

Chichester District Council

CABINET

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South Downs National Park Authority

Extension to Development Management Agency Agreement

1. Contacts

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2. Executive Summary

This report outlines the background to the delivery of a Development Management service by the Council on behalf of the South Downs National Park Authority over the previous eight and a half years, which, without any agreed extension of the existing legal agreement or negotiation of a new agreement, would come to an end on 30 September 2020. The report considers the merits of extending the agreement by a further two years (to 30 September 2022), as envisaged as a possible outcome in the agreement itself, subject to approval by the Council and the SDNPA.

3. Recommendation

- 3.1 That Cabinet approves an extension of the current Agreement with the South Downs National Park Authority (SDNPA) under section 101 of the Local Government Act 1972 to enable the Council to continue to provide a development management service to the SDNPA for a further two years to 30 September 2022 on the basis of the previously agreed terms of the Section 101 Agreement including the Service Level Agreement and related Protocols.**

4. Background

- 4.1 The South Downs National Park Authority (SDNPA) originally entered into a legal agreement under S101 of the Local Government Act 1972 with 15 host authorities that have parts of their administrative areas within the national park to enable the delivery of development management services from 1 April 2011 to 31 March 2014. Individual agreements were supplemented with a number of other provisions including protocols relating to enforcement and the management of Section 106 agreements and a Service Level Agreement (SLA). Following the end of the initial 3

year period, the agency agreement with the SDNPA was extended for a further 3.5 years (to 30 September 2017). By this time ten of the original host authorities had opted out, with the administration of the development management service within those areas transferring back to the SDNPA. With the exception of the relevant County Councils, this was where the SDNP designation covered a comparatively small proportion of the application workload of those authorities.

- 4.2 During the first half of 2017 the Council renegotiated the terms of the agreement with the SDNPA, the most substantive of which was the way in which the Council is paid for the work undertaken. Rather than a fixed annual settlement, the Council is now paid by the number of cases it deals with for applications and appeals, and a fixed amount in relation to the provision of enforcement services within the South Downs National Park (SDNP) area. A breakdown of agreed payments per case is provided as Appendix 1.
- 4.3 The current S101 agreement, under which the Council provides a development management service for the area of the National Park that falls within Chichester District, was entered into on 1 October 2017. The agreement was drafted on the basis of a 3 year term, including a 12 month notice period in the event of termination by either the Council or the SDNPA, with the potential to extend to 5 years, subject to agreement by both parties. The agreement sets out the terms under which the Council undertakes all development management planning work pursuant to Parts III, VII, VIII and X of the Town and Country Planning Act 1990, and also the operation of the SDNPA pre-application advice service, within those parts of the SDNP in the Council's administrative area. The work also includes general planning enquiries, the making of tree preservation orders, Environmental Impact Assessment (EIA) screening/scoping and the administration and determination of planning related applications, appeals and enforcement matters. The SDNPA retains the ability to call in those applications, orders or consents which it considers may have a significant effect on the purposes for which the SDNP has been designated.
- 4.4 The above arrangements allow for a greater level of direct involvement by the Council into development proposals within that part of the SDNP which falls within Chichester District than would be afforded if the Development Management Service was provided by the SDNPA itself. This has previously been identified as a valued benefit of the arrangements by the Council. In addition to the added involvement in the SDNP planning process that the arrangement affords, the Council operates the service provided on behalf of the SDNPA to a high standard, which has been recognised by SDNPA officers and is a benefit to the local communities.
- 4.5 The Council and the SDNPA work in partnership in delivering the Development Management Service. In addition to the weekly presence of the SDNPA Link Officer at the Council Offices, Development Management Officers are part of administrative and professional working groups that

meet on a monthly basis, in addition to a quarterly 'relationship' meeting at a more senior level. The arrangements put in place in October 2017 continue to work well for both Authorities.

- 4.6 The Council recovers the direct costs in providing the Development Management Service on behalf of the SDNPA. In addition, the payment arrangement contributes toward shared overhead costs across the Development Management Service. Appendix 2 provides a comparison with the anticipated workload/income and the actual workload and resultant payment by the SDNPA over the past 2 years. Whilst income has been 2.9% lower than that envisaged prior to entering the agreement the arrangement remains financially beneficial in contributing towards shared overhead costs.
- 4.7 Officers of the SDNPA have advised that they are pleased with the way that the arrangement with the Council has operated in the previous 2 years and are satisfied with the level of service that the Council provides on behalf of the SDNPA. The SDNPA is currently separately considering the advice of its officers to extend the current arrangements for a further two years to 30 September 2022.

5. Outcomes to be achieved

- 5.1 To ensure that the proposed agency agreement continues to provide for recovery of all costs incurred by the Council in delivering a development management service for the SDNPA.
- 5.2 Continued arrangements should ensure a high quality service continues to be provided and that the character and qualities of the area of the South Downs National Park within Chichester District are protected.
- 5.3 There is also considered to be significant benefit for the Council in maintaining a larger core of experienced planning officers and being involved in planning decision making across the whole District.

6. Proposal

- 6.1 That the Council requests an extension of the existing agency agreement with the SDNPA for a further two years from the end of the initial 3 year period on 30 September 2020. All terms under which the Council currently provide the service on behalf of the SDNPA will remain as previously agreed including the Service Terms, the Service Level Agreement, the Financial Provisions and the Protocols.

7. Alternatives Considered

- 7.1 The case for the Council continuing to provide a development management service on behalf of the SDNPA has been considered carefully by officers. The current arrangements allow for greater involvement by Members in development proposals within the area of the SDNP within Chichester District and, in addition to recouping the direct

costs associated with providing the Development Management function on behalf of the SDNPA, allows for a contribution toward the shared cost of some of the indirect overheads of providing a Development Management Service across the whole of Chichester District.

- 7.2 The alternative option, not to enter into a new agency agreement for a further period would mean that the Council would no longer handle planning and associated applications on behalf of the SDNPA. The financial implications to the Council would also need to be reassessed.

8. Resource and Legal Implications

- 8.1 Recognising the importance of this work, the Planning Service operates a dedicated SDNP Applications Team and shares the resources of the Enforcement Team across both the CDC plan area and the SDNP. Both teams are supported by an administrative support team and specialist advisors in areas such as heritage, ecology, housing and environmental health. Given the staff resources already employed in undertaking this work, the continuation of the provision of a development management service on behalf of the SDNPA would not result in significant resource implications beyond those already identified. Maintaining a larger DM service to support work both in and out of the SDNP also provides greater resilience to the Council in service delivery as a whole and efficiencies of scale in relation to overheads.
- 8.2 An extension of the existing 3 year agreement for a further 2 years will provide for a continuation of service delivery and staff resourcing whilst allowing for the arrangements to be reviewed at an appropriate point prior to September 2022.
- 8.3 There are no further legal implications beyond those set out in the body of the report.

9. Consultation

- 9.1 The existing agency arrangement was reported to the Overview and Scrutiny Committee, Cabinet and Council in June/July 2017. Consultation was also undertaken with the then Head of Finance and Governance and the Legal and Democratic Services Manager in respect of the proposals for determining future payments and the content of the new S101 agency agreement.
- 9.2 As the extension to the existing agreement does not propose any changes to the current system of payment for the services provided by the Council or the expected service level provisions no further consultation has been identified as necessary.

10. Community Impact and Corporate Risks

- 10.1 Important considerations are that the extended arrangement continues to deliver a service that is respected by the community, meets the

requirements of the SDNPA and ensures the Council is compensated for the agency work undertaken. It is noted that SDNPA have recently expressed their satisfaction with the service that the Council continues to provide on its behalf.

11. Other Implications

11.1 None.

12. Appendices

12.1 Appendix 1 – Agreed costs per case to be used in calculating quarterly payment amounts [Part II – confidential exempt from publication]

12.2 Appendix 2 – Comparison between expected income generated by agreement and actual income over previous 2 years [Part II – confidential and exempt from publication]

13. Background Papers

13.1 Current agreement under s 101 of the *Local Government Act 1972*, related Protocols and SLA.