

Chichester District Council

CABINET

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South Downs National Park Authority

Renewal of 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 nine and a half years, which, without any agreed extension of the existing legal agreement or negotiation of a new agreement, will come to an end on 30 September 2022. The report considers the merits of the Council entering into a further agreement for a period of initially 2 years from 1 October 2022 (to 30 September 2024), or to the end date of any agreed Extension of up to 2 additional years (no later than 30 September 2026), subject to approval by the Council and the SDNPA.

3. Recommendation

That Cabinet:

- 3.1 Approve the Council entering into a new 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 up to two years initially, until 30 September 2024.**
- 3.2 Delegate authority to the Director of Planning and Environment to agree an extension of the Section 101 Agreement for a further two years up until 30 September 2026 if the arrangements are working effectively and agreeable to both authorities.**
- 3.3 Authorise the Director of Planning and Environment to conclude negotiations on the Section 101 Agreement including the Service Level Agreement, related Protocols and proposed basis for payments set out in Appendix 1; and then to complete the Agreement.**

4. Background

- 4.1 For the past 12 years the South Downs National Park Authority (SDNPA) has contracted out much of its development management function to those Local Authorities (known as 'host authorities') affected by the designation of the South Downs National Park (SDNP), through legal agreements under S101 of the Local Government Act 1972. For some of the 15 host authorities the volume of contracted work was not significant and over time ten of the original host authorities have opted out, with the administration of the development management service within those areas transferring back to the SDNPA.
- 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 current agreed payments per case is provided as Appendix 1 (inclusive of revised payments now proposed).
- 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 an extended 5-year term, including a 12-month notice period in the event of termination by either the Council or the SDNPA. 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 from both CDC and the SDNPA 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 Officers of the SDNPA have advised that they are pleased with the way that the arrangement with the Council has operated throughout the course of the current agreement and are satisfied with the level of service that the Council provides on behalf of the SDNPA.
- 4.7 The Council has also carried out a short time recording exercise following the receipt of the offer by the SDNPA to enter into a further agreement. The results collected so far indicate that, notwithstanding some minor variation in the time taken to determine certain types of application, overall, the time taken to determine planning applications remains comparable to the basis on which the previous (2017) agreement was negotiated.

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 The SDNPA has provided a new draft agreement for consideration by the Council, to enable the continuation of the provision of a development management service on behalf of the SDNPA, operated by Chichester District Council.
- 6.2 Much of the proposed agreement remains the same as the existing, with the payment per planning application model retained with (as currently) a fixed cost per quarter for Enforcement work and a fixed cost per planning appeal dealt with.
- 6.3 Following negotiations with the SDNPA, the main proposed revisions to the proposed agreement may be summarised as:

- i. A 2-year initial term, with an option for an extension of a further 2 years, upon the agreement of both parties.
 - ii. An increase in the payments per application (as set out in Appendix 1)
 - iii. An increase in the performance targets for application determination by 10% and validation performance targets by 15%.
- 6.4 Officers are satisfied with the content and format of the proposed arrangements and subject to the successful conclusion of negotiations, it is recommended that the Council enters into a new agency agreement with the SDNPA to provide a development management service on the basis of the negotiated terms of the proposals put forward for the Council's consideration.

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 Development Management 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. It is considered that the increase in payments per application as set out in Appendix 1 is sufficient to allow the Council to recover the increased cost of delivering the service that has arisen through inflation over the last five years and to continue to benefit from the sharing of overhead costs.

8.2 A new agreement broadly on the terms of the existing for a further two 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 2024.

8.3 There are no further legal implications beyond those set out in the body of the report.

9. Consultation

9.1 The proposed Agreement has been the subject of advice from the Council's legal and financial services teams in respect of the proposals for determining future payments and the content of the new S101 agency agreement.

9.2 As the differences between the existing and proposed Agreements are relatively minor with regard to the current system of payment for the services provided by the Council and 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 for both the existing agreement and the proposed agreement [Part II – confidential exempt from publication]

12.2 Appendix 2 - Draft S101 Agreement, Service Level Agreement and Protocols [Part II – confidential exempt from publication]

13. Background Papers

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