

## **Draft S106 Heads of Terms**

Land East of Albion Road and North of Copper  
Lane, Marden

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Outline application with some matters reserved (access only sought) for the removal of 2 former agricultural sheds and erection of up to 117no. dwellings and associated infrastructure including partial footways on Albion Road

at

Land East of Albion Road and North of Copper Lane,  
Marden

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Draft S106 Heads of Terms

on Behalf of

B.Yond Homes Ltd (formerly Rydon Homes Ltd)

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June 2024

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Checked by

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**DRAFT**

**Prepared by: LDS**

**Checked by: PR**

**Date: 18<sup>th</sup> June 2024**

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**FINAL**

**Prepared by: LDS**

**Checked by: PR**

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## 1. Introduction and Planning Policy Context

- 1.1 This Statement setting out the Draft S106 Heads of Terms has been prepared by (1) DMH Stallard LLP acting on behalf of B.Yond Homes (formerly Rydon Homes) Limited (“the Appellant”), and (2) Maidstone Borough Council (“the Council”) in relation to an appeal concerning Land East of Albion Road and North of Copper Lane, Marden.
- 1.2 The Appeal relates to an outline planning application for development of the site to provide up to 117 dwellings and associated infrastructure including partial footways on Albion Road. (application ref: 23/504068/OUT).
- 1.3 Policy ID1 of the Maidstone Borough Local Plan has been replaced by Policy LPRSP13 as a result of the recent adoption (March 2024) of the Maidstone Local Plan Review. Policy LPRSP13 refers to infrastructure delivery and states that detailed specifications of the site-specific contributions required are included in the site allocations policies (although notes that these are not exhaustive lists). Policy LPRSP13 also confirms that where there are competing demands for contributions towards the delivery of infrastructure (for residential development), secured through Section 106 legal agreements, the council will prioritise these demands in the manner listed below:
- I. Affordable housing;
  - II. Transport;
  - III. Open space;
  - IV. Education;
  - V. Health;
  - VI. Community facilities;
  - VII. Public realm;
  - VIII. Waste management;
  - IX. Public services; and
  - X. Libraries
- 1.4 Policy LPRS10(B) refers to affordable housing and states that on major greenfield housing developments within high value zones in the Borough (such as Marden) the target affordable housing is 40% of the total number of homes provided.

- 1.5 The Appeal scheme proposes an affordable housing provision which is fully compliant with that required in Policy LPRS10(B), with a proposed 40% of the homes within the outline planning application as affordable. The indicative scheme proposes up to 117 units in total, 40% of this total equates to 47 units.
- 1.6 Part 17 of Policy LPRSP295 refers to site specific contributions for the site allocation. This states that there should be provision of new open space on site. Provision shall include not less than 1.25 hectares of open space, with typologies in accordance with policy LPRSP13 and LPRINF1. The strategy shall ensure that areas designed to support biodiversity net gain shall not be publicly accessible. The Appeal scheme provides nearly 3ha of open space and ensures that areas on site designed to support BNG are not publicly accessible.
- 1.5 Policy A3 of the Marden Neighbourhood Plan refers to securing appropriate funding for Marden Primary School from developments that lead to a requirement for additional capacity and resources. Maidstone Borough Council has adopted a CIL, and as Marden Parish Council has a Neighbourhood Plan it will receive 25% of the CIL from the site.

## 2. Heads of Terms

- 2.1 It is noted that Maidstone Borough Council adopted its Community Infrastructure Levy (CIL) on 25<sup>th</sup> October 2017. It is considered that the majority of the offsite infrastructure requirements arising from the scheme will be addressed through the Council's CIL Charging Schedule. Affordable housing and any site-specific matters / requirement to address the direct impacts of the development will be captured through obligations within a S106 Agreement.
- 2.2 The proposed development constitutes CIL liable development. In the case of outline planning applications, the CIL charge will be calculated at the relevant reserved matters stage.
- 2.3 Planning obligations will be used to compensate and/or mitigate the impact of a development, which is not covered by the CIL contribution, and which would otherwise make the development unacceptable in planning terms. This will be established following further discussion with officers and the production of the necessary evidence in order to secure the relevant contributions.
- 2.3 Therefore, the planning obligations listed below will only be included in the Section 106 Agreement to the extent that they are justifiable in planning policy terms including the requirements of paragraphs 55-58 of the National Planning Policy Framework (NPPF) and regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (CIL Regulations).
- 2.4 The Appellant will covenant to the payment of contributions that meet the statutory test.
- 2.5 At this stage it is anticipated that the Section 106 Agreement will comprise contributions or agreements in respect of:
- Provision of 40% affordable housing on site (47 units);
  - Public Open Space financial contribution (Publicly Accessible Outdoor Sports – equivalent 0.48 ha requirement)
  - Landscape and Ecological Management Plan
  - Off-site highway enhancements/provision including financial contribution towards Public Right of Way (PROW) upgrade – PROW KM281
  - Any other matters which can be properly justified – see Statement of Case in relation to requested education and community contributions requested from Kent County Council.

2.6        The precise wording is to be agreed with the LPA prior to the Inquiry.