

PLANNING PERFORMANCE AGREEMENT

THIS AGREEMENT is made on **23/11/2022**

BETWEEN

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

(2) **ALDI Stores Limited** of Holly Lane, Atherstone, Warwickshire CV9 2SQ

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

The Applicant is **ALDI Stores Limited**

The Site is located **at Land Adjacent to Newnham Court Way, Weaving, Kent, ME14 5LH**

The applicant is to submit a planning application seeking permission for: **New Aldi foodstore (Use Class E(g)(a) with a new access off Newnham Court Way (NCW).**

INTRODUCTION AND PURPOSE

This Planning Performance Agreement (PPA) is an agreement between Maidstone Borough Council (MBC) and the Applicant to provide a project management framework for handling this proposed major planning application from pre-application through to determination. It provides a 'Project Programme' for the pre-application phase including timings of meetings and topics to be discussed, and an agreed time period and structure for determination of the application. The pre-application phase is critical to fully consider and resolve all relevant issues in order to meet the timetable for the planning application stage.

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

JOINT WORKING

The objectives of this PPA are 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.

RESOURCES AND 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.

MBC's Team:

Name	Position & Role	Contact Details
Richard Timms	Principle Planning Officer	richardtimms@maidstone.gov.uk 01622 602325
Rob Jarman	Head of Planning & Development	RobJarman@Maidstone.gov.uk 01622 602214

The Applicant's Team:

Name	Position & Role	Contact Details
Sam Sheppard	Property Director, ALDI – Applicant	Sam.Sheppard@aldi.co.uk 07711 006 807
Tim Sturgess	Director, Avison Young – Planning Consultant	tim.sturgess@avisonyoung.com 07827 873 687
Matthew Pigott	Associate Director, Avison Young – Planning Consultant	matthew.pigott@avisonyoung.com 07801 317 935
Anna Harrhy	Planner – Avison Young – Planning Consultant	anna.harrhy@avisonyoung.com 07818 103 642
Russell O'Donoghue	Director, The Harris Partnership – Architect	russellodonoghue@harrispartnership.com 07736 665 240
Pablo Donoso	Architect, The Harris Partnership – Architect	PabloDonoso@harrispartnership.com 01908 211577

PRE-APPLICATION AND POST SUBMISSION MEETINGS

MBC will provide pre-application advice in relation to the scope of planning reports (for example view positions for the LVIA and Retail Assessment Scope).

MBC will provide a pre-submission Member briefing and up to 3 pre-submission meetings. Additional meetings will be charged to the applicant at the standard pre-application charging rates (which can be found on the Council's website).

The parties shall attend at least one post-submission meeting to discuss any matters and issues arising from the application, including any consultation response, letter or any other communication received by MBC. Meetings (unless otherwise agreed by the parties) shall be held at the MBC offices or virtually.

BREACH AND REFUNDS

In the event of any breach of the Agreement by MBC that delays the mutually agreed target decision/committee date, a partial refund of the fee may be made, where the breach is wholly within the control of MBC officers as follows:

- MBC will refund to the applicant 10% of the PPA fee on breach of the mutually agreed target decision/committee date.
- If the application remains undetermined/is not reported to committee 20 working days after the mutually agreed target decision/committee date, a further 10% of the PPA fee will be refunded to the Applicant.

RESOLUTION OF DISPUTES

In the event of a dispute between the parties concerning this Agreement, the parties shall work together to try to resolve the dispute by mutual agreement and as soon as reasonably practicable.

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

- In respect of the Developer **Avison Young Director, Tim Sturgess**
- In respect of the MBC, the Head of Planning and Development, Rob Jarman

Or another person of appropriate seniority as a party may nominate for the purposes of this clause from time to time.

PROJECT PROGRAMME

The PPA Project Programme is split into two parts as follows:

1. PRE-APPLICATION PHASE

Includes dates of meetings, topics to be discussed, and attendees, and should be used to fully consider and resolve all relevant issues prior to submission of the planning application.

2. APPLICATION PHASE

Sets out an agreed time period and structure for determination of the planning application.

It has been agreed that a **26 week** timeframe for the Application Phase is appropriate for consideration of the planning application and the issuing of the planning decision.

It is agreed that where a third party (such as a consultee) causes delay which means the timeframe can no longer reasonably be met, a new target date shall be agreed in writing.

AGREED PROJECT PROGRAMME

A meeting with Members will be organised and discussion on any supporting reports and evidence needed for validation or to accompany the application. This will be set out and agreed under the Pre-application Phase of the programme below.

This will ensure genuine 'front loading' of the planning application process as advocated by the NPPF (July 2018)

MBC and the Applicant will ensure the proposal is progressed in accordance with the Project Programme set out below (unless a variation is mutually agreed in writing).

1. PRE-APPLICATION PHASE

Pre-application phase of programme
1st Pre-application Meeting – 12th November 2021
2nd Pre-application Meeting – 3rd May 2022
3rd Pre-application Meeting (Update on Proposals) – 29th September 2022
Report Scoping (LVIA and Retail) – Ongoing
Member Briefing – 13th October 2022

APPLICATION PHASE

Applicant intended submission date: 21 November 2022


Where necessary, MBC will contact the applicant every 2 weeks to provide a progress update


Date	Formal application phase of programme
21/11/2022	<p>Applicant to submit the planning application 21 November 2022.</p> <p>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</p>
28/11/2022 – 19/12/2022 Subject to submission of a valid application	<p>Statutory consultation period</p> <p>Review of submitted information by MBC</p> <p>MBC to ensure all consultee responses are publicly accessible</p>
19/12/2022	End of Statutory consultation period
Early/Mid January 2023	<p>1 x meeting with planners to discuss any matters they have and consultee responses. Case officer to confirm LPA's position and any outstanding issues to be addressed (such as objectors comments, statutory consultee responses etc). If minded to approve, draft S106 Heads of Terms to be discussed</p> <p>1 x meeting with consultees if appropriate where possible</p>
Late January/Early February 2023	Applicant to address any outstanding issues/prepare amended plans (as necessary)
February 2023	<p>MBC to potentially re-consult on any additional information/amended details and agree any revision to timescales. (March committee will not be possible if this is required)</p> <p>If minded to refuse under delegated powers, decision to be made with precise date to be agreed.</p> <p>If minded to approve, draft S106 Heads of Terms to be finalised and agreed and legal teams instructed to prepare draft S106 (subject to applicant undertaking to paying costs).</p> <p>1 x meeting with legal and planning on draft heads (if necessary)</p>

March or April 2023	Preparation of reports to Planning Committee (if committee decision required)
	MBC to circulate first draft of proposed conditions for review (if necessary)
	Planning Committee meeting
	Target Committee date 23 rd March 2023 (publication of report 16 th) Fallback Committee date 20 th April 2023 (publication of report 13 th)
April or May 2023	In the event that planning permission is to be approved Finalise any S106, signing and engrossment.
	1 x legal and planning meeting (if required)
	MBC issue planning decision notice with precise date to be agreed.

AGREEMENT

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

Maidstone Borough Council	
Name:	Richard Timms
Signature:	
Position:	Principle Planning Officer
On Behalf Of:	Maidstone Borough Council
Date:	23/11/22

Applicant	ALDI Stores Ltd.
Name:	Sam Sheppard
Signature:	
Position:	Project Director
On Behalf Of:	ALDI Stores Ltd.
Date:	25.11.22

Appendix 1 – Obligations

Both parties agree to:

- Engage with the other party in accordance with the Project Programme
- Use all reasonable endeavours to consider any reasonable concerns raised by other parties
- Use reasonable endeavours to respond to all urgent emails, letters and telephone calls within 2 working days of receipt and, in the case of non-urgent simple correspondence within 5 working days of receipt.

The applicant agrees to:

- Provide MBC with any reasonable additional information if requested by the Planning Officer(s) within 10 working days of a written request from MBC (or such other time period as may be agreed). This does not mean the Developer is required to provide any information that would not ordinarily be provided for a similar development.
- Provide to MBC at least 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 meetings and provide minutes or action points arising from the meeting within 3 working days of any meeting and to provide them to the Planning Officer(s) for comment.

Maidstone Borough Council agrees to:

- Comment/agree minutes within 3 working days of receipt
- Provide written feedback from the Member Briefing within 10 working days of the briefing.
- Liaise with statutory consultees if response times would affect the prescribed timescales.
- Contact the applicant/agent to keep them updated of progress at the frequency defined in the project programme
- Designate a Planning Officer(s) who shall be MBC's lead officer and who will form and lead a project team within MBC and who shall give on-going priority as necessary for MBC to carry out the functions in accordance with this agreement.
- In addition to the Planning Officer(s), MBC shall use all reasonable endeavours to make available any other employees as necessary to comply with its obligations under this agreement.

Appendix 2 - Agreed Application Documents

(In additional to national and local validation requirements)

Planning and Retail Statement (including Retail Impact Assessment and Sequential Test)
Existing & Proposed Drawings
Design & Access Statement (including CGIs & Visuals)
Landscape Drawings
Landscape Strategy
Landscape Visual Impact Assessment
Landscape and Ecological Management Plan
Heritage Statement
Preliminary Ecology Appraisal
Noise Impact Assessment
Air Quality Assessment
Statement of Community Involvement
Transport Assessment and Travel Plan
Survey / Arboricultural Assessment
Minerals Assessment
BREEAM Assessment
Drainage Assessment
FRA
Existing and proposed sections (cross and longitudinal)
Existing and proposed contours plans

The applicant shall provide an electronic copy of all application plans and documents with all files no larger than 10MB.

Appendix 3 - Frequency and terms of payments

- PPA fee of £5,100 (paid 26/08/22).
- Costs of appointment of external consultants (if known) to be paid on submission of planning application. If not known at application submission stage, costs of external consultants to be agreed. These will be paid by applicant prior to release of planning decision. If fees have not been paid, the decision notice will not be issued.