authority, the applicant and the community. PPAs help deliver successful development projects facilitating good working relationships, and enhanced transparency, with developers, communities and other stakeholders.

Key benefits include:

- identification of key issues and relevant consultees at an early stage;
- setting more realistic timetables, with a structure of deadlines and action points;
- encourages improved collaborative working between the key stakeholders;
- better overall management of advice at pre-application and post application stages;
- greater accountability, transparency and communication;
- a guarantee of dedicated Council resources;
- removal of statutory timescales for the determination of applications;

- greater commitment from relevant consultees to respond in a timely manner, particularly internal consultees;
- better commitment to community engagement and consultation, enabling communities to influence planning decisions; and
- ability to recover costs, thereby reducing the financial burden on Council resources.

## How will TWBC commit to the PPA process?

Whilst the overall responsibility will lie with the Head of Planning, either the Development Manager or Strategic Sites and Delivery Team Leader will oversee those development proposals that have a PPA (depending on the location and nature of the application). The project team will report direct to these officers (the “Supervising Officer”).

A Lead Planning Officer will be allocated to the proposals. This will normally be a Principal Planning Officer; in some cases, a Senior Planning Officer may be appropriate. As the project evolves towards the PPA process, a Project Team will be created involving relevant officers from the Council departments to ensure a unified and consistent approach.

The responsibilities of the Supervising Officer are to advise or direct the Project Team on the:

- links with other relevant corporate initiatives of the Council;
- direction of the project to meet corporate objectives;
- most appropriate form of consultation including with Members; and
- timescales to be achieved.

The responsibilities of the Council’s Lead Planning Officer include:

- coordination of the project team;
- primary contact with the developer’s project team;
- delivery of tasks to agreed timetable;
- liaison with stakeholders including public consultation; and
- regular reporting back to the Supervising Officer.

As part of the Council’s commitment, officers will:

- work on behalf TWBC in the wider public interest to secure the optimum scheme that delivers the Council’s planning objectives and accords with relevant planning policy, including relevant supplementary planning documents;
- express their own professional opinions that will form guidance for the applicant. This guidance will not, however, bind officers to a final recommendation nor override the requirements for a formal planning application to be determined without prejudice and within the statutory requirements of current planning legislation;

- use best endeavours to meet the agreed programme and will respond to requests for information, advice and information in a timely way (timeframes to be agreed);
- facilitate the presentation of proposals to Members at appropriate stages, where required within a PPA;
- identify issues and information that need to be addressed , as well as any likely legal obligations, at an early stage of pre-application discussions; and
- facilitate discussions and negotiations with external consultees where appropriate.

Statutory consultees and other stakeholders will be required to provide appropriate advice at various stages in a timely and proactive manner. The Council Lead Officer will seek to co-ordinate this advice. In some instances certain consultees may form part of the PPA.

## What do we expect from applicants?

TWBC will expect the applicant to:

- approach any project in a positive and collaborative manner;
- provide sufficient detail and information for consultees to properly assess a proposal and provide substantive responses at pre-application and application stage;
- allow adequate time for the assessment of proposals by the Council and consultees involved;
- appoint the appropriate professional consultants to inform the application, with sufficient experience to reflect the complexity of the project;
- use best endeavours to meet the agreed programme;
- agree to contribute to and participate in public consultation, in accordance with the Council's Statement of Community Involvement;
- respond within the agreed timescales to requests for further information;
- recognise that new/ additional issues may arise from the consultation of negotiation processes which may affect previously agreed timescales,
- to provide information requested in a timely manner; and
- adhere to the PPA Charter when entering into a PPA.

## Community Engagement

TWBC is committed to engaging with local communities and organisations in planning for sustainable development in an open and constructive manner, as set out in the [Statement of Community Involvement](#).

The applicant will be obliged to ensure that all community consultation is meaningful and the strategy for engagement will vary depending on the scheme. Responsibility for carrying out preapplication consultation (and the costs of doing so) will rest with the applicant, and the Council can provide advice on the most appropriate methods.

# Member involvement

TWBC will ensure that Members are engaged with as appropriate in the PPA process. The strategy for this will be considered by the Supervising and Lead Officers, depending on the complexity and strategic impacts of the proposal. This could involve briefing the:

- Leader of the Council
- Portfolio Holder for Planning and Transportation
- Ward Members
- Planning Committee Chair and Vice Chair
- Planning Committee
- Planning Policy Working Group.

The purpose of such briefing will be to allow Members to gain a full understanding of the project and other pertinent issues.

Members may also attend design review panels for schemes.

The role of Members in such briefings is principally to facilitate community involvement in the planning process and to ensure an understanding of the project and other pertinent issues. They may ask questions and raises issues but will not be expected to offer personal opinions on a scheme.

There will be no conflict between this role and the proper conduct of Members who are involved in determining applications as Members of a Planning Committee. Those Members will be expected to adhere to the Code of Conduct for Members on planning matters and must not predetermine their view on an application.

Applicants should not engage privately with councillors.

## How much will a PPA cost?

At the present time, the Council intends that the fees for PPAs will be considered on a case by case basis, depending on the scale of the site and the complexity of the issues to be addressed. Ultimately this will determine the level of resources within the planning department which will need to be dedicated to meeting the objectives of the PPA. The cost of the PPA will be based on hourly rates for officers, including overheads. The fees cover costs for providing the advice, and if TWBC did not charge for this cost would be met by Council taxpayers generally.

The assessment of the resources needed may result in a need to bring in additional expertise or temporary staff, to be funded by the applicant.

Where a planning application for a major development proposal is submitted without a PPA, it will be handled as a routine application within the existing workload of the team, without dedicated resource.

# The process for development of a PPA

For applicants wishing to enter into a PPA, the process comprises four stages:

1. Agreement with Development Manager or Strategic Sites & Delivery Team Leader whether a PPA is appropriate.
2. Inception Meeting to develop structure and content of PPA, agree project vision and objectives, a work programme setting out key deliverables and responsibilities, and identifying key issues for consideration.
3. LPA will assess the resources required and provide a draft PPA for review.
4. Any amendments to PPA agreed and both parties sign.

The Council will provide a template(s) to clarify the expected format of any PPA. The precise content of the PPA is subject to agreement between the applicant and the Council and will be determined by the complexity of each individual project.

Once implemented it is expected that the work programme and milestones within the performance deadlines section of the PPA will be reviewed at regular intervals to check progress. Where necessary, a PPA could be updated if agreed with both the Council and the applicant.

## Requirements for all PPAs

No PPA will fetter the Council in exercising its statutory duties as local planning authority. It will not prejudice the outcome of planning (and related) application(s) or the impartiality of the Council.

Unless specified in a PPA agreement, the Council will use its available resources to determine application(s) within 13 weeks of receipt (major applications), 16 weeks (EIA applications) and 8 weeks of receipt (minor and other applications). If an alternative date is specified in the PPA, the planning application will be exempt from the national performance indicator (statutory target determination periods identified above).

No PPA will restrict or inhibit the applicant named in the agreement from exercising the right of appeal under Section 78 of the Town and Country Planning Act 1990 (as amended). If this right is exercised the PPA between the parties will be terminated.

The Council reserves the right to renegotiate the PPA fee if the timetable/programme is unreasonably extended Statutory Agency and Service Providers.

The parties entering into a PPA agreement will act with fairness and in good faith in respect of all matters related to the handling of the planning (and related) application(s) and will work jointly in complying with their respective obligations under the PPA.

Nothing contained in a PPA shall be construed to imply a joint venture or partnership relationship between the parties who have entered into such an agreement. The parties shall not have any right, power or authority to act or create any obligations, express or implied, on behalf of the other party, and the applicant and TWBC shall not be obligated, separately or jointly, to any third party of any agreement.

Any party entered into a PPA agreement will use their reasonable endeavours to adhere to any agreed timetable/schedule which sets out the procedure for handling the relevant planning enquiries, preapplication negotiations, and planning and/or listed building/conservation area consent applications in relation to the site.

Applicants will provide access to the pre-application/application site upon the Council's reasonable request to support the provision of advice and processing of any application.

Either party may by written notice terminate a PPA the event that: (i) the other commits a material breach of any of the terms of the Agreement and in the event of a breach which is capable of remedy, fails to make good any such breach within 10 days of being required so to do by written notice identifying the breach and steps which must be taken to remedy it; or (ii) The applicant or Council wishes to terminate the agreement for any other reason. The parties' rights, duties and responsibilities shall continue in full force during any termination notice period.

If the applicant is concerned about performance in relation to any matter in this Agreement a representative may contact the Supervising Officer named in the individual PPA in the first instance.

Failure to pay the fees as set out in the individual PPAs at the stated times will result in the PPA being dissolved.

## Freedom of Information

Under the Freedom of Information Act 2000 or Environmental Information Regulations 2004 we may receive a request to disclose pre-application advice requests and the advice we have provided. 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.



# Further information

For further information on the PPA process please contact the Planning Department (Development Manager of Strategic Sites and Delivery Team Leader) on:

Phone: 01892 526121

Email: [planning@tunbridgewells.gov.uk](mailto:planning@tunbridgewells.gov.uk)