

## BABERGH DISTRICT COUNCIL

<b>From: Head of Natural and Built Environment</b>	<b>Report Number: L57</b>
<b>To: Strategy Committee</b>	<b>Date of Meeting: 18 August 2011</b>

### PLANNING PERFORMANCE AGREEMENTS

#### 1. Purpose of Report

- 1.1 The purpose of this report is to seek authority to enter into Planning Performance Agreements with the promoters of national infrastructure projects that may have a bearing upon Babergh.

#### 2. Recommendations

- 2.1 That the Solicitor to the Council be authorised to enter into a Planning Performance Agreement with National Grid in relation to the Bramford to Twinstead project and East Anglian Offshore Wind in relation to the East Anglian One project.
- 2.2 That subject to consultation with the Chairman and Vice Chairman of the Strategy Committee the Solicitor to the Council be authorised to enter into future Planning Performance Agreements on other national infrastructure projects should the need arise.
- 2.3 That in each case the Planning Performance Agreements should contain explicit safeguards to expressly ensure that there is no perceived risk that the decisions of the District Council are prejudiced or fettered.

The Committee is able to resolve this matter.

#### 3. Financial Implications

- 3.1 There are no direct financial implications for the District Council arising from the completion of the proposed Planning Performance Agreements. The completion of the agreements would however secure additional resources, and relieve the potential pressure on existing budgets, to ensure that sufficient attention can be given to these significant projects for the benefit of local communities.
- 3.2 The resource implications associated with pre-application discussions on the identified national infrastructure projects have been estimated by Suffolk County Council as being in excess of £100,000 for each case, principally in staff time. This is a reasonable estimate although the actual financial implications are likely to vary from case to case.

#### **4. Risk Management**

4.1 The District Council's Significant Business Risks Register identifies two areas of concern that are pertinent to the content of this report: No.1 – Political and Managerial Leadership and No. 3b – Shared Services. The key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
Failure to engage with communities and provide community leadership at a local level.	Significant	Critical	Enter into PPA's on appropriate terms to support community leadership role.
Failure to identify opportunities for sharing services with partners.	High	Critical	Enter into PPA's on appropriate terms to share resources

#### **5. Consultations**

5.1 In view of the nature of this report no specific consultation has been undertaken.

#### **6. Equality and Diversity Impact**

6.1 There are no Equality and Diversity implications arising directly from the content of this report.

#### **7. Shared Service / Partnership Implications**

7.1 The National Grid project has implications for both Babergh and Mid Suffolk albeit that the extent of the project within Babergh is considerably greater. Officers from both Districts have been working jointly on the project with colleagues from Suffolk County Council and the Essex authorities. The East Anglian Offshore Wind is at a less advanced stage however it could also have implications for both Districts.

7.2 The completion of Planning Performance Agreements for both projects would be consistent with the shared service agenda and assist partnership working. Suffolk County Council and Mid Suffolk District Council have already agreed to enter into the suggested agreements and the Essex authorities are likely to follow.

#### **8. Key Information**

8.1 Planning Performance Agreements are increasingly being used to facilitate the assessment of development projects without placing additional financial burdens upon existing budgets. To date they have generally been used in relation to large and complex planning applications. The Government has however issued guidance that they should also be used in association with the consideration of national infrastructure projects.

- 8.2 Planning Performance Agreements are entered into by the applicant for a development proposal and a local authority or local authorities. They are intended to provide adequate financial resources to allow the local authority to consider the proposal expeditiously and in detail. It is usual to include references within such agreements that they should not fetter the judgement and decisions of authorities.
- 8.3 It is evident that the projects being advanced by National Grid and East Anglian Offshore Wind are likely to create additional burdens on the respective local authorities in both Suffolk and Essex. Although the Government has indicated that it intends to abolish the Infrastructure Planning Commission, and return the power to make decisions on national projects to the appropriate Secretary of State, the provisions of the Planning Act, 2008, will remain very much as before.
- 8.4 The Planning Act, 2008, requires the promoters of national infrastructure projects to have extensive pre-application discussions with stakeholders, including local authorities, before making a Development Consent Order submission. In the case of significant proposals, these discussions can place considerable burdens on local authorities. In the past, local authorities have sought support from Government for the financial cost associated with this work. The Government is now however declining to offer support and requires instead that funding is secured via planning performance agreements.
- 8.5 Suffolk County Council and Suffolk Coastal District Council have already entered into a Planning Performance Agreement with EDF in relation to the Sizewell C project and have been effectively defraying the costs involved. The projects being advanced by National Grid and East Anglian Offshore Wind are equally likely to give rise to additional burdens on the respective Suffolk and Essex authorities and the opportunity to offset the associated costs is to be encouraged.
- 8.6 The proposed Planning Performance Agreements would be entered into under the provisions of the Planning Act, 2008 and associated legislation contained within the Local Government Act, 1972 and the Local Government Act, 2003. The purpose of the Planning Performance Agreements would be to ensure that timely consultation, scrutiny and review are undertaken during the Development Consent Order application process. These activities would be undertaken in line with agreed project management principles but without fettering any party's ability to discharge its statutory functions. As part of the process it would be possible for the relevant local authorities to commission specialist advice to inform any subsequent responses to consultations.

#### National Grid

- 8.7 In July National Grid made an announcement on its preferred route corridor for the Bramford to Twinstead link. Although the second stage of a formal public consultation exercise on the detailed alignment of the link has yet to commence, the District Council will be involved, along with the relevant Suffolk and the Essex authorities, in reviewing and scrutinising the work undertaken by National Grid. In recognition of this burden, National Grid has accepted the need for a Planning Performance Agreement with the local authorities.

- 8.8 The draft Planning Performance Agreement currently under negotiation would include a reference to the fact that it would not fetter the judgement or decisions of the authorities. In particular, the District Council would still be able to pursue its conclusion that other options should have been given greater consideration, as set out in the report considered by Strategy Committee on 11 February 2010, although it is understood that the agreement would not fund this work.

#### East Anglian Offshore Wind

- 8.9 East Anglian Offshore Wind has been granted the licence to develop the “East Anglian Array”, a scheme for more than 1,000 wind turbines in an area over 30 miles from the Suffolk and Norfolk Coast. It is likely to be developed in six tranches and the first of these (East Anglia One) is now under consideration. National Grid has agreed to connect the first scheme into the main transmission network at Bramford. Thus it is likely that the cables from the wind farm will come ashore in Suffolk.
- 8.10 The company intends to look at a number of route options across South Suffolk and then, after consultation, select one for more detailed work. Again, pre-application discussions are likely to involve considerable work for the relevant local authorities. East Anglian Offshore Wind has offered to enter into a Planning Performance Agreement in order to offset these costs. The other authorities likely to be involved in this agreement are Suffolk County Council, Mid Suffolk and Suffolk Coastal District Councils.

#### Other Planning Performance Agreements

- 8.11 It is possible that further national infrastructure projects may come forward which are likely to place additional resource burdens upon the District Council. Although a Planning Performance Agreement is not currently being pursued with Network Rail in relation to the Ipswich Rail Chord project, authority is sought to negotiate terms on further Planning Performance Agreements if the need arises.
- 8.12 In all instances it will remain critical to ensure that any Planning Performance Agreement does not appear to pre-judge the submission of observations on the project or fetter the District Council’s ability to provide comments on any Development Consent Order application.

### **9. Appendices**

None

### **10. Background Documents**

None

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