

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO DEVELOPMENT CONTROL COMMITTEE

10 DECEMBER 2020

REPORT OF THE CORPORATE DIRECTOR COMMUNITIES

USE OF PLANNING PERFORMANCE AGREEMENTS AND OTHER COST RECOVERY MEASURES FOR THE DETERMINATION OF PLANNING APPLICATIONS

1. Purpose of report

- 1.1 The purpose of this report is to advise Members of the potential to use Planning Performance Agreements (PPAs) with developers as part of a system of cost recovery in dealing with (mainly) major development proposals but the principle is equally applicable to smaller scale development. A number of other Local Authorities within the area are already using PPAs to deal with certain development proposals and there is increasing evidence that that developers are willing to enter agreements as it provides additional certainty on the outcome of an application.

2. Connection to corporate well-being objectives/other corporate priorities

- 2.1 This report assists in the achievement of the following corporate well-being objectives under the **Well-being of Future Generations (Wales) Act 2015**:-
1. **Supporting a successful sustainable economy** – taking steps to make the County Borough a great place to do business, for people to live, work, study and visit and to ensure that our schools are focussed on raising the skills, qualifications and ambitions for all people in the county borough.
 2. **Helping people and communities to be more healthy and resilient** - taking steps to reduce or prevent people from becoming vulnerable or dependent on the Council and its services. Supporting individuals and communities to build resilience and enable them to develop solutions to have active, healthy and independent lives.

3. Background

- 3.1 The main purpose of a PPA is to provide a framework agreed between the Local Planning Authority (LPA) and the applicant or potential applicant about the process for considering a major development proposal. A PPA is a flexible mechanism adaptable to proposals where the issues raised are relatively straightforward to those where the issues are complex, a number of parties may be involved and the process may be staged over a long period. In the case of a Planning application this could range from the pre-application submission to the final agreement of Planning conditions. There is no standard PPA as each one is likely to be unique to its particular circumstances. A PPA is viewed as an efficiency tool which provides a clear timeframe to progress significant development and associated economic benefits as well as where necessary additional resource to ensure service continuity.
- 3.2 The process that the PPA sets out will vary according to the number and complexity of the issues to be considered and the type of development proposed. A relatively

modest development with straight forward issues may not benefit from a PPA approach although some proposals even smaller scale schemes may require specialist input for example ecological, landscape and visual or highways expertise. In this case the determination period will likely be extended and additional resource needed to allow the LPA to make an informed and on balance decision or recommendation. Most large scale or significant development proposals will require some form of additional or extraordinary input and the PPA will agree the extension to determination periods which is allowable under current Regulations.

- 3.3 A PPA could be agreed by way of a mutual understanding between the parties or by way of formal agreement. In most cases some form of written agreement will be required in order to agree timescales. This will be more pertinent when there is a financial contribution over and above the normal Planning fee which would be used to provide any additional resources necessary to determine the application.
- 3.4 It is necessary to point out that that a PPA should not be considered as means of 'buying' a Planning consent or circumventing the normal Planning process. Notwithstanding any agreements, it is a requirement under Planning law for each Planning application to be considered on its merit taking into account all material considerations including national and local land use policy. It will be highly unlikely that a LPA will enter a PPA related to a development that has little or no chance of receiving a favourable recommendation.
- 3.5 The common elements of a PPA are generally considered to be:
- The agreement is usually drawn up prior to the submission of a Planning application.
 - The LPA and the prospective applicant are signatories to this voluntary agreement.
 - As a general principle the agreement should be as simple as possible, consistent with a proportionate approach to the scale of the proposal and complexity of the issues raised.
 - The agreement should include one or more agreed milestones to define the process of considering the development proposed including an agreed date by which an application will be determined by the LPA.
 - The agreed determination date will supersede the normal statutory time limits
 - The simplest PPAs will be an agreement between the Council and the applicant setting an appropriate determination date for a Planning application.
 - More often the PPA will be agreed during pre-application discussions to set out the scope and timetable for pre-application engagement and subsequent submission and determination of the Planning application.
 - An additional financial contribution over and above the Planning fee can be agreed.
- 3.6 There is no direct reference to PPAs in current Welsh Planning law or policy however, the Local Government Act 2003 allows Councils to make charges for additional services. In the case of a PPA, the additional services would include the cost of engaging temporary or agency staff to backfill Officers engaged full time in working on the project or to procure specialist advice assist in the determination of the proposal. The use of a PPA would allow a project management approach to

major developments with a dedicated project manager and/or team whilst not compromising business as usual work streams.

4. Current situation/proposal

- 4.1 The lack of adequate resource of Planning functions within local Authorities in Wales is a national issue identified by both Welsh Government and the Royal Town Planning Institute (RTPI). It is apparent that there is a critical loss of Planning and related skills within local Authorities together with a corresponding impact on the ability to deliver sustainable development in line with national policy. Lack of adequate resource within Planning Authorities is also identified as one of the principal reasons behind delays in the Planning system. The Auditor General for Wales undertook a thorough examination of the Planning System in Wales and specifically its ability to implement the aims and objectives of the Wellbeing of Future Generations Act (Effectiveness of Local Planning Authorities in Wales, June 2019). Further to this, both the Welsh Parliament Public Accounts Committee (Effectiveness of Local Planning Authorities in Wales, June 2020) and Future Generations Commissioner (The Future Generations Report 2020) raised concerns on the ability of Planning teams to deliver key national legislation and policy. Lack of adequate resource within Planning teams is cited as a key risk factor across all these independent reports.
- 4.2 Bridgend is no exception to this national picture and staffing levels within the Group have reduced by 50% over the last 8 years together with a loss of specialist roles including GIS, Minerals Planning and urban design expertise. In order to meet the challenge of resource issues against a need to deliver a vital service against a challenging backdrop of radical changes to policy and legislation, the service has been rationalised and restructured on a number of occasions. The most recent in 2019/2020 reduced business support functions from the service in favour of re-skilling staff to focus on technical work streams as well as introducing more flexible job descriptions to allow easier movement between functions. Further efficiencies have been made by investment in new ICT and by improving revenue streams and introducing more paid for services such as pre-application advice and viability assessments. However, notwithstanding gains in efficiency, critical areas remain particularly with regard to the determination of major Planning applications and highway input to major schemes as well as overall general resilience.
- 4.3 Due to high workloads, increasing complexity of technical submissions as well as the implementation of far reaching national legislation and policy including the critical placemaking agenda, the Service is losing the gains made through efficiency over the last decade and is at risk of failure and potentially considering a reduction in service levels to provide a focus on core statutory functions only.
- 4.4 Bridgend has also seen a number of large development proposals coming forward over the last year. For example, the expansion of the WEPA paper mill in Maesteg was a significant project with subsequent economic benefits both locally and regionally. This application tested the teams quite considerably from pre-application through to post decision and at one point required full time input for a number of Officers. In this case, the project was time sensitive but was delivered on time following the grant of Planning permission although other work streams within the service were delayed as a result.
- 4.5 The use of a PPA in this circumstance would provide an agreed framework for the processing of the application from pre-application stage through to the discharge of

conditions as well as the potential to secure additional resource to assist in covering those staff members fully engaged on the project.

- 4.6 Bridgend is seen as a key area of growth and is identified as such in the forthcoming National Development Framework (NDF) or Future Wales. It is highly likely that other key inward investment proposals will be forthcoming. Added to this is the Replacement Local Development Plan (LDP), due for adoption in mid-2022, which will identify a number of key strategic sites within the County Borough together with the corresponding need for Planning consent. There is demonstrative need for a system of PPAs to be introduced in time to meet the challenge. Furthermore, there is increasing evidence of the willingness of developers to enter PPAs as part of the regular Planning process.
- 4.7 It is proposed to consider the potential for this system within Bridgend with a view to introduce a system of PPAs to be included as part of a revised and updated Pre-Application Advice Service. Bridgend has had a system of paid pre-application advice since 2011 which was radically overhauled in 2016 and updated more recently (April 2019) to include more categories of development. The service has proved successful and popular with prospective developers and results in higher quality development outcomes as well as additional resource income that can be re-invested within the service area.
- 4.8 Principally, PPAs would be used for larger development schemes (major and above) but could also be used for any type of development that requires an extraordinary response from the LPA. This could include renewable energy schemes or essential development on sensitive sites. PPAs could also be used as part of a response to consultations on Developments of National Significance (DNS) applications. These applications are submitted to and determined by the Welsh Ministers via the Planning Inspectorate which takes most of the planning fee. In this case, the Local Authority will be a statutory consultee and will be responsible for discharging the conditions and any subsequent enforcement. It is essential therefore, that any costs incurred by securing critical advice can be recovered from the developer.
- 4.9 It is also proposed to look at additional income streams by applying PPA principles to smaller scale development and 'fastracking' initiatives. These have been implemented to good effect in other Local Authority areas however, any such scheme must be in the interest of sound Planning and not prejudice any other legitimate process.
- 4.10 It is apparent that the use of PPAs within the mainstream Planning process is increasing with a willingness on the part of both developers and decision makers to enter agreements to secure timely consents, added value functions and achieve higher quality development. This is due in part by pressures of resource limitations within LPAs and the increasing complexity of legislation and policy. The Development Control Committee is requested to authorise Officers to explore the use of PPAs within Bridgend and to review its paid for pre-application advice service with a view to seeking the subsequent approval of cabinet for a new charging structure in due course. Added resource secured through PPAs will assist in longer viability and resilience of the Planning and Development service area.

5. Effect upon policy framework and procedure rules

- 5.1 The statutory Town and Country Planning system is governed by the Town &

Country Planning Act 1990, the Planning and Compulsory Purchase Act 2004, the Planning Wales Act 2015 and various Regulations.

- 5.2 The Local Government Act 2003 allows Local Authorities to recover the costs of providing services or improvements to services that they are authorised, but not required, to provide to someone under any enactment, as long as that person has agreed to the provision of the service.

6. Equality Impact Assessment

- 6.1 There are no direct implications associated with this report.

7. Well-being of Future Generations (Wales) Act 2015 implications

- 7.1 The statutory Planning system is administered in accordance with the 7 Wellbeing goals and the 5 ways of working as identified in the Act.

8. Financial implications

- 8.1 The cost of the administering the statutory Town and Country Planning system is met from current budget heads and offset by Planning and pre-application fee revenue. The introduction of a PPA system will strengthen resilience within the service with the potential to increase revenue streams.

9. Recommendation(s)

- 9.1 That Members agree to the principle of introducing a system of Planning Performance Agreements in Bridgend and authorise the Group Manager Planning and Development Services to seek Cabinet approval to take forward a formal system of agreement and charging.
- 9.2 That authority be given to the Group Manager Planning and Development Services to review and make changes to the current Pre-Application Advice Service and scale of charges.

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