

Otterpool Park Planning Performance Agreement Outline Planning Application



Updated April 2020



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1. Introduction

1.1 This updated Planning Performance Agreement (PPA) relates to land to the south of the M20, within an Area of Search where a new garden settlement, known as Otterpool Park, is being proposed.

1.2 Folkestone and Hythe District Council (F&HDC) is the Local Planning Authority for the area in which the proposed new settlement is located.

1.3 Kent County Council is the Local Education Authority, Local Highway Authority and the Minerals and Waste Planning Authority for Kent. As the Lead Local Flood Authority, the County Council is also a statutory planning consultee on surface water drainage and provides a range of key planning services supporting plan making and decision taking.

1.4 Folkestone and Hythe District Council and Cozumel are the main Promoters of the proposed development who together own or control the majority of the proposed site. Homes England also owns a significant landholding to the south of the masterplan area.

1.6 This PPA has been made having regard to the advice set out in paragraphs 16 to 26 of the Planning Practice Guide¹ and guidance with the Planning Advisory Service advice note on Planning Positively².

1.7 For purposes of clarification this is not a legally binding document but is a project management tool that sets out an efficient and transparent planning process for taking forward this strategic level development.

2. Purpose & scope

2.1 Its purpose is to encourage co-operation, trust and effective communication between the Local Planning Authority, County Council and the Applicant. Its aim is to ensure prompt, clear and robust decision-making.

2.2 This PPA is intended as a project management tool which the Local Planning Authority, KCC and the Promoter will use to agree timescales, actions and resources for taking forward planning proposals for a new settlement at Otterpool Park.

2.3 It establishes the joint working approach to preparing further technical work to support the application and determination process. In this respect it involves co-operation in terms of local plan making, masterplanning, and other technical issues raised by the Local Planning Authority as part of its review of the Outline Planning Application (OPA).

¹ <https://www.gov.uk/guidance/before-submitting-an-application>

² www.local.gov.uk/publications/-/journal.../56/.../PUBLICATION

2.4 Specifically, the PPA seeks to:

1. Establish a PPA Project Team;
2. Agree the Key Planning Issues to be resolved and in what sequence, including:
 - the identification of tasks and resources required to address key issues;
 - an agreement to identify and agree solutions to issues at each stage in the process where appropriate;
 - a commitment to sharing information in a timely and transparent manner;
 - the establishment of parameters for engagement with external agencies and community groups; and
 - to work collaboratively.
3. Develop a Project Plan setting out whom, what and when;
4. Agree a regime for the decision-making process.

2.5 This PPA will not fetter F&HDC in exercising its statutory duties as Local Planning Authority. It will not prejudice any decision by the Local Planning Authority to allocate or not allocate any particular land for development in the submission version of the Core Strategy Local Plan Review nor will it fetter the outcome of the Local Plan Examination in Public, the outcome of any planning application on the land or the impartiality of F&HDC as Local Planning Authority.

2.6 The PPA will not fetter KCC in exercising its statutory duties and provision of discretionary services.

2.7 This PPA shall not restrict or inhibit the Promoters from exercising their right of appeal under Section 78 of the Town and Country Planning Act 1990.

2.8 This agreement will be terminated if the promoters submit an appeal or the planning application is called in for determination by the Secretary of State.

3. Project Definition

3.1 On 28 February 2019 the applicant submitted an Outline Application for Otterpool Park, with all matters reserved. The consultation period ran between March and June and the Local Planning Authority (LPA) completed a review of the application in July 2019. This incorporated the response from Kent County Council and other stakeholders.

3.2 This PPA establishes an approach to preparing the technical work necessary to address the issues raised by the LPA and KCC. Given the geographical scale and complexity of the development a three-tier approach to the planning framework has been agreed between the LPA and applicant. It is likely the master planning and infrastructure framework guiding the development of each phase would be a requirement of several conditions attached to any outline planning permission. This provides a structure to work up and through detailed schemes efficiently, over time.

3.5 For clarity, this PPA includes work pertaining to the Outline Planning Application (Tier 1) although may also include elements of Tier 2 work. Separate PPAs may be agreed for other tiers of work as necessary.

3.4 The exact requirements of the three tier approach will be established during the determination period of the Outline Planning Application. Without prejudice to the determination of the OPA, the requirements may include the following:

<u>Tier One – Outline Planning Application (indicative - subject to change)</u>
<ul style="list-style-type: none"> • Tier one is the outline planning permission which secures approval of the development specification and sets the overall framework for development, including land uses, spatial vision and urban design framework/design principles.
<ul style="list-style-type: none"> • The site-wide approaches e.g. Energy Strategy, Arts & Culture Strategy, Transport Strategy, Heritage and Green Infrastructure Strategies, Drainage Strategy (including discharge points in s.106), Strategic Design Principles etc. • Strategic Design Code

<u>Tier Two – Phases (indicative - subject to change)</u>
<ul style="list-style-type: none"> • Tier two may comprise the following submissions (subject to change): <ul style="list-style-type: none"> ○ Detailed masterplan and infrastructure framework for each area ○ Phase Delivery Plan (including sequencing within each phase and land budget) ○ Site-wide Strategy Supplement ○ Design Code (and/or Design Briefs for specific areas such as parks/town centre) ○ Construction Environmental Management Plan ○ Viability/affordable housing statements (if required)

<u>Tier Three – Reserved Matters (indicative - subject to change)</u>
<ul style="list-style-type: none"> • Tier three covers the submission of reserved matters for infrastructure and individual development parcels within each phase.
<ul style="list-style-type: none"> • This could include other infrastructure requirements that might sit outside a defined phase such as the Water Recycling Centre, other water connections, woodland planting, highway improvements or off-site pedestrian connections.

4. Governance

4.1 Folkestone and Hythe District Council has two distinct roles in delivering Otterpool Park. Firstly as a major land owner promoting the project and secondly as the Local Planning Authority responsible for preparing the Local Development Plan and for determining a planning application.

4.2 The Council in its capacity as a joint Promoter of the scheme will work via the Collaboration Board with the appointed Masterplan consultants to bring forward Otterpool Park as a viable, sustainable and high-quality development.

4.3 The Council is also the Local Planning Authority that is empowered by law to exercise statutory town planning functions for the district of Folkestone & Hythe. The Council in its capacity as Local Planning Authority in considering all planning matters relating to a proposed new settlement at Otterpool Park will act in accordance with best practice having proper regard to national planning guidance and policy.

4.4 The Council has published on its web site an Officer³ and Member Protocol⁴ for Otterpool Park. These protocols seek to ensure that the dual roles of the Council do not lead to conflicts of interest and perceptions of unfairness. All material planning considerations will be dealt with on their merits irrespective of the Council's land ownership interest.

4.5 The Governance arrangements put in place by the Council are set out at **Appendix C**.

5. Project Management & Programme

5.1 A Project Team has been established that represents the parties to this agreement and will be the main point of contact and resource dedicated to progress the project in a collaborative and professionally managed manner.

5.2 The Project Team will focus on evaluating progress of the Tier 1 work programme, overcoming obstacles, resolving blockages and ensuring the identified workstreams progress to schedule.

5.3 Membership of the team may vary depending on changing project requirements. Nevertheless the core team is as follows:

Local Planning Authority

Name	Organisation	Role
Llewelyn Lloyd	F&HDC	Chief Planning Officer
James Farrar	F&HDC	LPA Lead/Consultant Planning Officer
James Hammond	F&HDC	Strategic Policy Officer
Sue Head	F&HDC	Principal Planner, Special Projects
Adrian Hammond	F&HDC	Head of Housing
Kirsty Thomas	Herringtons (consultant)	Drainage, highways and flood risk
Irene Seijo/Sharon Blackwood	Seijo Associates/Blackwood Bayne (consultant)	Open Space, biodiversity & GI
James Brierley	Gerald Eve	Viability & Cost Consultancy (as required)
Various	Lichfields	Retail and employment advice (as required)
Owen Raybould	RSK (consultant)	Principal Heritage Consultant
Various	Temple Group	EIA Scoping and Review (where required) Flooding, Surface and Foul Water, Geotechnical, Utilities, Waste, Air Quality and Noise, Landscape and Visual Impact
Beverley Firth	Mills and Reeve	Partner – legal services

³ <https://www.folkestone-hythe.gov.uk/downloads/file/2634/otterpool-officer-protocol>

⁴ <https://www.folkestone-hythe.gov.uk/downloads/file/2629/otterpool-member-protocol>

Kent County Council

Name	Company	Role
Katie Chantler (KCC coordinator)	KCC	Programme Manager (Growth, Environment & Transport)
Tom Marchant	KCC	Head of Strategic Planning and Policy
Matt Hogben	KCC	Principal Transport and Development Planner
Jamie Hare	KCC	Development Agreement Manager
Stephen Gasche	KCC	Principal Transport Planner - rail
Bronwyn Buntine	KCC	Sustainable Drainage Team Leader
Alan Turner	KCC	Water Resources Manager
Ben Found	KCC	Senior Archaeological Officer
Lis Dyson	KCC	Heritage Conservation Manager
Helen Forster	KCC	Biodiversity Officer
Kate Beswick	KCC	Countryside Access Improvement Plan Officer
Bryan Geake	KCC	Principal Planner Officer - Minerals and Waste

Applicant

Name	Company	Role
Andy Jarrett	F&HDC	Chief Strategic Development Officer
Julia Wallace	F+HDC	Otterpool Park Development Manager
Dave Shore	F+HDC	Strategic Development Projects Manager
Tom Vernon	Quod	Director – Planning Consultant
Poppy Carmody-Morgan	Quod	Associate – Planning Consultant
Rebecca Kearney	Arcadis	Project Manager
Various	Arcadis	Technical team
Various	Quod	Technical team

6. Project Plan and Overall Programme

6.1 The Project Team will set up, as shown below, workshop sessions involving wider stakeholders to scope the strategic issues identified during the consultation response. These wider sessions will initially focus on the scope and content of Strategy documents; it will identify the further work required and also the establishment of technical working groups where necessary. In addition to topic-based meetings there will be a need to return regularly to the masterplan as a feedback loop and to better understand wider spatial implications. Separate PPA (planning & masterplanning) meetings will be held as appropriate to maintain an overview of the masterplan, workstreams and overall programme.

6.2 The work programme will be subject to constant review but includes the following:

Topic/workstream	Follow up / technical working groups
Introduction to masterplanning	<ul style="list-style-type: none"> • Masterplan feedback loop throughout workshops as / when required
Green Infrastructure & Landscape Strategy	<ul style="list-style-type: none"> • Technical GI/BI Working Group (Ecology/SUdS/Drainage)
Town Centre Concepts & Park	<ul style="list-style-type: none"> • Follow-up session • Masterplan feedback loop throughout as / when required
Transport Strategy	<ul style="list-style-type: none"> • Bus and rail group • Transport Assessment Group (including Highways England) • Walking and cycling group • Streets and spaces including A20 design Strategy
Heritage Strategy	<ul style="list-style-type: none"> • Focus on barrows • Focus on Castle and Park • Focus on airfield
Housing Strategy	<ul style="list-style-type: none"> • Follow-up meetings as required
Education Strategy	<ul style="list-style-type: none"> • Follow up meetings as required
Energy Strategy	<ul style="list-style-type: none"> • Follow up meetings as required
Waste Strategy	<ul style="list-style-type: none"> • Follow up meetings as required
Delivery and governance/stewardship	<ul style="list-style-type: none"> • Identification of workstreams to progress • Legal input
Site-wide infrastructure	<ul style="list-style-type: none"> • Follow up meetings as required
Water (Strategy)	<ul style="list-style-type: none"> • Water Recycling Centre • FRA/SUDS/Drainage
Employment and non-residential uses / retail (strategy)	<ul style="list-style-type: none"> • Retail Impact
S106 - topics and draft clauses discussions	<ul style="list-style-type: none"> • As required

Overall Programme

Role	Date
Consultation and submission of Core Strategy review to Planning Inspectorate	December – January 2020
Revisions to OPA	December 2019 – Mid 2020
Examination in Public	Summer 2020
Inspector's report	Autumn/Winter 2020
Submission of revisions to OPA	Summer/Autumn 2020
Re-consultation of OPA	Autumn 2020
Determination of OPA	Autumn/Winter 2020
Signed S106	Winter 2020/2021
Issue Decision (subject to Inspector's Report)	Winter 2020/2021

6. Principles relating to Discussions

6.1 The Promoters (including their consultants) shall carry out collaborative discussions with the Local Planning Authority and Kent County Council with regard to the content, form and timing of revisions to the OPA.

6.2 The Local Planning Authority, Kent County Council and the Applicant shall seek to field other appropriate officers/advisors as and when the topic of discussion warrants it (see Project Plan and Programme). The Local Planning Authority shall adopt a 'development team' approach to the proposals, ensuring that it takes a joined-up and co-ordinated approach to the advice it gives and decisions that it takes.

6.3. Both the Local Planning Authority, County Council and the Applicant agree to share key information relating to the Project in a timely manner and, unless otherwise agreed, to share application material at least five working days in advance of meetings to facilitate effective engagement. Action points will be recorded and included in documentation submitted with the planning application.

6.4. Other stakeholders will be invited to Project Team Meetings as required with the agreement of the three principal parties.

6.5 Folkestone and Hythe District Council as Local Planning Authority will work closely with the Promoters providing professional planning advice. A bespoke cost recovery schedule will apply for Resource Recovery Payments as detailed in appendix E.

6.6 KCC agree to provide professional highways and transportation advice and co-ordinated advice relating to social and community facilities, (i.e. Education, Community Learning, Youth Service, Libraries and Adult Social Care) schools, and on matters relating to ecology, heritage, sustainable drainage and other issues that might be identified as relevant during the discussions.

6.7 The Local Planning Authority may require specialist external consultants or external stakeholders to provide independent review of the associated technical documents in accordance with best practice. The Local Planning Authority will consult with the Promoters on any such commission and take into account any views expressed by them.

6.8 The Local Planning Authority has established a Place Panel for the Garden Town to provide 'critical friend' advice and design guidance to support proposals for growth and change in the Garden Town. The Applicant agrees to consider requests from the LPA to present proposals to the Place Panel where the LPA reasonably consider that this would be a useful and appropriate undertaking to support the exploration and assessment of the main issues.

6.9 Where the Applicant agrees to present to the Place Panel it agrees to work positively with the LPA in the preparation of material to be presented and to provide such material to the LPA at least 10 working days (or such other period as agreed) prior to any agreed presentation date to seek their comment and respond positively and proactively in response to such comments.

7. Environmental Impact Assessment

7.1 The scale of development proposed at Outline stage and its nature required an Environmental Impact Assessment to be submitted in accordance with the 2017 EIA Regulations (as amended). The IRR stage will need to be repeated in order to assess the ES as a revised project. Once this has been completed the applicant will be invited to provide a response to the IRR addressing the clarifications and potential Regulation 25 request information requests raised. Any response provided by the Applicant will then be reviewed by the Local Planning Authority.

7.2 Where necessary, technical meetings relating to key EIA chapters (for example highways, drainage, sustainable energy and air quality) will be arranged outside the monthly meetings. The outcome of such technical meetings would be reported to the core PPA project team.

8. Community and Member Engagement

8.1 All parties recognise the importance of involving the community in accordance with best practice.

The development process will:

- encourage public participation in the whole planning process from a broad spectrum of the local community;
- provide the public with an appropriate level of information on the proposals;
- maximise the means by which consultees can provide written and oral feedback;
- keep the local community informed and updated with the latest information throughout the planning process; and
- demonstrate how the feedback received has been considered and applied; where possible, in the progression of the planning proposal.

8.2 Members of both Authorities will be encouraged to openly and appropriately engage with the development of the project, whilst ensuring that their decision-making functions and other statutory functions are not compromised.

9. Confidentiality

9.1 F&HDC will seek to place in the public domain as much completed documentation and information as is practicable but having regard to commercial confidentiality, work in progress and legal exemptions.

9.2 However, F&HDC and KCC are governed by the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 in how they handle information held. Information that has not been published may have to be provided on request.

10. Performance Standards

10.1 The Promoter, KCC and the Local Planning Authority agree to work to the Governance Arrangements and Performance Standards as set out at Appendix A - D respectively.

Appendices

APPENDIX A – Folkestone and Hythe District Council Governance Arrangements

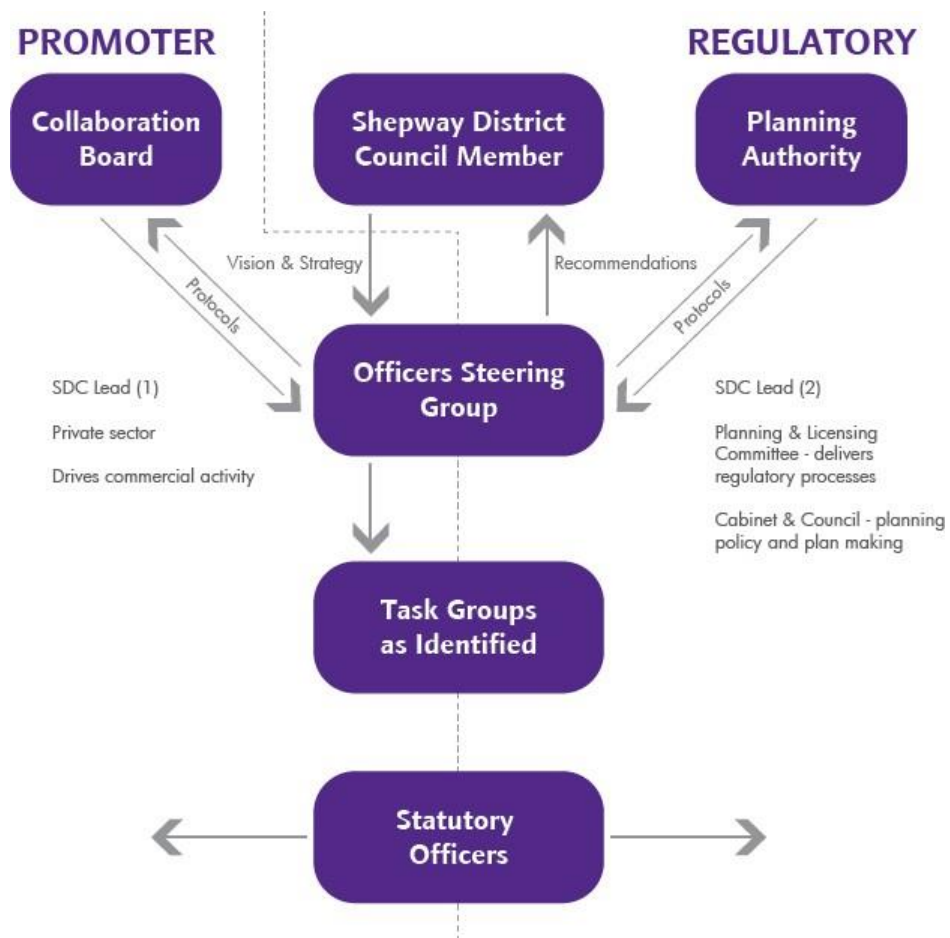
APPENDIX B - The Promoter's Performance Standards

APPENDIX C - Local Planning Authority Performance Standards

APPENDIX D - Kent County Council's Performance Standards

APPENDIX E – LPA Cost Recovery & Schedule

APPENDIX A – Governance Framework



APPENDIX B – The Promoter’s Performance Standards

The Joint Promoters agree to use their reasonable endeavours to achieve the following performance standards at all times:

- a. To carry out such public engagement as may be reasonably requested by F&HDC in accordance with the Council(s)’ current Statement(s) of Community Involvement (SCI)).
- b. To wherever possible address any concerns raised by any consultee as part of revisions to the submission of the Planning Application material to F&HDC.
- c. To include a Community Engagement Statement with the Planning Submissions, detailing the feedback received from consultees and setting out how the Landowner/Developer has taken account of the responses to consultation.
- d. To provide F&HDC with such reasonable additional information as may be requested within 10 working days of such written request from F&HDC (or such other time period as may be agreed) in order to enable F&HDC to discharge its responsibilities.
- e. To provide to F&HDC at least 5 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 item identified.

APPENDIX C – Local Planning Authority Performance Standards

Without prejudice to their other duties as local planning authority, F&HDC agree to use their reasonable endeavours to:

- a. designate a planning officer(s) lead who as part of a team will be responsible for overseeing or carrying out the functions in accordance with this PPA and notify the Promoters of the identity and contact details of that officer, and of any other officer who may be required to substitute from time to time;
- b. ensure that the designated officer(s) or other appropriate member(s) of the local authority team are available to attend regular progress meetings at reasonable intervals as set out in this agreement or at key stages of the work programme;
- c. follow the agreed Project Programme (set out above);

In addition to its statutory obligations, F&HDC agrees to use its reasonable endeavours to achieve the following performance standards at all times:

- a. Respond substantively to all emails, letters and telephone calls within 10 working days of receipt. Where circumstances beyond the reasonable control of F&HDC prevent its compliance with this Performance Standard, F&HDC shall in each case notify the Promoters of such circumstances and advise the Promoters of the likely date of response.
- b. Notify the Promoters no later than 5 working days prior to any meeting of a committee or panel of either F&HDC at which any report or matter relevant to the Development will be discussed and or considered and provide the Promoters with a copy of any report to that committee or panel at that time.
- c. To provide to the Promoters within 5 working days following any meeting, the minutes or action points arising from that meeting for agreement, and subsequently to provide a copy of the agreed version of the minutes or action points.

Appendix D – Kent County Council’s Performance Standards

Without prejudice to its duties as Local Highway Authority, KCC agrees to use its reasonable endeavours to:

- a. Designate a Principal Transport and Development Planner who alone or as part of a team will be responsible for overseeing or carrying out the functions relevant to the Local Highway Authority in accordance with this PPA and notify the Promoter of the identify and contact details of that Officer, and of any other Officer who may be required to substitute from time-to-time;
- b. Ensure that the designated officer(s) or other appropriate member(s) of the team are available to attend regular progress meetings at reasonable intervals as set out in this agreement or at key stages of the comprehensive Masterplan development;
- c. Provide a written response within 21 days of receipt of the fee, or within 21 days of the meeting; and
- d. Follow the agreed Project Programme.

Without prejudice to its duties as Lead Local Flood Authority, KCC agrees to use its reasonable endeavours to:

- a. Designate a Flood Risk Project Officer who alone or as part of a team will be responsible for overseeing or carrying out the functions relevant to the Lead Local Flood Authority in accordance with this PPA and notify the Promoter of the identify and contact details of that Officer, and of any other Officer who may be required to substitute from time-to-time;
- b. Ensure that the designated officer(s) or other appropriate member(s) of the team are available to attend regular progress meetings at reasonable intervals as set out in this agreement or at key stages of the comprehensive Masterplan development;
- c. Provide a written response within 14 days of receipt of the fee, or within 14 days of the meeting; and
- d. Follow the agreed Project Programme.

In providing Ecological Advice, KCC agrees to use its reasonable endeavours to:

- a. Designate a qualified, CIEEM registered Biodiversity Officer who alone or as part of a team will be responsible for overseeing or carrying out the functions relevant to Ecology in accordance with this PPA and notify the Promoters of the identify and contact details of that Officer, and of any other Officer who may be required to substitute from time-to-time;
- b. Ensure that the designated officer(s) or other appropriate member(s) of the team are available to attend regular progress meetings at reasonable intervals as set

out in this agreement or at key stages of the comprehensive Masterplan development;

- c. Provide a written response within 21 days of receipt of the initial request for advice and where deadlines are less than 21 days, a mutually acceptable response time will be agreed with the Promoters; and
- d. Follow the agreed Project Programme (set out in the PPA).

Appendix E – LPA PPA Cost Recovery

In order to deliver the additional related planning activities in a timely fashion the Local Planning Authority will require the Applicant to cover their reasonable associated costs to ensure that all matters can be adequately addressed and, where necessary, to procure additional specialist resources. These costs will be abnormal and go above and beyond the capped statutory application fee.

A planning performance agreement can extend to matters beyond the formal application process – such as programming the negotiation of any section 106 agreement and related non-planning consents. For very large or complex schemes such as this the PPA can assist with the abnormal costs of processing the application.

Planning resource requirements for the LPA have been agreed and updated to reflect the exceptional nature of the application submitted and the need for timely feedback during the determination period.

All the costs cited in this PPA are deemed to be abnormal and occur where the LPA does not have the capacity or relevant skills in-house to deal with a scheme of this nature. Where costs cannot yet be defined these will be agreed in advance with the applicant before work is commissioned. The costs are divided between those costs covered by the application fee and abnormal costs that go above and beyond the capped fee in order to provide an efficient and timely service.

Costs set out do not include any fees for the Applicant attending the Place Panel which has a separate charging structure as set out in its Terms of Reference. The schedule will be kept under regular review.

Abnormal costs above and beyond the application fee

Items for Cost Recovery	Description
Dedicated case officer resource	<ul style="list-style-type: none">• Dedicated case officer support (increase to 4 days per week – may vary according to demand)
Outline Planning Application (OPA) – additional PPA meetings	<ul style="list-style-type: none">• PPA meetings and topic based workshops or meetings• Preparation and assessment
Wider officer resource & assessment	<ul style="list-style-type: none">• The LPA will adopt a Development Team approach as set out in the PPA• Additional administrative support setting up pre-application meetings• Task and finish groups and technical working groups as required
Legal Advice to LPA	<ul style="list-style-type: none">• Ad-hoc advice to LPA on handling and determination of a large scale application• Excludes s.106 underwriting costs
EIA Review	<ul style="list-style-type: none">• As previously agreed• Independent EIA Review by Temple Group

Retail/leisure/employment review	<ul style="list-style-type: none"> • Independent Review of Economic Development Strategy / Retail & Leisure Impact – ad hoc advice • Stage 1 Initial review and comments – Stage 2 Fixed Fee TBA
Engagement of specialist advice (GI/Open Space/SuDS/Heritage)	<ul style="list-style-type: none"> • The LPA will engage external specialist or technical advice where this is not available in-house.
SuDS/FRA/Drainage Strategy	<ul style="list-style-type: none"> • Herringtons – review of application material & follow-up
Place Panel	<ul style="list-style-type: none"> • Workshops, mentoring and reviews e.g. Design Code 1:1.
Independent viability and deliverability advice	<ul style="list-style-type: none"> • Independent financial appraisal review
TOTAL COST RECOVERY	£16,666 per month (£200,000 per year)