

DATED xxxxxxxx

(1) MAIDSTONE BOROUGH COUNCIL

-and-

(2) xxxxxxxx

**PLANNING PERFORMANCE  
AGREEMENT**

xxxxxxx

**Comment [TC1]:** Title of Site

**Planning Performance Agreements**

Excerpt from “*Planning Performance Agreements: a new way to manage large-scale major planning applications Department for Communities and Local Government Consultation Draft 2007*”

“The Planning Performance Agreement process is a project plan framework through which the local planning authority and applicant manage suitable planning proposals. For a PPA to be successful, it is essential that the local planning authority and the applicant establish a collaborative relationship based on trust, with good communication and regular exchange of information. However, it is important to emphasise that a PPA is not a guarantee, nor an indication of likelihood that the application will be approved. It relates to the process of considering development proposals and not to the decision itself.

The Government believes that where the nature of the planning application requires significant input from government and non-government agencies, environmental bodies and specific consultees, the project plan should be used to bring them in early in the process. We would also expect the government office for the region to be one of the parties to the discussion. Early engagement with all such bodies should allow the authority and the applicant to plan their community engagement strategy better, so as to ensure transparency and openness.”

THIS AGREEMENT is made on **xxxxxxx**

**BETWEEN**

(1) **MAIDSTONE BOROUGH COUNCIL** of Maidstone House, King Street, Maidstone ME15 6JQ

(2) **xxxxxxx**

**INTRODUCTION AND PURPOSE**

Maidstone Borough Council is the local planning authority for development within the area in which the development site is located.

The Applicant is **xxxxxxx**

The Site is **located xxxxxx**

The applicant is to submit a planning application seeking permission for: **xxxxxxx**

This Planning Performance Agreement is an agreement between Maidstone Borough Council and the Applicant to provide a project management framework for handling this proposed major planning application from pre-application through to determination. This framework should improve and speed up the planning process by committing both parties to an agreed

timetable containing “milestones” that make clear what level of resources and actions are required and ensure that all key planning issues are properly considered and resolved.

This agreement does not give a guarantee of planning permission. It relates to the process of considering development proposals and not the decision itself.

This agreement is made pursuant to Section 111 of the Local Government Act 1972 and Section 2 of the Local Government Act 2000.

Nothing in this agreement shall restrict or inhibit the Applicant(s) from exercising their right of appeal under Section 78 of the Town and Country Planning Act 1990.

The parties desire that the application be dealt with as efficiently as possible as set out in the Application programme, the Developers Obligations and the Maidstone Borough Council Service Standards included in this agreement.

The parties are, prior to the submission of the application, agreeing to enter into this agreement in respect of the development and will work in accordance with the Application Programme, the Developers Obligations and Maidstone Borough Council, which will be formalised upon the completion of this agreement.

#### **TERM**

This agreement will apply from and the functions will be deemed to have commenced on the commencement date and (subject to earlier determination as hereinafter provided) shall remain in force for a period of four (4) months (such period of four (4) months and any consultation thereof referred to in this agreement as the “Term”) and upon the expiry of such period this agreement shall cease and determine but without prejudice to the rights of the parties in respect of any antecedent breach of the terms and conditions hereof.

**Comment [TC2]:** To be determined

#### **JOINT WORKING**

The objective of this Planning Performance Agreement is one of co-operation and consistency throughout the negotiation and determination of this planning application, to provide a degree of certainty for the intended outcomes and to improve the quality of the project and of the planning decision.

All parties shall act with the utmost fairness and good faith towards each other in respect of all matters in relation to the applications and the development.

Maidstone Borough Council and the Applicant agree to be governed at all times by the following principles:

- Principle 1:** To work together as a team and in good faith, and to respect each other’s interests and confidentiality.

- Principle 2:** To commit and provide promptly information to support and manage the development control process, in accordance with the Performance Standards contained in this agreement.
- Principle 3:** To be transparent and consistent at all times between all parties so that outcomes are anticipated, defined and understood.
- Principle 4:** To provide effective involvement and consultation with the surrounding community, statutory and other stakeholders, and any individual or group with a legitimate interest.
- Principle 5:** To reach agreement milestones which will remain fixed unless agreed by all parties otherwise.
- Principle 6:** To identify and involve specialist consultees and advisors including authority officers/managers where appropriate.
- Principle 7:** All parties will seek to use the pre-application period to address matters that would otherwise arise via planning conditions, and significantly reduce the level of potential conditions, particularly in respect to those preventing commencement of works.

#### **PRE-APPLICATION DISCUSSIONS**

This PPA follows a series of pre-application discussions as set out in the Appendix 1.

#### **FORM AND CONTENT OF THE PPA**

The PPA will include details relating to the planning application to be submitted.

Application Programme: The list of application documents are agreed in writing in this document.

#### **PLANNING OFFICERS/MBC's OBLIGATIONS**

Without prejudice to its other obligations Maidstone Borough Council shall designate a Planning Officer(s), namely Tim Chapman, who shall be the Council's lead officer and who will form and lead a project team within the Council and who shall give on-going priority to the performance of the functions as necessary for the Council to carry out the functions in accordance with this agreement.

Maidstone Borough Council shall ensure that the Planning Officer(s), and other members of the project team have sufficient experience of relevant planning matters of a type and scale commensurate with the Development and that he or she and the relevant team have a clear

understanding of the terms of this agreement and the functions. MBC commit to meet its obligations at outlined in Appendix 2.

In addition to the Planning Officer(s), Maidstone Borough Council shall use all reasonable endeavours to make available such other of its employees as are necessary in the circumstances for the Council to comply with its obligations under this agreement.

Nothing in this agreement shall affect the terms of the Planning Officer(s) contracts of employment or the Planning Officer(s) rights pursuant to them or any contracts with consultants or other third parties employed by the Council.

### **APPLICANT OBLIGATIONS**

The Applicant agrees to use all reasonable endeavours to comply with its obligations set out in Appendix 3 of this agreement.

The Applicant will identify a Developer Coordinator who shall be responsible for managing the submission of the Applications and for working with the Planning Officer(s) to progress the applications up to their determination. The Developer Coordinator is xxxxxxxx

### **RESOURCES AMD LIAISON**

#### **The Project Team**

The Project Team will comprise of the MBC Team and the Applicant's Team, as defined below. The Project Team will be expanded by agreement.

#### **The MBC's Team:**

<b>Name</b>	<b>Position &amp; Role</b>	<b>Contact Details</b>
Tim Chapman	Case officer	<a href="mailto:timchapman@maidstone.gov.uk">timchapman@maidstone.gov.uk</a> 01622 602547

#### **The Applicant's Team:**

<b>Name</b>	<b>Position &amp; Role</b>	<b>Contact Details</b>
xxxxxxx		

### **JOINT WORKING MEETINGS**

The parties shall attend up to seven (7) (1 hour) post-submission meetings, (the 'Joint Working Meetings' unless otherwise agreed by both parties. MBC will also provide a member briefing and one meeting with external consultees. Additional meetings will be charged to the applicant at the standard pre-application charging rates.

**Comment [TC3]:** To be determined

The joint working meetings (unless otherwise agreed by the parties) shall be held at the Council offices to discuss any matters and issues outstanding at that time arising from the application including any consultation response, letter or any other communication received by the Council and circulated to the Developer Coordinator. If the project requires specific project management processes or more detailed or regular meetings then the additional cost would form part of the PPA agreement. Each matter and issue will be evaluated and discussed with the parties and a method of resolution agreed by the Parties.

### **BREACH AND TERMINATION**

If any party commits any breach of its obligations under this agreement and does not remedy the breach within ten (10) working days of written notice from the other Party to do so, the other Party may notify the Party in breach that it wishes to terminate this agreement. In these circumstances, the agreement will be terminated immediately upon the giving of written notice to this effect to the Party in breach provided always the breach is within the control of the Party that is in breach and is capable of being remedied.

### **NATURE OF AGREEMENT**

The Council enters into this agreement on the basis that it is without prejudice to its determination of the application subject to this agreement.

### **RESOLUTION OF DISPUTES**

In the event of any dispute or difference arising between the parties concerning any matter arising out of this agreement the parties shall work together to endeavour to resolve the dispute or difference by mutual agreement and the parties jointly enter into discussions in good faith to settle any dispute as soon as reasonably practicable.

In the event that the parties are unable to resolve the dispute or difference within 20 working days any party to the dispute may refer the dispute or difference to the nominated officer or employee of the parties as follows:

- In respect of the Developer xxxxxxxxx
- In respect of the Council, the Head of Planning and Development, Rob Jarman

**Comment [TC4]:** Name to be added by applicant

Or such other person of appropriate seniority within each party as a party may nominate for the purposes of this clause from time to time.

## **COSTS**

The Applicant commits to cover (terms and timings of payments defined in Appendix 5):

- PPA fee – fee payable on agreement of the PPA (this document);
- the relevant planning application fee;
- MBC's reasonable legal costs incurred associated with the preparation of the S106 Agreement. Details of the applicant's Solicitor and title documentation shall be provided upon submission of the application to enable completion of the S106 within the Application Programme (as may be amended by this agreement); and
- MBC's reasonable costs which may be incurred with the appointment of external consultants (such as Independent Viability Consultants and other consultants as deemed necessary) to progress the planning application in line with the PPA.

## **Application (Project) Programme**

The PPA Programme is devised to provide a realistic timeframe for determining the planning application. The Application Programme is detailed in Appendix 1 of this document.

It has been agreed that a **XXXX week** timeframe for the Project Programme is appropriate for consideration of the planning application and the issuing of the planning decision.

**Comment [TC5]:** To be determined

Within this period, meetings will be arranged as and when considered necessary by agreement, with suggestions of appropriate meeting weeks set out within the Project Programme (Appendix 1).

If there is a delay in the Project Programme, the Project Team will review whether the Project Programme is still realistic or whether the Project Programme and the Planning Performance Agreement determination timeframe need to be revised. Any revisions to the Planning Performance Agreement determination timeframe shall be agreed in writing by the Applicant and MBC

**AGREEMENT**

Maidstone Borough Council and the Applicant hereby agree to the content of this Planning Performance Agreement.

**Maidstone Borough Council**

**Name:** Tim Chapman

**Signature:** \_\_\_\_\_

**Position:** Major Developments Officer

\_\_\_\_\_

**On Behalf Of:** Maidstone Borough Council

xxx

**Date:** \_\_\_\_\_

**xxxxxxx**

**Name:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Position:** \_\_\_\_\_

**On Behalf Of:** \_\_\_\_\_

**Date:** \_\_\_\_\_



**Appendix 1 – Application Programme**

**Comment [TC6]:** To be agreed

MBC and the Applicant shall work to ensure that the consideration of the proposal is progressed in accordance with the Application Programme set out below (unless a variation to the Application Programme is agreed in writing in by both the Applicant and MBC).

**Project Programme - Pre-application Phase**

**Comment [TC7]:** Details to be agreed

Pre-application phase of programme	
Project Team Meeting 30 <sup>th</sup> November 2016	
Member Meeting	
Member Meeting	
Pre-application letter issued	
Pre-submission Meeting	

**Comment [TC8]:** Dates to be added to this table

**Project Programme - Application Phase (MBC and the applicant agree to Joint Working meetings every two weeks, as indicated below.**

**MBC will call the applicant every week to provide a progress update**

TEMPLATE PROJECT PROGRAMME

Week(s)	W/C	Formal application phase of programme
[1]		Applicant to submit the planning application.  MBC to register and validate the application; and a) send out consultation letters / advertising the application; or b) inform the Applicant if application is invalid.  Financial Viability [if applicable] If not already undertaken at the pre-application stage MBC will obtain a quote(s) from independent viability consultants and send to applicant (if received in time) for agreement including agreement to cover the costs of that assessment. Review of submitted information by externally appointed consultants (if applicable)
[2-5]	Subject to submission of a valid application	Statutory consultation period begins  MBC to assess application and inform the Applicant of any issues as they arise.  MBC to ensure all consultee responses are publically accessible.  Draft S106 Heads of Terms to be discussed

**Comment [TC9]:** Indicative timescale

		<p>Viability assessment including initial meeting with assessor (if necessary). Obtain any request for additional information and agree reporting timescales based on information provision (from the applicant).</p> <p>Review of submitted information by externally appointed consultants. (Obtain any update on revised consultant costs (as necessary)</p> <p>1 x project meeting with planners to discuss consultee responses</p> <p>1 x meeting with members</p>
[6]		<p>End of Statutory consultation period</p> <p>Case officer to confirm all outstanding issues to be addressed (such as objectors comments, statutory consultee responses etc).</p> <p>Ongoing viability assessment(if required) (throughout the timeframe) and update on costs as necessary</p> <p>1 x meeting on viability issues (if required) and summary of consultee issues, next steps and possible amendments.</p> <p>1 x Meeting with consultees as appropriate</p>
[7-8]		<p>Applicant to address any outstanding issues/prepare amended plans (as necessary)</p> <p>1 x meeting to discuss draft response prior to resubmission.</p>
[9]		<p>MBC to confirm any final issues to be addressed included any revision to timescales.</p> <p>Draft S106 Heads of Terms to be finalised</p> <p>1 x meeting with legal and planning on draft heads (if necessary)</p>
[10-12]		<p>Preparation of reports to Planning Committee</p> <p>Draft S106 Heads of Terms to be agreed. Legal teams instructed to prepare draft S106 (subject to applicant paying costs).</p> <p>Receipt of any final amended plans and additional information from the applicant.</p> <p>MBC to, circulate first draft of proposed conditions for review.</p> <p>1 x meeting to discuss draft report, including draft conditions</p>

[13]		Review of Draft MBC Planning Committee Report
[14]		Publication of MBC Planning Committee Report
[15]	The week the Committee meeting falls on will depend on the Committee timetable and submission date	<b>Planning Committee meeting</b> Following Committee resolution, Case officer forwards to Legal the relevant minute of Committee Meeting.
[16-17]		S106 drafting including agreement of monitoring fee for S106 triggers (if applicable)  1 x legal and planning meeting (if required)
[18]		<b>MBC issue planning decision notice</b> (following completion of S106 in the event that planning permission is to be approved)

**Appendix 2**  
**Maidstone Borough Council Obligations**

- Engage with Applicant in accordance with the Project Programme
- Use all reasonable endeavours to consider any reasonable concerns raised by the applicant
- MBC will confirm minutes within 2 working days of receipt
  - When you phone MBC: We will answer the phone as quickly as possible
  - We will respond to voicemail messages within one working day and provide an appropriate answerphone message
- When you email us:
  - We will respond to urgent emails within 2 working days, we will respond to simple enquiries within 5 working days and all enquiries within 10 working days
  - If the Planning Officer you email is away you will receive an automatic reply giving their return date and name and contact details of an alternative contact
- MBC will call the applicant to keep them updated of progress at the frequency defined in the project programme

### **Appendix 3**

#### **Applicant Obligations**

The Applicant agrees on commencement of this agreement to:

- Engage with MBC in accordance with the Project Programme
- Use all reasonable endeavours to consider any reasonable concerns raised by statutory consultees prior to the submission of the application to MBC
- Respond substantively to all urgent emails, letters and telephone calls from the Planning Officer(s) within two (2) working days of receipt and, in the case of non-urgent correspondence, within five (5) working days of receipt.
- Provide MBC with such reasonable additional information as may be requested by the Planning Officer(s) within ten (10) working days of such written request from MBC (or such other time period as may be agreed) in order to enable MBC to discharge their functions for the avoidance of doubt this does not require the Developer to provide any information that would not ordinarily be provided for a similar development.
- Provide to MBC at least three (3) working days prior to any meeting all substantive and relevant documents which are relevant to that meeting and which relate to any relevant action points or agenda identified.
- Minute the joint working meetings and to provide minutes or action points arising from the meeting within three (3) working days of any meeting and to provide them to the Planning Officer(s) for comment.

## Appendix 4

### Agreed Application Documents

**Comment [TC10]:** To be agreed

The Applicant agrees that the Planning Application shall be accompanied by the following documents (all documents should be checked by the planning agent prior to submission to ensure consistency of figures (CO2 savings, financial viability etc), floor areas and other facts of the proposals across each of the required documents:

- Agree the number of hard copies of the information listed below that will be required including an electronic copy with all files no larger than 5MB [additional copies may be necessary depending on characteristics of the scheme]
  - Completed application form
  - A plan which identifies the land in red to which the application relates drawn to an identified scale and showing the direction of North any other land within the ownership in blue.
  - **Three** copies of other plans and drawings or information necessary to describe the subject of the application including:
    - Block plan of the site (e.g. at a scale of 1:200 or 1:500) showing the proposed development in relation to the site boundaries and any adjoining properties.
    - Existing and proposed elevations (e.g. at a scale of 1:50 or 1:100)
    - Existing and proposed floor plans (e.g. at a scale of 1:50 or 1:100)
    - Existing and proposed site sections and finished floor and site levels (e.g. at a scale of 1:50 or 1:100)Make sure scale bar is put on all plans
  - The completed Ownership Certificate (A, B, C or D – as applicable) as required by Article 7 of the Town and Country Planning (General Development Procedure) Order 1995
  - Agricultural Holdings Certificate as required by Article 7 of the Town and Country Planning (General Development Procedure) Order 1995. Design and Access Statement
- The D&A shall include an assessment of the proposal against:
- Lifetime Homes Criteria
  - Standard of Accommodation Assessment – flat sizes, room sizes, communal amenity space, private amenity space, and play space
- The appropriate fee
  - In addition, where Ownership Certificates B, C or D have been completed, notice(s) as required by Article 6 of the Town and Country Planning (General Development Procedure) Order 1995 must be given and/or published in accordance with this Article.
  - Financial Viability Assessment that demonstrates the affordable housing offer is the maximum reasonable amount that the site can afford to offer / **other**.
  - Planning Statement

- Accommodation Schedule providing GIA and GEA (sqm) of any proposed uses. For residential units the schedule should provide a summary of the number of units of each size (sqm) including number of bedrooms and habitable rooms. The different tenures of each unit should be identified in the schedule.
- Affordable housing statement  
Similar to the accommodation schedule however the tenure split of affordable should be fully explained and details of any Registered Provider acting as partners in the development must be provided.
- Daylight/Sunlight assessment  
Required where there is potential adverse impact) prepared in accordance with the BRE Guidelines (2011).
- Economic statement (Regeneration Benefits from the proposed development including any jobs created or supported, any community benefits and reference to any regeneration strategies that might be supported by the proposal).
- Heritage Statement  
Including Historical, archaeological features and Scheduled Ancient Monuments) – refer to the National Planning Policy Framework;
- Landscaping details
- Noise and vibration impact assessment
- Planning obligations – Draft Head(s) of Terms  
The applicant’s Solicitor’s name and contact details and their agreement to pay the costs incurred by the Council in the drafting of the legal agreement and the title deeds must be provided with the application;
- Transport assessment
- Travel Plan
- Design and Access Statement
- Tree survey/Arboricultural implications (where proposals affect any trees whatsoever).
- Land Contamination assessment
- Parking Provision
- Air quality assessment
- Phase 1 Habitat Survey (and supporting surveys and mitigation)
- Statement of Community Involvement
- Energy Strategy
- Sustainable Design and Construction Statement (SDC)
- Site Waste Management Plan
- Structural survey. Ventilation/Extraction statement (required for applications for restaurants, takeaways, cafes, bars etc.).
- Refuse and Disposal details
- Views Assessment [verified views (as agreed)/ strategic / local views]
- Flood risk assessment

## Appendix 5

### Frequency and terms of payments

- PPA fee of £xxxxx to be paid on agreement of this document.
- Costs of appointment of external consultants (if known) to be paid on submission of planning application. Reviews of external consultant/s to be undertaken regularly during application process and any uplift in fees to be agreed by applicant and paid within 10 working days of agreement being reached. If not known at application submission stage, costs of external consultants to be agreed by applicants and invoice raised by MBC - which will be paid by applicant prior to release of planning decision. If fees have not been paid, the decision notice will not be issued.
- Application fee of £xxxxx has been paid to the council
- Legal fees – to be paid direct to Mid Kent legal services prior to S106 being signed.

**Comment [TC11]:** To be agreed

**Comment [TC12]:** To be determined